

UNITED STATES



OF AMERICA

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 95<sup>th</sup> CONGRESS  
FIRST SESSION

VOLUME 123—PART 14

MAY 25, 1977 TO JUNE 6, 1977

(PAGES 16509 TO 17694)



OF AMERICA

UNITED STATES



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# Official Record

The Secretary of the  
Department of the Interior  
has the honor to acknowledge  
the receipt of your letter  
of the 10th inst.

The Chairman of the  
Committee on the Interior  
has the honor to acknowledge  
the receipt of your letter  
of the 10th inst.

Enclosed for the  
Department of the Interior  
is a copy of the report  
of the Commission on the  
Interior, which was  
presented to the  
Senate on the 10th inst.

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We pray to  
Master of the

APPOINTMENT  
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will please  
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CALC. Eastern  
The Secretary  
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To the Secretary  
of the Department  
of the Interior  
on official business  
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to perform the  
my respects

Mr. STANLEY  
as Acting

Mr. HOBBS  
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May 21, 1914  
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United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 95<sup>th</sup> CONGRESS, FIRST SESSION

## SENATE—Wednesday, May 25, 1977

(Legislative day of Wednesday, May 18, 1977)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. RICHARD STONE, a Senator from the State of Florida.

### PRAYER

The Chaplain, the Reverend Edward L. F. Elson, D.D., offered the following prayer:

Eternal God, from whom our spirits come, to whom they shall return, and in whom we live and move and have our being, lift us, we pray Thee, into Thy presence. Thou art the source of our faith and the ground of our hope, the strength which gives us courage and the courage that gives us strength.

We thank Thee for Him who revealed Thy fullness, who worked at a carpenter's bench, who taught and healed and daily went about doing good.

May a measure of his life indwell us, that we may be humble as He was humble, kind as He was kind, loving as He was loving, serving as He served. And when the day is done may we have advanced Thy kingdom on Earth.

We pray in the name of Him who was Master of life. Amen.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, D.C., May 25, 1977.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. RICHARD STONE, a Senator from the State of Florida, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,  
President pro tempore.

Mr. STONE thereupon took the chair as Acting President pro tempore.

### THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Tuesday, May 24, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CXXIII—1039—Part 14

### COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield back my time.

Mr. BAKER. Mr. President, I yield back my time under the standing order.

### SECURITIES AND EXCHANGE COMMISSION AUTHORIZATIONS, 1978

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 1311, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1311) to amend the Securities Exchange Act of 1934 to authorize specified amounts to be appropriated for the Securities and Exchange Commission for fiscal years 1978-80.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, Senator WILLIAMS has a statement which I shall read on his behalf:

S. 1311 would amend the Securities Exchange Act of 1934 to authorize \$58,290,000 to be appropriated for the Securities and Exchange Commission for fiscal year 1978.

Senator Tower and I introduced the original bill on April 19, 1977 at the request of the SEC. A few weeks ago, the Committee on Banking, Housing, and Urban Affairs held one day of hearings to allow the SEC to present testimony. Earlier this month, on May 3, the Committee unanimously approved the bill, with an amendment and ordered it reported.

As introduced, the bill provided for multi-year budget authorizations up to a maximum of \$64 million in fiscal year 1978, \$70 million in fiscal year 1979, and \$75 million in fiscal year 1980.

The Committee amended the bill in two respects.

First, the Committee approved a one-year authorization covering fiscal year 1978, as recommended by Chairman Harold M. Williams, to allow him time to formulate long range priorities for the Commission.

The second change reflected in the Committee amendment concerns the amount of the authorization. Both at the hearing and during its deliberations, the committee was particularly interested in the variance between the Commission's budget estimate (\$58,290,000) and the requested authorization (\$64 million). Neither the Commission's budget submission nor additional information furnished to the committee upon request provided satisfactory explanations to justify the full amount of the requested authorization.

Accordingly, the committee decided to authorize the precise amount of the SEC's budget estimate, \$58,290,000. This figure reflects an increase of \$2,020,000 over the current appropriation necessary to cover increased costs associated with maintaining current activities and anticipated requirements for additional resources. Specifically, according to the Commission, the increase is necessary to continue the modernization of its records systems, and provide funds for increased costs related to travel, communications and other non-personnel expenses. The Commission has not requested funds for additional personnel; in fact, the Commission projects a slight decrease in personnel costs during the next fiscal year. The committee agreed unanimously that these increments are necessary for the continued operation of the Commission.

The committee unanimously recommends the enactment of this legislation in order that the necessary funds can be appropriated.

Mr. WILLIAMS supports the committee amendment, and asks that it be agreed to.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3722, Calendar Order No. 195.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

16509



The legislative clerk read as follows:

A bill (H.R. 3722) to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal year 1978.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. WILLIAMS, I move that all after the enacting clause be stricken, that the language of S. 1311, as amended, be inserted in lieu thereof, and that H.R. 3722, as so amended, be considered as having been read the third time and passed.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

The bill (H.R. 3722) as amended, and passed, reads as follows:

That section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by striking the words "For fiscal year succeeding the 1977 fiscal year, there may be appropriated such sums as the Congress may hereafter authorize by law." and inserting in their place the following: "and not to exceed \$58,290,000 for the fiscal year ending September 30, 1978. For fiscal years succeeding the 1978 fiscal year, there may be appropriated such sums as the Congress may hereafter authorize by law."

Amend the title so as to read: to amend the Securities Exchange Act of 1934 to authorize the amount to be appropriated for the Securities and Exchange Commission for fiscal year 1978."

The PRESIDING OFFICER. Does the Senator offer the title amendment?

Mr. ROBERT C. BYRD. Yes.

The ACTING PRESIDENT pro tempore. Without objection, the title is amended so as to read:

A bill to amend the Securities Exchange Act of 1934 to authorize the amount to be appropriated for the Securities and Exchange Commission for fiscal year 1978.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which H.R. 3722 was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I ask unanimous consent that S. 1311 be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### NUCLEAR REGULATORY COMMISSION AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, the Senator from Colorado (Mr. HART) will be on the floor shortly to handle the bill (S. 1131); Calendar Order No. 170. I ask unanimous consent that the Senate proceed to the consideration of that measure.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1131) to authorize appropriations to the Nuclear Regulatory Commission in accordance with Sec. 261 of the Atomic Energy Act of 1954, as amended, and Sec. 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works with amendments.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, while we are awaiting the arrival of Mr. HART, who is on his way to the floor, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations will be stated.

#### DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of George S. Vest, of Maryland, to be an Assistant Secretary of State.

Mr. BAKER. Mr. President, I might observe for the information of my colleagues and the majority leader that all of the names on the Executive Calendar for the Department of State—Mr. Vest, Mr. William H. Sullivan, Mr. Heck, Mrs. Ridgway, Mr. Lowenstein, Mr. Miller, Mr. Shlaudeman, Mr. Eagleburger, Mr. Levin, Mr. John H. Sullivan, and Mr. Bergus—have been cleared for confirmation on this side.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader. Since we have a little time, I will have the clerk read each nomination.

The ACTING PRESIDENT pro tempore. Without objection, the nomination of Mr. Vest is considered and confirmed.

The second assistant legislative clerk read the nomination of William H. Sullivan, of Rhode Island, to be Ambassador to Iran.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of L. Douglas Heck, of Oregon, to be Ambassador to Nepal.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Rozanne L. Ridgway, of the District of Columbia, to be Ambassador to Finland.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of James Gordon Lowenstein, of the District of Columbia, to be Ambassador to Luxembourg.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Robert H. Miller, of Washington, to be Ambassador to Malaysia.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Henry W. Shlaudeman, of California, to be Ambassador to Peru.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Lawrence S. Eagleburger, of Virginia, to be Ambassador to Yugoslavia.

Mr. ROBERT C. BYRD. Over, Mr. President.

The ACTING PRESIDENT pro tempore. Without objection, the nomination will be passed over.

The second assistant legislative clerk read the nomination of Sander Martin Levin, of Michigan, to be an Assistant Administrator of the Agency for International Development.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of John H. Sullivan, of Virginia, to be an Assistant Administrator of the Agency for International Development.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Donald Clayton Bergus, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of the Sudan.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

## U.S. INFORMATION AGENCY

The second assistant legislative clerk read the nomination of Charles William Bray III, of Maryland, to be Deputy Director of the U.S. Information Agency.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

## FARMERS HOME ADMINISTRATION

The second assistant legislative clerk read the nomination of Gordon Cavanaugh, of Maryland, to be Administrator of the Farmers Home Administration.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

## DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of John C. Merkel, Jr., of Washington, to be U.S. attorney for the western district of Washington.

Mr. BAKER. Mr. President, I meant to say, and did not gain recognition in time to say, that in examining the Executive Calendar I find that the confirmations we have just completed—that is to say, Mr. Cavanaugh and Mr. Merkel—have been cleared for confirmation.

I advise the distinguished majority leader that I have cleared, as well, the nominations listed on the calendar for Mr. Medina, of the Department of Housing and Urban Development, and the additional Department of State nominations—to wit, Mr. Spiers, Mr. Lucey, Mr. Irving, Mr. Weissman, and Mr. Fisher.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that those nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

## DEPARTMENT OF JUSTICE

John C. Merkel, Jr., of Washington, to be U.S. attorney for the Western District of Washington for the term of 4 years.

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

William Antonio Medina, of Maryland, to be an Assistant Secretary of Housing and Urban Development.

## DEPARTMENT OF STATE

Ronald I. Spiers, of Vermont, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Turkey.

Patrick J. Lucey, of Wisconsin, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico.

Frederick Irving, of Rhode Island, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Jamaica.

Marvin Weissman, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Costa Rica.

Adrian S. Fisher, of the District of Columbia, for rank indicated while serving as the U.S. Representative to the Conference of the Committee on Disarmament, to be Ambassador.

## DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of Michael D. Hawkins, of Arizona, to be U.S. attorney for the district of Arizona.

Mr. BAKER. Mr. President, there is no objection to this confirmation.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

## OFFICE OF DRUG ABUSE POLICY

The second assistant legislative clerk read the nomination of Peter G. Bourne, of the District of Columbia, to be Director of the Office of Drug Abuse Policy.

Mr. BAKER. Mr. President, for the information of the majority leader, these two nominations—that is to say, Mr. Bourne and Mr. Dogoloff—are cleared on our Calendar for confirmation, as is the following one, Adrian Paul Winkel, to be High Commissioner of the Trust Territory of the Pacific Islands.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I did not ask that.

The ACTING PRESIDENT pro tempore. The clerk will proceed.

The second assistant legislative clerk read the nomination of Lee I. Dogoloff, of Maryland, to be Deputy Director of the Office of Drug Abuse Policy.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed.

## TRUST TERRITORY OF THE PACIFIC ISLANDS

The second assistant legislative clerk read the nomination of Adrian Paul Winkel, of Maryland, to be High Commissioner of the Trust Territory of the Pacific Islands.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

## NUCLEAR REGULATORY COMMISSION AUTHORIZATIONS

The Senate continued with the consideration of the bill (S. 1131) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, what is the business before the Senate at this time?

The ACTING PRESIDENT pro tempore. The pending business is S. 1131, authorizing appropriations to the Nuclear Regulatory Commission.

Mr. HART. Mr. President, I ask unanimous consent that Haven Whiteside and Kevin Cornell, of the committee staff, be granted the privileges of the floor during the consideration of this measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HART. Mr. President, S. 1131, the legislation currently pending before the Senate, is the first bill to be reported out from our new Subcommittee on Nuclear Regulation in the Committee on Environment and Public Works. This bill extends through fiscal year 1978 the authorization for appropriations for the Nuclear Regulatory Commission. The bill is based on testimony received in five hearings which I chaired earlier this year. These hearings were very educational for this Senator and for the members of this committee and subcommittee. The subcommittee held two markups and the full committee held one before reporting the bill favorably, with amendments.

The Nuclear Regulatory Commission touches many of the nuclear issues that are important today: Reactor safety; radioactive waste disposal; regulatory procedures; public participation in agency proceedings; and the issue that is perhaps paramount in the public mind today, that of safeguards of nuclear materials against unauthorized use or diversion.

Mr. President, the bill as reported does not significantly depart from previous NRC authorizations or from the administration's budget request. The bill authorizes \$299,649,000 which is \$7.5 million more than the administration request and \$51 million more than the fiscal year 1977 estimate.

The President's national energy plan proposes two major changes in nuclear power policy: Redirecting the breeder reactor program and indefinitely delaying recycling plutonium from spent fuel. The first embodies cancellation of the Clinch River breeder reactor demonstration project. The second involves committing no Government support to fuel reprocessing plants. These proposals were based on the testimony of many distinguished scientists and economists that the timetable for early commercialization of the breeder will not produce a reactor which will economically compete without massive Government subsidization until well into the 21st century. They are also based on a desire to avoid the nuclear proliferation problems associated with use of plutonium fuel. There is time to develop alternate approaches and still meet our energy needs. And, in fact, by relying on just one of many technological options, the current plutonium breeder program could prematurely freeze out other more promising alternatives and compromise the eventual development of nuclear energy.

Mr. President, this bill contains about



\$18.6 million for liquid metal fast breeder research as part of the NRC regulatory research program. Most of this money is for generic breeder studies which would continue under the President's program. However, the NRC has indicated that if the Clinch River breeder reactor project is canceled or indefinitely deferred, their budget can be reduced by \$3.7 million, most of it coming from the research program. The committee included a requirement that such a reduction occur if indeed Clinch River is canceled or indefinitely deferred.

The committee itself determined that the initiative on Clinch River lay elsewhere, with ERDA and the Energy Committee, and that this committee should remain neutral on the question of whether that program should be canceled or deferred. My personal opinion is that the President is absolutely right. I support his judgment that this is one we can do without. We should in no way hasten to introduce a technology which is totally dependent on dangerous plutonium and which may preclude the development of more viable alternate breeder technologies.

The bill also contains a similar provision related to plutonium recycling. If the license application is withdrawn, or further construction is canceled, for the fuel reprocessing plant at Barnwell, S.C., the NRC authorization should be reduced by \$3.1 million. This is related to the President's recommendation that the commercial reprocessing of spent nuclear fuel be delayed indefinitely. Again, the committee felt that the initiative on the question of fuel reprocessing and plutonium recycle lay elsewhere, although the responsibility for protection of public health and safety does lie with the Nuclear Regulatory Committee, the licensing authority. Therefore, the committee took the contingent action of authorizing the money in case the license application proceeding continues, but requiring that the money not be appropriated if that reprocessing plant is canceled or indefinitely deferred.

Although the committee did not take a position either pro or con, I feel strongly that the President's policy of delaying plutonium recycle and fuel reprocessing is a wise one. The recent report by the Mitre Corp. concluded that the international and social costs of plutonium recycling far outweigh the minimal economic benefits even under optimistic assumptions. Plutonium recycling can only make a marginal contribution to our energy effort in the future, and a delay may well lead to better nuclear fuel cycles. I believe this issue has such enormous consequences, and is so critical to the health and safety of the American people, that any future decision to proceed with fuel reprocessing should not be made without congressional approval. The committee intends to investigate this question further in our oversight capacity in the months ahead.

The committee discussed a proposal from the NRC for authorization of \$200,000 for fiscal year 1977 for the specific purpose of funding intervenor participation in the licensing proceeding for use of recycled plutonium—the so-

called GESMO proceeding. Although the committee was united in the belief that the NRC should avail itself of all information which would contribute to their understanding of the issues before reaching licensing decisions, the committee was divided over the specific question of intervenor funding, which was dropped from the bill by a one vote margin in subcommittee. In full committee, I offered a somewhat different proposal to encourage public participation. However, that was also defeated by a single vote. Nevertheless, in the year ahead, as the subcommittee considers the larger issue of licensing and regulatory reform the question of whether the public voice is being adequately represented is one which we will have to consider once again.

The committee also added \$6 million to provide for an inspector at every nuclear reactor site, a proposal which will nearly double the number of hours of inspection at each nuclear reactor in operation or under construction within 2 or 3 years when it is fully implemented. This will be a major step in tightening up safety and security procedures in the nuclear power industry.

On the safeguards front, the NRC promulgated new regulations in February requiring stricter safeguards at nuclear powerplants. The committee added \$600,000 to the bill in order that those new regulations can be implemented more expeditiously. These are important changes and the country cannot afford delay in getting them in place.

An incidental matter, but one that is very important to the Commission, is an action which the committee took under section 11(b) of the Public Buildings Act of 1959 to direct the Administrator of the General Services Administration to study the feasibility of consolidation of the NRC at a single location. At present the NRC is housed in nine buildings scattered over the Metropolitan Washington area. The direct added cost of this dispersal is \$5 million per year and the indirect costs due to reduced operating efficiency is substantial. It is our firm hope that this situation can be corrected before another year has passed.

Mr. President, the Nuclear Regulatory Commission is the Nation's primary agency for insuring that our nuclear energy activities are conducted in a manner which will protect public health and safety. I am sure that as time goes on we will have suggestions to make to the Commission which we believe will improve their operations and we may see the need for additional legislation. But in the meantime, Mr. President, I am happy to present the committee's report on the authorization bill for fiscal year 1978 and recommend that my colleagues give full support to the Commission's activities for another year.

Mr. President, I am unaware as to whether the minority wishes to express itself on this measure. It is my understanding that the minority members of the subcommittee and the full committee endorse this authorization bill and have no particular objection to its immediate consideration and passage by the Senate.

If there are those of the minority side

who wish to comment on the authorization bill, I would be more than happy to have them do so at this time.

Mr. BAKER. Mr. President, I have been asked by the distinguished Senator from Idaho (Mr. McClure) to explain to the distinguished manager of the bill and to our colleagues that, because of three other committee meetings he feels obligated to attend during the course of the first hours of the Senate session today, it will not be possible for him to be here to participate in this debate on this matter. However, to express and underscore his interest in this field and his views, he has delivered to me a statement, which I will ask unanimous consent to have printed in the Record if Mr. McClure is unable to arrive in the Chamber before action on this measure has been concluded.

Mr. STAFFORD. Mr. President, I am pleased to support S. 1131, a bill to authorize appropriations for the Nuclear Regulatory Commission for fiscal year 1987.

I call to my colleagues' attention that this bill is the first reported out by the Committee on Environment and Public Works on the subject of environmental regulation and control of nuclear energy. This is a new area for our committee—one which will require substantial effort both from a legislative and oversight viewpoint. It is also obviously a very important area in view of the fact that this country is depending upon nuclear energy to provide an important share of our future electrical energy needs. The committee feels a very strong responsibility for assuring that nuclear energy is used in a safe manner with an acceptable impact on the environment.

I want to take this opportunity to compliment the members of our Nuclear Regulatory Subcommittee for the fine job they have done. There is no doubt that nuclear energy matters are highly controversial and emotionally charged. I have observed that the members have approached the issues in a constructive and harmonious manner. Much of the credit for this approach is due to Senator HART, the chairman of the subcommittee, and Senator McClure, the ranking minority member.

Mr. President, I recommend the passage of this bill.

Mr. McClure. Mr. President, I am pleased to join my colleague from Colorado in urging favorable passage of S. 1131, as amended—a bill to authorize appropriations for the Nuclear Regulatory Commission for fiscal year 1978.

We all share the objective that nuclear facilities and materials be utilized in a way which adequately protects the health and safety of the public and minimizes any adverse impact on the environment. This bill provides the necessary funds for the Nuclear Regulatory Commission to assure that this objective is met.

As the report accompanying this bill indicates the Committee on Environment and Public Works has carefully reviewed the agency requests, and believes they are justified. As a result of our deliberations, we acted to provide an increase in funding authorization of some \$7.49 million, bringing the total recommended

NRC authorization for fiscal year 1978 to just under \$300 million. Personally, I am very concerned about the tremendous expansion which has been occurring in the size and authority of our Federal regulatory agencies—including the NRC. I believe rather strongly that the Congress must exercise tighter control over these agencies to assure minimum regulatory control—consistent with full protection of the public interest. In this regard, it is fair to say that the nuclear industry is one of the most closely regulated industries in this country. I did decide, in this case, to support the funding levels requested by the agency as well as those increases proposed in committee since I am of the view that if we are to err in this field, we should err in the direction of increased safety. I do intend to do all in my power, however, to make certain that NRC utilizes the resources given to it by the Congress in the most judicious way possible.

I would like to offer some brief explanatory comments on several of the other amendments agreed to in committee.

The committee adopted an amendment to reduce NRC's authorization by \$3.7 million in the event that the Clinch River breeder reactor demonstration is canceled. I want to underscore the fact that in taking this action, the committee was not taking a position one way or another as to whether the Congress should agree with the President's recommended course of action on the breeder program. All we are saying is that in the event a congressional decision is made to agree to the cancellation of Clinch River, NRC's budget logically can be reduced by \$3.7 million.

The committee also adopted a similar amendment that reduces NRC's authorization by \$3.1 million in the event that the license application is withdrawn or further construction is canceled for the Barnwell nuclear fuel reprocessing plant. As our report emphasizes, in making this recommendation, the committee intended to remain strictly neutral in terms of expressing a judgment either in favor of or against reprocessing nuclear fuel or recycling plutonium. All we were doing is to assure that NRC funds are reduced by \$3.1 million in event the Congress accepts the Presidential recommendation for an indefinite deferral of commercial reprocessing and recycling of plutonium.

While the committee agreed to remain neutral for the purposes of this bill on the issue of the breeder and fuel reprocessing, I would like to briefly note some of my personal views on these matters. I believe that the course of action recommended in the President's Energy Message is just plain wrong, and if followed by this country will substantially reduce the options available to this country to meet our future energy needs. Study upon study has shown that fuel reprocessing and the fast breeder are essential if this country is to realize the full potential of nuclear energy. These programs can be implemented in a way which fully protects the public health and safety and the environment. Furthermore, in my view, the President's

policy will not serve to advance this Nation's nonproliferation objectives that we all share. Indeed, if anything, the President's policies are likely to be counterproductive.

I will have more to say on these matters as the Senate proceeds to review the President's proposals during the coming weeks.

I would also like to briefly discuss why I opposed several amendments in committee to provide for funding of intervenors in NRC proceedings—and specifically for the funding of intervenor participation in the NRC proceeding to determine whether widescale commercial use of mixed oxide fuel should be authorized. As discussed in our report, these proposals were defeated in committee action. I want to make it clear that I am wholeheartedly in favor of public participation in NRC proceedings. Indeed, the Atomic Energy Act establishes the framework for such participation. I also believe that NRC can and should obtain whatever expert advice it needs to reach sound licensing decisions. I do strongly object, however, to paying intervenors to challenge the findings of the Government agency charged with the responsibility for protecting the public interest. Further, I believe that this issue should not be considered on an agency-by-agency basis, but rather should be considered from a broader viewpoint as has been proposed in the legislation pending before both House and Senate committees.

In closing, I urge my colleagues to support S. 1131 as reported by the Committee on Environment and Public Works.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.) Without objection, it is so ordered.

Mr. HART. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are considered and agreed to en bloc.

#### UP AMENDMENT NO. 316

Mr. HART. Mr. President, I send to the desk a technical amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HART) proposes an unprinted amendment numbered 316:

On page 2, line 2, after "\$299,640,000" insert "for fiscal year 1978."

Mr. HART. Mr. President, the inclusion of the date of this authorization measure is on the advice of legislative counsel and merely makes the language of the bill conform to standard legislative practice. It in no way changes substantively the bill itself.

I do not believe there is any objection from the minority on this.

Mr. McCLURE. Mr. President, I state on behalf of the minority that there is no question on it. The Senator from Colorado is right.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. HART. Mr. President, I know of no further amendments to the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1978

SEC. 101. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1954, as amended, for salaries and expenses, \$299,640,000 for fiscal year 1978, to remain available until expended.

(b) In the event that the license application is withdrawn or the construction of the Clinch River Breeder Reactor is not authorized, the authorization in subsection (a) shall be reduced by \$3,700,000.

(c) In the event that the license application is withdrawn or further construction is cancelled for the fuel reprocessing plant at Barnwell, South Carolina, the authorization in subsection (a) shall be reduced by \$3,100,000.

SEC. 102. Moneys received by the Commission for the cooperative nuclear safety research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended. Funds may be obligated for purposes stated in this section only to the extent provided in appropriation Acts.

SEC. 103. Transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

Mr. HART. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HART. Mr. President, I thank the Senator from Idaho (Mr. McCLURE) for his help at the subcommittee level on this bill. Also, I thank the ranking minority member, the Senator from Vermont, on the full committee for his participation in this matter. I thank all committee members for their assistance in getting the measure passed.

I acknowledge the work of Mr. Haven Whiteside of the committee staff; Kevin Cornell, Norman Klug, of the committee staff, also, for shepherding this measure through.



TANKER AND VESSEL SAFETY ACT  
OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order 149, S. 682.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 682) to amend the Ports and Waterways Safety Act of 1972; to increase the use of vessels of the United States to carry imported oil.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum—if nobody seeks recognition at this point.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. ZORINSKY). Without objection, it is so ordered.

## AMENDMENT NO. 338

Mr. BROOKE. Mr. President, I call up my amendment No. 338 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. BROOKE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. ROBERT C. BYRD. Will the Senator put in another quorum call?

Mr. BROOKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I ask unanimous consent that Philip Grill and Malcolm Sterrett, from the committee staff, be granted the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, before discussing the matter before the Senate, I ask unanimous consent that the following members of the staff of

the Committee on Commerce have the privilege of the floor during consideration of and votes on S. 682 and amendments thereto: Thomas Allison, Edward Merlis, Christopher O'Neill, and Michael Senger.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, we are considering today a bill before the Senate that is a very important piece of legislation. All of my colleagues, I know, are familiar with the epidemic of tanker incidents and accidents which occurred during the year, in December of 1976 and the first 2 months of this year. Those accidents are well documented in the hearings before the Senate Committee on Commerce held January 11 and 12. These were lengthy hearings. Hearings had been held prior to that on other tanker matters. But these incidents are only the "tip of the iceberg" in tanker losses.

I use the words "the tip of the iceberg" for this reason:

Mr. Arthur McKenzie, the director of the Tanker Advisory Center in New York, has provided the committee with some rather startling statistics about the worldwide trends:

In 1976, at least 19 tankers totalling 1,129,000 deadweight tons were total losses. This is nearly 50 percent greater than the tonnage lost during 1975. It is six times greater than that lost in 1964.

Since 1964, 198 tankers totalling more than 7 million deadweight tons have been total losses. Four of these were massive oil carriers, each of more than 200,000 deadweight tons capacity; and eight others, each with more than 100,000 tons capacity.

These are what we call supertankers. These are big ships.

As a result of these 198 total losses, 1,054 seamen died and over 500 million gallons—1,694,600 tons—of oil entered the oceans.

While a major concern in this country is protection of the marine environment from oil contamination, the loss of human life, the destruction of valuable ships, and the loss of a substantial amount of energy resources is far too great to be tolerated. Technology seems to be moving faster than our understanding of its consequences. And far too many careless shipowners and operators are allowed to cut corners in vessel safety.

The growth in tanker traffic—and the concomitant growth in tanker accidents—is, as we all know, driven by the world's insatiable appetite for crude oil, which is great. Just 10 years ago, the United States imported very little foreign oil by tanker. Now, as our indigenous sources of oil decline and our demand for oil continues to climb, we must import tremendous quantities from abroad. According to President Carter's national energy plan, the United States imported about 9 million barrels of oil a day in January and February of this year, approximately now half of U.S. consumption.

Ninety-six percent of this oil was carried in foreign tankers. This bill is vital in order to require that all foreign vessels comply with certain standards to gain entry into U.S. ports.

Risk analyses of oil transportation

show that oil spillage is directly related to the amount of oil moved on water. So it comes as no surprise that we discover foreign-flag tankers foundering off our shores.

To compound the problem, the tanker fleet which serves the United States is composed of older, smaller vessels, many like the *Argo Merchant* with long, sordid histories of breakdowns and pollution incidents. U.S. ports are too shallow for the newer vessels which have been built to carry as much as 2 million barrels of oil per ship. As yet, construction has not begun on the two deepwater superports planned for the Gulf of Mexico off Texas and Louisiana. America has become the dumping ground for many of the "rust buckets" of the world. When these ships get into trouble, no one wants to announce their ownership or claim responsibility. Anonymity should be expected of one who knows he is playing percentages with lousy ships. I think these people should conform their ships to the most stringent vessel safety standards or be put out of business. Seadock and LOOP, the names of the deepwater ports, should get on with the business of building deepwater ports for the United States.

Unfortunately, the foreign-flag tanker fleet is more susceptible to casualty than U.S. vessels. Since 1964, 68 Liberian-flag tankers have been lost—a .58 losses to existing tonnage ratio—and Panama lost 17 tankers for a .51 loss ratio. For the same period, 9 U.S. tankers were lost for a .15 loss ratio. Therefore, to some extent, tanker safety is an international concern and it has been treated as such by the U.S. Coast Guard which is in charge of U.S. vessel safety policy.

There are international treaties which address the subject of tanker safety and protection of the marine environment. However, these have not been totally successful in arresting the problem. These treaties rely on the flag-nation to police its terms. Yet many flag of convenience nations, such as Liberia, totally lack the resources to undertake any meaningful law enforcement. Very few, if any, Liberian-flag vessels ever enter a Liberian port for inspection, or for any other reason. The same is true with the other countries that allow the licensing of flag of convenience ships. The decisions about tanker safety are made in a forum which is heavily weighted toward maritime interests.

It has even been suspected that the American oil people, who are usually the owners or part owners or sometimes full owners of the foreign-flag vessels, dominate the delegation that comes to these conferences to do something about world tanker safety—and they do. So it is heavily weighted toward maritime interests. It is called the Intergovernmental Maritime Consultative Organization, IMCO. In my view, this system of international rules, purportedly enforced by all flag-nations, is weak and inherently self-defeating. What is needed is greater pressure by nations with a strong concern for protecting coastal resources. This balance has been lacking at IMCO and in the existing pattern of international rules.

International law does not preclude greater influence in policymaking by nations which are dependent on foreign-flag vessels. In fact, when a vessel enters the ports and internal waters of a nation, that nation has very broad control over the vessel regardless of the vessel's flag. The most recent IMCO conference recognized this right in the 1973 Treaty on Marine Pollution from Ships by affording port-nations the right to impose standards more stringent than those contained in the treaty. This concept is identical to that contained in many U.S. environmental statutes—the Federal Government sets minimum standards, the States may set more stringent ones.

This is the approach taken in S. 682. Under this legislation, the United States would be exercising its inherent right to regulate ship traffic coming to its ports.

The bill would set more stringent standards for all vessels carrying oil, regardless of flag, entering U.S. ports. These standards are generally accepted as providing greater navigation and vessel safety and enhanced protection of the marine environment. Most have been analyzed by the Congressional Office of Technology Assessment in its report on oil transportation by tankers. In addition, nearly all of the minimum standards for tankers contained in S. 682 are called for in President Carter's tanker proposals, some of them now being carried out by the Secretary of Transportation, Mr. Adams. He moved swiftly on this matter, but he needs much more authority, authority which is contained in this bill.

I believe the committee report adequately addresses the various issues raised by the bill. I ask unanimous consent that pages 1 through 17 of Report No. 95-176 be printed at this point in my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### PURPOSE OF THE BILL

The purpose of the bill is twofold: (1) to establish improved Federal standards governing navigation and vessel safety and protection of the marine environment, and (2) to authorize a comprehensive program of ocean pollution research and monitoring.

#### DESCRIPTION

Title I of the legislation contains amendments to the Ports and Waterways Safety Act of 1972 (Public Law 92-340). That statute was enacted as the first comprehensive attempt to reduce the safety hazards of marine transportation and to prevent or minimize pollution resulting from operation and casualties of vessels carrying oil or hazardous materials in bulk. Public Law 92-340 also authorized, for the first time, the creation of vessel traffic services and systems in the Nation's ports, harbors, and waterways. After 4 years of oversight, the Committee has approved S. 682 which contains a complete rewrite of that basic statute. Title I, the Ports and Waterways Safety Act Amendments of 1977, contains provisions to—

(1) establish more stringent construction, design, equipment, repair, manning, maintenance, and operation standards for all tankers, regardless of flag, entering U.S. ports;

(2) provide clear authority for the Secre-

tary of Transportation to bar substandard vessels from operating in U.S. waters;

(3) authorize the creation of a Marine Safety Information System to identify substandard vessels and for disclosure of true ownership of ships;

(4) authorize the establishment of regulations for controlling lightering (vessel-to-vessel transfer of cargo) in U.S. waters and on the high seas where a U.S.-bound vessel is involved;

(5) mandate that all self-propelled vessels of 20,000-dead-weight tons or larger carrying oil in bulk be equipped with a dual radar system, a collision avoidance system, a long-range navigation aid, adequate communications equipment, a fathometer, a gyrocompass and up-to-date charts by not later than June 30, 1979;

(6) mandate that such vessels also be equipped, by not later than June 30, 1983, with a segregated ballast system, a gas inerting system, a transponder or other appropriate position-fixing equipment, and a double bottom if the vessel is contracted for, or construction is actually commenced, after January 1, 1978;

(7) create an expanded inspection and enforcement program; and

(8) authorize the promulgation of improved manning and qualification standards.

In addition, title I of S. 682 contains provisions amending an 1896 statute which sets forth the qualifications for receiving a Federal pilot's license. These proposed new provisions specify more stringent requirements for obtaining such a license. Also, the Secretary of Transportation is directed to seek more uniform pilotage standards among the States. Pilotage for foreign vessels and all U.S. vessels in the foreign trade is regulated by the individual coastal States.

Title II of S. 682 contains the Ocean Pollution Research Program Act. The purpose of this act is to provide for a more comprehensive and coordinated Federal approach to ocean pollution research and monitoring. The National Oceanic and Atmospheric Administration is designated as lead agency for the Federal effort, to be assisted by the President's Office of Science and Technology Policy. In addition, a special study by the Department of Transportation is commissioned to evaluate monitoring systems for vessels.

#### BACKGROUND OF THE LEGISLATION

##### 1. Marine transportation of oil—

In the last 10 years, the world experienced a dramatic rise in the amount of crude oil transported by water. As of today, the world trade in petroleum shipped by tanker averages approximately 35 million barrels per day. As use of oil products has increased tremendously, and as many nations have begun to exhaust their indigenous sources of oil, more and more nations must import from other countries with an abundance of petroleum: namely, the Arab nations and the producing nations in Africa and South America.

To accommodate this growth of water traffic in oil, large numbers of very large tankers have been constructed to move large amounts of oil more economically. From 1966 to 1970, the world fleet of "super-tankers" increased from less than 2-million-deadweight tons to over 50 million tons. During the next few years another 50 million tons were constructed.

But with this sharp growth in tankers has also come expanded pollution problems. In a report entitled "Petroleum in the Marine Environment," issued in 1975, the National Academy of Sciences estimated that transportation-related activities (mostly tankers) resulted in 2.1-million-metric tons of oil being introduced into the marine environment. The report also concluded that:

"The quantity of oil entering the oceans from transportation related sources has been increasing every year; given further increases in production and transport, it is possible that transportation related inputs will continue to increase despite the current interest and activity in control measures." (p. 104).

Of this amount approximately 85 percent is estimated to be discharged into the ocean as a result of normal tank cleaning and deballasting operations. Once emptied of cargo, tankers take seawater into their tanks for ballast and upon entering a loading port discharge that dirty ballast water at sea. This practice is more pronounced in the mid-ocean; however, large amounts of deballasting occurs along the coast of the United States, particularly off Florida. While normal operations account for the greatest quantity on a generalized basis throughout the ocean, a single accidental pollution incident can be far more damaging in effect. Accidents such as the *Torrey Canyon* and the *Argo Merchant* can cause considerable damage to elements of the marine ecosystem.

In short, oil spillage is directly related to the amount of oil moved on water. Prior to 1973, international standards covering ship safety did not address the problem of marine pollution other than limiting normal discharge of ballast. In 1973 the Intergovernmental Maritime Consultative Organizations (IMCO) convened a major international conference and a treaty governing marine pollution from ships resulted. This treaty contains design, construction and operation standards to reduce or eliminate both operational and accidental pollution. Much of the impetus behind that treaty came from the United States.

Once again in 1977, there has been increased public pressure to reexamine the tanker safety problem. A series of tanker incidents around the Nation once again focused on the need for increased tanker safety standards. As a result of those accidents, the Committee conducted 2 days of hearings in early January to examine the related issues. In March, 5 days of hearings were held on various bills addressing this general issue. On April 26 the Committee favorably reported S. 682, the Tanker and Vessel Safety Act of 1977.

##### 2. The Ports and Waterways Safety Act of 1972—

In 1972, the Ports and Waterways Safety Act was enacted (Public Law 92-340; 86 Stat. 424). The purpose of this legislation is to promote the safety and protect the environmental quality, of ports, waterfront areas, and the navigable waters of the United States. It provided the Coast Guard with broad authority to establish and operate vessel traffic services for congested waters, and to prescribe safety equipment and procedures for waterfront areas and structures. That law also amended the Tank Vessel Act (46 U.S.C. 391a) to authorize the Coast Guard to establish comprehensive regulations for the design, construction, maintenance, and operation of vessels carrying oil or hazardous materials in bulk for the express purpose of protecting the marine environment.

Until passage of Public Law 92-340, the Coast Guard conducted its port safety program under the authority of the Magnuson Act (50 U.S.C. 191). That act enables the Coast Guard, with the approval of the President, to make rules and regulations governing the "anchorage and movement of any vessel foreign or domestic in territorial waters of the United States during times of 'national emergency'" (a national emergency has existed since July 31, 1951). Obviously, this law did not provide a sound basis for comprehensive marine traffic management for anti-pollution purposes.



The Ports and Waterways Safety Act also shifted the emphasis of national vessel pollution policy from one of cleanup and liability to one of prevention. For the first time, regulations were to be established for preventing oil pollution in the event of an accident. The goal was to achieve major design improvements in the tanker fleet which was then changing over to a fleet of super-tankers. In its report on the bill which eventually became Public Law 92-340, the Committee stated:

"The Committee unanimously ordered H.R. 8140, as amended, favorably reported. The legislation is a major step in promoting the safety and protecting and environmental quality of our ports, waterfront areas, and navigable waters. It puts appropriate emphasis where emphasis is urgently needed: prevention. It provides a comprehensive and systematic approach to the problem of pollution of the marine environment from maritime transport of polluting cargoes, and provides a means for obtaining both vessels and better vessel traffic control. Enactment of the legislation and its vigorous implementation and administration should yield tangible results both with respect to safety and to reduction of pollution of our coastal waters."

### 3. Committee oversight—

Soon after passage of Public Law 92-340, the Committee began to follow closely the implementation of the new law. Since then numerous communications between the Department of Transportation and Committee members have been exchanged. The Committee has also conducted oversight hearings on January 29 and 30, 1975, and again on March 2 and 3, 1976.

In 1973, the Committee sponsored an amendment to Public Law 93-153, the Trans-Alaska Pipeline Authorization Act, to accelerate the promulgation of regulations governing the design, construction, and operation of tankers in the U.S. domestic trade, including the carriage of Alaska oil.

During rulemaking under the act, members of the Committee expressed their concern to the Coast Guard that: (1) rulemaking was proceeding too slowly; (2) the proposed regulations were not as stringent as Congress had intended; (3) international law and agreements did not preclude the United States from enforcing standards more stringent than those set internationally; and (4) action on manning and maneuverability standards was long overdue.

### 4. Recent tanker accidents—

In the month of December 1976, a series of oil tanker incidents in or near U.S. waters received front-page attention.

**SS Argo Merchant.**—On December 15, the *SS Argo Merchant* ran aground 28 miles southeast of Nantucket Island in international waters of the Atlantic Ocean. The *Argo Merchant* was built in 1953 in Hamburg, Germany. The owner of the vessel was the Thebes Shipping Co., and her home port was Monrovia, Liberia. At the time of the casualty the vessel was bound for Salem, Mass. At the scene on December 15 winds were blowing from the southeast at 15 knots, with 6-foot seas and visibility of 10 miles.

Shortly after reporting the vessel aground, the master requested permission to pump oil over the side. The Coast Guard refused permission and the Coast Guard cutters *Vigilant* and *Sherman* along with Coast Guard C-130 aircraft were immediately diverted from other missions to the scene. Helicopters with dewatering pumps were also launched from the Coast Guard air station in Cape Cod. Within 1 hour of the grounding the regional response team was activated and the deployment of the Atlantic strike

force was requested from Elizabeth City, N.J.

All efforts to offload and refloat the vessel were unsuccessful, and in the succeeding days the strike teams, working in winds up to 40 knots and seas of 12 feet, attempted to lighten the cargo to barges, conducted burn experiments, and initiated environmental monitoring. On December 21, the *Argo Merchant* broke up in heavy seas spilling most of its 7.3-million-gallon cargo of heavy heating oil into the sea. The spilled oil moved in an easterly direction, away from the U.S. coastline, and soon began the process of breaking up and dissipating into the sea. The entire crew was safely evacuated by Coast Guard rescue units. The grounding was caused by navigational error. A marine board of investigation has been convened by the Government of Liberia to ascertain the detailed circumstances of the casualty, particularly how the ship could have been so far off course even though there are extensive aids to navigation in the area and the vessel was equipped with navigational equipment including a radiobeacon receiver and a fathometer. The ship did not have a Loran receiver.

The *Argo Merchant* had a previous history of oil pollution violations in Philadelphia, Boston, and Portland, Maine. In August 1975, the vessel was directed by the Captain of the port (COTP) to depart the Port of Boston after it had caused a minor pollution incident. All COTPs were subsequently advised of the action and the reasons for it. On December 2, 1976, the Marine Safety Office in Boston was advised that the *Argo Merchant* would probably return to the Boston area within 2 weeks. Plans were made for an aircraft from Coast Guard Air Station Cape Cod to overfly the vessel prior to her arrival to determine if she was leaking oil. The overflight was planned to take place where the vessel rounded Cape Cod on December 15, 1976. Coast Guard personnel were to board the vessel upon arrival in U.S. waters to verify her conditions, and to prohibit her entry into Boston Harbor if she was found to be leaking or otherwise in doubtful condition.

**SS Sansinena.**—On December 17, the *SS Sansinena* suffered a massive explosion while moored at an oil terminal in Los Angeles harbor. Eight were killed and nearly 50 injured. The vessel had discharged her cargo and was taking on bunkers and ballasting her cargo tanks at the time of the explosion. The force of the explosion blew the ship apart, broke windows over 20 miles away, and scattered over 1,700 pieces of steel into the adjacent pier and terminal area. Between 10,000 and 20,000 gallons of fuel were spilled into the harbor and the resultant fire was not extinguished until the following day. A Coast Guard Marine Board of Investigation has been convened to inquire into the circumstances surrounding this casualty.

**SS Olympic Games.**—On December 27, the fully laden *SS Olympic Games* grounded in the Delaware River, punctured a cargo tank and spilled 133,000 gallons of crude oil. The maneuvering in a narrow channel in preparation for mooring at an offloading terminal, and was caused by a main propulsion machinery failure. The tugs in attendance were unable to control the vessel in the narrow channel without the assistance of the ship's astern maneuvering capability. At the time of the grounding a State licensed pilot who also held a Federal license and a docking pilot were on board.<sup>1</sup> On December 28, the

<sup>1</sup> The Master of the *Olympic Games* was arrested on December 29 by the U.S. Marshal at the direction of the U.S. Attorney in Philadelphia for violations of 33 U.S.C. 407, 411 and 1321(b)(5). After arrest he was released on \$50,000 bail.

Coast Guard checked the aids to navigation in the vicinity of the grounding, and all aids were found to be functioning properly. One buoy had been recently moved to facilitate dredging and was 75 yards from its charted position. A local notice to mariners had been issued regarding this relocation, but it is not clear that the master or docking pilot were aware of this, nor, since the vessel was without power, does it appear that it would have made any difference if they had been aware of it.

Upon notification of the casualty, the Coast Guard diverted a utility boat to the scene, and the regional response team and the Atlantic strike force were activated. The resulting oil spill spread over a 22-mile area of the Delaware River, its connecting wetlands and tributaries. The vessel agents notified two private firms, Coast Services and Underwater Technics, and contracted their services to boom off the tidal marshes and small tributaries to prevent the spread of oil along the river. The vessel was boomed off at the British Petroleum Dock and 50,000 gallons of crude oil was effectively contained. Along the Delaware River, ice and wind conditions slowed recovery operations of the oil. The oil was sandwiched between layers of ice in many locations. A formal Coast Guard investigation has been convened.

**SS Daphne.**—On December 28 the inbound and fully laden crude oil carrier *SS Daphne* grounded in pilot waters while approaching the harbor entrance to Guayanilla, Puerto Rico. She did not have a pilot on board. The vessel could not be refloated by her own power or by tugs called to assist, and remained hard aground until her cargo was offloaded into lighterage barges. There was not any apparent damage to the vessel and pollution did not occur. The cause of the casualty is still under investigation.

**SS Oswego Peace.**—On December 24, the Liberian flag vessel *Oswego Peace* started leaking bunker oil through the skin of the vessel while offloading cargo at the Hess Oil Terminal on the Thames River at New London, Conn. The vessel had started heating its own No. 1 bunker fuel tank, and as the draft lessened because of offloading cargo the recently heated bunker fuel started leaking through a fracture in the vessel hull. The contents of the tank were immediately transferred to another tank; however, 5,000 gallons escaped into the river. Divers made an underwater examination and found a fracture 1 inch wide and 8 feet long beside the keel jammed full of wooden slivers and sticks. After offloading cargo and completely transferring the oil from the tanks, the vessel departed enroute to a shipyard in Jacksonville, Fla., for drydocking and permanent repairs. The master advised the Coast Guard investigating officer that while the vessel was outbound in the Delaware River and enroute to New London, it struck a floating or partially submerged object. Damage was not detected until arrival at New London. Cleanup of the terminal beach area and a Coast Guard investigation to determine all the circumstances surrounding the casualty are still in progress.

### 5. Transportation of oil in the United States—

As shown in table 1, petroleum and petroleum products are the largest single category of cargo carried by water. Domestic carriage is required to be accomplished in American vessels by the Jones Act (section 27 of the Merchant Marine Act of 1920). However, only 4 percent of oil imports is carried on U.S.-flag vessels.

TABLE 1.—U.S. WATERBORNE COMMERCE OF HAZARDOUS MATERIALS  
[Millions of short tons]

|                                    | Past     |         |          |         |          |         | Projected |         |          |         |          |         |
|------------------------------------|----------|---------|----------|---------|----------|---------|-----------|---------|----------|---------|----------|---------|
|                                    | 1972     |         | 1973     |         | 1974     |         | 1975      |         | 1980     |         | 1990     |         |
|                                    | Domestic | Foreign | Domestic | Foreign | Domestic | Foreign | Domestic  | Foreign | Domestic | Foreign | Domestic | Foreign |
| Crude petroleum.....               | 103.7    | 143.9   | 90.5     | 197.5   | 83.6     | 216.1   | 88.8      | 229.5   | 106.3    | 178.0   | 112.0    | 347.7   |
| Chemicals and allied products..... | 45.2     | 23.3    | 44.1     | 25.5    | 46.5     | 25.6    | 48.3      | 27.2    | 63.0     | 79.5    | 93.0     | 156.3   |
| Petroleum and coal products.....   | 322.9    | 110.1   | 330.7    | 139.3   | 323.9    | 112.6   | 344.0     | 119.6   | 401.4    | 129.2   | 507.0    | 251.6   |
| Subtotal.....                      | 471.8    | 277.3   | 465.3    | 361.3   | 453.0    | 354.3   | 481.1     | 376.3   | 570.7    | 386.7   | 712.0    | 755.6   |
| Total.....                         | 749.1    |         | 826.6    |         | 807.3    |         | 857.4     |         | 957.4    |         | 1,467.6  |         |

Source: U.S. Coast Guard.

The heavy dependence on foreign-flag vessels has caused concern about the ability of the U.S. to protect its oil supplies in times of national emergency. Legislation to increase the U.S.-vessel share of the oil import market was approved by the Committee in 1974 but was pocket-vetted by President Ford. Since the Carter Administration has yet to take a position on the issue of oil cargo preference, provisions to create a preference for U.S. ships was deleted from S. 632 as introduced.

Imports of petroleum by tanker into the U.S. in 1976 represented an average of 7.3 million barrels per day, of which three-fourths was crude and one-fourth refined products. It is projected to increase to 8.3 million this year. The refined products were received mainly from Caribbean sources and the crude oil was received from Venezuela, the Arabian Gulf North and West Africa, and Indonesia. Various projections of rising crude imports in the future all consider the source of added supply to be the Arabian Gulf.

The major portion of crude imports in the U.S. are received at the key refining centers located in the New York-New Jersey-Delaware area, or the Texas-Louisiana area, or the California area. In the recent past (1972-74) two-thirds of these crude imports have been received on the U.S. East Coast. Imported refined products have also been received principally on the East Coast.

The U.S.-flag tanker fleet is small in relation to the world fleet and numbers 218 ships, with only one VLCC (very large crude carrier) in service and nine others under construction, totaling 7.4 million deadweight tons. Ninety-six percent of petroleum imports to the U.S. are carried by foreign-flag ships. Supertankers cannot enter any U.S. East or Gulf Coast ports today because of draft limitations and, therefore, a foreign-flag fleet of smaller tankers is presently carrying the increasing U.S. demand for petroleum imports.

The U.S.-flag tanker fleet is now experiencing significant growth from two principal thrusts. First, the Alaskan to U.S. West Coast trade carrying crude oil from the new Trans-Alaska Pipeline is anticipated to total 2 million barrels per day by 1980. More than 2.8 million tons of 60,000-120,000 dwt tankers (32 vessels) have recently been built or are under construction to fulfill this need. In addition, ten VLCCs are under construction under the Maritime Administration subsidy program for use in the foreign trade.

The U.S.-flag supertanker fleet is minimal with six vessels (recently constructed for the Alaska to West Coast Trade) of the 120,000 dwt size and one recently completed 225,000 dwt tanker for the foreign trade. In addition, one 120,000 dwt and nine VLCCs (225,000-265,000 dwt) are under construction, and three VLCC's (390,000 dwt) are in order. The *Massachusetts*, a 265,000 dwt tanker, built for Boston Tankers, Inc. was launched on January 10, 1975 at Bethlehem Shipyard in Baltimore, Maryland. The

only other U.S.-flagship VLCC in service is the *Brooklyn*, a 225,000 dwt tanker delivered in December, 1973 to Longfitt Shipping Co. by Seatrain Shipyard, NYC.

An international conference to deal with this subject has been set by the Intergovernmental Marine Organization (IMCO) for 1978. The goal of the conference is to establish worldwide minimum standards for crew competency. While the United States possesses the authority to set crew qualification and training standards for all vessels entering U.S. ports, no such standards will be enforced against foreign vessels, pending the outcome of the 1978 conference. The Committee hopes that this conference will be successful. If not, national standards should be instituted under authority of the Ports and Waterways Safety Act.

4. **Lightering**—Lightering is the practice of transferring a liquid cargo such as oil from a larger tank vessel to a smaller one at sea. Larger tankers, when fully laden, run too deep in the water to enter most U.S. ports. Most East and Gulf Coast ports are limited to vessels which draw no more than 45 feet of water. Newer tankers are much larger in size than older vessels—from 100,000 to 350,000 deadweight tons (dwt) compared to 12,000 to 40,000 dwt.

The practice of lightering has been going on for some time in Delaware Bay. Ships of 90,000 to 150,000 (dwt) anchor in deeper water outside the bay and transfer part of their cargo to barges. Once lightened, the tankers then proceed upriver to dock. Lightering in areas offshore Gulf Coast ports has also increased in the last few years. The vessels are usually underway at low speeds during the operation which occurs about 25 miles at sea.

A recent report done for the U.S. Coast Guard (Implications of the Segregated Ballast Retrofit Ruling on Import Alternatives and Pollution of the Marine Environment; October 1976), describes the practice of lightering in detail. That report indicates (1) that the practice is increasing and may be economically preferable to deepwater ports, and (2) lightering is conducted in 8- to 15-foot wave heights. The U.S. Coast Guard has stated that cleanup of oil spills on the high seas is nearly impossible in wave heights greater than 5 feet. Since lightering is virtually unregulated and since there is great temptation to lighter in bad weather, regulations governing the practice are needed.

Authority to control lightering in areas beyond jurisdiction of the United States is obtained by exercising control over the smaller vessel when it seeks to unload the transferred cargo in a U.S. port.

#### 5. Mandatory minimum standards—

The bill would require each oil tanker which is of a size greater than 20,000 deadweight tons to be constructed to meet specific minimum standards, in addition to any prescribed by the Secretary by regulation. Four general categories of construction features are covered:

- (1) navigation equipment and aids to assist safe operations;
- (2) segregated ballast systems to reduce operational oil discharges;
- (3) gas inerting systems to reduce explosion hazards; and
- (4) double bottoms to reduce oil outflow in the event of grounding accidents.

These features are considered the most significant technical improvements in tanker construction that could be applied to the fleet operating in U.S. waters for the purpose of reducing oil spills and accidents. The following summarizes the uses and capabilities of each feature specified under these categories, the benefits that could result from each and the cost associated with each.

**Dual radar equipment.**—Radar is one of the essential pieces of equipment utilized by most modern ships for all-weather navigation in coastal waters, in harbors, or wherever other ships or obstacles may be encountered. By means of transmitting electromagnetic pulses and sensing the reflected return signals, a radar is capable of displaying the locations of surrounding objects (such as other ships) to the navigator. The coverage and accuracy of locating these objects so that one may avoid collisions and also keep to prescribed channels and shipping lanes depends on the type of radar and the reliability of the system. The two-radar concept, as would be mandated by the bill, is standard, good practice for many commercial operators and is essential not only for redundancy and reliability, but to have the best available equipment on tankers. A short range radar with high resolution identifies objects near the ship and a longer-range radar gives distant coverage, and both should have true-north features to aid position-fixing. In addition, the short-range radar provides necessary accuracy in resolution for use with a collision-avoidance device.

The present cost of a dual radar system is about \$50,000 which, if incorporated in the total transportation cost of crude oil or product by tanker, would have a negligible effect.

**Collision avoidance systems.**—S. 682 would require each tanker to be fitted with a collision avoidance device for the purpose of reducing the hazards of collision and other similar accidents which, in the past, have been the cause of between 20 percent and 25 percent of the tanker accidents causing oil pollution. Personnel error has often been cited as the dominant probable cause of collision. A collision avoidance system has substantial potential for reducing casualties through relief of deck officer's workload and improvement in decision processes and timeliness.

Most collision avoidance systems utilize a computer to automatically process radar data and display encounter situations in a form enabling the ship to be maneuvered to avoid dangerous situations. The systems also include alarms and may include other features to display or present important navigational data. The present cost of such a system is less



than \$100,000, which if incorporated in a tanker, would add a negligible fraction to the total oil transportation cost.

**Long range navigational aid.**—At distance beyond range capabilities of radar, several electronic systems are available for navigational aid. The bill would require that each tanker carry such equipment. Such aids are important to general open-ocean navigation and most modern ships utilize one or more depending on the waters traversed. This equipment is also important for accurate position fixing in many areas offshore the U.S. where shipping lanes may extend over 100 miles and are located near shoal water or near such other structures, such as offshore drilling platforms.

**LORAN-C** is a long-range navigation system operated by the U.S. Coast Guard from shore broadcasting stations which cover the U.S. coastline out to 200–300 miles depending on the region. Ships which are equipped with LORAN-C receivers can utilize this system and locate themselves within about 1,000 feet under all weather conditions. Greater accuracy for specific localities is also possible. LORAN-C receivers cost about \$10,000.

Other long range navigation systems are also available, some of which may offer improved advantages in the future. Two other U.S. systems are OMEGA and satellite systems both of which have much greater world-wide coverage than LORAN-C but have less accuracy or availability. Satellite navigation systems are presently limited by the number of satellites in orbit and thus a long time delay (a few hours average) between navigation fixes. The bill does not specify which navigation system will be required thus giving the Secretary the option of specifying the best available equipment and revising such requirements in the future if better equipment becomes available. It is also important that the Secretary consider standards of design, testing and reliability of such equipment in such requirements since that greatly affects accuracy and usefulness of navigation equipment. As a minimum, the equipment should have accuracy up to a quarter-mile.

**Adequate communications.**—The bill would require each tanker to have adequate communications equipment which are essential to safe operation in confined or congested waters. Radio communications with other vessels and with port authorities must be maintained in order to avoid hazardous conditions of other nearby vessels. The Secretary may develop specific requirements for communications equipment, including type, coverage, and performance standard to assure adequacy of systems used.

**Fathometer.**—The bill would also require each tanker to be equipped with a fathometer. A fathometer is a sonar device which measures the time delay of a sound signal when reflected from the sea bottom and thus provides an accurate measurement of water depth. Water depth can then be displayed for the ship operator and used to assist navigation. Some systems also trigger an alarm when it becomes too shallow to safely navigate. Most fathometers cost under \$5,000.

**Gyrocompass.**—The bill would require each tanker to be fitted with a gyrocompass, a device which provides accurate directional or compass heading information with respect to true north and south, rather than magnetic north and south. Magnetic compasses are subject to large variations and inaccuracies under certain conditions. A gyrocompass is a key piece of navigation equipment for most modern ships and is used for long-range and short-range navigation. It is a necessary accessory for such equipment as true-north radars, collision-avoidance systems and other navigation aids. The cost of a gyrocompass is about \$10,000.

**Charts.**—The bill would require each tanker to carry up-to-date charts. It is necessary to safe navigation to have the best possible

charts of the area in which a ship is operating and containing current information on the location of buoys, obstructions, traffic schemes, channel conditions and other pertinent information.

**Segregated ballast systems.**—The bill would require segregated ballast systems for all tankers. It is well-known that ballasting and deballasting operations, as well as tank-cleaning operations, conducted by tankers which carry ballast water in cargo oil tanks during return voyages, contribute the greatest amount to the oil discharged into the oceans. This provision would require each tanker to have separate tanks for carrying ballast water only and thus eliminate the need to mix ballast water and oil cargo. In the past it is estimated that operational discharges around the world amount to one million tons of oil spillage each year. Tankers which operate in U.S. waters are projected to become an ever-growing proportion of the world fleet.

Most of this operational discharge could be eliminated with segregated ballast systems incorporated in each tanker. The 1973 International Pollution Convention specifies that new tankers over 70,000 tons have segregated ballast systems and, even though the international agreement is not ratified, U.S. Coast Guard regulations presently require this for new tankers. The provision in the bill would extend the requirement to existing tankers by not later than June 1983 and to new tankers of smaller sizes. The "phase-in" period is necessary because of limited shipyard facilities.

The cost of retrofitting segregated ballast systems on existing tankers can range from \$750,000 (for a 40,000 ton tanker) to \$1,000,000 (for a 120,000 ton tanker). In addition, lost cargo space because of separate ballast tanks would add to the total transportation cost of crude oil or products. The amount of increase in transportation cost is dependent on many factors such as voyage length and flag of operations. Based on very conservative estimates and current oil prices, if this provision required all existing tankers to be converted, it would add 1 percent–2 percent to the total cost of delivered oil which is carried by tanker to U.S. ports. Since some tankers already have this feature and most new ones are being constructed with segregated ballast, the total cost impact could be considerably less.

**Transponders.**—The bill would require each tanker be equipped with a transponder or other appropriate position-fixing device. Such a device would utilize one of the standard long-range navigation networks such as LORAN-C for position-fixing information. It would also automatically transmit this position data to a shore control station for the purpose of facilitating vessel traffic advisory services. Shore stations operated by the Coast Guard could maintain accurate traffic information in critical offshore regions for the purpose of advising or warning about hazards. Such a system could also be extended to other marine operations in the same region.

**Gas Inerting Systems.**—The bill would require each tanker to be equipped with a gas inerting system for the purpose of reducing the risk of cargo tank explosion which, in the past, has been the major cause of deaths and injuries suffered during tanker accidents. Many modern tankers routinely use inert gas systems.

Inert gas systems operate by injecting an inert gas, such as stack gas from the boiler, into cargo tanks as they are emptied so that no significant amount of oxygen will be present. Certain oxygen levels must be present for an explosion to occur. Much research has been done on systems to reduce explosion hazards. Industry and government authorities have recommended that inert gas systems, properly operated, could significantly reduce the incidence of tanker explosions. The cost of inert gas system varies depending

on the size of the tanker. A complete system is estimated to cost approximately \$1,000,000 for a typical 120,000 ton tanker. Based on conservative assumptions and current prices, this capital cost would add no more than one tenth of one percent to the total delivered cost of oil transported to the U.S. by tanker.

**Double bottoms.**—The act requires that all new tankers constructed after January 1, 1978 be equipped with a double bottom throughout the cargo space. A double bottom refers to two separate but continuous watertight plating structures along the length and width of a ship's bottom beneath the cargo tanks. This usually encloses a compartmented space of up to 10 feet in height. The space can be used for ballast water or left empty.

It is generally accepted that double bottoms will prevent most oil spillage that results from limited intensity hull ruptures due to groundings such as those that have occurred within harbors and near shore areas. In the past groundings have accounted for about 1/4 of the tanker accidents causing oil pollution worldwide. A recent analysis of tanker groundings in U.S. waters during 1969–1973 showed that double bottoms would have prevented over 90 percent of the resulting pollution.

Several new U.S.-flag tankers have been constructed with double bottoms and others are under construction. Since segregated ballast is now required for these ships in any case, utilizing a double bottom for ballast covers two concerns. Double hulls, which include both double bottoms and double sides, have also been fitted in several new tankers. These would extend the accident protection feature as well.

Based on recent shipyard construction figures, it is estimated that double bottoms cost about \$1,000,000 for a typical 40,000 ton tanker and \$2,000,000 for a typical 120,000 ton tanker. This added capital cost would in turn contribute less than 2 percent to the total cost of delivered oil carried to U.S. ports by tanker.

#### 6. Ocean Pollution Research and Monitoring—

The Committee has approved new statutory authority to address the question of ocean pollution research and monitoring. It has been well established that far more needs to be known about oil pollution in the sea, as well as ocean pollution generally. In its report on *Petroleum in the Marine Environment* issued in 1975, a National Academy of Sciences panel concluded:

"In general, much more research regarding the fates and effects of petroleum hydrocarbons in the marine environment is needed. Studies to date indicate that areas polluted with petroleum hydrocarbons 'recover' within weeks or years (depending on local conditions and the characteristics of the petroleum); however, composition of the local biological communities may be altered. The oceans have considerable ability to purify themselves by biological and chemical actions. A basic question that remains unanswered is, 'At what level of petroleum hydrocarbon input to the ocean might we find irreversible damage occurring?' The sea is an enormously complex system about which our knowledge is very imperfect. The ocean may be able to accommodate petroleum hydrocarbon inputs far above those occurring today. On the other hand, the damage level may be within an order of magnitude of present inputs to the sea. Until we can come closer to answering this basic question, it seems wisest to continue our efforts in the international control of inputs and to push forward research to reduce our current level of uncertainty."

More recently, the Congressional Office of Technology Assessment issued an analytic report on *Coastal Effects of Offshore Energy Systems: An Assessment of Oil and Gas Systems, Deepwater Ports, and Nuclear Power-*

plants Off the Coast of New Jersey and Delaware. That report found that very little public research money is allocated to projects that address the unknowns of the effects of oil spills and other pollutants. The report also stated that there is little cooperation among Federal agencies on ocean pollution research.

Under title II of the Marine Protection, Research, and Sanctuaries Act (Public Law 92-532), the Secretary of Commerce is directed to initiate a comprehensive program and continuing program of research with respect to the possible long-range effects of ocean pollution. However, no funds have ever been expended for this kind of a program. Instead, a number of projects undertaken by several Federal agencies are listed as the "comprehensive program" in an annual report by the Secretary. And as the Office of Technology Assessment report indicates, there is little coordination among these agencies. Consequently, neglect and unnecessary duplication has resulted. The purpose of title II of S. 682 is to end this situation.

Finally, in conjunction with the Outer Continental Shelf baseline research programs, the "monitoring" activities of the Federal Government were evaluated. In a report entitled, *The Environmental Quality Monitoring Report* (February 1976), the Task Team proposed the establishment of a monitoring function in the National Oceanic and Atmospheric Administration. It was stated by the team:

"The introduction of pollutants into the marine environment, a result of man's activities, may have severe effects on the Outer Continental Shelf environment. In some areas these contaminants may be hazardous to health through ingestion of seafood products. Potential losses and restricted uses of certain living marine resources suggest economic hardship to portions of the fishing industry. Also, recreational areas may be lost as a result of contamination by high concentrations of pollutants. The Outer Continental Shelf Task Team proposes a monitoring program combined with the necessary R&D and special studies to provide the data to properly assess and monitor the effects of man's activities on the environmental quality of the OCS. The program is proposed to follow two broad, continuous, and parallel streams of action. One will involve the integration and coordination of existing facilities and plans. The other will identify activities that require further development and planning."

Title II of S. 682 addresses this issue as well.

Mr. MAGNUSON. Mr. President, one of the subjects addressed in S. 682 is the practice of transferring cargo at sea—lightering. I ask unanimous consent that a letter from Secretary Brock Adams of the Department of Transportation concerning this practice be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,  
Washington, D.C., May 16, 1977.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce, Science  
and Transportation, U.S. Senate, Wash-  
ington, D.C.

DEAR MAGGIE: Thank you for your letter of March 21 requesting departmental comments on the practice of lightering.

Lightering is a relatively new operation that has gained considerable momentum during the past two years. It is a common practice within and outside the United States navigable waters and contiguous zone on the west and gulf coasts, and within the United States navigable waters on the east coast. Enclosure (1) will give you an idea of the frequency of lightering opera-

tions at several places around the United States.

Lightering operations that take place within the navigable waters or contiguous zone (i.e., within 12 miles) are within the jurisdiction of the Federal Water Pollution Control Act (33 U.S.C. 1321) and must be conducted in compliance with the Pollution Prevention Regulations (33 CFR 154-156), which address vessel design, equipment, and transfer procedures. A forthcoming amendment to these regulations will require notifying the Coast Guard Captain of the Port (COTP) of time and place before any transfer of oil may occur in the navigable waters or contiguous zone. Although not addressed specifically in the regulations the COTP presently has the authority to stipulate the time and place for lightering operations if necessary. Beyond the contiguous zone the United States has no authority to regulate lightering operations.

Due to the absence of deepwater ports, in many areas of the United States lightering operations constitute an acceptable alternative for transferring the cargoes of large tankers to shore. The dangers to life and the environment during these operations, similar to those inherent in many commercial operations, are not considered excessive and do not warrant prohibition of the operations. Lightering operations beyond the contiguous zone are presently conducted by the major oil companies to permit maximum utilization of their larger tankers.

It has been the Coast Guard's experience that these operations are conducted in a highly professional manner, in accordance with internationally developed guidelines and generally in compliance with the Pollution Prevention Regulations.

Notwithstanding the favorable experience with lightering to date, such operations do pose dangers, both to the safety of ships and personnel and to the marine environment. Further, lightering could, in some circumstances, be used to circumvent requirements imposed upon ships as a condition of entry into U.S. ports. Therefore, the matter is deserving of the attention of the Congress and of the Senate Committee on Commerce and of the Senate Committee on Commerce, Science, and Transportation.

Sincerely,

BROCK ADAMS.

#### FREQUENCY OF LIGHTERING OPERATIONS

|                | Within 12 mi                   | Beyond 12 mi      |
|----------------|--------------------------------|-------------------|
| Seattle        | 1 per month                    |                   |
| San Francisco  | 10 per month                   |                   |
| Long Beach     | Continuous 2 to 3<br>at a time | 4 to 5 per month. |
| Corpus Christi |                                |                   |
| Galveston      |                                | 1 to 2 per month. |
| New Orleans    | 3 per month                    | 5 per month.      |
| Miami          |                                |                   |
| Baltimore      | Numerous                       |                   |
| New York       | 3 per day                      |                   |

Mr. MAGNUSON. Mr. President, S. 682 does provide for the regulation of lightering. In addition, I will shortly offer an amendment to clarify congressional intent with regard to the provisions on lightering. It is not our intent to prohibit lightering but to regulate the practice. My amendment will make that intent clear.

The debate over the effects of oil pollution of the sea continues. Some would have us believe that oil pollution is a good thing. But anyone who makes such statements is only playing on the fact that very little is known about the effects of oil pollution, particularly the long-term effects. But what little is known is bad. Two recent news articles express it

very well. I ask unanimous consent that an article from the Christian Science Monitor and one from Newsweek magazine be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Newsweek, May 23, 1977]

#### OIL ON THE WATERS

*How much ecological damage does an oil spill really do? After the recent blowout of oil well Bravo 14 in the North Sea, there was a wave of warnings that marine life could be disrupted for years. But a review of three major bills in the past decade turns up surprisingly little evidence of any calamitous long-term effects on the environment.*

The largest and most spectacular spill of all resulted from the wreck of the *Torrey Canyon*, which broke up off England's Cornwall coast in 1967. Some 35 million gallons of oil spewed from the U.S.-owned tanker, fouling miles of British coastline and gradually blowing across the English Channel to the French beaches of Brittany. To dissolve the oil, British Navy ships sprayed 700,000 gallons of detergent into the sea and onto the beaches. That operation was successful as a cleansing measure, but many patients died; the detergent got more blame than the oil for killing more than 50,000 sea birds. Since the *Torrey Canyon* disaster, a British aviary has been established in Somerset to deal exclusively with the problem of oil-drenched birds, and this research has helped repopulate the decimated flocks. Except for small quantities of sardine eggs and phytoplankton, underwater life escaped damage from the oil and detergent, and some organisms apparently thrived on the oil: limpets and other mollusks contributed to the cleanup by feeding on the sludge as if it were a delicacy.

Just last December, 7.6 million gallons of crude oil gushed into the Atlantic off the Massachusetts coast when the Greek-owned tanker *Argo Merchant* ran aground and broke in two near Nantucket island. Thanks to favorable winds and tides, the oil drifted away from the fishing grounds and the tourist beaches, and the glutinous mass soon dispersed. Fewer than 100 birds died in the incident, and fishermen report even more haddock and cod in early waters than were seen in past springs. "The impact so far appears to be small," says Dr. Robert Edwards of the National Oceanic and Atmospheric Administration in Woods Hole, Mass., but he cautions that the findings are still inconclusive. If significant numbers of fish larvae suffocated in the oil—which may or may not have happened—the effect will show up in decreased fish catches in a few years.

The costliest damage so far came in California's Santa Barbara oil spill in 1969. A rupture in a Union Oil Co. offshore well and a resultant fissure in the ocean bottom spewed tons of subterranean goo onto Santa Barbara's sandy beaches. No one is sure exactly how much oil was spilled, but estimates range from 250,000 to as much as 6 million gallons. Union Oil spent almost \$6 million on a cleanup, and litigants collected \$17.6 million in damage claims. The spill shocked the public with its toll of 4,000 dead birds, their feathers soaked with oil. But Walter Putnam of the California Fish and Game Department observes that "we probably lost 100,000 ducks the same year from botulism." The Santa Barbara sea-bird population has since regenerated, as have the mussels, crabs and barnacles along the coast.

None of the three incidents can be taken as definitive. Partly because scientists usually have no measure of the environmental health of an area before a spill and thus have no basis for comparison, the true cost of any oil



spill is hard to gauge. Environmentalists hope that current studies in seashore areas may establish a better base for calculating damage. Until then, they are reduced to the general principle that, as oil expert Tom Charlton of the Environmental Protection Agency puts it, "It's just not a good idea to have oil floating around out there."

[From the Christian Science Monitor,  
May 16, 1977]

**"ARGO MERCHANT"—STILL AN ISSUE**  
(By Douglas Starr)

BOSTON.—Five months after the 7.6-million-gallon Argo Merchant oil spill, scientists are finding that its effects are not as short-lived as originally thought.

A recent University of Rhode Island study reports "very significant sediment contamination" in the wreck area in late February.

"We can determine traces of Argo Merchant oil in the sediment up to 10 miles from the wreck," says Eva Hoffman, a University of Rhode Island (URT) oceanographer and coordinator of the university's oil spill response team. Oil contamination went at least five inches into the seabed, the maximum depth that the URI team dredged.

The finding is significant, Dr. Hoffman says, because the Coast Guard sampled the same area in December and January and did not find any oil at that time. Oil evidently drifted out from the wreck along the bottom with moving sands.

"One of the worst things that can happen is for the sediment to become contaminated," Dr. Hoffman says. The oil can stay there for a long time, breaking down or diffusing for years, the oceanographer says.

Woods Hole Oceanographic Institute biologist Howard Sanders found a "threefold reduction" in the number of bottom-dwelling animals near the spill site. "It would be irresponsible to predict a catastrophe," Dr. Sanders says. "But people without scientific data have said that the spill has had no effect. I'm not happy with these bland self-assurances."

**INSUFFICIENT STUDY**

Much of the debate over the Dec. 21 spill's effects arises from insufficient study of the spill over time.

When the federal government funded a National Oceanic and Atmospheric Administration sampling program immediately after the wreck, scientists expected the program to continue for additional, long-term studies. But funding—deleted from the budget by the White House Office of Management and Budget—ceased.

Now the National Marine Fisheries Service (NMFS) gathers sampling information from regular cruises that patrol much of the Eastern Seaboard and from cooperating Polish, Russian, and East German vessels.

Scientists examining the spill do so on their own time. "We missed a pretty big research opportunity with the Argo Merchant," comments Dr. Hoffman. "But the guys who have the money aren't interested anymore."

Scientists are not sure how oil affects marine life—only that it's highly toxic. Fish larvae, since they are more delicate and cannot swim away from a spill, are affected more than adults. Larvae and eggs trapped in a slick may smother, coated in an oily film that keeps out oxygen. Digested or absorbed, oil may cause poisoning or genetic damage. Dr. Sanders notes that of the fish eggs sampled by the fisheries service, "a tremendous percentage showed abnormalities."

**TEMPORARY EFFECTS**

In preliminary studies the service reported that fish eggs and larvae were affected, but only temporarily. In one sample taken near the spill 98 percent of the pollock eggs and 60 percent of the cod eggs were found dead,

dying, or with deformed embryos. But Dr. Robert Edwards, director of the NMFS Northeast Fisheries Center, says the effects were short-lived. Subsequent egg samples showed no contamination. "The spill had an impact, but it was not measurably significant," he says.

However, the URI team found that the spill's effects are not over. In a 120-square-mile area around the wreck, URI scientists found that oil droplets from the tainted sediment contaminated marine life. Tiny oil droplets were found clinging to the swimming legs and digestive tracts of copepods, the tiny marine animals that young fish eat. "Fishermen will probably not feel the effects of this," Dr. Hoffman says. "But we should investigate what happens in the food chain."

**OIL-COATED GULLS**

In other studies, the Manomet Bird Observatory in Manomet, Massachusetts, reports that its observers saw heavily oiled seagulls at sea until April. "We feel there was a great mortality of birds that did not reach shore and were not counted," said Kathleen Anderson, executive director of the Observatory.

The U.S. Coast Guard investigated two incidents in which thick oil "tar balls" washed up on Massachusetts beaches. In neither case, the Coast Guard reports, was the oil from the Argo Merchant.

Aside from the amount trapped in sediments, scientists say that the oil that once floated over 2,000 square miles of the North Atlantic is heading on the Gulf Stream. "The oil will be in little bitty tar balls that will become part of the tar ball budget of the Atlantic Ocean, which is rather substantial," says Dr. Hoffman. "It will probably end up in Bermuda or in the Sargasso Sea."

Mr. MAGNUSON. Mr. President, I have distributed other articles to Members of the Senate at various times on this subject.

I think it is time the Federal Government began a strong research effort into the effects of oil pollution. Title II of S. 682 has been drafted to create such a program.

I am disturbed and members of the committee are disturbed by the shortsighted decisions of the President's Office of Management and Budget on oil pollution research. It should be our responsibility to understand what happens to public resources, such as fisheries, when a disaster takes place. The Federal Government must also clean up the mess and would help recover damages under legislation proposed by the President. Certainly, a true understanding of oil pollution is basic to all these efforts.

Finally, Mr. President, the Congressional Budget Office provided me with a cost estimate for S. 682 but it was received too late to be printed in the bill report. I ask unanimous consent that this cost estimate be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,  
Washington, D.C., May 18, 1977.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce, Science,  
and Transportation, U.S. Senate, Dirksen  
Senate Office Building, Washington,  
D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 682, the Tanker and Vessel Safety Act of 1977.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,  
Director.

CONGRESSIONAL BUDGET OFFICE—COST  
ESTIMATE

1. Bill Number: S. 682
2. Bill Title: Tanker and Vessel Safety Act of 1977
3. Bill Status: As reported by the Senate Committee on Commerce, Science and Transportation
4. Purpose of Bill:

Title I amends the Ports and Waterways Safety Act of 1972 to authorize a comprehensive inspection and enforcement program for increased navigation, vessel safety and protection of the marine environment. Title I of this bill requires the Secretary of Transportation to promulgate regulations and/or establish standards for the following categories: vessel traffic services, waterfront safety, pilotage, investigation of accidents, lightering, bulk carrier construction, manning and training, inspection and enforcement and international agreements. The Secretary is also required to submit a report to Congress within six months after the end of each fiscal year specifying the effects of this legislation. In addition the Secretary is authorized to establish a marine safety information system to store information on every vessel which carries oil or any hazardous material, in bulk, into any United States port.

Title II establishes a comprehensive Federal program of ocean pollution research and monitoring.

5. Cost Estimate:

[In millions of dollars]

|                      | Fiscal year— |        |        |        |        |
|----------------------|--------------|--------|--------|--------|--------|
|                      | 1978         | 1979   | 1980   | 1981   | 1982   |
| Authorization level: |              |        |        |        |        |
| Title I.....         | \$11.8       | \$10.7 | \$10.9 | \$11.1 | \$11.8 |
| Title II.....        | 5.5          | 6.5    |        |        |        |
| Estimated cost:      |              |        |        |        |        |
| Title I.....         | 11.6         | 10.7   | 10.8   | 11.1   | 11.7   |
| Title II.....        | 4.1          | 5.7    | 1.6    | .6     |        |

<sup>1</sup> Title I authorizes for appropriation such sums as may be necessary to carry out the provisions of this title. The figures for fiscal year 1978 through fiscal year 1982 for this title are the projected obligation levels.

Title I costs fall within budget function 400 and title II costs fall within budget function 300.

6. Basis for Estimate:

It is assumed that all of the requirements in Title I of this bill will be carried out by the Coast Guard. Many of these functions are presently being performed by the Coast Guard but at a lower level than mandated in this bill. The Coast Guard operates through 12 District Offices, 9 Marine Inspection Offices, 17 Captains of the Port and 37 Marine Safety Offices. It is projected that an additional 40 people will be needed in the Washington Office to set standards, promulgate regulations and prepare the report to Congress as specified in Title I of this bill. This has an expected cost of \$637,000 in FY 1978 including overhead. Thirty-five additional personnel will be needed in FY 1978 to establish the marine safety information system, which will require computer terminals in 75 United States locations. The data bank would include nine entries on each of the approximately 1600 tankers that annually enter U.S. ports. Gathering and collating this information, setting up the storage and retrieval system, training personnel, leasing equipment, and contracting for computer time is estimated to cost \$925,000 in FY 1978 and \$1,606,000 in FY 1979. The system will be

phased in over a two year period; beyond this period, costs are adjusted for inflation. The inspection and enforcement authority established in this bill would have no direct cost impact, as the owner of any vessel inspected by an officer authorized by the Secretary will reimburse the Secretary for the cost of the inspection. However, it must be expected that there will be additional work for the Coast Guard because of this requirement, and it is assumed that once the regulations, standards and information system have been established, some of the 40 people will remain in the Washington office and others will be shifted into the district offices to administer and monitor the various responsibilities set forth in this legislation.

Outlays are estimated by taking the spend-out rates for the various accounts concerned and applying them to the projected obligation levels. A significant indirect impact of this legislation will result in the payment of more than \$50 million through the Maritime Administration's ship construction program. Section 4 of this bill sets minimum standards for bulk carriers which must be complied with by June 30, 1983. There are 36 U.S. vessels which would not meet these minimum standards; 27 of these would have to be retrofitted and 9 are presently in various stages of construction. It is projected that this would cause an increase of \$10 million in FY 1978 and \$8 million per year thereafter until FY 1983. These costs are included in the estimate above.

Title II establishes an ocean pollution research and monitoring program within the National Oceanic and Atmospheric Administration. This title also requires a study to evaluate various shore-station monitoring systems of vessels, including fishing vessels, within the fishing conservation zone. There is authorized to be appropriated \$5.5 million for Title II in FY 1978 and \$6.5 million in FY 1979. Outlays were estimated using the projected spendout rate of 75 percent in the first year, 15 percent in the second year and 10 percent in the third year.

7. Estimate Comparison: None.

8. Previous CBO Estimate: None.

9. Estimate Prepared By: Jack Garrity (225-7760) JG.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Mr. MAGNUSON. The Congressional Budget Office has approved of the bill as it now stands and of the amount authorized for this purpose.

Shortly after the Senate approves this bill, we will have before the Senate, which was reported out of the Commerce Committee, the Coast Guard bill, which plays a great part in the enforcement of S. 682, by authorizing sufficient funds to do the job that should be done.

Mr. President, the Senator from Alaska (Mr. STEVENS) and the Senator from South Carolina (Mr. HOLLINGS) have some amendments to this bill which, I think, will strengthen the bill.

We have all looked them over. It is a technical bill, it is comprehensive, and I want to compliment them on all the help they gave me, as chairman, and other members of the committee, in working on this problem which is before the country.

They did yeoman work, and the staff did yeoman work. A member of the staff, Mr. Bud Walsh, who worked extremely hard on this bill for a year and a half, happens to be the representative of the committee in London at the IMCO conference, and we thought he might have time to get back here to participate in

this bill. But I am so anxious to get the bill passed and get it moving that when we had the opportunity to bring it up today, we did so.

We have able staff members on both sides. I do not think there is a bill that has received more attention by the staff and the committee members of the Committee on Commerce than this particular bill and the Coast Guard authorization.

I yield to the Senator from Alaska for such statement as he wishes to make, and the amendment he has.

Mr. STEVENS. Mr. President, we are all proud to work with the chairman of our committee, my good friend from Washington, on this issue, as on so many other issues in which he has given us leadership. We have worked on this matter in a nonpartisan basis, with the staff on both sides of the aisle working together to bring before the Senate a bill which we think will deal with this issue the way it should be dealt with.

I express again my appreciation to the chairman for sending his staff along with me to hold hearings in Alaska, where this is a very vital question at this time. We all know that the super-tankers will start moving out of the Valdez Arm, bringing Alaskan oil to the South 48 in July, and the subject of tanker safety is a very serious question to Alaskans.

Mr. President, I join with my good friend and colleague, Chairman MAGNUSON, in support of his safe tanker legislation. The rash of foreign tanker accidents off the coast of the United States, has pointed out the critical need for tanker safety standards.

The tanker accidents of last winter brought this subject into national focus. Tanker safety is not a new issue for Senator MAGNUSON and myself. We worked for many years to develop a safe tanker bill. This bill is the product of thorough, exhausting study by the Senate Commerce Committee.

In July or August of this year, the trans-Alaska pipeline system will begin operation. The State of Alaska will become one of the largest oil-producing States in the country. All of our oil must be shipped by marine tanker. The State of Alaska vitally needs safe tanker legislation to protect our valuable fisheries resources.

Alaska has indeed been fortunate. We are blessed with a myriad of natural resources. Even the greatest of blessings, however, can at times create problems. The State of Alaska is presently seeking to appropriately balance the exploitation of oil and gas, and fisheries. In order to thoroughly exploit the oil and gas which this Nation vitally needs, and which Alaska is willing to provide, we must insure the safe transportation of that product. Those citizens of the State of Alaska who are engaged in commercial fisheries, cannot be asked to unnecessarily endanger their livelihoods so that the rest of the Nation has the fossil fuel which it requires. This Nation must insure that petroleum products are safely shipped from resource-producing States such as Alaska, which will be developing a greater number of proven reserves in the decade ahead.

This timely legislation deals with the critical subject of tanker safety standards. Mandatory safety standards is a timely problem which cannot bear the burden of undue delay. It is not, however, the only solution needed to cure the problem of safe tanker operations, which has been by and large created by the so-called "rust buckets."

Eighty-five percent of the tanker casualties worldwide are caused by human error. American seamen are the finest trained seamen in the world. American vessels have the finest safety record of the vessels of any maritime nation. It is time that this country developed a program of safe tanker preference, which would insure the shipment of petroleum products in safe American tankers. I look forward to developing this legislation with Senator MAGNUSON, who has also been one of the strongest safe tanker preference proponents in the Senate.

In addition to mandatory safety standards, and safe tanker preference, the Senate must complete its legislative proposals dealing with safe tanker operations by passing a comprehensive oil spill liability program. Under the present antiquated laws, American citizens cannot adequately obtain compensation for damages they suffer as a result of tanker accidents.

Sweeping, comprehensive reform of oil spill liability laws is needed to insure that American citizens are adequately compensated for damages resulting from marine tanker casualties. Senator MAGNUSON has taken the forefront in the development of oil spill liability legislation. I have joined him, by cosponsoring his oil spill liability bill, and will work with the Senator to insure its prompt passage in the Senate.

Mr. President, the Senate Commerce Committee has today presented to the full Senate for consideration, amendments to the Port and Waterways Safety Act, which set up minimum oil tanker safety standards. This proposal, which is only part of the full legislative package, the Senate will receive this session dealing with tankers, is vitally needed to preserve our marine resources, and protect our coastlines from the consequences of marine tanker accidents. I would urge each of my colleagues here in the Senate, to favorably vote upon this legislation which this Nation's coastal States urgently need.

Mr. President, I, too, welcome the opportunity to consider the amendments that will be submitted by our good friend from South Carolina and the Senator from Massachusetts. The chairman has some technical amendments to present later. I again say that I do not think a bill such as this, as complex as it is, could simply reach the floor and be in a position where there is practically no controversy. As a matter of fact, I expect no rollcall votes unless there is something that I do not know about at the present time on the amendments that will be presented.

This could not have happened without really thorough staff work and a complete analysis of all the problems and all the testimony we have heard.

I think this bill is in good shape. It is



the type of legislation the country needs to deal with tanker safety.

Mr. PELL. Mr. President, the rash of serious oil spills during the past winter, and particularly the potential catastrophic spill from the tanker *Argo Merchant* on Nantucket Shoals, placed in sharp focus the urgent need for preventive Government action.

The measure before the Senate, S. 682, is responsive to that need, and I support it. There is no question that we must act to protect our coastal areas and marine environment from pollution disasters.

Through this legislation, the United States will be taking a major step toward achieving that protection.

At the same time, we must recognize that ocean pollution is a worldwide problem, and fully effective action to protect our own coastal areas, and the world ocean generally, from pollution requires cooperative international action.

Fortunately, even as we consider this legislation, very substantial progress is being made toward effective international action.

President Carter transmitted to Congress his proposals for improving vessel standards on March 17. His message indicated his intention of soliciting the cooperation of major maritime nations in upgrading vessel standards.

The administration has followed through on initiative. Secretary of Transportation Brock Adams on May 23 formally requested the Council of the Intergovernmental Maritime Consultative Organization, IMCO, an arm of the United Nations, to take action on upgrading vessel standards.

It is my understanding that the Council this week is moving to establish an accelerated schedule for consideration of new provisions, compatible with President Carter's proposals, to the 1973 Marine Pollution Convention. Under this proposal, IMCO's Committees on Maritime Safety and on Marine Environment Protection will be instructed by the Council to complete preparatory work in time for plenipotentiary conference in February of 1978.

As we are all aware, it requires more time to gain the acquiescence of other nations to an effective international agreement than it does for our own Nation, acting alone, to impose our own standards in waters under our jurisdiction. I believe, however, that the administration is indeed making a concerted effort at the earliest possible effective international action, and I commend the President and Secretary Adams on their efforts.

The administration action has also included regulatory action by the Coast Guard. On May 16, the Coast Guard in the Federal Register announced a rule-making procedure for improving vessel standards. Public hearings on those proposals are scheduled for June 16 in San Diego and June 21 here in Washington, and the deadline for comment on the proposals is September 1.

I commend the Senate Committee on Commerce, Science, and Transportation on the vigorous and prompt attention it has given to the urgent problem of pro-

tecting our marine environment from oil spills. I hope that the consideration of this legislation by the Congress will make it clear to other nations that we are very seriously concerned over this problem and that it will help to expedite effective, cooperative, international agreement.

Mr. SCHMITT. Mr. President, I am pleased to add my support to the Tanker and Vessel Safety Act of 1977. If it is passed and signed into law, we can reasonably expect a reduction in the number of at-sea mishaps resulting in the loss of life and property and the pollution of our oceans.

Particularly encouraging in this bill is the commitment to upgrade the level of technology used to prevent collisions and groundings and to detect ocean pollution. Over the past 25 years we have been able to provide for the safe piloting of aircraft flying hundreds of miles per hour in three dimensions. The technology and procedures used are available to us now and can be applied in part to the much slower, two-dimensional problem of controlling merchant ship traffic. An extensive sea traffic control system is at least technically feasible which will accurately plot the location of each ship and hazard to navigation, thus greatly reducing the likelihood of collisions and groundings regardless of weather conditions. Such a system, possibly including air, sea, land, and space components, will be investigated as a consequence of this legislation.

Greatly improved monitoring systems using satellite and other techniques will permit early detection of oil spills aiding not only in rapid control of the spill itself, but also in identifying those responsible for the spill so that they can be swiftly and surely fined.

The issue of standards is more complicated than it appears on the surface. I side with those who believe firm Federal action is needed and that a necessary part of that action is the establishment of mandatory safety standards for all ships, foreign and domestic, which carry hazardous cargoes within our 200-mile limit. No ship has the right of "innocent passage" if it carries with it an undue risk to the rights and safety of other ships or to the maintenance of a pollution-free ocean environment within that limit.

The standards proposed in this bill for tankers are by and large good standards, worthy of the support of each Senator. Of those standards only the requirement for double bottoms is likely to raise much controversy, and even then, we may receive a positive return on our investment. In restricted waters, such as Puget Sound or the Chesapeake Bay, and the reduced ship speeds and weather conditions which prevail in those areas, we can expect double bottoms to reduce the probability of damaging oil spills should a collision or grounding occur. On the other hand, groundings in circumstances such as the *Argo Merchant* sinking will not be helped by double bottoms and may even be complicated by such a fundamental change in ship design and ballasting. With this in mind the committee has recommended in its report that the

Secretary of Commerce specifically evaluate these standards, not only individually, but collectively to insure that as a group the highest level of protection is obtained commensurate with investment. The Secretary may find, for example, that the added benefits—and risks—associated with double bottoms on tankers may not be desirable in view of greatly improved sea traffic control capabilities that largely eliminate collisions.

With these thoughts in mind let me urge all of my colleagues to support this bill as an effective method of dealing with the unreasonable number of tanker accidents we have experienced over the past 2 years.

Mr. MAGNUSON. Mr. President, if the Senator will yield, I might say that many, many Senators who were faced with this problem or who see the problem outside of the committee membership came and urged the committee to do just what we are doing in this bill. I think that in this bill, probably more than with any other bill we have had before the committee, we have had more support from Members of the Senate other than the members of the committee.

Mr. STEVENS. I thank the Senator.

#### AMENDMENT NO. 297

Mr. HOLLINGS. Mr. President, I call up my amendment No. 297 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated. The legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) and the Senator from Massachusetts (Mr. BROOKE) propose amendment numbered 297.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

On page 59, line 22, insert the following and renumber the following paragraphs accordingly:

(7) RETROFIT OF CERTAIN MANDATORY REQUIREMENTS.—(A) On and after July 1, 1980, the Secretary shall not issue a certificate of compliance to any vessel to which subsection (5) applies, unless—

(1) such vessel has a segregated ballast system (as required under subsection (5) (B) (1)) and a gas inerting system (as required under subsection (5) (B) (iii)); or

(ii) the Secretary determines that tanks in such vessel have been designated for, and are used only for carrying ballast water alone; and the owner of such vessel has paid a retrofit incentive fee levied on such vessel by the Secretary.

(B) the Secretary shall determine the amount of the retrofit incentive fee applicable to any vessel (according to classes of vessels based on size, displacement, and configuration) by determining for vessels in each such class the estimated annualized cost of compliance with the requirements of subsections (5) (B) (1) and (5) (B) (iii). The Secretary shall estimate the annualized cost of compliance, based on a retrofit technique that he determines would enable typical vessels in each class to comply with such requirements, taking into account planning and design costs, equipment costs (including purchase, transportation, installation, and start-up or testing), operating and maintenance costs, cost of capital, inflation, taxes, and other relevant costs. The Secretary shall

propose retrofit incentive fees for each class of vessels not later than July 1, 1979, and shall adopt fees, in accordance with section 553 of title 5, United States Code, not later than January 1, 1980. The Secretary may by regulation adjust the fee for a class of vessels if he determines that the fee varies significantly from the actual or probable annualized costs of compliance with such requirements, and he may provide for the automatic adjustment of a fee based on the performance or a suitable index or indices.

(C) Any interested person may seek judicial review of the action taken by the Secretary under paragraph (B) to establish retrofit incentive fees by filing a petition therefor in the Court of Appeals of the United States for the circuit in which such person resides. Such petition shall be filed within ninety days after the date of such action, or, if such petition is based solely on grounds which arose after such ninetieth day, any time thereafter. Action by the Secretary with respect to which review could have been obtained under this paragraph shall not be subject to judicial review in any civil or criminal proceeding relating to enforcement or collection of the fee established by such action. In any action brought under this paragraph, no courts shall grant any stay, injunction or other similar relief before final judgment by such court in such action.

(D) The Secretary shall prescribe, and may from time to time modify or repeal, such regulations as he deems necessary to carry out this subsection. Such regulations may include, but need not be limited to, requirements respecting—

(i) submission of technical and cost information relating to compliance with the requirements of subsections (5) (B) (i) and (5) (B) (iii);

(ii) marking areas designated as ballast areas for easy identification; and

(iii) reporting of information relating to the designation of areas as ballast areas and the installation of segregated ballast and gas inerting systems.

(E) Any retrofit incentive fee which is not paid in a timely basis shall be subject to a late payment penalty in an amount determined by the Secretary, but which shall not be more than 20 percent of the amount of such fee unpaid.

(F) If any person or vessel fails to comply with any provision of this subsection, in addition to denying certification (as provided in paragraph (A) of this subsection), assessing a late payment penalty (as provided in paragraph (E) of this subsection), and assessing a civil penalty (as provided in section 203(a) of the Ports and Waterways Safety Act of 1972), the Secretary may pursue any other appropriate remedy authorized by any other applicable provision of law.

Mr. HOLLINGS. Mr. President, I would like to explain the purpose and effect of my amendment to S. 682.

The proposed modifications have been designed to deal with several problems expected to be associated with the original regulatory proposal.

Because of the costs associated with complying with the regulations, tankers have an incentive to delay retrofit as long as they can. Anyone complying early will be at a competitive disadvantage because he will have to charge somewhat higher transport costs. As a result, very few tankers are likely to be retrofitted before 1983. At that time, a shortage of retrofitted tankers could threaten disruption of oil supplies. In addition, with an absolute prohibition of entry into U.S. ports of noncomplying tankers, there is the possibility of

insufficient capacity on a spot basis to meet U.S. petroleum demand.

The proposed amendments would avoid these problems by:

Providing an incentive for early compliance.

Eliminating the potential problems of serious disruption of U.S. oil imports after the statutory deadline for compliance.

Eliminating the profits and the associated competitive advantage of non-compliance.

#### PROPOSED AMENDMENT

The amendment would provide:

That tankers carrying oil to U.S. ports dedicate, by July 1, 1980, certain cargo space that will be used exclusively for the purpose of carrying ballast, if they are not then in compliance with the requirements for a segregated ballast system (still required by 1983).

That the requirement to install a segregated ballast and gas inerting system would be enforced by a retrofit incentive fee.

#### EXPECTED RESULTS OF PROPOSED AMENDMENT

There are two basic cost elements associated with the segregated ballast and inert gas systems—the initial capital costs and the recurring operating costs. For segregated ballast the major recurring cost is the lost tanker capacity because oil cannot be carried in some portions—approximately 14 percent—of the cargo space.

The requirements for dedicated ballast tanks will eliminate the major cost disadvantage which would otherwise be experienced by tankers which comply. The economic incentives will eliminate the remaining incentives to avoid complying as early as feasible with the regulations, as well as the cost advantages of non-compliance. The amount of the incentive is to be determined by the Coast Guard on the basis of the actual cost of compliance. The use of dedicated ballast tanks will also achieve many of the benefits of reduced pollution associated with the complete segregated ballast system, but 4 years earlier than the original bill.

The use of economic incentives as opposed to a strict regulatory approach will allow more flexibility to the shipowner to determine the most cost effective mechanism for satisfying the requirements of the legislation, and will avoid the problem of an emergency situation disrupting the flow of oil to the United States. It will also serve to insure that ships for which compliance is least expensive will be retrofitted earliest and become dedicated to the U.S. trade, and the ships for which compliance would be more expensive will be kept out of the U.S. trade. Thus, the economic incentives would help to insure that the total cost of compliance, and thus the cost to the American consumer, would be kept to a minimum. The fact that new ships will tend to be dedicated to the U.S. trade will also have the beneficial effects of insuring that the most seaworthy ships are used in U.S. waters, and will make it easier for the Coast Guard to insure that the other requirements of the act are also being satisfied.

#### IMPACTS OF PROPOSED AMENDMENT

On tanker market: The proposed modifications would promote the dedication of the newest, and therefore probably the safest ships to the U.S. trade. It would promote stability in the market, ease the Coast Guard's burden of policing tankers, and by stimulating earlier compliance, would help reduce the problems of excess tanker capacity at an earlier date than the original proposal.

On consumers: The proposed modification would probably lead to an earlier increase in consumer prices by stimulating earlier compliance. To the extent that it leads to more efficient compliance, however, it could reduce the longrun impact on consumer prices. In addition, the impact on consumer prices during an emergency situation would be less under the proposed modification.

Mr. President, I thank our distinguished chairman, the Senator from Washington (Mr. MAGNUSON), and our ranking minority member, the Senator from Alaska (Mr. STEVENS), for their indulgence and consideration in the markup of this bill.

We have a classical feature in S. 682 of an effective date of 1983 when some very serious requirements relative to a segregated ballast system and a gas inerting system would be necessary.

In most instances, the requirement of a segregated ballast system can be handled by the majority of the U.S. fleet because they have already certain portions of the hull that could be used for ballast. For those who do not have that capability, an investment will have to be made, let us say, for a 120,000-ton tanker, of approximately \$1 million. In one sense, it is only 2 percent of the total cost of delivered oil or delivered cargo.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. MAGNUSON. I have some figures that I wish to print in the RECORD on the cost. One figure we are definite about now is the latest figure for the cost of the construction of a 120,000-ton tanker, and it is \$65 million.

Mr. HOLLINGS. That is right.

Mr. MAGNUSON. Yes.

Mr. HOLLINGS. Embellishing upon those figures, to retrofit a gas inerting system for a 120,000-ton tanker would cost \$1.2 million. Without some kind of incentive system, the tendency would be to say:

Look, if I can get an economic advantage, if I do not have to put this additional cost into the delivery, because it has to be passed on, if I do not have to include that and I can put it off until the last minute, then I will have an economic advantage, and I will be increasing my business, and we will somehow make out when 1983 comes.

We do not want the actual requirements to be taken advantage of, and that is what this amendment prevents. It prevents that kind of footdragging. On the other hand, from an environmental and safety standpoint, these are the two main actions that must be taken to prevent oil spills like that of the *Argo Merchant*; or, another *Sansinena* blowing up on the west coast.



Furthermore, we want the tanker fleet to move promptly with delivery and not disrupt transportation all at once in 1983, when everyone begins to scramble to comply.

In order to encourage this, the proposed amendment would have the tankers dedicate, by July 1, 1980, certain cargo space for the purpose of carrying ballast, and then the Secretary of Transportation, working with the Coast Guard and its jurisdiction, would factor out retrofit incentive fees.

That is spelled out pretty exactly on page 2 of the amendment where the Secretary determines the annualized cost of compliance; and includes not only the cost of capital, but inflation, taxes, and other relevant costs.

With those in mind, every tanker owner could know immediately, come 1980, that he is either going to have to put up or shut up. He is either going to get tankers retrofitted or is going to pay an equivalent fee that would have been factored out as an annual cost. He is not going to be able to have an economic advantage with respect to the gas inerting system—with respect to the segregated ballast system, I should say. He is then going to have to set aside, in some instances, what is computed to be about 14 percent of the cargo space for ballast. So he cannot have a space advantage as a result of the enactment of S. 682.

I think this does justice and equity. It has been checked out with the Department of Transportation, worked on intensively by Miss Stirling and Mr. Walsh, of our staff, and I think that our distinguished chairman is ready to accept the amendment.

I do not see Senator SCHMITT on the floor. Is he coming?

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HOLLINGS. I am glad to yield.

Mr. STEVENS. I have just been informed that the Senator from New Mexico has an amendment to the amendment of the Senator from South Carolina.

#### UP AMENDMENT NO. 317

Mr. HOLLINGS. Let me read what has been handed to me by staff.

His proposed amendment would come in on page 3, line 2, at the end of the sentence:

The Secretary may, in his discretion, waive the fee if he determines that a good faith effort has been made to comply with the provisions of this paragraph.

It is just a waiver clause for the Secretary of Transportation. Ordinarily, we do not say do something and waive it at the same time.

However, there are various economic factors considered—there is the makeup of the fleet, makeup of ownership of a particular carrying line, and various other factors that go into it. It could be a matter that did not come to our attention in time or we did not think of.

In that spirit, of course, we would be glad to accept that waiver feature, if the

Senator from New Mexico is coming. I ask unanimous consent to amend my amendment. It has not been voted on. So I ask unanimous consent that my amendment be amended on page 3, line 2, to add the following sentence:

The Secretary may, in his discretion, waive the fee if he determines that a good faith effort has been made to comply with the provisions of this paragraph.

The PRESIDING OFFICER (Mr. INOUE). The Senator has a right to modify his amendment.

Will the Senator send his modification to the desk?

The modification is as follows:

On page 3, at the end of line 2, insert: "The Secretary may, in his discretion, waive the fee if he determines that a good faith effort has been made to comply with the provisions of this paragraph."

Mr. SCHMITT. Mr. President, I have one concern with the amendment offered by the Senator from South Carolina (Mr. HOLLINGS). While I have no specific knowledge of the capability of shipyards to accomplish the modifications referred to in the amendment, that is the installation of a gas inerting system and segregated ballast system, the history of the original 1983 date indicates that it may be physically impossible to complete them by 1980. Earlier drafts of S. 682 established a retrofit completion date of January 1, 1981. After some study, the U.S. Coast Guard recommended a completion date of 1983, based upon a number of factors, including shipyard availability.

Because there is reason to believe that some tanker owners would make a good faith effort to accomplish the prescribed retrofit and still be unable to comply by 1980, I believe it is necessary to allow the Secretary some discretion in levying penalty fees. Accordingly, I am submitting an amendment to the Hollings amendment which would permit the Secretary to forego the imposition of the fee if he had determined that the owner has shown good faith in trying to comply with the provisions of the Hollings amendment.

I would hope that the Secretary would also exercise that discretion to insure that there is a continuing effort by tanker owners to comply with this retrofit provision.

Mr. HOLLINGS. Mr. President, I ask for the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified.

The amendment, as modified, was agreed to.

Mr. MAGNUSON. Mr. President, the measure now under consideration will increase the cost of tankers and the cost of oil to the consumer. But I believe that this cost is minimal, representing less than a half a cent for a gallon of gas. The following information has been developed by the Committee on Commerce, Science, and Transportation to show the cost increases for typical design tankers. To give perspective, a 120,000-dead-

weight-ton tanker now costs about \$65 million.

Mr. President, I ask unanimous consent to have printed in the RECORD certain figures regarding the increase in cost pursuant to carrying out these provisions, the minimum standards required by the bill, and what impact there may be on the cost of delivery of oil to the United States.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### COSTS OF TANKER EQUIPMENT

The minimum standards required in the bill for tankers will have a range of economic effects. Some vessels now have some or all of these required standards. The following tables show the added costs for incorporating all the major features required for the worst case, i.e. tankers which do not have any of the features at present. The costs are based on current U.S. shipyard experience and typical designs of a 40,000-ton and a 120,000-ton tanker. Freight rates for typical voyages are calculated based on current experience.

#### ESTIMATED COSTS OF MAJOR FEATURES REQUIRED BY THE TANKER SAFETY ACT OF 1977

|  | 40,000-ton tankers | 120,000-ton tankers |
|--|--------------------|---------------------|
| Dual radars with true north.....                         | \$40,000           | \$40,000            |
| Collision avoidance system.....                          | 100,000            | 100,000             |
| Loran C with retransmission.....                         | 60,000             | 60,000              |
| Double bottom (new tankers only).....                    | 1,000,000          | 2,000,000           |
| Double hull (new tankers only).....                      | 1,500,000          | 3,000,000           |
| Segregated ballast retrofit (existing tankers only)..... | 750,000            | 1,000,000           |
| Inert gas system (existing tankers only).....            | 900,000            | 1,200,000           |
| Inert gas systems (new tankers only).....                | 800,000            | 1,000,000           |

#### PERCENT INCREASE IN COST OF DELIVERED OIL FOR FEATURES REQUIRED BY THE TANKER SAFETY ACT OF 1977

|  | Typical existing tanker adding all of the requirements | Added for these systems for new tankers |
|--|--|---|
| 40,000-ton U.S. tanker in Caribbean to east coast trade (refined product)..... | 0.85   | 0.16                                    |
| 120,000-ton U.S. tanker in Alaskan trade (crude).....                          | .80  | .16                                     |
| 120,000-ton foreign tanker in Persian Gulf to U.S. trade (crude).....          | 2.22   | .44                                     |

#### TYPICAL SHIPYARD ESTIMATES TO PURCHASE AND INSTALL VARIOUS SAFETY/ENVIRONMENTAL FEATURES FOR A 40,000-DWT OIL TANKER WITH THE ASSOCIATED AVERAGE ANNUAL COST PER OIL TANKER<sup>1</sup>

| Safety/environmental features  | Existing tanker | New construction |
|--|-----------------|------------------|
| Double bottom <sup>2</sup> .....                                       | NA              | \$1,000,000      |
| Double hull (double bottom and double sides) <sup>3</sup> .....        | NA              | 1,500,000        |
| Retrofit of segregated ballast <sup>4</sup> .....                      | \$750,000       | (*)              |
| Inert gas system.....  | 900,000         | 800,000          |
| Collision avoidance system.....  | 100,000         | 100,000          |
| Loran-C with retransmission capability.....                            | 60,000          | 60,000           |
| Total of safety/environmental features <sup>5</sup> .....              | 1,810,000       | 1,960,000        |
| Average annual cost <sup>6</sup> of safety/environmental features..... | 294,000         | 230,000          |
| Average annual crew training cost <sup>7</sup> .....                   | 40,000          | 40,000           |
| Total average annual cost.....   | 334,000         | 270,000          |

<sup>1</sup> Cost estimates were obtained from shipyards with experience in the installation of the subject safety/environmental features in January 1977.

<sup>2</sup> The cost increase of \$1,000,000 for a double bottom and \$1,500,000 for a double hull utilizes a segregated ballast 40,000-dwt oil tanker design as the base case. It should be noted that these cost figures are for new construction only since the retrofit of a double bottom/double hull is economically unfeasible. If the double hull alternative is desired over the double bottom, add \$500,000 to the total of the safety/environmental features and treat accordingly.

<sup>3</sup> The \$750,000 cost to retrofit segregated ballast assumes a high penalty in the loss of cargo carrying capacity (16 percent); therefore, the retrofit consists primarily of changes to the cargo and ballast piping/pumping systems as opposed to major structural conversions. This is consistent with the U.S. Coast Guard's Advance Notice of Proposed Rulemaking dated May 13, 1976. By increasing the cost to retrofit, it is possible to reduce the loss of cargo carrying capacity; however, this varies with tanker design and must be considered on an individual basis.

<sup>4</sup> Assumed to be required by Coast Guard regulations.

<sup>5</sup> The average annual cost (AAC) assumes a capital recovery factor (CRF) of 0.1627 (an annual rate of return on the subject capital investment of 10 percent over a 10-yr time period) for existing oil tankers and a CRF of 0.1175 (an annual rate of return on the subject capital investment of 10 percent over a 20-yr time period) for newly constructed oil tankers. The residual value of the subject features at the end of the assumed time period was not considered in an effort to present a conservative analysis.

<sup>6</sup> The average annual crew training cost of \$40,000 assumes the training of 8 persons each year at an average cost of \$5,000 per person.

AVERAGE TRANSPORTATION COSTS FOR U.S.-FLAG PRODUCT TANKERS CARRYING REFINED PETROLEUM PRODUCTS TO U.S. PORTS BASED ON A 3,000-NM ROUND TRIP (PER BARREL)

|   | Existing 40-Mdwt dirty ballast tanker | 40-Mdwt tanker with segregated ballast |
|---|---------------------------------------|--|
| Approximate required freight rate (RFR) for 1977.....   | \$0.75                                | \$0.87                                 |
| Assumed cost of refined petroleum products at loading port.....   | 18.00                                 | 18.00                                  |
| Original cost of delivered oil.....   | 18.75                                 | 18.87                                  |
| Approximate increase in RFR to retrofit segregated ballast, inert gas, collision avoidance system (CAS), Loran-C with retransmission capability, and crew training, at a CRF of 0.1627 <sup>2</sup> ..... | .16                                   | -----                                  |
| Approximate increase in RFR to include double bottom, inert gas, CAS, Loran-C with retransmission capability, and crew training, at a CRF of 0.1175 <sup>3</sup> .....                                    | -----                                 | .03                                    |
| The cost of delivered oil with the proposed environmental features.....   | 18.91                                 | 18.90                                  |
| Percent increase in the cost of delivered oil.....  | .85                                   | .16                                    |

<sup>1</sup> The increase in required freight rate (RFR) for segregated ballast includes both the capital cost of retrofit and the loss in deadweight.

<sup>2</sup> A capital recovery factor (CRF) of 0.1627 represents an interest rate of 10 percent over a time period of 10 yr.

<sup>3</sup> A CRF of 0.1175 represents an interest rate of 10 percent over a time period of 20 yr.

#### UP AMENDMENT 318

Mr. MAGNUSON. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes certain technical amendments.

Mr. MAGNUSON. Mr. President, I ask that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 79, line 7, delete "There", and insert "Beginning October 1, 1977, there".

On page 79, line 12, delete "There", and insert "Beginning October 1, 1977, there".

Mr. MAGNUSON. Mr. President, this technical amendment clarifies that the authorization provided for in the bill for

the Administrator of the National Oceanic and Atmospheric Administration to establish a comprehensive program of monitoring oil spillage and conducting ocean pollution research is not an authorization for fiscal year 1977. It is intended to authorize funds for fiscal year 1978, and this amendment makes that intent clear.

I move the adoption of the amendment.

The amendment was agreed to.

#### UP AMENDMENT NO. 319

Mr. MAGNUSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes unprinted amendment No. 319.

Mr. MAGNUSON. Mr. President, I ask that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 57, line 18, delete the word "1978" and insert in lieu thereof the word "1980".

Mr. MAGNUSON. Mr. President, this technical amendment is on page 57.

The purpose of this amendment is to change the date after which new vessels must be constructed with double bottoms under the mandatory requirements of the bill. This date conforms to that suggested by proposed regulations issued by the Department of Transportation last week. This will also allow time for discussions with other nations on the question of mandating this feature.

I hope that this will happen. I have some doubts that it will. But at least we are going to give them that chance to do it.

Mr. MAGNUSON. I move the adoption of the amendment.

The amendment was agreed to.

#### UP AMENDMENT NO. 320

Mr. MAGNUSON. A further amendment has been requested by the staff of the Senate Budget Committee and the Budget Committee to clarify the contract provisions under section 205. Specifying that research grants cannot be let unless funds are provided in appropriation acts seems to be basic. The committee did not intend to provide "back-door" spending authority. This amendment makes that clear.

I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) offers an unprinted amendment numbered 320.

Mr. MAGNUSON. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 76, line 4, after the word "agency" but before the period, insert the words ", to

the extent or in such amounts as are provided in appropriation Acts".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

#### UP AMENDMENT NO. 321

Mr. MAGNUSON. Mr. President, the next amendment would amend page 51 of the bill.

The purpose of this amendment is to correct an oversight in the bill as reported. The provision which enables the Secretary of Transportation to regulate the practice of lightering—the transfer of oil cargo at sea—was not intended by the committee prohibit the practice. Therefore, this amendment would change the bill to say that after a certain date—June 30, 1978—lightering can only be engaged in as prescribed by the Secretary. The amendment would further direct the Secretary to issue final regulations by that date.

I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 321.

The amendment is as follows:

On page 51, line 25, strike out the word "No" and insert in lieu thereof the words "After June 30, 1978, no".

On page 52, line 6, after the word "shall" and before the word "prescribe" insert the words ", by June 30, 1978,".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

#### UP AMENDMENT NO. 322

Mr. MAGNUSON. The last technical amendment is to clarify the intent of the committee. It was intended by the committee, but to make the matter clear in the bill, it was requested by the National Transportation Safety Board to insure that they have sufficient authority to investigate tanker accidents. I send that amendment to the desk, together with a letter from the Safety Board, and ask that reading of the amendment be waived.

Mr. STEVENS. Mr. President, will the Senator make me a cosponsor of this amendment? I would like to sponsor the amendment, also.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON), for himself and Mr. Stevens, proposes an unprinted amendment numbered 322.

The amendment is as follows:

Page 48, line 25, insert the following and renumber the following subsections accordingly:

(b) BOARD.—(1) The National Transportation Safety Board may investigate any transportation-related incident, accident, or act which—

(A) results in any loss or destruction of, or damage to, any structure or area referred to in section 102, or any vessel; or

(B) affects, or may effect, transportation or vessel safety in any port, harbor, or the navigable waters of the United States.

(2) Investigations conducted by the Board under this section shall be for the purpose of determining the facts, circumstances, and



the cause or probable cause, of any accident, incident, or act investigated under paragraph (1).

Page 49, line 1, insert the words "the Board" before the word "may".

Page 49, line 4, insert the words "the Board" after the word "Secretary".

Page 61, line 6, insert "(a)" before the words "Section 4442".

Page 62, line 23, delete the words "UNIFORM STANDARDS.—".

Page 62, after line 26, add the following: "(b) Section 304(a)(9)(B) of the Independent Safety Board Act of 1974 (49 U.S.C. 1903(a)(9)(B)) is hereby amended by replacing the final period with a semicolon, and adding: 'or Section 4442 of the Revised Statutes of the United States (46 U.S.C. 214).'"

The PRESIDING OFFICER. Without objection, the amendment is adopted.

Mr. MAGNUSON. Now, the Senator from Alaska has an amendment.

Mr. STEVENS. Mr. President, the Senator from Massachusetts wishes to proceed next.

Mr. MAGNUSON. I yield the floor.

#### AMENDMENT NO. 338

Mr. BROOKE. Mr. President, I call up my amendment No. 338, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes an amendment numbered 338.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 60, line 23, strike the period and insert in lieu thereof "; and".

On page 61, line 1, insert the following:

"(I) suspension of personnel with an unsatisfactory record of compliance with safety and pollution control standards."

Mr. BROOKE. Mr. President, once again I must congratulate the distinguished chairman and the committee on their determination to bring an adequate tanker safety measure through the Senate. I know of Senator MAGNUSON's own deep personal concern over the past years as the Congress and administration failed to enforce the tough standards needed to protect the Nation. And I am keenly aware that since the Commerce Committee began studying various tanker safety proposals, including my own bill, the Spill Prevention and Cleanup Act of 1977, Chairman MAGNUSON and his committee have been subjected to great pressure from both the administration and industry to recede from their determination to legislate tough standards. And I must congratulate them on having offered the Senate an acceptable compromise package which will significantly improve our current systems for regulating the transportation of oil and other hazardous materials.

I must admit to some disappointment that certain specific provisions which were contained in the measure I proposed were not included in the committee's bill. Although I have heard informally of various reasons for a few of these omissions, I wonder if I might just

run over a few of these points with the distinguished floor managers of this measure.

For example, I am most eager to see a strong bill establishing liability to owners of vessels who cause oil spills as well as a comprehensive cleanup fund. I had hoped we could take up both the liability provisions which will act as a deterrent to irresponsible owners and the regulatory provisions which set minimum safety rules. What is the committee's intent with regard to oil spill liability?

Mr. MAGNUSON. Mr. President, before I answer the question of the distinguished Senator from Massachusetts, I want to point out that he has long been not only aware of the need for but also a strong advocate of more tanker safety. He introduced, I think, a very fine bill after the spills we had last fall, the one involving the *Argo Merchant* and all the rest of them; and most of his ideas, or many of his ideas, are incorporated in this bill.

On the matter of oil spill liability, the committee decided that we would make that separate for many reasons, but principally because we share joint jurisdiction on this subject matter with the Environment and Public Works Committee.

We are attempting to work out a schedule for joint hearings commencing in late June. In any case, if we cannot work out these joint hearings, the Committee on Commerce intends to hold hearings on its own, and I assure the Senator that his bill will be considered at that time.

Mr. BROOKE. I thank the distinguished chairman, and I am very pleased to hear that hearings will be held. I am glad the Senator is working on it, and I thank him also for his very kind and generous remarks.

Another issue I feel strongly about is the need for a nationwide computer information system which keeps all vital records on a vessel's ownership history and inspection records. I am delighted that some of these provisions are contained in S. 682. But I do not see in the bill any provision for giving the captain of each port the capability of accessing data immediately as my bill explicitly mandated. Does the committee expect the captains of port to have such systems?

Mr. MAGNUSON. The Coast Guard, informs us, and I know this is correct, that they are putting together a system whereby each captain of a port will have this mechanism—the computer that the Senator is talking about—at his disposal, and I can assure the Senator there is no need to add a statutory provision concerning the matter. In the Coast Guard authorization, which will come up following this bill, we have provided for that contingency.

The Senator from Massachusetts and I, of course, will have to see to it, under the appropriation bill, that the money is available, and see that the money is there for them to do this job.

Mr. BROOKE. I thank the Senator. I am encouraged by the statements that we will have some oversight of this operation within the Appropriations Com-

mittee. I think it is very important that we hold the Coast Guard to doing it. I have great faith in the Coast Guard. I am sure, as the Senator says, that if they are working on it, it will be done, but I am still glad we have that oversight.

Another issue of tremendous concern to me is the reorganization of our marine pollution research efforts. The consolidation of these efforts under the administration of NOAA was also mandated under my proposal and I am delighted we are apparently on the way to having this reform enacted into law. However, I hope that once we have done so, your committee will consider asking the Administration to prepare a longer range plan for marine pollution research getting overall goals and intermediate targets. I put such a provision in my bill S. 898 because I think it is counterproductive to authorize studies of nature which require longer time perspectives than just 1 year at a time. Such a system does not allow the researchers to pace their work nor to attract the best people.

And I am concerned that the research sections of S. 682 do not include any changes in engineering, naval architectural science research. My bill would have created a consolidated program of research into and commercialization of oil spill recovery technology and vessel construction techniques. It was clear to me from our tanker disasters this winter and the hearings that followed that there is no substantial progress in the variety of current efforts underway. The presentations of the several agencies involved in developing and implementing these technologies further persuaded me that strong new direction is needed.

Since that time, Prof. Jerome Milgram of the Massachusetts Institute of Technology's Ocean Engineering Department has published an analysis of our equipment needs. And he calls for the development of total spill cleanup systems as well as individual items, including flotation chambers that can be welded onto ships, new portable fendering systems, equipment for measuring air space and air pressure in the cargo tanks and, of course, new substances to help burn off or disperse spilled oil safely.

That would have been very important in the *Argo Merchant* spill, if we had had some substance which could have burned off or dispersed that oil.

I should add that others advising me, such as the distinguished Capt. Gifford Warner, a salvor from Essex, Conn., have also emphasized the need for new engineering developments like relief valves which close upon grounding or submerging.

I would like to ask the distinguished chairman how the Commerce Committee views the Nation's research program on spill prevention, cleanup equipment and techniques, and how or whether it will recommend to the Senate that we strengthen these.

Mr. MAGNUSON. Mr. President, I say to the Senator from Massachusetts, I share the same feelings. The committee has addressed itself to these matters both in this bill and in the Coast Guard au-

thorization bill. The committee added \$2.8 million to the Coast Guard authorization bill to study oil spill containment in high seas and on fast rivers.

Second, by acting on this bill, we are dealing directly with vessel safety technology. I can assure the Senator that both the Coast Guard and NASA are studying and attempting to develop structural metals that can be used in the construction of oil tankers which will withstand tensions that present metals cannot. Marine technology is moving fast, and we ought to take advantage of it.

Mr. BROOKE. I thank the distinguished chairman.

Mr. President, I ask unanimous consent that Professor Milgram's analysis be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

BEING PREPARED FOR FUTURE ARGO MERCHANTS—BY PROFESSOR JEROME MILGRAM, APRIL 1977

#### INTRODUCTION

The grounding and break-up of the Argo Merchant in December, 1976 and the subsequent oil spill brought to public attention just how inadequately prepared we are for dealing with offshore oil tanker accidents. This lack of preparedness applies both to cleaning up oil from the seas as well as to salvage of the ship and cargo before or during oil spillage.

Although each marine tanker accident is different and requires a somewhat different response, there are a number of relatively common features. Therefore, by knowing the important events of the Argo Merchant incident, the reader can achieve an understanding of what is needed for dealing with such events in the future. Therefore, these events are described here. Then, possible means for dealing with such events, and with similar events, in the future are described.

#### EVENTS OF THE ARGO MERCHANT INCIDENT RELATED TO POLLUTION OF THE SEAS

At approximately 6 a.m. on Wednesday, December 15, 1976 the Argo Merchant ran aground on Fishing Rip, which is a shoal located about twenty-seven miles southeast of Nantucket Island, Massachusetts. The grounding damaged the vessel and flooding of the engine room soon began. This flooding disabled the ship's power-making machinery which resulted in power-driven machinery, such as ship's pumps, being made inoperative. Furthermore, steam could no longer be supplied to the heating coils in the ship's tanks so that the oil began to cool slowly. The Argo Merchant carried No. 6 oil which is so viscous at low temperatures that it is difficult to pump. Therefore, during shipment it is usually kept warm (90° to 120°F) so that it can be pumped off the ship with relative ease when the ship arrives at its destination. Once heating steam is lost from the heating coils in the tanks, the cooling begins. This cooling takes place relatively slowly and generally it would take several days for the temperature of the oil in the ship to reach that of the surrounding sea.

At 7 a.m. on Wednesday the U.S. Coast Guard station in Woods Hole, Massachusetts received a Mayday message from the ship. During Wednesday, the Coast Guard delivered emergency water pumps to the ship and personnel from the Coast Guard cutters Sherman and Vigilant assisted with operating them.

During the day Wednesday, water was pumped out of the engine room by means of the pumps which the Coast Guard had brought aboard. Of course, water was leaking in at the same time because of the dam-

age. The damage to the ship also resulted in some of the cargo of No. 6 oil leaking into the engine room. This oil was cooled off by the cold sea water and the resulting cold oil was so viscous that it fouled the pumps. The estimated sea water temperature in the engine room was about 10°C (outside in the sea the temperature was about 6°C). At 10°C the viscosity of the No. 6 oil carried by the Argo Merchant was about 35,000 centipoise. To give the reader an idea of just how viscous this is, it is remarked that the viscosity of water at room temperature is about 1 centipoise and that of a typical crude oil is about 100 centipoise. The cold No. 6 oil has a consistency not very unlike that of thin peanut butter.

By Wednesday evening, a Coast Guard helicopter had put strike team personnel and one ADAPTS (Air Deliverable Anti-Pollution Transfer System) pumping system aboard the vessel. Three strike teams, one on each of the Atlantic, Gulf, and Pacific coasts, are maintained by the Coast Guard for dealing with oil spills and potential oil spills. An ADAPTS pumping system is designed for offloading oil from a stricken vessel. It consists of a power source, an offloading pump, and hoses. The offloading pump is a submersible type, intended to be submerged in a ship's tank. The pump is driven by an integral hydraulic motor which operates from high pressure hydraulic fluid delivered to it through hoses by the power source. The power source is a self-contained diesel engine, hydraulic fluid pump, and associated machinery. The ADAPTS systems are designed to offload between 1,000 and 2,000 gallons of oil (having a low to moderate viscosity) per minute. In the case of the Argo Merchant, the ADAPTS system was not used for offloading oil, but rather to pump water with some oil out of the flooding engine room, and into the sea. Because of moderately large winds and seas and the dark of night, more ADAPTS systems were not brought aboard during Wednesday evening. Even to get the one ADAPTS system aboard it was necessary for the Strike Force personnel to first cut loose all the ship's antenna wires that ran between the midships and after houses so that a helicopter could safely operate between the houses and lower the ADAPTS components to the ship on a cable. The ship was still the responsibility of the owners who hired the Murphy Pacific Salvage Company to carry out salvage operations, whose representative was brought aboard the ship by Coast Guard helicopter. During Wednesday evening and Thursday, while the single ADAPTS system was pumping water from the engine room, the Coast Guard personnel and the representative of Murphy Pacific studied the situation to determine the best course of action.

At this point, it is appropriate to describe some aspects of the situation in which these people found themselves. They were aboard a damaged and grounded ship with a flooding engine room, and with a heel angle sufficient for the starboard side of the main deck to be nearly awash. Furthermore, the ship had taken on an abnormal trim with the stern lower than normal and the bow higher. With the equipment and facilities that were available, it was impossible to determine the precise nature of the damage. Although the basic design parameters of the ship and even curves of ship stability were available on board, determination of the exact nature of the flooding in various parts of a ship from this information as well as heel and trim is impossible with a vessel which is simultaneously grounded and flooded. If only one of these two situations had existed, grounding or flooding, the basic loads on the vessel could be determined from measurements of the heel and trim and use of the available information. This would yield knowledge about the amount and location of flooding in the case of a damaged vessel or the magnitude

and location of the load on the bottom of a grounded vessel. With the simultaneous existence of grounding and flooding, this determination could not be made. Therefore, measurements of the height of the liquid in a number of tanks were made as well as could be done under the circumstances, with the intent of comparing these with later measurements to then obtain information about the amount of flooding and its distribution. The flooding information about a stricken vessel is generally needed in order to be able to determine the best way to use whatever pumping capacity is available; in other words, to be able to decide which compartments to pump out. In the particular instance of the Argo Merchant, with only a single adequate pump available and with the observed engine room flooding it was obvious that the pump should be used to empty water out of the engine room.

During Wednesday, the Coast Guard had requested that the nearest available empty barge and tug come to the scene to assist in oil offloading operations. A major problem in the rapid use of a barge for offloading a stricken tanker in the presence of large oil offloading operations. A major problem in the rapid use of a barge for offloading a not inflected by waves smashing the two vessels together. The vessel owners did not have large fenders available to them and although the Coast Guard had four, three of these were hundreds of miles away. The Coast Guard made arrangements for two fenders and two more ADAPTS pumping systems to be transported to the Coast Guard Air Station on Cape Cod. The pumping systems arrived at the Air Station later on Wednesday and the fenders arrived there on Thursday.

By Thursday morning, the fifteen knot winds and six to eight foot seas that had existed in the vicinity of the Argo Merchant during Wednesday had diminished. Also, the people aboard the vessel reported that the initial engine room flooding which had reached a height of twenty-two feet, had been reduced to fifteen feet by the single ADAPTS pump. By 8 a.m. on Thursday morning, the two additional ADAPTS systems were aboard the U.S. Coast Guard buoy tender Bittersweet in Woods Hole, Massachusetts along with additional strike team members. Shortly thereafter, the Bittersweet left Woods Hole for the scene of the Argo Merchant.

During early Thursday afternoon, the personnel aboard the Argo Merchant found that the water in the engine room was again rising. These people aboard knew that additional ADAPTS pumping systems would soon be aboard, and there must have been some question in their minds as to how they should be used. Should the additional pumps be used in the engine room to try to lower the water level there? On the other hand, some of the tanks of the vessel (the vessel contained thirty cargo tanks) appeared to be flooding. Since the vessel was heeled to starboard, should the additional ADAPTS pumps be used to pump water out of some of the apparently flooding starboard tanks in order to help right the vessel and possibly float her free of the shoal? If any tank had a large hole in its bottom, no good could be accomplished by pumping out that tank inasmuch as the tank would flood to the waterline level no matter how much water was pumped out of it. If the hole in a flooding tank were so small that water entered through the hole more slowly than water was pumped out of the tank, then the water level could be lowered and additional buoyancy thereby provided. If it could be ascertained that there were some undamaged cargo tanks, additional buoyancy could be provided to the vessel by pumping oil from such tanks overboard. Although this may have been the most appropriate thing to do if undamaged tanks could have been located,



the responsibility for pumping oil overboard could not have been assumed by anybody involved, so nobody would make a decision to do this.

Here, another diversion is in order. Under circumstances that existed aboard the Argo Merchant at this time, or which have and will exist on other ships under similar conditions, there is no decision an individual can take which can do him very much good. On the other hand, there are many possible decisions which can do one much personal harm. Thus, situations like this tend to inhibit decision making when effective response actually requires firm and decisive decision making. The technical matters are difficult enough. Somehow, the social and institutional pressures must be eliminated in order to encourage decision makers to take the best possible action.

The Bittersweet arrived alongside the Argo Merchant at about 3 p.m. on Thursday. The two ADAPTS systems and additional strike force personnel were offloaded and the Bittersweet left the scene. Prior to this time, the responsibility for the Argo Merchant was that of the owners and this was being exercised by the representative of the Murphy Salvage Company. He had decided to use one of the additional ADAPTS systems for pumping water out of one of the starboard cargo tanks which was supposed to have contained no oil when the ship left Venezuela, but which appeared to be flooding. By this time, the heel of the vessel had increased, the sinkage towards the stern was larger, and the sea state was increasing with waves beginning to break onto the deck. This resulted in considerable time being required to set up the ADAPTS system and associated hoses. The reader should try to appreciate how difficult it is for men to handle large, heavy six-inch diameter hoses covered with slippery oil on a tilted deck covered with slippery oil with waves and spray coming down upon them. It was dark by the time the pumping system had been set up on Thursday. When pumping began, it was not water which came out of the tank, but oil. This further increased the uncertainty of the situation. Could it have been that that tank was not empty when the ship began the voyage even though the crew reported that it was empty? Could a bulkhead between that tank and another tank have been damaged in the grounding, resulting in a leak so that oil from an adjacent tank poured into a previously empty tank? Could the condition of the ship before the voyage have been so bad that there was leakage between one tank and another so that an initially empty tank slowly filled up? These questions and others must have been going through people's minds and no answers to them were available.

During Thursday afternoon, the Coast Guard assumed command of the salvage operation under authority of the 1974 Federal Intervention on the High Seas Act. No doubt this was done because the owners of the vessel had not accomplished any positive steps toward salvage. All pumping up until that time had been done by the Coast Guard personnel with Coast Guard equipment. The owners had not made any plans for rapid delivery of barges, fenders, or pumps for offloading cargo, nor had they made any arrangements for cleaning up oil that had spilled or might spill later. The strike team aboard the vessel was informed of the Coast Guard intervention by radio.

At about 7 p.m. Thursday evening, a tug, the Sheila Moran, arrived at the scene and it appears that her assistance had been requested by the Murphy Pacific Company. Since there was nothing she could do to help at that time, she stood by on the scene.

During Thursday evening, the wind strength, which was now from the northwest, increased as did the size of the waves and the amount of waves breaking onto the

main deck of the vessel, whose low (starboard) side was towards the waves. Some buckling of the main deck on the aft portion of the ship had been observed, and leaking of oil from a cargo tank into the engine room around bolts or rivets in a bulkhead could be seen. In the region of this bulkhead, strange sounds were emanating from the ship structure as a result of the loads caused by the seas and the bottom against the grounded vessel. Only the one ADAPTS pump taking water out of the engine room was being used. No one aboard knew how long the ship would last. No one could know. Even though the Coast Guard had assumed command of the salvage operation, both the Coast Guard personnel and the representative of Murphy Pacific were trying to figure out the best thing to do. It was clear that at that time that there was very little that could be done immediately. Many of the ship tanks were inspected by opening cover plates on them and a considerable number of the tanks exhibited much agitation and sloshing of the surface of the oil. This indicated that it was quite possible that the bottom of the ship was torn open in way of many tanks, in which case pumping oil out of them and overboard would most likely not have aided in ship salvage. Water was rising in the engine room and it seemed doubtful that pumping more water from the engine room with additional ADAPTS pumps would "stem the tide". Furthermore, it was deemed by everyone aboard to be extremely dangerous to work in the vicinity of the engine room because the behavior of the deck and the bulkhead between the aftermost pump room which was full of oil and the engine room, together with the sounds the structure was making, indicated that the vessel might break there at any time. As a result, a decision was reached to take the people off the vessel. This was accomplished by Coast Guard helicopters late Thursday evening. When the lights from the helicopters illuminated the scene, it became clear that a substantial rate of oil leakage into the sea had begun. It was uncertain as to how much of this oil was coming out of deck openings and how much was coming out of the damaged bottom at this time.

At about 4:30 Friday morning, the 140,000 barrel barge Nepco 140, towed by the tug Marjorie D. McAllister, finally arrived about forty-seven hours after the grounding. However, seas were about four to six feet high with worse weather predicted and the Coast Guard chose to concentrate on other tasks rather than deliver fenders to the ship and bring the barge alongside the Argo Merchant. There was substantial oil pollution at this time and the author estimates the pollution rate to have been approximately 40,000 gallons per hour.

Personnel of the Coast Guard had realized the pollution threat from the beginning and had brought their high seas oil booms and skimmers to the air station at Cape Cod. Also, the Coast Guard had contracted the Murphy Pacific Company to supervise their salvage effort.

Following the grounding of the Argo Merchant, the heading of the vessel changed from time to time. It is not certain how much of this heading change was due to wave forces and how much was due to forces of the currents. The currents at the location of the grounding are somewhat unique in the sense that they are rotary, not recirculating. Whereas in most locations, tidal currents go in one direction and then switch and go in the opposite direction, on Nantucket Shoals the current direction rotates through all headings.

The salvage plans being generated by Murphy Pacific were to begin with stopping the heading changes of the ship by putting out two bow anchors. Then, plans were to locate a group of heavy moorings, each with

a mooring buoy, around the ship to which barges could be tied. A work vessel was to be brought alongside the Argo Merchant with fendering to be provided by the two large Coast Guard fenders which had arrived at Cape Cod. This work vessel was to contain a steam heater which could be used to pump steam through a portable coil which could be put in one Argo Merchant tank after the other to heat the oil again to a temperature at which it could be pumped.

Conditions on Friday, December 17th, were somewhat rough and work was limited to inspection of the ship since all of the planned equipment for salvage was not yet available. Saturday, December 18th, was even rougher. Wind strength increased to over 40 knots and seas were nine to twelve feet high with almost every wave breaking on the shoals. Although the amount of heeling of the vessel seemed to change as the tide changed, the stern of the vessel was definitely getting lower and lower.

By Sunday morning, December 19th, the wind and seas had abated and conditions were nearly calm. In a combination of effort by Coast Guard Strike Force personnel and the tug Sheila Moran and her crew, one of the bow anchors of the Argo Merchant was put out. In the calmer conditions, the oil leakage rate appeared to be somewhat less than before. Wind and sea conditions were also moderate on Monday, December 20th, but during the night conditions worsened. By the morning of Tuesday, December 21st, strong northwest winds and large seas were again present. At 8:30 a.m. the Argo Merchant split in two and a great deal of oil escaped. By Wednesday morning, the wind strength had reached 45 knots and the seas were about twelve feet high. At about 9 a.m. on Wednesday, a section of the bow which had been afloat broke in two and most of the remaining oil escaped.

From the standpoint of pollution damage, we were all very lucky in the case of the Argo Merchant accident. Although at the time of the grounding the wind was from the southwest, during all of the time that oil escaped from the vessel, all strong winds were from the north or the northwest. This resulted in the oil being driven away from the shore, but to the south of George's Bank. Following the spilling of the oil, only for one short period did the wind blow towards land and although some oil came to within fifteen miles of Nantucket Island, before it got closer the wind direction again changed to the northwest and the oil was blown out to sea.

We will not always be so lucky. Statistics about wind direction indicate that such good fortune can be expected most of the time during winter in the location of the Nantucket shore. However, most of the time does not mean all of the time. In addition, winds toward shore are more prevalent there in the summer. There are, of course, many locations in the United States where the situation is reversed and the most frequent winds blow towards the shore.

If the Argo Merchant oil had been blown onto shore, we would presently be dealing with a coastal disaster of major proportions. Any region which has a large quantity of oil blown onto its shores will have such disaster.

The preceding description of events provides a useful framework for considering optimum equipment, personnel training and planning for diminishing the magnitude of such disasters.

#### PREPAREDNESS FOR RESPONSE TO STRICKEN VESSELS

The technology of the salvage of vessels which are grounded offshore has shown no essential advancements during the past thirty years. A technological advance in this field can be made now if funding and the attention of competent engineers are "focused" on the problem. The subject of regulations to decrease the likelihood of tanker accidents

is not a subject of this report (it is being given much attention elsewhere). However, the subject of regulations intended to make tankers easier to salvage if they run aground is indeed a subject of this report and will be considered here.

The *Argo Merchant* lasted just slightly longer than six days after it grounded. During part of this time, the weather was quite rough. In 1970, the tanker *Arrow* ran aground in Chedabucto Bay, Nova Scotia. The *Arrow* lasted four days before breaking up. The *Torrey Canyon* lasted about one week.

The fact that grounded tankers generally seem to last several days after grounding indicates that the mechanism of breakup is not that of any particular instantaneous load exceeding that which the ship can initially withstand, but rather the process is one of fatigue, whereby reciprocating loads deteriorate either the macrostructure (frames, joints, etc.), the microstructure (metallurgical properties of the steel), or both over a period of several days. A feature of fatigue failure is that for specified loading conditions, a small increase in strength will often greatly extend the number of cycle a structure can withstand before ultimate failure. Since grounded tankers generally seem to last several days before breaking up, it seems quite possible that a relatively small increase in structural strength could result in grounded tankers generally lasting several weeks. Studies to determine whether this would be the case are within the capabilities of present day ship structures experts and such studies should certainly take place. If the expected lifetime of a grounded vessel could be materially increased, many salvage operations could take place which are not possible with an expected lifetime of only a few days. Therefore, if studies indicated that a modest structural strength increase would markedly increase the expected lifetime of a grounded vessel, regulations upgrading the structural standards for tankers entering U.S. waters would be appropriate.

Much has been said and written about the advisability of requiring tankers to have double bottoms to minimize the pollution threat if a tanker should run aground. In the present context, the use of double bottoms could be quite helpful for lengthening the expected longevity of grounded vessels. When a vessel runs aground, the bottom of the vessel is usually damaged. The cross-sectional shapes of large ships of today are such that the beam substantially exceeds the depth. This has been caused by the need to increase cargo holding capacity without increasing ship draft, which would limit the areas the ship could use because of limited water depth. With cross-sectional shapes which are relatively wide and shallow, the ability of the structure to withstand sidewise bending is far greater than the ability to withstand vertical bending. In vertical bending, the maximum loads are carried in the ship's bottom and the ship's deck. If the bottom is damaged upon grounding, one of the primary structural members (the bottom) for withstanding vertical bending is either less efficient or unable to contribute at all to bending restraint. On the other hand, if a vessel had a double bottom and the outer bottom were ruptured, the inner bottom could still contribute a significant amount to the provision of vertical bending restraint.

It is useful to understand the enormous amount of buoyancy which can be required to re-float a grounded vessel. The *Argo Merchant* was a relatively small tanker by today's standards. It could carry approximately twenty seven thousand tons of oil. The weight of the ship itself, exclusive of cargo, was about 18,000 tons. Suppose, for example, that the degree of damage to the ship was such that an external buoyancy equal to half of the weight of the steel of the ship

had to be provided. This would be four thousand tons. One person once asked me why the ship could not have been lifted up high enough to get it off the shoal with helicopters. The helicopters having the largest lifting capacity which I know of (Sikorski Skycranes) can lift about 12 tons. Seven hundred fifty such helicopters simultaneously lifting would be required to lift the weight of half the steel of the *Argo Merchant*. Obviously, that would not be a practical solution. There are more practical possibilities. By far, the most practical of these would be an arrangement whereby a stricken ship could float itself. It was impossible to do this with the *Argo Merchant* with the equipment that was aboard. However, it is feasible to require that all tankers entering waters be capable of sealing all deck openings in a time of one hour or less. Retrofitting existing vessels to meet such a requirement would be entirely practical. Suppose it had been possible to completely seal all deck openings on the *Argo Merchant*. If this could have been done, then if air were pumped into the tanks above the cargo while removing as much cargo as was displaced by the air, the four thousand tons of buoyancy could have been provided by depressing the liquid level in the ship's tanks three feet. This would have been effective if the bottom were ruptured or not. Fittings to accept air lines could be required on the top of each tank. Emergency salvage equipment could include compressors and hoses to supply the air.

Let us consider what this would have involved, had it been possible, in the case of the *Argo Merchant*. First of all, the deck opening seals and the deck structure itself would have to have been strong enough to withstand an internal pressure of approximately two pounds per square inch above atmospheric pressure (a practical requirement). Furthermore, approximately one-seventh of the ship's cargo would have to have been discharged to allow a space for the air. Under the conditions of the grounding, had this even been possible, the only practical way to discharge this cargo (which would amount to about one million gallons) would have been to discharge it overboard.

Authorizing the discharge of one million gallons of oil into the sea is a responsibility which an individual simply cannot take under existing political conditions. In the case of the *Argo Merchant*, the impact of the oil, while severe on certain forms of life, especially sea birds, was the least possible since the oil moved offshore and apparently without damaging Georges Bank. In spite of that, all actions of the Coast Guard were mercilessly and unjustifiably attacked by the Lieutenant Governor and the Secretary for Environmental Affairs of the Commonwealth of Massachusetts. It is not hard to imagine what the nature of these attacks would have been like if the Coast Guard officers had been in a position to save the ship and most of the cargo by discharging one million gallons. It is certain that they would have been even worse than they were in the *Argo Merchant* case, since the public officials could link all the pollution that would then exist to direct actions of the Coast Guard.

A workable procedure for exercising human responsibility must be prearranged in a special way if optimum response to stricken tankers is to occur in the future. For each vulnerable region of the United States coastline, the most appropriate individual should be designated in advance as the one who will have the ultimate responsibility for making decisions regarding stricken vessels in his or her area. Arrangements must be made so that these individuals know in advance that they will not be held accountable for any unpleasant results resulting from well-founded decisions. For example, suppose as in the case of the *Argo Merchant* a northwest wind would blow the oil safely offshore

and that a northwest wind was forecast for at least five days. Further suppose that the deck openings could be sealed and air pumped into the tanks above the oil. The best immediate decision under these circumstances could very well be to pump one million gallons of oil overboard to re-float the ship and tow her free and to safety. Now suppose that one day after pumping one million gallons overboard the wind unexpectedly shifted and the oil were blown ashore. Under no circumstances should the person who made the decision to pump the oil overboard or the weather forecaster be held accountable for this occurrence, and this fact should be a law.

As mentioned in the beginning of this report, every oil tanker accident is different. If a grounded vessel is equipped to be able to close deck openings and withstand internal air pressure, salvage by the means described above might be appropriate in some instances. An example of such an incident is the set of conditions that surrounded the *Argo Merchant* accident. Since the oil was No. 6 and since cargo heating had been lost, the oil could only be moved with relative ease for a few days. One day after the accident the wind began coming from the northwest with the weather forecast being for northwesterly winds of increasing strength for several days. If the tanker had been equipped to close deck openings, discharge some cargo, and fill the resulting spaces above the cargo with air, this action, with the pumping of oil overboard, would have been appropriate for the environmental conditions that existed for many days starting on Thursday morning. In other instances, such a course of action might not be appropriate. Such instances would include those where it would be more practical to offload the oil into barges and those when the prevailing wind would be certain to blow discharged oil ashore. How might a grounded tanker be salvaged under such circumstances? The first thing which would have to be known is the extent of damage. If the tanker had deck openings which could be sealed and deck structures which could stand internal pressure, much could be learned about the condition of the ship structure by measuring the pressure in each tank resulting from air being pumped into it. If there were no openings between the tank and the outside environment, and if a sudden increase in air pressure above the cargo were applied, the pressure would not subsequently slowly drop. If there was a path from the tank to the outside environment, the rise in pressure would slowly diminish after air were suddenly pumped in. Were there broken bulkheads between otherwise intact tanks in the *Argo Merchant*? We will never know for sure. On the other hand, if the deck openings could have been sealed, and if we were prepared with the proper instruments, we could have found out. By first measuring the size of the air space above cargo and then measuring the relationship between the amount of air pumped into a tank and the resulting rise in pressure, it would be possible to determine if the internal bulkheads were intact or broken. We are a long way from being able to do this now. Not only are tankers built without the provision for complete sealing of all deck openings above tanks, but the necessary equipment for rapidly making the aforementioned measurements has not been developed. If the state of damage of a vessel were known and if some time for salvage operations could be expected to be available, the most appropriate steps could be planned and taken. It is useless to try to pump liquid cargo from a tank having a large hole to the sea. Water will enter as fast as it is pumped out. With large pumping capacity, some flotation can be provided by pumping liquid cargo from a tank having only a small hole to the sea. The best way to provide flotation by offloading cargo is to



remove the cargo from intact tanks so the resulting air space will not flood, and hence be able to provide buoyancy. If this were to be done without pumping the cargo overboard, the most rapid technique would be to tie barges alongside with fenders between the barges and the stricken vessel. Doing this rapidly requires the availability not only of barges, but of lightweight rapidly deployable fendering systems. Such systems do not exist now. They could be developed.

In the case of the *Argo Merchant*, it took about forty-seven hours for a barge to reach the scene of the incident, which was only twenty-six miles from land and 90 miles from Providence, the nearest large commercial port. Such response is too slow by at least a factor of 5. What is required for faster response by barges? The answer is that it is necessary for state or federal governments to have contracts with barge operators all around the coastline of the nation to be able to provide a prearranged amount of barge capacity on very short notice. The most appropriate contractual arrangements would appear to be those which provided barge capacity according to a certain schedule. A small amount of capacity would have to be available on very short notice. More capacity would have to be available on somewhat longer notice, and still more capacity would have to be available on still longer notice. Contracts for barge capacity on a "best effort" basis could not be sufficient. It would be necessary for barge operators to continuously demonstrate their ability to meet such contracts by means of "surprise tests" called by the contracting agency.

The individuals who would actually carry out the tasks of salvage operations would necessarily have to be highly trained. Presumably they would be groups something like the existing U.S. Coast Guard Strike Forces and quite logically could be the Strike Forces themselves. How could adequate training be assured? Again, surprise tests would have to be carried out on a frequent basis. The tests would really have to test how well the people could do. For example, at random and unannounced intervals a derelict ship filled with a nonhazardous dye could be towed up on a shoal and the strike forces called. The performance of the forces could be measured by examining how much of the dye escaped into the sea before either the ship was floated free and taken to a prearranged location or the entire cargo of dye was offloaded into barges.

One technique of marine salvage of damaged and grounded vessels is that of supplying external buoyancy to the stricken vessel by means of special flotation tanks taken to the grounded vessel which are subsequently flooded, attached to the vessel, and then pumped out to provide buoyancy. This has never been done on a scale which is appropriate for salvaging as large a ship as a modern tanker. It seems appropriate to study the possibility of developing a technology which could apply this technique on a large scale. Many changes from the smaller scale operations would be needed. For example, the only way that a flotation chamber of sufficient magnitude could be attached to a stricken vessel with sufficient strength would be to weld the chamber to the vessel. Can the technology to do this in the presence of substantial seas be developed? I certainly do not know the answer to this question now. However, we could find out by means of a relatively straightforward feasibility study.

After the grounding of a larger tanker, one possibility which always seems to come to the minds of many people is that of burning the oil. Usually this cannot be done. However, it seems entirely feasible to design, develop, and construct special burners which could be placed aboard a stricken vessel for the purpose of burning the cargo. The questions which must be answered first are: How much air pollution would this cause? and how long

would the burning take? Engineering studies to answer these questions are in order.

#### PREPAREDNESS FOR CLEANING UP SPILLED OIL OFFSHORE

Although the details of the salvage of ships and their cargoes are complicated and difficult, the fundamental technical aspects of a salvage operation are generally easily understood and relatively well-known. This is not the case for the cleanup of oil spilled on the surface of the sea which is a fundamentally more complicated subject. As a result of this, a discussion of the technical aspects of offshore oil cleanup will now be given to aid the reader in gaining a thorough understanding of the problems and the best methods of dealing with them.

First we shall consider basic geometry of an oil spill on the sea. Only rarely does an oil spill form a continuous pool of relatively constant thickness on the surface of the sea. The two factors which most strongly influence the nature of the distribution of the oil in the vicinity of the spill are the details of the way the oil is spilled and the nature of the oil spreading. Each accident has a somewhat different geometry for the spilling of oil. In some accidents, the oil is released relatively slowly and in some accidents, it is released relatively quickly. In the case of tanker groundings, the usual scenario is for a slower leak at the beginning of the process, a large release when the ship breaks up, and then a continuing slow release of oil as the broken components of the ship continue to leak the portion of the oil still aboard. It is important to point out the meaning of the word "relatively" in this context. For the *Argo Merchant*, the best estimate by the author of the leak rate prior to breakup, but after substantial leaking had begun, is 40,000 gallons per hour. This estimate was based on direct observation of the average slick thickness, slick width, and current speed. The case of the *Argo Merchant* demonstrates how the details of the accident can affect the nature of the geometry of the oil on the sea. As mentioned before, the tidal current direction at the location of this wreck rotates through all compass headings; the cycle being made twice each day. Although the ship changed its heading to some extent while it was grounded, this heading change was relatively small so that at different times of each day, the ship encountered currents from nearly each possible direction with respect to its own. When the current was coming from a nearly forward or aft direction, the width of the oil slick near the ship was relatively small; being approximately one hundred fifty to two hundred fifty feet. However, when the current direction was nearly athwartships, the width of the oil slick in the vicinity of the ship was between 600 and 1100 feet.

The effect of the details of oil release on the geometry of the oil are well understood and can be predicted with enough precision to determine their effect on the logistics of how to clean up the oil. This is not the case with the phenomenon of oil spreading, which is the second major effect of the geometry of oil slicks. Although some theories for the spreading of oil have been published in the literature of hydrodynamics and of oil spill effects, we are now quite certain that these theories are not applicable to spilled oil on the sea. One of the major reasons for the inapplicability of these theories is the complexity of the effects of the surface tension in the oil-air interface and the interfacial tension in the oil-water interface which are not taken into account by the theories. Generally, the effect of these tensions and the tension in the water-air interface result in a spreading force on the oil. The response of the oil to this force is extremely complicated. First of all, we must realize that most cargoes of oil are not made up of a single chemical substance, but rather are a mixture of different chemicals. This occurs to an extreme degree in the case

of crude oil which is made up of a vast number of different chemical substances. Often, one or more of the chemical components of spilled oil spread more rapidly under surface tension forces than the remainder of the oil. This spreading can be very rapid and effectively contaminates a large surface area. One effect of this contamination can be to retard the spread of the remaining oil to a degree which would be unexpected if this effect were not first considered. This appears to be a contributing factor to the fact that most oil spills are found to have interspersed regions of a thin layer of oil on the surface and thick layers. The thick layers appear to float around within the thin layers and very slowly spread into the thin layers.

We can give some measures of how fast oil is expected to spread. In the event of a sudden release of a large quantity of oil, the initial stages of spreading are accurately predicted by existing published theories. This is because when the oil layer is thick (one foot thick or more) the spreading is dominated by the forces of gravity and that required to accelerate the horizontal motion of the oil in the pool, these effects being well understood. Typically the speed of the edge of the slick in such a situation is one to two knots. However the oil slick rapidly thins and this effect no longer dominates at distances more than a few hundred feet from the source of the leak. It is never important during a relatively slow leak. In the case of a relatively slow leak or at distances more than a few hundred feet from a sudden oil release, the dominant surface contamination generally appears to be the surface tension spreading of the most rapidly spreading components. Typically this takes place at speeds between 0.25 knots and 1 knot. It is important to realize that under some circumstances this surface contamination can contain very little oil. These are the instances in which it is only one or two molecules in thickness (approximately  $10^{-6}$  inch). Under some conditions such a thin layer may be invisible. Often the thick and thin regions that people see are both much thicker than that described above with the thick regions being 0.05 to 0.4 inches thick and the thin regions being 0.001 to 0.05 inches thick. The spreading of these later thicknesses usually takes place more slowly with spreading rates being on the order of 0.1 knot. For this condition, both the thick regions and the thin contain substantial quantities of oil.

Since a water current either tidal, or wind or wave induced, nearly always exists at the scene of a tanker grounding, most of the oil moves with the current direction. For a relatively slow leak then, we find a track of oil moving away from the ship at about the surface current speed and with a width that is typically between 100 feet and 1500 feet wide. This general picture prevails, with the width slowly increasing, as distance from the stricken ship is increased. The increase in width occurs in two stages. The first comprises that of the most rapidly spreading components which contain extremely little oil. The second comprises the slower spreading of what most people call the thin region of the oil. These thin regions are often "fed" by spreading from the edges of the thick regions which float within the track of the slick.

In the presence of a sudden discharge of oil, we would expect a region containing discharged oil which spreads somewhat more rapidly than oil from a relatively slow discharge until the average thickness of the oil in the region diminishes to approximately  $1/4$  inch. Typically, the more rapid spreading could be expected to exist until the general diameter of this region was between 1,000 and 4,000 feet, depending on the volume of oil that was spilled.

How do the properties of the oil itself affect the distribution of the oil in the sea?

We have already discussed the importance of surface tension for oil spreading. Different cargoes have components of different surface tension. Some oils have oil-air and oil-water tensions that are so high that surface tension actually tends to contract the size of the slick. In this case, the very thin layer of one or two molecules of thickness would be absent and the remaining spreading would be related to the extent to which gravitational spreading forces can overcome viscous and surface tension retarding forces.

Another property which affects the gross spreading of the oil is the oil density. The density does not affect the relatively rapid spreading which takes place immediately after a sudden release of oil, since it affects the gravitational spreading forces and the force needed to accelerate the oil in the same way with the effects exactly counteracting each other. However, during the later stages of spreading, wherein surface tension spreading forces and gravitational spreading forces are basically counter-balanced by the interfacial friction between the oil and the water, the oil density can affect the spreading rate. In particular, the more the oil weighs, the more slowly it will spread. Nearly all oil is lighter than sea water. In fact, if it were heavier than sea water it would sink and spreading would certainly not be a consideration. To understand how increasing the weight of the oil slows down the spreading, one can think of oil that is as heavy as water. In this case, if surface tension forces were ignored, the oil would not spread at all inasmuch as the gravitational effects on this oil would be the same as if the oil were water instead.

Oil properties also affect important phenomena other than spreading. Some will be described here. When oil is spread on the sea, a small portion of it dissolves in the water and some of it evaporates into the air. From the standpoint of cleanup operations, dissolution can be considered to be unimportant since the amount that dissolves is very small although dissolution is certainly important for considerations of oil toxicity.

The evaporation of the oil is highly dependent on oil properties. For a heavy residual oil, like that which came out of the Argo Merchant, evaporation is slow and can be considered negligible over time scale during which cleanup operations would take place. On the other hand, if gasoline were to be spilled on warm water, such as might exist during a warm sunny day in the Gulf of Mexico during the summer, nearly all of the spill could evaporate in one day. All stages of evaporation between these extremes are possible. They depend on the water temperature, the air temperature, wind, and the evaporative properties (vapor pressures) of the components of the cargo.

In addition to the reduction in amount of oil on the water by evaporation, the evaporative process is also an important contributor to what we call "weathering of the oil". This is the change in oil properties with time for oil which is on the surface of the sea. With a cargo containing a mixture of different chemicals, some will evaporate more rapidly than others so that the fractional composition of what remains changes with time.

When breaking ocean waves break on an oil covered surface, oil droplets are dispersed into the water beneath the waves. The density, viscosity, and oil-water interfacial tension have a considerable bearing on this dispersion of droplets into the water column. These properties affect how deeply the droplets will go, how many are formed, and how quickly they will rise to rejoin the slick. Typically, we expect a substantial number of droplets to be dispersed between the surface and a depth equal to about twice the wave height. Lesser quantities of droplets are dispersed at greater depth. This effect

has a bearing on spill cleanup operations since surface equipment cannot encounter droplets which are dispersed to depths greater than that of the equipment.

As the reader can see, the immediate fate of spilled oil is influenced by the properties of the oil itself, the air temperature in the vicinity of the spill, and the sea and current conditions that exist in the spill vicinity. Clearly there are many advantages to optimum rapid cleanup response as this minimizes the extent to which the oil spreads or has been carried by waves and currents. The more the oil spreads and the greater the distance to which it has been carried, the more difficult it is to clean up. One element of being able to generate the optimum logistical plans for cleaning up the spill rapidly is that of knowing the oil properties as well as weather and sea conditions. The appropriateness of requiring prearranged plans to have this information available for every tanker entering U.S. waters should be studied at once.

There are a number of hydrodynamic limitations on oil spill cleanup operations which must be considered. Any device which collects oil moves at some speed with respect to the oil and water. If the oil and water are essentially stationary, the device must move in order to encounter a continuing stream of oil. If the oil and water are moving in a current, the device can either move at some speed or be stationary in order to encounter oil. In either case, there is a relative speed between the liquids and the device. To some extent, any device slows down the speed of at least some of the encountered oil. Considerable research has taken place on the hydrodynamic effects that occur when oil is slowed down in a relative current. For purposes of illustration, we consider here slowing down oil by a simple oil boom. This is just a floating fence as shown in Figure 4. In the presence of a relative current of low speed, the oil is held against the boom as shown in Figure 5. For very low current speeds (less than 0.5 knot) and in the absence of ocean waves, the cross-sectional shape of the oil pool, as viewed from the side, is relatively smooth as sketched in the figure. At a higher speed of about 0.75 knot, the cross-sectional shape of the oil pool forms a lump near its leading edge, as shown in the figure. At a still higher speed of about 1 knot, the size of this leading edge lump, called a headwave, is increased. At an even higher speed (about 1.25 knots), oil droplets are torn off the headwave by the water stream and these droplets are carried below and past the boom or collection device. This particular effect has nothing to do with any details of any device except for the fact that some of the oil is slowed down. The effect results in a natural limitation in the relative speed of any containment or cleanup device of about one knot. Exceeding this limit will result in entrainment of oil in the water with this entrained oil moving under and past the device.

Some development has taken place on cleanup devices that slow down both the water and the oil to an extent that allows some cleanup at relative speeds up to two knots. However, the nature of these devices limits them to low collection rates so that they are not appropriate for large spills on the high seas. Thus, the one knot limit for high seas cleanup of large spills remains.

The limitation in relative speed of one knot affects two areas of oil cleanup operation. The first is that of properly manipulating cleanup devices. Only under relatively rare circumstances can cleanup devices operate efficiently when anchored. These circumstances would be those when the water speed is large enough to carry a substantial amount of oil to the device but still less than one knot. Usually, in the presence of currents of varying strength and direction,

effective oil spill cleanup requires the towing and maneuvering of cleanup devices. Such towing and maneuvering must be done at a relative current speed of 1 knot or less to avoid entrainment of oil in the water column. This limits the types of vessels which can be used to those which can go this slowly and still maintain accurate steering control in the presence of substantial waves. Most vessels have good control at higher speeds, but only few can maintain sufficient steering control to properly tow and maneuver cleanup equipment at speeds of one knot or less.

The second area affected is that of oil encounter rate. The first phases of the Argo Merchant incident provide a good example of typical leak rates in an oil tanker grounding. The estimated leak rate of 40,000 gallons per hour corresponds to 667 gallons per minute. The width of the portion of this slick containing substantial oil in the vicinity of the ship was observed to be between 150 and 1100 feet, depending mainly on the current direction. A typical current velocity was about 1.5 knots in the general area (although it was often larger over localized areas). This current speed, along with the aforementioned leak rates and range of slick widths, corresponds to a range of average thickness from 0.0070 in. to 0.046 in. (0.18 millimeters to 1.18 millimeters). These relatively small mean thicknesses, which are typical, together with the one knot limitation on encounter speed, limit the oil encounter rate of the containment or collection device. For example, for the mean of the two thicknesses given which is 0.026 inches (0.67 millimeters) the encounter rate of a skimming vessel moving at a relative speed of one knot with a skimming width of 75 feet would be 124 gallons per minute. This is only about 19% of the leakage rate in the example and is a very small collection rate for a large skimming device. For the case where the current was crosswise to the ship leading to a slick width of about 1100 feet, the oil encounter rate (which would be the maximum possible collection rate) of a seventy-five foot wide skimming vessel would be only 34 gallons per minute.

The only practical device for encountering a high rate of oil flow which could lead to a high collection rate is a barrier. High seas oil pollution control barriers are made of flexible material and are strong enough to be used in lengths up to thousands of feet. As a result, a towed barrier forms a device for being able to encounter a large oil flow rate. For the example cited above, all of the oil (667 gallons per minute) could be encountered by a barrier. By utilizing a skimming device within the barrier as shown in Figure 6, or skimmers built into the barrier as shown in Figure 7, large collection rates could be achieved.

For the example given above, the current speed was 1.5 knots, whereas it has been stated that the relative speed of collection equipment cannot exceed one knot. This means that even with a barrier based collection system, one system could not handle all of the job. The reason for this is that at a relative speed of one knot, the system would essentially back away from the wreck at an absolute speed over the bottom of one half knot. This means that as the distance of the collection system from the wreck increased, it would be necessary for a second collection system to start near the wreck and slowly back away. The problem of determining the number of cleanup systems and their paths whereby they return without oil to the scene of a wreck after they reach a certain distance away from the wreck is a problem in pre-planned oil spill logistics whose solution could be worked out.

Another hydrodynamic limitation on oil spill cleanup is that imposed by the motion of ocean waves. Most cleanup systems can collect a large volume of oil and only a small volume of water only if they follow the



motion of the waves on the surface of the sea relatively well. Such wave following motion is nearly impossible at the bow of a collection vessel. Under a great number of circumstances, the relative motion, up and down, of the fluid at the bow can be expected to be the same order of magnitude as the wave height. Thus, in a wave that is six feet high, there are many circumstances where the waterline at the bow of a collection vessel would move up and down by six feet. Under these circumstances, efficient collection of oil would be essentially impossible. Some work has been done leading to devices having articulated oil inlet devices at the bow of a vessel so as to adjust, in part, for the relative motion between the fluid and the vessel. This leads to a partial solution for very small waves (three feet or less), but another limitation may make refinement of this technique useless. This is the fact that when a vessel has a large relative motion with respect to the fluid, such as is the case with the vertical motion at the bow of a cleanup vessel, the motion of the vessel generates waves which drive much of the oil away, thereby making effective cleanup impossible.

The oil containment and cleanup devices which have the very best wave following ability can be divided into two categories. The first is that of specially designed high seas barriers which can have skimmers built into them. These barriers are designed to carry much of the sealoads in lines external to the barrier sheets (fabric fences), thereby leaving the barrier sheet relatively free to respond to the motion of the water and oil. The second category is that of skimmers in which the skimming device is relatively small and relatively light. Small and light devices with relatively large water plane areas can follow the surface of the sea to much greater accuracy than large cumbersome devices. A multiplicity of small devices can do a much better job in this regard than a single large device. To provide high collection rates with floating skimmers, they must be used inside a barrier.

Even though barrier based skimming systems appear to be the only feasible way to collect large quantities of oil from the open sea, their use is limited by the size of the waves. No barrier systems yet designed can work effectively in large breaking waves. Tests indicate that the maximum breaking wave height in which barriers now available can contain and collect oil, is about 8 feet. Much larger non-breaking waves (swell) can be accommodated. Larger barriers that could effectively work in larger seas could certainly be designed and constructed, but their size and weight would probably make them impractical for use.

It is useful to speculate on how effective oil barriers could have been in containing or controlling oil from the *Argo Merchant* if they had been used. If appropriate vessels for towing and maneuvering barriers had been available, the limiting factor on barrier effectiveness would have been the sea state. Table I lists sea conditions in the vicinity of Fishing Rip for the period of December 15 to December 31, 1976. The table gives the best estimate of the author (who has participated in many tests of barriers offshore; two being with oil) of how effective the U.S. Coast Guard high seas barriers could have been on each day. Reference to the table shows that totally effective or effective operation of barriers could have been possible on 10 out of 17 days. However, it is important to note that barriers would not have been effective on the days the ship broke up, releasing most of the oil. This highlights the need for being able to collect thin layers of oil after considerable spreading has taken place.

TABLE I—Sea conditions and estimate of how effective U.S. Coast Guard high seas barriers could have been

Date, sea condition, potential effectiveness of barriers, and comments:

Dec. 15: Rough, 10 ft. waves; ineffective; only small leak.

Dec. 16: Calm 1 ft. waves; totally effective; larger oil leak.

Dec. 17: Medium, 4 ft. waves; effective; substantial oil leak.

Dec. 18: Rough, 6-9 ft. waves; ineffective; substantial oil leak.

Dec. 19: Calm, very small waves; totally effective; substantial oil leak.

Dec. 20: Calm, small waves; totally effective; approximate total oil spilled—2 million gallons.

Dec. 21: Rough, 7-9 ft. waves; ineffective; ship broke up, releasing much oil.

Dec. 22: Rough, 10 ft. waves; ineffective; bow section broke, releasing much oil.

Dec. 23: Calm, 3 ft. swells; totally effective.

Dec. 24: Medium, 4 ft. waves; effective.

Dec. 25: Medium, 5 ft. waves; effective.

Dec. 26: Medium, 3 ft. waves; effective.

Dec. 27: Rough, 8-9 ft. waves; ineffective.

Dec. 28: Medium; effective.

Dec. 29: Rough, 4 ft. breaking waves plus 6 ft. swells; partially effective.

Dec. 30: Rough, 7 ft. breaking waves plus 14 ft. swells; ineffective.

Dec. 31: Medium, 2 ft. waves; plus 6 ft. swells; effective.

#### KEY

Totally Effective—Barrier could hold and collect oil with negligible oil loss under or over barrier.

Effective—Barrier could hold and collect oil with small oil loss past barrier on the order of 5 gallons per minute.

Partially Effective—Barrier could hold and collect oil, but oil loss past barrier would be on the order of 40 gallons per minute.

Ineffective—Oil loss past barrier would be on the order of 40 gallons per minute. More if there were a pool of oil inside the barrier.

Barriers were not used in the case of the *Argo Merchant* accident for several reasons. Notable among them is the fact that tow vessels which can maneuver barriers at speeds of one knot or less while maintaining steering control in big waves are very few in number and simply were not available. Furthermore, the question arises as to what one would do with cold No. 6 oil contained in a barrier. It is too viscous to pump by any ordinary methods. Given that condition and the fact that the prevailing currents were carrying the oil out to sea, use of barriers without collection was inadvisable. However, if prevailing currents had been carrying the oil towards land, and had barrier towing and maneuvering vessels been available, it would then have been advisable to use the barriers to contain much of the oil and tow it out to sea with the hope that the wind direction would change before oil which was deposited far out at sea would be blown back on land.

Now we are in a position to consider what is necessary to achieve a state of preparedness which is adequate to collect large quantities of oil from offshore spills and to provide significant protection to land areas from oil which is so viscous that it is not practical to pump it. First, we must consider the means of transportation of equipment and people to the scene of an oil spill. Since maneuvering vessels are going to be needed in any case, waterborne transportation is the method of choice. It should be noted that this is different from some aspects of tanker salvage operation wherein optimum transportation of people and at least lightweight equipment is by helicopter. Waterborne transportation can be expected to have a speed of about

14 knots in moderate weather. The number of locations at which equipment and recovery vessels must be stockpiled depends on the distance, from shore that we wish to be able to work at, as well as the response time. It is sufficient to discuss these matters in approximate terms. Roughly speaking, a response time of five hours for distances up to 25 miles offshore would seem acceptable. This would certainly be much better than we can do now. To protect a stretch of coastline under such conditions would require stations of equipment to be located approximately 130 miles apart. In consideration of the fact that it is impractical to protect the entire United States coastline to this extent, the approximate number of stockpiling stations would have to be about 20. If Great Lakes protection were also to be provided as well, about thirty stockpiling locations would be needed. The items needed at each station shortly upon notification of a spill are barriers with built-in skimmers or separate skimmers, storage vessels, tow vessels, and trained personnel. Each of these will be described in turn.

Barriers are the most highly developed of all of the required items for a complete spill cleanup system. Barriers capable of working on the high seas in breaking waves up to 8 feet high and in very large non-breaking waves exist, although in inadequate numbers. Some of these barriers are available in lengths of about 600 feet packaged in containers with the total loaded package weight of about 15,000 pounds. The United States Coast Guard has developed special sleds on which the packages of barrier can be towed at speeds up to 20 knots. These sleds are expected to be available in the very near future so that the problem of an adequate supply and ability to transport barriers are only those of stockpiling and routine maintenance.

The next element needed for a high seas oil cleanup system is the provision of skimmers that can work effectively together with barriers. At least three different skimmer types have been developed for high seas use. One is designed to be built directly into a high seas barrier so that once a barrier is deployed, the skimmer is automatically also deployed. None of the skimmer types is appropriate for use in a large spill of cold No. 6 oil because of the difficulty of pumping this material, but most oil transported is not No. 6 oil and initially it would seem advisable to forego the possibility of collecting No. 6. None of the seemingly useful types which have been developed for large offshore spills have been thoroughly tested offshore with large quantities of oil. Each has been tested in testing tanks. It is the author's opinion that offshore tests of the most appropriate skimmer types with oil are an absolute necessity so that confirmation of their capabilities will be available in order to aid in planning for cleaning up oil spills.

Packaged barriers and skimmers can be carried to the scene of a spill on high speed planing sleds towed by high speed vessels. For example, the barriers and skimmers whose use is presently being contemplated by the U.S. Coast Guard can all be towed at speeds in excess of fourteen knots by the Coast Guard 82-foot cutters as well as some of the larger Coast Guard vessels. The packaged barriers are especially designed for rapid deployment (it takes about 20 minutes to deploy a 600-foot long barrier from a container and barriers can be connected together to give a longer barrier), so that rapid availability of skimmers and barriers is possible. Rapid availability of collection vessels which can be used to store collected oil does not exist. Several attempts have been made to develop large lightweight rubber bags suitable for this purpose, but tests of these bags have resulted in their structural failure. One ele-

ment which must be developed in order to fulfill the needs of a total spill cleanup system is that of storage capability. A consideration of this subject indicates that two different types of storage capability are needed. The first is that of special newly designed small barges. These would be vessels having an overall length of about 75 feet, which would be stored near stockpiles of barriers and skimmers. These vessels would be designed as lightly as possible in order that they could be towed by the same type of vessels that could be used to tow sleds containing boxes of barriers and skimmers. In effect, the capacity of such a collection barge would be that of the largest barge, which vessels such as Coast Guard 82-foot cutters could tow at speeds of 14 knots or more when empty. Preliminary calculations indicate that vessels of this type could have a storage capacity of about 100,000 gallons of oil which would represent about three hours of oil collection from the barrier skimmer combination that was collecting oil at a rate of approximately 600 gallons per minute. These storage barges should also be designed to achieve gravity separation of oil and water since some water is collected with all skimmers and separation would allow discharge of the water so more oil could be collected.

The second aspect of the storage system is that of the availability of commercial barges. Some organization or agency must take the responsibility for generating contracts with a great many barge operators around the coasts of the United States. These contracts must be arranged so that empty barge capacity is available on a few hours notice. The required capacity could be on a scheduled basis where an initial capacity in each location is provided within a relatively short time (for example, 8 hours) and more capacity is provided over a longer time. By this means, the immediate storage capacity response to an oil spill could be provided by the special small barges which could be towed at high speed, with arrangements made for these barges to be able to offload collected oil into the commercial barges at a later time.

The next needed items for a total spill cleanup system is that of maneuvering vessels. As has been explained previously, it will generally be impractical to moor oil spill cleanup systems in the vicinity of a tanker grounding. Effective cleanup requires towing of barrier-skimmer combinations at a speed of one knot or less. Figure 7 is a sketch of what the author believes will be the most effective total spill cleanup system. Vessels which are capable of towing at speeds of one knot or less and still maintaining steering control in waves of substantial size are few in number. The power requirements for this towing are particularly small; a few hundred horsepower is more than sufficient. The two problems that do exist are the ability to tow continuously at a slow enough speed and the ability to have adequate steering control to properly handle barrier-skimmer combinations at such low speeds. It is quite within our capabilities to retrofit a large number of existing vessels to provide them with this added capability. To date, hardly any such retrofitting has been done. Since several barrier-skimmer-barge combinations can be expected to be needed at the scene of an offshore oil spill, numerous tow vessels must be available at each location. It would be entirely feasible to add the low speed towing capability to the same vessels which were to be used for high speed response with equipment and personnel.

This brings us to the matter of trained personnel. Cleanup of an oil spill offshore is a difficult task and requires personnel who are thoroughly trained in the job that they are to do. Just as is the case with training and practice for salvaging stricken vessels and their cargoes, training and practice of clean-

up personnel are needed as well. Because of the availability of air transportation for people, trained personnel need not be stationed at every location where equipment is stockpiled. The present U.S. Coast Guard Strike Force concept could be used if the number of strike forces were increased in number and if thorough and regular training took place.

This completes the description of what is needed for a total spill cleanup system; barriers, skimmers, storage vessels, tow vessels, and trained personnel. If any one of these elements is absent, essentially no oil cleanup can take place even if all of the remaining items are provided.

Mr. BROOKE. Mr. President, I am grateful for the chairman's thoughtful responses to these points. I realize the committee has, in each of these cases, done the most it could do, given the tremendous pressures that have been generated.

I would like to offer two amendments to the bill, which I believe strengthen the measure.

My first is amendment No. 338, which I have called up.

This amendment adds language to the list of authorities given to the Secretary in establishing the manning and training standards. It gives her or him the power to suspend a licensed officer's license as a sanction against an unsatisfactory record of violations of the safety and/or pollution control standards in this act. I am convinced that this power would be an important addition to the Secretary's ability to insure that the people manning vessels in our waters obey our laws.

I have found that 80 percent of these accidents have occurred, because the personnel manning these ships that come into our waters are just not adequately trained. I believe it is time that we do something about it. It means that personnel would not just fear the fines that might partly be borne by their employers or jail terms that would probably only be levied in extreme cases. It means they also would have to be concerned about their ability to work at all on any vessels. And I think that means that every licensed merchant marine officer and hand will take a personal interest in living by these new standards. There is surely no question in anyone's mind that human error and incompetence are the chief causes of vessel accidents. This amendment would give us one more useful tool for reducing these, and I hope the committee will accept it.

Mr. MAGNUSON. Mr. President, I oppose the amendment. Maybe the amendment sounds all right, but the Coast Guard, of course, has a system whereby they would suspend all American merchantmen for such violations. This type of amendment, I am told, is in violation of IMCO treaties and agreements. As the bill provides, and the present law and treaties require, we must accept the certificate of compliance for foreign vessels and for their crewmembers.

The Senator and I, and I believe all of us are wondering whether we can be assured that the foreign officers meet training standards and take our pollution control and safety law seriously. Of course, we are hoping that this will be

done by the IMCO conference, that they will be reliable and show good faith, and that there will be a tightening up with respect to those who man the ships.

Under the bill, every tanker that enters a U.S. port is required to meet construction, navigation, and operation standards, and not to do so may preclude them from entering our ports.

Regarding the manning standards, the most effective way, of course, is to raise the international standards. I do not know that that is going to happen. I do think we ought to give them a chance. They are now meeting. I hope the Senator will withdraw his amendment to see just what we can do in that particular field.

Mr. BROOKE. Mr. President, does the distinguished chairman see much hope of adoption of stricter international standards in the new talks on the Law of the Sea?

Mr. MAGNUSON. In the Law of the Sea negotiations and in future IMCO talks, of course, they claim they will be issuing manning standards. But I am the last one to answer that question, because I have been so disappointed over the years. The Senator from Alaska and I have been on the Law of the Sea conferences, and these other conferences, and we have almost given up. As a matter of fact, we did give up on the 200-mile thing finally. We took the lead ourselves.

We are doing the same thing in this respect. I am hopeful that this might be a clear lesson to them to do something. Otherwise, we will just have to amend this act and take a separate bill as time goes on.

Mr. BROOKE. The chairman has always spoken with great candor. I remember very well that since I have been in the Senate, and this is my 11th year—the distinguished chairman has been here many years longer than I—we have always been fighting for that 200-mile limit. We were always told not to do anything in this area because the Law of the Sea Conference would take care of it.

If we had waited for the Law of the Sea Conference to take care of it, we would not have the 200-mile fishery zone today. I know the State Department and other departments finally came to terms with the legislation. We passed legislation and they are living with it. It should have been done many, many years ago. Unfortunately, we were always delaying for the promise of international agreements.

Again, I commend the Senator from Washington for his leadership in this area. I understand the difficult position that the committee has been in as a result of its lack of a crystal ball as to the future of international negotiations and of its desire to help the U.S. delegation show a cooperative spirit to other coastal nations.

However, I wonder if, on behalf of the Committee on Commerce, the chairman can agree that we may need domestic unilateral action if international agreements are not forthcoming. I further wonder if the committee will agree that, in the unhappy event that treaties dealing with strict vessel personnel stand-



ards are not signed, there will be hearings later this year for extending domestic authorities further. If I could be assured that these concerns will not die, but, rather, that the committee will formally consider this proposal if the talks do not succeed—and we all hope that they do, of course—I would then feel somewhat more comfortable, though reluctant, in withdrawing my amendment until such later date.

The chairman, as I stated, does not have a crystal ball. He cannot know, and I shall not put that responsibility upon him. We all hope it will work out well. But I would like some assurance from the distinguished chairman that if it does not work that way, we shall immediately hold hearings so we can get on with passing some tough legislation so far as this subject is concerned.

Mr. MAGNUSON. I say to the Senator from Massachusetts that I think the Senator from Alaska and I would be the first ones to take a good, long look at this, in light of what is happening now. If they do not come up with something, we would be the first ones to have some hearings and jump into this matter and say, "Let us bite the bullet and do it ourselves."

Mr. BROOKE. With the Senator's assurance and the assurance of the distinguished Senator from Alaska, I feel personally more assured. I withdraw that amendment.

The amendment was withdrawn.

#### AMENDMENT NO. 339

Mr. BROOKE. Mr. President, I call up my second amendment, No. 339.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk proceeded to read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes an amendment.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 45, line 17, strike the word "may" and insert in lieu thereof "shall".

On page 50, line 6, insert "or advisory vessel traffic service" after the word "service".

Mr. BROOKE. Mr. President, this amendment extends vessel traffic services to cover wider areas of our territorial waters and of the high seas than do current VTS programs. My own legislation proposes that vessels entering our fishery conservation zone become subject to management by a vessel traffic system. I understand this proposal met with substantial administration opposition, also, because of various issues of international law. The committee's solution was to permit establishment of advisory vessel traffic services, presumably voluntary services. Since it is not my intention to jeopardize the chances for enactment of this measure, my amendment seeks to assure that most traffic in the fisheries zone and the contiguous zone will in fact be using this system.

I am proposing that it be made one more condition of entry to U.S. ports that

vessels wishing to come in shall use the advisory traffic services.

Mr. President, if S. 682 had been law, we might still have had the *Argo Merchant* disaster of last December because nothing in it would force that ship's careless master to use his equipment and to stay out of the Nantucket shoals, which are far outside the waters covered by the VTS in this measure. Furthermore, Massachusetts fishermen have told Congress that tankers habitually take shortcuts through these hazardous waters in the interest of making a fast buck. They must be watched, they must be warned, and when necessary, they must be guided to a new course.

My amendment has one other feature. It mandates, rather than "permits," establishment of the advisory services on the high seas. I offer this change because I want to be sure that the Secretary carries out this mandate of Congress. I do not want the power to establish these high seas services to languish, as so many of the Secretary's powers granted under the Ports and Waterways Act have languished. I hope the committee will accept these changes in the interest of getting these new services established soon and effectively. I believe the traffic services are at least equal in importance to the other major regulations established in sections of this bill, and we should lose no time in pressing for their implementation.

I ask the distinguished chairman if he wishes to comment on this amendment.

Mr. MAGNUSON. This is somewhat similar to the last amendment. Though I am probably not being as wise as I should, I would take these amendments the way they are. But some other considerations are involved.

This type of provision is one that both the State Department and DOD have been vehemently opposed to in the past. Everyone concerned with this bill agrees that any action touching and concerning the high seas should be handled through IMCO. To condition entry into U.S. ports upon compliance with these VTS's may damage U.S. efforts to have these services recognized internationally. I can assure you that if these VTS's on the high seas are not recognized internationally then this committee will be required to initiate a new round of hearings into this matter and possibly amend this legislation to condition entry into U.S. ports upon compliance with these advisory VTS's.

I think we ought to move ahead. If the Senator from Massachusetts would change his amendment by withdrawing the part requiring conditions of entering U.S. ports, then it is acceptable. Does the Senator have "shall" in there?

Mr. BROOKE. Yes.

Mr. MAGNUSON. I understand that, on the wording, if the Senator would amend the bill from "may" to "shall," we can accept the amendment.

Mr. BROOKE. Mr. President, as I have said, it is not my intention to disrupt the delicate balance of forces the committee has assembled in support of this bill. If the committee can assure us that portions of the amendment mandating

the use of advisory traffic systems on the high seas will be included in those hearings which will be held in the event the negotiations fail to resolve these issues, I guess I could drop those portions of the amendment. However, as I have said, I would like the committee to accept the first part of the amendment, which mandates the establishment of the advisory traffic services. The Secretary still has plenty of discretion to decide which are priority areas for setting up services.

I just want to be sure that we really begin moving toward implementation, and that this law does not, like the Ports and Waterways Act, languish because the Secretary may choose whether or not to act. Therefore, in accordance with the suggestion of the distinguished chairman, I shall modify my own amendment by striking all except the first two lines which change the word "may" to the word "shall."

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 45, line 17, strike the word "may" and insert in lieu thereof "shall".

Mr. BROOKE. Will the chairman then accept it as so modified?

Mr. MAGNUSON. Then we can accept it.

Mr. STEVENS. Mr. President, I have no objection to the modification. I hope that the Senator from Massachusetts realizes that we are caught up in the circumstances concerning IMCO and existing treaties and the pending Law of the Sea Conference. We are entirely in accord with his objectives, and we wish to see this matter resolved, if possible, through the international consensus procedures that are underway. If it is not possible to solve them in that way, the Senator has the chairman's assurance that we shall go back and see how far we can go under domestic law to deal with the problem.

Mr. BROOKE. I thank my distinguished colleague from Alaska for his statement of reassurance. As I said earlier, I feel confident with the responses I have received from the distinguished chairman of the committee and the ranking minority member of the committee that we shall keep moving forward. I know the problems and the forces that are at work, and I do not want to do anything to scuttle this important legislation and the important progress which has been made by the Committee on Commerce.

This bill requests real progress. I would be the last to say that it does not, even though I would like it stronger and, as the Senator from Alaska has said, he and the chairman and the committee would like it stronger too. We shall just have to wait for the international tables and see what we must do next. With the understanding that further domestic action will be considered by the committee in the event of any failure to reach international agreements, I must say I feel we have a very good measure, given the point in history at which we are making these decisions. As a member of our congressional delegation to the Law of the

Sea talks. I intend to do everything within my power to persuade other nations' delegates how strongly the American people feel about protecting our marine environment.

I think both the distinguished chairman and the ranking minority member remember well the problems that we experienced last year on their shores, and, certainly, our shores of Massachusetts, New Jersey, California, and elsewhere across this Nation. They and I and some others in Congress have been calling for strong tanker legislation for a long time.

I know I introduced my bill about 2 years ago on this matter, and we could not get enough people to listen. Unfortunately, as in everything else that happens, there had to be a crisis. That was these tremendous spills which were costly in terms of marine life, in terms of our economy, in terms of our safety. I could go on with the ills of these spills.

It took all of that before Congress would address itself to this important issue.

I commend the committee and the chairman and ranking minority members, particularly, for the work they have done.

As I said, as a congressional member of the Law of the Sea delegation, I intend to do everything I possibly can to work to see that other countries recognize how strongly we feel about the importance of this legislation, and the necessity for other legislation if this does not do its job.

I thank my colleagues for the colloquy we have entered into, for accepting the amendment with its modifications, and I assure them that we will give the overview, the oversight, and see to it that these tankers that come into our waters here will be safe, that their personnel will be trained, and that we will do everything humanly possible to avoid these spills.

I thank my colleague.

Mr. STEVENS. Has the Senator's amendment been adopted?

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Massachusetts.

The amendment, as modified, was agreed to.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I just want to join in commending the distinguished Senator from Washington and the members of the Commerce Committee for this measure.

Mr. President, I am very pleased to see the Tanker and Vessel Act of 1977 reach the floor. The great appreciation of the people of New England, as well, I am sure, as that of all people who are environmentally sensitive, or whose livelihood depends upon the sea, go to the chairman of the Commerce Committee who guided this legislation to us. His has been a longstanding concern about the problem of oil pollution at sea. If we had heeded his foresight and concern, we would have been spared some real disas-

ters. As I said when testifying before Senator Magnuson in his January hearings of the Commerce Committee, and reiterate here, anyone who reads Senator Magnuson's legislative history and who understands his long-time interest and concern knows that if the administration, if the Coast Guard and if Congress had followed his leadership in this area, our oceans, and therefore we, would have been in better shape today.

Mr. President, it was only last December that a tanker called the *Argo Merchant*, which had already been cited for 18 separate safety related incidents, ran aground off the shore of Nantucket and vomited 7.6 million gallons of oil into the waters off New England. Unfortunately, the *Argo Merchant* incident was not a solo event but rather was a member of the chorus. In the first 9 months of 1976, there were 604 accidents and 62 million gallons of oil were poured into our oceans. With the trend toward increasing imports of oil and thus increasing members of tankers coming into our ports, the need for investigation and action was obvious.

At the time of the *Argo Merchant* tragedy, the Administrative Practice and Procedure Subcommittee, of which I was then chairman, held hearings on oil tanker safety and the whole problem of prevention of ocean pollution. Liability for oil pollution and the problems attendant to cleaning up the mess when it occurred.

These hearings made it crystal clear that executive agencies had not been sufficiently diligent in the area of tanker traffic controls, tanker navigation and construction standards, ownership disclosure and oil spill technology. On the basis of these hearings and other research that we conducted, I introduced S. 182, the Federal Tanker Safety and Marine Anti-Pollution Act of 1977. The first, and most important title of that bill, is very much like title I of the bill currently before us, which the distinguished chairman of the Commerce Committee introduced. I was therefore happy to do whatever I could to assist in its passage. To this end, I testified before the committee in January.

Mr. President, this act would establish construction, maintenance, and operational standards for all tankers entering our ports, regardless of the flags they travel under. It is estimated that this will cover between 80-90 percent of the tankers which come within 200 miles of our coast, and therefore should be quite effective in achieving our safety aims. The bill also provides authority for the Secretary of Transportation to bar substandard vessels from operating in our waters; establishes a system to identify ownership of vessels and those vessels which are substandard; authorizes regulations for controlling lightering; mandates sophisticated communications equipment to avoid collisions and other accidents; commands the installation of a variety of safety features on new boats; creates an expanded enforcement and inspection program; and authorizes promulgation of stricter qualifications for manning of tankers.

I am also pleased to support title II of

this act, which provides for a comprehensive Federal approach to ocean pollution research, and which provides for a study by Transportation to evaluate monitoring systems for vessels.

I expect that these measures will do a great deal to insure that the shameful misuse of the oceans will be severely restrained. The distinguished Senator from Washington deserves great credit for formulating legislation which promises to be so effective and for expeditiously bringing it to us.

I do wish to note one area of continued concern. In S. 182 we had a title to provide for oil pollution liability and compensation. It would have established a \$250 million liability fund with unlimited liability for cleanup, absolute liability for damages in the case of violation of any standards or gross negligence and no-fault damage liability of at least \$50 million. This provision was not included in S. 682 as it passed through committee. I think that such a provision could go a long way to reinforcing the safety precautions incorporated in the bill now before us, and would more equitably assess the costs when future mishaps occur. I think this is an eminently sensible addition to our tanker safety arsenal. It is, first of all, a prophylactic measure. By making the owners of tankers liable for damages we provide them with an incentive to be on the lookout for ways in which they can go beyond legislative mandates to incorporate safety features in the construction and operation of tankers. Rather than requiring administrators to play a cat and mouse game through attempts to update regulations as they discover the existence of new technology—or new ways in which vessel owners are attempting to circumvent existent regulations—we give an economic incentive for the vessel owners to self-regulate in an effective way. Second, it is a matter of simple fairness—those who mess our environment should pay for the cleanup. These people reap the profits of transporting oil and it is only right that they should internalize the costs. So I hope that the chairman will give favorable consideration in this next session to a bill which I will introduce which will incorporate the provisions of the Federal oil pollution liability and compensation title of S. 182.

Mr. President, this legislation is extremely important for the Nation as a whole, but I do not think there is any region of the country where its application can be more important than the New England coast, particularly the Massachusetts coast.

There are many challenges to those that ply the seas, but none are greater than the sand bars, fog and other natural hazards that are visited on the New England coast.

With the increased demand for fuel imports we have the equivalent of an *Argo Merchant* entering a Massachusetts port every single day of the year. The *Argo Merchant* disaster brought home the enormous challenge of establishing safety regulations for tankers. We were extremely fortunate in not having worse tragedies strike.

Mr. President, this legislation is an attempt to really insure that the lessons



of the *Argo Merchant* are well-learned and corrective action is taken.

The chairman of the committee was extremely responsive in commencing hearings, in exhaustively examining the issues involved in tanker safety, and in trying to insure by means of this legislation that similar tragedies do not occur.

I do not think any of us imagine that passing legislation absolutely insures against similar incidents off the New England coast, or in other parts of the country. But the chances will be dramatically reduced if this legislation is passed and if legislation on liability and compensation is implemented—and I understand that will be in the not-too-distant future.

So I join in expressing my appreciation to the chairman of the committee.

Mr. President, there has been legislation on the books for a number of years which would have permitted establishment of many rules and regulations similar to the ones which have been incorporated into this measure. Unfortunately, powerful interests always exercised influence on pressure points in the Government, and we were unsuccessful in getting those particular regulations established. This was not due, obviously, to the desires of the Coast Guard. But when the time finally came to implement adequate regulations powerful interests were always able to hold sway at the top of various departments of Government.

As a result, we came very near the danger of experiencing a major disaster.

But the Senator from Washington, as he has in instance after instance of public policy, has recommended legislation that will be welcome to the people of our State and to the people of our Nation. It should serve as an example to others around the world, of what a country that is seriously concerned about protecting its coastal areas can do in the legislative forum.

So I join in commending the chairman of the Commerce Committee and the Senator from Alaska (Mr. STEVENS), both of whom have made a signal record in recent years for protection of fragile resources both underneath the sea and on the sea.

I join in urging quick action on this measure.

I thank the Senator from Alaska for yielding to me.

Mr. MAGNUSON. Mr. President, both of us thank the Senator from Massachusetts. Of course, he has made a contribution all along on this, that is to take some sort of action similar to this.

I am glad he mentioned the Coast Guard. They now have no excuse if this bill passes—none whatsoever.

I saw the other day that they finally went out and stopped a ship, a rust bucket that was coming in, and said, "You can't come in."

That is something we have not seen for a long, long time. It may be the result of this bill coming along.

Mr. KENNEDY. As the Senator understands, there has not been so much reluctance by the Coast Guard itself.

Mr. MAGNUSON. Not by itself.

Mr. KENNEDY. But they have, in many instances in recent times, been

overruled by the Department, in conflict with the legislation that already exists. But I think we now have the necessary accountability and a good set of explicit directives.

Mr. MAGNUSON. Yes.

Mr. KENNEDY. I know that under the careful review of the Senator from Washington and the Senator from Alaska, it will be fully implemented.

Mr. MAGNUSON. I think the Coast Guard is going to try to do an excellent job on this. I know they will. But as the Senator pointed out, it came from above.

Mr. KENNEDY. That is right.

Mr. MAGNUSON. Now the bill is the congressional intent.

I thank the Senator.

Mr. KENNEDY. I thank the Senator.

Mr. STEVENS. Mr. President, I, too, thank the Senator from Massachusetts for his comments and for his interest.

There is no question that our committee has done everything we can do under the constitutional process and the existing international negotiations to give the Coast Guard the authority it needs to prevent those rust buckets from entering our ports, and, if they enter, to prevent them from discharging any oil through mechanisms that are not modern, safe and pollution free.

Mr. President, I had an amendment, which is amendment No. 77. It, along with the concepts that the Senator from Massachusetts has discussed, sought a different route from that taken by the bill as the committee has reported it.

That amendment would have created a program extending port-State authority to the area over which the Fishery Conservation and Management Act gives us jurisdiction. It also established a system which would have required classification of tankers and awarded priority in the carriage of oil to safe tankers. This program would have been implemented through bilateral governing international tanker agreements.

The classification of tankers would have provided a system for a preference program which would have combined the whole concept of the cargo preference that has been before this body, and the subject of tanker safety and the safe operation of tankers.

I view that amendment as of a warning on the horizon. If the bill we are considering now does not work, we may have to take unilateral action similar to that which we took at the time we established the 200-mile limit.

But realizing the circumstances, and again realizing that negotiations are going on internationally, I ask unanimous consent that the amendment be withdrawn.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment.

UP AMENDMENT NO. 323

Mr. STENNIS. I have an amendment that I send to the desk, Mr. President.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes unprinted amendment No. 323:

On page 44, line 11, insert between the word "vessel" and the comma the words, "ex-

cept self-propelled fishing or recreational vessels under 300 dead weight tons"

Mr. MAGNUSON. I have taken a look at the amendment of the Senator from Alaska. I think it adds to the bill, because we never intended fishing and recreational vessels.

Mr. STEVENS. That is correct.

Mr. MAGNUSON. We never intended this act to apply to this type of vessel.

Mr. STEVENS. That is correct.

Mr. MAGNUSON. In other words, they might be burdened under the bill, if we did not do this, with a vessel traffic control system, and it would be pretty difficult for them to handle it financially.

Mr. STEVENS. Again that is correct.

Mr. MAGNUSON. Costwise and otherwise.

Mr. STEVENS. At the chairman's authorization, we held hearings in Alaska, and one of the things in particular that was raised at that time—and I am sure it is the same circumstance in Puget Sound—was that there are a number of vessels which are either fishing vessels or private recreational vessels that might come under the scope of this legislation if it were not made clear that they are excepted. We do not however intend to except vessels that are barges or are not self-propelled.

This amendment would except from the coverage of this act those vessels which are self-propelled, that are used for fishing or recreational purposes, and are under 300 deadweight tons.

It was one of the amendments, as I say, that was sought by the fishermen who testified at our Alaska hearings.

Since the amendment is acceptable to the chairman, I move the adoption of that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

UP AMENDMENT NO. 324

Mr. STEVENS. Mr. President, I have another amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes unprinted amendment No. 324:

On page 48, immediately after line 6, insert the following: "and (9) the Secretary shall establish procedures for consulting with, and receiving and considering the views of, officials of State and local governments, and persons within the maritime community, who are knowledgeable about and experienced in dealing with local problems of vessel traffic" page 48, line 3 delete "and"

Mr. STEVENS. As the Senator from Washington knows, we had very productive hearings in Alaska. His staff was there, and I think they will attest to the fact that one of the great fears of people in the local communities and the State government expressed was that the views of people who have experience in dealing with the maritime affairs in our great Prince William Sound and in Valdez Arm, would not be considered, as trans-Alaska pipeline system tankers start moving.

This amendment corrects that situation.

I wish to make it clear that this

amendment has been modified to meet the circumstances required by the pending litigation that comes out of the situation in the State of the Senator from Washington. Litigation in which my State is also participating. It does not deal with or in any way raise the question of preemption, as this bill does not deal with preemption. We have no intent of changing the law with regard to the status of Federal preemption in the area under the basic act. This amendment merely states that the Secretary must establish procedures for consulting with, receiving and considering the views of those State and local people who are experienced and knowledgeable in this area.

It is an amendment offered to reassure them of the congressional intent to require the Secretary to consider their views and utilize their knowledge and expertise in making and determining the procedures that will be followed under this act.

Mr. MAGNUSON. Yes, but there is nothing mandatory if we accept it.

Mr. STEVENS. There is nothing here that says he must accept their views. It just says he will consider them.

Mr. MAGNUSON. Because if we do, it would be pretty hard to determine who gives the views in behalf of the people of a given State.

Mr. STEVENS. Yes.

Mr. MAGNUSON. In other words, the people of a State may be divided in their views, but the Secretary should have the benefit of that information. Is that correct?

Mr. STEVENS. That is correct.

The intent of this is to reassure the State and local people, wherever the problem arises, that they will have access to the Secretary and that they will be able to present to him their views on the subject of vessel traffic before the Secretary promulgates regulations.

Mr. MAGNUSON. You might have a State where a legislature and the Governor had different views. But both views, or the views of the people as a whole or a port commission or anyone you could think of, should be looked at. Is that what the Senator is trying to do?

Mr. STEVENS. They all have to be considered; the Senator is absolutely right. I do not know of any subject that typifies the situation. There is no unanimity of opinion in the Senator's State or mine concerning these tankers and their safe operation.

Mr. MAGNUSON. We are only talking about a procedure—I want this established.

Mr. STEVENS. Yes.

Mr. MAGNUSON. And the Secretary would have complete discretion about it.

Mr. STEVENS. The Secretary has the discretion to establish procedures, but everyone will know what the procedures are. The amendment requires the Secretary to consider State and local views. Obviously, it does not tell him in any way that he has to agree with anyone at all.

Mr. MAGNUSON. And this pertains only to traffic control. Is that correct?

Mr. STEVENS. That is correct. It has nothing to do with tanker construction or—

Mr. MAGNUSON. Or siting?

Mr. STEVENS. Or siting.

Mr. MAGNUSON. Or land-based operations?

Mr. STEVENS. No. This is vessel traffic operations.

Mr. MAGNUSON. Or pipeline or anything else?

Mr. STEVENS. Vessel control procedures and problems related thereto.

Mr. MAGNUSON. Whatever tanker might be used, regardless of the size or whatever, it relates only to telling these tankers how to get to a given point.

Mr. STEVENS. Yes, the procedures for dealing with vessel traffic in the area involved.

Mr. MAGNUSON. It is a traffic amendment.

Mr. STEVENS. That is right.

Mr. MAGNUSON. All right.

Mr. STEVENS. In our opinion this amendment is the key to safety in the Prince William Sound and the Valdez Arm area. The amendment is procedural in nature.

Mr. MAGNUSON. It could be a key to safety any place. Of course, the principal purpose of this bill is not only to make the ports safe, but also we are including in the Coast Guard bill the surveillance of ships as they come in. It applies to Puget Sound or to Prince William Sound or the others. In other words, the controls would be set on how to come in and how to go out and how to stop and go, and things of that kind.

Mr. STEVENS. That is true, and where they might be required to lay up, if there is too much traffic entering a particular port.

Mr. MAGNUSON. Yes.

Mr. STEVENS. And the timing of their leaving or their entering the port in relation to the timing of the fishing fleet entering or leaving. This refers to the procedural aspect of dealing with tanker safety. In our opinion, that is the key, as I said, to safe operation in our area.

Mr. MAGNUSON. Let us make a case. What might probably happen under this bill and amendment is that the Coast Guard would probably set some vessel control immediately and then someone who may not like them or who may like them will have a chance to say that that control should be tougher, it should be less, or it should be different—in other words, give them the benefit of their opinion upon what they say. It is a little like rulemaking, is it not?

Mr. STEVENS. That is correct.

Mr. MAGNUSON. It is a little like rulemaking with an independent agency where they call for outside views on a proposed rulemaking.

Mr. STEVENS. Yes, a little more informal.

Mr. MAGNUSON. It can be very informal under this. It could be by letter, or the Senator from Alaska and I could go out to our respective areas and hold a hearing on it for the Secretary of Transportation.

Mr. STEVENS. That is right.

Mr. MAGNUSON. Or things of that nature, so that everyone has their views.

I think the amendment, as modified, is acceptable so long as we clarify the legislative intent that it deals only with traffic control.

Mr. STEVENS. That is correct. On that basis, I offer the amendment. The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending measure be temporarily set aside momentarily and the Senate proceed to the consideration of another matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COAST GUARD AUTHORIZATION ACT, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 174, S. 1250.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1250) to authorize appropriations for the Coast Guard for fiscal years 1978 and 1979 and for other purposes.

THE PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment in the nature of a substitute.

Mr. INOUE. Mr. President, I urge passage of S. 1250, as reported by the Committee on Commerce, Science, and Transportation. The bill authorizes appropriations of \$1.25 billion for fiscal year 1978 for the use of the Coast Guard for its procurement of vessels and aircraft, construction and improvement of shore and offshore facilities, alteration and removal of obstructive bridges, aids to navigation, pollution abatement, administrative expenses, and its operating expenses. The bill also authorizes the fiscal year 1978 levels for active duty personnel and military training student loads for the Coast Guard.

While the figure, of \$1.2 billion, may seem large, I can assure the Members of this body that this is a minimum level for the Coast Guard to carry out effectively its responsibilities. This amount contains approximately \$887 million for the necessary expenses for the operation and maintenance of the Coast Guard. I



might add that this is the first year that the Coast Guard has been required to submit an annual request authorizing its operating expenses. The rationale behind this requirement is twofold: one, to subject the total Coast Guard authorization request to the expanded and updated congressional budgetary process; and two, to enable the committee to exercise more readily its oversight functions of the day-to-day activities of the Coast Guard.

Generally, the operating expenses enable the Coast Guard to employ and maintain its 250 multipurpose vessels and 170 aircraft, and shore units strategically located along the coasts and inland waterways of the United States and in selected areas overseas to carry out its duties. These funds are also used to defray the expense of rebuilding through the use of replacements, alterations, and restorations when they involve less than 75 percent of the original facility. Specifically included in this authorization are: Funds to supplement the recent Presidential program of boarding and inspecting all oil tankers entering U.S. ports; to restore to the Coast Guard those funds unforeseeably expended to pay for this past winter's severe storm damages; and funds to provide for additional personnel to enforce the newly effective 200-mile fishery conservation zone.

The \$324 million figure for acquisition, construction, and improvement is the committee's bottom line in stimulating the Coast Guard's replacement programs in order to bring up-to-date its many aging and obsolete vessels, aircraft, and facilities. In order to put this amount in perspective, it is important to keep in mind the broad, all-encompassing, and ever increasing duties and obligations the Coast Guard has been charged with by the Congress. It has the primary responsibility of enforcement, or assisting in the enforcement of all applicable Federal laws on or under the high seas and waters subject to the jurisdiction of the United States, the promotion of safety of life and property in those areas, the maintenance of aids to navigation, ice-breaking and rescue facilities, and engaging in oceanographic research. The Coast Guard has also been charged with the safety of our ports and waterways through the operation of vessel traffic services and port safety controls while also regulating foreign and domestic vessels carrying oil or other hazardous polluting substances. More recently it has been charged with the duty of enforcing the 200-mile fishery conservation zone.

The bill authorizes \$15 million for the alteration or removal of bridges in order to eliminate obstructions to navigation in the navigable waters of the United States. The importance of this program will become evident when we recall the accident this past winter which put out of operation the necessary bridge near Hopewell, Va. It is estimated that this bridge will be out of use to commuters for well over a year.

The bill includes \$25.6 million for the necessary expenses for basic and applied scientific research, development, testing, or evaluation of programs and

activities of the Coast Guard. This specifically provides for the Coast Guard's research and development program encompassing activities related to marine transportation including: Search and rescue systems; environmental protection; vessel safety; aids to navigation; port safety and security; and polar and domestic icebreaking.

The authorization of \$1.25 billion involves approximately \$113 million in additional funds above the President's request. Of this \$113 million, roughly \$78 million is dedicated for the procurement of icebreaking tugs and a large icebreaker to replace the *Westwind* in the Great Lakes. In order for the Great Lakes region to realize its full potential in maritime commerce and traffic it will require reliable icebreaking assistance so that this traffic will move expeditiously and not face the continual threat of being thwarted by ice conditions in which commercial vessels cannot operate without icebreaking assistance in severe situations. Presently, the two vessels supplying most of the icebreaking assistance are the *Westwind* and the *Mackinac* both of which were constructed nearly 30 years ago. It is clear that the Coast Guard must supplement this program with more modern multipurpose vessels of a greater icebreaking capacity.

The committee also added funds and personnel, over and above the administration request, to supplement the recent Presidential program of boarding and inspecting oil tankers entering U.S. ports; funds for the reactivation of Coast Guard cutters to be used as backup vessels in the enforcement of the 200-mile fishery conservation zone; funds and personnel added for the enforcement of the Fishery Conservation and Management Act of 1976; funds and personnel in order to create a search and rescue mission capability at the Portage, Mich., Coast Guard station; to restore to the Coast Guard those funds unforeseeably expended arising from this winter's storm damages; funds for the procurement of radar and other equipment for a continuation of various vessel traffic systems; and funds for the study of oil spill containment in high seas and on fast rivers.

Mr. President, the committee has exercised budgetary constraint in its proposed additions. I believe firmly that every addition can be justified, and that, in clear conscience, we could have proposed further additions.

UP AMENDMENT NO. 325

Mr. STEVENS. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes unprinted amendment No. 325.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 23, strike the number "10" and insert in lieu thereof "12", and strike

the amount "\$89,076,000" and insert in lieu thereof "\$94,876,000".

On page 6, line 1, strike the amount "\$19,803,000" and insert in lieu thereof "\$21,603,000".

On page 7, line 8, strike the word "and". On page 7, line 10, strike the period and insert in lieu thereof "; and".

On page 7, line 11, add "(q) Cordova, Alaska—Construction of shelter for a barracks-hangar to house two additional short-range recovery helicopters."

On page 8, line 11, strike the amount "\$887,021,000" and insert in lieu thereof "\$887,521,000".

On page 8, line 25, strike the number "39,129" and insert in lieu thereof "39,145".

Mr. STEVENS. Mr. President, the amendment will authorize appropriations for the procurement of two short-range recovery helicopters that will be designated for the search and rescue station at Cordova, Alaska. It will authorize appropriations for the construction of a shelter for a barracks-hangar to house the aircraft to be permanently stationed at Cordova, Alaska.

The amendment will authorize appropriations for the operating expenses so that there will be sufficient funds for the necessary expenses for the employment and maintenance of this aircraft. Lastly, the amendment will authorize the necessary additional active duty personnel to be stationed at Cordova, Alaska.

I point out that at the time we started into the program of preparing for the movement of the vessel tanker traffic out of Prince William Sound, I discussed at length with the Coast Guard, at hearings and with members of the committee and with others, the problem of the coverage of the area of Prince William Sound from the point of view of search and rescue, and pollution control. We initiated a program of designating a helicopter to be rotated from the Coast Guard station at Kodiak, over to Cordova for a short-term period until the tanker traffic commenced.

The tanker traffic will start, as I said, in July of this year. This amendment will authorize the establishment of the Coast Guard station to maintain the helicopters at Cordova that will be necessary to assist in the event of any incident regarding the operation of the tankers or any accident involving the fishing fleet or the recreation vessels that are in this great Prince William Sound area.

Operating from Cordova, they will have a greater range than if they were operating from Valdez. This is the area from which, as I understand it, the Coast Guard agrees that these helicopters should operate. However, to my dismay, I found that they did not have an inventory of helicopters to man the station in accordance with the understanding that we have previously reached. The intent of this amendment is to provide for the acquisition of those helicopters, their operation, and the small barracks-type hangar that would protect them while they are stationed at Cordova.

Mr. INOUE. Mr. President, this amendment has been discussed with members of the committee, and I am authorized by the committee to accept this amendment.

The amendment was agreed to.

Mr. INOUE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. INOUE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The following proceedings occurred later in the day:)

Mr. ALLEN. Mr. President, H.R. 6823, Calendar Order No. 191, was passed earlier today. I was in the Rules Committee, marking up various resolutions for the committees of the Senate, when this matter was brought up.

I had an amendment that I wanted to offer. I have cleared with the distinguished majority leader and the distinguished minority leader, with the chairman of the committee, and with the ranking Republican member of the committee the bringing up of this matter again, in order that I might offer this amendment.

I, therefore, ask unanimous consent, Mr. President, that the vote by which H.R. 6823 was passed be reconsidered, and further, that the bill be considered to be at the stage prior to third reading, in order that the bill might be open to further amendment.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I will not object with the understanding that the only further amendment that will be in order at this time will be the amendment by Mr. ALLEN.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6823) to authorize appropriations for the United States Coast Guard for fiscal year 1978, and for other purposes.

Mr. ALLEN. I offer my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) offers an unprinted amendment numbered 330.

Mr. ALLEN. I ask unanimous consent CXXIII—1041—Part 14

that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add the following new section at the end of the bill:

Section . (a) The Commandant of the Coast Guard is authorized to assist the Department of Health, Education, and Welfare, in providing medical emergency helicopter transportation services to civilians. Any resources provided under this section shall be under such terms and conditions, including reimbursement, as the Commandant of the Coast Guard deems appropriate and shall be subject to the following specific limitations:

"(1) Assistance may be provided only in areas where the Coast Guard units able to provide such assistance are regularly assigned, and Coast Guard units shall not be transferred from one area to another for the purpose of providing such assistance.

"(2) Assistance may be provided only to the extent that it does not interfere with the performance of the Coast Guard mission.

"(3) The provision of assistance shall not cause any increase in funds required for the operation of the Coast Guard.

(b) No individual (or his estate) who is authorized by the Coast Guard to perform services under a program established pursuant to subsection (a), and who is acting within the scope of his duties, shall be liable for injury to, or loss of property or personal injury or death which may be caused incident to providing such services."

Mr. ALLEN. Mr. President, this amendment is identical to the language with reference to Department of Defense operations that appears in Public Law 93-155, section 2635. All it does is authorize the Commandant of the Coast Guard to assist the Department of HEW in providing medical emergency helicopter transportation services to civilians.

It would be entirely optional with the Commandant of the Coast Guard. It specifically provides that the provision of assistance will not cause any increase in funds required for the operation of the Coast Guard; second, that assistance may be provided only to the extent that it does not interfere with the performance of the Coast Guard mission; and further, that assistance may be provided only in areas where the Coast Guard units able to provide such assistance are regularly assigned. Coast Guard units shall not be transferred from one area to another for the purpose of providing such assistance.

My distinguished colleague in the House of Representatives, Mr. JACK EDWARDS, had planned to offer this amendment in the House, but the measure was before the House under an agreement that no amendments be offered, and he requested that I offer the amendment here, which I am doing. I ask that the Senate agree to the amendment.

The PRESIDING OFFICER. The Chair would observe that to achieve the Senator's objective, the Senate would have to revert to the consideration of S. 1250. Does the Senator so request?

Mr. ALLEN. Yes. I ask unanimous consent that S. 1250 be laid before the Senate.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1250) to authorize appropriations for the Coast Guard for fiscal years 1978 and 1979, and for other purposes.

The PRESIDING OFFICER. Without objection, S. 1250 is amended and as amended is considered read a third time, and H.R. 6823 will have all after the enacting clause stricken and the language of the Senate bill as amended inserted.

Mr. ALLEN. Very well. The Senate bill, then will be considered as having been before the Senate at the time of the offering of the amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct. The question is on the engrossment of the amendments and the third reading of the House bill, H.R. 6823.

The amendments were ordered to be engrossed, and the bill to be read a third time and passed.

Mr. ALLEN. I ask unanimous consent that S. 1250 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, consideration of the Senate bill (S. 1250) is postponed indefinitely.

Mr. ALLEN. Mr. President, I move to reconsider the most recent action of the Senate with respect to this measure.

Mr. SCHMITT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ALLEN. Mr. President, I ask unanimous consent to have printed in the RECORD section 2635 of Public Law 93-155, to show the identical nature of this amendment with the present law with respect to the other services.

There being no objection, the statute was ordered to be printed in the RECORD, as follows:

PUBLIC LAW 93-155—Nov. 16, 1973

"§ 2635. Medical emergency helicopter transportation assistance and limitation of individual liability

"(a) The Secretary of Defense is authorized to assist the Department of Health, Education, and Welfare and the Department of Transportation in providing medical emergency helicopter transportation services to civilians. Any resources provided under this section shall be under such terms and conditions, including reimbursement, as the Secretary of Defense deems appropriate and shall be subject to the following specific limitations:

"(1) Assistance may be provided only in areas where military units able to provide such assistance are regularly assigned, and military units shall not be transferred from one area to another for the purpose of providing such assistance.

"(2) Assistance may be provided only to the extent that it does not interfere with the performance of the military mission.

"(3) The provision of assistance shall not cause any increase in funds required for the operation of the Department of Defense.

"(b) No individual (or his estate) who is authorized by the Department of Defense to perform services under a program established pursuant to subsection (a), and who is acting within the scope of his duties, shall be liable for injury to, or loss of property or personal injury or death which may be caused incident to providing such services."

Mr. INOUE. Mr. President, I ask unanimous consent that the action taken by the Senate in passing S. 1250 be vitiated, and that the Senate proceed immediately to the consideration of calendar No. 191, H.R. 6823.

The PRESIDING OFFICER. Without



objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6823) to authorize appropriations for the United States Coast Guard for fiscal year 1978, and for other purposes,

Mr. INOUE. I ask unanimous consent that all after the enacting clause be stricken, and that the text of S. 1250, as amended, be substituted in lieu thereof.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 6823) was read the third time, and passed, as follows:

That this Act may be cited as the "Coast Guard Authorization Act of 1978".

## SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

The following funds are hereby authorized to be appropriated in the amounts indicated for the fiscal year ending September 30, 1978, for use of the Coast Guard:

(1) For procurement of 10 port safety boats, 1 medium endurance cutter replacement, 1 icebreaking tug, and 30 search and rescue boats: \$85,506,000.

(2) For procurement of 12 medium-range surveillance aircraft and 12 short-range recovery helicopters: \$94,876,000.

(3) For the repairs, replacement, renovation, or improvements of existing shore units: \$21,603,000, which shall be used for construction at—

(A) Rockland, Maine—Phase I of rehabilitation of Rockland Station;

(B) Edgartown, Massachusetts—Improvements to Menemsha Station;

(C) Curtis Bay, Maryland—Coast Guard Yard sewage system;

(D) Alexandria, Virginia—Construction of barracks at Coast Guard Station;

(E) Saint Petersburg, Florida—Phase II of relocation and renovation of Group/Station;

(F) Fort Myers, Florida—Rebuild Fort Myers Beach Station;

(G) West Palm Beach, Florida—Upgrade search and rescue facilities;

(H) Bayfield, Wisconsin—Rehabilitate Bayfield Station;

(I) Traverse City, Michigan—Phase II of rebuilding air Station;

(J) Alameda, California—Replace training center infirmary;

(K) Seattle, Washington—Phase III of relocation of Coast Guard units to Piers 36/37;

(L) Kodiak, Alaska—Phase V of renovation and consolidation of Kodiak Support Center;

(M) Sitka, Alaska—Sanitary improvements;

(N) Elizabeth City, North Carolina—Phase II of improving paint stripping hangar at Aircraft and Supply Center;

(O) Charleston, South Carolina—Construction of replacement pier at Base Charleston;

(P) Juneau, Alaska—Construction of Auke Bay moorings; and

(Q) Cordova, Alaska—Construction of shelter for a barracks-hangar to house two additional short-range recovery helicopters.

(4) for procurement and improvement of aids to navigation: \$27,208,000, including—

(A) funds for Phase II for the establishment of the vessel traffic system at New Orleans, Louisiana;

(B) funds for the repair, replacement, renovation, or improvement of existing projects as follows:

(i) Phase I of improvement of the radio beacon system;

(ii) The waterways aids to navigation project;

(iii) The Lighthouse Automation and Modernization Program;

(iv) The Loran-C National Implementation Plan; and

(C) funds for the procurement of radar and other equipment for the continuation of installing vessel traffic systems at various locations.

(5) For pollution control: \$8,600,000.

(6) For public family quarters: \$1,311,000.

(7) For property acquisition, design, and administration: \$10,096,000.

(8) For procurement of two 140-foot ice-breaking tugs and one large icebreaker: \$78,000,000.

(9) For the necessary expenses for the operation and maintenance of the Coast Guard including those relating to the Capehart housing debt reduction: \$887,521,000.

(10) For the completion of alteration or removal of four bridges commenced under previous years' funding and to continue with the next phase of two additional bridges: \$15,100,000.

(11) For the necessary expenses for basic and applied scientific research, development, testing, or evaluation of programs and activities of the Coast Guard: \$25,600,000.

(12) For the reactivation of appropriate Coast Guard vessels for the enforcement and monitoring of the United States Fishery Conservation Zone: \$5,000,000.

## SEC. 3. END YEAR STRENGTH FOR ACTIVE DUTY PERSONNEL.

For fiscal year 1978, the Coast Guard is authorized an end-year strength for active duty personnel of 39,145; except that such number shall not include members of the Ready Reserve called to active duty under the authority of section 764 of title 14, United States Code.

## SEC. 4. MILITARY TRAINING STUDENT LOADS.

For fiscal year 1978, average military training student loads for the Coast Guard are authorized as follows:

(a) recruit and special training, 3,852 students;

(b) flight training, 109 students;

(c) professional training in military and civilian institutions, 415 students; and

(d) officer acquisition, 1,110 students.

## SEC. 5. MERGER OF OBLIGATED BALANCES WITH CURRENT APPROPRIATIONS.

(a) Chapter 17 of title 14, United States Code, is amended by inserting at the end thereof the following new section:

"§ 659. Merger of obligated balances with current appropriations.

"Amounts equal to the obligated balances against appropriations for use by the Coast Guard for operation and maintenance and reserve training purposes for the two fiscal years preceding the current fiscal year shall be transferred to and merged with current fiscal year appropriations for 'Operating Expenses' and 'Reserve Training' respectively. Obligated balances for the period commencing on July 1, 1976, and ending on September 30, 1976, may be merged into their respective accounts for fiscal years 1977 and 1978. Such merged appropriations shall be available as one fund for payment of obligations properly incurred against such prior year appropriations and against the current fiscal year appropriations. The Coast Guard shall reflect fiscal year identity of the merged obligated balances until such obligated balances are transferred to a consolidated account as prescribed in the first section of the Act entitled 'An Act to simplify accounting, facilitate the payment of obligations, and for other purposes' approved July 25, 1956, as amended (31 U.S.C. 701)."

(b) The chapter analysis of chapter 17 of title 14, United States Code, is amended

by inserting at the end thereof the following new item:

"659. Merger of obligated balances with current appropriations."

## SEC. 6. ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS FUNDS DESIGNATED FOR SEWAGE TREATMENT PLANT.

Notwithstanding the provisions of any other law, available funds appropriated to or for the use of the Coast Guard for acquisition, construction, and improvements may be used to pay for part of the construction and other capital costs of a sewage treatment plant to be built, operated, and owned by the North Marin County Water District (California) and to be used by the Coast Guard at the facilities located in the vicinity of Port Reyes Station, California.

## SEC. 7. AUTHORIZATION TO ACCEPT AND RETAIN FUNDS FROM THE CITY OF BALTIMORE, MARYLAND.

The Coast Guard is authorized to accept and retain funds from the city of Baltimore, Maryland, in payment for the Coast Guard facilities to be removed by the city incident to the improvement of Hawkins Point Road. The funds shall be available until expended for the construction of replacement facilities. Any funds not obligated by the end of fiscal year 1980 shall be paid into the Treasury.

## SEC. 8. EXEMPTION OF CERTAIN VESSELS ENGAGED IN THE FISHING INDUSTRY FROM THE REQUIREMENTS OF CERTAIN LAWS.

(a) The last sentence of section 4426 of the Revised Statutes of the United States (46 U.S.C. 404), as amended, is further amended by striking out "July 11, 1978" and inserting in lieu thereof "January 1, 1983".

(b) The first section of the Act of June 20, 1936 (relating to certain seagoing vessels) (46 U.S.C. 367), as amended, is further amended by striking out "July 11, 1978" and inserting in lieu thereof "January 1, 1983".

(c) Subsection (b) of the first section of the Act of August 27, 1935 (relating to load lines for certain vessels) (46 U.S.C. 88(b)), as amended, is further amended by striking out "July 11, 1978" and inserting in lieu thereof "January 1, 1983".

## SEC. 9. MEDICAL EMERGENCY HELICOPTER TRANSPORTATION SERVICES TO CIVILIANS.

(a) The Commandant of the Coast Guard is authorized to assist the Department of Health, Education, and Welfare, in providing medical emergency helicopter transportation services to civilians. Any resources provided under this section shall be under such terms and conditions, including reimbursement, as the Commandant of the Coast Guard deems appropriate and shall be subject to the following specific limitations:

(1) Assistance may be provided only in areas where the Coast Guard units able to provide such assistance are regularly assigned, and Coast Guard units shall not be transferred from one area to another for the purpose of providing such assistance.

(2) Assistance may be provided only to the extent that it does not interfere with the performance of the Coast Guard mission.

(3) The provision of assistance shall not cause any increase in funds required for the operation of the Coast Guard.

(b) No individual (or his estate) who is authorized by the Coast Guard to perform services under a program established pursuant to subsection (a), and who is acting within the scope of his duties, shall be liable for injury to, or loss of property or personal injury or death which may be caused incident to providing such services.

The title was amended so as to read:

A bill to authorize appropriations for the Coast Guard for fiscal year 1978, and for other purposes.

Mr. INOUE. Mr. President, I ask unanimous consent that S. 1250 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUE. I move to reconsider the vote by which H.R. 6823 was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RECESS UNTIL 1:42 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 20 minutes.

There being no objection, the Senate, at 1:22 p.m., recessed until 1:42 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BUMPERS).

#### COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the tanker safety bill continue to be temporarily laid aside for the time being and that the Senate proceed to the consideration of Calendar Order 147.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2992) to authorize appropriations for fiscal year 1978 for carrying out the Comprehensive Employment and Training Act of 1973.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Human Resources with an amendment in the nature of a substitute.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MAJ. GEN. JOHN K. SINGLAUB

Mr. STENNIS. Mr. President, I shall briefly refer to the remarks made by Maj.

Gen. John K. Singlaub regarding his opinion as to what would be the results of the removal of our military ground forces from Korea.

First, the point involved at this time does not relate to the question of the wisdom or lack of it as to the removal of these troops. The question involved now does not really relate to the "degree of punishment" imposed upon General Singlaub by President Carter in his order removing the general from his post.

The question for consideration now relates to whether or not General Singlaub's remarks constituted a military impropriety. I refer, of course, to his remarks, which he agrees he made, that the removal would lead to war in Korea.

Clearly, the remarks made by General Singlaub were a military impropriety by a Chief of Staff of U.S. Forces in Korea, on duty in this highly important and sensitive position. Section 2 of article II of the Constitution of the United States provides:

The president shall be commander in chief of the army and navy of the United States \* \* \*

As Commander-in-Chief, the President, of course, could not ignore General Singlaub's unfortunate and untimely remarks. Instead, he was under a positive constitutional duty to take notice thereof. I do not think this question of it being a military impropriety will be seriously questioned. The principle involved is so well known and must be kept well known, that I do not believe that any officer, up for nomination and promotion, would advocate the right by an officer to make remarks of the type made by General Singlaub. If he did before our committee, I do not believe he would be approved for promotion by the committee or by the Senate.

In my years of service on the Armed Services Committee, I have never heard an officer in private or official conversation, on or off the record, claim or assert to the contrary. On the other hand, it is to their credit that they will quickly affirm that the President of the United States is the Commander-in-Chief of the military services, and, of course, must be considered at all times in that position by the officers.

Let us not be confused by the use of the term that I have noted in the press, "muzzling the military." I have been through hearings of that kind where it was charged that a former President was muzzling the military. Certainly, there is no element of that issue involved. It is well known that members of the military are citizens of the United States and, of course, most of them are very fine citizens. As such, they have their avenues of expression, including their opinions on military matters.

It is clear to me that the President of the United States has his duties and responsibilities in incidents of this kind, and each Member of the Senate has his duty and responsibility, too. In this case, it is very clear indeed to me that the President clearly acted within the scope of his direct authority. I think the facts not only justified intervention but demanded it. The degree of the punish-

ment imposed is a matter of judgment and is really not an issue before us.

At some future time I would expect there will be full discussion in the Congress on the policy questions involved in the general overall question of ground troop removal from Korea and, of course, those discussions will certainly be in order.

Mr. President, I thank the Chair.

Mr. HART. Mr. President, will the Senator yield?

Mr. STENNIS. Yes; I yield to Senator from Colorado.

Mr. HART. Mr. President, I commend the committee chairman for his remarks. This is an extremely important issue involving not only this Nation's security but, also, and equally important, the form and structure of our Government.

The principle of civilian control of the military, as the chairman has noted, is firmly engrained in our Constitution and in 200 years of our history. If that principle is eroded, then I think we are faced with a possible change or shift in the structure and form of our Government which would affect the lives of all of our citizens.

The committee chairman has exercised his usual good judgment and, I think, sound advice and recommendations to all of us in handling this serious question, and I join with him in the remarks he has made and commend them to all of our colleagues.

Mr. STENNIS. I certainly thank the Senator for his very fine remarks. His concern is not a surprise to me, and his interest is not, either. I appreciate that he does have concern and he has expressed it here.

Mr. President, I yield the floor.

#### ORDER OF BUSINESS

Mr. NELSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. I ask unanimous consent to yield to the Senator from Maine without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AUTO EMISSIONS FACT SHEET

Mr. MUSKIE. Mr. President, the Clean Air Act Amendments of 1977 will be considered by the Senate during the week of June 6. As many Members will recall, 1976 Clean Air Amendments were approved by this body on August 5, 1976, only to be killed by filibuster after a conference agreement had been reached.

This year the committee has reported a bill which is similar to last year's Senate-passed bill, in the interest of consistency and in the interest of presenting the Senate with familiar legislation.

The issue of auto emission standards and deadlines has been debated on numerous occasions in this Chamber since 1965, when the first Federal mobile source pollution control program was authorized. Once again, auto emission standards are the focus of extensive debate and intensive lobbying. I believe that the Senate Environment and Public Works Committee has resolved the auto



emissions questions in a way which will guarantee clean cars and provide adequate leadtime for the auto industry to accomplish that goal.

Many questions have been raised about the effects of various auto emission standards and deadlines on public health, fuel economy, cost, and employment. I am placing in the RECORD today a fact-sheet on auto emission issues in order to provide Members with the information which led the committee to its decisions. The fact-sheet contrasts the Senate committee bill with the provisions of S. 919, a package of amendments to the Clean Air Act introduced by Senators GRIFFIN and RIEGLE.

I emphasize that the Griffin-Riegle bill deals with a number of issues other than auto emissions and deadlines, which would undo the basic framework of the existing Clean Air Act. Most of these provisions have not been explained or defended. My fact-sheet includes an analysis of these provisions.

I ask unanimous consent that the fact-sheet and summary be printed in the RECORD at this point.

There being no objection, the fact-sheet was ordered to be printed in the RECORD, as follows:

#### TECHNOLOGICAL FEASIBILITY

The auto industry can meet the requirements of the Senate bill.

The more stringent 1979 standards in the Senate Committee bill for hydrocarbons and carbon monoxide have already been met by a number of 1977 California models of cars, in EPA's Federal Test Procedure. The test results showed that a number of models actually had emissions below the 1980 standards in S. 252, without even being adjusted to meet those levels.

These cars include American Motors' Pacer and Matador, Chrysler's Aspen, Ford's Maverick and General Motors' Caprice, Impala, Monza, Sunbird, and Skyhawk. It is important to note that this list includes a variety of weights, sizes, engines and manufacturers, and that these standards were achieved without trying.

All of the U.S. auto companies have stated that they can meet the final 1980 standards in S. 252. One company stated in February, 1977, that it could meet the 1980 standards on 100% of their cars in 1980. In fact, two of the U.S. companies plan to use the 3-way catalyst, the most promising new technology on some of their 1978 California models as a major production trial. This is the traditional way in which the auto industry has phased-in new technologies. The 1979 requirements are a logical progression to the ultimate statutory standards in 1980.

#### HEALTH IMPACT

The Griffin-Riegle bill would relax the carbon monoxide and nitrogen oxide standards, resulting in a severe adverse effect on public health.

#### NITROGEN OXIDE STANDARD

Nitrogen oxides react with hydrocarbons to form oxidant, and thus is associated with the health hazards of oxidant. Nitrogen dioxide alone, however, is known to produce adverse health effects such as acute respiratory illness, increased bronchitis morbidity in children, decreased lung functions in children, and increased susceptibility to respiratory infection.

At the 2.0 grams per mile NO<sub>x</sub> standard of S. 919, even in the year 2000, one million excess attacks of respiratory disease are projected to occur in children. This health impact is almost halved by the adoption of the 1.0 NO<sub>x</sub> standard of the Committee bill.

The Griffin-Riegle bill would also cause

almost 2 million excess days of restricted activity from lower respiratory disease in children. This health impact is also approximately halved by adoption of the Committee bill.

#### OXIDANT STANDARD

Health effects associated with oxidant are aggravation of asthma and lung disease, respiratory irritation in healthy persons, increased eye irritation and changes in heart and lung function in healthy persons. Of the 313 air quality control regions in this country, 170 regions still have not achieved the air quality standard for oxidant set at a level to protect public health from adverse effects.

#### CARBON MONOXIDE STANDARD

Carbon monoxide is the most harmful of the pollutants emitted by the automobile. In sufficiently high concentrations, it can cause death. Carbon monoxide exposure also affects the central nervous system, the heart, human reflexes, hearing, and exacerbates the incidence of heart disease. Eighty air quality control regions still have not attained the carbon monoxide standard at which adverse health effects occur. Monitoring data from New York shows carbon monoxide levels 200%-400% above the health standard.

The Griffin-Riegle 9.0 carbon monoxide standard will cause between 65% and 130% more violations of the health standard between 1980 and 2000 than the Senate Committee bill. By the year 2000, the Senate standard leaves only five urban areas in violation of the health standard, while the Griffin-Riegle standard leaves twelve areas in violation of the health standard.

#### EMPLOYMENT

Future emission controls will not lead to unemployment or poor sales either. EPA projections indicate that 185,000 new jobs in the U.S. auto industry would be created through increased sales between now and 1985 if the Senate Committee standards are adopted.

#### FUEL ECONOMY

The Griffin-Riegle bill proposes final standards of .41, 9.0, 2.0 for the avowed purpose of allowing the auto companies to continue to use the existing, inefficient technology now in use to meet the 1977 California standards of .41, 9.0, 1.5. The average fuel penalty of these cars was 11% worse than 1977 Federal cars. This illustrates the result of standards which can be met by adding on equipment to existing technology. The auto industry will do only the technological minimum when a jump to more advanced emission control technology is not required, but is a voluntary option. One must associate that fuel penalty with the Griffin-Riegle proposal, since it cannot be assumed in the absence of statutory impetus, that the manufacturers will go to a higher level of technology voluntarily.

In contrast to the 11% fuel economy penalty of existing technology, the Ford Motor Company estimates that the Senate standards could result in a fuel penalty of 5% in 1980, the first year, but better fuel economy or at least no fuel penalty in 1981.

#### COST

The Senate bill will save the consumer money over the lifetime of a car.

The 1977 Volvo 3-way catalyst system sold this year which has exceeded both California and Federal emission standards has cost the customer \$25-\$50. This car has been sold in California throughout 1977. Lifetime savings due to 10% better fuel economy exceed this initial first cost by \$275-\$300. This is similar to the advanced technology which the domestic auto manufacturers have stated they will use to meet the Senate standards in 1980.

The Senate Committee bill will result in substantial savings to the consumer. The current technology which the auto companies have stated they would use to meet the Riegle-Griffin standards carries an 11% fuel

economy penalty. Advanced technology which must be used to meet the Senate Committee standards could improve the average 1977 fuel economy by 10%. The 21% improvement results in a \$650 lifetime savings to the car owner. After deducting the EPA's estimated \$250 first cost of the equipment, the Senate standards result in a net savings of \$400 to the consumer. This is a conservative savings figure, since the EPA equipment cost estimate includes items which may not be needed, such as a \$70 start catalyst.

#### AUTO EMISSION STANDARDS

The following table compares the auto emission standards in the bill reported by the Committee on Environment and Public Works, S. 252; the Griffin-Riegle bill, S. 919; and existing law:

|          | Existing law |     |                 | S. 252 |     |                 | S. 919 |    |                 |
|----------|--------------|-----|-----------------|--------|-----|-----------------|--------|----|-----------------|
|          | HC           | CO  | NO <sub>x</sub> | HC     | CO  | NO <sub>x</sub> | HC     | CO | NO <sub>x</sub> |
| 1977.... | 1.5          | 15  | 2.0             | 1.5    | 15  | 2               | 1.5    | 15 | 2               |
| 1978.... | .41          | 3.4 | .4              | 1.5    | 15  | 2               | 1.5    | 15 | 2               |
| 1979.... |              |     | .41             | 3.4    | 2   | 1.5             | 15     | 2  | 2               |
| 1980.... |              |     | .41             | 3.4    | 1   | .41             | 9      | 2  | 2               |
| 1981.... |              |     |                 |        | .41 | 9               | 2      |    |                 |
| 1982.... |              |     |                 |        | .41 | 9               | 2      |    |                 |

<sup>1</sup> 10 percent of the cars must meet 1 NO<sub>x</sub> in 1979.

<sup>2</sup> Waiver to 2 NO<sub>x</sub> of unlimited duration.

#### Statement

S. 919 will enable production of 1978 and 1979 automobiles.

#### Fact

S. 252 will also enable production of 1978 and 1979 cars.

The 1978 standards of S. 252 are identical to those in S. 919.

The more stringent 1979 standards in S. 252 for the HC and CO have already been met by a number of 1977 California models of cars, in EPA's Federal Test Procedure. The test results showed that a number of models actually had emissions below the 1980 standards in S. 252, without even being adjusted to meet those levels.

These cars include American Motors' Pacer and Matador, Chrysler's Aspen, Ford's Maverick and General Motors' Caprice, Impala, Monza, Sunbird, and Skyhawk. It is important to note that this list includes a variety of weights, sizes, engines and manufacturers, and that these standards were achieved without trying.

All of the U.S. auto companies have stated that they can meet the final 1980 standards in S. 252. One company stated in February, 1977, that it could meet the 1980 standards on 100% of their cars in 1980. In fact, two of the U.S. companies plan to use the 3-way catalyst, the most promising new technology on some of their 1978 California models as a major production trial. This is the traditional way in which the auto industry has phased in new technologies. The 1979 requirements are a logical progression to the ultimate statutory standards in 1980.

#### Statement

Emission standards of S. 919 will provide the most desirable air quality and health improvement standards when measured against statutory fuel economy requirements and costs to the consumer.

#### Fact

The automobile is a significant contributor to the unhealthy air pollution levels across the country; however, the net changes in total automotive emissions since the passage of the Clean Air Act in 1970 have been rather modest of 14% for hydrocarbon, 16% for carbon monoxide and an increase of 16% in nitrogen oxides.

Hydrocarbon standard: Hydrocarbons emitted into the air from automobiles react with nitrogen oxides (also emitted into the air by the auto and regulated by law) in the atmosphere to form photochemical oxidant (smog).

Health effects associated with oxidant are aggravation of asthma and lung disease, respiratory irritation in healthy persons, increased eye irritation and changes in heart and lung function in healthy persons. Of the 313 air quality control regions in this country, 170 regions still have not achieved the air quality standard for oxidant set at a level to protect public health from adverse effects.

There is general agreement that the .41 hydrocarbon standard should be imposed as rapidly as possible to mitigate the pervasive smog problem. Even with that stringent standard, a strong vehicle inspection and maintenance program, and control of hydrocarbons from stationary sources such as refineries, the health standard for oxidant (smog) will still be violated in 26 or more air quality control regions in the year 2000.

The Griffin-Riegle timetable which delays imposition of the .41 hydrocarbon standard will cause 4% more violations of the oxidant health standard between 1980 and 1990 than the Senate Committee bill.

There is no reason to delay the final statutory auto emission standard of .41 grams/mile beyond 1970, as S. 919 would, given the availability of technology now to meet the .41 grams/mile standard, and the critical need to control hydrocarbons now, in order to achieve healthy air.

**Carbon Monoxide Standard:** Carbon monoxide is the most harmful of the pollutants emitted by the automobile. In sufficiently high concentrations, it can cause death. Carbon monoxide exposure also affects the central nervous system, the heart, human reflexes, hearing, and exacerbates the incidence of heart disease. Eighty air quality control regions still have not attained the carbon monoxide standard at which adverse health effects occur. Monitoring data from New York City shows carbon monoxide levels 200%-400% above the health standard.

The Griffin-Riegle bill proposes to almost triple the ultimate statutory carbon monoxide standard from 3.4 grams per mile to 9.0 grams per mile, based on theoretical calculations that every city will meet the ambient CO standards by 1990, even at 9.0 grams per mile. This is an unrealistic projection, since test data from autos on the road show that carbon monoxide emission levels are double the amount permitted by the current standards on the average. In some cases, carbon monoxide emissions have been almost as high as those from uncontrolled cars because of carburetor maladjustments. The air quality projections used by the proponents of relaxation do not take this severe deterioration into account.

The Griffin-Riegle 9.0 carbon monoxide standard will cause between 65% and 130% more violations of the health standard between 1980 and 2000 than the Senate Committee bill. By the year 2000, the Senate standard leaves only five urban areas in violation of the health standard, while the Griffin-Riegle standard leaves twelve areas in violation of the health standard.

This argument for relaxation of the carbon monoxide standard surfaced only in January, 1977 despite the ongoing debate on this subject for seven years. The National Academy of Sciences and the Environmental Protection Agency agree that the 3.4 grams per mile standard contained in the Committee bill is necessary to protect public health.

**Nitrogen Oxide Standard:** Nitrogen oxides react with hydrocarbons to form oxidant, and thus is associated with the health hazards of oxidant. Nitrogen oxide alone, however, is known to produce adverse health effects such as acute respiratory illness, increased bronchitis morbidity in children, decreased lung functions in children, and increased susceptibility to respiratory infection.

The original statutory NO<sub>x</sub> standard was set at .4 grams/mile in order to protect public health. During the past seven years, the exact level of nitrogen oxide control required

has been a matter of much debate. The Committee determined on the basis of scientific data that a revised standard of 1.0 grams/mile would meet public health needs, and also stimulate new, improved control technology.

The Griffin-Riegle bill would relax the NO<sub>x</sub> standard an additional 100%, to 2.0 grams/mile, on top of the relaxation of 2½ times in the Committee bill. Although the Griffin-Riegle bill allows for the possibility of a 1.0 NO<sub>x</sub> standard eventually, in 1982, any auto company may apply for waivers to the current 1977 standard of 2.0 indefinitely. If past history is any guide, one must assume a 2.0 NO<sub>x</sub> standard indefinitely, as the auto companies have received every waiver they have applied for from EPA.

At the 2.0 grams per mile NO<sub>x</sub> standard of S. 919, even in the year 2000, one million excess attacks of respiratory disease are projected to occur in children. This health impact is almost halved by the adoption of the 1.0 NO<sub>x</sub> standard of the Committee bill.

The Griffin-Riegle bill would also cause almost 2 million excess days of restricted activity from lower respiratory disease in children. This health impact is also approximately halved by adoption of the Committee bill.

The sponsors of S. 919 base their NO<sub>x</sub> waiver on the uncertainty as to the level of NO<sub>x</sub> control needed to protect public health. The uncertainty surrounds the necessity for a .4 NO<sub>x</sub> standard; to the knowledge of the Committee, no scientific or medical body contends that a level as high as the 2.0 NO<sub>x</sub> standard would satisfy public health requirements. S. 252 accommodates this uncertainty by maintaining the .4 NO<sub>x</sub> level as a research objective. Auto manufacturers must submit prototype cars at this NO<sub>x</sub> level to EPA annually. Should the EPA Administrator determine the necessity for a standard more stringent than 1.0 grams per mile NO<sub>x</sub> of S. 252, the existing law provides authority to tighten the standard.

Air quality projections show that even with stringent stationary source controls total NO<sub>x</sub> emissions will rise over the next 20 years at any automotive emissions standard above .4 grams per mile. At the 2.0 NO<sub>x</sub> standard of Griffin-Riegle, the number of urban areas not meeting the public health standard can more than double by the year 2000. If a short-term ambient air quality standard is adopted in the range being considered by the World Health Organization, there will be widespread violations in almost all areas of the country even at the most stringent automotive standards. The number of violations would be cut substantially only at the .4 level.

#### Statement

The implementation of the auto emission standards of the bill reported by the Senate Committee on Environment and Public Works, will result in massive job losses in the motor vehicle and related industries, and negative effects on the entire national economy.

#### Fact

These assumptions of a catastrophic decline in auto sales and resultant layoffs have no basis in past history. In 1973, the industry set a record for retail sales of 11.5 million cars. 1974 sales dipped 23% in the midst of a national recession, an oil embargo, dire projections that the gas shortage was permanent, and that gasoline would either be rationed or become prohibitively expensive.

The case was never made that the decline in sales and job losses were due to emission control requirements. Subsequent sales data indicate, to the contrary, that auto sales are most sensitive to the general health of the economy, and to the disposable income of consumers.

For example, by 1976, auto sales had once

more climbed to over 10 million units. For 1977 models, the nitrogen oxide standard was tightened by 33%, yet sales for this year are substantially higher than those for model year 1976. The most recent figures show a 12.5% increase for the month of April, compared to April, 1976. Henry Ford, Chairman of the Ford Motor Company, has predicted 1977 auto sales of 11.2 million units, the second highest sales in the history of the industry.

Future emission controls will not lead to unemployment or poor sales either. EPA projections indicate that 183,000 jobs in the U.S. auto industry would be created through increased sales between now and 1985 if the Senate Committee standards are adopted.

#### FUEL ECONOMY Statement

The requirement of auto emission standards at the levels in the Senate Committee bill will result in fuel economy penalties and will prevent the development of alternative, fuel efficient technologies.

#### Fact

There is no inherent relationship between fuel economy and emission control. Actual fuel economy depends on the choice of technology chosen as evidenced by the examples below:

The most significant tightening of auto emission standards to date occurred in model year 1975. Although Chrysler Corporation testified that these standards would cause a fuel penalty, their cars realized a 12% fuel economy gain.

General Motors estimated a substantial gain, and their actual experience was twice the fuel economy improvement predicted.

In model year 1977, the NO<sub>x</sub> standard was tightened by 33%. The auto industry has always claimed that this standard would cause the greatest fuel economy penalty. Chrysler estimated a 7% fuel economy loss; the actual loss was zero. General Motors estimated a 5% loss. The actual change was a 9% improvement between 1976 and 1977 model years.

The history of automobile fuel economy over the past 20 years evidences this lack of a detrimental relationship between emission control and fuel economy. The chart below illustrates the decline in fuel economy long before the advent of emission controls. It also indicates that the biggest improvement occurred in 1975 (13.5% over 1974) when the standards were significantly tightened and the industry used a new, more advanced emission control technology. In 1976, at the same standards, there was an additional 10% improvement, and in 1977, another 3.3% improvement for a total of 26.8% increase over the fuel economy of 1974 models.

|                         | Actual gas mileage of U.S. auto fleet <sup>1</sup> | Auto emission standards |      |                 |
|-------------------------|--|-------------------------|------|-----------------|
|                         |  | HC                      | CO   | NO <sub>x</sub> |
| 1957.....               | 16.5   |                         |      |                 |
| 1958.....               | 17.0   |                         |      |                 |
| 1959.....               | 16.7   |                         |      |                 |
| 1960.....               | 16.1   |                         |      |                 |
| 1961.....               | 16.3   |                         |      |                 |
| 1962.....               | 16.8   |                         |      |                 |
| 1963.....               | 15.2   |                         |      |                 |
| 1964.....               | 16.7   |                         |      |                 |
| 1965.....               | 15.7   |                         |      |                 |
| 1966.....               | 15.6   |                         |      |                 |
| 1967.....               | 15.5   |                         |      |                 |
| 1968 <sup>2</sup> ..... | 15.0   |                         |      |                 |
| 1969.....               | 14.7   |                         |      |                 |
| 1970 <sup>2</sup> ..... | 15.1   | 4.1                     | 34.0 |                 |
| 1971.....               | 14.7   | 4.1                     | 34.0 |                 |
| 1972 <sup>2</sup> ..... | 14.5   | 4.1                     | 34.0 |                 |
| 1973.....               | 14.0   | 3.0                     | 28.0 | 3.1             |
| 1974.....               | 13.9   | 3.0                     | 28.0 | 3.1             |
| 1975 <sup>2</sup> ..... | 15.6   | 1.5                     | 15.0 | 3.1             |
| 1976.....               | 17.8   | 1.5                     | 15.0 | 3.1             |
| 1977 <sup>2</sup> ..... | 18.6   | 1.5                     | 15.0 | 2.0             |

<sup>1</sup> Combines city and highway use.

<sup>2</sup> In these years, emission standards became more stringent.



The Griffin-Riegle bill proposes final standards of 41, 9.0, 2.0 for the avowed purpose of allowing the auto companies to continue to use the existing, inefficient technology now in use to meet the 1977 California standards of 41, 9.0, 1.5. The average fuel penalty of these cars was 11% worse than 1977 Federal cars. This illustrates the result of standards which can be met by adding on equipment to existing technology. The auto industry will do only the technological minimum when a jump to more advanced emission control technology is not required, but is a voluntary option. One must associate that fuel penalty with the Griffin-Riegle proposal, since it cannot be assumed in the absence of statutory impetus, that the manufacturers will go to a higher level of technology voluntarily.

The Senate Committee bill, on the other hand, sets standards which require the auto manufacturers to go to the next level of technology, which is more efficient, and more effective to control emissions. The only way the fuel penalty of the 1977 California cars can be avoided with the Griffin-Riegle standards in effect is if the manufacturers choose to use the next level of technology, as would be required to achieve the standards in the Senate bill in 1980.

In contrast to the 11% fuel economy penalty of existing technology, the Ford Motor Company estimates that the Senate standards could result in a fuel penalty of 5% in 1980, the first year, but better fuel economy or at least no fuel penalty in 1981.

EPA has stated that the impact of the Senate standards on fuel economy would range from plus 2 miles per gallon to minus two miles per gallon, depending on the technology chosen.

The advanced technology which already exists to meet the Senate Committee standards improves the average 1977 fuel economy by 10%. This is a savings of 105,000 barrels of oil a day.

The 1.0 NO<sub>x</sub> standard in the Committee bill will also allow production of alternative, fuel-efficient engines. The National Academy of Sciences has identified five technologies that can meet the Senate Committee standards (0.41/3.4/1.0): dual catalyst or three-way catalyst on conventional engines, CVCC stratified charge (Honda), CCS stratified charge (Ford), and diesel. These are in addition to longer-term alternative engines which can also meet the Senate Committee standard, including Sterling cycle, Rankine cycle, gas turbine and electric or hybrid engines.

As for the diesel, the National Academy of Sciences' assessment that they can meet 1.0 NO<sub>x</sub> is confirmed by a 1977 VW Rabbit diesel which has already achieved 0.8/1.0/0.8 in certification tests. Teledyne Continental Motors has studied the diesel for ERDA and finds that they can achieve 30 miles per gallon on the city cycle with a 3000 pound car, while meeting emissions levels of (0.24/1.2/0.2). And General Motors has been working with Opel on diesel development. Using electronic exhaust gas recirculation, they obtained emissions of (0.27/1.30/0.71) with fuel economy of 26 miles per gallon and no fuel penalty. Thus, at this early stage of commercial development of diesels for passenger cars, there is already strong evidence that they can meet the Senate Committee standards without undue difficulty.

#### COST OF NEW AUTOMOBILES

##### Statement

The cost of emission control has greatly increased the price of cars in the past, and the emission requirements of the Senate Committee bill will raise the price of cars to an even more unreasonable level.

##### Fact

The sticker price increase of cars due to emission controls have not been unreasonable,

even as auto standards have become stringent. Bureau of Labor Statistics data since the inception of the Federal emission control program bear this out.

| Model year        | Cumulative price increase of automobiles | Cumulative price increase due to emission controls | Percent of increase due to emission controls |
|-------------------|--|--|--|
| 1967              |  | (0)  |  |
| 1968 <sup>1</sup> | \$88                                     | \$11   | 13   |
| 1969              | 129                                      | 11   | 9  |
| 1970 <sup>2</sup> | 236                                      | 17   | 7  |
| 1971              | 456                                      | 36   | 8  |
| 1972 <sup>2</sup> | 475                                      | 43   | 9  |
| 1973              | 565                                      | 70   | 12   |
| 1974              | 1,065                                    | 71   | 7  |
| 1975 <sup>2</sup> | 1,451                                    | 191  | 13   |
| 1976              | 1,650                                    | 198  | 12   |
| 1977              | 2,032                                    | 212  | 10   |

<sup>1</sup> No controls.

<sup>2</sup> In these years, emission standards became more stringent.

Source: Bureau of Labor Statistics.

A recent example bears out this trend. The California Air Resources Board has stated that the 1977 Volvo 3 way catalyst system sold this year which has exceeded both California and Federal emission standards has cost the customer \$25-50. This car has been sold in California throughout 1977. Lifetime savings due to 10% better fuel economy exceed this initial first cost by \$275-\$300. This is similar to the advanced technology which the domestic auto manufacturers have stated they will use to meet the Senate standards in 1980.

The Senate Committee bill will result in substantial savings to the consumer. The current technology which the auto companies have stated they would use to meet the Griffin-Riegle standards carries an 11% fuel economy penalty. Advanced technology which must be used to meet the Senate Committee standards could improve the average 1977 fuel economy by 10%. The 21% improvement results in a \$650 lifetime savings to the carowner. After deducting the EPA's estimated \$250 first cost of the equipment, the Senate standards result in a net savings of \$400 to the consumer. This is a conservative savings figure, since the EPA equipment cost estimate includes items which may not be needed, such as a \$70 start catalyst.

#### WARRANTY OF EMISSION CONTROL SYSTEMS

##### Statement

Reduction of the existing 5 year or 50,000 mile performance warranty for emission control systems is necessary to improve the competitive position of the independent parts and service dealers.

##### Fact

The performance warranty was included in the 1970 Clean Air Act to protect the consumer and to assure continued air quality improvement by requiring that a vehicle will continue to meet the applicable emission standards over 5 years or 50,000 miles, one-half of the average life of a car on the road.

Reduction of the performance warranty to 18 months or 18,000 miles (less than one-fifth of the average life of a car) will not achieve the stated objectives and will do serious harm to other objectives.

It is anti-consumer because it would shift the burden and expense of repairing a faulty emission control system from the manufacturer to the consumer whose car fails a State inspection after 18,000 miles.

It eliminates any financial incentive for manufacturers to produce an emission control system which functions for the car's life since their financial exposure would only be for 18,000 miles.

The Federal Trade Commission has recommended two actions to prevent any possible

anti-competitive effect of the existing warranty. S. 252 adopts these recommendations and three other measures to avoid any anti-competitive effects of the warranty. These provisions include:

- (1) requiring all owners' manuals to contain instructions that maintenance does not have to be performed by the dealer or with the manufacturer's own parts;
- (2) making illegal any warranty provision that attempts to tie coverage to the use of the dealer's service and parts;
- (3) establishment of a program which will enable aftermarket parts manufacturers to certify that their parts perform as well as the auto manufacturer's (the auto manufacturers have no role in approving such certification);
- (4) specifying that a car owner may go anywhere to have required maintenance performed;

(5) a Federal Trade Commission study of any possible anti-competitive effect.

The 50,000 mile performance warranty has been law for seven years now. Independent dealers now hold 80%-85% of the service and parts business, and that proportion has actually increased since 1970 when the warranty provision became law.

The United Auto Workers are in favor of maintaining the 5 year 50,000 mile performance warranty. President Leonard Woodcock stated in February, 1977: "We are basically in support of the 50,000 miles (performance warranty)."

The Consumer Federation of America is "strenuously opposed to this anti-consumer amendment" to reduce the performance warranty to 18 months or 18,000 miles.

Consumer's Union, publisher of Consumer's Reports, states in opposition to the reduction of the performance warranty to 18 months or 18,000 miles:

"In response to the five-year warranty requirement promulgated by EPA, auto manufacturers have designed the control devices, and the various parts related to the performance of these devices, for substantially longer endurance than would be the case under a one year warranty.

"... a reduction in designed durability would mean an increased incidence of repair for such devices and parts. This would add substantially to the consumer's cost of maintaining emission control devices to EPA performance standards."

#### Defects Warranty

This production, or defects warranty requires that each element of the vehicle related to emissions must be designed and built so as to conform to auto emission standards at the time of sales, and must be free from defects which would cause the vehicle to fail to meet emission standards over the life of the vehicle. The consumer is thus protected if a specific part fails within 5 years or 50,000 miles, and it is shown to be defective at the time it fails.

The Griffin-Riegle bill would make the production-defects warranty of existing law meaningless. S. 919 would require a consumer to prove that a defect in an emission control system, which occurred at any time prior to 50,000 miles, existed at the time of sale of the vehicle. This means that the consumer who discovered at 45,000 miles that a piece of equipment had ceased to operate, would have to prove that that defect also existed when the car was purchased. This is an impossible burden of proof to sustain, it is counter to the thrust of the Moss-Magnuson Act, and it goes against the established principles of products liability law.

The Griffin-Riegle warranty amendments benefit only one party—the auto industry. The consumer would pay for an emission control system to deal with an air pollution problem which lasts the life of the car but for which the auto industry would have no

financial responsibility whatsoever. The aftermarket industry would lose much repair and maintenance work because none could be required of the car owner after 18,000 miles or 18 months under the terms of the warranty; and the public would have cars which can legally violate emission standards after 18,000 miles, and the resultant adverse health effects from dirty cars.

#### HIGH ALTITUDE Statement

The Griffin-Riegle provision dealing with emissions from automobiles in high altitude areas remedies the inequities of the current EPA regulations.

#### Fact

The Riegle-Griffin bill does not come to grips with the high altitude problem. The Committee bill adopts a solution to the problem of the inferior operation of automobiles which is far preferable to deal with consumer and air quality needs.

The major problems now are: (1) the availability of only 50% of all car models in urban high altitude areas; (2) the inferior performance of those high altitude cars; and (3) the loss of business by dealers in urban high altitude areas to nearby dealers who have all models available.

The Griffin-Riegle bill proposes to solve these problems by simply exempting the adjustment of emission control systems of high altitude vehicles from anti-tampering requirements of the law.

It maintains a separate requirement for cars in high altitude (about 3% of total sales) which ensures that minimal effort will be directed toward improvement of that technology by the auto manufacturers.

The separate high altitude requirements do not alleviate the problem of a high altitude dealers' loss of business to dealers who have all models available.

The Committee bill prohibits all differential treatment for high altitude areas so that all low altitude models can be sold everywhere in the country.

From 1978 to 1980, all high altitude requirements are suspended, so that the auto manufacturers do not have to do anything additional for high altitude model cars; all model cars can be sold everywhere.

After 1980, all cars must comply with applicable auto emission standards at all altitudes. This provides two years for the perfection of existing technology which automatically compensates for any altitude change.

#### ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

#### Statement

The Griffin-Riegle bill sets up new administrative procedures and a new standard of judicial review for major regulatory actions related to the auto emissions standards established under the Clean Air Act, including promulgation or revision of emission standards, the consideration of a waiver application, the consideration of California's application for imposition of more stringent standards, and the establishment of test procedures for new cars. These changes are necessary to correct shortcomings in the current law.

#### Fact

These changes benefit solely the auto companies at the expense of protecting the public health and welfare, and may have a disastrous effect on the industry the sponsors of the amendment propose to assist.

The Griffin-Riegle bill establishes a separate set of procedures and a new standard of review for one category of regulations, auto emissions, creating a confusing dual set of procedures under the Act, the need for which has not been established.

The regulatory actions to which these new procedures apply are precisely those for which unnecessary delay can be catastrophic

for the auto industry. Any change in the auto emission standards, the certification tests, or the selective assembly line testing car determine the technology to be used. Long delays may result in inability to manufacture cars which meet the standards. The new procedures apply also to the California waiver. It is equally important that the industry know these standards as soon as possible, in order to certify new cars for that State. A delay in the granting of the California waiver could be equally catastrophic, resulting in a possible inability to supply 10% of the new car market because of belated knowledge of the standards.

There is no evidence that the existing procedures have proved inadequate in the promulgation of auto emission regulations. Under current law, the Administrator has the option of holding a public hearing on any proposal. When the last waiver of standards was granted by EPA in 1975, 3 weeks of public hearings were held. Under S. 919, if one interested party desired to make an oral presentation, EPA would be required to hold a public hearing.

In addition, the required opportunity for cross-examination would transform the EPA hearing process into a more formal trial-type proceeding. The danger of the use of this provision as a dilatory tactic far outweighs its usefulness, taking into account the Administrator's existing discretion to hold a hearing, which has been used frequently in the past.

EPA presently establishes rulemaking dockets for its proposed regulations which contains most of the documents specified in S. 919. The only documents not regularly included in the docket are the draft proposals to OMB, and interagency comments on them.

EPA also currently includes in all proposals the statement of the purpose of a rule, the factual data supporting it and responses to significant criticism of it.

A change in the standard of review now, seven years into the implementation of the Clean Air Act, and for only one category of regulations, could result in only confusion. The courts have thus far applied the arbitrary and capricious standard to their reviews of EPA actions under the Clean Air Act. This has resulted in extraordinarily close scrutiny of the regulations, and it is unclear why a change is thought to be necessary.

The authorization to the Administrator to extend unilaterally the deadlines specified in the law defeats the purpose of establishing legally enforceable deadlines by delegating legislative authority to an executive agency. This provision also will result in uncertainty for those parties regulated under the Act.

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS OF 1977

The Senate continued with the consideration of the bill (H.R. 2992) to authorize appropriations for fiscal year 1978 for carrying out the Comprehensive Employment and Training Act of 1973, as amended.

Mr. NELSON. Mr. President, I ask unanimous consent that the following staff members be accorded the privilege

of the floor during consideration of H.R. 2992 and S. 1242.

Richard E. Johnson, Scott Ginsburg, Martin Jensen, Jim O'Connell, and Babette Polzer of the Human Resources Committee;

Jon Steinberg of the Veterans' Affairs Committee;

Tom Williams of the Energy and Natural Resources Committee; and

Bill Buechner of the Joint Economic Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, the Comprehensive Employment Training Act Amendments of 1977 (H.R. 2992) extends the authorization for the Comprehensive Employment and Training Act for 1 year—through fiscal year 1978.

On March 29, 1977, the House of Representatives passed H.R. 2992, authorizing the appropriation of such sums as may be necessary for the fiscal year ending September 30, 1978, for carrying out the Comprehensive Employment and Training Act.

The Subcommittee on Employment, Poverty, and Migratory Labor held hearings on this legislation, in conjunction with hearings on S. 1242, the Youth Employment and Training Act of 1977, on April 20, 21, and 22.

The subcommittee ordered an amended version of the bill reported May 4, and the full Committee on Human Resources ordered the legislation reported to the Senate on May 10.

The committee-reported version of the bill contains the following provisions:

First, the committee-reported bill extends the authorization for all titles of the Comprehensive Employment and Training Act for 1 additional year, authorizing the appropriation of such sums as may be necessary through fiscal year 1978.

Second, the committee-reported bill also extends through the end of fiscal year 1978 the amendments to title VI of CETA—made by the Emergency Jobs Programs Extension Act of 1976—under which each prime sponsor of a public service employment program under title VI may use its allocation, first, to sustain its existing number of public service jobholders under the act; and, thereafter, shall fill any additional public service jobs with low-income persons unemployed for 15 or more weeks who have been receiving or are ineligible for unemployment compensation, or welfare recipients. Also 50 percent of vacancies occurring in title VI public service jobs by attrition must meet those eligibility requirements, but the remaining 50 percent may be filled under the original title VI requirements—15 days unemployment in areas having 7 percent or higher unemployment rates, and 30 days unemployment in other areas.

Third, the committee-reported bill provides for waiving for fiscal year 1977 and 1978 the limitation in section 4(e) of CETA preventing more than 20 percent of funds appropriated for CETA to be used for title III—Secretary's responsibilities—and title IV—Job Corps.

Fourth, the committee-reported bill provides that the Secretary of Labor



shall take appropriate steps to increase participation in training and job opportunities under CETA for disabled veterans and Vietnam-era veterans under 27 years of age.

Fifth, the committee-reported bill provides that, in filling teaching positions in elementary and secondary schools with financial assistance under title II or VI of CETA, each prime sponsor shall give special consideration to unemployed persons with previous teaching experience who are certified by the State and who are otherwise eligible under CETA.

#### SUMMARY OF COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

The Comprehensive Employment and Training Act—CETA—was signed into law on December 28, 1973. As set forth in the statement of purpose of the act, it is the purpose of CETA to provide training, employment, and other services leading to unsubsidized employment for economically disadvantaged, unemployed and underemployed persons.

Title I establishes a nationwide program of comprehensive employment and training services—including training, employment, counseling, testing, and placement—administered by prime sponsors which generally are States and units of general local government of 100,000 or more population.

Title II authorizes a program of public service employment in areas with 6.5 percent or higher unemployment for 3 consecutive months.

Title III provides for nationally sponsored and supervised training and job placement programs for such special groups as youths, offenders, older workers, persons of limited English-speaking ability, Indians, migrant and seasonal farmworkers, and others with particular labor market disadvantages, as well as research, demonstration, and evaluation programs to be administered by the Secretary of Labor.

Title IV provides the authorization of the Job Corps, a program of intensive education, training, and counseling for disadvantaged youths, primarily in a residential setting.

Title V establishes a National Commission for Manpower Policy, an advisory group that has been assigned the tasks of examining the Nation's manpower needs and goals and suggesting to the Secretary of Labor and to Congress particular means of dealing with them.

Title VI authorizes an emergency program of public service employment to provide useful jobs to unemployed persons in all areas of the Nation during times of high national unemployment.

Title VII contains general provisions, applicable to all titles including definitions, conditions of work and training, prohibitions against discrimination and political activities, and administrative procedures for the orderly management of programs under the act.

#### PRIME SPONSORSHIP SYSTEM

Under CETA, prime sponsors are units of State and local government responsible for carrying out programs within their communities. States may act as balance-of-State prime sponsors for

smaller—usually rural—areas within their boundaries that are ineligible to become prime sponsors in their own right. Cities or counties with populations of 100,000 or more are eligible to become sponsors after determining that they have a special capacity for carrying out CETA programs within certain labor markets or rural areas with high unemployment.

Finally, section 102 of the act provided that a limited number of concentrated employment program grantees that were serving rural areas with high unemployment and had demonstrated high capabilities for carrying out the employment and training programs in these areas could be designated as prime sponsors.

A total of 444 prime sponsors are now designated.

One of the distinctive and critically important aspects of CETA is the built-in flexibility that encourages responsiveness to the diverse needs of the various geographic and socioeconomic areas. The value of this flexibility is apparent in the ways in which prime sponsors have been able to design and implement programs that combine traditional employment and training efforts with more experimental and innovative approaches.

#### TITLE I—COMPREHENSIVE MANPOWER SERVICES

Title I authorizes comprehensive employment and training services, including remedial education and skill training, employment, counseling, and supportive services. Under title I, 80 percent of the authorized funds are distributed to prime sponsors, with the remaining 20 percent distributed as follows: 5 percent for grants to Governors for vocational training services; 4 percent to Governors for flexible State activities; up to 5 percent for consortia incentives; and the remaining 6 percent for the Secretary's discretionary use.

The funds distributed to prime sponsors are allocated so that 50 percent is allotted on the basis of the prime sponsor's manpower allotment in the preceding fiscal year, 37½ percent on the basis of relative numbers of unemployed, and 12½ percent on the basis of the relative numbers of adults in low-income families.

The funds appropriated for title I in fiscal year 1977 totaled \$1.8 billion, and the President's budget request for fiscal year 1978 is the same.

The proportion of enrollees in each of the activities under title I of CETA varies somewhat from one year to the other. For example, the proportion of enrollees in work-experience programs was 54 percent in fiscal 1975 and 48 percent in fiscal 1976. Work experience is subsidized employment in the public sector and in private nonprofit agencies. In contrast to transitional public service employment, the work situations are temporary and are not necessarily expected to result in unsubsidized employment for the participants. The purpose of such employment may be to provide the participants with experience on a job, to develop occupational skills and good work habits and occupational opportunities. About 32 percent of title I participants were enrolled in classroom training in fiscal 1976 and 28 percent in fiscal 1975, while about 10 percent each of those

years were registered in specialized on-the-job training for a specific job.

During fiscal year 1976, about 1,731,000 individuals enrolled in title I activities. Of that total number, 514,000 persons were enrolled in classroom training, 144,000 in on-the-job training, 63,000 in transitional public service employment, 756,000 in work experience, and 108,000 in other activities.

#### TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

Title III of CETA requires that the Secretary of Labor provide special programs for segments of the community that are in need of additional services beyond the scope of title I program sponsors. Among the target groups are youth, older workers, offenders, persons of limited English-speaking ability, and others determined by the Secretary to be at a particular disadvantage in the labor market.

#### SUMMER PROGRAM FOR YOUTH

In the regular HEW-Labor appropriations bill for fiscal year 1977, Congress appropriated \$595 million under section 304 of CETA for operation of the summer youth employment program for economically disadvantaged youth this summer. These funds are distributed by formula to prime sponsors to provide short-term jobs for about 1 million youths aged 14 through 21. In the past years, participants have worked in such places as schools, libraries, community service organizations, hospitals, and private nonprofit agencies. Typical positions include nurse aide, typist, school maintenance aide, cashier, library aide, clerk, nutrition aide and day-care aide.

#### SUPPORT FOR COMMUNITY-BASED ORGANIZATIONS

The Department of Labor provides funding under title III to selected national community-based organizations—CBO's—in order to assist them in improving the quality of the services that their community-based affiliates provide and in encouraging their affiliates to participate more fully in the programs developed by CETA title I prime sponsors. In fiscal 1976, \$5 million was made available to the national offices of opportunities industrialization centers—OIC's; Jobs for Progress, known as service, employment, and redevelopment—SER; and the National Urban League.

According to the employment and training report of the President, January 12, 1977, an estimated \$90 million in title I funds was also provided to local community-based organizations by prime sponsors. The local community-based organizations served about 110,000 persons, or approximately 6.4 percent of 1,731,000 CETA participants served under title I.

#### INDIANS AND ALASKA NATIVES

Indian and Alaska native communities are a major recipient of CETA assistance. A total of \$75.4 million was allotted for programs to serve them in fiscal 1976. About two-thirds—\$50.6 million—of this amount was allocated by statutory formula for title III employment, training, and related service programs under section 302 of CETA. Section 302 grants are awarded to federally recognized Indian tribes, bands, or groups and those

prime sponsors or organizations working with nonreservation Indians which meet specific requirements of the Secretary of Labor. The remainder were made available to eligible sponsors under titles II—\$7.8 million—and VI—\$8.2 million—and the summer youth program—\$8.8 million. Total enrollments in all Indian and Alaska Native programs during fiscal 1976 were 60,000, including 700 under title II; 2,600 under title VI; 41,600 under title III, section 302; and 15,700 under the summer youth program.

Funds appropriated for Indian and Alaska native programs for fiscal year 1977 totaled \$79.2 million, and the Administration's budget request for such programs for fiscal year 1978 is \$91 million.

#### MIGRANT AND SEASONAL FARMWORKERS

The aim of title III programs for migrant and seasonal farmworkers is to improve living and working conditions for those who wish to continue in the agricultural labor market, while assisting others to obtain more stable employment in other occupations.

During fiscal year 1976, the funding level for those programs was maintained at \$63.2 million, meeting the statutory requirement set forth in section 303 of CETA, that an amount equal to 5 percent of the amount allocated to State and local prime sponsors under title I be spent for such activities. Through a competitive process, 62 sponsors were selected to provide services to farmworkers in 47 States and Puerto Rico. In addition to classroom training, on-the-job training, work experience, and placement assistance, program participants could be provided such supportive services as medical and dental care, child care, and nutritional services. Another 24 grants were awarded to provide self-help housing projects, high school equivalency and college training programs, and technical assistance.

For fiscal year 1977, a total of \$79.2 million has been appropriated for migrant and seasonal farmworker programs under section 303 of CETA, and the administration's budget request for such programs for fiscal year 1978 is \$111.2 million.

#### TITLE IV—JOB CORPS

Now in its second decade of operation, Job Corps is working to expand training opportunities in existing centers while continuing to search for innovative education techniques that can be used in preparing corps members for the labor market. Initially authorized as part of the Economic Opportunity Act of 1964 and later included as title IV of the Comprehensive Employment and Training Act of 1973, the Job Corps program consists of two principal components—basic education and vocational skills training. Residential living—a characteristic that other employment and training programs have not shared—is also an important part of the Job Corps experience, although in recent years nonresidential training has also been available at some—usually urban—centers.

The purpose of the Job Corps is to assist disadvantaged youth, aged 16 to 21 years, to become more responsible, employable, and productive citizens. All par-

ticipants in the program are out of work and out of school and in need of additional education, vocational training, counseling, and other services to help them obtain employment, return to school, qualify for other training programs, or enlist in the Armed Forces.

The Job Corps program received funds totaling \$140 million in fiscal year 1976 to support 20,700 training slots during fiscal 1976 at 60 centers located in 31 States and the Commonwealth of Puerto Rico. The total includes 27 civilian conservation centers administered by the Departments of Agriculture and the Interior in national parks and forests and other public lands; 31 centers operated under contract with business firms, non-profit organizations, or State and local government agencies; and 2 extension centers. From the inception of the program in 1965 until June 30, 1976, Jobs Corps has enrolled 567,195 corps members from all 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

The appropriation for the Job Corps for fiscal year 1977 was \$197 million, providing a 10-percent expansion over 1976.

As a part of the Administration's program for 1978, President Carter proposed more than a doubling of the Job Corps appropriation, to a total of \$487 million. This will enable enrollments to rise from the current level of 20,000 to about 40,000 enrollments.

#### PUBLIC SERVICE EMPLOYMENT PROGRAMS

There are two titles of CETA authorizing public service employment programs.

Title II authorizes financial assistance to enable State and local prime sponsors to provide public service jobs in areas of substantial unemployment having rates of unemployment equal to or exceeding 6½ percent. Eighty percent of title II appropriations are allocated in proportion to the number of unemployed residing in such areas of substantial unemployment. The remainder is distributed in the Secretary's discretion. For fiscal year 1976, the title II appropriation was \$400 million, supporting about 50,000 public service jobs.

Title VI was originally added to CETA by the Emergency Jobs and Unemployment Assistance Act of 1974 (Public Law 93-567), signed by President Ford on December 31, 1974. Under title VI of CETA, approximately 60,000 previously unemployed persons have been hired in jobs meeting locally determined public service needs. The programs are administered by State and local government prime sponsors—including States, units of general local government, and combinations thereof. Funds are distributed to areas throughout the Nation according to a formula which is based 50 percent upon the numbers of unemployed, 25 percent upon the numbers of unemployed in areas having 6½ percent unemployment, and 25 percent upon the numbers of unemployed in excess of 4½ percent unemployment in each area.

During the last session of Congress, the Emergency Jobs Programs Extension Act of 1976 was enacted into law (Public Law 94-444, signed October 1, 1976), extending the authorization for public serv-

ice employment programs under title VI of the Comprehensive Employment and Training Act—CETA—through the fiscal year ending September 30, 1977. The legislation authorized the appropriation of such sums as may be necessary in fiscal year 1977.

The 1976 amendments provided that each prime sponsor of a public service employment program under title VI may use its allocation, first, to sustain its existing number of public service jobholders under CETA; and, thereafter, must fill any additional public service jobs with long-term unemployed persons—persons unemployed for 15 or more weeks or welfare recipients. Under the 1976 amendments, 50 percent of vacancies occurring in public service jobs by attrition must also meet these eligibility requirements, but the remaining 50 percent may be filled under the original title VI requirements—15 days unemployment in areas having 7 percent or higher unemployment rates, and 30 days unemployment in other areas.

The 1976 amendments authorized not to exceed 15 percent of funds allocated for public service employment programs under title II and title VI of CETA to be used for necessary supplies and administrative expenses and also provided for a 2-percent set-aside of title VI funds for public service employment programs carried out by Indian tribes.

Before its adjournment, the last session of Congress passed a continuing appropriations resolution providing sufficient funding to sustain the existing number of title VI public service jobs—approximately 260,000—through September 30, 1977 (Public Law 94-473).

The Economic Stimulus Appropriations Act of 1977 (Public Law 95-29) was signed by President Carter on May 13, 1977. Under that appropriations act, additional funds for public service employment programs under title II of CETA have recently been allocated totaling \$1,140,000,000, and additional funds for public service employment programs under title VI of CETA have been allocated totaling \$5,363,000,000. The total number of public service jobs will be increased from the current level of 310,000 jobs—260,000 under title VI, and 50,000 under title II—to 725,000 jobs—600,000 under title VI and 125,000 under title II—with in the next few months under this appropriation.

#### SPECIAL VETERANS PROVISIONS

Section 4 of H.R. 2992, as reported from committee, contains an amendment which directs the Secretary of Labor to take appropriate steps to provide increased job training and public service categories of veterans. These categories are defined in the provision as: First, disabled veterans who have a service-connected disability rating of 30 percent or more; and second, Vietnam-era veterans who served for more than 180 days—receiving other than a dishonorable discharge—and who are under 27 years of age.

The President proposed the provision of increased opportunities for those disabled and young Vietnam-era veterans in public service jobs under the Comprehensive Employment and Training Act



of 1973, as amended—CETA. The enactment of the Economic Stimulus Appropriation Act (Public Law 95-29) provides funds for an additional 415,000 public service jobs—PSE—under CETA through fiscal year 1978. The President's proposed legislation for a 1-year extension of CETA included a provision to require that in employing individuals to fill these new PSE jobs a preference be given to certain qualified unemployed disabled and young Vietnam-era veterans, with a proposed national goal that 35 percent of all new CETA PSE hires be these veterans. The House-passed bill does not include the "preference" concept in its version of this legislation.

During the hearings on this extension legislation, Secretary Marshall and Assistant Secretary Green stated, in response to a question, that legislation was definitely necessary in order for the Department to achieve its national goal for the employment of these priority categories of veterans. Therefore, the provision in section 4 of the committee bill has been worked out in close cooperation with the administration and members of the subcommittee on Employment, Poverty, and Migratory Labor as a substitute for the administration's "preference" proposal.

The committee provision does not provide a statutory preference about which many reservations have been expressed. Instead, the alternative language set forth in section 4 is designed to provide ample latitude and flexibility and not to hamstring prime sponsors or others involved in the delivery of job and job-training opportunities.

The committee provision specifies many of the steps which the Secretary shall take in serving the employment needs of these veterans, but this list is by no means to be considered exclusive. Among the specific steps is providing for individual prime sponsors to develop their own local goals, taking into account the number of eligible veterans in the area served by the prime sponsors, for the placement of such eligible veterans in job vacancies occurring in PSE programs. The Secretary is also directed to insure full utilization of the provisions of clauses (2) and (5) of section 205(c) of the act—relating to providing jobs for significant segments of the population to be served and providing special consideration in filling jobs to special Vietnam-era veterans—and the provisions of subclause (E) of section 105(a) (3) of the act, requiring prime sponsors to make maximum feasible use of apprenticeship and other on-job training—OJT—opportunities available under section 1787 of title 37, United States Code.

#### SUMMARY

Mr. President, the enactment of this legislation is necessary in order to enable appropriations for the CETA programs to be included in the regular Labor-HEW appropriations bill. The total appropriations request included in the administration's budget is \$4.294 billion. The total enrollment in all titles of CETA for training and employment opportunities is approximately 2 million persons. I believe that it is important to enact this

legislation as soon as possible so that State and local governmental prime sponsors can plan their activities for fiscal year 1978.

Mr. President, I have a section-by-section analysis of the act. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

#### SECTION-BY-SECTION ANALYSIS

##### Section 1. Short Title

This section provides that this legislation may be cited as the "Comprehensive Employment and Training Act Amendments of 1977".

##### Section 2. Authorization for Fiscal Year 1978

This section extends the authorization for the Comprehensive Employment and Training Act for one additional year, through September 30, 1978.

##### Section 3. Waiver of Limitation on Funds for Titles III and IV

This section provides that section 4(e) of the CETA shall be deemed ineffective with respect to fiscal years 1977 and 1978.

##### Section 4. Special Veterans Provisions

This section provides that, with respect to programs carried out with funds appropriated after January 1, 1977, for fiscal years 1977 and 1978, under CETA, the Secretary of Labor shall take appropriate steps to provide for the increased participation in public service employment programs and job training opportunities of qualified disabled veterans and Vietnam-era veterans under twenty-seven years of age. The Secretary shall make necessary funds and personnel available to carry out his responsibilities and report thereon to the Congress within sixty days of enactment. The Secretary shall carry out his responsibilities in consultation with the Deputy Assistant Secretary for Veterans Affairs, and shall also consult with and solicit the cooperation of the Administrator of Administration.

##### Section 5. Special Consideration

This section amends titles II and VI of CETA to provide that, in filling teaching positions in elementary and secondary schools, each prime sponsor shall give special consideration to unemployed persons with previous teaching experience who are certified by the State and who are otherwise eligible under the provisions of each such title.

Mr. NELSON. Mr. President, I yield the floor.

Mr. JAVITS. Mr. President, the minority in the committee supported this extension for 1 year.

Mr. President, as the ranking Republican member of the Human Resources Committee and a coauthor of the Comprehensive Employment and Training Act I am a strong advocate of the concept it embodies.

The enactment of CETA represented, I believe, a fundamental shift of the focus and thrust of our Nation's manpower and employment policy. Prior to CETA, the Manpower Development and Training Act authorized a categorized, national delivery system to mount employment and training programs. CETA, on the other hand, instituted a decategorized and decentralized approach, and relied upon a network of prime sponsor local governments to deliver our manpower programs. In effect, CETA transferred control of Department of Labor manpower programs to State and local officials.

As might be expected, so fundamental a shift could not be effected without

some controversy. No one has ever pretended that the Comprehensive Employment and Training Act of 1973 could be a perfect solution to the myriad of problems that had developed under the proliferation of Federal manpower programs before CETA. Yet questions have been raised about, among other things, the administration of local programs, the changing role of the nonprofit private sector, the equity of the various allocation formulae and the degree to which programs should be targeted at those who are most in need.

I believe, however, that all things considered, the experience under CETA's decentralized system has been excellent. I often need to remind people that when CETA became law on December 28, 1973, the national unemployment rate was 4.8 percent. From that point on, the unemployment rate increased inexorably and was 5.5 percent even when CETA took effect 6 months later on July 1, 1974. The economy deteriorated as rapidly and so seriously that by December 1974, the unemployment rate exceeded 7 percent and by May 1975, was nearly 9 percent. Furthermore, in some prime sponsor labor market areas such as New York City, the unemployment rate exceeded 10 percent, as the private sector job market suffered a collapse of major proportions. In most of these heavily impacted areas, the hemorrhage of job opportunities continues relentlessly and may go on for the rest of the decade. In its infancy, therefore, the CETA prime sponsor system was completely overwhelmed by the most catastrophic recession since the Great Depression of the 1930's. Is it any wonder, then, that some problems were encountered in respect of the placement of CETA trainees, the long term benefits to individuals of participation in some programs and the degree of efficiency associated with local administration?

In my opinion, the performance of the prime sponsors has been remarkably good, given the difficult circumstances in which the system has begun. I am sure that with the resumption of economic prosperity and high employment, the prime sponsor system will perform even better in the coming years.

While the aggregate unemployment rate seems to be falling nationally, it remains intolerably high in some areas of our country, especially in the older cities of the Northeast and Midwest. For this reason, there is a need to design a public service employment program targeted to the structurally unemployed, especially in the high unemployment areas of our country, and, I had intended to address myself to the more endemic and structural character that U.S. unemployment has taken on since 1975, and to introduce a CETA bill for this purpose. While the recently enacted economic stimulus appropriations bill provides funding for 725,000 public service jobs under titles II and VI through fiscal year 1978, there is a need to consider soon a fundamental redesign of these programs so as to target them more directly upon those areas and upon those individuals more deeply affected by persistent structural unemployment.

I am convinced that the U.S. economy has entered into a new epoch in its evolutionary process. All of the external and internal shocks of the 1970's have affected the economy I believe in a profound and as yet unmanifested way. We may now be moving into an era in which high structural unemployment persists because the traditional aggregate expansionary fiscal and monetary policies ignite inflation or inflationary expectations at a much higher unemployment threshold. If true this would mandate new and different public service employment programs for those individuals and areas which the Federal Government dares not try to reach with general economic policies.

The precedent we have in title VI, to wit: eligibility only for the low-income, long-term unemployed, is a good one upon which to build. Certainly every State in the United States has its share of endemic and structural unemployment, and we should try to develop a public service jobs program tailor-made to these needs.

There are many creative approaches that could be proposed to deal with these problems. During my work with Senator HUMPHREY in developing S. 170, the Comprehensive Youth Employment Act of 1977, for example, we tried to link the private sector into our program of work experience and training. I thought of a provision which would have permitted the Federal Government to subsidize the wages of workers employed by those for-profit companies located in poverty areas and wholly or partly owned by community development corporations funded under title VII of the Community Services Act. Although we did not include this concept in our bill because we felt it somewhat untested, I believe it does have merit and should be proposed, at least on a demonstration basis.

I understand the Secretary of Labor is now developing the public service jobs component of the administration's welfare reform program. This is yet another example of the new dimensions that our programs might include in coming years. I am informed, also, that Secretary Marshall is considering a plan, modeled after the "GI bill," which would guarantee some period of post-secondary education for young adults who are enrolled in public service job programs. So, Mr. President, it is clear that many imaginative ideas are now circulating for the redesign of our public jobs programs.

But I decided, finally, that it would be premature to propose new comprehensive CETA reauthorization legislation just when the new administration was getting underway. I thought it reasonable, therefore, to extend CETA in its present form for 1 year to give the new officials at the Labor Department an opportunity to examine the program in depth and consider how best to revise the existing legislation. Knowing as I do the distinguished Secretary of Labor, Dr. Ray Marshall, and his able Assistant Secretary for Employment and Training, Ernest Green, I am sure Members of Congress will be fully consulted in the development of the CETA revision later this year, and given an opportunity to

express their own ideas respecting its provisions.

I look forward to working closely with my good friend and subcommittee chairman, Senator NELSON, and with our full committee chairman, Senator WILLIAMS, in consideration of these policies. I urge my colleagues in the Senate to approve this 1-year extension and continue, as I will, to study ways in which it can be improved for consideration next year.

We feel that while we are still under the very serious crunch of roughly a 7-percent unemployment rate, we need to have a little more time in order to consider the nature of those improvements. As it is now very clear, because the Senator supported it both in the budget resolution and in appropriations, that we consider public service jobs, youth jobs, and other jobs as a vital component of any economic stimulus program, we feel that the extension for 1 year is the right way to go.

Mr. President, there are reasons why we would also feel that it is best to have this bill stand strictly as a 1-year extension so that it may move on through the other body without any amendments.

Nonetheless, there are two extraneous matters, relatively speaking, in this bill now. The provisions respecting veterans and the provisions respecting the filling of teaching positions. And it may be that we can deal with those in the course of the debate.

Also, other Members may have amendments here, and we will simply have to encounter them as we meet them.

But I think the summation of the thing is that the prime sponsor plan of the CETA program, which gives us only about 400 prime sponsors—whereas under previous manpower training programs we had some thousands—seems to have worked better. I would not say it is optimum. But it has worked better. Therefore, we believe that it is the way to go for the present continuance. This is an essential element in dealing with continuing serious unemployment. The refinements and improvements which any of us may have in mind, and there are a number of those which are very appealing, had best be given more deliberate consideration which this 1-year extension would permit us to do.

For all those reasons, Mr. President, as the ranking member of this subcommittee and the Human Resources Committee, I favor the 1-year extension of CETA which is the essence of this bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### GENERAL SINGLAUB

Mr. GOLDWATER. Mr. President, I doubt if any Members of the Senate would seriously question a President's

right as Commander in Chief of the Armed Forces to recall and reassign a military commander in the field. However, I am disturbed by the treatment accorded Maj. Gen. John K. Singlaub who was removed from his Korean command for disagreeing with President Carter.

Mr. President, the official announcement by the Pentagon said that public statements by General Singlaub to the effect that withdrawal of American troops from Korea might result in war were "inconsistent with announced national security policy." What I would like to know is where was this official policy defined and announced by the President, or by the Pentagon. I cannot find such a policy declaration. It has not been presented to the Senate Armed Services Committee of which I am a member and so far as I know, it has not been presented to the Committee on Foreign Affairs.

I feel this is a very important point. I do not believe commanders in the field should be required to take campaign promises or press conference answers as announced official policy. This being the case, I feel that General Singlaub was within his rights to voice his opinion on a course of action which he felt was only being speculated upon in official circles. I should like to know if the General was officially notified by Washington that troop withdrawal from Korea had become official policy by the U.S. Government. If not, I find nothing wrong in his offering an opinion based on his experience as a military man in Korea. If he were advised of official policy to this effect then, of course, he was wrong to question that policy in public.

Mr. President, whatever the circumstances, I would hope that President Carter, having dispensed with the services of General Singlaub in Korea, would not ignore the warning the General issued.

Mr. President, I yield the floor.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS OF 1977

The Senate continued with the consideration of the bill (H.R. 2992) to authorize appropriations for fiscal year 1978 for carrying out the Comprehensive Employment and Training Act of 1973, as amended.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that Mr. Chip Terrill, of my staff, be granted the privileges of the floor during the debate on the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY. Mr. President, I suggest the absence of a quorum.



The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Is the Senator from New Mexico seeking recognition?

Mr. DOMENICI. Yes, Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

UP AMENDMENT NO. 326

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposed unprinted amendment No. 326.

Mr. DOMENICI. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:  
SEC. 2. (a) Section 203 of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this title each eligible applicant shall provide assurances that one-third of the jobs provided by that applicant under this title in any fiscal year will be public service jobs with local educational agencies located in the area under the jurisdiction of that eligible applicant."

(b) Section 602 of such Act is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of this title each eligible applicant shall provide assurances that one-third of the jobs provided by that applicant under this title in any fiscal year will be public service jobs with local educational agencies located in the area under the jurisdiction of that eligible applicant."

Mr. DOMENICI. Mr. President, jobs under the Comprehensive Employment and Training Act are provided to local governments for the dual purpose of serving the unemployed and to provide relief from the recession to units of local government. Approximately one-half of all local government employees are school district employees. However, school districts have not shared equally in the CETA jobs money, and it has been estimated that only 10 percent or less of the jobs are in local education agencies.

Municipal, county, and State governments have received antirecession aid from the Federal Government through a variety of sources—revenue sharing and public works as well as CETA. Our Nation's school districts, also hit hard by the recession, have received very little Federal antirecession assistance.

We have seriously neglected the economic plight of our schools during the recession. Local school districts are the major local government employer. The

demand for productive new positions exists, and funds to pay for those positions cannot be raised without local property tax increases. Therefore, it is difficult to understand how public employment can best serve the economic recovery without the direct involvement of local school districts.

In the past 2 years, Congress has passed several Federal laws which mandate increased education services without fully funding these services. The S. 504 requirements to remove architectural barriers for the handicapped, the individualized programs required under the Education of Handicapped Act (Public Law 94-142), and the extension of Unemployment Compensation to Public Employees (Public Law 94-566) have placed additional burdens on our schools.

I believe it is time to recognize the financial plight of our local education agencies. I therefore have offered an amendment to CETA titles II and VI which requires prime sponsors to redirect not less than one-third of their total CETA grants to local school districts located within their respective areas. While a one-third share is not fully representative, given the proposed expansion of the program from 310,000 to 725,000 jobs, it should open up school employment without disrupting existing job commitments for prime sponsors—including those prime sponsors who are currently providing only minimal assistance for local school districts.

Education agencies can provide meaningful employment through the public service jobs program. Education agencies are accustomed to supplementary Federal programs, and therefore are not likely to substitute local funds with Federal funds, thus greatly diminishing the effects of substitution in the total program. Local education agencies provide training for employees, thus making them more employable after the publicly supported job is terminated. And finally, local education agencies have a great need which I believe Congress has a responsibility to address.

Mr. President, I believe the distinguished manager of this bill and the ranking Republican are aware of this amendment and the concern that prompts its introduction today. I appeared before the committee and spoke to the issue, which I think is very important with reference to CETA public sector jobs.

I have a little experience and background as to how CETA came into being, in that its origins came from my home city, the city of Albuquerque. I was then the mayor of that city, leaving the office, when we had a number of job training programs, as the manager of the bill remembrers. We had some under Model Cities, we had some coming out of various departments of the Government. We were all trying to get some manpower training into our municipalities. Each was run separately, and, in many instances, they were run by separate secretaries of the U.S. Government, or subsections of the Department of Labor, the Department of Health, and the like.

CETA has done a tremendous job of trying to consolidate those manpower

thrusters into one department of Government, with a consolidated series of laws. The one thing that evolved in the consolidation was the notion of prime sponsors. Where we had cities, the notion came across very strongly that a mayor or the chief executive officer of a community ought to have a very vital role in determining the implementation of the CETA manpower programs under the prime sponsors. I believe that, from the very beginning, it was assumed that the public schools in that region would be a vital part of the implementation of the CETA program. By that I mean that I think people were of the frame of mind that, when the prime sponsor looked around in a community, it would have seen to it that the public schools got a reasonable percentage of these public service jobs.

That has not happened. That is the reason my amendment is introduced. The evidence is that a very small percentage of the jobs that we give to a public sector employer—a city, a county, a special district—have gone to the public schools in our country.

One might assume that that is justified because we might think of our schools as not having job opportunities for this kind of trainee. That is not true, Mr. President. Evidence is that a full 30 percent of the jobs in our public schools are non-professional-type jobs. In other words, they are not educators, they are not teachers, they are not administrators who are professional. Thirty percent are the very same kind of jobs that our cities and our counties, and our States—where they are prime sponsors—are giving to the people that come within the purview of the CETA program.

In this day and age, when we are very concerned about job opportunities for those who have had difficulty finding work or getting the proper training, we have also had a genuine concern about our cities, in these recessionary times, having difficulty with their tax base. We have passed countercyclical revenue-sharing and other kinds of tools, and we have done very little during the recession to help our public schools.

I think the evidence is that if our cities are having financial problems, so are our public schools.

My amendment merely says that, in every State in the Union, each prime sponsor within that State will set aside one-third of the jobs that they are allocated for the public schools—meaning that, as we place trainees, once my amendment is passed, we shall be coordinating with our public schools and we shall find one-third of the jobs within their particular employment sector and see to it that they receive some of the benefits that flow from these kinds of people, men and women, helping that local unit of government with its public work for our people.

It appears to me that we would not have to do this; we would not have to mandate any local mix if, as a matter of fact, there had been better performance, if they had taken into consideration the needs of the public schools and brought them into the prime sponsor policymaking so that they would have gotten

their share. Then we would not need this amendment.

Or, if the Secretary of Labor agreed that the public schools are not getting their fair share and made a strong commitment that maybe a third is not right—but certainly, what we have today is not right. We have some cities where 3 and 4 percent of all of the manpower trainees and people that we are placing in the public sector are going to the public schools in the community. If there were some way that we could assure that the word would get down to those prime sponsors and Governors, where they are the prime sponsors, that we do not want the public schools given this kind of treatment in terms of opportunities, in terms of allowable employment opportunities, then there would be no need for this amendment.

I ask either the ranking Republican or the floor manager this question: Is it the intent of the Senate that prime sponsors work with local education agencies in creating public service jobs?

Mr. JAVITS. If the Senator will yield to me, it has always been my thought that prime sponsors would work at public education agencies in respect of public service jobs.

We must remember that not every local school district has a need, or the greatest need, for any of these jobs. Nonetheless as a prime sponsor, and within our concept of local governmental responsibility in that regard, I would certainly expect that they would work closely in the public school area.

I hope very much that the Senator does not intend by this amendment this rigidity which would deal with one-third of the jobs. The danger there always is that they get frozen, and even if not used, they are taken out of the mainstream, which I know the Senator would not wish to see done.

But I agree with the Senator that we should zero in on the possibilities which the schools offer.

Of course, the Senator has most creatively worked with me and Senator HUMPHREY, Senator McCURE, Senator BELLMON, and others, to include a very firm concept to this effect in the youth employment bill which we will, hopefully, deal with tomorrow.

So that I would certainly state unequivocally that we expect prime sponsors, as far as I am concerned, to be knowledgeable about and work with their local school district in order to see the public service jobs are as available to them as to anyone else, indeed, even more than anyone else, to facilitate the problems which are inherent in youth in respect of employment and jobs.

I am very sympathetic to the idea and, certainly, as it is refined and developed, we will confer in an affirmative way with our colleague to see if there is any appropriate specific provision that should be written in.

Mr. DOMENICI. I thank the Senator from New York.

I ask the manager of the bill, the Senator from Wisconsin, did the Senator hear my question and the concern I have as to the present status and could he

give me his views on where we should be going with this legislation in terms of our public schools?

Mr. NELSON. I think the prime sponsors should work together with local educational agencies. I agree with the general concept expected by the distinguished senior Senator from New Mexico.

As a matter of fact, as he well knows, only about 12 percent nationally of these funds have gone to educational agencies. I am happy to say that in Wisconsin they advise us that 20 percent have gone to educational agencies.

I am of the view that a larger percentage should be directed toward the local educational agencies, although I am not prepared to say I would want to earmark a specific mandatory percentage. But I do agree that more funds should be used to provide jobs with educational agencies.

I think it might be helpful to the Senator's cause if he sent a little copy of the dialog out to some prime sponsors, to indicate it would be better if they sat down and looked over the opportunities, rather than have a big push for some mandatory figure.

Mr. President, I ask unanimous consent that the excerpts from the committee report (S. Rept. No. 95-174) be printed at this point in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

#### LOCAL EDUCATIONAL AGENCIES

During the hearings, testimony was received urging that prime sponsors should make substantially greater use of local educational agencies as employing agencies to provide work for unemployed individuals, both with respect to educational and non-educational jobs in the school systems. The 1976 Amendments specifically included local educational agencies in the definition of project applicants, for the purpose of carrying out public service employment projects. In view of the fact that the Economic Stimulus Appropriations Act of 1977 has just been enacted, the Committee will in its oversight function carefully review the extent to which prime sponsors accept project applications from local educational agencies in the coming year.

Mr. NELSON. This is a 1-year extension, as the Senator knows. We took notice on page 25 of the committee report, to the testimony respecting allocations to local educational agencies. We were referring to the testimony that was given to the subcommittee by the Senator from New Mexico.

We state, in the committee report that the committee will, in its oversight function next year, carefully review the extent to which the prime sponsors accept project applications from local educational agencies in the coming year.

We did not try to mandate any specific allocations for local educational agencies since we were dealing with a 1-year extension. The hope and expectation has been that there would not be any amendments and we would review this issue and other suggestions for changes in CETA in our oversight hearings in the next year.

Mr. JAVITS. If the Senator will yield for one further observation, I assume he

is clear that when we speak of local educational agencies, we mean public as well as private, nonprofits, too.

There are an enormous number of young people who go to schools which are not public schools.

Mr. DOMENICI. Yes, indeed.

I do want to say to the Senator from New York, I sense in his response to me that he sees some relationship between the student population that he keeps speaking to and these public service jobs that I am referring to.

Now, there may or may not be.

Mr. JAVITS. That is correct.

Mr. DOMENICI. I am talking about the nonstudents we are hiring in cities and, if they hire 5,000, most of them are going to work for the city.

The purpose of my discussion is to make sure somebody says what the needs are of the schools in that area for the same type of work the city is putting them to.

Mr. JAVITS. I understand.

Mr. DOMENICI. It is in this context, I offered the amendment.

Mr. JAVITS. I understand.

Mr. DOMENICI. Let me ask the manager of the bill as to his suggestion that perhaps some prime sponsors ought to become familiar with the dialog and the nature of the amendment so that it might have an impact on their working with the public schools.

I wonder if I might consider, in lieu of my amendment, some language—and I think I can draw it out quickly—which would sort of be in the nature of a resolution asking the Secretary of Labor to encourage the prime sponsors to give more consideration and to take into the process of allocation the needs of local public schools, just by way of a resolution that the Secretary of Labor shall, because I think if it came down from him, I say to my good friend, the manager of the bill, because he thought we were serious about it, it might get a better national kind of participation by the prime sponsors.

Would there be any objection to that kind of resolution?

Mr. JAVITS. If the Senator will yield to me, our problem is that we have talked with a number of Members about not amending this particular extension today. We will have a youth bill up tomorrow. It, too, can take amendments to CETA. If the Senator feels he wants a sense-of-Congress resolution on this score, it will give him a chance to do so and give us a chance to consider it.

But I would hope very much we could just strip this of anything but a 1-year extension, it is extremely important, there is a lot at stake, and move it right over to the House and get the approval.

Mr. DOMENICI. I thank the Senator from New York and the manager of the bill.

With their expressions of concern and responses to my question, Mr. President, I withdraw my amendment.

Mr. JAVITS. I thank the Senator very much.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. NELSON. Mr. President, I have



no amendment, and I am not aware of any further amendment.

Mr. DOMENICI. I have another amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

UP AMENDMENT NO. 327

Mr. DOMENICI. I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes unprinted amendment No. 327.

The PRESIDING OFFICER. Does the Senator ask unanimous consent to dispense with the reading of the amendment?

Mr. DOMENICI. If I did not, I do it at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

DEMONSTRATION GRANTS FOR IMPROVED PROGRAM MANAGEMENT

SEC. 6. Part B of title III of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following new section:

"IMPROVED PROGRAM MANAGEMENT DEMONSTRATION GRANTS

"SEC. 316. The Secretary is authorized to make grants to prime sponsors and to State and local public agencies particularly educational agencies and institutions, for the purpose of consolidating the management of programs and coordinating the services available to individuals participating in programs, assisted under this Act. In making grants under this section the Secretary shall give special consideration to demonstration projects involving programs assisted under this Act and other federally assisted programs of a similar character, including vocational education, employment services, social services, vocational rehabilitation, and special programs for youth and for the elderly."

Mr. DOMENICI. When the Comprehensive Employment and Training Act was passed in 1973, it consolidated a number of manpower programs and decentralized administration through the creation of prime sponsors. I am a strong supporter of this concept. In fact, prior to CETA, a demonstration project to see how such a concept would work was created in Albuquerque, N. Mex., while I was mayor. The successful New Mexico experiment was an important factor leading to the CETA legislation.

While the consolidation of manpower services in CETA has improved the effectiveness of manpower programs, many States and localities are restrained from further coordination of services to individuals because of divisions in administrative responsibilities for various types of social services which are available to the same or overlapping population.

These divisions are brought about by both State and Federal law regarding administrative jurisdiction in these social programs. A number of States including New Mexico, are taking steps to coordinate delivery of services to overlapping clientele. In the same spirit of providing more efficient and effective

services that prompted the original CETA demonstration project, a number of State agency heads in New Mexico are exploring a unified approach to the provision of allied services. Programs which often serve overlapping clients include CETA, employment services, vocational education, social services, vocational rehabilitation, and special programs for older Americans and youths. It is my understanding that such dialogs are in the formative stages in a number of local jurisdictions around the country and in a few other States.

I am hopeful that movement in this direction can be escalated by provision from the Federal level for demonstration projects which encourage coordination of service delivery and allow whatever modification in the Federal law and regulations that is necessary to achieve such ends.

Demonstration or pilot projects of this nature are of particular importance in light of the welfare reform issue. Training, job placement, public service employment, and social services for those in need should be an integral part of welfare reform.

The amendment that I am offering to the CETA extension will direct the Secretary of Labor to fund such demonstration projects from discretionary funds provided in title III of CETA. I believe such action should be taken at this time.

Mr. President, I want to speak about this amendment for a few moments, and I understand the Senator from New York has a very serious time problem. He is aware of what I am talking about in my amendment and in my statement, so let me just ask him a question.

Does the Secretary of Labor, in the Senator's opinion, now have authority to fund a demonstration project under title III that would permit various overlapping manpower training programs with overlapping clientele—such as the employment services, vocational education, vocational rehabilitation, the Older Persons Act—does the Secretary have jurisdiction to permit and fund a demonstration project that would bring those closer together in administration and simplify the management of these various kinds of manpower training approaches?

Mr. JAVITS. He does, and he has this authority under title III of the CETA measure. The authority is contained in subsection (b) of section 311, part B research, training, and evaluation, and it gives the Secretary broad authority as follows:

(b) The Secretary shall establish a program of experimental, developmental, demonstration, and pilot projects, through grants to or contracts with public or private non-profit organizations, or through contracts with other private organizations, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting the manpower, employment, and training problems, and so on.

Also, under subsection (c):

(c) The Secretary is authorized to conduct, either directly or by way of contract, grant, or other arrangement, a thorough evaluation of all programs and activities conducted pursuant to this Act to determine the effectiveness of such programs and activities

in meeting the special needs of disadvantaged, chronically unemployed, and low-income persons for meaningful employment opportunities and supportive services to continue or resume their education and employment and to become more responsible and productive citizens.

Mr. President, I state that CETA is so closely related to other employment services, vocational education, social services, vocational rehabilitation that an effort to deal with overlapping in those programs and to coordinate them more effectively comes expressly, in my opinion, within the provisions of subsections (b) and (c) of section 311 of the CETA law in which the Secretary has broad authority for contracts for the purpose of development, demonstration, and pilot projects.

Mr. DOMENICI. I would then just ask the Senator, with that authority being there, would it be the view of the Senator from New York that if the Secretary of Labor finds areas where this could benefit their approach to manpower training, and if he was requested by local government, would it be the Senator's thought that he ought to encourage and help with those kinds of demonstration projects to improve coordination and administration?

Mr. JAVITS. I cannot commit the Secretary of Labor to particular parts of demonstration projects, but I certainly concur with the Senator that this is a most desirable way of using his authority respecting developmental experiments and pilot projects.

Mr. DOMENICI. I thank the Senator from New York.

My amendment would just merely have directed the Secretary of Labor to use such funds for the kind of demonstration projects I have described here and in my prepared remarks.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 328

Mr. NELSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) proposes unprinted amendment No. 328.

Mr. NELSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all from page 2, line 13, through page 6, line 8.

Mr. NELSON. Mr. President, the purpose of this amendment is to strike out of the CETA extension bill all of the provisions other than the simple extension of the CETA authorization.

The members of the House Education and Labor Committee believe that we can avoid a conference on the simple extension if it contains no other provisions.

When the youth employment bill (S. 1242) is brought before the Senate,

the language I am now proposing to strike will be included in that bill, and will go to conference with the House on that legislation.

Those provisions are as follows:

As section 4 of the committee-reported bill providing that the Secretary of Labor shall take appropriate steps to increase participation in training and job opportunities under CETA Vietnam-era veterans under 27 years of age and for disabled veterans; and section 5 of the committee-reported bill providing that, in filling teaching positions in elementary and secondary schools with financial assistance under title II or title VI of CETA, each prime sponsor shall give special consideration to unemployed persons with previous teaching experience who are certified by the State and who are otherwise eligible under CETA.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. NELSON. Yes, I yield.

Mr. JAVITS. I am well aware of this amendment, and I think it is what we should do. But I was not prepared to agree to it until I was convinced that in the conference with the other body—which must ensue on the youth employment bill, as there are many points which we will have to settle—there will not be any effort to deal with the two propositions which are taken out of this bill by the amendment—to wit, the consideration of unemployed veterans and the problems of teacher replacements, on any basis of a quid pro quo for other aspects of the youth employment bill. The conference negotiations will be conducted upon these two items strictly on their own, without any unilateral reference to other elements of the youth employment bill, and it is on that basis that I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

Mr. NELSON. Mr. President, I have no further amendments.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

Mr. MUSKIE. Mr. President, the Comprehensive Employment and Training Act provides job training and employment opportunities for economically disadvantaged, unemployed, and underemployed persons through a decentralized system of Federal, State, and local programs. Titles II and VI provide for public service employment jobs administered by prime sponsors at the State and local level. While title II was originally intended to counter structural unemployment and title VI cyclical unemployment, new participant targeting and projects criteria added to title VI cause it to be more focused on the structurally unemployed.

Titles I, III, and IV provide some direct employment but mostly training slots. While title I allows maximum local discretion through the prime sponsor system, titles III and IV allow the Secretary of Labor to directly attack those employ-

ment problems best administered on a national level such as youth unemployment.

Public service jobs funded under CETA titles II and VI are of special interest to the Budget Committee. The committee's responsibilities to set forth macroeconomic targets and recommend budgetary strategies to reach them include a responsibility to provide adequate overall stimulus and to target job spending on people who are unlikely to benefit from more general approaches to stimulation of the economy. The targeting provisions in both CETA titles II and VI are the major Federal vehicles to insure direct job creation in those jurisdictions with high concentrations of the unemployed.

As originally enacted, title VI was intended as a response to the employment needs of those who are temporarily unemployed because of the recession. Targeting provisions since included deemphasize the original countercyclical purpose and tend to focus the program increasingly on the structurally unemployed. Projections of economic activity suggest that, even at full employment, as much as 5.5 percent of the labor force will remain out of work due to imbalances in the labor market. Because the economy would be operating at full capacity at that time, general stimulus would increase jobs only at the cost of rapid price increases. Accordingly, a targeted public service jobs program is the least inflationary and least costly means for responding to the structural unemployment problem.

Public service jobs such as those funded under CETA title VI are also of interest to the budget committee because they tend to target on current recipients of Federal transfer payments such as unemployment benefits, food stamps, and welfare payments. As much as 42 percent of the cost of public service jobs may be covered through savings in income transfers and revenue increases. The relationship between targeted public service jobs and transfer programs will be especially important as Congress begins to consider strategies to provide work for employable people who are current recipients of unemployment benefits and welfare payments.

CETA title VI is the obvious model for any program that might be enacted as a work component of welfare reform. The President is now considering proposals to forge such a link between jobs and welfare programs.

Jobs funded under titles II and VI of CETA are an integral part of the economic stimulus appropriation, representing almost half of the total spending passed in that appropriations bill. According to the Congressional Budget Office CETA will provide the quickest and greatest increase in jobs for the least net budget cost of any of the various job creation strategies available to the Congress. According to the Department of Labor the jobs funded in the economic stimulus appropriation will be created at a rate of at least 60,000 per month. That means at least 100,000 new jobs by the end of June. The Budget Committee assumed sufficient forward funding in its third budget resolution to accommodate

the 725,000 jobs funded in 1977 appropriations.

In the first resolution for fiscal year 1978, Congress has assumed forward funding of \$3.8 billion for public service jobs in fiscal 1979 to facilitate program management at the local level through a more certain funding pattern than has been the experience in the past. The total budget authority assumed for all CETA programs in the 1978 resolution is \$7.9 billion. Any appropriations action over that level will, of course, put pressure on other programs in the education, training, employment, and social services budget category.

Mr. President, the CETA program is an important part of congressional budget policy and I will vote in favor of this authorization.

Mr. RIEGLE. Mr. President, I rise in support of both S. 1242, the Youth Employment and Training Act of 1977, and H.R. 2992, the Comprehensive Employment and Training Act Amendments of 1977. As our Nation struggles to recover from the effects of the most devastating recession since the 1930's, we desperately need employment and training programs to help restore a healthy job climate for all members of our national labor force.

As a member of the Human Resources Committee's Subcommittee on Employment, Poverty, and Migratory Labor, I have been deeply concerned with the need for both these bills. The national unemployment rate for April was 6.9 percent; although this rate reflects a substantial drop in unemployment over recent months, the continuing high joblessness illustrates the need for an expanded national commitment to develop good jobs for all our citizens. CETA programs have in the past shown considerable potential for expanding job opportunities for many; they must be continued to find jobs for the millions of other unemployed Americans.

For teenagers, the situation is even worse. With 16.9 percent of the teenage labor force unable to find jobs, youth unemployment has reached the level of a national tragedy. Although these two bills are by no means the solution to the unemployment problem, they are essential if we are to try to restore economic health to the United States. I urge all my colleagues to join in support of these bills to help confront the continuing crisis in our labor market today.

Mr. CULVER. Mr. President, I support the pending legislation, H.R. 2992, authorizing fiscal year 1978 appropriations for the Comprehensive Employment and Training Act of 1973.

This act has provided a number of vital services to communities in Iowa. One section of the bill highly praised by Iowans is the Summer Youth Employment program for Economically Disadvantaged Youths funded under title III-A of CETA.

Funds under this title have provided short-term summer jobs for 5,200 economically disadvantaged youths—aged 14 to 21—in 87 Iowa counties and 880,100 disadvantaged youths across the country. Participants in 1976 provided useful community service as school library and school maintenance workers, nurse



aides, typists, cashiers, clerks, and nutrition and day-care assistants.

Mr. President, the summer youth employment program goes beyond merely providing part-time jobs for youths to obtain quick spending money. The main purpose of the program is to introduce youths to the world of work, an employer-employee relationship and provide guidance in career selection.

As chairman of the Senate Judiciary Subcommittee to Investigate Juvenile Delinquency, I am especially pleased by the attention summer youth employment pays to juvenile offenders.

Procedures have been established to insure that eligible offenders are provided with drug dependency rehabilitation, health care, as well as attempting to divert youths accused of nonviolent crimes from the criminal justice system into employment and training programs.

Reports indicate that participants in the program show a better grasp of self-awareness and a renewed interest in education, thereby eliminating decreasing numbers of school dropouts.

Mr. President, expanding job opportunities for the less fortunate youths of this Nation is essential. I believe that the summer youth employment program is an integral and important part of providing this expansion.

Mr. WILLIAMS. Mr. President, I strongly support passage of the 1-year extension of CETA authorized in H.R. 2992.

The CETA system has been laboring since its inception in 1974 under difficult conditions, most of which derive from the worst economic recession in 40 years. The system was in its formative stages when the recession struck. Congress transferred a tremendous responsibility onto the local prime sponsors at a time when numbers of unemployed workers were growing rapidly.

Congress has acted to reinforce the ability of local administrators to provide necessary services through CETA, and to minimize any abuses that were brought on by local governments' budget problems. We have authorized additional funds for administrative purposes. We have provided special countercyclical revenue-sharing funds for the explicit purpose of helping local treasuries weather the recession. We have directed that new jobs be developed in worthwhile community projects, employing only the long-term unemployed. Now in its fourth year, the system is proving its potential for delivering essential services and aid to the Nation's recovery program.

Part of the temptation to misjudge the worth of CETA arises when it is viewed as simply a jobs program. It is much more. It provides training, education, skill development, counseling, job search, work experience, and otherwise foreclosed opportunities to the jobless. These activities are vital to the millions of unskilled and low-skilled men and women, particularly young men and women, who are searching for a meaningful place in society.

The Committee on Human Resources has developed a new title VIII under CETA specifically designed to meet the complex structural difficulties youth

face in the job market. This title when combined with other initiatives, such as expanding the opportunities for public service jobs, provides a sound program to stimulate economic recovery.

This 1-year extension of CETA will permit greater strides to be made against persistent unemployment. It will carry forward the new youth employment and training, skill development, apprenticeship, and other programs provided for in the Economic Stimulus Appropriations Act.

It will provide the necessary time to make a comprehensive review of the system, to examine its role in a national manpower policy, and to make the needed changes that surface with experience.

A fully coordinated manpower policy is something we have never achieved. It is an extremely complex and confounding challenge with issues involving the careful coordination of education, welfare reform, employment discrimination, full employment, wage standards, and wholesome working conditions. In my view, an important part of the framework is being built in the CETA system.

The provisions of H.R. 2992, as amended by the Committee on Human Resources, embody more than a simple extension, however. The act, as originally enacted, contains authority for forward-funding and advance funding in a fiscal year for activities to be carried out in the following fiscal year. It was under this authority that the Congress provided nearly \$8 billion earlier this year for a dramatic expansion of the public service employment programs under CETA, to be carried through the end of fiscal 1978.

The 1-year extension in H.R. 2992 establishes legal authority for repeating this forward-funding option in fiscal 1978 appropriations bills, with the funds to be spent in fiscal 1979. I believe it would be wise to do so at a program level that is yet to be determined.

During the expansion period for public service jobs—a period that has just begun—we shall learn something about the optimum level of the program, and what we learn will help Congress decide in the months ahead how much to appropriate for public service employment in fiscal 1979.

The first concurrent resolution on the Budget assumes the appropriation of \$3.8 billion for this purpose. This may well prove to be an accurate estimate of the optimum scope of public service employment in a year that begins 16 months from now. But I believe Congress will want to reassess this question later this year, or early next, after the build-up has occurred. We on the Committee on Human Resources will be monitoring the expansion and preparing a recommendation as to the appropriate amount of forward-funding that should be appropriated for public service employment during fiscal 1978 for providing jobs in fiscal 1979 to those who can find no other work.

Mr. President, the continued success of CETA is essential during this crucial period. Millions of America's unemployed are relying on our support for this bill. With the 1-year extension, we can face the challenge of developing the best possible program in the context of a more

comprehensive manpower policy. I look forward to meeting this challenge.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed for a third reading and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The question is: Shall the bill pass?

The bill (H.R. 2992), as amended, was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### ORDER OF BUSINESS

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. RIEGLE). Without objection, it is so ordered.

#### YOUTH EMPLOYMENT AND TRAINING ACT OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 146, S. 1242.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1242) to provide employment and training opportunities for youth.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Human Resources with an amendment in the nature of a substitute.

Mr. NELSON. Mr. President, the Youth Employment and Training Act of 1977 S. 1242 now pending before the Senate, was ordered reported by a unanimously favorable rollcall vote of the Human Resources Committee. This is the committee-reported version of the measure submitted to Congress by the administration on April 6, which I introduced on that date.

Mr. President, I ask unanimous consent that the names of the Senator from Oklahoma (Mr. BELLMON) and the Senator from Maryland (Mr. MATHIAS) be added as cosponsors of S. 1242, the Youth Employment and Training Act of 1977.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Cosponsors who joined me in introducing the bill were Senators JAVITS, WILLIAMS, CRANSTON, HUMPHREY, JACKSON, KENNEDY, RANDOLPH, STAFFORD, HATHAWAY, RIEGLE, CHAFFEE, HATCH,

DOMENICI, METZENBAUM, BELLMON, and MATHIAS.

The Youth Employment and Training Act of 1977 would add a new title VIII to the Comprehensive Employment and Training Act of 1973. Such sums as may be necessary would be authorized to be appropriated to carry out the new title. Actual funds available for the programs authorized by this legislation will be decided in the appropriations process. President Carter's budget request of \$1 billion in fiscal year 1977 was included in the Economic Stimulus Appropriations Act—Public Law 95-29—and he included an additional \$500 million for youth employment programs in his fiscal year 1978 budget requests. Therefore, the total contemplated by the administration for the youth employment and training programs under this legislation is \$1.5 billion through September 30, 1978, estimated to provide a total of 203,000 employment and training opportunities.

Part A of the proposed new title VIII creates a National Young Adult Conservation Corps to provide work for unemployed youths in the Nation's parks and forests. The Corps would be administered by the Secretary of Labor through interagency agreements with the Secretaries of the Interior and Agriculture. The administration's budget for activities authorized by part A is \$350 million, to provide about 35,000 jobs over the next 18 months.

Part B authorizes "Youth Community Conservation and Improvement Projects," to put unemployed youths to work on the rehabilitation or improvement of public facilities, neighborhood improvements, weatherization and basic repairs to low-income housing, and conservation, maintenance, or restoration of natural resources on non-Federal public lands. The administration's budget for activities authorized by Part B is \$300 million, to provide about 30,000 jobs over the next 18 months.

Part C authorizes support for a broad variety of employment and training programs designed to enhance job prospects and career opportunities for young persons, including activities involving useful work experience opportunities in community betterment, and appropriate training and services such as outreach, counseling, occupational information, institutional and on-the-job training, and transportation assistance. The administration's budget for activities authorized by part C is \$900 million, to provide about 138,000 employment and training opportunities over the next 18 months.

The Subcommittee on Employment, Poverty, and Migratory Labor held 3 days of hearings on youth employment and training legislation on April 20, 21, and 22. Witnesses included Secretary of Labor Ray Marshall, Undersecretary of the Interior James Joseph, Assistant Secretary of Agriculture Rupert Cutler, Assistant Secretary of Health, Education, and Welfare Mary Berry, ACTION Director Sam Brown, as well as State and local officials and witnesses from interested organizations and the general public.

#### PART A.—NATIONAL YOUNG ADULT CONSERVATION CORPS

Part A of the new title VIII would create a National Young Adult Conservation Corps designed to provide youths ages 16 to 23, inclusive, with opportunities to perform useful work in the Nation's parks and forests. The Secretary of Labor would administer the Corps through interagency agreements with the Secretaries of the Interior and Agriculture.

The Secretary of Labor would be responsible for making arrangements to refer candidates for the Corps from the public employment services, CETA prime sponsors, and other appropriate agencies.

The committee-reported bill requires the Secretary of Labor to undertake to assure that, in referring eligible youths for the Corps, an equitable proportion of candidates shall be referred from each State, with no less than one-half of 1 percent from any one State. Within each State, preference shall be given to enrollees in both rural and urban areas with substantial youth unemployment. The maximum period for which individuals could be enrolled in the Corps would be one continuous 12-month period, or for 3 or fewer periods which total 12 months.

Youths are eligible to participate in the Young Adult Conservation Corps if they are unemployed, whether or not they are from disadvantaged backgrounds. It is the committee's intent that the requirement that eligible youths be unemployed could still be met if a youth has a limited amount of part-time employment.

The Secretaries of the Interior and of Agriculture would be responsible for the management of the centers on public lands and waters under their respective jurisdictions.

At least 30 percent of the funds will be earmarked for State and local programs and special projects in State and local parks and forests. Corps members would be used in forest management and protection, wildlife management, range management, constructing and maintaining recreation trails and facilities, boundary marking and fencing projects, grounds maintenance, erosion control, drought damage and other natural disaster repair, and other conservation measures.

#### PART B.—YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS

Part B of the new title VIII authorizes support for Youth Community Conservation and Improvement Projects. Under this part, the Secretary of Labor would provide funds to employ unemployed youths ages 16 to 19, inclusive, on community improvement projects, to perform work which would not otherwise be carried out, including the rehabilitation or improvement of public facilities, neighborhood improvements, weatherization and basic repairs to low-income housing, and conservation, maintenance, or restoration of natural resources on non-Federal public lands.

Projects would be carried out by State

and local governments and public or private nonprofit agencies submitting project applications to prime sponsors under the Comprehensive Employment and Training Act. The Secretary of Labor would make allocations of the funds on a statewide level so that not less than 75 percent of the funds would be allocated in accordance with each State's relative numbers of unemployed persons as compared to the total number of unemployed persons in the entire Nation, but no State would receive less than one-half of 1 percent of the funds available for this part. The remainder would be allocated at the discretion of the Secretary of Labor, except that 2½ percent would be reserved for Native American youth programs and 2½ percent for migrant youth programs.

Each prime sponsor would submit to the Secretary of Labor, for final selection of projects to be approved, those project applications it approves as well as all those approved by program agents in the area it serves. Program agents are units of general local government serving populations of 50,000 or more within a prime sponsorship area.

Project applications would go through the prime sponsor and would be reviewed by the prime sponsor's planning council for its recommendations. The prime sponsor would indicate the priority it attaches to each project application. Final approval of project applications submitted under part B would be made by the Secretary of Labor.

The goal of part B is to provide constructive work for youths ages 16 to 19 on projects having lasting and beneficial community impact. The program is designed to provide jobs and early work experience for youngsters still in school, as well as drop-outs and recent high school graduates.

Young people in this age bracket face the prospect of being the very last group in our society to be hired. Even if unemployment were reduced to under four percent, the prospect is that youngsters between 16 and 19 would still have a tragically high unemployment rate.

Activities funded under this program can be used to help restore community facilities in both urban and rural communities. Part B projects can also assist in repair work on houses for low-income families. There are urgent needs in every community to weatherize housing for low-income persons, including the elderly. Maximum flexibility is given each local community to select projects that will respond to individual community needs at the same time that they produce jobs.

To assure that these are useful projects, and not make-work activities, the funds can be used for equipment and supplies necessary to perform the work, as well as materials used in the project. Applicants are encouraged to use other programs and funds to supplement and provide materials; but, where this is not possible, needed materials would be funded under the program.

Section 851(j) of the new title VIII provides with respect to rates of pay



under parts B and C that, in the case of projects to which Davis-Bacon provisions otherwise apply, the Secretary of Labor is authorized, for projects of under \$5,000, to prescribe rates of pay for youth participants which are not less than the applicable minimum wage but not more than the wage rate of the entering apprentice in the most nearly comparable apprenticeable trade, and to prescribe the appropriate ratio of journeymen to such participating youths.

Since this authority applies to projects under \$5,000, it is important to note that the use of the word "project" in this context does not refer to the applicant's entire program but refers to each of the separate distinct activities that make up the total plan.

**PART C—COMPREHENSIVE YOUTH EMPLOYMENT AND TRAINING PROGRAMS**

Part C of the proposed new title VIII would authorize funds for a broad variety of employment and training programs designed to enhance the job prospects and career opportunities of young persons. Eligible youths would include youths ages 16 to 21, inclusive, but the Secretary would be authorized to prescribe regulations permitting youths to participate at ages 14 and 15 as well as those who are ages 22 and 23.

In addition to useful work experience opportunities in community betterment activities, part C would support appropriate training and services such as outreach, counseling, occupational information, institutional and on-the-job training, and transportation assistance.

While the National Young Adult Conservation Corps under part A and community improvement projects under part B would be open to both disadvantaged and nondisadvantaged youths, eligible participants for comprehensive employment and training programs under part C must be persons who are not members of families whose family incomes exceed 70 percent of the Bureau of Labor Statistics lower living standard budget, except that the Secretary would be authorized to permit limited participation by youths above that income level in supportive services and training activities in accordance with guidelines established by regulation.

Under the proposed legislation as reported by the committee, 75 percent of the total funds available for part C would be allocated to the States and to prime sponsors to be used as follows: First, 10 percent of the total funds available for part C would be made available for special statewide youth services;

Second, 15 percent of the total funds available for part C would be made available for programs for in-school youth pursuant to agreements between prime sponsors and local educational agencies; and third, 50 percent of the total funds available for part C would be made available for the use of prime sponsors for any of the youth employment and training activities or services described in section 832.

For each of the purposes described in the preceding paragraph, funds would be allocated among the States under the following formula: 37.5 percent in ac-

cordance with each State's share of the total number of unemployed persons in the Nation, 37.5 percent in accordance with each State's share of the total number of unemployed persons in areas having 6.5 percent or higher unemployment rates—title II CETA areas—in the Nation, and 25 percent would be allocated in accordance with each State's share of the total number of individuals in low-income families in the Nation.

In the case of those States where such formula would otherwise provide less funding, a minimum of one-half of 1 percent of the funds so allocated would be guaranteed to each State.

The 10-percent reservation of funds for special statewide youth services would be allocated only to the State level. But the reservation of 15 percent of part C funds for in-school programs, as well as the 50 percent which is allocated for use at the discretion of each prime sponsor, would be allocated, out of the statewide allocation, to the prime sponsorship level in accordance with the same three factors used in making allocations to the State level.

The remaining 25 percent of part C funds would be used as follows: 2½ percent would go for Native American youth programs, 2½ percent for programs for youths in migrant and seasonal farm-worker families, 10 percent would go for discretionary grants to prime sponsors by the Secretary of Labor, and the remaining 10 percent would be available for any public or private nonprofit agencies—including transfer of funds to other Federal departments and agencies.

Part C authorizes funds to enable sponsors to provide any of a broad variety of activities and services aimed at enhancing employment opportunities for youth.

In the 16 to 23 age bracket, most youths are just beginning the transition from their school years to their working years. One of the greatest needs is for work experience, and most youth employment and training programs are expected to have a substantial work experience component.

Work experience programs generally consist of subsidized employment with public agencies and with private nonprofit agencies. In contrast to transitional public service employment, the work situations are temporary and are not necessarily expected to result in unsubsidized employment for the participants. The purpose of such employment is to provide the participants with experience on a job, to develop occupational skills and good work habits, and to expose them to various occupational opportunities.

Short-term employment is the main component of a youth work experience program. Employment may be provided in part-time or full-time jobs.

A work experience program is not necessarily intended to make enrollees ready for a specific job upon completion. Where the program's principal goal is a general exposure to the world of work or simply to provide youths with income until they return to school, training might be limited to the basics. Where the goal is instead to assist out-of-

school youths who may not return to school, more extensive training may be provided, either classroom training in a vocational institution or specialized on-the-job training for specific skills.

**COMMUNITY-BASED OPERATIONS**

A significant amendment added to the bill in the Human Resources Committee provides that Opportunities Industrialization Centers (OIC), the National Urban League, SER-Jobs for Progress, Mainstream, Community Action Agencies, union-related organizations, and other similar organizations, which have demonstrated effectiveness in the delivery of employment and training services, are to be given special consideration by prime sponsors and the Secretary in carrying out certain programs under part C of the bill.

First, prime sponsors receiving funds under section 833(b)(3) must give special consideration to community-based organizations in providing employment training, and supportive services.

Second, prime sponsors receiving discretionary funds from the Secretary for the conduct of experimental and innovative programs must give special consideration to community-based organizations in carrying out such programs.

Third, the Secretary must give special consideration to community-based organizations in carrying out his discretionary authority to fund innovative and experimental programs directly with public or private nonprofit agencies.

The committee believes these three provisions should insure an active and prominent role for community-based organizations in the delivery of comprehensive employment and training services to youths. Many prime sponsors currently utilize community-based organizations in carrying out programs under other titles of CETA.

According to the Employment and Training Report of the President (January 12, 1977), an estimated \$90 million in title I funds was provided to local community-based organizations by prime sponsors in fiscal year 1976. The local community-based organizations served about 110,000 persons, or approximately 6.4 percent of the 1,731,000 CETA participants served under title I.

In enacting a major new effort to enhance opportunities for youths to attain useful employment, the committee believed it important to add these new provisions requiring prime sponsors and the Secretary to give special consideration to community-based groups under part C of the new title VIII. The committee expects that prime sponsors and the Secretary will provide an increased role for the involvement of community-based organizations in the delivery of employment and training services for youths.

**PROGRAMS FOR IN-SCHOOL YOUTH**

Under the committee bill, 15 percent of the funds available for part C of the net title VIII are allocated to each prime sponsor to be used only for programs for in-school youth who are eligible participants under part C. These programs, which include employment opportunities and training and supportive services, are to be carried out pursuant to an agree-

ment between a prime sponsor and a local educational agency or agencies located within the prime sponsor's jurisdiction.

On the basis of these agreements, arrangements may be made with postsecondary institutions to serve eligible participants who are enrolled in junior or community colleges or technical or trade schools.

During the subcommittee hearings, Dean Seymour Wolfbein of Temple University testified as to the need for the kind of cooperative programs between prime sponsors and educational agencies. He stated:

The combination of work and study is one of the key elements of all successful youth programs, whether they are conducted under the aegis of Federal employment and training legislation or under regular academic context. These programs go by different names—work-study, cooperative, education, coupled training, etc. Their common denominator is the synchronized bringing together of classroom training and on-the-job experience.

These programs result in a number of major advantages to everyone concerned. They assure a connection, a series of transactions between the education and training constituencies and the employing institutions, so that both understand the problems and opportunities of each other. Classroom instruction becomes alive in being put to use in the real world for which academic credit can also be given. Students can also get a wide range of work done; they run the gauntlet of the actual job market and they get a chance to try out different fields of work. Employers also can be compensated for any extra costs entailed and they also get the chance to see a young person's work and even get first crack at employing that person when he or she is finishing with training.

#### NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

The committee bill includes authority for a transfer of not less than \$3 million and not more than \$5 million for discretionary funds under CETA to the National Occupational Information Coordinating Committee established under section 161 of the Vocational Education Act.

The National Occupational Information Coordinating Committee consists of the Assistant Secretary of Labor for Employment and Training, the Commissioner of the Bureau of Labor Statistics, the Administrator of the National Center for Education Statistics, and the Commissioner of Education. The purpose of the Committee is to improve coordination between vocational educators and manpower administrators, to develop a national occupational information system, and to assist the States in using the data acquired from the system.

An important purpose of the National Occupational Information Coordinating Committee is to assist States in the development of reliable occupational supply and demand data, so that education programs and employment and training programs can be based upon reasonable expectations of available career opportunities.

#### SPECIAL STATEWIDE YOUTH SERVICES

The committee bill provides that 10 percent of the part C funds shall be used for special statewide youth services.

Programs financed under this set-aside

should be coordinated at the State and local levels with other established programs for educating, training, counseling, and employing youth.

This set-aside is expected to be used for joint projects which will coordinate the efforts of the State education system, welfare system, employment service, rehabilitation and correction services, youth services, apprenticeship programs, Federal and State forest and park projects, and other employment and training activities within each State. The set-aside could be utilized, for example, to establish programs for youths in State foster care programs or to create programs conducted by several State agencies which would be geared to youth with special needs.

#### YOUTH COUNCILS

The committee bill contains a provision which requires that eligible applicants establish youth councils. These councils are to function as subcommittees of the prime sponsors' planning council established under title I of the act and are responsible for planning and reviewing activities under parts B and C and making recommendations for the planning of such activities.

The committee bill requires representation on the youth council by the local educational agency, local vocational education advisory council, junior and community colleges, business, unions, the public employment service, local government and nongovernment agencies and organizations which are involved in meeting the special needs of youths, the community served by the applicant, the prime sponsors' planning council, and youths themselves.

#### NEED FOR LEGISLATION

There is no more urgent problem facing this Nation than the problem of youth unemployment. For the past year and a half, there have been over 1.6 million jobless youths aged 16 to 19, an unemployment rate of close to 20 percent. There have been an additional 1.5 million jobless youths aged 20 to 24, for an unemployment rate in that age category of 11 or 12 percent. Minority teenage unemployment is close to 40 percent. Over the next 6 years, 4.3 million youths will reach the age of 21.

The problem of youth unemployment is not limited to this Nation. At the recent summit conference in Europe, the leaders of the industrialized nations of the Western world in their joint communique pledged to "promote the training of young people in order to build a skilled and flexible labor force so that they can be ready to take advantage of the upturn in economic activity as it develops."

Economic experts believe that the problems of youth unemployment are structural and will not disappear with improved general economic conditions alone.

That is why it is so important that Congress and the administration move together to attack the youth unemployment crisis.

Mr. President, I have a section-by-section analysis of the act. I ask unanimous consent that it be printed in the Record.

There being no objection, the analysis was ordered to be printed in the Record, as follows:

#### SECTION-BY-SECTION ANALYSIS

##### Section 1—Short Title

This section provides that the act may be cited by the short title: "Youth Employment and Training Act of 1977."

##### Section 2

This section amends the Comprehensive Employment and Training Act of 1973 by adding at the end thereof a new title VIII.

#### TITLE VIII—YOUTH EMPLOYMENT AND TRAINING

##### Section 800. Authorization of appropriations

This section authorizes the appropriation of such sums as may be necessary for fiscal year 1978 to carry out the provisions of the new title VIII.

#### PART A—NATIONAL YOUNG ADULT CONSERVATION CORPS

##### Section 801. Statement of purpose

This section sets forth the purpose of part A to establish a National Young Adult Conservation Corps to provide youth employment in conservation and other work on Federal and non-Federal public lands and waters.

##### Section 802. Establishment of National Young Adult Conservation Corps

This section provides for the establishment of a National Young Adult Conservation Corps to carry out projects on Federal or non-Federal public lands and waters. The Secretary of Labor is to administer this part through interagency agreements with the Secretaries of the Interior and Agriculture, who are to have responsibility for the management and program of each corps center.

##### Section 803. Selection of enrollees

Subsection (a) of this section provides that enrollees of the corps shall be selected by the Secretaries of the Interior and Agriculture only from candidates referred by the Secretary of Labor.

Subsection (b) provides that membership in the corps shall be limited to unemployed individuals who are 16 to 23 years old, inclusive;

Subsection (c) provides that the Secretary of Labor shall make arrangements for obtaining referral of candidates for the corps from the public employment service, prime sponsors and sponsors of Native American and migrant programs under the Act, the Secretaries of the Interior and Agriculture, and such other agencies and organizations as the Secretary of Labor deems appropriate. The Secretary of Labor shall undertake to have an equitable proportion of candidates referred from each State, with no less than one-half of 1 percent of the total number of referrals from any one State.

Subsection (d) provides that in referring candidates from each State, preference shall be given to rural and urban areas within the State which have substantial youth unemployment, including areas having unemployment rates of 6.5 or greater.

Subsection (e) provides that no individual may be employed in the corps for a total period of more than 12 months.

##### Section 804. Activities of the Corps

Subsection (a) of this section provides that, consistent with each interagency agreement, the Secretary of the Interior or Agriculture (as appropriate) shall determine the location of each residential or nonresidential campsite, in consultation with the Secretary of Labor. This subsection lists types of conservation and natural resource work which could be performed.

Subsection (b) provides that the Secretaries of the Interior and Agriculture shall undertake to assure that projects are consistent with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management



Act of 1976 (the renewable resource program), as well as such other standards as each Secretary shall prescribe consistent with the provisions of Federal law.

Subsection (c) provides that, to the maximum extent practicable, appropriate projects shall be highly labor intensive, be projects for which work plans can be readily developed, be able to be initiated promptly, be projects likely to have a lasting impact both as to the work performed and the benefit to the youths participating, provide work experience to participants in skill areas needed in work on projects, be located (if a practical program) where existing residential facilities are available, be similar to activities of persons employed in seasonal or part-time work for specified Interior and Agriculture Department agencies.

Subsection (d) provides that the Secretaries of the Interior and Agriculture may provide for such transportation, lodging, subsistence, medical treatment, and other appropriate services, supplies, equipment, and facilities. Wherever economically feasible, existing but unoccupied or underutilized Federal, State, and local government facilities, and equipment of all types (including military facilities and equipment) shall, where appropriate, be utilized for purposes of the Corps work camps with the approval of the Federal agency, State, or local government involved.

#### *Section 805. Conditions applicable to Corps members*

Subsection (a) of this section provides that members of the Corps shall not be deemed Federal employees except for purposes of compensation for work injuries, of the Federal Tort Claims Act, and title II of the Social Security Act.

Subsection (b) provides that the Secretary of Labor shall, in consultation with the Secretaries of the Interior and Agriculture, establish standards for rates of pay (which shall be at least the minimum wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act); for reasonable hours and conditions of employment; for safe and healthful working and living conditions.

Subsection (c) provides that Corps members shall be assigned to projects as near to their homes as practicable, to minimize transportation costs.

#### *Section 806. State and local programs and special projects*

Subsection (a) of this section provides that, consistent with inter-agency agreements with the Secretary of Labor, the Secretaries of the Interior and Agriculture may make grants or enter into arrangements to carry out projects under this part with any State agency or institution, any unit of general local government, any public agency or organization, or any private nonprofit agency or organization which has been in existence for at least 2 years.

Subsection (b) provides for reserving for projects under this part not less than 30 percent of the funds available for this part.

#### *PART B—YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS*

##### *Section 811. Statement of purpose*

This section sets forth the purpose of part B to establish a program of community conservation and improvement projects to provide work and training opportunities for eligible youths for a period not to exceed 12 months.

##### *Section 812. Definitions*

This section defines terms for purposes of part B:

(1) "eligible applicant" means prime sponsors and sponsors of Native American programs and migrant programs under the act;

(2) "project applicant" has the same meaning as in section 701(a)(15) of this act;

(3) "eligible youths" means unemployed individuals ages 16 to 19, inclusive;

(4) "community improvement projects" means projects providing work which would not otherwise be carried out, including rehabilitation or improvement of public facilities; neighborhood improvements; weatherization and basic repairs to low-income housing; and conservation, maintenance, or restoration of natural resources on publicly held lands other than Federal lands.

##### *Section 813. Allocation of funds*

Subsection (a) of this section provides that funds for part B shall be allocated so that not less than 75 percent shall be allocated among the States on the basis of the relative number of unemployed persons within each State as compared to all States. No State would be allocated less than one-half of 1 percent, and one-half of 1 percent would be allocated in the aggregate for Guam, the Virgin Islands, American Samoa, the Northern Marianas, and the Trust Territory of the Pacific Islands.

Subsection (b) provides that of the funds for part B, there would be made available 2½ percent for projects for Native American eligible youths for a period not to exceed 12 for eligible youths in migrant and seasonal farmworker families.

Subsection (c) provides that the remaining part B funds are to be allocated as the Secretary deems appropriate.

##### *Section 814. Community conservation and improvement youth employment program*

This section authorizes the Secretary of Labor to enter into agreements with eligible applicants to pay the costs of community improvement projects to be carried out by project applicants employing eligible youths and appropriate supervisory personnel.

##### *Section 815. Project applications*

Subsection (a) of this section provides that project applicants shall submit applications from funding of projects under part B to the appropriate eligible applicant.

Subsection (b) requires that project applications provide descriptions and assurances with respect to projects.

##### *Section 816. Project agreements*

Subsection (a) of this section provides that any eligible applicants desiring funding under part B shall submit a proposed agreement to the Secretary and shall make available to the Secretary all project applications approved by the eligible applicant and by any program agents in the area served by the eligible applicant.

Subsection (b) provides that the proposed agreement shall describe the method of recruiting youths and a description of job training and skill development opportunities.

Subsection (c) provides for review of all project applications by the prime sponsor's planning council prior to being submitted to the Secretary.

##### *Section 817. Approval of agreements*

Subsection (a) of this section provides that the Secretary may approve or deny on an individual basis any of the project applications submitted by an eligible applicant.

Subsection (b) provides that assurances must be satisfactory to the Secretary that programs will permit in-school youths to coordinate their jobs with classroom instruction and, to the extent feasible, to permit youths to receive credit from the appropriate educational agency, postsecondary institution, or particular school involved.

##### *Section 818. Work limitation*

This section provides that no eligible youth shall be employed for more than 12 months in work financed under this part, except as provided by the Secretary.

#### *PART C—COMPREHENSIVE YOUTH EMPLOYMENT AND TRAINING PROGRAMS*

##### *Section 831. Statement of purpose*

This section sets forth the purpose of part C to establish comprehensive programs to enhance the job prospects and career opportunities of young persons.

##### *Section 832. Programs authorized*

This section authorizes the Secretary to provide financial assistance to enable eligible applicants to provide employment opportunities and appropriate training and supportive services for eligible participants.

##### *Section 833. Allocation of funds*

Subsection (a) of this section provides that 75 percent of the funds available for part C shall be allocated in accordance with subsection (b).

Subsection (b) provides that 10 percent of total part C funds shall be made available to States for special statewide services under subsection (d), that 15 percent of total part C funds shall be made available to prime sponsors for in-school programs under subsection (e), and that 60 percent of total part C funds shall be available to prime sponsors for programs authorized by section 832.

Subsection (c) provides that amounts available for each of the purposes described in subsection (b) shall be allocated among the States so that 37.5 percent shall be allocated according to the relative number of unemployed persons in each State, 37.5 percent in accordance with the relative number of unemployed persons in areas having unemployment rates of 6.5 percent or greater, and 25 percent in accordance with the relative number of persons in low-income families. However, not less than one-half of 1 percent shall be allocated for each State, and not less than one-half of 1 percent in the aggregate for Guam, the Virgin Islands, American Samoa, the Northern Marianas, and the Trust Territory of the Pacific Islands. Amounts available to each of the programs in subsection (b), except statewide services, are to be allocated to the prime sponsors within each State, in accordance with the factors described in the preceding paragraph.

Subsection (d) sets forth a description of purposes for which a special statewide youth services plan may be used.

Subsection (e) provides that of the funds allocated to each prime sponsor in accordance with the provisions of subsection (c), not less than 15 percent shall be utilized for programs authorized under section 832 and carried out pursuant to agreements between prime sponsors and local education agencies.

Subsection (f) provides that prime sponsors, in utilizing funds available to them, shall give special consideration to community-based organizations, such as the Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, Mainstream, Community Action Agencies, union-related organizations, and other similar organizations which have demonstrated effectiveness in the delivery of employment and training services, in carrying out programs authorized under section 832.

Subsection (g) provides that the remaining 25 percent of part C funds shall be available so that 2½ percent shall be available for Native American youths, 2½ percent for youths in migrant and seasonal farmworker families, and the remaining 20 percent shall be available for innovative and experimental programs (Secretary's discretionary funds) under section 838.

##### *Section 834. Eligible applicants*

This section provides that eligible applicants for this part are prime sponsors, sponsors of Native American programs, and sponsors of migrant and seasonal farmworker families under the act.

*Section 835. Eligible participants*

Subsection (a) of this section provides that eligible participants for programs under part C shall be persons who are either unemployed or in school; who are ages 16 to 21 (inclusive), unless the Secretary by regulation, authorizes participation of 22 and 23 year-olds and 14 and 15 year-olds, and whose families have incomes at not more than 70 percent of the lower living standard income level.

Subsection (b) defines the term "lower living standard income level" as based on the "lower living standard budget" issued by the Bureau of Labor Statistics.

*Section 836. Conditions for receipt of financial assistance*

Subsection (a) of this section provides that the Secretary shall not provide financial assistance to an eligible applicant under section 832 unless it has provided a description of the program to be provided to eligible participants, has provided assurances of coordination with related agencies and organizations, and has provided assurances that effective means will be provided to enable participating youths to acquire job skills, education, and training. Paragraph (7) of this subsection provides that the funds available under section 833(c) shall be used to provide programs authorized under section 832 for in-school youth who are eligible participants; these programs shall be carried out pursuant to agreements between prime sponsors and local education agencies and through arrangements to be carried out by a local education agency or agencies, which may include a postsecondary educational institution or institutions.

Subsection (b) provides for establishing a youth council to make recommendations to the prime sponsor's planning council with respect to the planning and review of activities under part C and part B.

Subsection (c) provides that no work experience for in-school youth program shall be entered into unless an agreement has been made between the prime sponsors and a local education agency or agencies. Each agreement shall be administered, under contracts with the prime sponsor, by a local educational agency or agencies or a postsecondary educational institution or institutions. Certain assurances are required to be set forth in the agreement.

*Section 837. Review of plans by secretary*

This section provides that provisions in title I of the act with respect to the review of plans by the Secretary shall apply to programs and activities under section 832.

*Section 838. Innovative and experimental programs*

Subsection (a) of this section authorizes the Secretary of Labor to support innovative and experimental programs to test new approaches for dealing with the unemployment problems of youths.

Subsection (b) provides that one-half of the funds available under section 833(g) (2) (i.e., 10 percent of part C funds) shall be provided to prime sponsors and that eligible applicants receiving such assistance shall give special consideration to community-based organizations.

Subsection (c) provides that the remaining funds available under section 833(g) (2) (i.e., 10 percent of part C funds) shall be used to enable public and private agencies to carry out innovative and experimental programs for eligible participants. The Secretary shall give special consideration to community-based organizations. Funds under this subsection may be transferred to other Federal departments and agencies to carry out functions delegated to them pursuant to agreements with the Secretary of Labor.

Subsection (d) provides that, in carrying out its responsibilities under this subsection and under section 161 of the Vocational Education Act, the National Occupational Infor-

mation Coordinating Committee shall give special attention to the problems of unemployed youths. The subsection sets forth activities which the committee is expected to assist and encourage and provides that all funds available to the committee under CETA and under section 167 of the Vocational Education Act may be used by the committee to carry out any of its functions and responsibilities authorized by law.

*Section 839. Academic credit*

This section provides that, in carrying out part C, appropriate efforts shall be made to encourage the granting by the educational agency a school involved of academic credit to eligible participants who are in school.

*PART D—GENERAL PROVISIONS**Section 851. Special conditions*

This section sets forth maintenance of effort, labor standards, participant protections, and similar requirements.

*Section 852. Special provisions for parts B and C*

Subsection (a) of this section provides that appropriate efforts shall be made to insure that youth participating under parts B and C shall be youths experiencing handicaps in obtaining employment.

Subsection (b) of this section sets forth reallocation authority with respect to funds under parts B and C.

*Section 853. Education credit, counseling and placement services, and basic skills development*

Subsection (a) of this section provides that the Secretary of Labor shall work with the Department of Health, Education, and Welfare to make suitable arrangements with appropriate State and local education officials whereby academic credit may be awarded to participating youths.

Subsection (b) provides that all activities funded under this title shall provide appropriate counseling and placement services.

*Section 854. Evaluation*

This section provides that programs under this title shall be subject to continuing performance evaluation under section 313(a) of CETA.

*Section 855. Training and technical assistance*

This section provides that training and technical assistance may be provided to eligible applicants under parts B and C in accordance with section 315 of CETA.

*Section 856. Relation to other provisions*

This section provides that the provisions of title VII of CETA apply to this title, except to the extent any such provision may be inconsistent with the provisions of this title.

*Section 4. Transition Provision*

This section provides that the Secretary of Labor shall use funds available from appropriations under the Economic Stimulus Appropriations Act of 1977 for youth employment and training activities, to the maximum extent consistent with law, in such a manner as to be in accordance with the provisions of the new title VIII.

*Section 5. Transfer of Funds to National Occupational Information Coordinating Committee*

This section amends section 4(e) of CETA to provide that the Secretary of Labor shall transfer no less than \$3 million and no more than \$5 million of discretionary funds available to the Secretary under CETA in any fiscal year to the National Occupational Information Coordinating Committee, which has been established under section 161(b) of the Vocational Education Act of 1963.

*Section 6. Native American Programs*

This section amends section 302 of CETA to include eligibility for Hawaiian natives in addition to Indians and Alaskan natives, for

Native Americans employment and training programs under such section.

*Section 7. Waiver of Limitation on Funds for Titles III and IV*

This section provides that section 4(e) of CETA shall be deemed ineffective with respect to fiscal years 1977 and 1978.

*Section 8. Effective Date*

This section provides that the provisions of this legislation shall become effective upon enactment.

Mr. SCHWEIKER. Mr. President, I support S. 1242, the Youth Employment and Training Act of 1977. I believe enactment of this measure will be a major step toward reducing the staggering unemployment rate among this Nation's youth. Many Members of this body, particularly my distinguished colleagues from Wisconsin (Mr. NELSON) and New York (Mr. JAVITS), are to be commended for their clear recognition of the need to address the problem of youth unemployment and for their efforts in developing this legislation. I would like to comment in particular on the role of community-based organizations in the delivery of employment and training services under this bill.

During full Human Resources Committee consideration of S. 1242, I offered an amendment to add as an additional title to the bill a revised version of S. 175, the Opportunities Industrialization Centers Skills Training and National Community Based Organizations Job Creation and Employment Act of 1977. This amendment would have directed the Secretary of Labor to enter into contracts with OIC and with other national community-based organizations to provide jobs, training, and comprehensive employment services to unemployed individuals, especially unemployed youths.

There was considerable support for my amendment in the committee stemming from recognition of the great contributions community-based organizations have made to this Nation's efforts to combat unemployment. For example, OIC, during the period 1964-75 trained 353,485 individuals and placed 250,002 of them in unsubsidized employment. 212,500 of those placed were still on the job 6 months later. OIC's placement rate of 72 percent and retention rate of 85 percent testify to the quality of the services provided and to OIC's effectiveness in reaching the unemployed. Moreover, OIC is able to train and place one worker for an average cost of \$1,500. This cost is considerably less than the costs of training and placement under title I of CETA.

Despite the sentiment for establishing a special program of financial assistance for community-based organizations in order to encourage their growth and resolve some of the problems which have plagued them under CETA, such as fragmentation of services, some concern was expressed with regard to the categorical nature of the program contemplated by the amendment. The establishment of a categorical program would be a significant departure from the decategorization embodied in CETA.

In response to this concern a compromise was adopted by the committee. Under the final version of the amendment, community-based organizations



such as Opportunities Industrialization Centers, Inc.—OIC—the National Urban League, SER-Jobs for Progress, Mainstream, Community Action Agencies, union-related organizations, and other similar organizations which have demonstrated effectiveness in the delivery of employment and training services, are to be given special consideration by prime sponsors and the Secretary in carrying out certain programs under part C of the bill.

First, prime sponsors receiving funds under section 833(b)(3) must give special consideration to community-based organizations in providing employment, training, and supportive services authorized under section 832.

Second, eligible applicants receiving funds for the conduct of experimental and innovative programs under section 838(b) must give special consideration to community-based organizations in carrying out such programs.

Third, the Secretary must give special consideration to community-based organizations in carrying out his authority to fund innovative and experimental programs under section 838(c).

Mr. President, I believe these three provisions should insure an active and prominent role for community-based organizations in the delivery of comprehensive employment and training services to youths. Although many prime sponsors currently utilize community-based organizations in carrying out programs under other titles of CETA, these new provisions require prime sponsors and the Secretary of give special consideration to these groups under part C of the new title VIII. I believe prime sponsors and the Secretary should observe this requirement diligently and should note that it is deliberately substantially stronger than current law with respect to the role of community-based organizations in the delivery of manpower services.

I feel very strongly that the success and efficiency of community-based organizations in meeting the needs of the unemployed both justifies and demands the provision of special consideration under part C of this bill.

Mr. President, the authorization for this new title under CETA extends only through fiscal year 1978. Later this Congress, the Senate is expected to undertake a comprehensive review of CETA and consider substantive amendments to the act. At that time, I hope extensive study will be devoted to the role of community-based organizations in this Nation's manpower delivery system. I believe they have an important part to play in our continuing efforts to combat unemployment and that ways should be found to accommodate community-based organizations more fully within the structure of CETA. S. 1242 is an important first step.

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RECESS UNTIL 4:21 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 hour.

There being no objection, the Senate, at 3:21 p.m., recessed until 4:21 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ANDERSON).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ADDITIONAL COURT JUDGES—S. 11

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that notwithstanding the third reading and passage yesterday of S. 11, the omnibus judgeship bill, the following amendments be made in the bill:

On the calendar print of S. 11, in section 1(a) on page 7, commencing at line 17, after the word "Oregon", change the following phrase to read:

two additional district judges for the middle district of Pennsylvania

In section 2 of the bill, on page 11 of the calendar print at the end of line 1 and after the word "the" insert the words "advice and".

Mr. President, this will permit the insertion of the descriptive term "district" in the phrase authorizing two additional judges for the middle district of Pennsylvania. It will also permit the insertion of two missing words in the first sentence of section 2, which contemplates that the appointments made by the President will be made "by and with the advice and consent of the Senate".

The PRESIDING OFFICER. Without objection, it is so ordered.

#### FISHERMEN'S PROTECTIVE ACT OF 1967—S. 1184

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that notwithstanding the third reading and passage yesterday of S. 1184, a bill to amend section 7(e) of the Fishermen's Protective Act of 1967, as amended, the following amendments be made in the bill:

On page 1, immediately after line 7, insert the following:

"Sec. 2. The Fishermen's Protective Act of 1976, as amended, is further amended by adding at the end thereof the following new section:"

Amend the title so as to read:

"To amend section 7(e) of the Fishermen's Protective Act of 1967, and for other purposes."

The PRESIDING OFFICER. Without objection, it is so ordered.

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 4088.

The PRESIDING OFFICER (Mr. ANDERSON) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 4088) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MAGNUSON, Mr. HOLLINGS, Mr. STEVENSON, Mr. FORD, Mr. GOLDWATER, and Mr. SCHMITT conferees on the part of the Senate.

#### ENDANGERED SPECIES ACT AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 160.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

The bill (S. 1316) to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out State cooperative programs under the Endangered Species Act of 1973.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill (S. 1316) which had been reported from the Committee on Environment and Public Works with an amendment on page 1, beginning with line 10, strike through and including page 2, line 2, and insert the following in lieu thereof:

"(2) \$9,000,000 to the Secretary of the Interior through the period ending September 30, 1980; and

"(3) \$3,000,000 to the Secretary of Commerce through the period ending September 30, 1980."

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6(1) of the Endangered Species Act of 1973 (16 U.S.C. 1535(1)) is amended to read as follows:

"(1) APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated not to exceed the following sums:

"(1) \$10,000,000 through the period ending September 30, 1977.

"(2) \$9,000,000 to the Secretary of the Interior through the period ending September 30, 1980; and

"(3) \$30,000,000 to the Secretary of Commerce through the period ending September 30, 1980."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HAYAKAWA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### WATER RESOURCES RESEARCH AND TECHNOLOGY DEVELOPMENT ACT OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 161.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 846) to provide for a continuing program for water resources research and development.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill (S. 846), which had been reported from the Committee on Environment and Public Works with amendments as follows:

On page 16, line 20, strike "reverse osmosis and crystallization (Freezing), vapor compression distillation, and membrane processes" and insert "membrane process, such as reverse osmosis and electrodialysis, and phase change process such as freezing and distillation";

On page 24, line 10, following "During" insert "each of";

So as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Water Resources Research and Technology Development Act of 1977".*

#### TITLE I—GENERAL WATER RESOURCES RESEARCH

SEC. 101. It is the purpose of this title to assist the States and the Nation to provide a supply of water sufficient in quantity and quality to meet the Nation's expanding needs and to preserve and enhance water resources and the water-related environment by taking certain measures to promote comprehensive planning and research dealing with water resources and water quality; identify and find practicable solutions to the Nation's water and water-related problems; promote the training of scientists, engineers, and other skilled personnel in fields related to water; and foster and supplement present programs for the conduct of research and experimentation in improved and innovative water resources planning, management, conservation, and operating practices.

SEC. 102. (a) The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is hereby authorized and directed to assist in establishing and carrying on the work of a competent and a qualified water research and technology institute, center, or equivalent agency (hereinafter referred to as "institute") at one college or university in each State, which college or university shall be a college or university established in accordance with the Act approved July 2, 1862 (12 Stat. 503; 7 U.S.C. 301ff), entitled "An Act donating public lands to the several States and territories which may provide colleges for the benefit of

agriculture and the mechanic arts" or some other institution designated by Act of the legislature of the State concerned: *Provided*, That (1) if there is more than one such college or university in a State established in accordance with said Act of July 2, 1862, funds under this section shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to the one such college or university designated by the Governor of the State to receive the same, subject to the Secretary's determination that such college or university has, or may reasonably be expected to have, the capability of doing effective work under this title; (2) two or more States may cooperate in the designation of a single institute or regional institute, in which event the sums assignable to all of the cooperating States shall be paid to such institute; (3) a designated college or university may, as authorized by appropriate State authority, arrange with other colleges and universities within the State to participate in the work of the institute.

(b) It shall be the duty of each such institute to plan and conduct and/or arrange for a component or components of the college or university with which it is affiliated to conduct competent research including investigations, and experiments of either a basic or practical nature, or both, in relation to water resources, to promote dissemination of the nature and results of these efforts, and to provide for the training of scientists and engineers through such research, investigations, and experiments. Such research, investigations, experiments, and training may include, without being limited to, aspects of hydrologic cycle; supply and demand for water; conservation and best use of available supplies of water; methods of increasing such supplies; and economic, legal, social, engineering, recreational, biological, geographic, ecological, and other aspects of water problems; scientific information dissemination activities, including identifying, assembling, and interpreting the results of scientific and engineering research deemed potentially significant for solution of water resource problems; and providing means for improved communication regarding such research results, including prototype operations and ascertaining the existing and potential effectiveness of such for aiding in the solution of practical problems and training qualified persons, having due regard to the varying conditions and needs of the respective States, to water research and development projects being conducted by agencies of the Federal and State Governments, the agricultural experiment stations and others, and to avoidance of any undue displacement of scientists and engineers elsewhere engaged in water resources research and development. The annual programs submitted by the State institutes to the Secretary for approval shall include assurances, satisfactory to the Secretary, that such programs were developed in close consultation and collaboration with leading water resources officials within the State to promote research, training, and other work meeting the needs of the State.

(c) There are hereby authorized to be appropriated to the Secretary, for the purpose of implementing this section, such sums annually as are sufficient to provide an amount not to exceed \$500,000 each year to each participating institute, beginning with the fiscal year ending September 30, 1978, and continuing through the fiscal year ending September 30, 1982.

SEC. 103. (a) There is further authorized to be appropriated to the Secretary, for each of the fiscal years ending September 30, 1978 and 1979, the sum of \$10,000,000 to match, on a dollar-for-dollar basis, funds made available to the institutes by the States or other non-Federal sources to meet the necessary expenses of specific water resources

research projects which could not otherwise be undertaken. Not more than 40 per centum of the amount appropriated for either such year may be expended for planning and participating in regional water resources research projects.

(b) Each application for a grant, pursuant to subsection (a) of this section, shall among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualifications of the personnel who will direct and conduct it, the importance of the project to the water economy of the Nation, the region and the State concerned, its relation to other known research projects previously conducted or currently being pursued, the procedures by which the results can be disseminated, and the extent to which it will provide opportunity for the training of water resources scientists and engineers. No grant shall be made under this subsection except for projects approved by the Secretary and all grants shall be made upon the basis of the merit of the project, the need for the knowledge which it is expected to produce when completed, and the opportunity it provides for the training of water resources scientists and engineers.

SEC. 104. Sums appropriated pursuant to sections 102 and 103 of this title shall be paid to the designated institutes at such times and in such amounts during each fiscal year as determined by the Secretary and upon vouchers approved by him. Funds received by an institute pursuant to such payment may be used for any allowable costs within the meaning of the Federal procurement regulations that establish principles for determining costs applicable to research and development under grants and contracts with educational institutions. Each institute shall have an officer appointed by its governing authority who shall receive and account for all funds paid under the provisions of this title and shall make an annual report to the Secretary on or before the 1st day of December of each year, in a manner and form prescribed by the Secretary, which report shall include work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any of the provisions of this title during the preceding fiscal year, and of its disbursement. If any of the moneys received by the authorized receiving officer of any State institute under the provisions of this title shall, by any action or contingency, be found by the Secretary to have been improperly diminished, lost, or misapplied, it shall be replaced and until so replaced no subsequent disbursement of Federal funds shall be made to any institute of such State.

SEC. 105. Moneys appropriated pursuant to this title, in addition to being available for expenses for research, experiments, and training conducted under authority of this title, shall also be available for printing and publishing the results thereof and for administrative planning and direction. The institutes are hereby authorized and encouraged to plan and conduct programs financed under this title in cooperation with each other and with such other agencies and individuals as may contribute to the solution of the water problems involved, and moneys appropriated pursuant to this title shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

SEC. 106. (a) The Secretary is hereby charged with the responsibility for the proper administration of this title and, after full consultation with other interested Federal agencies, shall prescribe such rules and regulations as may be necessary to carry out its provisions. He shall require a showing that institutes designated to receive funds have, or may reasonably be expected to have, the capability of doing effective work. He shall furnish such advice and assistance as will best promote the purposes of this title, par-



participate in coordinating research initiated by the institutes under this title, indicate to them such lines of inquiry as to him seem most important and encourage and assist in the establishment and maintenance of cooperation by and between the institutes and between them and other research organizations, the United States Department of the Interior, and other Federal establishments.

(b) On or before the 1st day of January in each year after the enactment of this Act, the Secretary shall ascertain whether the requirements of subsection (a) have been met as to each institute, whether it is entitled to receive its share of the annual appropriations for water resources research under section 102 of this title and the amount which it is entitled to receive.

Sec. 107. Nothing in this title shall be construed to impair or modify the legal relation existing between any of the colleges or universities under whose direction an institute is established and the government of the State in which it is located, and nothing in this title shall in any way be construed to authorize Federal control or direction of education at any college or university.

Sec. 108. (a) The Secretary is authorized to make grants to, and finance contracts and matching or other agreements with, qualified educational institutions, private foundations, or other institutions, with private firms and individuals whose training, experience, and qualifications are, in his judgment, adequate for the conduct of water research projects and with local, State, and Federal Government agencies, to undertake research into any aspect of water-related problems which he may deem desirable in the national interest and which are not otherwise being studied.

(b) There is authorized to be appropriated to the Secretary, for carrying out the purposes of this section, for each of the fiscal years ending September 30, 1978 and 1979, the sum of \$10,000,000 to remain available until expended: *Provided*, That not more than 50 per centum of the amount appropriated pursuant to this section in any fiscal year may be used to finance contracts or make grants to educational institutions.

Sec. 109. The Secretary is authorized to conduct a research assessment and transfer program which transfers research results to other organizations and individuals for further development, demonstration, and practical application to water and water-related problems. The Secretary may enter into agreements with the State and local governments and with other public and private organizations and individuals, including cost-sharing or cost-participation agreements, for the demonstration, transfer, or application of research results for the solution of water-related problems and to further the transfer developed by programs authorized under this title. The Secretary may issue transfer publications and may conduct seminars, conferences, training sessions, or use other such techniques he deems necessary to expedite the transfer of research results and technology development.

Sec. 110. The Secretary is authorized to maintain a Center for Data, dealing with all areas of water resources research and technology development and to disseminate information acquired by the Center. Each Federal agency engaged in water resources research and technology development shall cooperate by providing the Center with documents and information. The Center shall maintain for general use a collection of water resources information provided by Federal and non-Federal government agencies, colleges, universities, private institutions, and individuals.

Sec. 111. The Secretary may issue publications or utilize other media to disseminate research data for the purposes of this Act; enter into agreements with public or private

organizations or individuals to stimulate research and development in neglected areas, thus contributing to a comprehensive, nationwide program of scientific and technical information dissemination in water research, which avoids duplication.

Sec. 112. The Secretary shall, in addition to such other actions as may be authorized or required, make generally available abstracts and other summary type information concerning water-related research accomplishments by all Federal agencies and by non-Federal agencies, private institutions, and individuals, to the extent such information can be obtained and reports completed on research projects funded under provisions of this Act, including any direct publication of research information undertaken by the institutes.

Sec. 113. Water resources research programs carried out in accordance with this title may include, without being limited to irrigation and other water use efficiencies; water and related planning, operations, management, and legal systems; protection and enhancement of the water-based environment; institutional arrangements; salinity management; and economic, social, and environmental impact assessment. Due consideration shall be given to priority problems identified by water and related land resources planning data acquisition, and like studies conducted by other agencies and organizations.

Sec. 114. (a) The Secretary shall cooperate fully with the Administrator of the Environmental Protection Agency and shall obtain the continuing advice and cooperation of all agencies of the Federal Government concerned with water problems, of State and local governments and of private institutions and individuals, to assure that the programs conducted under this title will supplement and not duplicate other water research and technology programs, will stimulate research and development in neglected areas and will provide a comprehensive, nationwide program of water resources research.

(b) The President shall, by such means as he deems appropriate clarify agency responsibilities for Federal water resources research and provide for interagency coordination of such research, including the research authorized by this title. Such coordination shall include (1) continuing review of the adequacy of the Government-wide program in water resources research and identification of technical needs in various water resources research categories, (2) identification and elimination of duplication and overlaps between two or more agency programs, (3) recommendations with respect to allocation of technical effort among the Federal agencies, (4) review of technical manpower needs and findings concerning the technical manpower base of the program, (5) recommendations concerning management policies to improve the quality of the Government-wide research effort, and (6) actions to facilitate interagency communication at management levels.

Sec. 115. To carry out the water resources research programs authorized by this title, the Secretary may:

(a) Foster and participate in conferences relating to water resources research and other water-related topics, and provide information, advice and assistance to local, State, Federal, and other agencies and organizations in the solution of water and water-related problems.

(b) Maintain an awareness through onsite inspection of promising projects and facilities and cooperate and participate when the purposes of this title will be served thereby.

(c) Accept financial and other assistance from any local, State, Federal, and other agency in connection with studies or surveys relating to water problems and facilities and enter into contracts with regard to such assistance.

Sec. 116. The Secretary shall report to the President and Congress on or before April 1 of each year, showing the disposition during the preceding fiscal year of moneys appropriated to carry out each section of this title, the results expected to be accomplished through projects financed during that year and the conclusions reached in, or other results achieved by, those projects which were completed during that year. The report shall also include an account of the work of all institutes financed under section 102 of this title and indicate whether any portion of an allotment to any State was withheld and, if so, the reasons therefor.

Sec. 117. Excess personal property acquired by the Secretary under the Federal Property and Administrative Services Act of 1949, as amended, for use in furtherance of the purposes of this title may be conveyed by the Secretary to a cooperating institute, educational institution, or nonprofit organization, with or without consideration, under such terms and conditions as the Secretary may prescribe.

Sec. 118. As used in this title, the term "State" includes the Commonwealth of Puerto Rico, the District of Columbia, the Virgin Islands, and Guam.

Sec. 119. Contracts or other arrangements for water resources work authorized under this title with an institute, educational institution, or nonprofit organization may be undertaken without regard to the provisions of section 3648 of the Revised Statutes (51 U.S.C. 529) when, in the judgment of the Secretary, advance payments of initial expenses are necessary to facilitate such work.

Sec. 120. There are authorized to be appropriated to the Secretary, to remain available until expended, not to exceed \$1,000,000 each year beginning with the fiscal year ending September 30, 1978, and continuing through the fiscal year ending September 30, 1982, to carry out the sections of this title other than those for which special specific authorizations are made.

Sec. 121. With respect to patent policy and to the definition of, title to, and licensing of inventions made or conceived in the course of, or under any contract or grant pursuant to this title, and notwithstanding any other provision of law, the Secretary shall be governed by the provisions of sections 9 and 10 of the Federal Nonnuclear Energy, Research, and Development Act of 1974 (Public Law 93-577, 88 Stat. 1234; 42 U.S.C. 5908): *Provided, however*, That subsections (1) and (n) of section 9 of such Act shall not apply to this title.

Sec. 122. The Water Resources Research Act of 1964 (Public Law 88-379, 78 Stat. 329; 42 U.S.C. 1961 et seq.) is hereby repealed. Nothing else in this title is intended to repeal, supersede, or diminish existing authorities or responsibilities of any agency of the Federal Government concerning water resources.

## TITLE II—RESEARCH AND ENGINEERING DEVELOPMENT OF SALINE AND CHEMICALLY CONTAMINATED WATER

Sec. 201. This title may be cited as the "Saline Water Conversion Act of 1977".

Sec. 202. The Congress in consideration of the Federal responsibility for water resource conservation by means of comprehensive planning, planning and construction of water resource development projects, and maintenance of water quality standards for the beneficial use of water from any source, finds that the technology for the conversion of saline and other naturally or unnaturally, chemically contaminated waters is vital to these areas of responsibility. It is the policy of the Congress, therefore, to provide for the development and demonstration of practicable means to convert, by means of desalination technology, water of these types from any source to a quality suitable for municipal, industrial, agricultural, and other beneficial uses.

Sec. 203. The Secretary is authorized and directed to—

(a) conduct, encourage, and promote basic scientific research and fundamental studies to develop effective and economical processes and equipment for the purpose of converting saline and other naturally or unnaturally, chemically contaminated water into water suitable for beneficial uses, and such processes shall include, but not necessarily be limited to, membrane process, such as reverse osmosis and electrodialysis, and phase change process such as freezing and distillation;

(b) pursue the findings of research and studies authorized by this title having potential practical applications to matters other than water treatment to the stage that such findings can be published in an effective form for utilization by others, and such work shall include application of desalting to other supply sources such as brackish aquifers, staged development, interim or conjunctive use, and with interruptible energy supplies;

(c) conduct engineering and technical work including the design, construction, and testing of pilot plants, test beds, and modules to develop desalting processes and plant design concepts to the point of demonstration on a practical scale;

(d) study methods for the recovery and marketing of byproducts resulting from the desalination of water to offset the cost of treatment and to reduce impact on the environment from the discharge of brines into lakes, streams, and other waters;

(e) undertake economic studies and surveys to determine present and prospective costs of producing water for beneficial consumptive purposes in various parts of the United States by the saline water processes as compared with other standard methods, and by means of mathematical models or other methodologies prepare and maintain information concerning the relation of desalting to other aspects of State, regional, and national comprehensive water resources planning: *Provided*, That, in carrying out this function, the Secretary shall coordinate these studies with planning being performed under the provisions of title I of this Act; and

(f) initiate and carry out two demonstration projects whose objectives will be to evaluate the applicability of desalination technology to the development of brackish groundwater aquifers for irrigation, energy development, domestic and other uses.

Sec. 204. (a) The Secretary is authorized and directed to conduct preliminary investigations and to explore potential cooperative agreements with non-Federal utilities and governmental entities in order to develop recommendations for Federal participation in the construction operation and maintenance of prototype plants utilizing desalting technologies for the production of water for consumptive use. Such recommendations shall be presented to the Congress before December 31, 1979, in the form of a ten-year plan for technology transfer. This plan shall set forth a schedule of cooperative undertakings with non-Federal utilities government agencies and private interests to apply desalination technology to the commercial production of water. It will be devised so as to provide the Congress with an instrument for tracking and assessing the progress of desalination technology development and transfer.

(b) In carrying out the provisions of this section the Secretary shall utilize the expertise of the water and power marketing agencies of the Department of the Interior or of other Federal agencies to insure that the recommended prototype plant and the supporting agreements are fully integrated and compatible with the water and power systems of the region.

(c) The Secretary is authorized to accept financial and other assistance from any State or public agency in connection with studies or surveys relating to saline water conversion problems and facilities and to enter into contract with respect to such assistance.

Sec. 205. In carrying out his functions under this title, the Secretary may—

(a) make grants to educational institutions and scientific organizations, and enter into contracts with such institutions and organizations and with industrial or engineering firms;

(b) acquire the services of chemists, physicists, engineers, and other personnel by contract or otherwise;

(c) utilize the facilities of Federal scientific laboratories;

(d) establish and operate necessary facilities and test sites to carry on the continuous research, testing, development, and programing necessary to effectuate the purposes of this title;

(e) acquire secret processes, technical data, inventions, patent applications, patents, licenses, land and interests in land (including water rights), plants and facilities, and other property or rights by purchase, license, lease, or donation;

(f) assemble and maintain pertinent and current scientific literature, publications, patents, licenses, land and interests in land (including water rights thereto);

(g) cause onsite inspections to be made of promising projects, domestic and foreign, and in the case of projects located in the United States, cooperate and participate in their development when the purposes of this title will be served thereby;

(h) foster and participate in regional, national, and international conferences relating to saline water conversion;

(i) coordinate, correlate, and publish information with a view to advancing the development of low-cost saline water conversion projects; and

(j) cooperate with other Federal departments and agencies, with State and local departments, agencies, and instrumentalities, and with interested persons, firms, institutions, and organizations.

Sec. 206. (a) Research and development activities undertaken by the Secretary shall be coordinated or conducted jointly with the Secretary of Defense to the end that developments under this title which are primarily of a civil nature will contribute to the defense of the Nation and that developments which are primarily of a military nature will, to the greatest practicable extent compatible with military and security requirements, be available to advance the purposes of this title and to strengthen the civil economy of the Nation.

(b) The Secretary shall cooperate with the Administrator of the Environmental Protection Agency to insure that research and development work performed under this title makes the fullest possible contribution to the improvement of processes and techniques for the treatment of saline and other naturally or unnaturally, chemically contaminated waters and to avoid the duplication of the experience, expertise, and data regarding desalting technologies which have been acquired.

(c) The Secretary shall cooperate fully with the Administrator of the Energy Research and Development Administration, the Secretary of Health, Education, and Welfare, the Secretary of State, and other concerned officials and agencies in the interest of achieving the objectives of this title.

(d) Relative to the definition of, title to, and licensing of inventions made or conceived in the course of or under any contract or grant pursuant to this title, and notwithstanding any other provision of law, the Secretary shall be governed by the provisions of sections 9 and 10 of the Federal Nonnuclear Energy, Research, and Develop-

ment Act of 1974 (42 U.S.C. 5908): *Provided*, however, That subsections (1) and (n) of such section 9 shall not apply to this title.

(e) The Secretary may dispose of water and byproducts resulting from his operations under this title. All moneys received from dispositions under this section shall be paid into the Treasury as miscellaneous receipts except where such operations may be undertaken as a part of a Federal reclamation project in which case the financial provisions of the reclamation laws (32 Stat. 388 and Acts amendatory thereof and supplementary thereto) shall govern.

(f) Nothing in this title shall be construed to alter existing law with respect to the ownership and control of water.

Sec. 207. The Secretary may issue rules and regulations to effectuate the purposes of this title.

Sec. 208. As used in this title—

(a) the term "Secretary" means the Secretary of the Interior, acting through the Office of Water Research and Technology;

(b) the term "saline water" includes seawater, brackish water, mineralized ground or surface water, and irrigation return flows;

(c) the term "other naturally or unnaturally, chemically contaminated waters" refers to waters which contain chemicals susceptible to removal by desalting processes;

(d) the term "United States" extends to and includes the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(e) the term "pilot plant" means an experimental unit of small size, usually less than one hundred thousand gallons per day capacity, used for early evaluation and development of new or improved processes and to obtain technical and engineering data;

(f) the term "test bed" means an intermediate-sized, experimental desalting plant of up to two million gallons per day capacity, used for further evaluation and refinement of processes in the field and designed to facilitate the incorporation of experimental features for performance testing and to permit process changes and improvements as required;

(g) the term "module" means a section or integral portion of a desalting plant which is used initially to study large-scale technology and critical design features in preparation for subsequent prototype construction;

(h) the term "prototype" means a full-size, first-of-a-kind production plant used for the development, study, and demonstration of full-sized technology, plant operation, and process economics;

(i) under the terms in definitions (b) and (c) above, such terms are intended to include waters from any source—sea, ground, or surface—where desalting technology can be applied to convert them to a quality suitable for municipal, industrial, agricultural, and other beneficial uses.

Sec. 209. (a) There is authorized to be appropriated to carry out the provisions of this title during each of the fiscal years ending September 30, 1978 and 1979, the sum of \$35,000,000 to remain available until expended. The categories for which such funds are authorized are as follows:

- (1) research expense;
- (2) development expense; and
- (3) administration and coordination.

The funds appropriated pursuant to such authorization shall be distributed to the foregoing categories as determined by budgetary priorities prevailing with not less than \$10,000,000 for brackish ground water demonstration projects.

(b) Not more than 5 per centum of the funds to be made available in any fiscal year for research under the authority of this title may be expended, subject to the approval of the Secretary of State to assure that such activities are consistent with the



foreign policy objectives of the United States, in cooperation with public or private agencies in foreign countries for research useful to the program in the United States.

Sec. 210. The Saline Water Conversion Act of 1971 (85 Stat. 159) is repealed.

The amendments were agreed to.

Mr. DOMENICI, Mr. President, we have before us today the committee bill S. 846, the Water Resources Research and Technology Development Act of 1977. I was privileged to introduce the original bill back in February.

Of the many legislative efforts in which I have been directly involved during the 95th Congress, I consider this to be among the most important. I say this because it is my firm belief that our current water research programs are inadequate to the water shortages we now face and the crisis we will face in the future. The bill is responsive to these concerns.

S. 846, as reported out by the Committee on Environment and Public Works, consolidated two former laws, the Water Resources Research Act, and the Saline Water Conversion Act. It retains the authority for implementation of both laws within the Office of Water Research and Technology of the Department of Interior.

Title I addresses general water resources research. It expands and reaffirms the critical role of the Water Resources Research Institutes. These institutes, one in each State, are the backbone of water research in this country and it is essential that they be fully funded and supported by the Congress and the administration. The philosophy of the State institutes is in concert with my own beliefs that regional problems are most effectively addressed by regional people, with financial support at the Federal level if necessary.

Title II deals with saline water conversion. The saline water research program is of special importance to us in the West, Mr. President. We have developed nearly all of our reservoir capacity and have mined our fossil water aquifers to the point that, in some regions, the entire economy is being driven away from irrigated agriculture. Desalting is the only viable remaining option for significantly augmenting our water resource base in the near-term.

For reasons which escape me, the administration has continually reduced its commitment to saline water conversion research since the enactment of the 1971 Saline Water Conversion Act. To support this point I submit the following information: In 1971, the saline program, carried out by the Office of Saline Water, was supported at a level of \$28,000,000, employed 144 persons, and operated 5 demonstration plants. In 1974, the office was abolished and the saline water program was absorbed by the Office of Water Research and Technology. Today the total saline program employs about seven persons on a budget of between \$4 million and \$7 million annually. In addition, only two of the original five demonstration plants remain in operation, and these on a mere maintenance basis. The committee bill, S. 846, authorizes a return to nearly the original funding level for the program.

Let me also comment briefly on the provision of the bill which authorizes the construction and operation of two facilities to demonstrate the applicability of desalting technology to brackish ground water deposits. To illustrate the magnitude of this opportunity, Mr. President, permit me to offer the following data from a recent New York Times article, March 13, 1977:

Of all the water on Earth, only 0.65% is not locked up in the polar ice caps or the oceans. Of this 0.65%, fully 97.6% is groundwater. About two-thirds of this groundwater is brackish and therefore not useable with current technology.

In simple terms, we are sitting on top of a virtual sea of brackish groundwater of a virtual sea of brackish groundwater—enough to satisfy our needs for centuries—and much of it is located in the Rocky Mountain West where it is most desperately needed. Yet we are unable to use this resource, simply because we cannot economically separate the salt from the water. I wish to emphasize the word "economically." The fact is, we now have several effective processes for desalting brackish water, especially reverse osmosis and electrodialysis, which offer great promise and await only demonstration of economic feasibility. I believe that it is entirely within reason to expect production costs for desalted water to reach 50 or 60 cents per thousand gallons within 4 to 5 years if we press forward with these technologies. Eventually, it may be possible to deliver desalted water for as little as 35 to 40 cents per thousand, which would be competitive with freshwater supplies in the West. The committee bill authorizes \$10,000,000 to fund two demonstration projects to economically convert brackish groundwater to usable freshwater.

During the subcommittee hearings on water resources we heard testimony from two nationally recognized experts on the subject of water research. Brig. Gen. William Whipple, retired, testified on behalf of the Universities Council on Water Resources, which represents 86 major universities. Dr. William Walker, vice chairman of the National Association of Water Institute Directors, testified on behalf of that group. Both witnesses expressed strong support for S. 846 and disappointment in the administration's lack of interest in water research in general and saline research in particular. Following these hearings, S. 846 was approved unanimously by both the Water Resources Subcommittee and the full Committee on Environment and Public Works.

Today we have an opportunity to approve a bill which would extend, strengthen, and broaden an ongoing program of water research and technology transfer. This bill, if approved, will contribute in a significant and positive manner toward our ability to meet future water needs in this country. I urge my colleagues to vote favorably on this legislation.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed

for a third reading and to be read the third time.

The bill was read the third time.

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 196, H.R. 4746.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4746) to extend certain authorities of the Secretary of the Interior with respect to water resources research and salting water conversion programs, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. ROBERT C. BYRD, Mr. President, I move that all after the enacting clause be stricken and that the text of S. 846, as amended, be inserted in lieu thereof, and that H.R. 4746, as amended, be considered as having been read the third time and passed.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

Without objection the motion was agreed to.

Mr. ROBERT C. BYRD, Mr. President, I move to reconsider the vote by which H.R. 4746 was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that S. 846 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD, Mr. President, I move that the Senate insist upon its amendment and request a conference with the House of Representatives and that the Chair be authorized to appoint conferees on behalf of the Senate.

Without objection the motion was agreed to; and the Presiding Officer appointed Mr. GRAVEL, Mr. BENTSEN, and Mr. DOMENICI conferees on the part of the Senate.

#### WATER RESOURCES PLANNING ACT AMENDMENTS

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 198.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6752) to amend the Water Resources Planning Act (79 Stat. 244), as amended.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The bill was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that Calendar Order No. 166, a companion bill, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

## DEATHS IN UGANDA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 201.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 175) expressing the sense of the Senate with respect to recent deaths in Uganda.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 175) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas there has been a history of murders in Uganda by officials of the government of President Idi Amin;

Whereas the Uganda Government has condoned a series of violations of human rights of its citizens and residents;

Whereas the Anglican Archbishop, Janani Luwum, and two government officials were reported killed under suspicious circumstances February 16 after having been arrested by Uganda authorities; and

Whereas such incidents have been of such frequency as to affront the sensibilities of the world; Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that the actions of the current regime in Uganda deserve condemnation by the world community, by the Organization of African Unity, and that the Senate urges those nations supplying lethal arms to Uganda to halt all such deliveries of weapons; and

(2) that the United States Ambassador to the United Nations should request that the situation be investigated by an appropriate agency of the United Nations.

## TRANSFER OF MEASURES TO UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, the following calendar orders have been cleared for passage by unanimous consent. I ask that the clerk transfer them to the Unanimous Consent Calendar: Nos. 142, 206, 207, 208, and 209.

The PRESIDING OFFICER. They will be so transferred.

## TECHNICAL AND MISCELLANEOUS AMENDMENTS TO PROVISIONS RELATING TO HIGHER EDUCATION CONTAINED IN THE EDUCATION AMENDMENTS OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 6774.

The PRESIDING OFFICER laid before the Senate H.R. 6774, an act to make certain technical and House amendments to provisions relating to higher education contained in the Education Amendments of 1976, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. PELL. Mr. President, H.R. 6774 makes technical and miscellaneous amendments to those portions of Public Law 94-482, the Education Amendments of 1976, which relate to higher education programs. It includes corrections of typographical errors, effective dates, and omissions in the agreed-upon text of the legislation. It passed the House of Representatives on May 9 by a vote of 382 to 1.

Two amendments are proposed to correct the text of this technical amendment bill. The first contains language, suggested by the Department of Health, Education, and Welfare as technical assistance to the Congress, which will assure that administrative cost allowances for the national direct student loan program will be treated in the same fashion as those for the supplemental educational opportunity grant program and the college work-study program, as intended by the conferees on Public Law 94-482.

The second amendment merely corrects a misnumbering of paragraphs in the effective date section for the various provisions of the guaranteed student loan program.

These amendments have been worked out in conjunction with the minority and the House. I assure my colleagues that they are strictly technical in nature. However, expeditious passage of these amendments is essential, so that colleges, lenders, and program administrators will be able to implement the Education Amendments of 1976 fully.

## UP AMENDMENT NO. 329

Mr. President, I send to the desk the two technical amendments. I ask that the clerk state them.

The PRESIDING OFFICER. Without objection, the clerk will state the amendments.

The legislative clerk proceeded to read as follows:

The Senator from Rhode Island (Mr. PELL) proposes certain technical amendments as unprinted amendment No. 329.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 12, beginning with line 25, strike out through line 2 on page 13 and insert in lieu thereof the following:

(40) (A) The first sentence of section 493 (a) of such Act is amended by—

(i) striking out "part A or C" and inserting in lieu thereof "subpart 2 of part A, part C or part E";

(ii) striking out "either" and inserting in lieu thereof "any"; and

(iii) striking out "in lieu of reimbursement for its expenses during such fiscal year in administering programs assisted under such part" and inserting in lieu thereof "for the purposes set forth in subsection (c)".

(B) The second sentence of such section 493(a) is amended by adding before the period at the end thereof a comma and the following: "plus (C) the principal amount of loans made during such fiscal year from its student loan fund established under part E".

(C) Section 493(b) of such Act is amended to read as follows:

"(b) The aggregate amount paid to an institution for a fiscal year under this section may not exceed \$325,000."

On page 17, line 17, strike out "(16)" and insert in lieu thereof "(17)".

On page 17, line 17, strike out "(19)" and insert in lieu thereof "(20)".

On page 17, line 18, strike out "(20)" and insert in lieu thereof "(21)".

On page 18, line 3, strike out "(19)" and insert in lieu thereof "(20)".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to en bloc.

The amendments were ordered to be engrossed and the bill to be read the third time.

The bill was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider two nominations that have been reported from the Committee on the Judiciary, both of which are with respect to nominations affecting the State of North Dakota.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. The nominations are as follows: James R. Britton of North Dakota to be U.S. attorney for the district of North Dakota; and Harold C. Warren of North Dakota to be U.S. marshal for the district of North Dakota.

It is my understanding that both Mr. BURDICK and Mr. YOUNG want these nominations confirmed today.

I have discussed this with the distinguished minority leader and I believe he is in accord.

Mr. BAKER. Mr. President, if the majority leader will yield—

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. These nominations are both cleared on this side of the aisle. We are happy to join in the request for the confirmation.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

I ask unanimous consent that the Senate proceed to the consideration of the two nominations en bloc.



The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations will be stated.

#### THE JUDICIARY

The legislative clerk read the nominations of James R. Britton of North Dakota to be U.S. attorney for the district of North Dakota; and Harold C. Warren of North Dakota, to be U.S. marshal for the district of North Dakota.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AUTHORIZATION FOR FOREIGN TRAVEL COSTS OF MEMBERS AND EMPLOYEES OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. BAKER and myself, I submit a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 179) authorizing payment from the contingent fund for transportation costs and travel expenses incurred by Members and employees of the Senate when engaged in authorized foreign travel.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

S. Res. 179

Resolved, That until otherwise provided by law or resolution of the Senate, the contingent fund of the Senate is made available, as provided in this resolution, to defray the costs of transportation and the ordinary and necessary travel expenses of Members and employees of the Senate when engaged in authorized foreign travel. The Secretary of the Senate is authorized to advance funds, under authority of this Resolution, in the same manner provided for committees of the Senate under the authority of Public Law 118, Eighty-first Congress, approved June 22, 1949.

Sec. 2. (a) Transportation costs and ordinary and necessary travel expenses incurred

by a Member or employee engaged in authorized foreign travel shall be paid upon certification of such Member or employee, and upon vouchers approved by the Senator who authorized such foreign travel.

(b) Transportation costs and ordinary and necessary travel expenses which are incurred for a group of Members or employees engaged in authorized foreign travel shall be paid upon certification of the Member who is chairman of such group (or, if no chairman has been designated, upon certification of the ranking Member of such group) or, if the group does not include a Member, upon certification of the senior employee in such group, and upon vouchers approved by the Senator who authorized such foreign travel.

(c) The reports of the Secretary of the Senate setting forth amounts paid from the contingent fund under authority of this resolution shall, at the request of the chairman of the Select Committee on Intelligence, omit any matter which would identify the foreign countries in which Members and employees of the Select Committee traveled on behalf of the Select Committee.

Sec. 3. Payment of transportation costs and ordinary and necessary travel expenses may not be paid under this resolution to the extent that appropriated funds or foreign currencies under section 502(b) of the Mutual Security Act of 1954 are utilized to defray such costs and expenses. Such funds and currencies shall be used to the maximum extent possible.

Sec. 4. For purposes of this resolution—

(1) The term "foreign travel" means travel outside the United States and includes travel within the United States which is the beginning or end of travel outside the United States.

(2) The term "authorized foreign travel" means foreign travel on official business on behalf of the Senate or a committee of the Senate which is authorized—

(A) in the case of foreign travel on behalf of the Senate, by the President pro tempore, Majority Leader, or Minority Leader of the Senate; and

(B) in the case of foreign travel on behalf of a committee of the Senate, by the chairman of that committee.

(3) The term "committee of the Senate" includes all standing, select, and special committees of the Senate and all joint committees of the Congress whose funds are disbursed by the Secretary of the Senate.

(4) The term "employee of the Senate" includes an individual (other than a Member) whose salary is disbursed by the Secretary of the Senate or who is treated as an employee of the Senate for purposes of the Senate Code of Official Conduct.

(5) The term "ordinary and necessary travel expenses" includes, in the case of a group of Members engaged in authorized foreign travel, such special expenses as the chairman (or, if there is no chairman, the ranking Member) deems appropriate, including to the extent not otherwise provided, reimbursements to any agency of the Government for (A) expenses incurred on behalf of the group, (B) compensation (including overtime) of employees of such agency officially detailed to the group, and (C) expenses incurred in connection with providing appropriate hospitality.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SWEARING-IN CEREMONY OF MICHAEL J. MANSFIELD AS AMBASSADOR TO JAPAN

Mr. BAKER. Mr. President, I rise to express my regret and sorrow that it was not possible for me to attend the swearing-in ceremony of our former colleague and now Ambassador, Senator Mansfield, which occurred this afternoon at 3:45. It had been my full intention to attend that ceremony and offer my personal congratulations to Senator Mansfield for this accomplishment and for this further chapter in a long series of chapters relating to his service to his country.

Another matter arose that prevented my attending. I take this opportunity to express my congratulations to Ambassador Mansfield and to Mrs. Mansfield, who is known to most of us and is counted as a distinguished American and a great friend, as her husband is, to wish them well in their new undertakings and duties, and to reiterate my regret that I was not present at that historic moment.

I recall that on yesterday I suggested to the distinguished majority leader that, in view of the great investment of time and energy and dedication that our former colleague had given in this Chamber to the future of the Senate and its efficiency and its effectiveness, it might be possible to conduct the swearing-in ceremony here.

Unfortunately, the majority leader explained that the plans already had been made for that ceremony to occur at another place.

I wish, however, Mr. President, to express my congratulations and best wishes to Ambassador and Mrs. Mansfield and to wish them well in the new assignment.

#### QUORUM CALL

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HOUSE CONCURRENT RESOLUTION 229—ADJOURNMENT OF HOUSE AND RECESS OF SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 229.

The PRESIDING OFFICER. The concurrent resolution will be stated by title. The legislative clerk read as follows:

H. Con. Res. 229, a concurrent resolution providing for an adjournment of the House and a recess of the Senate.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, I ask that the clerk read the resolution.

The PRESIDING OFFICER. The clerk will read the resolution.

The legislative clerk read as follows:

*Resolved by the House of Representatives (the Senate concurring).* That when the House adjourns on Thursday, May 26, 1977, it stand adjourned until 12 o'clock meridian on Wednesday, June 1, 1977, and that when the Senate recesses on Friday, May 27, 1977, it stand in recess until 12:30 o'clock post-meridian on Monday, June 6, 1977.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 229) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER FOR RECESS TO 10 O'CLOCK TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER FOR CONSIDERATION TOMORROW OF S. 1242, YOUTH EMPLOYMENT AND TRAINING ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders of their designees have been recognized under the standing order, the Senate resume consideration of the Youth Employment and Training Act, Calendar Order 146, S. 1242.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER FOR CONSIDERATION TOMORROW OF S. 682, TANKER AND VESSEL SAFETY ACT OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at no later than 1:30 p.m. tomorrow, the Senate

resume consideration of the tanker bill, Calendar Order 149, S. 682.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there morning business?

Mr. BAKER. Mr. President, I take this brief moment, during the time for morning business, only to say that I observe that shortly, the distinguished majority leader and certain of his colleagues on the other side of the aisle may attend a political occasion with social overtones and implications. Having come fresh from such a celebration on this side of the aisle only last week, I wish him well. I am sure he will enjoy that evening, as we Republicans enjoyed our festivities a week ago.

I must say, as I remarked on yesterday, that we Republicans were deprived of the distinguished entertainment that is in store for the Democrats tonight. I have tried all day to resist saying that I hope my Democratic colleagues tonight, as they watch the performance of the distinguished majority leader, are not reminded that he is fiddling while the party burns. [Laughter.]

The PRESIDING OFFICER. The Chair will observe that the Democrats have as good a time at a cheaper price.

Mr. BAKER. The Senator from Tennessee appreciates the observation of the Chair.

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirton, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

#### REPORT OF THE NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY—MESSAGE FROM THE PRESIDENT—PM 84

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Human Resources:

*To the Congress of the United States:*

I am transmitting herewith the Ninth Annual Report of the National Advisory Council on Economic Opportunity.

The report is based on the activities of the Council prior to my term of office.

The recommendations of the Council will be considered as this Administration reviews the role of the Community Services Administration.

JIMMY CARTER.

THE WHITE HOUSE, May 25, 1977.

#### MESSAGES FROM THE HOUSE

At 12:21 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House disagrees to the amendment of the Senate to the bill (H.R. 4088) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. TEAGUE, Mr. FUQUA, Mr. ROE, Mr. LLOYD of California, Mr. MILFORD, Mr. WYDLER, and Mr. WINN were appointed managers of the conference on the part of the House.

The House has agreed to the concurrent resolution (H. Con. Res. 229) providing for an adjournment of the House from May 26 to June 1, and a recess of the Senate from May 27 to June 6, 1977.

#### COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC-1386. A letter from the Assistant Secretary for Congressional Relations of the Department of State transmitting a draft of proposed legislation to implement the Agreed measures for the conservation of Antarctic fauna and flora of the Antarctic Treaty and for other purposes (with accompanying papers.)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Department of State, relative to the Antarctic Conservation Act of 1977, be referred jointly to the Committees on Commerce, Science, and Transportation; Environment, and Public Works; and Foreign Relations.

The PRESIDING OFFICER. Without objection, so ordered.

EC-1387. A letter from the Secretary of the Air Force transmitting, for the information of the Senate, notice of the Air Force decision to close Richards-Gebaur Air Force Base, Missouri, and report all but the facilities required for the 442nd Tactical Airlift Wing, Air Force Reserve, to the General Services Administration for disposal and civilian re-use (with accompanying papers); to the Committee on Armed Services.

EC-1388. A letter from Acting Assistant Secretary of the Army, Civil Works, transmitting a draft of proposed legislation to terminate further construction of the Cross Florida Barge Canal Project (with accompanying papers); to the Committee on Environment and Public Works.

EC-1389. A letter from the Comptroller General of the United States transmitting, pursuant to law, a list of reports of the General Accounting Office for the Month of April 1977 (with an accompanying report); to the Committee on Governmental Affairs.



EC-1390. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Federal Deficiency Payments Should Not be Made for Crops not Grown" (CED-77-77) (with an accompanying report); to the Committee on Governmental Affairs.

### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration:

Without amendment:

H. Con. Res. 162. A concurrent resolution providing for the printing of twenty thousand additional copies of the subcommittee print of the Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs entitled "Give Yourself Credit: Guide to Consumer Credit Laws" (Rept. No. 95-230).

S. Res. 154. A resolution authorizing the printing of the committee print entitled "U.S. Participation in International Organizations" as a Senate document (Rept. No. 95-231).

### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

James R. Britton, of North Dakota, to be U.S. attorney for the district of North Dakota.

Harold C. Warren, of North Dakota, to be U.S. marshal for the district of North Dakota.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. SCHWEIKER:

S. 1601. A bill to amend the Immigration and Nationality Act to protect American workers from the adverse impact of illegal alien employment; to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 1602. A bill for the relief of Hermelinda Benitez; and

S. 1603. A bill for the relief of Susana Elena Felipa; to the Committee on the Judiciary.

By Mr. McCURE:

S. 1604. A bill to provide that the availability of citizens for agricultural employment as a prerequisite for the certification of temporary alien workers shall be determined by the Governor of each respective State; to the Committee on the Judiciary.

By Mr. TOWER:

S. 1605. A bill to provide for review of risks relating to regulations pertaining to cotton dust; to the Committee on Human Resources.

By Mr. ANDERSON (for himself and Mr. HUMPHREY):

S. 1606. A bill to amend the Internal Revenue Code of 1954 to treat the conducting of certain games by tax-exempt organizations as not being an unrelated trade or business; to the Committee on Finance.

By Mr. MATSUNAGA (for himself and Mr. INOUE):

S. 1607. A bill to amend title 10 of the United States Code relating to Junior Reserve Officers' Training Corps; to the Committee on Armed Services.

By Mr. METCALF (for himself and Mr. STEVENSON):

S. 1608. A bill to abolish the Joint Committee on Congressional Operations, and for other purposes; to the Committee on Rules and Administration.

By Mr. SPARKMAN:

S.J. Res. 61. A joint resolution to authorize and request the President to issue a proclamation designating the last week in August of each year as "National Grade Crossing Safety Week"; to the Committee on the Judiciary.

### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCHWEIKER:

S. 1601. A bill to amend the Immigration and Nationality Act to protect American workers from the adverse impact of illegal alien employment; to the Committee on the Judiciary.

Mr. SCHWEIKER. Mr. President, I am pleased to introduce today a bill to amend the Immigration and Nationality Act to protect American workers from the adverse impact of illegal alien employment.

Unemployment in the United States today is our most urgent domestic problem. The administration, Congress, the governments of our States, and the American people have properly focused great attention on efforts to put the economy back on track and alleviate the personal hardships of unemployment. One step we can take in the right direction is to protect American workers from the unfair competition of illegal aliens who take jobs which should be held by American citizens and those lawfully in the United States and depress prevailing wage rates and working conditions we in Congress have worked so hard to guarantee.

Action in this area will certainly not solve all of our economic problems, but I have concluded it is a necessary step. Although we do not have reliable statistics on how many illegal aliens there now are in the United States, estimates range from 4 to 8 million. The Commissioner of the Immigration and Naturalization Service estimates that as many as 1 million jobs are improperly being held by aliens not authorized to work. The adverse impact of these figures is obvious. Moreover, the magnitude of the problem illustrates a great distortion to our immigration policy, probably the most compassionate in the world. In fiscal year 1975, Immigration authorities caught about twice as many illegal aliens as the number lawfully admitted that year for permanent residence. By all estimates, many more go undetected.

The primary drawing card for aliens seeking to illegally enter the United States is the greater economic opportunity here than in the nations from where they come. These illegal alien workers can successfully compete with American workers as they will often work for lower wages and under unfavorable working conditions. There is simply no way Im-

migration officials can adequately deal with this problem as long as the enticement of employment in the United States remains. We must, therefore, close off these attractive opportunities by first, making it unlawful for an employer to knowingly hire an illegal alien, and second, by providing effective sanctions against employers who choose to violate the law.

I commend the chairman of the Senate Judiciary Committee, Senator EASTLAND, for the leadership he has shown in developing legislation in this area, and I fully support his efforts.

I would like to mention several aspects of my proposal. First, a ban on knowingly employing illegal aliens will be less than fully effective without strong and efficient sanctions for violations. Although I share the fear of some that a flat rate civil penalty will not effectively deter some employers, I do not advocate criminal penalties, primarily due to several problems of practical application. First, because only the knowing employment of an alien not lawfully admitted into the United States for permanent residence or not authorized to work is a violation of law, the Government will have the very difficult burden of proving beyond a reasonable doubt that an employer knowingly employed an illegal alien. Because there exists no fool-proof identification of the citizenship or immigrant status of a prospective employee, it appears there will often be enough plausible deniability by the employer to constitute a reasonable doubt. Second, given the already heavy burdens upon U.S. attorneys across the country, I have doubts that many criminal prosecutions would ever occur. Finally, many might doubt the actual likelihood, when convictions are obtained, of prison sentences being given. For these reasons, I fear that if we rely only upon criminal penalties for a violation of the ban, whether it be the first violation of the employer or subsequent ones, we will end up with a paper tiger. On the other hand, I feel we must be sure the sanctions are severe enough to deter the potential flagrant abuser. I, therefore, propose that the legislation provide an arsenal of civil penalties, increasing in severity with each additional violation.

A second aspect of this bill I wish to highlight deals with the issue of whether we wish to allow States to also legislate in this field. I believe Congress should not preempt the field, and should say so in the act. Although the adverse impact of illegal alien employment is national in scope, it certainly is more serious in some areas of the country than in others, and is manifested in different job markets in varying geographical areas. Not only can State legislatures better deal with the nuances of the problem within their State, the States can also provide needed enforcement personnel resources to deal with the overall problem. Of course, no State legislation may conflict or be inconsistent with the congressional enactment.

A third aspect of this bill I wish to highlight is one which creates a private cause of action for enjoining violations

of the ban, in addition to power of the Government to seek an injunction. In view of the enormity of the effort required by the Government to deal with the problem which exists, I feel the Government should welcome the cooperation of the private sector. Such plaintiffs could include competing businesses, labor unions, private individuals, and others adversely affected by illegal alien employment.

A fourth point I wish to note is a proposal aimed at easing the direct expense to the taxpayer for enforcement of these and other provisions of the Immigration and Nationality Act. It has been estimated that any effective attack on illegal alien employment will cost an additional \$12 million each year. As a means of attempting to partially hold down the appropriations for the Immigration and Naturalization Service, I suggest that all administrative and civil penalties, such as those assessed for knowingly employing illegal aliens, paid into the Treasury under the act be counted as a credit under the Service's appropriation for that year. I feel it is entirely appropriate to have those individuals who perpetuate the problem directly pay part of the expenses required to solve it.

Mr. President, I hope my colleagues will seriously consider this and other proposals which have been made to make available to American workers jobs which have been illegally taken by violators of our immigration laws.

I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

#### S. 1601

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) is amended by deleting the proviso in paragraph 4 of subsection (a) and by redesignating subsection (b) as subsection (f) and adding subsections (b), (c), (d), and (e) to read as follows:

"(b)(1) It shall be unlawful for any employer or any person acting as an agent for such an employer, or any person who, for a fee, refers an alien for employment by such an employer, knowingly to employ, continue to employ, or refer for employment any alien in the United States who has not been lawfully admitted to the United States for permanent residence, unless the employment of such alien is authorized by the Attorney General.

"(2) If, on evidence or information he deems persuasive, the Attorney General, after affording an opportunity to respond to and rebut such evidence or information, reasonably concludes that an employer, or a person acting as an agent for such an employer, or any person who, for a fee, refers an alien for employment by such an employer, employs, continues to employ, or refers for employment any alien in the United States who has not been lawfully admitted for permanent residence, or any alien whose employment has not been authorized by the Attorney General, the Attorney General may serve a citation on the employer, agent, or referrer containing a notification that the alien's employment is not authorized and a warning of the penalties and injunctive remedies set forth in this section. The procedure prescribed by and the

provisions of chapter 7 of title 5, United States Code, shall apply to and shall be the sole and exclusive procedure for the judicial review of a citation served by the Attorney General. An action for judicial review of a citation may be filed in the appropriate judicial district not later than sixty days from the date of issuance of the citation.

"(3) If, in a proceeding initiated within two years after the service of such citation, the Attorney General finds that any employer, agent, or referrer upon whom such citation has been served has thereafter violated the provisions of paragraph (1), the Attorney General shall assess a penalty of not less than \$500 or more than \$1,000 for each alien in respect to whom any violation of paragraph (1) is found to have occurred.

"(4) A civil penalty shall be assessed by the Attorney General only after the person charged with a violation under paragraph (3) has been given an opportunity for a hearing and the Attorney General has determined that a violation did occur, and the amount of the penalty which is warranted. The hearing shall be of record and conducted before an immigration officer designated by the Attorney General, individually or by regulation, and the proceedings shall be conducted in accordance with the requirements of title 5, section 554, of the United States Code.

"(5) If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the amount in any appropriate district court of the United States. In any such suit or in any other suit seeking to review the Attorney General's determination, the suit shall be determined solely upon the administrative record upon which the civil penalty was assessed and the Attorney General's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(c) If an employer or person who has been assessed a civil penalty under subsection (b)(3) which has become final thereafter violates subsection (b)(1) the Attorney General shall assess a civil penalty of not less than an amount twice the minimum amount assessable in the last previous proceeding against such employer or person where a civil penalty has been assessed under subsection (b)(3) or this subsection which has become final or more than an amount twice the maximum amount assessable in such last proceeding for each alien in respect to whom any violation of this subsection occurs.

"(d) The district courts of the United States shall have jurisdiction to enjoin violations of subsection (b)(1). Such actions may be brought by the Attorney General or any person, corporation, or association adversely affected by such violation in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or any such court for the district wherein the defendant is found or transacts business.

"(e) Nothing in this section shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be unlawful under this section."

Sec. 2. Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended to read as follows:

"All moneys paid into the Treasury to reimburse the Service for expenses paid from the appropriation for the enforcement of this chapter and all monies received in payment of fees and administrative and civil fines and penalties shall be credited to the appropriation for the enforcement of this chapter for the fiscal year in which the expenses were incurred."

By Mr. McCURE:

S. 1604. A bill to provide that the availability of citizens for agricultural employment as a prerequisite for the certification of temporary alien workers shall be determined by the Governor of each respective State; to the Committee on the Judiciary.

Mr. McCURE. Mr. President, a great deal of attention has been given to the illegal alien problem in the United States in recent months. This is not a new problem; nor is it a simple one.

President Carter is expected to present an illegal alien legislative package in the near future which, it is rumored, will call for criminal sanctions against those who knowingly hire an illegal alien. This to me seems markedly unfair since many of the employers of illegal alien workers are farmers who are virtually forced into that position, knowingly or unknowingly, by the policies of the Federal Government, in order to save their crops.

Admittedly there are many jobs in this country filled by illegals which could and should be held by Americans—and certainly the situation should be corrected. We cannot overlook, however, the fact that there are many jobs vital to the Nation's economy—particularly in agriculture—which American workers are simply not willing to fill. For one thing, we in Congress and the Government bureaucracy have made unemployment and welfare benefits so readily available and comparatively lucrative, that few if any of our unemployed are willing to give them up to accept these menial jobs. It is no accident that illegal aliens are relied upon so heavily in my own State of Idaho to move irrigation pipe, for example. The obvious truth is simply that as important as moving irrigation pipe is to the success of agricultural crops, in most cases, if farmers do not hire aliens to do the work, it will not get done.

It seems obvious the law should provide for this kind of situation. There should be a way needed alien workers can come into the United States temporarily to fill these jobs legally. Theoretically, there is such a provision—the Immigration and Nationality Act does provide for labor certification of temporary alien workers. However, it also gives the Department of Labor the right to withhold such certification unless American workers are found to be unavailable not only within the area where the jobs exist, but within the entire United States, including Puerto Rico, Hawaii, and Alaska. Moreover, the Labor Department has also been responsible for issuing regulations which a farmer must meet in order to qualify for certified alien workers.

This is where our problems really begin, since the difficulty if not impossibility of complying with these regulations, their inflexibility and lack of responsiveness to the needs of farming operations where time can make the crucial difference between a successful crop and failure, have left farmers with little alternative but to hire available, willing labor without concern as to the legality of their presence in the United States. What is even more disturbing, the diffi-



culty of meeting the requirements of the certification process in fact compounds the problems and conditions of foreign entrants into the United States who are exploited and abused by those who actually traffic in bringing them into the country outside the law.

It is easy for Government bureaucrats thousands of miles away from the small farmer in Idaho to dictate everything an employer should offer from salaries to sanitary facilities—with little idea of the actual effects of such regulations. It is also very difficult for Department of Labor officials—who are constantly faced with high unemployment rates and pressure from above to cut unemployment—to realize that there are vacant jobs which will not be filled by the American unemployed. An unemployed factory worker in Detroit simply is not going to be willing to move to Idaho to herd sheep. It is unrealistic to think he will, even if the employer provides housing for his entire family, as the Department of Labor regulations would require. The ranchers in Idaho know from experience not even family housing will attract unemployed Americans to herd sheep, and yet they are required to go through the charade of seeking out employees throughout the entire Nation.

It seems to me those in the agricultural industry in places like Idaho are faced with a classic example of bureaucratic bungling which has made their efforts to be successful farmers and ranchers much more difficult—and in many cases, has even threatened their livelihood.

Not only commonsense, but experience as well, points to the conclusion that labor shortages in particular industries are localized in nature. The final determination that alien workers are necessary in a particular locality should not be left in the hands of the Federal Government based on a nationwide search for available workers. The absence of available workers within the State and the immediately surrounding area should be sufficient to qualify for alien workers.

Farmers and ranchers should not have to meet standards set by nonfarmers and ranchers thousands of miles away who know nothing about farming and ranching, the economy of the State or the realistic capabilities of the agricultural industry.

Today I am introducing a bill which will amend the Immigration and Nationality Act and the Wagner-Peyser Act of 1933, to put the responsibilities of determining need and proper employment conditions for temporary alien agricultural workers where they should be—in the hands of the State government. This proposal will allow that, in the case of agricultural labor, the Governor of each State will have the responsibility to determine whether or not there is a shortage of labor sufficient to require the use of alien workers. It also provides that the Governor of each State will be responsible for establishing rules and regulations governing labor certification for temporary alien workers in his State. The Governor is in a much better position to determine the realities of the labor market in his area. The Governor certainly can more fairly judge the proper housing, salary,

benefit requirements, et cetera which will be fair both to the worker and to the employer.

Recently an editorial regarding the alien labor situation was printed by the Idaho Daily Statesman. I was pleased to note the editorial advocates something quite similar to the bill I had prepared, and I would like to direct the attention of the Senate to this editorial. I ask that it be printed in full as part of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

#### THE ILLEGAL ALIEN QUAGMIRE

The situation with illegal aliens in this country is a tangled mess, one of which there is no easy answer.

Perhaps the only winners now are those who exploit the aliens: the coyotes who smuggle them into the country, the transporters who get them where they are going, unscrupulous farmers who pay them low wages and provide unsanitary working conditions, and those who take advantage of their underground status to bleed them dry.

President Carter has proposed a five-part legislative package to correct the problem, but his plan does not adequately deal with the other side of the coin: assuring a labor force for jobs that many American citizens will not accept.

In Idaho, for instance, there is little that can be done to make such jobs as moving irrigation pipe attractive enough to entice citizen laborers.

We must ask if there is not a means of attacking the problems that result from the influx of aliens and still insure an adequate labor force.

We do not have a definitive answer, but we do feel a program could be developed that would avoid the exploitive aspects of the present alien situation, yet allow Mexicans to enter this country to work in specific agricultural fields. Such a program would be a compatible addition to Carter's proposal.

For example, perhaps state labor departments could certify that American laborers were not available to fill certain jobs, such as moving irrigation pipe. Such certification, and an estimate of the number of laborers needed, could be forwarded to a joint U.S.-Mexican labor center in the southwest. Mexican laborers who have applied for and been granted permission to work in this country could be dispatched to fill those jobs as long as they last.

State labor departments would be responsible for policing those employers certified to hire aliens and for keeping tabs on the aliens, with enforcement powers to assure that proper wages are paid and proper living facilities are made available. Mexico should be asked to help fund the program.

If such a program were sensitively and efficiently implemented along with the other points in Carter's plan, it could solve the alien problem in a way that would be beneficial to both Mexicans who wish to work in the United States and U.S. agriculture interests who have a need to hire them.

In research for The Statesman's recent series on aliens, two points became clear:

Idaho employers for the most part have treated the aliens well, and the aliens themselves are proud, aggressive people who want a chance to make it. It is only the illegality of the situation and resulting exploitation that spoil what could be a productive relationship between these two groups of people.

Mr. McCLURE. The farmers and ranchers of Idaho, as well as other parts of the country, need this legislation. The present system is based on theory rather than reality, and is failing in practice.

I urge very careful consideration of this piece of legislation.

By Mr. TOWER:

S. 1605. A bill to provide for review of risks relating to regulations pertaining to cotton dust; to the Committee on Human Resources.

Mr. TOWER. Mr. President, I am introducing a bill today which is of extraordinary importance to my State of Texas, and to every State in which cotton is grown, processed, and manufactured into consumer goods.

This bill would require a 2-year study by a specially appointed panel of experts of the effects of cotton dust on workers and the costs of implementing strategies for preventing worker exposure to such dust.

The Occupational Safety and Health Administration has done a great deal of work in this area and has proposed standards for possible implementation. Their research, based on the work of the National Institute of Occupational Safety and Health, supposedly justifies these very stringent and costly standards. However, there is considerable question as to the extent of danger to workers in the various parts of the cotton industry, and there is considerable concern about the impact of costs required to implement the OSHA standards.

There is no singular "cotton industry." The so-called industry is made of numerous and very different operations ranging from the production of cotton to its delinting to its spinning to its manufacture into consumer products. The exposure to possible danger for workers in these various segments differs radically. This is particularly true of those workers in ginning operations, where there has not been one single case of brown lung disease ever reported.

Despite the total lack of evidence correlating exposure from various cotton processing operations with the disease, and despite any understanding of the nature of the industry's many different segments, OSHA has promulgated standards which will have a devastating effect on cotton-producing States.

Most recently, studies within the State of Texas have established that almost half of all gin operators would not be able to afford the cost of implementing the standards required by OSHA, and would likely have to shut down operations should these regulations go into effect.

The history of cotton production in Texas and other States shows clearly that when gins shut down, cotton production in adjacent areas also ceases. In some cases in the panhandle of Texas, more than half the agricultural economy could be eliminated as a result of such shutdowns.

Mr. President, nothing is totally one way or the other, as we all know. There is evidence of brown lung disease among workers in textile mills in the southeast which may be related to the exposure of those workers to cotton dust in the mills where they are employed. But the cases which have been verified, and the potential for continued health hazards do not extend to other stages of cotton produc-

tion and processing as OSHA would have us believe, and the danger is neither as widespread as OSHA says it is, nor as minimal as many mill owners would claim.

I do not believe we risk grave danger by deferring the regulations which OSHA has proposed. My bill calls for a 2-year study, which I understand to be the time required to do a thorough job. However, should the study be completed earlier nothing in the bill precludes the panel from reporting its findings and recommendations earlier.

The panel will be composed of experts from the health field as well as from the industry. The Secretary of Agriculture is required under the bill to work with the Secretary of Labor in establishing the panel. No one is trying to load the deck here, but I am trying to insure that when we suggest safety and health standards that the proponents understand the industry affected and the cost of their actions. This has not been done with OSHA and it will not be in the future unless we insist on it.

I am sick and tired of having some joker at OSHA, who has never been closer to a farm than when he goes to the grocery store, write regulations which have a profound effect on the agricultural economy of my State.

I am not talking about a small group of farmers; I am talking about a billion dollars worth of cotton production and related activity just in my own State. When some of my colleagues here talk about the need for jobs, and the need for economic stimulus, I just hope they will stop and think about a billion dollars worth of jobs represented by Texas cotton producers. I do not believe that those at OSHA are concerned at all about the effect of their actions. These are the same people who proposed putting a portable john within 5 minutes walk for every farm worker, which would require a john on every 11 acres of ground—a total of more than 21 million portable johns in the state of Texas alone.

These are the same people who wasted taxpayer money to tell farmers in a farm safety booklet that cow manure is slippery and that accidents are caused by hazards.

The litany of OSHA sins goes on and on. It is the most bungling, inept, obnoxious agency of Government that has ever existed. And I wish the new administration a lot of luck in its efforts to straighten OSHA out.

But, Mr. President, we in Texas cannot wait for the Carter administration to get around to putting OSHA's house in order; frankly I think that will never happen.

Despite the glib promises of new directions for OSHA which were predicted by Dr. Marshall and his staff at the Department of Labor, OSHA persists in trying to implement these regulations concerning worker exposure to cotton dust. Congress cannot stand still to allow those standards to go into effect, and my State cannot stand still either.

I hope that the Senate will expend its newly found energy this session on immediate hearings on this bill, because time

is critical. We have found the will to push through tax legislation, and economic stimulus jobs bills, and a farm bill, and a host of other major legislative items. I very strongly believe that we can do the same for this bill. I would urge my colleagues to support it, and I would urge OSHA to take heed to the message which I would hope the Congress will send it in this regard.

Mr. President, I ask unanimous consent that a copy of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

#### S. 1605

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is established an independent Panel consisting of 12 members appointed by the Secretary of Agriculture, in conjunction with the Secretary of Labor, to investigate the safety and health implication of cotton dust exposure to workers in all industries where exposure to cotton dust exists, including ginning; warehousing; compressing of cotton lint; classing and marketing of cotton lint; manufacturing of yarn, threads and fabric; reclaiming and marketing of textile manufacturing waste; delinting of cotton seed; marketing and converting of linters; reclaiming and marketing of gin motes; and baling, yarn, and felt manufacturing using waste cotton fibers and by-products.*

*(b) Of the 12 members appointed to the Panel established under subsection (a), 3 shall be appointed from persons nominated by the Director of the National Institutes of Health, 3 shall be appointed from persons nominated by the Director of the National Academy of Sciences, and 6 shall be appointed from among persons representing industry.*

*(c) (1) The Board shall submit a report to the President for transmittal to the Congress not later than December 31, 1979 containing the recommendations of the Panel with regard to regulations which are designed to protect workers in relation to their exposure to cotton dust. The Panel shall make no recommendation in its report except by majority vote of the members of the Panel.*

*(2) Members of the Panel who are not officers or employees of the United States shall receive for each day they are engaged in the performance of their duties compensation at rates not to exceed the daily equivalent of the annual rate in effect for GS-18 of the General Schedule, including travel time; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.*

*(d) In making its determination the Panel shall consider—*

*(1) the risk of danger to workers from exposure to cotton dust in present operations in all sectors of the cotton industry, except those areas which are clearly farming operations such as production, ginning, compressing of cotton lint, and delinting of cotton seed;*

*(2) the availability of existing technology to combat serious safety and health consequences of such exposure;*

*(3) the costs of implementing technology and procedures to reduce risk associated with such exposure, and the probable long-range effects those costs have on the number of persons employed in affected operations;*

*(4) the responsibility of individual work-*

*ers to adhere to safety and health procedures presently recommended by employers.*

*(e) No regulations shall be promulgated or caused to be promulgated by an agent of the Federal government except if such regulations shall be consistent with the recommendations of the Panel created under this section.*

*(f) There are authorized to be appropriated to carry out the purposes of this Act \$1,000,000 for the fiscal year ending September 30, 1978, and \$1,000,000 for fiscal year ending September 30, 1979.*

*SEC. 2. Proposed standards for exposure to cotton dust (Federal Register, volume 14, No. 250, Tuesday, December 28, 1976) shall be suspended until the conclusion of the investigation required under section 1 of this Act.*

By Mr. ANDERSON (for himself and Mr. HUMPHREY):

S. 1606. A bill to amend the Internal Revenue Code of 1954 to treat the conducting of certain games by tax-exempt organizations as not being an unrelated trade or business; to the Committee on Finance.

Mr. ANDERSON. Mr. President, I am pleased to introduce today with my colleague from Minnesota, Senator HUMPHREY, legislation to provide that the proceeds from the operation of certain games by nonprofit organizations would not be subject to the unrelated business income tax. Under the present law, organizations such as the Veterans of Foreign Wars, the American Legion, and Knights of Columbus, which are otherwise tax exempt, must pay Federal income taxes on the proceeds from bingo and other regularly conducted games, if the organization pays workers to operate the games. The proceeds from the games are used for worthwhile charitable purposes, such as the purchase of uniforms and equipment for youth sports activities. The present tax liability assessed to these groups, if not amended as provided in my bill, could cause them to significantly reduce their sponsorship of many youth activities.

Originally the tax on income from unrelated business conducted by such organizations was imposed because taxpaying businesses complained of unfair competition. Since the operation of games by otherwise tax-exempt organizations does not compete with commercial activities, taxing their proceeds is not necessary, in my judgment, under the general purpose of the law.

The legislation Senator HUMPHREY and I are introducing today would only apply to games which are not prohibited by State or local law. In addition, the operation of the games could not be in competition with profitmaking businesses. The exempted proceeds would also have to come from games which usually have the wagers placed, the winners determined and the prizes or other property distributed in the presence of all persons placing wagers in the game.

The taxation of the proceeds of these games is an unnecessary obstacle for organizations performing important civic activities. It's a burden for their members and an injustice to the people they are trying to serve.

Mr. President, I request that the text of S. 1606 be printed in the RECORD.



There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1608

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)* section 513 of the Internal Revenue Code of 1954 (defining unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(f) CERTAIN GAMES.—

"(1) IN GENERAL.—The term 'unrelated trade or business' does not include any trade or business which consists of conducting qualified games.

"(2) QUALIFIED GAME.—For purposes of paragraph (1), the term 'qualified game' means any game—

"(A) of a type in which usually—

"(i) the wagers are placed,

"(ii) the winners are determined, and

"(iii) the distribution of prizes or other property is made,

in the presence of all persons placing wagers in such game.

"(B) the conducting of which is not an activity ordinarily carried on on a commercial basis, and

"(C) the conducting of which does not violate any State or local law."

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1969.

By Mr. MATSUNAGA (for himself and Mr. INOUE):

S. 1607. A bill to amend title 10 of the United States Code relating to Junior Reserve Officers' Training Corps; to the Committee on Armed Services.

Mr. MATSUNAGA. Mr. President, I am introducing today a bill that will extend to the high school students of American Samoa the opportunity to participate in Junior Reserve Officers' Training Corps programs.

As my colleagues are aware, the people of American Samoa are not American citizens, but are classified under law as U.S. nationals. As a result of this classification, American Samoans are sometimes excluded from participation in certain Federal programs designated by the law to be available only to American citizens. Although Congress has, over the past several years, sought to revise many of the statutes that exclude American nationals from Federal programs, some of these inequities still remain in the law. This is the case with regard to the establishment of a Junior ROTC program in American Samoan high schools.

Last year, the Department of Education of the Government of American Samoa approved the inclusion of a Junior ROTC program in the curriculum of American Samoa's high school system. A formal program application was submitted to the U.S. Army Fourth ROTC Region in Fort Lewis, Wash.

While the Army responded favorably to the concept, the Government of American Samoa was informed that Junior ROTC units could not be established in the Territory due to the fact that the statutes governing the Junior ROTC program require that the program participants must be citizens of the United States.

In a communication addressed to the Honorable A. P. Lutali, the elected Washington Representative of the Govern-

ment of American Samoa, the Department of the Interior recommended that legislation be introduced in Congress to amend the section of the United States Code relating to Junior ROTC programs in order to make American nationals eligible to participate.

In a letter to Congressman MELVIN PRICE, chairman of the House Armed Services Committee, Acting Assistant Secretary of Defense Carl W. Clewlow indicated that the Department of Defense strongly endorses Samoan Delegate Lutali's proposed legislation, particularly because American Samoans have made, and continue to make, an invaluable contribution to the defense of the United States. Recently, Congressman RICHARD WHITE, a member of the House Armed Services Committee, introduced a bill virtually identical to the bill that I am introducing in the Senate, designed to remove the legal restrictions that prevent American Samoan schools from being eligible for Junior ROTC units.

Mr. President, the bill that I am introducing today, at the request of Delegate Lutali, amends the United States Code to make American nationals eligible to participate in Junior ROTC programs. The establishment of a Junior ROTC unit in Samoan high schools is important, in view of the large number of Samoan students who are recruited, directly out of high school, into the various branches of the armed services. A Samoan Junior ROTC program would enable Samoan students to prepare themselves for careers in the U.S. Armed Forces.

Mr. President, I am hopeful that my colleagues will consider my bill favorably, for while it proposes to make a small change in the law governing Junior ROTC programs, it promises to do a great deal of good for our friends in American Samoa.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1607

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2031(b)(1) of title 10, United States Code (relating to Junior Reserve Officers' Training Corps) is amended by striking out "citizens of the United States" and inserting in lieu thereof "citizens or nationals of the United States".*

SEC. 2. This Act shall be effective on the date of enactment of this Act.

By Mr. METCALF (for himself and Mr. STEVENSON):

S. 1608. A bill to abolish the Joint Committee on Congressional Operations, and for other purposes; to the Committee on Rules and Administration.

Mr. METCALF. Mr. President, the bill that I am introducing today is intended to implement the Committee Systems Reorganization Amendments of 1977, with respect to termination of the Joint Committee on Congressional Operations.

As Senators will recall, section 201(d) (1) of the amendments required the

appropriate standing committees of the Senate, not later than July 1, 1977, to report legislation terminating the statutory authority of specified joint committees:

This bill repeals that part of the Legislative Reorganization Act of 1970 which authorizes the Joint Committee on Congressional Operations.

The report on the committee amendments makes it clear that the duties and responsibilities which had been assigned to the joint committee are now within the jurisdiction of the Senate Committee on Rules and Administration. To insure that functions of the joint committee relating to the personnel placement office and office management assistance—including preparation and issuance of the Senate Congressional Handbook—as well as identification of court actions of vital interest to the Senate can be continued cooperatively, the bill also authorizes the Rules and Administration Committee to carry them out jointly with any committee of the House which provides similar services.

It is my intention, Mr. President, to wind up the affairs of the joint committee as of July 1, and I have so advised the vice chairman, Representative JACK BROOKS. I hope that the legislation necessary to repeal its statutory authority can be handled expeditiously in both Houses.

I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1608

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective July 1, 1977—*

(1) part 1 of title IV of the Legislative Reorganization Act of 1970 is repealed; and

(2) the table of contents of such Act is amended by striking out the matter relating to such part.

SEC. 2. (a) This section is enacted—

(1) as an exercise of the rulemaking power of the Senate, and as such it shall be considered as part of the rules of the Senate and such rule shall supersede other rules only to the extent inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change such rule at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

(b) The Committee on Rules and Administration of the Senate shall—

(1) Upon request, assist Members, committees, and officers of the Senate seeking competent personnel with specified qualifications and furnish advice and information with respect to office management procedures; and

(2) Identify any court proceeding or action which in the opinion of the Committee on Rules and Administration, is of vital interest to the Congress, or to the Senate, as a constitutionally established institution of the Federal Government and call such proceeding or action to the attention of the Senate.

In providing such services, the Committee on Rules and Administration is authorized to cooperate with, or act jointly with, any committee of the House of Representatives which provides similar services.

By Mr. SPARKMAN:

Senate Joint Resolution 61. A joint resolution to authorize and request the President to issue a proclamation designating the last week in August of each year as "National Grade Crossing Safety Week"; to the Committee on the Judiciary.

Mr. SPARKMAN. Mr. President, for some reason too many people throughout our Nation are simply ignoring stop signs at railroad grade crossings. Last year at least 12,032 accidents occurred because people ignored these stop signs. Hundreds of people were killed.

A member of my staff reports to me that at nearly every grade crossing for which he has stopped, he has been in danger of being run down from behind and that people have chastised him for stopping, all of this, despite the fact that there are clearly visible stop signs at these crossings.

I feel that there is need for a national, cohesive action to emphasize the danger of this situation. Both the National Safety Council and the Association of American Railroads have expressed an interest in congressional leadership to caution the Nation about this danger. Accordingly, I am introducing a joint resolution to authorize and request the President to issue a proclamation designating the last week in August of each year as "National Grade Crossing Safety Week."

I urge my colleagues to support this resolution. I feel that Senate passage of this resolution, appropriately publicized, will stimulate better driving at grade crossings and better enforcement by State and local police of traffic laws relating to grade crossings.

#### ADDITIONAL COSPONSORS

S. 76

At the request of Mr. STONE, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 76.

S. 123

At the request of Mr. INOUE, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of S. 123.

S. 247

At the request of Mr. GOLDWATER, the Senator from Utah (Mr. HATCH) and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of S. 247.

S. 532

At the request of Mr. INOUE, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of S. 532.

S. 1140

At the request of Mr. HART, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 1140.

S. 1237

At the request of Mr. BAKER, the Senators from Pennsylvania (Mr. SCHWEIKER and Mr. HEINZ) were added as cosponsors of S. 1237.

S. 1242

At the request of Mr. NELSON, the Senator from Oklahoma (Mr. BELLMON) and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of S. 1242.

S. 1556

At the request of Mr. HANSEN, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1556.

S. 1585

At the request of Mr. MATHIAS, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 1585.

AMENDMENT NO. 340

At the request of Mr. ROTH, the Senator from Louisiana (Mr. JOHNSTON) and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of amendment No. 340, to be proposed to S. 961.

#### AMENDMENTS SUBMITTED FOR PRINTING

##### HOUSING AND COMMUNITY DEVELOPMENT ACT—S. 1523

AMENDMENT NO. 342

(Ordered to be printed and to lie on the table.)

Mr. BURDICK submitted an amendment intended to be proposed by him to the bill (S. 1523) to amend the Housing and Community Development Act of 1974.

AMENDMENT NO. 343

(Ordered to be printed and to lie on the table.)

Mr. TOWER (for himself, Mr. STONE, and Mr. CRANSTON) submitted an amendment intended to be proposed by them jointly to the bill (S. 1523), supra.

Mr. TOWER. Mr. President, I want to offer this amendment to S. 1523, the Housing and Community Development Act of 1977, for Senators CRANSTON, STONE, and myself. It is a very simple amendment.

It would make distressed "areas" of cities and urban counties eligible for assistance under the proposed urban development action grant, UDAG, program. Under the proposal contained in S. 1523, only distressed cities and urban counties are eligible to receive assistance under UDAG. No one knows which cities or counties will be eligible, at this time, as the Secretary of HUD will decide this in the future after considering such factors as age and condition of housing stock, abandonment, population outmigration, average income, and stagnating tax base.

Rather than apply these factors to a city or county to determine its eligibility, we would apply these factors to areas within a city or county. Unless this is done, many of our severely depressed neighborhoods will never see a penny of this money, because even though the neighborhood might be considered to be poverty stricken, the city or county within which it is located is not considered to be "distressed." As we read this, cities such as Denver, Miami, and Atlanta, probably would not be defined by the Secretary as being distressed, even though different areas of those cities would certainly contain factors such as those mentioned above. Clearly, the areas would be ones which could be termed "distressed."

Why should certain cities and counties be discriminated against when they con-

tain areas just as much in need as other cities? It is completely unfair to the residents of these areas to be denied the ability to receive these funds.

This amendment still allows all the funds to be allocated at the discretion of the Secretary. Its sole purpose, however, is to make distressed "areas" of cities and urban counties, rather than only the category "distressed cities and urban counties," eligible to receive UDAG funds.

#### ADOPTION OPPORTUNITIES RESEARCH ACT—S. 961

AMENDMENT NO. 344

(Ordered to be printed and to lie on the table.)

Mr. HAYAKAWA submitted an amendment intended to be proposed by him to the bill (S. 961) to promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes, and for other purposes.

#### CLEAN AIR ACT AMENDMENTS—S. 252

AMENDMENT NO. 345

(Ordered to be printed and to lie on the table.)

##### CLEAN AIR—AUTO EMISSION STANDARDS

Mr. BAKER. Mr. President, I send to the desk to be printed an amendment to S. 252 which would modify the automobile emission standards contained in section 20 of that bill.

In my individual views filed with the committee report, I outlined my feeling with regard to the auto emission standards and the need to provide stability in these standards so that industry could transfer its research efforts to meeting fuel efficiency goals. I ask unanimous consent that those views be printed in the Record following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. The amendment which I have just introduced would provide for the following schedule of emission standards.

|      | HC  | CO   | NOx  |
|------|-----|------|------|
| 1978 | 1.5 | 15.0 | 2.0  |
| 1979 | 1.5 | 15.0 | 2.0  |
| 1980 | .4  | 3.4  | *1.0 |
| 1981 | .4  | 3.4  | *1.0 |
| 1982 | .4  | 3.4  | 1.   |

\* A waiver is provided up to 2.0 gpm of NOx for vehicles which utilize new engine systems or nonprecious metal catalyst emission systems.

This schedule is designed to accomplish three major objectives. First, it gives industry another year at current emission rates in which to further develop technologies to meet statutory standards. Second, it establishes a final statutory framework in 1980 and beyond so that the industry may transfer research efforts to the development of fuel efficient engines. And third, it provides a waiver from the NO<sub>x</sub> standard to encourage the development of new fuel efficient engine systems, such as the diesel or stratified charge engines, or emissions systems not based on precious metal catalysts.



I believe that this proposal balances the needs of industry for additional development time and the interests of public health and welfare by moving expeditiously to the lowest practicable standards. I hope my colleagues will consider this proposal carefully.

#### ADDITIONAL VIEWS OF MR. BAKER

I voted to report S. 252, the Clean Air Act Amendments of 1977, to the Senate because I feel that on the whole it is a sound effort to respond to pressing environmental issues. However, there are two issues considered by the committee which I believe warrant further attention and on which I shall propose amendments to the course taken in the bill. I would like to discuss these briefly.

#### AUTOMOBILE EMISSION STANDARDS

The Clean Air Act of 1970 required that, beginning with model year 1975, emissions of hydrocarbons and carbon monoxide be reduced by 90 percent from precontrol levels and that oxides of nitrogen be reduced by a like amount beginning with model year 1976. These ultimate standards were converted into emission rates by the Environmental Protection Agency and are expressed: .41 grams/mile for hydrocarbons, 3.4 grams/mile for carbon monoxide, and .4 grams/mile for oxides of nitrogen.

The concept of establishing an arbitrary percentage reduction embodied in the 1970 Act is referred to as a "technology forcing" standard. The standard was based neither upon known control technologies or upon any precise relationship to ambient pollutant concentrations. It was undertaken by Congress in the expectation that industry could achieve the reductions in these dangerous pollutants through the development of new control technologies.

I believe that course of action, given the state of our knowledge in 1970, was wise and courageous. Over the years since its adoption, we have made substantial progress toward the goal of clean automobiles. It has been an arduous undertaking as many of us who have served on the Committee on Environment and Public Works since 1970 can attest.

Several extensions have been necessary in the original schedule of compliance because the evolution of technology has been slower than originally anticipated. But in 1977 we have achieved a reduction of 85% in emissions of hydrocarbons and carbon monoxide and over 40% in oxides of nitrogen.

The schedule of emission controls adopted in S. 252 calls for a one-year extension of present controls for model year 1978; it then provides one year at an interim level (0.4 for HC, 3.4 for CO and 2.0 for NO<sub>x</sub>); and in 1980 the bill requires final statutory compliance.

This is the schedule which the Senate approved last year. While I sympathize with the concern for human health and welfare which has motivated the Committee to continue pressing for increments of progress toward our ultimate goal, I do not believe that the concept of forced increments of progress is still necessary.

I believe we stand now on the verge of achieving most of what we sought in the Clean Air Act of 1970. It is time to abandon forced increments of progress and instead to consider the establishment of a final timetable for compliance and to adjust the statutory standards in light of scientific data regarding ambient effects and technological and industrial limitations. The demands upon the automobile industry to develop new energy-efficient automobiles dictates that further emission control efforts be simplified as much as possible in order to allow a greater commitment of resources to our energy goals.

I believe the industry can with evolving technological systems, including the three-

way catalyst, meet statutory standards in 1980, and they should do so. The imposition of additional control levels or the forcing of the use of developing technologies before they are sufficiently proven will not significantly enhance environmental quality and will result in substantial energy and economic penalties.

From the various schedules of emission standards which have been offered during the debate on this issue this year, it is apparent that many of us have become habituated to the "increments-of-progress" approach. Like the frog in the riddle, we seem determined to jump always halfway to the wall.

We are close to our goal. I do not believe we need to continue jumping halfway to it.

Additionally, I believe the final statutory scheme should provide flexibility for a period beyond 1980 to accommodate various evolving technologies which will have difficulty meeting the NO<sub>x</sub> emission standard. Control of NO<sub>x</sub> is a difficult problem from the environmental standpoint and a difficult proposition from the standpoint of new engine technology.

Strict adherence to the 1.0 gpm standard may tend to freeze industry into the three-way catalyst technology. Because this system depends on platinum and rhodium, precious metals available primarily from foreign sources of supply, I believe it would be unwise not to encourage exploration for and development of alternatives.

Administrative flexibility should be built into the emission schedule in such a way as to insure that evolving technologies will meet our fuel efficiency targets.

I intend to explore during floor consideration the possibility of devising a schedule of emission standards which embodies the thoughts I have presented here. The gravamen of this effort will be to finally conclude the perennial issue of auto emission standards. With our energy problems requiring more of the time and efforts of Congress and the energy-related industries, we need to establish stability in environmental control requirements in order to free resources for our energy efficient efforts.

#### NOTICE OF HEARINGS

##### NOMINATION BEFORE THE JUDICIARY COMMITTEE

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, June 8, 1977, at 10:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nomination:

Finis E. Cowan, of Texas, to be U.S. district judge for the southern district of Texas vice James L. Noel, Jr., retired.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

#### ADDITIONAL STATEMENTS

##### IF WINN-DIXIE COULD BAG MINIMUM WAGES

Mr. HELMS. Mr. President, the American consumer is often unaware that the highly competitive grocery industry operates on a very low margin of profit. To illustrate this point graphically, the Winn-Dixie Corp., based in Jacksonville, Fla., uses grocery bags which show the

consumer where every penny of the average dollar goes when he makes a purchase at the store.

Printed on the side of the bag is the picture of the dollar. It is broken down into segments and shows that 85 cents of the customer's dollar goes for the cost of merchandise, supplies, and services. Ten cents represents the cost of labor. Three cents represents the tax burden the store must bear, and only 2 cents represents the store's net profit. The following inscription below the picture points out:

If you give your son 25 cents to go to our store, to buy a \$10 order for you, he has made more on the order than Winn-Dixie.

Mr. James E. Davis, chairman of the board of Winn-Dixie, recently sent me one of these interesting grocery bags, along with a letter that I would like to share with my colleagues. In this letter, Mr. Davis makes the important point that minimum wage laws have already forced Winn-Dixie to cut back its carry-out services because it cannot afford, under its low-profit margin, to pay the high salaries that are demanded by Federal regulations. As a result, jobs for young men have been eliminated and the customers are without a service they would otherwise enjoy.

Such are the effects of minimum wage legislation. It strikes me as odd that the administration proposes to spend billions of dollars of the taxpayers' money to create make-work jobs for our young people, while simultaneously endorsing minimum wages that will destroy productive jobs in the private sector. There is, indeed, no surer way to create unemployment than to peg wages at a level higher than the people and businesses can afford to pay.

Mr. President, I ask unanimous consent that Mr. Davis' letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

WINN-DIXIE STORES, INC.,  
Jacksonville, Fla., May 18, 1977

Senator JESSE A. HELMS,  
Russell Senate Office Building,  
Washington, D.C.

DEAR SENATOR HELMS: About three years ago, we sent each member of Congress a bundle of "cash and carry" bags for the office, thinking they might be useful. We have had some inquiries from the staff of other Congressional people, indicating that these bags have been depleted.

We have taken advantage of this bag by printing our margin of profit on it to counteract misunderstandings of margins in the food field. Our profit last year was 1.9% on sales, which would be 19¢ on a \$10.00 order. This could easily be wiped out by any number of changes in government regulations. The minimum wage for our bag boys is \$2.30 an hour. Most of them make more than that now. If it were raised to \$3.00 an hour, their pay would be 5¢ a minute. It is not impossible to spend 10 minutes wheeling a basket of groceries out and unloading them into an automobile.

We have almost eliminated the "carry out" service already. This has eliminated a lot of jobs for boys at the age where meeting the public, learning to sell and exercising discipline is paramount.

Anyhow, we hope these bags will be useful.

Sincerely,

JAMES E. DAVIS.

## SPECIAL OLYMPICS

Mr. BENTSEN. Mr. President, today, the opening ceremonies of the Ninth Annual Special Olympics will be held in the Memorial Stadium of the University of Texas at Austin. Over 2,300 athletes, 300 volunteers and 900 coaches and parents from throughout the State will be present at the ceremony that starts off 3 days of unique competition.

The competition at these olympics is a model for all Americans of just how much can be accomplished by those with a desire to win no matter what the obstacles. These olympics are special because the competitors are mentally handicapped individuals—and although they will break no world records in the competitive games, their personal performances will rival any records of courage and determination that have ever been set.

The competitors at these olympics range in age from 10 to 63 and they were chosen to compete in this statewide event as a result of their performances at district meets held throughout the State.

The special olympics are sponsored nationally by the Joseph P. Kennedy Foundation and the Texas competition is under the auspices of the Texas Association for Retarded Children. The goal of these special olympics is to give those with handicapped skills an opportunity to perform to the best of their ability in the company of those with similar abilities. It is an important development in an overall national effort to afford the handicapped the training and the forums which will encourage them to more fully participate in our society.

Mr. President, I want to add that I visited with the Texas delegation to the White House Conference of Handicapped Individuals yesterday and I found their pride and their spirit a model for all of us to emulate. All handicapped groups in this country are beginning to take effective strides toward assuring that their thinking is heard and their needs are met. I fully support their efforts and admire their courage.

## IN RECOGNITION OF NATIONAL SMALL BUSINESS WEEK

Mr. SCHMITT. Mr. President, I would like to take just a few minutes of the Senate's time to recognize this week as having been designated as National Small Business Week by the President. We in Washington often tend to overlook the contributions made to the Nation's economy by small businesses, mostly because the large commercial firms grab most of the headlines. Small businesses, however, represent the economic ideal of responsive, efficient, and competitive provision of the Nation's goods and services. Americans, particularly American minorities, have always striven to be a part of this basic sector of the free enterprise economic system. We often take our small businessmen and women for granted, and often generate pieces of legislation which impact on them adversely. Their flexibility and responsiveness usually manages to over-

come the roadblocks which we sometimes throw in their path.

It is also a pleasure for me to congratulate the persons selected by the Small Business Administration as Small Business Persons of the Year in New Mexico. They are Matias and Connie Martinez, owners of Martinez Oil and Gas Co. of Las Vegas, N. Mex. They had previously been chosen as Minority Small Business Persons of the Year for New Mexico. My congratulations go out to them for having received this honor. They represent the thousands of small businesses in our State which are making a constant and usually unheralded contribution to the economy of our State and the Nation.

## FUTURE ROLE FOR U.S. OIL INDUSTRY

Mr. HART. Mr. President, on May 22, 1977, the Washington Post published an article entitled, "U.S. Oil Industry Stakes Out Role for the Future," by William Greider.

This article is on a most important subject. It points to the increasing horizontal integration by oil companies of alternative sources of energy. The increasing concentration of economic power by the major oil companies heightens my concern that a few giant corporations will be able to exercise control over all energy production and over the legal and social environment within which they operate. This factual article deserves the attention of us all.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

## U.S. OIL INDUSTRY STAKES OUT ROLE FOR THE FUTURE

(By William Greider)

It is in the nature of great empires, history tells us, to proclaim their own immortality, then proceed to decline and ruin.

But the world's greatest industrial empire—the American oil industry—intends to accomplish the opposite. It periodically predicts its own demise, while it quietly arranges for permanent hegemony over America's energy business.

The United States might run out of oil someday. But there will always be an Exxon.

And a Mobil and a Gulf and a Texaco and so on down the list of "majors" and "lesser majors" who comprise the awesome corporate mass of American oil companies. Here is what the future looks like:

If the early promises of nuclear power are ever fulfilled, uranium will be mined and milled, perhaps enriched and reprocessed, by oil companies.

If America shifts from oil to coal as its principal source of energy, the importance of the oil companies will multiply—not shrink—because of their vast holdings in coal. In the not-so-distant future, when new technology converts coal to gas or liquid fuel or even a gasoline substitute, oil companies will make it and market it, from the ground to the gas station.

Oil shale, tar sands, geothermal power—oil companies have established futures in these sources, too.

And, yes, even in solar energy. Exxon and Mobil and Gulf cannot acquire the sun, but they have invested in the hardware and

technology which someday may make sunshine a saleable commodity, either through home heating units or large-scale power-generating plants.

This future is already emerging, sanctioned and encouraged, to some extent, by the federal government. Despite the occasional outbursts of anti-oil rhetoric in Congress, the government acts more like a partner than an adversary. It leases its coal and oil shale to the all-energy companies, provides legal clearance for their mergers and acquisitions, even pays for most of the research which will usher in the future fuels.

As a chapter in U.S. industrial history, it is a bit breathtaking. Here are corporate managers who are planning, not five years or eight years in advance, but for a full generation beyond. They are hedging against that time they keep warning us about—when oil and gas are gone. They are staking out strong positions for their companies, perhaps dominance, in the energy age beyond petroleum.

"The big problem is only the next 15 years," a Mobil vice president said confidently. "If we can get through the next 15 years and we aren't dopes about coal and nuclear, we should get back to an era where energy is no problem."

Whether one shares that robust optimism depends largely on how you feel about oil companies. If they are dynamic and creative components, trustworthy stewards, then their transformation into all-energy corporations is logical, even encouraging. If you see the oil industry as a web of partners, which has stifled competition and warped America's priorities, then the future looks downright scary.

People have been warning us for years that this was going to happen, that someday oil would own it all if the government did not intervene. But the case for making oil give up its acquisitions in other fuels—known as horizontal divestiture—has never been able to generate much power in Congress. Jimmy Carter, as candidate, expressed a lot of sympathy for the idea. As President, he has backed away from it.

The fear, of course, is that once oil companies have established leverage in alternative fuels they will be able to manipulate freely supply and price and profit. But this case rests on future facts which cannot be proven in the present. And, besides, the idea of divesting all those companies of all that wealth scares politicians, too.

So here is where things are now: oil companies have a majority position or very close to it in both coal and uranium. They are leaders in the technology that will open up the future alternatives, particularly the synthetics from coal. Their hedges cover virtually every other possibility, from sunshine to garbage-burning.

Some 24 oil and gas companies now control at least 77 billion tons of U.S. coal reserves. That represents approximately 44 per cent of all the coal leased or owned by private companies of any kind. If one leaves aside the coking coal which is reserved for steel-making, then oil's share of all the leased reserves is about 50 per cent.

Like other energy issues which depend upon corporate reporting for the vital statistics, it is impossible to determine the precise share of oil-owned coal. These estimates were derived from corporate annual reports, industry surveys and confidential filings with the Federal Trade Commission.

Most previous surveys have put the oil industry's coal reserves at 40 billion to 50 billion tons. Oil's share is understated further by comparing it to the total U.S. reserve figure of 437 billion tons. It is more relevant to compare what oil controls to the coal reserves controlled by all coal producers in the near-



ketplace. According to an estimate by Exxon, that coal is roughly 174 billion tons. This is the coal which will be mined in the coming generation and oil controls almost half of it. For some reason, the Carter energy plan reports that oil owns only 5 per cent of U.S. reserves—which is lower than the oil industry's own estimate of 12 per cent.

Whatever the precise number, the last decade produced a hungry acquisition campaign by oil companies. Six of the top 10 holders of U.S. coal reserves are now oil companies; 14 of the top 20. An American Petroleum Institute study estimates that 25 companies have invested "in excess of \$6.5 billion" in coal.

Their future position is most dramatic in the West where the coal seams lie close to the surface and coal development will be crucial to national energy production. According to 10-year production plans reported by the Federal Energy Administration, oil and gas companies will control 50 per cent of it.

In some vital areas, their control is much higher. The hottest coalfield anywhere is the federally owned acreage in Campbell County, Wyoming, where more than a dozen huge strip mines are planned for the next decade. In Campbell County, 90 per cent of the planned coal production is owned by oil and gas.

Down the road away, petroleum companies have established a pre-eminent position on the technology to convert coal into synthetic fuels—a low-grade gas, a liquid industrial oil, even perhaps a synthetic gasoline. Conoco, Gulf, Exxon, and Shell are leaders. From 1964 to 1974, seven petroleum companies were granted 49 of the 52 patents covering synthetic gas and oil from coal.

In uranium production, a realm where fewer firms compete and corporate grith is more important, the oil companies have a potential leverage which is probably greater. Oil and gas companies—mainly Kerr-McGee, Gulf, Continental, Getty and Exxon—control 51 per cent of the U.S. uranium reserves. Oil companies control 52 per cent of the uranium milling capacity, the process which converts ore to a fuel concentrate.

Several majors, including Exxon, Atlantic Richfield, Gulf and Shell, are seeking entry into other refining processes which will be important elements in the future of nuclear power—uranium enrichment which is now monopolized by the U.S. government and the processing of spent fuel from nuclear reactors.

These building-block stages of the future all-energy company are dominated by the familiar corporate names, but the idea has not been lost on others. Two of the new oil companies in the APT's Top 30 list are the Union Pacific and Santa Fe railroads. Santa Fe has oil, gas and coal. Union Pacific has oil, gas, coal and uranium.

Another sideways entry is Utah International, a major mining company, which also has a petroleum subsidiary, plus major holdings in coal, the seventh-largest uranium reserves, the third-largest uranium milling capacity. Now Utah International has merged with General Electric, one of the principal manufacturers of nuclear reactors. Thus, one corporation has the skeleton for the ultimate all-energy production—from the mines to the power plants.

It does not require much imagination to see where the major oil companies are headed—toward the vertical integration of production, refining, marketing in coal and uranium, not very different from their vertical control of petroleum which has often been criticized as anti-competitive. Mines will replace wells. Milling plants will replace refineries. But, if things work out, maybe they can use some of the same pipelines and gas stations.

In the long run, almost anything is possible in the future of energy. America could

decide to run its cars on corn. And it could feed oil to the cattle. Or maybe Americans will skip cattle altogether and just eat steaks made from oil.

Don't laugh. The technology already exists. Methanol, distilled from corn or any other feed grains, will run an automobile (the state of Nebraska which grows a lot of grain is pushing that idea). British Petroleum has an experimental feedlot where it is raising cows on hydrocarbon feed derived from oil. Oil steaks are said to taste a lot better than they sound.

Some of these ideas may never become economically feasible (or palatable), but the point they illustrate is that the oil majors have their eye on a future much more broadly defined than the current back-and-forth over oil prices and government regulation and all that.

"Most people are looking for us to run out of oil," said Wally Seward, a planning expert with the American Petroleum Institute. "I don't expect that at all. Using oil for heat and steam power is outmoded. The future is petrochemicals and animal feed stocks and other higher uses."

They used to burn whale oil in the lamps of America but, when the whales were depleted as a mass source of energy, sperm oil became a highly prized lubricant—also very expensive. Something like that will probably happen to petroleum in the next 40 years, only the refined uses will be must more exotic.

Some of the majors are also dabbling in "exotic" fields outside energy. Mobil, the most serious about nonenergy diversification, bought Montgomery Ward and Container Corporation of America.

Gulf was dickering on a merger with Rockwell International, the aerospace giant, but the deal soured, according to one source, when it became clear that Gulf wanted to absorb it as Gulf's Rockwell, not Gulf-Rockwell.

Exxon has created a venture capital division which invests seed money in small and diverse entrepreneurs who have a bright idea about future technology, from machines that grade school tests to computer-guided typewriters. Exxon has spent modest millions on these ventures and hopes they will make money, but one Exxon executive explained: "In the overall picture they don't even show up on our balance sheet."

Exxon's balance sheet, remember, is \$48 billion a year. It is always No. 1—three times larger than IBM. But then all of the American oil industry is staggering in size. On the Fortune 500, four of the top eight are oil, 10 of the top 20, 17 of the top 50.

And oil is still where their hearts lie. "The oil industry is still largely conservative," said one industry authority. "If it were possible just to go on punching holes in the ground for oil, eight out of 10 executives would go punch holes all over the place."

In other words, the foresight that led oil companies into coal and uranium and other alternatives was spread very unevenly across the industry. Continental, a lesser mogul in domestic oil and natural gas, jumped in early and has become a major player in coal (No. 1 in reserves) and uranium (No. 4). But two of the eight majors do not yet have a position in uranium.

These complications begin to shape the industry's arguments for allowing the future to happen—for not making them sell off their alternative holdings or freezing them out of future acquisitions. Divestiture would hurt the wise ones most, especially the smaller companies that got into other fields.

There are deeper questions: If the oil companies are blocked from buying into alternative fuels, what should they buy? Department stores or newspapers? The tax structure encourages a corporation to direct profits into new acquisitions rather than distribute them to stockholders and this makes conglomerate

growth an inevitable feature of the U.S. business structure. So what should oil companies become, assuming they do not intend to shrink with the world supply of oil?

"Hedging your bets is basically the name of the game," said Jim Atkin, a lawyer who heads API's lobbying efforts on the divestiture issue. "If we drill Atlantic offshore and hit zilch, as we did down in Florida, why not hedge on some other fuel sources?"

"Oil companies have tremendous cash flows and if the government comes along and says, 'Okay, you're in the oil business, you can't go into coal,' so what do you do with cash flow? You can go into the car industry or the airplane industry or whatever, or you can pass that cash flow out to your stockholders and that's awful painful because the stockholder pays a second tax on it."

Another, more important question for the nation is: if the oil companies cannot mine coal and uranium, who will? The petroleum giants have awesome corporate resources, the cash flow which allows them to invest in long-term projects without running to the bank and, in some areas, the geological expertise which would be useful.

A Gulf task force on divestiture had this to say about uranium:

"New entrants can move into uranium production easily provided they have the required entrance fee—technological and management capability plus financial 'staying power.'"

The "entrance fee" talk is precisely what alarms the critics, the handful of senators and congressmen and energy groups which argue that oil companies will manipulate or retard the development of alternative fuels, based on their own profit strategy, not on national energy requirements.

It may already be too late, some fear. If major oil companies, with their huge capital resources and their multiple leverage in the marketplace, hold the major positions, other smaller fish may be reluctant to swim in that pond. If oil scares away smaller competitors, that increases oil's influence on prices and production.

"Exxon has to realize that coal and oil substitute for one another and they have to develop a total fuels marketing strategy," said David Schwartz, an antitrust consultant.

"If you accelerate coal production to the point where it begins to erode prices in other fuels you control, then you have to balance it off. They wouldn't necessarily say that \$20 a ton is a damn good price for coal. They might look down the road and say it may hit \$40 again, so let's wait. You don't have that option if you're an independent producer."

The antitrust laws are not much help. The classic tests of concentration—overwhelming market power held by a few companies—always give the oil industry a clean bill because so many different companies are involved. By that scale, oil is much more competitive than steel or cars or newspapers, for that matter.

Antitrust law does produce some puzzling results. When Kennecott Copper tried to acquire Peabody Coal, the nation's largest coal producer, the government made it back off. But there were no objections when Atlantic Richfield Oil swallowed up Anaconda Copper, one of Kennecott's main rivals. Presumably Exxon or Mobil or Gulf could buy Kennecott to even things up.

Beyond the antitrust arguments, there is a difference in the oil industry. According to critics like Sen. James Abourezk (D-S.D.), it produces "a community of interest" on crucial issues of supply and price—without the need for secret collusion. The difference is that practically all of the oil companies, large and small, are partners with each other.

Exxon is partners with Mobil in 62 joint ventures. Gulf is partners with Shell in 19 deals. Shell is partners with Standard of California in 22 ventures. Phillips is partners

with Continental 8 times. Continental is partners with Texaco 11 times.

And so on through hundreds of interlocking joint ventures. This is called "risk sharing" in the industry—a way to spread the play on oil drilling, oil and oil shale leases, pipelines and whatever else oil companies do. The practice has even spread to the new ventures in alternative fuels. Gulf and Shell are partners now in nuclear-fuel processing and solar energy, among other things. Ashland and Hunt Enterprises share ownership in Arch Minerals, the nation's seventh-largest coal producer.

"This type of joint venturing is unique," said Schwartz. "Everyone is joint-venturing with everyone else. It's one big happy family. What would happen if U.S. Steel and Bethlehem built a joint plant and said, 'You take so much and we'll take so much.' You'd call it collusion."

The advocates of divestiture believe that breaking up the oil companies, vertically or horizontally or both ways, would ensure price competition in the emerging era of scarcity, encourage new ideas and new fuels like solar, rather than link them to the status quo of oil.

But the arguments for more competition in energy collide with embarrassing realities: the federal regulation of energy already controls oil prices and, under the Carter plan, it would direct buyers like public utilities to select a certain fuel—coal or nuclear. Carter's energy measures are designed to raise fuel prices, not lower them, in order to curb the appetites of consumers.

You cannot have it both ways, of course. There is another argument for divestiture which does not rest on economics. It suggests that what the oil companies are achieving by their diversification resembles a political-social cartel which will be more powerful than government attempts to regulate energy development.

"The oil industry maintains a formidable level of political activity," former Bureau of Mines Director John F. O'Leary testified at a Senate hearing two years ago. "It understandably uses its economic and political strength to advance its own interests, and these interests do not always coincide with those of the public at large. The acquisition wave extended this potential for massive political operations to the coal industry."

"Second, and closely related, the oil industry has an extremely long tradition of seeking the development, particularly at the raw materials end of the business, of institutions that essentially eliminate price competition."

O'Leary said the oil industry has "used its political strength to create, by statute, a result that other industries only could have approximated by collusive action."

O'Leary is now federal energy administrator—on the receiving end of that political power.

In the short run, the future is going to be very bumpy for American consumers. Maybe for oil companies too. Oil and gasoline prices are going to rise, so will coal prices and probably uranium prices.

In the past, when oil prices shot upward, the public got angry and the politicians turned that wrath on the oil industry. Next time around, the oil companies may be blamed for more than the rising of gasoline.

The future use of coal is the clearest, most important test of how these all-energy corporations will behave. In recent years, critics have assailed the oil companies for sitting on the vast coal reserves they had acquired, holding back on production. An FTC survey of 24 petroleum companies with major coal reserves found only eight that had actually mined any coal.

Now the Carter administration's energy plan envisions a massive growth in coal production to offset oil—from 600 million tons a

year to more than one billion by 1985. Can it be done? The oil companies now have a major hand in the outcome.

To add incentive, the Carter plan is "making a market" for coal, ordering public utilities and other industries to convert to coal. The plan anticipates rising coal prices—perhaps even as high as the Mideast crude oil level—which would take contract coal from \$20 a ton to nearly \$45 a ton.

That sounds like plenty of incentive to mine coal, but some economists and social critics are extremely skeptical about the oil companies' intentions. They suggest several dark scenarios on how the oil industry may manipulate coal prices and production for maximum profit in conflict with the nation's energy goals.

Their scripts run like this: oil-owned coal will proceed with the development of the new strip mines in the West, but the actual production will be geared to rising prices, pushing upward the investment return on coal toward the higher return made on oil. Why sell your coal on long-term contracts for \$25 or \$30 a ton if there is a prospect it may hit \$45 in a few years? An independent coal producer, they point out, does not have the same options.

What if coal prices do not increase sufficiently? Then, say the critics, the oil companies will continue to sit on their reserves, waiting for the more distant future when coal synthetics—gas or liquefied coal or whatever—are fully feasible, the future when they can "refine" coal and distribute it more or less like their first love, petroleum.

But if climbing coal prices do stimulate the full-throttle production, that might have the opposite effect of stalling the development of coal synthetics. "If you have coal prices pegged to oil prices," said former director Tom Woodruff, "it's better for the oil companies not to have synthetics enter the market and perhaps bring down the price of oil."

These examples crudely illustrate the complaint of those who would like Congress or somebody to get oil firms out of the other fuels: a company with a broad spectrum of energy markets can develop a unified profit strategy which may conflict with what the country needs.

The all-energy companies, understandably, have a different scenario for the future. Roughly summarized, their promise is to go full tilt on developing everything—coal mining, coal synthetics, nuclear—if only the government and its regulators will get out of the way.

"Despite official projections," an API report warned, "future coal demands is very uncertain . . . Coal demand will also depend upon the future price of oil and of nuclear energy, both of which may fluctuate greatly."

The federal government does not know what to think, judging from the reports it issues on future coal production. In the six Western states where oil-owned coal is strongest, the Interior Department's estimate of future tonnage is about half of the Federal Energy Administration's bullish projections. Interior says many lease-holders plan no production before 1990. FEA is much more optimistic. Since both federal agencies are basing their estimates on what the companies tell them, it is a bit difficult to get at the truth.

The critics, again, suggest that the bullish coal projections are really political statements, not economic forecasts, designed to stir up support for the coal slurry project which the oil companies are seeking and also to serve as a general warning against zealous environmental enforcement. The presumed message is: here is the abundance of coal that we can mine for America if the government will stay off our backs.

Whatever their intentions, both the oil and the coal industries oppose the mandatory conversion proposal in the Carter plan,

even though it would dramatically increase the demand for coal. Their fear is that in the long run it will lead to government control of coal—government price-setting for their market as tricky as the system for oil.

As a long-term prediction, that industry fear is sound. What the nation is liable to wind up with in energy is not the increased competition or lower prices which the divestiture advocates seek or the free hand which the companies want. What seems more likely is more regulation—the government and the oil industry dancing grimly together in the coalfields.

The future, whatever it looks like, belongs to the people who master the ideas—the know-how that converts laboratory technology into a marketable commodity, whether it is gasoline derived from coal or electric power generated from the sun.

The federal government is helping the oil companies to develop that know-how, particularly in the coal synthetics and nuclear fields. This is another way of ensuring that there will always be an Exxon, no matter what happens to the natural supplies of petroleum. The Energy Research and Development Administration has contracts totaling \$211,570,800 with a dozen or so oil companies and their subsidiaries (which is more than the companies are spending themselves).

Gulf, Exxon, Shell, Mobil, Ashland, Continental are among the leading beneficiaries of this federal "R&D" money. The big money is on coal conversion plants, but the federal sponsorship covers solar and oil shale and other "exotics." ERDA also hires oil and gas companies to do research on oil and gas—active contracts totaling \$51,118,200.

Government-financed research dwarfs the oil industry's, particularly in the alternative fuels. Overall, ERDA will spend about \$3.6 billion on energy research this fiscal year compared with \$443 million by 23 oil companies, according to an industry survey cited by API. Most of the industry's \$443 million is for oil and gas research. In coal, the oil companies are spending \$42.6 million; the federal government is spending \$409 million. In solar, oil companies will spend \$2.4 million; the government will spend \$290 million.

In total, the 23 oil companies are spending only \$113 million on fuel research outside oil and gas. By way of comparison, six oil majors will spend \$70 million this year on TV and newspaper advertising to improve their public images.

Government research money, of course, encourages companies to do things they might not do with their own money. Government research money also tends to drive out private money. Why should any private corporation pick up the tab for developing marginal ideas if the government is willing to gamble the taxpayers' money?

But there is a special irony of history involved here. The federal government started its own research on coal synthetics 30 years ago with promising progress—but the coal program was killed by the Eisenhower administration. According to critics, it was the oil industry's political muscle that did in the synthetics program 25 years ago. Now oil has the contract.

One of those critics, FEA's O'Leary, delivered a harsh judgment on that political decision when he testified before Sen. Abourezk:

"My own view is that, if we continued to spend at a critical level (on synthetics) we would not have had any sort of an energy crisis in the late 1960s or early 1970s. We would have had an orderly transit from our dependence upon natural liquid and fuels to synthetic fuels sometime in the 1960s. But the representatives of the oil industry . . . I think that if I had been the executive of an oil industry, I would have taken precisely the same position."



### SUSTAINING ECONOMIC PROSPERITY

Mr. HEINZ. Mr. President, Arthur Burns has been an eloquent, erudite and sometimes controversial spokesman on economic issues during his tenure as Chairman of the Board of Governors at the Federal Reserve System. All of those qualities were fully apparent when Chairman Burns recently spoke at the commencement exercises of Carnegie-Mellon University.

The message of Dr. Burns' remarks is clear: Unemployment and inflation, rather than being opposing and distinct phenomena, are intimately connected with one another. If we take this analysis to heart, it is obvious that attempts to cure one problem at the cost of exacerbating the other would be shortsighted and ultimately self-defeating. Unemployment and inflation must both be the objects of a concerted and vigorous attack.

I am sure that my colleagues will want to consider Dr. Burns' remarks and weigh his arguments. For that reason, I ask unanimous consent that the full text of his commencement address be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

REMARKS BY ARTHUR F. BURNS AT THE COMMENCEMENT EXERCISES OF CARNEGIE-MELLON UNIVERSITY, PITTSBURGH, PA.

It is a great pleasure for me to be here today to join in paying tribute to this graduating class.

In considering what I might say on this occasion, I found my thoughts going back to a series of lectures on the Management of Prosperity that I gave on this campus in 1965. In these lectures I explored the challenge of sustaining the prosperity our economy was then enjoying.

As events unfolded, that year proved to be a critical point of inflection in this Nation's economic history. And I believe it holds a lesson for us that is worthy of close attention.

What happened in 1965 is that, through a series of policy miscalculations, a balanced and healthy prosperity was transformed into a classic situation of excessive monetary demand. Had it not been for the mistakes of 1965, I believe we would have escaped many of the economic troubles that subsequently came to plague us and with which we continue to grapple today.

The Federal government threw caution to the winds in 1965. Having successfully nurtured a phase of economic expansion over a period of four years, our Nation's policy makers—in their enthusiasm for extending the ongoing improvement—took the risk of applying one stimulus after another to the economy at a time when full employment was already close at hand. In that year a sizeable reduction of excise taxes was legislated, besides putting into effect additional reductions of personal and corporate income taxes that had been voted a year earlier when the economy was less robust. Those things were done at the very time our military involvement in Vietnam was starting to escalate rapidly and when we were also embarking upon the Great Society programs that became such a heavy drain on the Federal budget.

The pressures on available resources generated by that extraordinary series of expansionist measures were for a time reinforced by a liberal monetary policy. As a result of releasing all these stimuli on an economy that had already developed considerable momentum on its own, we started on

a path of inflation from which we have never since been able to disengage ourselves entirely. Events such as major crop failures and the sharp rise in oil prices merely aggravated the underlying inflationary bias that originated in the mid-1960's.

One hard lesson of the past dozen years is that a condition of chronic inflation makes the achievement and maintenance of a low level of unemployment extremely difficult. Today's high unemployment rate is, fundamentally, the legacy of an inflation that surely could have been avoided.

I have chosen to direct your attention to the policy mistakes of the mid-1960's because that episode teaches that prosperity can be as difficult to retain as to achieve. We are again in a phase of economic expansion that could carry us to much fuller utilization of our resources in a year or two. As that condition is approached, the costly consequences of our earlier incaution need to be remembered.

Let me therefore say, in closing, that a durable prosperity in our country must not be taken for granted. Whether or not you graduates can fulfill your personal aspirations will depend heavily on how well you and the entire American people understand the need to prevent new inflationary waves across our land.

### OLSEN SETS ALLMARK TO LONG TERM OF SERVICE TO CONGRESS

Mr. MAGNUSON. Mr. President, recently James B. Olsen, hearing and printing clerk to the Committee and Commerce, Science, and Transportation, took the galley sheets chronicling his service to the Congress from the file and after making the entries for February 28, 1977, set an allmark, and sent them to press for a final edition.

For 43 years, Jim served this Nation and most of his service was directly to the Congress. In 1934, fresh out of high school, Jim was appointed to the U.S. Government Printing Office. In 1939, he became the night congressional information clerk, serving as a liaison between the Congress and GPO. Early in 1942 Jim enlisted in the Navy, where he saw service during the Battle of Normandy and the Allied invasion of southern France as a sonarman aboard the destroyer U.S.S. *Jouett*. When the war was over, Jim returned to GPO and in 1947 he was selected to be a member of the first postwar printer's apprentice class.

Thus Jim began a new path of service to the Congress. He served GPO at various assignments as a printer, and in 1959 he was detailed to the newly formed Select Committee on National Water Resources. When the committee completed its assignment and expired in 1961, Chairman Kerr asked Jim to join the staff of the Senate Space Committee. I served on that committee, too, and I was very pleased when the Senate Commerce Committee was able to obtain Jim on permanent detail from GPO in 1967.

Jim also assisted the Senate Post Office and Civil Service Committee, the Senate Labor and Public Welfare Committee, and the Senate Special Committee on Aging with their printing needs.

At the Commerce Committee, Jim quickly became a vital part of the committee's operations. He not only handled the printing, but served as the hearing clerk. This position requires a rare mix-

ture of good humor and commonsense. Many members of the press have told me how Jim made covering the committee more enjoyable. He welcomed witnesses, assisted new committee members and staff, and in many important ways saw to it that the work of the committee was carried on in an environment of quiet professionalism and good grace. Jim's contributions cannot be easily numbered, and they will not be soon forgotten.

Not only did Jim serve the Congress in many different roles as a printer, he also served his fellow printers by serving as chairman of the Capitol Hill chapel, Columbia Typographical Union, No. 101, of the International Typographical Union from the time that the chapel was formed in the 1960's until his retirement.

Jim and his fine wife, Veronica, have earned this opportunity for relaxation. We hope that they both enjoy the years ahead, and we know that while the chapter in Jim's life history entitled "Service to the Congress" may be completed, much yet remains to be recorded in the chapters on "Service to his fellow men."

### MRS. MARY BELLE CLEMONS GRAHAM: A PERSONIFICATION OF THE MIRACLE OF AMERICA

Mr. HELMS. Mr. President, during this national Small Business Week, it may be well for us to reflect for a moment on the future of this segment of our economy which provides the livelihood for more than one-half of our citizens and 47 percent of all nonfarm and nongovernment jobs.

The future of many small businesses in our country is threatened today by a well-meaning but nevertheless oppressive glut of governmental regulation.

As a practical matter, big business is able to hire employees to interpret and complete Government forms, able to retain lobbyists to participate in the regulatory process, able to draw on adequate capital to comply with OSHA and EPA standards and the like.

The small business man, however, too often has insufficient resources to cope with both his competition and unexpected regulation. The result is all too often backbreaking expense, and eventual closing down.

Thus, in the 1971-74 period 350 foundries in this Nation closed—not because of competition or lack of demand—but because they could not afford to meet new EPA and OSHA requirements. Presumably, the big boys picked up the business.

But, Mr. President, just when we are tempted to despondency, we discover that in spite of obstacles, determined and hardworking people are still showing that the free enterprise system is still alive and kicking.

A particularly inspiring example is Mrs. Mary Belle Clemons Graham, North Carolina's Small Business Person of the Year.

Mrs. Graham had a fifth grade education and was employed as a domestic when her husband died in 1953, leaving her with three children to raise.

She continued as a domestic, and then

later became a housekeeper at the Taylorsville, N.C., hospital. While there she saw the need to provide a home where elderly people who did not require hospitalization could be cared for.

She knew she needed nurse's training but the nearest school for nurses aides was some miles away, in Hickory. And she could not read well enough to pass the driver's test. So Mrs. Graham took a basic education course, got her license, bought a car and drove nightly after work to Hickory for nurse's aide training.

By 1962, she had purchased a small home, and began with five patients. In 1964 she expanded, and in 1968 began plans for a major new 34-room rest home. Nineteen and one-half acres were purchased in 1970, and construction began.

But the idea seemed destined to collapse when her contractor abandoned the project, and declared bankruptcy. The roof of the half-built rest home literally fell in. Her business lost money, her precious savings were drained, the situation seemed hopeless.

But Mrs. Graham was undeterred. Through the help of an SBA loan, the construction was resumed and completed.

Today, Belle's View Rest Home, Inc. has 44 patients, and 12 employees. A minibus takes patients to town, to recreation facilities, and for drives in the magnificent mountains nearby.

A full recreational therapy program is conducted on premises by Catawba Valley Technical Institute. Movies are shown twice weekly. Regular church services are held on two Sundays each month.

And Mary Belle Clemons Graham is a cherished and beloved part of the health care team that serves Taylorsville and Alexander County so well.

Mr. President, Mary Belle Clemons Graham embodies the human scale, a concern for others, and a willingness to give of self, that is so typical of small business as we have always known it, and exemplifies those reasons why small business must be encouraged in this Nation.

#### MORRIS BRYAN: THE FOUNDING FATHER OF GEORGIA OLYMPICS

Mr. TALMADGE. Mr. President, there appeared in the May 20 edition of the Atlanta Journal an excellent article about Morris Bryan of Jefferson, Ga., founder and developer of an outstanding track and field program called Georgia Olympics.

Georgia Olympics, which just completed its sixth annual meet at Jefferson, brings to Jefferson, Ga., the State's best track and field athletes. Nearly 1,000 young athletes took part in this year's meet.

Morris Bryan, president of Jefferson Mills, is one of Georgia's leading citizens and businessmen. He has been active in many pursuits which have enhanced social and economic progress in the State of Georgia, and he is to be commended for conceiving the Georgia Olympic program.

Many Senators know Mr. Bryan and I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

#### FOUNDING FATHER—MORRIS BRYAN: THE FORCE BEHIND GEORGIA OLYMPICS (By Bill Bryant)

JEFFERSON.—There is a stack of paper on one edge of the old desk labeled "Cotton Report." The sheets of paper are there to tell the president of Jefferson Mills how much he had to pay for cotton fibers in the past months.

That's important to Morris Bryan, who sits behind the desk, because his mill makes corduroy fabric and he needs cotton.

He puts his telephone down after a conversation with a buyer about those prices and frowns. "Going up again," he says.

Then he pushes the stack of reports back to an outer edge of the desk and pulls closer another pile of papers. As he does, his expression changes and the frown leaves.

These sheets do not report the price of cotton or dye or have anything to do with mill operation. They are the names of the athletes who are due in Jefferson for Georgia Olympics VI. And the subject of track always puts Morris Bryan in a better mood.

Georgia Olympics is the state's all-classification track and field meet. It is being held here for the sixth year this weekend, and about the worst thing anyone has ever said about it is that it's the greatest thing ever to happen to track in Georgia.

The meet brings together the best Georgia has to offer in track and field and provides one stage for their performance. Before there was such a thing as Georgia Olympics, state track meets were usually held at four or five sites around the state for the different classifications of Georgia high schools. They rivaled swine flu in popularity.

This meet is run with the precision of a moon shot, adding another degree of uniqueness in the usually helter skelter world of track meets. People marvel at the organization of a meet which starts and finishes within seconds of when it is supposed to.

Georgia Olympics has received glowing tribute in the last five years from everyone from Jesse Owens to U.S. senators to the kids for whom it is run, and nearly 1,000 are taking part this year.

This is Morris Bryan's track meet. Now that's going to make him mad.

He would just as soon the hundreds of events be run off this weekend without his name ever being mentioned. But the story of Georgia Olympics is the story of Morris Bryan.

He would be quick to correct that Georgia Olympics is much more than a one-man operation, that the people of Jefferson make the tremendous undertaking work, not him alone. And he is right, of course. Probably a fifth of Jefferson's 2,500 people will have a hand in the Olympics, whether it's acting as meet officials, judges, timers and statisticians or decorating store windows with Olympic bunting and providing the trophies or planting flowers around the track or baking cookies for the hospitality house or simply putting safety pins into the numbers of the athletes.

But, and he can't argue this, there would be none of those chores to perform if Bryan hadn't brought Georgia Olympics here six years ago.

Morris Bryan is a native of Athens, a graduate of Georgia Tech and Tech grad in 1941 and is now the 57-year-old president of Jefferson Mills Inc. He has distinguished gray hair, as one should in his position, a gravelly, always serious, voice and a deep-seated love of the sport of track and young people.

In 1962 he built the first all-weather track for a high school in the nation here and

surrounded it with Jefferson Memorial Stadium.

But Bryan found himself one of the very few people in town who knew the difference between a stopwatch and a grandfather clock. Football packed 'em into the new stadium, but it stood almost alone in the spring when Bryan would have loved to have seen boys and girls running around it.

So, as a member of the school board, he influenced Jack Keen to move from Atlanta's Dykes High School to the seclusion of Northeast Georgia, helped him into a new house not 100 yards away from the track and told him to do for Jefferson what he had done for Dykes track.

Keen did it and soon Jefferson teams were winning track meets and challenging for state championships just as his Dykes teams had.

The idea of Georgia Olympics was to follow—not like a bolt of lightning as Keen and Bryan sat at a track meet somewhere one day or anything quite that dramatic, they say, but as a simple idea to have one big track meet in one place.

Along with Keen, Bryan drafted a letter to the Georgia High School Association and presented a proposal that would virtually eliminate its personnel from having to trouble themselves with a state track meet.

The idea came at a time when Jefferson needed something to attract attention to itself as something other than a den for car thieves and moonshiners.

The financial gamble, Bryan wrote then GHSA executive secretary Sam Burke back in 1971, would be his and Jefferson's. "We may be wrong, but there is nothing lost by trying it," the letter read. "There is much to gain if successful . . . the only reason we're willing to do this is because it would mean so much to track throughout the state."

They weren't wrong, and Georgia Olympics began the next year with Roman numeral I.

It has continued to prosper under Bryan's behind-the-scenes guidance and tireless effort. Last year a new surface was added to the track. There is a new public address system this year and races are being timed by an electronic device which is the most advanced on the market.

Jeffersonians helped with part of the cost of the PA system, but most of the money has been Bryan's. He's reluctant to say what it's all cost him. Considerable, to be sure.

"We're lucky it falls our lot to be able to do some of these things, just plain lucky," he says and closes the subject.

The dollars and time have certainly not been without their reward to Bryan personally. He acts as the meet announcer and it's obvious he has a lot of fun at Georgia Olympics.

"Look at that competition," he's fond of saying over the PA system as runners match strides coming toward the finish line.

He's asked what are the thrills he gets from it all?

"Primarily in the performance of these youngsters," he says. "Of course it's great to see a state record broken, but some of the best and most thrilling races are the battles for third and fourth where the competition is really at its zenith. There the trophy has already been won, and I'm fighting for my own personal dignity," Bryan says, putting himself in the runners' place.

Bryan's Olympic goal, he says, is that every runner would leave Saturday night able to say: I did my best.

"You hope to provide an environment in which one can really become himself, where they realize and recognize excellence. And excellence might not be a state championship; it might just be doing the best with what they have. What you try to do is give a man opportunity to achieve, not force him to achieve. What you're hoping he'll achieve



is the very best he can do with what he was given to do with. It's the same thing in business."

The analogy between business and Bryan's thoughts on athletic competition are readily seen. He runs Georgia Olympics much as he does Jefferson Mills. Just as every winner has his own moment on the victory stand for personal recognition, individual achievement is recognized at the mill and rewarded with such things as incentive bonuses.

Bryan is dead serious when he asks that you "soft peddle" Morris Bryan in any account of Georgia Olympics. For the sake of honesty, that is not always possible.

More than one coach in the state has looked up at Bryan as he announced another race, as Winder-Barrow's Cook Holiday did recently, and said: "He's the best thing to ever happen to track in this state."

Malcom Morton, president of the Jefferson Track Club, knows better than to praise Bryan publicly, but the other day at a Rotary Club luncheon he was enumerating the important facets in making Georgia Olympics a success. Among them, Morton said, was a "real track enthusiast as a promoter."

Everyone knew who he was talking about.

#### ENCOURAGING THE INSTALLATION OF POLLUTION CONTROL EQUIPMENT

Mr. HEINZ. Mr. President, there exists a continuing debate over the so-called conflict of environmental, energy, and economic priorities. Yet, it seems to me that our national goals of a clean environment, maximization of energy resources, and maintenance of a healthy economy are not necessarily exclusive of one another. In fact, I am convinced that there are ways that each of these goals can be met without compromising the others.

For example, pollution control requirements stimulate the development of new technology which, in turn, demands new processes and productivity from our industries. Today, there are over 600 firms, including environmental divisions of major corporations, engaged in the manufacture of environmental equipment. This figure does not include some 10,000 firms engaged primarily in waste collection, or those firms engaged in environmental design, engineering and consulting activities. In all, it has been estimated that more than 1 million jobs were provided by the environmental industry during 1975, and again in 1976.

In addition to creating jobs, pollution control can result in other savings. The impact of pollution on human health, on vegetation, and on property has been extensively documented. One study estimated the 1975 cost of air and water pollution damage in terms of human health, materials, residential property, and vegetation at \$42.6 billion.

Pollution control equipment can place demands on energy supplies. However, that demand is often minimal when compared with the gains to be derived or when compared to other alternative uses of that energy.

I believe that through the cooperative efforts of those concerned with industry growth and environmental cleanup, we can achieve each of our goals. I am encouraged whenever I learn that these

cooperative efforts are taking place, and think that it would be beneficial to bring them to the attention of my colleagues.

Mr. President, two recent articles document several instances of industry successfully working to devise ways to meet our energy, environmental, and production needs. The examples cited in these articles are persuasive testimony in support of the view that the installation of pollution control equipment can have additional energy and economic benefits. I ask unanimous consent that the texts of both these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Environmental Science and Technology Magazine]

#### PRIZES FOR CLEANUP ACHIEVEMENTS

Many industrial companies endeavor to be "good citizens" of their respective communities these days. Some do so because of the force of the law, but others do so quite voluntarily, and some have even profited (ES&T, March 1977, p 234). Indeed, certain companies have become outstanding as "good citizens" from the environmental standpoint, and these have been recognized through the presentation of awards by the Environmental Industry Council (EIC) headquartered at Washington, D.C. (ES&T, February 1977, p 132). These awards were given for excellence in air, water/wastewater, and noise pollution control, solid waste management, and land reclamation.

#### EASING BURDENS

The actual presentation of awards was preceded by the environmental industry conference, "Economic Growth With Environmental Quality," held in Washington in late February, and attended by over 200 people. They heard EIC chairman John Autry, of Johns-Manville Corp., keynote the conference by explaining that the Council represents industry as a whole, and tries to help customers of the environmental equipment, consulting, and supply sectors ease the burden of compliance so that these customers may stay profitable. Autry also said that the EIC stands ready to explain the nature of the environmental industry; undertake projects; offer counsel concerning regulations; act as an information clearinghouse; and provide its membership with a voice in Washington.

The conference chairman, Frank Sebastian of Envirotech Corp., noted that it was a sequel to a meeting called in December 1975 by the Council on Environmental Quality (CEQ). At that conference, CEQ had estimated that pollution created 1 million jobs; at the February conference, Sebastian quoted a CEQ estimate that pollution control made 2 million jobs in 1976.

The conference heard from a panoply of speakers that could read like pages from "Who's Who." In addition to Autry and Sebastian, there were Harvard economist Otto Eckstein, Arthur D. Little consultant Craig Lentz, and former EPA administrator William Ruckelshaus. Futurist and Hudson Institute director Herman Kahn, Rep. Paul Rogers (D, Fla.), chairman of the House Health and Environmental Subcommittee, and other very highly distinguished speakers were also heard. Indeed, every speaker or panelist, whether from academia, industry, or federal or state government, was someone most notable in his field. If there was one thing they all agreed upon, it was that environmental compliance costs must henceforth be considered as part of the costs of doing business.

#### AIR AND WATER

For water, the first National Environmental Award went to Great Lakes Paper Co. (Thunder Bay, Ont., Canada). Great Lakes had to treat wastewater from its 250,000-tpy kraft pulp mill without aeration tanks or because of the plant's small area. The answer was to install a Rapson-Reeve closed-cycle mill that discharges virtually clean water, and recycles heat, chemicals, fibers, and organics that are normally lost.

The clean air prize went to Volvo of America Corp., for its "240" series cars that meet Clean Air Act hydrocarbon, CO, and NO<sub>x</sub> standards for 1978. The trick is a catalytic converter and exhaust gas sensor that controls all three pollutants, and helps to keep air/fuel mixtures at optimum levels, thereby enhancing fuel economy. The converter was developed jointly by Volvo and Engelhard Industries; and the sensor by Volvo and Robert Bosch, GmbH of W. Germany. Perhaps this award will inspire other car makers to "try harder."

#### THE PREMIER AWARD

A novel steam power station design providing for special low transmission walls and other features cut noise so much that Long Island Lighting Co. (LILCO, N.Y.) was able to install such stations near residential areas. This type of installation can reduce distances needed to transmit power to consumers, and earned for LILCO an award for noise abatement. And Erie Mining Co. (Hoyt Lakes, Minn.) was honored for its successful program leading to revegetation of infertile taconite mining wastes—a task previously considered impossible.

The Premier Award, however, came straight from the waste can. That top prize went to the Refuse Energy Systems Co. (RESCO, Saugus, Mass., ES&T, August 1974, p 692), owned by Wheelabrator-Frye, Inc., now of Hampton, N.H. In the first year of operation, the RESCO facility disposed of more than 250,000 t of solid waste, and made over 1 billion lbs of steam for the nearby General Electric Lynn River Works. Also, cost of garbage collection is reduced, and resources are recovered. Incidentally, the conference heard an estimate that energy from solid waste, extracted at the RESCO plant, is equivalent to that from 16-18 million gal/y of fuel oil, and when the plant is fully on steam, will ultimately supplant that now derived from about 30 million gal/y of fuel oil.

All of these awards also do something else that is noteworthy. They serve as concrete evidence that environmental protection and economic growth can be quite compatible. This compatibility will be enhanced by the ingenuity, knowhow, and increasing corporate good citizenship of U.S. industry. It will act as a tangible expression of the "can-do" attitude that forms the backbone of the nation's strength, and is being fostered in environmental efforts through the activities of the EIC.

[From Business Week magazine, Nov. 29, 1976]

#### EXTRACTING FUEL FROM SLUDGE

When the supervisor of a recent test of a new sludge-burning system in Concord, Calif., found three of his key people lounging around, he was delighted. "One was reading a newspaper, another was eating a snack, and the third man was out-and-out asleep," recalls Ronald B. Sieger, project manager for Brown & Caldwell, Inc., a California consulting engineering firm that designed the system. "I thought it was just great that things were running that smoothly."

The preliminary test results, in fact, are a major boost for a process known as pyrolysis, a method of burning waste to produce a gas

rich in fuel values. Advocates of pyrolysis like the method because, compared to incineration, it produces less air pollution and it makes possible higher energy recovery. And many think it is a particularly promising solution to a growing problem: what to do with the watery sludge that is left over from the growing number of secondary sewage treatment plants.

#### SUBSTITUTE GAS

There are already more than 300 sludge incinerators operating in the U.S., and not everyone is convinced that pyrolysis will provide results that the incinerators do not. But the Concord system looks like a godsend to California's Central Contra Costa Sanitary District. The district, which cosponsored the \$613,000 project with the state of California and the federal Environmental Protection Agency, has learned that it may not get all of the natural gas it would need to fuel a new plant it is building to treat 30 million gal. of sewage per day. Preliminary test data show that the gas produced by pyrolyzing of a mixture of refuse and sludge may be an acceptable substitute. The evidence "indicates that we can meet 90% to 95% of our gas requirements," says Gerry A. Horstkotte, Jr., the district's general manager and chief engineer.

Other sewage treatment managers who are not under the gun on fuel supplies may find sludge pyrolysis attractive, anyway. The EPA has announced an imminent ban on dumping sludge in waterways, and municipalities are scrambling to find alternatives. Incineration, landfill, and composting are possibilities, but pyrolysis is getting increasingly serious attention.

For example, when the EPA recently banned ocean dumping after 1981 in the New York Bight, disposal site for nearly three-quarters of the sludge generated by the New York metropolitan area's 100 treatment plants, the Interstate Sanitation Commission started looking into incineration. But earlier this month the New York-New Jersey body granted a \$106,000 contract to Nichols Engineering & Research Corp., a Belle Mead (N.J.) subsidiary of Neptune International Corp., to build a pilot pyrolysis plant instead. If the pilot test proves out, the agency plans to spend \$206 million for five plants containing 13 pyrolyzing furnaces. "At one point, we were leaning toward straight incineration," says Alan I. Mytelka, assistant chief engineer of the commission, "but improvements in sludge dewatering methods and other strides associated with pyrolysis have been such that pyrolysis got our recommendation."

#### PRODUCING METHANE

The key to a sludge pyrolysis furnace lies in limiting the oxygen flow to its multiple hearths. Partly dewatered sludge pours onto the first hearth. As it is pushed onto successive hearths, it is joined by a controlled flow of shredded refuse. As more combustible garbage is added, furnace temperatures climb to a sizzling 1,400F to 1,700F. But because the air supply is limited, the furnace produces a stream of combustible gas and an inert carbon-containing ash, instead of the carbon dioxide and water produced by normal combustion.

At the Concord facility, some of this gas will fuel a lime recovery furnace, and the rest will be burned in an afterburner. The hot exhaust gas from the afterburner will be used to generate steam, which in turn will provide energy for aeration blowers and plant heating and cooling. According to Frank P. Sebastian, senior vice-president of Envirotech Corp., which will provide the Contra Costa furnaces, fuel cost savings will hit more than \$2 million annually by 1980 if present plant expansion plans hold. And even if the sludge were burned alone, without the refuse, he claims, the savings could still reach \$1.7

million annually. The savings possible with incineration, he says, would be about 30% smaller because combustion is less complete.

Such optimistic predictions have not convinced all experts that straight incineration is obsolete, however. Pyrolysis is still relatively new, and there is no universal agreement on how well it shapes up compared to conventional burning. For example, both Anton Kalinske, vice-president of the Boston consulting firm of Camp, Dresser & McKee Inc., and Jerry I. Jones, a pyrolysis expert at Stanford Research Institute, argue that a well-designed incinerator will give the same Btu output as a pyrolysis furnace.

The capital costs of incineration and pyrolysis are about the same, but an independent consulting group in the Minneapolis-St. Paul area recently estimated that a pyrolysis system would cost some \$500,000 more each year to maintain. It opted for incineration. Detroit also plans to stick with incineration in an upcoming \$60 million project to increase sludge-burning capacity with the addition of eight new furnaces by December, 1979. "Pyrolysis is a nice concept on paper," says Darrel G. Suhre, director of engineering for the Detroit Water & Sewerage Dept. But he adds, "There have to be more proven results before it can be adopted wholesale."

Such hesitancy on the part of prospective buyers does not faze either Nichols or Envirotech, the two leading suppliers of sludge pyrolysis systems. "We feel we're looking at a very substantial market, one running into the hundreds of millions of dollars over the next two or three years," says Thomas E. Davy, Nichols' vice-president for environmental sales.

Envirotech's Sebastian says that the majority of existing sludge incinerators are "candidates for retrofit" into pyrolysis furnaces. Retrofitting an incinerator involves upgrading of sludge-dewatering equipment and the addition of an afterburner, process controls, and a waste-heat recovery boiler.

Environmental officials echo the suppliers' optimism. "We have a lot of hopes for pyrolysis," says Robert K. Bastian, a technical specialist in the EPA's Office of Water Program Operations. The Concord test is the only full-scale demonstration of sludge pyrolysis on record so far, and Bastian stresses that more proof is needed before pyrolysis can be considered a widespread solution to the sludge dilemma. But he predicts that "within the next few years, we are going to have some answers."

#### S. 275—FOOD AND AGRICULTURE ACT OF 1977

Mr. ZORINSKY. Mr. President, I ask unanimous consent to have printed in the RECORD a letter which I have this day sent to the distinguished chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, Senator TALMADGE.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

U.S. SENATE,

Washington, D.C., May 25, 1977.

HON. HERMAN TALMADGE,  
Chairman, Senate Agriculture, Nutrition, and Forestry Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As a member of the Senate Agriculture, Nutrition, and Forestry Committee, I want to commend you for your strong and fair leadership during the Committee's consideration of S. 275, the Food and Agriculture Act of 1977.

Countless citizens and organizations came before the Agriculture Committee, each presenting differing and often controversial opinions, and they were always afforded the

utmost courtesy by you, Mr. Chairman. Your continued efforts led the Committee to the necessary bipartisan cooperation among the members which prevented delays and steered us toward our goal of writing effective legislation. You exemplified the highest form of leadership in the United States Senate.

I want to extend my warmest congratulations and sincerest appreciation to you and say that I look forward to our continued work together on the Senate Agriculture, Nutrition, and Forestry Committee during the 95th Congress.

With warmest regards, I am

Sincerely,

EDWARD ZORINSKY,  
U.S. Senator.

#### POSITIVE RESULTS OF MINNESOTA EDUCATION PROGRAMS

Mr. HUMPHREY. Mr. President, recently the Senate overwhelmingly endorsed extension of the discretionary programs of the Education of the Handicapped Act.

We did this because it is so patently right and fair that handicapped children have every opportunity to enjoy the advantages their unimpaired companions take for granted: The joy of learning and discovery—the opportunity to develop to the fullest their personal and social potential.

But there is another reason for the resounding support. These programs are proving their worth. Families and school systems throughout the United States can testify to gratifying achievements in reaching and teaching the handicapped through the aid of federally funded programs.

Only yesterday my office received notice from the U.S. Office of Education concerning successful programs undertaken in Minnesota. UNISTAPS, developed by the University of Minnesota, State Department of Education, and the Minneapolis Public Schools has provided solid evidence that the residual hearing of deaf children, if nurtured and encouraged by parents, can help children to master normal conversational skills and frequently to participate in regular classroom instruction.

A second article describes an experiment in which computer results are used effectively to permit teachers to evaluate pupil progress and tailor their program and emphasis to individual needs.

Mr. President, I ask unanimous consent that both articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

#### COMPREHENSIVE ACHIEVEMENT MONITORING

In Hopkins, Minnesota, youngsters actually cheer when their teachers pass back their test papers. They are anxious to see how well they have done—on past, present, and future materials.

And one little girl in particular, Jennifer Johnson, is eager to see what CAM, the computer, has written in reply to her love letters. Jennifer who is 11 years old—going on 12—has been writing to CAM for several years.

And since Jennifer started getting replies from her computer friend, other students have been writing notes on the bottom of their green test sheets. Lance Peterson told CAM how much he enjoys "doin' CAM tests."



Then added a skeptical note, "I've heard your machine can only read holes." Since he was writing in pencil, Lance wasn't at all sure his message would get through.

Nor did Julie Ruys really expect an answer. But to tilt the odds in her favor, she added a P.S. "I am a good friend of Jenny. She told me how to talk to you."

Many of the youngsters draw pictures for CAM, wish him a happy holiday, and report their latest activities. And CAM, of course, responds. He grades their papers and sends back notes. It's no wonder cheers go up when test paper's are returned.

CAM stands for Comprehensive Achievement Monitoring. The computer is part of a very effective teaching method in which constant testing helps teachers teach and students learn.

CAM students take frequent tests and "mini" final exams every few weeks to find out what they are learning, how well they are remembering, and how much they know about what they are about to be taught. The idea is to find out where to concentrate teaching and learning efforts.

If the child does not remember something taught a few months earlier, he needs to go back and review forgotten material. If he isn't catching on to current lessons, he can immediately get to work on these problem areas. And if he knows a unit about to be taught, why should he have to take it?

Students in the lower grades are introduced to CAM through a gaily colored booklet with a wizard on the cover. "Welcome to the Kingdom of CAM," it reads. "Guess who I am?" It then explains the testing process with lively cartoons of the wizard, named Mr. Objective, performing tricks along the way.

Basically, CAM is management by objectives. Tests are scored and results analyzed by the computer. Printouts then go to the teacher and the student. While the student is striving to improve in areas in which he has done poorly, the teacher is analyzing both the individual tests and summary data so she can make important decisions to improve the course.

The hub of all this activity is the Evaluation Center in Hopkins, directed by Donald B. Sension. Begun initially with funding from the U.S. Office of Education, the center is currently operated with local moneys. It is being used by more than 300 teachers in grades 2 through 12 in all seven Hopkins elementary schools, its three junior highs, and two high schools. Some 16,000 students regularly receive results in one or more subjects.

In addition, eight other local districts in the Twin Cities and surrounding suburban areas are using the CAM system.

#### UNISTAPS

By carrying on normal conversations with their deaf children, Minnesota parents are finding that they can be architects of good language development.

Talk with deaf children? Encourage them to hear? Yes, and laugh and play and, at the same time, teach.

Building on everyday events and the normal course of parent-child chatter, a project known as UNISTAPS works with hearing impaired preschoolers and their parents from the days when sounds are only noise through the preschool years when situations and sentences take on meaning. UNISTAPS is an acronym which recognizes the cooperation of the University of Minnesota, the State Department of Education, and the Minneapolis Public Schools.

The cooperative venture has been so successful that the program has been recognized as exemplary by the U.S. Office of Education. And its family-oriented methods, used with hearing impaired children aged 0 to 5, are

now being used with other types of handicapped children.

The program is structured to the needs of each child and family, and begins as soon as a hearing loss is detected. "There are few totally deaf children," explains Dr. Winifred H. Northcott, project director. "Most have residual hearing and with amplification there is high potential for learning to hear and to talk." All the children are fitted with individual hearing aids, usually one for each ear.

Instruction varies. A teacher may meet with a parent and child initially at one week intervals. Later as the skills of both parent and child are refined, the parent instruction sessions are less frequent. But since some children are as young as 7 months and others may be 4 or 5 years old, each situation dictates its own best program. This ranges from home-based counseling all the way to regular nursery school for most 3-year-olds.

A continuing program of group and individual family guidance and counseling is provided. It is jointly designed by parents and staff.

Some deaf "graduates" enter regular classes in an elementary school. Published research findings indicate their social and academic behavior are within the range of their hearing classmates.

But Dr. Northcott points out, "Not all deaf children are going to be able to go into a regular class. Some may need special class placement and assistance such as lip reading or sign language. But every child and family can benefit from this early intervention," Dr. Northcott says.

"It is important to provide everyday experiences suitable to the child's level, age, and ability," she continues. "The habits of seeing, listening, and thinking in words (all essential to language) are cultivated in a child by his parents during his daily activities—eating, bathing, playing."

So from the very beginning, parents are encouraged to talk naturally to their deaf child—to expand words into sentences. Words by themselves don't have meaning at first—it is the situations that give them meaning. "More," says the child pointing to milk. "All right," says the parent, "I'll give you more milk" and pours at the same time.

Along the same line, parents don't formally teach the same "red" but the concept of "redness" comes out in a situation. "Oh, your tongue is red. You've been eating red candy," or "Your hands are red. It's cold outside."

If a hearing impaired child hears colloquial English, he will eventually speak in kind. If he is not talked to in a natural way as part of his daily life, he could speak in a random way for a time, then become silent because he hears no functional language sounds to imitate.

What better example to imitate than success. And in this program for hearing impaired as well as blind and multihandicapped children, success is spelled U-N-I-S-T-A-P-S.

#### S. 790—WHO ARE THE BENEFICIARIES?

Mr. STAFFORD. Mr. President, the Corps of Engineers calculates that reconstruction of locks and dam 26, as proposed by S. 790, will produce "delay reduction benefits" of \$53,411,000. That is \$53,411,000 per year. That \$53,411,000, which accounts for two-thirds of all the benefits of this nearly half billion dollar taxpayer investment, would go into the pockets of the big barge companies.

I believe that such benefits, created by a taxpayer investment, should be, at least in part, recovered for the benefit of the taxpayers of the United States.

We all favor efficiency. But when efficiencies are financed entirely by taxpayers, they should be shared with the taxpaying public, through the collection of waterway user charges from the barge company beneficiaries.

In this context, I believe it is instructive to examine who owns and operates the inland barges, and thus who will be the direct beneficiaries of this costly taxpayer investment at locks and dam 26. I ask unanimous consent that a list of some of the companies that dominate the waterways—and are the leading opponents of fair-share user charges—be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

#### WHO OWNS THE BARGES

(1) Eastern Gas and Fuel Associates is not a well-known company, but is the largest waterway company. It has annual sales of about \$600,000,000, making it the nation's 296th largest industrial company. That is larger than companies like Hershey Foods, Libby, McNeill & Libby, or Bell & Howell. It owns 70 towboats and over 1,500 barges, which produced revenues of \$120,000,000 in 1976. That accounted for 17.6 billion ton miles, approximately 10 percent of the inland waterway traffic. Coal traffic represents about 60 percent of the company's barge business.

(2) U.S. Steel (the nation's 13th largest industrial corporation with sales of \$8.8 billion) carried 13.1 million tons of commodities in 1976, an increase of 21 percent over 1975 on its captive subsidiaries: Warrior and Gulf Navigation Co. and Ohio Barge Line, Inc. That is more traffic than the combined traffic on the Missouri and Arkansas River systems.

(3) Ashland Oil is the nation's 45th largest corporation, bigger than such well-known companies as Monsanto, Lockheed, Cities Service, and 3M, with 1976 sales of \$4.3 billion. The company's 1976 annual report says the company's "towboats and barges comprise the nation's largest fleet for transporting liquid cargoes on the nation's inland waterways."

(4) Central Soya has an inland marine fleet of over 200 vessels. The company reported in its 1976 annual report that "an aggressive marketing program at our river elevator helped achieve a 30 percent increase in barge shipments this past year." With sales of \$1.8 billion, it is larger than better-known firms such as H. J. Heinz, Allis-Chalmers, Reynolds Metals, and General Tire.

(5) Cook Industries, a half billion dollar a year grain and building products company, operates 212 barges on the Mississippi, each with a capacity of 50,000 bushels.

(6) Texas Gas Transmission Co. (revenues of \$900,000,000) owns American Commercial Barge Line, which in turn owns 52 towboats and 1,258 barges. It received 30 percent of its barge revenues from hauling coal, accounting for an estimated 6 billion ton-miles of traffic. The company has reported: "During the past five years, this division has attained a compound annual growth rate of 18.8 percent in revenues and 23.7 percent in net income."

Texas Gas Transmission Corp.—Inland Waterway Services Division:

1971, 1976, and percent increase, 1971-1976:  
Income, \$13,263,000, \$35,291,000, 165 percent.

Barging Revenues, \$46,224,000, \$91,713,000, 98 percent.

Ton-miles Carried, \$14.4 billion, \$18.2 billion, 26 percent.

(7) Dravo Corp. (revenues of \$750,000,000), owns the Union Mechling Corp., which has a fleet of over 700 barges, plus a Pittsburgh

shipyard building 200-300 towboats and barges yearly. Last year Dravo posted a 15 percent increase in profit from its waterway and equipment division, even though that group was dragged down by poor business among its equipment subsidiaries.

Dravo, in its annual report discussed user charges: "We also consider a waterways user fee to be a regressive tax that must be passed along from carriers to shippers and, ultimately, to the individual consumer . . . through our participation in an industry-wide information campaign, we will attempt to assure full public debate of these critical issues before legislative action is taken."

#### CONFUSION ABOUT AIRCRAFT CARRIERS

Mr. HART. Mr. President, today's Washington Post contains a story entitled "Big Carrier" Advocates Block Shift of Funding," which describes the continued refusal of the House Armed Services Committee to approve the reprogramming of \$6 million in fiscal year 1977 funds for design work on a so-called CVV, a conventionally powered aircraft carrier of about 60,000 tons.

This report by the Washington Post is important in two ways. First, it notes what I believe to be the importance of approving this reprogramming action. As the Secretary of the Navy noted in his statements to the House committee, without this reprogramming action it will not be possible to authorize a CVV in fiscal year 1979, if the Congress should decide to do so. The Senate based its approach to the aircraft carrier program on creating a series of options for fiscal year 1979, including, but not limited to, the CVV. If the House action were to be sustained, the CVV would not be an option in fiscal year 1979, which would be most unfortunate. I sincerely hope that the House committee will reconsider its action and support the Secretary of Defense and the Secretary of the Navy in their request for this reprogramming action.

However, it appears that in the arguments for the reprogramming action some have argued that the CVV will help answer the most serious problem we face in regard to aircraft carriers: The need for more of them. In the last 20 years, the naval environment has changed drastically, and the vulnerability of every surface ship has risen substantially. This means that if a given naval capability, such as the capability to launch aircraft at sea, is to be survivable, it must be based on a larger number of platforms. Yet, over the same period the number of aircraft carriers in the U.S. Navy has declined by more than 50 percent, to only 13 today.

If our carrier capability is to be survivable, our naval aircraft must be disbursed onto a larger number of platforms. However, the CVV program, contrary to what some have apparently suggested, will not do this. The Chief of Naval Operations testified before the Senate Armed Services Committee during this year's hearings that the CVV program will not result in an increase in the number of carriers in the force. Outside witnesses in addition testified that because of the design and lead-ship cost of the CVV, the first CVV could po-

tentially cost as much as a Nimitz-class carrier.

While I believe the CVV should be developed as an option, the only type of aircraft carrier which will answer the need for a greater number of aircraft platforms is the VSTOL support ship, or VSS. This would be a carrier of about 20,000 to 25,000 tons designed exclusively for VSTOL aircraft. According to Navy information dated April 1976, the life cycle cost of a VSS would be about \$1,222 million in fiscal year 1980 dollars, compared to a Nimitz life-cycle cost of \$5,354 million in fiscal year 1978 dollars.

In other words, it would be possible to afford about five VSS for each Nimitz. This supports the statement by the Senate Armed Services Committee in its report on the fiscal year 1978 defense authorization bill that—

It appears that only a program incorporating this type of less costly ship can answer the need to disperse at-sea air assets into a larger number of platforms.

Mr. President, I believe that the reprogramming action for the CVV should be approved, in order that the Congress may have before it a full range of options in fiscal year 1979. There can be no justification for depriving ourselves of any credible option. But at the same time, we should be aware that the proposed CVV will not answer the need for more aircraft platforms; only the VSTOL support ship can do that.

Mr. President, I ask unanimous consent that the article from today's Washington Post, "Big Carrier" Advocates Block Shift of Funding," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

#### "BIG CARRIER" ADVOCATES BLOCK SHIFT OF FUNDING

(By George C. Wilson)

"Big carrier" advocates on the House Armed Services Committee yesterday refused to yield to Pentagon pleas to let the Navy shift money to design a smaller and cheaper aircraft carrier.

"It's incredible," said Rep. Les Aspin (D-Wis.) after his committee voted yesterday, "that a bunch of yahoos are blocking" the "overwhelming" desire of the House and Senate to switch to a cheaper carrier.

Aspin was reacting to committee votes yesterday of 12 to 7 and 12 to 9 against reconsidering earlier refusals to allow the Navy to reprogram \$6 million in fiscal year 1977 money to finance medium-size, or "midi," carrier designs.

Defense Secretary Harold Brown, who opened the hearing with a plea not to "tie our hands" by refusing the funding request, stood up from the witness table after the committee voted against him and said: "I'm sorry . . . I don't think this will advance the cause of a new carrier for the nation."

Navy Secretary W. Graham Clayton, Jr. told the committee before the votes that the Navy needed the \$6 million right away. Otherwise, he said, the designs would not be finished in time to include the midi-carrier in the fiscal 1979 budget going to Congress in January.

Asked after the hearing what he would do to keep the midi-carrier from slipping behind schedule, Clayton replied: "I don't know." He said several avenues of redress will be explored.

Aspin, who is allied with the Pentagon on

the carrier issue, said that perhaps the Senate, in its imminent conference with the House on the fiscal 1978 Pentagon procurement bill, could make some kind of trade to free the \$6 million.

The basic argument is whether national defense would be better served by building two midi-carriers costing \$1 billion each instead of continuing with the large Nimitz class which costs \$2 billion a ship. The Navy already has three nuclear powered Nimitz carriers at sea or under construction.

The House approved on March 3 the revisions President Carter made in the fiscal 1977 Defense budget he inherited from former President Ford, including elimination of funds for a fourth Nimitz. The House on the same day rejected, on a 252-to-161 vote, an amendment to restore the Nimitz funds. The Senate on March 15 passed the fiscal 1977 Pentagon budget as revised by Carter.

Building two midi-carriers of 60,000 tons each for the price of one Nimitz of 90,000 tons, Brown said yesterday, would enable Navy carrier planes to patrol two different areas of the world.

Although stating that the midi "is not a budgeteer's ship," he said its lower cost would enable the Navy to afford more ships at a time the numbers of Soviet ships are of price concern.

Brown refused to commit himself to making the midi nuclear powered. He said there is no nuclear power plant in sight that is small enough for the midi.

Rep. Samuel S. Stratton (D-N.Y.), a leading advocate of the Nimitz, said yesterday it would be "idiotic" to switch from the nuclear powered Nimitz to an oil fueled carrier at the time the world is running out of petroleum.

Brown replied that the planes on carriers would have to burn either natural or synthetic petroleum in the future, regardless of what kind of carrier they are based on. The carrier itself, he said, could burn the same fuel as the planes—perhaps a derivative of coal.

#### NURSES SUPPORT ECONOMY IN HEALTH CARE

Mr. HUMPHREY. Mr. President, the problem of rising health costs has reached an acute stage.

I believe we have scarcely tapped the immense opportunity for cost-saving implicit in better management and improved delivery systems.

Several articles in the May 15, 1977 issue of the American Nurse are particularly relevant to this approach. The American Nurses' Association is quoted as supporting in principle the Carter administration effort to contain hospital costs. I believe it is encouraging that members of our health professions recognize the necessity of confronting this problem.

Besides indicating a willingness to cooperate in seeking a solution, ANA President Anne Zimmerman stresses the need to promote health as well as treat sickness; and affirm's the association's support for a comprehensive system of national health insurance.

The same issue focused on a promising experiment in maternal care, a nurse-operated childbearing center launched in late 1975. The New York City center described in this article provides a valuable laboratory for developing less costly and more patient-oriented forms of health care.

In this connection, I would like to draw



attention to a similar project organized even earlier at the University of Minnesota. Funding for the University of Minnesota Childbearing-Childrearing Center will run out in July and, quite frankly, I have been grant-shopping, so far without success, among our many Federal health programs, to find a possible source of aid for this innovative approach to cost-conscious, community-based maternal care with its focus on birth and infancy as a healthy experience.

Mr. President, I ask unanimous consent that the two articles from the *American Nurse*, and the text of a brochure and explanation of the University of Minnesota Childbearing-Childrearing Center be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the *American Nurse*, May 15, 1977]

**ANA SUPPORTS CARTER EFFORT TO CONTAIN COSTS**

The American Nurses' Association has announced its support in principle for the Carter administration effort to contain hospital cost increases as a means of controlling inflation in the health care industry.

"ANA shares the government's concern over rapidly rising costs," Anne Zimmerman, association president, stated.

Hospital cost containment bills were introduced April 25 in Congress at the request of the Carter administration. The legislation would affect about 6,000 general care hospitals.

Speaking for ANA, Ms. Zimmerman said the proposal was worthy of discussion and offered the association's cooperation in solving the hospital cost problem. She warned that in reaching a solution, the quality of care must not be sacrificed.

Quality is affected by the numbers and working conditions of health care professionals employed by hospitals, the ANA president pointed out. Registered nurses represent the largest number of these professionals. Therefore, the increase in salaries of nurses, as well as those for low-paid personnel, should be excluded from computation of hospital cost increases that are subject to regulation under the proposed legislation.

"The wages of hospital employees cannot alone be blamed for rising hospital costs which have increased at a percentage much greater than that of the salaries of hospital workers," Ms. Zimmerman noted.

Discussing the causes of inflation in health care costs, she observed that decisions about the kinds and amount of health services have been vested in the physician and not shared with other health care providers.

Additional factors contributing to spiraling inflation have been retrospective cost reimbursement by third-party payers such as insurance companies; inadequate planning that has resulted in the proliferation of health care institutions and duplication of equipment and services; and inefficient management of existing facilities.

"The American Nurses' Association is especially pleased with the bills' implications in regard to comprehensive health planning and agrees that capital expenditures must be well planned and related to the real needs of the community," Ms. Zimmerman commented.

She expressed hope that representatives of management, health care professionals, consumers and employees could mediate areas of conflict and overlapping interests during discussions of the Carter administration proposal and development of future health care legislation.

Because the present bill deals only with hospital cost containment, Ms. Zimmerman said it would be limited in its impact on the health care delivery system in general. She called for the federal government and health care providers to work together to provide incentives for a health care focus rather than an illness emphasis in the delivery of care.

"Our present reimbursement policies need to be fundamentally altered," Ms. Zimmerman explained. "These policies currently reward the treatment of sickness, but virtually ignore the promotion of health."

"We recognize that the containment of hospital care costs is an essential step toward a system of national health insurance which the American Nurses' Association believes should be comprehensive in nature and should reimburse for the promotion and maintenance of health and the prevention of illness."

[From the *American Nurse*, May 15, 1977]

**CHILDBEARING CENTER—NEW APPROACH TO MATERNAL CARE**

(By Shirley Fondiller)

NEW YORK.—Ever since it was established almost six decades ago, the Maternity Center Association—an organization of professional and civic leaders—has pioneered for the improvement of maternal care.

Always in the forefront of innovation, MCA views its most recent "first" with increasing satisfaction: a nurse-operated center in a home-like setting designed to best serve families in the childbearing experience.

Occupying the two lower floors of an imposing six-story townhouse on Manhattan's upper east side (formerly the home of the late John Sloan), the childbearing center offers prenatal care that is highly educational, and labor and delivery in a personalized, family-type environment. Mother and infant are discharged home within 12 hours of delivery. Through prearrangement with the center, the Visiting Nurse Service of New York provides followup care at home.

The new center is part of a growing trend in the nation to develop less costly and more patient-oriented forms of health care than are traditionally provided by hospitals.

"We do not see our unit as the right arrangement for every woman," says Ruth Watson Lubic, MCA's general director since 1970. "What we're interested in is offering options and alternatives. However," she adds, "we didn't set ourselves up as an alternative to hospitals, but rather to bring back into the system those families who had lost trust and refused to go to the hospital."

More than two years in the planning stage, the childbearing center was officially launched at an impressive ceremony on Oct. 9, 1975. It has been licensed by the New York State Department of Health.

Ms. Lubic reports that as of this past April, 100 births have been accommodated. So far, she notes, new baby girls slightly outrank baby boys in number. Women with multiple pregnancies are referred to hospital services.

The center strives to provide safe, satisfying and economical maternity care to individual families. Initiated as a demonstration project (a small grant was provided by the Commonwealth Fund for the development of criteria and policies), it hoped to determine that risk criteria can predict whether women will have normal pregnancies and deliveries; and to assure that women and infants who receive care in this setting are not a greater risk than those cared for in more conventional facilities. Interim evaluations by MCA's advisory committees and by the State Department of Health have concluded that these objectives are being met.

"We want to test the impact of the child-birth, infant care and parent education programs," states Ms. Lubic. "Also, to find out what it really costs to have a baby."

The center's fee for expectant families is \$750, which includes prenatal care, classes in preparation for childbirth and infant care, labor and delivery, pediatric examination and post-partum checkup. There are no separate physician fees or other hidden costs, according to the general director.

An important aspect of the program's philosophy is the concept of "family," and not the "patient," as the focus of the center's nursing and health care services.

The dictionary definition of patient—"one who is acted upon"—has no applicability to the childbearing center. Rather, families are viewed along with staff as active members of the health care team.

The general consent form, a document shared with applicants prior to the first prenatal examination, explicitly points out that the family participants in all decisions within the limits of safe maternity and infant care.

**TERMS OF ENROLLMENT**

The center accepts families from the five boroughs of New York City—the area covered by the Visiting Nurse Service. Candidates must be less than 22 weeks pregnant.

"We take women expected to have normal, uncomplicated pregnancies and deliveries," says Ms. Lubic. "Expectant mothers who have experienced serious illness or problems during previous pregnancies or births are referred to other services."

Applicants must be no more than 35 years of age for the first child; for succeeding pregnancies, they should be no older than 39 years and should have no more than four children. A history of three or more miscarriages is considered a reason for referral.

"We don't have a minimum age limitation," declares Ms. Lubic. The youngest mother so far has been 16 years old.

"Candidates receive a family handbook—which describes the childbearing center—and the detailed consent form and financial information."

Conditions necessary for admission to the program and the emphasis on family participation are explained in a required orientation conducted by the staff.

Included are personal inspection of the facilities; meetings describing procedures, methods and services as well as mutual expectations; frank discussions on differences between hospital, home and center deliveries; and potential risks of childbearing to the mother and her baby plus the appropriate management.

Also stressed is the fact that the center is not a hospital but that it has the necessary equipment and supplies for normal childbearing. There is no operating room, intensive care unit or highly specialized services and equipment.

For emergencies the center uses a nearby hospital as a back up facility—an 11-minute ride by ambulance.

The major reason for intrapartum transfer has been "failure to progress in labor." Ms. Lubic notes that none of the feared emergencies such as cord prolapse, abruptio and postpartum hemorrhage have occurred.

Under the terms of enrollment, provisions for postpartum care are explained. It is the family's responsibility prior to the birth to arrange for pediatric care after discharge from the center.

The consent form covers several areas in detail: physical examinations; authority to treat; early referral; informed consent, patient history and right to withdraw; use of medical records; and disposition of specimens.

Despite the specificity of the general con-

sent document, it has not deterred anyone from participating in the program.

Enrollment, Ms. Lubic points out, is determined after all records and reports concerning a prospective candidate's health status have been completed.

#### FAMILY INVOLVEMENT

There is family involvement in every step of the mother's care. It is not unusual to see small children accompanying their parents to routine visits and classes. A multipurpose room used for group discussion also serves as a playroom for the youngsters.

During the second and third trimesters, participants are required to attend parent classes that are conducted by nurses and nurse-midwives. (Special classes are also available for couples in the first trimester.) Some of the topics include maternal care during pregnancy, physiology of labor and delivery and care of the newborn. In addition, there are group and individual educational conferences that enable the expectant mother and father (or any support person selected by the mother for labor and delivery) to discuss with other parents various aspects of childbearing.

Prior to labor, most parents will have met and worked with all members of the center staff.

Physical care is provided by certified nurse-midwives, obstetricians, a pediatrician and the visiting nurses. A nurse-midwife is available around the clock (nurse-midwives perform the deliveries although obstetricians are available if necessary).

Currently there are five full-time and four part-time certified nurse-midwives on the staff of the childbearing center. Aiding them are midwife assistants, new health workers whose duties range from housekeeping tasks to a supportive role during labor and delivery.

Childbirth education services at the center are provided by MCA's staff of parent educators. A qualified researcher is responsible for all research and evaluation activities at the association, including data collection for the childbearing demonstration project.

At the center there is a family room and lovely garden area where expectant mothers may freely walk around or relax during the early stages of labor.

When active labor begins, the mother and father (or her support person) retire to one of the two labor/delivery rooms, both furnished with attractive floral draperies and cheerful surroundings. These family-care rooms contain a leatherette reclining chair, bassinette, infant scale, sinks and a hospital bed with a wide mattress.

"Delivery can be experienced in any safe position," asserts Ms. Lubic. "There are no stirrups, enemas or public shaves." Episiotomies are generally not necessary.

The center is not equipped for Caesarian sections. Only analgesics and local anesthesia (pudendal block) are given to women who need them.

The parents are given their baby right after delivery. "The bassinet is the least used equipment," declares Ms. Lubic.

What happens when an expectant mother goes beyond her delivery due date?

"There is a deadline of two weeks of post-mature births," Ms. Lubic replies. This has occurred just four times and in those cases, the mother was referred to her back-up physician or hospital. Often families rely on one of the three staff obstetricians, each of whom also has a private practice.

Several hours after delivery, the mother and infant are ready for discharge. Before they leave, a pediatrician examines the baby. The center provides the mother with normal postpartum care and two visits by the Visiting Nurse Service—one visit within the first day home, the other on the third to fifth day. Visiting nurses involved in this service

participate in a four-hour orientation session at the center.

#### IMAGINATIVE LEADERSHIP

The increasing popularity of the childbearing center is unquestionably due to MCA's imaginative board of directors through whose support the leadership of Ruth Watson Lubic and her staff of nurse experts—committed to improving the quality of maternity care—has found expression.

Ms. Lubic's association with MCA goes back over 15 years when she first enrolled in the joint nurse-midwifery program with Downstate Medical Center, New York.

As a certified nurse midwife, she served as a clinical instructor, parent educator and consultant to the association. At the time of her present appointment, she was president-elect of the American College of Nurse-Midwives (some years earlier she was its first executive secretary).

Ms. Lubic received her basic nursing preparation at the School of Nursing, Hospital of University of Pennsylvania. Later she earned her B.S. and M.A. degrees in nursing education at Teachers College, Columbia. She is currently a certified doctoral candidate in applied anthropology at Columbia.

Widely published and accorded many honors, Ms. Lubic was a member of the first official American medical delegation to the People's Republic of China in the summer of 1973.

Mother of one son, she is married to a New York attorney who holds the unique title of "honorary nurse midwife."

As for the present demonstration project, Ms. Lubic anticipates that the center will be able to handle 500 births annually when functioning at its maximum level. A realistic expectation? Yes, nods the general director with a confident smile.

#### A CLOSER LOOK AT THE CHILDBEARING-CHILDREARING CENTER

(By the University of Minnesota Childbearing-Childrearing Center)

##### FAMILY ORIENTATION

The care-givers of the Center believe that childbearing and childrearing are basically healthy and growth producing experiences that include the mother, baby, and significant family members, which are those defined by the mother. Therefore, this system is committed to enhancing the family's experience by involving its members in the entire spectrum of their care. Included in this are a number of activities planned to encourage positive growth of the participants.

##### CHILDBEARING CARE-NURSE-MIDWIVES

The nurse-midwife provides on-going care that encompasses physical, emotional, and supportive growth of the pregnant woman and her family. This includes complete prenatal care, labor support and delivery of the baby, postpartum follow-up, plus on-going interconceptional care. Except for the delivery, all of the care including lab work and pregnancy testing is provided at the Center. Within the limits of safety the nurse-midwives are committed to facilitating the woman/couple's desires regarding their childbearing experience.

##### CHILDBEARING CARE-PEDIATRIC NURSE PRACTITIONERS

The pediatric nurse practitioners (PNP's) visit new parents in the hospital to discuss child care and feeding and remain "on call" to help with any questions or concerns regarding pediatric care. For parents who elect to continue with the Center for childbearing care, they provide physical and developmental assessment and emotional support during well-child visits. Emphasis is on the family and its integration as a unit.

##### PARENTING SUPPORT

Several activities contribute to the development of skills and a support base for parent-

ing. During and after pregnancy parents may participate in small support groups where they can share feelings and discuss their changing relationships and new responsibilities. A variety of other activities are planned in response to individual and group request. Many women continue their contact with the Center through an active volunteer consumer group.

#### UNIVERSITY OF MINNESOTA AFFILIATION

The Childbearing-Childrearing Center is an outreach program of University Hospitals and as such its consumers receive the benefit of the many supportive services of the University. Medical consultation for the Center is provided by the Departments of Obstetrics and Pediatrics. Costs for both professional care and hospital services are competitive with those in the Metro area.

#### WHAT IS A NURSE-MIDWIFE?

A nurse-midwife is a registered nurse who has successfully completed further comprehensive study and clinical practice in a nurse-midwifery program approved by the American College of Nurse-Midwives, and works in consultation with a board certified obstetrician. She is prepared to manage the care of mothers and babies throughout the maternity cycle, including family planning, as long as no medical problems arise.

#### WHAT IS A PEDIATRIC NURSE PRACTITIONER?

A pediatric nurse practitioner (PNP) is a registered nurse with pediatric and/or public health experience and graduate training through a certified pediatric nurse associate program, who works in close conjunction with a pediatrician. She is prepared to do physical and developmental assessments on children of all ages with emphasis on giving guidance and support to families.

#### EXPLANATION OF THE UNIVERSITY OF MINNESOTA CHILDBEARING CENTER

The first nurse-midwifery care at the university of Minnesota was delivered in the fall of 1972 when one nurse-midwife joined the faculties of nursing and obstetrics and gynecology. That was the start of the Childbearing-Childrearing Center (CCC), which organized in concept in July of 1973. At that time there was one nurse-midwife and a part-time, volunteer nurse research assistant/graduate student who made up the Center.

Another nurse-midwife came in September and together the two nurse-midwives delivered 21 women in 1973. The graduate educational program preparing nurse-midwives also began in the fall of 1973 graduating a total of 15 women who have taken the national certifying examination given by the American College of Nurse-Midwives. Today the Center staff has 4 nurse-midwives, one 1/2 time pediatric nurse practitioner, a maternity nurse practitioner, a secretary, a 70% time receptionist, and 2 part-time physicians, 1 in obstetrics and 1 in pediatrics. There were 118 women who delivered babies with the Center in 1976 and 128 children are receiving their well-child care under the Center's childbearing component.

The basic philosophy of the Center includes the following:

Childbearing and childrearing are essentially healthy, normal events in life.

Health maintenance and prevention of illness are the cornerstone for a healthy society.

Childbearing and childrearing care is most appropriately delivered in a context that affirms the family and includes identified support persons in care.

Responsibility for one's health belongs to the individual; the health care system is present to respond to identified needs and to assure progress meets parameters of normal care is optimally delivered in a system that provides continuity.

Alternatives in health care delivery are es-



sential to meet the various needs and wants of today's consumers

Nursing as a discipline is oriented toward health and growth; nurses working in an expanded role are particularly well suited to deliver personalized health care

The appropriate setting for delivery of health care is community based, not hospital (illness) based

Woman to woman relationship within the childbearing, childrearing periods has the potential for mutual growth and enrichment

Continuity during the critical period between childbearing and childrearing is especially important

Within this philosophy the personnel of the Center have worked continually toward goals that would carry out their underlying philosophy.

Current operational statements of the CCC:

1. To maintain a site, located in the community, for all out-patient care delivery
2. To provide childbearing and childbearing care at the same location
3. To provide care that is focused on and affirms consumer wants and needs
4. To provide opportunity for on-going consumer involvement in the Center
5. To provide a setting for student education
6. To modify the in-hospital setting, as needed
7. To provide as personalized care as possible including continuity, on-going labor support, and home visits
8. To have an on-going system of research and evaluation
9. To provide opportunity for continuing staff education
10. To encourage active participation by staff in community activities and education

To date, all of the funding for the Center has come from University sources. Both the School of Nursing and the Department of Obstetrics and Gynecology have contributed salary monies. A Health Sciences Atkinson Grant made possible the development of the childbearing component. Those crucial monies will run out in July. The Hospital is now providing all of the support for the clinics and the building, as well as covering several salaries.

Acquisition of the separate building for the Center has been a tremendous developmental step. Intake is increasing. More activities are possible. The childbearing component is becoming more integrated. Parking is marvelous. There is a whole atmosphere of excitement present in the Center.

We hope to demonstrate that such a Center is indeed viable. We know it is a service that women and couples are seeking. We also are aware of the difficulties of supporting such a Center financially. It is crucial that additional monies be obtained just to maintain present service; since we have many ideas we would like to see the services expand! We are in the process of hiring, on a trial basis, an editor for our newsletter and a consumer coordinator for all consumer activities. We feel these are essential functions, but they cannot be handled solely by present staff.

Our goal is to proceed as realistically as possible without losing the idealism and vision that has prompted our growth thus far.

#### FUEL SAVINGS, POLLUTION CONTROL, AND PROFIT

Mr. HEINZ. Mr. President, over the past several years, I have taken an increasing interest in the search for ways to cleanup our environment and at the same time encourage the growth and productivity of our industry. The formula for resolving these two concerns has now been made more complex by the need to

conserve our existing energy resources and develop new sources of energy.

The debate over the best way to resolve these problems has been ongoing for some time and, I am sure, will continue. My purpose today is to share with my colleagues two magazine articles which recently were brought to my attention. Both articles support the position that it is possible to develop and install technology which yields fuel savings, pollution abatement, and profits. Mr. President, I ask unanimous consent that these two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Business Week, Apr. 18, 1977]

#### SOLVENT RECOVERY PAYS OFF

Information Terminals Corp. had not planned on immediately installing an expensive vapor recovery system when it started building its own magnetic tape plant in Sunnyvale, Calif., in 1975. But when local air quality officials insisted, ITC executives grudgingly agreed. Today they say that their \$100,000 recovery system has made it economically feasible to use better solvents than in the past and thus produce a new high-quality tape. "They forced us to do it early," conceded ITC President Reid Anderson when he recently announced the company's new Verbatim tape line, "and it's a good thing they did."

Magnetic tapemakers run into a solvent emission problem in applying the resin coating containing the magnetic particles to the tape base, and ITC is just one of several manufacturers to discover the benefits of enforced solvent recovery. "There are technical obstacles [to recovery systems] for some companies and economic ones for others," says Arthur G. Schwartz, a consultant with extensive experience in recovery systems, "but the trend is definitely to put them in."

Environmental pressures aside, the reason solvent recovery is so appealing is that prices of solvents are skyrocketing. Some prices have shot up more than 40% since the Arab oil embargo. "Even so-called low-priced solvents are expensive today," notes Clyde S. Roark, a product manager at the Boulder (Colo.) plant of International Business Machines Corp.'s Office Products Div., which also has installed a recovery system.

Justifying the costs, Magnetic tapemakers, of course, are not the only industry faced with orders to control solvent vapor emissions. Plants with big paint lines, such as those making auto bodies and appliances, are also under the gun. Most such plants are installing systems that burn vapors, recovering the heat for their baking ovens.

But the coatings used in making premium tapes require solvents that are costly and sometimes hard to get. For example, new types of tapes, especially those used in broadcast studios and computers, increasingly require solvents like cyclohexanone, dioxane, and THF in order to apply the tough, hard-to-dissolve resin binder that is crucial for these applications.

"Recovery has allowed us to use solvents that we probably would have had a hard time justifying otherwise," says IBM's Roark. "Our chemists have had a freer rein to go into more exotic formulations." In addition, Roark says his plant has been able to keep running with recovered solvents when solvent shortages shut down some tape manufacturers.

Even manufacturers of commercial-grade tapes, whose solvents generally cost less, are finding solvent recovery to be a boon. Certron Corp., for one, has been recovering vapors for two years, and William A. Smyth, manufacturing vice-president, estimates that his company recaptures 90% to 95%—about

1,000 gal. daily—of the methyl isobutyl ketone solvent it uses to produce audio cassette tapes. That works out to annual savings of at least \$80,000, Smyth says, which is enough to return Certron's \$250,000 investment in the system in about three years. Environmental results are equally encouraging. Expelled airborne solvents dropped from 450 lb. a year to 59 lb.

Certron and ITC both use simple adsorption/desorption systems supplied by Vic Mfg. Co., of Minneapolis. In these installations, solvent-laden vapors are sucked from tape-drying ovens into a large tank filled with activated carbon. The solvent molecules adhere to the carbon, and the cleaned vapors are vented to the atmosphere. Hot steam percolates through the carbon bed, picking up the adsorbed solvent molecules and carrying them to another tank. The reclaimed solvent is then distilled and held for re-use.

A few bugs. Although Vic is currently the undisputed leader in the industry, other companies are also carving out a market. Oxy-Catalyst Inc., a West Chester (Pa.) division of Research-Cottrell Inc., last week delivered the components of what will eventually be an \$800,000 recovery system to Memorex Corp.'s plant in Santa Clara, Calif. The Oxy-Catalyst system substitutes hot-air vacuum stripping for steam with the aim of reducing the cost of energy and of the distillation step. Another supplier, West Germany's Bamag, installed a system for 3M Co.—an installation about which 3M will reveal few details.

Few of the systems have been without problems. At Certron, the original phenolic-lined tanks had to be replaced with stainless steel when they failed to stand up to the company's solvent formulas—a switch that Smyth says cost the company \$50,000. Other companies have complained of collapsing carbon beds, corrosion, and spontaneous burning. Even 3M, which insists that its "multimillion-dollar" system has been running well for the past year, admits to "initial startup problems" that required it to hire at least one outside consultant.

Despite the painful debugging that vapor recovery systems often entail, their advantages have not been lost on other industries. Richard C. Waugh, president of the Chemical Operations Div. of Syntex Corp., a Sunnyvale (Calif.) pharmaceuticals company, says that his division is spending "well into the millions" to recapture solvents, and "we plan to spend more." Food-processing companies often reclaim methylene chloride, a solvent that is widely used for decaffeinating coffee. Vapor recovery is also important in industrial dry-cleaning and in printing—particularly in color lithography, where various types of acetate and hydrocarbon solvents are used.

For these industries, as for the tape makers, cost benefits are just as important as environmental requirements. Certron's Smyth summarizes the tradeoffs in one terse question: "How can you argue with recovery if you are paying 32¢ a gallon for solvents and just blowing it into the air."

[From Business Week, May 17, 1977]

#### A CLEAN BURNER WITH A FUEL-ECONOMY BONUS

When Peabody Holmes Ltd., a London subsidiary of Peabody Gallon Corp., invented a high-efficiency burner some six years ago, it touted the device primarily as a fuel saver. That was also the plan that Peabody Engineering Corp., its Connecticut sister, meant to follow when it took over exclusive U.S. rights to the burner last year. But both companies are finding that one of the burner's bonus attributes—that it slashes visible smokestack emissions—is an even stronger selling point.

Most U.S. customers, of course, have a keen interest in both angles. Last month Peabody Engineering received a \$2 million contract from the Puerto Rico Water Resources Au-

thority, which produces all of Puerto Rico's electricity, to install 26 of the Peabody Air Pressure Recovery (APR) burners on three boilers near San Juan. "This was the best way to meet the Environmental Protection Agency's criteria, and we'll save fuel also," explains Juan Bonnet, assistant executive director. "Otherwise, we would have to install particulate removers, which not only would have cost twice as much but would have left us with a sludge disposal problem."

Florida Power Corp., which has been running 10 APR burners at its Turner Station in Enterprise, Fla., for more than a year, also welcomed the fuel-saving bonus. The burners put the company in full compliance with visible-emissions requirements and saved it 4,000 bbl. of oil last year. "We could never have met state air standards any other way," says James Whitehurst, plant superintendent.

#### TWO SELLING POINTS

The APR burner reduces emissions and conserves fuel because it "intimately mixes" oxygen with fuel with as little as 1 percent of excess air, says Frank Gullo, product manager at Peabody Engineering. That puts Peabody in the enviable position of having two provable claims to use in its marketing push. Peabody Holmes, which has already sold 400 APR burners in its European marketing territory for a total of \$4 million, is also tailoring its approach to each country it sells in. "A customer in the steppes of Russia is not bothered by particulate emissions," explains Ian Murdoch, sales manager of the Burner Div.

Conventional burners consist of a series of "air doors," or vents, through which air flows to an air register. The air then has to make a turn of anywhere from 60 to 90 degrees to reach the fuel. The APR burner replaces the air register with a venturi-type throat that sends a low-turbulence flow of air in a straight line to the fuel. "Since we can control the flow's direction," Gullo explains, "we don't have to flood the fuel with excess air to make up for inefficient mixing."

Energy is conserved at both ends of the process, Gullo claims. Less energy is needed to pump the reduced air flow through the burner. And since excess air—which runs as high as 20% in conventional burners—has a cooling effect in the boiler, less energy is required to maintain boiler temperature. The efficiency of the process makes it nonpolluting, he adds. "Even though we don't inundate the fuel with oxygen," he says, "we find that we complete combustion more thoroughly."

#### RIVAL VERSIONS

Peabody claims its burner is the only one on the market to use the venturi design, but it is not the only high-efficiency process available. Babcock & Wilcox, Combustion Engineering, and other companies have their own versions on the market. "There seems to be a tendency for states to relax their sulfur emissions requirements, and with more companies burning high-sulfur fuel, there is a great need for devices to reduce visible emissions," explains Donald J. Frey, section manager for fuel-firing equipment at Combustion Engineering. He says the company has developed a process to reduce excess air in its tangentially fired boilers—boilers in which air and fuel are normally fed into the furnace in layers and do not mix until they hit the fireball in the center of the furnace. The new process speeds up the initial combustion and makes it more efficient, Frey says.

The potential market is large enough to make competition only a minor worry to the companies involved. Arthur J. Jackson, Peabody Engineering's marketing vice-president, says that retrofits for utilities are his major aim now, but he also looks for sales in the original equipment market and in industrial applications.

Although the APR burner costs 7% to 10% more than conventional burners, Jackson says that the increase, taken over the cost of an entire boiler package, is insignificant. "It's like raising the price of the ashtray in an automobile," he explains.

Peabody is confident enough of the burner's performance to guarantee that it will keep excess air at less than 2% and to guarantee that users will meet EPA standards. So far, Florida Power's experience seems to bolster that confidence. Says plant superintendent Whitehurst: "To be absolutely honest, we haven't been able to find a major problem with the burner yet."

#### GEORGIA: THE CENTER OF THE SUN BELT

Mr. TALMADGE. Mr. President, there appeared in Atlanta magazine an excellent article on the phenomenal growth and economic progress in the State of Georgia, "The Center of the Sun Belt."

Like an idea whose time has come, Georgia is a State and the South is a region whose time is at hand. As this article points out, the Southeast particularly is enjoying significant growth and progress in virtually every social and economic area, and Georgia is squarely in the middle—and in fact is a pacesetter—for this new boom country.

I bring this article to the attention of my colleagues in the Senate, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Atlanta magazine]

#### GEORGIA

(By J. Michael Robertson and Martin Shartar)

The enormously varied state, largest east of the Mississippi, is increasingly appealing to investors and tourists alike. And the center of the Sun Belt also spawns extraordinary people who create and achieve—people from poets to the President.

#### GEORGIA'S PLACE IN THE SUN BELT

The Sun Belt, that stretch of the southern United States once stereotyped as an amalgam of *Death Valley*, *Days*, the Dust Bowl and Tobacco Road, has been discovered by the media. It's gaining on the industrial Northeast and Midwest in population, wealth and influence, as the nation's news-gatherers relentlessly—and accurately—report. The Southeast in particular is on the rise, and Georgia sits at the center of the new boom country.

The proliferation of dateline "Atlanta" in news reports is as much due to the rediscovery of the reality of the South's bright future as to curiosity in the land of the new President. Statistics can lie, but in the case of the New South's new economics, they don't.

Georgia has received its share—perhaps more—of the region's new prosperity.

Between 1960 and 1975 the population of the United States grew 18.4 per cent; Georgia's rose 24.5 per cent.

During that period national nonfarm employment grew 41.9 percent; in Georgia it increased 64.1 per cent.

Manufacturing employment grew 9.2 per cent nationwide; Georgia manufacturing employment rose 27.1 per cent.

National retail sales grew 154.2 per cent; Georgia retail sales jumped 242.9 per cent.

U.S. buying income grew 173.1 per cent, while Georgia buying income rose 226.9 per cent.

Georgia's percentages are strikingly superior partly because the state was far behind the rest of the country when the post-World War II boom began. But many feel Georgia and the Southeast are going to sling-shot: Sometime in the next hundred years the Southeast will surpass all other regions of the country in "real numbers," not just in percentages. Though some dispute that prospect, the view has emphatic champions. Jasper Dorsey, vice president and chief executive for Southern Bell in Georgia: "The rest of the 20th Century belongs to the South, and Georgia is on the leading edge."

Whether the projection of Georgia's economic future is moderate or superlative, the central fact is clear: Along with the rest of the Southeast, Georgia is on the grow relative to the rest of the United States. The promotional rhetoric of the Fifties and early Sixties has become reality.

Vigorous promotion of the state's assets explains part of Georgia's success. Eager to push the comeback from the national recession—which hit Georgia late and hard—early this year the Atlanta Chamber of Commerce opened a New York City office to serve the Northeast. The potency of the South's appeal is reflected in the cries of "raiding party" which greeted the one-man operation. Dave Lawton of the Atlanta Chamber explains that the New York office should be seen in a "sales context." It will serve prospects all over the Northeast who have already contacted the Atlanta Chamber; no "cold calls" are anticipated for six months or more. But the New Yorkers are not misreading Atlanta's aggressive posture. "There's no question we are competing with the other Southern states," says Lawton.

The New York office is only part of the Chamber's new Forward Metro Atlanta campaign, a renewal of past development efforts that helped make Georgia and Atlanta roaring success stories in the Sixties. A three-year, million-dollar program of national and international magazine advertising, possible TV spots, direct mailings, etc. is planned.

William Hunt, president and chief executive officer of Yardley of London Inc., which moved headquarters and manufacturing facility to Metro Atlanta in 1976, gauges the success of past such campaigns: "The publicity over the past 10 years about the city . . . has been like the Chinese water torture: it's been a constant pressure and just made it the first place I wanted to look when we decided to move."

Behind the national magazine ads and attention-getting gambits such as the New York City office lie the nuts-and-bolts of industrial development. These day-by-day, inch-at-a-time efforts are handled by the professional staffs of the Atlanta Chamber, the Georgia Bureau of Industry and Trade and a number of other Georgia businesses and state organizations. (A few of that number: the Georgia Chamber of Commerce, Georgia Power Co., the Southern and Seaboard Railways, Georgia Institute of Technology's Industrial Development Division, Atlanta Gas Light Co., the Georgia Ports Authority, and the state's major banks.)

Industry and Trade provides market, site, tax, freight and construction data to the prospect; its staff may visit the company in question. The Bureau's aim: to get the prospect into the state for a personal tour of prospective communities—which must do the real selling. (A sign of Georgia's statewide receptiveness to new and expanding industry: In 1976, 79 per cent of the new jobs and 65 per cent of new capital investment were in Georgia communities with populations under 50,000. These statistics also show new willingness on the part of industry to locate in small towns, a definite boon to Georgia and her predominantly rural neighbors.)



The Bureau of Industry and Trade is selective. "We'll get calls every month from folks hunting minimum wage opportunities. We tell them, 'If you're only interested in minimum wage, forget it.' The companies that want something for nothing are few and far between. They're not worth spending much time on. . . . Back in the Fifties some apparel people got tax relief money to build plants. When that ran out, they'd pick up their sewing machines and were gone. Of course, as long as it's the free enterprise system, we can't dictate what companies go where. Our overall goal is getting a better mix of high-quality jobs and building the state's tax base."

Contrary to popular belief, says the same Industry and Trade source, Georgia is not in the business of "stealing Yankee industry" by coaxing it to pull stakes and relocate in Dixie.

"Relocation is one in a 1,000. I'd say 99.9 per cent of our projects are expansion projects. It's nearly impossible to pick up an individual plant and move it. A lot of people [mistakenly] think we're stealing plants from up North. To be perfectly truthful, a lot of companies would like to get out of higher cost Northern communities and into the South, but they'll do it very gradually through expansion."

Most of Georgia's industrial growth comes from plants already in the state. Last year capital investment in Georgia fell short of the magic \$1 billion mark, though the \$835.1 million invested was still a record, surpassing the previous high of \$677 million (in 1973).

According to Tom Hanifen, Industry and Trade's director of research, more than 10,000 new jobs were created in 1976 by 278 expansions at a capital investment of \$638.2 million; an additional 11,169 jobs were created by 202 new plants built at a capital investment of \$196.9 million. (Finding statistics that give the layman a real sense of Georgia growth is difficult. Hanifen likes these numbers: Since 1960 Georgia has averaged 34 new industrial projects a month, representing an investment of \$36.2 million and producing 1,476 new jobs every 30 days. "This rate," says Hanifen, "has more than held up during regional national international uncertainty.")

In a recent issue *Industry Week* magazine surveyed a number of companies who had moved all or part of their operations from the North to the South. Only 5 per cent expressed dissatisfaction with their move. The reasons given for initial relocation and subsequent contentment included non-union or lower labor costs, tax advantages, lower land costs, favorable climate, availability of energy supplies, and access to new markets. Each of these reasons has been a factor in Georgia growth.

The relative importance of the presence/absence of strong union tradition in Georgia is difficult to measure because of the state's other compelling attractions. But Roy Cooper, associate director of economic development research for the Atlanta Chamber, believes that the "state of the union" in the South is definitely in the minds of industrial prospects.

"Almost every manufacturer coming this way is concerned with the right-to-work law," says Cooper. "If President Carter signs a bill abolishing right-to-work, it would cost us an edge—but it would not put us at a competitive disadvantage because it would apply to our neighbors as well." (Nineteen states now have right-to-work legislation, including seven Southern states; the recent defeat of the labor-backed common situs picketing bill by the U.S. House of Representatives does not bode well for national repeal of the right-to-work option this session of Congress.)

An official with the Georgia Bureau of Industry and Trade concedes that the state's

low degree of unionization is still a factor in attracting industry. "A lot of Georgia towns say, 'Don't tempt us with a union company.' And lots of union companies would like to come down here and be non-union. Nobody knows how this will come out. If the companies don't make the mistakes they did elsewhere, the South will stay relatively non-union." Between 1964 and 1974 the number of workers in Georgia employed in industrial jobs who joined labor unions increased by only one-half of 1 per cent. During the same decade the number of industrial jobs in Georgia increased by 35 per cent.

Long-term, the productivity of the Georgia worker—in many cases a generation or less removed from dawn-to-dusk farm labor—is more important to the state's growth than non-union tradition and a lower average wage.

Dick Horner, president of E. F. Johnson Electronics, which recently built an assembly plant in Conyers (Rockdale County), says his company must remain unorganized because all its competition is unorganized. "But it is not so much a matter of the per hour cost of labor as its productivity, and we like what we see."

Georgia also presents attractive tax advantages to industrial prospects, though the nature of those advantages needs explaining. State corporate and individual taxes are low; more important, tax rates are stable. And the state government is constitutionally forbidden to operate at a deficit.

Corporate income taxes have not increased since 1967, and there has been no personal income tax hike since 1971. The 3 per cent sales tax rate has not changed since it was adopted in 1951. By constitutional amendment, a 1 per cent sales tax is collected in Fulton and DeKalb Counties to support a rapid transit system.

"We have not tried to outgive everybody," says Roy Cooper. "We have no 10-year moratoriums as are found in some other Southeastern states. We expect companies to come in and pay their fair share, but those taxes won't suddenly go sky high. That kind of extra is not good relations with companies already here. They may say, 'Hell, we'll build elsewhere.' Business knows you can't create something out of nothing. If [government's] got a program, somebody's got to pay for it."

Lower land costs may also be a factor in the decisions of some companies to locate in Georgia, though land costs in Atlanta are about the same as in other U.S. metropolitan areas. An important consideration is construction costs: Georgia's are 26 per cent below those in New York City and 13 per cent below the national average.

Georgia's mild climate is a powerful lure, particularly in the aftermath of the nation's frigid Winter of the Century and the growing realization that energy shortfalls are real and can be permanent. Georgia Summers are warmer than those in New York or Minnesota, but air conditioning requires less energy than heating. And the contribution of climate to quality of life for the Georgia worker can't be denied. The state has rich and varied recreational opportunities, access to which is extended by Georgia's place in the sun. As Jack Talley, vice president for industrial development with Georgia Power, puts it, the "professional factory worker" in many Northern cities has nothing to do after 5 p.m. except "drink beer, bowl and bitch."

Availability of energy is increasingly important to industrial prospects. Georgia, though offshore oil is yet to be developed, has no other significant energy resources. But gas, oil and coal are available in the region. And Georgia Power, the state's electrical energy supplier, produces 80 per cent of its electricity using coal, a fact which promises uninterrupted power to the state's industries. Coal contracts are in hand, and the industry already has pollution abatement equipment

in place. Georgia Power anticipates a 7 per cent annual growth in the demand for electricity over the next 10 years, and has embarked on a building program to insure that the Company has the generating capacity to satisfy that rate.

The South is succeeding in projecting itself as a land of economic growth—for the individual as well as the corporation. A recent study by the Federal Reserve Bank of Atlanta shows that the South enjoyed net in-migration from every section of the country between 1970 and 1975 in spite of the recession—and including the West, which has historically been the nation's fastest growing area.

Though economists are not in total agreement, some feel Georgia is approaching that "critical mass" in population at which point a prospective industry can safely decide to move into the area without concern about the present size of the labor pool. The industry can count on a portion of the nation's surplus labor moving to an area because of a national perception of that area as a place of growth and opportunity.

Georgia State University's Dr. Donald Ratajczak, director of GSU's economic forecasting project, suggests many young people are coming south not because they know jobs are here but because they believe jobs will be here. They see the South, he says, "as a place of new opportunity, a place where they're not frozen into one occupation for the rest of their life. . . . They see a chance to spin off on their own."

Atlanta in particular is seen as a place where the main chance will come available because of its well publicized status as a transportation center. Atlanta's Hartsfield International Airport is the world's largest air cargo facility and handles the world's second largest volume of passenger traffic. Eighty per cent of the United States is within two hours commercial flight time. Seated at the cradle of the Dixie crescent, Atlanta offers truck and rail access to all of the Southeast.

Atlanta's location matters because the Southeast is increasingly a market in its own right. Dr. Ratajczak: "Georgia is increasing its market share. Right now the fastest market growth is in Alabama, the most sustained is in South Carolina, and the fastest population growth is in Florida. Only one state borders on all three. If we keep our site costs down, we can serve all three markets."

Since November one intangible in Georgia's economic future has been Pres. Carter. His election must mean something to the economy of the state, pundits reason—but what? Since Carter shows no penchant for log-rolling, it is apparent that any economic benefit from his election will come from national changes in perception, from the degree to which Georgia's image is enhanced in the eyes of outsiders as a result of birthing a President.

Californian C. P. Samson, vice president of the San Francisco-based American Real Estate Exchange, was here recently in conjunction with the opening of his firm's Atlanta office, and expressed a common opinion: "There are people who say I don't care whether you say something good about me or bad about me, just say something about me. People are talking about Georgia in more conversations every day. There are bound to be favorable effects. People think that Georgia definitely will not be hurt by the new administration."

The Atlanta Chamber and the Georgia Bureau of Industry and Trade see little "Carter fallout" from within the United States—aside from some increase in tourism. But many see Carter's election as having definite and long-term international benefits for the state.

Ronald Morgan, a vice president of Atlanta-based Robinson-Humphrey Company,

an internationally active brokerage firm, reports increasing overseas interest in stock in Georgia companies, and in the state as the site for direct foreign involvement. He sees a number of reasons: the state's transportation systems, labor pool, mild climate—and Jimmy Carter. As James Hall, of Trust Company Bank's division of industrial development, puts it, "Foreigners are more impressed with Carter being from Georgia than we are. We're so used to turnover every four or eight years that we aren't... [Carter's election] has definitely gotten the attention of the foreign market."

David Burke, local manager of the Atlanta office (established last year) of Barclays Bank of London, gives the question an international perspective: "Carter's election will have some international effect. I could not quantify the value of such worldwide publicity... The area was growing anyhow and I think this was just another boost."

International activity in Georgia is indeed "growing anyhow." Total value of Georgia exports for 1975 is estimated at almost \$2 billion. International investment in the state amounts to almost \$1 billion from sources in 22 different foreign countries. Nearly 16,000 jobs have been created for Georgians through foreign investment in Georgia manufacturing.

John D. "Jack" Welsh, head of the Bureau of Industry and Trade's international division, on the recent spurt in foreign involvement: "The difference between today and three or four years ago is like night and day—from 60 companies to 250, the bulk of these in the last two or three years."

According to Jim Wilkerson, the Atlanta Chamber's director of economic development and research, foreign investors—mostly Western European, Canadian and Japanese—are attracted to the United States because of its relative political and economic stability, and to the South and Georgia because of the same qualities that make the region attractive to domestic investors.

Other possible attractions cited by Welsh and Wilkerson:

**Foreign banks.** Because of recent changes in Georgia law, such banks are now allowed to operate and make loans in Georgia. Barclays and Credit Suisse (Switzerland) are already in Atlanta, and Welsh anticipates a total of eight to 10 by the end of the year. Foreign banks tend to bring their clients' money into areas they enter. Because they are truly international banks, operating in scores of countries, they will turn the attention of all these countries to Georgia.

**Georgia's international banks.** Trust Company established the state's first international department in 1952. Since then First National, Citizens & Southern, National Bank of Georgia and Fulton National Bank have done the same. Trust Company and First National have offices in London, and C&S has offices in Jamaica, Costa Rica, Colombia, Rio de Janeiro, Peru, Nassau and Singapore.

**Free trade zones.** For the purposes of customs, such zones are considered outside the United States. Goods can be shipped into a foreign trade zone, warehoused, assembled or modified, then shipped out of the country without paying custom duties. Georgia's first foreign trade zone has been established on 33 acres in the Shenandoah Industrial Park (in Coweta County, 30 miles south of Atlanta). Escaping duties gives manufacturers and handlers a competitive advantage. For the host territory, a foreign trade zone means jobs and service business.

**Freeports.** Last November Georgia voters approved a constitutional amendment which allows cities and counties on a local option basis to declare themselves freeports. That status relieves all or part of the inventory taxes on goods produced in Georgia and destined for shipment outside the state, or warehoused in Georgia for later shipment

outside. Jobs and service business are produced for the freeport locality. Both domestic and international businesses would get competitive advantage.

**The World Congress Center in Atlanta.** Though the "World" in the \$35-million, 600,000-square-foot facility's name was looked upon by some as Atlanta exuberance when the Center opened last year, those involved in promoting Georgia internationally say the WCC will be important in attracting worldwide attention—and visitors. Though booking most international conventions require an eight-year lead time, the WCC is pleased with early overseas response. In March of this year the 13th International Congress of Game Biologists convened at the WCC, its first meeting in the Western hemisphere. (Recent meetings were in Lisbon, Stockholm, Paris, Moscow and Helsinki.) Other international conventions are already booked.

**Atlanta itself.** Talking of the WCC, the splendid new Atlanta hotels, the extensive international press coverage Atlanta received even before the Carter campaign attained credibility, Jack Welsh says, "We talk about Atlanta as the new international city—I really believe it is! In comparison with neighboring Southeastern states, the thing we have that they don't is Atlanta. Now those who might have overlooked us before put us on their list." Whatever the lure, Industry and Trade reports a striking increase in the number of foreign visitors—from ambassadorial rank on down.

**The Atlanta-London air route.** Last year the CAB recommended Atlanta get it, but in December Pres. Ford sent the recommendation back to the CAB for further study. The Atlanta-Europe air route is probably most important as an imagebuilder as far as national business is concerned. But it would definitely boost international business: Francisco A. da Costa Lobo, ex-Portuguese banker who organized and now heads NBB's international department, was recently quoted as saying, "I think after a year of direct flights to London, we will see international business here just boom." (Roy Cooper, who has been tracking the CAB deliberations for years, has "full confidence when the matter is settled, Atlanta will have a route.")

Foreign investment is only half of Georgia's international story. Between 1972 and 1975 Georgia exports doubled, and the prospects for increases are good. Seventy-five percent of those exports were manufactured goods; the remainder consisted of agricultural products.

Southeast Georgia produces half the world's supply of naval stores (resin, turpentine, etc.). Northeast Georgia is a broiler and egg center; the state is among the nation's top producers of both. Georgia leads the country in the production of pulpwood and peanuts, and grows large quantities of corn and grain. Given the inability of much of the world to feed itself, the state has enormous potential for agricultural export.

Though the bulk of the finished products which Georgia exports are made by a relatively small number of companies—Lummas Industries and its fiber-producing machinery is an example—their success encourages others to get their feet wet. Part of the recent interest in foreign commerce was due to the recession, but the long-term benefits of that forced internationalism may be great. Jack Welsh says for years he urged Georgia companies to try foreign markets. "We just don't have time," they'd answer. In the last few years they got time! Once they start doing business overseas, they find it's profitable."

A key to Georgia's international trade is the Georgia Ports Authority which has deepwater facilities at Savannah and Brunswick. Savannah has an ambitious \$52 million expansion 80 percent completed. When a third container berth is completed this year, the Savannah port will have the capability to

load and unload 100,000 containers annually. The GPA is already planning future container berth construction on recently purchased Savannah property. When two general cargo berths are completed, Savannah will have the use of modern paper handling equipment which will mean an increase of 150,000 tons of paper products shipped annually.

In July, 1977, completion of a \$4.5 million expansion of Savannah's dry bulk facility will allow a 50 percent increase in handling such Georgia agricultural commodities as corn, soybeans, soybean meal, peanuts and peanut meal. Georgia Pacific and Forest Commodities Corporation have started construction on woodchip export facilities. And the GPA is investing \$12 million in improvements at Brunswick.

Because of the tremendous upsurge in U.S. trade with the Middle East, the Ports Authority just opened a Mediterranean office in Athens, Greece—the first such effort by a U.S. ports authority. Trade development staff has been increased in GPA offices in Tokyo, Bonn, New York, Chicago and Atlanta. The feasibility of opening an office in Southeast Asia is under study.

A new sense of the term "antebellum" is entering Georgia's economic lexicon.

Let it refer to the pre-World War II era when the state's relation with the rest of the United States was all export: Georgia young people, Georgia farm products and raw materials, and an image of the state as indolent and anti-growth were all "shipped" North, bringing little return.

Now, with Georgia and the Southeast emerging as national and international economic hot spots, it can be said without melancholy that those days are truly gone with the wind.

—J. MICHAEL ROBERTSON

#### THE TOURIST TENSE: PAST IS PRESENT

Fame can be a cumbersome compliment. Consider the plight of Plains, changed in the twinkling of an electorate's eye from side-road settlement to instant tourist attraction. It's exhilarating to move from sidelines to center field, but it can be traumatic.

Some days the permanent population of Plains—about 500, not subtracting those who've moved to Washington or elsewhere—gets lost in the shuffle of 5,000 day-trippers prowling for peanut souvenirs, a glimpse of the Carter clan, even such treasures as a six-pack from Billy's service station.

Don't underestimate peanut power. Jimmy Carter's autobiography fervently claims that boiled goobers, properly prepared, "should be considered one of the great gifts of God to mankind." Less godly gifts in the form of gold pendants fetch as much as \$200 a nut at Atlanta jewelers. In their natural state—boiled but ungilded—they sell for about 50 cents a bag at Atlanta's massive 146-acre State Farmers' Market, at highway vending stands along mountain roads and near Interstate cloverleafs—and they're plentiful in Plains.

But there's more to Plains' magnetism than its heady carnival atmosphere and 30-minute, peanut-wagon tours around town. There's a hard-to-label sense of deep-rooted values that even crowds can't obscure, a rare backward glance not often seen by 20th Century urbanites.

Plains has become the symbol of what Georgians have long called "plain living." It's an attitude that reverences Nature, finding harmony and meaning in family, home, church and the gifts of season. It prevails in hundreds of Georgia towns and hamlets. They stand squarely within this century, looking more to the future than the past, but they're girded by an inviolable awareness of time and place, of being and belonging.

Muscling for industry because jobs for young people are vital to maintain their



stability, Georgia's communities are also aware that travel is a burgeoning industry. Travel-related services account for a hefty 25 per cent of gross revenues produced by all retail and service businesses in Georgia.

But how to promote or even describe a state teeming with attractions and whose sheer geographical vastness sometimes surprises visitors and natives? The largest state east of the Mississippi, Georgia offers variety to challenge Cleopatra's with its mountains, coast, picturesque cities and historical places. Atlanta's metropolitan tempo—and Plains, the most prominent of the state's carefully preserved citadels of star-spangled Americana.

After Carter's nomination a Georgia delegation visited Johnson City, Texas, to see how its residents had coped with tourists tracking LBJ's trail. Their first measures—a traffic light and portable johns—didn't factor the principal difference between the Presidents' native states: You don't have to drive through Texas to get to Florida's playgrounds.

For more years than Georgia likes to reckon, its tourist trade relied on motel/gas-pump change left over from Florida-bound dollars. But by 1976, tourist spending in Georgia reached a record \$1.6 billion—and 5 million visitors are anticipated this year.

Tourists are learning that Georgia offers more than a pass-through glance, and the State's Bureau of Industry and Trade (which embraces tourism) requested more funds to promote Georgia's multiple lures. Further allocations are sought for new welcome centers, including a proposed \$100,000 facility in Plains to guide pilgrims to numerous attractions nearby.

There are countless ways to enjoy Georgia, from the Summer lull of lakes and beaches to the Winter lure of ski slopes, from Atlanta's tempting pace to the solitude of untouched rivers, swamps and kindred wild places.

They are but a sampling of the state's glinting facets, for there are plural Georgias shaped by history, custom and terrain. A 50-mile drive within any section of the state can lead to startling shifts of scenery, dialect, folklore. Even the food changes, kneaded into history's bread: You can almost taste the scorch of Sherman's March to the Sea in the dime-flat biscuits that follow his trail.

Mountain life to the north is more distant than miles from the state's flat, bottoming plains. The ear can hear the contrast between palate-softened "Geechee" along the coast and the inland twang toward the west. Eyes can feast on Georgia's shifting landscape: jagged hills and soft loamy fields, the plunge of gorges, the reach of skyscrapers, the gloss of rivers.

These visual delights can frame a vacation etched to the traveler's appetite and imagination. The sandy stretch of Golden Isles fingering the coast tempts with a full range of resorts, from low-cost to luxurious, intermingled with a nest of carefully protected wilderness preserves.

Inland water spots flourish among vast lakes whose shores are an easy drive from northwest mountain towns rich with Indian and Civil War relics, northeastern highlands made famous by novels and films, and cities mingling old and new.

Two such resorts—Lake Lanier Islands and Callaway Gardens—are within hailing distance of Atlanta, where past and present mix almost imperceptibly on hills where battles were waged, sit-ins staged, and peace finally found and nourished.

There are Revolutionary echoes in Savannah—a heritage of Federal and Victorian architecture—and up-river in the one-time frontier town of Augusta, whose Broad Street facades are an anthology of early-to-late 20th Century small-town styles, and

down the coast among the ghosts of Midway, Darien and Fort Frederica.

The old within the new nurtures Georgia. The state's New South image shines like a buckle on the bright-futured Sun Belt, but ceremony and custom are its links to a proud past. And Georgia's pride runs deep. Some native Atlantans now pushing their own mid-century marks can remember high school teachers who traced every battle of the War Between the States, culminating their lectures with a boast: "Of course Sherman had to destroy Atlanta—he knew how important we were even then!"

Some such boasts were made from hurt pride—a lost war, a ruined economy, a backward-backwoods reputation born out of defeat and poverty. Perhaps the habit of looking forward grew from the pain of looking back, but there was always something to boast about—if only a tenacious will to survive that helped to shape scores of men and women whose contributions to literature, entertainment and governance were merely capped by Jimmy Carter's Presidency. His distinction—the first Deep South president since Andrew Jackson—is but the last of a string of firsts and/or foremost memorized by Georgia youngsters from grade school forward. They usually begin with Lyman Hall, Button Gwinnett and George Walton, attracted by biographies more florid than their signatures pledging the 13th Colony's commitment to the Declaration of Independence.

But Georgia's character is more vivid in its literature than its history, revealing traditions that unify a century of words reading like letters from home, from Joel Chandler Harris' *Uncle Remus* tales to Jimmy Carter's *Why Not the Best?* The Harris texts preserve African myths merging into Biblical parables, mysteries and miracles learned from Christian slave masters; the Carter celebrates a New South measured and ordered with the clarity of Ecclesiastes.

There are universals braiding the works of Georgia authors, says Georgia State University literature professor Dr. Kenneth England: "Erskine Caldwell, Flannery O'Connor, Carson McCullers and others write about human nature as it is. Their locale and frame of reference is one they know—Georgia—but, as in the works of Thomas Hardy, the characteristics of human nature transcend locale."

"The Southern writer is probably the last author in America who has a set tradition, a pattern that has been fitted, and he or she writes from that. The rest of the United States is fluid, but Southerners—and some New Englanders—have a sense of place, of religion and family and the set stations of life. You can recognize it in the significance given to the traditional gathering for meals."

Dr. England remembers his first teaching assignment near Augusta, the setting for Caldwell's *Tobacco Road*, being prayed for by the purported real-life model of the novel's Sister Bessie Rice, and sharing boarding house accommodations with other high school teachers. "We were paid \$90 a month for nine months," he recalls, "and room and board was \$19, but that included a breakfast that would just sink you."

Food leaps out of Georgia books like a hungry motif, the symbol of deliverance from a hard-scrabble past. Savor, for example, Scarlett O'Hara's honeymoon feasts in New Orleans: gumbos, shrimp Creole, doves, oysters, mushrooms, sweetbreads, turkey livers, fish baked in lime-laced jackets. And whetting her appetite are memories of Tara's goobers, dried peas and sweet potatoes.

If in today's Georgia you can gorge yourself on delicacies to widen Scarlett's eyes, you can also read about and witness the methods used to prepare such plain staples as syrups, sausages, fruits, preserves, game and nuts (including the inevitable goober). Read Caroline Miller's 1933 Pulitzer Prize-winning *Lamb in His Bosom* for an account of pre-Civil War Georgia, then trace the

similar habits of plain living preserved in the *Forfire* volumes edited by Eliot Wigginton, then see that lifestyle duplicated at Tifton's Georgia Agrirama. It's an authentic replica of a mid-19th Century Georgia farm, close to Georgia's Agricultural Experiment Station, where modern farming techniques are under constant development.

Tifton, strides I-75, southeast of Plains. West of Plains is Westville, a functioning recreation of an 1850 village near Lumpkin. Working craftsmen demonstrate ancient skills in stores, homes and outbuildings transported from other Georgia towns and carefully rebuilt.

The southwest sector of the state preserves Indian artifacts at Leesburg, in the Columbus Museum of Arts and Crafts, and the Kolomoki Mounds near Blakely. Other Columbus attractions include the restored Victorian Springer Opera Theater, host to such diverse celebrities as Edwin Booth and Franklin D. Roosevelt.

Home-grown celebrities born in this area include achievers in a world which admitted blacks only as athletes or entertainers—Leo "Tiger" Flowers, first black world's middleweight champion; Jackie Robinson, first to break baseball's color barrier and first black member of the National Baseball Hall of Fame; Fletcher Henderson, Twenties jazz great credited with starting the Big Band movement; Gertrude "Ma" Rainey, undisputed Queen of the Blues.

Albany claims Wallingford Riegger, the late 12-tone composer, and Ray Charles, master of contemporary, Grammy-caliber blues. Dramatist Lonnie Elder, author of the powerful *Ceremonies in Dark Old Men*, was born in Americus. Actresses Miriam Hopkins and Joanne Woodward hail from Bainbridge and Thomasville.

Cordele was home to Mac Hyman, whose *No Time For Sergeants* added Will Stockdale to America's funnier folk heroes while dissolving Korean and Cold War tensions in a flood of humor. And the streets of Carson McCullers' native Columbus wind with memory's heartache through her unforgettable fiction.

Those who know the longing to belong recognize themselves in *The Heart Is a Lonely Hunter* and *Member of the Wedding*, having heard the music of *The Ballad of the Sad Café* as a universal instinct to establish contact with all things in the world.

There's a leaner language in the fiction of Southeast Georgia, fixed in the spare prose of Vereen Bell's *Swamp Water*, set in the wilderness of the Okefenokee Swamp. Filmed in the vast place that Creek Indians knew as "trembling" earth or water, the movie version of Bell's novel is still worth watching for on late-show midnights, especially for the characteristic vinegar of Walter Brennan's performance.

Fictional accounts of coastal Georgia include Harry Herve's *The Damned Don't Cry*, made into a classic Joan Crawford weeper, and Hamilton Basso's *The View from Pompey's Head*, its film version made memorable by Marjorie Rambeau's vivid appearance. Basso's novel (he was a New Orleans native), still in print 20 years after its first publication, makes good vacation reading if you head for St. Simons, Jekyll, St. Catherines, Skidaway, or even the wilder of Georgia's Golden Isles.

For preparation, read Atlantan Betsy Fancher's *The Lost Legacy of Georgia's Golden Isles*. And if you work up-coast to Savannah, try her recent *Savannah, A Renaissance of the Heart*. Its chapters are a weave of history, description, sightseeing tips—with recipes added for a delectable lagniappe (cooks who can't find *file* will welcome Mrs. Colquitt's shrimp gumbo).

Savannah's history is visible in the city's restored mansions; many are residences, others are museums, including the home of

Juliette Gordon Low, founder of the Girl Scouts of America.

Travelers who scout the central section of Georgia will find scores of ante-bellum and Victorian structures. They are scattered through such handsome towns as Washington, Madison, Monticello, Milledgeville, Athens—increasingly used as locations for films set in an early- to mid-20th Century time frame.

Crawfordville is the site of "Liberty Hall," Federal Style home of Alexander Stephens. Georgia's most notable 19th Century statesman. His biography is a near-Jeffersonian recitation of political acumen: six terms in the Georgia Legislature; U.S. Congressman, 1843-1859; organizer of the unsuccessful Constitutional Union party, formed to fight secession; Vice President of the Confederacy following the vote to secede; Confederate commissioner who sought peace at the Hampton Roads Conference; refused his Senate seat in 1866, but permitted to serve again in Congress from 1872 to 1882, when he was elected governor of Georgia.

In Macon, almost literally the state's center, you'll find the ceremonial language of Georgia's Indian legacy. The Ocmulgee National Monument is the East's most comprehensive archaeological restoration of Eastern Woodland civilizations, detailing the lifestyles of six different groups who lived here between 8000 B.C. and 1717 A.D. Its ceremonial earth-lodge is considered the oldest public building in the United States.

Athens, a thriving city surrounding the massive University of Georgia campus, boasts notable architecture, a compelling museum, historical sites and scenic sights. The University's faculty includes Dean Rusk, Secretary of State in the Kennedy and Johnson Administrations, now Professor of International Law and director of a newly endowed program of international studies.

Jefferson boasts the Crawford W. Long Museum, on the site of the office where Dr. Long performed the first operation using ether. Bill Arp, Georgia's 19th Century answer to Mark Twain, is permanently remembered in the Douglas County town that bears his name.

Other notable natives of Georgia's Piedmont region are Hall Johnson, whose choir helped popularize Negro spirituals, painter Benny Andrews, actor Melvyn Douglas; author John Oliver Killens, founder of the Harlem Writers' Guild, whose *Odds Against Tomorrow* was a harrowing film forecast of a world leveled by atomic warfare.

Collectors of mid-century, Deep South blues and their white boogie spin-offs will feel at home in Macon, birthplace of Otis Redding and the Allman Brothers. Augusta's history-rich thoroughfares were once the playgrounds of soprano Jessye Norman—and at the other end of the musical scale, future shocker James Brown. It was also home to Erskine Caldwell, the more memorable of whose countless volumes are *God's Little Acre*, *Tobacco Road* and *Collected Short Stories*. Aficionados of dashing romance might prefer to think of it as the birthplace of Frank Yerby, whose *Foxes of Harrow* reached the summit of such fiction.

The most potent of the Piedmont's writers is the late Flannery O'Connor whose God-ridden, Satan-driven characters leap to stunning life from the pages of *A Good Man is Hard to Find*, *Wise Blood*, *The Violent Bear It Away*, *Everything That Rises Must Converge*.

Her *Complete Short Stories*, crafted from a private vision of deliverance, is a literary landmark for a doubting age, her characters finding finally some touch of grace within the white-knuckled grip of religious dogma.

Georgia's northeast mountains cradle the fictional setting for James Dickey's *Deliverance*. Its film version introduced moviegoers to Georgia scenic delights, white-watered with peril. Nature's menace is some-

times real in the Chattooga's rolling rapids—amateurs beware—but Dickey's threatening hill folk are less likely to be found.

You'll have trouble finding Narrows, a Banks County crossroads too small for road maps or gazeteers, but baseball freaks may want to search it out. It's the birthplace of Typos "Ty" Cobb, one of the most brilliant and spectacular players of the game. The "Georgia Peach," first member elected to the National Baseball Hall of Fame, made records still unbroken and had a .367 lifetime batting average, made 4,191 major-league hits, stole 892 bases and won 12 batting championships—stuff to feed the folklore of the Great American Pastime.

The *Foxfire* collections of mountain folklore, gathered by students at Rabun Gap-Nacoochee School, when the imagination as keenly as mountain food tempts the palate. *Foxfire's* anecdotes, home remedies and assorted techniques for mastering the art of plain living introduce Georgia's mountaineers—reserved but welcoming, guarded and gracious.

Terry Kay's *The Year the Lights Came On* measures the impact of technology on rural mountain lifestyles. Set in and near Kay's native Royston, the novel illuminates the quantum impact of modernization in the mountains.

The northwest mountains are a hive of Indian and Civil War remembrances, offering remnants of the Cherokee nation before the early 19th Century push of western settlers. There are battlefields and monuments from the Civil War, quiet pockets among historic but modern mountain towns. Among the state's most tranquil places is the Berry College campus, and the Martha Berry Museum is a gentle memorial to the woman determined that learning's riches be shared with the poor.

This area's past is restored in *Yesterday in the Hills*, reminiscences gathered by Floyd and Charles Hubert Watkins. Its pages are a retro-calendar of past habits, generously laced with humor and larded with down-home detail. Its closing chapter tracks an orbit of change drawing mountaineers downhill to Atlanta, the denominator of Georgia's plurality.

It was called "The Terminus" in the beginning—the first broad plateau below the Appalachian and Smoky foothills where a railroad could be built connecting downstate farms with markets across the mountains. Civil engineer Stephen Long hammered a stake marking that railroad terminus in 1837, commenting that it would "be a good location for one tavern, a blacksmith shop, a grocery store and nothing else." So began Atlanta.

By 1864, it had grown from terminus to nexus—even then you had to pass through Atlanta to get anywhere east, west or south of it. Before and after Sherman burned it, there was a frontier flavor to Atlanta, a bit raw and brawling, brash and boastful. Yet, a Southern softness gentled it with a touch of charm. Fifteen years after Sherman torched the city, Atlanta held the first of a series of Expositions proclaiming its renewal—and invited Sherman to attend. He not only accepted the invitation; he invested in the affair.

Credited locally with inventing urban renewal, Sherman helped set the city's habits: It has been constantly renewing itself ever since.

Atlanta is a new city—with just enough of its past preserved to give it character. There's a choice between megalstructures and mansions, town-bound and suburban lifestyles—both of the tree-shaded and tranquil—set traditions and swining new styles.

If Sherman helped create a new city, however inadvertently, Margaret Mitchell's "Gone With the Wind" indelibly fixed the old in the world's imagination. There's no

Tara, but several reconstructed Plantation Plain homesteads. The author said her family was on the floor with laughter when they saw Hollywood's elaborate sketches for the movie's Tara. Closer to the "real" thing is the Tullie Smith House on the grounds of the Atlanta Historical Society—worth a visit even when closed—to glimpse its Swane House, Atlanta's stately mansion.

Stately mansions of another sort anchor Atlanta's glistening 20th Century skyline—microcities and megastructures and architect John Portman's Peachtree Center, a city-within-a-city of hotels, offices, restaurants, shops and boutiques, a dinner theater. Beyond his trend-setting landmark/trademark atriums and silo-shaped cylinders, Portman's most notable contribution to urban architecture is his melding of spaces and places designed more for people—and their pleasure—than for show.

Atlanta shows, theater-style, range from roadshow to repertory, rock blasts to Rachmaninoff in Symphony Hall. It's a partner to the High Museum, Atlanta Children's Theater and Alliance Theater at the Memorial Arts Center. The structure is a tribute to the more than 100 of Atlanta's cultural leaders killed in a 1962 plane crash after a tour of Europe's artistic treasures.

The Center's funding is a tribute to Atlanta's most generous philanthropist, Robert W. Woodruff, the long-time "anonymous" donor whose largesse has shored a host of cultural, educational and social institutions and gifted downtown with parks greening like oases among the city's towers.

You'll find other Atlanta parks named for such native sports kings as golfer Bobby Jones and tennis great Betsy Grant. Piedmont Park is the place to head in May, time of the annual Atlanta Arts Festival, a people-pleasing week of art, music, theater, jazz, dance and opera. Atlanta-born singers Barbara Cook, Mattawilda Dobbs and Beverly Wolfe aren't known to have performed there, but are likely to have visited the Festival as kids.

Piedmont Park was the 19th Century site for a series of International Cotton Expositions—a few end-of-century structures and bridges survive—the second of which was organized and promoted by Henry W. Grady, the city-boosting journalist who coined the phrase "New South." It stood for an attitude oriented more to the coming century than the past.

The 19th Century past is present in Grant Park's Atlanta Cyclorama, depicting a crucial engagement in the last-ditch Battle of Atlanta, and remembered in Stone Mountain's Memorial carving just east of the city.

Cinemaddicts who've memorized *Gone With the Wind* can now watch hockey games, basketball, musical events and circuses at the Omni, whistling distance from the film's famous wagon-and-flame scene. Visitors to Underground Atlanta enter at the site of the old depot, its harvest of maimed and dying Confederates one of the film's few direct references to war.

Atlanta's moonlight-and-magnolia image is a faint echo behind the hum of its 20th Century energy. It's more like nightlife-and-dogwood now, refreshing a city that matured earlier than most in urging past and present into inseparable harmony.

There's a mood in Atlanta beyond such labels as "New South" or "Sun Belt Capital"—a mood shaped by hundreds of leaders and shared by thousands of residents. You can grasp it in the writing—but more often in the doing—of such Atlantans as Pulitzer Prize-winning journalists Ralph McGill, former Mayors William Hartsfield and Ivan Allen Jr., Nobel Peace Laureate Martin Luther King Jr., U.N. Ambassador Andrew Young.

They articulated a possibility for others to realize, symbolized nationally by the achievement of a Jimmy Carter, practiced in Atlanta and Georgia by citizens aware that today's



"Y'all come" is frequently tomorrow's "Y'all stay." For Georgia's healthiest pluralism is in the diversity of its people—individuals who have crafted from the stuff of plain living the art of mastering it in harmony.

—MARTIN SHARTAR.

#### CLARIFICATION OF SENATOR JOHNSTON'S POSITION ON VOTE ON S. 7

Mr. JOHNSTON. Mr. President, I wish to clarify my position on S. 7, the Surface Mining Control and Reclamation Act of 1977, as adopted by the Senate Friday, May 20, 1977.

In committee, I voted against reporting S. 7 to the floor. My opposition was based on the presence of the surface owner consent provision in section 515 of the reported bill. The issue of surface owner consent has been divisive and controversial each time the surface mining legislation has been considered by the Senate. I have always believed that surface owner consent would give rise to windfall profits and disruptive interruptions in the development of our federally owned coal resources. I introduced an amendment to S. 7 which proposed generous treatment of surface owners, but would not have required their consent as a prerequisite to mining federally owned coal resources. After long debate on Thursday, my amendment, which was cosponsored by Senator BUMPERS, was defeated.

Although consideration of S. 7 continued on Friday, I was not able to be present Friday due to prior commitments in Louisiana. When I left the Senate on Thursday, S. 7 contained a surface owner consent provision and I could not, therefore, vote for the bill. The distinguished majority leader, my good friend Senator BYRD, graciously consented to refrain from voting in favor of the legislation on Friday in order to announce with me a live pair.

Friday, Senators BUMPERS, JACKSON, and NELSON offered an amendment which proposed generous treatment of surface owners in lieu of requiring surface owner consent as a prerequisite to the mining of federally owned coal. Had I been present on Friday, I would have supported that excellent amendment which was adopted by the Senate. The adoption of that amendment improved the bill substantially. While I continue to disagree with certain provisions of the bill, I would have voted for final passage of S. 7 as amended by the Bumpers-Jackson-Nelson amendment.

Mr. President, I thank the distinguished majority leader for allowing me to pair with him on this issue. All of us are keenly aware of and thankful for his efforts to accommodate each of us. However, due to the change in circumstances on Friday, I ask unanimous consent that the Permanent Record of Friday, May 20, 1977, reflect that, had I been present, I would have voted in favor of final passage of S. 7, the Surface Mining Control and Reclamation Act of 1977.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MILITARY RECORDS PROVE THE WORLD WAR II WOMEN PILOTS ARE ENTITLED TO VETERANS' BENEFITS

Mr. GOLDWATER. Mr. President, it was my pleasure today to appear before the Senate Committee on Veterans' Affairs to testify on the bill I have introduced, together with 16 other Senators, to provide veterans benefits to the women pilots who served with the Air Corps during World War II.

The cosponsors of the bill include Senators RANDOLPH and HANSEN of the committee and Senators HATHAWAY, BENTSEN, WILLIAMS, SCHMITT, DOMENICI, NELSON, BAYH, HATCH, METCALF, BELLMON, MCINTYRE, DOLE, TOWER, and MCCLURE.

Mr. President, the case for these ladies is quite evident. To all intents and purposes, they were in the military. They were trained to be military officers and, after training, their duties were comparable to flight officers.

They were sworn in with the same oath of office as given male officers; they were treated in all illness by Air Corps flight surgeons; and they received disciplinary action for flying violations under the authority of the 104th Article of War of the Manual for Court Martial.

Other civilian organizations contributed to the war effort, but none of them can meet the same criteria as the WASP. In fact, some of the other groups were not even considered U.S. employees. For example, the merchant marine remained the responsibility of private shipping lines. Their members were covered by collective bargaining agreements with the private shipping operators. Congress determined by law in March of 1943 that the merchant marine were not to be considered Federal employees.

So unlike the WASP, the merchant marines were private employees. And, I should add, they were never destined to be militarized, because another fact which separates the WASP from all other civilian groups is that they were from the start of their program planned and scheduled to be militarized.

There was nothing secret about this. The women knew militarization was planned, and their training from the start included no less than 66 hours in military instruction. This military training was extended to 137 hours in March of 1944, and a special course was instituted at the Army Air Forces School of Applied Tactics, at Orlando, Fla., designed to give additional training to the WASP as potential officers. Any one who went through this training had to know they were about to become regular military officers.

Mr. President, the historical record presents documented proof that the WASP were "de facto" military officers. Numerous official memorandum, directives and regulations disclose the true status of the WASP as part of the military organization.

Now, I have summarized the pertinent facts regarding the WASP from these official records and incorporated them in my statement before the Veterans' Affairs Committee this morning. In order that my colleagues may know more about the WASP, and in order to disprove the emotional and totally misinformed criti-

cisms which some persons have raised against these ladies, I ask unanimous consent that the text of my statement be printed in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

TESTIMONY OF SENATOR BARRY GOLDWATER OF ARIZONA BEFORE THE SENATE COMMITTEE ON VETERANS' AFFAIRS, MAY 25, 1977

Mr. Chairman, I am delighted that you are holding hearings today on the bill I have introduced, together with 14 other Senators, to provide veterans benefits to the women pilots who served with the Air Corps during World War II.

I believe that after you know the proven facts about the role these women played in the war effort, the admission standards they had to meet, and the military regulations they served under, you will agree they were, to all intents and purposes, in the military and are entitled to benefits as veterans.

#### I. ORIGINS OF THE WASP

Serious efforts to establish the World War II women's pilot program began at the direction of President Roosevelt himself. On July 3, 1941, Miss Jacqueline Cochran, winner of several aviation awards, lunched with President and Mrs. Roosevelt and it was then suggested that she "go over to the AAF and determine if women pilots could not be usefully employed" in the United States. The President said he would make the arrangements for such a meeting.

A few days later, "by direction of the President," Miss Cochran met with General "Hap" Arnold, Chief of the Air Corps; Colonel Robert Olds, who was then head of the Ferrying Command; and Mr. Robert Lovett, the Assistant Secretary of War for Air. The purpose of the meeting, as it is recorded, was to consider "the possibilities of utilizing women pilots to ferry primary, basic and advanced trainers from factories to Air Corps stations, thus releasing combat pilots for more important duty."

Mrs. Eleanor Roosevelt openly promoted the use of women pilots by the military in several of her national newspaper columns.

On September 3, 1942, General Arnold issued formal orders directing that the details be worked out for using women pilots "to the maximum" in the ferrying of military aircraft. The plan evolved in two separate steps.

First, recruiting was started almost immediately of experienced women pilots to serve with the Air Transport Command. This was the Women's Auxiliary Ferrying Squadron (WAFS).

Second, a training program was established for women pilots with less flight experience than the women who joined the WAFS. This program was known as the Women's Flying Training Detachment.

These girls entered training at Houston, Texas, on November 16, 1942. Early in 1943, the bulk of the training was shifted to Avenger Field at Sweetwater, Texas.

On August 5, 1943, the two programs were merged into one, and this is when the organization took on the name of WASP—Women Air Forces Service Pilots.

#### II. OBJECTIVES OF THE WASP

General Arnold summed up the objectives of the WASP in a memorandum dated November 3, 1942, informing the Flying Training Command as follows:

"Contemplated expansion of the armed forces will tax the nation's manpower. Women must be used wherever it is practicable to do so. It is desired that you take immediate and positive action to augment to the maximum possible extent the training of women pilots. The Air Forces objective is to provide at the earliest possible date a sufficient number of women pilots to replace men in every non-combatant flying duty in which it is feasible to employ women."

On March 22, 1944, General Arnold testified before the House Committee on Military Affairs in support of legislation providing for the appointment of women pilots as officers in the Air Corps. "Right at this moment," he said, "the Army is short over 200,000 men."

He added: "[W]e must provide fighting men wherever we can, replacing them with women wherever we can; whether that be in the factories, ferrying aircraft across the country, towing targets for ground troops to shoot at, or any place where we can release men and make available the younger men to actually do the fighting."

To illustrate how serious the problem was, General Arnold told the Committee that, on account of the manpower shortage, the Air Forces had returned to the Ground and Service Forces 36,000 highly qualified men who were needed to go into fighting units immediately.

### III. WHAT DID THE WASP DO?

To satisfy the national need, 1,102 WASP were assigned to operational duties. This includes 1,074 WASP, who graduated from training, and an additional 28 WAFS, who entered upon operational duties without taking the training course.

These women performed every kind of flying operation possible within the Continental United States and Canada. They were used in the Air Transport Command where they flew 77 types of airplanes from the factories to the modification centers, to the depots, and to other destinations within the United States. They were used to tow targets for ground troops to shoot at and for airplanes to shoot at. They were used in the weather wing as utility pilots. They did tracking and searchlight missions, simulated strafing smoke-laying, radio control flying, basic and instrument instruction, and engineering test flying.

The WASP flew, subsequent to graduation from training, sixty million miles for the Army Air Forces, or about 2,500 times around the earth at the equator. This service included 30,000 hours in the multi-engine B-26 and B-29 Super Fortress.

### IV. HOW WELL DID THE WASP DO?

The WASP, according to the overwhelming opinion of station commanders where they were on duty, were as efficient and effective as male pilots in most types of duties and were better than men in some instances, such as towing targets for gunnery practice.

According to official Air Corps medical studies, the women pilots had equally as much endurance and stamina as male pilots did. In fact, the cases of flying fatigue were so outstandingly low and so far below the rate among men pilots, that many men refused to believe it. But the truth is many of the WASP flew as much as 70 hours per month, with no complaints except they wanted to fly more.

Official records of the Statistical Control Division of the Air Training Command show that in July of 1943, the average number of ferrying hours for each woman was 52. Male pilots were averaging only 35 hours a month in the same time period.

Of 1,830 women who were accepted for pilot training, two-thirds passed the program. The elimination rate for women was lower than among male cadet pilots.

For the entire WASP program, the all-accident rate was slightly above the male all-accident rate during the same years. But accident rates are always higher in the early stages of any flying program. The development stages for the training of male pilots had already been completed. If we compare the development months of the male program with the comparable period of the WASP program, the all-accident rate for women was lower than the rate for men in domestic flying.

Of all airplane accidents during the life

of the WASP program, 9% of the total were fatal. Among male flyers during the same period, 11% of all domestic accidents were fatal.

### V. WERE THE WASP SUBJECTED TO DISCRIMINATION?

Now, I do not want to overdo this aspect, but it is a fact that these girls did bear extra burdens simply because they were women. The very reason they were not militarized was their sex. The law allowed the Air Corps to commission men as flight officers, but not women.

On January 11, 1944, the Deputy Chief of Air Staff asked the Assistant Chief for Personnel to look into the legality of commissioning women pilots directly into the Army on the basis of their qualifications as service pilots. On January 13, 1944, the official reply was given. It was negative. A decision of the Comptroller General stated that the authority extended only to men and could "not be regarded as authority for commissioning women as officers in the Army of the United States."

Now, if you ask me why these ladies are entitled to veterans benefits, while some other civilian groups are not, there is one reason. Women could not be commissioned as pilots because they were women. It is unfair for their country to continue to punish these women by blocking veterans benefits for them when the only reason they were not taken into the service at the time was their sex.

This is not the only instance of sex discrimination against the WASP. In October of 1943, an investigation was made by the Air Inspector of complaints that discrimination was occurring against the WASP at various ferrying bases in an attempt to discredit the women pilot training program. The Air Inspector's report dated November 22, 1943, concluded that women pilots at the Second and Fifth Ferrying Groups were being discriminated against. His report found that the attitude and method used by male pilots in the conduct of flight checks were "obstructive and unfair." The Inspector determined that some check pilots were resentful of the women's pilot program and tended to favor the elimination of the WASPs.

There are other documented reports that women pilots were frequently confronted by hostility from some male pilots and commanding officers, and it is much to their credit that the women achieved an outstanding record in the face of difficulties which only they, as women, encountered.

### VI. DID THE WASP EXPECT TO BE MILITARIZED?

One of the distinctive features of the WASP which separates them from all other civilian groups who served with, but not in, the Armed Forces during World War II, is the fact that they were scheduled for militarization from the start.

The official Army Air Forces historical study of the WASP, entitled "Women Pilots with the AAF, 1941-1944," states that "the AAF early recognized the advantages of specific legislative authority for the WASP program and sought for many months to obtain Congressional approval of military status for women pilots. . . ."

The same study reports: "From the first stages of the program, [the AAF] had been planning for the day when the WASPs could discard their civilian status and emerge as full-fledged members of the Army of the United States."

Official records show that soon after the women pilot program was activated, the plans for militarization were underway. On December 3, 1942, only three months after recruitment of WASPs began, Major General George Stratmeyer, Chief of Air Staff, held a conference at which he instructed the Director of Individual Training to prepare a plan for Training women pilots under which

they would be brought into the military service. In addition to these parties, the conference was attended by Brigadier General Harold George, Commanding General of the Ferrying Command; Lieutenant General B. K. Yount, Commanding General of the AAF Training Command; and Miss Jacqueline Cochran.

Air Corps files also disclose that in early 1943, General Arnold sent to Brigadier General M. G. White, The Assistant Chief of Staff, G-1, a draft of a memorandum addressed to General Marshall requesting that legislation be initiated to militarize women pilots and to incorporate them into the Army Air Forces.

In fact, an AAF Memo dated June 28, 1943, which refers to the newly created Office of Special Assistant for Women Pilots, specifically identifies one of the duties of the Director as being to "draw up plans for militarization."

There were disagreements over what type of militarization was to be used. Some Air Corps officials wanted inclusion of women pilots in the Women's Army Corps (WAC). Others proposed the direct commissioning of women pilots in the Air Corps. There was general agreement, however, on the need for militarization.

On September 30, 1943, Representative John Costello introduced the first of the WASP militarization bills. On February 16, 1944, Secretary of War Henry Stimson sent a letter to the House Committee on Military Affairs recommending enactment of the bill. The fact that the War Department publicly supported passage of the bill in early 1944, just 17 months after the women pilots program began, is additional evidence that the women expected to be taken into the military. Unfortunately, that bill was defeated because of reasons which have left the impression of sex discrimination.

Another indication that the women expected to become officers is that their training, from the start, included military instruction. This covered courses in military courtesy and customs, Articles of War, the safeguarding of military information, drill and ceremonies, Army organization, military correspondence, and chemical warfare.

As a result of a directive from Army Air Corps Headquarters, dated March 6, 1944, this military training was extended from 66 to 137 hours. In fact, a special course was instituted at the Army Air Forces School of Applied Tactics at Orlando, Florida, in the Spring of 1944, designed to give training to WASPs as prospective officers. During a period of about five and one half months, 460 WASPs were trained at this school so that they could take care of duties as officers.

### VII. WOULD THE WASP BILL SET A PRECEDENT?

With the above background, we now reach the question: Why should the WASP receive veterans benefits and not other civilian groups who served during wartime?

The answer is simple. The WASP were trained and treated as military officers. The other groups were not.

The WASPs were scheduled for militarization from the start. Other civilian groups were not.

Mr. Chairman, WASPs had to meet the physical standards set by Army Regulations (Form 64). In general, WASP trainees received about the same training as did the flying cadets.

All flying cadets, male or female, after graduation went to transition training in the type of aircraft they were flying. The only difference was that the males went to transition training schools while the WASP were expected to make the transition in the airplane when first required to fly it.

Ferrying Division directives issued in April of 1943 specifically provided that women pilots were to be given transition to multi-engine planes and high-powered single-engine craft "under the same standards



of individual experience and ability as apply to any other pilot."

All check rides were given by Army Air Corps officers, using the same service-pilot standards that applied to men. This fact alone distinguishes them from male contract pilots and other civilian groups.

Women pilot trainees received about the same compensation as male flying cadets, except for not receiving insurance benefits.

Trainees were required to live in barracks on the training base. They were required to follow as closely as possible the schedules established for male flying cadets and other Army Air Forces bases. Regular inspections were made by the AAF.

The WASP were treated in all illness by AAF flight surgeons. Dentists from an Army Air Base hospital visited the training base regularly. While they were in the service, the WASP were entitled to the same military medical care as cadets and military pilots were.

After graduation, uniforms were provided the WASP as in the case of all other flying personnel. They were expressly required by AAF regulation 40-9 to wear this uniform.

After assignment to operational duties, women pilots received slightly less than the pay of a second lieutenant on flying status. I say less because they had no quarters and meals allowances. Nor did they enjoy the right to advancement in pay depending upon their length of service.

These pay conditions, scaled to be comparable with a flight officers pay, distinguish the WASP from other civilian groups. They did not receive the higher salaries that civilians usually did.

The WASP were comparable to military officers in many other respects. They were sworn in with the same oath of office as given the male officers. They stood formal inspection. They received officer training. They could not leave their base without a pass. And they were on duty 24 hours a day by written military memorandum.

The WASPs understood that they would be disciplined the same as other officers. They were issued copies of flying safety and court martial sentences for violation of flying regulations. Copies of their receipts are on file.

They received disciplinary action for flying violations under the authority of the 104th Article of War of the Manual for Court Martial. In fact, WASPs served on flight safety boards convened to punish other military pilots.

Also, there are on file numerous official orders requiring WASPs, similar to male Air Force pilots, to proceed to specific places at specific times and to perform specified duties.

#### VII. SUMMARY

Mr. Chairman, each and every one of the facts I have revealed today about the WASPs are documented on the public record and in official materials located in the historical archives of the Air Force.

These facts totally refute the unsupported and emotional criticisms made by opponents of the bill.

The truth is the WASPs were, to nearly all intents and purposes, in the military. They operated hazardous and complicated military equipment and sometimes were used as examples by the Air Corps when headquarters wanted to prove to men that certain new aircraft coming off the production lines could be operated safely. By having women fly the same planes without mishap, the men were shamed into operating aircraft which the rumor mills had falsely maligned.

Piloting military aircraft across the country for thousands of miles entirely on their own was dangerous and grueling work. Thirty-eight WASPs did lose their lives serving their country.

Their government did not even let the families of these dead girls display gold stars. Nor did the government give burial allowances or insurance payments to surviving dependents.

My argument is that the WASPs are entitled to veterans benefits because of the nature of their duties. These benefits should not be given merely to offer recognition to the women. The benefits are due to them because they were a part of the military.

They did expect to be militarized. They knew militarization was planned and that steps were being taken to that end. They were not subject to the draft, yet they volunteered for low pay, long hours and military regimen.

Other civilian organizations contributed to the war effort, but none of them operated under the military pay system and the military disciplinary system. None of the others, who remained civilian, were recommended for militarization by the War Department.

One final note, Mr. Chairman, the bill will not be expensive. The Veterans Administration estimates the cost at about \$87,000 a year.

Mr. Chairman, I urge your Committee's speedy and favorable action on the bill.

#### SCIENCE IN THE WHITE HOUSE: A NEW START

Mr. STEVENSON. Mr. President, Lewis M. Branscomb, formerly head of the National Bureau of Standards and currently vice president and chief scientist for the IBM Corp., has recently made a perceptive and thoughtful contribution to the discussion of how this Nation can better manage its scientific and technological resources. His article, "Science in the White House: A New Start," appeared in the May 20, 1977, issue of Science magazine.

Dr. Branscomb suggests how science and technology can provide for a better future and how the U.S. scientific and technological community can respond more effectively to national needs. Areas he identified as meriting priority include:

First. The necessity to develop a national strategy for insuring the adequacy and proper use of energy and other material and resources;

Second. The need for improved management of the Government's research and development activities, including major responsibility for management placed with the Office of Science and Technology Policy;

Third. The need to understand more fully how technology contributes to the national economic health;

Fourth. The consolidation of technical agencies such as the National Science Foundation, the National Bureau of Standards, and the National Aeronautics and Space Administration; and

Fifth. The need for long-term institutional support focused on technical social and economic research.

Although there are many points of views on these issues, Dr. Branscomb's article is a valuable contribution to the debate.

Mr. President, I ask unanimous consent that Dr. Branscomb's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

#### SCIENCE IN THE WHITE HOUSE: A NEW START (By Lewis M. Branscomb)

Many scientists believe that all society should expect from science is access to the knowledge and understanding that comes from searching for truth. Certainly science has been given too much credit—and too

much blame—for the uses of technology and their effects on the well-being of mankind. To be true to its own principles and promise, the world scientific community must sustain its commitment to the fullest possible understanding of man and nature. But what assurance can we have of the continued commitment of the public and its political leadership to the health of the scientific and technical enterprise?

The commitment of science to the search for truth does not free the scientists from the obligation to participate in the process through which scientific knowledge is applied. Scientists should, of course, be wary of imposing their values on others, of assuming that they know the right path for mankind to follow. But we scientists must realize that hope for a better life for future generations depends on public conviction that this hope is realistic, that there are alternatives to a Malthusian destiny. Thus the values of contemporary society are as much a consequence as a source of the commitment of science to human betterment.

American science continues to have much to contribute to the well-being of humanity. The challenges of energy, raw materials, environment, health, jobs, and improving the quality of life call for imaginative new solutions. Our industrialized trading partners pay us the compliment of emulating our tradition for innovation. The Japanese and West Germans have been particularly successful, and this success is a matter of great national pride. Communist nations place a high value on developing relationships through which they may share in American technological experience. The developing nations are particularly insistent on accelerating their own ability to absorb the science and technology on which their own development so heavily depends.

Yet today the spirit of conviction and commitment that is necessary to mobilize American science and engineering for constructive ends seems to be in a state of suspended animation. The dominant mood of the technical community is one of uncertainty, indeed of confusion. It saps the will and nourishes the doubts about the efficacy of science, doubts that are nurtured by examples of technological mismanagement.

The scientific community looked to the events of 1976 to put the Nixon years of indecision and mistrust behind us and mobilize a national effort to address the future with a new sense of confidence. Many scientists naively wondered why questions of scientific and technological strategy for the nation played virtually no part in the recent political campaign for the presidency. Many expected a President who had been a graduate student in nuclear engineering to move swiftly in filling the positions of Science Adviser, director of the National Science Foundation, and administrators of the National Aeronautics and Space Administration and of the Energy Research and Development Administration. A chance remark to the press by Burt Lance, director of the Office of Management and Budget, that the new budget might be reduced in the R & D area to provide funding for social programs was amplified out of all proportion to its significance by a nervous technical community. The President has been busy with problems of greater political importance. But the scientific community is eager for a clear signal from the new Administration on its attitude toward these three concerns: the efficacy of technology to meet human needs, the strength of the American scientific and technical enterprise, and the willingness of political leaders to mobilize this strength to that end.

No doubt, that signal will be forthcoming. But the process of remobilizing the American scientific and technical enterprise will be more difficult, will take longer, and will call for a more sophisticated under-

standing of political realities than most American scientists are prepared for.

Let me then summarize the four major themes of this discussion. Do science and technology in fact offer a realistic hope for a better future for mankind? Is the American scientific and technical community ready to respond? How should we understand the hesitation of political leadership to mobilize this capability for constructive purposes? How can the creative, pragmatic, and traditionally optimistic energies of the American technical community become fully engaged with the major issues of our times?

#### ARE SCIENCE AND TECHNOLOGY A CONSTRUCTIVE FORCE?

The relation of science and technology to prospects for mankind was assessed last year through a project of the National Academy of Sciences. Organized as part of the academy's activities in celebration of the Bicentennial of the United States of America, 17 scientists, engineers, and scholars from eight nations gathered at Bellagio, Italy, to prepare a prospective look at science, technology, and society. The report of this Bellagio conference<sup>1</sup> was basically optimistic.

The conference reached the conclusion that it is probably within the technical and financial capacity of the world's nations to address the problems of food, population, and health in a timely manner, without the necessity of reducing the quality of life that may be enjoyed within any nation. The limits on total energy and material supply are not inexorable—at least within the foreseeable future. The "pie" is not of fixed size. An increasing share to the poor need not reduce the quality of life available to those who are more comfortably fixed.

Increasing food production in the world by a factor of between 2 and 4 by the end of the century can be accomplished, but it will require vigorous application of agricultural science and technology and associated economic infrastructure development. Similarly, the coupled energy and materials problem will call for a much wider spectrum of technological choice than is now available. While new energy sources will have to be brought into being, and present sources made safer, cheaper, and more environmentally acceptable, a major part of the energy problem must be addressed through conservation. To many, this means demand reduction, doing without something to which we have become accustomed. No doubt there is much wasteful use of energy, and this waste can easily be curtailed. But major opportunities lie in restructuring the uses to which different forms of energy are put, for the purpose both of optimizing energy strategy and raw materials strategy. Science provides an almost endless range of possibilities for reconfiguring or substituting materials, for utilizing different grades of energy, and for trading off energy and materials choices against one another.

All of this will require a vigorous range of technical activities to develop the necessary options. But on top of that requirement, one must recognize that each of these technological options is likely to be, at least when first introduced, more expensive than the traditional technology it replaces. Thus, as one looks at the necessity for new technological alternatives, one finds that there will be a need for an additional increment of technical effort to reduce the cost impact of these more expensive technologies. Thus, every area of economic activity will have to be the target of innovative increases in quality, efficiency, and productivity to avoid inflation and sustain living standards. With such productivity increases, with energy conservation,

and with the use of alternative fuels and materials, we may be able to approach energy self-sufficiency and environmental quality without the kind of economic consequences to living standards that threaten the political will to persevere.

A similar argument can be made about the economic pressures that result from the public's desire to increase worker and consumer health and safety, to protect the environment, and to improve the quality of life generally. These goals, too, can most easily be met if the technological changes that they imply are accompanied by innovations that reduce their incremental costs.

I have given reasons why more, not less, science and engineering activity is needed—to create the alternatives for food, materials, and energy, to protect the environment and quality of life, and, through innovation, to reduce the cost of these alternatives. But there is a further reason, more important than the others—and that is to protect human society from catastrophic failures in the societal arrangements (systems) that will be devised as solutions to the first three problems.

The Bellagio study focused particularly on this issue—the need for protecting the resiliency of the world population. "Resiliency" is a technical term that refers to the ability of a system to find a new and satisfactory equilibrium point after it has suffered a serious perturbation. A resilient society is not immune to radical change. Indeed, it is through a lack of excessive rigidity that such a society demonstrates the capacity to accept change in order to remain viable. Too many of mankind's technological interventions with nature have been in the quest for stability, often achieved at the expense of future resiliency. A systems engineer would say that we must ensure that our social systems are resilient and have "soft failure" modes, that they do not collapse when unexpected events occur, but degrade gradually. Examples can be found in agricultural policy in relation to unanticipated changes in climate, or in relation to dependence on a small number of genetic varieties of food grains. Many examples come from the unanticipated ecological responses to selective uses of pesticides aimed at specific short-term problems. The most fundamental threat to resiliency is the quest for military stability through a policy of mutually assured nuclear destruction.

Coping with uncertainty, illuminating the consequences of technological choice, making public decisions in the absence of definitive scientific information—all place additional emphasis on the need for an aggressive mobilization of scientific and technical strength in America and around the world. Conventionally, science has been thought to be useful in proportion to the technological possibilities it creates. Today, science is more important and more frequently it is used as a means to understand the options and consequences associated with deployment of technology. Indeed, the one price that absolutely must be paid for the wide-scale use of science and technology for human betterment is the vigilance, the restraint, and, above all, the foresight to illuminate the paths ahead.

#### IS THE TECHNICAL COMMUNITY READY TO RESPOND?

What does it take to mobilize U.S. conviction that science and engineering can do more to solve world problems? Must we wait until we are fully persuaded that nations face certain starvation or catastrophe unless new solutions can be found? Whether the requisite positive measures are taken, of course, depends on a matter of national will in many nations and on the climate for international cooperation. But the place for us to start is at home. What of the fitness of the American scientific and technical enterprise to respond to these challenges?

On the positive side, we enjoy the largest civil research and development effort of any

nation on earth. In terms of total effort and in terms of leading contributions, our science is still the envy of the world. In spite of several years of alienation between government and universities, the university research community in America contains many scientists ready and eager to apply their skills to the dominant problems of the world society and to do so in partnership with the government. Others need to be encouraged. Despite the well-publicized conflict between economic and ecological interests, our appreciation for environmental impact and technology assessment is unique in the world. Where else would (i) a \$600-million hydroelectric dam be held up to protect an endangered 3-inch freshwater fish called the snail darter, (ii) a unique butterfly enjoy priority at the end of the main runway of the Los Angeles International Airport, and (iii) the sexual aspirations of a clam threaten the construction of a nuclear power station in New Hampshire? And no longer can anyone fault the current generation of students for their unwillingness to work within the American pragmatic tradition. One worries instead about the subordination of altruism to economic necessity as young people focus their attention on jobs.

On the negative side, while the scientific community is performing brilliantly in many areas, it is enjoying it less. During the recent presidential election campaign I received many letters from scientists. None of them complained about inadequate funding from the public purse. Virtually all of them complained of burgeoning administrative red tape and of an altered relationship with government science agencies that amounted in many cases to mutual suspicion bordering on hostility.

Adding my own interpretation to much that I heard and read, I conclude that the machinery of science and its support continues to turn; but those in control of the knobs have lost confidence in the justification for science programs and, however unintentionally, communicate that loss of confidence right down to the individual investigator. Science is being justified as applied research. Applied research is directed from Washington as though it were product development. Development activities are pursued by national laboratories and agency headquarters with inadequate provision for connecting them to the technology delivery system through which the public ultimately benefits. Industry, concerned that much government-sponsored activities is disconnected from the market mechanism, watches this process with considerable chagrin, for it raises public expectations of benefits that are almost certain to be frustrated. The result can only be a further loss of public confidence in science, industry, and government, a loss that none can afford.

The situation is particularly bad in the area of science for decision-making. Excellent scientific work can illuminate the future consequences of present choices. But we have few institutions within which all the appropriate skills can be directed at major problem areas with continuity of effort over the years. The government has available to it the volunteer efforts of National Research Council committees. But while they prepare excellent reviews of what is known, they do not perform the needed interdisciplinary research.

The most telling evidence of the lack of institutional development for separating scientific fact from fiction in the public policy area is the concern many scientists today hold about their colleagues' professional integrity. Technical expertise is increasingly suspect, as the public participation in technology policy debates increases. But that participation is necessary to create consensus and motivate public action. Lay participants are not a part of the peer group whose approbation is relied on by scientists to assure objectivity. In any case, those scientists who have chosen to look for per-

<sup>1</sup> A limited number of copies of the summary report were prepared and may be available from the National Academy of Sciences, 2101 Constitution Avenue, NW, Washington, D.C. Full publication is in preparation.



sonal satisfaction in social action instead of peer approval frequently provide justification for public skepticism about technical experts, or suffer disapproval of their colleagues simply for being visible. The necessity of debating the technical facts associated with public choice, and carrying on this debate through the media so that the public can participate, is clear. Unfortunately, the traditional mechanisms for preventing the contamination of scientific objectivity by ideology do not work well in the public policy arena. New mechanisms must be evolved to encourage the participation of well-qualified scientists in both professional and public debate, with broadening public participation, and with heightened standards of objectivity and accountability.

#### WHY DOES SCIENCE POLICY NOT RECEIVE HIGHER PRIORITY?

A third area of concern relates to political leadership and the relation of the scientific community to that leadership. Public policy issues cannot be resolved nor institutional problems addressed without leadership as well as public participation. Many, if not most scientists assumed that, in January 1977, the Executive Branch of government would pick up science and technology policy debates at the point that they were abandoned in 1973. There have been encouraging signs. In August 1976, President Ford implemented the statute reestablishing the Office of Science and Technology Policy (OSTP) and appointed H. Guyford Stever as Special Assistant to the President for Science and Technology. President Ford also left his successor with a federal budget in which a significant increase for basic science was a point of personal pride to the budget director, James T. Lynn. President Carter sustained this increase in his budget. Trained in science and engineering, he can bring to the presidency a special personal awareness of science and technology matters. Carter placed great emphasis during the campaign on the importance of competence in the management of the Executive Branch. A \$25-billion R. & D. segment in the 1977 budget will provide considerable scope for the exercise of technical management skills with which the President had been familiar during his naval career.

In late March President Carter nominated a distinguished and vigorous earth scientist, Dr. Frank Press, to serve as director of OSTP and as his Special Assistant of Science and Technology. But in some respects it is unfortunate that the President did not fill this position in December 1976 at the same time that he selected the chairman of the Council of Economic Advisors, the Special Assistant for National Security Affairs, and the director of the Office of Management and Budget. The Special Assistant-designate could then have participated earlier in the staffing of the science and technology policy positions throughout the government departments and specialized agencies.

One reason why science and technology policy matters have not been higher on the agenda for attention lies in the practical consequences of the recent campaign and election. In spite of what scientists want to believe about the importance and permanence of science policy in the White House, there is no well-established institutional tradition for the Special Assistant for Science and Technology to enjoy a significant role in the management of the federal enterprise. A stronger basis for this tradition resides in a few committees of the Congress, where a very substantial sophistication has developed in science and technology policy through the staffs of the House Science and Technology Committee and several of the committees of the Senate. These committees, plus the Technology Assessment Board that oversees the Office of Technology Assessment, not only kept the policy debate alive during the Nixon years, but actively advanced it in the course

of establishing a legislative basis for the OSTP.

However, a rather more fundamental effect is responsible for the reduced visibility of science and technology policy in political debate. This effect has to do with the maturing of technology issues as political matters. As the President gave public issues with which the scientific community is most concerned the priority of prominence in his policy, the technical details have become proportionally less visible, although no less important. For example, in the area of most vital concern to the future of mankind—slowing down the nuclear arms race and proliferation of weapons—the President has in fact given priority to a technical strategy of high promise. Nevertheless, such issues are now discussed in terms more familiar to the public and the political process.

Reading the diary<sup>2</sup> in which George Kistiakowski records the events of his 18 months as Science Adviser to President Eisenhower, one is struck by the fact that the Science Adviser in 1959 was concerned almost exclusively with military, atomic energy, and space matters. The one exception was the contamination of the cranberry crop, just before Thanksgiving, with a pesticide believed to be carcinogenic. In those days the scientific community was just beginning to work with the Science Adviser to attract the government's attention to civil matters such as the world food problem, the future supply of fossil fuel energy, the public health consequences of agricultural and industrial chemicals, and the opportunity for science and technology to improve human life in other spheres. It was not easy at that time to mobilize public attention and action on such matters.

Fifteen years later the situation is totally changed. The public has been convinced, and in every one of these areas there exists not only one or more specialized federal agencies, but also a plethora of special and public interest groups with competent lobbies. Thus, as has been said about wars and generals, the issues of energy, environment, health, defense, and the economy are now considered too important to be left to the scientists and the engineers.

While campaigning for the presidency, Carter organized a large number of task forces on issues. The energy, environment, health, defense, and economy task forces were staffed with many people whose principal interest was essentially political. These people were not simply panels of professional experts such as one might have found in the panels of the President's Science Advisory Committee in the 1960's. In addition, to these "issue-oriented" panels, there was a task force on science and technology policy. Inevitably, this residual topic of science and technology policy was bereft of much political significance. It came to be regarded as the aggregation of those scientific and technical matters that do not lie within the framework of one of the identified significant political issues of today's society rather than as an integral part of all of them. Thus, those concerned with science and technology policy came to be viewed simply as representatives of a scientific constituency, a constituency whose priority for attention lies pretty well down the list.

While scientists and engineers cannot claim all the credit, the fact that energy, environment, and health issues have been elevated from the sphere of specialized professional advice to government and established as mature political concerns of their own represents real progress. But it does not mean that these issues do not have substantial technical content.

<sup>2</sup> G. B. Kistiakowski, *A Scientist at the White House* (Harvard Univ. Press, Cambridge, Mass., 1976).

Instead, science and technology policy must now constitute the underlying technical strategy for finding long-term solutions to all the major issues of the day.

#### HOW CAN U.S. SCIENCE AND TECHNOLOGY BECOME MOBILIZED?

The Office of Science and Technology Policy can best serve the President by compensating for the short-term orientation of the White House and the agencies. Therefore, OSTP must reach beyond the framework of conventional political thinking and reflect a new awareness of how we must prepare for the future.

The new role for OSTP will be difficult. Today the government has less direct control over the technologies that matter to the public than it did over defense technologies in Kistiakowski's day. The private sector finances and conducts approximately 70 percent of the civil research and development in this country. The output of this research and development influences employment, productivity, and inflation, as well as all the problems associated with industrial activity. Because technological activities of public importance increasingly take place in the private sector, the government must look beyond its own research and development to obtain information about future trends and alternative technical directions. The social dimensions of civil technology activity almost always involve trade-offs between cost and benefits in which different groups of the population enjoy the benefits or suffer the costs. This aggravates the difficulty of resolving questions of risk assessment and impedes the process of rational strategy-making for the society as a whole.

Finally, a particularly difficult dimension of public policy-making results from the fact that, increasingly, public decisions will be based on predictions of risk that cannot be verified through empirical data. Impacts on nature of technological activity are initially difficult to detect when masked by the normal and unpredictable natural fluctuations. By the time these consequences have grown to the point that man-made influences exceed natural fluctuations, it may well be too late to mitigate irreversible effects. The injection of carbon dioxide into the atmosphere with a possible effect on climate is an example. In situations like this, it may be necessary to make very important decisions (such as whether to place primary reliance on coal as an energy source for the next 25 years) in the absence of empirical determinations of the consequences (in this case of increased concentration of carbon dioxide). In such circumstances, public decisions must be based on simulations, theoretical predictions, and sophisticated interpretation of statistics. The government is poorly equipped to make decisions on this basis, and the public is ill prepared to accept them. Even if the basis for decision is clear, it is a serious political challenge to persuade the public to forego substantial near-term benefits to reduce the likelihood of a theoretical disaster in the remote future.

If indeed we are convinced that the mobilization of scientific and technological capabilities can substantially ameliorate the threats to America's future and if the technical community stands ready to respond to that challenge, what is needed to make progress? Five areas of public policy need special attention.

(1) The fundamental necessity is a mechanism for generating national strategies for ensuring the adequacy and proper use of energy, of materials, and of the other resources and systems on which our national well-being depends. No single institution can possibly accomplish this task, although many people have proposed a fourth branch of government or other structural devices to address it. I believe we cannot look to one agency, to one congressional committee, or to one private body to generate such strat-

egies. Instead, we need to focus on the importance of strategy-making itself. To that extent a limited set of mixed public and private commissions established by the Congress with the cooperation of the Administration might serve a useful purpose. We must invent new mechanisms, compatible with our democratic political traditions, that permit the generation of a national consensus behind a strategy whose validity extends well beyond the time horizon of elected officials.

(2) The management of the government's research and development activities must be substantially improved. The OSTP has a crucial responsibility in this area. Today a large part of the R & D budget is frittered away on demonstration projects that teach us little about the elements of technical risk and also fail to demonstrate market acceptance or economic viability. Nevertheless, demonstration projects reflect the frustration of the Congress in seeking to broaden the political support for accelerated technology to meet public needs. For working with the private sector the government must develop better patterns that emphasize generating needed technologies within the industries that are expected to deliver their benefits to the public.

(3) High priority must be given to mastering the technological component of economic health. No other major industrial nation manages its economic affairs without a ministry for industrial and technological matters. In this respect functions and capabilities of the Department of Commerce need to be rethought. The department requires extensive upgrading of its capability to evaluate technological strengths and weaknesses in industrial sectors on a microeconomic level. In the absence of this capability, it will be difficult to generate any meaningful strategy for applying our technological skills to the generation of jobs, limiting inflation, and improving international competitiveness.

(4) The government should pull together its efforts to strengthen the national scientific and technological infrastructure, recognizing the crucial importance of basic research and the need to rebalance university research around rising technical opportunities and shrinking numbers of students. Serious consideration should be given to the organization of a national science and technology administration based on elements of the National Science Foundation, National Bureau of Standards, and National Aeronautics and Space Administration and deploying a pool of national laboratories and centers. Such a new agency would invest in science and engineering research and education and in applied research for basic technologies; it would provide a full range of scientific and technical services necessary to support the productive application of science and engineering in the private sector.

(5) Particularly urgent is the provision of long-term funding for research institutions that focus on the technical, social, and economic aspects of major public issues of high technical content. Two examples of such institutions are Resources for the Future and the International Institute for Applied Systems Analysis. Such research institutes should focus not only on the domestic aspects of environment, climate, agriculture, energy, and the like, but should cover the international aspects as well. Most important they should look 10 to 20 years into the future and attempt to provide a rigorous, documented basis for analysis of policy alternatives that will assure a resilient future for mankind.

These few examples suffice to indicate that the structural changes that are needed will not be easy to accomplish. They are unlikely to arise from the traditional governmental focus on short-term objectives. They will require initiative and leadership from the White House, and the informed consent of

the public, neither of which is likely to be effective without the active efforts and support of the technical community.

This effort we owe to future generations, for without it the promise of science may yield only bitter fruit.

#### PRELIMINARY NOTIFICATION— PROPOSED ARMS SALES

Mr. HUMPHREY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of \$25 million or, in the case of major defense equipment as defined in the act, those in excess of \$7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on May 23, 1977.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

#### THE B-1 BOMBER

Mr. ANDERSON. Mr. President, on May 23 the Washington Star published a column by Robert R. Denny on American defense policy. The column struck a responsive cord in my mind.

In addition to neatly summarizing the case against the B-1 bomber, the column illustrates a point that has struck me several times during recent deliberations of the Armed Services Committee.

Our armed services appear to have an excessive attraction to highly sophisticated and expensive technology that exceeds the mission needs of our defense. Cheaper substitutes which can still accomplish the mission at a lower total cost are often shoved aside for development of the latest, most exotic and usually fantastically expensive new weapons system. Sometimes we find ourselves with prototypes of new weapons whose exotic quality is a marvel to behold while our combat troops on the ground in Europe lack sufficient reserves of basic conventional war material.

I hope the Members of the Senate will read the column, and I ask that it be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

#### DEFENSE NEEDS A PLOWHORSE, NOT B-1

(By Robert R. Denny)

I love the B-1 bomber because it's beautiful. Sitting on the ramp, it is a legitimate, monumental work of art whose design perfectly expresses an exciting function.

As an ex-pilot, I would dearly love to slide the throttles forward, pull the wheel back ever so slightly and let the needle-nosed airplane catapult me into that magic upper world of clouds and stars that grubby groundings never know.

But as a sane and sober citizen, a taxpayer and a former bomber pilot with a little knowledge of the capabilities of airplanes in combat, I have to turn my back on the temptress.

I do not think we should build the B-1 in quantity for four reasons: The cost of such a bomber fleet would be about half the total expense of the Vietnam war. The arguments advanced for the B-1 are flimsy. Its intended function can be performed better by something much cheaper. Finally, we need a totally different kind of aircraft to fill an urgent need.

The fleet of 244 B-1's requested by the Air Force is estimated to cost \$25 billion. But that's only the down payment. By the time training, replacement parts and other costs are added in, the figure will rise to more than \$100 billion. We can't afford it.

The Air Force says it needs the B-1 because it will take longer than a missile to get to its target. This extra time will provide "high visibility of national resolve" and allow "time for negotiation," the generals said recently in a syndicated news feature sent to thousands of editors. The argument sounds pretty silly when you consider that the B-1 has been designed to provide no visibility at all. Its function is to slip under the enemy radar at treetop level and make a sneak attack on Soviet targets.

(Ironically, the B-1's predecessor, the inglorious B-70, was supposed to fly too high and fast for the enemy to reach. That illusion died when a Russian missile shot down Gary Powers in his high-flying U-2 in 1960. The B-70 promptly joined the B-36 and B-58 in the white-elephant graveyard of Air Force Edsels.)

The B-1 function of streaking to the target underneath the radar can be performed by the cruise missile. Salvos of these little nuclear-tipped jet drones can be fired by any wide-bodied airplane that "stands off" well out of firing range. The Russians have nothing to counter them.

But the Russians do have something else that's giving our strategists nightmares. It's an old nightmare that threatens to turn into solid, fearsome flesh some morning just before dawn.

The specter is a sudden tank invasion of Europe. More than 100 divisions are poised on the Soviet border—far more, as President Carter said after his inspection of NATO, than "defense" requires. A less diplomatic statement was made recently by retired Marine Gen. Lewis Walt. While reasonable men may find it easy to disagree with Walt's fulminations on amnesty, Vietnam and the volunteer army, his expertise on military hardware has to be respected.

He believes that Russian tanks could punch across the border in a dozen places and take Western Europe in two weeks. Other military men nod fearfully in agreement.

What would stop such an onslaught? Tactical nuclear weapons? Not when the enemy has penetrated your allies' cities and towns. Our own tanks and artillery? Our tanks are outnumbered three to one; our artillery by six to one. Fast-flying fighter-bombers? They go too fast to lock onto low-silhouette targets. Helicopter gunships? They're useful but they're terribly vulnerable to the mobile missile-launchers and rapid-firing cannon platforms that accompany the Russian tanks.

What remains? The Air Force has found a near-ideal weapon to stop the tank. A throwback to World War II, it's a slow, highly maneuverable single-seat airplane called the A-10. It's so heavily armored that a Russian cannon shell will bounce off its cockpit.



Sliding along the ground behind hills and buildings, it's an almost impossible target for fast, high-flying fighters. And—shades of the old West—the bulky airplane is, quite literally, built around a 20-foot-long, seven-barrel Gatling gun. This monster can fire 70 big rounds of 30mm. cannon shells per second and punch through any tank armor.

We have a handful of these tank-killers now and could usefully spend some of the B-1 money on producing many more.

The B-1 is a racehorse at a time when we need plowhorses. It is time to give up the wild blue yonder for the dim and dubious battle down below.

#### ADDITIONAL FEDERAL JUDGES

Mr. CANNON. Mr. President, I am pleased that the full Senate enacted important legislation dealing with the tremendous workload facing Federal courts. S. 11, the omnibus judgeship bill, creates an additional 146 Federal judgeships for Federal district and appellate courts.

I can tell my colleagues that these additional judges are very much needed in my State and the ninth circuit of which Nevada is a part. S. 11 provides for 1 additional Federal district judge for Nevada and 10 additional judges for the ninth circuit. Those who followed Judiciary Committee hearings and are familiar with the workload of the Federal courts, know that the ninth circuit is one of the busiest courts of appeals in the Nation.

For some time I have felt that Congress needed to act to provide additional Federal judges to keep pace with the growing Federal caseload. It was encouraging to see that the new administration and the Justice Department actively supported this legislation to create these needed positions. In my view the only effective way to go about reducing the tremendous backlog in Federal courts is to provide the necessary manpower to handle the workload. We simply have to recognize the dramatic increase in the number of cases reaching the Federal courts and the fact that Congress has not created any circuit judgeships since 1968. The last increase for district court judges was in June 1970.

In approving this bill the Senate acknowledges the urgent need for these additional judgeships as well as the rights of those who must depend upon Federal courts for a legal remedy. This legislation will aid considerably in reducing the tremendous backlog which often results in the type of frustration which causes many to abandon going into Federal court.

#### THE CLASS OF 1977—A RENEWAL OF CONFIDENCE IN AMERICA

Mr. HUMPHREY. Mr. President, on May 21 I had the honor of participating in commencement exercises at Assumption College in Worcester, Mass. My remarks to the 425 degree recipients, their families and friends focused on the great hope and promise that America is, despite the troubles of the past and the challenges of the future.

I observed that the personal awareness of our national institutions, our social and political process, of most of our graduates is about 8 to 10 years.

During that time our Nation has suffered a series of traumatic experiences—recession, Vietnam, and Watergate, to name a few.

Against this background, the tough and complex problems that confront America sometimes appear overwhelming. It is no wonder that optimism and confidence are scarce in our Nation today.

However, I reminded these young people of some of the problems that have faced other generations of young Americans, including my own. And, I concluded that each generation has faced up to its own crises because the only other option was to give up. Americans are not quitters. They never have been and this generation is no different.

We will continue to "muddle through," to make progress toward our ideals and our goals, toward the promise of America.

I concluded my remarks by noting that we all live by hope. We do not always get all we want when we want it. But we have to believe that someday, somehow, someday it will be better and that we can make it so.

Mr. President, I am convinced that young Americans have not given up the values and ideals that have made this country great. They are not about to throw in the towel. There is nothing in their character that indicates to me that we have educated a generation of quitters. They will work hard, pragmatically, to move our country closer to the achievement of its promise to all of us and to the world. I return to the Senate uplifted and with renewed confidence in our future after being with the class of 1977. I thank them for this opportunity to renew my faith in America. I am grateful to all those at Assumption College for making the 1977 commencement such a great day.

Mr. President, I ask unanimous consent that my commencement address at Assumption College in Worcester, Mass., on May 21 be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR HUBERT H. HUMPHREY, COMMENCEMENT ADDRESS, ASSUMPTION COLLEGE, WORCESTER, MASS., MAY 21, 1977

It is a privilege for me to be here with you today to participate in your Commencement.

Whenever I speak at a Commencement I recall the advice given to the Georgetown University graduates a few years ago by Bob Hope. As he looked out on the bright young people before him, contemplated the great challenges that confronted them, and the great promise the future held, he said:

"My advice to you graduates about ready to go out in the world is this—Don't do it!"

Seriously, I have known of Assumption College and its reputation for quality education for many years. As a former professor at a similar-sized private liberal arts college in Minnesota, I also am aware of the special kind of educational experience you offer to your students and I value it greatly.

Assumption also has an outstanding record of achievement in a field that is very close to my heart and a major element in my efforts throughout my public career—Social Rehabilitation. As a national center of excellence in Social Rehabilitation, you have made an important contribution in making whole and healthy, once again, lives that have been

shattered by the tragedy of crime, delinquency, physical and mental handicaps, and the abuse of drugs and alcohol.

And, your leadership in building a more solid base of mutual respect and understanding among people with differing religious beliefs also deserves public recognition. For as we have seen in Northern Ireland, Nigeria, Lebanon and elsewhere in recent years, tolerance and respect for those with other creeds is essential to liberty and freedom in a democracy.

Finally, I want to thank Assumption and Dr. George Doyle for the outstanding work he has done for me and the Joint Economic Committee of the Congress. His work has helped to open our eyes to the changes occurring in China and their implications for the United States. And, in a more recent study for the JEC, he has drawn our attention to the threat to our competitive free enterprise system that exists because of our neglect of the needs of our smaller businesses.

Commencement is one of those rare occasions when a speaker is expected to focus on the future—your and our nation's. And there is no subject I would rather discuss, particularly with young people. So let us think about the future for a few minutes today and reflect upon our most reliable guide to it—our past and present.

For most of you graduating today, your personal awareness of our national institutions, our social and economic problems, and our political process goes back roughly eight to ten years. And, during that time our nation has suffered a series of traumatic experiences. These include:

The worst recession since the Great Depression,

The constant world-wide assault on democratic institutions and human rights, which has made democracy an endangered species,

A long, divisive, tragic and unpopular war. Corruption in government, industry and finance.

The forced resignation of a Vice-President of the United States and of a President of the United States,

And much more.

Against this background, the difficult and complex problems that confront America and the world sometimes appear overwhelming—like a tidal wave. Is it any wonder why we seem confused, uncertain and bewildered. Here are but a few questions that keep surfacing.

How will we maintain and improve our standard of living in a world ever more limited in energy and material resources?

How will we provide rewarding work at decent wages to all of those who need it?

How will we meet the requirements for food for an ever more heavily populated world?

How will we meet the need for good housing, quality health care, and better educational opportunities without producing a raging inflation that destroys the living standards so many have worked so hard to achieve?

How will America preserve for its children and grandchildren the fragile beauty and priceless value of our environment?

How will we use our strength in the world to prevent nuclear holocaust and to reduce the unjust distribution of the world's abundance between nations?

And, how will we assure that the moral principles and social values that have held our families, our communities and our nation together for so long will provide the sound foundations needed for a stable society in a rapidly changing world?

Confronted with these problems, and mindful of our recent experience, it is not surprising that optimism and confidence are rather scarce in America today.

And, when things go wrong, we always hear from those who call for a totally new

and different way—a quick and sure fix. In fact, what is needed is a restatement and renewal of our basic and time tested values—personal integrity, human compassion, truthfulness, public trust, pioneering, hard work and perseverance.

So before we decide to give up on "government by the consent of the governed" or on "the promise of America," consider Historian D. W. Brogan's citation of the contrast between democratic government and the non-democratic. The latter he observed, "is like a splendid ship, with all its sails set; it moves majestically on, then it hits a rock and sinks for ever. Democracy is like a raft. It never sinks, but damn it, your feet are always in the water."

Let me remind you of a little history. I think there is a convincing case that our experience is on the side of the optimists. It has never been easy and it never will be! And, the "good old days" were never really that good!

Thirty-eight years ago I donned a cap and gown and marched to the podium at the University of Minnesota to receive my bachelor's degree.

The future we faced was filled with foreboding and our nation faced incredible problems. Take a look at these problems just for openers.

Hitler was flexing his inhuman muscles in Europe, and the prospect of world war was real and present.

The nation was bitterly divided between those who said Europe's problems were its own and those who felt our survival as a democracy was at stake.

America remained in the grips of the Great Depression with an unemployment rate of over 17 percent, millions of people out of work, and an uncertain prospect of economic recovery.

At least a third of our nation was "ill-fed, ill-clothed and ill-housed."

Racial injustice was a fact of life for millions of our citizens, and religious bigotry was widespread in our land.

The opportunity to own your home, to send your children to college, to receive the best in health care, and to live a secure old age was limited to the fortunate few.

That's the way it was, and some of my classmates felt overwhelmed by them. They seemed to share the opinion expressed by the British novelist and skeptic Aldous Huxley when he observed:

"I have peered into the future, and it won't work!"

But most of us realized that our problems simply would not go away. And we were unwilling to live with the consequences of ignoring them.

I am sure you would agree that our generation was no more energetic, no more idealistic, no more courageous, and certainly no better prepared to deal with our challenges than you are with yours. We realized that our only option was to confront our challenges and to overcome them.

Every generation of Americans has faced up to its own crisis. We never have been a nation of quitters, and I see nothing in the character of this generation that makes me believe we have changed. Our history is filled with trouble, disasters, violence, corruption, war and struggle.

In the very beginning of our history, many of George Washington's troops at Valley Forge simply packed up and went home. The first Chief of Staff of the U.S. Army was in the pay of the Spanish Emperor. At the same time, there were citizens who refused to pay their taxes. The movement for secession was underway virtually at the same moment that America was born. The negotiators of the treaty to end the war with Britain were stoned when they returned home.

And talk about corruption. Just review the history of the 1870's and 1880's. This was a period of unprecedented plundering of public

purse and public domain. The despoiling of our natural resources, the growth of unrestrained monopoly, and the exploitation of our working people, including child labor, was a national disgrace.

Imagine the life or death problems that faced the first settlers in the Massachusetts Bay Colony.

Imagine the fear and uncertainty of young people who came of age when Civil War threatened to rip us apart.

Imagine the trauma that plagued every new wave of immigrants who came to our shores to seek a better life for themselves and their families.

But, in every instance Americans have persevered, and America has been better for it. We always have managed to cling to our ideals while working pragmatically for progress toward their achievement. We have, as the British say, "muddled through"—by trial and error—to become a better nation. We have always been inspired by dreams and hopes—and blessed with resources and a vital, energetic, restless people.

Every generation of Americans has maintained its commitment to achieving our nation's goals. And each generation has moved us closer to fulfilling the promise of America—a life with dignity in the pursuit of happiness for all our citizens in a free society.

Let me remind you of some of the progress we have made.

In 1939, when I received my degree after being forced by the Depression to leave the University for six years, only eight percent of our 23 year-olds had graduated from college. Today nearly 26 percent of this age group have done so.

In 1939, you could expect a new son or daughter to live for 62 years. Today their life expectancy is over 73 years.

In the 1940's and 1950's we debated the possibility of a strong national Civil Rights policy. Today we have it.

For decades we bemoaned the fate of the hungry child and the shamed parents of such deprived children. Today our Food Stamp and feeding programs for young and old have eliminated any excuse for such suffering and indignity.

For decades the retarded and mentally ill were closed off from society and institutionalized in human warehouses. Today these individuals are being educated, trained and brought back into our communities, and our families where they belong.

For years we struggled to assure that poverty and old age would not prevent our people from receiving needed medical care. Today Medicare and Medicaid have provided a solution.

For many years we worked to devise a system to reduce the chances of nuclear or conventional war. Today we have made progress by negotiating a Strategic Arms Limitation Agreement, a Limited Nuclear Test Ban Treaty and a Nuclear Non-Proliferation Treaty.

These are just a handful of indicators of the distance we have come. Certainly, many of these initiatives require improvement. But we have made progress and our nation is better.

There is good reason to be positive, even optimistic, about your future and that of our nation. True, America is not perfect, we have our problems, but as long as we have the courage to recognize them, we can correct them.

The true test of the strength of our democracy is our willingness to look at ourselves in the mirror, acknowledge that the dirty face we see is our own, and then clean it up. Remember, the only people who cannot be self-analytical or self-critical are the weak.

Adlai Stevenson put it very well when he said, "Democracy is not self-executing. We have to make it work, and to make it work we have to understand it. Democracy's need for wisdom will remain as perennial as its

need for liberty. Not only external vigilance but unending self-examination must be the perennial price of liberty; the work of self-government never ceases."

America has not failed, we have not lost our way. We are just continuing to try our best to find a better way.

The story of America is not one of establishing an instant utopia. The story of America is not immediate and complete success. The story of America, to put it simply, is the struggle to do better—Progress, not Perfection.

When our Founding Fathers met in Philadelphia two hundred years ago, they gave us and the world a set of promises—promises and hopes that would be sacred to us always as we moved toward a more perfect, not the perfect union. America is a promise and a hope in the minds and hearts of all those who cherish liberty, justice and opportunity.

We live by hope. We do not always get all we want when we want it. But we have to believe that someday, somehow, someday it will be better and that we can make it so.

You cannot tell a poor boy from a small country town on the plains of South Dakota who has had the opportunity to be a teacher, a mayor, a Senator and Vice President, that America is not a nation of promise.

You cannot tell a people whose ancestors were a handful of pioneers settling in a wild land, and descendants who have forged the most prosperous and successful democracy in history, that America is not a land of hopes, promises and opportunity.

So, as you look to your individual futures and our collective future, keep in mind the wise advice of Victor Hugo.

"The future has many names," he said. "For the weak, it is the impossible. For the faint-hearted, it is the unknown. For the thoughtful and the valiant, it is ideal. The challenge is urgent, the task is large, the time is now."

There you have it. Now go to it!

#### STUDENT FINANCIAL AID

Mr. PELL. Mr. President, on May 23, the Secretary of Health, Education, and Welfare, Joseph A. Califano, announced a new and simplified application procedure for the basic educational opportunity grant program, effective for the academic year 1978-79. As the principal sponsor of that legislation in 1972, I applaud his action. A simplified application process will make it easier for students to establish their eligibility for basic grants. Hopefully, it will lead to an increase in the number of students participating in the program.

In the past, a student seeking to establish basic grant eligibility has had to file a separate application with the Federal Government. This application was necessary even though he or she might also have to file an application for a needs analysis through one of the private services providing for such analysis, in order to participate in institutional aid programs. This meant an individual student would have to fill out two—or possibly even more—forms with approximately the same information.

Under the new procedure initiated by the Office of Education, a student would only have to fill out one form, that of the needs analysis service. Data necessary to determine basic grant eligibility would be forwarded to the Federal Government by the service. Only in the case where a student's institution participated in no additional needs analysis service



would a student fill out the separate basic grant application form.

It is estimated that this change will reduce the number of forms filled out by 2.5 million per year. As a long-time foe of unnecessary paperwork, I am delighted that the Office of Education was able to initiate this change. It can only serve to provide a closer link between the basic grant program and other student aid programs, thereby increasing the opportunity for all qualified students to pursue postsecondary education.

I ask unanimous consent that the text of the press release of the Department of Health, Education, and Welfare concerning this change be printed in the RECORD.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE,  
May 23, 1977.

Secretary of Health, Education, and Welfare Joseph A. Califano, Jr. announced today a simplified student financial aid procedure which will eliminate the need for over 2.5 million families to file Federal forms.

"This action, which will eliminate duplicate paperwork for millions of students and their parents, is a start toward fulfilling President Carter's commitment to simplify Government procedures and to ease the paperwork burden on the American people," Secretary Califano said. "Equally important, the new system is a first step toward consolidation of all student-aid forms into one single form and toward improving financial-aid procedures that have become very complicated and confusing."

"Dr. Ernest L. Boyer, Commissioner of Education, has moved swiftly with this first step in the wake of the reorganization of the Student Financial Assistance Bureau in the Office of Education," the Secretary continued. "The new program will be in effect in time for the applications that are filed this coming year for the academic year 1978-79."

The new system involves the U.S. Office of Education's Basic Educational Opportunity Grants (BEOG) program, which currently provides approximately \$1.5 billion annually in grants to nearly two million needy students.

At present, most students applying for either campus-based Federal aid or direct Federal financial help, or both, must fill out two separate forms: one for the college and another for the Office of Education. Under the new plan, the second form, a separate Basic Grant application, will be eliminated. The Office of Education will use the information secured by the college—using either a College Scholarship Service (CSS), American College Testing (ACT) or a state scholarship form—to determine the student's financial need and to establish his or her eligibility to receive a Basic Grant.

A common date for starting the processing of all student-aid applications also will be introduced. Students and parents will be given the forms after December 1, with instructions that they are to be filled out and filed after January 1. This distribution date—which is currently used by BEOG—is later than the one now used by ACT and CSS. The new schedule is designed to make it possible for families to report actual annual income to establish need, rather than estimated annual income. Use of more precise income figures should help assure that grant money goes only to those students and families who actually need it, and in the proper amounts.

For those colleges and universities still

wishing to make early decisions on admission and financial aid, an early application procedure is being developed by CSS and ACT. "We intend to accommodate those universities and colleges that need more flexibility," Califano said.

For the coming 1977-78 school year, the Basic Grant program has a budget of \$1.7 billion. Grants will average \$850 per student. Currently the average Basic Grant is \$750.

The program announced today has been developed jointly by the Department of Health, Education, and Welfare and the Coalition for the Coordination of Student Financial Assistance, a non-profit private organization representing the Nation's colleges and universities and student assistance organizations. The Coalition is an outgrowth of the 1974 National Task Force on Student Aid problems, which was chaired by former Commissioner of Education Francis Keppel.

Mr. HASKELL. Mr. President, yesterday, the Senate passed the Food and Agriculture Act of 1977, S. 275, after defeating two attempts to reduce the farm income guarantees and price support levels provided for wheat and grains in the committee's bill. I am most gratified that my colleagues resisted these attacks on the farm price supports because in my view, the target prices and loan levels recommended for wheat and feed grains were the very minimum needed to protect producers in my State and other western States in the coming years. However, from the standpoint of offering fully adequate protection, I must admit that the provisions we passed fall short, especially if current weather and market conditions prevail.

For that reason, I introduced an amendment to S. 275 to raise the 1977 wheat target price to \$3 and the 1978 wheat target price to \$3.25, making \$3.25 the floor for the wheat target price in every succeeding year. I did not call up my amendment only because it became very apparent that there was considerable sentiment in this body to actually reduce the committee's recommended levels, in keeping with the administration's position that the prices recommended by the committee were too costly and would work against the President's efforts to balance the budget in the next 4 years. The strong emphasis on budgetary considerations and the intense pressure on the part of the Secretary of Agriculture and administration officials to reduce the commodity price support levels, made it obvious that the higher levels needed by our producers would not be enacted, and in fact made it absolutely necessary that the Senators from the wheat and grain producing States concentrate their efforts on defending the Agriculture Committee's recommendations.

Nevertheless, I still believe that our producers deserve and require better target price and loan level support if they are to survive the present price collapse and continue to provide this Nation and the wheat importing nations of the world with adequate food supplies in the years ahead.

In Colorado, our wheat farmers are presently being offered prices as low as \$1.71 per bushel for their wheat. Considering that the national average price of wheat in April last year was \$3.50, this is nothing short of disastrous. The

1976 cost of producing a bushel of dry-land wheat in Colorado was \$3.82 according to figures from the Department of Economics at Colorado State University. I realize that cost of production figures are, it would seem, infinitely flexible and disputable, and differ widely from farm to farm to say nothing of region to region. Nevertheless, using the Department of Agriculture's own estimates for projected costs of producing a bushel of wheat in 1977, the minimum cost per bushel, including the lowest land allocation cost, is \$3—costs of producing selected crops in the United States—1975, 1976, and projections for 1977, page 35.

A \$3 target price is not going to offer any wheat farmer a windfall profit or even a break-even price in most cases. With production costs climbing steadily, and a record wheat carryover expected this year together with another bumper crop of perhaps as much as 2.1 billion bushels, wheatgrowers in this country face another disastrous year in terms of price and financial stress in 1978.

The target price concept was enacted by Congress in 1973 in order to assist agricultural producers, especially the independent family farmer, during just such periods of surplus and price collapse. The theory was that direct Government payments would help replace income lost because of low prices, and allow farm families to weather temporary price depressions until the market recovered. It was a fine idea, but very few farmers have benefitted from the program to date because target prices have been well below market prices for most commodities. To date, it has cost the Government almost nothing. To my knowledge, no Federal target price or deficiency payment has ever been made for wheat or feed grains.

Now we are entering a period when farmers are going to need the protection offered by this program—wheat farmers at least—in order to stay in business in the short run until prices recover and the farm economy stabilizes. The entire program becomes a complete fraud if the Government sets the target price levels so low that farmers cannot really benefit even when the need is greatest. This is just what the administration is trying to do, and in my view, this is nothing short of a betrayal of the American farmer.

I think we must remember that farmers did not get into this surplus situation entirely on their own. For years, the Government had a very outspoken policy of all-out production, urging farmers to plow up every acre and plant fence-row to fence-row. Perhaps successive years of favorable weather and record crops worldwide could not have been predicted—even by expert Government meteorologists—but I think we must now share some of the responsibility and the costs of this miscalculation with our farmers. It is completely unfair to abandon them now.

The family farmer is always the first to feel the impact of a price collapse or cost-price crunch such as the present situation. It is during these severe price slumps that the independent family

farmer and the young farmer who is the future of agriculture, are driven off the farm, and corporate entities gain an ever-stronger foothold in agricultural production and in land ownership and control in rural America. If we really want to curb this disturbing and, in my view, economically dangerous trend, and if we really want to protect the family farming system, we must offer our farm families the income protection they need during these difficult periods of financial stress.

I hope, now that the Senate is on record in favor of the target prices and loan levels recommended by the Senate Committee on Agriculture, Nutrition and Forestry, that the Senate conferees on the Food and Agriculture Act of 1977 will staunchly and vigorously defend and support these levels and not acquiesce in the figures being proposed and aggressively sought by the administration.

#### CLARENCE MITCHELL OF MARYLAND

Mr. MATHIAS. Mr. President, we elect Presidents, we appoint judges, we hire corporate executives, but we can only pray that there will be prophets among us.

Prophets cannot be conjured upon demand. They cannot be appointed by political leaders or propped up by municipal corporations. Like poets, they are born and not made. And like poets they sing songs and have visions that strike a deep responsive chord in the people.

Only the people can confer the title "prophet." Sometimes it happens almost imperceptibly for a prophet is created when the people, by their actions and in the fullness of time, confirm his prophecies.

The people have done this with Clarence Mitchell, Jr., of Baltimore.

All over America today people look to Clarence Mitchell for guidance, for advice, for counseling, for example, and for predictions of what the future holds for us. He has become a prophet simply by being himself and by acting out of a wisdom and experience that found a response in the people.

For years as director of the Washington Bureau of the National Association for the Advancement of Colored People, Clarence Mitchell, and the advice he gives, have been weighed in the balance. They have not been found wanting.

During the last decade there have been serious problems in race relations. Throughout this difficult period Clarence Mitchell urged the positive course. He spoke out eloquently against the negative responses that led to violence, bitterness, and hatred.

Clarence Mitchell might have snatched instant popularity in the excitement of the moment by joining those who advocated violent remedies, but he rejected that path. I doubt he ever even considered it. Instead, he trod the difficult, tiring, sometimes lonely, route of non-violence and conciliation.

Time has proved that the path Clarence Mitchell chose was the way to prog-

ress. Although the going was often slow, there have been many victories. Today Clarence Mitchell's wisdom is confirmed by the people. He is perceived as the unusual man he is—as a man with a persistent vision of the truth and with the courage to pursue that vision.

A very fitting tribute to Clarence Mitchell written by Ernest Furgurson, chief of the Washington Bureau of the Baltimore Sun, was published in that paper on May 22, 1977. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

#### A MAN WHO GOT THINGS DONE (By Ernest B. Furgurson)

WASHINGTON.—Who put the phrase "Burn it down" into the modern American idiom? Who gets credit for popularizing the concept of "black power" that scared so many whites half to death in the middle 1960's? Where is H. Rap Brown now? Whatever happened to Stokely Carmichael?

What difference does it make?

Very little, it turns out when we look back over the history of the civil rights movement in the generation since World War II. There have been four classes of civil rights leaders in those years. One is politicians, many white, who stepped out front against segregation before it was stylish to do so—but who even then risked nothing more precious than the next election. Another was the crusaders who lit the conscience of the country, pressing on in daily danger of violence, in and out of jails, preaching brotherhood.

Then there were the demagogues who inflamed not the conscience but the anger of their countrymen, who drove the races further apart. Here is where Brown, Carmichael and their colleagues who spread fear fit in, along with others whose distant aim may have been laudable but who taught hate instead of love.

The fourth category were the men and women who were seldom spread across the papers, almost never made a speech in front of a television camera.

They seldom had to summon up physical courage, to defy police dogs or bullets. They had instead to exercise brains and tact with their stubbornness, and thus to convert into lasting law the flames of indignation lit by their brothers on the streets and in the jails.

Here I think of Clarence Mitchell, Jr., of Baltimore, who has spent most of his life as chief lobbyist for the National Association for the Advancement of Colored People. Most newspaper readers would not recognize his photograph. Yet he has dealt effectively with eight presidents, beginning with Franklin Roosevelt, and left a large imprint on America in his time.

While King was marching in the 1960's—and while Watts and Detroit were burning, and Brown and Carmichael were making things worse instead of better—Mitchell was speaking the language of political tactics and legislative finesse. The media in those days—especially television—promoted the idea among the young that the cursers and the burners were the wave of the future. They were younger, they were more telegenic. Quietly insisting that a president move on an executive order, persistently using one senator to persuade another senator to pass an amendment out of committee did not make good pictures.

The freedom marches of the early 1960's led to the Civil Rights Act of 1964. The Selma March led directly to the Voting Rights Act of 1965. Few realize that the death of King led to the Fair Housing Act of 1968—and

that Mitchell was the only one of Lyndon Johnson's advisers, black or white, who urged him on in making it a congressional act rather than an executive order.

As Johnson wrote, Mitchell "knew how difficult it would be, even with legislation, to induce the people in the heartlands and the suburbs, the cities and the countryside, to change their deep-seated sense of individualism in buying and selling their homes. . . . He believed, as I did, that without the moral force of congressional approval behind us, the struggle for open housing would be lost before it had even begun."

For such beliefs, which were instrumental in passage of every civil rights law and executive order of the past three decades, Mitchell and the NAACP were chastised and declared a relic of times past. But he persisted, as he has before. And while the Carmichaels and Browns have disappeared from view, he is still in and out of the White House, recently to urge Jimmy Carter to push for a decent increase in the minimum wage.

Next year Mitchell intends to retire from his lobbying job, though remaining as chairman of the Leadership Conference on Civil Rights. The other day, looking back over his time here, he had the perspective to say that among the greatest rewards has been the change in attitude among young blacks—who include some of the same young militants who criticized him.

"They don't act like anybody is doing them a favor. They act like this is what they ought to have. And this is the way we want it," he said. The good grace of that statement was characteristic of the man.

#### HAWAII'S FIRST HIGH SCHOOL JUDO CHAMP IS YOUNGEST IN A FAMILY OF CHAMPIONS

Mr. MATSUNAGA. Mr. President, for the first time in the 13-year history of the National High School Judo Championships, held this year in New Haven, Conn., a youngster from Hawaii won first place in the 1977 competitions. He is Derek Ishikawa, a sophomore from Pearl City High School.

Because they have had to fight jet lag, as well as a more rugged style of judo practiced by their mainland opponents, Hawaii youngsters have always found the national competition very tough. Derek's achievement is even more amazing in view of the fact that he began taking judo lessons for fun only 4½ years ago.

Perhaps his secret is that he comes from a family of champions.

Derek's grandfather, the late Masaru Ishikawa, is still well remembered as the judo champ of the islands in the 1920's. His father, Harold Ishikawa, holds the coveted black belt.

It was Derek's grandmother who helped him become Hawaii's first high school champion. Showing him the trophies and medals won by his grandfather, she encouraged him to believe that he could win.

Knowing that my colleagues will find Derek's story as heartening as I do, and by way of congratulating him, I ask unanimous consent that the text of an article about Derek's win, taken from the Honolulu Star-Bulletin, be printed in the RECORD. I am confident that Derek has established a trend, and that next year's championships, to be held in Hawaii, will prove to be even more successful for the Island State team.



There being no objection, the article was ordered to be printed in the RECORD, as follows:

NATIONAL JUDO CHAMP IN STEP WITH GRANDPA

(By Paul Carvalho)

"His grandmother will be very happy," Harold Ishikawa said. "You know, her husband, Masaru Ishikawa, was the judo champ in the Islands during the 1920s."

Grandma Ishikawa wasn't on hand to greet her grandson, Derek, last night at Honolulu International Airport but she had every reason to be happy . . . and proud.

A sophomore at Pearl City High School, Derek was coming home after a weekend of competition on the Yale University campus in New Haven, Conn., where he won the 1977 National High School Judo Championship in the 125-pound weight division.

It was the first time in the 13-year history of the high school nationals that a participant from Hawaii came away with the first-place prize.

But for Derek, it was the Tradition, rather than the Precedent, which mattered.

Judo was something he took up on a whim 4½ years ago. "A friend of mine was going to start taking it and I went along, just to watch," he said.

"After I had taken a few lessons, I was visiting my grandmother one day and she started talking to me about my grandfather. She showed me some medals and pure silver plates he had won when he was competing," Ishikawa said.

"At that time I was just going to judo for the fun of it but after seeing what my grandfather had done, I began to take it more seriously. I wanted to see if I could reach the level of my father (Harold, a black belt) and maybe even my grandfather. That became my goal and pretty soon I started winning."

Winning, at least on the national level, has not come easy for judo practitioners from Hawaii. The State's last national champion was George Hatae, who won his title in 1952.

The problem stems from the contrasting styles between local and Mainland competitors. On the Mainland, practitioners of the ancient Japanese martial art are, for the most part, not as technically refined as local judoists. They rely on strength, rather than skill.

"They are fierce, and extremely strong. When they grab you, forget it. You feel so weak," said Jeffrey Tamaoka, a teammate and friend of Ishikawa's who participated in last year's national competition. "In Hawaii, technique means a lot, but over there (on the Mainland), brute strength is everything."

Mike Matsumoto, whose son, David, an Iolani senior, finished second in the heavy-weight division this year, concurred.

"On the last night of the tournament a coach from California approached me and said that our boys are much more purists. They put up a good, clean fight."

Ishikawa, who won five matches in the double-elimination format to take the title, noticed the difference in styles from the outset.

"In Hawaii, you usually attack or are attacked on the upper body, but on the Mainland, they go low and try to take you to the ground. They actually try to wrestle with you."

His toughest match was the title bout, a five-minute, no overtime battle. But he also had a rough time in his first match of the tournament, when he fell behind in points early on.

"I was lucky, though. My opponent kept rushing me. He didn't have very much patience and wasn't thinking about defending himself, so I was able to turn it around."

Ishikawa's victory came as a surprise to his coach, Lee Nakamoto, since he had been nursing a bad leg throughout the OIA season.

Though he finished first in last November's qualification matches, Ishikawa did not compete for the individual OIA title last month, instead, saving himself for the nationals.

"I didn't think he, in particular, could do it, because his division (the 125-pound category) is especially rough, and he had been re-injuring his leg all season," Nakamoto said.

What Ishikawa, an Ikkyu (No. 1-ranked brown belt) did have in his favor was an unorthodox, aggressive lefthander's style.

"Coming from the left side gives Derek a natural defense against most of his opponents, who are righthanded. It also gives him a natural offense. For his weight, he is very tall and has long, strong legs, which he uses in the Uchimata style (driving the front leg between the opponent's legs and then flipping him)," Nakamoto said.

Ishikawa's success, along with that of Matsumoto's, who is planning to attend the University of Michigan this fall, could be a harbinger of good times for local high school competitors.

In all, there were 240 entrants in this year's tournament, with 14 from Hawaii—12 boys and two girls, representing nine different schools. Though only two placed, the experience should be valuable for the local participants in the 1978 nationals, scheduled to be held in Honolulu (McKinley gym is the tentative site).

And yes, there should be a decided home-mat advantage.

"In the past we have always had to contend with jet-lag, climate changes and expenses. We had several top-flight competitors who could not attend the nationals this year because they simply could not afford it," Nakamoto said. "I think next year will be the finest showing ever for Hawaii."

COMMENCEMENT ADDRESS DELIVERED BY SECRETARY CALIFANO

Mr. PELL. Mr. President, on Sunday of this week, HEW Secretary Joseph A. Califano gave the commencement address for the graduating class at the College of New Rochelle in New Rochelle, N.Y. The address was important—first because it was the Secretary of the Department of Health, Education, and Welfare who gave it, and second, because of what he had to say.

Secretary Califano spoke of his personal commitment and the commitment of the Federal Government to diversity in education, including the support—within the bounds of the Constitution—of private colleges and universities such as the College of New Rochelle.

Mr. President, Secretary Califano's thoughtful address deserves the attention of our colleagues and others who read the RECORD. I ask unanimous consent to print it as part of my remarks in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

COMMENCEMENT ADDRESS OF JOSEPH A. CALIFANO, JR.

Here and across our nation, this is the season in which we celebrate the ancient ritual of commencement.

For each of you, that ritual has enormous personal meaning. But it has a larger meaning too: What you have achieved in your

years here is important, not only to you as individuals, but also to your nation.

Why? For two significant reasons:

First, because the College of New Rochelle has given you that sense of moral discipline essential to the enjoyment of true freedom. In an increasingly libertine society, where individual goals are often so self-centered that they border on total self-indulgence, you have been educated in a tradition of social justice and moral duty. That education will strengthen and support you throughout your life; and your nation will be stronger for it.

Second, and equally important, this college has etched in you the intellectual discipline that distinguishes the truly educated person. If we are to meet and master the perverse problems that baffle us today—problems of energy supply, of social welfare, of maldistribution of national and world resources—if we are ever to master those problems, we must do it with trained intelligence.

These two qualities—moral and intellectual discipline—distinguish the educated citizen. Their presence in our society is essential if we are to have the collective trust on which a democratic nation thrives. That is why, a decade ago, President Lyndon Johnson called education "the first work of the Nation."

And that is why President Carter is so deeply committed to the enterprise of education.

Constitutional democracy cannot survive without an educated citizenry. In a world that moves at jet speed, a world of ever more complex problems, an ignorant populace is likely to be a bewildered and impatient populace. And such a populace, confused and anxious, would be easy prey to the sirens of demagogues who tempt us with cheap and facile solutions; or those who put the virtues of efficiency above the values of liberty.

In the face of bewildering problems, the lure of the quick fix can be irresistible. In the face of a growing reluctance to commit adequate resources to public needs, uniformity and cold-blooded efficiency could become as tempting to our society as making trains run on time was to Mussolini's Italy. With techniques of persuasion as pervasive, sophisticated and subtle as today's, a widely and diversely educated citizenry is essential to the health of democratic government.

So, first of all today, I bring you firm assurance of your government's strong commitment to education at every level—and to higher education in all its rich diversity: a diversity which includes private institutions like the College of New Rochelle.

All across America, colleges like this one—small, independent liberal arts colleges—have played a role far out of proportion to their size or numbers. They have been a powerful force in the intellectual life of the nation. They have educated distinguished men and women.

These colleges were founded to train ministers, lawyers and statesmen—and for many years they also educated most of our greatest teachers, scholars, scientists and writers.

While training so much talent for the development of our democratic tradition, independent institutions like this one have given us more—much more:

They have been seedbeds not only of intellectual endeavor, but of deep religious and cultural values;

They have been guardians of independent thinking and academic freedom, enjoying a bit more insulation from the whims and pressures of politics than their tax-supported sisters.

Perhaps the greatest contribution of these private institutions beyond training talent for the nation, has been diversity: the rich variety that colleges like this lend to the American educational landscape. What

an incredibly rich resource. Hundreds of institutions, each independent, each solving its problems in its own way, each a vital center of innovation and experiment, each with its own special commitment to cultural and moral values.

It is this diversity that gives American higher education and American life so much of their vitality. It is this diversity that your national government is pledged to nourish and safeguard.

We are committed to the continued health and stability of private colleges and universities in America. And we intend, within the limits of constitutional law, to help these institutions as much as we can.

That commitment is something rather new in the history of American education. For most of our nation's history, institutions like this one worked their educational miracles with scant support from their government beyond their tax exempt status. Only in the last few years has the Federal government come to play a more significant role in support of private higher education.

I think it is fair to say that this recent national commitment expressed in programs of help to institutions and to individual students, has been crucial to private higher education in America. For this support has guaranteed financial survival and stability to many institutions, at a moment when economic pressures threatened their future.

Sister Dorothy Ann tells me that many of you who will receive degrees today are here in part because of one or more programs of Federal assistance: basic grants, student loans, or work-study programs.

That is a measure of our national commitment to higher education. Our goal is to expand opportunity for higher education to the point where any student can rise to an educational level that matches and fulfills his talent, regardless of income, regardless of race, regardless of age, regardless of sex.

Achieving that goal will not be quick or easy. But I look out today at these 450 faces of men and women who are graduating from the College of New Rochelle, and I can see that we are making progress, as a nation, toward that goal.

For here I see men and women, an impressive percentage of minority citizens, working people, mothers of small children, people whose income might once have barred them from college. And here I see older graduates, too, some in their sixties, some in their seventies, and Mrs. May Dobson, 81 years old.

This, my fellow citizens, is the evidence you are the evidence that this nation we love is on the right course.

I have underscored your government's pledge to safeguard the precious diversity of American higher education, our commitment also to safeguard the health of private colleges to the fullest extent of our limited economic and Constitutional power.

Let me add one more commitment today.

We intend to demonstrate our trust in the educational community of this nation by working to free it from the snarl of government red tape. Our colleges complain of too many regulations; too many forms that are complicated and repetitive, too much bureaucracy; too much government involvement; a failure by government to understand the difference between prudent monitoring of our financial support and unwarranted intrusion into academic institutions. We agree. We intend to demonstrate that we trust higher education to do its work effectively and use federal resources wisely, without undue interference from Washington.

We will, of course, be vigilant about how the taxpayers' money is spent. We care deeply about excellence and equal opportunity. But we must be wise enough as a nation

and trusting enough as public servants to recognize that over-regulation squanders the taxpayers' money and that red tape can strangle excellence.

In the end, of course, dollars alone cannot guarantee the vigor of institutions like this one. Dollars can pay bills, and that is important, but they cannot produce ideas. Dollars may guarantee the survival of a college or university, but they can never guarantee its success.

What counts, in the end, is the institution itself: the leaders and talent it attracts and produces, their energy, their zest and determination, their appetite for innovation, their conscience and their willingness to engage their institution in the world, with people and problems beyond the campus. It is these qualities, not budgets or endowments that measure the true strength of any institution.

And these qualities I'm happy to say are in rich abundance at the College of New Rochelle.

Virtually every graduate program offered here is one that engages the College and its graduates in the quest for social justice, community, school psychology, remedial reading, special education. That one fact speaks volumes.

And consider the recent history of this college.

Faced with the necessity to change simply to survive, you chose to renew this institution. This small and quiet woman's college transformed itself by founding a new institution called the School of New Resources. And in so doing, you engaged yourselves in the world, with rich and enduring rewards for the hundreds of new students you found.

Without forsaking your central mission of educating young women, you reached out to educate others, people who once stood outside the gates of higher education.

In this act of self-renewal, this college became an instrument of personal renewal for thousands of people. And by extension, you are helping to intensify our national effort to renew ourselves, to solve our myriad problems and to recover our national self-confidence.

That is a prodigious accomplishment. It reflects great credit and should inspire great pride in every one of you who has played a part in the drama. Particularly you who graduate today.

To you, I would say simply this: The qualities that mark this college—its passion for excellence, its courage to engage the world, its capacity for self-renewal—these are qualities that distinguish individuals as well as institutions. Nourish these qualities, live by them, and you will enrich your world.

Permit me now one parochial comment. Christian charity, God's love incarnate, the force that created this college, is not the stuff of flower girls. It finds enduring strength only in intellectual and moral discipline, discipline that has made possible the kind of self-confident social engagement that characterizes this college. Let that same sense of energized charity mark your lives.

For as Teilhard de Chardin wrote: "Some day after mastering the winds, the waves, the tides and gravity, we shall harness for God the energies of love."

"And then, for the second time in the history of the world, man will have discovered fire."

This concludes additional statements submitted today.

SENATE LEGISLATIVE ACHIEVEMENTS JANUARY 4, 1977-MAY 25, 1977

Mr. ROBERT C. BYRD, Mr. President, at this point, I would like to look at the

legislative record of the Senate to date. In the past 5 months, the Senate has addressed a variety of problems. Of prime importance have been programs instrumental to improving the Nation's economy. The 95th Congress has enacted the major portions of the President's economic stimulus proposals.

We have authorized an additional \$4 billion for local public works projects which provide jobs through construction in places with the most distressing levels of unemployment.

We have enacted \$20.1 billion in a special economic stimulus appropriation to implement programs for public service employment, public works projects, countercyclical revenue sharing, and training of unemployed youths, veterans, unskilled workers, and older Americans.

We have authorized \$3.25 billion to extend the countercyclical revenue sharing program which helps State and local governments maintain basic services until national unemployment drops below 6 percent.

We have enacted a 3-year \$34 billion tax cut for individuals and businesses. Forty-six million Americans—90 percent with income under \$20,000—will pay less taxes. Corporations will be allowed a tax credit on hiring new employees in an effort to encourage business expansion and reduce unemployment. In addition, 96 percent of all taxpayers will benefit from having a simpler method of computing their taxes.

The other major issue of national concern of the 95th Congress is energy. We have already made progress in this area.

In January, we sent the President a measure granting him special emergency pricing and allocation authority to deal with the natural gas shortage during the record-cold winter months.

On Friday last, the Senate passed a measure establishing a program for the regulation of coal strip mining and reclamation so as to minimize the degradation of the environment while allowing increased production of this essential domestic supply of energy. Although the Congress has sent the President a strip mining program in the last two Congresses, both bills were vetoed. President Carter, however, supports congressional initiatives to enact uniform minimum Federal mining and reclamation standards.

A week ago today, the Senate passed the cornerstone of the President's energy program—the creation of a Department of Energy which will administer a national energy policy. As passed by the Senate, the energy-related functions of some 50 agencies—including the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission—will be incorporated into a single cabinet-level Department which will have pricing, allocation, pipeline and other authorities previously splintered among numerous entities.

The President's comprehensive energy bill, which was received 3 weeks ago by the Congress, has already been the subject of numerous hearings. Testimony



has been heard from the administration and the following provisions have been the subject of committee hearings: home insulation by utility companies; appliance and automobile efficiency standards; energy conservation in schools and hospitals; natural gas regulation; public utilities rate changes; and tax incentives for energy conservation. Further hearings and mark-up sessions have been scheduled for the next several weeks on these and other sections of the proposal.

With regard to other Senate achievements, we passed last night an omnibus farm bill which extends for 5 years the basic price support program for major commodities and the food-for-peace—Public Law 480—program. The Senate bill makes needed revisions in these programs as well as needed reform to the Food Stamp program which is extended for 2 years.

The Senate also passed on yesterday a measure to allow the appointment of 145 additional Federal judges to enable the courts to efficiently and expeditiously handle the business brought before them.

Additional legislation of national significance which the Senate has passed this year includes: a bill improving export administration and attacking the most repugnant aspects of the Arab boycott; a measure to halt the importation of chrome from Rhodesia in violation of U.S. sanctions; authority for the President to submit plans for reorganization of Federal agencies; an extension of the unemployment compensation program to aid those temporarily unemployed; a \$35.9 billion authorization for procurement of aircraft, missiles, naval vessels, and weapons and \$3.7 billion for military construction; an extension of important public health programs; and tomorrow, action is expected to occur on a bill seeking to eliminate the problem of oil pollution from tankers, and improve vessel safety.

With regard to internal Senate reforms, the Senate early in the session agreed to an extensive realignment of committee jurisdictions and other changes which have expedited the flow of business and resulted in the significant number of important bills already reported from committees this year. The Senate also adopted a tough code of conduct for members and staff which requires extensive financial disclosure.

The record of the Senate of the 95th Congress has, of course, only begun. I am, however, satisfied that we have made a good beginning. I am confident that our labors have laid the groundwork for continued productivity.

For a more detailed account of Senate legislative achievements, I refer all Senators to a report prepared by the Democratic policy committee staff. I ask unanimous consent that this report, and data concerning the President's legislative proposals and comparative legislative activity, be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## LEGISLATIVE DIGEST—JANUARY 4–MAY 25, 1977

## ECONOMY—UNEMPLOYMENT

**Tax cut.**—Congress has cleared for the President a 3-year \$34 billion tax cut. Forty-six million Americans—90% with income less than \$20,000—will pay less taxes. Corporations will be allowed a tax credit on hiring new employees. Ninety-six percent of all taxpayers will have a simpler method of computing their taxes.

**Economic Stimulus Appropriations.**—Congress has enacted a measure providing \$20.1 billion to implement the President's economic stimulus proposals including funds for public works projects, public service employment and countercyclical revenue-sharing to help State and local governments continue their basic services and to target employment and training programs to youth, veterans and unskilled workers.

**Public Works Employment.**—Congress has enacted a measure authorizing \$6 billion for local public works projects which provide jobs through construction in places with the most distressing levels of unemployment.

**Unemployment Compensation.**—Congress has extended the unemployment compensation program until October 31 to aid those temporarily unemployed with an income to meet their day-to-day living expenses.

## ENERGY

**Emergency Natural Gas.**—Congress enacted early this year a measure giving the President special emergency authority to deal with the natural gas shortage during the winter months.

**Department of Energy.**—The Senate passed last Wednesday a bill to create a cabinet level Department of Energy incorporating some 50 energy-related agencies including FEA, ERDA and the FPC.

**Strip Mining.**—The Senate and the House have both passed a measure to minimize the degradation of the environment by requiring minimum uniform standards for mining and reclamation.

**Comprehensive Energy Policy.**—Senate and House committee hearings will continue throughout this month and next on energy supply, conservation, natural gas, and public utilities regulation as part of a broad program for cutting energy consumption, conserving energy supplies and increasing domestic sources of energy.

## SENATE REFORM

**Committee Reorganization.**—At the beginning of the session, the Senate reduced the number of Senate committees and realigned jurisdictions into a more rational order. It agreed to numerous other changes to spread legislative responsibilities more equally among all Senators.

**Ethics Code.**—The Senate adopted an official code of conduct for Senators and staff which requires extensive financial disclosure.

## OTHER MEASURES

**Arab Boycott.**—Under consideration by House-Senate conferees is a bill attacking the most repugnant aspects of the Arab boycott against Israel and generally improving export administration.

**Rhodesian Chrome.**—Congress acted early this year to halt the importation of chrome from Rhodesia which was in violation of U.N. sanctions against trade with that country.

**Presidential Reorganization Authority.**—Congress extended the authority of the President to submit plans for reorganization of Federal agencies which shall take effect within 60 days if Congress does not disapprove by resolution.

**Omnibus Farm Bill.**—The Senate has agreed to extend the basic price support programs for major commodities and the

Food for Peace (PL 480) program. This bill also makes important revisions in these programs as well as needed reform to the Food Stamp program which is extended for two years.

[95th Congress, 1st Session]

## SENATE LEGISLATIVE ACHIEVEMENTS

(Prepared by Senate Democratic Policy Committee, Robert C. Byrd, Chairman)

## SENATE ACTIVITY

|                       |        |
|-----------------------|--------|
| Days in Session       | 79     |
| Hours in Session      | 406:49 |
| Total Measures Passed | 232    |
| Private Laws          | 0      |
| Public Laws           | 31     |
| Treaties              | 0      |
| Confirmations         | 26,074 |
| Record Votes          | 169    |

Symbols: (VV)—Passed by Voice Vote; numbers in parentheses indicate number of record vote on passage, conference report, or reconsideration.

## AGRICULTURE

**Federal Crop Insurance Corporation Capital.**—Amends the Federal Crop Insurance Act to increase the authorized capital stock of the Federal Crop Insurance Corporation from \$100 million to \$150 million in order to replenish its operating capital which was nearly exhausted as a result of indemnity payments to insured farmers for crop losses during the 1976 drought and harsh winter of 1977. S. 955—Passed Senate April 25, 1977. (VV)

**Grain Inspection.**—Amends the United States Grain Standards Act to facilitate and improve the implementation of the amendments made in 1976 (Public Law 94-582); establishes a temporary 12-member committee (representing farmers, consumers and all segments of the grain industry) to advise the Administrator of the Federal Grain Inspection Service (FGIS) on the implementation of the 1976 act, and provides for its termination 18 months after the date of enactment; eliminates the requirement that grain merchandisers and elevator operators using grain inspection or weighing services maintain certain itemized types of records of their operations for a five-year period and requires them instead to keep only such records as the Administrator may prescribe for administration and enforcement; repeals, effective October 1, 1977, the authority for the charging of fees for Federal supervision of grain inspection and weighing and provides instead for funding of these activities through the regular appropriations process; makes several technical amendments; and prohibits effective May 1, 1977, subclassing of the hard red winter wheat on the basis of color, kernel content, or percentage of dark, hard and vitreous kernels. S. 1051—Passed Senate March 30, 1977. (88)

**Land and water resources conservation.**—Establishes a mechanism for making long-range policy to encourage the wise and orderly development of the Nation's soil and water resources; requires the Secretary of Agriculture to (1) prepare an appraisal of the Nation's land, water and related resources and (2) develop a national land and water conservation program setting forth the direction for future soil and water conservation efforts on the Nation's private and non-Federal lands by December 31, 1979, and to update them each fifth year thereafter; requires that the appraisal and the program together with a detailed statement of policy intended to be used in framing budget requests for Soil Conservation Service activities to be transmitted to Congress on the first day it convenes in 1980 and at each 5-year

interval thereafter; requires that programs established by law be carried out in accordance with the statement of policy unless either House adopts a disapproval resolution within 90 days of receipt; provides that Congress may revise or modify the statement of policy, and that the revised or modified statement of policy shall be used in framing budget requests; requires, beginning with the fiscal 1982 budget, that requests sent by the President to Congress governing Soil Conservation Service activities express the extent to which the projected programs and policies meet the statement of policy approved by Congress; requires the President to set forth reasons for requesting Congress to approve a lesser program or policy where budget recommendations fail to meet the established policy; and requires the Secretary to submit to Congress beginning with fiscal 1982, an annual report evaluating the program's effectiveness. S. 106—Passed Senate March 23, 1977. (VV)

**Omnibus farm bill.**—Extends for 5 years through 1982 the basic price support programs for wheat, feed grains, cotton, rice, and wool; extends, with major changes, the food stamp program into 1979; extends into 1982 the Food for Peace Program (P.L. 480) with some changes; and establishes a new charter and clearer direction for the Federal role in agricultural research;

**Payments limitation.**—Places a limitation of \$50,000 on the total payments which a person may receive annually under one or more of the programs for wheat, feed grains, upland cotton, extra long staple cotton, and rice instead of the present \$20,000 limitation and the separate \$55,000 limitation on rice;

**Commodity programs.**—Milk—sets the price support at 80% of parity adjusted semi-annually but reviewed quarterly; extends for 5 years the Class I base plans, seasonal base excess plans, and seasonal takeout-payback plans for 5 years; Wool—updates the support levels to 90% of the formula; Wheat—sets the target price for wheat at 1977 at \$2.90 per bushel; and the target price for 1978 at \$3.10 per bushel and an increase thereafter if the cost of production exceeds that level; Feedgrains—sets target price levels for corn at \$2.28 per bushel in 1978 and increases thereafter based on cost of production, and ties the support level for other feedgrains to corn; Cotton—establishes a target price of 51.1 cents per pound for 1978 to increase in subsequent years in relation to cost of production increases; Peanuts—establishes a national acreage allotment and a minimum national poundage quota; sets up a price support program for producers through loans, purchases or other operations; Soybeans—requires price support loans for producers on the 1978 through 1982 crops at not less than \$4 per bushel;

**Grain Reserves.**—Requires the Secretary to formulate a producer storage program on original or extended price support loans for wheat and feedgrains at the same support level as provided by the 1949 Act, as amended; authorizes the President to negotiate a system of food reserves for humanitarian food relief and to maintain such a reserve of food commodities as a contribution of the United States to the system; expands the authority of the Secretary to acquire commodities for disposition in the event of national disasters; makes the following changes in the farm storage facility loan program: authorizes the Secretary of Agriculture to use guarantees on secured loans as well as direct loans as a means of assisting farmers to construct or purchase on-farm facilities; permits the making or guaranteeing of loans for the construction of facilities to store high moisture grain and

forage crops, as well as dry grain; and requires, with respect to direct loans, that the borrower put up security for the loan and base the interest rate charged to farmers on the rate charged the Commodity Credit Corporation;

**Food for Peace Program (P.L. 480) Reforms.**—Extends into 1982 the program and increases the annual authorization to \$750 million;

**Food Stamp Reforms.**—Extends the current food stamp program for 2 years; eliminates the purchase requirement and establishes a single benefit reduction rate at 30% of net income; limits participation to households at or below official Federal poverty levels; replaces current itemized deductions with standardized deductions; requires unemployed participants to seek employment; requires a 60-day period of ineligibility for a household whose head voluntarily terminates employment; eliminates automatic, categorical eligibility of welfare recipients; gives Indian tribal organizations greater authority over food distribution programs on reservations; increases incentives for States to root out program abuse and improve administration; authorizes pilot projects to improve administration; and extends authority to purchase commodities and establishes the Federal share of administrative costs for the Commodity Supplemental Food Program;

**Food and Agricultural Research.**—Expands support for research programs, improved dissemination of research findings, increased efficiency and coordination of Federally-funded food and agricultural research including nutrition research and animal health research; creates three interrelated advisory panels to improve coordination; provides for a program of competitive grants within the Department to initiative high priority research activities; authorizes the Secretary to make grants to agriculture experiment stations and land-grant universities to support the Federal-State cooperative research program; authorizes research on solar energy as applied to agriculture; directs the Secretary to develop and implement a national nutrition research and extension program;

**Grain Inspection.**—Added the language of S. 1051, the Federal Grain Inspection and Weighing Program Improvements bill as earlier passed by the Senate which amends the United States Grain Standards Act with respect to recordkeeping requirements and supervision fees, and establishes an advisory committee to provide advice to the Administrator of the Federal Grain Inspection Service;

**Other Provisions.**—Amends the authorizations for several existing rural development and conservation programs and contains other provisions including those relating to the inclusion of aquaculture and human nutrition as functions of the Department of Agriculture, beekeepers indemnity, and the importation of filberts. S. 275—Passed Senate May 24, 1977. (169)

**Wheat producers assistance.**—Provides temporary emergency assistance to wheat producers who planted prior to January 1, 1977, in order to prevent further increases in carryover stocks resulting from record U.S. wheat production and decreasing U.S. exports; requires the Secretary of Agriculture to carry out, through the Commodity Credit Corporation, a special wheat acreage grazing and hay program for the 1977 crop whereby a wheat producer who elects to participate may designate an acreage of cropland on his farm, of not to exceed 40 percent of the wheat acreage allotment, for grazing purposes or hay production only; requires that the producer designate the specific acreage on the farm to be so used; directs the Secretary to pay any participating pro-

ducer an amount determined by multiplying the number of acres placed in the program times the projected yield established for the farm times \$1; makes the producer ineligible for any other payments or price supports, including deficiency payments and disaster payments under section 107 of the Agricultural Act of 1949, on that portion of the wheat allotment placed in the program; provides that such acreage shall be deemed to have been planted for harvest for the purposes of wheat acreage history; and authorizes the Secretary to issue the necessary regulations to carry out this act. S. 650—Passed Senate March 16, 1977. (60)

**Wheat referendum.**—Defers the wheat marketing quota referendum for the 1978 crop, which by law must be held no later than August 1, until 30 days after the adjournment of Congress or October 15, whichever is earlier, in order to provide additional time for enactment of legislation, presently being considered by Congress, for the 1978 and subsequent wheat crops which would eliminate the need for a referendum. S. 1240—Passed Senate April 25, 1977. (VV)

#### APPROPRIATIONS

##### Fiscal 1977:

**Continuing.**—Extends the continuing resolution (Public Law 94-473) which expires on March 31, 1977, until April 30, 1977, to provide financing authority for the following programs traditionally funded under the Departments of Labor, and Health, Education and Welfare Appropriations Acts: higher education; National Health Service Corps; home health services; emergency medical services; library resources; teacher corps; alcohol abuse and alcoholism prevention, treatment and rehabilitation; health professions educational assistance; D.C. medical and dental manpower; activities under title VI of the Comprehensive Employment and Training Act; vocational education; and National Institute of Education; and amends the resolution to provide such amounts as necessary for the calendar quarter ending March 31, 1977, for general revenue sharing payments to State and local governments. H.J. Res. 351—Public Law 95-16, approved April 1, 1977. (VV)

**Economic stimulus.**—Makes economic stimulus appropriations in the total amount of \$20,101,484,000 in new budget obligation authority for fiscal year 1977 which is \$3,692,365,000 under the budget estimate; includes the following to implement the economic stimulus proposals recommended by the President in his message of January 31, 1977:

**Public Works Projects.**—\$4 billion for acceleration of local public works projects;

**Revenue Sharing Program.**—\$4,991,085,000 for revenue sharing payments for the last three quarters of fiscal 1977;

**Antirecession Financing.**—\$632.5 million for increased antirecession payments under Public Law 94-363 to States and local governments in areas of high unemployment to assist them in maintaining basic services;

**Public Service Employment.**—\$7,987 billion for public services jobs which will expand the present Comprehensive Employment and Training Act (CETA) public service programs from the current 310,000 jobs to 600,000 jobs by September 30, 1977, and 725,000 jobs by December 31, 1977;

**Targeted Employment and Training Programs.**—\$1,438 billion for programs targeted to youth, veterans and those in need of new skills; and

**Older Americans.**—\$59,400,000 for an additional 14,800 jobs for community service employment for older Americans;

In addition, includes the following appropriations: \$95 million for production of NASA's third shuttle orbiter; \$300 million for the construction grants reimbursement



program for sewage treatment plants; \$175 million for a drought assistance program contingent upon enactment of authorizing legislation; \$35 million increase in the obligation limitation on airport development grants; \$366 million for various programs authorized under the Federal-Aid Highway Act; \$50 million for the Northeast Corridor improvement programs to speed up construction currently underway; and \$2 million for IRS accounts collection and taxpayer service. H.R. 4876—Public Law 95-29, approved May 13, 1977. (130)

Supplemental.—Makes supplemental appropriations in the total amount of \$28,923,859,260 for fiscal year 1977 for almost every department and agency of the Federal Government including appropriations to cover costs associated with the October 1, 1976, general government pay raise. H.R. 4877—Public Law 95-26, approved May 4, 1977. (98)

Urgent disaster supplemental.—Makes urgent supplemental appropriations of \$200 million for fiscal year 1977 for disaster relief activities resulting from the severe weather conditions prevalent throughout the nation. H.J. Res. 269—Public Law 95-13, approved March 21, 1977. (VV)

Urgent power supplemental.—Makes urgent power supplemental appropriations of \$6.4 million for fiscal year 1977 for the Department of the Interior, Southwestern Power Administration, for power purchases caused by critically low stream flow conditions in the area served by the Administration; and removes the restrictions in Public Laws 94-355 and 94-373 which limit the use of funds appropriated to ERDA subject to enactment of authorizing legislation to assure the continued funding of essential energy research, development and demonstration programs. H.J. Res. 227—Public Law 95-3, approved February 16, 1977. (VV)

#### ATOMIC ENERGY

Nuclear Regulatory Commission authorization.—Authorizes \$299,640,000 for fiscal year 1978 for the Nuclear Regulatory Commission; includes \$41,480,000 for nuclear reactor regulation, \$12,130,000 for standards development, \$36,050,000 for inspection and enforcement, \$22,090,000 for nuclear materials safety and safeguards, \$148,400,000 for regulatory research, \$10,180,000 for program technical support, and \$29,310,000 for program direction and administration; provides for a reduction in appropriations if (1) the Clinch River Breeder Reactor Project is cancelled or indefinitely deferred, (2) the license application is withdrawn or further construction is cancelled for the fuel reprocessing plant at Barnwell, S.C., and (3) plans for commercial fuel reprocessing and plutonium recycling are cancelled; and directs the Administrator of the General Services Administration to study and report to the Environment Committee by June 15, 1977, on the feasibility of consolidating the NRC which is presently housed in nine buildings throughout the Washington metropolitan area. H.R. 3733—Passed House May 17, 1977; Passed Senate amended May 25, 1977. (VV)

#### BUDGET

##### Rescissions:

Helium purchases.—Rescinds \$47.5 million in contract authority for helium purchases under Public Law 87-122 as recommended by the President in his message of September 22, 1976, for which purchase contracts were terminated by the Interior Department in 1973 and the contract authority therefore is no longer needed. H.R. 3347—Public Law 95-10, approved March 10, 1977. (VV)

Second budget rescission.—Rescinds \$644,050,000 of the \$941,278,000 in budget authority recommended by the President in his message of January 17, 1977, as follows: De-

partment of Defense—Military—\$143.6 million in retired pay, \$452.6 million in Naval shipbuilding and conversion because of the decision not to procure the fourth nuclear powered aircraft carrier (CVN-71) or convert the nuclear powered cruiser USS Long Beach to the Aegis air defense weapons system, and \$145.35 million for Air Force procurement because of termination of the Advanced Logistics System (ALS); \$41.5 million in funds appropriated to the President for foreign military credit sales; and \$12 million for the Department of State contributions for international peacekeeping activities because of the lower budget levels established by the U.N. General Assembly; and disapproves \$277,228,000 as follows: Department of Commerce—\$525,000 for salaries and expenses of the U.S. Travel Service and \$1.5 million for operations, research and facilities of the National Oceanic and Atmospheric Administration to continue surveys, mission and cost analysis and initiation of design and engineering studies for Oceanlab; and \$6,803,000 for the Department of Transportation for retired pay for the Coast Guard. H.R. 3839—Public Law 95-15, approved March 25, 1977. (VV)

##### Resolutions:

Third Budget Resolution, 1977.—Revises the Second Budget Resolution (S. Con. Res. 139) for fiscal year 1977 setting the level of revenues at \$347.7 billion, outlays at \$417.45 billion, deficit at \$69.75 billion, budget authority at \$472.9 billion and public debt at \$718.4 billion; contains an adequate funding level to permit enactment of up to \$13.8 billion in tax legislation stimulus as proposed by the administration and \$3.7 billion in increased outlays to produce jobs in areas of high unemployment; sets a level of budget authority at \$1.1 billion and outlays at \$760 million for EPA construction grants, railroad and highway construction and improvement in recreational facilities; sets the following levels of funding for the relief of individuals and families hard hit by the recession and the harsh winter: (1) \$1.8 billion in budget authority and outlays for direct payments to recipients of social security, SSI, and railroad retirement, or any similar stimulus proposals, (2) \$508 million in budget authority and \$508 million in outlays to extend the Federal supplemental benefits program for the unemployed, and (3) \$200 million in budget authority and \$200 million in outlays for Federal assistance to low- and moderate-income families to help them meet fuel costs during the winter emergency; includes adequate levels of budget authority for housing to support increased reservations for a total of 360,000 dwelling units for low- and moderate-income families; and makes the following revisions to the totals for budget authority and outlays contained in the Second Budget Resolution to reflect savings which have been achieved and additional costs which have arisen under existing programs (in billions of dollars):

National Defense—BA: \$108.8 instead of \$112.1, 0: \$100.1 instead of \$100.65;

International Affairs—BA: \$7.9 instead of \$8.9, 0: \$6.8 instead of \$6.9;

General science, space, and technology—BA: \$4.5 instead of \$4.6, 0: \$4.4 instead of \$4.5;

Natural resources, environment, and energy—BA: \$18.7 instead of \$18.2, 0: \$17.2 instead of \$16.2;

Agriculture—BA: \$2.3 instead of \$2.1, 0: \$3.0 instead of \$2.2;

Commerce and transportation—BA: \$17.3 instead of \$17.2, 0: \$16.0 instead of \$17.4;

Community and regional development—BA: \$14.8 instead of \$9.55, 0: \$10.55 instead of \$9.05;

Education, training, employment and so-

cial services—BA: \$30.4 instead of \$24.0, 0: \$22.7 instead of \$22.2;

Health—BA: \$40.6 instead of \$40.5, 0: \$39.3 instead of \$38.9;

Income Security—BA: \$170.9 instead of \$155.9, 0: \$141.3 instead of \$137.2;

Veterans benefits and services—BA: \$18.9 instead of \$20.3, 0: \$18.1 instead of \$19.5;

Law enforcement and justice—BA: \$3.5, 0: \$3.6;

General Government—BA: \$3.5 instead of \$3.6, 0: \$3.5;

Revenue sharing and general purpose fiscal assistance—BA: \$7.6, 0: \$7.7;

Interest—BA: \$38 instead of \$39.6, 0: \$38 instead of \$39.6;

Allowances—BA: \$0.8 instead of \$0.7, 0: \$0.8;

Undistributed offsetting receipts—BA: —\$15.6 instead of —\$16.8, 0: —\$15.6 instead of —\$16.8. S. Con. Res. 10—Action complete March 3, 1977. (38)

First Budget Resolution, 1978.—Sets the level for total budget outlays for fiscal year 1978 at \$460.95 billion, estimated revenues at \$396.3 billion, new budget authority at \$503.45 billion, and the estimated deficit at \$64.65 billion as compared to the President's estimates of \$462.6 billion in budget outlays, \$404.7 billion in revenues, \$506.2 billion in new budget authority, and a proposed deficit of \$57.9 billion; sets the appropriate level of the public debt at \$784.9 billion and the amount by which the statutory amount may be increased to \$83.6 billion; for estimated revenues (1) assumes the level of fiscal stimulus in fiscal 1978 provided in the Tax Reduction and Simplification Act as agreed to by House and Senate conferees; (2) accepts a \$65 million allowance for miscellaneous tax and tariff legislation; (3) considers the entire cost of the earned income credit as a reduction of revenue; and (4) postpones the treatment of tax credits in excess of recipients tax liabilities until development of the second budget resolution; recommends outlays for budget programs by function for fiscal year 1978 as compared with the President's proposed budget outlays as follows:

National Defense: \$110.0 billion as compared to \$112.8 billion;

International Affairs (conduct of foreign affairs, foreign information and exchange activities, the Peace Corps, Food for Peace, Corps, Food for Peace, and non-military foreign assistance): \$7.3 billion as compared to \$7.2 billion;

General Science, Space and Technology: \$1.7 billion, which is the same estimate submitted by the President;

Natural Resources, Environment, and Energy: \$20.0 billion as compared to \$20.9 billion;

Agriculture: \$4.35 billion as compared to \$4.4 billion;

Commerce and Transportation: \$19.4 billion as compared to \$19.9 billion;

Community and Regional Development: \$10.8 billion as compared to \$9.9 billion;

Education, Manpower, and Social Services: \$27.2 billion as compared to \$27.0 billion;

Health: \$44.3 billion as compared to \$44.6 billion;

Income Security (social security and unemployment insurance, retirement systems for Federal and railroad employees and assistance programs for the needy): \$146.7 billion as compared to \$148.7 billion;

Veterans Benefits and Services: \$20.2 billion as compared to \$18.8 billion;

Law Enforcement and Justice: \$3.85 billion as compared to \$3.8 billion;

General Government: \$3.85 billion as compared to \$4.0 billion;

Revenue Sharing and General Purpose Fiscal Assistance: \$9.7 billion, which is the same estimate submitted by the President;

Interest: \$43.0 billion as compared to \$40.9 billion;

Allowances (includes Federal pay increases for civilian agencies and other expenditures which cannot be reasonably assigned to other functions); \$1.9 billion as compared to \$1.2 billion; and

Undistributed Offsetting Receipts (includes receipts from rents and royalties on leases on the Outer Continental Shelf and other deductions from outlays which cannot be reasonably assigned to other functions): \$16.3 billion in undistributed offsetting receipts in the Congressional budget as compared to \$16.0 billion in the President's budget. S. Con. Res. 19—Action completed by both Houses May 17, 1977. (137, 142)

#### CONGRESS

Congressional Campaign Committee Employees Retirement Credit.—Amends title V, U.S.C., to provide that a congressional employee may credit not to exceed 10 years of service as an employee of the Democratic Senatorial Campaign Committee, the Republican Senatorial Campaign Committee, the Democratic National Congressional Committee or the Republican National Congressional Campaign Committee for Civil Service Retirement purposes provided the required deposits for such service are made to the fund; and makes the provisions of this act applicable to an employee who retires on or after the date of enactment. S. 992—Passed Senate March 5, 1977. (VV)

Joint Committee on Atomic Energy Abolishment.—Abolishes the Joint Committee on Atomic Energy and provides for the disposition of its staff and the transfer of its statutory functions and authority to other congressional committees having jurisdiction over the development, utilization or application of atomic energy; establishes, until March 31, 1979, an Office of Classified National Security Information under the policy direction of the Majority and Minority Leaders and the administrative direction of the Secretary of the Senate which shall be responsible for safeguarding national security information and other restricted data; authorizes the office to classify and declassify information within the guidelines developed for restricted data by the responsible executive agencies and to establish a central repository in the Capitol for safeguarding such data; directs the Office, within 30 days of enactment, to furnish the Senate Armed Services, Energy, Environment and Foreign Relations Committees with a listing of all records, data, charts, and files to be transferred and to indicate which committee may have jurisdiction; directs the chairmen of the committees involved to resolve any jurisdictional problems which may arise; makes necessary conforming amendments to certain laws which pertain to the Joint Committee on Atomic Energy; and provides that this act shall become effective on the tenth day after the date of enactment. S. 1153—Passed Senate March 31, 1977. (VV)

#### CRIME—JUDICIARY

Daughters of the Confederacy Patent Renewal.—Extends for 14 years design patent number 29,611 which is the insignia of the United Daughters of the Confederacy. S. 810—Passed Senate May 13, 1977. (VV)

Jefferson F. Davis.—Restores posthumously full rights of citizenship to Jefferson F. Davis effective December 5, 1968. S.J. Res. 16—Passed Senate April 27, 1977. (vv) U.S. District Court Terms: Amends section 104(a) (1), title 28, U.S.C., to provide for holding terms of the U.S. District Court for the Eastern Division of the Northern District of Mississippi at Aberdeen, Ackerman, and Corinth. S. 662—Passed Senate April 7, 1977. (vv)

North Dakota Judicial District.—Amends title 28, U.S.C., to realign the judicial dis-

tricts of North Dakota by transferring Bottineau, McHenry, and Pierce Counties from the Northeastern Division to the Northwestern Division and transferring Sheridan and Wells Counties from the Southeastern Division to the Northwestern Division in order to reduce the average distance which litigants, attorneys, and jurors in these counties must travel to the nearest place of holding court by approximately 100 miles. S. 195—Passed Senate May 24, 1977. (vv)

Omnibus Judgeship.—Provides for the appointment of 110 additional permanent district court judges in 65 specified judicial districts; creates three temporary district court judgeships, for a minimum of 5 years, in the Eastern District of Kentucky, Southern District of West Virginia, and Southern District of Florida; divides the fifth circuit into a new fifth circuit consisting of Alabama, Florida, Georgia, and Mississippi which would have 14 judges, and a new eleventh circuit consisting of Louisiana and Texas which would have a total bench of 12 judges; creates a total of 35 new circuit court judgeships distributed as follows: one new judgeship in the first circuit; two in the second circuit; one in the third circuit; three in the fourth circuit; five for the revised fifth circuit; two for the sixth district; one for the seventh circuit; one for the eighth circuit; ten for the ninth circuit; one for the tenth circuit; and six for the new eleventh circuit; contains a "report back" provision which requires the Judicial Council of the Ninth Circuit Court to make recommendations for a solution to the unique problems of that circuit within one year of the date on which the tenth new judge is appointed; authorizes the Administrative Office of the United States Courts to upgrade and reclassify eight employee positions; and amends existing law to require that actions brought against rail or motor carriers on claims for damage or delay to shipments be subject to a minimum jurisdictional amount of \$10,000 for each bill in lading, in order to prevent abuse of the Federal judicial process by persons bringing such actions simply as a means of tolling the statute of limitations while settlement negotiations are undertaken. S. 11—Passed Senate May 24, 1977. (16)

Coast Guard authorization.—Authorizes \$1,252,321,000 for fiscal year 1978 for the Coast Guard for the procurement of vessels and aircraft, construction and improvement of shore and offshore facilities, alteration and removal of obstructive bridges, aids to navigation, pollution abatement, administrative expenses, and operating expenses; authorizes a year-end strength for active duty personnel of 39,129; contains authorization and personnel to supplement the recent Presidential program of boarding and inspecting oil tankers; funds for the reactivation of Coast Guard cutters to be used as back-up vessels in the enforcement of the 200-mile Fishery Conservation Zone; funds and personnel to supplement the present enforcement of the Fishery Conservation and Management Act of 1976; funds and personnel to create a search and rescue mission capability at the Portage, Mich., Coast Guard station; restoration of funds expended by the Coast Guard as a result of the unanticipated winter storm damages; funds for two additional ice-breaking tugs and one large ice-breaker; funds for the procurement of radar and other equipment for a continuation of various vessel traffic systems; and funds for the study of oil spill containment in high seas or fast rivers. H.R. 6823—Passed House May 16, 1977; Passed Senate amended May 25, 1977. (VV)

#### DEFENSE

Defense production extension.—Extends for two years, through fiscal 1979, the titles

of the Defense Production Act of 1950, as amended, which contain the sole authority for a number of programs designed to maintain the national defense production base in peacetime, prepare for mobilization, provide a pool of trained manpower for war production management, provide uniform cost accounting standards for negotiated defense contracts, provide for the examination of national policy with regard to material supplies and shortages, and continue the Joint Committee on Defense Production. S. 853—Public Law 95—, approved, 1977. (VV)

Military construction authorization.—Authorizes \$3,726,633,000 for construction and other related authority for the military departments, and the Office of the Secretary of Defense within and outside the United States; contains authority for the construction of new projects which will create an estimated 50,000 jobs in the construction industry and to operate and maintain the current inventory of military family housing; directs DOD to give the chemical weapons storage site program top priority; contains \$100 million for energy conservation programs; directs DOD to examine long-term goals which would eliminate reliance on oil and natural gas and utilize coal as a fuel source and to report to Congress before submitting the 1979 authorization; directs DOD to report on the construction backlog for the U.S. Forces in Europe including efforts to increase NATO and/or host nation participation; includes \$7.3 million for construction of support facilities for personnel stationed at Diego Garcia; increases from \$400,000 to \$1 million DOD authority for emergency minor construction projects without specific authorization; makes clear congressional intent that commissary surcharge funds may be used to provide new commissaries and renovate existing commissaries anywhere in the world; permits the Secretary to acquire by exchange certain lands contiguous to Fort Bliss Military Reservation, El Paso, Texas; increases from \$2 million to \$3.3 million the authorization for the construction of shore-side facilities for the U.S.S. Arizona memorial in Hawaii; and permits the use of certain former military land conveyed to San Francisco for public purposes other than park and recreational uses thus permitting the city to construct a sewage treatment facility on the site. S. 1474—Passed Senate May 13, 1977. (VV)

Military enlistment and reenlistment bonuses.—Amends chapter 5, title 37, U.S.C. to extend for 15 months, from June 30, 1977, to September 30, 1978, present law authorizing the armed services to pay enlistment and reenlistment bonuses to selected enlisted personnel who possess a critical skill or to those who enlist for service in a critical skill including the combat arms; and adds a provision whereby a member would forfeit his bonus if he becomes technically unqualified in the skill for which the bonus was paid unless it is the result of an injury, illness, or other impairment which is not a result of his own misconduct. H.R. 583—Passed House February 8, 1977; Passed Senate amended May 2, 1977. (VV)

Military procurement authorization.—Authorizes \$35.955 billion for fiscal year 1978, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces; prescribes the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense; and authorizes the military training student loads. H.R. 5970—Passed House April



25, 1977; Passed Senate amended May 17, 1977; In conference. (144)

#### ECONOMY—FINANCE

**Export Administration—Arab boycott.**—In title I, amends and extends the Export Administration Act of 1969 to September 30, 1979; requires reviews of export control lists and rules and regulations issued under the act within 1 year of enactment; provides for a continuing analysis of national security export controls so that a country's Communist or non-Communist status is no longer the sole determinant of U.S. policy; provides for a review of national security export controls to determine whether modifications are necessary in light of evolving technology, the availability of restricted items from sources outside the United States, and other relevant matters; improves the role of industry representatives in formulating and implementing national security export controls; improves the process of export licensing review and decision; increases the penalties applicable to violations of the Export Administration Act; and otherwise improves the administration of U.S. export controls;

Exempts agricultural commodities purchased for export and stored in the United States from subsequent export restrictions; requires that when export controls are imposed on farm commodities for foreign policy reasons or domestic shortages, the President must submit a detailed report of his reasons to Congress which has 30 days to veto the action; requires a study of the national security impact of the export of technical information to restricted countries within 6 months of enactment; and adds reporting and notification requirements to the act;

In title II, seeks to prevent most forms of compliance with foreign boycotts; prohibits refusal to do business with blacklisted firms and boycotted friendly countries pursuant to foreign boycott demands; prohibits discrimination against other U.S. persons on the grounds of race, religion, sex, or national origin in order to comply with a foreign boycott; prohibits U.S. persons from furnishing information about another person's race, religion, sex or national origin for foreign boycott enforcement purposes; provides for public disclosure of requests to comply with foreign boycotts; requires domestic U.S. persons who receive such requests to disclose publicly whether they are complying with such requests; provides that these provisions apply to all domestic concerns and persons, including intermediaries in the export process;

Exempts the following from the antiboycott provisions: (1) transactions in which a unilateral and specific selection is made by a boycotting country, or national or resident thereof; (2) to allow United States persons residing in a foreign country to comply with the laws of that country with respect to his activities exclusively therein; (3) to permit a negative certification with respect to carriers or route of shipment in order to comply with requirements protecting against war risks and confiscation; and (4) to allow compliance with immigration or visa requirements with respect to the individual and members of his family; preempts all State foreign boycott laws; provides a 2-year grace period for agreements in effect on or before March 1, 1977, with three additional 1-year extensions available in cases where good faith efforts are being made; and generally strengthens U.S. law against foreign boycotts to reduce their domestic impact. H.R. 5840—Passed House April 20, 1977; Passed Senate amended May 5, 1977; Conference report filed. (140)

**Foreign corporate bribes and domestic disclosure.**—Amends the Securities Exchange Act of 1934 to require companies subject to the jurisdiction of the Securities and Ex-

change Commission to maintain accurate records, prohibit certain bribes, and expand and improve disclosure of ownership of the securities of U.S. companies;

In title I, requires companies subject to SEC jurisdiction to maintain strict accounting standards and management control over their assets; prohibits the falsification of accounting records and the deceit of accountants auditing the books and records of such companies; makes it a crime for U.S. companies to bribe a foreign government official for the specified corrupt purposes; imposes a maximum fine \$500,000 on companies and \$10,000 and 5 years imprisonment on individuals for violation of the criminal prohibitions;

In title II, requires those persons who already file reports with the SEC when they own more than 5 percent of the shares in a U.S. company to identify their residence, citizenship, and the nature of their beneficial ownership; provides for the development of a comprehensive system in publicly held companies; requires the Commission to consolidate the various beneficial ownership reporting requirements of the Securities Exchange Act into a centralized nonduplicative system for the collection of such information, and to tabulate and make it available to regulators and the public; requires the Commission, within 30 months of enactment, to report to Congress with respect to the effectiveness of the ownership reporting requirements and the desirability and feasibility of reducing or otherwise modifying the 5-percent disclosure threshold giving appropriate consideration to specified regulatory and public policy; and provides the Commission with authority to assure that the jurisdictional effectiveness of section 15(d) of the Securities Exchange Act is not inappropriately limited because of the use of nominee and street name registration of securities. S. 305—Passed Senate May 5, 1977. (VV)

**Interest rates (Regulation Q).**—Federal Credit Unions.—Extends from March 1, 1977, until December 15, 1977, existing authority (commonly known as Regulation Q) under the Interest Rate Control Act by which Federal financial regulatory agencies set interest rate ceilings on deposits in financial institutions under their respective jurisdictions; extends until August 31, 1977, the Treasury Department's authority to borrow funds from the Federal Reserve System;

Modernizes the powers of Federal credit unions under the Federal Credit Union Act in order that they may provide more contemporary financial services to their members; considers demand deposit accounts of state chartered credit unions as member accounts, if they qualify pursuant to state law, thus making them eligible for Federal share insurance; establishes varying self-replenishing lines of credit to member borrowers; removes the distinction between secured and unsecured loans and raises the maximum loan to 12 years (currently 5 years on unsecured loans and 10 years on secured loans); empowers the board of directors to establish their own loan maturity and collateral requirements; removes the \$2,500 maximum amount for unsecured loans; provides the necessary flexibility to meet members' needs in accordance with the applicant's creditworthiness and the credit union's soundness rather than arbitrary loan ceilings; permits real estate loans with maturities up to 30 years; and includes the following restrictions on such lending authority: (1) loans must be secured by a first lien, (2) loans must be for a one-to-four family dwelling, (3) the dwelling must be the principal residence of the borrower, and (4) the sales price must not exceed 150 percent of the median sales price of residential real property to be determined on a market area basis; al-

lows loans with maturities of up to 15 years for the purchase of mobile homes used as the member's residence, or for the repair, alteration or improvement of a member's residence; permits Federally guaranteed or insured loans, such as the VA guaranteed mobile home loans, with maturities as specified in those statutes; increases the officials' borrowing limit on unsecured loans from \$2,500 plus pledged shares to \$5,000 plus pledged shares and permits them to guarantee or endorse up to the same amounts without board approval; clarifies the existing provisions regarding the penalty for excess interest and the provision regarding loan amortization; ensures that a member may repay his or her loan prior to maturity with no penalty; authorizes loans to other credit unions and credit union organizations; and contains other provisions. H.R. 3385—Public Law 95—, approved , 1977. (VV)

**Securities and Exchange Commission Authorizations.**—Amends the Securities Exchange Act of 1934 to increase the authorization for fiscal year 1977 from \$55 million to \$56.5 million. S. 1025—Public Law 95—, approved , 1977. (VV)

Authorizes \$58,290,000 for fiscal year 1978 for the operation of Securities and Exchange Commission. S. 1311—Passed Senate May 25, 1977. (VV)

**Small business amendments—Disaster relief loans.**—Amends the Small Business Act to authorize \$954.7 million for the Small Business Administration for fiscal year 1978 of which \$47.1 million is for the surety bond guarantee program, \$4 million for the lease guarantee program, and \$171 million for salaries and expenses; places ceilings for the first time on SBA lending programs except for the physical and economic injury disaster loans which are open ended authorizations; places greater emphasis on the non-lending programs by (1) directing SBA to develop a small business procurement source data bank, (2) authorizing additional procurement officers to increase the total value of small business set asides awarded by the Federal Government, and (3) increasing the authorization for development of various business management training program; gives SBA the discretionary authority to suspend interest and principal payments on both direct and guaranteed loans made by private lenders; authorize SBA to certify a small business company's ability to perform a specific Government contract; makes handicapped sheltered workshops eligible for small business set-aside procurement contracts; directs that priority be given to labor surplus areas when awarding small business set-aside contracts; enables homebuilders to obtain SBA financial assistance by permitting financial for residential or commercial construction or rehabilitation for sale or rental; provides that nonprofit groups of 75 members or less who have organized for purposes of rehabilitating blighted urban or rural areas may also obtain loans; allows SBA to make compliance loans to small firms who must meet Federal regulatory standards adopted prior to 1974;

Authorizes the Administrator, upon certification by a State Governor, to make loans to small business concerns that have suffered economic injuries as a result of a disaster occurring after July 1, 1975, and are in need of financial assistance not available on reasonable terms in the disaster area; places a \$100,000 limitation on the amount of a loan and permits the Administrator to defer payment of principal and interest for 1 year; lowers the interest rate on physical disaster loans for the uninsured damaged portion of a principal residence and property from the present rate of 6% percent to the following: 1 percent on the first \$5,000 worth of damage, 2 percent on the second \$5,000,

and 3 percent on all damage above \$10,000; limits to 3 percent the interest rate on all other loans and permits the forgiveness of principal amounts over \$500 as follows: up to \$1,000 when the uninsured damage is equal to between 10 and 20 percent of the market value, up to \$2,000 when the uninsured damage is equal to between 20 and 30 percent of the market value, and up to \$3,000 when the uninsured damage is equal to 30 percent or more of the market value; gives qualifying applicants the option of receiving a one-third payment equal to the amount that would be forgiven in place of a loan; makes the loan rate of the Farmers Home Administration compatible with that of SBA by reducing from 5 to 3 percent the interest rate on loans to finance the repair or replacement of property, including crops and livestock, which was lost, damaged or injured because of a disaster occurring on or after July 1, 1976; authorizes SBA to increase the principal of a loan by not to exceed \$2,000 in order to insulate property which was damaged or destroyed during the period April 1, 1977, to October 1, 1977, whether or not the property was insured at the time of the damage; and requires the Administrator to submit a report to Congress evaluating the program and making recommendations as to its continuation, modification or termination. H.R. 692—Passed House February 9, 1977; Passed Senate amended May 19, 1977; Senate requested conference May 19, 1977. (VV)

Small business loan ceilings.—Amends the Small Business Act to increase the fiscal year 1977 authorization ceilings for the following SBA financial assistance programs: Business Loan and Investment Fund from \$6 billion to \$7.4 billion, Economic Opportunity Loans from \$450 million to \$525 million, and Small Business Investment Company Program from \$725 million to \$887.5 million; and amends the Small Business Investment Act of 1958 to increase the fiscal year 1977 ceiling on the Surety Bond Guarantee Program from \$56.5 million to \$110 million. H.R. 2647—Public Law 95-14, approved March 24, 1977. (VV)

U.S. International Trade Commission.—Authorizes \$12,187,000 to the U.S. International Trade Commission for fiscal year 1978; makes the Chairman, rather than the full Commission, responsible for administrative matters; and authorizes the Commission to continue publication of its reports on synthetic organic chemicals until 1981. H.R. 6370—Passed House April 25, 1977; Passed Senate amended May 17, 1977. (VV)

White House Conference on Small Business.—States as the sense of the Senate that the President should convene a White House Conference on Small Business to develop recommendations that will increase public awareness of the importance of small business; identify the problems of new, small, and independent business enterprise; and suggest appropriate governmental actions to encourage and maintain the economic interests and potentials of the small business community in order to strengthen the overall economy of the Nation. S. Res. 105—Senate agreed to March 28, 1977. (VV)

#### EDUCATION

Education of the Handicapped.—Extends certain programs under the Education of the Handicapped Act for 5 years, through fiscal year 1982, with authorizations for each of fiscal years 1978 through 1982, respectively, as follows: (1) Part C, Centers and Services to Meet Special Needs of the Handicapped—\$76 million, \$80 million, \$86 million, \$89 million, and \$93 million; Part D, Training Personnel for the Education of the Handicapped—\$77 million, \$82 million, \$87.5 million, \$92.5 million, and \$97.5 million; Part E,

Research in the Education of the Handicapped—\$20 million, \$22 million, \$24 million, \$26 million, and \$28 million; Part F, Instructional Media for the Handicapped—\$24 million, \$25 million, \$27 million, \$29 million, and \$29 million; and provides the authority for the Bureau of Education to support model education projects for all handicapped children under section 641 of the act. H.R. 6692—Passed House May 9, 1977; Passed Senate May 23, 1977. (VV)

Higher education technical amendments.—Makes technical and miscellaneous changes to higher education provisions contained in the Education Amendments of 1976 (Public Law 94-482). H.R. 6774. Public Law 95—, approved—1977. (VV)

Vocational education amendments.—Makes a number of technical amendments to title II of the Education Amendments of 1976, Public Law 94-482, dealing with printing and clerical errors and changing certain reporting dates; removes the \$25 million a year limit for State administrative expenses and authorizes funds under the basic State grant for this purpose with the requirement that States match Federal funds used; requires States to set forth in their State plan the amount of Federal funds it plans to retain at the State level for administration; and gives each local recipient the option of using a percentage of Federal funds which is equal to the percentage of Federal funds in their vocational education program or to use any amount of Federal funds as long as they are matched by State appropriated funds for administrative expenses. H.R. 3437—Public Law 95—, approved—1977. (VV)

#### ELECTIONS

Federal Election Commission Authorization.—Authorizes \$7.5 million for activities of the Federal Election Commission for fiscal year 1978. S. 1435—Passed Senate May 5, 1977. (VV)

Overseas citizens voting rights.—Amends the Overseas Citizens Voting Rights Act of 1975 and the Federal Voting Assistance Act of 1955 to improve the administration and operation of these laws; vests the authority and responsibility for collecting and disseminating absentee voting information to citizens overseas in the President's designee (currently the Secretary of Defense) under the Federal Voting Rights Assistance Act; authorizes utilization of the same ballot application and free airmail postage provisions presently contained in the Federal Voting Assistance Act for all citizens residing overseas; provides the designee with the authority to revise the absentee registration and ballot application forms currently recommended for use by military personnel and civilians temporarily residing abroad and to develop a single form which could also be used by citizens covered by the Overseas Voting Act; provides that any balloting material sent from the United States to persons covered by either act or returned by them to this country shall be sent by priority airmail or by the most expeditious postal service available; directs the designee to publicize and notify appropriate citizens and State election officials of the availability of free postage and the expedited mail delivery of balloting material; and provides that the exercise of the right to register or vote in Federal elections by citizens residing overseas shall not affect the determination of his place of residence or domicile for the purpose of any tax imposed under Federal, State, or local law. S. 703—Passed Senate May 9, 1977. (VV)

#### EMPLOYMENT

CETA.—Extends the authorization of sums as may be necessary for all titles of the Comprehensive Employment and Training Act (CETA) through fiscal year 1978; extends

the amendments to title VI made by the Emergency Jobs Programs Extension Act of 1976 which provides that each prime sponsor of a public service employment program may use its allocation, first, to sustain its existing number of public service job holders under the Act, and shall thereafter fill any additional public service jobs with low-income persons unemployed for at least 15 weeks who have been receiving or are eligible for unemployment compensation, and also provide that 50 percent of title VI job vacancies due to attrition must meet those eligibility requirements, but the remaining 50 percent may be filled under the original title VI requirements (15 days unemployment in areas having 7 percent or higher unemployment rates, and 30 days unemployment in other areas). H.R. 2992—Passed House March 29, 1977; Passed Senate amended May 25, 1977. (VV)

Emergency unemployment compensation.—Extends the Emergency Unemployment Compensation Act to October 31, 1977, to provide a maximum of 13 weeks of emergency benefits (which combine with the 26 weeks of regular and 13 weeks of extended benefits for a total of 52 weeks of unemployment benefits) in States where the insured unemployment rate is 5 percent or more, with a phase-out under which individuals eligible before October 31, 1977, may continue to receive benefits until January 31, 1978; extends until April 30, 1977, the maximum 26 week program now in effect (which combine with 26 weeks of regular and 13 weeks of extended benefits for a total of 65 weeks of unemployment benefits) in order to avoid terminating benefits for certain participants in that program; provides that the cost of emergency unemployment compensation paid after March 31, 1977, be met from nonrepayable general revenues without the present law requirements that the costs ultimately be met from Federal Unemployment Tax;

Provides that, in addition to any eligibility requirements of State law, an individual would be disqualified from receiving emergency benefits for failing to (1) actively seek work, (2) apply for any suitable work which was referred by the State agency, or (3) accept any offer of suitable work; defines suitable work as that which (1) is within the capabilities of the claimant, (2) meets conditions of present Federal law, (3) meets the conditions of State law and practices pertaining to suitable or specific disqualifying work such as unreasonable travel distance or threat to morals, health, or safety, (4) pays wages equal to Federal or State minimum wage, (5) pays gross average weekly remuneration equal to the individual's weekly unemployment benefits plus any Supplemental Unemployment benefits he might be entitled to, and (6) was listed with the State employment service or offered in writing; allows a State to waive these requirements if an individual furnishes satisfactory evidence that prospects for obtaining work within a reasonable period of time in his or her occupation are good;

Establishes new statutory authority and procedures for the treatment of fraud and erroneous payments; disqualifies applicants submitting false or erroneous information; requires States with certain exceptions, to recover any overpayments made to individuals; makes fraud in connection with the program a Federal crime and imposes a fine of up to \$10,000 and imprisonment for up to 5 years;

Provides for State implementation of changes made by this act; requires each State to enter into a modification if its present agreement within 3 weeks after the Secretary of Labor proposes the modification to the State; provides that if modification is not entered into, the Unemployment Compensation Program in that State would expire within the last week which ends on



or before March 31, 1977; permits Kentucky, which does not have a scheduled meeting of its legislature during 1977, to defer until 1979 compliance with certain requirements of the act;

Simplifies administration by terminating an individual's entitlement to emergency benefits two years after the end of the benefit year for which regular benefits were payable; extends for two years, through 1979, the moratorium under which the Federal unemployment tax is automatically increased to recapture any loan to a State which is unpaid after 2 years; prohibits benefits to an individual who was illegally working at the time he earned his eligibility; allows States to deny unemployment compensation to teachers during brief mid-year vacation periods if the teacher was employed by the school system immediately before the start of the vacation and has reasonable assurance of the employment continuing at the conclusion of the vacation; makes clear that groups of local governments are to be provided the same options for financing unemployment compensation as those provided to single government units; extends from September 30, 1979, to March 31, 1980, the provision contained in Public Law 94-566 which requires States to reduce the unemployment benefits of an individual by the amount of any public or private pension including social security and railroad retirement annuities in order to conform this enactment date with the final reporting extension granted the National Commission of Unemployment Compensation; extends the time by which the National Commission on Unemployment Compensation must submit its interim report from March 31, 1978, to September 30, 1978, and the time by which it must submit its final report from January 1, 1979, to July 1, 1979; and amends present law to require an affirmative vote of the Senate and the House to make effective the President's quadrennial recommendations regarding the salary increases of Members of Congress, the Federal judiciary, Cabinet officials and other top Federal personnel. H.R. 4800—Public Law 95-19, approved April 12, 1977. (82)

Public works employment.—Authorizes an additional \$4 billion to extend the program of grants to State and local governments to provide jobs through construction in places with the most distressing levels of unemployment as originally authorized under Title I of the Public Works Employment Act of 1976; provides that 65 percent of the funds be allotted on total numbers of unemployed and 35 percent on the basis of the relative severity of unemployment, with States participation in the 35 percent allocation only if their unemployment rates exceed 6.5 percent for the most recent 12-month period; provides that no State shall receive less than three-fourths of 1 percent nor more than 12.5 percent; requires that within a State 70 percent or more of the funds be spent in areas with rates of unemployment above the national average and 30 percent for areas with rates below the national average but above 6.5 percent; provides a \$70 million set aside for grants that were not received, considered or rejected solely because of an error by a U.S. employee or officer; contains a 2½ percent set-aside for Indian and Alaskan Natives projects to insure a substantial fund for such projects while permitting high-unemployment non-Indian communities a competitive chance to be awarded projects in States with Indian communities; includes the transportation of water to drought-stricken areas within the term "public works project" and permits an applicant who received a grant to substitute one or more projects for the project for which the grant was made under certain conditions approved by the Administrator; requires that all articles, materials and supplies used in a project be produced

and made from substances mined or produced in the U.S. except in certain cases; requires a grant applicant to expend 10 percent of the funds for minority business enterprises if available within project areas; requires that priority and preference be given to pending applications resulting in energy conservation; repeals the provision permitting the Secretary to consider the unemployment rate in adjoining areas from which the labor force for a project may be drawn; ensures that all laborers and mechanics employed on projects are paid the prevailing wage rate under the Davis-Bacon Act; requires the Secretary to consider only those applications for grants submitted on or after December 23, 1976, and before the date of enactment except for applications from the Trust Territory of the Pacific, Indian tribes and Alaska Native Villages or any applicant if a sufficient number of applications were not received; requires the Secretary of Commerce to study public works investment in the U.S. and report his findings to Congress within 18 months of enactment; requires the promulgation of regulations assuring special consideration to the employment of qualified disabled and Vietnam-era veterans;

Mandates, in Title II, the obligation of funds for water resource projects for fiscal 1977 (with the exception of the Meramec Dam in Missouri) and states congressional intent not to uphold any prospective budget rescissions or deferrals regarding these projects; provides that the rates of interest or discount used to access the return on Federal investment in projects carried out by the U.S. Army Corps of Engineers or the Department of Interior Bureau of Reclamation be those established by the Water Resources Development Act of 1974 or by prior law authorizing such projects. H.R. 11—Public Law 95-28, approved May 13, 1977. (48,123)

#### ENERGY

Coal Conversion Authority.—Extends for 6 months, from June 30, 1977, until December 31, 1977, the authority for the Federal Energy Administration to issue coal conversion orders pursuant to section 2 of the Energy Supply and Environmental Coordination Act of 1974 in order that Congress has sufficient time to study pending coal legislation without disrupting the present conversion program. S. 1468—Passed Senate May 11, 1977. (VV)

Deepwater ports.—Extends through fiscal year 1980 the annual \$2.5 million authorization under the Deepwater Port Act of 1974 which established a licensing and regulatory program governing offshore deepwater port development beyond the territorial limits of the United States. S. 891 (Identical to H.R. 6401)—Passed Senate May 17, 1977. H.R. 6401—Public Law 95—, approved 1977. (VV)

Department of Energy.—Creates a cabinet-level Department of Energy (DOE) to permit coherent administration of the national energy policy by merging the following components: all functions of the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission; four Regional Power Marketing administrations and the power-marketing functions of the Bureau of Reclamation currently under the Department of Interior; functions relating to fuel supply and demand analysis currently under the Bureau of Mines; authority for development and promulgation of new building conservation standards now vested in the Secretary of HUD; Commerce Department programs to promote voluntary industrial energy conservation; jurisdiction over three naval oil reserves and three naval oil shale reserves currently administered by the Department of Defense; authority currently vested in the Interstate Commerce Commission to regulate oil pipelines; and authority

to publish guidelines for the Rural Electrification Administration on the issuance of loans or loan guarantees for generation and transmission facilities;

Provides that responsibility for promulgation of automobile efficiency standards will remain with the Department of Transportation but gives the Energy Secretary the right to appeal to the President if he is dissatisfied with the DOT's regulations; leaves responsibility for policing clean air standards with the Environmental Protection agency; continues responsibility for actual leasing of resources for the extraction of energy sources from public land in Interior, but places control over economic terms and conditions of such leases in DOE; requires cabinet-level departments and agencies with conservation responsibilities to designate a principal conservation officer within their Department;

Creates a three-member Energy Regulatory Board, whose members shall be appointed by the President, subject to Senate confirmation, with responsibility for all major direct pricing actions and certification of pipeline routes; gives the Board primary responsibility for actions which directly establish rate and charges under the Natural Gas Act and the Federal Power Act, including the well-head pricing for natural gas, wholesale electric rates, pipeline transmission charges; gives the board primary responsibility for actions under the Emergency Petroleum Allocation Act which affect the price and allocation of crude oil or oil products; creates an Energy Information Administration and an Economic Regulatory Administration; strengthens energy-related data-gathering authority; provides for Congressional review of transfer authority relating to oil transportation and remedial orders by the Energy Regulatory Board; requires an annual financial profile of the energy industry which includes an accounting of foreign ownership of domestic energy sources; contains measures to ensure public accountability; requires the preparation and submission of a national energy policy plan. S. 826—Passed Senate May 18, 1977. (148)

ERDA authorization.—Authorizes a total of \$4,946,261,000 for the Energy Research and Development Administration for fiscal year 1977, of which \$1,175,671,000 is designated for non-nuclear scientific research and programs, and \$3,770,590,000 is designated for non-weapon nuclear scientific research programs; includes: \$461,801,000 for fossil energy; \$286.2 million for solar energy; \$65.7 million for geothermal energy; \$221 million for conservation research and development; \$10 million for a high Btu pipeline gas demonstration plant; \$5 million for a fuel gas low Btu demonstration plant; and \$10 million for solar energy projects; authorizes funds for numerous plans to make improvements to comply with safety regulations; contains authorizations for capital equipment not related to construction to replace obsolete or worn-out equipment and to purchase certain new equipment to meet the needs of expanding progress and new technology at ERDA installations; provides an additional \$50 million for the clean boiler fuel demonstration plant authorized by Public Law 94-187 and \$15 million for the 5 megawatt solar thermal test facility authorized by Public Law 94-187; provides guidelines under which funds for fossil energy programs may be utilized; de-authorizes authorized fossil energy projects which were not appropriated within 3 full fiscal years; allows the Administrator to assist in the demonstration of the production of synthesis gas, methane, methanol, anhydrous ammonia, and similar energy intensive products from municipal waste by entering into agreements with units of local government or persons proposing to construct facilities for the manufacture of such

products; provides authority by which ERDA may reprogram funds between major program areas; directs ERDA to relate the funds authorized and appropriated in annual authorization and appropriation measures to the objectives and goals of the various enabling legislation under which the Agency operates; amends the Federal Nonnuclear Energy Research and Development Act of 1974 to transfer responsibility for preparation of demonstration project water assessments from ERDA to the Water Resources Council; requires the Administration to classify the recipients of ERDA contracts into various categories including: Federal agency, non-Federal governmental entity, profitmaking enterprise, non-profit enterprise, and nonprofit education institution; authorizes the establishment of a small grants program to promote the research, development, and demonstration of energy related systems and technologies appropriate to the needs of local communities; requires the Administrator, in consultation with EPA, to report to the Congress on the environmental monitoring, assessment and control efforts related to its various energy demonstration projects;

Authorizes \$464,302,000 for work in biomedical and environmental research, operational safety, environmental control technology, the materials sciences, and molecular and geosciences portion of the basic energy sciences program and program support; provides \$26.7 million for plant and capital equipment obligations including construction, acquisition, or modification of facilities, land acquisition, and acquisition and fabrication of capital equipment not related to construction; prohibits ERDA from starting projects if the current estimated cost exceeds the original estimated cost by more than 25 percent;

Authorizes ERDA to transfer sums from its "Operating Expenses" to other agencies for work which the moneys were appropriated; authorizes "Operating Expenses" and "Plant and Capital Equipment" as no year funds; authorizes any Government-owned contractor operated laboratory, energy research center or other laboratory performing functions under contract to ERDA to use a reasonable portion of its operating budget for funding employee suggested research projects up to the pilot plant state of development; permits ERDA to contract for advanced architect/Administrator services for construction projects essential to meet the needs of national defense or the protection of life, property, health or safety prior to congressional authorization; requires any officer or employee of ERDA in a policy making position to report certain known financial interests in various energy technologies and related resources; directs the Administrator to develop regulations that would avoid conflicts of interest in ERDA contracts with private persons or organizations involved in energy research and development; and authorizes the establishment of a National Energy Extension Service. S. 36—Public Law 95—, approved 1977. (VV)

ERDA defense program.—Authorizes a total of \$1,780,436,000 for fiscal year 1977 and \$2,030,144,000 for fiscal year 1978 for certain Energy Research and Development Administration (ERDA) programs which have military applications; includes funding of the three national defense programs: (1) weapons activities—supporting the operation of the three weapons laboratories; research on advanced weapons and the full scale development of the following 7 weapons: B-61 and B-61-4 tactical bombs, Trident I missile warhead, full fuzing option strategic bomb, Mark 12-A warhead, 8-inch artillery projectile, and common warhead for land attack cruise missiles and short range attack missile; continued development of improved nuclear test detection methods necessary to

monitor compliance with the limited Test Ban Treaty, Threshold Test Ban Treaty and Peaceful Nuclear Explosives Treaty; operation of the Nevada Test Site and the related costs of tests of advanced weapons concepts; maintenance and reliability assessment of the current weapons stockpile, production engineering for new weapons, nuclear materials recycle and recovery and security measures to protect nuclear shipments; and production of the following 9 new weapons for the war reserve: B-61-3, B-61-4, and B-61-5 tactical bombs, Lance enhanced radiation warhead, Trident I missile warhead, full fuzing option strategic bomb, Mark 12-A warhead, 8-inch artillery projectile, and common warhead for the land attack cruise missiles and the short range attack missile; (2) special materials production—supporting 3 reactors which produce enriched weapons grade uranium, plutonium and tritium; R & D associated with special materials production and management of radioactive wastes; and surveillance, maintenance and management of production reactor waste; and (3) nuclear explosives applications—supporting development of understanding of applications of nuclear explosives for peaceful purposes; includes \$411,344,000 for plant and capital equipment; provides for cost variations in the authorized amounts for projects; provides authority to merge funds appropriated in different years for the same requirement category; directs that funds appropriated pursuant to this act remain available until expended; authorizes ERDA to proceed to design any project subject to the total amount authorized for the activity; authorizes ERDA to retain monies received from outside sources and use them for operating funds; and authorizes ERDA to transfer funds to other agencies supporting its programs. S. 1339—Passed Senate May 22, 1977. (VV)

ERDA synthetic fuel loan guarantee program.—Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to establish a loan guarantee program to be administered by the Energy Research and Development Administration (ERDA) whereby the Administrator may guarantee the payment of interest and principal of bonds, debentures, notes, and other obligations issued for the purpose of financing the construction and initial operation of commercial-sized demonstration facilities for the conversion of biomass into synthetic fuel or other useable forms of energy; authorizes guarantees of up to 75 percent of the total project cost and, during the construction and start up period, up to 90 percent; limits the total outstanding indebtedness that may be guaranteed at any one time to \$300 million; requires ERDA, before approving an application, to notify the appropriate State and local governmental officials and to give the Governor of the State an opportunity to make his recommendation respecting the facility; prohibits ERDA from guaranteeing a project if the Governor recommends against it; authorizes the Administrator, in the event of default, to complete the project and assure management of the facility including the authority to sell the products or energy produced; provides that any patents and technology resulting from the facility will be treated as assets in cases of default and requires that the guarantee agreement contain a provision assuring their availability to the Government if needed to complete the facility; and requires ERDA to submit a report of the proposed guarantee and facility to the appropriate committees of Congress which shall have 90 days to disapprove by passage of a disapproval resolution. S. 37—Passed Senate March 31, 1977. (VV)

Natural gas emergency.—Authorizes the President to declare a natural gas emergency if he finds that a severe shortage exists or is

imminent in the United States which would endanger the supply of natural gas for high-priority uses and the exercise of his authorities is reasonably necessary to assist in meeting requirements for such uses; provides that these authorities shall terminate when the President finds that shortages no longer exist and are no longer imminent;

Emergency allocation.—Authorizes the President, during a declared natural gas emergency, to require (1) any interstate pipeline to make emergency deliveries or transport interstate natural gas to any other interstate pipeline or a local distribution company served by an interstate pipeline; (2) any intrastate pipeline to transport interstate natural gas from one interstate pipeline to another or to any local distribution company served by an interstate pipeline; or (3) the construction and operation by any pipeline of necessary facilities to effect deliveries or transportation; directs the President, in issuing such orders, to consider the availability of alternative fuel to users of the interstate pipeline ordered to make deliveries and to determine that they would not have an adverse effect on the natural gas supply or exceed the transportation capacity of the pipeline; provides that these authorities shall terminate by April 30, 1977, or after the President terminates the emergency, whichever is earlier;

Emergency Sales at Deregulated Prices.—Authorizes interstate pipelines or local distribution companies to purchase supplies of natural gas for delivery before August 1, 1977, from intrastate pipelines at unregulated prices as reviewed by the President for fairness and equity; provides that these purchases could be delivered from intrastate pipelines and any producer of natural gas not affiliated with an interstate pipeline unless such natural gas was produced from the Outer Continental Shelf, and the sale or transportation of the gas was not, immediately prior to the date of the contract for purchase of the gas, certificated under the Natural Gas Act; authorizes the President to require, by order, any interstate or intrastate pipeline to transport gas and operate facilities necessary to carry out emergency purchase contracts;

Miscellaneous.—Authorizes the President to subpoena information to carry out his authority under the Act; contains antitrust protection provisions available as a defense against civil or criminal action brought against any person for violation of the antitrust laws with respect to actions taken pursuant to a Presidential order; gives the Temporary Emergency Court of Appeals exclusive jurisdiction to review all cases including any order issued or other action taken under this act; imposes civil penalties of up to \$25,000 a day for violations of orders and \$50,000 a day for willful violations; directs the President to require weekly reports which shall be made available to the Congress on prices and volume of natural gas delivered, transported or contracted for, and to report to Congress by October 1, 1977, on all actions taken under this act; and authorizes the President to delegate all or any portion of the authority granted to him to such executive agencies or officers he deems appropriate. S. 474—Public Law 95-2, approved February 2, 1977. (21)

Radiation exposure.—Extends the program of the Energy Research and Development Administration (ERDA) to provide financial assistance to limit radiation exposure resulting from the widespread use of sand containing mill tailings in the construction of approximately 500 public and private buildings in the Grand Junction, Colorado area; calls for a cooperative arrangement with the State of Colorado whereby ERDA is authorized to provide 75 percent of the costs of the program; extends the deadline for applying for remedial work under the program from 4 to 7 years; provides that property owners



who removed mill tailings at their own expense prior to the date of enactment and without the administrative determination required may apply for such reimbursement within the first year of enactment; permits the State of Colorado to waive the requirement that it perform the remedial work; and increases the authorization therefor from \$5 million to \$8 million. S. 266—Passed Senate April 4, 1977. (VV)

**Stripmining control and reclamation.**—Establishes a program for the regulation of coal surface mining activities and the reclamation of coal mined lands to assure that surface coal mining operations—including exploration activities and the surface effects of underground mining—are conducted so as to prevent or minimize degradation to the environment and that such surface coal mining is not conducted where reclamation is not feasible; sets forth a series of minimum uniform requirements for all coal surface mining on both Federal and State lands which deal with (1) preplanning (requires that an operator applying for a permit do certain research regarding adjacent land uses, the characteristics of the coal and the overburden, and hydrologic conditions and requiring inclusion in his application of the planned methodology and timetable for the operation in a reclamation plan); (2) mining practices (requires that mining methods be used which will minimize or obviate environmental damage or injuries to public health and safety including restrictions on the placement of overburden, blasting regulations, water pollution control requirements, and waste disposal standards); and (3) post-mining reclamation (requires reclamation and restoration of the mined land to its pre-mined condition including backfilling and regrading to approximate original contour, restoration of water quality and quantity, revegetation to pre-mining conditions and elimination of erosion and sedimentation); provides that these minimum Federal standards be administered and enforced by the States and by the Secretary of the Interior on public lands; authorizes funds to assist States in improving their regulatory and enforcement programs; provides for Federal enforcement of a State program if a State fails to comply with the Act;

Provides for the protection of scarce and vital water resources in the permit application requirements, reclamation standards and provisions for designation of areas unsuitable for mining; provides for a mechanism on both State and Federal lands for citizens to petition that certain areas be designated as unsuitable for surface coal mining; prohibits stripmining of lands which cannot be reclaimed under the standards of the Act, national park areas (except for such lands which do not have significant forest cover within those national forests west of the 100th meridian); and areas which would adversely affect such parks; prohibits stripmining 300 feet from an occupied building, 100 feet from a public road or 500 feet from an underground mine;

Permits certain variances to the mining-reclamation standards of the bill by allowing (1) a surface mine operator to postpone reclamation of limited segments of his mined area where he can prove to the regulatory authority that such segments are necessary to the operation of a planned underground coal mine; and (2) the Secretary of the Interior at his discretion to permit variances for experimental practices that show potential for improved environmental protection over prescribed or currently accepted practices; requires with regard to lands where the Federal government owns the coal but not the surface estate that if the surface owner does not consent, he shall be compensated at twice the difference between the fair market value, without reference to the coal, before and after mining plus relocation costs, 2 years loss of income, and other damages;

exempts mining operators with under 100,000 tons annual production from compliance with provisions of the Act for 24 months;

Bans strip mining in alluvial valleys only if it interrupts or prevents farming but exempts strippers who were already mining in 1976 or had received a State permit to do so by January 4, 1977;

Requires that applicants seeking to strip-mine on prime farmland demonstrate to the State regulatory authority that they can restore the land to its full premining agricultural potential;

Establishes a fund to be used to reclaim abandoned mined lands to be derived from a reclamation fee to be levied on every ton of coal mined at 35 cents per ton for surface mined coal and 15 cents per ton for all coal mined by underground methods or 10 percent of the value of the coal at the mine, whichever is less; requires that 50 percent of all fees collected in any one State be returned to that State; provides that the fee does not apply to lignite coal;

Provides that, beginning no later than 6 months from the date of enactment continuing until a State program has been approved or a Federal program has been implemented, the Secretary is required to carry out a Federal enforcement program which includes inspection and enforcement actions in accordance with the act; and contains comprehensive provisions for inspections, enforcement notices and orders, administrative and judicial review, penalties, and citizen participation. H.R. 2—Passed House April 29, 1977; Passed Senate amended May 20, 1977. (159)

#### ENVIRONMENT

**Disaster relief programs.**—Amends the Disaster Relief Act Amendments of 1974 to extend the authorizations for the Federal disaster assistance programs of the Federal Disaster Assistance Administration, which expire on June 30, 1977, through fiscal year 1980. H.R. 6197—Passed House May 17, 1977; Passed Senate amended May 24, 1977. (VV)

**Drought Emergency Authority.**—Provides temporary authorities to the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976-77 drought conditions affecting irrigated lands in the western States; authorizes the Secretary, acting through the Bureau of Reclamation and the Bureau of Indian Affairs, to: (1) study available means to augment, utilize, or conserve Federal reclamation and Indian irrigation projects water supplies and to undertake construction (which must be completed by November 30, 1977), management, and conservation activities to mitigate drought damage, (2) acquire water supplies by purchase from willing sellers and redistribute the water to users based upon priorities he determine, and (3) undertake evaluations and reconnaissance studies of potential facilities to mitigate the effects of a recurrence of a drought emergency and make recommendations to the President and Congress; provides that payment for water acquired from willing sellers be at negotiated prices; directs the Secretary to determine the priority of need in allocating the acquired or developed water; authorizes the Secretary to defer without penalty, the 1977 installment charge payments, including operation and maintenance costs, owed to the U.S. on Federal reclamation projects, with the costs to be added to the end of the repayment period which may be extended if necessary; requires that this program be coordinated, to the extent practicable, with emergency and disaster relief operations conducted by other Federal agencies under existing provisions of law; requires the Secretary to report to Congress by March 1, 1978, on all expenditures made under this act; authorizes the Secretary to make interest-free five year loans to individual irrigators for construction, management and conservation activities or acquisi-

tion of water; authorizes \$100 million to carry out the water purchase and reallocation (water bank) program of which 15 percent shall be available to carry out other programs authorized by this act; and provides that up to 15 percent of fiscal 1977 funds available to the Secretary for the Emergency Fund Act may be used for non-Federally financed irrigation projects, 5 percent for State Government drought emergency programs, and \$10 million for the purchase of water. S. 925—Public Law 95-18, approved April 7, 1977. (54)

**Drought emergency relief.**—Authorizes \$225 million in grant and loan authority to the Economic Development Administration for assistance to States, Indian tribes or units of local government with a population of 10,000 or more for drought-related projects; includes among the permissible activities for which grants may be made the improvement or expansion of existing water supply facilities, construction of new facilities, well drilling or impoundment where appropriate, transportation of water by pipeline, and purchase of water if it is the most economic method of providing the needed supply; gives the Secretary of Commerce authority to designate areas eligible for assistance; limits grants to 50 percent of the cost of any project and provides that loans shall be at 5 percent interest for not to exceed 40 years and at terms determined by the Secretary; directs the Secretary to consider the relative needs of the applicants giving priority to communities facing the most severe problems; permits obligation of funds for drought impacted projects conducted by eligible applicants during fiscal year 1977 if they are compatible with the purposes of the act; permits funds to be obligated to December 31, 1977, and requires that projects be completed by April 30, 1978; and extends the time allowed for convening the White House Conference on Balanced Growth and Economic Development from 12 to 18 months after the date of enactment of Public Law 94-487. S. 1279—Public Law 95-31, approved May 23, 1977. (VV)

**Earthquake hazards reduction.**—Establishes a national earthquake hazards reduction program under the direction of the President to minimize the loss and disruption resulting from future earthquakes; specifies the objectives of the program which includes the following four elements: (1) a research element dealing with fundamental earthquake risk analysis for land-use consideration, hazards assessment, and engineering and research to reduce earthquake vulnerability; (2) an implementation plan to be prepared within 6 months setting year-by-year targets through at least 1985, specifying roles for Federal agencies, and recommending appropriate roles for State and local units of government, individuals, and private organizations; (3) a State assistance program allowing assistance to the States under the Disaster Relief Act of 1974; and (4) the opportunity for wide sectors of the population to participate in the formulation and implementation of the program; calls for cooperation among a number of Federal agencies including the U.S. Geological Survey and the National Science Foundation; requires the President to report annually to the Congress on progress achieved in the program; and authorizes therefor \$55 million, \$70 million and \$80 million over a 3-year period for the U.S. Geological Survey and National Science Foundation to undertake specific activities and such sums as necessary for other agencies involved in the program. S. 126—Passed Senate May 13, 1977. (VV)

**Endangered species.**—Extends through fiscal year 1980 the authorization for section 6(1) programs under the Endangered Species Act of 1973 at a rate of \$9 million for the

Department of the Interior and \$3 million for the Department of Commerce to assist States in developing programs for the protection of threatened and endangered species of fish, wildlife, and plants. S. 1316—Passed Senate May 25, 1977. (VV)

National Advisory Committee on Oceans and Atmosphere.—Repeals the Act of August 16, 1971, which established a National Advisory Committee on Oceans and Atmosphere and establishes a new and smaller National Advisory Committee on Oceans and Atmosphere (NACOA) to replace it, consisting of 15 members (which is reduced from 25 in the original act) appointed by the President for staggered 3-year terms; sets more stringent qualifications for membership; provides for the transfer of the personnel, positions, records, and unexpended funds to the new Committee; directs the Committee to undertake a continuing review of national ocean policy (on a selective basis), coastal zone management, and the status of U.S. marine and atmospheric science and service programs and advise the Secretary of Commerce with respect to the National Oceanic and Atmospheric Administration; requires the Committee to submit a report by June 30 of each year to the President and Congress and such other reports as may from time to time be requested; gives the Secretary of Commerce 60 days (instead of 90 days) to review and comment on the annual report; directs the Secretary to provide administrative support and services to the Committee; and authorizes \$480,000 for fiscal year 1978. H.R. 3849—Passed House May 16, 1977; Passed Senate amended May 23, 1977. (VV)

Noise control.—Authorizes \$10.9 million for general technical assistance, regulatory and administrative responsibilities under section 19 of the Noise Control Act of 1972 and \$2.1 million for research and development for fiscal year 1978. S. 1511—Passed Senate May 18, 1977. (VV)

Safe drinking water.—Amends the Safe Drinking Water Act of 1974 to extend through fiscal year 1978 the following authorizations which expire on September 30, 1977: \$17 million for technical information and training, \$20.5 million for State water supply supervision programs, \$6 million for State underground injection control program, \$25 million for technology demonstration grants, and \$16 million for research and development activities; and requires the Administrator of the Environmental Protection Agency to make grants under section 144(c) of the Act which authorizes funding of projects demonstrating technology for recycling waste waters for drinking purposes. S. 1528—Passed Senate May 24, 1977. (VV)

Sea grant program.—Extends for 2 years, through fiscal 1979, the authorization for the national sea grant program as follows: \$50 million annually for the basic sea grant program; \$5 million annually for national projects, and \$3 million annually for international cooperation assistance. H.R. 4301—Passed House May 16, 1977; Passed Senate amended May 24, 1977. (VV)

#### FISHERIES

Atlantic tunas.—Extends for an additional 3 years, until 1980, the Atlantic Tunas Convention Act of 1975 which implemented an international convention governing fishing for tuna and tuna-like fishes in the Atlantic Ocean and authorizes therefor such sums as necessary; and redefines the term "fishery zone" to mean the 200-mile fishery zone described in Public Law 94-265. H.R. 6205—Public Law 95—, approved 1977. (VV)

Commercial fisheries.—Extends the Commercial Fisheries Research and Development Act for 2 years, through fiscal 1980, and increases the annual authorization for fiscal year 1978 and the two subsequent years as follows: \$10 million for section 4(a) general programs (increased from \$5 million); \$3 million for section 4(b) which provides funds

on an emergency basis if there is a commercial fishery disaster or serious disruption affecting future production due to a resource disaster arising from natural or undetermined causes (increased from \$1.5 million); and \$500,000 for the section 4(c) program of grants to develop new commercial fisheries (increased from \$100,000). H.R. 6206—Passed House May 10, 1977; Passed Senate amended May 17, 1977. (VV)

Fishery conservation zone transition.—Gives Congressional approval of the fishery agreements between the United States and the People's Republic of Bulgaria, the Socialist Republic of Romania, the Republic of China, the German Democratic Republic, the Union of Soviet Socialist Republics, and the Polish People's Republic; provides that these agreements will enter into force on the date of enactment of this joint resolution; waives the 60-day Congressional review period; limits to 7 days the 45 day period for review and comment on application permits required of the Regional Fishery Management Councils created under the Fishery Conservation Zone Act during 1977 for those applications received by the Council on or before the date of enactment and those received by the Council from the Secretary of State after the date of enactment to provide for an orderly transition from the 12 mile to 200 mile fishing limit; waives, until May 1, 1977, the requirement that foreign fishing vessels have a valid permit on board and permits the Secretary to waive the fee required before fishing permits may be issued if he is satisfied that the foreign nation will pay the fee before May 1, 1977; and repeals, effective March 1, 1977, the Northwest Atlantic Fisheries Act of 1950. H.J. Res. 240—Public Law 95-8, approved February 21, 1977. (VV)

Gives Congressional approval of the fishery agreements between the United States and Spain, Japan, South Korea, and the countries of the European Economic Community (Iceland, France, Italy, Luxembourg, the United Kingdom, Denmark, Belgium, West Germany, and the Netherlands); contains essentially the same provisions as H.J. Res. 240 (Public Law 95-240) to provide for an orderly implementation of foreign fishing within the 200-mile fishery zone of the United States after March 1, 1977, including the 7-day period of comment by the Fishery Management Councils and the public with respect to applications for permits, the May 1 extension of time for the payment of fees and permit requirements, and waives the 60-day Congressional review period. H.R. 3753—Public Law, 95-8, approved March 3, 1977. (VV)

Fishermen's protection reimbursement program.—Extends the provisions of the Fishermen's Protective Act of 1967 which expires October 1, 1977, to October 1, 1979; establishes a Federal Government loan program whereby the Secretary of Commerce may make a loan after October 1, 1977, to the owner or operator of any U.S. vessel to replace or repair vessels or gear lost, damaged, or destroyed by any foreign vessel; conditions loans upon assignment to the Secretary of all rights of recovery and directs the Secretary, with the assistance of the Attorney General, to take appropriate actions to collect on any right assigned to him; cancels repayment of a loan if it is determined that the owner or operator was not at fault; and provides that loans may be granted for any damage which occurred after October 1, 1976. S. 1184—Passed Senate May 24, 1977. (VV)

#### GENERAL GOVERNMENT

Age discrimination report.—Nutrition programs for elderly.—Amends the Age Discrimination Act of 1975 to extend for 6 months, until November 1977, the time in which the U.S. Commission on Civil Rights must submit its report on unreasonable discrimination based on age in programs and activities receiving Federal financial assistance; and

Amends the Older Americans Act to ex-

tend the surplus commodities provision of the title VIII nutrition program for the elderly through fiscal year 1978 in order that it will coincide with the authorization period of the other programs of the act; and gives States the option to receive cash in lieu of such commodities. H.R. 6668—Passed House May 9, 1977; Passed Senate amended May 18, 1977. (VV)

Federal assistance program information.—Increases the availability of information about Federal domestic assistance programs by requiring the Director of the Office of Management and Budget (OMB) to: (1) establish and maintain a data base containing specified information on all Federal domestic assistance programs; (2) develop and maintain a computerized information system to provide for the widespread availability of information contained in the data base by computer terminal facilities; and (3) publish annually a catalog of Federal domestic assistance programs containing information from the data base, a detailed index and any other information deemed appropriate; authorizes therefor \$1.2 million for the first year; \$1.7 million the second year and \$2.2 million the third year;

Amends section 201 of the Intergovernmental Cooperation Act of 1968 to give OMB the responsibility to insure that information is provided to the States through their Governors or designated information centers on Federal financial assistance; requires the Director to report his recommendations to Congress for improving, consolidating and further developing Federal financial information systems; and requires the General Accounting Office to submit a report to Congress 1 year after enactment on actions taken by OMB to implement this act and, within 2 years of enactment, a progress report including an evaluation of its effectiveness and any legislative recommendations. S. 904—Passed Senate May 17, 1977. (VV)

GAO audits of IRS and ATF.—Amends the General Accounting and Auditing Act of 1950 to provide that the General Accounting Office may conduct management and financial audits of the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms; contains provisions to insure the confidentiality of information including Congressional oversight and penalties for unauthorized disclosure; and requires the Comptroller General to submit to the Senate Finance and Governmental Affairs Committees, the House Ways and Means and Government Operations Committees, and the Joint Committee on Taxation, every six months, the names and titles of GAO employees having access to tax returns and information; to submit as frequently as possible results of the audit; and to submit annually a report of his findings and recommendations which must also include the procedures established for protecting the confidentiality of tax return information and the scope and subject matter of the audit. S. 213—Passed Senate March 11, 1977. (VV)

Kennedy Center authorization.—Increases from \$3.1 million to \$7.6 million the fiscal year 1977 authorization for the John F. Kennedy Center for the Performing Arts with the additional \$4.5 million to remain available until expended for the Secretary of the Interior, acting through the National Park Service, to correct leaks in the roof, terraces, kitchen, and East Plaza Drive and the damage which has resulted from these leaks; and authorizes \$3.7 million for fiscal year 1978. S. 521—Passed Senate February 24, 1977; Passed House amended March 4, 1977; In conference. (VV)

Kennedy Presidential Library.—Authorizes the Administrator of General Services to accept land, buildings, and equipment that have been or may be offered to the United States without reimbursement, for the pur-



pose of maintaining, operating and protecting as part of the National Archives system a Presidential archival depository located next to the University of Massachusetts campus on Columbia Point in Boston in memory of John Fitzgerald Kennedy. H.J. Res. 424—Public Law 95—, approved 1977. (VV)

Library services and construction.—Extends through October 1, 1982, and revises the Library Services and Construction Act; retains current use and allocation of funds but adds a provision to direct one-half of the funds after the appropriation level of \$60 million is reached (current funding level is \$56.9 million) to urban resource libraries, which are defined as public libraries in incorporated areas with populations exceeding 100,000; provides that any State that does not have an incorporated area with at least 100,000 persons will nevertheless be considered to have at least one urban resource library; adds a new title to the Act which provides special aid to and study of urban libraries; authorizes funds for projects to make libraries more energy efficient; and contains other provisions. S. 602—Passed Senate May 20, 1977. (VV)

NASA authorization.—Authorizes \$4,038,789,000 for the National Aeronautics and Space Administration for fiscal year 1978 of which \$4.04 billion is for research and development, \$161.8 million is for the construction of facilities, and \$846.989 million is for research program and management; includes funds to support the following new programs: (1) 5 space shuttle orbiters, (2) development of the shuttle-launched space telescope for research in astronomy, (3) a third generation earth resources survey spacecraft, Landsat-D, to carry an advanced scanning instrument, (4) initiation of a search and rescue satellite system in cooperation with Canada, and (5) initiation of a Jupiter orbiter probe mission; provides continued funding of the Space Shuttle; and includes the second funding increment for a fuel efficient aircraft technology development program designed to decrease fuel consumption of commercial jet transports by 50 percent. H.R. 4088—Passed House March 17, 1977; Passed Senate amended May 13, 1977. (VV)

National Science Foundation authorization.—Authorizes \$894.0 million for fiscal year 1978 and \$1,051.4 million for fiscal year 1979 to the National Science Foundation and an additional \$6 million for fiscal 1978 and \$8 million for fiscal 1979 in foreign currencies which the Treasury Department determines to be in excess to the normal requirements of the U.S.; specifies amounts to be spent for programs to support minorities, women and handicapped persons in scientific fields, graduate fellowships, continuing education for scientists and engineers, "Science for Citizens" and "Public Understanding of Science" programs which are designed to improve public understanding of public policy issues involving science and technology, and a study to assess the science education in two-year colleges; and contains other provisions. H.R. 4991—Passed House March 24, 1977; Passed Senate amended May 5, 1977; in conference. (VV)

Presidential reorganization authority.—Extends for three years from the date of enactment, the authority of the President under chapter 9, title 5, U.S.C., to submit reorganization plans to Congress proposing the reorganization of agencies in the executive branch; expresses Congressional intent that the President provide appropriate means for public involvement in reorganization; requires that the President, on a continuing basis, examine the organization of all agencies of the executive branch and determine what changes are necessary to accomplish the purpose of the statute;

Provides that reorganization plans may: create new agencies, transfer or consolidate

the whole or part of agencies or their functions to other agencies, abolish all or part of the functions of an agency except any enforcement function or statutory program, change the name of an agency, authorize an agency official to delegate any of his functions, and provide that the head of an agency be an individual, commission or board with a fixed term not to exceed 4 years;

Requires that each plan be based upon a Presidential finding stated in a message to Congress that the proposed action is necessary to accomplish one or more of the purposes of the statute; requires that the message specify, with respect to each plan, the reduction of or increase in expenditures likely to result from the plan, as well as any improvements in the effectiveness or efficiency of the government anticipated as a result of the plan;

Prohibits the use of reorganization authority to: create a new executive department, abolish an executive department or an independent regulatory agency, abolish any function mandated by Congress through statutes, increase the term of an office beyond that provided by law, create new functions not authorized by pre-existing statutes, or continue a function beyond the period authorized by law;

Requires the President to submit each plan, which must deal with only one logically consistent subject matter, to both Houses of Congress simultaneously for referral to the Senate Governmental Affairs Committee and the House Government Operations Committee; requires the Chairman of the respective committee to introduce a disapproval resolution whenever a reorganization plan is submitted to assure that there will be a resolution for the Committee to act on and to report either favorably or unfavorably a disapproval resolution for each proposed plan; provides that plans shall become law at the end of 60 calendar days of continuous session of the Congress or if specified, at a later date, unless either House passes a resolution of disapproval or prior to that time if both Houses defeat a disapproval resolution; requires the committees in both Houses to file recommendations on each plan with the full House within 45 days and provides, if the committee has not done so, the resolution will automatically be discharged from further consideration and placed on the calendar; specifies that no more than three reorganization plans may be pending in the Congress at any one time;

Allows the President to (1) amend a plan within the first 30 days after submission if neither committee has ordered reported a disapproval resolution or made any other recommendations on the plan, or (2) withdraw a plan at any time prior to the conclusion of the 60 day period;

Provides that any member may move to proceed to consider a disapproval resolution once it has been reported or discharged; limits to 10 hours floor debate on a disapproval resolution and on appeals and motions made in connection therewith, and makes motions to postpone consideration or amend the resolution out of order;

Provides that suits brought against an agency affected by a reorganization plan, or regulations or other actions taken by an agency under a function affected by the plan shall not abate as a result of the plan, except in the case where the function is abolished; specifies that plans may provide for the transfer or other disposition of affected records, property, and personnel, and for the transfer of unexpended appropriations if the funds will be used for their original purpose; and requires that unexpended funds revert to the U.S. Treasury. S. 626—Public Law 95-17, approved April 6, 1977. (40)

Privacy Protection Study Commission extension.—Extends the life of the Privacy Pro-

tection Study Commission from July 10, 1977, to September 30, 1977, to provide additional time for the printing of a set of appendix volumes for its final report. S. 1443—Public Law 95—, approved 1977. (VV)

Smithsonian Institution—Canal Zone biological area.—Increases from \$350,000 to \$750,000 the annual authorization for the Canal Zone Biological Area (the Barro Colorado Island Facility of the Tropical Research Institute of the Smithsonian Institution). S. 1031—Passed Senate May 2, 1977. (VV)

#### GOVERNMENT EMPLOYEES—FEDERAL OFFICIALS

Federal salary increases.—Denies the October 1 cost-of-living increase to Members of Congress, the Supreme Court Justices and other members of the Judiciary, Cabinet officials, and top Executive personnel who received the March 1 quadrennial pay increase under which salaries were increased as follows: Members of Congress from \$44,600 to \$57,500; Cabinet officers from \$63,000 to \$66,000; the Vice President, Speaker, and Chief Justice from \$65,000 to \$75,000; the President Pro Tempore and Majority and Minority Leaders from \$52,000 to \$65,000; circuit court judges from \$44,800 to \$57,500; district judges from \$42,000 to \$54,500; sub-cabinet assistants from \$44,600 to \$57,500; and other top Federal personnel from \$42,000 to \$52,000. S. 964—Passed Senate March 10, 1977. (44)

Secret Service protection of former Federal officials.—Authorizes the Secret Service to continue to furnish protection to certain former Federal officials (Secretaries Kissinger and Simon and Vice President Rockefeller) or members of their immediate families who received such protection immediately preceding January 20, 1977, if the President determines that they may be in significant danger, and provides that such protection shall continue for a period determined by the President but not beyond July 20, 1977, unless otherwise permitted by law. S.J. Res. 12—Public Law 95-1, approved January 19, 1977. (VV)

#### HEALTH

Public health programs—biomedical research.—Extends through fiscal year 1978, without major substantive modifications, the assistance programs under the Community Mental Retardation and Community Mental Health Centers Act and the programs under the Public Health Service Act, including biomedical research; computes the authorizations for these programs generally on a formula of the higher of the fiscal 1977 authorization or the fiscal 1977 appropriation plus 20 percent;

Establishes five supergrade positions for the National Institute of Alcohol Abuse and Alcoholism in order to attract highly qualified senior level scientific personnel; increases the number of National Cancer Institute consultants from 100 to 200; authorizes the Secretary of Health, Education and Welfare to develop minimum public health standards to maintain preventive health care programs; directs the Secretary to arrange for studies of international health issues and opportunities and to submit a final report by January 1, 1978; authorizes an additional \$135 million to enable the Secretary to make grants for construction and modernization projects to assist public hospitals to meet life and safety codes and avoid loss of accreditation;

Amends the Health Professions Educational Assistance Act to provide for equity in student loan programs, scholarship programs, and payback provisions for medical students within the National Health Service Corps (NHSC) who had made commitments under previous legislation; assures that all physicians graduating from medical schools accredited by the Liaison Committee on Medical Education are treated equally; provides that individuals with obligated serv-

ice to the NHSC may participate in residency training programs as officers in the regular or reserve corps of the Public Health Service prior to fulfilling the obligated service in an underserved area; permits an area Health Education Center to conduct training in general pediatrics as well as in family medicine and general internal medicine; allows the Secretary to repay, in return for service in a health manpower shortage area, educational loans obtained by health professions students before October 12, 1976; guarantees that students who graduated from two year U.S. medical schools will be treated the same as U.S. students who completed 2 years at a foreign medical school when transferring to degree-granting institutions; authorizes construction assistance for the establishment or expansion of regional health professions programs; and amends the Public Health Service Act to conform certain provisions of the student loan program with those in the NHSC;

Increases to \$399,864,200 the authorization for the maternal and child health grant programs under the Social Security Act and extends through fiscal 1980 the authority for 100 percent Federal financing of medicare skilled nursing and intermediate care facility inspection and enforcement costs; extends the Committee on Mental Health and Illness of the Elderly for 1 month, until August 30, 1977, to coordinate its actions and recommendations with the Presidential Commission on Mental Health; provides that States shall not receive less than their 1976 formula grant allotments under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act; and authorizes \$140 million for preventive family planning project grants and \$5 million for the Sudden Infant Death Syndrome Counseling and Information Services. H.R. 4975—Passed House March 31, 1977; Passed Senate amended May 4, 1977; Senate requested conference May 4, 1977. (131)

#### HOUSING

Supplemental housing authorizations.—Authorizes additional funds for housing assistance for lower income Americans in fiscal year 1977; extends the riot insurance and crime insurance programs; and establishes a National Commission on Neighborhoods;

Increases, in title I, the authorization for section 8 rental assistance, the major housing program for lower income Americans, by \$378 million for a total of \$1,228,050,000; increases operating subsidy funds for public housing projects by \$19.6 million to pay for this winter's unexpectedly high heating costs; extends the contract period for new, privately developed section 8 housing from 20 to 30 years in order to attract more private financing; authorizes such appropriations as may be necessary for reimbursement of the FHA general insurance fund for losses on the sale of foreclosed properties from the FHA inventory; contains a \$10 million increase for a total of \$15 million for the HUD urban homesteading program as a means of attracting additional rehabilitation funds into neighborhoods and disposing of the HUD inventory of foreclosed properties; increases from \$500 million to \$1.341 billion the ceiling for losses incurred by the Federal Housing Administration General Insurance Fund; extends HUD's authority to write crime insurance and riot reinsurance policies through September 30, 1978, and authorizes continuation of policies in force before April 30, 1978, through September 30, 1981; extends from April 30, 1978, to September 30, 1978, the date that the Secretary must submit a plan for the liquidation and termination of these programs; deletes the requirement whereby mortgages may be insured under section 220 of the National Housing Act only if the property is located in an area which has a workable program for com-

munity development; makes clear that mortgages insured under section 221(d)(4) of the Act may be executed by a mortgagor which is a public body or agency, or a cooperative, limited dividend corporation or other entity, private nonprofit corporation or association, as well as a profit motivated entity, as defined by the Secretary; and

Authorizes, in title II, \$1 million for the establishment of a National Commission on Neighborhoods to assess existing policies, laws and programs having an impact on neighborhoods and make recommendations regarding investment in city neighborhoods, community government participation, economically and socially diverse neighborhoods, rental housing, and rehabilitation of existing structures, among other issues. H.R. 3843—Public Law 95-24, approved April 30, 1977. (VV)

#### INDIANS

American Indian Policy Review Commission.—Extends from February 18, 1977, to May 18, 1977, the period of time in which the American Indian Policy Review Commission must submit its final report to the Congress and increases the authorization therefor from \$2.5 million to \$2.6 million. S.J. Res. 10—Public Law 95-5, approved February 17, 1977. (VV)

Sioux Black Hills claim.—Authorizes the U.S. court of Claims to review, without regard to the technical of res judicata or collateral estoppel the determination of the Indian Claims Commission entered February 14, 1974, that the act of February 28, 1877, effected a taking of the Black Hills portion of the Great Sioux Reservation in violation of the fifth amendment. S. 838—Passed Senate May 3, 1977. (VV)

Wichita tribal land claim.—Authorizes the Indian Claims Commission to consider claims by the Wichita Indian Tribe and affiliated bands with respect to aboriginal title to lands which were acquired by the United States without payment of adequate compensation. S. 773—Passed Senate May 5, 1977. (VV)

Zuni lands.—Directs the Secretary of the Interior to acquire through purchase, trade or otherwise the 618.41 acres in the State of New Mexico upon which the Zuni Salt Lake is located and hold such land in trust for the Zuni Indian Tribe; confers jurisdiction upon the Court of Claims to hear and determine an aboriginal land claim that the Tribe failed to file with the Indian Claims Commission under the Act of August 13, 1946, which established that forum; and authorizes the Tribe to purchase and exchange lands in the States of New Mexico and Arizona notwithstanding the restrictions in the act of May 25, 1918, expressly prohibiting further expansion of Indian reservations in these States. S. 482—Passed Senate May 3, 1977. (VV)

#### INTERNATIONAL

Abu Daoud.—States as a sense of the Senate that the release by France of Abu Daoud, a known terrorist who is accused of having planned the murder of Olympic athletes in Munich in 1972, is harmful to the effort of the community of nations to stamp out international terrorism; further states that the United States should consult promptly with France and other friendly nations to seek ways to prevent a recurrence of a situation in which a terrorist leader is released from detention without facing criminal charges in a court of law; and directs the Secretary of the Senate to provide a copy of this resolution to the Secretary of State for transmission to the Government of France. S. Res. 48—Senate agreed to January 26, 1977. (13)

Harp seal killings.—Urges the Canadian Government to reassess its present policy of permitting the killing of newborn harp seals in Canadian waters which is considered by many citizens of the U.S. to be cruel and, if continued at the current high level, may

cause the extinction of that species of seal. H. Con. Res. 142—Action complete April 6, 1977. (VV) to amended March 31, 1977. (VV)

International cooperation on nuclear proliferation.—Commends the President for his stated intentions to give diplomatic priority to the pursuit of nonproliferation measures; endorses and strongly supports active consultations with world leaders on the highest level to: (1) curb the spread of nuclear enrichment and reprocessing facilities and otherwise discourage the diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices, (2) achieve universal acceptance of international safeguards on all peaceful nuclear activities, as well as to seek international cooperation to improve the packaging and handling of high-level wastes and to provide for international storage of plutonium, spent reactor fuel, and other sensitive nuclear materials, (3) explore possible international arrangements for the provision of nuclear fuel services to help meet the legitimate energy needs of cooperating states, (4) reach agreement on sanctions to be applied against any nation which seeks to acquire a nuclear explosives option, and (5) strengthen the safeguards of the International Atomic Energy Agency; and pledges prompt Senate action on legislation to enact a clear statement of goals for U.S. nonproliferation policy providing guidance and support to these Presidential diplomatic initiatives, and to establish a clear statutory framework for the development and implementation of U.S. nuclear export policy. S. Res. 94—Senate agreed to April 28, 1977. (VV)

Portugal military assistance.—Modifies the existing statutory limitations on the allocation of military assistance funds for fiscal year 1977 contained in section 504(a) (1) of the Foreign Assistance Act of 1961, as amended, to add Portugal to the list of eligible countries and specify that \$32.25 million be allocated to that country to upgrade its armed forces which were debilitated as a result of prolonged colonial wars in Africa. S. 489—Public Law 95-23, approved April 30, 1977. (VV)

Rhodesian chrome.—Amends the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome by nullifying the effect of Section 203 (the so-called Byrd amendment) of the Armed Forces Appropriations Act of 1972, Public Law 92-156, which permitted the importation into the United States of chromium and other strategic minerals from Rhodesia, despite mandatory U.N. sanctions against trade with that country which the United States supported by its vote in the United Nations Security Council and by Executive Order 11419; prohibits the importation into the United States of Rhodesian commodities and products as specified in that Executive Order, of July 29, 1968, as well as steel mill products containing Rhodesian chromium in any form; establishes an enforcement mechanism which requires a certificate of origin for these products confirming that they do not contain chromium from Rhodesia; and authorizes the President to suspend the act if he determines that it would encourage meaningful negotiations and further the peaceful transfer of government from minority to majority rule in Rhodesia. H.R. 1746—Public Law 95-12, approved March 18, 1977. (59)

Romanian earthquake.—States as a sense of the Senate that the United States should join with other nations and international, public, and private organizations to assist the people of Romania following the 1977 earthquake; and expresses deepest sympathy to the victims and their families on behalf of the people of the United States. S. Con. Res. 12—Action complete March 17, 1977. (VV)

Romanian earthquake authorization.—



Authorizes \$20 million to the President for fiscal year 1977, to remain available until expended, for the relief and rehabilitation of refugees and other earthquake victims in Romania; requires the President to transmit a report to the Foreign Relations Committees of the Senate and House 60 days after enactment and quarterly thereafter on the obligation of authorized funds; and states that nothing in this act shall be interpreted as endorsing any measure undertaken by the Government of Romania which would suppress human rights as defined in the Conference on Security and Co-operation in Europe (Helsinki Declaration) Final Act and the United Nations Declaration on Human Rights or as constituting a precedent for or commitment to provide development assistance to Romania and requires that the Romanian Government be so notified. H.R. 5717—Public Law 95-21, approved April 18, 1977. (VV)

Soviet expulsion of George A. Krinsky.—States as the sense of the Senate that: (1) the Soviet expulsion of Associated Press reporter George A. Krinsky is contrary to the spirit of the Helsinki Declaration respecting the rights of journalists; (2) the decision serves only to obstruct the implementation of the free flow of information provisions contained in the Declaration; (3) the action only invites and justifies steps of a reciprocal nature by the U.S. Government; and (4) the U.S. and Soviet Governments should seek greater communication in this area to prevent similar events of a counterproductive nature from occurring in the future; and directs the Secretary of the Senate to transmit a copy of this resolution to the President for the Department of State to convey directly to General Secretary Leonid Brezhnev of the Central Committee of the Soviet Communist Party. S. Res. 81—Senate agreed to March 4, 1977. (VV)

Soviet freedom of emigration.—Conveys to the Soviet Government the sustained interest of the American people regarding Soviet adherence to the Helsinki Declaration, including their pledge to facilitate freer movement of people, expedite the reunification of families, and uphold the general freedom to leave one's country. S. Con. Res. 7—Action complete March 22, 1977. (39)

State Department supplemental authorization.—Provides a supplemental authorization of \$89.5 million for the Department of State for fiscal year 1977 as follows: (1) \$60 million to pay U.S. dues and assessments to UNESCO for 1975 and 1976, in arrears because of Congressional action suspending further payments until the President certified that UNESCO's policies were in line with its objectives and less political, and part of the 1977 assessment, (2) \$11,325,000 for aid to Soviet and East European refugees not settling in Israel and \$7.4 million for the Indochinese Refugee Program administered by the United Nations High Commissioner for Refugees to continue U.S. support of 80,000 refugees in Thailand who arrived from Vietnam, Cambodia and Laos in 1975, and (3) \$10,775,000 to provide for the construction of 108 apartment units for the U.S. mission in Cairo—36 for the State Department and 72 for AID; authorizes the Secretary to use appropriated funds to provide emergency medical attention, dietary supplements, and other assistance to U.S. citizens incarcerated abroad; requires that the Chairman or Vice-Chairman of the Senate and House delegations to the four interparliamentary union groups (Canada-U.S., Mexico-U.S., North Atlantic Assembly, and Interparliamentary Union) be a member of their respective foreign affairs committee; increases from 18 to 24 the size of the delegation to the North Atlantic Assembly and specifies that at least 4 of the 12-member delegation from each body be from its foreign affairs committee; and amends Public Law 94-203 (known as the

Case Act which requires the Secretary of State to transmit the text of any international agreement entered into force with respect to the United States) to require any department or agency entering into an international agreement on behalf of the United States to transmit the text of the agreement to the Department of State within 20 days following the date on which the agreement was signed. H.R. 5040—Passed House March 24, 1977; Passed Senate amended May 11, 1977. (VV)

Uganda human rights.—Expresses the sense of the Senate that the actions of the current regime in Uganda violating the human rights of its citizens and residents deserve condemnation by the world community and by the Organization of African Unity; urges all nations supplying lethal arms to Uganda to halt all deliveries of weapons; and urges the U.S. Ambassador to the United Nations to request that the situation in Uganda be investigated by an appropriate agency in the United Nations. S. Res. 175—Senate agreed to May 25, 1977. (VV)

Vietnam POW's and MIA's.—Directs the President, as Commander in Chief of the Armed Forces, to require an accounting of all military personnel presently categorized on personnel rosters of the various branches of the U.S. Armed Forces as prisoner of war, missing in action, or killed in action in Southeast Asia; directs the President, by executive order, to require the Secretary of State to pursue enforcement of the Paris agreement of January 27, 1973; states that the Congress, having passed Public Law 88-408 authorizing the deployment of U.S. Armed Forces for the maintenance of international peace and security in Southeast Asia, recognize a corresponding duty and obligation to determine the fate of missing or unaccounted for Americans; requires that the President, through the Secretary of State, hold the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam responsible to account for and provide information not otherwise available to satisfactorily dispose of the POW/MIA problem in accordance with the Paris agreement or seek alternatives that might resolve the question; and requires responsible officeholders in the executive and legislative branches to address the authority of their office toward a satisfactory resolution of the problem, make a public accounting, and remove any question as to the integrity of their function. S. Con. Res. 2—Senate agreed to February 21, 1977. (VV)

States as a sense of the Congress that the honor of those Americans who upheld the dignity of the law and served in the U.S. Armed Forces should be reaffirmed and that the Government should do everything possible to address the problems of those who served during the Vietnam war; and urges that there be established, in view of the recent issuance of a general pardon for U.S. draft evaders of the Vietnam war era, a Presidential Task Force on Missing in Action and Prisoners of War to propose courses of action to achieve the fullest possible account for all Americans listed in a missing status in Southeast Asia, including the return of remains, and to make recommendations concerning Federal policies relating to POW's and MIA's. S. Con. Res. 3—Senate agreed to February 21, 1977. (VV)

#### MEMORIALS, TRIBUTES AND MEDALS

Alex Haley.—Honors and pays tribute to Alex Haley for his exceptional achievement in writing *Roots* and extends to him the highest praise of the Senate. S. Res. 112—Senate agreed to March 14, 1977. (VV)

Charles A. Lindbergh.—Honors Charles A. Lindbergh for his service to our country in peace and war, and expresses appreciation for his leadership and advocacy in the conserva-

tion of natural resources and for his daring and courageous contributions to the field of aviation and aeronautical science. S. Res. 177—Senate agreed to May 19, 1977. (VV)

Cora Rubin Lane 100th birthday.—Expresses the gratitude and appreciation of the Senate to Cora Rubin Lane for her long and outstanding service as an assistant to Senator William E. Borah and expresses best wishes to her on the occasion of her 100th birthday. S. Res. 162—Senate agreed to May 3, 1977. (VV)

Francis R. Valeo.—Commends Francis R. Valeo for his long, faithful and exemplary service as an employee of the Senate and his ten years of service as Secretary of the Senate. S. Res. 133—Senate agreed to April 1, 1977. (VV)

Gerald R. Ford Building.—Names the Federal building located at 110 Michigan Avenue, N.W., in Grand Rapids, Mich., the "Gerald R. Ford Building". S. 385—Public Law 95-25, approved May 4, 1977. (VV)

Jaycees International Conference.—Commends the "Old Sourdough Jaycees" of Anchorage, Alaska, the U.S. Jaycees, and the Jaycee International for bringing together Jaycee leaders around the world who have contributed to the betterment of mankind. S. Res. 137—Senate agreed to April 6, 1977. (VV)

Lt. Gen. Ira C. Eaker Medal.—Authorizes the President to present, on behalf of the Congress, to Lieutenant General Ira C. Eaker, U.S.A.F. (retired), a gold medal of appropriate design in recognition of his distinguished career as an aviation pioneer and Air Force leader; provides a \$5,000 authorization therefor; and authorizes the Secretary of the Treasury to have duplicate medals struck in bronze and sold at cost. S. 425—Passed Senate May 13, 1977. (VV)

Marian Anderson Medal.—Authorizes the President to award to Marian Anderson, in the name of the Congress, a gold medal with suitable emblems and inscriptions in recognition of her highly distinguished and impressive career; provides that bronze duplicates of the medal shall be coined and sold under regulations prescribed by the Secretary of the Treasury; and authorizes therefor \$2,500. H.J. Res. 132—Public Law 95-9, approved March 9, 1977. (VV)

Motion Picture Academy 50th anniversary.—Congratulates the Academy of Motion Picture Arts and Sciences for its past achievements on the occasion of its 50th anniversary on May 11 and extends best wishes for the future. S. Res. 168—Senate agreed to May 11, 1977. (VV)

Philip A. Hart, death of.—Expresses the sorrow of the Senate over the death of Senator Philip A. Hart, of Michigan. S. Res. 15—Senate agreed to January 4, 1977. (VV)

President and Mrs. Ford.—Congratulates and commends President and Mrs. Ford on their exemplary conduct as President and first lady and for their dedicated public service to the Nation during their entire career of public service. S. Res. 22—Senate agreed to January 10, 1977. (VV)

President Ford.—Commends President Ford for the manner and integrity with which he carried out his responsibilities and wishes him Godspeed in his new and active life. S. Res. 38—Senate agreed to January 18, 1977. (VV)

President-elect Carter.—Extends best wishes to President-elect Jimmy Carter and to all those who will serve in his administration. S. Res. 23—Senate agreed to January 10, 1977. (VV)

St. Patrick's parish anniversary.—Commemorates the people of St. Patrick's Parish, in Pottsville, Pennsylvania, who this year are celebrating the 150th anniversary of the founding of the parish. S. Res. 116—Senate agreed to March 17, 1977. (VV)

Vice President Rockefeller.—Commends Vice President Rockefeller for the manner

and integrity with which he carried out his responsibilities and wishes him Godspeed in his new and active life. S. Res. 37—Senate agreed to January 18, 1977. (VV)

William O. Douglas.—Dedicates the canal and towpath of the Chesapeake and Ohio Canal National Historical Park to Justice William O. Douglas; directs the Secretary of the Interior to provide the necessary identification to inform the public of the contributions of Justice Douglas and to erect and maintain within the exterior boundaries of the Park an appropriate memorial; and authorizes such sums as necessary to carry out the act. S. 776—Public Law 95-11, approved March 15, 1977. (VV)

#### NATURAL RESOURCES—NATIONAL HISTORIC SITES

Eleanor Roosevelt national historic site.—Authorizes the Secretary of the Interior to establish 175 acres, including the Val-Kill estate in Hyde Park, New York, as the Eleanor Roosevelt National Historic Site to commemorate the life of Eleanor Roosevelt as well as provide a location for the conduct of studies and seminars relating to the issues with which she was concerned. H.R. 5562—Public Law 95-11, approved March 15, 1977. (VV)

Land and Water Conservation Fund.—Amends the Land and Water Conservation Fund Act of 1965 to establish a special account for use in acquiring the backlog of lands previously authorized for inclusion in the national park system and certain similar Federal areas; increases the authorized level of the fund from \$600 million to \$900 million in fiscal year 1978 and from \$750 million to \$900 million in fiscal 1979 with the additional \$450 million to be credited to the special account and to remain available until appropriated; provides that prior acquisition ceiling limitations on authorized areas may be exceeded in any one fiscal year by up to \$1 million or 10 percent of the statutory limitation, whichever is greater; and permits preacquisition work such as title searches, mapping, and other preliminary work which does not interfere with the rights of private landowners if Congressional authorization appears to be imminent. H.R. 5306—Passed House April 4, 1977; Passed Senate amended May 18, 1977. (VV)

Reclamation projects.—Authorizes \$31,050,000 for fiscal year 1978 for continuing construction of the distribution system and drains of the San Luis Unit, Central Valley project, California; and provides for the establishment of a task force to review the management, organization and operation of the Unit and to report to Congress by January 1, 1978, the results of an examination of certain specified issues. H.R. 4390—Passed House May 2, 1977; Passed Senate amended May 24, 1977. (VV)

Water resources development.—Authorizes appropriations for rivers and harbors works of the Corps of Engineers for flood control, navigation, water supply, and other purposes for fiscal year 1978. H.R. 6752—Passed House May 17, 1977; Passed Senate amended May 25, 1977. (VV)

Authorizes general water resources research; repeals the Water Resources Act of 1964 and replaces it with similar, but stronger and more comprehensive language; authorizes maintenance of State water institutions, which were established under the old Act; continues support of nonacademic water resource research centers; expands the saline water program and reestablishes many of the provisions of the expired Saline Water Conservation Act of 1971; redirects and strengthens saline water conversion programs which are developing technology to help states expand available water supplies. H.R. 4746—Passed House May 17, 1977; Passed Senate amended May 25, 1977. (VV)

#### WILDERNESS AREAS STUDIES

Montana wilderness.—Directs the Secretary of Agriculture to study 9 areas of land totaling approximately 973,000 acres located within the following National Forests in Montana to determine their suitability for designation as wilderness under the provisions of the Wilderness Act of 1964: Beaverbrook National Forest—West Pioneer Wilderness and Taylor-Hilgard Wilderness; Bitterroot National Forest—Bluejoint Wilderness and Sapphire Wilderness; Kootenai National Forest—Ten Lakes Wilderness and Mt. Henry Wilderness; Lewis and Clark National Forest—Middle Ford Judith Wilderness and Big Snowies Wilderness; and Gallatin National Forest—Hyalite-Porcupine-Buffalo Horn Wilderness; requires the Secretary to complete the studies and report his findings to the President within 5 years of enactment who is to submit his recommendations with respect thereto to the Congress within 7 years of enactment; and directs the Secretary to administer the areas so as not to diminish their presently existing wilderness character and potential until Congress determines otherwise. S. 393—Passed Senate May 18, 1977.

Wildlife refuges.—Extends through fiscal year 1980 the authorization for the acquisition and development of the San Francisco Bay National Wildlife Refuge in California (consisting of approximately 21,000 acres), the Tincum National Environmental Center in Pennsylvania (consisting of approximately 1,200 acres), and the Great Dismal Swamp National Wildlife Refuge in Virginia (consisting of approximately 107,360 acres). H.R. 5493—Passed House May 16, 1977; Passed Senate amended May 24, 1977. (VV)

#### NOMINATIONS

(Action by Rollcall vote)

Griffin B. Bell, of Georgia, to be Attorney General.—Nomination confirmed January 25, 1977. (10)

Joseph A. Califano, Jr., of the District of Columbia, to be Secretary of Health, Education, and Welfare.—Nomination confirmed January 24, 1977. (7)

Peter F. Flaherty, of Pennsylvania, to be Deputy Attorney General.—Nomination confirmed April 5, 1977. (99)

Roy Marshall, of Texas, to be Secretary of Labor.—Nomination confirmed January 26, 1977. (12)

Andrew J. Young, of Georgia, to be U.S. Representative to the United Nations.—Nomination confirmed January 26, 1977. (14)

Paul C. Warnke, of the District of Columbia, for rank of Ambassador for SALT negotiations and to be Director of the Arms Control and Disarmament Agency.—Nominations confirmed March 9, 1977. (41 and 42)

#### PROCLAMATIONS

American Business Day.—Designates May 13 of each year as "American Business Day." S.J. Res. 40—Passed Senate April 27, 1977. (VV)

Grandparents Day.—Designate the first Sunday of September of each year as "Grandparents Day." S.J. Res. 24—Passed Senate May 16, 1977. (VV)

#### SENATE

Commission on the Operation of the Senate.—Extends for an additional 30 days, until April 1, 1977, the Commission on the Operation of the Senate. S. Res. 93—Senate agreed to February 24, 1977. (VV)

Committee reorganization.—Amends the Standing Rules of the Senate to reorder and rationalize the jurisdictions of Senate committees, effective February 11, 1977, among 15 standing committees and 6 other special, select or joint committees; abolishes the Aeronautical and Space Sciences Committee and transfers its jurisdiction to a newly

created Committee on Commerce, Science, and Transportation; abolishes the District of Columbia Committee and the Committee on Post Office and Civil Service and transfers their jurisdictions to a newly created Committee on Governmental Affairs; transfers the jurisdiction of the former Interior Committee to an Energy and Natural Resources Committee; transfers the jurisdiction of the former Public Works Committee into a new Environment and Public Works Committee; transfers the jurisdiction of the former Labor and Public Welfare Committee to a new Human Resources Committee; continues the existence of the Special Committee on Aging with membership reduced to 9 in the next Congress; continues the existence of the Select Committee on Nutrition and Human Needs until December 31, 1977, after which its jurisdiction will be transferred to the Committee on Agriculture, Nutrition and Forestry; establishes a temporary Select Committee on Indian Affairs to consider all legislation relating to Indians for the duration of the 95th Congress after which its jurisdiction will be transferred to the Human Resources Committee;

Limits the number of committee and subcommittee memberships a Senator can hold generally to two major or class "A" committees and one class "B" committee and eight subcommittees thereof; prohibits committees and eight subcommittees thereof; prohibits committees from establishing subunits other than subcommittees; permits the Majority and Minority Leaders to temporarily increase the sizes of committees to ensure majority party control; allows Senators to serve on joint committees where such service is required to be from members of a committee on which such Senator serves; prohibits Rules Committee members from serving on any joint committee unless the Senate members of such committees are required by law to be from the Rules Committee; exempts members of the Budget Committee during the 94th Congress from certain assignment limitations during the 95th Congress; continues grandfather rights for Senators who are serving on three standing committees as a result of an exemption in the Legislative Reorganization Act of 1970 to continue to do so during the 95th Congress; allows the chairmen and ranking minority members of the Post Office and Civil Service Committee and the District of Columbia Committee to serve on the Governmental Affairs Committee and two other committees of the same class, as long as their service on Governmental Affairs remains continuous; prohibits a Senator from serving as Chairman of more than one standing, select, special, or joint committee unless the jurisdiction is directly related to that of the standing committee he chairs; prohibits Senators from serving as chairman of more than one subcommittee of each standing, select, special or joint committee; limits members to two class A committee or subcommittee chairmanships and one class B committee or subcommittee chairmanship, effective at the beginning of the 96th Congress; requires that not later than July 1, 1977, the appropriate standing committees shall report legislation terminating the statutory authority of the Joint Committee on Atomic Energy, on Congressional Operations and on Defense Production; requires that the appropriate standing committees report recommendations not later than July 1, 1977, with respect to the Joint Committees on the Library and on Printing; allows Senators to serve on joint committees considered for termination pending final disposition of the issue;

Provides for sequential and joint referral of bills that cross jurisdictional lines based on motions by the Majority and Minority Leaders, instead of by unanimous consent; pro-



vides for a computerized schedule of committee meetings by the Rules Committee; permits committees to meet without special leave until the conclusion of the first 2 hours of a meeting of the Senate or 2:00 p.m., except for the Appropriations and Budget Committees which may meet at any time without special consent; requires that morning meetings of committees and subcommittees be scheduled for one or both of two periods, one ending at 11:00 a.m. and a second beginning at 11:00 a.m. and ending at 2:00 p.m.; provides for continuous review of the committee system by the Rules Committee in consultation with the Majority and Minority Leaders; prohibits consideration of committee amendments to bills when the amendments are not in the jurisdiction of the committee proposing them; requires committee reports to contain an evaluation of the regulatory impact which would be incurred by individuals and businesses in carrying out the provisions of the bill; provides for the transition of staff from abolished or realigned committees to the new committees and provides for salary and tenure of committee staff during a transition period; provides that committee staff reflect the relative numbers of majority and minority members and that one-third of the committee staffing funds be allocated to the minority members for compensation of minority staff; provides that such adjustment be made over a four-year period beginning July 1, 1977, with not less than one-half being made in 2 years; provides for funding of increases in the expenditures of new committees resulting from this resolution; incorporates provisions of S. Res. 60 of the 94th Congress relating to individuals appointed by Senators to assist them with committee work; provides for the referral of measures according to the realigned jurisdictions; and provides that legal references to old committees are to be construed as referring to their successors. S. Res. 4—Senate agreed to February 4, 1977. (36)

Deputy President pro tempore.—Establishes, effective January 5, 1977, the Office of Deputy President Pro Tempore which shall be held by any Senator who is a former President or Vice President of the United States; authorizes the President Pro Tempore and the Deputy President Pro Tempore each to appoint an administrative assistant, a legislative assistant and an executive secretary; authorizes the Sergeant at Arms to provide and maintain an automobile for use by the Deputy President Pro Tempore and to employ a driver-messenger; and authorizes the Secretaries of the Conferences of the Majority and Minority each to appoint two staff assistants in each office. S. Res. 17—Senate agreed to January 10, 1977. (VV)

Names Hubert H. Humphrey of Minnesota Deputy President Pro Tempore of the Senate, effective January 5, 1977. S. Res. 27—Senate agreed to January 11, 1977. (VV)

Senate Ethics Code.—Amends the Standing Rules of the Senate to create a Code of Official Conduct; amends Senate Resolution 338 the original resolution establishing the Select Committee on Ethics, to provide for additional procedures for enforcing the new Code as well as other laws and rules of the Senate; and directs other Senate committees to study certain matters related to this resolution;

Public Financial Disclosure.—Requires Senators, candidates for the Senate, officers and employees of the Senate earning in excess of \$25,000 per year to file a report listing their earned income and the sources and categories of value of their income, other than earned income, and all other interests, assets, and holdings held for the purposes of investment or income production;

Gifts.—Prohibits knowingly accepting a gift or gifts having an aggregate value of over \$100 during a year from any individual or organization defined as having a "direct interest in legislation;"

Outside Earned Income.—Limits outside earned income of a Senator, officer or employee earning over \$35,000 to 15 percent of the person's salary; limits each honorarium to \$1,000 for Senators and to \$300 for officers and employees; allows Senators or staff to accept honoraria up to \$25,000 if immediately donated to a tax-exempt charity;

Conflict of Interest.—Bars the use of one's official position to introduce or aid the progress of legislation the principal purpose of which furthers one's own financial interest; allows Members or staff who earn over \$25,000 to provide professional services for compensation if not affiliated with a firm or association and if their work is not carried out during regular Senate office hours; directs committee employees earning over \$25,000 to divest themselves of any holdings which may be directly affected by the actions of the Committee for which they work unless permitted by their supervisor and the Ethics Committee; prohibits Senators from lobbying the Senate for one year after leaving the Senate; applies a similar prohibition to employees lobbying the Committee or office for which they worked;

Unofficial Office Accounts.—Abolishes unofficial office accounts, those accounts defined as not including personal funds of a member, official funds, political funds and reimbursements;

Foreign Travel.—Prohibits "lame duck" travel by a defeated or retiring member; prohibits receipt of counterpart funds where there has been reimbursement from another source; restricts per diem allowance to food, lodging and related expenses and places the responsibility on the person receiving the per diem to return any unused funds;

Franking Privilege—Radio-TV Studio—Senate Computer.—Prohibits mass mailings and the use of the radio-TV studios within 60 days of an election; requires the use of official funds to purchase paper, to print, and prepare mass mailings under the frank; requires a Senator to register mass mailings annually for public inspection; prohibits the use of the Senate computer to store names identified as campaign workers;

Political Activity by Officers and Employees.—Restates the present ban on staff soliciting or receiving campaign contributions; allows a Senator to name one assistant each in his Washington and State office to receive and handle campaign funds;

Discriminatory Employment Practices.—Prohibits discrimination on the basis of race, color, religion, sex, national origin, or state of physical handicap in employment practices in the Senate;

Enforcement.—Sets forth procedures for the Select Committee on Ethics in investigating complaints of violation of the Code and enforcing its provisions;

Further Studies.—Requires the Appropriations Committee to report within 120 days regarding an adjustment of official allowances; requires the Finance Committee to report within 120 days on the tax status of funds raised and expended to defray ordinary and necessary expenses of Members; directs the Rules Committee (1) to report within 120 days on the desirability of promulgating rules providing for: (a) periodic audits by GAO of all committee and office accounts; (b) a centralized recordkeeping system of accounts, allowances, expenditures and travel expenses of all committees and offices; (c) suggested accounting procedures for committee and office accounts; and (d) public disclosure and availability of information on the accounts of all committees and offices in a form which segregates the allowances and expenses of each committee and office; (2) to report within 120 days on the desirability of requiring that only official Senate funds may be used to pay for any expenses incurred by a Senator in the use of the radio-TV studios; and (3) to study laws

relating to contributions made by officers or employees as well as on proposals to prohibit the misuse of official staff in election campaigns and report thereon within 180 days; requires the Governmental Affairs Committee to report (1) within 180 days regarding employee discrimination complaints and the desirability of establishing rules requiring "blind trusts" by members, officers and employees of Senate and (2) within 120 days regarding the use of simplified form of address for franked mail; and directs the Foreign Relations Committee to report in 90 days on the problem of travel, lodging and other related expenses provided members and staff paid for by foreign governments where it is not possible to procure transportation, lodging or other related services or to reimburse the foreign government for those purposes. S. Res. 110—Senate agreed to April 1, 1977. (94)

Special Committee on Official Conduct.—Establishes a temporary Special Committee on Official Conduct composed of fifteen members appointed by the President pro tempore of the Senate (eight appointed upon the recommendation of the majority leader and seven upon the recommendation of the minority leader, with the chairman designated by the majority leader and the vice chairman by the minority members) to conduct a complete study of all matters relating to standards of conduct of Members, officers and employees of the Senate in the performance of their official duties including standards for: (1) annual public disclosure of income, assets, debts, gifts, and other financial items; (2) restrictions on, or the elimination of, outside income from honoraria, legal fees, gifts and other sources of financial or in-kind remuneration; (3) conflicts of interest arising out of investments in securities, commodities, real estate, or other sources; (4) office accounts, and excess campaign contributions; (5) Senate travel; and (6) engaging in business, professional activities, employment, or other remunerative activities, so as to avoid any conflict with the conscientious performance of official duties; requires the Committee to submit a report of its findings by March 1, 1977, together with a resolution setting forth, by way of proposed amendments to the Standing Rules of the Senate, a Code of Official Conduct for Members, officers, and employees of the Senate;

Provides that on March 1, 1977, after the conclusion of routine morning business, the resolution shall become the pending business of the Senate under a 50 hour time limitation with a 2 hour time limitation on amendments thereto and 1 hour on amendments in the second degree, debatable motions or appeals; provides that amendments not germane to the bill will not be received; states that motions to limit debate are not debatable and that motions to table or commit are out of order;

Authorizes the Committee to utilize the facilities and services of the staff of any other committee and provides that expenses of the Committee shall be paid from the contingent fund of the Senate. S. Res. 36—Senate agreed to January 18, 1977. Note: (On March 3, 1977, the Senate, by unanimous consent, extended until midnight, March 7, 1977, the time for the Committee to file its report and provided that the leadership may call the resolution up on March 8, 1977, or any time thereafter.) (VV)

Teamsters pension fund.—Authorizes the Committee on Human Resources to inspect and receive any tax return, return information, or other tax related matter held by the Secretary of Treasury with respect to the Teamsters' Central States Southeast and Southwest Area Pension Fund, and any related matter which the committee demonstrates, to the satisfaction of the Secretary, contains or may contain information di-

rectly relating to its study and oversight proceedings. S. Res. 139—Senate agreed to April 22, 1977. (VV)

## TAXATION

**Sick pay exclusion.**—Delays for one year, to taxable years beginning after December 31, 1976, the changes made by the Tax Reform Act of 1976 with regard to the exclusion of "sick pay" from income; makes a similar delay of the effective date of the provisions regarding the tax treatment of income earned abroad by U.S. citizens; modifies the withholding requirement enacted in the 1976 Tax Reform Act on proceeds of wagers placed in parimutuel pools with respect to horse races, dog races, and Jai Alai requiring a 20 percent withholding tax on winnings of \$1000 or more only if the odds are 300 to one or more; extends for one year the provisions of the Internal Revenue Code to allow State legislators to treat their place of residence within their legislative district as their tax home for purposes of computing the deduction for living expenses; and waives the interest and penalties with regard to certain errors regarding underpayments of estimated tax and withholding that might be made in the tax returns for 1976. H.R. 1828—Passed House April 4, 1977; Passed Senate amended April 6, 1977; House agreed to Senate amendments with amendment which omitted the provisions regarding the treatment of income earned abroad by U.S. citizens April 6, 1977; Senate requested conference April 19, 1977; (100) (Note: Provisions included Tax Reduction and Simplification which became Public Law 95- ).

**Tax reduction and simplification.**—Amends the Internal Revenue Code of 1954 to extend the individual and business income tax reductions enacted in 1975 and to provide tax simplification as follows:

**Standard Deduction and Tax Simplification.**—Permanently changes the standard deduction to \$2,200 for single returns and heads of households and \$3,200 for joint returns; revises the tax tables to simplify tax computation for 96 percent of all taxpayers by building into the tax tables the personal exemption, the general tax credit, and the standard deduction;

**Individual and Corporate Tax Reductions.**—Extends through 1978 the general tax credit of 35 percent per person or 2 percent of the first \$9,000 of taxable income, whichever is larger; extends the earned income credit equal to 10 percent of the first \$4,000 of earned income which is phased out as income rises from \$4,000 to \$8,000;

**Extends through 1978 the corporate tax cuts, enacted in 1975 and subsequently extended, which reduced the tax rate on the initial \$25,000 of corporate taxable income from 22 percent to 20 percent and reduced the rate on the next \$25,000 from 48 to 22 percent;**

**Filing Requirements and Withholding Changes.**—Increases the income level at which a tax return must be filed from \$2,450 to \$2,950 for a single person and a head of household and from \$3,600 to \$4,700 for a joint return; requires modification of the withholding rates to reflect the changed standard deduction;

**New Jobs Credit.**—Provides a new jobs tax credit for 1977 and 1978 equal to 50 percent of the increase in each employer's wage base under the Federal Unemployment Tax Act (FUTA) above 102 percent of that wage base in the previous year; reduces the employer's deduction for wages by the amount of the credit, thereby reducing the maximum gross credit for each new employee from \$2,100 to \$1,806; limits the credit to no more than: (1) 50 percent of the increase in total wages paid by the employer for the year above 105 percent of total wages in the previous year; (2) 25 percent of the current year's FUTA wages; (3) \$100,000 per employer; and (4) the

taxpayer's tax liability with provision of carrying back credit for 3 years and carrying forward credit for 7 years; provides an additional 10 percent nonincremental credit for hiring the handicapped, including handicapped veterans, who have received vocational training;

**Postponement of Changes in 1976 Act.**—Postpones for one year the effective date of revisions made by the Tax Reform Act of 1976 in the tax treatment of sick pay and income earned abroad; relieves individual taxpayers for periods prior to April 16, 1977, and corporations for period prior to March 16, 1977, from additions to tax and interest arising from changes in the tax law made applicable to 1976 by the 1976 Act; relieves employers from penalties for under withholding in 1976 on remuneration which became taxable prior to January 1, 1976, as a result of the 1976 Act; lifts the exclusive use of the test in the 1976 Act for business deductions for the use of the home for day care services for children, handicapped individuals and the elderly and limits such deductible expense; extends for 1976 the election to treat a State legislator's place of residence within the legislative district he represents as his tax home for purposes of determining deductions for travel and expenses;

**Minimum Tax on Intangible Drilling Costs.**—Provides for taxable years beginning in 1977 that intangible drilling costs incurred in oil and gas production operations are to be subject to the minimum tax to the extent that these expenses exceed oil and gas production income;

**Charitable Contributions of Conservation Easements.**—Extends through June 13, 1981 the period during which deductions are allowable for charitable contributions of remainder interests in real property exclusively for conservation purposes as well as the period during which deductions are allowable for charitable contributions exclusively for conservation purposes of easements with respect to real property, if the easement is perpetual;

**Work Incentive (WIN) Program.**—Authorizes an additional \$435 million in each of fiscal years 1978 and 1979 for employment and supportive services for welfare recipients with no requirement for State matching funds;

**Child Care Facilities Amortization.**—Extends through 1981 the 5-year amortization provision for expenditures relating to child care facilities for children of the taxpayer's employees;

**Retirement Income Credit Election.**—Allows taxpayers over age 65 to choose between the retirement income credit as it existed before the 1976 Act and as revised by it for 1976 taxes only;

**Accrual Accounting for Farm Operations.**—Postpones until 1978 the effective date for requiring accrual accounting by any farm corporation if either (a) two families own at least 65 percent of the stock, or (b) three families own at least 50 percent of the stock and substantially all of the remaining stock is owned by employees or their families;

**Gambling Withholding.**—Modifies the 1976 requirement for withholding on gambling winnings to provide that withholding is required on proceeds of more than \$1,000 from bets placed in parimutuel pools involving horses, dogs or Jai Alai but only if the amount of the proceeds is at least 300 times as large as the amount wagered;

**Extension of Countercyclical Revenue Sharing.**—Extends for 6 quarters, or until national unemployment drops below 6 percent, the current countercyclical revenue sharing legislation which expires September 30, 1977 to help State and local governments maintain services; authorizes up to \$1 billion in additional funding for fiscal year 1977 for a total of \$2.25 billion; authorizes up to \$2.25 bil-

lion for FY 1978; requires that the most recent data be used in the allocation formula and that the national amount be determined on the basis of tenths of the unemployment percentage in excess of 6 percent rather than on half percentage points; provides that each tenth of a percentage point will generate \$30 million for allocation in addition to the basic \$125 million; extends the program to Guam, American Samoa, Puerto Rico and the Virgin Islands;

**Other Provisions.**—Amends the Social Security Act to clarify the law which provides for the garnishment of Federal payment for purposes of child support and alimony; and contains other provisions. H.R. 3477—Public Law 95-30, approved May 23, 1977. (128)

## TRANSPORTATION

**Aircraft Registration.**—Amends the Federal Aviation Act of 1958 to permit citizens of foreign countries lawfully admitted for permanent residence in the U.S. and corporations lawfully organized and doing business under U.S. or State laws to register aircraft in the United States provided that (1) the aircraft is based or primarily used in the U.S. thus enabling the Secretary of Transportation to condition registration on reasonable inspection by FAA personnel and (2) as at present, the aircraft is not registered under the laws of any foreign country. H.R. 735—Passed House February 2, 1977; Passed Senate amended May 11, 1977. (VV)

**Interstate Commerce Commission Interim Regulatory Reform.**—Amends the Interstate Commerce Act to authorize \$71,216,000 for fiscal year 1978, \$80,474,000 for fiscal 1979, \$90,935,000 for fiscal year 1980 and \$102,755,000 for fiscal 1980; provides for regulatory reform of the ICC by requiring the agency to review and recodify systematically all of the rules and regulations which it has promulgated and which are still in effect and applying certain provisions with respect to one or more of the independent regulatory agencies and found to be both useful and practicable such as (1) timely consideration of petitions, (2) Congressional access to information, (3) avoidance of conflict of interest, (4) appointment of the chairman by the Presidency by and with the advice and consent of the Senate, and (5) Congressional oversight through the process of an authorization of appropriations not to exceed 4 years. S. 1534—Passed Senate May 20, 1977 (VV)

**Maritime Authorization.**—Authorizes \$552,974,000 for programs of the Maritime Administration for fiscal year 1978 as follows: \$135,000,000 for acquisition, construction, or reconstruction of vessels and construction-differential subsidies, \$372,109,000 for payment of ship operating differential subsidies, \$20,725,000 for research and development, \$5,137,000 for the reserve fleet, \$14,633,000 for maritime training at the Merchant Marine Academy at Kings Point, N.Y., and \$5,370,000 for financial assistance to the State marine schools which includes an increased annual student subsidy from \$600 to \$1200; authorizes additional supplemental amounts to cover increases in salary, pay, retirement, or other employee benefits authorized by law and for certain expenses of the Merchant Marine Academy at Kings Point; and authorizes an additional Assistant Secretary of Commerce to be the principle advisor to the Secretary for Congressional relations. S. 1019—Passed Senate May 24, 1977. (VV)

**Rail Reorganization.**—Office of Rail Public Counsel.—Amends the Regional Rail Reorganization Act of 1973 to authorize an additional \$15 million for fiscal year 1978 to the United States Railway Association to cover litigation and other anticipated expenses involving the reorganization of the Northeast railroads, and amends the Interstate Commerce Act to authorize an additional \$2 million for the Office of Rail Public Counsel which is the statutory successor to the Office



of Public Counsel of the Interstate Commerce Commission. H.R. 4049—Passed House May 3, 1977; Passed Senate amended May 23, 1977. (VV)

#### VETERANS

**Veterans' Care in State Homes.**—Amends title 38, U.S.C., to consolidate the construction grant-assistance programs under section 644 (for State home domiciliary and hospital facilities) and under subchapter III of chapter 81 (for State home nursing care facilities) and create new statutory authority for grants for the construction of new domiciliary facilities and the expansion of domiciliary and hospital facilities, and for initial equipment in both categories; increases to \$15 million the annual authorization for fiscal years 1978 and 1979; removes the 3-fiscal-year limitation on the availability of sums appropriated for the consolidated programs, making the funds available until expended; makes the allowable nonveteran population of a grant-assisted State nursing home domiciliary, or hospital facility 25 percent in order to make allowance for veterans' spouses, surviving spouses, and Gold Star mothers; sets at 33½ percent the limit which any one State may receive in any year of the total amount appropriated for the program; includes domiciliary and hospital projects under the statutory nursing home program recapture provision; allows the Administrator to reduce the recapture period to less than 7 years in cases of expansion, remodeling, and alteration; limits recapture to not more than the amount of grant assistance provided for the project; repeals existing statutory authority for making grants for the remodeling of State home domiciliary and hospital facilities and governing the operation of this program; provides for an October 1, 1977, effective date with a savings provision for hospital and domiciliary grants made under the section to be repealed; and gives existing nursing home program grantees the right to obtain grant modifications consistent with the new act. H.R. 3695—Passed House April 4, 1977; Passed Senate amended May 24, 1977. (VV)

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ERDA Defense Program (S. 1339).  
ERDA Synthetic Fuel Loan Guarantee Program (S. 37).  
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Kennedy Center Authorization (S. 521).  
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Romanian Earthquake (S. Con. Res. 12).  
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Soviet Expulsion of George A. Krinsky (S. Res. 81).  
Soviet Freedom of Emigration (S. Con. Res. 7).  
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Charles A. Lindbergh (S. Res. 117).  
Cora Rubin Lane 100th Birthday (S. Res. 162).  
Francis R. Valeo (S. Res. 133).  
Gerald R. Ford Building (S. 385, P.L. 95-25).  
Jaycees International Conference (S. Res. 137).  
Lieutenant General Ira C. Eaker Medal (S. 425).  
Marian Anderson Medal (H.J. Res. 132, P.L. 95-9).  
Motion Picture Academy 50th Anniversary (S. Res. 168).  
Philip A. Haart, Death of (S. Res. 15).  
President and Mrs. Ford (S. Res. 22).  
President Ford (R. Res. 38).  
President-Elect Carter (S. Res. 23).  
St. Patrick's Parish Anniversary (S. Res. 116).  
Vice President Rockefeller (S. Res. 37).  
William O. Douglas (S. 776, P.L. 95-11).

##### NATURAL RESOURCES—NATIONAL HISTORIC SITES

Eleanor Roosevelt National Historic Site (H.R. 5562, P.L. 95- ).  
Land and Water Conservation Fund (H.R. 5306).  
Reclamation Projects (H.R. 4390).  
Water Resources (H.R. 6752) (H.R. 4746).  
Wilderness Areas Studies: Montana Wil-

derness (S. 393), Wildlife Refuges (H.R. 5493).

#### NOMINATIONS (ACTION BY ROLL CALL VOTE)

Griffin B. Bell to be Attorney General.  
Joseph A. Califano, Jr., to be Secretary of HEW.

Peter F. Flaherty to be Deputy Attorney General.

Ray Marshall to be Secretary of Labor.  
Paul C. Warnke for Rank of Ambassador

for SALT Negotiations and to be Director of the Arms Control and Disarmament Agency.

Andrew J. Young to be U.S. Representative to U.N.

#### PROCLAMATIONS

American Business Day (S.J. Res. 40).  
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#### SENATE

Commission on the Operation of the Senate (S. Res. 93).

Committee Reorganization (S. Res. 4).  
Deputy President Pro Tempore (S. Res. 17), (S. Res. 27).

Senate Ethics Code (S. Res. 110).

Special Committee on Official Conduct (S. Res. 38).

Teamsters' Pension Fund (S. Res. 139).

#### TAXATION

Sick Pay Exclusion (H.R. 1828).  
Tax Reduction and Simplification (H.R. 3477, P.L. 95-30).

#### TRANSPORTATION

Aircraft Registration (H.R. 735).  
Interstate Commerce Commission Authorization—Regulatory Reform (S. 1534).  
Maritime Authorization (S. 1019).  
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Veterans' Care in State Homes (H.R. 3695).

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| S. 106 Land and Water Resource Conservation.....                            | Agriculture     | S. Res. 22 President and Mrs. Ford.....                            | Memorials       |
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| S. 385 Gerald R. Ford Building.....   | Memorials       | S. Res. 81 Soviet Expulsion of George A. Krimsky.....              | International   |
| S. 393 Montana Wilderness Areas Study.....                                  | Natural Res.    | S. Res. 93 Commission on the Operation of the Senate.....          | Senate          |
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| S. 474 Natural Gas Emergency.....   | Energy          | S. Res. 105 White House Conference on Small Business.....          | Economy         |
| S. 482 Zuni Lands.....  | Indians         | S. Res. 110 Senate Ethics Code.....                                | Senate          |
| S. 489 Portugal Military Assistance.....                                    | International   | S. Res. 112 Alex Haley.....  | Memorials       |
| S. 521 Kennedy Center Authorization.....                                    | Gen. Gov.       | S. Res. 133 Francis R. Valeo.....                                  | Memorials       |
| S. 602 Library Services and Construction.....                               | Gen. Gov.       | S. Res. 137 Jaycees International Convention.....                  | Memorials       |
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| S. 650 Wheat Producers Assistance.....                                      | Agriculture     | S. Res. 162 Cora Rubin Lane 100th Birthday.....                    | Memorials       |
| S. 662 U.S. District Court Terms.....                                       | Crime           | S. Res. 168 Motion Picture Academy 50th Anniversary.....           | Memorials       |
| S. 703 Overseas Citizens Voting Rights.....                                 | Elections       | S. Res. 175 Ugandan Human Rights.....                              | International   |
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| S. 810 Daughters of the Confederacy Patent Renewal.....                     | Crime           | S. Con. Res. 3 Vietnam POW's and MIA's.....                        | International   |
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| S. 1339 ERDA Defense Program.....   | Energy          | H.R. 2992 CETA.....  | Employment      |
| S. 1432 Federal Election Commission Authorizations.....                     | Elections       | H.R. 3347 Budget Rescission—Helium Purchases.....                  | Budget          |
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| H.R. 4877 Supplemental Appropriations, 1977                 | Approp.         | H.R. 6917 Disaster Relief Programs                                | Environment     |
| H.R. 4975 Public Health Programs—Biomedical Research        | Health          | H.R. 6992 Education of the Handicapped                            | Education       |
| H.R. 4991 National Science Foundation Authorization         | Gen. Gov.       | House Concurrent Resolutions:                                     |                 |
| H.R. 5040 State Department Supplemental Authorization       | International   | H. Con. Res. 142 Harp Seal Killings                               | International   |
| H.R. 5306 Land and Water Conservation Fund                  | Natural Res.    | House Joint Resolutions:  |                 |
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| H.R. 5717 Romanian Earthquake Authorization                 | International   | H.J. Res. 240 Fishery Conservation Zone Transition                | Fisheries       |
| H.R. 5840 Export Administration—Arab Boycott                | Economy         | H.J. Res. 269 Urgent Disaster Supplemental App., 1977             | Approp.         |
|   |                 | H.J. Res. 351 Continuing Appropriations, 1977                     | Approp.         |
|   |                 | H.J. Res. 424 Kennedy Presidential Library                        | Gen. Gov.       |

## 5-YR COMPARISON OF SENATE LEGISLATIVE ACTIVITY, THROUGH MAY 25

## 13-YR COMPARISON OF SENATE SESSIONS, THROUGH MAY 25 (1965-77)

|                                       | 1973   | 1974   | 1975   | 1976   | 1977   |
|---------------------------------------|--------|--------|--------|--------|--------|
| Days in session                       | 70     | 66     | 73     | 71     | 79     |
| Hours in session                      | 330:00 | 395:17 | 391:55 | 381:01 | 406:49 |
| Total measures passed                 | 204    | 222    | 193    | 316    | 232    |
| Rollcall votes                        | 145    | 207    | 194    | 190    | 169    |
| Public laws                           | 35     | 41     | 22     | 86     | 31     |
| Treaties                              | 5      | 2      | 1      | 5      | 0      |
| Confirmations                         | 22,772 | 27,652 | 24,511 | 17,131 | 26,074 |
| Senate average attendance (percent)   | 86.47  | 88.29  | 90.22  | 86.43  | 88.19  |
| Sessions convened before 12 noon      | 25     | 43     | 40     | 38     | 26     |
| Sessions convened at noon             | 45     | 23     | 33     | 33     | 17     |
| Sessions convened after noon          | 0      | 0      | 0      | 0      | 36     |
| Sessions which continued after 8 p.m. | 2      | 1      | 7      | 4      | 9      |
| Saturday sessions                     | 2      | 0      | 1      | 0      | 0      |

| Year | Total number of rollcall votes | Total number of days in session | Total days convened before noon | Total days convened at noon | Total days convened after noon | Total rollcall votes before noon |
|------|--------------------------------|---------------------------------|---------------------------------|-----------------------------|--------------------------------|----------------------------------|
| 1977 | 169                            | 79                              | 26                              | 17                          | 36                             | 7                                |
| 1976 | 190                            | 71                              | 38                              | 33                          | 0                              | 17                               |
| 1975 | 194                            | 73                              | 40                              | 33                          | 0                              | 16                               |
| 1974 | 207                            | 66                              | 43                              | 23                          | 0                              | 0                                |
| 1973 | 145                            | 70                              | 25                              | 45                          | 0                              | 0                                |
| 1972 | 169                            | 80                              | 59                              | 21                          | 0                              | 0                                |
| 1971 | 63                             | 70                              | 49                              | 20                          | 1                              | 0                                |
| 1970 | 135                            | 80                              | 63                              | 17                          | 0                              | 0                                |
| 1969 | 26                             | 55                              | 8                               | 47                          | 0                              | 0                                |
| 1968 | 123                            | 88                              | 31                              | 56                          | 1                              | 0                                |
| 1967 | 97                             | 82                              | 28                              | 54                          | 0                              | 0                                |
| 1966 | 42                             | 72                              | 23                              | 49                          | 0                              | 0                                |
| 1965 | 76                             | 76                              | 18                              | 58                          | 0                              | 0                                |

## STATUS OF MAJOR MESSAGES AND COMMUNICATIONS OF THE PRESIDENT, 95TH CONG., 1ST SESS., BY SENATE DEMOCRATIC POLICY COMMITTEE, ROBERT C. BYRD, CHAIRMAN

| Message or communication title, bill No.   | Senate action   | House action  | Conference or other action  | Date approved  | Public Law No. |
|--|---|---|---|--|----------------|
| PM 21 (Jan. 17, 1977): Budget Rescission (\$452.6 million for Nimitz-class nuclear carrier and AEGIS); H.R. 3839.    | P/S Mar. 15, 1977   | P/H Mar. 3, 1977  |   |  | 95-15          |
| PM 22 (Jan. 17, 1977): Top Level Executive, Legislative and Judicial Salary Increases.                               | S. tabled Allen, et al., amendment to S. Res. 4 disapproving pay recommendation Feb. 2, 1977; Voted Mar. 3, 1977, against repealing increase.                     | H. twice objected to request to consider disapproval resolution, H. Res. 115, Feb. 16, 17, 1977                         |   | Feb. 20, 1977 became effective   |                |
| PM 22 (Jan. 17, 1977): Ethics Code   | S. Res. 110 (S. Ethics Code) P/S Apr. 1, 1977.  | H. Res. 287 (H. Ethics Code) P/H Mar. 2, 1977.  |   | House code became effective Mar. 2, 1977; Senate code became effective Apr. 1, 1977. |                |
| EC 441 (Jan. 26, 1977): Emergency Natural Gas Act: S. 474 (Adm. Bill).   | P/S Jan. 31, 1977   | P/H amended Feb. 2, 1977  | Conf. rept. agreed to Feb. 2, 1977, in S.; Feb. 2, 1977, in H.                                    | Feb. 16, 1977  | 95-2           |
| PM 32 (Jan. 31, 1977): Economic Recovery:  |   |   |   |  |                |
| (a) Economic Stimulus Appropriations (Public works jobs, revenue sharing, and public service employment): H.R. 4876. | P/S May 2, 1977   | P/H Mar. 15, 1977   | Conf. rept. agreed to May 4, 1977 in H.; May 5, 1977, in S.                                       |  | 95-29          |
| (b) Public Works Jobs (\$4 billion increase): H.R. 11.   | P/S amended Mar. 10, 1977   | P/H Feb. 24, 1977   | Conf. rept. agreed to Apr. 29, 1977, in S.; May 3, 1977, in H.                                    |  | 95-28          |
| (c) Countercyclical Revenue Sharing  | P/S as amendment to H.R. 3477, Apr. 29, 1977.   | H.R. 6810, P/H Apr. 13, 1977  |   |  |                |
| (d) Tax Reform and Simplification for individuals and business (Tax rebate withdrawn): H.R. 3477.                    | P/S Apr. 29, 1977   | P/H Mar. 8, 1977  | Conf. rept. agreed to May 17, 1977, in H. and S.  |  | 95-30          |
| PM 33 (Feb. 4, 1977): Presidential Reorganization Authority: S. 626.   | P/S Mar. 3, 1977  | P/H amended Mar. 29, 1977   | S. agreed to H. amendments Mar. 31, 1977.   | Apr. 6, 1977   | 95-17          |
| PM 40 (Feb. 21, 1977) and 57 (Mar. 24, 1977): Water Development Projects.  | S. adopted Johnston amendment to H.R. 11 expressing sense of Congress to continue funding for water projects.   | Approp. Subcte. on Public Works agreed to continue funding for fiscal year 1978 on May 2; full Cte. to consider May 25. |   | In H.R. 11, Public Works Jobs, Public Law 95-28.                                     |                |
| PM 41 (Feb. 22, 1977): 1978 Budget Revisions: S. Con. Res. 19.   | P/S May 4, 1977   | P/H amended May 5, 1977   | Conf. rept. agreed to with amendment May 16, 1977, in S.; H. agreed to S. amendment May 17, 1977. | Action Complete  |                |
| PM 42 (Mar. 1, 1977): Creates Cabinet Dept. of Energy.   | S. 826, P/S May 18, 1977  | H.R. 6804, On Union Calendar (Cal. No. 193)   |   |  |                |
| PM 45 (Mar. 4, 1977): Airline Deregulation.  | Commerce Subcte. on Aviation hearings on S. 292 and S. 689, Mar. 21-25, 28-31, and Apr. 1, 4, 6, 7; Field hearings in Anchorage May 16; mark-up in 30 to 60 days. | Pub. Wks. Subcte. on Aviation hearings Apr. 18.   |   |  |                |

STATUS OF MAJOR MESSAGES AND COMMUNICATIONS OF THE PRESIDENT, 95TH CONG., 1ST SESS., BY SENATE DEMOCRATIC POLICY COMMITTEE, ROBERT C. BYRD, CHAIRMAN—Con.

| Message or communication title, bill No.  | Senate action  | House action  | Conference or other action               | Date approved   | Public Law No. |
|---|--|---|--|---|----------------|
| PM 47 (Mar. 9, 1977): Youth Unemployment:   |  |   |  |   |                |
| (a) \$342 million increase for Job Corps.   |  |   |  | In H.R. 4875, Econ. Stim. App., Public Law 95-29.       |                |
| (b) New youth title to CETA.  | S. 1242, S. to debate May 26, 1977.  | H.R. 6138, P/H May 17, 1977.  |  |   |                |
| (c) 1 year extension of CETA: H.R. 2992.  | Pls May 25, 1977.  | P/H Mar. 29, 1977.  |  |   | 95-44          |
| PM 51 (Feb. 17, 1977): Foreign Aid:   |  |   |  |   |                |
| (a) Multilateral Development Assistance (Financial institutions): H.R. 5262.  | On S. Calendar (Cal. No. 133).   | P/H Apr. 6, 1977.   |  |   |                |
| (b) Bilateral Development Assistance (\$1.3 billion).   | S. 1520 on S. calendar (Cal. No. 135).   | H.R. 6714, P/H May 12, 1977.  |  |   |                |
| (c) PL-480 Program Extension.   | In S. 275 (title of farm bill) P/S May 24, 1977.   | In H.R. 6714, P/H May 12, 1977.   |  |   |                |
| (d) Security Assistance.  | S. 1160 on S. Calendar (Cal. No. 169).   | H.R. 6844, P/H May 24, 1977.  |  |   |                |
| PM 52 (Feb. 17, 1977): Oil Tanker Spills.   | S. 682 (tanker safety) S. debating May 25, 26; Commerce Cte. hearings on S. 687 (oil pollution) not yet scheduled.                               | Mer. Mar. and Fisheries Cte. repled. H.R. 6803 May 16; Public Works Cte.—no action scheduled.   |  |   |                |
| PM 55 (Mar. 22, 1977): Election reform:   |  |   |  |   |                |
| (a) Voter Registration.   | S. 1072 on S. Calendar (Cal. No. 144).   | H.R. 5400 on Union Calendar (Cal. No. 163).   |  |   |                |
| (b) Public Financing.   | Rules Cte. mark-up on S. 926 May 26.   | Adm. Cte. held hearings on campaign reform; No action scheduled on H.R. 5157.   |  |   |                |
| (c) Campaign Act Amendments.  | Rules Cte. mark-up on S. 15, 16, 105, 962, 966, 1320, and 1344 May 26.   | do.   |  |   |                |
| (d) Direct Election of President.   | Jud. Cte. hearings on S.J. Res. 1, 8 and 18 completed Feb. 10; mark-up not yet scheduled.  | Jud. Subcte. on Monopolies and Commercial Law hearings on H.J. Res. 33, 118 and 350 not yet scheduled.  |  |   |                |
| (e) Hatch Act changes.  | Gov. Aff. Cte. hearings on S. 80 not yet scheduled.  | H. debated H.R. 10 May 18, 1977; bill withdrawn from floor, not yet rescheduled.  |  |   |                |
| PM 56 (Mar. 23, 1977): Drought Assistance:  |  |   |  |   |                |
| (a) EDA Emergency Water system improvement: S. 1279.  | P/S May 11, 1977.  | P/H May 17, 1977.   |  |   | 95-31          |
| (b) FHA Emergency water system improvement and Southwestern Power assistance to irrigators on Fed. Reclamation Bureau projects. |  |   |  | In H.R. 4877 Supplemental App., 1977, Public Law 95-26. |                |
| (c) SBA drought assistance loan program: H.R. 692.  | P/S amended May 19, 1977.  | P/H Feb. 9, 1977.   | H. conferees not yet named.              |   |                |
| (d) Water Bank objectives: S. 925.  | P/S Mar. 15, 1977.   | P/H amended Apr. 4, 1977.   | S. agreed to H. amendments Apr. 4, 1977. | Apr. 7, 1977.   | 95-18          |
| (f) Transfer of emergency livestock feed program.   | S. agreed to Humphrey amendment to S. 275 (Farm bill) which P/S May 24, 1977.  | H.R. 4295 in full Cte. (President no longer supports because of Subcte. amendments).  |  |   |                |
| PM 64 (Apr. 6, 1977): Agency for Consumer Advocacy.   | S. 1262 on S. Calendar (Cal. No. 143).   | H.R. 6805 on Union Calendar (Cal. No. 183).   |  |   |                |
| PM 71 (Apr. 25, 1977): Health Care System Improvements:   |  |   |  |   |                |
| (a) Hospital Cost Containment Act.  | Human Res. Subcte. on Health hearings on S. 1391, May 24, 26.  | Joint hearings held on H.R. 6575 complete; Ways and Means Health Subcte. mark-up to be scheduled end of June; Inter. and For. Comm. Cte.—no action scheduled.                   |  |   |                |
| (b) Child Health Assessment Program.  | Finance Committee hearings on S. 1392 not yet scheduled.   | Inter. and For. Comm. Subcte. on Health hearings on H.R. 6706 scheduled last week in June.  |  |   |                |
| PM 74 (Apr. 27, 1977): Nuclear Non-proliferation Policy.  | Gov. Aff. Subcte. on Energy mark-up on S. 1432 in June; For. Rel. Subcte. on Arms Control hearings June 8, 15, 23; Energy Cte. hearings June 10. | Int. Rel. Subcte. on Inter. Econ. Sec. and Scientific Aff. and Subcte. on Inter. Econ. Policy and Trade joint hearings on H.R. 17, H.R. 4409, H.R. 6910 (Adm. bill) May 19, 26. |  |   |                |
| EC 1246: Energy Policy:   |  |   |  |   |                |
| (1) Pricing, Regulatory and Non-Tax (S. 1469).  | Energy Cte. hearings on May 18 on economic impact.   | Commerce Cte. hearings in progress on H.R. 6831; Subcte. mark-up June 2; Full Cte. mark-up June 21 through July 13; Banking Subcte. on Housing hearings May 23-26.              |  |   |                |
| (a) Natural Gas.  | Energy Cte. to hear testimony from Adm. June 7, 13, 14.  | do.   |  |   |                |
| (b) Conservation.   | Energy Cons. and Regul. Subcte. hearings June 21, 22.  | do.   |  |   |                |
| (c) Supply.   | Energy Prod. and Supplies Subcte. hearings on strategic reserves June 9, 10; Coal Conversion—mark-up S. 977 June 15, 16.                         | do.   |  |   |                |
| (d) Utility Rates.  | do.  | do.   |  |   |                |
| (2) Tax Provisions (S. 1472).   | Finance Subcte. on Administration of the I.R.S. Code to hold hearing June 6, 27 on the administrative difficulty of anticipated tax revenues.    | Ways and Means Cte. hearings on H.R. 6831 May 16 through June 1.  |  |   |                |
| PM 78 (May 3, 1977): Ethics in Government.  | Gov. Aff. Cte. repled. S. 555 May 16 (S. Rept. 95-170).  |   |  |   |                |
| PM 79 (May 9, 1977): Social Security Trust Funds (Draft leg. not yet received).   | Ref. to Finance Cte.   | Ways and Means Soc. Sec. Subcte. has held a hearing.  |  |   |                |
| Message (May 23, 1977): Genocide Convention ratification.   | For. Rel. Cte. hearings May 24, 26.  | No action needed.   |  |   |                |
| PM 83 (May 23, 1977): Environmental Protection.   | Jointly ref. to Env., Pub. Wks., Agri., Banking, Commerce, For. Rel., Govt. Aff., and Human Resources Ctes.                                      | Ref. to Interior Cte.   |  |   |                |



STATUS OF PRESIDENT'S ENERGY BILL: EXECUTIVE COMMUNICATION 1246 AS OF MAY 25, 1977

(95th Congress, 1st Session)

(By Senate Democratic Policy Committee, ROBERT C. BYRD, Chairman)

|  | Senate action   | House action  |
|--|---|---|
| Pricing, Regulatory and non-tax provisions<br>(S. 1469, H.R. 6831) | Energy Cte. hearings on May 18 on economic impact.  | Commerce Subcte. on Energy hearings in progress.  |
| (a) Conservation   | Energy Cons. and Regul. Subcte. hearings June 21, 22.   |   |
| Utility Insulation   | Energy Cons. and Regul. Subcte. hearings June 21, 22.   | Energy Subcte. held hearings May 9, 10; Subcte. mark-up scheduled June 2; Commerce Cte. mark-up scheduled June 21.                                |
| Residential Provisions   | Energy Cons. and Regul. Subcte. hearings June 21, 22.   | Banking Subcte. on Housing hearings May 23-26; Commerce Cte.—no action scheduled.   |
| Appliance and Automobile Efficiency                                | Energy Cons. and Regul. Subcte. hearings June 21, 22.   | Energy Subcte. held hearings May 11; Subcte. mark-up scheduled June 3; Commerce Cte. mark-up scheduled June 22.                                   |
| School and Hospital Conservation                                   | Energy Cons. and Regul. Subcte. hearings June 21, 22.   | Energy Subcte. held hearings May 16; Subcte. mark-up scheduled June 6.  |
| Federal Vanpooling program   | Energy Cons. and Regul. Subcte. hearings June 21, 22.   | Government Operations Subcte. on Government Activities and Transportation to hold hearings within the next two weeks.                             |
| Solar heating and cooling in Federal buildings                     | Energy Cons. and Regul. Subcte. hearings June 21, 22.   | Public Works and Transportation Subcte. on Public Bldgs. and Grounds to hold hearings within 30 days.   |
| (b) Natural Gas  | Energy Cte. to hear testimony from Adm. June 7, 13, 14.   | Energy Subcte. hearings scheduled May 12, 13, 17, 18; Subcte. mark-up scheduled June 7-9; Commerce Cte. mark-up scheduled June 28-30.             |
| (c) Supply (Coal Conversion)                                       | Energy Prod. and Supplies Subcte. hearings on strategic reserves June 9, 10; Coal Conversion mark-up on S. 977 June 15, 16.   | Energy Subcte. hearings scheduled May 25-27; Subcte. mark-up schedule June 15-17; Commerce Com. mark-up scheduled July 11-13.                     |
| (d) Public Utilities   | No action scheduled.  | Energy Subcte. hearings scheduled May 19, 20, 23, 24; Subcte. mark-up scheduled June 10, 13, 14; Commerce Com. mark-up scheduled June 23, 24, 27. |
| Tax provisions (S. 1472, H.R. 6831)                                | Referred to Finance Cte. Subcte. on Administration of the Int. Rev. Code to hold hearings June 6 and June 27 on the Administrative difficulties of anticipated energy tax revenues. | Ways and Means Cte. hearings from Adm. May 16-17; from general public May 18-June 1.  |

#### TIME LIMITATION AGREEMENT— S. 252

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 252, the Clean Air Act, is called up and made the pending business before the Senate, there be a time limitation on the bill of 8 hours to be equally divided between Mr. MUSKIE and Mr. STAFFORD; that there be a time limitation on any amendment thereto of 2 hours, with the exception of an amendment by Mr. RIEGLE and Mr. GRIFFIN on which there be a time limitation of 6 hours, and with the further exception of an amendment by Mr. CANNON on which there be a time limitation of 4 hours; provided further, that there be a time limitation on any amendment to an amendment of 30 minutes, on any debatable motion or appeal or point of order, if such is submitted to the Senate, of 30 minutes, with the exception of a motion to recommit with instructions by Mr. ALLEN on which there be a time limitation of 1½ hours, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 252 (Order No. 106), a bill to amend the Clean Air Act, as amended, debate on any amendment in the first degree (except an amendment to be offered by the Senators from Michigan (Messrs. RIEGLE and GRIFFIN), on which there shall

be 6 hours debate, and an amendment to be offered by the Senator from Nevada (Mr. CANNON), on which there shall be 4 hours debate) shall be limited to 2 hours, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any amendment in the second degree, debatable motion (except a motion to recommit with instructions to be offered by the Senator from Alabama (Mr. ALLEN), on which there shall be 90 minutes debate), appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee: Provided further, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 8 hours, to be equally divided and controlled, respectively, by the Senator from Maine (Mr. MUSKIE) and the Senator from Vermont (Mr. STAFFORD): Provided, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal or point of order.

#### TIME LIMITATION AGREEMENT— S. 1523

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such

time as the housing bill, S. 1523, is called up and made the business before the Senate, there be a time limitation thereon of 4 hours for debate, to be equally divided between Mr. PROXMIER and Mr. BROOKE; that there be a time limitation on any amendment thereto of 1 hour; that there be a time limitation on an amendment by Mr. MORGAN of 4 hours; that there be a time limitation on any amendment in the second degree, debatable motion or appeal or point of order, if such is submitted to the Senate, of 30 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, with respect to the agreement on the housing bill, there be a time limitation of 4 hours on a Budget Committee amendment or amendments to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That on Monday, June 6, 1977, at the conclusion of the Morning Business, the Senate proceed to the consideration of S. 1523 (Order No. 148), a bill to amend the Housing and Community Development Act of 1974; to extend housing assistance and mortgage insurance programs; and for other purposes, and that debate on any amendment in the first degree (except an amendment to be offered by the Senator from North

Carolina (Mr. Morgan), on which there shall be 4 hours debate, and an amendment or a series of amendments to be offered on behalf of the Budget Committee, on which there shall be a total of 4 hours debate) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any amendment in the second degree, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee; Provided further, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from Wisconsin (Mr. Proxmire) and the Senator from Massachusetts (Mr. Brooke): Provided, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

#### ORDER FOR ROUTINE MORNING BUSINESS AND CONSIDERATION OF S. 1523 AND S. 252 ON MONDAY, JUNE 6, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, June 6, following the recognition of the two leaders or their designees, there be a brief period for the transaction of routine morning business, with no resolutions coming over under the rule, to be limited to not to exceed 30 minutes, with statements limited therein to 5 minutes each, at the conclusion of which the Senate will proceed to the consideration of the housing bill, S. 1523, and that upon the disposition of that bill the Senate proceed to the consideration of the Clean Air Act, S. 252.

Mr. BAKER. Mr. President, reserving the right to object, as I understand the unanimous-consent request propounded by the majority leader, it is possible that the housing bill might be finished on Monday, or, more likely, Tuesday.

Mr. ROBERT C. BYRD. Right.

Mr. BAKER. I have a problem on this side about commencing the Clean Air Act before Wednesday.

Mr. ROBERT C. BYRD. I appreciate the situation in which the distinguished minority leader finds himself.

I ask unanimous consent that the Clean Air Act follow the disposition of the housing bill, but that, in no case, shall the Clean Air Act come up before Wednesday.

Mr. BAKER. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. I think that will be just fine.

I might say to the majority leader that if we do finish the housing bill before Wednesday, I personally would have no objection to turning to something else. Maybe we can do that by unanimous consent at that time.

Mr. ROBERT C. BYRD. Yes. The REC-

ORD will so state that understanding between the two leaders.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader and all Senators who have had a part in the two agreements that have been entered into.

#### COMMITTEE MEETINGS DURING SENATE SESSION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. ROBERT C. BYRD. Mr. President, there are no special orders for tomorrow morning. The Senate, when it convenes at 10 a.m., and the two leaders have been recognized under the standing order, will resume consideration of Calendar Order No. 146, a bill to provide employment and training opportunities for youth.

At no later than 1:30 p.m., the Senate will resume consideration of Calendar Order No. 149. Hopefully, the youth employment bill will have been completed by that time. But, in any event, at 1:30 p.m., if the youth employment bill has not been completed, the Senate will resume consideration of the tanker legislation.

There will undoubtedly be a rollcall vote or so in connection with that legislation, and there may be a rollcall vote in connection with the youth employment bill which will be taken up the first thing tomorrow morning. I cannot be sure. That is about all I can say with respect to the program for tomorrow at this time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

#### RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 5:35 p.m., the Senate recessed until tomorrow, Thursday, May 26, 1977, at 10 a.m.

#### NOMINATIONS

Executive nominations received by the Senate May 25, 1977:

##### DEPARTMENT OF STATE

The following-named person for appointment as a Foreign Service officer of class 3,

a consular officer, and a secretary in the diplomatic service of the United States of America:

Donald Fraser Ramage, of California.

For appointment as a Foreign Service information officer of class 3, a consular officer, and a secretary in the diplomatic service of the United States of America:

Thomas John Crockett, 3d, of Connecticut.

For appointment as a Foreign Service information officer of class 4, a consular officer, and a secretary in the diplomatic service of the United States of America:

William R. van Buskirk, of Maine.

For appointment as Foreign Service officers of class 5, consular officers, and secretaries in the diplomatic service of the United States of America:

Richard Lewis Baltimore III, of New York.

Edwin Lewis Belfel, of Connecticut.

Jcszet S. Hudson, of Georgia.

Mary Kessler McAteer, of Wisconsin.

For appointment as a Foreign Service information officer of class 5, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

James Joseph Callahan, of Massachusetts.

For promotion from Foreign Service officers of class 7 to class 6:

Kathleen Chisholm, of Massachusetts.

Patricia A. Kim, of California.

Robert R. West, of Kansas.

James Howard Yellin, of Pennsylvania.

For promotion from Foreign Service information officers of class 7 to class 6:

Jeremy F. Curtin, of Virginia.

Daryl A. Daniels, of Illinois.

Frank L. Jenista, of New York.

Marshall R. Louis, Jr., of New York.

Nicholas Mele, of California.

David E. Miller, of Pennsylvania.

Ray Orley, of California.

Marjorie E. Smith, of California.

Pamela H. White, of Washington.

For appointment as Foreign Service officers of class 6, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Donald Edward Fitzpatrick, of New York.

Imogene Gibson McCloud, of Massachusetts.

Melvin T. Spence, of the District of Columbia.

For appointment as a Foreign Service information officer of class 6, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Mildred C. McCoo, of California.

For promotion from Foreign Service information officers of class 8 to class 7:

Anne M. Chermak, of Pennsylvania.

Lynne E. Hart, of California.

Jennifer E. Newton, of Minnesota.

For appointment as Foreign Service officers of class 7, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Catherine Barry, of Illinois.

Marsha-Lynn Bellavance, of Utah.

Richard A. Boucher, of Maryland.

Martin G. Brennan, of California.

Donald Barry Coleman, of California.

Richard Paul Collins, of Maryland.

John Francis Fogarty, of California.

Robert Steven Hyams, of New York.

Kevin Lawrence Kearns, of New York.

Robert W. Kepler, of Nebraska.

Lee Ralph Lohman, of Pennsylvania.

Robert M. Marshall, of New Jersey.

Gregory David Miller, of Connecticut.

Geoffrey Henry Moore, of Georgia.

LeRoy P. Nesbit, of Minnesota.

Nicholas James Ricciuti, Jr., of Massachusetts.

Leonard F. Scensny, of Michigan.

Emil M. Skodon, of Illinois.

Timothy Einar Skud, of Washington.

Karen Brevard Stewart, of Florida.

A. Gregory Thielmann, of Iowa.

Donald Royal Tyson, of California.



Alexander Russell Vershbow, of Massachusetts.

William Braucher Wood, of New York.

For appointment as Foreign Service officers of class 8, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Samuel G. Coppersmith, of Pennsylvania.

Richele Keller, of Maryland.

John R. Nay, of Michigan.

Glen David Preston, of Illinois.

Carl Frederick Troy, of Oregon.

Foreign Service reserve officers to be Consular Officers of the United States of America:

Larry J. Kozak, of Texas.

Robert A. Sandberg, of Florida.

Foreign Service reserve officers to be Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Isalah M. Aldridge, of North Carolina.

Mirta Alvarez, of California.

William G. Beck, of California.

Alfred V. Boerner, of Connecticut.

Claudia A. Brown, of Washington.

Andrew S. Campbell, of New Hampshire.

James W. Carter, of Texas.

Vera Lyn Davis, of Illinois.

Joyce A. DeShazo, of Maryland.

Gulda Evans-Magher, of the District of Columbia.

Thomas J. Fitzpatrick, of Virginia.

Lino Gutierrez, of Alabama.

Otis L. Hayes, of Tennessee.

Richard H. Helms, of Florida.

James F. Hicks, of Virginia.

Dale A. Karlen, of Virginia.

Norma L. Kleiber, of Virginia.

Karlene G. Knieps, of California.

Nicholas Leondiris, of Florida.

Gus N. Marty, of Washington.

Charles Joseph Mascialino, of Virginia.

Robert E. McCall III, of Virginia.

Roger E. McCarthy, of Oregon.

Edward D. Montgomery, of Virginia.

David Nickerson, of Virginia.

Giovanni Palazzolo, of Georgia.

Gary D. Partain, of Florida.

Floyd L. Paseman, of Virginia.

William G. Plunkert, of Virginia.

Jerome J. Seigel, of Virginia.

Robert E. Shaffer, of Arizona.

James D. Smith, Jr., of Connecticut.

Serge Taube, of West Virginia.

Bruce D. Tefft, of Colorado.

William H. Wright, of Maryland.

Foreign Service reserve officer to be a

Secretary in the Diplomatic Service of the United States of America:

Francis E. Matthews, of Pennsylvania.

Foreign Service staff officers to be Consular Officers of the United States of America:

Edward J. Dolezal, of Illinois.

Marianne U. Gustafson, of the District of Columbia.

Clyde Lester Jones, of Indiana.

James T. Kelley, of Virginia.

## CONFIRMATIONS

Executive nominations confirmed by the Senate May 25, 1977:

### DEPARTMENT OF STATE

George S. Vest, of Maryland, a Foreign Service Officer of the Class of Career Minister, to be an Assistant Secretary of State.

William H. Sullivan, of Rhode Island, a Foreign Service Officer of the Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Iran.

L. Douglas Heck, of Oregon, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Nepal.

Rozanne L. Ridgway, of the District of Columbia, a Foreign Service Officer of Class two, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Finland.

James Gordon Lowenstein, of the District of Columbia, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Luxembourg.

Robert H. Miller, of Washington, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Malaysia.

Harry W. Shlaudeman, of California, a Foreign Service Officer of the Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Peru.

Sander Martin Levin, of Michigan, to be an Assistant Administrator of the Agency for International Development.

John H. Sullivan, of Virginia, to be an Assistant Administrator of the Agency for International Development.

Donald Clayton Bergus, of New Jersey, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of the Sudan.

### U.S. INFORMATION AGENCY

Charles William Bray III, of Maryland, to be Deputy Director of the United States Information Agency.

### FARMERS HOME ADMINISTRATION

Gordon Cavanaugh, of Maryland, to be Administrator of the Farmers Home Administration.

### DEPARTMENT OF JUSTICE

John C. Merkel, Jr., of Washington, to be United States Attorney for the Western District of Washington for the term of four years.

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

William Antonio Medina, of Maryland, to be an Assistant Secretary of Housing and Urban Development.

### DEPARTMENT OF STATE

Ronald I. Spiers, of Vermont, a Foreign Service Officer of the Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Turkey.

Patrick J. Lucey, of Wisconsin, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico.

Frederick Irving, of Rhode Island, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Jamaica.

Marvin Weissman, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Costa Rica.

### AMBASSADOR

Adrian S. Fisher, of the District of Columbia, for the rank of Ambassador while serving as the United States Representative to the Conference of the Committee on Disarmament.

### DEPARTMENT OF JUSTICE

Michael D. Hawkins, of Arizona, to be United States Attorney for the District of Arizona for the term of four years.

### OFFICE OF DRUG ABUSE POLICY

Peter G. Bourne, of the District of Columbia, to be Director of the Office of Drug Abuse Policy.

Leo I. Dogoloff, of Maryland, to be Deputy Director of the Office of Drug Abuse Policy.

### TRUST TERRITORY OF THE PACIFIC ISLANDS

Adrian Paul Winkel, of Maryland, to be High Commissioner of the Trust Territory of the Pacific Islands.

### DEPARTMENT OF JUSTICE

James R. Britton, of North Dakota, to be United States Attorney for the District of North Dakota for the term of four years.

Harold C. Warren, of North Dakota, to be United States Marshal for the District of North Dakota for the term of four years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

## HOUSE OF REPRESENTATIVES—Wednesday, May 25, 1977

The House met at 10 o'clock a.m.

Rev. Lucretia Hurley Davis, Aldersgate United Methodist Church, Alexandria, Va., offered the following prayer:

Almighty God, Creator of all life, we praise You. We worship You. We love You. We pause at the beginning of this new day to open our lives to Your direction. We are Your children, and You know us. You know those areas in which we have sinned, those persons we have hurt. Forgive us. We confess past inequities as individuals and as a nation. Forgive us. Direct us in the paths of justice and equality. Direct our search for peace and righteousness among the peoples. Direct us this day as we make decisions

which affect the lives of men and women across this land. Help us, O Lord, who are entrusted with the ministries of human welfare, of reconciliation, of law and justice, to fulfill our responsibilities in your name with wisdom, mercy, and humility. Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3695. An act to amend title 38 of the United States Code in order to revise and improve the program of making grants to the States for the construction, remodeling, or renovation of State home facilities for furnishing hospital, domiciliary, and nursing home care for eligible veterans, and for other purposes.

H.R. 3849. An act to establish qualifications for individuals appointed to the National Advisory Committee on Oceans and Atmo-

sphere and to authorize appropriations for the Committee for fiscal year 1978;

H.R. 4390. An act to authorize appropriations for continuation of construction of distribution systems and drains on the San Luis Unit, Central Valley project, California, to mandate the extension and review of the project by the Secretary, and for other purposes;

H.R. 5493. An act to extend until October 1, 1980, the appropriation authorizations for the Seal Beach, Dismal Swamp, and San Francisco Bay National Wildlife Refuges; and

H.R. 6197. An act to amend the Disaster Relief Act of 1974 to provide for authorization of appropriations thereunder through fiscal year 1978.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 195. An act to amend title 28, United States Code, to provide that Bottineau, McHenry, Pierce, Sheridan, and Wells Counties, N. Dak., shall be included in the Northwestern Division of the Judicial District of North Dakota;

S. 1019. An act to authorize appropriations for the fiscal year 1978 for certain maritime programs of the Department of Commerce, and for other purposes; and

S. 1528. An act to amend section 2 of the Safe Drinking Water Act (Public Law 93-523) to extend and increase authorizations provided for public water systems.

#### ADJOURNMENT OF HOUSE AND SENATE

(Mr. WRIGHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WRIGHT. Mr. Speaker, I am about to send to the desk a privileged resolution. I take this minute to explain to the Membership that it is the standard resolution calling for our reconvening after our adjournment tomorrow to Wednesday next.

#### PROVIDING FOR ADJOURNMENT OF HOUSE FROM THURSDAY, MAY 26, 1977, TO WEDNESDAY, JUNE 1, 1977, AND FOR ADJOURNMENT OF SENATE FROM FRIDAY, MAY 27, 1977, TO MONDAY, JUNE 6, 1977

Mr. WRIGHT. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 229) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

#### H. CON. RES. 229

*Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, May 26, 1977, it stand adjourned until 12 o'clock meridian on Wednesday, June 1, 1977, and that when the Senate recesses on Friday, May 27, 1977, it stand in recess until 12:30 o'clock post-meridian on Monday, June 6, 1977.*

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

#### SCHEDULE FOR TASK FORCE ON WORK MANAGEMENT OF COMMISSION ON ADMINISTRATIVE REVIEW

(Mr. D'AMOURS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. D'AMOURS. Mr. Speaker, on May 17 I circulated a "dear colleague" letter which announced the schedule for the Task Force on Work Management of the Commission on Administrative Review for the near future.

Our job will be to suggest changes in procedures and current practices in the House in order to make Members and staff more effective in doing their jobs. We will be looking at four broad areas in which Members and staff seem to have problems which we can be helpful in solving—information availability and flow, office workload management, personnel procedures, and time use and scheduling.

We are most anxious to have insights from all Members of the House as we examine these areas. In the "dear colleague" letter which I circulated, we asked for either written comments or, if Members desired, for participation in our coming hearings.

I would like to take this opportunity to remind the Members that those hearings for Members will be held on June 2 at 9:30 a.m. We hope you will take this opportunity to give the Commission your views.

#### CLEAN AIR ACT AMENDMENTS OF 1977

Mr. ROGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6161) to amend the Clean Air Act, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 369, nays 1, not voting 63, as follows:

[Roll No. 284]

YEAS—369

|                |           |              |                 |                |
|----------------|-----------|--------------|-----------------|----------------|
| Akaka          | Applegate | Baucus       | Goodling        | Moorhead,      |
| Alexander      | Archer    | Bauman       | Gore            | Calif.         |
| Allen          | Armstrong | Beard, R.I.  | Gradison        | Moorhead, Pa.  |
| Ambro          | Ashbrook  | Beard, Tenn. | Grassley        | Moss           |
| Ammerman       | Ashley    | Benjamin     | Gudger          | Mottl          |
| Anderson,      | Aspin     | Bennett      | Guyer           | Murphy, N.Y.   |
| Calif.         | AuCoin    | Bevill       | Hagedorn        | Murphy, Pa.    |
| Anderson, Ill. | Badham    | Biaggi       | Hamilton        | Murtha         |
| Andrews, N.C.  | Badillo   | Bingham      | Hammer-         | Myers, Gary    |
| Andrews,       | Baflis    | Blanchard    | schmidt         | Myers, Michael |
| N. Dak.        | Baldus    | Blouin       | Hanley          | Myers, Ind.    |
| Annunzio       | Barnard   | Boggs        | Hannaford       | Natcher        |
|                |           |              | Hansen          | Nedzi          |
|                |           |              | Harkin          | Nichols        |
|                |           |              | Harrington      | Nix            |
|                |           |              | Harris          | Nolan          |
|                |           |              | Harsha          | Nowak          |
|                |           |              | Hawkins         | O'Brien        |
|                |           |              | Heckler         | Oberstar       |
|                |           |              | Hefner          | Obey           |
|                |           |              | Hefter          | Otinger        |
|                |           |              | Hillis          | Panetta        |
|                |           |              | Holland         | Patten         |
|                |           |              | Hollenbeck      | Patterson      |
|                |           |              | Holt            | Pattison       |
|                |           |              | Holtzman        | Pease          |
|                |           |              | Horton          | Pepper         |
|                |           |              | Howard          | Perkins        |
|                |           |              | Hubbard         | Pettis         |
|                |           |              | Huckaby         | Pickle         |
|                |           |              | Hughes          | Pike           |
|                |           |              | Hyde            | Preyer         |
|                |           |              | Ichord          | Pritchard      |
|                |           |              | Ireland         | Pursell        |
|                |           |              | Jacobs          | Quayle         |
|                |           |              | Jeffords        | Quie           |
|                |           |              | Jenkins         | Quillen        |
|                |           |              | Jenrette        | Railsback      |
|                |           |              | Johnson, Calif. | Regula         |
|                |           |              | Johnson, Colo.  | Reuss          |
|                |           |              | Jones, N.C.     | Richmond       |
|                |           |              | Jones, Okla.    | Rinaldo        |
|                |           |              | Jones, Tenn.    | Risenhoover    |
|                |           |              | Jordan          | Roberts        |
|                |           |              | Kasten          | Robinson       |
|                |           |              | Kastenmeier     | Rodino         |
|                |           |              | Kazen           | Rogers         |
|                |           |              | Kelly           | Roncalio       |
|                |           |              | Kemp            | Rooney         |
|                |           |              | Ketchum         | Rosenthal      |
|                |           |              | Keys            | Rostenkowski   |
|                |           |              | Kildee          | Rousselot      |
|                |           |              | Kindness        | Roybal         |
|                |           |              | Koch            | Rudd           |
|                |           |              | Kostmayer       | Runnels        |
|                |           |              | Krebs           | Ruppe          |
|                |           |              | Krueger         | Russo          |
|                |           |              | LaFalce         | Ryan           |
|                |           |              | Lagomarsino     | Santini        |
|                |           |              | Latta           | Sarasin        |
|                |           |              | Le Fante        | Satterfield    |
|                |           |              | Leach           | Sawyer         |
|                |           |              | Lederer         | Scheuer        |
|                |           |              | Leggett         | Schroeder      |
|                |           |              | Lent            | Schulze        |
|                |           |              | Levitas         | Sebelius       |
|                |           |              | Lloyd, Calif.   | Seiberling     |
|                |           |              | Lloyd, Tenn.    | Sharp          |
|                |           |              | Long, Md.       | ShIPLEY        |
|                |           |              | Lujan           | Shuster        |
|                |           |              | Luken           | Sikes          |
|                |           |              | McClory         | Simon          |
|                |           |              | McDonald        | Slack          |
|                |           |              | McEwen          | Smith, Iowa    |
|                |           |              | McFall          | Smith, Nebr.   |
|                |           |              | McHugh          | Solarz         |
|                |           |              | McKay           | St Germain     |
|                |           |              | McKinney        | Staggers       |
|                |           |              | Madigan         | Stangeland     |
|                |           |              | Maguire         | Stanton        |
|                |           |              | Mahon           | Stark          |
|                |           |              | Mann            | Steed          |
|                |           |              | Markey          | Steiger        |
|                |           |              | Marks           | Stockman       |
|                |           |              | Marlenee        | Stokes         |
|                |           |              | Marriott        | Stratton       |
|                |           |              | Mathis          | Studds         |
|                |           |              | Mattox          | Stump          |
|                |           |              | Meeds           | Symms          |
|                |           |              | Meyner          | Taylor         |
|                |           |              | Michel          | Thompson       |
|                |           |              | Mikulski        | Thone          |
|                |           |              | Mikva           | Thornton       |
|                |           |              | Milford         | Traxler        |
|                |           |              | Miller, Calif.  | Treen          |
|                |           |              | Miller, Ohio    | Trible         |
|                |           |              | Mineta          | Tucker         |
|                |           |              | Mitchell, N.Y.  | Ullman         |
|                |           |              | Moakley         | Van Deerlin    |
|                |           |              | Moffett         | Vander Jagt    |
|                |           |              | Mollohan        | Vanik          |
|                |           |              | Montgomery      | Vento          |
|                |           |              | Moore           | Volkmer        |



Waggonner White Wylder  
Walgren Whitehurst Wylie  
Walker Whitely Yates  
Walsh Whitten Yatron  
Wampler Wiggins Young, Fla.  
Watkins Wilson, Bob Young, Mo.  
Waxman Wilson, Tex. Young, Tex.  
Weaver Winn Zablocki  
Weiss Wirth Zeferetti  
Whalen Wright

## NAYS—1

Mitchell, Md.

## NOT VOTING—63

Abdnor Fascell Poage  
Addabbo Florio Pressler  
Bedell Ford, Mich. Price  
Bellenson Forsythe Rahall  
Boland Gonzalez Rangel  
Bolling Hall Rhodes  
Bouker Hightower Roe  
Brooks Lehman Rose  
Burton, John Long, La. Sisk  
Chisholm Lott Skelton  
Clawson, Del Lundine Skubitz  
Clay McCloskey Snyder  
Collins, Ill. McCormack Spellman  
Conable McDade Spence  
de la Garza Martin Steers  
Dellums Mazzoli Teague  
Dent Metcalfe Tsongas  
Diggs Minish Udall  
Dornan Murphy, Ill. Wilson, C. H.  
English Neal Wolff  
Fary Oakar Young, Alaska

So the motion was agreed to.

The result of the vote was announced as above recorded.

## IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 6161, with Mr. DANIELSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Tuesday, May 24, 1977, all time for general debate on the bill had expired, and the Clerk was about to read section 1 of the bill.

The Clerk will read.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Clean Air Act Amendments of 1977".

## TABLE OF CONTENTS

Sec. 1. Short title and table of contents.  
Sec. 2. Authorizations; sunshine in Government.  
TITLE I—AMENDMENTS RELATING PRIMARILY TO STATIONARY SOURCES  
Sec. 101. Unregulated pollutants.  
Sec. 102. Basis of administrative standards.  
Sec. 102A. Economic impact statement.  
Sec. 103. Delayed compliance orders under State plan.  
Sec. 104. Assessment of civil penalties.  
Sec. 105. Noncompliance penalty.  
Sec. 106. Compliance date extensions for coal conversion.  
Sec. 107. Stratosphere and ozone protection.  
Sec. 108. Prevention of significant deterioration.  
Sec. 109. Training.  
Sec. 110. Review of standards.  
Sec. 111. New source standards of performance.  
Sec. 112. Variances for technology innovations.  
Sec. 113. Control of pollution from Federal facilities.  
Sec. 114. Waiver of maintenance of effort requirement.

Sec. 115. Energy or economic emergency authority.  
Sec. 116. Visibility protection.  
Sec. 117. Nonattainment areas.  
Sec. 118. Internalization of cost.  
Sec. 119. Codification and publication of applicable implementation plans.

## TITLE II—AMENDMENTS RELATING PRIMARILY TO MOBILE SOURCES

Sec. 201. Limitation on indirect source review authority.  
Sec. 202. Extension of transportation control compliance dates.  
Sec. 203. Light-duty motor vehicle emissions.  
Sec. 204. Emission standards for heavy-duty vehicles or engines and certain other vehicles or engines.  
Sec. 205. Aircraft emission standards.  
Sec. 206. Assurance of protection of public health and safety.  
Sec. 207. Test procedures for measuring evaporation emissions.  
Sec. 208. Vehicle inspection and maintenance.  
Sec. 209. Warranties and motor vehicle parts certification.  
Sec. 210. Parts standards; preemption of State law.  
Sec. 211. Protection of competition; assurance of consumer freedom of choice.  
Sec. 212. Anti-tampering prohibition.  
Sec. 213. Cost of vapor recovery systems to be borne by owner of retail outlet.  
Sec. 214. California waiver.  
Sec. 215. High altitude performance adjustments.  
Sec. 216. Fill pipe standards.  
Sec. 217. Onboard hydrocarbon technology.  
Sec. 218. Carbon monoxide intrusion into sustained use vehicles.  
Sec. 219. Implementation of motor vehicle emission standards and warranties.  
Sec. 220. Testing of fuels and fuel additives.  
Sec. 221. Preemption of State law.  
Sec. 222. Testing by small manufacturers.

## TITLE III—MISCELLANEOUS AMENDMENTS

Sec. 301. Redesignation of air quality control regions.  
Sec. 302. Consultation.  
Sec. 303. Delegation to local government under Federal plan.  
Sec. 304. Employment effects.  
Sec. 305. Administrative procedures and judicial review.  
Sec. 306. Employee protection.  
Sec. 307. Notice to State in case of certain inspections, etc.  
Sec. 308. Emergency powers.  
Sec. 309. Interstate pollution abatement.  
Sec. 310. Interagency cooperation on prevention of environmental cancer and heart and lung diseases.  
Sec. 311. Civil litigation.  
Sec. 312. Fine particulate study.  
Sec. 313. Air quality monitoring by Environmental Protection Agency.  
Sec. 314. Certain minor and technical and conforming amendments.  
Sec. 315. Study and report concerning economic approaches to controlling air pollution.  
Sec. 315A. Environmental adjustments assistance study.  
Sec. 316. Loss of pay prohibited.  
Sec. 317. Rule review.  
Sec. 318. Reduction of paperwork; simplification of administration.  
Sec. 319. Conflicts of interest prohibited.  
Sec. 320. Savings provision; effective dates.

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 1 of title I be considered as

read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The Clerk will read. The Clerk read as follows:

## AUTHORIZATIONS; SUNSHINE IN GOVERNMENT

SEC. 2. (a) Section 316 of the Clean Air Act is amended to read as follows:

## "APPROPRIATIONS

"SEC. 316. (a) There are authorized to be appropriated to carry out this Act (other than section 327, section 103(b)(5), and authorities providing for research, development, and demonstration under this Act) \$200,000,000 for each of the three fiscal years beginning after the date of enactment of the Clean Air Act Amendments of 1977."

(b) The Clean Air Act is amended by adding the following new section at the end thereof:

## "SUNSHINE IN GOVERNMENT; CONFLICTS OF INTEREST

"SEC. 325. (a) Each person who—

"(1) has any known financial interest (A) in any person subject to such Act, or (B) in any person who applies for or receives any grant, contract, or other form of financial assistance pursuant to this Act, and

"(2) is (A) an officer or employee of the Environmental Protection Agency who performs any function of duty under this Act or (B) a member of the National Commission on Air Quality appointed as a member of the public

shall, beginning six months after the date of enactment of this section, annually file with the Administrator a written statement concerning all such interests held by such officer, employee, or member during the preceding calendar year. Such statement shall be available to the public.

"(b) The Administrator shall—

"(1) act within ninety days after the date of enactment of the Clean Air Act Amendments of 1977—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section;

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers, employees and members of such statements and the review by the Administrator (or the Commission in the case of members of the Commission) of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such statements to the Administrator and the actions taken in regard thereto during the preceding calendar year.

"(c) No person who—

"(1) is employed by, serves as attorney for, acts as a consultant for, or holds any other official or contractual relationship to—

"(A) the owner or operator of any major stationary source or any stationary source which is subject to a standard of performance or emission standard under section 111 or 112,

"(B) any manufacturer of any class or category of mobile sources if such mobile sources are subject to regulation under this Act, or

"(C) any trade or business association of which such owner or operator referred to in subparagraph (A) or such manufacturer referred to in subparagraph (B) is a member.

"(2) owns any stock, bonds, or other financial interest in any such owner or operator, manufacturer, or trade or business association, or

"(3) is an officer or employee of any organization (whether or not nonprofit) engaged in litigation or political, educational, or information activities, relating to air quality.

may serve as an officer or employee of the Environmental Protection Agency or as a member, appointed from the public, of the National Commission on Air Quality.

"(d) The Administrator shall promulgate rules for purposes of subsections (b) and (c) which identify specific positions within such agency which are of a nonregulatory or nonpolicy-making nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(e) Any officer or employee of the Environmental Protection Agency or member of the National Commission on Air Quality who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than \$2,500 or imprisoned not more than one year, or both.

"(f) Nothing in this section shall be construed to affect or impair any other requirement respecting disclosure or conflict of interest applicable to the Environmental Protection Agency or the Nations Commission on Air Quality."

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 2 of title I be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. DINGELL. Mr. Chairman, reserving the right to object, and I will not object, I do so only for the purpose of inquiring of the gentleman from Florida who has just made the unanimous consent request as to what his intent is, if I can have the gentleman's attention, and I hope I can, with regard to the unanimous consent requests which the gentleman is making; is it his intention that each title be open to amendment at any point and printed in the Record, or is it that each section shall be read or considered as read?

Mr. ROGERS. Mr. Chairman, if the gentleman will yield, I think it would be easier for the Members of the House to follow if we go section by section instead of by title because this will allow us to explain each section, if necessary, and then have it open to amendment at any point, if the gentleman from Michigan would agree to that.

Mr. DINGELL. Mr. Chairman, I would assume the gentleman is then going to request that each section be considered as read, printed in the Record, and open to amendment at any point, and to that I have no objection.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I certainly agree that this is the proper way to go about the disposition of this legislation.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I rise today in opposition to H.R. 6161,

the Clean Air Act Amendments of 1977, as reported by the Interstate and Foreign Commerce Committee. This legislation may be one of the most seriously defective and misguided measures to come before this Congress. Many of the provisions of the bill have been crafted with little thought to the impacts they will have on our Nation's economy, the individual consumer and our energy programs.

Just 1 month ago, the nation listened to President Carter's "the sky is falling" speech with respect to the energy crisis facing the United States. The Nation was told by the President that a CIA study predicted that our oil and gas supplies were rapidly being depleted, that nuclear power was too dangerous and its expansion would be curtailed and that by increasing our coal production by two-thirds, and conserving, we would be able to meet our energy needs. Well, my friends, should we enact this legislation, the sky really will fall because coal simply will not be able to be burned in any increased amounts. Let me describe for you some of the more onerous provisions and their relationship to the economy, the individual consumer and our energy policy.

The nondeterioration provisions of section 108, and the new source standards of performance provisions of section 111, if enacted, will result in significantly greater expenditures by industry in order to comply with the provisions, and these expenditures will, of course, be passed on to the consumers. One industry that would be affected by this is the electric utility industry. Now I am sure that all of you have received many letters from constituents about increasing utility bills. Well, if you want those bills to further increase, vote for the nondeterioration and new source standards provisions as they are.

The cost of installation of the scrubber equipment to comply with this bill for the Cincinnati Gas & Electric Co. will result in additional company operating costs of \$115 million per year. That money represents capital investment that could be made in additional plant and job expansion to meet the expanding demand for electricity. It was brought out time and again in hearings before the Energy and Power Subcommittee that the utility industry is one of the most capital-intensive and capital-strapped industries in the country. In 1973-74, plant expansion expenditures trimmed solely for financial reasons totaled \$21 billion. There is a real danger of undercapacity, and yet here we are trying to increase operating expenditures. A February 1976 study by EPA estimates that these two provisions would result in \$28 billion in additional costs to the electric utility industry between now and 1990, and, if a high growth rate is assumed for that period, the National Economic Research Associates conclude that additional costs may exceed \$50 billion.

But are we cleaning up the environment with these provisions? No, I think not. An EPA study concludes that the implementation of these policies will result in the generation of substantial amounts of new waste, and that by the

year 1990, we will be producing 50 million tons of additional sludge per year. Just to dispose of this sludge, it will take 2,000 acres of land per year at a depth of 20 feet.

Now let us look at the consumer cost impact of another provision of H.R. 6161—the auto emissions standards provisions. The FEA estimates that, if the provisions currently in the bill are enacted, the fuel penalty by 1981 would be as much as 140,000 barrels of oil per day. That would mean an additional \$0.7 billion per year in payments to the OPEC cartel by U.S. consumers—assuming that we can get the oil. Furthermore, the consumer cost of the new equipment necessary to meet statutory standards is estimated to be \$350 per vehicle by Mr. Costle of EPA. It should also be noted that no one, as yet, knows how to meet these statutory standards on most vehicles and that is why we are postponing again. California, which has higher standards than the rest of the country, provides a good example of what will happen if these standards are not further relaxed. General Motors estimates that approximately 40 of its models for 1978 cannot be sold in California in 1978.

Beyond 1979, as the domestic and foreign manufacturers have recently testified at congressional hearings, the disadvantages in meeting excessively stringent standards include fuel economy penalties, higher costs to the consumer—increased equipment and maintenance costs—and at least initially, poorer driveability and performance and reduced model availability. The impact of these disadvantages, which would result if auto emission standards were tighter than the Dingell-Broyhill standards, must be weighted against the fact that analytical data available shows there also would be statistically insignificant improvements in the Nation's ambient air quality.

#### H.R. 6161 AND THE OIL SHORTAGE

I would like to remind my colleagues of an unpleasant truth: Three and a half years after the Arab oil embargo, we are steadily growing more—not less—dependent on foreign oil. The nondeterioration provisions of H.R. 6161 would make us even more dependent upon foreign oil by requiring many decisions regarding the development of such alternate domestic energy sources as coal, oil shale, and uranium to be based on only one criterion; namely, the quality of air.

The people of this country need and want the cleanest air they can get, and they are willing to pay for it. But certainly they need and want other things as well. And the economic consequences of such growing dependence on foreign sources of oil appear to be so potentially disastrous for this Nation that I feel compelled to present them to you. I do so in order that you may seriously consider whether it would not be prudent to have the nondeterioration provisions and their ramifications studied before voting them into law.

To enact these provisions hastily into law now might very well cause catastrophic and even irrevocable damage to



our country's energy independence and economic well-being. Back in 1970, domestic crude oil production peaked at an average of 9.6 million barrels per day, and crude oil imports were a mere 9 percent of our total domestic supply. In each succeeding year, however, domestic production either declined or stagnated—as the natural consequence of oil field depletion and price control policy—until by this year daily output averaged 17 percent less than in 1972. At the same time, demand kept increasing inexorably. The difference between supply and demand was made up by increasing imports of foreign oil—imports which have soared some 240 percent from 1972 through 1976.

Our balance-of-payments outflow is another crucial factor that must be reckoned with. In 1972 payments for oil imports were \$3.0 billion. Because of soaring demand and the fivefold rise in oil prices by OPEC since then, however, payments outflow in 1976 was over \$35 billion, 10 times as much. Here is an enormous sum sent abroad which could otherwise have been invested in new plants and equipment at home to spur lagging economic growth and make American industry more competitive.

The solution of the problem of growing dependence on foreign oil has been obvious all along, and that is to develop domestic oil and natural gas as well as alternate sources of domestic energy, such as coal, oil shale and uranium. By developing such sources, not only will this country protect itself from the potentially disastrous effects of another Arab oil boycott, but also it will be able to keep tens of billions of dollars at home, where they can be put to work creating hundreds of thousands of new jobs for the unemployed and for young people coming into the job market.

However, the nondeterioration provisions, as presently written, appear to place insuperable obstacles in the path of energy development. They would, for example, severely inhibit the mining of coal in West Virginia and Kentucky. The energy resources of Wyoming, Montana, Colorado, and Utah, which comprise coal, oil shale, and uranium, would be largely unavailable for mining, since all too often the required facilities to mine and process these resources, no matter how well controlled, could not be built where needed.

We must ask ourselves what would be the true energy and economic costs of enforcing the nondeterioration provisions. From the evidence to date, these potential costs appear to be staggering. Two 1976 independent FEA studies show that these provisions would force the electric utilities to increase their oil consumption by 1 million barrels a day by 1990. This amount equals all of the crude oil produced in the Gulf of Mexico last year; that is, almost 12 percent of the Nation's output. FEA consultants also calculated that because of the nondeterioration provisions, coal production could be as much as 150 million tons lower than otherwise projected for 1990, an amount equal to almost one-quarter of all coal being mined at present. Then,

too, the FEA estimates that electric utilities would have to pay an extra \$6 to \$16 billion during the same period.

These crippling restrictions which the nondeterioration provisions would place on coal production and use would drastically affect the President's announced energy policy because coal constitutes over 80 percent of our economically recoverable energy resources. However, to date no one from the administration has been able to explain the inherent inconsistencies and clash of the administration's energy and clean air positions. Starting today, the Energy and Power Subcommittee will hold 3 days of hearings on the coal conversion part of President Carter's energy bill and I can assure you that I intend to find out how the two policies can be justified together—and not just by rhetoric either. But unfortunately, we must act on H.R. 6161 before we consider the energy policy.

The question before us is whether cleaning up the air is so urgent a matter as to take precedence over all other pressing concerns. Employment, economic growth and protection against future oil embargoes—with such momentous issues at stake, it would seem wise to refer the nondeterioration provisions to a commission for 2 years of study. In this way, the potential social, economic, and energy consequences that would flow from such provisions could be studied and their true costs calculated.

Once armed with such knowledge, this body would be in a position to weigh possible tradeoffs between the nondeterioration of air quality and the other needs of this country. Without such knowledge, we would move ahead only at considerable peril, for from much of the evidence to date, the impact of the nondeterioration provisions upon the Nation's economy and energy policy appears to be massive.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I rise in strong support for the Clean Air Act, H.R. 6161, as reported by the Commerce Committee.

As we are all aware, the central controversy in this bill concerns deadlines for meeting auto emissions standards. The plan for extending the deadlines as set forth by the Committee represents the fourth time the Congress has bent the 1970 Clean Air Act to meet the convenience of the auto industry. While I believe the committee compromise is reasonable, I can see no merit in going farther, as some Members suggest, and weakening the Clean Air Act beyond recognition.

We have seen the auto industry meet California's clean air standards with ease, standards that are applicable to as many as 10 percent of the cars sold in

this country. Certainly, there is no question that these standards can be extended, on the timetable the committee proposes, to all American cars.

There is another, particularly difficult problem that could be created if we delay auto emissions standards further. As the chairman of the California Air Resources Board noted:

A slowdown in the auto program, as is being proposed by the industry, will put increasing pressure on stationary pollution sources and most certainly force local air quality officials to halt construction of new facilities which are needed to boost employment and provide products.

Mr. Chairman, I share this view and I find it shortsighted to say that we must protect the auto industry at all costs, while forcing other producers and manufacturers to suffer, just to satisfy Detroit.

There has been an effort by supporters of further delays in air quality controls to portray this issue as a confrontation between radical environmentalists and the auto industry. Mr. Chairman, that is not the case at all. The Committee bill is supported by groups as diverse as the American Medical Association, the Automotive Parts and Accessories Association, the National Governors' Conference, the National Association of Industrial Parks, and many senior citizens' groups.

The broad spectrum of supporters raises an important question in my mind. The Clean Air Act of 1970 passed this body by an overwhelming margin. Poll after poll shows that a huge majority of Americans support stiff clean air standards. Groups such as the Sierra Club and the National Realty Committee which are often at odds on other issues are in agreement on clean air. Mr. Chairman, my question is this—are we or are we not going to enforce and maintain the laws we pass, even if they are opposed by one powerful special interest, when the American people want them enforced? Are we going to allow the often weak voices of individual citizens to be drowned out by the chorus of well-paid Washington lobbyists?

All the excellent ethics measures this House has adopted will do little to restore the confidence of the people in Congress, if we continually ignore their interests and support the special interests. Good representation does not simply mean not taking money from lobbyists and setting up slush funds, although of course that is part of it. It also means listening carefully and being able to take some controversial stands, when that is what the people want. I believe that is what is called for in this case.

We have heard the auto industry's position over and over again, it has received more than its share of coverage by the media. The voices of doctors who see diseases and deaths from respiratory illnesses brought on by air pollution have not been heard enough. The voices of senior citizens whose right to breathe the cleanest possible air is being threatened right now have not been heard enough. The voices of other manufacturers who have been meeting tough air pollution standards on their factories and who will now be asked to meet still stronger

standards just to make up for increased delays in auto pollution compliance have not been heard enough.

Mr. Chairman, I urge my colleagues to listen to those voices and to support H.R. 6161, as reported by the committee.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

**TITLE I—AMENDMENTS RELATING PRIMARILY TO STATIONARY SOURCES**

**UNREGULATED POLLUTANTS**

Sec. 101. (a) Title I of the Clean Air Act is amended by adding at the end thereof the following new section:

**"LISTING OF CERTAIN UNREGULATED POLLUTANTS**

"Sec. 120. (a) (1) In the case of radioactive pollutants (including source material, special nuclear material, and byproduct material), cadmium, arsenic, and polycyclic organic matter, the Administrator shall (not later than one year after the date of the enactment of the Clean Air Act Amendments of 1977) include such substance in the list published under section 108(a) (1) or 112(b) (1) (A) (in the case of a substance which, in the judgment of the Administrator, causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious, irreversible, or incapacitating reversible illness), or shall include each category of stationary sources emitting such substance in significant amounts in the list published under section 111(b) (1) (A), or take any combination of such actions.

"(2) Paragraph (1) shall not apply if the Administrator finds, after notice and opportunity for public hearing, that the air pollution caused, or contributed to, by a substance referred to in such paragraph (1) may not reasonably be anticipated to endanger public health.

"(b) Nothing in subsection (a) shall be construed to affect the authority or duty of the Administrator to revise any list referred to in subsection (a) with respect to any substance (whether or not enumerated in subsection (a)).

"(c) (1) Before listing any source material, special nuclear, or byproduct material (or component or derivative thereof) as provided in subsection (a), the Administrator shall consult with the Nuclear Regulatory Commission.

"(2) Not later than six months after listing any such material (or component or derivative thereof) the Administrator and the Nuclear Regulatory Commission shall enter into an interagency agreement with respect to those sources or facilities which are under the jurisdiction of the Commission. This agreement shall, to the maximum extent practicable consistent with this Act, minimize duplication of effort and conserve administrative resources in the establishment, implementation, and enforcement of emission limitations, standards of performance, and other requirements and authorities (substantive and procedural) under this Act respecting the emission of such material (or component or derivative thereof) from such sources or facilities."

(b) Section 109 of such Act is amended by adding the following new subsection at the end thereof:

"(c) The Administrator shall, not later than one year after the date of the enactment of the Clean Air Act Amendments of 1977, promulgate a national primary ambient air quality standard for NO<sub>x</sub> concentrations over a period of not more than one hour unless, based on the criteria issued under section 108(c), he finds that there is no significant evidence that such a standard for such period is requisite to protect public health."

(c) Section 108(c) of such Act is amended by adding the following at the end thereof:

"Not later than six months after the date of the enactment of the Clean Air Act Amendments of 1977, the Administrator shall revise and reissue criteria relating to concentrations of NO<sub>x</sub> over a period of not more than one hour. Such criteria shall include a discussion of nitric and nitrous acids, nitrites, nitrates, nitrosamines, and other carcinogenic and potentially carcinogenic derivatives of oxides of nitrogen."

(d) The Administrator of the Environmental Protection Agency shall conduct a study, in conjunction with other appropriate agencies, concerning the effect on the public health and welfare of sulfates, radioactive pollutants, cadmium, arsenic, and polycyclic organic matter which are present or may reasonably be anticipated to occur in the ambient air. Such study shall include a thorough investigation of how sulfates are formed and how to protect public health and welfare from the injurious effects, if any, of sulfates, cadmium, arsenic, and polycyclic organic matter.

(e) Section 302(g) of such Act is amended to read as follows:

"(g) The term 'air pollutant' means any air pollution agent or combination of such agents, including any physical, chemical, biological, radiological (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air."

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 101 be considered as read, printed in the Record and open to amendment at any point. This section has to do with unregulated pollutants. The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

**BASIS OF ADMINISTRATIVE STANDARDS**

Sec. 102. (a) (1) Section 108(a) (1) (A) of the Clean Air Act is amended to read as follows:

"(A) emissions of which, in his judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health and welfare;"

(2) Section 108(a) (1) of such Act is amended by adding the following at the end thereof: "Such list shall also include air pollutants required to be listed as provided in section 120."

(b) The second sentence of section 111(b) (1) (A) of such Act is amended to read as follows: "He shall include a category of sources in such list if in his judgment it causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare or if it is required to be listed as provided in section 120."

(c) Paragraph (1) of section 112(a) of such Act is amended to read as follows:

"(1) The term 'hazardous air pollutant' means an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the Administrator causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness."

(d) (1) Section 202(a) of such Act is amended to read as follows:

"(a) (1) Except as otherwise provided in subsection (b), the Administrator shall by regulation prescribe (and from time to time revise) in accordance with the provisions of this section, standards applicable to the emission of any air pollutant from any class

or classes of new motor vehicles or new motor vehicle engines, which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare. Such standards shall be applicable to such vehicles and engines for their useful life (as determined under subsection (d)), whether such vehicles and engines are designed as complete systems or incorporate devices to prevent or control such pollution.

"(2) Any regulation prescribed under paragraph (1) of this subsection (and any revision thereof) shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period."

(2) Section 202(e) of such Act is amended by striking out "which cause or contribute to, or are likely to cause or contribute to, air pollution which endangers" and substituting "which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger"

(e) Section 211(c) (1) (A) of such Act is amended to read as follows: "(A) if in the judgment of the Administrator any emission product of such fuel or fuel additive causes, or contributes, to air pollution which may reasonably be anticipated to endanger the public health or welfare, or"

(f) Section 231(a) (2) of such Act is amended to read as follows:

"(2) The Administrator shall, from time to time, issue proposed emission standards applicable to the emission of any air pollutant from any class or classes of aircraft engines which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare."

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that this section be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

**ECONOMIC IMPACT STATEMENT**

Sec. 102A. Title III of the Clean Air Act is amended by adding the following new section at the end thereof:

**"ECONOMIC IMPACT STATEMENT**

"Sec. 326. (a) This section applies to action of the Administrator in promulgating or revising—

"(1) any new source standard of performance under section 111(b),

"(2) any regulation under section 111(d),

"(3) any regulation under section 122,

"(4) any regulation under subtitle B of title I (relating to stratosphere protection),

"(5) any regulation under subtitle C of title I,

"(6) any regulation establishing emission standards under section 202 and any other regulation promulgated under that section.

"(7) any regulation controlling or prohibiting any fuel or fuel additive under section 211(c), and

"(8) any aircraft emission standard under section 231.

Nothing in this section shall apply to any standard or regulation described in paragraphs (1) through (8) of this subsection unless the notice of proposed rulemaking in connection with such standard or regulation is published in the Federal Register after the date 90 days after the date of enactment of this section. In the case of revisions of



such standards or regulations, this section shall apply only to revisions which the Administrator determines to be substantial revisions.

"(b) Before publication of notice of proposed rulemaking with respect to any standard or regulation to which this section applies, the Administrator shall prepare an economic impact statement respecting such standard or regulation. Such statement shall be included in the docket required under section 307(d)(2) and shall be available to the public as provided in section 307(d)(4). Notice of proposed rulemaking shall include notice of such availability together with an explanation of the extent and manner in which the Administrator has considered the analysis contained in such economic impact statement in proposing the action. The Administrator shall also provide such an explanation in his notice of promulgation of any regulation or standard referred to in subsection (a). Each such explanation shall be part of the statements of basis and purpose required under sections 307(d)(3) and 307(d)(6).

"(c) Subject to subsection (d), the statement required under this section with respect to any standard or regulation shall contain an analysis of:

"(1) the costs of compliance with any such standard or regulation, including extent to which the costs of compliance will vary depending on (A) the effective date of the standard or regulation, and (B) the development of less expensive, more efficient means or methods of compliance with the standard or regulation;

"(2) the potential inflationary or recessionary effects of the standard or regulation;

"(3) the availability of capital to procure the necessary means of compliance with the standard or regulation;

"(4) the direct and indirect effects on employment of the standard or regulation;

"(5) the effects on competition of the standard or regulation, particularly the effects on small business;

"(6) the effects of the standard or regulation on consumer costs, including costs especially affecting economically vulnerable segments of the population;

"(7) the effects of the standard or regulation on energy use or availability;

"(8) the impact of the standard or regulation on the potential for long-term economic growth;

"(9) the impact of the standard or regulation on productivity;

"(10) the impact of the standard or regulation on the Nation's balance of payments;

"(11) the economic impact of postponing the standard or regulation or of not promulgating such standard or regulation;

"(12) alternative methods to such standard or regulation for achieving equal or greater degree of emission reduction (or health or environmental protection) at lesser economic costs;

"(13) comparative expenditures required to achieve incremental levels of reduction of emissions (or enhancement of health or environmental protection); and

"(14) any possible alternatives for minimizing or eliminating part or all of any adverse economic impacts of such standard or regulation.

"(d) The statement required under this section shall be as extensive as practicable, in the judgment of the Administrator taking into account the time and resources available to the Environmental Protection Agency and other duties and authorities which the Administrator is required to carry out under this Act.

"(e) Nothing in this section shall be construed:

"(1) to alter the basis on which a standard or regulation is promulgated under this Act; or

"(2) to preclude the Administrator from

carrying out his responsibility under this Act to protect public health and the environment.

A standard or regulation subject to this section shall be invalid on the basis of a failure to comply with this section only if the Administrator acted arbitrarily and capriciously—

"(A) in failing to prepare and publish an adequate economic impact statement as required by this section, or

"(B) in failing to comply with the procedural requirements of subsection (b)."

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 102-A be considered as read, printed in the Record, and open to amendment at any point. This section has to do with the economic impact statement.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

#### DELAYED COMPLIANCE ORDERS

SEC. 103. (a) Title I of the Clean Air Act is amended by adding the following new section at the end thereof:

#### "DELAYED COMPLIANCE ORDERS

"SEC. 121. (a) (1) After notice and public hearing, upon application by the owner or operator of a stationary source or upon the initiative of the State or the Administrator, a delayed compliance order under subsection (b)(1) or (2) or a primary nonferrous smelter order under subsection (b)(3) may be issued—

"(A) by the Administrator, after thirty days' notice to the State, or

"(B) by the State in which such source is located, but—

"(1) in the case of any major stationary source, no such order issued by the State shall take effect until the Administrator determines that such order has been issued in accordance with the requirements of this Act, and

"(2) in the case of any source other than a major stationary source, such order issued by the State shall cease to be effective upon a determination by the Administrator that it was not issued in accordance with the requirements of this Act.

The notice required to be issued under this section shall include the content of the proposed order and proposed specific findings of the reason or reasons for the issuance of the order. Any order issued under this section shall include final specific findings of such reasons. Not later than ninety days after submission by the State to the Administrator of notice of the issuance of an order under this section, the Administrator shall determine whether or not such order has been issued by the State in accordance with the requirements of this Act.

"(2) (A) An order issued under subsection (b)(3) to a primary nonferrous smelter shall be referred to as a 'primary nonferrous smelter order'. No primary nonferrous smelter may receive both a delayed compliance order under subsection (b)(1) and a primary nonferrous smelter order under subsection (b)(3).

"(B) No primary nonferrous smelter order may be issued by the Administrator without the written consent of the State in which such smelter is located.

"(C) Before any hearing conducted under this section, in the case of an application made by the owner or operator of a primary nonferrous smelter, the applicant shall furnish the Administrator (or the State as the case may be) with a statement of the grounds on which such application is based

(including all supporting documents and information). The statement of the grounds for the proposed order shall be provided by the Administrator or the State in any case in which such State or Administrator is acting on its own initiative. Such statement (including such documents and information) shall be made available to the public for a thirty-day period before such hearing and shall be considered as part of such hearing. No primary nonferrous smelter order may be granted unless the applicant establishes that he meets the conditions required for the issuance of such order (or the Administrator or State establishes the meeting of such conditions when acting on their own initiative).

"(D) Any decision with respect to the issuance of a primary nonferrous smelter order shall be accompanied by a concise statement of the findings and of the basis of such findings.

"(E) Not later than ninety days after submission by any State to the Administrator of notice of its issuance of a primary nonferrous smelter order under subsection (b)(3) of this section to a primary nonferrous smelter within such State, the Administrator shall determine whether or not such order has been issued by the State in accordance with the requirements of this section.

"(b) A delayed compliance order under paragraph (1) or (2) or a primary nonferrous smelter order under paragraph (3) may be issued to an existing stationary source if—

"(1) such source is unable to comply with such requirement by the time required in the applicable implementation plan; or

"(2) (A) the source will expeditiously use new means of emission limitation determined by the Administrator to be adequately demonstrated (within the meaning of section 111(a)(1)),

"(B) such new means of emission limitation is not likely to be used by such source unless an order is granted under this section,

"(C) such new means of emission limitation is determined by the Administrator to have a substantial likelihood of—

"(i) achieving greater continuous emission reduction than the means of emission limitation which, but for such order, would be required; or

"(ii) achieving an equivalent continuous reduction at lower cost in terms of energy, economic, or non-air quality environmental impact; and

"(D) compliance by the source with the requirement of the applicable implementation plan would be impracticable prior to, or during, the installation of such new means because—

"(1) it would require excessive capital expenditures,

"(2) operating costs would be excessive, or

"(3) scarce energy resources would be unnecessarily wasted; or

"(3) (A) such source is a primary nonferrous smelter in existence on the date of the enactment of this section;

"(B) the requirement of the applicable implementation plan with respect to which the order is issued is an emission limitation or standard for sulfur oxides which is necessary and intended to be itself sufficient to enable attainment and maintenance of national primary and secondary ambient air quality standards for sulfur oxides; and

"(C) such smelter is unable to comply with such requirement by the applicable date for compliance because no means of emission limitation applicable to such smelter which will enable it to achieve compliance with such requirement has been adequately demonstrated to be reasonably available (as determined by the Administrator, taking into account the cost of compliance, nonair quality health and environmental impact, and energy consideration).

"(c) (1) An order issued to a source under this section shall set forth compliance sched-

ules containing increments of progress which require compliance with the requirement postponed as expeditiously as practicable. In any case where the Administrator has determined that no means of emission limitation has been adequately demonstrated for a class of sources to permit compliance with such requirement and in the case of a primary nonferrous smelter order, the increments of progress shall be limited to requiring compliance with subsection (d) and to procuring, installing, and operating the necessary means of emission limitation as expeditiously as practicable after the Administrator determines such means have been adequately demonstrated (or adequately demonstrated to be reasonably available within the meaning of subsection (b) (3) (C) in the case of a primary nonferrous smelter order).

"(2) (A) Except in the case of a primary nonferrous smelter order, the aggregate of all orders issued to a source under this section shall not result in the postponement of such requirement beyond the date five years from the date on which, but for this section and but for any order issued under section 113 before enactment of this section compliance would have been required.

"(B) Not in excess of two primary nonferrous smelter orders may be issued under this subsection (b) (3) of this section to any primary nonferrous smelter. The first order issued to a smelter under subsection (b) (3) shall not result in the postponement of the requirement with respect to which such order is issued beyond January 1, 1983. The second such order shall not result in the postponement of such requirement beyond January 1, 1988.

"(d) (1) (A) A source to which a delayed compliance order is issued under subsection (b) (1) or (2) of this section shall use the best practicable system or systems of emission reduction (as determined by the Administrator taking into account the requirement with which the source must ultimately comply) for the period during which such extension is in effect.

"(B) Each primary nonferrous smelter to which an order is issued under subsection (b) (3) shall be required to use such interim measures for the period during which such order is in effect as may be necessary in the judgment of the Administrator to assure attainment and maintenance of the national primary and secondary ambient air quality standards during such period, taking into account the aggregate effect on air quality of such order together with all variances, extensions, waivers, enforcement orders, delayed compliance orders and primary nonferrous smelter orders previously issued under this Act. Such interim measures shall except as provided in subparagraph (C), include continuous emission reduction technology. The Administrator shall condition the use of any such interim measures upon the agreement of the owner or operator of the smelter—

"(1) to comply with such conditions as the Administrator determines are necessary to maximize the reliability and enforceability of such interim measures, as applied to the smelter, in attaining and maintaining the national ambient air quality standards to which the order relates, and

"(2) that any air pollution levels exceeding any national ambient air quality standard to which the order relates occurring within a liability area designated by the Administrator or any violation of a condition under clause (1), shall be treated as a violation of a requirement of the applicable implementation plan by the owner or operator of the smelter.

In issuing a primary nonferrous smelter order under subsection (b) (3), the Administrator shall designate as the smelter's liability area, for the purpose of clause (2), that area within which emissions from the smelter

may, in his judgment, be anticipated to cause, or contribute to, air pollution exceeding any national ambient air quality standard to which the enforcement order relates.

"(C) The requirement of subparagraph (B) for the use of continuous emission reduction technology may be waived with respect to a particular smelter by the State or the Administrator, after notice and a hearing on the record, and upon a showing by the owner or operator of the smelter that such requirement would be so costly as to necessitate permanent or prolonged temporary cessation of operations of the smelter. Upon application for such waiver, the Administrator shall be notified and shall, within ninety days, hold a hearing on the record in accordance with section 554 of title 5 of the United States Code. At such hearings the Administrator shall require the smelter involved to present information relating to any alleged cessation of operations and the detailed reasons or justifications therefor. On the basis of such hearing the Administrator shall make findings of fact as to the effect of such requirement and on the alleged cessation of operations and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public, and shall be taken into account by the State or the Administrator in making the decision whether or not to grant such waiver.

"(D) In order to obtain information for purposes of a waiver under subparagraph (C), the Administrator may, on his own motion, conduct an investigation and use the authority under section 319.

"(E) In the case of any smelter which on the date of enactment of this section uses continuous emission reduction technology and supplemental controls and which receives a primary nonferrous smelter order under this section, no additional continuous emission reduction technology shall be required as a condition of such order unless the Administrator determines that such additional continuous emission reduction technology is adequately demonstrated to be reasonably available.

"(2) The owner or operator of—

"(A) a primary nonferrous smelter to which a primary nonferrous smelter order is issued under this section, shall, and

"(B) a major stationary source to which an order is issued under subsection (b) (1) on a finding that no means of emission limitation has been adequately demonstrated shall, as a condition of an exemption under section 122(a) (2) (B) (ii),

commit such resources as the Administrator determines to be reasonable for the owner or operator of that source to undertake, or assist in the conduct of research, development, demonstration, and implementation of the necessary means of emission limitation unless the Administrator determines that such commitment will not expedite or improve such research and development.

"(3) A major stationary source to which an order is issued under subsection (b) (1) on a finding of inability to comply due to shortages of clean fuels or continuous emission reduction technology shall, as a condition of an exemption under section 122(a) (2) (B) (ii), make such advance financial commitments as the Administrator determines to be reasonable for the owner or operator of that source to assure timely availability to that source of the necessary means of emission limitation.

"(4) A source to which an order is issued under this section shall comply with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include—

"(A) a requirement that the source to which the order applies comply with such re-

porting requirements and conduct such monitoring as the Administrator determines may be necessary,

"(B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and

"(C) a requirement applicable to any source to which an order is issued under subsection (b) (1) that the source comply with the requirements of the applicable implementation plan during any such period insofar as such source is able to do so (as determined by the Administrator).

"(5) A source to which an order is issued under subsection (b) (2) (relating to new means of emission limitation) shall comply with the requirement of subparagraph (A) of such subsection (b) (2) (relating to the expeditious use of new means of emission limitation).

"(6) Any order under paragraph (1) or (3) of subsection (b) shall be terminated if the Administrator determines on the record, after notice and hearing, that the conditions upon which the order was based no longer exist. If the owner or operator of the source to which the order is issued demonstrates that prompt termination of such order would result in undue hardship, the termination shall become effective at the earliest practicable date on which such undue hardship would not result, but in no event later than the date required under subsection (c).

"(e) If the Administrator determines that a source to which an order is issued under this section is in violation of any requirement of subsection (c) or (d), he shall—

"(1) enforce such requirement under section 113,

"(2) (after notice and opportunity for public hearing) revoke such order and enforce compliance with the requirement with respect to which such order was granted,

"(3) give notice of noncompliance and commence action under section 122, or

"(4) take any appropriate combination of such actions.

"(f) Except for an order issued under this section, a suspension under section 110(f), an exemption under section 118 (relating to Federal facilities), a compliance date extension under section 119, a plan promulgation under section 110(c), or a plan revision under section 110(a) (3) or section 127(c), no order, suspension, plan revision, or other action modifying any requirement of an applicable implementation plan may be taken with respect to any stationary source by the State or by the Administrator."

(b) Section 113(b) (4) of such Act is amended by inserting "or 121 (c) or (d)" after "114".

(c) (1) Section 110(a) (3) of such Act is amended by adding the following new subparagraph at the end thereof:

"(C) Neither the State, in the case of a plan (or portion thereof) approved under this subsection, nor the Administrator, in the case of a plan (or portion thereof) promulgated under subsection (c), shall be required to revise an applicable implementation plan because one or more exemptions under section 118 (relating to Federal facilities), orders under section 121 (relating to stationary source requirements of applicable implementation plans), suspensions under section 110(f) (relating to temporary energy or economic authority), extensions under section 123 (relating to transportation control measures), or variances under section 124 (relating to indirect sources) have been granted, if such plan would have met the requirements of this section if no such exemptions, orders, extensions, or variances had been granted."

(2) Section 110(a) (2) (H) (ii) of such Act is amended by inserting "except as provided in paragraph (3) (C)," before "whenever".



(3) Section 110(d) of such Act is amended by striking out "implements" and all that follows down through the period at the end thereof and inserting in lieu thereof "implements the requirements of this section."

(4) Section 110(c)(1)(A) of such Act is amended to read as follows:

"(A) the State fails to submit an implementation plan which meets the requirements of this section."

(d) Section 307(a)(1) of such Act is amended by striking out "110(f)" and inserting in lieu thereof "121".

(5) (A) Section 110(a)(2) of such Act is amended by adding the following new subparagraph at the end thereof:

"(L) it contains emission limitations applicable to any primary nonferrous smelters in such State."

(B) Each applicable implementation plan (within the meaning of section 110(d) of the Clean Air Act) shall comply with the amendment made by this paragraph by not later than one year after the date of the enactment of this Act.

(e) (1) (A) Section 113(a)(3) of such Act is amended by adding the following at the end thereof: "No order issued under this subsection shall have the effect of permitting any delay or violation of any requirement of this Act (including any requirement of an applicable implementation plan)."

(B) The third sentence of section 113(a)(4) of such Act is amended by striking out the first comma and all that follows down to the period at the end thereof.

(2) The amendments made by paragraph (1) shall not apply to any order issued prior to the date of enactment of this Act and shall take effect on the date of enactment of this Act with respect to orders issued on or after such date of enactment.

(f) Section 302 of such Act is amended by inserting the following new subsections at the end thereof:

"(1) The term 'primary standard attainment date' means the date specified in the applicable implementation plan for the attainment of a national primary ambient air quality standard for any air pollutant.

"(m) The term 'delayed compliance order' means an order issued by the State or by the Administrator to an existing stationary source postponing the date required under an applicable implementation plan for compliance by such source with any requirements of such plan.

"(n) The term 'means of emission limitation' means a system of continuous emission reduction (including the use of specific technology or fuels with specified pollution characteristics).

"(o) (1) Except as provided in paragraph (2), the term 'major stationary source' means any stationary facility or source of air pollutants which directly emits, or has the design capacity to emit, one hundred tons per year or more of any air pollutant for which a national ambient air quality standard is promulgated under this Act (including any major emitting facility or source of fugitive emissions of any such pollutant, as determined by rule by the Administrator).

"(2) For the purposes of subtitle C and section 111, the term 'major stationary source' shall not include new or modified source or facility which is a nonprofit health or educational institution which has been exempted from treatment as a major stationary source for such purposes by the State in which it is located."

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 103 be considered as read, printed in the RECORD, and open to amendment at any point. This section has to do with delayed compliance orders.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. MADIGAN

Mr. MADIGAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MADIGAN: Page 254, line 14, strike out "determined" and all that follows down through line 16 and insert in lieu thereof the following: "which the Administrator determines is likely to be adequately demonstrated (within the meaning of section 111(a)(1)) upon expiration of the order."

Mr. MADIGAN. Mr. Chairman, it does not make sense that sources which are willing to test new innovative technology should only be able to utilize technology which is adequately demonstrated. Indeed, the summary of this section which was prepared by the committee staff on page 2 says,

This section also includes the authority for States and the Administrator to extend deadlines for sources which are willing to test new innovative technology which has not yet been adequately demonstrated.

But the language of this bill, perhaps erroneously, does not carry out this intent.

Therefore, I propose to allow this delayed compliance order to be granted if the innovative technology is likely to be adequately demonstrated upon expiration of the order.

As you can see on pages 254 and 255 whether or not such new means has been adequately demonstrated would still be discretionary and would be conditioned on the following:

First, the source will expeditiously use such new means;

Second, that such new means of emission limitation is not likely to be used by such source unless an order is granted;

Third, that such new means is determined by the EPA to have a substantial likelihood of either greater continuous emission reduction or equivalent reduction at lower societal cost; and

Fourth, that compliance with the applicable plans would be impractical due to excessive capital, operating and energy costs.

Therefore, this amendment would allow greater variety of promising new means of emission limitations to be utilized by sources.

Incidentally, the report language respecting innovative technology is incorrect. The word "significantly" is used in the 1976 bill but not in the 1977 bill we are now considering. Yet the report language at page 43 of the 1976 report and at page 61 of the 1977 report are identical. In other words, although the bills are completely different the report language paragraph has been copied verbatim without reflecting the change in the language of the bill.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

I might say we have looked at the gentleman's amendment. We think it is reasonable, and we have no objection on this side.

Mr. MADIGAN. I thank the gentleman for his support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MADIGAN).

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments to section 103?

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio: Page 267, after line 8, insert the following:

#### POWERPLANT VARIANCES

SEC. 1103A. (a) Title I of the Clean Air Act is amended by adding the following new section at the end thereof:

#### "POWERPLANT VARIANCES UNDER STATE PLAN

"SEC. 129. (a) For purposes of this section, the term—

"(1) 'variance' means an order issued by the State or by the Administrator to a powerplant which emits sulfur dioxide postponing the date required under an applicable implementation plan for compliance by such plant with any requirement of such plan respecting the emission of such pollutant; and

"(2) 'powerplant' means a facility used, as determined by the Administrator, primarily for the production of electric power.

"(b) Upon application by the owner or operator of a powerplant which emits sulfur dioxide into the ambient air, and after notice and public hearing on the record, a variance shall be issued to the plant under subsection (c)—

"(1) by the Administrator with the written consent of the Governor of the State in which such plant is located, or

"(2) by the Governor of the State in which such plant is located.

Before any hearing conducted under this section, the applicant shall furnish the Administrator or Governor of the State (as the case may be) with a statement of the grounds on which such application is based (including all supporting documents and information). No such variance may be granted unless the applicant establishes that he meets the conditions required for the issuance of such variance. Any decision with respect to the issuance of such a variance shall be accompanied by a concise statement of the findings based on the hearing conducted under this section.

"(c) A variance with respect to any requirement of an applicable implementation plan respecting the emission of sulfur dioxide shall be issued to a powerplant under this subsection if the unemployment rate in such State, as determined by the Secretary of Labor, is 6.5 per centum or more of the labor force of such State at the time such variance is issued. No variance may be issued under this subsection unless, taking into account the aggregate effect on air quality of such variance together with all extensions, variances, exemptions, and compliance orders previously issued under this Act, the variance shall not permit continued emissions of sulfur dioxide from such plant which may cause, or materially contribute to, an imminent and substantial endangerment to the health of persons.

"(d) A variance issued to a source under this section shall set forth compliance schedules containing increments of progress which require compliance with the requirement postponed as expeditiously as econom-

ically and technologically practicable. No variance issued to a plant under this section shall result in the postponement of such requirement beyond the date five years from the date on which, but for this section and but for any order issued under section 113 before enactment of this section, compliance would have been required. Additional variances for periods of not more than five years may be issued to any such powerplant emitting sulfur dioxide located in a State in which the unemployment rate, at the conclusion of the period of the initial variance, exceeds 4 per centum of the labor force of such State.

"(e) A plant to which a variance is issued under subsections (c) and (d) shall comply with such interim requirements as the Administrator determines to be economically and technologically reasonable and practicable beyond a reasonable doubt. Such interim requirements shall include, but need not be limited to—

"(1) a requirement that the persons receiving the extension comply with such reporting requirements as the Administrator determines may be necessary, and

"(2) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons.

"(f) If the Administrator determines that a plant to which a compliance date extension is issued under this section is in violation of any requirement of subsection (d) or (e) he shall either—

"(1) enforce such requirement under section 113, or

"(2) (after notice and opportunity for public hearing) revoke such variance and enforce compliance with the requirement with respect to which such variance was granted."

(b) Section 113(b)(4) of such Act is amended by inserting "129(d) or (e)," before "114".

(c) Section 307(a)(1) of such Act is amended by inserting "120" after "121".

Page 263, line 12, after "section" insert ", a variance under section 129".

Page 264, line 10, after "section" insert "under section 129 (relating to powerplants) or".

Mr. MILLER of Ohio. Mr. Chairman, I offer what could be properly viewed as a "jobs protection" amendment. It seeks to minimize the potential unemployment dislocations resulting from environmental standards in States with already unacceptably high jobless rates.

Very simply, my amendment provides that when a State's unemployment rate is 6.5 percent or more a 5-year variance may be granted to a powerplant emitting sulfur dioxide.

The amendment applies only to sulfur dioxide standards for electrical power producing facilities. Upon application of a powerplant operator and after a public hearing on the grounds for the application, a variance to a State implementation plan could be granted by the Governor or EPA Administrator for a period of 5 years if the unemployment rate in the State in which the facility is located is 6.5 percent or more.

Granting such a variance could not endanger public health and would require incremental progress at the applicant powerplant toward compliance with the State plan. If at the end of the initial 5-year period, unemployment in the State remains at 6.5 percent or more,

additional variances of not more than 5 years could be granted.

This amendment seeks to broaden the scope of the bill by recognizing that there are other competing national objectives such as employment and energy production which must be balanced against environmental goals.

As sure as I am standing here today, the Appalachian coal basin production, particularly that in the Ohio Valley, will decline dramatically and unemployment will rise unless some flexibility is created in the imposition of sulfur dioxide standards. Last year 200 million tons of the 665 million tons of coal produced in this country did not meet air quality requirements. Most of that production was in northern Appalachia where coal use is now being banned because of its sulfur content.

If this high sulfur coal cannot be burned, it will not be mined. That will cause two things to happen. First, massive unemployment will occur in the eastern coalfields and second, the energy that the Nation so desperately needs will not be produced.

In my home State of Ohio, a new SIP for sulfur dioxide promulgated by the EPA and presently stayed by court order could result in the direct loss of some 15,000 coal mining related jobs and reduce the State's coal production by 75 percent. Ohio is one of the Nation's leading coal producers and has vast reserves that can serve the Nation's energy requirements yet EPA says Ohio must either import low sulfur western coal or install flue gas scrubbers—both unreliable and costly alternatives.

The Ohio experience has serious national implications. Today America must ask itself how much environmental protection is affordable in terms of jobs that are lost, utility rates that climb higher and higher, and energy resources that are left in the ground. Where do we draw the line among all these and other competing and conflicting national interests?

The amendment I offer is an attempt at such a delineation. There is no way we can have our cake and eat it too. The choices are difficult but because they are difficult we should not turn away from our responsibility in making them. To have a growing, productive economy, these tradeoff choices have to be made now.

What my amendment says then is that when unemployment stands at 6.5 percent or more in a State, at least sulfur dioxide standards should not be a contributory cause for more joblessness.

Mr. ROGERS. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, I understand the thinking of the gentleman. We have just seen the amendment, but a reading of it causes great concern for a number of reasons. First of all, there is no showing required to be made that any industry that asks to have the SO<sub>2</sub> air pollution standards waived has anything to do with unemployment. There is absolutely no required showing that the variance will aid in alleviating unemployment.

As a matter of fact, in the bill in section 115, in order to help Ohio we put in a waiver that the Governor can institute in an unemployment or energy emergency for 4 months, so that the Ohio situation which occurred during the natural gas shortage last winter could be handled during those difficult days. We thought that should be recognized, but certainly this amendment is not the way to go to do that.

Furthermore, under the Miller amendment, a powerplant could get 5 years continually and another 5 years and never comply. There are many places with 6.5 percent unemployment in this Nation today. We might as well wipe out the Clean Air Act, with no showing that the variance is necessary to solve unemployment. It does not make any logical connection between air pollution, the variance, and unemployment.

Mr. Chairman, I would urge that the amendment be defeated.

Mr. CARTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise reluctantly in opposition to the amendment proposed by my friend, the gentleman from Ohio.

Mr. Chairman, this amendment would permit the primary and secondary standards which protect the public health and welfare of our country to be exceeded. That has been the basis of my reasoning all through this legislation, that these standards should not be exceeded.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I understand this amendment, it does nothing more than try to accommodate President Carter's general suggestion to the Congress that we make better use of coal, especially with stationary sources producing electricity. So, I wonder if my colleague from Ohio could respond to the charges that have been made by my colleague from Florida?

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield.

Mr. MILLER of Ohio. I thank the gentleman for yielding. Section 115, as I understand, would allow a 4-month variance. The Governor could give that variance in case of an economic or energy emergency within his State. But 4 months is not the length of time that would be needed. The reason for 5 years in my amendment is this:

A piece of equipment that is used to produce coal, even a small piece of equipment, will cost a couple hundred thousand dollars. The producer would need a long-term contract to finance this equipment and stay in business. That is one purpose of 5 years. I would prefer having it at some shorter time, but that is practically impossible.

The whole thing boils down to the trade-off that we must make. In Ohio we will have around 15,000 miners who will not be working if we must import low sulfur western coal to operate our elec-



trical generating plants. We have one new electrical generating plant in my district, which consumes 35,000 tons of coal a day. We have many other electrical generating plants. It is vitally important that we continue to produce coal in Ohio in order to fuel the electrical generating plants and keep people working.

There are definite health hazards in unemployment. When a person does not have a job, he may not be able to afford proper medical care or he may have to postpone that care. So, there are health hazards in unemployment, and we have to look at that also.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield.

Mr. ROGERS. I thank the gentleman for yielding to me. I think, if one does not look at the other provisions of the bill, one might share the concern expressed by the gentleman from Ohio. When we look at the bill, we find that sources are eligible for variances. Also, if there is a conversion to coal, the bill will permit sources up to 9 years to meet emission limits. The bill permits an extension of 10 years for sources to attain the standards in nonattainment areas. These provisions are new.

We have taken into consideration that we know we have got to move to coal. This is what this bill is designed to do, to help us live with the requirements of energy. We realize that must be done. We must try to obtain more coal and provide some flexibility in meeting emission limits.

So these concerns of the gentleman really have been answered in the overall bill. Additionally, the bill grants the Governor the authority to grant a temporary emergency suspension. I think we have taken care of all of the gentleman's concerns. His amendment is so broad and sweeping that it would simply do away with the Clean Air Act.

Mr. Chairman, I would urge the rejection of the amendment.

Mr. ROUSSELOT. Mr. Chairman, would the gentleman from Ohio care to respond?

Mr. MILLER of Ohio. If the gentleman will yield, I would be glad to respond.

The intent is not to do away with the Clean Air Act. The intent is to keep people working. A trade-off is very necessary. I would hope by the end of the first 5 years of a variance we would have the technology to effectively and efficiently remove sulfur from coal so that we could continue to use coal without the sulfur dioxide problem.

Mr. ROUSSELOT. It is my understanding that in the gentleman's amendment he says: "No such variance may be granted unless the applicant"—which in this case may be in the gentleman's State—"establishes that he meets the conditions required for the issuance of such variance."

So the Governor would be required to make a judgment on the issue of whether this does great damage to the environment, would he not?

Mr. MILLER of Ohio. After a hearing is held, yes.

Mr. ROUSSELOT. So I think the environment is adequately protected.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman and members of the committee, this amendment has a laudable purpose, one would think, of trying to handle the problem of unemployment. But there is no showing at all required, by the terms of that amendment, that there be any increase in employment if this special variance is granted. There is no showing that there will be an increase in employment. There is no showing that it is going to have a better effect on public health. As a matter of fact, there is no correlation at all between this new variance that is going to be created and the purposes of the Act, which is to protect the public health.

The gentleman from Ohio talked about the fact that people need money so that they can pay doctor bills and other expenses. That is an incredible kind of argument to make. We are going to allow the pollutants to continue to be spewed forth into the air, so that people are going to be sick and, therefore, we are going to argue that they are going to be employed so that they can pay the doctor bills. I think we have to look at the artificial choice that this amendment would have us think is before us. It would have us choose between jobs on the one hand and protecting the environment and public health on the other. I do not think that this is the choice. This amendment does not even make it clear that we are making a choice. It only says if there is a factor of unemployment, therefore then we are going to allow the public health to be endangered. It does not even provide that there would be an increase of employment in exchange for health impairment.

Mr. Chairman, I would be pleased to yield to the gentleman if he can answer the criticism which I have of his amendment, which I think is a very important criticism.

Mr. MILLER of Ohio. Mr. Chairman, we are not talking about people being ill from the sulfur emissions of coal. If people are unemployed, their children may be sick yet they cannot go to the doctor because they cannot afford the treatment. There are health benefits in the bill, as well as health benefits in the amendment. It means that if people are working, they will be able to go to the doctor and to pay the doctor bill. If they are unemployed, they also will have psychological problems.

Mr. WAXMAN. Mr. Chairman, if I may reclaim my time, there is no showing, aside from the fact that there is unemployment, there is no showing, as I understand the amendment, that there will be an increase in employment. And when we talk about sulfur dioxide we are talking about a very serious public health danger being emitted into the air which our people, employed and unemployed, are going to suffer from.

Mr. MILLER of Ohio. If the gentleman will yield further, there very definitely is a problem. EPA has issued regulations for the State of Ohio. And if they do go into effect, if they stay in effect, there will be about 15,000 miners who will be out of work.

Right away this is a fact. So we do know that the amendment will alleviate the unemployment problem.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I just want to say that the committee does have an amendment that goes to this question of unemployment as a whole, and that the amendment has the support of the United Mine Workers. So I think we can address that problem later.

There is no reason for adopting something that would just wipe out the Clean Air Act. So I hope that the gentleman from Ohio (Mr. MILLER) will withdraw his amendment, and if he does not, it should be voted down.

Mr. WAXMAN. Mr. Chairman, I appreciate the comments of the gentleman from Florida (Mr. ROGERS).

I think, as the chairman of the subcommittee has said, the provisions of this amendment are far too sweeping and far too broad, and it attempts to equate apples and oranges without a clear showing that there is any relationship between the two.

I believe we ought to keep the protections for public health in the bill by making these stationary-source polluters do something, that is, use the technology now available to them so they can start eliminating the dangers of pollutants to the people in these areas. They will do that if they are required to do it, and we ought to require them to do it. If we have an unemployment problem, we have other ways of dealing with it without jeopardizing the health of the American people.

The CHAIRMAN. The time of the gentleman from California (Mr. WAXMAN) has expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. WAXMAN was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, let me read from page 3 of the amendment offered by the gentleman from Ohio (Mr. MILLER). It says as follows:

... No variance may be issued under this subsection unless, taken into account the aggregate effect on air quality of such variance together with all extensions, variances, exemptions, and compliance orders previously issued under this Act, the variance shall not permit continued emissions of sulfur dioxide from such plant which may cause, or materially contribute to, an imminent and substantial endangerment to the health of persons.

So, Mr. Chairman, I think that that language does respond to the issue that

the gentleman from California has brought to the attention of the Members.

Mr. WAXMAN. Mr. Chairman, if I may reclaim my time, I think the gentleman from California (Mr. ROUSSELOT) is mistaken, and I want to point out how he is mistaken in reading that language.

It still allows them, under that amendment, to exceed the primary standards, which are the standards set up to protect the public health. To find an imminent hazard we would have to have people dropping dead on the streets.

Mr. ROUSSELOT. Or becoming substantially sick.

Mr. WAXMAN. Mr. Chairman, what we are concerned about with a lot of pollutants is this: There is not an imminent causal relationship, so we are not going to find actual dead bodies resulting from ill health; rather, because of this, there is going to be a period of time during which we find there are detrimental effects. We have primary health standards established to protect the public health. There is an imminent and substantial requirement that immediate action be taken. But, this is different from the primary standard to protect the public health. I want the primary health standard left in the law to protect the people in these areas.

Mr. ROUSSELOT. How is that made different by the language of Mr. MILLER?

Mr. WAXMAN. That language provides only for imminent and substantial circumstances.

Mr. ROUSSELOT. Does that not answer the gentleman's concern? If there is a plant that is needed for the production of electricity, it is utilizing coal, and the Governor of that State decides that the public health needs to be protected, there is provision there that will allow the public health to be protected and yet the energy facility can be users.

Mr. WAXMAN. Mr. Chairman, if I may reclaim my time, there is no showing that anything is going to result in that regard, but there may be a clear situation where they are going to violate the standard that is considered safe for the public health. If we are going to allow them to violate that standard for the protection of the public health for 5 years, then that might be extended for another 5 years, and we would do away with the protections that are afforded by this section.

Mr. MADIGAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, in the State of Kentucky we have both low- and high-sulfur coal, and we do not fear that this legislation will cause unemployment. Actually the best available technology must be used on low-sulfur coal as well as on high-sulfur coal, and it will be used according to this legislation.

So I think actually the good gentleman from Ohio (Mr. MILLER) should not

let his heart be troubled, because we need that coal from Ohio and it is going to be mined, and those miners are not going to be put out of work.

We need all the coal that we can get, and importation of western coal into that area would not help one whit because scrubbers would be required for it, according to this present legislation. As I see it, there would be no unemployment as a result of this legislation in the western part of my State, where they mine high-sulfur coal, or in the part of the State of Ohio which the gentleman represents.

Therefore, as I said—and I admire the distinguished gentleman from Ohio (Mr. MILLER) greatly; he is a tremendous man—I think that he is incorrect in his assessment of this situation. I do not believe unemployment will occur.

Therefore, Mr. Chairman, I oppose the amendment of the gentleman from Ohio (Mr. MILLER).

I thank the distinguished gentleman for yielding.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. MILLER).

The question was taken; and the Chairman announced that the yeas appeared to have it.

Mr. MILLER of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to section 103?

There being none, the Clerk will read section 104.

The Clerk read as follows:

#### ASSESSMENT OF CIVIL PENALTIES

SEC. 104. (a) So much of section 113(b) of the Clean Air Act as precedes paragraph (1) thereof is amended to read as follows: "(b) The Administrator may commence a civil action for a permanent or temporary injunction, to assess and recover a civil penalty of not more than \$25,000 per day of violation, or both, whenever any person—"

(b) Section 113(b) of such Act is amended by striking out the penultimate sentence thereof and substituting: "Any action under this subsection may be brought in the district court of the United States for the district in which the violation occurred or in which the defendant has his principal place of business, and such court shall have jurisdiction to restrain such violation, to require compliance, to assess such civil penalty and to collect any noncompliance penalty (and nonpayment penalty) owed under section 122. In determining the amount of any civil penalty to be assessed under this subsection, the court shall take into consideration (in addition to other factors) the size of the business, the economic impact of the penalty on the business, and the seriousness of the violation."

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 104 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there any amendments to section 104?

There being none, the Clerk will read section 105.

The Clerk read as follows:

#### NONCOMPLIANCE PENALTY

SEC. 105. (a) Title I of the Clean Air Act is amended by adding the following new section at the end thereof:

#### "NONCOMPLIANCE PENALTY"

"Sec. 122. (a) (1) (A) Not later than one year after the date of enactment of this section, and after notice and opportunity for a public hearing, the Administrator shall promulgate regulations requiring the assessment and collection of a noncompliance penalty against persons referred to in paragraph (2) (A).

"(B) (1) Each State may develop and submit to the Administrator a plan for carrying out this section in such State. If the Administrator finds that the State plan meets the requirements of this section, he may delegate to such State any authority he has to carry out this section.

"(2) (i) Notwithstanding a delegation to a State under clause (1), the Administrator may carry out this section in such State under the circumstances described in subsection (b) (2) (B).

"(2) (A) Except as provided in subparagraphs (B) or (C) of this paragraph, the State or the Administrator shall assess and collect a noncompliance penalty against every person who owns or operates—

"(1) a major stationary source (other than a primary nonferrous smelter which has received a primary nonferrous smelter order under section 121(b)(3)) which is not in compliance with any emission limitation, emission standard or compliance schedule under any applicable implementation plan, or

"(2) a stationary source which is not in compliance with an emission limitation, emission standard, or standard of performance established under sections 111 or 112 of this Act, or

"(3) any source referred to in clause (1) or (2) (for which an extension, order, or suspension referred to in subparagraph (B) is in effect), or a primary nonferrous smelter which has received a primary nonferrous smelter order under section 121(b)(3), which is not in compliance with any interim emission control requirement or schedule of compliance under such extension, order, or suspension.

For purposes of subsection (d)(2)(A), in the case of a penalty assessed with respect to a source referred to in clause (3) of this subparagraph, the costs referred to in such subsection (d)(2)(A) shall be the costs of compliance with the interim emission control requirement or schedule of compliance referred to in such clause.

"(B) Notwithstanding the requirements of subparagraph (A) (1) and (2), the owner or operator of any source shall be exempted from the duty to pay a noncompliance penalty under such requirements with respect to that source if, in accordance with the procedures in subsection (b)(5), the owner or operator demonstrates that the failure of such source to comply with any such requirement is due solely to—

"(1) a conversion by such source from the burning of petroleum products or natural gas, or both, as the permanent primary energy source to the burning of coal pursuant to a compliance date extension under section 119;

"(2) in the case of a coal-burning source granted an extension under the second sentence of section 119(c)(1), a prohibition from using petroleum products or natural gas or both, by reason of an order under section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974;



"(iii) the use of innovative technology sanctioned by a delayed compliance order under section 121;

"(iv) an inability to comply with any such requirement, for which inability the source has received a delayed compliance order under section 121(b)(1) and which results from reasons entirely beyond the control of the owner or operator of such source or of any entity controlling, controlled by, or under common control with the owner or operator of such source; or

"(v) the conditions by reason of which a temporary emergency suspension is authorized under section 110(f).

An exemption under this subparagraph shall cease to be effective if the source fails to comply with the interim emission control requirements or schedules of compliance (including increments of progress) under any such extension, order, or suspension.

"(C) The Administrator may, after notice and opportunity for public hearing, exempt any source from the requirements of this section with respect to a particular instance of noncompliance if he finds that such instance of noncompliance is de minimis in nature and in duration.

"(b) Regulations under subsection (a) shall—

"(1) permit the assessment and collection of such penalty by the State if the State has a delegation of authority in effect under subsection (a)(1)(B)(i);

"(2) provide for the assessment and collection of such penalty by the Administrator, if—

"(A) the State does not have a delegation of authority in effect under subsection (e), or

"(B) the State has such a delegation in effect but fails with respect to any particular person or source to assess or collect the penalty in accordance with the requirements of this section;

"(3) require the States, or in the event the States fail to do so, the Administrator, to give a brief but reasonably specific notice of noncompliance under this section to each person referred to in subsection (a)(2)(A) with respect to each source owned or operated by such person which is not in compliance as provided in such subsection, not later than two years after the date of enactment of this section or thirty days after the discovery of such noncompliance, whichever is later;

"(4) require each person to whom notice is given under paragraph (3) to—

"(A) calculate the amount of the penalty owed (determined in accordance with subsection (d)(2) in the schedule of payments (determined in accordance with subsection (d)(3) for each such source and, within forty-five days after the issuance of such notice or after the denial of a petition under subparagraph (B), to submit that calculation and proposed schedule, together with the information necessary for an independent verification thereof, to the State and to the Administrator, or

"(B) submit a petition, within forty-five days after the issuance of such notice, challenging such notice of noncompliance or alleging entitlement to an exemption under subsection (a)(2)(B) with respect to a particular source;

"(5) require the Administrator to provide a hearing on the record (within the meaning of subchapter II of chapter 5 of title 5, United States Code) and to make a decision on such petition (including findings of fact and conclusions of law) not later than ninety days after the receipt of any petition under paragraph (4)(B), unless the State agrees to provide a hearing which is substantially similar to such a hearing on the record and to make a decision on such petition (including such findings and conclusions) within such ninety-day period;

"(6)(A) authorize the Administrator on his own initiative to review the decision of the State under paragraph (5) and disprove it if it is not in accordance with the requirements of this section, and (B) require the Administrator to do so not later than sixty days after receipt of a petition under this subparagraph, notice, and public hearing and a showing by such petitioner that the State decision under paragraph (5) is not in accordance with the requirements of this section;

"(7) require payment, in accordance with subsection (d), of the penalty by each person to whom notice of noncompliance is given under paragraph (3) with respect to each noncomplying source for which such notice is given unless there has been a final determination granting a petition under paragraph (4)(B) with respect to such source;

"(8) authorize the State or the Administrator to adjust (and from time to time to readjust) the amount of the penalty assessment calculated or the payment schedule proposed by such owner or operator under paragraph (6), if the Administrator finds after notice of an opportunity for a hearing on the record that the penalty or schedule does not meet the requirements of this section; and

"(9) require a final adjustment of the penalty within 180 days after such source comes into compliance in accordance with subsection (d)(4).

"(c) If the owner or operator of any stationary source to whom a notice is issued under subsection (b)(3)—

"(1) does not submit a timely petition under subsection (b)(4)(B), or

"(2) submits a petition under subsection (b)(4)(B) which is denied, and

fails to submit a calculation of the penalty assessment, a schedule for payment, and the information necessary for independent verification thereof, the State (or the Administrator, as the case may be) may enter into a contract with any person who has no financial interest in the owner or operator of the source (or in any person controlling, controlled by or under common control with such source) to assist in determining the amount of the penalty assessment or payment schedule with respect to such source. The cost of carrying out such contract may be added to the penalty to be assessed against the owner or operator of such source.

"(d)(1) All penalties assessed by the Administrator under this section shall be paid to the United States Treasury. All penalties assessed by the State under this section shall be paid to such State.

"(2) The amount of the penalty which shall be assessed and collected with respect to any source under this section shall be equal to—

"(A) the amount determined by prorating on a quarterly basis (over the entire period for which such penalty is assessed) the costs which would be necessary for the source to attain and maintain compliance with the requirement with respect to which such penalty is assessed (taking into account planning costs; design costs; supply costs; equipment purchase, construction and installation costs; start-up, operating and maintenance costs; costs of capital; and other relevant costs), minus

"(B) the amount of any expenditure made by the owner or operator of that source during any such quarter for the purpose of bringing that source into, and maintaining compliance with, such requirement.

To the extent that any expenditure under subparagraph (B) made during any quarter is not subtracted for such quarter from the costs under subparagraph (A), such expenditure may be subtracted for any subsequent quarter from such costs. Notwithstanding the preceding provisions of this paragraph, regu-

lations under subsection (a) shall not require a noncompliance penalty for any such source (as determined under this paragraph, including any subtraction under subparagraph (B)) to exceed \$5,000 per day for each day during which the penalty is assessed with respect to that source.

"(3)(A) The assessed penalty required under this section shall be paid in quarterly installments for the period of covered noncompliance. All quarterly payments (determined without regard to any adjustment or any subtraction under paragraph (2)(B)) after the first payment shall be equal.

"(B) The first payment shall be due six months after the date of issuance of the notice of noncompliance under subsection (b)(3) with respect to any source or two years after the date of enactment of this section, whichever is later. Such first payment shall be in the amount of the quarterly installment for the upcoming quarter, plus the amount owed for any preceding period within the period of covered noncompliance for such source.

"(C) For the purpose of this section, the term 'period of covered noncompliance' means the period which begins—

"(i) two years after the date of enactment of this section, in the case of a source for which notice of noncompliance under subsection (b)(3) is issued on or before the date two years after such date of enactment, or

"(ii) on the date of issuance of the notice of noncompliance under subsection (b)(3), in the case of a source for which such notice is issued more than two years after the date of enactment of this section,

and ending on the date on which such source comes into (or for the purpose of establishing the schedule of payments, is estimated to come into) compliance with such requirement.

"(4) Upon making a determination that a source with respect to which a penalty has been paid under this section is in compliance and is maintaining compliance with the applicable requirement, the State (or the Administrator as the case may be) shall review the actual expenditures made by the owner or operator of such source for the purpose of attaining and maintaining compliance, and shall within 180 days after such source comes into compliance—

"(A) provide reimbursement with interest (to be paid by the State or Secretary of Treasury, as the case may be) at appropriate prevailing rates (as determined by the Secretary of the Treasury) for any overpayment by such person, or

"(B) assess and collect an additional payment with interest at appropriate prevailing rates (as determined by the Secretary of the Treasury) for any underpayment by such person.

"(5) Any person who fails to pay the amount of any penalty with respect to any source under this section on a timely basis shall be required to pay in addition a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties with respect to such source which are unpaid as of the beginning of such quarter."

(b) Section 113(b) of such Act is amended by inserting the following after the first sentence thereof: "The Administrator may commence a civil action for recovery of any noncompliance penalty under section 122 or for recovery of any nonpayment penalty for which any person is liable under section 122(d)(5), or for both."

(c) Section 307 of such Act is amended by adding the following new subsection at the end thereof:

"(f) In any action respecting the promulgation of regulations under section 122 or the administration or enforcement of section 122, no court shall grant any stay, injunctive or similar relief before final judgment by such court in such action."

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 105 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there any amendments to section 105?

AMENDMENT OFFERED BY Mr. CARTER

Mr. CARTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CARTER: Page 271, line 2, strike out "121(b) (1) and which" and insert in lieu thereof "121(b) (1) or an order under section 113 issued before the date of enactment of this section which has the effect of permitting a delay or violation of any requirement of this Act (including a requirement of an applicable implementation plan) which inability".

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, we have discussed this amendment. We have no objection to the amendment on this side of the aisle.

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman.

Mr. WAXMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if I might address an observation to the gentleman from Kentucky (Mr. CARTER), I did not have the opportunity to see his amendment. When I asked for copies, I was informed that none were available.

Mr. CARTER. Mr. Chairman, if the gentleman will yield, I have a few copies at the desk.

Mr. WAXMAN. I feel rather insecure in voting on an amendment that I am not informed about.

Mr. Chairman, may I ask the gentleman from Kentucky (Mr. CARTER) for an explanation of what the amendment would do.

Mr. CARTER. Mr. Chairman, if the gentleman will yield, this amendment would do nothing more than place sources which receive section 113 enforcement orders under the existing act prior to enactment of this bill on precisely the same footing as those sources which receive a delayed compliance order as provided in section 103 of this bill. That is, if such sources could show that the inability to comply resulted from reasons entirely beyond the control of the owner or operator, then a noncompliance penalty would not have to be paid. This is an equitable amendment.

Mr. WAXMAN. As I understand, this amendment applies the same section 113 provisions that would otherwise be under the bill under other similar circumstances; is that correct?

Mr. CARTER. Yes, it would treat sources with 113 orders the same as other sources.

Although it is not in my district, in Louisville, Ky., we actually had the first group of plants under the Louisville Gas and Electric Co. which went to the scrubber technique, and they have that process in operation at the present time. This provision applies to them. They have been trying valiantly to control their emissions and meet with the requirements of the Clean Air Act.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for his explanation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. CARTER).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 105? If not, the Clerk will read.

The Clerk read as follows:

#### COMPLIANCE DATE EXTENSIONS FOR COAL CONVERSION

SEC. 106. (a) (1) Section 119(c) (1) of the Clean Air Act is amended by striking out "1979" and inserting in lieu thereof "1981".

(2) The second sentence of section 119(c) (2) (C) of such Act is amended by striking out "1978" and inserting in lieu thereof "1980" and by striking out "1979" and inserting in lieu thereof "1981".

(b) The first sentence of section 119(c) (2) (C) of such Act is amended to read as follows: "Regulations under subparagraph (B) shall require that the source achieve the degree of emission reduction required under the applicable implementation plan for the date on which the compliance date extension expires."

(c) (1) Section 119(c) (1) of such Act is amended by inserting after such first sentence thereof the following: "Except as provided in paragraph (2) of this subsection, the Administrator shall also issue a compliance date extension to any coal-burning stationary source which is prohibited from using petroleum products or natural gas, or both, by reason of an order which is in effect under section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 and with respect to which a variance or compliance schedule had been obtained under the applicable implementation plan prior to issuance of such order in order to permit compliance with the applicable implementation plan by means of conversion to the use of petroleum products or natural gas as its primary energy source. Notwithstanding the preceding provisions of this subsection, the Administrator may refuse to grant a compliance date extension under this subsection in any case in which he finds that such extension may result in a significant endangerment to the public welfare. In making a finding under the preceding sentence the Administrator shall specify the basis of such finding."

(2) Subparagraph (A) of such section 119 (c) (1) is amended by striking out "or natural gas" and inserting in lieu thereof ", natural gas, or both".

(3) Section 119(c) (2) (B) of such Act is amended by adding the following at the end thereof: "Regulations under this subparagraph shall be amended not later than ninety days after the date of enactment of the Clean Air Act Amendments of 1977 to take into account such Amendments and may be amended or revised from time to time thereafter."

(d) Section 119(c) (2) (D) of such Act is amended to read as follows:

"(D) No compliance date extension issued

to a source under this subsection with respect to an air pollutant shall be effective if the national primary ambient air quality standard with respect to such pollutant is being exceeded at any time in the air quality control region in which such source is located. The preceding sentence shall not apply to a source if, upon submission by any person of evidence satisfactory to the Administrator, the Administrator determines (after notice and public hearing) —

"(i) that emissions of such air pollutant from such source will affect only infrequently the air quality concentrations of such pollutant in each portion of the region where such standard is being exceeded at any time;

"(ii) that emissions of such air pollutant from such source will have only insignificant effect on the air quality concentrations of such pollutant in each portion of the region where such standard is being exceeded at any time; and

"(iii) with reasonable statistical assurance that emissions of such air pollutant from such source will not cause or contribute to air quality concentrations of such pollutant in excess of the national primary ambient air quality standard for such pollutant."

(e) Section 119(c) (3) is amended to read as follows:

"(3) A source to which this subsection applies may, upon the expiration of a compliance date extension under this section, receive a delayed compliance order under the conditions, and in the manner, provided in section 121."

(f) Section 302 of such Act is amended by adding the following new subsection at the end thereof:

"(1) (i) The terms 'emission limitation' and 'emission standard', and 'standard of performance' mean a requirement of continuous emission reduction, including any requirement relating to the operation or maintenance of such source to assure continuous emission reduction.

"(2) (A) The degree of emission limitation required for control of any air pollutant under an applicable implementation plan under title I shall not be affected in any manner by (i) so much of the stack height of any source as exceeds good engineering practice (as determined under regulations promulgated by the Administrator) or (ii) any other dispersion technique. The preceding sentence shall not apply with respect to stack heights in existence before the date of enactment of the Clean Air Act Amendments of 1970 or dispersion techniques implemented before such date.

"(B) For the purpose of this paragraph, the term 'dispersion technique' includes any intermittent or supplemental control of air pollutants varying with atmospheric conditions.

"(C) Not later than six months after the date of enactment of this subsection, the Administrator shall, after notice and opportunity for public hearing, promulgate regulations to carry out this paragraph. For purposes of this paragraph, good engineering practice means, with respect to stack heights, the height necessary to insure that emissions from the stack do not result in excessive concentrations of any air pollutant in the immediate vicinity of the source as a result of atmospheric downdraft, eddies and wakes which may be created by the source itself, nearby structures or nearby terrain obstacles (as determined by the Administrator). For purposes of this paragraph, such height shall not exceed two and a half times the height of such source unless the owner or operator of the source demonstrates, after notice and opportunity for public hearing, to the satisfaction of the Administrator, that a greater height is necessary as provided under the preceding sentence. In no event may the Administrator



prohibit any increase in any stack height or restrict in any manner the stack height of any source."

(g) Section 119(c)(2)(A) of such Act is amended by striking out "and" at the end of clause (ii), striking out the period at the end of clause (iii) and inserting in lieu thereof "and", by adding the following new clause at the end thereof:

"(iv) the Governor of the State in which is located the source to which the proposed compliance date extension is to be issued gives his prior written concurrence."

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 106 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

#### AMENDMENT OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROGERS:

(h) Subtitle A of title I of the Clean Air Act is amended by adding the following new sections at the end thereof:

#### "ASSURANCE OF ADEQUACY OF STATE PLANS

"Sec. 129. (a) As expeditiously as practicable but not later than one year after date of enactment of this section, each State shall review the provisions of its implementation plan which relate to major fuel burning sources and shall determine—

"(1) the extent to which compliance with requirements of such plan is dependent upon the use by major fuel burning stationary sources of petroleum products or natural gas,

"(2) the extent to which such plan may reasonably be anticipated to be inadequate to meet the requirements of this act in such State on a reliable and long-term basis by reason of its dependence upon the use of such fuels, and

"(3) the extent to which compliance with the requirements of such plan is dependent upon use of coal or coal derivatives which is not locally or regionally available.

Each State shall submit the results of its review and its determination under this paragraph to the Administrator promptly upon completion thereof.

"(b)(1) Not later than 18 months after the date of enactment of this section, the Administrator shall review the submissions of the States under subsection (a) and shall require each State to revise its plan if, in the judgment of the Administrator, such plan revision is necessary to assure that such plan will be adequate to assure compliance with the requirements of this Act in such State on a reliable and long-term basis, taking into account the actual or potential prohibitions on use of petroleum products or natural gas, or both, under any other authority of law.

"(2) Before requiring a plan revision under this subsection, with respect to any State the Administrator shall take into account the report of the review conducted by such State under paragraph (1) and shall consult with the Governor of the State respecting such required revision.

#### "MEASURES TO PREVENT ECONOMIC DISRUPTION OR UNEMPLOYMENT

"Sec. 130. (a) After notice and opportunity for a public hearing,—

"(1) the Governor of any State,

"(2) the Administrator, or

"(3) the President (or his designee),

may determine that action under subsection (b) is necessary to prevent or minimize significant local or regional economic disruption or unemployment which may reasonably be anticipated to result from use of fuels other than locally or regionally available coal or coal derivatives by any source referred to in subsection (d) to comply with the requirements of a State implementation plan.

"(b) Upon a determination under subsection (a),—

"(1) the State or the Administrator in issuing a delayed compliance order under section 121(b)(1),

"(2) the Administrator in promulgating an implementation plan (or portion thereof) under section 110(c), or

"(3) the President (or his designee) by rule or order may prohibit any major fuel burning stationary source (or class or category thereof) from using fuels other than locally or regionally available coal or coal derivatives to comply with implementation plan requirements.

"(c) The State, in the case of action by the State under subsection (b), or the Administrator, in the case of an action by the Administrator or by the President under subsection (b), shall, by rule or order, require each source to which such action applies to—

"(1) enter into long-term contracts of at least ten years in duration (except as the President or his designee may otherwise permit or require by rule or order for good cause) for supplies of locally or regionally available coal or coal derivatives.

"(2) enter into contracts to acquire any additional means of emission limitation which the Administrator or the State determines may be necessary to comply with the requirements of this Act while using such coal derivatives as fuel, and

"(3) comply with such schedules (including increments of progress), timetables and other requirements as may be necessary to assure compliance with the requirements of this Act.

Requirements under this subsection shall be established simultaneously with, and as a condition of, any action under subsection (b).

"(d) This section applies only to major fuel burning stationary sources which are not in compliance with the requirements of an applicable implementation plan or which have been prohibited from burning oil or natural gas, or both, under any other authority of law.

"(e) Except as may otherwise be provided by rule by the State or the Administrator for good cause, any action required to be taken by a major fuel burning stationary source under this section shall not be deemed to constitute a modification for purposes of section 111(a)(2) and (4) of this Act.

"(f) For purposes of sections 121, 122, and 113, a prohibition under subsection (b)(1), and a corresponding rule or order under subsection (c), shall be treated as a requirement of section 121(c). For purposes of any plan (or portion thereof) promulgated under section 110(c), any rule or order under subsection (c) corresponding to a prohibition under subsection (b)(2), shall be treated as a part of such plan. For purposes of section 113, a prohibition under subsection (b)(3), applicable to any source, and a corresponding rule or order under subsection (c), shall be treated as part of the applicable implementation plan for the State in which subject source is located."

"(g) For the purpose of this section,—

"(1) the term 'locally or regionally available coal or coal derivatives' means coal or coal derivatives which is, or can in the judgment of the State or the Administrator feasibly be, mined or produced in the local or regional area (as determined by the Administrator) in which the major fuel burning stationary source is located.

"(2) the term 'major fuel burning stationary source' means any fossil fired stationary source with design capacity to pro-

duce 100,000,000 B.t.u./hr. (or its equivalent as determined by rule of the Administrator)."

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read, printed in the RECORD, and that I be allowed to explain it.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Chairman, really the purposes of this section are: First, to encourage the use of coal in ways that meet applicable Clean Air Act requirements; and second, to authorize States and the Administrator to require use of locally or regionally available coal where that is necessary to prevent serious economic disruption or unemployment. This is what we were discussing before, protection of local jobs.

This section is based on the recognition that use of oil or natural gas will be less and less reliable long term strategies for compliance with clean air requirements. Therefore, the amendment attempts to encourage planning and anticipatory action for compliance by means which are realistic and compatible with our Nation's energy needs.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Illinois.

Mr. MADIGAN. It seems very desirable, Mr. Chairman, but I wonder why they would not be using local or original coal anyway. Why would the gentleman require that they do that? I should think in view of the transportation costs they would be doing it anyway.

Mr. ROGERS. We authorize the States to impose this requirement if there is serious economic disruption. For instance, instead of burning out of State low sulfur coal, the State may want the source to burn high-sulfur coal mined locally so that that source would have that right to continue to operate and eventually meet the standards.

Mr. MADIGAN. In what cases would they be not authorized to do it, or are they not authorized to do it?

Mr. ROGERS. The States or the Administrator are not authorized to do it, unless a finding is made that it is necessary. If there is severe economic disruption, in other words, people losing their jobs, the State or Administrator could require use of locally or regionally available coal.

Mr. MADIGAN. I still do not understand—and I appreciate the gentleman's trying to help me understand—why they would not be burning their own coal in the first place and why the gentleman feels that it is necessary to mandate it.

Mr. ROGERS. For instance, a utility may decide it is going to go out of the State to get the lower sulfur coal, and this would allow the State or the Administrator to require the utility to use coal right close to that utility. In this way, we do not have to use energy to transport the coal across country.

Mr. MADIGAN. I assume that the local coal or original coal would be higher sulfur coal.

Mr. ROGERS. It may be. I think that generally would be true.

Mr. MADIGAN. Is the gentleman then saying that he would allow them to use that or that he would mandate them to use that?

Mr. ROGERS. This is an authorizing provision, not a mandatory provision. It is for those exceptional circumstances where people are losing jobs, and there would have to be a finding that this requirement would help get back those jobs.

Mr. MADIGAN. So then is this the amendment that the gentleman referred to earlier as being the amendment that the United Mine Workers are supporting?

Mr. ROGERS. That is correct.

Mr. MADIGAN. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. ROGERS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 106?

Mr. PICKLE. Mr. Chairman, I move to strike the last word.

I thank the Chairman for the opportunity to ask him a question. My question pertains to both section 106 and section 111. Since it comes in both sections, I think colloquy might be applicable at this time.

Mr. Chairman, two 600 megawatts coal-fired electrical generation units are currently under construction in my district. They are being built by the Lower Colorado River Authority and the city of Austin.

The LCRA is a nonprofit State agency which is responsible for providing electrical power for almost a million people in the Austin, Tex., area; and Austin generates electricity for its 300,000-plus citizens.

The LCRA and Austin have sold and will sell about \$450 million in revenue bonds to build these plants. Both units have received permits from the Texas Air Quality Board, which is the administrative agency for the EPA in Texas regarding the Clean Air Act, certifying that the units meet the emission limits required under the Clean Air Act. Both units will be fueled by low-sulfur coal which has already been contracted for.

My question, Mr. Chairman is this: On page 89 of the report to accompany H.R. 6161, it reads:

First, it is clear that use of low sulfur coal along in any existing source would constitute a continuous emission reduction system for the purpose of meeting emission limits required to be included in State implementation plans under section 110 of the Clean Air Act.

Would the LCRA units which I just described be considered "existing" units and would they, therefore, not be required to install scrubbers?

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

As I understand the gentleman's description of the units, these two 600-megawatt units would not be required to

have scrubbers if they are certified to meet the clean air emission limits. Since, as I understand it, they have valid clean air permits issued to construct prior to the date of enactment of the bill, the two units would fall under the language the gentleman quoted from the committee report and would not have to use scrubbers.

Any new plant which gets its permit to construct after the date of enactment would have to use the best technology, but the plants referred to by the gentleman are grandfathered in.

Mr. PICKLE. I thank the chairman very much for those remarks. I am glad to have that clarification.

Mr. Chairman, this is very important to the LCRA and the nearly 1 million people in the nonurban areas of central Texas, and the people of Austin, Tex., which means 350,000 more people. Austin and the LCRA have spent 2 to 3 years finding the sort of coal that has low-sulfur content. The two government entities finally did find this coal in Montana. They paid a high price to get a 25-year supply. They are paying a high price to have it shipped by rail to Texas.

It would be a shame to make these two nonprofit entities spend nearly \$100 million for scrubbers that are not needed to protect the quality of air around their new electric generating plants.

Mr. ROGERS. I thank the gentleman, and I hope he will help us in other parts of the bill as well.

Mr. PICKLE. The gentleman from Texas hopes to do that.

The CHAIRMAN. There being no further amendments to section 106, the Clerk will read.

The Clerk read as follows:

#### STRATOSPHERE AND OZONE PROTECTION

Sec. 107. (a) Title I of the Clean Air Act is amended by adding at the end thereof the following new subtitle:

#### "Subtitle B—Stratosphere and Ozone Protection

##### "PURPOSES

"SEC. 150. The purposes of this subtitle are (1) to provide for a better understanding of the effects of human actions on the stratosphere, especially the ozone in the stratosphere, and (2) to provide for a better understanding of the effects of changes in the stratosphere, especially the ozone in the stratosphere, on the public health and welfare.

##### "DEFINITIONS

"SEC. 151. For the purposes of this subtitle—

"(1) the term 'halocarbon' means the chemical compounds  $\text{CFCl}_3$  and  $\text{CF}_2\text{Cl}_2$  and such other halogenated compounds as the Administrator determines by rule may reasonably be anticipated to contribute to reductions in the concentrations of ozone in the stratosphere;

"(2) the term 'stratosphere' means that part of the atmosphere above the tropopause.

#### "STUDIES AND RESEARCH BY ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY

"SEC. 152. (a) The Administrator shall conduct a study of the cumulative effect of all substances, practices, processes, and activities which may affect the stratosphere, especially ozone in the stratosphere. The study shall include an analysis of the independent effects on the stratosphere especially such ozone in the stratosphere of—

"(1) the release into the ambient air of halocarbons,

"(2) the release into the ambient air of other sources of chlorine,

"(3) the uses of bromine compounds, and

"(4) emissions of aircraft and aircraft propulsion systems employed by operational and experimental aircraft.

The study shall also include such physical, chemical, atmospheric, biomedical, or other research and monitoring as may be necessary to ascertain (A) any direct or indirect effects upon the public health and welfare of changes in the stratosphere, especially ozone in the stratosphere, and (B) the probable causes of changes in the stratosphere, especially the ozone in the stratosphere.

"(b) The Administrator shall undertake research on—

"(1) methods to recover and recycle substances which directly or indirectly affect the stratosphere, especially ozone in the stratosphere,

"(2) methods of preventing the escape of such substances,

"(3) safe substitutes for such substance, and

"(4) other methods to regulate substances, practices, processes, and activities which may affect the stratosphere, especially ozone in the stratosphere.

"(c) (1) The studies and research conducted under this section may be undertaken with such cooperation and assistance from universities and private industry as may be available. Each department, agency, and instrumentality of the United States having the capability to do so is authorized and encouraged to provide assistance to the Administrator in carrying out the requirements of this section, including (notwithstanding any other provision of law) any services which such department, agency, or instrumentality may have the capability to render or obtain by contract with third parties.

"(2) The Administrator shall encourage the cooperation and assistance of other nations in carrying out the studies and research under this section. The Administrator is authorized to cooperate with and support similar research efforts of other nations.

"(d) (1) The Administrator shall undertake to contract with the National Academy of Sciences to study the state of knowledge and the adequacy of research efforts to understand (A) the effects of all substances, practices, processes, and activities which may affect the stratosphere, especially ozone in the stratosphere; (B) the health and welfare effects of modification of the stratosphere, especially ozone in the stratosphere; and (C) methods of control of such substances, practices, processes, and activities including alternatives, costs, feasibility, and timing. The Academy shall make an interim report of findings one year after the date of the enactment of this subtitle and a final report thirty days after the submission of the final report of the Administrator called for in subsection (f) (1) of this section.

"(2) The Administrator shall make available to the Academy such information in his possession as is needed for the purposes of the study provided for in this subsection.

"(e) (1) The Administrator shall establish and act as Chairman of a Coordinating Committee for the purpose of insuring coordination of the efforts of other Federal agencies carrying out research and studies related to or supportive of the research provided for in subsections (a) and (b) of this section.

"(2) Members of the Coordinating Committee shall include the appropriate official responsible for the relevant research efforts of each of the following agencies:

"(A) the National Oceanic and Atmospheric Administration,

"(B) the National Aeronautics and Space Administration,



"(C) the Federal Aviation Administration,  
 "(D) the Department of Agriculture,  
 "(E) the National Cancer Institute, and  
 "(F) the National Institute of Environ-  
 mental Health Sciences,

and the appropriate officials responsible for the relevant research efforts of such other agencies carrying out related efforts as the Chairman shall designate. A representative of the Department of State shall sit on the Coordinating Committee to encourage and facilitate international coordination.

"(3) The Coordinating Committee shall review and comment on plans for, and the execution and results of, pertinent research and studies. For this purpose, the agencies named in or designated under paragraph (2) of this subsection shall make appropriate and timely reports to the Coordinating Committee on plans for and the execution and results of such research and studies.

"(4) The Chairman may request a report from any Federal agency for the purpose of determining if that agency should sit on the Coordinating Committee.

"(5) Upon submission of the final report called for in subsection (f) (1) of this section, the Chairmanship of the Coordinating Committee shall be assumed by the Administrator of the National Oceanic and Atmospheric Administration; and the Environmental Protection Agency shall nominate and appropriate official to serve as a member. The purpose of the Coordinating Committee shall thenceforth be to ensure the coordination of research and study efforts related to the program of research provided for in section 102 of this Act. The responsibilities and duties of the Chairman and the Coordinating Committee shall otherwise be as provided in the preceding paragraphs of this subsection.

"(f) (1) Not later than two years after the date of the enactment of this subtitle, the Administrator shall report to the Interstate and Foreign Commerce Committee and the Science and Technology Committee of the House of Representatives and to the appropriate committees of the Senate, the results of the studies and research conducted under this section and the results of related research and studies conducted by other Federal agencies. The Administrator shall include in the report his recommendations for control of substances, practices, processes, and activities which in his judgment may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, which effect may reasonably be anticipated to endanger public health or welfare. In devising these recommendations the Administrator shall take into account the feasibility and costs of achieving such control.

"(2) Prior to the submission of such final report, the Administrator shall submit quarterly interim reports to the Congress describing the progress of the research and studies and, insofar as possible, indicating anticipated results and conclusions. The first such report, due ninety days after the date of the enactment of this subtitle, shall include the plan and schedule for the research and study to be carried out. Subsequent interim reports shall update this plan and schedule and shall describe and explain revisions to and deviation from the plan.

"(3) If at any time prior to the submission of such final report, in the Administrator's judgment, any substance, practice, process, or activity may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, and such effect may reasonably be anticipated to endanger public health or welfare, he shall promptly promulgate and submit regulations to the Congress respecting the control of any such substance, practice, process, or activity.

"(4) Any reports and recommendations required to be submitted under this subsection which are first submitted to the President, the Office of Management and Budget, or any

other department or agency of the United States in proposed form shall be submitted to the Congress in such proposed form as well as in final form.

#### "RESEARCH AND MONITORING BY NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION"

"SEC. 153. (a) The Administrator of the National Oceanic and Atmospheric Administration is directed to establish a continuing program of research and monitoring of the stratosphere for the purpose of early detection of potentially harmful changes in the stratosphere. He shall report to the Congress annually on the findings of such research and monitoring, with the first such report being due two years after the date of the enactment of this subtitle and containing plans for the research and monitoring to be carried out. Each report shall contain recommendations for actions (especially regulatory actions) by the Congress and by other Federal agencies.

"(b) In carrying out the program provided for in subsection (a) of this section the Administrator of the National Oceanic and Atmospheric Administration (1) shall enlist and encourage cooperation and assistance from other Federal agencies, universities, and private industry, and (2) shall solicit the views of the Administrator with regard to plans for the research involved so that any such research will, if regulatory action by the Administrator is indicated, provide the preliminary information base for such action.

#### "REGULATIONS"

"SEC. 154. Upon submission of the report required under section 152(f) (1), and after consideration of the research and study under section 152 and, consultation with appropriate Federal agencies and scientific entities, the Administrator shall propose regulations for the control of any substance, practice, process, or activity (for any combination thereof) which in his judgment may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, if such effect in the stratosphere may reasonably be anticipated to endanger public health or welfare. Such regulations shall take into account the feasibility and the costs of achieving such control. Such regulations may exempt medical use products for which the Administrator determines there is no suitable substitute. Not later than three months after proposal of such regulations the Administrator shall promulgate such regulations in final form. From time to time, and under the same procedures, the Administrator may revise any of the regulations submitted under this subsection.

#### "OTHER PROVISIONS UNAFFECTED"

"SEC. 155. Nothing in this subtitle shall be construed to alter or affect the authority of the Administrator under section 303 (relating to emergency powers), under section 231 (relating to aircraft emission standards), or under any other provision of this Act.

#### "STATE AUTHORITY"

"SEC. 156. (a) Nothing in this subtitle shall preclude or deny any State or political subdivision thereof from adopting or enforcing any requirement respecting the control of any substance, practice, process, or activity for purposes of protecting the stratosphere or ozone in the stratosphere except as otherwise provided in subsection (b).

"(b) If a regulation of any substance, practice, process, or activity is in effect under this subtitle in order to prevent or abate any risk to the stratosphere, or ozone in the stratosphere, no State or political subdivision thereof may adopt or attempt to enforce any requirement respecting the control of any such substance, practice, process, or activity to prevent or abate such risk, unless the requirement of the State or political

subdivision is identical to the requirement of such regulation. The preceding sentence shall not apply with respect to any law or regulation of any State or political subdivision controlling the use of halocarbons as propellants in aerosol spray containers."

(b) Title I of such Act is amended by inserting immediately before section 101 the following:

#### "Subtitle A—Air Quality and Emission Limitation"

(e) (1) Section 113(b) (3) of such Act is amended by striking out "or section 119(g)" and inserting in lieu thereof "119(g), or any regulation under subtitle B".

(2) Section 113(c) (1) (C) of such Act is amended by striking out "or section 119(g)" and inserting in lieu thereof "section 119(g) or any regulation under subtitle B".

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 107 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. There being no amendments to section 107, the Clerk will read.

The Clerk read as follows:

#### PREVENTION OF SIGNIFICANT DETERIORATION

SEC. 108. (a) Title I of the Clean Air Act is amended by adding at the end thereof the following new subtitle:

#### "Subtitle C—Prevention of Significant Deterioration"

#### "PREVENTION OF SIGNIFICANT DETERIORATION"

"SEC. 160. (a) The purposes of this section are as follows:

"(1) to protect public health and welfare from any actual or potential adverse effect which in the Administrator's judgment may reasonably be anticipated to occur from air pollution (or from exposures to pollutants in other media, which pollutants originate as emissions to the ambient air), notwithstanding attainment and maintenance of all national ambient air quality standards;

"(2) to preserve, protect, and enhance the air quality in national parks, national monuments, national seashores, national recreation areas, and other areas of special national or regional natural, recreational, scenic, or historic value;

"(3) to insure that economic growth will occur in a manner consistent with the preservation of existing clean air resources;

"(4) to assure that emissions from any source in any State will not interfere with any portion of the applicable implementation plan to prevent significant deterioration of air quality for any other State; and

"(5) to assure that any decision to permit increased air pollution in any area where the national primary and secondary ambient air quality standards for any pollutant are not being exceeded is made only after careful evaluation of all the consequences of such a decision and after adequate procedural opportunities for informed public participation in the decisionmaking process.

"(b) In accordance with the policy of section 101(b) (1) and the purposes specified in subsection (a), each applicable implementation plan shall contain emission limitations and such other measures as may be necessary, as determined under regulations promulgated under subsection (c) to prevent significant deterioration of air quality.

"(c) (1) Except as may otherwise be permitted under subsection (d) in the case of air pollutants other than sulfur oxides and particulates each applicable implementation plan shall contain an area classification plan

based on maximum allowable increases in ambient concentrations of and maximum allowable levels of ambient concentrations of any air pollutant for which a national ambient air quality standard is established. In the case of an increase based on concentrations permitted under national ambient air quality standards for any period of twenty-four hours or less, such regulations shall permit such limitations to be exceeded during one such period per year. Such classification plan shall apply to all areas in each State where the national primary and secondary ambient air quality standards for any air pollutant are not being exceeded. Such classification plan shall provide for designation of all such areas as either class I, class II, or class III as to each such pollutant. Until such designation is effective, all such areas shall be deemed to have been designated as class II, except as may be otherwise provided under paragraph (3)(B).

"(2)(A) For any class I area, the maximum allowable increase over the baseline concentration of any pollutant subject to a national ambient air quality standard for each period of exposure shall not exceed 2 percent (10 percent in the case of particulates) of the pollution concentration permitted for each such period with respect to such pollutant under the national primary or secondary ambient air quality standard whichever is lower.

"(B) For any class II area, the maximum allowable increase over the baseline concentration of any pollutant subject to a national ambient air quality standard for each period of exposure shall not exceed one-fourth of the pollution concentration permitted for each such period with respect to such pollutant under the national primary or secondary ambient air quality standard, whichever is lower.

"(C) For any class III area, the maximum allowable increase over the baseline concentration of any pollutant subject to a national ambient air quality standard for each period of exposure shall not exceed one-half of the pollution concentration permitted for each such period with respect to such pollutant under the national primary or secondary ambient air quality standard whichever is lower.

"(D) The maximum allowable concentration of any air pollutant for which an increase is permitted under subparagraph (A), (B), or (C) above shall not exceed a concentration for such pollutant for each period of exposure equal to—

"(i) the concentration permitted under the national secondary ambient air quality standard, or

"(ii) the concentration permitted under the national primary ambient air quality standard,

whichever concentration is lowest for such pollutant for such period of exposure.

"(E) For the purpose of this section, the term 'baseline concentration' means, with respect to a pollutant, the level of concentration of such pollutant determined by adding—

"(i) the level of concentration determined for each period of exposure on the basis of plant capacity in existence on the date on which regulations respecting classification systems for prevention of significant deterioration of air quality initially became effective January 1, 1975,

"(ii) the concentrations for each such period of exposure attributable to new or modified sources which (before the date of enactment of this section) received permits under provisions of applicable implementation plans adopted pursuant to sections 110(a)(2)(D) and 110(a)(4),

"(iii) in the discretion of the Governor of the State, the concentrations for each such period of exposure attributable to any new or modified source which had filed, on or before January 1, 1975, a completed appli-

cation (as determined in accordance with regulations of the Administrator) for such a permit (but only if such permit is subsequently granted), and

"(iv) in the discretion of the Governor of the State, the concentrations for each such period of exposure attributable to other new or modified sources which are not subject to permit requirements under such provisions but which have reached a stage, on or before the date of enactment of this section, comparable to the stage at which permits are normally required under such provisions in the case of sources subject to such permit requirements.

"(F)(1) For purposes of determining the maximum allowable increase permitted under subparagraphs (A), (B), and (C), the allowable percentages shall be determined on the basis of national primary or secondary ambient air quality standards as in effect on the date of enactment of this section.

"(2) In the case of any standard promulgated on or after such date of enactment for a pollutant, or for a period of exposure, for which no such standard was promulgated before such date, the maximum allowable increases shall be determined on the basis of such standards as first promulgated and not on the basis of any subsequent revision thereof.

"(3)(A)(i) Prior to designation or redesignation of the classification of any area, notice shall be afforded and public hearings shall be conducted in areas proposed to be designated or redesignated and in areas which may be affected by the proposed designation or redesignation. Such notice shall be afforded not less than thirty days before such hearings. Prior to any public hearing, a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed designation or redesignation shall be prepared and made available for public inspection (together with any comments and recommendations submitted under clause (ii)). Prior to any such designation or redesignation the description and analysis of such effects shall be reviewed and examined by the authorities referred to in subparagraph (C).

"(ii) Prior to the issuance of notice under clause (i) respecting the designation or redesignation of any area under this subsection, if such area includes any Federal lands, the State shall provide written notice to the appropriate Federal agency (or agencies) having authority over such lands (hereinafter in this subsection referred to as the Federal land manager) and afford adequate opportunity (but not in excess of sixty days) to confer with the State respecting the intended notice of designation or redesignation and to submit written comments and recommendations with respect to such intended notice of designation or redesignation. In designating or redesignating any area under this subsection with respect to which any Federal land manager has submitted written comments and recommendations, the State shall publish a list of any inconsistency between such designation or redesignation and such recommendations and an explanation of such inconsistency (together with the reasons for making such designation or redesignation against the recommendation of the Federal land manager).

"(iii) The Administrator shall promulgate regulations not later than six months after date of enactment of this subtitle to assure, insofar as practicable, that prior to any public hearing on designation or redesignation of any area, there shall be available for public inspection any specific plans for any new or modified major stationary source or development which may be permitted to be constructed and operated only if the area in question is designated or redesignated as class III.

"(B) In designating or redesignating areas under this subsection, the State shall make specific findings as to the desirability of designating or redesignating as class I each area of special environmental concern such as national recreation areas, wild and scenic rivers, national lakeshores and seashores, national forests, or other areas of specific national or regional natural, recreational, scenic or historic value. In no event shall any unit of the national wilderness preservation system or national park be designated or redesignated other than class I if such unit or park is in existence on the date of enactment of this section and, as of such date, exceeds twenty-five thousand acres in size. In no event shall any national monument, national primitive area, or national recreation area be designated or redesignated as other than class I if such monument or area is in existence on such date and, as of such date, exceeds one hundred thousand acres of Federal acreage. Any—

"(i) unit of the national wilderness preservation system or national park (other than a unit or park referred to in the second sentence of this subparagraph) which exceeds one thousand acres,

"(ii) national monument, national primitive area, or national recreation area (other than a monument or area referred to in the third sentence of this subparagraph) which exceeds ten thousand acres in size,

"(iii) international park (in excess of one thousand acres in size),

"(iv) national preserve (in excess of ten thousand acres in size),

shall initially be designated as class I, and may be redesignated only as class II. In no event shall any wild and scenic river, national lakeshore or seashore, national wildlife refuge, or national forest, be designated or redesignated other than class I or class II, if such river, lakeshore, seashore, refuge, or forest exceeds ten thousand acres in size. Any area required under this subparagraph to be designated, or initially designated, as class I shall be deemed to have been so designated on the date of the enactment of this section, and the requirements of subparagraph (C) shall not apply to such designation.

"(C) No area may be designated or redesignated by the State as class III under this section unless—

"(i) such designation or redesignation has been specifically approved by the Governor of the State, after consultation with the appropriate committees of the legislature if it is in session or with the leadership of the legislature if it is not in session (unless State law provides that such designation or redesignation must be specifically approved by State legislation), and if general purpose units of local government representing a majority of the residents of the area to be so designated or redesignated enact legislation (including for such units of local government resolutions where appropriate) concurring in the State's designation or redesignation;

"(ii) such designation or redesignation will not cause, or contribute to, concentrations of any air pollutant which exceed any maximum allowable increase level or maximum allowable concentration permitted under the classification of any other area; and

"(iii) such designation or redesignation is otherwise consistent with the requirements of this section.

"(D) The Administrator may disapprove the designation or redesignation of any area only if he finds, after notice and opportunity for public hearing, that such designation or redesignation does not meet the requirements of this section. If any such disapproval occurs, the classification of the area shall be that which was in effect prior to the designation or redesignation which was disapproved.



"(E) Not later than two years after the date of the enactment of this section (and at two-year intervals thereafter), the Administrator, after consultation with the Federal land manager, shall report to Congress on the status of Federal lands which are not required under this section to be designated as class I. Such report shall include his recommendations, if any, for legislative action to require such designation.

"(4) (A) Each applicable implementation plan shall require each new or modified major stationary source to obtain a permit to construct prior to commencement of construction and shall contain provisions for review prior to granting such a permit for any major stationary source in order to determine the effect that emissions from such source will have on air quality concentrations in any area which may be affected by emissions from such source. This paragraph shall not apply in the case of new sources described in paragraphs (2) (E) (ii), (iii), and (iv).

"(B) The review provided for in subparagraph (A) shall be preceded by an analysis, which may be conducted by the State (or any general purpose unit of local government) or by the major stationary source applying for such permit, of the ambient air quality at the proposed site and in areas which may be affected by emissions from such source for each pollutant subject to regulation under this section which will be emitted from such source. Such analysis shall be performed in accordance with regulations of the Administrator. Effective one year after date of enactment of this section, the analysis required by this subparagraph shall include continuous air quality monitoring data gathered for purposes of determining whether emissions from such source will exceed the maximum allowable increases or the maximum allowable concentration permitted under paragraph (2). Such data shall be gathered over a period of one calendar year preceding the date of application for a permit under subparagraph (A), unless the Administrator or the State (in accordance with the regulations of the Administrator) determines that a complete and adequate analysis for such purposes may be accomplished in a shorter period. The results of such analysis, in terms established by regulations of the Administrator, shall be included in any application for such permit. In promulgating regulations respecting the analysis under this paragraph, the Administrator shall not require the use of any automatic or uniform buffer zone or zones. Such regulations shall authorize such analysis to take into account the terrain and meteorology of the areas affected, the size and nature of the proposed source, the degree of continuous emission reduction which could be achieved by such source, and such other factors as may be relevant in determining the effect of emissions from a proposed source on any classified area. Any model or models designated under such regulations may be adjusted, upon a determination, after notice and opportunity for public hearing, by the Administrator that such an adjustment is necessary to take into account unique terrain or meteorological characteristics of an area potentially affected by emissions from a source applying for a permit required under this paragraph.

"(C) A permit under this paragraph may be issued to any major stationary source—

"(i) if any proposed permit has been subject to a public hearing with opportunity for interested persons to appear and submit written or oral presentations on the air quality impact of such source and other appropriate considerations;

"(ii) if emissions from such source will not cause, or contribute to, air pollution in excess of any maximum allowable increase

or maximum allowable concentration for any pollutant in any area; and

"(iii) if the requirements of this section applicable to such source have otherwise been met.

Each applicable implementation plan shall require any completed permit application (as determined in accordance with regulations of the Administrator) under this paragraph, or under section 110(a) (2) (D), to be granted or denied not later than 180 days after the date of filing of such completed application.

"(D) Each applicable implementation plan shall contain provisions requiring any person who owns or operates, or proposes to own or operate, a major stationary source for which a permit is required under this paragraph to conduct such monitoring as may be necessary to determine the effect which emissions from any such source may have, or is having, on air quality in any area which may be affected by emissions from such source.

"(E) For the purpose of the regulations which became effective January 1, 1975 to prevent significant deterioration of air quality, the term 'commencement of construction' means that the owner or operator, or prospective owner or operator, of a stationary source has undertaken a continuous on-site program of construction or modification of such source.

"(5) No later than one year after the date of enactment of the Clean Air Act Amendments of 1977, the Administrator shall promulgate regulations under this section specifying with reasonable particularity each air quality model or models to be used under specified sets of conditions for purposes of this section.

"(d) With respect to any air pollutant for which a national ambient air quality standard is established other than sulfur oxides or particulates, an area classification plan such as that referred to in subsection (c) shall not be required under this section if the implementation plan adopted by the State and submitted for the Administrator's approval or promulgated by the Administrator under subsection (e) (2) of this section contains other provisions which when considered as a whole, the Administrator finds will carry out the purposes in subsection (a) at least as effectively as such an area classification plan for such pollutant. Such other provisions referred to in the preceding sentence need not require the establishment of maximum allowable increases with respect to such pollutant for any area to which this section applies.

"(e) (1) Each State shall adopt and submit to the Administrator, after notice and public hearing, a plan or revision of a plan containing measures meeting the requirements of this section. With respect to sulfur oxides and particulates, such plan or revision shall be submitted no later than one year after the date of enactment of this section. With respect to any other pollutant for which a national ambient air quality standard has been promulgated prior to enactment of this section, such plan or revision shall be submitted no later than two years after the date of enactment of this section. With respect to any air pollutant for which a national ambient air quality standard is promulgated or revised after the date of enactment of this section, such plan or revision of such plan shall be submitted not later than two years after the date of promulgation or revision of such standard.

"(2) (A) The Administrator shall, within four months after the date required for submission of a plan under this subsection, approve such plan, or any portion thereof, if he determines that such plan was adopted in accordance with, and meets the requirements of, this section. If a State fails to submit

such a plan or if any plan, or portion thereof, is disapproved, the Administrator shall, within four months after the date required for submission of such a plan or after such disapproval, prepare and propose such regulations for such State as are necessary to meet the requirements of this section. After notice and opportunity for public hearing, but not later than ninety days after proposal, the Administrator shall promulgate such regulations with such modifications as he deems appropriate.

"(B) (i) In the case of regulations promulgated by the Administrator pursuant to this paragraph and section 110(c) for the purpose of this section, the Administrator shall not designate or redesignate the classification of areas to which this section applies.

"(ii) In the case of any such regulations of the Administrator promulgated following any period during which provisions of an approved State plan required for purposes of this section were in effect, the classification effective under such regulations of the Administrator for each such area shall be the classification designated or redesignated during such period pursuant to such provisions of the approved plan if such designation or redesignation was in accordance with the requirements of this section.

"(iii) In the case of such regulations of the Administrator promulgated where the designation or redesignation of any such area under the State plan was not in accordance with the requirements of this section or where provisions of a State plan required for purposes of this section have not been submitted and approved, the classification of each such area shall be as provided in subsections (c) (1) and (c) (3) (B) of this section.

"(3) Notwithstanding the maximum allowable concentrations permitted under subsection (c) (2) (D), in the case of any area where such concentrations are exceeded on the basis of plant capacity in existence on the date of the enactment of this section, no plan shall be required, as a condition for approval by the Administrator under this section, to reduce pollution concentrations in such area to such maximum allowable concentrations.

"(f) (1) In the case of any State which has a plan approved by the Administrator under subsection (e) (2), the Governor of such State may, after notice and opportunity for public hearing, issue orders or promulgate rules providing that, for purposes of determining compliance with the maximum allowable increases in ambient concentrations of an air pollutant, the following concentrations of such pollutant shall not be taken into account—

"(A) concentrations of such pollutant attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, or natural gas, or both, by reason of an order which is in effect under sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 over the emissions from such sources before the effective date of such order,

"(B) the concentrations of such pollutant attributable to the increase in emissions from stationary sources which have converted from using natural gas by reason of a natural gas curtailment pursuant to a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan,

"(C) concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities,

"(D) the increase in concentrations attributable to new sources outside the United States over the concentrations attributable

to existing sources which are included in the baseline concentration determined under subsection (c) (2) (E), and

"(E) concentrations of naturally occurring particulate matter.

"(2) No action taken with respect to a source under paragraph (1) (A) or (1) (B) shall apply more than five years after the effective date of the order referred to in paragraph (1) (A) or the plan referred to in paragraph (1) (B), whichever is applicable. If both such order and plan are applicable, no such action shall apply more than five years after the later of such effective dates.

"(3) No action under this subsection shall take effect unless the Governor submits the order or rule providing for such exclusion to the Administrator and the Administrator determines that such order or rule is in compliance with the provisions of this subsection.

"(g) The Administrator shall provide such technical assistance to States and localities as may be necessary to assist in carrying out this section.

"(h) (1) Until such time as an applicable implementation plan is in effect for any area which plan meets the requirements of this section to prevent significant deterioration of air quality with respect to any air pollutant, applicable regulations under this Act in effect prior to enactment of this section shall remain in effect to prevent significant deterioration of air quality in any such area for any such pollutant, except as otherwise provided in paragraph (2) of this subsection.

"(2) If any regulation in effect prior to enactment of this section to prevent significant deterioration of air quality would be inconsistent with the requirements of subsection (c) (2) and (c) (3) (B), then such regulations shall be deemed amended so as to conform with such requirements.

"(i) For exemption of certain nonprofit health or educational institutions from treatment as a major stationary source for purposes of this subtitle, see section 302(c) (2)."

(b) Section 110(a) (2) of such Act is amended by inserting the following new subparagraph at the end thereof:

"(J) It complies with the requirements of subtitle C of title I."

(c) Title III of such Act is amended by adding the following new section at the end thereof:

#### "STANDARDIZED AIR QUALITY MODELING

"Sec. 323. (a) Not later than six months after the date of the enactment of the Clean Air Act Amendments of 1977, and at least every three years thereafter, the Administrator shall conduct a conference on air quality modeling. In conducting such conference, special attention shall be given to appropriate modeling necessary for carrying out subtitle C of title I.

"(b) The conference conducted under this section shall provide for participation by the National Academy of Sciences, representatives of State and local air pollution control agencies, and appropriate Federal agencies, including the National Science Foundation, the National Oceanic and Atmospheric Administration, and the National Bureau of Standards.

"(c) Interested persons shall be permitted to submit written comments and a verbatim transcript of the conference proceedings shall be maintained.

"(d) The comments submitted and the transcript maintained pursuant to subsection (c) shall be included in the docket required to be established for purposes of promulgating or revising any regulation relating to air quality modeling under subtitle C of title I."

(d) Not later than one year after the date of enactment of this Act, the Administrator shall publish a guidance document to assist the States in carrying out their functions under subtitle C of title I of the Clean Air

Act with respect to pollutants, other than sulphur oxides and particulates, for which national ambient air quality standards are promulgated. Such guidance document shall include recommended strategies for controlling photochemical oxidants on a regional or multi-State basis for the purpose of implementing section 160 and section 110 of such Act.

(e) Not later than two years after the date of enactment of this Act, the Administrator shall complete a study and report to the Congress on the progress made in carrying out subtitle C of title I of the Clean Air Act and the problems associated with carrying out such section, including recommendations for legislative changes necessary to implement strategies for controlling photochemical oxidants on a regional or multi-State basis.

(f) The Clean Air Act is further amended by adding the following new section at the end thereof:

#### "NATIONAL COMMISSION ON AIR QUALITY

"Sec. 327. (a) There is established a National Commission on Air Quality which shall study and report to the Congress on—

"(1) the effects of the implementation of requirements on the States or the Federal Government under this Act to identify and protect from significant deterioration of air quality, areas which have existing air quality better than that specified under current national primary and secondary standards;

"(2) the economic, technology, and environmental consequences of achieving or not achieving the purposes of this Act and programs authorized by it;

"(3) available alternatives, including enforcement mechanisms to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population, and to achieve the other purposes of the Act;

"(4) the technological capability of achieving and the economic, energy, and environmental and health effects of achieving or not achieving required emission control levels for mobile sources of oxides of nitrogen in relation to and independent of regulation of emissions of oxides of nitrogen from stationary sources;

"(5) air pollutants not presently regulated, which pose or may in the future pose a threat to public health or public welfare and options available to regulate emissions of such pollutants;

"(6) the adequacy of research, development, and demonstrations being carried out by Federal, State, local, and nongovernmental entities to protect and enhance air quality;

"(7) the ability of (including financial resources, manpower, and statutory authority) Federal, State, and local institutions to implement the purposes of the Act.

The Commission's study and report under paragraph (4) shall include analysis of the health effects of pollutants which are derivatives of oxides of nitrogen.

"(b) Studies and investigations conducted pursuant to paragraphs (1) and (2) of subsection (a) shall include—

"(1) the effects of existing or proposed national ambient air quality standards on employment, energy, and the economy (including State and local), their relationship to objective scientific and medical data collected to determine their validity at existing levels, as well as their other social and environmental effects;

"(2) the effects of limiting deterioration of air quality in areas identified as having air quality better than that required under existing or proposed national ambient standards on employment, energy, the economy (including State and local), the relationship of such policy to the protection of the pub-

lic health and welfare as well as other national priorities such as economic growth and national defense, and its other social and environmental effects.

"(c) The Commission shall, as a part of any study conducted under subsection (a) (1) of this section, specifically identify any loss or irretrievable commitment of resources (taking into account economic feasibility), including mineral, agricultural and water resources, as well as land surface-use resources.

"(d) Such Commission shall be composed of eleven members, including the chairman and the ranking minority member of the Senate Committee on Public Works and the House Committee on Interstate and Foreign Commerce (or delegates of such chairmen or member appointed by them from among representatives of such committees) and seven members of the public appointed by the President, by and with the advice and consent of the Senate. The chairman of the Commission shall be elected from among the members thereof.

"(e) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Commission in carrying out the requirements of this section, and shall furnish to the Commission such information as the Commission deems necessary to carry out this section.

"(f) A report, together with any appropriate recommendations, shall be submitted to the Congress on the results of the investigation and study concerning subsection (a) (4) of this section no later than March 1, 1978, and the results of the investigation and study concerning subsection (a) (1) of this section no later than two years after the date of enactment of the Clean Air Act Amendments of 1977. The Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the same matters required to be studied by the Commission under subsection (a) (1) and to submit such study to the Congress at the same time as required for the report of the Commission concerning such subsection. Funds shall be available in the same manner, and the Administrator shall have the same authorities and duties respecting such study, as provided in the case of the study authorized pursuant to section 202(c).

"(g) A report shall be submitted with regard to all other Commission studies and investigations, together with any appropriate recommendations, not later than three years after the date of enactment of this section. Upon submission of such report or upon expiration of such three-year period, whichever is sooner, the Commission shall cease to exist.

"(h) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chairman shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title V of the United States Code, including traveltime and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

"(i) There are authorized to be appropriated, for use in carrying out this section, not to exceed \$5,000,000.

"(j) In the conduct of the study, the Commission is authorized to contract with nongovernmental entities that are competent to perform research or investigations in areas within the Commission's mandate, and to hold public hearings, forums, and workshops to enable full public participation."



Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 108 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. MAGUIRE

Mr. MAGUIRE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE: Page 300, line 25, strike out "In" and all that follows down through line 8 on page 301 and insert in lieu thereof: "No federal lands which are initially designated as Class I and which may be redesignated as Class II may be so redesignated unless the federal land manager concurs in such redesignation."

Mr. MAGUIRE. Mr. Chairman, the intent of this amendment, which I have offered together with my colleague, the gentleman from New Jersey (Mrs. FENWICK), is to provide a modicum of Federal protection for so-called discretionary class I Federal lands.

Under the provisions of the committee bill, large national parks, wilderness areas, monuments, primitive areas, and recreational areas are designated as mandatory class I. Under no circumstances may they be switched into a category which would permit dirtier air. They are permanent class I areas, and the States have no power to redesignate them as class II or class III.

However, smaller parks, wilderness areas, monuments, primitive areas, recreation areas and national preserves were placed in a second category which was discretionary. These areas were initially assigned class I status but States are free to redesignate them to class II at any time and solely at their own discretion. The presumptive class I category makes up only about 1.5 percent of all Federal holdings, but these lands are more important than their acreage might suggest.

I am in firm agreement with the basic approach taken by the committee to allow the States maximum latitude in designating their own lands, but I do believe we should have a further checkpoint with respect to these few smaller areas than we have presently in the draft legislation.

Let me show the Members very briefly two photographs of the kinds of areas we are talking about. They are small but they are as beautiful and as magnificent as some of the areas that are given greater protection in the bill. This one is from Hawaii and this one is from New Mexico.

Under the current provisions of the bill, national treasures such as Mount Hood National Wilderness Area in Oregon and the Big Thicket National Preserve in Texas could be reclassified as class II, a class judged by the EPA as able to accommodate the largest coal-fired powerplant ever planned or actually built. In other words, class II is a far cry from the protection of air quality standards which we should want to protect when we are dealing with such pristine areas.

Our amendment would simply give the Federal land manager, either the Secretary of the Interior or the Secretary of Agriculture, as the case might be, authority to approve or disapprove such a redesignation, taking into account the effect air quality degradation would have on the scenic or wilderness value of the specific land in question.

Mr. Chairman, in our view, the Federal Government has a right and a responsibility to oversee these lands, including matters of air quality, since they were set aside for the enjoyment of the entire Nation. Although these lands are smaller in size than the mandatory class I areas, these lands should not be thought of as unimportant or insignificant. National parks and wilderness areas would have to be at least 1,000 acres in size, and all other lands in this category are more than 10,000 acres.

The amendment would not reclassify these areas as mandatory class I. Furthermore, once the land manager has approved a redesignation to class II, he would not have authority to turn around and to reclassify it as class I.

So the amendment is hedged in by very considerable protections. It simply allows a bit more of a checkpoint before we go irrevocably to a dirty-air category for these few pristine lands.

Finally, our amendment would not significantly affect powerplant siting or otherwise interfere with the national energy program. In this regard, the 1975 FEA-EPA "Analysis of the Impact on the Electric Utility Industry of Alternative Approaches to Significant Deterioration," cited 74 powerplant sites projected for possible construction between now and 1983.

The agencies determined that not one of these 74 sites would be affected by either the mandatory or the discretionary class I designation; so to firm up the discretionary designation a bit does no harm whatever to the necessary program of powerplant construction in the next few years. In any case, the land manager would be free to take energy and local economic factors into account in deciding whether to approve or disapprove redesignation, and I think we can be confident he would do that.

Mr. Chairman, the simple fact that these lands are smaller than mandatory class I lands does not mean that they are on the whole any less pristine, beautiful or deserving of protection. Again, our amendment would not classify these areas as mandatory class I.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(By unanimous consent, Mr. MAGUIRE was allowed to proceed for an additional 2 minutes.)

Mr. MAGUIRE. Mr. Chairman, out amendment would simply grant the land manager, as the representative of the American people, the right to analyze and approve State redesignations of these few class I areas on a case-by-case basis.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I am trying to determine exactly what would be affected by the amendment.

Mr. MAGUIRE. I have just handed the gentleman a list. I should have provided that before.

Mr. MADIGAN. We are talking about 4 national parks under 25,000 acres; 13 national monuments above 10,000, but under 100,000 acres; 9 national recreation areas in that same classification above 10,000 acres, but below 100,000 acres; 2 national preserves and 15 wilderness areas; is that correct?

Mr. MAGUIRE. That is correct.

Mr. MADIGAN. Mr. Chairman, if the gentleman will yield further, as I understand what this would do with these substantial parcels of land is that instead of the Governor or State legislature being able to reclassify these class II areas if they decided to do that; now we are going to say that the Federal land manager would, in effect, be able to overrule the State legislature and the Governor of the State; is that not correct?

Mr. MAGUIRE. That is correct. I might just say to the gentleman, what we are dealing with is only 1.5 percent of all Federal lands. That is a very small amount of land.

Mr. MADIGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, just very briefly, if I may, the entire program has been presented up to this point as one guaranteeing a lot of involvement on the part of local officials, State legislatures, and the Governor of each State.

Now that we have reached this final stage in the development of this bill, we are going to substantially rewrite it and give an employee of the Federal Government—in this case the Federal land manager—the ability to override, overrule—veto, if you will—whatever local decisions would otherwise have been made. That is entirely contrary to everything that has been represented to us up to this point. I am very much opposed to that.

May I have the attention of the gentleman from Florida, the chairman of the subcommittee?

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield to me?

Mr. MADIGAN. I yield.

Mr. MAGUIRE. I might just point out to the gentleman that the basic architecture of this bill is still completely intact. We have class I, we have class II, we have class III areas. I would have wished that we would not have had a class III area, but the sense of the committee was that we needed that. The States can designate class II and class III areas as they see fit.

Thus, 99.5 percent of the land in this country is going to be taken care of in this bill apart from what my amendment deals with. My amendment deals with 0.5 percent of the total land area of the United States and 1.5 percent of the Federal land. It is really a very short list of areas, contained on 1½ pages. There are very few, perhaps 35 or 40 areas,

where we have an overriding interest of all the American people, and I hope the gentleman can keep that in mind.

Mr. MADIGAN. I would like to reclaim my time, because the gentleman is repeating what he said earlier.

I would like to have the attention of the gentleman from Florida (Mr. ROGERS) for the purpose of engaging him in a brief colloquy in the time I have remaining. Is it the intention of the chairman of the subcommittee to completely reverse his position, as it has been reported to us up to this point, by supporting this Maguire-Fenwick amendment?

Mr. ROGERS. Well, I do not think it does reverse my position completely. This amendment says that the land manager can give his concurrence on the redesignation of certain areas in discretionary class I. The small areas, for example, small wildernesses, perhaps represents 0.4 percent of all lands. All this says is that on certain lands, the State must obtain the concurrence of the land manager. I do not think it is that offensive. I have not been a proponent, but I do not think it is that offensive.

Mr. MADIGAN. Let me read to the gentleman one of the strong points that he makes in his report to the full Congress as being a reason for all of us to support this bill. I quote:

Because it removes the Federal Land Manager's authority to control classification of certain lands which is contained in the EPA regulations.

That is the selling point of this bill. But here, we are going to completely reverse that.

Mr. ROGERS. May I tell the gentleman that is still true for 99 percent of the Federal lands. This represents about 0.4 percent of all the land. But, as I said, I have not proposed this but I do not think it is that hurtful.

Mr. MADIGAN. I appreciate the fact that the gentleman did not propose it, and I wish he would not support it because I think he would be more consistent if he would not.

Mrs. FENWICK. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I do support this amendment. I do not think it is an earth shaker. It is a very modest, small amendment that seeks to say that these Federal lands in which all the people now, and we hope for many generations to come, have an interest—this small proportion of the total of class I nonmandatory lands—before they are degraded as to air quality, shall be protected by requiring the concurrence of the Administrator. The fact that they are small makes it all the more important. They are not enormous areas.

They are areas which could be spoiled very easily. In many cases, the Administrator undoubtedly will concur with the decision of the local authorities. But the amendment does give protection, which I think is lacking, so that some of these smaller areas cannot be rapidly and easily degraded in response to local pressures which may be very hard for local

people to withstand. It is not a great big earthshaker. It is not going to do tremendous good. But in the interests of clean air now and in the future, it is a very valuable amendment. I hope it will be adopted.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mrs. FENWICK. I yield to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, I want to point out what has been already said by a number of speakers, that we are dealing here with smaller national parks, wilderness areas, monuments, recreation areas, primitive areas, and national preserves, which are designated as "presumptive" class I. In other words, they are initially designated as class I, but may be redesignated by the States to the "dirtier" class II category at any time, without Federal approval.

This amendment would not reclassify these areas as mandatory class I.

Mrs. FENWICK. I thank my colleague. It is just a little check, that is all, so that the air quality is not degraded.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mrs. FENWICK. I yield to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Chairman, I strongly support this amendment. I happen to have spent a good many years of my life helping create the Cuyahoga Recreation Park area, which is now being put together and is a small national recreation area.

I do not want to leave the air quality in what will be the only really big open space in a huge metropolitan area to the sole discretion either of the present Governor or a future Governor. So while I would not object to a Governor initiating action to lower the air quality standards for such areas, I think the Federal managing agency should have the final say.

Mrs. FENWICK. I thank the gentleman for his remarks.

Mr. CARTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, in all good conscience I oppose this amendment. The purpose of this bill has been contrary to this concept throughout. I quote again from the committee report and the words of my distinguished friend:

By removing the Federal land manager's authority to control classification of Federal lands, which is contained in the EPA regulations.

Mr. Chairman, this may be small, it may be a small amount, but this is a foot in the door. And under this legislation, as it is written at the present time, the Governors of the States have charge of this and can, when it is appropriate, reclassify a class I area into a class II area after proper procedures are followed. I do not think this will be done on very many occasions, Mr. Chairman, but I feel that this is the beginning and

would result in Federal land management across the board.

In the committee report, also, it states:

These discretionary class I areas would convey class I status initially with subsequent reclassification to class II possible at the discretion of the State.

Right here we are changing that very significant portion of the bill.

So as a matter, in this case, of State rights, I oppose this intrusion, this foot in the door. Mr. Chairman, I urge my colleagues to oppose this amendment.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I am most happy to yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I would like to commend the gentleman for his statement on this point. I think that if we were to adopt this amendment, our problem would be not the extent of land involved but the principle involved.

Many Members can support this legislation because of the flexibility it gives to the people who know best their regions and their areas. I think it is the height of arrogance to believe that some federally appointed land manager cares more about the environment, the natural areas, and the parks of a State than do the people who are the elected representatives, the Governor and the elected representatives in the legislatures.

Mr. Chairman, I think we would be making a terrible assault on the whole concept of this legislation if we were to adopt this amendment. I commend the gentleman from Kentucky (Mr. CARTER) for his statement, and I would like to associate myself with it.

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman from Georgia (Mr. LEVITAS), and I certainly agree with him on this matter. I strongly oppose this amendment.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield to me before his time expires?

Mr. CARTER. Yes, I yield briefly for a question, but not for a dissertation.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for yielding.

I just wondered if the gentleman might think, in light of what the gentleman from Georgia (Mr. LEVITAS) just said, that it might also be the height of naivete to think that a State or a locality is not going to be subjected to tremendous pressures which might cut across air quality values in federally preserved areas?

Mr. CARTER. Mr. Chairman, in answer to the gentleman's question, I will say that I do not agree with that at all.

I think that the people in our States know what they want. Certainly they are proud of their parks; they want to protect them, and they will continue to do that.

Speaking of the parks in my area, no one has ever attempted to take away any part of the park system; rather, they have tried to protect and defend them, and I want the States to have that right.

Mr. MAGUIRE. Mr. Chairman, would



the gentleman acknowledge that there is a difference between a State park, which is indeed a park set aside for the people of that State, and a Federal park?

Mr. CARTER. Yes, of course, but I do not think that bears on the question.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. MAGUIRE).

The question was taken; and on a division (demanded by Mr. MAGUIRE) there were—ayes 16, noes 32.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROGERS: Page 320, line 1, after "(h)" strike out "The" and insert in lieu thereof "Effective with respect to each of the two fiscal years beginning after the date of enactment of the Clean Air Act Amendments of 1977, the".

Page 320, line 13, after "(1)" strike out "There" and insert in lieu thereof "Effective with respect to the two fiscal years beginning after the date of enactment of the Clean Air Act Amendments of 1977, there".

Page 320, line 14, after "section," insert "a total amount".

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Chairman, all this amendment does is to correct problems relating to the budget, as requested by the Committee on the Budget. We have agreed to this with the Committee on Rules, and this will carry out that commitment.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, we will accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. ROGERS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

On page 296, strike out lines 4 through 23 and insert in lieu thereof the following:

"(c)(1) Each applicable implementation plan shall contain an area classification plan based on maximum allowable increases in ambient concentrations of, and maximum allowable levels of ambient concentrations of, sulfur dioxide and particulate matter. In the case of increases based on concentrations permitted under national ambient air quality standards for any period of twenty-four hours or less, such regulations shall provide that the Governor of the State may, upon application of any person and after notice and opportunity for hearing, permit the maximum allowable increases specified for each pollutant to be exceeded during five percent of the hours of the year with respect to such pollutant in Class I and Class II areas. Whenever maximum allowable increases for any pollutant are exceeded for

two or more periods of exposure, if one or more of such periods is within a longer period of exposure for which a maximum allowable increase is also exceeded, for purposes of the preceding sentence the number of hours shall be determined only on the basis of such longer period. Concentrations of any pollutant for any period of exposure in any Class I area shall not be permitted under the preceding sentence to exceed the maximum allowable concentrations applicable to such pollutant for such period of exposure for Class II areas; and concentrations of any pollutant for any period of exposure in any Class II area shall not be permitted under such sentence to exceed the maximum allowable concentrations applicable to such pollutant for such period of exposure for Class III areas. Such classification plan shall apply to all areas in each State where the national primary and secondary ambient air quality standards for any air pollutant are not being exceeded. Such classification plan shall provide for designation of all such areas as either Class I, Class II, or Class III as to each such pollutant. Until such designation is effective, all such areas shall be deemed to have been designated as Class II, except as may be otherwise provided under paragraph (3)(B).

Mr. BREAUX (during the reading).

Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BREAUX. Mr. Chairman, I would first like to commend the chairman of the committee and the members of the committee for the great deal of work that they have done in bringing this legislation to the floor.

I have discussed my amendment with both the ranking minority members of the committee and also with the chairman of the committee. I wish I could say that I had the chairman's enthusiastic support, but I will point out that I had accepted his suggestions in a couple of ways with respect to the original amendment that I proposed. I have changed the original amendment to incorporate some of the chairman's suggestions, although I am certain that he will not be in a position to support it. We did accept some of his recommendations.

Mr. Chairman, let me tell the members of the committee very simply what the amendment does. The Clean Air Act, of course, is a very, very complicated piece of legislation; but my amendment really is not complicated. Of course, the bill requires that each State, in their implementation plan, set out three different areas within their State and classify them as class I, class II, or class III areas. My amendment, very simply stated, states that the Governor of each State may, in his discretion—he does not have to; it is optional—after an opportunity for and notice of a public hearing, permit the maximum allowable increases specified in each of two pollutants, SO<sub>2</sub> and particulates, to be exceeded during 5 percent of the hours of the year with respect to such pollutants in class I and class II areas. What this simply means is that I am talking about what is happening in two areas, class I and class II.

Mr. Chairman, the way this system

operates, as I understand it, someone wishing to build something in a class II area or any area who comes in, has to use a very complicated computerized method to measure how much of the pollutants are emanating from that particular plant being operated. This is all before the plant is on the drawing board, before it has been constructed.

My amendment would simply say that the Governor can allow that for a class I or a class II area and allow them to exceed the increment standards for those respective categories during 5 percent of the number of hours of the year. This is one of the suggestions that we accepted from the committee chairman, which really tied down exactly what we meant.

Mr. Chairman, that means that for 438 hours out of 8,760 hours in a year, a class I area could allow their increment standards to be exceeded, but never more than the next highest class. Class II areas would have that same option, but could never exceed what the standards are for class III.

Mr. Chairman, let me show the Members how strict these classifications are.

We are concerned about human health and welfare, and the EPA has set out a high standard up here and said that these are the standards we cannot exceed and if we do exceed them, we might be endangering human health. A class I area can only be 2 percent of that health standard, and a class II area could only be 25 percent of that health standard, while a class III area could only be half of that health standard and still not have an amount harmful to human health.

What I am saying, Mr. Chairman, is that each one of these categories would have the option, at the discretion of the Governor, after an opportunity for a hearing, to permit a 5-percent increase. It could never exceed 438 hours in a year. It could not exceed that standard. There could be no exceptions. The same rule would apply universally.

Mr. Chairman, I sent out a "Dear Colleague" letter which gives the Members the classic example of what we are trying to cover in this situation.

Mr. Chairman, there is an application to build a coal-burning powerplant in Utah in a class II area. It clearly meets all the standards for the class II area.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. BREAUX) has expired.

(By unanimous consent Mr. BREAUX was allowed to proceed for 5 additional minutes.)

Mr. BREAUX. I thank the chairman and I thank the Members for this additional time.

Mr. Chairman, I would like to just explain that this is a classic example of what my amendment would address and try to correct. In Utah—not in my own State; I do not know of a single situation in Louisiana which this affects, so I do not have a parochial interest in it at all; this is just commonsense—there is an application to build a coal-fired electric generating plant to generate electricity for Los Angeles and Anaheim and other parts of California and also in Utah. They want to build in a class II area, and they want to meet all the standards of that class II area. There is

a class I area something like 8 miles to the west of that class II area. The computer model predicts—and they say that they are not really sure of the prediction—but the computer model predicts that 352 days of the year the wind current is going to blow away from that national park and away from the powerplants.

On those days there could be no problems in the class I area but the computer diffusion model predicted and the meteorological experts said that, well, maybe 13 days out of that year the wind might blow the other way and on those days it would blow over the class I area and it might exceed the increment standard for the class I area, which is 2 percent of what they say is healthy in the country, although with a 98-percent margin they could still be healthy but they say that on maybe 13 days out of the year it might affect the class I area. So, under those set of circumstances they would not be able to build a very needed electric coal-powered powerplant. It has to be built with the best available technology available. That means the best available on the market and the best means to take out the pollutants from the area that are available and that are known to man. It has to be built with all that vast technology.

My amendment would say that well, in this type of situation, the Governor, after notice of public hearings and an opportunity for public hearings, may, in his discretion, say that the class I area could exceed their increment standard 5 percent of the hours of a year. Five percent is approximately 18 days. It could never exceed this limitation. I think it is common sense, and I think it is reasonable because what we are looking at, may I say, Mr. Chairman, is the effect on the area over an annual period, not just a few hours of a year. The real determination of whether something is healthy for an area is the effect on that area over a period of a year, not just a period of 3 hours or a period of 24 hours.

Mr. EMERY. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I am happy to yield to the gentleman from Maine.

Mr. EMERY. Mr. Chairman, I thank the gentleman for yielding to me. I would like to engage in a short colloquy with the gentleman from Louisiana. I believe that some of the points the gentleman has raised are very, very valuable. I think his contribution is important. The question of concern to me is how you define the 438-hour variance? That figure is 5 percent of the hours in a year. But is it not a fact that under some scenario it would be possible for the air quality to exceed the projected standards for as much as 146 days, or maybe more, although admittedly it is not practical?

Mr. BREAUX. Is the gentleman from Maine referring to 146 hours or 146 days?

Mr. EMERY. I am referring to 146 days.

On that assumption, is it possible for the air quality to exceed the standards under the gentleman's amendment?

Mr. BREAUX. Under this amendment, never in any set of circumstances could you ever exceed the ambient air standard

which EPA set and said are the standards necessary for protection of health needs. Under my amendment you could never exceed even the annual increment of what you can do in class I, II, or III areas. Never could you exceed that standard for a year.

My amendment would simply allow for short periods during that year, amounting to no more than 5 percent of the 8,760 hours in the year, that you could do that, which calculates out to be about 438 hours out of those 8,760 hours.

It could be, but it is not likely, but it could be that you could have a 3-hour period in 1 day, or could spread that out until it added up to no more than 18 days of a year. But never could the exceeding of that increment standard go over a total of an amount equal to 18 days or to 438 hours out of an entire year.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. EMERY, and by unanimous consent, Mr. BREAUX was allowed to proceed for 2 additional minutes.)

Mr. EMERY. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Maine.

Mr. EMERY. I thank the gentleman for yielding.

My concern, as I have discussed with the gentleman earlier, is that under this amendment, although the goal is laudable and one that I support, given some flexibility, that we may be deteriorating air standards for over a longer period of time than we may really desire. For example, under some scenario we may be deteriorating air quality more than the accepted standard for 146 days—it may be 50, it may be 60, whatever it is.

Mr. BREAUX. If I may interrupt the gentleman, that is not really correct, because it never could exceed more than 18 days. It could be over the period longer than 18 days, but if we took only one hour of those days, it could never exceed the total number of hours that would add up to that.

Mr. EMERY. I thank the gentleman very much. However, as the gentleman has just pointed out, it would be conceivable that there would be some relaxation of air standards once a day every day of the year more or less, or it could be that there would be a relaxation for possibly a 3-hour test period for 146 additional days, and the rest of the days of the year would not be affected. The point is that under this amendment, as I read it, that there is a provision whereby some deterioration or some relaxation could occur when it would not be absolutely necessary.

What I would like to do or what I would prefer to see is some mechanism by which this amendment could be tightened up whereby it would be only 18 or 25 days of the year.

Mr. BREAUX. Let me say to the gentleman we had originally intended to offer an amendment that spoke in terms of days, but we found out that by speaking in terms of hours we could much more tightly draw the amendment to really tighten it up, so we speak only in hours and not days.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROYHILL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to ask the gentleman from Louisiana (Mr. BREAUX) to stay in the well for the purpose of continuing this discussion that he was having with the gentleman from Maine (Mr. EMERY).

Is it not a fact that his amendment says that the regulation provides that the Governor of the State, upon application and after notice and opportunity for a hearing, could permit a variance up to the 5 percent? In other words, this is not going to happen automatically. You have to go to the Governor; you have to apply; you have the opportunity for notice and hearing, and the governor has some flexibility. In other words, the variance perhaps could not even go up all the way to the 5 percent; it could be somewhere in between, if the Governor so determined; is that not a fact?

Mr. BREAUX. Let me answer the gentleman this way. He is correct in his question and the implication of his question. I would say to the gentleman that the Chairman originally in a dear colleague letter indicated that I was not for States' rights, and it concerned me a great deal because I really am, so I changed the amendment and allowed the Governor discretion, after public hearing and notice of that public hearing, to do this. The gentleman from North Carolina is absolutely correct. It is in his discretion.

Mr. BROYHILL. That should satisfy the concern of the gentleman from Maine that if the State wants to make this decision, it can do that, and it also has some flexibility.

Mr. BREAUX. I think the gentleman made a good point, because the State always has the authority to say no, if they think it is going to exceed the 5 percent, or it is going to be carried out over a period longer than they would see fit to have it carried out.

I would say to the gentleman this: A key point on this is that what we are talking about is trying to handle problems that are going to occur because of computerized modeling in trying to plan what these plants are going to do if they are constructed in an area. We are not talking about existing facilities. This amendment is going to apply only to new facilities, and it is going to go into effect looking at a computerized model telling us what could happen if the weather and wind blow this way instead of that way. So I think we have to use a little commonsense in trying to clean up the air and at the same time come out with a strong workable bill. I will say to the gentleman from North Carolina it is strictly at the option of the Governor.

Mr. BREAUX. It is going to be a tool that they can use in trying to determine whether they are going to be able to accept a permit for a new facility to be built. It is as simple as that.

Mr. BROYHILL. I would also point out and I think the gentleman has already made this point that 362 micrograms is difficult to measure because it is so small. We are really talking about in this vari-



ance permitting not much extra pollution at all because the standard itself is so small that it is difficult to measure.

Mr. BREAUX. I think the EPA will admit that a class I increment standard is immeasurable. It is not measurable in that amount. We are only talking about what would be kicked out of a computer that would say it is 7.3 micrograms. That is what the computer would say. It is not even anything an EPA instrument can measure.

Mr. BROYHILL. So with respect to the SO<sub>2</sub> pollutants in a particular area, it would be impossible to measure the 2-percent increase over and above that.

Mr. BREAUX. That is exactly correct. It can only be measured by a computer as to whether this is present. It cannot be measured on any instrument as to whether it is present.

Mr. BROYHILL. What we are talking about is being able to permit some flexibility when it goes to the Governor, to permit some computerization of the information so as to determine what the pollution might be.

Mr. BREAUX. We are talking about flexibility and commonsense.

Mr. MAGUIRE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, at first glance figures like 5 percent and 18 days per year sound as if they are very minor modifications to the basic provisions of this bill. However, if one looks at the numbers more closely to determine what the actual effect could be on air quality in a given region, on the amount of pollutants that would be permitted to be emitted from a given stationary source, plus the effect of the amendment on the structure of this bill, I think we would have to agree that the intent of the bill would be thoroughly undermined by this amendment and that pollution from a given stationary source and standards of regional air quality could be disastrously effected.

A close look at the amendment would show that class II would cease to exist with respect to the area given the variance. We would in effect be going to class III. And similarly, if there were a variance for class I to class II, we would be eliminating class I and going entirely to class II. Clearly this undermines the entire structure of the bill.

And, if we would move from class I to class II there would be no role, not even a consultative role, for the Federal land manager with respect to those national park areas which are given the protection of mandatory class I in the bill.

With respect to the actual figures, if we calculate out what 5 percent or 18 days per year means, it translates into increases in pollution from an individual plant under various alternative conditions of a minimum of 350 percent and a maximum of 1,200 percent.

This is because the worst 18 days of the year are on a declining curve and in relation to the entire year the worst 18 days would provide a very significant portion of the total amount of the pollution. If we slip from a class I to a class

II or from a class II to a class III, we set aside those worst 18 days as if they do not count at all and permit the same worst 18 days all over again. Let me repeat: This allows 3½ to 12 times the amount of pollution in these areas and we will in effect have abolished the very class with respect to which the variance is granted.

In addition to that, the gentleman has modified his amendment to allow the variance to be calculated out in terms of hours and he says it would be 5 percent of the hours in the year which is 438, if I heard the gentleman correctly.

This apparently means they could have violations every single day of the year, not 18 days a year, but every single day of the year; they could have an hour or more each day of violations which would completely undermine the intent and structure of this Act.

I think everybody should be very, very clear as they approach the vote on this amendment that this amendment destroys the significant deterioration section of this bill. There is absolutely nothing left of the significant deterioration section of this bill. If we want clean air, we must defeat this amendment, which is very far-reaching and destructive of the purposes of the act.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, I would rather be for clean air and commonsense, because we can have both.

Mr. MAGUIRE. Not under the gentleman's amendment; maybe under another amendment.

Mr. BREAUX. Mr. Chairman, if the gentleman will yield further, what the gentleman is saying, we could have a violation every day of the year. That is simply not correct. The gentleman sat in the hearings. The gentleman should know that if there is one violation in three of the standards every day in the year, we are talking about in excess of 900 or 1,000 hours. That is more than double what is allowed.

Mr. MAGUIRE. Even if the gentleman is correct, and I am not sure the gentleman is, there could then be violations 2 out of every 3 days.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(By unanimous consent, Mr. MAGUIRE was allowed to proceed for an additional 2 minutes.)

Mr. MAGUIRE. Mr. Chairman, I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, I think one thing we have to keep in mind, I know when the amendment was first broached to me yesterday, I thought about it in favorable terms. I did not see any real difference. I thought 1 day in 18 days is not a big deal, except when it was pointed out to me when we go to that 18 days, what we do is push the 18th day up to the 1st day and then we shift the whole curve.

Mr. MAGUIRE. That is exactly right.

Mr. HARKIN. If the gentleman will yield further, that is what is troubling to

me, that every other day of the year we are allowing more pollutants and the whole curve shifts. That is what has to be kept in mind.

Mr. MAGUIRE. The gentleman is exactly right. This has a very deleterious impact, not just on 18 days, or 5 percent of the hours, but on the entire year and it wipes out the categories the bill has provided for ambient air quality control.

Mr. CARTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the distinguished gentleman from Louisiana (Mr. BREAUX) some questions about the gentleman's amendment.

I would like to ask if the primary and secondary standards will be exceeded in this area for 5 percent of the days.

Mr. BREAUX. Well, the primary and secondary air standards would never under my amendment be exceeded. The only thing that could be exceeded under my amendment are 432 hours out of the year or in individual increment standards, but each of the root classes, the standards that EPA says are sufficient to maintain good health and welfare, could never be exceeded under my amendment.

Mr. CARTER. Mr. Chairman, as I understand, this is near a national park or national preserve of some sort; is that correct?

Mr. BREAUX. If it applies to class 1, it will also apply to a class 2 area, which might not be a national park.

Mr. CARTER. In class 1 areas, it is permitted that the level of 2 percent be exceeded 12½ times, I believe; is that correct? That is written in the legislation.

Mr. BREAUX. I would accept that.

Mr. CARTER. Will this exceed that 2 percent allowable increment of pollution in a class 1 area?

Mr. BREAUX. I am not really sure whether I understand the gentleman's question. I would say the only 5 percent variance it allows to be increased is the increment standards set out by the EPA, which is 2 percent of the primary and secondary standards, that would only be allowed to be exceeded by my amendment.

Mr. ROGERS. Will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Florida.

Mr. ROGERS. I would say this amendment would allow it to go up 12½ more than the 2 percent. It would allow it to go up 25 percent.

Mr. CARTER. Further, I would like to ask this question: In class II areas, of course, there is a limit in that of 25 percent above the baseline of pollution in that area. If I may also include the chairman in the colloquy, I would ask him if that is not true in class II areas.

Mr. BREAUX. That is true. Class II is 25 percent.

Mr. CARTER. Would this 25 percent above the baseline level permitted in class II areas be exceeded?

Mr. BREAUX. It would be able to be exceeded, but never more than that set in class III. It would be allowed to vary by those number of hours, 438 hours a

year, but never higher than the standard set by class III. It would allow it to exceed. That is the purpose of my amendment.

Mr. CARTER. But primary and secondary standards would not be exceeded?

Mr. BREAU. They will never be exceeded under any circumstances by my amendment.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Florida.

Mr. ROGERS. I think the question the gentleman has brought out points out the danger of this, because it would allow class I really to go up to class II in a national park area; and allow class II areas to go up to class III. So, this is the concern of the committee.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from North Carolina.

Mr. BROYHILL. But only for 5 percent of the hours. The purpose of the gentleman's amendment is to give flexibility for 5 percent of the hours only.

Mr. ROGERS. It is 5 percent of the hours as originally proposed by Mr. BREAU.

Mr. CARTER. I will say that the basic portion of this bill to me is primary and secondary standards of such stringency as will protect the public health and welfare. Of course, that is going to be written in the record. I know there is a long dissertation to the effect that there is no standard that will protect the public health and welfare in some instances, which may be true, but in such cases the standards should be lowered sufficiently.

If the primary and secondary standards are not exceeded at any time, then the public welfare, the public health, should be protected according to this legislation.

Mr. MOORHEAD of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Breau amendment. In this legislation, which is vitally important to the people of the country for clean air quality, it is important that we consider the overall air quality for everyone, and that we use a little commonsense. The amendment that is being offered at the present time would permit only a very, very limited number of projects to be built under any circumstances. There are very few places where we have environmental situations where there are only 13 days of the year where there would be any chance of pollutants.

In the project that we are considering here, the Intermountain project, we have a project that is vitally important to at least 1 person out of 20 in this country. Southern California has a tremendous environmental problem. Today, most of our electricity is produced through steam generating plants.

Those steam generating plants burn oil. At the present time it is very difficult to get anything but dirty oil, so a lot of these plants are operating on variances. The people of southern California have more smog in the air because they are

not able to have projects of this kind that we are trying to build. The health of 4 or 5 million people of this country could be improved if the Intermountain project could be built. So this amendment is an environmental amendment. Anyone who says he wants to improve the health of the people of this country will support this amendment because it will improve the health of 1 person out of 20 in this country who live in southern California.

The project itself is located about 10 miles from Capital Reef National Park. For 2 years a study has gone on in that area to determine what the environmental conditions are, when there would be an overcast in the area, when visibility would be down, when it would be good. There is about 20 percent of the time when the environmental conditions in the park cut down visibility somewhat from natural causes. Under normal circumstances, one can see about 85 miles in the park. If this project goes into effect, for 13 days of the year visibility might be cut down by 5 to 10 miles, but the park is only 64 miles long. So there would be no noticeable difference whatsoever in visibility and no visible difference in the environment. But when we come to the strict terms of this act as it is presently written, it would probably prevent this coal-fired powerplant project from being developed at a time when we must convert to coal.

For that reason, if we are interested in the environment and America's energy needs we will let the Inter-Mountain project be built. It has been approved by both houses of the Utah Legislature, by the Utah Governor, by the California Legislature, by the Governor of California. These people are all vitally interested in the environment, perhaps more so than we are back in the Eastern part of the country because environment is so important in the West. They want to protect these areas. This particular project will provide 2,600 people with jobs in an area of Utah where jobs are very scarce. It would help those people tremendously. It would not hurt their environment. It is not going to reduce the visibility within the park. It is not going to hurt the health of a single individual. However, Mr. Chairman the Inter-Mountain project would promote essential economic growth, and since the powerplant in question would be coal fired, it would help us meet our energy needs as America moves from costly foreign oil to the utilization of our vast coal reserves.

It is important to us. It is important to the overall health of the people of this country. This amendment is in the national interest.

Mr. Chairman. I ask for an aye vote.

The CHAIRMAN. The time of the gentleman from California (Mr. Moorhead) has expired.

(On request of Mr. Maguire and by unanimous consent, Mr. Moorhead of California was allowed to proceed for 3 additional minutes.)

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield

to the gentleman from New Jersey (Mr. Maguire).

Mr. MAGUIRE. Mr. Chairman, is the gentleman aware that IPP, the Inter-Mountain Power Project group, testified before our subcommittee, the Subcommittee on Health and Environment, on March 29 of this year, that it could move its plant to a site east of the national park where it could be built without violating the class I increment? Is the gentleman aware of that?

Mr. MOORHEAD of California. Mr. Chairman, I am aware that over \$6 million has been spent on the present site and I am aware that there is no guarantee that should the site be moved, no serious or perhaps fatal obstacles would be encountered.

Mr. MAGUIRE. It is a \$4.2 billion project.

Mr. MOORHEAD of California. It is over a long-range period, yes.

Mr. MAGUIRE. So that \$6 million would be about one-tenth of 1 percent of the cost.

Mr. MOORHEAD of California. The fact is that this powerplant is environmentally sound. Electrostatic precipitators would remove 99.5 percent of all particulates and scrubbers would remove 90 percent of the SO<sub>2</sub>. The fact is, this country needs coal-fired energy. The fact is, this powerplant should not be prohibited by unreasonably restrictive legislation.

Mr. BREAU. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from Louisiana (Mr. Breau).

Mr. BREAU. I thank the gentleman for yielding.

Mr. Chairman, I would like to say to the gentleman they could possibly move the plant 5,000 miles away, but they are going to run into other types of problems which will be equally as serious if not more serious than where it is going to be located.

One of those is a visual pollution problem at the site the gentleman is talking about. It will be moving in closer to where people live, work, and operate, and they do not want the plant there either.

Mr. MOORHEAD of California. Mr. Chairman, one thing we run into is this: This project has been approved environmentally by the people in Utah. It has gone through the steps that are necessary for it to go through.

They could perhaps move it someplace else, as the gentleman from Louisiana (Mr. Breau) has said, but then they might run into all kinds of obstacles. At the present time the project, where it is now located, is ready to go if it is not disturbed further.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I just want to clarify the record for the Members. I think the Members need to know that this particular project has received no permits, and there has been no environmental impact statement issued for it.



The alternative site, which would not do violence to any of the classifications in the bill, is located in the same county. We are talking about costs that are in the tenths of 1 percent of the total cost of the plant. I think this is a classic case where we should not alter the basic structure of a law to take care of one specific situation when in fact that specific situation can be taken care of under the existing framework of the law simply by a very, very minor modification of the proposal.

So, Mr. Chairman, I would hope that the gentleman would not press his point.

AMENDMENT OFFERED BY MR. MCKAY AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BREAUX

Mr. McKAY. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. McKAY as a substitute for the amendment offered by Mr. BREAUX: Strike out the text of the Breaux amendment and insert in lieu thereof the following:

"(c) (1) Except as may otherwise be permitted under subsection (d) in the case of air pollutants other than sulfur oxides and particulates, each applicable implementation plan shall contain an area classification plan based on maximum allowable increases in ambient concentrations of, and maximum allowable levels of ambient concentrations of, any air pollutant for which a national ambient air quality standard is established. In the case of an increase based on concentrations permitted under national ambient air quality standards for any period of twenty-four hours or less, such regulations shall permit such limitations to be exceeded during one such period per year and, in addition, in the case of the maximum allowable increase of sulfur dioxide for the three-hour period of exposure, a class II increment variance may be granted as provided in section 162. Such classification plan shall apply to all areas in each State where the national primary and secondary ambient air quality standards for any air pollutant are not being exceeded. Such classification plan shall provide for designation of all such areas as either class I, class II, or class III as to each such pollutant. Until such designation is effective, all such areas shall be deemed to have been designated as class II, except as may be otherwise provided under paragraph (3) (B).

Page 320, after line 9, insert:

(g) (1) Subtitle C of title I of the Clean Air Act is amended by adding the following new section at the end thereof:

**"CLASS II INCREMENT VARIANCE**

"Sec. 162. (a) For purposes of this subsection—

"(1) The term 'class II increment variance' means a variance granted under this section (prior to, or in conjunction with, a permit required under section 160(c) (4)) by the Governor of a State to a proposed new or modified stationary source of sulfur dioxide which permits such source to construct and operate in an area designated as class II under section 160 without regard to the maximum increase of sulfur dioxide allowable for such area under such section 160 for the three-hour period of exposure.

"(2) The term 'Federal land manager' has the same meaning as when used in section 160.

"(b) (1) After consultation with general purpose units of local government (in accordance with section 125) and State legislative representatives, and after notice and

opportunity for public hearings, upon application by the owner or operator of any proposed new or modified stationary source, the Governor of the State in which such source is proposed to be located may grant a class II increment variance to such source if—

"(A) such owner or operator demonstrates to the satisfaction of the Governor, and the Governor finds, that the conditions of subsection (c) have been met, and

"(B) the State establishes (and provides for enforcement of) such emission limitations as may be necessary to assure that the conditions of subsection (c) (2) will continue to be met.

Such opportunity for public hearings shall be provided at the State capitol and in each political subdivision in which the maximum allowable increase for sulfur dioxide for the three-hour period of exposure will be permitted to be exceeded by reason of the variance (as determined by the Governor on the basis of the application).

"(2) No variance granted under this section shall take effect unless—

"(A) the Governor provides the Administrator, and the appropriate Federal land manager (in any case in which Federal lands are located in the area in which the maximum allowable increases for sulfur dioxide would be exceeded by reason of the variance), with a written report supporting his findings, and

"(B) (i) the Administrator finds that the procedures required under paragraph (1) have been followed and concurs with the Governor's findings required under subsection (c), and

"(ii) in any case in which a report is required to be provided to a Federal land manager, the Federal land manager concurs with the Governor's findings required under paragraph (2) (D) of subsection (c).

The Administrator and appropriate Federal land managers, if any, shall, after notice and opportunity for public hearing, concur or refuse to concur in the Governor's findings for purposes of this paragraph and publish notice thereof in the Federal Register not later than 180 days following their receipt of the report required under subparagraph (A).

"(c) A variance may be granted only if the Governor finds that the following conditions have been met—

"(1) (A) the Administrator has promulgated regulations under subsection (d) specifying applicable models and modeling techniques to be used for purposes of this section.

"(B) construction and operation of the source at the site at which the source proposes to locate (or undertake a modification) has fewer or less severe environmental impacts than construction and operation at other reasonably available alternative sites, and

"(C) the source cannot construct and operate at the proposed site unless a variance is granted under this section, and

"(2) (A) emissions from the source will not affect concentrations in any area in which the class II maximum allowable increase of sulfur dioxide for 3 hours is permitted to be exceeded by reason of any other variance granted under this section.

"(B) the total number of days during which, in any calendar year, the class II maximum allowable increase for sulfur dioxide for the three-hour period of exposure will be exceeded by reason of the variance (when all modeled or monitored measurements of pollutant concentrations are aggregated) will not be more than 5 percent of the days of such year and only over an area of unpopulated terrain which is—

"(i) not less than 1,000 feet above the base of any stack used by the source to disperse emissions, and

"(ii) not more than 10 miles from any such stack.

"(C) the increases in concentrations of sulfur dioxide in such area over the baseline concentrations (determined under section 160) for the three-hour period of exposure will not exceed the maximum increases allowable for such period of exposure under section 160 for areas designated as class III, and,

"(D) emissions of all pollutants from the source will not cause or contribute to air pollution concentrations—

"(i) in any area in which a national primary or secondary standard is exceeded or in any area classified under section 160 which concentrations are in excess of the maximum concentrations (other than the specific increment with respect to which the variance is granted) specified for such area under section 160, or

"(ii) in the area in which the maximum allowable increases for sulfur dioxide will be exceeded by reason of the variance, which concentrations may reasonably be anticipated to cause harm to humans, animals, plant life, or visibility, or to any use, feature, or value of the area, or

"(iii) in any Federal area (other than a national forest) which cannot be designated other than class I or class II as specified in section 160(c) (3) (B), which concentrations are in excess of the maximum concentrations specified for such area under section 160(c) (2).

"(d) No source will be eligible for a variance under this section until the Administrator, by regulation, determines that there are generally available air quality models and modeling techniques which are sufficiently accurate to allow reliable and competent implementation of the provisions of this section. Such regulations shall specify such models and modeling techniques. Upon petition of a State, the Administrator shall determine whether or not such models and techniques are generally available, and if he finds in the affirmative, he shall specify such models and techniques.

"(e) For the purposes of this Act, the conditions contained in subsection (c) (2) shall be treated as requirements of the applicable implementation plan. If the Administrator determines that a source to which a variance is issued under this section is in violation of any condition of subsection (c) (2), he shall—

"(1) enforce such condition under section 113;

"(2) give notice of noncompliance and commence action under section 122; or

"(3) take any appropriate combination of such action."

(2) Section 113(b) (4) of such Act is amended by inserting "162(c) (2)" before "121."

**CONFORMING AMENDMENTS**

Page 263, line 14, after "facilities," insert "a variance under section 162 (relating to class II increment variances)."

Page 263, line 17, after "suspension," insert "variance."

Page 264, line 10, strike out "or".

Page 264, line 11, insert "or variances under section 162 (relating to class II increment variances)" after "indirect sources)".

Page 269, after line 22, insert: "(iv) any source which has received a variance under section 162 and is not in compliance with any emission limitations pursuant to such variance."

Mr. McKAY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

#### POINT OF ORDER

Mr. BREAUX. Mr. Chairman, I make a point of order against the amendment offered as a substitute for the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BREAUX. Mr. Chairman, I have discussed this amendment with the author of the amendment, the gentleman from Utah (Mr. McKay), and I think the amendment should be offered. However, I do not think it should be offered as a substitute for the particular amendment that is now pending.

The reason is, No. 1, that I think the amendment offered by the gentleman from Utah (Mr. McKay) goes considerably farther in bringing in other sections of the act that is before us than does my amendment.

My amendment does not speak to any duties or obligations of the Administrator of EPA. It does not put any authority on or require the Federal land manager to take any steps or actions in this 5-percent exception that my amendment provides for.

My amendment regulates class I in two areas. The amendment offered by the gentleman from Utah (Mr. McKay) only talks to class II areas.

My amendment regulates and pertains to two potential pollutants, SO<sub>2</sub> and particulates. The gentleman's amendment, as I understand it, only relates to particulates.

While the amendment offered by the gentleman from Utah (Mr. McKay) may be proper at some other point in this particular legislation, I would object to his offering it at this point because it is not germane and because it goes considerably farther than does the pending amendment.

The CHAIRMAN. Does the gentleman from Utah (Mr. McKay) desire to be heard on the point of order?

Mr. McKay. Yes, I do, Mr. Chairman.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. McKay. Mr. Chairman, I think what the gentleman from Louisiana (Mr. Breaux) seeks to do is also what I seek to do in many respects, except that my amendment merely narrows what he is trying to do. It only deals with one pollutant, SO<sub>2</sub>, as the gentleman has indicated. It does not violate the principle or the intent of the act here proposed.

So, Mr. Chairman, I think this is just a narrowing of the language and becomes very valid in connection with the amendment.

The CHAIRMAN. Does the gentleman from Florida (Mr. Rogers) desire to be heard on the point of order?

Mr. Rogers. Yes, Mr. Chairman, I wish to speak against the point of order.

Mr. Chairman, both of the amendments to section 108 concern the same issues. They go to the increments and variances, and I think the amendment offered by the gentleman from Utah (Mr.

McKay) is very much in order as a substitute.

Mr. CARTER. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The Chair will hear the gentleman.

Mr. CARTER. Mr. Chairman, I wish to ask this question:

Does the amendment that is proposed by the gentleman from Utah (Mr. McKay) exceed the primary and secondary ambient air standards?

Mr. McKay. No, it does not.

Mr. CARTER. It will not exceed the standards at any time.

Mr. Chairman, if I may, I would like to ask the distinguished chairman of the subcommittee this question: Does either of these amendments actually exceed the primary and secondary ambient air standards?

Mr. ROGERS. Mr. Chairman, I think not.

Mr. CARTER. Mr. Chairman, I thank the distinguished subcommittee chairman, and I thank the gentleman from Utah (Mr. McKay).

The CHAIRMAN pro tempore (Mr. Danielson). The Chair has heard and considered the point of order and the arguments in support of and in opposition thereto and will now rule.

The McKay amendment is germane as a substitute for the Breaux amendment. The McKay amendment deals with the same subject of variances for sulfur dioxide pollutants. The Breaux amendment is broader insofar as it affects particulate matter pollutants as well as sulfur dioxide. The McKay substitute, while technically containing more language inserted at another place in section 108, nevertheless deals with the same subject in a more limited way.

The point of order is overruled.

Mr. McKay. I thank the chairman.

The CHAIRMAN. The gentleman from Utah (Mr. McKay) is recognized for 5 minutes in support of his amendment.

Mr. McKay. Mr. Chairman, I salute the chairman of the Subcommittee on Health and the Environment, Mr. Rogers, for his long and hard work on H.R. 6161, the Clean Air Act Amendments of 1977. He has struggled to develop a balanced bill which considers all competing interests. I am especially grateful for his interest in the potential impact of the legislation on the State of Utah, culminating in his personal visit to our State last December to discuss the bill with government, business, and environmental leaders. The amendment I offer today has been developed in consultation with him and for that assistance I am most grateful.

Mr. Chairman, my proposal would amend the prevention of significant deterioration provisions of the Clean Air Act Amendments, H.R. 6161. It would provide additional flexibility to States in allowing the construction and operation of new plants in clean air areas of the country. My amendment is entirely consistent with the objectives set out in section 108 of the committee bill. This section deals with prevention of significant deterioration of our clean air re-

sources, a goal which all Americans, but especially those of us lucky enough to be Utahans, strongly support.

While the goals of this section are laudable, I believe that the section could be more flexible and still advance these goals. As now drafted, I fear that these provisions, although necessarily stringent for other regions, could have a potentially severe impact on my State of Utah—perhaps the most rugged and mountainous State in the Nation.

Studies performed by both government and industry show that new plants can locate in Utah under the committee bill, but to escape high terrain, certain plants may seek environmentally unsound sites. My proposal would increase flexibility under the bill so that new plants could locate in areas which minimize the visual impact of the plant from highways, recreation areas, and scenic overlooks.

My amendment is a balanced remedy to the high terrain problem. It assures protection of the public health and the environment, but also assures that areas which are rugged and mountainous will not suffer discrimination under this prevention of significant deterioration policy. The approach I propose is simple: under the strictly specified conditions, the Governor of a State would be authorized to grant a limited variance to a proposed facility, allowing it to build even though it would produce class III pollution levels on high, mountainous terrain.

If I may, Mr. Chairman, let me explain how this proposed variance will work. Even though a stationary source would produce sulfur dioxide pollution exceeding class II levels, and even though the area has not been redesignated as class III, the Governor could grant a variance allowing the plant to construct and operate. The variance would allow SO<sub>2</sub> to reach class III levels on up to 18 days per year on isolated, unpopulated high terrain features in the vicinity of the plant.

Sufficient guidelines have been established to safeguard against arbitrary and ill-considered granting of the variance. Public hearings must be held and the State legislature and local governments must be consulted. The proposed plant's backers must show that the plant cannot be built without the variance and the proposed plant site is environmentally the most desirable site of those reasonably available. Furthermore, they must show that the variance will only apply to sulfur dioxide emissions, only on isolated, unpopulated terrain 1,000 feet or more above the elevation of the site, and that the increased pollution resulting under the variance will not cause harm to the area.

Upon approval of the variance by the Governor, his determination will be subject to review and verification by the EPA Administrator. The Federal land manager will have no review authority except with regard to the Governor's determination of lack of harm occurring to Federal lands under the variance.

So it is clear that sufficient guidelines are included, and that sufficient safeguards are provided. Any arguments



that this amendment opens the door to wholesale, uncontrolled pollution of clean air areas clearly is without foundation. My amendment simply provides the flexibility which protects against unreasonable hardships without weakening policy objectives. The proposed amendment allows for this kind of flexibility by providing a practical solution to real world problems without diminishing the priority which must be attached to the maintenance of clean air.

The variance procedure I am proposing is both reasonable and necessary. Without it, areas in this country of high and rugged terrain with valuable resources may be unintentionally restricted in the development of these resources. Such a policy would be inconsistent with the effort of this Nation to achieve energy independence. Furthermore, new plants might be forced to locate at environmentally unwise sites. The limited flexibility provided in my amendment will avoid these undesirable effects.

I urge my colleagues to adopt this amendment of such importance to Utah and, indeed, to the Nation as well.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, may I say that I have been listening and we on this side have no trouble with the gentleman's amendment and I would support the intent of providing additional flexibility to states under "Prevention of Significant Deterioration." However, I do have a couple of questions that I would like to direct to the gentleman from Utah, Mr. McKAY, if I may.

As I understand it, the amendment allows a variance from the 3-hour sulfur dioxide increment up to the class 3 increment for high terrain areas. Is that correct?

Mr. McKAY. That is correct.

Mr. ROGERS. Do I also understand that class 2 increments can be exceeded by only 5 percent of the days of the year, which is 18 days per year?

Mr. McKAY. That is correct.

Mr. ROGERS. In the past EPA has interpreted the 5-percent variance approach as permitting the increment to be exceeded 18 days during the year at each receptor site at each location receiving a variance. Of course that would mean that if the increment could be exceeded for 18 days on each of 20 receptor sites, for example, the area actually would be class 3 without having been designated as such or redesignated as such. Is that the gentleman's intent?

Mr. McKAY. Absolutely not. The intent of the amendment is to allow the class 2 increment to be exceeded only on a total of 18 days per year, that means no more than 18 days in any and all directions, not 18 days at each receptor site. They may be exceeded no more than 5 percent of the days or 18 days, and that total would be arrived at by aggregating "all modeled and monitored measurements of pollutant concentrations." This

means that the class 2 increments could be exceeded no more than that.

Mr. ROGERS. Mr. Chairman, I am pleased to hear the gentleman from Utah state his intent is that the 18 days the class 2 increments could be exceeded means it is a total of 18 days at all receptor sites, not 18 days at each receptor. I concur with the gentleman.

One final question. This variance would be applicable to national forests, but not to other Federal areas which, under section 160, could not be redesignated to class 3; is that correct?

Mr. McKAY. That is correct.

Mr. ROGERS. On the basis of the responses of the gentleman from Utah, then, and after looking at his amendment carefully and going over it, I will support it strongly. I think it is carefully drawn; I think it does include adequate guidelines for the Governor and safeguards against its misuse; and I think it also as a result of those guidelines would avoid lawsuits. I think there is no doubt, then, that the committee approach would be enhanced.

Also I want to state that it is my understanding that the president of the Utah Power & Light Co., E. Allan Hunter, says that with this amendment they certainly would be allowed to do everything they need in Utah in the future, and that they support the bill completely, too, with this amendment.

Mr. McKAY. The gentleman is correct. That is my understanding.

Mr. ROGERS. And also the Salt Lake Chamber of Commerce.

Mr. McKAY. That is correct. There is an affirmation from the Salt Lake Chamber of Commerce.

Mr. ROGERS. It supports the bill.

Mr. McKAY. It supports the bill.

Mr. ROGERS. I thank the gentleman, and I strongly support his amendment.

Mr. MOORHEAD of California. Mr. Chairman, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from California.

Mr. MOORHEAD of California. I thank the gentleman for yielding.

This amendment will take care of the needs of the power companies in Utah, but it would not allow construction of the IPP project; is that correct?

Mr. McKAY. No, I do not think that is true. In fact, there is some question as to whether IPP is going to go into the power plant situation of coal gasification at the present time.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MOORHEAD, and by unanimous consent, Mr. McKAY was allowed to proceed for 2 additional minutes.)

Mr. MOORHEAD of California. If the gentleman will yield further, as I understand his amendment, it would not allow a variation in the class I area; is that correct?

Mr. McKAY. That is correct.

Mr. MOORHEAD of California. That is necessary for the IPP project.

Mr. McKAY. I am not convinced that

that is altogether true. I propose a class I variance last year, which we got with some variation in the bill and which finally, of course, was defeated. But having reviewed this in many aspects, I came to the conclusion that this was a better solution to the problems that face the developers in the area in the State of Utah.

Mr. MOORHEAD of California. Mr. Chairman, because it does not allow the construction of the IPP project—and I am sure that it does not—I would ask for a "no" vote on the substitute.

Mr. CARTER. Mr. Chairman, I move to strike the last word.

I would like to ask the distinguished gentleman from Utah (Mr. McKAY) some questions. This amendment which the gentleman has proposed would permit the construction of projects in his great State; is that correct?

Mr. McKAY. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Utah.

Mr. McKAY. I thank the gentleman for yielding.

That is true, and in other mountainous States which have a similar high terrain problem.

Mr. CARTER. Yes, sir. By the same token, would it permit the construction of the IPP plant?

Mr. McKAY. The IPP plant?

Mr. CARTER. Yes, sir.

Mr. McKAY. I would guess there would have to be more modification to its original intent or original position, but it is my understanding that they could with some modification still proceed to build a powerplant.

Mr. CARTER. It is my understanding that they will use the best available control technology.

Here is one of the questions that I want to ask: I believe the gentleman stated that the construction of the gentleman's amendment will not permit violation of the primary and secondary ambient air standards.

Mr. McKAY. That is correct.

Mr. CARTER. Neither will the IPP: is that correct? Was that statement made?

Mr. McKAY. That is right.

Mr. CARTER. Was it acquiesced to by the chairman of the committee that the primary and secondary ambient air standards would not be exceeded by either? I am told that the State of California very much needs this project, and it does not have sufficient land on which to build it without exceeding the primary and secondary ambient air standards.

The gentleman knows that I am certainly sympathetic to his amendment, but if we are going to preserve in both cases the primary and secondary ambient air standards which protect the public health and the environment—and we put that in there very strongly that they have to be reestimated at least every 2 years or oftener and must be low enough to actually protect the public health and environment—then why, I ask my friend, should we favor one State

over another when the need is great for both?

Mr. McKAY. I do not think we are favoring one State over another. I think we are talking about geographic circumstances. If we had Kansas, that would not have an effect on Kansas because they do not have the high terrain problem, the high mountainous areas versus the low areas and the wind drafts go a little differently, so I do not think it has the same circumstance.

Mr. CARTER. I certainly am sympathetic with the gentleman but I have to have some sympathy with the other gentleman also.

Mr. McKAY. The gentleman is correct and I have great sympathy for the gentleman, and had I prevailed in my previous attempt I would have been in his camp, but seeing the facts of life and where it rests and trying to find some available way in which to provide for both, I came to this conclusion.

Mr. CARTER. Yes, sir. The fact of the matter is if we permit primary and secondary standards to be exceeded in any area of the United States, then there is no such thing as prevention of significant deterioration because at any time they are exceeded by any plant, be it stationary or any group of mobile sources, that pollution is wafted by the winds from west to east and we have significant deterioration whether we want it or not.

So the way to accomplish the purpose, the way to accomplish cleaner air is to observe these standards to begin with and treat all segments of industry just the same.

Mr. McKAY. I think we do. It is true that IPP would like a little further flexibility. There is no question about that, but I think they can survive under it at the present time. They stepped off of their building for other reasons than this only.

Mr. MAGUIRE. I move to strike the requisite number of words.

Mr. Chairman, I think it is very true that the McKay amendment, as the distinguished chairman of the subcommittee indicated, is much more tightly drawn, more carefully drawn than the Breaux amendment, and it is not pernicious, as is the Breaux amendment, in terms of totally destroying the classifications that the bill presently contains for the significant deterioration section.

I would urge all of my colleagues to support the McKay proposal as opposed to the Breaux proposal when the opportunity comes to vote as between the two of them.

However, I would hope that we would also on any final vote, vote "no" on either of these, whichever one of them may be successful in the meantime, because in both cases—and I am sure the gentleman from Louisiana (Mr. BREAUX) is anxious to make this point as well—we are dealing with a variance proposal resulting from specific circumstances in a given area. But in each case the new policy on variances is general, not specific and will

apply across the board throughout the country despite its origin in a specific local issue.

That is not the way that I believe we should legislate in this House, particularly in view of the fact that in each instance, Intermountain Power and Utah Power & Light, the matter can be taken care of without violating any of the provisions of the bill and in accordance with the provisions of the bill with only minor siting changes.

I would urge the House, after supporting the McKay amendment—which I hope we will because it is far, far less destructive of the bill than the Breaux amendment—that we then vote "no" on either of the amendments. A "no" vote is required if we are to preserve the structure of this legislation, which has been very carefully thought out and provides class II and class III categories with increments which permit any power plant thus far proposed for construction anywhere in this country to proceed. If we are not willing to do that, I do not think we are serious about clean air.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will try to be very brief in stating my opposition to the McKay so-called substitute amendment to my amendment. I will try in doing so not to be too pernicious, as the gentleman from New Jersey has hinted.

I would join with the gentleman's statement and say we agree on the fact that the McKay amendment is not the amendment we want to adopt.

The chairman of the committee said that the Utah Power & Light Co. would favor the McKay amendment. Of course, they would. It takes care of their problem. It does not take care of anybody else's problem, but it certainly takes care of the problem of the Utah Power & Light Co., because they have to be operating in a class 2 area, but a co-op out there, a nonprofit co-op trying to build in a class 2 area, that might by computer model indications affect a class 1 area that it certainly does affect, then it does not solve their problem.

I might say to the gentleman that although the amendment of the gentleman from Utah is well-intentioned, I would say that the Inter-Mountain Power Project, the project of the co-op, would not be assisted, it would not be helped; they would be in no better situation than they are if the gentleman's amendment is not adopted, because it simply does not affect the class 1 area with they have some problems, as well as might many other plants around the country.

Mr. Chairman, let me state some of the other concerns I have about the gentleman's amendment. It only affects one particular pollutant, so. It is very narrowly drawn from the Utah Power & Light Co. It only applies to class 2. It is for a 3-hour period, not a 24-hour period.

We are not really biting the bullet. Let us not do it half way. It will not help anybody.

The thing that really concerns me

about the amendment of the gentleman from Utah is all the "ifs" that are contained in it. The Governor may allow a variance in one category if he finds it is necessary, if the Administrator of EPA concurs, if the Federal land manager concurs. I think the chances of all that happening in any situation are infinitesimal. We will have people who have a veto, other than the people in the State who are duly elected by the people in the State, making the choice. We will have the Federal land manager, who is a Federal bureaucratic employee, who is not responsible to anybody when an election comes up. We will let the Administrator of EPA in Washington have veto power. All these add up to a situation where the amendment is only going to take care of maybe one power company and not help the others we are really concerned with, the nonprofit co-op type situation, for which the amendment is not of any benefit at all.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I would concur with the gentleman. I have a number of preferred oil, shale and coal developments, in my district. As I have tried to study this, it has been very difficult for me to understand all the ramifications of development versus the environment. Those in the West with all the problems will never take a chance of transferring from a class 1 discretion area of national forests to put it into a wilderness area, unless something like the gentleman's amendment is passed and we have some sort of variance procedure that is broader than the McKay amendment; so I endorse the gentleman's amendment.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, do I understand that the Governor must make such a request before such a transfer can be made?

Mr. BREAUX. Which amendment is the gentleman talking about?

Mr. SHUSTER. I am talking about the amendment of the gentleman from Louisiana.

Mr. BREAUX. My amendment says that the Governor may, upon request of the operator seeking a permit, after public hearing and after notice, grant such a discretion.

Mr. SHUSTER. So an official of the State is the man who will be speaking. I think that is eminently reasonable.

Mr. BREAUX. Not an employee of the public agency.

Mr. SHUSTER. I associate myself with the gentleman.

Mr. McKAY. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Utah.

Mr. McKAY. In response to the statements made earlier, under the bill any



new wildlife classification automatically becomes class II.

Mr. BURLISON of Missouri. Mr. Chairman, I move to requisite number of words.

Mr. Chairman, I want to commend the gentleman from Louisiana (Mr. BREAU) for the fine presentation he has made, and I would like to associate myself with his remarks. I rise in support of his amendment, and in opposition to the McKay amendment.

I am going to target my remarks to one category, and that is the nonferrous metals—copper, lead, and zinc.

In May, 1976, the Department of Commerce issued an important study on this subject. In addition to assuming that new smelters would use the best available pollution control technology, the Commerce study also assumed that there would be no other major industrial installations in the vicinity of new smelters. In other words, that the total incremental changes permitted under the House and Senate bills would be available to new smelters. I now would like to summarize the conclusion of this important study, turning first to copper. Commerce found that 77 percent of existing copper smelters could not be built in the class II areas provided for in the bill we are debating, and 69 percent could not be built in class III areas. The percentages for lead smelters are very similar. They found that 78 percent of existing lead smelters could not be built in class II areas, and that 62 percent could not be built in class III areas.

The figures for zinc smelters are less dramatic, but still troublesome. Thirty percent of existing smelters could not be built in either class II or class III areas. As one might expect, no new copper, lead or zinc smelters could be built in class I areas. Commerce did find, however, that the current EPA class III increments would have virtually no impact on the construction of new copper, lead or zinc smelters.

The Commerce study has a clear message: If Congress adopts this section of the bill without this amendment, most of the new copper and lead smelters that an expanding American economy will need will not be built, and a substantial fraction of the zinc smelters needed also will be halted.

In the case of new copper smelters, the situation appears to be even more dramatic. In February, the EPA completed a final draft of its study of non-deterioration's impact on the copper smelting industry. Specifically, the EPA study concludes, and I quote:

If, however, both land purchase to preclude violations outside the perimeters of a smelter and new technologies are not available, no new smelters will be constructed between 1983 and 1990. The freeze on capacity growth would cause the price to increase to 1.31 \$/lb. by 1985 which is 12 percent above the baseline forecast. The price would probably not increase beyond this level due to greatly increased copper imports which would rise to about 40 percent of U.S. consumption. The constraint on capa-

city growth would also adversely affect domestic production and employment levels.

Mr. Chairman, I find it very interesting that 3 months after completing this final draft, the EPA still has not released its final study. What does all this mean?

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I yield to my colleague from Missouri.

Mr. ICHORD. Mr. Chairman, I have heard the statement given by my colleague from Missouri. I commend him, and I commend the gentleman from Louisiana for introducing his amendment. I associate myself with the remarks of both gentlemen.

First, it means that new jobs will not be created.

Second, it means growing American dependence on imports for vital industrial materials and an adverse impact on our trade balance.

Third, it means that if new smelters are not built, then fewer copper ore bodies will be developed in the West, fewer zinc mines will be brought into production in zinc-rich Tennessee, and a lot of Missouri lead may stay in the ground.

Let me be somewhat more specific. Between now and 1985, U.S. copper production should be expanded by about 60 percent, or about 1 million tons.

If that does not happen, copper imports, which now account for 10 percent to 15 percent of consumption, will rise sharply to about 40 percent.

Lead metal imports have been running about 10 to 15 percent of consumption, not counting scrap. If new smelters could be built, the United States might stop its import dependency and become a modest exporter of lead metal.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. BURLISON) has expired.

(By unanimous consent, Mr. BURLISON of Missouri was allowed to proceed for 1½ additional minutes.)

Mr. BURLISON of Missouri. The situation in our zinc industry is far more critical than in copper and lead. In the past 6 years, this country has lost half of its zinc smelting capacity and this country is about 50 percent dependent upon imports.

Mr. Chairman, I believe the amendment offered by the gentleman from Louisiana (Mr. BREAU) will allow some additional, well-controlled smelters to be built in this country. It was not too long ago when we experienced shortages of industrial materials, the soaring prices and the use of vital raw materials for political purposes. We should not let this happen again, and a vote for the Breau amendment will lessen the chances that it will.

In summary, Mr. Chairman, I have simply said that this bill, without the Breau amendment, will trigger a phase-out of domestic production of non-ferrous metals. It will mean the end of non-ferrous metal independence of this country and will subject us to a black-

mail similar to the one we have experienced in recent history, and I am referring, of course, to the Arab petroleum embargo.

The McKay amendment is a very thinly veiled mirage or subterfuge embraced by the committee to defeat the Breau amendment. Let us defeat the McKay substitute and let us adopt the Breau amendment.

Mr. ICHORD. Mr. Chairman, I rise in strong support of the amendment of my colleague from Louisiana to section 108, the so-called nondegradation provisions.

Section 108 as it now stands provides for the designation of certain classes of lands based on their air quality, the most lenient of which is class III. Even in class III areas section 108 permits only limited development.

Mr. Chairman, all of us appreciate the fact that our air quality is a common resource and requires cooperative effort to prevent further significant deterioration. However, the provision of section 108 is stringent beyond the realm of commonsense.

Section 108 would limit development in nondeterioration areas to specific, allowable increases in pollutant concentrations. However, before a new facility can relocate that business or individual must demonstrate that these rigid increments would not be exceeded more than once per year.

This provision fails to take into account changes in meteorological conditions—conditions obviously beyond the control of mankind—when short-term violations may be impossible to prevent.

My colleague, Mr. BREAU, has offered a sensible remedy to this obvious absurdly stringent requirement. This amendment, recognizing the reality of changing weather conditions, merely allows short-term—24 hours or less—allowable increments to be exceeded in class I and class II areas up to 5 percent of the time, rather than only once as provided in the committee bill. In other words this amendment allows for weather changes approximately 438 hours a year rather than just once a year.

Mr. Chairman, we are not talking here about changing the air pollution increments which are severely limited by section 108. Congressman BREAU's amendment leaves this provision intact. And we are not talking about significantly affecting the air quality standards set by these clean air amendments.

What we are talking about is flexibility and commonsense which were so obviously absent when section 108 was drafted.

A vast portion of Missouri will be affected by the restrictions on economic development and job creation established by this bill.

My State, like so many other States, has suffered from the economic reversals faced by this country. Missouri is also a rural State which contributes to our good air quality but which means we are being penalized from further development, and the jobs for our people such development will mean, due to our own environmental

efforts and the agricultural nature of our State.

Missouri is a State of vigorous people who love and use our natural resources in a sensitive fashion. We are also a State of commonsense people, however, who can only foresee economic disaster for our rural State if we have to meet the "once per year" standard of section 108.

Enactment of the Breaux amendment leaves intact the essence of nondegradation standards but provides the flexibility to allow some economic expansion in these areas.

I have yet met a person who can count on the weather only once per year.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the study the gentleman was quoting has not analyzed this bill at all. This was a prior bill, 9 months ago, and all of the provisions have changed. In fact, it was good 2 years ago. So the study, while I know it concerns the gentleman, simply does not apply to this bill.

Mr. BURLISON of Missouri. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Missouri (Mr. BURLISON).

Mr. BURLISON of Missouri. I thank the gentleman for yielding.

Mr. Chairman, I would say to the gentleman that this draft I referred to, which was termed a final draft, has not been enlarged upon, it has not been revised, and it has not been made final.

I referred in my remarks to the fact that the EPA had not finalized this statement, so I agree with the gentleman on his remarks. That does not make the "final draft" inapplicable to the issues at hand.

Mr. ROGERS. Without question, it does, because these points were never considered. They assumed, No. 1, a pollution ceiling of no more than 75 percent of the lowest national standard. That is not in the bill at all. The bill contains a pollution ceiling of 100 percent of the lowest standard. The Commerce Committee study, which the gentleman quotes and refers to, states approximately 420 permanent mandatory class I areas. Actually in the bill there are 125 mandatory class I areas.

Under the study, they assumed—it was one of the basic assumptions—that all new smelters were required to use the best pollution controls regardless of cost. Actually, under the bill, the economic costs and energy impacts must be considered by EPA before it determines which control technology must be used.

It is also interesting to note that even assuming all of the overly restrictive provisions contained in the Commerce study, the proposal would not restrict expansion and growth of the domestic copper industry. In fact, the Commerce study showed that the class III increments in the bill would allow expansion of the existing smelters by 68 to 96 percent and allow construction of new smelters, increasing total national capacity from 54 percent to 208 percent. Yet the copper industry consultants project only a 30

percent increase for new smelter capacity by 1990.

Obviously the provisions in the bill have changed the whole issue, so the study has absolutely no validity as applied to this bill, and the gentleman can be assured that the committee would take this into consideration in changing the provision to make sure the copper industry can build far beyond what is projected even in the wildest projections.

Mr. BURLISON of Missouri. Mr. Chairman, will my friend, the gentleman from Florida, yield?

Mr. ROGERS. Certainly I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. Mr. Chairman, I will say to the gentleman that the experts with whom I have talked and who are vitally concerned and vitally interested in these three industries in the nonferrous metal category certainly do not share the conclusions that have been reached by the distinguished chairman of the subcommittee. They assure me that the statistics as cited are accurate, and I am inclined to accept the evidence and the conclusions from the experts with whom I have conferred and who are active in those three industries.

Mr. ROGERS. Mr. Chairman, I understand the gentleman's position.

May I say that the gentleman may accept the word of his experts, but I am just telling him what is in the bill. That is, of course, for his judgment.

I might also tell the gentleman that the United Steelworkers, representing the workers who have organized the copper industry at the smelters—and it is their workers who are interested in new jobs—fully support the bill. So perhaps the gentleman has received a little misinformation.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the McKay substitute.

Mr. Chairman, the utility industry is split over the type of variance needed in order for them to construct powerplants. We have two separate utilities that are involved in the two amendments that are before us, the McKay substitute and the Breaux amendment.

The Intermountain Power Project, which will deliver much of its electricity to Los Angeles—which is my district—wants a 5-percent variance from the class I increments, and, therefore, they are supporting the Breaux amendment. The Utah Power & Light has testified that they do not need a class I variance, but a 5-percent variance from the class II increments would satisfy them.

The arguments are overwhelmingly against any class I variance that we would have under the Breaux amendment. The amendment would mean serious, irreversible degradation of our national parks and other class I areas and would totally eliminate the bill's protection of these areas.

EPA and the subcommittee staff have analyzed the Breaux amendment pretty

carefully, and they have several conclusions that I want to reiterate to the Members here:

First, the variance would utterly revoke the protection afforded by the class I designation; it would allow construction of powerplants as large as 4,000 megawatts—and the Nation's largest now is 3,000 megawatts—less than 10 miles away from national parks and wilderness areas; it would allow ambient pollution levels 2 to 4 times greater than would be permitted without a variance; and it would allow each source's emission levels to be up to 12½ times more than that permitted without a variance.

IPP is pressing for this variance because its primary plant site is very near Capital Reef National Park, which will be designated a class I area.

Some people in Los Angeles, as my colleague from the Los Angeles area, the gentleman from California (Mr. MOORHEAD), has argued, think they ought to allow the IPP to go ahead and construct. But let me assure the Members that I have talked with the mayor of the city of Los Angeles, and he does not believe that.

Let me also assure the Members that in the testimony we received from IPP itself before the subcommittee, they admitted that IPP could move its plant to a site east of the park, where it could be built without violating the class I increments.

Mr. Chairman, the McKay amendment is asking for a variance of class II, and it is a very tightly drawn amendment. I happen to be not particularly crazy about any of these variances, because it seems to me that if we set a standard, we ought not to allow variances away from that standard.

Nevertheless, the McKay amendment is a reasonable one. It is tightly drawn. It will permit the construction of the Utah power and light project and not destroy the protection we want to give to class I areas.

Therefore, Mr. Chairman, I want to express an opinion contrary to that of my colleague, the gentleman from California (Mr. MOORHEAD), and as the only Californian on the Subcommittee on Health and Environment, say that I oppose the Breaux amendment and that I urge the adoption of the McKay amendment.

Mr. DUNCAN of Oregon. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Breaux amendment and in opposition to the McKay amendment.

Mr. Chairman, in rising in support of the Breaux amendment and in opposition to the McKay amendment, I do so with reluctance because of my friendship and respect for the gentleman from Utah (Mr. McKay).

I rise with some trepidation, with humility, the same trepidation and humility that those who both support and oppose this bill or the key parts of it must inevitably feel, because it is an infinitely complex subject. The facts are hard to come by. They are impossible to agree on, and they are frequently confused with opinions and predictions.



And, because men and women of good will recognize the impact which an unwise decision will have on the health and safety and livability of the environment on the one hand, and the need of our people for jobs and income and production and goods and food and housing, on the other, it is impossible for us to choose between health problems and social problems—of unemployment and hunger and poverty that lead to the riots of Watts and Bedford Stuyvesant. We must reconcile the two, and to do so it is necessary for us to compromise somewhat on the "no degradation" concept if these social problems are to be avoided, and if, indeed, the environmental movement itself is not to be endangered. There is evidence of the latter.

Mr. Chairman, this Congress itself moved to build the pipeline from Prudhoe Bay when it was delayed by environmental considerations; and in the special election in the State of Washington just this last week, I am told that one of the major issues was jobs versus environment. To the extent that it was an issue, the people spoke for jobs. Jobs require energy; conservation, yes, but new sources of energy are required.

It is not possible or desirable to consider energy and jobs in one compartment and the environment in the other.

We must interface the two in a reasonable fashion, and we can do it today.

Mr. Chairman, I believe the Breaux amendment does just that. As I understand it, it would relieve not only the single problem in Utah which the McKay amendment addresses, but it is directly applicable to a number of other energy-producing plants around the Nation, including one in Montana, located near the Cheyenne Indian Reservation, which would serve the Pacific Northwest, and another plant in northern California, in addition to the industrial plants which my friend from Missouri just mentioned, which produce essential commodities for the Nation and furnish these jobs that, tomorrow, we will be worried about.

Mr. Chairman, the Breaux amendment does not affect health and safety, and the gentleman from Kentucky (Mr. CARTER) emphasized that point not once, but twice. It does not destroy class I areas. Indeed, it puts a cap on the amount of degradation, and it must be approved, in any event, by the Governor after notice and a public hearing.

In fact, Mr. Chairman, as I understand the specific problem in Utah which the Breaux amendment will take care of and the McKay amendment will not. That plant is going to be prohibited, even though it is located in a remote area, some 8 or 9 miles from a class I area. Through a worst-case model study which is a mathematical computer projection, no more or no less reliable than the econometric projections which we use to try to predict unemployment and the level of the economy, this model study predicts—and listen to this—that on 352 days out of the year there will be no degradation, but on 13 days out of the year there is a possibility—and get "pos-

sibility"; it is not a probability, it is a possibility—that there will be a degradation of the quality of that air by an amount that is barely measurable by the technology which we have.

Mr. Chairman, it seems to me that to state that proposition in our economic climate of unemployment and energy shortage and inflation is to refute it.

For that reason, Mr. Chairman, and because of the need for energy and jobs and in the absence of an adverse impact on health and safety, I urge a "no" vote on the McKay amendment and a "aye" vote on the Breaux amendment.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I thank the gentleman for yielding.

I do want to point out that in order to provide for one plant in America, if we allow everyone to pollute for 142 days, that is not a very reasonable approach.

If the gentleman would yield still further, it is particularly unreasonable when the president of IPP in testifying before the committee said that they could move in the same county, have the same water rights protected and build their plant.

The CHAIRMAN pro tempore (Mr. EVANS of Colorado). The time of the gentleman has expired.

(By unanimous consent, Mr. DUNCAN of Oregon was allowed to proceed for 2 additional minutes.)

Mr. DUNCAN of Oregon. If I may recapture my time, the gentleman has mentioned the point before, the amendment offered by the gentleman from Louisiana (Mr. BREAU) does not permit pollution on 142 days. I suggested that it is 15 days. It has now been redrafted in terms of the request of the chairman to do it on an hourly basis, or on a three hourly basis of pollution. Let me add that no one, neither the gentleman from Kentucky (Mr. CARTER) or the gentleman now speaking, or anyone, wants to affect the safety of this country. But we never exceed the next allowable level of degradation and the degradation itself is predicted to be virtually immeasurable.

The Chairman mentions only one plant in Utah. I have mentioned northern California and I have mentioned the plant in Montana that needs to be expanded in order to supply energy and jobs in the Pacific Northwest and there are doubtless others. I know that there are many industrial plants that can be affected.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. ROGERS, and by unanimous consent, Mr. DUNCAN of Oregon was allowed to proceed for 1 additional minute.)

Mr. ROGERS. Will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I believe it is well to point out that the gentleman seems to say it is down to 15 days, but let

me suggest how many hours there are in a year. There are over 8,000 hours in a year.

Mr. DUNCAN of Oregon. I believe the figure mentioned was a maximum deviation of some 400 hours.

Mr. ROGERS. There are some 8,760 hours in a year. Five percent would be 442. On the 3-hour basis that would mean 3 into 442, or 147 days per year.

Mr. DUNCAN of Oregon. It is some 400 hours, as I am told. That does not mean that during that period of 400 hours out of the year that you are going to have pollution, it simply means it could go that high.

Mr. ROGERS. That is right.

Mr. DUNCAN of Oregon. But it does not mean that it necessarily would.

Mr. ROGERS. Will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I thank the gentleman for yielding to me again.

But, of course, you could pollute about 150 days out of the year.

Mr. DUNCAN of Oregon. Let me say that the word "pollute," I would suggest to the gentleman, is a scare word, because the levels we are talking about, as the gentleman mentioned, on any occasion are virtually indistinguishable. We are not talking about the health and safety of the people.

The CHAIRMAN pro tempore. The time of the gentleman has again expired.

Mr. MARRIOTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the McKay high-terrain variance amendment.

Utah is fortunate to be the repository of significant reserves of coal and other fossil fuels. The supplies of coal and oil shale resting under the rugged landscape of Utah would be sufficient to provide America's total energy requirements for several decades. With the Nation facing the certainty of the need to convert to coal and other domestic resources, Utah stands ready and willing to help us to move toward greater energy independence.

But Utahans recognized the necessity to protect against the unnecessary and unplanned deterioration of clean air. If we thoughtlessly let our air become polluted, if we fail to conserve this increasingly scarce resource, we simply will not be able to simultaneously provide new jobs and protect the public health.

So Utah stands ready to develop its resources—carefully and soundly—while it protects its clean air from unnecessary deterioration.

I know the sponsors of this bill have tried to work out a reasonable approach to prevention of significant deterioration. But in Utah, because of our rugged terrain, the bill's provisions potentially may have an unintended, but nevertheless, severe impact. This is so because the State is a succession of mountain ranges, narrow valleys, and high mesas and plateaus. It would be very difficult to

build a large coal-fired powerplant, for instance, anywhere in Utah, so that its emissions would not strike a mountain or a cliff face. Under the bill, therefore, with its tight restrictions on new pollution increases, large new sources of pollution would have to either build smaller, perhaps uneconomical plants, or build large plants in environmentally undesirable sites.

The McKay amendment would assure that the bill has the flexibility under prevention of significant deterioration requirements to assure that new plants can locate in the best location, both from an economic and an environmental standpoint. It does so by authorizing the Governor to grant to a new plant a carefully defined variance permitting sulfur dioxide pollution levels to increase up to class III levels on 5 percent of the days of the year, or 18 days in total, at all receptor sites in all directions from the plant. Of course, as my colleague indicated, this is a high terrain variance only; that is, it is applicable only to isolated, unpopulated, high-terrain features 1,000 feet or more above the elevation of the plant.

The safeguards against improper use of this variance authority have already been spelled out by my colleague, Mr. McKay. As he has stated, there is no question that this is a tightly drawn, well-balanced amendment. It will provide needed flexibility to the bill without endangering the goals which the section seeks to advance. It applies only to extreme terrain conditions where a necessity for the variance has been clearly demonstrated.

In other words, I do not think a more carefully constructed, more reasonable amendment could be proposed. I urge my colleagues to support the McKay amendment.

Mr. SIMON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I guess we are all provincial from time to time looking at the problems of the Nation through the problems in our districts. All of a sudden we find ourselves in some kind of a fight between two utilities in Utah that I do not know anything about. But I do know of some problems in southern Illinois—territory not much different from that which my friend, the gentleman from Kentucky (Mr. CARTER) represents and just across the river from my friend, the gentleman from Missouri (Mr. BURLISON).

I have in my district the Shawnee National Forest, and thanks to the help of some of the Members here, we adopted an amendment that protects the Shawnee National Forest from strip mining. We just barely adopted it, but we adopted it and it became law. I am interested in protecting that national forest.

I am also interested in protecting the air of that national forest, but I also have in my district a lot of coal mining. I also have a district with the lowest average family income of any district in the State of Illinois. I have four coun-

ties with about 20 percent unemployment, and we need jobs. I want practical answers that protect the air and yet give jobs.

The McKay amendment does not provide any flexibility for an area like mine. It is fine for Utah but not for my area. The Breaux amendment provides flexibility, but, in my opinion, too much flexibility. I have discussed with the gentleman from Maine (Mr. EMERY) the possibility of changing this to meet the criticisms of the chairman of the committee, the gentleman from Florida (Mr. ROGERS), and I have also discussed this with the gentleman from Louisiana (Mr. BREAU). Let me ask the gentleman from Louisiana whether in reply to criticisms from the gentleman from Florida (Mr. ROGERS)—which I think have some validity—he would be willing to accept an amendment through unanimous consent or however we would do it, if the McKay amendment is defeated, that would say, leaving the hours in, "Except that in no case may such maximum allowable increases for all pollutants be exceeded during more than 18 days"? So there is an 18-day limitation. It is a practical limitation.

Mr. BREAU. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Louisiana.

Mr. BREAU. I thank the gentleman for yielding.

I would say to the gentleman that we put in the hour setup to really try and tighten it down. In no way did we ever intend that we would have more than 18 days exceeding that allowable standard. So if the gentleman's suggestion is that we say that we have a maximum of 5 percent of the hours in a year that we can exceed this level, but that it can occur in no more than 18 days out of that year, I would say to the gentleman in the spirit of compromise I would be willing to accept that suggestion as an amendment to my amendment.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I will yield to the gentleman from Florida, but before I yield to the gentleman from Florida let me say my position would be in opposition to the McKay amendment and in support of the amendment of the gentleman from Louisiana provided that qualification is in there.

Mr. Chairman, I yield to the gentleman from Florida, the chairman of the committee, for whom I have great respect, and I would tell the gentleman I am supporting his bill.

Mr. ROGERS. I appreciate the spirit of the gentleman in trying to work out a compromise.

The committee would still be concerned with his proposal because the Breaux amendment affects both class I and class II, but particularly class I with which I am concerned. These are the national parks, the areas that belong to all people, and to allow that pollution to be increased. This is our concern.

Mr. SIMON. If I may just interrupt, I would say I share that concern because

we have a national forest in my district and I want to protect that national forest, but also I do not want to prevent jobs from coming in.

Mr. ROGERS. The national forests are category II and not category I.

Mr. SIMON. That is not the way I read the bill.

Mr. ROGERS. I would be glad to have the staff give the gentleman that assurance, that national forests are not class I areas.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I would say to the gentleman that this legislation is so drawn in order to protect our air and I would oppose dropping the primary and secondary standards below the point of protecting the public health.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(On request of Mr. CARTER, and by unanimous consent, Mr. SIMON was allowed to proceed for 2 additional minutes.)

Mr. CARTER. Mr. Chairman, if the gentleman will yield further, in no way can we exceed the secondary standards which protect the environment and the national forest the gentleman is talking about, but I want to tell the gentleman that if we would permit exceeding those standards, then certainly I would oppose that legislation.

The only difficulty I have with the McKay amendment, and I have great respect for this fine man, is that it is for one area and one plant. I think we should have equal justice for all. I do not know anything about the IPP particularly except that it is out there and will furnish electricity to the great city of Los Angeles, but it seems when we slice the thing up we should be evenhanded.

I thank my distinguished friend for yielding.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(On request of Mr. EMERY, and by unanimous consent, Mr. SIMON was allowed to proceed for 1 additional minute.)

Mr. EMERY. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to my colleague, the gentleman from Maine.

Mr. EMERY. Mr. Chairman, I thank the gentleman from Illinois for yielding.

I am very interested in the proposed change that the gentleman in the well has mentioned. I would like to tell the gentleman, should the pending substitute fail, it has been my intention to offer a substitute that I have discussed with the gentleman that would change the hour provision to an 18-day provision, and if some suitable language can be worked out to accomplish that I would be happy to join the gentleman in the well to clear up that difficulty. I think it would be useful if those of us who have that concern could agree on one amendment and then write another one afterward.



Mr. SIMON. I think that is a practical solution, and if the gentleman from Maine and the gentleman from Louisiana can get together on an amendment, I think that makes sense and protects an area like mine and at the same time does not permit massive assaults on the air quality.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(On request of Mr. BROYHILL and by unanimous consent, Mr. SIMON was allowed to proceed for 1 additional minute.)

Mr. BROYHILL. Mr. Chairman, will the gentleman yield for a comment?

Mr. SIMON. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, I wonder if the gentleman is aware of the language in the amendment that this is not an automatic variance. An application must be made to the Governor.

Mr. SIMON. I understand.

Mr. BROYHILL. And the Governor of course could permit this up to that amount. So it really is to give some flexibility, and the Governor would have of course to take into consideration factors that might exist in that particular State.

Mr. SIMON. I am very much aware of that and that is a protection. I have concerns, as I look at my district, however, with just the hours in the bill because I know there is not going to be adequate monitoring 24 hours of every day, so it looks to me like that is too large a loophole. If we can have an agreement on only so many days, then we have some adequate protection and some flexibility.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think we have probably adequately clarified this issue. It had not been my intention to speak on it, but since it is a matter which relates somewhat directly to southern California, I would like to make my own position clear.

I feel that the bill we have before us is an excellent bill. It has been carefully drawn by the subcommittee and the full committee under the leadership of the distinguished chairman and the ranking minority Member. I think they have brought to us a bill which we should all be able to accept. I want to commend them for that.

Mr. Chairman, with regard to the problem represented by the Breaux amendment and the McKay substitute amendment, I have been torn, because even the people who are involved in California are of mixed feelings about the matter. I have had visits from the commissioners of the publicly owned power utility in Los Angeles, who expect to obtain power from the Inter-Mountain project. They lead me to feel that they support the Breaux amendment, because it represents the most expeditious way of moving ahead to meet their needs for power. Of course, anything which will allow them to generate their power requirements without adding to the pollution in the Los Angeles basin, they are very highly in support of and want to proceed with. However, the mayor of the

city of Los Angeles and the State officials responsible in this particular situation have a different point of view from the commissioners of the utilities themselves. There are other publicly owned utilities, that will also benefit from this project, supporting the Breaux amendment.

Mr. Chairman, after listening to the excellent debate on this matter and considering all of the various facts that have been brought forth here, I am inclined to feel that for me, and I may not represent a typical position at all, the best position is to support the McKay amendment, which does narrow the variations permitted under the present language of the bill, which provides a continuing safeguard against the degradation of a class 1 area and which will not materially handicap proceeding with development on a powerplant, even if it does require a slight change of sites.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I appreciate the statement of the gentleman from California. I think it is interesting for the House to note that the two Congressmen who are affected, the two Congressmen from the State of Utah, support the McKay amendment. The gentleman from California and the committee support the McKay amendment and the Chamber of Commerce of Utah supports it. I would hope the House would support the McKay amendment and vote down the Breaux amendment.

Mr. BROWN of California. Mr. Chairman, I thank the gentleman from Florida.

As I say, this is not an easy decision to make and each has to look at it from his own point of view. I look at it, frankly, from the standpoint of strong environmental control; but I am not about to adopt a position that will prevent southern California from getting the power it needs or the jobs it needs to sustain its economy. I have that problem before me very strongly in the case of the Kaiser Steel plant in my own district, which is the largest single pollutant source in the whole State of California.

Mr. Chairman, I have found that reasonable compromises can be worked out to protect both these values. I think the McKay amendment and the committee bill is the kind of compromise we need in the present situation and I support them.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah (Mr. McKay) as a substitute for the amendment offered by the gentleman from Louisiana (Mr. Breaux).

The question was taken; and on a division (demanded by Mr. BREAUX) there were—ayes 20; noes 25.

Mr. ROGERS. Mr. Chairman, I demand a recorded vote.

#### POINT OF ORDER

Mr. BREAUX. Mr. Chairman a point of order. The vote was announced. No one was standing when the vote was announced.

The CHAIRMAN. There was no inter-

vening business. The point of order is not well taken and is therefore overruled.

#### RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Florida (Mr. ROGERS) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 237, answered "present" 1, not voting 25, as follows:

[Roll No. 285]

#### AYES—170

|                 |                |               |
|-----------------|----------------|---------------|
| Addabbo         | Evans, Ga.     | Mitchell, Md. |
| Akaka           | Fascell        | Moffett       |
| Allen           | Findley        | Moss          |
| Ambro           | Fish           | Mottl         |
| Ammerman        | Fisher         | Murphy, N.Y.  |
| Annunzio        | Fithian        | Murtha        |
| Ashley          | Ford, Tenn.    | Nix           |
| Aspin           | Fraser         | Nolan         |
| AuCoin          | Frenzel        | Nowak         |
| Badillo         | Fuqua          | Oberstar      |
| Baldus          | Gialmo         | Obey          |
| Baucus          | Gibbons        | Ottenger      |
| Bellenson       | Gilman         | Patten        |
| Benjamin        | Gore           | Pattison      |
| Bennett         | Hamilton       | Pease         |
| Biaggi          | Hannafor       | Pepper        |
| Bingham         | Harkin         | Pike          |
| Blanchard       | Harrington     | Rahall        |
| Blouin          | Harris         | Rangel        |
| Boland          | Hawkins        | Reuss         |
| Bolling         | Heftel         | Richmond      |
| Bonior          | Hollenbeck     | Rinaldo       |
| Bonker          | Holtzman       | Rodino        |
| Brademas        | Howard         | Rogers        |
| Brodhead        | Ireland        | Rosenthal     |
| Brown, Calif.   | Jeffords       | Russo         |
| Burke, Calif.   | Jenkins        | Ryan          |
| Burke, Mass.    | Kasten         | Scheuer       |
| Burton, John    | Kastenmeier    | Schroeder     |
| Burton, Phillip | Keys           | Seiberling    |
| Carr            | Kildee         | Sharp         |
| Cavanaugh       | Koch           | Shipley       |
| Chisholm        | Krebs          | Smith, Nebr.  |
| Clay            | Le Fante       | Solarz        |
| Collins, Ill.   | Leggett        | Spellman      |
| Conyers         | Lehman         | Stark         |
| Corman          | Lent           | Stokes        |
| Cornell         | Lloyd, Calif.  | Studds        |
| Cornwell        | Long, Md.      | Thornton      |
| Cotter          | Luken          | Traxler       |
| Coughlin        | Lundine        | Tsongas       |
| D'Amours        | McHugh         | Tucker        |
| Danielson       | McKay          | Udall         |
| Delaney         | McKinney       | Van Deerlin   |
| Dellums         | Madigan        | Vanik         |
| Derrick         | Maguire        | Vento         |
| Derwinski       | Markey         | Walgren       |
| Dodd            | Marriott       | Waxman        |
| Downey          | Mattox         | Weaver        |
| Drinan          | Mazzoli        | Weiss         |
| Early           | Meeds          | Wirth         |
| Eckhardt        | Meyner         | Wolff         |
| Edgar           | Mikulski       | Wyder         |
| Edwards, Calif. | Mikva          | Yates         |
| Ellberg         | Miller, Calif. | Zablocki      |
| Ertel           | Mineta         | Zeleferetti   |
| Evans, Del.     | Minish         |               |

#### NOES—237

|                  |                |                |
|------------------|----------------|----------------|
| Alexander        | Broyhill       | Daniel, Dan    |
| Anderson, Calif. | Buchanan       | Daniel, R. W.  |
| Anderson, Ill.   | Burgener       | Davis          |
| Andrews, N.C.    | Burke, Fla.    | de la Garza    |
| Andrews, N. Dak. | Burleson, Tex. | Devine         |
| Applegate        | Burlison, Mo.  | Dickinson      |
| Archer           | Butler         | Dicks          |
| Armstrong        | Byron          | Diggs          |
| Ashbrook         | Caputo         | Dingell        |
| Badham           | Carney         | Dornan         |
| Barnard          | Carter         | Duncan, Oreg.  |
| Bauman           | Cederberg      | Duncan, Tenn.  |
| Beard, R. I.     | Chappell       | Edwards, Ala.  |
| Beard, Tenn.     | Clausen,       | Edwards, Okla. |
| Bevill           | Don H.         | Emery          |
| Boggs            | Cleveland      | English        |
| Bowen            | Cochran        | Erlenborn      |
| Breaux           | Cohen          | Evans, Colo.   |
| Breckinridge     | Coleman        | Evans, Ind.    |
| Brinkley         | Collins, Tex.  | Fary           |
| Broomfield       | Conable        | Fenwick        |
| Brown, Mich.     | Conte          | Filippo        |
| Brown, Ohio      | Corcoran       | Flood          |
|                  | Crane          | Flowers        |
|                  | Cunningham     | Flynt          |

|                 |                |               |
|-----------------|----------------|---------------|
| Foley           | Lloyd, Tenn.   | Rousselot     |
| Ford, Mich.     | Long, La.      | Roybal        |
| Fountain        | Lott           | Rudd          |
| Fowler          | Lujan          | Runnels       |
| Frey            | McClory        | Ruppe         |
| Gammage         | McCormack      | Santini       |
| Gaydos          | McDade         | Sarasin       |
| Gephardt        | McDonald       | Satterfield   |
| Ginn            | McFall         | Sawyer        |
| Glickman        | Mahon          | Schulze       |
| Goldwater       | Mann           | Sebellius     |
| Gonzalez        | Marks          | Shuster       |
| Goodling        | Marlenee       | Sikes         |
| Gradison        | Martin         | Simon         |
| Grassley        | Mathis         | Slack         |
| Gudger          | Michel         | Smith, Iowa   |
| Guyer           | Milford        | Snyder        |
| Hagedorn        | Miller, Ohio   | St Germain    |
| Hall            | Mitchell, N.Y. | Staggers      |
| Hammer-         | Molohan        | Stangeland    |
| schmidt         | Montgomery     | Stanton       |
| Hanley          | Moore          | Steed         |
| Hansen          | Moorhead,      | Steiger       |
| Harsha          | Calif.         | Stockman      |
| Heckler         | Moorhead, Pa.  | Stratton      |
| Hefner          | Murphy, Ill.   | Stump         |
| Hightower       | Murphy, Pa.    | Symms         |
| Hillis          | Myers, Gary    | Taylor        |
| Holland         | Myers, Michael | Thone         |
| Horton          | Myers, Ind.    | Treen         |
| Hubbard         | Natcher        | Trible        |
| Huckaby         | Neal           | Ullman        |
| Hughes          | Nedzi          | Vander Jagt   |
| Hyde            | Nichols        | Volkmmer      |
| Ichord          | O'Brien        | Waggonner     |
| Jacobs          | Oaker          | Walker        |
| Jenrette        | Panetta        | Walsh         |
| Johnson, Calif. | Patterson      | Wampler       |
| Johnson, Colo.  | Perkins        | Watkins       |
| Jones, N.C.     | Pettis         | Whalen        |
| Jones, Okla.    | Pickle         | White         |
| Jones, Tenn.    | Preyer         | Whitehurst    |
| Jordan          | Pritchard      | Whitley       |
| Kazen           | Quayle         | Whitten       |
| Kelly           | Quie           | Wiggins       |
| Kemp            | Quillen        | Wilson, Bob   |
| Ketchum         | Railsback      | Wilson, C. H. |
| Kindness        | Regula         | Wilson, Tex.  |
| Kostmayer       | Rhodes         | Winn          |
| Krueger         | Risenhoover    | Wright        |
| LaFalce         | Roberts        | Wyllie        |
| Lagomarsino     | Robinson       | Yatron        |
| Latta           | Roncalio       | Young, Fla.   |
| Leach           | Rooney         | Young, Mo.    |
| Lederer         | Rose           | Young, Tex.   |
| Levitas         | Rostenkowski   |               |

## ANSWERED "PRESENT"—1

Bafalis

## NOT VOTING—25

|              |          |               |
|--------------|----------|---------------|
| Abdnor       | McEwen   | Skelton       |
| Bedell       | Metcalfe | Skubitz       |
| Brooks       | Moakley  | Spence        |
| Clawson, Del | Poage    | Steers        |
| Dent         | Pressler | Teague        |
| Florio       | Price    | Thompson      |
| Forsythe     | Pursell  | Young, Alaska |
| Holt         | Roe      |               |
| McCloskey    | Sisk     |               |

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. Teague against.

Mr. Moakley for, with Mr. Florio against.

Mr. Price for, with Mr. Skelton against.

Mr. Metcalfe for, with Mr. McCloskey against.

Mr. BRINKLEY and Mr. RONCALIO changed their vote from "aye" to "no."

Mr. LONG of Maryland changed his vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. EMERY AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BREAUX

Mr. EMERY. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. EMERY as a

substitute for the amendment offered by Mr. BREAUX: In lieu of the matter proposed to be inserted by the Breaux amendment insert the following:

"(c)(1) Each applicable implementation plan shall contain an area classification plan based on maximum allowable increases in ambient concentrations of, and maximum allowable levels of ambient concentrations of, sulfur dioxide and particulate matter. In the case of increases based on concentrations permitted under national ambient air quality standards for any period of twenty-four hours or less, such regulations shall provide that the Governor of the State may, upon application of any person and after notice and opportunity for hearings, permit the maximum allowable increases specified for such pollutants to be exceeded during not more than 18 days during any annual period in Class I and Class II areas.

Concentrations of any pollutant for any period of exposure in any Class I area shall not be permitted under the preceding sentence to exceed the maximum allowable concentrations applicable to such pollutant for such period of exposure for Class II areas; and concentrations of any pollutant for any period of exposure in any Class II area shall not be permitted under such sentence to exceed the maximum allowable concentrations applicable to such pollutant for such period of exposure for Class III areas. Such classification plan shall apply to all areas in each State where the national primary and secondary ambient air quality standards for any air pollutant are not being exceeded. Such classification plan shall provide for designation of all such areas as either Class I, Class II, or Class III as to each such pollutant. Until such designation is effective, all such areas shall be deemed to have been designated as Class II, except as may be otherwise provided under paragraph (3)(B).

Mr. EMERY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maine?

There was no objection.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, I have had an opportunity to examine the amendment offered by the gentleman from Maine (Mr. EMERY), as a substitute for the amendment offered by the gentleman from Louisiana (Mr. BREAUX) and, as I see it, the amendment only makes one change and that is on 5 percent of the days rather than 5 percent of the hours. Is that correct?

Mr. EMERY. That is correct.

Mr. BROYHILL. Mr. Chairman, I believe under those circumstances I would personally be willing to accept the amendment offered by the gentleman from Maine (Mr. EMERY) as a substitute for the amendment offered by the gentleman from Louisiana (Mr. BREAUX).

Mr. EMERY. I thank the gentleman.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield to my colleague, the gentleman from Maine.

Mr. COHEN. Mr. Chairman, I thank the gentleman for yielding.

As I understand the amendment it means that any violation during any portion of one day would constitute a vio-

lation for the entire day, so, under your substitute amendment there could be no violation that would exceed a total of 18 days, as proposed under the original Breaux amendment, where you could have 3 hours during the course of 1 day and spread it out over 100 odd days.

Mr. EMERY. That is correct. It is designed to correct that situation. I do not believe that was the intent of the amendment offered by the gentleman from Louisiana (Mr. BREAUX).

Mr. COHEN. So to exceed the limitation of any monitoring period during the course of 1 day, that would mean that constitutes a violation for that 1 day and there cannot be more than 18 days during the course of an entire year.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, I would say the amendment offered as a substitute by the gentleman from Maine (Mr. EMERY) is a good amendment. It simply says that any variation could only occur 5 percent of the time, in no case could that period extend more than 18 days in a year. That was really the intent of my amendment. I believe this clarifies it and spells out exactly what it means. I certainly support it. I would hope every Member will support the substitute and then support my amendment as amended by the substitute amendment.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I support the amendment offered by the gentleman from Maine (Mr. EMERY) as a substitute for the amendment offered by the gentleman from Louisiana (Mr. BREAUX).

Mr. EMERY. I thank the gentleman from Kentucky.

Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield to the gentleman from Utah.

Mr. MARRIOTT. Mr. Chairman, I would like to rise in support of the amendment offered by the gentleman from Maine as a substitute for the amendment offered by the gentleman from Louisiana.

I believe it will solve the problems of IPP and other powerplants. I support the amendment.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time in order that the Members will know what they will be voting on. This amendment offered by the gentleman from Maine (Mr. EMERY) to the amendment offered by the gentleman from Louisiana (Mr. BREAUX) and the Members may not know this, says that industries can build right up next to a national park and can pollute the park when there is no need for it.

As a matter of fact, this is introduced basically for the IPP plant in Utah. The testimony before the committee was that the Utah plant could be built by shifting it a few miles. It is an undertaking of some \$4.2 billion out there, and by



shifting a few miles—and permits have not even been granted yet; I think they may have invested \$6 million out of \$4 billion—they can avoid polluting the parks that belong to all of the people of this country. They can shift. They still have all of their water rights, because it is in the same county.

The committee has gone over this problem, and to allow now an exemption that is applied nationwide to handle the problem really of one plant, when the vice president of the company himself said in testimony to the committee, it could be built a few miles away. I think is not a proper course to take.

Certainly the Emery amendment is some improvement, should it be adopted—and I presume it will since the author said he would accept it. I would hope that the House would reject this approach. It is contrary to cleaning up the air. It is contrary to keeping the parks clean and does not require any showing of need for the variance. There are no criteria in the amendment to guide a Governor at all. We are going to open here again this whole subject to court suits. This is the problem. If they think they have got problems, wait until the litigation starts.

I would urge that the Committee of the Whole look at this carefully. I think it should be rejected, and our committee would urge a no vote on the Breaux amendment.

Mr. CARTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the recent amendment which we had would have permitted construction of a powerplant in Utah, and that was quite all right with my good friend, the distinguished gentleman from Florida (Mr. ROGERS). But now when it comes to constructing another plant, this is all wrong—or to use the same measuring stick for all segments of industry is wrong.

We know that the primary and secondary standards which are written into this law protect the public health. The secondary standards protect the environment. By no stretch of the imagination can nor will this hurt national parks. I would be the first to oppose it if it did. It just uses a broad brush and gives equity to two different companies, one which would provide power to the city of Los Angeles and perhaps others in the country, and also my distinguished friend from the great State of Utah who had the preceding amendment would be permitted to construct his plant. We just would give the same right to all people, not just to one.

But remember, one of the things is a basic limitation in this bill which I have supported since its beginning 2 years and 2 months ago, and that is that primary and secondary standards be strong enough to protect the public health, strong enough to protect the environment, and that means our national parks.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding.

I ask the gentleman this question: As he knows, in Class I a 2-percent increase or increment would be permitted over the baseline that is measured for the pollutants that are in that park; is that correct?

Mr. CARTER. That is correct.

Mr. BROYHILL. The gentleman from Kentucky has had scientific training, scientific background, and experience. Does the gentleman know if one can measure 2 percent of 365 micrograms, which is the daily 24-hour standard?

Mr. CARTER. It is my understanding that we cannot at the present time.

Mr. BROYHILL. That is 365 millionths of a gram.

Mr. CARTER. A microgram is a millionth of a gram; that is correct.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take the time to try to explain this amendment, because, when the Breaux amendment was discussed, many of the Members who are here now were not on the floor. I think I would like to explain exactly what my amendment does if we accept the Emery amendment to my amendment.

Basically the country under this act is going to be divided up into three separate classes, into class I, class II, and class III. In each one of these categories the EPA has set a national air quality standard which is way up here on a high level, and class I can only be 2 percent of what that higher level is set at. In other words, if they say this is the level we can have increments in the air that is not going to harm our health and welfare, then a class I area can have only 2 percent of that standard, the class II area can have only 25 percent of that ambient air standard, and class III, which is a highly industrialized area, can have up to 50 percent of what they say is still all right for our health and welfare.

My amendment says that the Governor of a State in his State implementation plan may at his discretion, after notice and after a public hearing, say to a class I and a class II area that they can exceed the increment. The levels allowable in this class I area can be exceeded no more than 5 percent of the time in a year.

The amendment offered by the gentleman from Maine (Mr. EMERY) would say that means it could occur in no more than 18 days out of a year.

How high can we increase the class I standards? Not any higher than class II standards. And the class II cannot go higher than the class III standards. And then the class II is only one-quarter of what they say is all right for our health and welfare and class III is only one-half.

It applies only to new plants and new facilities that still have to use all the best technology and science available to man before they can construct any facility. The classic example is set out in a "dear colleague" letter I sent out. If, for example, the plant was going to be built in a class II area which is 8 or 10 miles away from a class I area, that would be fed into the computer, and, if the computer said there are 152 days out

of the year when the wind is going to blow from the class I area and across the powerplant, and maybe only 13 days a year that it might blow across the class I area, my amendment says in that situation we should use commonsense and allow the Governor of a State, duly elected, to decide whether he will permit then a 5-percent exemption only to go to class II—never above.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Is it not true that it would be applicable all over the United States and other plants would be affected besides the one the gentleman pointed out in Utah?

Mr. BREAUX. It applies to all States.

I would ask the Members to adopt the Emery amendment to my amendment and then accept my amendment.

Mr. MAGUIRE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, there is something very appealing about the notion that we are going to be moderate and flexible by dealing with only 18 days out of 365 when winds might blow in an unusual direction.

The fact of the matter is, however, that when we take those 18 days and set them aside, what actually happens is that on every other day of the year we will have higher levels of pollution than we would otherwise have been permitted to have. The curve looks something like this. The worst day is up here. The next worst 5 days are here, and the next 5 days, and so on, and the curve slopes down according to the variable conditions of the air in the area.

Once we have eliminated those first 18 days, at which point we get down to pollution levels of about 30 percent of what we started with, we then would start the whole curve at the top again—the worst pollution day—and carry it out over a slope for the entire 365 days of the year.

Now, that is not easy to grasp. It took me several sessions with the subcommittee staff and a pencil to figure that out. But that is the actual effect of the Breaux amendment, even as amended by the gentleman from Maine (Mr. EMERY).

The practical result of that is that if the computer projections of the gentleman from Louisiana (Mr. BREAUX) on how the wind is going to blow turn out to be wrong we are going to have increased pollution, dramatic increases in pollution of our pristine national parks and wilderness and other areas on potentially every day of the year. Maybe it would only be 360 days. Maybe it would be only 250 days. But the purpose of this legislation is precisely to protect areas to different standards depending on the values we want to ascribe to those areas. A class I area is for the purpose of protecting our national park, wilderness, and recreation and other such areas to a standard as close to its natural pristine character as we can. If we accept this amendment now, we will in effect dispense with class I and we will have nothing but Class II and Class III in terms of the air degradation that we are going to permit.

Moreover, the Class II areas will even be permitted under the modified Breaux amendment to accept pollution levels throughout the entire year at levels permitted for Class III areas; so we can easily see what we have in the end is virtually no significant deterioration policy at all.

The gentleman from Louisiana (Mr. BREAUX) also talks about 25 percent up and 50 percent up, as if these increments were absolute percentages and maximums relative to the ambient air quality standards. In fact, they are not. The committee bill permits a Class II or Class III area to get up to as dirty as the ambient air standards permit. In any area we start not from zero but from where we are already and go 25 or 50 percent above that. So we are talking about the significant deterioration section which the committee and others have worked on for 5 years, which is going to be eliminated from this bill if this amendment is approved.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, the point the gentleman makes is valid. It is true that in talking about significant deterioration, we start with the existing pollution in the area. That is the baseline. Then if we move, as the gentleman has stated, to class II, we can go 25 percent above that. Then if we go to a class III, we can go up 50 percent; so if the base in an area is right now 50 percent, and the standard is assumed to be 100, and we go to a class III area, we can go to 100 percent, so that the pollution could reach the very standard itself.

Many people do not know this, and I know it is difficult to understand, but it is a problem and it would cause significant problems if we adopt the Breaux amendment.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(By unanimous consent, Mr. MAGUIRE was allowed to proceed for an additional 4 minutes.)

Mr. MAGUIRE. Mr. Chairman, the chairman is absolutely right. I would just like to add that the class I area is an area in which we do not want to build powerplants, by definition. A class II area is an area in which we do want to build powerplants. All 74 powerplants that were projected to be built in this country, which the FEA and EPA analyzed a year ago, could all be built in the class II areas recommended by the committee and would not have to be resited.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, I thank the gentleman for yielding. I know when the Breaux amendment was brought up to me yesterday, I thought about it in very favorable terms. I could not see the difference between 1 day and 18 days. What is the big deal? But in looking at the way the curve shifts, we can draw it out for ourselves on a piece of paper; if it moved that 18th day, we have a shift in the curve.

If we take that 18th day and move it over on that graph, and then we draw the new curve corresponding to that, what we are in effect doing is shifting the whole curve. What we are doing is allowing more pollutants in the air in those Class I areas on every other given day of the year. Do not be confused by percentages, Class I, Class II. One can thank about it in very simple terms. If we adopt the Breaux amendment, we are not saying that we are going to allow more pollution on just 18 days; we are going to allow more pollution on every other day of the entire year. That is a simple fact.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding to me. I can say this because I am not on the subcommittee, but I would hope that the Committee of the Whole House would listen to the subcommittee on this point. Too frequently, I think, we come over here after a dear colleague letter and rather glibly, rather inconsiderately, vote against the subcommittee that has been dealing with this very complex question for a very long while.

Both the chairman of the committee and the gentleman in the well have wrestled with this problem for a long time, and if we permit a few special considerations of the type that is sought by the Breaux amendment to be carried out, it will be difficult for us to find out which of our mountain ranges is called the Great Smokies.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. To clarify the point the gentleman is trying to build his case on, it seems to me that what he is saying is that we would be dealing with a new base, a base on which we take 18 worst days out and now establish a new base.

Mr. MAGUIRE. That is correct.

Mr. GARY A. MYERS. Is the gentleman saying that the base is going to be continually changed? It was my impression that the base was going to be established as of a date certain, regardless of what is built after that. If that is true, then the base should always remain the same. Those of us who look on the Breaux amendment favorably think that is the case.

Mr. MAGUIRE. If I may reclaim my time, the fact of the matter is that when we calculate it out mathematically, model it out, the facts are that we eliminate the viability of the class I area and it becomes equivalent to what the committee wanted to provide for a class II area. The same thing happens in class II which, given a variance, becomes the equivalent of a class III area. According to the FEA-EPA study there are no powerplants which require class III areas. All can be constructed in class II areas.

If, by chance, there is one which cannot be constructed in a class II area, the Governors have the ability to designate

it as a class III area, which I am sure they will do. So, the subcommittee provides all the flexibility that is ever needed.

Mr. GARY A. MYERS. Mr. Chairman, I move to strike the last word.

The reason I rise at this point is because I asked the gentleman from New Jersey a specific question, and I believe he failed to answer it. It seems to me that what we are dealing with here is trying to establish what is going to occur or not going to occur as a result of the Breaux amendment.

I think most of us who look favorably on the Breaux amendment have this interpretation. As a result of the bill, there will be a base established, a base that is certain and based on historical data. That has nothing to do with whether a new plant at some future date is going to be sited which occasionally will violate that standard.

If that is the case, then the case the gentleman from New Jersey and the gentleman from Iowa (Mr. HARKIN) were trying to argue before the House is inaccurate.

Mr. MAGUIRE. If the gentleman will yield—

Mr. GARY A. MYERS. I would like to finish the question I asked the gentleman before, which he failed to answer.

It would seem that the amendment does not then extract the worst 18 days, because we do not know what the worst 18 days are when the base is established. Will the gentleman from New Jersey tell me whether or not it is true that a base is set at a date certain—is that his interpretation of this bill?

Mr. MAGUIRE. If the gentleman is correct, his point is still irrelevant to the point the gentleman from Iowa and I were making.

Once we set aside the worst 18 days, regardless of what base we are starting from, we start with the 19th day as if it were the first day, and all the rest of the days of the year will then conform to the curve we have, and pollution will be greater on every single one of those days.

Mr. GARY A. MYERS. I thank the gentleman for his contribution, which really did not answer the question.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. I thank the gentleman for yielding.

Mr. Chairman, I have seen more information bandied about today than I have in my life. There will not be more than 18 days in the year in which this level can be exceeded. To do so would be a violation of the law, and the company would be subject to a severe penalty.

Mr. GARY A. MYERS. Is the gentleman saying there would be never more than 18 days in the year?

Mr. CARTER. There would be 18 days in the class I areas that they might exceed that.

Mr. GARY A. MYERS. The 2 percent?

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from North Carolina (Mr. BROYHILL).



Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Chairman, under the terms of the amendment, class I allows for a 2-percent increment. That is almost immeasurable. The Breaux amendment provides 18 days of the year you can exceed that, but all of the rest of the days you have to stay within that increment.

Mr. GARY A. MYERS. I thank the gentleman.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. At no time can the primary or secondary standards be exceeded, to protect the public welfare and the environment. They cannot be exceeded at any time.

Mr. GARY A. MYERS. I thank the gentleman.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and members of the committee, I want to go over a few points. We have already heard a discussion of this issue. The Breaux amendment supposedly gives to the Governor the power to waive that requirement that we are putting into the class I and allow the 5 percent variance. But there is no criteria in this amendment from which the Governor would act. It would leave him only to act under whatever political pressures might be exerted upon him.

I think the important point for all of us to understand in the Breaux amendment is that the Breaux amendment will change the whole structure of the class I, class II and class III criteria which we now use to protect those areas of the country which are cleaner than the national health standard. The reason we want to protect those areas is not because we want to have them clean for cleanliness sake, it is because we want to control the growth of those areas. If we allow the area open for whomever comes in first, there are not going to be any areas left for those who want to come in and utilize the national resource of clean air.

We have the class I for national parks because we value the national parks more than those areas which are nearer the standard and can justifiably be used up more for growth and more business. We want to protect the class I. What this amendment does is to allow one powerplant that is asking at this time to build right next to a national park to supply energy to the city of Los Angeles. I am the only California member on the Subcommittee on Health and Environment, and I am from Los Angeles. Let me tell the Members I do not want it. I do not want to build a powerplant in an area which will ruin a national park, when they can move a few miles away and still build a plant.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. I thank the gentleman for yielding.

Mr. Chairman, may I just remind the Members of what the class I areas are? They are the national parks, which this House and the Congress has said we want to keep pristine clear. They are the national wilderness areas of over 25,000 acres, and they are the national monument and national recreational areas and national primitive areas of over 100,000 acres. Do the Members know how many areas in the Nation are covered by class I which we have asked to be kept clear and pure for the people of this country?

Only 125. The figure is only 125. Now we, by this amendment, if it were to be adopted, would allow those areas to be invaded by air pollution after we have made the judgment that we do not want pollution in our national parks to which people are coming for the purpose of recreation. There is no need for it.

The class II areas and the class III areas are where the plants are to be built under the committee approach, and we ought to keep the 125 areas to which I referred clean and pure. It is simple. There is no problem with that.

Mr. Chairman, the Breaux amendment should be defeated.

Mr. CHARLES WILSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Texas.

Mr. CHARLES WILSON of Texas. Mr. Chairman, will the gentleman tell us what class Los Angeles is in?

Mr. WAXMAN. Los Angeles exceeds the primary standards. We are talking about a powerplant that is near a national park, not in Los Angeles but to serve Los Angeles.

The CHAIRMAN. The time of the gentleman from California (Mr. WAXMAN) has expired.

(On request of Mr. CHARLES WILSON of Texas and by unanimous consent, Mr. WAXMAN was allowed to proceed for 1 additional minute.)

Mr. CHARLES WILSON of Texas. Mr. Chairman, will the gentleman yield further?

Mr. WAXMAN. I yield to the gentleman from Texas.

Mr. CHARLES WILSON of Texas. Mr. Chairman, I think the gentleman from California (Mr. WAXMAN) has put his finger on exactly what the issue is, and that is that the gentleman from Los Angeles, who is in a class III area, would like to control the growth in other parts of the country. That includes, of course, my district, which is a class I district.

I would like to say that we do not need the gentleman's help, and if he can get Los Angeles in a class I area, then we might be interested in his protection of us.

Mr. WAXMAN. Mr. Chairman, if the gentleman will allow me to recapture my time, the gentleman from Texas (Mr. CHARLES WILSON) has misunderstood the

significance of what we are talking about when we provide for protecting those areas that are now cleaner than the standard.

Los Angeles is dirtier than the health standards, and we want to protect the people there. But we are not talking about that.

We are talking about the areas that are in class II and class III. I do not believe that Texas is in class I, because it is not all a national park. Most of it is class II or class III, and that allows for growth. But we do not want to allow variances to be given away, because if we do, whoever comes in first will dirty it up so that it will exceed all the health standards, and then we might find that there is no more room left even for industry and economic growth.

#### PARLIAMENTARY INQUIRY

Mr. COHEN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. COHEN. Mr. Chairman, is it correct that the initial vote is going to come on the Emery amendment to the Breaux amendment, the Emery amendment being an 18-day substitute which the gentleman from Louisiana (Mr. BREAU) accepts?

The CHAIRMAN. The Chair will state that the vote will come first on the Emery substitute for the Breaux amendment. That is the first vote that will be in order.

Mr. MCCORMACK. Mr. Chairman, I rise in support of the Breaux and the Emery amendments.

Mr. Chairman, we have listened to this degradation argument for quite a long time, and I think it is important that we discuss it rationally, and in the context of the real world in which we are going to be living.

For instance, the Carter administration's energy proposals call for tripling our coal consumption during the balance of this century. This means constructing about 500 new coal plants and getting them on the line sometime soon. It will not be possible to trap all the particulate matter and all the sulfur dioxide from these plants, no matter what technology we use. I think it is important to recognize that Western coal is dirty coal in terms of particulates, and it is very difficult to remove all that particulate matter when the coal is burned.

I come from an area that contains a lot of class I land, so I am concerned with this matter, but I think we should look realistically at these standards for class I land. The standard for class I land is  $7\frac{1}{2}$  micrograms per cubic meter. The Breaux amendment would, on 18 days each year, would allow increasing that to  $18\frac{3}{4}$  micrograms per cubic meter.

Now, for comparison, a single cigarette produces 10,000 micrograms of particulate matter. Let me repeat that. A single cigarette produces 10,000 micrograms of particulate matter. The standard we have for class I land is  $7\frac{1}{2}$  micrograms per cubic meter, and we would be proposing to increase it to  $18\frac{3}{4}$  on 18 days each year.

If we were to carry these limitations to its logical extreme, it would be illegal for a person to walk through much of my district smoking a cigarette.

Mr. Chairman, let us understand something of the magnitude of the numbers we are using. Let us support the Breaux and the Emery amendments.

Mr. MARRIOTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Emery substitute class I and class II variance amendment.

I do not believe that it is the intent of this Congress to create a stiff and invariable standard that would unnecessarily and unreasonably curtail the development of electrical energy which the southwestern part of America is in dire need of. The Emery amendment would allow some flexibility in the proposed clean air amendments which we now have before us.

It would serve to protect our environment, while at the same time allowing us to develop greater sources of energy. An example of the need for Congressman Breaux's amendment is the Intermountain Power Project, better known as the IPP.

The IPP is a 3,000-megawatt coal-fueled electric generating station which is proposed to be built in south-central Utah. The plant is being proposed by a group of 23 cities located in Utah and the California cities of Los Angeles, Anaheim, Riverside, Burbank, Pasadena and Glendale. The total population of the cities participating in the project, and therefore the number of people depending on this project to meet their future energy needs, is approximately 3,700,000.

This plant could provide approximately three-quarters of the electrical energy needs of the Utah cities and over one-third of the California cities' electrical energy needs.

We have estimated that operation of the intermountain power project will save over \$800 million annually by eliminating purchases of low sulfur oil from foreign countries. Instead, the use of Utah coal will create 2,500 jobs in Utah and the rest of the country and provide substantial additional revenues to the State of Utah.

As of this date, the project has spent more than \$6 million in engineering and environmental studies. This facility has been designed to minimize environmental impact and fully utilize the best available pollution control technology.

However, the provisions contained in the Clean Air Act amendments would prohibit the building of this environmentally sound project.

The reason that this project would be prohibited from being built is that it is located approximately 8 miles from the Capital Reef National Park, which would be classified as a class I area with allowable pollution increases of only 2 percent of the national ambient air quality standards. During approximately 350 days of the year, the prevailing winds blow out of the park toward the power project and thus only insignificant

amounts of pollution, if any, from the project would impact on the park.

During roughly 13 days of the year, however, certain air inversions occur in this area which cause the winds to blow from the plan to the part. Thus, on approximately 13 days of the year, the very stringent 2-percent increment may be violated, but even on those few days, environmental analyses indicate that the pollution from the plant would not exceed the tight class II increment. The class II increment is only 25 percent of the national ambient air quality standards.

This proposed facility provides a revealing example of an environmentally sound electric-generating facility which would supply pollution-free power to an area which cannot accommodate further pollution, would provide jobs in an economically depressed area of Utah and would increase tax revenues to State and local governments in the amount of \$30 to \$40 million, but which cannot be built because of the stringent and inflexible requirements of this provision of H.R. 6161.

If we adopt Mr. EMERY's amendment, we will allow projects such as IPP to provide the energy which is absolutely necessary for our Nation. This is but an example of some of the relief a 5 percent class I variance would provide.

In summary, Mr. EMERY's amendment is a rational and reasonable approach to allowing some flexibility in the proposed Clean Air amendments.

Certainly the class I standards, even with the 5 percent variance proposed by Mr. EMERY, will be more than sufficient to protect our choice national parks and reserves and yet allow for the jobs and energy we need. I urge my colleagues to support the Emery amendment.

Mr. Chairman, I would like to take this opportunity to say this: Having come from Utah, where this IPP plant is located, which seems to be where the controversy centers, I would like to say that I sincerely believe we ought to have a variance from class I and class II standards, and I do not think 5 percent is unreasonable.

What this really boils down to on the one hand is this: A 3,000-megawatt plant, with 22 cities in Utah and California being serviced by it—that is 3.7 million people being serviced—a savings of \$800 million by eliminating the purchase of sulfur oil from foreign countries, 5,000 new jobs, and a tax revenue base for the State of Utah or from \$30 million to \$40 million.

On the other hand, all we are asking is 13 days out of the year when the wind blows toward the canyon, allowing this company to have a class II variance. On 352 days of the year they would have to maintain the class I standard.

Mr. Chairman, this is simply a compromise. To me, we have to have a compromise on clean air and achieve energy independence by 1985.

Therefore, Mr. Chairman, I sincerely hope that we support the Emery substitute amendment.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Florida (Mr. ROGERS) may be recognized again.

Is there objection to the request of the gentleman from Florida?

Mr. LATTI. Mr. Chairman, I object. The CHAIRMAN. Objection is heard.

Mr. GIBBONS. Mr. Chairman, I move to strike the requisite number of words.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I thank the gentleman.

I will only make one point very quickly.

This is the same thing as putting a city of 500,000 people, with the same amount of pollution, next to a national park. It is the same thing as allowing the largest coal-fired powerplant, 3,000 megawatts, to be built next to a national park.

Mr. Chairman, that is what we will be doing, and I want the Members to know it.

When people go out to those parks, they will not be able to see the scenic vistas. If one cigarette is used, one cigarette is only so much; but it is that whole park, which the gentleman did not tell us about. If everyone in the park was smoking cigarettes at the same time, which is what we are talking about, then no one could see anything.

Mr. Chairman, I hope the Members will think about that.

I urge rejection of the Breaux amendment.

Mr. GIBBONS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maine (Mr. EMERY) as a substitute for the amendment offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. BREAUX), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

#### RECORDED VOTE

Mr. WAXMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 237, noes 172, answered "present" 1, not voting 23, as follows:

[Roll No. 286]

AYES—237

|               |                |               |
|---------------|----------------|---------------|
| Alexander     | Breaux         | Cleveland     |
| Anderson      | Breckinridge   | Cochran       |
| Calif.        | Brinkley       | Cohen         |
| Andrews, N.C. | Broomfield     | Collins, Tex. |
| Andrews,      | Brown, Mich.   | Conable       |
| N. Dak.       | Brown, Ohio    | Corcoran      |
| Applegate     | Broyhill       | Crane         |
| Archer        | Buchanan       | Cunningham    |
| Armstrong     | Burgener       | D'Amours      |
| Ashbrook      | Burke, Fla.    | Daniel, Dan   |
| Badham        | Burleson, Tex. | Daniel, R. W. |
| Baldus        | Burlison, Mo.  | Davis         |
| Barnard       | Butler         | de la Garza   |
| Bauman        | Byron          | Derwinski     |
| Beard, R.I.   | Carney         | Devine        |
| Beard, Tenn.  | Carter         | Dickinson     |
| Bevill        | Cederberg      | Dicks         |
| Boggs         | Chappell       | Dingell       |
| Bonker        | Clausen        | Dornan        |
| Bowen         | Don H.         | Duncan, Oreg. |



Duncan, Tenn. Ketchum  
 Edwards, Ala. Keys  
 Edwards, Okla. Kindness  
 Emery Krueger  
 English LaFalce  
 Erlenborn Lagomarsino  
 Ertel Iatta  
 Evans, Colo. Leach  
 Evans, Ga. Lloyd, Tenn.  
 Evans, Ind. Long, La.  
 Fary Lott  
 Fithian Lujan  
 Filippo McClary  
 Flood McCormack  
 Flowers McDonald  
 Flynt McEwen  
 Foley McFall  
 Ford, Tenn. McKay  
 Fountain McKinney  
 Frenzel Mahon  
 Frey Mann  
 Gammage Marks  
 Ginn Marlenee  
 Glickman Marriott  
 Goldwater Martin  
 Gonzalez Mathis  
 Goodling Mazzoli  
 Grassley Meeds  
 Gudger Michel  
 Guyer Mikulski  
 Hagedorn Milford  
 Hall Miller, Ohio  
 Hammer Mollohan  
 Schmidt Montgomery  
 Hannaford Moore  
 Hansen Moorhead,  
 Harsha Calif.  
 Heckler Murphy, Ill.  
 Hefner Murtha  
 Hightower Myers, Gary  
 Hillis Myers, Ind.  
 Holland Natcher  
 Holt Neal  
 Horton Nichols  
 Hubbard O'Brien  
 Huckaby Oaker  
 Hughes Oberstar  
 Hyde Patterson  
 Ichord Pattison  
 Jacobs Perkins  
 Jenkins Pettis  
 Jenrette Pickle  
 Johnson, Calif. Preyer  
 Johnson, Colo. Pritchard  
 Jones, N.C. Quayle  
 Jones, Okla. Quillen  
 Jones, Tenn. Rahall  
 Jordan Rallsback  
 Kazen Regula  
 Kelly Rhodes  
 Kemp Risenhoover

## NOES—172

Addabbo Cornwell  
 Akaka Cotter  
 Allen Coughlin  
 Ambro Danielson  
 Ammerman Delaney  
 Anderson, Ill. Dellums  
 Annunzio Derrick  
 Ashley Diggs  
 Aspin Dodd  
 AuCoin Downey  
 Badillo Drinan  
 Baucus Early  
 Bellensohn Eckhardt  
 Benjamin Edgar  
 Bennett Edwards, Calif.  
 Biaggi Ellberg  
 Bingham Evans, Del.  
 Blanchard Fassel  
 Blouin Fenwick  
 Boland Findley  
 Bolling Fish  
 Bonior Fisher  
 Brademas Fowler  
 Brodhead Fraser  
 Brown, Calif. Fuqua  
 Burke, Calif. Gaydos  
 Burke, Mass. Gephardt  
 Burton, John Gialmo  
 Burton, Phillip Gibbons  
 Caputo Gilman  
 Carr Gore  
 Cavanaugh Gradison  
 Chisholm Hamilton  
 Clay Hanley  
 Coleman Harkin  
 Collins, Ill. Harrington  
 Conte Harris  
 Conyers Hawkins  
 Corman Heftel  
 Cornell Hollenbeck

Roberts  
 Robinson  
 Rooney  
 Rose  
 Roussellot  
 Rudd  
 Runnels  
 Ruppe  
 Santini  
 Sarasin  
 Satterfield  
 Sawyer  
 McClary  
 Sebelius  
 Shipley  
 Shuster  
 Sikes  
 Simon  
 Slack  
 Smith, Iowa  
 Snyder  
 St Germain  
 Stangeland  
 Stanton  
 Steed  
 Steiger  
 Stockman  
 Stratton  
 Stump  
 Symms  
 Taylor  
 Thone  
 Thornton  
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 Vander Jagt  
 Volkmer  
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 Whitehurst  
 Whitley  
 Whitten  
 Wiggins  
 Wilson, Bob  
 Wilson, C. H.  
 Wilson, Tex.  
 Winn  
 Wright  
 Wylie  
 Yatron  
 Young, Alaska  
 Young, Fla.  
 Young, Mo.  
 Young, Tex.  
 Zeferetti

Myers, Michael  
 Nedzi  
 Nix  
 Nolan  
 Nowak  
 Obey  
 Ottinger  
 Panetta  
 Patten  
 Pease  
 Pepper  
 Pike  
 Fursell  
 Quie  
 Reuss  
 Richmond  
 Rinaldo  
 Rodino  
 Rogers  
 Roncalio  
 Rosenthal  
 Rostenkowski  
 Roybal  
 Russo  
 Ryan  
 Scheuer  
 Schroeder  
 Seiberling  
 Sharp  
 Solarz  
 Spellman  
 Staggers  
 Stark  
 Stokes  
 Studds  
 Thompson

Traxler  
 Tsongas  
 Tucker  
 Van Deerin  
 Vanik  
 Vento  
 Walgren  
 Waxman  
 Weaver  
 Weiss  
 Whalen  
 Wirth  
 Wolff  
 Wylder  
 Yates  
 Zablocki

## ANSWERED "PRESENT"—1

Bafalis

## NOT VOTING—23

Abdnor McCloskey  
 Bedell Metcalfe  
 Brooks Poage  
 Clawson, Del. Pressler  
 Dent Price  
 Florio Rangel  
 Ford, Mich. Roe  
 Forsythe Sisk

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Rangel against.  
 Mr. Skelton for, with Mr. Florio against.  
 Mr. Abdnor for, with Mr. Ford of Michigan against.  
 Mr. Spence for, with Mr. Price against.  
 Mrs. Smith of Nebraska for, with Mr. McCloskey against.  
 Mr. Del Clawson for, with Mr. Metcalfe against.

Mr. GLICKMAN, Mr. MEEDS, and Mrs. HECKLER changed their vote from "no" to "aye."

Mr. STOKES and Mr. TUCKER changed their vote from "aye" to "no."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. LEVITAS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am pleased to see that the amendments which I offered to the section on significant deterioration in last year's clean air bill remain part of the bill this year, along with the amendment on rule review. During our consideration of last year's bill, I raised several questions with the gentleman from Florida regarding the difference between the EPA's regulation figures for the SO<sub>2</sub> 3-hour class II increment level and those contained in the bill. Our discussion appears in the CONGRESSIONAL RECORD of September 9, 1976, at pages 29547-29548.

As a result of our exchange, I was satisfied that the increments in the bill were reasonable and balanced. Mr. Chairman, may I assume that the responses given by the gentleman from Florida (Mr. ROGERS) at that time remain valid in our consideration of this year's bill?

Mr. ROGERS. Mr. Chairman, if the gentleman will yield, yes; I have reviewed those statements and the statements I made last year about the class II increments also apply to this year's bill. The gentleman from Georgia can be assured they do remain valid.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman from Florida for his as-

surances and I commend the gentleman for his efforts in behalf of this legislation.

The CHAIRMAN. Are there further amendments to section 108? There being none, the Clerk will read section 109.

The Clerk read as follows:

## TRAINING

SEC. 109. (a) Section 103(b) of the Clean Air Act is amended by striking out paragraph (5), redesignating the following paragraphs accordingly, and adding the following at the end thereof: "In carrying out the provisions of subsection (a), the Administrator shall provide training for, and make training grants to, personnel of air pollution control agencies and other persons with suitable qualifications. Reasonable fees may be charged for such training provided to persons other than personnel of air pollution control agencies but such training shall be provided to such personnel of air pollution control agencies without charge."

(b) Section 103(b) of such Act is amended by striking out "training," in paragraph (1); by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and by inserting the following paragraph at the end thereof:

"(5) conduct and promote coordination and acceleration of training for individuals relating to the causes, effects, extent, prevention, and control of air pollution."

(c) Paragraph (5) of such section 103(b) is amended by inserting after "qualifications" the following: "and make grants to such agencies, to other public or nonprofit private agencies, institutions, and organizations for the purposes stated in subsection (a) (5)."

(d) Subsection 103 is further amended by adding a new subsection at the end thereof as follows:

"(g) For purposes of subsection (b) (5), there are authorized to be appropriated \$7,500,000 for each of the three fiscal years beginning after the date of enactment of the Clean Air Act Amendments of 1977."

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 109 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there any amendments to section 109?

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Brown of California: On page 321, at the end of line 25, add the following new subsection:

"(e) The Administrator of the Environmental Protection Agency shall consult with the House Committee on Science and Technology on the environmental and atmospheric research, development and demonstration aspects of this Act. In addition, the reports and studies required by this Act that relate to research, development and demonstration issues shall be transmitted to the Committee on Science and Technology at the same time they are made available to other committees of the Congress."

Mr. BROWN of California. Mr. Chairman, I offer this as a technical amendment, which I hope the committee will see fit to accept. It is not a substantive amendment, but is intended to clarify certain jurisdictional matters which exist because of the rules of the House.

I offer it primarily as a vehicle for elucidating these peculiar jurisdictional problems which exist as between the Commerce Committee and the Committee on Science and Technology.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield.

Mr. ROGERS. Mr. Chairman, I have no problem with this amendment. I think there is some question on the jurisdiction over demonstration projects, but I think it is within the jurisdiction of the Commerce Committee. However, I think research and development is in the Science Committee's jurisdiction. So, I have no objection to having those reports and having consultations with his committee. I would have no objection to the amendment.

Mr. BROWN of California. I thank the gentleman.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, we have had an opportunity to look at the gentleman's amendment on this side, and have no objection to it.

Mr. BROWN of California. Mr. Chairman, at the risk of imposing on the Members, I would merely like to explain very briefly some additional points behind my offering this amendment. As the Members know, the House in its wisdom adopted rules which placed environmental research and development within the jurisdiction of the Committee on Science and Technology. I have not encountered, nor has the Committee on Science and Technology, any difficulty whatsoever in our dealings with the Commerce Committee. We have had extremely good cooperation with the distinguished chairman of the subcommittee, the gentleman from Florida, and other members of the Commerce Committee. On the matters which relate to the joint jurisdictions, we have had good cooperation.

We have actually engaged in joint hearings on matters of mutual interest, and I anticipate no trouble in the future on this matter. It was not because of any such anticipation that I offer this amendment. There are a number of provisions in this very lengthy bill which will have an impact on research and development, and it was my desire to indicate this and to indicate that it was my expectation that we would continue to have the same sort of harmonious cooperation on the total program as we have had in the past.

I might say that the same situation does not obtain in the other body, as they have not made the change in jurisdiction that we have. As a consequence, there will be a problem in the Senate-passed bill in that it will probably include matters which, because of the rules of the House, are not germane to this bill under our rule. I wanted to have this indicated in the RECORD and, of course, to indicate to the committee that I hope that they will vigorously defend the ju-

isdictional rules of the House and will not accept nongermane amendments from the other body at the time when this very important measure goes to conference.

I am sure that this will be the case and that, as in the past, the conferees from the conference committee will protect the rights and interests of the members of the Committee on Science and Technology.

I submit herewith a brief outline of the areas in which there is some impact by this bill (H.R. 6161) upon the jurisdiction of the Science and Technology Committee over environmental research and development. I reiterate that there has been in the past the fullest cooperation between the two committees on all such areas of mutual interest and I am sure that such cooperation will continue.

New section 316(a) on page 237 authorizes funds and excludes research, development and demonstration under this act.

Page 243, section 108(c) is amended by calling for an update of the NO<sub>x</sub> criteria within 6 months of passage of the act. This would involve an impact on research programs.

Page 243, there is provision for a study concerning the effect on public health of sulfates, radioactivity, cadmium, arsenic and POM's—polycyclic organic matter.

Page 247, section 102(a) provides for a new section in title III calling for economic impact statements to be prepared by the Administrator on any major rule-making action.

Page 284, section 107 of the bill amends title I of the Clean Air Act to add a new subtitle b, stratosphere and ozone protection. This is similar to language reported out of our committee incorporated by the Commerce Committee about 2 years ago. Language therein provides for a short-term study by EPA to provide the basis for regulation; that is, it covers stratospheric chemistry, health effects, methods of control. There is also provision for an oversight type of study by the National Academy of Sciences.

Subsection (e) on page 284 provides for the establishment of a coordinating committee of other Federal agencies, chaired by EPA during the course of the EPA study. Two years after enactment of the act, EPA is to report on its study, and at that point the chairmanship of the coordinating committee is given to NOAA. At that point the coordinating committee is to be focused on long-range early warning type research. However, the language in the present bill on page 289, line 17, states that the coordinating committee is to coordinate research related to "the program of research provided for in section 102 of this act." It provides that if EPA finds something really bad they can promulgate regulations to be submitted to the Congress for their veto at any time before the study is completed.

Section 153 on page 291 provides for a research and monitoring program by NOAA for early warning purposes. Page

292, section 154, provides for regulations based on this study, and on page 293 there is State authority to enforce their own regulations.

Page 314, section 323, provides for standardized air quality modeling. There are to be annual conferences on air quality modeling with special emphasis on modeling necessary for carrying out subtitle (c) of title I. Subtitle c of title I is prevention of significant deterioration. It provides for participation by the National Academy of Sciences, State and local air pollution control agencies, appropriate Federal agencies, including the National Science Foundation, NOAA, and the National Bureau of Standards. Proceedings are to be published.

Page 315 provides for a study and report to Congress on the progress made in carrying out subtitle c of title I, including strategies for controlling photochemical oxidants.

Also on page 315, subsection (d), this calls for publication of guidance, documents to assist States in carrying out their functions under subtitle C with respect to pollutants other than sulfur oxides and particulates. Page 316, new section 327 provides for a National Commission on Air Quality to study and report to the Congress on effects of implementation of the act, the economic technology and environmental consequences of achieving or not achieving the purposes of this act, available alternatives and the technological capability of achieving and the economic, energy, and environmental health effects of achieving or not achieving pollution control levels for mobile sources of oxides of nitrogen, air pollutants presently not regulated, the adequacy of R. & D. and demonstrations, and, finally, the ability of governments to implement the purposes of the act. The study is to include the relationship of standards to objective scientific and medical data collected to determine their validity and the effects of limiting the deterioration of air quality in areas having good air at the present time. The language provides that ranking Members of Senate Public Works and House Commerce Committees are represented on the study commission. Clearly, S. & T. should also be there. The report is to be made by March 1, 1978.

Page 320, section 109, amends section 103(b) by striking out paragraph (5) and adding a new paragraph having to do with training for personnel of air pollution control agencies. Such training is to include that on the causes, effects, extent, prevention, and control of air pollution.

Page 322, section 110, amends section 109 of the Clean Air Act to provide for a review of national ambient air quality standards and criteria every 2 years. There shall be an independent scientific review committee from the National Academy of Sciences to review the standards and make recommendations to the Administrator, including needs for additional research. Clearly, this effort should be somehow coordinated with the Science Advisory Board.



Page 330, section 112, amends section 111 to provide for variances for new control technologies that have not been adequately demonstrated yet show promise. Purpose is to encourage innovation. This might be the output of a research project. This will give the Administrator a chance to find out whether or not such a new technology will really work.

Page 345, section 117, inserts a new section 127 on nonattainment areas, and on page 346 there is provision that the National Commission on Air Quality referred to above shall consider nonattainment matters.

Page 357, title II begins there on mobile sources. Section 201 adds a new section 318, calling for a study to review indirect sources. It provides for an oversight study by the National Academy of Sciences.

Page 384, section (c), provides for a new section 214 on a study of unregulated pollutants from motor vehicles. The study will characterize and quantify emissions and determine the effects of such pollutants from all sort of vehicles and engine tanks from all sorts of vehicles and engines now in use or likely to come into use. Report to be made 1 year after enactment and submitted to the Congress. Such report should be submitted to S. & T. specifically.

Page 388, line 15, paragraph (ii) refers to a National Academy of Sciences study and investigation under subsection (c), which needs to be looked into. I cannot tell what it is about out of context.

Page 391, subsection (c) provides for a study of the possibility of increased use of cost-effectiveness analyses in devising strategies for the control of air pollution and provides for a report to Congress.

Page 391 inserts a new section 217 to provide for a study of particulate emissions from motor vehicles. Studies show a concern for effects on health and welfare of such emissions, including the relationship to fuels and fuel additives. It shall also include tire debris and asbestos from brake linings. It calls for a report to Congress not later than 2 years after enactment.

Page 398, new section 215, provides for inspection and maintenance of motor vehicle emission controls. This is, in essence, a monitoring operation and is very complicated because of the unknown relationship between the certification test cycle, the inspection and maintenance test cycle and actual driving emissions. Language on page 399 provides that calibration, instrumentation and maintenance of the testing facilities be adequate.

Page 407, subsection (d), provides for a study by the Federal Trade Commission on anticompetitive effects resulting from any warranty required on replacement parts.

Page 416, line 21, provides for a Federal Trade Commission study of the effect on small businesses of regulations on vapor recovery, to study the effect of the ability of such marketers to compete in gasoline markets. Report to be made to the House Commerce Committee.

Page 426 provides for a determination by the Administrator of the feasibility of

requiring new motor vehicles to utilize onboard gasoline vapor control technologies, which would avoid the necessity of having filling stations recover such emissions.

Page 427, new section 218, provides for a study of the problem of carbon monoxide intrusion into the passenger area of sustained use motor vehicles. This shall include sources and levels of carbon monoxide and the effects on the passengers as well as effects of methods of monitoring and testing. It requires a report to Congress.

Page 430, section 211 of the act, is amended having to do with regulations for the testing of fuels and fuel additives. It needs to be examined in context.

Page 431, section 209, is amended by adding provisions for the testing of new motor vehicles by States. This relates also to vehicle inspection and maintenance under section 217.

On page 443, paragraph (3) refers to data used in rulemaking under administrative procedures section 307 of the act. This section describes how scientific data on which the proposed rule is based shall be handled and included in the docket made available to the public. It also provides on the next page that the proposed rule shall set forth any findings by the Scientific Review Committee established under section 109(d) and the National Academy of Sciences.

Page 463, section 310 of the bill adds a new subtitle D to title I of the act. This is entitled, "Prevention of Environmental Cancer and Heart and Lung Disease." New section 170 provides for the establishment of a task force on environmental cancer and heart and lung disease composed of representatives from the EPA, NCI, the Heart and Lung Institute, NIEHS, and others. The task force shall develop a comprehensive research program on the relationship between environmental pollution and cancer, heart and lung diseases to make recommendations for comprehensive strategies to eliminate risks of cancer associated with pollution, engage in other research as necessary to reduce the incidence of environmentally related cancer and heart and lung disease, coordinate research and control efforts between relevant agencies with respect to such diseases, and report to Congress annually on their progress. This section also provides that the task force shall consider smoking. This seems to be basically a research section, and I think we ought to get involved in it.

Page 467, section 312 of the bill amends the Clean Air Act by adding a new section 321 providing for a study of fine particulates by EPA in cooperation with NAS. The study is to be on the relationship of size, weight and composition of particulates to health and welfare effects, and on the availability of control technology.

Also, page 467, a new section 322 provides that the Administrator shall establish an air quality monitoring system throughout the United States. This system would provide for uniform monitoring methods. It would provide for sta-

tions in major urban areas and other appropriate areas. It would provide for daily analysis and reporting of air quality, and it would provide for record keeping with respect to such monitoring data and for periodic analysis and reporting to the public. It provides for cooperation with other agencies and specifically mentions the National Weather Service.

Page 469 adds a new section 313(a), Economic Controls Study, which provides that the CEQ shall undertake a study of economic measures for the control of air pollution which could (1) strengthen the effectiveness of existing methods of controlling air pollution; (2) methods which could provide incentives to abate air pollution to a greater degree than is currently required; and (3) methods which could serve as the primary incentive for controlling air pollution problems not addressed by any provision of this act. With respect to item (1), above, the study should concentrate on identification of air pollution problems for which existing control methods actually provide economic incentives to delay compliance and formulation of economic measures which would provide a positive incentive for compliance without interfering with such existing methods of control. With respect to item (2), above, the study shall concentrate on identification of air pollution problems for which existing control methods may not be sufficiently extensive to achieve all desired goals and formulation of economic measures for such air pollution problems which would provide addition; that is, more extensive, incentives to reduce air pollution without interfering with the effectiveness of existing methods of control or creating new problems. With respect to item (3), above, the study shall concentrate on identification of air pollution problems for which no existing methods of control exist and formulation of economic measures to control such pollution and a comparison of the environmental and economic impacts of the economic measures with those of any alternative regulatory methods which can be identified.

Page 472 provides in new section 315 (a) for a study of assistance to workers displaced by environmental regulations.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Brown).

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to section 109?

There being none, the Clerk will read section 110.

The Clerk read as follows:

#### REVIEW OF STANDARDS

Sec. 110. Section 109 of Clean Air Act is further amended by adding the following new subsection at the end thereof:

"(d) (1) Not later than eighteen months after the date of the enactment of this subsection, and at two-year intervals thereafter, the Administrator shall complete a thorough review of the criteria published under section 108 and the national ambient air quality standards promulgated under this section and shall promulgate such new standards and make such revisions in existing standards as may be appropriate under subsection (b).

"(2) (A) The Administrator shall appoint an independent scientific review committee composed of seven members including at least one member of the National Academy of Sciences, one physician, and one person representing State air pollution control agencies.

"(B) Not later than one year after the date of enactment of this subsection, and at two-year intervals thereafter, the committee referred to in subparagraph (A) shall complete a review of the criteria published under section 108 and the national primary and secondary ambient air quality standards promulgated under this section and shall recommend to the Administrator any new national ambient air quality standards and revisions of existing standards as may be appropriate under subsection (b).

"(C) Such committee shall also (i) advise the Administrator of areas in which additional knowledge is required to appraise the adequacy and basis of existing, new, or revised national ambient air quality standards, (ii) describe the research efforts necessary to provide the required information, (iii) advise the Administrator on the relative contribution to air pollution concentrations of natural as well as anthropogenic activity, and (iv) advise the Administrator of any adverse public health, welfare, social, economic, or energy effects which may result from various strategies for attainment and maintenance of such national ambient air quality standards."

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 110 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there any amendments to section 110?

There being none, the Clerk will read section 111.

The Clerk read as follows:

#### NEW SOURCE STANDARDS OF PERFORMANCE

Sec. 111. (a) (1) (A) Section 111(a) (1) of the Clean Air Act, defining standard of performance, is amended to read as follows:

"(1) The term 'standard of performance' means—

"(A) with respect to any air pollutant emitted from a particular category of source to which subsection (b) applies, the standard which reflects the degree of emission reduction achievable through the application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated; and

"(B) with respect to any air pollutant emitted from a particular source to which subsection (d) applies, a standard which the State (or the Administrator under the conditions specified in subsection (d) (2)) determines is applicable to that source and which reflects the degree of emission reduction achievable through the application of the best system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated for that category of sources."

(B) Section 111(a) of such Act is further amended by adding the following new paragraph at the end thereof:

"(7) The term 'technological system of continuous emission reduction' means—

"(A) a technological process for production or operation by any source which is inherently low-polluting or nonpolluting, or

"(B) a technological system for continuous reduction of the pollution generated by a source before such pollution is emitted into the ambient air, including precombustion cleaning or treatment of fuels."

(2) Section 111(b) (1) (B) of such Act is amended by striking out "may, from time to time," in the next to last sentence thereof and by inserting in lieu thereof "shall, at least every four years, review and, if appropriate,"

(3) Section 111 of such Act is amended by inserting after subsection (f) the following new subsections:

"(g) If after notice and opportunity for public hearing, any person establishes to the satisfaction of the Administrator that an alternative technological system of continuous emission reduction will achieve a reduction in emissions of any air pollutant at least equivalent to the reduction in emissions of such air pollutant achieved under the technological system applicable to a source under subsection (a) (1), the Administrator shall permit the use of such alternative technological system by the source for purposes of compliance with such subsection (a) (1) with respect to such pollutant.

"(h) (1) Not later than nine months after the date of enactment of this subsection, the Administrator shall promulgate regulations specifying the categories of major stationary sources which are not included on the list required under subsection (b) (1) (A). Not later than one year after such date of enactment, and at annual intervals thereafter for three additional years, the Administrator shall include 25 percent of such specified categories of sources in such list under subsection (b) (1) (A).

"(2) In determining priorities for listing of unlisted categories of major stationary sources for the purpose of paragraph (1), the Administrator shall consider—

"(A) the quantity of air pollutant emissions which each such category will emit, or will be designed to emit;

"(B) the extent to which each such pollutant may reasonably be anticipated to endanger public health or welfare; and

"(C) the mobility and competitive nature of each such category of sources and the consequent need for nationally applicable new source standards of performance.

"(3) Before promulgating any regulations under this subsection or listing any category of major stationary sources as required under this subsection, the Administrator shall consult with appropriate representatives of the Governors and of State air pollution control agencies.

"(1) (1) Upon application by the Governor of a State showing that the Administrator has failed to specify in regulations under subsection (h) (1) any category of major stationary sources required to be specified under such regulations, the Administrator shall revise such regulations to specify any such category.

"(2) Upon application of the Governor of a State, showing that any category of stationary sources which is not included in the list under subsection (b) (1) (A) contributes significantly to air pollution which may reasonably be anticipated to endanger public health or welfare (notwithstanding that such category is not a category of major stationary sources), the Administrator shall revise such regulations to specify such category of stationary sources.

"(3) Upon application of the Governor of a State showing that the Administrator has failed to apply properly the criteria required to be considered under subsection (h) (2), the Administrator shall revise the list under

subsection (b) (1) (A) to apply properly such criteria.

"(4) Upon application of the Governor of a State showing that—

"(A) a new, innovative, or improved technology or process which achieves greater continuous emission reduction has been adequately demonstrated for any category of stationary sources, and

"(B) as a result of such technology or process, the new source standard of performance in effect under subsection (b) for such category no longer reflects the greatest degree of emission limitation achievable through application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impact and energy requirements) has been adequately demonstrated,

the Administrator shall revise such standard of performance for such category accordingly.

"(5) Upon application by the Governor of a State showing that the Administrator has failed to list any air pollutant which causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness as a hazardous air pollutant under section 112, the Administrator shall revise the list of hazardous air pollutants under such section to include such pollutant.

"(6) Upon application by the Governor of a State showing that any category of stationary sources of a hazardous air pollutant listed under section 112 is not subject to emission standards under such section, the Administrator shall propose and promulgate such emission standards applicable to such category of sources.

"(7) Unless later deadlines for action of the Administrator are otherwise prescribed under this section or section 112, the Administrator shall, not later than three months following the date of receipt of any application by a Governor of a State, either—

"(A) find that such application does not contain the requisite showing and deny such application, or

"(B) grant such application and take the action required under this subsection.

"(8) Before taking any action required by subsection (h) or by this subsection the Administrator shall provide notice and opportunity for public hearing.

"(j) As a condition for issuance of any permit required under this title, the owner or operator of each new or modified stationary source which is required to obtain such a permit must show to the satisfaction of the permitting authority that the technological system of continuous emission reduction which is to be used at such source will enable it to comply with the standards of performance which are to apply to such source and that the construction or modification and operation of such source will be in compliance with all other requirements of this Act."

(b) (1) Section 111(d) (1) of such Act is amended by striking out "emission standards" in each place it appears and inserting in lieu thereof "standards of performance" and by adding at the end thereof the following new sentence: "Regulations of the Administrator under this paragraph shall permit the State in applying a standard of performance to any particular source under a plan submitted under this paragraph to take into consideration, among other factors, the remaining useful life of the existing source to which such standard applies."

(2) Section 111(d) (2) of such Act is amended by adding at the end thereof the following new sentence: "In promulgating a standard of performance under a plan prescribed under this paragraph, the Administrator shall take into consideration, among



other factors, remaining useful lives of the sources in the category of sources to which such standard applies."

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 111 be considered as read, printed in the RECORD and open to amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there any amendments to section 111?

AMENDMENT OFFERED BY MR. MADIGAN

Mr. MADIGAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MADIGAN: Page 330, after line 14, insert:

(c) Section 111 of such Act is amended by adding the following new subsection at the end thereof:

"(k) Any regulations promulgated by the Administrator under this section applicable to grain elevators shall apply only to grain elevators which have a storage capacity in excess of 2.5 million bushels."

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, we have looked at this amendment. We think it is reasonable. It gives some exemption to small grain operators. We would accept the amendment on this side.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for his remarks.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Chairman, I have had a chance to discuss this with the gentleman. I think his amendment does correct a problem that he has brought to our attention, and I would suggest that we accept the amendment.

Mr. MADIGAN. I thank the gentleman from North Carolina for his remarks.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. I thank the gentleman for yielding, and I would like to commend the gentleman from Illinois for offering this amendment.

Mr. Chairman, this is a worthwhile amendment. It will save costs for the small operators at a time when the price of grain is already depressed. These are small country elevators out in the small towns, and they simply cannot afford this type of retrofitting. I am pleased that the chairman of the committee has accepted the amendment, and he has done it in the best interest of agriculture.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman from North Dakota for his remarks.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. I thank the gentleman for yielding, and I would like to commend the gentleman for offering this amendment.

I, of course, will not be offering an amendment which was an alternative course to this amendment. It was never intended, apparently, in 1970 that the country grain elevators would be included within the coverage of the Clean Air Act. The amendment offered by the gentleman from Illinois (Mr. MADIGAN) certainly does the job of carrying out the original intent.

Mr. MADIGAN. Mr. Chairman, I want to thank the gentleman from Ohio for his contribution.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, I want to congratulate the gentleman from Illinois for offering this amendment. It takes care of a problem which needs to be taken care of.

Mr. Chairman, regulations written by Federal agencies all too often have two major defects: First, their impact is seldom weighed via a cost-benefit analysis; and second, they are often written by people who have little if any expertise in the particular area they regulate. On January 13 of this year, the Environmental Protection Agency proposed regulations to control grain dust emitted by elevators and feed mills. Unfortunately, the EPA did not take into account before issuing its proposals that increased operating costs of \$76 million would result, and that capital expenditures in the billions would be needed to provide grain handling facilities with the equipment needed to comply with the EPA mandate. Nor did the EPA take steps to determine, via personal interviews and elaborate tests in rural areas, if the air in and around country elevators is a health hazard.

While I would prefer to see the House have a veto power over any set of regulations issued by any Federal agency, I fully support Representative KINDNESS' amendment to insure that small country elevators will be exempted from the EPA's proposed source performance regulations. Until the regulators in Washington realize that there is a "real world" west of the Potomac, Congress is going to have to see to it that the interests of the average citizen are protected. In this instance, consumers worldwide might pay a higher price for products made of grain, in order to pay the cost of pollution-control devices which would be of little value to anyone. If the consumer did not bear the cost, the burden would then be on the producer; frankly, I do not think this kind of news would be welcome by wheat producers in Kansas, Oklahoma, and other Plains States, or by farmers in my home State of Iowa.

Mr. MADIGAN. Mr. Chairman, I wish to say that I appreciate the support of the committee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MADIGAN).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 111?

There being none, the Clerk will read section 112.

The Clerk read as follows:

#### VARIANCES FOR TECHNOLOGY INNOVATIONS

SEC. 112. (a) Section 111 of the Clean Air Act is amended by inserting after subsection (e) the following new subsection:

"(f) (1) (A) Any person proposing to own or operate a new source may request the Administrator for a variance from the requirements of this section with respect to any air pollutant to encourage the use of an innovative technological system or systems of continuous emission reduction which have not been determined by the Administrator to be adequately demonstrated. The Administrator may, with the consent of the Governor of the State in which the source is to be located, grant a variance under this paragraph, if the Administrator determines after notice and opportunity for public hearing, that—

"(i) there is a substantial likelihood that the proposed system will achieve greater continuous emission reduction than that required to be achieved under the standards of performance which would otherwise apply, or achieve at least an equivalent reduction at lower cost in terms of energy, economic, or non-air quality environmental impact, and

"(ii) the owner or operator of the proposed source has demonstrated to the satisfaction of the Administrator that the proposed system will not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation, function, or malfunction.

In determining whether an unreasonable risk exists under clause (ii), the Administrator shall consider, among other factors, whether and to what extent the use of the proposed technological system will cause, increase, reduce, or eliminate emissions of any unregulated pollutants; available methods for reducing or eliminating any risk to public health, welfare, or safety which may be associated with the use of such system; and the availability of other technological systems which may be used to conform to standards under subsection (b) of this section without causing or contributing to such unreasonable risk. The Administrator may conduct such tests and may require the owner or operator of the proposed source to conduct such tests and provide such information as is necessary to carry out clause (ii) of this subparagraph. Such requirements shall include a requirement for prompt reporting of the emission of any unregulated pollutant from a system if such pollutant was not emitted, or was emitted in significantly lesser amounts without use of such system.

"(B) A variance under this paragraph shall be granted on such terms and conditions as the Administrator determines to be necessary to assure—

"(i) emissions from the source will not prevent attainment and maintenance of any national ambient air quality standards, and

"(ii) proper functioning of the technological system or systems authorized. Any such terms or condition shall be treated as a standard of performance for the purposes of subsection (e) of this section and section 113.

"(C) The number of variances granted under this paragraph with respect to a proposed technological system of continuous emission reduction shall not exceed such number as the Administrator finds necessary to ascertain whether or not such system will achieve the objectives specified in clauses (1) and (11) of subparagraph (A).

"(D) A variance under this paragraph shall extend to the sooner of—

"(i) a date (not more than ten years after the date on which the variance is granted) determined by the Administrator, after consultation with the owner or operator of the source, taking into consideration the design, installation, and capital cost of the technological system or systems being used, or

"(ii) the date on which the Administrator determines that such system has failed to—

"(I) achieve at least an equivalent continuous emission reduction to that required to be achieved under the standards of performance which would otherwise apply, or

"(II) comply with the condition specified in paragraph (1) (A) (11),

and that such failure cannot be corrected.

"(2) (A) If a variance under paragraph (1) is terminated under clause (11) of paragraph (1) (D), the Administrator shall grant a waiver from the requirements of this section for such period as may be necessary for procurement, installation, and test operation of a technological system or systems such as will comply with standards of performance under subsection (b) of this section. Such period shall not extend beyond the date two years from the time such waiver is granted.

"(B) A waiver granted under this paragraph shall set forth a compliance schedule containing increments of progress which require compliance with the applicable standards of performance as expeditiously as practicable and include such measures as are necessary and practicable in the interim to minimize emission. Such schedule shall be treated as a standard of performance for purposes of subsection (e) of this section 113."

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 112 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there any amendments to section 112?

There being none, the Clerk will read section 113.

The Clerk read as follows:

#### CONTROL OF POLLUTION FROM FEDERAL FACILITIES

SEC. 113. (a) Section 118 of the Clean Air Act, relating to control of pollution from Federal facilities, is amended—

(1) by inserting "(a)" after "118", and

(2) by striking out "shall comply with Federal, State, Interstate, and local requirements respecting control and abatement of air pollution to the same extent that any person is subject to such requirements" and inserting in lieu thereof "and each officer, agent, or employee thereof, shall be subject to, and comply with, all Federal, State, Interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of air pollution in the same manner, and to the same extent as any nongovernmental entity. The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits and any other requirement whatsoever), (B) to the exercise of any Fed-

eral, State, or local administrative authority, and (C) to any process and sanction, whether enforced in Federal, State, or local courts or in any other manner. This subsection shall apply notwithstanding any immunity of such agencies, officers, agents, or employees under any law or rule of law. No officer, agent, or employee of the United States shall be personally liable for any civil penalty under this title."

(b) Section 118 of such Act is amended by striking out "The President may exempt" and inserting in lieu thereof:

"(b) The President may exempt."

(c) Section 118(b) of such Act, as amended by subsection (b) of this section, is amended by inserting the following immediately before the last sentence thereof: "In addition to any such exemption of a particular emission source, the President may, if he determines it to be in the paramount interest of the United States to do so, issue regulations exempting from compliance with the requirements of this section any weaponry, equipment, aircraft, vehicles, or other classes or categories of property which are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State and which are uniquely military in nature. The President shall reconsider the need for such regulations at three-year intervals."

(d) Section 302(e) of such Act is amended to read as follows:

"(e) The term 'person' includes an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof."

(e) Section 304(e) of such Act is amended by inserting at the end thereof the following: "Nothing in this section or in any other law of the United States shall be construed to prohibit, exclude, or restrict any State, local, or interstate authority from—

"(1) bringing any judicial action or obtaining any judicial remedy or sanction in any State or local court, or

"(2) bringing any administrative action or sanction in any State or local administrative agency, department or instrumentality, against the United States, any department, agency, or instrumentality thereof, any officer, agent, or employee thereof under State or local law respecting control and abatement of air pollution. Notwithstanding any other provision of law, no such action brought against any such person in any State or local court may be removed to a court of the United States under any authority of law. For provisions requiring compliance by the United States, departments, agencies, instrumentalities, officers, agents, and employees in the same manner as nongovernmental entities, see section 118."

(f) (1) The second sentence of section 111 (c) (1) is amended by striking out "(except with respect to new sources owned or operated by the United States)".

(2) The second sentence of section 112(d) (1) is amended by striking out "(except with respect to stationary sources owned or operated by the United States)".

(3) The second sentence of section 114 (b) (1) is amended by striking out "(except with respect to new sources owned or operated by the United States)".

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 113 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there any amendments to section 113?

There being none, the Clerk will read section 114.

The Clerk read as follows:

#### WAIVER OF MAINTENANCE OF EFFORT REQUIREMENT

SEC. 114. Section 105(b) of the Clean Air Act is amended by inserting at the end thereof the following: "The Administrator, after notice and opportunity for a public hearing and upon making a general finding of good cause and appropriate specific findings, may waive the prohibition of the third sentence of this subsection. For the purpose of this subsection, the term 'finding of good cause' may include a finding that—

"(1) denial of the grant would result in extreme hardship;

"(2) the general purpose unit of government, or higher applicable unit of government, of which such agency is a part has declared the existence of a financial emergency and is thus unable to meet the requirements of this subsection; or

"(3) the circumstances which made such agency unable to meet the requirements of this section were beyond its control."

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 114 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there any amendments to section 114?

There being none, the Clerk will read section 115.

The Clerk read as follows:

#### ENERGY OR ECONOMIC EMERGENCY AUTHORITY

SEC. 115. Section 110(f) of the Clean Air Act is amended to read as follows:

"(f) (1) Upon application by the owner or operator of a fuel burning stationary source, and after notice and public hearing, a temporary emergency suspension of any part of an applicable implementation plan with respect to such source may be issued by the Governor of the State in which such source is located and may take effect immediately pending approval or disapproval by the Administrator.

"(2) A temporary emergency suspension under this subsection shall be issued only if the Governor of such State finds that—

"(A) there exists in the vicinity of such source a temporary economic or energy emergency involving actual or threatened high levels of unemployment or loss of necessary energy supplies for residential dwellings; and

"(B) such unemployment or loss can be totally or partially alleviated by such emergency suspension.

Not more than one such suspension may be issued for any source on the basis of the same set of circumstances or on the basis of the same emergency.

"(3) A temporary emergency suspension issued by a Governor under this subsection shall remain in effect for a maximum of four months. The Administrator shall, within such four-month period, approve such suspension if he determines that it meets the requirements of paragraph (2) of subsection (a).

"(4) This subsection shall not apply in the case of a plan provision or requirement promulgated by the Administrator under subsection (c) of this section.

"(5) The Governor may include in any temporary emergency suspension issued under this subsection a provision delaying for a period identical to the period of such suspension any compliance schedule (or incre-



ment of progress) to which such source is subject under section 119 or 121 of this Act, upon a finding that such source is unable to comply with such schedule (or increment) solely because of the conditions on the basis of which a suspension was issued under this subsection."

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 115 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there any amendments to section 115?

There being none, the Clerk will read section 116.

The Clerk read as follows:

#### VISIBILITY PROTECTION

SEC. 116. (a) Subtitle C of title I of the Clean Air Act, as added by section 108 of this Act, is amended by adding the following new section at the end thereof:

#### "VISIBILITY PROTECTION FOR FEDERAL CLASS I AREAS

"SEC. 161. (a) (1) Congress hereby declares as a national goal the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory class I Federal areas which results from manmade air pollution.

"(2) Not later than eighteen months after the date of enactment of this section, the Administrator shall complete a study and report to Congress on available methods for implementing the national goal set forth in paragraph (1). Such report shall include recommendations for—

"(A) methods for identifying, characterizing, determining, quantifying, and measuring visibility impairment in Federal areas referred to in paragraph (1), and

"(B) modeling techniques (or other methods) for determining the extent to which manmade air pollution may reasonably be anticipated to cause or contribute to such impairment, and

"(C) methods for preventing and remedying such manmade air pollution and resulting visibility impairment.

Such report shall also identify the classes or categories of sources and the type of air pollutants which, alone or in conjunction with other sources or pollutants, may reasonably be anticipated to cause or contribute significantly to impairment of visibility.

"(3) Not later than twenty-four months after the date of enactment of this section, and after notice and public hearing, the Administrator shall promulgate regulations to assure (A) maximum feasible progress toward meeting the national goal specified in paragraph (1), and (B) compliance with the requirements of this section.

"(b) Regulations under subsection (a) (3) shall—

"(1) provide guidelines to the States, taking into account the recommendations under subsection (a) (2) on appropriate techniques and methods for implementing this section (as provided in subparagraphs (A) through (C) of such subsection (a) (2)), and

"(2) require each applicable implementation plan for a State in which any such class I area is located (or for a State the emissions from which may reasonably be anticipated to cause or contribute to any impairment of visibility in any such area) to contain emission limits, schedules of compliance and such other measures as may be

necessary to make maximum feasible progress toward meeting the national goal specified in subsection (a), including—

"(A) except as otherwise provided pursuant to subsection (c), a requirement that each major stationary source (as defined in section 302(o)) which is in existence on the date of enactment of this section, but which has not been in operation for more than 15 years as of such date, and which emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in any such area, shall procure, install, and operate, as expeditiously as practicable (and maintain thereafter) the best available retrofit technology for controlling emissions from such source for the purpose of eliminating or reducing any such impairment, and

"(B) a long-term (10 to 15 years) strategy for making maximum feasible progress toward meeting the national goal specified in subsection (a).

"(c) (1) The Administrator may, by rule, after notice and opportunity for public hearing, exempt any major stationary source from the requirement of subsection (b) (2) (A), upon his determination that such source does not or will not, by itself or in combination with other sources, emit any air pollutant which may reasonably be anticipated to cause or contribute to a significant impairment of visibility in any mandatory class I Federal area.

"(2) Paragraph (1) of this subsection shall not be applicable to any fossil-fuel fired powerplant with total generating capacity of 750 megawatts or more.

"(3) An exemption under paragraph (1) shall be effective only upon concurrence by the appropriate Federal land manager or managers with the Administrator's determination under such paragraph.

"(d) Before holding the public hearing on the proposed revision of an applicable implementation plan to meet the requirements of this section, the State (or the Administrator, in the case of a plan promulgated under section 110(c)) shall consult in person with the appropriate Federal land manager or managers and shall include a summary of the conclusions and recommendations of the Federal land managers in the notice to the public.

"(e) In promulgating regulations under this section, the Administrator shall not require the use of any automatic or uniform buffer zone or zones.

"(f) For purposes of section 304(a) (2), the meeting of the national goal specified in subsection (a) (1) by any specific date or dates shall not be considered a 'non-discretionary duty' of the Administrator.

"(g) For the purpose of this section—

"(1) in determining maximum feasible progress there shall be taken into consideration the costs of compliance, the time necessary for compliance, and the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any existing source subject to such requirements;

"(2) in determining best available retrofit technology there shall be taken into consideration the costs of compliance, the energy and nonair quality environmental impacts of compliance, any existing pollution control technology in use at the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology, but in no event shall post-combustion flue gas desulfurization be required by the Administrator as best available retrofit technology for any fossil-fuel fired powerplant with total generating capacity of less than 750 megawatts which is in operation on date of enactment of this section;

"(3) the term 'Federal land manager' has the same meaning as when used in section 160.

"(4) the term 'manmade air pollution' means air pollution which results directly or indirectly from human activities;

"(5) the term 'as expeditiously as practicable' means as expeditiously as practicable but in no event later than five years after the date of approval of plan revision under this section (or the date of promulgation of such a plan revision in the case of action by the Administrator under section 110(c) for purposes of this section);

"(6) the term 'mandatory class I Federal areas' which may not be designated as other than class I under the regulations of the Administrator relating to prevention of significant deterioration of air quality; and

"(7) the terms 'visibility impairment' and 'impairment of visibility' shall include reduction in visual range and atmospheric discoloration."

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 116 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

#### AMENDMENT OFFERED BY MR. MADIGAN

Mr. MADIGAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MADIGAN: Page 434, line 9, strike out the period at the end thereof and insert in lieu thereof: ", unless the owner or operator of any such plant demonstrates to the satisfaction of the Administrator that such powerplant is located at such distance from all such mandatory class I Federal areas that such powerplant does not or will not, by itself or in combination with other sources, emit any air pollutant which may reasonably be anticipated to cause or contribute to significant impairment of visibility in any such area."

Mr. MADIGAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MADIGAN. Mr. Chairman, this amendment pertains to the maintenance of visibility protection and simply puts the language of the bill more in line with the testimony of the Administrator of EPA, Mr. Costle, who indicated before us in the committee hearing that he thought we ought to be dealing only with those situations where visibility would be significantly impaired.

This amendment has been worked out by the staff of the minority, and it has, I believe, the agreement of the majority.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, we believe this amendment offers a correct approach, and we have no objection to its adoption.

Mr. MADIGAN. Mr. Chairman, I would appreciate the support of the

committee for my amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MADIGAN).

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to section 116?

There being none, the Clerk will read section 117.

The Clerk read as follows:

**AREA FAILING TO ATTAIN OR MAINTAIN NATIONAL AMBIENT AIR QUALITY STANDARDS AFTER THE REQUIRED ATTAINMENT DATE**

Sec. 117. Title I of the Clean Air Act is amended by inserting the following at the end thereof.

**"NONATTAINMENT AREAS**

"SEC. 127. (a) Not later than one year after the date of enactment of this section, and every two years thereafter, the Administrator shall study and report to Congress on the air quality, health, welfare, economic, energy, and social effects of—

"(1) provisions implementing this section; "(2) the Administrator's interpretative regulation published in 41 Federal Register 55524-30, December 21, 1976, including any modification thereof; and

"(3) alternative proposals or strategies to attain and maintain all national ambient air quality standards.

The National Commission on Air Quality established by section 327 shall include within its study and report to Congress its analysis of the air quality, health, welfare, economic, energy, and social effects of the policies referred to in this subsection. The study under this section shall analyze and quantify, insofar as practicable, the relative contributions of manmade and natural emissions to air pollution concentrations in excess of any national ambient air quality standard.

"(b) (1) Not later than six months after the date of enactment of this section, the Administrator shall promulgate regulations to carry out this section with respect to each nonattainment area for each air pollutant for which national ambient air quality standards have been promulgated.

"(2) Until such date as the applicable implementation plan for any State conforms to the requirements of this section with respect to nonattainment areas therein, the Administrator's interpretative regulation published in 41 Federal Register 55524-30, December 21, 1976, as may be modified by rule of the Administrator, shall be in effect in such State.

"(c) Notwithstanding the requirements of section 110(a)(2)(A)(i) and (ii), the Administrator, after notice and opportunity for public hearing, shall approve, under section 110(a)(2), provisions of an implementation plan for such State which relate to attainment and maintenance of national ambient air quality standards in any nonattainment area if he determines that such provisions were adopted by the State after reasonable notice and public hearing and that such provisions—

"(1) identify all nonattainment areas in the State for each air pollutant for which a national ambient air quality standard for any period is promulgated;

"(2) assure attainment of each such national ambient air quality standard in each such area as expeditiously as practicable, but not later than December 31, 1982, except that, with respect to photochemical oxidants, if in the judgment of the Administrator it is not practicable to attain such standard for such pollutant in any such area by such date, such provisions assure attainment of such standard in such area as expeditiously as practicable, but in no event later than De-

cember 31, 1987, and assure maintenance of each such standard in each such area after the date required for attainment;

"(3) require, in the interim, reasonable further progress to assure attainment of each standard in each such area by the date required under paragraph (2);

"(4) include a comprehensive, accurate, current inventory of actual emissions from all sources (as provided by rule of the Administrator) of each such pollutant for each such area and provides for revision and resubmission of the revised emissions inventory every two years thereafter;

"(5) expressly identify and quantify the emissions of any pollutant which the Administrator has determined under regulations under subsection (b)(1) must be taken into account for purposes meeting the requirements of this section, including—

"(A) the allowable emissions, if any, of any such pollutant resulting from the construction and operation of major new or modified stationary sources for each such area;

"(B) the emissions of any such pollutant resulting directly or indirectly from areawide and nonmajor stationary source growth (mobile and stationary) for each such area;

"(C) the emissions of any such pollutant from unregulated sources, fugitive emissions, and other uncontrolled or partially uncontrolled sources for each such area;

"(D) the emissions and air quality concentrations of any such pollutant resulting from, or related to, new, modified and existing indirect sources, taking into account the provisions under sections 110(a)(2)(I) and 124 for each such area;

"(E) the emissions of any such pollutant resulting from extension or elimination of transportation control measures under section 123 for each such area;

"(F) the actual emissions of any such pollutant resulting from in-use motor vehicles in each such area (as determined pursuant to information published by the Administrator);

"(G) the new motor vehicle emission standard for any such pollutant in effect for each such area;

"(H) the emissions of any such pollutant resulting from stationary sources to which delayed compliance orders are or have been issued under section 113(b) or 121 for each such area;

"(I) the emissions of any such pollutant resulting from fuel switching by stationary sources, including conversions to coal, curtailments of natural gas, burning fuels with higher pollution characteristics, extensions under section 119, or other action referred to in section 128 of this Act for each such area;

"(J) emissions of any such pollutant from any source or facility owned or operated by the Federal Government, including emissions pursuant to an exemption under section 118 of this Act for each such area; and

"(K) emissions of any such pollutant from any source in excess of the allowable emission limitations for each such area;

"(L) emissions and air quality concentrations of any such pollutant which originate outside such area but which are transported to such area; and

"(M) such other appropriate factors as the Administrator may specify by rule;

"(6) identify and commit the financial and manpower resources necessary to carry out the plan provisions required by this subsection;

"(7) contain emission limitations, schedules of compliance and such other measures as may be necessary to meet the requirements of this section;

"(8) requires permits for the construction and operation of new or modified major stationary sources in accordance with the requirements of subsection (d); and

"(9) evidence public, local government, and State legislative involvement and consultation in accordance with section 125 of this Act and includes (A) an identification and analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions required by this subsection and of the alternatives considered by the State, and (B) a summary of the public comment on such analysis.

"(d) If a State plan contains provisions permitted under subsection (c)(5)(A), providing for an allowance for emissions of pollutants from new or modified stationary sources the emissions form which will cause or contribute to concentrations of any pollutant in a nonattainment area for such pollutant, such plan shall provide that a permit to construct and operate may be issued to any such source if such permit requires the proposed source to comply with the lowest achievable emission rate (as defined in subsection (e)(3)) and if after notice and opportunity for a public hearing—

"(1) the applicant for such permit demonstrates that emissions of such pollutant resulting from the proposed new or modified major stationary source will not cause or contribute to emission levels which exceed the allowance permitted for such pollutant for such area from new or modified major stationary sources under subsection (c)(5)(A);

"(2) (A) revised emission inventories have been submitted as required under subsection (c)(4) for such area, and (B) the most recent revised emission inventory for such area demonstrates, and the Administrator concurs in the State's determination, that reasonable further progress has been achieved for such pollutant for such area during the period covered by such inventory;

"(3) the owner or operator of the proposed new or modified source has (A) demonstrated that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in such State are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under this Act, and (B) certified that all such sources in any other State are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under this Act; and

"(4) the issuance of the permit will not cause (or materially contribute to) concentrations of any air pollutant for which national ambient air quality standards have not been promulgated which pose a significant risk to public health.

"(e) For the purpose of this section—

"(1) the term 'reasonable further progress' means with respect to any plan provisions required under this section, reductions in emissions of the applicable air pollutant in equal amounts every two years during the period beginning on the date of approval of such plan provisions and ending on the date required for attainment of a national ambient air quality standard for such pollutant under subsection (c)(2), which reductions are sufficient to assure such attainment by such date under subsection (c)(2);

"(2) the term 'nonattainment area' means, for any air pollutant—

"(A) an area which is shown by monitored data or which is projected by air quality modeling (or other methods determined by the Administrator to be reliable) to exceed any national ambient air quality standard for such pollutant; and

"(B) any area for which no adequate monitored data or basis of projection exists as of such date, unless such area is classified by the State as subject to the requirements of section 160 of this Act.

"(3) the term 'lowest achievable emission



rate' means for any source that rate of emissions which reflects—

"(A) the most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or

"(B) the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance; and

"(4) the terms 'modification' and 'modified' mean the same as the term 'modification' as used in section 111(a)(4) of this Act.

"(f) The Administrator shall have no authority to promulgate, implement, or enforce regulations under section 110(c)(1) relating to plan provisions required under subsection (c) of this section. Nothing in this subsection shall be construed to restrict the Administrator's authority under section 110(c) to promulgate, implement, and enforce regulations referred to in subsection (b)(2) of this section with respect to any State until such date as the applicable implementation plan for such State conforms to the requirements of this section.

"(g) Notwithstanding section 209(a), any State which has plan provisions approved under this section may adopt and enforce for any model year standards relating to control of emissions from new motor vehicles or new motor vehicle engines and take such other actions as are referred to in section 209(a) respecting such vehicles if—

"(1) such standards are identical to the California standards for which a waiver has been granted for such model year, and

"(2) California and such State adopt such standards at least two years before commencement of such model year (as determined by regulations of the Administrator).

"(h) The Administrator shall issue guidance documents for purposes of assisting States in implementing requirements of this section respecting the lowest achievable emission rate within the meaning of subsection (e)(3). Such a document shall be published not later than 9 months after the date of enactment of this section and shall be revised at least every two years thereafter.

"(i) Nothing in this section shall be construed to provide that any permit may be issued to any source under this section if emissions from such source will exceed any emission limitation, or violate any other requirement, under subtitle C."

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 117 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. MOSS

Mr. MOSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moss: Page 356, after line 2, insert:

(b) Section 110 of such Act is amended by adding the following new subsection at the end thereof:

"(b)(1) No grant which the Administrator is authorized to make to any applicant for construction of sewage treatment works in any area in any State may be withheld, conditioned, or restricted by the Administra-

tor on the basis of any requirement of this Act except as provided in paragraph (2).

"(2) The Administrator may withhold, condition, or restrict the making of any grant for construction referred to in paragraph (1) only if he determines that—

"(A) such treatment works will not comply with applicable standards under section 111 or 112.

"(B) the State does not have in effect, or is not carrying out, a State implementation plan approved by the Administrator which expressly quantifies and provides for the increase in emissions of each air pollutant (from stationary and mobile sources in any area to which either section 127 or subtitle C applies for such pollutant) which increase may reasonably be anticipated to result directly or indirectly from the new sewage treatment capacity which would be created by such construction.

Mr. MOSS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MOSS. Mr. Chairman, the amendment I have at the desk is designed to clarify and restrict the Environmental Protection Agency's authority to use the Clean Air Act as a basis for withholding, conditioning, or restricting grants for construction of sewage treatment works.

Grants for the construction of sewage treatment works are specifically designated by the Federal Water Pollution Control Act as major Federal actions significantly affecting the quality of the human environment. This designation triggers the requirement of the National Environmental Policy Act of 1969 that an environmental impact statement be prepared.

The Environmental Protection Agency considers air pollution impacts to be among the environmental impacts that must be considered in an environmental impact statement concerning a grant for construction of sewage treatment works. The reasoning of the Environmental Protection Agency is as follows.

If the capacity of, and area served by, a sewage treatment plant is increased, a corresponding increase in residential construction may be accommodated. Increased residential construction would allow population growth in the area. Population growth may cause increased air pollution by, for example, increasing the number of automobiles and vehicle miles traveled in the area. The sewage treatment grant may result, therefore, in adverse impacts on air quality.

This amendment strikes a balance between the need to allow residential construction in order that population growth may be accommodated, and the need to insure that population growth be accommodated in an environmentally sound manner.

The authority of the Environmental Protection Agency to withhold, condition, or restrict a grant for construction of a sewage treatment plant on the basis of the Clean Air Act would be limited to specific enumerated circumstances, which limitation would insure agreement with the general scheme of the act.

The circumstances include:

First, noncompliance with the applicable standards of performance for new stationary sources;

Second, noncompliance with the applicable national emission standards for hazardous air pollutants;

Third, failure of a State to have in effect or to carry out a State implementation plan that expressly and appropriately provides for the increased emissions associated with expanded sewage treatment capacity; or

Fourth, anticipated noncompliance with the provisions of such State implementation plan in effect and being carried out by a State.

The basic theme of this amendment is balance. It is designed to balance economic and environmental considerations. As a measure of its success in striking such a balance, the amendment is supported not only by the National Association of Home Builders but also, I trust, by my esteemed colleague, the chairman of the Subcommittee on Health and the Environment. I urge the adoption of my amendment.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I would say to the gentleman from California (Mr. Moss) that we have discussed this amendment with the gentleman. The staff has gone over the amendment; and as far as I am concerned, we have no objection to the amendment.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding.

We have had an opportunity to review his amendment. We feel it is a good one, and we are pleased to have the opportunity to support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. McCORMACK

Mr. McCORMACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCORMACK: On page 355, strike out line 4 and all that follows down through line 16.

On page 355, line 17, strike out (h) and substitute (g).

On page 355, line 24, strike out (i) and substitute (h).

Mr. McCORMACK. Mr. Chairman, the amendment that I have placed before the House would delete lines 4 through 16 on page 355, contained in section 117.

This particular part of the bill is duplicative. The same provision appears in section 221 for a second time.

Mr. Chairman, the amendment that will be submitted presently by the gentleman from Michigan (Mr. DINGELL) will include a provision to strike this material from title II. I propose to strike this material in title I at this time. If the Dingell amendment is adopted, then my amendment will simply be a perfecting amendment. If the Dingell amendment

is not accepted, this provision will only appear one time in the bill, rather than twice.

Mr. Chairman, the bill as it is written, would allow any State to choose the same automotive emission standards as are presently being used by the State of California. As the Members may know, California has had its own emission standards which are somewhat more restrictive than the national standards.

Mr. Chairman, this dual set of standards has worked because California has a very large population, and because it is isolated from the rest of the country physically in such a way that there are no major communities located on the State border with adjacent States.

However, Mr. Chairman, the bill, as it is now written, is an invitation to chaos and confusion.

Mr. Chairman, let us suppose that Ohio or New Jersey or some other State in the Midwest or in the East were to choose the same standards as California, but standards different from those of all of the other States around it.

In such a State the law would require that all new cars offered for sale meet California standards.

Mr. Chairman, in California today the fuel penalty under the California standards is 11 percent. Also, the automobiles are more expensive. Therefore, there would be an invitation to the residents of any State which chooses stricter standards to cross State borders and buy cars in an adjacent State. It would, quite literally, be an invitation to violate the law in order to get a car that costs less money to buy, and which gets better gasoline mileage.

Mr. Chairman, I think it is important for us to understand that what has happened in the case of California is unique because most of their population is concentrated in the Los Angeles area or in the San Francisco region, where they have unique meteorologic conditions, and where higher standards are probably more appropriate than they are in most of the rest of the country. However, the actual impact of adoption of those standards by other States would indeed be very small.

For instance, a State must give a 2-year notice before adopting new standards. Thus the law could not take effect before the 1980 model cars. At that time the only difference between the California standards for 1980 and the standards under the Dingell amendment or the administration bill, which for 1980 are both the same, would be that  $\text{NO}_x$  emissions would be 2 grams per mile under the national standards, but 1 gram per mile under the California standards.

After 2 more years, all standards become the same anyway. So what the bill says is that any State could opt for the California standards but they would not go into effect until 1980. They would be effective only for 2 years, and they would create very substantial confusion.

What I am attempting to do with this amendment is to minimize unnecessary

confusion and additional cost to consumers. By 1982 the  $\text{NO}_x$  emissions will be the same under the administration bill, the Dingell amendment, and the California standards. There really is not any justification for causing unnecessary confusion. I urge support for my amendment, to remove such confusion.

Mr. ROGERS. Mr. Chairman, I rise in opposition to the amendment.

This amendment is offered to give more authority to the States. It allows the State to make the judgment on whether it desires to try to move to the California standards or whether it would maintain Federal standards.

As the Members I am sure know, there are presently two sets of standards, one for 49 States on new auto pollution and one specifically for California which represents about 10 percent of the market.

It is the feeling of the committee that if there are States, such as Colorado, which have a very heavy pollution problem, that might desire to adopt and enforce the California option for themselves they may do so. The gentleman has indicated that dire consequences may come about. But if they are all that dire, then I am sure the State would not make that judgment. No one will force the State to make a judgment. It is left up to the State. They can either do it or not do it. Notice is required so the process will be very orderly. If a State decides to make that change to clean up the air, clean up the automobile, it can adopt and enforce the California standards which are more strict than the Federal. A State can do that by giving 2 years notice to the automobile manufacturing companies. So there is no problem. It will work very smoothly. The States would have the right to adopt only the standards which are identical to the California standards.

If the McCormack amendment were to be adopted, it really is setting forth an antienergy policy. It would be antienergy because it would adversely affect the potential for coal conversions. Also, if a State decided to move in and help clean up the automobile, it means that the State could have more factories built and more jobs in their areas. Some States may want to do that. More jobs could be created by allowing the California standards to be implemented in some States, particularly those which have high pollution. New Jersey might want to move in this direction, because that State maintains that 510 new factories could not come in if they do not have that right.

So there are many reasons why States might want to do this. They also might want to grant greater health protection for their citizens. We think they ought to be given that option. Why should we not give them such an option? Why should a State be denied such an option if it wants to do this?

I think we should defeat the amendment offered by the gentleman from Washington (Mr. McCORMACK) because it would deny States the right to make

an independent judgment as to whether they want to implement the California standards or the Federal standards.

It is an anti-State's rights amendment. Again I would urge defeat of the McCormack amendment.

Mr. BROYHILL. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment offered by the gentleman from Washington (Mr. McCORMACK).

Mr. Chairman, back in the 1970 act, Congress made the policy decision at that time that the emission standards would be in effect nationwide except that because of the particular problems, atmospheric conditions and meteorological problems existing in California, that the State of California could adopt more stringent emission standards.

What the committee would have us do is to have a balkanized policy that exists all over the country which would result not only in the consumption of more energy but substantially higher consumer costs.

I can assure those Members who are interested that this would also cost jobs if this language is left in the bill and this new policy adopted. I would urge that we retain the policy that was adopted in this Congress back in 1970 and adopt the amendment offered by the gentleman from Washington (Mr. McCORMACK).

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think we had better have a look at what the amendment does. I support the amendment very strongly. I urge my colleagues to do likewise. Let met set out the reasons why.

Under the California exemption, it is only required that the California standards must be at least as stringent as Federal standards, which means they can be different, but not necessarily better. The amendment offered by the able gentleman from Washington (Mr. McCORMACK) returns things to the status in which they have been since the original Clean Air Act was enacted and since the California exemption was adopted.

There is an enormous penalty from every consumer concern with regard to the committee bill on this section. That is corrected by the amendment offered by the gentleman from Washington. First of all, according to every study that has been made, there is somewhere between a 12 and a 20 percent penalty in terms of fuel under the California standards. The California automobile costs more than a 49-State car by somewhere between \$150 and \$350, and half of that is charged off against purchasers in the other 49 States.

Now in regard to a fuel penalty, it is substantial. The fuel penalty is still further exacerbated by the fact that EPCA, the major energy legislation which was passed by this Congress during the last Congress, imposes a requirement on the producer that automobiles should meet fixed standards with regard to fuel consumption. It has been possible for manufacturers to calculate whether or not and how the manufacturers would meet the standard. There is a penalty of \$50 a car



imposed here for knowing what the mix of States is. But there is no way that the auto industry can shoot at the kind of moving target that the committee bill would impose upon us because the mix of cars amongst the several States would change on an almost daily basis.

What are the health benefits in the committee bill over the existing standards? The Members will hear that debate, I will tell my colleagues, very shortly, but the hard fact is that the health and environmental benefits of the California standards over the 49-State standards in terms of health benefits is very, very small.

Last of all, in California there is an enormous penalty in terms of the number of cars available. Ask our colleagues from California what percentage of the models of automobiles is available in the State of California? The fact of the matter is that about half the models available elsewhere and about half the model mix is available in the State of California. That is a hard circumstance on the buyer.

Let us take a look at the effect on populated border areas. If one lives in New York or New Jersey, or if one lives on the border between Virginia and Maryland, or if one lives in Texarkana, Tex., he is going to have a tough time getting the car he wants, and he is going to have a hard time selling it because it may be that just across the river or just across the State line the car that he has cannot be sold, or he cannot buy the car he wants in the State in which he lives.

To summarize the problem, I think the bill which the amendment would correct is very significant. There is a penalty to the consumer somewhere between \$150 and \$350 per car. This is real, and it can be documented.

The bill creates a shortage of model availability in the States in which the California standards would be imposed. About half the cars are produced. There is a fuel penalty of somewhere between 12 and 18 percent in the States which use the California standards. There is an additional consumer cost of about \$150 to \$350 in those States. And last of all, we force into the Nation a Balkanization of a kind that the Founding Fathers sought to prevent when they originally adopted the Constitution, and that was to say that through it that we are one Nation, not a whole collection of Balkans with different marketing and pricing standards.

Mr. WIRTH. Mr. Chairman, if the gentleman from Michigan will yield, is the gentleman telling me if the State of Colorado or the State of Washington wants to set a standard as tough as the California standard that we would be precluded from doing so?

Mr. DINGELL. Under existing law that is the fact. California came in a few years ago and said: "We have a special set of problems that have to be met by a special law."

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(On request of Mr. WIRTH, and by unanimous consent, Mr. DINGELL was al-

lowed to proceed for 1 additional minute.)

Mr. DINGELL. So we responded by giving them a special exemption.

Mr. WIRTH. If the gentleman will yield further, could the gentleman tell me how the ability of the State of California or the State of Colorado or the State of Michigan, or wherever it may be, to set its own standard is unconstitutional, as the gentleman is suggesting? What is unconstitutional about that?

Mr. DINGELL. The Constitution provides that whenever the Federal Government speaks the States are not able to act in that area, and we have done so in the Clean Air Act, except with a special exemption which we have enacted for the State of California, and then I have just described the penalties as a result of that.

Mr. WIRTH. If the gentleman will yield further, what we are doing by voting "yes" on this amendment is making it impossible for any other State to set the standard California has set. Is that correct?

Mr. DINGELL. Yes, and that is highly desirable because there is no benefit to anybody by allowing the kind of proliferation of standards that would be occasioned here.

Mr. MAGUIRE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, actually it is very ironic that the gentleman from Michigan (Mr. DINGELL) should be speaking in support of this amendment. It is doubly important that we keep this amendment in this section in view of the amendment which the gentleman from Michigan intends to offer to title II.

First of all, the gentleman's amendment to title II would wipe out a provision which would permit New Jersey or Colorado or Michigan or Washington, or any State that might have an inspection maintenance program, to have the ability to put into effect standards equivalent to those in California. Now the gentleman wants to eliminate our fallback position as well.

But aside from that obvious point, it is very ironic indeed that the gentleman from Michigan, who will seek to amend title II to have this Congress abandon the statutory standards for two out of three pollutants that we have had standards set for since 1970—and he wants to do that nationally—should now turn around and say to my State or to any other State that if they disagree with such a backwardsliding national policy, and if they have tougher problems than the Nation generally, they should nevertheless not be permitted to adopt standards which are permitted to be in effect for one of the other States in the Union.

My State of New Jersey is the most densely populated State in the Union. It has some of the most serious pollution problems in the United States. It has more automobile traffic than it knows what to do with—from inside the State and from other States. The pollution is related to automobile traffic. Cancer rates in New Jersey and across the country are related to this and other kinds of pollution.

My State wants to be able to do what California is doing, and as I understand it some other States might also wish to do so. Why should we not be permitted to do that, I would ask the sponsor of this amendment or the gentleman from Michigan? What possible reason could there be? I heard the statements but I did not hear any adequate explanations.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. Surely. I yield to the gentleman.

Mr. McCORMACK. Mr. Chairman, I will be glad to try to put the case the best I can. If the gentleman will recognize what we are talking about is a period of 2 years from 1980 to 1982. It would only apply in that period, because it requires a 2-year lead, a State requires a 2-year lead time. It cannot go into effect for 1980 and the standards, apparently, will be the same in 1981 as the California standards.

Mr. MAGUIRE. Mr. Chairman, let me put it more precisely. If the gentleman from Michigan (Mr. DINGELL) succeeds in title II in wiping out the statutory standards for carbon monoxides and nitrous oxides, would it not seem logical that some States might want to proceed on a more stringent schedule consistent with the State of California? If so, this could continue into the early 1980's or even beyond that.

Mr. McCORMACK. Mr. Chairman, if the gentleman will yield further, if the gentleman wanted to put that for a national standard, the reason it was not established as a national standard is because there are certain practicalities to getting it done quicker.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, in point of fact, the California standards on carbon monoxide are higher during most of the years of the schedule than the proposals that are being pushed forward by the committee. They are 9 grams per mile, instead of 3.4 grams per mile. If the gentleman takes a purest attitude on this, the gentleman would strongly feel no one wants to go higher than the State of California.

Mr. MAGUIRE. How can the gentleman question the right of my State to go to higher standards along with California if California and we both decide it is necessary?

Mr. DINGELL. Each part of the country has pollution problems. We ought to produce a car in a highly mobile society where people travel thousands of miles across every State of the Union on almost a daily basis which meets the air quality standards in every State. An automobile licensed in Maine does not necessarily stay in Maine.

Mr. MAGUIRE. The gentleman is making my argument. We ought to do the best we can across the country. If the gentleman's amendment prevails, we will not do the best we can across the country. Therefore, I would like my State, or any State that cares to do so, to have tougher standards.

Mr. CARTER. Mr. Chairman, I move

to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it seems to me that we should not deny the right we have given to California or other States with similar problems.

Mr. Chairman, we have one State right now, the State of the distinguished gentleman from Colorado (Mr. WIRTH), which has specific problems today over in the city of Denver. Are we going to tell them they cannot solve their pollution problems, just as California is solving theirs? Of course, these are special circumstances where we have areas of air inversion and terrible pollution. Of course, there is a penalty, as one of my friends has stated, to the consumer. This penalty, I say to my friend, is in cancer. Let us talk about that a little bit. Seventy-five to 90 percent of the cancer in this country is caused by environmental causes. This year 690,000 people will have cancer, 385,000 of them will die, 1,055 will die each day. One out of every four that is within the sound of my voice will probably have cancer in his lifetime.

This is the reason why we should permit other States to adopt the same standards as the State of California.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, I thank the gentleman for yielding and I thank the gentleman for pointing out the concerns of the people from California for clean air.

Recently a poll was taken by the University of Denver concerning the wishes of people in the Denver metropolitan area. More people were concerned about dirty air and concerned about the cancer-causing nature of that dirty air than any other single issue that was asked to talk about.

Mr. Chairman, the gentleman is absolutely correct. The people in this country are concerned and ought to have the right to determine whether they want to have the softer standards or the very tough California standards.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I want to concur with the statements made by my colleague, the gentleman from Kentucky. It is up to the State to have a lot of say over what is going to happen to the people in its area, not only on questions of health, but on questions of growth.

If we are going to have a conversion to coal, which is going to use up a lot of clean air, it seems to me reasonable for some States to decide for themselves that perhaps they want a car that is going to use less of this clean air so that they can provide more clean air for industrial growth. I think we ought to leave that decision to the States.

It seems to me ironic that those Members who, on the Breaux amendment,

argued that the States ought to have that power to make that variance, should come along now and argue that we ought not let the States make this decision. I think that we ought to let them make that decision for themselves.

We are not asking for a proliferation of standards, only for two standards—California and a national standard. If a State wants to choose one as opposed to the other, it should have that right.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from California and the gentleman from Kentucky. Here, we are also talking about a State being able to make a rational choice about economic growth or environmental protection.

The Environmental Protection Commission tells us that if we do not have tougher safeguards, we are not going to be able to build new factories, or we will have to tell people that they cannot drive their cars at all.

What we would like to do is deal with that in a rational, sane bill, saying that we will have somewhat tougher standards for cars so that we can protect our air resources.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. McCORMACK).

The question was taken; and the chairman announced that the yeas appeared to have it.

Mr. McCORMACK. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY Mr. GAMMAGE

Mr. GAMMAGE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GAMMAGE: Page 356, insert the following after line 2:

(j) The implementation of the provisions of subsection (b) through (i) shall be deferred pending completion of the initial study of (a) above. Upon completion of such study, the Administrator of the Environmental Protection Agency shall recommend to the President and to the Congress any alternate proposals or strategies to attain and maintain all national ambient air quality standards to insure a fair and effective policy for meeting these standards in the future for controlling new industrial growth in areas now violating primary air quality standards.

(k) Notwithstanding the requirements of 110(a) (2) (A) (i) the deadlines for achievement of the national primary air standards shall be extended during the period of initial study under (a) plus an additional 60 days for Congressional action on such recommendation.

(l) Until such date as the Congress shall act upon such recommendation, the Administrator's interpretative regulation published in 41 Federal Register 55524-30, December 21, 1976, as may be modified by rule of the Administrator shall be in effect. Notwithstanding the foregoing, operating permits may be issued to those applicants who were granted new source construction permits prior to the date of enactment of

these amendments and who are able to demonstrate that the emissions are within the limitations set forth in such construction permits.

Mr. GAMMAGE. Mr. Chairman and members of the committee, this is basically a technical and perfecting amendment to correct a hiatus in the proposed legislation before us today. Basically, the amendment would do several things.

It would leave intact a 12-month study in section 117, which is consistent with the President's recommendation. It would defer the implementation of subsections (b) through (i) until the EPA had completed its study and reported to the President and to the Congress. It would extend the deadline for achievement of ambient air standards until 60 days after the completion of the study containing the recommendations to the President and to the Congress. It would insure the legality of construction permits up until the time of the enactment of this amendment, and it will permit the granting of operating permits for facilities now under construction, provided that they meet the emission limitations as set forth in their construction permits.

This language does not alter one word of the language in this bill. It maintains the standards imposed by the amendment added in committee by my distinguished colleague, the gentleman from Texas (Mr. ECKHARDT). It leaves intact the criteria requirements this bill imposes. This amendment perfects the bill by making it consistent with the President's policy statement of May 23, with his goals of full employment and with his proposals for economic stimulus and increased and desperately needed energy availability. In his environmental policy statement of May 23, President Carter ordered the Administrator of EPA to review the Agency's regulations controlling new industrial growth in nonattainment areas and to recommend both to the White House and to the Congress a "fair and effective policy for meeting these standards in the future."

Mr. Chairman, this bill itself mandates such a study for an initial period of 1 year. Why? Because the President knows, the authors of this bill know, the committee knows, the EPA knows, and the Members know that there is an acute lack of knowledge surrounding the technical requirements of this legislation. We do not know if the provisions contained here will be fair and effective or whether they can or will solve our environmental problems.

What we do know is that if these provisions are adopted without some period of relief while we acquire the necessary knowledge, the energy needs of this country cannot be met, and the economic stimulus proposals already dealt with by this body will become a very expensive farce.

Over 50 percent of the entire refining capacity of this country is in nonattainment areas. A study by the Federal Energy Administration demonstrates that these areas would be unable to meet



the standards of this legislation if there were a total shutdown of all of the stationary hydrocarbon emission sources.

Projected growth demands indicate a need to construct the equivalent of 26 150,000-barrel-a-day refineries by 1990 to provide gasoline, to provide heating oil, and to provide any number of other products.

Where are we going to build them?

If these facilities, both for refining and petrochemicals, cannot be built at their feed stock sources, where will they be constructed? Venezuela? Saudi Arabia? Kuwait? Abu Dhabi? Will they be built by the OPEC countries?

Will we then become dependent upon that distinguished group for a large part of our refined products as well as our crude oil? Will we export our refineries, our chemical plants, our petrochemical plants, and our jobs?

The CHAIRMAN. The time of the gentleman from Texas (Mr. GAMMAGE) has expired.

(By unanimous consent, Mr. GAMMAGE was allowed to proceed for 2 additional minutes.)

Mr. GAMMAGE. Mr. Chairman, let me ask the Members: Will we export all these things only so we can then become dependent on imports, not of just crude oil but of refined products, including gasoline, heating oil, fertilizers, and medicines?

Coal conversion is a big part of the proposed energy plan. The President suggests that we almost double our mining and consumption of coal.

How can we do this? Can we mine it under the requirements of this bill? Can we ship it under the requirements of this bill, even in a slurry pipeline? Can we burn it under the requirements of this bill? I think not.

Where are we going to find a provision for coal conversion in this country under the requirements of this bill?

Mr. Chairman, the areas shown in red on this map of the United States, including Alaska and Hawaii, are nonattainment areas for suspended particulates.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. GAMMAGE. Not at this time.

Mr. Chairman, let me ask this: What about the exploitation of geopressure reserves? What about the construction of superport facilities, some of which are already being constructed abroad. What about the strategic petroleum reserve?

We all want clean air. We all want jobs and economic stimulus. We all want more and new energy, but we do not and we cannot operate in a vacuum.

Mr. Chairman, this amendment retains the standards proposed in the bill. It does not eliminate the guidelines or the requirements of technology, monitoring, or pollution abatement required by this bill.

All this amendment does is perfect the bill by allowing relief during the period of the study it requires—the one ordered by President Carter, the one which we hope will give us the information necessary for future honest and intelligent action by Congress to achieve, in the President's words, a "fair and effective policy" to accomplish the environmental

standards we want and which we all agree are so necessary if we are going to have the good health to enjoy a stimulated economy and an abundance of energy.

The CHAIRMAN. The time of the gentleman from Texas (Mr. GAMMAGE) has again expired.

(On request of Mr. MAGUIRE and by unanimous consent, Mr. GAMMAGE was allowed to proceed for 2 additional minutes.)

Mr. GAMMAGE. Mr. Chairman, even this period of relief, we would find if we read the amendment, would continue to impose the very rigid requirements already imposed by previous legislation and by the EPA in the granting of construction and operating permits.

Mr. Chairman, this is a clean air amendment. It is a reasonable amendment. It keeps us out of the bell jar, out of the vacuum, and puts us into reality, with our feet firmly on the ground and our heads in clean air.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. GAMMAGE. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I have looked at the gentleman's amendment, and I frankly do not understand a couple of key points, and I would like to ask the gentleman to clarify them for me.

What happens during this first year in which the requirements are deferred? Is EPA's existing trade-off policy in effect during that year?

Mr. GAMMAGE. EPA's existing trade-off policy is deferred as to those construction permits that were issued prior to the effective date of this act. It does permit the State authorities to issue operating permits for those constructions that were authorized prior to the effective date of this act.

This amendment does require them to comply with the requirements included in the construction and operating permits, and it does comply with present Federal law.

Mr. MAGUIRE. Mr. Chairman, does that mean that if we agree to this amendment today, over the next 3 months, let us say, after the passage of the bill in the House today and the enactment of the law, anybody could scramble and rush to his nearest permit giver and get a permit?

The CHAIRMAN. The time of the gentleman from Texas (Mr. GAMMAGE) has expired.

(On request of Mr. MAGUIRE and by unanimous consent, Mr. GAMMAGE was allowed to proceed for 2 additional minutes.)

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield further?

Mr. GAMMAGE. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, to continue my statement, they would all rush to get a permit, and then they would qualify under the gentleman's amendment, regardless of any other constraints; is that correct?

Mr. GAMMAGE. No.

Mr. MAGUIRE. They get a permit

prior to the enactment. That is what the language says.

Mr. GAMMAGE. What it means is that they can obtain permits prior to the effective date of this act for construction. They can obtain operating permits for operating that construction in compliance with the existing Federal environmental law and existing State agency requirements. It must be in compliance with Federal law. It does not let them off the hook so that they could build a carbon black plant which would blacken the whole countryside. They have to comply with the Federal requirements on the issuance of these permits.

Mr. MAGUIRE. If the gentleman will yield further, could a State revise this plan during this period under the existing language in the committee bill, that is, under the Eckhardt amendment, or would they be precluded from doing so during that period?

Mr. GAMMAGE. No. The State would not be precluded from revising its plan. It could revise its plan.

This amendment basically requires study and delays the effective date of the provisions of this act insofar as any permits for construction issued prior to the effective date of this act are concerned.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. GAMMAGE. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, if I can read the English language, the amendment says, "The implementation of the provisions of subsections (b) through (i)"—those are the provisions that provide for a revised plan—"shall be deferred pending completion of the initial study of (a) above."

Mr. GAMMAGE. Mr. Chairman, we are talking about this section, section 117.

Mr. ECKHARDT. This means, as I see it, that the State may not revise its plan under (b) until the study has been completed under (a). Is that not what the language says?

Mr. GAMMAGE. (a) requires the study before the implementation of (b) through (i) of the specific provisions under those subsections so that added specifications may be met. However, it does not mean that the State cannot revise its plan. What it means is that they cannot be required to comply with the requirements of those particular subsections until the study is completed.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think I can read the English language.

The first sentence of this provision says: "The implementation of the provisions of subsection (b),"—subsection (b) is the section that permits a revised plan in order to take care of the problems existing in nonattainment areas—"through (i) shall be deferred pending completion of the initial study of (a) above."

Mr. Chairman, the initial study of (a)

above embraces a study of what ought to be done about some rather complex chemical emissions, as well as certain pollutants like oxidants which may be formed as the result of emissions and other substances entering the atmosphere from natural sources.

Therefore, Mr. Chairman, what this amendment provides is that the State cannot even try another approach to a solution of the whole problem until it makes a complete study. At the end of that time, it is permitted to move in accordance with a plan under the authority that we had devised in the bill.

In addition to this, it is provided in subsection (k) of the amendment that "Notwithstanding the requirements of 110(a)(2)(A)(i) the deadlines for achievement of the national primary air standards shall be extended during the period of initial study under (a)"—that means until the initial study is completed, which is contemplated to be within a year—"plus an additional 60 days for congressional action on such recommendation."

Then, Mr. Chairman, (1) provides: "Until such date as the Congress shall act upon such recommendation, the Administrator's interpretive regulation"—that is the regulation that provides for the trade-off policy—"shall be in effect."

Mr. Chairman, what we would do if we accepted this amendment is defer getting at the real problem. Under the section as it appears in the bill, there is a deadline with respect to other of the pollutants than the oxidants of 1982.

That is a good deal of time to allow for taking care of a problem that should, in many instances, have been taken care of some time ago. Admittedly, the question of oxidants is more difficult.

Therefore, under the language of the bill, a time is permitted to meet the oxidant deadlines—that would be in effect now but for the passage of this bill—of as much as 10 years from now. During that 10 years, in equal 2-year increments, the plant may proceed to reduce those elements of its emission which are what are called precursors to the oxidant level.

This does not mean that each 2 years you have to reduce the ambient air oxidant level a certain amount. It only means that, for instance, the State of Texas would decide it would want to reduce hydrocarbons and nitrous oxide a certain amount in each 2-year period, and that should be in equal increments.

Let us face this question squarely: If we do not start cleaning up now, if we wait until we study for a time and then 60 days afterward, we are nevertheless going to be confronted at the end of that period with the same problem we have now. This is like the situation that so frequently exists with respect to automobile pollution, a situation in which virtually nothing is done as we get close to the deadline and then we are urged to relax the standard.

Our bill does not do this. It gives the needed flexibility with respect to construction in nonattainment areas by virtue of the trade-off plan. The trade-off plan would permit us to reduce pol-

lutants in several different ways, one of which was discussed in the last amendment; that is, for instance, if we decide to utilize the California plan with respect to automobiles, or, for instance, choose to put into effect some provision requiring the checking of automobile emissions within an area, or choose any one of a number of ways used to reduce the load on the environment then, by this means, we can buy some further leeway for more industrial construction. All of these choices or means are permissible under the trade-off system.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Then the trade-off plan takes care of this gap until the Air Quality Board, in Texas, for example, can adopt a plan which provides for additional construction of plants that will employ the best technology during an extended time until ambient limitations would be imposed.

The bill is carefully written. The bill is fair. If enacted it will not cut down construction because the trade-off system will permit enough time for the State to meet its specific problem and afford the necessary flexibility by a revised plan under section 127(b), and the following.

So, Mr. Chairman, I strongly urge that we not adopt an amendment that has been presented to this committee for the first time about 15 minutes ago. The first time I saw it was about 15 minutes ago, yet I have been working with the committee and, wherever possible, with the gentleman from Texas, for a week. And now we are called upon here to delay further, until a study is made, the problem of doing something about pollution.

Mr. MAGUIRE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think it is very important as we consider this amendment that we keep our minds fixed on the fact that we are here talking about life and health and that, therefore, the somewhat abstruse discussion of what kind of a schedule we are going to be operating on really has to be evaluated in relation to that fact.

The gentleman from Texas (Mr. ECKHARDT) came up with a formula which was adopted by the committee, which says that we are going to have a schedule starting now—not allowing for any intermediate free-for-all periods—to implement the standards with respect to oxidants, just like we do with respect to anything else, whereas the amendment that has been offered here would dispense with at least a portion of that chronology with respect at least to some of the pollutants.

On oxidants, let us look at what the data tells us. I am quoting from the three-agency study of May 19, 1977:

"Toxicological work with experimental animals confirms that exposures to relatively low levels of ozone—one of the photochemical oxidant products—"produce numerous changes in cell and organ structure and function including

changes indicative of chronic lung disease and increased susceptibility to infection," reduced voluntary activity, chromosomal aberrations, and neonatal mortality rates that are higher. The synergistic potential of oxidants taken together with other air pollutants cannot even be calculated, nor can a quantification be made of what are regarded as major adverse effects of ozone on natural ecosystems or on agriculture.

So we are talking about asthma and chronic lung disease, and irritation of the eye and respiratory tract, and impairing the function of the heart and lung and other organs. So when we vote on this, let us keep that in mind and let us stick to a schedule as proposed rather than abandoning in yet one more place our very important task of protecting the public health of the people of this country.

Mr. ROBERT W. DANIELS, JR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by my colleague. There is no disagreement that some modification of the air quality attainment dates is necessary—under current law, virtually all industrial expansion will grind to a halt as of May 31. This amendment, however, is a superior alternative to the attainment date changes in the bill as reported.

The committee's attainment language would allow States until 1987 to meet photochemical oxidant standards, but require prior assurance that the State's nonattainment areas can meet a rigid timetable which guarantees equal reductions, every 2 years, in hydrocarbons and other photochemical oxidant precursors. This ignores the reality that greater pollutant reductions may occur in later years, as newer cars and other improved clean air technology takes hold. Moreover, it will inevitably result in EPA dictation of many of a State's implementation plan policies.

By contrast, this amendment would simply require the State to continue progress, year by year, toward attainment of the 1987 photochemical oxidant standards. It allows the States and localities to choose their own mix of policies—whether they include mandated auto inspections, or transportation and parking controls, or whatever—so long as the goal of cleaner air is vigorously pursued. It would require the use of "best available control technology" on new emission sources, so that air quality problems in nonattainment areas are not further aggravated as new industry enters.

In short, Mr. Chairman, this amendment would assure progress toward the 1987 air quality goals, but in a fashion that allows States and localities to make their own decisions about specific, potential new industries. Federal dictation, unemployment, and economic chaos could be avoided. Clean air, and not repeal of the 20th century, should be our goal in the Clean Air Act.

An excellent illustration of the current problem is the Fourth District of Virginia, where, as additional views to the committee's report point out, the Hamp-



ton Roads Energy Co. is currently attempting to construct an oil refinery. The potential benefits for Portsmouth and the rest of the Tidewater, Va., area include new jobs, increased tax revenues, and increased refining capacity at a time of energy crisis; the clean air-related problems include, of course, increased contributions to photochemical oxidant levels in a nonattainment area. Although the proposed refinery will produce fewer hydrocarbons annually than are emitted naturally by the Great Dismal Swamp, a nearby national wildlife refuge, the Clean Air Act could block the refinery's construction without regard to long-range goals and local desires. Without this amendment, Portsmouth and the State of Virginia would not be free to reach their own conclusions on this specific industrial source, even though the State might assure yearly progress toward the 1987 clean air goals.

Finally, Mr. Chairman, I would reaffirm that EPA's so-called trade-off or off-set policy is no solution. It allows the location of new emission sources in a nonattainment area only if offsetting emission reductions are achieved from other sources. Thus, pollution becomes a marketable commodity; and we witness the unique spectacle of the Hampton Roads Energy Co., attempting to build a refinery by buying off dry cleaning plants. Pollution becomes, under the trade-off policy, a useful product for sale or barter with a potential new industry. The trade-off policy assigns an economic value to pollution and invites a developer to buy off another's, even a competitor's, existing emissions capacity.

This amendment is a sane, constructive alternative. It will carry forward the clean air fight, without destroying potential jobs and local decisionmaking. As long as Virginia can make continued progress toward our clean air goals, then so important a decision as the Portsmouth oil refinery should be made by Portsmouth, by her Tidewater neighbors such as Chesapeake and Suffolk, and by the Commonwealth of Virginia—not by Federal fiat. The same flexibility should be available to our colleagues' States and districts, and I urge their favorable consideration of the amendment before us.

Mr. KRUEGER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of this amendment for a number of reasons. First of all, I should like to read briefly a paragraph from Mr. John L. Blair, the chairman of the Texas Air Control Board, in a statement that he made on May 20, just 5 days ago. Mr. Blair, the chairman not of Exxon, not Dow, but of the Texas Air Control Board, said 5 days ago:

If I have the support of my fellow members, I intend to instruct the staff to cease all efforts to convince the Environmental Protection Agency of the futility of attempting strict enforcement of the Federal Clean Air Act, and to begin immediately to implement literally the obvious intent of Congress.

I must point out that, if adopted as Board policy, my proposal will have profound effects on the people of Texas, on their jobs,

and on their life styles. The policy I propose—

Which is to accord with the EPA regulations—will mean no new industrial facilities may be constructed in any of the major metropolitan areas of the State. It will mean that growth will come to a grinding halt.

Mr. Chairman, currently over 90 percent of those parts of the country in which we monitor the Clean Air Act are already in violation of existing clean air standards, and the President of the United States said 2 days ago in his environmental statement:

I have instructed the Administrator of the Environmental Protection Agency to review his agency's regulations controlling new industrial growth in areas now violating air quality health standards and to recommend to me and to the Congress a fair and effective policy for meeting these standards in the future. Adoption of new legislative provisions in this area should await the results of this review.

What we are doing in this amendment is simply to offer an additional year in which this matter can be studied so that industrial growth will not have to grind to a halt in 90 percent of the United States of America. Without this amendment I would hate to think what might happen to the hopes of the American people who are looking for increased jobs but who might very well find that the EPA would not allow those jobs because of its existing tradeoff policy.

This amendment would keep the trade-off policy but it would also allow the trade-off policy to be studied. It would not close the book on it and lock it into public policy for years to come.

Furthermore, those construction projects approved by State environmental agencies during the period of uncertainty about nonattainment policy would be permitted to proceed and receive operating permits from the same State agency while this matter is studied. Without this amendment, we might very well have, as the head of the Air Control Board said, no further construction in many parts of the U.S.A.

This is a very reasonable amendment. It simply accords with the President's desire to have further study in this area. It also means that other States will not, like Texas, face the fact or possibility that our Air Control Boards might say: "No further industrial growth at all because of what you have done in Congress."

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. KRUEGER. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, I have not had an opportunity to see the exact wording of the amendment. I tried to communicate with the gentleman's office a little earlier.

I am very much concerned about the nonattainment areas. I believe people in the whole Northeastern United States, the people who live in those areas should be very much concerned about the impact of the Clean Air Act on their facilities.

Is it not true even with this amend-

ment any new facility would still have to meet the best available technology? There is no relaxing on that.

Mr. KRUEGER. This does not relax standards. It alters the attainment date and it also will give to the State environmental agencies the authority that would otherwise be given entirely to EPA and left entirely in Federal hands.

Mr. GARY A. MYERS. It is also true that without some relief my area of the United States will have to refuse plans for expansion of plants that are the cleanest plants that can be built.

Mr. KRUEGER. The gentleman is correct. Under the bill as presently written his State would have no chance of escaping the trade-off policy for the next 10 years. The waiver that this legislation holds out to his State and others in the same situation is a waiver on paper only. It places impossible preconditions on the State environmental agencies and would require the implementation and enforcement of extremely severe and controversial policies. No State could enforce their policies, and probably would not even suggest them. Therefore, the existing section 117 of the bill would provide no relief from trade-off for the next 10 years. We recommend instead that we allow the trade-off policy to continue, under study and in a more relaxed atmosphere, for the next year only, and at the end of that time the Congress and President together can decide the most fair, equitable and desirable method of dealing with the nonattainment problem. At that time we will have the facts; we do not have them now.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(On request of Mr. GARY A. MYERS, and by unanimous consent, Mr. KRUEGER was allowed to proceed for 3 additional minutes.)

Mr. KRUEGER. The only thing the present bill does without these alterations is to assure a trade-off policy which has not been really tried and been put into effect and that trade-off policy, as we know, would require some businesses to close before others could open. It would make us marketers in pollution. People would buy up pollution rights. That policy ought to be studied.

Mr. GARY A. MYERS. Could the gentleman describe the difference between that and his amendment?

Mr. KRUEGER. Between what is now being proposed and what was proposed in the committee?

Mr. GARY A. MYERS. Between what is in the bill and what is in our amendment.

The difference between what is in the bill and what is in our amendment is that what is in our amendment allows all existing construction grants which State and environmental agencies have already approved, if those State and environmental agencies continue to approve them. Without this, there might very well be a rollback by the EPA and abrogation of the industrial construction grants that have already been given by various States. That is the great danger of the present act, that construction

might very well stop, as has been indicated by the gentleman from Virginia; it might grind to a halt.

Mr. GARY A. MYERS. Mr. Chairman, if the gentleman will yield further, of course, the difference between the gentleman's amendment and the bill with respect to facilities which have not yet received any grants, do they still have to do the trade-off?

Mr. KRUEGER. They would still have to receive approval from their State environmental agencies, but it would not be the EPA. It would be the State agencies that do it.

Mr. GARY A. MYERS. But it would not be a trade-off.

Mr. KRUEGER. It would be under the trade-off policy, but the State would interpret that trade-off policy, rather than have it in the hands of the EPA.

Mr. GARY A. MYERS. If the gentleman will allow me to address one point with respect to the President's energy policy, it seems to me the President has said to the environmentalists that the switch to coal is not going to be an environmental hazard, because he will not require the switch in those nonattained areas until there is a level of free air freed up in those regions. I think that has to be addressed, because what that means to me is that those areas that have oil-fired generating facilities who are not able to convert, they will, of course, have first priority to sponge up any new clean air that is freed up in the region.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(At the request of Mr. GARY A. MYERS, and by unanimous consent, Mr. KRUEGER was allowed to proceed for 1 additional minute.)

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield further?

Mr. KRUEGER. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, if the gentleman will continue to yield, it seems to me what we are first facing is even a worse situation than we faced last year with this bill, because now we have sitting on the sidelines waiting to extract and utilize any clean air that is freed up, these conversions from oil to coal, which will further restrict the growth of the industrial facilities within these nonattained areas.

Mr. KRUEGER. The gentleman is correct. When we convert to coal for electric generation, there will be increased pollution. That is why we believe the trade-off policy should be put in to require an additional year's study; the President's hope is that we might defer the new legislative proposals until he has had a chance to review the trade-off policy and all possible alternatives. I support his request and think it is a good policy at this time.

I think those of us who favor industrial growth should support the amendment.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, all of the arguments that have been advanced for the adoption of this amendment relate to the

situation under existing law. They do not go to what the bill does, because the bill has a study in it. The amendment's sponsor wants a study. The committee bill has a study. As a matter of fact, there are two studies, one on the standards themselves under section 110 of the bill and one on the specific issues in this section.

Now, what the Gammage amendment does is this. It continues EPA's trade-off policy which is now in effect. It requires these trade-offs be met for new industry to come into a nonattainment area. The amendment freezes that for a year.

The committee bill already handles the interim situation by saying to the State, "You may continue under that EPA policy for a year, or you can expeditiously move to change your plan."

According to the amendment of the gentleman from Texas (Mr. ECKHARDT), which was adopted in committee and is now section 117 of the bill, a State may have up to 10 years to attain photochemical oxidant standards if that is the earliest they can be met.

Now, section 117 of the bill says, "You will have to have an equal incremental advancement to reach the standards, but you can spread it over as much as 10 years."

So a State can quickly respond to that, revise its plan, and have the new building go ahead, so long as it is making that progress to clean up the air.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. KRUEGER. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I must say, I agree with the gentleman in that we are going about this in an even-handed manner with an ongoing study and requiring that certain progress be met every 2 years.

However, Mr. Chairman, there is one part of this amendment which I think we should give serious consideration to, and I think my friends should consider it as a separate amendment. That is in part (1), and I quote:

Notwithstanding the foregoing, operating permits may be issued to those applicants who were granted new source construction permits prior to the date of enactment of these amendments and who are able to demonstrate that the emissions are within the limitations set forth in such construction permits.

Mr. Chairman, I feel that these people who have been granted these permits prior to the date of enactment of this legislation should be permitted to continue, but I think that the Eckhardt amendment, which is in the bill, is good. I would suggest that perhaps we give some thought and leniency to the idea of permitting these permits that have been granted to go on to construction.

Mr. ROGERS. I would say to the gentleman that I think I have no problem with that last sentence of the amendment if it is offered in a separate amendment. But I certainly agree with Representative ECKHARDT that the Gammage amendment is not a good amendment. It should not be adopted.

Mr. CARTER. I would say the gentleman is eminently correct.

Mr. KRUEGER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Texas.

Mr. KRUEGER. The gentleman from Florida has just said that this would take away judgment from the State. On the contrary, this amendment is one which would allow the States to proceed with the industrial construction that they have already granted permits to; whereas, under the present bill, the EPA might very well turn down construction permits already granted by State implementation agencies.

The difference between this amendment and the study required under the bill as it stands is, quite simply, the fact that it does grant the States the power to consider for themselves whether or not to proceed.

Mr. ROGERS. May I say to the gentleman that he is incorrect if he feels that the bill would take away the State's power on the permits. As long as those permits were validly issued and meeting the act's requirements they could qualify under this bill for operating permits.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Texas.

Mr. ECKHARDT. The place where it takes power away from the State is during that year, plus 60 days, of the study. That is the point the gentleman from Kentucky (Mr. CARTER) made a moment ago. This is a forked amendment.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(On request of Mr. ECKHARDT and by unanimous consent Mr. ROGERS was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. As the gentleman from Kentucky has pointed out, it would permit, and perhaps should permit, persons already having authorization for construction operations to proceed, but it stops everybody else, regardless of how meritorious their claims might be, until the end of the study. If those two points were divided, we would have an entirely different question here.

Mr. ROGERS. May I say that the National Governors Conference supports the committee bill here; the mayors, the county governments and State legislatures. This bill enlarges State discretion, and we will allow them up to 10 years for meeting oxidant standards. I think the amendment should be rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GAMMAGE).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 22; noes 18.

Mr. ROGERS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to



clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

#### QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

#### RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Florida (Mr. ROGERS) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 242, answered "present" 1, not voting 28, as follows:

[Roll No. 287]

#### AYES—162

|                  |                 |               |
|------------------|-----------------|---------------|
| Akaka            | Grassley        | Myers, Ind.   |
| Alexander        | Guyer           | Nichols       |
| Anderson, Calif. | Haredorn        | O'Brien       |
| Andrews, N. Dak. | Hall            | Pritchard     |
| Applegate        | Hammer-         | Quillen       |
| Archer           | schmidt         | Rahall        |
| Armstrong        | Hansen          | Rallsback     |
| Ashbrook         | Heckler         | Rhodes        |
| Barnard          | Heftele         | Risenhoover   |
| Bauman           | Hightower       | Roberts       |
| Beard, R.I.      | Holland         | Robinson      |
| Beard, Tenn.     | Holt            | Rose          |
| Bevill           | Horton          | Rousselot     |
| Blanchard        | Hubbard         | Rudd          |
| Bowen            | Huckaby         | Runnels       |
| Breaux           | Hyde            | Santini       |
| Brinkley         | Ichord          | Sarasin       |
| Brown, Ohio      | Jacobs          | Satterfield   |
| Broyhill         | Jenkins         | Schulze       |
| Buchanan         | Jenrette        | Sebelius      |
| Burgener         | Johnson, Calif. | Shibley       |
| Burleson, Tex.   | Johnson, Colo.  | Shuster       |
| Butler           | Jones, N.C.     | Sikes         |
| Byron            | Jones, Okla.    | Slack         |
| Chappell         | Kazen           | Smith, Nebr.  |
| Cleveland        | Kemp            | Snyder        |
| Cochran          | Kindness        | St Germain    |
| Collins, Tex.    | Krueger         | Stangeland    |
| Corcoran         | LaFalce         | Steed         |
| Coughlin         | Latta           | Stockman      |
| Crane            | Lederer         | Stump         |
| Daniel, Dan      | Leggett         | Symms         |
| Daniel, R. W.    | Lloyd, Tenn.    | Taylor        |
| Davis            | Long, La.       | Thone         |
| de la Garza      | Lott            | Thornton      |
| Derrick          | McCormack       | Treen         |
| Derwinski        | McDonald        | Trible        |
| Devine           | Madigan         | Ullman        |
| Dickinson        | Mahon           | Volkmer       |
| Dingell          | Mann            | Waggonner     |
| Dornan           | Marlenee        | Walker        |
| Duncan, Tenn.    | Marriott        | Walsh         |
| Early            | Mathis          | Wampler       |
| Edwards, Okla.   | Michel          | Watkins       |
| English          | Milford         | White         |
| Filippo          | Miller, Ohio    | Whitehurst    |
| Flowers          | Mitchell, N.Y.  | Whitten       |
| Flynt            | Mollohan        | Wilson, Tex.  |
| Gammage          | Montgomery      | Winn          |
| Gaydos           | Moore           | Wright        |
| Ginn             | Murphy, Pa.     | Yatron        |
| Gonzalez         | Murtha          | Young, Alaska |
| Goodling         | Myers, Gary     | Young, Fla.   |
|                  | Myers, Michael  | Young, Mo.    |
|                  |                 | Young, Tex.   |

#### NOES—242

|                |           |              |
|----------------|-----------|--------------|
| Addabbo        | AuCoin    | Blouin       |
| Allen          | Badillo   | Boggs        |
| Ambro          | Baldus    | Boland       |
| Ammerman       | Baucus    | Bolling      |
| Anderson, Ill. | Bellenson | Bonior       |
| Andrews, N.C.  | Benjamin  | Bonker       |
| Annunzio       | Bennett   | Brademas     |
| Ashley         | Blaggi    | Breckinridge |
| Aspin          | Bingham   | Brodhead     |

|                 |                |              |
|-----------------|----------------|--------------|
| Brown, Calif.   | Gudger         | Nowak        |
| Brown, Mich.    | Hamilton       | Oaker        |
| Burke, Calif.   | Hanley         | Oberstar     |
| Burke, Fla.     | Hannaford      | Obey         |
| Burke, Mass.    | Harkin         | Ottenger     |
| Burlison, Mo.   | Harrington     | Panetta      |
| Burton, John    | Harris         | Patten       |
| Burton, Phillip | Harsha         | Patterson    |
| Caputo          | Hawkins        | Pattison     |
| Carney          | Hefner         | Pease        |
| Carr            | Hillis         | Pepper       |
| Carter          | Hollenbeck     | Perkins      |
| Cavanaugh       | Holtzman       | Pettis       |
| Cederberg       | Howard         | Pickle       |
| Chisholm        | Hughes         | Pike         |
| Clausen,        | Ireland        | Preyer       |
| Don H.          | Jeffords       | Pursell      |
| Clay            | Jordan         | Quayle       |
| Cohen           | Kasten         | Quile        |
| Coleman         | Kastenmeyer    | Rangel       |
| Collins, Ill.   | Kelly          | Regula       |
| Conable         | Keys           | Reuss        |
| Conte           | Kildee         | Richmond     |
| Conyers         | Koch           | Rinaldo      |
| Cornan          | Kostmayer      | Rodino       |
| Cornell         | Krebs          | Rogers       |
| Cornwell        | Lagomarsino    | Roncallo     |
| Cotter          | Le Fante       | Rooney       |
| D'Amours        | Leach          | Rosenthal    |
| Danielson       | Lehman         | Rostenkowski |
| Delaney         | Lent           | Roybal       |
| Dellums         | Levitass       | Ruppe        |
| Dicks           | Lloyd, Calif.  | Russo        |
| Diggs           | Long, Md.      | Ryan         |
| Dodd            | Lujan          | Scheuer      |
| Downey          | Lukens         | Schroeder    |
| Drinan          | Lundine        | Seiberling   |
| Duncan, Oreg.   | McClory        | Sharp        |
| Eckhardt        | McCloskey      | Simon        |
| Edgar           | McDade         | Smith, Iowa  |
| Edwards, Ala.   | McEwen         | Solarz       |
| Edwards, Calif. | McFall         | Spellman     |
| Ellberg         | McHugh         | Staggers     |
| Emery           | McKay          | Stanton      |
| Ertel           | McKinney       | Stark        |
| Evans, Colo.    | Maguire        | Steiger      |
| Evans, Del.     | Markey         | Stokes       |
| Evans, Ga.      | Marks          | Stratton     |
| Evans, Ind.     | Martin         | Studds       |
| Fary            | Mattox         | Thompson     |
| Fascell         | Mazzoli        | Traxler      |
| Fenwick         | Meeds          | Tsongas      |
| Fish            | Meyner         | Tucker       |
| Fisher          | Mikulski       | Udall        |
| Fithian         | Mikva          | Van Deerlin  |
| Flood           | Miller, Calif. | Vander Jagt  |
| Foley           | Mineta         | Vanik        |
| Ford, Mich.     | Minish         | Vento        |
| Ford, Tenn.     | Mitchell, Md.  | Waigren      |
| Fountain        | Moakley        | Waxman       |
| Fowler          | Moffett        | Weiss        |
| Fraser          | Moorhead,      | Whalen       |
| Frenzel         | Calif.         | Whitley      |
| Frey            | Moorhead, Pa.  | Wilson, Bob  |
| Fuqua           | Moss           | Wirth        |
| Gephardt        | Mottl          | Wolf         |
| Gialmo          | Murphy, Ill.   | Wylder       |
| Gibbons         | Murphy, N.Y.   | Wylie        |
| Gillman         | Natcher        | Yates        |
| Glickman        | Neal           | Zablocki     |
| Goldwater       | Nedzi          | Zeferetti    |
| Gore            | Nix            |              |
| Gradison        | Nolan          |              |

#### ANSWERED "PRESENT"—1

#### Bafalis

#### NOT VOTING—28

|              |          |               |
|--------------|----------|---------------|
| Abdnor       | Florio   | Skelton       |
| Badham       | Forsythe | Skubitz       |
| Bedell       | Ketchum  | Spence        |
| Brooks       | Metcalfe | Steers        |
| Broomfield   | Poage    | Teague        |
| Clawson, Del | Pressler | Weaver        |
| Cunningham   | Price    | Wiggins       |
| Dent         | Roe      | Wilson, C. H. |
| Eriksen      | Sawyer   |               |
| Findley      | Sisk     |               |

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Florio against.  
Mr. Spence for, with Mr. Metcalfe against.  
Mr. Skubitz for, with Mr. Charles H. Wilson of California against.

Mr. Cunningham for, with Mr. Steers against.

Mr. Erlenborn for, with Mr. Price against.

Messrs. STEIGER, RUSSO, GEPHARDT, BROWN of Michigan, RUPPE,

FOUNTAIN, and FITHIAN changed their vote from "aye" to "no."

Mr. COUGHLIN changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to section 117?

If not, the Clerk will read section 118.

The Clerk read as follows:

#### INTERNALIZATION OF COST

SEC. 118. (a) Section 110(a)(2) of such Act is amended by inserting at the end thereof a new subparagraph (K) to read as follows:

"(K) it requires the owner or operator of each major stationary source to pay to the permitting authority as a condition of any permit required under this Act a fee sufficient to cover—

(1) the reasonable costs of reviewing and acting upon any application for such a permit, and

(ii) if the owner or operator receives a permit for such source, whether before or after the date of enactment of this subparagraph, the reasonable costs (incurred after such date of enactment) of implementing and enforcing the terms and conditions of any such permit; and".

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 118 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there amendments to section 118?

There being none, the Clerk will read section 119.

The Clerk read as follows:

#### CODIFICATION AND PUBLICATION OF APPLICABLE IMPLEMENTATION PLANS

SEC. 119. Section 110 of such Act is further amended by inserting a new subsection (g) at the end thereof to read as follows:

"(g) (1) Not later than one year after the date of enactment of the Clean Air Act Amendments of 1977 and annually thereafter, the Administrator shall assemble and publish a comprehensive document for each State setting forth all requirements of the applicable implementation plan for such State and shall publish notice in the Federal Register of the availability of such documents. Each such document shall be revised as frequently as practicable but not less often than annually.

"(2) The Administrator may promulgate such regulations as may be reasonably necessary to carry out the purposes of this subsection."

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 119 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there amendments to section 119? The Chair hears none.

Are there further amendments to title I?

#### AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: Page 357, after line 10, insert the following:

**VESSEL AND VESSEL TERMINAL FACILITIES**

SEC. 120. (a) Section 116 of the Clean Air Act is amended by inserting at the end thereof the following: "It is the intent of Congress that, with regard to the control and abatement of air pollution from a facility associated with vessel activity which is located in the territorial seas of the United States, or the contiguous zone, or air pollution from vessels which are arriving at, departing from, or engaged in oil transfer or other activities while located at such facility, each coastal State adjacent (as determined by the Administrator) to the waters in which such facility is located may adopt and enforce emission standards, emission limitations, or other requirements (substantive and procedural) respecting control and abatement of air pollution with respect to such facility or vessels. The preceding sentence shall not apply to the extent that any such standard, limitation, or requirement would cause a vessel to violate any law or regulation of the United States (including any safety-related requirement), nor to the extent that the Administrator determines, after notice and opportunity for a public hearing and after consultation with the Secretary of Transportation, that any such standard, limitation, or requirement would cause a vessel to violate a previously established standard, limitation, or requirement of another State and, therefore, constitutes an unreasonable burden on interstate commerce. For purposes of this section, and section 110(a)(2)(M), the terms 'coastal State', 'contiguous zone', and 'territorial seas' have the same meaning as when used in the Federal Water Pollution Control Act."

(b) Section 302(o)(1) of such Act is amended by inserting at the end thereof the following: "For the purpose of this subsection, the emissions of any air pollutant from vessels referred to in section 116 shall be deemed to be direct emissions from any facility associated with such vessel activity."

(c) Section 110(a)(2) of such Act is amended by striking out "and" after subparagraph (K); by striking out the period at the end of subparagraph (L) and inserting "; and" in lieu thereof; and by inserting a new subparagraph as follows:

"(M) if such plan is for a coastal State, such plan contains emission limitations applicable to facilities associated with vessel activity (if any) and to vessels, as provided in section 116."

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, the amendment I am proposing today would clarify existing law to make certain that States may regulate emissions from floating oil separation and treatment facilities, and vessels loading and unloading in U.S. navigable waters and the contiguous zone.

I believe this is already permitted by the Clean Air Act implicitly and submit for the record legal memoranda from the Federal Energy Administration and the Environmental Protection Agency which reach the same conclusion. However, I

believe provision for such regulation should be expressly included in the Clean Air Act.

When the Clean Air Act amendments were passed in 1970 they did not expressly address the potential problem of pollution activity beyond the 3-mile limit having an adverse effect on air quality onshore. The reviews, permit controls, and emission standards in force within the 3-mile limit are not presently applied by the Federal Government or State and local agencies to offshore operations.

A recent study done for the Governor's Office of Planning and Research in California found that the ambient air quality standards mandated by the Clean Air Act cannot be met in the South Coast Air Basin with increasing volumes of hydrocarbon vapors blowing onshore from offshore tanker loading and oil processing facilities.

My amendment would clarify and confirm the right of each coastal State to adopt and enforce emission standards for vessels and vessel terminal facilities. Several measures have been discovered which could be adopted to mitigate the volume of hydrocarbons which are emitted.

Passage of this amendment would assure responsible development of our Outer Continental Shelf resources. This clarification is supported by the Federal Energy Administration, the Environmental Protection Agency, and the California State Air Resources Board.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, the gentleman from California has introduced an important amendment. I am concerned about the air pollution generated in our navigable waters and contiguous zone. Is there a specific case in California which clearly illustrates the need for this amendment?

Mr. MILLER of California. Yes, the Exxon case is an outstanding example. Exxon was issued a permit by Santa Barbara County to build an onshore processing facility. Exxon did not like the Coastal Commission's requirements for its proposed onshore processing plant, so Exxon is building a processing plant 5 miles offshore. The platform is under construction and a tanker is being converted in Japan for this operation.

Exxon was given a permit by the Department of the Interior for this offshore platform and separation and treatment plant. This will be the first floating facility of this type in the world.

Mr. WAXMAN. Did Exxon obtain a permit from the Environmental Protection Agency or the State air resources board to construct this floating facility?

Mr. MILLER of California. No, Exxon claimed that a permit was not necessary.

A recent study found that if Exxon is not required to meet any air emission standards, the pollution from this operation will have a significant effect on local ozone concentrations, which could have an adverse effect on the health, economy, and agriculture in this area.

If the marine terminal of this floating facility loads at 25,000 barrels per hour, as it is being designed to, it could increase the peak ozone level onshore by 160 percent.

Tanker loading in Santa Barbara and Ventura Counties is currently venting 277 tons of hydrocarbons a year into the atmosphere. If total Santa Barbara Channel oil production reaches 200,000 barrels per day in 1985, as predicted, and there are no controls on tankers and oil processing facilities, hydrocarbon emissions could exceed 2,000 tons per year.

Mr. WAXMAN. Will the passage of this amendment play an important role in the ability of coastal States to meet primary and secondary ambient air quality standards?

Mr. MILLER of California. Yes, recent studies indicate that ambient air quality standards cannot be met in the South Coast Air Basin unless the hydrocarbon vapors from tankers and oil-processing facilities are mitigated.

Mr. WAXMAN. Does the term "facility" include both stationary and floating facilities?

Mr. MILLER of California. Yes, the vessel and vessel terminal facilities amendment applies to vessels, stationary facilities, and floating facilities, such as the Exxon facility just mentioned.

Mr. WAXMAN. States would have the authority under this amendment to adopt and enforce emission standards for vessels and vessel facilities in the navigable waters of the United States and in the contiguous zone?

Mr. MILLER of California. That is correct, except to the extent that any standard, limitation, or requirement would cause a vessel to violate any law or regulation of the United States, or any international agreement to which the United States is a party, or would cause a vessel to violate any other State's standard, limitation, or requirement.

Mr. WAXMAN. Will the Environmental Protection Agency be involved in enforcing these emission standards?

Mr. MILLER of California. The Environmental Protection Agency has the authority to adopt and enforce emission standards for vessels and vessel terminal facilities only if the State fails to do so.

Mr. WAXMAN. States would have the authority to establish requirements that are both substantive and procedural, respecting the control and abatement of air pollutants emitted from vessels and vessel facilities?

Mr. MILLER of California. That is correct.

Mr. WAXMAN. For the purposes of monitoring and enforcement, air pollutants emitted from a tanker when it is engaged in activities while located at a facility would be charged to that facility?

Mr. MILLER of California. That is correct.

Mr. WAXMAN. Does this amendment include all existing and new sources of air pollution emitted from vessels and vessel terminal facilities in the U.S. navigable waters and in the contiguous zone?

Mr. MILLER of California. Yes, this amendment includes both new and existing sources.



Mr. WAXMAN. Is the technology available to meet the air quality standards which would be mandated by this amendment?

Mr. MILLER of California. Yes, several measures have been discovered which could be adopted to mitigate the volume of hydrocarbons which are emitted: loading tankers slowly; partial loading; limiting simultaneous tanker loading without a predetermined radius; using pipelines rather than tankers for transport; and using onshore processing facilities rather than offshore alternatives.

Jeff Swartz, counsel for Interstate and Foreign Commerce, suggested that you move to revise and extend the rest of your remarks, including the EPA and FEA memo's.

Loading tankers slowly is one of the easiest ways to reduce hydrocarbon emissions. Loading rates for tankers are typically in the 8,000 to 10,000 barrels per hour range. The floating Exxon facility is being constructed to load at a rate of 25,000 barrels per hour. If this were slowed down to 6,000 barrels per hour the peak ozone concentration onshore would be almost halved.

Partial loading of tankers is another way to cut down on hydrocarbon emissions. Much of the hydrocarbon-rich vapor which is liberated during loading lies very near the liquid surface and thus is released only as the crude reaches the top of the tank. Hydrocarbon emissions could be reduced 31 percent if final true ullage—distance between liquid surface and roof of the tank—of 15 feet was maintained. This measure alone would represent a reduction of over 2,400 pounds of hydrocarbons for every 100,000 barrels loaded.

Additional minimization of tanker impacts might be possible if timing and siting considerations were followed. For example, it is clear that multiple tanker loadings on one day could yield significantly higher study area ozone concentrations than in a case of one tanker per day; the effect would be magnified if the marine terminals were relatively close together.

Using pipelines rather than tankers for transport is a very effective way to reduce hydrocarbon emissions. At a level of 200,000 barrels per day of crude oil production, tanker emissions total 2,075 tons per year with no controls; if that same volume of oil were transported in a pipeline the emissions would only be 214 tons. Thus, a land pipeline is favored over tanker transport.

Using onshore processing facilities rather than offshore alternatives is another way hydrocarbon emissions can be reduced. Emission rates are higher, per unit throughput, for the offshore processing facility versus the onshore one. In addition, the offshore facility costs the oil company more to construct and maintain, and it has a smaller total capacity. Exxon's onshore site was designed for 80,000 barrels per day, and the offshore alternative is only being designed for 60,000 barrels per day.

Mr. WAXMAN. What about the vapor recovery system, is this still too dangerous to use; has it been perfected yet?

Mr. MILLER of California. The best estimate to date is that it will take another 3 to 5 years to develop a shipboard vapor recovery system which will meet the Environmental Protection Agency and Coast Guard standards.

Safety considerations are an important aspect of this amendment and will not be sacrificed. It should be feasible to meet the clean air standards by using the other mitigation measures mentioned.

Mr. WAXMAN. I support the amendment as introduced by the gentleman from California.

Mr. MADIGAN. Mr. Chairman, I move to strike the last word.

If I can have the attention of the gentleman from California who is offering the amendment, I would like to ask a question. Is it his intent, and would it be the result of this amendment, that the State of California or any other coastal State would be enabled by his amendment to control the emissions of international vessels?

Mr. MILLER of California. Well, I believe that is already the law, and the legal memoranda I referred to states that is the law. Under section 10 of existing law, they have the ability to go ahead and do this, but that has been drawn into question. What I am trying to do is to clarify two issues; one, they have to deal with tankers offloading within coastal waters and, two, also extend jurisdiction of State standards for the facilities outside coastal waters beyond three miles, but not beyond twelve miles, as is the case with the Exxon platform.

Mr. MADIGAN. I would agree with the gentleman that the law may enable now the State of California or any other State to regulate emissions from facilities, but I do not think there is anything in any law now that enables a State—whatever State it might be—to regulate emissions from international vessels.

Mr. MILLER of California. It is exactly the colloquy we are having which is the reason for the amendment. Some of the people suggested that, in fact, is the case now. Other people suggested that it has not. One of the conditions we had when we had the problem in the Exxon facility was whether or not we could enforce it. Hopefully, by this amendment, we will be able to set those standards, because the very real problem is that they are within the air basin of the State and those hydrocarbons and pollutants are pouring onshore and restricting growth in the State.

Mr. MADIGAN. I do not think what the gentleman is proposing to do is even within the jurisdiction of the State environmental protection agency, nor for that matter the Federal agency. Has the gentleman checked the State Department for any comments with regard to this amendment?

Mr. MILLER of California. No, I have not.

Mr. MADIGAN. Well, Mr. Chairman, I think we ought to look at this very closely, because I suspect that what we are doing is adopting an amendment that may very well violate international treaties

to which the United States is a party, and also the Law of the Sea Conference I would urge the Members to vote against this amendment.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Could the gentleman, who is obviously well-informed in this area, indicate to this Member, who is not that conversant with this particular bill, whether or not this would affect offshore loading of oil coming in from the Alaska pipeline?

Mr. MADIGAN. Absolutely. I do not think there is any question about that.

Mr. MILLER of California. If the gentleman will yield further, I believe we have that jurisdiction if the Federal Government grants the power to the State. We now have that jurisdiction over the 12-mile zone.

Mr. MADIGAN. But I do not think that is true in the case of international vessels. The gentleman may very well be intending to do something that will involve the ability of the State of California or other coastal States to control emissions.

Mr. MILLER of California. Let me state that the purpose here is to get to the vessels which are offloading or onloading within the boundaries of the State of California.

Mr. MADIGAN. I am going to have to ask for my time back.

I am sure what the gentleman is proposing to do would have that effect. But I am equally sure that it would violate international treaties that this country is a party to, as well as the provisions of the Law of the Sea Conference. I think it is an area we should not get into here.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from New York (Mr. FISH).

Mr. FISH. I thank the gentleman for yielding.

Mr. Chairman, as the ranking minority member on the Select Committee on Outer Continental Shelf, as well as a delegate to the Law of the Sea Conference which just opened up this past week, I will state that a committee of that Conference is dealing with ocean pollution. It will not be meeting for the next 2 or 3 weeks. I do think we would be doing mischief here at this point, with as little as we know about the gentleman's amendment, to adopt an amendment like this.

Mr. MILLER of California. Mr. Chairman, if the gentleman will yield, it would help if the author of the amendment could hear the discussion that is taking place. The House is not in order.

Mr. MADIGAN. Mr. Chairman, the gentleman from New York (Mr. FISH), who is a delegate to the Law of the Sea Conference, just indicated that the adoption of this amendment could do nothing but play mischief to the best interests of the United States as those interests will be represented at the Conference.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask the author of this amendment whether this is aimed at prohibiting the importation of Alaskan crude through the port of Long Beach. This House has already voted that we cannot sell that Alaskan oil to Japan.

My concern is whether or not this House, having already voted against selling Alaskan oil to Japan, and having that concern about our desire to get that oil into the United States we can force out Arab crude, would by this amendment be in a position now to be saying we are not going to allow that to come into California or give California the authority to say it is not going to come into California; because if we do that, we are just not going to get that Alaskan oil and the prospect of that Alaskan oil setting up there in the port of Valdez and not available to us.

Mr. CARTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment.

I want to state that if California does not want that oil down there, I think it should come on down to the Midwest, as it should have, in the first place.

These are the reasons why I oppose this amendment:

First, it will place an extreme burden on commerce, and it is probably unconstitutional; it puts vessels under both State and Federal control; it destroys uniformity of rules for international commerce; it may trigger reprisals abroad; it adds unnecessary costs for questionable benefits; it may jeopardize the vessel and facility safety; it gives coastal States control over resources belonging to all States; there is no evidence that emissions outside 3 miles contribute to air pollution ashore; any further extension of the contiguous zone would carry this authority out further; it discriminates by not covering all vessels passing in this region; and it creates a burden on the taxpayers to have to pay for new reinforcement required.

Therefore, Mr. Chairman, I strongly oppose this amendment.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, I would like to say to the gentleman that he has raised the issue of whether or not Long Beach wants this oil, whether or not the State of California wants this oil. This amendment is designed so that the oil can get there. Right now the State has the power to issue the regulations, but they will not issue the regulations because they do not believe they have the power to enforce them.

Mr. CARTER. Mr. Chairman, I thank the gentleman for his contribution.

Mr. MILLER of California. Mr. Chairman, it appears that the gentleman does not want to hear the answer.

Mr. CARTER. Mr. Chairman, I thank the gentleman for his answer. I am glad to see one person who wants oil in California. Personally, I think it should have come down through Canada to the Midwest. That is the way it should have come.

Mr. Chairman, I oppose this amendment and I ask the Members to oppose it.

Mr. MAGUIRE. Mr. Chairman, I move to strike the requisite number of words.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from California (Mr. MILLER) so that the gentleman may have time to answer the questions that were directed to him with respect to his amendment.

Mr. MILLER of California. Mr. Chairman, just let me say this to the Members of the House:

Under existing law, the State of California has the power to impose regulations and to impose conditions on vessels coming into its waters. The State can impose those regulations today, and nobody argues that, neither the Federal Government nor anybody in the State government nor the parties involved in the controversy at the port. But the State has said it will not issue those regulations because they do not believe they have the power to enforce them in terms of incoming vessels. So they will not give the permit so that these vessels can come into the port. They have withheld that.

Obviously what we will do by this amendment is to take away that argument of nonenforcement so we can get on with that project, and then those 500,000 barrels of oil can be offloaded at the port and they can be distributed for the energy needs of this country. That is what this amendment does.

The amendment also says that where they have a facility that is outside the 3-mile limit but inside 12 miles offshore, it has an impact on the air basin, and that the State shall have the right to set up standards for that facility.

What we have today is this: We have the Exxon Co., with the support of the last administration, thumbing its nose at the State of California and within 5 miles offshore building a facility that will dump thousands of tons of materials and pollutants into the air and prohibit construction onshore, and nobody can do anything about it.

So, Mr. Chairman, we are saying that a State ought to have the right to have that say over growth policies within the State, and that nobody ought to be able to set up a runaway facility without any controls by the State. So this amendment is designed to bring energy sources on line, not to prohibit them.

Mr. Chairman, perhaps that is a strange position for this gentleman to be in, but that is the case. The amendment is designed to try to get the facility completed and on its way.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, it is my understanding that FEA has had contact with the committee, and that the agency really originated this request, because they thought the existing law implicitly authorizes such State regulation but felt that the law should be clarified expressly. Otherwise they feel there will be litigation concerning this issue that would further delay the bringing in of Alaskan oil.

Mr. Chairman, I do not think there is anything devious about the amendment. FEA has really encouraged this to be done to clarify the situation. If we do make State authority express, I think the oil could then be distributed and sent all over the country. It is my understanding that this was done with the support of FEA.

Mr. MILLER of California. Mr. Chairman, if the gentleman from New Jersey (Mr. MAGUIRE) will yield further, I will submit for the record the legal memorandums of FEA and EPA that called for this legislation so that this issue can be clarified.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like first to ask the gentleman from Florida (Mr. ROGERS) if he has some kind of a letter, some kind of a formal notification, or some indication in the hearings that the FEA wants this amendment for the purpose of clarifying the situation in the Port of Long Beach.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I would be happy to yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, we did ask for a letter. Mr. O'Leary is sending it; it is on its way. It has not yet arrived. However, this is the advice that FEA has given us.

Mr. BROWN of Ohio. Mr. Chairman, let me explain to the Members what my concern is.

My concern is that we have a conflicting situation out in California. I am not sure I know who all the players are, except that I do know that one of the players who is involved at the State level and is concerned with the environmental issue is Mr. Quinn, and he apparently does not want the oil from Alaska to come in through California.

The Port of Long Beach is very anxious to have the oil brought in through the Port of Long Beach. There is a pipeline that runs from some point a little bit east of the Port of Long Beach. That pipeline previously was used to deliver natural gas from Texas, and it could be reversed to carry that oil from the Port of Long Beach through the Central Valley and to Midland, Tex., where it could be refined and then distributed to the Midwest and the eastern part of the country.

If that occurs, then we will obviously have that Alaskan oil used in the United States and we will force out, to some extent, the Arabian crude that we are im-



porting at very high costs to every American and to our Government because of the balance-of-payments situation.

The Port of Long Beach, as I said, supports moving this oil through its port. The State of California, however, looking at this situation and being concerned about environmental problems, has said not to Exxon, I think, but to Standard Oil of Ohio and the others who are part of the Alaskan production complex, "If you will reduce the pollution in the area of the Port of Long Beach to the extent that the pollution is decreased by off-loading these vessels, we might consider giving you the opportunity to do that."

As a result, at least one company has undertaken a very interesting proposition. They have been going around and buying up dry cleaning establishments in order to reduce the pollution on an equivalent basis with the pollution that would occur if the oil were brought into the port.

The State of California, as I understand, has, at least informally, said, "We are not sure whether a 1-for-1 exchange of pollution is enough. Maybe you should do it on a 3-to-1 or a 4-to-1 basis."

Mr. Chairman, that gets into a little bit of a tit-for-tat negotiation when, it seems to me, that we might be saying to California in this amendment, "We will give you carte blanche to make any decision you want."

Frankly, as someone who feels that we ought to bring that oil into the United States and that we ought to force out that Arabian crude, I am not sure that I want to support this proposition. In California they can control the Port of Long Beach. That is fine, but I also understand that what the gentleman is trying to give them here is control of all those vessels that come down the California coast.

Mr. Chairman, I just think that might be a little "much," with all due respect to the gentleman and to his amendment.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, one of the things that Sohio is trying to do in getting the right to offload the oil is saying, "We will put various standards on the tankers. We will specially construct some tankers and modify other tankers that will carry this oil."

The State says, "That is a mandate, but we do not think we have the power to mandate you to do this since the tankers will move through international waters."

Mr. BROWN of Ohio. Is the mandate necessary?

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Brown) has expired.

(On request of Mr. MILLER of California and by unanimous consent, Mr. Brown of Ohio was allowed to proceed for 1 additional minute.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield further?

Mr. BROWN of Ohio. I yield to the gentleman from California.

Mr. MILLER of California. To continue, Mr. Chairman, the point is this, that this takes away the State's argument in terms of those delays. If they really want to get this oil moving through, if Sohio is really intent on making these modifications, the State cannot continue this argument that somehow they cannot agree to these modifications if the company is willing to agree to their part of the proposal.

I am taking that argument away from them so that we can get on with the project.

Mr. BROWN of Ohio. Does the gentleman from California assure me that the State of California is going to let this oil come in if we respond as he would suggest to this amendment?

Mr. MILLER of California. That would be a matter for the Governor of my State. I will not attempt to speak for him.

Mr. BROWN of Ohio. That is what worries me, because it seems to me that this arms the State of California with one more vehicle, one more method of putting leverage or putting the arm on the rest of the country.

Mr. MILLER of California. It takes away that leverage.

Mr. BROWN of Ohio. I am sorry. I do not know that I want to express that much confidence in the gentleman's amendment because it seems to me that anybody who is willing to go in and buy "mom and pop" dry cleaning establishments in order to cut down on pollution ought to have the opportunity to do so.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not think that this amendment is to keep out oil. It is for just the opposite purpose. It is to assist in bringing it in. At least, the FEA people have told us so.

Mr. Chairman, I would be willing to say that if we do not get that FEA letter confirming that position, I would make every effort to strike this out in conference.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, may I ask the chairman of the subcommittee whether he wants it brought into this country in 49 different ways from the upper State of Alaska. Does the gentleman want 49 different sets of controls? Would that be right, for us to permit that? Does not the gentleman really think that this is in contravention of the Constitution of the United States?

I would like to ask the chairman of the subcommittee whether he feels that way.

Mr. ROGERS. I believe this, I think it says, as I understand it, that if there is conflict between States that that would be preempted by the EPA. In other words, they would not allow that to occur.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, let me

say that I believe there is some misunderstanding on this, and that it is my understanding, and I hope I am correct in understanding this, that one of the big impasses in bringing oil into the United States is that of the Sohio project, but that because this is limited to the port of Long Beach, the State of California wants to have a clarification as to the Sohio project, so that the oil can be brought in.

Passage of this amendment would alleviate the impasse that is there now in granting Sohio a permit.

The Sohio project is one of the principal transportation systems proposed to move North Slope crude oil to the interior of the United States. Standard Oil of Ohio, Sohio, is seeking a permit from the State of California's Air Resources Board for a marine oil terminal at Long Beach. The State of California is reluctant to agree to the permit conditions proposed by Sohio, which conditions would have the indirect effect of regulating offshore tanker operations from 2 to 12 miles offshore, until it is convinced that it would have the legal authority to enforce such conditions. Until the parties reach an agreement on the major legal issue, it appears that the permitting process for the project will remain at an impasse.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, let me say that none of the members of the energy committee have been advised by anybody concerning this, including the FEA, as far as I know. It would seem to me that you are trying to tell us that California does not want to agree to let this oil in until they have some additional authority that we can give them through this amendment.

I do not think we should give them that authority. If they want to prohibit it, they can do so by controlling the Port in Long Beach. But what occurs to me is that we are giving the State of California additional leverage to say they cannot only control the Port of Long Beach, but the tankers offshore, and keep them from coming in at any other place.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, as I understand the contention of the State of California, they believe they have that power already. They are negotiating with Sohio. I think we all agree that there ought to be that project there if they can work out an agreement. They are not asking for powers they do not have but they want to be sure that they have the power. FEA and EPA say they already have the power in California to do this. They are asking for clarification. If the FEA in any way balks at this or if there is some complication then I would not pursue this in the conference because I think the representation we are making here on the floor is based on the repre-

sentation we have had from California officials who say that the administration is for this, for the very reasons the gentleman from Ohio should be for it.

Mr. ROGERS. Mr. Chairman, let me add, that if we find we do not, in fact, get a letter from the FEA saying that this would assist the Alaskan oil project, then I would move to strike this in the conference.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to know whether this amendment gives California the power to exclude Alaskan oil?

Mr. ROGERS. No, it does not give power to the State of California to exclude oil.

Mr. OTTINGER. Or to refuse the transit of oil in the United States?

Mr. ROGERS. It would help bring it in.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DICKS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to follow up on what the gentleman from New York (Mr. OTTINGER) has just said. The fact is that this amendment would not bar or would not give California the authority to bar Alaskan oil from coming into California. I would ask the gentleman from California (Mr. MILLER) if that is his understanding.

Mr. MILLER of California. The answer is "no," it will not. If they want to do that, the law already provides for that.

Mr. DICKS. I thank the gentleman.

Mr. ANDERSON of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the district I represent includes the Port of Long Beach that wants to bring the Alaskan oil into this country, and they were the ones who originally contacted us in direct opposition to the Miller amendment. Donald B. Bright, director of environmental affairs, Port of Long Beach, made the initial contact.

Also the Port of Los Angeles, which is in my congressional district, is opposed to this amendment. Mr. Larry White Neck, chief engineer, Port of Los Angeles, was the one who informed me of their opposition.

I thought, perhaps, the opposition was just my area, so I made further inquiries.

I found out that the California Association of Port Authorities, Mr. Fred Crawford, president of and speaking for the association, is against the amendment.

The Pacific Coast Association of Port Authorities, Mr. Robert G. Earley, president, who is also harbor commissioner of the Port of Tacoma, Wash., is opposed.

The Port of San Francisco, Mr. Tom Soules, port director speaking for the port, is opposed.

The Port of Oakland, Mr. Walter A. Abernathy, deputy executive director,

speaking for the port, is opposed to the amendment.

The Port of Stockton, Mr. Owen E. Block, acting port director, speaking for the port, is opposed to this amendment.

The Port of Redwood City, Mr. Paul Freeman, assistant port manager, speaking for the port, is against this amendment.

Mr. Donald J. Barney, director of community development of the Port of Portland, Oreg., said he was in opposition to the amendment.

The Port of Benecia, Calif., Mr. George Plant, port director speaking for the port, is opposed to the amendment.

Mr. Edward J. Millan, general manager of the Port of Hueneme, speaking for the port, opposes the amendment.

Practically every port official of every port we contacted voiced their opposition to the Miller amendment, and they are opposing it because they say it would result in confusion.

Mr. Chairman, under the Miller amendment, each State could adopt different rules that could undoubtedly vary between the various States and, of course, I am thinking in particular of the Pacific Coast States of Washington, Oregon, and California. Also under this amendment, the rules could vary within a State, such as California. California currently has 11 air quality control regions.

If a tougher regulation was adopted in one of the southern districts than was adopted by a northern district, an incoming ship would undoubtedly unload at the port with the easier requirements.

This could result in more pollution. For example, in the case where a ship unloaded in the port with the easier requirements, but where the shipment was actually destined to another port area, the shipment would then have to be trucked to that other part of the State. Which would mean the using of more fuel, there would be more mobile emissions, and thus more pollution.

All in all, these port officials felt that this amendment would also result in confusion to those in charge of the unloading tankers and ships, which in turn might result in more oil spills.

In California as I mentioned, we have 11 air quality control regions. I have been told that the California Air Resources Board "created" rule 213 so that it affects the southern coast region only. Apparently the State board was not satisfied with what the southern coastal region was doing and thus set up a rule that applied only to that south coastal region. It has been reported that this may have been "to keep Sohio out." But whatever the reason, it surely has resulted in confusion.

A second point was brought out that could be titled "Constraint of Trade." For example, supposing a Greek grain ship was going through the shipping lanes of Washington, Oregon, northern and southern California, and supposing each of them had adopted different regulations. Which regulation would the captain of the Greek ship abide by?

Another concern they raised was that this amendment could result in the question of "What is the law?" Currently, we have the EPA in charge of the Clean Air Act. We have the Coast Guard in charge of tanker safety. At least these two agencies are under one head—the Federal Government. But if we were to add the States with different regulations, there would result the difficult question as to who legally is in charge.

Mr. Chairman, the various officials of the various ports I talked to seem to feel that currently the Coast Guard and the EPA together already have the authority to set the necessary national standards. Let us keep these national standards as simple and as uncomplicated as possible. I ask for the defeat of this amendment.

Mr. CARTER. Mr. Chairman, will the distinguished gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the gentleman for yielding.

I just want to compliment the distinguished gentleman for what he is saying. I think it is eminently correct, and I, too, oppose the amendment.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

May I say that since there is evidently more misunderstanding than we have understood, I would suggest that the author of the amendment might want to withdraw the amendment at this time to let this be checked out and get the confusion over. It was our understanding that there was no real opposition and that the FEA wanted it. This appears not to be so.

I would ask the gentleman from California if he would be agreeable to that course of action.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman.

Mr. MILLER of California. I thank the gentleman for yielding.

I think as long as we can work on the amendment, these people having raised opposition—because of the points raised by the gentleman from Long Beach and the other gentleman from California (Mr. HANNAFORD), Mr. Chairman, I ask unanimous consent to withdraw the amendment and to offer it hopefully at a later time, because I think it would in fact facilitate the agreement that is necessary. I appreciate the remarks of the gentleman from California (Mr. ANDERSON) and the remarks of those people involved.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there further amendments to title I? There being none, we will commence with title II, and the Clerk will read section 201.

The Clerk read as follows:



# TITLE II—AMENDMENTS RELATING PRIMARILY TO MOBILE SOURCES

Ms. OAKAR. Mr. Chairman, I rise today in support of the Dingell-Broyhill substitute amendment to title II of H.R. 6161, the Clean Air Act Amendments of 1977.

This amendment corrects what I believe to be a serious shortcoming in the legislation that we now have under consideration.

The present form of the mobile source amendments to the Clean Air Act, as contained in H.R. 6161, puts undue hardship on the auto industry and ultimately on the workers that the automakers employ. The present timetable for reduction of hydrocarbon, carbon monoxide, and nitrogen oxide emissions could result in the loss of thousands of jobs. Unemployment could rise dramatically as automakers cut back production and they await the technological advances required to meet the emissions standards being demanded. This, I am sure, is not the intention of the Congress.

Environmental concerns are, of course, to be given the weighty consideration that they are due. Likewise, the economic and social implications of our legislation must be given serious consideration. The amendment being offered by the gentleman from Michigan and the gentleman from North Carolina allows the auto industry the flexibility it needs to develop effective and environmentally sound auto emission controls while being mindful of and sensitive to the jobs of thousands of autoworkers. Thousands of autoworkers in the 20th Congressional District would be dramatically affected should the Dingell-Broyhill amendment not pass.

By 1983, the desired levels for hydrocarbons and nitrogen oxide emissions—as prescribed by the Commerce Committee—will be realized under the Dingell-Broyhill provisions. Moreover, carbon monoxide emissions will be substantially reduced from present levels.

Another important consideration is the effect of this legislation on the efficient use of auto fuel. The Dingell-Broyhill emissions standards will save—by several accounts—over 2 billion gallons of gasoline each year. This is a savings of over 140,000 barrels of oil every day of the year. Without this amendment, fuel consumption could be from 8 to 20 percent higher than it need be.

I urge my colleagues to vote for the adoption of the Dingell-Broyhill amendment. It insures that our environmental and health initiatives are joined in a reasonable and evenhanded way with the economic and technological considerations that will impact on the assembly line laborer and the industrialist.

Mr. ROGERS. Mr. Chairman, I had hoped that we could get to the Dingell-Broyhill amendment today. I do not think that is possible now, because we must adjourn at 5:30. Therefore, Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NATCHER) having assumed the Chair, Mr. DANIELSON, Chairman of the Committee of the

Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6161) to amend the Clean Air Act, and for other purposes, had come to no resolution thereon.

## REPORT ON RESOLUTION 531 PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES CONDUCTED BY THE AD HOC COMMITTEE ON ENERGY

Mr. THOMPSON, from the Committee on House Administration, submitted a privileged report (Rept. No. 95-365) on the resolution (H. Res. 531) to provide for the expenses of investigations and studies to be conducted by the Ad Hoc Committee on Energy, which was referred to the House Calendar and ordered to be printed.

## PERMISSION FOR CONSIDERATION OF HOUSE RESOLUTION 531 ON MAY 26, 1971

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent for consideration on tomorrow of House Resolution 531.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

## NINTH ANNUAL REPORT OF NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

### To the Congress of the United States:

I am transmitting herewith the Ninth Annual Report of the National Advisory Council on Economic Opportunity.

The report is based on the activities of the Council prior to my term of office. The recommendations of the Council will be considered as this administration reviews the role of the Community Services Administration.

JIMMY CARTER.

THE WHITE HOUSE, May 25, 1977.

## JOHN W. MCCORMACK AWARD TO GILMAN G. UDELL

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, I rise at this time for the privilege of inviting all Members of the House to come to a reception tomorrow morning at 9 a.m. in the Rayburn room for the annual presentation of the John W. McCormack Award of Excellence to Congressional Employees. This will be the seventh time we will gather to honor a distinguished employee for years of dedicated public service to the American people and the House of Representatives.

The recipient of the John W. McCormack Award for 1976 is Gilman G. Udell, the superintendent of the House document room. Gil has served with us for more than 30 years—longer than all but five Members of the House—under five Speakers from both parties. A native of Bangor, Wis., he came to the House in 1946 as an assistant in the document room after serving 4 years in the U.S. Army during World War II. He was promoted to assistant superintendent on February 5, 1949, and became superintendent on July 25, 1957.

Gil Udell does not have a high-profile job but it is an important one that affects all of us every day. He was chosen for this award from among the thousands of House employees deserving and eligible because of an exceptional performance in a demanding job and a dedication to the highest standards of public service.

Gil joins a celebrated roster of persons honored over the years, beginning with our late Parliamentarian, Lew Deschler, who received the first John W. McCormack Award for 1970.

Others, Mr. Speaker, who received this special recognition from the House were Turner N. Robertson, chief page, for 1971; Bob Menaugh, superintendent of the Radio-TV Gallery, for 1972; Ernest Petinaud, headwaiter of the House dining room, for 1973; Charles A. Henlock, administrative officer of the Architect's Office, for 1974; and Tom Iorio, Deputy Sergeant at Arms and pair clerk for the majority, for 1975.

Mr. Speaker, the John W. McCormack Award is a testimonial both to an outstanding employee and to our former Speaker, whose solicitude for all Members and employees of the House is well known. Speaker McCormack joins with us in congratulating Gil Udell on this well-deserved recognition.

The presentation tomorrow will be presided over by our distinguished Sergeant at Arms, Ken Harding, who chaired the committee of officers of the House which selected Gil Udell for the award this year. Speaker O'NEIL will present the award, and I would again urge Members to join us on this significant occasion.

## GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the John W. McCormack Award to Gilman G. Udell.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

## LAND AND WATER CONSERVATION FUND ACT OF 1965

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5306) to amend the Land and Water Conservation Fund Act of 1965, and for other purposes, with Senate amendments thereto and concur in Senate amendments Nos.

1 and 3 and concur in Senate amendment No. 2 with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 3, line 16, strike out all after "the" down to and including "paragraph." in line 22 and insert: Senate."

Page 4, strike out all after line 3 over to and including line 9 on page 5.

Page 5, strike out all after line 9 over to and including line 4 on page 6 and insert:

Sec. 2. (a) (1) For the purpose of improving the effectiveness and efficiency of the management of the Roosevelt National Forest, Colorado, and coordinating the acquisition of lands within the forest which are suitable for such management with the acquisition of lands for parks and recreation purposes pursuant to subsection (b) of this section, the Secretary of Agriculture is authorized to acquire those privately owned lands within the boundaries of the forest which are suitable for national forest purposes and which were adversely affected by the Big Thompson flood of July 31, 1976, and such other adjacent private lands within the boundaries of the forest as are available and suitable for national forest purposes.

(2) Lands identified for acquisition pursuant to paragraph (1) of this subsection which lie within the Big Thompson/North Fork Floodways, designated pursuant to the National Flood Insurance Act of 1968 (82 Stat. 572), as amended, shall be acquired at the fair market value of such lands (not including any improvements thereon) immediately prior to the occurrence of the flood: *Provided*, That such lands shall (i) be unimproved, or (ii) include structures which have sustained damage amounting to 50 per centum or more of their market value.

(3) Lands identified for acquisition pursuant to paragraph (1) of this subsection which are not lands described in paragraph (2) of this subsection shall be acquired at no less than appraised fair market value based on an appraisal of each parcel of such lands approved by the Secretary of Agriculture under the authority of section 11 of the Act of August 3, 1956 (70 Stat. 1034, U.S.C. 428a(a)).

(4) Moneys appropriated to carry out this subsection shall be available until expended or until January 1, 1980, whichever is earlier.

(b) Notwithstanding any other provision of law, in the case of lands acquired for the Big Thompson/North Fork Canyons Recreational Lands Acquisition Project in Larimer County, Colorado, for which financial assistance is authorized under section 6(e)(1) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 987, as amended; 16 U.S.C. 4601-4 et seq.), if such lands are located within the Big Thompson/North Fork Floodways and are (i) unimproved or (ii) include structures which have sustained damage amounting to 50 per centum or more of their market value, such assistance may be provided for an amount equal to the market value of such lands (not including any improvements thereon) immediately prior to the occurrence of the Big Thompson flood of July 31, 1976.

The Clerk read the House amendment to Senate amendment numbered No. 2, as follows:

In lieu of Senate amendment No. 2 insert the following:

"(5) Section 7 is amended by adding the following new subsection:

"(c) BOUNDARY CHANGES: DONATIONS.—Whenever the Secretary of the Interior determines that to do so will contribute to, and is necessary for, the proper preservation, protection, interpretation, or management of an area of the national park system, he may, following timely notice in writing to the Committee on Interior and Insular Affairs of

the House of Representatives and to the Committee on Energy and Natural Resources of the Senate of his intention to do so, and by publication of a revised boundary map or other description in the Federal Register, (i) make minor revisions of the boundary of the area, and moneys appropriated from the fund shall be available for acquisition of any lands, waters, and interests therein added to the area by such boundary revision subject to such statutory limitations, if any, on methods of acquisition and appropriations therefor as may be specifically applicable to such area: *Provided, however*, That such authority shall expire ten years from the date of enactment of the authorizing legislation establishing such boundaries; and (ii) acquire by donation, purchase with donated funds, transfer from any other Federal agency, or exchange, lands, waters, or interests therein adjacent to such area, except that in exercising his authority under this clause (ii) the Secretary may not alienate property administered as part of the national park system in order to acquire lands by exchange, the Secretary may not acquire property without the consent of the owner, and the Secretary may acquire property owned by a State or political subdivision thereof only by donation. Prior to making a determination under this subsection, the Secretary shall consult with the duly elected governing body of the county, city, town or other jurisdiction or jurisdictions having primary taxing authority over the land or interest to be acquired as to the impacts of such proposed action, and he shall also take such steps as he may deem appropriate to advance local public awareness of the proposed action. Lands, waters, and interests therein acquired in accordance with this subsection shall be administered as part of the area to which they are added, subject to the laws and regulations applicable thereto."

Mr. PHILLIP BURTON during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. SEBELIUS. Mr. Speaker, I do not object to that request, but I do reserve the right to object to the first unanimous consent request.

The SPEAKER pro tempore. Without objection, the reading of the amendments will be dispensed with.

There was no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. SEBELIUS. Mr. Speaker, I reserve the right to object.

I yield to the gentleman from California to explain the content of the amendments and what the gentleman proposes to do.

Mr. PHILLIP BURTON. Mr. Speaker, the Senate adopted three amendments, which I will explain:

Acceptance of Senate amendment No. 1: Mr. Speaker, H.R. 5306, as passed by the House of Representatives on April 4, contained a provision which would state the intent of Congress that the land acquisition program for the existing units of the National Park System be completed within 3 complete fiscal years following the enactment of this legislation. Senate amendment No. 1 deletes this specific intention of Congress.

In discussing this difference with members of the Senate Committee on Energy and Natural Resources, I find

that there is no basic disagreement with the principle that the National Park Service proceed expeditiously to complete the acquisition program. There is a legitimate concern, however, that a 3-year deadline imposed at this time could lead to hardships in some cases. Therefore, I urge that my colleagues join me in agreeing to Senate amendment No. 1.

We would certainly expect the administration to come forward with a positive program to acquire these remaining lands in the near future. Any untoward delay in this will only mean that much higher prices will have to be paid for these lands when they are ultimately purchased, and the threat of damage to the character of these areas will exist in the interim. Acceptance of the Senate amendment will permit a more flexible program to be developed for these acquisitions.

Further amendment of Senate amendment No. 2: Mr. Speaker, H.R. 5306 in its original form contained a provision permitting the Secretary of the Interior to make minor boundary adjustments in National Park System units, and to accept lands adjacent to these areas by donation. The Senate deleted this aspect of the bill.

After discussions with the interested Senators, we propose to restore this language but with three additional changes.

First, the Secretary would be required to publish a revised boundary description in the Federal Register whenever a minor boundary revision or the acceptance of an adjacent property by donation takes place.

Second, the authority to make minor boundary changes will expire 10 years after the enactment of the authorizing legislation fixing the boundaries of a park system unit.

Third, prior to making a minor boundary change or accepting a tract of land by donation, the Secretary is to consult with the local unit of government, as well as providing local public notice of the proposed action.

These changes will provide for more complete public review, while permitting the Secretary this latitude in these instances, and I urge that this further amendment be adopted.

Acceptance of Senate amendment No. 3: Mr. Speaker, the final Senate amendment simply improves the section in H.R. 5306 which provided for the valuation of certain lands within the Big Thompson/North Fork Floodways in Colorado. The amendment will permit the U.S. Forest Service to value these lands which it may acquire in a similar manner to that method previously described in the bill for recreation land acquisition in this area by the State of Colorado. We will now have a consistent standard for valuing these lands, regardless of the acquisition agency. I urge the acceptance of this amendment.

Mr. SEBELIUS. Mr. Speaker, I continue to reserve the right to object.

Mr. Speaker, I very reluctantly lend my support, and urge the support of my colleagues, in the adoption of the amendments to H.R. 5306 which are now before us. Let me make myself clear in my indication of less than enthusiastic endorsement. I strongly supported this bill as it



originally passed the House last month. However, the bill now before us embodies Senate amendments which severely impair the intended impact and workability of the bill. Particularly, the Senate deleted the House provision which stated that it was the intent of the Congress that the backlog of all land acquisition for the National Park System be completed within 3 complete fiscal years following the enactment of this bill.

I want to point out that our National Park System yet has approximately 26,235 acres of both unimproved lands and developed private "inholdings"—worth an estimated \$84,370,000—within older units of the system—those authorized prior to 1960. These are lands which have long been intended by the Congress to be acquired, yet they still remain within private ownership. There is a significantly greater acreage and dollar figure of privately owned lands and developments within park system areas authorized since 1960—which also are intended by the Congress to be acquired.

The House bill intended that this entire backlog would be expeditiously acquired, so as to promptly eliminate the adversity of private inholdings within the public's national parks areas, and to simultaneously save the Nation's taxpayers from overpaying for these areas due to the great cost escalation resulting from continually delayed acquisition action. Escalation of land values in many of these areas is in the neighborhood of 15 percent annually. Prompt acquisition of these lands now—which is intended to ultimately happen anyway—would result in a very substantial savings of tax dollars.

Despite the Senate's aversion to specifically legislating a short term time frame for substantially completed acquisition for the National Park System, the House has been firm in its intention that the funding authorized by this bill for acquisition by all affected agencies would be undertaken expeditiously.

Specifically, the National Park Service's opportunity purchase program should not stand in the way of expending authorized and appropriated acquisition dollars and promptly completing the elimination of all unauthorized private holdings within units of the National Park System. Consequently, some condemnation actions, already authorized in many cases but heretofore not often exercised, may come to be a more essential ingredient of the immediate future to accomplishing the objective of private inholdings reduction and elimination.

In conformance with the thrust of this legislation, I strongly suggest that the National Park Service formally report quarterly to the appropriate committees of the House and the Senate as to the acquisition program accomplishments of the preceding year—by fiscal year—and the planned acquisition program of the upcoming next 2 fiscal years, broken down on a quarterly basis. In this manner, the Congress can have some periodic indication of the degree to which the Service is successfully moving toward the prompt elimination of private holdings within the National Park System.

Mr. Speaker, I also believe it would be appropriate for each other agency

which benefits from funding appropriated from the special account authorized by this bill, to likewise devise a similar quarterly reporting procedure for the benefit of the appropriate congressional committees, and I urge them to do so.

Mr. Speaker, despite the fact this bill does not still retain its strength as originally passed by the House, it still provides additional meritorious features which will significantly contribute to the preservation of some of America's most precious natural resources, and I urge my colleagues to support its approval.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. SEBELIUS. Mr. Speaker, I very reluctantly lend my support and withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

#### APPOINTMENT OF CONFEREES ON H.R. 2, SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2) to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona? The Chair hears none, and appoints the following conferees: Messrs. UDALL, PHILLIP BURTON, SEIBERLING, RONCALIO, BINGHAM, SKUBITZ, and BAUMAN.

#### VERNON THOMSON, CHAIRMAN, FEDERAL ELECTION COMMISSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 5 minutes.

Mr. FRENZEL. Mr. Speaker, rarely do we take the opportunity to praise a Chairman of a regulatory agency, especially when we are the group they are regulating. However, I believe that it is both necessary and appropriate to note the accomplishments of the ex-Chairman of the Federal Election Commission, the Honorable Vernon Thomson, who completed his term as Chairman this month.

Vern Thomson served in this body for 14 years as the Representative from the Third District in Wisconsin. Previously, he served in the Wisconsin State Legislature, as attorney general, and as Governor of Wisconsin. He has always been a courageous, effective public servant. His term as Chairman of the Federal Election Commission was no exception.

Chairman Thomson assumed the

chairmanship shortly after the FEC was reconstituted after the Supreme Court decision—Buckley against Valeo. He had only 5 short months to put the Commission's house in order before the November election. The Congress, in its wisdom, had not only reconstituted the Commission but laid upon the FEC many, major changes in the election law. It was not an easy task to complete before the November election.

Under Vern's direction, the Commission drafted and developed a new, comprehensive set of regulations. The conciliatory manner and even handed direction of the Chairman was instrumental in the resolution of many difficult partisan issues. The Commission requires a two-thirds vote for approval of any policy, but has three Democrats and three Republicans. Forging a two-thirds consensus requires skill and diplomacy of a high order, and a high confidence level by all Commissioners. Chairman Thomson had, and demonstrated, those abilities.

A second accomplishment and one for which the chairman was personally responsible, was the reduction in time required by the FEC to respond to advisory opinion requests and other correspondence. We have all experienced delays and difficulties obtaining prompt and responsive answers to questions. The process is not perfect yet. But, under Vern's direction, the response time has been drastically reduced and the backlog almost eliminated.

Another difficult task was the revision and refinement of compliance procedures and the initiation of enforcement action. The chairman guided the Commission through its first major enforcement action under the public financing law, recently culminating in a request for a return to the U.S. Treasury of \$300,000 in public funds. Other actions have been taken to assure compliance with the provisions of the law and still more are in process. The Commission's conduct in its enforcement proceedings has been substantially professionalized.

There were many skeptics in this body when the Congress created the Federal Election Commission. Few believe it was possible to restrict partisanship to a minor role in the agency's formal deliberations. Yet, under Chairman Vernon Thomson's thoughtful and effective leadership, there has been little evidence of partisanship.

Mr. Speaker, I am honored to call to the attention of my colleagues the achievements of one of our former Members, Vern Thomson, in the implementation of our campaign financing and disclosure laws during his productive term as Chairman of the Federal Election Commission.

#### PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. SARASIN) is recognized for 5 minutes.

Mr. SARASIN. Mr. Speaker, on May 24, 1977, I was absent from the House for part of the legislative session. Had I been present, I would have voted in the following fashion:

Rollcall No. 282: H.R. 6885—Internal security assistance—passed the measure to amend the Foreign Assistance Act of 1961 to authorize international security assistance programs for fiscal year 1978, to amend the Arms Export Control Act to make certain changes in the authorities of that act, "yea"; and rollcall No. 283: H.R. 6161—clean air—the rule (H. Res. 589) under which the bill was considered, "yea."

#### HONORING CAPTAIN CHAPMAN AND HONORING ALL VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, it is with a great deal of pride that I note the dedication of the 1550th Aircrew Training and Test Wing's Chapman Hall at Kirkland Air Force Base, N. Mex.

The impressive center which was formally dedicated by Air Force officials earlier this month, is an academic center and museum. Housed in the new facility are the only two helicopter flight simulators in the Air Force. Also, included in the building is the Aerospace Rescue and Recovery Service Museum. The flight simulators will be used to train student pilots. The museum contains memorabilia of rescue service activities dating back to 1946.

The center, Mr. Speaker, was named for Capt. Peter Hayden Chapman II, an outstanding young pilot who lost his life while in the service of this country in Vietnam. Captain Chapman was downed while maneuvering his helicopter to rescue an aircraft crash victim. Captain Chapman's death occurred only 2 weeks before the conclusion of his tour of duty in Vietnam. He had orders for service at Andrews Air Force Base with Air Force 1.

I bring the heroism of Captain Chapman to the attention of the Congress not only to pay tribute to this outstanding flyer but also to pay tribute to all those men and women who have served this Nation in our Armed Forces.

As we prepare to commemorate Memorial Day, 1977, let us remember the service of those who have died to keep America strong. It might be easy to take our democratic system for granted. It might be easy to overlook the price young Americans have paid to keep this country "the land of the free." But we must not forget. We cannot forget. We must renew our spirit of service and rededicate our energies to keeping America strong.

Captain Chapman and those who have died in the service of this Nation upheld the highest traditions of America's Armed Forces and of this Nation. At the very least, we owe America's future an equal measure of dedication.

#### PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. MARLENEE) is recognized for 5 minutes.

Mr. MARLENEE. Mr. Speaker, on Monday, May 23, I was unavoidably ab-

sent during votes on two of the suspensions. Had I been present I would have voted "yea" on rollcall No. 271, H.R. 1862, Veterans Disability Compensation and Survivors Benefits Act, and "yea" on rollcall No. 272, H.R. 6501, increased compensation for certain disabled veterans.

Also on Tuesday, May 24, I was meeting with my constituents attending the White House Conference on Handicapped, and missed rollcall No. 283, House Resolution 589, the rule for consideration of the Clean Air Act. Had I been present, I would have voted "yea."

#### WHALEN SAYS DOCTORS SUPPORT RECOMMENDATIONS FOR MEDICAL RECORDS PRIVACY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 5 minutes.

Mr. WHALEN. Mr. Speaker, you may recall that in January of this year I sponsored a briefing for Members of Congress and staff on the subject of medical records privacy. This program was an outgrowth of my continuing interest in the general subject of assuring the confidentiality of so-called third-party records, such as those kept for bank, telephone, and credit transactions.

The principal speaker at last January's program was Columbia University Prof. Alan F. Westin. Dr. Westin, a noted scholar and expert in the privacy field, had just released his report to the National Bureau of Standards, entitled, "Computers, Health Records, and Citizen Rights."

In association with the congressional briefing, I placed in the CONGRESSIONAL RECORD of January 12, on page 1046, a summary of the Westin report. Also, I inserted at that point the two basic sets of recommendations that were included in the report.

Knowing that many health care professionals in my district are concerned about the issues of confidentiality of patient records, I subsequently sent a letter to most physicians in my district, summarizing the Congressional briefing. Along with this communication I sent a reprint of the January 12 CONGRESSIONAL RECORD statement, and I invited comments.

A number of doctors did write back to me, Mr. Speaker, and I am pleased to report that they were unanimous in their support for tough safeguards for protecting the privacy of personal health records. Most respondents fully endorsed the recommendations contained in Professor Westin's report. And all agreed that it is necessary for us to examine fully the privacy issues raised by increased dissemination and automated retrieval of health records.

At this point, I would like to share with you and our colleagues a sampling of the comments I received from physicians in Ohio's Third Congressional District.

One of the first responses came from a general practitioner who obviously has given much thought to the issue of medical records privacy and patients' rights to confidentiality. His letter helps to il-

lustrate the problems faced not only by the patient, but also by the conscientious doctor. In part, he wrote:

A patient no longer has any confidentiality and we as physicians are helpless to do anything about it.

We have to give to the insurance companies diagnoses of every patient applying for insurance, collecting on disability, for time off, to all industries covering the same topics, to the Motor Vehicle Bureau, to the Civil Service regarding its employees, to the Board of Education, etc., etc.

I have a patient sign our own release form and if I think the disclosure of the information might be harmful to their job I tell them so. The patients are in the middle because if this information is not given they do not receive their compensation for whatever reason it may be.

Some of my patients have lost their jobs as a result of medical information required and there is nothing that I can do about it. . . .

Sometimes disclosing a medical disability will cost the patient a promotion and this will be given to another person of equal ability without a medical disability.

Insurance companies are harassing us for detailed information regarding an applicant for insurance and they want complete information from a chart, maybe containing 200 or 300 pages, of the dates, times, prescriptions, diagnoses, laboratory work and X-rays taken on this patient over a period of perhaps 10, 15 years or more. This is a human impossibility and after our report, which takes some days to get out, the patient may be rejected for insurance and we are held to blame.

Filling out a medical report to social security for disability is also a major feat and the paper work keeps on increasing.

I do not know where all of this will end.

The patient is now a number in a vast paper machine with no respect to confidentiality. We doctors must report the truth and in many instances this backfires on us.

Another doctor commented as follows:

. . . I was interested to read about your press conference with Dr. Alan Westin. You are doing a wonderful job in this most important area, the importance of which has just begun to dawn on many of us.

A great deal of unnecessary data collection would be forestalled, it seems, if the rule could be established that no agency should have any data, personal or otherwise, which is not needed to carry out its legally defined function. Of course, the collection of personal identifiers should be restricted to those instances where it is specifically authorized in law or by executive order of the President. This is the provision in the Privacy Act of 1974 as I understand it. If this is true perhaps citizens should be alerted to check these points out before giving out information.

Reflecting my own thoughts about the question of who should ultimately control access to third-party records of a personal nature, another general practitioner wrote:

I think that it is important to remember that Medical Records are private and not public property.

The records are really the property of the Patient. The Patient should be the one to determine whether records or parts thereof should be released to a third party.

In a similar vein, an orthopedist in Dayton made this observation about the key recommendations of the Westin report:

I have read through . . . the twelve Basic Principles for safeguarding privacy of health



data systems. One comment I would like to make that I did not see in the Twelve Basic Principles, I feel there should be a statement that if a patient does not want any of his personal information to be used or to be passed on to any other agency I would like to see a clear statement that any privileged private information of any patient would not be used by any agency if not authorized by the patient. I do not feel that in these Twelve Basic Principles, that that course is properly delineated, otherwise everything else I have reviewed seems quite pertinent and timely to me.

Finally, we have this straightforward statement by another orthopedist in my district:

I believe that it is absolutely essential that every health data system should be under strict guidelines to protect the individual citizen's rights. As you know, computer control with wide distribution through insurance company files without prior authorization from the patient, is in strict violation of a person's individual rights as a citizen and wide distribution of individual personal information should be severely restricted.

I believe that it is absolutely necessary that information release forms be specifically filled out and the individual should be aware as to who is receiving the information and it should be used over a limited period of time and should not be available to all people that may be desirous of information, particularly insurance companies. Personal data can change from time to time and to have no limit on this certainly is not fair to the individual.

Data used in research should also be limited to statistical analysis rather than related to individual patient identification except under certain extenuating circumstances where the individual should have the privilege of restricting the dissemination of the information.

As you know, the entire problem has changed because of the wide dissemination of information and computer systems that pass information back and forth on request.

Mr. Speaker, from the mail I have received, I can only conclude that there is strong support in the medical profession, at least in the Dayton area, for the medical records privacy recommendations contained in the Westin report on "Computers, Health Records, and Citizen Rights." I am pleased to see the high degree of interest and awareness about this issue amongst physicians in the Dayton area and I shall attempt to keep them, and you, informed of any new, significant developments in this field.

#### LEGISLATION AMENDING INTERNAL REVENUE CODE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

Mrs. HECKLER. Mr. Speaker, as one who is deeply concerned about the plight of the small business community in this country, I would like to bring to the attention of my colleagues a bill which I introduced today.

This bill addresses a major problem of small businessmen: The need for reform in the tax structure so as to spur capital growth. Specifically, it amends the Internal Revenue Code of 1954 to allow small businesses to use a larger portion of their first \$150,000 of earnings. It establishes a tax schedule of 20 percent for the first \$50,000, 22 percent for the next \$50,000,

and 48 percent for the excess over \$150,000.

Taxing the first \$150,000 of corporate income at lower rates is essential to small businesses' survival, in view of the startup costs, risk factors, and inflated expenses which these businesses face. The need for a tax break was recognized by Congress 39 years ago, when the first \$25,000 in earnings was exempted from the 48 percent tax rate, and reiterated by this body 2 years ago when the \$25,000 was increased to \$50,000.

Mr. Speaker, the \$50,000 represents half a loaf, at a time when small business, in terms of capital needs, requires a full loaf. Revitalization is required, to allow small businesses, which account for 97 percent of all businesses in the United States, to flourish and grow, with the eventual benefits of additional jobs, increased tax revenues, and lowered unemployment and welfare costs.

Therefore, I urge my colleagues to support the legislation which I introduced today, in order to help small businesses attract the capital which is vital to their existence, and to this Nation's economy.

#### ASHBROOK AMENDMENT TO HATCH ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 30 minutes.

Mr. ASHBROOK. Mr. Speaker, in the past week, we have witnessed a frenzied effort to explain away, gloss over or, in some instances, distort the action of the House of Representatives last Wednesday night when my Hatch Act amendment was adopted by a 229 to 168 vote. I understand the problem of the union leaders advocating this bill. They thought they had everything in order and, therefore, must look for every conceivable ploy to explain away what I think was a sound action the majority of the Members took. They use such words as "confusion, misunderstanding, and misrepresentation" in attacking the Ashbrook amendment.

First, it is alleged that very little time was spent on the amendment. This is correct, but it certainly cannot be blamed on the sponsor of the amendment. Anyone referring to pages 15424 and 15425 of the May 18 CONGRESSIONAL RECORD can see precisely what happened. I offered the amendment and very clearly explained its implications. Rather than recite whatever reasons the sponsors of the bill now have for opposing my amendment, my friend from Missouri, Chairman CLAY, immediately moved that all debate end within 20 minutes and by a division vote of 110 to 58 this motion was agreed to. At no time did the majority discuss my amendment. Thus all debate, repeat all debate, was shut off on the motion of the majority party.

Second and probably the worst insult to the intelligence of the Members of the House, the union leaders now complain that the Members simply did not know what they were doing. Let me make several observations. It is generally known after 17 years that I have been a steadfast critic of union power grabs and it is inconceivable that anybody,

whether they had read the amendment or not, would not understand my amendment would be in the nature of a limitation on what I believe to be union excesses. Monday's Washington Post seems to put this point in perspective in the following quotation:

In the old days it would have been enough to say that Ashbrook was for the amendment and labor against it, said a leading Democrat after the late night vote. But that approach doesn't work anymore.

Yes, Mr. Speaker, that approach does not work anymore but at least it is generally known what side I am on. I have never misrepresented that.

Furthermore, I personally delivered a copy of the amendment to the majority counsel and the minority counsel more than 5 hours before my amendment was brought before the Members of the House. Several Members requested copies and all were given one, because they were available on request. The amendment was read in its entirety—even though printed copies were distributed, I did not make the usual time-saving request for the Clerk to dispense with the reading of my amendment.

It is very hard to argue that Members did not know what they were doing.

Third, probably the strangest criticism of my amendment to the argument that it is something different or novel and it would apply to Federal employee unions different restrictions than those faced by, say, UAW unions in Detroit. This is a specious argument and for anyone who will read the debate, they will note that on numerous occasions proponents of H.R. 10 indicated they, too, were concerned with making broad changes, because of the different nature of Federal employees particularly in regulatory agencies such as OSHA.

Repeal of the Hatch Act as provided in H.R. 10 would permit things to be done which previously were prohibited and thus remove some protection workers now have against intimidation and union activities they may not agree with. The Ashbrook amendment recognizes this situation and would preserve certain protections. Except from the point of view of the employee unions who want the power, what is wrong with that?

It all comes down to whether you are interested in the individual Federal employee or the employee unions. Those who are concerned about preserving the protections properly accorded to Federal employees do not need to apologize for voting for my amendment. Those who worry about the wrath of the Federal employee unions might well have political concerns about supporting my amendment.

If Federal employees are now going to be permitted to engage in partisan political activity, there should be some protection for those who want no part in partisan political activities—particularly if they are forced to belong to a union. The Executive order governing labor management relations in Federal service establishes exclusive monopoly compulsory representation. The union certified as bargaining agent is given the privilege of representing all persons in the unit. Every person in the unit must accept the union as his bargaining agent regard-

less of his or her wishes so Federal workers are under pressure to join the union as they are compelled to accept representation. It is wrong to use their dues money, paid as a condition of that pressured membership, for political activities they want no part of.

#### ANALYSIS OF AMENDMENT

Mr Speaker, I hope my colleagues will take a good look at the amendment we adopted before they listen to the distortions being distributed by the union leaders. There are two parts to the amendment. The first part reads:

"(d)(1) No employee organization (including any national or international union, council, or department which includes such organization, or any affiliate of such organization), or officer, employee, or agent thereof, shall directly or indirectly intimidate, threaten, coerce, command, or directly or indirectly attempt to intimidate, threaten, coerce, or command—

"(A) any employee for the purpose of interfering with the right of any employee to vote as such employee may choose, or of causing any employee to vote, or not to vote, for any candidate or measure in any election;

"(B) any employee to give or withhold any political contribution; or

"(C) any employee to engage, or not to engage, in any form of political activity whether or not such activity is prohibited by law.

This section has sound statutory precedence. Numerous laws are already in effect to prohibit intimidation of voters and other attempts to wrongfully influence voting: 18 U.S.C. section 594 makes it illegal to intimidate, threaten, or coerce any person to vote or not vote as he chooses; 18 U.S.C. section 597 prohibits offering, soliciting, or receiving an expenditure to influence a person's vote; 18 U.S.C. section 600 outlaws promising Government employment or any other benefit in reward for political activity; 18 U.S.C. section 601 forbids using deprivation of Government employment or other benefits as a means of eliciting a political contribution.

In addition, H.R. 10 contains numerous provisions aimed at preventing intimidation and coercion of employees. In particular, section 7323 prevents the use of official authority or influence by an employee to either interfere with an election or else intimidate, threaten, coerce, command, or influence an individual to vote or not vote as he chooses, to give or withhold a political contribution or engage or not engage in political activity.

The Ashbrook amendment simply extends these employee protections against intimidation, threats, and coercion so as to cover employee organizations. If we are truly concerned about preventing employee coercion, then we should apply it to all those who could apply coercion, including Federal employee organizations.

The second part of the amendment is admittedly more controversial. It reads:

(2) No portion of any dues, fees, or assessments levied on the membership of any employee organization referred to in paragraph (1) of this subsection by such organization shall be used by such organization for any political purpose or by any political education or action committee of such organization for any purpose.

This approach is hardly new. Statutes prohibiting labor organizations—as well

as corporations and national banks—from making a direct contribution or expenditure in Federal elections have been on the books for years.

Section 313 of the 1907 Corrupt Practices Act, as amended in 1947, is as follows (italics added):

*It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section.*

The basic substance of this act is still law today, now codified as 2 U.S.C. section 441. It bars labor organizations from making any contribution or expenditure from their institutional funds in connection with a Federal election, primary, convention or caucus. The only exceptions are internal communications by a labor organization to its members and families; nonpartisan registration and get out the vote campaigns by a labor organization aimed at its members and families; and the establishment, administration, and solicitation of contributions to a separated segregated fund to be utilized for political purposes.

Nevertheless, it has been suggested that the Ashbrook amendment is duly restrictive. A careful reading of the amendment will show that not to be the case.

It should be emphasized the Ashbrook amendment only prohibits the use of dues, fees, or assessments levied on members from being used for political purposes. It in no way prevents Federal employee organizations from soliciting and receiving voluntary contributions from its members and placing these contributions into a separate fund. With a separate fund the organization may engage in almost any political activity it wishes. If employees want to voluntarily give money to the organization to work for or against a candidate, that is perfectly legal under the amendment. This protects the individual union member's right to dissent by preventing unions from using his or her money to support a political party or candidate he might oppose.

Nor does the Ashbrook amendment prohibit purely informational activities. The organization is free, for example, to use institutional funds to print a notice of an upcoming election just as it would be free to print news of any upcoming event of possible interest to members. So also would it be free to print in its regular internal communications selected votes showing the record of particular candidates on the issues.

Passage of H.R. 10 would permit many activities previously prohibited by law, thereby removing some of the protections employees now have against intimidation and activities they may not agree with.

The Ashbrook amendment will preserve these protections for the worker.

#### CONCLUSION

The Hatch Act's primary assumption is that there are basic differences between a Federal employee and one in the private sphere. H.R. 10 provides basic distinctions between the Federal employee and the employee in the private sphere. Mr. CLAY, in his opening statement on H.R. 10 states:

In developing this legislation the committee has been guided by the importance of striking the proper balance between the right of Federal employees to participate in the political life of this Nation at all levels and the right of the public to impartial, non-political, administration of the law.

Before the bill was amended on the floor Mr. CLAY pointed out several areas where the bill made distinctions between Federal and non-Government employees. These distinctions appear as prohibitions on and protections for Federal employees. They include:

First, prohibition on use of official authority, influence or coercion with respect to voting or otherwise engaging in political activity: Government position gives powers not held by non-Governmental employees;

Second, prohibits solicitations of political contributions by superior officials: No such specific prohibition on voluntary contribution solicitations by superiors in private sphere; and

Third, prohibition on political activity by Federal employees in "restricted positions."

Amendments showing distinction between Federal Government employees and private sphere employees include:

Solarz amendment to tighten restrictions on soliciting of political contributions by Federal employees from those seeking contracts: Those being regulated—OSHA, SEC, et cetera—or those who have interests "which may be substantially affected by the performance or nonperformance of such employee's official duties."

Federal employee involvement in the political process raises very different issues than involvement of employees not working for the Government. This can be seen in the distinctions drawn above and in such additional areas as prohibitions on FBI members and CIA officials. These prohibitions serve as both a protection for the employee and the public as a whole.

#### GOLDEN ANNIVERSARY OF THE POLISH AMERICAN HOME, BAYONNE, N.J.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. LE FANTE) is recognized for 5 minutes.

Mr. LE FANTE. Mr. Speaker, last Saturday, May 21, 1977, the Polish American Citizens Club Women's Auxiliary celebrated its golden anniversary at the Polish American Home in Bayonne, N.J.

Established in 1927 for the purpose of promoting civic and political participation among its members, this sororitorial association has continuously served throughout its long and meritorious history as a bastion against apathy and in-



difference. And while the Women's Auxiliary of the Polish American Citizens Club has remained steadfastly committed to the cause of good government, they have over the years expanded the scope of their activities in an effort to more effectively meet the needs of the community.

Today, five decades after their club received its charter, the women's auxiliary is involved in many worthwhile charitable and social endeavors, in addition to their ongoing and outstanding contribution to the educational needs of both the youth and the adults of our community.

Mr. Speaker, 50 years ago, the original membership of the Auxiliary of the Polish American Citizens Club listed 13 women, of which Mrs. Martha Ghizzone is the sole surviving individual. A fine and gracious woman, Mrs. Ghizzone epitomizes the spirit that has made the women's auxiliary such a resounding success in the city of Bayonne. And it is heartening to know that after five decades, the leadership of this association is still in capable and dedicated hands in the person of Mrs. Anne Rutkowski, the current president, and Mrs. Julia W. Chodkiewicz and Mrs. Wanda Lempa, chairlady and cochairlady, respectively, for the 50th anniversary celebration.

I know that the entire city of Bayonne joins me in extending sincerest congratulations to the women of the Polish American Citizens Club upon the occasion of their golden jubilee. I thank them for their unselfish contribution to our community and wish them continued good fortune in the future.

#### DEDUCTING STATE GASOLINE TAX FOR FOUR-CYLINDER CARS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio, Mr. VANIK is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, in light of our national commitment to implement a comprehensive energy program and reduce our consumption of oil and gasoline, I am distressed with present IRS regulations which reduce the gasoline tax deduction by 50 percent for four cylinder automobiles. We must utilize our tax system to the utmost to encourage energy conservation and efficiency.

Section 164(a) (5) of the Internal Revenue Code allows a deduction for State and local taxes on the sale of gasoline, diesel fuel, and other motor fuels, for taxpayers who itemize deductions. Pursuant to broad legislative authority in section 7895 of the Internal Revenue Code, the IRS has formulated administrative rules to implement the provisions of section 164(a) (5) of the code. These administrative rules and regulations have the force and effect of law when Congress acquiesces to them.

The IRS provides a State gasoline tax table on page 14 of the instructions for form 1040, to be used to determine the amount of State gasoline tax which is deductible in lieu of each taxpayer formulating individual estimates. The instructions that accompany the table state that "if your car had four cylinders or less, deduct half the amount."

In light of our urgent commitment to

energy conservation, I have urged IRS Commissioner Kurtz to modify these instructions and provide equal treatment for tax purposes to four cylinder cars. The present IRS regulation, slashing the gasoline tax deduction by 50 percent for four-cylinder automobiles, is a tax disincentive for their purchase and use.

It is contrary to the spirit of the Carter energy proposals to provide the owners of four-cylinder engines one-half the tax deduction provided the owners of the large cars and the "gas guzzlers."

#### A TRIBUTE TO MR. ALEX HALEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mrs. COLLINS), is recognized for 5 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, I take this time to express my admiration and appreciation for one of America's greatest symbols of national pride and exemplary achievement, Mr. Alex Haley.

The national pride engendered by the phenomenon of "Roots" has touched us all, regardless of race or color, as a reminder of the virtues of heritage and its positive effects. Notwithstanding the impact that Mr. Haley has made on the history of the American experience, he has gone further to pave the way for the progress of black Americans by his crowning achievement of being the first black ever to be awarded a Pulitzer Prize in the special category. The encouragement and standard for excellence that he has rendered by his accomplishments are indeed worthy of praise.

I invite my colleagues to join me in saluting a notable American—Mr. Alex Haley.

#### THE NEED FOR POLE ATTACHMENT LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 30 minutes.

Mr. WIRTH. Mr. Speaker, today Mr. BROYHILL and I, along with 15 of our colleagues are introducing legislation to permit State or Federal Government regulation of the attachment of television cable to utility poles. This bill, termed "unfinished business" from the last Congress by the distinguished chairman of the Communications Subcommittee, Mr. VAN DEERLIN, is similar to legislation reported late in the last session on which the House never voted.

The reason for this legislation is simple—cable television operators are generally prohibited by local governments from constructing their own poles to bring cable service to consumers. This means they must rely on the excess space on poles owned by the power and telephone utilities. These utilities, however, have responded in traditional monopolistic fashion, offering cable operators "take it or leave it" terms. Not only does this situation hamper the expansion of cable television service, but in at least one instance, it resulted in ongoing cable service being cut off to consumers.

As the committee report of last year observed:

If the (cable) operator is unable to nego-

tiate an acceptable contract with the owners of these poles, he has no legal forum to hear his complaint except in those few states that have assumed jurisdiction over this issue.

This legislation would provide such a forum which, under guidelines outlined in the bill, would operate at either the State or Federal level.

For 9 years cable operators have sought relief on this problem from the Federal Communications Commission. The FCC has repeatedly "studied" the issue, never resolving it. Finally, earlier this year, the FCC determined it had no jurisdiction over cable television pole attachments absent congressional authorization. The time is at hand to provide that authority, while assuring the State agencies which want to occupy the field are not precluded from doing so.

I am pleased to say to my colleagues that this legislation is supported not only by the National Cable Television Association but also by the National Association of Regulatory Utility Commissioners. That these two parties, representing the affected industry as well as the State officials involved, are in accord on this legislation is significant. It indicates that the legislation not only solves a pressing problem but also respects the principles of State sovereignty and responsibility.

As might be expected, utility companies are opposed to this legislation. In comments solicited by Chairman VAN DEERLIN on this draft, the utilities expressed the belief that there was no problem in the pole attachment area. Their more specific objections centered around the rental formula in the bill which calls for establishment of a "just and reasonable rate." So that my colleagues may more fully understand the position of the utilities and the precise functioning of the bill and its rental formula, I am inserting the conclusion of my remarks, some supplementary material on this issue as well as comments on the concerns expressed by the utilities.

Clearly, Mr. Speaker, consumers now receiving cable television as well as consumers who desire access to this service in the future will benefit from this bill's attempt to protect them from the abusive monopoly power of the utilities. I am encouraged by the leadership both in the last Congress and presently which our distinguished subcommittee chairman, Mr. VAN DEERLIN, has shown on this issue. I am hopeful that under his leadership this body will act quickly to approve this legislation.

I insert at this point in the RECORD the text of the bill along with an explanation of the bill's formula and a summary of and comments on the utility companies' positions on this proposal:

H.R. 7442

A bill to amend the Communications Act of 1934 to provide for the regulation of utility pole attachments

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

#### "UTILITY POLE ATTACHMENTS

"SEC. 224. (a) As used in this section—

"(1) The term 'utility' means any person who provides telephone services or electric energy to the public and who owns or con-

trols poles, ducts, conduits, or rights-of-way used, in whole or in part, for wire communication. Such term does not include any corporation or other similar entity owned by the Federal Government.

"(2) The term 'Federal Government' means the Government of the United States or any agency or instrumentality thereof.

"(3) The term 'pole attachment' means any attachment for wire communication on a pole, duct, conduit, or other right-of-way owned or controlled by a utility.

"(4) The term 'usable space' means the space on a utility pole above the minimum grade level which can be used for the attachment of wires and cables.

"(b) (1) The Commission shall regulate the rates, terms and conditions for pole attachments in any case in which such rates, terms, and conditions are not regulated by any State authority.

"(2) A just and reasonable rate, whether prescribed by the Commission or by State authority, shall assure the utility the recovery of not less than the additional costs of providing pole attachments nor more than the actual capital and operating expenses of the utility attributable to that portion of the pole, duct, or conduit used by the pole attachment. Such portion shall be the percentage of the total usable space on a pole, or the total capacity of the duct or conduit, that is occupied by the pole attachment."

#### COSPONSORS

Clarence J. Brown, George E. Brown, Jr., James J. Florio, Lamar Gudger, Robert L. Leggett, Edward J. Markey, John M. Murphy, Stephen L. Neal, Edward W. Pattison, Donald J. Pease, Richardson Preyer, Fred B. Rooney, Charles Rose, Henry A. Waxman, Bob Wilson.

#### COMMENTS ON VIEWS IN OPPOSITION TO POLE ATTACHMENT LEGISLATION

The Chairman of the House Communications Subcommittee, Mr. Van Deerlin, requested all interested parties to file comments with the Subcommittee relative to proposed legislation to regulate the rates, terms and conditions of cable television attachments to utility poles and ducts. The principal criticism of the proposed legislation which has been agreed to by the National Association of Regulatory Utility Commissioners and the National Cable Television Association came from the utility companies. Their concern centered around the operation of the rental formula in the bill which calls for the establishment of a "just and reasonable rate."

The floor for such a pole attachment rate would be the incremental costs to the utility of providing the attachment. The ceiling would be a percentage of the fully allocated costs associated with the pole, based on usable space. The submitted comments evidenced considerable misunderstanding as to how this formula works out in practice. The following is an amplification of the principles involved.

#### Background

Utility pole costs can be separated into two basic categories: (1) the capital costs associated with construction, ownership and replacement of the poles, and (2) operating expenses associated with maintenance, repair and administration.

As a general matter, utility companies have not planned or constructed poles to provide for the attachment of third party users such as cable television. Rather, they have licensed cable television companies to occupy surplus space on poles, where available, for so long as such space is unneeded for utility purposes. Where such excess space is not available, the cable operator has traditionally been required to bear the entire capital cost of constructing a larger pole. Similarly, if the utility needs the space to which cable is attached, the cable operator must vacate the pole or bear the entire capital cost of constructing a new pole.

#### PROTECTION FOR THE UTILITY: DETERMINATION OF MINIMAL RATES

Cable television attachments cause no capital cost to the utilities. All the costs associated with "make ready" such as preparing the pole and actually attaching the television cable would, under this legislation, continue to be paid by the cable television companies.

Thus the only added cost to the utility resulting from the pole attachment would be administrative costs. The legislation is designed to permit utilities to recover any and all of these incremental costs. This, however, is only the floor for the rate determination established in the bill, and is designed to insure that rates are not set which result in the utilities subsidizing cable companies. Higher rates are also permitted in a formula which allows the utilities to recover a proportion of all their costs based on the amount of usable space occupied by the television cable.

#### PROTECTION FOR THE CABLE TELEVISION LICENSEE: DETERMINATION OF MAXIMUM RATES

The ceiling rental rate would be calculated by using a formula which can be expressed, as follows: A equals the average cost of a pole, B equals non-capital expenses expressed as a percentage of A, and C equals the share of the annual costs to be borne by cable television. Multiplying  $A \times B \times C$  would result in the annual pole attachment rate.

Elements A and B in this formula are relatively easy to determine from the public records of the utilities. The principal concern of those commenting on the proposal related to factor C, the share of annual costs.

Under the ceiling concept contained in subsection (b), the method of assigning responsibility for the annual costs of a pole is to determine the percentage of usable space which is licensed to the cable television licensee (not just the space occupied by some commenters feared). Cable television is almost always assigned 1 foot of space for the attachment of its facilities and, therefore, its responsibility factor can be expressed as one over the total amount of usable space. The latter figure depends on the length of the utility pole.

For example, there are seven feet of usable space on a 30 foot pole and 15 feet of usable space on a 45 foot pole. The average pole in use by a particular utility is ascertainable from utility records and thus the share factor for cable television can be easily calculated. Contrary to the fears of the commenters, the share, once calculated, applies to the entire pole. Thus, for example, the share factor would be 14% (one seventh of the usable space) on a 30 foot pole calculated on the basis of the costs attributable to all of the pole. This same share analysis applies equally to duct arrangements.

This share concept can be analogized to an apartment house situation. The renter of one of the ten units pays the cost of that unit plus one-tenth of the cost of all common areas. He does not pay one-half of the cost of the common areas just because only one other person occupies the other nine units, but rather he pays his one-tenth share of all costs attributable to the building.

#### IS THERE A POLE ATTACHMENT PROBLEM?

Several of the utilities commenting on the proposed legislation alleged that there really is no problem and that the complaints of the cable television industry are isolated and unique. During the Communications Subcommittee's 1976 Hearings on this subject (which resulted in the full committee reporting a bill), the National Cable Television Association demonstrated that pole rental rates have increased dramatically in the past few years without regard to the costs associated with the attachments. The effect of this was to thwart the growth of cable television service to consumers. In some instances the disputes between cable systems

and utilities over allegedly unfair rates resulted in a discontinuation of cable television to those dependent on the service.

Evidence was produced during the Subcommittee Hearings showing that the average pole attachment rate increase was 47% from 1973 through 1976. A list of increases submitted in August, 1976, included 23 telephone and electric utilities in 16 states. NCTA supplemented this list in commenting on the proposed legislation and 9 new increases were noted, many of them more than doubling the previous rates. All of this activity does not even include AT&T which is the largest single pole owner in the country. They are constrained by an FCC-instigated agreement which largely maintains the status quo until 1979. In the bargaining which preceded this agreement in 1975, AT&T sought rate increases averaging 33%.

Finally, several parties said that there would be no problem if cable television became joint owners of the poles and/or ducts. This may well be so, and it is certainly an option which this legislation does not preclude, but it is not a solution to the problem which should be mandated. The problem of unfair rates, terms and conditions exists, and as long as cable systems are licensees on a utility's poles, that relationship is in need of regulation.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. WIRTH. I yield.

Mr. BROYHILL. Mr. Speaker, I am today introducing, with Mr. WIRTH and others, a bill to regulate the rates, terms and conditions of attachments of television cable to utility poles and conduits. Extensive hearings by the House Subcommittee on Communications have firmly established that the power and telephone utilities exercise extensive control over these attachments of television cable to the national communications pathway on poles and conduits.

Last year a similar bill was reported by the Committee on Interstate and Foreign Commerce but did not receive floor consideration in the dying days of the 94th Congress. One of the major issues in the committee's deliberations last year was the relationship between State regulatory agencies and the Federal Communications Commission. I, for one, was very concerned that the Federal agency would usurp the power of the State agencies and worked to prevent such a situation in last year's bill.

I am pleased to report that this year the question of Federal/State regulatory jurisdiction has been resolved in a very equitable manner. As a result, this legislation has been endorsed by the National Association of Regulatory Utility Commissioners, representing the State agencies. The bill has also been endorsed by the National Cable Television Association.

Mr. Speaker, this bill is badly needed. If consumers are to enjoy the expanded diversity of cable television service the cable must, obviously, reach their homes. This bill establishes the mechanism to assure that the service necessary to reach the homes—poles and conduits—is made available fairly and reasonably.

#### GENERAL LEAVE

Mr. AKAKA. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks and to include extraneous matter on the subject of the special order today



of the gentleman from Colorado (Mr. WIRTH).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

#### HEARING SCHEDULE LEGISLATIVE BRANCH DISCLOSURE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, as chairman of the Select Committee on Ethics, I take time to advise Members that the hearings scheduled for Wednesday, May 25, on the Legislative Branch Disclosure Act have been cancelled because of the conflict with floor activity on the Clean Air Act. Hearings on the Disclosure Act will be held on the mornings of Thursday, June 2, and Tuesday, June 7. Time and place of the hearings will be announced later.

#### INTERNATIONAL SECURITY ASSISTANCE ACT

Mr. BRADEMAs. Mr. Speaker, I ask unanimous consent to extend my remarks and include extraneous matter at this point in the Record and also that my remarks be inserted in the permanent Record of May 24 following passage of the bill H.R. 6884.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

#### INTERNATIONAL SECURITY ASSISTANCE ACT

Mr. BRADEMAs. Mr. Speaker, I am greatly pleased that the Republican motion to recommit the International Security Assistance Act for fiscal year 1978 with instructions to eliminate all restrictions on military assistance to Turkey was defeated by the House of Representatives by such an overwhelming margin.

In its decisive action on this matter—by a margin of 256 to 150—The House has supported the recommendations of its Committee on International Relations and has made clear its determination to play a strong and constructive role in working with the Carter administration in seeking a solution to the problems of our allies in the eastern Mediterranean and in encouraging a just settlement of the Cyprus tragedy.

In this connection, Mr. Speaker, I wish to say that on Sunday, May 22, 1977, I was privileged to hear President Carter deliver one of the finest statements on foreign policy I have ever heard by an American President. In his address, delivered at the commencement exercises of the University of Notre Dame, in the district I have the honor to represent, the President set forth what he described as the "five cardinal premises" of what he called "a new American foreign policy—a policy based on constant decency and its values, and an optimism in its historical vision."

First—

Said President Carter—

we have reaffirmed America's commitment to human rights as a fundamental tenet of our foreign policy.

Second, we have moved deliberately to reinforce the bonds among our democracies...

Third, we have moved to engage the Soviet Union in a joint effort to halt the strategic arms race...

Fourth, we are taking deliberate steps to improve the chances of lasting peace in the Middle East...

Fifth, we are attempting, even at the risk of some friction with our friends, to reduce the danger of nuclear proliferation and the worldwide spread of conventional arms.

Mr. Speaker, I salute President Carter for articulating in simple but eloquent words these fundamental bases of American foreign policy, and I cite his address at Notre Dame in order to form the context for my own comments concerning one issue that is raised by the bill before us today, the issue posed by the invasion in August 1974 by the Government of Turkey of the Island of Cyprus.

Mr. Speaker, on September 16, 1976, Gov. Jimmy Carter, as a candidate for the Presidency of the United States, made the following statement about the conduct of American policy toward Turkey under the Ford-Kissinger administration:

The Administration failed to uphold either principle or the rule of law in the conduct of our foreign policy. American law requires that arms supplied by the United States be used solely for defensive purposes.

And Governor Carter went on to declare:

The United States must pursue a foreign policy based on principle and in accord with the rule of law.

Mr. Speaker, I agreed with that statement then, and I applaud it today. It is central to the issue of normalizing U.S. military relations with Turkey.

Likewise, Mr. Speaker, in Detroit on May 12, 1976, Governor Carter referred to the defense cooperation agreement which Secretary Kissinger had negotiated with Turkey, and said that:

I feel most distressed that Mr. Kissinger's recent agreement with the Turkish government was not coupled with an agreement which promised more rapid progress toward a just solution for the Cyprus tragedy. In my judgment, we would be negligent of the moral issues and courting longer-range disaster if we fail to couple the improvement in relations with Turkey with increased fair progress on the Cyprus issues...

Mr. Speaker, I agreed with that statement then, and I applaud it today.

Moreover, in a letter dated November 5, 1976—after the Presidential election—Vice President-elect WALTER F. MONDALE dealt with the question of resuming normal military relations with Turkey, and said the following:

I have very strong reservations over the wisdom of granting arms assistance to Turkey in light of that country's continuing inability to show needed flexibility in helping to reach a just settlement that will allow the return of the refugees to their homes, and insure Cyprus' independence, sovereignty and territorial integrity. Moreover, I take particular exception to supplying arms assistance as an incentive to make Turkey more amenable to negotiating fairly.

Mr. Speaker, I agreed with Senator MONDALE's statement then and I applaud it today.

Mr. Speaker, these several statements form the backdrop for consideration of the question of U.S. military support for Turkey.

In dealing with this question, Mr. Speaker, I believe it essential that we keep in mind five fundamental principles:

First. The first principle prohibits the use of weapons supplied by the United States for offensive purposes. This fundamental principle of American foreign policy has been written into the laws of our land, and I believe that it commands wide support in our country.

Second. The second principle is that of the rule of law, a principle which requires that our laws be enforced by the executive branch of our Government.

The provisions of two laws, Mr. Speaker, the Foreign Assistance Act and the Foreign Military Sales Act, contains language specifically mandating—requiring—a halt to any further U.S. arms to any country receiving arms from this country, whether by grant or sale, if those arms are used for aggressive purposes.

These laws, to reiterate, mandate a cutoff of further U.S. arms, and it was the failure of the Ford-Kissinger administration to enforce these laws after Turkey used American-supplied tanks and bombs, guns and planes, ships and bullets, to mount a second invasion of Cyprus, in August of 1974, that caused Congress to vote an embargo on arms to Turkey. I note, Mr. Speaker, that in taking this action, Congress did not seek to write new laws but rather to insure that existing laws were enforced.

Let me also emphasize, Mr. Speaker, that Congress did not take such a step following the first Turkish action on Cyprus, in July of 1974, but only in the wake of the second, clearly offensive, invasion conducted the following month.

Third. The third principle we must assert, Mr. Speaker, is that of discouraging the worldwide spread of military arms. President Carter has been rightly concerned about the dangerous increase in armaments around the world—a concern he eloquently voiced in his speech at Notre Dame Sunday.

Clearly, a failure on the part of the Carter administration to enforce statutory restraints in the use of arms supplied by the United States would run directly counter to this policy.

Fourth. The fourth principle we must keep in mind, Mr. Speaker, again as so nobly voiced in the President's Notre Dame address, is a reaffirmation of America's commitment to human rights as "a fundamental tenet of foreign policy."

This is a concern which, I am confident, we in Congress share, and I applaud the determination expressed by the President to examine carefully the human rights records of the nations with which we deal.

In this connection, and in respect of the particular issue to which I am addressing myself—the resumption of normal U.S. military relations with Turkey—I am constrained to refer to the report of the European Commission of Human Rights of the Council of Europe concerning Turkish actions on Cyprus.

For, Mr. Speaker, it must be observed that this highly respected Commission found Turkey guilty of violating six articles of the European Convention on Human Rights during its continuing illegal occupation of Cyprus.

The report cited these violations:

First, systematic killings of innocent civilians committed on a substantial scale; second, rapes of women of all ages from 12 to 71; third, torture of prisoners and persons detained; fourth, looting and robbing on an extensive scale; and fifth, continuing violations of human rights by refusing to allow the return of refugees to their homes.

Mr. Speaker, it is clear that beyond these obvious violations, the Turkish occupation of Cyprus and the continual presence there of large numbers of military personnel constitute a massive, ongoing violation of basic human rights. Neither the Carter administration, committed to the protection and promotion of human rights, nor we in Congress who share that commitment, can without making a mockery of it, ignore the harsh evidence of Turkish violation of human rights in Cyprus.

Fifth. The fifth principle, Mr. Speaker, which must guide us in this matter is the need for a prompt, just and humane settlement of the Cyprus tragedy. For the reason that Congress insisted on cutting off military aid to Turkey was the wrongful use of American arms by Turkey in the August 1974 invasion of Cyprus; Congress acted to insist that our statutory prohibition on the offensive use of American weapons be effected and that the laws of our land be enforced. Just as clearly, therefore, Mr. Speaker, the resumption of normal military relations between the United States and Turkey is inextricably linked to progress toward a solution on Cyprus.

Mr. Speaker, to repeat Jimmy Carter's Detroit statement of May 12, 1976:

In my judgment, we would be negligent of the moral issues and courting long-range disaster if we fail to couple the improvement in relations with Turkey with increased fair progress on the Cyprus issue.

Mr. Speaker, I believe that Governor Carter's view of the problem 1 year ago was correct and that what he said then holds true in May 1977.

Nor, Mr. Speaker, has Jimmy Carter been the only one to recognize the dangers inherent in failing to link resumption of normal military relations with Turkey to progress on Cyprus. On July 10, 1975, Mr. Cyrus Vance, together with Mr. George Ball, both men much experienced in dealing with the problem of Cyprus, testified before the House International Relations Committee on the Turkish arms question, and dealt in a joint statement with what they termed "the central question" in the dispute over lifting the arms embargo against Turkey. Messrs. Vance and Ball said this:

How can we preserve the credibility of these conditions if we are prepared to ignore them in the case of Turkey in a highly visible situation which all the world is watching?

That Turkey used the arms we provided in violation of the relevant American laws and of the express language of the bilateral agreement that governed their transfer is not in dispute. That issue has been settled by an

opinion of the Comptroller General in unequivocal language.

The question now is: Should the Congress wipe out the penalties of violation, which, in express terms, would render Turkey ineligible for further American weapons until the Turkish Government takes steps to purge itself by some serious move to settle its dispute with Greece and to remove its troops from Cyprus? To do so might dangerously undercut the conditions we have imposed on the use of all the arms we have provided up to this point under our various military aid and military sales programs.

There is, it seems to us, grave danger that, in the highly political atmosphere that now prevails in Ankara, the Turkish Government would regard this measure (a partial lifting of the embargo) as a vindication of its past actions and as removing any pressure to make significant concessions toward a Cyprus settlement.

Finally, and in many ways this is the most important point, we are seriously concerned that this so-called compromise would create a widespread impression that no nation that has acquired arms from the United States need any longer pay attention to the conditions on which those arms were made available but would be free to use them in pursuit of its own interests in local conflicts."

Mr. Speaker, the appraisal of Cyrus Vance and George Ball is as accurate now as it was when first offered. And yet, Mr. Speaker, where are we today?

The Government of Turkey has made no move whatsoever toward a settlement of the Cyprus problem in nearly 3 years. Despite this lack of movement, the Carter administration proposed an arms package for Turkey which would have:

First, authorized an increase in foreign military sales to Turkey from \$125 million in fiscal year 1977 to \$175 million, a 40-percent increase, in fiscal year 1978;

Second, authorized, over and above that proposed increase, an additional \$344 million in FMS cash transactions to permit Turkey to purchase 40 new F-4 fighter-bombers from the United States;

Third, removed restrictions of the consideration of a defense cooperation agreement with Turkey, which agreement had been negotiated by the Ford administration last year in an effort to circumvent the limited embargo then in effect.

Mr. Speaker, such a proposal would have provided for a level of U.S. military assistance more than three times that which was supplied under the Ford-Kissinger administration, a fact of which I believe many Members may not have been aware.

Passage of the bill as originally proposed by the State Department would have been a clear signal to the Turkish Government that there was no need for it to be forthcoming on a Cyprus solution. Such an action by Congress would have been a signal to other countries receiving American arms to ignore both the bilateral agreements between those nations and the United States and our laws governing the use of such arms.

And equally important, Mr. Speaker, congressional approval of the bill as originally proposed would have added still more fuel to the already flammable situation in the eastern Mediterranean.

Mr. Speaker, it is encouraging that both the House International Relations and Senate Foreign Relations committees

rejected both the proposed F-4 provisions and those which would have weakened the standards respecting the formulation of base agreements. I commend the committee members for their actions on this matter.

The continued intransigence of the Turkish Government offers no justification for a 40 percent increase in FMS grants but its inclusion will, we must all be hopeful, encourage the leaders of Turkey to work actively toward a settlement of the Cyprus question.

Mr. Speaker, both Greece and Turkey are longtime allies of the United States, and I want to see—as I am sure we all do—a resumption of good relations between the United States and each of them as well as cordial relations between Greece and Turkey. The conditions which poison their relationship with one another continue to impose strains on their relationships with us as well.

And, Mr. Speaker, I favor a vigorous and effective NATO to strengthen our own own security and that of our allies, and I hope that the day will not be distant when both Greece and Turkey will play their full role in NATO and that the people of Cyprus will soon know a time of peace and justice.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. DEL CLAWSON (at the request of Mr. RHODES), on account of death in family.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. STANGELAND) to revise and extend their remarks and include extraneous material:)

Mr. FRENZEL, for 5 minutes, today.

Mr. SARASIN, for 5 minutes, today.

Mr. MILLER of Ohio, for 5 minutes, today.

Mr. MARLENEE, for 5 minutes, today.

Mr. WHALEN, for 5 minutes, today.

Mrs. HECKLER, for 5 minutes, today.

Mr. ASHBROOK, for 30 minutes, today.

(The following Members, at the request of Mr. AKAKA) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. LE FANTE, for 5 minutes, today.

Mr. KOCH, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

Mr. CAVANAUGH, for 5 minutes, today.

Mrs. COLLINS of Illinois, for 5 minutes, today.

Mr. WIRTH, for 30 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

#### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. STANGELAND) and to include extraneous matter:)



Mr. YOUNG of Florida in five instances.  
Mr. PURSELL.  
Mr. DICKINSON.  
Mr. FISH.

Mrs. HECKLER.  
Mr. SNYDER in two instances.  
Mr. HAGEDORN.  
Mr. KEMP in three instances.  
Mr. KETCHUM.  
Mr. ANDERSON of Illinois.  
Mr. COUGHLIN.  
Mr. BOB WILSON.  
Mr. MCKINNEY.  
Mr. DERWINSKI.  
Mr. COHEN.  
Mr. DORNAN.

(The following Members (at the request of Mr. AKAKA) and to include extraneous material:)

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.  
Mr. McHUGH.  
Mr. MOLLOHAN.  
Mr. FRASER in five instances.  
Mr. MILLER of California in three instances.

Mr. HAMILTON.  
Mr. EILBERG in three instances.  
Mr. STUDDS.  
Mr. MURTHA.  
Mr. LEHMAN.  
Mr. EDGAR in two instances.  
Mr. REUSS.  
Mr. BROOKS.  
Mr. BENJAMIN.  
Ms. OAKAR.  
Mr. UDALL in two instances.  
Mr. APLEGATE in two instances.  
Mr. DRINAN in two instances.  
Mr. HAWKINS.  
Mr. LUKE in two instances.  
Mr. McDONALD in two instances.  
Mr. COTTER.  
Mr. HARRINGTON.  
Mr. WON PAT.  
Mr. RISENHOVER.  
Mr. WHITE.  
Mr. LLOYD of California.  
Mr. HARKIN.  
Mr. OTTINGER.  
Mr. ROGERS in five instances.

#### SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 195. An act to amend title 28, United States Code, to provide that Bottineau, McHenry, Pierce, Sheridan, and Wells Counties, North Dakota, shall be included in the Northwestern Division of the Judicial District of North Dakota; to the Committee on the Judiciary.

#### BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles.

On May 23, 1977:

H.R. 3437. An act to make certain technical and miscellaneous amendments to provisions relating to vocational education contained in the Education Amendments of 1976; and

H.R. 3662. An act granting the consent of Congress to the Mississippi-Louisiana Bridge construction compact.

On May 24, 1977:

H.R. 6401. An act to authorize appropriations for the administration of the Deepwater Port Act of 1974.

#### ADJOURNMENT

Mr. AKAKA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 30 minutes p.m.) the House adjourned until tomorrow, Thursday, May 26, 1977, at 10 o'clock a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1569. A letter from the Administrator, Federal Energy Administration, transmitting a report covering the month of January 1977 on gasoline service station market shares, pursuant to section g(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

1570. A letter from the Secretary of Commerce, transmitting the annual report of the Maritime Administration covering fiscal year 1976 and the transition quarter; to the Committee on Merchant Marine and Fisheries.

1571. A letter from the Secretary of Transportation, transmitting a corrected version of the revised estimate of the cost of completing the National System of Interstate and Defense Highways, previously submitted pursuant to 23 U.S.C. 104(b)(5); to the Committee on Public Works and Transportation.

1572. A letter from the Comptroller General of the United States, transmitting a report on deficiency payments on unplanted crops (CED-77-77, May 24, 1977); jointly, to the Committees on Government Operations, and Agriculture.

1573. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora of the Antarctic Treaty and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, and Science and Technology.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DENT: Committee on House Administration. House Resolution 531. Resolution to provide for the expenses of investigations and studies to be conducted by the Ad Hoc Committee on Energy (Rept. No. 95-365). Referred to the House Calendar.

Mr. FOLEY: Committee on Agriculture. S. 1240. An act to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1978 (Rept. No. 95-366). Referred to the Committee of the Whole House on the State of the Union.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PERKINS:

H.R. 7420. A bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes;

to the Committee on Public Works and Transportation.

By Mr. CONTE (for himself and Mr. BRODHEAD):

H.R. 7421. A bill to amend title II of the Social Security Act to provide that any individual may qualify for disability insurance benefits and the disability freeze if he has 20 quarters of coverage (and meets the other conditions of eligibility therefor), regardless of when such quarters were earned; to the Committee on Ways and Means.

By Mr. DICKINSON:

H.R. 7422. A bill to limit the jurisdiction of the Supreme Court and of the district courts in certain cases; to the Committee on the Judiciary.

By Mr. ERTEL:

H.R. 7423. A bill to amend the Sherman Act to impose an additional fine against any person who is convicted of violating any provision of the act and to require the distribution of the funds collected by the fine to certain persons who suffered a direct monetary loss as a result of the violation; to the Committee on the Judiciary.

By Mr. FISH (for himself, Mr. BEDELL, Mr. DUNCAN of Tennessee, Mr. PURSELL, and Mr. WALSH):

H.R. 7424. A bill to amend the Internal Revenue Code of 1954 to provide incentives for the development and use of sources of energy other than fossil fuels; to the Committee on Ways and Means.

By Mr. FRENZEL:

H.R. 7425. A bill to amend the Age Discrimination in Employment Act of 1971 to make unlawful those seniority systems and employee benefit plans which require the retirement of individuals who are 40 years of age or older; to the Committee on Education and Labor.

By Mr. HAMILTON:

H.R. 7426. A bill to limit the use of passenger motor vehicles and chauffeurs by Federal officers and employees; to the Committee on Government Operations.

By Mr. HANNAFORD (for himself, Mr. PRITCHARD, Mr. AUCOIN, Mr. BADILLO,

Mr. BURGNER, Mrs. BURKE of California, Mr. PHILLIP BURTON, Mr. COHEN, Mr. DUNCAN of Tennessee, Mr. EDWARDS of Oklahoma, Mr. FRASER, Mr. GUYER, Ms. HOLTZMAN, Mr. KETCHUM, Mr. KINDNESS, Mrs. LLOYD of Tennessee, Mr. McCLOSKEY, Mr. MOAKLEY, Mr. MOSS, Mr. NEAL, Ms. OAKAR, Mr. PATTERSON of California, Mr. PEPPER, Mr. QUIE, and Mr. RICHMOND):

H.R. 7427. A bill to allow service performed by women as members of telephone operating units of the Army Signal Corps during World War I to be considered active duty in the Army for purposes of all laws administered by the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. HARRIS (for himself and Mr. PANETTA):

H.R. 7428. A bill to amend the Internal Revenue Code of 1954 to allow a tax credit on houses or apartments for a portion of the real estate taxes paid or incurred by their landlords; to the Committee on Ways and Means.

By Mrs. MEYNER (for herself, Mr. ADDABO, Mr. CONTE, Mr. HOLLENBECK, Mr. GEPHARDT, Mr. HUGHES, Mr. MINISH, Mr. PATTEN, Mr. PIKE, Mr. RINALDO, Mr. ROBINO, Mr. SPENCE, and Mr. THOMPSON):

H.R. 7429. A bill to amend the Internal Revenue Code of 1954 to exempt from the manufacturers excise tax parts and accessories used on local transit buses, and tires, inner tubes, and tread rubber used on such buses; to the Committee on Ways and Means.

H.R. 7430. A bill to amend the Internal Revenue Code of 1954 with respect to certain excise tax refunds paid to local transit systems; to the Committee on Ways and Means.

By Mr. PRICE (for himself and Mr.

BOB WILSON) (by request):

H.R. 7431. A bill to amend section 6015 of title 10, United States Code, to permit the Secretary of the Navy to prescribe the kind of military duty to which women members of the naval service may be assigned; to the Committee on Armed Services.

By Mr. RHODES (for himself, Mr. UDALL, Mr. RUDD, and Mr. STUMP):

H.R. 7432. A bill to designate the U.S. Department of Agriculture's Bee Research Laboratory in Tucson, Ariz., as the "Carl Hayden Bee Research Center"; to the Committee on Agriculture.

By Mr. SCHULZE (for himself, Mr. LAGOMARSINO, Mr. DUNCAN of Tennessee, Mr. LEDERER, Mr. GILMAN, Mr. EILBERG, Mr. CORRADA, Mr. YATRON, and Mr. JEFFORDS):

H.R. 7433. A bill to provide a \$100 bonus to each Vietnam-era veteran and an additional \$400 bonus to each Vietnam-era combat veteran; to the Committee on Veterans' Affairs.

By Mr. SNYDER:

H.R. 7434. A bill to amend the act of July 2, 1940, as amended, to increase the amount authorized to be appropriated for the Canal Zone Biological Area; to the Committee on Merchant Marine and Fisheries.

H.R. 7435. A bill to establish a program of comprehensive medical, hospital, and dental care as protection against the cost of ordinary and catastrophic illness by requiring employers to make insurance available to each employee and his family, by Federal financing of insurance for persons of low income, in whole or in part according to ability to pay, and by assuring the availability of insurance to all persons regardless of medical history, and on a guaranteed renewable basis; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. BEDELL (for himself, Mr. NEAL, Mrs. SPELLMAN, and Mr. STARK):

H.R. 7436. A bill to amend title II of the Social Security Act, and the Internal Revenue Code of 1954, to increase to \$30,000 over a 3-year period (subject to further increases based on rises in reported wage levels) the ceiling on amount of earnings which may be counted for social security benefit and tax purposes; to the Committee on Ways and Means.

By Mr. EVANS of Delaware:

H.R. 7437. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HARKIN:

H.R. 7438. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions; to the Committee on the Judiciary.

By Mrs. HECKLER:

H.R. 7439. A bill to amend the Internal Revenue Code of 1954 to provide certain corporate income tax reductions and to increase the amount of the surtax exemption; to the Committee on Ways and Means.

By Mr. KOCH (for himself, Mr. GOLDWATER, Mr. MCCORMACK, and Mr. ROSENTHAL):

H.R. 7440. A bill to establish restrictions on the disclosure of certain financial, toll, and credit records, and for other purposes; jointly, to the Committees on Banking, Finance, and Urban Affairs and the Judiciary.

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By Mr. MARKEY (for himself and Ms. MIKULSKI):

H.R. 7441. A bill to amend the Communications Act of 1934 to require television broadcast station licensees to preview certain program material provided by national television broadcast networks; to the Committee on Interstate and Foreign Commerce.

By Mr. WIRTH (for himself, Mr. BROYHILL, Mr. BROWN of Ohio, Mr. BROWN of California, Mr. FLORIO, Mr. GUNGER, Mr. LEGGETT, Mr. MARKEY, Mr. MURPHY of New York, Mr. NEAL, Mr. PATTISON of New York, Mr. PEASE, Mr. PREYER, Mr. ROONEY, Mr. ROSE, Mr. WAXMAN, and Mr. BOB WILSON):

H.R. 7442. A bill to amend the Communications Act of 1934 to provide for the regulation of utility pole attachments; to the Committee on Interstate and Foreign Commerce.

By Mrs. COLLINS of Illinois (for herself, Mr. METCALFE, Mr. HARKIN, and Mr. JENNETTE):

H.J. Res. 487. Joint resolution to require a review of U.S. practices with respect to the embargo on arms shipments to the Republic of South Africa in order to insure that such embargo is effective; to the Committee on International Relations.

By Mr. DICKINSON:

H.J. Res. 488. Joint resolution proposing an amendment to the Constitution of the United States to prohibit compelling attendance in schools other than the one nearest the residence and to insure equal educational opportunities for all students wherever located; to the Committee on the Judiciary.

By Mr. ANDREWS of North Dakota:

H. Con. Res. 230. Concurrent resolution providing that residential telephone subscriber interests, especially those of citizens in rural areas, be protected as competition is permitted in the telecommunications industry; to the Committee on Interstate and Foreign Commerce.

By Mr. COTTER:

H. Res. 598. Resolution directing the Committee on International Relations to conduct hearings to review U.S. foreign policy with respect to the hostilities in Northern Ireland; to the Committee on Rules.

By Mr. McDONALD (for himself, Mr. BIAGGI, Mr. BROOMFIELD, Mr. BROWN of Michigan, Mr. COLEMAN, Mr. CUNNINGHAM, Mr. DE LA GARZA, Mr. KASTEN, Mr. LENT, Mr. LUJAN, Mr. MILLER, Mr. MILLER of Ohio, Mr. MURPHY of New York, Mr. JOHN T. MYERS, Ms. OAKAR, Mr. O'BRIEN, Mrs. PETTIS, Mr. POAGE, Mr. PURSELL, Mr. STANGELAND, Mr. VANDER JAGT, Mr. WALKER, Mr. WALSH, Mr. WATKINS, and Mr. WYDLER):

H. Res. 599. Resolution to amend the Rules of the House of Representatives to establish the Committee on Internal Security, and for other purposes; to the Committee on Rules.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PATIEN:

H.R. 7443. A bill for the relief of William J. Erwin; to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII.

115. The SPEAKER presented a petition of Antonio C. Martinez, New York, N.Y., relative to the liability of consular officers; to the Committee on International Relations.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10

By Mr. ROUSSELOT:

On page 38, strike out lines 1 through 4 and insert in lieu thereof the following:

"(b) Any employee who is a candidate for elective office shall be placed on leave without pay effective beginning on whichever of the following dates is the later:

"(A) the 90th day before any election (including a primary election, other than a primary election in which such employee is not a candidate) for that elective office, or

"(B) the day following the date on which the employee became a candidate for elective office.

Such leave shall terminate on the day following the election or the day following the date on which the employee is no longer a candidate for elective office, whichever first occurs. The provisions of this subsection shall not apply to the extent an employee is otherwise on leave. The Civil Service Commission shall, upon application, exempt from the application of this paragraph any employee who is a candidate for any part-time elective office.

On page 38, in lines 10 and 11, strike out "to which such employee may be entitled" and insert in lieu thereof the following: "of such employee".

On page 46, strike out line 18 and all that follows down to line 2 of page 47 and insert in lieu thereof the following:

"The Commission shall inform each employee individually in writing, at least once each calendar year, of such employee's political rights and of the restrictions under this subchapter. The Commission may determine, for each State, the most appropriate date for providing information required by this subsection. Such information, however, shall be provided to employees employed or holding office in any State not later than 60 days before the earliest primary or general election for State or Federal elective office held in such State."

On page 47, line 3, strike out "(c)" and insert in lieu thereof "(b)".

H.R. 6161

By Mr. WIRTH:

Page 424, after line 25, insert:

(c) Section 203(a)(4) of such Act is amended by striking out "or" in subparagraph (D), by inserting "or" at the end of subparagraph (E), and by adding the following new subparagraph at the end thereof:

"(F) to knowingly discriminate in the pricing of new motor vehicles manufactured after the model year 1978, or in the availability of models of such new motor vehicles, between dealers located in high altitude areas (as determined under regulations of the Administrator) and dealers located in other areas."

(d) Section 202(b) of such Act is amended by inserting the following new paragraph at the end thereof:

"(7) (A) In the case of any class or category of new motor vehicles sold by a manufacturer in high altitude areas (as determined under regulations of the Administrator, such manufacturer may file with the Administrator an application requesting the suspension of the effective date of any standard required under any other provision of this section. No such suspension shall be effective for more than two model years and no manufacturer may apply for more than one such suspension with respect to such standard.

"(B) The Administrator shall grant a suspension under this paragraph with respect to any standard only if he determines, after notice and opportunity for public hearing, that the applicant has established that it is



not technologically feasible (taking cost into account) for such manufacturer to comply with such standard for the model year (or years as the case may be) for which the suspension would apply in the case of such class or category of vehicles sold in high altitude areas.

"(C) In the case of vehicles for which suspension of the standard for any pollutant has been granted under this paragraph for any model year, the applicable standard for such pollutant for purposes of this Act shall require the same reduction of emissions of such pollutant for such vehicles for such model year as was required for such vehicles for the last preceding model year during which no such suspension was in effect."

(Amendment to Dingell amendment.)

At the end of section 214 insert:

(d) Section 203(a)(4) of such Act is amended by striking out "or" in subparagraph (D), by striking out the period at the end of subparagraph (E) and substituting "or", and by adding the following new subparagraph at the end thereof:

"(E) to knowingly discriminate in the pricing of new motor vehicles manufactured after the model year 1978, or in the availability of models of such new motor vehicles, between dealers located in high altitude areas (as determined under regulations of the Administrator) and dealers located in other areas."

(e) Section 202(b) of such Act is amended by inserting the following new paragraph at the end thereof:

"(7) (A) In the case of any class or category of new motor vehicles sold by a manufacturer in high altitude areas (as determined under regulations of the Administrator), such manufacturer may file with the Administrator an application requesting the suspension of the effective date of any standard required under any other provision of this section. No such suspension shall be effective for more than two model years and no manufacturer may apply for more than one such suspension with respect to any such standard.

"(B) The Administrator shall grant a suspension under this paragraph with respect to any standard only if he determines, after notice and opportunity for public hearing, that the applicant has established that it is not technologically feasible (taking cost into account) for such manufacturer to comply with such standard for the model year (or years as the case may be) for which the suspension would apply in the case of such class or category of vehicles sold in high altitude areas.

"(C) In the case of vehicles for which suspension of the standard for any pollutant has been granted under this paragraph for any model year, the applicable standard for such pollutant for purposes of this Act shall require the same reduction of emissions of such pollutant for such vehicles for such model year as was required for such vehicles for the last preceding model year during which no such suspension was in effect."

Amendment to Preyer substitute.

At the end of section 215 insert:

(d) Section 203(a)(4) of such Act is amended by striking out "or" in subparagraph (D), by striking out the period at the end of subparagraph (E) and substituting "or", and by adding the following new subparagraph at the end thereof:

"(E) to knowingly discriminate in the pricing of new motor vehicles manufactured after the model year 1978, or in the availability of models of such new motor vehicles, between dealers located in high altitude areas (as determined under regulations of the Administrator) and dealers located in other areas."

(e) Section 202(b) of such Act is amended by inserting the following new paragraph at the end thereof:

"(7) (A) In the case of any class or category of new motor vehicles sold by a manu-

facturer in high altitude areas (as determined under regulations of the Administrator), such manufacturer may file with the Administrator an application requesting the suspension of the effective date of any standard required under any other provision of this section. No such suspension shall be effective for more than two model years and no manufacturer may apply for more than one such suspension with respect to any such standard.

"(B) The Administrator shall grant a suspension under this paragraph with respect to any standard only if he determines, after notice and opportunity for public hearing, that the applicant has established that it is not technologically feasible (taking cost into account) for such manufacturer to comply with such standard for the model year (or years as the case may be) for which the suspension would apply in the case of such class or category of vehicles sold in high altitude areas.

"(C) In the case of vehicles for which suspension of the standard for any pollutant has been granted under this paragraph for any model year, the applicable standard for such pollutant for purposes of this Act shall require the same reduction of emissions of such pollutant for such vehicles for such model year as was required for such vehicles for the last preceding model year during which no such suspension was in effect."

#### FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House Rule X. Previous listing appeared in the CONGRESSIONAL RECORD of May 19, 1977 (page 15539).

##### HOUSE BILLS

H.R. 1901. January 13, 1977. Banking, Finance and Urban Affairs. Extends the authorization of flexible regulation of maximum interest rates on deposits and accounts in depository institutions. Designates three additional States as exempt from the prohibition against withdrawals by check against interest earning accounts.

Amends the Federal Credit Union Act with respect to the extension of credit and the duties and powers of the credit union's board of directors and credit committee.

Amends the Federal Reserve Act to extend the limitation on the aggregate amount of United States obligations which may be purchased or sold.

H.R. 1902. January 13, 1977. Education and Labor. Amends the Occupational Safety and Health Act to permit a person possibly liable for an industrial accident involving bodily injury to sue an employer if such employer's failure to comply with an industrial safety requirement caused or contributed to such injury.

Allows a person being sued by the employer in a subrogation suit to raise as a defense the employer's contributory fault of failure to comply with an industrial safety requirement.

H.R. 1903. January 13, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional investment tax credit for machinery and equipment placed in service on existing manufacturing plants or in nearby areas.

H.R. 1904. January 13, 1977. Ways and Means. Amends the Tariff Schedules of the United States to permit the duty-free importation of intravenous fat emulsions.

H.R. 1905. January 13, 1977. Post Office and Civil Service. Requires that military service performed by an individual who was voluntarily discharged from active military service before becoming entitled to retirement pay in order to accept a Presidential appointment to a civilian position requiring Senate confirmation, be included in deter-

mining the period of service on which a civil service annuity is based.

H.R. 1906. January 13, 1977. Ways and Means. Amends the Internal Revenue Code to provide that certain trusts established for the payment of medical or dental malpractice claims and related expenses shall be tax exempt, and that contributions to such trusts shall be tax deductible.

H.R. 1907. January 13, 1977. Interior and Insular Affairs. Designates specified lands within the National Wildlife Refuge System and within the National Forest System as wilderness. Provides for the addition of specified lands to specified wilderness areas.

H.R. 1908. January 13, 1977. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to take the differences between the light residential construction industry and the heavy construction industry into consideration when promulgating standards for such industries.

Stipulates that the standards promulgated for the light residential construction industry shall be kept separate and distinct, and shall reflect the less hazardous conditions in such industry.

H.R. 1909. January 13, 1977. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to prohibit assessment of penalties against an employer where such employer has corrected the violations with which he is charged within a prescribed abatement period.

H.R. 1910. January 13, 1977. International Relations. Restricts payments of the United States to the United Nations to the ratio of the population of the United States to the total population of member nations.

H.R. 1911. January 13, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to direct the President, when it is deemed to be in the national interest, to endeavor to insure that assistance under such Act or under the Foreign Military Sales Act shall be furnished pursuant to agreements for the exchange of such assistance for strategic or critical raw materials. Permits the transfer of materials so obtained to any Federal agency for stockpiling, sale, transfer, disposal, or other purposes.

H.R. 1912. January 13, 1977. Interstate and Foreign Commerce. Prohibits the Federal Trade Commission from promulgating trade regulation rules which repeal or limit use of holder in due course defenses in connection with the sale or lease of goods or services to consumers.

H.R. 1913. January 13, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 1914. January 13, 1977. Judiciary. Revises the judiciary of the Supreme Court and United States district courts to prohibit the consideration of any case arising out of a State law relative to abortion.

H.R. 1915. January 13, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing additional sentences on persons committing Federal felonies while carrying, or with the use of, a firearm to: (1) increase sentences thereunder; (2) prohibit suspended, probational or concurrent sentences with respect to a first conviction; and (3) provide for a mandatory death penalty if the felony results in the death of any other than the perpetrators of such felony.

Increases penalties for anyone transporting firearms or ammunition with the intent to commit, or with the knowledge that others

will commit, an offense punishable by imprisonment of one year or more.

H.R. 1916. January 13, 1977. Judiciary. Eliminates the divisions in the western judicial district of Louisiana.

H.R. 1917. January 13, 1977. Merchant Marine and Fisheries. Amends the Migratory Bird Treaty Act to permit the possession or mounting of migratory birds for display and educational purposes, if such birds are dead from natural or unknown causes.

H.R. 1918. January 13, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 1919. January 13, 1977. Ways and Means. Amends the Internal Revenue Code to provide income, estate and gift tax deductions for charitable contributions for the construction or maintenance of buildings for tax-exempt lodge organizations.

H.R. 1920. January 13, 1977. Ways and Means. Amends the Internal Revenue Code to provide for the refund of excise taxes paid on alcoholic beverages where the beverages are destroyed prior to final sale through disaster, breakage or destruction resulting from vandalism or malicious mischief.

H.R. 1921. January 13, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 1922. January 13, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to extend the coverage for dental services to include any services performed by a properly licensed dentist and to authorize payment under such program for all inpatient hospital services furnished in connection with dental procedures requiring hospitalization.

H.R. 1923. January 13, 1977. Agriculture. Exempts the Toledo Bend Dam and Reservoir project of Louisiana and Texas from payment of annual charges to the United States for the use of lands within the Sabine National Forest, Texas.

H.R. 1924. January 13, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 1925. January 13, 1977. Public Works and Transportation. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for enterostomal therapy services under the supplemental medical insurance program.

H.R. 1926. January 13, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 1927. January 13, 1977. Judiciary. Provides for the inclusion of service in the War Department in the calculation of retired pay due a certain individual.

H.R. 1928. January 13, 1977. Judiciary. Declares certain individuals eligible for naturalization under the Immigration and Nationality Act.

H.R. 1929. January 13, 1977. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 1930. January 13, 1977. Judiciary. Directs the Chairman of the Civil Service Commission to pay a certain individual at a different rate under the Civil Service Retirement and Disability Fund.

H.R. 1931. January 13, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 1932. January 13, 1977. Judiciary. De-

clares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 1933. January 13, 1977. Judiciary. Amends the Federal Food, Drug, and Cosmetic Act to require: (1) that all manufacturers of cosmetics be registered with the Secretary of Health, Education, and Welfare; (2) that each cosmetic manufactured for sale be tested and the results of such tests submitted to the Secretary; (3) that the labels of cosmetics include certain specified information; and (4) that each manufacturer submit a complete list of consumer complaints with respect to any cosmetics manufactured by such person, to the Secretary.

H.R. 1934. January 13, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 1935. January 13, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain corporation in full settlement of such corporation's claims against the United States.

H.R. 1936. January 13, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 1937. January 13, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain corporation in full settlement of such corporation's claims against the United States.

H.R. 1938. January 13, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 1939. January 13, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 1940. January 13, 1977. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 1941. January 13, 1977. Judiciary. Permits certain individuals to name the United States as a defendant in a civil action to determine title to certain real property.

H.R. 1942. January 13, 1977. Public Works and Transportation. Revises the definition of "bridge" for purposes of programs relating to the availability of Federal funds for the alteration of bridges obstructing navigation to include within such definition bridges which were lawful at the time of their construction but whose elevation has changed through no action or fault of their owners or users.

H.R. 1943. January 17, 1977. Banking, Finance and Urban Affairs. Exempts Federal savings and loan association insured loans from specified limitations of the Homeowners' Loan Act.

H.R. 1944. January 17, 1977. Judiciary. Amends provisions directing the imposition of additional sentences on persons committing a Federal felony with a firearm or while unlawfully carrying a firearm to prohibit (1) a suspended or probationary sentence with respect to a first conviction and (2) parole prior to serving a period equal to the minimum permissible additional sentence.

H.R. 1945. January 17, 1977. Ways and Means. Amends title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) to extend from 9 to 24 months the trial work period during which an individual who is receiving supplemental security income benefits on the basis of disability may render services for remuneration or gain without suffering a loss of or reduction in such benefits. Applies such provisions to any case where an individual entitled under such title to supplemental security income benefits on the basis of disability has had a period of trial work which ended

with or prior to the close of the month in which this act is enacted.

H.R. 1946. January 17, 1977. Ways and Means. Amends title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) to eliminate the reduction in supplemental security income benefits which is presently imposed when the recipient is living in another person's household. Directs that support maintenance furnished the recipient in kind by such other person shall be disregarded in determining such recipient's income for supplemental security income purposes.

H.R. 1947. January 17, 1977. Rules; Government Operations. Sets forth a 5-year schedule for initial review and reauthorization of all Federal programs according to functional and subfunctional categories.

Establishes a Citizens' Commission on the Organization and Operation of Government to study and recommend ways to improve the efficiency and effectiveness of the Federal Government.

Requires a review and revision of Federal tax laws every 5 years.

H.R. 1948. January 17, 1977. Education and Labor. Amends the Emergency School Aid Act to extend to Franco-Americans the same benefits afforded other minority groups under such act.

H.R. 1949. January 17, 1977. Merchant Marine and Fisheries. Establishes a Commercial Fisheries Assistance Fund to be used by the Secretary of Commerce to make loans and grants to commercial fishermen. Requires the Secretary to establish a commercial fishing training program. Creates within the National Oceanic and Atmospheric Administration an Associate Administrator for an Office of Commercial Fisheries Assistance to administer this act. Requires the Secretary to establish a Fisheries Board to promote commercial fisheries and for other purposes. Establishes a Fisheries Board Fund. Establishes a Fisheries Cooperative Service Program to assist fishing interests in formulating fisheries cooperative organizations.

H.R. 1950. January 17, 1977. Merchant Marine and Fisheries. Amends the Maritime Academy Act of 1958 to increase the subsistence payments to students at State maritime academies.

H.R. 1951. January 17, 1977. Armed Services; Merchant Marine and Fisheries. Terminates the authority of Members of Congress and Delegates to Congress from the various territories to make appointments to the service academies. Amends the Merchant Marine Act, 1936, to accomplish such purpose with respect to the Merchant Marine Academy.

H.R. 1952. January 17, 1977. Judiciary. Amends the Federal charter of AMVETS (American Veterans of World War II) to change the name of such organization to AMVETS (American Veterans of World War II, Korea, and Vietnam).

H.R. 1953. January 17, 1977. Judiciary. Requires specified minimum prison sentences for any individual who uses or carries a firearm, or a cutting or stabbing weapon, during the commission of a Federal felony.

H.R. 1954. January 17, 1977. Veterans' Affairs. Removes the 10-year period on educational assistance provided by the Veterans' Administration to the widows of persons who died of service-connected disabilities.

H.R. 1955. January 17, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to expand the coverage of the supplementary medical insurance program to include physician extender services.

H.R. 1956. January 17, 1977. Judiciary. Repeals the provisions of the Immigration and Nationality Act which require alien children adopted by U.S. citizens to reside in the United States for 2 years in the legal custody of such citizens before being eligible for U.S. citizenship by naturalization.



H.R. 1957. January 17, 1977. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to initiate and carry out a program for the treatment of Vietnam-era veterans and their dependents who are experiencing psychosocial readjustment problems as a result of military service or as a result of problems evolving from readjustment from such service.

H.R. 1958. January 17, 1977. Post Office and Civil Service. Makes National Guard civilian technicians members of the competitive service. Gives such individuals certain rights relating to order of retention and procedures for removal or suspension from employment.

H.R. 1959. January 17, 1977. Ways and Means. Amends the Internal Revenue Code to provide a limited tax exclusion for persons aged 65 or over for any amount received as an annuity, pension, or other retirement benefit.

H.R. 1960. January 17, 1977. Government Operations; Rules. Abolishes within three years of the enactment of this Act, or three years after they have been established, all Federal regulatory agencies unless the President and Congress determine that such agencies should continue to exist.

H.R. 1961. January 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow a deferral of an individual's income tax liability to the extent it equals a limited portion of the higher educational expenses incurred for the taxpayer, his spouse and dependents. Defers payment until the year following the end of the individual's attendance at an institution of higher education, or the tenth year following the taxpayer's initial deferral, whichever is earlier.

H.R. 1962. January 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow a medical deduction, without regard to the three percent floor, for those expenses paid for the medical care of the taxpayer, his spouse, or any dependent of the taxpayer, if that individual is mentally retarded or handicapped.

H.R. 1963. January 17, 1977. Interstate and Foreign Commerce. Permits a pharmacist when filling or refilling a prescription to use a substitute drug if the prescribed drug is identified: (1) by its proprietary name or designation; or (2) its established name.

Imposes limitations on the use of substitute drugs and exempts certain transactions from the requirements of this Act.

H.R. 1964. January 17, 1977. Interstate and Foreign Commerce. Amends the Community Mental Health Centers Act to permit agencies located outside catchment areas with community mental health centers and which have received children's mental health grants before the Community Mental Health Centers Amendments of 1975 to continue to receive such grants.

H.R. 1965. January 17, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act of 1974 to allow recipients of grants to utilize such grants for the construction of public buildings and facilities. Provides for the adjustment of geographic boundaries of standard-metropolitan statistical areas.

H.R. 1966. January 17, 1977. Merchant Marine and Fisheries. Directs the Secretary of the Interior to establish a pilot program to compensate persons in Minnesota for damage to livestock caused by the wild eastern timber wolf since such wolf was listed as an endangered or threatened species. Stipulates that such compensation shall be equal to the fair market value of the damaged livestock or the medical expenses incurred to restore such livestock. Sets forth the formula for determination of the Federal share of such compensation. Directs the Secretary to study the damage caused by such wolf and means of reducing or eliminating such damage.

H.R. 1967. January 17, 1977. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in State projects to repair or replace unsafe highway bridges. Amends the Highway Revenue Act of 1956 to extend the appropriations authorized under such act for the Highway Trust Fund through fiscal year 1990. Amends the Land and Water Conservation Fund Act to extend such fund through fiscal year 1990. Postpones specified excise tax reductions under the Internal Revenue Code of 1954.

H.R. 1968. January 17, 1977. Post Office and Civil Service; Rules. Amends the Federal Salary Act of 1967 to change the date when recommendations of the President to Congress, regarding salary adjustments for certain Federal employees become effective.

Sets forth rules of procedure to be followed in the House of Representatives with respect to resolutions disapproving the recommendations of the President under the act.

H.R. 1969. January 17, 1977. Ways and Means. Directs that the benefits received by an individual pursuant to a Federal plan or program, or a plan or program of a State funded by Federal funds, shall not be reduced as a result of a general increase in monthly social security benefits.

H.R. 1970. January 17, 1977. Public Works and Transportation. Amends the Local Public Works Capital Development and Investment Act of 1976 to increase the amount authorized to be appropriated under such Act.

H.R. 1971. January 17, 1977. Public Works and Transportation. Amends the Local Public Works Capital Development and Investment Act of 1976 to increase the amount authorized to be appropriated under such Act.

H.R. 1972. January 17, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 1973. January 17, 1977. Agriculture. Directs the Secretary of Agriculture to guarantee emergency loans to farmers and ranchers, and to private domestic corporations and partnerships controlled by farmers and ranchers, engaged directly and primarily in farming or ranching in the United States.

Amends the Consolidated Farm and Rural Development Act to increase the maximum unpaid indebtedness allowed a borrower who receives a loan under such Act.

H.R. 1974. January 17, 1977. Interior and Insular Affairs. Designates specified public lands and waters in the State of Alaska for inclusion in the National Park, National Wildlife Refuge, Wild and Scenic Rivers and National Wilderness Preservation Systems. Makes provisions for the management of subsistence uses of fish and wildlife on national lands.

H.R. 1975. January 17, 1977. Banking, Finance and Urban Affairs. Amends the United States Housing Act of 1937 to require the Secretary of Housing and Urban Development or public housing agencies with which the Secretary is dealing to notify Members of Congress before entering into annual contributions contracts to assist housing projects in such Member's congressional district or State.

H.R. 1976. January 17, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 1977. January 17, 1977. Ways and

Means; Interstate and Foreign Commerce. Amends the Social Security Act by replacing medicare with a national health care program under which the cost of covered medical services provided to all United States residents and certain non-resident aliens shall be paid by the Federal Government. Establishes an independent Social Security Administration to administer this program, old-age, survivors and disability insurance, supplemental security income, and the health standards provisions of the Federal Coal Mine Health and Safety Act.

Amends the Internal Revenue Code to impose a tax on wages, self-employment income, and certain unearned income for purposes of the national health care program.

H.R. 1978. January 17, 1977. Ways and Means. Amends the Internal Revenue Code to provide that certain social security and veterans' children benefits shall be disregarded when determining whether a child receives a sufficient percentage of his support from the taxpayer to qualify as a dependent.

H.R. 1979. January 17, 1977. Banking, Finance and Urban Affairs. Amends the Fair Credit Reporting Act to set forth additional requirements under such act for the notification of consumers by consumer reporting agencies of their customers when an investigative report on a consumer is requested or furnished.

Establishes civil liability for the publication of untrue statements with respect to consumers. Establishes a Presidentially-appointed Board of Consumer Investigator Examiners to license and regulate consumer credit investigators under the Consumer Credit Protection Act.

H.R. 1980. January 17, 1977. Banking, Finance and Urban Affairs. Establishes within the Department of Housing and Urban Development a program providing financial assistance to low-income individuals and families for the purchasing and installing of solar heating equipment.

H.R. 1981. January 17, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to make age discrimination in employment an unlawful employment practice.

H.R. 1982. January 17, 1977. Education and Labor. Directs the Commissioner of Education to allot funds authorized by this Act to local educational agencies to assist in reducing crime against the children, employees and facilities of their elementary and secondary schools.

H.R. 1983. January 17, 1977. Education and Labor. Requires every temporary help service which supplies unskilled, nonsecretarial, non-clerical workers to obtain a license from the Secretary of Labor or his designee.

States that no such temporary help service may be licensed unless it provides its employees certain benefits and rights.

Prohibits such a temporary help service from restricting the right of any of its employees to obtain permanent employment with a client. Forbids the use of temporary help service employees as strikebreakers where a legitimate labor dispute exists.

Directs the Secretary to make recommendations for extending unemployment insurance to employees of temporary help services.

H.R. 1984. January 17, 1977. Judiciary. Establishes privacy standards for organizations maintaining information systems containing personal information. Specifies the rights of data subjects.

H.R. 1985. January 17, 1977. Banking, Finance and Urban Affairs; Judiciary. Prescribes standards and procedures for disclosure of financial records of any customer by a financial institution to any State or any political subdivision of any State. Sets conditions under which the interception of oral or wire communications in the course of doing

business is lawful. Establishes criminal and civil penalties for violations of this Act.

H.R. 1986. January 17, 1977. Education and Labor. Amends the Education of the Handicapped Act to authorize the Commission of Education to make grants to State educational agencies for the development and operation of tutorial and instructional programs for homebound handicapped children.

Stipulates that (1) special consideration should be given to handicapped veterans and handicapped students in selecting tutors, (2) Federal funds should be used to help the handicapped child into society, and (3) Federal funds should only be used to supplement State, local, or private funds.

Directs the Commission to offer technical assistance to a State to aid such State in receiving funds under this Act.

H.R. 1987. January 17, 1977. Education and Labor. Entitles State and local government employees to specified rights including the right to join or form a labor organization and the right to bargain collectively through representatives of their own choosing.

Lists unfair labor practices with respect to public employers and public employee labor organizations.

Establishes a National Public Employee Relations Commission to oversee selection of employees and their complaints and issue orders regarding unfair labor practices.

Sets forth a system whereby the Federal Mediation and Conciliation Service may initiate factfinding procedures to facilitate resolution of disputes concerning public employee collective bargaining agreements.

H.R. 1988. January 17, 1977. Education and Labor. Amends the Community Services Act of 1974 to establish a National Office for Migrant and Seasonal Farmworkers within the Community Services Administration. Sets forth the functions of the Office, including administration of all laws relative to migrant and seasonal farmworkers presently within the jurisdiction of the Administration or of the Department of Health, Education, and Welfare, and development of national policies with respect to such workers.

Directs the Secretary of Health, Education, and Welfare to appoint a special task force on migrant and seasonal farmworkers to conduct a continuing study of the needs of such workers and the means for meeting them.

H.R. 1989. January 17, 1977. Education and Labor. Directs the Secretary of Agriculture and the Secretary of the Interior to establish a Civilian Conservation Corps to provide employment for unemployed persons in projects connected with the conservation of the Nation's land and water resources. Authorizes grants for State conservation projects which meet eligibility requirements under this Act.

H.R. 1990. January 17, 1977. Government Operations. Establishes the Office of Spanish-Speaking Affairs in the Executive Office of the President to assist Federal agencies in developing and implementing programs and policies designed to help Spanish-speaking and Spanish-surnamed Americans.

Establishes a coordinating Council on Spanish-Speaking Affairs to develop and implement agreements designed to reduce conflict among Federal agencies in carrying out programs to assist Spanish-speaking Americans.

H.R. 1991. January 17, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to allow the Secretary of Health, Education, and Welfare to make grants to nonprofit private entities and enter into contracts with private entities for the purposes of research and development of new equipment and techniques for delivery of health services to the critically ill.

H.R. 1992. January 17, 1977. Interstate and Foreign Commerce. Bans aerosol cans in commerce unless they conform to safety standards established by the Consumer Product Safety Commission.

H.R. 1993. January 17, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require: (1) that all manufacturers of cosmetics be registered with the Secretary of Health, Education, and Welfare; (2) that each cosmetic manufactured for sale be tested and the results of such tests submitted to the Secretary; (3) that the labels of cosmetics include certain specified information; and (4) that each manufacturer submit a complete list of consumer complaints with respect to any cosmetics manufactured by such person, to the Secretary.

H.R. 1994. January 17, 1977. Judiciary. Authorizes the Secretary of Health, Education, and Welfare to pay for certain medical services provided to qualified individuals suffering from physical injuries attributable to the atomic bomb explosions on Japan in August 1945.

H.R. 1995. January 17, 1977. Judiciary. Amends the Civil Rights Act of 1964 to prohibit discrimination based on physical or mental handicap in federally assisted programs unless lack of such handicap is a bona fide job qualification.

H.R. 1996. January 17, 1977. Judiciary. Requires that whenever a Federal district judge, including a United States magistrate or referee in bankruptcy, determines that a party or witness does not speak and understand the English language such proceeding or appropriate portion thereof shall be: (1) simultaneously translated through an interpreter certified by the Director of the Administrative Office of the United States Courts; and (2) recorded verbatim.

H.R. 1997. January 17, 1977. Post Office and Civil Service. Includes as creditable service for purposes of civil service retirement, service as an enrollee of the Civilian Conservation Corps.

H.R. 1998. January 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow a taxpayer who has attained the age of sixty to claim a limited amount as a credit against his income tax, and a refund, equal to any amount in excess of his tax for the real property taxes paid by him, or for the amount of his rent constituting such taxes.

H.R. 1999. January 17, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such title.

H.R. 2000. January 17, 1977. Ways and Means. Amends the Tariff Act of 1930 to require search warrants for body searches of persons entering the United States from a foreign country for merchandise on which the duties have not been paid. Prohibits a body cavity search pursuant to such warrant unless conducted by a physician under sanitary and medically approved conditions.

#### HOUSE RESOLUTIONS

H. Res. 162. January 26, 1977. Rules. Amends rule XI of the Rules of the House of Representatives to require that, insofar as applicable, the House rules which apply to standing committees shall also apply to any select, special, or ad hoc committee, commission, or other entity established by the House.

H. Res. 163. January 26, 1977. Rules. Amends rule XI of the Rules of the House of Representatives to require that records of committee actions be made available for

public inspection except for information which would endanger national security or would violate any rule of the House.

H. Res. 164. January 26, 1977. Rules. Amends rule XI of the Rules of the House of Representatives to require that records of committee actions be made available for public inspection except for information which would endanger national security or would violate any rule of the House.

H. Res. 165. January 26, 1977. Rules. Amends rule XI of the Rules of the House of Representatives to require that records of committee actions be made available for public inspection except for information which would endanger national security or would violate any rule of the House.

H. Res. 166. January 26, 1977. Rules. Amends the Rules of the House of Representatives to prohibit voting in any committee or subcommittee by proxy.

H. Res. 167. January 26, 1977. Rules. Amends the Rules of the House of Representatives to prohibit voting in any committee or subcommittee by proxy.

H. Res. 168. January 26, 1977. Rules. Amends the Rules of the House of Representatives to prohibit voting in any committee or subcommittee by proxy.

H. Res. 169. January 26, 1977. Rules. Amends the Rules of the House of Representatives to require that all committee meetings be open to the public, with specified exceptions.

H. Res. 170. January 26, 1977. Rules. Amends the Rules of the House of Representatives to require that all committee meetings be open to the public, with specified exceptions.

H. Res. 171. January 26, 1977. Rules. Amends the Rules of the House of Representatives to require that all committee meetings be open to the public with specified exceptions.

H. Res. 172. January 26, 1977. Rules. Amends the Rules of the House of Representatives to require a rollcall vote on demand of any committee member on any question before the committee and on every motion to report any bill or resolution of a public character.

H. Res. 173. January 26, 1977. Rules. Amends the Rules of the House of Representatives to require a rollcall vote on demand of any committee member on any question before the committee and on every motion to report any bill or resolution of a public character.

H. Res. 174. January 26, 1977. Rules. Amends the Rules of the House of Representatives to require a rollcall vote on demand of any committee member on any question before the committee and on every motion to report any bill or resolution of a public character.

H. Res. 175. January 26, 1977. Rules. Amends rule XIX of the Rules of the House of Representatives to require that an accurate account of words actually spoken on the floor of the House, together with permitted supporting data be printed in the CONGRESSIONAL RECORD.

Entitles Members to insert in the Record remarks not actually delivered on the floor. Stipulates that such insertions always be clearly distinguished from words actually spoken on the floor.

H. Res. 176. January 26, 1977. Rules. Amends rule XIX of the Rules of the House of Representatives to require that an accurate account of words actually spoken on the floor of the House, together with permitted supporting data be printed in the CONGRESSIONAL RECORD.

Entitles Members to insert in the Record remarks not actually delivered on the floor. Stipulates that such insertions always be



clearly distinguishable from words actually spoken on the floor.

H. Res. 177. January 26, 1977. Rules. Amends rule XIX of the Rules of the House of Representatives to require that an accurate account of words actually spoken on the floor of the House, together with permitted supporting data be printed in the Congressional Record.

Entitles Members to insert in the Record remarks not actually delivered on the floor. Stipulates that such insertions always be clearly distinguishable from words actually spoken on the floor.

H. Res. 178. January 26, 1977. Rules. Amends the Rules of the House of Representatives to prohibit bringing any measure or matter up under a suspension by the committee having jurisdiction or its chairman and ranking minority member.

H. Res. 179. January 26, 1977. Rules. Amends the Rules of the House of Representatives to prohibit bringing any measure or matter up under a suspension by the committee having jurisdiction or its chairman and ranking minority member.

H. Res. 180. January 26, 1977. Rules. Amends the Rules of the House of Representatives to prohibit bringing any measure or matter up under a suspension by the committee hav-

ing jurisdiction or its chairman and ranking minority member.

H. Res. 181. January 26, 1977. Rules. Adds Rule XIV to the Rules of the House of Representatives to provide for continuous radio and television broadcast coverage of House floor proceedings.

Makes the broadcast available to all United States broadcasting stations for legitimate news or research purposes.

H. Res. 182. January 26, 1977. Rules. Adds Rule XIV to the Rules of the House of Representatives to provide for continuous radio and television broadcast coverage of House floor proceedings.

Makes the broadcast available to all United States broadcasting stations for legitimate news or research purposes.

H. Res. 183. January 26, 1977. Rules. Amends the Rules of the House of Representatives to remove the 25-member limit on the number of sponsors of any House of Representative bill. Permits the addition or deletion of any Member's name as the sponsor of any legislation by a request made by a Member or the Speaker on behalf of such Member.

H. Res. 184. January 26, 1977. House Administration. Creates a senior citizen intern program in the House of Representatives.

Authorizes each Member of the House of Representatives to hire two additional employees for such program.

H. Res. 185. January 26, 1977. International Relations. Declares it the sense of the House of Representatives that the Government of the United States should maintain its rights and jurisdiction over the Panama Canal and the Panama Canal Zone.

H. Res. 186. January 26, 1977. International Relations. Declares it the sense of the House of Representatives that the Government of the United States should maintain its rights and jurisdiction over the Panama Canal and the Panama Canal Zone.

H. Res. 187. January 26, 1977. Interstate and Foreign Commerce. Directs that hearings be commenced as soon as possible by the committee with appropriate jurisdiction to consider telecommunications policy.

H. Res. 188. January 26, 1977. Post Office and Civil Service. Authorizes the President of the United States to designate January 22 of each year as Ukrainian Independence Day.

R. Res. 189. January 26, 1977. House Administration. Authorizes funds from the contingent fund of the House of Representatives for expenses incurred during the first session of the 95th Congress by the Committee on Rules of the House of Representatives.

## EXTENSIONS OF REMARKS

### THE 59TH ANNIVERSARY OF ARMENIAN INDEPENDENCE DAY

**HON. JOE MOAKLEY**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. MOAKLEY. Mr. Speaker, May 28, marks the 59th anniversary of Armenian independence. It is a day when, around the world, people of Armenian descent remember their past and renew their call for true freedom and independence for modern-day Armenians.

Mr. Speaker, we would be wise to join in these remembrances, because the Armenian past is a dark story which humanity must recall in order to prevent its reoccurrence.

Since the 14th century, the Armenians have endured 600 years of foreign domination before triumphing in their struggle for self-determination on May 28, 1918. But their hard-won independence was taken from them only 2 years later when Russia and Turkey invaded and partitioned the youthful Armenian Republic.

Horrible years of mass extermination followed. Abdul Haimid once remarked during those years that "the best way to finish with the Armenian Question is to finish with the Armenians"; the Armenian National Committee headquarters in Boston now properly labels this Turkish plan as genocide.

Untold numbers, perhaps over a million Armenians, were tortured, killed outright or "deported" in massive death marches to the deserts of—what is now—Syria and Iraq during these years. Their deaths were terrible, but the Armenians never stopped in their efforts

to preserve their national identity and regain their territorial integrity.

Today, the Soviet Union and Turkey continue to inhabit the lands of the Armenians. The Armenian culture is still suppressed, and Armenian unity and independence still denied.

Hitler asked long ago, "Who talks nowadays of the extermination of the Armenians?" But he was mistaken to believe that this matter has been forgotten. Armenians and their descendants observe their Independence Day faithfully, and each year spread the tale of their tragic history and current dreams to new listeners.

The late Archbishop of Boston, Richard Cardinal Cushing, once termed the Armenian claim "the oldest unresolved grievance on the agenda of world business." That grievance has yet to undergo serious examination and redress, but perhaps the day is drawing nearer.

The people of the world are beginning to wake up to the meaning of human rights, including a culture's right to self-determination. Perhaps they will begin, also, to act on behalf of these rights.

The 59th anniversary of Armenian independence is a particularly apropos date from which to encourage such action, because it is a day which recalls both man's inhumanity to man and man's ability to withstand terrible oppression and still fight for his freedom. It is a date when all peoples should pause in their thoughts to give tribute to those who continue the battle for human rights.

The Armenian people have endured the depths of human cruelty, and it is time to recognize their right to independence. I only hope that their courage can hold out until an independence day arrives with promise of true freedom for their people.

### A TRIBUTE TO TENNESSEE'S BARBERS AND COSMETOLOGISTS

**HON. HAROLD E. FORD**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1977

Mr. FORD of Tennessee. Mr. Speaker, it gives me great pleasure to rise today to present to the distinguished Members of this body the proclamation which designated yesterday, May 22, 1977, "National Barbers and Cosmetologists Day in the State of Tennessee." These dedicated, hard-working citizens of the Volunteer State set aside a day of work at their establishments, devoting all proceeds to St. Jude Children's Research Hospital in Memphis, Tenn.

As many of you may already know, the work done at St. Jude Research Hospital is vitally important to the health and welfare of the children of every Nation. This fine hospital is the largest childhood research center in the world and is the first and only institute established for the sole purpose of conducting basic clinical research in catastrophic childhood diseases. The fruits of its research and the benefits of its remarkable accomplishments are shared with physicians and scientists of every country.

Included among St. Jude's many achievements are its research in malnutrition, leukemia, and other severe infectious diseases. Members of St. Jude's outstanding staff have published many professional papers, revealing hitherto unknown explanations for Byzantine medical problems, and its work regularly appears in the pages of prestigious medical and scientific journals. Characteristic of its dedication to the needs of the children of the world, the institution's researchers and scientists have given

literally thousands of lectures and hundreds of seminars and presentations across the globe.

It is interesting to note that the popular star of stage and screen, Danny Thomas, is greatly responsible for the founding of this unique research center and he is personally dedicated to sustaining this facility. His vocal and frequent advocacy of St. Jude's is in many ways responsible for making the mission of the hospital familiar to millions of Americans. It is his deep commitment to St. Jude's that has not only won him the respect and admiration of the people of this country but also earned him the Layman Award from the American Medical Association, AMA. This award is the highest award given by the AMA to a layman and it is bestowed on an individual in recognition of an unusual contribution toward the advancement of the ideals of American medicine in the fields of medical science, medical education, or medical care.

Mr. Speaker, I am proud of the barbers and cosmetologists of the State of Tennessee for their generous work on behalf of St. Jude's and the children of the world. I would also like to take this opportunity to express my special appreciation to Mr. David Zaricor of Memphis, Tenn., who has devoted so much of his time and energy to this project. It is reassuring to know that so many fine citizens are involved in this important undertaking and I am proud to present the proclamation recognizing their contributions at this point:

#### RESOLUTION

Whereas, Dread childhood diseases are killing many thousands of American children each year; and

Whereas, only Medical Research provides hope of discovering the still unknown causes of childhood cancer, leukemia, neuro-muscular and blood disorders, and other childhood diseases; and

Whereas, St. Jude Children's Research Hospital funded by Danny Thomas, is the only children's research center in America doing basic and clinical research in these catastrophic disease areas; and

Whereas, Barbers and Cosmetologists of the State of Tennessee have set aside a day to work with all the proceeds going to help provide the operating funds for St. Jude Children's Research Hospital; and

Whereas, more than 90% of all funds raised go directly to this important work because of the dedicated efforts of our volunteer Barbers and Cosmetologists: Now therefore be it:

*Resolved*, That May 22, 1977, be proclaimed National Barbers and Cosmetologist Day in the State of Tennessee: And be it further

*Resolved*, That all citizens, schools, Churches, Business establishments and scientific, social civic, and fraternal organization to give this worthwhile project their support and cooperation.

#### A TRIBUTE TO REV. JAMES E. JONES

**Hon. Yvonne Brathwaite Burke**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mrs. BURKE of California. Mr. Speaker, it is indeed an honor for me to join

the Brotherhood Crusade in a tribute to Rev. James E. Jones, who has served the Los Angeles community in many ways, including parish ministry, education, the arts, and social service.

Rev. Jones served to build and strengthen our educational system during his years as a member of the Los Angeles School Board of Education. As president of the board, he brought to bear his wisdom and insight on the difficult tasks of directing one of the largest school districts in the Nation.

Rev. Jones has served on all levels of the educational system from preschool to college. He has conducted projects in education which range from single school to nationwide planning.

Rev. Jones has ministered to the poor by organizing Operation Breadbasket which distributes food during the holiday season. He also spends a lot of time counseling the youth who have become involved in gang activity.

He has organized exchange programs that brought high school students from Mississippi to Los Angeles to live with foster parents. In this kind of environment, people can learn to know and understand cultural differences within our Nation.

These are just a few of the extraordinary accomplishments of the Rev. James E. Jones. He is to be commended for his years of dedicated work. The citizens of Los Angeles deeply appreciate the work he has done for the community.

#### INTERNATIONAL SECURITY ASSISTANCE ACT CONSIDERED

**HON. BARBARA A. MIKULSKI**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1977

Ms. MIKULSKI. Mr. Speaker, today the House of Representatives considered the International Security Assistance Act. Following lengthy debate and several amendments, I voted in favor of this legislation. Yet, had it not been for the certain restrictions that were placed upon the aid to Turkey, and similar aid that was given to Greece, I would have been reluctant to give this measure my full support.

I have been very concerned with the ongoing difficulties faced by the island of Cyprus since its invasion by Turkey. It is due to the events surrounding this incident, that led me to state that I would not vote in favor on any military aid to Turkey until such time as an equitable solution to the Cypriot crisis could be reached by all parties concerned.

Because of certain provisions provided for in the International Security Assistance Act, I was willing to revise that stand. I reluctantly supported military aid to Turkey in this instance only because it cannot be made available to that country until the President has certified that Turkey is in compliance with the U.S. laws regulating the transfer of defense articles to other nations and that genuine progress has been made on Cyprus peace talks.

I will continue to give my full support to Greece, but in the future, I will not be able to give further support to Turkey until the Cyprus situation has been resolved to the satisfaction of all parties involved.

#### THE CONSUMER PROTECTION AGENCY

**HON. JOHN P. MURTHA**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1977

Mr. MURTHA. Mr. Speaker, as Congress prepares to debate the creation of a Consumer Protection Agency, there are some facts I would like to share with the Members.

Fact No. 1. There is already one "consumer ombudsman" in each of 17 agencies. These positions were created by President Carter. There is no reason to believe these individuals will not be able—along with other consumer advocates within the Government—to do the job of protecting the consumer.

Fact No. 2. In 1975 I took an "instant poll" of 7,000 residents of the 12th Congressional District. I asked: "Should a new Federal Consumer Advocacy Agency be established." The results were: 32 percent yes, 64 percent no, 4 percent undecided. The reasons most often cited by constituents for opposing the new agency were:

First, the people are tired of delay they have come to associate with the Federal Government; they do not see how a new agency is going to correct that;

Second, with the large amount of Government spending, they did not rate this as a priority, and suggested Congress should be thinking about spending cutbacks and less bureaucracy, instead;

Third, the individual citizen could not see how this would help his or her own situation.

Fact No. 3. Supporters of the Agency are citing a recent Harris poll showing the Agency is favored by a margin of 52 to 34. I would like to quote from the Washington Star article by John Holusha on that poll.

In response to a slightly different question, the poll noted "fewer than one American in every three sees a solution to consumer problems coming from more government regulation or, for that matter, [any] regulation."

According to pollster Harris, what the survey results show is that while the consumer movement is strong, the prevailing sentiment among individuals is that they, rather than someone else, have a say in determining their economic destinies.

Fact No. 4. I believe there are few Members who would disagree that the American people are tired of big Government, more correctly, inefficient big Government that does nothing to improve their lives or national policy.

I believe that would be the very role of a Consumer Protection Agency—more bureaucracy, more redtape, more cost, more delay—without really adding to



the final product of consumer protection in Government decisionmaking. If the Government wants to protect the consumer, the machinery is already there to do it. Let us not create another agency, and more bureaucracy, let us protect the consumer with the people and rules we have in place to do it.

#### INTRODUCTION OF URBAN GRANT UNIVERSITY ACT

**HON. WILLIAM D. FORD**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1977

Mr. FORD of Michigan. Mr. Speaker, I am today, in company with other Members of the Education and Labor Committee introducing legislation to create an Urban Grant University program—an urban counterpart to the Land Grant College Acts of the last century, and the Sea Grant Act of a generation ago. Joining me in sponsoring this proposal are the chairman of the Education and Labor Committee (Mr. PERKINS), the ranking minority Member of the Subcommittee on Postsecondary Education (Mr. BUCHANAN), Mr. THOMPSON, Mr. BRADEN, Mr. BIAGGI, Mr. PHILIP BURTON, Mr. SIMON, and Mr. MOTT. It is our hope that introducing this legislation will elicit from the education community, from the municipal organizations, and from students of the urban condition the constructive criticism which will, I trust, make the legislation even better designed to meet the needs of our cities and to utilize the talents of our urban universities.

The Urban Grant University Act, Mr. Speaker, does not propose to compensate urban universities for being urban universities. On the contrary, the legislation implicitly accepts the idea that the university and the city have a natural affiliation, and that the university can provide research and other services to the city, as well as performing its more traditional function of providing educational services to the city's people.

This, simply, is what the Urban Grant Act is all about. It authorizes Federal support for the development and provision by the universities of programs of research and services aimed at aiding the cities in their dealing with urban problems.

The bill provides for assistance to urban universities in the development of research and service capabilities for the funding of individual projects by which universities may aid the cities in which they are located in their attack upon individual problems or sets of problems, for the designation of universities which develop multidisciplinary comprehensive programs in this area as "urban grant universities," and for the continued support of such programs.

The legislation, Mr. Speaker, has been urged upon us by the Committee of Urban Program Universities, an organization of universities located in, and

characterized by a tradition of direct service to, metropolitan areas. The 19 members of this committee issued a brochure about a year ago in which they stated their perception of the challenge and the opportunity which confronted the urban university. In part, that brochure said:

We have learned as a nation that ill-informed infusions of federal dollars will not, by themselves, alleviate our urban problems. On the other hand we must regain some sense of confidence that a well-informed, systematic search for solutions is not a hopeless, quixotic exercise.

An integral part of such an initiative is a federal policy that seeks to marshal the resources of urban public universities. Such institutions are unique resources in their communities. Originally established primarily from State and local investments, they are now in a position to provide a national service if complementary federal and private resources are added to generate and sustain such a policy.

Because of their location and the student bodies they serve, these universities are in close touch with the educational and social needs of urban residents. To serve their students better, they have adopted educational strategies to meet the special requirements of a changing job market. To serve their urban constituencies—government, private organizations, community groups, and students—they have attempted to transform research and service programs into resources that can be used by people and groups external to the institution. And the universities have a stable source of internal resources—faculties, students, and physical facilities to develop and evaluate plans to help alleviate many of the problems that continue to plague our metropolitan areas.

Simply stated, the time is long overdue for taking stock of the available resources; for pulling together the fragmented and competitive responses to urban problems by pooling people and resources from all sectors of the community.

With one significant change—a change which the Committee of Urban Program Universities has urged upon us—this legislation seeks to implement the vision of that brochure. The change is the dropping of the distinction between urban public universities and other urban universities. There are differences between public and so-called private universities, and those differences are not without serious implications in most areas of Federal higher education policy. But the sponsors of this legislation consider that distinction to be irrelevant to this issue. It does not matter much, as I see it, whether a city is able to receive needed research and service assistance from a university whose support is largely from the public coffers or largely from private sources. The validity of the research, the utility of the services depends primarily on the competence of the university's students, faculty, and administrators, and these qualities are little affected by the institution's source of financial support.

Let me reiterate, Mr. Speaker, what I have already said to the universities who are asking for the enactment of this legislation, and to the cosponsors of this bill.

The Urban Grant University Act represents a first step in the development

of an urban grant program. As its primary sponsor, I certainly accept the proposition that this bill can be improved; that what we need now is a legislative proposal, and an opportunity for public comment so that we can improve that proposal. I hope that my subcommittee can hold hearings and that all interested groups will in the meantime feel free to examine this proposal and do some careful thinking on how it can be improved or how better we can provide for a bridge between the resources of our universities and the needs of our cities.

#### BAD FOR OUR HEALTH

**HON. DEL CLAWSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1977

Mr. DEL CLAWSON. Mr. Speaker, the assurance that any program directed at a national problem will not in practice create new problems or adversely enhance the existing problem is a bare minimum requirement the Congress would do well to apply. An editorial in the Wall Street Journal of Wednesday, May 18 is included at this point in the RECORD for the pragmatic yardstick it applies to an administration proposal which it suggests will be "bad for our health":

#### BAD FOR OUR HEALTH

President Carter's proposals for controlling hospital costs probably aren't going far in Congress and that is just as well; they're the wrong medicine.

The President proposes to put an 8.3% limit, of sorts, on the annual rise in revenues of acute care hospitals and also limit capital outlays above \$100,000. In that way he would hope to bring government's sharply rising Medicare and Medicaid costs under better control.

At the present rate of growth, these two programs will cost the federal government \$30 billion in fiscal 1978, a rise of 13% from the current year. Hospital costs, rising at 15% a year, are a major reason. About 45% of all hospital bills are paid by government.

But the Carter proposals fail to address the underlying cause of rising hospital costs—they are rising so rapidly largely because there is insufficient restraint on demand. About 92% of all hospital bills are paid by some third party, either the government or private insurers. The incentive for the patient and his doctor is not to economize on hospital usage but to make the most of the fact that insurance will pick up most of his bill.

No one in particular is to blame for this, although it is not overly harsh to say that past administrations and Congresses should have given more thought to designing health care policies that would have been less inflationary. Not only did the sharp rises in demand under Medicaid and Medicare raise prices but the government also has encouraged, through its tax policies, the present broad coverage of private insurance. Economist Martin Feldstein of Harvard estimates that tax deductions for health insurance premiums lower the cost of such insurance some 30% from what it otherwise would be.

The answer to the cost inflation problem is not as complicated as many people would like to make it sound. Hospitalization is different from other services in that treatment is often a matter of life and death. But it is

not radically different in economic terms. Mr. Feldstein, one of the most persuasive experts on the subject, makes a convincing case that with patients paying a substantial portion of their bills out of pocket—up to, say, 10% of their annual income—and insurance picking up only the rest, medical costs would soon come under the rigorous control of supply and demand.

Any politician, however, can see political liabilities in this. Politicians have been promising the nation "free" medical care for so long that there is a pervasive belief that such a thing exists—that doctors and nurses presumably can be made to work for nothing and that X-ray machines can be had for a song. Rather than control costs by resort to co-insurance by the patient, government is willing to try almost anything else.

Unfortunately, innovative attempts to avoid reality have come a cropper. President Nixon established federal subsidies to promote Health Maintenance Organizations, which he hoped would hold down health costs by competing with existing forms of health care delivery. But liberals in Congress loaded the HMOs up with so many federal requirements that they have had difficulties achieving their supposedly inherent efficiencies. Congress established Professional Standards Review Organizations, which were supposed to enlist doctors to review the performance of their peers in spending federal money. But doctors don't much like that line of work, so that only about half the proposed number of PSROs have been formed. It is doubtful whether even those exert much effective control on hospital utilization by doctors.

Now Mr. Carter is falling back on that last resort of failing government policies, direct controls. But there are all sorts of flaws, real and potential, in the ceilings. For one thing, they would permit non-supervisory wage increases to be passed through. The idea of controlling capital expenditures already is being employed by federally sponsored Health Systems Agencies in a number of states; the main effect seems to be to embroil the HSAs in litigation and controversy with hospitals and doctors. And in some states, where the main focus has been to try to control Medicaid costs, arbitrary controls and ceilings have contributed to nursing home bankruptcies, a dubious contribution to the efficacy of American health care.

Direct controls simply will not work. And since they won't work, neither will "national health" in the sense that it has been envisioned by Senator Kennedy and others as a blank check for unlimited care—that is, unless Congress is willing to face up to a federal budget deficit of \$150 billion or so.

So the choice is open. Congress can go along with something like the Feldstein proposal and bring costs under realistic control at some political price. It can adopt the Carter proposal and plunge deeper into the morass. Or it may continue to let matters drift. We suspect it will choose the latter. It should be obvious that it could do a lot worse.

#### NATIONAL SCHOOL BUS SAFETY WEEK

**HON. DAVID E. BONIOR**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1977

Mr. BONIOR. Mr. Speaker, today I am introducing a joint resolution declaring that the week of October 9, 1977 through October 15, 1977 be designated as "National School Bus Safety Week."

Since Michigan can claim to be one of the leading States in school bus safety, it seems only appropriate that my colleague from Michigan (Mr. RIEGLE) and I introduce this resolution in the House and in the Senate.

School bus safety is a concern of both parents and educators because of the large number of students who travel to school by bus. In my State alone, 1 million students are transported by school bus daily. And according to a report by the Department of Transportation, 22 million students are transported daily throughout the United States. With so many children being transported every day, a heightened awareness with respect to the safety of their transportation is an aim hopefully to be achieved through the observance of this week.

The taxpayers pay almost \$2 billion annually to make traveling by school bus seven times safer than traveling by passenger car. Acknowledging "national School Bus Safety Week" will make the people of the United States aware of this fact along with furthering the effort to continue the safe transportation of our children.

#### THE TRIS BAN

**HON. JAMES T. BROYHILL**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1977

Mr. BROYHILL. Mr. Speaker, I am sure my colleagues in the Congress are only too aware of the recent furor caused by the Consumer Product Safety Commission's ban on articles containing the chemical Tris. The Tris ban, and the way it was administered, has caused hundreds of thousands of dollars' damage to businesses throughout the Nation, not to mention the time and worry spent by countless parents of young children.

I am equally sure we all recognize the paradox here. The Government has mandated that the fabric and garment manufacturers must insure the fire retardancy of clothing worn by small children, and yet on the other hand has ordered many of these garments removed from the marketplace—leaving the producers, processors, manufacturers, and distributors of Tris-containing products holding the financial bag.

For this reason, I have joined with Congressman JAMES MANN in introducing legislation to confer jurisdiction on the U.S. Court of Claims in determining the dollar value and rendering judgment for losses sustained by those businesses suffering financial hardship due to the ban on Tris. Aside from providing Tris-related businesses with a chance for returned financial stability, the enactment of this legislation would indicate to manufacturers and consumers alike that our Government wishes to share in the hardships on the people and to assume responsibility for its actions.

As has been pointed out so clearly with the Tris incident, we have all become increasingly aware of the need to carefully screen chemicals before they are used in products the public will consume. The

Toxic Substances Control Act we passed last year requires the Environmental Protection Agency to test, prior to marketing, chemical substances and mixtures which cause or significantly contribute to an unreasonable risk to health or the environment. This is an important measure, but it should only be one part of our Government's total, well-coordinated approach to the problems raised by an ever-growing list of possible carcinogens, some of which are already on the market.

Only yesterday, I received a press release in my office indicating that a large supplier of fabric for children's sleepwear, Springs Mills, Inc., will cease production of fabric for that market, due to "unpredictable Government policies." It is imperative that we in the Congress chart, and hold, a firm course in banning hazardous chemicals, and at the same time demonstrate to the American people that we are willing to accept responsibility for our actions. The legislation I have cosponsored will take us one step closer to that goal.

#### U.S. POSTAL SERVICE

**HON. EDWARD J. DERWINSKI**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1977

Mr. DERWINSKI. Mr. Speaker, top officials of the U.S. Postal Service seem determined to maintain a poor public relations image not only with the Congress but also with the general public.

An example of this is the controversy over orders given letter carriers to take short cuts across lawns to save time. While it is a known fact in the mail delivery profession that carriers are capable of delivering their routes faster than the allocated schedule time, deliberate short cuts across lawns are obviously creating predictable public resentment.

Channel 5, WMAQ-TV, Chicago, addressed this subject in their editorial commentary of April 29, which I insert into the RECORD at this time:

#### EDITORIAL

Letter carriers in a number of suburbs are fighting with their employer, the U.S. Postal Service, because they don't want to walk across people's lawns.

Their supervisors are telling the carriers to take shortcuts across lawns to save time.

At first this sounds like a silly dispute. But when you think about it, it is a classic example of a fight between management's demands for efficiency and labor's insistence on job preservation.

The Postal Service, with all its financial problems, claims it can save millions of dollars if letter carriers take the quickest route on their deliveries which means crossing lawns.

The Letter Carriers Union sees this as a threat to jobs. If they can get their jobs done in a shorter time, the Postal Service won't need as many people to carry the mail.

Some carriers have been picketing the post office in the town of Roselle. And there is a circular being passed out that claims "postal supervisors are prowling the streets at taxpayer's expense and giving every letter carrier they see a direct order to cut across the lawns."

The two sides are taking this issue very



seriously indeed. They've even gone to arbitration and the letter carrier's union lost.

Frankly, we do not have a strong feeling one way or the other, but if you are upset by the mail carrier trekking across your property, you can settle the dispute all by yourself. Just call the post office and ask for a form you can sign prohibiting the letter carrier from walking on the grass.

(This editorial was broadcast on April 29, 1977.)

## A RETURN TO CITIZEN— REPRESENTATIVES

**HON. J. J. PICKLE**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1977

Mr. PICKLE. Mr. Speaker, there are numerous Members of Congress who can remember fondly when sessions did not last for 11 or 12 months, each year. My good friend Jerry Siegel was a participant, as the counsel for the Senate Democratic Policy Committee, when Congress was not in session full-time.

I am enclosing his recent article from the Washington Post in which he carefully defines how he believes it is possible to make such a system viable once again. It is my hope that you will give his article close study.

The article follows:

### SAVE CONGRESS BY LIMITING IT

(By Gerald W. Siegel)

The Founding Fathers never intended Congress to be the fulltime institution of professional lawmakers that it has become. Rather, they foresaw a legislative branch that would meet for a few months to set national policies and enact the few laws necessary to implement them. It was to be a citizen body which, ideally, would always reflect the broadest composition of our people: farmers, merchants, workers, lawyers, doctors and so forth.

Of course, the Founding Fathers never anticipated the complexity which has overtaken us. But their conception of the role of Congress remains valid. To return to such a limited legislative role would be a major reform. Yet it could be done without any fundamental change in our federal system and without any reduction in the importance of Congress.

We have focused too long on methods of reorganizing Congress which would enable it merely to do better the job it is doing. This year's reorganization of Senate committees was merely the latest example. What we need instead is a redefinition of the kind of legislative body Congress should be. If we really want to improve the operation of Congress, we must challenge deeply embedded patterns and traditions.

As I see it, Congress should confine itself to making only major, broad national policies and laws. The fleshing out of such laws, the endless process of developing the intricate mechanisms for their implementation, should be the responsibility of executive departments and independent administrative agencies.

The bills to amend the Environmental Protection Act are an example of how Congress becomes smothered in detail. So much attention has been given to comprehensive statutory provisions that Congress has lost sight of its principal responsibility: the establishment of overall, balanced basic environmental policies which are consistent with other essential policies in the nation, i.e., energy, employment and growth.

Just look at the vital statistics of the last Congress: 21,096 bills introduced; 588 public laws enacted; with brief recesses in each year, the two houses met from Jan. 14 to Dec. 19, 1975, for a total of 1,177 Senate and 941 House session hours, and from Jan. 19 to Oct. 1, 1976, for a total of 1,033 Senate and 846 House session hours. There is probably no tabulation of the hours spent by committees in hearings and executive sessions.

How much better if fewer bills were introduced, fewer considered in committee and simpler, more basic policy type bills passed. And how much better if the time saved were spent by the legislators at their own occupations, with their own people, in their own states.

To effect such change will require strong congressional determination. Subject to waiver in emergencies, there should be in each session an early mandatory adjournment date; a limit on the number of bills each member may introduce and on the number each committee could consider and report; and a ban or limit on nonlegislative functions (such as assassination investigations). But consider the benefits.

The time required for the members in Washington could be shortened drastically. There would be no need for, and it would in fact be recognized as undesirable for, members to give up their normal occupations to become professional lawmakers. The members could remain closer to their states, districts and constituents. No detailed code of conduct would be necessary. A system of full disclosure is all that would be needed to reduce the likelihood of corruption and the improper consequences of unavoidable conflicts of interest. There would be no need for public funding of elections.

And, finally, Congress could reduce the volume and complexity of federal law for which it is primarily and directly responsible. Subordinate policies and principles, not merely details, would be delegated to the departments and agencies, where they can be more calmly, expertly and professionally developed by fulltime experts.

Would we all become the victims of a faceless and inaccessible bureaucracy? Not necessarily. Preventive measures could be established by Congress and the executive departments. And access to Congress for equitable relief from administrative decisions beyond the corrective action of the courts would be more efficient and effective because Congress would have more time for such functions and could better organize to carry them out.

A determination to legislate only to the extent absolutely necessary should also permeate throughout the administrative bureaucracy. "Sunset" legislative policy, applied to Congress and the executive departments, coupled with a new philosophy of Congress as described here, could sweep away much of the statutory and regulatory debris which has accumulated over the years and release much human talent, time and energy to tackle new basic problems.

A major shift of this kind in legislative responsibility will require reexamination and changes in our independent agencies and departmental administrative processes—especially where lines of rule-making, administration, regulation and adjudication run parallel or cross. But these are not insuperable obstacles. The knowledge exists to structure this part of the executive branch of government so that it can faithfully and effectively perform all of its duties, under the direction and surveillance of Congress.

Relieved of the necessity of legislating in each field with such comprehensiveness and specificity, Congress could better deal with the task of determining balanced policies which properly equate the competing and conflicting demands of separate but inter-

related areas. The newly established congressional budget procedure could be enlarged and perfected, and the trade-off balancing so necessary there could become the pattern for policy making in each substantive area of legislative concern. For example, Congress might well develop a full employment policy which would not unduly restrict individual and group freedoms in the private sector and would not impact harmfully on a national policy of stable prices.

A new role for members of Congress, with less tedious duties but more fundamental responsibility; with few restrictions on the opportunity to continue their normal private lives and with a more clear-cut image of citizen part-time lawmakers, could induce some to seek office who now turn away from it. Longevity of service would be less essential. Indeed, more rapid turnover in membership could be a desirable result. A new delineation of the functions of Congress could breathe new life into our federal system and encourage the states to take on more of the responsibilities of governing their citizens.

The changes proposed here would not weaken Congress or the federal government. Members of such a Congress would truly be the most important and powerful decision-makers in the nation. No one is diminished by delegating less important duties.

Too long have we struggled at the edges of the problems which beset Congress. Codes of conduct, election financing reforms and committee reorganizations will not do the job. If Congress is to achieve maximum effectiveness, a real effort to rediscover its proper role must be made.

## HELSINKI ACCORDS

**HON. RAYMOND F. LEDERER**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1977

Mr. LEDERER. Mr. Speaker, I would like to bring to your attention a letter which I have sent to General Secretary Brezhnev which I believe reflects the concerns of many of my colleagues in the House and the people of the United States:

DEAR MR. GENERAL SECRETARY: Permit me to open this letter with a statement you made at Helsinki in August 1975 in regard to the Final Act of the Conference on Security and Cooperation in Europe:

"We assume that all countries represented at the Conference will implement the undertakings reached. As regards (to) the Soviet Union, it will act precisely in this manner."

At a time when the Strategic Arms Limitation Talks between our two nations are a matter of serious controversy, the people and Congress of the United States of America would sincerely like to accept the good faith of the Government of the USSR.

However, the recent actions of the Soviet Government belie the commitment she has made in the Helsinki Accords. What the Soviet Union has done is to systematically violate the human rights of Mykola Rudenko, Oleksa Tykhy, Mykola Matusevych and Myroslav Marynovych, whose only crime as members of the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords, was to monitor the compliance of their country to the principles of human rights which the Helsinki Accords had committed her.

By taking away the freedom of the Ukrainian people or indeed any nationalist group to insist on compliance by their country with

the Helsinki Agreement, is to relegate the importance of that treaty to that of an empty scrap of paper.

I urge you not to allow the Helsinki Accords which offered the hope of freedom and dignity for so many to become a cruel hoax. The immediate release of these men, and the freedom of such nationals as the Ukrainians to operate without harassment, would be a demonstration of the Soviet Union's commitment to human rights, which the Congress and the people of the United States anxiously await.

Sincerely,

RAYMOND F. LEDERER,  
Member of Congress.

## TEST CARS AND AUTO EMISSIONS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1977

Mr. DINGELL. Mr. Speaker, great emphasis has been placed on test automobiles meeting emission levels at or near the 1978 statutory levels, which we are in the process of amending. I submit for your consideration my views on test cars and auto emissions and insert them at this point in the Record:

### TEST CARS AND AUTO EMISSIONS

Getting an automobile from the test laboratory to production and for sale nationwide in interstate commerce and conform with all Federal regulations—is not an overnight possibility nor, necessarily, a possibility in 1, 2, 5 years, or more.

While automakers—both foreign and domestic—may have a dozen or more test cars for emission controls or fuel mileage research programs and may occasionally find one vehicle that produces greatly lowered pollution emissions or increased fuel economy, the massive amount of investment required by that automaker may not produce a car that will work in the real world nor clear all Federal regulations. General Motors just reported that it has concluded—at an estimated cost of over \$100 million—that the rotary engine, famed earlier as a potentially great fuel saver, is not economically suited for mass production. Continued testing showed that its anticipated fuel economy gains and control of pollution exhaust did not test out as had been hoped. It has been shelved by G.M. Research and Investment by automakers continues into several alternate engine models and drivelines to develop improved fuel economy and lower emissions.

Volvo, when it met California emission levels in certification last summer for its 1977 model car, including its sophisticated and expensive total emission control system (Lambda-sond) on its base priced, \$6,500, inline four-cylinder car, did reach reduced emission levels but not consistently below 1978 statutory standards of 0.41 hydrocarbons, 3.4 carbon monoxide and 0.4 oxides of nitrogen. When it was certified to meet the California standards of 0.41 HC, 9 CO and 1.5 NO<sub>x</sub>, it did so at a small fuel economy improvement compared to its sister 1976 model cars, but still at almost a 10-percent fuel economy penalty when compared to the foreign and domestic U.S. Federal fleet of cars meeting 1.5 HC, 15 CO and 2 NO<sub>x</sub> for 1977 model cars.

Volvo, in confirming that it did not meet the statutory standards last summer and that it had not attempted to do so in the California test, replied to several in Congress in the following manner:

"As Volvo and others in the auto industry have stressed, obtaining low emission levels from relatively few test vehicles, even during certification testing, is a different matter than insuring that all vehicles from a particular year's production will achieve the same results, which is what current Federal requirements demand. A manufacturer must, in effect, guarantee that the emission performance of each and every vehicle will fall below the standards, and no manufacturer is likely to do so unless convinced that adequate margins exist between test results and the regulated emission levels, so as to insure that all production vehicles will comply given required in-use maintenance."

Some still would argue that Volvo did meet the tight statutory standards for 1978. The Volvo did not. It could not have been certified by the Environmental Protection Agency for the 50,000-mile durability test. Volvo's development is to be commended for coming close, but "coming close" does not satisfy standards in Federal law. Volvo has again publicly confirmed that their California certification car of last summer did not pass the statutory standards test by EPA. Volvo testified March 9, 1977, before the Commerce Committee's Health and Environment Subcommittee:

"In discussing the emissions results to date, it is important to note that the very low emissions figures which have recently been quoted for the Volvo Lambda-sond™ system are the average results from four 4,000-mile certification test vehicles with four-cylinder inline engines. It should also be noted that during the 50,000-mile durability portion of the EPA test procedures the durability vehicle equipped with Lambda-sond™ exceeded the statutory limits according to the Federal certification procedure, thus we could not have been certified to the statutory emissions levels."

Volvo began development of what became its sophisticated 1977 model year emission control system in 1972. It incorporates electronic fuel metering, electronic fuel injection and, at that time, the relatively unknown three-way catalytic converter and oxygen sensor device in the exhaust system, to name a few of the 1977 car's components. It took Volvo 5 years to get that vehicle ready for its 1977 test, a test that Volvo has said was not intended to be aimed at meeting the 1978 Federal standards of the Clean Air Act, but just to meet the less stringent California levels.

Volvo sells four- and six-cylinder cars in the "upper price classes" (\$6,500 to \$11,000). Its total emission system is estimated to cost from \$500 to \$600.

Volvo, in the Health and Environment Subcommittee hearing testified that its system was working on the inline four-cylinder engine in its small, four-passenger car, but was much more difficult to adapt to the "VEE (V-6 and V-8) type engine because of basic configuration."

Volvo went on to say to the subcommittee:

"In order to provide the stability necessary to optimize emission control systems, Volvo has recommended that U.S. exhaust emission levels be set at 0.9/9.0/2.0 gms/mi HC, CO and NO<sub>x</sub> respectively for model years 1978-82. We still believe this is a reasonable compromise to achieve clean air and good fuel economy with a variety of powerplants."

This important testimony by Volvo, and testimony by other auto manufacturers further confirms the automotive engineering community's, and others', agreement for the need of the 9 CO and 2 NO<sub>x</sub> standards contained in the Dingell-Broyhill (H.R. 4444) legislation to amend the Clean Air Act. The Dingell-Broyhill standards are only slightly tighter than Volvo's recommendation for these same model years and are tighter due to our understanding of the technological

achievements by the industry at large in the past year and the need to control hydrocarbons by our more stringent 0.41 HC standard to begin in 1980.

We point out that there remains uncertainty and lack of confirmed health data for the standard to go as low as 1 NO<sub>x</sub> or as low as 0.4 NO<sub>x</sub>. Even the administration's schedule does not impose a 0.4 NO<sub>x</sub> standard due to the uncertainty and calls for further study of the issue. In the Dingell-Broyhill schedule we impose the 1 NO<sub>x</sub> in 1982, but again, due to uncertainty on health and air quality, and due to the administration and Nation's energy conservation demands, we provide for that NO<sub>x</sub> standard to be suspended or waived up to, but not in excess of, 2, if it will not endanger public health and would save fuel and economic cost. This procedure also provides automakers incentive for more research and test cars if they know there are provisions in the law to permit their manufacture of a new system. Innovative technology, such as the Volvo system, diesel, stratified charge, lean-burn, and other systems, may be developed and placed in mass production. This may then lead to greatly improved, cleaner burning, fuel efficient and cost-effective systems on automobiles to protect consumers, the economy, the environment, energy conservation objectives, and have a resulting wholesome impact on automotive industry employment.

## THE HATCH ACT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1977

Mr. LAGOMARSINO. Mr. Speaker, in view of the intense debate we had last week regarding the Hatch Act, without coming to any resolution, the Members might be interested in the following views expressed in the Ventura County (Calif.) Star-Free Press May 9:

EDITOR'S NOTEBOOK

(By Julius Gius)

Shortly before World War II, when the expanding list of New Deal agencies began to read like a recipe for alphabet soup, a Democratic senator from New Mexico named Carl Hatch began fretting about the political potential of the thousands of workers then swelling the federal payroll.

He reasoned, quite logically, that federal workers could constitute an army of campaign workers for any national candidate making the right promises. So Hatch, his pioneer streak of puritanism coming to the fore, decided to do something about the problem he foresaw.

The Hatch Act evolved in 1939. It prohibited active participation in national politics by federal employees. The law has been amended from time to time, but the basic ban on partisan politics by our 3 million federal civil servants still stands. That's what a government worker, like those at Point Mugu or in the Postal Service, means when he says, "I've been Hatched."

Last year, Congress voted to wholly repeal the Hatch Act but President Ford vetoed its action, and an attempt to override this veto narrowly failed. But the repeal effort has been reborn this year with a similar measure, H.R. 10, offered by Rep. William Clay, Democrat of Missouri who has been a regular recipient of labor union campaign money. Further, there have been signals from the White House that President Carter favors the bill.

The argument for Hatch Act repeal is that it makes "second class" citizens out of fed-



eral workers because their involvement in partisan politics is legally limited.

(There is no restriction, of course, on their participation in non-partisan government affairs; thus we have federal workers who served on city councils, school boards and the like.)

Whenever a party in the majority strongly favors a partisan bill, I suspect that the party's benefit likely looms larger in the consideration than the principle. I think that's the case now.

The proposed bill would lift many of the restrictions prohibiting federal employees from running for partisan office or working actively on behalf of a party-backed candidate. It would continue to ban political activity during working hours or on federal property and would impose controls aimed at preventing coercion by bosses, including a ban on fund solicitations by them.

The problem is, as it has always been, that whatever is allowed very soon will become mandatory, even in enlightened administrations. And it seems to me that the law's repeal is likely to lead to a second-class civil service by opening it up to partisan pressure.

The congressional hearing record that I have read shows no great visible eagerness and no truly organized effort by federal employees themselves to repeal the Hatch Act. In fact, much of the testimony indicates that most government workers want to keep the law as it is, with some witnesses even advocating a strengthening of existing protections against political coercion within the government service.

If that's what the non-political federal worker really wants, others may share my suspicion that repeal of the Hatch Act would be more benefit to politicians than federal workers.

#### CLEAN AIR ACT AMENDMENT

**HON. GUNN MCKAY**

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1977

Mr. MCKAY. Mr. Speaker, I submit for the RECORD the following amendment to section 108, H.R. 6161, the Clean Air Amendment of 1977. This important amendment provides a class II variance procedures allowing the Governor of a State greater flexibility in balancing environmental concern and economic growth. The high terrain topography of Utah demands this flexibility. I urge its adoption.

The amendment follows:

#### AMENDMENT TO H.R. 6161

Page 320, after line 19, insert:

(g) (1) Subtitle C of title I of the Clean Air Act is amended by adding the following new section at the end thereof:

#### "CLASS II INCREMENT VARIANCE

"Sec. 162. (a) For purposes of this section—

"(1) The term 'class II increment variance' means a variance granted under this section (prior to, or in conjunction with, a permit required under section 160(c)(4)) by the Governor of a State to a proposed new or modified stationary source of sulfur dioxide which permits such source to construct and operate in an area designated as class II under section 160 without regard to the maximum increase of sulfur dioxide allowable for such area under such section 160 for the three-hour period of exposure.

"(2) The term 'Federal land manager' has the same meaning as when used in section 160.

"(b) (1) After consultation with general purpose units of local government (in accordance with section 125) and State legislative representatives, and after notice and opportunity for public hearings, upon application by the owner or operator of any proposed new or modified stationary source, the Governor of the State in which such source is proposed to be located may grant a class II increment variance to such source if—

"(A) such owner or operator demonstrates to the satisfaction of the Governor, and the Governor finds, that the conditions of subsection (c) have been met, and

"(B) the State establishes (and provides for enforcement of) such emission limitations as may be necessary to assure that the conditions of subsection (c) (2) will continue to be met.

Such opportunity for public hearings shall be provided at the State capital and in each political subdivision in which the maximum allowable increase for sulfur dioxide for the three-hour period of exposure will be permitted to be exceeded by reason of the variance (as determined by the Governor on the basis of the application).

"(2) No variance granted under this section shall take effect unless—

"(A) the Governor provides the Administrator, and the appropriate Federal land manager (in any case in which Federal lands are located in the area in which the maximum allowable increases for sulfur dioxide would be exceeded by reason of the variance, with a written report supporting his findings, and

"(B) (1) the Administrator finds that the procedures required under paragraph (1) have been followed and concurs with the Governor's findings required under subsection (c), and

"(ii) in any case in which a report is required to be provided to a Federal land manager, the Federal land manager concurs with the Governor's findings required under paragraph (2) (D) of subsection (c).

The Administrator and appropriate Federal land managers, if any, shall, after notice and opportunity for public hearing, concur or refuse to concur in the Governor's findings for purposes of this paragraph and publish notice thereof in the Federal Register not later than 180 days following their receipt of the report required under subparagraph (A).

"(c) A variance may be granted only if the Governor finds that the following conditions have been met—

"(1) (A) the Administrator has promulgated regulations under subsection (d) specifying applicable models and modeling techniques to be used for purposes of this section.

"(B) construction and operation of the source at the site at which the source proposes to locate (or undertake a modification) has fewer or less severe environmental impacts than construction and operation at other reasonably available alternative sites, and

"(C) the source cannot construct and operate at the proposed site unless a variance is granted under this section, and

"(2) (A) emissions from the source will not affect concentrations in any area in which the class II maximum allowable increase of sulfur dioxide for 3 hours is permitted to be exceeded by reason of any other variance granted under this section,

"(B) the total number of days during which, in any calendar year, the class II maximum allowable increase for sulfur dioxide for the three-hour period of exposure will be exceeded by reason of the variance (when all modeled or monitored measure-

ments of pollutant concentrations are aggregated) will not be more than 5 percent of the days of such year and only over an area of unpopulated terrain which is—

"(i) not less than 1,000 feet above the base of any stack used by the source to disperse emissions, and

"(ii) not more than 10 miles from any such stack,

"(C) the increase in concentrations of sulfur dioxide in such area over the baseline concentrations (determined under section 160) for the three-hour period of exposure will not exceed the maximum increases allowable for such period of exposure under section 160 for areas designated as class III, and,

"(D) emissions of all pollutants from the source will not cause or contribute to air pollution concentrations—

"(i) in any area in which a national primary or secondary standard is exceeded or in any area classified under section 160 which concentrations are in excess of the maximum concentrations (other than the specific increment with respect to which the variance is granted) specified for such area under section 160, or

"(ii) in the area in which the maximum allowable increases for sulfur dioxide will be exceeded by reason of the variance, which concentrations may reasonably be anticipated to cause harm to humans, animals, plant life, or visibility, or to any use, feature, or value of the area, or

"(iii) in any Federal area (other than a national forest) which cannot be designated other than class I or class II as specified in section 160(c)(3)(B), which concentrations are in excess of the maximum concentrations specified for such area under section 160(c)(2).

"(d) No source will be eligible for a variance under this section until the Administrator, by regulation, determines that there are generally available air quality models and modeling techniques which are sufficiently accurate to allow reliable and competent implementation of the provisions of this section. Such regulations shall specify such models and modeling techniques. Upon petition of a State, the Administrator shall determine whether or not such models and techniques are generally available, and if he finds in the affirmative, he shall specify such models and techniques.

"(e) For the purposes of this Act, the conditions contained in subsection (c)(2) shall be treated as requirements of the applicable implementation plan. If the Administrator determines that a source to which a variance is issued under this section is in violation of any condition of subsection (c)(2), he shall—

"(1) enforce such condition under section 113;

"(2) give notice of noncompliance and commence action under section 122; or

"(3) take any appropriate combination of such action."

(2) Section 113(b)(4) of such Act is amended by inserting "162(c)(2)" before "121."

#### CONFORMING AMENDMENTS

Page 27, line 17, after "facilities," insert "a variance under section 162 (relating to class II increment variances)."

Page 27, line 18, after "suspension," insert "variance."

Page 28, line 11, strike out "or."

Page 28, line 12, insert "or variances under section 162 (relating to class II increment variances)" after "indirect sources".

Page 33, after line 16, insert: "(iv) any source which has received a variance under section 162 and is not in compliance with any emission limitations pursuant to such variance."

May 25, 1977

GRATIFIED BY ENDORSEMENT OF  
H.R. 6111

## HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1977

Mr. CORRADA. Mr. Speaker, I am gratified by the House's overwhelming endorsement of H.R. 6111, which amends the Juvenile Justice and Delinquency Prevention Act. As a member of the Subcommittee on Economic Opportunity, and as an individual deeply concerned with the problems which affect our Nation's youth, I am pleased by my colleagues' sense of commitment.

In my congressional district we have a much higher percentage of youths in comparison with the mainland States. Out of a population of 2.7 million—1970 census—1.3 million were youths below the age of 20—48 percent of the total population. Last year, of the 27,527 type I crimes—murder, voluntary homicide, rape, theft, assault, and so forth—10,974 were committed by minors. The problems of our youth are intrinsically interrelated to other societal problems, such as drug abuse, unemployment—20 percent, overpopulation—1,000 persons per square mile, poverty—60 percent below Orshansky poverty level, dropout rate in school—20 percent and so forth. It is facing these statistics that we welcome the initiative taken by the Federal Government in providing assistance to cope with this pressing and expanding problem. The Puerto Rico Crime Commission currently receives \$776,000 from LEAA under the act, which has enabled us to lay a solid foundation for our local juvenile justice and juvenile delinquency programs.

As I stated in my supplemental views in the committee report, I would have wished to see a higher authorization level for next year, as opposed to a \$25 million reduction. When we consider the scope of the problem, the limited participation level up to now, our easing the deinstitutionalization requirement to bring in current nonparticipants, and the addition of new special emphasis categories, we should strive for the highest funding level possible. I sincerely hope that the Appropriations Committee will concur with these views and opt for a substantially higher appropriation level.

With respect to the Runaway Youth Act, I was pleased that the Subcommittee on Economic Opportunity as well as the full Education and Labor Committee endorsed my suggestion to increase the authorization level from the current \$10 million to \$25 million. Runaways should have alternatives to turn to before they get caught up in the criminal justice system. Since our current authorization level allows us to only serve 4.6 percent of our Nation's true runaways, we still have a long way to go.

Although the bill provides for the possibility of an eventual transfer of the Runaway Youth Act from HEW to ACTION, I hope that those sore spots

## EXTENSIONS OF REMARKS

which prompted this initiative, can be ironed out. HEW is not too large an agency to administer this program, but on the contrary, is the agency entrusted with administering complementary youth programs, and thus possesses a special expertise in the field. HEW can effectively deal with those deep rooted problems which prompt a youngster to run away from home, namely poverty, drug abuse, child abuse, mental health, etc. The fact that the current program as administered by HEW utilizes the services of numerous volunteers does not mean that we should carry this to a logical progression and turn the whole program into a volunteer program. The problems of runaways have to be addressed by a cadre of service persons who have a long range perspective and commitment, which would be lacking if the program were transferred. If there are current deficiencies in the program, let us take a close look at its operation. Let us evaluate it. We have no guarantee that ACTION would be successful in those areas where some have faulted HEW. An eventual transfer decision should thus be carefully weighed and warranted only by having proper documentation of such a need.

Finally, I would like to thank, as I have done on several occasions, the subcommittee chairman, Mr. ANDREWS, and the full committee chairman, Mr. PERKINS, for their commitment to hold prompt hearings on the subject of school violence and school vandalism, which plague our Nation. The May 15 issue of *El Mundo*, the largest Spanish daily in Puerto Rico, ran headlines which indicate the public concern: "Vandalism in the Schools: A Problem Which Demands a Solution in Puerto Rico." I look forward to these hearings, with the hope that after the necessary legislative record, we can draft some form of Federal legislation aimed at dealing with the problem.

### AN ANSWER TO THE MYSTERY MEMO ON CLEAN AIR

## HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1977

Mr. ROGERS. Mr. Speaker, there has been some discussion about the support of the Office of Management and Budget for the auto emissions which the Commerce Committee adopted in the Clean Air Act Amendments of 1977.

Those backing the Dingell-Broyhill have incorporated an undated memorandum to which they attach a great weight in their argument for weakening the automobile standards.

I requested and received a response by the OMB's Associate Director for Natural Resources, Energy, and Science, on this memo and it backs up what we have been saying right along—that the memo was an early draft which underestimated levels of carbon monoxide in urban areas and overestimated the reduction of carbon monoxide attributable to the use of

the three-way catalyst and the associated electronically controlled fuel systems.

I would like to insert into the RECORD this letter. If those who back the Dingell-Broyhill placed such weight on the memo, then there is good cause to reconsider.

OFFICE OF MANAGEMENT AND BUDGET,  
Washington, D.C., May 23, 1977.

Hon. PAUL G. ROGERS,  
Chairman, Subcommittee on Health and the Environment of the Committee on Interstate and Foreign Commerce, Rayburn House Office Building, Room 2415, Washington, D.C.

DEAR CHAIRMAN ROGERS: I am responding to your request that I comment on the preliminary, undated OMB staff memorandum on automotive emissions.

First, I would like to emphasize that the preliminary OMB staff recommendation is identical to the Administration's position with respect to the ultimate level for hydrocarbons and oxides of nitrogen.

The remaining analyses contained in the staff memorandum were based upon preliminary data which has since been revised by the Environmental Protection Agency, the Federal Energy Administration and the Department of Transportation.

Use of the preliminary data resulted in:

An overestimate of the reduction in the carbon monoxide content of the ambient air attributable to the use of the three way catalyst and associated electronically controlled fuel system.

An underestimate of current carbon monoxide (CO) concentrations in crowded urban areas. This underestimate fails to include allowance for ambient CO violations that may occur but are unreported because of the absence of air quality monitors.

Thus the staff analysis underestimated the extent of the current ambient CO problem, and overestimated the improvement achievable by imposition of a 9 grams per mile CO standard.

The Office of Management and Budget participated in the recently completed FEA, DOT, EPA Study on auto emissions and agrees with the accuracy of the conclusions presented therein. The Office of Management and Budget also participated in the development of the Administration's position and supports it in its entirety.

Sincerely,

ELIOT CUTLER,  
Associate Director for  
Natural Resources, Energy and Science.

### COMPASSION FOR ALL

## HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1977

Mr. RANGEL. Mr. Speaker, a dear friend of mine has been named as President Carter's choice to serve as Chairman of the Equal Employment Opportunity Commission. Eleanor Holmes Norton has served for the past 7 years as chairman of the New York City Commission on Human Rights. During this time she diligently and persistently attempted to alleviate employment discrimination and to guarantee the civil rights of all people.

In the 1960's Mrs. Norton joined the civil rights movement legal battle. As a staff attorney for the American Civil

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Liberties Union she assisted in the preparation of briefs which were part of Mohammed Ali's legal efforts to regain his boxing crown and she was also a part of the team of lawyers who argued that State Senator Julian Bond was unconstitutionally denied his seat in the Georgia Legislature.

Mrs. Norton has taken up many other causes which at times have made her quite unpopular within her own community. As a vigorous advocate of the free speech doctrine found in the Constitution, she has defended Gov. George Wallace, the National States Rights Party, as well as individual members of the Ku Klux Klan. I believe that this, Mrs. Norton vigorous pursuit of justice irrespective of how totally obnoxious she personally finds the client, illustrates that she will make a most impartial and effective Chairman.

To this end I would like to share with my colleagues an article which appeared in the Thursday, May 19 issue of the New York Times. The article describes the many achievements and ideas of this most interesting woman. I think my colleagues will find it very informative.

The article follows:

#### FIERY PASSION AND CONCERN

(By Charlayne Hunter-Gault)

Edward Norton remembers that the first time he met Eleanor Holmes he was so impressed by her "extraordinary energy and intelligence" that he began to refer to her as "La Pasionaria," the fiery woman who galvanized the Spanish loyalists in their fight against Franco.

He is biased—they were married four months later. That was 12 years ago.

But that is the type of reaction many people have to Mrs. Norton, who was announced yesterday as President Carter's choice to head the Equal Employment Opportunity Commission.

Invariably, when associates and others describe the wispy, unpretentious lawyer, who for the past seven years has headed the New York City Commission on Human Rights, it is in strong terms.

They refer to her "persistence and drive" and her "passionate concern" in matters of employment discrimination and civil rights.

That the impressions do not vary is probably a result of a pattern of consistency established early in her life. She was born June 13, 1937, into a secure black professional family in Washington, D.C. Her father was a lawyer and her mother a teacher.

Her upbringing in a segregated town ("I was a member of one of the last officially segregated school classes in the District") seemed to reinforce her sense of self, as well as help shape her life's direction.

"You were reminded from the time you were a little child that you were in a segregated system and that you had to be smarter than anybody else," she recalled.

It was "out of the impulses of the civil rights movement," Mrs. Norton said, that after graduating from Antioch College, she entered the Yale Law School at the same time she was pursuing a master's degree at Yale in American Studies.

She not only experienced the movement as a demonstrator but also, as one of the few black law students of the early 1960's, she became involved in civil rights legal battles.

In 1965, Mrs. Norton joined the staff of the American Civil Liberties Union because of her interest in constitutional law.

She helped prepare briefs for both Muhammad Ali, who had had his heavyweight boxing title taken from him, and State Senator Julian Bond, whom the Georgia legislature at first refused to seat.

But she also found herself on separate occasions defending Gov. George C. Wallace of Alabama, the National States Right Party and individual Ku Klux Klansmen.

Mrs. Norton, who also served as assistant to Mayor John V. Lindsay, enjoys the reputation of having one of the best run agencies in New York City.

One of her major achievement, in a city where its own money is tight, was her success in attracting Federal funds for innovative programs in civil rights issues such as equitable alternatives to layoffs, affirmative action in the Civil Service system and a neighborhood stabilization program aimed at stemming middle-class flight from the city.

In a revamping of her agency, Mrs. Norton stressed early settlement of cases, which partly eliminated a backlog there.

Yesterday, Mrs. Norton, a strong feminist who said she would like to be referred to as "Chair" in her new position, was happy about the appointment because it "represents a logical progression in my own professional commitment to civil rights."

Many of the widely known problems of the commission, such as internal division and low morale, which have resulted in part from a backlog of more than 130,000 cases, were attributable, Mrs. Norton said, to the agency's "own successes."

"Initially, this agency was created to fight job discrimination," she said, "And as the first in the history of this country to do so, it inspired such confidence in its remedy that people flooded to it even before it had enforcement power."

"As a result, while it correctly concentrated on developing a substantive body of civil rights law, it got bogged down by not shifting soon enough to better management techniques to deliver the service."

Mrs. Norton's husband, who is also a lawyer, has already joined the Carter Administration as Deputy General Counsel at the Department of Housing and Urban Development.

They live in Harlem with their two children, Katherine, 6 and Johnnie, 5. Mrs. Norton herself has two younger sisters.

Mrs. Norton, who stays thin by doing her own version of the Royal Canadian Air Force exercises, said: "One of the things that happens when you have small children and a high-powered job is that the children end up being your spare time."

#### DINGELL-BROYHILL SUBSTITUTE AMENDMENT TO H.R. 6161

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1977

Mr. DINGELL. Mr. Speaker, on behalf of Representative JAMES BROYHILL and myself, I am pleased to provide our colleagues on the House with a section-by-section summary of the substitute amendment we will offer to title II of the Clean Air Act Amendments of 1977, H.R. 6161, when the bill is taken up by the House this week.

We have inserted in the amendment section of the Record today, our substitute which contains 21 sections. Our amendment has been made in order by the House Rules Committee to be offered as a substitute to title II.

SECTION XV SECTION SUMMARY: DINGELL-BROYHILL MOBILE SOURCE EMISSION CONTROL SUBSTITUTE AMENDMENT TO BE OFFERED TO TITLE II OF CLEAN AIR ACT AMENDMENTS H.R. 6161

SECTION 201—LIMITATION ON INDIRECT SOURCE REVIEW AUTHORITY

This provision is identical to the provision contained in the Committee bill and allows additional time for the States before they are required to implement programs for control of pollution from facilities (indirect sources such as shopping centers and sports arenas) which attract significant amounts of traffic.

SECTION 202—EXTENSION OF TRANSPORTATION CONTROL COMPLIANCE DATES

This provision is identical to the provision contained in the Committee bill and allows a more realistic time frame within which cities and metropolitan areas must implement transportation control measures (such as preferential carpool/bus lanes, toll bridges, public transportation, etc.)

SECTION 203—LIGHT-DUTY MOTOR VEHICLE EMISSIONS

The schedule of emission standards in this section is similar to the Dingell-Broyhill (Train-EPA) provision which was overwhelmingly adopted by the House on September 15, 1976, by a vote of 224 to 169, and which was previously introduced in the 95th Congress, as H.R. 4444 with 121 cosponsors. The standards in this section reflect the agreement reached by Dingell-Broyhill, Senators Riegle and Griffin, and Mr. Leonard Woodcock of the United Auto Workers.

This agreement provides that automobiles manufactured during model years 1978 and 1979 meet the same emissions standards applicable for model year 1977, that is: 1.5 grams per mile hydrocarbons, 15.0 gpm carbon monoxide, and 2.0 gpm oxides of nitrogen. For 1980 and subsequent model years the hydrocarbon standard requires a full 90 percent reduction from the levels emitted in model year 1970, or .41 gpm hydrocarbons. For 1980 and subsequent model years the carbon monoxide standards is 9.0 gpm. For 1980 and 1981 the oxides of nitrogen standard is 2.0 gpm.

For 1982 and subsequent model years the NOx standard is 1.0 gpm which the EPA Administrator is permitted to revise up to 2.0 gpm for periods of two or more model years if he determines in a suspension proceeding that such standard should be revised due to (1) the lack of available, practicable, emission control technology to meet such standard during such period, (2) the cost of compliance with such standard, and (3) the impact of such standard on motor vehicle fuel consumption. No such revision may be made if the Administrator determines that it would endanger public health.

Additionally, the Administrator may waive the standard of 1.0 gpm NOx up to 2.0 gpm during any period of four or more model years beginning with the model year 1982 if he determines that a waiver is necessary to permit the use of an innovative power train technology that can produce a substantial energy saving compared to conventional power trains. No waiver may be granted if the Administrator determines it would endanger public health.

## Auto Emissions Schedule, Dingell-Broyhill/Fraser-Woodcock (UAW)

|                     | HC (gpm) | CO (gpm) | NOx (gpm) |
|---------------------|----------|----------|-----------|
| 1978-79             | 1.5      | 15.0     | 2.0       |
| 1980-81             | .41      | 9.0      | 2.0       |
| 1982 and thereafter | .41      | 9.0      | 1.0-2.0   |

<sup>1</sup>Suspension or waiver for NOx based on EPA Administrator decision, if public health would not be endangered.

This auto emission schedule provides certainty in the industry and job certainty. It is environmentally balanced with the energy conservation demands of the nation and provides savings for consumers while improving air quality and protecting public health.

#### SECTION 204—EMISSION STANDARDS FOR HEAVY DUTY VEHICLES OR ENGINES OR CERTAIN OTHER VEHICLES OR ENGINES (SUCH AS MOTORCYCLES)

This provision is identical to the provision contained in the Committee bill and places into statutory law, emission standards similar to those required for automobiles.

#### SECTION 205—AIRCRAFT EMISSION STANDARDS

This provision is identical to the provision contained in the Committee bill and authorizes the Secretary of Transportation to disapprove any aircraft emission standard required by the Administrator, if he finds that the standard would create a hazard to aircraft safety.

#### SECTION 206—ASSURANCE OF PROTECTION OF PUBLIC HEALTH AND SAFETY

This provision is identical to the provision contained in the Committee bill and requires that automobile manufacturers show, as a condition of obtaining certification of their vehicles or engines, that emission control systems that are used to meet emission standards will not produce other pollutants in concentrations which will create an unreasonable risk to health.

#### SECTION 207—TEST PROCEDURES FOR MEASURING EVAPORATIVE EMISSIONS

This provision is identical to the provision contained in the Committee bill and requires that EPA revise its test procedures so that the test will measure all evaporative emissions from an automobile.

#### SECTION 208—VEHICLE INSPECTION AND MAINTENANCE

This section requires an annual emission inspection of light duty vehicles which are registered to persons who live or maintain their principal place of business in an area where transportation control measures were required as of June 30, 1975. This provision contains broader authorities to EPA than does the Committee bill, but also allows greater flexibility to the Administrator to structure an inspection program that is workable, effective, and requires only necessary adjustments to vehicles. As in the Committee bill these programs shall be implemented not later than two years after the date of enactment of this Act.

#### SECTION 209—WARRANTIES AND MOTOR VEHICLE PARTS CERTIFICATION

This provision, which the automotive aftermarket, small business parts industry, describes as critical to their continued existence as a viable force in the free marketplace, would do the following: (It is contained in H.R. 4444, Dingell-Broyhill)

1. Reduce the current federally mandated performance warranty from 5 years or 50,000 miles to 18 months or 18,000 miles.
2. Provide for a self-certification program under regulations to be promulgated by EPA, through which the independent parts manufacturer or rebuilder may continue to serve its traditional role in the automotive aftermarket.

3. Require the motor vehicle manufacturer to prominently disclose in its maintenance instructions "notice that maintenance, replacement, or repair of the emission control devices and systems may be performed by any automotive repair establishment or individual using any automotive parts which has been certified . . ."

4. Provide a meaningful and rational definition of the term "emission control device or system" as a catalytic converter, thermal reactor, or other component installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions, excluding those vehicle components which were in general use prior to model year 1968.

#### SECTION 210—PARTS STANDARDS: PREEMPTION OF STATE LAW

This section, from H.R. 4444, Dingell-Broyhill, provides that if the Federal government establishes a program to certify parts which may be used in a vehicle so as not to result in a failure of the vehicle to meet applicable emission standards, then the States, except California, are preempted from establishing their own certification programs.

#### SECTION 211—PROTECTION OF COMPETITION; ASSURANCE OF CONSUMER FREEDOM OF CHOICE

This section provides that if the Attorney General finds that the auto manufacturer's practices in regard to its emission control warranty are resulting in unfair or anticompetitive conditions, he shall so notify the Administrator of EPA. The Administrator is then authorized to promulgate such rules as are necessary to minimize or eliminate those conditions and protect the consumer's freedom of choice.

#### SECTION 212—ANTI-TAMPERING PROVISION

This section extends the existing prohibition against knowing removal of or tampering with automotive emission controls to cover independent repair and service businesses, and selling, leasing, trading, and fleet operations. A civil penalty of up to \$2500 per vehicle is established for violations of this prohibition.

#### SECTION 213—COST OF VAPOR RECOVERY SYSTEMS TO BE BORNE BY OWNER OF RETAIL OUTLET

The EPA has promulgated regulations which require the installation of costly vapor recovery devices at retail gasoline stations in certain areas. The purpose of these requirements is to catch the fumes which come out of the tank while gas is being put into a car. This section is identical to the Committee bill and provides that the costs of vapor recovery systems would be borne by the owner of storage tanks and pumps and not by the franchise retailer.

#### SECTION 214—HIGH ALTITUDE PERFORMANCE ADJUSTMENTS

This section, which includes the same provision approved by the House and adopted by the Conference, and as contained in H.R. 4444, Dingell-Broyhill, exempts the adjustments of emission control systems of high altitude vehicles from the anti-tampering provision of existing law, if the adjustment does not adversely affect emission performance. The manufacturer is required to submit to the Administrator adjustment instructions.

In addition, this section adds a new provision which authorizes EPA to conduct a

new rulemaking proceeding to determine the most appropriate method of implementing the Act's mobile source emission requirements for model year 1978 and thereafter with respect to light duty vehicles intended for principal use in high altitude areas. EPA is directed to consider the economic impact of any such regulation upon consumers, franchised dealers and the manufacturers, the state of the art of emission control technology, and the probable impact of such regulation on air quality in the affected areas.

#### SECTION 215—FILL PIPE STANDARDS

This section is identical to the provisions contained in the Committee bill and authorizes the Administrator to prescribe fill pipe standards for new motor vehicles to assure effective connection between the fill pipe and any certified vapor recovery system.

#### SECTION 216—ONBOARD HYDROCARBON TECHNOLOGY

This section is identical to the provision contained in the Committee bill and requires the Administrator to consider the feasibility of prescribing standards for new motor vehicles to require the use of certain technologies which would minimize vapor emissions. If the Administrator makes certain findings concerning costs, fuel economy, feasibility, etc., he is directed to promulgate such standards.

#### SECTION 217—CARBON MONOXIDE INTRUSION INTO SUSTAINED USE VEHICLES

This section is identical to the provisions contained in the Committee bill and requires the Administrator, in cooperation with the Secretary of Transportation, to conduct a study to determine if carbon monoxide gas is intruding in vehicles such as schoolbuses, taxis, and police cruisers.

#### SECTION 218—IMPLEMENTATION OF MOTOR VEHICLE EMISSION WARRANTIES

This section provides that it is a prohibited act for automobile manufacturers to fail or refuse to comply with the emission control warranty.

#### SECTION 219—TESTING OF FUELS AND FUEL ADDITIVES

This provision is identical to the provision contained in the Committee bill and requires the testing and the submission of test results as a prior condition of registration for any new fuel or fuel additive.

#### SECTION 220—TESTING BY SMALL MANUFACTURERS

This section is identical to the provision contained in the Committee bill and exempts motor vehicle manufacturers with projected annual U.S. sales of 300 or less from the requirement for 50,000 mile certification testing of such vehicles.

#### SECTION 221—CALIFORNIA WAIVER

This section is identical to the provision contained in the Committee bill and allows the State of California to adopt its own auto emission standards if such standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards.

### SOLAR AND GEOTHERMAL POWER IN SOUTHERN CALIFORNIA

HON. SHIRLEY N. PETTIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1977

Mrs. PETTIS. Mr. Speaker, since first coming to Congress, I have long advocated the development and use of alter-



nate sources of energy, particularly solar and geothermal. Realizing the long-range potential of these energy sources, I have actively worked in the House for Federal assistance necessary to spur research and development. Hopefully, with the approval of Congress, the world's first 10-1 megawatt pilot solar electric powerplant, to be located in the Daggett-Barstow area of California, can begin on schedule.

An equally exciting energy project lies further south in the lush, agricultural region of southern California's Imperial Valley, where it has been determined lies enough geothermal energy to produce electricity to light 10 cities the size of San Francisco for 30 years.

Along these lines, I have been working with the Bureau of Reclamation on a project to combine Salton Sea desalinization—a local problem—with the development of geothermal power for the entire Southwest.

I call the following articles to my colleagues' attention, Mr. Speaker, because they underscore a very important point—we cannot afford to be near-sighted in our approach to the energy crisis. If we ignore the long-range potential of solar and geothermal resources we will undoubtedly fail to solve our energy problems.

It is my hope that this Congress will look beyond the next election and put its support behind those projects which initially may not produce tangible results, but which in the future will insure this country's energy independence.

The articles follow:

[From the San Bernardino (Calif.) Sun-Telegram, May 15, 1977]

#### ENERGY ALTERNATIVES

Efforts to establish a \$110 million solar power electric plant at Daggett cleared their initial hurdle last week when the House Science and Technology Committee authorized \$41 million for the project in the upcoming federal fiscal year's budget.

However, as Rep. Shirley N. Pettis, R-Loma Linda, pointed out, the program must face a "long drawn-out" congressional fight before final approval is secured.

This process may have been made more difficult because of President Jimmy Carter's decision to emphasize development of residential solar heating projects, rather than solar electrical generating plants.

Rep. Pettis disagrees with the President's approach. She said, "The President felt that short-term solar heating systems were more important than long-term solar electrical generation. I just don't feel we can afford to be so nearsighted in our approach to the energy crisis."

We agree with her. In our electricity-oriented society, much fossil fuel is being burned to generate electrical power. There are almost as many estimates of the world's fossil fuel resources as there are experts. But one thing is certain: fossil fuels are a non-renewable resource that some day will be exhausted.

Using solar energy for residential heating is an idea that has merit because it is a means to conserve petroleum fuels, but eventually the nation is going to have to develop energy sources that are alternatives to petroleum. The sooner that is done, the better.

[From the Christian Science Monitor, May 19, 1977]

#### GEOTHERMAL ENERGY ENVISIONED IN CALIFORNIA

(By Judith Frutiger)

LOS ANGELES.—In the rich farmland of southern California's Imperial Valley, a blueprint is emerging for the large-scale commercial generation of electricity from underground heat.

The plan is based on a two-year study, which concluded there is enough geothermal energy in the valley's scalding subterranean brine wells to produce enough electricity to light 10 cities the size of San Francisco for 30 years—with present and available technology.

The \$364,000 study was prepared for Imperial County government officials by scientists from the University of California at Riverside (UCR) and the California Institute of Technology. It was funded by the National Science Foundation and supervised by the federal Energy Resource and Development Administration (ERDA).

"It . . . should serve as an important pilot test to see whether geothermal energy will be an important substitute for coal and oil," says project coordinator Stahri Edmunds, director of UCR's Dry Lands Research Institute.

As a part of the project, ERDA announced recently that it has approved a \$9 million loan guaranty to Republic Geothermal, Inc., of Santa Fe Springs, California—the first such guaranty for a commercial geothermal project. The company plans to drill and develop 11 new geothermal production wells and four reinjection wells in the East Mesa area of the Imperial Valley.

The firm has been conducting exploratory operations there since January, 1974.

#### LOAN APPLICATIONS

The loan was authorized by the Geothermal Research Development and Demonstration Act of 1974. A major provision of that act was to speed the commercial development and use of geothermal energy in an environmentally acceptable manner.

ERDA is also evaluating six other applications for similar loan guarantees, in Utah, New Mexico, Nevada, and California, according to an agency spokesman.

The Imperial Valley plan is to tap the energy through a network of wells. The first 10 megawatt plant is scheduled for completion in early 1978, with 500- and 1,000-megawatt plants to follow by 1985. Public hearings on the project are scheduled to begin June 9 in Calexico, California, June 23 and July 5 in El Centro, California.

If the plan is successful, project officials expect geothermally produced electricity to become part of the Southwest's regional power grid, serving private and commercial consumers in California, Arizona, and Nevada.

Scientists and engineers have long considered the Imperial Valley—the Salton Sea area of southern California—one of the potentially richest and most strategically located U.S. geophysical resources. The valley lies near one of the largest population concentrations in the country, the energy-starved Los Angeles-San Diego megalopolis, which has a ravenous appetite for electricity but a dearth of power-generating resources.

Geothermal energy exists in three types of formations: hydrothermal, meaning either steam or hot water; hot dry rock; and geopressured, meaning hot water under tremendous pressure located at great depths. The locations of these formations have been carefully mapped by the U.S. Geological Survey. Hydrothermal reservoirs are prevalent in the Western states, but only 5 percent of them are steam.

#### PROBLEM WITH BRINE

The geothermal resources of the Imperial Valley result in large measure from its location along the boundary between two geotectonic

plates, the North American and the Pacific. The plate boundary is an area known as the East Pacific Rise, which extends up the Gulf of California and runs inland to the Mexican and Imperial Valleys.

The water that collects in this formation generally runs off mountains around the valleys and seeps in from the Colorado River.

But the brine of the Salton Sea has also presented some stringent chemical and physical conditions for engineers. The reason: both its temperature and salinity are extreme.

In some areas, for example, the salt content is 10 times greater than seawater. At 550 degrees F. the brine is highly corrosive.

To correct corrosion problems, according to Dr. Jeffrey Weigand, geothermal administrator for Imperial County, project scientists and engineers have developed materials resistant to corrosion and erosion.

Exploration of geothermal sites is also under way in Chile, China, El Salvador, Ethiopia, Guadeloupe, Hungary, Indonesia, Kenya, Nicaragua, the Philippines, Taiwan, Turkey, the Soviet Union, and Zaire.

[From the Riverside (Calif.) Press-Enterprise, May 18, 1977]

#### BURIED TREASURE

The more that is learned about the geothermal fields of the Imperial Valley, the more attractive they become as a potential source of energy for Southern California—and the more important it becomes to find ways to tap them.

Deep beneath the shores of the Salton Sea and desert sands, a UCR-Caltech research team has concluded, is enough geothermal energy to meet all of Riverside County's energy needs several times over by the year 2020, using only scientific knowledge already in existence.

And if new ways to use the energy locked up in the subterranean pools of superheated brine are found, the researchers found, they could meet the equivalent of the county's current energy needs for six centuries.

That is an impressive energy resource by any definition, especially when one considers that the techniques developed for using geothermal energy in this region could be applied to similar areas worldwide. The key to geothermal energy lies in greater support for the research and development needed to put it to use.

The benefits that could be at stake in an era of energy scarcity hardly need be pointed out, and argue strongly for devoting more effort to unearthing the powerhouse buried in Southern California's deserts.

#### VOTING EARLY AND OFTEN

#### HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 1977

Mrs. HOLT. Mr. Speaker, a seasoned veteran of the political wars of Baltimore City has offered the keenest possible insight into the election "reform" proposal that would allow voting without prior registration.

Said City Councilman Dominic Mimi DiPietro:

They are enticing me to become a criminal; they are enticing me to be a thief.

His reaction to the proposed Federal election legislation was reported in an article in the Baltimore Sun May 17.

Mr. DiPietro knows almost all there is to know about politics in an urban environment. He knows what would happen if election officials did not have reliable lists of registered voters on election day.

He knows that political organizations would be sorely tempted to implement the old-time recommendation:

Vote early and often.

State election laws which require prior registration of voters are designed to protect the integrity of our elections against fraud. These laws were enacted to correct abuses that actually occurred, sometimes in the most rampant fashion.

The purpose of the proposed Federal legislation is to encourage more public participation in elections, which is a very worthwhile goal. I would remind the House that the States have already taken very practical steps to encourage voter participation, including special registrations, traveling registrars, and even postal registration in the case of my own district.

But broader public participation will be of no value if it is accompanied by widespread fraud, which is what the proposed Federal legislation appears to promise. If the public confidence in the election process is undermined, the very foundation of our constitutional republic will be shaken.

For the consideration of the House, I offer the following editorial published recently in the Baltimore Sun and another published May 20 in the Washington Post:

#### VOTING EARLY AND OFTEN

A Senate committee approved last week a bill to allow election day registration of voters. Earlier a House committee had approved a similar bill. We support the proposition that something needs to be done to increase citizen participation in elections in this country. In recent years even presidential elections, which tend to produce the largest turnouts, have attracted only a little over half the potential voters.

Election day registration will certainly increase participation, as experience in four states has shown. But there are problems with these bills. It needs to be recalled, as supporters of this approach call for it as a "reform," that pre-registration was, itself, a reform, adopted when the Nineteenth Century's traditional election day registration practice led to tombstone voting, multiple voting and other such unsavory behavior ("Vote early and often.") The potentiality of such reforms. Experts in the Criminal Division of the Justice Department say that the new law would "create substantial enforcement problems" for U.S. attorneys.

So the House, which may take up the bill next week, should devote its attention to safeguarding against fraud. The committee's safeguards should be subjected to strict scrutiny. One change not related to fraud safeguards that should be made in the bill is to include primary elections. Primaries are as important as general elections in most states. In many states they are more important, and turnout in primaries is even worse than in general elections.

But fraud protection is the major point. All too many Americans do not vote, not because they lack faith in politics and politicians. If this administration makes election day a fraud, in the name of increasing participation, it is entirely possible that turnout will decrease.

#### INSTANT VOTERS

It's not clear whom President Carter had in mind when he told the United Auto Workers the other day that "some powerful special interests are trying to kill the electoral reform bill, because they don't want working people to register and to vote." That formulation may serve the President's interest—

and perhaps his party's—in bringing about instant, election-day voter registration. But one need not be a "special interest" in order to see grave defects in the bill. To sum up our own view in Mr. Carter's terms, we do want working people and others to register and vote—but not necessarily on the same day.

The bill's wrongheadedness starts with its premise that pre-registration is a major barrier to voting. That used to be true. But registration rules and procedures have been greatly eased since 1960—and the percentage of voting-age Americans who turn out in presidential elections has been dropping anyway. The primary causes of the decline are demographic changes, public disenchantment and apathy—forces that can't be countered by a law. While simplifying pre-registration—by using a postcard system, for example—is a good idea in itself, it does not necessarily lead to larger turnouts at the polls. Even abolishing pre-registration may affect the turnout less than the nature of a given campaign. Last November, turnouts were a few percentage points above 1972 levels in the four states with instant registration. But they were also higher in most Southern states, where pre-registration is still required.

It's generally assumed that larger turnouts would help the Democrats, which is why partisan lines are drawn so sharply on this bill. The basic question, though, is whether democracy as well as Democrats would be well served by making election-day registration available in every precinct in the land. An impressive array of state and local election officials, among others, say no. They predict widespread fraud if they can no longer obtain signature cards and verify addresses of all potential voters before election day. Requiring voters to show IDs and sign an affidavit at the polling place may deter fraud in Minnesota or other states where elections are generally scandal-free. In areas with more turbulent traditions, though, stronger precautions have proven desirable—as Rhode Island's secretary of state said in Senate testimony excerpted for the RECORD on this page.

The administration's bill presents other problems, too. It would compel most states to rewrite their election laws in short order, and to train many new precinct workers to process instant registrations. It would trample on the tradition of state governance of state and local elections. States would have to either extend instant registration across the board or suffer the cost and confusion of running elections under two different sets of rules. Finally, the federal grants for administration and "voter outreach" strike us as virtually impossible to police without bureaucratic controls so elaborate that the states will rebel and the Federal Election Commission will collapse.

All in all, the more we study this proposal, the worse it looks. We have no quarrel with instant registration, or no registration where the integrity of elections is not jeopardized thereby. But the states ought to make that judgment for themselves. We see no current abuses so flagrant, and no potential benefits so great, as to justify the dangers this program would open up and the disruption it would cause. If the Democrats want to get more voters to the polls, they should try to do so in the time-honored way: through good political organization, a sound choice of issues, strong candidates and vigorous campaigns.

#### ENGLAND'S SICKNESS

#### HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. BONKER. Mr. Speaker, I would like to draw the attention of the House

to an article which appeared in the Sunday, May 14, 1977, edition of the Washington Post. This is particularly noteworthy because it is penned by a brilliant young Englishman, Mr. Peter Jay, who was recently appointed as Britain's next Ambassador to the United States.

As Mr. Jay is an economist of repute, we would do well to examine closely what he has to say. If Mr. Jay's theories are right, the United States, as a free Western popular democracy, would do well to heed Mr. Jay's warnings about the economic pitfalls ahead.

Mr. Jay notes that our country is already beginning to "show unmistakable symptoms" of the "English sickness."

At the same time, I would also like to place on record the appreciation of many Members, both of the House and Senate, for the notable services of Sir Peter Ramsbotham, the outgoing Ambassador. Sir Peter has been a good friend of our country, and wherever he has traveled he has been liked and admired. We will be sorry to see him go but look forward with expectancy to the arrival of his successor.

The article follows:

[From the Washington Post, May 14, 1977]

#### ENGLAND'S SICKNESS

(By Peter Jay)

We in Britain are a confused and unhappy people. So are those of our fellows on the continent of Western Europe who have their wits about them. So, too, are our many friends in the United States who rightly see in the anguish of the United Kingdom the advanced stages of a disease that has already taken hold throughout Western Europe and that is beginning to show its unmistakable symptoms in the United States.

We are unhappy because the foundations of our prosperity seem to be eroding faster and faster and because we can neither find nor agree upon any sure remedy for this decay. We are confused because we do not clearly understand why all this is happening to us, whether it is due to the malefactions of subversive groups, the incompetence of governments, defects of national character, the rhythms of history, the luck of the draw or what.

The search for someone to blame adds to the confusion and the bitterness. Government and governed become more and more alienated from one another. The governors believe the governed to be irretrievably greedy, feckless, idle and recalcitrant, while the governed believe the governors to be stupid, corrupt, power-crazed and unrepresentative. Likewise, class is set against class, the middle classes denouncing the rapacity of the workers while the workers rail at the privileges and the hypocrisy of the better-off.

In Britain region is set against region, and separatism gains steady support in Ulster, in Scotland, in Wales and, by reaction, in England itself. Only the Labor Party can any longer claim a vestige of nationwide support, and even it could not get even 30 per cent of the potential electorate to support it in 1974; but for London and Bristol, the Labor Party would be virtually unrepresented from the whole of the south of England.

The fissures spread out in all directions like an ice fall: disintegration in slow motion. Labor unions, business management and financiers are locked in a triangle of mutual vituperation and incomprehension. Union leaders point to the lack of investment in productive industry. Industrialists complain that the capital markets and the banks do not support them because the financiers' time horizons are too short and their



understanding of industry is negligible. And the investors ask how they can be expected to put up capital when the unions preempt all, or more than all, the potential return on new plant and equipment.

Weak labor unions with low-paid members loudly support same-all-round ceilings on pay increases while their stronger brothers, in entrenched industrial positions with higher-paid workers, stoutly defend their "differentials" and angrily compare their lot with standards enjoyed by bloated capitalists, whom they still imagine—not always wrongly—to be living like a caricature of a 19th Century railway baron. The media criticize everyone and everything; almost everyone blames the media for the lack of national unanimity and commitment.

It is an unedifying spectacle and an unprofitable arrangement. Nor does it touch at any point on the true causes of the problem. These causes are deep-seated and general, embedded in the very organization of our society. They are also complex and abstract. There are no guilty men, but there are defective institutions.

The political and economic organization of modern liberal democracies is dedicated, above all, to the satisfaction of individual wants. How are we to establish what individuals want? By asking them. How are we to ensure that they get what they want, at least so far as possible? By letting them make the decisions. How do we arrange that? By letting them elect their governments and by letting them spend their money in a free competitive marketplace.

This engagingly simple political philosophy may indeed have been a useful antidote to the depredations practiced on mankind by authoritarian and paternalist regimes in the name of higher values. But, alas, it already has built into it the tension that lies at the root of our present troubles. For, as the Austrian economist Joseph Schumpeter pointed out, the marketplace for votes and the marketplace for goods operate according to vastly different and frequently incompatible criteria. When the domains of the economic and political marketplaces overlap—as they often do—they come into serious conflict.

The political arena is a marketplace in votes. Rival teams organize themselves to win a majority or at least a plurality of support so they can exercise power. The only cost of voting for one team is that you cannot vote for another. The teams naturally and inevitably seek to outbid each other by offering more of whatever they think the voters want. There is no mechanism that requires bids to be internally consistent or forces voters to balance more of one good against more of another.

The economic arena is—or at least supposedly starts out as—a marketplace in money. But here the individual chooses quite differently. He makes small decisions all the time instead of one big decision every few years. Each decision is marginal, to spend his next penny on a little more of this rather than a little more of that. He does not have to pledge all his income for the next few years to one of a short list of comprehensive packages.

The conflict between the different logics of political and economic choice is most clearly manifest in the relationship between unemployment and inflation. Since [John Maynard] Keynes, since the war, since the British *Employment Policy White Paper* of 1944, and since the American *Employment Act* of 1946, a pledge of full employment has been an indispensable ingredient in any bid for electoral victory.

After the experiences of the 1930s, almost every voter—or so all politicians have assumed—has regarded the avoidance of mass unemployment as an overriding political objective. After the writings of Keynes and even more after the simplified popularization of his writings and their endorsement by government, the politicians and the public

have also assumed that the means of securing high employment always lay at hand.

Whenever unemployment looked like it was rising to politically embarrassing levels, the response was to put more spending power into people's pockets, whether by cutting taxes, increasing government spending or easing credit conditions through monetary policy.

It was recognized in theory that one might go too far in this direction, overheat the economy and cause inflation. But it was not doubted that there was a safe zone in which something approaching full employment could be maintained without running risks of serious inflation.

The economic realities were unhappily different.

The truth is that in the short term—for the first year or two—demand management, the regulation of spending power, mainly affects the real volume of spending, output and therefore employment, while in the longer run it mainly affects the price level. The notion inherent in the popular understanding of Keynes—that an economy could be indefinitely underemployed through deficient demand without prices eventually being forced down sufficiently to clear markets, including the labor market—was a dangerous misunderstanding of the unhappy experiences of the 1930s.

Nonetheless, the belief was almost universal in British economic circles and increasingly predominant in American and European circles that, provided overheating of the economy was avoided (and with it "overfull employment"), budget deficits and the associated expansion of the money supply could be used more or less without limit to head off any incipient rise in unemployment.

At the same time, there were objective reasons why unemployment was likely to rise above the levels regarded as "full employment," even in the absence of any positively deflationary actions by government and the central bank. These were and are of two kinds, both barely recognized and little understood: the general imperfections of the labor market; and the operation of what is variously known as "free collective bargaining" and as "trade union monopoly bargaining."

Imperfections of the labor market include anything that keeps job seekers and vacancies from being instantly matched to one another. As the pattern of demand and the techniques of supply constantly evolve, different kinds of workers are required by different entrepreneurs in different places. It takes time to convert some workers from one role to another. Others can never be converted and have to be replaced by a new and differently trained generation.

The role of free collective bargaining may be regarded as a second and separate reason why conventional postwar full employment policies were incompatible with price stability—or indeed with a stable rate of inflation—or it can be seen as a special case of the first general reason. The latter way of putting it emphasizes the monopolistic character of collective bargaining by labor unions.

The effect of charging a monopoly price for labor must be to reduce "sales," that is, employment, below the market-clearing level. Some people will get paid more than they would under perfect competition in the labor market, but others will not get jobs at all.

The effect, therefore, of a widespread pattern of monopolistic bargaining in the labor market will be to increase the numbers unemployed—in other words, to raise the "natural" rate of unemployment. This, as has often been pointed out, is in itself a once-and-for-all effect. But like the once-and-for-all-effects of other labor market imperfections, it gives rise to an accelerating, eventually explosive rate of inflation when it is combined with a government commitment to

maintain by demand management a lower rate of unemployment than this new "natural" level."

As soon as unemployment begins to approach the higher "natural" rate, government rushes in with injections of additional spending power, whether by fiscal or monetary means. These monetary or fiscal injections initially increase demand and so check or reverse the rise in unemployment. But this creates an imbalance of supply and demand in the labor market. Either unemployment is now below the natural rate, or it is below the rate that is needed just to inhibit the further exercise of labor unions, monopoly bargaining power.

In consequence, the price of labor rises once again. If final prices are not raised to cover this, businesses close and unemployment rises once again. If prices do go up, consumers' incomes will buy less, the volume of sales falls, output falls and unemployment rises once again. Whereupon government is forced to intervene again with another injection of extra spending power.

Before long, consumers and pay bargain-ers—indeed, everyone involved in the economy—gets used to inflation. It becomes built into expectations, and so the stimulative effects of any given amount of governmental "reflation" are eroded. Governments then begin to increase the dose; there is no end to this process of trying to keep the actual inflation rate permanently ahead of constantly catching-up expectations until the stage of hyperinflation—and breakdown—is reached.

Surely, it will be said, Western democracy is not going to wreck itself on such absurd and obvious nonsense. Unfortunately, it probably will, at least on the eastern side of the Atlantic.

It takes more and more inflation (or bigger and bigger balance-of-payments deficits, which are in some circumstances an inflation substitute) to achieve—or, more often, to fail to achieve—any given employment level. This evidence has been overlooked because we have all been watching the ends of the seesaw go up and down, without seeing that the fulcrum on which the whole contraption rests is steadily rising.

Even if the danger is fully appreciated, it is far from clear that the right action will be possible. The logic of ballot-box choice enables us—indeed, almost forces us—to vote for full employment without thereby also voting for the means to achieve it, which must include a willingness to sell one's own labor at a market-clearing price. Even that would not be enough. Everyone else would have to be committed to such individual bargaining; and that would imply the end of collective bargaining; and therefore of unions in their main historic role.

It would further be necessary to vote for other measures that would reduce the "natural" level of unemployment until it coincided with our chosen definition of full employment. This could certainly include in Britain an end to subsidized municipal housing.

Thus, even though the mass of voters may dislike inflation more than they dislike unemployment, the logic of ballot-box choice may still give rise to inflationary policies. Voters can vote against inflation—or imagine they are voting against inflation—but actually to stop inflation they would have to vote against collective bargaining, housing subsidies, and the like. Even the statesman who fully perceives the nature of the dilemma is debarred from campaigning accordingly. He knows—or thinks he knows—that this would be the road to political extinction, which, as he will say, solves nothing.

Likewise, the fully intelligent citizen is debarred from voting for an option that no party puts forward. Even if the fully perceptive statesman and the fully intelligent voter could somehow establish contact, it is still not certain that it would be rational

for the voter to support the statesman. The voter may fear the certainty of a deep and prolonged recession for three or four years more than he fears the eventual crash to which he knows traditional policies must one day lead.

So we reach the depressing conclusion that the operation of free democracy appears to force governments into positions (the commitment to full employment) that prevent them from taking steps (fiscal and monetary restraint) that are necessary to arrest the menace (accelerating inflation) that threatens to undermine the condition (stable prosperity) on which political stability and therefore liberal democracy depend. In other words, democracy has itself by the tail and is eating itself up fast.

There is nothing inevitable, in the absolute sense, about a process that consists of human actions. We could all decide to travel a different route; but that is an extremely difficult thing for people in groups of many millions to do in the absence of a system that reconciles public with private goods, that harmonizes the logic of political choice with the logic of economic choice.

### DEEP SEABED HARD MINERALS ACT

**HON. JOHN M. MURPHY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. MURPHY of New York. Mr. Speaker, on February 9, 1977, Congressman JOHN BREAUX and I introduced H.R. 3350, a bill to promote the orderly development of manganese nodule mining on the deep seabed. Since the time we introduced that bill, our Subcommittee on Oceanography has conducted the most comprehensive and extensive hearings to date on this most important issue. Last Friday, the subcommittee concluded its seventh and final hearing prior to mark-up on the bill.

U.S. companies presently have the technology to mine for manganese nodules which are found in abundance lying on the ocean floor around the world. Our companies have a clear lead in technology and would be proceeding to develop mining areas if it were not for the ongoing Law of the Sea negotiations. These negotiations have lasted 10 years in an attempt to alter international law with respect to the oceans. Because of this enormous potential for a change in the legal framework under which U.S. companies will have to operate, these companies cannot make the necessary large investments to continue into commercial recovery of these strategic minerals. H.R. 3350 would create a domestic legal framework to encourage U.S. companies to continue their development of technology. When this technology development leads to commercial recovery the United States can begin to become self-sufficient with respect to copper, cobalt, nickel, and manganese—strategic minerals which the United States is importing in enormous quantities.

Similar legislation has been introduced in this Congress to accomplish the important national interest objectives which this legislation addresses. It is abundantly clear to me that a consensus has developed this year to proceed with

some type of unilateral domestic legislation in order to allow U.S. companies to proceed with their deep-sea mining ventures. It is because of this growing consensus that I am reintroducing the Deep Seabed Hard Minerals Act today with 24 cosponsors. Various Members have indicated their sincere interest in promoting the objectives contained in this bill and Congressman BREAUX and I welcome their cosponsorship today.

### "I TAKE THEE NAVY"

**HON. BOB WILSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. BOB WILSON. Mr. Speaker, I have for years been fighting the erosion of the benefits due our servicemen, particularly in view of the fact that the serviceman endures so many more hardships in his personal life than do we as civilians.

I have often said that military service is not a 9-to-5 job, that disruption of family life is commonplace. Just as in the past, when danger is not imminent, we tend to ignore our military men and woman and the sacrifices they make routinely in the service of their country.

Recently, the chaplain of the Chula Vista, Calif., branch of the Fleet Reserve Association, Mr. Donald W. Eagleson, made a dry and most eloquent comment on service life as reflected in a proposed set of wedding vows a couple might make, if one of the members was a sailor. I believe it gently and humorously brings home an aspect of the serviceman's life that is little recognized and I commend it highly to the attention of my colleagues:

### "I TAKE THEE NAVY"

They say that marriage is a fifty-fifty proposition but you will find that a Navy wife will disagree with you. As far as she's concerned, marriage is a three-way deal with the Navy holding a full thirty-three and a third share.

We'll bet there is many a brown-bagger's wife who sometimes wishes the words used at a sailor's wedding read something like this:

"Wilt thou, Seaman, take this woman as thy lawful wedded wife, to live together insofar as the Bureau of Naval Personnel will allow? Wilt thou love her, take her to movies and return home promptly after liberty call?"

"Aye, aye."

"Wilt thou, ; take this sailor as thy lawful wedded husband, bearing in mind liberty hours, ship's schedules, watches, sudden orders, uncertain mail and all other problems of Navy life? Wilt thou serve him, love, honor and wait for him, learn to wash and fold blues, and keep the smoking lamp lit for him at home?"

"I will."

"I, seaman, take thee as my wedded wife from 1630 to 0800 as far as permitted by my commanding officer, liberty-hours subject to change without notice, for better or worse, for earlier or later, and I promise to write at least once a week."

"I, , take thee, Seaman, as my wedded husband, subject to orders of the O.D., changing residence whenever the ship

moves, to have and to hold as long as my allotment comes through regularly, and there is given my troth."

By virtue of the authority vested in Navy Regs, subject to regulations of the BuPers Manual and latest Bupers notices, I pronounce you man and wife.

### TRIBUTE TO SAUL REIDER

**HON. HENRY A. WAXMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. WAXMAN. Mr. Speaker, many of us are fortunate to number among our friends one or two individuals who contribute prodigiously to their country and community, but who are so unassuming that it takes a special event to make us realize the extent of their achievements. Such a person is my good friend Saul Reider, who will be honored by the Alta Loma Democratic Club at a testimonial dinner on June 25, 1977.

Saul was born in Connellsville, Pa., on June 27, 1917, and came to California in 1921. Except for service in the Army Medical Corps from 1943 to 1946, and 2 years in the Civilian Conservation Corps, he has lived and worked in southern California. Saul met his wife Gertrude in Seattle and they were married on June 7, 1946. Gert joins with her husband in political and community activities, and they form an effective team.

Grassroots political action has formed the focal point of Saul Reider's activity. He has joined and supported Democratic clubs since 1954, becoming president of the West Beverly Democratic Club in 1960, and he has been vice president of the Alta Loma Democratic Club since 1975. He was the 61st assembly district council chair in 1959. In statewide California Democratic Council, Saul has held a number of offices. He has been a delegate to every yearly convention since 1955, a CDC "champion" since 1961, Legislative Action Committee Co-Chair, A.D. representative to the CDC board of directors, CDC director, credential committee cochair, special assistant to the president, acting southern vice president, cochair of the rules committee at the 1977 convention, where he was reelected for a second term as CDC trustee.

He is the author of the first resolution to put CDC on record, in 1965, as opposed to the Vietnam war. Saul campaigned for Mayor Tom Bradley in 1969 and 1973, for GEORGE MCGOVERN and Eugene McCarthy, and for George Brown. He organized rallies, and attended the 1972 Democratic National Convention as a delegate. He was honored with the Man of the Year Award by the Los Angeles County Democratic Central Committee in 1976, a well-deserved recognition of his years of service.

Saul's community contributions are many. He is devoted to the betterment of his fellow human beings, and is most generous with his time, effort, and money. He has been an ardent supporter



of the civil rights movement, is a commissioner of the department of animal regulation of Los Angeles, and is active in Neighbors Unlimited, Common Cause, the Westside Jewish Community Center, and Californians for Liberal Action. It gives me the warmest pleasure to join with all of Saul Reider's many friends in extending to him our congratulations and good wishes.

**TESTIMONY OF ED ROBERTS, CALIFORNIA REHABILITATION DIRECTOR**

**HON. GEORGE MILLER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. MILLER of California. Mr. Speaker, today I received the transcripts of hearings before the Ad Hoc Committee on Section 504 Regulations that were conducted by myself and my colleague from California, Mr. PHILLIP BURTON. These hearings took place on April 15, 1977, at the HEW building in San Francisco, 10 days after the commencement of the remarkable 26-day, sit-in demonstration. The testimony of Ed Roberts, director of the California Department of Rehabilitation, is only one example of the articulate and moving statements that showed the necessity for clear and strong regulations to end discrimination against the handicapped. We should all be proud that the Carter administration has adopted strong and straightforward legislation. I would like to share with my colleagues Mr. Roberts' testimony:

**TESTIMONY BY ED ROBERTS**

Mr. ROBERTS. First of all, I would like to begin by saying thank you to the two of you who came and saw and conquered in the major battles we have had to fight over facilities and now we are down to it. We are down to the bottom line, down to the basic issue here.

Are we going to perpetuate segregation in our society? We are one of the largest minorities in the country.

I looked at the 18 points that HEW put out this morning. I have never seen a better blueprint for segregation. These kinds of issues, the issue of civil rights, of human rights, are not issues that people with disabilities can compromise any further.

It seems to me and I am speaking now both as a person who is severely disabled and who has been through some of the most traumatic kinds of experiences about my own image, about my own work, self-feelings about worth, the kinds of feelings when I was younger that were constantly reinforced of no future for a person like myself.

I can forget about being married. This is my wife next to me. I can forget about really fully participating in this society and found millions of other people with disabilities that say that my ability to move around and my ability to regain the pride in myself as a person with a living disability is one of the most important things that is coming out of what is happening here today.

To see hundreds of people with disabilities rolling, signing, using canes, the more severely retarded people for the first time joining us in this incredible struggle is one that leads me to believe that we are going to win this. We are not going to stop and tell 504, which I believe is the basic civil rights platform,

the platform that guarantees to each person with a disability in this country that they are equal in the eyes of the law and that they will have equal access to educational institutions, to hospitals so that institutions in our society which serves us all.

It seems to me that as Director of the largest Department of Rehabilitation in this country, we are more than handicapped without these laws. We are crippled, I mean in the classical sense and I will throw all the stigma I can on that word.

In fact, what we have is we are able and we are learning today how to train even the most severely disabled people, people who were largely relegated to warehouses and dumped in our society, people who are institutionalized and segregated. We now know that while we put the onus on the disability to learn, in fact, we failed as educators, as professional people, as a society to find the right methods and the right training techniques to move people, and the severely and profoundly retarded present a tremendous example of how we have essentially said and written these people off and now we know that they can learn even the most complex kinds of tasks, gives a different kind of teaching technique.

As I think about it, as the Director of the largest State agency, it is clear to me that systematically over these last how many years you want to talk about, jobs have been systematically denied to people for one reason or another.

First, it was the insurance hustle. First we can't bring you in because our insurance will be cancelled. Well, we dealt with that issue.

A second was barriers. I remember in 1962 when I entered the University of California, Berkeley as one of the first severely disabled students there, their biggest fear was I might die on them. Yet you look at what has happened here—150 people, the most severely disabled people who are showing strength, who are showing pride, who are really the heroes of this and the leaders and the reason we are here today.

I am astounded by the reaction of the new administration. I think I am more than astounded. I am incredibly disappointed. I think the President made some very firm commitments to us during the campaign. He has never spoken out any stronger on any issue, the issue of human rights.

And here we are 11 days later, no word, still struggling for incredibly basic rights that other people in our society have had to struggle for, and I want you to know and I want you to know and I want people with disabilities to know that we are going to continue this. This hearing is symbolic and we want you involved and we are going to make a change, dammit, and by making these changes, we are going to begin to acknowledge in our society that people with disabilities are people first, that we are not going to concentrate on the fact that they happen to be different.

In fact, I am proud enough now to believe that people in our society are missing a tremendous feeling by not being me, by not knowing Judy Heumann, by not knowing the other people here and the millions of other people with disabilities in our society. I think this society would be a fuller, freer place if equal rights were guaranteed.

I want to let you know very clearly that the 1973 Rehabilitation Act which we think is one of the most important laws passed and disabled know how clearly and you can see the reactions, of the nonenforcement of the regulations that really came out.

It is clear that we have gotten ourselves, as a society, dug in a very deep hole because we emphasized the disability, because we said people were worth less in one way or another in reinforcement, because by setting up large institutions, we systematically segregate millions of people with disabilities and now we are caught in a dilemma like a De-

partment of Rehabilitation which spends \$100 million a year in California alone to help people move back into the main stream of our society. The dilemma is that two people don't have the social knowledge. They are not socialized. They never mixed much with peers in their society so it takes us much longer, consequently.

We have to make up for the evils of segregation. Here we have it, the latest proposal from HEW which says we are seriously thinking about the whole damn doctrine of separate but equal. How many times are we going to have to go through this? The disabled say clearly we will not accept any doctrine of separate but equal. We will fight until that whole idea is gone and we are united in this. We believe clearly that we cannot compromise on basic issues of civil rights.

We spent two and a half years negotiating these regulations. We have given—we have worked to try to get them out. Some of the very things that were negotiated are now being questioned again. I think it is high time that we recognize that the people in our society are willing to pay that limited costs of helping to open the society up.

I am not just talking about architectural barriers because the worse barriers of all are ignorance, the kinds of attitudes that people had towards me and towards millions of people with disabilities in this country. It is the attitudes that have to change and those attitudes will not change until we have a more full integrated society, until all people in this society know people with disabilities, until they recognize the special needs of people. I think that as we get closer to that, people are going to be more and more willing to outlay the kinds of resources. I think the resource issue here is a fallacious one. The civil rights losses in the U.S., as the executives said, do cost something but it is worth it because of the basic principles we all believe in, in our society and it is high time we recognize that the economic issue is one we solved and that we talked about for the last two years, and it is a ghost being thrown up at us.

The real issue here is are we going to perpetuate segregation in our society? Are we going to put the disabled through the same kind of long-term struggle to achieve independence and to achieve our human rights?

Are we going to recognize once and for all, and I include the Secretary and the President in this and join together and reaffirm that this is a human rights struggle, and 504 must be signed, and beyond that.

This is all we are getting out of the beginning of the struggle. When we get the regulation signed, we will get the regulations and without any quantification. You and I and other public officials as well as disabled people and friends across the country will have to pay attention to the enforcement of them. That is the key element.

We have seen it time and time again. We fight to get a law and it takes years to get it enforced.

I would suggest this time because it has been such a continuing struggle and because the disabled have been literally singled out for a 3.5-year struggle for their rights, rights already guaranteed by Congress, it seems to me that we need to set up some kind of commission or task force or group or whatever you want to call it and it should have Congressional people on it, it should have some of the leading disabled people including the American Coalition of Citizens with Disabilities on it and that we should really provide some important kind of oversight.

I think unless that happens, we could get those regulations and we could be back here again in a year, two years, ten years.

There are two important points that I wanted to make. We are feeling, as a department for over 70,000 clients in this State, the kind of long-term degrading effects of segre-

gation. Thousands of our clients have not really learned yet how to move about in this society. Even when architectural barriers are removed in some cases as we have in this area, it still does not guarantee that a person will be able to move back into the society.

We have beefed up our programs like the rehabilitation program. You know, you think about it. Programs like rehabilitation are the only programs we have in the society which helps move and integrate people and it helps move people back into the main stream of society. We just got our \$6 million appropriation which means \$6 million to eat into inflation, cut into the service.

It is time we react as public officials. It was not too long ago I was thinking in a different vein but we have to really begin to say to ourselves, this disjointed, this dehumanizing system of services that has come about, this situation that perpetuates segregation, that it continues to give millions and millions of institutionalized persons, that this system be looked at, that it be looked at by all of us together, those with disabilities who would be involved and we could coordinate and begin to use our limited resources we have to maximize integration.

That should be the key term. You can call it normalization or main-streaming but the key is that people with disabilities have to come back into our society and be accepted as and seen as important, strong, as potentially important producers and employees for our industry, for a government and that we, as government leaders, have to take the strong lead in this. We have to show that it is going to be done and that any backward step, and there are a lot of theories to talk about two steps forward and one back, that is bologna.

We have taken enough backward steps in our lives and we have felt the kind of incredible feeling of segregation and we are not going to accept that anymore.

I say again we will continue the struggle until those regulations are signed and we are guaranteed they will have some teeth. We will continue to struggle to insure that they are well endorsed.

I thank you very much.  
(Applause.)

Mr. MILLER. Ed, I want to thank you for a most articulate statement, and perhaps your being here was the greatest testimony to the misnomer of disabled and handicapped. I truly appreciate the support you have given all of the people who have been here over the last 10 or 11 days.

Mr. ROBERTS. I think it is the other way around, George. We appreciate the support the people here have given to the disabled all over the country and I think they should be recognized.

#### A TRIBUTE TO REV. EDWARD VICTOR HILL

**Hon. Yvonne Brathwaite Burke**  
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES  
Tuesday, May 24, 1977

Mrs. BURKE of California. Mr. Speaker, it is indeed an honor for me to join the Brotherhood Crusade in a tribute to Rev. Edward V. Hill, in recognition of his outstanding service to our community, State, and Nation.

In addition to his pastoral duties at the Mount Zion Missionary Baptist Church, Reverend Hill has devoted countless hours working to make Los Angeles a better place to live. His activities have included president of the Los Angeles

City Housing Authority, president of the Los Angeles City Fire Commission, vice president of the Los Angeles City Planning Commission, and organizer and chairman of the board of the present Los Angeles Opportunity Industrialization Center. Truly, Reverend Hill has served his city faithfully and well.

At the same time, he has shouldered the administrative responsibilities within his church with his characteristic self-effacing manner. At present he is president of the California State Baptist Convention. He has served in the past as chairman of the Western Baptist Convention Foreign Mission Board and chairman of the National Baptist Educational Foundation.

Reverend Hill has also been a senior adviser to Gov. Edmund Brown, Sr., and was the organizer of the Freedom Fund of Houston at the time when the NAACP was outlawed in Texas.

His record is truly that of a humanitarian of the highest degree. I am proud to bring recognition to the work of this outstanding religious leader.

#### ON MILITARY ASSISTANCE TO TURKEY

**HON. DAVID E. BONIOR**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES  
Tuesday, May 24, 1977

Mr. BONIOR. Mr. Speaker, I rise to voice my opposition to military aid in any form to the Government of Turkey until it moves to comply with the provisions of the Helsinki Final Act of 1975—which it has signed—and other basic tenets of international law.

President Carter, in his inaugural address, stated:

Because we are free, we can never be indifferent to the fate of freedom elsewhere. Our moral sense dictates a clear-cut preference for those societies which share with us an abiding respect for individual human rights.

And yet, we have included \$175 million in foreign military sales credits, \$48 million in grant military assistance, and \$2 million for military education and training to a country which consistently violates, not only the rights of Cypriots, but the Armenian and Kurd minorities within Turkey as well.

We cannot voice our outrage at Soviet violations of human rights and ignore them when they are committed by Turkey. We must make it absolutely clear that friendship with the United States does not constitute a suspension of our commitment to human dignity and basic freedoms. It must be absolutely clear that membership in NATO and opposition to socialism does not grant license for the pillage, rape, and arbitrary seizure of property reported by the U.N. Cyprus peacekeeping force and the European Commission on Human Rights. We cannot ignore the tens of thousands of Greek Cypriots who have been driven from their homes in the more prosperous northern third of the island.

Edmund Burke once said that "the

only thing necessary for evil to succeed is for good men to do nothing." Time and again, the wisdom of this statement has been brought home to us, not only in relations between governments but in the conduct of our own Government as well. To buy friendship and alliance with military assistance and acquiescence to lawlessness not only makes us vulnerable morally but will ultimately make us vulnerable militarily.

#### THE WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

**HON. PETER H. KOSTMAYER**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES  
Tuesday, May 24, 1977

Mr. KOSTMAYER. Mr. Speaker, I rise today to remind my colleagues that the White House Conference on Handicapped Individuals convenes this week in Washington.

I think it is important that we in the Congress are aware of the goals of the conference:

First. To provide a national assessment of the problems and potentials of physically or mentally handicapped individuals;

Second. To generate a national awareness of these problems and potentials;

Third. To make recommendations to the President and Congress which, if implemented, will enable handicapped individuals to live their lives independently, with dignity, and with full participation in community life to the greatest degree possible.

Mr. Speaker, I am pleased at the action taken by Secretary Califano on April 28 of this year in issuing a regulation which implements section 504 of the Rehabilitation Act of 1973. This regulation will usher in a new era of equality for handicapped persons who too long have been ignored, or worse, burdened with unfair and discriminatory barriers.

But further action is needed, Mr. Speaker. I await the recommendations of the conference and trust that the executive and legislative branches will act as expeditiously as possible on those recommendations.

Mr. Speaker, I am especially interested in this conference, because I am represented at it by a remarkable individual from my district, Joseph McInerney of Morrisville, Pa.

Mr. McInerney is 24 years old and a student at Rider College in Trenton, N.J. What is particularly remarkable about his presence is the fact that he is a quadriplegic as the result of a swimming accident in 1972.

Joseph is a brave individual, Mr. Speaker and I am proud that he is serving as my representative at the conference. It is my hope that Joseph will help me in identifying the problems and concerns of handicapped persons, and at the same time that he will benefit from his experience and share the information he gathers here with other handicapped individuals in Pennsylvania.



I might also mention that Joseph is accompanied this week in Washington by his father, John McInerney, and his sister, Joan Potach. Mr. McInerney has been most helpful in arranging Joseph's attendance at the conference, and I thank him for his assistance. Mr. McInerney is taking time off from his duties with the Pennsbury School District to be here, as Joan is talking time from her work, and I am deeply appreciative.

#### AFL-CIO IN SUPPORT OF PRESIDENT CARTER'S HOSPITAL COST CONTAINMENT PROPOSAL

#### HON. DOUGLAS WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. WALGREN. Mr. Speaker, the AFL-CIO is supporting the objectives of President Carter's hospital cost containment proposal. The AFL-CIO's legislative director, Andrew J. Biemiller, testified on May 11, 1977, in support of the basic thrust of H.R. 6575, the administration measure, and suggested some amendments to the bill.

Mr. Biemiller testified at a joint hearing of the Health Subcommittees of the Ways and Means and Commerce Committees. I include a summary of his statement at this point in the RECORD and urge that my colleagues take time to read it:

#### STATEMENT OF ANDREW J. BIEMILLER

On behalf of the AFL-CIO we wish to express our appreciation for the opportunity to testify before the two subcommittees that have jurisdiction over health programs for the House of Representatives.

H.R. 6575 establishes a Federal program of hospital cost containment which is designed to place a ceiling on future increases in hospital costs. The average cost of a hospital stay has been increasing at about double the rate of the increase of the Consumer Price Index. Clearly, something must be done to contain the escalation in hospital costs.

The Administration's bill has some strengths and some weaknesses. One strength is its provisions to place a ceiling on total hospital revenues. This comprehensive approach would contain not only hospital charges but also excessive utilization of hospital beds and extravagant use of personnel and capital resources, some of which is of marginal value in diagnosing and curing disease.

However, a ceiling on hospital revenues can only be a short term solution to the hospital cost escalation problem. As time goes on, any attempt to regulate a single industry to the exclusion of others tends to build up distortions and stresses with respect to the allocation of human and capital resources. Also, even if hospital costs are contained, H.R. 6575 does nothing about the escalation of doctor fees or the increasing costs of drugs, nursing home care and home health services. Voluntary hospitals will inevitably attempt to transfer their expensive patients on to the public hospitals in order to contain their costs.

A much more effective way in which to control hospital costs would be to phase-in the principles of the Health Security Bill (H.R. 21) introduced by Congressman Corman (D-Calif.) Under this approach, the Health Security Board would be empowered

to negotiate hospital budgets on a hospital-by-hospital basis. Such an approach would provide flexibility, equity and maximum adaptation to local circumstances.

The wages of nonsupervisory employees lag behind the wages of such employees in private industry generally and in the service industry. For this reason, the wages of hospital employees should be established through free collective bargaining and not be restrained by the hospital cost containment program. In recent years, the average wages of nonsupervisory employees in hospitals have risen less than nine percent annually and, therefore, pose no threat to the nine percent increase in hospital revenues which would be allowed by the bill. In fact, a loophole in the bill allows the nonlabor costs of a hospital to rise more than nine percent. As the Council on Wage and Price Stability has emphasized it is nonlabor costs which have been the primary cause of hospital cost inflation.

A major problem with the bill is that it initially allows a minimum of six states to opt out of the Federal hospital cost containment program and operate their own program as long as such states meet the Federal criteria. However, the provisions in the Federal law which are designed to provide for free collective bargaining are not included as one of the requisites for such state administration. In addition, other states could opt out of the Federal program in future years thereby emasculating Federal controls.

The AFL-CIO strongly favors a Federal program with uniform standards and uniform administration. If, however, states are allowed to administer their own program, one criterion that should be required of the states would be that they adopt the Federal standard which would exclude nonsupervisory wages from the cost containment formula. This is implied in President Carter's health message but it is not specifically included in the bill.

Highly objectionable to the AFL-CIO is the provision in the bill which provides that the Secretary of the Department of Health, Education and Welfare would have the authority to review but one aspect of the program—the provisions relating to wages—and subsequently be able to modify or eliminate the exclusion of nonsupervisory wages. It is the position of the AFL-CIO that the Secretary should report to the Congress as to how the entire program is working within eighteen months so that Congress can take whatever action it deems appropriate. H.R. 6575 cannot be more than a temporary program since the regulation of a single industry involves many complexities and potentially serious distortions. The entire program, therefore, should be reviewed by March 31, 1979.

The disclosure requirements of the bill are completely inadequate. As stated by AFL-CIO President George Meany, "for too long, hospitals have operated under a veil of secrecy despite the fact that tax dollars are a major source of hospital income. Taxpayers have a right to know how these funds are expended." Public disclosure of each hospital's total receipts, expenses, assets and liabilities should be required. Hospitals should disclose the salaries of all highly paid employees including their fringe benefits. Detailed conflict-of-interest statements should be required of highly paid administrators and hospital trustees. In particular, the total receipts of a hospital's pathology and radiology departments should be disclosed. If anesthesiologists, pathologists and radiologists bill separately for their services, all such physicians should disclose their gross and net incomes. Additional information that the public should know would be hospital charges and whether the hospital has a preadmission certification program, whether the hospital requires a second opinion for elective surgery

and whether the hospital shares services with other hospitals to avoid duplications of services.

Voluntary nonprofit and for-profit hospitals should not be allowed to transfer their expensive and nonpaying patients onto the public hospitals. The provisions of H.R. 6575 intended to deal with this problem need to be strengthened.

The AFL-CIO favors the proposed limitation on hospital capital expenditures but would suggest prepaid group practice plans to be given a priority for such capital expenditures as HMO hospitals reduce the total need for hospital beds.

In conclusion, Mr. Chairman, we approve the basic thrust of this bill which would establish a ceiling on hospital cost increases but the burden of cost containment must not be borne by low-paid hospital employees. We strongly urge that the improvements we have suggested be incorporated into the final bill that is reported and passed by the House of Representatives.

#### DEFENSE NEEDS A PLOWHORSE, NOT B-1

#### HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mrs. SCHROEDER. Mr. Speaker, I found this column by Robert R. Denny in the Washington Star to be a simple but thoughtful commentary on our defense spending priorities and wish to share it with my colleagues. The text follows:

[From The Washington Star, May 23, 1977]

#### DEFENSE NEEDS A PLOWHORSE, NOT B-1

(By Robert R. Denny)

I love the B-1 bomber because it's beautiful. Sitting on the ramp, it is a legitimate, monumental work of art whose design perfectly expresses an exciting function.

As an ex-pilot, I would dearly love to slide the throttles forward, pull the wheel back ever so slightly and let the needle-nosed airplane catapult me into that magic upper world of clouds and stars that grubby groundlings never know.

But as a sane and sober citizen, a taxpayer and a former bomber pilot with a little knowledge of the capabilities of airplanes in combat, I have to turn my back on the temptress.

I do not think we should build the B-1 in quantity for four reasons: The cost of such a bomber fleet would be about half the total expense of the Vietnam war. The arguments advanced for the B-1 are flimsy. Its intended function can be performed better by something much cheaper. Finally, we need a totally different kind of aircraft to fill an urgent need.

The fleet of 244 B-1's requested by the Air Force is estimated to cost \$25 billion. But that's only the down payment. By the time training, replacement parts and other costs are added in, the figure will rise to more than \$100 billion. We can't afford it.

The Air Force says it needs the B-1 because it will take longer than a missile to get to its target. This extra time will provide "high visibility of national resolve" and allow "time for negotiation." The generals said recently in a syndicated news feature sent to thousands of editors. The argument sounds pretty silly when you consider that the B-1 has been designed to provide no visibility at all. Its function is to slip under the enemy radar at treetop level and make a sneak attack on Soviet targets.

(Ironically, the B-1's predecessor, the in-glorious B-70 was supposed to fly too high and fast for the enemy to reach. That illusion died when a Russian missile shot down Gary Powers in his high-flying U-2 in 1960. The B-70 promptly joined the B-36 and B-58 in the white-elephant graveyard of Air Force Edsels.)

The B-1 function of streaking to the target underneath the radar can be performed by the cruise missile. Salvos of these little nuclear-tipped jet drones can be fired by any wide-bodied airplane that "stands off" well out of firing range. The Russians have nothing to counter them.

But the Russians do have something else that's giving our strategists nightmares. It's an old nightmare that threatens to turn into solid, fearsome flesh some morning just before dawn.

The specter is a sudden tank invasion of Europe. More than 100 divisions are poised on the Soviet border—far more, as President Carter said after his inspection of NATO, than "defense" requires. A less diplomatic statement was made recently by retired Marine Gen. Lewis Walt. While reasonable men may find it easy to disagree with Walt's fulminations on amnesty, Vietnam and the volunteer army, his expertise on military hardware has to be respected.

He believes that Russian tanks could punch across the border in a dozen places and take Western Europe in two weeks. Other military men nod fearfully in agreement.

What would stop such an onslaught? Tactical nuclear weapons? Not when the enemy has penetrated your allies' cities and towns. Our own tanks and artillery? Our tanks are outnumbered three to one; our artillery by six to one. Fast-flying fighter-bombers? They go too fast to lock onto low-silhouette targets. Helicopter gunships? They're useful but they're terribly vulnerable to the mobile missile-launchers and rapid-firing cannon platforms that accompany the Russian tanks.

What remains? The Air Force has found a near-ideal weapon to stop the tank. A throwback to World War II, it's a slow, highly maneuverable single-seat airplane called the A-10. It's so heavily armored that a Russian cannon shell will bounce off its cockpit.

Sliding along the ground behind hills and buildings, it's an almost impossible target for fast, high-flying fighters. And—shades of the old West—the bulky airplane is, quite literally, built around a 20-foot-long, seven-barrel Gatling gun. This monster can fire 70 big rounds of 30 mm. cannon shells per second and punch through any tank armor.

We have a handful of these tank-killers now and could usefully spend some of the B-1 money on producing many more.

The B-1 is a racehorse at a time when we need plowhorses. It is time to give up the wild blue yonder for the dim and dubious battle down below.

#### WHO IS MINDING THE DEEP SEABED?

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. FRASER. Mr. Speaker, the sixth session of the Third U.N. Law of the Sea Conference opened in New York at U.N. Headquarters on Monday. Delegates at the session face the important task of achieving a fair and equitable international agreement. To do so, they must resolve several outstanding issues, including those on an International Seabed Authority to govern the exploitation of

mineral resources beyond the limits of national jurisdiction. This issue has also been of considerable interest to several congressional committees this spring. In an article, "Who Is Minding the Deep Seabed?" I have outlined some of the issues involved. This appeared in the New York Times, Tuesday, May 24, and I insert it in the Record at this point:

WHO IS MINDING THE DEEP SEABED?

(By Donald M. Fraser)

UNITED NATIONS, N.Y.—The United Nations Law of the Sea Conference, which resumed yesterday, was almost on the rocks when it recessed last September, but now the 158 countries seem poised for hard work and pragmatic compromise.

Members of the United States House and Senate are pleased that President Carter appointed Elliott L. Richardson as the new head of the delegation. Mr. Richardson made his debut at intersessional meetings in Geneva a few months ago. The word from foreign delegates is encouraging. He brings to the negotiations a fresh spirit, a creative and experienced mind, and the political clout to get the job done.

The large-scale, sometimes lumbering conference has been dealing with a variety of issues, among them oil and gas resources on the Continental Shelf, width of territorial waters, passage of ships through international straits, control of marine pollution, freedom of scientific research, and most controversially the deep-seabed question.

In answer to those who might ask, "What is so important about the ocean bottom?" We should look at the resources at stake.

On the deep seabed at depths to two or three miles there are tons of valuable manganese nodules. These potato-shaped crumbly accretions contain four minerals of interest to the world: nickel, copper, cobalt and manganese. One of the goals of the conference is to devise an International Seabed Authority to regulate the mining of these minerals. The nodules lie in waters that are truly international and that are beyond the limits of national jurisdiction.

Meanwhile four American-led private consortiums are preparing to begin commercial recovery of those nodules.

The United Nations in 1970 adopted a resolution that declared all the nodules to be the "common heritage of mankind." This concept was based in part on a statement by President Lyndon B. Johnson in 1966 that these minerals should be the "legacy of all human beings." The United States voted for the resolution, and in its current policy concurs with the common-heritage concept.

In my view, in the new International Authority all nations must have equal access to the nodules. Further, private corporations should be allowed to work with the Authority's proposed operating arm, known as the Enterprise, and simultaneously on their own. Some of the private profits should go to the Authority for international revenue-sharing. In order to deal with deep-sea policy, the Authority would have a Council and Assembly, which would seek to assure fair and equitable development of the resources without prejudicing the rights of private miners.

If all this sounds a bit visionary, then watch what might happen in the Congress. The consortiums have been lobbying for legislation that would authorize them to begin mining in mid-ocean before the conference reaches agreement—possibly working against the conference's aims. Three deep-sea-mining bills are now before Congress and are being considered in various committees.

Congress has been carefully monitoring the Law of the Sea negotiations. Whether or not legislation is enacted will depend largely

on the outlook for agreement on an acceptable treaty text. The Carter Administration opposes legislation now but the future is hard to predict.

A fair and equitable international agreement is infinitely better than the chaos that could result from a trend toward unilateral claims. But only some concrete progress at the conference will stave off the ocean miners.

Some of the considerations that the delegations, both ours and foreign, might wish to think about are these: Can a 25-year regime and review conference open the door to compromise? Will the world get the most benefits from cooperative mining ventures of unregulated claim-staking? Are the people of the world served best by agreement in principle or by further stalemate? Is the world best served by legal order or stalemate?

More than anything else, these diplomats should realize that a treaty is in everyone's best interest. Many, but not all, in Congress feel that way. Let us hope that the sea-law ship sails smoothly across the waves; for, if she goes down now, she may not surface again.

#### MYRON BLOOM—COLLECTOR OF ANTIQUES AND MEMORABILIA

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. BYRON. Mr. Speaker, for many years now Myron Bloom of St. James, Md., has been building a most unique collection of antiques and memorabilia. Mr. Bloom's collection is a treasure of Americana, and of our western Maryland heritage. Many, many people have enjoyed Myron's displays at functions all around the Washington County area.

Myron Bloom and his wife live in St. James, and I would like to share with my colleagues in the U.S. House of Representatives, the following article by Ms. Libbie Powell as it appeared in the Hagerstown Herald-Mail newspapers:

ANTIQUES SHOW—VETERAN COLLECTOR TELLS WHAT A LITTLE BROWSING CAN PRODUCE

(By Libbie Powell)

What started out to be an interview on a collection of music boxes belonging to Myron L. Bloom, who for many years has been "Squire" of the Post Office and Country Store at St. James, and dealer in fuel oil and other commodities, turned out to be a thoroughly enjoyable tour into the past.

The original intent was to write about the music box collection to let persons in this area know what type of things could be found at the upcoming Women's Club Antique Show, to be held today and Sunday in the ballroom of The Venice.

But so great was this collector of collectors in his personally conducted tour for Mrs. William Meyers, president of the Women's Club; and Mrs. C. Paul Jones, co-chairman of the show with Mrs. Robert Spahr, that the interview turned into an overall view of what a collector of note has garnered.

"You could not invest your money in anything better," the wise, previous schoolteacher advised the avid viewers. With his wife, Goldie, along, the tour went through the living quarters, down to the spacious lower portion of the comfortable and attractive contemporary home, and back up again. Meanwhile, the ladies were gasping at each new thing they saw, some in a pile or all



pushed together, some hanging attractively from the rafters on the ceiling, as was his interesting collection of old iron pots in varying shapes for varying uses.

Interestingly enough, most of the things that were noted can be found at the 17th Antique Show, whose hours are from 1-10 p.m., Saturday; and 12 noon to 6 p.m., Sunday, May 15. Mrs. L. L. Gerber is serving as chairman of this well known and highly regarded Antique Show on the local scene. Paul Ettline, of York, Pa., will again return as manager, bringing antique dealers with a wide range of antiques for the collector here.

#### THE MUSIC BOXES

But first, the antique music boxes. These have been previously displayed at The Miller House, and each year Myron Bloom has taken them to the Homecoming Day at Harpers Ferry, and at other spots, including the Beaver Creek School Museum. They are interesting, and run the gamut from those dating back to 1830, on to the other examples, circa 1890. The latter example is of bells, with a tinkling, hesitant harp-like melody.

Picking up a group of brass bells, known as a "troika," from a pile beside the fireplace in the downstairs quarter he said, "Doc Scheller used this on his horse and drove down N. Potomac St. with these bells ringing."

Continuing, he picked up an oversized copper frying pan with a long handle and said, "Here's a skillet that came from Independence Hall. They decided to clean house of some things and I happened to be there and bought it. This is an unusual piece for it has a copper bottom. And, I'm sure George Washington must have eaten some eggs that were fried in this skillet."

Beside this was a brass kettle, of generous proportions, inside a magnum-sized copper kettle, that the ordinary collector would have had polished and proudly placed in a living room. There is so much to Myron Bloom's collection, however, that he rather nonchalantly displays them, but with just as much pleasure.

"That copper kettle came from J. B. Roesser's Store," he advised. "They baked bread in it and made candy in it. Note the handles for they are on the side," he said.

#### B & O CHINA

Among the unusual bits of these treasures is the collection of Blue Willow type china, created for the 100th anniversary of the B & O Railroad. "What do you have, a set of eight?" Myron was asked. Then plates were counted, and it is more a set of 12. "Well, when I first started collecting this, I bought any I could get my hands on," Myron said of the plates, that have scenes of Harpers Ferry in the center, and commemorative scenes of the railway's history around the edges.

Then, he showed the first washboard, made of iron. "When your ancestors went west, they had one of these hanging from their wagon, and when they came to a stream, they used this," he said. But, though it was unique, and decorated with a moon and stars, one could only sympathize with the women whose hands were rubbed raw on that iron board.

Myron burst with pride as he led his followers into the other room to see "the oldest truck in the State of Maryland," an International. Goldie Bloom showed her special preference in the collection, a kitchen cabinet, circa 1900, with its own flour, sugar, salt and other containers. Many a person will remember some variation of this helpful kitchen device that was popular for a number of years.

Back upstairs, Goldie Bloom was displaying some of her treasures, including an exquisite white pitcher with figures on it, which she had inherited. It was Mrs. Bloom's grandfather, Henry Poffenberger, who started the first store known as Poffenbergers, at St.

James, when the Railroad came through. Her father, Harry Poffenberger, carried it on, until Goldie Poffenberger married Myron L. Bloom, and the new name took over.

#### REPROCESSING AND THE BREEDER REACTOR

#### HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. GOLDWATER. Mr. Speaker, in the next several weeks the House will consider a part of the President's national energy policy that is unique in that it involves the relegation to the back burner, if not outright termination, of an energy source that has previously been considered one of the Nation's key hopes for solving the energy problem. I am referring to the liquid metal fast breeder reactor program, and specifically to the first demonstration plant of this kind, known as the Clinch River breeder reactor. The issues surrounding the Clinch River plant are complex, involving valid concern over the possible proliferation of nuclear weapons, and equally valid concern over the need for energy and maintenance of the U.S. position in this advanced technology.

Among the several points that concern me in this debate is the fact that we too often consider only the most central or obvious issue, and do not pay sufficient attention to key associated factors. For example, the real question at hand is not simply "should we build the Clinch River reactor," but where does this reactor fit into the national breeder reactor program, what is the proliferation potential of that program, and how does this program tie in with our current and anticipated use of light water reactors, with the possible need to reprocess spent nuclear fuel, and with the entire national energy situation?

In my opinion, it would be a disservice to the subject and a failure of this distinguished body to fully discharge its responsibilities if it did not address the full scope of the issues affecting the need for the Clinch River reactor. We must not consider this plant only in the context of its proliferation aspects, just as we must consider it only from an energy supply point of view. We need to address this subject from both sides.

In its simplest form, the issue may very well come down to one of options, and whether the taking of any one path effectively precludes the ability to later proceed in some other direction. For example, if we proceed to build the Clinch River plant, will this action in itself lead to wide scale use of the plutonium fuel cycle so widely feared by those among us who are proliferation conscious? I think the answer is no. On the other hand, if we do not build this reactor, are we perhaps denying ourselves the later option to exercise world leadership in this technology, and to obtain the maximum benefits therefrom? In this case, I am afraid the answer is yes. On this basis, unless an overriding case can be made in forthcoming hearings before the Science

and Technology Committee as to the desirability of not building the Clinch River reactor, I will support the construction of this plant as an absolute necessity for the United States to retain its option to employ breeder reactors in the future, if this is found to be in the national interest at some later time.

In a similar vein, I am concerned about the position taken by the executive branch with regard to the nuclear fuel reprocessing plant at Barnwell, S.C. This plant was built for the purpose of recovering the energy value remaining in spent nuclear fuel, and represents a private investment of about \$250 million. A substantially larger amount would be required if the plant were to be built today. Due to changes in regulations regarding waste disposal and plutonium transportation, additional facilities must be constructed at the plant before it can go into operation. These facilities have been estimated to cost between \$375 million and \$575 million. The plant owners have requested that the Federal Government participate in the completion of this facility.

In his April 7, 1977, statement on proliferation, President Carter said that the Barnwell plant "will receive neither Federal encouragement nor funding for its completion as a reprocessing facility." I find this position especially ironic on two counts. First, it represents a failure to aggressively utilize a proven energy resource; namely, the 35-percent increase in uranium availability represented in spent nuclear fuel. In full operation, Barnwell would recover the energy equivalent of 1 million barrels of oil every operating day—some 300 million barrels a year. Even at the modest price of \$10 a barrel, that would be the equivalent of \$3 billion a year in imported oil. What is more, by the year 2000 the energy equivalent of the world's spent fuel will be about 97 billion barrels of oil, equal to about 6 years of production at current free world levels. How can this Nation afford to cut its options on a technology with this much yield? It does not make good energy sense, yet that is exactly what we are doing.

Second, I find it morally indefensible that the U.S. Government should completely disregard its implied commitments to the plant owners. The plant was constructed during a period when the United States actively encouraged the participation of private industry in nuclear fuel cycle activities. Substantial private investment was obtained. Now that Government policy has changed, can we just walk away leaving the owners high and dry? Think of the example this sets as the United States encourages and counts on private sector investment in other energy technologies to meet the Nation's needs as we see them today. We cannot expect investor support with this kind of cavalier behavior.

Fortunately, I think there is an approach that will let us retain the option of eventually using Barnwell for the reprocessing of spent fuel, while presently using it in support of international nuclear safeguards programs and efforts to properly manage radioactive wastes on a worldwide basis. The key to this

approach is to incorporate the site and facilities into the adjacent Savannah River Government reservation, where nuclear energy research and development has been underway for more than 20 years. This could be accomplished through sale or lease of the site and facilities to the Federal Government.

As a first step in this direction, and to assure retention of the staff resources at Barnwell, I intend to offer an amendment to the fiscal year 1978 ERDA authorization bill providing funding to maintain plant facilities and to begin studies of multinational fuel cycle center operations, safeguards, coprocessing, nuclear waste management, alternate fuel cycles, and other activities. In this manner the United States will be able to retain its option to reprocess spent fuel if this approach is found desirable, and will also present a signal to the energy and investment communities that the Government is willing to stand behind its commitments, both real and implied. Only through actions of this type can our path to a secure energy future remain open.

#### THE CASE AGAINST ELECTION DAY REGISTRATION

**HON. BILL FRENZEL**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. FRENZEL. Mr. Speaker, apparently, the non-case for election day registration is becoming crystal clear.

In the May 22 issue of the Washington Post, David Broder has succinctly made the observation that the case has not been made for a universal registration system. There is simply no compelling reason to believe that this bill will cure the problem of the nonvoter. However, we do know that the Federal Government will assume yet another new role that rightfully belongs to the States.

I commend his editorial:

#### THE CASE AGAINST ELECTION DAY REGISTRATION

(By David S. Broder)

On the eve of his nomination last July, Jimmy Carter went before his former colleagues in the National Governors' Conference and spoke admiringly of the "new humility" he said he could discern "about the federal government's ability to legislate problems away."

That speech, full of concern about "the erosion of the role of states," provides the proper context for discussing President Carter's proposal for Election Day voter registration.

A reporter who has listened to the White House briefing on this bill, covered some of the hearings and committee drafting sessions and read most of the testimony, has trouble believing that the so-called "universal registration" bill (a misnomer) is either the godsend or the nightmare it is sometimes called.

The case has not been made by its advocates that simply allowing people to register at the polls will cure voter alienation and reverse the downturn in election turnouts that many find so disturbing. Nor have the critics proved that it is impossible to enroll

voters on election day without inviting fraud.

The evidence and arguments on both sides are, frankly, skimpy. There is more basis for belief that expanding the electorate by abolishing pre-registration requirements for federal elections would help Democratic candidates. The non-voters are disproportionately poor, young, ill educated, non-Caucasian and prone to be Democrats. But that fact neither condemns nor blesses the Carter plan in the eyes of a neutral observer.

What is most unmistakable about his proposal is that it will expand the role of the federal government in the administration of elections and affect different states and localities in very different ways.

At heart, the administration bill is one more categorical federal grant-in-aid program, an addition to the vast catalogue of Washington-mandated and financed enterprises ranging from agricultural conservation to zoological research.

It would create a new Washington bureaucracy under the administrator of voter registration in an area where states and localities so far have struggled along on their own. It would spawn new administrative, auditing and enforcement procedures, new guidelines and regulations, for carrying out its high purpose of sparing every American the burden of registering in advance to vote.

It employs the familiar federal mixture of carrots and sticks. Those states that meet its minimum requirements would get a basic financial reward from Washington—35 cents a voter. Those that do more of what Washington thinks best will get an even bigger present from Uncle Sam.

All this, of course, costs something—an estimated \$53 million for the first two years. But the greater cost, judging from the testimony, may be the disruption of normal election administration in many localities.

As Rep. Don L. Bonker (D-Wash.) observed, "Registration is neither the main bulwark against election fraud nor the engine of citizen participation in government. [It is] largely an administrative device to help election officials rationally and efficiently plan the conduct of elections."

The testimony of those officials should carry special weight. As John H. Hanly, the chairman of the Chicago Election Commissioners, told Congress: "If you enact an impracticable statute, it is the election authorities throughout the nation who will suffer the failure and all the ensuing abuse and blame."

Mr. Hanly, though a Democrat, opposed the Carter bill. So did officials from Philadelphia, Los Angeles, Monroe County, N.Y., and Rhode Island, among others.

Their concerns were practical, not philosophical. They are not wicked people trying to lock the doors to the polls. They are just local people concerned about how this new federal program will affect them.

Their critical view was not unanimous. The secretary of state of Minnesota, which has Election Day registration, endorsed it strongly, and officials of Connecticut and Montgomery County, Md., said they thought it would work well in their jurisdictions.

A sensible person reading this record would conclude that Election Day registration is an idea that suits some places much better than others. It is an idea that was tried in a handful of states in 1972. It is deserving of further experiment and likely to receive it—if the federal government does nothing.

What is totally lacking in the record is a compelling case for federal preemption of the voter registration field. This is no energy crisis requiring massive federal intervention. There is no demand here for help from local officials or citizens.

Nor is there a showing of state and local indifference to the problem of expanding the suffrage. Quite the contrary. The record clearly shows most states have made innova-

tive efforts to reduce the barriers to voting by a variety of means—including Election Day registration—that they deem suitable for their particular circumstances.

In his speech to the governors' conference, Carter said: "I believe it is time that the federal government recognize that states and localities retain a special knowledge of local problems. . . . We will," he promised, "have a government structure that encourages rather than stifles local flexibility."

Carter apparently forgot that speech when he submitted his mandatory Election Day registration bill. What's wrong with his bill is not that it is a plot to guarantee permanent Democratic control of the White House and Congress or a blatant invitation to fraud.

What's wrong is that it egregiously violates the sound principle of federalism Carter himself espoused before the governors. Where is that "humility about the federal government's ability to legislate problems away" now?

#### A TOUCH OF JUSTICE

**HON. GEORGE MILLER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. MILLER. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by George F. Will about the impact that the recently signed section 504 regulations of the Rehabilitation Act of 1973 will have on our society:

#### A TOUCH OF JUSTICE

(By George F. Will)

Handicapped persons are acquainted with disappointment, and they have experienced much of it since 1973, when Congress grandly declared that "no otherwise qualified handicapped individual . . . shall solely by reason of his handicap" suffer discrimination under any program or activity receiving federal financial assistance. In this heavily subsidized society, that can have a broad reach.

But such broad sweeps of sentiment are law only in a hollow, technical sense. They require the executive branch to make regulations that "make" the law.

The Department of Health, Education and Welfare, which is not reluctant to write regulations, wrestled with the task of giving substance to Congress' sentiments. Recently, after more than three years, it produced 48 dense pages of rules, plus 106 pages of related documents.

The significance of the regulations is that now the nation must stop rationing citizenship, almost absentmindedly allocating to the handicapped only as much as is convenient.

The regulations require an elimination of physical barriers to the handicapped wherever federal funding is involved. And they stipulate that handicapped children, regardless of the nature or severity of the handicap, are entitled to free public education appropriate to their needs.

Public education has been the distinctive American right. The extension of it, especially to the mentally handicapped, will generate legitimate controversy. Imagine, for example, the agonizing judgments required by the rule that the handicapped "must be educated with the non-handicapped in regular classrooms to the maximum extent possible."

Modern government has extended the citizen's claims of entitlement, and now the handicapped are moving toward full citizenship. This has been a long time in coming because the handicapped are a varied and



often invisible minority, invisible in part because of discrimination. This discrimination often involves a natural human failure of "imaginative sympathy," a failure by the majority to imagine how life looks to persons less fortunate.

A society deficient in "imaginative sympathy" surrounds the crippled with thoughtlessly designed facilities which provide no convenient access for wheelchairs, facilities that shout society's indifference. A society deficient in "imaginative sympathy" consigns the retarded to "education" programs that reinforce rather than ameliorate the cruel capriciousness of nature, and express through exclusions from basic rights the barbarous thought that weakness is akin of crime in the kingdom of the strong.

The new regulations announce the beginning of a costly but welcome era. Nothing the Carter administration will do in the next three years will touch so many lives ready for a touch of justice.

## DEBATE OVER DECONTROL OF THE AIRLINES

**HON. JIM WRIGHT**  
OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. WRIGHT. Mr. Speaker, the current debate over decontrol of the airlines has important implications for the American people. Whether decontrol will mean more or less competition is not clear. Whether it will mean better or worse service is not clear. That the United States presently has the world's best system of air transportation is, of course, an important consideration when contemplating any change.

Last Friday in Minneapolis the Acting Chairman of the Civil Aeronautics Board, Judge Lee R. West, touched on the issue of decontrol in a candid address to the spring regional meeting of the Association of Local Transport Airlines. As a distinguished and able insider who has a vision of what can be done to improve air transportation in this country, Judge West deserves our attention when he says of abrupt and total deregulation:

The outcome could all too easily be, after a period of chaos, the monopolization of the industry by a few giant carriers, with much less real competition than we have today.

Mr. Speaker, I insert Judge West's address in the RECORD at this point:

ADDRESS BY THE HONORABLE LEE R. WEST

I am very happy to be here with you today at your Spring Meeting, even in my very transitory capacity as Acting Chairman of the CAB. I have the highest regard for your Association and for the tireless and constructive efforts of Joe Adams, your Executive Director and General Counsel. You couldn't find anyone more devoted to the field of aviation in general, and to the safeguarding of ALTA's best interests in particular. Although I don't expect to be Acting Chairman for very long, my term as a Member of the Board still has more than a year and half to run, and I am looking forward to the next period in the Board's history, which I am hoping will be a more constructive one.

Over the few years of my membership, the Board has gone through a period of considerable turmoil. My colleague, Joe Minetti, who has been 21 years on the Board, tells me

he can't remember another period of such tensions.

First, there was the unfortunate period of the "Route Moratorium" when competition and expansion were almost considered dirty words. Fortunately, this ended not too long after I arrived. However, the Board has more recently been saddled with a leadership that preferred one-man rule to a five-man consensus. You will recall the Ash Report of several years ago that recommended replacing all of the multi-member regulatory agencies with single administrators. I detected very little enthusiasm for this idea in the Congress, whose agent we are, but nevertheless we found ourselves in the past couple of years undergoing a hybrid experiment with this sort of leadership.

We found work that should have been done by the Board's own career professional staff—and I don't know of another agency that has such a superb staff—being farmed out, without the knowledge of the other Board Members, to consultants about whose qualifications we knew very little. We found "experiments" being proposed by such consultants which, after uncounted hours of comments and counterproposals, we had to pronounce impracticable to carry out, and meaningless if they had been. Actually, the "decision" to abandon the experiment was announced by the then-Chairman to selected news media people before the Board had even discussed the matter.

We also found consultant studies being presented to the Board outside the record in a major litigated case, with very little apparent appreciation of the violence this did to the requirements and the spirit of the Administrative Procedure Act.

In this regard, I may note that President Carter has only this week targeted as a managerial problem area the excessive, unnecessary, and improper use of consulting services, and has expressed particular concern about the "use of consultants to perform work of a policymaking or managerial nature which should be retained directly by agency officials."

We found our Office of Public Information reconstituted as an Office of Public Affairs and headed by a Director who ignored the fundamental collegiality of Board decision-making. His job description, approved by the then-Chairman without consultation with the Board, made him responsible to and supervised by the Chairman alone, and his efforts were to be assisted by a television expert, a position which had not previously existed, or been considered necessary at the Board. The duties of the office were similarly transformed: where once it informed the public of the actions of the Board, it became a public relations effort designed to create the appearance of accomplishment while disguising an appalling lack of action in carrying out the Board's statutory functions. These promotional efforts did much to divert the public eye from the inconsistency between a procompetitive rhetoric and an anticompetitive voting record. Convenient news "leaks" to selected media personnel occurred with regularity, compelling both a Congressional investigation and a Board investigation into CAB leaks. These investigations quickly focused on the Office of Public Affairs. However, parts of the reports of the Board investigation were denied to Board Members other than the Chairman. Shortly thereafter, the Public Affairs Director left the Board and found an employment niche elsewhere in the government, but he continues to take journalistic "cheap shots" at the Board from his new position. The situation became so bad that such reputable publications as "Fortune" have described the recent CAB Administration as a "Fifth Column" attempting to destroy the Board from within. I want to make it clear that I believe criticism of the Board, whether from within or without, is healthy, and can cer-

tainly include suggestions of CAB reform, or even abolition of the Board. But I do not believe it is proper for one who has taken a job with a regulatory agency with important duties to perform under an existing statute to dedicate his efforts to undermining and weakening the efficacy of that agency and that statute. Certainly not for the purpose of exalting a single individual or bringing the public around to his own belief that the agency should be abolished or fundamentally reorganized, or that the statute should be repealed or its direction be fundamentally reversed.

Additionally, because of floundering leadership in our International Affairs Bureau, we found the CAB unable to play its proper statutory role at a time of serious deterioration of foreign relations with our principal allies in the civil air transportation area.

Finally, we found a rather pervasive suggestion or feeling that most of what the Board has been doing in its preceding 37 years of existence had been a mistake—well-meaning, perhaps, but still a mistake. This idea no doubt explains the desire to rely on outside consultants, and to man several key positions at the Board with people who had no previous contact with or knowledge of air transportation. It probably also explains a certain unwillingness to use some of the expandable statutory tools we already have at hand, in the interests of arguing that new tools are indispensable.

What I am hoping is that we will go forward from this low point in quite a different spirit. I am hoping we will get back to an appreciation that a collegial body under effective leadership can tap the experiences and insights of all of its members, without losing the ability to act promptly and effectively. I think the consultant period is largely behind us, and that we have already gained a renewed appreciation of the superlative qualities of our career professional staff.

Most of all, I am hoping that we will return to an appreciation of what is good and valid in the Board's historic and traditional approaches to its duties under the Act. It would be foolish of me to claim that the Board, or any other human institution, is or has ever been immune from making mistakes. But, looking at our present air transportation system, and comparing it with what we find in most other countries of the world, it seems to me that we must have been doing something right over the last 37 years. I readily concede that the knowledge and devotion of the men and women who founded and who today operate our privately owned and managed airlines, together with the consumers who use them, are principally responsible for creating the world's finest air transportation system. But at the very least the Board can claim to have helped the process along, under the policy guidance given us by the Congress in our governing statute.

For the last several years we—and here I mean the whole aviation industry, and the Congress itself, not just the Board—have been going through an intense period of debate over the issues of regulatory reform. An enormous amount of the Board's time and energy has gone into debating the issues, developing proposals for legislative changes, and commenting on the proposals of others. Some of that time and energy has been wasted on false leads; much of it has been constructively employed. Most of it, regretably, has been taken away from that store of time and energy available for the continuing day-to-day work of regulating air transportation under the existing statutes.

The Board has submitted to the Congress a series of major proposals for changes in the Act which would lead to an increased reliance on the beneficial forces of competition, of enterprise, and of the marketplace

in guiding the further development of the air transportation system. Nothing stands still, and if the system we have today is a good one, as it most certainly is, what we can have tomorrow, if we act wisely, will be still better.

I have supported the Board's legislative proposals, and still do, because I believe they can lead in the direction we all desire, if carefully and sympathetically administered in the public interest by a Board that knows what it should do and should not do. I know that some of you may have questions about parts of the Board's program, but I am hoping you will come to appreciate its affirmative values.

At the same time the Board has made it clear—and I would personally like to take some credit for stressing the point—that we do not support abrupt or total deregulation of the air transportation industry, and I don't believe that anyone of mature judgment has seriously contended for such. We can't ignore the structure and the relationships which have grown up over the last four decades; and any attempt to shift suddenly to a hypothetically pure free market in air transportation could wreak enormous havoc, and would be immensely harmful to the traveling public and the commerce of the United States, as well as to the airlines, their employees, their lenders, and their shareholders. The outcome could all too easily be, after a period of chaos, the monopolization of the industry by a few giant carriers, with much less real competition than we have today. I have also been concerned about the probable loss of small community service and stressed my belief that we need—not just to retain—but indeed to improve upon a "system" which provides appropriate service for small and medium-sized communities. Air transportation should not exist only for select markets between huge cities.

What I believe, however, is that a controlled and carefully monitored transition in the direction of greater reliance on the forces of competition and enterprise can avert the perils of disruption and possible subsequent monopoly, while encouraging all that is best and most creative in the industry.

I hope that we will never forget that it is to the initiative of you here present today, and of others throughout the airline industry, that the public must look for a constantly developing and improving air transportation system. Believe me, Chairman Lorenzo, I have the liveliest appreciation for the power of "peanut" ideas! The Board's job, as I see it, is as much as possible to stand out of your way and let you try out your ideas in the marketplace, while at the same time maintaining some ground rules of order in the system, outlawing predatory practices, and protecting the rights of the traveling and shipping public.

Although I have spoken of the Board's legislative program, I want to make clear that I didn't come here primarily to make a pitch for regulatory reform legislation, whether the Board's program or any other. Instead, the point I principally want to make is that I see the Board's future role in the regulatory reform debate as being substantially reduced.

To be sure, the debate continues, and I anticipate the Board will probably be expected to comment on further proposals—Secretary Adams', Congressman Anderson's, and perhaps a revised bill by Senator Cannon—as they are introduced. But I hope that the period during which much of the Board's energy has been devoted to preparing, studying, or commenting on proposals for legislative change is behind us. I expect that hereafter the Board's main emphasis will be on carrying on the day-to-day work of regulation to the best of its ability under the existing Act—and, of course, if and when the Act

is amended, on carrying out the will of the Congress as expressed in the amendments.

I hope that you will find in us a livelier appreciation of what can be done, and what has in the past been done, under the existing Act, until such time as Congress sees fit to change it. I hope you will see a greater use of the expedited procedures we already have available, such as Subparts M and N, for removing obsolete and unnecessary certificate restrictions. I hope you will see us develop further such procedures. I hope you will see a consistently active route hearing program, somewhat akin to that of the middle 60's, and the development of a set of commonsense hearing priorities for route applications which will allow the Board to spend more time on hearing and deciding cases and less time on arguing about which cases to hear.

I hope you will see us develop a consistently more liberal policy towards fare innovation and experimentation. I hope you will see us continue to liberalize our charter rules to make this form of low-cost air transportation more widely available to the American people, while at the same time making it easier for the smaller airlines to take part in the charter markets, where they surely have a useful role to play. All these things, you will note, the Board can do under the existing statute, though some of them no doubt could be aided or expedited by well-conceived legislative changes.

The thought I want to leave with you is that the philosophy I hope and believe you should be able to expect from the Board—certainly from this one Member of the Board—certainly from this one Member of the Board—is a philosophy of evolutionary growth and improvement, not revolutionary overthrow. We have a superb air transportation system today, and can have an even better one tomorrow, not by tearing down the existing system and starting over again from scratch, but by building creatively on excellent foundations. And you are the ones who will do most of the building.

Thank you, it has been a real pleasure to be with you today.

#### LABOR DEPARTMENT ANNOUNCES "COMMONSENSE APPROACH TO THE TASK OF PROVIDING SAFE AND HEALTHFUL WORKPLACES"

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. GAYDOS. Mr. Speaker, Secretary of Labor Ray Marshall, and Assistant Secretary of Labor for Occupational Safety and Health, Dr. Eula Bingham, conducted a press conference this morning, announcing a "commonsense approach to the task of providing a safe, healthful workplace for every American."

According to the remarks of Dr. Bingham, this will involve the following:

First. An all-out effort to combat occupational illnesses and disease.

Second. Refocusing inspection efforts on the most serious health and safety hazards.

Third. Ninety-five percent of inspection efforts to be devoted to the most serious health and safety hazards, with the other 5 percent to be applied to the lower risk sectors of the economy.

Fourth. The appointment of a Special Assistant for Small Business.

Fifth. Preparation of a special small business handbook to assist small business in voluntarily complying with the law.

Sixth. A substantial expansion of the consultation program.

Seventh. Major expansion of the agency's educational program.

I believe that this new approach is most commendable, and should go a long way toward carrying out the intent of Congress in providing American workers with safe and healthful working conditions.

In the words of Assistant Secretary Bingham:

Our task is to make life safer for employees, not to make life harder for employers.

The statements of both Secretary Marshall and Assistant Secretary Bingham follow:

#### OPENING STATEMENT BY SECRETARY OF LABOR RAY MARSHALL

Since its birth in 1970, OSHA has been everyone's favorite whipping boy.

The business community has claimed that OSHA was far too restrictive, bogging them down in a series of nit-picking, petty regulations. Labor has been concerned that OSHA hasn't done enough about health problems, the kind of long-term dangers that threaten the physical well-being of many American workers.

When I became Secretary of Labor, I began an extensive study of OSHA. In order to get some first hand understanding of the program, I spent a day working as an OSHA inspector in a factory outside of Philadelphia. Working closely with Assistant Secretary Eula Bingham, I examined many of the most common criticisms of OSHA. And, I came to the sad conclusion that both business and labor were right. OSHA did have far too many petty regulations. OSHA had neglected long-term health problems in order to enforce some petty standards not directly affecting safety or health.

Today marks an important turning point in the history of OSHA. In announcing our commonsense priorities for OSHA, we are also signaling that this beleaguered agency has entered a new era.

Eula Bingham has been Assistant Secretary for OSHA for just seven weeks. In that short time, OSHA has seen more far-reaching changes than at any time in its history. We have acted vigorously to eliminate the health hazards caused by benzene. We are recruiting a staff who can deal with health hazards, as well as safety problems. And, today, we are announcing our commonsense priorities for OSHA.

It is obvious why OSHA needs to have priorities. OSHA has an enforcement staff of just 1,400 and the responsibility for regulating more than 5 million workplaces. I've calculated that even if these inspectors work over-time, they can visit no more than 2 percent of the workplaces in America. That's why we have to focus our efforts where the hazards are the most likely.

In announcing these new priorities today, we are trying to do two important things. One is to get the monkey of unnecessary and complex government regulations off the backs of small business. And, the other is to focus our limited resources on the most serious health and safety problems faced by American workers.

In short, what we are trying to do is to save lives, protect workers' health and prevent injuries, not print regulations.

Let me outline a few of the major components of this new enforcement strategy:

We are going to stop trying to regulate every detail of life in every office, store and



factory. There will be no more petty regulations like those dealing with coat-hooks in bathrooms.

We are going to simplify our regulations so that everyone can understand them. No longer will small businesses have to hire lawyers to interpret OSHA regulations. We're going to stop the absurd practice of printing 15 pages of regulations, in small type, on the safety of ladders.

Instead of regulating by fiat, we're going to stress preventative consultations with small business.

And, last, but most important, we're going to focus our efforts on the real health and safety problems which American workers face. We're going to stop fishing for minnows and start going after the whales.

Now, I'll turn to Dr. Bingham to give you the details of this new OSHA program.

#### STATEMENT BY DR. EULA BINGHAM

As Secretary Marshall has explained, we are today announcing a program which we hope will institute a common sense approach to the task of providing a safe and healthy workplace for every American.

To begin with, we are launching an all-out effort to combat occupational illnesses and disease.

To accomplish this, we are going to refocus our inspection efforts on the most serious health and safety hazards.

Since some industries—such as construction, manufacturing, transportation, petrochemical—are much more dangerous than others, it makes sense to focus our limited inspection resources in those high-risk industries.

Beginning this year, 95 percent of our inspection efforts will be devoted to the most serious health and safety hazards. The other 5 percent will go to the lower risk sectors of the economy—wholesale and retail trade, financial institutions and service industries. And even within these sectors our attention will be focused on the most hazardous workplaces—auto repair, building materials and dry cleaners—for examples.

This action will significantly relieve the burden on businesses in the nonhazardous sectors of our economy.

We are also going to significantly expand the use of "de minimis" notices for violations that have nothing to do with worker health and safety.

In regards small business, I think its time we got serious about a program of cooperation. Our task is to make life easier for employees, not to make life harder for employers. I feel certain that most business people want to protect their workers. In most small businesses employers and employees work together, often side by side. "They breathe the same chemicals, they work around the same machines—they're exposed to the same hazards."

In order to implement a real program of cooperation I am going to appoint a special assistant for small business.

We are also beginning distribution of a special small business handbook with simple check lists and self-help guides designed to assist small business in voluntarily complying with the law.

We are also planning to greatly expand our consultation program to assure that small business people have access to professional help. We are also going to list the possibility of using extension services, universities and private organizations to provide consultation services.

In line with this, we are also planning a major expansion of our education program. I believe its unconscionable that this agency spends only 7/10 of 1 percent of our budget on education. That's going to change.

I believe the keystone of a successful health and safety program is knowledgeable

workers and employers who can find and solve their own health and safety problems.

On another front, we are going to get rid of unnecessary rules and simplify our regulations.

One of the greatest sources of criticism of OSHA in the past has been the more than 5,000 consensus safety standards. These include many highly technical, overly specific and outdated regulations that have burdened employers without really protecting workers. We are now combing through these standards. We shall eliminate unnecessary regulations and we shall revise and simplify necessary standards that are needlessly detailed, complicated or unclear. And as this process gets underway, we shall immediately end penalties for violations of standards that have nothing to do with worker health or safety by expanding and clarifying the use of "de minimis" notices.

This program is, I believe, a significant step in the right direction. It will not be accomplished overnight. It's going to take time. But we are committed to taking the basic common sense actions that will assure that this agency can get back on the track and fulfill its mission of protecting the health and safety of America's working people.

#### THE CLAMSHELL ALLIANCE AT SEABROOK

#### HON. LARRY MCDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. McDONALD. Mr. Speaker, in the 18th century, a movement in England began to prevent the spread of industrialization which they believed was hazardous to their way of life. Real life soon made the Luddites obsolete. Had they prevailed we would still be living in the pre-industrial-revolution era, and none of our modern conveniences would be available.

Our modern-day Luddites fight against any development with the same 18th century fallacious arguments. The development of atomic power is a particular target of a combination of ecology freaks, leftist agitators, and assorted nuts and bolts. According to the Christian Science Monitor of May 24, 1977, the anti-nuclear-power groups claim that they are winning their fight to slow or halt the development of nuclear energy in our country. From the viewpoint of the hardcore Marxist, our energy crisis will be of great benefit to our Soviet enemy.

New Hampshire Gov. Meldrim Thompson showed both understanding and courage when the modern-day Luddites invaded a construction site at Seabrook, N.H., where a nuclear powerplant was being built. Governor Thompson ordered the arrest of the trespassers and stood firm when the bleeding hearts complained. As with so many other things, Governor Thompson won the overwhelming support of the people of his State.

The Information Digest of May 20, 1977, edited by John Rees, provided a detailed report of the incident. For the past 10 years, Mr. Rees and Information

Digest have provided valuable eyewitness reports on violence-oriented and terrorist groups. The Information Digest article follows:

#### THE CLAMSHELL ALLIANCE AT SEABROOK

The largest "civil disobedience" action in recent years in the U.S. took place in New Hampshire over the May Day weekend over the issue of using nuclear energy to generate electrical power. Organized by a local coalition and nationally supported by the American Friends Service Committee (AFSC) and the War Resisters League (WRL), the action demonstrated that nuclear energy and other "social" issues can be used for mass manipulation and that the civil authority, in this case the New Hampshire State Police, was unable to provide effective protection.

The well-organized occupation of the site of the nuclear power plant being constructed at the small New Hampshire seacoast town of Seabrook took place without violence on April 30, proceeded through a mass arrest of 1,414 demonstrators on May 1, and continued through the next week when those arrested refused to post bond and remained in state custody.

The occupation was organized by the Clamshell Alliance (CA), P.O. Box 162, Seabrook, NH [603/964-6514] and 62 Congress Street, Portsmouth, NH 03801 [603/436-5414]. The Clamshell Alliance is an umbrella group of some thirty anti-nuclear organizations active in the New England states which was founded in July 1976.

(NOTE.—Opposition to the Seabrook nuclear plant began as an environmental issue some seven years ago, and has been the subject of a series of ongoing court and regulatory board hearings.)

(The CA was formed by those impatient with the slow judicial process and who were impressed with the success of "direct action" as exemplified by the sabotage of a Massachusetts nuclear power plant facility and a multitude of anti-Vietnam actions in focusing media, public and official attention.)

(Following its formation last year, the CA organized several much smaller sit-ins at the Seabrook site, which were punished by nominal fines by the courts and adulatory treatment in the radical media. The CA quickly attracted the support of militant socialist pacifist organizations such as the AFSC and WRL and funding from Haymarket People's Fund (HPF) as a group advancing the cause of revolutionary "social change.")

On Saturday, April 30, 1977, some 2,500 demonstrators, mostly college students but with a substantial cadre of seasoned anti-Vietnam activists, professional organizers, drop-outs and alternative culture communards, moved onto the Seabrook site from four sides.

As the mass of 2,000 demonstrators approached along Route 1 from the West, planned flanking maneuvers resulted in successful occupation of the construction site by some two hundred demonstrators who had come through the marshes from the North and the South as a boat load of activists landed from the East. A lone Public Service Commission representative was there to tell the Route 1 contingents that they were committing trespass.

Once on the power plant site, the jubilant demonstrators occupied a parking lot, pitched some 500 tents, dug latrines, and set up their governing organization, the "Decision-Making Body" (DMB). The occupation was allowed to continue for 24 hours until 1 PM Sunday when the New Hampshire State Police, assisted by the National Guard and other departments brought in by invocation of a "mutual aid" clause, commenced arresting the demonstrators. (On the orders of their Governor, the Massachusetts State Police did not respond to the "mutual aid"

agreement with New Hampshire to which they were a party).

Before the arrests began, the demonstrators were allowed to leave the Seabrook site, and several hundred did. However, 1,414 remained to face charges of criminal trespass. Of those reported arrested, only 218 were New Hampshire residents; others gave addresses from thirty different states, with the majority (698) listing addresses in Massachusetts.

Detained in five New Hampshire armories, the demonstrators remained organized and refused to post bail, demanding release on personal recognizance even though almost all were non-residents of the state. Maintaining their tight discipline and organization, the defiant demonstrators were detained in the armories until May 13, when they were released on personal recognizance.

This important victory for the Seabrook anti-nuclear demonstrators was due in large part to the organization set up by the Clamshell Alliance organizers—the application of “affinity group” tactics to a mass sit-in-type demonstration. All participants were organized in affinity groups usually by residence. Individual demonstrators were discouraged from participating, and any individuals not known to an area affinity group were closely checked. All those who intended to participate were required to arrive in Seabrook a day before the demonstration in order to undergo “non-violent” tactical training involving role-playing, acting-out, and instructions in handling law enforcement officers and various situations provided by the American Friends Service Committee.

Affinity groups were kept small, numbering from ten to twenty people. The affinity group (G), which was based on geographical, political, social or sexual preference factors, chose a “spokesperson” or “spoke” who in turn attended the meetings of the DMB and brought back its decisions to the AG. By this successful decentralization of leadership, the Clamshell Alliance was able to maintain control and impose its wishes on the not unwilling demonstrators.

Since the Seabrook demonstration, the Clamshell Alliance has been taken up by both the alternative and radical media and organized Marxist-Leninist groups such as the Communist Party, U.S.A. (CPUSA) and the Socialist Workers Party (SWP) who are clearly planning to encourage the CA's expansion into a nationwide movement with the CPUSA linking the nuclear power plant issue to U.S. disarmament and detente, and the SWP using it to attack “monopoly capitalism.”

In reviewing those many and varied accounts of the Seabrook demonstration and the Clamshell Alliance's potential, an article in Boston's *The Real Paper*, [May 14, 1977, Vol. 6, No. 19] appears of significance and is excerpted below:

“... The Seabrook twin nukes are still in the works, and the occupation is over, but the effects of this action have altered the political course of the cynical Seventies, suddenly outlining a new path for radical politics that may avoid many of the pitfalls of the late Sixties.

“Seabrook demolished one of the mass media's most hoary clichés about the Seventies, the image of the complacent, job-obsessed college kid. The demonstrators were overwhelmingly young. There were college freshmen and sophomores everywhere, whole busloads from some schools, and they were not mere shock troops. The cadre that planned the occupation consisted mainly of veterans of the civil rights and antiwar movements. But once the occupation began, younger people were equally as prominent in leadership roles as the veterans. Steve Hiltgartner, who accomplished the delicate task

of marching the Boston contingent of some 800 people three miles to the site and arriving on schedule, is only 20 years old.

“Ironically, the dissolution of the 1960s antiwar movement led indirectly to the confrontation at Seabrook. The electric utilities planned many reactors out in the countryside, hoping the rubes would be too dumb to care. But Northeast Utilities made a big mistake when it announced plans for two giant plants in Montague, Massachusetts, right in the middle of a hippie farming area where burnt-out radicals from New York and Boston had fled to lead simpler lives.

“In February 1974 when Sam Lovejoy toppled the Northeast weather tower on the proposed site, he soon had people from the surrounding area ready to support his fight with Northeast. Lovejoy and his friends formed the core of the Clamshell Alliance in early 1976, together with Guy Chichester, a tough New Hampshire carpenter who was fighting a proposed Onassis oil refinery with his neighbors while Lovejoy stood trial for the tower-toppling incident. The Clamshell has tried to stay close to its geographical roots, to emphasize the need for a sense of place in the struggle against nuclear power. This emphasis has been one of the Clamshell's greatest strengths in organizing a regional movement, giving people a foundation in the land that the antiwar movement never had.

“The May Day Seabrook occupiers avoided two of the persistent problems that plagued the left in the 1960s, sexism and mindless violence. The strong emphasis on nonviolence he helped the demonstrators end the animosity between police and protestors. Instead of viewing the police as pigs to be taunted and spat upon, the Clamshell offered the police a chance to do what they had to do, but to do it in a humane manner. Two previous Clamshell actions had helped build this trust between the organization and the police. More than two-thirds of New Hampshire's state police were on duty at Seabrook, and all of the officers we spoke with expressed respect for the way the occupiers had handled themselves. The demonstrators, in turn, had almost nothing but kind words for the police.

“(Problems arose after the police turned the prisoners over to the National Guard and the courts, where Governor Thompson's hostility, through simple lack of preparation and concern, caused much unpleasantness.) State police superintendent Col. Paul Doyon was able to work out a peaceful end to the occupation with the Clamshell, despite the intense pressure to create a blood bath from Governor Thompson and William Loeb, publisher of the *Manchester Union-Leader*.

“The occupation was as nonviolent in organization and style as any such event is ever likely to be. Unlike the macho-ridden leadership of the Sixties left, the Clamshell Alliance has had women operating as equals since the formation of the original organizing committee. Even the state police implicitly recognized the equal status of women, failing to segregate the sexes at arrest, at arraignment, or initially in the armories serving as temporary jails.

“But the Clamshell planners did far more than merely avoid the pitfalls of Sixties organizing. They organized people into affinity groups in order to keep them together. Each affinity group had 15 to 20 members, all of whom were put through a four-hour training session in nonviolence. But the training also emphasized simply getting to know one's fellow group members. The affinity group creates a kind of artificial extended family, and even the early, pre-occupation reports of affinity group meetings showed that the experience was having a powerful effect on the participants. \* \* \*

“As we pointed out last fall \* \* \*, the Clamshell must expand its urban base to

succeed. Now some 50 affinity groups will be returning to the Boston area, nearly 1000 people who have shared an extremely intense experience together. For the first time the Clamshell will have the people power and the emotional commitment to begin doing meaningful urban organizing.

“The influx of people will also enable the Clamshell to reach out to two other groups that are necessary to create a truly powerful antinuke coalition, namely labor unions and consumer/utility organizing groups like Fair Share. The existing affinity groups should also provide a power base for enlarging the membership of the Clamshell itself.

“The continuing growth of the Clamshell also puts Jimmy Carter on notice that, unless he is careful, nuclear power will turn into his domestic Vietnam. The Clamshell Alliance is not buying Carter's Gulf of Tonkin-style energy message, a poorly disguised plan to expand nuclear power. \* \* \* If Carter and his pronuclear energy adviser James Schlesinger go ahead with Schlesinger's well-advertised plans to build three hundred to four hundred reactors by the year 2000, Carter will find himself facing a struggle as bitter as the one that brought down Lyndon Johnson. \* \* \*

“What was done at Seabrook will serve as a model for antinuclear activists around the country, who have been searching for a way to counter the unholy alliance of business and government that supports the expansion of nuclear power. They will be joining a movement which holds that we must act to save the future.”

From interviews with members of the Clamshell Alliance and the War Resisters League who participated in the occupation, it is possible to do some “Monday-morning quarterbacking” as to areas where avoidable mistakes were made:

1. The organization of the Clamshell Alliance and the affinity group structure virtually precluded any casual “drop-in” intelligence-gathering, and although Governor Meldrim Thompson showed a concise understanding of the nature of the CA and its affinity group structure, as well as its overall goals and strategy, the marsh-land invasion and boat landing of demonstrators was not foreseen by the state police.

2. Allowing the main CA body from Route 1 onto the site, then allowing them to dig-in and organize provided the CA leaders with a cheap, but important victory. Further, while some attempt was made to disrupt AGs, this was subsequently nullified by “free” association within the armories which enforced the unified “no bond” demand.

3. The inability of the National Guard to maintain order among those arrested in the armories, the fraternizing with the demonstrators by guardsmen and the de facto recognition of the CA leadership as speaking for each person arrested contributed to the success of the demonstration.

“EQUAL PAY FOR WORK OF EQUIVALENT VALUE”

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. FRASER. Mr. Speaker, this fall the National Women's Conference will be held in Houston. My own State of Minnesota will hold its women's conference in June.

Now is the time for analysis of the



barriers preventing women from full participation in our society.

I would like to bring to the attention of my colleagues an article by Ellen Goodman that was published in the Washington Post on Saturday, May 21, 1977. It is entitled, "Equal Pay for Work of Equivalent Value."

During the past decade, the women's movement in this country has broadened in scope to include more areas of concern, but blind spots continue. There are problem areas that are not seen—areas that neither women in more traditional roles nor those who proudly identify themselves as feminists have been able to articulate.

Ellen Goodman's article, a discussion with the new president of NOW, Ellie Smeal, deals with one of these blind spots.

Most women do not become executives, lawyers, and doctors, just as most men do not. Many women will continue to be housewives, with or without employment outside the home. Many women will continue to work in the "traditional" women's occupations such as clerical work, sales, nursing, teaching—out of choice or necessity.

Most Americans firmly believe that equal pay for equal work should be an enforced principle in our society. But women earn only 57 percent of what men do. A large part of the pay gap occurs because some of the occupations in which women work are low-status, low-pay.

Clerical work is commonly called an occupational "ghetto" with good reason. Low pay, little access to training or advancement, unstated assumptions that clerical workers are unable to do other jobs, all too often accompany the job. And in clerical work, as in many other occupations, men are clustered at the top and women at the bottom of the pay scale: 35 percent of women workers are in clerical jobs; 6 percent of men are—according to figures from the Women's Bureau, Department of Labor.

We all know that without competent clerical workers, everything would fall apart. A variety of skills are needed by clerical workers. I am not suggesting that we give roses to the people in our offices who do clerical work. I am suggesting that we carefully read Ellen Goodman's article, note again that 35 percent of women are in clerical jobs while 6 percent of men are, and consider why clerical and other "women's work" has the low pay and status that it has.

[From the Washington Post, May 21, 1977]  
EQUAL PAY FOR WORK OF EQUIVALENT VALUE  
(By Ellen Goodman)

BOSTON.—Ellie Smeal wants to get away from the concept of equal pay for equal work.

If that sounds a bit odd coming from the brand-new president of the National Organization for Women, hang in here for a minute.

For 10 years, Eleanor Marie Cutri Smeal, the youngest child and only daughter of an Italian immigrant family in Ashtabula, Ohio—"I always wished I was born in a city I could spell"—supported equal pay for equal work, and watched the wage gap between male and female workers grow into a chasm. Now, she sees that the average woman earns only 57 per cent of what a man earns, and

that women form the core of the working poor.

Finally, the 37-year-old Pittsburgh housewife believes that the women's movement has been caught in a Catch-22. Equal work was described as the same work, but few women are actually doing the same work as men. About 73 per cent of the employed women work in female-dominated job categories. "In essence we were saying that if women did the jobs that men traditionally did they deserved equal pay. If they did not do those jobs, they didn't deserve it."

Since there are thousands of clerical workers for every First Woman Firefighter, the old limited notion of equal pay hasn't helped raise the income level of the majority of working women.

"What we did innocently was to get ourselves into a trap. We talked so much about opening new doors—and we want those doors open—that we didn't talk enough about the women in traditional jobs."

It is perhaps inevitable that Ellie Smeal would be the first NOW president to place an open priority on upgrading the work of "women's" jobs. While her predecessor was a lawyer, Smeal has been a housewife and mother of three children throughout her entire adult life. The first paycheck she cashed in years came three weeks ago with her new office. As she puts it, "With my own background it's natural that I'm very interested in the jobs women traditionally do, jobs that society—not the women's movement—underrates."

In a basic way, Smeal has both symbolized and activated a shift in the attitude of the movement. "If our basic goal is economic equality, if we are trying to improve the economic conditions of the majority of the American women, we have to start upgrading the jobs they do. There's nothing wrong with being a secretary except that you're not paid well."

In this spirit, she is pushing for something called equal pay for work of equivalent value—work that is not identical to that of men, but is equal in terms of training, skills and importance.

"The jobs that women do are often complicated and highly skilled. A secretary needs training on business machines, a command of the English language, discretion, the ability to make decisions. We have to ask why she is paid on the lower end of the scale than men in less-skilled jobs."

"Most bus drivers, for example, get paid more than a licensed practical nurse. Yet they are both jobs with physical labor, life-and-death decisions, and both take special training."

Homemaking is also "work of equivalent value." While she doesn't advocate a salary for homemakers, at the very least she wants to "upgrade" and "secure" her own job category. In that regard she supports disability insurance for the sick, and a displaced homemakers bill for the widowed and divorced. She also believes that, in a one-worker home, the paycheck should be made out in the name of the family. "This would be a public recognition of the fact that the husband and wife have made an agreement to have an economic partnership."

It is, after all, economic equality that is the goal. The kind of equality that will help not just women, but families as well. "We're talking about sex discrimination, yes," says Smeal, "but we're also talking about discrimination against the average- and lower-income family. If men realize that, they will be much more supportive."

"Today the economy is demanding that two parents work for one and a half incomes. The corporations are actually getting two laborers for one and a half salaries. I think if we start thinking in those terms—two workers, doing work of equivalent value—then we will start getting some changes."

## U.S. VISA POLICIES FOR EUROPEAN COMMUNISTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues a recent exchange of letters I had with the State Department regarding our visa policies for Communist Party members from Europe who wish to visit the United States.

The State Department reply indicates that, despite certain recent visa rejections, there has been a slight loosening up of some previous restrictions and that our entire visa policy is under current review, "with an eye to its liberalization."

The correspondence follows:

WASHINGTON, D.C., April 20, 1977.

HON. CYRUS R. VANCE,  
Secretary of State, Department of State,  
Washington, D.C.

DEAR MR. SECRETARY: I read with interest recent press coverage of the denial of visas to Soviet trade union officials who were invited to attend a labor convention in the United States and of the apparent veto by certain American labor organizations of the granting of such visas.

I would like to know precisely: why visas were granted recently to certain Italian Communist leaders and denied to Soviet trade union officials?

—Who outside the United States government actively opposed the granting of the visas and whether or not certain labor groups vetoed the granting of visas?

—How the United States will be able to defend its visas policies vis-a-vis European Communists in light of the Helsinki Accords at Belgrade later this year?

—What national interest and foreign policy objectives are promoted by the denial of visas?

I appreciate your consideration of this letter and look forward to your early reply.

With best regards,

Sincerely yours,

LEE H. HAMILTON,  
Chairman, Subcommittee on  
Europe and the Middle East.

HON. LEE H. HAMILTON,  
Chairman, Subcommittee on Europe and the  
Middle East, Committee on International  
Relations, House of Representatives.

DEAR LEE: The Secretary has asked me to reply to your letter of April 20 concerning the recent denial of visas to certain Soviet trade union officials.

The Immigration and Nationality Act provides for the exclusion of certain classes of aliens. Section 212(a)(28) provides that members of Communist organizations are ineligible to receive visas. While the law does contain discretionary authority for waiver of this ineligibility, each application must be reviewed on a case-by-case basis.

An important factor in our consideration of whether to recommend a waiver is the purpose of the trip. The Mayor of Florence was here in connection with a sister-city relationship to Detroit. Several Italian and French Communists visited the United States as part of the Western European Union parliamentary delegation. It is the current policy of the Department to decline to recommend waivers of visa ineligibility for Soviet trade union officials on the grounds that labor organizations in the U.S.S.R. are government-controlled and such officials

should therefore not be treated in such a way as to suggest that they are in fact representatives of free and voluntary trade unions. While representatives of American labor have expressed support for this policy to the Department, neither they nor anyone else vetoed the granting of the visas.

As for the CSCE meeting in Belgrade in the fall, our record of compliance with the provisions of the Final Act is excellent in general. The U.S. is one of the few signers of the Helsinki Act which does not have a system of internal travel controls. Moreover, the President recently removed all restrictions on travel abroad by our citizens and by permanent resident aliens.

There are a number of other positive steps we have taken recently to promote freer movement of people. We have proposed to all the Eastern European countries the mutual abolition of closed zones. Our initiatives have been successful in all countries except Bulgaria. In addition, we proposed to them the reciprocal elimination of non-immigrant visa fees. To date that initiative has had no response. Unilaterally, we opened one zone previously closed to Soviet diplomats, and have invited them to reciprocate. They have not replied. I should add that our entire visa policy is currently under review, with an eye to its liberalization.

In view of the steps we have taken and the nature of our visa policies viewed as a whole, we believe we can effectively defend those policies at Belgrade.

I hope this information will clarify the position of the Department of State in this matter.

Sincerely,

WARREN CHRISTOPHER,  
Acting Secretary.

#### THE NEED FOR NEW JUDGESHIP IN THE FIFTH DISTRICT

**HON. WILLIAM LEHMAN**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. LEHMAN. Mr. Speaker, our Federal courts have served us with distinction since their inception. Many of our concepts of law which insure our freedom come from decisions handed down by these few men working in the interests of justice. We seem to take their standards of excellence for granted. Yet, Mr. Speaker, we can no longer afford to do so. Our courts are in trouble, not from lack of caring or qualified judges, but from the increasing caseloads which threaten the quality of justice in the United States.

I will not weigh you down with the massive statistical evidence which exists showing our district and circuit courts in serious need, yet a few facts must be mentioned to illustrate the nature of the problem. The fifth circuit is in particularly dire straits. New filings are up 10, 20, even 30 percent higher than the national average. Case termination by judges of the fifth circuit have increased in similar amounts.

This increase in case termination, however, has come at a high cost. The judges of the fifth circuit have instituted a screening procedure which disposes of about half of the cases by unanimous consent without oral argument or

a written decision. Without this process, a backlog of some 5 years would today exist.

The speedy trial requirements which often make this type of disposal necessary—indeed it is the only way this caseload can be met—makes the practice of a written opinion a vanishing one.

The value of a written opinion to a free society such as ours is inestimable. It insures against the capriciousness of an arbitrary decision and enables the courts to explain their reasoning and judicial interpretation of the underlying values and principles of our laws. Furthermore, written opinions can indicate the direction our legal system will take in the future.

The custom of oral argument before a court is a fundamental right of every citizen. The belief that everyone can be heard in a court of law is a cornerstone of the legitimacy that our courts have today. The judicial system we enjoy today is our inheritance from the common laws of England. The courts are the mediators between the powers of the Government, and the rights of the people. They protect us from becoming numbers in a computerlike output of institutionalized justice. Further, the cases most likely not to be heard are civil rights and other cases not bound by speedy trial requirements.

Prospects for the future are dim. In the unlikely event that filing of new appeals remains static, some cases classified for oral argument may never be heard, even with the practice of disposing of 55 percent of all cases without such argument.

Mr. Speaker, it has been 7 years since the Congress has enacted legislation aiding the Federal courts. Population estimates for 1980—based on the last census in 1970—have long ago been surpassed in the Fifth Circuit, and with them, the estimated number of new cases filed has also gone up. The judges of the Fifth Circuit have more cases per judge than the judges of any other district, surpassing by 279 the caseload per judge recommended by the Judicial Conference.

I urge my colleagues to give their full consideration to H.R. 3685 which would relieve these severe problems not only in the Fifth Circuit, but in all areas of the country as well.

#### CONCORDE

**HON. JAMES H. SCHEUER**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. SCHEUER. Mr. Speaker, one of the most energetic public officials with whom I work is New York City Councilman Walter Ward. Councilman Ward represents in the city legislature, just as I do in Congress, the Howard Beach, Lindenwood, and Rockaway communities that surround that bastion of serenity and tranquility JFK Airport.

Councilman Ward and I have been working to reduce noise levels at Kennedy for years. We have fought together for 3 years against the incursion of the Concorde. We will not relent in our efforts to reduce the noise at JFK Airport and to keep the Concorde—the Edsel of the skies—out of our communities.

I call to the attention of my colleagues Councilman Ward's comments, spoken by a truly dedicated community leader:

SST STATEMENT SUBMITTED ON MAY 13, 1977, BY COUNCILMAN WALTER WARD TO THE ENVIRONMENT, ENERGY, AND NATURAL RESOURCES SUBCOMMITTEE OF THE HOUSE GOVERNMENT OPERATIONS COMMITTEE

If Democracy means anything at all, it means that the Will of the People is Sovereign. When the people speak, our government must listen.

Our people are against the landing of the S.S.T. at J.F.K.

Our people have spoken at rallies and demonstrated by the thousands. They have written countless letters, petitions and telegrams. Our City Council, the elected officials representing collectively the will of 8,000,000 people has passed unanimously two resolutions, banning the S.S.T. Concorde from landing at J.F.K. Airport.

Our own Congress voted against the building of the S.S.T. in America because of its noise levels. Yet foreign Countries, Britain and France, say we must allow them in and they threaten us with reprisals if we do not.

Some people say we are holding back progress?

Is it progress? Let us ask Mr. Peyer, Principal of P.S. 124 who says of the Conventional Jet Planes:

"When the planes go over the building, everything freezes—everything stops until the plane passes.—nothing happens in the classrooms. Teaching is at a stand-still. The planes come over very often, especially when the weather is good. I believe the structural damage to the building is caused somewhat by the planes."

Is it progress to Mr. Kuntzler, Engineer at P.S. 124 who says of the Jet planes:

"The school building suffers water leakage thru the exterior wall and the building is cracking. I contribute it to the vibrations of the planes. Sometimes in inclement weather, the planes pass no more than 50 feet over the roof of the building. My helper and I silently say 'God help us'."

Mr. Kuntzler is most unfortunate because when he leaves the school, he goes home to Elmont, New York, where he lives under Runway 22R. His home has cracks in the ceiling. His dishes rattle in the china closet. He feels the loudest noise come from the 707's and the D.C. 8's.

Can we add even another noisier plane... the S.S.T. . . . that is twice as noisy as the 707 and the DC 8?

Is noise pollution, fuel emissions, air pollution, damage to the ozone layer a sign of progress? Last weekend on T.V., a pilot was interviewed and he told of the effects of his exposure to the high concentrations of the ozone layer gas. He called it the Ozone Disease.

Can we burden our hard-working, tax paying residents with added health dangers and property damage?

The Commercial interests of Britain and France must be secondary to the interests and welfare of the thousands of residents who live near the airport.

Does it make sense to cause suffering to hundreds of thousands so that the few, able to pay the \$1600 round trip can save a few hours?

The choice must be in favor of the many. Any other way is a betrayal of the essence of democracy.



## STRIPES AND STARS AND STRIPES

## HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. LEGGETT. Mr. Speaker, last Saturday night it was my good fortune to speak briefly to several hundred assembled members of the Sacramento chapter of the Air Force Sergeants Association with Ken Mayo of the national office.

We were drawn together to honor the local past presidents and auxiliary of the association.

At the event, CMSGT Francis W. Roper committed a tribute to the flag in writing of significant perspective. If patriotism could be personified, the Sergeant Roper message is it.

If the flag could speak, Sergeant Roper thinks the following might be recorded:

## STRIPES AND STARS AND STRIPES

"Hello Sergeant, Good seeing you again. Remember the first time we met? It was 4th of July, and your father was holding you high on his shoulder so you could see as I led the parade down Main Street. I felt proud leading that parade, because everyone made me feel that way. They held their hands over their hearts as I passed by, to reaffirm the pledge of allegiance they had willingly given to me so many times, even as children. They made me feel proud. As I waved to all, I could actually see my stars and stripes sparkling in your eyes.

Remember, some 20 years later. My, how we both had changed. I had two more stars in my blue field, and you were wearing your first Air Force uniform. You looked great!

And now, after several years, I see you again as I look from my lofty perch in front of command headquarters. You're still looking great! I notice that you've added several stripes to your sleeve. A young woman has become a part of your life, and that little girl holding your hand shares her mother's beauty, but she has your eyes. She reminds me of you, at that 4th of July parade, long ago.

What's that I hear? Must be time for another retreat ceremony. There's the national anthem. I notice that you once again stand at attention as you salute. Your wife's saluting by holding her hand over her heart, and not to be outdone, your little girl's pressing her right hand so firmly over her heart that I can't help but swell with pride as I wave in the breeze, and salute all of you back.

But what is this I see happening? Several others in uniform came out of a building, looked at you saluting, and they turned and ran back inside. I can't believe what I'm seeing! Those who have pledged their lives to defend this country are running away as if they are ashamed of me. And look at those other men and women not in uniform, just walking along and talking while our national anthem is playing. One of them is wearing my colors on his shirt and can you believe it, one is wearing my stars and stripes as a patch for the seat of her jeans. They don't seem to know who I am. They don't seem to realize what I stand for.

Don't they know how many brave men and women have fought for the freedom they now enjoy. Don't they care how many selfless Americans have made supreme sacrifices for that which these people seemingly take for granted today? Just look at our disabled veterans, those still missing-in-action, and the memorial roll of the many who never came back from the fight to keep this country free, one nation under God. When you salute me you are saluting those principles which have made the United States of America the greatest nation on Earth.

When you salute me you are saluting a man who had a dream that people of all races and creeds could live together as brothers, and, you salute those who ask not what their country can do for them, but what can they do for their country.

I don't think the others mean to be disrespectful—they just haven't achieved the realization that the principles of freedom, equality, justice, and humanity must be continuously nurtured. Will you help others to understand that I symbolize these principles and the people of this great nation?

Let them see me in the proud way you wear your uniform. In your dedicated service to your country. Show them how to pay proper respect to their nation's flag.

Sergeant, I know I can count on you to do more than your share to keep the fires of patriotism alight. I know I can count on you to prevent our enemies from tearing me down. Because of this I know that I'll continue to fly freely over this great land and brave people.

And Sergeant, I know that you'll always make me proud to be your Flag.

## WHITE HOUSE CONFERENCE ON HANDICAPPED

## HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. FINDLEY. Mr. Speaker, the White House Conference on Handicapped Individuals is meeting this week at the Sheraton-Park Hotel. The people in attendance—most handicapped in some way—deserve our full recognition and support. There are people confined to wheelchairs, people on crutches, and some who are bedridden—all meeting at President Carter's call to "provide a national assessment of problems and potentials of individuals with mental or physical handicaps; to generate a national awareness of these problems and potentials; and to make recommendations to the President and Congress which if implemented, will enable individuals with handicaps to live their lives independently, with dignity and with full participation in community life to the greatest possible degree."

Many of us who are fortunate enough to be free of handicaps are not aware of the hardships suffered by those confined to wheelchairs or crutches.

Too often we in Congress make decisions which greatly benefit the public, but at the same time create obstacles and hazards for others. Ignorance of the special problems of the handicapped can lead to situations where even our best attempts to help go astray. For example, I learned just yesterday when I visited with Illinois delegates at the Conference that the curbs which have been lowered around the Capitol and the new Library of Congress to accommodate wheelchairs still present a serious hazard to the handicapped due to the rough, pebble texture of the ramps. Apparently, wheelchairs can catch on the textured surface of the ramp causing the owner to spill out into the street. Thus, despite the best intentions of those who designed the ramps, a serious problem remains. One of the goals of the Conference is "to generate a national awareness of these problems and potentials."

I urge my colleagues to attend the Conference or send a representative. Learn who the handicapped leaders are in your congressional district. Learn what their needs are and in what ways you as their elected representative can assist them. I can assure you, it is a heartwarming and worthwhile experience.

## HOSPITAL COSTS CAN BE REDUCED

## HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. BOB WILSON. Mr. Speaker, much has been said already about Federal overregulation and the onerous bureaucratic requirements that have been placed on our society. In some way or other our Government intrudes on the life of every one of our citizens.

But generally when we talk about this problem we do so in generalities. In the following article from the Spring Valley, Calif., Heartland News, we are brought face to face with specifics, and I believe my colleagues will find these specifics a very sobering matter:

## HERE'S HOW CARTER CAN REDUCE HOSPITAL COSTS

American hospitals are being buried under an avalanche of government-created paperwork—so mountainous that it's costing patients and taxpayers an extra \$1 billion a year to pay for its handling.

In West Virginia, the cost of processing government forms adds \$13.24 per day to each patient's bill.

In Tennessee's hospitals, the cost of completing just one government form totals over \$1.3 million a year.

In New York, 164 different government agencies—each with its own forms—have some type of control over hospitals.

An estimated one-fourth to one-half of the questions asked on the forms duplicate one another.

Said Dr. David Drake, director of policy development for the American Hospital Assn.: "We're talking about \$1 billion just for filling out forms!"

The assistant director of the West Virginia Hospital Assn., Walter R. Mitchell Jr., after a study of hospital paperwork in the state, said: "The cost of the federal and state processes, on a conservative basis, is \$13.24 per patient per day."

"For Medicare and Medicaid service there are over 10,000 pages of regulations—and good grief, there's about 1,000 pages of changes on my desk right now!"

The Hospital Assn. of New York State made a study on regulation of its hospitals.

In Pennsylvania, the Hospital Assn. made a study of survey forms received by community hospitals in 1975.

Jack Wicks, a vice-president, said filling them out took a total of 50,800 man-hours and cost an average of \$1,020 per hospital! That, he stressed, was just for surveys—not the mass of federal and state forms required for each patient.

And the Tennessee Hospital Assn., in testimony before the Commission on Federal Paperwork, focused on the cost of handling just one piece of paperwork, Social Security Administration form 2552. The group stated: "The total expense to the state's community hospital system to complete this one form totals \$1,322,798.20 a year."

Who pays for it all? Declared West Virginia's Mitchell:

"The patient is paying more (and) the taxpayer is also picking up the burden under the federal program."

"My feeling is that many people are just feeding on this bureaucracy because the only way they can justify their existence is by writing a regulation today and perhaps changing it next week."

#### INSIGHT FOR THE BLIND

### HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. BURKE of Florida. Mr. Speaker, in my congressional district, which includes most of Broward County, Fla., there is a splendid volunteer organization called Insight for the Blind which records books and magazines for the blind and handicapped. The master tapes prepared by this volunteer group are housed at a regional library in Daytona Beach, Fla., and are available for distribution to patrons throughout the State of Florida, 13 other Southern States, the Virgin Islands, and Puerto Rico.

We often read about the harm that some people inflict on others, so it is refreshing when we read about the good that people do for others, especially when it is without any financial compensation. Insight for the Blind has no paid employees nor does it receive any financial support from any governmental agency or from the United Way. Private citizens donate money for the facilities and volunteers give their time in the recording booths. In the first full year of operation more than 10,000 volunteer hours were recorded.

I want to commend the outstanding people from my congressional district who participate in this program, and, also share with my colleagues, a newspaper column from the Fort Lauderdale News entitled "Want To Be a True Giver?" written by Yolanda Maurer, which explains more thoroughly the operation of Insight for the Blind. The article follows:

[From the Fort Lauderdale News, Dec. 16, 1976]

#### WANT TO BE A TRUE GIVER?

(By Yolanda Maurer)

In case you're tired of hearing about organizations which raise monies through charity balls and luncheons, here's one that doesn't.

It's Insight for the Blind, a group founded in Fort Lauderdale only a year ago and sustained through private donations only. Ever since its inception, it has done wonders assisting those afflicted by one of the most severe handicaps that may strike man.

In one short year, Insight volunteers recorded 67 magazines and 11 books, including several textbooks. From a best selling novel or recipe for hushpuppies, to the latest copy of Redbook, they made the magic of the written word available to 10,000 sightless Floridians who would never have otherwise known it.

Insight has just been honored by being asked to participate in a Library of Congress pilot project. It consists of recording a digest of the nation's publications specializing in music. Only groups with a high degree of professionalism were asked to participate.

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Carolyn (Mrs. Edward) Mansur, who started Insight with quiet dedication and determination and still presides over it, says that its growth in one short year has been almost incredible.

Over 120 volunteers put in thousands of hours of reading, monitoring or editing the requested works.

Growth is now limited only by funding, all of which has been through private donations from the very start.

The center's three soundproof recording booths, for example, have been constructed and installed by the Fort Lauderdale chapter of Telephone Pioneers of America.

Its quarters are provided by a member of the board, another board member having provided the first Telex recorder.

Much of its equipment and office furnishings have been contributed from the first day by people who care.

There are an estimated 30,000 people in Broward eligible to receive Insight's recorded material. Tapes and play-back machines are furnished to them free.

At this point, Insight needs, among other things, more soundproof recording booths to make full use of their volunteer talent.

The volunteers are here to meet those needs, the equipment is not.

Volunteers like Bob Carris, the producer of "Mr. Wizard," a longrunning TV program, came forth, to help with the new musical recording project. He even brought his bongo drums with him to illustrate his narration, says Carolyn Mansur.

Quietly, without fanfare or publicity, a board of directors comprised of most interesting individuals work steadily with Carolyn to keep the project alive.

Vice president Virginia Bishop is a talented artist listed in Who's Who of American Women, among other honors she has collected over the years.

Ted Mansur, who's a big help in the combined functions of treasurer and secretary, held a most unusual job before his retirement: He was legislative clerk for the U.S. Senate, a one-of-a-kind office that kept him close to the seats of power for over 20 years.

Also on the board is the Hon. Judge George Richardson, of the circuit court; Nan (Mrs. William) Knox, one of the most selfless philanthropists in our town; Elma (Mrs. Duncan) Berryman, a past president of the American Bonzal Society and a nationally recognized horticultural expert; attorney Joe Sasadu, whose help in getting legal matters organized was invaluable.

All these people, plus hundreds of volunteers devote untold number of hours to their favorite cause.

Even a wheelchair-bound volunteer such as Bill Rhyen, a former radio announcer gladly helps those more severely handicapped than he is by lending his beautiful voice to record for hours on end.

All that's needed now are contributions to continue the work of all those people.

They are looking now for "volunteer givers".

That's the name they've come up with for those people who prefer to give directly to a cause—rather than do so through a social function.

The question is: Are there enough of those volunteer givers in Broward to allow Insight to continue its work without resorting to a fund-raising ball or luncheon?

Hopefully, the answer will be yes.

Especially from those people who have been complaining about the over-abundance of social fund-raisers.

And especially at Christmas time, a time for loving and giving.

Not giving more trinkets to those who already have too much—as most of us do. But giving to those with real and vital needs—such as the blind.

If you are among those true givers, you

can help by joining Insight for as little as \$10.

Or you may send any amount your heart—and pocketbook—will dictate.

It's all tax deductible to: Insight for the Blind, 1935 Wilton Manor Drive, Fort Lauderdale 33305. Or call 561-5644.

#### ON OSHA'S PROPOSAL TO FUND ON-SITE CONSULTATION PROGRAMS ON A 90-10 BASIS WITH STATES

### HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. GAYDOS. Mr. Speaker, I wish to direct the attention of my colleagues to a recent proposal issued by Dr. Eula Bingham, the new Assistant Secretary for Occupational Safety and Health. The proposal—a most conscientious effort on the part of the new OSHA Administration—would give more small businesses guidance on how to comply with Federal job safety and health rules.

Under section 7(c)(1) of the 1970 Occupational Safety and Health Act, a provision is made for States to enter into contracts with the Department of Labor to provide occupational safety and health counseling services to employers. To date, the cost of those services has been shared on a 50-50 basis by State and Federal governments, and just 13 States have entered into on-site consultation contracts as provided for under section 7(c)(1).

The high cost to State governments to provide consultative services has been cited as a major factor prohibiting many of the States from offering the services. Thus, in an effort to encourage State assistance in this area, OSHA's new proposed regulations would revise the funding ratio to authorize 90-percent funding by the Federal Government—instead of the current 50-percent funding—and 10-percent funding by each State electing to develop and implement an on-site consultation program. The net effect of the proposal would be to provide an incentive to State governments to avail their businessmen of these important consultative services.

In addition, the proposed revisions would allow the 24 States or jurisdictions currently operating their own job safety and health programs to participate in the new program. As a result, every State could receive 90 percent Federal funding if the State elects to provide onsite consultation.

As chairman of the Subcommittee on Compensation, Health, and Safety, which has oversight duties with regard to OSHA, I am well aware that many employers, especially those owning small business establishments, have indicated a need for assistance in understanding and implementing OSHA's regulations. The proposed action should go a long way toward satisfying their needs, and I wish to commend the Department of Labor for its proposed action.

Regrettably, this very forthright step taken by Assistant Secretary Bingham has met with ridicule from a few sources. It is indeed unfortunate that this very



meritorious action, taken in response to requests from the small business community, is being criticized in this manner.

# TERRORISM IN NICARAGUA: HAVANA'S EXPORT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. McDONALD. Mr. Speaker, despite the claims of those promoting U.S. recognition of the totalitarian Communist regime in Cuba, Fidel Castro continues to train terrorists, provide a refuge for terrorists, and actively export revolution throughout Latin America. There is an unfortunate general tendency for journalists to avoid critical reporting on the activities of terrorists, and for government security agencies to discourage dissemination of detailed information about the backgrounds of terrorist leaders, where and by whom they were trained, their support networks, and so forth. And in at least one case a government, to counter the terrorists' demands that newspapers print pages of revolutionary communiques and propaganda, forbade even the mention of the name of any terrorist group in the media. That move did not damage the guerrillas, but did deny the public important information.

The Nicaraguan Government, however, has a much wiser policy of exposing the terrorists to the public. In 1976, the Nicaraguan counterinsurgency forces had outstanding successes against the Frente Sandinista de Liberacion Nacional—FSLN—capturing a number of top terrorists and killing others in shootouts. One of those captured was Tomas Borge Martinez, one of the four founders of the FSLN. Borge provided the Nicaraguan court at his public trial with details of the FSLN's operations, including its vicious treatment of Nicaraguan villagers, its internal purges and executions, its training in Cuba, and its relations with the official pro-Soviet Communist Party in Nicaragua which is called the Partido Socialista de Nicaragua—PSN.

The FSLN has been typical of the revolutionary operations sponsored by the Cuban Communists in Latin America, and as such its history serves to highlight the unprincipled brutality of the Marxist-Leninist "national liberation movements."

The origins of the Sandinista National Liberation Front—FSLN—go back to 1959 and the earliest Castro-backed guerrilla incursions in Nicaragua. The FSLN is named after Augusto Cesar Sandino, a Nicaraguan general who fought a 6-year guerrilla campaign—1927-33—against the U.S. military presence. Sandino was widely supported by the Communists. The 1928 Sixth Congress of the Communist International in Moscow adopted a resolution proposed by the Communist Parties of the United States

and Mexico which sent "fraternal greetings to the workers and peasants of Nicaragua, and the heroic army of national emancipation of General Sandino, which is carrying on a brave, determined struggle with the imperialism of the United States." Sandino's private secretary was the Salvadorean Communist leader Augustin Marti. Although the Communists later denounced Sandino, the Communists use his name as an anti-U.S. symbol of armed insurrection.

Carlos Fonseca Amador, the founder of the FSLN, was a professional revolutionary for 20 years until his death in a shootout with the Nicaraguan National Guard in November 1976. He was educated in Moscow at Friendship University—now called Patrice Lumumba University—which is the Soviet Union's principal indoctrination center for "Third World" revolutionaries. Its graduates include the Venezuelan terrorist Ilych Ramirez Sanchez, alias "Carlos the Jackal."

Fonseca's involvement in revolutionary "armed struggle" commenced on June 24, 1959, when a guerrilla invasion force, "El Grupo del Chaparral," met with a Nicaraguan National Guard force. The guerrilla force of Nicaraguans and Cubans suffered 7 dead and 17 wounded. The surviving 27 revolutionaries fled back into Honduras and surrendered their arms to the local authorities. Fonseca was one of those seriously wounded in that encounter.

While Fonseca was recovering from his wounds, several other guerrilla bands whose members included veterans of Castro's Sierra Maestra army unsuccessfully attempted to invade Nicaragua from Honduras and Costa Rica.

In 1960, Fonseca and the Cuban Ambassador to Nicaragua Quintin Pino Machado, organized the precursor of the FSLN, the Juventud Patriotica Nicaraguense—Nicaraguan Patriotic Youth. Fonseca and other Nicaraguan revolutionaries living in Honduras such as Tomas Borge Martinez expanded their group to include the Frente Unitario Nicaraguense, another group of Castroite Nicaraguan radicals living in Venezuela, also founded with Cuban assistance.

That year some 17 Nicaraguan revolutionaries, including Fonseca and Borge, commenced nearly a year of training and indoctrination in the Fifth District barracks in Havana. Following the 1961 Bay of Pigs fiasco, the Cuban Communists decided to give the Nicaraguan revolutionaries "a higher level" of military training. According to Borge's testimony, the FSLN cadre were told that they were the first Latin American group to receive such assistance from the Cubans. The FSLN was given an intensive 3-month course by officers who were veterans of Castro's Sierra Maestra campaign, then were sent to the remote Piedra Gata and El Portal del Inferno regions of Honduras to set up a base camp.

The initial FSLN guerrilla group consisted of some 60 men equipped with an assortment of small arms such as Garand

M-1 and M-2 rifles, hand grenades, and machineguns. Borge, however, remained in Cuba to undergo the official Cuban "militiaman's course" in tactics, combat engineering, and armaments, such as the use of Soviet and Czech weapons and the Belgian Alfal.

While in Havana, under Cuban direction, Fonseca and the Nicaraguans developed the political strategy to complement the move into armed struggle. A united Nicaraguan front set up a new Nicaragua movement to unite all the dissident groups. Fonseca made continuous travels coordinating the revolutionary groups.

In mid-1963, following a year of preparation in Honduras, the FSLN guerrillas invaded Nicaragua and set up a base at Raiti. The FSLN had expected to win the local population, Miskita Indians, to their cause; but failed because the Indians could not identify their interests with the cause of the Spanish-speaking revolutionaries.

The FSLN then demonstrated its true nature with a series of raids on small villages to steal supplies from the very people they claimed to be "liberating." The Nicaraguan National Guard sent patrols in pursuit of the revolutionaries who retreated after skirmishes back into Honduras. Most of the FSLN guerrillas were caught by a Honduran Army patrol following a raid on a mining camp. This ended the FSLN's first stage of "armed struggle."

The FSLN members and supporters remaining in at Nicaragua's National University and in Managua then made an alliance with the pro-Soviet Communist Party, the Partido Socialista de Nicaragua—PSN. Despite its illegal status, the PSN had an estimated 300 cadre members and several thousand supporters among the labor movement and students in the total population of 2 million. The FSLN underground participated in the PSN's political action front, the Republican Mobilization—MR—active in the opposition coalition, the National Democratic Union—UDN.

The FSLN participated in the Tricontinental Conference, held in Havana in January 1966, at which Castro set up his organization for the export of revolution and subversion, the Organization of Solidarity of the Peoples of Asia, Africa, and Latin America—OSPAAAL. Later that year, the FSLN broke with the PSN over whether to participate in the electoral front or whether to rely on armed struggle and terrorism as the only method for securing a revolution.

The FSLN's return to the "armed struggle" was a fiasco, suffering a heavy loss in a fight with the National Guard at Pancasan on January 22, 1967. The FSLN then decided that it needed larger forces, better training and a "broader political base"; and thus the FSLN leadership returned to Cuba for additional training. According to Tomas Borge, among those who accompanied him were Fausto Amador; Rolando Roque; Francisco Rosales; German Pomares; Victor Manuel Tirado Lopez; Olga Lopez Aviles; Oscar Turcios; Gustavo Adolfo Vargas

Lopez and his wife; Oscar Vargas Lopez; Oscar Benavides; Humberto Ortega and his wife, Rosa Argentina Gomez; and Denis Campbell.

Borge described their training as "the standard guerrilla course and certain special courses in communications, \* \* \* explosives and training in arms such as bazookas, 60mm and 90mm mortars, antitank cannon."

The FSLN returned to Latin America via travel to European countries, including Communist Czechoslovakia. Borge was arrested in Costa Rica in 1969 while attempting to make arms purchases, along with Henry Ruiz. The two were deported to Colombia where they stayed with Father Vicente Mejia, a "rebel" priest. The Colombian authorities then arrested Borge and Ruiz, held them for a month, then gave them 72 hours to leave the country.

The two Nicaraguan revolutionaries made contact with the Colombia Communist Party which provided passports and money of Cuban origin obtained via Mexico. Borge and Ruiz then went to Peru and made contact with the Communist Party before traveling on to Mexico. In Mexico the FSLN members reestablished contact and remained until 1971.

The FSLN remained inactive until 1971, when another penetration of Nicaragua was secretly carried out. The FSLN remained sporadically active in the remote rural areas until 1974, when it was decided to take hostages to force the release of FSLN terrorists in Nicaraguan prisons.

On December 27, 1974, 13 FSLN members led by Eduardo Contreras Escobar attacked a holiday party in the Nicaraguan capital, Managua, killing 3 people and holding 41 hostages including leading members of the business community and diplomats. The FSLN was granted its demands for \$1 million cash, the release of 14 jailed FSLN terrorists, and a plane to fly them all to safety in Cuba. The Cubans gave the Nicaraguan terrorists a heroes welcome, and introduced Contreras in a Havana radio interview as the man who "one day would impose a Communist regime in Nicaragua." Borge did not take part in that raid, but remained underground in Nicaragua.

The Cubans and the FSLN decided to take full advantage of the psychological offensive with a move into intensive terrorist activity. Castroite support groups in this country, such as the North American Congress on Latin America—NACLA—prepared propaganda attacks on the Nicaraguan Government which contained predictions of FSLN success. As before, however, the National Guard of Nicaragua interfered severely with FSLN plans, capturing a number of its leaders and killing not only the Moscow trained Fonseca Amador, but Contreras as well.

In February of this year, following a public trial, the Nicaraguan Government convicted 35 FSLN members held in jail of major crimes, as well as another 75 terrorists convicted "in absentia." The trial record produced evidence of some 2 dozen bank robberies and

the kidnappings and murders of over 110 people, mostly unarmed villagers, women and children, and village leaders serving as "justices of the peace."

The public record of the FSLN shows the only liberation it holds is a liberation from life into death by the most brutal and degrading methods its torturers could devise.

#### AVIATION FUEL SUPPLY THREATENED

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. GOLDWATER. Mr. Speaker, an old friend of mine recently sent me an amazing article entitled, "Aviation Fuel Supply Threatened," from Flying magazine.

The article describes why we must embark upon a program to obtain gasoline from coal and oil shales, since our oil supplies are finite. It stresses:

First of all, we should never permit the United States to become dependent upon foreign sources for its liquid fuel.

So what makes this article amazing? The fact that it was written by then-Senator J. C. O'Mahoney in April of 1944.

I present this article to my colleagues, for the sake of historical perspective:

IS AVIATION'S FUEL SUPPLY THREATENED?

By Senator J. C. O'Mahoney

There will be plenty of gasoline, enough to win this war and carry aviation and industry over into the peacetime boom already foreshadowed on the horizon—but only if the United States rapidly expands its program for the production of synthetic liquid fuels. Without such a program we shall become an importer of petroleum and thus dependent upon other lands and other peoples for the fuel supply we must have to maintain the commercial and industrial leadership which America now enjoys.

Of course, if we wanted to use every drop of oil we could drain out of existing sources without regard to economy or the building up of reserves, we could probably do a very good job of drying up our petroleum supplies within 15 to 20 years. And we wouldn't have to try very hard at that. But no one wants that to happen.

First of all, we should never permit the United States to become dependent upon foreign sources for its liquid fuel.

Second, we must be able to throw every gallon of fuel needed into the fight to bomb the axis into submission.

Third, in the post-war era, we must be prepared to meet the demands of aviation and industry within our own borders if we are to maintain our position of world leadership.

All of this takes oil. Plenty of it. Unless we are ready to meet these increasing vital demands upon this precious natural resource by supplementing it with synthetic oil from coal and oil shale, we must be prepared to face soaring liquid fuel prices, diminishing supplies and eventual dependence on foreign sources.

It would seem to the casual observer that the United States is the best situated among the warring nations as far as oil supplies are concerned. At least we are credited with supplying 95 per cent of the Allies' aviation

gasoline and we have a petroleum reserve approximating scarcely 25 billion barrels. [Recent statistics of the American Petroleum Institute credit the U.S. with supplying 85 per cent of the Allies' aviation gasoline, and give our petroleum reserve as "not exceeding 20 billion barrels."—Ed.] But that is not the whole story. The factor which many times has not been taken into account is that while the United States has been drilling and developing its oil deposits, the rest of the world has made comparatively small endeavors along the same lines. For example, the United States averages, for its total territory, about one oil well for every three square miles. The rest of the world—and I mean all the rest of it, from Guam to Greenland—averages about one oil well for every 526 square miles.

The future, so far as petroleum is concerned, belongs to Russia and the Persian Gulf, according to the best geological evidence presented to the Senate Public Lands Committee.

The oil areas of the Soviet are vast in comparison to the relatively small undeveloped areas remaining in the western hemisphere. Arabia, Iran and Iraq are equally important in undeveloped oil deposits, according to expert classification. [The American Petroleum Institute recently pointed out that "the eastern foot hills of the Andes, at present virtually unexplored from Venezuela to Argentina, will yield untold billions of barrels of petroleum, which should be more readily available to the U.S. in time of war than those of the Near East."—Ed.]

There is another point to be borne in mind. In the 300 oil fields found abroad in the past 20 years, each has an estimated average ultimate production of 100,000,000 barrels. The average oil field found at the present day in the United States does not exceed 2,000,000 barrels. I want to call attention to the fact that while these areas in the Near East and Russia are of overwhelming importance in the world's oil trade of the future, they are as far distant as possible from the United States. Bahrain, in the Near East, where there is an American refinery at present, is exactly 12,000 miles from San Francisco in either direction. To be dependent upon these foreign reserves in time of war would be very nearly catastrophic. In wartime the chief value of oil reserve or any other kind of material is accessibility—quick, safe accessibility, involving as little risk and waste of time as possible.

Obviously, the demands upon our oil reserve are stepping up rapidly with the increasing Allied strength and fury of air war. When you think of the round-the-clock bombings which our military leaders have planned and accomplished with more to come in ever increasing size, you know that the production of liquid fuel must keep pace with these plans. Our planes are being designed and built with longer and longer range to carry this war not only to Berlin but to Tokyo.

It takes the best fuel we can manufacture to score these crushing air blows against the Axis. We are supplying our military planes with 100 octane fuel—it's not the cheapest, but it's the best. Compare it with a 91 octane gasoline. The plane equipped with 100 octane fuel can develop 26 per cent more power at takeoff, maintain its maximum speed at 1,600 feet higher altitude, its maximum power at 1,200 feet higher altitude and can reach a ceiling 4,000 feet higher. The 100 octane plane can climb to 26,000 feet in 12.2 minutes. It takes the plane using 91 octane fuel 19.4 minutes to climb those same 26,000 feet. Those are the minutes that means life and death to a pilot—and the odds are with our pilots. We are giving them the best. We are burning up our precious oil reserves at a breath-taking rate and shall



continue to do so even more rapidly to bring victory at the earliest possible moment.

The new Boeing B-29 bomber has been built to travel as far greater distance than any of the long range heavy bombers now in use. The War Department has not given out the exact range of the new plane, but this we know—when the B-29 enters combat, today's long range will have become medium range and today's heavy bombers will have become light heavies.

This all means one thing—more and better gasoline will be needed. Although the War Department has not given out the actual consumption of gasoline in particular types of warplanes, it can be stated that 1,000 four-engined bombers on a single six-hour mission will consume 1,800,000 gallons of gasoline. When these mammoth-sized raids over greater distances are made in an all-out war against Japan, it is clear to anyone that civilian industries may not look for any increase in the allocation of gasoline.

Our industrial output during the war has demonstrated the truth of the phrase that production will win the war. It is also true that production will win the peace and the prosperity that is to follow the peace. The United States today leads the world in aviation. The airplane was developed here. Most of the great advances were achieved here. Our planes and flyers have encircled the globe. We have been able to do this not only because of American genius and American craftsmanship, but because we have had the liquid fuel necessary for the performance.

If we are to maintain this leadership in the years following the war we must continue to be sure of our fuel supply.

When our supply of petroleum becomes exhausted we can obtain it in one or two ways, or a combination of both. These two ways are by importation and by hydrogenation.

We've reviewed the reasons why dependence upon importation alone is not safe. That leaves us with the field of hydrogenation to explore.

Petroleum products can be made from coal, and the coal supplies in the United States are so large that we need not worry about them for the next several hundred years. Germany and England are successfully making gasoline from coal on a large scale. Here we have a known process for the manufacture of gasoline which can be improved upon by the scientists of this country.

As an insurance for the security of the nation, the manufacture of this synthetic gasoline from coal should be pushed forward as quickly as possible. Obviously, we cannot use up our present petroleum reserve for war and then attempt an overnight change to coal and oil shale when an acute emergency arises. We learned our lessons on that in the case of rubber.

Private industry cannot be expected to make the expenditures necessary to demonstrate the feasibility of the hydrogenation of coal and oil shale because private companies cannot take the risk.

In the early 1920's, oil shales were generally considered to be our chief source of supplemental oil products. During the last war German scientists developed a process for converting coal and even inferior grades of lignite to liquid fuels. Continued experimentation proved the utility of this process, and after that coal supplanted oil shale as the best source of liquid fuels.

The success of Germany and Japan in producing synthetic fuels from coal during the present war is indication enough that the United States should not lose a moment in starting on the perfection of these processes adapted to our domestic coals.

Producing liquid oil from coal isn't at all so far-fetched as perhaps it sounds. In fact it is quite logical considering that they both derive from living organisms, either plant or animal or both, according to geologic evi-

dence. Compared to normal crude oil, coal contains an excess of carbon. So, to bring it up to the grade of crude oil, hydrogen must be added. This is why the Germans called their process the "hydrogenation" of coal.

Experts have said it is possible to get 85 octane gasoline out of coal. This is about the same as we get out of petroleum until further special processing by the addition of chemicals which brings the fuel up to the level required by aviation.

Vast plants are being operated abroad for the production of gasoline and other valuable hydrocarbons. What is being proposed for the United States is a concrete study of the applications of established techniques to our own engineering economics and study of further refinements. By constructing these experimental facilities, we will, as a nation, be in a better position to cope with petroleum shortages which will face us in the not too distant future.

At the present time our technicians and scientists are somewhat familiar with the details and practices of the foreign countries in these synthetic fuel processes, but there still remains the research in adapting these facts to our numerous types of coals, as well as many factors for commercial development by these methods. We are fortunate to have oil at this crucial period while we are fighting the greatest war in history. But let us remember that we are not going to have it forever.

There is no need for alarm. By making use of our huge coal and oil shale reserves in the production of synthetic gasoline—and setting up the experimental equipment without delay—the United States can guarantee itself all the necessary supplies of liquid fuel and free itself forever from any possible dependencies upon any foreign source.

Fuel is power—and power is the basis of commercial and industrial leadership. In the modern world liquid fuel is an essential element of progress. We must not permit ourselves to run short.

#### A TRIBUTE TO IMAM ABDUL KARIM HASAN

**Hon. Yvonne Brathwaite Burke**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mrs. BURKE of California. Mr. Speaker, it is indeed an honor for me to join the Brotherhood Crusade in a tribute to Imam Abdul Karim Hasan in recognition of his diligence and foresight in guiding the growth of Masjid Muhammad No. 27.

As Resident Imam, he heads an organization that builds spiritual and emotional security while also strengthening economic independence and providing jobs. The activities that Imam Abdul Karim Hasan has fostered include bakeries, fish markets, cleaners, supermarkets, and gasoline stations. These enterprises contribute to the sense of dignity and self-confidence of members of the black community who had previously been excluded from owning and operating businesses.

Earlier in his life, Imam Abdul Karim Hasan overcame the limited opportunities of a child of struggling sharecropper parents in South Carolina to demonstrate his genius as a fiery young minister; first in Hartford, then New Haven and finally in Bridgeport, Conn. As a child, Hasan

was an ardent follower of the Honorable Marcus Garvey. From that early influence grew his sincere dedication toward improving the lives of his fellow human beings.

Today under his direction, the Muslims have moved their Los Angeles headquarters to the former Elks Hall on Central Avenue. His efforts have benefited, not only the Muslim community, but the city as a whole. I am proud to recognize the contribution that he has made to Los Angeles.

#### BUILDUP OF SOVIET NAVY

**HON. BOB WILSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. BOB WILSON. Mr. Speaker, I would like to once again reaffirm my position with respect to the growing threat posed to our country by the accelerated buildup of the Soviet Navy. It now seems that the U.S.S.R. has shifted its emphasis in submarine development from defense against carrier attack to one of sea control—attacking surface shipping.

The Foreign Affairs Research Institute has researched this shift in emphasis and in the following article by Desmond Wettern, the results of that analysis are set forth clearly and concisely:

#### THE GROWING OFFENSIVE CAPABILITY OF THE SOVIET SUBMARINE FLEET

(By Desmond Wettern)

The Soviet submarine fleet has shown a slight reduction in numbers in the past six months to 325, of which 130 are nuclear powered. But, significantly, the cuts have been confined mainly to those few, small submarines in the Soviet Navy which could be considered to have more of a defensive, rather than an offensive, capability and among some older types with a high level of hydrophonic effect—or underwater sound "signature".

The reduction in overall numbers has been more than offset by the increased potential of new submarines.

Since last August, three more Delta class nuclear powered ballistic missile submarines have been completed. These are armed with 12 SSN-8 missiles whose range of 4,200 miles would enable a submarine operating under the Arctic icecap in the Barents Sea to hit targets in North America.

A curious feature of the Soviet submarine building programme which has been puzzling Western observers for some years is the somewhat slow rate of construction of cruise missile submarines. In the past nine years, only 12 of the Charlie class and three of the slightly larger Charlie II type have been completed.

These were believed to be armed with eight SSN-7 missiles which could be launched against surface ships up to a range of 30 nautical miles. The comparatively short range of their missiles was ascribed to the Soviets' realization that a longer range weapon would require mid-course guidance by an aircraft, surface ship or another submarine, to enable the missile to be directed at a target beyond the launching submarine's radar horizon (probably no more than the missile's 30 mile range).

The Russians, it was thought, must have appreciated the weakness of a weapon which had to rely on mid-course guidance in attacking a Western aircraft carrier task

group—the original planned task of the Charlie and the earlier Echo II classes. Since the guidance vehicle would most probably be a Bear long range maritime patrol aircraft, it would be especially vulnerable to destruction by a carrier's fighters.

#### 250-MILE-RANGE MISSILE

But now NATO's Atlantic Command has indicated that the range of the Russians' latest, submarine-launched tactical missiles is 250 nautical miles. It is also believed that the Charlie class are armed with the SSN-3 missile, which has such a range, rather than the 25-30 mile range SSN-7 of which little is known, but which it has been suggested in some unofficial, although authoritative circles, was the weapon initially fitted in the Charlie class.

Apart from the obviously greater potential of a 250, rather than a 30 mile range weapon, the slow rate of building of Soviet tactical missile submarines may well have been due to a deliberate policy of waiting until a longer range weapon was available before embarking on a large submarine building programme.

Two disturbing conclusions follow from this increase in the range of Soviet submarine tactical missiles. Either the Soviet Navy's scientists and technicians are confident that they have a much more secure missile mid-course guidance vehicle such as a space satellite, or they believe that the decline in the number of Western aircraft carriers and the increased commitments these face with the global spread of Soviet naval activity, make the tactical missile submarine and long range patrol aircraft combination a much more viable weapon system.

Another conclusion which may be drawn is that the primary task of Soviet tactical missile submarines has, to some extent, been switched. Instead of being regarded as the principal defense against Western carriers these submarines may now be seen as having a wider role against surface shipping in general.

#### TARGET: WESTERN SHIPPING

The Soviet leaders may well see better opportunities in attacking, or even threatening, Western shipping lifelines than in overt moves against Western, mostly American, carrier forces. To suggest, as do some Western military academics, that there is no reason to suppose the Soviet submarine fleet is seen by the Kremlin as a weapon for interdiction on Western shipping routes and that its task is confined to countering Western carrier forces, overlooks evidence in recent years that the Soviet Navy in the Atlantic has carried out exercises in which some of its own ships have simulated convoys.

Returning to the Soviet Navy's ballistic missile submarine forces, these now have a total missile strength of 748 of which 204 are SSN-8, 4,200 nautical mile range weapons and 544 are SSN-6 weapons with a range of 1,300 nautical miles. To these may be added 110 SSN-5 missiles with a range of 650 nautical miles; but 80 of these are mounted in diesel-electric powered submarines.

The SSN-8 missiles are mounted in 17 Delta class submarines; the SSN-6s in 34 Yankee class submarines, both these types are nuclear powered; and the SSN-5s in ten nuclear powered Hotel II and III and 20 conventionally powered Golf I and II submarines.

There are 40 nuclear powered cruise missile submarines of the Charlie I and II and Echo II classes, each carrying eight missiles and a further 20 conventionally Juliet and Whisky classes of cruise missile submarines mostly carrying four missiles each.

The nuclear powered attack (or torpedo armed only) submarine force is believed to number about 36 boats of which half are of the early, and seemingly unreliable, Novem-

ber class. With twice as many strategic and tactical missile submarines powered by nuclear energy as attack submarines, the ratio in the Soviet Navy of missile to conventionally armed nuclear submarines is almost exactly an inverse of that in Western navies. (The US Navy has 41 missile submarines in service and 10 more building or authorised, but has 108 nuclear attack submarines in service or building while the Royal Navy has four missile submarines and 13 attack submarines in service, building or planned.)

Although two new, apparently nuclear powered, attack submarines are believed to be building for the Soviet Navy construction is still continuing of diesel-electric torpedo-armed submarines. No similar submarines have been built by the US Navy since 1959 nor by the Royal Navy since 1967.

Some of the more recent Soviet diesel-electric submarines are believed to be designed for training anti-submarine forces presumably because, as the Royal Navy has found, it is possible to make such submarines considerably quieter underwater than most nuclear powered types. Nevertheless, the number of diesel-electric submarines of recent vintage in the Soviet Navy is far outweighed by older and noisier boats such as the 90 Whisky class completed between 1951 and 1957. The rate of disposal of the Whisky class (about 240 were built up to 1957) and of the small, 740 ton Quebec class coastal submarines, which were also built in the 1950s, far exceeds that of the construction of new diesel-electric submarines.

#### ALL NUCLEAR POWERED IN 10 YEARS

Within 10 years, the Soviet submarine fleet is therefore likely to be an all-nuclear powered force with the exception of a few conventionally powered training boats. Yet in several NATO navies, it is recognised that nuclear submarines are far from ideal weapons in shallow or confined waters since they need depth to operate efficiently.

In the Royal Navy, the demands made on the surviving 21 diesel-electric submarines for a wide range of exercises are such that there are now serious plans for building more of these useful boats.

It must, therefore, be assumed that the Soviet submarine fleet is increasingly intended for distant deep ocean operations which hardly accords with the requirements of a Navy intended for defence of the homeland. In areas such as the Baltic, Black Sea and White Sea the ideal submarine for defensive purposes would be comparable to the 435 ton boats found in the Norwegian and West German navies—but there is nothing to indicate that the Soviet Navy has any submarines smaller than about twice the size of these Norwegian and West German types.

The disparity in the number of nuclear powered attack submarines to that of missile-armed types indicates that the Soviet Navy is less concerned than some Western experts maintain with the threat from Western strategic nuclear missile submarines. The British and American navies' concentration on the construction of nuclear powered attack submarines in recent years is because such submarines are extremely potent weapons against other submarines.

Not only are these submarines equipped, because of the enormous power resources they can generate, with the most powerful Sonar detection systems in service but also their great diving depth means that they can employ Sonar "passively"—i.e. simply as a listening rather than transmitting device—to detect another submarine. At great depths sound waves are much less susceptible to distortion caused by variations in the water temperature.

For these reasons, were the Soviet Naval leaders bent on improving defences against Western missile submarines, it would seem

highly likely that construction of nuclear powered attack submarines would take precedence over tactical missile-armed types whose primary role must be against surface targets.

Certainly, early Soviet tactical missile submarines did have a defensive role against Western aircraft carriers. But the first American strategic missile submarine has now been in service for 18 years which is quite long enough for the Soviet Navy to have appreciated this threat and to have attempted to counter it with a large-scale programme of nuclear attack submarine construction.

Any missile submarine does, of course, carry torpedoes in addition to its principal weapon, but the employment of such submarines in the anti-submarine role would be a mis-use that would probably make the hunter more at risk than its quarry. In any case it would detract from the missile submarine's primary task as an anti-surface ship weapon.

Two technical factors may also have some bearing on the comparatively slow rate of nuclear attack submarine construction in the Soviet Union. Anti-submarine warfare is a requirement that for many years was seriously neglected in the Soviet Navy largely, no doubt, because the small Soviet merchant marine did not warrant much research and development in this field.

Though a number of measures such as the introduction of anti-submarine helicopters and missiles in surface ships have been taken to remedy this deficiency, Western anti-submarine equipment and techniques are believed to be still far ahead. This may well be true in the field of underwater detection systems—Sonar—and the lack of an efficient submarine Sonar system may have discouraged the Soviet Navy developing anti-submarine submarines.

Since the principal weapon of such submarines is the torpedo, this may also account for their comparatively small numbers in the Soviet Navy. If, as seems likely, Soviet submarines carry some torpedoes of similar type to those in surface warships mistrust of these weapons by Soviet submariners would not be surprising.

The lack of an effective Sonar and the dubious reliability of some torpedoes must be peripheral factors in the slow build up of the Soviet attack submarine force. The vital importance of shipping for the West's survival, and, therefore, the need for a weapon able to attack such shipping at long range and with a good chance of escaping detection undoubtedly swayed the Soviet naval leaders more than any other factor in building up their nuclear tactical missile submarine force.

#### OFFENSIVE ROLE

To sum up:—

Apart from the nuclear ballistic missile submarines, forming part of the Soviet nuclear deterrent, the bulk of the Soviet nuclear powered submarine force has as its prime task in war the destruction of Western surface ships. Since carriers have long ceased to be a principal nuclear strike weapon in the Western armory (a fact of which the Kremlin is well aware) the assumption must be that the main purpose of the Soviet submarine fleet is the destruction of Western merchant shipping.

To suggest, as do some Western experts, that defence against Western missile submarines is the real purpose of the Soviet submarine force is not supported by the evidence available. Therefore, that force must be regarded as having an almost exclusively offensive role since neither the size of the submarines nor their equipment are compatible with what would be required for defensive purposes.



ONE MAN'S STORY OF TEACHING IN  
DETROIT'S PUBLIC SCHOOLS

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. NEDZI. Mr. Speaker, a few days ago, the Detroit News Sunday magazine published a story by James Treloar on the realities teachers confront in teaching in Detroit's public schools.

The subject is often talked about privately and occasionally written about publicly, but seldom with as much impact as this particular article.

It details the experiences of a man who was born 60 years ago in Poland to a poor Jewish family, wounded in battle, taught school in Russia and eventually made it to America. He says that more than one-half the students graduating from high school leave as functional illiterates.

The teachers are seldom to blame. Every day they face a heartbreaking lack of discipline and motivation. The roots of these attitudes, I believe, are in the home and it is virtually impossible for teachers to do much about that.

Under leave to extend my remarks in the RECORD, the article follows:

A FORMER SOVIET TEACHER TELLS WHY MOST  
DETROIT PUPILS WOULD FLUNK IN RUSSIA

(By James Treloar)

When Morko Nachtajler arrived here from Russia in 1961 he was agog.

To think an American could buy a pair of shoes with what he earns in a couple of hours. In Russia it took two weeks' pay. A suit of clothes had to last 10 years.

Before he came over Nachtajler couldn't have dreamed of owning a car—even though he held the respected and relatively well-paid position of high school principal.

Now he has his own car and drives around to marvel at our freeway system.

Yet there came a night when Nachtajler sat alone in his darkened living room and calmly contemplated suicide.

He's that distressed over what he says passes for education in the Detroit public schools.

Nachtajler (pronounced KNOCKtyler) teaches social studies at Cooley High School in Detroit, where he is recognized as a talented and conscientious worker. But he's the first to admit that precious little education is actually taking place in his classroom.

"More than half the students who graduate here this June will leave as functional illiterates," he says.

And he sees no hope—until teachers, administrators and parents stop warring and begin functioning as a team.

In Russia, Nachtajler says, "Principals are teachers first. They still teach two hours every day. They don't lose touch with what's happening in the classroom. If the principal is a social studies teacher, one assistant principal will be a language teacher and the other will be a science or mathematics teacher. That way there is always help for any teacher who has difficulties.

"At one Detroit school where I taught, the principal sat in on one of my classes and he couldn't understand what I was talking about. He didn't have the background for it.

"Still, it was unusual that he came to my class at all. In most schools today there's no time for that. Do people really believe that our school principals are supervising class-

room instruction, analyzing teacher performance, improving methods of teaching, helping inexperienced teachers, finding other jobs for incompetent teachers?

"My principal at Cooley High is a fine, intelligent man. I respect him. But he can't be an educator. He's a crimefighter. He has to use all his energy protecting students and teachers from physical violence."

Nachtajler's worst day at Cooley High came when a teen-ager barged into his classroom, grabbed one of Nachtajler's students and beat him bloody.

"I was shocked that this could happen in a school," Nachtajler says.

But for him, the beating and the disruption of his class wasn't the only awful thing.

"The other students sat there—and smiled!" he says, still wincing over an incident that happened three years ago.

That was the night the teacher from Russia went home, and in the darkness of his living room calmly contemplated taking his life.

Things are improving at Cooley High, he says, though, "just three weeks ago one of the students attacked an assistant principal."

Nachtajler was born 60 years ago in Poland to a poor Jewish family. When his sister married and came to America she began sending her parents \$10 a week. It was enough to let them live well—and to send Nachtajler to school.

In 1938, with war clouds looming, Nachtajler was taken by the Polish Army and sent to cadet school. He wasn't there a year when the German blitzkrieg struck, and Nachtajler was sent to an artillery unit near Danzig.

Then he got the luckiest break of his life—he was severely wounded by flying shrapnel. He was sent to a hospital near the Russian border. When the Russians attacked Poland he became a prisoner-of-war.

The rest of his family was taken by the Germans. They perished at the infamous Auschwitz concentration camp.

Nachtajler and 1,400 others were sent to Russia to perform war work for the Soviets. "I cradled many a dying man in my arms," he remembers.

When the Germans attacked Russia Nachtajler and his comrades were shipped to Siberia.

He was one of a half-million prisoners that Russia freed during the war. He couldn't return home to Poland—so he enrolled in a Russian college.

Soon after the war ended he became a teacher, then principal in a Russian high school near the Romanian border.

At night he would pull his shades and listen to the Voice of America. Coming here, and rejoining his sister, became a dream, then an obsession. He talked his way into getting a passport to Poland—and immediately applied for immigration to America. He hasn't regretted his move, but he can't understand American attitudes toward education.

"Education is valued in Russia—teachers are valued," he says. "Here you treat teachers worse than garbage collectors.

"On the first and last days of school every year the Russian children would bring me bouquets of flowers. Then, after school, they'd help me carry them home.

"There was no vandalism in school.

"Did you know that \$9,000 worth of textbooks were destroyed by students at Cooley High last semester alone?

"And that the taxpayers buy them new ones?

"That would never happen in Russia. The only vandalism we had was maybe once a year a broken window. And when that happened the student's father paid for it. You don't charge the taxpayers for somebody's vandalism!

"But in Russia we indoctrinated the students. Every week or two I would get on the public address system and give them a little talk about taking care of their books or showing respect for their school building.

"In the 16 years I have been in America I have never heard a principal tell his students that vandalism is wrong. That stealing is wrong. That attacking a teacher is wrong."

In Russia, Nachtajler's day began at 7:45 a.m. by greeting teachers and students as they entered the school building. He remained in the hall about 10 minutes after the 8 o'clock bell to give late-comers a chill welcome. It was a practice that made tardiness almost non-existent.

During the second hour Nachtajler taught one of his two classes for the day—American history.

At least once every day he sat in on another teacher.

"When I came in the students would all stand. Every one of them had a notebook, pencil, pen and book ready to start the lesson.

"If the teacher's lesson wasn't good, I found out why, and I helped her. If the lessons were repeatedly bad, an assistant principal was assigned to her for several weeks until she learned how to make good lesson plans or how to conduct a class discussion—whatever the problem was. If that didn't work, she was sent to a special teacher-improvement institute for the summer. And she had to go.

"Here," he says, "there is no control over the teacher in the classroom. It doesn't exist, even in the best schools. I have seen teachers who don't teach at all. They don't know what to teach or how to teach—and the principal doesn't give a damn!

"In America we have built a Chinese Wall between teachers and administrators. They even have two different unions. They aren't a team—their concerns are completely different.

"The students—they get passed along whether they know anything or not. In Russia there are no grammar lessons in high school. You must know your grammar before you get to high school—or you aren't allowed in. In high school it is time to start on literature, not to waste more time on grammar.

"But I have seen 12th-grade students here who still don't know their English grammar.

"Worse than that, I have seen 12th-grade students here who wouldn't have passed the fourth grade in Russia.

"One hour I have study hall, and a student came to me asking for help with his mathematics. He showed me the problem—'How many 45's are in 90?' That's no problem for a high school student. That's for children. But he still didn't know the answer! In Russia—and not just Russia, but in any European school—any fourth grader would have known that answer. ANY fourth-grader!

"I'm not taking anything away from the teachers at Cooley. They are one of the best teaching staffs in town, and they work hard. But the students are not prepared. They have no background for high school.

"In Russia no student can pass the first grade unless he knows his multiplication tables. No one can. So they learn it. Here I have seen 12th-graders who don't know their multiplication tables. Why should they, when they know they can graduate without learning it?

"It's this thing you call 'social promotion.' Students get passed along whether they know anything or not.

"What's so 'social' about it? Most of the crime committed in Detroit is by young people who aren't getting an education!

"Social promotions are a sickness we have in this country."

OCCUPATIONAL SAFETY AND  
HEALTH ADMINISTRATION

HON. MICHAEL T. BLOUIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. BLOUIN. Mr. Speaker, yesterday I had the privilege to appear before the House Small Business Committee's Subcommittee on Energy, Environment, Safety and Research. The subcommittee is holding hearings on a subject of urgent concern to small businessmen and women throughout this country—namely, the Occupational Safety and Health Administration—OSHA.

Two small businessmen from my district appeared before the subcommittee at my request to explain their personal experiences and their personal opinions about OSHA. As I told the subcommittee, their experiences are not unique, but they are typical and they represent the type of problems which we should seek to address as quickly as possible.

If there is no objection, Mr. Speaker, I would like to enter for the RECORD the text of my prepared remarks and the testimony of my constituents before the subcommittee:

## TESTIMONY OF HON. MIKE BLOUIN

Mr. Chairman, members of the subcommittee, as you are no doubt well aware, this is a particularly appropriate time for the subcommittee to launch its oversight hearings into occupational safety and health. This is, as you know National Small Business Week—and perhaps no one has been more severely affected by OSHA regulations than the Nation's 9.8 million small businesses.

It is particularly timely from another aspect as well: Secretary of Labor Marshall only last week announced a major shift in the administration of the OSHA program, designed to eliminate or simplify complicated OSHA regulations and to concentrate on the most serious and immediate health and safety problems faced by American workers.

I want to be among the first to say—and I'm sure you will hear this again and again in the course of these hearings—that such a redirection within OSHA is long overdue. For too long, OSHA has seemed to concentrate on the implementation and enforcement of a multitude of safety standards which even its administrators admit are "Mickey Mouse." The overabundance of complex and essentially unnecessary regulations have made life almost unbearable for the Nation's small business men and women; as a result, those small business people have grown even more disillusioned—and not infrequently, disgusted—with Government's misguided and often obnoxious interference in what are basically family-owned and family-operated businesses.

I want to say, Mr. Chairman, that this subcommittee should be commended for taking the lead in helping streamline OSHA administration and regulations. Your leadership can help reorganize and redirect a program which is, in concept at least, a very important part of our effort to protect the health and safety of the Nation's working men and women. The challenge, I think, is to do that without imposing useless and unnecessary burdens on small business.

As you proceed, Mr. Chairman, I hope you will keep in mind the experiences and suggestions of these two individuals from eastern Iowa. They are by no means unique; their experiences and their impressions are typical

of small business men and women throughout Iowa and throughout the country. Like most of us, they recognize the need to insure the health and safety of working men and women, but they are confused and often angered with such efforts when they actually force small businesses to close down.

## TESTIMONY OF CHESTER SOLOMON

Mr. Chairman, I am Chester Solomon, president of Dubuque Gases and Steel Company, Dubuque, Iowa.

I want to thank you for this opportunity to speak to you today. I am here representing my own company and the Association of Steel Distributors, Inc. of which I am vice-chairman of the Government Relations Committee. The ASD is a national trade organization representing over 240 small businesses.

We have some concerns which we hope your committee will be able to address in this congressional session.

Small business has always been particularly plagued with problems with OSHA. One problem is that immediate arbitrary penalties imposed by OSHA inspectors are wrong. There should be no penalty for at least 90 days. After an OSHA inspection I feel a citation for any wrong doing should be issued and then if not corrected within 90 days a penalty could be imposed. After issuing a citation OSHA should allow the employer to figure out how to correct the infraction, because I feel many times the employer can do it faster, better, and cheaper than OSHA. OSHA inspectors should not be allowed to suggest a remedy for an infraction if that remedy has not yet been invented.

Nonpunitive OSHA inspection upon request would be helpful. We feel that OSHA's posture should be one of helpfulness rather than as a punitive force. This would be particularly helpful to small businesses who, unlike large companies, cannot afford a highly trained and knowledgeable specialist on their payroll. If expensive changes must be made which would hurt the company financially the Small Business Administration should be mandated to lend the company money at a very low interest rate (such as 4 percent) over a ten year period of time to insure that the company can meet OSHA requirements and not have to go out of business in doing so.

Another problem I have seen is that employees, not employers, do not abide by OSHA regulations. Therefore I feel a change in the law should be made to give employees citations for their carelessness.

For example, I have told employees to wear hard hats. They do so for two days. Then when I find the employee without a hard hat, his excuse is it was too hot or too cumbersome. If greater insistence is made on the issue, the ultimate conclusion is a grievance between management and union. If there is a law for employers on OSHA the same law should apply for employees. Employees should have personal responsibility for their own safety.

A third problem is the regulations of OSHA are too technical for the average individual to understand. Employers have always been concerned with safety because in the long run it benefits the company as well as the individual. As an example, workmen's compensation rates are lower for a safe operation. I feel OSHA should formulate its standards in more clear and concise language so that employers and employees unfamiliar with technical terms can understand what is required of them.

Elimination of immediate arbitrary penalties, Small Business Administration relief, nonpunitive OSHA inspection upon request, employee as well as employer responsibility, and more clear, concise, language in OSHA regulations are only a few of the more important problems that confront us.

Because of the allotted time, which I can appreciate, it is difficult for me to go into any great detail on any of these issues. I would welcome any opportunity to meet with your staff members for further discussion.

Thank you.

## TESTIMONY OF HAROLD BENGSTON

Mr. Chairman, on January 31, 1975 my company, Bengston-Carlburg Construction, was installing sewer pipe on Main Avenue and Highway 136 in Clinton, Iowa. Previously we had been using ditch jacks and cribbings to shore up the sides of this ditch which was five to six feet long at the bottom, four feet wide, and nine to ten feet deep. My procedure for laying sewer pipe is to dig a ditch five feet in length, dig down three feet deeper than the floor of the ditch is required to be in order to lay pipe, and then fill in that excess with three feet of two inch clean rock to make a firmer floor to work on. I have found that to be safer than digging longer ditches.

On this particular job we had already laid in the three feet of two inch clean rock and used ditch jacks and cribbings to shore up the walls. Due to bad weather conditions we had been away from the ditch for a few days. When we arrived on the morning of January 31, I saw immediately that a portion of one of the walls had collapsed into the ditch. Further investigation showed that the cause of the collapse was a hidden pipe above the floor of the ditch which we had previously been unaware of. I then called for someone to get a trench box, or steel box, to be used to shore up the walls of the ditch as per to OSHA regulations. While we were waiting for the trench box to arrive clean-up began on the ditch itself. The dirt that had fallen into the ditch was placed in a nearby truck, where we had also placed dirt taken from the floor of the ditch, which was removed to leave room for the three feet of two inch clean rock. Two men went into the ditch to check the grade of the pipe and check damages.

It was at this time that the OSHA inspector arrived at the job site. He measured the ditch from the top instead of from the bottom as per OSHA regulations: he took soil samples from the soil that was in the truck (where soil cleaned from the ditch that day had been placed.) He shut down the job at this time and would not listen to explanations. Bob Lyons, a Clinton city inspector who had been on the job every day with us, tried to explain to the OSHA inspector what had transpired that day, and also all the measures that I had taken to insure a safe job site. The inspector would have none of that and went to city hall to complain that Lyons was interfering with OSHA regulations.

When I went to the hearing in Des Moines I found the State of Iowa represented by five people and myself alone. The review board consisted of people that had never had contact with construction work of any kind as a job, let alone laying sewer pipe. I was not surprised when they would not listen to all the things that I had done to comply with OSHA regulations and maintain a safe job site. For your information I have copies of a letter that my insurance company wrote for me to take to the OSHA hearing and also a list of those things that I have done to try to comply with OSHA regulations. The review board in Des Moines said that everyone is supposed to do the things I have done because it is the law. It is my experience that most people do not go to the extent that I do in trying to maintain a safe job site.

The board fined me \$517 for a violation that I do not feel was justified. I have twenty-two years experience laying sewer pipe, and the inspector and the review board had none. My recommendations are as follows:



1. Those that give the inspections should undergo more extensive training to insure that they are qualified to give those inspections.

2. The review board should consist of contractors in specific fields where the violation has been cited or have a working knowledge of that area.

3. A contractor should not be penalized for an unsafe action that an employee does that he has been told and taught repeatedly not to do.

4. Adjust fines in relation to the gross corporate profit of the business—for me the \$517 fine ended up being 20 percent of my corporate profit and I feel this is wrong.

5. There is no way to cover changing a work situation in the OSHA regulations, as I was doing the morning of the 31st. Have the inspectors listen to the reasoning of the contractor involved and other experienced persons, such as the city inspector.

6. Work toward cooperation—encourage contractors to have the OSHA inspections, but do not fine them when inspection is requested to determine what is wrong at their job site. OSHA changes so much, the small businessman needs help in keeping up with the regulations.

#### PANETTA HONORS FAMILY FARMERS

#### HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. PANETTA. Mr. Speaker, I want to draw the attention of my colleagues to seven family farmers who were recently honored by the Monterey County Historical Advisory Committee for their dedication to family farming in America. Each of these families has owned and continuously operated a farm or ranch in Monterey County for 100 years or more and has actively contributed to the agricultural production of the community and the State.

It gives me great pleasure to honor these family farmers since I feel they exemplify the foundation of agriculture in this country. Their example serves as a reminder that we, too, must reaffirm our commitment to the survival of family owned farms and act decisively to encourage and protect their existence in face of the new challenges represented by the corporate invasion into agriculture.

I insert a brief description of each of the family farms which have been chosen to be honored:

**Los Lobos Ranch**, owned by Mrs. Paul Aurignac, Mr. and Mrs. Albert Aurignac, Leslie Aurignac, Mrs. Jacqueline (Aurignac) Traynor. In 1871, Justin Gotux, a soldier in Napoleon's Army in Mexico acquired 629 acres of land in Monterey County. A nephew, Eugene Pierre Jules Aurignac acquired 640 acres from the original owner in 1927 and began raising sheep, pigs, horses, and barley. Paul Aurignac, nephew to Eugene, acquired about 320 acres of the original farm in 1933. Paul was the first farmer in the area to introduce new methods of range clearing, fertilization, and seeding; to build grain tanks and to use discing instead of the plow. Paul died in 1970. Mrs. Aurignac and her children continue to operate the ranch.

**Martinus Ranch**, owned by J. H. Martinus

& Sons and Mrs. Pauline Hedden. Jan Henry Martinus immigrated to Monterey County from the Isle of Fohr in the North Sea in 1874, settling in the San Antonio Valley at Lockwood on 160 acres. In 1923, the land passed by succession to J. H. Martinus's sons Henry, Simon and Phillip with an addition of some 4,000 acres to the original holding. In 1935, the land passed to Jan Henry Martinus, the grandson of the original owner and his children. Mr. Martinus continues to handle the everyday operation of the ranch. Having developed the first irrigated farming in Lockwood, the family has a long record of association with the Agricultural Extension Service.

**Palmer Ranch**, owned by Mr. and Mrs. Nelson Palmer. Samuel Palmer migrated to the Priest Valley of Monterey County from his native state of New York in 1870, homesteading 640 acres for raising cattle, pigs and grain farming. Charles Nelson Palmer, born on the ranch in 1871, acquired the land in 1910. Nelson Palmer, the original owner's grandson, took over operation of the ranch in 1948 and has since added 480 acres to the original holdings. He and his wife continue to raise cattle, pigs, oats, and barley. Irvin J. Palmer, Nelson's son, is working the land today.

**Rail Cattle Company**, owned by Jack Reynolds. John Reynolds accompanied his father as a boy to the United States from their native England, settling for a time in New York State. At about fifteen years of age, John went to Michigan and worked for the railroad. He remained in Michigan until the outbreak of the Civil war in 1860, when he enlisted in the Union Army. He was wounded in action in late 1862 and returned to Michigan. In 1867, he married Ada H. Green and moved with the Green family to California. The Reynolds first home in Monterey County was built of oak shakes and mud on their homestead in 1868. At the death of John, his wife Ada and the children took over operation of the ranch, raising cattle, pigs and grain. Between 1909 and 1914, two sons, Arthur and Elmer, took over the operation of the farm and in 1953, Jack Reynolds, grandson of the original owner took possession and is currently raising beef and grain on the farm.

**San Bernardo Rancho**, owned by Mrs. Walter Rosenberg, Janet Lynch, Gordon W. Rosenberg, Ruth Ann Rosenberg, Mrs. Margaret Duflock, Meyer Brandenstein and a partner, Lazard Godchaux, owned and operated a slaughter house in San Francisco. As the city limits expanded, the partners needed to move their business out of the city. The San Bernardo Rancho was purchased in 1871 and consisted of 13,284 acres. Although cattle raising was the chief concern of the ranch, experiments with apples, apricots, almonds, pears, plums and Eucalyptus trees were conducted. Joseph Rosenberg, Brandenstein's son-in-law took over the ranch and operated it until his death when his son Walter assumed control of the property. By 1940, the ranch contained 20,000 acres. Today, the family raises cattle and produces tomatoes, lettuce, sugar beets, carrots, and beans.

**Smith-Copley-Taylor Ranch**, owned by Mrs. Arthur Taylor. Samuel Smith immigrated from England to America in the mid 1860's and acquired 160 acres of farmland from a squatter named McKee. Samuel Smith's children, William, Elizabeth Smith Copley and Nellie Smith Bray acquired the land by inheritance in 1918. By that time the ranch had been expanded to 400+ acres raising barley, wheat, hay and cattle. In 1969, the founder's great granddaughter, Wilma Copley Taylor inherited the ranch, expanding the operation by 1,213 acres.

**Rancho San Lucas**, owned by Julius Trescony, Louis Trescony, Mario Trescony, Julian Trescony. Alberto Trescony, a major figure in Monterey County agricultural history came

to the area as an adventurous youth and acquired the ranch in 1842. Alberto Trescony increased his original 8,800 acres during his lifetime by 31,200 acres. In 1892, Alberto's son, Julius A., acquired the land and began raising pigs and horses, in addition to the cattle and wheat raised by his father. In 1928, Julius G., the son of Julius A., acquired 11,500 acres of his father's land and has operated it since that time with his three sons Louis, Mario, and Julian.

#### CONFERENCE OF MAYORS SUPPORTS CONSUMER PROTECTION ACT OF 1977

#### HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. RODINO. Mr. Speaker, my good friend, Mayor Kenneth A. Gibson of Newark, has long been in the forefront of the effort to provide effective rights and protection for our Nation's consumers. Recently, as president of the U.S. Conference of Mayors, he wrote the members of the conference to urge their help in making known the strong support of the conference for H.R. 6118, the Consumer Protection Act of 1977. I would like to include in the Record Mayor Gibson's letter of endorsement:

U.S. CONFERENCE OF MAYORS,  
Washington, D.C., May 19, 1977.

DEAR MAYOR: In 1972 at our 40th Annual Conference in New Orleans, the United States Conference of Mayors expressed its strong support for efforts directed at preserving consumer rights. At that time, such endorsement was in the form of a resolution calling for increased consumer-related services by the Federal government to local governments. Once again, the Conference is voicing its concern regarding consumer awareness by supporting the Consumer Protection Act of 1977—a bill establishing a non-regulatory independent federal agency to advance the interests of consumers before Federal agencies and to provide the public with information about consumer matters (H.R. 6118 and S. 1262).

On April 20, 1977, on behalf of the Conference, our colleagues, Mayors John D. Krout of York, Pennsylvania and Richard Hatcher of Gary, Indiana testified before Congressman Jack Brooks' Subcommittee on Legislation and National Security of the House Government Operations Committee in support of the establishment of this agency. Mayor Krout noted that the proposed agency would do much to eliminate prevalent "overlapping" Federal agency jurisdictions and activities, and would cut through the duplication and red tape that we all experience when dealing with Washington. Mayor Hatcher endorsed the bill calling it a "giant step" towards providing more efficient and responsive government by bringing under one umbrella those consumer-related activities now assumed by an inordinate number of Federal agencies. The Conference believes that passage of this legislation would improve lines of communication between consumers and businesses by providing for citizen participation, a vehicle for informal dispute settlements, a better climate for the honest businessman or woman, and by protecting our constituents' interests in controlling price increases on federally-regulated goods and services, such as natural gas, heating oil, airfares, and generic drugs. Through the Con-

sumer Protection Act of 1977, Congress is giving us the opportunity to help in shaping federal policies and regulations before they are handed down by Washington.

In a message to the Congress, President Carter recommended the creation of this consumer protection agency. For your information, I have enclosed a copy of that statement. The Conference wants very much to assist President Carter in making the Consumer Protection Agency a reality. However, this cannot be done without your assistance.

As Mayor Krout testified before the Congress, the area of consumer awareness is one whose "time has come," and where governments at all levels must respond. Here is our opportunity.

We expect that this bill may be considered by both Houses of Congress as early as June 1, 1977. Therefore, as President of the Conference, I am asking that you contact the Senators and Representatives from your state and urge that they support the Consumer Protection Act of 1977.

Thank you for your cooperation in this important issue.

Sincerely,

KENNETH GIBSON,  
President,  
Mayor of Newark.

#### THE BICENTENNIAL CELEBRATION OF WASHINGTON, MASS.

#### HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. CONTE. Mr. Speaker, even as the Nation's capital recovers from last year's Bicentennial celebration, another Washington will be commemorating its 200th birthday during the summer. A year ago, the small New England town of Washington, Mass., joined the rest of the country in the remembrance of its heritage and history. This summer the same town, one of the first named for one so important in our Nation's struggle for independence, will be concerned with the celebration of its own history and heritage. Among the many activities which have been planned are a Bicentennial Ball, a family day, a parade, and an arts and crafts fair.

Like most of western Massachusetts, Washington, derives much of its beauty and brilliance from the Berkshires. Situated in the Green Mountain range, at the eastern end of Berkshire County, the township is blessed by all of nature's adornments: hills and valleys, streams and ponds. The town had various owners and proprietors, and various names before it was incorporated as Washington on April 12, 1777. Much like the surrounding countryside, Washington's history has had its peaks and its valleys. The late 18th and early 19th centuries saw the town develop into a successful farming and mill community. But between 1810 and 1820, over one-fifth of the town's 949 inhabitants abandoned their prosperous farms for the promise of greener pastures to the west. Washington rebounded in the 1830's, when it served as one of the major rest areas on the main road from Pittsfield to the east. The

population increased to 1,000 during this period, and by 1855, the successful cattle ranches and sawmills had made Washington a wealthy and prosperous community. But prosperity brought its perils—the railroad ruined the local farmers by providing western New England with beef which undersold the local product, while the forests, which supplied the mills, were soon depleted. This resulted in an exodus which reduced the town's population to 250 soon after the turn of the century.

Today, Washington has a population of over 400 devoted citizens. It is one of the many areas of which we in western Massachusetts are very proud. Several historic buildings have been dutifully preserved in Washington. Most notable among these are the old school house, the old town meeting house, and the 78-year-old St. Andrew's Chapel. Within the limits of the town is the 11,000-acre October Mountain State Forest, which provides welcome refuge for campers, vacationers, and sightseers.

At a time when many people in other areas of the country have a misconception of New England as just one part of the northeastern megalopolis, which stretches from Boston to the District of Columbia, I believe it is important to single-out towns like Washington, Mass. True to form, there are skyscrapers in Washington, Mass., but these skyscrapers are the Berkshires themselves, rising into the heavens in all their beauty. It is the scenic small town, like Washington, Mass., that makes New England the beautiful place that it is. On the occasion of Washington's 200th birthday, I send the town my heartiest congratulations, and my best wishes for a successful and exciting summer celebration.

#### HEARINGS ON THE ARTS IN EDUCATION

#### HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. BRADEMAS. Mr. Speaker, as chairman of the Subcommittee on Select Education, I wish to announce that hearings will be held by the subcommittee on Wednesday, May 25, on the subject of the role of the arts in education.

The hearings will focus discussion on a report on the significance of the arts for American education to be published this week by a panel headed by David Rockefeller, Jr.

The report, "Coming To Our Senses," the result of a 2-year research effort by a group of 25 prominent educators, artists, businessmen, and scientists, calls on the Nation to emphasize the arts as "basic to individual development since they more than any other subject awaken all the senses."

Witnesses at the hearings will be David Rockefeller, Jr., chairman, the Arts, Education and Americans Panel; Barry Bingham, Sr., editor, Louisville Courier-Journal; Peggy Cooper, founder, Workshops for Careers in the Arts, Washing-

ton, D.C.; and Edward K. Hamilton, president, Griffenhagen-Kroeger, Inc., public management consultants, San Francisco, Calif., and former deputy mayor, New York City.

In addition, the subcommittee will hear testimony from Pearl Bailey, entertainer; Lorin Hollander, concert pianist; Norris Houghton, dean emeritus and professor of theater arts, State University of New York, college at Purchase; Elizabeth J. McCormack, Special Assistant to the President, Rockefeller Brothers Fund and former president, Manhattan College; James A. Michener, author; Glenn T. Seaborg, professor of chemistry, University of California, former chairman of the U.S. Atomic Energy Commission and coreipient, Nobel Prize for Chemistry, 1951; and John Calkin, director of medical studies, new studies, New School of Social Research, New York, N.Y.

The hearings will be held in room 2175 of the Rayburn Building on Wednesday, May 25, beginning at 9:30 a.m.

#### SHAMEFUL PERFORMANCE BY THE HOUSE ON H.R. 10 AS OBSERVED BY REPRESENTATIVE KOST- MAYER

#### HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. KOSTMAYER. Mr. Speaker, while I have served in this House for only 135 days, I must sadly say that for the first time I found the performance of the House last Thursday evening to be shabby and shameful.

The manner in which we considered H.R. 10 during the late hours of that session reflects discredit on every Member on both sides of the aisle.

The effort to cut off debate was uncalled for and is almost always inappropriate in my opinion. But our consideration of a half dozen amendments to an important bill in only a matter of minutes, caused confusion and chaos on the floor and compelled me and other Members to vote present on two amendments.

I will not pass judgment, either affirmative or negative on legislation which is considered in the manner those amendments were considered last Thursday night. I sympathize also with those Members who simply voted "no" in protest of the manner in which we were conducting ourselves.

Our performance here last Thursday evening gives credence to the old adage that there are two things one should never watch being made—sausage and legislation.

During the discussion of those amendments no more than a handful of my colleagues knew what the amendments stated.

I will continue to vote present under such circumstances, and I honestly hope that we will never again be faced with such a situation as we were last Thursday.



# CONSTITUTIONAL AMENDMENT FOR BALANCED BUDGET

## HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. FINDLEY. Mr. Speaker, last week I voted against the budget resolution. I did so with a heavy heart because I had truly hoped that I might be able to support the first budget resolution to come through Congress.

Six years ago I became convinced that what was needed in order to control ever rising national debt and budget-busting deficits was greater discipline in spending on the part of the Congress of the United States. I felt that if only Congress were required to plan a budget for the entire country the way American families plan their own budgets, spending and income would automatically come into balance.

In the past, the practice was for Congress to pass individual appropriation bills without ever comparing them to total revenues or even adding them up to see what total Federal spending would be. In addition, "back door" financing was common. Congress had completely lost control of the purse strings of Government. Federal deficits grew each year and with them the danger of inflation.

Finally, in 1974 the United States underwent a disastrous period of double-digit inflation followed by the worst economic setback since the Great Depression of the 1930's.

Mindful of the dangers posed by uncontrolled Federal deficits, early in 1973 I introduced the first budget control bill which was designed to require the Congress to establish a budget for the entire Federal Government before beginning the appropriations process. Similar legislation was subsequently enacted into law and this year, for the first time, Congress will enact a budget for fiscal 1978 that sets strict ceilings on all major categories of Federal spending.

There is only one problem. This budget calls for a planned deficit of \$66.2 billion. It is the third largest deficit in our Nation's history, including the war years. Worse yet, it follows on the heels of budget deficits for fiscal 1976 and 1977 which were the two worst in history. It does nothing to cure the growing cancer of deficit spending and the resulting inflation. That was the primary reason Congress set up these elaborate budget procedures. Measured against that standard, it must be admitted that Congress has failed miserably in its purpose. In fact, some will think that this new budget procedure tends to legitimize such extraordinary deficits and that in some way lessens the danger of inflation. But they are wrong.

Once again, renewed inflation is surging through the American economy. In February, consumer prices rose a full percentage point, equal to the double digit annual rate of only 2 years ago. Food prices increased by 2 full percentage points in 1 month alone. In March, inflation continued at a rate of .6 percent for

the month. According to the Department of Labor, a family of four must have over \$10,000 a year just to maintain an austere living standard, without any frills whatsoever. In many areas of my congressional district, the average family income is much less than that.

At the same time, Government continues to grow unabatedly. Regardless of which administration is in power, new Federal programs are enacted with their plethora of new rules and regulations and Federal employees to enforce them. President Carter, who campaigned on a promise to cut the White House staff, has instead permitted it to increase substantially. His predecessors fared little better. The inexorable growth of Government at all levels is without question the most serious and least understood of all problems facing our Nation today. If it is not brought under control, it will bring the United States to its knees. Already Federal, State, and local governments are spending 40 percent of our national income. More than any other factor, this uncontrolled spending is responsible for our stagnant economy.

With the threat of renewed double-digit inflation and the primary cause, deficit spending, still unchecked despite the existence of the new budget procedures, it is apparent that even stronger measures are called for.

Therefore, I am today introducing a constitutional amendment which requires the Congress to balance the budget except when three-quarters of the Members of each House determine that a national emergency exists. Further, my constitutional amendment provides that over a period of 20 years, receipts would have to exceed expenditures by 5 percent each year so that the Federal indebtedness, instead of continuing to grow, could actually be reduced.

This is unquestionably strong medicine. There is no question that it would require a major restructuring of the way in which Congress and the American people look at Federal programs. Many would have to be cut back.

But I think that the danger of uncontrolled inflation and inexorable Government growth pose the greatest threat to our economic security, indeed to the personal liberties we all cherish. And I have reluctantly come to the conclusion that nothing short of a constitutional amendment will stem the swelling tide which threatens to engulf us all.

Text of constitutional amendment follows:

Joint resolution to amend the Constitution of the United States to provide for balanced budgets and elimination of the elimination of the Federal indebtedness

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within three years after its submission to the State for ratification:

### "ARTICLE —

"Sec. 1. During the first fiscal year beginning after the ratification of this article and

for each succeeding year thereafter, total outlays of the Government shall not exceed total receipts.

"Sec. 2. During the second fiscal year beginning after the ratification of this article and for the next nineteen succeeding fiscal years thereafter, the total receipts of the Government shall exceed outlays by an amount equal to 5 per centum of the Federal indebtedness during each fiscal year.

"Sec. 3. In the case of a national emergency, Congress may determine by a concurrent resolution agreed to by a roll-call vote of three-fourths of all the Members of each House of Congress, that total outlays may exceed total receipts: Provided, however, that outlays shall never exceed receipts by more than 10 per centum.

"Sec. 4. Thereafter, whenever the Congress determines under section 3 that an emergency exists and authorizes outlays to exceed receipts, any indebtedness ensuing therefrom shall be extinguished within three fiscal years of being incurred.

"Sec. 5. The Congress shall have power to enforce this article by appropriate legislation."

## JIM WRIGHT RECEIVES HUMANITARIAN AWARD

### HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. SCHEUER. Mr. Speaker, our distinguished majority leader, JIM WRIGHT, received the Humanitarian Award of the Union of Orthodox Jewish Congregations at a dinner in the grand ballroom of the New York Hilton Hotel in New York City on May 15, 1977. In accepting the award, he gave a speech that is stirring in its quality and inspirational in its tone. I was in the audience and observed how JIM's remarks deeply moved the large audience of over 1,000 people. JIM WRIGHT's thoughts echo my own and I commend them to you:

### REMARKS OF JIM WRIGHT

To be invited to share this occasion with the Union of Orthodox Jewish Congregations is a gracious and moving compliment.

To be chosen as the recipient of your Humanitarian Award is undeserved and overwhelming.

It reinforces my conviction that humanity is one.

When we contemplate the thread of compassion so inseparably interwoven into the sometimes tattered fabric of our common civilization, those superficial differences between Christian and Jew disappear like hot breath in a looking glass before the cooling breeze of reason.

As a youth I thought that the Golden Rule was distinctively Christian in origin. And then I read from the Jewish scholar Hillel who taught:

What is hateful to you, do not to your neighbor.

This is the whole Torah. All else is commentary.

And that is our common heritage.

In the intervening two millennia, much as they had before, men have acted as though this were not so. Where we should have built bridges of understanding, we have erected walls of separation. We have constructed artificial barriers of alienation and hostility between the nations, between the ethnic races, between the social classes, between the economic strata, between the generations of

man, and between those who pursue diverse paths to serve the same God.

Each of us has listened to the shrill voice of his own self-aggrandizement until, like the inheritors of the Tower of Babel, we seem at times to have lost the one thing that sets man above beast—the capacity to communicate with one another.

We speak words, but the words do not convey thought because each of us wants so much to be understood and cares so little to understand.

How sad—how infinitely sad—that throughout the world in conflicts between close neighbors and ancient kin both sides claim the right to such terms as "liberation" and "self-determination," yet neither can hear the heartbeat of the other above the frenzied chatter of machine guns and the whine of bombs and mortars. And because they do not sit together and talk, men go on dying and infants crying at mothers' breasts that ooze blood instead of milk.

And yet how hopeful that together tonight we celebrate the eve of Jerusalem Day. Ten years ago the holy city was reunited and re-established as the world's symbolic City of Peace.

As in so many celebrations, happiness is tinged with sadness. Ten years ago, Jerusalem lay in a rubble of ruin. Even as prayers went up from the Western Wall, the city's desolation lay all about. Thirty-four of Old Jerusalem's 35 synagogues had been destroyed. Where students once had studied justice, there spread the cruel reminders of man's inhumanity to man.

Today, ten years later, the rebuilding goes on. I am particularly gratified to note that your Guest of Honor, Mr. Falk, and the recipient of your Distinguished Service Award, Mr. Stollman, are leading your fine organization, the Union of Orthodox Jewish Congregations of America, in building your own Seminar Center in Jerusalem. The light which illumines mankind has been rekindled, and with it a solemn pledge.

As humanity is one, so Jerusalem is one. It must never again be divided.

Ten years ago, just weeks before the Six Day War, I visited Israel. With sudden clarity I perceived the meaning of those words from Deuteronomy: "Thou shalt become an astonishment!"

There I saw the works of peace which in two short decades had reclaimed the barren desert and made it bloom. I saw the reforestation of its once eroded hillsides and smelled the blossoms from the citrus groves made possible by the desalination of water and the sweat of a dedicated people.

I marvelled at the shining structures of modernity which arose to sparkle against the backdrop of that ancient civilization like newly cut diamonds in a setting of old gold. It was, and is, an astonishment!

Israel has given to the world its most convincing modern demonstration of the indomitable spirit of man to triumph over an inhospitable environment.

It has provided our most recent proof that this thing we call Democracy still works—and can survive as an oasis of reason and hope, even surrounded by a desert of unremitting hostility.

And at Entebbe its thrilling heroism has reminded us again that civilized humanity need not cower in fear and submission before the retrogressive inhumanity of mindless terrorism.

For all of these things, mankind owes to Israel a debt.

Short days ago, I was astonished again when from the Finance Minister of Israel I received the shattering realization that fully 66 percent of the entire domestic product of that land and its people must be consumed in taxes merely to defend the continued existence of this inspiring experiment in human decency.

That is a sustained burden much more than twice our own. It is a burden which would be thought intolerable by a majority of Americans. And that is a burden which Israel has borne for all humanity.

As I think back over the years of my adulthood, there are a few stirring declarations of conscience which come to mind, transcending the confinements of race and geography.

I recall the words of Winston Churchill when he said "I am a Zionist." And who ever can forget the conscious self-identification of John F. Kennedy when, standing in the shadow of that hideous Berlin wall which symbolizes the unreasonable fear of freedom, he said "I am a Berliner!"

And so, in a much simpler and less heroic way, there are those of us in the United States Congress who, mindful of the deeds and sacrifices of an intrepid people and conscious of what they mean to the future of the values we hold dear, by the mute process of our votes can say: I am an Israeli.

When that small bastion of freedom, so unsparing of its own resources, looks to America for the tools of its survival, those tools must be forthcoming.

To the extent we can contribute to fashioning the foundations of peace, we must insist that peace means peace.

President Carter said it for us when he said:

"The first prerequisite of a lasting peace is a recognition of Israel by her neighbors; Israel's right to exist; Israel's right to exist permanently; Israel's right to exist in peace...."

A settlement must be rooted in reconciliation—not measured by land, but by normalized relations—the borders open to travel, to trade, to tourism and to cultural exchange.

As a conciliator in the search for peace, our country has the responsibility to seek a peace which America could accept for itself. For peace, like Jerusalem, is indivisible. It cannot exist in fragments. Barbed wire cannot run through its heart.

Our own nation once was divided—and it has taken us 100 years to heal the scars of that division.

When I was young it was common to refer to the United States as a "melting pot." While drawing inspiration from the simile I have come to realize that it is not precise. From a melting pot the product of the various ores comes out in a single stream of sameness. And, for all our mixing, we are not all identically the same—nor should we be.

I grew up believing that there was no such thing as a hyphenated American, and I still believe that as an article of faith. To separate and divide ourselves one against another must never be the fate of any people which proclaims itself "One nation under God indivisible."

Yet I have seen that there are strands of different colors woven into the tapestry of our society and that the beauty of the whole piece gains something distinctive and important from each thread.

A better description of our American society might liken us to a fruitcake, rather than a melting pot, in which the raisins and the cherries, the apples and pecans retain an element of individual identity while giving flavor to the whole.

The Jewish culture in our midst has provided a resilient strength to our national alloy, a subtle beauty to our tapestry and a better flavor to our cake.

What you have provided to this nation is unique and distinct—the sense of shared humanity, of which other nations to their own downfall and disgrace have sought to purge themselves.

It has been said that one of the reasons God chose the Jews was that 400 years of servitude in Egypt had stripped them of the human arrogance of other cultures and made

them receptive to the divine will. I do not know that this is true.

But it is true that no other people have known a longer heritage of suffering. From Babylon to Buchenwald the Jews have learned about injustice and cruelty, servitude and bestiality, and all the other woes inflicted by one people upon another.

And perhaps this very fact has kept alive the imperishable seed of human togetherness through all the long centuries of geographic dispersal as an enduring inspiration to this jaded and cynical world.

I do know that the Jews have added strength and richness and diversity to the American character.

A Christian theologian, Karl Jaspers of Germany, once wrote:

"By their uncomfortable presence which keeps raising doubts about Christian dogma; by the greatness of their suffering and sacrifice, in which the fate of Jesus seems really to repeat itself as it first appeared to them in Isaiah's servant of God; by their lack of illusions, which does not try to talk evil out of existence with false comfort or stoical rigidity—by all of this, the Jews may yet become the saving thorn in the Western soul."

Many of your works have gone unsung. I think of the case of Haym Salomon. I suppose you know of him. Most Americans, unfortunately, do not.

This virtually anonymous American Jew and patriot in Philadelphia repeatedly and almost single-handedly saved the cause of the American Revolution when it tottered again and again on the verge of bankruptcy.

Haym Salomon is not mentioned in Boatner's Encyclopedia of the American Revolution nor in the histories of that period written by Alden and Trevelyan.

The documentation of his sacrifice is recorded for us in the diary of Robert Morris, Superintendent of Finance for this fledgling nation. On no fewer than 75 occasions between 1781 and 1784 Morris went to Haym Salomon to borrow funds to keep the nation's finances from ruin. The only collateral was rooted in the speculative and highly questionable possibility of this nation's future. On each occasion, Salomon provided the money—the hard cash to pay the troops, to buy the ammunition, to make American independence a reality.

Beyond that, he extended personal funds, without interest and probably without expecting repayment, to sustain scores of prominent men holding important government positions. Madison and Monroe were among them.

When Salomon died in 1785, his estate was bankrupt, and to our everlasting discredit the nation did nothing to compensate his widow and children for the legal and moral debts it owed this incomparable man.

It is a little late, but I would like to nominate Haym Salomon for a posthumous Humanitarian Award. His dedication to this struggling nation and its people, collectively and singly, proves that the humanitarian idea existed long before the word was a part of our language.

That sense of dedication still is with us, taking many forms. As a lawmaker I am aware of the contributions made to our society by such organizations as the Union of Orthodox Jewish Congregations, the American Jewish Committee, the Anti-Defamation League of B'nai B'rith, and all the rest which have fought untiringly to embed the humanitarian ideal in our national conscience.

I think of the support given by the Jews of the South to the cause of racial justice. And I think of the persecution they received as a direct result.

I think of the active involvement of the American Jewish community in the civil rights reforms of the past two decades.



I think of the consistent stand you have taken throughout the years to protect the separation of church and state and to fight off attacks upon our Bill of Rights.

By speaking out forcefully and fearlessly on issues which touch deeply held religious convictions and the vital interests of Jewish Americans, the UOJC has performed an important service, both for the American Jewish Community, and for myself and my colleagues in Washington.

It takes a special kind of courage to stand up and be counted on issues which are often unknown or unpopular—a courage that is characteristic of the Jewish people—and a courage that the Union of Orthodox Jewish Congregations of America has never lacked.

I think of the support you have given to a whole range of programs to help the poor, to provide medical assistance to the elderly, to establish and extend social security, to improve public education and in numberless other ways to make this a better country for us all.

The quality of education in this country is a concern to every government official, indeed to every citizen. The innovative programs and concepts of your youth movement, the National Conference of Synagogue Youth, have inspired tens of thousands of young American Jews with the value and uniqueness of their Jewish heritage—making them better Jews and better Americans.

There still is much to be done. Imperfections abound in our culture. Perhaps they always will.

But tonight on the eve of Jerusalem Day, we take heart that the struggle still goes on.

As a non-Jew, I have learned to identify with the spirit that you typify. I like to think that I share in your sense of compassion—and your occasional sense of outrage. I admire you for the way you can endure suffering and handle grief. I respect your intellectual integrity, your toughness of mind and your moral courage. I envy your sense of mission.

In a very real sense, you are the humanitarians. And while you honor me tonight, it is I who should honor you. I thank the God who is creator of Jew and Gentile alike for making you so vital a part of the life of this nation and for your shimmering pillar of light in the sometimes darkness of the world.

## FREEDOM FOR SOVIET JEWS

### HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. MURPHY of Illinois. Mr. Speaker, the new House vigil for Soviet Jews, "Helsinki's unfulfilled promise," has begun. In recognition of the vigil, I would like to speak in behalf of Ilya Solomonovich Goldin, a talented and courageous young man who is not being allowed to emigrate from Russia to Israel.

Ilya has been denied a visa because of his prior service in the military, even though he did not hold a sensitive position and had no access to secret information.

Ilya first applied for a visa in 1972, an act which cost him his job. In spite of this, he has persisted in his efforts to emigrate.

Ilya, 27, is single and currently employed as a mechanical engineer. He lives with his father and mother, who also applied for visas in 1972 and, like Ilya, lost their jobs as a result.

This young Soviet Jew is deeply committed to his religion, and wishes to worship and develop his Jewish identity in freedom. Ilya has diligently studied Jewish customs and history, despite the efforts of Soviet authorities to stop him. To prepare for emigration, Ilya has taught himself both Hebrew and English.

Mr. Speaker, it is my sincere hope that Ilya Goldin will someday live in freedom. With the help of Ilya's friends and the support of the U.S. Congress, I believe this young man's dream of freedom can become a reality. I call on concerned Americans everywhere to join me in supporting freedom for Soviet Jewry.

## A NOTE ON FREEDOM AND CONSTRAINTS

### HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mrs. HECKLER. Mr. Speaker, I would like to insert in the RECORD the commencement address of the Honorable Juanita M. Kreps at Duke University for review by my colleagues in the House. Mrs. Kreps, the first woman Secretary of Commerce, since the post was created in 1913, served on the Duke University faculty as a labor economist since 1955 and was appointed as the vice president for academic affairs in 1973. Her address, entitled "For the Class of 1977: A Note on Freedom and Constraints," questions the validity of the goals of our economic system as it is presently oriented. I believe her comments are worthy of the attention of all, not only the Duke University class of 1977.

The article follows:

FOR THE CLASS OF '77: A NOTE ON FREEDOM AND CONSTRAINTS

(By Juanita M. Kreps)

Mr. President, members of the Board of Trustees, the faculty, parents and friends—most of all, those of you who are graduating today.

Thank you for sharing your day with me.

When your invitation came, I wondered whether you wanted a major policy statement from Washington, or more personal remarks to students whom I have watched grow for four years.

There is some temptation to focus on the State of the Union; to rattle off the accomplishments of the first hundred days. But a hundred days is too brief a time to judge either an administration or a student; both need their four years to set the record. And in any event, this is not a political day for you or me. It is a day for drawing together those people who have touched your lives, fired your thoughts, heightened your senses. And for this hour when you stand between two worlds, you are surely allowed to direct your thoughts not to the condition of the world but rather to your role in that world; not to how a new administration views its challenges but to the way you see your own.

With this in mind—and with a special affection for those of you whom I have come to know so well during our years at Duke, I offer this brief comment on freedom and constraints.

All Commencement addresses, like all Gaul, are divided into three parts: predictions, promises, and pleas. The prediction heralds the coming of a bigger and brighter world;

the promise is that you will run that world; the plea is for you to do a better job than your parents.

This is no time to go against tradition; there is precious little left, and we should honor it. Yet I confess that in candor I cannot come to the same safe conclusions.

## PREDICTIONS

Past forecasts have had one thing in common. All have predicted that things would get easier, safer, bigger, faster. As a result, we would be able to do more and have more. Implicit in these forecasts was the assumption that we would be happier for it.

In reality, progress as measured by material goods has consistently exceeded even our most optimistic projections. Half a century ago, when this University was having its first Commencement, speakers looked forward to the day when each American family would own an automobile; when highways would link every part of the nation to the other.

We know what has happened. Automobile production and rising incomes have enabled us to have more cars than parking space, to our utter frustration, and highways allow us to go anywhere we want to go—though there are many days when we don't know where that is.

The past half century has brought more than cars and expressways, however. Science has made it possible for us to know almost instantly what is happening throughout the world; to explore the moon and Mars; to grow taller and live longer. Yet few of these important developments were being forecast fifty years ago.

It gives one pause in making predictions, for it is clear that in looking ahead we often look at the wrong things. Concerned with growth and its power to raise material levels of living, we have failed to focus on the correlates: greater scientific knowledge and understanding of the world and its peoples, better health, more equitable treatment for all persons. Indeed, we have taken material welfare so seriously that we have developed ways to measure each inch of progress. Yet we have not thought it necessary to find an index of human welfare that takes into account more significant but nonmaterial changes in the quality of life.

With this caveat in mind, what can one say of your future world?

Here I should like to break with the past. For I cannot argue that continued high rates of growth are possible or necessarily desirable. I cannot believe that the cost of growth in resource depletion and environmental destruction are always worth paying. Nor do I think that the American people will continue past consumption patterns, once they understand the implications of those patterns for their children and grandchildren.

Scientific and technological breakthroughs can of course postpone the rate of resource depletion. And there will be many starts and stops along the way, with some people arguing that full exploration of the world's resources will produce such quantities that we need not worry. But even as such exploration occurs, threats to the environment mount. Costs rise. Consumption has to decline in the face of higher prices. International pressures, moreover, press against the wealthy nations as never before. Living standards measured in the usual way—by real output per person—are simply not going to grow as fast as in your parents' day.

But a slower, material pace is not likely to be a disturbing prediction to those of you graduating today. You come from relative affluence—affluence is always relative, actually—and you are in a good position to question whether, as the rate of real growth slows, some alternative goals may not be even more desirable.

This perspective was not characteristic of previous generations. Parents here today remember a strikingly different world. We spent our childhood in an era of economic col-

lapse and depression, and our youth struggling with the shortages that come with total war. It is not surprising that we approached our careers with aspirations for financial success and the economy with expectations of unprecedented growth.

In both respects, our hopes have been fulfilled. And that ought to mean that we are happy with the way things turned out. There is some evidence that contentment, even with such success, is spotty: heart attacks are on the rise; the incidence of depression is high; stress is a greater problem than heretofore; the suicide rate is up and civility is on the decline. But the goal we set for ourselves was success—success as our parents had defined it, measured in power, income, and material goods. And the world cooperated, for we would not let it do otherwise.

You did not grow up in an environment of scarcity, however. You were children of plenty. And just as your parents' aspirations were honed by the times of their lives, so, too, are yours. Lacking the pressure that comes from doing without, secure in the knowledge that material needs can be met fairly easily and with only a part of one's time and effort, then, what goals do you set for yourself?

Since goals are sensibly set only with due regard to what it is realistic to expect, one is led to the question of promise. What has the world to offer you?

#### PROMISES, PROMISES

On graduating, the speaker says, the world is yours. Of course you are not taken in by that grand gesture because you realize that it isn't the speaker's world to give; because those who control things will pass on the power to you only a number of years later and even then, perhaps, with reluctance; and anyway, you probably don't want the world today—next week, perhaps, but not today.

Short of inheriting the earth, what is yours to claim in the new life? If not great growth in material wealth—bigger houses, bigger cars—what are you to expect? If the rate of material expansion is to be slower than in your parents' lives because the resource base is limited, because we need to conserve and protect, will there not be an important change in both our national and personal values?

Surely there can be no doubt that such changes are occurring. To begin your professional lives with personal aspirations or societal goals appropriate to another era is to invite frustration. To struggle against the impediments of the past is to dilute the strength needed to solve the problems of today. And to ascribe to your world the parameters traditionally assumed is to lose sight of the greatest promise of all. Galbraith once chided the nation for living with goals applicable to an earlier time and "as a result," he said, "We do many things that are unnecessary, some that are unwise, and a few that are insane."

To be not unwise or insane, but instead to be in tune with one's future—indeed, to help invent it—we need to accept the restrictions imposed by the post-industrial world, and to embrace its freedoms. Under the heading of restrictions, we have to view conservation as a goal that is at least as important as growth. We have to develop different tastes, different attitudes. We have to admire economy and criticize waste.

If we are able to modify our personal values, the linkage between value, income, and material wealth may be broken. We may develop qualitative measures of worth. Numbers for gross national product which lump Fritos and Faulkner into one aggregate to tell us how we are doing as a society may become less important.

As this happens, the new freedoms available to us will more than counterbalance the new restrictions. For if we cease to accept the notion that we are doing well only if we are making more and more money, we will be able to do many things which we denied ourselves in the past. Once we repeal the instruction that we cannot afford to think about anyone else because there is no profit in it—that we cannot take pleasure in another's success because life is a zero-sum game in which no one can gain except at the expense of someone else—we may find that we have a much wider range of options. And lest we fear that such abandon will lead to economic chaos and personal bankruptcy, it is well to remember that your living standards will always be relatively high; that more attention to earning pursuits could result in greatly improved human welfare.

In short, the promise of your tomorrow is different from that offered your parents. Whereas we who came into maturity following that second war to end wars were promised the material progress that our era so desperately needed, you are today being offered a world that yearns for compassion and human dignity; a world that offers great freedom of choice and expression and lifestyles; a world in which the good life is accessible to people who in earlier times were excluded. The promise of such freedom is a gift never before rendered to a generation of students.

#### A PLEA

Enter now the plea.

If there is one thing I could wish for you, it would be that you sense the freedom and be sensitive to the constraints that the forces of history throw in your lap. Because you face a different world, I would further hope that you feel uninhibited by the expectations of others, remembering that their notions of success or failure are not necessarily appropriate to your time and place.

I shall not exhort you with clichéd challenges to build a better world; to correct the mistakes we made. In fact, I find it offensive to deprecate the achievements of previous generations. It was their efforts that moved this nation and a large part of the world to a position in which such a large proportion of us enjoy education and freedom of choice. In retrospect, many who preceded you would do some things differently, just as each of you in time will mourn past mistakes. But know how easy it is to avoid making mistakes; one has only to do nothing.

Nor shall I urge you to love thy fellow-person, for that would be presumptuous. Yours is not a generation that lacks the capacity to care for others. What is more troublesome is finding ways to rationalize that sense of caring with the competitiveness and ambition that seems to be demanded of leaders in any field: business, the professions, government. And since we at Duke have encouraged your leadership qualities, you will surely feel some conflict between the selfless and the selfish.

To this conflict there is no ready resolution. I, too, observe the need to be aggressive if one would lead and dogmatic if one would persuade. But I observe further that in the world of commonsense experience, the only substitute for shouting is substance. Dwell, then, on knowing what you are about, for a knowing mind will ultimately win out, if anything can, against a loud voice.

Finally, I offer a plea that you treat yourself, as well as others, with respect, for you too are a special person. In accord with the familiar "Desiderata", "Beyond a wholesome discipline, be gentle with yourself." Hold on to what it was that brought you here and all that you have added to it. Laugh as often and cry as little as possible. And know, always, that we care about you.

#### THE ADMINISTRATION'S ENERGY CRISIS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. CRANE. Mr. Speaker, the following article, written by University of Georgia economics Prof. R. H. Timberlake, which appeared in the May 21st edition of the Atlanta Journal deserves to be read by each and every one of my colleagues as we struggle with the administration's national energy plan. His premise—that the United States is not running out of energy supplies but is smothering them with excessive governmental regulations and price controls—is amply documented. Dr. Timberlake's characterization of the President's plan as "totalitarian" is one which cannot be taken lightly. I commend this eye-opening commentary to all of my colleagues, and especially to Dr. Timberlake's fellow Georgian, President Jimmy Carter:

#### "THE PROFESSOR"

CARTER PROGRAM DISTORTS FULL ENERGY PICTURE, SUBSTITUTING POLITICS FOR FREE MARKET

(By R. H. Timberlake Jr.)

(NOTE.—R. H. Timberlake, Ph.D., is a professor of economics at the University of Georgia, Athens, who teaches courses in money and banking principles, economic thought, monetary theory and policy, and has written two books on money and banking.)

The Carter administration's "energy program" opens yet another hole in the dike that restrains government intervention, and protects the constitutional rights of individuals.

Probably the most important element of this program is the administration's delusion of the public into believing total amounts of traditional energy sources—petroleum, natural gas, coal, and nuclear fuel—are nearing exhaustion, and an energy "crisis" is impending.

The facts of the matter are very different. Before discussing the facts, however, two concepts of energy "reserves" must be distinguished. One is proven reserves of a given energy source; the other is absolute reserves. Proven reserves are an economic phenomenon. They are the reserves that have been verified as commercially available within the time frame in which energy companies feel certain they can operate as cost-recovering enterprises. The proving of reserves is costly. It requires both real resources and an outlook of confidence and certainty toward the future operations of the enterprise. The energy industries, therefore, can only be interested in proving a limited amount of the earth's total energy capacities at any one time; and the more they are harassed by government regulations, restrictions and constraints, especially in the form of taxes and money price controls, the less interested they can be in proving future sources of commercially available reserves.

Absolute reserves are a geologic subject. They may be defined as the total amount of reserves in existence. Since no one has any good reason for proving absolute reserves, estimates for these values must be very problematic.

Another factor contributing to the uncertainty of their measure is current ignorance of what might be a recoverable energy process:



For example, geopressurized water. This water is at temperatures between 150 degrees and 180 degrees. It is trapped in deep sedimentary basins at high pressure. The pressure is created by methane, which is the main ingredient of natural gas. At least 375 years worth of natural gas at current consumption rates would seem to be certain of recovery from this source. (Access to Energy, May 1977.)

Other estimates for absolute reserves of conventional energy reserves are, for coal, about 3,000 years; for natural gas from ordinary sources, at least 1,000 years (Wall Street Journal, April 27, 1977); for petroleum, just from high-grade shale in the Green River area of Colorado, Utah and Wyoming, 2.6 trillion barrels, or enough for 300 years! (D. T. Armentano, U.S. Energy Crisis: The Real Story). This estimate does not include Alaskan oil, coastal oil from sedimentary rock basins along the Eastern and Western shores of the United States, or secondary and tertiary recoveries from "depleted" wells in the conventional oil-producing states. These sources would add at least another 100 years supply.

A final note on nuclear fuel reserves: At Oak Ridge, Tennessee, there are 200,000 tons of Uranium 238 stored and packaged in steel containers above ground. (Access to Energy, May 1977.) This material is what remains after Uranium 235 has been extracted. It can be bred into plutonium fuel by means of the liquid-metal fast breeder reactor that the Carter administration has arbitrarily declared "verboten" on the flimsiest of pretexts. If used as fuel, this packaged material would supply the U.S. with energy at current rates of consumption for 100 years! And the remaining 3.5 million tons of as yet unmined uranium ore would supply U.S. needs for an additional 1,750 years, or until the year 3727!

These infinite quantities of energy sources only become "shortages" when government intervenes.

The "shortages" are shortages of proven reserves, not of absolute reserves. They appear most noticeably when government imposes money price controls on the purchase and sale of products. These policies have been especially destructive with respect to natural gas, where proven reserves between 1963 and 1972 declined from a 20-year supply to a 10-year supply. (See Robert B. Helms, Natural Gas Regulation, American Enterprise Institute.) Effects on U.S. production of petroleum have been similar if less dramatic.

When a ceiling is imposed on the money price of a product, it will, if effective, increase the flow of the commodity demanded and decrease the flow supplied. These results have largely been avoided by industries producing energy products, because energy companies have been able to produce higher quality products at lower prices over the decades when left unmolested by government butchers.

However, in the presence of inflation, an event wholly caused by government monetary-fiscal practices, the legally fixed money prices become lower real prices. Since 1967, for example, money prices generally have increased from 100 to 177. So if you paid \$.32 for a gallon of gas in 1967, you are paying the same real price today when the price is \$.57 a gallon. Thus, government price controls in the presence of government-induced inflation do not "stabilize" prices. They force real prices to go lower and lower. Since money costs in the affected industries are not controlled, and in fact have been significantly increased by government regulatory policies, real production both for the present and the future is actively discouraged. Each admin-

istration that comes to power in Washington takes its turn at making matters worse.

In truth, the problems of the economy are not economic but political. And the Carter energy program reflects this development. It is another example of government politicizing the economy. Consider the details. First, it calls for an additional excise tax on gasoline of 5 cents per gallon per year. This tax would increase the price of gasoline constantly over the foreseeable future. Yet, the restrictive price ceilings on gasoline and other petroleum products have been imposed allegedly to keep prices down. What kind of economic "philosophy" has the price being forced down and forced up at the same time? The tax would also return revenues to the government rather than to the beleaguered petroleum industry. The government would use these revenues to increase the bureaucracy and effect further counter-productive policies. The oil companies, on the other hand, who have been enjoined from absorbing any such "excessive" revenues, would use this money for exploration and development of more petroleum.

The second detail is the tax on "guzzling" cars. This imposition is the most insufferable kind of moralistic hypocrisy. It is outrageous chauvinism. Anyone who drives a larger-engined car has weighed the advantages and disadvantages to him and his family of using such a machine. He has considered the full consumption along with the greater safety, the greater durability, the greater comfort, the smoother ride, etc. All of these factors affect "efficiency." Efficiency is a subjective matter. It is not objectively determined by the President of the United States, nor by a board of ecologists, nor by a city council. It is a process of weighing up of competing benefits at the margin by individuals who have free market prices as guides for their decisions.

A much greater source of the "inefficiency" that Carter and his gauleiters could be concerned about is the use of elevators. Here is a machine weighing several thousand pounds frequently used to carry healthy people weighing only a few hundred pounds up (and even down!) a few floors. Virtually all passenger elevators that move less than five floors involve a complete waste of time and of electrical energy. In addition, they contribute to the debilitation of human physique. Yet, the "concerned" politicians, ecologists, humanists and other Pharisees, who drive their small-engined cars—which frequently have cost much more in total resources than the big-engined cars driven by "poor" people, never hesitate to step into an elevator and push the button that takes them from the third floor to the coffee lounge on the first floor. As if economy begins and ends with the cubic inch displacement of internal combustion engines!

Bushwah!

Another tax in the Carter program would be on domestic oil at the wellhead. Already, governmental policy has significantly discouraged domestic production by fixing the price of domestic "old" oil at only 50 percent of the price paid to foreigners on any oil. Now, the Carter plan would burden the oil industry with yet another tax, which would incidentally provoke a yet greater proportion of petroleum imports, and the proceeds of which would again go to government. The same argument applied to the tax on gasoline at the gas pump and to the tax on large-engined cars also applies here: The revenue would be used to enhance government bureaucracy; prices of petroleum products would rise; the production of petroleum would be further discouraged.

Gasoline rationing authority, also asked for by the administration on a stand-by basis, would surely be forthcoming. Here is another example of counter-productive in-

efficiency that would further extend the role and scope of government bureaucracy.

In a free market, prices ration goods. Each person then can choose the mixture of goods and services that best fits his needs; and he is surely a better judge of these needs than an official Pooh-Bah in Washington.

Some people have argued that "poor" people—this ubiquitous category that has taken the place of widows and orphans in politician prose—could not "afford" higher prices on gasoline or other energy products. If they could not, why are three or four new taxes being proposed that would significantly raise prices, the alleged rebates notwithstanding? In any case, neither the petroleum industry, nor the medical industry, nor the automobile industry, nor any other industry can afford to act like a private charity without jeopardizing its existence. If people are "poor" then they can become "rich" by getting jobs and producing something other people want.

(Here, too, government policies in the form of minimum wages and welfare payments have made matters worse by discouraging employment and production, and by encouraging profligacy and idleness. Government policies in the form of income tax legally stealing the fruits of people's efforts.)

In no case, however, can private industry laws then discourage production further by be shouldered with welfare responsibilities that result from public policies. If people are truly poor and their poverty is made a public issue, it must be tackled as a general problem of low income, not as the inability to afford this or that particular good or service.

The Carter program is totalitarian. It obfuscates and distorts the real facts of energy logistics, energy prices, and energy profits. It is yet another attempt to substitute politics for the free market. It is grossly counterproductive. It is omnipotent busy-body government at its worst.

At the very least, the Congress should reject it and allow government to make its maximum contribution to production by getting out of the way. Laissez faire policy toward the U.S. energy industry has resulted in unequalled production and benefits at every level of society more than 177 years ago.

Why abandon the principles upon which this splendid record was achieved?

#### RODINO PAYS TRIBUTE TO FRONTIERS CLUB AND HONOREES

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. RODINO. Mr. Speaker, I am pleased to bring to your attention and that of my colleagues the 20th annual awards breakfast of the Frontiers International Club of Newark which was recently held at Thomm's Restaurant in my home city of Newark.

The breakfast was in honor of my very good friends, Newark Mayor Kenneth A. Gibson; Mr. David S. Rinsky, president of the Newark Chamber of Commerce; and Ms. Bernice Bass, broadcaster for WNJR-Radio, for their outstanding accomplishments and service to the community.

The Frontiers Club of Newark was formed in November 1952 as a civic association dedicated to the betterment of

our community. Each member carries a spirit of fellowship, faith, and determination to achieve the organization's objectives and goals to better our society.

Indeed, we, the residents of Newark, are fortunate to have individuals such as these committing themselves to strengthening our communities, and it is with great pleasure that I salute the entire membership of the Frontiers Club and their honorees for their outstanding service to the city of Newark.

#### ELKHART NATIVE TO HEAD RESEARCH INSTITUTE

#### HON. JOHN BRADEMÁS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. BRADEMÁS. Mr. Speaker, Dr. William E. Evans, a native of Elkhart, Ind., in the district I have the honor to represent, was recently appointed director of the Hubbs-Sea World Research Institute in San Diego, Calif.

This event is another milestone in the illustrious career of the 46-year-old marine biologist. The institute, established in 1963 as the Sea World Research Institute, has been engaged in a broad range of marine environment research activity. Dr. Evans has been associated until early this year with the Naval Undersea Research Center as head of the Bioanalysis Group, Undersea Sciences Department.

In 1972, he was responsible for "Project Gigi," a well-known year long study of a young California gray whale in a controlled environment. This study developed valuable scientific data relating to the feeding habits, behavior, and migration patterns of the gray whale, an endangered species.

Dr. Evans' civilian scientist career with the Navy included pioneering investigations of marine mammal acoustics and zoology. In one assignment, he conducted research on navigation and orientation behavior of marine mammals, using radio telemetry. It was the work initiated by Dr. Evans and several of his colleagues that quantified the phenomenal ability of certain marine mammals, like dolphins and whales, to navigate by sonar. Additionally, his research efforts have been applied to systems development for undersea observation and data acquisition missions. Through the use of the Sea-Bee, developed by Dr. Evans in 1967, he initiated studies on the behavior of wild populations of pelagic marine vertebrates. Dr. Evans also helped develop aerial survey techniques applied to population studies of marine mammals during a 12,500-mile scan of the eastern tropical Pacific Ocean.

Dr. Evans, who was educated at Bowling Green State University and Ohio State University before receiving his Ph. D. from the University of California, is the author of more than 40 published technical papers, coauthor of several books and holder of three patents for marine systems used in tagging and tracking marine mammals and for an oceanographic platform and habitat.

A member of the United Nations Advisory Committee on Marine Resources Research, Dr. Evans has lectured at Tokai University in Japan and was a member of a joint United States-Japan Conference on Utilization of Marine Resource. In 1971, he was listed in the American Men of Science. Presently, his international scientific affiliations include membership on the Steering and Program Committee of the United States-U.S.S.R. Environmental Protection Agreement.

On May 24, Dr. Evans will participate in the official dedication ceremonies of the Hubbs-Sea World Research Institute, named in honor of Dr. Carl Hubbs, famed ichthyologist, biologist, and naturalist at the Scripps Institution of Oceanography.

Mr. Speaker, I am sure Dr. Evans' wife, Phyllis, and his two sons, John and Tim, are as proud of his many accomplishments as are his many friends and relatives in Elkhart. He is truly, Mr. Speaker, an "American Man of Science."

#### ENERGY: THE VIEW FROM SOUTH DAKOTA

#### HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. ABDNOR. Mr. Speaker, South Dakotans share the concern of the rest of the Nation over our future energy supplies. They recognize there is a problem which may demand some tough answers. They also are a very practical people and recognize that solutions which might be ideal for one part of the country, may not work at all in others.

These views from South Dakota have been well expressed by a number of our State's editors. I would like to share their observations with my colleagues:

[From the Timber Lake (S. Dak.) Topic]

IT SEEMS TO ME . . .

(By Mary Byington)

Using grain alcohol as fuel for vehicles is not a new idea.

Ken Reed brought over an article he found in one of the publications reaching his desk at the Moreau-Grand Cooperative. The University of Nebraska at Lincoln chemical engineering department has concocted an automotive fuel, which has been dubbed "gasohol." It's a blend of plant-derived anhydrous (water-free) alcohol and unleaded gasoline. Two groups of Department of Roads vehicles have been participating in tests. One group has been using only gasohol, the other, commercial unleaded gas. At the million-mile mark the two groups interchanged fuels. Researchers are watching six things: consumption, cylinder wear, exhaust emissions, condition of valves and valve seats, spark plugs and exhaust systems.

In the two-year test, gasohol has produced no adverse effects, anywhere, and several favorable things. The gasohol-powered cars registered from five to eight miles more per gallon mileage increase; it did not "separate" at extreme temperatures like other alcohol-blend fuels, such as methanol; and it costs no more than unleaded gas.

A service station in Holdrege, Neb., was furnished with 20,000 gallons of gasohol, with the stipulation that any left after a year must be destroyed. It was gone in two weeks. The

station pumped 90,000 gallons of the fuel in 10 weeks. Customers receiving questionnaires, returned a surprising 50 per cent favorable reply, saying they would buy gasohol.

Ninety gallons of unleaded gasoline mixed with 10 gallons of pure ethyl alcohol produces 100.25 gallons of gasohol. The University has been experimenting with it for five years. The beautiful part of the alcohol is that it can be made from wet, moldy grain, unfit for human or animal consumption, and it's estimated there is enough such low-grade grain to supply a 20-million gallon a year alcohol plant in Nebraska alone. Alcohol is cheap to make. At today's efficient methods, two and a half gallons can be derived from a single bushel of mildewed corn. Furthermore, carbon dioxide, usable by industry in such things as soft drinks, and high protein cattle feed are useful by-products. Unused protein in the feed can be extracted for possible use in deficient diets of underdeveloped nations.

It will be a while yet, before the fuel becomes available. At that, it will probably be regional, since the grain belt cannot supply the nation. But it could save about 10 per cent of national consumption of gasoline.

Alcohol is much more volatile than gasoline. Husband Jim asks, "What's to keep it from exploding." One should at least be careful not to light a match near the gas tank!

[From Hill City (S.D.) Prevaler May 5, 1977]

A STATEMENT OF OPINION BY JOHN J. GERKEN

If you have a feeling of being confused on a national energy program, you can join a great many other Americans, including this writer.

President Carter has gone to great lengths to convince Americans there is a crisis and a great deal of effort to sell us on his program. The explanations and the technical details of the plan are mind boggling and almost beyond comprehension.

The general appeal to Americans to conserve and the general information that we have a problem seem appropriate. We find no quarrel with a President leading his nation by putting out the information that problems exist and the degree that he views them and his urging citizens to accept his analysis.

But the plan to correct them seems to us to be just another big government boondoggle.

Oil prices will be increased so they are all the same at the wellhead. There is considerable difference between those now being charged for previously discovered or developed wells. That difference is to go into the US Treasury and then is to be parceled back out to citizens.

What citizens? How much to each? Does it relate to your present usage? Or will it be returned by what you save? And what about the comment that they consider using some of it for some other purposes such as social services?

Those are but a few of the unanswered questions involved.

But, never forget the biggest factor of all. The Bureaucracy.

A new bureau will have to be established to figure all this out. More employees on board to handle the paper work on the incoming, more on the formula, more on the outgoing.

Immediately you can see that if they collect an extra dollar at the wellhead there will be much less than that coming back.

Not only do we believe that this program lacks merit, we feel it is just another way of letting government grow, another way of collecting more taxes under thinly veiled subterfuge, just another way in which the poor citizen will suffer some more.

The simplest solution is always the best.



Technicians will determine that his proposal is actually a solution. We say it is far from being simple.

Mr. Carter, please, we would rather you broke your campaign promises than to try and keep them by actions that will hurt us all. If you feel you must feel the pulse of America, please come to our area and live in the land of distances. Feel our pulse.

It is getting weaker all the time.

[From Huron (S.D.) Daily Plainsman,  
May 6, 1977]

#### ENERGY AND JOBS

Forgetting for the moment the impact on fuel consumption and altered lifestyles that will result from whatever energy package is produced in Washington, what is the effect likely to be on the national economy? We have heard much about the average American's love affair with his auto, but how dependent is the economy upon it?

Fortune magazine has just published its annual list of the nation's 500 largest corporations, in terms of sales, for 1976. The top five companies last year were Exxon, General Motors, Ford Motor Co., Texaco and Mobil Oil. Several other oil companies and auto industry-related corporations were included in the top 10.

That ranking gives some indication of the scope of the petroleum and automotive fields in the economy. For each of the giants there are hundreds of suppliers, sometimes dependent entirely, sometimes only partially, on the primary industry for their existence.

What it boils down to are millions of jobs, hundreds of billions of dollars in annual sales; in short, as strong a backbone to the economy as one can find. That is why tinkering with the energy and transportation fields is not an endeavor to be undertaken lightly.

At the same time that House and Senate conferees were putting the finishing touches on a June 1 tax cut measure, designed to give the taxpayer and the economy a boost, statistics on car sales were being released showing a big jump in the sale of imported automobiles as a result of the energy conservation measures proposed by President Carter.

Along with the tax cut, Congress is finalizing a \$4 billion jobs bill, designed to create somewhere between 150,000 and 400,000 jobs. This bill is also intended to give the economy a boost. But President Carter has admitted that the government alone cannot handle the unemployment problem. The bulk of new jobs will have to be provided by private industry. But with some of the giants of industry under pressure from the energy programs, they may be forced to reduce employment rather than add jobs.

As the energy argument progresses it would be easy to visualize a spirited argument between environmentalists, who seek to hold down production, and labor interests who seek to expand the job market. With more and more evidence of the connection between environmentalism and unemployment it may be a timely confrontation.

[From: McLaughlin (S. Dak.) Messenger]

#### THE ENERGY PLAN

President Jimmy Carter last week outlined his proposals for energy. It is up to congress to decide what form these proposals will take in law.

Carter generally seeks to force conservation of energy by using taxes to make gas and oil expensive. His theory is fuel will cost so much people will cut down on its use.

We doubt if it will work out that way in the long run. The price of non-essentials like tobacco and alcoholic drinks have been pushed up and up by taxes and people keep right on using them. There has been no dramatic drop in the use of coffee although the cost of that product has risen astoundingly in the last year.

It is more likely people will continue to use the same amount of gas but will pay more for it. It will be a regressive form of tax because it will hurt the people with low incomes while it will not be such a burden to those who have a lot of money. Both have to use fuel to get to their jobs, churches, schools and stores.

For some time the Hate Business people have been putting penalties on the oil producing companies. They have discouraged exploration by cutting down on tax incentives for exploration. We are now paying the fiddler for those policies to the tune of fuel shortages.

England, on the other hand, has encouraged exploration. They have now found huge quantities of oil under the North Sea and drilling to put it to use. They expect not only to fill their own needs in a matter of a few years but to have enough left over to export.

Increased production of power is the most feasible long-range solution.

Efforts can be increased to develop heat and power from the wind and sun. We are going to have to use more coal and spend more money to restore the environment once that coal is mined. Alternate ways may be found to power cars, such as electricity. Our surplus grain might be turned into alcohol to be used as fuel or as an additive to stretch the petroleum fuels.

We are fearful the proposals of the president will simply mean people are going to spend more money. This contributes to inflation and the demands on the government printing presses to crank out more dollars.

#### AUTOMOBILE EMISSIONS AND THE WARRANTY QUESTION

##### HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. BROYHILL. Mr. Speaker, in spite of, or perhaps because of all the information which has been circulated regarding the Dingell-Broyhill amendment to H.R. 6161, there still is considerable confusion about the warranty section of our substitute and the effects it would have on clean air, consumers, and the automobile industry.

The purpose of the warranty provisions in our substitute is to protect independent parts manufacturers and service and repair outlets from a possible parts and service "monopoly" by auto manufacturers and their franchised dealers. The Dingell-Broyhill substitute amends the Clean Air Act to insure that automobiles may be serviced, maintained, and repaired by independent operators, using rebuilt or replacement parts, without danger of voiding the car owner's warranty.

There are two key differences between our amendment and the Rogers committee bill. Dingell-Broyhill requires that any warranty work which is the responsibility of the automobile manufacturer be performed by the manufacturer or an authorized representative. This pertains only to repair work which is a direct result of a manufacturing defect either in parts or in workmanship. Our provision in no way restricts the ability of the independent parts, repair, or service outlet to service or maintain an automobile in order to keep a warranty valid, or to perform nonwarranty repair work.

As with any warranty, whether it relates to any large consumer product, the manufacturer has the right to specify who may do the work for which it bears both the cost and the responsibility for repair. This is not only consistent with the concepts of the Moss-Magnuson Warranty Act, but is also supported by the trade associations which represent more than 166,000 aftermarket repair firms.

Chairman ROGERS' bill would force auto manufacturers to pay independent garages and service stations for "recall" or warranty work. They would have absolutely no control over work cost or quality. On March 16, 1977, the Justice Department addressed this very question when it reported:

If the manufacturer were required to honor a performance guarantee regardless of the identity of the repair shop, supply costs of the warranty would be expected to inflate rapidly . . . the manufacturer would be put in a situation in which it could exercise no effective cost control . . . the repair shop could charge, in effect, anything it wanted for services rendered . . . and, at the very least under these conditions, the price of new vehicles would skyrocket.

The second difference between the Dingell-Broyhill amendment and the committee bill is perhaps even more essential to the survival of the independent repair services and the aftermarket industry as a whole. Because some of the anticompetitive effects of the warranty program are inevitable, Dingell-Broyhill reduces the length of the performance warranty from 5 years/50,000 miles to 18 months/18,000 miles. This type of reduction was recommended by both the Justice Department and the Small Business Committee in the 93d Congress.

Mr. Rogers eventually recognized the anticompetitive and anticonsumer problems inherent in the 5-year and 50,000-mile warranty provisions contained in his bill, so he adjusted the committee bill accordingly. He reduced the warranty period to 18 months and 18,000 miles so as to conform to the Dingell-Broyhill amendment.

The committee bill, however, reduces the warranty period for 3 years only, after which time it reverts back to the anticompetitive 5 years and 50,000 miles warranty duration. The reduction in warranty length is essential to the aftermarket industry and to the survival of the small, independent businessman. I have worked for such a reduction for 3 years, and was pleased to see the Justice Department recommendations of March 16, 1977. By mandating a return to the longer warranty period after 3 years, the committee chairman contradicts himself, for he would have the law revert to a situation which he now realizes is anticompetitive, anticonsumer, and anti-small-business. It is difficult to understand why Mr. ROGERS asserts that he is attempting to protect the consumer and the automotive aftermarket industry, when his bill at best provides only very temporary relief.

There are two questions which are foremost in our minds when debating the warranty provisions. Unfortunately, these are the questions which have become most distorted. The first is whether Dingell-Broyhill will assure that vehicle

manufacturers will continue to produce durable and consistently effective auto emissions systems. The second question is whether Dingell-Broyhill will really protect the automotive aftermarket industry and the consumer from the adverse effects which accompany implementation of some of the Clean Air provisions.

Under Dingell-Broyhill, vehicle manufacturers will still be required to produce a durable system in order to pass the 50,000-mile EPA certification test under the production warranty. We propose no change in the length of the production warranty. Under the production warranty, the EPA not only certifies that the car's emission control system will last for 50,000 miles, but if a substantial number of systems fail during their on-the-road operation, the EPA can recall the entire lot for repair at the manufacturers' expense.

In order to assure that emissions control systems continue to meet standards throughout their effective life, the Dingell-Broyhill substitute includes a mandatory vehicle inspection and maintenance provision, to be administered by the EPA. Our amendment also makes it a prohibited act, subject to civil penalty, for a manufacturer to refuse to honor its warranty.

In response to the second question, our amendment guarantees the automotive aftermarket the right to perform all routine service and maintenance, using replacement parts, without danger of voiding the manufacturers' warranty. Our amendment also permanently reduces the performance warranty to 18 months and 18,000 miles. This will not affect actual operation of the emissions system, but rather only the length of time for which the manufacturer is directly responsible for the actual repair of defects in parts or in workmanship. Both of these provisions are supported by virtually every aftermarket firm in the United States, and virtually every aftermarket firm in the United States supports the Dingell-Broyhill amendment.

In conclusion, the Rogers' bill would result in additional costs to the consumer, additional burdens to the independent businessman, and little, if any, gain in repair quality or convenience. The Dingell-Broyhill amendment will insure that small repair facilities will continue to operate in a competitive environment and will enable the car owner to obtain reasonable, reliable, and effective auto servicing while automobiles continue to meet Federal emissions standards.

I urge my colleagues to support the Dingell-Broyhill substitute when it is offered to H.R. 6161 on the floor of the House.

H.R. 6502

HON. JOE SKUBITZ

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. SKUBITZ. Mr. Speaker, yesterday, I cast a nay vote on H.R. 6502, a bill to provide an automobile assistance allow-

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ance and automotive adaptive equipment to veterans of World War I.

This bill was called up very suddenly, Mr. Speaker, and the report thereon was not available at the time the bill was considered on the floor. It was difficult, therefore, to determine the principal thrust of this complex measure. Had I been aware of the fact that it would have extended entitlement to an automobile assistance allowance and automotive adaptive equipment to veterans of World War I who had suffered the loss or permanent loss of use of one or both feet; the loss or permanent loss of use of one or both hands; or the permanent impairment of vision of both eyes to a central visual acuity of 20/200 or less, all as the result of service connected disability, then I would have quickly and unhesitatingly voted in the affirmative.

My voting record over the years in which I have been a Member of this body will bear out the statement that I have always placed the highest priority upon the needs of the Nation's service-connected war veterans. Additionally, I have always supported the legitimate needs of veterans of World War I. Since H.R. 6502 will authorize equitable treatment for service-connected amputees from World War I, I am heartily in favor of it and regret the negative vote I had earlier cast.

## TECHNOLOGY FOR THE BLIND

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. TEAGUE. Mr. Speaker, your Committee on Science and Technology recently conducted a study, via a panel of expert consultants, on research programs to aid the handicapped. This study pointed out a number of significant findings, too many to enumerate and elaborate on here.

One of the findings, however, was the need to inform the public, particularly the professional communities serving the disabled and the disabled individuals themselves, about the results of our national research and development efforts. Many great innovations have never reached the marketplace and the intended handicapped users because of the lack of communication regarding these developments.

Fortunately, the intended user population of handicapped individuals is small compared to the general consumer population; however this creates a problem in that the usual marketing techniques become cost prohibitive when added to the often high costs of production for a rather limited number of sophisticated, high-technology devices.

For this reason, I am happy to bring to the attention of my colleagues an article which appeared April 17, 1977, in the Washington Post, Parade magazine, entitled "New Devices to Help the Blind and Near-Blind." I congratulate the Washington Post for publishing this article, thereby bringing these advancements of benefit to the visually impaired

to public attention; and I commend this article to my colleagues:

## NEW DEVICES TO HELP THE BLIND AND NEAR-BLIND

(By Lawrence Galton)

In a Philadelphia suburb, a blind man today gets around as he never could before—with the aid of a laser cane that probes the environment for him.

Resembling an ordinary cane, the device, with its three built-in lasers, sends out thin beams of light that not only tell him when there's an obstacle directly ahead—they warn him with auditory and tactile signals when he's approaching a dropoff such as a curb or down stairway and also when he is nearing a low-hanging tree branch, awning or sign. When the cane is silent, he knows there is an open path he can safely travel.

Daily now in Chicago, a blind World War II veteran uses his laser cane—it weighs only one pound—to go from the end of the city where he lives to the end where he works as an X-ray darkroom technician. He has to take the elevated train and two buses. "For the first time," says his wife, "I feel at peace when he leaves home."

## NOW MASS-PRODUCED

The result of 25 years of Veterans Administration-sponsored development by Bionic Instruments, a Bala Cynwyd, Pa., bioengineering firm, the laser cane now is being produced in quantity. Its cost is \$1950. Thirty to 40 hours of training in its use over a period of two weeks are needed. The Mobility Foundation of North Wales, Pa., has been formed with the primary objective of providing laser canes for those who need, want and are not financially able to purchase them.

The cane is one of a series of developments that promise to improve the lives and opportunities of many of the blind and the near-blind.

## Reading machines

It's called the Optacon—for optical-to-tactile conversion. In one hand, a user holds a miniature camera about the size of a small pocketknife to read printed material and convert it into impulses. And with the index finger of his other hand, the user can feel the letters and numbers via a 1' x 1/2" tactile array of 144 miniature vibrating rods contained in a portable, battery-operated electronics section about the size and weight of a portable cassette tape recorder. For example, as the camera moves across an "E," the user feels a vertical line and three horizontal lines moving beneath the finger.

Selling for \$2895, the Optacon was developed with federal aid by a team headed by Dr. James D. Bliss of Telesensory Systems, Inc., Palo Alto, Cal., which now produces it, and Dr. John G. Linvill of Stanford University, whose own blind daughter has also been involved in the project since 1964.

As of now, more than 3200 of the machines have been produced. With the ability to read print directly, their users can independently carry out many everyday tasks—reading their letters, bank statements and bills, following cookbook recipes, and enjoying books and magazines.

And many users have been helped to advance in jobs and enter vocations previously closed to them. Various accessories increase the Optacon's occupational usefulness. For example, accessory lenses allow a blind computer programmer to read displays on a computer video terminal and a blind secretary to read what she is typing, make corrections, and fill out preprinted forms.

## Soon it will talk

The Optacon in its present form is hardly the last word. Its top reading speed now is 80 to 90 words a minute. But well within the next five years, it's expected, new accessory equipment will let the machine speak



out in words and phrases, making reading speeds of up to 200 words a minute possible. And, in fact, the text-to-speech technology is well along in development by Dr. Jonathan Allen at the Massachusetts Institute of Technology.

Meanwhile, a machine that reads aloud to the blind has been developed by a brilliant, 28-year-old inventor, Raymond Kurzweil, president of Kurzweil Computer Products in Cambridge, Mass. It consists of a reading unit that resembles a tabletop copying device and a small keyboard.

When a user places a printed page face down on the unit's glass top, a camera scans it line by line, converting light into electronic signals much like a photocopier. A miniature computer groups letters into words, determines how they should be pronounced according to a preset program, then produces speech sounds, enunciating words into sentences with stresses and pauses in a metallic but understandable voice at a rate of about 150 words a minute. At the push of a button, the user can repeat or skip passages, or mark a point on the page he wants to come back to later.

Half a dozen of the machines have been built for practical testing—with promising results—in the Perkins School for the Blind, West Virginia Rehabilitation Center, Boston school system and elsewhere. At this stage, the cost of a machine is \$50,000. But, with further development and volume production, it's expected to sell for about \$5000 within a few years and eventually to be as portable as a briefcase.

#### Talking calculator

In 1976, a hand-held, battery-powered calculator that talks was chosen as one of the most significant new products of the year by *Industrial Research magazine*.

Called Speech Plus and developed by Tele-sensory Systems, makers of the Optacon, the \$395 machine, weighing 17 ounces and measuring 1½" x 4½" x 7", can add, subtract, multiply, divide, sub-total, do square root and percentage calculations. Its numeric keys are arranged like a push-button phone because the blind are more familiar with this configuration. And the device lets the operator hear every key he presses in a clear machine voice so he knows he is making no mistakes as he goes along.

#### Electronic eyes

Two systems now under development could hold even greater promise for the sightless.

At the Smith-Kettlewell Institute of Visual Sciences, Pacific Medical Center, San Francisco, Dr. Paul Bachy-Rita and a research team are working with a Tactile Vision Substitution System (TVSS).

TVSS uses a tiny battery-powered TV camera worn in the frame of a pair of glasses which picks up images, serving much like the normal lens of the eye. The camera transmits visual images to an elastic garment that fits over the abdomen and has sewn into it more than 1,000 tiny electrodes. As images from the camera, translated into electrical impulses, activate the electrodes, the wearer feels vibrations on his skin in the pattern of the original images; so the skin, in effect, serves somewhat in the same way as the retina of the eye.

#### OBJECTS RECOGNIZED

Wearers of the experimental system have quickly learned to recognize drinking glasses, telephones and other common objects and to wend their way through tables, chairs and other obstructions in a room. A blind psychologist at the institute can move around obstacles at the rate of two feet a second, far faster than with a cane.

The institute team also developed a similar stationary system in which the camera is attached to a microscope and, instead of wearing an electrode pack, the user presses his abdomen against a bench-mounted elec-

trode array. Using the system, one man is able to assemble small components at an electronic plant as quickly and accurately as sighted workers.

The stationary system may become available for wide use within a year or two; the portable system, still being refined, may become available a few years after that.

In an entirely different approach, Dr. William Dohelle and a research team at the University of Utah's Institute for Biomedical Engineering are working toward a system which only a few years ago would have seemed inconceivable: one that would stimulate visual centers in the brain to let the blind see.

In experiments with a 33-year-old volunteer, blind from a gunshot accident, they have implanted a plastic strip with an array of electrodes against the visual cortex at the rear of the brain, with wires emerging through the skin above and behind an ear.

As electrical signals reach the electrodes, they're seen as spots of light, or phosphenes. In one experiment—with electrodes connected to a TV camera which sent images to a computer to be simplified and then transmitted as electrical impulses—the volunteer could see horizontal and vertical lines in the pattern of phosphenes. In another experiment, with the system hooked up to transmit Braille images, he could read words in phosphene for five times faster than with his fingertips.

Dohelle and his colleagues foresee a miniature system that the blind could wear and use constantly. It would consist of a small camera implanted in an eye socket. The camera would transmit light electronically to a tiny computer built into an eyeglass frame which would, in turn, translate the light into electrical impulses to be sent to the implanted electrodes in the visual cortex. With such a system, a wearer could perceive people and objects as well as read.

#### Help for the nearly blind

In addition to the totally blind, half a million Americans are legally blind, with 20/300 visual acuity or with normal acuity but field of vision sharply restricted to 20 degrees or less.

Effective new devices to help them are coming out of laboratories—in particular, from the nonprofit National Institute for Rehabilitation Engineering (NIRE) in Pompton Lakes, N.J. There, a team of ophthalmologists, optometrists and engineers develops means for individual patients to make best use of their remaining sight.

#### CORRECTS TUNNEL VISION

Not long ago, a 42-year-old man was referred to NIRE because an eye disease, retinitis pigmentosa, had left him with tunnel vision so severe that he retained only two degrees of the normal visual field, causing him to bump into objects and restricting his activities. The institute's staff designed and built for him "field expander glasses" mounted on a conventional eyeglass frame. By looking alternately through the regular lens and the field expander, he can now see a full 180 degrees. The field expander glasses now offer full-field vision, too, for people blind in one eye or with half-vision in each eye as the result of brain injury or stroke.

At NIRE, special wide-angle magnifying telescopic spectacles in bifocal form are made for people with impaired central vision or poor visual sharpness, enabling them to see clearly at a distance and drive a car again.

Strong reading spectacles with long working distances are made to help people who have been able to read only by holding print to the face. With the spectacles, they can read at a comfortable distance of 10 to 14 inches.

Miniaturized electronic devices that can be held in the hand or worn on the head are helping people unable to see adequately in dim light.

Among the remarkable achievements of NIRE are cross-vision glasses for people blind in one eye. Through technical legerdemain, the glasses provide full-field, high-acuity vision by detecting images on the blind side and conveying them to the brain through the normal optic pathways on the sighted side without causing double vision or confusion. One of those wearing the glasses is Israel's Gen. Moshe Dayan, who never expected to regain the ability to see on his left side.

Nothing can ever take the place of the priceless gift of normal sight. But increasingly now technological developments promise to help many of the partly sighted and the totally blind to gain, literally, a new outlook on the world.

## UP AGAINST THE STONE WALL

### HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. DRINAN. Mr. Speaker, it is distressing that more than 27,000 requests made under the Freedom of Information Act were denied in 1976. The amendments to the Freedom of Information Act which became effective in February 1975 were designed to reduce many of the obstacles to access to Government records. But the implementation of that measure appears to be less than satisfactory.

An excellent and comprehensive analysis of the present state of the Freedom of Information Act was published in the *Nation* magazine for May 21, 1977, by Martin Michaelson, an able Washington attorney, who has handled many FOIA cases. The article is based on a paper which Mr. Michaelson delivered at a seminar in honor of Prof. H. H. Wilson at Princeton University on May 3, 1977.

The article follows:

#### UP AGAINST THE STONE WALL

(By Martin Michaelson)

Freedom of access to government information, the youngest and perhaps most precarious freedom, is, like freedom of speech, not absolute. In fact, it is so "unabsolute" that, according to Harold C. Relyea's "The Administration of the Freedom of Information Act" (a Congressional Research Service monograph), United States departments and agencies in 1975 denied some 27,300 requests lodged under that Act. And, though final figures are not yet available, it appears that considerably more than 27,000 requests were denied in 1976. Observers having even a passing interest in human rights would presumably be shocked at disclosure of an annual rate of government-ordered abridgments of speech exceeding 27,000 instances; denials on a comparable scale of the right to speak have qualified regimes as totalitarian. Why, then, is there no outcry against these rampant refusals by the government to disclose its records to the public?

To understand why the country apparently tolerates this situation, it is useful to review some history. First, the United States lacks a tradition of free access to government records. This was an element of the more broadly accomplished government secrecy which reached its zenith—more properly, its nadir—in the period that will forever be known as Watergate. Watergate drove home dramatically the extent to which the government kept its domestic and foreign operations secret. From the reformer's point of view, it was powerful medicine with which

to arouse the public, dressing up as it did the banality of most government secrecy in a flood of titillating episodes. But the public was evidently more aroused by Watergate's symptom than by the secrecy disease of which it gave notice.

To suggest that the pervasive government secrecy which the Watergate disclosures intimated was purely a product of the Nixon White House does that administration too much credit. Government secrecy goes far back. Henry Steele Commager has noted the Founding Fathers' inconsistent attitudes about government openness. On the one hand, their theme was that "the people have the right to know":

This was the reason for . . . freedom of the press; this was the logic behind Jefferson's famous statement that given a choice between government without newspapers and newspapers without a government he would choose the latter; this was the philosophy that animated that passion for education expressed by most of the Constitution makers: that without enlightenment about politics and information about government, democracy simply would not work.

On the other hand, Commager continues (*The New York Review of Books*, August 19, 1973), "the Constitution itself was drawn up in secret session." A strong tradition of government openness would have made most unlikely a massive secrecy scandal which implicated, in addition to the President and his advisers, the CIA, Justice Department, Defense Department, Internal Revenue Service, FBI, and other units of the government.

Second, Congress was about 177 years too late in seriously addressing the problem of access to government records. When in 1966 the legislators did legislate for freedom of information in a comprehensive way, they compromised the principle, euphemistically calling limitations on disclosure "exemptions," and making them broad enough to protect massive quantities of secrets. It sometimes appeared—at least until Freedom of Information Act Amendments went into effect in 1975—that the exemptions had consumed the principle.

Third, growth of the federal bureaucracy, proliferation of government agencies, and a staggering increase in the accumulated volume of government paper made government policy on access to records itself inaccessible. For example, until last year there was no way to measure the extent to which the government refused to comply with requests for its records, and even now the data are incomplete.

Fourth—and possibly the most basic explanation of why such widespread nondisclosure of government records continues to be tolerated—many people believe that the government is so large, complex and unfathomable that access to its records would not be particularly helpful. Even the unrelenting efforts of Ralph Nader and the rise of consumerism seem to have made but small inroads on public apathy and alienation.

In light of the foregoing, it is less surprising that the Freedom of Information Act (FOIA) is so limited than that it exists at all. Access to government records was the doing of a relatively few conscientious souls who labored for years against dogged executive branch resistance. It happened like this:

In 1789, Congress enacted a "housekeeping" law which authorized federal agencies to set up files and maintain records. That began the problem. Eighty-five Congresses later, H.R. 2767 was introduced by Rep. John Moss (D., Calif.) to amend the ancient statute in ways that would inhibit the withholding of such files and records. The Moss law, enacted with little notice in 1958, was the product of Congressional hearings and studies begun in 1955 which established that federal agencies were hostile to requests by citizens for information. The 1958 law declared that "This

section [the 'housekeeping' statute] does not authorize withholding information from the public or limiting the availability of records to the public."

Unfortunately, this well-intentioned law had very little effect. Indeed, 1972 hearings of the House Foreign Operations and Government Information Subcommittees revealed that, despite enactment of the Moss law fourteen years earlier, federal agencies still relied on the 1789 "housekeeping" statute as authority to withhold information.

To justify their wholesale refusals to disclose records, federal agencies also routinely cited the gigantic loopholes in the Administrative Procedure Act of 1946. Although the law purported to state a policy of disclosure, its Section 3 authorized the agencies to keep information secret if "held confidential for good cause found," or where secrecy was in "the public interest," or where the information had a bearing on "any matter relating solely to the internal management of an agency." In the unlikely event that the requested information could not be made to fit any of those nebulous categories, an agency was required to furnish it only to "persons properly and directly concerned." In practice, Section 3 was constrained as a charter for government secrecy.

Thus, it became evident in the early 1960s that a law more potent than the 1946 and 1958 statutes was needed to overcome executive branch resistance to disclosure. Congress considered numerous proposals, but passed none until the 1966 Freedom of Information Act. That landmark bill, although complicated and riddled with exceptions, amended the 1946 statute to establish the principle that "any person" was entitled to access to government records without having to demonstrate a need or even a reason. Most important, the 1966 Act provided that the burden of justifying a refusal was on the agency; the requester no longer had to prove his right to the information.

Shifting the burden of proof had practical litigation effects, with which lawyers are familiar. But litigation is an inefficient tool with which to achieve broad compliance with a social policy, and the shift had a more basic significance. The right of access to government information now took on an essential characteristic that the constitutional freedoms enjoy: the onus is on the government to show that a recognized freedom should be denied in a particular case, not on the citizen to show entitlement to it.

The 1966 Act was debated in and passed by Congress with almost no support from the executive branch. Not a single executive branch spokesman endorsed the bill while it was under consideration, and President Johnson's view of its merits was uncertain until he signed it into law. Moreover, the Executive's glowing praise of the Act was belied by persistent obstruction of its implementation. Pen in hand on July 4, 1966 (the law went into effect one year later), President Johnson orated: "I signed this measure with a deep sense of pride that the United States is an open society in which the people's right to know is cherished and guarded." In a similarly high-sounding endorsement, Atty. Gen. Ramsey Clark, writing his June 1967 explanatory memorandum on the Act to the agencies of government, asserted that "disclosure is a transcendent goal." Other government officials echoed the rhetorical theme.

Perhaps the agencies took Ramsey Clark too literally. In any event, they succeeded so well in transcending the goal that they plainly missed it. A House Government Operations Committee report of 1972 cited six major problem areas in implementation of the Act, which I summarize:

(1) Bureaucratic delays in responding to information requests were grossly excessive. Initial response delays average thirty-three days, and major agencies took an average of

fifty days or more to process agency reviews of initial decisions.

(2) Agencies charged exorbitantly for records, as a device to withhold information.

(3) The judicial remedy for improper denial of access was cumbersome, costly and time-consuming, frustrating vindication of rights under the Act.

(4) Key decisions at federal agencies as to whether information would be disclosed were made by political appointees.

(5) News media personnel, often stymied by bureaucratic delays, took inadequate advantage of access rights.

(6) In too many cases, information was withheld, overclassified or otherwise hidden from the public to avoid disclosure of administrative mistakes, waste of funds, or politically embarrassing facts.

Some noteworthy progress in honoring the principle of freedom of information was made by the courts after 1966, but the case-by-case approach prescribed by the 1966 law was slow and difficult in the early years. For example, only eight cases were decided in 1970, twenty in 1971, twenty-eight in 1972 and sixteen in 1973. Litigants seeking access were challenged by the full legal resources of the U.S. Government, which almost invariably appealed lower court decisions that upheld disclosure. In addition, persons seeking disclosure usually had to pay substantial legal fees, even when they won their cases. Furthermore, the Supreme Court, out of what history is likely to judge an excessive deference to the Executive, held in *Environmental Protection Agency v. Mink*, 410 U.S. 73 (1973), that the Executive's decision to classify a document secret was virtually unreviewable; to determine whether classification of a document was proper, the courts could look no further than to the self-serving affidavits of the executive branch officials who had classified it. The judiciary thus barred itself from examining classified documents in FOIA cases.

Added to these off-putting factors was the inordinate complexity of the 1966 Act, which seemed even to lawyers to resemble the proverbial committee-drawn sketch of a horse. In fact, there had been more than one committee. Searching inquiry was required just to figure out what Congress had in mind. A 1968 *Fordham Law Review* article commented that the legislative history of the 1966 Act "is even more confusing than the Act itself."

It must be said that it was genuinely difficult to determine what information should properly be withheld under the Act's exemptions. There was and is no touchstone to determine which government records comprise bona fide private proprietary information (disclosure of which would be anti-competitive), or which investigative material should not be made public, or which intra-agency memos are of a privileged nature, or which secrets are actually necessary to the national security, to cite only a few illustrations. Hard cases, it is said, make bad law, and many of the early FOIA cases were certainly hard.

All these difficulties—cost, delay, statutory ambiguity, lack of precedent, uncertainty of outcome and, above all, agency hostility—often confronted the unwary requester of government documents head-on. In a very sober understatement, Rep. William Moorhead (D., Pa.), reviewing application of the Act during its first seven years, concluded that "No law is self-enforcing, least of all a law designed to help the citizen in a contest with the government." One study of 2,200 instances in which access to government documents had been denied found that fewer than 300 appeals were taken within the denying agencies, and in only about 100 of these instances did the disappointed individual go to court. The



odds were too great. The bureaucracy was, for the most part, in charge of the outcome.

Changes to the 1966 Act were necessary if freedom of information was to survive as much more than a boast. Congress again held hearings, and amendments were proposed in the House and Senate. Again, not a single executive branch representative testified in support. Indeed, some departments and agencies claimed, in effect, that their decisions on disclosure questions were so intelligent that review outside the agency would hardly be appropriate. For example, the acting general counsel of the Defense Department argued in a February 20, 1974 letter to the chairman of the House Government Operations Committee that:

No system of security classification can work satisfactorily if judges are going to substitute their interpretations of what should be given a security classification for those of the government officials responsible for the program requiring classification.

The generals, in short, held themselves unaccountable to the federal judiciary.

Former Atty. Gen. Elliot Richardson defined the obstacle to disclosure in his testimony before the Senate Administrative Practice and Procedure Subcommittee. "The problem," he said, "in affording the public more access to official information is not statutory but administrative. . . . The real need . . . is to improve compliance." Richardson was largely right, but how, without legislating, could Congress obtain "improved compliance" from an executive branch that had repeatedly demonstrated disinclination to comply? Legislation was the only answer.

However, it is difficult for Congress to legislate over executive branch opposition. The Ford administration, torn between its desire to appear cleansed of its predecessor's disastrous secrecy and its fear of too much public access, in the end chose secrecy. As President Ford's former press secretary, Jerald terHorst, recounted it (The Washington Star-News, November 1, 1974):

"Despite the grace period that the Congressional managers of the bill extended to Ford as a personal courtesy, no serious efforts to work out a compromise were made by the Justice Department, the FBI, the Domestic Council or other administration agencies whose leaders supposedly were now responsive to Ford.

It amounted to stonewalling, some actually preferring that Congress pass a bill which Ford would veto. . . . And Ford . . . finally did just that. . . ."

Fortunately, the political environment in Congress in November 1974, was ideal for disclosure legislation, and Congress overrode Ford's veto of the 1974 Amendments of the 1966 Act. On the same day, the Senate passed the Privacy Act of 1974, another long-overdue measure, which entitles individuals to inspect and correct many kinds of government records about themselves. The Senators were responding to Congressional review of the extent to which the government collects personal data on citizens. Studies by the Senate Subcommittee on Congressional Rights had revealed that, in 1971-73, the federal government maintained 858 data banks, containing 1.246 billion files on individuals.

The 1974 Freedom of Information Amendments, which became effective in February 1975, went a long way to reduce many of the obstacles to access to government records. They required agencies to publish comprehensive indexes on their publicly available records; imposed a ten-day limit on initial agency responses to information requests; required that agency fees for locating and copying records be uniform and moderate; authorized Civil Service Commission disciplinary proceedings against federal employees who capriciously or arbitrarily denied information requests; empowered the

courts to inspect withheld documents in camera, thus overturning the Supreme Court's decision in *E.P.A. v. Mink*, and shortened the government's time for answering complaints brought into court. They also directed the courts to expedite decision of FOIA cases; provided for recovery of attorney fees by information requesters who prevail in litigation; prohibited agencies from withholding entire documents only parts of which are exempt, by requiring disclosure of all "reasonably segregable" nonexempt portions; ordered each agency to report to Congress annually its experience under the Act, and liberalized the Act's exemptions relating to law-enforcement investigatory records and classified documents.

The urgency of improving access to needlessly classified documents was particularly great. A Princeton historian, Theodore Draper, had aptly described the security classification practices of the executive branch as "shot through with duplicity, hypocrisy and favoritism" (The New York Times Magazine, February 4, 1973). Another student of excessive security classification practices, William Florence, advised Congress that abuse of security classification was by no means limited to the government—it had polluted industry. As of July 1974, he reported, the Defense Department was maintaining industrial-facility security clearances at 1,293 facilities for Top Secret work, and 9,688 facilities for Secret work. Thus, industry classified and maintained "many millions of documents" prepared at public expense, and often needlessly held them secret. Here are a few examples of improper and excessive executive branch classification of documents in this period:

A note written by one of the Chiefs of Staff stated that too many papers were being classified as Top Secret. The note itself was classified Top Secret.

The external configuration of missiles which were standing on launch pads at Cape Canaveral where the public could plainly see them was classified Confidential.

Eleven documents classified Top Secret were introduced into evidence, and placed in the public file, during the four-month Pentagon Papers trial in 1973. Notwithstanding that the public had four months of unlimited access to the documents, the Defense and State Departments refused to remove the Top Secret classifications.

Compilations of unclassified, publicly available information, such as news clippings and bibliographies, were routinely classified.

On the basis of its review of such abuses, the House Government Operations Committee concluded that existing security classification practices had "spawned a strangling mass of classified documents that finally weakened and threatened a breakdown of the entire system." The Amendments sought to reverse this trend. After all, as Sen. Jacob Javits (R., N.Y.) remarked during floor debate, "it is not providence on Mount Sinai that stamps a document secret or top secret but a lot of boys and girls just like us who have all their own hang-ups."

Whether the purposes of the Freedom of Information Amendments will be achieved is not yet known. It is clear that the volume of requests has increased dramatically. For example, FBI Director Clarence Kelly, bemoaning the "avalanche" of FOIA requests to his agency, recently felt constrained, albeit reluctantly, to assign 400 FBI agents to process a backlog of requests requiring review of "nearly 10 million pages" of FBI records (Anthony Marro, The New York Times, March 18). However, it is far from clear that executive branch resistance to disclosure has abated. Available data are not easy to interpret. Thus, while the Justice and Defense Departments reported granting 84 and 86 percent respectively, of the FOIA requests made to them in 1975, there is no way to know how many of these requests sought truly innocuous material, such as printed

brochures, regulations and the like. What is known is that the Defense Department denied 5,197 requests in 1975 and 6,973 in 1976. Anyone who has dealt with them can testify that the gentlemen in the Pentagon do not resolve close questions in favor of information seekers.

Available reports on 1976 agency implementation of the Act are puzzling and troubling in many respects. The CIA's report to Congress on its 1976 FOIA activities attempts to excuse the agency's massive backlog of requests by stating that "the CIA has no central file or index to its record holdings" and that it takes the CIA "2-3 days to retrieve inactive records." Are these statements credible in light of a U.S. intelligence budget said to approximate \$6 billion? The Federal Trade Commission, one of the most pious of federal agencies in its proclaimed zeal to protect the public, saw fit to deny some 690 FOIA requests in 1976. The National Science Foundation, guardian of the principle that knowledge is enlightenment, denied thirty-four requests.

Still, there are signs of progress. The CIA also states that in 1976 its personnel spent 181,995 man-hours processing Freedom of Information and Privacy Act requests, and mandatory classification reviews under Executive Order 11652. FOIA requests are increasingly being directed to obscure, as well as prominent, government units. Even the little American Battle Monuments Commission got its share in 1976 and the Marine Mammal Commission—whatever that is—also duly reported its FOIA compliance policy and practices.

Perhaps the substantial rate and number of current denials of FOIA requests are not as salient as the unquestionably large rate and number of disclosures. The pessimist, it is said, describes the glass as half-empty, the optimist as half-full. However, skepticism of a real executive branch commitment to the House Government Operations Committee of its resistant attitude dating back to the earliest days of freedom of information. Analysts should remember that Congress had very good cause to shift to the government the burden of justifying nondisclosure. Vigilant Congressional oversight, and increased media attention, are the main guarantees the people have that Congress' intent will not be thwarted once again.

A vital freedom of information procedure is burdensome to all involved; it is expensive and fragile. Compliance must be constantly monitored if the freedom is not to slip away. Whether it is worth the effort is always open to debate. And yet, the belief that useful public debate itself depends on this freedom is perhaps the best argument for its indispensability. At bottom, this freedom, like all others, rests on *a priori* values. As Prof. Thomas Emerson said in *The System of Freedom of Expression*, "The validity of [these] premises has never been proved or disproved, and probably could not be." However, the unprovable, but I think undeniable, assumptions which underlie freedom of information have been described this way in Congress:

Information is essential to knowledge—and knowledge is the basis for political power. Under our government system, maximum access to information must, therefore, always reside firmly in the hands of the American people.

#### PERSONAL EXPLANATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. LEHMAN. Mr. Speaker, on Monday, May 23, I inadvertently missed one

of the votes on the bills which were considered under suspension of the rules. Had I been present, I would have voted in favor of H.R. 6502, to provide an automobile assistance allowance and automotive adaptive equipment to veterans of World War I.

#### LABOR BOSSES TRY TO CHANGE THE RULES

**HON. ROBERT E. BAUMAN**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. BAUMAN. Mr. Speaker, one way to win a battle you are losing is to change the rules in a way which will guarantee victory for your side. The czars of big labor, upset by dwindling membership rolls, have been trying to do just that.

A recent editorial in the Daily Times of Salisbury, Md., has pointed out another example of the continuing campaign to change the rules of union organization in their favor—at the expense of the American worker. The bill would allow a union to be certified as sole bargaining agent for any shop in which it could “persuade” 55 percent of the workers to sign authorization cards. This process is proposed as a “reform” of the secret ballot system now employed.

When are Mr. Meany and his cohorts in the plush suites of the AFL-CIO going to learn that most Americans have had enough of the manipulation of Government agencies like the National Labor Relations Board for their own selfish interests? The Daily Times is right: This latest bill from Mr. Meany’s labor lobby must be stopped.

The article follows:

#### THEY’RE STILL AT IT

Organized labor’s legislative “spring offensive” includes a bill which has been described as “the only really important bill” coming up this year and “more important than 14b and situs picketing combined.”

The bill, HR 77, according to its sponsor Rep. Thompson (D-N.J.), will supposedly “reform” the National Labor Relations Act. Don’t you believe it!

The union-backed “reform” bill in reality would automatically certify a union as the bargaining agent whenever 55 percent of the employees involved could be “persuaded” by the union to sign authorization cards. The bill would supersede the secret balloting now required by the National Labor Relations Act.

The Orlando Sentinel Star said this about the bill:

HR 77 would expedite union growth, but it would cheat the employee of his right to express himself anonymously through the secret ballot process. Many workers, acting under peer pressure and fear of reprisal will sign a union petition but vote against it in the NLRB secret ballot system. It has happened with enough frequency to frustrate union expansion particularly in the loosely organized South which is industry’s new and largely untapped frontier.

AGC’s executive vice president, James M. Sprouse, said the union ploy was obvious: “If they can’t win under the present rules, they’ll simply change the rules until they can. This bill is more detrimental to the public than the recently defeated secondary boycott legislation. The bill would also require that elections be held within 45 days

of the union’s request even though questions concerning the appropriateness of the bargaining unit have not been settled, and it would provide for new penalties against employers, such as debarment from federal contracts and suits for treble damages by individuals discriminated against because of their union activity. This bill must be stopped.”

#### IMPORT QUOTAS ON ITEMS WHICH ADVERSELY AFFECT DOMESTIC ECONOMY RECOMMENDED BY GENERAL ASSEMBLY OF PENNSYLVANIA

**HON. JOSHUA EILBERG**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. EILBERG. Mr. Speaker, in recent weeks I have become more and more concerned about the flood of foreign-made goods coming into the American market, to the disadvantage of American businesses and American workers. I have repeatedly expressed this concern to the President, because of the pledges which this administration has made to help restore the American economy—pledges which simply are being ignored in the foreign trade decisions being made at the White House.

My concern about this problem, Mr. Speaker, is shared by the General Assembly of the Commonwealth of Pennsylvania. The position of my State’s legislature is clearly spelled out in a resolution adopted by a vote of 192 to 3 on April 26, 1977. This resolution, in the form of a memorial to the Congress and the President, calls for establishing import quotas on those foreign-made goods and commodities which are adversely affecting the economic well-being of our domestic corporations and businesses of the United States.

State Representative Jame P. Ritter, chairman of the Federal-State Relations Committee of the House of Representatives, has provided me with a copy of this important resolution, and I am making that resolution a part of the Record so that my colleagues will be aware of the position that the Pennsylvania General Assembly has taken on this matter:

#### HOUSE RESOLUTION No. 67

In the House of Representatives, March 28, 1977: Cheap labor and government subsidies in foreign countries makes it possible to produce various goods and commodities there and sell them here at prices lower than the price required for those produced in Pennsylvania and her sister states. Flooding of the markets of the United States with such foreign made items results in the loss of jobs for our workmen. The only effective way to prevent such harmful activities is to establish and enforce import quotas; therefore be it

RESOLVED, That the House of Representatives of the Commonwealth of Pennsylvania calls on the President of the United States to direct his special representative for trade to develop voluntary trade restraints in the various goods and commodities, including, but not limited to shoes, textiles, wearing apparel, mushrooms and steel. Should this fail, the House of Representatives calls on the President of the United States and the Congress of the United States to establish

quotas on the importation of the aforementioned goods and commodities into this Nation and strictly enforce the application of the quotas set for the protection of the welfare of the citizens of the United States and its industries engaged in the manufacture and production of the various goods and commodities under such quotas; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the presiding officers of the Senate and House of Representatives of the Congress of the United States and each of the Senators and Congressmen from Pennsylvania for their review and comment.

#### INDIANA SMALL BUSINESSMEN OF THE YEAR

**HON. ADAM BENJAMIN, JR.**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. BENJAMIN. Mr. Speaker, I am delighted to inform the House that Steve Corey and Mark Corey, who own and operate the Corey Bros. Bakery in Hobart, Ind., were named Indiana Small Businessmen of the Year. Steve Corey, his lovely wife Evelyn, and their son Douglas are presently in Washington and appeared yesterday with President Carter at the White House at a ceremony held to celebrate Small Business Week.

Being a resident of Hobart myself, I am proud of their accomplishment and especially pleased to be able to relate for you the history of the bakery and the struggles these remarkable men have overcome in order to continue to serve the people of their community.

In 1955 Steve and Mark Corey started their business in Hobart, Ind., under the name of Corey Bros. Bakery. With little capital, long hours and the performance of all management functions were necessitated. After several years of struggling, the business expanded and moved to a new location and additional employees were hired.

In 1973, a substantial bookkeeping error that accumulated over a period of years was discovered. Company policy was to credit customers on returned merchandise, particularly on stale bread. The amount involved was substantial and while the easy way out for Steve and Mark would have been to close the business they felt responsible. Possessed of an integrity many today lack, the Coreys made the difficult decision to stay in business and borrow funds in order to make their customers whole.

A year later, fire devastated the bakery and completely destroyed their building. Insurance coverage was adequate to replace the structure, but a year passed before an agreement was reached on their business interruption insurance.

Despite this second burden, under which others would have faltered, Steve and Mark Corey remained resolute and continued the bakery. With the help of the Small Business Administration and after approximately 18 months from the date of the fire, the bakery was again opened, this time with 24 employees.



As sons of immigrant parents, Steve Corey and Mark Corey are outstanding examples of the perseverance and determination of the small businessman to succeed in the free enterprise system.

As the Small Business Administration said:

With two major problems that might have ended most businesses the Coreys have demonstrated an unusual talent for hard work, a strong sense of responsibility in meeting their obligations and a spirit of enterprise that marks the best attributes found in the small businessman.

Steve and Mark are a credit to themselves, their families, and to the community they serve. I am happy that they continue to do business and prosper in the district I represent and it is a privilege to draw this House's attention to their success.

#### HOUSE RESOLUTION 597

### HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. KETCHUM. Mr. Speaker, yesterday I introduced House Resolution 597, a resolution which seeks to eliminate the positions of majority and minority printer.

Both of these positions were first outlined during the term of the 78th Congress in 1943 under House Resolution 295 and were made permanent by the Legislative Branch Appropriation Act of 1945. The purpose of the legislation was to establish printing for the House majority and minority leadership at no charge. It further allowed for Members of Congress, congressional committees, State societies, and political organizations to use the facilities for a fee.

Today the offices of the majority and minority printers and their printing plants are located in the west underground garage of the House of Representatives. The printers are given their work spaces free of charge. In addition they are not required to pay for utilities.

The most striking luxury of the business, however, is the salary that both printers earn. First, each receives \$15,000 by act of Congress for the purpose of majority and minority leadership printing needs. According to a recent Government Accounting Office report, the printers then divided between them just last year \$118,870 in additional salary as well as \$104,535 in business profits. In adding these figures together as the combined income for both of these printers, the amount is staggering.

Obviously, the printing market with the House of Representatives is vast. With an annual constituent communication allowance of \$5,000 for each Member the gross amounts to \$2,225,000 for just House printing allotments alone. There are many other printers in the Washington area who would greatly value the opportunity to come into the market, but they are precluded from doing so due to the monopoly mandated by Congress.

I am appalled at this continued utter waste of the American taxpayer's money. For too long the majority and minority printers have taken a free ride while remaining under the protection of the U.S. House of Representatives. At a time when we as responsible elected officials are called upon to cut off the fat of public expenditure, we had better first take a hard look at trimming the excesses of our own House. Once we have done that, we will find that our only course is to eliminate the abusive practice that we have fostered for too long.

Under the proposals of House Resolution 597 the corrective steps to remedy this situation would be made. First, the two positions would be abolished and the authority of the majority and minority leaders to appoint such printers would be revoked. Second, their functions would be transferred to those individuals designated by the Committee on House Administration on a basis of competitive bidding, and all procedures would be determined at the discretion of the committee. Finally, any past records of the printers would be sent to the Clerk of the House.

I believe that the bill arrives at a truly workable solution to the problem. Its very foundation rests on the sound and basic principle of the free enterprise system, the cornerstone to the American economic way of life. I see no reason why our own business in the area of printing cannot be conducted under the same guise.

I urge my colleagues to fully consider what we as a body have created over the years. Only then will the serious weight of this problem be fully realized. This practice must be stopped, and it must be stopped now.

#### THE 59TH ANNIVERSARY OF ARMENIAN INDEPENDENCE

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. DERWINSKI. Mr. Speaker, May 28 marks the 59th anniversary of the Proclamation of Independence by the Armenian people from Soviet and Turkish domination. This independence, although short-lived, was achieved in the face of overwhelming odds since the Armenians were forced to struggle against both Soviet and Turkish military forces. Another factor which prevented the Armenians from maintaining their independence, was the indifference of the World War I allied powers and their statesmen who ignored the justice of the Armenian cause.

It is important to note that Americans of Armenian extraction have made tremendous contributions to our political, economic, educational, and artistic progress. As loyal Americans, they have maintained a very proper and steadfast interest in the restoration of freedom to the brave Armenian people still within the confines of Soviet bondage.

The Armenian people suffered centuries of persecution, but have maintained their unique religious, cultural, and linguistic identity. Certainly their perseverance and the great national character which it expresses will be rewarded by the restoration of freedom to the people of Armenia and to the historic land that is their birthright.

The nationalistic spirit of the people of Armenia has not been crushed by Turkish atrocities or by Soviet rule. Therefore, on this anniversary of Armenian independence, let us rededicate ourselves to the cause of the Armenians and all other peoples who are still deprived of the right of self-determination. I know the Armenian people will maintain their faith and hope in the legitimate and irrepressible restoration of their independence and freedom and historic national area.

#### TRIBUTE TO ALEX HALEY

### HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. HAWKINS. Mr. Speaker, on May 4, my colleagues in the Congressional Black Caucus requested a special order for the purpose of paying tribute to and showing our immense admiration for Mr. Alex Haley. Because I was unable to be present at that time, I would like to take this opportunity to join my colleagues in honoring this most gifted and dedicated American.

Words alone cannot really express the impact Mr. Haley's book and television serialization, "Roots," has had on the American public. The true testament to his fine work lies in the reaction the American public had upon watching and reading Mr. Haley's magnificent work.

Black Americans were wrenched into experiencing the vicious, tumultuous journey our African ancestors were forced to undertake as enslaved people; made to cry as the cruel and unjust system of slavery in the United States was reenacted before our eyes through the eloquence of Mr. Haley's words; and reacted with a sense of jubilation and pride with the realization of how we have survived despite such adversity.

White Americans experienced the tragedy of the institution of slavery their forefathers perpetuated in this society, and saw and read the selfish actions of many white Americans. White Americans, also, however, were able to share the depths and heights, and experience the joys and frustrations of a black American family, dealing with its past and looking forward to its future—aspirations all peoples can relate to.

Thus, experiencing "Roots" was truly experiencing America—past and present. All Americans can thank Mr. Alex Haley for illuminating our history and heritage for us and showing all Americans that as our past was inexorably linked, so too will our future be determined.

May 25, 1977

# RESULTS OF QUESTIONNAIRE FROM FOURTH DISTRICT OF KENTUCKY

**HON. GENE SNYDER**

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. SNYDER. Mr. Speaker, I learned long ago that no matter how much we talk or how many pages of the RECORD we fill with sage comments, we are not the experts. We might like to think so, but we are not. The real experts are the people back home who have to live with the laws we dish out by the carload. They know our laws from daily experience. They know our regulations on a first-hand basis. When we do a good job, it is their success—and when we make a mistake, it is their misfortune.

This year again I asked the experts, the people of the Fourth District of Kentucky, to share their opinions with their Congressman through a questionnaire. Once again the response of the level-headed people of the fourth district evidences that they care and are concerned about the direction of their Government. Eighteen thousand of them filled out and returned the questionnaires and many of them added their own personal comments and suggestions on a wide range of topics. Their thoughtful remarks have reconfirmed my belief that we would have more answers, fewer problems, and be in much better shape if more of us took the time to listen to the people we represent.

Since the questionnaire dealt with issues which are national in scope, my colleagues should find the results interesting. It is even quite likely that the opinions of the people in Kentucky's Fourth District might reflect the views of a good many of their own constituents.

The tabulations are self-explanatory but particular attention is called to several points which are interesting. One is that appeasement does not rate too highly. The Panama Canal giveaway and the thought of financial assistance to Vietnam did not get much support. On the other hand, a good majority of those who responded is obviously concerned about our national defense—opting for continued defense spending, prohibition of military unionization, and, by a smaller margin, continued stationing of U.S. troops overseas.

Also of particular interest is the 90-percent approval of the concept of congressional veto of agency regulations. This is an indication that the people want Congress to do more than sit back and applaud while the President talks about what he is going to do. They want action and they want Congress to take an active role in pulling the regulatory monkey off their backs.

A final observation is that the Civil Rights Commission must have been wrong. According to the residents of the Fourth District of Kentucky, court-ordered busing is not working. For 97 percent of them feel that busing is not improving education. This virtual unanimity is especially interesting when you

## EXTENSIONS OF REMARKS

consider that one county in the district knows busing first hand; another has been indirectly affected by busing, and the others are not affected or emotionally involved in busing at all. Yet they nearly all came to the same conclusion: busing is not improving education. The Civil Rights Commission says otherwise, but maybe they think 2 percent is a passing grade.

Now that I have exhausted my own comments—let us look at the responses of the experts from the Fourth District of Kentucky. Questionnaire results follow:

### QUESTIONNAIRE

[All figures in percentages]

1. Do you favor Federal funding of Congressional campaigns out of tax revenues?

Yes ..... 25.04  
No ..... 71.61  
No response ..... 3.35

2. Do you believe Congress should have the right to review and veto if necessary, rules and regulations created by bureaucratic agencies?

Yes ..... 90.56  
No ..... 5.56  
No response ..... 3.88

3. Do you support a constitutional amendment prohibiting abortion on demand?

Yes ..... 47.73  
No ..... 48.15  
No response ..... 4.12

4. One of President Carter's foreign policy priorities is the swift completion of negotiations to give away the Panama Canal. Do you favor this move?

Yes ..... 3.68  
No ..... 92.83  
No response ..... 3.49

5. Do you support efforts to repeal section 14b of the Taft-Hartley Act (right to work)?

Yes ..... 15.16  
No ..... 65.22  
No response ..... 19.62

6. In light of the recent reassessments of the Russian's sustained drive for military superiority, do you favor sustained military spending to insure a healthy defense posture?

Yes ..... 87.69  
No ..... 7.81  
No response ..... 4.50

7. Should food stamps be limited to people at or below the poverty level? (Currently \$5,500 for a non-farm family).

Yes ..... 85.37  
No ..... 9.72  
No response ..... 4.91

8. Should the U.S. reduce the number of troops stationed overseas?

Yes ..... 29.57  
No ..... 58.39  
No response ..... 12.04

9. Should we provide financial assistance to rebuild Vietnam?

Yes ..... 3.73  
No ..... 93.31  
No response ..... 2.96

10. Do you think court ordered busing is improving education?

Yes ..... 1.84  
No ..... 96.99  
No response ..... 1.17

11. Should the military be allowed to unionize?

Yes ..... 2.10  
No ..... 95.78  
No response ..... 2.12

12. Do you think price control on natural gas should be lifted?

Yes ..... 35.97  
No ..... 54.52  
No response ..... 9.51

13. Divestiture of oil companies (breaking them into smaller units) is likely to be an issue this year. Do you favor such action?

Yes ..... 46.37  
No ..... 43.27  
No response ..... 10.36

14. Federal spending is viewed by some as a cure for economic problems. Others see it as the cause of the same problems. Do you feel that increasing Federal spending is the proper course?

Yes ..... 6.72  
No ..... 88.20  
No response ..... 7.08

## TAX SERVITUDE TO GOVERNMENT AS COMPILED BY TAX FOUNDATION

**HON. TOM HAGEDORN**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. HAGEDORN. Mr. Speaker, the Tax Foundation is a publicly supported, nonprofit organization engaged in non-partisan research on matters of Government fiscal policy. Their latest study concludes that the average taxpayer in 1977 will work 2 hours and 42 minutes out of every 8-hour day for some level of government, with taxes comprising, by far, the major expenditure in the average family budget.

Rather than debating and defining legislation strictly in terms of their dollar value, particularly where incomprehensible multibillion dollar sums are involved, it might be interesting to couch debate in terms of the daily work burdens being imposed upon individuals. While a \$162 billion budget figure for HEW might carry little real impact, the recognition that this would entail at least a half hour of labor every day by every individual taxpayer might better convey the magnitude of the legislation.

The clear fact is that the public sector is taking an increasingly large share of the national product and making determinations about how that money should be spent. President Carter's energy policy is a perfect example of the failure to recognize this problem. We are assured that there is nothing to worry about in the fact that so much money will be going to the Government in the form of new taxes since most of it will be returned in the form of various rebates. Yet, the bottom line remains the fact that it is the Government determining the form of the rebates and the beneficiaries of the rebates. The money may, indeed, be going back to the private sector, but not to the people who originally paid the taxes. It will be going to individuals, and toward purposes, which the Government finds worthy—not the worker who earned the income.



At this point in the RECORD, I would like to insert two charts compiled by the Tax Foundation. I believe that they make it eminently clear that those genuinely concerned about the high cost of living for the average citizen are going to have to start bringing pressure to bear on Congress, and not on the farmer, the consumer, the middleman, business, labor, or some other scapegoat:

**TAX BITE IN THE 8-HR DAY—HISTORICAL COMPARISONS**  
(WORK TIME REQUIRED TO PAY FEDERAL AND STATE-LOCAL TAXES)

| Year <sup>1</sup>       | Hours : Minutes |         |             |
|-------------------------|-----------------|---------|-------------|
|                         | All taxes       | Federal | State-local |
| 1930.....               | :57             | :17     | :39         |
| 1935.....               | 1:18            | :29     | :49         |
| 1940.....               | 1:28            | :45     | :43         |
| 1945.....               | 2:04            | 1:41    | :24         |
| 1950.....               | 2:01            | 1:29    | :31         |
| 1955.....               | 2:08            | 1:34    | :34         |
| 1960.....               | 2:22            | 1:40    | :42         |
| 1965.....               | 2:20            | 1:35    | :45         |
| 1967.....               | 2:26            | 1:39    | :47         |
| 1968.....               | 2:35            | 1:46    | :49         |
| 1969.....               | 2:43            | 1:53    | :50         |
| 1970.....               | 2:37            | 1:45    | :52         |
| 1971.....               | 2:36            | 1:40    | :56         |
| 1972.....               | 2:38            | 1:41    | :57         |
| 1973.....               | 2:39            | 1:43    | :56         |
| 1974.....               | 2:44            | 1:47    | :57         |
| 1975.....               | 2:37            | 1:40    | :57         |
| 1976 <sup>2</sup> ..... | 2:41            | 1:44    | :57         |
| 1977 <sup>3</sup> ..... | 2:42            | 1:44    | :58         |

<sup>1</sup> Calendar year basis.

<sup>2</sup> Revised in 1977.

<sup>3</sup> Preliminary.

<sup>4</sup> Estimated.

Source: Computed by Tax Foundation, Inc.

#### TAX BITE IN THE 8-HR DAY, 1977

| Item                                 | Hours | Minutes |
|--------------------------------------|-------|---------|
| <b>Taxes<sup>1</sup></b>             |       |         |
| Total.....                           | 2     | 42      |
| Federal.....                         | 1     | 44      |
| State and local.....                 |       | 58      |
| <b>Food and tobacco.....</b>         |       |         |
| Housing and household operation..... | 1     | 8       |
| Clothing.....                        |       | 30      |
| Transportation.....                  |       | 25      |
| Medical care.....                    |       | 40      |
| Recreation.....                      |       | 26      |
| All other.....                       |       | 20      |
| Total.....                           | 8     | 49      |

<sup>1</sup> Includes consumer expenditures for items such as personal care, personal business and private education, and savings.

Source: Tax Foundation estimates as of Mar. 15, 1977.

Mr. Speaker, figures provided by the Tax Foundation also point out that government expenditures in 1977 will average \$9,607 for each household, representing nearly half of the average mean income of the Nation's nearly 75 million households. As Nobel Prize-winning economist Milton Friedman notes, government expenditures rather than taxes provide a more accurate indication of the full weight of government upon the people because all spending, whether or not accounted for through taxes, is going to eventually be borne by the people, in some form or another. I believe that the figures compiled by the foundation on this matter will also be of interest to my colleagues:

#### FEDERAL, STATE, AND LOCAL GOVERNMENT EXPENDITURES,<sup>1</sup> SELECTED YEARS, 1950-77

| Fiscal year             | Amount (billions) |         |                 | Total per household |
|-------------------------|-------------------|---------|-----------------|---------------------|
|                         | All governments   | Federal | State and local |                     |
| 1977 <sup>2</sup> ..... | \$715.7           | \$447.3 | \$268.4         | \$9,607             |
| 1976 <sup>2</sup> ..... | 633.9             | 393.0   | 240.9           | 8,699               |
| 1975.....               | 556.3             | 339.7   | 216.6           | 7,823               |
| 1970.....               | 333.0             | 208.2   | 124.8           | 5,252               |
| 1965.....               | 205.7             | 130.1   | 75.6            | 3,581               |
| 1960.....               | 151.3             | 97.3    | 54.0            | 2,865               |
| 1950.....               | 70.3              | 44.8    | 25.5            | 1,615               |

<sup>1</sup> Grants-in-aid are counted as expenditures of the 1st disbursing unit.

<sup>2</sup> Estimated.

Source: "Facts and Figures in Government Finance," 1977 edition (forthcoming) and Tax Foundation estimates, basic data from Bureau of the Census.

#### MONTHLY LIST OF GAO REPORTS

#### HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. BROOKS. Mr. Speaker, the monthly list of GAO reports includes summaries of reports which were prepared by the staff of the General Accounting Office. The March 1977 list includes:

#### AGRICULTURE

Summary of GAO Reports Issued Since 1973 Pertaining to Farm Bill Legislation. CED-77-39, March 3.

Information on a Department of Agriculture Claim Against the Commonwealth of Puerto Rico. CED-77-40, February 24.

Nationwide Food Consumption Survey: Need for Improvement and Expansion. CED-77-56, March 25.

#### COMMERCE AND TRANSPORTATION

Why Urban System Funds Were Seldom Used for Mass Transit. CED-77-49, March 18.

Assistance to Nonrubber Shoe Firms. CED-77-51, March 4.

Using Aviation Resources in the United States More Effectively. LCD-76-445, March 31.

Efficient Railcar Use: An Update of the Interstate Commerce Commission's Compliance and Enforcement Program. CED-77-21, January 12.

#### LETTER REPORTS

Suggestions for improving operations of the National Weather Service. CED-77-41, March 9.

Extent of the Postal Service's use of railroads for transporting the mail. GGD-77-23, February 25.

COMMUNITY AND REGIONAL DEVELOPMENT  
Government National Mortgage Association's Secondary Mortgage Market Activities. CED-77-28, March 8.

EDUCATION, TRAINING, EMPLOYMENT, AND SOCIAL SERVICES

Indian Education in the Public School System Needs More Direction from the Congress. HRD-76-172, March 14.

Problems in Administration of Family Planning Programs in Region VIII. HRD-77-42, February 28.

#### LETTER REPORT

Lack of management information hampers HEW's Office of Civil Rights' ability to carry out its responsibilities. HRD-77-78, March 30.

#### GENERAL GOVERNMENT

Financial Disclosure Systems in Banking Regulatory Agencies. FPCD-77-29, March 23.

Federal Supply Service Not Buying Goods at Lowest Possible Price. PSAD-77-69, March 4.

Special Travel Benefits for Federal Employees in Hawaii, Alaska, and Similar areas Outside the Continental U.S. Should be Changed. FPCD-76-65, March 2.

Problems Found with Government Acquisition and Use of Computers from November 1965 to December 1976. FGMSD-77-14, March 15.

Review of Postal Service's Payroll System. GGD-77-37, March 15.

Need to Strengthen Financial Accountability to the Congress. GGD-77-43, March 31.

Audit of the Minority Printing Clerk, Fiscal Years Ended September 30, 1974, 1975, and 1976. GGD-77-41, March 31.

Audit of the Majority Printing Clerk, Fiscal Years Ended August 31, 1974, 1975, and 1976. GGD-77-42, March 31.

Audit of the Office of Attending Physician Revolving Fund, August 1, 1975, through September 30, 1976. GGD-77-29, March 9.

Examination of Financial Statements, Bureau of Engraving and Printing Fund for Fiscal Years 1974 and 1975, Shows Need for Statutory Authority to Increase Capitalization. FOD-76-22, March 7.

Upward Mobility Program Can be Improved. FPCD-77-2, March 21.

Proposed Moves of Certain Agencies in the National Capital Region. LCD-77-309, January 27.

#### LETTER REPORTS

How the Treasury Department can Improve its procedures for controlling, accounting for and safeguarding checks which are undeliverable or withdrawn. FGMSD-76-56, March 1.

The Civil Service Commission should require Federal agencies to develop contingency plans to deal with work disruptions which affect essential public services. FPCD-77-41, March 11.

Suggestions for Improving Federal Supply Services practices in awarding multiple schedule contracts. PSAD-77-87, March 11.

How much does the Federal Government spend to produce television commercials? LCD-77-415, March 18.

GAO views on the President's eighth special message to Congress concerning impoundments of FY 1977 budget authority. OGC-77-14, March 23.

How to Improve Federal agency Upward Mobility programs. FPCD-77-10, March 28.

#### GENERAL SCIENCE, SPACE, AND TECHNOLOGY

Need for a Government-wide Budget Classification Structure for Federal Research and Development Information. PAD-77-14 and PAD-77-14A, March 3.

#### LETTERS REPORTS

Analysis of a survey on the scientific community's views on the National Science Foundation's peer review process. HRD-77-67, March 4.

What actions has the National Science Foundation taken to implement recommendation in the GAO report, "Opportunities for Improved Management of the Research Applied to National Needs (RANN) Program?" HRD-77-54, March 15.

#### HEALTH

State Audits to Identify Medicaid Overpayments to Nursing Homes. HRD-77-29, January 24.

Indirect Cost Payments Foregone by Institutions Receiving Minority Biomedical Support Grants—What Can Be Done? HRD-77-55, March 9.

## LAW ENFORCEMENT AND JUSTICE

Learning Disabilities: The Link to Delinquency Should Be Determined, But Schools Should Do More Now. GGD-76-97, March 4.

War on Organized Crime Faltering—Federal Strike Forces Not Getting the Job Done. GGD-77-17, March 17.

## NATIONAL DEFENSE

Status of the F-18 Naval Strike Fighter Program. PSAD-77-24, March 1.

Status of the NAVSTAR Global Positioning System. PSAD-77-23, March 2.

Status of the Trident Submarine and Missile Programs. PSAD-77-34, March 8.

Loss of Millions of Dollars in Revenue Because of Inadequate Charges for Medical Care. FGMSD-76-102, March 8.

Increased Costs to Government Under the Department of Defense Program to Reduce Audits. PSAD-77-80, March 9.

Reserve Officer Training Corps: Management Deficiencies Still to be Corrected. FPCD-77-15, March 15.

Nuclear or Conventional Power for Surface Combatant Ships? PSAD-77-74, March 21.

How to Improve Procedures for Deciding Between Contractor and In-House Military Base Support Services. LCD-76-347, March 28.

Lockheed's Commission Payments to Obtain Foreign Sales. PSAD-77-85, March 15.

New Lockheed Policy to Prevent Questionable Foreign Marketing Practices. PSAD-77-92, March 16.

Before Construction of Military Projects—More Economic Analyses Needed. LCD-77-315, March 28.

A Need to Address Illiteracy Problems in the Military Services. FPCD-77-13, March 31.

Marine Corps Recruiting and Recruitment Policies and Practices. FPCD-77-18, February 10.

Defense Action to Reduce Charges for Foreign Military Training Will Result in the Loss of Millions of Dollars. FGMSD-77-17, February 23.

Department of Defense Program to Help Minority-run Businesses Get Subcontracts Not Working Well. PSAD-77-76, February 28.

Initiatives to Improve Free Asset Management. LCD-77-146, February 28.

## LETTER REPORTS

Suggestions for Improving the Department Defense's clothing maintenance allowance system for enlisted military personnel. FPCD-77-35, March 7.

GAO review of the 1976 blue collar wage survey made by the Department of Defense in the Tidewater area of Virginia. FPCD-77-32, March 9.

Answers to questions about Israel's purchase of excess industrial diamonds from the strategic and critical materials stockpile. LCD-77-414, March 11.

The Navy should develop a master plan for using systems analysis in making decisions in the acquisition of Naval aircraft. PSAD-77-90, March 14.

The military services should improve their reports on enlisted personnel bonus programs. FPCD-77-34, March 31.

U.S. involvement in the award of a contract by the British Department of Environment to construct 83 tactical aircraft shelters at four U.S. air bases in England. PSAD-77-71 or PSAD-77-72, February 10.

Comparison of the cost of education and attrition rates at the three military academies and four private universities. FPCD-76-54, April 30, 1976.

NATURAL RESOURCES, ENVIRONMENT, AND ENERGY

Reducing Nuclear Powerplant Leadtimes: Many Obstacles Remain. EMD-77-15, March 2.

Noise Pollution—Federal Program to Control It Has Been Slow and Ineffective. CED-77-42, March 7.

Issues Related to the Closing of the Nuclear Fuel Services, Incorporated, Reprocessing Plant at West Valley, New York. EMD-77-27, March 8.

Outer Continental Shelf Sale No. 35—Problems Selecting and Evaluating Land to Lease. EMD-77-19, March 7.

Power Production at Federal Dams Could be Increased by Modernizing Turbines and Generators. EMD-77-22, March 16.

Domestic Energy Resource and Reserve Estimates—Uses, Limitations, and Needed Data. EMD-77-6, March 17.

Suffolk County Sewer Project, Long Island, New York: Reasons for Cost Increases and Other Matters. CED-77-44 or CED-77-45, March 22.

Problems Affecting Usefulness of the National Water Assessment. CED-77-50, March 23.

Energy Policy Decisionmaking, Organizations, and National Energy Goals. EMD-77-31, March 24.

How to Improve U.S. Forest Service Reports on Forest Resources. PAD-77-29, February 23.

Ways to Strengthen Congressional Control of Energy Construction Projects Other Than Nuclear. EMD-77-25, February 25.

Pollution From Cars on the Road—Problems in Monitoring Emission Controls. CED-77-25, February 4.

## LETTER REPORTS

Procedures followed by the National Commission on Water Quality in preparing its final report to the Congress. CED-77-33, March 1.

How Federal power-marketing agencies can reduce energy losses on transmission and distribution lines, increase available line capacity, and conserve energy. B-114858, March 9.

Release of \$6.6 million of impounded budget authority for the Army Corps of Engineers and the Bureau of Mines. OGC-77-12, March 16.

Some budget authority for the Corps of Engineers' Meramec Lake Park project in Missouri, has been deferred without the proper notification of the Congress. OGC-77-13, March 21.

Weaknesses in financial controls could adversely affect the Government's National Flood Insurance Program. CED-77-47, March 21.

Need to identify funds used for management support of three non-nuclear energy research, development, and demonstration projects at the Energy Research and Development Administration. EMD-77-24, February 25.

Allegations of the Soil Conservation Service illegally providing technical assistance to the Patton group drainage project in Illinois. CED-77-9, December 3, 1976.

## REVENUE SHARING AND GENERAL PURPOSE FISCAL ASSISTANCE

Federally Assisted Area wide Planning: Need to Simplify Policies and Practices. GGD-77-24, March 28.

## VETERANS BENEFITS AND SERVICES

Recruitment and Retention of Veterans Administration Health Care Workers Are Not Major Problems. HRD-77-57, March 31.

The monthly list of GAO reports and/or copies of the full texts are available from the U.S. General Accounting Office, Distribution Section, room 4522, 441 G Street, NW., Washington, D.C. 20548. Phone (202) 275-6241.

Summaries of significant legal decisions and advisory opinions of the Comptroller General issued in March 1977 are not available as follows:

Protest Not Reviewable by GAO. B-186987, February 22.

Specifications for Recycled Paper Products Upheld. B-187381, B-187658, March 17.

Handicapped Employee May be Furnished Power Wheelchair Due to Agency's Failure to Comply with Architectural Barriers Act. B-164031(4), March 11.

If you need further information regarding these or other decisions, please call (202) 275-5308 or write to the General Counsel, U.S. General Accounting Office, Washington, D.C. 20548.

## SUPPORT FOR SMALL HYDROELECTRIC PROJECTS IN EXISTING DAMS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. OTTINGER. Mr. Speaker, yesterday I introduced legislation to promote the installation of hydroelectric capacity in existing dams throughout the country. There are 49,000 dams throughout the Nation which are 25 feet high or higher, and could be developed to produce cheap hydroelectric power. Further, there are thousands of dams even smaller, many of which could economically be developed for power production. These existing dams are located in virtually every State.

The beauty of this proposal is that it would save precious fuels and it would be environmentally compatible—both because of replacing the burning of polluting fuels and because it would involve the construction of no new dams.

There is widespread support for the idea of utilizing existing dams for power production. President Carter's National Energy Plan indicates that 14 million kilowatts of capacity could be gained by installing small, 3,000 to 5,000-kilowatt generators in existing dams. The American Public Power Commission suggested the idea to James Schlesinger back in January. Governors Carey, of New York, Grasso, of Connecticut, and Langley, of Maine, have all written to me expressing enthusiastic support. New York's Public Service Commission Chairman, Alfred Kahn responded favorably to the idea, and indicated that he has directed the New York Commission to investigate the possibility. I have also received a supportive letter from David Freeman, in the Energy Policy and Planning Office at the White House. I would like at this point to share with my colleagues these encouraging letters in support of moving ahead to develop hydroelectric facilities in existing dams.

The letters follow:

AMERICAN PUBLIC  
POWER ASSOCIATION,

Washington, D.C., January 14, 1977.

To: James Schlesinger  
From: Alex Radin  
Subject: Development of small hydroelectric generating facilities

A Federal program is needed to develop small hydroelectric generating facilities. It could produce important economic, energy, and environmental benefits.

David Lillenthal, a founding director of the Tennessee Valley Authority and the first chairman of the Atomic Energy Commission, pointed out in the New York Times last month that:

"Nuclear and coal sources will, of course,



all be required for the nation's present and future total needs. But their costs have gone out of sight. The shocking fact has not yet been faced that because of the long period for installation (eight to ten years) plus inflation, the capital and fuel costs today of new nuclear and coal-burning power plants make it clear that small water power is by all odds the most economic of all new alternate sources of electrical energy. While this does not provide a total solution of all of our energy problems, it is specific, workable, and substantial."

One recent study estimates that 14,000,000 kilowatts of generating capacity could be obtained from hydroelectric generating units of 5,000 kilowatts or less located on canals, streams, and rivers throughout the United States. Lillenthal notes that there are some 3,000 existing but virtually abandoned dams scattered through the old mill towns of the Northeast; small hydro-turbines which could be installed in a relatively few months are economically competitive, he argues.

Economic. The Federal Power Commission reports that technology exists for developing economically low-head sites using axial-flow turbines of the tubular and bulb types. Short lead-times for installation would create near-term construction jobs in a large number of communities.

Bulk orders, standardization, mass production, factory-fabrication, pre-assembly of equipment, and minimal field engineering could keep costs down and speed up delivery. Simple construction techniques are involved in installing the machines.

Economics of small hydroelectric generation are favored by the fact of inflation-free "fuel" and a 100-year plus plant life. Distributed power production facilities of this type reduce the necessity for extra-high voltage transmission corridors and costs.

Costs allocable to power could be reduced by the multiple-purpose nature of such projects, which might also provide recreation, water supply, water quality control, fish and wildlife enhancement, and flood control. Resultant power prices could aid local consumers, workers, businesses, and industries in smaller population centers, and create a means of citizen control over a portion of energy supply.

Environment. Small hydroelectric generation employs a form of solar energy and a renewable resource. It decreases the necessity of mining and moving so much coal, conserves on foreign imports or domestic development of oil and gas, and eases reliance on uranium. It does not add to air pollution.

Energy. Small hydroelectric generation has significant advantages for the nation's electric power systems. These facilities are highly efficient, lend themselves to automation, and have low operating and maintenance costs. Their low outage rate and availability in small increments contribute to system reliability. They are useful in providing startup power in the event of system-wide power failures.

Congress in 1976 recognized the desirability of re-evaluating our hydroelectric resources by directing the Corps of Engineers to make two studies of hydroelectric potential, including low head projects utilizing run-of-rivers. However, no funds were appropriated. The Federal Power Commission is preparing an inventory of undeveloped hydroelectric sites 5,000 kw or less; it will apparently list only location, installed capacity, and average annual generation. Apparently at the initiative of the Federal Energy Administration, interagency work groups are considering an assessment of small hydroelectric generation as an energy alternative.

The Carter Administration could undertake steps to advance possibilities for small hydroelectric generation:

1. Endorse optimum usable funding for implementation of the Corps hydroelectric studies.

2. Initiate through the Corps of Engineers and/or the Department of the Interior an economic study of the feasibility of wide-scale construction and operation of small hydroelectric generation, taking into account life-cycle costs of competing generation options, including capital and fuel, and using reference sites.

3. Direct the Energy Research and Development Administration to investigate opportunities for improvement of small hydroelectric generation technology, including turbines and generators, remote operation, and integration with existing transmission and distribution systems or independent operation.

4. Establish in the Department of Housing and Urban Development a community loan and/or grant program to permit towns, cities and counties to investigate the feasibility of constructing and operating small hydroelectric generation, and a revolving fund low-interest loan program for plant construction.

STATE OF NEW YORK,  
Albany, May 2, 1977.

HON. RICHARD OTTINGER,  
U.S. Representative, Cannon House Office Building, Washington, D.C.

DEAR DICK: Thank you for your letter of March 24 concerning untapped hydroelectric potential in New York and the Nation.

I am in complete agreement with you that our existing and potential hydroelectric resources should be utilized to the maximum extent economically feasible.

I know that Fred Kahn has responded to you with details of what the Public Service Commission has already under way in this area and would only add that the potential energy and cost savings make this a high priority effort.

I appreciate your offer of assistance at the Federal level and will, of course, call on you when appropriate.

Sincerely,

HUGH CAREY,  
Governor.

STATE OF CONNECTICUT,  
Hartford, May 18, 1977.

HON. RICHARD L. OTTINGER,  
U.S. Representative, State of New York, Cannon House Office Building, Washington, D.C.

DEAR CONGRESSMAN OTTINGER: Thank you for your recent letter regarding the potential within New England and New York State to use hydroelectric power.

At one point in Connecticut's past, a substantial portion of its manufacturing energy came from our rivers. Many dams were erected and textile mills and other manufacturing establishments utilized hydroelectric power to run plant machinery. Over the years as other sources of power became more practical and less expensive, the use of hydroelectric power was discontinued.

As those alternate forms of energy have become more expensive, it would obviously be in our best interest to look to the past in order to prepare for the future.

I can assure you that we in Connecticut will participate in this very worthwhile endeavor to again use constant and replenishable sources of energy, such as hydroelectric power that served our forebearers so well for so many generations.

With best wishes,  
Cordially,

ELLA GRASSO,  
Governor.

STATE OF MAINE,  
Augusta, Maine, May 5, 1977.

HON. RICHARD L. OTTINGER, Member of Congress, Cannon House Office Building, Washington, D.C.

DEAR REPRESENTATIVE OTTINGER: Thank you for your letter of April 25, 1977 and the at-

tached information on small hydro-electric development by utilization of existing dams. We appreciate your comments on this subject, and share your concern that more of these can and should be developed to ease the "energy crisis", and to reduce America's dependence on foreign oil and other exhaustible resources.

Maine's Office of Energy Resources has been actively supporting just such a project by an individual who wants to develop one or two of the available sites in Maine to demonstrate the technical and economic feasibility of such development. A small grant has been awarded by the State of Maine to defray travel costs and to implement preliminary investigations, in the hope that full funding of the project will be forthcoming from ERDA or some other source with the necessary capital resources. This same individual is also investigating the feasibility of installing hydro-electric generators in the navigational locks operated by the Corps of Engineers in his home state of Pennsylvania. We would urge the Congress to endorse and give appropriate financial support to projects of this nature.

Your fellow Member of Congress, and our Representative, Honorable David Emery of Maine, is also in agreement with your views, and has publicly endorsed such projects as opposed to larger and more controversial projects, such as the Dickey-Lincoln Dam project in Northern Maine. Congressman Emery and the entire Maine Congressional Delegation have endorsed the project that is being supported by the Maine Office of Energy Resources, and they have transmitted this endorsement to ERDA.

The State of Maine will continue to explore possibilities for small hydro-electric development, as well as all of the renewable energy resources. We will encourage the development of these resources to the maximum feasible extent. You can be assured of our continued support of your efforts in this area. I am sure that the Office of Energy Resources would appreciate any further thoughts you may have on the subject.

Again, thank you for your letter.

Very truly yours,

JAMES B. LONGLEY,  
Governor.

STATE OF NEW YORK,  
Albany, March 29, 1977.

HON. RICHARD OTTINGER,  
Member of Congress, House of Representatives, Washington, D.C.

DEAR DICK: I certainly concur enthusiastically with your speech for the Congressional Record on the importance of probing all the possible opportunities for using existing dams in the State to generate hydroelectric power.

We became aware of this possibility a year or perhaps a year and a half ago, and took steps to see that it is thoroughly explored—at least in the territory of Niagara Mohawk, which I understand is the one that has almost all this capacity. I enclose a copy of a self-serving letter that I recently sent to the New York Times, describing what we have done.

We are awaiting the report from our consultant, at which point we will evaluate it and the Niagara Mohawk survey that has recently been published.

Meanwhile I will be asking my staff whether they are certain the study of Niagara Mohawk exhausts all the possible hydroelectric potential of the State. I am going to send a copy of this letter to Jeff Cohen and the Governor, so that each of us knows what the other is doing. And I will certainly ask my people whether there is any way in which we can take advantage of your offer of assistance in Washington. As you point out, if any of this proves to be economic—and the events of the last few years should certainly push some of these

May 25, 1977

## EXTENSIONS OF REMARKS

16757

sites, at least, in that direction—we all will benefit.

With warm regards,  
Sincerely,

ALFRED E. KAHN.

EXECUTIVE OFFICE OF THE PRESIDENT,  
ENERGY POLICY AND PLANNING,  
Washington, D.C., May 19, 1977.

HON. RICHARD L. OTTINGER,  
House of Representatives,  
Washington, D.C.

DEAR MR. OTTINGER: Jim Schlesinger asked me to thank you for your letter of April 25, with its enclosures, and your encouraging words.

The press release which you sent concerning utilization of existing dams for hydro-power is a good source of quick information for us: as you have noted, this system has the President's endorsement. We will ask FPC for the publication on hydroelectric power resources which you referred to.

We very much appreciate your assistance as we attempt to develop a viable energy program for the country.

Sincerely,

S. DAVID FREEMAN.

HOWARD M. PICKING, JR.—A GENTLEMAN OF DISTINCTION

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. MURTHA. Mr. Speaker, in late April I attended the University of Pittsburgh at Johnstown's graduation. At the ceremony they presented the first President's Award. They presented it to Howard M. Picking, Jr., a long time member of the board, and an individual who was instrumental in shaping the physical facility of the Johnstown Campus of the University of Pittsburgh.

Howard Picking has long been held in high esteem. He works quietly, but with great dedication. His remarks upon receiving the award were typical of the man. He explained that he accepted it on behalf of all the people who had worked so long and so hard for the University at Johnstown.

His untiring devotion and dedication to this particular aspect of the community have made available to the young people of the area one of the finest institutions in the country. But the real accomplishment is that Howard Picking and many other people with his same dedication were able to take the University from an elementary school building in Johnstown, to a sprawling, tree-lined campus in a truly magnificent setting, with only two of the buildings being funded by the Commonwealth of Pennsylvania.

This was a joint effort by Howard Picking and a group of dedicated people, who had the foresight to realize the importance of a college education to the young people of the Johnstown area, and the importance of an institution of higher learning to all the people in central Pennsylvania.

Mr. Speaker, I am enclosing for the Record a copy of the president's proclamation honoring Howard Picking. I add my compliments and commend him for

his foresight, determination, and dedication which has been so important to the expansion of the University of Pittsburgh at Johnstown.

The presidential proclamation follows:

### PRESIDENTIAL PROCLAMATION

Because, Howard M. Picking, Jr. has been a knowledgeable, faithful and energetic member of the Executive Committee of the Advisory Board of the University of Pittsburgh at Johnstown for many years; and

Because, he has given unstintingly of his real treasure—his time and talent—his concern and his counsel; and

Because, as chairman of the Facilities Committee, he has been instrumental in achieving the growth of and the aesthetic integrity of our college campus; and

Because, as a member of the Finance Committee he has effectively aided the college in retaining autonomy sufficient to be responsive to the needs of the region; and

Because, for over a half century, as a genuine member in and leader of countless state and national business and professional organizations, civic, religious, fraternal and other organizations; and

Because, through these affiliations, he has made service to his fellow man, in the University community and in the larger community, his lifelong calling,

I, therefore, declare that his character, now so permanently etched in the form and function of what we and future generations can accomplish, also be reflected permanently in the first presidential award presented "In recognition of outstanding service to the University of Pittsburgh at Johnstown and to the community" on the twenty-third day of April, 1977.

In Witness whereof, I have set my hand and seal the day and year first above written as evidence of our esteem and affection.

### THE NORTHEAST CORRIDOR REVITALIZATION AMENDMENT

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. BEARD of Rhode Island. Mr. Speaker, I am introducing a bill that has a most salutary effect on the several States that are involved in the Railroad Revitalization and Regulatory Reform Act of 1976. This act currently provides for the States to match Federal funding for the station and fencing improvements along the right-of-way of the Northeast's vital rail corridor between Washington and Boston.

The bill I am introducing today, however, would amend that act and remove the matching requirement. I am happy to join Senator CLAIBORNE PELL and my colleague, Representative FERNAND J. ST GERMAIN in calling for the earnest consideration of this House of the provisions of this bill. The major portion of Federal funds in the act would be used for fencing along the right-of-way, an improvement absolutely necessary for the safety of both the train rider and the general public. It is absolutely essential that the available finances of all the States concerned not be strained unduly, particularly in view of the present economic picture that prevails in the Northeast at the present time.

I salute Senator PELL for his vision

in authoring the idea and I call upon the Members of this body to give their most serious consideration to it.

LAWRENCE L. WHITENECK, CHIEF ENGINEER, PORT OF LOS ANGELES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. ANDERSON of California. Mr. Speaker, on July 1 of this year the Port of Los Angeles will lose an outstanding civil servant when Lawrence L. Whiteneck retires after serving over 16 years as chief harbor engineer. Larry—as he is known to his many friends and associates—has been active throughout the period which has seen the port grow and prosper, becoming one of the world's major commercial harbors. I am sure that his expertise and leadership will be missed.

Born in Tacoma, Wash., on May 23, 1911, Larry graduated from Washington State University with a degree in civil engineering in 1934. He started his professional career with the Metropolitan Water District of Southern California immediately following his graduation, where he worked as a construction inspector and office engineer during the construction of the MWD Aqueduct.

In 1937, Larry and his family moved to the Philippines when he became an engineer for the Balatoc Mining Co., which at the time was the fifth largest gold mining firm in the world. However, when the Japanese invaded the Philippines after the start of World War II in 1941, Larry and his family were captured by the Japanese forces, and spent the rest of the war as prisoners in Manila.

After his return to the United States in 1946, Larry Whiteneck joined the Long Beach Harbor Department as senior harbor engineer, in charge of port planning and design. During his tenure Larry was responsible for a corrosion mitigation program which resulted in a reduction in depreciation costs of more than \$500,000 per year.

Larry left the Long Beach Harbor Department in 1956 when he accepted the position of vice president with the Pipeline Coating and Engineering Co. and its subsidiary, Plicoflex, Inc. In April 1959 Larry Whiteneck joined the Los Angeles Harbor Department as harbor engineer, serving as a technical and administrative adviser to the chief harbor engineer.

When the chief engineer retired, a competitive examination was held to determine his successor. As a result, Lawrence L. Whiteneck assumed the duties of chief engineer in April 1961—2 years after he first joined the department.

To date, Larry has initiated and supervised the planning, design, and construction of approximately \$120 million worth of new port facilities, including general cargo terminals, four large container terminals, a dry bulk terminal with 3 million tons per year capacity, and many other projects vital to the continued growth and health of the Port of Los



Angeles. His accomplishments will continue in the future as projects he helped to develop reach fruition.

One aspect of Larry's career deserves special mention, because it demonstrates his foresight in progressive port planning. Long before it became popular and mandated by law, Larry Whiteneck instituted an environmental management program coordinated with port maintenance. As a result of such forward planning, the twin ports of Los Angeles and Long Beach are among the cleanest in the world in terms of water quality. Marine life flourishes in almost every reach of the harbors.

As a result of Larry's knowledge and experience in port operations, he was able to see future needs of the port. Thus, he was a key element in obtaining the current Army Corps of Engineers study of San Pedro Bay and the development of a hydraulic model of the bay in Vicksburg, Miss. On many occasions, his testimony before key congressional committees has been invaluable in obtaining badly needed funds for these projects.

Larry's expertise in the field of port engineering is reflected in the many professional organizations to which he belongs, including the American Society of Civil Engineers, Waterways and Harbors Committee; The American Society for Testing Materials; the National Fire Protection Association; and the American Military Engineers. In addition, he served as the national president of the National Association of Corrosion Engineers in 1971; is director and past two-time president of the California Marine Affairs and Navigation Conference; and served as director in 1968 and 1971 of the American Association of Port Authorities. Larry has been an active member of all these organizations, often holding key positions in important committees.

Larry Whiteneck's retirement will conclude a long and highly successful career with Los Angeles Harbor, although I understand that he is planning quite an active schedule following his tenure as chief harbor engineer. In the years I have been privileged to know and work with him, Larry has always impressed me with his professionalism and extraordinary ability.

My wife, Lee, joins me in congratulating Larry on a highly successful career, and in wishing him the best of fortune in the years to come. We are positive that his lovely wife, Ruth, and their entire family must be very proud of Larry's many accomplishments.

#### PERSONAL EXPLANATION

### HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. APPLEGATE. Mr. Speaker, on Monday, May 23, 1977, I was absent from the proceedings conducted that day due to circumstances that necessitated my being in my congressional district.

I would like to state for the record that, had I been here, I would have voted in favor of the five bills that were debated under suspension of the rules. The bills included H.R. 6258, a bill extending the life of the Privacy Protection Study Commission to September 30, 1977; H.R. 1862, the Veterans' Disability Compensation and Survivors Benefits Act; H.R. 6501, a bill to increase compensation for certain disabled veterans; H.R. 6502, the Automobile Assistance for Disabled Veterans Act; and H.R. 5645, the Civil Rights Commission Authorization.

#### REGULATORY REFORM ACT

### HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. ANDERSON of Illinois. Mr. Speaker, yesterday Representative JORDAN and I had the privilege of testifying before the Senate Intergovernmental Relations Subcommittee on the "Regulatory Reform Act of 1977" (H.R. 3100) which we have introduced in the House with 71 cosponsors, as a companion bill to S. 600 as introduced by Senators PERCY, ROBERT BYRD, and RIBICOFF. At this point in the Record I include the text of my testimony along with a summary of our bill. I urge those colleagues who have not yet cosponsored this legislation to join with us at this time:

STATEMENT OF THE HONORABLE JOHN B. ANDERSON ON THE REGULATORY REFORM ACT OF 1977 (S. 600) BEFORE THE INTERGOVERNMENTAL RELATIONS SUBCOMMITTEE OF THE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. Chairman and Members of the Subcommittee: Ms. Jordan and I are grateful for this opportunity to testify today in support of S. 600, the "Regulatory Reform Act of 1977," as introduced by Senators PERCY, BYRD and RIBICOFF. We've been honored to be the principal sponsors of a companion bill in the House in this Congress and the last, and the measure we introduced this year, H.R. 3100, now has a distinguished, bipartisan group of 71 cosponsors. I've been informed that S. 600 now has 40 cosponsors, so the percentage of support here is more than double that of the House, but we hope we can more than make up for that by the degree of our enthusiasm for the legislation. I think one of the reasons this legislation is making more headway here in the Senate is the excellent groundwork which has been laid by this committee, not only in examining this particular mechanism for regulatory reform, but in your detailed studies of the whole Federal regulatory process. While a somewhat comparable effort has been going forward in the Investigations Subcommittee of the House Interstate and Foreign Commerce Committee, the link has yet to be made with our Government Operations Committee on how to systematically deal with these volumes of studies into the deficiencies of our regulatory bureaucracy.

We happen to think that the regulatory review and action-forcing mechanisms of S. 600 provide the best means devised to date to insure the kind of systematic, rational and continuing oversight of regulatory agencies and activities which is so lacking in our current treatment of such matters. As you know, the 1946 Legislative Reorganization Act

charged each standing committee of the Congress to exercise "continuous watchfulness" over the agencies and programs under their jurisdiction. The 1970 Legislative Reorganization Act updated this oversight mandate by charging "each committee to review and study on a continuing basis, the application, administration and execution of laws" under their jurisdiction and issue a report at the end of each Congress on their oversight activities. In 1973, the House formed a Select Committee on Committees to study our committee system. In its final report issued in March of 1974, it concluded that there is "a wide gap between what is required by law and what is actually done" with respect to oversight. To quote from the report: "Witnesses were virtually unanimous in acknowledging the inadequate oversight being done by congressional committees."

As a consequence, the House approved numerous new oversight mechanisms as part of the Committee Reform Amendments of 1974. These included assigning "special oversight" functions to committees not having direct legislative jurisdiction over particular matters, requiring each committee to prepare an oversight agenda at the beginning of each Congress in consultation with and coordination through the Government Operations Committee, urging all committees having 20 or more members to create oversight subcommittees, and requiring any oversight findings of the Government Operations Committee to be included in the reports of other committees on legislation.

As well intentioned as these new oversight reforms have been, their actual success has been limited, in my opinion. The "special oversight" functions assigned six committees is probably the most successful and innovative because it does provide a healthy new perspective on certain problems and a vital check on committees which have become too protective of the agencies and programs they are supposed to oversee. About half of our committees have now established oversight subcommittees, but the degree and quality of their activity varies widely. The oversight agendas prepared at the beginning of each Congress are, with few exceptions, little more than recitations of committee jurisdictions, and not the detailed oversight timetable they were intended to be. And finally, very seldom do any Government Operations Committee oversight findings appear in other committee reports. In short, while there's a minimal attempt to comply with the letter of the new oversight requirements, the spirit and the will is still lacking. Perhaps the best explanation for this is summed up in the final report of the Commission on the Operation of the Senate in the last Congress, and I quote: "Since such oversight must be systematic, it is often tedious." And yet, as the report goes on to point out, "Oversight's importance derives from the light that it may throw on the question of whether policies or programs should be continued and, if so, in what form."

Mr. Chairman, I would submit that our sporadic and inadequate oversight track record to date, and the reasons for it, argue for the kind of discipline inherent in S. 600, just as our failure to exercise adequate oversight of Federal programs argues for the approach of your "Sunset Act," and just as our inability to get a handle on government spending gave birth to the Budget Act process over which you now so adroitly preside. The fact is, this is all "tedious" work, for which there is little enthusiasm or self-motivation; and yet, it is perhaps the most essential work which must be done by the Congress if we are to make an intelligent determination of how well the programs and agencies we have spawned are working, what problems are involved, and what changes must be made.

I would further argue that a mandatory oversight action timetable is especially criti-

cal in the area of governmental regulatory activities for two major reasons: first, the so-called independent regulatory agencies and commissions are not, by their very nature, subject to the same presidential control and direction and congressional scrutiny as are the various cabinet departments and the programs which they administer; and secondly, it is becoming increasingly evident that many of these regulatory activities are impacting more on the lives of citizens and the health of our economy than are other activities which are more subject to presidential control and congressional scrutiny. Indeed, more than one observer has referred to the regulatory bureaucracy as "the fourth branch of government" which tends to exercise all the responsibilities assigned to the other three branches: it makes laws through establishing rules, it engages in various executive functions related to the administration of its mandate; and it judges violations of law through adjudication.

The findings contained in section 2 of S. 600 perhaps best express the need for the Congress and President to work together to overhaul governmental regulatory agencies and activities. To paraphrase those findings:

Government regulations can be more of a burden than a benefit to consumers, businesses and the economy as a whole;

Regulatory policies have fueled inflation without due consideration of relative costs and benefits or the competitive impact of such decisions;

Some regulatory policies harm both industry and consumers by denying competition and the lower prices it would present;

Too often regulatory agencies have squandered their resources on trivial aspects of regulation and have failed to set clear priorities or articulate cogent policies, consequently fostering bureaucratic stagnation and waste, and public frustration and confusion;

The case-by-case adjudicatory approach of most regulatory agencies has resulted in excessive paperwork and unreasonable delays for business, and impaired its ability to adapt to changing market conditions and beneficial new technology, thus contributing to price rises, inefficiencies and misallocations of resources;

Regulatory agencies have poorly served the public interest, often in disregard of their congressional mandate, by failing to take consumer and small business interests adequately into account and by arbitrarily limiting the operation of the free enterprise system.

If I might depart briefly from my prepared statement, the noted economist, Professor Murray L. Weidenbaum, director of the Center for the Study of American Business at Washington University in St. Louis, has termed Federal regulations, "the hidden tax of government-mandated inflation." While such actions are not designed to increase prices, that is their result, according to Weidenbaum. In our attempts to control government spending, we have increasingly turned to the private sector to devote additional resources to achieve certain national objectives. To quote from Weidenbaum's AEI paper entitled, "Government-Mandated Price Increases,"

At first blush, government imposition of socially desirable requirements on business appears to be an inexpensive way of achieving national objectives: it costs the government nothing and therefore is no burden on the taxpayer. But, on reflection, it can be seen that the public does not escape paying the cost. . . . The public does not get a "free lunch" by imposing public requirements on private industry. Although the costs of government regulation are not borne by the taxpayer directly, in large measure they show up in higher prices of the goods and services that consumers buy. These higher prices, we need to recognize, represent the

"hidden tax" which is shifted from the taxpayer to the consumer. Moreover, to the extent that government-mandated requirements impose similar costs on all price categories of a given product (say, automobiles), this hidden tax will tend to be more regressive than the federal income tax. That is, the costs may be a higher relative burden on lower income groups than on higher income groups.

While Weidenbaum concedes that government regulation is an "accepted fact in a modern society," he does argue strongly that the tangible and intangible costs of regulation must be weighed against the benefits. Whereas in earlier periods when productivity and living standards were rising rapidly, we could applaud the benefits and ignore the costs of regulation, the present acceleration of federal controls now coincides with, and accentuates, a slowdown in productivity growth and in the improvement in real standards of living.

While the administrative costs of maintaining an army of some 75,000 regulators is around \$3-billion, the hidden tax or cost to the economy of complying with these regulations is variously estimated at between \$60 billion and \$120 billion annually. These hidden costs of Federal regulation manifest themselves in several forms. One of the most notable is the paperwork burden. There are now some 5,146 different types of approved government forms. It is estimated that individuals and firms spend over 130 million man-hours a year filling them out. Another hidden cost is the reduced rate of technological innovation due to the longer time it takes for a federal regulatory agency to approve a new product or more efficient production process. And probably the most costly aspect of Federal regulation is its impact on manufacturing. It's been estimated, for instance, that Federally mandated safety and pollution systems on automobiles add some \$320 average to the price of a new car. That comes to about \$3 billion annually on the sale of 9-million autos. And yet, too often the attitude of the bureaucrats is typified by the member of the Consumer Product Safety Commission who said: "When it involves a product that is unsafe, I don't care how much it costs the company to correct the problem," even though in many instances a mere relabeling of the product would suffice over an order to destroy it. Or, take the attitude of an assistant EPA administrator who was recently quoted as saying: "The whole thrust of the new legislation is to push technology and not get bogged down in deciding whether costs justify water-quality needs in a particular area."

The findings in S. 600 also address themselves to the tendency of many regulatory agencies to squander their resources on trivial aspects of regulation while failing to set clear priorities or articulate cogent policies. Weidenbaum cites some of these trivial examples from OSHA regulations: What size to establish for toilet partitions? How big is a hole (it depends where it is). When is a roof a floor? What colors to paint various parts of a building? How frequently are spittoons to be cleaned?

In this regard, I was pleased to read the joint announcement last week of Labor Secretary Marshall and OSHA Assistant Secretary Bingham that OSHA is finally coming around to initiating a "common sense approach to implementation of the Occupational Safety and Health Act of 1970" because, in their words, "we believe that such action will allow us to more effectively carry out the mandate of Congress." Let's hope this revolutionary concept of "common sense" ala Tom Paine catches on in other regulatory agencies as well.

But we're still left with the often conflicting mandates of various regulatory agencies which S. 600 is designed to eliminate. Weidenbaum

cites the example of the OSHA mandate for backup alarms on vehicles at construction sites and yet another requirement that workers wear earplugs to protect them against noise, thus making it extremely difficult to hear the alarms.

Then there's the case of New York State banning detergents containing phosphates to halt water pollution and the subsequent order requiring children's sleepwear to be flame-retardant. Without the phosphates, the detergent washes away the flame-retardant, and housewives were, in the words of the New York Times, faced with the decision of whether to "commit an illegal act of laundry." Now, as it ironically turns out, the flame-retardant has proved to be dangerous.

These general findings have been more than borne out by the voluminous studies of this and other committees of the Congress and by the President's Domestic Council Review Group on Regulatory Reform (DCRG). In its final report, "The Challenge of Regulatory Reform," issued in January of this year, the DCRG drew three major conclusions about the current regulatory system: first, that "some regulation simply no longer makes sense" because its original rationale "has been overtaken by economic or technological change;" second, "in areas where federal intervention is needed, much regulation has been ineffective or inefficient because the agencies have not been using appropriate tools;" and third, "that far greater efforts are needed to determine the social and economic effects of regulation."

In view of these findings, which tend to parallel the findings contained in S. 600, the DCRG makes the following recommendations in its final section on "Future Directions":

Efforts should be initiated to begin pulling together information about the size and cost of the regulatory bureaucracy and about the costs that these programs are imposing on the private sector. This will allow the President and Congress to gain a comprehensive understanding of regulatory activities and their costs and consequences. Government should begin to measure the total costs of regulation and make informed trade-offs in a fashion not dissimilar from the current budget process.

Bringing the regulatory system under control and disciplining it will require a comprehensive and systematic reexamination of all federal regulatory activities as they affect different activities of the private sector. We cannot hope to achieve this discipline by continuing to look at the issues in a fragmented, piecemeal way.

The need for a fundamental reassessment has not been widely accepted and encouraged because many allege that it is too complicated to be dealt with in the political process. But complexity is no excuse for continuing to allow the regulatory system to run unchecked. The Executive and Congress can and should design a timetable for reform. We believe that a disciplined agenda is an essential ingredient in assuring a more responsive, effective, and understandable Federal Government.

Mr. Chairman, it seems to me that S. 600 represents the embodiment of that recommendation of the President's Review Group on Regulatory Reform. As section 2(b) of the bill states: "It is the purpose of this Act to require over a period of eight years the President to submit at least once in each Congress, and to require the Congress to act upon, a plan designed to prevent unnecessary or harmful regulation because such regulation has led to inflationary consumer prices, a reduction of competition in providing of important goods and services, and other economic inefficiencies which distort and disrupt the operation of a free enterprise system without correspondingly benefiting the health, safety, or economic welfare of the Nation." I hope this committee will act fa-



vorably on this action timetable for reform of our regulatory process.

# BRIEF SUMMARY OF THE "REGULATORY REFORM ACT OF 1977"

(1) Not later than the last day of April in each of the years specified, the President shall submit to the Congress a comprehensive regulatory reform plan for each of the following designated areas (specific agencies affected are enumerated in the bill):

(a) 1979 (96th Congress)—energy, environment, housing and occupational health and safety;

(b) 1981 (97th Congress)—transportation and communications;

(c) 1983 (98th Congress)—banking and finance, international trade, and government procurement; and

(d) 1985 (99th Congress)—food, consumer health and safety, economic trade practices, and labor-management relations.

(2) Each plan submitted by the President shall contain recommendations for:

(a) the transfer, consolidation, modification or elimination of functions;

(b) organizational, structural and procedural reforms;

(c) the merger, modification, establishment or abolition of Federal regulations or agencies;

(d) eliminating or phasing out of outdated, overlapping or conflicting regulatory jurisdictions or requirements of general applicability;

(e) eliminating agency delays; and

(f) increasing economic competition.

(3) Each plan submitted by the President shall report on the cumulative impact of all government regulatory activity reviewed on the following specific industry groupings:

(a) transportation and agriculture;

(b) mining, heavy manufacturing, and public utilities;

(c) construction and light manufacturing; and

(d) communications, financing, insurance, real estate, trade and service.

(4) If the President fails to submit the required plans, the appropriate committees of Congress having legislative jurisdiction in the areas covered, together with the House and Senate Government Operations Committees, shall prepare the appropriate plans which shall become the pending business of each House not later than the first day of April of the following year.

(5) The Comptroller General and the Director of the Congressional Budget Office shall submit reports at the same time a plan is submitted detailing the purposes of each agency covered by the plan, any changes in the areas covered by the agency and their impact on the effectiveness of the agency, the net impact of the agency and the degree to which it has accomplished its purposes, its cost-effectiveness and the efficiency of its operations, and practical and more efficient alternative approaches to achieving presently demonstrated regulatory needs.

(6) Each plan submitted by the President shall be submitted to the appropriate legislative and oversight committees of the House and Senate and the Committees on Government Operations which shall report bills approving or disapproving in whole or part the plans, together with such amendments as may be deemed appropriate. Such bills shall become the pending business in each House not later than the first day of May of the following year.

(7) If no plan is approved by August 1 of the following year, the affected departments and agencies shall have no authority to promulgate new rules and regulations except those essential for preserving public health and safety, but subject to congressional veto by concurrent resolution.

(8) If a comprehensive regulatory reform plan is not enacted by October 1st of the

following year, then all affected departments and agencies shall lose all authority to enforce any rule or regulation except those essential to preserving public health and safety, again subject to congressional veto.

(9) In the event that no comprehensive regulatory reform plan has been enacted by the last day of December in the following year, all agencies affected by the plan shall be terminated unless appropriate provisions for their continuation are made by enactment of Congress.

(10) The timetable would be repeated beginning in 1995, in the ninth year following completion of the first eight-year timetable. This will ensure continuing review of the regulatory process, with a reasonable interim period to monitor the process before the comprehensive cycle begins anew.

## SIXTY-THREE PERCENT OF PUBLIC VOTE AGAINST UNION SHOP

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. DICKINSON. Mr. Speaker, the very real possibility exists that this Congress will attempt to repeal section 14(b) of the Taft Hartley Act—the authorization for State right to work laws. In Alabama, we are proud of the fact that workers can decide for themselves whether or not they want to belong to a labor union. Alabamians do not want that freedom of choice taken from them. They do not want section 14(b) repealed. The citizens of the 19 other right to work States do not want section 14(b) repealed, and the citizens of this entire country do not want section 14(b) repealed. As further proof of this fact the prestigious Gallup Poll has just conducted a survey of public opinion on the question of a union shop. I invite the Members attention to the results of that poll as they appeared in the Denver Post of May 12, 1977:

## THE GALLUP POLL—63 PER CENT OF PUBLIC VOTE AGAINST UNION SHOP (By George Gallup)

PRINCETON, N.J.—Organized labor's legislative agenda includes at least one item facing strong opposition from the American public—the union shop.

In the latest Gallup Poll, 63 per cent of the public vote against compelling people who work for a unionized employer to join a union once they have been hired, while 31 per cent support the idea.

The survey shows, not only 2-to-1 opposition to the union shop, but that opinion against this policy has grown over the last decade. In 1966, when the same question was last asked, the public was opposed to compulsory unionization, but by a much closer margin—49 to 42 per cent.

Repeal of section 14(b) of the Taft-Hartley act has been a goal of organized labor virtually since the day the legislation was passed over the veto of President Harry S. Truman in 1947. What 14(b) does is allow individual states to enact laws that ban the union shop. Without these laws, a person who works in a unionized factory or business can be forced to join a union. A total of 20 states have passed such legislation—so-called right-to-work laws—and repeal of 14(b) would invalidate these laws.

In urging repeal of 14(b), union leaders argue that those who benefit from union

representation should share in the support of the union.

Opposition to the union shop among the various population groups—except among nonwhites and labor union families—is widespread.

Regionally, attitudes haven't changed in the last decade. Strongest resistance to the union shop is now, as it was in 1966, centered in the South and Far West. People living in the East and Midwest are against the idea too, but not as much as residents of the other two regions.

Interestingly, while members of labor union families predictably favor the union shop, a sizable minority, 40 per cent, stand in opposition. Furthermore, this figure represents a significant increase (11 percentage points) since 1966 in the proportion of labor union family members who vote against the union shop.

Sharp differences are also found by education level. Among the college-trained opposition to the union shop principle is better than 3 to 1, while those with no more than a grade school background are close divided.

Politically, Republicans and independents are found to be overwhelming in their opposition to forced unionization. And although there has traditionally been a close identification by organized labor with the Democratic party, Democrats also vote against the union shop. The tone of Democrats nationwide is colored by the negative vote of Southern party members. Outside the South, Democrats are evenly split on the issue.

Here is the question asked:

"Do you think a person should or should not be required to join a union if he or she works in a unionized factory or business?"

Here's how the latest findings compare with those recorded in the mid-'60s:

## SHOULD JOINING UNION BE REQUIRED?

[In percent]

|                               | Should | Should not | No opinion |
|-------------------------------|--------|------------|------------|
| Today.....                    | 31     | 63         | 6          |
| 1966.....                     | 42     | 49         | 9          |
| 1965 (September).....         | 44     | 47         | 9          |
| 1965 (May).....               | 43     | 49         | 8          |
| Findings from current survey: |        |            |            |
| National.....                 | 31     | 63         | 6          |
| College.....                  | 20     | 75         | 5          |
| High school.....              | 34     | 60         | 6          |
| Grade school.....             | 43     | 46         | 11         |
| East.....                     | 34     | 60         | 6          |
| Midwest.....                  | 36     | 57         | 7          |
| South.....                    | 25     | 68         | 7          |
| West.....                     | 28     | 66         | 6          |
| Republicans.....              | 21     | 72         | 7          |
| Democrats.....                | 42     | 51         | 7          |
| Southern Democrats.....       | 33     | 58         | 9          |
| Other Democrats.....          | 46     | 47         | 7          |
| Independents.....             | 22     | 73         | 5          |
| Labor union families.....     | 55     | 40         | 5          |
| Nonlabor union families.....  | 24     | 69         | 7          |

## STATE DEPARTMENT ISSUES WARNING ON PANAMA CANAL TREATY

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. SNYDER. Mr. Speaker, on May 19, the Washington Star reported that State Department officials warned Members of Congress opposing a new treaty with Panama that it would be—in the State Department's words—

The greatest tragedy politically to negotiate a treaty and then have it turned down by the Senate.

Mr. Speaker, our sellout artists in the State Department have put the cart be-

fore the horse with that outrageous statement. The greatest tragedy politically has already been committed by the Department itself.

In February 1974, Secretary Henry Kissinger signed a conceptual agreement with Panama promising to give that small, weak country the Canal Zone and Panama Canal without the slightest indication from the American people or their representatives in Congress that it was the national intention or desire to dispose of the taxpayers' \$7 billion investment there. Subsequent negotiations for a new treaty have centered entirely on that total surrender of the zone and canal operations, within a relatively short time.

Mr. Speaker, I believe it would be the greatest political misrepresentation of the people on record, since by the polls they stand some 5 to 1 against any surrender of the Canal Zone and waterway, for the Senate to ratify a treaty embodying such a surrender.

#### ARTICLE POINTS UP NEED FOR HIGHER EDUCATION HELP TO MIDDLE AMERICA

#### HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. COUGHLIN. Mr. Speaker, I am inserting in the CONGRESSIONAL RECORD an article by Linda Loyd which appeared in the May 23, 1977, edition of the Philadelphia Inquirer.

This article underscores the impact of rising higher education costs which are steadily forcing middle-income level students out of college. The five Pennsylvania high school seniors interviewed face a new form of economic bias which is gradually squeezing out the middle-income group and making higher education an institution for the elite—the rich and the poor.

The article illustrates the financial crunch which middle-income Americans are experiencing who want to send their children to colleges and universities. The dollar figures speak eloquently of the need for assistance to the middle Americans, traditionally the segment of our Nation which pays the most taxes, provides the stability the Nation enjoys and which just as often is forgotten in the talk of "tax reform" and "social justice."

Tax relief for families bearing the costs of higher education is slowly becoming an economic necessity to insure quality education and skills of our future America.

The article follows:

#### CHOOSING A COLLEGE IS NOW A LESSON IN ECONOMICS

(By Linda Loyd)

Lori Riesenfeld, 17, studied hard all through high school, made good grades and took advanced courses so she could qualify for one of the big, prestigious private universities.

And when her first choice—George Washington University—notified her that she had been accepted, Lori recalls, "I was thrilled."

Then came the bad news: Lori would get no financial aid—and the yearly cost of attending George Washington University is nearly \$6,000.

"At one point," says her father, Ernest Riesenfeld, an engineer with the Boeing Vertol Co. in Ridley Township, "we told her she'd have to go to a college I could afford."

The Riesenfelds are not alone. Across the country thousands of parents of high school seniors are frantically juggling figures and analyzing their bank books to see what kind of college they can afford—if they can afford college at all.

And as tuitions continue to rise, and financial aid is awarded only to the "needy," increasing numbers of middle-class Americans are being forced to choose less costly state colleges and universities or community colleges.

Some other examples:

Eric Erdmanis, a senior at Haverford High School in Havertown, had his sights set on the University of Pennsylvania—until tuition jumped by \$325 for next fall. Counting tuition and fees, room and board, books and supplies, a year at Penn is estimated to cost \$7,500. "So I'm going to Temple," he says.

At Cherry Hill East High School in New Jersey, senior Lisa Monteriro had been accepted at Dayton University in Ohio. Instead, she will commute next fall to nearby Glassboro State College, which will cost about \$1,500 compared to \$3,700 at Dayton.

Debbie Stipick of Newtown Square, Pa., a senior at Marple Newtown High School, says she never even bothered applying to the high-cost schools. She is going to West Chester State College next fall. Her anticipated cost: \$2,000 to \$3,000.

Lori Riesenfeld will be going to Penn State, a school where tuition, room and board cost about \$2,600.

"We have a son at Drexel University, and another son still in public school," says Ernest Riesenfeld. "I can't afford to spend more than \$4,000 or \$5,000 a year on two children in college."

"If I were really convinced she would get an inferior education at Penn State, I'd borrow the money," he says, "but having visited Penn State and seen the facilities, I don't think she'll suffer."

The swing away from private schools to public-supported institutions is nothing new. "It's been a gradual trend since the 1950s," says Dr. Grant Vance of the National Center for Education Statistics in Washington.

Today, more than three-fourths of all college students attend state-supported schools, Vance says. And all indications are that the percentage will keep increasing.

"We've seen this trend even among our brightest students who a few years ago would have gone to Cornell or Princeton or Penn," says Dr. Kevin O'Shea, director of guidance in the Tredegar Easttown Schools in Chester County.

"They are still being accepted at those schools, but many are going to the state-supported colleges, and the reason is economics."

Most counselors are quick to point out that the most prestigious private schools still get plenty of applicants.

#### WILLING TO SACRIFICE

"Parents are still willing to sacrifice, no matter what the cost, to send a child to Harvard or Yale," says Robert Fitzgerald, guidance director for the Radnor Township schools.

"But it's the other private schools that

parents are looking at more closely . . . and if they think their child can get just as good an education at a state college as another private school in the state, they'll choose the state school."

Not only are more students applying to state colleges such as Shippensburg and Slippery Rock (where costs are as low as \$2,000 a year), but they also are applying to fewer colleges—to save the \$20 or \$30 application fees.

"I've noticed that more parents are unwilling to travel great distances to look at colleges," says a counselor at Nether Providence High School in Wallingford.

#### 200 MILES

"Parents want students within a 200-mile radius. They don't want their kids going to Ohio or California—they don't want to pay air (travel) expenses."

The main reason students give for turning down high-cost colleges, says Dawn Butler, 18, is that "if you're middle-class you can't get any financial aid."

A senior at Great Valley High School in Malvern, Pa., she will be going to Juniata College, a private, \$4,600 a year school near State College, Pa., next fall.

"But I would have liked to have gone to Bryn Mawr, Penn., Swarthmore or Villanova," she says.

"I applied and got into all those schools but my father said no way could we afford them, and I could not get any aid."

"I always felt the major hurdle was getting into a good college. But once I got in, I found out there was a whole other struggle: money."

Although more financial aid is available to students today than a decade ago from the state and federal governments, families often must be poor to receive it.

#### THE ELITE

"I'd like to go to an Ivy League school," says Haverford High School's Eric Erdmanis, "but they're for the elite—the rich and the poor."

The cost of a college education is an especially heavy burden for families like that of Doris and Jack Brookshaw of Fairless Hills, Bucks County, where the family breadwinner is out of work.

The Brookshaws' daughter, Terry, 19, had always wanted to attend Ursinus College, a small private school in Collegeville that is known for its women's field hockey team.

Terry who is a good scholar and an accomplished athlete at Pennsbury High School, had hoped for an athletic scholarship there.

But costs at Ursinus have climbed to \$5,050 next year, and Terry's father, a \$17,000-a-year sheet metal worker, has been laid off. So Ursinus College is "out of the question," Terry says.

#### NINE CHILDREN

To make financial matters worse, Terry is one of nine children, seven of whom still live at home.

"She had to go where the finances are available," says Doris Brookshaw, who took an \$81-a-week job as a sales clerk after her husband was laid off.

"She's getting some financial aid to go to Temple. We don't know how much, and she'll have to get a loan to cover the rest."

Jack Brookshaw sat in the living room of his home the other day explaining the family's predicament:

"All we're trying to do is survive—pay the bills and eat," he said. "I know parents who both have jobs and just one or two kids at home . . . and they're pulling their hair out over the high cost of college."

"For people like us, higher education is becoming the impossible dream."



# J. PORTER MATTHEWS RETIRES AFTER 48 YEARS IN BANKING

## HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. BAUMAN. Mr. Speaker, those of us in public life have many occasions to work with community leaders in our congressional districts and home States. Of the many thousands of people we meet, some stand out, not only because of their devotion to their duties but because of their personal qualities as well. Such a person is J. Porter Matthews of my own hometown, Easton, Md.

Porter, as he is affectionately known, retired last month after a distinguished career of 48 years in banking. At the time of his retirement he was a vice president of the Maryland National Bank and manager of its Easton branch. Over the years, Mr. Matthews has seen many changes in the Easton area and on Maryland's Eastern Shore and he was part of many of the decisions which shaped and guided this growth.

Porter Matthews has been an active participant in every level of community leadership and his unflinching courtesy and interest in other people has been his hallmark. He has also found time to take part in political activities, serving for many years as the treasurer of the First District Republican Congressional Committee during the tenure of my predecessors Bill Mills, Rog Morton, and Ted Miller.

Mr. Speaker, we can all salute men like Porter Matthews who do so much for their communities and those around them. I am sure that ending one career marks only the beginning of many years of active and productive retirement for one who has certainly earned the thanks of his many friends and neighbors.

I include an article from the Easton Star Democrat:

### J. PORTER MATTHEWS ENDS 48-YEAR BANKING CAREER

EASTON.—After 48 years in the banking business, J. Porter Matthews of 406 S. Hanson St., vice president and manager of the Maryland National Bank here, has retired.

Matthews, whose retirement was effective last Sunday, started his career as a bank runner in 1929.

It was uninterrupted except for three years of U.S. Navy service during World War II.

Daniel W. Swann, assistant vice president and manager, succeeded Matthews.

Said Swann: "Mr. Matthews has served his bank and community well and we look forward to his continued association as a board member and coming to his office from time to time to continue contact with his wide acquaintance of friends and customers."

What differences are there between banking today and 1929? Matthews said change is inevitable, but there is no difference in people. They are the same now as they were 50 years ago, honest, friendly, sincere and interesting and by associating with them I have learned things that make life so worthwhile.

"Sure there is a difference in banking today compared to when I started. Then it was all pen and ink, an occasional typewriter and adding machine. Today there is no end to possibilities. Our employes are capable and more people-oriented.

"Today is a great time to be alive and I plan to have a part in making things happen. I've had a part during my banking career in helping the community develop into such a fine place and the envy of the Eastern Shore.

"As an example, in 1946 our bank felt the architecture in the business area had deteriorated. We had an architect do a drawing to show buildings as they were in the middle of Colonial 18th Century and published in the local papers. We suggested remodeling along Colonial lines, offering long term loans at low interest rates for those that did. The result is evident and interestingly enough, it was done with their own money as no loans were ever asked for or needed," Matthews recalled.

The retired banking official continued: "I've had the pleasure of being one among many who kept their shoulder to the wheel in having part in Chamber of Commerce undertakings, being a past president, helping raise funds and build a new hospital as a board member, president of YMCA that culminated in a new Y, members of board of education, United Fund director, all things that have helped make Easton and Talbot County a better place in which to live as well as a fulfillment of what I believe to be my public responsibility. The pay for these duties was the real satisfaction of seeing them succeed.

"Once I was told by a man in a moment of disgust that he didn't trust anyone. I told him I was the opposite, my whole life was based on trust, I trusted everyone, with possibly one exception, him. He changed and said he didn't mean exactly what he said and he meant he didn't trust some people.

"He hit the point as there are always a few who are off the straight and narrow, but the good is in the great majority and we must be careful not to condemn all because of a few.

"People today are great, youth are finer and smarter than they were when I was young, and all in all doing a good job under trying conditions."

How were the first days of retirement going? "I'm so busy I haven't had time to think about it. I have a written list of things I have to do and it seems to grow longer each day. I kinda feel like I'm on a vacation," Matthews said.

## "LEST WE FORGET" BY THOMAS BOULET

### HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. REUSS. Mr. Speaker, my constituent, Thomas J. Boulet, has sent to me his poem entitled "Lest We Forget," which I believe contains a fitting message for us to keep in mind during the upcoming Memorial Day observances. I would like to share the poem with my colleagues:

#### LEST WE FORGET

(By Thomas J. Boulet)

[Copyright 1947]

We gave our thanks and our goodwill,  
That all the battlefields now are still.  
That Peace, at last, has come  
The war is over, the Victory's won!

But little did we pause to recall,  
Those fighting men who gave their all;  
Who have come back with missing limbs  
Whose outlook on life has grown quite dim.

For the dead, we say a prayer,  
In peace let them rest over there;  
Let us turn our eyes and look ahead,  
For no longer can we help the dead.

Let us help those who have come back,  
To stride forward in life and ne'er slack;  
'Till at last their goals they reach,  
And can live on in everlasting Peace!

## MEMORIAL DAY, 1977

### HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. COHEN. Mr. Speaker, as Memorial Day approaches, each of us should take the time to pause and reflect upon the sacrifices that generations of soldiers, sailors, and airmen have made to keep our country free.

Last week, Daniel E. Lambert, the Department Adjutant of the Maine American Legion and a man I am proud to call a friend, delivered a moving message at a memorial service of the Oxford County Council in Rumford, Maine. In his talk, Dan Lambert reminds us all that the greatest honor we can pay to the servicemen who gave their lives defending the United States is to remember and care for the thousands of veterans confined to hospitals throughout the country who still need our help.

I hope each of my colleagues will take the time to read Dan Lambert's remarks and to take his message to heart. The remarks follow:

MY FELLOW LEGIONNAIRES: "It is a holy and a wholesome thought to pray for the dead."

Those words are taken from the Old Testament, the Book of Maccabees. After some of the soldiers, who probably had the taint of sin upon their souls, were killed in battle, Maccabees brought some money to the temple to ask that the Priest therein would spend some time in praying for the repose of the souls of those who had not paid the last farthing.

With those words in mind, today I am going to tell you that one of the most beautiful things ever written by Sir Walter Scott was of a character called Old Mortality. Old Mortality was a Scotsman who day after day, week after week and year after year, felt it his duty to go to the graves of his fellow countrymen and make sure that the moss didn't gather too deeply on their gravestones, and that the emblems that marked the Divisions to which they belonged were not erased. Sir Walter Scott says of him that he was probably as wonderful a character as one would know because he remembered with his motives of devotion the old men who had gone before him, who had fought for a cause of their country and their God. He wanted all generations behind him to remember these things, and therefore he brushed these things up from time to time, that they might read the inscriptions, and that they might know that "it is a holy and a wholesome thought to pray for those dead" lest they be forgotten.

Whenever veterans get together, I know too in their hearts they always have a feeling of their fellow veterans who have gone before them, fellows with whom they walked and talked and laughed and smiled and had the social amenities of life. When we pay them tribute, our heroic dead, we certainly know that we are giving tribute to men who lived a life and died a life in sacrifice that

these American institutions might endure. Some way in our life we try to emulate them.

What is true of all veterans as we pay this tribute is often too rare. Once a year we have a memorial service, but this should be constantly in our mind because "it is a holy and a wholesome thought to pray for the dead." We should, especially Legionnaires, pray for men who have done so much for this great organization. Forever enshrined in our minds should be the names of those countless men who have given their all to this great organization's cause.

If you ask anyone of the men who have gone before—men who have given of their last drop of blood for God and Country in this great organization—what their greatest request is, what their last will and testament was, it was the same as the fellows who were left on the battlefields, who as they breathed their last breath said: "Don't bother with me. Take care of those who can make it."

We are gathered together at a time like this, and you know that you have a great cause on your hands. You know that you have a principle to fight for. Most of all we should measure this principle in a spiritual value.

You know they say of a man who doesn't catch on very fast and who can't see through things, that he is dumb. But I say to you that two of the principal things that should be indelibly impressed on the memories of each and every one of us here today, is a divine sense of humor. Not a sense of humor just to make somebody laugh, but a divine sense of humor—that is to see through things. See in the snowflake the purity of God; see in the mountain the power of God, and see in the rainbows and in the heavens the beauty of God.

That divine sense of humor is most essential for us, for when we go about our work of rehabilitation, when we go about our work of preserving the good things and carrying out the last testaments of our dying comrades, we shall see to it that when we take care of a fellow in Room 262 at Togus, we are not only taking care of a fellow in Room 262, but we are taking care of somebody in the name of Christ, somebody that He died for, somebody that He loves. And as a reward for that, we have a promise some day in store for us: "Well done, thou good and faithful servant."

You may say, "I didn't do anything. I'm sorry, I didn't." But you gave a cup of cold water, you fought for a cause in the Legion's program to help one of those comrades to see to it that they weren't thrown out in the streets, out of the hospitals, because of some false economy. You saw to it that these, our heroes, were enshrined and never to be forgotten in our hearts. That cup of cold water that you gave took on a spiritual investment in the bank of heaven where the rust and the moss cannot destroy, nor thieves break in and steal. You placed these things in spiritual value, and every effort that you extend to that end will pay great dividends.

I said that you needed two things, not only a divine sense of humor, but you have to have the knowledge of the pain of an incision. Not necessarily a physical incision, but an understanding of pain.

You know, these, our honored dead, who left the classrooms became history's graduates. Left at home they were to be probably the greatest statesmen this country has ever known. They grabbed the rifles and marched off to war. They might have been the scientist who would discover the cure for cancer, they might have been a captain of industry, they might have been a rabbi, a minister, or a priest who would bring spiritual consolation to future generations. They might have been an artist, or a painter, or a sculptor.

But today many grope with the blindness inflicted upon them by battle. They are warped in mind because they still scream in the psychopathic wards, hearing the ghost guns of battle. They clutch with stumps of hands. They bear the constant pain of wounds from battle or POW camps. They are carried around in wheelchairs, and you who are here today must know and have an understanding of pain in order to give them your all.

These are the things that I would like you to make a part of your mental make-up. Leave on the indelible tablets thereon these impressions.

What you do, you do well before the throne of the most high God.

Two thoughts, therefore, in conclusion. Remember your dead who have done so well for you in days gone by. Remember them where remembrance counts—at the altar of God. And don't forget their last wish and will and testament—Take care—at all costs—take care of the sick and the wounded and those who are suffering on beds of pain, the widows and orphans. We Shall Remember Them!!

#### INTERNATIONAL ENERGY EXPERT REFUTES CIA VIEWS ON SOVIET ENERGY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. KEMP. Mr. Speaker, in the recent past, a great deal of attention has been focused on the urgency of America's near-term energy shortage. In part, the urgency of this concern has been intensified as a consequence of a CIA report, quoted by President Carter to the effect that we may expect the Soviet Union to become an energy importer by 1980, even further diminishing the world's petroleum reserves.

A recent report published by the London Financial Times, by Zbynek Zeman, tends to undermine the CIA's case concerning Soviet oil and gas. The author concludes that the Soviet Union's exportable petroleum surplus is unlikely to slip below 140-150 million tons by 1980.

This evidence appears to be yet another example of the tendency to overstate the magnitude of the energy shortage to induce draconian conservation measures when such measures should not be necessary. The reserves of energy are vast; only the interference of the Federal Government with private entrepreneurship now inhibits the United States from increasing supplies of energy in virtually every form, particularly hydrocarbons. I insert the text of the Financial Times essay at the end of my remarks:

[From the London Financial Times, May 18, 1977]

#### HOLDING ON TO FIRST PLACE

The view appears to be gaining ground in the West—particularly after the recent CIA report—that the Russians are about to run into difficulty with their oil industry, that their reserves are too low to meet the new targets, that production will decline, that consumption is growing too fast, and so on.

While there is little hard information on Soviet oil reserves, what data there is sug-

gests a different conclusion, namely that in the short to medium term Soviet oil prospects are quite good. This means that the Soviet Union will not only hold its place as the world's largest oil producer with over 500m. tons a year, but will also have a surplus to export to world markets and to its East European allies.

This export potential—about which the U.S. Central Intelligence Agency is clearly sceptical—could put the Soviet Union in a favoured energy position in the medium term.

For there is a growing feeling within energy industries that the West could run short of oil supplies within the next 25 years. The International Workshop on Alternative Energy Strategies, which this week reported on global energy prospects between 1985 and the year 2000, saw the possibility of free world oil supplies lagging behind demand as soon as the early 1980s. (WAES largely ignored the influence of the USSR and China because it was felt that their oil trade with the rest of the world would remain relatively small until the end of the century.)

Trends in the Soviet and Comecon energy sector have generally paralleled trends in the West. Oil and natural gas are coming to be seen less as sources of primary energy than as raw materials for the chemical industry; more of the burden of power generation is being shifted to coal and nuclear fuel.

#### PROJECTION OF SOVIET ENERGY CONSUMPTION IN 1980

[m. tonnes coal equivalent]

|                               | Minimum |                  | Likely version |                  |
|-------------------------------|---------|------------------|----------------|------------------|
|                               | 1980    | Share (per-cent) | 1980           | Share (per-cent) |
| Oil.....                      | 658     | 35.8             | 686            | 36.3             |
| Natural gas.....              | 436     | 23.7             | 464            | 24.6             |
| Coal.....                     | 575     | 31.3             | 567            | 30.1             |
| Other solid fuels.....        | 60      | 3.2              | 60             | 3.2              |
| Hydro and nuclear energy..... | 110     | 6.0              | 110            | 5.8              |
| Total.....                    | 1,839   | 100.0            | 1,887          | 100.0            |

#### SOVIET OIL BALANCE, 1975 AND 1980

[m. tonnes]

|                         | 1980    | 1975 |
|-------------------------|---------|------|
| Production.....         | 630-640 | 491  |
| Consumption.....        | 480     | 361  |
| Exportable surplus..... | 150-160 | 130  |

Also, the Russians are trying to relocate industry closer to the big sources of coal and hydro power in Siberia, and effect big energy savings.

The 1976-1980 plan calls for crude oil output, including gas condensate, to reach 620-640m. tonnes in 1980: an absolute increase of 129-149m. tonnes, or 26.3-30.3 per cent. This is a slower rate of growth than before; nevertheless, prospects for production reaching the upper target are good.

The West Siberian oil fields are to produce most of the increase and they are well placed to reach the upper end of their 260-300m. tonnes target. This increase will more than compensate for the declining trend in European Russia, including the Caucasus and Volga-Urals fields. Output here is likely to diminish to some 260-270m. tonnes, despite the growing use of secondary recovery methods.

Serious doubts have been raised as to whether the Soviet Union will be able to go on supplying its East European allies with the required amounts of oil, and whether it will go on exporting to the West. There are two developments in particular which will help the Soviets to fulfil their obligations to



their allies, and to earn precious hard currency.

The high level of exports to the West has meant that the managers of the Soviet oil industry are in charge of a privileged sector of their country's economy, and that they can import Western technology whenever they need it. They used this freedom much more in 1975 than before, a year in which such imports quadrupled.

Though the Soviet oil industry will continue to be aided by large injections of Western technology, no great demands will be made of the industry at home. Indeed, Soviet consumption of oil and oil products until 1980 is likely to be much lower than earlier forecasts had assumed.

The projections here were prepared after the main information on the current Soviet development strategy became known: that is to say, after the announcement of the current five year plan. This has made it possible to develop two scenarios: one assumes that Soviet economic growth will be as low as planned and that the energy savings will be effected. The other projection assumes that Soviet economic growth will be somewhat above plan, and that the intended savings will not be wholly realized.

But both these projections forecast a consumption rate that is considerably lower than any previous estimate. (For instance, a NATO seminar in January 1974 regarded a consumption forecast of 2,333m. tonnes of coal-equivalent), of which 786m. tonnes of coal-equivalent was set aside for the consumption of oil, as acceptable.) Considered together with production trends, it is likely that the Soviet Union will have an energy surplus in 1980 about twice as large as in 1975.

Even if the Soviets decide to develop their petrochemical industry faster than planned, bringing about a rapid increase in domestic consumption of oil, their exportable surplus is unlikely to sink below 140-150m. tonnes by 1980.

Despite rising East European requirements, crude oil available outside the Comecon area in 1980 should be over 50m. tonnes, and therefore well above the average in the 1971-75 period. The Russians will retain their most important source of hard currency: and the East Europeans will not go short of oil.

#### THE 50TH WEDDING ANNIVERSARY OF MR. AND MRS. JOSEPH TOKAR

**HON. HAMILTON FISH, JR.**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. FISH. Mr. Speaker, on May 14, 1977, Anna and Joseph Tokar, aunt and uncle of House Republican photographer, Mickey Senko, celebrated their 50th wedding anniversary. Services were held at the St. Stanislaus Roman Catholic Church, Pleasant Valley, N.Y., with a reception following the 9 a.m. Saturday morning service.

Anna Tokar was born in New York City in 1906, on the lower East Side. She went to Catholic grade school and later worked for the National Biscuit Co. in New York.

Her husband, Joseph Tokar was born in New Jersey and later moved to Brooklyn, where he started a motorcycle repair and sales shop for the Harley-Davidson Co. In 1945, Mr. Tokar sold his business and moved to Pleasant Valley, in my congressional district, where

he bought a 40 acre apple orchard and chicken farm, which he is still running.

I would like to take this opportunity to express my sincere congratulations and best wishes to the Tokars. May I also take the opportunity to wish them continued good health and happiness in the future.

#### ENERGY BREAKTHROUGH: SOLAR-POWERED WELLS IN ARIZONA

**HON. MORRIS K. UDALL**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. UDALL. Mr. Speaker, solar power is certain to be one of the key elements in any sound, long-term answer to America's energy problems.

Recently, the combined efforts of the Northwestern Mutual Life Insurance Co., and the Battelle Memorial Institute produced an important advance in solar technology.

On a large irrigated farm near Gila Bend, Ariz., they developed a solar system to power the pumps that draw water from deep aquifers to grow alfalfa and cotton. An article in the May 25, New York Times, describes this successful experiment, which may pave the way for significant savings of natural gas and electricity, the energy sources Arizona farmers must now depend on.

As I call this article to my colleagues' attention, however, I must express a degree of misgiving about any advance that might make it even cheaper and easier to tap our diminishing underground water. Arizona is a dry land, and even with construction of the controversial Central Arizona project we will need to institute some sound, tough water management practices to halt the overdraft of our groundwater. I hope, therefore, that the men and women who contributed to this important step will devote similar ingenuity and industriousness to finding water-conserving agricultural techniques that will let us produce vital food and fiber and still have enough water to meet urban and industrial needs.

#### SOLAR ENERGY TESTED AS WAY TO REDUCE COST OF IRRIGATION IN SOUTHWEST

(By Grace Lichtenstein)

GILA BEND, ARIZ., May 23.—Under the searing sun of central Arizona, a strange "crop" occupies one section on the Gila River Ranch, surrounded by fields of cotton and alfalfa.

Row upon row of curved, shiny aluminum planks are rotating face up toward the sun. They are absorbing its heat to run what is believed to be the world's largest solar-powered irrigation system for pumping water into 50 ditches of this 22,000-acre farm.

It is a part of a \$500,000 pilot project by two organizations not usually associated with the agriculture business—the Northwestern Mutual Life Insurance Company of Milwaukee and the Battelle Memorial Institute of Columbus, Ohio, a large private research and development company.

Their aim: to see if solar energy can solve the problem of soaring irrigation costs that now faces farmers in the arid regions from California to Texas.

There are huge portions of the Southwest that cannot rely on rain to water their crops.

Instead, many water ditches that line crop fields, or pump that water rely on underground wells, from which they pump into sprinklers that water the crops.

Recently, however, farmers who use pump water for irrigation have seen their bills soar for both electricity and natural gas, the normal fuels used to power such pumps. This eventually means higher food costs to the consumer.

Ten years ago, Northwestern Mutual bought the Arizona farm from its owner, who was in debt to the company.

In 1973, the electric bill for irrigation pumps on the property reached \$1 million. "When our power costs began to soar, we began to think of all that sun," said Francis E. Fergusin, president of Northwestern, "and we began to think of what we could do with solar energy."

#### HORSEPOWER SYSTEM

Northwestern asked Battelle to design a 50 horsepower solar system. According to Northwestern, there are only two other such solar experiments in the world. One is now being installed by the Federal Energy Research and Development Administration in New Mexico and another has been done by a French company in Mexico, but both are smaller than the Arizona one.

Graham Alexander of Battelle, the project manager, explained that an electrical starter, similar to the ignition starter in an auto, starts up the system by pumping water into tubes set in the center of the curved solar collectors.

The water gets hot, then flows into a boiler where it heats the liquid chemical freon until it becomes a gas. This gas then turns a turbine that pumps water into irrigation ditches.

The amount of electricity needed to start the system is minuscule compared with the amount that it would ordinarily take to run irrigation pumps. So, although installation of the solar system is very expensive, a farmer would pay almost nothing to operate it, Mr. Alexander said.

#### SOME "BUGS" IN SYSTEM

The Arizona system is only a few weeks old and still has some "bugs" in it, Mr. Alexander said. But project officials are optimistic. "We've proved it's feasible, but we also know it is not economical," said Thomas W. Harvey a Battelle vice president.

"However, we've put this in as a showcase to encourage manufacturers of irrigation systems to invest in this new technology," he continued.

Northwestern and Battelle are hopeful that some company will join them in manufacturing solar irrigation systems on an assembly-line basis, which would bring the initial cost down to a level where it could compete with conventional pump systems. For example, a 50-horsepower pump can now be installed in California for \$20,000. Farmers can often pay off that cost within five years because it allows them to produce much higher yields of crops.

"It all depends on OPEC," said Mr. Harvey. According to him, if the Organization of Petroleum Exporting Countries continues to increase the cost of gas and oil as predicted, farmers in the dry, sunny parts of the United States may be forced within 10 years to convert to solar-powered pumps or to have "little nuclear plants" all over their farms.

A representative of a pump manufacturing company, who toured the Arizona pilot project the other day, was interested, but skeptical. "There's nothing complicated about it, but as far as costs go, I haven't the foggiest idea," he said.

Companies such as his, the man said, are nevertheless eager to see new technology because they fear rising fuel costs may soon deter farmers from buying conventional pump systems.

As he spoke, the curved solar plates were turning slowly toward the heavens. There was not a cloud in the sky.

A few minutes after Mr. Alexander threw a switch, water suddenly began spurting out of a large irrigation faucet a few yards away, flowing into a ditch toward the wide, flat expanse of Gila River Ranch's cotton and alfalfa.

#### DISPOSITION OF RESIDUAL INDOCHINA AID FUNDS

**HON. LEE H. HAMILTON**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. HAMILTON. Mr. Speaker, I would like to bring to my colleagues' attention some material provided by the General Accounting Office regarding the final disposition of aid funds left in the Indochina accounts at the time of the fall of the former South Vietnam Government on April 30, 1975, and our withdrawal.

This material indicates that of the roughly \$180 million in unexpended funds, \$116 million was returned to the U.S. Treasury as of September 30, 1976, \$29 million was returned to the Department of Defense, and most of the rest was reprogrammed into other Agency for International Development aid accounts. This means that now there is only \$8.5 million left in unliquidated Indochina obligations.

This update of information provided last year and inserted into the Record of September 14, 1976—page 30358—completes the work of the General Accounting Office for the Committee on In-

ternational Relations on the closeout of the Indochina accounts. There are, however, some claims still pending and it will be some time for action on these claims to be completed and the disposition of the remaining \$8.5 million to be determined.

The information provided by the GAO follows:

STAFF UPDATE ON THE INDOCHINA RESIDUAL AID FUNDS REPORT: GAO REPORT ID-76-54

#### CURRENT STATUS

The Subcommittee and GAO asked AID to tell the Congress: what it intended to do with all residual Indochina aid funds.

AID advised that: AID would close out Indochina fund balances by (1) returning the Indochina Post-war Reconstruction Program appropriated funds (that amounted to about \$93 million at the time of GAO's review) to the U.S. Treasury; (2) returning some \$25.2 million in DOD-advanced funds back to DOD; and (3) put the remaining funds (some \$4.2 million) back into AID's worldwide general aid accounts for reprogramming with appropriate congressional notification.

Our follow-up disclosed that: AID has made disposition on most of the Indochina funds. AID had (1) returned about \$116 million of Indochina appropriation funds to the U.S. Treasury and promised the Congress to return \$1 million more by 9-30-77; (2) returned more than \$29 million to DOD; and (3) reprogrammed the remaining funds through its worldwide aid accounts as authorized by the Foreign Assistance Act. As of 3-31-77 AID had only about \$8.5 million left in unliquidated Indochina obligations which would eventually be dropped from AID's financial records by actions described in (1) through (3) above.

The Subcommittee and GAO asked AID to tell the Congress: what AID's plan was for closing out all Indochina activities.

AID advised that: AID could not give the Congress a plan because an accurate date for

termination of activities such as closing out claims and contracts could not be established. However, Congress would be kept advised through quarterly reports on close out activities.

Our follow-up disclosed that: AID is giving the Congress periodic updates on contract and claims activities through the quarterly Indochina Refugee reports. These reports go to the Judiciary, Appropriations and International Relations Committees. Our review of the latest report indicated that it will take considerably longer for AID to close out its contract and claims processing activities.

The Subcommittee and GAO asked AID to tell the Congress: what actions were being taken to recover U.S. assets in the Cambodian Exchange Stabilization Fund (CESF).

AID advised that: the New York bank holding U.S. assets of some \$1.4 million told AID it cannot release these funds or any of the CESF assets without agreement of all contributing governments on how the residual assets should be distributed. Also, these assets are frozen under the Treasury Department's Foreign Assets Control Regulations.

Our follow-up disclosed that: AID has done about all it can on this matter and it is now being turned over to State and Treasury for further action. AID officials speculated that any settlement will involve diplomatic initiatives to bring the various governments together on a CESF settlement and will also be part of an overall disposition of Indochina countries' assets frozen by the Treasury. This matter is likely to drag on for some time. The U.S. assets were transferred into an interest bearing account during the interim until a settlement can be arranged.

Follow-up conclusions: AID has made considerable progress in winding up Indochina activities. Most of the funds have been closed out with the largest part being returned to the U.S. Treasury. Other aspects will still take some time, such as close out activities and disposition of the Cambodian Exchange Fund assets. It looks like AID is keeping the Congress generally informed on how the activities are progressing.

#### INDOCHINA CLOSEOUT UNLIQUIDATED OBLIGATIONS AS OF MAR. 31, 1977

[In thousands of dollars]

|   | Total | Vietnam | Laos | Cambodia |   | Total | Vietnam | Laos | Cambodia |
|---|-------|---------|------|----------|---|-------|---------|------|----------|
| Mission funds allotted for:                     |       |         |      |          | AID/W funds allotted for:                     |       |         |      |          |
| Contracts.....                                  | 4,354 | 4,187   | 167  |          | Contracts.....                                | 10    | 10      |      |          |
| Commodities.....                                | 44    | 16      | 28   |          | Travel and transportation.....                | 597   | 582     |      | 15       |
| Contracts with U.S. Government technicians..... | \$44  | 41      | 3    |          | Contract with U.S. Government technician..... | 7     |         |      |          |
| Local national travel.....                      | 54    | 48      | 6    |          | Personal property claims.....                 | 282   | 190     | 75   | 17       |
| Travel and transportation.....                  | 18    | 6       | 5    | 7        | Total AID/W allotment.....                    | 896   | 782     | 75   | 32       |
| Claims by former employees.....                 | 199   | 199     |      |          | Commodity import program funds allotted for:  |       |         |      |          |
| Cashier's losses.....                           | 398   | 398     |      |          | Suppliers claims.....                         | 1,901 | 1,901   |      |          |
| Personal property shipments.....                | 553   | 553     |      |          | Bank charges.....                             | 8     |         |      |          |
| Total mission.....                              | 5,664 | 5,448   | 209  | 7        | Total commodity import program.....           | 1,909 | 1,909   |      |          |
|   |       |         |      |          | Grand total.....                              | 8,469 | 8,139   | 284  | 39       |

#### INDOCHINA PIPELINE DISPOSITION REPORT

STATUS OF LIQUIDATION ACTIVITY ALL YEAR ACCOUNTS/APPROPRIATION (JULY 1, 1975 TO DATE)

FOR THE PERIOD MAR. 1 THROUGH MAR. 31, 1979

| Country and type of funds      | Allotment obligation pipeline, July 1, 1975 | Net deobligations                |             | Disbursements                    |             | Unexpended            |             |
|--------------------------------|---|----------------------------------|-------------|----------------------------------|-------------|-----------------------|-------------|
|                                |   | Cumulative through Mar. 31, 1977 | This period | Cumulative through Mar. 31, 1977 | This period | Unliquidated pipeline | Unobligated |
| Total (all countries):         |   |                                  |             |                                  |             |                       |             |
| IPR funds:                     |   |                                  |             |                                  |             |                       |             |
| Project (USAID).....           | 66,539                                      | 35,329                           | 3           | 28,284                           | 51          | 1,926                 | 36,329      |
| AID/W allotted (regional)..... | 14,921                                      | 5,938                            |             | 8,976                            |             | 7                     | 5,938       |
| Nonproject (CIP grant).....    | 76,511                                      | 76,499                           | 644         | (1,889)                          | (610)       | 1,901                 | 76,499      |
| Operating expenses:            |   |                                  |             |                                  |             |                       |             |
| Mission.....                   | 8,207                                       | 2,368                            |             | 4,758                            | 41          | 1,081                 | 2,368       |
| AID/W.....                     | 5,839                                       | 1,819                            | 210         | 3,131                            | 12          | 889                   | 1,819       |
| Other funds (non-IPR):         |   |                                  |             |                                  |             |                       |             |
| Project (USAID).....           | 52,935                                      | 43,751                           |             | 6,527                            | 144         | 2,657                 | 43,751      |
| AID/W allotted (regional)..... | 99  | 42                               |             | 57                               |             |                       | 42          |
| Nonproject (CIP grant).....    | 5,018                                       | 6,316                            | 42          | (1,306)                          | (42)        | 8                     | 6,316       |
| Nonproject (CIP loan).....     | 8,395                                       | 7,251                            |             | 1,144                            |             |                       | 7,251       |
| Total all countries.....       | 238,464                                     | 180,313                          | 899         | 49,682                           | (404)       | 8,469                 | 180,313     |



INDOCHINA PIPELINE DISPOSITION REPORT  
STATUS OF LIQUIDATION ACTIVITY ALL YEAR ACCOUNTS/APPROPRIATION (JULY 1, 1975 TO DATE)  
FOR THE PERIOD MAR. 1 THROUGH MAR. 31, 1979—Continued

| Country and type of funds              | Allotment obligation pipeline, July 1, 1975 | Net deobligations                |             | Disbursements                    |             | Unexpended            |             |
|--|---|----------------------------------|-------------|----------------------------------|-------------|-----------------------|-------------|
|  |   | Cumulative through Mar. 31, 1977 | This period | Cumulative through Mar. 31, 1977 | This period | Unliquidated pipeline | Unobligated |
| <b>Vietnam:</b>                        |   |                                  |             |                                  |             |                       |             |
| IPR funds:                             |   |                                  |             |                                  |             |                       |             |
| Project (USAID)                        | 56,205                                      | 29,930                           | 3           | 24,537                           | 78          | 1,738                 | 29,930      |
| AID/W allotted (regional)              | 64  | 17                               |             | 47                               |             |                       | 17          |
| Nonproject (CIP grant)                 | 55,692                                      | 57,253                           | 644         | (3,462)                          | (610)       | 1,901                 | 57,253      |
| Operating expenses:                    |   |                                  |             |                                  |             |                       |             |
| Mission                                | 4,991                                       | 420                              |             | 3,516                            | 12          | 1,055                 | 420         |
| AID/W                                  | 3,499                                       | 655                              | 211         | 2,062                            | 11          | 782                   | 655         |
| Other funds (non-IPR):                 |   |                                  |             |                                  |             |                       |             |
| Project (SUAID)                        | 47,705                                      | 39,720                           |             | 5,330                            | 144         | 2,655                 | 39,720      |
| AID/W allotted (regional)              | 42  | 42                               |             |                                  |             |                       | 42          |
| Nonproject (CIP grant)                 | 3,816                                       | 5,121                            | 42          | (1,313)                          | (42)        | 8                     | 5,121       |
| Nonproject (CIP loan)                  | 8,395                                       | 7,251                            |             | 1,144                            |             |                       | 7,251       |
| Vietnam total                          | 180,409                                     | 140,409                          | 900         | 31,861                           | (407)       | 8,139                 | 140,409     |
| <b>Cambodia:</b>                       |   |                                  |             |                                  |             |                       |             |
| IPR funds:                             |   |                                  |             |                                  |             |                       |             |
| Project (USAID)                        | 1,355                                       | 1,027                            |             | 322                              | (1)         | 6                     | 1,027       |
| AID/W allotted (regional)              | 2,653                                       | 2,029                            |             | 624                              |             |                       | 2,029       |
| Nonproject (CIP grant)                 | 20,819                                      | 19,246                           |             | 1,573                            |             |                       | 19,246      |
| Operating expenses:                    |   |                                  |             |                                  |             |                       |             |
| Mission                                | 382   | 180                              |             | 201                              |             | 1                     | 180         |
| AID/W                                  | 294   | 203                              | (1)         | 59                               | 1           | 32                    | 203         |
| Other funds (non-IPR):                 |   |                                  |             |                                  |             |                       |             |
| Nonproject (CIP grant)                 | 1,202                                       | 1,195                            |             | 7                                |             |                       | 1,195       |
| AID/W allotted (regional)              | 57  |                                  |             | 57                               |             |                       |             |
| Cambodia total                         | 26,762                                      | 23,880                           | (1)         | 2,843                            |             | 39                    | 23,880      |
| <b>Laos:</b>                           |   |                                  |             |                                  |             |                       |             |
| IPR funds: Project (USAID)             | 8,979                                       | 5,372                            |             | 3,425                            | (26)        | 182                   | 5,372       |
| Operating expenses:                    |   |                                  |             |                                  |             |                       |             |
| Mission                                | 2,834                                       | 1,768                            |             | 1,041                            | 29          | 25                    | 1,768       |
| AID/W                                  | 2,046                                       | 961                              |             | 1,010                            |             | 75                    | 961         |
| Other funds (non-IPR): Project (USAID) | 5,230                                       | 4,031                            |             | 1,197                            |             | 2                     | 4,031       |
| Laos total                             | 19,089                                      | 12,132                           |             | 6,673                            | 3           | 284                   | 12,132      |
| Regional (unallocated): AID/W allotted | 12,204                                      | 3,892                            |             | 8,305                            |             | 7                     | 3,892       |

† \$116,000,000 turned over to Treasury, Sept. 30, 1976.

## PUBLIC FINANCING OF CONGRESSIONAL ELECTIONS

**HON. MATTHEW F. McHUGH**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. McHUGH. Mr. Speaker, last week I presented the following testimony to the Committee on House Administration relating to public financing of congressional elections. Because extending public financing to primaries is controversial, I thought that it would be useful to share with you the reasons why I am convinced that we must deal with this issue comprehensively rather than on a piecemeal basis.

### INTRODUCTION

I appreciate having this opportunity to testify, Mr. Chairman, and to share with you and the other members of the committee my views on the financing of Congressional campaigns.

As you know, Mr. Maguire and I have introduced legislation that would provide for partial public financing of congressional primary and general elections. That bill has been cosponsored by twenty-three other members of the House. We believe that it is a good bill, and we are hopeful that the committee will adopt its basic provisions.

We recognize, of course, that no bill is perfect in every detail, and I am sure that the committee can improve upon our bill. In fact, I will make a number of suggestions as to how it might be improved in my testimony this morning. However, there are a few fundamental principles that I hope will not be compromised, particularly one which we

concede will be controversial, the coverage of primary elections.

In my testimony this morning I would like to explain why I believe the time has come to extend public financing to congressional campaigns, outline the basic features of H.R. 5116, suggest some changes that may be desirable, and focus upon why I believe it is essential to include congressional primaries in any legislation the committee may report.

### THE NEED FOR PUBLIC FINANCING OF CONGRESSIONAL ELECTIONS

The 1976 Presidential election proved that public financing works, and that it works for both primary and general elections. As you know, some adjustments in the original legislation were mandated by the decision of the Supreme Court in the case of Buckley v. Valeo. Despite these adjustments, a comparison of the 1976 election with the campaign of 1972 demonstrates, I think, that we were successful in cleansing our Presidential election of the influence of special interest money to a substantial degree.

However, the very success of public financing of Presidential elections makes extension of this reform to congressional campaigns all the more urgent.

Closing the Presidential arena to special interest contributions substantially increased the flow of such special interest money into House and Senate election races. According to Common Cause, for example, \$12.5 million were contributed by special interests to congressional campaigns in 1974. In 1976, that figure increased to \$22.6 million.

What will we have gained by closing off the Presidency and the Executive branch to the influence of big money if the result is to open up Congress to a heavier influx of special interest funds and influence?

The American people clearly distrust the present system for financing congressional campaigns. Intuitively, they understand that

it is neither democratic nor fair. Unless a candidate is personally wealthy, he must in some measure rely upon special interest contributions to finance the expense involved in running for public office.

The evidence clearly suggests that such contributions come from individuals and groups that are typically not representative of the nation as a whole. In the very recent past, for example, 90 percent of all campaign contributions came from less than 1 percent of the population. That 1 percent represented individuals and groups that often had a substantial interest in the decisions to be made by public officials.

The potential for abuse should be obvious. We are not talking primarily about bribes or the buying of votes, although we know that votes have been bought and members have been bribed in the past. What we are talking about is a widespread perception that money can buy a favorable climate, or a willingness to listen. And we know that it can.

The needed reform is both simple and obvious. We must extend public financing to congressional campaigns, and we must do so in the 95th Congress.

### PROVISIONS OF H.R. 5116/6209

To achieve this goal, the legislation that Mr. Maguire and I have introduced would establish a matching system of partial public financing for House and Senate primary and general elections. At this point, Mr. Chairman, I would like to briefly summarize some of the major provisions contained in our bill.

### SPENDING LIMITATIONS

One of the most important features of this legislation is that it would reestablish campaign spending limitations for primary and general elections for those candidates who chose to accept public financing.

For the House of Representatives, a general spending limitation of \$80,000 per campaign

would be established for primary and general elections in 1978. These general limitations would be tied to the Consumer Price Index and would be adjusted upward on an annual basis thereafter.

For the Senate, a general spending limitation of 8 cents multiplied by the voting age population (VAP) of the State, but not less than \$80,000, would be established for 1978 primaries. A general spending limitation of 12 cents multiplied by the VAP of the State, but not less than \$80,000, would be established for 1978 Senate general elections. These general limitations would also be tied to the Consumer Price Index for the purpose of adjustment in succeeding election years.

Candidates who accepted public financing would be able to exceed these general limitations in three ways:

(1) A candidate would be allowed to raise and spend up to an additional 20 percent of his or her general limitation to cover the actual expenses of fundraising in both primary and general elections.

(2) A candidate for election to the House would be allowed to accept and spend up to \$10,000 in additional funds from a state or national party organization in the general election only. A candidate for election to the Senate would be allowed to accept and spend up to 2 cents multiplied by the VAP of the State, or \$20,000, whichever is greater, in additional funds from a state or national party organization in the general election only.

(3) Expenditure limitations would be waived for a candidate who accepted public financing if his or her opponent did not accept public funding and exceeded the expenditure limitations contained in the bill. The candidate who had accepted public funds would still be entitled to them, but only up to the levels stipulated in the bill. As you know, Mr. Chairman, a similar provision in a Senate bill would allow the Treasury to continue matching in this situation even after expenditure limitations had been waived. While I can appreciate the reasons why the authors of that bill included such a stipulation, I believe it would constitute an open-ended commitment of Treasury funds that could be potentially expensive. Such a stipulation would make it difficult to cost out these proposals. Consequently, I would oppose such a stipulation.

#### Eligibility for public funds

To be eligible for Treasury matching under our proposal, a candidate would have to raise at least \$7,500 in amounts of \$100 or less from private contributors. After this threshold is reached, the qualifying amount and each additional contribution of \$100 or less would be matched by the Treasury on a 1 for 1 basis up to 50 percent of the general spending limitation. Cash contributions could be matched provided they were properly accounted for. Only contributions of \$100 or less from residents of the state in which the election is being held would be eligible for Treasury matching. The qualifying amount would only have to be raised once.

For the House of Representatives, this would mean a maximum allowable Treasury match of \$40,000 in a 1978 primary, and \$40,000 in a 1978 general election race. For 1978 Senate primary elections, this would result in a maximum Treasury match ranging from \$40,000 in the smallest states to \$308,720 in Illinois, the largest state with a 1978 Senate primary. For 1978 Senate general elections, the maximum Treasury match would range from \$40,000 in the smallest states to \$463,080 in Illinois. These estimates for the Senate are based upon 1976 VAP figures.

#### Independent and minor party candidates

Candidates of minor parties, and independent candidates, would be eligible for matching payments in both primary and general elections. Our bill makes no distinctions between types of candidates or types of parties. Rather, the ability of a candidate to qualify for matching payments is based solely upon demonstrated support in raising the threshold qualifying amount and additional contributions of \$100 or less.

We realize, Mr. Chairman, that some have expressed concern that public financing could lead to a proliferation of minor party and independent candidates. I share that concern. On the other hand, I do not believe that public financing should artificially prop up the existing two party system, nor put obstacles in the way of a candidate who does have broad support among the general public but is not seeking election as a major party candidate.

In short, public funding should be related to public support, and I believe that our bill adheres to this principle. Of course, I would be prepared to accept a threshold qualifying level somewhat higher than \$7,500. There is no special magic in this figure.

#### How will all of this be financed?

Funds for congressional public financing would come from the existing \$1 voluntary checkoff on Federal income tax returns, and the program would be administered by the Federal Election Commission. If sufficient funds were not available, the Secretary of the Treasury would be authorized to proportionately reduce the entitlements of candidates. Alternatively, the \$1 checkoff could be increased by law or general revenues could be infused.

The estimated cost of our bill is \$93.1 million every two years, or \$46.5 million annually. I do not believe this is an unreasonable sum, Mr. Chairman. For example, the estimated cost of financing all Senate primary and general election campaigns is \$25.4 million, a reasonable figure when compared to the \$21.8 million that President Carter received to finance his general election campaign alone last year. The estimated cost of financing all House primary and general elections is \$67.7 million, or approximately one-third more than it cost to finance the general election campaigns for both President Carter and former President Ford. Moreover, I would stress that I have used very liberal assumptions in costing out our proposal, estimates that probably overstate the real cost to the Treasury of this legislation.

#### A FEW CRITICAL ISSUES

##### Spending limitations

One of the most important questions the Committee must consider is the spending limitations. As you know, Mr. Chairman, there is no precise formula to guide the Committee on this issue. On the one hand, we do not want to set the limits too low and thus preclude any effective challenge to an incumbent. On the other hand, campaign costs have escalated in recent years, and it would be helpful if a campaign financing measure did something to hold those costs down and force candidates to target their funds more carefully.

Our bill may set the spending limits too low, especially for the general election. Perhaps the spending limits in the Udall-Anderson bill should be adopted for general elections while retaining the primary limits suggested in our bill. Of course, since the primary limit would be lower, there would have to be some provision that would prevent candidates from opting out of public financing for the primary and opting in for the general election. However, I am sure that the committee can work something out along these lines.

I would also favor that provision of the

Udall-Anderson bill that would preclude candidates in a general election from receiving public funds if they are unopposed, and I also believe that some limit should be placed upon the amount of personal funds a candidate can contribute to his own campaign. On the other hand, I oppose that provision of the Udall-Anderson bill that would place a \$100,000 ceiling on the amount of public funds that could be expended in any one congressional district. If there were more than two candidates in the race, this provision would only further strengthen the position of incumbents. Moreover, it would constitute a breach of faith with a candidate who accepted expenditure limitations on the assumption that he would receive a specific amount of public funds, namely, \$50,000 under Udall-Anderson, only to find out later that he might be receiving considerably less.

#### Primary coverage

For those who support public financing, the key issue in controversy is whether primary elections should be covered. As you know, President Carter supports primary coverage, and I believe anything short of that will be sharply criticized by the public at large.

If one accepts the wisdom and efficacy of public financing, how can primaries logically be excluded from its application? The public is aware that most seats in the Congress are considered "safe," that is, are occupied by representatives who are of the same political party as the majority of their constituents. The public realizes that these representatives can be meaningfully challenged only in primaries. Therefore, the public will see immediately that if public financing is extended only to general elections, Congress will be attempting to have it both ways. Congress will be trying to claim that it has extended this important reform to its own races, but at the same time will have protected itself from serious challenges in the only elections that matter, Mr. Chairman, I fear that such an effort will only increase public cynicism regarding the political process and the Congress itself.

Moreover, to cover general elections and not primaries will result in a diversion of the special interest money to primaries. We saw what happened when the presidential campaigns were publicly financed—the big money went into the Congressional races. To close off Congressional general elections to that money will inevitably result in its being channeled in ever increasing amounts to the primary elections. Our purpose should be to reduce the influence of special interests, not enhance that influence.

Sophisticated observers do not believe the House will be able to overcome its political interests on this question, Mr. Chairman. They hold that we are not serious enough about this reform to have it apply to our most important elections, the primaries. The point was made on last Sunday in the Washington Post by David Broder, who said:

"There is little risk for most incumbents in voting themselves and their opponents a modest subsidy of taxpayer funds for the general election campaign. But primaries are another question. At best, they tend to be nasty and divisive; at worst, they pose real peril for the veteran Washington politician who faces an ambitious young state legislator or mayor of his own party. Few in Congress want to subsidize an intra-party challenge."

I sincerely hope that this Committee will not exclude primaries from this needed reform. To do so will only open us up to the accusation that we have acted in the name of reform, but have in fact preserved the large advantage which incumbents enjoy in our political system—an advantage which for many is advanced by the ability to raise funds from the special interests.



## CONTINUING CRISIS IN FOSTER CARE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. MILLER of California. Mr. Speaker, for the past several days, I have placed in the RECORD statements and reprints which illustrate the great need for adequate Federal support for preventive service programs which can reduce the need for foster care, or shorten its duration. That support, full funding of title IV-B—Child Welfare Services—is contained in H.R. 7200.

But more than just money is required. We cannot simply pour an additional \$209 million into a system which lacks adequate procedures and respect for the rights of the children and families affected by it. I have strongly spoken in favor of linking increased Federal financial aid with substantive programs reforms which, like additional service programs, can reduce unnecessary placements and save substantial amounts of funds.

Current Federal law requires a review of placement every 6 months for every child receiving Federal support. However, a review of four States by the General Accounting Office, which Congressman BRADEMAS and I commissioned, revealed that only slightly more than one-third of all children in fact were reviewed semi-annually, and that in some States, only one-sixth of all children were reviewed. Even more incredibly, one recent witness at a hearing on foster care reported that in one California county, reviews—when they did occur—lasted only about 2½ minutes!

A lack of reviews directly contributes to the maintenance of children in costly long-term foster care because there is no mechanism for identifying those children who should be returned home, moved to a more appropriate setting where they could receive services which would accelerate the process of reunification, or be freed for adoption. In many cases, GAO found these children do not even have case plans which would make it possible to evaluate their progress, their needs, and plan for their exit from foster care.

Failure to provide for case plans and reviews is a major reason for children languishing in the system. A review by HEW in one State has found that children who entered the system anticipating removal in 3 months or less in fact remained in foster care for nearly 2 years. Those intended for a placement not to exceed 1 year remained for more than twice that time, while those placed in care for adoption remained for 2 years.

As is the case with the demonstration preventive and reunification services of which I have written, there do exist effective review procedures which identify and move out of foster care, children who do not need to be there. The best of these is the Children in Placement project of the National Council of Juvenile Court Judges. The CIP project, which utilizes largely volunteer personnel to assist the

court in reviewing children in foster placements, has operated in many jurisdictions with uniformly successful results. Recent figures from four States indicate their effectiveness in facilitating the review of children in foster care and the resultant changes in their placement:

|   | Ohio | Oregon | Texas | Rhode Island |
|---|------|--------|-------|--------------|
| Number of cases reviewed                  | 99   | 1,006  | 222   | 1,172        |
| Children moved out of foster care         | 26   | 671    | 136   | 95           |
| Returned to own home                      | NA   | 131    | 13    | 32           |
| Permanently placed with relatives         | NA   | 131    | 13    | 13           |
| Placed for adoption                       | NA   | 462    | 91    | 35           |
| Removed from group homes and institutions | 1    | 66     |       | 11           |

Some would argue that reviews cost money. In fact, failure to review is the real cause of wasteful spending, because failure to review results in hundreds of children remaining in foster care, at costs of thousands of dollars monthly. Identifying and removing only a few children in each jurisdiction who needlessly are in placement pays for the cost of reviews.

I am pleased that H.R. 7200 contains the kinds of review procedures which I have included in H.R. 5893, "The Foster Care and Adoption Reform Act of 1977." These protections will not only safeguard the rights of children in foster care, and their families, but will introduce a previously ignored level of accountability into a wasteful and ineffective system.

A man far more experienced than most, Judge John P. Steketee of Grand Rapids, Mich., has spoken eloquently of the need for such reviews at a hearing on foster care and adoption before the Subcommittee on Select Education. Judge Steketee, president of the Children in Placement Project, not only pointed to the need for reviews and their cost-effectiveness, but testifies to the need for assuring the comprehensiveness and objectivity of such reviews. In designing the review provisions of the foster care reform legislation, I have heavily relied on his experience and judgment, and I urge my colleagues to note his views.

The article follows:

[Hearing held in Washington, D.C., Sept. 8, 1976]

Judge STEKETEE. Most of the people that have been testifying to you today have had a different vantage point, whether it is a social worker, whether it is a lawyer, mental health person, whether it is an author, whatever. There are a number of persons who are very concerned, but each have their own vantage point, and I submit that the thing I am just going to briefly address will be the whole business of, What can the courts do?

Now, again, I wanted to stand up and say: Wait a minute, when some of the folks were talking about it, and, yet, there is a good share of truth in what they are saying, that in the past, I think, the judiciary has not lived up to its responsibility.

I have heard today a number of extreme statements and a number of, you know, negative ones, and I caution us to be a little bit careful on our extreme statements or extreme judgments because there are a few things occurring—and I point them out very briefly on my last page. I don't want to sound like Pollyanna, but there are some things that are occurring that I think are of

a constructive nature, and I think the judiciary, particularly in the juvenile/family courts, are perhaps living up to their responsibility in some ways.

The things that I basically pointed out is that I think—and you have heard this over and over again—I am reassured because I am hearing it from a number of different sectors that I had kind of stereotyped as not really understanding the problem, and I am very reassured that you sound like you really know what you are talking about and are working at trying to find out what some of the details are of the situation.

Children do have the right to permanency. We have each got a little different definition of what that is, and I have been able to observe over the last 10 years that I have been a juvenile court judge that many times they do languish, benignly so, in some kind of a foster care situation.

I have heard a lot of scare stories today about institutions, and I am sure much of those are justified. People have seen them firsthand. I would like to think that at least in our area—and I have got a jurisdiction approaching half a million people—I have been in most of the institutions that I use. I know personally a number of the foster parents, meet with them on a regular basis. I would like to think that there are fewer of those examples.

We send our caseworkers out to see the people that are there. By and large, my main concern is—and I am not minimizing for a minute the institutional problem. I think what our particular focus in this children in placement project has been kids who are out of their own homes.

Now, some are in institutions, but a great share of them are in foster homes, very nice places. People are doing a good job. They are really loving people and so forth, except that it is not their own home. It is not that youngster's home.

I guess the main thrust of this children in placement project has been to concern other courts, other judges, that this is an important thing, the right to permanency, and one way to pull it all together is to have a regular accountability.

Now, who can do it? I listened to one witness testify, who said there are five persons on the team, five elements to that team. The court wasn't mentioned. I have heard it said that the typical court review is perfunctory, and I guess that can, by and large, be stated.

The point that I think I am trying to make—and I am being joined progressively by more and more juvenile and family court judges who are committed to this prospect—is that a meaningful, aggressive, sensitive, regular review, not a rubberstamp kind of thing, but a judicial review, is sometimes the only place where all of these things—all of these persons who are really in fact interested in youngsters can be pulled together. The court holding parents, kids, agencies, institutions, indeed themselves, the community responsible on a regular basis.

Now, some courts have the statutory review process. Michigan has had it for 10 years. It is in some ways routinized, although, it is not a routine thing. It is a meaningful kind of review. The hard questions are asked. The hard, legitimate questions. How long has this youngster been in foster care? Is this in fact the best possible placement? What are the parents doing to reestablish a home for the kids? What are we doing to assist, reaching out to help this whole process? And how long are we going to let the kid drift in and out of some kind of placement?

We are realizing that many more youngsters than we used to think are adoptable, and I am talking about the older youngster. I am talking about the youngsters with physical and emotional handicaps. I am

talking about the mixed race youngsters. They are adoptable, and not just to place them with somebody. There are many parents who are ready, willing, and able to make these youngsters part of their family.

I agree with—and I think most of the judges who are involved with us in this project agree that it is a continuum. You know, the aggressive, prevention kind of thrust ought to be made. When you get to the point where a youngster has to be removed—and I think too many are removed, many more than really have to be removed—are removed—then there ought to be—that is kind of a last resort thing. Then, while that youngster is in governmental care, there ought to be a real outreach on behalf of all those that are in charge of this process, and that we not let the thing drift unnecessarily.

Our children in placement project has only been going for a couple of years, but it has spread across the country. We are doing the whole State of Rhode Island, because it is not that big. We are doing a county court in California. We are stretched North and South, East and West. We are even in Utah, that has probably one of the most sophisticated tracking systems of any State in the country. They get computer printouts on all these kinds and so forth, and Judge Larsen in Salt Lake at first said: "We don't need any of those situations. We have got all this mechanism." Yet, when he reassessed it, he said: "You know, I have got numbers and things, but it doesn't give me much on a qualitative basis," and he is involved with the process.

There are fascinating things happening, and again I am saying that the thrust of the courts that are beginning this process is that kids have the right of permanency. Probably the only place where this can occur with due process—and, as lawyers, we know that due process is no guarantee that things are going to happen—making sure we touch the bases. And, out of that, hopefully the questions are going to get asked. It doesn't guarantee it, but that is what this review process can do and that is what it is doing.

A lot of things have happened. Kids have been returned home that have been sitting in limbo. The hard questions have been asked of agencies and others. What are we doing to help? Rights have been terminated where appropriate, and kids have been placed for adoption. In some instances, substantial use of volunteers in the court, with appropriate confidentiality, was used. We justified to our very conservative county government that in fact it was justified putting another person on the staff whose sole responsibility was a test monitor, to bird-dog these cases and be a liaison person with agencies, both public and private, in our community. At first, we were looked on as a judge doing social work from the bench, and I am sure this has happened in some of our project courts. The best way I can describe it is that the social work agencies, both public and private; the attorneys who are appointed to represent these youngsters; and the court is kind of establishing a new partnership, if you will, each with our respective roles, but respecting each other's various responsibilities.

As a matter of fact, in Rhode Island, which started out as some kind of a hostile confrontation, it has turned into maybe less than a love match, but has turned into a real partnership where not only the court involved kids who are being reviewed, but in a good faith gesture the director of Social Services said: "Look, we have got these voluntary cases and we will throw them in the review system too so we can do this together."

So the judges have in these project areas begun to live up to their responsibilities. Certainly, they are hand-picked, they are selective volunteers. They have got things going in their communities. They have got cooperation by both public and private sec-

tors and they are well respected in their communities, so you have got all the various things going. But I submit it is the kind of thing that can grow, is growing, can happen in any community.

I think, by and large, we are seeing a commitment on the judges—and I am speaking now on their behalf, those that are involved, and a number of others—that, if we are going to get involved with the lives of families—and maybe the least restrictive alternative is an appropriate approach, but, if we are going to get involved, then the agency best suited for that is the court, with its due process, and I think the judges are committed that we not substitute governmental neglect for parental or family neglect.

[Prepared statement of Judge John P. Steketee follows:]

PREPARED STATEMENT OF JUDGE JOHN P. STEKETEE, JUVENILE COURT, GRAND RAPIDS, MICH.

Gentlemen and Committee members: You have already heard and will continue to hear about the plight of children in foster care and the various needs they have. My focus will be on those things that the judicial branch of government can do to assist in rectifying the situation, based on my experience as a juvenile court judge for some ten (10) years, and also my experience as Chairman of the Children in Placement (CIP) Project sponsored by the National Council of Juvenile Court Judges.

We know that there are many children across the country not living in their own homes. Some have been placed there by parents under the auspices of private or public agencies, but a substantial portion of them have been placed in out-of-home living arrangements by some judicial body, usually a juvenile or family court.

Everyone in our society has rights—and obligations. Children too! One of the emerging rights that is gaining more recognition is that children have the right to permanency; a family and home that is theirs.

If a family has problems the most humane, effective and economical way to assist is by protective services intervention. If a family is to be separated, this should be only as an emergency or last resort and we must all work together toward reuniting that family. If out of home placement continues unduly—weeks and months stretching into years—it is imperative that planning be made for permanency for the child.

Bypassing the issue of what children get into foster care—and it is my observation that too many youngsters come into foster care initially because of the lack of protective and supportive services for a family—it is imperative children's rights to the permanency of a family be respected. They should not be allowed to languish, no matter how benignly, in a home with substitute parents without the matter of planning for them and their families having been continually addressed.

Good foster parents are a necessity in our society. It is usually a better situation for the child than the home from which he was removed. This child usually makes the fewest "waves" and life goes on.

However, too many times we rely on the "system" to do well on behalf of families and children. We direct our attention elsewhere to the crises and the emergencies. But children grow older and sometimes—too many times—to adulthood never having the permanency we could have given them. Even though a child makes a good adjustment in a foster home this should be no automatic permanent substitute for his own home or an adoptive home.

From the humane standpoint it is imperative we continue to ask what direction the planning is taking for this youngster. From the financial standpoint at the very least we are not getting the value for our

collective dollars. Costs for out-of-home placement can be from a few dollars a day to over \$100 per day in specialized placements. Many of these same youngsters are adoptable if parental rights can be terminated. Finding one lost child in the system and making appropriate planning for him can save thousands of dollars, aside from salvaging a child and giving him a permanent home. A court is the only agency of government that can do this with adequate protection of rights.

It is, thus, incumbent, upon the courts, of our nation—the juvenile and family courts—to be the monitor, "watchdog" or advocate of these rights. Periodic, regular, sensitive, demanding review of those cases of children in foster care is, in my opinion and shared by a growing number of juvenile and family court judges, a necessity to respect the best interests of the child. This can be achieved because of statutory review in each state or, I submit, by the inherent power of the individual court which originally took jurisdiction of the case.

The judicial review can ask the hard questions that too often don't get asked by anyone, no matter how well meaning. The court can and should hold parents, children, agencies, institutions, communities and, indeed, themselves accountable for what is happening to the children in foster care. That often referred to "road" can indeed continue to be paved with all our "good intentions" unless the questions are constantly asked by someone, e.g., how long have these children been out of their homes, what are the parents doing to reestablish a home for their children, what are we doing to assist, and is it likely that within a reasonable time period this family can be reunited? Parents have rights, certainly, but children have rights too. It is only in the courts with due process, together with appropriate legal representation for children as well as parents, wherein a constant focus can be given these issues. We should not have a result by default.

Courts are more and more taking the initiative and insisting on regular reviews of the status of youngsters, either through a statutory authorization or by inherent power. Lost children are being found. The National Council of Juvenile Court Judges Children in Placement Project has demonstrated that regardless of apparent variations in state laws or size of jurisdiction—rural or urban—that the court monitoring is beneficial. Courts are asking the "tough" but legitimate questions and children are being returned to a now adequate home, are freed for adoption through termination proceedings, or are reinforcing a "planned" decision that, in fact, foster care is the best alternative. The decisions, however, are planned ones with the current facts being explored and the on-going evaluation being rigorously continued.

With the courts as a catalyst we are finding that each of the child caring agencies are beginning to pull together and searching out the lost children in the system. A coordinated effort is beginning in the Children in Placement Project areas and elsewhere. The courts are beginning to move on this philosophy of aggressive review, setting realistic expectations for everyone involved and requiring regular accountability for a child's status. Some courts are implementing training programs for social workers in their community to help sharpen their skills and assisting in coordination of efforts between all agencies and the court. Tracking systems for children—with appropriate confidentiality—are beginning to emerge on a local, State, and regional basis. Parents, once deemed inadequate, are being helped to resume responsibilities in a more appropriate manner by imagination and dedication of those performing innovative casework. More agencies—public and private—are broadening their hor-



izons regarding permanent planning for children and who are adoptable. We are all discovering that most children—including older, handicapped and mixed race—are indeed adoptable and many fine families are eagerly awaiting to receive them in a permanent home. Foster parents and former adoptive parents are being given the credibility they so richly deserve to help in the planning. Some state legislatures are assuming responsibility for establishing realistic criteria for original jurisdiction (for instance emotional neglect), incentives for reuniting families through more realistic funding procedures and mandatory court review requirements, broader and specific realistic criteria regarding termination of parental rights, and for planning through the vehicle of subsidized adoption and other means. The Federal Government can be of great assistance by encouraging this process through funding incentives and constructive guidelines. But more collectively needs to be done.

There is much, much more to do, certainly. The judicial branches of the various governments are showing a growing willingness to lead. More and more juvenile and family court judges are assuming this activist role to the end that we not substitute governmental neglect for parental or family neglect.

#### HOW DID IT EVER SLIP BY CRONKITE?

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. DORNAN. Mr. Speaker, I have just read an article written by TV Guide's Patrick Buchanan, about the recent CBS documentary on defense, "Who's Ahead? The Debate over Defense." In this Congressman's opinion, the article was a fair and unbiased critique of the documentary and of past CBS News "head-in-the-sand" attitude toward the Soviet arms buildup.

I had the pleasure of spending some time in private conversation with Maj. Gen. George Keegan this week. I can say in all candor that I agree in almost every respect with his evaluation of the threat of Soviet arms. However, General Keegan may be a little rough—as reported in the Buchanan article—on the CBS documentary. I found that the documentary was refreshingly evenhanded in its assessment of the Soviet threat and that Mr. Buchanan's article reflected that evenhandedness.

The most interesting aspect of the CBS news story—and one which the TV Guide article points out—is its virtual uniqueness in the annals of CBS News. As Mr. Buchanan states, this documentary can be interpreted as "tacit admission that CBS's priorities were totally warped in the early 1970's, when the Soviet buildup was all but ignored by Cronkite & Co."

I hope that it is a portend of things to come at CBS News.

The text of the TV Guide article follows:

CBS DEFENSE DOCUMENTARY DESERVES PRAISE  
(By Patrick Buchanan)

Having watched the hour-long CBS special "Who's Ahead? The Debate over Defense" on April 20, Maj. Gen. George Keegan, former

Air Force Chief of Intelligence, was an unhappy man.

CBS, the general told this writer, has reneged on a firm commitment not to twin his comments with those of Herbert Scoville Jr., consultant to the Carnegie Endowment for International Peace. In Keegan's judgment, Scoville is a "professional dove of the worst kind," who hasn't accurately predicted a Russian weapons development in 20 years.

Further, said the general, while CBS spent two-and-a-half hours interviewing and filming him, they chopped his remarks to "63 seconds"—excluding some "dynamite" news items he had given the network.

Hanging up the phone, I began to wonder if the general and I had watched the same show. For in this writer's judgment, the Charles Collingwood-narrated documentary on the B-1 bomber and cruise missile was perhaps the best defense debate ever aired in prime time. I had given CBS an A for effort and, at the least, an A-minus for performance.

Not trusting my initial reaction, I managed to wrestle out of a tenacious CBS bureaucracy a copy of the transcript. It confirmed my original judgment.

The editing done by the CBS team was little short of superb. The quality and persuasiveness of the individuals interviewed—making the case for a more impressive American deterrent—was extraordinary. The arguments presented on both sides were sharp, concise, convincing. If anything, the "hawk" side of the question got more than equal time.

With regard to General Keegan, by my count he was quoted eight separate times, quotations that totaled a good deal more than "63 seconds." To this writer, the general emerged as the most forceful witness on either side of the argument.

There are other indications CBS bent over backward to give "our" side, if you will, the benefit of the doubt. Early in the show, CBS used several minutes of straight footage from the powerful half-hour documentary prepared by the American Security Council Education Foundation (ASCEF). "The Price of Peace and Freedom." Toward the end, there was even footage of Scoville and superdove Sen. Frank Church expressing alarm about the buildup in Soviet conventional weapons.

Indeed, John Fisher, the head of the ASCEF, which had filed charges with the FCC against CBS for alleged censorship of news of Soviet weapons, fired off a telegram of congratulations to CBS producer Ernest Leiser. (The ASCEF complaint, incidentally, was not taken up by the FCC—which, however, did not really pass upon the merits of the complaint, which has been directed at Walter Cronkite's evening news show.)

For the first time, millions of Americans were acquainted with the extraordinary capability—and cost—of the B-1 bomber, the sophistication of Soviet air defenses, compared to which the U.S. has nothing. Even more important was the half of the CBS show devoted to introducing the American people to the cruise missile.

Barry Goldwater is quoted as saying that a new aircraft carrier costs the taxpayers \$2 billion. If the figures one expert used during the show are accurate, the U.S., for the identical sum, could purchase between 3300 and 4000 nuclear-tipped cruise missiles—21-foot, air breathing, subsonic weapons, that, following the contours of the Earth, could swamp the sophisticated Soviet air defenses, landing within 10 meters of their targets. (One exuberant military officer has been quoted as saying the cruise missile can take out a Soviet factory in Siberia without waking the night watchman.)

Man, talk about your deterrents!

If President Carter gives this bird away in the SALT II negotiations, he will be making the worst military blunder of the 20th cen-

tury—surrendering a weapon that can guarantee the peace for the next 30 years as effectively as the U.S. bomber and missile arsenals have for the last 30.

One of the minor mistakes in the CBS documentary was identification of the American Security Council as a "conservative group." Up around CBS News, that is not your term of endearment; it is something of a code word for lightweights. Nor is it precise. The ASCEF is an organization concerned with defense that has the personal and financial backing of liberals and conservatives. On its board of directors is one Sol Feinstone, who, Fisher contends, is a socialist who used to carry around the soap box on which Eugene V. Debs stood when he was laying the heavy wood on the robber barons.

When it comes to concern over defense, the liberal-vs.-conservative breakdown does not apply. There are "conservative" businessmen who care less about SALT II than about the profits to be made in the Communist trade, so long as the illusion of "detente" endures. Meanwhile, there are labor-union liberals and ADA types, who are as apprehensive as General Keegan about the deteriorating military balance. The newly formed Committee on the Present Danger is replete with individuals this writer has always considered "establishment liberals." On that committee, the Reagan-Goldwater conservatives are in a near-taken minority.

But if the CBS documentary merits commendation, the ASCEF film "The Price of Peace and Freedom," which has been shown on 276 TV stations, deserves a standing ovation. Using statistics provided by the Department of Defense and filmed quotes from men of eloquence such as Alexander Solzhenitsyn and the late John F. Kennedy, it is the most powerful case this writer has seen presented about the alarming Soviet reach for nuclear superiority. The Nation would be well served if every TV station and college campus in the country used the film as the basis for a round-table discussion.

Toward the end of the CBS show, Collingwood conceded that the debate over defense "could be the most important debate of our lives." I take that to be tacit admission that CBS's priorities were totally warped in the early '70s, when the Soviet buildup was all but ignored by Cronkite & Co., while we were getting almost nightly reports on the peril to mankind from a polluted environment.

For the record, if General Keegan & Co. are wrong about the Soviet buildup and Kremlin intentions, we are going to waste billions on unnecessary deterrence. But, if Scoville and Church are wrong, we stand to lose something slightly more important than our money—i.e., our freedom, our lives, our civilization.

#### RECOMBINANT DNA RESEARCH

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. ROGERS. Mr. Speaker, the Subcommittee on Health and the Environment is currently considering legislation designed to regulate recombinant DNA research activities. On May 2, the subcommittee made several tentative policy judgments and directed the staff to place that policy in legislative form.

The staff has completed its work and yesterday I introduced the staff draft as a bill, H.R. 7418. By introducing this measure, I do not intend to imply that it necessarily represents either my position or that of any member of the subcommittee. I have placed this proposal in the

public domain prior to subcommittee consideration to encourage public participation in the decision-making process by the broadest spectrum of interests. H.R. 7418 should be available in the House Document Room within the next day or two.

## CONTINUING CRISIS IN FOSTER CARE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. MILLER of California. Mr. Speaker, the New York Board of Social Welfare's study, "Foster Care Needs and Alternatives to Placement," is a highly informative review of the largest foster care program in any State. Many of the results of this study pattern national trends which illustrate the severity of the crisis in the foster care system, and the pressing need for immediate reform of the sort contained in H.R. 7200, the Public Assistance Amendments of 1977, and my own legislation, H.R. 5893, the Foster Care and Adoption Act of 1977.

The New York study revealed that there has been a distinct upward trend in foster care in the past 25 years, with a 40-percent increase occurring between 1960 and 1970 alone. In fact, the figures for AFDC foster care are even more staggering: Children in AFDC-FC increased from 600 in 1961 to 115,000 in March 1976. Responses by many States to a questionnaire which I have recently distributed on foster care and adoption has revealed that many States anticipate increases in their foster care populations during the coming year of 10 to 25 percent because of similar increases in past years.

The study reveals that foster care is becoming increasingly used for black and Hispanic children, while the numbers of white children are falling. Between 1960 and 1974, the number of black children in care more than doubled, and the number of Hispanics nearly doubled. Other statistics indicate that there has also been a large increase in the number of older children, aged 12 and over, in foster care. Tragically, many of these children are those who entered care years ago, often supposedly for a short period of time, and who have grown old in the same system.

The New York study also reveals a substantially higher rate of institutionalization for black and Hispanic children, and a far greater use of residential group homes among white children, and less restrictive and very often more appropriate alternative to institutionalization which should be encouraged for all children requiring such placements.

I have repeatedly noted that many children enter foster care through no fault of their own, but that once in the system, because of inadequate services and reviews, they become its victims. This view is borne out by the findings of the New York State study:

### REASONS FOR PLACEMENT

It is the problems of parents rather than the problems of the children which cause the vast majority of foster placements—almost 80 percent of the total (Table 5). Two types of parental problems stand out as the primary reason for foster placements—parental unwillingness to care for the child and emotional or behavioral problems afflicting the parent. It should be noted, however, that the parents frequently have multiple problems. Thus, although drug addiction or alcoholism accounts for 2.5 percent of the primary reasons for placement, about 20 to 25 percent of the parents are addicted or alcoholic. While we have classified these problems as those of parents, they may reflect low income status, recent migration to the city, and/or effects of discrimination.

Problems inherent in the child, mainly emotional or behavioral, are primarily responsible for the placement of 14 percent of the children in care and, as with the parents, multiple problems are common.

As has been true for several decades, the data indicate that relatively few—only 3 percent—of children in placement are there because of the death of both parents and the absence of other relatives able to care for them.

Children from intact families who are in foster care are more likely to be in care because of their own problems than children from broken families or conjugal unions. Almost two-fifths of the children from intact homes are in care because of child-related problems, as opposed to 16 percent of the children from female-headed households, 24 percent of the children from male-headed homes, and less than 10 percent of those children in the care of another relative or non-relative.

TABLE 5.—Percent distribution of New York City children in foster care or awaiting placement by primary reason for current placement

|   | Percent |
|---|---------|
| No natural home (parents dead and there are not other relatives)..... | 3.1     |
| Parent-related problems.....  | 78.2    |
| Abuse of child.....   | 0.2     |
| Neglect of child.....   | 0.7     |
| Parental unwillingness to care for child, including desertion.....    | 30.6    |
| Marital conflict of parents.....                                      | 0.4     |
| Emotional or behavioral problem of child-caring person.....           | 31.0    |
| Physical illness or death of child-caring person.....                 | 3.6     |
| Employment of child-caring person.....                                | 0.3     |
| Financial need and/or inadequate housing.....                         | 2.5     |
| Drug addiction of one or both parents/alcohol addiction.....          | 2.5     |
| Other parent problem.....   | 6.4     |
| Parent-child conflict.....  | 1.5     |
| Child-related problems.....   | 14.5    |
| Emotional or behavioral problem of child.....                         | 10.1    |
| Child physically ill or handicapped.....                              | 0.6     |
| Child retarded.....   | 1.2     |
| Child adjudicated PINS.....   | 1.4     |
| Child adjudicated juvenile delinquent.....                            | 0.5     |
| Other child problem.....  | 0.8     |
| Unknown.....  | 2.6     |
| Total.....  | 100.0   |

Analysis of the current reason for the placement of the child by the age of the child confirms what has been reported elsewhere in the literature.\* Specifically, the

\*Such as Shirley Jenkins and Mignon Sauber, *Paths to Child Placement* (New York: Community Council of Greater New York, 1966), p. 135.

older a child is, the more likely he is to be in placement because of a child-related problem. While over one-quarter of the children 12 years old and over are in placement because of their own emotional or behavioral problem, a parent-child conflict or another child-related reason, only eight percent of children between six and 12 and fewer than three percent of the children under six are in placement for such reasons. What is most interesting to note is that even in the oldest age groups more than 70 percent of the children were placed because of parent-related reasons.

Examination of the reason for placement by the total amount of time the child has been in foster care indicates that children who have come into care because of their own behavioral or emotional problems have been in care for less time than children who are in care primarily for parent-related reasons. Children who come into care for child-related reasons, however, tend to do so at a later age; therefore, the possibility for being in care for longer periods of time is diminished. It should also be noted, however, that children who enter care for their own behavioral problems are more likely to come from intact families and/or higher income families. Therefore, it is possible that because these children are from better organized families, discharge can take place faster than for children who are in placement because of family disorganization. If this is in fact the case, it argues for an increase in services to the families of the children in care, not only so that so many children would not have to come into care in the first place, but so that children can be returned home sooner. [emphasis added]

Cross-tabulation of the data on the type of current placement and the primary reason for placement reveals a pattern which one could largely have anticipated. The vast majority of children in foster homes, group homes and residences, and general institutions are in placement because of their parents' problems. In contrast, most children in residential treatment centers or institutions for the retarded need placement because of their own behavior or emotional state although, of course, it must be recognized that their behavior may reflect their parents' problems. What might not have been anticipated, however, is that the primary reason for placement of as many as 19 percent of the children in residential treatment, type A, is parental unwillingness to care for their child.

The study also addressed the critical question: "Are the children appropriately placed?" This is really the key question, because it goes to the heart of whether children should be removed from their natural homes and placed in foster care, and at what point they should be returned home or freed for adoptive placement, and the type of services which should be offered to the child and the family.

Other studies have demonstrated that a substantial number of foster children are not appropriately placed. A recent examination of foster care in eight Southeastern States concluded that 60 percent of the children were not in the proper placement. "Supply and Demand for Child Foster Family Care in the Southeast," Regional Institute of Social Welfare Research, Inc., Athens, Ga., 1977. The conclusions of the New York review on this point are extremely important:

### ARE THE CHILDREN APPROPRIATELY PLACED?

On the basis of the criteria for placement and alternatives to foster care developed for the study, the case readers made a judgment



as to whether the initial placement of the child, whenever that occurred, was appropriate, and whether the current placement, as of October 1974, was appropriate. Before presenting the conclusions obtained, it is necessary to make some comment about the general institutions which currently care for almost 4,000 children.

According to our criteria, the general institutions are never appropriate for the foster placement of children because they care for a most heterogeneous group of children, many of them normal or near normal children who would be more appropriately served in foster homes or group homes or residences, and many so seriously disturbed that they should be in residential treatment or other closed settings.

*The answers reflect a grim picture. More than half were inappropriately placed initially and while some improvement has occurred, more than two-fifths of the children are currently inappropriately placed. The slight improvement over the course of time between the initial and current placements derives from two sources: one is that during the last five years, some new group homes and residences have been created and some new residential treatment facilities have been developed, permitting more children to be put in the preferred placement; and second, some children are moved from an initial inappropriate placement to a preferred one. It must also be said, however, that the initial placement sometimes becomes a self-fulfilling prophecy: a child inappropriately placed initially sometimes changes to the point where the placement becomes appropriate. For example, the case reader may have judged that a child was no longer adoptable or that it would not be sensible to move an older child from a foster home even though a group home or residence might better prepare him or her for independent living. (Emphasis added.)*

The picture is even grimmer for the older child. Just over half of the children 12 to 18 years of age are currently inappropriately placed. In contrast, 28 percent of the children under three and 38 percent of the 3-9-year-olds are not in the preferred placement. (Emphasis added.)

The high proportion—69 percent—of young people 18 years of age or over who are appropriately placed appears an anomaly. It results from the fact that most children are discharged from foster care at age 18 unless they are going to college, or need special vocational training, or are highly disturbed. If they are not discharged, they are likely to be in the appropriate setting.

Among the Catholic and Protestant groups, which comprise over 92 percent of all children in or awaiting placement, about 41 and 47 percent respectively are inappropriately placed. In the Jewish group, which includes just under five percent of all children in care, about 20 percent were inappropriately placed.

In terms of ethnic groups, just over 46 percent of the black and Hispanic children are inappropriately placed compared to about 30 percent of the white children. These differences are related to a problem of acute shortages of certain types of facilities, as will become evident in the further analysis.

Child welfare workers charged with finding placements for foster children know how hard it is to find the appropriate placement for a child who exhibits difficult behavior. Two-thirds of the children viewed as normal or near normal were placed appropriately compared to about 57 percent of the children regarded as either near normal with some problem or not normal with one or two problems. In contrast, only 39.5 percent of the children judged as not normal and with three or more specific problems were in the preferred placement.

The data indicate that in all types of pro-

grams and facilities, some of the children are inappropriately placed but the proportion varies widely by type of program. The highest ratios of appropriate placements are found in the institutions for the retarded and in foster homes with prospects for adoption—91 and 86 percent respectively. The second highest ratios of appropriate placement are found in the residential treatment centers—about 75 percent, followed by the group living arrangements and foster homes—about 65 percent. About 22 percent of the children in foster homes, however, should have been placed for adoption. In terms of the criteria for placement, none of the children in general institutions are appropriately placed—if they are normal or near normal in behavior they should be at home (21%) or in smaller group homes or residences (30%) or foster homes (18%); if they are emotionally disturbed, as 22 percent of them are, they should be in residential treatment. It is also important to note that almost two-fifths of the children at home on suspended payment should not be at home. Actually many are AWOL and others have been sent home only because they were difficult or unmanageable. (Emphasis added.)

Among the 28,800 children currently in placement (including children in secure detention), 2,094 (7.3%) should be in their own homes and 3,669 (12.6%) should have been placed for adoption; this figure is in addition to the 3,951 children (13.8%) who should be and are in foster homes with the prospect of adoption. The major deficits in facilities for children who need to be in placement are residential treatment (2,750 additional places) and group homes and residences (1,000 additional places). On the other hand, if all the children were appropriately placed, about 3,700 fewer children would be in long-term foster homes. (Emphasis added.)

It should also be noted that among the children currently in foster care are an estimated 145 who suffer from such serious physical handicaps or severe or profound retardation, or brain damage, that they will require lifetime care. They do not belong in the foster care system, as least as it is presently defined, since these children cannot be brought to even a minimum level of functioning, with known methods of treatment, by the time they reach adulthood.

Although these conclusions would appear to demonstrate a widespread unaccountability in the foster care system, New York has one of the better tracking and review programs because it employs the child welfare information system, developed by Prof. David Fanshel of the Columbia University School of Social Work. Figures in other States, and nationally, are as tragic or worse. They point to the great need for a major reform of the foster care and adoption laws, which would be achieved with the enactment of H.R. 7200.

#### TRIBUTE TO CHARLES OSMERS, JR., FORMER MEMBER OF THE HOUSE OF REPRESENTATIVES

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. RINALDO. Mr. Speaker, the death of Frank Charles Osmers, Jr., who served as a Member of the House in the 76th, 77th, 82d and 83d Congresses, has ended an outstanding record of distinguished public service.

His death is a particular loss to Bergen County in New Jersey where he was born and where so many benefits were derived from his dedication to high standards of public office.

As Mayor of Haworth, as a member of the New Jersey Legislature, as a Congressman, as an officer in the U.S. Army, and as executive director of Bergen County, Frank Osmers exemplified the highest traditions of conscientious service to the Nation.

He set high standards and lived up to them in a way that will be remembered with genuine warmth and lasting respect.

I am proud, Mr. Speaker, to be associated with the tributes paid to such an outstanding former Member of Congress.

#### A TRIBUTE TO THE VETERAN

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. DRINAN. Mr. Speaker, as Memorial Day, 1977 approaches, it is appropriate that we turn our attention to the great heroism of veterans who have served our Nation. In that connection, I commend to my colleagues an essay written by Ms. Basilla E. Neilan of Marlborough, Mass., who is the winner of the 1976 Freedom Foundation Award.

Ms. Neilan's beautiful depiction of the great sacrifices made by the American veteran was brought to my attention by Mr. Charles N. Collatos, the very able Commissioner of Veterans' Services for the Commonwealth of Massachusetts.

The article follows:

#### TELLING IT LIKE IT IS

(By Ms. Basilla E. Neilan)

Who is this person called veteran? Usually a man, sometimes a woman, who has given months or years to their country's call for service. Some lost legs, many lost arms, and over the decades millions have lost their lives. They were issued G.I. haircuts, clothes, were told what, when, and how to do it. Do what? Carry a litter, man a howitzer, pilot a plane, land on a beach with seventy pound packs, or send a torpedo spitting out of the side of a submarine tube. They starved and bled to death at Valley Forge and endured the battle of brother against brother in the War of the Rebellion. They stormed up San Juan Hill and were gassed to death in the trenches of Meuse Argonne and Chateau Thierry. They were humiliated and tortured in the Bataan Death March and their nurses were raped, maimed, and dragged through the mud of Corregidor. Their youthful lust for life was surrendered at distant places called Pork Chop Hill and Da Nang. Guys and gals from places like Kearney, Nebraska, Tonkawa, Oklahoma, and Damariscotta, Maine—white men, red men, black men, and yellow men fighting side by side to see a flag fly over Mount Suribachi or to protect the stars and stripes from desecration in the last hours of a falling Saigon.

Today many of them lie in veterans' hospitals, blind, legless, armless, and mindless. How many of you have ever taken time to visit a hospitalized veteran whose day follows day of empty hours dreaming of what life might have been?

How many of you stop to give thanks to these men and women who gave their youth so yours would be secure?

Do you owe them anything? Yes. You owe them your life and especially your freedom you take so much for granted. They more than all the statesmen, more than all the laws that guide us and the buildings that house our government have committed the word liberty to the highest level of our existence with a purity of purpose that rests under simple white markers forever both here and under foreign soil.

This, therefore, extracts from each and every one of us a promise never to forget their glorious deeds of heroism that can never diminish or disappear. We gratefully recognize them and promise to guide this generation and those generations to follow in a factual, consistent reminder of great deeds accomplished by those who have been our greatest Americans.

Dedicated to George Snyder, U.S.A.F. (Ret.)

### TRUE AND FALSE ON LAETRILE

**HON. LARRY McDONALD**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. McDONALD. Mr. Speaker, many of my colleagues have had many questions on the subject of the amygdalin/laetrile controversy. Unfortunately, so much that has been presented by the media, the Food and Drug Administration, and even orthodox medical circles has been conflicting, confusing, and on occasion totally dishonest. Fortunately, a recent article helps to remove some confusion.

Writing in the April 25, 1977, issue of New West magazine, David Rorvik presented a true-false presentation on the subject of laetrile as part of a larger article.

David Rorvik, the former Time magazine science and medical reporter and author of several books on scientific and medical problems, approached the laetrile question as a skeptic. After a painstaking, year-long investigation carried out under an Alicia Patterson Foundation fellowship, he emerged, to his own surprise, convinced that the substance has not only been unfairly maligned by the medical establishment but, that it offers, in his words, "considerable promise as a cancer control." This is the most favorable laetrile article ever to appear in a large circulation magazine.

The true-false clarification article follows:

#### LAETRILE: TRUE OR FALSE?

Laetrile is a cancer cure.

False. The best evidence suggests that it is a control, capable of arresting the spread of cancer in some cases. It may be far more effective as a preventive.

Laetrile is a drug.

The FDA says yes; the Laetrilists say no, insisting that it is a vitamin or natural food factor. Dozens of foods, including raspberries, contain Laetrile.

Laetrile is illegal.

Largely false. It is now legally used in 26 countries, including Japan, England, Germany and the Soviet Union. Alaska has specifically legalized the use of Laetrile against cancer. Laetrile is specifically illegal—and then only for use against human cancers—in California and, according to an FDA official, "perhaps one other state." However,

California juries have acquitted several individuals accused of administering Laetrile to cancer victims on grounds that it is a vitamin or nutritional therapy and not a drug. Though the FDA often speaks of Laetrile as a "banned" or "illegal" substance, it admits, under close questioning, that it is illegal only when offered for sale in interstate commerce.

There is no evidence from the animal studies that Laetrile works.

False. Numerous animal studies have demonstrated Laetrile's efficacy. In one Sloan-Kettering test, Laetrile-treated mice lived 30 percent longer than untreated mice afflicted with identical cancers. In another S-K test, the treated mice (this time given a dose of Laetrile considered "optimum") lived about 55 percent longer than the untreated mice.

Even if Laetrile does work it is no better than other therapies.

False. Laetrile's palliative effects (pain reduction, restoration of appetite and so forth) appear to far outstrip most other therapies—perhaps all other therapies—and it doesn't cause apparent adverse side effects.

Laetrile is merely a good placebo.

Almost certainly false. Placebo effects do not manifest themselves in animals, yet Laetrile has been effective against various animal tumor systems when used in controlled experiments.

Apricot kernels contain cyanide and can kill you.

False—except in the sense that anything taken in great quantities can kill you, including water. No deaths caused by the ingestion of apricot kernels have ever been substantiated in the U.S.

### NEW YORK TIMES ARTICLE EXPLORES THE MYTHS OF THE WELFARE SYSTEM

**HON. ROBERT W. EDGAR**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. EDGAR. Mr. Speaker, I would like to share with my colleagues an informative and stimulating article on welfare reform which appeared in last Sunday's New York Times. David E. Rosenbaum, the author of "Officials Are Up Against the Myths of Welfare," explores the stereotypes and explodes the myths about participants of the welfare program. Welfare reform is one of the highest priorities of the Carter administration, and will be high on the agenda of the 95th Congress. The article effectively addresses many of the false perceptions some of us have about this program, and I feel that it merits the attention of our colleagues:

#### OFFICIALS ARE UP AGAINST THE MYTHS OF WELFARE

(By David E. Rosenbaum)

WASHINGTON.—The politicians and technical experts who are trying to formulate a welfare policy for the Carter Administration say that they feel at times the way Copernicus and Galileo must have felt. Like the iconoclastic astronomers, the Government officials have amassed huge amounts of evidence to prove their points, but they are running headlong into false impressions that are ingrained in the society. What the officials fear is that the myths about welfare may be so deeply entrenched that sheer

statistical evidence will be unable to dislodge them.

"Past debates about welfare have too often focused on myths about the poor in America," Joseph A. Califano Jr., the Secretary of Health, Education, and Welfare, complained recently. "We cannot and must not develop and legislate a welfare reform program based upon myth. We must center the welfare debate around blunt talk about real facts."

Perhaps the most abiding myth is the stereotype of the lazy, shiftless, able-bodied adult who could lift himself off the dole if he did not prefer to spend his days loitering on street corners and his nights procreating. If it were not for Government handouts, the argument goes, these people could and would earn a living. The fact is, however, that welfare is limited almost entirely to children and their mothers. Of the 11.2 million people who receive basic welfare payments under the program of Aid to Families With Dependent Children, fewer than 150,000 are men. Eight million are children of school age or younger, and the others are their mothers.

Moreover, according to a recent study by the Rand Corporation, 65 percent of the welfare mothers in California have children under the age of 6, and the percentage is believed to be similar nationwide. Those without small children, the study found, are "substantially underschooled, undertrained and underskilled."

Furthermore, there is evidence that poor people who are able to work do so. More than half of the heads of poor families are now working, a third full-time, even though the national unemployment rate is still extraordinarily high and jobs are relatively scarce. Even when only welfare mothers are counted, the Rand study showed, 15 percent had worked in the month before they were interviewed and nearly a third had worked in the previous year.

It must be remembered, the experts say, that a full-time job at the \$2.30 federal minimum wage—40 hours a week, 52 weeks a year—provides an annual income of only \$4,784, nearly \$1,000 below the official poverty line for a family of four and only half of what the Labor Department believes is the minimum income at which an urban family of four can live without serious deprivation. "The poor are poor, not because they won't and don't work," Mr. Califano told Congress the other day, "but because when they do work they do not earn enough money to lift them out of poverty."

A second myth is that cheating on welfare is rampant and that the government would be better advised to round up absent fathers and make them support their families rather than simply pay relief to their dependents.

The extent of the cheating is difficult to measure. Mitchell I. Ginsberg, dean of the Columbia University School of Social Work and the former Human Resources Administrator of New York City, believes that only 5 to 10 percent of those on welfare are receiving payments for which they are ineligible and that almost half of those errors are caused by administrative mistakes. Other experts believe that there may be a bit more dishonesty than that, but there is a consensus among them that cheating among welfare recipients is probably less prevalent than cheating by income taxpayers or lying on expense accounts.

As for finding absent fathers, such efforts have generally proved to be fruitless and expensive. Last year, for instance, New York City spent \$13 million to collect less than \$6 million in child support payments from parents who had absconded.

Another myth is that once people become poor they remain poor. In fact, the poor population is extremely fluid. According to Mr. Califano, as many as 10 million people move



above the poverty line each year and a comparable number become poor. That means that as many as two persons in every five who are poor in any given year have incomes above the poverty level the next year. The Rand study found that half of all the families on welfare in California had been receiving public assistance for less than two years.

A final myth: It is widely believed that poor blacks leave Mississippi, Alabama and Texas and other states with low welfare benefits for places like New York and Detroit because the benefits there are much greater. It is true that benefits in the large Northern cities are several times those in some of the Southern states, but there is no evidence whatsoever that the discrepancy is a factor in migration. Actually, the evidence is all to the contrary.

Larry H. Long, a demographer at the United States Census Bureau, analyzed six Northern cities with large black populations and found that Southern blacks who had migrated there were less likely to be on welfare than were blacks who had been born in the cities. Employment and earning opportunities, those who have investigated migration believe, seem to provide the primary impetus for moving to the cities.

In their talks around the country, Mr. Califano and Ray Marshall, the Secretary of Labor, are trying hard to debunk some of the welfare myths. Last week in Chicago, for instance, Mr. Marshall recalled that 30 years ago the New York City newspapers had gone on a crusade against welfare fraud that centered around a mysterious "Lady in Mink." Mr. Marshall quoted a headline that read, "Woman in Mink with \$60,000 Lived on Relief in a Hotel."

In fact, those stories, like others over the years, were grossly exaggerated. "Welfare," Mr. Marshall remarked, "is the sort of issue that almost automatically produced cheap shots."

#### SISTERS OF MERCY IN CONNECTICUT CELEBRATE 125TH ANNIVERSARY

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. COTTER. Mr. Speaker, the Sisters of Mercy, a Roman Catholic religious community for women, recently celebrated the 125th anniversary of their work in Connecticut. Their work among the poor and the sick and their educational activities have contributed to the life of my State.

I hope my colleagues will join me in congratulating this community as they begin their 126th year of service.

THE 125TH YEAR CELEBRATED BY SISTERS OF MERCY

(By Karen Mamone)

Friends, families and benefactors gathered Sunday at the Cathedral of St. Joseph in Hartford to celebrate the 125th anniversary of the work of the Sisters of Mercy in Connecticut.

"This is a seminal event in the history of the Catholic Church in Connecticut," said Msgr. John S. Kennedy, editor of the Connecticut Catholic Transcript, who spoke during the Mass of Thanksgiving.

He traced the origins of the order in the state from the time when Mother Francis Xavier Ward arrived in Hartford by stagecoach from Providence with eight sisters in 1843, to a diversified religious community

today with more than 500 members in the state.

"That pioneering has never stopped—the church moves as it must, always into the future," Msgr. Kennedy said.

Major superiors of other religious congregations in the state attended the Mass of celebration, as did Sisters of Mercy from throughout New England.

Among the civic and religious leaders attending were Lt. Gov. Robert K. Killian; U.S. District Judge of the 2nd Court of Appeals Thomas J. Meskill Jr. the former governor, and the Rev. Edward M. Dempsey, son of former Gov. John N. Dempsey.

In their 125 years, Msgr. Kennedy said, the Sisters of Mercy "have been the teachers of our parents in their childhood and the counselors and friends of their old age."

He said their work among the poor and the sick, and in education has earned them "our gratitude, our confidence, and our prayers—they have added to the life and liveliness of the church in Connecticut."

Archbishop John F. Whealon of the Archdiocese of Hartford was the principal celebrant in the Mass Sunday afternoon.

Concelebrating with him were Bishop Daniel P. Reilly of Norwich, Auxiliary Bishop Joseph F. Donnelly of Hartford and retired Maryknoll Bishop Edward McGurkin of Maryknoll, N.Y.

#### THE ISMAEL MENAS OF THE WORLD

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. HARKIN. Mr. Speaker, there now lives in my congressional district a former Chilean refugee, Ismael Mena of Ogden, Iowa. He recently made available to me the letter he had written to Rev. Robert Buhr of the Immanuel Lutheran Church of Ogden. His letter gives a graphic account of his personal experience with torture in Chile and a passionate appeal for information about his missing sister. I want to share his letter with the Members of the House of Representatives:

(Translation of a letter by Ismael Mena)

DEAR PASTOR BUHR: I received your letter with joy because it permits me to relate what has happened to me in my country and what is happening to my beloved sister. This I owe to you and to the Lutheran Church who have helped me so much.

I hope and confide that Congressman Harkin might help to reclaim the liberty of my poor sister after her case is known by him.

I am Ismael Segundo Mena Alvarado, 34 years old, auto body worker, father of three children, address in Chile was Pablo Suarez 48, Cerrillos. My sister is Nalvia Rosa Mena Alvarado, her husband is Luis Emilio Recabarren Gonzalez, his father is Manuel Segundo Recabarren Rojas, and the second son of Manuel is Manuel Segundo Recabarren Gonzalez.

I was arrested on the 17th of November, 1975 at 3 p.m. in my home in the presence of some neighbors. A dark, strong looking man had no legal arrest order when he met me in my house when I arrived at 3. My wife later told me that this man with others searched my house and gave no explanation.

I was sick with the flu and I asked him to identify himself. He showed me a card from DINA and told me that they had to ask me some questions relating to my work. I replied that I would have no problems in answering them. He asked that I accompany

him. We took a taxi and went to my shop where two more men were waiting for us. Then I was told that we would go to another place to talk.

We got into a mini Austin at which point everything ended for me. In ten minutes they took away my glasses and gave me dark lenses through which I could not see because they had taped my eyes shut. After one-half hour (approximately) of going toward the uptown of Santiago, we arrived at a place where they gagged me and took me out of the car. They beat me to soften me up they said and at the same time they grossly insulted me and treated me as a communist because I had been a leader at the University of Chile when I had worked there.

Then they took off my clothes and tied me to a metal cot frame which they called "The Grill". They began to throw cold water on me that they said was acid and that I would talk before they killed me about what I knew of the University and the people there. I told them that I did not know anything since I had left there in 1970 and did not know anything. They attached wires to my feet and began to give me electrical shocks—on the genitals, the anus, the head, the ears. They kicked me repeatedly. They choked off my cries with a piece of towel. They played a phonograph very loudly. They shouted like mad men saying that I would talk to them even though I had no idea about what they were asking me since I had not participated in anything at the University since I had left.

They gave me such an electrical shock that I suffered a cardiac arrest. I believe this to be so because I lost consciousness and when I came to I felt one of them massaging my chest rhythmically and I heard him say, "This 'desgraciado' (disgrace for a human being) almost went out on us." They said other stronger and grosser things as well.

That night I was tortured for four hours continuously. Then they tried to make me dress myself after untying me. As I could not do it, they laughed at me and beat me as I lay on the floor. I lost all feeling in my arms and legs. I bled from the mouth and nose.

Late in the night they put me in a cell together with other prisoners who were in my condition or worse (our eyes were still covered). A medical student was in the cell with us and he attended to me.

The following day they took me up in the condition I was in and they began to beat on me again, kicking me to the ground. This took place in a large patio. As I had nothing of interest to say, they returned me to my cell with other prisoners.

After a week, when I had recovered a little from the beatings, they took me again and told me to forget my name. Now I was only Number 1018 and I must forget my family. As I had not said anything, they said that they were going to kill me and I now had one last opportunity to talk.

Two other prisoners and I were made to dig a hole 4x4 meters. One of the other prisoners was Manuel Dinamarca, ex-secretary of the CUT whom I knew. When we slowed down a little they made us lie down in the hole and beat us on the head. We thought we were digging our grave.

After working five days in the hole they told me that they were going to put me on the "grill" again. I asked them to either kill me or let me live for my children but not to put me on the "grill". Again they tried to make me sign some papers which they said were declarations.

After 30 days of all types of torture done against me and others young and old, after all the horror that this represents in listening to the suffering of others being tortured, they moved me to another place—my eyes were again covered for this trip.

This place was called "Tres Alamos." The blindfold was taken from my eyes and they

tried to hypnotize me to make me forget. A man kept saying, "No one has done anything to you. No one has tortured you, etc."

On the third day they released me on the street after making me sign some documents where I said I had not been tortured.

Where they tortured me was Villa Grimaldi and where they released me was an annex of "Cuatro Alamos."

Three months later agents of the DINA began to pressure me anew. Five times they came to my business. Various times they stopped me on the street to put pressure on me. They told me that one day I would be lost.

I should note that it was due to the gestures of the First Secretary of the French Embassy that made it possible for my arrest to be known. The authorities had not recorded my arrest and had told my wife and family that they did not have me.

So I ask—after 33 days of blindfolded horror, where I listened to torturing and to killing others, young people, women, priests, tortured people, men equal to other men taking the lives of their brothers in the name of liberty—can one shut up? Can one forget? Can one permit the lack of respect for the life of human beings? Can one? Life is a right from God and only He can take it from us.

Mr. Congressman, for the respect for human life, for the right to liberty, for the respect to democracy which this great country and the people have, I ask that you call out for my sister.

She was only 20 years old and like me, they arrested her—April 29, 1976, at 11 p.m. along with her husband and his brother on the street near their home in the community of "La Granja." She was walking with her three year old son and they left him alone, thrown down in the street. She was three months pregnant.

All the motions made before the government by my parents have failed. The President of the Supreme Court of Justice has said that he cannot do anything because the DINA answers only to General Pinochet.

A little while before I received a visa to the U.S., it was normal to find bodies of men and women with their hands cut off. I accompanied my mother to the Morgue four times to identify bodies in the sad hope that we might find one of our loved ones there.

That God protect your person and accompany you in your decisions, I desire it—  
ISMAEL MENA.

Mr. Mena provides us in the most personal terms a first-hand meaning of violations of basic human rights. We are not dealing with abstract principles. Violations of human rights must be thought of in concrete terms—torture, murder, starvation, missing relatives, and unspeakable degradation of the worth of individual human beings—and not in abstract terms.

We are talking about the thousands of Ismael Menas and Nalvia Alvarados in the world who are the victims of repression.

#### A REPORT ON THE AGING COMMITTEE'S MANDATORY RETIREMENT HEARINGS IN MASSACHUSETTS

**HON. ROBERT F. DRINAN**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. DRINAN. Mr. Speaker, I recently had the privilege of participating, as a member of the House Select Committee on Aging, in hearings held in my district

on the question of mandatory retirement. The sessions were chaired by the distinguished chairman of the Aging Committee, the Honorable CLAUDE PEPPER, and produced some very moving testimony concerning the effects of compulsory retirement on older Americans.

I would like to share with my colleagues an excellent chronicle of those hearings written by Mr. Wendell Coltin, a highly regarded columnist for the Boston Herald American. Mr. Coltin's column appeared on Sunday, May 22, 1977.

The article follows:

CLAUDE PEPPER SALTY AS EVER IN VISIT TO HUB  
(By Wendell Coltin)

At 76, Rep. Claude Pepper (D-Fla.) chairman of the House Select Committee on Aging, can share some delightful memories of years past at appropriate moments.

This was evident a couple of weeks ago when he came to Brookline and Waltham to conduct hearings with a member of his committee, Rep. Robert A. Drinan (D-Newton), on mandatory retirement.

He heard himself welcomed to Boston by Frank J. Manning as "a happy warrior" who has "consistently furthered the interest of the elderly and handicapped" in a "long and honorable career."

Then, Manning told Pepper, who has served in both the Senate and House, "sometimes we get disgusted with public officials—especially those who confess for money."

More than one listener reflected on the televised interview two days earlier David Frost conducted with former President Nixon.

Pepper recalled another occasion more than 50 years ago, when he came to Boston with misgivings about the kind of welcome he would receive.

He had come to attend Harvard—he is a graduate of the Law School—and he was certain he would not be welcomed warmly because of being a southerner; that he would be constantly reminded of the Civil War. To his great surprise, his fears were unwarranted.

Another time during the Brookline hearing, he related this story:

"I was a student at Harvard when they celebrated the 90th birthday of Dr. Eliot.

"The following Sunday, I sat behind Dr. Eliot in church.

"He rose, straight and erect. I was in my 20s and was largely holding to the back of the bench to help myself up. From that day to this, I have never pulled myself up by grabbing the back of the bench."

Dr. Charles William Eliot retired as president of Harvard in 1909 and died Aug. 22, 1926, at age 92.

Fr. Drinan informed Pepper and the audience at the Coolidge Corner Library in Brookline:

"The first witness is a young man by the name of Frank Manning."

Manning, who in his 70s is "still going strong" as president of the Legislative Council for Older Americans, recalled that during the course of a congressional hearing in Washington, Rep. Fred B. Rooney (D-Pa.) remarked, "America cannot continue to waste the valuable human experience of those individuals in later life. We must tap the skills, knowledge and wisdom of our elders. We must offer them the opportunity to instruct, advise and consult, listen and reflect, and work for a growing American."

Manning described, "We waste money, food and other resources on a large scale, but the greatest waste of all is the disregard of that great bank of human experience to be found in the ever-growing ranks of elders."

He said, "I want to make it clear how deeply we resent the inferences and assump-

tions based solely on one factor, which is really the most unimportant thing about us; that is, chronology—our ages. We want to be judged by our biological age. We are young people in old bodies.

"Those of us who have sound minds, good bodies, mobility and alertness want to be accepted and judged for the kind of persons we are—not on the basis of folklore and prejudiced notions. We're ready to deliver the goods. . . . Give us the opportunity to do so.

"We are stamping out the image of Whittier's Mother and raising the standard of Grandma Moses at age 65 when some of us are looking forward to a lively and meaningful third act. We want a choice, not a mandate. I do not recognize the right of any corporation, government or other sources to say to me at 65 years of age, 'You're all washed up; go out to pasture.' . . . Like hell I will. My associates can testify that I have a daily work schedule that would stagger some of the bureaucratic and anemic personnel managers who decided that we are no longer fit for gainful employment."

Sen. Jack Backman (D-Brookline) told Pepper and Drinan:

"The question we must ask is whether a man or woman, after working 40 or 50 years, must be doomed to poverty, idleness and indignity at age 65 because of forced retirement provisions. . . . There are more than 23 million Americans over age 65. In Massachusetts, over 900,000.

"One of the great tragedies of the fantastic technological century in which we live is that there people—our fathers and mothers—are being dumped onto the ash heap, being forced out of work and asked to go into cold storage without adequate income to live or opportunity to utilize their talents, their energies, their aspirations, their humanity. We are treating them as factory rejects; cancellations from the community at large."

Rep. David J. Mofenson (D-Newton) testified that as chairman of the House Committee on Human Services and Elderly Affairs, he is confronted daily with the problem of older citizens living on fixed incomes and struggling to meet the rising cost of food, housing and a host of necessary services."

He said, "At the same time, workers under 65 are taxed more and more to meet the obligations of our Social Security and other pension systems. Who can deny the resulting economic absurdity that those who reach 65 and wish to continue to work and pay taxes, are forbidden to do so solely on the basis of their numerical age?"

"Clearly, however, the problems transcend bloodless economics. While some welcome retirement at 65, others forced to do so against their wishes suffer a loss of self-esteem. The medical profession tells us a person's perception of such a loss of dignity has a measurable impact on his physical well-being.

"Surely reaching the age of 65 is no more a guarantee of incapacity or lack of productivity than being 30 or 40 years old is a guarantee of intelligence, efficiency or imagination."

#### FOREIGN OIL TANKERS THREATEN OUR MARINE ENVIRONMENT

**HON. JOSHUA EILBERG**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. EILBERG. Mr. Speaker, I continue to share the concern of American-flag shipping companies and American maritime unions about the threat to America posed by foreign oil tankers.

I am in receipt of a fact sheet from the U.S. Maritime Committee to Turn the



Tide, which puts into perspective the adverse impact on our marine environment caused by foreign oil tankers.

I am placing this fact sheet in the RECORD, Mr. Speaker, so that my colleagues in the Congress will be aware of the nature of the problem, and the need for a prompt resolution:

#### FOREIGN OIL TANKERS THREATEN OUR MARINE ENVIRONMENT

Operating without adequate safety and environmental standards, equipment and crew training, "flags of convenience" pose a major threat to our beaches, shorelines, fish and wildlife.

Last year, 19 oil tankers were lost. The lost ships' tonnage, 1,120,000 deadweight tons, was nearly 50 percent greater than the losses in 1975, when the previous record was set. Of these 19 tankers, 11 flew the Liberian flag.

The two major factors involved in tanker accidents are the age of the ship and human error. Foreign flag of convenience shippers often hire cheaper, untrained crews, and do not have to meet the stricter safety requirements or undergo the same U.S. Coast Guard inspections and crew-licensing procedures required by those shipping on U.S. flag tankers.

Without the rigid inspections imposed on U.S. flag tankers, the Liberian flag vessel Argo Merchant, tagged as a dangerous and defective ship and banned from the port of Philadelphia, ploughed into a well-marked shoal off Nantucket Island last December. The 7.5 million gallons of oil spilled off Nantucket Island created an oil slick 120 miles long. Manned by a polyglot crew and captained by an officer who read his radio direction finder backwards—the Argo Merchant fiasco is indicative of the numerous flag of convenience tanker disasters that have threatened our marine environment.

When the Argo Merchant broke up last December, it spilled almost all of its cargo of 7.5 million gallons of heavy fuel oil into the Atlantic off New England. Shortly thereafter an explosion tore apart the Sansinena in Los Angeles Harbor—the Oswego Peace lost 5,000 gallons of bunker fuel oil into the Thames spilled into the Delaware River, and Daphne River in Connecticut—the Olympic Games caused 133,000 gallons of crude oil to be spilled into the Delaware River, and the Daphne went aground in Puerto Rico. Each of these vessels had one thing in common: they all were Liberian flag of convenience vessels.

It's time to turn the tide and transport more of our imported oil on U.S. flag tankers, manned by competent, trained crews, and inspected regularly by the U.S. Coast Guard to meet stringent standards.

#### DISRUPTER WELCOMED AT COLLIER AWARD BANQUET

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. McDONALD. Mr. Speaker, demonstrators from the Campaign to Stop the B-1 Bomber of the American Friends Service Committee—AFSC—and the misnamed Washington Peace Center protested the annual trophy presentation banquet of the prestigious Robert J. Collier Award for outstanding achievement in technology held at the Mayflower last night. The award was being presented to the joint Air Force/Rockwell International B-1 team which made the major

design breakthroughs for this versatile aircraft which should be one of the cornerstones of America's defense in the 1980's.

While a small group of local activists milled about outside the Mayflower passing out leaflets terming the B-1 the "lemon of the year," two or three of their comrades sought admission to the banquet. One of these, Terry Provance, well-known to the aerospace and defense industry for his protests at stockholders meetings, was refused admittance to the private banquet and his money was returned.

Early in the proceedings, however, Provance entered the Collier banquet by a side door and made a shouted protest against the B-1 and the award, including a demand that he be heard. Provance was, quite properly, ejected from the banquet. However, the organizers of the Collier award, apparently unaware of young Mr. Provance's allegiances, then had him invited to the podium from which he harangued the audience for 5 minutes. At this point, a number of Americans familiar with the operations of Provance's group left the dinner in protest at being subjected to Soviet propaganda. Having finished his polemic, Provance shook hands and spoke briefly with several people at the head table and left.

I am not opposed to people honestly expressing opinions with which I and the majority of Americans disagree. However, there is a legitimate question of propriety raised when organizations promote themes developed by our country's enemies and which are designed to aid those enemies under a subterfuge. I have charged Terry Provance with uttering Soviet propaganda. I believe that our traditional principles of free speech were gravely abused by him at the Collier Award dinner, in that as director of the Campaign to Stop the B-1 Bomber he is playing a leadership role in a propaganda vehicle aligned with the forces of totalitarianism that are seeking to destroy our country.

Terry Provance has been a radical "peace movement" organizer in support of the Communist aggressors in Vietnam for over 6 years. Provance first came to note as an organizer for the Harrisburg Defense Committee in support of the Berrigans and their codefendants charged with kidnap conspiracy. Following this, Provance worked in support of Daniel Ellsberg who stole the Pentagon papers, and with a group which sent medical aid to the Vietcong and North Vietnamese Army called Medical Aid for Indochina—MAIC.

Having proved his organizational skill and ideological dedication as a "peace activist," Provance was made director of the Americans Friends Service Committee's National Peace Conversion—Stop the B-1 Bomber Campaign in 1973. As a leading "peace activist" and "fighter for peace," Provance's statements figure prominently in articles in the Communist Party, U.S.A.'s newspaper urging U.S. disarmament, dismantling of NATO, and increasing "détente" with the Soviet Union.

But Provance's connections with the

pro-Soviet Marxist-Leninists is more extensive than providing interviews to the daily world. Provance was a member of the U.S. delegation to the "World Conference to End the Arms Race, for Disarmament and Détente" of the World Peace Council, held September 23-26, 1976, in Helsinki, Finland. The World Peace Council—WPC—is the Soviet Union's principal international front; its purpose is to coordinate propaganda in support of Western disarmament while at the same time providing logistical support to the various Soviet-sponsored terrorist "national liberation movements."

The Communist Party, U.S.A.—CPUSA—is responsible for selection of U.S. delegates to World Peace Council meetings. Among the small group of Americans present at that WPC meeting were John Pittman, CPUSA's official representative on the editorial board of the official Soviet-bloc Communist theoretical journal, "World Marxist Review—Problems of Peace and Socialism"; Abraham Feinglass, a top CPUSA trade unionist who is vice president of the Amalgamated Meat Cutters and Butcher Workmen's Union; Joseph North, a leading CPUSA Central Committee member who died in December; and Karen Talbot, the CPUSA member who serves as secretary of the U.S. section of the World Peace Council and who was formerly an active organizer for the CPUSA-dominated anti-Vietnam coalitions.

Bloated in size compared to the delegations from non-Communist countries, the Soviet bloc delegations to the WPC meeting contained important functionaries. For example the Bulgarian delegation was headed by Communist Party Central Committee member Georgy Dimitrov-Goshkin who is also president of the Bulgarian national "peace" committee; and U.S.S.R. delegation of 29 official delegates and half a dozen additional representatives of other fronts included the deputy head of the International Department of the Soviet Communist Central Committee, Vitaly Shaposhnikov.

Even as the U.S.S.R. has been struggling, in the wake of the first SALT agreements, to attain not mere parity, but for overwhelming superiority in weaponry over the United States, it has organized sophisticated propaganda campaigns aimed at altering "world public opinion" in line with the U.S.S.R.'s aggressive foreign policy objectives. The "détente and disarmament" line is coordinated via the WPC, which in the United States works through the Communist Party, allied groups such as Women Strike for Peace and the Women's International League for Peace and Freedom, and with militant socialist pacifist and religious groups such as the American Friends Service Committee—AFSC, the War Resisters League, Methodist Federation for Social Action, National Council of Churches, and so forth.

The Soviets assert that the free world must disarm in order to "make détente concrete." The U.S.S.R. state "news agency" Tass earlier this year described the "peace and disarmament" drive to be organized by the Communists in West Germany as calling for the "supple-

menting of political détente with military détente, disarmament, stoppage of the arms race, and for the reduction of military spending so as to solve the main social problems and problems in education and the health service."

Compare that Tass report with the official declaration of that WPC "World Conference to End the Arms Race, for Disarmament and Détente" to which Terry Provance was a delegate:

We \* \* \* call upon the peoples of all countries \* \* \* to join together in a powerful mass movement not only to end the arms race, but to move rapidly towards general and complete disarmament.

\* \* \* the struggle \* \* \* for social progress is inextricably linked with the struggle to end the arms race and for disarmament.

Such struggle cannot succeed so long as military industrial complexes, striving for profit, instigate the build-up of deadly weapons, produce and provoke the manufacture of ever new weapons of mass destruction and encourage the sale of arms.

We are already thoroughly familiar with the current Marxist circumlocution for revolution—the "struggle for social progress"; however we also call attention to the subtle qualifier in the second paragraph quoted above which condemns only those "military industrial complexes" which are "striving for profit." The U.S.S.R.'s state-owned weapons plants are exempted from criticism.

The WPC's declaration, to which Terry Provance contributed his small part, listed among its demands "the prohibition of the research, development, and manufacture of new types and systems of mass destruction weapons and of new means of delivery of such weapons." Another demand called for the "gradual reconversion—closing down—of the arms industry." As director of the National Peace Conversion Campaign—Stop the B-1 Bomber project, and as a direct participant in the operations of the World Peace Council, Provance is certainly aware of the identity of their demands.

I have previously made extensive information on the World Peace Council, the anti-B-1 campaigns and disarmament lobby available in the CONGRESSIONAL RECORD—March 23, 1976, 7725; January 12, 1977, 1063; January 26, 1977, 2418—and extensive information on the role of this Soviet-run organization in coordinating the activities of the U.S. anti-Vietnam coalitions was provided 6 years ago in hearings of the House Committee on Internal Security.

American businesses and particularly the defense industries have been extremely lax in separating their friends from their enemies. Terry Provance, a dedicated enemy of American defense and collaborator with the Soviet totalitarians who are suppressing human rights in all lands under their control, should not have been allowed to get a ticket to the Collier Award dinner, and following his predictable disruption, the organizers of the banquet should not have invited him back to inflict his harangue on those present to honor outstanding American engineers.

## FORGOTTEN WARRIORS: VETERANS OF VIETNAM

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. EDGAR. Mr. Speaker, 4 years after the end of the Vietnam war, many Vietnam-era veterans are still finding it difficult to cope with the pressures and strains of daily life and impossible to forget the tragedies of Vietnam.

I would like to insert into the Record an article which recently appeared in the Philadelphia Bulletin which vividly describes the traumas experienced by many Vietnam veterans. I have had the pleasure to become acquainted with one of the Vietnam veterans mentioned in the article, Mr. Steve Roten, who works in one of my district offices as a veterans caseworker. His patience, understanding, and dedication have made him an invaluable addition to my staff.

I hope that the Bulletin article will be helpful to my colleagues in understanding the special problems of the Vietnam-era veteran.

The article follows:

[From the Philadelphia Bulletin,  
May 22, 1977]

BITTER MEN CAN'T FORGET FUTILE WAR  
(By Stephen Franklin)

The combat helicopters, loaded with guns and men, are ready for takeoff when he panics. All the crewmen are strange. Something will go wrong; something terrible.

"Stop," he shouts and jumps up in a cold sweat in his suburban Philadelphia home, thrown out of sleep on another night like so many since his service in Vietnam.

It's always the same dream and same anger and it pains him to talk about them. He is angry that so much went wrong and so few back home understand what happened.

For this usually easy-going 28-year-old ex-helicopter pilot, the war's corrosive shadow still lingers. For a still-tormented 26-year-old North Philadelphia veteran junkie and a husky 30-year-old South Jersey marine, who lost a leg in an ambush, there also are vivid reminders of the fighting in Southeast Asia.

Four years after the ceasefire, many of the 10 million veterans of the Vietnam war era—845,000 of them from this tri-state region—still feel effects of the nation's longest war.

The effects are felt in the unemployment woes of young, black and disabled veterans—especially the 138,000 vets 20 to 24 years old whose jobless problems are second only to black teen-agers.

They're felt by the veteran junkies, hooked by the pure white, cheap Vietnamese heroin, the 9,000 addicts treated daily at VA hospitals across the country, 350 alone at the Philadelphia VA hospital.

Many of the addicts are young and from the nation's big cities. They are fewer than some feared, but their tragedy is still as great.

The war's lingering effects are felt by two million Vietnam servicemen, who, according to conservative estimates by the Veterans Administration still face emotional problems readjusting.

The war is not forgotten by veterans groups who complain—with justification. The Bulletin has found—that help for Vietnam-era veterans has suffered from indifference, lack of planning and bureaucratic snarls.

## WAR WITHOUT END

For the 566 Vietnam POWs, 30 of them from the Delaware Valley area, men who served longer in foreign prisons than U.S. soldiers ever before, and for the families of nearly 700 men still listed missing in action, it's almost a war without end.

For the many servicemen who returned physically and emotionally unbroken, however, the signs are less apparent lingering in mostly silent, personal memorials to patriotism, friendship, trust, grief, anger and disenchantment.

Vietnam. Two million, eight hundred thousand U.S. soldiers fought there. Forty-six thousand of them were killed—4,438 from Pennsylvania, New Jersey and Delaware. In the 11-year period, 400,000 servicemen were disabled, 303,704 were wounded, 430,000 received other than honorable discharges, 2,600 deserted and 86,749 received psychiatric discharges.

A warm breeze outside his Ridley Park home stirs Mike Sidoti's memories . . . Glimpses of grubby, dirty John Wayne-like marines, macho warriors, stomping around in the mud, strapped down with heavy weapons.

He was 17 years old in 1967.

The air and grass and green trees recall memories of friendships closer than any he would ever have again. Of friends killed or injured or taken away.

He would come home to study at Kent State, recoil to the shock of student peace marches there and counter marches for the war. In time, he marched with both. He would become a social worker.

In the Delaware Community College vets office, where he works now, a troubled Vietnam vet is saying Mike is the one who helps.

He shakes his head. He only understands, he says.

They were the youngest and best educated soldiers to fight in an American war this century.

They were also a "new breed," say the Veterans Administration officials who came to learn their differences quickly.

They were less accepting of authority, more personal, more uncertain of their future, more frustrated. They used more drugs and, officials learned, attempted more suicides.

And when they came home, many had troubles. "The guys who were drafted have tended to have more problems than others," said Dr. Charles Stenger, chief psychologist for the VA in Washington.

"They were guys caught up in the military system. They were rebellious. Rather than get any recognition when they got home, they got resistance. People asked: 'Are they drug addicts? Did they kill babies?'"

"Bamm. They were set up for future disillusion. The problems everyone else suffered, they got in spades."

Authorities disagree on the seriousness of the so-called "post-Vietnam syndrome," the problem of severely troubled soldiers bringing their war traumas home.

According to Stenger and many VA officials, the problem has been less severe than expected.

But a recent Philadelphia VA Hospital study of 200 Delaware Valley Vietnam veterans found one-third of them depressed by their marriages, their jobs and, in many cases, their brushes with the law.

That depression rate is nearly three times that for the general public, said Dr. Charles O'Brien, a physician who led the study.

"We didn't expect to find so many problems out there," Dr. O'Brien said, noting that few of the troubled vets found in the study had ever sought help.

"There certainly are a lot of people we aren't reaching. But how do we reach them?"



Was Vietnam the cause of their problems? Dr. O'Brien isn't sure. He thinks it added to most of their problems. "Many of them were losers before they went to Vietnam," he said.

But others like Dr. Robert Jay Lifton, author and Yale University psychiatrist, think the war caused far more problems than most government officials will admit.

"They feel a deep mistrust, an inability to believe, a determination not to be duped, which really means numbing oneself to a lot of things to protect oneself," Lifton said.

He might have been describing Steve Roten, 26, a West Chester State College student. "I've become skeptical," said the tall, bearded student who led a march on Washington two years ago for better veterans benefits.

Seven years ago when the draft notice came in the mail at Roten's rural Chester County home, he drove all the way to Canada, but turned back. It wouldn't have been the right way, he told himself.

"I can't take things at face value anymore," he says now. Roten also works in the local office of U.S. Rep. Robert W. Edgar (D-Delaware County). He helps veterans who have problems with the Veterans Administration.

"I am always thinking. They are telling me this, but what is really happening?" he says. "You call up the VA, and the worker says, 'Nothing is wrong with that man's file'. But go over his head and you'll usually find out something is wrong."

That distrust had many roots in Vietnam for Roten. One concerned drug-use statistics. He saw strung-out junkies who were ignored by their commanders. "I saw in our company how they covered up drug figures," he says.

To be sure, at the peak of the war, drug use spread like an epidemic. In 1972 the VA estimated that 50,000 to 75,000 Vietnam veterans were hooked on hard drugs.

That's when the image of the junkie veteran took shape.

#### HALF USED DRUGS

Four years ago a VA sponsored study found that more than 50 percent of the Vietnam veterans had used drugs overseas.

Of those addicted in Vietnam, only 5 percent were still on hard drugs in 1973. Two years later, however, the researchers found 12 percent of the original sample addicted.

The hooked veterans were seen as younger persons from big cities with personal problems predating the war.

Urban blacks showed a slightly higher addiction rate, according to Dr. Lee Robins, the St. Louis sociologist who did the study.

And overall, he said, "Vietnam veterans have a slightly higher use of illicit drugs than others."

Some veterans of Vietnam who learned to use guns overseas turned to crime when they got back home. According to the Veterans Administration, about 12 percent of the convicts in federal prisons are Vietnam veterans. But that is not surprising. Those who served in the armed forces between 1964 and May 1975, when the "Vietnam War era" officially ended, represent about 12 percent of the nation's adult male population.

Vietnam veterans also comprise about 12 percent of Pennsylvania's prison population. A study of these convicts found that they were older and better educated than the average state prisoner. About 60 percent of them are first offenders.

"They are the cream of the crop at the bottom of the barrel," said Darryl Kerr, of Pennsylvania's Program to Advance Veterans Education (PAVE), sponsor of the study.

Some of the jailed veterans turned to crime to finance a drug habit picked up while serving in Southeast Asia.

An example is the young North Philadelphia who survived a mortar shelling but

saw a sentry shot to death a few feet from him by a Viet Cong sniper.

"When I got back here, things looked out of place," he told a reporter the other day.

He became a small-time thief and, a junkie with a heavy habit. He tried to rob a big-time pusher and got four bullets in his chest. The pusher was later murdered and the ex-soldier served a short prison term.

It's been two years since then and now he is married and drug free, he says. He's not bitter but he does believe the veterans have gotten a bad shake.

The whole Moore clan was there in June 1968 to welcome Army Spec/4 Michael Moore home. Andrea Outten, Michael's sister, cooked an enormous meal in her small Wilmington apartment.

It was a very special meal for the young soldier who had gone to war at 18, fresh from Claymont High School.

He showed the family some of his color slides of Vietnam. One was a close friend after he had been blown up. Michael Moore didn't say anything about the slide.

Two years later he was married and working as a mechanic, but the job didn't work out. Something was wrong.

He held up several liquor stores. He never used a gun, only his hand. The judge gave him 18 months in prison and probation.

Andrea Outten remembers talking with her brother at the Delaware State Prison in Smyrna.

He told her he started on drugs in Vietnam when he thought he didn't have a chance and expected to be blown up.

After prison he got married and looked for work, but couldn't find anything. That troubled him. He couldn't sleep and often looked at his slides.

One day Susan Moore came home to find the front door chained. Her husband was on the floor. He died of a drug overdose, said the state medical examiner, ruling it an apparent suicide.

"On March 26 his nightmare ended," Andrea Outten wrote to the local newspaper, crushed by her brother's death and hoping that somebody would understand the cause of his tragedy.

"But for many thousands of our men from Vietnam," she wrote, "The nightmare goes on."

#### COMMON CAUSE CHIEF COMMENTS ON FEDERAL PAY RAISE

#### HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. UDALL. Mr. Speaker, the recent pay raise for Representatives, Senators, judges, and top officials of the executive branch has been the subject of a great deal of hysteria and political haying-making.

Recently, the new president of Common Cause, Mr. David Cohen, brought a rare note of reason to this debate in a commentary carried by 596 radio stations across the United States.

Mr. Cohen points out that, far from being some hasty money grab by greedy politicians, the pay increase resulted from a law designed to prevent elected officials from being able to choose whatever salary level they wish. The panel of distinguished businesspeople and other private citizens who made the recommendations based its findings on the levels of compensation of private-sector

officials bearing comparable responsibilities.

Further, as Mr. Cohen notes, the Commission recommended that the pay increase be tied to a tough code of ethics for all the affected personnel—a recommendation this House was quick to accept and act on.

I urge my colleagues to give careful attention to David Cohen's observations:

#### FEDERAL PAY RAISE

The recent pay raise for top Executive Branch officials, Members of Congress and Judges is deserved. Congress should vote the appropriations to make the pay raise stick.

Under Federal law, a special national commission is created every four years to make recommendations on salaries for elected officials and major government appointees. Earlier this year, Common Cause endorsed the recommendations of this Commission—a non-partisan body made up primarily of citizens outside of government. The Commission supported increasing salaries for high level Federal officials, and recommended conditioning any pay raise on Congress adopting a strong code of public conduct for all three branches of government.

President Carter has committed himself to an improved code of conduct for the Executive Branch and Chief Justice Burger also endorsed the Commission's recommendations. And now the House and Senate have clearly met this condition for themselves. Congress recently adopted an historic new code of conduct. The code, designed to deal with conflicts of interest and with Members escaping their full time responsibilities, included key financial disclosure provisions and a limit on outside earned income by Members of Congress. Congress is on its way to enacting similar tough disclosure and conflict of interest provisions for the Executive Branch and the Judiciary.

With the Federal Government's popularity at a low point, the idea of a pay raise obviously meets with public resistance. As citizens, we've been angry—with good reason—at many of the actions of our government. But government officials need to be treated fairly, too. In the last eight years the cost of living has risen 60 percent; and during the same period, compensation for employees outside of government has increased 70 percent. Yet, until this year, top officials of all three branches of government had only one pay increase of 5 percent during these eight years.

The effect of this situation has been reaching crisis proportions: executives in all branches of government are taking early retirement in unprecedented numbers, and high level positions in the Executive Branch and the Judiciary go unfilled as qualified candidates refuse the positions because of the pay scales. We can't run the government without capable people, and they must receive reasonable pay.

Now there are some reforms needed in how pay raises are put through Congress.

Pay increases for Members of Congress should not take effect until the beginning of the session of Congress following their approval.

Each house should be assured an opportunity to vote on a resolution of disapproval of a pay raise.

Consideration of salary increases for executive and judicial officials should be separated from consideration of Congressional salaries.

The annual cost of living adjustments should not operate in a year in which Commission recommendations become effective.

In its report to the President, the Peterson Commission concluded that, "If we continue down the path of the past eight years, in which the politics of survival have required no pay raises at all, we must accept the im-

plications of a government of only the rich, or only the young and untried, or more likely, a government of those who are willing to compromise themselves with political money. The costs of such a government reach beyond the costs of a salary increase: they are . . . to a free people unacceptable." As a people, we deserve better. All three branches of government deserve the pay raise.

This is David Cohen in Washington for Common Cause.

**PENNSYLVANIA GENERAL ASSEMBLY URGES ADEQUATE R. & D. FUNDING TO MEET NATION'S ENERGY NEEDS**

**HON. JOSHUA EILBERG**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. EILBERG. Mr. Speaker, on April 26, 1977, the General Assembly of Pennsylvania adopted a resolution memorializing the Congress and the President to support adequate research and development funding for nuclear, coal, and alternate energy resource development.

This resolution, which was unanimously voted on by the Federal-State Relations Committee of the House of Representatives of the Commonwealth of Pennsylvania, was adopted by a roll-call vote of 171 yeas and 23 nays.

Mr. Speaker, the full text of House Resolution No. 54 follows:

**HOUSE RESOLUTION No. 54**

In the House of Representatives, March 16, 1977.

The House of Representatives of the Commonwealth of Pennsylvania calls upon the President and the Congress of the United States to insure that adequate research and development funding be provided for nuclear and coal energy development and alternate energy resources.

Whereas, The House of Representatives of the Commonwealth of Pennsylvania believes that the Nation's security and future well-being depends upon the availability of jobs and energy; and

Whereas, The availability of industrial employment depends upon the development of new sources of energy capable of providing increased productivity; and

Whereas, The living conditions for all the residents of the United States are directly related to an abundance of energy for their comfort, convenience and mobility; and

Whereas, Electricity is a flexible mode for distributing energy; and

Whereas, The electric utility industry has indicated an increasing dependency upon nuclear fuel to provide an adequate future supply of energy; and

Whereas, The United States Energy Research and Development Administration is revising its fiscal year 1978 budget request; and

Whereas, The said administration is considering cutting back its funding for development of the fast breeder nuclear reactor by \$199,000,000 and nuclear fusion power by \$80,000,000; and

Whereas, Such cuts may delay the development which could adversely affect our future critical supply of electricity; and

Whereas, There is a great need to also increase total research and development funds to fully support other energy resource alternatives; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania

calls upon the President and the Congress of the United States to insure that adequate funding exists for the timely development and commercialization of these energy sources; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, his assistant for energy matters, the presiding officers of the Senate and House of Representatives of the Congress of the United States, each of the Senators and Congressmen from Pennsylvania and to the Administrator of the United States Energy Research and Development Administration for their review and comment.

**BLACK LUNG REDTAPE**

**HON. DOUGLAS APPELGATE**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. APPELGATE. Mr. Speaker, most everybody in today's society is faced with some degree of so-called redtape, most of which the average citizen can eventually overcome.

However, there are certain individuals who face insurmountable odds in dealing with certain Federal bureaucracies. A prime example of the seriousness of this situation lies in difficulties a person with black lung disease encounters in trying to receive black lung benefits.

Figures from Washington reflect the frustration in Appalachia. The Labor Department's Division of Coal Workers Compensation reports that of approximately 105,000 claims for black lung benefits filed since it began administering the program in 1973, more than 50,000 have been denied. Another 50,000 claims are backlogged. Only 4,000 miners or their survivors are receiving checks from the Federal Government, according to the Department of Labor.

Mr. Speaker, I would like to insert into today's Record, an article from the Associated Press Wire Service which appeared in the Steubenville, Ohio, Herald Star, on May 3, 1977. This article demonstrates the seriousness of the inequities of this bureaucratic blunder that Congress has created and points to the need for liberalization of the regulations regarding this tragedy. I offer this to my colleagues for their consideration:

**BLACK LUNG "REDTAPE" BREEDS MINER BITTERNESS**

PINEVILLE, KY.—Not many visitors make it down to Kettle Island "holler" in the Kentucky Cumberlands, so a few days passed before Otis Lowe could find someone to read him the letter he got from Washington, D.C.

The 75-year-old retired coal miner makes a kind of wheezing noise when he breathes, but that was the only other sound in his three-room shack in an abandoned mining camp as the message from the U.S. government was read aloud.

"Your entitlement to black lung benefits is denied," the letter said.

"I think there's a racket here," Lowe exclaimed. "The doctor, he showed me the X-ray picture of my lung on the wall. I saw big, black spots of rock dust. I ain't got no breath left from them 44 years I worked

in the coal mines. Don't that mean somethin' in Washington?"

"They got a law up there in Washington that's supposed to take care of us, but we still got thousands who can't draw the benefits," said Ernest Green. Green is vice president of the Harlan County Black Lung Association, a grassroots organization funded by contributions of small change from the coal fields.

"Take me, for example, I'm old, I'm about spent. I should have quit working" the face of the coal years ago, but I can't retire 'til I get those benefits. If the government would let me quit, my job could go to one of them young, able-bodied men they're keepin' up on welfare. It just doesn't make sense."

"The federal government's black lung program has turned into the most absurd, goldarn mess you've ever seen," said attorney Steve Cawood, whose law practice in this tiny Appalachian mountain town is composed mainly of cases related to the coal industry.

Cawood's criticism was echoed by Arnold Miller, president of the United Mine Workers, and acknowledged by Carter administration representatives at recent House Labor subcommittee hearings. Congress is considering a bill to revamp the program it created to compensate coal miners and their survivors for the effects of the chronic respiratory disease due to long exposure to coal dust.

"When a man walks into my office and says that he has just been removed from the mines because his black lung has gotten too bad," explained Cawood, "the first thing I do is tell him that he can forget all the material he's read in the UMW Journal or the newspapers about the Department of Labor black lung program. I tell him that he most probably won't even get a hearing for several years and that he can expect his claim to be denied."

Figures from Washington reflect the frustration in Appalachia. The Labor Department's Division of Coal Workers Compensation reports that, of about 105,000 claims for black lung benefits filed since it began administering the program in 1973, more than 50,000 have been denied. Another 50,000 claims are backlogged. Only 4,000 miners or their survivors are receiving checks from the federal government, according to the Labor Department.

Anybody would concede that the program has problems," said a Labor Department official charged with administering black lung claims. "Our own review shows that it routinely takes over two years for a claim to even make it through the initial determination process, an amount of time that is obviously unacceptable."

The taxpayers might have another gripe about the federal black lung program. Although fewer than one of the 20 claims are approved, the program costs more than \$1 billion a year.

Congress intended, in its Coal Mine Health and Safety Act of 1969, that responsibility for compensating black lung victims shift from the government to the coal industry. But the Labor Department says the operators have agreed to pay for only "a handful" of claims, forcing the government to foot most of the bill.

The National Coal Association concedes that the industry has settled only 138 black lung cases but explains: "We do not feel, in a number of instances, that the claimant was totally disabled." An industry spokesman added: "Often the only way we can get information from the government is by challenging the claim."

Some \$200 to \$300 a month are the benefits that Otis Lowe and Ernest Green are trying to get. The problem for them, and



for the thousands of miners who \* \* \* claims."

"We have been criticized for rereading X-ray film," acknowledged a Labor Department official in Washington. "We do this to maintain the uniformity and integrity of the program."

The measure to revise the black lung program that's shaping up in Congress after two years of hearings \* \* \*

# THE PRESIDENT'S ENERGY PLAN: SACRIFICE OR ELSE

**HON. LARRY McDONALD**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. McDONALD. Mr. Speaker, a surprising and revealing article by James R. Schlesinger, the President's Energy Adviser, appeared in the May 21, 1977, edition of the Atlanta Journal and Atlanta Constitution. Mr. Schlesinger is apparently trying to defend President Carter's plan to deal with energy shortages, but in so doing he makes clear that it is not designed to solve our energy problems but rather to increase Government power.

After falsely implying that energy shortages are due to finite fossil fuels, Mr. Schlesinger nevertheless admits that the free market would solve our energy problems in the most efficient way. But, he continues, we must also consider "social" and "political" interests and it is these that the President's plan is addressed to.

What are these social and political interests? Mr. Schlesinger mentions only one which, he claims, cannot be solved by the free market—"protecting the consumer" from higher prices. To accomplish this the administration plans to raise the price through taxes instead of allowing the price to rise through market forces. Schlesinger allows as to how the effect on the consumer is the same in either case, but under his plan the Government will rebate the taxes to the consumer instead of allowing this money to go to the oil companies.

Now if the actual intent of this proposal is to force the American people to use less energy, how will this be accomplished by raising the price and then returning the money? If in fact people are going to get their money back through rebates, they will pay the higher price. But since none of this money is going to oil companies, they will produce less energy and thus the price will rise even higher or the Government will have to resort to rationing.

Hence the President proposes to "protect the consumer" by prohibiting oil companies from providing him with abundant supplies of energy. In other words, the consumer is going to use less energy whether he likes it or not.

By making it clear that the administration's energy plan is not designed to solve energy shortages, but to grant the Government vast new authority to force the American people to sacrifice by using less energy, Mr. Schlesinger has performed a valuable service to the public;

although perhaps not the service he intended.

The article follows:

NATIONAL ENERGY PLAN IS EFFICIENT, BUT PRACTICAL IN REAL HUMAN TERMS, IT'S NOT  
(By James R. Schlesinger)

For the most part, the fundamental element in the energy crisis is geological reality. Reserves of fossil fuels are finite, and for the last several decades, the United States has based its economy primarily on the most finite of all—oil and natural gas.

We have relied on these resources for roughly 80 per cent of our energy when they constitute a mere 7 per cent of the energy resources available within the United States.

In the period between 1950 and 1970, falling real prices for energy caused an increase of 98 per cent in energy consumption—a virtual doubling of energy use in two decades. Once our ability to satisfy our own growing petroleum needs with domestic production peaked in 1970, oil imports, previously manageable in volume, began to climb inexorably.

Until 1973 imports—abundant and cheap—seemed the logical way to satisfy incessant increases in energy demand. No longer, however, are they cheap; last year they cost \$35 billion. And, though momentarily abundant, they are nonetheless finite and, in the final analysis, insecure.

So from a domestic viewpoint, the energy crisis is comprised of a disproportionate reliance upon our scarcest energy resources. The result has been a deepening dependence on imports to resolve the disparity between domestic production and demand.

The energy crisis also has an international dimension. World petroleum resources ultimately are as finite as those of the United States. In short, there is a limit to the productive capacity of global petroleum reserves. At some time or other, we will begin to approach those limits. The oil consuming countries of the world will then begin competing with each other for limited supplies of oil at ever increasing prices.

The consequences could be disastrous. From that competition for oil would emerge global turmoil; and from that chaos, world conflict.

The classical laissez-faire response to the energy situation I have briefly outlined would be to allow the market to set the prices of oil and natural gas. Thus, the true value of energy would become apparent to all. As a result, attitudes toward energy would change, and people would begin to use it efficiently, and with greater respect for its value.

As the price continued to rise, other forms of energy would become more competitive with oil and natural gas. In this way the marketplace would gradually phase out these fuels, replacing them with coal, nuclear power and ultimately with sources, such as solar energy, which are virtually inexhaustible.

True, Adam Smith's "invisible hand" would probably accomplish these economic goals rather efficiently. However, this classical economic process, ideal though it may be for allocating resources, is not the most effective arbiter of social and political interests.

These have to be recognized and dealt with by society acting through its representatives. And the administration, acting on behalf of the people, has sought to fashion a policy that will attain a number of economic, social and environmental—as well as energy—goals.

Those goals include:

Reducing our dependence on oil imports to a manageable level; increasing the amount of domestic oil and natural gas produced;

raising the production and use of coal; stimulating greater use of advanced technologies, such as solar energy; and—most important at this juncture—fostering more efficient use of available energy supplies.

All this could be accomplished by resorting to the strategem of the classical economist, and allowing the uncontrolled prices of oil and natural gas to reflect their replacement costs.

But the same thing can be accomplished in a fashion that protects consumers, and moderate and lower income Americans particularly. The price can be increased gradually through taxes as has been proposed by the administration.

The effect on consumers of energy would be the same as if prices had been decontrolled; the necessary stimulus to conserve energy would begin to enter into market choices between energy and other goods, such as insulation.

However, the revenues from those taxes, rather than flowing to the oil companies, can then be rebated to offset the adverse impact on consumers—particularly moderate to low income individuals. Withdrawal of the government from regulating the energy industry might produce salutary results, increasing energy production and stimulating conservation. But from the broader perspective of national policy, our goals for energy—though critically important—are only one element among many that have to be considered.

The administration seeks to make the nation's energy use more efficient by having the price of energy reflect its true value. But at the same time, we want to avoid the windfall that would sweep huge amounts of revenue out of the hands of the mass of Americans into those of the oil industry.

The proposed National Energy Plan accomplishes this and a number of other objectives without subjecting the economy to the shock of decontrol, and turning control of the U.S. oil market totally over to the Organization of Petroleum Exporting Countries.

In formulating the plan we have tried to limit the intrusions of the federal government into the economy. Rather than resorting to direct behavioral regulation, such as rationing, we have attempted to maintain the widest possible latitude for the exercise of free, individual choices in the way energy is used.

The administration's National Energy Plan accomplishes that goal of maximum freedom. But it also reconciles economic freedom with the nation's other responsibilities to its citizens.

## TELECOMMUNICATIONS REGULATORY POLICY

**HON. JOHN B. ANDERSON**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. ANDERSON of Illinois. Mr. Speaker, at the request of the Honorable David C. Shapiro, minority leader of the Senate of the State of Illinois, I am at this point inserting in the RECORD the text of Senate Resolution No. 95 which was unanimously adopted by the Senate on April 22, 1977:

SENATE RESOLUTION No. 95

Whereas, The Communications Act of 1934 called for the development of an efficient, high-quality, nationwide communications service available to all the people of the United States at reasonable costs; and

Whereas, The telephone industry over the years has carried out the mandate of Con-

gress expressed in the Communications Act to the extent that today 94 per centum of all American households have telephones; and Whereas, The 1968 President's Task Force of Telecommunications Policy concluded that the United States has the finest telephone service in the world; and

Whereas, The Federal Communications Commission, which was created by the Communications Act of 1934, has made several recent decisions authorizing new communications common carriers to construct facilities which duplicate facilities of the existing telephone companies and to engage in services which duplicate the services being furnished by existing telephone companies and permitting the connection of nontelephone company equipment to telephone company facilities; and

Whereas, These decisions may have a substantial economic impact on consumers of residential telephone services; and

Whereas, The question of whether these Federal Communications Commission decisions will lead to higher telephone rates for sixty-seven million households or alternately result in increased competition in the telecommunications industry to the betterment of the consuming public is a matter of national policy that should be decided by Congress; and

Whereas, The determination of such telecommunications regulatory policy may have to await a complete revision of the entire Communications Act of 1934, during which period the investments and activities of the newly authorized telecommunications common carriers and the manufacturers and distributors of nontelephone company equipment could become so extensive as to make an equitable decision difficult or impossible; therefore, be it

*Resolved*, by the Senate of the Eightieth General Assembly of the State of Illinois, (a) that the 95th Congress is asked to expeditiously determine the telecommunications regulatory policy of the Nation with the purpose of insuring that high-quality telecommunications services continue to be widely available to the American people at the lowest rates reasonably possible; and

(b) Until the 95th Congress shall have completed its study and made its determination of the appropriate national telecommunications regulatory policy or adjourned sine die, the Federal Communications Commission should declare a moratorium on any further implementation of its new policies in these areas; and be it further

*Resolved*, That the Secretary of State send a suitable copy of this Preamble and Resolution to the Members of the Illinois Congressional Delegation and the members of the Federal Communications Commission.

#### STUDDS EXPLAINS ABSENCE

#### HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. STUDDS. Mr. Speaker, on May 19, I was absent on a vote—rollcall No. 268—for the first time during the 95th Congress. When this vote occurred, I was at the White House along with several of my colleagues discussing a variety of important subjects with President Carter. Given the choice between the opportunity to talk to the President and the need to vote on a bill which was ultimately approved by a vote of 389 to 5—the Juvenile Justice and Delinquency

Prevention Amendments of 1977—I chose the former. Had I been present, I would have voted in favor of the bill.

#### RECOGNITION OF HARRY FIRESTONE—SUPERINTENDENT OF IDA SCHOOLS FOR 34½ YEARS; EDUCATOR FOR 45 YEARS

#### HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. PURSELL. Mr. Speaker, Harry Firestone has been associated with education for more than a half century as a student, teacher, and administrator. In June 1977, Harry Firestone will have completed 45 years as an educator. The story of Harry Firestone is representative of many persons in the educational field, with the exception of 34½ years as a superintendent in a single district, Ida. With the mobility of Americans and the frequent leadership changes at the top, it is rather unique to find a person in a public service job, with changing board of education membership, who has satisfied so many for so long.

Superintendent Firestone entered the teaching field 1 year after completing high school at Leland School in 1929, with a teaching certificate issued by the Leelanau County Normal School. His career started at Maple City in 1930, where he taught in a rural grade school until 1933. Then, to improve his skills and thereby contribute more to his chosen field, he entered Central Michigan College of Education in 1933. After 2 years of full-time study, Mr. Firestone combined work and study by teaching at the nearby town of Farwell. Upon completion of his baccalaureate work in 1937, Harry Firestone accepted a position at Middleville, teaching mathematics and coaching basketball until he moved to Monroe Lincoln Junior High School in March of 1942. The following March, Harry Firestone became superintendent of the Ida schools—with a student enrollment of 177, housed in a bell-towered 1906 building and a newly built, two-room elementary facility on the street across from the main facility. Former students fondly recall their encounters with the redheaded principal, disciplinarian, adviser, one whale-of-a-fine math teacher, friend, and superintendent all in one.

Today the system's total enrollment is 2,070: 762 in the elementary, 651 in the intermediate, and 657 in the high school. One of the biggest factors in the school's growth was the reorganization of school districts that took place during late 1945 and was completed in 1946. Harry considers this consolidation of schools an outstanding memory, as he made most of the contracts necessary in consolidating the 13 small districts—Ira, Federman, Knapp, King, Strasburg, Harwick, Morocco, Maplegrove, Heck, Richardson, Moyer, Dentel, and Lulu—

into the Ida Public School District. The consolidation brought back the name of Ida Public Schools, a name previously synonymous with the school, but dropped when agriculture was introduced into the curriculum and it became Ida Rural Agriculture School.

Certainly much of the growth of Ida is reflected in Harry's ability to project his honesty and to "tell it as it really was and what it meant in dollars and cents," which provided a long history of successful bond issue and millage votes. In fact, only once was a millage vote defeated in the Ida district, but it was approved on the next ballot cast.

From this long string of successes at the polls has come such progressive features as a new lighted football field in 1946, a new elementary school, agriculture building and shop in 1950, an addition to the elementary building in 1952, a new high school and gymnasium in 1954, and an addition to the elementary building in 1959. Special education for handicapped children with hearing difficulties was introduced and the addition of four rooms for this purpose added to the elementary building in 1961; another new high school building and gymnasium to seat 1,700 persons was constructed in 1964, with the previous high school building becoming the intermediate school. In 1975, additions to both the intermediate and high school buildings were completed, the need for which has come from the newest trend in the Ida district—urbanization from both Monroe, Mich., and Toledo, Ohio.

In 1944 there were eight teachers on Ida's staff, including Harry. Today there are 109 teachers and six administrators, plus 33 teacher's aides, seven school cooks, 14 custodians, and 23 bus drivers. In 1945, Ida purchased its first school bus. Today a fleet of 25 buses operate daily to supply the ever-increasing demands for student transportation.

Harry Firestone has had a very full personal life also. He married Josephine Burns of Middleville in 1939, and they have reared four children: Susan Josephine, now Mrs. William Burns of Torrence, Calif.; Sister Jane Firestone, RSM, now at Saginaw, Mich.; Mary Lynn, now Mrs. Sam Gianino of Ida, Mich.; and Frater Tom Firestone of the Redemptorist Fathers Order, now at Mount St. Alphonsus, Esopus, N.Y.

As Superintendent Firestone retires from educational leadership, he reflects that students have not changed a great deal, but we—the educators—require much more today, because of the many curriculum changes. In 1967, Central Michigan University named Harry Firestone, outstanding alumnus. The educational community has honored their superintendent as he completed 25 and 30 years. On June 12, 1977, the total Ida community and the county of Monroe will gather to thank Harry Firestone for his years of service and wish him well as he retires from his educational leadership role to one of citizen and community leader.



## CONTINUING CRISIS IN FOSTER CARE

## HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. MILLER of California. Mr. Speaker, yesterday I spoke of the great need for additional Federal financial support for preventive service programs, which could substantially reduce the need for costly, long-term foster care maintenance.

There exist today model programs which achieve stunning results at less expense than conventional foster care programs. The earliest of these is the comprehensive emergency services program in Nashville. The following article indicates how successful and cost-effective such a program can be with adequate fiscal support of the sort which would become available with the full funding of title IV-B, Child Welfare Services, as contained in H.R. 7200:

[From Child Welfare, November 1976]

## FINAL RESULTS OF THE NASHVILLE COMPREHENSIVE EMERGENCY SERVICES PROJECT

(By Marvin R. Burt)

A detailed description of the Nashville Comprehensive Emergency Services demonstration project and preliminary results of an evaluation of its first year of operation appeared previously in Child Welfare [1:167-179]. This paper summarizes the final results [2].

The new Comprehensive Emergency Services (CES) system was designed to meet the need for coordination and expansion of existing services for neglected, dependent and abused children. Four types of emergency services were established. One was a 24-hour emergency intake service operated 7 days a week. The second was an emergency caretaker service intended primarily for cases of temporary abandonment or unforeseen emergency where children were without parental supervision. Caretakers served as temporary guardians until the parents returned or until an alternative plan was developed. The third service made emergency homemakers available on a 24-hour basis during crisis situations where parents could not exercise their routine responsibilities. Finally, emergency foster homes were established to provide temporary care for children who could not be maintained in their homes or in regular foster care placement. In addition to these emergency services the Department of Public Welfare (DPW) also realigned and expanded outreach and followup services.

These services were complemented by the establishment of three programs independent of the DPW. One was an emergency family shelter, established by the Salvation Army, that could accommodate three four-member families on an emergency basis (normally less than 14 days). Richland Village, the local child shelter care facility, set aside space for 12 to 15 older abused and neglected children, thereby offering an emergency residential service for brief periods (up to 2 weeks) when other program options were unavailable. And the Metropolitan Nashville Juvenile Court's Protective Services Unit began to coordinate with the DPW on decisions involving removal of a child from his home. The court's intake division complemented that of the DPW by receiving and screening complaints on a 24-hour basis and by working closely with the Metropolitan Police Department.

## RESULTS OF THE PROJECT

A brief summary of the outcome statistics indicates the success of CES in meeting program objectives during a period when the number of child neglect and abuse complaints and referrals had increased 92%:

The number of Neglect and Dependency petitions filed was reduced from 602 in program year 1969-70 to 266 in program year 1973-74, a reduction of 56%.

The number of families that contain one or more children named on N&D petitions was reduced from 339 to 156 in these years, a decrease of 54%.

The number of cases screened where an N&D petition was not filed increased from 770 in program year 1969-70 to 2156 in program year 1973-74, an increase of 180%.

The number of children removed from their homes and placed in some type of substitute care decreased from 353 in program year 1969-70 to 174 in program year 1973-74, a decrease of 51%.

The number of children institutionalized was reduced from 324 to 50 in those years, a decrease of 85%.

The number of children under the age of 6 who were institutionalized was reduced from 180 to 0.

The number of recidivistic cases (i.e., the number of children on whom petitions are filed in given years who previously had petitions filed) was 196 in program year 1969-70 but only 23 in program year 1973-74, a decline of 88%.

The recidivism rate (i.e., the percentage of children on whom petitions are initially filed who are abused or neglected again by the end of the subsequent year) declined from 16% in program year 1969-70 to 9% in program year 1973-74.

The number of children who had delinquency records declined from 44 in program year 1969-70 to 0 in program year 1973-74.

The incremental difference in cost between the old system and the new system was a net savings of \$68,000, an efficient use of resources in view of the substantial increase in effectiveness; and a solution was achieved in which effectiveness was increased while costs decreased.

## FOLLOWUP WORK

Comprehensive Emergency Services staff, in their followup efforts, worked intensively with parents of children placed in longer-term foster care to reestablish families, or sought placement with relatives. This was done in conjunction with the regular DPW foster care staff. Further, the DPW increased its efforts to place children who were in foster care for adoption. As a result of these efforts, only 34% of these children remained in longer-term foster care 2 years after initial placement, compared with at least 94% under the old system. Several children were adopted, compared with none under the old system.

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## GUILTY UNTIL PROVEN INNOCENT

## HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. HANSEN. Mr. Speaker, small businessmen throughout America are deeply disturbed by the specter of OSHA which looms so ominously over their businesses with its threatening exercise of arbitrary and unconstitutional powers. They feel cornered by the economic coercion practiced by this Federal agency through excessive costs of compliance, expensive paperwork, and costly fines which can impose a great financial burden and even bankruptcy.

They are further chagrined by the galling fact that OSHA itself, by its obsessive preoccupation with trivia and scandalous lack of commonsense diverts their attention from constructive measures to achieve real occupational safety and health.

Yet even more, the aspect which perhaps engenders the greatest resentment among small businessmen is the implicit insult and derogation by OSHA that they are second-class citizens, undeserving of basic constitutional protections such as "due process" and "unreasonable searches and seizures." Even the criminal—the robber, the rapist, the murderer—is guaranteed more rights than they. Indeed, the exalted eyes of the law hold the criminal innocent until proven guilty and require a warrant before a search. Yet OSHA strips businessmen of these rights and turns the law on its head with warrantless searches and the premise that you are guilty until innocence is proven.

Mr. Speaker, in a reasoned and insightful article appearing in the May 7, 1977, issue of the Atlanta Journal & Constitution, these issues and more were addressed by its author, my good friend and colleague of the Presidential State of Georgia, the Honorable LARRY P. McDONALD. Impressed as I am by the wisdom and truth of his remarks, I wholeheartedly commend its reading to my colleagues and all interested Americans, and to this end I submit it herewith for the RECORD:

YES \* \* \* IT IS IMPOSSIBLE TO MEET THE STANDARDS

(By Representative Larry P. McDonald)

Let's consider two individuals and their relationship to government authority.

Man A enjoys a great deal of protection from the arbitrary use of government power. A government agent may not, for example, search and seize his property without showing "probable cause" that he has committed a crime and obtaining a search warrant from a judicial court.

If he is charged with a crime, he is assumed innocent and it is the government's responsibility to prove him guilty by means of a trial by jury. If he cannot afford a competent lawyer, the government will provide one at taxpayer expense.

If the law he is accused of violating is vague, so that he could not know in advance whether his actions were legal or illegal, his case will be thrown out of court. Only if his guilt is clearly established by this process of

jury trial may be fined or deprived of his liberty.

Man A is a common criminal operating in the United States—murderer, rapist, drug pusher, or whatever.

Man B enjoys almost no protection from the arbitrary use of government power. A government agent may enter his property without notice to search for violations of the law. The agent need not show "probable cause," nor must he have a search warrant. In fact, anyone giving advance notice of the agent's visit is guilty of a crime and may be imprisoned. The agent may cite Man B for a limitless number of violations of vague and undefined laws, fining him \$1,000 per violation or \$10,000 for any violation the agent says is "willful." In such a case, Man B is automatically guilty. No trial need be held to establish that fact—the government agent serves as policeman, judge and jury. Man B may contest the charges, but he must first do so in an executive tribunal under control of the same authority which sent the agent. Only after this may the question be appealed to a judicial court. But there is still no right to a jury trial and if he cannot afford a competent attorney, well that's just too bad.

Man B is an American businessman.

In 1970 those constitutional rights which still applied to businessmen were repealed by Congress when it passed the Occupational Safety and Health Act (OSHA). It placed virtually every businessman in the position of Man B, so long as the business was private. The law does not apply to government officials—federal, state or local.

OSHA's alleged purpose was to protect the health and safety of American workers, but this was merely a rationalization and a poor one at that. In fact, a worker's safety and health is far better protected under a free enterprise system, with its built-in economic incentives to provide safe working conditions. A skilled worker laid off due to injuries reduces productivity and places his employer at a competitive disadvantage, whereas a government-imposed system of inflexible safety standards stifles innovation and retards adoption of improved safety measures. Under OSHA an employer's incentive is to meet government standards, not to improve working conditions.

Statistics confirm this. Worker death rates fell from a high of 43 per 100,000 workers in 1943 to 18 per 100,000 in 1968, during a time of rapid industrialization. Yet in 1968 the safety record of American private industry was far better than that of England, which had a national government safety program. For example, the accident rate of American chemical companies was seven times better than that of similar British firms; in the steel industry, the rate was 10 times better. The consequences of this law are far-reaching and disastrous. For example, costs of complying with the rigid standards and mountains of paperwork required by OSHA were estimated at \$3.2 billion in 1973, and full compliance with the present OSHA noise standard alone would cost \$13.5 billion. These costs must be passed on to the customers—which means higher prices for everyone.

But by far the worst and most indefensible aspect of OSHA is the arbitrary and unconstitutional power that it places in the hands of unelected bureaucrats. The safety standards, written not by Congress but by the OSHA bureaucrats, are so detailed, voluminous and contradictory, that it is impossible for a businessman to be in full compliance no matter how hard he tries.

One firm, for example, was fined for having an EXTRA fire extinguisher not hung at precisely the right height. Other companies have had to replace guard rails that were 41 or 43 inches high—the required height being 42 inches.

Consequently, OSHA inspectors can always find violations if they want to. And, as Lord Acton observed, "Power corrupts and absolute power corrupts absolutely." The result has been malicious and unjust harassment of honest businessmen.

A Nebraska contractor, for example, had his fines raised from a few hundred dollars to \$35,422, after he complained to his senator about OSHA harassment. A court eventually reduced the fines to \$1,572, when OSHA was unable to justify its actions.

OSHA has worked its greatest hardship on small businessmen, who can least afford the extra costs, fines or attorney's fees. Many have been forced out of business, but many are standing up for their constitutional rights and fighting OSHA in court. And they are winning.

A three-judge federal court in Idaho recently ruled unanimously that the entire inspection procedure of OSHA is a violation of the 4th Amendment protection against unreasonable searches and seizures. The case has been appealed to the Supreme Court.

It is gratifying that Georgians have been active in this fight to restore constitutional rights. Lofton H. Smith of Duluth, Georgia, recently found himself in federal district court after he refused to permit an OSHA agent to inspect his business without a search warrant. OSHA asked the court for an order compelling Smith to admit its agent, but federal judge Richard Freeman agreed with Smith—no warrant, no admission.

How the Supreme Court decides these cases is extremely important. If the right to protection against arbitrary searches and seizures is not upheld, our Constitution will cease to serve as a check on government power. While this may apply only to businessmen at present, once the principle is broken it will be merely a matter of time before everyone's rights will be abused. While businessmen are not safe in their places of business today, no one will be safe in his home or anywhere tomorrow.

#### PASSING OF A CIVIC LEADER

### HON. RICHARD C. WHITE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. WHITE. Mr. Speaker, many residents in El Paso, including me, have been personally saddened upon the passing of Marian "Mrs. William C." Collins, one of our community's most selfless and effective civic servants. She was best known and loved for her complete dedication to the betterment of El Paso's schools which she served as a twice-elected board member. She did not just show up for periodic board meetings; rather, she spent nearly full time at her tasks, and most productively. Even though education was her first passion, she still found time to serve as an officer or board member, and work actively with such organizations as the junior league, the Members Guild of the El Paso Museum of Art, the El Paso Planned Parenthood Center, the guidance and rehabilitation center, and the Texas Social Welfare Association. El Paso joins in offering deep sympathy to Marian Collins' family, her husband, the outstanding practicing attorney William C. Collins, and their three daughters, Nancy Sue Collins, Cynthia Collins Hunt, and Marian Collins O'Hara, and we hope they

may find a certain solace in knowing that we will all miss her almost as much as they do.

#### CLEAN UP CLEAN AIR AMENDMENTS

### HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. HANSEN. Mr. Speaker, the Clean Air Act of 1970 mandated a 90 percent reduction in the following three automobile pollutants: Hydrocarbons, carbon monoxide, and oxides of nitrogen. This act required that this reduction be completed by 1976; but it also gave the EPA discretionary power to delay these standards for 1 year, which they did until the 1978 model year.

This has placed the Congress in its present situation of either having the statutory standards to go into effect or extending them in some way. The Interstate Commerce Committee adopted the emission schedule proposed by President Carter. This emission schedule is contained in H.R. 6161.

Congressmen JOHN DINGELL and JAMES BROXHILL have proposed an alternative emissions schedule which gives the House a choice in legislation that will be best for the Nation both environmentally and economically. There are no substantial differences between the two bills on the health protection they provide except for the carbon monoxide standard.

H.R. 6161 proposed to go to 3.4 grams per mile by 1981 and H.R. 4444 would go to 9 grams by 1980 and remain at that level. An EPA study released in April 1977, stated that the 9 grams standard is sufficient to meet the ambient air quality goals for carbon monoxide and that the reduction to the proposed 3.4 grams level would not result in any substantial improvement.

Offsetting this insignificant improvement the 3.4 grams level would increase sulfuric acid emissions, add one more catalyst behind the three way catalyst system—about \$120 more, and cause driveability so poor as to encourage owner tampering.

Other major problems which would accompany H.R. 6161 are the disruption of 1979 production and increased energy use. These could cause severe economic repercussions. The EPA technical analysis of April 1977, says that the administration schedule cannot be met in 1979 without a delay in production. DINGELL and BROXHILL say:

The stringency of the Administration proposal works against its own planned energy conservation objectives by wasting as much as 5 to 10% or more in lost fuel efficiency with no discernable public health benefits and at a high cost to the consumer in terms of increased prices for cars.

Energy conservation is definitely an environmental concern because wasting fuel, such as would result from the administration's position, would require an unnecessary drain on America's limited



resources since the search and drilling for more total energy output would necessarily increase. In a statement made by Ford Motor Co. they contended that if H.R. 6161 passed they would be forced to revert to an obsolete fuel system. This would decrease fuel efficiency by 12 percent until 1980 when replaced with a newer system, which would cause a substantial increase in consumer prices.

Another major economic consideration arising from the debate is the after-market parts, the length of warranties on emission control devices. Under current law, auto manufacturers have to guarantee the performance control devices for 5 years or 50,000 miles in recognition of the anticompetitive impacts this long warranty period could have on so called "aftermarket" parts. Manufacturers and independent service industries would be cut out of the repair market for the length of the warranty. In a Justice Department statement on the possible anticompetitive effects of Clean Act warranty provisions it was said that—

In addition to the direct costs to the consumer of such a performance guarantee, the social costs associated with the competitive disadvantage that potentially could be imposed on a sizable class of vehicle service businesses is a particular concern of the Department of Justice. This would come about if the warranty is honored only by manufacturer-affiliated dealers. Then, vehicle owners can be expected to take their vehicles exclusively to dealers for all emission related repairs and services. Independent garages and service stations that may be equally skilled in making such repairs would be placed at a disadvantage relative to dealers. Without a comprehensive warranty non-dealers would succeed or fail depending upon their ability to compete in the marketplace next to dealers; however, the presence of the warranty would make it next to impossible for nondealers to attract customers for emission related repairs, regardless of their price and their quality of work. If an environmentally effective production warranty must cover essentially all engine repairs and service, then the warranty would have severe implications for the long run viability of independent garages and service stations. Indeed, it could effect a significant increase in concentration in the service industry to the point where a substantial adverse impact on the price of service and repair could be expected. In any event, the impact on concentration would be directly related to the comprehensiveness of the warranty.

We must seriously weigh the side effects of the legislation that is before us. It appears that in view of the State of the Nation, economically and environmentally, the Dingell-Broyhill amendment is the most functional and acceptable alternative. As pointed out in a statement by Harold Pastuer of the United Auto Workers:

We believe that the Dingell-Broyhill legislation fully protects the public health and is totally consistent with the goals of the 1970 Clean Air Act. Moreover, H.R. 4444 is fully consistent with the important goals of energy conservation and automobile efficiency which were not as salient in 1970 as they are today. This legislation constitutes a responsible balance between inter-related and important national objectives and we urge that you give it your careful consideration, support, and cosponsorship.

The Carter Administration has proposed one set of auto emission standards for the coming years. Congressmen John Dingell and

Jim Broyhill have proposed a different set of standards. Congress will have to make a choice.

#### EFFECT ON PUBLIC HEALTH

Health impact studies of various possible emission schedules have been conducted by Federal agencies including the Environmental Protection Agency, Department of Transportation, and Federal Energy Administration. These studies indicate that improvement in air quality under the Carter Administration's schedule will be no greater than under the Dingell/Broyhill schedule.

#### EFFECT ON FUEL CONSUMPTION

The Carter Administration has already asked you to save gas. It is now going a step further on asking Congress for legislation to make sure you save gas.

The fact is, however, the Administration's emission schedule would actually waste gasoline. Compared to the Dingell/Broyhill schedule, the Administration's unnecessarily stringent proposal will result in a 15-Billion gallon fuel penalty between now and 1985. That's 140,000 barrels of wasted oil every day.

The extra price tag for American consumers—\$10 Billion.

The extra price tag for you—\$125.

#### EFFECT ON AUTOMOBILE COSTS

According to EPA testimony, the Carter Administration's emission schedule will force new car owners to spend dramatically more to buy and maintain their automobiles.

The extra price tag for American consumers—\$30 Billion.

The extra price tag for you—\$450.

#### SUMMARIZING

The proposed Dingell/Broyhill emission schedule will protect your health... save you gas... and save you money.

### SMALL BUSINESS AND OSHA

## HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. EDGAR. Mr. Speaker, yesterday I had the opportunity to testify before the Subcommittee on Energy, Environment, Safety, and Research of the Committee on Small Business regarding small business concerns with OSHA regulations. My colleague, ALVIN BALBUS, who chairs the subcommittee is to be congratulated for his willingness to explore ways in which the burden of complicated and expensive OSHA regulations can be lightened for our Nation's small businessmen.

I asked small businessmen in my district, the seventh in Pennsylvania, to share with me their experiences with and perceptions of OSHA. Many told me that their experiences with OSHA inspectors had been good—their inspectors had been polite and cooperative. However, there were just as many who told me of their negative experiences and complained of nitpicking and incompetency on the part of inspectors. This inconsistency indicated to me a confusion, even within OSHA, about their purposes and goals. I am hopeful that this confusion can be redirected into a more creative and cost-effective use of Federal Occupational Safety and Health dollars with the help of the new commonsense priorities announced by Secretary of Labor Marshall. I would like to share my testimony with my colleagues at this time.

#### TESTIMONY OF REPRESENTATIVE EDGAR

Mr. Chairman, I appreciate this opportunity to testify today on a subject which has been of great concern to many small businessmen in my district. The enactment of the Occupational Safety and Health Act in 1970 marked a milestone of Congressional concern for the protection of American workers in the workplace. However, the implementation of the Act embodied in the Occupational Safety and Health Administration has imposed a burden under which small business has chafed.

The need to lighten the load on small businessmen has become abundantly clear. I therefore welcome Secretary of Labor Marshall's announcement that OSHA will begin a drive to crack down on major occupational health and safety hazards, rather than trying to enforce the petty regulations which have received so much publicity. Despite the implementation of this Act, accidental deaths and injuries on-the-job have not significantly decreased. While this fact does not suggest a need to throw in the towel on OSHA, it indicates to me that an alternative thrust, such as the one heralded by Secretary Marshall, might be profitable. I believe that OSHA deserves more of a chance to prove its viability and to improve America's on-the-job safety record.

I seized this opportunity to testify with the idea of acting as a spokesman for small businessmen in my district, the Seventh in Pennsylvania, comprising most of Delaware County. My district ranges from very urban areas to almost rural ones and our small business community is an important source of jobs and prosperity. I got some interesting reactions from the small business community and I would like to share them with you today.

There was general agreement that many OSHA inspectors were more intent on enforcing the "nit-picking" regulations than in carrying out the spirit of the legislation. I found, for the most part, that small businessmen believe in OSHA's mission and are anxious to make their workplaces as hazard-free as OSHA is. After all, they point out, worker safety and health are in the best interests of employers.

From the reactions I received, it would seem to me that Congress and OSHA have been too intent on instant compliance with every regulation. In an effort to immediately improve occupational safety and health, the emphasis of the legislation and of the Occupational Safety and Health Administration has been on citing violations and imposing fines. This emphasis has demonstrated to businesses that OSHA is serious about the regulations, and Congress and the courts have generally backed OSHA up. This unyielding stance has fostered resentment on the part of business, especially small business.

I do not believe that it is too late to turn this resentment around. There are many good resources in OSHA which can be turned into a cooperative effort between government and business. One small businessman in my district said it very well: "OSHA has the opportunity to serve safety and industry. Not all small businessmen realize the total cost of accidents, particularly lost-time accidents. Small business cannot be expert in safety, therefore, if the inspectors were to pass on their experience on how other companies had developed simple procedures to eliminate or guard against hazards, everyone would benefit."

Not surprisingly, I also heard quite a few complaints. One story concerns a mechanical contractor who was performing the plumbing contract on a fourteen-story construction project. An electric cord, which was not properly grounded, was in use on one of the floors. There were at least ten contractors on the job and four of those were prime con-

tractors. According to OSHA, all contractors on this project were liable for this violation and all were given citations. Since the contractor in question had no control over the violation, their only recourse was to take their men off the job until the violation was corrected.

In another company, OSHA came in and conducted tests for airborne lead. None was found. Then an employee was ordered to sweep the floors and of course, any residue from production became air borne. In this case, the inspectors made specific recommendations which were instantly incorporated, yet the company was fined. This small businessman asks, "I can understand this (the fine) if the specific complaint is not rectified within a reasonable period of time, however, when compliance is immediate, why the fine?"

Another small businessman in my district has a more serious problem. They have been sued by OSHA for refusing to divulge the secret formulations of 7 of their 50-odd products. The company in question objected, because as a small firm, they cannot protect themselves with patents like larger companies. The president of the firm is understandably reluctant to reveal his secret formulations to a government agency knowing the track record of the government with secrets. The company therefore offered, as an alternative, to give OSHA a list of every chemical used in the manufacture of all their products. The case is presently being appealed. Apparently, there are some 2,000 other companies who have also refused to supply this information. Moreover, there is some question about the value of these formulations to OSHA, since there was no inquiry about the amount and duration of exposure of the employees to these chemicals.

Another complaint is the cost of compliance. One small business-owner wrote, "to be perfectly frank, to comply with OSHA regulations 100 percent would put me and every other small businessman I know, out of business." There are some questions which obviously should be asked before adopting regulations. Is it economically feasible for the small businessman to comply with the regulations? If the costs involved can be met, will the results be of value, or will they force people out of business?

I believe that the easiest way to bring OSHA in compliance with what it was envisioned to be, would be to improve the program of on-site consultation. OSHA has the experts and they should be sharing their expertise with small business. The Pennsylvania State Grange put it very succinctly to me when they wrote, "After all, the goal should be to help, not hamper."

#### PERSONAL ANNOUNCEMENT

**HON. JIM LLOYD**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. LLOYD of California. Mr. Speaker, I will be absent from the House on official business for the next 3 legislative days. I will be representing the Science and Technology and Armed Services Committee at the Paris Air Show. The trip also includes an examination of NATO facilities and fact finding meetings for upcoming close air support hearings.

#### KITES RETURN TO NEST BY OIL WELL EACH YEAR

**Hon. Theodore M. (Ted) Risenhoover**  
OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. RISENHOVER. Mr. Speaker, the search for oil is an unexact science with many risks involved, financially and ecologically.

Fortunately, our geologists, drillers, and investors have continued to locate enough petroleum reserves to serve our needs. On the other hand, we all are concerned about the impact that such activity may have on the environment and wildlife.

In her column in the Tulsa World, Fleeca C. Dunaway, describes some activities around a drilling rig which I include in the Record:

#### KITES RETURN TO NEST BY OIL WELL EACH YEAR

(By Fleeca C. Dunaway)

For six years Mississippi kites nested on the Cruzan farm north of Cushing. The first few years after they were sighted, the Cruzans believing the birds to be "chicken hawks," discouraged them from perching on an old dead tree near the barn.

Members of the local Audubon Society were invited to see the "hawks," and discovered these large gray birds, which had a pale head, dark back and wings, black tail and dusty legs, were the gentle inoffensive Mississippi kites.

"Never do they eat chickens and apparently never molest birds. They feed on the wing, snatching large insects off plants and cicadas in flight. Toads, mice and small lizards are also caught," the Cruzans were told. From that time on the kites were a welcome addition to the farm.

"Progress" caught up with the Cruzans. A drilling site for an oil well was chosen only 300 feet from the kites' nest which was built high in a large tree. The area was bulldozed; the trees and brush were uprooted and pushed to one side.

As soon as the oil producer, Jerry Rodgers, a nature lover himself, was told about the nesting kites, he directed the men and their equipment to avoid the kites' tree.

Roads were made, pits were dug and the derrick was set up.

The kites stayed on their small flattened, compact nest built of sticks and lined with green leaves. The two whitish eggs were incubated by both parents.

The drilling began; lights cut through the night like sharp rays from the sun. Noise increased and so did traffic of the work crews. The kites stayed close to their nest, either on the nest or perched in a nearby tree.

Rain poured from the sky and everything was soaked, including the kites. Cars and small trucks became stuck in the deep mud and were pulled out by roaming tractors almost under the nest.

In 31 to 32 days after the eggs were laid, they hatched. Two young were faithfully fed by both parents. The well was completed, and a pump installed. Pits were covered and the access road was graveled.

The young kites left the nest and about the middle of September with the adult birds started their migration toward South America.

"Would the kites return to the farm the following April after such a traumatic experience that spring and summer?" This was the question that was on everyone's mind.

The following spring all four of the kites did return and to everyone's surprise the adult birds repaired their old nest down by the pumping well and raised another brood.

That fall an electric pump replaced the noisy gas engine, and once again it was quiet in the woods. The well site was cleaned and equipment painted.

The kites showed up as usual in late April and found their tree cut down, accidentally by the electric company when new lines were strung. They were often sighted soaring around the old barn, but no nest could be found. When the leaves dropped from the trees in the fall, the nest was found only a fourth of a mile away in the top of a large elm.

This spring five kites were sighted perched on an old dead tree at the edge of the woods. In a few days their new nest was discovered less than a hundred feet from their old nesting site near the oil well.

Each spring the kites move a little closer to their original nesting site. Thanks to Rogers, the surroundings are compatible with the wildlife on the farm, and the anxiety of the Cruzans that the kites may be frightened away has ceased to exist.

#### A PRIMER ON ENERGY

**HON. LEE H. HAMILTON**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for May 25, 1977, into the CONGRESSIONAL RECORD:

#### A PRIMER ON ENERGY

Is the energy crisis real?

Yes. Although many people still refuse to believe it, all the experts agree that there is a serious and continuing energy problem. Demand for energy is increasing while the supplies of oil and natural gas are diminishing. Unless we plan now before oil and gas become very scarce, the American economy and our way of life will be gravely endangered.

How did the crisis come about?

Because energy was cheap, we have used it extravagantly and inefficiently. Last year we wasted as much energy as the poorest two-thirds of the world's people consumed. We use most the least plentiful domestic energy resource (oil) we use least the most abundant resource (coal). Oil and natural gas provide 75% of U.S. energy consumption, but constitute less than 8% of domestic reserves.

Are we running out of oil?

Yes. U.S. domestic oil production has been declining since 1970. The oil exporting countries will not be able to satisfy the expected increases in world demand for oil in the 1980's. Within four generations, most of the oil in the world will have been substantially consumed. Natural gas supplies are also limited.

What should be the objectives of our energy policy?

We want an adequate and secure supply of energy at reasonable prices. In the short run we want to reduce our dependence on foreign oil and our vulnerability to interruption of foreign oil supply. In the long term we want to have inexhaustible sources of energy. To achieve these objectives, we need to reduce the annual rate of growth of demand and pursue a vigorous research and development program.

How long with the crisis be with us?

It depends on how we respond to it. The world is in an early stage of a transition from



a period of abundant oil and gas to a period when these resources will be in short supply. There is hope that technological developments will provide long-term solutions to the energy problem, but, in the energy field, technologies develop slowly. Until such solutions are developed, the basic task is to adjust energy consumption to reduce pressures on domestic oil and gas resources and to reduce oil imports. Thereby the United States will be prepared for the transition to a different energy economy at the beginning of the next century.

Why don't we have a crash program to increase production?

Although increased production is desirable, a crash program could have serious adverse consequences. Oil would be drained rapidly from domestic supplies and the United States could become vulnerable. A crash program could also harm the environment and demand a disproportionate share of capital investment for all plant and equipment throughout the economy.

Why don't we just import more oil?

If the United States continues to increase its dependence on oil imports, its position as a world leader would be weakened and its flexibility and independence in foreign policy would be lost. Besides the oil import bill this year is \$40 billion and the United States trade deficit is slipping deeply into the red. Continued growth in imports would erode the nation's economy, promote dissension with our allies as we compete for scarce oil, and jeopardize America's world leadership.

Why is conservation the cornerstone of a national energy policy?

It is cheaper than the production of new supplies. It is the most effective way to protect the environment, and it can lead to quick results. Conservation may require sacrifice, but if instituted now, the sacrifices can be moderate in scope and impact.

What is being done to encourage the development of unconventional sources of energy?

Relatively clean and inexhaustible sources of energy—like solar, geothermal and fusion—are hopeful prospects. The U.S. cannot depend on technological miracles, but steady progress is likely, and breakthroughs are possible.

(This information was gleaned from many materials but principally from "The National Energy Plan," published by the Executive Office of the President.)

## HOSPITAL COST CONTAINMENT

**HON. ROBERT H. MOLLOHAN**

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. MOLLOHAN. Mr. Speaker, I would like to go on record as supporting wholeheartedly action to dampen the ever spiraling costs of health care for the people of the United States. No one abhors Federal regulation, bureaucratic paperwork or nonproductive overhead more than I, but if regulation is necessary to accomplish our objectives in this instance, then regulation is what we must have. I suggest, however, that we need assurances that whatever actions we may mandate through Federal law are truly cost effective.

Hearings have just been held on the Hospital Cost Containment Act of 1977, aimed at trimming "fat" from the budgets of hospitals which have, during the past quarter century, become "obese"—

to use the terminology coined by Secretary Califano. Much of the supportive testimony given before the joint meetings of the two subcommittees conducting these hearings has focused on governmental action—both direct regulation and oversight.

I wish to remind my colleagues that the only successful permanent treatment for the obesity problem must parallel the treatment of obesity in men. For example, an overweight man can be submitted to sauna treatment, forced to abstain from pasta, ice cream, and chocolates, and prodded to exercise—and a noticeable trimming effect will result. However, until the man decides for himself that certain restraints are necessary and commits himself to a new direction—no lasting change will occur.

I confidently believe that the medical services field is fertile for productive trimming—and I am speaking about the total costs of that service—the cost of the ingredients that go into the operation of a hospital as well as the charges the hospital levies on its patients.

Let us concern ourselves with salaries, for example. Not the salaries of the minimum wage earners in the custodial, personal services, and administrative categories, but the fees of professionals.

I urge the inclusion of a full disclosure provision in the bill to bring into public view not only current hospital charges for various services but also salary and fringe benefit information on the management hierarchy. I am advised that although administrative personnel, supervisory personnel, and physician-specialists comprise only 40 percent of the total work force at most hospitals in this country, their salaries comprise 60 percent of the payroll.

Clearly, little cost saving can be attained among clerical and maintenance personnel who, for the greatest part, are but a stride ahead of the minimum wage standard, but certainly, disclosure of top-level earnings, as well as conflicts of interest on boards of trustees, will serve as a disincentive for disproportionately high salaries in the administrative sector.

We need to provide incentives for institutions to consolidate specialist services and unique equipment resources, and we may need to provide disincentives for those institutions that fail to do so.

We need to encourage the wider use of physicians extenders and nursing services in lieu of treatment by a doctor. This will cut the costs of medical education by making better use of our doctors and employing those with competent but less expensive training to administer simple treatment.

We need to make research grants productive and meaningful.

We need to coordinate emergency medical services systems to provide adequate support to the injured or chronically ill but avoiding surplus facilities and unnecessary redundancy.

We need to assure that the various classes of services pay for themselves rather than piling the high cost of such special services as emergency room operation or intensive care on the routine bed patient's room charges.

We need adequate "limited care" fa-

cilities so those patients who need care but not the full scale of hospital services can be accommodated in less expensive facilities.

We need to implement a practical and stringent control on overbuilding, overequipping, and in a few rare cases, overstaffing of facilities.

And, we need to restrain the greed that has resulted in profiteering by a very few members of the medical profession itself. This small group has reflected discredit upon their profession.

We challenge hospital costs—but we must remember as we do that it is the doctor that orders the services. Basic economies—to assure that only necessary services are ordered—must start with the physician.

We need to impose some restraint on malpractice suits to make frivolous suits unprofitable, restrict contingency fee suits and place reasonable limits on settlements. This action will help eliminate the costly practice of "defensive medicine."

I regret that professional review has become necessary. We cannot depend solely upon the American Medical Association to guarantee the delivery of the best medical service possible at a cost that will make it available to all.

I regret that a few doctors have so ripped off both the private and the publicly supported patient that we now must challenge the motives of all doctors.

I regret that some professionals have so coveted the \$200,000- and \$300,000-a-year incomes that they have priced high quality service out of reach of many people.

My conclusion is, I believe, obvious. We cannot contain hospital costs unless we contain the costs of professional services.

Congress can legislate, regulate, and supervise as much as it wants to, but, unless hospitals, with help from physicians and other health professionals, make a firm commitment to halt or at least slow the inflationary 15 percent annual increase in the cost of care, we will never bring medical costs under control.

Incentive is the key to any program ultimately passed. I wholeheartedly endorse stringent containment of hospital costs, both to private patients and to publicly supported patients.

Throughout 3 days of hearings on the President's bill, alarming figures were cited by witnesses testifying on both sides of the issue. The crisis is monumental—therefore, quite obvious and very real. We all recognize it, and the malady has long gone untreated. Our major problem now is one of identifying the proper method of treatment.

We must recognize, most importantly, that not all hospitals in this country are obese and wasteful. Not all hospitals maintain incredibly exorbitant charges for their services. I am concerned that placing a uniform nine percent ceiling on all revenues of all hospitals will work gross injustices on "lean hospitals"—that is, those institutions which have postponed capital improvements, have absorbed increased work loads with little or no additional personnel, and have steered away from ballooning administrators'

salaries and hospital-based physicians' percentage agreements. Our plan must incorporate both: first, incentives for wasteful hospitals to follow the example of lean hospitals, and, second, penalties for failure to "shape up."

Since 90 percent of all hospital bills are paid for by medicare, medicaid, private insurance companies, and other third parties, citizens have learned to seek the full panoply of health care services. At the same time, institutions have been "spending more to get more" from the Federal Government.

Structural reform in reimbursements made by medicare and medicaid is not only necessary but is essential to any plan to curtail rising hospital costs. Stricter review of applications for Federal monies will go along way toward insuring that only justifiable services and expenditures are reimbursed.

I adamantly endorse the utilization of the "certificate of need" programs presently followed by most State planning agencies concerning capital expenditures for hospital expansion. We must be certain, however, that the plan implemented, in whatever form, does not have the effect of freezing progress in health care.

In the face of H.R. 6575, hospital associations have been crying that physicians generate the rising costs which plague Americans in need of health services. To be sure, much of the blame is rightly laid in that quarter. But, at the same time, hospital administrators, in many cases, have failed to exercise control over the hospital-based specialist who reaps bountiful remuneration from percentage agreements. This represents, I believe, an area which is particularly deserving of serious scrutiny and, possibly, harsh tightening of the reins.

I reiterate that although we must eliminate fat from hospital administration almost instantly, we must not lose sight of the fact that the long-range plan must be to alter the method of operation. In effect, through the implementation of Federal guidelines and the monitoring of those guidelines, Government must assure effective procedures for delivering care to our people. Permanent practices will give birth to permanent benefits.

I caution my colleagues against the promulgation of an overly burdensome regulatory scheme—lest we save on one hand and spend on the other—through the additional demand for administrative and clerical personnel.

Health care must be affordable. The time is well nigh for legislation to contain the cost of receiving that care.

#### THE RECURRENCE OF HARRY SHLAUDEMAN

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. HARRINGTON. Mr. Speaker, exactly 1 year ago today, I testified before the Senate Foreign Relations Com-

mittee in opposition to the nomination of Harry Shlaudeman to be Assistant Secretary of State for Inter-American Affairs. My position then was that the Ford administration was rewarding Mr. Shlaudeman for his deception of the Congress about the actions and purposes of the United States in Chile during the Allende years, when Mr. Shlaudeman was our deputy chief of mission in Santiago.

I warned that the confirmation of Mr. Shlaudeman would mean "a clear message will be sent to the executive branch that the Congress does not demand truth and candor from Executive officials, and that when evidence of deception is clear, the responsible officials will not be held to account."

My statement then quoted heavily from the Senate Select Committee on Intelligence report, "Covert Action in Chile, 1963-1973," to demonstrate that Mr. Shlaudeman's characterization of U.S. policy as "nonintervention in Chile's internal affairs" was patently false. The Senate report also indicated that Mr. Shlaudeman, as the No. 2 American official in Chile from June 1969 to June 1973, knew that his characterization was false.

Today, I find myself once again opposing the assignment of Harry Shlaudeman to an important diplomatic post, on precisely the same grounds. The Senate Foreign Relations Committee held a very brief hearing last week on his nomination to be Ambassador to Peru, and I once again submitted a statement in opposition.

Two fundamental changes have occurred since my testimony last year. First, a new administration has been elected which makes the "advancement of human rights a central part of our foreign policy." Implicit in this new approach is a rejection of the kind of covert action undertaken in Chile to subvert the democratic process and install a military regime. Second, President Carter has explicitly rejected the interpretation of events in Chile used by Mr. Shlaudeman and other apologists for U.S. involvement there during the Allende period. The administration no longer holds an official policy which conceives of the U.S. role in Chile as one of circumspect non-intervention.

It was particularly troubling to me, therefore, to learn that this new administration had nominated Mr. Shlaudeman to be Ambassador to Peru. I fail to understand how an administration so committed to rejecting the principles that Mr. Shlaudeman's career represents could make such an appointment. Surely the new Secretary of State could have found another position for this career diplomat more appropriate to his questionable background, though I hesitate—in the interests of civility—from making a specific suggestion.

Because I feel that the new administration has made so much progress to date in defining a new kind of foreign policy, devoid of the cold calculations of the Nixon-Ford-Kissinger era, this appointment troubles me all the more. As a result, I have felt a special compulsion to make my views known, and urge the

administration to demonstrate in more concrete fashion its commitment to a more moral foreign policy.

I insert my statement to the Senate Foreign Relations Committee, along with my testimony from last year, in the Record at this point.

STATEMENT BY THE HONORABLE MICHAEL J. HARRINGTON

Mr. Chairman, while I appreciate the opportunity to present this statement for the record on this nomination, I wish to first state my concern over the haste with which this matter has been handled. In light of the controversy that surrounded Mr. Shlaudeman's previous confirmation hearings, first to be Ambassador to Venezuela and later to be Assistant Secretary of State for Inter-American Affairs, one would have thought that the Committee might have provided a greater opportunity for public debate.

Far more serious, however, is this Committee's failure to weigh the record of Mr. Shlaudeman's performance against the standards of human rights and integrity in foreign policy endorsed by the Carter Administration. In his enunciation of U.S. human rights policy, Secretary of State Vance spoke of "the resolve of this Administration to make the advancement of human rights a central part of our foreign policy." This new focus and emphasis, constituting a basic reordering of our foreign policy priorities, suggests a marked and welcome divergence from an earlier conception of our "national security" which required the subordination of human rights to the maintenance of a "continuing relationship" with repressive governments.

Mr. Shlaudeman was both a proponent of that earlier policy and its executor during the past eight years of his professional career. Casting himself in the role of apologist for the Chilean junta before various committees of the Congress, Mr. Shlaudeman continued to defend the post-coup status quo, a state of affairs characterized by numerous neutral observers as one of widespread violation of basic human rights and of general repression. His unwillingness to speak out more forcefully against these practices—quite conversely, his comments on the progress the Chilean government was making in the area of human rights—suggests that Mr. Shlaudeman's perceptions of what constitutes a violation of human rights lack the degree of sensitivity necessary to effectively carry out both the letter and, more importantly, the spirit of President Carter's initiatives.

On the particular issue of Mr. Shlaudeman's role as Deputy Chief of Mission in Chile, my testimony to this Committee on May 25, 1976 documents his knowledge of covert operations there and his deception of committees in both the House and Senate. I include that statement as an appendix to today's testimony, and stand by the argument I made then. I wish to add, however, that President Carter has since rejected the interpretation of the events in Chile put forth by Mr. Shlaudeman. During his foreign policy debate with former President Ford in the recent campaign, Mr. Carter said, "this is a typical example (Chile) . . . where this Administration overthrew an elected government and helped to establish a military dictatorship."

Even in his explanation of this analysis in March, while citing the Church committee as failing to prove U.S. involvement in the actual overthrow of the Allende government, President Carter acknowledged that "we did have financial aid . . . to political elements in Chile that may have contributed to the change in government."

Diplomatic niceties aside, the sum of President Carter's comments and the Church committee report amount to a common recognition that the United States emphatically did not, as Mr. Shlaudeman testified in 1974,



adhere "to a policy of non-intervention in Chile's internal affairs during the Allende period." Nor can it be argued any longer, as Mr. Shlaudeman also did that "we had nothing to do with the political destabilization in Chile, the U.S. Government had nothing to do with it."

In sum, I contend that the rejection of Mr. Shlaudeman's nomination would make concrete the commitment to principles of human rights and political nonintervention which the new Administration has so strongly asserted. The integrity of the Congress would be vindicated by the rejection of a nominee who has engaged in the deception of its committees. I would prefer to see the Administration withdraw this nomination as a positive assertion of its dedication to the principles of honesty and morality in the conduct of foreign affairs. In the absence of such assertion, I call on the Senate to make clear to the Administration that a policy of human rights and nonintervention depends as much on its choice of ambassadors as its public statements to the world.

[From the CONGRESSIONAL RECORD, May 25, 1976]

#### TESTIMONY OF HON. MICHAEL J. HARRINGTON

The President's nomination of Ambassador Harry W. Shlaudeman as Assistant Secretary of State for Inter-American Affairs should be rejected by the Senate. There are two principle grounds for rejection: First, as Deputy Chief of Mission in the U.S. Embassy in Santiago, Chile from June, 1969 to June, 1973, Mr. Shlaudeman participated in the formulation of recommendations and the execution of instructions which resulted in the destruction of Chilean democracy. As a result of the reports of the Senate Select Committee on Intelligence, we know a great deal more about those activities and policies than we did in February, 1975 when Mr. Shlaudeman was confirmed as Ambassador to Venezuela.

Second, given what we know now about the actions, and the purposes of the actions, of the U.S. Government in Chile during Mr. Shlaudeman's tenure there, much of Mr. Shlaudeman's testimony before committees of the Congress was, at best, misleading about the actions and purposes of the U.S. Government in Chile in those years, and, at worst, simply untrue. For example, on June 12, 1974, Mr. Shlaudeman testified before a joint meeting of the House Foreign Affairs Committee's Subcommittees on International Political and Military Affairs and International Organizations that:

"... We had nothing to do with the political destabilization in Chile, the U.S. Government had nothing to do with it."<sup>1</sup>

The Senate Select Committee on Intelligence, in providing a full and authoritative account of U.S. covert intervention in Chile between 1963 and 1973, called that involvement "extensive and continuous." Between 1970 and 1973, the CIA spent \$8 million, and in 1972 alone spent over \$3 million.<sup>2</sup> In addition a policy of vigorous economic pressure against the Allende government was adopted by the highest levels of the U.S. Government and overtly carried out by the relevant agencies.<sup>3</sup>

There are three major questions relevant to Mr. Shlaudeman's nomination which are raised by the facts as they have been disclosed: First, what were the purposes and intentions of the actions and policies of the U.S. Government, both overt and covert, in Chile during Mr. Shlaudeman's tenure? second, to what extent did Mr. Shlaudeman know of the overt and covert actions and their purposes? and third, is it fair and proper to hold Mr. Shlaudeman accountable

for the policies he was instructed to execute, and the account of them to which he has testified before congressional committees?

#### I. U.S. INTENTIONS AND PURPOSES

In his June 12, 1974 appearance in the House, Mr. Shlaudeman testified that:

"Certainly there was never any intention on the part of the United States to produce political destabilization."

The following exchange then took place:

"Congressman HARRINGTON. Did we spend funds to your knowledge?"

"Mr. SHLAUDEMAN. For political destabilization, no, not to my knowledge. . . . My remarks on Chile and U.S. policy toward Chile should be understood in those terms, in light of the commitment strongly affirmed by the Secretary to the hemispheric principle of non-intervention."<sup>4</sup>

Mr. Shlaudeman took the same position in February, 1975 during his testimony before the Senate Foreign Relations Committee regarding his nomination to be Ambassador to Venezuela:

"I know nothing and I do not believe that there was any attempt to subvert or to overthrow the Chilean government, nor was there any involvement by the United States in a coup."<sup>5</sup>

The argument that Mr. Shlaudeman seems to be making is that the expenditure of funds did not constitute an effort at "destabilization" or to "subvert" or "undermine" the Chilean government. Indeed, he conceded before the Senate committee that he had knowledge of covert expenditures:

"What I have been saying is not that covert activities did not take place, but that they were not intended to, nor did they, in my view, result in the overthrow or the destabilization of the Allende regime."<sup>6</sup>

This testimony can only be squared with his answer to questioning quoted previously if the U.S. purpose was something other than the destabilization of the Allende government. Shlaudeman argues that the purpose was to strengthen democratic forces in Chile:

"... support was given to parties and to media which were under very great strain. I know nothing, and as I said just now, I do not believe that there was any attempt to undermine or subvert or overthrow the government of Allende."<sup>7</sup>

This final statement is simply not true. To know that covert support was being given to media and political parties entailed knowledge of the intentions and purposes of that support, which were to undermine the Allende government both by aiding its opponents and by promoting disorder to hasten the downfall of the government by one means or another. Shlaudeman's testimony about the purposes of U.S. activities in Chile is misleading and fallacious.

A brief review of the record demonstrates conclusively the objectives of the programs of which Shlaudeman concedes he has knowledge. Generally the Senate Select Committee found them to be:

"... to maximize pressures on the Allende government to prevent its consolidation and limit its ability to implement policies contrary to U.S. and hemispheric interests."<sup>8</sup>

(1) Media propaganda—Shlaudeman concedes he knew of support to friendly media, and according to the Senate report, this was the "most extensive covert action activity in Chile."<sup>9</sup> The report itemizes the propaganda campaign.

"The CIA spent \$1.5 million in support of *El Mercurio*, the country's largest newspaper and the most important channel for anti-Allende propaganda. According to CIA documents, these efforts played a significant role in setting the stage for the military coup of September 11, 1973." (Italics added.)

The major propaganda project funded several magazines with national circulations

and a large number of books and special studies.

Material was developed for the *El Mercurio* chain; for "opposition party newspapers, two weekly newspapers, all radio stations controlled by opposition parties," and several regular television shows on three channels.

During the period of September 15, 1970 to October 24, 1970 while Allende's election was in doubt, a massive propaganda campaign was launched including "support for an underground press, placement of individual news items through agents, financing a small newspaper, indirect support of *Patria y Libertad*, a group fervently opposed to Allende, and its radio programs, political advertisements, and political rallies."<sup>10</sup>

The propaganda campaign was the most important constituent of the CIA's efforts to convince the Chilean people, and even world opinion, that Allende was dangerous, a failure and should be replaced. Shlaudeman's claims that the media/propaganda program was not intended to undermine the government contradicts the CIA documents cited by the Senate Select Committee as attributing it a significant role in the ultimate coup.

(2) Support for political parties and groups—Again the Senate Select Committee's report on covert action in Chile itemizes support of parties and groups in Chile. These programs fall into three categories:

September and October of 1970: Money was given the "right-wing paramilitary group" *Patria y Libertad* "in an effort to create tension and a possible pretext for intervention by the Chilean military." This aid was continued indirectly throughout the Allende government. By July, 1973, this group announced it "would unleash a total armed offensive to overthrow the government."<sup>11</sup>

The Chile report found that "The issue of whether to support private groups was debated within the Embassy and the 40 Committee throughout 1972 and 1973."<sup>12</sup> In October of 1972 \$1.5 million was approved to support opposition groups. It is highly improbable that Mr. Shlaudeman, as DCM, was not privy to these discussions and the subsequent decision.

Following the 1973 municipal elections "there did appear to be a possibility that increasing unrest in the entire country might induce the military to re-enter the Allende government to restore order." Consequently "the 40 Committee approved a proposal granting \$1 million to opposition parties and private sector groups with the passage of the funds contingent on the clearance of the Ambassador, Nathaniel Davis, and the Department of State."<sup>13</sup> Although the coup occurred three weeks later and the funds were never passed, it is improbable that the DCM was unaware of the program.

It is important to understand that much of our support to violent and disruptive forces was given indirectly and under cover, precisely in order that diplomats such as Mr. Shlaudeman could make the sort of statements quoted above. The level of knowledge conceded by Mr. Shlaudeman requires him to have penetrated to the real purpose of the programs. In this connection, the Senate report concluded:

Given turbulent conditions in Chile, the interconnections among CIA-supported political parties, the various militant trade associations and paramilitary groups prone to terrorism and violent disruption were many. The CIA was aware that links between these groups and the political parties made clear distinctions difficult.<sup>14</sup>

#### II. EXTENT OF MR. SHLAUDEMAN'S KNOWLEDGE

As indicated above it is clear that Mr. Shlaudeman was aware of the major CIA covert action programs and must have therefore divined their purpose. This contradicts his testimony. For example:

"Despite pressures to the contrary, the U.S.

Footnotes at end of article.

Government adhered to a policy of non-intervention in Chile's internal affairs during the Allende period.<sup>16</sup>

"Senator SPARKMAN. In other words, you are telling us that you had no hand in the overthrow of Allende?"

"Mr. SHLAUDEMAN. That is exactly right, Mr. Chairman. To my knowledge, there was no U.S. involvement . . . I know nothing of any attempt to subvert anybody or overthrow Allende."<sup>17</sup>

At the same time Mr. Shlaudeman denies knowledge of anti-Allende activities and their purposes, there is evidence of his participation in policy-formulation to undermine the Chilean government;

"Senator BIDEN. Were you any part of making recommendations to the Administration that they (Chilean parties and media) were in danger?"

"Mr. SHLAUDEMAN. Obviously, I participated in formulating the reports in which these decisions were taken. I had nothing to do with the decision-making process."<sup>18</sup>

The record shows that the Embassy was often more eager to take action against Allende than was the State Department, and again it is implausible that the DCM was not involved, as he himself concedes he was.

In December, 1969, six months after Mr. Shlaudeman's arrival, the Embassy and the CIA Station in Santiago made a joint proposal for an anti-Allende campaign in the upcoming 1970 elections. The proposal was killed in Washington "because of the State Department's qualms about whether the United States should become involved at all."<sup>19</sup>

"On March 25, the 40 Committee approved a joint Embassy/CIA proposal recommending that 'spoiling' operations—propaganda and other activities—be undertaken by the CIA in an effort to prevent an election victory by Allende."<sup>20</sup>

On June 18, 1970, Ambassador Korry "submitted a two-phase proposal to the Department of State and the CIA for review. The first phase involved an increase in support for the anti-Allende campaign. The second was a \$500,000 contingency plan to influence the congressional vote in the event of a vote between the candidates finishing first and second."<sup>21</sup> Again it is unlikely that the DCM was unaware of his superior's plan to bribe the Chilean Congress.

In July, 1970 the CIA ended up helping ITT pass money to the National Party and to conservative candidate Jorge Alessandri. "The Station Chief informed the Ambassador that the CIA was advising ITT in financing the Alessandri campaign," but did not tell him about payments to the National Party.<sup>22</sup>

When attention turned toward bribing the Chilean Congress, "The funds were to be handled by Ambassador Korry and used if it appeared that they would be needed . . ."<sup>23</sup>

Between September 15 and October 24, 1970 the CIA promoted a coup by the Chilean military. Although the Ambassador and the State Department were explicitly cut out of this, Korry suspected that the CIA was "up to something behind my back" and directed Mr. Shlaudeman to investigate. "I questioned him and others closely and repeatedly as to whether they had discovered anything corroborative. No one could find any basis for suspicion."<sup>24</sup>

Korry was, however, "authorized to encourage a military coup, provided Frei concurred in that solution. At the 40 Committee meeting on September 14, 1970 he (Korry) and other 'appropriate members of the Embassy mission' were authorized to intensify their contacts with Chilean military officers to assess their willingness to support the 'Frei gambit'. The Ambassador was also authorized to make his contacts with the Chilean military aware that if Allende were seated, the military could expect no further military assistance from the United States.

Later Korry was authorized to inform the Chilean military that all MAP and military sales were being held in abeyance pending the outcome of the congressional election on October 24."<sup>25</sup> (Italics added)

### III. THE FAIRNESS OF HOLDING MR. SHLAUDEMAN TO ACCOUNT

As Deputy Chief of Mission, Mr. Shlaudeman was a senior member of the U.S. Embassy in Santiago. He tries to make a distinction between "formulating reports" on which decisions were based, and the "decision-making process" in Washington. With respect to those decisions, Mr. Shlaudeman has testified:

"Let me say that I certainly supported the decisions when they were taken, and I certainly thought at the time that there were good reasons for those decisions."<sup>26</sup>

"Senator BIDEN. In light of what you have learned since your post there, have you changed your view?"

"Mr. SHLAUDEMAN. No, I have not, Senator."<sup>27</sup>

Thus there is no desire on the part of Mr. Shlaudeman to disassociate himself from the course pursued by the decisionmakers in Washington in regard to Allende. His appointment is a reaffirmation at the highest level of our government that those policies are approved, unaltered, and that those who are identified with them, such as Mr. Shlaudeman, will be rewarded.

In other words, the authoritative and official disclosure of the destabilization program against Allende have not prevented the Administration from elevating one of the symbols of that program to responsibility for all of Latin America. It is clear that Mr. Shlaudeman was not a reluctant executor of the anti-Allende program. The evidence indicates the opposite, that he was part of an Embassy team that was pressing Washington for more activity than Washington was always prepared to endorse.

Finally, there is ample evidence here that Mr. Shlaudeman has not told the truth to congressional committees before which he has testified. He has conveyed the impression that the U.S. followed a policy of non-intervention in Chile when we were in fact, and to his knowledge, intervening deeply. He has then argued that we simply tried to help democratic forces withstand the pressure of Allende, when the facts demonstrate the opposite, that we actively promoted unrest and disorder to create tensions that would force Allende out.

If Mr. Shlaudeman did not understand these things that were going on all around him, then he should not be confirmed on grounds of incompetence. If he did understand them, then he has deceived the Congress. In either instance, his nomination should be rejected by the Senate.

### FOOTNOTES

<sup>1</sup> Hearings before the House Foreign Affairs Subcommittee on International Political and Military Affairs and International Organization, June 12, 1974.

<sup>2</sup> "Covert Action in Chile, 1963-1973", staff report of the Senate Select Committee on Intelligence, November, 1975, p. 1.

<sup>3</sup> Ibid., pp. 32-35.

<sup>4</sup> House Foreign Affairs hearings, June 12, 1974, p. 136.

<sup>5</sup> Hearings before the Senate Foreign Relations Committee, February 19, 1975, p. 71.

<sup>6</sup> Ibid., p. 75.

<sup>7</sup> Ibid., p. 73.

<sup>8</sup> Senate Chile Report, p. 27.

<sup>9</sup> Ibid., p. 7.

<sup>10</sup> Ibid., pp. 24-30.

<sup>11</sup> Ibid., p. 31.

<sup>12</sup> Ibid., p. 30.

<sup>13</sup> Ibid., p. 30.

<sup>14</sup> Ibid., p. 31.

<sup>15</sup> House Foreign Affairs hearings, June 12, 1974.

<sup>16</sup> Senate Foreign Relations hearings, February 19, 1975, p. 71.

<sup>17</sup> Ibid., p. 77.

<sup>18</sup> Senate Chile Report, p. 20.

<sup>19</sup> Ibid., p. 20.

<sup>20</sup> Ibid., pp. 20-21.

<sup>21</sup> Ibid., p. 21.

<sup>22</sup> Ibid., p. 24.

<sup>23</sup> Hearings on Chile, Senate Select Committee on Intelligence, December 4, 1975, p. 32.

<sup>24</sup> Senate Chile Report, p. 26.

<sup>25</sup> Senate Foreign Relations Committee hearings, February 19, 1975, p. 78.

<sup>26</sup> Ibid., p. 77.

## CARTER PROGRAM DISTORTS FULL ENERGY PICTURE, SUBSTITUTING POLITICS FOR FREE MARKET

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. McDONALD. Mr. Speaker, it is a rare day that the Atlanta Journal and Atlanta Constitution newspapers carry accurate and worthy news articles. Like many metropolitan newspapers, editorial views too often color the news articles; the editorial bias usually reflects attitudes counter to free enterprise economics, counter to limited governmental principles as in our initial Constitutional Republic, and counter to our Christian heritage. The editorial bias usually shows continued support for the forces of socialism, insolvency, and surrender. In most metropolitan newspapers, and most especially the Atlanta Newspapers Inc., support the forces which have led the charge in the four decades of America's retreat from greatness.

The excuse for these editorial views is that it helps sell newspapers. This is strange when the majority of Americans do not support the editorial trends in most metropolitan dailies. Perhaps the reasons for the editorial bias are not for such a simple reason as selling newspapers but rather a more sinister one.

With the above review in mind, Mr. Speaker, you can well imagine my pleasant surprise upon reading the presentation by R. H. Timberlake, Ph. D., on the subject of solving the energy crisis. This article appeared in the Atlanta Journal/Atlanta Constitution on May 21, 1977. This review of energy and economics is a masterpiece and should be read by every Member of Congress.

Not only is it a masterpiece on the technical details of the energy reserves status, it is an excellent review of basic economics. Midway through the presentation we read: "However, in the presence of inflation, an event wholly caused by government monetary-fiscal practices."

It is refreshing to read the truth on the subject of inflation when all of us have been forced to wallow in a sea of lies and nonsense for years.

Dr. Timberlake is a professor of economics at the University of Georgia, Athens, who teaches courses in money and banking principles, economic thought, monetary theory and policy,



and has written two books on money and banking.

The article follows:

CARTER PROGRAM DISTORTS FULL ENERGY  
PICTURE, SUBSTITUTING POLITICS FOR FREE  
MARKET

(By R. H. Timberlake)

The Carter administration's "energy program" opens yet another hole in the dike that restrains government intervention, and protects the constitutional rights of individuals.

Probably the most important element of this program is the administration's delusion of the public into believing total amounts of traditional energy sources—petroleum, natural gas, coal, and nuclear fuel—are nearing exhaustion, and an energy "crisis" is impending.

The facts of the matter are very different. Before discussing the facts, however, two concepts of energy "reserves" must be distinguished. One is proven reserves of a given energy source; the other is absolute reserves. Proven reserves are an economic phenomenon. They are the reserves that have been verified as commercially available within the time frame in which energy companies feel certain they can operate as cost-recovering enterprises. The proving of reserves is costly. It requires both real resources and an outlook of confidence and certainty toward the future operations of the enterprise. The energy industries, therefore, can only be interested in proving a limited amount of the earth's total energy capacities at any one time; and the more they are harassed by government regulations, restrictions and constraints, especially in the form of taxes and money price controls, the less interested they can be in proving future sources of commercially available reserves.

Absolute reserves are a geologic subject. They may be defined as the total amount of reserves in existence. Since no one has any good reason for proving absolute reserves, estimates for these values must be very problematic.

Another factor contributing to the uncertainty of their measure is current ignorance of what might be a recoverable energy process:

For example, geopressurized water. This water is at temperatures between 150 degrees and 180 degrees. It is trapped in deep sedimentary basins at high pressure. The pressure is created by methane, which is the main ingredient of natural gas. At least 375 years worth of natural gas at current consumption rates would seem to be certain of recovery from this source. (*Access to Energy*, May 1977.)

Other estimates for absolute reserves of conventional energy reserves are, for coal, about 3,000 years; for natural gas from ordinary sources, at least 1,000 years (*Wall Street Journal*, April 27, 1977); for petroleum, just from high-grade shale in the Green River area of Colorado, Utah and Wyoming, 2.6 trillion barrels, or enough for 300 years! (*D. T. Armentano, U.S. Energy Crisis: The Real Story*). This estimate does not include Alaskan oil, coastal oil from sedimentary rock basins along the Eastern and Western shores of the United States, or secondary and tertiary recoveries from "depleted" wells in the conventional oil-producing states. These sources would add at least another 100 years supply.

A final note on nuclear fuel reserves: At Oak Ridge, Tennessee, there are 200,000 tons of Uranium 238 stored and packaged in steel containers above ground. (*Access to Energy*, May 1977.) This material is what remains after Uranium 235 has been extracted. It can be bred into plutonium fuel by means of the liquid-metal fast breeder reactor that the Carter administration has arbitrarily declared "verboten" on the flimsiest of pretexts. If used as fuel, this packaged material

would supply the U.S. with energy at current rates of consumption for 100 years. And the remaining 3.5 million tons of as yet unmined uranium ore would supply U.S. needs for an additional 1,750 years, or until the year 3727!

These infinite quantities of energy sources only become "shortages" when government intervenes.

The "shortages" are shortages of proven reserves, not of absolute reserves. They appear most noticeably when government imposes money price controls on the purchase and sale of products. These policies have been especially destructive with respect to natural gas, where proven reserves between 1963 and 1972 declined from a 20-year supply to a 10-year supply. (See Robert B. Helms, *Natural Gas Regulation*, American Enterprise Institute.) Effects on U.S. production of petroleum have been similar if less dramatic.

When a ceiling is imposed on the money price of a product, it will, if effective, increase the flow of the commodity demanded and decrease the flow supplied. These results have largely been avoided by industries producing energy products, because energy companies have been able to produce higher quality products at lower prices over the decades when left unmolested by government butchers.

However, in the presence of inflation, an event wholly caused by government monetary-fiscal practices, the legally fixed money prices become lower real prices. Since 1967, for example, money prices generally have increased from 100 to 177. So if you paid \$.32 for a gallon of gas in 1967, you are paying the same real price today when the price is \$.57 a gallon. Thus, government price controls in the presence of government-induced inflation do not "stabilize" prices. They force real prices to go lower and lower. Since money costs in the affected industries are not controlled, and in fact have been significantly increased by government regulatory policies, real production both for the present and the future is actively discouraged. Each administration that comes to power in Washington takes its turn at making matters worse.

In truth, the problems of the economy are not economic but political. And the Carter energy program reflects this development. It is another example of government politicizing the economy. Consider the details. First, it calls for an additional excise tax on gasoline of 5 cents per gallon per year. This tax would increase the price of gasoline constantly over the foreseeable future. Yet, the restrictive price ceilings on gasoline and other petroleum products have been imposed allegedly to keep prices down. What kind of economic "philosophy" has the price being forced down and forced up at the same time? The tax would also return revenues to the government rather than to the beleaguered petroleum industry. The government would use these revenues to increase the bureaucracy and effect further counter-productive policies. The oil companies, on the other hand, who have been enjoined from absorbing any such "excessive" revenues, would use this money for exploration and development of more petroleum.

The second detail is the tax on "guzzling" cars. This imposition is the most insufferable kind of moralistic hypocrisy. It is outrageous chauvinism. Anyone who drives a larger-engined car has weighed the advantages and disadvantages to him and his family of using such a machine. He has considered the full consumption along with the greater safety, the greater durability, the greater comfort, the smoother ride, etc. All of these factors affect "efficiency." Efficiency is a subjective matter. It is not objectively determined by the President of the United States, nor by a board of ecologists, nor by a city council. It is a process of weighing up of competing benefits at the margin by in-

dividuals who have free market prices as guides for their decisions.

A much greater source of the "inefficiency" that Carter and his gauleiters could be concerned about is the use of elevators. Here is a machine weighing several thousand pounds frequently used to carry healthy people weighing only a few hundred pounds up (and even down!) a few floors. Virtually all passenger elevators that move less than five floors involve a complete waste of time and of electrical energy. In addition, they contribute to the debilitation of human physique. Yet the "concerned" politicians, ecologists, humanists and other Pharisees who drive their small-engined cars—which frequently have cost much more in total resources than the big-engined cars driven by "poor" people, never hesitate to step into an elevator and push the button that takes them from the third floor to the coffee lounge on the first floor. As if economy begins and ends with the cubic inch displacement of internal combustion engines!

Bushwah!

Another tax in the Carter program would be on domestic oil at the wellhead. Already, governmental policy has significantly discouraged domestic production by fixing the price of domestic "old" oil at only 50 percent of the price paid to foreigners on any oil. Now, the Carter plan would burden the oil industry with yet another tax, which would incidentally provoke a yet greater proportion of petroleum imports, and the proceeds of which would again go to government. The same argument applied to the tax on gasoline at the gas pump and to the tax on large-engined cars also applies here: The revenue would be used to enhance government bureaucracy, prices of petroleum products would be further discouraged.

Gasoline rationing authority, also asked for by the administration on a stand-by basis, would surely be forthcoming. Here is another example of counter-productive inefficiency that would further extend the role and scope of government bureaucracy.

In a free market, prices ration goods. Each person then can choose the mixture of goods and services that best fits his needs; and he is surely a better judge of these needs than an official Pooh-Bah in Washington.

Some people have argued that "poor" people—this ubiquitous category that has taken the place of widows and orphans in politician prose—could not "afford" higher prices on gasoline or other energy products. If they could not, why are three or four new taxes being proposed that would significantly raise prices, the alleged rebates notwithstanding. In any case, neither the petroleum industry, nor the medical industry, nor the automobile industry, nor any other industry can afford to act like a private charity without jeopardizing its existence. If people are "poor," then they can become "rich" by getting jobs and producing something other people want.

(Here, too, government policies in the form of minimum wages and welfare payments have made matters worse by discouraging employment and production, and by encouraging profligacy and idleness. Government policies in the form of income tax laws then discourage production further by legally stealing the fruits of people's efforts.)

In no case, however, can private industry be shouldered with welfare responsibilities that result from public policies. If people are truly poor and their poverty is made a public issue, it must be tackled as a general problem of low income, not as the inability to afford this or that particular good or service.

The Carter program is totalitarian. It obfuscates and distorts the real facts of energy logistics, energy prices, and energy profits. It is yet another attempt to substitute politics for the free market. It is grossly counterproductive. It is omnipotent busy-body government at its worst.

At the very least, the Congress should reject it and allow government to make its maximum contribution to production by getting out of the way. Laissez faire policy toward the U.S. energy industry has resulted in unequalled production and benefits at every level of society more than 100 years. Why abandon the principles upon which this splendid record was achieved?

## NEW YORK TIMES VISITS GUAM

### HON. ANTONIO BORJA WON PAT OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. WON PAT. Mr. Speaker, the May 22, 1977, New York Times newspaper carried an excellent article by Andrew H. Malcolm in their travel section which explores the many wonderful charms of Guam.

The article noted that Guam is a paradise for the travel-weary tourist with our wide beaches and warm sun. Guam also has the advantage of being a duty-free port. Our prices on all sorts of cameras, cut glass, jewels, and other items are lower than almost any other place in the Pacific. Americans returning home can bring from Guam twice the duty-free items into this country—\$200 per person as compared to \$100 from other areas.

Guam has been better known as a military bastion rather than a thriving civilian community. I hope this article will dispel some of the lingering myths about Guam and its image.

The people of Guam are known for their hospitality. We give tourists a warm American welcome that they will long remember and cherish. I include the text of the New York Times article to be inserted in the CONGRESSIONAL RECORD at this time for the enjoyment of my colleagues:

#### A NEW INVASION OF THE ISLAND OF GUAM— BY TOURISTS

(By Andrew H. Malcolm)

The full name of the travel agent has been lost in the misty pages of history, but the man who booked Ferdinand Magellan into Guam for four days and three nights—"Arrive March 6 by Ship, Depart Same, March 9, 1521"—knew exactly what he was doing.

He undoubtedly sold the island not as a destination in itself: It is, after all, many leagues from virtually everywhere that is inhabited. But Guam did make a convenient mid-Pacific stopover, a place to rest on the way to somewhere else, to stock up on inexpensive goods. Moreover, the water was clean, the natives festive and fresh fruit abounded.

A lot of visitors have come and gone since that Portuguese explorer checked out of Umatac Bay (item: a few hundred thousand exchanged unpleasantly here during World War II) and a lot of things have changed. On the beach where Magellan first set foot, for example, Loling's hamburger stand stays open later on Fridays now. But there is a kind of continuity to the history of this 216-square-mile United States territory 9,000 miles southwest of New York City.

The roads, generally paved are narrow, winding and largely unmarked, but there aren't that many of them. The beaches are quiet except for chubby children who build tiny sandforts where real machine guns once

chattered. The jungle is virtually unexplored now that the last—presumably—Japanese G.I. straggler has surrendered. The surrounding waters are alive with colors and creatures curious to see the two-legged denizens who wear masks. The hillsides are rolling and almost shockingly green, and the weather is monotonously magnificent. In fact, Guam may be the only place in the world where a mellow-voiced television newscaster could describe the day's 79-degree water, the 81-degree air and the 15 mile-an-hour trade winds and then say with a straight face, "Tomorrow's weather will improve."

Usually, however, the world hears of Guam, Micronesia's largest island—it is nine times the size of Manhattan—after storms of various kinds strike the place. Last year Super Typhoon Pamela blasted through, giving mid-May visitors two or three spectacular sentences for their postcards. In recent years the bombing of Vietnam made the phrase "Guam-based B-52's" an international cliché, and then there was the airlift of Indochinese refugees, who temporarily doubled the island's 100,000 population.

The Guam Visitors' Bureau (P.O. Box 3520, Agaña, Guam 96910) has labored to make news of the territory's non-disaster, non-military events and attractions. So far, it has been more successful in drawing the Japanese (Tokyo is only 1,500 miles north), whose group tour throngs of awkward newlywed couples can be seen dining, strolling or taking snapshots amid the palms.

Some 13,000 Japanese, Guam residents and American soldiers died in the war's end bombardment and invasion of Guam. Yet today the three groups mingle amiably. About 45,000 of Guam's 250,000 visitors this year will be Americans; some 175,000 Japanese. One visitor, Gary Green, of Lexington Park, Md., says of the island, "It's the same as Hawaii, only cheaper and not crowded."

The tourists ride by the overgrown caves, follow signs that say, "This way to Japanese bunker" and pose for photographs by once-deadly coastal-defense guns now aimlessly aimed at resort hotels across Tumon Bay. One rock-enshrouded machine-gun nest sits just outside the Hilton's Genji Japanese Restaurant. The bunker's walls carry such graffiti as "Yoshio + Kazuko 1976."

Local businessmen want more Americans to visit this American territory where the dollar is worth a dollar and postcard postage is domestic rate. "We're not trying to sell Guam as a destination in itself," says Martin Pray, head of the Visitors' Bureau. "After all, we're a long way away from other places, but Guam is a good English-speaking stopover in mid-Pacific. We've got good hotels, duty-free shopping, native foods and it's a good place for hamburger-hungry Americans fleeing Asia's crowded, dirty cities to rest up on the way home."

Pray emphasizes that a layover in Guam is free. Passengers, on Pan American's daily trans-Pacific flight, for example, can stop off there en route to or from Manila with no additional charges on the \$598 one-way economy fare from San Francisco. The one-way San Francisco-Guam economy fare is \$400, only \$125 more than the mainland to Hawaii trip, although Guam is a seven-hour flight beyond Walkiki. Because of the distance and the International Dateline, the westbound Pan American flight arrives in Guam at 3:05 A.M., a sleepy, street lit-time that to the annoyance of local businessmen, discourages disembarking. Eastbound, the Pan American flight from Manila or Hong Kong arrives at 10 P.M. The island is also served by Continental Air Micronesia, whose twin 727's atoll-hop from Honolulu to Saipan via Guam every other day. From Japan Pan American and Japan Air Lines provide daily service.

For hungry travelers, the island has its share—perhaps even more—of McDonalds,

Kentucky Fried Chicken and Pizza Hut establishments, enough to satisfy even a Portuguese sailor 110 days out of his last South American port. But a variety of local restaurants, especially those specializing in spicy Spanish-style fare, are just a taxi ride away from the hotels. In Micronesia where life is largely informal and jackets and ties look funny, visitors to Papagayo's may find diners erupting in song or, at King's intently watching a local magician make someone's plate disappear for a moment.

Seven major hotels provide a total of more than 2,000 rooms, reservations are essential. For crowds on Asian holidays, Americans seem to prefer the tall Hilton or the Continental's separate bungalows (run by the airline), if only for the ease of reserving through their local Hilton or Continental office. Rooms range from \$30 to \$45, depending on the view (but add 10 percent local tax for the real cost). Almost all the hotels line Tumon Bay, a reef-enclosed indentation that at some low tides seems to contain more snorkels than fish. One hotel sign warns: "Do not go over the reef. There are sharks and also a strong current. It is very dangerous."

However, farther out, and elsewhere along the 30-mile-long coast, experienced swimmers working from boats with seasoned guides can safely find colorful coral and legions of sea life to watch and catch year round. Billfish and tuna are best in late summer, local experts say, and mahi-mahi are most plentiful between November and June. A record blue marlin, weighing 1,153 pounds, was caught off Guam in 1969. It remains greet travelers in the airport's new customs area.

Snorkeling and fishing equipment rental, as well as information on charter boats and net fishing, are available at the island's three marine specialty shops: Marianas Divers, Cora Reef and Marine Center and International Divers ("Our business is going under"). Guam has two public golf courses and numerous tennis courts, including some at the Hilton. There is sailing at the Marianas-Yacht Club and two-hour horseback tours in the jungle through the MJ Academy, the island's best—and only—riding stable. For those inclined to wagering, there are dog races and cockfights, both of which are legal, although on Guam such contests would probably take place even if they weren't.

In the evening the hotels have disco lounges or Polynesian dinner shows. In downtown Agaña, the capital, and Tamuning, two towns separated only by a sign, an array of bars and massage parlors offer a different kind of menu. For Japanese visitors, one very popular tour-bus stop is the X-rated movie house where gaggles of foreigners giggle and gawk at the uncensored activity, forbidden on film in Japan, on the screen.

Although these two towns, both five-minute cab rides from most hotels, form the island's commercial center even containing branch offices of two New York City banks, Chase and City bank, their single strip of gas stations, clothing shops, drug stores and drive-ins offers little of interest that can be found in, say, Paramus, N.J.

However, Guam is a duty-free port which means substantial savings on items like jewelry, watches, perfumes, liquor and cigarettes. And for Americans there is a little-known bonus. Due to legal quirks, Americans returning to the mainland may take through customs there \$200 worth of goods purchased in Guam without paying duty—a doubling of the standard limit.

Given a bit more time, effort and money, there is another Guam to visit the non-neon island of sleepy villages, quiet roads and empty beaches dwarfed by towering green hills. A photographer's haven, this Guam offers glimpses of previous eras that have swept across Micronesia's 2,142 islands. Rental cars are available from Avis, Hertz and Na-



tional, but be sure to specify in advance a car with air-conditioning, which is not standard equipment on the island. Drivers should beware of the rains, which can come at a moment's notice and end just as quickly. As one airport sign puts it, "Attention Valued Customers: The roads on Guam are very slick when wet—just like grease."

Take the west coast road south past the invasion beaches at Asan. There, in the shadows of the cliffs where Japanese gunners poured down murderous fire, visitors can also see battered metal barracks that once housed Americans wounded in Vietnam and then plane-loads of frightened Indochinese refugees, who hung their laundry out to dry in the bright tropical moonlight. Many of the buildings are mere hulks now, torn open like sardine cans by the 200-mile-an-hour winds of last year's typhoon.

From a hill overlooking the Naval Air Station one can see the cracking cement of Orote Point, an abandoned Japanese Zero field where Comdr. Asachi Tamai led 3,100 screaming soldiers in a suicidal charge against advancing American marines on July 26, 1944. Thirty-one years later the same site was seen on the world's television sets as a sprawling tent city of 40,000 Indochinese.

Nearby in Apra Harbor is a major dock facility for the United States Pacific Fleet; watch especially for the long, back cigar-shaped vessels, missile-equipped nuclear submarines, emerging for crew changes after 60 days' patrolling under the ocean. On clear days binoculars may also pick up the ubiquitous Soviet ship that stands off the island carrying more antennas than seem necessary to catch fish.

From Agat Beach, another landing site, the road twists on into the hills for a tropical sunset panorama that rivals in colorful spectacle anything seen from Waikiki's crowded islands. Sprinkled along the road are Guam's 21 villages where fiestas are honored, chickens patrol the streets and church bells chime from white stucco steeples.

Each community has its own saint whose annual day provides yet another excuse for a food-laden fiesta. Other events requiring similar celebrations are American holidays, weddings, Guamanian holidays, births, religious holidays, trip departures, trip returns, historic holidays such as Magellan Day, high school graduations, college graduations and nice Saturday evenings.

One need not speak Chamorro, a kind of island Spanish, to enjoy such Guamanian dishes as red rice, finadene (a sauce hotter than August in Agat) barbecued chicken and pig or shrimp or chicken and shrimp kelaguen, which also contains lemons, onions, peppers and coconut meat.

Of course, Guam is not for everybody; some believe it has less than meets the eye. For instance, hardworking businessmen in a hurry may experience terminal frustration: It is speculated that "haf' adai," the local equivalent of "aloha," is not a friendly greeting at all but describes the amount of time devoted to work. The candles in the drawers of every Hilton room are not there for birthday celebrations: brief power failures are frequent. The telephone system rarely works. Some subscribers have been known to cheer when a call goes through; the glee subsides when it's the wrong number.

Little of this affects the relaxing vacationer, however, and it seems unlikely that Guam's critics have ever gone beyond the faint phony glitter to talk with, or rather be talked at, by Maka Kinata, who works at Loling's beachside stand in Umatac, where she expertly dispenses hamburgers and tourist information, both with relish.

"You see, Magellan was going around the world," says Miss Kinata, "sailing from South America to the Philippines, but he needed, like, supplies for his men, you know, so he

decided to discover Guam, although people had been living here for a long time before then. He landed right over there by the boat ramp. Well, anyway, so he took over, you see, for I think it was four days or so and he burned down some houses and killed some people 'cause he thought they stole his row-boat. But he left. They all do. And he went on somewhere outside and some guy killed him. You want another Coke?"

### STOPPING NUCLEAR PROLIFERATION

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. BINGHAM. Mr. Speaker, yesterday the House International Relations Committee took an important step in our continuing effort to control nuclear proliferation. By a unanimous voice vote, 24 committee members voted to support President Carter's proposed cuts in the budget for the Clinch River breeder reactor—CRBR. The committee action came on an amendment I offered to the ERDA fiscal year 1978 authorization bill, H.R. 6796, which we were considering under a sequential referral from the Science and Technology Committee.

The International Relations Committee reported out H.R. 6796 with the committee amendment which would terminate the Clinch River project by authorizing \$33 million for completion of the design studies, but no moneys for construction. There will still be \$337 million in the ERDA bill for continued research and development of alternative liquid metal fast breeder reactor program. The funding cuts supported yesterday by the International Relations Committee were strongly favored by the White House.

The primary reason for stopping the CRBR project is to send a strong signal overseas that the United States is serious about its desire to avoid moving to a "plutonium economy" in which plutonium-fueled reactors such as the CRBR would be used for power production. Already the U.S. deferral policy has brought encouraging results overseas: the West German Parliament has frozen funding of their breeder program, the Dutch government is evidently seriously reassessing its commitment to the breeder and the French are taking a long look at their entire nuclear energy production and export program.

It is also important to note that the cuts in the CRBR program will save the taxpayers nearly \$150 million without making any significant sacrifice in our energy program. For, as Dr. James Schlesinger noted in a recent letter to me, "The Clinch River program is of questionable value for research and development." The complete text of Dr. Schlesinger's letter follows my remarks.

Mr. Speaker, I am confident that the Congress is prepared to endorse strong legislative measures to combat the proliferation of nuclear weapons capability. I believe the Congress will reject any energy program which would make com-

merce in nuclear weapons grade materials—such as the plutonium fuel which would be used in a facility like the CRBR—an everyday occurrence. The unanimous vote in the International Relations Committee yesterday indicates the committee's strong desire to support the President's antiproliferation efforts. A contrary vote by the Congress—to go full speed ahead with the Clinch River breeder reactor—would cast doubt on the sincerity of the United States in this matter and would effectively derail the President's efforts to prevent the spread of nuclear weapons.

I am submitting herewith for the Record the text of Dr. Schlesinger's letter as well as two news articles from the New York Times and the Washington Star on the International Relations Committee action:

THE WHITE HOUSE,  
Washington, May 23, 1977.

HON. JONATHAN BINGHAM,  
House of Representatives,  
Washington, D.C.

DEAR MR. BINGHAM: When you called the other evening, you asked whether the President had wavered on his decision to defer indefinitely the commercialization of the Liquid Metal Fast Breeder Reactor (LMFBR) technology and to cancel the construction of the Clinch Breeder Reactor.

I have talked with the President and I can assure you that the President continues to hold to these positions. He believes the Clinch River Breeder Reactor is unnecessary for the maintenance of the U.S. nuclear research and development program. The Clinch River Breeder Reactor is a highly expensive program designed to give momentum to the commercialization of the LMFBR. This effort is superfluous at this time and the Clinch River program is of questionable value for research and development.

The President believes that continuing with the Clinch River Breeder Reactor program is unwise. He believes it is in the best interest of the United States and of the world to minimize the risk of nuclear weapons proliferation. He believes that now is the time to examine alternative approaches to the use of nuclear energy other than that represented by the Clinch River program.

The President has proposed to retain the base LMFBR program. This will fully fund the Fast Flux Test Facility (FFTF) and provide the necessary research and development support for the LMFBR, for alternative approaches to breeder reactors, and for other advanced nuclear technologies. The President believes that no commercialization should take place until we have the breeder technology or other advanced nuclear technology developed in such a way as to provide assurance of minimizing the risk of nuclear proliferation.

Sincerely,

JAMES R. SCHLESINGER.

[From the New York Times, May 24, 1977]  
CARTER'S OPPOSITION TO TENNESSEE BREEDER  
REACTOR

(By Edward Cowan)

WASHINGTON, May 23.—In a counterthrust at pro-nuclear forces in Congress, the White House reaffirmed today that President Carter opposed construction of the Clinch River breeder reactor at Oak Ridge, Tenn.

In a letter meant to rally support for the Administration on an expected vote tomorrow in the House International Relations Committee, James R. Schlesinger, the President's chief energy adviser, told Representative Jonathan B. Bingham, Democrat of the Bronx, that the Clinch River demonstration

project was "highly expensive" and "superfluous at this time."

As Mr. Carter did last month, Mr. Schlesinger linked cessation of the plutonium-breeding project with the Administration's efforts to prevent more countries from developing nuclear weapons systems based on plutonium. Mr. Carter has renounced such power for the United States, to the disapproval of some utilities and manufacturers of nuclear power reactors.

The breeder reactor is so called because it would take an initial charge of uranium and plutonium and, while producing electronic power, convert or "breed" more plutonium from the charge. Plutonium itself is a reactor fuel. The basic case for the breeder is that it would assertedly expand by 50 times the energy yield of uranium. Plutonium can be fashioned into nuclear weapons, although there has been debate about whether it can be rendered nonexplosive by mixing it with other materials.

Opponents of breeder reactors feel threatened because the House Science and Technology Committee has tentatively authorized \$150 million in breeder funding for next year. Mr. Carter requested \$33 million for winding up the Clinch River project. The House Appropriations Subcommittee has tentatively written \$33 million into the draft bill that would actually make the money available, but that figure could be raised if the higher authorization finally prevails.

The Natural Resources Defense Council has accused the White House of falling to lobby vigorously for the reduced funding and has maintained that some officials of the Energy Research and Development Administration have tried "to undercut" Mr. Carter. Breeder opponents contend that a vote for the \$33 million in the International Affairs Committee, combined with strong White House lobbying, would induce the Science Committee to go along with the lower figure.

The Natural Resources Defense Council, an environmental lobbying group, said in a memorandum that H. Hollister Cantus, the energy research agency's chief of Congressional relations, "has made several attempts in the House to undercut the White House position" on the breeder. In replying, Mr. Cantus expressed puzzlement and said that in the Science committee's debate on the authorization bill "we were dealing with every single member of the committee we could get our hands on."

[From the Washington Star, May 25, 1977]  
**PANEL OKS KEY SEGMENT OF CARTER  
 NUCLEAR POLICY**  
 (By John J. Fialka)

The House International Relations Committee has approved a key piece of President Carter's nuclear nonproliferation policy, voting to cut \$117 million out of the nation's breeder reactor program.

The cut, approved by a unanimous voice vote yesterday, sets the stage for a fight on the House floor on what appears to be the most controversial project in the nation's domestic nuclear power program, the prototype breeder reactor planned for a site on the Clinch River near Oak Ridge, Tenn.

The move, based on an amendment sponsored by Rep. Jonathan Bingham, D-N.Y., provides only \$33 million for the Clinch River project, enough to complete planning designs and terminate the project, according to Bingham.

The vote came after the two chief architects of Carter's nonproliferation policy, Robert W. Fri, acting administrator of the Energy Research and Development Administration, and Deputy Undersecretary of State Joseph Nye, testified that the United States must postpone the breeder's development. That, they said, would show other nations that the United States is serious about find-

ing ways to avoid widespread use of plutonium as nuclear reactor fuel.

Breeder reactors are designed to create more plutonium fuel than they consume. Widespread use of the technology, the Carter administration argues, would lead to serious world security risks because plutonium, while useful as a nuclear fuel, is also the principal material used for nuclear weapons.

Fri said the United States must defer work on the breeder in order to "buy time" and to explore other types of reactors to make sure the United States is adopting the safest technology, technology which may serve the nation's energy needs for hundreds of years.

Because Britain, France, Germany, Japan and the Soviet Union already are working on breeder programs, Nye was asked whether "the horse was already out of the barn," by one committee member who wondered what purpose halting the Clinch River project would serve.

"It matters how many horses are out of the barn," Nye explained, asserting that until the United States curbs its own plutonium usage it will not be able to convince other countries to do so.

Support for the President's policy on the breeder is by no means unanimous in the House, however. Last week another committee with jurisdiction over the ERDA budget, the House Committee on Science and Technology, voted to approve full funding for the Clinch River project, pending further hearings on the subject.

Once the House finishes the ERDA budget, the removal of funds for Clinch River will face further opposition in the Senate. Sen. Frank Church, D-Idaho, a senior member of the Foreign Relations Committee, has come out against Carter's policy.

#### HMO'S—BETTER HEALTH CARE AT LESS EXPENSE

**HON. DONALD M. FRASER**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. FRASER. Mr. Speaker, rising costs for employees' health insurance are prompting businesses to form or join health maintenance organizations as an alternative to conventional health insurance. Businesses are finding that their employees are getting better health care at less expense under prepaid group plans, both in terms of benefit costs and in sick time lost.

As one example, the National Association of Employers on Health Maintenance Organizations in Minneapolis, founded less than a year ago, has 117 member companies interested in creating or working with HMO's.

The Business Week article which follows takes note of a growing trend toward company health plans:

[From Business Week Magazine,  
 May 30, 1977]  
**CONTAINING THE COST OF EMPLOYEE  
 HEALTH PLANS**

Byrum E. Tudor, director of employee benefits for R. J. Reynolds Industries Inc. in Winston-Salem, N.C., used to worry a lot about the rising cost of the company's health insurance program—20% higher each year, with no end in sight. "We had no control over our health insurance system whatsoever," Tudor says.

Today Tudor feels a great deal better.

Reynolds has gone into the health care business on its own, competing successfully with its long-time health insurance contractor, Blue Cross. Some 10,000 employees and their family members have chosen the company's health care program over their former insurer and 13,000 are on a waiting list. Moreover, after less than a year, RJR reports that the program costs less per employee than Blue Cross premiums for comparable coverage.

The program that erased the furrows from Tudor's brow is the Winston-Salem Health Care Plan Inc., one of some 180 health maintenance organizations (HMO's) that provide 7 million subscribers with a comprehensive range of health services for flat monthly fees. Family members get treatment for everything from junior's sniffles to dad's coronary arrest in or out of a hospital. Their monthly fee covers all charges. Long theoretical alternative to conventional health insurance (and, in a few areas, a sturdily functioning one), HMOs have suddenly become the country's hottest concept in health care, thanks largely to business interest. And while RJR may be the only corporation to run an HMO exclusively for its employees, HMO's are being talked up in board rooms from coast to coast—most recently, and fervently, in Detroit, where Ford Motor Co. has backed a feasibility study by experts from the big brother of all HMOs, the 3.1-million-member nonprofit Kaiser Foundation Health Plan.

#### A LENGTHENING LIST

Companies that already offer the HMO option to their employees include the Big Three auto makers, American Telephone & Telegraph, General Mills, Dow Chemical, Bechtel, Alcoa, Sherwin-Williams, Sears Roebuck, Xerox, IBM, Sun Co., Bell & Howell, and a lengthening list of others. U. S. Steel, J. C. Penney, and American Can have joined the list just this year. PepsiCo plans to offer the option within the next few months.

Says Lawrence P. Carrington, manager of planning and development at AT&T: "HMO's are doing the job for us that we wanted done." AT&T began offering the HMO option back in 1972. The 8% of its 75,000 employees who chose it, says Carrington, "are probably getting better health care than the ones who didn't, at less expense to AT&T both in terms of benefit costs and in sick time lost."

Carrington's remarks are typical. Companies that offer HMO membership report almost universally that the system controls costs by drastically cutting the number and length of hospital stays; first, because its emphasis on preventive care produces fewer seriously sick patients and, second, because the flat-fee formula discourages doctors from hospitalizing patients unnecessarily or keeping them hospitalized longer than necessary. Some HMO groups log half the hospital days of comparable insured groups. Employers also like the fact that prepaid plans enable them to budget health care costs to the penny. And—the clincher for many companies—as the traditional health insurance providers raise their rates by as much as 50% a year, the cost advantages they formerly enjoyed over most HMOs are narrowing or disappearing.

#### FAVORABLE TREND

The situation varies plan by plan. Health Care Louisville Inc. in Kentucky charges \$72.90 a month for family coverage, higher than the Blues' rate of \$62.95, while the Rutgers Community Health Plan in New Brunswick, N.J., charges \$60.69, \$12 below the Blues' rate. But the long haul seems to favor the HMOs, whose costs are rising more slowly than those of the insurers. Kaiser's John J. Boardman Jr. believes that, on average, "the cost lines have crossed during the past two years." In northern California, Kaiser undercuts the Blues by 20% or more.



As the country's biggest and best-known HMO, Kaiser has received so many industry requests for advice that it recently created a management consultant firm, Kaiser-Permanente Advisory Services, with Boardman as director. Ford contracted with the group, says Jack K. Shelton, manager of Ford's employee insurance department, because company health care costs were doubling every five years, to the current annual total of \$460 million, and a national study had shown that HMO costs averaged significantly below those of conventional Blue Cross and Blue Shield plans. The 5% of Ford's own employees who belong to HMOs (including one in Detroit) cost the company less than those covered by the Blues, says Shelton. If Ford gets the go-ahead, he says, the auto maker will back the creation of a second Detroit-area HMO.

#### MANDATORY ALTERNATIVE

Within the next few years, the company that does not offer its employees the opportunity to join an HMO will probably be the exception rather than the rule. Under the "dual option" provision of the 1973 HMO law, every company with 25 or more employees must offer HMO membership as an alternative to its current employee health insurance plan if a federally qualified HMO exists in the vicinity. Congress set this requirement to help foster the growth of HMOs, protecting employers from being penalized for their foster-parent role by asking them to pay only the sum they normally paid for health insurance if the HMO membership fee ran higher. The employee himself would pay the difference.

But HMOs, potentially a \$5 billion industry, failed to grow beyond their established 5% of the market because the 1973 law contained a Catch-22 provision. It demanded that federally certified HMOs provide so many services—ophthalmology, mental health care, dentistry for children—that few HMOs could qualify. Any that tried would wind up being far too expensive to compete with conventional insurance.

Last June Congress amended the law, reducing HMO service qualifications to manageable proportions and easing enrollment requirements that might have stuck HMOs with an outsize load of elderly and infirm members. Companies did not even wait for President Ford to sign the bill last fall. The National Association of Employers on Health Maintenance Organizations (NAEHMO) held its founding meeting in Minneapolis in July, and the business campaign to promote HMOs was under way.

Today the Health, Education & Welfare Dept. has certified only 30 of the nation's 180 HMOs, but additional ones are seeking certification and employers, consumer groups, and even traditional health insurers are announcing plans for new groups. Less than a year after its formation, the NAEHMO has 117 member companies interested in creating or working with HMOs.

#### COST CONTAINMENT

The companies join, says Ruth H. Stack, executive director, both because of the dual option requirement and out of "a very real concern about health costs, period." Under conventional health insurance, NAEHMO member companies experienced an average annual 23% increase in their health care packages during the past two years.

Traditional insurers, who can spot a trend as well as anyone else, have also boarded the bandwagon. The Health Insurance Association of America reports that 22 insurance companies are involved in 50 HMOs in 25 states, and the Blues sponsor, administer, market, or have some other link with 107 HMOs. Insurers say they see no conflict between their promotion of traditional plans and their promotion of HMOs. In Rochester, N.Y., the Blues simultaneously underwrite

and manage two HMOs and sell standard health insurance. "We provide the community's mechanisms for paying for health care, leaving the choice to the public," says Donald Robertson, president of the Rochester Blue Shield.

Both HMOs are prospering with a combined membership of 110,000 in a field where 30,000 members are usually considered the breakeven point. A third Rochester HMO fell by the wayside.

This high breakeven point represents the HMOs' major obstacle and also explains their need for well-heeled sponsors. Without solid financial backing, the plans face the circular dilemma of attracting members fast enough to pay the high startup costs of acquiring the staff and equipment that will attract members. As a result, only a few HMOs have done more than squeak by. Some 90% of all HMO members belong to only 20 plans, and those 20 tend to have substantial patrons. Typically, the United Auto Workers founded Detroit's 78,000-member Metro Health Plan and ran it for five years before turning it over to the Blues. The Kaiser plan alone accounts for almost half of HMO membership, 2,617,000 in California and 483,000 in four other states.

The Kaiser Foundation, the HMO everyone knows, was founded in 1933 by industrialist Henry J. Kaiser, originally to provide his employees with medical facilities at construction sites that lacked them. The plans took their characteristic form, says Dr. Sidney Garfield, one of the planners, because the men working on their design rapidly discovered that "much of the high cost of medical care was due to waste resulting from poorly planned facilities, insufficient coordination between physicians and the institution in which they worked, and insufficient coordination between physician and physician. The simple solution was to bring physicians into coordinated group practice, operating a medical center geared to serve them efficiently."

#### SALARIED DOCTORS

Kaiser expanded during World War II, opened its rolls to outsiders in 1945, and the rest is history. The foundation adds several new centers each year, paid \$80.5 million for capital expenditures last year, and employs 3,137 salaried doctors—who, like most HMO doctors, earn somewhat less than many of their peers in private practice, but follow their calling undistracted by paper work and call their lives their own after office hours.

What is civilized living for doctors, however, is a marketing problem for most HMOs. Many potential members fear that they will encounter an unfamiliar doctor in an emergency. HMOs have tried to accommodate this reaction by introducing some flexibility into scheduling. They also stress that private-practice doctors, too, sometimes refer their patients to substitutes.

Realistically, however, the private-practice doctor loses money with every substitution and the HMO doctor usually does not. Against this must be balanced the fact that the private-practice doctor usually makes money with every visit and procedure, necessary or unnecessary, and the HMO doctor does not.

Since HMOs come in a variety of forms, some doctors have it both ways. As participants in foundation HMOs, doctors may serve some patients on a prepaid basis—usually drawing a lesser "fee" for each visit from the foundation and sharing whatever gains or losses remain at yearend with their colleagues—and treat other patients on a conventional fee-for-service basis.

The typical HMO, however, resembles any other suite of offices occupied by a large group of physicians practicing different specialties. Often it includes laboratories. Unlike the Kaiser plan, which runs its own hospitals, it refers members to hospitals and other

special facilities under contract to the HMO. Doctors have hospital staff privileges, just as they would in private practice.

#### A PLAN EVOLVES

RJR Industries, which certainly never expected to find itself running an HMO, embarked on the path to the Winston-Salem Health Care Plan five years ago when it decided to investigate the causes of rising health insurance costs. Its task force made one discovery after another. Because of the shortage of doctors in the area, some shortage of doctors in the area, some 45% of the company's 14,000 employees simply reported to hospital emergency rooms for medical care, says RJR's Tudor. "It cost something like \$45 for those people just to walk through the door," he adds. Moreover, some employees remained hospitalized for suspiciously long periods. Tudor recalls one seven-week stay for a condition that normally requires 10 days' hospitalization.

Turning to the search for solutions, officials visited some HMOs and, says Tudor, "after that, it wasn't a question of whether or not this was our alternative, but how to start one." The Winston-Salem Health Care Plan opened last summer with much hoopla and 6,000 members, all it could accommodate immediately of the 23,000 employees and dependents who asked to join. It is still interviewing doctors—1,000 have applied at "highly competitive salaries," says Tudor—and expects to have facilities for 19,000 members by yearend. The company counts on recouping its \$2 million in startup costs within two years. Meanwhile, Tudor says, "The facility is giving our people high-quality medical care for about half the price of Blue Cross." Equally important, he says, "The plan permits us some control over the quality of what we pay for."

In Minneapolis, officials of General Mills Inc. express similar enthusiasm. The company gave its employees the HMO option four years ago, has 57% of its work force signed up today, and reports happily that the employees who belong to HMOs average half the hospital days of the other employees.

#### OTHER APPROACHES

But not all company reports are upbeat. The three auto makers in Detroit note that the percentage of their workers enrolled in the Detroit Metro Health Plan has declined as workers moved to the suburbs. And in Akron, Goodyear Tire & Rubber Co. feels that active involvement in local health delivery systems may do more to keep down costs than sponsorship of HMOs in areas where health care capacity exceeds demand.

Not even Tudor believes that HMOs are likely to replace all the employer health insurance, which covers 140 million workers and their dependents. But most observers would agree with him that they will inevitably play a large role in companies' efforts to control employee health care costs because of their built-in bias toward economy.

"The biggest asset a hospital or doctor has is sick people," says Tudor. "The biggest asset an HMO has is healthy people. HMOs reap economic rewards for keeping people well. That's why they work for business."

#### IN RECOGNITION OF DICRAN B. BARIAN OF THE CONGRESSIONAL RESEARCH SERVICE

HON. CHARLES ROSE III

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 1977

Mr. ROSE. Mr. Speaker, I would like to call the attention of my colleagues to

the outstanding and dedicated service rendered to them by Dicran B. Barian, head of the legislative documentation section of the American Law Division of the Congressional Research Service, Library of Congress, upon his retirement from Government service on May 27, 1977.

Dic Barian, who had served as a Marine Corps and Navy Judge Advocate for many years, came to CRS in 1972 to head the bill digest, terminating programs, legislative history, and voting records units of the American Law Division. He has devoted countless hours to improving all these services rendered to Congress and has been instrumental in advancing the automation of legislative data available to the Congress through the Library.

It is with great pleasure I describe to the Members of the House the dedication shown by Dic Barian and extend our warmest wishes to him on his retirement.

#### SOMETHING WORTH READING

### HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. PICKLE. My colleague, MICHAEL HARRINGTON of Massachusetts, and I do not agree on many issues. However, we have agreed that the following piece by the distinguished economist Walt Rostow presents with great commonsense and sympathy a helpful framework for discussing solutions for our regional and national economic problems.

Representative HARRINGTON and I hope many of you will take the time to read Dr. Rostow's article, which, I should note, has been shortened from a longer address:

#### A NATIONAL POLICY TOWARDS REGIONAL CHANGE

(By Walt Rostow)

I

I shall try, first, to explain the origins of the present problems and prospects of the major regions.

The two phenomena to be explained are why the South and Southwest have been narrowing the historic gap in real income per head between the North and the South; and why the future prospects of the South and Southwest appear to be more promising than the prospects of the older industrial regions of the North.

The first phenomenon flows from the tendency of late-comers to modern economic growth to catch up with those who began earlier.

The two basic reasons for this pattern are, first, the late-comers to industrialization have a large backlog of modern technologies to absorb, whereas the more advanced nations must depend on the flow of new technologies, while carrying a heavier weight of old or obsolescent industrial plant; second, as countries (or regions) get richer, they allocate more of their income to services which, in general, do not incorporate technologies of high productivity to the same extent as manufactures.

Between 1840 and 1860, the real income of the South, relative to the rest of the country, declined, as the north as a whole experienced its first rapid phase of industrialization; in 1930 relative income per capita was only about half the national average. From the

mid-1930's, however, four decades of sustained relative progress occurred. The states of the Southwest followed a similar path; although their relative income position in 1930 was a bit higher than in other parts of the South.

This striking movement had these specific features:

A remarkable decline in agricultural employment accompanied by the technical modernization of agriculture, including a shift to the west and mechanization of cotton production, and accompanied by a large flow of black migrants to the North;

A more than doubling of manufacturing employment, with a marked relative shift towards the production of durable as opposed to non-durable goods (e.g., textiles);

A large shift of labor to construction as the region's population moved into the cities and suburbs (37% of the population in the South was urban in 1940, 65% in 1970);

A rapid expansion of public and private services, including education.

In broad terms, then, the structural differences between the South and the rest of the nation were rapidly reduced over the period 1940-1970. It could not longer be said in the old way and to the same extent: "It's different in the South."

Meanwhile, the North also moved ahead, but growth was slower.

There was some concern about specific problems. Nevertheless, the affluent northern regions, taken as a whole, moved ahead in reasonable comfort, expanding social services at a rate which could only be sustained if regular growth yielded regularly expanding tax revenue.

Then came the period since the end of 1972—the fifth time in the past two hundred years a rise in the prices of basic commodities relative to the prices of manufactures has occurred. On each of the other four occasions it has been accompanied by manifestations similar to those we have experienced over the past four years: an accelerated general inflation, an extremely high range of interest rates, pressure on the real wages of industrial labor, pressure on those with relatively fixed incomes, and shifts of income favorable to producers of food as well as energy. The other four occasions occurred in the 1790's, the early 1850's, the second half of the 1880's, and the late 1930's.

I am not wedded to the notion that these cycles will continue in the future. But I would guess that the inexorable pressure of excessive population increase in the developing world, the tendency of the poor to spend increases in income disproportionately on food, the rising demand for grain-expensive proteins among the rich, the raw material requirements of a world economy where industrialization is spreading in the southern continents, and the high marginal cost of expanding the non-OPEC energy supply will persist for some time.

Down to 1914 the classic response to an upswing in basic commodity prices was to open new agricultural and raw material producing areas: the American West, Canada, Australia, Argentina, and the Ukraine. The great movements of international capital during this era were, in substantial part, induced by the price system, combined with new technologies of transport and production, to bring new supplies into the market and to restore balance in the world economy. In, say 1936-51, the diffusion of new agricultural technologies, rather than the opening of new physical frontiers, reestablished a tolerable balance in food production without much conscious government intervention; although the exploitation of Middle East oil after 1945 ranks, in the field of energy, with the opening up of the American West in agriculture a century earlier.

But in the 1970's and beyond we confront a setting quite different from that of the past. We cannot realistically rely to the same

extent on the automatic workings of the price system and private capital markets to restore and maintain balance. All over the world, in one way or another, policy toward resources is in the hands of governments or is strongly influenced by governments. At every stage in the effort to restore balance, therefore, public policy will be involved. This time we shall have to think and consciously act our way through.

1972-3 also converted a relatively benign pattern of regional development into something of a national problem. This was the case because the relative rise in food and energy prices accelerated the development of a good many Sunbelt states which exported energy and agricultural resources to the rest of the country; while the relative price shift decelerated the already slower rate of expansion in the northeast and north central industrial states.

Thus, the shift in relative prices since the end of 1972 did not create the problems of the Northeast and North Central states; but it converted a slow-moving but livable erosion of their relative position into something of a northern crisis.

These changes are underlined by looking beyond the Sunbelt. Between 1970 and 1975 both the agricultural states of the West North Central area and the coal-rich Mountain states also enjoyed a rise in relative prices, a favorable relative shift in income, and lower than average unemployment. The Mountain states, in fact, experienced the highest rate of population increase (16.3%) of any of the nation's regions over those five years.

II

Now, what about remedies?

As this situation became apparent, the initial reaction in the North was, in crude terms: the rise of the Sunbelt was a product of disproportionate outlays of the federal government financed by northern taxes; now is the time for the South to contribute disproportionately to the rehabilitation of the North. The evidence suggests a less straightforward picture of the past and less simple remedies for the future.

For example, when federal tax contributions are calculated as a proportion of income per capita in the states (rather than on a per capita basis) the relative contribution of the still higher income northern states to federal revenues is much reduced. And when the flow of federal grants is systematically correlated with various indicators of economic development in the states, no significant association emerges. The Northeast appears to have been drawing more from Washington than the South in defense contracts, welfare programs, and, marginally, retirement programs. The more rapidly urbanizing South acquired somewhat more for highways and sewers, a great deal more in defense salaries due to the location of military bases. The midwestern states, both industrial and agricultural, fared worse than the South in all categories except highways and sewers; but the West (a high income area) far outstripped all other regions in defense contracts and salaries, highways and sewers.

The analysis and debate about federal tax flows and expenditures can be expected to remain a lively part of the national political scene. My own view is that the major regional changes in the country have been determined by deep and understandable historical forces. They have been only marginally shaped by the balance of federal tax and expenditure flows. I believe the future of federal policy and outlays in the regions should be determined by the requirements of the several regions, seen in terms of their structural problems and the larger interests of the nation as a whole.

When, for example, the Northeast Governors Conference met in November 1976 they did, indeed, point to the apparent regional



imbalance between tax revenues and federal expenditures. But they went beyond to propose measures which would enlarge investment in energy production and conservation; to rehabilitate the region's transport system; and to expand and modernize industrial capacity in areas of particularly severe unemployment. They proposed manpower training and public works programs, exhibiting considerable sensitivity to assure the latter were undertaken in sectors where investment would prove productive over the long run; e.g., transport rehabilitation, solid waste disposal plants. The Conference also considered the complex problem of welfare reform on a national basis, but with an understandable emphasis on the extent to which slow growth, the long prior period of south to north migration, and higher than average unemployment since 1973 have converged to make the welfare problems of the Northeast particularly acute.

The institutions and policies, regional and national, do not yet exist to translate these directions of thought into lines of action; but the fundamental issues and remedies being explored are significant and hopeful.

Over the past year similar analyses have been emerging in the North Central states; for example, the studies of the Academy for Contemporary Problems in Columbus, Ohio. Its policy agenda includes special measures to expand local coal production and to reduce energy consumption; a modernization of the transport system; special incentives to stimulate high growth manufacturing and export industries as well as to rehabilitate aging or obsolete plants. As in the Northeast, there is a call for redirected federal tax revenues, a national welfare plan, and intensified regional cooperation between the public and private sectors to stimulate investment in the directions necessary for further development.

The South and Southwest confront what may appear in the North an easier future; but analysis and policy are also increasingly addressed to their serious structural problems. The excellent report of the Task Force on Southern Rural Development, for example, measures the scale and character of poverty in the South relative to the rest of the country. Evidently, a massive problem of poverty still exists in the rural South roughly matching in scale the more visible urban poverty of the North, but constituting a higher proportion of the total southern population. The recommendations of the Task Force, notably with respect to retraining and bringing the poor effectively into the working force, are similar to the manpower proposals of the Northeast Governors Conference.

Analysts are beginning to perceive a set of investment and policy tasks quite as challenging, in their way, as those in the North and Northeast. For example, the whole irrigated area of the High Plains, from Northwest Texas to Nebraska, is endangered by the decline of the underground water basin which supplies it. The region produces a significant part of the American agricultural surplus. Large investments in surface water conservation and transfer will be required to preserve it.

The challenge to the Sunbelt is, of course, to complete its transition to industrial modernization; to develop its resources in energy and agriculture in both its own interest and that of the nation; to deal with its social problems, under conditions of rapid population increase; and to do all these things while avoiding to the degree possible the environmental degradation which marked the urbanization of the North.

The problem of the North is to regather momentum by bringing to bear its enormous potentials in technology, finance, and entrepreneurship; to exploit its energy resources

in the new price environment; to rehabilitate its transport system in cost-effective ways; and to modernize the industrial sectors which hold greatest promise for the future. This will require a new regional sense of purpose as well as intimate public-private collaboration.

But the central point I would make is this: once the debate shifts from the allocation of federal revenues to the deeper structural problems of the several regions, the possibilities for national policies which would mitigate the tensions between the regions enlarge. I believe an appropriate reallocation of federal revenues would flow naturally from an approach to regional problems in these basic terms.

This brief survey of regional change and the directions of regional thought about future development is, of course, too simple. But six large general conclusions stand out.

First, a return to sustained full employment and high growth rates on a national basis would greatly ease the special problems of the northern states. Further, sustained full employment is to be achieved not by unbalancing the federal budget a little more, not by easing monetary policy a bit, but by expanded investment in energy and other resource development and conservation fields combined with outlays to re-accelerate the growth of productivity.

Second, economic as well as social and human considerations require serious and sustained efforts to bring into the working force the large number of Americans now trapped in urban and rural poverty in both regions. The nation's special investment requirements over, say, the next ten years in agriculture, energy, raw materials, the environment, the rehabilitation of obsolescent industrial and transport facilities, research and development, manpower retraining will require us to use our manpower resources to the hilt.

Third, the case for a national energy policy which would both enlarge our resources in all the regions and economize their use is greatly heightened as one observes the differential regional impact of the energy crisis. Here, we face the most potentially divisive issue in the nation. I cannot convey to you with sufficient force the depth of the feeling in the southern energy exporting states about some of the attitudes of the North. At one and the same time, the North appears to be demanding both low energy prices and refusing to develop its own energy resources on environmental grounds. This is seen in the South as a straightforward colonial policy of exploitation underlined by the fact that natural gas is much more expensive in producing states than for interstate commerce. Some of the Western states already have a severance tax on coal production. The only answer is to have the nation as a whole face up to the fact that energy is and will be expensive; that conservation and economy are required of us all; and that the energy potentials of the country as a whole—not merely the South and the West—must be promptly and fully exploited under environmental rules of the game that are firmly settled.

Fourth, we require a national welfare policy which would render more uniform the criteria for public assistance; and, once again, such a system will be viable and sustainable only in an environment of full employment and rapid growth.

Fifth, within the states and regions new forms of public-private collaboration will be necessary as well as the national level. We have no other course than to learn how to make the public and private sectors work together.

Finally, it seems clear to me, at least, that these problems cannot be dealt with if the states and regions look merely to Washington for salvation. The basic analyses, in-

vestment plans, public-private consortia must be developed within the states and regions. State and local governments may have to alter their taxation systems. The revitalization of the North is a development task; and the firmest lesson of development economics is that it must be rooted in self-help. There is scope for federal assistance in the form of tax incentives, investment capital, manpower retraining programs, and the direction of public service job programs towards areas judged of high priority within states and regions. It is likely that a national development bank will be required like the old Reconstruction Finance Corporation. Its authority should extend not only to the fields of energy and energy conservation but also to the financing of water development, transport rehabilitation, and other projects judged of high priority national interest.

In addition, it would be wise, in the phase ahead, for both state and federal governments to organize their budgets in ways which would separate out authentic investment outlays from conventional expenditures and transfer payments.

There is a warning to be made about any proposal for an increased government role in the investment process: high standards of priority and productivity must be preserved. The experience of Great Britain and other countries with nationalized industries and with government loans to private industry suggests that there is an inherent danger of confusing criteria of productivity and simple job maintenance or creation. The latter can lead to increasing public subsidy and the drawing off of scarce investment resources to low productivity tasks. But if I am right, the United States and the other industrialized nations have ample opportunities to generate full employment through high-priority and essential investment tasks.

#### IV

Now a final question. Do the Northeast and industrial Middle West have a future? There are those who have concluded that the North, after a century and a half of leadership, should gracefully decline and surrender economic leadership to the South and Southwest.

But, as the case of Britain illustrates, economic decline is not a graceful process. It is painful, socially contentious, and potentially quite ugly in the political moods and problems it generates. Moreover, I believe it is unnecessary. The lesson of economic development in many parts of the world is that it hinges mainly on the human resources available, mobilized around the right tasks.

The problems of the North will not be resolved, then, by incantation or by somewhat enlarged flows of federal funds. But structural transformations are clearly possible if there is a common will to accomplish them, a sense of direction, and a general environment of rapid economic growth. Only those who live in the North can generate the common will and sense of direction. What the North—and all of us—have the right to demand of Washington are policies which would get the nation as a whole back to full employment and rapid growth.

**NEW SUPPORT FOR LAETRILE:  
WHY THE OUTLAW CANCER DRUG  
IS FINALLY CATCHING ON**

**HON. LARRY McDONALD**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 1977

Mr. McDONALD. Mr. Speaker, many of my colleagues in the Congress have

asked me questions on the subject of laetrile. Needless to say, there is much confusion in the general public on the truth of this issue. This has been due to the mass of misleading articles promoted in the media by the Food and Drug Administration—FDA, and by orthodox medical circles, including the American Medical Association—AMA, American Cancer Society, and others. Unfortunately, so much of the mass media "information" has been confusing, conflicting, and in many cases outright dishonest.

Fortunately, there has been a recent article that is, in my opinion, the most objective review of the subject of laetrile ever to appear in a large circulation magazine—almost 300,000. This article, written by David Rorvik, appeared in the April 25, 1977, issue of *New West* magazine.

David Rorvik, the former *Time* magazine science and medical reporter and author of several books on scientific and medical problems, approached the laetrile question as a skeptic. After a painstaking, year long investigation, carried out under an Alicia Patterson Foundation fellowship, he emerged, to his own surprise, convinced that the substance has not only been unfairly maligned by the medical establishment, but that it offers, in his words, "considerable promise as a cancer control."

Some aspects of the article are at odds with my own experience, but these areas are on the issue of personalities, et cetera, rather than the history and value of laetrile. For example, I personally have found Dr. Krebs to be more personable than the article suggests. Dr. Krebs is well versed on a wide range of subjects and speaks from knowledge rather than unsupportable bias.

Near the end of his article, Mr. Rorvik implies that the John Birch Society takes a position in favor of laetrile. This is misleading, for the society takes no position on the value of aspirin, vitamin C, penicillin, or laetrile; this organization rightly and constitutionally feels that those are decisions best made by the individual and his physician. Government should not be involved. The John Birch Society does support the concept of individual freedom of choice in the matter of laetrile, a nontoxic food. For the same reason the John Birch Society opposes OSHA in its construction manufacturing and EPA in its action upon farmers, et cetera.

Mr. Speaker, I make these observations as a Member of Congress, a physician, a member of the National Council of the John Birch Society, and as one who has prescribed amygdalin/laetrile.

The article by Mr. Rorvik follows:

NEW SUPPORT FOR LAETRILE: WHY THE OUTLAW CANCER DRUG IS FINALLY CATCHING ON

(By David Rorvik)

(*lā-e-tril*) n. [*laevo-mendelonitrile-beta-glucuronoside*] 1. — quackery—Helene Brown, former chairman of the board of the American Cancer Society in California. 2. the stuff against which "we're going to protect them (Californians) even if some of them don't want to be protected"—Grant Leake, Food and Drug Coordinator, California Department of Health.

A few weeks ago when the California

Senate Health and Welfare Committee conducted hearings on the merits of a bill that would legalize Laetrile—perhaps the most controversial anti-cancer substance of all time—the big guns from the State Health Department, the American Cancer Society, the FDA and established medicine showed up to oppose it. They protested, they proclaimed, they even shouted. Helene Brown, former chairman of the board of the American Cancer Society, California Division, became so emotional at one point that she had to be gavelled to silence. When it was all over, the senators voted 7-0 to approve the legislation. Afterward, one senator said he was swayed "more by the asininity of the opposition than by the eloquence of the Laetrile supporters."

After twenty years of guerilla warfare, the heretofore unbreakable barriers against Laetrile thrown up by the cancer establishment have begun to topple. The government suffered a major setback when the 10th U.S. Circuit Court of Appeals in Denver ruled recently that the Food and Drug Administration (FDA) has never produced data sufficient to characterize Laetrile as a "dangerous substance" or a "new drug." The Appeals Court thus upheld a federal judge who had authorized terminal cancer patients to import and use Laetrile without harassment. Elsewhere a number of state legislatures are moving to legalize Laetrile for use against cancer—something Alaska did last year. In Indiana, the Lower House recently voted 80-10 to legalize the substance. A short time later Arizona's House of Representatives voted unanimously for legal Laetrile. And Nevada will probably be the first state to fully legalize it. At last count 23 other states appear favorably disposed toward the substance.

Meanwhile, at least some of the medical powers that be are softening their stands on Laetrile. C. Chester Stock, vice-president and associate director of Sloan-Kettering Institute for Cancer Research, flagship of orthodoxy's cancer armada, has just told the FDA that he did not object to clinical trials of Laetrile—or to administering the substance to terminal patients. The American Medical Association recently dispatched the feature editor of its *AMA News* to Tijuana and San Francisco to confer with the Laetrile generals, which is something like Nixon sending Kissinger to confer with Ho Chi Minh.

How could a rag-tag band of apricot peddlers get the best of the country's rock-ribbed medical establishment? The answer is that the established medical system itself contributed heavily to its own defeat. To get an idea of how this happened, let's go back to a day in 1976, a particularly bad day for the California forces that oppose Laetrile, the controversial anti-cancer substance commonly extracted from apricot kernels. Here they'd gone to all this trouble to get Stewart Jones, MD, of Palo Alto arrested on charges of prescribing Laetrile for the "alleviation, treatment and cure of cancer," a felony, and now undercover agent Natasha Benton was in the process of blowing their case all to hell. In short, Benton was saying some very damaging things in front of a judge, who was holding a preliminary hearing in the case.

Benton testified that she had been sent to Dr. Jones's office to get information that would help the district attorney win a conviction against him. The hope was that Dr. Jones would specifically prescribe Laetrile for use against cancer. But then Benton, who testified against the overruled objections of Santa Clara County deputy district attorney Michael F. Popolizio, went on to say that she lied in the report that resulted in Dr. Jones' arrest.

"Before any report was written," she told the judge, "Mr. [James] Eddington [a supervising inspector with the Department of

Health's fraud unit, which is spending 70 percent of its time and money fighting Laetrile] left instructions for me on what to write. . . . I wrote as close to what he said as I could, according to my conscience. But I still didn't feel that I told the truth in that report. Later, on June 1, I was shown a quite lengthy report . . . and I read a small portion of it. That isn't the report I wrote. Outside of this courtroom he [Eddington] admitted that isn't the report I wrote. He said my report was—quote—so —, that that's why he changed it—close quote."

Later Benton testified: "I was specifically asked to put that Dr. Jones said it [Laetrile] was a cancer cure." In fact, she continued, he said "he could not say Laetrile is a cancer cure."

In cross-examination, Popolizio apparently sought to get Benton to admit that some of her testimony was the result of pressure exerted by unnamed individuals. She shot back: "The pressure was that you told me that if I didn't help you get a conviction you would press perjury charges."

Asked about Benton's statements, Eddington says he asked her to list "certain relevant facts" in her report. If undercover agents "are intelligent enough without a Mary, Jane and Dick book, fine," he adds. "If not, we have to help them along." He says he "helped" only in improving Benton's grammar. "For some reason," he says, "she decided we were the bad guys, and they were the good guys."

This year the court threw out two of the three charges against Dr. Jones; the third may also be junked.

At one point during the trial, Eddington said of the undercover agent who decided to defend the doctor as a matter of conscience: "She was considered to be a reliable undercover agent. So what happened is beyond me."

But it isn't beyond me. After a year on the Laetrile trail find myself identifying with Benton. I started out thinking that Laetrile was about as useful against cancer as shoe polish; I ended up convinced that the stuff, while not the "magic bullet," is more effective than most of the American Cancer Society's "proven" cures, with which, incidentally, nearly 400,000 American cancer patients continue to die each year.

I've checked out Laetrile all across the country and, in fact, around the world, but I keep coming to California, front line in the medical establishment's war on the "quacks." "Those guys in the California Department of Health. . . . I was saying one day, and the former governor, Edmund G. Brown Sr., with whom was conversing, finished for me: 'Yeah, they're the worst.'"

But the resistance is to be expected, I guess, in part because Laetrile started here. As the story goes, Laetrile was born in a barrel of whisky in San Francisco in the 1920s. An enterprising MD came up with a concoction to improve the flavor of the stuff and, serendipitously, noticed there was something in his brew that could dissolve protein. He decided that it might work against cancer, too. But it wasn't until the 1950s that the doctor's son, a scientist named Ernst Krebs (German for "cancer") Jr. claimed to have isolated the active ingredient in apricot kernels and named it Laetrile, a shortened version of the chemical names of the compound.

Krebs is no quack, but neither is he a lovable human being. He has an assortment of social views which are, to most people, about as palatable as a platter of live eels. And his doctorates are honorary. But he did study medicine and anatomy for three years at the respected Hahnemann Medical College at Philadelphia and later biochemistry, bacteriology and graduate pharmacology at the University of Illinois, the University of California and elsewhere.



But, more importantly, Laetrile has left Krebs behind; his views are seldom sought by the increasing number of physicians and researchers who are taking a serious interest in the substance. Krebs's contribution to Laetrile was to show, however tentatively, that it could have some efficiency in the treatment of cancer. But he apparently felt he had to explain how it worked, as well. The fact that those "explanations" often appear to have been arbitrary and *ad hoc* has, no doubt, obscured the fact that Laetrile seems to work even if it doesn't work exactly the way Krebs says it does.

But if Krebs played fast and loose with the facts on occasion, his opponents in the 1950s did worse. The California Medical Association conducted an irrefutably slapdash survey of some 44 cancer patients who received varying, but always small, amounts of Laetrile under poorly monitored conditions and then had the audacity to claim, in a widely circulated 1953 report, that Laetrile had now been thoroughly tested and had been found completely worthless. The report's authors stated that some six pathologists had examined the tissues of Laetrile-treated cancer patients and were of the "unanimous opinion" that the substance had exerted zero effect on their malignancies. This was, very simple, a lie. I have seen the raw data upon which these conclusions were purportedly based, and the pathologists in question were quite explicit in pointing out a number of instances in which malignancies receded and to quote one of the pathologists, a "chemotherapeutic effect might be entertained." And all of the physicians directly involved in the administration of Laetrile noted that patients receiving the substance, even in dosages which are a mere fraction of what is administered today, experienced notable reduction in pain, increased sense of well-being, weight gain and other palliative effects.

It is important to note that, right up until the 1970s, when cancer authorities assured an inquiring public that "we've tested Laetrile and found it worthless," they could cite but one study to back them up—the 1953 report of the California Medical Association.

It is important, too, I believe, to say a few words about the character of the two men who authored this report which was to condemn Laetrile to the American Cancer Society's "unproven" category (from which, once so classified, one researcher said, "not even Jesus himself could be reprieved"). Dr. Ian MacDonald, an internationally famous cancer surgeon, served as chairman of the commission to study Laetrile. Dr. Henry Garland, a famous radiologist and fellow Californian, was its secretary. Both men were remarkable, not only for putting down "quack" cancer cures that issued from outside the realm of surgery and radiation, but also for their tireless efforts on behalf of the tobacco industry—which was beginning to feel the heat as more and more evidence piled up linking smoking to lung cancer. For instance, Dr. MacDonald went about the country calling the smoking habit "a harmless pastime up to 24 cigarettes per day." He even quipped that "a pack a day keeps lung cancer away."

Dr. MacDonald burned to death in bed as a result of a fire said to have been started by his own cigarette. And Dr. Garland, who often boasted that he'd been chain-smoking since childhood and was fit as a fiddle, died of lung cancer.

So, Laetrile got off on the wrong foot. Apocryphal kernels, alas, are in the public domain, and there isn't a drug company in the world willing to spend the millions it takes to get a substance approved as a "new drug"—unless it stands to profit by its at least somewhat exclusive product. The only organization altruistic or soft-headed enough to seek "new drug" status for Laetrile in the United States was the nonprofit McNaughton Founda-

tion established in 1956 by Andrew R. L. McNaughton in Montreal. McNaughton, a man who is 59 but looks 45, is the son of the late Canadian national hero General A. G. L. McNaughton. Andrew McNaughton's own career has been as colorful, if not as kosher, as his father's. Once chief test pilot for the Royal Canadian Air Force, McNaughton moved on, after World War II, to make several million dollars by—among other things—running guns for the emerging nation of Israel.

Still later, code-named Esquimal ("man from the North"), he did the same for Cuba. McNaughton was so successful in this latter pursuit that Manuel Urrutia, then provisional president of Cuba, named him an honorary citizen of Cuba, along with Ché Guevara. With his cover as a cloak-and-dagger agent thus blown, McNaughton turned to new challenges.

Nine years after McNaughton met Krebs by chance over breakfast in a Rexall Drugstore in Florida, he moved to Sausalito to be closer to the growing Laetrile "underground" that radiated from the nearby Krebs mansion. In Sausalito in the late 1960's, McNaughton and his foundation were involved in a massive research and data-gathering effort to assess the effectiveness of Laetrile. He hoped to win for the substance an "IND" or "Investigational new drug" status from the FDA, thus opening the way for the first clinical trials in the U.S. Hundreds of thousands of dollars were expended in this effort, and the ultimate IND application included in it the results of tests demonstrating that rats treated with Laetrile survived more than 50 percent longer than untreated rats afflicted with the same type of cancer. Finally, on April 27, 1970, the foundation received a letter from the FDA issuing an official IND number and granting approval to begin clinical trials. On May 6, however, the foundation received a letter from the FDA dated April 28 citing patently nit-picking and sometimes incomprehensible "deficiencies" in the IND application, which, the FDA asserted, would have to be corrected within ten days of receipt of the letter. Then only six days later, the FDA sent a telegram stating that, due to failure to comply with the request for more data the IND was being revoked immediately.

Why did the FDA reverse itself? There are two notions. One is that the FDA never intended to permit Laetrile to be tested. By making it appear that the application was faulty and that the foundation failed to correct the defects, the FDA and all those who opposed Laetrile (principally the American Cancer Society, which has never conducted any Laetrile tests) could say that the other camp had been given its chance and had blown it.

The other idea is that the FDA proceeded in good faith, until Surgeon General Jesse Steinfeld, a anti-Laetrilist, got wind of the IND and demanded that it be recalled at all costs.

Deeply disappointed by the IND revocation, McNaughton moved his foundation to Mexico, where he had already helped Dr. Ernesto Contreras launch his Clinica Del Mar, which today embraces a large modern clinic and hospital complex. Recently McNaughton helped establish a second major Laetrile clinic, this one under the direction of Dr. Mario Soto, one of Mexico's leading cancer specialists. But perhaps McNaughton's most important contribution to the Laetrile movement, since going into "exile," has been to persuade recognized cancer specialists from other lands to visit the Tijuana clinics for first-hand experience with the substance. Recently two topnotch Israeli cancer doctors made the journey. The elder of the two, a man who is a national hero in Israel, said he arrived deeply skeptical. But after a month of examining patients, their records and their progress, his colleague, also a surgeon and cancer specialist, says, "There are

three things we know absolutely from our visit: 1) Laetrile is not quackery, 2) it is nontoxic, even in very large injected doses and 3) the substance has definite palliative effects." Among other things, they saw cases of "terminal" patients who began to eat again and others who reported that their pain disappeared.

Meanwhile, back in California, cancer politics rage on. Only the "quacks" no longer doubt they are winning. In a majority of actions brought by the government against doctors using Laetrile, juries have exonerated the accused, apparently buying the argument that Laetrile is not a drug but a vitamin or food factor that should not be under the purview of regulatory agencies. With each new court case all four of the national organizations which support Laetrile and other "alternative" cancer therapies swell in size. The most powerful of these is the Committee for Freedom of Choice in Cancer Therapy (headquartered in Los Altos, near San Francisco); it is reliably estimated to have at least 25,000 members, including about 800 MDs. Laetrile opponents have tried to dismiss the committee as an instrument of the John Birch Society, but though a minority of Birchers are there, increasingly the "movement" is attracting those who fervently attached themselves to left-wing causes in the sixties and early seventies.

Establishment "overkill," more than anything else, say the Laetrilists, is abetting their cause. They point, for example, to the arrests last spring of two of their number at the Capitol in Sacramento, where they had gone to testify on behalf of three bills that would effectively legalize Laetrile for use against cancer. The two, John Richardson, MD, of Albany, California, and Frank Salaman, vice-president of the committee, were charged with smuggling Laetrile and handcuffed. Someone in authority obviously thought the arrests—under the Assemblymen's noses—would weaken the new legislative drive to legalize Laetrile. But the arrests backfired. Senator William Campbell, chief sponsor of the bills, said at the time, "Even some of those most strongly opposed came up to me to say how appalled they were. Many said they would take another look." Now, a year later, the Senate health committee has unanimously approved pro-Laetrile legislation. Debate on the bills will resume shortly in the Senate.

Why has the cancer "establishment" (generally defined as an alliance of the ACS, FDA, NCI, AMA and various drug companies) opposed even the clinical testing of Laetrile with such ferocity? The easy answer is to surmise that it fears that the substance might be the "magic bullet" that will do in not only cancer, but (as night follows day) the cancer establishment itself. But it is far more likely that the lockstep resistance accrues more than intellectual arrogance and entrenchment than from any open-eyed concern about money.

And yet money, powerful instrument that it is, cannot be entirely discounted as a motive. As Mike Culbert, feisty and articulate editor of the committee's monthly publication, *The Choice*, puts it: "The feds and the state of California aren't deploying all of those agents, all of that time, money and energy to crack down on things that are dangerous [like heroin]. No, it's all or most of it reserved for Laetrile. . . . It really doesn't make sense, unless you're dealing with insanity or conspiracy. I'm guessing it's conspiracy, which means money. The big drug companies aren't competing with heroin."

"This is the first time unorthodoxy has seized the initiative, and I think they, whoever they turn out to be, are panic-stricken because, of course, this doesn't stop with cancer. Laetrile opens the door to countless other nutritional, metabolic therapies which are equally nontoxic and useful in a wide

range of other diseases." And like Laetrile, he adds, most nutritional therapies are in the public domain—which means competition, low prices and even lower profits.

"It's going to be interesting," he concludes, "to see the final time, place and manner of the decriminalization of Laetrile. It's coming. I think the government will finally just steal it, and put another name on it and make sure Krebs and McNaughton get none of the credit."

To which Andrew McNaughton adds: "God-speed."

#### SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, May 26, 1977, may be found in the Daily Digest of today's RECORD.

#### MEETINGS SCHEDULED

##### MAY 27

10:00 a.m.

Commerce, Science, and Transportation  
To hold hearings on the nomination of Alfred Edward Kahn, to be a member of the Civil Aeronautics Board.

5110 Dirksen Building

Governmental Affairs

To hold hearings on the nominations of Jule M. Sugarman, of Georgia, and Ersi H. Poston, of New York, each to be a Civil Service Commissioner.

3302 Dirksen Building

##### JUNE 3

11:00 a.m.

Joint Economic

To hold hearings to receive testimony on the employment/unemployment situation in May.

1202 Dirksen Building

##### JUNE 6

9:30 a.m.

Commerce, Science, and Transportation  
To hold hearings on the nomination of Robert A. Frosch, of Massachusetts, to be Administrator of NASA.

5110 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on H.R. 5675, to authorize the Treasury Department to make short-term investments of any portion of its excess operating cash balance.

5302 Dirksen Building

Commerce, Science, and Transportation  
Communications Subcommittee

To hold oversight hearings on the cable TV system.

235 Russell Building

#### Select Indian Affairs

To hold oversight hearings on the Indian Education Reform Act (Public Law 93-638).

Room to be announced

##### JUNE 7

8:30 a.m.

Finance

Health Subcommittee

To hold hearings on S. 1470, Medicare and Medicaid Administrative and Reimbursement Reform Act.

2221 Dirksen Building

9:30 a.m.

Energy and Natural Resources

To receive testimony on part D (natural gas pricing) of S. 1460, National Energy Act.

3110 Dirksen Building

Select Small Business

To resume hearings on alleged restrictive and anticompetitive practices in the eyeglass industry.

424 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on S. 1397, to increase from 16 to 19 the size of the Board of Directors of FNMA.

5302 Dirksen Building

Commerce, Science, and Transportation

Communications Subcommittee

To continue oversight hearings on the cable TV system.

253 Russell Building

Foreign Relations

To hold hearings on an agreement with Canada concerning the transit oil pipeline (Exec. F, 95th Cong., 1st sess.), and the Inter-American Treaty of Reciprocal Assistance (Exec. J., 94th Cong., 1st sess.).

4221 Dirksen Building

Governmental Affairs

Intergovernmental Relations Subcommittee

To resume hearings on S. 600, the Regulatory Reform Act of 1977.

6226 Dirksen Building

Human Resources

Health and Scientific Research Subcommittee

To hold hearings to evaluate information upon which the FDA based its decision to propose regulations banning the use of saccharin.

4232 Dirksen Building

Judiciary

Criminal Laws and Procedures Subcommittee

To hold hearings on S. 1437, Criminal Code Reform Act of 1977, and the following criminal sentencing bills: S. 31, 45, 181, 204, 260, 888, 979, and 1221.

2228 Dirksen Building

Joint Economic

Economic Growth and Stabilization Subcommittee

To hold hearings on economic development in rural areas.

1202 Dirksen Building

Select Indian Affairs

To continue oversight hearings on the Indian Education Reform Act (P.L. 93-638).

Room to be announced

10:30 a.m.

Appropriations

Transportation Subcommittee

To mark up proposed appropriations for fiscal year 1978 for the Department of Transportation.

S-128, Capitol

##### JUNE 8

8:30 a.m.

Finance

Health Subcommittee

To continue hearings on S. 1470, Medicare and Medicaid Administrative and Reimbursement Reform Act.

2221 Dirksen Building

9:00 a.m.

Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee

To hold hearings on S. 421, to establish a program to educate the public in understanding climatic dynamics.

5100 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To continue hearings on S. 1397, to increase from 16 to 19 the size of the Board of Directors of FNMA.

5302 Dirksen Building

Commerce, Science, and Transportation

To continue oversight hearings on the cable TV system.

235 Russell Building

Energy and Natural Resources

Parks and Recreation Subcommittee

To hold hearings on S. 975, to improve the administration of the National Park System.

3110 Dirksen Building

Energy and Natural Resources

Energy Research and Development Subcommittee

To receive testimony on proposed legislation authorizing funds for fiscal year 1978 for nuclear programs of ERDA.

Room to be announced

Foreign Relations

International Operations Subcommittee

To hold oversight hearings on the role of the media, business, banking, labor, national security, etc. in the current and future international flow of information.

4221 Dirksen Building

Governmental Affairs

Intergovernmental Relations Subcommittee

To continue hearings on S. 600, the Regulatory Reform Act of 1977.

6226 Dirksen Building

Human Resources

Health and Scientific Research Subcommittee

To hold oversight hearings on environmental toxins in mother's milk.

Until 12:30 p.m. 4232 Dirksen Building

Judiciary

Criminal Laws and Procedures Subcommittee

To continue hearings on S. 1437, Criminal Code Reform Act of 1977, and the following criminal sentencing bills: S. 31, 45, 181, 204, 260, 888, 979, and 1221.

2228 Dirksen Building

Joint Economic

To hold hearings to review economic conditions, and to discuss the future outlook.

6202 Dirksen Building

2:30 p.m.

Foreign Relations

Arms Control, Oceans, and International Environment Subcommittee

To resume hearings on S. 897 and 1432, proposed Nuclear Nonproliferation Act.

4221 Dirksen Building

##### JUNE 9

8:30 a.m.

Finance

Health Subcommittee

To continue hearings on S. 1470, Medicare and Medicaid Administrative and Reimbursement Reform Act.

2221 Dirksen Building

9:00 a.m.

Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee

To continue hearings on S. 421, to establish a program to educate the public in understanding climatic dynamics.

5110 Dirksen Building



9:30 a.m.  
Energy and Natural Resources  
Energy Research and Development Subcommittee  
To hold hearings on S. 1432, Nuclear Non-Proliferation Policy Act of 1977.  
6226 Dirksen Building

10:00 a.m.  
Energy and Natural Resources  
Energy Production and Supply Subcommittee  
To hold oversight hearings on strategic petroleum reserves.  
3110 Dirksen Building

Foreign Relations  
International Operations Subcommittee  
To continue oversight hearings on the role of the media, business, banking, labor, national security, etc., in the current and future international flow of information.  
4221 Dirksen Building

Governmental Affairs  
Reports, Accounting, and Management Subcommittee  
To resume hearings to review the processes by which accounting and auditing practices and procedures, promulgated or approved by the Federal Government, are established.  
6202 Dirksen Building

Judiciary  
Criminal Laws and Procedures Subcommittee  
To continue hearings on S. 1437, Criminal Code Reform Act of 1977, and the following criminal sentencing bills: S. 31, 45, 181, 204, 260, 888, 979, and 1221.  
2228 Dirksen Building

Joint Economic  
To continue hearings to review economic conditions, and to discuss the future outlook.  
1202 Dirksen Building

JUNE 10

8:30 a.m.  
Finance  
Health Subcommittee  
To continue hearings on S. 1470, Medicare and Medicaid Administrative and Reimbursement Reform Act.  
2221 Dirksen Building

9:00 a.m.  
Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee  
To continue hearings on S. 421, to establish a program to educate the public in understanding climatic dynamics.  
5110 Dirksen Building

9:30 a.m.  
Human Resources  
Health and Scientific Research Subcommittee  
To continue oversight hearings on environmental toxins in mother's milk.  
Until noon 4232 Dirksen Building

10:00 a.m.  
Energy and Natural Resources  
Energy Production and Supply Subcommittee  
To continue oversight hearings on strategic petroleum reserves.  
3110 Dirksen Building

Foreign Relations  
International Operations Subcommittee  
To continue oversight hearings on the role of the media, business, banking, labor, national security, etc., in the current and future international flow of information.  
4221 Dirksen Building

JUNE 13

9:30 a.m.  
Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee  
To resume hearings on S. 657, to establish an Earth Resources and Environmental Information System.  
235 Russell Building

Finance  
Taxation and Debt Management Subcommittee  
To receive testimony on proposals which seek to encourage economic growth and employment.  
2221 Dirksen Building

10:00 a.m.  
Energy and Natural Resources  
To resume hearings on part D (natural gas pricing) of S. 1469, National Energy Act.  
3110 Dirksen Building

Governmental Affairs  
Reports, Accounting, and Management Subcommittee  
To resume hearings to review the processes by which accounting and auditing practices and procedures, promulgated or approved by the Federal Government, are established.  
6226 Dirksen Building

JUNE 14

9:30 a.m.  
Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee  
To continue hearings on S. 657, to establish an Earth Resources and Environmental Information System.  
5110 Dirksen Building

Finance  
Taxation and Debt Management Subcommittee  
To receive testimony on proposals which seek to encourage economic growth and employment.  
2221 Dirksen Building

10:00 a.m.  
Energy and Natural Resources  
To continue hearings on part D (natural gas pricing) of S. 1469, National Energy Act.  
3110 Dirksen Building

Joint Economic  
Economic Growth and Stabilization Subcommittee  
To resume hearings on economic development in rural areas.  
1202 Dirksen Building

JUNE 15

9:30 a.m.  
Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee  
To continue hearings on S. 657, to establish an Earth Resources and Environmental Information System.  
235 Russell Building

10:00 a.m.  
Foreign Relations  
To hold hearings on treaties with Mexico and Canada on prisoner exchanges (Exec. D and H, 95th Cong., 1st sess.).  
4221 Dirksen Building

Joint Economic  
Economic Growth and Stabilization Subcommittee  
To continue hearings on economic development in rural areas.  
6226 Dirksen Building

JUNE 16

9:00 a.m.  
Veterans' Affairs  
Compensation and Pension Subcommittee  
To hold hearings on proposed increases in veterans' pensions.  
6226 Dirksen Building

10:00 a.m.  
Commerce, Science, and Transportation  
To hold oversight hearings on the effects of radiation on humans, i.e., health, safety, and environment.  
5100 Dirksen Building

Commerce, Science, and Transportation  
Surface Transportation Subcommittee  
To hold hearings on general conditions of the intercity motorbus industry and suggestions for increased ridership.  
235 Russell Building

Energy and Natural Resources  
Energy Production and Supply Subcommittee  
To continue markup of S. 977, to conserve gas and oil by fostering increased utilization of coal in electric generating facilities and in major industrial installations.  
3110 Dirksen Building

Foreign Relations  
To continue hearings on treaties with Mexico and Canada on prisoner exchanges (Exec. D and H, 95th Cong., 1st sess.).  
4221 Dirksen Building

Select Small Business  
To hold hearings on S. 1526, to establish the position of Associate Administrator for Women's Business Enterprise within the SBA.  
424 Russell Building

11:00 a.m.  
Human Resources  
Health and Scientific Research Subcommittee  
To resume hearings on S. 1391, Hospital Cost Containment Act of 1977.  
Until 1 p.m. 4232 Dirksen Building

2:30 p.m.  
Foreign Relations  
Arms Control, Oceans, and International Environment Subcommittee  
To resume hearings on S. 897 and 1432, proposed Nuclear Nonproliferation Act.  
4221 Dirksen Building

JUNE 17

9:30 a.m.  
Human Resources  
Health and Scientific Research Subcommittee  
To continue hearings on S. 1391, Hospital Cost Containment Act of 1977.  
Until 12:30 p.m. 4232 Dirksen Building

Veterans' Affairs  
Health and Readjustment Subcommittee  
To hold oversight hearings on veterans' employment-unemployment situation  
Until 12:30 p.m. 6226 Dirksen Building

10 a.m.  
Commerce, Science, and Transportation  
To continue oversight hearings on the effects of radiation on humans, i.e., health, safety, and environment.  
JUNE 20

9:30 a.m.  
Human Resources  
Handicapped Subcommittee  
To hold hearings on proposed extension of the Rehabilitation Act of 1973 and Education of the Handicapped Acts.  
Until 1 p.m. 4232 Dirksen Building

10:00 a.m.  
Energy and Natural Resources  
To resume hearings on part D (natural gas pricing) of S. 1469, National Energy Act.  
3110 Dirksen Building

JUNE 21

9:00 a.m.  
Energy and Natural Resources  
Energy Conservation and Regulation Subcommittee  
To receive testimony on proposals embodied in parts A, B, C, and G of S. 1469, the National Energy Act.  
3110 Dirksen Building

9:30 a.m.  
Human Resources  
Handicapped Subcommittee  
To continue hearings on proposed extension of the Rehabilitation Act of 1973 and Education of the Handicapped Acts.  
Until 1 p.m. 4232 Dirksen Building

Human Resources  
Health and Scientific Research Subcommittee  
To hold hearings to evaluate information upon which the FDA based its decision to propose regulations banning the use of saccharin.  
Until noon 1202 Dirksen Building  
JUNE 22

9:00 a.m.  
Energy and Natural Resources  
Energy Conservation and Regulation Subcommittee  
To receive testimony on proposals embodied in parts A, B, C, and G of S. 1469, the National Energy Act.  
3110 Dirksen Building

Veterans' Affairs  
Health and Readjustment Subcommittee  
To hold hearings on the effectiveness of VA programs on mental health, alcohol and drug abuse, readjustment counseling, and health.  
Until 2 p.m. 6226 Dirksen Building

9:30 a.m.  
Human Resources  
Handicapped Subcommittee  
To continue hearings on proposed extension of the Rehabilitation Act of 1973 and Education of the Handicapped Acts.  
Until 1 p.m. 4232 Dirksen Building

10:00 a.m.  
Joint Economic  
Subcommittee on Economic Growth and Stabilization  
To hold hearings to receive testimony from public pollsters on the current status of and future conditions affecting the economy.  
1202 Dirksen Building  
JUNE 23

10:00 a.m.  
Commerce, Science, and Transportation  
Communications Subcommittee  
To hold hearings on S. 1547, to assure that all those providing communications services are able to use existing communications space on poles which are owned by regulated utilities, and to simplify FCC forfeiture provisions.  
235 Russell Building

Energy and Natural Resources  
To consider pending calendar business.  
3110 Dirksen Building  
JUNE 24

9:00 a.m.  
Veterans' Affairs  
Health and Readjustment Subcommittee  
To hold hearings on proposed increases in rates of veterans' education benefits.  
Until 2 p.m. 6226 Dirksen Building

10:00 a.m.  
Commerce, Science, and Transportation  
Communications Subcommittee  
To continue hearings on S. 1547, to assure that all those providing communications services are able to use existing communications space on poles which are owned by regulated utilities, and to simplify FCC forfeiture provisions.  
235 Russell Building

JUNE 27  
9:30 a.m.  
Veterans' Affairs  
Health and Readjustment Subcommittee  
To hold hearings on proposed legislation

to amend the Veterans' Physician and Dentists' Pay Comparability Act.  
Until noon 6226 Dirksen Building

Banking, Housing, and Urban Affairs  
Consumer Affairs Subcommittee  
To hold hearings on legislation to amend the Truth in Lending Act, including S. 1312.  
5302 Dirksen Building

Commerce, Science, and Transportation  
To resume oversight hearings on the effects of radiation on humans, i.e., health, safety, and environment.  
5110 Dirksen Building

JUNE 28  
9:00 a.m.  
Veterans' Affairs  
Housing, Insurance, and Cemeteries Subcommittee  
To hold hearings on S. 718, to provide veterans with certain cost information relating to the conversion of Government-supervised insurance to individual life insurance policies.  
6202 Dirksen Building

10:00 a.m.  
Banking, Housing, and Urban Affairs  
Consumer Affairs Subcommittee  
To continue hearings on legislation to amend the Truth in Lending Act, including S. 1312.  
5302 Dirksen Building  
Commerce, Science, and Transportation  
To continue oversight hearings on the effects of radiation on humans, i.e., health, safety, and environment.  
5110 Dirksen Building  
JUNE 29

9:00 a.m.  
Veterans' Affairs  
Health and Readjustment Subcommittee  
To resume hearings on proposed increases in rates of veterans' education benefits.  
Until 2 p.m. 6226 Dirksen Building

10:00 a.m.  
Banking, Housing, and Urban Affairs  
Consumer Affairs Subcommittee  
To continue hearings on legislation to amend the Truth in Lending Act, including S. 1312.  
5302 Dirksen Building  
Commerce, Science, and Transportation  
To continue oversight hearings on the effects of radiation on humans, i.e., health, safety, and environment.  
5110 Dirksen Building  
JUNE 30

9:00 a.m.  
Veterans' Affairs  
Housing, Insurance, and Cemeteries, Subcommittee  
To continue hearings on S. 718, to provide veterans with certain cost information relating to the conversion of Government-supervised insurance to individual life insurance policies.  
6226 Dirksen Building

9:30 a.m.  
Select Small Business  
To resume hearings on S. 972, authorizing the Small Business Administration to make grants to support the development and operation of small business development centers.  
424 Russell Building

JULY 12  
9:30 a.m.  
Human Resources  
Health and Scientific Research Subcommittee  
To hold hearings to evaluate information upon which the FDA based its decision to ban Laetril from interstate commerce.  
Until noon 4232 Dirksen Building

10:00 a.m.  
Foreign Relations  
To hold hearings on the Vienna Convention on the Law of Treaties (Exec. L. 92d Cong., 1st sess.).  
4221 Dirksen Building  
JULY 13

10:00 a.m.  
Foreign Relations  
To review the operation and effectiveness of the War Powers Resolution of 1973.  
4221 Dirksen Building  
JULY 14

9:30 a.m.  
Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee  
To receive a report from the National Commission on Supplies and Shortages on materials policy research and development.  
5110 Dirksen Building

Human Resources  
Health and Scientific Research Subcommittee  
To hold oversight hearings on the cost of drugs.  
Until noon 4232 Dirksen Building

10:00 a.m.  
Foreign Relations  
To review the operation and effectiveness of the War Powers Resolution of 1973.  
4221 Dirksen Building  
JULY 15

10:00 a.m.  
Foreign Relations  
To review the operation and effectiveness of the War Powers Resolution of 1973.  
4221 Dirksen Building  
JULY 19

9:30 a.m.  
Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee  
To review a report from the National Commission on Supplies and Shortages on materials policy research and development.  
5110 Dirksen Building

10:00 a.m.  
Foreign Relations  
To hold hearings on the following five tax treaties: Convention with Israel (Exec. C, 94th Cong., 2nd sess.); Convention with Egypt (Exec. D, 94th Cong., 2nd sess.); Convention with the United Kingdom (Exec. K, 94th Cong., 2nd sess.); Convention with the Republic of Korea (Exec. P, 94th Cong., 2nd sess.); and Convention with the Republic of the Philippines (Exec. C, 95th Cong., 1st sess.).  
4221 Dirksen Building  
JULY 20

10:00 a.m.  
Foreign Relations  
To hold hearings on the following five tax treaties: Convention with Israel (Exec. C, 94th Cong., 2nd sess.); Convention with Egypt (Exec. D, 94th Cong., 2nd sess.); Convention with the United Kingdom (Exec. K, 94th Cong., 2nd sess.); Convention with the Republic of Korea (Exec. P, 94th Cong., 2nd sess.); and Convention with the Republic of the Philippines (Exec. C, 95th Cong., 1st sess.).  
4221 Dirksen Building  
JULY 26

10:00 a.m.  
Foreign Relations  
To hold hearings on protocol to the Convention on International Civil Aviation (Exec. A, 95th Cong., 1st sess.), and two related protocols (Exec. B, 95th Congress, 1st sess.).  
4221 Dirksen Building



## SENATE—Thursday, May 26, 1977

(Legislative day of Wednesday, May 18, 1977)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. EASTLAND).

## PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Almighty God, who has made and preserved us a nation, we beseech Thee to prepare the heart of this Nation to keep Memorial Day, not as a holiday but as a holy day. Show us the vital truth that wisdom is learning what the past has to say to the present and that nations live by reverent ceremonies.

As patriotic citizens and loved ones journey to the silent, green-tented cities of the war dead, studded with crosses and stars, may there come to all of us hushed thoughts and hallowed memories. Give us grateful hearts for those who one day marched away never to march back again, having spent their lives for us. And may our hearts be joined to those, who having returned, live out their time with bodies and minds broken, deprived of fullness and health. May we remember especially the veterans of Vietnam, loyal to the last but sometimes forgotten and neglected, that they may find in the older generations a new appreciation and comradeship. May the lonely and discouraged find in their fellow citizens a new friendship and unity of purpose. Hasten the day when war shall be no more, when

"Nation with nation, land with land,  
Arm in arm shall live as comrades free;  
In every heart and brain shall throb  
The pulse of one fraternity."

—JOHN ABINGTON SYMONDS (1840-93).  
Amen.

## THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Wednesday, May 25, 1977, be approved.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## REFERRAL OF BLACK LUNG BILL

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the minority and all around.

I ask unanimous consent that Calendar No. 183, S. 1538, the black lung bill, be referred to the Committee on Finance, with instructions to order the bill reported not later than July 1, and with further instructions that the report thereon be filed no later than July 12.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

## GEN. LEWIS B. HERSHEY

Mr. BAKER. Mr. President, it is fitting and appropriate that this body take

pause to note with reverence the death of retired Army Gen. Lewis B. Hershey. General Hershey's remarkable career as Director of the Selective Service, spanning nearly 30 years, six presidents and three wars, made him an enduring symbol of American military mobilization. As such, General Hershey reaped a quantity of praise and criticism during his lifetime. Combining a homespun likeability with a tough combative constitution, General Hershey thrived in his challenging and vital mission in both war and peacetime. General Hershey's death at the age of 83 ends a full and productive life, characterized in large measure by an indefatigable devotion to patriotic duty. I know that I join millions of Americans in marking his passing with a profound sense of gratitude and appreciation for his lifetime of extraordinary service to his country.

## ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have no further requirement for my time and no requests for time under the standing order, so I yield back the remainder of my time.

## YOUTH EMPLOYMENT AND TRAINING ACT OF 1977

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1242, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1242) to provide employment and training opportunities for youth.

The Senate proceeded to consider the bill.

Mr. JAVITS. Mr. President, I understand that last night Senator NELSON opened the consideration of this measure which is of such great importance to the youth of the country.

I will now make my own opening statement as the ranking member of the committee.

Mr. President, this bill, in my judgment, is a triumph of the negotiation which is possible between the administration and the Congress working together in a cooperative spirit to develop a remedy for a severe national problem.

As one of the Senators who participated in the consultations with the administration that reached fruition in this measure, I can assure my colleagues in the Chamber that it represents an important first step toward the amelioration of what has become one of our country's most serious domestic ills: debilitating structural and endemic youth unemployment.

Even as the aggregate unemployment statistic begins to move downward—the rate reached 7 percent of the labor force in April—the measure of unemployment among young people aged 16 through 24 shows little signs of any improvement. When we observe the long-term trends, we begin to realize that youth unemployment is not primarily cyclical in nature; that in the absence of specific remedial

programs youth unemployment will not be reduced appreciably, even if the economic recovery continues on its upward track. It is a situation which is so pregnant with danger for our country and for its future that it simply cannot be permitted to persist.

Growing national production will, to be sure, create job opportunities, but mainly for those who have job experience, specialized and sophisticated technical skills, high school diplomas, or at least some occupational training. For those youths who reside in the aging cities of the Northeast and Midwest, however, which continue to sustain a hemorrhage of the loss the job opportunities, and where it is not uncommon to find shocking unemployment rates of 60 percent among black youths, for those who have left high school before completing their studies or who have never acquired marketable skills or who have been unable to accumulate the requisite occupational experience, the blight of economic depression continues to erode the number and quality of job opportunities.

In the best of times, structural unemployment among our young people breeds a debilitating sense of idleness and alienation from our economic system which places such heavy emphasis upon reward for individual productivity. In the worst of times, however, endemic youth unemployment is social dynamite, because persistent joblessness strikes in the critical formative years and can have severe and permanent psychological ramifications. Indeed, many of today's structurally unemployed youth will be tomorrow's structurally unemployed adults, unless Congress acts to begin to relieve this disproportionate burden of joblessness.

This becomes a deep social, political, as well as an economic problem.

This perception of youth joblessness led Senator HUMPHREY and I to coauthor S. 170, the Comprehensive Youth Employment Act of 1977, and to join others in urging the President and the Secretary of Labor to initiate the formation of a task force to study this serious problem. Such a task force was commissioned, and included staff of the White House, the Labor Department, and the majority and minority of the Senate Human Resources Committee and the Senate Environment and Public Works Committee. The Youth Employment and Training Act of 1977, the bill now before us, was developed as a result of the consultations of this task force, and introduced on April 6 by Senator NELSON, myself, and other colleagues. Although, as I pointed out the day we introduced it, I was not entirely satisfied with some aspects of S. 1242, it was an excellent bill as introduced, and a shining example of the value of administration-Congress consultation in the development of legislation.

Led by our chairman, the distinguished Senator from Wisconsin (Mr. NELSON), the Senate Subcommittee on Employment, Poverty, and Migratory Labor, on which I have the honor to

serve as ranking Republican, held 3 days of hearings on S. 1242, and accepted a number of amendments including those I offered on behalf of myself and Senator HUMPHREY.

We have felt because of our experience that only a targeted program directed at youth, as such, is likely to do us any good because of the seriousness of the unemployment and the discouragement which I have described.

This bill does target such a program. First, it represented a negotiation between the Human Resources Committee and, especially, its Employment Subcommittee, chaired by the Senator from Wisconsin (Mr. NELSON) and on which I have the honor to be the ranking member, in order to agree upon the fundamentals of amount. We agreed upon a global figure of somewhere in the area of \$2 to \$2.5 billion for the first year of this program.

Second, in an extraordinary display of statesmanship, Senator NELSON and I—and I give him enormous credit for this, Mr. President—worked out an allocation of these funds which would place the greatest weight in areas which need the greatest amount of help.

So, of the main amount which is involved here, perhaps more than \$900 million in part C, we were able to agree on allocating 37½ percent of the allocated amount to areas with unemployment in excess of 6½ percent.

The bill before us deserves the support of every Member of the Senate and, indeed, already has broad and bipartisan cosponsorship. The reason why S. 1242 enjoys such support is clear: the bill is an amalgam of many of the ideas that were incorporated in bills introduced this session in both Houses, and thus it embodies some fundamental principles which all Senators can agree ought to be contained in a truly comprehensive youth employment bill.

The first principle is that our Nation requires a targeted approach to the problem of youth unemployment. We need a way to target the program to those individuals and areas most in need of employment and training opportunities. The bill targets funds in part C, for example, to who, if left to their own devices, would be least likely to find permanent, unsubsidized employment in the private sector. Similarly, the program must be targeted somewhat at those geographical areas which suffer the most severe problems of unemployment. With over 3 million unemployed youths in our country—fully half the total number of unemployed—including approximately 750,000 who are high school dropouts—a \$2 billion, 18-month program to create 200,000 job and training positions is, as Senator HUMPHREY testified, "a drop in the bucket." Given these limited resources, we had to design a program targeted as much as possible at the disadvantaged. Accordingly, S. 1242 requires all participants to be from low-income families.

With respect to high unemployment areas, I want to reiterate that I am gratified that our chairman, Senator NELSON, who has been always so sensitive to the needs of those regions suffering from

persistent high unemployment, was able to agree to my amendment to allocate 37½ percent of the part C funds to areas with unemployment in excess of 6½ percent. These areas are least likely to be brought along as recovery progresses, and require the "distress factor" of extra funds because of the more endemic nature of the unemployment they suffer.

A second fundamental principle of this bill is that the youth unemployment problem will yield only to longer run solutions, that is, those that combine training and counseling with employment opportunities. Short term, "make-work" projects are demeaning to the participants, wasteful of taxpayers' money and contribute little to the solution of the problem. Of course, youths require work experience. But the experience itself must be productive—the youths must feel they are making a genuine and lasting contribution to their communities. The Employment Subcommittee, in consultation with the administration, designed a bill, therefore, which would maximize the opportunity for training as well as employment opportunities.

This "longer run view," as I prefer to characterize it, emphasizes the importance of affording youths job experience as well as training, counseling, occupational and career education and information, and overall self-development. Again and again we have learned that it is just not enough to throw 1-year jobs at unemployed youths; we must attempt to remove the competitive disadvantages that characterize their labor market experiences. We must encourage a longer job attachment and permanently elevate young people from the secondary job market.

The third principle which is embodied in S. 1242 is: that we begin now to strengthen the linkages between education and work. As is detailed in the committee report, nearly every witness who came before our committee testified to the need to establish and strengthen relationships between manpower authorities and educational institutions at the local level. Often, these authorities have operated two separate and independent systems supposedly to prepare school-age youth for useful and productive lives. The perfect example of this bifurcated approach has been and still is our in-school youth manpower development programs. They provide employment and training opportunities for youths after school hours and during the summer months. But there has been little, if any, attempt to provide such opportunities during the school day, in cooperation with educational administrators, teachers and guidance counselors. Why cannot the cooperative education or work-study model, which has had such great success at the post-secondary level, be applied to secondary school youths?

S. 1242 breaks new ground by requiring, for the first time in the history of our Federal manpower policy, that employment and training programs to serve in-school youth be undertaken pursuant to agreements between CETA

prime sponsors and local education agencies.

The idea for this approach was incorporated originally in S. 170, authored by Senator HUMPHREY and myself, and was contained in an amendment to S. 1242 which I offered in committee on behalf of Senator HUMPHREY and myself.

The provision states that no less than 15 percent of the funds allocated by formula under this bill to prime sponsors must be set aside for programs for in-school youth, to be operated pursuant to agreements between prime sponsors and local educational agencies within the prime sponsor's jurisdiction. And this might include not only public schools, but so-called private, nonprofit schools.

This is for the purpose of keeping kids in school by giving them a work-study experience, even at a lower than college level. We have it at the college level; we never had it in secondary education. That really breaks new ground of a critically important kind in this bill.

This is a powerful incentive for the relevant authorities to put aside whatever jurisdictional rivalries or jealousies they may have and work in good faith to find a common ground upon which they can agree. I urge the prime sponsors of this Nation, and the many local educational agencies with which they will deal in this regard, to strive to work hand in hand in developing the kinds of work experience and training and counseling programs that will best serve our Nation's youth. I urge them to put the Nation's best interests ahead of parochial concerns and to begin to build, from both sides, bridges of commonality between education and work, which present and future generations of young people might traverse as they begin their careers as productive citizens of the United States.

These items, Mr. President, have been agreed upon between the administration and ourselves. I am very hopeful that, based as they are upon the CETA framework; that is, the framework of some 400 existing primary sponsors of work and training programs under the CETA bill we extended for 1 year yesterday, the jobs and the whole operation can be put into effect very promptly.

To give the Senate a concept of that, it is estimated that we can put people on jobs under CETA within 30 to 60 days after a bill becomes law. I am very hopeful that that will be done as to thousands of youth.

This is in addition to everything we are doing now; that is, in addition to the summer youth jobs, the Jobs Corps, and other youth programs we are carrying on. These are additional programs which we estimate can provide us with at least an additional 500,000 jobs.

Mr. President, this month and next, thousands upon thousands of young people all across the country will graduate high school. For many, especially the disadvantaged, it will mark the end of full time study and the beginning of their adult working lives. They commence their careers with all of the youthful hopes and dreams of success we encourage them to have by our promises of reward for hard work. It is a most



auspicious time, therefore, for the Senate to act upon legislation which, if passed, will help us to insure that their hopes are not dashed and their dreams not shattered.

Mr. President, let me say again that these three principles—of targeting, training, and jobs, of longer range solutions and of education-work linkages—can be endorsed by every Member of this body. The Youth Employment and Training Act of 1977 is an important and comprehensive first step that I believe will lead one day to a permanent program to assure education, training, and employment for all our Nation's youth.

Mr. President, I thank my colleagues, such as the Senator from California (Mr. CRANSTON) and the Senator from Nebraska (Mr. ZORINSKY), who stayed their hands yesterday to allow us to put through the CETA extension so that we may deal with all the amendments they had to CETA in this bill, as this bill must go to conference. We are hopeful that the CETA extension will be passed by the House, without a conference.

Senator NELSON and I are quite prepared to deal with those amendments today.

I conclude by saying that I believe that, on the part of President Carter and Secretary Marshall, as well as on the part of Senator NELSON and those on our committee who were concerned in these negotiations, this represents a legislative triumph as to how business can and should be done on a highly complex bill, which could be extremely controversial—to come into the Senate, so far as the bill is concerned, as it is before us, with a complete agreement with the administration and the whole package ready to go. It is really extraordinary and highly creditable, and I am delighted to have seen it happen in such a highly deserving situation.

Mr. STAFFORD. Mr. President, I strongly support the youth employment legislation reported by the Committee on Human Resources and urge its adoption by the Senate.

I commend the chairman of the committee, Senator WILLIAMS, and the chairman of the subcommittee, Senator NELSON, for their leadership in bringing this comprehensive youth legislation to the floor. Senator JAVITS, the ranking Republican member of the committee, has devoted his energies and excellent talent to every part of this bill. The committee has acted expeditiously to address this very pressing issue and I believe we have produced a sound, workable product.

The committee bill includes three programs. The first part authorizes a Young Adult Conservation Corps patterned on the Civilian Conservation Corps of the early 1930's. The second part provides jobs for eligible youth on community conservation and improvement projects. The third part of the bill authorizes a variety of training and employment activities through the regular CETA mechanism.

I believe the strategy in the bill—to provide several alternative approaches—is good. Employment problems facing

young people are varied and complex. The several programs working together and separately respond to different aspects of the problem. Our experience with these programs over the next few years will broaden our understanding of the situation and help us devise the most appropriate responses.

The Young Adult Conservation Corps included in this measure builds on the value and good work of the earlier Civilian Conservation Corps. The work carried out under the original corps and the recent summer program in our Nation's parks, forests, and recreation areas is being enjoyed today. The most important achievement of the CCC and today's program is the immeasurable experience provided thousands of young people.

Senator JACKSON has been a consistent supporter of the conservation corps idea and his diligent efforts on behalf of the legislation should be recognized.

The second part of the bill, the community improvement and conservation program, is similar to a bill introduced earlier this year by Senator RANDOLPH and myself. The purpose is to create jobs for young Americans, ages 16 to 19, on community improvement projects.

Senator RANDOLPH and I are concerned about the adverse impact of imposed joblessness on young people. Our concern prompted us to introduce a jobs creating bill targeted to this age group. Most young people begin the transition from school to adult society during their teenage years. Early job experience provides one of the essential links between school and the adult world.

Without early job opportunities, many young persons become frustrated, alienated from the work force and many reach their early adult years with no real connection with work and no sense of responsibility. Not only do they lack skills but they lack an adult, pragmatic view of what is required of them to obtain and hold a permanent job. As a young adult they "graduate" into the ranks of the chronically unemployed.

The community improvement program is an attempt to bring together two of today's pressing problems—idle young people and the decay and blight occurring in neighborhoods and communities across the country.

The community improvement program could begin the task of turning those twin problems into an opportunity—an opportunity to provide unemployed high school youngsters with not only a job, but with hope in the future and with a sense of community. Projects undertaken would help reverse the tide of community deterioration and neighborhood decay.

These are tasks that cry out for the doing but which have less priority than fundamental community tasks such as police and fire protection, roads, schools, and welfare. They are, nevertheless, valuable projects which enhance the community and extend the useful life of many facilities. Both the young person and the community share the satisfaction of a job well done.

Jobs created under the program would

be designed at the local level on locally selected community improvement activities. Broad community participation which is vital in the development of good projects is encouraged. Any private or public nonprofit group, including private citizens' voluntary groups, may participate and submit applications.

The supporters of this concept believe it will encourage young people to remain in school or, in the case of those who had dropped out or recently graduated, to return to finish high school and to go on to postsecondary education. In many ways, the program will tend to prevent our young citizens from being abandoned to the ranks of the chronically unemployed.

The community improvement section will create jobs for young people, and more, it will encourage the granting of school credit that might help students achieve graduation and access to higher education.

This is a new approach to the youth unemployment problem. The committee has maintained maximum flexibility in the legislation to provide an opportunity to test its workability and effectiveness. The committee did not place a limit on the use of funds for materials or supervisory personnel. It is clear that dollar limitations in past programs have severely hampered their usefulness. To assure that projects would not become leaf raking for lack of supplies the committee has not imposed arbitrary limitations.

Witnesses representing the construction and trades appeared before the Senate Subcommittee on Manpower and Poverty and were asked their views of the program and how the labor provisions in the bill would work. We were reassured by their answer.

The witnesses agreed there was much good, sound work which would be carried out under the program without triggering the full Davis-Bacon rates. The witnesses supported inclusion of the provision to protect unemployed adult workers. They supported opening this area to more young people and did not see the provision as an obstacle.

The labor unions with the greatest interest in the protections offered by Davis-Bacon are made up of members who also have a great interest in the future of our communities and of our young people.

In our meetings with these interested labor union officials, we have become convinced that—in a spirit of cooperation—we have worked out a legislative program that will provide us with flexibility and continued protection for the rights of older workers.

The third component in the bill, the comprehensive youth employment and training program, builds on the regular CETA mechanism to provide a broad range of training and employment services to young people. Activities would include counseling, occupational information, institutional and on-the-job training, and outreach services.

During its deliberations, the committee adopted several amendments to this section of the administration's bill.

One amendment, which I consider im-

portant, was offered by Senator JAVITS to include a program for in-school youth. Funds would be earmarked to strengthen traditional in-school programs and develop better linkages between school and career opportunities for young people.

I believe it is important to include in-school youth in these programs. The proposal I introduced covered in-school youth and expressly provides that school credits could be gained through employment on projects.

I note that part "C" includes, as eligible activities, some of the same activities authorized in the community improvement section. I am pleased that the project concept has favor and is an eligible activity in part "C." I expect, however, that projects undertaken under this section of the bill will be more limited and secondary to the other training and employment activities which are available.

I assume that all major youth community projects will be carried out under the community improvement section as that is its basic and continuing purpose. I am glad the option to consider projects has been given the prime sponsors as they can supplement activities carried out under the community improvement program.

Mr. President, as I said at the opening of my remarks, I commend the chairman and all members of the committee and staff who have worked on this bill. I believe it is good legislation, addressing a serious problem in this country, and I strongly urge its adoption.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that Chip Terrill, a member of my staff, be granted the privilege of the floor during the consideration of S. 1242.

The PRESIDENT pro tempore. Without objection, it is so ordered.

#### UP AMENDMENT NO. 331

Mr. NELSON. Mr. President, I send an amendment to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows: The Senator from Wisconsin (Mr. NELSON) proposes an unprinted amendment numbered 331.

Mr. NELSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

#### SPECIAL VETERANS PROVISIONS

SEC. 8. (a) With respect to programs carried out with funds appropriated after January 1, 1977, for each of the fiscal years 1977 and 1978 under the Comprehensive Employment and Training Act of 1973, as amended, the Secretary of Labor (hereinafter in this section referred to as the "Secretary") shall take appropriate steps to provide for the increased participation in public service employment programs and job training opportunities supported under such Act of qualified disabled veterans (as defined in section 2011(1) of title 38, United States Code) and those qualified Vietnam-era veterans (as defined in section 2011(2)(A) of such title) who are under twenty-seven years of age (hereinafter in this section re-

ferred to collectively as "eligible veterans"), including, but not limited to—

(1) providing for individual prime sponsors to develop local goals, taking into account the number of eligible veterans in the area served by such sponsors, for the placement of such eligible veterans in job vacancies occurring in such public service employment programs;

(2) Full implementation of the provisions of section 104(b) of the Emergency Jobs and Unemployment Assistance Act of 1974, as amended (relating to the conduct of an outreach and public information program to promote employment and training opportunities for veterans);

(3) the carrying out of the Secretary's responsibilities under (A) chapter 41 of title 38, United States Code (relating to job counseling, training, and placement services for veterans) to provide the maximum of employment and training opportunities through existing programs, coordination and merger of programs, and implementation of new programs; (B) chapter 42 of such title (relating to opportunities for employment and training for disabled and Vietnam-era veterans, including mandatory listing and the promotion of maximum employment and job advancement opportunities with the Federal Government); and (C) chapter 43 of such title (relating to veterans' reemployment rights);

(4) full utilization of the provisions of clauses (2) and (5) of section 205(c) of the Comprehensive Employment and Training Act of 1973, as amended (relating to service to significant segments of the population and special consideration for special Vietnam-era veterans) and the provisions of subclause (E) of section 105(a)(3) of such Act (relating to maximum use of apprenticeship or other on-job training opportunities available under section 1787 of title 38, United States Code); and

(5) requiring that representatives of appropriate veterans organizations or groups be invited to serve as temporary members of prime sponsors' planning councils (established under section 104 of such Act), the States' Manpower Services Councils (established under section 107(a)(1) of such Act), and the National Commission for Manpower Policy (established under section 502(a) of such Act).

(b) The Secretary shall make available such sums and shall assign such personnel as may be necessary to carry out fully and effectively his responsibilities under subsection (a). The Secretary shall report to the Congress within 60 days of enactment of this section on the amount so made available and the personnel so assigned.

(c) The Secretary shall carry out his responsibilities under this section in consultation with the Deputy Assistant Secretary for Veterans' Employment (established by section 601 of the Veterans' Education and Employment Assistance Act of 1976, Public Law 94-502). The Secretary, in carrying out his responsibilities under this section, shall also consult with and solicit the cooperation of the Administrator of Veterans' Affairs.

#### SPECIAL CONSIDERATION

SEC. 9. (a) Section 205 of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following new subsection:

"(d) In filling teaching positions in elementary and secondary schools with financial assistance under this title, each eligible applicant shall give special consideration to unemployed persons with previous teaching experience who are certified by the State in which that applicant is located and who are otherwise eligible under the provisions of this title."

(b) Section 602 of such Act is amended by adding at the end thereof the following new subsection:

"(f) In filling teaching positions in elementary and secondary schools with financial assistance under this title, each eligible applicant shall give special consideration to unemployed persons with previous teaching experience who are certified by the State in which that applicant is located and who are otherwise eligible under the provisions of this title."

Mr. NELSON. Mr. President, this amendment would simply insert in the bill provisions which the Human Resources Committee originally reported as amendments to H.R. 2992, the 1-year extension of CETA, which the Senate passed yesterday.

After consulting with members of the House Education and Labor Committee, it was determined that we could avoid a conference on the simple CETA extension if it contained no other provisions. They strongly prefer that all other issues relating to CETA be dealt with in the conference on the bill we are now considering.

The two provisions stricken from the simple CETA extension yesterday, which this amendment would add to the bill we are considering today, are the following:

First, the section providing that the Secretary of Labor shall take appropriate steps to increase participation in training and job opportunities under CETA for Vietnam-era veterans under 27 years of age and for disabled veterans.

Second, the section providing that, in filling teaching positions in elementary and secondary schools with financial assistance under title II or title VI of CETA, each prime sponsor shall give special consideration to unemployed persons with previous teaching experience who are certified by the State and who are otherwise eligible under CETA.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. NELSON. Mr. President, I understand that the distinguished Senator from Nebraska has an amendment he wishes to offer.

#### UP AMENDMENT NO. 332

Mr. ZORINSKY. Mr. President, I wish to thank the Senator from Wisconsin for the opportunity to present this clarifying amendment which I send to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. ZORINSKY) proposes unprinted amendment No. 332.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The amendment is as follows:

On page 68 of the bill between lines 18 and 19, insert the following new section:



## "CLARIFYING AMENDMENT"

SEC. Clause (A) of section 608 (a) (1) of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"(A) who has been eligible for unemployment compensation benefits for fifteen or more weeks;"

Mr. ZORINSKY. Mr. President, this amendment is in the nature of a clarifying amendment, and I believe it has been discussed on both sides and has the support of the Chairman. My understanding is that there is no other disagreement to the amendment; however, I would like to make it a part of the record.

The necessity for this clarifying amendment was first brought to my attention when I served as mayor of Omaha. I talked with the local official who had responsibility for carrying out CETA. Subsequently, my successor has continued to keep me informed of his efforts in dealing with the Department of Labor. From that exchange, it has become clear that only a change in the law can rectify the situation.

The present law, the Comprehensive Employment and Training Act of 1973 (Public Law 93-567), created title VI. Recently the Congress, in September of 1976, enacted eligibility provisions for title VI under Public Law 94-444. The intent of the eligibility requirements is to insure the hiring of the long-term unemployed.

The present provisions require that if one is eligible for unemployment compensation, then that individual must accept such benefits for 15 weeks before being eligible to obtain employment under the present title VI of CETA. My understanding is that the 15-week point is a very reasonable cutoff. Statistics and demographics have proven that if one is unemployed for 15 weeks, the individual is likely to be unemployed for an extended period of time and, therefore, rationally the 15-week point is the beginning of what can be described as long-term unemployment.

Even though the 15-week point is a reasonable cutoff, the requirement of remaining on unemployment compensation for 15 weeks has created an unintended anomalous situation of encouraging people not to work.

Because of that provision, people who are too proud to take unemployment compensation—and I must say to my colleagues, we still do have such people in Nebraska—and who are yet fit, willing, and able to work are forced to take the benefits to become eligible to be hired under title VI of CETA.

Likewise, people who are unemployed for 13 weeks and then decide to file for unemployment compensation benefits, still must wait to receive unemployment compensation benefits for 15 weeks before becoming eligible for title VI employment.

My clarifying amendment will remove the unintended anomaly. My amendment encourages people to work. It is consistent with the present intent of title VI, that being the hiring of the long-term unemployed. My amendment will simply allow those who have been unemployed

for 15 weeks to be eligible for employment regardless of whether the individual never filed or filed late for unemployment compensation.

Without my amendment, many States will have the money available but will be without the people to qualify. Yet these same States will have significant numbers of people who are long-term unemployed, the very target group title VI is meant to reach. I am underscoring this anomaly in light of the emphasis being given title VI through the recently enacted economic stimulus package.

I thank my colleagues from the State of Wisconsin, Senator NELSON, and the State of New York, Senator JAVITS, for recognizing this problem and for their support of my clarifying amendment.

I ask unanimous consent, Mr. President, that an exchange of correspondence on this matter between myself, the Department of Labor, and the mayor of the City of Omaha be printed in the RECORD at this point.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

MARCH 1, 1977.

HON. RAY MARSHALL,  
Secretary of Labor,  
Washington, D.C.

DEAR MR. SECRETARY: I am very disturbed to learn that the Employment and Training Agency of the Department of Labor is working on new regulations to Title VI of the Comprehensive Employment and Training Act that frankly, undermines the basic intent of Congress in providing local prime sponsors the ability to plan and program on the local level.

Specifically, the proposed regulations will restrict Title VI job placement to those individuals who have been unemployed 15 weeks or more and are verified by the Job Service. Additionally, and this is the rub: If such an individual is eligible for Unemployment Compensation and for one reason or another has failed to either apply for or exhaust his benefits, he will be ineligible for a Title IV public service position. The purpose, so I am told, is to attempt to expand as much Title VI money before September 30th as possible not withstanding the Comprehensive Manpower Plan of the several prime sponsors. While those of us familiar with the CETA effort can see this as an attempt to marry the ETA bureaucracy to the prime sponsors it should also be pointed out that it is an attempt by that bureaucracy to sandbag you and the Carter Administration before you gain functional control of the Labor Department.

How can a prime sponsor be expected to submit its annual plan, replete with job development and meaningful public service slots with public and non-profit agencies, then part way through the year on the whim of the Federal bureaucracy discard those commitments both to the unemployed and the public agencies that developed meaningful slots?

There are other elements of this decision that disturbs me. The U.I. trust funds in the many of the states have approached exhaustion. While the administration and the Congress debate tax relief for the private sector in order to provide job's stimulus, ETA proposes to maximize the drain on those funds by forcing their use when several prime sponsors have work (under Title VI) to provide to such applicants.

As you know, Mr. Secretary, the image of the Job Service with the private sector during the past two decades has been one of

steady decline. Indeed, the Madison Avenue campaign put forth two years ago to change the old "ES" (Employment Service) image into the present "Job Service" was designed to combat this problem. The Prime Sponsors, on the other hand, through their congressionally mandated effort for comprehensive planning and delivery of services have fared far better because they have been in a position to deliver what they have promised to deliver. What the proposed Title VI regulations actually portend is to drag the Prime Sponsors image with the private sector down to the level of the Job Service. CETA and the prime sponsors offered a new way of doing things from the old MDTA, EOA, Wagner-Pepper hodgepodge. CETA prime sponsors must be results oriented to survive and they are. This arrangement should not be torpedoed in order to provide the Jobs Service a reason to exist as the Jobs Service should also be results oriented or be abolished. In short, Mr. Secretary, I believe that CETA prime sponsors should be allowed to carry out their program as planned without unnecessary interference from the bureaucracy so long as it conforms to the law.

Sincerely,

EDWARD ZORINSKY,  
U.S. Senator.

OMAHA, NEBR.,  
March 2, 1977.

HON. RAY MARSHALL,  
Secretary of Labor,  
Washington, D.C.

DEAR SECRETARY OF LABOR MARSHALL: The City of Omaha Combination of Governments as a Prime Sponsor has found a serious flaw in the Emergency Jobs Act (Title VI). It is again a case of Federal bureaucrats "interpreting" Congressional intent. Our problem in Omaha can be corrected by a simple clarification that you as Secretary of Labor can address.

The problem with the interpretation is that the U.S. Department of Labor wants the applicant, if he/she is eligible for Unemployment Insurance (U.I.), to collect a minimum of fifteen weeks of U.I. checks before he/she can be declared eligible for a Title VI job. This interpretation is absolutely ridiculous and makes it extremely difficult for Prime Sponsors to fulfill the intent of Congress in reducing unemployment.

We feel in Omaha that if a person wants to work, and has been unemployed for fifteen weeks that he should be qualified to enter Title VI. Instead, the U.I. interpretation forces claimants who want to work now to receive the full supplement of fifteen weeks of U.I. checks. The verification procedure alone requires the applicant to travel to three different places in Omaha just to determine eligibility for a job.

These kinds of interpretations defeat CETA's purpose of getting jobs for the unemployed, and encourage participants to passively receive U.I. checks even though they want to work and can qualify for a Public Service job.

In short, people who have been unemployed for fifteen weeks or more and meet all other eligibility criteria should be allowed to go to work. Second, I think the Federal Regulations should encourage simplification in such programs, not paperwork obstacles that prevent the unemployed from getting jobs.

I trust that this matter will receive your immediate attention. The problem may be alleviated by simply stating that any person who has been unemployed for at least fifteen weeks is eligible to enter a Title VI job for which he/she is qualified. Please inform me of your opinion and actions on this matter.

Very Truly Yours,

ROBT. G. CUNNINGHAM,  
Mayor, City of Omaha.

WASHINGTON, D.C.,  
April 27, 1977.

HON. EDWARD ZORINSKY,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR ZORINSKY: Secretary Marshall has asked me to respond to your letter of March 1, 1977, to him concerning the revised program under title VI of the Comprehensive Employment and Training Act (CETA) of 1973, as amended.

As you are aware, Public Law 94-444 entitled "Emergency Jobs Programs Extension Act of 1976" was enacted on October 1, 1976. This legislation amends title VI of CETA and provides for the funding of projects and activities to employ long-term unemployed, low-income persons. Specifically, the law mandates the new eligibility criteria to which you referred in your letter. Federal regulations pursuant to this legislation were published in final form in the Federal Register on January 11, 1977, and recently were revised and published as proposed on March 15, 1977.

Section 99.43 of these regulations provides the guidelines for the prime sponsor's verification of participant eligibility. It should be noted that this section states that prime sponsors are responsible for assuring the eligibility of all participants and are liable for any payments made to participants determined to be ineligible during program reviews and audits. Regarding the method for verification, the regulations only suggest, not mandate, the use of State employment security agencies (SESAs). Prime sponsors may employ any method they choose for verification.

Regarding your concerns that this revised program under title VI of CETA will cause disruptions at the local prime sponsor level, it should be noted that sponsors will have enough funds to sustain throughout Fiscal Year 1977 the number of title II and title VI public service jobs which it had as of June 30, 1976, or October 31, 1976, whichever is higher. With additional monies which the Department anticipates Congress will soon appropriate, sponsors will fund new projects lasting for one year for low-income and long-term unemployed under the amended title VI program. Consequently, those new jobs in projects will be operated as a second, and additional, portion of title VI.

I hope that the information provided will be helpful.

Sincerely,

PIERCE A. QUINLAN,  
Administrator, Office of Comprehensive  
Employment Development.

APRIL 14, 1977.

MR. PIERCE A. QUINLAN,  
Director, Office of Comprehensive Employment  
Development, U.S. Department of  
Labor, Washington, D.C.

DEAR MR. QUINLAN: In accordance with instructions for the submission of comments on the proposed, March 15, 1977, CETA Title VI Regulations, I shall address my remarks to your attention.

As of this date, the Omaha CETA has hired three hundred nine (309) individuals under the new Title VI Projects public service employment program. Therefore, I believe the criticisms and suggestions listed in my letter should receive serious consideration. Omaha CETA is one of the very few Prime Sponsors in the nation who have hired under the Title VI Projects criteria and thus we can speak with the authority of experience.

Members of my staff were present at the Conference on New Dimensions in Public Employment in Washington, D.C., last week and listened to Mr. Ernest Green's explanation for DOL's adamant stance on the rigid Title VI participant eligibility criteria. Ap-

peasing the critics of CETA, with beefed-up program statistics, is laudable, but those efforts should not be at the expense of local officials. By robbing Prime Sponsors the flexibility we require to adapt to local needs, you will defeat the very purpose of Title VI.

The unemployment rate in Omaha is 7.1%; we have fifteen thousand unemployed persons. We've only developed a pool of approximately 600-700 eligible participants since our efforts began in February, 1977. We've already hired 309 of those individuals and are on our way to exhausting the pool completely. By the time DOL gets around to changing the eligibility criteria, to include the next lowest level of unemployed, Omaha's program will have come to a grinding halt.

The Title VI legislation, when outlining eligibility criteria for participants, contains the language, "In filling public service jobs with financial assistance, eligibility applicants shall give preferred consideration to the maximum extent feasible. . . ." That same flexibility should be contained in the regulations. Otherwise, the Administration should be prepared to give Regional Directors the authority to grant waivers, on eligibility requirements, to individual prime sponsors. Omaha is far ahead of the nation. Omaha should be rewarded for its efforts rather than penalized for its efficiency.

In a March 2, 1977, letter to the Secretary of Labor, Mr. Ray Marshall, I suggested a change in the proposed regulations concerning Unemployment Insurance (U.I.) eligibility. I have yet to receive a response from Mr. Marshall, so I shall reiterate my concern to you. The United States Department of Labor's interpretation that the Title VI applicant, if he/she is eligible for U.I., must collect a minimum of fifteen weeks of U.I. checks before he/she can be determined eligible for a Title VI job is ridiculous.

We, in Omaha, believe that if a person wants to work, and has been unemployed for fifteen weeks, that he/she should be qualified to enter Title VI. To insist that an individual sit at home until he/she collects fifteen U.I. checks when he/she is able to earn a living is absolutely absurd.

Finally, I believe the Federal regulations should encourage simplification in such programs, not paperwork obstacles that prevent the unemployed from getting jobs. The verification procedure alone requires the applicant to travel three different places in Omaha just to be determined eligible for a job. The problem may be alleviated by simply stating that any person who has been unemployed for at least fifteen weeks is eligible to enter a Title VI job for which he/she is qualified.

Your earnest and favorable consideration of these matters before publishing final regulations will be appreciated.

Sincerely,

ROBT. G. CUNNINGHAM,  
Mayor, City of Omaha.

OMAHA, NEBR.,  
May 9, 1977.

Senator EDWARD ZORINSKY,  
Russell Senate Office Building,  
Washington, D.C.

DEAR ED: Thank you for sharing the content of Pierce Quinlan's letter on the unemployment insurance question in CETA Title VI. I was most disappointed in his response and thus, I am again requesting your assistance.

The legislation is quite specific and, at first glance, one believes interpretation simple and straight forward. However, by the time you get to D.O.L.'s Technical Assistance Manual, Prime Sponsors are squeezed into

debilitating molds with appallingly restrictive interpretations.

The USDOL's Technical Assistance Manual, Title VI, and the Emergency Jobs and Unemployment Assistance Act of 1976 appears to have discrepancies in terms of the eligibility.

The interpretation raises the question of the intent of Congress dealing with unemployment. If the intent of CETA is to help economically disadvantaged and unemployed, then the Federal Regulations should be flexible to allow Prime Sponsors to perform this task in the manner necessary to meet the needs of their community.

In summary, the Omaha community believes that people who are unemployed should be allowed to go to work.

Enclosed are three items: 1) the Title VI legislative language of eligibility criteria; 2) the D.O.L. Regulations' wording on Title VI eligibility criteria, and 3) the D.O.L. Technical Assistance Manual interpretation on Title VI eligibility criteria. Each succeeding document contains more and more restrictive language.

I would appreciate your keeping me apprised of your communication with D.O.L. on Title VI Regulations. With all of us working together, perhaps someone with the Labor Department will realize that paying an individual not to work is foolish, and not the intent of Congress.

Sincerely,

ROBT. G. CUNNINGHAM,  
Mayor, City of Omaha.

MR. ZORINSKY. I thank the Chair.

MR. NELSON. I want to commend the Senator from Nebraska for his perceptiveness in discovering lacuna in the 1976 amendments which created a situation that was unintended. The intent of Congress was, that in order to qualify for a public service job, one need only be unemployed for at least 15 weeks, whether one was eligible or ineligible for unemployment compensation. It was not intended that if one were eligible for unemployment compensation, but did not apply for it or waited for several weeks to apply, and was unemployed for 15 weeks, that such individual be denied eligibility.

So the amendment is sound and it corrects an unintended error in last year's amendments. The manager of the bill is prepared to accept the amendment.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment was agreed to.

MR. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

MR. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered.

MR. STAFFORD. Mr. President, I ask unanimous consent that Judy Parente be afforded the privileges of the floor during the debate and votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

MR. STAFFORD. Mr. President, I suggest the absence of a quorum.



The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, this is an important and innovative piece of legislation. It addresses itself to the most difficult of our unemployment problems—youth unemployment. The bill is a good beginning in undertaking to tackle that question.

Usually when we look at a bill the principal sponsor is presumed to be an important, if not the most important, contributor to the origin of the concept and the substance of the legislation. In this particular case, that is not so. I am listed as the first sponsor. I am listed first on the legislation by mutual consent because this bill was referred to the Subcommittee on Employment, Poverty, and Migratory Labor. Several Members had bills and proposals addressing various aspects of the youth employment and training problem. And in a remarkable demonstration of generosity and good sense, these various authors joined in a cooperative effort with the administration to produce one comprehensive integrated bill that incorporated the best ideas and features of several proposals by several Members of the Senate. My contribution was only temporarily to lend my name to their efforts and conduct the hearings on the legislation in the subcommittee of which I am chairman. To the others belong the credit for developing this excellent and creative piece of legislation, not to me.

Part A, the Youth Adult Conservation Corps, is based on a bill introduced in this Congress and the last Congress by Senator JACKSON, who is the leading sponsor of the National Youth Conservation Corps for summer jobs for youth 16 to 18. Part B, youth conservation and improvement projects, is based on the proposal which Senators STAFFORD and RANDOLPH introduced early this session of Congress to put unemployed youths to work on the improvement and rehabilitation of facilities in communities throughout the Nation.

The Youth Initiatives Act of 1977 was introduced on January 10, 1977, by Senator CRANSTON and cosponsored by Senator KENNEDY.

The Comprehensive Youth Employment Act of 1977 was introduced on January 11, 1977, by Senator HUMPHREY and cosponsored by Senators JAVITS, ABOWREZK, CASE, INOUE, and MATSUNAGA.

The Youth Employment Act, S. 503, was introduced on January 28, 1977, by Senator McCLURE and cosponsored by Senators BELLMON, DOMENICI, BAKER, DANFORTH, GARN, HANSEN, HATCH, HAYAKAWA, JAVITS, LAXALT, LUGAR, SCHMITT, STEVENS, and WALLOP.

So this bill that has finally been worked out is the fruit of the conscientious and creative efforts of those Members I have mentioned who have con-

cerned themselves with this very important question and problem of youth employment.

Mr. HUMPHREY. Mr. President, the first thing I want to say in reference to the Youth Employment and Training Act of 1977 is that it represents a very significant improvement and development in our employment programs targeted toward a particular group of our citizens, the youth, that sustain and regretably have one of the highest levels of unemployment.

Second, I compliment the manager of the bill and the chief sponsor, Senator NELSON. He is very modest in his comment today about not having been any more than just by good fortune, because he is chairman of the subcommittee, the sponsor of the legislation.

That is being far too modest. The Senator from Wisconsin is known in this body for his extraordinary good work in the field of manpower legislation and in this instance has played a very significant role in the development of this particular bill and what we hope will be legislation signed by the President.

Of course, there are others. My esteemed friend from New York, Senator JAVITS, the ranking minority member of the committee, likewise has made tremendous contribution, and I rise to compliment and commend him.

Hopefully today we will be taking action on the Youth Employment and Training Act, and it will be a historic first step toward the development of a comprehensive and effective employment and training policy for the young people of this country. This landmark bill holds out the promise of help to millions of young people who will be entering the job market during the next few years who so desperately need to become productive, wage-earning members of our economy. Our good colleagues, Senators NELSON and WILLIAMS, deserve the warmest thanks from their colleagues in the Senate and from the young people of this Nation for their swift and effective action on the Youth Employment and Training Act, and so do, likewise, the other members of the Human Resources Committee on both sides of the aisle who have proven to be so dedicated to the needs of our youth.

I am very pleased to have been a cosponsor of this bill and to have participated in its development. Many of the programs in the Youth Employment and Training Act were adopted from the Comprehensive Youth Employment Act of 1977—S. 170—which I introduced on January 11 with Senator JAVITS and a number of cosponsors. The President and the Secretary of Labor, Ray Marshall, were very cooperative in developing this legislation, and I hope this cooperation is a portent of many good things to come.

Now, more than ever, the youth of our Nation need the employment and training help that will be provided by this bill. All across the country, unemployment has dealt a devastating blow to the hopes and aspirations of our young people. In April of this year, the unemployment rate among teenagers 16 to 19 years old

was 17.8 percent, compared to 4.9 percent among adults 25 years old and over. Among young adults 20 to 24 years old, many with family responsibilities, the unemployment rate was 10.8 percent. Among black teenagers, the unemployment rate was 36.2 percent and, in many of our central cities, disadvantaged youths experience an unemployment rate that exceeds 60 percent.

This is a national tragedy and an unconscionable waste of one of our Nation's most valuable resources. Almost every teenager and young adult I have met wants desperately to work and to become a productive and useful member of our society. They want jobs, they want to be productive, they want to earn their way, they want to be given a fighting chance. Unemployment cheats them out of all this.

The economic, social, and personal costs of this are enormous. In addition, youth unemployment is a major source of crime. Seventy-five percent of arrests for serious crime involve youths under the age of 25 years old. Most often these crimes are committed by young people who have nothing valuable to do and who have been totally alienated from the mainstream of our society and our economy.

The Youth Employment and Training Act provides the first ray of hope for many of these young people. Through the National Young Adult Conservation Corps and the Youth Community Conservation and Improvement projects, the bill creates useful employment opportunities for young people who otherwise may never have had a chance to perform fulfilling and valuable work—jobs reforesting Federal and State lands, creating recreation areas, refurbishing homes and public buildings, weatherizing older homes, providing community services, and doing many other useful tasks.

Under the youth employment and training programs, contained in part C of the bill, young people will receive a wide variety of jobs and job training that will help them obtain good work when they enter the job market—including the creation of employment opportunities that will give participating youths much-needed work experience, job counseling, provision of occupation information, institutional and on-the-job training, and many other supportive services.

I am particularly pleased that the Human Resources Committee adopted my amendment which will allocate 15 percent of each prime sponsor's youth employment and training funds for a program to serve youths who are still in school. The original bill did not have such a provision, and indeed, specified that only out-of-school and out-of-work youths were to be served by programs established by the bill. This would have been a terrible mistake, since it ignored the fact that many young people desperately need a job just to remain in school and, in fact, it would have given these youths an incentive to drop out of school to qualify for assistance. My

amendment is an important provision of the bill, since it now gives youths who are still in school the same access to jobs and training as youths who are out of school.

During the next 18 months, \$2 billion will be distributed to the States and to prime sponsors to develop youth employment and training programs. Although this is not really enough to help all of the 3.3 million young people who are unemployed today, it is a significant start and a signal to our young people that Congress and the administration can and will work together to meet their needs.

The State of Minnesota, as many of my colleagues know, already has a very effective youth jobs program that encompasses funds from the Neighborhood Youth Corps under title III of CETA, a State youth employment program that will receive \$8 million over the next 2 years from the State budget, and privately funded programs, all melded together to provide useful jobs for Minnesota youths. In addition, we have a very effective vocational education program in our State, in fact one of the best in the Nation.

Under the Youth Employment and Training Act, Minnesota prime sponsors will receive about \$30 million to expand our youth employment and training programs. This will allow our prime sponsors to create about 10,000 to 15,000 new job and training opportunities for our State's youths, and to serve 30,000 to 40,000 youths during the upcoming 18-month period. This will be a big help to the unemployed youths in Minnesota.

Many of Minnesota's youth employment and training programs, as I have said many times before, could serve as excellent examples for youth programs across the Nation. The center for community action's summer jobs program, which has employed over 7,000 disadvantaged youths from Minneapolis, St. Paul, and Hennepin County since 1971, has done an excellent job of providing recreational facilities along the riverfront that are highly valued by many Minnesota citizens. Here is a very good model for the youth community conservation and improvement program. The city of St. Paul's youth career exploration and employment program gives over 500 disadvantaged youths each year the opportunity to work and develop job skills while they are still in school, and could well serve as a model for an in-school program. Our statewide work experience program, which integrates up to a half day of work with a relevant educational program, could also be a model.

Enactment of the Youth Employment and Training Act will benefit youths in Minnesota and all across the Nation. I support it and I am very happy to have had the chance to participate in developing this very important program for our Nation's youths.

Mr. President, I see my esteemed friend and colleague from New York (Mr. JAVITS) is present, and I want to ask him a question if I may have his attention.

Congress has appropriated \$1 billion for youth employment and training programs for fiscal year 1977. A quick start-up of the programs that we will enact with the Youth Employment and Training Act would be the most appropriate and effective use for these funds. I understand that the administration has committed itself to using the fiscal 1977 money to fund these programs right away, and that their commitment was part of the negotiations that led to the development of the bill.

I ask the Senator from New York, who participated so eminently in the development of this bill, am I correct in the statement I have just made?

Mr. JAVITS. The answer is yes. And now I would like to implement that answer with the following facts:

We passed here not very long ago the Economic Stimulus Act of 1977. That included \$1 billion for the youth program—the very \$1 billion which the Senator mentioned.

That left the situation neutral, because the committee, in its report, on page 14, said:

For the youth program, the committee recommends \$1 billion, the same amount as the House allowance and the budget figure, to fund the efforts for fiscal 1977 and all of fiscal 1978.

Bear in mind that that is two-thirds of the trench. The other \$500 million will come in a subsequent appropriation. So the matter is left neutral.

Therefore, we revert to the hearing of April 20 before the Subcommittee on Employment, Poverty, and Migratory Labor of the Committee on Human Resources. At page 32 of that transcript, I asked Secretary Marshall specifically about this matter, and I would like the Senator to hear the colloquy. I will read it slowly:

Senator JAVITS. . . . My last question is this: We have a fiscal stimulus appropriations bill before us. It has a billion dollars for youth employment programs. The thought originally was that this would go into title III, so-called national programs for Indians and various other special classifications. Naturally, that is a large sum of money. We feel it is very, very urgently needed in the youth employment field.

Has the department thought at all about how that money can best be used and what assurance we should have as to whether it will be used consonant with this bill, or what are your thoughts on it?

I beg the Senator to note the words "consonant with this bill," which was the bill we were debating in connection with this testimony.

Secretary MARSHALL. We have given a lot of thought to how it can be used. Of course, the \$1.5 billion in the youth bill reaching 200,000 young people is not insignificant.

He was referring to an additional \$1.5 billion, in addition to the \$1 billion.

Mr. HUMPHREY. Yes.

Mr. JAVITS. I do not want us to forget that point.

Again I quote:

but you have to consider it relative to the total problem that young people face, and we think the things we are contemplating doing in other parts of CETA are also neces-

sary and that these are complementary and what our conception of the youth population and programs to deal with it is that we are trying to be comprehensive about it, trying to think out a balanced program that will meet the needs of most groups and give us some flexibility in delivery mechanisms because I think both of those are important, while keeping in mind the need to manage the program as effectively as we can and to be sure we accomplish the objectives; that we get meaningful work done and that the training itself is meaningful.

We have thought about that.

I was not satisfied with that answer and neither would the Senator have been, so I pursued it. Now, I continue at page 33, line 9:

Senator JAVITS. I don't want to put words in your mouth, but what we are concerned about is as executive legislators have pretty well agreed on this bill with the changes being suggested which are not, after all, essential. But the billion dollars which will be used consonant with—I think that is a fair word—the policy and principle of this bill before us.

Secretary MARSHALL. Let Mr. Edes expand on that.

Mr. Edes is the Deputy Under Secretary of Labor for Legislative Affairs of the Department of Labor.

Mr. Edes. Senator JAVITS, we had already contemplated spending that billion and a half dollars in the fiscal stimulus package in the same way that, in fact, is outlined in this legislation. One of the reasons that we—one of the many reasons that we decided to go with the separate use title was to get a clearer congressional input through the legislative mechanism as to how we should, in fact, go about spending that money, and that is what this legislation represents and that is why we are asking that you act as expeditiously as possible in putting this together so that we can move together in the expenditure of that money as this legislation would ultimately command us to do.

Senator JAVITS. Is there anything that inhibits you in what is on the floor? You see, that is very much closer to getting votes and could you—that is why I used the words "consonant with"—use what we provide consonant with the thrust of this bill?

Mr. Edes. That is our intention and that is how we are planning to spend the money.

Then another official interjected, Mr. Green, the Assistant Secretary for Employment and Training.

Mr. GREEN. I would just like to respond. We are ready to move expeditiously and have been in the planning stages on a number of them. Parts C and A, as Secretary Marshall outlined, we have a near finalization of the interagency agreement on the Young Adult Conservation Camps and Part C is through the CETA system and we are ready to move with that as a program content.

Senator JAVITS. Thank you very much. Thank you all, gentlemen.

So Secretary Marshall gave us a willingness, but Edes and Green, who were there also as administration witnesses, gave us a very precise answer which, for legislative history, I interpret to mean that the \$1 billion provided in the stimulus appropriations bill of 1977 will be used in accordance with the purposes of this bill. They have that discretion because the appropriation was neutral.

Mr. HUMPHREY. I am very grateful to the Senator from New York. That



\$1 billion means a very quick startup of these programs.

Obviously, it would fit into the pattern which is established in this bill, which is a very balanced program, of a variety of youth employment opportunities.

Mr. JAVITS. May I add one other thing which has been called to my attention by staff?

Mr. HUMPHREY. Yes.

Mr. JAVITS. On page 66 of the bill, section 4 expressly picks up these funds, the \$1 billion, and provides that:

Sec. 4. In order to provide for an orderly transition to youth employment and training activities funded under title VIII of the Comprehensive Employment and Training Act of 1973 (as added by this Act), the Secretary of Labor shall use the funds available from appropriations under the Economic Stimulus Appropriations Act of 1977 for youth employment and training activities to the maximum extent consistent with law, in such a manner as to be in accordance with the provisions of such title VIII.

So I think it is locked in very well.

Mr. HUMPHREY. I believe it is locked in very well. I thank the Senator from New York for referring to the testimony because the legislative history is of vital importance.

While I have the Senator's attention, he will note that we included in the bill a provision that sets up a new work-study program that incorporates job training and work experience in the educational program of in-school youth, and allocates 15 percent of the funds authorized under the act to in-school programs. The programs are to be run by the local educational agencies under contract from the prime sponsors.

I believe this provision is so important because without it the program would be essentially for out-of-school youth and those who were completely unemployed. I want to make sure that, when we go to conference with the House, our conferees on both sides of the aisle, Democratic and Republican, will fight hard to keep that 15-percent provision.

Nothing would be worse than to have a bill that had an incentive to take young people out of school in order to qualify for the provisions of the bill. This 15-percent allocation permits the bill to be applied for in-school, on-the-job training, programs relative to education and work experience, thereby keeping young people in the school systems of the country.

I would appreciate the Senator's comments.

Mr. JAVITS. Mr. President, to me this is the most innovative part of this bill. I was very honored to sponsor it with Senator HUMPHREY. I deeply believe he has exactly described the situation.

We have never applied work study on the Federal level to secondary education and yet that is where all the dropouts occur.

Not only is it critically important to keep them in school, and this program would be designed for that purpose, but it is also critically important to get the educational agencies into the whole complex of effort for training them. Many of the trainees, whether in or out

of school, simply lack basic skills of reading, writing, and arithmetic. They cannot get a job because they are practically illiterate. That is aside from a lifetime education and other very gifted concepts of the present Vice President of the United States in which many of us have joined. It opens up a totally new world in terms of the training of people, of how to deal with the unemployed, of the kinds of jobs which Government may have to give as public service jobs, and so on.

I deeply believe this is the most innovative aspect of this bill.

It will be a great challenge to the educational agencies and it will be a great challenge to the prime sponsorship. It is extremely desirable from every point of view.

One thing I would like to point out is when we speak about work study we are also talking about community colleges which mainly teach professional subjects and in many cases quasi-professional subjects, like dental technicians, or something like that. This is critically important because by doing that, they begin more nearly to match the training with the person.

I congratulate the Senator on our work.

Mr. HUMPHREY. It is a joint effort. Might I say it has been a special joy to work with the Senator from New York. I feel this legislation, to which we have all had a chance to make a real contribution, is landmark legislation.

It is one of the fundamental social economic problems of our country. This particular provision is innovative. I do think it will stand the test of a very critical examination. I do think it will produce results.

I thank the Senator for his observations.

Mr. JAVITS. I thank my colleague.

(At this point Mr. SASSER assumed the Chair.)

Mr. HUMPHREY. I yield the floor, Mr. President.

Mr. McCLURE. Mr. President, at the outset I thank the Senator from Wisconsin for having noted that this bill has broad support and had initial broad sponsorship for a number of its features. I am particularly happy that the report, as well as the remarks of the Senator from Wisconsin, indicate that the Senator from Idaho, along with cosponsors, introduced the Youth Employment Act back in January.

One of the concerns that I have in the entire field of youth employment lies in the institutional barriers to employment. We have not attacked those institutional barriers directly, but we leave that to future action of the Congress of the United States.

That was done for two reasons: One is that those institutional barriers fall very seldom, and they are very difficult to surmount. They have all kinds of constituencies that defend them.

The other is that the problem of youth employment is so severe that it cannot await the resolution of some of those larger and more difficult solutions.

One of the areas that I am pleased to see included in the bill that was a part of the legislation which I introduced was the inclusion of an option for the prime sponsors, the option of involving the private sector. This is a new attempt on the part of CETA. This can be one of the most significant changes in the basic legislation, but it will be significant only if local prime sponsors avail themselves of that opportunity and if the applications of local prime sponsors who seek to do that are recognized through the approval of their grant applications.

I take the time this morning only to concentrate for a moment on making legislative history that would indicate that we expect that the private sector will be involved; that we will expect, a year from now, in looking back at the evolution of the administration of this program, to find that local prime sponsors have reached out to job opportunities in the private sector; have worked to find ways to create job opportunities, work experience, and training on the job—not in public service jobs, not in public sector jobs, but in private sector employment.

We know that a very, very high percentage of all the jobs in our society are in the private sector, not in the public sector. We know that if we are to be successful in moving young people off the unemployment rolls and into meaningful employment, they must find those jobs in the private sector. If, as a matter of fact, our major or our only thrust is to create new public sector jobs or public service jobs, we shall have created a wider hiatus rather than solving the problem that we seek to solve; for far too many public jobs, and, indeed, public sector jobs, funded by a program of this kind, are deadend jobs. They do not lead to permanent employment, but are temporary in their nature. The job lasts as long as the grant lasts. The job terminates when the grant terminates. We have to be building bridges to permanent employment, not simply finding work for young people on a temporary basis, as important as that may be.

I was particularly happy that the section of the bill which was in my bill is included in this measure. It appears on page 48 of the bill, in subsections 4 and 5, line 11 through line 22. But the reality of the promise will be met only in practice. It means nothing to include it if, as a matter of fact, the applications that include these innovations are not improved and funded and actually put into practice. I hope that the sponsors of the bill and the floor managers of the bill will agree with me that we will expect to see some measurable progress.

I wonder if the Senator from Wisconsin might not agree with me that, a year from now, looking at the progress on this bill, we are going to be looking to see whether or not prime sponsors have involved the private sector; whether or not those have been funded; and whether or not jobs have actually been created in the private sector.

Mr. NELSON. I agree with the distinguished Senator from Idaho. As the Sen-

ator well knows, that is one of the reasons that we made this a 1-year bill. We did give considerable flexibility in the bill to the Secretary of Labor so that we can gain 1 year's experience in the management of this legislation. The private sector, in my judgment, is very important in this; it is, at least ultimately, our objective to get people trained—one, for youth to have a job-working experience; two, to get some job training so that they can go into the private sector, and, of course, on-the-job training programs are authorized by the legislation.

The problem of youth employment is, as the Senator knows, the most serious structural unemployment problem this country has. When the President met in London at the summit of leaders of the Western industrialized nations, youth employment was one of the most important areas of concern, because it is a worldwide problem. The problems of youth unemployment are not going to be resolved unless there is close connection between activities of the kind supported under this legislation and the ultimate employer, who is the private sector employer.

A year from now—that is why we made it 1 year. We usually provide authorizations for 2, 3, and 5 years. We made this a 1-year bill so that we can get back to the legislation and have very good, careful, and extensive oversight as to how the program is working. We can then make whatever changes will be necessary to implement the objectives we all have in mind.

Mr. McCLURE. I thank the Senator from Wisconsin. I appreciate both his leadership and his assistance in making this legislative history. The merit in this proposal will be reality only if it is practiced. We can make suggestions; we can provide flexibility; we can create the opportunity; we can point in the direction. But if the direction is not followed in the administration of the program, all we have done means nothing.

I do not intend, and I think it would be impossible, for us to mandate at this point the degree of private-sector involvement. We do not know what can be done. But we will know a year from now, by looking at the experience, whether or not there has been an honest effort made to implement this portion of the bill. That and other innovative ideas are going to be tested in the crucible of actual practice.

I know that the Senator from Oklahoma has had a very keen interest in the involvement of educational institutions. That, again, is a new thrust in this bill, trying, in a very real way, to integrate the training with the educational institutions, the employment counseling and the job placement with educational institutions. The bill provides flexibility to do that in new ways. But, again, we shall not know how well it has done until we have had some experience and can see how well it has been administered.

I think a number of us who are supporters of this legislation, who have sponsored or cosponsored other bills that have been merged into this effort, will be

looking with a very sharp eye at how it has worked in practice, to see whether or not the approach that we have made here is worthy of supporting for another year. I, for one, am going to be looking at that with a very close eye.

I think it would be a mistake for us, for instance, to have missed the opportunity to integrate job placement into the vocational training schools of our country. This bill can provide that means. But it does not require it.

Would the Senator from Minnesota care to comment on that?

Mr. HUMPHREY. Indeed. As the Senator from Idaho knows, I have been a strong supporter of the very concept that he has spelled out here today, that is in this legislation. In the work of the Senator from Idaho in the Joint Economic Committee, we have discussed this matter. Not the same, but a similar provision was in the bill introduced by Senator JAVITS and myself. I think it gets right at the heart of the long-term employment opportunities of young people.

That is what we are most concerned about.

Mr. President, I ask the Senator in light of a conflict I have in scheduling if he would be kind enough to yield to me, without losing his right to the floor, for a technical amendment which has been accepted by both the manager of the bill and the ranking member?

Mr. McCLURE. I am happy to yield to the Senator.

Mr. HUMPHREY. The Senator is very gracious.

#### UP AMENDMENT NO. 333

Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. HUMPHREY) proposes an unprinted amendment No. 333.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, line 3, strike the period and insert: "and the Soil Conservation Service."

Mr. HUMPHREY. Mr. President, the purpose of the amendment I have proposed is quite simple. It adds the Soil Conservation Service to the Government agencies where youth employment might be used.

The Soil Conservation Service has, in the past, effectively used the youth of our great Nation in various public employment programs.

I am certain that the failure to list the Soil Conservation Service stems from a slight oversight. The administration strongly supports this amendment and the relevant House legislation contains a provision relating to the Soil Conservation Service.

Mr. NELSON. Mr. President, the distinguished Senator from Minnesota is

correct that the Soil Conservation Service should be included. It was unintentionally omitted, as far as I am concerned, and I am prepared to accept the amendment.

Mr. JAVITS. What page is that?

Mr. HUMPHREY. It would be on page 34, line 3, after the words "Forest Service" and would include the words "and the Soil Conservation Service."

Page 34, line 3.

Mr. JAVITS. That is fine.

Mr. HUMPHREY. Strike the period and add the words, "and the Soil Conservation Service."

Mr. JAVITS. It is acceptable to me.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. HUMPHREY. I thank the Senator for yielding.

Mr. McCLURE. The Senator from Minnesota is very welcome.

Mr. President, I shall conclude my remarks very briefly.

Mr. President, in January I introduced, along with 15 other Senators, a bill intended to address the serious problem of unemployment among our Nation's young people. Even though I continue to have restrained misgivings about certain aspects of the bill we are considering today, I am gratified by the timely response of the Human Resources Committee to this pressing problem, and I am particularly pleased that part C of the bill incorporates several of the concepts I advocated in my own youth employment bill.

The basic approach of part C of the bill is similar to my own proposal in that funds are provided to CETA prime sponsors to support a broad range of manpower services. While I wholeheartedly endorse this approach, I would prefer to have seen a broader range of eligible activities to provide greater incentives to private employers to train or employ unemployed or low-income youth. Permanent and meaningful employment of our young people must ultimately be found primarily in the private sector, since the provision of public service jobs can at best provide only a temporary answer without a complete breakdown in our economic system.

But let me emphasize again my firm belief that a targeted approach is essential if this form of structural employment is to be alleviated. The largest group of the structurally unemployed is the Nation's youth. Youth aged 16 to 24 make up 25 percent of the labor force but constitute 50 percent of the unemployment figure, and dollars intended to reach the problem of unemployment in general simply do not trickle down to this large but special group. Structural factors have contributed to higher rates of joblessness among young people. A list of the more important structural aspects of the problem would include:

First. Inadequate skill development and educational levels;

Second. Difficulties associated with the first job search;



Third. High rates of job changing and termination;

Fourth. Seasonal patterns of entry;

Fifth. Lack of mobility; and

Sixth. Poor labor market information.

Because of these factors, youth are the least able to compete for the limited number of jobs that are available.

While some of these same problems have been present in the past, young people made the transition from school to work and with the passage of time, evidenced much the same labor market history as did those workers who preceded them. That is to say as they aged, left home, and established households, job search intensified and career patterns were established and pursued. Many observers, however, feel that this current group of young people will not make the transition as painlessly or successfully as those who have preceded them. Consequently, the high rates of unemployment which exist for youth today will be carried forward into the higher age strata of the civilian labor force. Thus if job creation fails to keep pace with the expanding labor force, many young people will go through their teens and emerge as young adults with no employment history and few marketable job skills.

There are 3.6 million unemployed youth. These youth can be found in the inner city, in the suburbs, and in rural America. The problem is not isolated. Though youth unemployment is no respecter of class, the disadvantaged youth suffer particularly from structural unemployment.

Youth unemployment is a problem throughout our Nation. We cannot ignore the tremendous need. We cannot turn our backs on millions of our sons and daughters. I join with my colleagues today in support of a comprehensive program to help the youth of our country become productive members of society.

Mr. President, I am happy to yield to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I thank my friend from Idaho.

I wonder if I may have the attention of the Senator from Wisconsin to respond to a couple of questions.

The Senator from Wisconsin may remember that a couple of years ago the Senator from Oklahoma introduced a bill that would have made it possible for our urban youths to locate and accept employment in rural areas, employment on farms. The bill never did go to hearings.

I am curious to know, as to the language in this act, if that objective might not be accomplished here.

On page 34, for instance, in lines 4 through 9, we say:

"(d) (1) The Secretaries of the Interior and Agriculture, pursuant to agreements with the Secretary of Labor, may provide for such transportation, lodging, subsistence, medical treatment, and other services, supplies, equipment, and facilities as they may deem appropriate to carry out the purposes of this part.

Would this make it possible for the Secretary of Labor and the Secretary of Agriculture to work out arrangements whereby urban youths were identified,

who wanted and would accept jobs on farms and ranches, and for the Secretary of Agriculture to identify farmers or ranchers in need of that kind of help and work out an exchange program so that these young people from the cities could have the opportunity to work in rural areas?

Mr. NELSON. First, let me say that I remember very well the proposal of the distinguished Senator providing some mechanism for young people, youths from the cities, to have an opportunity to work on the farms and ranches, which concept I happen to endorse. I think it is a very good concept.

I do not think under this legislation that could be accomplished in the Young Adult Conservation Corps—I will check the language—because I believe corps members are to work on public lands. In other parts of the legislation, nonprofit agencies may be project applicants.

I do not know off the top of my head but perhaps the Senator's proposal falls in the category of on-the-job training with private employers, which is a permissible arrangement.

Mr. BELLMON. If the Senator will yield, there is quite a lot of the agricultural sector that is nonprofit.

Mr. NELSON. I withdraw that. I have a lot of dairy farmers. [Laughter.]

Mr. McCURE. Will the Senator yield for a comment?

Mr. BELLMON. I am glad to yield to the Senator.

Mr. McCURE. Would it not be possible for a local prime sponsor who is a public entity to combine some ranch or farm work experience as part of a proposal under the language which I have made reference to that involves the private sector in job training and job experience?

I would think it would be possible to structure a proposal that would include what the Senator from Oklahoma suggested.

Mr. NELSON. I would not like to answer the Senator's question offhandedly because it is an issue of first impression that was not raised at the hearings, nor in the committee markup.

How would such a program be designed?

Mr. McCURE. I would think it could be designed in exactly the same way a local prime sponsor would involve a young person in a work experience program in an industry in the city, for instance, or in any other private sector employment, private sector job.

It might be more difficult because of logistics involved, but one of the things that surprised me in the studies of youth unemployment is that it is not a big city problem exclusively, that in gross numbers there are almost as many young people unemployed in rural areas of the country as in the inner cities.

We might find a small rural community in which the local prime sponsor could very easily have public training for work experience, place a youngster in that rural setting in a job that is in agriculture and that might be the best approach into future work in their own community.

Mr. NELSON. I am assuming that what is being inquired about is whether or not under this program, the program sponsor itself could become an instrumentality for seeking youth and placing them in an agricultural situation in which the employer, in this case the rancher or farmer, would pay the wages and provide the housing, and so forth, and that the only function here would be as a placement agency, so to speak.

Mr. McCURE. I suggest that it might be possible that the employer would pay the full wage, and it also might be possible that he pay a portion of it, depending upon the way in which the program was put together by the sponsor. It might be a portion of the day, a working experience that tries different kinds of work on the job for different periods of time.

I see nothing in the bill which would make that impossible, and certainly that was within my view of what was a possibility of the private sector involvement under the sections of the bill to which I made reference earlier.

Mr. NELSON. The Senator is not talking about part A of the bill?

Mr. McCURE. No—part C.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BELLMON. I am happy to yield to the distinguished Senator from New York.

Mr. JAVITS. It is a question of first impression to me. Interestingly enough, this farm boy from New York City joined Senator BELLMON in this bill. As does Senator NELSON, I think it is a very good idea, and I am appalled that I did not push for hearings, which I certainly could have done easily.

It strikes me that there are areas under B and C, perhaps not necessarily precisely along the lines of Senator BELLMON's proposal. For example, I noticed that in part B, which is the 16 to 19 group—generally called Senator STAFFORD's ideas in this particular area—we talk about weatherization.

For example, page 37, line 8, reads:

'Community improvement projects' means projects providing work which would not otherwise be carried out, including, but not limited to, the rehabilitation or improvement of public facilities; neighborhood improvement; weatherization and basic repairs to low income housing . . .

Most of the low-income housing, as a matter of fact, in terms of a relationship to total housing, probably is located in rural areas. They are very poorly housed in many areas.

Of course, part A refers to public lands, and again it raises a problem.

So I think there is latitude as Senator McCURE has described under part C. It would be my duty and my pleasure to press the Labor Department to see what can be done to try out the Senator's concept under such provisions of this bill as allowable, and let us take it from there. I think that is the way to proceed.

Mr. BELLMON. Mr. President, if the Senator will look at page 56, section 838, beginning at line 16, the language is this:

The Secretary of Labor is authorized to provide support for innovative and experimental programs to test new approaches for

dealing with the unemployment problems of youths. In supporting such programs, the Secretary of Labor shall consult, as appropriate, with the Secretary of Commerce, Secretary of Health, Education, and Welfare, Secretary of Housing and Urban Development, the Director of the ACTION Agency, and the Director of the Community Services Administration.

If we could get the Secretary of Agriculture in this program—

Mr. JAVITS. Surely. Consultation certainly is more than appropriate. Why does the Senator not write it in?

Mr. BELLMON. If the Senator from New York will accept this.

Mr. JAVITS. I will accept it.

Mr. BELLMON. Also, this section provides for experimental programs. If we could get an experimental program under the terms of this section, perhaps in a year we would have some guidance.

Mr. JAVITS. Let us say it.

Mr. BELLMON. I should like to raise a question with the Senator from Wisconsin (Mr. NELSON).

Mr. NELSON. The Senator would insert "Secretary of Agriculture" somewhere on line 17, 18, 19, or 20?

Mr. BELLMON. That is right.

Mr. NELSON. Why does the Senator not offer it? On line 19, after "housing and urban development" insert "Secretary of Agriculture." Does the Senator want to offer that?

Mr. BELLMON. I do not have it written down.

Mr. NELSON. As I understand it, the Senator proposes, on line 19, page 56, after the comma following the word "development," to insert "Secretary of Agriculture."

#### UP AMENDMENT NO. 334

Mr. BELLMON. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment No. 334:

On page 56, line 19, after "development," insert: "Secretary of Agriculture."

Mr. BELLMON. Mr. President, I believe the amendment is acceptable.

Mr. NELSON. I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BELLMON. Mr. President, to be sure that the legislative history is complete, it is the intent of the authors to make it possible for the Secretary of Labor and the Secretary of Agriculture to work out a cooperative program for the placement of urban youth in rural jobs in the private sector.

Mr. NELSON. My answer originally to the question should have been "yes," that it fits in as part of the on-the-job training under the rules and regulations of the Secretary of Labor to carry out the provisions of the legislation.

Mr. BELLMON. I should like to raise another point.

It has been one of my concerns that very often, in our vocational technical schools, the young people are trained

for jobs, and then, once they complete the training courses, they are released into the job market without guidance or followup to be sure that they can find jobs and hold those jobs.

I am curious as to whether there is a provision in this bill to give those who train young people some responsibility in also seeing that once the young people are trained, they can get a job and hold it. I refer to page 48, line 7:

\*\*\* providing for the establishment of cooperative efforts between State and local institutions, including occupational and career guidance and counseling services for in-school and out-of-school youth;

I wonder whether that would include job placement.

Mr. NELSON. Yes, it does.

Mr. BELLMON. There is no mention of job placement, but it is the intent that job placement be part of those services?

Mr. NELSON. That is the way I interpret it.

To make it more specific, we could include "and job placement services."

#### UP AMENDMENT NO. 335

Mr. BELLMON. If the Senator would accept such an amendment, I would offer it.

I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 335:

On page 48, line 9, after the word "counseling," insert the following: "and placement."

Mr. NELSON. That is my interpretation of what we intended in any event. I have no objection to it if the Senator from New York does not.

Mr. JAVITS. No; I have no objection. I think it is highly acceptable.

The PRESIDING OFFICER (Mr. SASSER). The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

#### UP AMENDMENT NO. 336

Mr. DOMENICI. Mr. President, is the Senator from Oklahoma finished?

Mr. BELLMON. I am finished.

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes unprinted amendment No. 336.

Mr. DOMENICI. Mr. President, I ask unanimous consent to dispense with the further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, line 10, strike "receive" and insert in lieu thereof "be given."

On page 53, line 11, after the word "training" insert, "and opportunities for appropriate new classifications, occupations, and restructured jobs."

On page 63, line 1, after the word "for" insert "occupations and job classifications of."

On page 63, line 2, strike "in similar occupations."

Mr. DOMENICI. Mr. President, I offer this amendment for myself and in behalf of Senator BELLMON and Senator McCURE.

The manager of the bill and the ranking Republican have a copy of this amendment. The substance of this amendment, I might say, Mr. President, accounts for the delay this morning of a couple of hours while we have been talking about the problem that this amendment will attempt to resolve, and I will address that issue shortly.

First, let me thank Senator BELLMON and Senator McCURE for helping with this amendment in the discussions and the preparation of it, and Senator NELSON and Senator JAVITS for their concern and, in particular, I thank the Senior Senator from New York (Mr. JAVITS) for his ideas and his assistance in trying to get the idea with which I came to the floor this morning into this legislation.

Having said that, let me briefly describe what I am trying to do and what concerns me in the bill.

First, Mr. President, there can be no doubt that one of the most significant problems America has, and which assumes moral responsibilities and moral dimensions, in this Senator's opinion, is youth unemployment.

I need not recite the litany of statistics with reference to this problem of youth unemployment. They are well known, and the record in the Senate in the past 2 months, the record of the committee, is rampant with evidence that America has a major problem when half of its unemployment is youth between the ages of 16 and 21, youth who are unemployed for whatever reason.

Looking at it at this point in our history, there are too many institutions and too many traditions and too many groups that have part of the responsibility for this problem and part of the blame. There are too many to indict here today. The fact remains that the problem is with us.

The second fact is that whether or not the American economy gets the appropriate stimulus and growth either from the private sector or by appropriate monetary and fiscal policies of this Nation, it appears to many of us that youth unemployment will remain and will not respond very significantly to that kind of growth and stimulus.

Having said that, a number of Senators—and I am pleased to be one of them—from both sides of the aisle have in this particular year arrived at the conclusion that we have a responsibility, along with fiscal policy and monetary policy, to target unemployment opportunities into our youth.

Now, I want to generally create the atmosphere that prompts my amendment. There have been a number of Senators and a number of economists, a number of educators, a number of businessmen, and a number of concerned Americans who have indicated that the minimum wage is one of those societal structures that is making it hard for young people to find employment.

I am not saying that is a majority or a uniform view, but I am saying there has been a very significant body of



thought that says that is a problem. That has found its way into legislation in the past few years with the notion of a youth differential or a period of time when young people could work for less than the minimum wage as they move into the work force.

When some Senators and this Senator started working on a youth bill, I went there concerned about shall we create a youth differential in this bill. After much negotiation and thought, I came down on the side of a bill which was introduced carrying the principal sponsorship of Senator McCURE, which did not address that issue, and it said, "We will attempt to solve it and we will not try to create a youth differential."

We came down with the idea that we had to get a bill passed, and we had to move ahead without a frontal assault on that particular idea that is with us in the United States today.

When I got the committee's bill and the report, indeed I thought it was very praiseworthy.

I find literally scores of tremendous ideas; I find significant impact; I find a great deal in the bill that will work, and I am here saying that I support it. But there was one thing that bothered me, and it was this: Whereas a number of us had agreed to not bring into full focus the idea of a frontal attack on the youth differential, I think many of us thought we would be saying to those local sponsors, prime sponsors, in part C of his bill, in particular, that they would have the latitude of starting with a minimum wage and that they would not have to start with a mandate to pay more.

I found some language in the bill that disturbed me because it appeared to mean that we might have been saying in this bill that prime sponsors under the public service part of this bill, part C, would have been forced to pay either the minimum wage or the prevailing rate, whichever is higher. I do not know what that means, except I know enough now that it might mean substantially more than the minimum wage.

I want everyone to understand that I am not against young people getting adequate pay for the work they do. But I was trying to be a part of giving the local sponsors as much flexibility to address the problem as they wanted, and maybe they would have chosen to go with more young people at a minimum wage rather than fewer people at a prevailing wage rate.

On that score I would say the distinguished mayor of Newark, Mayor Kenneth Gibson, president of the U.S. Conference of Mayors, argued before the Budget Committee rather persuasively that on the existing summer youth program he thought it needed authority for a youth differential. He thought local prime sponsors ought to be able to waive the minimum wage to some extent so that they could hire more young people in the summer for the same amount of dollars, and he thought we ought to leave it up to them. I do not think he was one who was espousing this because he did not want to help young people, but rather he was looking at the nature of the problem and trying to address it in the most meaningful way.

Having said that, I found language in section 3, the public service type part of this, and the part that the prime sponsor will try to work with the private sector, as described by Senator McCURE this morning, that would indicate that the prevailing rate might govern for the employment of youth even by a local unit of government rather than giving the latitude to hire youth at the minimum wage as part of this training program that the cities will adopt to put young people to work for them or for the public schools or for the counties or the prime sponsors, being the State through the Governor's prime sponsorship.

In an effort to address that issue, the amendment that I sent to the desk will permit the prevailing rate, wage rate, to be the test where we are filling an existing type job or an existing type classification of a job.

I have conceded there. I have conceded in the interest of the unemployed population that is not youth that might feel that they should be hired by a local school board, a city, a county, or the particular unit that is going to hire them under the prime sponsorship program, if they are filling a job that was either by classification already there and vacant, or that that particular unit of government needed, and was expanded in numbers under an existing classification. In the event this occurs and they are filling that kind of job, then it might be that that young person would receive more than the minimum wage and would receive the prevailing rate. On the other hand, this is the first real American effort at addressing youth unemployment on a large scale with a lot of dollars and with a lot of direction. So it seemed to me that we should clarify that we expect our prime sponsors to address the issue of youth unemployment with the prime focus on trying to put youth in jobs with some training, some work habits being developed, and that these may be new kinds of jobs that that municipality, that school board, that county government, that State government might structure particularly for the young people.

So, the heart of my amendment is to insert on page 53, line 11, words that say among the things that the local prime sponsor will assure the Secretary of opportunities for appropriate new classifications, occupations, and restructured jobs. Among the things that the prime sponsor sends up would be his plan or its plan for that kind of new youth job within that jurisdiction's employment program. And in such event the prevailing rate need not apply for it is covered elsewhere and is defined as I have described it heretofore.

That restructured type of job, new classification permits them the latitude, that is the prime sponsors, gives them the latitude to start with the minimum wage and if that is what the job is classified at in this new structure for youth, this new occupational opportunity for youth, then that is what that city will pay. We are not binding them to it, but we are giving them the opportunity to produce that kind of on-the-job work experience in local government with those kinds of limitations that I have described.

I have taken a great deal of time in describing it. I think it is a matter of genu-

ine concern. I have tried to handle it delicately because I want this bill to have broad bipartisan support. I understand that we have conflicting kinds of concerns in the marketplace in the arena of employment. I understand that there are those who would not like to see a major youth employment program at minimum wage because they are fearful that it will take other jobs from people they represent. I understand unions would have a concern. And I have tried to steer a course that will make this piece of legislation work and will protect to the extent possible those other interests, but not capitulate to them but recognize that there are two kinds of problems and that in the first American effort at youth employment in a major way that we recognize that the prime focus should be on how do we help them. And we have given a little with the prevailing rate language in section C for existing type job classifications. But I think in the overall with this discussion and, if this amendment passes, it will be clearly understood that we want to maximize the opportunities of local government to give our young people an opportunity to fit into the employment structure of that community, that city, that county, that prime sponsor, and we want that prime sponsor to have maximum flexibility in structuring the employment practices to get them on board.

One last comment. One of the new concepts in this bill is that these jobs, although they should be numerous and although the youth should have opportunity, with training and work habits involved, the development of those kinds of things, these jobs also are limited to 12 months. I add that because that should eliminate some of the fear that people might have that young people might take the jobs that others might want, need, and perhaps have applied for.

Having said that, I once again thank the Senator from New York (Mr. JAVITS) for his assistance in drafting and understanding this amendment and for his continued assistance while we together with a number of Senators trying to develop an acceptable youth bill.

Mr. JAVITS. Mr. President, I first thank Senator DOMENICI for his very gracious words about me and about the manager of the bill and the bill generally and then testify to the tremendous assistance which we have had from him, Senator McCURE, and Senator BELLMON in respect of the creative aspects of this bill at every turn, including their willingness to give a point here and there in order to bring about a bill today without an undue amount of confrontation.

I have participated in the development of the language which is contained in the amendment, and the amendment is acceptable to me.

May I just say, so that the record is clear, my thought was that the Secretary shall be the arbiter not any arbitrator, the arbiter and that, therefore, the use of the words on page 53 in the insertion on line 11 "appropriate new classifications" leaves it to the Secretary because that paragraph provides assurances satisfactory to the Secretary. So

he may determine that they are or are not appropriate because the trade unions, I think, have quite a proper concern about moving people around in order to get lower rates of pay, and the suspicions engendered by the arguments over minimum wage, et cetera, always persist. We understand that, and it is our job as managers of the bill to look at both concerns and to try to deal with them the best way we can.

So, the key concept is the fact that we vest authority in the Secretary to be the arbiter as to whether such new classifications, occupations, and restructured jobs are really appropriate to attaining the objectives which are prescribed in this measure and especially in this particular paragraph.

Second, the word "received" is changed to the word "given." I can understand that perfectly because, after all, this is essentially a directed program to accomplish a purpose which the Secretary is called upon to accomplish.

As to the change which is made at page 63, to wit, to eliminate "in similar occupations," which to the proponents of the amendment is too broad a word, anything can be made similar, and so there is no opportunity for some freedom of action or creativity in respect of the job opportunities which will be established for youth under this particular program.

On the other hand, there is the fear of the trade unions that unless we use the word "similar" it will be construed as too restrictive and solely to the letter only what a particular job classification is defined as being by those who may be opposing the union again, trying to move people around and get them into lower or different classification.

So again we have chosen language which is neutral and which leaves the Secretary as the dominant factor in deciding the prevailing rates of pay for occupations and job classifications of the persons actually employed rather than any other standard as being the fairest determinant for the Secretary's judgment.

Mr. DOMENICI. I ask the Senator from New York on that last statement: Is it by the same employer?

Mr. JAVITS. That is exactly right.

Again I emphasize that it is our purpose, and I hope my colleague from Wisconsin will agree with me, that we are putting the Secretary in charge and the language is such as to put him in charge. That is our purpose.

So neither the feelings, the worries of the proponents of the amendment nor the fears of the opponents, to wit, organized labor, will be realized. That, as I see it, is the way we have approached the solution.

Mr. NELSON. Mr. President, I concur with the remarks of the distinguished Senator from New York. It would be repetitious to comment further about it.

I think that this amendment resolves a problem that was of concern to a number of Members, and I think having the final arbiter in any particular circumstance by the Secretary of Labor is a good resolution. I am prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

#### UP AMENDMENT 337

Mr. DOMENICI. Mr. President, before I send this amendment to the desk, I would say to the manager of the bill and the ranking Republican member that on yesterday, when we were discussing the CETA bill, I discussed with them the possibility of putting some sense of the Senate or sense of Congress language in the bill, showing that it was the sense of Congress that the Secretary of Labor should provide, under his discretionary authority under title 3 of the CETA, for demonstration projects which coordinate the delivery of manpower and social services; and, second, that it was the sense of Congress that the Secretary of Labor encourage prime sponsors to work with local education agencies on the allocation of public service jobs.

The amendment that I send to the desk will incorporate those two resolutions in one amendment. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 337.

Mr. DOMENICI. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in full in the RECORD.

The amendment is as follows:

At the end of the bill add the following section:

Section 9. (a) It is the sense of the Congress that the Secretary of Labor should provide, under his discretionary authority under Title III of CETA, for demonstration projects which coordinate the delivery of manpower and social services.

(b) It is the sense of Congress that the Secretary of Labor encourage prime sponsors to work with local education agencies in the allocation of public service jobs.

Mr. DOMENICI. Mr. President, I do not intend to say any more on this amendment. Yesterday we discussed both of these propositions at length. If the manager and the ranking Republican member agree to accept them, it will suffice, from this Senator's standpoint, that the record of my statement in addressing these two issues yesterday serve as the justification, from my standpoint, for the adoption of the two resolutions.

Mr. NELSON. Mr. President, I have no objection to the amendment.

Mr. JAVITS. I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I know of no further amendments from this side.

SENATOR RANDOLPH SUPPORTS S. 1242, THE YOUTH EMPLOYMENT ACT OF 1977

Mr. RANDOLPH. Mr. President, as a cosponsor and as coauthor of the measure which is now part B of the pending measure, I support S. 1242, the Youth Employment Act of 1977. I am pleased to share the support of colleagues who are concerned with creating new opportunities for gainful employment among our country's jobless young people. The bill will help alleviate the adverse, long-term impact on young people of imposed joblessness at a critical juncture in their development. It should have a beneficial impact on our Nation's economy. The statistics on chronic high unemployment among young people are well known. In the late teenage years, most young people begin the transition from an academic environment to adult society, and early job experience will provide them with the essential link between school and the adult world. We have witnessed the alienation from the work force experienced by many young persons when they reach their early adult years, having had no real connection with work, and no sense of responsibility. They often lack skills as well as an adult, pragmatic view of what is required to obtain and hold a permanent job.

I commend our colleagues, Senator NELSON, floor manager of the bill and chairman of the Subcommittee on Employment, Poverty, and Migratory Labor; Senator WILLIAMS, chairman of the Human Resources Committee which reported S. 1242; and the committee's minority member, Senator JAVITS. They have worked diligently in bringing this important legislation to the Senate. This legislation represents a significantly increased commitment by the administration and the Congress to bring the Nation's youth into the mainstream of productive work in America. S. 1242 is a composite of alternative programs to address several, and vitally important, facets of chronic unemployment among youths. It is our response to the President's call for the "establishment of programs to take rural and urban young people aged 16 to 21 off the streets and put them to useful work helping to conserve, develop, and maintain our natural resources and recreation areas."

In line with the President's recommendations, part A of S. 1242 authorizes the establishment of a National Young Adult Conservation Corps. The program will provide employment and other benefits to youths, aged 16 to 23, who would not otherwise be currently, or productively, employed. This program will be administered by the Department of Labor through interagency agreements with the Secretaries of Interior and Agriculture.

Further, the Youth Conservation Corps programs will insure, to the extent possible, that needed and appropriate projects will be undertaken, and that those projects will be highly labor-intensive, will have a lasting impact, are projects for which work plans can be readily developed, and will provide work experience to youths in skill areas required for accomplishment of productive work. Such



work can include erosion control and flood damage, wildlife habitat improvements, range management, forestry, recreation, natural disasters damage measures, and many others.

In connection with the Youth Conservation Corps, it is important that we express appreciation to the Senator from Washington (Mr. JACKSON) who has been an effective leader in the reestablishment of this program. I have been privileged to work with Senator JACKSON in this endeavor and I know of his constructive actions toward expansion of the Youth Conservation Corps.

Part B of S. 1242, the Youth Community Conservation and Improvement Act, is designed to provide jobs to young Americans in need of initial employment experience. Earlier this year, I cosponsored with the able Senator from Vermont (Mr. STAFFORD) S. 306, the youth community improvement program. The concept of our proposal was adopted as part B of S. 1242. During committee consideration of part B, an amendment was offered by Senator STAFFORD, which I cosponsored, to define "eligible youths" under part B as "those individuals who are unemployed, and at the time of entering employment under this part, are ages 16 through 19 inclusive." We stressed the need to include this age group which is, for the most part, still in school. But it also provides for recent graduates and for school dropouts in that age group. We urge that the educational aspect be stressed so that nongraduates, or dropouts, are encouraged to return to complete their education.

Part C of S. 1242, entitled the comprehensive youth employment and training program, is to be supplementary to, but not a replacement for, programs and activities being conducted under title I of CETA, and is to enhance the job prospects and career opportunities of young persons, including training and employment in community service. Such training and supportive services are necessary to enable participating youths to secure suitable and appropriate, unsubsidized, employment in the public and private sectors of the economy. To the extent possible, training and employment opportunities afforded under part C are to be interrelated and mutually reinforcing so as to achieve the goal of enhancing the job prospects of the persons served.

During committee consideration of part C of S. 1242, an amendment was offered by Senator SCHWEIKER, which I cosponsored, to provide that special consideration be given to community-based organizations such as the Opportunities Industrialization Centers—OIC—the National Urban League, SER-Jobs for Progress, mainstream, community action agencies, union-related organizations, and other similar organizations which have demonstrated effectiveness in the delivery of employment and training services.

Mr. President, S. 1242 is a major advance toward a comprehensive youth services policy designed for the educational, training, employment, and social needs of youth. The bill places emphasis on expanding and improving the role of education in transitioning youth from

school to work, and combines training, work and service in both the public and private sectors. It provides youth with opportunities for work on urban restoration, community service projects of a lasting nature, and rural conservation. During the next year, its implementation, its successes, and its failures will be evident and will provide the Congress with tools to measure the needs of youth not met in this bill, and the kinds of resources required to meet those needs in the future. We will know better at the end of 1 year how our comprehensive youth services policy can be strengthened. I believe this bill will help create a collaborative relationship among local elected officials and their representatives, business, industry, educators, voluntary organizations, parents, youths, and committed citizens, focused on the goal of improving the Nation's economy and the well-being of a vitally important segment of our society—our young people.

ADDITIONAL STATEMENTS SUBMITTED ON  
S. 1242

Mr. MUSKIE. Mr. President, the bill presently under consideration, the Youth Employment and Training Act of 1977, is the culmination of much diligent work on the part of both Senators and the administration to alleviate the severe problems our country's youth are encountering as they attempt to become full participants and productive partners in our economic system.

My able colleagues have eloquently expressed today and over the last few months the gravity and pervasiveness of youth unemployment, and many have submitted their solutions to this problem in the form of legislation for our consideration.

It is not my purpose today to restate the well-documented severity of youth unemployment, nor is it necessary for me to discuss the particulars of the various approaches that have been combined into this single bill to deal with the problem. Rather, it is the process of combining these approaches in a tremendous spirit of cooperation by virtually all the major proponents of youth employment and training initiatives which I applaud.

As various bills to solve youth unemployment began moving through the legislative process and threatened to compete for the limited funds available in the congressional budget, it became clear that competition without cooperation would be detrimental to all.

The Budget Committee has fostered this cooperative spirit since Congress first made allowance for sufficient budget authority and outlays to accommodate major new initiatives in youth employment and training legislation in its assumptions underlying the third budget resolution for 1977. The importance of these initiatives was reaffirmed in the assumptions underlying the first budget resolution for 1978.

The 1978 budget resolution sets targets of \$26.8 billion in budget authority and \$27.2 billion in outlays for function 500, education, training, employment and social services. Carryover funds from fiscal 1977 and funds assumed in the first budget resolution for fiscal 1978 are sufficient to fund this program at the \$1

billion level contemplated by the human resources committee during formulation of this bill. Funding at a higher level would, of course, place in jeopardy initiatives assumed for other education, training, employment, and social services programs.

I intend to support S. 1242, Mr. President, and I wish to single this bill out to my colleagues as an example of how we can maintain budgetary restraint, avoid program duplication and overlap, and at the same time move forward with a balanced attack on a major social problem afflicting the Nation's young people.

THE IMPORTANCE OF A YOUTH EMPLOYMENT  
PROGRAM

Mr. CULVER. Mr. President, I believe that the legislation which we are considering, the Youth Employment and Training Act, is a constructive approach to one of our most serious national problems: Joblessness among teenagers and young adults.

Unemployment is, of course, a heavy economic and psychological burden for any worker. But it seems especially insidious when it strikes the young.

Hitting them at a time when they are ready to develop job skills and to learn the responsibilities and satisfactions of productive work, unemployment tells young people, in effect, that they have no useful role to play in American society.

Hitting them at a time when adult characters and values are taking shape, unemployment places severe emotional strains on youths.

As chairman of the Subcommittee to Investigate Juvenile Delinquency of the Senate Judiciary Committee which has jurisdiction over efforts to combat juvenile crime and drug abuse, I am especially concerned about the effects of youth unemployment in these areas.

Scholars debate about the precise extent to which unemployment contributes to these problems. But few observers can fail to note how often joblessness and a lack of educational and economic opportunity coincide with criminal activity and drug abuse among young people.

At a time when persons 24 and younger commit 6 of every 10 violent crimes, and 8 of every 10 property crimes, we have to give serious attention to improving the social environment which can give rise to this activity.

My own State of Iowa has been relatively fortunate in not suffering the high incidence of juvenile crime and unemployment which have affected other parts of the country.

Nonetheless, the statistics measuring these problems in Iowa are a cause of great concern to me. In 1965, 8,400 youngsters were processed by the juvenile courts in our State. Ten years later that number had grown to over 20,000. And in Iowa, the rate of joblessness among teenagers is three times the rate for adult workers.

I am hopeful that S. 1242 will provide a coordinated, well-developed attack on both youth unemployment and juvenile crime. It will do so through a comprehensive program of putting young Americans to work on projects important to individual communities and the Nation

as a whole. As a complement to the creation of jobs, essential services such as outreach, counseling, occupational information, institutional and on-the-job training and transportation assistance would be provided. These programs and services would be implemented by adding a new title, title VIII, to the Comprehensive Employment and Training Act.

Yesterday, the Senate acted to reauthorize CETA for another year. In supporting that reauthorization, I called to the attention of my colleagues the success of the summer youth employment program for economically disadvantaged youth, which is funded under title III-A of CETA.

That program has provided short-term summer jobs to 880,100 economically disadvantaged young people across the Nation; 5,200 of these were in Iowa. Those who participated in the program performed useful community service as school library and school maintenance workers, as nurse's aides, and as nutrition and day-care assistants.

In addition, this program recognized the connection between unemployment and criminal and drug activity by paying special attention to juvenile offenders. Eligible offenders received drug dependency rehabilitation and counseling as well as useful jobs as an alternative to criminal activity. Reports suggest that the program has shown notable success in introducing unemployed young people to the values and satisfactions of productive work.

I believe that the summer employment opportunities program and its success demonstrates what can be accomplished on a much broader and more comprehensive scale by the enactment of S. 1242.

Basically, S. 1242 consists of three major components.

The first of these is a National Young Adult Conservation Corps administered by the Secretary of Labor in conjunction with the Secretaries of Agriculture and Interior. It would provide for youths ages 16 to 23 jobs likely to have a lasting impact in our Nation's parks and forests. It is estimated that this Conservation Corps could employ up to 35,000 young workers over the next 18 months. It would emphasize employing young people from both urban and rural areas where unemployment is especially severe.

The second major program of the Youth Employment and Training Act is the youth community conservation improvement projects. This program would allow unemployed young people between 16 and 19 years of age to perform useful services for communities which otherwise would not be carried out. Weatherization and repairs of low-income housing, improvement of public facilities, and the conservation of natural resources on non-Federal public lands are examples of the kinds of projects to be carried out. Obviously, this program, which will extend to each community maximum flexibility to select suitable projects, not only serves the needs of jobless teenagers, but makes a vital contribution to neighborhood and community improvements as well. Thirty thousand young Americans should be able to benefit from this portion of the act.

The third program authorized by S. 1241 is comprehensive youth employment and training programs. This program is designed to enhance the job prospects and career opportunities of young people ages 16 to 21. The Secretary of Labor would be able to extend these programs to those aged 14 to 23 if he thought it desirable. Under this component of the legislation such essential support services as outreach, counseling, on-the-job and institutional training, occupational information and transportation assistance will be available. A total of 138,000 employment and training opportunities for young people can be expected under this section of the legislation over the next 18 months.

Mr. President, I believe that the Youth Employment and Training Act gives us a firm foundation for building an assault on the problems stemming from joblessness among our young people. It does so in a way that both fulfills important American needs and helps prepare youths for future productive lives. I hope that the Senate will act quickly and affirmatively to approve this essential legislation.

Mr. KENNEDY. Mr. President, I want to express my strong support for the Youth Employment and Training Act of 1977, and commend the distinguished Senator from Wisconsin and the administration for their quick action on this vital legislation.

The bill provides for a comprehensive approach to the problem of unemployment among our Nation's youth. First the bill establishes a National Young Adult Conservation Corps to engage youth, aged 16 to 21, in programs to maintain and improve public lands and waters. Second, a community conservation and improvement program would be established. This program, funded through CETA prime sponsors, would provide employment and skill training to youth engaged in neighborhood and community improvement projects. Finally, the bill would establish comprehensive youth employment and training programs targeted to low-income, unemployed youth.

There can be no question, Mr. President, about the need for this legislation. To date, we have made little progress in providing meaningful employment and training for youth.

The unemployment rate among youth, aged 16 to 19, currently stands at nearly 18 percent, and nearly 11 percent among those aged 20 to 24. These figures translate into over 3 million unemployed youth.

We must act now to provide hope to these millions of young Americans who have been dealt the cruel blow of joblessness.

This bill recognizes that there are no simple solutions to the problem; that we must begin with a comprehensive, year-round program.

This program will help develop the positive attitudes and necessary skills to make the difficult transition from the classroom to the workplace. The Secretary of Labor must be willing—and he has already expressed his willingness—to explore new concepts, new techniques of dealing with youth unemployment.

These include outreach programs, OJT, vocational counseling, skill training and job sampling.

I wholeheartedly support provisions in this bill which will encourage cooperation between local prime sponsors and educational institutions. Senators HUMPHREY and JAVITS should be congratulated for incorporating this concept into the bill. This type of cooperation is absolutely essential if we are to provide youth with skills needed to secure meaningful, long-term employment.

I am particularly pleased that this legislation contains many of the provisions included in the youth initiatives act of 1977 (S. 20) which I cosponsored with Senator CRANSTON.

That bill also envisioned a national service program, and sought to encourage cooperation between the public and private sectors to provide youth with meaningful job opportunities.

The socioeconomic costs of youth employment are enormous. Millions who could play a productive role in society are idle. This joblessness often leads to crime. And, because the problem of youth unemployment is structural in nature, the current economic recovery alone will not solve it.

These are the reasons why the program before us today is so desperately needed. It will assure useful and productive jobs specifically targeted at youth. It will provide hope to thousands of young Americans.

Mr. President, I urge my colleagues to join me in supporting this vital legislation.

Mr. WILLIAMS. Mr. President, I urge my colleagues to join me in supporting S. 1242, the Youth Employment and Training Act of 1977.

The careful development of this legislation has resulted in an effective program of paramount importance to ease the frustrations of youth and bring them back into the work force. Our action on this bill should stand as a landmark of hope to youth and the Nation.

I wish to stress its importance as a fundamental first step in bringing youth into the mainstream of meaningful, productive employment. This legislation creates work experience and training to help youth develop the marketable skills necessary for permanent employment.

It is gratifying also that the bill is a model of exceptional cooperation between the Congress and the administration.

It confronts the high rates of unemployment among teenagers with three new programs embodied in a new title VIII of the Comprehensive Employment and Training Act. Part A creates a National Young Adult Conservation Corps that will provide jobs for youth in national and State parks and forests, similar to the Civilian Conservation Corps of Depression years. Part B creates a youth community conservation and improvement projects program providing jobs for youth in their communities. And part C created a comprehensive youth employment and training program providing both jobs and training for youth in innovative and experimental programs.



I am particularly pleased that the Committee on Human Resources endorsed the idea of a modern Civilian Conservation Corps, which I have long advocated. There is important work to be done in our parks and forests, and there are young people who are anxious to do it. This bill will revive the spirit of the CCC and make it a reality once again. The CCC was a successful program with an acknowledged record of excellence. It combines the important national priorities of putting the jobless to work and reducing vast inventories of conservation work needed on our public lands. The Department of the Interior has estimated over 370,000 man-years of backlogged work that currently needs to be done.

Our cities, too, show deep scars left by neglect during the recession. Municipal governments have been hampered from improving their communities because of severe budget cutbacks. The need for community improvement projects is unquestioned and youth could contribute to local efforts with meaningful work. This bill goes a long way to serve urban communities while, at the same time, providing hope for some of the most desperately unemployed. Community benefits will last for years through such gains as new recreational facilities, energy conservation projects, and improved public buildings.

Parts B and C provide in-school work experience to enable youth to finish school and to assist them through the difficult transition from school to work. Eligible participants would be granted academic credit. Part C provides additional services to in-school youth such as counseling and career information. The programs are designed to give as much encouragement as possible for youth to complete their basic education and earn the credentials necessary to improve their employability in the labor force.

Youth need jobs and want to work. They have struggled through the job decline of the recession and still face the biggest hurdle unique to their predicament—a lack of skills and experience. No other group in the labor force suffers this disadvantage on such a sweeping scale. Our challenge is to provide the impetus to better their chances. S. 1242 provides exactly the skills and experience that would insure a more stable work force in the future. The most needy among unemployed youth could clear that hurdle in triumph with a meaningful job.

The Nation's overall unemployment rate declined from 7.3 percent in March to 7 percent in April. But the unemployment picture did not improve for teenagers. Their unemployment rate stayed near 18 percent. Their plight is demonstrated month after month at nearly three times the rate of unemployed adults. It does not improve with fluctuations in the economy. Even in the prospect of a better economic footing over the next 18 months, the structural nature of youth unemployment requires our action on this bill. Their outlook for employment could not otherwise improve in stride with the economy.

Youth suffering the most persistent job shortage are those trapped in areas of substantial unemployment where the low level of income and opportunities require special work-experience and guidance before they can enter the labor market with any expectation of a better future. This bill allows local administrators to plan innovative and experimental projects to overcome the unique disadvantages of jobless youth in their areas.

The committee amendments in the bill strengthen significantly our effort to put resources where they are most needed. We have areas of unemployment in this country in which frustration among the jobless has bred unacceptable forms of alternative economic activity in the world of crime.

The committee amended the bill to target somewhat more funds on areas of substantial unemployment where joblessness exceeds 6.5 percent. Youth in these areas of severe unemployment face particular disadvantages because of the greater burden placed on local governments and the difficulty of mounting successful jobs programs in the degree required. Young people must rely, as a result, on increased Federal assistance before they can cling to any hope of future economic legitimacy.

Under the funding proposed for this bill by President Carter, \$1.5 billion would be available to create some 250,000 job and training positions for an estimated 500,000 youth. The committee bill, however, would permit a larger program if the Congress later decides to appropriate additional funds.

The bill targets 37.5 percent of the part C authorization to areas which suffer substantial unemployment; 37.5 percent is allocated on the basis of numbers of unemployed, and 25 percent is allocated on the basis of the number of low-income families within each State.

This formula specifically recognizes that where joblessness is worst, youth have greater difficulty finding work because of competition with adults who have more experience in the work force.

The bill also contains an amendment directing the Secretary of Labor to give special consideration to project applications from nonprofit community based organizations which have proven their ability to train and place youth in jobs.

The potential impact of the bill is further enhanced by establishing, with the Secretary of Labor, a means to pull together the wide variety of national and local manpower efforts, ideas, and resources into a coordinated arm.

Unless we confront the menace of youth unemployment with a comprehensive program like this one, we will continue to pay a greater cost. We can measure the billions of dollars that unemployment costs this Nation, year after year, from public assistance payments, lost revenues, and low productivity. But, we cannot measure the psychological toll of unemployment on its victims, nor the human cost that results in shattered lives, higher crime, neglected health needs, and family deterioration.

The consequences of joblessness among youth affect the core of our so-

cial fabric. We must take care to design job programs for them that will minimize those consequences. This bill will give thousands of unemployed youth the first fighting chance they so desperately need.

#### YOUTH EMPLOYMENT

Mr. MATHIAS. Mr. President, I rise in support of S. 1242, The Youth Employment and Training Act of 1977. The provisions of this bill are essentially those I called for on January 10, 1977, when I introduced Senate Bill No. 1, the first bill introduced in this Congress.

In title II of S. 1, "The Youth Employment Program," I proposed a comprehensive approach to providing productive work for young Americans. I am delighted that the Senate is today ready to act on these proposals.

The importance of this bill is immeasurable. America today is raising young people in the hundreds of thousands who have seldom if ever, held a job. In an article "Senate Bill No. 1—Jobs for Youth" in *Parade* magazine on March 6, 1977, I noted:

Almost half of the 7.8 million unemployed Americans are 24 or younger; unemployment among teenagers has been on the rise for 20 years and is running now at 20 percent.

In the inner cities, where poverty and decay persist even in the best of times, the effects of high unemployment are devastating. Among black teenagers, who are concentrated largely in the cities, unemployment has held at 25 percent or more throughout the past decade, surging in the past two years to epidemic proportions. The Bureau of Labor reports an unemployment rate of 36.1 percent for black teenagers, as against 18.1 for whites the same age. The National Urban League believes the figure for blacks exceeds 60 percent.

I feel today as I felt when I wrote those words: Congress must solve the problem of America's unemployed young. If it fails to do that, a great part of a generation will be consigned to lives of poverty and lawlessness. What we are doing today in acting favorably on this bill goes a long way toward fulfilling our obligations as a Congress to the American people—and particularly to American youth.

The inclusion in the bill before us of the proposals I made in S. 1, as well as their inclusion in President Carter's March 9 message to the Congress on Youth Unemployment, is gratifying, and stands as a tribute to the many people in Maryland and around the country who helped me develop S. 1's Youth Employment Title. A comparison between that title of S. 1 and the bill before us is illustrative.

Just as S. 1 does, the bill before us creates a National Youth Adult Conservation Corps. This Corps will provide work for unemployed youths on environmental projects in the Nation's parks and forests. Thus, while improving our environment, we will help our young people by giving the main important role in meeting one of America's most vital challenges.

This bill also corresponds to S. 1 in authorizing community conservation and improvement projects in which additional young people can find jobs. As proposed in S. 1, this will put unemployed

youths to work on projects in their own cities and neighborhoods and on environmental projects on State lands. The rehabilitation of public facilities, neighborhood improvements, insulation and basic repairs to low-income housing in our cities, as well as conservation work in rural areas, are authorized. It is true that, as said earlier, when advocating the passage of this provision of S. 1, "with so much to be done in our cities, it is intolerable not to link those who need work with the work that needs doing."

The pending bill also authorizes support for a broad range of employment and training programs designed to enhance job prospects and career opportunities for young persons. These include useful work experiences on community improvement projects, and appropriate training and services such as counseling, occupational information, institutional and on-the-job training, and transportation assistance. This is precisely what the training provisions of S. 1 were designed to do and their inclusion in this bill assures that the goals of S. 1 will be met.

The glaring needs of our cities are matched by the improvements we could make in our environment. S. 1 simply asked the question: "Why can't we let our young people—who will inherit this land—find work in preserving it?" The bill we consider today answers that we can. It embodies the concepts and programs that S. 1, the first bill of this Congress, offered the American people. I will vote for this bill with satisfaction. I urge that my colleagues too vote in favor of this bill so that the promise of S. 1 becomes reality today—not tomorrow.

Mr. President, I ask unanimous consent that my March 6 article in *Parade* magazine on S. 1 and the need for a comprehensive youth jobs program be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

SENATE BILL NO. 1—JOBS FOR YOUTH  
(By Sen. CHARLES MATHIAS, JR. (R., Md.))  
WASHINGTON, D.C.

"S. 1" used to be a code number for a bill providing a harsh revision of the U.S. criminal code.

Now S. 1 identifies a new jobs and economic growth bill I introduced on the first day of this 95th Congress.

America today is raising young people in the hundreds of thousands who have seldom, if ever, held a job. Almost half of the 7.8 million unemployed Americans are 24 or younger; unemployment among teenagers has been on the rise for 20 years and is running now at 20 percent.

In the inner cities, where poverty and decay persist even in the best of times, the effects of high unemployment are devastating. Among black teenagers, who are concentrated largely in the cities, unemployment has held at 25 percent or more throughout the past decade, surging in the past two years to epidemic proportions. The Bureau of Labor reports an unemployment rate of 38.1 percent for black teenagers, as against 18.1 for whites the same age. The National Urban League believes the figure for blacks exceeds 60 percent.

Unemployment among the urban young has had grave consequences for all Americans. There is no longer any doubt that

chronic unemployment feeds urban crime. And nearly half of all violent crimes are committed by juveniles. Crime menaces all of us: the poor, the elderly, the shopkeeper, the suburban commuter. High crime rates drive both the black and white middle classes from the cities; recently, businesses have joined the exodus to the suburbs. The cities' tax bases are melting as a result. Bankruptcy has become a clear and present danger for many cities.

#### MANY JOBLESS, FEW SKILLS

As jobs and money leave the cities, young people flood the job market in greater and greater numbers, with fewer and fewer skills to offer. Few find work. Many give up trying. Ronald Brown of the National Urban League believes the result will be disaster. "We are creating a huge population of discouraged and permanently dependent people," he says, "with consequences we can only guess at." Those consequences are hinted at today in deteriorating city blocks, clots of restless, sullen teenagers on street corners, and growing de facto segregation.

The government has not been indifferent. Two billion dollars or more are spent each year on jobs and training for young people. But the programs have had mixed success, and the crisis of unemployment among the young continues. There is growing debate, criticism, and disenchantment.

The present Congress will be wrestling with a number of bills designed to achieve the elusive dream of guaranteeing a job at a decent wage to all Americans who are willing and able to work.

#### REBUILDING NEIGHBORHOODS

S.1 would create a national youth service to employ those people between the ages of 16 and 24. Under contract with the Department of Labor, public and private organizations would hire youths from low-income families to rebuild and beautify their own neighborhoods. There is no panacea to crime and alienation, but if the deprived and troubled young people who are today fighting for survival on our city streets were paid to do productive work in their own communities, I believe our cities could begin to hope again.

Past jobs programs have often failed to train young people in skills that would serve them in future jobs. S.1 would authorize the Secretary of Labor to pay employers who train them for permanent employment. A similar policy has been tried with success in Western Europe. Some Common Market countries pay employers \$100 for every month they employ and train a young person in his first six months out of school.

#### MORE PARKLAND PROJECTS

S.1 would also expand the Youth Conservation Corps from a summer to a year-round program. The YCC hires young people for environmental projects on state and federal lands, much like the Civilian Conservation Corps of the 1930's. But the program is too small and the summer jobs too brief to be of lasting value. S.1 would authorize the hiring of 100,000 young people in its first year, 200,000 in its second, and 300,000 in its third. I believe my bill would roll back the horizon for young people whose lives have been confined to the asphalt world of the city. It would make dramatic and enduring improvements in our state and national parklands.

Most important, it would give the young truly useful work.

S.1 is innovative. But its scope is wide, and it addresses the inadequacies that marred previous jobs programs. And it involves private business in hiring and training, rather than looking solely to government. Congress must solve the problem of America's unemployed young. If it fails to do that, a great part of a generation will be consigned to lives of poverty and lawlessness. All Americans will feel the consequences.

Mr. JACKSON. Mr. President, I rise in support of this legislation.

As you know Mr. President, in the last Congress, Congressman MEEDS and I introduced legislation which would have established a Young Adult Conservation Corps to complement the highly successful Youth Conservation Corps—YCC. Like the YCC, this new program was to be administered by the Secretaries of the Interior and Agriculture and was patterned after the Civilian Conservation Corps of the 1930's. The purpose of this new Young Adult Conservation Corps was twofold:

First, to provide employment opportunities for young adults—age 16-24—and thereby reduce the persistently high rate of youth unemployment; and

Second, to help reduce the large backlog of conservation-related projects on the Nation's public lands and waters.

The House version of this legislation, H.R. 10138, passed that body on May 25, 1976, by a vote of 291 to 70, the Senate Interior and Insular Affairs Committee conducted a hearing on this measure and its Senate companion which I sponsored, S. 2630. We reported the House bill with only a few technical amendments on July 28, 1976. However, because of the press of last minute Senate business prior to adjournment and a less-than-enthusiastic administration, the bill was not enacted last Congress. Congressman MEEDS and I have, as you know, reintroduced our bills this Congress and are both very anxious to see this program or something very similar, enacted this year.

Mr. President, I was very pleased to see President Carter incorporate the Young Adult Conservation Corps concept into his youth employment package. Both the House-passed version of the administration proposal and the measure pending before us now contain sections which generally reflect the Young Adult Conservation Corps concept which many of us have advocated for several years now.

Part A of S. 1242 would create a National Young Adult Conservation Corps designed to provide youths ages 16 to 23, inclusive, with opportunities to perform useful work on projects which are highly labor intensive and are likely to have a lasting impact in the Nation's parks and forests. The Corps would be administered through interagency agreements with the Secretaries of Interior, Agriculture, and Labor.

The Secretary of Labor would be responsible for making arrangements to refer candidates for the Corps from the public employment service, CETA prime sponsors, and other appropriate agencies and the Secretaries of Interior and Agriculture would be responsible for making the final selection of Corps members.

Preference would be given to enrollees in both rural and urban areas with substantial youth unemployment within each State. The maximum period for which individuals could be enrolled in the Corps would be one continuous 12-month period, or for three or less periods which total 12 months.

The Secretaries of the Interior and of Agriculture would be responsible for the



management of the centers on public lands and waters under their respective jurisdictions.

At least 30 percent of the funds would be earmarked for State and local programs and special projects on State and local parks and forests.

Mr. President, I have gone on record on numerous occasions with my colleagues here on the floor in an attempt to make clear legislative history as to the intent of Congress with respect to part A of this legislation. I think we have an excellent record on the major parts of this legislation and I will not belabor the point today. However, there is one issue I would like to clarify regarding the Young Adult Conservation Corps portion of S. 1242.

It has always been my intention, and I know Congressman MEEDS shares my view, that the YACC program complement and supplement the existing summer Youth Conservation Corps program. I want to be sure that creation of this new program in no way limits or hinders the operation of the tremendously successful YCC summer program.

Finally, Mr. President, I want to express my gratitude to Senator WILLIAMS, Senator NELSON, Senator JAVITS, and the other members of the Human Resources Committee who have worked so diligently on this legislation. The committee has moved expeditiously and has, at the same time, fashioned a bill which will go a long way toward solving the nagging problem of youth unemployment.

Mr. STENNIS. Mr. President, I heartily support the purposes and most of the major provisions of this bill, S. 1242, and commend the Senator from Wisconsin and his coworkers for their work on the bill.

This measure seems to meet in a practical way a crying need of our Nation, the training and directing the youth of our Nation in constructive and worthwhile work.

Moreover, the plan includes the effort to teach young people the value and the discipline that goes with real work. However, Mr. President, if real worth and value is to come with the program there must be discipline and definite attainment standards required.

I shall watch with great interest the operation of the program for the trial run first year. I am satisfied that a program similar to this plan is absolutely essential in the years to come, but on a greatly expanded scale.

In fact I think that within the next few years we shall be forced to resort to an extensive program that will register a large percent of the youth of the Nation and offer them a limited choice as to what training they shall take. Many will have to be required to render some service, or semipublic service—for hire of course—even including a certain amount of military training for some.

In any event, I am pleased indeed to see a program started even for 1 year and shall support an appropriation for its operation. Further, I shall watch the program develop for 1 year with the hope the plan will justify itself for an extension after 1 year.

#### YOUTH EMPLOYMENT AND TRAINING OPPORTUNITIES AND SPECIAL VETERANS' EMPHASIS

Mr. CRANSTON. Mr. President, I rise in support of S. 1242, the Youth Employment and Training Act of 1977, as reported from the Committee on Human Resources. This bill, of which I am a cosponsor, would add a new title VIII to the Comprehensive Employment and Training Act of 1973, CETA, as amended, to provide job and job training opportunities for young people through fiscal year 1978. This legislation, which is based on a proposal submitted by the administration on April 6, represents the basis for undertaking a long overdue major effort to deal with the problems of youth in the labor market.

#### THE PROBLEM OF YOUTH UNEMPLOYMENT

Mr. President, during April, 17.8 percent of all youth between the ages of 16 and 19 in the labor force were unemployed—more than 1.6 million persons. Of those persons 20 through 24 years, another nearly 1.6 million—or 10.8 percent were jobless. This is contrasted with the rate for those 25 years and older—4.9 percent in April.

The impact of unemployment, however, has been most severe on black and minority group youths, where inner-city joblessness regularly reaches devastating rates in excess of 40 percent. For example, in the first quarter of 1977, the rate for minority youth ages 16 through 19 in metropolitan poverty areas of the United States was 44.2 percent.

Sadly, Mr. President, the phenomenon of this high youth unemployment rate is not confined to periods of economic hardship. It is a chronic problem, plaguing our Nation even during more prosperous times. Even in the relatively lively labor markets of 1965 and 1973—when adult unemployment was dipping below 4 percent—youth unemployment still averaged around 15 percent.

Between 1960 and 1970, young entrants to the labor force—ages 16 through 24—increased by 7.2 million, or by 56.6 percent. This compares to an increase of 13.8 million, or 19.1 percent, for the work force as a whole. In essence, this means that better than one out of every two new entrants to the labor market during this period was a young jobseeker.

Such young jobseekers are not readily absorbed by our economy, especially when their marketable skills are just beginning to be developed, their career goals being established and modified, and their basic education and training being newly acquired or, in the case of those who have dropped out of school, not complete.

Mr. President, the measure before the Senate today, represents a beginning of our attempts to meet the employment needs of our Nation's young people.

#### BACKGROUND

Mr. President, on January 10, joined by Senator KENNEDY, I introduced S. 20, the Youth Initiatives Act of 1977. That bill, which is designed to stimulate the creation of employment opportunities for youth in the public and private sectors, would establish a national youth service

program and an opportunities in private enterprise program. Through these initiatives young people would be provided with meaningful work experience, an appropriate income, and opportunities to develop a better knowledge of their career interests and aptitudes, further their education and training, and develop their employment skills for entrance into the labor market.

When S. 1242 was introduced, I indicated my intention as a cosponsor to blend into the administration's bill, a number of certain critical elements of S. 20, which I believe are important to include in any initiative which attempts to meet the needs of youth.

At this time, Mr. President, I would like to discuss briefly the major elements of S. 1242, as well as elements of S. 20, that have been interwoven into the legislation.

#### NATIONAL YOUNG ADULT CONSERVATION CORPS

Mr. President, part A of the Youth Employment and Training Act creates a National Young Adult Conservation Corps. This program would provide useful work for unemployed youths—ages 16 through 23—on projects in the Nation's parks and forests. These projects are to be highly labor-intensive. As a result of a suggestion I made, these jobs are also to be likely to have a lasting impact, both in terms of the work performed and the benefit obtained by the participating youth as a result of such work.

The bill provides that the Secretary of Labor would administer the corps program through interagency agreements with the Secretaries of Agriculture and Interior. The Secretary of Labor would be responsible for making arrangements to refer candidates for employment in the corps from the public employment service, CETA prime sponsors, and other appropriate agencies. The Secretaries of Agriculture and Interior would be responsible for the management of the corps' centers on public lands and waters under their respective jurisdictions.

Mr. President, importantly, this measure contains, at my request, a 30-percent earmarking for State and local programs and special projects on State and local parks and forests or joint projects on Federal and non-Federal public lands or waters. This earmarking could be utilized for such initiatives as are underway in California, Michigan, and Wisconsin. For example, in California, the State resources agency, in coordination with the Economic Development Department, is operating a very innovative and exciting program, the California Conservation Corps—the CCC—which provides residential employment and training opportunities for young persons on State lands. This earmarking is designed to provide additional resources for ongoing and future initiatives along these lines, and, hopefully, to avoid duplication and promote coordination of efforts among Federal, State, and local authorities.

#### YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS

Mr. President, under part B of the committee bill, provision is made for the

establishment of a youth community conservation and improvement program. Funds under this part would be used to employ unemployed youths—ages 16 through 19—on labor-intensive community improvement projects which have lasting and beneficial community impact. These projects would involve work that would otherwise not be carried out by a community—such as rehabilitation of housing, weatherization, and neighborhood improvements, and conservation or restoration of natural resources on public lands.

These projects could be carried out by State and local governments or public or private nonprofit agencies. These entities would submit project application to the CETA prime sponsors. The prime sponsors after reviewing and making recommendations on these applications would, in turn, submit to the Secretary of Labor approved project applications. The Secretary would fund the selected projects, making allocations to the States, on the basis of a formula based on relative unemployment, of 75 percent of the part B money. In addition, the Secretary would have 25 percent of part B funds to allocate at his discretion to fund other community improvement projects of merit.

Both this part and part A are open to both economically disadvantaged and noneconomically disadvantaged youth. I believe that this is an important element since, while our major emphasis should be on those who are most in need of services, we must also be cognizant of the fact that the phenomenon of youth unemployment is not restricted to just those who are poor. It is, in reality, a structural fact of our labor market that makes it difficult for any youth—regardless of his or her economic resources—to find a meaningful job.

#### COMPREHENSIVE YOUTH EMPLOYMENT AND TRAINING PROGRAMS

Part C of the legislation, Mr. President, would establish a comprehensive youth employment and training program under which a variety of employment and training opportunities would be established to serve the needs of young persons ages 16 through 21—and, as the Secretary may authorize, youths 14 and 15 years of age as well as those aged 22 and 23.

Mr. President, while these opportunities would include meaningful work experience efforts, this part would also offer training and support services for youth such as outreach, counseling, occupational information, transportation, and placement assistance.

Enrollment in job opportunities provided under this part would be targeted on those youth who are members of families whose family income does not exceed 70 percent of the BLS lower living standard budget. However, in a provision I rewrote from the administration version, the Secretary is authorized to permit certain limited participation of noneconomically disadvantaged young persons in support or training activities such as those noted above.

Mr. President, there are a number of particular items related to part C of which I would like to make special note.

#### YOUTH COUNCILS

First, the measure would require that eligible applicants—which under this part are the prime sponsors—establish youth councils which are to function as subcouncils of the prime sponsors' planning council established under title I of CETA. These youth councils are to be responsible for planning and reviewing activities under this part, as well as under part B, and making recommendations with respect to these programs to the full planning council.

The committee bill requires that the youth council be composed of representatives of local educational agencies, vocational education advisory councils, junior and community colleges, business, unions, the public employment service, local government and nongovernment agencies and organizations which are involved in meeting the special needs of youth, the community, the prime sponsors' planning council, and most importantly, youth themselves.

This provision is based on a similar provision which was contained in S. 20, the Youth Initiative Act, as well as on a provision contained in S. 170, the Comprehensive Youth Employment Act of 1977, introduced by Senators JAVRS and HUMPHREY and others and contained in an amendment which they submitted for printing (No. 184) to S. 1242, as introduced.

I believe that it is not possible to overstate the importance of having representation by reasonable numbers of young persons on the council. This membership by youths will ensure their input into the planning of activities designed to benefit them and their peers. This contribution to the advisory council is fundamental to meeting the needs of youth in an effective, comprehensive manner and in a realistic fashion that will truly assist in assuring that programs are truly responsive to their needs.

#### A ROLE FOR STATES

Second, Mr. President, is the provision in part C, which I suggested, for a 10-percent setaside for special statewide youth services.

As submitted by the administration, S. 1242 did not specify a role for the executive officers of the 50 States. However, I believe very strongly that there is a real need for the States to foster and facilitate comprehensive and coordinated programs and services. The committee report notes at page 15 that funds received by the States under this provision are—

... to be used for joint projects which will coordinate the efforts of the State education system, welfare system, employment service, rehabilitation and correction services, youth services, apprenticeship programs, Federal and State forest and park projects, and other employment and training activities within each State.

I am hopeful that this provision for a State role will enhance the quality of services afforded youth and complement and supplement the programs of prime sponsors, as well as attempt to meet the special needs of certain segments of the youth population—such as young criminal offenders, youths in foster care pro-

grams, or youths in need of drug or alcohol rehabilitation programs.

#### EQUIPMENT, SUPPLIES, MATERIALS, AND ADMINISTRATION

Third, I would like to make note of the way that the bill deals with the expenditures of funds for equipment, supplies, materials, and administrative expenses. While it is our major concern and intention that funds available under this new title VIII of CETA be used principally to provide job and job training opportunities for youth, at the same time we did not want to restrict unduly the programs, projects, and activities that could be carried out. Thus, the committee bill does not provide for any percentage restriction on the expenditure of funds for equipment, supplies, materials, and administration of programs.

However, Mr. President, I would like to point out that there are a number of factors that the committee believes will act to insure that maximum funds are applied to the provision of jobs, training, and support services to youth, including the "soft public-works" nature of work to be carried out under part B, the provisions relating to the Davis-Bacon Act contained in section 851(j)(3) of the legislation, and the application approval process provided in part C wherein the Secretary is expected to work with eligible applicants to insure "low-overhead" costs.

In addition, it is my hope that under part A, the agreements entered into by the Secretary of Labor with the Secretaries of Agriculture and Interior—which as I noted are required to be labor-intensive—will contain reasonable provisions for the costs of administration and that, to the maximum extent feasible, preexisting supplies, equipment, and materials will be utilized.

#### SERVICES TO YOUTH IN SPECIAL NEED

Fourth, the bill contains my amendment to require that efforts be made to insure that youth participating in activities under parts B and C shall be youths who are experiencing severe handicaps in obtaining employment. This includes youth who lack credentials—such as a high school diploma—or who require substantial basic and remedial skill development in order to compete more effectively in the labor market. In addition, these categories of youth could include women and minorities, those who are veterans of military service, those who have a history of involvement in the criminal justice system, or those with other special needs.

Mr. President, with respect to these categories of individuals who would benefit from involvement in job opportunities under parts B and C, I would like to make specific mention of young veterans. Historically, this group suffers disproportionately high rates of joblessness, much of which has been theoretically accounted for by the fact that these individuals enter the labor force at an older age than high school graduates, and very often, while having obtained considerable skills training in the service, find such skills inapplicable to civilian jobs. The rate of unemployment for young male veterans ages 20 through 24 in the first quarter of 1977 was 16.5



percent, while the rate for male non-veterans of the same age group was 10.8 percent.

Undoubtedly, Mr. President, the kind of training and employment opportunities available under this new title would be invaluable to these young veterans, as well as to those individuals who have not spent time in the service.

At the conclusion of this statement, Mr. President, I will describe section 8 of the bill, added by a floor amendment, offered by the distinguished floor manager on my behalf, to add to this bill what was section 4 of H.R. 2992, the CETA extension bill, as reported, which was passed yesterday after that section was deleted so it could be added to the youth bill.

Mr. President, this targeting provision is based on elements contained in S. 20, and represents my conviction that programs established under this title—or under any youth authority—should be tailored to meet the special needs of those groups of young people who are least likely to receive services under other programs. We need to avoid the "most bang for money" approach that results in "creaming" the target population—placing those young persons that will find it relatively easy—as compared with their most disadvantaged peers—to compete in the labor market. Even though it is vital that we equip all youths with adequate skills to make an effective transition from the world of education to the world of work, we need to make sure that the more difficult cases, as well as the easy ones, are provided service. This provision attempts to insure that those most in need are involved in efforts carried out under this title.

#### COUNSELING AND PLACEMENT SERVICES

Fifth, Mr. President, is the provision in the bill that requires all activities—under parts A, B, and C—to provide appropriate counseling and placement services designed to facilitate the transition of youth from participation in these activities to permanent jobs in the public or private sector or to further education or training programs which would improve the quality of their lives.

Mr. President, this, too, is based on the principles of S. 20. I believe that young persons who participate in these new programs must gain something more than just the experience of 1 year of work and wages. It is imperative that youths be better off in terms of their job potential after service than before, and these provisions are an attempt to ensure, through counseling and placement services, that these youth obtain substantially greater assistance.

#### APPROPRIATIONS

Mr. President, the bill as reported from committee contains a "such sums" authorization through fiscal year 1978. The Economic Stimulus Appropriations Act (Public Law 95-29), which was signed by the President on May 13 contains an appropriation of \$1.5 billion for youth employment initiatives. This means that as soon as the authorizing legislation is enacted—or prior to that time if the Department of Labor decides to begin these initiatives under title III

of CETA—these efforts can get underway and we can begin immediately to provide job and job training opportunities to young people.

The administration, in submitting this legislation, indicated its intention to fund this title as follows: Part A, \$350 million for the provision of 35,000 jobs; part B, \$250 million for 30,000 jobs; and part C \$900 million for 138,000 opportunities.

Of course, Mr. President, these more than 200,000 youth slots are just the beginning—but one of the most important beginnings we have had in years in this area and one that represents a true spirit of commitment to solving the problem. I look forward to working closely with the administration and the Congress when we begin to develop more than a 1-year program, in order to make any expansion, extension, or modifications of these provisions necessary to insure the full success of our efforts to provide jobs for as many young people as we possibly can.

#### VETERANS' PROVISION

Mr. President, as I indicated, I would like to make special note of the provisions of section 8 of this bill, which relate to employment and training opportunities for veterans, now incorporated into this legislation by the amendment offered by Senator NELSON on my behalf. I authored these amendments which were originally intended to be a part of this legislation. However, during subcommittee consideration of this pending youth employment legislation and the 1-year extension of CETA—H.R. 2992, which was passed by the Senate yesterday—the provisions were added to the latter bill. Yesterday, in an effort to expedite the enactment of the CETA extension legislation and avoid the necessity of a conference with the House, the provisions I authored related to veterans as well as a provision authored by Senator PELL were deleted from H.R. 2992, and the identical provisions were accepted this morning as amendments to S. 1242.

Mr. President, I want to express my appreciation to the floor managers of these two bills, Mr. NELSON and Mr. JAVRS, for their cooperation in this matter.

Mr. President, the provisions now included in section 8 of S. 1242 direct the Secretary of Labor to take all appropriate steps to provide increased job training and public service employment opportunities under CETA for certain categories of veterans. These categories are defined in the provision as: First, disabled veterans who have a service-connected disability rating of 30 percent or more; and second, Vietnam-era veterans who served for more than 180 days during the Vietnam-era—receiving other than a dishonorable discharge—and who are under 27 years of age.

As chairman of the Senate Veterans' Affairs Committee and as a member of the Subcommittee on Employment, Poverty, and Migratory Labor of the Committee on Human Resources, I have been greatly involved and concerned with meeting the employment needs of our Nation's veterans—particularly those who served our country during the Viet-

nam-era and those who as a result of their service are disabled.

Mr. President, I think it is unforgivable that veterans who bore the brunt of the most unpopular war this country has ever known and those who still bear the scars of battle, are precisely those persons who bear the brunt of most of the heaviest unemployment rates in the labor market.

During April, the Bureau of Labor Statistics reports that there were 474,000 unemployed male veterans 20 through 34 years of age. The rate of unemployment for younger male Vietnam-era veterans those aged 20 through 24 was 14.4 percent—or 138,000 individuals out of work—as compared to 10.1 percent for similarly aged nonveterans. This single category has the highest unemployment rate out of all other categories, except for those under age 20, for which monthly statistics are gathered—a situation which has existed for well over a year. In addition, for four out of the last six quarters, the rates for Vietnam-era veterans aged 25 through 29 have exceeded those for similarly aged nonveterans.

Among minority Vietnam-era veterans aged 20 through 34, the unemployment data is even more distressing. For the first quarter of 1977, the unemployment rate among minority veterans in every age category exceeded rates at the end of the fourth quarter of 1976. The quarterly unemployment rate among these veterans was 15.7 percent, or 12 percent greater than the rate for these veterans for the preceding quarter. In each of the three age categories, the rates for minority veterans for the first quarter of 1977 exceeded the rate for similarly aged nonveterans. Among young minority veterans aged 20 through 24, the unemployment rate was greater than 25 percent—15 percent greater than for similarly aged nonveterans.

#### THE ADMINISTRATION'S PROPOSALS

Mr. President, on January 27, following his swearing-in, Secretary of Labor Marshall announced the administration's commitment to make the plight of the jobless disabled and Vietnam-era veterans a high priority. At that time, the administration unveiled a three-part program designed to help bring these veterans back into the mainstream of America's economic life.

On April 20, Mr. President, in testimony before the Subcommittee on Employment, Poverty, and Migratory Labor, and in responses to my questions regarding the Department's progress in implementing the administration's commitment announced in January, Secretary Ray Marshall and Assistant Secretary of Labor for Employment and Training Ernie Green provided the following information:

First, The President proposed a program called Project HIRE—help through industry retraining and employment program—to enlist the Nation's larger corporations to make private-sector job opportunities and training opportunities available to Vietnam-era veterans. On January 27, Secretary Marshall indicated that—

The delivery systems are in place . . . [and] the funds are available.

He stated that—

With a minimum of delay coupled with a maximum of short-term effort, we can move swiftly to help many jobless veterans gain worthwhile employment.

However, nearly 3½ months later, the effort is still not completely off the planning board. The formal "kick-off" of the program is still 3 weeks away.

Mr. President, the administration testified that the implementation of Project HIRE—which would create 92,000 jobs for veterans—has been delayed because the necessary appropriation of \$120 million contained in the Economic Stimulus Appropriations Act of 1977, had not been approved. I am very hopeful that since funds are now available, this program will be implemented speedily.

Second, The President's program also includes the disabled veterans outreach program whereby outreach units, staffed by disabled Vietnam-era veterans, would be established within employment service offices around the country. These temporary paraprofessionals are to concentrate on identifying disabled veterans in need of services and bringing them into the mainstream of the labor market through jobs, job training, and related services to which they are entitled. This program is to provide 2,000 jobs for disabled veterans outreach workers, and over the 18 month life of the program, is expected to place over 40,000 other disabled veterans.

Mr. President, I ask unanimous consent that a status report of this program as of April 26, 1977, which was submitted by the Department of Labor to the Subcommittee on Employment, Poverty, and Migratory Labor, be printed at this point in the RECORD.

There being no objection, the following was ordered to be printed in the RECORD, as follows:

#### STATUS REPORT ON THE DISABLED VETERANS OUTREACH PROGRAM

##### 1. Staffing Status—

Funding has been approved for hiring 1,911 disabled veterans in the Disabled Veterans Outreach Program at an average position cost of \$11,716 per year. Positions were allocated based upon the proportion of compensable disabled veterans within each State to the national total. An additional 89 positions will be funded by May 13, 1977. A majority of these positions will be distributed among the five States with the largest number of unemployed Vietnam-era veterans.

The program will be phased in over a three month period from April 1, 1977, to June 30, 1977. Approximately one-third of the positions will be filled each month during April, May and June. All positions should be filled by June 30. As of April 26, 1977, 489 positions have been filled. A detailed report of planned positions, funding allocations for FY 1977, and positions filled by State and designated city is included in an attachment.

##### 2. Performance Indicators to Date—

Over the 18 month life of the program, DVOP staff shall place over 40,000 disabled veterans. DVOP staff already hired are currently in training and will begin direct service to veterans near the end of May. Thus, no data on outreach contacts or placements are available. Data on local office performance by DVOP staff will be derived indirectly from the Employment Service Automated Reporting System (ESARS) by comparison of current month and year performance in the categories of new applicants and renewals, referrals to training, job development contacts

and placement to performance recorded in the same month of several previous years. In addition, field staff of the Veterans Employment Service will periodically monitor local offices with DVOP staff to assess the level of service provided to disabled veterans by the local office.

|  | Planned positions | Hired as of April 26, 1977 |
|--|-------------------|----------------------------|
|--|-------------------|----------------------------|

#### Region, State, designated city:

|                |     |    |
|----------------|-----|----|
| Region I       | 150 | 41 |
| Massachusetts  | 86  | 29 |
| Springfield    | 4   | 4  |
| Boston         | 12  | 4  |
| Worcester      | 4   | 0  |
| Other          | 66  | 21 |
| Vermont        | 4   | 4  |
| Connecticut    | 27  | 0  |
| Hartford       | 4   | 0  |
| Bridgeport     | 4   | 0  |
| Other          | 19  | 0  |
| Maine          | 11  | 0  |
| New Hampshire  | 10  | 8  |
| Rhode Island   | 12  | 0  |
| Providence     | 6   | 0  |
| Other          | 6   | 0  |
| Region II      | 258 | 0  |
| New Jersey     | 71  | 0  |
| Newark         | 7   | 0  |
| Jersey City    | 5   | 0  |
| Paterson       | 5   | 0  |
| Other          | 54  | 0  |
| New York       | 170 | 0  |
| New York City  | 85  | 0  |
| Buffalo        | 15  | 0  |
| Rochester      | 10  | 0  |
| Yonkers        | 10  | 0  |
| Syracuse       | 10  | 0  |
| Other          | 40  | 0  |
| Puerto Rico    | 17  | 0  |
| San Juan       | 3   | 0  |
| Region III     | 220 | 99 |
| Delaware       | 5   | 0  |
| D.C.           | 8   | 0  |
| Maryland       | 33  | 0  |
| Baltimore      | 11  | 0  |
| Pennsylvania   | 115 | 99 |
| Philadelphia   | 37  | 33 |
| Pittsburgh     | 20  | 20 |
| Other          | 58  | 40 |
| Virginia       | 44  | 0  |
| Richmond       | 5   | 0  |
| Arlington      | 4   | 0  |
| Virginia Beach | 2   | 0  |
| Newport News   | 4   | 0  |
| Norfolk        | 4   | 0  |
| Other          | 25  | 0  |
| West Virginia  | 18  | 0  |
| Region IV      | 312 | 72 |
| Alabama        | 33  | 6  |
| Birmingham     | 5   | 0  |
| Huntsville     | 2   | 0  |
| Mobile         | 5   | 0  |
| Other          | 21  | 6  |
| Florida        | 95  | 1  |
| Jacksonville   | 5   | 0  |
| Tampa          | 6   | 0  |
| St. Petersburg | 3   | 0  |
| Ft. Lauderdale | 4   | 0  |
| Miami          | 13  | 0  |
| Other          | 64  | 1  |
| Georgia        | 41  | 0  |
| Atlanta        | 12  | 0  |
| Columbus       | 6   | 0  |
| Other          | 23  | 0  |
| Kentucky       | 29  | 25 |
| Lexington      | 2   | 2  |
| Louisville     | 4   | 4  |
| Other          | 21  | 19 |
| Mississippi    | 20  | 20 |
| Jackson        | 2   | 2  |
| Other          | 18  | 18 |
| North Carolina | 42  | 0  |
| Charlotte      | 5   | 0  |
| Greensboro     | 3   | 0  |
| Raleigh        | 4   | 0  |

|                       | Planned positions | Hired as of April 26, 1977 |
|-----------------------|-------------------|----------------------------|
| Other                 | 30                | 0                          |
| South Carolina        | 20                | 20                         |
| Region V              | 346               | 0                          |
| Illinois              | 66                | 0                          |
| Chicago               | 47                | 0                          |
| Rockford              | 7                 | 0                          |
| Other                 | 12                | 0                          |
| Indiana               | 37                | 0                          |
| Evansville            | 8                 | 0                          |
| Ft. Wayne             | 4                 | 0                          |
| Gary                  | 4                 | 0                          |
| Indianapolis          | 15                | 0                          |
| Other                 | 6                 | 0                          |
| Michigan              | 75                | 0                          |
| Detroit               | 29                | 0                          |
| Grand Rapids          | 10                | 0                          |
| Flint                 | 8                 | 0                          |
| Warren                | 3                 | 0                          |
| Other                 | 25                | 0                          |
| Minnesota             | 37                | 0                          |
| Minneapolis           | 15                | 0                          |
| St. Paul              | 10                | 0                          |
| Other                 | 12                | 0                          |
| Ohio                  | 95                | 0                          |
| Akron                 | 8                 | 0                          |
| Cincinnati            | 10                | 0                          |
| Cleveland             | 16                | 0                          |
| Columbus              | 8                 | 0                          |
| Dayton                | 10                | 0                          |
| Toledo                | 9                 | 0                          |
| Other                 | 34                | 0                          |
| Wisconsin             | 36                | 0                          |
| Milwaukee             | 18                | 0                          |
| Madison               | 6                 | 0                          |
| Other                 | 12                | 0                          |
| Region VI             | 209               | 14                         |
| Arkansas              | 21                | 0                          |
| Louisiana             | 29                | 0                          |
| New Orleans           | 8                 | 0                          |
| Baton Rouge           | 3                 | 0                          |
| Shreveport            | 4                 | 0                          |
| Other                 | 14                | 0                          |
| New Mexico            | 14                | 14                         |
| Albuquerque           | 6                 | 6                          |
| Other                 | 8                 | 8                          |
| Oklahoma              | 30                | 0                          |
| Texas                 | 115               | 0                          |
| Austin                | 6                 | 0                          |
| San Antonio           | 24                | 0                          |
| Corpus Christi        | 4                 | 0                          |
| Houston               | 14                | 0                          |
| Dallas                | 10                | 0                          |
| El Paso               | 8                 | 0                          |
| Lubbock               | 3                 | 0                          |
| Ft. Worth             | 8                 | 0                          |
| Other                 | 38                | 0                          |
| Region VII            | 87                | 61                         |
| Iowa                  | 20                | 0                          |
| Des Moines            | 3                 | 0                          |
| Other                 | 17                | 0                          |
| Kansas                | 18                | 18                         |
| Kansas City, Kansas   | 7                 | 7                          |
| Wichita               | 4                 | 4                          |
| Other                 | 7                 | 7                          |
| Missouri              | 37                | 37                         |
| St. Louis             | 15                | 15                         |
| Kansas City, Missouri | 7                 | 7                          |
| Other                 | 15                | 15                         |
| Nebraska              | 12                | 6                          |
| Omaha                 | 5                 | 3                          |
| Lincoln               | 2                 | 2                          |
| Other                 | 5                 | 1                          |
| Region VIII           | 54                | 5                          |
| Montana               | 7                 | 0                          |
| North Dakota          | 5                 | 0                          |
| South Dakota          | 6                 | 0                          |
| Utah                  | 9                 | 5                          |
| Salt Lake City        | 5                 | 1                          |
| Other                 | 4                 | 4                          |
| Wyoming               | 3                 | 0                          |
| Colorado              | 24                | 0                          |
| Denver                | 10                | 0                          |
| Colorado Springs      | 3                 | 0                          |
| Other                 | 11                | 0                          |



|                    | Planned<br>positions<br>April<br>1977 | Hired,<br>as of<br>April<br>26,<br>1977 |
|--------------------|---------------------------------------|---|
| Region IX.....     | 209                                   | 178                                     |
| California.....    | 172                                   | 172                                     |
| Fresno.....        | 5                                     | 5                                       |
| San Jose.....      | 9                                     | 9                                       |
| San Francisco..... | 9                                     | 9                                       |
| Oakland.....       | 6                                     | 6                                       |
| Anaheim.....       | 5                                     | 5                                       |
| Santa Ana.....     | 2                                     | 2                                       |
| Riverside.....     | 2                                     | 2                                       |
| San Diego.....     | 8                                     | 8                                       |
| Sacramento.....    | 4                                     | 4                                       |
| Los Angeles.....   | 34                                    | 34                                      |
| Long Beach.....    | 4                                     | 4                                       |
| Other.....         | 84                                    | 84                                      |
| Arizona.....       | 24                                    | 0                                       |
| Phoenix.....       | 14                                    | 0                                       |
| Tucson.....        | 6                                     | 0                                       |
| Other.....         | 4                                     | 0                                       |
| Hawaii.....        | 6                                     | 0                                       |
| Honolulu.....      | 2                                     | 0                                       |
| Nevada.....        | 7                                     | 6                                       |
| Region X.....      | 66                                    | 19                                      |
| Alaska.....        | 2                                     | 0                                       |
| Idaho.....         | 8                                     | 7                                       |
| Oregon.....        | 20                                    | 12                                      |
| Portland.....      | 13                                    | 0                                       |
| Other.....         | 7                                     | 0                                       |
| Washington.....    | 36                                    | 0                                       |
| Spokane.....       | 3                                     | 0                                       |
| Takoma.....        | 3                                     | 0                                       |
| Seattle.....       | 7                                     | 0                                       |
| Other.....         | 23                                    | 0                                       |

|                   | Minimum<br>positions<br>allocated | Cost per<br>position/<br>year | Total<br>fiscal year<br>1977 |
|-------------------|-----------------------------------|-------------------------------|------------------------------|
| Region VIII.....  | 54                                | 11,994                        | 323,839                      |
| Colorado.....     | 24                                | 11,940                        | 143,283                      |
| Montana.....      | 7                                 | 12,037                        | 42,130                       |
| North Dakota..... | 5                                 | 12,037                        | 30,093                       |
| South Dakota..... | 6                                 | 12,037                        | 36,111                       |
| Utah.....         | 9                                 | 12,037                        | 54,167                       |
| Wyoming.....      | 3                                 | 12,037                        | 18,055                       |
| Region IX.....    | 209                               | 11,748                        | 1,227,714                    |
| Arizona.....      | 24                                | 11,442                        | 137,304                      |
| California.....   | 172                               | 11,798                        | 1,014,628                    |
| Hawaii.....       | 6                                 | 12,012                        | 36,036                       |
| Nevada.....       | 7                                 | 11,356                        | 39,746                       |
| Region X.....     | 66                                | 12,037                        | 397,221                      |
| Alaska.....       | 2                                 | 12,037                        | 12,037                       |
| Idaho.....        | 8                                 | 12,037                        | 48,148                       |
| Oregon.....       | 20                                | 12,037                        | 120,370                      |
| Washington.....   | 36                                | 12,037                        | 216,666                      |
| U.S. total.....   | 1,911                             | 11,716                        | 11,115,337                   |

Mr. CRANSTON. Mr. President, I have heard some excellent reports about progress in California under this innovative and promising program, and I am eagerly awaiting important gains for seriously disabled service-connected veterans in the job market when this program has been fully operational for 6 months or so.

Third. The President proposed the provision of increased opportunities for these disabled and young Vietnam-era veterans in public service jobs under the Comprehensive Employment and Training Act of 1973, as amended—CETA. The enactment of the Economic Stimulus Appropriation Act—Public Law 95-29—provides funds for an additional 415,000 public service jobs—PSE—under CETA through fiscal year 1978. The President's proposed legislation for a 1-year extension of CETA included a provision to require that in employing individuals to fill these new PSE jobs a preference be given to certain qualified unemployed disabled and young Vietnam-era veterans, with a proposed national goal that 35 percent of all new CETA PSE hires be these veterans. The House rejected the preference concept in its consideration of this legislation.

#### VETERANS' PROVISIONS IN CETA EXTENSION

Mr. President, during the hearings on the CETA extension and youth employment legislation, Secretary Marshall and Assistant Secretary Green stated, in response to a question, that legislation was definitely necessary in order for the Department to achieve its national goal for the employment of these priority categories of veterans. Therefore, in close cooperation with the administration and members of the Committee on Human Resources, I worked out this amendment, as a substitute to the administration's preference proposal.

Mr. President, I want to make it clear to members that my amendment does not provide a statutory preference about which many reservations have been expressed. Instead, the provision is designed to provide ample latitude and flexibility—without hamstringing prime sponsors or others involved in the delivery of job and job training opportunities—while at the same time giving the Secretary a clear mandate to serve the

needs of these especially hard-hit groups of unemployed veterans.

Mr. President, the amendment specifies many of the steps which the Secretary shall take in serving the employment needs of these veterans, but this list is by no means to be considered exclusive. Whatever means the Secretary deems appropriate and consistent with applicable law are to be carried out. Among the steps specified is providing for individual prime sponsors to develop their own local goals, taking into account the number of eligible veterans in the area served by the prime sponsors, for the placement of such eligible veterans in job vacancies occurring in PSE programs.

The Secretary is also directed to insure full utilization of the provisions of clauses (2) and (5) of section 205(c) of the act—relating to providing jobs for significant segments of the population and providing special consideration in filling jobs to special Vietnam-era veterans—and the provisions of subclause (E) of section 105(a)(3) of the act, requiring prime sponsors to make maximum feasible use of GI Bill apprenticeship and other on-job training—OJT—opportunities under section 1787 of title 38, United States Code.

Mr. President, the need for these provisions arises from the bleak performance record of many prime sponsors in providing PSE jobs for veterans under CETA.

In connection with the GI Bill, OJT provision added to title I by an amendment I offered last year to the Emergency Jobs Program Extension Act of 1977, and which was enacted as part of Public Law 94-444, I point out that that provision stresses the need for the Secretary to monitor closely the comprehensive plans submitted by each prime sponsor to insure that congressional intent is served and that prime sponsors are fully aware of and responsive to the increased job opportunities available from this important source.

As stressed by the Labor and Public Welfare Committee in its report on H.R. 12987, the Emergency Jobs Programs Extension Act of 1976 (S. Rept. No. 94-883), the promotion by both the Department of Labor and prime sponsors of the VA apprenticeship or OJT opportunities would be beneficial to and productive for both eligible veterans and prime sponsors. Under the VA OJT program, an approved employer promises a permanent job to an eligible veteran upon successful completion of the OJT program. During the training program, the employer pays the veteran less than the full regular wage, while the VA, for up to 2 years, supplements this with a training allowance paid directly to the veteran, beginning at \$212 a month for a veteran with no dependents. The amount of the VA OJT benefit is contingent upon the number of veteran's dependents and the length of time the veteran has been in training.

Mr. President, despite congressional emphasis on the importance of effective OJT program coordination between the VA and the Department of Labor, the failure of these agencies to coordinate their efforts has continued. For example,

|                           | Minimum<br>positions<br>allocated | Cost per<br>position/<br>year | Total<br>fiscal<br>year<br>1977 |
|---------------------------|-----------------------------------|-------------------------------|---------------------------------|
| Region I.....             | 150                               | 11,398                        | 854,813                         |
| Connecticut.....          | 27                                | 10,103                        | 139,975                         |
| Maine.....                | 11                                | 12,037                        | 66,180                          |
| Massachusetts.....        | 86                                | 11,684                        | 497,875                         |
| New Hampshire.....        | 10                                | 11,036                        | 56,317                          |
| Rhode Island.....         | 12                                | 11,734                        | 70,392                          |
| Vermont.....              | 4                                 | 12,037                        | 24,074                          |
| Region II.....            | 258                               | 11,945                        | 1,540,927                       |
| New Jersey.....           | 71                                | 12,005                        | 426,177                         |
| New York.....             | 170                               | 12,037                        | 1,023,145                       |
| Puerto Rico.....          | 17                                | 10,777                        | 91,605                          |
| Region III.....           | 220                               | 11,497                        | 1,324,073                       |
| Delaware.....             | 5                                 | 12,036                        | 30,093                          |
| District of Columbia..... | 8                                 | 12,037                        | 48,148                          |
| Maryland.....             | 33                                | 11,759                        | 194,019                         |
| Pennsylvania.....         | 112                               | 12,039                        | 673,992                         |
| Virginia.....             | 44                                | 10,437                        | 221,694                         |
| West Virginia.....        | 18                                | 11,796                        | 106,166                         |
| Region IV.....            | 312                               | 11,695                        | 1,824,403                       |
| Alabama.....              | 33                                | 11,098                        | 183,117                         |
| Florida.....              | 95                                | 11,875                        | 564,065                         |
| Georgia.....              | 41                                | 12,551                        | 257,298                         |
| Kentucky.....             | 29                                | 11,009                        | 159,634                         |
| Mississippi.....          | 20                                | 12,393                        | 123,934                         |
| North Carolina.....       | 42                                | 11,984                        | 251,672                         |
| South Carolina.....       | 20                                | 10,911                        | 109,112                         |
| Tennessee.....            | 32                                | 10,974                        | 175,571                         |
| Region V.....             | 346                               | 11,984                        | 2,073,330                       |
| Illinois.....             | 66                                | 12,037                        | 397,221                         |
| Indiana.....              | 37                                | 12,037                        | 222,685                         |
| Michigan.....             | 75                                | 12,037                        | 451,388                         |
| Minnesota.....            | 37                                | 12,037                        | 222,685                         |
| Ohio.....                 | 95                                | 11,846                        | 562,685                         |
| Wisconsin.....            | 36                                | 12,037                        | 216,666                         |
| Region VI.....            | 209                               | 11,153                        | 1,165,531                       |
| Arkansas.....             | 21                                | 11,356                        | 119,238                         |
| Louisiana.....            | 29                                | 11,166                        | 161,304                         |
| New Mexico.....           | 14                                | 11,988                        | 83,916                          |
| Oklahoma.....             | 30                                | 11,504                        | 172,560                         |
| Texas.....                | 115                               | 12,036                        | 627,913                         |
| Region VII.....           | 87                                | 11,803                        | 513,450                         |
| Iowa.....                 | 20                                | 12,037                        | 120,370                         |
| Kansas.....               | 18                                | 11,164                        | 100,479                         |
| Missouri.....             | 37                                | 12,037                        | 222,685                         |
| Nebraska.....             | 12                                | 11,653                        | 69,916                          |

in 1975 the General Accounting Office reported that of 153,765 VA-approved job training establishments, over 108,000 had no trainees enrolled whatsoever. Recently, when GAO inspected a large Midwestern city, it discovered that local employment service offices still had not been provided with the necessary data—data which is readily available—to direct eligible veterans to VA OJT program openings.

This provision, Mr. President, emphasizes the Congress concerns once more on the need for utilization of the GI Bill OJT program as an important method of battling continued high veteran unemployment.

Mr. President, under CETA titles I, II, and IV, and regulations prescribed thereunder, prime sponsors are required to provide special consideration to certain veterans, specifically service-connected disabled veterans—rated at 30 percent or greater—veterans who served in Indochina or Korea, and all recently discharged veterans—within 48 months of discharge. Yet, despite repeated congressional expressions of dissatisfaction with the level of veteran participation, veteran enrollment in CETA programs has continued at unfavorable levels. This is especially the case in PSE programs in comparison to the rates of participation achieved under the Emergency Employment Act of 1971 when specific hiring goals for veterans were established by the Department in its regulations.

In fiscal year 1976, Mr. President, despite very high rates of veteran unemployment, special Vietnam-era veterans comprised only 5.3 percent of all CETA titles I, II, and VI enrollees, a 23-percent decline from the fiscal year 1975 level of 6.9 percent—a figure cited as low by the Labor and Public Welfare Committee in its report on H.R. 12987, the Emergency Jobs Program Extension Act of 1967 (S. Rept. No. 94-883).

During fiscal year 1976 special veteran enrollment in PSE jobs under title II declined by 11 percent, and under title VI by 30 percent. The committee is concerned that, despite the requirements of the law and regulations, only 10,425 disabled veterans were served by CETA titles I, II, and VI during fiscal year 1976 while unemployment rates for this category remained so tragically high.

Mr. President, the reason for this situation is suggested in several General Accounting Office reports concerning the CETA PSE programs. In a January 23, 1976, report (No. MWD 76-61), the GAO found that the existing CETA hiring procedures of Wilmington, Del., did little to give veterans the required special consideration. In a September 2, 1976, report entitled "Public Service Employment in Southwestern New York State," (No. HRD-76-135) the GAO reported that—

Our examination of the filling of title II and VI public service positions showed no evidence of a system to insure that target groups specified in the Act receive special consideration. For example, an underemployed non-veteran who recently graduated from college was selected over an eligible veteran who had been unemployed for about 1 year and three other eligible applicants who had been unemployed for 12

weeks or more. Our examination of the files and discussions with hiring officials showed that the ability to best perform the job was the overriding criteria [sic] for selection once residency and unemployment criteria were met.

And, finally, Mr. President, in an April 7, 1977, report to the Congress, entitled "More Benefits to Jobless Can Be Attained in Public Service Employment," (No. HRD-77-53), the GAO reported as follows:

The sponsors generally served most segments at and above the levels established in their plans for both titles II and VI during fiscal year 1975. However, some segments, such as special veterans, limited English-speaking persons, and females, were not served at the levels planned. For example, the special veterans, a segment identified by sponsors and specifically cited in CETA for special consideration in obtaining public service employment, were not served as planned by 5 of the 12 sponsors. . . .

Under the provisions of section 8 of the bill, Mr. President, the Secretary would also be directed to make a renewed effort to fulfill more effectively his responsibilities under other provisions of law.

Notably, under chapter 41 of title 38, United States Code, the Secretary is mandated to establish administrative controls to insure that each eligible veteran who requests assistance at any U.S. Employment Service—USES—office is promptly placed in a satisfactory job or job training opportunity or receives some other form of assistance designed to enhance such veteran's employment prospects substantially.

Despite this legislative mandate, USES' record in providing services has been poor. Between the end of fiscal year 1975 and October 1, 1976, the Department's Employment Automated Reporting System, ESARS, data indicate a steep decline in service for veterans. For example, the percentage of qualified service-connected disabled veterans applying at State employment offices whose files were inactivated without having received any reportable service rose from 29.7 to 33.8 percent, an increase of 12.1 percent; the percentage counseled declined from 11.1 to 10.4 percent—a decrease of 6.3 percent; enrollment in training declined from 1.4 to 1 percent—a drop of 28.6 percent; and the number tested declined from 3 to 2.75 percent—an overall decrease of 8 percent.

These ESARS data also showed a decline in employment services for Vietnam-era veterans. The percentage of Vietnam-era veterans applying for assistance whose files were inactivated without having received any reportable service rose from 30.9 to 34.1 percent, an increase of 10.3 percent; their enrollment in training fell from 1.5 to 1 percent—a drop of 33.3 percent; their enrollment in CETA fell from 0.8 percent to 0.6 percent—a decrease of 25 percent; and the number of Vietnam-era veterans who were tested declined from 3.4 to 3.2 percent—a decline of 5.9 percent.

Mr. President, my amendment also emphasizes the need for effective implementation of section 602 of Public Law 94-502, the Veterans' Education and Employment Assistance Act of 1976. That

provision, amending section 2003 of title 38, United States Code, clarifies and makes specific the responsibility of the State Veterans' Employment Representative—SVER—and the Assistant Veterans' Employment Representative—AVER—for the promotion and monitoring of veterans participation in programs operating under CETA to assure that eligible veterans receive special consideration or other opportunities when required. In this regard, the committee report stresses that SVER's and AVER's should devote sufficient time monitoring prime sponsors' programs to ascertain compliance by prime sponsors with both veteran special consideration requirements and grant narrative assurances regarding veterans.

Prior to enactment of Public Law 94-502, no official within the Department of Labor was specifically responsible for overseeing and monitoring these special consideration mandates. The importance of such monitoring by SVER's and AVER's—who are Federal employees—is underscored by findings by the General Accounting Office in its February 16, 1977, report to Congress, entitled "Followup Report on Services to Veterans Under Title VI of the Comprehensive Employment and Training Act" (No. HRD-77-16), a followup report to GAO Report No. MWD-76-61, which I discussed earlier. In the recent report, GAO found that although the prime sponsor for Wilmington, Del., had not been providing eligible veterans with the required special consideration, the responsible SVER had not been monitoring the implementation of the title VI program but rather was "merely impressing upon program officials the need for special service to veterans."

This failure of the appropriate Federal Government official to monitor CETA program implementation insofar as eligible veterans are concerned should be corrected by vigorous implementation of the section 602 amendments to title 38 so as to assure that SVER's and AVER's not only promote eligible veteran participation in CETA programs but also monitor the implementation and operation of the programs to assure that eligible veterans receive the required special consideration.

Further, Mr. President, section 2004 of title 38 requires, except as may be determined otherwise by the Secretary, that each employment service office shall have at least one employee—known as the local veterans employment representative, LVER—whose service shall be fully devoted to discharging the veteran job counselling, training, and placement services mandated by chapter 41. Studies have shown that the most effective employment service offices insofar as unemployed veterans are concerned are those where the LVER devotes all of his or her time—as generally required by law—to discharging chapter 41 responsibilities. However, according to recent reports, many LVER's do not devote the required time to performing chapter 41 responsibilities and, as a result, service to unemployed veterans generally suffers.

To correct this situation, the Secretary is expected to undertake vigorous efforts



to assure that, where required, local offices will have a full-time LVER. Additionally, Mr. President, the Secretary is to assure that, in those local offices where the LVER is not required to devote full time to performing chapter 41 responsibilities, the LVER will devote sufficient time to assure that all affected veterans receive some form of assistance designed to increase their employability.

Mr. President, congressional oversight of the mandatory job-listing requirement in section 2012 of title 38, United States Code, has revealed that the Department of Labor has not required compliance with this provision with the vigor necessary to assure the success of the program. Section 2012 requires every Federal contractor and subcontractor thereof with a contract of \$10,000 or more to list all "suitable employment openings" with the local employment service office. During the 48-hour period immediately following the listing of an employment opening pursuant to section 2012, only eligible veterans may be referred to the listing company for the involved position. There is no requirement that the company hire the referred veteran, but the 48-hour hold provides the veteran with a headstart over non-veteran job-seekers.

The Wall Street Journal in a May 11, 1976, article described this program as laxly enforced. And, indeed, Mr. President, final Department of Labor fiscal year 1976 figures seem to indicate the validity of the Journal's assertion. The total number of positions listed in 1976 was 985,000, the exact number of positions listed in fiscal year 1974. Further, the Wall Street Journal reported that—

The Labor Department estimates that only "between one-third and one-half" of all employers are complying with the rule; it can't be more specific since it isn't even sure how many federal contractors the rule affects.

The committee bill envisions that the Secretary will undertake vigorous efforts to determine how many contractors are in compliance with the mandatory job-listing requirements.

Mr. President, section 2012 of title 38 also requires each such Federal contractor and subcontractor to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era. Mandated in 1974, implementing regulations did not take effect until July 1976, more than 18 months after passage. This affirmative action program also requires far greater attention and greater implementation by the administration. The provisions of the bill, as reported, require that the Secretary fully fulfill his responsibilities in this regard.

Mr. President, in addition, my amendment would require the temporary appointment of representatives of veterans organizations or groups to local and State manpower planning councils established under CETA and to the National Commission on Manpower Policy. This provision differs from an amendment I authored to the Senate-passed legislation in 1973, S. 1559, eventually enacted as CETA, which would have required such representation, on a temporary basis now, will increase the prime

sponsors' responsiveness to the President's program and enable them to serve more fully the needs of veterans.

The provisions of section 8 would also stress the Secretary's responsibilities—in conjunction with the VA Administrator and the Secretary of HEW—under section 104(b) of the Emergency Jobs and Unemployment Assistance Act of 1974, Public Law 93-567, as reaffirmed last year in Public Law 94-444, to conduct an outreach and public information program to promote maximum employment and training opportunities for veterans. In the past, this program has suffered from administration apathy, lack of adequate funding, and low visibility.

The Department's initial progress report on the initiative tended to emphasize future plans rather than efforts undertaken successfully. The Secretary is required, pursuant to the provisions of the bill as reported, to implement fully his responsibilities under this program. The need for this provision is further highlighted by the fact that a second progress report on this program, required to be submitted to the Congress within 90 days after the enactment of Public Law 94-444, is now almost 5 months late.

In fulfilling his responsibilities under this provision, the Secretary is directed to work closely in consultation with the newly established Deputy Assistant Secretary for Veterans' Employment and with the Administrator of Veterans' Affairs. The Secretary is also expected to act promptly to secure adequate funding and staff to carry out fully and effectively his responsibilities under the provision. To this end, the Secretary is directed to report to the Congress and the President within 60 days of enactment on the funding and staff made available for these purposes.

Mr. President, the need for section 8 of the bill is clear. The statistics and the performance record both require the enactment of this provision. The administration has made its commitment to serve those who have served. It is now time for those of us in the Congress to renew our commitment.

Mr. President, several matters which relate to the issue of veterans employment are forthcoming from the Senate Veterans' Affairs Committee which I would like at this time to call to the attention of my colleagues:

First, on June 9, the Senate Committee on Human Resources and the Veterans' Affairs Committee have scheduled a joint hearing on the nomination expected to be forthcoming shortly of the Deputy Assistant Secretary of Labor for Veterans' Employment. This post was established by section 601 of the Vietnam Era Veterans Education and Employment Assistance Act of 1976 (Public Law 94-502).

Second, the Subcommittee on Health and Readjustment on the Veterans' Affairs Committee, which I chair, will be holding a hearing on June 17 on oversight of veterans employment programs generally.

#### CONCLUSION

Mr. President, in closing, I would like to take this opportunity to commend the

members of the Human Resources Committee who have devoted much time and attention to this legislation—especially the chairman of the committee (Mr. WILLIAMS), the chairman of the Subcommittee on Employment, Poverty, and Migratory Labor (Mr. NELSON), and the ranking minority member of the committee (Mr. JAVITS). Their cooperation in working to report this bill and their dedication and that of their staffs to the most critical issue of meeting the employment needs of our Nation's young people has been invaluable. Their staffs and mine—Dick Johnson, Scott Ginsberg, Martin Jensen, Jim O'Connell, Babette Polzer, Gary Sellers, and Jon Steinberg—have worked long and arduous hours in presenting this legislation to the Senate and I am grateful to them for it.

Also, I want to congratulate the administration for the deep concern reflected in this legislation—specifically Secretary Marshall and Under Secretary Green and Deputy Under Secretary Nik Edes and his deputy, Sandy Kisla, and Bill Langbhen. The cooperation shown to members and staff of the Committee on Human Resources by the executive branch in developing this bill has been outstanding. Their expertise and involvement in this area, as well as what I believe is a genuine commitment to developing meaningful and effective legislation, is laudatory.

I look forward to continuing these relationships throughout as we work together to achieve effective implementation of the results of our endeavor.

Mr. President, although this legislation is only effective through fiscal year 1978, it will provide us with the basics and the experience necessary to make a full-fledged national commitment to youth a reality before the end of the 1970's. I urge the Senate to take favorable action on this legislation.

(This concludes additional statements submitted on S. 1242.)

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 1242) was ordered to be engrossed for a third reading, and was read the third time.

Mr. NELSON. Mr. President, I move that the Senate proceed to the immediate consideration of H.R. 6138, the House-passed Youth Employment and Training Act of 1977.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6138) to provide employment and training opportunities for youth.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin.

The motion was agreed to.

Mr. NELSON. Mr. President, I move

that H.R. 6138 be amended by striking out all after the enacting clause and inserting in lieu thereof the text of S. 1242, as amended.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 6138) was read the third time.

Mr. NELSON. Mr. President, I am not aware of any further amendments.

The PRESIDING OFFICER. The Chair is advised that it is too late for further amendments, third reading already having been had.

Mr. NELSON. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DeCONCINI). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. McCLELLAN), the Senator from New York (Mr. MOYNIHAN), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Rhode Island (Mr. PELL), and the Senator from Connecticut (Mr. RIBICOFF) are absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Michigan (Mr. RIEGLE), the Senator from New York (Mr. MOYNIHAN), and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. HATCH), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Nevada (Mr. LAXALT), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. STAFFORD), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut

(Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Illinois (Mr. PERCY), and the Senator from Vermont (Mr. STAFFORD) would each vote "yea."

The result was announced—yeas 80, nays 3, as follows:

[Rollcall Vote No. 170 Leg.]

YEAS—80

|                 |            |            |
|-----------------|------------|------------|
| Abourezk        | Eagleton   | McGovern   |
| Allen           | Eastland   | McIntyre   |
| Anderson        | Ford       | Metcalfe   |
| Baker           | Garn       | Metzenbaum |
| Bartlett        | Glenn      | Morgan     |
| Bayh            | Goldwater  | Muskie     |
| Beilmon         | Griffin    | Nelson     |
| Bentsen         | Hansen     | Nunn       |
| Biden           | Hart       | Packwood   |
| Brooke          | Haskell    | Proxmire   |
| Bumpers         | Hatfield   | Roth       |
| Burdick         | Hathaway   | Sarbanes   |
| Byrd            | Hayakawa   | Sasser     |
| Harry F., Jr.   | Hollings   | Schmitt    |
| Byrd, Robert C. | Huddleston | Schwelker  |
| Cannon          | Humphrey   | Sparkman   |
| Case            | Inouye     | Stennis    |
| Chafee          | Jackson    | Stevens    |
| Chiles          | Javits     | Stevenson  |
| Clark           | Johnston   | Stone      |
| Cranston        | Kennedy    | Talmadge   |
| Culver          | Leahy      | Thurmond   |
| Danforth        | Lugar      | Wallop     |
| DeConcini       | Magnuson   | Williams   |
| Doie            | Mathias    | Young      |
| Domenici        | Matsunaga  | Zorinsky   |
| Durkin          | McClure    |            |

NAYS—3

|        |       |       |
|--------|-------|-------|
| Curtis | Helms | Scott |
|--------|-------|-------|

NOT VOTING—17

|        |           |          |
|--------|-----------|----------|
| Church | McClellan | Ribicoff |
| Gravel | Moynihan  | Riegle   |
| Hatch  | Pearson   | Stafford |
| Heinz  | Pell      | Tower    |
| Laxalt | Percy     | Weicker  |
| Long   | Randolph  |          |

So, the bill (H.R. 6138), as amended, was passed, as follows:

That this Act may be cited as the "Youth Employment and Training Act of 1977".

Sec. 2. The Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following new title:

# "TITLE VIII—YOUTH EMPLOYMENT AND TRAINING"

## "AUTHORIZATION OF APPROPRIATIONS"

"Sec. 800. There are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1978, to carry out the provisions of this title.

## "PART A—NATIONAL YOUNG ADULT CONSERVATION CORPS"

### "STATEMENT OF PURPOSE"

"Sec. 801. It is the purpose of this part to establish a National Young Adult Conservation Corps to provide employment and other benefits to youths who would not otherwise be currently productively employed, through a period of service during which they engage in useful conservation work and assist in completing other projects of a public nature on Federal and non-Federal public lands and waters.

### "ESTABLISHMENT OF NATIONAL YOUNG ADULT CONSERVATION CORPS"

"Sec. 802. To carry out the purposes of this part, there is hereby established a National Young Adult Conservation Corps to carry out projects on Federal or non-Federal public lands or waters. The Secretary of Labor shall administer this part through interagency agreements with the Secretaries of the Interior and Agriculture. Pursuant to such interagency agreements, the Secretaries of the

Interior and Agriculture shall have a responsibility for the management of each Corps center, including determination of Corps members' work assignments, selection, training, discipline, and termination, and shall be responsible for an effective program at each center.

### "SELECTION OF ENROLLEES"

"Sec. 803. (a) Enrollees of the Corps shall be selected by the Secretaries of the Interior and Agriculture only from candidates referred by the Secretary of Labor.

"(b) Membership in the Corps shall be limited to persons who, at the time of enrollment, are—

"(1) individuals who are unemployed;

"(2) individuals who are ages sixteen to twenty-three inclusive;

"(3) shall be citizens or lawfully permanent residents of the United States or lawfully admitted refugees or parolees; and

"(4) shall be physically and mentally capable, as determined by the Secretary of Labor, of carrying out the work of the Corps for the estimated duration of each such individual's enrollment.

"(c) The Secretary of Labor shall make arrangements for obtaining referral of candidates for the Corps from the public employment service, prime sponsors qualified under section 102 of this Act, sponsors of Native American programs qualified under section 302 of this Act, sponsors of migrant and seasonal farmworker programs under section 303 of this Act, the Secretaries of the Interior and Agriculture, and such other agencies and organizations as the Secretary of Labor may deem appropriate. The Secretary of Labor shall undertake to assure that an equitable proportion of candidates shall be referred from each State and that no less than one-half of 1 per centum of the total number of youth candidates so referred shall be from any one State.

"(d) In referring candidates from each State in accordance with subsection (c), preference shall be given to rural and urban areas within each such State having substantial youth unemployment, including areas of substantial unemployment determined by the Secretary of Labor under section 204(d) of this Act to have rates of unemployment equal to or in excess of 6.5 per centum.

"(e) (1) No individual may be enrolled in the Corps for a total period of more than twelve months, with such maximum period consisting of either one continuous twelve-month period, or three or less periods which total twelve months, except that an individual who attains the maximum permissible enrollment age may continue in the Corps up to the twelve-month limit provided in this subsection only as long as the individual's enrollment is continuous after having attained the maximum age.

"(2) No individual shall be enrolled in the Corps if solely for purposes of membership for the normal period between school terms.

### "ACTIVITIES OF THE CORPS"

"Sec. 804. (a) Consistent with each interagency agreement, the Secretary of the Interior or Agriculture, as appropriate, in consultation with the Secretary of Labor shall determine the location of each residential and nonresidential campsite. The Corps shall perform work on projects in such fields as—

"(1) tree nursery operations, planting, pruning, thinning, and other silvicultural measures;

"(2) erosion control and flood damage;

"(3) wildlife habitat improvements and preservation;

"(4) range management improvements;

"(5) drought damage measures;

"(6) recreation development, rehabilitation, and maintenance;

"(7) fish habitat and culture measures;

"(8) forest insect and disease prevention and control;



"(9) road and trail maintenance and improvements;

"(10) general sanitation, cleanup, and maintenance; and

"(11) natural disasters damage measures.

"(b) The Secretaries of the Interior and Agriculture shall undertake to assure that projects on which work is performed under this part are consistent with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and such other standards relating to such projects as each Secretary shall prescribe consistent with other provisions of Federal law.

"(c) To the maximum extent practicable, appropriate projects shall—

"(1) be highly labor intensive;

"(2) be projects for which work plans could be readily developed;

"(3) be able to be initiated promptly;

"(4) be projects likely to have a lasting impact both as to the work performed and the benefit to the youths participating;

"(5) provide work experience to participants in skill areas required for the accomplishment of productive work on the projects;

"(6) if a residential program, be located in areas where existing residential facilities for the Corps members are available; and

"(7) be similar to activities of persons employed in seasonal and part-time employment in agencies such as the National Park Service, United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, and the Forest Service and the Soil Conservation Service.

"(d)(1) The Secretaries of the Interior and Agriculture, pursuant to agreements with the Secretary of Labor, may provide for such transportation, lodging, subsistence, medical treatment, and other services, supplies, equipment, and facilities as they may deem appropriate to carry out the purposes of this part.

"(2) Whenever economically feasible, existing but unoccupied or underutilized Federal, State and local government facilities, and equipment of all types, including military facilities and equipment, shall, where appropriate, be utilized for the purposes of the Corps work camps with the approval of the Federal agency, State, or local government involved.

#### "CONDITIONS APPLICABLE TO CORPS ENROLLEES

"Sec. 805. (a) Members of the Corps shall not be deemed Federal employees except for purposes of chapter 171 of title 28, United States Code, chapter 81 of title 5, United States Code, and title II of the Social Security Act (42 U.S.C. 401, et seq.).

"(b) The Secretary of Labor shall, in consultation with the Secretaries of the Interior and Agriculture, establish standards for—

"(1) rates of pay which shall be at least at the rate set forth in section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended;

"(2) reasonable hours and conditions of employment; and

"(3) safe and healthful working and living conditions.

"(c) To minimize transportation costs, Corps members shall be assigned to projects as near to their homes as practicable.

#### "STATE AND LOCAL PROGRAMS AND SPECIAL PROJECTS

"Sec. 806. (a) Consistent with interagency agreements with the Secretary of Labor, the Secretaries of the Interior and Agriculture may make grants or enter into other agreements—

"(1) after consultation with the Governor, with any State agency or institution;

"(2) after consultation with appropriate State and local officials, with (A) any unit of general local government, or (B) (i) any public agency or organization, or (ii) any

private nonprofit agency or organization which has been in existence for at least two years;

for the conduct under this part of any State or local component of the Corps or of any project on non-Federal public lands or waters or any project involving work on both non-Federal and Federal lands and waters.

"(b) For the purposes of carrying out this section, there shall be reserved an amount which shall be not less than 30 per centum of the funds available to carry out this part for any fiscal year.

#### "TRANSFER OF FUNDS

"Sec. 807. Funds necessary to carry out their responsibilities under part A shall be made available to the Secretaries of the Interior and Agriculture in accord with interagency agreements between the Secretary of Labor and the Secretaries of the Interior and Agriculture.

#### "PART B—YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS

##### "STATEMENT OF PURPOSE

"Sec. 811. It is the purpose of this part to establish a program of community conservation and improvement projects to provide employment, work experience, skill training, and opportunities for community service to eligible youths, for a period not to exceed twelve months, supplementary to but not replacing opportunities available under title I of this Act.

##### "DEFINITIONS

"Sec. 812. As used in this part, the term—

"(1) 'eligible applicant' means any prime sponsor qualified under section 102 of this Act, sponsors of Native American programs qualified under section 302(c)(1) of this Act, and sponsors of migrant and seasonal farmworker programs qualified under section 303 of this Act.

"(2) 'project applicant' shall have the same meaning as in section 701(a)(15) of this Act.

"(3) 'eligible youths' means individuals who are unemployed and, at the time of entering employment under this part, are ages sixteen to nineteen, inclusive.

"(4) 'community improvement projects' means projects providing work which would not otherwise be carried out, including, but not limited to, the rehabilitation or improvement of public facilities; neighborhood improvements; weatherization and basic repairs to low-income housing; and conservation, maintenance, or restoration of natural resources on publicly held lands other than Federal lands.

##### "ALLOCATION OF FUNDS

"Sec. 813. (a) Funds available to carry out this part for any fiscal year shall be allocated in such a manner that not less than 75 per centum of such funds shall be allocated among the States on the basis of the relative number of unemployed persons within each State as compared to all States, except that not less than one-half of 1 per centum of such funds shall be allocated for projects under this part within any one State and not less than one-half of 1 per centum of such funds shall be allocated in the aggregate for projects in Guam, the Virgin Islands, American Samoa, the Northern Marianas, and the Trust Territory of the Pacific Islands.

"(b) Of the funds available for this part, 2½ per centum shall be available for projects for Native American eligible youths, and 2½ per centum shall be available for projects for eligible youths in migrant and seasonal farmworker families.

"(c) The remainder of the funds available for this part shall be allocated as the Secretary deems appropriate.

##### "COMMUNITY CONSERVATION AND IMPROVEMENT YOUTH EMPLOYMENT PROGRAM

"Sec. 814. The Secretary is authorized, in accordance with the provisions of this part, to enter into agreements with eligible ap-

plicants to pay the costs of community conservation and improvement youth employment programs, including work on community improvement projects to be carried out by project applicants employing eligible youths and appropriate supervisory personnel.

##### "PROJECT APPLICATIONS

"Sec. 815. (a) Project applicants shall submit applications for funding of projects under this part to the appropriate eligible applicant.

"(b) In accordance with regulations prescribed by the Secretary, each project application shall—

"(1) provide a description of the work to be accomplished by the project, the jobs to be filled, and the appropriate duration for which eligible youths would be assigned to such jobs;

"(2) describe the wages or salaries to be paid persons employed in jobs assisted under this part;

"(3) set forth assurances that there will be an adequate number of supervisory personnel on the project and that the supervisory personnel are adequately trained in skills needed to carry out the project and can instruct participating eligible youths in skills needed to carry out a project;

"(4) set forth assurances that any income generated by the project will be applied toward the cost of the project;

"(5) set forth assurances for acquiring such space, supplies, materials, and equipment as necessary, including reasonable payment for the purchase or rental thereof;

"(6) set forth assurances that, to the maximum extent feasible, projects carried out under this part shall be labor intensive; and

"(7) set forth such other assurances, arrangements, and conditions as the Secretary deems appropriate to carry out the purposes of this part.

##### "PROPOSED AGREEMENTS

"Sec. 816. (a)(1) Each eligible applicant desiring funds under this part shall submit a proposed agreement to the Secretary, together with all project applications approved by the eligible applicant and all project applications approved by any program agent within the area served by the eligible applicant. With its transmittal of the proposed agreement, the eligible applicant shall provide descriptions of the project applications approved by the eligible applicant and by any program agent within the area served by the eligible applicant, accompanied by the recommendations of the eligible applicant concerning the relative priority attached to each project.

"(2) The definition and functions of a program agent shall be as set forth in section 204(d) of this Act.

"(b) The proposed agreement submitted by any eligible applicant shall—

"(1) describe the method of recruiting eligible youths, including a description of how such recruitment will be coordinated with plans under other parts of this title and with arrangements required by section 105 of this Act, and also including a description of arrangements with school systems and the public employment service (including school cooperative programs); and

"(2) provide a description of job training and skill development opportunities that will be made available to participating eligible youths, as well as a description of plans to coordinate the training and work experience with school-related programs, including the awarding of academic credit;

"(3) set forth such other assurances as the Secretary may require to carry out the purposes of this part.

"(c)(1) In order for a project application submitted by a project applicant to be submitted to the Secretary by any eligible applicant, copies of such application shall have been submitted at the time of such applica-

tion to the prime sponsor's planning council established under section 104 of this Act (or an appropriate planning organization in the case of sponsors of Native American programs under section 302 of this Act or migrant and seasonal farmworker programs under section 303 of this Act) for the purpose of affording such council (and the youth council established under section 836(a)(5)) an opportunity to submit comments and recommendations with respect to that application to the eligible applicant. No member of any council (or organization) shall cast a vote on any matter in connection with a project in which that member, or any organization with which that member is associated, has a direct interest.

"(2) Consistent with procedures established by the eligible applicant in accordance with regulations which the Secretary shall prescribe, the eligible applicant shall not disapprove a project application submitted by a project applicant unless it has first considered any comments and recommendations made by the appropriate council (or organization) and unless it has provided such applicant and council (or organization) with a written statement of its reasons for such disapproval.

#### "APPROVAL OF AGREEMENTS

"SEC. 817. (a) The Secretary may approve or deny on an individual basis any of the project applications submitted with any proposed agreement.

"(b) No funds shall be made available to any eligible applicant except pursuant to an agreement entered into between the Secretary and the eligible applicant which provides assurances satisfactory to the Secretary that—

"(1) the standards set forth in part D of this title will be satisfied;

"(2) projects will be conducted in such manner as to permit eligible youths employed in the project who are in school to coordinate their jobs with classroom instruction and, to the extent feasible, to permit such eligible youths to receive credit from the appropriate educational agency, postsecondary institution, or particular school involved; and

"(3) meet such other assurances, arrangements, and conditions as the Secretary deems appropriate to carry out the purposes of this part.

#### "WORK LIMITATION

"SEC. 818. No eligible youth shall be employed for more than twelve months in work financed under this part, except as prescribed by the Secretary.

#### "PART C—COMPREHENSIVE YOUTH EMPLOYMENT AND TRAINING PROGRAMS

##### "STATEMENT OF PURPOSE

"SEC. 831. It is the purpose of this part to establish comprehensive programs, supplementary to but not replacing programs and activities available under title I of this Act, to enhance the job prospects and career opportunities of young persons, including employment, community service opportunities and such training and supportive services as are necessary to enable participants to secure suitable and appropriate unsubsidized employment in the public and private sectors of the economy. To the maximum extent feasible, training and employment opportunities afforded under this part shall be interrelated and mutually reinforcing so as to achieve the goal of enhancing the job prospects and career opportunities of persons served under this part.

##### "PROGRAMS AUTHORIZED

"SEC. 832. The Secretary is authorized to provide financial assistance to enable eligible applicants (as defined in section 834) to provide employment opportunities and appropriate training and supporting services for

eligible participants including but not limited to:

"(1) useful experience opportunities in a wide range of community betterment activities such as rehabilitation of public properties, assistance in the weatherization of homes occupied by low-income families, demonstrations of energy-conserving measures including solar energy techniques (especially those utilizing materials and supplies available without cost), park establishment and upgrading, neighborhood revitalization, conservation and improvement, and related activities;

"(2) meaningful and productive employment and work experience in fields such as education, health care, neighborhood transportation services, crime prevention and control, environmental quality control, preservation of historic sites, and maintenance of visitor facilities; or

"(3) appropriate training and services to support the purpose of this part, including but not limited to—

"(A) outreach, assessment, and orientation;

"(B) counseling;

"(C) activities promoting education-to-work transition;

"(D) provision of occupational, educational, and training information;

"(E) services to youths to help them obtain and retain employment;

"(F) literacy, including appropriate services for persons with limited English-speaking ability;

"(G) attainment of certificates of high school equivalency or attainment of postsecondary degrees;

"(H) job sampling, including vocational exploration in the public and private sector;

"(I) institutional and on-the-job training;

"(J) transportation assistance; or

"(K) other necessary supportive services.

##### "ALLOCATION OF FUNDS

"SEC. 833. (a) Seventy-five per centum of the funds available for this part for any fiscal year shall be allocated in accordance with the provisions of subsection (b).

"(b) Of the sums available under subsection (a) of this section—

"(1) an amount equal to 10 per centum of the total funds available for this part shall be made available for special statewide youth services under subsection (d) of this section;

"(2) an amount equal to 15 per centum of the total funds available for this part shall be made available for programs for in-school youth pursuant to agreements between prime sponsors and local educational agencies under subsection (e) of this section; and

"(3) an amount equal to 50 per centum of the total funds available for this part shall be made available to prime sponsors for programs authorized under section 832 of this Act.

"(c) (1) Amounts available for each of the purposes set forth in subsection (b) shall be allocated among the States, subject to the provisions of paragraph (3) of this subsection, in such a manner that—

"(A) 37.5 per centum thereof shall be allocated in accordance with the relative number of unemployed persons within each State as compared to the total number of such unemployed persons in all States;

"(B) 37.5 per centum thereof shall be allocated in accordance with the relative number of unemployed persons residing in areas of substantial unemployment (as defined in section 204(c) of this Act) within each State as compared to the total number of unemployed persons residing in all such areas in all States; and

"(C) 25 per centum thereof shall be allocated in accordance with the relative number of persons in families with an annual income below the low-income level (as defined in section 701(a)(4) of this Act) within

each State as compared to the total number of such persons in all States.

"(2) In determining allocations under clauses (A) and (B) of paragraph (1) of this subsection, the Secretary shall use data for that period of three consecutive months for which each qualifying area had the highest number of unemployed persons during the preceding calendar year.

"(3) Not less than one-half of 1 per centum of the amounts allocated in accordance with this subsection shall be allocated for use within each State and not less than one-half of 1 per centum of such amounts shall be allocated in the aggregate for use in Guam, the Virgin Islands, American Samoa, the Northern Marianas, and the Trust Territory of the Pacific Islands.

"(4) Amounts available to prime sponsors under paragraphs (2) and (3) of subsection (b) of this section shall, out of the total amounts allocated to each State under such paragraphs, be allocated by the Secretary among prime sponsors within each State, in accordance with the factors set forth in paragraph (1) of this subsection.

"(d) The amount available to each State under paragraph (1) of subsection (b) of this section shall be used in accordance with a special statewide youth services plan, approved by the Secretary, for such purposes as—

"(1) providing financial assistance for employment and training opportunities for eligible youths who are under the supervision of the State;

"(2) providing labor market and occupational information to prime sponsors and local educational agencies, without reimbursement;

"(3) providing for the establishment of cooperative efforts between State and local institutions, including occupational and career guidance and counseling and placement services for in-school and out-of-school youth;

"(4) providing financial assistance for expanded and experimental programs in apprenticeship trades, or development of new apprenticeship arrangements, in concert with appropriate businesses and labor unions or State apprenticeship councils;

"(5) carrying out special model employment and training programs and related services between appropriate State agencies and prime sponsors in the State, or any combination of such prime sponsors, including subcontractors selected by prime sponsors, with particular emphasis on experimental job training within the private sector.

"(e) The amount available to each prime sponsor under paragraph (2) of subsection (b) of this section shall be used for programs carried out pursuant to agreements between prime sponsors and local educational agencies. Each such agreement shall describe in detail the employment opportunities and appropriate training and supportive services which shall be provided to eligible participants who are enrolled or who agree to enroll in a full-time program leading to a secondary school diploma, a junior or community college degree, or a technical trade school certificate of completion.

"(f) Prime sponsors receiving assistance under paragraph (3) of subsection (b) of this section shall give special consideration to community-based organizations, such as the Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, Mainstream, Community Action Agencies, union-related organizations, and other similar organizations which have demonstrated effectiveness in the delivery of employment and training services, in carrying out programs authorized under section 832 of this Act.

"(g) The remaining 25 per centum of the funds available for this part for any fiscal year shall be available as follows:



"(1) not less than 2½ per centum of the amounts available for this part shall be made available for employment and training programs for Native American eligible youths, and not less than 2½ per centum of the amounts available for this part shall be made available for employment and training programs for eligible youths in migrant and seasonal farmworker families; and

"(2) the remainder shall be available for innovative and experimental programs authorized under section 838.

#### "ELIGIBLE APPLICANTS

"SEC. 834. Eligible applicants for purposes of this part are prime sponsors qualified under section 102 of this Act, sponsors of Native American programs qualified under section 302(c)(1) of this Act, and sponsors of migrant and seasonal farmworker programs qualified under section 303 of this Act.

#### "ELIGIBLE PARTICIPANTS

"SEC. 835. (a) Eligible participants for programs authorized under this part shall be persons who—

"(1) (A) are unemployed or are in school and (i) are ages sixteen to twenty-one, inclusive, or (ii) if authorized under such regulations as the Secretary may prescribe, are ages twenty-two to twenty-three, inclusive; or (B) if authorized under such regulations as the Secretary may prescribe, are in school and are ages fourteen to fifteen, inclusive; and

"(2) are not members of households which have current gross family income, adjusted to an annualized basis (exclusive of unemployment compensation and all Federal, State, and local income-tested or needs-tested public payments) at a rate exceeding 70 per centum of the lower living standard income level, except that, pursuant to regulations which the Secretary shall prescribe, persons who do not meet the requirements of this subparagraph but who are otherwise eligible under this part may participate in appropriate activities of the type authorized under paragraph (3) of section 832.

"(b) For purposes of this section, the term 'lower living standard income level' means that income level (adjusted for regional and metropolitan and urban and rural differences and family size) determined annually by the Secretary based upon the most recent 'lower living standard budget' issued by the Bureau of Labor Statistics of the Department of Labor.

#### "CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

"SEC. 836. (a) The Secretary shall not provide financial assistance to an eligible applicant for programs authorized under section 832 unless such eligible applicant provides assurances that the standards set forth in part D of this title will be met and—

"(1) includes in its comprehensive manpower plan submitted pursuant to section 105 or section 302(c)(1) of this Act (or an amendment or supplement thereto) a description of the program to be provided to eligible participants, together with a description of the relationship and coordination of services provided to eligible participants under this part to similar services offered by local educational agencies, postsecondary institutions, the public employment service, other youth programs, community-based organizations, businesses, and labor organizations consistent with the requirements of sections 105 and 106 of this Act;

"(2) provides assurances, satisfactory to the Secretary, that in the implementation of programs under this part, there will be coordination, to the extent appropriate, with local educational agencies, postsecondary institutions, other youth programs, community-based organizations, businesses, labor organiza-

tions, other job training programs, the apprenticeship system, and (with respect to the referral of prospective youth participants to the program) the public employment service system;

"(3) provides assurances satisfactory to the Secretary that, to the maximum extent feasible, programs or components of programs conducted under this part will be linked, to the extent appropriate, to comprehensive work and training programs conducted by prime sponsors under title I of this Act;

"(4) provides assurances satisfactory to the Secretary that allowances will be paid in accordance with the provisions of section 111 (a) of this Act and such regulations as the Secretary may prescribe for this part;

"(5) establishes a youth council under the planning council of such eligible applicant (established under section 104 of this Act) in accordance with subsection (b) of this section;

"(6) provides assurances satisfactory to the Secretary that effective means will be provided through which youths participating in the projects, programs, and activities may acquire appropriate job skills and be given necessary basic education and training and opportunities for appropriate new classifications, occupations, and restructured jobs, and that procedures will be established in order to certify the extent to which each such youth has acquired skills, education, and training;

"(7) provides that the funds available under section 833(e) shall be used for programs authorized under section 832 for in-school youth who are eligible participants through arrangements to be carried out by a local educational agency or agencies or postsecondary educational institution or institutions; and

"(8) provides such other information and assurance as the Secretary may deem appropriate to carry out the purposes of this Act.

"(b) Each youth council established by an eligible applicant shall be responsible for making recommendations to the planning council established under section 104 of this Act with respect to the planning and for the review of activities conducted under this part and part B. Each such youth council's membership shall include representation from the local educational agency, local vocational education advisory council, junior and community colleges, business, unions, the public employment service, local government and nongovernment agencies and organizations which are involved in meeting the special needs of youths, the community served by such applicant, the prime sponsor, and youths themselves.

"(c) No program of work experience for in-school youth supported under this title shall be entered into unless an agreement has been made between the prime sponsor and a local educational agency or agencies, after review by the youth council established under subsection (b) of this section. Each such agreement shall—

"(1) set forth assurances that participating youths will be provided meaningful work experience, which shall improve their ability to make career decisions and which shall provide them with basic work skills needed for regular employment not subsidized under this in-school program;

"(2) be administered, under contracts with the prime sponsor, by a local educational agency or local educational agencies or a postsecondary educational institution or institutions within the area served by the prime sponsor, and that such contracts have been reviewed by the youth council established under subsection (b) of this section.

"(3) set forth assurances that job information, counseling, guidance, and placement services shall be made available to participating youths and that funds provided under

this program shall be available to, and utilized by, the local educational agency or agencies to the extent necessary to pay the cost of school-based counselors to carry out the provisions of this in-school program;

"(4) set forth assurances that jobs provided under this program shall be certified by the participating educational agency or institution as relevant to the educational and career goals of the participating youths;

"(5) set forth assurances that the eligible applicant will advise participating youths of the availability of other employment and training resources provided under this Act, and other resources available in the local community to assist such youths in obtaining employment;

"(6) set forth assurances that youth participants shall be chosen, to the maximum extent possible, from among youths who are in lower living standard income level families and who need work to remain in school, and shall be selected by the appropriate educational agency or institution, based on the certification for each participating youth by the school-based guidance counselor that the work experience provided is an appropriate component of the overall educational program of the youth.

#### "REVIEW OF PLANS BY SECRETARY

"SEC. 837. The provisions of sections 108, 109, and 110 of this Act shall apply to all programs and activities authorized under section 832.

#### "INNOVATIVE AND EXPERIMENTAL PROGRAMS

"SEC. 838. (a) The Secretary of Labor is authorized to provide support for innovative and experimental programs to test new approaches for dealing with the unemployment problems of youths. In supporting such programs, the Secretary of Labor shall consult, as appropriate, with the Secretary of Commerce, Secretary of Health, Education, and Welfare, Secretary of Housing and Urban Development, the Secretary of Agriculture, the Director of the ACTION Agency, and the Director of the Community Services Administration. Such programs shall include, where appropriate, cooperative arrangements with educational agencies to provide special programs and services for eligible participants enrolled in secondary schools, junior and community colleges, and technical and trade schools, including job experience, counseling and guidance prior to the completion of secondary or postsecondary education and making available occupational, educational, and training information through statewide career information systems.

"(b) (1) One-half of the funds available under section 833(g)(2) to carry out this section shall be provided to eligible applicants on the basis of applications submitted to the Secretary. The Secretary shall review and approve such applications, on the basis of criteria which the Secretary shall establish, which shall include but not be limited to—

"(A) standards of local need, as evidenced by the severity of unemployment problems among eligible youths in the area to be served;

"(B) demonstrated effectiveness in dealing with the unemployment problems of youths, as indicated by the past performance record of the eligible applicant; and

"(C) the quality of the program proposal, as determined by the Secretary in accord with such standards as the Secretary shall establish.

"(2) Eligible applicants receiving assistance under this subsection shall give special consideration to community-based organizations, such as the Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, Mainstream, Community Action Agencies, union-related organizations, and other similar organiza-

tions which have demonstrated effectiveness in the delivery of employment and training services, in carrying out innovative and experimental programs funded under this section.

"(c) The remaining funds available under section 833(g)(2) to carry out this section shall be used in the Secretary's discretion to enable public or private agencies to carry out innovative and experimental programs for eligible participants, for the purposes of preparing them for, enhancing their prospects for, or securing their employment in jobs through which they may reasonably be expected to advance to productive working lives. The Secretary shall give special consideration to community-based organizations, such as the Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, Mainstream, Community Action Agencies, union-related organizations, and other similar organizations which have demonstrated effectiveness in the delivery of employment and training services, in carrying out the innovative and experimental programs authorized under this subsection. Funds available under this subsection may be transferred to other Federal departments and agencies to carry out functions delegated to them pursuant to agreements with the Secretary.

"(d) (1) In carrying out its responsibilities under this subsection and under section 161 of the Vocational Education Act, the National Occupational Information Coordinating Committee shall give special attention to the problems of unemployed youths. The Committee shall also carry out other activities consistent with the purposes of this title, including but not limited to the following:

"(A) assisting and encouraging local areas to adopt methods of translating national aggregate occupational outlook data into local terms;

"(B) assisting and encouraging the development of State occupational information systems, to be used in the maintenance of local computerized job banks and job vacancy reports, and accessible via computer terminals located in school district offices;

"(C) in cooperation with State and local correctional agencies, encouraging programs of counseling and employment services for youths in correctional institutions;

"(D) providing technical assistance for programs of computer on-line terminals and other facilities to utilize and implement occupational and career outlook information and projections supplied by State employment service offices and to improve the match of youth career desires with available and anticipated labor demand;

"(E) in cooperation with State and local educational agencies, and other appropriate persons and organizations, encouraging programs to bring employment and career counseling to presecondary youths; and

"(F) providing technical assistance for programs designed to encourage public and private employers to list all available job opportunities for youths with the appropriate eligible applicant conducting occupational information and career counseling programs and to encourage cooperation and contact between such eligible applicants and employers.

"(2) All funds available to the National Occupational Information Coordinating Committee under this Act and under section 161 of the Vocational Education Act may be used by the Committee to carry out any of its functions and responsibilities authorized by law.

#### "ACADEMIC CREDIT

"Sec. 839. In carrying out this part, appropriate efforts shall be made to encourage the granting by the educational agency or

school involved of academic credit to eligible participants who are in school.

#### "PART D—GENERAL PROVISIONS

##### "SPECIAL CONDITIONS

"Sec. 851. (a) The Secretary shall provide financial assistance under this title only if he determines that the activities to be assisted meet the requirements of this section.

"(b) The Secretary shall determine that the activities assisted under this title—

"(1) will result in an increase in employment opportunities over those opportunities which would otherwise be available,

"(2) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of non-overtime work or wages or employment benefits),

"(3) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed, and

"(4) will not substitute jobs assisted under this title for existing federally assisted jobs.

"(c) The project applicant will not employ any youth when any other person is on layoff by such applicant from the same or any substantially equivalent job.

"(d) No funds received under this title will be used to employ any person to fill a job opening created by the act of an employer in laying off or terminating employment of any regular employee, or otherwise reducing the regular work force not supported under this title in anticipation of filling the vacancy so created by hiring a youth to be supported under this title.

"(e) The jobs in each promotional line will in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public services not subsidized under this title and no job will be filled in other than an entry level position in each promotional line.

"(f) Members of the youth population to be served by the program shall be consulted and their views taken into consideration.

"(g) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under the program for which an application is being developed for submission under this title, such organization shall be notified and shall be afforded a reasonable period of time prior to the submission of the application in which to make comments to the applicant and to the Secretary.

"(h) The provisions of section 605(b) of this Act shall apply.

"(i) Activities funded under this title shall meet such other standards as the Secretary may deem appropriate to carry out the purposes of this Act.

"(j) Rates of pay under parts B and C shall be no lower than the highest of—

"(1) the minimum wage under section 6 (a)(1) of the Fair Labor Standards Act of 1938;

"(2) the State or local minimum wage for the most nearly comparable employment; or

"(3) the prevailing rates of pay for occupations and job classifications of persons employed by the same employer: *Provided, however,* That in the case of projects to which the provisions of the Davis-Bacon Act (or of any Federal law containing labor standards in accordance with the Davis-Bacon Act) otherwise apply, the Secretary is authorized, for projects financed under parts B and C of this title of under \$5,000, to prescribe rates of pay for youth participants which are not less than the applicable minimum wage but not more than the wage rate of the entering apprentice in the most nearly comparable apprenticeable trade, and to prescribe the appropriate ratio of journeymen to such participating youths.

"(k) Funds under this title shall not be used to provide full-time employment opportunities (1) for any person who has not attained the age with respect to which the requirement of compulsory education ceases to apply under the laws of the State in which such individual resides, except where such employment is undertaken in cooperation with school-related programs awarding academic credit for the work experience, or (2) for any person who has not attained a high school degree or its equivalent if it is determined, in accordance with procedures established by the Secretary of Labor, that there is substantial evidence that such person left school in order to participate in any program under either such part.

#### "SPECIAL PROVISIONS FOR PARTS B AND C

"Sec. 852. (a) Appropriate efforts shall be made to insure that youths participating in programs, projects, and activities under parts B and C of this title shall be youths who are experiencing severe handicaps in obtaining employment, including but not limited to those who lack credentials (such as a high school diploma), those who require substantial basic and remedial skill development, those who are women and minorities, those who are veterans of military service, those who have a history of involvement in the criminal justice system or have participated in programs designed to divert youths from the criminal system, or those who have otherwise demonstrated special need, as determined by the Secretary.

"(b) The Secretary is authorized to make such reallocation as he or she deems appropriate of any amount of any allocation under part B or part C of this title to the extent that the Secretary determines that an eligible applicant or sponsor will not be able to use such amount within a reasonable period of time. Any such amount may be reallocated only if the Secretary has provided thirty days' advance notice of the proposed reallocation to the eligible applicant or to the sponsor and to the Governor of the State of the proposed reallocation, during which period of time the eligible applicant or sponsor and the Governor may submit comments to the Secretary. After considering any comments submitted during such period of time, the Secretary shall notify the Governor and affected eligible applicants or sponsors of any decision to reallocate funds, and shall publish any such decision in the Federal Register. Priority shall be given in reallocating such funds to other areas within the same State.

#### "EDUCATION CREDIT, COUNSELING AND PLACEMENT SERVICES, AND BASIC SKILLS DEVELOPMENT

"Sec. 853. (a) The Secretary, in carrying out the purposes of this title, shall work with the Department of Health, Education, and Welfare to make suitable arrangements with appropriate State and local education officials whereby academic credit may be awarded, consistent with applicable State law, by educational institutions and agencies for competencies derived from work experience obtained through programs established under this title.

"(b) All activities funded under this title, pursuant to such regulations as the Secretary shall prescribe, shall provide appropriate counseling and placement services designed to facilitate the transition of youth from participation in the project to (1) permanent jobs in the public or private sector, or (2) education or training programs.

#### "EVALUATION

"Sec. 854. Programs provided under this title shall be subject to continuing performance evaluation pursuant to the provisions of section 313(a) of this Act.



**"TRAINING AND TECHNICAL ASSISTANCE"**

"SEC. 855. Training and technical assistance may be provided to eligible applicants conducting programs and activities under parts B and C of this title in accordance with the provisions of section 315 of this Act. Technical assistance to be provided by the Secretary shall emphasize the development and exchange of viable and proven program models and program information to assist eligible applicants in the design and modification of local program initiatives."

**"RELATION TO OTHER PROVISIONS"**

"SEC. 856. The provisions of title VII of this Act shall apply to this title, except to the extent that any such provision may be inconsistent with the provisions of this title."

**TRANSITION PROVISIONS**

SEC. 4. In order to provide for an orderly transition to youth employment and training activities funded under title VIII of the Comprehensive Employment and Training Act of 1973 (as added by this Act), the Secretary of Labor shall use the funds available from appropriations under the Economic Stimulus Appropriations Act of 1977 for youth employment and training activities to the maximum extent consistent with law, in such a manner as to be in accordance with the provisions of such title VIII.

**TRANSFER OF FUNDS TO NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE**

SEC. 5. Section 4 of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following new subsection:

"(f) Of the amounts available for the Secretary's discretionary use under this Act, the Secretary shall transfer an amount which shall be not less than \$3,000,000 and not more than \$5,000,000 for any fiscal year to the National Occupational Information Coordinating Committee established pursuant to 161(b) of the Vocational Education Act of 1963, for the purposes described in section 838(d)(1) of this Act."

**NATIVE AMERICAN PROGRAMS**

SEC. 6. (a) The heading of section 302 of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"NATIVE AMERICAN EMPLOYMENT AND TRAINING PROGRAMS"

(b) Section 302(a) of such Act is amended (1) by striking out the word "and" in clause (1) of such section and inserting in lieu thereof a comma, and (2) by inserting after "native" in such clause (1) a comma and the following: "and Hawaiian native".

(c) Section 302(b) of such Act is amended by adding at the end of clause (2) a comma and the following: "and Hawaiian natives".

(d) The first sentence in section 302(c)(1) of such Act is amended by inserting after "body," the following: "and such public and private nonprofit agencies as the Secretary determines will best serve Hawaiian natives."

(e) Section 701(a) of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following:

"(16) 'Hawaiian native' means any individual any of whose ancestors were native of the area which consisted of the Hawaiian Island prior to 1778."

**WAIVER OF LIMITATION ON FUNDS FOR TITLES III AND IV**

SEC. 7. Section 4(e) of the Comprehensive Employment and Training Act of 1973 shall be deemed ineffective with respect to fiscal years 1977 and 1978.

**SPECIAL VETERANS PROVISIONS**

SEC. 8. (a) With respect to programs carried out with funds appropriated after January 1, 1977, for each of the fiscal years 1977 and 1978 under the Comprehensive Employ-

ment and Training Act of 1973, as amended, the Secretary of Labor (hereinafter in this section referred to as the "Secretary") shall take appropriate steps to provide for the increased participation in public service employment programs and job training opportunities supported under such Act of qualified disabled veterans (as defined in section 201(1) of title 38, United States Code) and those qualified Vietnam-era veterans (as defined in section 201(2)(A) of such title) who are under twenty-seven years of age (hereinafter in this section referred to collectively as "eligible veterans"), including, but not limited to—

(1) providing for individual prime sponsors to develop local goals, taking into account the number of eligible veterans in the area served by such sponsors, for the placement of such eligible veterans in job vacancies occurring in such public service employment programs;

(2) full implementation of the provisions of section 104(b) of the Emergency Jobs and Unemployment Assistance Act of 1974, as amended (relating to the conduct of an outreach and public information program to promote employment and training opportunities for veterans);

(3) the carrying out of the Secretary's responsibilities under (A) chapter 41 of title 38, United States Code (relating to job counseling, training, and placement services for veterans) to provide the maximum of employment and training opportunities through existing programs, coordination and merger of programs, and implementation of new programs; (B) chapter 42 of such title (relating to opportunities for employment and training for disabled and Vietnam-era veterans, including mandatory listing and the promotion of maximum employment and job advancement opportunities with the Federal Government); and (C) chapter 43 of such title (relating to veterans' reemployment rights);

(4) full utilization of the provisions of clauses (2) and (5) of section 205(c) of the Comprehensive Employment and Training Act of 1973, as amended (relating to service to significant segments of the population and special consideration for special Vietnam-era veterans) and the provisions of subclause (E) of section 105(a)(3) of such Act (relating to maximum use of apprenticeship or other on-job training opportunities available under section 1787 of title 38, United States Code); and

(5) requiring that representatives of appropriate veterans organizations or groups be invited to serve as temporary members of prime sponsors' planning councils (established under section 104 of such Act), the States' Manpower Services Councils (established under section 107(a)(1) of such Act), and the National Commission for Manpower Policy (established under section 502(a) of such Act).

(b) The Secretary shall make available such sums and shall assign such personnel as may be necessary to carry out fully and effectively his responsibilities under subsection (a). The Secretary shall report to the Congress within 60 days of enactment of this section on the amount so made available and the personnel so assigned.

(c) The Secretary shall carry out his responsibilities under this section in consultation with the Deputy Assistant Secretary for Veterans' Employment (established by section 601 of the Veterans' Education and Employment Assistance Act of 1976, Public Law 94-502). The Secretary, in carrying out his responsibilities under this section, shall also consult with and solicit the cooperation of the Administrator of Veterans' Affairs.

**SPECIAL CONSIDERATION**

SEC. 9. (a) Section 205 of the Comprehensive Employment and Training Act of 1973 is

amended by adding at the end thereof the following new subsection:

"(d) In filling teaching positions in elementary and secondary schools with financial assistance under this title, each eligible applicant shall give special consideration to unemployed persons with previous teaching experience who are certified by the State in which that applicant is located and who are otherwise eligible under the provisions of this title."

(b) Section 602 of such Act is amended by adding at the end thereof the following new subsection:

"(f) In filling teaching positions in elementary and secondary schools with financial assistance under this title, each eligible applicant shall give special consideration to unemployed persons with previous teaching experience who are certified by the State in which that applicant is located and who are otherwise eligible under the provisions of this title."

**CLARIFYING AMENDMENT**

SEC. 10. Clause (A) of section 608(a)(1) of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"(A) who has been eligible for unemployment compensation benefits for fifteen or more weeks;"

**DEMONSTRATION PROJECTS**

SEC. 11. (a) It is the sense of the Congress that the Secretary of Labor should provide, under his discretionary authority under title III of the Comprehensive Employment and Training Act of 1973, for demonstration projects which coordinate the delivery of manpower and social services.

(b) It is the sense of the Congress that the Secretary of Labor encourage prime sponsors to work with local education agencies in the allocation of public service jobs.

**EFFECTIVE DATE**

SEC. 12. The provisions of this Act shall become effective upon enactment.

Amend the title so as to read: "an act to provide employment and training opportunities for youth, and to provide for other improvements in employment and training programs."

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**UP AMENDMENT NO. 338**

Mr. NELSON. Mr. President, I move that the title of H.R. 6138 be amended to read as follows:

An act to provide employment and training opportunities for youths, and to provide for other improvements in employment and training programs.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. NELSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I move that the Senate insist upon its amendments to H.R. 6138 and request a conference with the House thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the President Officer (Mr. DeCONCINI) ap-

pointed Mr. NELSON, Mr. CRANSTON, Mr. HATHAWAY, Mr. RIEGLE, Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. KENNEDY, Mr. JAVITS, Mr. HATCH, Mr. CHAFFEE, Mr. SCHWEIKER, and Mr. STAFFORD conferees on the part of the Senate.

Mr. NELSON. Mr. President, I ask unanimous consent that consideration of S. 1242 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I wish to note the enormous job done on this bill by my colleague (Mr. NELSON) and other members of the committee, and the cooperation of Senator BELLMON, Senator DOMENICI, and Senator MCCLURE, as well as the cooperation of Senator CRANSTON, Senator ZORINSKY, and others.

I wish especially to note the extraordinarily gifted work of the majority staff under Dick Johnson, and the minority staff, under Jim O'Connell. It was really an extraordinary job, and I want to pay tribute to them.

Mr. NELSON. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from New York. It was a great opportunity to work with Senator JAVITS and all the rest who were involved in this legislation. As I said earlier, I did not contribute to the substance or the concept. I am merely the chairman of the Subcommittee on Employment, Poverty, and Migratory Labor, and as chairman I conducted the hearings. But a number of the Members in the Senate contributed the ideas and the concepts that were put together in this one bill, and I commend those Members who worked so hard on this legislation.

#### TANKER AND VESSEL SAFETY ACT OF 1977

The PRESIDING OFFICER. The hour of 1:30 having arrived, under the previous order, the Senate will now resume consideration of S. 682, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 682) to amend the Ports and Waterways Safety Act of 1972; to increase the use of vessels of the United States to carry imported oil, and for other purposes.

The Senate resumed the consideration of the bill.

#### LAND AND WATER CONSERVATION FUND ACT

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5306, a bill to amend the Land and Water Conservation Fund Act.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the House agree to the amendments of the Senate numbered 1 and 3 to the bill (H.R. 5306) entitled "An Act to amend the Land and Water Conservation Fund Act of 1965, and for other purposes."

*Resolved*, That the House agree to the amendment of the Senate numbered 2 to the aforesaid bill with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

(5) Section 7 is amended by adding the following new subsection:

"(c) BOUNDARY CHANGES: DONATIONS.—Whenever the Secretary of the Interior determines that to do so will contribute to, and is necessary for, the proper preservation, protection, interpretation, or management of an area of the national park system, he may, following timely notice in writing to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate of his intention to do so, and by publication of a revised boundary map or other description in the Federal Register, (1) make minor revisions of the boundary of the area, and moneys appropriated from the fund shall be available for acquisition of any lands, waters, and interests therein added to the area by such boundary revision subject to such statutory limitations, if any, on methods of acquisition and appropriations therefor as may be specifically applicable to such area: *Provided however*, that such authority shall expire ten years from the date of enactment of the authorizing legislation establishing such boundaries; and (2) acquire by donation, purchase with donated funds, transfer from any other Federal agency, or exchange, lands, waters, or interests therein adjacent to such area, except that in exercising his authority under this clause (2) the Secretary may not alienate property administered as part of the national park system in order to acquire lands by exchange, the Secretary may not acquire property without the consent of the owner, and the Secretary may acquire property owned by a State or political subdivision thereof only by donation. Prior to making a determination under this subsection, the Secretary shall consult with the duly elected governing body of the county, city, town or other jurisdiction or jurisdictions having primary taxing authority over the land or interest to be acquired as to the impacts of such proposed action, and he shall also take such steps as he may deem appropriate to advance local public awareness of the proposed action. Lands, waters, and interests therein acquired in accordance with this subsection shall be administered as part of the area to which they are added, subject to the laws and regulations applicable thereto."

Mr. JACKSON. Mr. President, H.R. 5306 was passed by the House earlier this session and was passed by the Senate on May 18, 1977, with three amendments. The House has concurred in two of the amendments of the Senate and has offered compromise language on the third Senate amendment.

Mr. President, I ask unanimous consent that a brief discussion of the House amendment to the Senate amendments to H.R. 5306 be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

#### BRIEF DISCUSSION OF HOUSE AMENDMENT TO H.R. 5306

1. All Congressional intent language with respect to acquiring the backlog of Park lands by a date certain has been deleted. This is identical to the Senate-passed bill.

2. Senator Haskell's amendment providing the Forest Service with the authority to use LWCF monies to purchase land in the Big Thompson Canyon at pre-flood value was retained by the House. This too is identical to the Senate-passed bill.

3. The House adopted some compromise language with regard to boundary changes and donated lands. Under the current House proposal, the Secretary would be given the

authority to make minor boundary adjustments in units of the national park system provided that such authority shall expire ten years from the date of enactment of the authorizing legislation establishing such boundaries.

With respect to donated lands, the House amendment gives the Secretary the authority to accept adjacent lands outside park boundaries by donation, but only after consultation with the duly elected governing body of the county, city, town or other jurisdiction having primary taxing authority over the affected lands. The Secretary shall also provide advance public notice of his proposed action.

Mr. JACKSON. Mr. President, the House modified language is acceptable to the sponsors of the legislation as well as to the members of the Committee on Energy and Natural Resources.

Mr. President, this has also been cleared with the minority side.

Mr. CASE. Mr. President, S. 682 is a bill that evolved from the Senate Commerce Committee's consideration of a wide range of proposals to deal with a very serious and growing problem of oil spills caused by tanker accidents.

I am happy to note that, in many respects, the bill resembles legislation I introduced earlier in this session. Indeed, I was pleased to see a copy of a letter from Senator MAGNUSON, the chairman of the Commerce Committee, to Senator SPARKMAN, the chairman of the Foreign Relations Committee, in which Senator MAGNUSON said:

In drafting these amendments we have used the basic concept of "port state authority" contained in Senator Case's bill, S. 715.

I intend to support S. 682 as a step in the right direction, although it does not contain all of the provisions of my bill.

S. 682 contains a provision requiring all self-propelled vessels of 20,000 dead-weight tons or larger carrying oil in bulk to be equipped with double bottoms. My bill, S. 715, would have required these ships to be equipped with complete double hulls. Double-bottom tankers provide protection against grounding accidents but not against collisions involving the sides of the tanker. Therefore, I prefer a requirement for double hulls, but I will support the provision for double bottoms as a step in the right direction.

My bill provides for a special inspection of any tanker that has been in service for 10 years or more. A study by the Office of Technology Assessment showed that most oil tanker accidents involved ships 10 years old or older. It is my hope that this type of provision can be added to the law in the future.

Meanwhile, it is important, in my view, to enact the many improvements contained in S. 682 as soon as possible and it is for that reason that I support this bill at this time.

Mr. JACKSON. Mr. President, I move that the Senate concur in the amendment of the House to H.R. 5306.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur.

The motion to concur was agreed to. Mr. JACKSON. Mr. President, I move



to reconsider the vote by which the motion was agreed to.

Mr. MELCHER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### TANKER AND VESSEL SAFETY ACT OF 1977

The Senate continued with the consideration of the bill (S. 682) to amend the Ports and Waterways Safety Act of 1972; to increase the use of vessels of the United States to carry imported oil; and for other purposes.

Mr. MELCHER. Mr. President, I ask unanimous consent that a member of my staff, Buddy Faught, be granted privilege of the floor during the debate and vote on S. 682.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, what is the pending business?

The PRESIDING OFFICER. S. 682.

Mr. MAGNUSON. Mr. President, on Monday of this week, the Secretary of Transportation, Brock Adams, flew to London, England, for the express purpose of addressing the ruling council of the Intergovernmental Maritime Consultative Organization, IMCO. IMCO is the specialized agency of the United Nations which establishes international standards governing vessel safety. Secretary Adams outlined for the council the recent tanker initiatives proposed by the President and urged them to give rapid consideration to them. In addition he explained S. 682, the legislation now under consideration by the Senate, to the delegates at IMCO. He made clear, in no uncertain terms, that the United States will wait a reasonable period of time for the international community to respond to President Carter's proposals for increased tanker safety, and if action is not taken, then we are going to have to take some other action unilaterally. We are relying upon the bill to show these other countries that we mean business about tanker safety. This is what he later stated in a press conference in London, that we mean business.

I ask unanimous consent that Secretary Adams' speech to the IMCO Council be printed in its entirety in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE HONORABLE BROCK ADAMS

Thank you, Mr. Chairman.

Mr. Chairman, Secretary-General Srivastava, Distinguished Delegates. I appreciate the opportunity to speak to Council at this time. I did come to London specifically for this purpose and regret very much that my

duties do not permit my remaining for the full Council session. I thank the members of Council for so courteously accommodating the U.S. delegation and allowing me to make this statement so early in your proceedings.

My subject, Fellow Delegates, is oil tankers. My Government is seriously concerned about oil tankers—as they affect the waters and coasts and ports of the United States and as they affect the oceans of the world. We are concerned about the safety of oil tankers and about the continuing threat they pose to the marine environment. Today I shall report to you what has happened in the recent past to catalyze our concerns into a call for action. I shall tell you what we are proposing be done now. And I shall describe to you what we hope can be achieved in the near future. Our call for action, our proposals, and our efforts at finding solutions are directed to the international community and are focused on this organization. That is what brings me to the IMCO Council today.

President Carter and the new administration took office in January of this year at a time when problems associated with oil tankers were under intense scrutiny by the American public and the Congress. The now notorious grounding of the Liberian tanker "Argo Merchant" off Nantucket on December 15, 1976, had been followed by no less than fifteen incidents involving tankers in or near U.S. waters within a three and a half month period. This series of unfortunate events kept oil tankers in the forefront of public consciousness and produced rising concern. Members of Congress were also attentive. Congressional committees held a number of public hearings, examining all aspects of tanker operations, pollution controls, and adequacy of national and international mechanisms to deal with the problem.

President Carter, soon after taking office, directed that several federal government agencies form a task force to address the tanker problem and to devise an action plan. As Secretary of Transportation, I took immediate steps to improve navigational safety through domestic regulation and I formed a special task force within my own Department to deal with marine safety issues at the highest level of departmental policymaking. The Congress held hearings on a number of bills which treated tanker safety and pollution control in a variety of ways. The approaches adopted by both the Executive Branch and the Congress were comprehensive, contemplating a wide range of pollution and safety problems, not just the most apparent causes of the tanker incidents. A whole gamut of issues had been raised involving tankers, oil pollution, sufficiency of national regulation, and congestion of shipping in and near U.S. waters. Each of these issues was examined.

On March 17, President Carter addressed a Message to the Congress. He announced a "diverse but interrelated group of measures" designed to reduce the risks associated with marine transportation of oil. He called for U.S. ratification of the 1973 Marine Pollution Convention. He directed the Secretary of Transportation to prepare, within sixty days, proposed regulations on tanker construction and equipment. He added the qualification that, where technological improvements and alternatives can be shown to achieve the same degree of protection against pollution, the regulations would allow their use.

The President instructed the Department of State and the Coast Guard to begin diplomatic efforts to improve the present international system of inspection and certification. He directed that licensing and qualification standards for American crews be raised and that renewed emphasis be placed by the U.S. Government on the International Conference on Training and Certification of Seafarers scheduled for 1978. He announced an

augmented program for boarding tankers in U.S. ports, together with sanctions to be employed against those having records of poor maintenance, accidents, or pollution violations. He submitted legislation to Congress to establish a national standard of strict liability for oil spills and a fund to compensate victims for oil pollution damages. And, finally, the President ordered improvement of the Federal government's capabilities to respond to pollution emergencies.

President Carter placed heavy emphasis on international negotiations as a primary means of advancing his initiatives. He recommended the scheduling of a special international conference to consider the construction and inspection measures described in his Message. And he made clear to officials of his Administration that he expected every effort would be made to seek effective international action, saying "Pollution of the oceans by oil is a global problem requiring global solutions."

Three distinct initiatives emerge from the President's Message, each of which concentrates on improvement of existing international standards. These are, first, tanker construction and equipment standards, second, tanker certification and inspection standards and practices, and third, crew licensing and qualification standards. Let me describe to you now, with respect to each initiative, what the U.S. is doing nationally and what we propose be done internationally.

As directed by the President, the Department of Transportation, through the Coast Guard, published proposed regulations on oil tanker construction and equipment standards. These "notices of proposed rulemaking," dated May 16, have a dual role with respect to the President's program. They are a necessary first step if the standards are to be implemented nationally and they also serve as a set of technical proposals for consideration internationally. Applicable to all tankers of 20,000 deadweight tons or more entering U.S. ports, the proposed rules would require segregated ballast, with double bottom construction for new tankers; inert gas systems; backup radars with collision avoidance systems, and improved emergency steering standards. But the terms of the proposed standards, either for national implementation or for international consideration, are not inflexible. Substitution of "technological improvements and alternatives" is clearly contemplated, provided the substitute measures afford the "same degree of protection against pollution."

I must emphasize that the regulations published on May 16 are proposed rules. The "notices of proposed rulemaking" ask for comments, which can be provided to my Department during a specified time period. In addition to this general opportunity to comment, public hearings will be held where any person may make an oral statement for the record, offer written comments, or ask questions to be answered on the spot. The proposed rules will be very widely distributed and comments from all quarters—both from within the U.S. and without—are earnestly desired. All comments received will be taken into account in formulating final regulations. The views of other governments, received through discussions in IMCO or otherwise, will be given due weight in our reevaluation of the initial proposals. Further, any eventual rulemaking will of course reflect the outcome of successful international efforts to reach agreement on new standards.

I offer the foregoing explanation for two reasons. First, the U.S. practice of publicly proposing regulations and soliciting wide public comment may not be well understood and, as a result, could be mistaken for publication of final rules which take immediate effect. My second reason for explaining is to illustrate that the publication of these proposed rules does not preempt the international process. Options remain open and we

continue to negotiate in good faith. In fact, the proposed rules should complement the negotiating process because they translate into specifics the general guidelines in President Carter's Message.

Because we believe the proposed rules should be well understood in the context of our international negotiations, we have provided the May 16 "notices of proposed rule-making" to governments through their embassies in Washington. We also are providing copies to attendees of technical meetings which meet here at IMCO Headquarters to consider the proposals made by the U.S. and others.

Let me turn now to the second U.S. initiative, improvement of tanker certification and inspection standards and practices. Nationally, we have expanded the Coast Guard program for boarding and examining foreign tankers entering U.S. ports. Almost a thousand vessels have been examined since January 21. Approximately half were found to have deficiencies, most in cargo venting systems, pump rooms, cargo piping systems, and electrical systems. Where deficiencies pose a hazard in cargo handling, cargo operations are stopped until repairs are made or some alternative measure is taken. Tankers which make temporary repairs are required to arrange permanent repairs on a timely basis. Vessels found to have deficiencies impairing seaworthiness are detained under Regulation 19, Chapter 1 of the SOLAS Convention. All interventions are reported to IMCO in accordance with the agreed procedure. Deficiencies are entered into the U.S. Marine Safety Information System so that tankers with a continuing record of serious deficiencies can be readily identified. Such ships may be denied entry into U.S. ports unless their condition shows marked improvement.

We are very concerned about the high number of tanker deficiencies we have found. It indicates that the existing system of inspection and certification for SOLAS compliance is ineffective. Accordingly, the U.S. proposes that international action be taken to improve the situation substantially. Our proposals, if implemented, would tighten controls, specify survey intervals according to type, improve the quality of inspection and certification procedures, and establish accountability of governments, owners, and surveyors. While our proposals are under consideration internationally, we will continue our boarding and examination program. Where necessary, we will devise new methods to identify poor surveys and questionable certificates so that proper sanctions can be imposed against those ships not meeting international standards.

The third U.S. initiative concerns crew training, certification, and qualification. This is in recognition of the fact that 80-85 percent of tanker accidents involves human error on the part of the crew or embarked pilots. While the United States already imposes strict standards for the U.S. merchant marine, we are moving to raise those standards further. Requirements will include experience by size and class of vessel, or training and demonstration of proficiency on ship simulators. Emphasis will be placed on requiring deck officers to demonstrate important skills, such as radar operation and interpretation, rather than relying on written examinations. Crewmembers in charge of cargo transfer operations will be specially trained and examined.

The United States looks to the 1978 International Conference on Training and Certification of Seafarers to elaborate a truly comprehensive and effective convention on crew standards. While we are generally satisfied with the provisions included thus far in the draft convention, we are asking that some provisions now proposed as recommended be adopted as mandatory. Further, we urge that the conference, now

scheduled for the fall of 1978, be rescheduled for earlier in the year.

At the Maritime Safety Committee last month, the United States Delegation described the U.S. initiatives and presented substantive proposals for consideration by IMCO technical bodies. The U.S. also proposed a schedule of work which would culminate in an international conference on tanker safety and which would facilitate rescheduling the Conference on Training and Certification of Seafarers to June 1978. The Maritime Safety Committee agreed, subject to approval of Council, that urgent action should be taken with regard to the two conferences and the preparatory work program.

On behalf of the U.S. Delegation, I earnestly solicit favorable Council decisions on these matters, which you will be considering later in your proceedings here. President Carter stressed in his Message to Congress, and to me and others in his Administration, that he prefers international solutions to problems which spring from international commerce. He has also emphasized the need for timely and effective action. These views received wide concurrence at the Maritime Safety Committee last month and the Committee's agreed course of action will, if approved, offer the real prospect of finding solutions satisfactory to all. We hope that Council will see fit to grant approval.

Having set forth the U.S. proposals and having indicated that they are intended as the basis for international action, I ask the aid of all interested nations in working together with the U.S. to refine these proposed standards, so that we may achieve the goal of reaching international accord on an effective course of action. In previous discussions with U.S. representatives, many of your governments have indicated their willingness to work with the U.S., and with your help, I believe our joint efforts will be a success.

I should, before closing, deal with a related matter which has arisen since the April session of the Maritime Safety Committee and which seems to have caused considerable dismay in some quarters. That is the consideration of a bill on tanker safety by the United States Senate. The bill is entitled, "The Tanker and Vessel Safety Act of 1977," bears the number S. 682, and was introduced by Senator Warren Magnuson of the State of Washington, the Chairman of the Committee on Commerce, Science, and Transportation. I will not attempt to deliver a short lecture on the workings of the U.S. Congress or on the relationships between the Executive and Legislative Branches of the U.S. Government. It is fair to observe, however, that such subjects often are not well understood, especially by those outside our country, and perhaps such a lack of understanding led to the dismay which I mentioned earlier.

In plain terms, let me state that the bill S. 682, in the form recommended by the Commerce Committee and now under consideration by the Senate, is generally consistent with the initiatives announced by President Carter on March 17. The bill contains provisions allowing adoption of alternatives or equivalents to its specified construction and equipment standards. And it has a provision allowing modification of its standards to comply with international agreements ratified by the United States. Other provisions are specifically designed to take international relationships into account. Thus, the bill does not signify rampant unilateralism or a breach of faith with IMCO, as has been claimed. It does not change the U.S. position as described at the Maritime Safety Committee and it does not foreclose good faith negotiations regarding U.S. proposals made at MSC and repeated here.

I would urge any of the distinguished delegates who may have doubts on this or who have further questions on the bill to contact members of the U.S. Delegation during the course of the week. We will be happy to elaborate upon the brief explanation I have offered here this morning.

In closing, Mr. Chairman and Distinguished Delegates, I offer three things: an assurance, an invitation, and an assessment. As to the first, I assure you, on my own behalf and as the President's representative, that the United States submits its proposals with the full intention of negotiating in good faith in an effort to devise international solutions to oil tanker problems. My invitation is for delegates in technical forums to identify mutually acceptable alternatives to any feature of our proposals which may be found unacceptable for technical or economic reasons. And, lastly, an assessment of U.S. intentions regarding oil tankers.

We intend to enforce the conventions to which the United States is party with vigor and determination. Where we ascertain that a convention does not afford the United States sufficient protection, we will endeavor in international forums to raise its standards, improve its enforcement mechanisms, or otherwise enhance its effectiveness in protecting life, property, and the marine environment. My government recognizes, as do the other governments here represented, that the needs of nations and the world community change as technology evolves and patterns of commerce shift. The United States will act responsibly to meet the new needs.

Thank you, Mr. Chairman.

UP AMENDMENT NO. 339

Mr. MAGNUSON. Now, Mr. President, we are back on the bill, I propose an amendment, one that is a somewhat technical amendment, to satisfy the Budget Committee. On page 71, line 5, strike the word "There" and insert in lieu thereof "Beginning October 1, 1977, there".

The purpose of the amendment is to make clear the Senate's intent that S. 682 authorizes no funds for fiscal year 1977.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Washington (Mr. Magnuson) proposes unprinted amendment No. 339:

On page 71, line 5, strike the word "There" and insert in lieu thereof "Beginning October 1, 1977, there".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, I yield to the Senator from Maine.

UP AMENDMENT NO. 340

Mr. MUSKIE. Mr. President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine (Mr. Muskie) proposes an unprinted amendment No. 340.

Mr. MUSKIE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:



On page 46, line 6, after "The Secretary" insert a comma and "in cooperation with the Secretary of the Army."

On page 46, line 12, strike "environmental harm," and insert in lieu thereof "vessel operation damage, destruction or loss or from structure damage, destruction or loss."

On page 47, line 1, after "activity" insert "of vessels".

Mr. MUSKIE. Mr. President, may I say, first of all, with respect to this piece of legislation that I regard S. 682 as an important legislative proposal. That may not have appeared to be clear to my good friend from Washington, Senator Magnuson, but this is a bill which intends to expand the mandate to the Secretary of Transportation to require that tankers bearing oil and hazardous materials be designed, constructed, operated and manned so as to minimize hazards to safety and to the environment. I support this legislation.

My State of Maine and the citizens of Maine rely on oil transported by tanker for our basic energy demands. The State of Maine is the port of entry for much of the oil that fuels the Province of Quebec. The Portland Harbor is one of the principal ports of entry for oil in the United States. The design, the construction, the operation and the manning of tankers is thus critical to the people of Maine and the marine environment on which we depend for fishery and recreational purposes.

So I do support this legislation. The questions that I have raised with Senator Magnuson, I hope, will not imply a lack of appreciation on my part of the basic thrust and purpose of the bill.

The first question I have raised, and that I think we have worked out in the form of the amendment which is at the desk, relates to section 102 of the bill.

Section 102 of S. 682 authorizes the Secretary of Transportation to act to protect the Nation's navigable waters and the resources therein from environmental harm. I do not know what this provision means. It is not explained in the report of the committee. There is a passing reference in a comment from the Secretary of Transportation which states that the use of the word navigable waters suggests the definition of navigable waters found in the Water Pollution Control Act.

Mr. President, this section of this legislation is as broad as that provision of the Refuse Act of 1899 which when discovered in 1972 authorized the Secretary of the Army to prohibit any discharge from anyplace into the navigable waters of the United States. This provision grants to the Secretary of Transportation absolute authority to regulate any activity with respect to navigable waters of the United States to "protect the navigable water and resources therein from environmental harm." This provision authorizes the Secretary of Transportation to mandate controls on access to or activity on any waters or shorelines of the United States. As noted above, waters are not defined but the term "navigable waters" is used. In the context of the current controversy regarding Section

404 of the Water Pollution Control Act one has to assume that "navigable waters" for the purpose of this section means at least waters which flow at more than 5 cubic feet per second. And Mr. President there are no smaller streams which I have been able to discover.

As to protection of shorelines there is no definition either. Shorelines may be a few feet or a few miles. The Secretary of Transportation is given an opportunity to control the life blood of communities located along the coast—and on lands which border the Nation's rivers.

Mr. President, I am sure the Senate Commerce Committee did not intend the effect of this amendment. I am sure that the shortness of time associated with reporting this bill caused this provision to be drafted in an unintended manner. I am sure that the Senate Commerce Committee intended as it stated in its report that this provision be an authorization for the Secretary of Transportation to regulate tanker activities so as to protect waters and shorelines.

Mr. President, the amendment at the desk has this effect: It would modify those portions of this section which authorize the Secretary of Transportation to engage in absolute control over the use of land in, on, under, and around the Nation's navigable waters. My amendment would limit specifically any authority under section 102 to regulation of the movement of tankers to and from the waters of the United States so as to protect vessels, structures, waters, and shore areas and other safety requirements.

Further, my amendment would make clear that the Secretary's authority under the law stops at the vessel because the Secretary, acting through the Coast Guard, has ample authority to clean up pollution from tankers under section 311 of the Federal Water Pollution Control Act.

That statement, Mr. President, identifies the nature of my concern, and I repeat that I doubt very much that the Committee on Commerce intended any such broad-ranging effect. But, nevertheless, to clarify the intent, the language of this amendment has been worked out, I think, by the staffs of both committees, and I submit the amendment.

Mr. MAGNUSON. I will say to the Senator from Maine that, inasmuch as the language does clarify our intent, we never intended the language to be as broad as is suggested by the Senator from Maine. We intended the language to recite existing law.

This is a complicated bill and everybody sees hobgoblins all over every place. But surely we never intended to suggest or do what has been intimated it will do. Anyway, this language clarifies it.

Mr. MUSKIE. I appreciate the comments of my good friend from Washington.

Mr. MAGNUSON. But it is important that we pass this bill and get it moving.

Mr. MUSKIE. I would agree with the Senator, and I think nothing further needs to be said on this subject.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, during the consideration of S. 682, the continuing problem of Senate committee jurisdiction surfaced once again. Title II of the bill seems to be the source of the problem. When we in the Committee on Commerce, Science, and Transportation considered the problem of tanker safety, it became obvious that research and monitoring of ocean pollution at the Federal level was in disarray.

And when we sought answers to questions about the effects of oil pollution on fish and other life in the seas, knowledgeable scientists tell us that little is really known. There are differences of opinion and certainly nothing that can be called definitive. Therefore, in S. 682 we called for a comprehensive program of ocean—I underline ocean—pollution research and monitoring.

Yet, Mr. President, Senate Resolution 4 establishing committee jurisdiction, provides the Committee on Environment and Public Works with jurisdiction over environmental research, while the Committee on Commerce, Science, and Transportation has the jurisdiction over science and technology and ocean policy, generally, and marine science. Ocean pollution research does, of course, relate to environmental research and to the public works jurisdictional mandate.

Consequently, I believe, and I hope, this will be cleared up sooner or later before we run into this problem again, which will stop important bills over a jurisdictional argument: "It does not make much difference whether the bill passes or not, we want our jurisdiction." I do not think we should be doing business that way here, and if there is some question about jurisdiction we should get it cleared up. I thought Senate Resolution 4 did, clear up the problem. I carefully looked at the hearings on it and the testimony we gave, but apparently there are a lot of people around here who want to look around and grab more jurisdiction. We do not get good legislation passed that way.

Senators know who I am talking about, too.

I do not like to have a contest between, for instance, the Senator from Maine and myself over who has some jurisdiction because it ends up being some kind of contest between who has the most influence on Senators, and it will end up putting us between some staffs that maybe sometimes make mistakes. I do not know who will win that contest. I think I might win it, and he thinks he might win it, but that does not pass legislation.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. MUSKIE. I would not want to contest with the senior Senator from Washington on that basis. I do not think I have a chance. But I appreciate the Senator's observations. I think it is impor-

tant that we try to resolve whatever jurisdictional questions are involved. I have no desire and I find it very unpleasant to get involved in jurisdictional disagreements.

Mr. MAGNUSON. The Senator will agree with me that on this matter we are going to have to have either the Rules Committee or someone clear up these matters because they are constantly going to occur.

Mr. MUSKIE. I think it would be very helpful.

Mr. MAGNUSON. Yes, and I hope the Senator will join with me. We will go before the Rules Committee, and we will bow down and plead: "Here we are two people who do not want to fight each other, and we ask your advice and guidance which will clear it up for us."

Mr. MUSKIE. I think I will join. I do not know that I would bow down.

Mr. MAGNUSON. We have to before the Rules Committee to get anything done; we better bow down.

Mr. MUSKIE. I will be happy to join the Senator.

Mr. MAGNUSON. All right.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MAGNUSON. It will be just a minute until I finish my statement, and then I shall yield.

In view of this fact, there is a real urgency in view of the London conference, and all these things that are going on, to get the bill passed. Of course, title II is not the major part of the bill. The bill has a major thrust of safety.

Mr. MUSKIE. Title I is very important, may I say.

Mr. MAGNUSON. I intend to move to strike title II from the bill, introduce it as a separate bill and ask unanimous consent that it be referred to the Committee on Environment and Public Works for not to exceed 30 days which would keep the joint jurisdiction. We have many bills on which we have joint jurisdiction. There is the oil spill liability which the two committees are working on.

So, without giving up any of the arguments that may be made on both sides or giving up anything, we are going to do that and I have no doubt that they will concur. I know the committee will concur—the Senator pointed out that he surely would himself—to the general need of the legislation, and we can obtain swift enactment of that particular portion of the bill.

Mr. MUSKIE. I think we can, may I say to my good friend.

Mr. MAGNUSON. I yield to the distinguished Senator.

Mr. STEVENS. Mr. President, I state that I concur with the chairman with regard to taking this action now for the purpose of assuring that the tanker safety bill in title I will not be delayed, but on the basis that the action we are taking certainly does not, at least in my opinion, concede the jurisdictional challenge that has been raised by Senator MUSKIE's committee.

Our committee does have exclusive jurisdiction over the NOAA activities. We

have exclusive jurisdiction over the oceans and marine safety. The monitoring of marine accidents on the oceans is done by the Coast Guard, and the Commerce Committee has exclusive jurisdiction over activities of the Coast Guard.

We went into this whole question of research that apparently has provoked this challenge in terms of the ocean pollution research monitoring program because of the *Argo Merchant* accident and its effect on marine fisheries, and we have jurisdiction over marine fisheries. We have jurisdiction over the merchant marine, and we have jurisdiction over the technology portion of the activities of the merchant marine that should be involved in vessel construction to prevent environment damage.

The question, as I understand it, is the Environment and Public Works Committee bases its jurisdiction on their grant of jurisdiction under Senate Resolution 4 over water pollution.

Mr. MUSKIE. No, it is more extensive than that. And if the Senator will yield, I will make a statement on the definition of standards following the statement of the Senator from Alaska.

Mr. STEVENS. I appreciate that and I think it should be defined in the Record. I think we should get this subject resolved by the Rules Committee, as the chairman of our committee indicated.

The impact, what we are dealing with in this area, requires a recognition of the sensitivity of timing, and if we are to institute the programs that are necessary to meet the development of technology in pollution control and avoidance, which falls short of, as I understand it, the jurisdiction of the Environment Committee, we particularly in terms of our new jurisdiction in science, engineering, technology, and the research capacity that we should have in terms of that function that was given to us, as many other functions were taken away from us, then I cannot see that we should be subjected to joint referrals of bills that we have worked on that are designed to prevent coming into the jurisdictional area of the Public Works Committee.

I, for one, again join with the chairman in this one instance. But I believe we must have capability for authorization of research by the agencies we deal with. We must have the legislative oversight of that research and the ability to formulate legislation to deal with the problems that are brought forth as a result of that research and the environmental aspects and water pollution aspects of the Committee on Environment and Public Works should not lead us to the position where we are going to have joint referrals. If that is the result, then Senate Resolution 4 failed.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. MUSKIE. I assure the Senator I find this afternoon the necessity of discussing this question one of the most unpleasant aspects of my duties as a Senator. I do not like it at all. If the Senator thinks I enjoy coming to the floor to

argue with my distinguished friend from Washington or my good friend from Alaska, he is mistaken.

There is a misunderstanding here and a disagreement, and it is an honest one on both sides. But I suggest to the Senator we do not challenge the Commerce Committee's jurisdiction to do those things within its jurisdiction to prevent pollution. But what we are saying is that we have jurisdiction as granted to us—if it is taken away that is fine—to deal with what has been created. That happens in territorial waters; it happens in a contiguous zone. We are not challenging the committee's jurisdiction over tankers. But in Senate Resolution 4 the committee was given jurisdiction over environmental research and development.

Not technological research, but environmental research and development. Ocean dumping, environmental aspects of the Outer Continental Shelf lands, environmental aspects of deep water ports, water pollution—all of that deals with the consequences of pollutants that are not prevented by proper technology or proper operation of tankers, and so on.

We do not challenge that aspect of the Commerce Committee's jurisdiction. Indeed, I do not want to challenge the Commerce Committee at all, if I had my druthers. But Senate Resolution 4 undertook to give us certain jurisdiction, enlarged it in some respects, and changed the name of our committee to the Committee on Environment and Public Works. Unfortunately, Senate Resolution 4 left some ambiguities, at least in the perception of some people, and we are caught up in one of them.

I am sorry about that. I do not like it. I do not enjoy it, and I hope it does not happen again. But each of us feels a sense of responsibility with respect to protecting his committee's interests as he sees them.

I do not disagree with Senator MAGNUSON's right to do that, and no one can do it more effectively than he. And I certainly do not disagree with that of the Senator from Alaska. But here we have a problem of environmental research; it is not technological research. If the committee's title 2 were technological research, I would have no quarrel with it. But it is environmental research, and that gets into the question of pollution after it takes place. That is the area that we have got to fight out somehow, to resolve, and I think the pragmatic solution we have taken this afternoon is realistic.

Neither of us can seize the ultimate argument, but we have agreed that to deal with this problem, we will refer it to the Environment and Public Works Committee, and then maybe in the meantime follow through on Senator MAGNUSON's suggestion that we sit down together, sit down with the Rules Committee, and find out where these various responsibilities ought to be established.

Whatever the result, I assure my good friend from Alaska it is fine with me. I have plenty of work to do without enlarging any of my committees' jurisdiction.



tions. But if a matter is within my jurisdiction—and this is the attitude that Senator MAGNUSON expressed to me, and I applaud it—if a matter is within my jurisdiction, then I have a responsibility with respect to it, and so does the Senator from Alaska.

Having stated that, it seems to me maybe we have taken the first step toward resolving our differences.

(Mr. DURKIN assumed the chair as Presiding Officer.)

Mr. STEVENS. Mr. President, I agree with my good friend to a certain extent. We agreed to joint jurisdiction on oil spill liability because of the obvious—

Mr. MUSKIE. No, we have not agreed to that.

Mr. STEVENS. We did in the promulgation of Senate Resolution 4.

Mr. MUSKIE. No, we did not.

Mr. STEVENS. Well, we have a bigger fight than the Senator thinks, then.

Mr. MUSKIE. Well, I suspect we have, then. I saw it coming in January. If it comes, it comes. I tried to avoid precipitating it around this bill, because Senator MAGNUSON wants this bill to go forward, and I am all for that.

But I do not agree to a blanket judgment on that final question. We will get to it when we get to it.

Mr. STEVENS. I thought we got to it on Senate Resolution 4, before the Rules Committee. At any rate, that is my memory. But what my friend is saying is that those of us who have the problem of dealing with tanker safety, and want to set up a program for monitoring that, which means monitoring the effect of antipollution mechanisms, the Senator's committee is authorized to assert jurisdiction in connection with those antipollution safety mechanisms.

We find ourselves in the position, in these tankers, that this whole problem is related to tanker safety so far as I am concerned. It is not dealing with what the Senator's committee is dealing with in terms of pollution once it occurs. We are talking in terms of actions taken to prevent it from occurring.

The Senator is saying that when we do that, we must automatically move over and give his committee jurisdiction to begin with. I say that is not the way I understood it in connection with Senate Resolution 4. I do not want to prolong this, but if the Senator is correct, Senate Resolution 4 increased the work of the Senate by requiring more Senators to look at more legislation in a redundant matter, rather than permitting us to deal with legislation in a more objective, orderly fashion.

I believe joint referrals can really spell not only the delay, but at times the death of legislation.

Mr. MUSKIE. I do, too.

Mr. STEVENS. I am sure my friend knows that.

We ought not to be involved in jurisdictional battles over Senate Resolution 4 in this area. The Senator has the Environment and Public Works Committee. I know of nothing we do in the Senate that does not in some way affect the environment. The Senator from Maine also has the Budget Committee, and I know of nothing we do here that does not in some way affect the budget.

If we are not careful, we will find we are all members of the Senator's two committees, because I really think they are two all-embracing subjects, the budget and the environment, and that everything we do as Congress has some connection with them.

With due respect to him, the Senator does not quite fit the definition of a bottleneck, but if everything we do with respect to tanker safety has to go through a bottleneck, I think we made a mistake in adopting Senate Resolution 4.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. STEVENS. Yes.

Mr. MUSKIE. Long before this controversy arose I reached that conclusion about Senate Resolution 4. I do not think Senate Resolution 4 has done anything, irrespective of this disagreement, to reduce workloads or make schedules more convenient for Senators, or anything like that.

Would the Senator like to know how his argument sounds to me?

Mr. STEVENS. Yes.

Mr. MUSKIE. If the Senator's argument is valid, I reach this conclusion: All pollution is generated by technology of one kind or another; so if those who have jurisdiction over the technology have jurisdiction over the environmental consequences as well, then they are the ones who have universal jurisdiction, not I.

I do not think any such arbitrary black and white judgment is necessary to resolve this issue. I have no difficulty with identifying what I consider a legitimate line between our jurisdictions that requires no joint referral.

Mr. STEVENS. I hope we can. I do not think we would ever assert that jurisdiction. In the first place, all pollution does not come from technology. I saw some great natural pollution last weekend when I was visiting Juneau and saw the ice break up.

Mr. MUSKIE. I think the Senator knows what we are talking about.

Mr. STEVENS. But we do not claim that, and we would not claim jurisdiction over matters that deal with water pollution. But I do think we must be able to deal with the aspects of pollution, in order to determine what in fact must be the criteria of tanker safety; or we should be told what the aspects of pollution are, and then we should deal with tanker safety after your committee determines the criteria.

Mr. MUSKIE. Why do you not ask for jurisdiction over clean air? It is the same thing. You know, the effect of machinery and one thing and another that has an effect on air pollution.

Mr. STEVENS. We have never claimed jurisdiction over clean air.

Mr. MUSKIE. I know you have not, but I am curious to know why not.

Mr. STEVENS. I am sure the Senator could claim jurisdiction over bills we bring out in terms of automobile safety, in terms of restricting the size of engines, the elevation of the ground, and the construction of the bodies, because of their impact upon energy consumption, which in fact impacts clean air. If you want to move that way, I am sure you will get it on those, too.

Mr. MUSKIE. In the Clean Air Act, we have never yet tried to mandate anything with respect to the way in which an automobile is designed. All we have said is that it must achieve a certain health result. We have not told them how to build it. We have not told them what specifications to build into it, what horsepower, what weight. We have done nothing of that kind. We have stayed away from it. We have dealt only with the health consequences. We stayed away from the technological side.

That is not to say that setting health standards does not have an effect on what automobile companies must do in building an automobile, but we do not try to design it. We would not presume to. We do not have the capability, the expertise, or the background.

I would not do it to tankers. Tankers are none of my business, except when they leave a given stretch of water they leave behind them certain pollutants which are our responsibility. That is all. To me, that is a fairly simple line to draw. Apparently, I am oversimplistic.

Mr. STEVENS. What I am saying is this life is short enough. I do not see any reason why two groups of Senators should go over the same legislation unless there is a substantial conflict concerning the jurisdictions of their committees. Setting up an organization to monitor the effectiveness of ocean pollution mechanisms and the research that is under way—that is what we are setting up in this bill—does not seem to me to be invading the Senator's jurisdiction over authorizing the research that EPA is doing, the National Science Foundation, or anybody else. We want to monitor. I believe it is within our jurisdiction to do so.

Mr. MUSKIE. By unilateral judgment?

Mr. STEVENS. In the matter of judgment as to when is there a substantial conflict. That is the problem. This is the first one. I say to the Senator, I know there are two other bills where we have this conflict coming with the Senator's committee.

I do believe tanker safety is important enough, Mr. President, and has to move. There is no use prolonging this, so far as I am concerned. I will not oppose it. But I will give notice that I will oppose it in terms of the expanded jurisdiction that the terms "ocean pollution" means in relation to the jurisdiction of our committee on the next occasion. I hope we have explained it in a way that it will avoid difficulty. In terms of whether or not the parliamentary situation is strained and we will have a clear decision, if the Rules Committee will not make it, then it will be made by the Senate, that our committee has the oceans jurisdiction.

We must, I feel, have the oceans jurisdiction in order to deal with the oceans as a generic subject matter to solve some of the problems that I see coming in the balance of this century.

Mr. MUSKIE. The word "pollution" does not appear in the Senator's jurisdiction.

ENVIRONMENTAL RESEARCH AND DEVELOPMENT

Mr. CULVER. Mr. President, title II of the legislation before us today—S. 682—

establishes a comprehensive ocean pollution research and monitoring program, including the effects of petroleum in the marine environment, and authorizes the National Oceanic and Atmospheric Administration—NOAA—to act as a lead agency for coordinating ocean pollution research. The office of Science and Technology is designated to assist NOAA in this coordination.

Mr. President, environmental research and development is a \$1.8 billion Federal investment, and it is conducted by many Federal agencies and departments. I strongly agree with the members of the Committee on Commerce, Science, and Technology that there is little cooperation among Federal agencies on ocean pollution research. As a matter of fact, there is little cooperation among Federal agencies on environmental research in general. Such research is often duplicative and the exchange of information between agencies is poor. As a 1976 study by the General Accounting Office concluded, there "is no overall Federal leadership for environmental research nor does there appear to be adequate coordination" of research efforts.

The report by the Senate Commerce Committee accompanying S. 682 indicates that the purpose of title II is to end the neglect and unnecessary duplication of ocean pollution research. I agree that this problem should be corrected. Senate Resolution 4 clearly vested all the responsibility for "environmental research and development" in the Public Works Committee rather than the Commerce Committee. Such a jurisdiction over environmental research for the Public Works Committee is appropriate. As chairman of the Subcommittee on Resource Protection, I believe we will be able to rationally order research activities only if they are considered as a whole. Fortunately, the Committee on Environment and Public Works is taking the necessary steps to address these shortcomings.

To develop a systematic mechanism for coordinating environmental research, the Public Works Committee recently reported legislation authorizing funding for EPA's environmental research and development program for fiscal year 1978. In addition to requiring specific funding for long-range research, this legislation directs the Administrator of the Environmental Protection Agency to coordinate environmental research activities with other Federal agencies in order to minimize unnecessary duplication. EPA is the logical starting point for this coordinating responsibility because it is familiar with all forms of environmental research, including ocean pollution.

In addition, S. 1417 authorizes the Council on Environmental Quality to inventory all environmental research by the Federal Government and to make appropriate recommendations to the Congress by January 1, 1978, regarding improvements in the coordination of such research activities. This is an important step forward, and I believe it is a proper way to begin a rational ordering of a critically significant investment. Only through effective environmental research

can we predict adverse environmental damage and develop effective pollution control programs.

Unfortunately, title II of S. 682 would run counter to what the Public Works Committee has already proposed. The designation of NOAA as the lead agency at this time could well result in greater fragmentation and unnecessary overlap of research responsibilities.

The Senate Resource Protection Subcommittee will conduct further hearings on environmental research and on CEQ's findings in the future. We should first wait and see what research is being done and by whom so as to insure the most effective and economical attention of research resource efforts.

The agreement reached today by the distinguished chairman of the Committee on Commerce, Science, and Technology (Mr. MAGNUSON), and by the chairman of Environmental Pollution Subcommittee (Mr. MUSKIE) properly addresses the misunderstanding concerning the jurisdiction over title II of S. 682 and lets the Senate continue its consideration of this important measure. I am confident, the Public Works Committee will expedite its consideration of this ocean pollution research provision.

Mr. MAGNUSON. Mr. President, if the Senator from Maine will give me his attention, this is like the house being on fire and two fire departments show up, one from the north and one from the south. They get into an argument as to who is going to handle the hose and the house burns down. To keep the house from burning down, I am going to offer an amendment, but I am going to associate myself with the remarks of the Senator from Alaska. The next time it comes up we are going to meet it head on and have a vote on the Senate floor.

Mr. MUSKIE. That is fine with me.

UP AMENDMENT NO. 341

Mr. MAGNUSON. Mr. President, I move to strike out all the language on page 71, line 21, through page 79, line 16. I send an amendment to the desk, Mr. President, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment No. 341.

On page 71, line 21, Strike out all language through page 79, line 16.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CHAFEE. Mr. President, may I make a brief statement on this bill?

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the Tanker and Vessel Safety Act of 1977, which we have before us today, deserves the enthusiastic support of this Congress. Rhode Islanders, fresh from the memory of the *Argo Merchant* last fall, and citizens of all the other eastern seaboard States, appreciate the need to protect our coastal waters from tanker accident spillage.

As we find ourselves importing more and more petroleum from abroad to

meet our energy needs, all Americans, not just those on the coast, must concern themselves with the establishment of strict standards for tankers and vessels, and this act does that. The increased quantity of oil spillage into our ocean environment is directly related to the increase in the amount of imported oil.

There are two principal means of attacking this, Mr. President: first of all, strict standards of safety of tanker operation, and, second, stricter construction standards. I am pleased that this legislation takes decisive steps forward in each of these areas.

According to a 1976 National Academy of Sciences report, 80 percent of the accidental oil spills are the result of human error. This bill will provide for improved pilot requirements for vessels in U.S. waters, more effective tanker inspection authority, and mandatory installation of safety and navigation equipment.

The stringent construction standards mandated by this legislation should afford significant protection from pollution resulting from both accidents and current practices of tank cleaning in the deballasting operation. Double bottom construction and installation of segregated ballast systems are prime factors of these new requirements.

The small increase in the cost of transporting oil which will result from these new requirements is well worth it. I think it has been estimated at just some 2 percent of the transportation cost, not the total cost of oil but just the transportation.

In 1975 alone, the National Academy of Sciences estimated that 2.1 million metric tons of oil were dumped in the marine environment. Of this amount, as much as 85 percent could have been prevented if tankers were equipped with segregated ballast systems alone.

Mr. President, the new standards and requirements set forth in this bill coupled with the Secretary of Transportation's clear authority to bar substandard vessels from operating in U.S. waters, are urgently needed. I urge my colleagues to give their strong support to this legislation.

I congratulate the chairman of the Commerce Committee, the senior Senator from Washington, and the ranking member for the excellent job they have done with this bill. Thank you, Mr. President.

ADDITIONAL STATEMENTS SUBMITTED ON S. 682

Mr. MUSKIE. The Environment and Public Works Committee's jurisdiction over title II of S. 682 rests on two clear jurisdictional claims: responsibility for all environmental research and development, and authority over water pollution and the marine environment generally. In fact, this more general jurisdiction over protecting the marine environment covers aspects of the entire tanker safety bill, not just title II.

When the Select Committee to Study the Senate Committee System first proposed a reorganization of Senate committee jurisdiction, one main principle from which they worked was the consolidation of all environmental jurisdiction in one committee. There was some dif-



fusion of that principle as the Rules Committee and the Senate marked up Senate Resolution 4, on a few points where environmental concerns were difficult to segregate from other responsibilities.

Senate Resolution 4, however, did contain clear consolidation of environmental jurisdiction in the Committee on Environment and Public Works. This included specific grants of jurisdiction over matters relating to protection of the marine environment. Before the adoption of Senate Resolution 4, the Committee on Environment and Public Works jurisdiction over environmental protection rested primarily on the phrase "oil and other pollution of the navigable waters," and the extension of that jurisdiction to cover new environmental issues such as air pollution, noise, and solid waste. The new rules used the more general phrase "water pollution" to cover oil and all other pollution of all the waters within the jurisdiction of the United States.

In addition, Senate Resolution 4 provided specific jurisdiction for the Committee on Environment and Public Works over "ocean dumping"—the placing or spilling of anything in the ocean from a vessel, "the environmental aspects of Outer Continental Shelf lands"—which covers the total marine environment to the extent of the U.S. jurisdiction, and "the environmental aspects of deep water ports"—which covers protection of the environment on the high seas and in U.S. waters from such ports.

This amounts to almost total responsibility for regulating activities affecting the marine environment, including both coastal and ocean waters. I understand that the Commerce Committee has jurisdiction over navigation, safety, transportation, and commerce aspects of coastal and ocean waters, and has ocean policy generally when jurisdiction is not specifically granted to another committee. The Rules Committee, however, in its report on Senate Resolution 4 addressed this relationship. That report said:

The jurisdiction of the Committee on Commerce, Science, and Transportation includes "marine and ocean navigation, safety, and transportation, including navigational aspects of deepwater ports". The use of the word "safety" is not intended to impinge upon the jurisdiction of the Committee on Environment and Public Works over environmental policy and environmental aspects of Outer Continental Shelf lands and deepwater ports . . . the term "safety" in the jurisdiction of the Commerce Committee is to apply generally to the navigational and transportation aspects related to the new and existing marine technologies, construction, and operation of marine structures and vessels.

Therefore, the Commerce Committee may have jurisdiction over tanker or other vessel standards and operations. The Committee on Environment and Public Works has sole jurisdiction over the environmental aspects of ocean related activities, including oil spill clean-up and liability measures.

Rule XXV now contains two other clear grants of consolidated jurisdiction to the Committee on Environment and Public Works. Item 1 is "environmental policy,"

item 2, "environmental research and development." Nothing in any of the other committees' jurisdiction cast doubt on or conflicts with these exclusive jurisdictional statements. Title II of S. 682 is called the Ocean Pollution Research Program Act. It gives particular emphasis to the effects of petroleum in the marine environment. Pollution research and oil pollution are exclusive within the jurisdiction of the Committee on Environment and Public Works. That committee has recently reported legislation, S. 1417, which is in conflict with the provisions of title II.

Under Senate rule XLV, added by Senate Resolution 4:

It shall not be in order to consider any proposed committee amendment . . . which contains any significant matter not within the jurisdiction of the committee proposing such amendment.

An entire title of S. 682 is within jurisdiction of the Committee on Environment and Public Works. We are not asking for referral of the entire bill. The amendments we have offered to title I preserve our jurisdiction with respect to that title. We are urging that, however, title II be removed from the bill so that it may be considered by the committee with jurisdiction over it. This would make clear that the Senate in adopting Senate Resolution 4 did, in fact, intend for the Committee on Environment and Public Works to have jurisdiction over all environmental research and regulatory legislation, including the marine environment.

Mr. SCHMITT. I would like to direct a question to the Senator from South Carolina (Mr. HOLLINGS) regarding his amendment to S. 682 which was accepted yesterday. My understanding is that under section 104, your amendment established a preliminary deadline on July 1, 1980, for having segregated ballast and inerting gas systems retrofitted in tankers. Your amendment does not delete any existing requirements of section 104, but is in addition to it. Am I correct in saying, then, that your retrofit incentive fee is operative only for the period from July 1, 1980, to June 30, 1983, and would not continue after that date?

Mr. HOLLINGS. That is correct. As of June 30, 1983, vessels that have not met the requirements by that date would not receive a certificate for carrying oil and other hazardous material in U.S. navigable waters and would be prohibited from doing so. Thus the retrofit incentive fee would no longer be necessary, since lack of proper certification is a more serious sanction. The retrofit incentive fee is an encouragement for vessel owners to begin retrofitting segregated ballast and inerting gas systems as early as possible, so we will not have a last minute run on limited shipyard facilities and disrupt the flow of oil by tankers into this country.

Mr. SCHMITT. Thank you, Senator HOLLINGS. I just wanted to make certain that my understanding was correct.

Mr. DURKIN. Mr. President, a few months ago we witnessed one disastrous tanker accident after another, on all coasts of the United States. Among these

was the *Argo Merchant* oil spill off the Northeastern coast, the most severe in this Nation's history. Old, foreign rust-buckets poured millions of gallons of oil into American coastal waters as a deadly libation to inadequate protection of our coastal environment. The American people joined the Coast Guard in helplessly witnessing the destruction of ocean and coastal wildlife, the waste of needed and precious fuel, and adverse environmental impacts to an extent which as of now cannot be fully measured. Particularly in the Northeast, we could not and cannot afford these losses.

All but one of these tankers was registered under a foreign flag. Not one of the tankers involved in these oil spills was less than 10 years old; many of these tankers were over 20 years old. Some had been involved in multiple previous accidents, and had continued to steam away unregulated and unchecked. Moreover, the largest of these tankers did not exceed 100,000 deadweight tons. Construction of tanker superships in the early 1970's looms as an ominous and foreboding shadow should any one of these very large new ships run aground, collide, or otherwise sustain structural damage leading to an oil spill.

The time has come for us to move quickly to close the loopholes in our tanker safety standards from which oily destruction pours. The Coast Guard had, until President Carter's March 1977 order, resisted unilateral action by this country in the face of international conventions dealing with maritime issues. However, these international conventions produced lax operating, construction and safety standards. Moreover, the record shows effective unilateral Coast Guard regulations made operative with respect to liquefied natural gas—LNG—carriers.

The bill before this Senate today steps firmly and knowledgeably into the breach, mandating needed standards for construction and operation of all tankers entering our navigable waters and ports. It is particularly important for Congress to pass this clear, and hopefully effective, statement, conveying direction, and undisputed jurisdiction to the executive branch to combat energy waste, pollution, and polluters. The regulatory history of the 1972 act should be a sufficient rejoinder to those who would leave non-mandatory discretion in the hands of a reluctant bureaucracy. Let the Coast Guard now show its commitment by vigorous enforcement of the requirements in this bill, which represents the collective wisdom of numerous studies and experts.

For example, numerous studies have advocated the stiffening of maritime licensing requirements to include formal and recurrent training of pilots and other personnel, performance testing, periodic renewal and proficiency checks, and restrictive licensing based on the size and class vessel involved. The absence of such regulation becomes all the more appalling when we read statistics and reports indicating that over one-half of all tanker accidents are caused by some degree of human failure, and that almost 80 percent of merchant marine casualties are

related to human error. S. 682 states minimum requirements for pilotage based in part on Coast Guard determinations of sufficient training and proficiency. The Secretary of Transportation is also to develop such standards for uniform adoption by the States. I hope to see the administration active and effective in this area, obviating the need for Congress to readdress this issue 4 years down the road.

In addition, the apparent Coast Guard inability to deal effectively with major oil spills and disasters in all but the calmest seas must be investigated. Title II of this bill, providing for research on oil spill detection and control techniques, and on the environmental impact of oil spills, is needed in order for us to discover and assess better alternatives for protection of our environment.

Mr. President, I was pleased to cosponsor this important bill, and I urge its passage.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. STEVENS. Mr. President, a parliamentary inquiry. It has just been called to my attention—really not a parliamentary inquiry but it is just a statement—that section 207 which dealt with the monitoring system with regard to the Fisheries Conservation and Management Act has nothing to do with pollution. It has to do with the monitoring of the space satellite techniques, of observation and reporting on the position, identification and course of vessels within the 200-mile limit. That study has really nothing to do with this controversy. Section 207 provides for the study and section 208(b) authorizes it.

I wonder if the Senator from Maine would agree that we might take section 207 and section 208(b) and add it to title I and not refer those sections to his committee. If he will examine them, they have nothing to do with the problem. It really has to do with the Administrator, the Secretary of Commerce, and the Secretary of Transportation trying to use the satellite capability to monitor vessel traffic in the 200-mile limit.

Mr. MUSKIE. Yes, that would be acceptable.

Mr. STEVENS. I might say to the Senator from Washington that we did in fact authorize funds in our committee for this study already. We are trying to put them into the markup.

What is the parliamentary situation with regard to the bill, Mr. President?

The PRESIDING OFFICER. It will

take unanimous consent to further amend it.

Mr. STEVENS. I ask unanimous consent that we revert back to second reading for the purpose of a specific amendment to the Senator's amendment.

The PRESIDING OFFICER. Notwithstanding third reading and the agreement to the committee amendment in the nature of a substitute, without objection, the bill will be amended by inserting section 207 and 208 (b) at the appropriate place.

Mr. STEVENS. I move that the clerk be permitted to renumber the sections appropriately as they are renumbered here.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment (UP Amendment No. 342) is as follows:

On page 71, after line 20, insert the following:

#### SEC. 207. STUDY OF MONITORING SYSTEMS.

(a) CONTENT.—The Secretary of Transportation, in consultation with the Administrator, the Secretary of Commerce, and other appropriate agencies or instrumentalities of the Federal Government, shall evaluate various shore-station monitoring systems of vessels, including fishing vessels, within the fishery conservation zone as defined in section 3(8) of the Fishery Conservation and Management Act of 1976. Each system examined shall be capable of reporting vessel position, identification, course, and speed using either a land, sea, or space monitoring technique.

(b) REPORT.—Within 2 years after the date of the enactment of this Act, the Secretary shall report his findings to Congress. This report shall describe the capabilities, limitations, and cost effectiveness of each monitoring system examined from the standpoint of both the Federal Government and any vessel owners who would be affected by the imposition of each approach. The report shall also include the Secretary's recommendation for a single, comprehensive, cost effective shore station monitoring system within the fishery conservation zone.

#### SEC. 208. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for the purposes of section 207, not to exceed \$500,000 for the fiscal year ending September 30, 1978, and not to exceed \$500,000 for the fiscal year ending September 30, 1979.

Mr. MAGNUSON. Mr. President, before we have the final vote, I ask unanimous consent that the bill be reprinted in the Record as passed and that copies be printed for the use of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Before passage, the Senator from West Virginia has been seeking recognition.

Mr. RANDOLPH. Mr. President, Senator STAFFORD, Senator HATCH, and I attended the White House Conference on Handicapped Individuals. Senator STAFFORD and I were speakers at that luncheon on the final day of conference. I lay this groundwork to express my understanding of what has been done and to say why I was not here.

While I am on my feet, I point out that the Youth Employment Act, a measure which had the cosponsorship of Senator STAFFORD and myself, was voted on in the Senate. I am gratified to say, with only three dissenting votes, 80 Members voting for it.

Now, Mr. President, I was in conference with Senator MUSKIE on the subject matter of what has been discussed here today. I want the record to indicate that, in general, I am in agreement with the statements by Senator MUSKIE, chairman of our Subcommittee on Environmental Pollution. We are in agreement as to the jurisdiction of the Committee on Environment and Public Works. We understand very well the position of the Committee on Commerce, chaired by the able Senator from Washington (Mr. MAGNUSON).

The action proposed by the Senator from Washington, I think, was a realistic manner of moving forward with S. 682. I say to my colleagues from the Committee on Commerce and the Environment and Public Works Committee, I think that we shall be able to act expeditiously on a proposal on a comprehensive ocean pollution research program in June.

While we may not have completely resolved the question of jurisdiction over ocean pollution this afternoon, a useful step has been taken. Members have spoken very earnestly—Senator MUSKIE is not only capable of that, but he does it, and I commend him for it. If I had had the opportunity, I would have spoken likewise. Senator MAGNUSON and Senator STEVENS also have presented a very positive point of view from the standpoint of the Committee on Commerce.

Out of all this discussion, there comes just one point that the Senator from West Virginia wishes to stress. That is that both of these committees are in partnership on this important problem and its various facets—the oceans; how we deal with the oceans; the contributions of the oceans.

I am appreciative of the time to express my desire not only to work with others, but to be tolerant of others and, certainly, to understand the viewpoints of the Members of the Senate. I am appreciative of the fact that we can now move from this matter and, hopefully, be on affirmative ground in the weeks ahead.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 682) was passed as follows:

S. 682

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tanker and Vessel Safety Act of 1977".*

#### TITLE I—AMENDMENTS TO THE PORTS AND WATERWAYS SAFETY ACT

##### SECTION 101. SHORT TITLE.

This title may be cited as the "Ports and Waterways Safety Act Amendments of 1977".

##### SEC. 102. DECLARATION ON POLICY AND DEFINITIONS.

The Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.) is amended by inserting the following new sections immediately after the first section thereof and immediately before title I:

"SEC. 2. FINDINGS, PURPOSES, AND POLICY.  
"(a) FINDINGS.—The Congress finds and declares the following:



"(1) Navigation and vessel safety and protection of the marine environment are matters of major national importance. Increased vessel traffic in the Nation's ports and waterways creates substantial hazard to life, property, and the marine environment.

"(2) International standards for navigation and vessel safety and protection of the marine environment are incomplete and fail to provide adequate protection of the marine environment. The Federal Government should seek to require more stringent standards for any vessel using (A) any port of the United States or (B) operating in the navigable waters of the United States.

"(3) Standards developed through regulations under this Act shall incorporate the best available technology. Such standards shall be required unless clearly shown to create undue economic hardship which is not outweighed by environmental benefits.

"(4) Increased inspection and enforcement efforts by the Federal Government are necessary to reduce the possibility of vessel or cargo loss, or damage to life, property, or the marine environment.

"(b) PURPOSES.—It is therefore the purposes of Congress in this Act—

"(1) to authorize a comprehensive inspection and enforcement program for increased navigation and vessel safety and enhanced protection of the marine environment;

"(2) to direct the Federal Government to establish stringent standards for the design, construction, equipment, maintenance, alteration, repair, operation, and manning of all vessels which (A) use any port of the United States or (B) operate in the navigable waters of the United States; and

"(3) to establish a program to prevent any substandard vessel from (A) using any port of the United States or (B) operating in the navigable waters of the United States.

"(c) POLICY.—It is further declared to be the policy of the Congress in this Act—

"(1) to authorize no impediment to, or interference with, the right of innocent passage or any recognized legitimate use of the high seas; and

"(2) to support and encourage continued active United States efforts to obtain international agreements concerning navigation and vessel safety and protection of the marine environment.

#### "SEC. 3. DEFINITIONS.

"As used in this Act, unless the context otherwise requires:

"(1) The term 'discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, or emptying, however caused.

"(2) The term 'domestic trade' means trade between ports or places in the United States, its territories or possessions, either directly or via a foreign port, including trade on the navigable waters of the United States.

"(3) The term 'foreign trade' means any trade other than the domestic trade.

"(4) The term 'foreign vessel' or 'vessel of a foreign nation' means any vessel documented or numbered under the laws of any nation other than the United States.

"(5) The term 'hazardous material' means any material or substance which is—

"(A) flammable or combustible;

"(B) designated a hazardous polluting substance under section 311(b) of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1321); or

"(C) designated a hazardous material under section 104 of the Hazardous Materials Transportation Act (49 U.S.C. 1803).

"(6) The term 'high seas' means all waters beyond the territorial sea of the United States and beyond the territorial sea of any foreign nation, to the extent that such sea is recognized by the United States.

"(7) The term 'marine environment' means the coastal zone, defined in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1)); the seabed, subsoil, natural resources, and waters of the territorial sea of the United States; the waters of the

contiguous zone; the waters and fishery resources of any zone over which the United States asserts exclusive fishery management authority; the waters of the high seas; and the seabed and subsoil of the Outer Continental Shelf of the United States.

"(8) The term 'oil' means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

"(9) The term 'person' means any individual (whether or not a citizen or national of the United States), or any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

"(10) The term 'public vessel' means a vessel which—

"(A) is owned, or chartered by demise, and operated by the United States or any foreign government; and

"(B) is not engaged in commercial service.

"(11) The term 'Secretary' means Secretary of Transportation.

"(12) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States, including the Trust Territory of the Pacific Islands.

"(13) The term 'United States', when used in the geographical context, means all the States thereof.

"(14) The term 'vessel' means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation through or on water.

"(15) The term 'vessel of the United States' means any vessel documented or numbered under the laws of the United States."

#### SEC. 103. NAVIGATIONAL AND VESSEL SAFETY AND PROTECTION OF THE MARINE ENVIRONMENT.

Title I of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221-1227) is amended to read as follows:

##### "TITLE I—NAVIGATION AND VESSEL SAFETY AND PROTECTION OF THE MARINE ENVIRONMENT

###### "SEC. 101. VESSEL TRAFFIC SERVICES.

"(a) IN GENERAL.—The Secretary, in accordance with section 103, may, in the ports, harbors, navigable waters of the United States and in any area covered by any international agreement negotiated pursuant to section 303—

"(1) establish, operate, and maintain vessel traffic services;

"(2) require any vessel except self-propelled or recreational vessels under three hundred deadweight tons; which operates within waters subject to any vessel traffic service, to utilize or comply with any such service, including requiring the installation and use of any electronic or other device necessary for such utilization or compliance;

"(3) control vessel traffic by—

"(A) specifying times of entry, movement, or departure;

"(B) establishing vessel traffic routing schemes;

"(C) establishing vessel size and speed limitations and vessel operating conditions; and

"(D) restricting operation, in any hazardous area or under hazardous conditions, by any vessel which has particular operating characteristics or capabilities, in a manner deemed necessary for safe operation under the circumstances.

The Secretary shall publish and distribute any relevant information with regard to actions taken under this section to all interested persons, including citizens of any foreign country.

"(b) SPECIAL POWERS.—The Secretary may order any vessel to operate or anchor in a manner he directs if—

"(1) he has reasonable cause to believe such vessel does not comply with any regulation promulgated under this Act or any other applicable law or treaty;

"(2) he determines that such vessel does not satisfy the conditions for port entry set forth in section 106; or

"(3) by reason of weather, visibility, sea conditions, or the condition of such vessel, he is satisfied that such directive is justified in the interest of safety.

"(c) EXTENDED SERVICES.—The Secretary shall, in accordance with section 103, establish advisory vessel traffic services in appropriate areas of the high seas. The Secretary shall take appropriate action to have any routing measures associated with such services adopted by the relevant international organization.

"(d) EXCEPTION.—This title shall not apply to any vessel of any foreign nation (1) that is in transit through, the navigable waters of the United States which form a part of any international strait, and (2) that is destined for any port outside the United States, except pursuant to international treaty, convention, or agreement.

#### "SEC. 102. WATERFRONT SAFETY.

"The Secretary, in cooperation with the Secretary of the Army, may take such action as is necessary (1) to prevent damage to, or the destruction or loss of, any dock, bridge, or other structure on or in the navigable waters of the United States, or any structure on land, or any shore area, immediately adjacent to any such waters; and (2) to protect the navigable waters and the resources therein from vessel operation damage, destruction or loss or from structure damage, destruction or loss. Such action may include, but need not be limited to—

"(A) establishing procedures, measures, and standards for the handling, loading, unloading, storage, stowage, and movement on any such structure (including the emergency removal, control, and disposition) of any oil or hazardous materials;

"(B) prescribing minimum safety equipment requirements for any such structure to assure adequate protection from fire, explosion, natural disasters, and other serious accidents or casualties;

"(C) establishing water or waterfront safety zones, or other measures for limited, controlled, or conditional access and activity of vessels when necessary for the protection of any vessel, structure, waters, or shore area; and

"(D) establishing procedures for inspection to assure compliance with minimum safety requirements for such structures.

#### "SEC. 103. CONSIDERATIONS BY SECRETARY.

"The Secretary shall, in carrying out his duties and responsibilities under section 101, take into account all relevant factors concerning navigation and vessel safety and protection of the marine environment, including, but not limited to—

"(1) the scope and degree of the risk or hazard involved;

"(2) vessel traffic characteristics and trends including traffic volume, the sizes and types of vessels involved, potential interference with the flow of commercial traffic, the presence of any unusual cargoes, and other similar factors;

"(3) port and waterway configurations and variations in local conditions of geography, climate, and other similar factors;

"(4) the proximity of fishing grounds, oil and gas drilling and production operations, or any other potential or actual conflicting activity;

"(5) environmental factors;

"(6) economic impact and effects;

"(7) existing vessel traffic services;

"(8) local practices and customs, includ-

ing voluntary arrangements and agreements within the maritime community; and

"(9) the Secretary shall establish procedures for consulting with, and receiving and considering the views of, officials of State and local governments, and persons within the maritime community, who are knowledgeable about and experienced in dealing with local problems of vessel traffic.

**"SEC. 104. PILOTAGE.**

"The Secretary may require a pilot on (1) any self-propelled vessel of the United States engaged in the foreign trade, and (2) any foreign vessel, operating in the navigable waters of the United States in areas and under circumstances where a pilot is not otherwise required by State law. Such pilot may be required until the State involved establishes a requirement for a pilot in any such area or under the circumstances involved.

**"SEC. 105. INVESTIGATORY POWERS.**

"(a) SECRETARY.—The Secretary may investigate any incident, accident, or act which—

"(1) results in any loss or destruction of, or damage to, any structure or area referred to in section 102, or any vessel; or

"(2) affects, or may affect, vessel safety or environmental quality in any port, harbor, or the navigable waters of the United States.

"(b) BOARD.—The National Transportation Safety Board may investigate any transportation-related incident, accident, or act which—

"(A) results in any loss or destruction of, or damage to, any structure or area referred to in section 102, or any vessel; or

"(B) affects, or may effect, transportation or vessel safety in any port, harbor, or the navigable waters of the United States.

"(2) Investigations conducted by the Board under this section shall be for the purpose of determining the facts, circumstances, and the cause or probable cause, of any accident, incident, or act investigated under paragraph (1).

"(c) POWERS.—In any such investigation, the Secretary or the Board may issue subpoenas to require the attendance of any witness and the production of any document or other evidence relating to any such incident, accident, or act. If any person refuses to obey any such subpoena, the Secretary or the Board may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance with such a subpoena. Any of the district courts of the United States may, in the case of such refusal to obey such a subpoena, issue an order requiring compliance with such subpoena, and any failure to obey such order may be punished by the court as a contempt thereof. Witnesses may be paid fees for travel and attendance at such rates not exceeding those allowed in a district court of the United States.

**"SEC. 106. CONDITIONS FOR ENTRY TO PORTS OF THE UNITED STATES.**

"(a) IN GENERAL.—No vessel which carries, or is designed to carry, oil or any hazardous material in bulk as cargo shall operate in the navigable waters of the United States, or transfer cargo in, any port or place under the jurisdiction of the United States if such vessel—

"(1) has a history of accidents, pollution incidents, or serious repair problems which, as determined by the Secretary, creates reason to believe that such vessel may (A) be unsafe or (B) create a threat to the marine environment;

"(2) fails to comply with any applicable regulation issued under this Act or any other law or treaty;

"(3) discharges any oil in violation (A) of any treaty to which the United States is a party or (B) of any law of the United States; or

"(4) does not comply with any vessel

traffic service established by the Secretary under section 101;

unless and until the owner of such vessel proves, to the satisfaction of the Secretary, that such vessel is (A) no longer unsafe or a threat to the marine environment, or (B) complies with the applicable regulation, law, or treaty, as appropriate.

"(b) EFFECTIVE DATE.—This section shall become effective on the date of enactment of the Ports and Waterways Safety Act Amendments of 1977, except subsection (a) (3) shall not become effective until January 1, 1979, unless before such date, the Secretary by regulation, provides that such subsection will become effective before January 1, 1979, in which case, such subsection (a) (3) shall become effective on the date provided by the Secretary.

**"SEC. 107. MARINE SAFETY INFORMATION SYSTEM.**

"(a) IN GENERAL.—The Secretary shall establish a marine safety information system. Such system shall contain information with regard to any vessel (which carries, or is designed to carry, oil or any hazardous material in bulk as cargo) which enters, or transfers cargo in, any port or place under the jurisdiction of the United States. Such information shall include, but need not be limited to—

"(1) the names of any person with an ownership interests in any such vessel, in accordance with regulations prescribed by the Secretary;

"(2) financial responsibility information, if required for any vessel under section 311 (p) of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 3121);

"(3) registration information, including all changes in the name of any such vessel;

"(4) the history of accidents or serious repair problems of any such vessel;

"(5) a record of all inspections or examinations of any such vessel conducted under section 202; and

"(6) any other data or information which the Secretary deems appropriate to carry out the purposes of this Act.

"(b) INTERAGENCY COOPERATION.—The head of each department, agency, or other instrumentality of the Federal Government shall, upon a written request from the Secretary, furnish any available data or information which the Secretary deems necessary to carry out the provisions of this Act.

**"SEC. 108. LIGHTERING.**

"(a) IN GENERAL.—After June 30, 1978, no vessel may unload any cargo of oil or hazardous material at any port of the United States if such cargo has been transferred from another vessel on the high seas or in the navigable waters of the United States, unless such transfer was conducted in accordance with regulations prescribed by the Secretary pursuant to subsection (b).

"(b) REGULATIONS.—The Secretary shall, by June 30, 1978, prescribe, and may amend or repeal, regulations for transferring, in whole or in part, any cargo of oil or hazardous material on the high seas or in the navigable waters of the United States. Regulations prescribed by the Secretary under this subsection shall include, but need not be limited to, standards for—

"(1) minimum safe operating conditions, including sea state, wave height, weather, proximity to channels or shipping lanes, and other similar factors;

"(2) prevention of oil spills;

"(3) equipment for responding to any oil spill;

"(4) prevention of any unreasonable interference with international navigation or other reasonable uses of the high seas, as defined by treaty, convention, or customary international law; and

"(5) other matters which the Secretary deems necessary to promote navigation and

vessel safety and protect the marine environment.

"(c) PROHIBITION.—No transfer of cargo at sea may be authorized under this section if such transfer is engaged in for the purpose of aiding the avoidance of standards relating to the design, construction, equipment, maintenance, alteration, repair, operation or manning of vessels promulgated under this Act or section 4417a of the Revised Statutes of the United States.

**"SEC. 109. APPLICATION OF TITLE.**

"This title shall not apply to the Panama Canal. The authority granted the Secretary under this title may be delegated to the Saint Lawrence Seaway Development Corporation to the extent the Secretary determines such delegation is necessary for the proper operation of the Seaway."

**SEC. 104. VESSELS CARRYING CERTAIN CARGOES IN BULK.**

Section 4417a of the Revised Statutes of the United States (46 U.S.C. 391a) is amended to read as follows:

"Sec. 4417a. (1) APPLICABILITY.—Except as provided in subsections (2) and (3), this section shall apply to any vessel—

"(A) regardless of tonnage, size, or manner of propulsion;

"(B) whether self-propelled or not;

"(C) whether carrying freight or passengers for hire or not;

"(D) which is documented or numbered under the laws of the United States, which operates in the navigable waters of the United States, or which transfers cargo in any port or place under the jurisdiction of the United States; and

"(E) which carries, or is designed to carry, oil or any hazardous material in bulk as cargo.

Any such vessel shall be deemed to be a steam vessel for the purposes of title 52 of the Revised Statutes of the United States and shall be subject to the provisions thereof.

"(2) EXCEPTIONS.—This section shall not apply to—

"(A) any public vessel;

"(B) any vessel of not more than 500 gross tons documented in the service of oil exploitation which are not tank vessels and which would be subject to this section only because of the transfer of fuel from fuel supply tanks of such vessel to offshore drilling or production facilities; or

"(C) any vessel of any foreign nation (1) that is in transit in navigable waters of the United States which form a part of any international strait and (2) that is destined for any port or place outside the United States.

"(3) FISHING VESSELS.—Notwithstanding the other provisions of this section, cannery tenders, fishing tenders, and fishing vessels of not more than 500 gross tons used in the salmon or crab fisheries of the States of Oregon, Washington, or Alaska, when engaged exclusively in the fishing industry, shall be allowed to have on board inflammable or combustible cargo in bulk to the extent and upon conditions as may be required by regulations promulgated by the Secretary.

"(4) STANDARD-SETTING AUTHORITY.—(A) The Secretary shall issue, and may from time to time amend or repeal, regulations containing standards for the design, construction, alteration, repair, operation, manning, or maintenance of vessels to which this section applies, as may be necessary for increased navigation and vessel safety and enhanced protection of the marine environment. The standards issued by the Secretary under this subsection shall be in addition to any other standards, promulgated under other provisions of law, that may apply to such vessels. The standards issued by the Secretary under this subsection shall in-



clude, but need not be limited to, standards relating to—

"(i) superstructures, hulls, cargo holds or tanks, fittings, equipment, appliances, propulsion machinery, auxiliary machinery, and boilers;

"(ii) the handling or stowage of cargo, the manner of such handling or stowage of cargo, and the machinery and appliances used in such handling or stowage;

"(iii) equipment and appliances for life saving, fire protection, and prevention and mitigation of damage to the marine environment;

"(iv) requirements for the manning of such vessels and the duties and qualifications of the officers and crew, in accordance with subsection (7);

"(v) improvements in vessel maneuvering and stopping ability and other features which reduce the possibility of collision, grounding, or other accidents;

"(vi) the reduction of cargo loss in the event of a collision, grounding, or other accident;

"(vii) the reduction or elimination of discharges during ballasting, deballasting, cargo handling, or other such activity; and

"(viii) the reduction or elimination of discharges aboard vessels during cargo handling, tank cleaning, ballasting, deballasting, and other such activity.

"(B) In establishing standards under paragraph (A), the Secretary shall give due consideration to the kinds and grades of cargo permitted to be on board any such vessel.

"(5) MINIMUM STANDARDS.—In addition to any standards prescribed by the Secretary pursuant to subsection (4), or pursuant to any other law, any self-propelled vessel in excess of 20,000 deadweight tons which carries, or is designed to carry, oil in bulk, as cargo shall—

"(A) not later than June 30, 1979, be equipped with—

"(i) a dual radar system, one with short-range and one with long-range capabilities and each with true-north features;

"(ii) a collision avoidance system;

"(iii) a long-range navigation aid;

"(iv) adequate communications equipment;

"(v) a fathometer;

"(vi) a gyrocompass;

"(vii) up-to-date charts; and

"(B) not later than June 30, 1983, be equipped with—

"(i) a segregated ballast system;

"(ii) a transponder, or such other appropriate position-finding equipment as the Secretary determines to be appropriate;

"(iii) a gas inerting system; and

"(iv) for any vessel the construction of which is contracted for, or actually commenced, after January 1, 1980, a double bottom (fitted throughout the cargo length of such vessel).

The Secretary may prescribe standards to substitute for any standard listed above if such substitute standard provides, as appropriate, equivalent or improved navigation accuracy, vessel safety, or environmental protection. Such equivalency or improvement shall be determined by the Secretary on the record after a hearing in accordance with section 553 of title 5, United States Code.

"(6) EVIDENCE OF COMPLIANCE.—(A) No vessel of the United States to which this section applies, shall have on board oil or hazardous materials in bulk as cargo until (i) it has been issued a certificate of inspection issued under the provisions of title 52 of the Revised Statutes of the United States, and (ii) such certificate has been endorsed to indicate that the vessel is in compliance with the rules and regulations established under this section. If any vessel is found not to be in compliance, the Secretary shall notify the owner of the vessel and indicate how the vessel may be brought into compliance.

"(B) No foreign vessel to which this section applies, shall operate in the navigable waters of the United States or transfer cargo in any port or place under the jurisdiction of the United States unless such vessel has been issued a certificate of compliance by the Secretary. The Secretary shall not issue such certificate until the vessel has been examined by the Secretary and found to be in compliance with the provisions of this section and the rules and regulations promulgated hereunder. If any such vessel is found not to be in compliance, the Secretary shall notify the owner of the vessel and indicate how the vessel may be brought into compliance. The Secretary may allow provisional entry for the purposes of conducting the examination.

"(C) The Secretary may accept, as evidence of compliance with this section (in whole or in part), a certificate, endorsement, or document issued by any foreign nation pursuant to any treaty, convention, or other international agreement to which the United States is a party.

"(D) No vessel may carry any kind of grade of cargo unless its certificate of compliance is endorsed to allow such carriage. No such endorsement may allow any vessel to carry any material prohibited by section 4472(3) of this title.

"(E) A certificate of compliance, or an endorsement, issued under this subsection shall be valid for a period not to exceed 1 year, as specified by the Secretary, and may be renewed. The Secretary may issue a temporary certificate of compliance, or a temporary endorsement, under this subsection in appropriate circumstances; except that such temporary certificate or endorsement shall be valid for not more than 30 days. Any certificate or endorsement shall be revoked or suspended if the Secretary finds that the vessel involved no longer complies with the conditions upon which such certificate or endorsement was issued.

"(7) RETROFIT OF CERTAIN MANDATORY REQUIREMENTS.—(A) On and after July 1, 1980, the Secretary shall not issue a certificate of compliance to any vessel to which subsection (5) applies, unless—

"(i) such vessel has a segregated ballast system (as required under subsection (5) (B) (i)) and a gas inerting system (as required under subsection (5) (B) (iii)); or

"(ii) the Secretary determines that tanks in such vessel have been designated for, and are used only for carrying ballast water alone; and the owner of such vessel has paid a retrofit incentive fee levied on such vessel by the Secretary.

"(B) The Secretary shall determine the amount of the retrofit incentive fee applicable to any vessel (according to classes of vessels based on size, displacement, and configuration) by determining for vessels in each such class the estimated annualized cost of compliance with the requirements of subsections (5) (B) (i) and (5) (B) (iii). The Secretary shall estimate the annualized cost of compliance, based on a retrofit technique that he determines would enable typical vessels in each class to comply with such requirements, taking into account planning and design costs, equipment costs (including purchase, transportation, installation, and start-up or testing), operating and maintenance costs, cost of capital, inflation, taxes, and other relevant costs. The Secretary shall propose retrofit incentive fees for each class of vessels not later than July 1, 1979, and shall adopt fees, in accordance with section 553 of title 5, United States Code, not later than January 1, 1980. The Secretary may by regulation adjust the fee for a class of vessels if he determines that the fee varies significantly from the actual or probable annualized costs of compliance with such requirements, and he may provide for the automatic adjustment of a fee based on the performance of a suitable index or indices. The Secretary may, in his discretion, waive

the fee if he determines that a good faith effort has been made to comply with the provisions of this paragraph.

"(C) Any interested person may seek judicial review of the action taken by the Secretary under paragraph (B) to establish retrofit incentive fees by filing a petition therefor in the Court of Appeals of the United States for the circuit in which such person resides. Such petition shall be filed within ninety days after the date of such action, or, if such petition is based solely on grounds which arose after such ninetieth day, any time thereafter. Action by the Secretary with respect to which review could have been obtained under this paragraph shall not be subject to judicial review in any civil or criminal proceeding relating to enforcement or collection of the fee established by such action. In any action brought under this paragraph, no court shall grant any stay, injunction or other similar relief before final judgment by such court in such action.

"(D) The Secretary shall prescribe, and may from time to time modify or repeal, such regulations as he deems necessary to carry out this subsection. Such regulations may include, but need not be limited to, requirements respecting—

"(i) submission of technical and cost information relating to compliance with the requirements of subsections (5) (B) (i) and (5) (B) (iii);

"(ii) marking areas designated as ballast areas for easy identification; and

"(iii) reporting of information relating to the designation of areas as ballast areas and the installation of segregated ballast and gas inerting systems.

"(E) Any retrofit incentive fee which is not paid in a timely basis shall be subject to a late payment penalty in an amount determined by the Secretary, but which shall not be more than 20 percent of the amount of such fee unpaid.

"(F) If any person or vessel fails to comply with any provision of this subsection, in addition to denying certification (as provided in paragraph (A) of this subsection), assessing a late payment penalty (as provided in paragraph (E) of this subsection), and assessing a civil penalty (as provided in section 203(a) of the Ports and Waterways Safety Act of 1972), the Secretary may pursue any other appropriate remedy authorized by any other applicable provision of law.

"(8) MANNING AND TRAINING REQUIREMENTS.—The Secretary shall prescribe standards for the manning of any vessel subject to the provisions of this section and the duties, qualifications, and training of the officers and crew thereof, including, but not limited to, standards relating to—

"(A) instruction in vessel and cargo handling and vessel navigation under normal operating conditions in coastal and confined waters and on the high seas;

"(B) instruction in vessel and cargo handling and vessel navigation in emergency situations and under accident or potential accident conditions;

"(C) license qualifications by specific class and size of vessels;

"(D) measurement of qualifications for licenses by use of simulators developed for the training of marine-oriented skills;

"(E) health and physical fitness criteria for all personnel;

"(F) periodic, retraining, and special training for upgrading positions, changing vessel class or size, or assuming new responsibilities;

"(G) determination of licenses, conditions of licensing, and period of licensing by reference to experience, amount of training completed, and regular performance testing; and

"(H) recordation of safety and pollution control violations on licenses.

"(9) MODIFICATIONS.—The Secretary may modify any regulation or standard prescribed under this section to conform to an inter-

national treaty, convention, agreement, or an amendment thereto, which is ratified by the United States."

#### SEC. 105. IMPROVED PILOTAGE STANDARDS.

(a) Section 4442 of the Revised Statutes of the United States (46 U.S.C. 214) is amended to read as follows:

"Sec. 4442. (a) The Commandant of the United States Coast Guard shall, in accordance with subsection (b) of this section, establish eligibility requirements for the issuance of a license to pilot any steam vessel.

"(b) No person may be issued a license to pilot any steam vessel unless he—

"(1) is at least 21 years of age;

"(2) is of sound health and has no physical limitations which would hinder or prevent the performance of a pilot's duties;

"(3) agrees to have a thorough physical examination each year while holding a pilot's license;

"(4) demonstrates, to the Commandant's satisfaction, that he possesses the requisite general knowledge and skill to hold a pilot's license;

"(5) maintains adequate knowledge of the waters to be navigated as a pilot;

"(6) has sufficient experience, as determined by the Commandant, to evidence his ability to handle any vessel of the type and size which he may be endorsed to pilot; and

"(7) meets any other requirement which the Commandant considers reasonable and necessary.

"(c) No license to pilot any steam vessel shall be valid for a term longer than 5 years. Upon expiration of any such license, the holder may reapply for an additional term and may be reissued a license if he meets the requirements specified under subsection (b) of this section.

"(d) The Commandant may revoke or suspend any license to pilot any steam vessel, after notice and an opportunity for a hearing, upon satisfactory evidence of—

"(1) negligence;

"(2) unskillfulness;

"(3) failure to adhere to any requirements for a license;

"(4) willful violation of title 52 of the Revised Statutes; or

"(5) other just cause related to the performance of pilot duties, including conduct when acting solely under the authority of a State pilot license."

"(e) The Secretary shall develop and shall seek adoption by the States of uniform minimum standards relating to the regulation of pilotage at least equal to those required of federally licensed pilots."

(b) Section 304(a)(9)(B) of the Independent Safety Board Act of 1974 (49 U.S.C. 1903(a)(9)(B)) is hereby amended by replacing the final period with a semicolon, and adding: "or Section 4442 of the Revised Statutes of the United States (46 U.S.C. 214)."

#### SEC. 106. INSPECTION AND ENFORCEMENT.

Title II of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.) is amended to read as follows:

##### "TITLE II—INSPECTION AND ENFORCEMENT"

###### "SEC. 201. PROHIBITED ACTS.

"It is unlawful—

"(1) for any person—

"(A) to violate any provision of this Act or any regulation issued pursuant to this Act or section 4417a of the Revised Statutes of the United States;

"(B) to refuse to permit any officer authorized by the Secretary to enforce the provisions of this Act or section 4417a of the Revised Statutes of the United States to board any vessel, or enter any shore area, place, or premises, under such person's control for purposes of inspection pursuant to this Act or section 4417a of the Revised Statutes of the United States; or

"(C) to refuse to obey any lawful directive issued pursuant to this Act or section 4417a

of the Revised Statutes of the United States; and

"(2) for any vessel subject to the provisions of this Act or section 4417a of the Revised Statutes of the United States—

"(A) to operate in the navigable waters of the United States while not in compliance with any provision of this Act or any regulation issued pursuant to this Act or section 4417a of the Revised Statutes of the United States; or

"(B) to fail to comply with any lawful directive issued pursuant to this Act or section 4417a of the Revised Statutes of the United States.

###### "SEC. 202. INSPECTION.

"(a) NATIONAL PROGRAM.—(1) The Secretary shall establish a national program for inspection of any vessel subject to section 4417a of the Revised Statutes of the United States. Each such vessel shall be inspected or examined at least once each year. Any such vessel over 10 years in age shall undergo a special and detailed inspection of structural strength and hull integrity, as specified by the Secretary.

"(2) An inspection or examination may be conducted by any officer authorized by the Secretary. If any such officer is not reasonably available, the Secretary may contract for the conduct of inspections or examinations in the United States and in foreign countries. Under such contract, an inspector may be authorized to act on behalf of the Secretary; except that no such inspector may issue a certificate of inspection or compliance, but may issue a temporary such certificate.

"(3) The Secretary shall prescribe by regulation reasonable fees for any inspection or examination conducted pursuant to this section based on the cost incurred. The owner of any vessel inspected or examined by the Secretary or his designee shall be liable for such fee. Amounts received as fees under this paragraph shall be credited to the appropriations bearing the cost of such inspection or examination.

"(b) VESSEL DOCUMENTS.—Any vessel subject to the provisions of this section shall have on board such documents as the Secretary deems necessary for inspection or enforcement under this Act, including, but not limited to, documents indicating—

"(1) the kind, grade, and approximate quantities of any cargo on board such vessel;

"(2) the shipper and consignee of such cargo;

"(3) the points of origin and destination of such vessel; and

"(4) the name of an agent in the United States authorized to accept legal process.

"(c) RECIPROCITY.—The Secretary may accept, as evidence of compliance with the provisions of this Act, any certificate or document issued by any foreign nation pursuant to any treaty, convention, or other international agreement to which the United States is a party.

###### "SEC. 203. PENALTIES.

"(a) CIVIL PENALTY.—(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing to have committed an act prohibited by this Act or by section 4417a of the Revised Statutes of the United States shall be liable to the United States for a civil penalty, not to exceed \$25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

"(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposi-

tion or which has been imposed under this subsection.

"(3) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

"(b) CRIMINAL PENALTY.—(1) A person is guilty of an offense if—

"(A) in reckless disregard of the risk that his conduct would cause damage to property, he commits any act prohibited by subparagraphs 202(1)(A) or 202(2)(A); or

"(B) he willfully and knowingly commits any other act prohibited by section 202.

"(2) Any offense described in paragraph (1) is punishable by a fine of not more than \$50,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this Act, or places any such officer in fear of imminent bodily injury, the offense is punishable by a fine of not more than \$100,000, or imprisonment for not more than 10 years, or both.

"(3) As used in this subsection, a person's state of mind is 'reckless' with respect to:

"(A) an existing circumstance if he is aware of a risk that the circumstance exists but disregards the risk; and

"(B) a result of his conduct if he is aware of a risk that the result will occur but disregards the risk.

The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that a reasonable person would exercise in such a situation.

"(c) FEDERAL JURISDICTION.—There is Federal jurisdiction over any offense described in this section.

"(d) IN REM LIABILITY.—Any vessel subject to the provisions of this Act and found to be in violation of this Act shall be liable in rem and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(e) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this Act or regulations issued hereunder, for cause shown."

#### SEC. 107. MISCELLANEOUS PROVISIONS.

The Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.) is amended by adding the following new title at the end thereof:

##### "TITLE III—MISCELLANEOUS PROVISIONS"

###### "SEC. 301. REGULATIONS.

"The Secretary is authorized to issue, amend, or repeal regulations to carry out the purposes and provisions of this Act, in accordance with the provisions of section 553 of title 5, United States Code. In preparing such regulations, the Secretary shall provide an opportunity for full consultation and cooperation with all other interested Federal agencies and departments (in particular the Environmental Protection Agency, the Department of Commerce, and the Department of State), and the States, and for consideration of views presented by any members of the general public, including representatives of the maritime community, environmental groups, consumer organizations, and persons concerned with navigation and vessel safety and protection of the marine environment.

###### "SEC. 302. REPORT.

"Within 6 months after the end of each fiscal year, the Secretary shall submit to the Congress (1) a report on the administration of this Act during the preceding fiscal year; (2) a summary of inspection and enforcement activities during the preceding fiscal year; and (3) recommendations to the Congress for any additional legislative authority necessary to improve navigation and



vessel safety and protection of the marine environment.

**"SEC. 303. INTERNATIONAL AGREEMENTS.**

**"(a) TRANSMITTAL OF REGULATIONS.**—The Secretary and the Secretary of State shall undertake international negotiations, utilizing the appropriate international bodies or forums, to achieve acceptance of regulations promulgated or required under this Act as international standards.

**"(b) NEGOTIATIONS.**—The Secretary of State may—

**"(1)** enter into negotiations, in cooperation with the Secretary, with Canada and Mexico, and any other neighboring nation, to establish compatible vessel standards and vessel traffic services in appropriate areas and circumstances;

**"(2)** enter into negotiations through appropriate international bodies—

**"(A)** to establish mandatory vessel traffic services in appropriate areas of the high seas, and

**"(B)** to prohibit any discharge of oil in appropriate areas of the high seas;

**"(3)** enter into negotiations, in cooperation with the Secretary, with Canada and Mexico, and any other neighboring nation to establish, operate, and maintain international vessel traffic services in appropriate areas; and

**"(4)** enter into such other negotiations as may be necessary and appropriate to further the purposes, policy, and provisions of this Act.

**"(c) OPERATIONS.**—The Secretary, pursuant to any agreement negotiated under subsection (b), may—

**"(1)** require vessels to utilize or to comply with the vessel traffic service, including the carrying or installation of electronic or other devices necessary for the use of the service; and

**"(2)** waive, by order or regulation, the application of any law or regulation concerning the design, construction, manning, and equipment standards of vessels operating in waters over which the United States exercises jurisdiction if such vessel is not enroute to or from a United States port, and if vessels enroute to or ports of the United States are accorded equivalent waivers of laws and regulations of the foreign nation.

**"SEC. 305. AUTHORIZATIONS OF APPROPRIATIONS.**

"Beginning October 1, 1977, there are authorized to be appropriated to the Secretary, for the purpose of carrying out the provisions of this Act, such sums as may be necessary."

**SEC. 108. SAVING CLAUSE.**

Regulations previously issued under statutory provisions repealed, modified, or amended by this Act shall continue in effect as though promulgated under the authority of section 4417a of the Revised Statutes of the United States (46 U.S.C. 391a) or the Ports and Waterways Safety Act of 1972 as amended by this Act, as the case may be, until expressly abrogated, modified, or amended by the Secretary. Any proceeding under section 4417a of the Revised Statutes of the United States or the Ports and Waterways Safety Act of 1972 for a violation which occurred before the effective date of this Act may be initiated or continued to conclusion as though such section or Act had not been amended thereby.

**SEC. 109. STUDY OF MONITORING SYSTEMS.**

**(a) CONTENT.**—The Secretary of Transportation, in consultation with the Administrator, the Secretary of Commerce, and other appropriate agencies or instrumentalities of the Federal government, shall to evaluate various shore-station monitoring systems of vessels, including fishing vessels, within the fishery conservation zone as defined in section 3(8) of the Fishery Conservation and Management Act of 1976. Each system examined shall be capable of reporting

vessel position, identification, course, and speed using either a land, sea, or space monitoring technique.

**(b) REPORT.**—Within 2 years after the date of the enactment of this Act, the Secretary shall report his findings to Congress. This report shall describe the capabilities, limitations, and cost effectiveness of each monitoring system examined from the standpoint of both the Federal Government and any vessel owners who would be affected by the imposition of each approach. The report shall also include the Secretary's recommendation for a single, comprehensive, cost effective shore station monitoring system within the fishery conservation zone.

**SEC. 110. AUTHORIZATION FOR APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary for the purposes of section 109, not to exceed \$500,000 for the fiscal year ending September 30, 1978, and not to exceed \$500,000 for the fiscal year ending September 30, 1979.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the title of the bill is appropriately amended.

The title was amended as to read:

A bill to amend the Ports and Waterways Safety Act of 1972, to establish a program of oil pollution research, and for other purposes.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Secretary be authorized to make technical and clerical corrections in the engrossment of S. 682.

The PRESIDING OFFICER. Without objection, it is so ordered.

**DEPARTMENT OF STATE AUTHORIZATIONS, 1977**

Mr. McGOVERN. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 5040.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

*Resolved*, That the House agree to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 8, 9, and 10 to the bill (H.R. 5040) entitled "An Act to authorize additional appropriations for the Department of State for fiscal year 1977."

*Resolved*, That the House agree to the amendment of the Senate numbered 7 with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

**(3)** by amending the third sentence to read as follows: "Not more than seven of the appointees from the Senate shall be of the same political party."; and

Mr. McGOVERN. Mr. President, this morning the House accepted the Senate amendments to the fiscal year 1977 State Department Supplemental legislation (H.R. 5040)—with one minor amendment.

As passed by the House and the Senate, H.R. 5040 expands the size of the American group of the North Atlantic Assembly from 18 to 24—a delegation of 12 from each side—12 from the House, 12 from the Senate.

The House leadership objects, however, to a requirement added on the

Senate floor that not more than seven Members of each delegation be from one political party. The House, in floor action this morning, eliminated the requirement as it pertains to the House delegation, but left intact this language that the Senate had previously approved, as far as the Senate is concerned.

Since this will not affect the bill in any way of interest to the Senate, I move that the Senate agree to the House amendment to the Senate amendment to H.R. 5040.

Mr. STEVENS. Mr. President, it is my understanding that that is the only change the House made. There has been inquiry from this side of the aisle as to whether there were any amendments made by the House that affected the Korean troop situation.

Mr. McGOVERN. No. This is the supplemental bill which the Senate previously acted on. The House took the Senate amendments in their entirety. But there were no other changes made other than this one which was made in the distribution on the North Atlantic delegation.

But only insofar as it affects the computation of the House delegation. It has nothing to do with the matter the Senator queried me about. No other change is made.

Mr. STEVENS. Is there funding here for Korean movement?

Mr. McGOVERN. No.

Mr. STEVENS. United States troop removal from Korea?

Mr. McGOVERN. No. This bill made no changes at all after it left the Senate, other than this one I have just referred to.

Mr. STEVENS. I thank the Senator.

I appreciate the Senator's courtesy in allowing us a chance to review it.

I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Dakota.

The motion was agreed to.

**OPERATION OF ARMORY BOARD OF THE DISTRICT OF COLUMBIA**

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 206.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1062) to amend section 441 of the District of Columbia Self-Government and Governmental Reorganization Act.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill? There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs with an amendment on page 1, beginning with line 10, insert the following:

SEC. 2. Section 10 of the Act "To establish a District of Columbia Armory Board and for other purposes", approved June 4, 1948 (D.C. Code, sec. 2-1710), is amended by striking out "January" and inserting in lieu thereof "July".

SEC. 3. Section 10 of the District of Columbia Stadium Act of 1957, approved September 7, 1957 (D.C. Code, sec. 2-1728), is

amended by striking out "January" and inserting in lieu thereof "July".

So as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 441 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code sec. 47-101) as amended by Public Law 93-395 (88 Stat. 793) is further amended by adding at the end thereof: "However, the fiscal year for the Armory Board shall begin on the first day of January and shall end on the thirty-first day of December of each calendar year."

SEC. 2. Section 10 of the Act "To establish a District of Columbia Armory Board and for other purposes", approved June 4, 1948 (D.C. Code, sec. 2-1710), is amended by striking out "January" and inserting in lieu thereof "July".

SEC. 3. Section 10 of the District of Columbia Stadium Act of 1957, approved September 7, 1957 (D.C. Code, sec. 2-1728), is amended by striking out "January" and inserting in lieu thereof "July".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-225), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

#### PURPOSE OF THE LEGISLATION

The objective of S. 1062 is to allow the Armory Board of the District of Columbia—which manages Robert F. Kennedy Stadium, and the D.C. Armory—to operate under a fiscal year coinciding with the calendar year, rather than the October 1-September 30 schedule observed by other Government agencies. Such an exception would acknowledge and better accommodate the special, seasonal nature of the revenues earned by Board concerns, and would, in addition, simplify and improve the financial reporting required of that body.

#### BACKGROUND AND NEED FOR THE LEGISLATION

The three-member Armory Board was established by the Congress in 1948 (Public Law 80-605) to exercise control and jurisdiction over the District of Columbia National Guard Armory. Its authority to construct and operate the Robert F. Kennedy Stadium as well was granted in 1957, with passage of Public Law 85-300.

Both the aforementioned acts provided for the Board's submission each January of annual reports on the finances of the two facilities. In the succeeding years, however, experience has indicated that the purpose of such reports—provisions of a comprehensive and meaningful review of the financial status of stadium and armory—has not been well served by the Board's legal requirement, as an independent agency of the District government, to adhere to the fiscal year used by the city and Federal governments.

Under the existing October 1-September 30 system, revenues generated in a single season by the Board's most lucrative enterprise—football at Robert F. Kennedy Stadium—are divided illogically into 2 fiscal years and must

be treated accordingly, in two separate, annual reports. Thus: receipts from the first half of the autumn schedule are included in one report, those from the second half in the next one.

Such division substantially, and unnecessarily, complicates the Board's recordkeeping and reporting tasks, and can as well produce financial figures which may be misleading.

To reduce the susceptibility of its reports to misinterpretation and simplify the efforts required to produce them, the Armory Board has requested that its fiscal year be changed from the uniform period to the January 1-December 31 calendar year. The proposal has received the approval of the District's Office of Budget and Management Systems, Office of Municipal Audit and Corporation Counsel.

This change, which would be effected by passage of S. 1062, would necessitate a corresponding shift in the filing dates for the Board's reports to Congress.

As previously noted, existing law specifies that certain data regarding stadium and armory operations—financial statements, reports of activities and business in the preceding fiscal year, and recommendations concerning their future use and control—be submitted to Congress by the Board each January. Because use of a fiscal year ending December 31 would not allow sufficient time for preparation of materials due the following month, the Board has asked that S. 1062 be amended to move the filing date to July.

#### PROVISIONS OF S. 1062

Section 1 of the legislation would amend the District of Columbia Self-Government and Governmental Reorganization Act—commonly called the Home Rule Act—to exempt the Armory Board from the uniform use of an October 1-September 30 fiscal year required of all city government agencies. Instead, the Board's fiscal, budget and accounting year would extend from January 1 to December 31.

Section 2 of the bill, as amended, changes the filing date for the Board's annual reports concerning the National Guard Armory from January of each year to July.

Section 3 of the bill, as amended, effects an identical shift in the dates for submission of required reports on Robert F. Kennedy Stadium. Previously due in January, they would instead be filed annually, in July.

#### HEARINGS AND COMMITTEE VOTE

A hearing was held April 27, 1977, on S. 1062, by the Subcommittee on Governmental Efficiency and the District of Columbia of the Committee on Governmental Affairs. Robert Sigholtz, manager of the District of Columbia Armory Board, and Comer S. Cople, special assistant to the Mayor of the District of Columbia for budget and management systems, testified in support of the legislation; no statements or testimony in opposition were received.

The Committee on Governmental Affairs, by a unanimous vote, ordered the measure favorably reported on May 12, 1977, after discharging the subcommittee from further consideration of the bill.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE AND COMPARISON

No estimate and comparison of costs has been received by the committee from the director of the Congressional Budget Office pursuant to section 403 of the Congressional Budget and Impoundment Control Act of 1974.

#### COSTS

Enactment of the proposed legislation will involve no added costs for the Federal Government or for the government of the District of Columbia.

#### INFLATIONARY IMPACT

The bill, if enacted into law, will have no foreseeable inflationary impact on prices or costs in the operation of the national economy.

#### REGULATORY OR PRIVACY IMPACT

In accordance with rule XXIX there is no regulatory or privacy impact caused by this legislation.

#### GEORGE WASHINGTON UNIVERSITY

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 207.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1060) to amend the Act of February 9, 1821, to restate the charter of the George Washington University.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with amendments.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to en bloc.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That "An Act to incorporate the Columbia College in the District of Columbia", approved February 8, 1821 (6 Stat. 255), as amended and supplemented, is amended to read as follows:

#### "ESTABLISHMENT

"SECTION 1. There is established in the District of Columbia The George Washington University (hereafter in this Act referred to as the 'university') as a university and a body corporate which shall have perpetual succession.

#### "PURPOSES

"SEC. 2. The purposes of the university are—

"(1) to educate individuals in liberal arts, languages, sciences, learned professions, and other courses and subjects of study,

"(2) to conduct scholarly research and publish the findings of such research,

"(3) to operate hospital and medical facilities, and

"(4) to engage in any activity incidental to the foregoing purposes.

Such purposes shall be accomplished without regard to the race, color, creed, sex, or national origin of any individual.

#### "POWERS

"SEC. 3. In order to carry out the purposes of the university, the university may—

"(1) grant or confer academic and honorary degrees, diplomas, and certificates under the seal of the university,

"(2) establish any school, division, or department of learning to become a part of the university,

"(3) receive, invest, and administer any gift or endowment of money or real or personal property,

"(4) borrow money, with or without any security for repayment, at rates of interest determined by the board of trustees of the university without regard to the restrictions of any usury law, but may not plead any usury laws as a defense in any action,

"(5) enter into any agreement with any institution of learning for the purpose of providing to students registered at such institution the educational facilities of the univer-



sity and the facilities of any agency of the United States available to the university.

"(6) exercise all powers described in section 5 of the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-1005) on the date of the enactment of *The George Washington University Charter Restatement Act* and not inconsistent with the purposes of the university, and

"(7) exercise all powers necessary, incidental, or convenient to the conduct of the purposes, business, and affairs of the university.

#### "BOARD OF TRUSTEES"

"Sec. 4. (a) The management, direction, and government of the university shall be vested in a board of trustees (hereafter in this Act referred to as the 'board'). The bylaws of the university shall provide for the election, number, term of office, residency requirements, qualifications, manner of election, filling of vacancies, and removal of members of the board. The bylaws may provide that members of the board be elected to terms of office commencing on different dates. The bylaws shall provide for appointment of an executive committee and other committees composed of members of the board with any power and authority, including any power and authority of the board, provided for in the bylaws of the university.

"(b) Each individual who is a member of the board on the date of the enactment of *The George Washington University Charter Restatement Act* shall continue to serve as a member until the membership termination date applicable to such individual.

"(c) No bylaw of the university which establishes qualifications for membership on the board may permit any individual (except the president of the university) to serve as a member of the board during the period in which the individual is serving as an officer, professor, lecturer, teacher, tutor, or employee of the university.

#### "AUTHORITY OF THE BOARD OF TRUSTEES"

"Sec. 5. (a) The board shall be responsible for the exercise of all powers and the discharge of all duties of the university in a manner consistent with this Act, shall have full authority over all personnel and activities of the university, and may appoint or elect any person to serve as an officer, professor, lecturer, teacher, tutor, agent or employee of the university. Any person so appointed or elected may be removed by the board.

"(b) The board may, by a vote of two-thirds of the individuals then serving as members of the board, adopt, amend, or repeal any bylaw of the university for—

"(1) the conduct of the purposes, business, and affairs of the university, or

"(2) the regulation of the internal government of the university.

"(c) The board may, by a vote of two-thirds of the individuals then serving as members of the board, vote to merge with any other nonprofit organization."

SEC. 2. The amendments made by the first section of this Act constitute a complete restatement of the charter of the university and supersede all prior charter provisions contained in the Act of February 9, 1821 (6 Stat. 255) and all amendments and supplements thereto prior to the date of the enactment of this Act, without disturbing the present and continuing corporate status of the university.

SEC. 3. This Act may be cited as "*The George Washington University Charter Restatement Act*."

The title was amended so as to read: "A bill to amend the Act of February 9, 1821, to restate the charter of *The George Washington University*."

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent to have printed in the *RECORD* an excerpt from the report (No. 95-226), explaining the purpose of the measure.

There being no objection, the excerpt was ordered to be printed in the *RECORD*, as follows:

#### PURPOSE OF THE LEGISLATION

The objective of S. 1060, requested by the administration of the George Washington University, is to restate completely the school's charter, substituting a more adequate, flexible and modern document for the cumbersome and now-antiquated original granted in 1821.

Congressional action is required to effect the change, as it was by means of a statute enacted by Congress that the institution was established as a federally chartered university.

#### BACKGROUND AND NEED FOR THE LEGISLATION

On February 9, 1821, the Congress of the United States enacted the initial statute creating in the Nation's Capital the major, national university then known as Columbian College. The name was changed to "*The George Washington University*" on January 23, 1904—one of eight occasions on which the charter has been amended since its original enactment; other revisions were made in 1871, 1873, 1878, 1893, 1898, 1905 and, most recently, in 1970.

Had the act of 1821 contained the language provided in S. 1060, none of the eight amendments would have been required.

The basic changes contained in the legislation are intended to consolidate the original charter and subsequent amendments into a single, simple document with sufficient flexibility to accommodate the university's normal processes of change without requiring additional legislative action.

The primary purpose of S. 1060 is to confer upon the governing body of the university a modern, comprehensive charter, free of outdated and unnecessary restrictions included in the earlier version. For example, the existing charter requires that the majority of the members of the university's board of trustees be residents of the District of Columbia. As it is in the interest of the school to permit election to the board of those best qualified to serve, without reference to their places of residence, section 4(a) of the new charter provides in part that any such requirements be prescribed by the university's bylaws. The change is consistent with general corporate laws, including those of the District of Columbia, which do not require the trustees of nonprofit corporations to reside in any particular jurisdiction. See, e.g., 29 District of Columbia Code 1018 (1973 ed.).

This legislation also conforms to the university's wishes to preserve the longstanding and historical significance of its status as a school chartered by an act of the Congress of the United States.

The provisions of S. 1060 were passed by the Senate in the closing days of the 94th Congress, in the form of an amendment to H.R. 14971; the bill, however, was not enacted prior to the end of the session.

#### PROVISIONS OF 1060

Section 1 of the bill would amend the charter of *The George Washington University* by substituting entirely new language, summarized as follows:

Section 1 provides for establishment of the university and, as amended at the request of the institution, changes its name from "*George Washington University*" to "*The*

*George Washington University*" to conform with common usage.

Section 2 cites the school's purposes—education, research, operation of medical facilities—and states explicitly that a policy of nondiscrimination must govern its pursuit of those objectives.

Section 3 enumerates the specific powers of the university to control and direct its operations. An open ended authority over the conduct of the school's affairs also is granted.

Section 4 provides for creation of a board of trustees and its executive committee. The detailed requirements of the original charter—governing board membership, elections, duties and activities, and including the residency requirements cited previously—are replaced in this section by reference to university bylaws. Section 4(b) establishes the continuity of the existing board, according to the terms set upon appointment of current members. Subsection (c) prohibits all school employees, with the exception of the president of the university, from serving as trustees.

Section 5 vests in the board the powers granted the university in section 3, in addition to authority over school personnel and the university's bylaws (which may be changed upon approval of two-thirds of the board's membership). The trustees also are empowered to merge the university with other nonprofit organizations, again with the concurrence of two-thirds of the board.

Section 2 of S. 1060 directs that the language provided in section 1 supplant in toto the language of the act of 1821, as amended, serving as a complete and sufficient charter in itself. It also ensures the continuity of the school's corporate status despite the change in the institution's charter.

Section 3, as amended, entitles S. 1060 "*The George Washington University Charter Restatement Act*."

#### HEARINGS AND COMMITTEE VOTE

A hearing was held April 27, 1977, on S. 1060, by the Subcommittee on Governmental Efficiency and the District of Columbia, of the Committee on Governmental Affairs. Dr. Lloyd H. Elliott, president of *The George Washington University*, testified in support of the legislation on behalf of the school; no witnesses spoke in opposition.

The Committee on Governmental Affairs, by a unanimous vote, ordered the measure favorably reported on May 12, 1977, after discharging the subcommittee from further consideration of the bill.

#### CONGRESSIONAL BUDGET OFFICE AND COMPARISON

No estimate and comparison of costs has been received by the committee from the director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget and Impoundment Control Act of 1974.

#### REGULATORY AND PRIVACY IMPACT

In accordance with rule XXIX there is no regulatory or privacy impact involved in the passage of this legislation.

#### COSTS

The enactment of the proposed legislation will involve no added costs for the Federal Government or the government of the District of Columbia.

#### INFLATIONARY IMPACT

The bill, if enacted into law, will have no foreseeable inflationary impact on prices or costs in the operation of the national economy.

#### PAYMENTS FOR COLLEGE AND UNIVERSITY FACILITIES

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 208.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1063) to amend Public Law 93-198.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with amendments.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to en bloc.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 490 of the District of Columbia Self-Government and Governmental Reorganization Act is amended by adding the following:

"(f) Payments authorized or required to be made by or pursuant to any act authorizing the issuance of revenue bonds, notes, or other obligations for college and university facilities under this section shall be made without further authorization or approval."

The title was amended so as to read: "A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act."

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-227), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

#### PURPOSE OF THE BILL

The purpose of the bill, S. 1063, is to allow the proceeds of revenue bonds which have been sold under acts approved by the District of Columbia Council and the Congress to be remitted to entity for whose benefit the bonds were issued without further legislative action.

#### BACKGROUND AND NEED FOR LEGISLATION

The Home Rule Act for the District of Columbia, (Public Law 93-198), specifically authorizes that—

"The Council may issue revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance or assist in the financing of undertakings in the areas of housing, health facilities, transit and utility facilities, recreational facilities, college and university facilities, and industrial and commercial development."

The section further provides that—

"Any and all such bonds, notes or other obligations shall not be general obligations of the District and shall not be a pledge of or involve the faith and credit or the taxing power of the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings."

Under other provisions of the Home Rule

Act, all expenditures of the District government from its treasury must have the prior approval of Congress.

The District of Columbia on behalf of the members of the Consortium of Universities of Washington, D.C., is desirous of authorizing the issuance of revenue bonds which would have as their purpose the improvement of facilities of higher education in the District of Columbia. The bonds issued would be guaranteed by the institution of higher education which was receiving the benefit of the use of the funds.

During the course of the review of the steps required in order to successfully issue and market such bonds, bond counsel strongly advised the District that the elimination of the congressional approval of the transfer of the money to the benefiting college or university would improve the marketability of the bonds without in any way reducing the authority of the local and Federal Governments over the uses to which such bonds are put.

The District of Columbia government asked that the amendment contained in the legislation be made applicable to all types of revenue bonds. The committee decided that this might be too broad a delegation and that it was advisable to see how the delegation worked prior to increasing its scope.

#### PROVISIONS OF S. 1063

The bill would add a new subsection to the section of the Home Rule Act authorizing the issuance of revenue bonds to state that payments made pursuant to acts authorizing the issuance of revenue bonds may be made without further authorization or approval.

#### HEARING AND COMMITTEE VOTE

The Subcommittee on Governmental Efficiency and the District of Columbia held a hearing on S. 1063 on April 27, 1977. The Committee on Governmental Affairs unanimously ordered the bill reported on May 12, 1977, after discharging the subcommittee from further consideration of the legislation.

The District government and representatives of various colleges and universities testified in favor of the legislation. No one appeared or submitted a statement in opposition to the legislation.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE AND COMPARISON

No estimate and comparison of costs has been received by the committee from the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget and Impoundment Control Act of 1974. See cost estimate below by this committee.

#### COSTS

The enactment of this proposed legislation will involve no added costs to the District of Columbia government nor to the Federal Government.

#### INFLATION IMPACT

The bill, if enacted, will have no foreseeable inflationary impact on prices or costs in the operation of the national economy.

#### REGULATING OR PRIVACY IMPACT

In accordance with rule XXIX there is a regulating or privacy impact caused by this legislation.

#### DISTRICT OF COLUMBIA RECIPROCAL TAX COLLECTION ACT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 209.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1103) to permit States the reciprocal right to sue in the Superior Court of

the District of Columbia to recover taxes due the State.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with amendments as follows:

On page 2, beginning with line 16, strike through and including line 24, and insert the following:

Sec. 4. In any State, territory, or possession, or subdivision thereof, in which the District of Columbia is authorized under the laws of such State, territory, or possession, to bring suit for the purpose of recovering of such taxes, the Corporation Counsel or any of his assistants is authorized to bring such suit in the name of the District of Columbia in the courts of such State, territory, or possession, or subdivision. The Mayor of the District of Columbia is authorized, in connection with any such suit, to procure professional and other services, at such rates as may be usual and customary for such services in the jurisdiction concerned.

On page 3, line 12, strike "Act", and shall become effective as of the date of enactment of this act," and insert "Act";

So as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. Any State, territory, or possession, by and through its lawfully authorized officials, shall have the right to sue in the Superior Court of the District of Columbia to recover any tax lawfully due and owing to it when the reciprocal right is accorded to the district by such State, territory, or possession, whether such right is granted by statutory authority or as a matter of comity.

SEC. 2. The certificate of the secretary of state or other authorized official of any State, territory, or possession, or subdivision thereof, to the effect that the official instituting the suit for collection of taxes in the Superior Court of the District of Columbia has the authority to institute such suit and collect such taxes shall be conclusive proof of that authority.

SEC. 3. For the purposes of this title, the term "taxes" shall include—

(1) any and all tax assessments lawfully made, whether they be based upon a return or other disclosure of the taxpayer, or upon the information and belief of the taxing authority, or otherwise;

(2) any and all penalties lawfully imposed pursuant to a taxing statute, ordinance, or regulation; and

(3) interest charges lawfully added to the tax liability which constitutes the subject of the suit.

SEC. 4. In any State, territory, or possession, or subdivision thereof, in which the District of Columbia is authorized under the laws of such State, territory, or possession, to bring suit for the purpose of recovering of such taxes, the Corporation Counsel or any of his assistants is authorized to bring such suit in the name of the District of Columbia in the courts of such State, territory, or possession, or subdivision. The Mayor of the District of Columbia is authorized, in connection with any such suit, to procure professional and other services, at such rates as may be usual and customary for such services in the jurisdiction concerned.

SEC. 5. This title may be cited as the "District of Columbia Reciprocal Tax Collection Act".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.



Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-228), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

#### PURPOSE OF THE LEGISLATION

The proposed legislation would authorize the several States of the United States to sue in the Superior Court of the District of Columbia to recover any taxes lawfully due that State, if a reciprocal right is accorded to the District of Columbia.

#### BACKGROUND

At the present time, 44 states grant each other the reciprocal right to sue for taxes owing that state in the courts of the other states. There is no such law in the District of Columbia. The Congress has been requested to grant such a right on a reciprocal basis by the District of Columbia Government. It is the District's belief, as was indicated by the appropriate officials at the hearings, that the passage of this legislation would aid in the enforcement of the tax laws of the District of Columbia.

#### SUMMARY OF THE LEGISLATION

Section 1 authorizes any State, territory or possession to bring suit in the Superior Court of the District of Columbia to recover any tax lawfully due and owing to it, if a reciprocal right is accorded to the District by such State, territory or possession.

Section 2 indicates that the certificate of the secretary of state or other authorized official of that State, territory or possession of the effect that the official bringing the suit is so authorized by the State shall be conclusive proof of that authority.

Section 3 defines the term "taxes" to include (1) tax assessments, (2) penalties lawfully imposed, and (3) interest charges lawfully added to the tax liability.

Section 4, as amended, authorizes the Corporation Counsel of the District of Columbia to bring suit for the purposes of recovering taxes.

Section 5 states the short title of the bill.

#### HEARING AND COMMITTEE VOTE

The Subcommittee on Governmental Efficiency and the District of Columbia held a hearing on S. 1061 on April 27, 1977. The Committee on Governmental Affairs unanimously ordered the bill reported on May 12, 1977, after discharging the subcommittee from further consideration of the legislation.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE AND COMPARISON

No estimate and comparison of costs has been received by the committee from the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget and Impoundment Control Act of 1974. See cost estimate below by this committee.

#### COSTS

The enactment of this proposed legislation will involve no added costs to the District of Columbia government nor to the Federal Government.

#### INFLATIONARY IMPACT

The bill, if enacted into law, will have no foreseeable inflationary impact on prices or costs in the operation of the national economy.

#### REGULATORY OR INFLATIONARY IMPACT

In accordance with rule XXIX there is no right or privacy impact caused by this legislation.

#### "GIVE YOURSELF CREDIT: GUIDE TO CONSUMER CREDIT LAWS"

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 213.

The PRESIDING OFFICER. The concurrent resolution will be stated by title. The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 162) for the printing of twenty thousand additional copies of the subcommittee print of the Subcommittee on Consumer Affairs of the Committee on Banking, Finance, and Urban Affairs, entitled "Give Yourself Credit: Guide to Consumer Credit Laws."

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution was considered and agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-230), explaining the purposes of the measure.

There being objection, the excerpt was ordered to be printed in the RECORD, as follows:

House Concurrent Resolution 162 would provide (1) that the report by the Subcommittee on Consumer Affairs of the House Committee on Banking, Finance and Urban Affairs, entitled "Give Yourself Credit: Guide to Consumer Credit Laws" be printed as a House document; and (2) that there be printed 20,000 additional copies of such document for the use of the Subcommittee on Consumer Affairs.

The printing-cost estimate on House Concurrent Resolution 162, as agreed to by the House of Representatives, is as follows:

| Printing-cost estimate                                   |            |
|--|------------|
| To print as a document (1,500 copies) .....              | \$1,906.00 |
| 20,000 additional copies, at \$377.49 per thousand ..... | 7,549.80   |
| Total estimated cost, H. Con. Res. 162 .....             | 9,455.80   |

#### "U.S. PARTICIPATION IN INTERNATIONAL ORGANIZATIONS"

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 214.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 154) authorizing the printing of the committee print entitled "U.S. Participation in International Organizations" as a Senate document.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

Resolved, That the committee print of the Committee on Governmental Affairs entitled "U.S. Participation in International Organizations" be printed as a Senate document, and there be printed two thousand additional copies of such document for the use of the committee.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-231), explaining the purpose of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 154 would provide (1) that the committee print of the Committee on Governmental Affairs entitled "U.S. Participation in International Organizations" be printed as a Senate document; and (2) that there be printed 2,000 additional copies of such document for the use of that committee.

The printing-cost estimate, supplied by the Public Printer, is as follows:

| Printing-cost estimate                                  |            |
|---|------------|
| To print as a document (1,500 copies) .....             | \$2,073.29 |
| 2,000 additional copies, at \$420.62 per thousand ..... | 841.24     |
| Total estimated cost, S. Res. 154 .....                 | 2,914.53   |

A joint letter in support of Senate Resolution 154 addressed to Senator Howard W. Cannon, chairman of the Committee on Rules and Administration, by Senator Abraham Ribicoff and Senator Charles H. Percy, chairman and ranking minority member, respectively, of the Committee on Governmental Affairs, is as follows:

#### U.S. SENATE,

COMMITTEE ON GOVERNMENTAL AFFAIRS,  
Washington, D.C., May 2, 1977.

HON. HOWARD W. CANNON,

Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On April 27, 1977, we submitted, to the Senate, Senate Resolution 154 providing for the printing of 2,000 copies of the Committee Print entitled, "U.S. Participation in International Organizations" as a Senate document. The report represents the preliminary findings of a committee study undertaken pursuant to the Senate Rules which direct the Governmental Affairs Committee to study "the intergovernmental relationships . . . between the United States and international organizations of which the United States is a member."

This report represents the first overall congressional study of the specialized agencies of the United Nations and other similar international organizations since the Government Operations Committee looked into this area 25 years ago. In addition to providing a compilation of data regarding international organizations which is not available in any other document, the report identifies and analyzes a number of issues concerning U.S. participation in international organizations and reviews ways of improving our Government's participation in the organizations.

When the committee released the report in February it received numerous requests for copies. We distribute over 1,400 of the 1,500

copies available to us within 2 weeks and now have less than 30 copies on hand. We continue to receive additional requests for the publication which we have not been able to fill and we understand that the Government Printing Office has now exhausted its supply of 1,000 reports as well.

The committee feels that 2,000 additional reports are needed because of the continuing interest in this study. We would like to be able to fill requests; furthermore, we anticipate that when public hearings are held on the committee's work, there be many additional demands for this volume.

We respectfully request that the Senate Rules Committee approve Senate Resolution 154.

Sincerely,

ARE RIBICOFF,

Chairman.

CHARLES H. PERCY,

Ranking Minority Member.

#### PRIVILEGE OF THE FLOOR

Mr. FORD. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during consideration of S. 957: Thomas Allison, Dan Jaffe, Ed Merlis, Mal Sterrett, Steve Halloway, and Amy Bondorant.

#### PEACE CORPS ACT AMENDMENTS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 142.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1235) to further amend the Peace Corps Act.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Foreign Relations with amendments as follows:

On page 1, line 6, strike "and for fiscal year 1979 such sums as may be necessary" and insert "not to exceed \$84,800,000";

On page 2, beginning with line 1, strike "years 1978 and 1979" and insert "year 1978";

On page 2, line 2, strike "years 1978 and 1979 such sums as may be necessary" and insert "year 1978 \$1,000,000";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b)) as precedes the first proviso thereof is amended to read as follows: "There are authorized to be appropriated for fiscal year 1978 not to exceed \$84,800,000 to carry out the purposes of this Act."

SEC. 2. Section 3(c) of the Peace Corps Act (22 U.S.C. 2502(c)) is amended to read as follows:

"(c) In addition to the amounts authorized for fiscal year 1978, there are authorized to be appropriated for fiscal year 1978 \$1,000,000 for increases in salary, pay, retirement, or other employee benefits authorized by law."

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. CRANSTON. Mr. President, I move

to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### QUORUM CALL

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. JOHNSTON). Without objection, it is so ordered.

#### WITHDRAWAL OF U.S. TROOPS FROM KOREA

Mr. THURMOND. Mr. President, it was with a degree of shock that I read in the Wednesday, May 25 issue of the Washington Evening Star that President Park of Korea had been informed all U.S. ground forces would be removed from that country over the next 4 years.

Just last week I was briefed on this subject by the President's representatives, Chairman of the Joint Chiefs of Staff, Gen. George Brown, and Ambassador Philip C. Habib.

At no time during our conversation was it indicated to me that all 33,000 U.S. ground forces were in the plans for removal from Korea.

It was my impression that some units of the Army's 2d Division would be removed in a gradual drawdown and that further withdrawals would not be made until a study of the situation at that time was carefully conducted.

Mr. President, I am opposed to the withdrawal of any significant number of troops from Korea and so advised General Brown and Ambassador Habib. It is my understanding that my views on this subject are shared not only by practically all military officers, but many key Members of the Congress, as well.

In 1974 I visited Korea and at that time U.S. Forces there amounted to about 30,000 Army troops, 7,500 Air Force personnel, 200 Navy personnel, and 50 Marines.

Today current Defense Department charts show the following breakout of U.S. Forces in Korea as follows: Army, 33,000; Air Force, 7,200; Marines, 300; and Navy, 200.

Mr. President, it is easy to see from the above cited figures that the plan is to reduce U.S. Forces in Korea by over three-fourths. In my judgement, this would be a serious mistake and could invite a North Korean attack which may involve us again in a war on the Asian continent. This is the last thing we want or need.

The Army today is structured at 16 divisions, and needs to stay at that level. Moving the 2d Division to some other location will not save money, but rather cost money initially. We are, therefore, asking for trouble in Korea without gaining any benefits whatsoever.

In 1974 Senator WILLIAM SCOTT joined

me in visiting Korea and we filed with the Senate Armed Services Committee a report which was published as a committee print. I ask unanimous consent that the portion of our report on Korea be inserted in the Record following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. THURMOND. It disturbs me that the U.S. military leaders in Korea were not consulted reference the advisability of this move. Further, they have been given no rationale for the withdrawal. Most military and defense opinion in Washington is opposed to the withdrawal, and it therefore appears to be a strictly political decision based on a campaign promise.

I have the greatest respect for President Carter. I know he wants only what is best for our country. However, one would think the Secretary of Defense would give him the military opinion of the Korean withdrawal before he makes a final decision. As Commander-in-Chief he should demand such opinion. It is my understanding the Joint Chiefs were never asked to comment on the withdrawal of the 2d Division, but rather to merely give options to that withdrawal.

No one denies that the North Koreans have a clear overall military superiority on that divided peninsula. That government is one of the most militant Communist dictatorships in the world. Their leader, Kim Il-Sung, frequently vows to liberate Korea. Their brutality is well known as evidenced by the hatchet slayings of American officers some months ago. The tunnels they dug into South Korea are but another example of the way they operate. They have attempted to assassinate President Park. The list of their deeds is endless and infamous.

The American public should never forget that North Korean forces along the truce line in Korea are but 20 miles from the South Korean capital. A surprise attack could wipe out the South Korean Government overnight. It is a dangerous situation, and will remain so as long as the present government maintains power in North Korea.

Mr. President, I have written President Carter, urging he go slow on his plans and hopefully reverse his decision. In making his decision I urge him to consult directly with his military officers, both in Korea and Washington. Direct consultation is necessary when important decisions are to be made.

Mr. President, I am frankly disturbed by reports reaching me that our military leaders are not being consulted on important military matters, such as Korea and SALT. While civilian authority is the final authority, the new policy of not consulting with military advisers is a very dangerous approach to decision-making.

The Senate Armed Services Committee should hold hearings on Korean troop withdrawals, if necessary, to establish the risks of such withdrawals and what is taking place in the decisionmaking councils of the Defense Department. Such hearings are essential if serious matters are to be managed as they have been managed in the Korean situation.



It is unfortunate that an outstanding officer such as Maj. Gen. John K. Singlaub has been caught up in the controversy regarding Korean withdrawals. Had his views and those of the other commanders in Korea been sought in the proper way, he probably would not have stumbled into his present situation. Certainly he and other officers in Korea must be frustrated that the administration's policy decisions on troop withdrawals would be made without the views of the soldiers on the line of resistance.

Mr. President, in conclusion, I ask unanimous consent that three articles be printed in the RECORD at the end of my remarks. These include articles on May 25 by Rowland Evans and Robert Novak entitled, "A Muzzle on the Military?" in The Washington Post; by James Wiegart entitled, "Korea: Silencing the General, Not the Debate" in the New York News; and by Vernon A. Guldry, Jr., entitled, "Singlaub Cites Wide Objection to U.S. Pullout" in the Washington Star.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From The Washington Post, May 25, 1977]  
A MUZZLE ON THE MILITARY?

(By Rowland Evans and Robert Novak)

Just as President Carter was publicly rebuking Maj. Gen. John K. Singlaub, resentment among senior military officers was given a stronger impetus when the Joint Chiefs of Staff belatedly learned about the latest proposal for the strategic arms limitation talks.

The JCS was briefed only last week on the new U.S. arms-control plan some two weeks after it was submitted to the Russians. The new proposals embrace basic questions of U.S. military strength, including retarded development of the cruise missile. That has generated rising resentment among senior officers that reaches into the JCS itself.

This is similar to both the cause and the underlying meaning of the Singlaub affair. His out-of-order public criticism of troop withdrawals from Korea reflected widespread frustration among the generals for not having been consulted in shaping that policy. So, in both Korea and SALT, the military's complaint is not so much that it disagrees with a policy but that it is ignored in policy formation.

Herein lies an unhealthy situation not fully comprehended at the White House. While nobody questions civilian supremacy, senior officers grumble that they are given no chance to submit their views but are simply handed a completed policy—along with a muzzle.

Oddly, JCS Chairman George Brown plays no part in this simmering revolt. Kept at his post by sufferance of President Ford and now Carter after his string of indiscreet public remarks, Brown wants to serve out his term without further trouble. But other senior officers, including members of the chiefs, want a greater policy voice. Gen. Bernard Rogers, Army Chief of Staff, has pushed particularly hard for a military role in SALT policymaking.

The Army is at the center of Pentagon discontent mainly because of concern with Korea. When Carter entered office, he did not ask the Pentagon's advice on whether to remove troops from South Korea but merely requested their comments on the best way to do it (as he did on his plan for drastic mutual reduction in long-range missiles).

The troop withdrawal had been decided on by Carter long before he became President. Admittedly a novice in foreign affairs, candidate Carter based his decision more on the imperatives of presidential politics than any exhaustive study of the Korean situation.

Singlaub's view stated to The Washington Post that Carter's Korean policy will lead to war is nearly universally shared by other U.S. generals, as well as many of the most politically sensitive Japanese. Since the understrength U.S. 2nd Infantry Division is obviously not a significant military factor, the question is whether its departure along with U.S. support troops, will be interpreted by Communist North Korea as an invitation to attack. While the debate clearly has two sides, the generals resent not having a chance to argue their case.

That resentment was intensified by the President's ordering Singlaub to the Oval Office. Old hands in Washington were amazed that the President had chosen public humiliation of a distinguished officer when a quiet reprimand and transfer would have sufficed.

To some officers, it appeared Carter was seeking to emulate Harry Truman's historic sacking of Gen. Douglas MacArthur. But MacArthur was a major political figure who repeatedly defied his President; Singlaub is a subordinate (third-ranking officer in Korea) guilty of one indiscreet interview. Actually, senior officers are even more concerned about the sudden exclusion of the military from SALT policymaking. While the Pentagon helped prepare Secretary of State Cyrus Vance's negotiating position in Moscow, it had no part in devising the new, softer stand in Geneva.

The possibility of a pattern here is suggested by the downgrading of military intelligence units, putting the CIA in a monopolistic status. While deprived of a full advisory voice before positions are taken, the officers are barred by the Constitution from commenting afterwards—as John Singlaub has learned.

The gagged condition of the military contrasts starkly with the rest of the open-mouthed administration, most conspicuously Secretary of Labor Ray Marshall criticizing the President's economic policies and U.N. Ambassador Andrew Young saying whatever comes to his mind. At a time of U.S. military decline in relation to the Soviet Union, this anomaly breeds angry frustration among the military.

[From the New York News, May 25, 1977]

KOREA: SILENCING THE GENERAL, NOT THE DEBATE

(By James Wiegart)

WASHINGTON.—The burst of favorable reaction President Carter received for sacking Maj. Gen. John K. Singlaub as chief of staff for U.S. army forces in South Korea is symptomatic of why American Presidents, at least most recent ones, prefer foreign policy over domestic policy.

With the exception of a few disgruntled Republican conservatives like Ronald Reagan, who called Carter's action "disgraceful," most everyone applauded Carter's decisive move against Singlaub following the general's comment that the President's plan to gradually withdraw U.S. forces from South Korea "would lead to war."

Democrats like former Defense Secretary Robert McNamara thought Carter handled Singlaub's insubordination "just right." By acting swiftly and firmly and not too harshly (after all, Carter only removed Singlaub, he didn't fire him), the President strengthened the principle of civilian control over the military and he sent a message to the top brass to keep their noses out of politics.

Former Defense Secretary Melvin R. Laird, a Republican also backed Carter, but understandably with less zeal, Laird and former President Gerald Ford are less sanguine about the ultimate wisdom of withdrawing all U.S. troops from South Korea, but they certainly stand four square behind the notion that the President, as Commander-in-Chief, should be obeyed by the military once

he makes a decision. So, out with Singlaub, a 34 year veteran of three wars. Never mind that he regretted his remarks and did not intend them for publication. Also, never mind the possibility that Singlaub might just be right and Carter wrong about the wisdom of withdrawing the American forces.

Now in what domestic problem area could Carter act so forcefully, so dramatically and so swiftly where the ultimate wisdom of his action is in serious question, without precipitating a wave of opposition and dissent? Certainly not on energy, or tax policy or welfare reform or national health care. Probably not even in such blander areas as government reorganization or farm policy.

It's not because domestic problems are more intractable or controversial that Presidents seem to have greater freedom of action in dealing with foreign policy issues. What's more complicated than trying to keep the peace between two nations bent on destroying each other and is more stirring to the emotions than the threat of conflict?

It's just that foreign policy issues seem more remote and less urgent than problems at home and Presidents have traditionally (and Constitutionally) been given more freedom of action in the world arena. The trouble with all this table-thumping applause for Carter's clampdown on Singlaub is that it gives the impression that Singlaub's position that the presence of 42,000 U.S. troops in South Korea is a major factor in keeping the peace in that area of the world and their withdrawal could trigger a resumption of the fighting between North and South, is without merit.

For another set of reasons, I do not feel constrained to join in the hosannas for the misfortune visited upon the general, who is after all, a man and not a symbol. In the first place, Singlaub clearly had no intention of being insubordinate. Unlike Gen. MacArthur, Singlaub did not publicly repudiate an order from his Commander-in-Chief. He tried to make that clear in the hubbub that followed the Washington Post story.

But more importantly there is a possibility that Singlaub's assessment is right and Carter's is wrong. There is no question that, next to the Middle East, the most dangerous place in the world today—in terms of a potential conflict that could rapidly involve the major powers—is the Korean peninsula, with Tokyo, Peking and Vladivostok less than one hour away by jet. Korea is obviously a strategic piece of real estate. Both North and South are armed to the teeth and headed by military dictators anxious to reunite the country, by force if necessary. North Korean Premier Kim Il Sung is particularly dangerous, being both belligerent and unstable. Finally, the United States is directly committed to come to South Korea's aid if attacked and North Korea probably has a similar treaty arrangement with the Soviet Union.

The 42,000 American troops in Korea not only contribute towards keeping the peace there, but they are concrete evidence of the U.S. commitment to remain a Pacific power—an important consideration to the value of continued good relations with the United States on the part of both Japan and the Peoples Republic of China.

It would be unfortunate if the removal of Singlaub is taken as a signal that the debate and discussion over Carter's decision to pull out of Korea is now over.

[From the Washington Star, May 25, 1977]

SINGLAUB CITES WIDE OBJECTION TO U.S. PULLOUT

(By Vernon A. Guldry, Jr.)

Maj. Gen. John K. Singlaub said today that no American officer in a responsible position in South Korea agrees with the Carter administration's plan to withdraw all U.S. ground troops there.

Singlaub testified before the House Armed

Services subcommittee on investigations. He repeated his own estimate that withdrawal would mean war with North Korea.

(In Seoul, President Carter's two special envoys, Philip C. Habib and Gen. George S. Brown, today told President Park Chung Hee of plans to withdraw 33,000 American troops from Korea in four to five years, the Associated Press reported.)

(Park did not welcome the plan, but agreed to accept it as America's "established policy," an aide said. He said Park asked for U.S. help in strengthening South Korea's military.)

Singlaub, who was fired from his job as chief of staff of U.S. forces in Korea by President Carter and recalled to this country, said it was the opinion of senior officers of the South Korean armed forces that withdrawal of the U.S. ground troops would mean "flat-out, clearly, unequivocally" that North Korea would attack.

Singlaub said that on purely military grounds "I agree with that." The general said that it also was his impression that senior U.S. civilian officials also believed the withdrawal of American ground forces to be a mistake.

Subcommittee Chairman Samuel S. Stratton, D-N.Y., asked Singlaub if the "overwhelming majority" of official Americans in Korea opposed withdrawal.

"That is absolutely correct," he replied.

What then was the reason for the withdrawal, Stratton wanted to know.

Singlaub said the Korean command wanted to know that, too.

The general continued that requests from the Korean command for a rationale for the withdrawal had brought no response, including a query directed to the Joint Chiefs of Staff.

Singlaub did not accept the proposition that the balance of forces between North and South Korea would permit withdrawal. He said there was "a clear military superiority of the North over the South" that would only be worsened by withdrawal of U.S. ground troops.

The general was fired from his post after an interview in which he expressed similar views was published in the Washington Post. Today he said he had thought his remarks to a reporter were "on background," a phrase that indicates the information may be printed but not attributed to the speaker by name.

"I realize that some will believe that regardless of whether I thought that my remarks were for non-attribution my aim was still the same—to take issue with our country's stated national security policy. However, I can state categorically that such was not my intent," the general said.

He said that as a professional military officer he supports the administration's policy. His contrary testimony was prompted under a convention of congressional testimony spelled out by Stratton. That permits committee members to solicit the personal views of military men after they have testified in favor of whatever it is their bosses want to do.

#### EXHIBIT 1 B. KOREA

1. Summary of Findings.—We found North Korea the most intransigent and Stalinist of all Communist nations, and remains intent on expanding its control into South Korea. This is evidenced by the recent discovery of a tunnel constructed beneath the demilitarized zone. President Park estimated as many as 6,000 men could be moved through this tunnel within a one-hour period. U.S. military officials stated the North Korean forces are tough, well-trained, highly disciplined and its Air Force is markedly larger than that of the Republic of Korea. In the event of attack by North Korea, U.S. forces probably would be involved from the beginning, to a minor degree, in a self-defense role.

U.S. military forces in South Korea total approximately 37,000. Three-fourths are Army personnel with the major tactical unit being the 2d Infantry Division. Other large units, organized under General Stilwell's 8th Army forces, include support, air defense and missile units.

The U.S. Air Force has some 7,500 personnel in South Korea, distributed among a division headquarters, two tactical fighter wings, one equipped with F-4Ds and a composite wing with F-4Es and OV-10s.

The U.S. Navy has operational control of all naval forces. These forces consist entirely of Republic of Korea personnel and equipment. U.S. Navy strength is about 225.

All forces are under a United Nations umbrella, although only two nations, the U.S. and South Korea, are actually participating. This situation is related to the fact that the Korean War ended in a truce as opposed to a final settlement.

The troubling aspect of the military situation is that the DMZ is about 25 miles from Seoul and an all-out thrust would immediately endanger South Korea's capital city. Further, such a thrust in all probability, would require the use of air power not now in country.

2. Recommendations.—We recommend for consideration by the appropriate and responsible authorities the following actions:

(a) That further headquarters reductions be undertaken and some transfers of various defense missions to the Republic of Korea be considered.

(b) That there be no decrease in U.S. Air Force units until modernization and expansion of the ROK Air Force is completed.

(c) That the newly consolidated U.S. headquarters now establish a combined headquarters with the Republic of Korea Armed Forces.

(d) That the Honest John elements of the 4th Missile Command be retained.

(e) That the U.S. 2d division be designated as a PACOM contingency force and that the division or portions thereof, occasionally deploy to other Pacific areas on training exercises.

(f) That the U.S. 2d Division be augmented with additional air mobile assets.

(g) That USAF tactical aircrews fly more close air support training sorties under the direction of ROK controllers, either air or ground.

(h) That the ROK Armed Forces modernization plan be adequately funded and there be no slippage from the currently approved schedule.

(i) That special attention and emphasis be given to improving the ROK Armed Forces tactical and secure communication equipment and capability.

(j) That the I Corps (US-ROK) Group be turned over to ROK control.

#### ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages

from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGES FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House agrees to the amendments of the Senate numbered 1 and 3 to the bill (H.R. 5306) to amend the Land and Water Conservation Fund Act of 1965, and for other purposes; and the House agrees to the amendment of the Senate numbered 2 with an amendment in which it requests the concurrence of the Senate.

The House agrees to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 8, 9, and 10 to the bill (H.R. 5040) to authorize additional appropriations for the Department of State for fiscal year 1977; and the House agrees to the amendment of the Senate numbered 7 with an amendment in which it requests the concurrence of the Senate.

The House disagrees to the amendment of the Senate to the bill (H.R. 2) to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. UDALL, Mr. PHILIP BURTON, Mr. SEIBERLING, Mr. RONCALIO, Mr. BINGHAM, Mr. SKUBITZ, and Mr. BAUMAN were appointed managers of the conference on the part of the House.

The House disagrees to the amendment of the Senate to the bill (H.R. 4991) to authorize appropriations for activities of the National Science Foundation, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. TEAGUE, Mr. THORNTON, Mr. FUQUA, Mr. HARKIN, Mr. KRUEGER, Mr. WYDLER, and Mr. HOLLENBECK were appointed managers of the conference on the part of the House.

The House disagrees to the amendment of the Senate to the bill (H.R. 4991) to authorize appropriations for activities of the National Science Foundation, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. TEAGUE, Mr. THORNTON, Mr. FUQUA, Mr. HARKIN, Mr. KRUEGER, Mr. WYDLER, and Mr. HOLLENBECK were appointed managers of the conference on the part of the House.

The House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 6884. An act to amend the Foreign Assistance Act of 1961 to authorize international security assistance programs for fiscal year 1978, to amend the Arms Export Control Act to make certain



changes in the authorities of that Act, and for other purposes.

#### COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC-1391. A letter from the Assistant Secretary of Defense transmitting, pursuant to law, notice of the intent to obligate \$17.4 million of funds available in the DoD Stock Fund for war reserve inventory for the Marine Corps (with an accompanying report); to the Committee on Appropriations.

EC-1392. A letter from the Assistant Secretary of Defense transmitting, pursuant to law, a listing of contract award dates for the period May 15, 1977 to August 15, 1977 (with an accompanying report); to the Committee on Armed Services.

EC-1393. A letter from the Deputy Secretary of Agriculture transmitting a draft of proposed legislation to amend Title V of the Housing Act of 1949 (with accompanying papers); to the Committee on Banking, Housing, and Urban Affairs.

EC-1394. A letter from the President of the National Academy of Sciences transmitting, pursuant to law, a summary report on drinking water and health (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC-1395. A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, Energy Action No. 12 to establish targets of 250 million barrels of oil in storage by the end of 1978 and 500 million barrels of oil by the end of 1980 (with an accompanying report); to the Committee on Energy and Natural Resources.

EC-1396. A letter from the Acting Assistant General Counsel for International, Conservation and Resource Development Programs for the Federal Energy Administration transmitting, pursuant to law, notice of a meeting related to the International Energy Program (with an accompanying attachment); to the Committee on Energy and Natural Resources.

EC-1397. A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, the monthly report on gasoline service station market shares for January 1977 (with an accompanying report); to the Committee on Energy and Natural Resources.

EC-1398. A letter from the Secretary of Transportation transmitting a revised version of the estimate of the cost of completing the National System of Interstate and Defense Highways (with an accompanying report); to the Committee on Environment and Public Works.

EC-1399. A letter from the Attorney General of the United States transmitting, pursuant to law, notice of the proposal to alter a system of records maintained by the Civil Division, in accordance with the Privacy Act (with an accompanying report); to the Committee on Governmental Affairs.

#### PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions which were referred as indicated:

POM-207. A petition from Grace Emerson, Palm Springs, California urging the President and Congress of the United States to stop the surrender of the Panama Canal by the United States of America; to the Committee on Foreign Relations.

POM-208. A concurrent Resolution adopted by the Legislature of the State of South Carolina requesting the Immigration and Naturalization Service of the United States

Department of Justice to reevaluate and change its decision revoking the application for citizenship of Dr. Kostadin Vaklev and allow him to render vital medical services to the residents of Jasper County; to the Committee on the Judiciary:

#### "CONCURRENT RESOLUTION

"Whereas, it is an accepted fact that there is a need for doctors in the rural areas of the State and Nation; and

"Whereas, Jasper County had the good fortune of locating and obtaining the services of an able and qualified medical practitioner, Dr. Kostadin Vaklev, who was an alien, coming to Jasper County from the Bahama Islands; and

"Whereas, for the first time in recent history the residents of Jasper County were able to obtain the services of a medical doctor without the necessity of going out of the county; and

"Whereas, Dr. Vaklev, believing that he had complied with the requirements of the United States Immigration and Naturalization Service and would in due time become a citizen of the United States, without knowing the consequences of his action, returned to the Bahama Islands for the purpose of moving his personal effects to Ridgeland in Jasper County; and

"Whereas, this action was a technical violation of the immigration and naturalization laws, which resulted in the revocation of his application for citizenship and a notice from the Immigration and Naturalization Service that he would have to leave the country in the near future; and

"Whereas, the people of Jasper County will suffer a great loss if this outstanding doctor is forced to leave the Jasper County community because of an innocent act.

"Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

"That the Immigration and Naturalization Service of the United States Department of Justice is hereby requested to reevaluate and change its decision to revoke the application for citizenship of Dr. Kostadin Vaklev and allow him to continue to render vital medical services to the people of Jasper County.

"Be it further resolved that a copy of this resolution be sent to the Attorney General of the United States, the head of the Immigration and Naturalization Service of such department, the Vice President of the United States, the Speaker of the United States House of Representatives and each member of Congress representing South Carolina."

POM-209. Resolution No. 26-18-1977 adopted by the Saipan Municipal Council, Saipan, Mariana Islands congratulating the President of the United States and the Members of the Ninety-Fifth United States Congress on their election, and offering them the best wishes of the People of Saipan throughout the course of their respective terms; ordered to lie on the table;

#### "A RESOLUTION

"Whereas, on November 9, 1977, the people of the United States of America elected James Earl Carter as their Thirty-Ninth President, and elected the Ninety-Fifth United States Congress; and

"Whereas, in their election of President Carter and the Members of the U.S. Congress, the people of the United States reaffirmed their faith in democracy and their hope and desire that the United States of America might continue as the greatest nation in the world; and

"Whereas, in President Carter and the Members of the U.S. Congress, the people of America can be assured that their highest elective officials will do their utmost to assure the continued progress of American society toward the fulfillment of the aspirations of the people; and

"Whereas, the people of the Municipality of Saipan, as constituents of the newest member of the United States Political Fam-

ily, wish to express their congratulations and best wishes to the President and the Congress, now, therefore,

"Be it resolved by the Twenty-Sixth Saipan Municipal Council, Second Regular Session, 1977, that the Council, on behalf of the people of Saipan, Northern Mariana Islands, hereby extends its sincere congratulations and best wishes to President James Earl Carter upon his election as the Thirty-Ninth President of the United States, and to the Members of the Ninety-Fifth United States Congress upon their election, and extends its best wishes for a fruitful and productive term of office; and

"Be it further resolved, that certified copies of this Resolution be transmitted to the President of the United States, to the President of the United States Senate, and to the Speaker of the United States House of Representatives."

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERT C. BYRD (for Mr. McCLELLAN), from the Committee on Appropriations:

Report entitled "Allocation to Subcommittees of Budget Totals from the First Concurrent Resolution for Fiscal Year 1978" (Rept. No. 95-232).

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Human Resources.

Eleanor Holmes Norton, of New York, to be a member of the Equal Employment Opportunity Commission.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. EASTLAND, from the Committee on the Judiciary:

Robert L. Wright, of Kentucky, to be U.S. marshal for the western district of Kentucky.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. STENNIS, from the Committee on Armed Services:

Robert L. Nelson, of the District of Columbia, to be an Assistant Secretary of the Army.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. STENNIS, Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nominations of Gen. William E. DePuy, U.S. Army, to be placed on the retired list in the grade of general; and Lt. Gen. Henry E. Emerson, U.S. Army, to be placed on the retired list in the grade of lieutenant general; and Lt. Gen. Walter T. Galligan, U.S. Air Force, to be placed

on the retired list in the grade of lieutenant general. Also, Maj. Gen. Benjamin N. Bellis, U.S. Air Force, to be lieutenant general; and Vice Adm. Edwin K. Snyder, U.S. Navy, for appointment to the grade of vice admiral on the retired list; and 21 in the Marine Corps and Marine Corps Reserve for appointment to the grade of major general and brigadier general—list beginning with Warren R. Johnson. Also, Lt. Gen. Sanford K. Moats, U.S. Air Force, to be placed on the retired list in the grade of lieutenant general. Also, Adm. Daniel J. Murphy, U.S. Navy, for appointment to the grade of admiral on the retired list. I ask that these nominations be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. In addition, there are 133 in the Air Force for promotion to the grade of colonel—list beginning with Lee F. Bernhard; and 867 U.S. Air Force Academy cadets for appointment in the Regular Air Force in the grade of second lieutenant—list beginning with Randy D. Abele; and 366 in the Reserve of the Army for promotion to the grade of colonel and below—list beginning with John C. Avampato. Also, there are 276 in the Navy for temporary and permanent appointment to the grade of commander and below—list beginning with Albert J. Werr; and 20 in the Navy for appointment to the grade as permanent and temporary lieutenants and ensigns—list beginning with George B. Foley. Also, there are 4,247 in the Navy for permanent promotion to the grade of lieutenant—list beginning with Roy Vernon Aasen. Also, 853 midshipmen from the U.S. Naval Academy to be permanent ensigns in the Navy—list beginning with Philip J. Aarons. Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of May 13 and 24, 1977, at the end of the Senate proceedings.)

#### BILL PLACED ON CALENDAR

The following bill was read twice by its title and ordered placed on the Calendar:

H.R. 6884. An act to amend the Foreign Assistance Act of 1961 to authorize international security assistance programs for fiscal year 1978, to amend the Arms Export Control Act to make certain changes in the authorities of that Act, and for other purposes.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BENTSEN:

S. 1609. A bill to amend the Tariff Schedules of the United States to increase from \$100 to \$300 the value of articles which may be imported duty free by, or for the account

of, any person arriving in the United States who is a returning resident of the United States; to the Committee on Finance.

By Mr. ALLEN (for himself and Mr. CRANSTON):

S. 1610. A bill to authorize the payment of attorneys' fees in tax cases; to the Committee on the Judiciary.

By Mr. CULVER:

S. 1611. A bill to amend the Internal Revenue Code of 1954 to provide for a deduction for additions to a reserve for product liability losses; to the Committee on Finance.

By Mr. DECONCINI (by request):

S. 1612. A bill to enlarge and amend the trial jurisdiction of United States magistrates in misdemeanor cases; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself and Mr. ROBERT C. BYRD):

S. 1613. A bill to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of United States magistrates, and for other purposes; to the Committee on the Judiciary.

By Mr. HAYAKAWA (for himself, Mr. DOLE, Mr. DOMENICI, Mr. McCLEURE, Mr. TOWER, Mr. YOUNG, and Mr. ZORINSKY):

S. 1614. A bill to establish the Western States Conservation Program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JOHNSTON:

S. 1615. A bill to amend the Federal-Aid Highway Act of 1973 in order to increase the Federal share of the cost of certain railroad highway crossing demonstration projects; to the Committee on Environment and Public Works.

By Mr. CLARK:

S. 1616. A bill to establish a national policy concerning agricultural, range, and forest land; to establish on Agricultural Land Review Commission; to establish a demonstration program for protecting agricultural, range, and forest land from being used for nonagricultural purposes; and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CULVER.

S. 1611. A bill to amend the Internal Revenue Code of 1954 to provide for a deduction for additions to a reserve for product liability losses; to the Committee on Finance.

Mr. CULVER. Mr. President, the legislation I introduced today would make it possible for businesses to receive a tax deduction for funds reserved to pay losses on product liability claims.

This bill, together with the reinsurance bill Senator NELSON and I introduced on January 30 (S. 527), responds to the threat to the business community posed by difficulties in obtaining product liability insurance.

Under the present tax code, businesses are, with a very few exceptions, generally prohibited from taking a tax deduction for reserves against losses. Thus, while a business may deduct the amount of premiums paid to an insurer for liability protection, the same amount placed into a reserve account to provide such protection would not receive the same tax treatment.

There is more at stake here, however, than matters of tax equity. In circumstances where insurance is readily available in the private market, one might argue that protection is most appropriate

through the transferral of the product liability risk to the insurance market; thus there would be little need for a mechanism by which businesses could more easily retain the risks associated with their product liability. But the Senate Small Business Committee has heard testimony from many observers who contend that product liability insurance is not readily available in the market.

As my colleagues on the committee well know, the declining availability and increasing costs of product liability coverage is a serious threat to many sectors of our economy, and is particularly keenly felt by the small business. Mr. President, I hear every day from small firms, both in Iowa and throughout the country, who tell me that they cannot find product liability insurance.

Even those who contend that, with hard work, most firms can obtain product liability insurance, admit that premiums for this coverage have become extremely burdensome. There is, of course, a point at which the high cost of insurance can make it virtually unavailable to a business firm. What are these firms to do? They have but two choices: pay-as-you-go liability or establishment of a loss reserve account.

The first choice has the obvious disadvantage that the business courts bankruptcy if its losses in a year exceed its ability to absorb the payout from current cash flows. It may have to borrow against, or sell, assets in order to meet losses on a contingent basis. Certainly, if a firm retains its risk on this basis, it becomes a matter of chance whether funds will be available to compensate injured parties for damages.

A limited survey conducted in the course of its insurance study by the Interagency Task Force on Product Liability identified approximately 184 firms that are without product liability coverage. The number of uninsured companies nationwide is far higher than this and, according to information compiled by the National Federation of Independent Businesses, could be as high as 40 percent of all small manufacturers. Some method must be found to facilitate the ability of these small firms to self insure against their product liability losses. A firm that is unable to obtain needed insurance coverage should have an option other than the roulette wheel route to bankruptcy. At least it should be able to hedge its bet.

This is the business' second choice: it may carry its product liability risk by setting aside funds in advance of any losses. Thus, a firm may protect itself to some extent by estimating its anticipated losses and providing for the payment of those losses on a regular basis.

The bill that I offer today would facilitate this ability to self-insure by providing that contributions to a retention fund to cover product liability losses can be deducted in the calculation of a firm's Federal income tax liability. A firm's self-retention for product liability risks would thereby receive the same tax treatment as its risk transferral to an insurer. Losses incurred under such a self-retention program are deductible, but because they may be spread irregularly over time,



they may have less favorable tax consequences than regular distributions. The proposed legislation provides a tax deduction when the loss is reserved rather than when it is incurred.

The amount which can be reserved for product liability in any given year is limited to 3 percent of gross sales of that product. This amount is comparable to what the most seriously affected manufacturers are now paying in product liability insurance premiums. The reserved funds would be available only for product liability payments, and withdrawals for any other purpose would be subject to a stiff penalty.

Aside from making self-insurance a more realistic option, the bill I introduce would have several other benefits. For example, many larger corporations purchase insurance when they can well afford to self-insure because they are able to expense their insurance premiums, but not their self-insurance. This contributes to the high demand placed on product liability insurers at a time when undercapitalization has adversely affected their capacity to provide adequate product liability insurance. Allowing larger firms to receive the same tax treatment for self-insurance as for insurance will free some of the capacity in the insurance market so that smaller firms may find it easier to locate affordable product liability insurance.

Mr. President, during the course of the Small Business Committee's study of product liability, we encountered many business firms whose premiums have skyrocketed although their losses have been minimal or nonexistent in the past. These firms may be able to predict their losses more accurately than underwriters, who seldom set rates for small accounts based on the firms' actual loss experience.

Also, a self-insured firm may transfer part of its risk to an insurer. A business could self-insure its liability within a certain range, and insure the remaining liability with primary and excess carriers. The premiums savings from higher deductibles may then be used to help pay for retained losses, to increase the amount of insurance protection against larger losses, or both. The firm that would benefit by retaining all or a portion of its risk would find it easier to accumulate funds for a self-insurance reserve, at once protecting itself and its customers against financial disaster.

In conclusion, I offer as a lucid statement of the benefits of this legislation, a letter I recently received from Dr. Chester McCloskey, of Norac, Inc., in Azusa, Calif. Dr. McCloskey's analysis of the pressures which small, apparently well managed, technically competent companies face today as a result of the product liability crisis is a compelling argument for the kind of legislation I am introducing. I hope my colleagues will heed his words and act quickly to bring about the relief small businesses so urgently require.

I ask unanimous consent that Dr. McCloskey's letter and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE NORAC COMPANY, INC.,  
Azusa, Calif., May 3, 1977.

Re product liability insurance.

Hon. JOHN C. CULVER,  
Senate Office Building,  
Washington, D.C.

DEAR SENATOR CULVER: I was informed by a newsletter sent out by the Society of the Plastics Industry that you spoke at the March 22nd Annual Meeting of the Society of the Plastics Industry in Washington, D.C. I was very sorry I was unable to attend this meeting due to a conflict of the National Fire Prevention Association Committee meeting on which I serve. It was even of more interest to learn that you are the author of a bill designed to give relief to small businesses plagued with liability insurance problems. This has become a major problem to us, and one in which the survival of our company may depend.

The Norrac Company is a small organic chemical manufacturing company, specializing in the manufacture of organic peroxides and metallic stearates. The former are utilized as polymerization initiators and the latter as lubricants. We ship throughout the world, with 20-30% of our manufacture being exported. At one time there were a number of small manufacturers of organic peroxides in the U.S., but at the present time we are the only one that has not sold out to a large company. We are very proud that we are a responsible, independent company and that our research and development work in the field of industrial safety have been recognized internationally, and reports of our research in this field have been distributed by the Department of Transportation, Office of Hazardous Materials, throughout the world. This research was sponsored and paid for by the Norrac Company. I, personally, serve on the National Fire Prevention Association's committee on the "Storage, Transport and Handling of Hazardous Chemicals" which develops the National Codes in this field. I am also privileged to act as a technical advisor to the U.S. delegate to the United Nations Committee on the Transport of Hazardous Chemicals in the field of organic peroxides, and often attend meetings of the UN Committee as a member of the U.S. delegation when these meetings are directed towards the field of organic peroxides.

We are therefore a responsible, technically oriented, knowledgeable company in our field.

The total payments to date on product liability claims since the formation of the company in 1953 has been only a few hundred dollars. However, the following is what we currently face:

|       |              |             |           |
|-------|--------------|-------------|-----------|
| Date, | coverage,    | deductible, | and cost: |
| 1975, | \$1,300,000, | none,       | \$18,690. |
| 1976, | \$500,000,   | \$500,      | \$31,500. |
| 1977, | \$500,000,   | \$50,000,   | \$62,500. |

The company that carried our insurance in 1975 no longer issues liability insurance of any kind in the State of California. We are informed by our insurance broker, who is quite expert in these matters, that we are very fortunate to obtain any coverage whatsoever. I do not consider that \$500,000 is adequate coverage for a company of our size, as a loss of \$500,000 would simply break us.

We received this week, from one of our large customers, W. R. Grace & Company, a letter stating that it is henceforth their policy to require all suppliers of materials that they resell to guarantee that they will cover them, e.g., W. R. Grace & Co., for any product liability claims that may arise in connection with our product, to the extent of at least \$1,000,000. This is becoming very common in the industry, I am informed.

Our broker suggests that the only way we can survive is to put away at least \$25,000-\$30,000 a year into a reserve to cover such losses as we may incur using the \$50,000 deductible policy as outlined above, until such time that we accumulate in the order of

\$500,000 in the reserve, and then the insurance companies will be willing to cover the amount above that at a more reasonable cost. The problem herein is that in order to put money into a reserve we have to produce this in profit and half of this or more goes as taxes to the State of California and to the Federal Government. Therefore, in order to accumulate even \$50,000 in reserves we have to show a gross profit of over \$100,000. Could not legislation be written so funds can be deposited in a controlled account, e.g., at a bank, Savings & Loan, etc., for a product liability reserve without taxes being paid on the account, unless it becomes excessive or the funds are withdrawn for company use.

I do not see how we can survive as a technically viable company, compete internationally, and at the same time accumulate funds for a reserve for product liability under the present system. A secondary thing that will happen, of course, is that we will be unable to make our annual contributions to the Profit Sharing Fund, from which we hope to accumulate sufficient equity so that our employees, of whom we have approximately 60, can retire gracefully.

The company, and I personally, would be most happy to assist you in any way we can in resolving this most critical matter.

Respectfully yours,  
THE NORAC COMPANY, INC.,  
CHESTER M. McCLOSKEY, Ph. D.,  
President.

S. 1611

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 165 of the Internal Revenue Code of 1954 (relating to losses) is amended by redesignating subsection (i) as (j) and by inserting after subsection (h) the following new subsection:

"(i) Reserve for Product Liability Losses.—

"(1) General rule.—In the case of a taxpayer whose trade or business involves the manufacture, importation, distribution, lease or sale of a product with respect to which there is or may be product liability for the taxpayer, there shall be allowed as a deduction under subsection (a) the amount transferred by the taxpayer for the taxable year to his product liability loss reserve account.

"(2) Determination of amount.—The amount of the deduction allowed by paragraph (1) shall not exceed the lesser of—

"(A) 3 percent of the gross receipts of the taxpayer from the manufacture, importation, distribution or sale of such product, or

"(B) the amount which, when added to the balance of the product liability loss reserve account, equals 15 percent of the taxpayer's average yearly gross receipts from the manufacture, importation, sale, lease or distribution of such product for the shorter of:

"(i) the period during which the product liability reserve deduction has been taken;

"(ii) the five years ending in the taxable year for which the current deduction is taken.

"(3) Disallowance of deduction for losses paid out of account.—In determining the amount of the deduction allowable for the taxable year under subsection (a), no deduction shall be allowed for any product liability loss paid or incurred during the taxable year except to the extent that the amount thereof exceeds the balance of the taxpayer's product liability loss reserve account (disregarding any part of such balance attributable to income from amounts transferred to the account).

"(4) Payment from account for inappropriate purpose.—

"(A) Except as provided in subparagraph (B), if any amount is paid out of a product liability loss reserve account during the taxable year for any purpose other than the

payment of a product liability loss of the taxpayer—

"(1) the amount so paid out shall be included in the taxable income of the taxpayer for the taxable year, and

"(11) the tax liability of the taxpayer for the taxable year shall be increased (after taking into account the amount included in taxable income under clause (1)) by an amount equal to 50 percent of the amount so paid out.

"(B) Subparagraph (A) does not apply to amounts paid out of a product liability loss reserve account within 90 days after the day prescribed by law for filing the taxpayer's return under this chapter (including extensions of time) for the purpose of withdrawing that portion of an amount transferred to the account for the taxable year which is in excess of the amount determined under paragraph (2) for the taxable year and which was included in income for the taxable year.

"(C) For purposes of subparagraph (A), any use of amounts in a product liability loss reserve account which is inconsistent with the provisions of paragraph (6) (C) shall be treated as a payment of such amounts out of the account.

"(5) Special rule for controlled groups.—For the purpose of applying paragraph (2) to a taxpayer which is a member of a controlled group of corporations, the gross receipts taken into account for the taxable year with respect to each member of the group shall be only those gross receipts properly attributable to that member for the taxable year. For the purposes of this paragraph, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(6) Definitions.—For purposes of this subsection—

"(A) Product liability.—The term 'product liability' includes liability for operations after the operation has been completed or abandoned and means liability for damages arising out of physical injuries to persons or property attributable to negligence in, breach of warranty of, or defects in a product manufactured, imported, distributed, leased or sold by the taxpayer.

"(B) Product liability loss.—The term 'product liability loss' means a loss attributable to product liability of the taxpayer.

"(C) Product liability loss reserve account.—The term 'product liability loss reserve account' means a trust created or organized in the United States for the exclusive purpose of paying product liability losses sustained by the taxpayer—

"(1) the trustee of which is a bank (as defined in section 401(d)(1)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that other person will administer the trust will be consistent with the purposes for which the trust is established,

"(11) the assets of which will not be commingled with other property except in a common trust fund, and

"(111) the assets of which may not be borrowed, used as security for a loan, or otherwise used by the taxpayer for any purpose other than the payment of product liability losses by the taxpayer."

Sec. 2. The amendments made by this Act apply to taxable years beginning after December 31, 1977.

By Mr. ALLEN (for himself and Mr. CRANSTON):

S. 1610. A bill to authorize the payment of attorneys' fees in tax cases; to the Committee on the Judiciary.

#### TAXPAYER'S ATTORNEY FEE AWARD ACT OF 1977

Mr. ALLEN. Mr. President, in the last Congress during consideration of the Civil Rights Attorney's Fees Awards Act of 1976 (Public Law 94-559) I offered an amendment to permit the award of attorney's fees in tax cases. My amendment was adopted by the Senate and in due course was finalized as part of the new law. Unfortunately, the Tax Court on May 16, 1977, in the case of *Key Buick Company vs. Commission*, 68 T.C. —, rendered my amendment virtually meaningless by holding that the provision adopted would apply only when the taxpayer was a named party defendant in an action brought by or on behalf of the United States as a party plaintiff. I am advised that in roughly 99 percent of all tax cases the United States or the Internal Revenue Service is not a plaintiff but is rather a party defendant notwithstanding the fact that in actuality the Government is in the traditional plaintiff role in seeking to impose a tax liability on the taxpayer. Because of this procedural anomaly, the hastily drafted provision adopted in the last Congress has been effectively vitiated by the Tax Court, and prompt action is therefore now required by the Congress to insure that the purpose of the original provision is carried into effect without further delay.

Mr. President, we all know that the individual taxpayer or the small businessman is no match for the IRS and the vast resources of the Tax Division of the Justice Department of the United States. We have all heard countless stories of Internal Revenue Service intransigence, stubbornness, and willingness to expend vast amounts for legal costs in order to force settlement of disputed tax claims. Against that backdrop the Congress ought again to adopt a provision which would help a taxpayer facing the vast array of resources available to the Government, but only a provision which would apply if the taxpayer's position were proven correct. The chief object of permitting the discretionary award of fees and costs in tax cases is to encourage taxpayers to seek a vindication of their position and to discourage the Government from needlessly litigating disputes for the purpose of forcing settlement notwithstanding the actual merits of the controversy.

The bill Senator CRANSTON and I are today introducing is meant to cover, for example, cases in which a relatively small tax liability is at issue, legal precedent on the subject clearly favors the taxpayer, yet the Government persists in litigating an issue which has been previously resolved or which is fairly obviously going to result in a decision in favor of the taxpayer. In such cases, our bill will permit a court in its discretion to award attorney fees and costs to a taxpayer who elected to "go to the mat" with the Government rather than cave in when faced with the prospect of protracted litigation and substantial attorney fees over an issue involving a relatively small sum. But, Mr. President, the court need not determine that the Government has harassed the taxpayer nor need the court determine that the

Government has in some way acted in bad faith. The bill proposed mentions neither harassment nor bad faith.

Mr. President, a court in exercising its discretion should focus rather on the relative resources of the parties and on the perseverance of the taxpayers in vindicating his position.

So, Mr. President, the idea simply is that in any proceeding in which the Government asserts a taxpayer's liability for a tax and the taxpayer asserts that he is not liable for the tax and thereafter prevails, then a court may award fees to the taxpayer as the court sees fit. The form which the action takes is not of consequence. Since all tax disputes boil down to the Government asserting a liability and a taxpayer denying it, the formal position of the two parties is immaterial. The problem this bill would correct does not relate to procedural formalities; it relates instead to the substantive imbalance in resources available to the Government and to a taxpayer when the two dispute an issue of tax liability. Thus, differing standards with respect to a plaintiff or a defendant, which a court might for policy reasons apply in litigated controversies in other areas of the law, have no proper application in tax disputes.

There is only one kind of tax dispute regardless of who is a named plaintiff or a named defendant, or who is an appellant or an appellee, or who is an auditor or an auditee. A tax dispute is inherently a taxpayer asserting that he is not liable for a tax and the Government insisting that he is. The reasons of public policy which would make proper a discretionary award of fees are thus present or not present in a given tax controversy regardless of the formal position of the parties.

Mr. President, I sincerely regret that the Tax Court did not see fit to give a liberal interpretation to the provision enacted during the last Congress, but I believe the entire matter is of sufficient importance that the Congress ought to address again the issue and clarify through enactment of this bill its original intent to support the discretionary award of attorneys' fees in appropriate tax cases notwithstanding the formal position of the parties to the litigation. Senator CRANSTON and I strongly believe that the bill introduced today will cause a proper interpretation of the original action taken by the Congress and will have far-reaching, beneficial effects on the Government's treatment of small taxpayers and on the present somewhat tarnished public image of the Internal Revenue Service.

By Mr. DECONCINI (by request):

S. 1612. A bill to enlarge and amend the trial jurisdiction of U.S. magistrates in misdemeanor cases; to the Committee on the Judiciary.

Mr. DECONCINI. Mr. President, today I am introducing at the request of the Judicial Conference of the United States a bill designed to enlarge and amend the jurisdiction of U.S. magistrates in misdemeanor cases. The letter of transmittal from the Director of the Adminis-



trative Office of the U.S. Courts, Rowland F. Kirks, explains the purpose of the bill.

Mr. President, I ask unanimous consent that the bill and letter of transmittal from Director Kirks be printed at this point in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1612

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) subsection 3401 of title 18, United States Code, is amended by striking "\$1,000" and substituting in lieu thereof "\$5,000."

(b) Section 3401 of title 18, United States Code, is further amended by inserting into the first sentence of subsection (b) "other than a petty offense" immediately after "minor offense."

SEC. 2. Section 5031 of title 18, United States Code, is amended by inserting "other than a petty offense," immediately following the phrase "law of the United States."

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

Washington, D.C., May 26, 1977.

HON. WALTER F. MONDALE,  
President of the Senate,  
Washington, D.C.

DEAR MR. PRESIDENT: On behalf of the Judicial Conference of the United States, I am transmitting herewith a draft of an omnibus bill to enlarge and amend the trial jurisdiction of United States magistrates in misdemeanor cases. The draft bill consolidates three separate proposals recommended from time to time by the Judicial Conference.

Under existing law the United States district courts may designate United States magistrates to try and to sentence persons accused of certain minor offenses for which the penalty "does not exceed imprisonment for a period of one year or a fine of not more than \$1,000, or both." Section 1 of the draft bill would amend the definition of a "minor offense" to include all misdemeanors where the penalty does not exceed imprisonment for a period of one year or a fine of not more than \$5,000, or both, except for certain enumerated offenses. It is the view of the Judicial Conference that there are a number of misdemeanors in the United States Code not presently included in the term "minor offense" which could properly be tried by United States magistrates. These include the illegal possession of untaxed alcohol (26 U.S.C. 5688) and the illegal possession of certain controlled substances (21 U.S.C. 841(b)). The Conference believes that an increase in the fine limitation for minor offenses from \$1,000 to \$5,000, while retaining certain exceptions presently enumerated in the statute, would provide a beneficial expansion in the trial jurisdiction of United States magistrates and would thereby relieve United States district judges of some of the burden in handling minor crimes which are misdemeanors.

This section of the bill would additionally eliminate the requirement now found in subsection 3401(b) of title 18, United States Code, that a defendant in a federal petty offense case waive in writing his right to be tried by a district judge and consent to be tried before a United States magistrate. A petty offense is defined in section 1 of title 18 as a misdemeanor, the penalty for which does not exceed imprisonment for a period of six months or a fine of not more than \$500, or both. United States magistrates disposed of 78,000 petty offense cases during the fiscal year 1976, including 50,000 traffic cases; 13,000 illegal entry cases; and 5,800 violations of hunting, fishing, and camping regulations

on federal lands. It is the view of the Judicial Conference that the present requirement of a written consent by the defendant to trial before a magistrate is constitutionally unnecessary and creates a needless administrative burden for the magistrate and his staff. The Conference believes that the proposals to eliminate the consent requirement would further the goal of sound judicial administration. The proposal does not affect misdemeanors other than petty offenses, nor does it restrict any right that a defendant may have to a trial before a jury.

The draft bill, Section 2, would make clear that the Juvenile Delinquency Act does not apply in petty offense cases. The largest number of petty offenses are traffic violations committed within federal enclaves, which are generally handled by United States magistrates. However, magistrates are without authority to conduct juvenile proceedings. At the present time, the Juvenile Delinquency Act does not clearly exempt petty offenses from the definition of "juvenile delinquency." Application of the Act in such cases would mean that juveniles who wished to have their traffic cases conducted by a magistrate must undergo a complicated waiver procedure, which is generally unsatisfactory to all concerned. The proposed amendment would clearly allow United States magistrates to process petty offenses involving juveniles, particularly the traffic violations within federal enclaves.

It is the view of the Judicial Conference that the proposals embodied in this draft bill will enable the United States district courts to make more effective use of the United States magistrates and will significantly improve the administration of the trial jurisdiction of United States magistrates.

Representatives of the Judiciary and of this office will be pleased to furnish any further information regarding the proposals contained in this draft bill that may be requested, or to testify before the Committee to which the bill may be referred.

Respectfully yours,

ROWLAND F. KIRKS,  
Director.

Enclosure.

By Mr. DECONCINI (for himself  
and Mr. ROBERT C. BYRD):

S. 1613. A bill to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of U.S. magistrates, and for other purposes; to the Committee on the Judiciary.

MAGISTRATES ACT OF 1977

Mr. DECONCINI. Mr. President, today I am introducing, together with the distinguished major leader, Mr. BYRD, the Magistrates Act of 1977, a bill designed to ease the burden of our district courts in certain civil and criminal cases by expanding the jurisdiction of Federal magistrates while establishing new standards for the appointment of full and part-time magistrates.

The Federal Magistrates Act of 1968 reformed the old U.S. Commissioner System and introduced into the Federal judiciary a new judicial officer having powers and responsibilities far exceeding those previously extended by law to U.S. Commissioners. The jurisdiction given to U.S. magistrates by the act was cast in broad terms. Authorization was given to district courts to assign to magistrates, by local rule of court, "such additional duties as are not inconsistent with the Constitution and laws of the United States." The legislative intent was clear:

magistrates were to assist district judges in performance of their judicial duties, relieving the district courts of some functions and allowing the judicial system to utilize its judges to better advantage. The bill I am introducing today furthers this legislative intent.

The criminal jurisdiction of magistrates will be expanded to a small degree. Magistrates presently have jurisdiction to try persons accused of, and sentence persons convicted of minor offenses; that is, misdemeanors punishable by imprisonment for not more than 1 year, a fine of not more than \$1,000, or both, other than certain specified offenses thought to be "inappropriate" for trial by magistrates—for example, violations of the Federal Corrupt Practices Act. At present, a defendant cannot elect to have his case tried before a jury in magistrate court. If he wants a jury trial, he must elect to have the case heard in district court. The proposed bill would alter this in the following respects:

First. The \$1,000 fine ceiling on magistrates' jurisdiction would be removed and the current exemption of certain offenses would be deleted, with the result that magistrates would be able to try all Federal misdemeanors.

Second. A defendant charged with a "petty" offense—that is, offenses punishable by imprisonment for up to 6 months or a fine of up to \$500 or both—would no longer be able to elect a trial in the district court, but would be tried by a magistrate without a jury. Where the punishment would be in excess of \$500 or 6 months for a misdemeanor, the defendant is given the election of a trial by jury before either the magistrate or the district court.

Third. In cases involving other than petty offenses, the Government as well as the defendant would be permitted to elect a district court trial.

Fourth. Magistrates would be permitted to sentence convicted defendants under the provision of the Youth Corrections Act.

Fifth. Appeals as of right would be to the district court of all magistrates' decisions. This is current law and will not be changed.

The provisions of this bill are in accord with well-settled case law on the defendant's right to trial by jury and on waiver. However, we recognize that the bill is innovative and that there might be constitutional aspects we have not considered. We are, therefore, scheduling hearings to begin June 6, 1977.

Civil jurisdiction will also receive a slight extension. Full-time magistrates specifically designated by the district court may conduct civil jury and non-jury trials without limitation on the amount of damages if both parties consent. This could substantially affect court caseloads in the district courts. Also, once a magistrate enters a judgment, appeal to the district court by right will be permitted. Further appellate review will be confined to discretionary review of matters of law decided by the district court.

Magistrates are indispensable to our judicial system today. Last year 90,166 petty and minor offense cases were dis-

posed of by magistrates. This represents a 6.7 percent increase over the 84,505 handled during fiscal year 1975. The volume of "additional duties" delegated to U.S. magistrates by the district courts under authority of title 28, United States Code, section 636(b) has risen steadily since the inception of the magistrates system. U.S. magistrates now assist the district judges in expediting civil and criminal litigation in the great majority of the 91 district courts served by magistrates. During the past year, for example, magistrates in 61 districts filed written reports and recommendations for disposition of 8,231 prisoner petitions. Magistrates conducted 17,559 civil pretrial conferences for the judges in 61 district courts. In 57 districts they reviewed 9,583 motions in civil cases. During the year magistrates in 54 districts submitted 684 special master reports under Rule 53 of the Federal Rules of Civil Procedure. They filed reports and recommendations on 1,480 social security appeals in 52 districts.

In criminal cases magistrates conducted 18,694 arraignments following indictment under rule 10 of the Federal Rules of Criminal Procedure in 68 districts. They conducted 5,397 pretrial conferences or omnibus hearings in 40 districts and reviewed 7,861 motions in 67 districts.

I urge my colleagues to support this legislation. Innovations are needed in the judicial system to help it cope with the ever-increasing and complex caseload. This legislation is a step in that direction and is "in-step" with basic concepts of justice and due process under American law.

Mr. President, I ask unanimous consent that the bill, and the remarks of the Attorney General in transmitting it, be printed at this point in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## S. 1613

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Magistrate Act of 1977."

SEC. 2. Section 636 of title 28, United States Code, is amended:

(a) by deleting the word "and" at the end of subsection (a)(2);

(b) by deleting the period at the end of subsection (a)(3) and inserting in lieu thereof "; and";

(c) by adding at the end of subsection (a) the following new paragraph:

"(4) the power to hear and determine civil actions under subsection (c) of this section in conformity with and subject to the limitations of that subsection;"

(d) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively;

(e) by adding after subsection (b) the following new subsection:

"(c) Notwithstanding any provision of law to the contrary—

"(1) when specially designated to exercise such jurisdiction by the court or courts he serves, and under such conditions as may be imposed by the terms of the special designation, any United States magistrate shall have jurisdiction to review, hear, or otherwise determine with the consent of the parties any nonjury or jury civil matter.

"(2) upon entry of a judgment by the magistrate in an action reviewed, heard or determined pursuant to subsection (c) (1) of this section, an aggrieved party may appeal by right on the record to the district court for the district where the action was reviewed, heard or determined. The district court shall have jurisdiction of the appeal and may affirm, reverse or modify the judgment, or may remand the case to the magistrate for further proceedings. Its review shall be under the standard that would be employed by the United States court of appeals, if the action were reviewed, heard or determined in the district court in the first instance.

"(3) upon petition for leave to appeal by a party stating specific objections to a judgment of the district court made pursuant to subsection (c) (2) of this section, the appropriate United States court of appeals may review the judgment. Such review shall be limited to questions of law: *Provided*, That the court of appeals review any action where it appears from the petition for leave to appeal that any prejudicial error of law has been committed.

"(4) in cases in which the court of appeals has reviewed a judgment of the district court under subsection (c) (3) of this section, review of the judgment of the court of appeals may be sought in the Supreme Court of the United States in accordance with section 1254 of this title;" and

(f) by deleting the words "United States Code" in subsection (d), as redesignated, and inserting in lieu thereof the words "or section 2072 of this title, as the case may be".

SEC. 3. Section 631 of title 28, United States Code, is amended:

(a) by deleting the first sentence of subsection (a) and inserting the following in lieu thereof: "Pursuant to the standards and procedures promulgated by the conference, the council of each circuit shall certify a list of persons deemed qualified to serve as United States magistrates. The judges of each United States district court and of the district court of the Virgin Islands shall appoint United States magistrates from the list certified by the council in such numbers and to serve in such locations within the judicial district as the conference may determine under this chapter. *Provided*, however, that such standards and procedures shall be promulgated no later than April 30, 1978. *And provided further*, that from the date of enactment of this amending provision to the promulgation of such standards and procedures, or April 30, 1978, whichever is earlier, no full or part-time magistrate shall be appointed to a new term. Full or part-time magistrates whose terms expire during this period may be reappointed to serve for an additional period not to exceed one year. *Provided also*, nothing in this subsection shall be construed as affecting removal procedures specified in subsection (b) of this section."

(b) by deleting in the first sentence of subsection (b) the colon after "unless" and inserting in lieu thereof "he has been a member of one or more bars of the highest courts of the States (or of the courts specified in subsections b(1)(A), b(1)(B), or b(1)(C) for at least five years, *Provided also*:"

(c) by deleting subsection (b)(2) and renumbering subsections (b)(3) and (5) as (b)(2) and (b)(3), respectively.

(d) by adding at the end of subsection (h) the following sentence: "Standards concerning qualifications promulgated by the conference pursuant to subsection (a) of this section shall be considered when relevant to the question of removal or retention in office under this subsection."

SEC. 4. Section 632 of title 28, United States Code, is amended by inserting at the end of subsection (a) the following: "All

United States magistrates who exercise jurisdiction by special designation under subsection 636(c) of this title or subsection 3401(b) of title 18 shall be full-time magistrates."

SEC. 5. Section 3401 of title 18, United States Code, is amended:

(a) by deleting the words "minor offenses" in subsection (a) and inserting in lieu thereof the word "misdemeanors";

(b) by amending subsection (b) to read as follows:

"(b) If the offense charged is a misdemeanor offense other than a petty offense as defined in subsection 1(3) of this title, however, either the person charged or the government may elect to have the case tried before a judge of the district court for the district in which the offense was committed. Unless the offense charged is a petty offense, or the government elects to have the case tried before a judge of the district court, the magistrate shall carefully explain to the defendant that he has a right to trial before a judge of the district court and that he shall have a right to trial by jury before a magistrate or a district court judge. The magistrate shall not proceed to try the case unless the defendant, after such explanation and with the consent of the government, signs a written consent to be tried before the magistrate that specifically waives with the advice of counsel a trial before a judge of the district court. The case shall be tried with a jury, unless the defendant waives with the advice of counsel a jury trial in writing with the approval of the magistrate and the consent of the government.

(c) By adding the following sentence at the beginning of subsection (d): "A magistrate may impose sentence pursuant to chapter 402 of this title. *Provided, however*, That no such sentence shall include a commitment for more than one year;" and

(d) by amending subsection (f) to read as follows:

(f) As used in this section, the term 'misdemeanors' means misdemeanors punishable under the laws of the United States."

STATEMENT OF ATTORNEY GENERAL GRIFFIN  
B. BELL

## PROPOSED MAGISTRATE ACT OF 1977

The proposed Magistrate Act of 1977 would enlarge the criminal jurisdiction of United States Magistrates and give them case-dispositive jurisdiction in civil actions if the parties and the District Court concur. The Act would also provide for more demanding magistrate appointment standards.

It will be introduced today in the Senate by Senator Dennis DeConcini of Arizona, chairman of the Judiciary Subcommittee on Improvements in Judicial Machinery, with the co-sponsorship of Senate Majority Leader Robert C. Byrd of West Virginia. Representative Peter W. Rodino, chairman of the House Judiciary Committee, has agreed to sponsor the legislation in the House. Thomas Ehrlich, president of Legal Services Corporation, has indicated he will testify in favor of the bill on behalf of the Corporation staff during Senate hearings scheduled for the week of June 5.

## I. U.S. magistrate system

In 1968 Congress enacted the Federal Magistrates Act to replace the commissioner system. Magistrates are officers of the district courts. This Act allowed courts to assign magistrates "minor" nonjury trials which involved no more than one year of potential imprisonment and/or a maximum fine of \$1,000. The defendant's consent to such assignment was required.

In 1976 Congress expanded the duties of the magistrates to allow them to perform pretrial and special master duties at the discretion of, and under the supervision of, the district court.

At present, there are 164 full-time magis-



trates. In addition there are 323 part-time magistrates, many of whom are located in remote regions and deal with minor and preliminary criminal matters. Although the appointment of these part-time magistrates will be affected by the competency provision of the bill, their particular duties will largely remain unaffected.

#### II. Improved access for the less advantaged

The proposed Magistrate Act of 1977 recognizes the growing interest in the use of magistrates to improve access to the courts for all groups, especially the less advantaged. The latter lack the resources to cope with the vagaries of adjudication delay and expense. If their civil cases are forced out of court as a result, they lose all their procedural safeguards. This outcome may be becoming more pronounced as the requirements of the criminal Speedy Trial Act increases its demands on the federal courts. The imaginative supply of magistrate services can help the system cope and prevent inattention to a mounting queue of civil cases pushed to the back of the docket by the Speedy Trial Act.

The bill would allow the increased and more flexible use of fully competent magistrate judicial officers with more limited tenure and salary requirements to improve access to justice on a district-by-district basis. Magistrates would be selectively placed to accommodate litigation peaks in particular districts at particular times. These surges in litigation have characterized, for example, the social security black lung disability cases. All this would be accomplished without resort to the process of congressional confirmation.

#### III. Magistrate appointment

At present there is an unevenness in the ability of magistrates to perform their tasks. Many magistrates were appointed in 1971 when the magistracy was in its infancy and its responsibilities unclear. To meet this problem the bill requires that in most cases the district court and the litigants consent to have their actions tried by magistrates.

The bill would also require the Judicial Conference of the United States to formulate standards and procedures to assure the highest quality of magistrate justice. These standards would be used by the judicial council of each circuit court of appeals to list names of persons qualified to serve as magistrates. The district court judges would select magistrates from this list. The Administrative Office of the United States Courts estimates that over fifty percent of the magistrates will come up for reappointment under these new standards and procedures by the end of 1979.

Under the new salary levels going into effect this summer, magistrates will be paid from \$39,600 to \$42,500, depending on the number of years they have met bar membership requirements. These salary arrangements should attract competent magistrates.

#### IV. Section-by-section analysis

##### A. Selection of Magistrates

Magistrates are currently appointed by the judges of each district court. Among other qualifications specified by Congress, a magistrate must be: (a) a member of the bar; (b) competent to perform the duties of the office (as determined by the appointing court); and (c) unrelated by blood or marriage to a judge of the appointing court. Except when his or her office is abolished, a magistrate may be removed (by the appointing court) only for incompetency, misconduct, neglect of duty, or physical or mental disability.

In order to ensure the selection and retention of qualified persons as magistrates, the bill would empower the Judicial Conference of the United States to promulgate procedures and establish standards to be used by the courts in selecting magistrates and in considering questions of removal or retention

in office. App. A, Sec. 3. In addition, bar membership requirements are expanded to mandate, in general, that no magistrate can be appointed without having been a member for five years of one or more bars of the highest state courts. This requirement is designed to prevent the appointment of those who have not acquired the necessary legal seasoning.

These standards would be used by the judicial council in each circuit to compile a certified list of qualified magistrates. The district courts would choose from this list. It is not anticipated that a candidate will have to be on the certification list at the time a vacancy occurs. He or she will only have to achieve certified status prior to appointment. Further, it is anticipated that the Judicial Conference will provide sufficient flexibility in its certification procedures, so they do not work a hardship on the substantial number of part-time magistrates. These magistrates receive little annual compensation and perform very limited functions.

##### B. Criminal Jurisdiction

Magistrates presently have jurisdiction to try persons accused of "minor offenses"; i.e., misdemeanors punishable by imprisonment for not more than one year, a fine of not more than \$1,000, or both, other than certain specified offenses thought to be "inappropriate" for trial by magistrate (e.g., violations of the Federal Corrupt Practices Act or voting offenses). At present, however, a defendant cannot elect to have his case tried before a jury in magistrate court. He can specify the district court, where he may also have a right to a jury trial.

The proposed bill would alter the magistrate's criminal jurisdiction in the following principal respects:

1. The \$1,000 fine ceiling on magistrate jurisdiction would be removed and the current exemption of certain offenses would be deleted. As a result, magistrates could try all federal misdemeanors, if the district court and the parties (in more serious misdemeanor cases) concur. App. A, Sec. 5.

2. A defendant charged with a petty misdemeanor offense (i.e., an offense involving no more than a six month jail sentence and/or a fine of up to \$500) would no longer be allowed to elect a trial in the district court but would be tried by a magistrate without a jury.

3. In nonpetty misdemeanor offenses (i.e., cases with from six to twelve months imprisonment at issue and/or fines above \$500) the government and the defendant could consent to trial before a full-time magistrate, if the district court concurs.\* The trial could be held with or without a jury. A defendant's decision to be tried by a magistrate would have to be made with the advice of counsel. App. A, Sec. 5.

4. The proposed expansions of the criminal jurisdiction of magistrates should have an appreciable impact in reducing the criminal dockets of the district courts and, as a consequence, in affording speedier and less costly justice to criminal defendants. Although the precise magnitude of this impact is impossible to forecast, it should be substantial since several misdemeanors not now triable by magistrates account for a large portion of district court caseloads (e.g., possession of Controlled Dangerous Substances).

##### C. Civil Jurisdiction

Magistrates presently have no explicit authorization to finally decide civil cases. However, under 28 U.S.C. 636(b) district court judges may designate magistrates to fulfill certain pretrial functions, conduct hearings, and serve as special masters. The proposed bill would explicitly give magistrates case-dispositive jurisdiction over all civil actions if the district court\* and the parties con-

cur. It would provide an appeal of right to the district court and further discretionary review by the court of appeals and the Supreme Court. More particularly, the bill specifies that:

1. Full-time magistrates specially designated by the district court may conduct civil jury or nonjury trials if the parties consent. App. A, Sec. 2. These cases span the entire spectrum of economic interests.

Depending upon the degree to which litigants are willing to have their cases determined by magistrates, the bill could have a very substantial impact on the civil case loads of the district courts. Given the dual consent required by the district court and the parties, it is not possible to forecast accurately the precise extent of this impact.

2. Once a magistrate entered a judgment, appeal to the district court by right would be permitted with respect to all factual and legal issues. App. A, Sec. 2. The standard of review would be the same as that the court of appeals would employ if the case were litigated initially in the district court.

3. Further appellate review would be confined to discretionary review of matters of law decided by the district court. App. A, Sec. 2. In the interest of judicial economy no additional factual review is felt necessary or desirable.

In many cases the administrative findings of fact will already have been reviewed twice—first by the magistrate and again by the district court.

The court of appeals would grant or deny leave to appeal in much the same way it acts on a petition for allowance of appeal in some bankruptcy cases. Refusal to grant such leave would not be reviewable by the Supreme Court. Only court-of-appeals determinations of law, made after the granting of leave to appeal, would be so reviewable.

Mr. ROBERT C. BYRD. Mr. President, I am pleased to join my distinguished colleague from Arizona, Mr. DeCONCINI, in introducing the Magistrates Act of 1977. This legislation will mark a significant step toward reducing the caseload of our Federal district court judges in areas where a well-qualified but non-tenured magistrate can administer justice. The bill is a logical extension of the trend in court administration since the passage of the first Magistrates Act in 1968.

In criminal cases, it will permit our overworked courts to handle a large volume of minor offenses without sacrificing procedural safeguards for the rights of the defendant. In civil cases, where the parties consent, magistrates will have jurisdiction without regard to the amount of recovery sought by the claimant. In areas where similar claims are repeatedly brought, the magistrate will be able to develop an expertise that will facilitate the handling of such cases. Appeals of administrative decisions such as black lung cases, which have caused a tremendous backlog in the district courts of the mining States, will thus be greatly expedited by the use of magistrates.

The District Court for the Southern District of West Virginia provides a dramatic example of the situation our district courts face. That court has a pending caseload of 3,134 cases. Of these, 1,723 are "black lung" or social security cases. Under this legislation, with the consent of both parties, these cases could be expedited and disposed of by a magistrate rather than await trial in the district court. If either party wishes to await such a trial, however, he may do

\* The court might promulgate a rule designating certain cases for magistrate determination.

so. Thus, no one will be deprived of a resolution of his claim by a district court if he desires one.

For these citizens, who have given their labor and their health for this country's coal production, justice has not been swift. This bill would expedite the relief due not only to them, but to all citizens who consent to have their disputes heard by a magistrate.

For those charged with petty offenses and misdemeanors against the United States, this legislation also offers swift and, with its new criteria to insure the selection of qualified magistrates, evenhanded justice.

I strongly support this legislation as a further step in the improvement of our overburdened court system.

By Mr. HAYAKAWA (for himself, Mr. DOLE, Mr. DOMENICI, Mr. McCLEURE, Mr. TOWER, Mr. YOUNG, and Mr. ZORINSKY):

S. 1614. A bill to establish the Western States conservation program; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. HAYAKAWA. Mr. President, I am greatly concerned about the drought in California and the Western States. Today I am submitting a bill to establish the Western States conservation program. This bill will extend the existing Great Plains Conservation Act into the West.

The extension of this program, through the cost-sharing practices, will allow farmers immediate relief in improving their present irrigation systems.

The long-term contractual provisions of the bill, through individual or cooperative efforts, provide for:

The development of irrigation and return irrigation systems;

Drainage and pollution control facilities;

Dairy flush and waste systems to conserve water through reuse;

Reseeding badly depleted rangeland; and,

The enhancement of fish and wildlife habitats.

The act has been good for those who have participated, as shown by a study made at the request of Gov. Richard F. Kneip. The South Dakota study shows that about 35 percent more of the farmers and ranchers with completed Great Plains conservation program contracts had adequate hay, pasture, and water supplies, compared with those who did not participate. Covering 418 farms and ranches, half with Great Plains conservation program contracts and half without, the study also showed that on land not under contract, 36 percent more acres of grassland are overgrazed and 38 percent more acres of cropland have moderate to severe wind erosion damage.

I feel that through the enactment of this bill, which expands the Great Plains conservation program, the Western States will receive great benefit from the improvement of their irrigation systems and better usage of the limited water supplies.

Since the effect of my bill is to expand the existing Great Plains conservation program to include seven new States, I

have removed the present \$300 million authorization limitation.

Mr. President, I ask unanimous consent that a copy of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1614

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Western States Conservation Act of 1977".*

SEC. 2. Section 16(b) (1) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p (b) (1)) is amended by—

(1) striking out "Great Plains area" in the material preceding the first sentence and inserting in lieu thereof "Western States region";

(2) striking out the third complete sentence and inserting in lieu thereof "Such contracts may be entered into with respect to farms, ranches, and other lands in semiarid counties in the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, designated by the Secretary as susceptible to serious soil erosion and water depletion by reason of their soil types, terrain, and climatic and other factors";

(3) striking out the fifth complete sentence and inserting in lieu thereof "Such plan may also include practices and measures for (A) enhancing fish and wildlife, (B) improving irrigation systems to conserve water, and (C) reducing or controlling agricultural related pollution"; and

(4) redesignating clause (v) of the eighth complete sentence as clause (vi) and adding after clause (iv) a new clause (v) as follows:

"(v) to forfeit all rights to payments under sections 103 (e) (2), 105 (b) (1), and 107 (c) of the Agricultural Act of 1949, as amended by the Agriculture and Consumer Protection Act of 1973, for any losses sustained because of a natural disaster or condition beyond the control of the producer if such losses were sustained in connection with lands on which permanent conservation measures had been installed under a contract entered into under this section and such conservation measures were destroyed by the owner or operator of the farm or ranch after the expiration of such contract; and"

SEC. 2. Section 16 (a) (7) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p (b) (7)) is amended by striking out the colon preceding the word "Provided" and all that follows down to, but not including the first period.

By Mr. CLARK:

S. 1616. A bill to establish a national policy concerning agricultural, range, and forest lands; to establish an Agricultural Land Review Commission; to establish a demonstration program for protecting agricultural, range, and forest land from being used for nonagricultural purposes; and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL AGRICULTURAL LAND POLICY ACT

Mr. CLARK. Mr. President, the agricultural lands of the United States are an irreplaceable treasure and the basis for much of our Nation's economic strength at home and abroad. The vast extent and broad diversity of prime lands have shielded our people from disaster and famine, produced an abundant array

of high-quality food and fiber at low prices, and responded to modern technology and management with increasingly higher yields. Because of these factors, every American farmer today produces the food for himself and 56 other Americans. A single acre of prime farmland in my own State of Iowa produces enough calories to provide the current diet for 15 people in portions of Africa and Asia.

Unfortunately, however, this productivity today is being threatened by pressures which have not been experienced to the same degree in the past. Prime farmlands—those lands with the best combination of soil, moisture, climate and location—are also often the lands most attractive for building the houses, roads, airports, powerplants, and other developments needed by a growing society. As a result, the U.S. Soil Conservation Service estimates that our country is currently losing one million acres of prime land each year in irreversible land-use change. Another million acres of lower-quality crop and pastureland is also being lost each year.

This trend alone would be disturbing enough, given the growing demand for food and fiber in the world. But there are also additional trends which increase the cause for concern: Our Nation is currently preoccupied with the need to cope with emerging energy shortages. Reduced energy availability will drive farm production down as fertilizers and other agricultural inputs rise in price. Accelerated production of coal to meet fuel needs increases the threat of strip mining in agricultural areas. The increases in productivity that have kept production high in the face of declining farm acreages since World War II seem to be leveling off, with new technological breakthroughs not immediately foreseeable. Competition for water grows more keen, and agriculture faces the threat of diversion of essential irrigation water. Climatic fluctuations, such as the current drought conditions in various areas, make dependable production on marginal croplands an unrealized dream.

None of these factors, of and by themselves, constitute an overpowering threat to America's continued agricultural production. Taken in combination, however, they present a picture that must concern us. The trends are all wrong. We are almost certainly facing a squeeze in productive capability only a few years from now. Agriculture Secretary Bergland has called the situation a matter of deep concern.

At a time when the Nation needs increasingly strong leadership to protect our agricultural heritage, it is arguable that the Federal Government is the single largest contributor to the needless waste of prime agricultural lands. In the construction of Federal projects, the granting of Federal permits and the management of Federal resources, farmland is often given little—if any—consideration. Federally funded highways, for example, not only take prime farmland in excessive amounts, they also often cut diagonally across farming areas with the result that much adjacent land is rendered difficult—if not



impossible—to farm with modern machinery and methods. Such practices can and should be avoided. The Federal government should not be in the business of planning land use on the private farmlands of the Nation, but it should exercise full responsibility for the land-use impacts of its own policies and actions.

To better address these problems, I am today introducing the National Agricultural Land Policy Act.

The legislation contains three titles, each providing an essential element if we are to adequately address the agricultural land issue.

Title I establishes national policy to direct each agency of the Federal Government to use all practicable methods, consistent with other considerations of national policy, to retain, protect and improve agricultural land. Such policy, if enacted by the Congress and administered in good faith by the executive branch, can do much to assure that the Federal Government is not the primary cause of needless waste of agricultural lands.

Title II would establish a Land Resources Review Commission to study the use and productivity of agricultural land. The Commission would be composed of knowledgeable people who could evaluate input from citizens, experts and researchers around the Nation and present the President and the Congress with an authoritative evaluation of the situation and trends affecting agricultural land. The Commission would provide an annual report, as well as a final report upon its termination in 1982. These reports will seek to identify what is happening and why—to expose the root causes of agricultural land waste, and suggest remedial actions that can be appropriately and effectively taken. Such reports can provide the President and the Congress with the insights necessary to determine what, if anything, the Federal Government should do to encourage the retention of agricultural land in long-term productive condition and use.

Title III authorizes the Secretary of Agriculture to provide matching grants to State and local governments for carrying out programs to retain farmland in production. Nearly every State now has programs to encourage the retention of farmland, but few appear to be effective where land use competition is severe. Many States are, therefore, considering new and innovative programs. Local governments are concerned as well. In our own State, for example, local ordinances in Black Hawk County have attracted national attention because of their innovative approach to guiding development away from prime agricultural lands.

Clearly, States and local governments feel these programs are important. They are hampered, however, by a lack of resources and technical assistance. Title III of this bill would help solve this problem by providing a measure of Federal help. This help would only be available in limited amounts, however, and only for a period of 5 years, so that many different types of projects could be evalu-

ated as to their cost and effectiveness. These would be pilot demonstration programs, where local and State officials would use their own ingenuity to devise the programs, and then get Federal cost-sharing to carry them out. By spreading these Federal dollars over a broad array of different types of pilot programs scattered widely around the country, the Department of Agriculture can learn much about the economic, legal, environmental, and political advantages and disadvantages of many program approaches.

At the end of the 5-year grant program period, the Secretary of Agriculture would report back to the President and the Congress regarding the impact and effectiveness of these pilot programs. That report, coupled with the Commission's findings and recommendations, will provide the basis for the President and the Congress to effectively evaluate the agricultural land situation and take appropriate action. If we have overestimated the extent of the problem and further Federal action is not warranted, we can choose that option with confidence. If, on the other hand, increasing demands have created a situation where national action is clearly required, we will have invaluable information as to what actions are needed and how effective they will be.

The bill authorizes \$8 million to fund the total operation of the Agricultural Land Review Commission and \$25 million to provide for the operation of the demonstration projects funded under title III.

This legislation can be a landmark in our Nation's efforts to maintain a strong land-resource base and a healthy agriculture. The issue of protecting the land on which our Nation depends for its own food and fiber is not an issue to be dealt with lightly or superficially. I therefore urge my colleagues to join me in support of this legislation.

Mr. President, I ask unanimous consent that a section-by-section analysis of the legislation be printed at this point in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

#### SECTION-BY-SECTION SUMMARY OF THE "NATIONAL AGRICULTURAL LAND POLICY ACT"

##### TITLE I—NATIONAL AGRICULTURAL LAND POLICY

Section 101 establishes national policy to use all practicable methods to retain, protect and improve agricultural land. Consistent with other considerations of national policy, the federal government will exercise responsibility to reduce the amount of land annually converted out of agricultural uses, limit the encroachment of industrial activities where yield-reducing pollution occurs, encourage optimum use of agricultural land for maximum yields, minimize associated losses of high-quality range and forest land, assess effects of major federal actions on agricultural land, carry out a continuing inventory of the amount and condition of agricultural lands, and cooperate with states and their political subdivisions in efforts to retain, protect and improve agricultural land.

##### TITLE II—AGRICULTURAL LAND REVIEW COMMISSION STUDY AND REPORT

Section 201 establishes a 23-member Agricultural Land Review Commission appointed

by the Secretary of Agriculture. Members will not be employees or officers of the federal government. They will be persons knowledgeable on matters related to the protection of agricultural land, represent a geographic cross-section of the nation and comprise no more than 12 members of the same political party. Members will be appointed within 90 days after enactment, serve for the existence of the Commission, and be replaced, if necessary, by the same manner in which the original appointment was made.

Section 202 sets forth the duties of the Commission to study the use and productivity of agricultural land, the relationship of such land to the supply of and demand for food and fiber, the effects of competing land uses on agricultural land, the effect of public actions and investments, the effect of climate predictions, technology and other conditions, the effects of various policies and programs to encourage continued or accelerated crop production, the acquisition of agricultural lands by persons not engaged in agricultural production, methods of developing an improved land information system, the need for delivering data, analytic capability and technical planning assistance from the federal government to state and local governments, the effects of federal, state and local laws, and methods for protecting and improving agricultural land as well as ways of reducing the conversion of agricultural land to nonvital uses.

In carrying out this study, the Commission is authorized to contract for studies from public and private organizations or federal agencies, as well as seek the input of a broad cross-section of people from around the nation. Studies and actions of the Commission are intended to complement and supplement similar activities currently being carried out under other laws of the United States, not duplicate them.

Section 203 requires the Commission to submit annual interim reports and a final report to the President and to each House of Congress. These reports shall describe the findings of the studies carried out by the Commission, plus recommendations for modifications in policies, programs or laws that are necessary to prevent the diversion of agricultural lands, necessary coordination of activities carried out by departments or agencies of the United States, and other matters.

Section 204 calls for the termination of the Commission on September 30, 1982.

Section 205 provides for pay and travel expenses of members of the Commission. It allows \$100 for each day actually served, plus per diem for travel expenses incurred.

Section 206 provides administrative authorities for the Commission, including appointment and pay of staff, hiring of temporary services, gathering of information from federal agencies on a cooperative or reimbursable basis, detail of federal personnel to assist the Commission, holding of hearings, administration of oaths and issuance of subpoenas as needed.

##### TITLE III—DEMONSTRATION PROGRAMS

Section 301 authorizes the Secretary of Agriculture to provide financial and technical assistance to states and local governments for the purpose of demonstrating and testing methods of reducing the amount of land converted from agricultural uses.

Section 302 provides that any state or local subdivision desiring to conduct a pilot project under this title may submit an application to the Secretary under appropriate regulations.

Section 303 directs the Secretary to establish and publish the basis for selection of applicants to receive assistance. Priority is to be given to those projects which will provide timely information at a low cost, provide data not currently available or reliable,

and contribute a broad range of projects in terms of geographic location, types of approaches and improved utilization of agricultural land. Applications will be approved when the Secretary determines that they qualify under the criteria, that they can be completed within five years after funding, that the applicant has the ability to finance its share of the cost, that the applicant has the capability and exhibits the good faith to carry out the project, and that it will provide appropriate reports and necessary fiscal controls.

Section 304 sets the amount of assistance under this title to not exceed 60 percent of the cost of planning, carrying out and issuing reports on the project. The Secretary is responsible for determining that the applicant contributes its share of the costs in a satisfactory manner.

Section 305 requires the Secretary to consult with the Commission in planning and carrying out the demonstration program under this title.

Section 306 requires the Secretary to report to the President and the Congress on September 30, 1982 as to the findings and conclusions of the Secretary regarding the effectiveness of the demonstration programs under this title. The report shall contain such recommendations for legislative or administrative action as the Secretary sees fit to propose.

Section 307 limits the intent of the Act to not authorize the federal government to regulate the use of private land or diminish in any way the rights and responsibilities of the states and their political subdivisions.

#### TITLE V—FUNDING

Section 400 would authorize \$8 million to carry out Title II and \$25 million for Title III, distributed as follows: \$5 million for each of the five fiscal years ending on September 30, 1978; September 30, 1979; September 30, 1980; September 30, 1981, and September 30, 1982.

#### ADDITIONAL COSPONSORS

S. 218

At the request of Mr. HANSEN, the Senator from Idaho (Mr. McCURE) was added as a cosponsor of S. 218.

S. 247

At the request of Mr. GOLDWATER, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 247.

S. 533

At the request of Mr. JAVITS (for Mr. WILLIAMS), the Senator from Maine (Mr. HATHAWAY) was added as a cosponsor of S. 533.

S. 995

At the request of Mr. WILLIAMS, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 995.

S.J. RES. 39

At the request of Mr. BIDEN, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of Senate Joint Resolution 39.

#### AMENDMENTS SUBMITTED FOR PRINTING

#### HOUSING AND COMMUNITY DEVELOPMENT ACT—S. 1523

AMENDMENT NO. 346

(Ordered to be printed and to lie on the table.)

Mr. PROXMIER. Mr. President, I am today introducing an amendment to S. 1523, the Housing and Community Development Act of 1974: to extend certain housing assistance and mortgage insurance programs; and for other purposes, which would require the appointment of the Chairman of the Board of Governors to be subjected to Senate confirmation upon nomination by the President.

The Federal Reserve carries out the monetary policy of the Nation on behalf of the Congress. The single most important individual involved in the conduct of monetary policy is the Chairman of the Federal Reserve. Monetary policy, of course, exerts an important influence on the economy and on employment, inflation, and growth.

At the present time all seven members of the Federal Reserve Board are appointed by the President by and with the advice and consent of the Senate for 14 year staggered terms. The Chairman is appointed by the President from among the seven members for a term of 4 years. The member selected to be Chairman is not required to be confirmed by the Senate in that capacity.

Since the post of Chairman of the Federal Reserve is one of such enormous influence, the Committee on Banking, Housing, and Urban Affairs last year reported to the Senate a provision which would have required Senate confirmation of the position. However, the provision was contained in a bill that included other controversial matters and the entire bill failed to pass.

I introduced the legislation once again in the current Congress and held hearings on the matter this week. The Board of Governors of the Federal Reserve has no objection to the enactment of this provision into law.

In my judgment it is imperative that the Senate have the opportunity to hold hearings and to debate whomever President Carter appoints to the post.

AMENDMENT NO. 353

(Ordered to be printed and to lie on the table.)

Mr. HATHAWAY. Mr. President, on June 6, when the Senate again reconvenes, the first order of business will be consideration of S. 1523, the Housing and Community Development Act of 1977. During the Senate's deliberations on this measure, I intend to offer, on behalf of myself, the Senator from Minnesota (Mr. ANDERSON), the Senator from Kentucky (Mr. FORD), and the Senator from Montana (Mr. METCALF), an amendment to the proposed new section 119 of the Housing and Community Development Act dealing with grants for severely distressed cities and urban counties.

This amendment would guarantee that not less than 25 percent of the funds appropriated for purposes of this section be reserved for cities of less than 50,000 which are not central cities of a standard metropolitan statistical area.

Mr. President, in order that my colleagues might be aware of my goals in this regard and that they might have the opportunity to study the specific language I shall be offering along with the

Senator from Minnesota, the Senator from Montana, and the Senator from Kentucky, I ask unanimous consent that a copy of a letter I recently sent, an attached statistical table, and the language of the amendment itself, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### AMENDMENT NO. 353

On page 34, line 24, strike out the closing quotation marks and the second period, and after line 24 insert the following new subsection:

"(1) Not less than twenty-five per centum of the funds made available for grants under this section shall be used for cities under 50,000 population which are not central cities of a Standard Metropolitan Statistical Area."

U.S. SENATE,

Washington, D.C., May 24, 1977.

DEAR COLLEAGUE: The Housing and Community Development Act of 1977 makes sound improvements in the nation's housing and community development efforts. However, in attempting to address the very significant needs of the largest and most distressed cities, the bill would shortchange the nation's smaller cities.

The Housing and Community Development Act of 1974 established the community development block grant program which distributes the funds by formula. Nonmetropolitan communities are guaranteed 20% of the total under the formula. Approximately another 5% goes to small cities within metro counties. While this proportion is significantly below the 34% level which a December, 1976 General Accounting Office study indicates nonmetro areas should receive on the basis of need, it does recognize the importance of guaranteeing small communities a designated minimum of the available CD funds.

The Administration recommended a new Urban Development Action Grant Program which would allow the Secretary to direct a proposed \$400 million to the most distressed cities. No minimum guarantee for small cities was recommended by the Administration. However, in an overwhelming bipartisan vote on the House floor, 279 to 129, 25% of the UDAG funds were directed to communities of under 50,000 population inside and outside of Standard Metropolitan Statistical Areas.

The House recognized the reality that small communities could not compete effectively with larger cities, even though the factors the Secretary is to consider in awarding grants characterize many smaller communities. These factors include age and condition of housing stock, residential abandonment; low average income; population out-migration; and stagnating or declining tax base. On a small scale, many cities of under 50,000 are as distressed as the Newark, Garys and Detroit areas at which the UDAGs are aimed.

The Senate Banking Committee has presented a somewhat more complex picture by adding the so-called Williams formula. Under Senator Williams' amendment, a portion of the funds otherwise available for UDAGs would automatically be provided to certain older distressed cities of over 50,000 population on the basis of their pre-1940 housing stock. The Williams formula thus insures that those metropolitan areas most in need of UDAG funds receive first crack at the \$400 million pool. This UDAG earmarking would be phased in at an estimated level of \$112 million in FY 78, \$198 million in FY 79 and \$277 million in FY 80. Since these funds would be taken from the \$400 million per year



originally intended for UDAG, the UDAG balance would be limited to levels of \$288 million in FY 78, \$202 million in FY 79 and \$123 million in FY 80.

Communities of under 50,000 population are completely cut out of the Williams formula and, while eligible for UDAG balances, as a practical matter very few, if any, would be funded in open competition, due to the realities of grantsmanship. Therefore, while a \$400 million increase in the CD program is being recommended, not one penny is guaranteed for communities of under 50,000 population!

To remedy this I am offering an amendment which would set aside 25% of the UDAG balances for small communities in both nonmetropolitan and metropolitan areas. During the last 3 years, these communities have generally received less than anticipated funding from Community Development discretionary balances because of a heavy drain caused by urban counties.

By supporting this amendment, you would be supporting continued Congressional recognition of the need to provide minimum guarantees of funding for the nation's smaller communities.

I have attached for your information a chart which indicates the population in each state residing in communities of between 2,500 and 50,000 and the percentage of each state's urban population which this figure represents.

If you would like to cosponsor this amendment, or have any questions please contact me, or have your staff contact John Doyle at 4-2523.

Sincerely,

WILLIAM D. HATHAWAY,  
U.S. Senator.

| State          | (1) | (2)       | (3) |
|----------------|-----|-----------|-----|
| Alabama        | 117 | 1,022,086 | 53  |
| Alaska         | 15  | 145,512   | 100 |
| Arizona        | 42  | 322,466   | 23  |
| Arkansas       | 73  | 628,281   | 67  |
| California     | 472 | 6,258,905 | 37  |
| Colorado       | 58  | 670,660   | 40  |
| Connecticut    | 34  | 364,276   | 24  |
| Delaware       | 13  | 104,465   | 56  |
| Florida        | 271 | 2,488,307 | 53  |
| Georgia        | 141 | 1,135,240 | 53  |
| Hawaii         | 32  | 294,183   | 47  |
| Idaho          | 35  | 300,247   | 80  |
| Illinois       | 362 | 3,912,688 | 45  |
| Indiana        | 142 | 1,542,223 | 48  |
| Iowa           | 104 | 895,011   | 56  |
| Kansas         | 90  | 808,142   | 55  |
| Kentucky       | 99  | 1,111,580 | 65  |
| Louisiana      | 105 | 969,737   | 43  |
| Maine          | 51  | 435,987   | 87  |
| Maryland       | 118 | 1,462,314 | 52  |
| Massachusetts  | 83  | 1,104,439 | 31  |
| Michigan       | 211 | 2,280,838 | 39  |
| Minnesota      | 147 | 1,516,052 | 60  |
| Mississippi    | 82  | 807,970   | 84  |
| Missouri       | 159 | 1,485,501 | 49  |
| Montana        | 30  | 236,948   | 66  |
| Nebraska       | 48  | 387,453   | 44  |
| Nevada         | 16  | 190,635   | 49  |
| New Hampshire  | 23  | 242,097   | 63  |
| New Jersey     | 264 | 3,170,310 | 67  |
| New Mexico     | 40  | 457,946   | 65  |
| New York       | 415 | 4,270,097 | 30  |
| North Carolina | 130 | 1,203,554 | 57  |
| North Dakota   | 17  | 220,022   | 80  |
| Ohio           | 333 | 4,304,001 | 53  |
| Oklahoma       | 98  | 907,743   | 53  |
| Oregon         | 69  | 570,706   | 52  |
| Pennsylvania   | 436 | 3,342,684 | 50  |
| Rhode Island   | 11  | 193,379   | 32  |
| South Carolina | 97  | 724,330   | 75  |
| South Dakota   | 25  | 220,622   | 75  |
| Tennessee      | 101 | 885,500   | 39  |
| Texas          | 346 | 3,057,842 | 36  |
| Utah           | 50  | 444,819   | 60  |
| Vermont        | 16  | 142,889   | 100 |
| Virginia       | 96  | 976,584   | 37  |
| Washington     | 101 | 1,042,317 | 52  |

|               |     |           |     |
|---------------|-----|-----------|-----|
| West Virginia | 51  | 480,943   | 76  |
| Wisconsin     | 141 | 1,401,268 | 49  |
| Wyoming       | 20  | 201,111   | 100 |

U.S. total — 6,030 60,267,971 45

<sup>1</sup> Number of urban communities between 2,500-50,000.

<sup>2</sup> Population living in communities between 2,500-50,000 (a small part of these may reside in "urban counties" and already be eligible).

<sup>3</sup> Percent of States' urban population.

#### MINE SAFETY—S. 717

AMENDMENTS NOS. 347 THROUGH 352

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT submitted six amendments intended to be proposed by him to the bill (S. 717) to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes.

#### NOTICES OF HEARINGS

##### RENEGOTIATION ACT

Mr. PROXMIER. Mr. President, the Senate Committee on Banking, Housing and Urban Affairs will hold hearings on the Renegotiation Act on June 13 and June 14, 1977.

##### LATE PAYMENTS BY THE FEDERAL GOVERNMENT TO CONTRACTORS

Mr. NELSON. Mr. President, I wish to announce that the Small Business Committee will hold hearings on Late Payments by the Federal Government to Contractors. The hearings will be held on June 8 and 9, beginning at 10 a.m. in room 424 of the Russell Office Building each day. The Senator from Oregon (Mr. Packwood) will chair the hearings. Witnesses will be announced at a later date. Further information can be obtained from the committee offices, room 424, Russell Office Building, telephone 224-5175.

##### RESTRICTIVE PRACTICES

Mr. NELSON. Mr. President, there will be an additional day of hearings on the restrictive practices in the eyeglass industry and the effect of State restraints on competition. The hearing will be on Tuesday, June 7 at 9:30 a.m. in room 424 Russell Senate Office Building.

##### RURAL DEVELOPMENT SUBCOMMITTEE

Mr. CLARK. Mr. President, I am pleased to announce that on June 14 and 16, the Rural Development Subcommittee of the Committee on Agriculture, Nutrition, and Forestry will resume its oversight work on rural development.

The hearings on both mornings will begin at 10 a.m. in room 322 Russell Senate Office Building.

The Assistant Secretary for Rural Development, Alex P. Mercure, and appropriate Agriculture Department staff will be the only witnesses on both days. The subcommittee will be taking testimony from Secretary Mercure concerning Farmers Home Administration management problems, implementation of the Rural Development Act of 1972, the Assistant Secretary's own views about the role of the Department of Agriculture in rural development, and several other

areas of importance regarding the administration's commitment to rural development.

Additional hearings are to be scheduled for July and August and will focus on farm and rural energy problems and government-wide coordination of rural development policies and programs.

##### THE MAGISTRATES ACT OF 1977

Mr. DECONCINI. Mr. President, I wish to announce open public hearings by the Subcommittee on Improvements in Judiciary Machinery on S. 1612 and S. 1613, two bills which I have today introduced. The bills enlarge the jurisdiction of U.S. magistrates.

Hearings will be held on June 6th, 8th, and 10th in room 2228 Dirksen Senate Office Building. On June 6th and 10th, hearings will commence at 9 a.m. On June 8th, hearings will commence at 8 a.m.

S. 1613, entitled the Magistrates Act of 1977, has been recommended by the Department of Justice and would expand the jurisdiction of Federal magistrates while establishing new standards for the appointment of full and part-time magistrates and, consequently, would ease the burden of our district courts in certain civil and criminal cases. I have also introduced S. 1612 at the request of the Judicial Conference of the United States. It will also enhance the jurisdiction of the U.S. magistrates in both civil and criminal cases.

Witnesses will include representatives from the Justice Department, the Judicial Conference, legal services groups, and practitioners.

Those who wish to testify or submit a statement for inclusion in the record should communicate as soon as possible with the Subcommittee on Improvements in Judiciary Machinery, 6306 Dirksen Senate Office Building, telephone 224-3618.

#### ADDITIONAL STATEMENTS

##### AIR TRANSPORTATION LEADERSHIP

Mr. GOLDWATER. Mr. President, at the time this body turned down the supersonic transport which was being built by the Boeing Aircraft Co., I said that it would be the point that marked the decline of American commercial air superiority and time is proving me right. Not only am I concerned about this apparent slippage but others are. For example, Mr. Harding Lawrence, president of Braniff International, in speaking before the American Airlines Administrative Association of Texas in Dallas, spoke about this entire subject. I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

##### AIR TRANSPORTATION LEADERSHIP

(Harding L. Lawrence, chairman and president of Braniff International, recently said he is more deeply concerned about U.S. leadership in the air transport industry than at any previous time in his 30 years in the industry. Speaking before the American Airlines Administrative Assn. airport construction and regulatory reform. Aviation Week & Space

Technology is publishing key excerpts of his remarks below—Ed.)

The supersonic transport in the hands of other nations should be such a shocker that our citizens would rise up and demand that Congress get U.S. aviation moving again. And the Concorde should make us look not just at aviation technology but at every aspect of our air transportation.

Not only is there no supersonic transport under development. There are no new airports being built. There is no plan to make U.S. domestic airlines healthy or U.S. international airlines competitive. I feel some days that the airlines, the airframe and engine manufacturers, the airport operators, the institutional lenders, the air passengers are all waiting for something to happen but they don't know what. The only voices to be heard are those of self-appointed spokesmen who have nothing but negative things to say—in other words, new airports will destroy ecology, airplanes must be retrofitted to reduce noise, the Concorde will disrupt the atmosphere and cause us all to become deaf. Their miracle solution which will make airlines healthy, develop new aircraft, build new airports, and maintain American leadership in air transportation is lower prices.

We cannot let these calls for lower prices, for less noise, less air pollution—no matter how worthy the objectives—distract our attention from the fact that it is leadership in the future of air transportation which will produce the new aircraft, the airports, the systems, and reduce noise and smoke pollution and continue to keep air fares from rising as fast as the consumer price index.

Assuming we want to be leaders for the good of our nation, our economy, our security, then we must initiate vast new programs to regain leadership in aircraft technology; to continue to be the export source of the world's air fleets; to reequip U.S. airline fleets; to build the airport facilities and air traffic controls capable of handling increased flight frequencies; to develop the people handling procedures and hardware to accommodate double the number of today's travelers; to insure the quality and quantity of air service demanded by passengers.

If the claims that the Concorde supersonic doesn't meet noise and air pollution objectives are correct, and they are not correct, then why is not the United States developing a supersonic transport that will?

If present aircraft subsonic fleets cannot be retrofitted to meet noise regulations by the government's deadline in 1981 to 1985, then where is the next generation aircraft that will?

If present jet fleets are wearing out, why are we not now developing the workhorse replacement for the 707 and DC-8s and the follow-on aircraft for the 727, DC-10 and 747?

If aircraft development is being postponed for lack of airline orders which, in turn, require airline profits and loans, where is the financing plan which will provide the cash flow necessary to the airlines or the subsidy to the aircraft manufacturers?

... If we know the number of air travelers in the United States will double and air cargo will at least quadruple by 1985 to 1990, where are the developmental plans to provide the hardware and procedures to handle such mass and bulk? ...

Air traffic control has to be one of our major concerns, where is the plan that will handle increased frequency of flights, more aircraft in the air, whether commercial airliners or general aviation?

There is no miracle needed, no secret plan. What is needed is basic and clear. To secure technological progress, airframe and engine builders must be assured of airline orders. These, in turn, are dependent on capital formation [which] is dependent upon in-

ternal generation of funds and financing from outside the air transport industry.

The keys to internal financing are profits and tax laws. The key to securing outside financing is the ability of the airlines and their lenders and their suppliers to forecast a reasonable rate of return which can service debt. One key to forecasting in our business is stability in route authority and in regulation of air service by the government.

Let me point out further that technological progress is the key to future people productivity which, in turn, is the only offset, other than fare and rate increases and route awards, to meeting the increased cost of providing the quality and quantity of air service the nation itself needs to keep growing....

An airplane to replace DC-8s and 707s is now needed in four years and none is available. The closest aircraft now available is the French/German A-300B and substantial sales of this aircraft in the U.S. can be expected if a suitable U.S. aircraft is not developed soon. Another oil price increase is on us and yet the design of more fuel-efficient airplanes is floundering in this country because the airlines and the manufacturers cannot agree on the size, the range, and even the baggage compartment of the airplanes needed in the 1980s, not to mention the fact that financing isn't available.

The basic research is complete for the airplane of the 1980's. We know we can expect an airplane 5-10 percent more fuel efficient than the existing wide-body types, and we know that it will feature the super-critical wing, higher temperature metallics in the more efficient high bypass engines, and composite secondary structure. These are the sort of fundamental technology building blocks which have kept us in the forefront in the past. Building blocks by themselves, however, are of no value until they are combined into a useful structure.

We must, in 1977, reach a decision on basic design features of at least one new airplane incorporating the latest technology available. This will probably be a 180-passenger, mixed configuration airplane of the two-aisle, LD3 size with a range of about 2,000 statute miles and will probably be powered by three engines in the 20,000- to 22,000-lb.-thrust class. Early decision and development of this airplane is essential. The need for a 707/DC-8 replacement of about 200-passenger configuration with a 5,500- to 6,000-mile range is critical and development of this airplane must be accelerated.

Beyond these short-range targets, the future is more cloudy for the follow-on airplane to the Boeing 727-200, the DC-10, Lockheed 1011 and Boeing 747. Clearly, we must have a selection of airplanes in the small, mid, and large size range for the late 1980s and early 1990s which are 20 to 25 percent more fuel efficient than today's wide-bodies.

The technology for the 1990 aircraft obviously needs additional basic research. The logical organization to do this research is NASA. Government funding for the projects is essential. . . .

#### TESTIMONY OF BRUNO V. BITKER ON THE GENOCIDE CONVENTION BEFORE THE FOREIGN RELATIONS COMMITTEE

Mr. PROXMIRE. Mr. President, the Foreign Relations Committee began hearings Tuesday on the subject of the Genocide Convention. The statements of the initial day of hearings were graced by the testimony of Bruno V. Bitker, chairman of the Section on International Law of the Committee on International

Human Rights of the American Bar Association.

It was the formal opposition to the Genocide Convention by the American Bar Association that provided a major obstacle to Senate ratification of this most important treaty. However, last year the ABA, realizing that its objections had not stood the test of time, unanimously reversed its previous position and recommended adoption of the treaty.

It is my hope that this reversal by the ABA will provide the final impetus for ratification of the Genocide Treaty by this body. We have delayed too long.

Mr. President, I ask unanimous consent that Mr. Bitker's testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

#### STATEMENT OF BRUNO V. BITKER

Mr. Chairman and members of the committee: My name is Bruno Bitker and I am chairman of the American Bar Association's Committee on International Human Rights of the Section on International Law. I am honored to appear before you today on behalf of the American Bar Association to urge the Senate to give its advice and consent to ratification of the Genocide Convention. I have appeared before this Committee at prior hearings, conveying the support of a variety of organizations. I am, however, especially delighted to do so this time on behalf of the ABA, which represents the organized bar of this country. The American Bar Association, as this Committee is aware, did not easily or quickly arrive at its endorsement of the Genocide Convention. In fact, in 1949, prior to the hearings conducted by this Committee, it had decided not to support ratification because the treaty "involves important constitutional questions . . ." not satisfactorily resolved. Subsequently, in 1970, following President Nixon's request to the Senate to act on the Genocide Convention, the ABA again considered the question. But by a divided vote of 130 to 126 in the House of Delegates, it declined to change its earlier stand. Opponents of ratification had frequently cited the ABA position as justifying U.S. inaction. However, upon further study and consideration, in February, 1976, the ABA reversed its position and by an overwhelming vote recommended the ratification of the Convention. A copy of that recommendation and the supporting report is filed with this statement.

Though considerable attention was given to this Convention by the bar association before it decided to support it, it does not match the extensive and thorough analysis of every provision accorded to it by this Committee since President Truman, on June 16, 1949, sought the advice and consent of the Senate to ratification. The published hearings of the subcommittee held in January and February, 1950, contain about everything that could be said on the subject, pro and con. The opposition feared that it might undermine our constitutional structure. On the other hand, the favorable testimony was so meagre, it would be difficult to single out specific references. However, if any Senator or staff member wishes to read the supporting testimony of just one witness, I would suggest the remarkable presentation by Philip B. Perlman, Solicitor General of the United States (p. 22, et seq.).

On May 23, 1950, the subcommittee reported out the Convention favorably with one declaration and four understandings (summarized in *Legislative History of the*



*Committee on Foreign Relations, S. Doc. No. 247, 81st Cong., 2d Sess. at p. 27, 1950).* The full committee however, withheld action and for almost two decades it remained in the Senate's deep freeze. Today it is eligible for a place in the *Guinness Book of World Records* as being the oldest treaty pending before the Senate (U.S. Senate, Legislative Calendar, 95th Congress, March 31, 1977).

Although the Senate had taken no further action following the 1950 hearings, in July, 1963, President Kennedy sent to the Senate three human rights treaties (Political Rights of Women, Abolition of Forced Labor, and a Supplementary Slavery Convention). In the course of the hearings on these conventions in 1967, action on the Genocide Convention was urged. However, no action was taken on it.

In 1968, the year designated by the United Nations as Human Rights Year in honor of the 20th anniversary of the adoption of the International Declaration of Human Rights, the President created a President's Commission for the Observance of Human Rights Year. The Commission urged ratification of the Convention. More particularly, it created a special committee of lawyers headed by Supreme Court Justice Tom C. Clark (retired), which included some of the most prominent lawyers in the country. That committee, on which I was privileged to serve, issued a report on the treaty-making power of the United States in human rights matters. Justice Clark, in his letter of transmittal, said in part:

"I would like to reiterate here, however, our finding, after a thorough review of judicial, congressional and diplomatic precedents, that human rights are matters of international concern; and that the President, with the United States concurring, may, on behalf of the United States, under the treaty power of the Constitution, ratify or adhere to any international human rights convention that does not contravene a specific Constitutional prohibition."

In its conclusion, the report said: "It may seem almost anachronistic that this question continues to be raised. It is nearly a quarter of a century since this country used the treaty power to become a party to the U.N. Charter, one whose basic purposes is the promotion of human rights for all. The list of parties to the various human rights treaties proposed by the U.N. has become longer each year. In each of the last two years the U.S. Senate has approved a human rights treaty without a single dissenting vote. In December, 1968, the Chief Justice of the United States noted that we as a nation should have been the first to ratify the Genocide Convention and the Race Discrimination Convention. And yet the suggestion persists that this Nation is constitutionally impotent to do what we and the rest of the world have, in fact, been doing."

This report will be of value to members of this Committee and to the staff that drafts your report, and because it is now out of print, I ask consent to file my copy as a part of the record of these hearings.

Two other reports prepared by entities of the American Bar Association in support of ratification appear in the printed hearings of the subcommittee held March 10, 1971. One, at page 147, is the report of the ABA Section on Individual Rights and Responsibilities and the other, at page 196, is the report of the ABA Standing Committee on World Order Under Law. I participated in the drafting of the several reports to which I have alluded in this statement.

In February, 1970, President Nixon reminded the Senate that the Convention continued to be unfinished business and urged prompt action. Thereafter, new hearings were held in April and May, and again in March, 1971. The Committee reported out the Con-

vention favorably on December 8, 1970, on May 4, 1971, on March 6, 1973 and again on April 29, 1976.

There is no better or more succinct review of the status of the Convention than as set forth in the Committee's 1976 report. That report includes three understandings and one declaration, which are also included in the ABA's resolution of approval. Attached to the Committee's report is the implementing legislation proposed in accordance with Article V of the Convention. I see no problem concerning this legislation and I understand none has been suggested.

Everything that can be said on the constitutional question has been fully discussed in all these hearings and Committee reports. To save time and to avoid unnecessary repetition, I am not repeating these legal arguments. It is difficult to take seriously any basic constitutional objection to the Convention. It is conceivable, though it has not been urged, that there are public policy objections to ratification. But it would be hiding behind a false front to fail to ratify on spurious constitutional grounds.

As noted in the Committee's last report, no fewer than 82 members of the United Nations (perhaps 83 depending on how China's accession is viewed) have become parties to the Convention. Although the United States was a leader in drafting and securing its adoption in the United States in 1948, it is the outstanding laggard in ratifying it. Its failure to ratify borders on constituting a national disgrace. As the late Chief Justice Earl Warren said in December, 1968, "We as a nation should have been the first to ratify the Genocide Convention . . . Instead we may well be the last . . ."

Since the Committee's 1976 report, a new President of the United States has come into office. President Carter has followed all of his predecessors from Truman through Eisenhower, Kennedy, Johnson, Nixon and Ford in support of America's furthering the cause of international human rights, including ratifying the Genocide Convention. As President Carter stated on March 17th to the United Nations: "Ours is a commitment, and not just a political posture . . . To demonstrate this commitment . . . I will work closely with our own Congress in seeking to support the ratification . . . of the United Nations Genocide Convention."

The legal obligation with respect to human rights is thus noted by Philip C. Jessup, former member of the International Court of Justice:

"It is already law at least for members of the United Nations, that respect for human dignity and fundamental human rights is obligatory. The duty is imposed by the Charter, a treaty to which they are parties."

Certainly nothing is more basic to this obligation which the United States assumed when it ratified the U.N. Charter, than to outlaw mass murder of a national, ethnic, racial or religious group, as such, whether committed in time of peace or war.

I have especially referred in this statement to the endless hearings through which this Committee has sat to emphasize the need to fish or cut bait. The Committee has certainly exhibited great courtesy as well as extreme patience over the years in allowing anyone and everyone to express his or her views on the subject. As it said in 1976, "further hearings on the treaty were not warranted in view of the voluminous record made in hearings in 1950, 1970 and 1971." There appears no provision in the Convention that would support a successful attack on constitutional grounds. No objections asserted on a legal basis justifies delaying ratification. Any conceivable uncertainty as to a few phrases has been cured by the understandings. If there are justifiable reasons of national policy for not ratifying, they have not been advanced. The one new fact to be

noted since the last hearing is the favorable action of the American Bar Association. And that has now been recorded.

Each time the Committee has acted it has reported the Convention favorably. But each time it has reached the Senate floor, an actual or threatened filibuster has prevented the Senate from voting to support a commitment we made on December 9, 1948, when we approved the treaty in the United Nations. It is already past the time to sign on the dotted line.

The United States is now reestablishing its moral leadership in the world. If it now ratified this Convention, it would be a clear demonstration that it is faithful to its pledge under the U.N. Charter. It would also be acting in its own best national interest.

(Resolution adopted by House of Delegates, American Bar Association, February 17, 1976, and the Supporting Report)

#### AMERICAN BAR ASSOCIATION—SECTION OF INTERNATIONAL LAW RECOMMENDATION

The Section of International Law recommends adoption of the following resolutions:

Be it resolved, that the American Bar Association favors the accession of the United States to the United Nations Convention on the Prevention and Punishment of the Crime of Genocide with the following Understandings and Declaration which have been approved by the Senate Committee on Foreign Relations:

1. That the U.S. Government understands and construes the words "intent to destroy, in whole or in part, a national, ethnic, racial or religious group as such" appearing in article II to mean the intent to destroy a national, ethnic, racial or religious group by the acts specified in article II in such manner as to effect a substantial part of the group concerned.

2. That the U.S. Government understands and construes the words "mental harm" appearing in article II(b) of this Convention to mean permanent impairment of mental faculties.

3. That the U.S. Government understands and construes article VI of the Convention in accordance with the agreed language of the Report of the Legal Committee of the United Nations General Assembly that nothing in Article VI shall affect the right of any state to bring to trial before its own tribunals any of its nationals for acts committed outside the state.

4. That the U.S. Government declares that it will not deposit its instrument of ratification until after the implementing legislation referred to in article V has been enacted.

Be it further resolved that the President of the American Bar Association or his designee is hereby authorized to present the views of the Association as herein expressed before the appropriate committees of the Congress and other agencies of the Government of the United States.

#### REPORT

##### Summary of provisions of the convention

#### ARTICLE I

Genocide is a crime under international law, whether committed during peace or war.

<sup>1</sup> S. Exec. Report No. 93-5, 93rd Congress, 1st Sess., (1973).

<sup>2</sup> In preparation of this report the Section considered the testimony presented at the Hearings on Genocide before the Subcommittee of the Senate Committee on Foreign Relations in 1950, the Senate Committee's Report of December 8, 1970, May 4, 1971 and March 6, 1973 as well as previous reports of other sections and committees of the American Bar Association and other pertinent material including a Report in Support of the Treaty Making Power of the United States

The contracting parties undertake to prevent and punish such a crime.

#### ARTICLE II

Acts constituting Genocide are those committed "with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such" by:

- (a) "Killing members of the group";
- (b) "Causing serious bodily or mental harm to members of the group";
- (c) "Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part";
- (d) "Imposing measures intended to prevent births within the group";
- (e) "Forcibly transferring children of the group to another group".

#### ARTICLE III

Acts which are punishable are:

- (a) Genocide
- (b) Conspiracy to commit Genocide
- (c) Direct and public incitement to commit Genocide
- (d) Attempt to commit Genocide
- (e) Complicity in Genocide.

#### ARTICLE IV

Persons committing Genocide shall be punished, whether constitutionally responsible rulers, public officials or private individuals.

#### ARTICLE V

The contracting parties shall enact the necessary implementing legislation to enforce provisions of the Convention.

#### ARTICLE VI

Persons charged with a violation of the Convention are to be tried by a competent tribunal in the state where the act was committed or by an international penal tribunal having jurisdiction of the parties.

#### ARTICLE VII

For the purposes of extradition Genocide is not to be considered a political crime. Extradition shall be granted by the contracting parties in accordance to their laws and treaties in force.

#### ARTICLE VIII

Any contracting party may call upon the competent organ of the United Nations for action where appropriate to carry out the purport of the Convention.

#### ARTICLE IX

Disputes relating to "interpretation, application or fulfillment" of provisions of the Convention including those relating to the responsibility of a state for Genocide or other acts punishable by the Convention shall be submitted to the International Court of Justice at the request of the disputing parties.

Article X to XIX are procedural in nature.

#### DISCUSSION

The purpose of the Convention is to make Genocide an international crime whether committed during peace or war. It seeks to prevent and punish when it occurs the destruction, in whole or in part, of a national, ethnical, racial or religious group as such. The Convention defines Genocide, specifies the acts which constitute Genocide, sets forth the obligations of the parties, the place of trial of the accused, and provides for submission of disputes relating to interpretation, application or fulfillment to the International Court of Justice.

The first Understanding makes it clear that where the word "intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such" are used in the defini-

tion of the crime of Genocide that it means an intent to destroy by such acts in such a way as to affect a "substantial" part of the group concerned.

The second Understanding states that where the word "mental harm" is used to define a punishable act, it means a "permanent impairment of mental facilities." It does not include violent expressions or prejudice against individual members of groups. It also would discourage any frivolous allegations of mental harm.

The third Understanding is to take care of the situation where a national of the United States committed an act outside of the state. Pursuant to this understanding the U.S. will have the right to bring to trial before its own tribunals any of its nationals for acts committed. There has been considerable discussion regarding the Convention from the viewpoint of extradition. It should be understood that the Convention itself is not an extradition treaty.

The Convention is not self-executing but requires necessary implementing legislation. The recommended Declaration makes it clear that we must enact necessary federal legislation pursuant to our constitutional procedure prior to depositing our instrument of ratification.

Attached hereto as Appendix A is a copy of Senate Executive Report 93-5, 93rd Cong. 1st Sess., (1973). This Report lists the pertinent provisions of the Convention and gives an interpretation of each provision based upon the testimony offered at the earlier hearings. A copy of the Convention will also be made available to any interested party.

#### CONCLUSION

Eighty-two nations to-date have ratified and/or acceded to the Genocide Convention. The world community has, therefore, defined Genocide as "a crime against the laws of nations". The United States is a party to other treaties that define and establish an international crime. (The Geneva Conventions On Protection Of War Victims, 1949, TIAS 3362-3365; The Conventions For The Regulation of Whaling, 1935, TS 880, 1946, TIAS 1849; the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, TIAS 4900 and the Single Convention On Narcotic Drugs, 1961, TIAS 6298.) Statements made in the past and raised in the Senate and the ABA House of Delegates are no longer pertinent. The passage of time has confirmed that Genocide is a matter of "international concern" which should be regulated as an international crime. Acceding to the Convention at this time is a positive step in the national interest of our country. The American Bar Association should come forward and place on record its positive support.

This resolution was overwhelmingly approved by the Council of the Section of International Law at its Mid-Winter Meeting on December 5-7, 1975.

Respectfully submitted,

RICHARD P. BROWN, JR.,

Chairman, Section of International Law.  
FEBRUARY 1976.

#### TRIBUTE TO GEN. LEWIS B. HERSHEY

Mr. STENNIS. Mr. President, I want to join in paying richly earned and well-deserved tribute to my late friend, retired Army Gen. Lewis B. Hershey.

General Hershey had a long and distinguished record of service to this country. He served under six Presidents and during four wars as well as in peacetime. After having been appointed as Selective Service Director during World War

II he oversaw the drafting of some 14 million Americans.

Patriotism, loyalty, and devotion to duty were the hallmarks of General Hershey's long years of service to the Nation. I had occasion to work with him and I know that he was a determined, conscientious, direct, and honest man who never backed down no matter how tough the going was. He remained undaunted even during the heights of the protests against the war in Southeast Asia.

Lewis B. Hershey made a unique and singular contribution to his country. He will be long remembered by those who knew him and worked with him. I again pay tribute to his memory and to his long career of outstanding service.

#### A PLAN TO NOURISH ROOTS

Mr. PERCY. Mr. President, the Reverend Jesse L. Jackson, of Chicago, is well known for his philosophy that a strong family unit is the best foundation for a stable society. We know that as a result of Alex Haley's "Roots," there has been a widespread national revival of interest in family history and solidarity, a movement toward rediscovering ourselves through our families, something Rev. Jesse Jackson has preached for years.

I would like to share an article by the Reverend Jackson on the real message of "Roots," which appeared in the Washington Post for Monday May 23. Mr. President, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

#### A PLAN TO NOURISH ROOTS

(By Jesse L. Jackson)

We all know what Alex Haley was looking for and what he found. For all of the impact "Roots" has had on Americans and our images of our country and ourselves, however, one of Haley's most powerful messages really isn't being heard.

Visiting us in Chicago, Haley patiently retraced and reanswered the "Roots" questions he's heard thousands of times. But when time came for him to speak at length and personally, he talked not about "Roots" but about the roots of a modern American tragedy: the dissolution of the American sense and structure of family. He believes that the aimlessness and anxiety that torture the lives of so many young Americans have their origins in the rootlessness of modern life.

Haley's own quiet words are the best to describe the problem and how he suggests we attack it:

"Tens of thousands of children are growing up in homes without connections to their grandparents. Grandparents have been eased out of the modern American family. Many of them have moved into places with other older people. When that is done, they lose their contact with the children of their families.

"And that's a tragedy. Nobody can do for children what grandparents can. Grandparents sprinkle stardust on the lives of children. Without contact with grandparents, a child loses a vital and natural way to see and understand that he is a part of a continuum, that he has roots, that he is the future and the hope of all those who preceded him.

"We have put such emphasis on technol-

In Human Rights Matters prepared by the Special Committee of Lawyers of the President's Commission for the Observance of Human Rights Year 1969 (See the Appendix 18, House Foreign Affairs Subcommittee Hearings August-December 1973).



ogy and materialism that we are neglecting our greatest cultural treasure—our elders, those we patronizingly call 'senior citizens.' We must not lose what they know, for when they are gone, so will be much of who we are. "We don't have much time, perhaps only a decade, to reconnect with our elders, and, through them, our roots. There is no time to waste.

"There are three things to do:

"First, as quickly as possible, get to the oldest in our families and get everything from them we can about their—our—families. Go back again and again. Carefully, gently, firmly, ask them to go back and back in their memories. When we collect all they can tell us, it needs to be recorded. It needs to be written in clear and simple language, in the most direct way possible. If at all possible, it should be typewritten. Then make as many copies as needed to get a copy into the hands of each family member.

"As part of this effort, we must also preserve those old trunks of photos and clippings that our family members have. Those are our archives. In them, with thought and memories you will find things that will shake you to your soul.

"There is an urgency to this. If we let these elders and their records pass, we'll never know; it'll be lost.

"The third thing: We need to start holding family reunions. When families of diverse places and attitudes come together because of a common bloodline, people will find that they live on in others, though they may never have met or talked before.

"The family records and the reunions will give something important to our young. They will help them realize the drama of their past and so help them focus on being purposeful and proud in their lives."

That is the quiet message Alex Haley is so anxious about. He is challenging us to connect the roots of our past with the fruits of the present to secure our future. We must use the message of the struggles in our past to meet and overcome those of the future.

#### CONGRESSMAN NORMAN MINETA SUPPORTS REGULATORY REFORM

Mr. KENNEDY. Mr. President, Representative NORMAN MINETA, Democrat of California, delivered a very important address on regulatory reform in the air transportation industry. In addressing the Aero Club on Tuesday, May 24, Congressman MINETA articulated clearly and forcefully the major problems associated with the current regulatory scheme. As a respected and active member of the House Aviation Subcommittee, NORMAN MINETA speaks with considerable authority when he says that the Civil Aeronautics Board's entry standards are imprecise, at best, and frivolous and discriminatory, at worst. NORMAN MINETA's insights into the Board's entry policy demonstrate that the perceived protections airlines receive from current regulation are really quite feeble and, in any event, are purchased at a very high cost—carriers must give up certainty, management flexibility and numerous opportunities to grow.

Mr. President, I urge my colleagues to study closely NORMAN MINETA's comments on this important issue. I ask unanimous consent that Congressman MINETA's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

#### WHY REFORM?

(By Representative NORM MINETA)

It is a pleasure for me to be here today and to have this opportunity to share some thoughts with you. I've been fortunate in the short time that I've been here in Congress in being able to work with many of you on issues relating to aviation. I want you to know how much I have appreciated your willingness to discuss your concerns about the future of the aviation industry frankly with my staff and me.

Although we share a common interest in many legislative areas related to aviation, such as our on-going effort to establish aviation noise abatement programs, I would like to utilize this forum today to discuss some of the issues relating to the reform of the economic regulation of the nation's airlines. As a member of the House Aviation Subcommittee, and as a former Mayor of San Jose, California, I hope to be able to bring to this discussion substantive comments on the national issues as well as some comments on the situation in California which will be helpful to all of us in achieving our common goal of the best, safest, most economical air transportation system in the world.

As you are well aware, there is a growing momentum in Congress and the Administration to review governmental regulations of all kinds. It is an effort to strike a new, more responsive balance between the regulated, the regulators, and the consumers of regulated services. I have both high hopes and considerable apprehensions about Congressional efforts to achieve aviation regulatory reform. My apprehensions stem from the prospect of two ideologies meeting head-on in endless and hopeless debate. This apprehension was reflected in the testimony last year before the House Aviation Subcommittee, by Lamare Muse, President of Southwest Airlines. Mr. Muse stated, "What the (Interstate Carriers) say is that their problem of not making profits is because they cannot raise their fares enough, even though in the last six months they have had four fare increases."

"They just do not look at this world the way I do, sir, and we just cannot reconcile our differences. I say the way to make money is to cut your fare. They say the way to make money is to raise your fare. And we just do not agree."

Mr. Muse was reflecting two lofty absolutes which, when stated as principles, sound equally convincing, and we get nowhere. I am reminded of a quotation from F. Scott Fitzgerald, "The test of a first-rate intelligence is the ability to hold two opposed ideas in the mind at the same time, and still retain the ability to function." I was certainly ready to claim that "first-rate intelligence" until I realized that the book from which this quotation was excerpted was entitled *The Crack Up*. Frankly, I fear a tendency on both sides to argue from lofty absolutes with Members of Congress forced to navigate between a rock and a hard place!

My hopes are that we will discuss not absolutes, but the down-to-earth realities of the aviation industry; that we will base our positions on the best predictions of real-world effects that a change in the regulations will bring. I would prefer to picture us meeting as mechanics and engineers around a great engine—representing the present aviation industry. We should begin by reminding ourselves that the engine is the best of its kind anywhere in the world, by any measure: route miles, relative size of market, convenience, efficiency and safety. But, like mechanical tinkers anywhere, we would like to devise ways of improving its performance. If we work together, I think we can accomplish that task.

Although there are several legislative proposals being considered in Congress right now, we are not here to discuss one particular proposal. Obviously, any idea and/or combinations of ideas must and will be considered. It will be our job in Congress, based on a thoughtful analysis of the record, to develop a legislative package that is effective, responsive and responsible.

It is easy to figure out how the idealogues would respond to the question of entry into new markets. One side would maintain that total freedom means more competition, lower fares, higher load factors, and improved airline earnings. The other side would claim that anything other than the status quo is a sure-fire path to cut-throat competition, reduced service, and lower profits. It's clear that a reasoned analysis would end up somewhere between these absolutes.

You are all aware of the manner in which the CAB, with its mandate for "public convenience and necessity," has dealt with the matter of entry into new markets. Since 1950, there have been over 80 applications by new firms to provide trunk service, but not one has been granted. The development of service, other than by trunk carriers, has been impressive, including local service, supplemental, all-cargo, and commuter; and yet those categories combined account for only 10% of all air service. Indeed, the Board's route award procedures have been neither fair nor effective in allowing existing carriers to serve new markets. It is apparent that the Board's route award procedures are bad for everyone in the industry—large as well as small carriers. The real question we must address is whether control of entry disadvantages the carriers. As I study this issue again and again, I believe the evidence is that it does. At best, the standards are imprecise; at their worst, they are frivolous and highly discriminatory.

I'm sure there are many "horror" stories associated with this aspect of the Board's procedure. I'd like to share with you one which I find particularly meaningful to this debate.

In 1974, Hawaiian Airlines applied to CAB to serve Vancouver from the Islands. They were turned down—after spending one-quarter of a million dollars trying the case—because, among other things, there was no station in existence at the other end of the route; and in order to serve it, Hawaiian would have had to purchase new jet aircraft.

Now, three weeks after this decision, the CAB ruled in another, unrelated route application filed by Western Airlines. This application was approved—in spite of the fact that it would require several million dollars for a new station at the other end of the route, and that Western would be required to purchase new equipment. In addition, Western was awarded the route because of the Board's interest in favoring smaller airlines to permit them to strengthen their route structure.

Allow me to point out one final irony in these examples. The airline that won the route award to Vancouver sought by Hawaiian was—you guessed it—Western. What had happened to the Board's interest in favoring smaller airlines when Hawaiian was applying? The CAB has provided no opportunity for growth to Hawaiian Airline which, in 1938, served 7 cities and in 1977 serves only eight.

I'll bet representatives of Hawaiian Airlines would support a statement that Ralph Waldo Emerson made in 1860: "The teaching of politics is that the government, which was set for protection and comfort of all good citizens, becomes the principle obstruction and nuisance with which we have to contend."

If we get anything from these and other examples of the Board's actions on route ap-

plications, it must be that their actions are not consistent. Carriers which feel secure and protected by the "guarantee" of route certification, don't get much of a guarantee. If they don't suffer from the inconsistency of decisions, they must be getting increasingly uneasy when they review the other aspects of Board policy on routes. Awards are being made authorizing direct competition in monopoly markets. Direct non-stop service is awarded over an existing carrier's indirect service. Local service carriers are being awarded certificates to replace trunk carriers in many monopoly markets. The current route control set-up encourages carriers to enter markets prematurely—to prevent being foreclosed from new opportunities.

In addition to the uncertainty and difficulty of dealing with the CAB in route certification matters, there are financial costs which cannot be overlooked: the preparation of a case, the costs of litigation, the costs required to "buy in" to a new market—the list goes on and on. These costs must have a significant impact on the profit-making ability of any airline.

The ability of airline management to be responsive to market factors—with its inherent potential of offering more efficient service at lower fares—is an advantage which should not be denied to our existing carriers.

However, no discussion of "entry" would be complete without a statement that whatever form regulatory changes take, freedom of entry must be made gradual enough to allow carriers who have operated under 39 years of tight regulation the time to adjust to a new environment, while allowing phased entry to qualified new carriers. In addition, any regulatory reform program must include adequate safeguards and retention of sufficient regulatory authority to step in when and if serious injury to the public interest appears likely to result.

We concentrate so heavily in our discussions of regulatory reform on its potential impact on the airlines, that the airport operator is often overlooked. As a former Mayor, I know that we must not ignore the impact on the airport itself. Although freer entry, by itself, would not disadvantage local airport operators, the impact of the other side of the coin—freer exit—is often unheeded, and this indeed requires our closest attention. In an environment where freer entry is possible, it must be based on a management decision that is cautious, realistic, and well grounded in the characteristics of the market to be served.

We must recognize that an airline has a responsibility to the market it wishes to develop—and to the airport in that market. Simple economies would seem to dictate that a decision to serve a new market would not be made arbitrarily, but we must not allow a situation in which the airport operator's ability to secure revenue financing is placed in jeopardy. I intend to make sure that as regulatory reform measures proceed through Congress, this impact will not be overlooked.

With regard to service for small communities, I'd like to discuss, first of all, what our present regulation is doing for them. The CAB currently administers a \$70 million program to underwrite otherwise unprofitable but necessary service. Although service to small communities is provided by local service carriers, small certificated carriers, and non-certificated commuter carriers, this CAB subsidy program is limited to certificated airlines.

The smaller certificated airlines are finding it uneconomical to justify high-frequency service with large aircraft at points enplaning only 10 to 20 passengers a day, but the Board is unable to pay a subsidy to those uncertificated carriers which are better suited to provide the service. In addition,

since the Board is prohibited from controlling either equipment or schedules, it has virtually no control over how a town is served in terms of frequency or timing.

What we have is air service unsuited to the special needs of small communities, and a \$70 million Government program which is not doing the job.

In addition, the present system of economic regulation has not prevented certificated carriers from dropping service to small communities. In fact, in the last 15 years, 170 points have lost certificated air service. Even though the Board permitted the airlines to drop these 170 points, presumably because of lack of passengers, unregulated commuter carriers voluntarily serve nearly 100 of those communities today. There is a common belief that airlines provide significant service at a loss to small communities that is subsidized by their highly profitable operations where the CAB protects them from competition. Yet, if we examine those "highly profitable" operations, it appears that they are always quite competitive and generate little or no excess profits to serve towns they would prefer not to serve. A detailed study of two airlines by the Senate Administrative Practice and Procedure Subcommittee and the Department of Transportation strongly confirm that cross-subsidized routes amount to a very small percentage of certificated service.

When John Robson testified before the House Aviation Subcommittee on April 26, 1977, with regard to the CAB's Small Communities proposal, he indicated that the Board took a hard look at two questions. "First, do the certificated carriers provide air service really suited to the special needs of small communities? Second, are the taxpayers receiving their money's worth for local air service?" And he responded: "The answer to both questions is simply 'No.'"

I think we would be discussing a vast improvement in air service to small communities. I think such an improvement is possible and I intend to work with the Aviation Subcommittee of the House to see that improved service to small communities becomes a reality.

Obviously, what I would like to be able to do is to open the door to productive discussions of regulatory reform by showing the industry that regulatory reform is to their advantage, as well as to the advantage of the traveling public and the industry as a whole.

Perhaps a brief discussion of the problems of capital formation would be in order at this point.

As I am sure you are all aware, Richard Ferris of United Airlines recently testified before the Senate Aviation Subcommittee and stated: "The problem is that economic regulation by the CAB does not, and can not, provide the opportunity for most airlines to earn a rate of return sufficient to replace their fleets of aging, obsolescent aircraft." We have all heard the prediction that by 1990 the scheduled airlines will require an estimated \$65 billion to replace aging and inefficient aircraft. \$65 billion! I'm sure I don't need to remind you that in the last five years the airlines have had the lowest collective return on total capital of 30 major industrial groups in the United States. The CAB maintains that a 12% rate of return is "reasonable," yet this rate of return has not been met in a regulated environment. I think the airline industry deserves better.

Regulation is not giving you the capital you need. But I think it is only fair to state that regulatory reform will not guarantee you needed capital either. What we must determine, then, is the environment which is more likely to encourage capital formation.

As you are aware, Braniff recently received an \$80 million loan with long-term financing at the prime rate from a consortium of

20 different banks, . . . on what many would consider the "eve of deregulation." In addition, those airlines that are not regulated have access to money. Solomon Brothers has recently pledged \$70 million dollars to a paper company seeking to provide service from Midway Airport. It looks as though where there are profits, or potential profits—as determined by a very conservative banking community—there is money to loan. A well-managed firm with reasonable profits has access to money in the commercial market whether they are regulated or unregulated. I don't think that economic regulation of the airline industry should be allowed to stand in the way of the economic potential of the airlines. I think carrier management should be able to respond to the demands of the market-place, to reduce government control of management decisions, and to provide needed service at a profit.

One of the most important goals of this regulatory reform is to make air transportation more accessible. I think the intrastate carriers now serving California and Texas certainly provide an example for us in this regard. The fact that lower fares attract more passengers and that more passengers improve the profitability of an airline is supported by the intrastate experience.

Interestingly enough, while supporters of regulatory reform have cited the intrastate experience to support their position, opponents maintain that because intrastates operate in a unique environment their experience is not relevant. I believe that the experience in California and Texas shows that innovative pricing and efficient operations can produce lower cost service to the public, and lower cost service can generate passengers.

I'd like to cite your consideration of the PSA experience in California. I personally watched the development of this airline and the considerable impact which it had on the City of San Jose and its metropolitan area.

PSA service helped stimulate tremendous growth in large markets which were considered by others to be fully developed. They have had considerable success in developing service at our satellite airports and have developed a market in smaller communities as well.

When PSA went into the prime Los Angeles-San Francisco corridor, then considered stable and mature, the market grew from 1.5 million in 1960 to 3.2 million in 1965—an increase of 117 percent.

When PSA began to serve the San Diego-San Francisco market in 1960, it grew from 185,000 passengers to 359,000 passengers in 1965, an increase of 94 percent.

When PSA entered the Los Angeles-Sacramento market in February of 1967, two trunk carriers were providing a reasonable pattern of service with jet equipment. PSA established a fare that was 38 percent lower than those offered by the trunk carriers. Total traffic for all carriers in this market increased from 259,000 in 1966 to 495,000 in 1967. A 91 percent increase in only one year!

In 1966 PSA was authorized by the California Public Utilities Commission to operate between San Jose and Los Angeles. The city of San Jose participated actively in the proceeding before the Commission and submitted extensive exhibits in support of the PSA application. I recall one of the "expert witnesses" who testified that "due to the fact that San Jose (was) a city in close proximity to a large airport, namely San Francisco International, it would never generate sufficient traffic to make it competitive with said large airport and that due to its satellite status San Jose should be happy with its present one-carrier service." (PUC Examiner's Decision).

In 1965 San Jose was served by Pacific Airlines, a predecessor of Hughes Air West, and was generating about 56,000 one-way



passengers per year. PSA entered this market in October, 1965, with all-jet service at a fare that was about 50 percent lower than Pacific's propeller fare. In 1966, traffic increased over 1000 percent to slightly above 600,000 per year. In this case, PSA had a unique opportunity to enter into a large market offering lower fares and also with equipment that was greatly superior to its competition. San Jose is now served by 10 major air carriers, two intrastate carriers, and 8 federally certificated air carriers.

Although the regulatory environments in Texas and California differ substantially, each has encouraged a climate in which marketing and operational decisions have led to improved productivity and lower fares. We cannot overlook the importance of the regulatory climate within each of these two states, where decisions on airport selection, aircraft configuration, and frequency of service have resulted in the establishment of carriers specially designed to serve medium and high-density short-haul markets.

CAB regulation, on the other hand, has produced tight control of entry and tight rate regulation, and has required equal fares for markets of the same distance. This regulation has thus prevented the development of specialized interstate carriers serving short-haul routes of the same density.

I believe that a thoughtful analysis of each system of regulation (Federal, California, and Texas) would result in a determination that each has something to offer this discussion—yet, clearly, each has its own special flaws. Surely, we can learn from the State experience and where possible, apply those experiences to our national aviation industry. There are 60 interstate markets which are similar in distance and density to the intrastate markets in California and Texas. Sixty markets which, but for an artificial legal barrier, could be benefiting from lower cost service.

As Senator Cannon indicated in his remarks before this group on April 26, citing the experience with PSA and Southwest, "A regulatory system which does not even permit the public to benefit from such services when they may be made available is not serving the people or the industry well."

In closing, let me say that I am genuinely concerned about establishing an environment in which we can all make substantive contributions to the issue of airline regulatory reform. You already know the problems we've been discussing for years—entry/exit, price flexibility, predatory pricing, health and safety of the industry, service to the consumer and to small communities, etc. I wish I could have come before you today to tell you that in a flash of divine inspiration last night I had solved the problem of regulatory reform, but we are all familiar enough with this issue and sophisticated enough to know that that's not the way this problem is going to be resolved. The reference to divine inspiration does, however, remind me of the story of the irate farmer who lived next to the field where Orville and Wilbur Wright were experimenting in their bicycle shop. The closer they got to success, the more often the farmer would race out of his farm house, flailing his arms, and shouting "If God had meant for man to fly he would have created a C.A.B.!"

One thing on which we can agree is the commonality of our goal. We all share a desire of the industry to provide safe, reliable, and profitable service. We share the consumers' desire to have the best service and safety at the most reasonable cost.

If regulatory reform is coming, and I think it is, it is up to us to work together to develop the delicate equation that will achieve our common goals and assure the continued success of the best aviation system in the world.

### THE PHANTOM STRIKES AGAIN

Mr. STEVENS. Mr. President, recently I saw an advertisement for a new movie thriller which features a phantom car—minus driver—with a third for reeking havoc and a savage desire to kill. Now, Mr. President, I do not know how the movie turns out but the plot seems nearly as ridiculous as some of those sold around here. As I watched the phantom car, which we are apparently to believe is acting of its own accord, try to murder a family by running them over, I had a sudden and passing moment of empathy for those who feel that somehow guns, acting of their own free will, can, and would like to, murder and maim. Picture, if you will, a large pistol springing from a dark alley, triumphantly firing and then darting off into the night. Sounds like something out of Rod Serling's "Night Gallery"? Of course. As we all know, in real life "guns do not kill people, people kill people."

Yet, apparently there are those who sincerely believe that "gun control is crime control." They feel that the answer to the spiraling crime rate is to take guns "off the streets" and therefore, they believe, out of the hands of the criminals. Both opponents and proponents of gun control do agree on one thing; that the spiraling crime rate must be stopped. The misconception on the part of those who favor gun control as a means of crime control is that they are looking at the problem from the wrong end.

They advocate taking away a constitutionally guaranteed right from the over 45 million American citizens who use guns legitimately to control three tenths of 1 percent of the gun owners who misuse this privilege. The sportsman, the gun collector or the person who feels the need of a gun for self-defense should never be equated with the criminal.

Putting the constitutional issue aside for the moment, there is serious doubt in my mind that gun control or even outright confiscation of all guns would lower the crime rate measurably. Statistics show that strict gun restrictions have had no positive effect. According to the American Enterprise Institute's "Legislative Analysis on Gun Control," the national homicide rate is 9.3 per 100,000 while the rate in States with restrictive gun laws averages 10.5 per 100,000. The national rate is more than a full point lower than the rate in States with restrictive gun laws. Furthermore, while it is safe to assume that most law-abiding citizens—by their very definition—would turn in their handguns, it is utopian to believe that the professional criminal would docilely hand over his gun or even register it. In fact, in *Haynes against United States* (1968) the Supreme Court held that the fifth amendment privilege against self-incrimination conflicted with the registration and possession provisions of the National Firearms Act. In other words, the criminal would probably be legally within his rights not to register his gun. Yet, the average law-abiding citizen who has never abused his second amendment right, who has never robbed

or murdered, is being asked to give up his gun. Frankly, I fail to see how that helps the crime problem. It seems to me that the answer to our rapidly bounding crime rate is not to infringe upon the rights of the law-abiding citizen, but to deal directly and forcefully with its cause—the criminal.

Not only is gun registration or confiscation an unworkable solution, it is blatantly and dangerously unconstitutional. The second amendment clearly states that—

A well regulated Militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

There are no ifs, ands, or buts in this amendment. It says the rights of all Americans to keep and bear arms "shall not be infringed." I do not think that it could be any clearer.

There are those who feel that we can nibble away at that right without jeopardizing the protections offered by the U.S. Constitution. These people would have us register our guns and would halt each gun sale until the U.S. Attorney General checked into our backgrounds. This sweeping and arbitrary power to investigate the lives of individuals is approaching a dangerous infringement on personal liberty. The background check, along with the registration system would create yet another example of the proliferating filing systems kept in Washington, D.C. In this day and age when the country is in an uproar about the constitutionality of the numerous lists kept by governmental agencies, and the computer mania which has penetrated the bureaucracy, it seems inconsistent to compile yet another list of law-abiding citizens. It is not only inconsistent, it is downright frightening.

The amount of money that would be needed to cover the cost of any registration program can only be described as staggering. This could better be spent in such a way that: First, it does not infringe upon the rights of law-abiding citizens; second, it is effective; and, third, it goes to the root of the problem instead of working around it. This money should go toward better law enforcement protection and a quicker, more effective court system. We must deal with the criminals themselves in our fight for crime prevention.

In 1975 a crime of violence, such as murder, robbery, assault, or rape occurred once every 31 seconds. Statistics show that 66.3 percent of the criminals released from prison are rearrested for a new crime within 4 years. Often these criminals are out on the streets before their victims have left the hospital. I have cosponsored a bill, S. 31, which would make the commission of a Federal crime with a firearm a separate offense. If enacted, this law would create a mandatory sentence of not less than 1 year for the first conviction and not less than 5 years for the second offense. The judge would have no discretion. If a person is convicted of the offense of using a firearm to commit any felony for which he may be prosecuted in a court of the United States, he must go to jail. I believe that this is the only way of cutting

down the misuse of firearms. The criminal would be dealt with quickly and severely whereas those people, like the people in my home State of Alaska who hunt out of necessity to feed their families, use their guns for relaxation or feel the need of protection, will not be deprived of their second amendment rights.

This is the type of legislation that could alleviate the high crime rate because it deals with the source of the problem, the criminal, and not with his arbitrarily chosen concomitant in crime. The very theory of controlling crime by controlling guns is untenable. Should we also restrict the use of knives or any other instrument that might serve as a weapon? I suggest that we realize the need to find a more than cursory, useless program that would cause greater problems than it would solve. Let us stop chasing ghosts.

I ask unanimous consent that the bill to which I have referred in my statement, S. 31, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

## S. 31

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 923(c) of the Gun Control Act of 1968 (Public Law 90-618; 18 U.S.C. 924(c)) read as follows:*

"(c) Whoever—

"(1) uses a firearm to commit any felony for which he may be prosecuted in a court of the United States; or

"(2) carries a firearm during the commission of any felony for which he may be prosecuted in a court of the United States, shall, in addition to the punishment provided for the commission of such felony, be sentenced for the additional offense defined in this subsection to a term of imprisonment for not less than one year nor more than ten years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to a term of imprisonment for not less than two nor more than twenty-five years.

"The execution or imposition of any term of imprisonment imposed under this subsection may not be suspended, and probation may not be granted. Any term of imprisonment imposed under this subsection may not be imposed to run concurrently with any term or imprisonment imposed for the commission of such felony."

## REPORT OF THE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. PROXMIER. Mr. President, in accordance with section 302(b) of the Congressional Budget Act, I submit herewith the report of the Committee on Banking, Housing and Urban Affairs. This report subdivides the allocation of budget outlays and new budget authority allocated to the committee.

I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

## COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS—REPORT TO THE SENATE PURSUANT TO SEC. 302(b) OF THE CONGRESSIONAL BUDGET ACT

[In millions of dollars]

| Fiscal year 1978   |         |  |         | Fiscal year 1978                   |         |  |         |
|--|---------|--|---------|------------------------------------|---------|--|---------|
| Direct spending jurisdiction                             |         | Entitlement programs that require appropriate action |         | Direct spending jurisdiction       |         | Entitlement programs that require appropriate action |         |
| Budget authority   | Outlays | Budget authority                                     | Outlays | Budget authority                   | Outlays | Budget authority                                     | Outlays |
| 150—International affairs                                | 1,088   |  |         | 600—Income security                | 34      | —9   |         |
| 400—Commerce and transportation                          | 858     | —514   |         | 700—Veterans benefits and services |         | 17   |         |
| 450—Community and regional development                   | 84      | 88   |         | 800—General government             | 4       | 3  |         |
| 500—Education, training, employment, and social services |         | 4  |         | 900—Interest                       | 8       | 8  |         |
| 550—Health   |         | (1)  |         | Committee total                    | 2,075   | —403   | 1       |

<sup>1</sup> Less than \$500,000.

## THE FOOD AND AGRICULTURAL PROTECTION ACT OF 1977

Mr. PERCY. Mr. President, on Tuesday the Senate passed S. 275, the Food and Agricultural Protection Act of 1977. The bill is comprehensive, affecting U.S. food, nutrition and agriculture policy through 1982. It contains some very good provisions. But it contains others that could unnecessarily cost American taxpayers millions of dollars.

Provisions of merit included a reformed food stamp program. The most important change in the program is the elimination of the requirement that recipients buy stamps. This change will make it easier for the poorest eligible recipients to participate in the food stamp program. It also will simplify the administration of the program and will help to reduce food.

S. 275 also eliminates present crop allotments policy. As an alternative, the bill sets a new current-acreage planted system. The bill also provides for a much-needed coordinating mechanism and increased agricultural research commitment, including animal and nutrition research.

The provisions which cause me grave concern are those which tie the Government support levels directly to the cost of production. Target prices for wheat and feed grains are set at the cost of production; loan rates are set at 85

percent of the cost of production. The bill sets the target price for wheat at \$2.90 per bushel for 1977 and \$3.10 per bushel for 1978. The bill also guarantees that for the next 4 years, the support levels will be increased automatically as the cost of production rises. Target prices for corn and other feed grains are set at \$2.28 per bushel in 1978 with subsequent increases also tied directly and automatically to increases in the cost of production.

In assessing the current farm market and the support levels set in S. 275, we cannot ignore the fact that the costs of farm production have gone up substantially since enactment of the Agriculture and Consumer Protection Act of 1973. However, I believe the support levels set by S. 275 in response to increased costs incurred by farmers are excessive. In my view, the purpose of target prices is to help farmers remain solvent during lean years—not to guarantee that farmers earn a profit or break even, which is what S. 275 attempts to do.

S. 725 is inflationary for the Federal Government, consumers, and farmers. The costs of these high support levels will have to be borne by the Government and in turn by the taxpayer. High support levels will also increase consumer food costs. Furthermore, they will likely lead to increased land costs and non-

competitive U.S. grain prices in the world market, which would be most harmful to many U.S. farmers, especially in Illinois. Finally, by fixing the loan level at 85 percent of an annually increasing target price, the loan rate could well exceed market prices in future years, especially in the case of wheat. If and when that happens, the Government will become the owner of millions of bushels of grain through defaults on loans. Unless other circumstances change significantly, this will have the same price-depressing effect which Government stocks had in the fifties and sixties.

It is for these reasons that I voted in favor of the amendments to S. 275, introduced by Senator MUSKIE, chairman of the Senate Budget Committee. I feel that the support levels in Senator MUSKIE's amendments were much more appropriate in terms of the needs of farmers and congressional budgetary goals. Furthermore, as indicated in a recent survey I sent to 140,000 Illinois farmers, they prefer lower support levels than those set in S. 275.

I would have voted for S. 275, despite my reservations about the high support levels established in the bill, had I not been required to take a 6 a.m. plane to Chicago to make a previous commitment to deliver the commencement address at Triton College.

My decision to support S. 275 was



based on what I consider to be constructive reforms in the bill and my hope is that when the Senate and House conferees meet to work out the differences in their respective farm bills, they will adopt the lower support levels included in the present House farm bill.

#### TAX REDUCTION AND SPENDING CONTROL

Mr. BIDEN. Mr. President, two of the major objectives of the Senate this year should be a start on bringing Federal spending under control and providing tax relief for the overburdened American taxpayer.

With regard to spending control, I have introduced a bill to slow the upward spiral of Federal spending. This bill is known as the Federal Spending Control Act of 1977 and has three main features:

Spending authorizations for new programs would have to be compared with existing programs with related objectives to be sure there is not overlapping or duplication of activity;

A review of existing authorizations for spending programs would be made every 4 years to determine whether those programs should be discontinued or modified in any way;

All authorizations for spending would be required to state a maximum amount of annual spending for that particular purpose.

I am hopeful that legislation of this kind can be enacted promptly during this session.

On the tax reduction side, the Senate missed a golden opportunity when it passed the Tax Reduction and Simplification Act of 1977. An amendment was offered to that act to target tax relief to those most oppressed by our present tax load, the middle and lower income taxpayers. At the time, I hoped that we might develop a bipartisan movement to give a tax cut to these groups who need it most, but not to those wealthy individuals who can use tax shelters to avoid much taxation.

Unfortunately, the amendment did not pass and the words "tax reduction" in the title of that bill became something of a farce. Most of the "reduction" was a continuation through 1978 of tax cuts originally passed in 1975 although there will be some tax relief for many of those using the standard deduction.

In an editorial in its May 25, 1977 edition, the Wall Street Journal had some excellent comments about the significance of both spending control and the need for tax reduction. In speaking about the Tax Reduction and Simplification Act of 1977, the editorial said in part:

It will actually raise taxes for some 2 million taxpayers who earn \$13,750 or more and use the standard deduction. And the improvements for low-income users of the deduction will be a pittance compared to the higher federal taxes most Americans will pay as inflation moves them into higher wage brackets in coming months.

Economist William Fellner estimates that if the current inflation rate of 9% persists, individual taxes soon will be rising at 15% because of the ratchet effects of the progres-

sive tax structure. A few months ago, when we were getting 5% inflation, the tax escalation was only about half as much. If anyone in Washington is wondering why the stock market is skidding, the latest Consumer Price Index is the best explanation.

If the President and Congress would like the pleasure of knowing they are doing something real rather than illusory for taxpayers they have two choices: stop inflation by bringing the federal budget under control or make genuine tax cuts that would offset the ratchet effect. Stopping inflation would of course be by far the better solution, since it would solve problems that extend beyond tax burdens—public loss of confidence in government itself, for example. But the tax burden issue, particularly as it applies to the most productive members of the economy, is by no means inconsiderable.

There are all sorts of ways of measuring the total weight of government, but one that we find especially interesting is offered by the Tax Foundation. It shows that governments at all levels—federal, state and local—are spending \$9,607 per U.S. household per year, equivalent to 47% of the average household's income. As measured this way, the government spending burden has risen some 85% just since 1970.

Mainly because a lot of this expansion has been financed through borrowing—which helps explain why the U.S. has become so inflation prone—the total direct tax burden hasn't climbed much in the 1970s after its steady rise in the 1950s and 1960s. According to the Tax Foundation, the average American spends about one-third of his working day "working for the government" to pay taxes, compared with about a quarter of his day in 1950. But both the direct tax burden and government borrowing are on the uptick this year.

Mr. President, I believe that those comments summarize very well the importance of these two issues of spending control and tax reduction. I hope that the Senate will face up to both of these issues promptly.

#### MARYLAND RESIDENT TESTIFIES ON ENERGY PROPOSALS

Mr. MATHIAS. Mr. President, on May 20, Walter Shipe, vice president of Asbestos Covering & Roofing Co., of Beltsville, Md., testified before the House Ways and Means Committee on the Tax Aspects of H.R. 6831, the President's Energy Tax Proposals.

Mr. Shipe is an independent insulation contractor, a small businessman, and a member of the National Insulation Contractors Association. He is intimately familiar with insulation-products and the needs of both industry and the American consumer.

As I pointed out in a recent statement on energy, I believe that we can save substantial energy through the proper installation and use of insulation. Mr. Shipe's testimony is informative and timely, that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

#### STATEMENT OF WALTER SHIPE

My name is Walter Shipe. I am an independent insulation contractor, a small businessman and a member of the National Insulation Contractors Association (N.I.C.A.). The bulk of NICA members' work is conducted in the commercial and industrial sec-

tors of the construction industry—by far the heaviest users of energy resources. Our projects include insulation for ships, office buildings and manufacturing, petrochemical and power-generating plants. A key concept of the National Energy Policy is to achieve enormous savings in fuel and power use through retrofitting of industrial and commercial buildings. We are involved in this effort by insulating to make cooling and heating and industrial process and power systems more energy-efficient.

Accompanying me is Dr. Robert O. Reid, Vice President of Energy and Environmental Analysis, Inc., Arlington, VA. Dr. Reid, an economist, was former chief investigator for energy studies for the Commerce Department, the Federal Energy Administration, the Environmental Protection Administration and the Energy Research and Development Administration.

We are members of the Insulation Industry Legislative Task Force, organized by NICA. Comprising this Task Force are representatives of the Thermal Insulation Manufacturers Association, the National Mineral Wool Insulation Association and NICA. The Task Force is designed to offer the cooperation of all elements in the commercial, industrial and residential insulation industries with the Congress. We are particularly concerned about the responsibility of your Committee in considering and refining proposals in Title II of the Omnibus Energy Project. Of particular concern is Section 1301, amending the Internal Revenue Code to provide financial incentives for the conservation of energy through retrofitting structures and other measures making them more efficient.

Section 1301 provides for a ten percent (10%) credit for business users' expenditures to conserve energy. This is desirable for a start, but less than sufficient, in our view, in encouraging industry to make the necessary investment to upgrade existing structures in keeping with national energy policy conservation goals.

In the context of the energy crisis today and the near and long-term outlook, the situation is worsening. Energy costs are becoming prohibitive. The rising cost of industrial operations lead to inflationary pressures in terms of higher consumer costs for manufactured goods and services.

We believe financial incentives should, in addition to the Administration-proposed industry credit, include accelerated depreciation. This is imperative to enable decision-makers in industry to determine cost-benefit ratios, cash-flow factors, and upgrading their plant's energy efficiency.

We cite specifically, the justification management must have in order to add energy conserving insulation to existing buildings in this period of soaring energy costs.

One proposal for depreciation treatment of such construction investments has been prepared by the Business Roundtable. It provides for a three-year pay-back on retrofitting which would be good for ten years.

The urgency for passage of such incentives is reflected in the fact that a massive conservation effort could save the equivalent of 3.5 billion barrels of oil through 1980.

In this connection, two timely items merit your attention. The May 12th issue of "Engineering News Record" reports that the Economics Department of McGraw Hill Publications Company finds 26 industries planning a \$2 billion increase in plant and equipment outlays, to a \$141.6 billion level in 1977. This represents an 18% rise from 1976. The respondent companies indicated, however, that much depends on Congressional action with regard to investment tax credits, writeoffs and uncertainty as to the impact that the

<sup>1</sup> Federal Energy Administration's *Economic Thickness for Industrial Insulation (ETI)*, Nov. 26, 1976.

Energy Program will have on economic growth.

Secondly, unemployment in the construction industry dipped in April to about 12%, a two-year low. Compared with a national unemployment rate averaging 7% in April, this may not seem impressive; however, there is reason to believe that favorable action on fiscal and monetary policies would spur activity in an industry heavily reliant on hard-hat workers in two respects:

(1) attainment of conservation goals in the National Energy Plan.

(2) continuing business growth on a healthy basis.

In submitting the National Energy Plan, Dr. Schlesinger and his staff note (page 43) that industry accounts for nearly 37% of U.S. energy consumption. The Plan credits American industry with considerable success in energy conservation since the cutoff of oil imports during the 1973-74 winter. However, there remains a large potential for further savings. Some U.S. industries, according to the Plan, "are substantially less fuel-efficient than their West German counterparts."

In recent days, an estimate has been published blaming factories, stores and offices for 40% of energy waste. The same source suggests such businesses offer the greatest prospects for insulation contracts.<sup>2</sup> The will to invest in such improvements depends largely on what Congress will do in permitting faster write-offs on investments and tax policy in general.

In documenting the case for investment credits and accelerated write-off provisions, we are prepared to submit additional data for the Committee record and to answer your questions.

The member organizations of our Task Force cooperate fully with all agencies concerned with energy conservation, environmental matters, the setting of standards and the like. We believe the terms of Section 1301 with respect to the administration by the Treasury and Energy Departments of tax treatment provisions will be effective in carrying out the intent of the Congress.

On behalf of the National Insulation Contractors Association, I want to thank you for this opportunity to testify on this important matter. I will be glad to answer questions you may have.

[From Federal Energy Administration]

#### SAVINGS OF 3.5 BILLION BARRELS OF OIL POSSIBLE FROM INDUSTRIAL INSULATION

Improved insulation design applications in U.S. industrial plants could save 3.5 billion barrels of oil between now and 1990, says a study made for the Federal Energy Administration.

The study estimates further that more than 122 million barrels of oil could have been saved in 1974 if the industrial sector had made optimum use of economic insulation techniques.

These savings are reported in a 191-page manual, "Economic Thickness for Industrial Insulation," made available by FEA today. The manual was prepared for FEA by York Research Corporation of Stamford, Connecticut.

"U.S. industrial plants and utilities account for more than 50 percent of the Nation's energy consumption," said FEA Administrator Frank G. Zarb. "The conservation of energy through the use of optimal economic insulation thickness has obvious benefits for industry, and equally impressive potential benefits for the U.S. We believe that this design manual will serve as a practical working document in assisting industrial managers and plant engineers to plan and

install effective insulation systems at the lowest possible cost."

The economic thickness manual, developed specifically for the industrial user, will permit companies without extensive engineering capabilities and computer facilities to easily calculate optimal economic insulation use, FEA said. Economic insulation is defined as that thickness providing "the lowest total cost of lost energy and insulation investment over the project life."

The manual is expected to be particularly useful to architects and specifying engineers in designing new industrial construction, utilizing least-cost insulation thickness criteria based on minimum life-cycle costs.

Comprised of 8 chapters, the manual discusses in detail such topics including the economics and costs of insulation, cost of energy, economic thickness determination, condensation control, retrofitting insulation, and sample problems. Also included in the manual is a bibliography, tables, illustrations, and appendices.

Two major industry trade associations, the National Insulation Contractors Association, and the Thermal Insulation Manufacturers Association, and a number of their member companies, provided invaluable assistance to FEA and the York Research Corporation in the development of the manual.

Copies of the "Economic Thickness for Industrial Insulation Manual" are available for purchase from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Price \$2.70. Stock No. 041-018-00115-8.

FEA is also producing a 25-minute, 16mm color film on economic thickness for industrial insulation, suitable for use at seminars and workshops for industrial plant managers and other industry officials. Copies of this film will be available for sale, rental and short-term loan. A ¾" color video-tape cassette version will also be available. The film is expected to be completed by mid-December. Film inquiries should be directed to: Federal Energy Administration, Office of Conservation and Environment, Washington, D.C. 20461.

#### VETERANS' BENEFITS FOR THE WOMEN'S AIR FORCE SERVICE PILOTS

Mr. WILLIAMS. Mr. President, we have witnessed many blatant cases of sex discrimination which required remedial congressional action, and we have had lengthy disputes over these institutionalized inequities in our society.

I have been pleased to join in several legislative initiatives to eliminate these injustices. In particular, I am proud to have been among the first to nominate a woman to a service academy, and I was also very pleased to author the original Senate version of the Equal Credit Opportunities Act. Most recently, the wide support for my bill to permit benefits for working women disabled by pregnancy on the same basis as those disabled by other causes has been a source of deep personal satisfaction.

One group that has been the victim of blatant sex discrimination is the Women's Air Force Service Pilots, whose outstanding loyalty and service to their country during World War II has gone unrecognized. For this reason, I have cosponsored S. 247, a bill to provide veterans' benefits to the Women's Air Force Service Pilots.

The most unfortunate aspect of the failure to militarize the Women's Air

Force Service Pilots was that it left them without any rights or veterans' benefits after deactivation; they had no reserve status that might otherwise have been possible; the next of kin of those who died in the service received no insurance, and were even denied the right to display the gold star.

Even with the relative disadvantages which I mentioned, there was an overwhelming response from American women who were eager to serve their country. More than 25,000 women applied for this training. The Government accepted 1,830 and 1,074 were graduated, or 58.7 percent of the total. Of those who were graduated, 900 or 83.6 percent were still with the organization when it was deactivated.

These female pilots flew about 60 million miles for the Army Air Force after their training. They suffered 38 fatalities; that is about one for every 16,000 hours of flying. Their accident and fatality rates compare very favorably with those for male pilots in similar work.

The Women's Air Force Service Pilots program was deactivated on December 20, 1944, as a result of the substantially reduced demand for pilots. But there were few groups of citizens who showed this degree of devotion, loyalty, patriotism and self-sacrifice. As a military pilot during this same period, I would like to say that they also showed remarkable professional ability.

At this time, I would like to direct my colleagues attention to an excellent article that appeared in the Star-Ledger, on Tuesday, April 12, 1977, which reflects one former member of the Women's Air Force Service Pilots sentiments and support for this worthy legislation.

Mr. President, I ask unanimous consent that this article be printed in the Record.

#### WOMAN VET "TAKES OFF" FOR BENEFITS

(By Barbara Kukla)

As the bright yellow World War II training plane touched down at Teterboro Airport the crowd cheered.

Stepping from the cockpit of the 40-year-old Stearman, pilot Velta Benn, who has dedicated her working life to aviation, graciously accepted the accolades.

She had just flown from Washington, D.C., taking 2½ hours, with one stop—in a vehicle which has no radio or other instruments commonplace to modern-day aircraft.

The applause, though appreciated, was not enough.

Velta Benn had made the flight for a distinct purpose—to help gain recognition and veterans' benefits for the 850 living alumnae of the women's Air Force Service Pilots (WASP) and families of 38 women pilots who died in the line of duty.

The women, during World War II, were test pilots, ferry pilots, and flight instructors, flying B29s and other aircraft.

Yesterday's flight, Mrs. Benn explained, was intended to spur support for two bills before Congress which would grant death benefits to the families of the 38 women who died and medical benefits to others. Originally, 1,074 women were trained for such duties.

The inequities were spelled out by Clara Jo Stember, a former WASP who lives in Syosset, N.Y., and teaches art therapy at the College of New Rochelle.

"We (WASPs) paid a lot of dues," she said. "Thirty-eight women were killed. We took

<sup>2</sup> U.S. News & World Report News Letter, Friday, May 6, 1977.



a military oath of service, lived under military discipline, wore military uniforms, flew 16 million miles, yet we were denied military status by Congress because we were women."

As an example of the double-standard, she cited the instance in which a woman copilot and male pilot died in the same crash. "As a man he got all benefits due him," she said. "But the woman got nothing. We (WASPs) passed the hat and took our bodies home."

Why did the women remain WASPs without even the most meager support of the government?

"You've got to remember. That was a war we believed in, before Korea and Vietnam. We were pilots and we gave what we could, even our lives," she said.

From Mrs. Benn's viewpoint the unequal status of women also has cost her a more fruitful livelihood, at least from the financial standpoint.

"For the past 10 years, I've been turned down for just about every job I applied for—general air inspector, National Aeronautic Space Administration (NASA) safety officer, pilot at a Federal Aviation Administration (FAA) hangar—because I have no military preference. Yet my credentials are higher and I am more qualified through experience than any man I know," she said.

As chief flight instructor for a private firm in Prince George, Md., she said, she averages about \$10 an hour in earnings. As an FAA inspector, the hourly rate would be boosted to at least \$30, she said.

The flight yesterday, she explained, was part of a nationwide effort to focus attention on the WASP battle on Capitol Hill.

#### MARQUETTE PARK PREPURCHASE COUNSELING PROGRAM

Mr. PERCY. Mr. President, on May 13, Secretary Patricia Roberts Harris announced that the Department of Housing and Urban Development is initiating an experimental pilot program of mandatory prepurchase counseling for applicants for FHA-insured mortgages in an area in and around Marquette Park, a neighborhood on Chicago's southwest side. The counseling program is the first of its kind in the United States. It is designed to avert the panic peddling and racial steering by real estate brokers often associated with racial change and lax enforcement of credit requirements for FHA-insured mortgages. Some of these problems were brought to widespread public attention through a series of UPI articles which appeared in Illinois newspapers last December. Mr. President, I ask unanimous consent that two of the UPI articles be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

##### EVOLUTION OF A GHETTO

(EDITOR'S NOTE.—Why are America's great cities dying? A UPI team spent five months investigating the slums and changing neighborhoods of Chicago, the nation's most segregated city, to try to find out. Gregory Gordon, 26, a white native of Minnesota, and Albert Swanson, 28, a black who grew up on Chicago's South Side, traced more than 400 real estate transactions, leafed through stacks of courthouse records and interviewed more than 200 persons to file a five-part story of greed, fear and governmental neglect.)

##### PART III: THE MYTH OF OPEN HOUSING

(By Gregory Gordon and Albert Swanson)

CHICAGO.—The small, neat bungalows at the eastern fringe of Marquette Park were

gally decked with Christmas lights and holly in December of 1974.

For two black families the neighborhood bathed in Yuletide cheer seemed an answer to their dreams for a better place to live—an escape from the squalid conditions of the South Side of Chicago.

##### PEACE ON EARTH, GOOD WILL TOWARD MEN . . .

Then came the firebombs.

Before either family could settle into their new homes, there would be terror attacks by whites desperately trying to resist racial change. Civil rights laws had long been in effect, but the promise of open housing would prove to be a modern day myth.

The two families were the first blacks to buy homes in a 34-block strip at the edge of the white, ethnic neighborhood of Marquette Park, a sprawling working class section that separates the inner city from the southwest suburbs.

It was only one week before a firebomb sailed through the living room window of Lillian Brisco's new home. Within five days of the arrival of L. B. Turnipseed and his family, nightriders burned their garage.

It was the start of an 18-month battle involving black activists, Nazis and white home owners fearful of neighborhood change.

This would be a classic war of racial prejudice and fear, but noncombatants would decide the outcome.

Government policies, banks, insurance companies and the business community would define the battleground.

Busy real estate brokers and mortgage investors would reap the bulk of the spoils.

Today, less than two years later, half the whites in the 1,100-home area have fled. Many of the remaining white-owned homes are for sale.

It is a familiar pattern in Chicago, America's most segregated city.

It happens every time a few blacks escape the huge black zone of the South Side and buy homes in the white perimeter. Suddenly the whites are on the run and the fringe area turns solid black.

Now the forces of change were taking their toll of the section east of Marquette Park.

First, there was disinvestment. Insurance companies, lending institutions and businesses turned away from the area, seeking brighter investments. City services declined, clogged sewers were left unattended, aged street curbs cracked and crumbled and street sweepers and tree trimmers were seldom seen.

With the banks and savings and loan companies disinterested, homebuyers turned to the government for mortgage insurance. And with government standards relaxed, buying a home became, as one federal official put it, "easier than buying a new car."

Unqualified buyers were strapped to meet mortgage payments. Defaults and foreclosures soared.

In the fringe area of Marquette Park more than a dozen homes were abandoned and boarded up, a temptation for vandals and arsonists.

The neighborhood was on the way down and the time was right for the real estate agents to go to work.

"A stable neighborhood is not that good for a real estate broker," said University of Illinois urbanologist Calvin Bradford.

But a changing neighborhood means big money.

"If you're a really sharp real estate broker," Bradford said, "you can stay on the crest of the changing movement all the way around the city and the suburbs . . . get lots of sales because there will be that fear which you can keep capitalizing on."

Real estate agents can help make that fear a self-fulfilling prophecy.

United Press International examined 300 sales transactions in the area east of Mar-

quette Park, interviewed more than 120 home buyers and sellers and sent white and blacks to 14 realty offices posing as prospective home buyers.

All of the evidence indicates real estate operators played the biggest role in turning the neighborhood from white to black.

Today's methods are more sophisticated than the outlawed "blockbusting" of the past. They include solicitation and advertising campaigns and the tactic called "racial steering," forbidden under the 1968 fair housing act.

Racial steering was widespread in the Marquette Park area. This is how it worked:

Until the first blacks moved in, white real estate firms sold homes in the area only to whites or Spanish-speaking people. They waited until black brokers sold to the first blacks.

Once the change began, dozens of brokers set up offices near the area and concentrated on peddling homes to blacks. They avoided showing homes in the changing area to whites. They offered no listing in nearby white areas to black buyers.

Most real estate agents in the adjacent all-white neighborhood sold no homes to blacks, limiting the selection for blacks to the changing area.

The brokers used the Federal Housing Administration and Veterans Administration mortgage insurance programs as tools for resegregation. They advertised for black FHA and VA buyers and encouraged white sellers to use government mortgage programs, even though it cost more.

It is ironic that the white neighbors who peered through their curtains when Mrs. Brisco and the Turnipseeds moved into the neat brick bungalows remember them for "breaking the neighborhood." Most remember the real estate agents as "nice" people who they "wouldn't want to get in trouble."

Lillie Brisco was carefully inspecting the seven-room house for sale when she heard the sirens grow louder and the fire trucks screech to a stop outside. The tall, attractive black woman looked for smoke or some sign of a fire. Then it hit her.

There was no fire. This was her greeting from the white neighborhood.

Mrs. Brisco, a 43-year-old divorcee, had not expected a welcome wagon from the neighbors, but neither had she expected fire trucks.

"We knew right then we weren't going to be accepted," she said.

Despite the incident, Mrs. Brisco, a shipping clerk who earns \$13,500 a year, bought the house and became the first black to move into the area.

Mrs. Brisco's 21-year-old son, Dexter, warned his mother she was asking for problems. But she figured things couldn't be worse than in black West Englewood where her home was robbed four times.

She went to M. L. Barnes Realty, a black-owned firm, to buy a new house.

At about the same time, a white family of four was seeking to sell their cozy seven-room house across the railroad tracks that for five years had served as a natural barrier between the races.

Former residents remember Sam Urso and his family as "troublemakers" and recall that Urso's wife was bent on selling their home, the nicest on the block, "to the niggers."

"She threatened us and we didn't think she was gonna do it and she did," said Mrs. Violet Arangelovich, who used to live two doors away.

The house was the fourth that Barnes Realty showed Lillie Brisco. She put \$1,600 down and bought it with a \$21,400 VA-insured mortgage.

A few days after she and her son moved in, a firebomb smashed through their front window.

In a sense, the Briscos were lucky. A few days later, the Turnipseeds moved in, giving hostile whites a new target.

Some whites were racist, identifying the arrival of blacks with the onset of slum conditions.

"I've been in the ghetto fire department for 10 years," said John Lewis, a Chicago fireman who moved a few blocks west into the sanctuary of Marquette Park. "I don't want to live with them (the blacks). It feels damn good when you can go somewhere and they're not around. I can't help myself."

Some sellers were afraid their property value would drop. But most expressed a different fear—a fear that all their white neighbors would move away.

More than half of 42 former owners interviewed said they would have stayed if the area were stable and integrated. Some even said they preferred a mixed neighborhood.

Dr. John Tulley, his wife, Alice, and their infant child moved into the area knowing it was changing.

The Tulleys had lived in Bridgeport, a white ethnic stronghold, and Mrs. Tulley described it as "the most unhealthy neighborhood I've ever lived in, with their racist attitudes."

"I didn't want to bring up a child in that," she said. "When we had black people visit us there, they were bothered by police."

"We wanted to live in an integrated neighborhood, but we also know there are almost no integrated neighborhoods in Chicago. I don't know how long we'll be able to stay. I don't think it will be good for us to live here when we're the only whites for blocks."

For weeks, the Briscos and the Turnipseeds were the only blacks for blocks. Mrs. Brisco and her son escaped with only a few incidents of harassment, but Turnipseed, a crane operator who earned \$22,000 a year, his wife Frankie, and their six children were to be the victims of neighborhood change.

The Turnipseeds' house was a two-flat and Mrs. Evelyn Taylor, the owner, had threatened to sell to blacks after arguing with a neighbor. She listed the home with Ebony Realty, another black firm.

White real estate brokers would take control of the market, but they were waiting for the black agents to make the first moves, protecting their images before the real selling splurge began.

Walter Apins, a janitor who sold his house in June of 1975, said three white real estate firms didn't even want his business three or four years before the Briscos moved in. They were not ready to sell to blacks.

Apins said he got the same response from Russ Pocock Incorporated Realtors, Cahill Brothers Realty and Old London Realty. He said the salesman at Cahill told him, "If you want a better price, wait three or four years until the colored start moving across the railroad tracks."

Old London finally found a Spanish-speaking buyer and he sold through the FHA.

Mrs. Maureen Boland, who also moved, said a salesman at M.R. Jenkins Realty would not sell her home unless other houses on the block had been sold to blacks.

Once the change began, the story was different. Of 33 former residents who discussed the subject, only four said white buyers were brought to see their homes. Of 75 black buyers, all but one said they were given listings in only all-black or changing areas such as the eastern fringe of Marquette Park.

UPI sent whites and blacks masquerading as buyers to 14 real estate firms in the area, each time asking for the same price range in a brick bungalow.

In 11 cases, the whites were given listings in the white areas west of Western Avenue and the blacks were not. Blacks usually were shown homes east of Western and the whites

were not. One firm led a white buyer down a corridor to a separate office and gave her white area listings. In the front office, a black was given listings in changing areas. Two other firms which gave white buyers listings told a black buyer no homes were available.

Mrs. Turnipseed remembers the saleslady telling her, "The area's changing over. All of these are old settler age people and they're getting out."

It was a prophetic statement.

No sooner did the Briscos and the Turnipseeds move in than their white neighbors' telephones started ringing.

The callers were real estate agents.

Some were blunt. "The area is changing and we are wondering if you would like to sell," they said.

Panic began to spread. It was agitated by violence.

Five days after the Turnipseeds moved in, their garage was set on fire. For six weeks, vandals hurled rocks through their windows and smashed their car windshields.

"Every time we'd get a new window in, they'd break it out," Mr. Turnipseed recalled.

Police cars appeared with regularity at the Turnipseed home and the next door neighbors, Mr. and Mrs. Harvey Foster, grew worried.

Foster suffered from a nervous condition. His blood pressure rose.

"The police cars were there all the time," Mrs. Foster said. "My husband's blood pressure went to 210. My husband said, 'What if they (the vandals) mistake our house for theirs?'"

The Fosters became even more upset when the Turnipseeds' teen-age sons began to make approaches toward their daughter.

"Our doctor advised us to move," Mrs. Foster said.

The white flight had started. Within a year and a half, hundreds of houses would be sold, earning real estate brokers and mortgage bankers huge profits.

The solicitors picked up their pace.

One former resident, George Mundt Jr., said his phone number was nonpublished but one day "right out of a clear blue sky" he got a call from a real estate agent.

John Stanczyk said he got several calls from Thomas Moore Realty and was told, "You'd better sell now, next year your house will not be worth as much." Stanczyk sold to the first black buyer Moore brought.

Ten of 38 former owners said their broker approached them first. Eight said neighbors referred them to the broker. At least one broker offered money in exchange for further listings.

For six months, the worst abuse the Turnipseeds endured was occasionally picking up a bag of garbage left on their front lawn during the night.

Then on Aug. 23, 1975, a white supremacist group marched down 71st Street right past the Turnipseed home to seek support from the community.

That day somebody tossed a firebomb into the Turnipseeds' back yard.

There was another march in October of 1975. The same night a brick broke the Turnipseeds' front window.

Winter brought a respite in the violence, but a family tragedy hit Turnipseed and his older son, L. B. Jr., were killed by carbon monoxide poisoning while they worked on a car in a closed garage.

Mrs. Turnipseed made up her mind to sell the house and buy a smaller home.

But she was still living there on April 13 when she heard a living room window break at 3:30 a.m. She got out of bed to assess the damage.

"My curtains were on fire," she said. "Whatever they threw through the window, it had to explode."

Mrs. Turnipseed hustled her son and four small daughters downstairs in the thick

smoke. Her nephew, his wife and their two infant children along with two of Mrs. Turnipseed's daughters were trapped upstairs and had to crawl onto a neighbor's roof to escape.

Firemen said the blaze was ignited by a faulty wire.

Mrs. Turnipseed and her children were living in a motel July 15 when yet another fire broke out in the house. Firemen again blamed faulty wiring, even though the electricity was off.

Frankie Turnipseed now lives in an apartment in a high rise housing project. She stays inside most of the time and doesn't make her phone number or address known. She doesn't want to go back to the house anymore.

"I don't want to be watching and peering and wondering what's going to be happening tonight or next week," she said. "In my mind, this is what I think . . . they just said, 'Well, they're the first ones to move in on this block. We'll just pick on them for awhile. Maybe later we'll find somebody else.'"

Ebony Realty also caught the backlash although the black firm sold only four or five homes in the area.

The Southwest Parish and Neighborhood Federation, backed by six Roman Catholic parishes, had sought to get banks to finance construction of high-rise apartment buildings in the area as a "buffer zone" between blacks and whites. The federation demanded that James and Jones sign a form vowing not to solicit.

When they refused, Ebony's phone lines were jammed, James was cornered by a crowd in his parking lot and Jones found an angry mob on his front porch.

James said his firm was soliciting in the changing area because he had "never seen the housing market this tight" in 15 years. Other black real estate firms agreed there were thousands of blacks seeking homes, but few listings available.

The temporary answer was the area east of Marquette Park.

There were other changing neighborhoods in Chicago's South Shore, suburban Calumet Park, Beverly Hills and even the southern tip of Bridgeport.

But each of those areas was less conducive to sudden change. Calumet Park had a village ordinance banning soliciting, home prices in Beverly were higher and the homes in Bridgeport were less desirable.

Marquette Park was the best target. Scores of white real estate firms set up offices south of the area, including the Home Buyers Center, Inc., which had six offices in changing areas across the city.

Once the change began, Home Buyers accounted for more than 40 of the first 280 sales. Theodore Bruck, the top company official, was asked why the offices were located near changing neighborhoods.

"Where do people open businesses?" responded Bruck. "Where they think they can make some money."

#### PART IV. GOVERNMENT-FINANCED RESEGREGATION (By Gregory Gordon and Albert Swanson)

CHICAGO.—Sirens blared all afternoon along the tree-shaded streets at the eastern fringe of Marquette Park where Ray McCarthy and Bill Sheridan were neighbors.

It was a sultry July day, the kind of hot, muggy weather that can send tempers flaring. The stifling heat was hardly helping contain the racial tensions which had simmered all summer on the southwest side of Chicago.

Black activists were staging another march down 71st Street to Marquette Park in their fight for open housing. Angry white residents had stockpiled an arsenal of bricks, rocks and bottles to hurl at those who dared enter their white sanctuary under the shield of court-ordered police protection.



McCarthy, a 57-year-old electrician, and Sheridan, a Chicago fireman, were in their own homes seemingly oblivious to all the activity a couple of blocks away.

They were busy packing their belongings so they could move away.

The violence was nothing new. It had begun a year and a half earlier when the first blacks had moved into the area. Now blacks were living right across the street and McCarthy and Sheridan were whites on the run.

Both were bitter at the blacks and afraid of the violence. Most of all, they were resentful of the government's Federal Housing Administration and Veterans Administration mortgage insurance programs.

The two men had good reason to be angry. An extensive UPI investigation into the changing neighborhood revealed that real estate operators and mortgage bankers used the two government programs to turn fast profits and to resegment the previously white neighborhood.

"I'm getting screwed by the federal government, how would you like that?" Sheridan asked sharply. "I can't sell my building any other way than FHA or VA because no one else wants to buy it. So, consequently, I have to go with FHA and VA prices."

Most of the homes in the area were being sold under FHA mortgages which allow the buyer to make downpayments as low as \$200, or through the VA which requires no downpayment on the purchase of a house. Both programs place extra burdens on the seller.

Sheridan said he sold his two-flat, 12-room house for \$21,900 and it cost him more than \$2,000 in real estate commissions, mortgage costs and repair costs to meet city and FHA inspection requirements. His new house, a bungalow, cost \$35,000.

"I had (black) people come and look at my house and between the two of them have a \$25,000 income, yet they're buying FHA," Sheridan said. "They walk up and buy my house for \$550 down. To buy my new house, I have to put \$7,500 down. What is that? Is that liberty and justice for all?"

A few houses away, McCarthy, a father of five, had similar sentiments.

"The whole thing in the back of my mind is the FHA," he said, "because this allows anybody to buy a house. When I went over to buy this house, I had to borrow money for a downpayment. Otherwise I couldn't get the house. But the (black) guy next door needed \$200, the other guy needed nothing."

"That's the difference. The colored come in here, they're not even worried about the payments. They know they've got a year or so before they're thrown out. As soon as enough of them come in with no money down, or \$200 down and they run out the lease as far as payments, the houses go down."

Sheridan and McCarthy are the unintended victims of an FHA program designed to help lift low income families from the slums to decent housing. The program has backfired and helped expand the slums eating away at many of the nation's cities like a cancer.

The FHA has become a major contributor to the neat color line which marks Chicago, according to the U.S. Civil Rights Commission, as the nation's most segregated city.

It started in 1968. For decades, the FHA mortgage insurance program had not been considered the hallmark of good lending with its stringent underwriting policies.

But disinvestment, or redlining, by banks and savings and loans in inner city areas left blacks with little outlet for obtaining a home loan. To quell the riots following the assassination of Martin Luther King Jr. in 1968, Congress decided to make home ownership easier for blacks. It passed the Fair Housing and Urban Redevelopment Act.

If the application is rejected "a sharpie real estate agent will fix it up," said Phyllis

Rogers, new head of the single family mortgage credit division.

The loan processing office files away rejected applications and has no way of detecting falsified applications the second or third time through unless, by coincidence, the same loan specialist gets the application, she said.

Since the cleanup drive began in 1975, the FHA has refused to accept most welfare mothers and has tightened credit checks on other prospective buyers. The crackdown slowed the FHA buyer approval process to several weeks and made mortgage bankers more wary.

Real estate agents responded by steering as many prospective buyers as they could to the VA, which quickly processes applications and places inspection responsibilities in the hands of city officials and private appraisers hired for a fee.

The VA's foreclosure rate has been significantly below the FHA's. Chester Kaitis, assistant loan guarantee officer for the Chicago VA office, said one reason is that the VA has "kept a sane approach" to credit evaluation.

The VA also tries to convince veterans behind on payments to "voluntarily convey" their homes to the VA, which pays off the mortgage company and resells the home.

Since the FHA tightened its standards, the number of VA-insured mortgages nearly doubled in the Chicago area to 800 to 1,000 a month, according to Maurice Crowley, chief of loan processing.

But the VA is no longer scandal-free.

The Metropolitan Area Housing Alliances and UPI recently disclosed that Conteco, Inc., a South Side contractor, bought up scores of HUD homes for an average of \$10,000 and resold them for more than double that amount, nearly all on VA-insured loans. Several of the homebuyers complained they had to spend thousands of dollars on repairs shortly after taking possession.

#### REDEVELOPMENT ACT

The law directed the U.S. Department of Housing and Urban Development to relax mortgage lending standards under the FHA program so hundreds of thousands of low income families could qualify.

"At the same time," recalls John Waner, director of HUD's Chicago area office, "every unethical, unscrupulous real estate broker and lender, many of them so slimy they crawled out from under a rock, looked at this program and said, 'What a gold mine out there!'"

Real Estate brokers and mortgage bankers found that they could make huge profits by selling homes to persons who could barely meet the lenient FHA standards—and some who slipped through with falsified credit information.

When a family missed a payment, the mortgage company quickly foreclosed, ousted the family from the home and collected the full value of the mortgage from HUD which became the holder of thousands of boarded up properties. The scandal cost taxpayers hundreds of millions of dollars.

In Illinois, it was worsened by a state law requiring that abandoned buildings sit vacant for at least a year during foreclosure proceedings. Many of the dormant houses became firetraps or unsightly warnings of neighborhood decline.

In spite of repeated disclosures about new FHA failures, most attempts at reform have failed.

Under pressure for a cleanup, HUD slowed the foreclosure process, improved its credit checks on FHA applicants and tightened inspection procedures so homebuyers would not find themselves greeted with repair costs for collapsing staircases, faulty furnaces, leaky roofs or rotted floors and porches. The reforms slowed the abandonment, but did

not stop abuses by real estate agents and mortgage bankers.

Some brokers turned to the VA, a program for military veterans or their families which does not even send out its own inspectors to approve properties and relies on city inspectors.

Others recognized that both government programs could be used for reaping windfall profits. The government bureaucracy was too cumbersome to prevent it.

The government programs have become a tool of real estate agents and mortgage bankers for resegregation of whole neighborhoods, and, in effect, the financier of sudden neighborhood change.

UPI was able to trace financing on all but six of the 281 real estate transactions to occur in the area just east of Marquette Park in a 20-month period from December of 1974 to August of 1976, a period of sudden racial change which began when the first black family moved in.

Of the 275 purchases, 139, or 51 per cent, were financed through the FHA and another 86, or 31 per cent, were sold through the VA.

Only 44 homes, or 16 per cent, were bought with conventional bank loans requiring a 10 to 20 per cent downpayment. Six homes were sold cash or on contract agreements.

In simpler terms, eight out of 10 homes were financed through government programs. All but a handful of the homes were sold to blacks or Spanish-speaking families.

During the same period, at least 18 homes were sold through the FHA in all-white Marquette Park a few blocks across Western Avenue, the city's newest line of demarcation. None of these homes were sold to blacks. Another 69 homes were sold through the VA in the white area, none to black buyers.

UPI sent whites and blacks posing as buyers to 14 real estate offices in the area asking for home listings in the same price range. In all but three cases, the white buyers were shown homes only west of Western Avenue. The black buyers were given listings only east of Western Avenue.

Federal law prohibits real estate agents from "steering" buyers to certain areas on the basis of race.

Further, the 1968 Fair Housing Act, which mandated the loosening of FHA lending practices, also states that it is government policy "to provide, within constitutional limitations, for fair housing."

Government-financed resegregation also occurred in West Englewood, the all-black neighborhood to the east of Marquette Park. The vast majority of homes in the 160-block area were sold on FHA and VA loans—all to blacks.

Besides racial steering, real estate agents also have steered whites into selling their homes FHA and VA, and blacks into buying through those programs.

"Sure, the real estate brokers are the ones that steer them into FHA," says Dudley Turner, former chief of the FHA's Chicago area single family mortgage credit division.

#### CREDIT DIVISION

John E. Pakel, executive vice president of the Chicago Savings and Loan Association located in Marquette Park, says that in past years financial institutions stopped investing in neighborhoods when they discovered a dropoff of conventional loan applications because it indicated high FHA activity, and probable neighborhood deterioration.

But he blames real estate firms for triggering the disinvestment.

"Now we're fairly certain that real estate brokers would infiltrate the area telling the people that they could only sell their homes with FHA-insured mortgages," Pakel said.

"That being the case, anybody that would want to purchase, or even the people that were living there now that wanted to sell, would not make any attempt to seek out

conventional financing. You see the obvious physical effects—board ups and the merchants start leaving."

UPI interviewed some 45 former residents of the changing area east of Marquette Park and about 80 of the new home buyers.

Most sellers were under the impression that no conventional home loan money was available and at least 13 said real estate agents advised that they use FHA and VA financing. Many of the same brokers advertised, even in the yellow pages, that they had homes for sale through the FHA and VA.

Numerous black buyers said they felt they had more protection from the government programs than from a conventional loan with a bigger downpayment. But foreclosure statistics indicated the opposite.

One mortgage banker, Mortgage Associates, Inc., of Milwaukee, was involved in more than 70 of the first 225 VA and FHA transactions in the area.

Robert McNeal, a Chicago bus driver, and his wife, Bernadette, went out looking for a new apartment last year. They found an ad in the newspaper and phoned Royal Realty.

McNeal's paychecks totaled just \$750 a month and it was tough supporting two children with the money, so he was surprised when the salesman mentioned buying a house.

"I didn't think we could handle a home," McNeal said.

But the salesman said their monthly payments would be \$220.75, not much higher than apartment rent, and the bright bungalow with the biggest yard on the block was too good to pass up.

McNeal and his wife bought the \$20,000 home in January through the FHA with a \$750 downpayment, including closing costs.

Six months later McNeal was worried about keeping the house and his wife was looking for a job.

"It's tight," Mrs. McNeal said. "We moved a little too fast."

But McNeal said, "We're gonna make it—I'm going overboard to make it."

The McNeals may make it but more than 2,000 other FHA and VA homebuyers squeezed by soaring costs give up their homes in Chicago each year, leaving abandoned properties that contribute to neighborhood blight.

Critics blame the problem on loose FHA and VA credit standards, which allow persons to buy homes they cannot afford to keep. The FHA requires no more than a 3 per cent downpayment, including closing costs, on a \$25,000 home.

"Our staff knows in many cases that the purchaser of the home hasn't got a prayer of making it," says Chicago area HUD director John Waner, one of HUD's most outspoken officials.

Waner displayed a copy of a memo he sent to HUD Secretary Carla Hills more than a year ago urging "a complete and timely review and revision" of the mortgage credit standards.

Attached to the memo was a typical FHA single family mortgage application in which the family's net monthly income was \$810 and its savings totaled \$654. Their anticipated monthly housing expense, including mortgage payments and utilities, was \$363.37. The application was approved.

"We are mandated by law to approve a buyer who falls within that category even though the private sector under no circumstance would approve him," Waner said.

He said private lenders, alerted to rising housing expenses, won't approve loans unless the monthly mortgage payments and other housing expenses are 23 per cent or less of the buyer's net monthly income. HUD's limits range from 35 to 50 per cent.

No significant action was taken in response to Waner's memo, or to a bill authored by

Rep. Martin Russo, D-Ill., to increase downpayments on FHA-insured loans and provide counseling for low-income buyers.

The credit problem is amplified by HUD's bureaucracy—easy prey for dishonest real estate agents and mortgage brokers who falsify applications and sometimes even pay the buyer's closing costs. Both practices are illegal.

Turner, who served in the credit office during the scandal-ridden years of 1973-75, said real estate agents and mortgage companies "all teach 'em to lie. It's the greatest unwritten conspiracy in the world."

"Once the loan is closed, everybody vanishes into dust," he said. "Everybody but the buyer."

Mr. PERCY. Mr. President, the pre-purchase counseling will be mandatory for all persons who wish to see homes in the designated area and who may also want to apply for FHA mortgage insurance. HUD Chicago area office staff will counsel prospective buyers individually, providing the following kinds of information:

Information about alternative housing opportunities in the Chicago area market.

Information on the buyer's rights under the Fair Housing laws.

Information on the availability of conventional mortgage financing.

Information on budget management and the responsibilities of homeownership.

Mr. President, I think the last item mentioned above is the most important. Good counseling can be the key to successful homeownership programs. I ask unanimous consent that an article from the Chicago Tribune of May 7 by Oliver Jones, executive vice president of the Mortgage Bankers Association of America, and which stresses the need for counseling, be printed in the RECORD, at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COUNSELING IS SEEN AS HELP TO HOUSING  
(By Oliver Jones)

One of the newer devices for stimulating employment is the provision of federal funds to provide for public service employment.

Some of its critics argue that local governments simply use the funds to meet city payrolls and reduce the pressure on their budgets—no new jobs are added. Others argue that new jobs that are added last only as long as the federal largesse and no product performance is required.

These criticisms are valid, but so is the need for jobs. At the same time, housing subsidy programs need the support of counselors trained in the complexities of federal programs and aware of the problems and needs of low-income families. Why not marry these needs, solve two problems, and end up with a valuable product?

So far funds for counseling have been authorized, but not appropriated, and when appropriated, not spent. Even then, the authorized spendings are far less than those proposed for public service jobs. Despite the negative attitude towards counseling, the Department of Housing and Urban Development's (HUD) own studies indicate that dollars spent in counseling are returned in savings from reduced foreclosures and the consequent losses. Surely, an adequate counseling program would have avoided or greatly reduced the fiascos of recent years experienced in Chicago, Detroit, and Philadelphia.

Why not take a positive approach to public service employment and make counseling available to low-income families in need of shelter in every city in the land. The farm community has benefited from some 17,000 county agents servicing a wide variety of the farmer's needs for a half-century. If we are truly concerned about the nation's cities, can we do less for the farmer's city cousin?

The city's low-income family is only vaguely aware of the wide and complex variety of housing assistance available. Welfare payments, public housing, 235, 236, rent supplements are all common terms in the industry's lexicon. They are not common terms in the public's understanding of what is available, who is eligible, and how to apply for assistance. Moreover, they are designed in HUD's concrete tower in order to stimulate production and sales rather than to meet the individual needs of low-income families. These gaps could be closed by counselors who understand the programs and are sensitive to the varied needs of the poor.

Picture a convenient downtown office where low-income families could go for advice and assistance. They could find out if they are eligible for housing assistance, the type of assistance available, and how to apply. The counselor could help prospective homeowners find a house that fits their needs, teach the family to manage its budget, and learn about the new responsibilities of home ownership, the counselor can see that the assisted family is not ripped off and is not taking on more responsibilities than it can handle. He can aid in housing and negotiating financing.

This suggestion urges counseling from the beginning stages until the counselor feels that the family can go on its own it is not satisfied with the current fad of "default counseling," which comes to bear only after the family is in financial difficulty. It is not just another handout. The funds for housing assistance are being, and have been, spent in billion dollars measures but the delivery system lacks this vital and cost effective element—counseling. As a result, expectations have turned into sour disappointments, one new program after another has turned into failure, and the task of housing the nation's low-income families remains.

Would it not be far wiser to reduce the unemployment figures on a more permanent basis, and, at the same time get a productive result from public service employment as from housing subsidies?

Mr. PERCY. Mr. President, in addition, HUD will re-evaluate appraisal practices utilized by the Department to insure that differential appraisals of comparable properties are not based on the changing racial character of a neighborhood, and HUD will strictly enforce credit requirements for FHA-insured mortgages to prevent the influx of unqualified buyers into the neighborhood.

In announcing the program, Secretary Harris was responding to the requests of two outstanding public interest housing groups in Chicago; the Leadership Council for Metropolitan Open Communities, and the Home Investment Fund of Business and Professional People for the Public Interest. They requested urgent action to prevent racial unrest and block busting in Marquette Park this summer. I have long been an advocate of pre-purchase counseling programs and I commend both Secretary Harris and HUD Region V Director Don Morrow for their prompt action in setting up this experimental program in Chicago.



The May 15 Chicago Sun-Times and the May 18 Chicago Daily News both carried editorials praising the announcement of the prepurchase counseling programs by Secretary Harris. I ask unanimous consent that these editorials be printed in the RECORD at this point.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Chicago Sun-Times, May 15, 1977]

#### FIGHTING HOUSING BIAS HERE

Marquette Park, on Chicago's Southwest Side, has a history of racial housing troubles, to put it mildly. Unscrupulous real estate brokers have poisoned the atmosphere further. And the federal government has done its share of harm, too, with lax enforcement of loan standards.

But that neighborhood—and the whole city—has reason to see hope in an announcement late last week from the U.S. Housing and Urban Development Department.

HUD Sec. Patricia Roberts Harris said her department would start a pilot project of prepurchase counseling for Southwest Side home buyers using Federal Housing Administration insured mortgages. Under the plan, HUD counselors will give the buyers financial advice about all available homes in the area. They would try to ensure some stability in terms of white fighting and neighborhood decay.

Coupled with that effort would be a revision in appraisal policies so that the mere fact that a black or Latino family moved in would not necessarily cause panic and a drop in surrounding residential values.

Still another part of the plan would tighten credit checks on buyers. That's vital if rates of mortgage default—and resulting property abandonment and decline—are to be reversed. It could also help prevent credit blots on the records of families with good intentions but poor financial possibilities.

HUD's plan was formulated to settle legal actions filed by several neighborhood groups, the Leadership Council for Metropolitan Open Communities and the Home Investments Fund. All those groups deserve warm thanks for spurring action against racial strife.

If the pilot project works on the Southwest Side, it could work elsewhere, too. Chicago could show the way for other urban centers. As Kale Williams, executive director of one of the groups said, "It could be a significant step in breaking the dual housing market which has separated blacks and whites in major metropolitan areas."

That's a giant task, but it's one that must be undertaken if black and white and brown are to find urban harmony.

[From the Chicago Daily News, May 18, 1977]

#### HELP FOR MARQUETTE PARK

The transition of Chicago neighborhoods from white to black has followed a consistent pattern: Under the severe pressure of their growing numbers, the first blacks move into a white neighborhood in an atmosphere of high tension, hostility, violence. Pressed by real estate profiteers, whites panic and sell out. Lured by the same agents, blacks pour in, some of them too poor to qualify legitimately for home loans, to maintain them and the property they acquire. Mortgages are foreclosed, and the unscrupulous lenders lose nothing because most of the loans are federally insured. Some homes are boarded up, others are allowed to decay. A new ghetto slum has been created.

The process now is under way in an area of Marquette Park bounded by Western and Bell avenues and 63d St. and 74th Pl. Civic organizations, armed with evidence that old patterns can be broken, are fighting the tide.

Central among them is the Leadership Council for Metropolitan Open Communities, which has just won federal action that holds considerable promise for the area.

Acting on suggestions made by the Leadership Council, the Department of Housing and Urban Development has endorsed a three-point demonstration project in Marquette Park that, if it succeeds, can become a model for cities throughout the country. Under new HUD regulations, families seeking FHA loans will be counseled—given financial advice, and told about housing listings throughout the city to encourage integration and stability in Marquette Park itself. To reduce the threat of panic, the government will reform its appraisal practices so that all property in the area is less likely to be valued by the standard of a home or a few homes sold under stress. Mortgage applications will be more closely screened to eliminate unqualified borrowers who have been oversold by the profiteers.

HUD is to be commended for this kind of affirmative action and the Leadership Council for getting the message into the ear of the bureaucratic giant. We hope their efforts succeed.

Another federal agency can speed the progress. There is evidence that some real estate firms operating in Marquette Park have been feeding off the victims of the neighborhood's problems in ways clearly outlawed by the Fair Housing Act of 1968—steering blacks in and whites out, using fear tactics in their solicitations, approving mortgage insurance for unqualified applicants. The Leadership Council and HUD have been turning over such evidence to the U.S. attorney's office. Prosecution undertaken with a sense of urgency could stamp out the parasites and well serve a community and its good citizens.

#### THE \$100 MILLION BARRIER AT FASTER THAN THE SPEED OF SOUND

Mr. PROXMIER. Mr. President, as usual, Art Buchwald's column requires no explanation. Who could duplicate his flair for language, his imaginative use of the obvious to instill humor. The source for his columns is rich indeed—it is the entire Federal Government and with that resource he will have copy for generations to come.

Mr. President, I ask unanimous consent that the Buchwald article titled "The Wild Green Yonder," dealing with the cost estimates of the B-1 bomber, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 24, 1977]

#### THE WILD GREEN YONDER

(By Art Buchwald)

They said it couldn't be done, but the U.S. Air Force managed to do it. It developed an airplane that would cost more than \$100 million. The B-1 bomber, which will be ready for production as soon as President Carter gives the word, will be the most expensive aircraft in history; and since the Air Force wants to build 244 of them, it will cost the taxpayers conservatively \$40 billion, including operating expenses.

I went to the Army-Navy Military Industrial Complex Club as soon as the announcement was made, and there was great rejoicing and excitement. Aircraft contractors were buying drinks for everyone.

"The Navy scoffed at us," an Air Force general said. "The Army laughed at us, and the civilians in the Pentagon said we were out

of our minds. They claimed no matter what we put on the plane we could never break the \$100 million barrier."

"How on earth did you do it?" I asked in admiration.

"We got together with our contractors, and we told them we wanted the most expensive bomber that money could buy. We wanted every sophisticated electronic gimmick they could think of. We wanted a plane that could fly high, a plane that could fly low, a plane that could carry nuclear warheads, supersonic missiles, cruise missiles, and anything else they could think of. We said we wanted the biggest buck for the bang."

"What did the contractors say?" I asked.

"They were thrilled," the general told me. "No one had ever challenged them to make \$100-million aircraft before. It wasn't easy to think up new ideas to add to the cost, but we promised to work with them closely."

"I'll never forget the day the chief engineer from the company came in and said, 'The best we can do is build you a \$75-million bomber. We can't think of another piece of equipment to put on it.'"

"Well, we really blew our stacks and told him if his company couldn't come up with a \$100-million plane we'd find one that could. We explained to him that the B-1 bomber was the Air Force's baby and the most vital strategic deterrent we had. If we couldn't make it expensive enough, the Navy wouldn't take it seriously. The Navy has been trying to sink the B-1 ever since we thought of it. If we brought in our plane for less than \$100 million, the Navy could claim it wasn't a deterrent at all."

"That must have frightened the engineer," I said.

"Scared the pants off him. We sat down with him and asked if he had thought of windshield wipers and he said he hadn't. Then we asked him why the plane didn't have whitewall tires. He couldn't explain it. We pointed out we needed leather seats and not the vinyl ones he had decided on. He kept writing figures down. The big breakthrough came, though, when someone thought of rear-window defrosters. The engineer protested that if he put in rear-window defrosters they would have to completely redesign the plane. "That's what you're paid for," he told him.

"Well, it took some doing, but we got the price up to \$101.7 million, and now the Navy is fit to be tied."

"I wonder what their answer will be?" I said.

"They'll probably try to come up with a plane of their own to match it. But they're fighting among themselves. Half the Navy wants nuclear submarines and the other half wants nuclear carriers. There isn't anybody in the Air Force who doesn't want the B-1 bomber."

"Because you can fly it, boy. What's the sense of having an Air Force if you can't fly a plane? Sure, our missiles are more accurate, but that means you have to sit in a bunker 1,000 feet underground. What the hell does that have to do with the wild blue yonder?"

#### SMALL BUSINESS WEEK

Mr. MATHIAS. Mr. President, the week of May 22 through 28 has recently been designated by President Carter as National Small Business Week. The week will be marked by speeches and ceremonies in Washington and across the country noting the important social and economic role of independent business. And that, I think, is essential.

Mr. Herbert Heaton, president of Support Services Alliance, Inc., has written recently about what small business

means to our country. In his article, "Entrepreneurship and the Alliance Program," Mr. Heaton eloquently reminds us that:

For millions of people, entrepreneurship is a matter of survival because there are not enough jobs to go around. For others, being small but independent is the only way they would like to make a living. Difficult as it is, entrepreneurship is also attractive because it involves the three elements of satisfaction: one's own goals, one's own methods, and feedback. Entrepreneurship is the basis of freedom because freedom requires alternatives which people can pursue. Entrepreneurship is economically essential because a healthy economy requires a mixture of sizes with small enterprises and self-reliant individuals to innovate, take risks and provide efficient individualized services. Art, music, literature and fine crafts, as we know them, are products of entrepreneurial individuals.

His words highlight the great contribution that small business makes to our economy and our way of life. But there are some things occurring today that do not make it easy for the kind of people I have just mentioned to succeed. Unfortunately, some of those obstacles are Government-created.

Recently, I addressed these problems when I visited the Rotary Club in my hometown of Frederick, Md. My talk was titled "Small Business: Problems and Prospects." In it I discussed both the burden of excessive regulation and my efforts to provide an avenue of relief for small business. My bill, S. 49, would establish a Small Business Administrative Review Court that would give a day in court to the little person. It is designed to promote due process and to rationalize the application of the many regulatory controls on small business.

Mr. President, I ask unanimous consent that the text of my remarks to the Frederick Rotary Club be printed in the Record and I salute the small business men and women of our country on the occasion of National Small Business Week.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

**SMALL BUSINESS: PROBLEMS AND PROSPECTS**  
(By Senator CHARLES MCC. MATHIAS, JR.)

I am delighted to be here today to talk with you about the problems and concerns of small business and what we might do about them.

The biggest stumbling block to the conduct of business today is overregulation. The agencies, departments and commissions of the Federal government churn out regulations so fast and furiously that we finally had to set up a Commission on Federal Paperwork. It was given two years to stem the flow of paper and its time has almost run out now with no dramatic results.

The small, independent business people in this country can hardly keep track of the organizations empowered to issue regulations, much less of the regulations themselves. But the problem of excessive government regulation is not confined to business. It affects everyone. In this one area at least the equal opportunity guidelines are scrupulously followed: no race, no class, no age group, no sex is over-looked. Everybody gets the business.

Let me give you some statistics on the flood of paper being generated in Washington:

The government prints over 11 billion forms a year.

There are 50 forms to be filled out each year for every man, woman and child in the country.

GSA reports government forms cost the economy \$20 billion a year to fill out and another \$20 to be read and shuffled about by the bureaucracy.

There are an estimated 6,000 different forms generated by 3,500 government bureaus, agencies and services that maintain 8,000 separate records systems.

I don't want to give the impression that the Congress is innocent in this area. It isn't. Congress has passed 9,000 laws that require reports of some sort and not long ago the Senate Subcommittee studying the burgeoning paper problem issued a 2,200 page report.

When you translate these statistics into human terms, some incredible horror stories emerge. You probably have your own favorites, but here are some of mine:

An Oregon company operating three small TV stations reported that its license renewal application weighed 45 pounds.

In one major corporation, with 40,000 employees, federal reporting requirements in the personnel area alone require the use of 125 file drawers and, because of these requirements, the corporation has had to increase its personnel staff by a third.

Then there's the Federal agency which required that construction vehicles be equipped with bells to warn workers of their approach, while another government agency required the same workers to wear ear muffs against noise pollution.

Another problem with all these regulations is that too little thought is given to the actual effect of strict application. All too often the practical effect of an order, fine or citation is inequitable; sometimes it borders on the ludicrous.

My colleague, Senator Malcolm Wallop of Wyoming, played that theme to a fare-thee-well in his successful campaign to unseat Gale McGee last November and the voters loved it.

The highlight of his onslaught on government regulation was a TV spot attacking a pending government proposal that would have required that a toilet be available to every worker within a two or three minute walk of his workplace.

Wallop's spot showed a Wyoming cowboy leading his packhorse off into the sunset, dragging a portable toilet at the end of his lasso. The voice-over simply said: "This time they've gone too far".

Now, I don't mean to imply that all regulations are bad; many are necessary. But, unfortunately, no matter how carefully a regulation is drafted, there is always the possibility that it will miss the mark when actually applied, or that different agents of the Federal government will apply it in different ways. In some cases, too, regulations do not accurately reflect the intent of the Congress when it passed the law authorizing them.

These are things we can do something about. Right now there are only two avenues of redress for a business when confronted with what it considers an unwarranted Federal order, citation or fine. It can appeal to the administering agency or it can go to court. In practice, small business people have found these avenues ineffective because they entail insupportable expense and delay. The result is that increasing numbers of small business people figure the game isn't worth the candle and they suffer in silence. They have simply given up seeking redress through the avenues established for that purpose.

Now, I would like to tell you what I'm trying to do to remedy this situation. On the first day bills were received in the 95th

Congress, I introduced the "Small Business Review Act" which is designed to enable small businesses to obtain review of their rights at minimum expense to themselves or the taxpayer. Since then, I am happy to say, Senators Heinz of Pennsylvania, Leahy of Vermont and Hayakawa of California have joined me as cosponsors.

My bill was developed with the cooperation and support of the National Federation of Independent Business which is as determined as I am that their nearly half-a-million members, and all other small businesses in this country, have equitable access to a grievance forum when faced with a Federal order, citation or fine. My bill—S. 49—is designed to promote due process and to rationalize the application of the many regulatory controls on small business. It is based on the very successful experience of the U.S. Tax Court in the conduct of "small tax cases". Specifically, S. 49 establishes a court of limited jurisdiction to hear cases involving Federal orders, citations and fines involving \$2,500 or less.

The court may rescind all or any part of a fine, citation or order which it finds inappropriate to the alleged offense, inconsistent with prior interpretations of the regulation or simply inequitable.

The court will not decide whether regulations are good or bad. It will merely attempt to introduce some common sense and equity into the way those regulations are applied.

Any citizen—corporate or private—may petition the court for a hearing. The jurisdiction, however, suggests that most cases will focus on small business. The rationale for a \$2,500 limit is twofold. First, it is generally the small actions which now are being foregone because of cost. Second, this court is directed to act with all due speed on petitions, and it is the large, very high dollar value actions that tend to bog a court down.

To insure that costs of litigation remain low and that rapid review is achieved, the bill incorporates three procedures that have proved effective in the handling of small tax cases by the U.S. Tax Court.

First, decisions rendered by the court are not appealable. Both parties waive their right of appeal once the case is before the Small Business Administrative Review Court.

Second, because there is no appeal, decisions rendered by the court cannot be used as a precedent in any other court. Thus, the court cannot establish its own body of law outside the normal process of judicial review.

Third, the court is designed to be very liberal in its procedure to encourage individuals to represent themselves before the court.

A petitioner has an option to employ an attorney, but is not required to employ one. Therefore, the form to be used by the petitioner is a very simple one, similar to the one-page form now used by the U.S. Tax Court for its small tax cases.

In addition, the filing fee is only \$10, an amount easily within the reach of most people.

The handling of small tax cases by the U.S. Tax Court provides a good illustration of what I am hoping to achieve in the small business regulation area. There, the average time between filing a petition and a decision is 10 months; between trial and opinion it is three months. In close to 95 percent of the cases, the individual acted as his own counsel. The record shows the Tax Court has been neither a patsy for the petitioner nor for the government; cases have been decided almost equally between the two.

I'd like to emphasize that I am not creating a new layer of bureaucracy to control already existing bureaucracies. I have drafted a sunset provision into the bill so that it will automatically expire in five years unless Congress specifically acts to renew the court. The Chief Judge will be required to provide



Congress with an assessment of the court's performance to enable Congress to decide if it's worth continuing.

If the court succeeds in eliminating many of the inequities small businesses now face, as I believe it will, then we will have made significant progress toward achieving due process for a group of citizens whose enterprise, although vital to our society and our economy, is often neglected.

I have brought copies of S. 49 with me in the hope that you will study it and agree to work with me toward getting this important legislation passed in this session of Congress.

#### THE FOOD STAMP REFORM PROVISIONS OF THE FOOD AND AGRICULTURE ACT OF 1977—S. 275

Mr. GLENN. Mr. President, for the second consecutive year, the Senate has completed significant action on food stamp reform. The Agriculture Committee and its distinguished chairman, Senator TALMADGE, are to be commended for their work. I hope that, unlike last year, the House will act speedily so that these badly needed reforms may take place.

Last year, I introduced food stamp reform legislation that was finally embodied in the Senate-passed bill. This year, I was pleased to cosponsor S. 845, many provisions of which were included in the final version of S. 275. I would like to take this opportunity to comment on several of the key food stamp provisions of S. 275.

My three most often-stated goals for reform of the food stamp program are: First, that the program must be directed only to those in real need of food stamps. People in need must receive stamps promptly and efficiently while nonneedy upper income people must be eliminated from the program. Second, the program must be greatly simplified so as to eliminate wasteful, expensive errors, "waiting period" backlogs, bureaucratic chaos, and fraud by vendors and recipients. Third, we must view the food stamp program as simply a necessary stopgap as we proceed to carry out President Carter's pledge to reform and overhaul the entire welfare system. I hope that we can develop a fair, simple, and rational system that brings order out of the chaotic maze and proliferation of income supplement programs. It is with these goals in mind that I approached the food stamp issues of S. 275.

#### ELIMINATION OF THE PURCHASE REQUIREMENT

I believe that eliminating the purchase requirement and establishing a single benefit reduction rate of 30 percent of net income is a major and positive step totally consistent with the three goals that I have expressed. This feature should open up the program so that those who are at the very bottom of poverty, those with little or no funds for the purchase of stamps, can receive stamps. It is this group that needs stamps most and should have them. Additionally, eliminating the requirement for purchasing stamps has the effect of greatly simplifying the program, saving administrative costs, and eliminating vendor fraud by eliminating cash transactions. Much abuse of the program has been by the sellers of the stamps. This provision also has the benefit of removing from circulation roughly

\$3 billion worth of stamps, thus simplifying program administration. Since participation in the program is now limited to the net income of families at or below the poverty level, the arguments of those who raise uninformed specters of "free food stamps" for all are basically groundless. Eliminating the purchase requirement helps those who are in the most need to obtain stamps; it also helps us begin to unclutter administrative chaos and to clean up fraud in the program.

#### REPLACEMENT OF ITEMIZED DEDUCTIONS WITH STANDARD DEDUCTIONS FOR ELIGIBILITY DETERMINATION

It was the possibility of "pyramiding" itemized deductions so as to become eligible for food stamps that allowed the possibility of families with earnings of up to \$16,000 to become eligible for food stamps. This provision encouraged the proliferation of "food stamp lawyers" who advised families on the manipulation of deductions to obtain stamp eligibility. S. 275 eliminates this procedure while providing standard deductions of (a) \$60 per month for all households, (b) 20 percent of gross earnings to compensate for taxes and work-related expenses, (c) a dependent care deduction not to exceed \$85 per month per household for actual dependent care costs necessary to allow a household member to work, and (d) an excess shelter expense deduction for shelter costs incurred in excess of 50 percent of income, not to exceed \$75 per month.

Hopefully, these provisions will allow enough flexibility so as to avoid regional disparities in food stamp benefits. I am greatly concerned that regional differences in cost of living be reflected in food stamp benefit determination. The excess shelter cost standard deduction does address this problem somewhat, perhaps the House will address the question further.

#### TERM OF THE PROGRAM

I voted for a 2-year extension of the program rather than a 5-year extension because I believe, as does President Carter, that there should be no chance of arguing that food stamp reform should somehow substitute for genuine overall welfare reform. I want pressure put on bureaucrats to get the food stamp reforms of S. 275 implemented as rapidly as possible, but the real solution to the problems of food stamps is not 5-year or 2-year food stamp reform. Our solution is to move quickly and effectively to design a fair, efficient, and compassionate welfare system. I support the Carter administration's request for a 2-year food stamp extension with the hope that in 2 years we will be underway with serious overall welfare reform as opposed to a continuation of piecemeal, incremental, program reform.

#### OTHER PROVISIONS

There are other provisions of title XII of S. 275 which I applaud. The increased incentives for States to improve their program administration are especially commendable. I support the provisions that require unemployed participants to engage in job search activities and that require a 60-day period of ineligibility for someone who voluntarily leaves his or her job without good cause.

In summary, Mr. President, I feel that the food stamp reform provisions of S. 275 are basically consistent with my goals of providing assistance to those truly in need in a way that is uncomplicated, fair, and efficient.

#### UNIVERSAL VOTER REGISTRATION

Mr. DOLE. Mr. President, ever since President Carter proposed the so-called Universal Voter Registration Act we have been hearing from State and local elections officials who are deeply concerned about the effect of this legislation on the orderly administration of elections and the integrity of the entire process. Of course, these officials are in the best position to predict what would happen if this legislation were enacted. This Senator believes that we should listen carefully to their concerns.

In particular, I highly value the opinion of our own Kansas Secretary of State, Mrs. Elwill Shanahan, and requested that she write me to express her views so that I might make her opinion of this legislation a matter of public record. I ask unanimous consent that the text of her letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF KANSAS,  
OFFICE OF SECRETARY OF STATE,  
Topeka, Kans., May 11, 1977.

Hon. BOB DOLE,  
Dirksen Senate Office Building,  
Washington, D.C.

DEAR BOB: Thank you for requesting my feelings in regard to the "Universal Voter Registration Act of 1977." My opinion is that it is a "Pandora's box" that once opened could cause fraud, chaos and confusion at the polling place.

Kansas initiated statewide registration in 1972. Prior to January 1, 1972, registration was required only in first and second class cities and county-wide in Johnson, Sedgwick, Shawnee and Wyandotte Counties. The county election officers made every effort to get persons registered in the new areas prior to the primary election that year. However, any person who lived in an area where registration had not been required was allowed to register at the polls at the 1972 primary and general elections. This privilege was not widely used since the county election officers had registered approximately 75 percent of the people before the day of the election.

Since the "Universal Voter Registration Act" will affect urban areas, I can foresee the following: Dual lines at voting places, dual ballots, uncertainty as to the number of ballots and voting machines needed at voting places, additional members of election boards and, of course, long lines of people waiting to vote.

As Secretary of State and chief election officer for the state of Kansas, I think we have good election laws in Kansas. We have made every effort to provide for the secrecy of the ballot and the prevention of fraud. Registration is available during all work days at the offices of the county election officer and city clerk and many outposts. For example, Sedgwick County has 38 outposts and Shawnee County has 27 outposts. The last days before the closing of registration, county election officers provided for registration of voters during the noon hours and until 9 o'clock each night in all first and second class cities.

In 1976 the Kansas legislature enacted the

registration by mail law. This law was passed because of the possibility of passage of the federal postcard registration bill, which failed. Registration by mail has not proved to be as successful as the proponents of the bill anticipated. However, it is available to anyone who wishes to register by that method.

Kansas taxpayers are already overburdened by federal taxes and bureaucracy. What the federal government does not need at this time is another agency. We hear from Washington that we must balance the budget. The minimum cost under the program is estimated at \$50 million every two years. There is no guarantee that funds will be perpetually available. The states may be required to eventually fund a program forced upon them in order to comply with a federal mandate.

Thank you again for giving me the opportunity to express my opinions and feelings in regard to this proposed legislation.

Very sincerely yours,

ELWILL M. SHANAHAN,  
Secretary of State.

#### BALANCED PERSPECTIVE NEEDED TO VIEW SOVIET MILITARY EXPANSION

Mr. PROXMIER. Mr. President, the June 1977 edition of Harper's contains an article dealing with the contending philosophies of arms control and arms buildup. The author, Daniel Yergin, concludes that we need to reexamine the arguments fostered by the advocates of an arms buildup.

Mr. Yergin explains that much of what the arms coalition group argues is based on interpretation of often ambiguous information and not necessarily on the facts. He does not question the sincerity of their motives, but rather the methods that they employ to convey their message. Further, he describes two basic flaws in the arguments put forth by the members of the arms lobby.

Mr. Yergin shows how the relationship between the United States and the Soviet Union depends on the mutual perceptions these nations share. Yet, within the United States, he seems to feel that it is the arms coalition group that has had a more significant impact on framing those perceptions. And he goes on to stress the fact that it would be better for all concerned if the United States could see matters as clearly, honestly, and unemotionally as possible.

The author does not deny that Soviet military strength has been growing over the years. What Mr. Yergin takes issue with is the exaggeration and overstatement of Soviet capabilities with the result of painting a sometimes hysterical and apocalyptic picture of what might happen. In contrast, he portrays what he considers to be the causes for real concern from the Soviet Union in the future.

Mr. President, I believe that Mr. Yergin's article will be of interest to all of us concerned with the security of the United States, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ARMS ZEALOTS  
(By Daniel Yergin)

As has become customary when an old administration departs and a new one marches

in, we are in the midst of a loud and passionate debate about arms. Some of the relevant questions have become familiar over more than three decades of such debates. Are the Russians getting ahead of us? Are they actively seeking world domination? Should we spend more money on arms? Should we rush headlong into new military technologies? Some of the questions are more recent, the result of nuclear parity between the two superpowers and halting steps toward arms control. Is there or is there not a new Soviet military buildup? Is real and secure arms limitation possible with the Russians? Or are they taking advantage of such agreements to achieve nuclear superiority? While the debate is easily fogged in by the special codes used by those who talk about arms (MX, MIRV, PGM) the issues are clear—budgets, jobs, prestige, weapons systems, the structure of Soviet-American relations, the next spiral in the arms race, and that most basic of all matters—survival.

The argument in Washington and throughout the nation is between two "parties." On one side is the arms lobby or what might be called the arms coalition (hereafter to be abbreviated as the AC). Its members are those people, both inside the government (particularly in the Defense Department and the Congress) and outside, who believe that the Soviet Union is an ever-expanding menace. They believe that we are still living in the Cold War, a confrontation emanating from, as they see it, the predatory character of the Soviet Union.

On the other side is the arms-control lobby. Its members believe that the common interest between the Soviet Union and the United States in avoiding conflict, particularly nuclear war, outweighs their differences, and makes arms control not only possible but necessary.

It seems clear to me that these days the public argument is going in favor of the AC. The Carter Administration has already found itself hampered in its efforts to work out further proposals for the strategic-arms-limitation talks. Before negotiating with the Russians it must negotiate with the AC, and that does not leave much room for flexibility. Meanwhile, the propaganda campaign of the AC is growing. For instance, an organization called the American Security Council has produced a film dwelling on Soviet strength, *The Price of Peace and Freedom*, which has been on television stations around the country 225 times. Another 1,250 prints have been dispatched throughout the land. The Emergency Coalition Against Unilateral Disarmament got forty Senators to vote against Carter's nomination of Paul Warnke for arms-control negotiator.

At the same time, various versions of intelligence reports, meant to strike fear into the national heart, regularly find their way into the press. Generals retire from active duty to carry their message to a wider public. The Central Intelligence Agency, usually thought to be beset by critics from the Left, is one of the agencies that does not have a direct vested interest in an expanding defense budget, and its analyses of Soviet strength have, until recently, been the most balanced. But the CIA has been subjected to a powerful assault from the Right, in the course of which it has virtually been charged with purveying Soviet propaganda.

What motivates the AC? One could be rather cynical about the concerns of its members. "It is getting increasingly difficult to find anybody who isn't directly or indirectly connected with some weapons system," Sen. Stuart Symington has complained. "You might say his meal ticket is involved in the future development of weaponry." It is correct to say that part of what is going on here involves not so much the defense of the United States as the defense of the defense budget.

Yet it would be dreadfully unfair to assign

only cynical motives to the members of the AC, many of whom speak from deep conviction. Appalled by the character of the Soviet system, they fear that its empire will be extended even farther. They believe that the basic trends are running in the Russians' favor, and that if those trends are to be arrested, the United States must lay aside its guilt and recover its will and determination. For they are convinced that between the present world and a Communist world stands only the United States. They have come to agree among themselves that, in the words of one of their leaders, we are living in a "pre-war," not "postwar" situation. They charge that we are trying to appease the U.S.S.R. and depend upon its goodwill, just as the Western world sought to do with Hitler, and that such a course is no less foolish today than it was in the 1930s.

Underlying their convictions is a basic feeling of unease. As we have gone on investing resources, so have the Russians, and the days of our overwhelming nuclear superiority are gone. Whether you call it nuclear parity or "rough equivalence," and no matter how inescapable it is, many Americans are unaccustomed to thinking in this way, and do not like it. One can understand, even if one does not share in it, how the AC's view of the world is haunted by the specter of the "Soviet military buildup." Any reasonable person must be concerned about what capabilities the Soviets would have and might be tempted to use in a situation of "crisis instability"—that is, a tense eyeball-to-eyeball confrontation.

But so much in this debate depends upon interpretations of ambiguous information, on intuitions, and not on hard facts. Maybe the AC is right to be so alarmed, and if events bear it out we will have to eat crow and be grateful that some people were bold enough to choose the role of Churchill, and only hope the nation responds in time. We cannot ignore the point Dean Acheson made in 1940: "The judgment of nature upon error is death."

Certainly the AC is correct in its claim that the U.S.S.R. allocates a great deal of its resources to its military establishment. Right across the board, from manpower to advanced missiles, it is enlarging and modernizing its forces. It is also true that the Soviet Union is a closed society. Most of its peoples know as little as we do about the Kremlin's plans, intentions, and military budgets. Indeed, it sometimes seems that Moscow wants to provide material for the "worst case" analyses in the West. The problem is, as the defense correspondent of the *London Observer* put it, "to highlight the omissions and distortions" of those who exaggerate Soviet military strength "without falling into the trap of seeming to pretend that the Soviet buildup is not there."

On the basis of what we know today, there are two big flaws in the arguments put forward by the members of the AC. First, they forget that the Soviet-American arms race is a dialectic, a process of interaction, with each side responding to the initiatives of the other and so carrying the whole process to new levels of destructive power. Factors other than conscious political goals shape the decisions on both sides. "Our present forces cannot be explained entirely by a close reading of statements by high officials on procurement objectives," a panel on "nuclear effects," composed of leading scientists and former Defense Department officials, reported recently to the Senate Foreign Relations Committee. "The forces actually purchased often represent the effects of overreactions to Soviet initiatives, institutional momentum, inter-service rivalries, or the 'manifest technology' of an emerging technology. It would be unrealistic to expect a great deal of consistency from this history." This is the history of Soviet decisions as well.



Second, the available evidence, as we shall see, simply does not make the AC case. It does, however, suggest that the AC may well be doing a disservice to American interests. By working so hard to drive up defense expenditures, it adds fuel to the arms race and can even forestall meaningful arms control at a crucial moment. This happened during the Ford Administration, and may well happen in the Carter Administration. The effect might be not to increase, but to decrease our security.

Of late, the AC has been telling us that what matters is not just the substance of our own and Soviet military power, but the worldwide perception of each. It is the members of the AC, however, who are shaping those perceptions now. Day after day they belittle our formidable military establishment, thereby announcing that we are no longer number one—when, manifestly, we are. They warn us of the danger of "Finlandization," but they promote a process of self-Finlandization. This hysteria tends to obscure the most disturbing aspects of Soviet behavior—in southern Africa, for example. It also distracts attention from matters that do require attention, such as the military balance in Europe.

Of course, we should not delude ourselves about the character, methods, and values of the Soviet system. We cannot depend on the "goodwill" of the Soviets. But, for our own good, we should try to see matters as clearly, honestly, and unemotionally as possible.

George Kistlakowsky, professor emeritus of chemistry at Harvard, has been intimately involved with American defense posture for almost four decades. He played a key role in the atomic-bomb development, was science adviser to President Eisenhower, and has been involved in numerous expert capacities since.

"The leaking of sensitive foreign-intelligence information by professional super-patriots in and out of the government is not new," he has written.

"In the early '50s the press was flooded with stories of a 'bomber gap.' The result of the campaign was the buildup of B-47 and B-52 strategic bomber forces, although gradually it came out that the gap was a myth. In 1957, a major 'top secret' study in the executive office of the President [the Gaither Report] reported to him that 'evidence clearly indicates increasing threat' of the Soviet Union, which would 'become critical by 1959 or the early 1960s' because the USSR would 'acquire significant ICBM delivery capability with megaton warheads by 1959.' It urged increasing United States military budgets and a multibillion dollar civilian defense program to counter that of the Soviets. President Eisenhower took unkindly to most of these recommendations, and so the contents of this 'Gaither' report were leaked out.

"Senator Kennedy used the 'missile gap' in his 1960 campaign and in 1961 the strategic missiles program was greatly expanded, although the missile gap was turning out to be a myth. A couple of years later there was a flurry of stories about the massive Soviet civil defense program that almost resulted in Washington's starting one. Still later stories appeared of a countrywide deployment of an anti-missile defense, nicknamed Tallinn, which would defeat American missiles and thus undermine the U.S. posture of secure deterrence. As some intelligence analysts asserted throughout, the Tallinn system was only for anti-aircraft defense; but in the meantime the U.S. MIRV program got going. The Soviets followed suit and the MIRVed missiles have now greatly increased the already excessive destructiveness of strategic forces on both sides."

Behind all this is oversell, the game of National Security, which has been played for many years, and is being played now. To understand the game, we need to under-

stand how it was set up, and that takes us back to the rise of America's national-security state.

#### THE NATIONAL-SECURITY STATE

At certain moments, unfamiliar phrases suddenly become common articles of political discourse, and the concepts they represent become so embedded in the public mind that they seem always to have been with us. So it was with the phrase *national security* at the end of World War II. It became popular because it encapsulated an outlook on the world, a mentality that expressed the conventional wisdom of policy makers. The doctrine of national security described a changed relationship between the United States and the rest of the world and suggested policies to be followed in the light of this perception. There is a desire among Americans, when it comes to foreign policy, to find a single concept, a commanding idea that integrates contradictory information, suggests and rationalizes courses of action, and, as a court of last resort for both policy makers and public, almost magically puts an end to disputes and debates. "National security" has been the commanding idea of American foreign policy for more than three decades. The eventual result is the national-security state, a state within a state, a complex of attitudes, policies, government bureaucracies, and private organizations that serve and have a stake in a permanent and ever-expanding preparation for war. Of course, this must be balanced off against the grim and much more pervasive "total security state" of the Soviet Union.

Paradoxically, the growth of American power after World War II did not provide a greater sense of security, but instead a greater range of urgent threats. The military services felt under attack in another way—by the unification debate, which pitted the Navy against the Air Force, with each attempting to stake out a new role that would justify a large establishment in the postwar era. The unification battle was a classic case of bureaucratic bloodletting, a bitter half-decade struggle over the postwar organization and reduced budgets of America's military establishment. Throughout World War II, the Army and Navy were entirely separate, each represented by its own Secretary in the Cabinet, while the Air Force was a rebellious, semi-autonomous part of the Army. The idea behind unification was that the Air Force would gain its independence, thus creating three equal services, and that they would all be brought into one department, a Department of Defense. Those pushing unification (and the Navy was resolutely opposed) did so on grounds of efficiency.

In order to win bureaucratic victories, each service sought to define national security as broadly as possible. No one was more effective at this than James Forrestal, the brisk and energetic Wall Street bond salesman who had become Secretary of the Navy. "It has been a fetish of mine that the question of national security is not merely a question of the Army and Navy," he said in the autumn of 1945. "We have to take into account our whole potential for war, our mines, industry, manpower, research, and all the activities that go into normal civilian life. I do not think you can deal with this only by the War and Navy Departments. This has to be a truly global effort."

"After all, somebody said war is merely an extension of policy," he added. "I do not know who said it."

The doctrine of national security could gain meaning and substance only in the presence of a palpable enemy. Forrestal pushed hard to cast the Soviet Union in this role. Russia was a convenient choice for another reason. After the second world war, the Soviet Union was the only power that could possibly challenge the United States mili-

tarily, and, having lived through Munich and its consequences, American leaders were much more inclined to go on the "worst assumption" and not take chances. The U.S.S.R. already had extended its brutal control to Eastern Europe. But one did not have to shut his eyes to the horrors of Stalinism to recognize that the Soviet Union was not capable of actually posing a military challenge to the United States. Russia did not even have a real navy, although Forrestal would never publicly so admit. Some U.S. planners recognized how weak the U.S.S.R. was at this time, but presenting it as a threat did offer a rationale for an expanded mission for the services. In this regard, the Soviet Union's new role in world politics was a blessing for all parties to the unification debate. The manipulation and exaggeration of Soviet "threats" has, ever since, been central to the game of national security.

In July 1948, Forrestal put forward what proved to be a most important proposal in an effort to find a way out of another budgetary impasse. "Since the entire reason for the maintenance of military forces in this country is the safeguarding of our national security," he said in a memorandum to President Truman, "their size, character, and composition should turn upon a careful analysis of existing and potential dangers to our security." He called for the writing of a comprehensive statement of America's "national policy . . . particularly as it relates to the Russians." Such a description, he was sure, would make the case for a larger budget.

Truman did not accept this reasoning, and in March 1949 in effect fired Forrestal from his post of Secretary of Defense. A broken man, Forrestal killed himself two months later.

In late summer of that year, the Russians tested their first atomic device. It dramatically expanded the American sense of danger, and changed Truman's thinking. In January 1950, Truman gave the go-ahead for the "super," as the hydrogen bomb was called, as well as the required delivery systems. At the same time, he retrieved Forrestal's proposal for an overall assessment of America's foreign and domestic policies.

The paper was drafted in February and March of 1950 by State and Defense Department officials, under the leadership of investment banker Paul Nitze, who had succeeded George Kennan as head of the Policy Planning Staff. The document became known as National Security Council memorandum sixty-eight (NSC-68). One of the most important papers in the history of American foreign policy, it has only recently been made available to researchers.

NSC-68 expressed the fully formed Cold War mental set of American leaders. It provided the rationalization for the hydrogen bomb and for a greatly enlarged military establishment. Indeed—and here is its crucial impact—it defined the Soviet threat as limitless and so provided the basis for an endless expansion of the defense budget. NSC-68 was a fitting memorial to James Forrestal.

Its picture of Stalinist Russia was not particularly exaggerated, for at the time few in the West fully comprehended how monstrous Stalin's regime was. But, as terrible as the repression was in the Soviet Union, it did not necessarily follow that the Soviet Union was committed to world domination. Here NSC-68 offered interpretation rather than fact. "The Kremlin is inescapably militant," said the paper, "because it possesses and is possessed by a world-wide revolutionary movement, because it is the inheritor of Russian imperialism, and because it is a totalitarian dictatorship. . . . It is quite clear from Soviet theory and practice that the Kremlin seeks to bring the free world under

its dominion by the methods of the cold war." The Soviet Union's "fundamental design" necessitated the destruction of the U.S.

For the most part, the apocalyptic premises of NSC-68 were instantly and wholeheartedly accepted by American leaders. The only dissenters were two experts on the Soviet Union, George Kennan and Charles Bohlen, neither of whom believed at this point that the Soviets had a world design. Both thought caution guided the Kremlin and that the Soviets sometimes only responded to Western actions.

George Kennan had begun to criticize Washington's exaggeration of Soviet intentions. "It is safer and easier to cease the attempt to analyze the probabilities involved in your enemy's processes or to calculate his weaknesses," Kennan wrote in his diary. "It seems safer to give him the credit of every doubt in matters of strength, and to credit him indiscriminately with all aggressive designs, even when some of them are mutually contradictory." Kennan's comment is as apt today as in 1950.

#### THE DEFENSE OF THE BUDGET

By the middle 1970s, the defense of the defense budget had again become an issue. The heavy military expenditures for Vietnam were coming to an end, and there was much talk about a "peace dividend." Inflation had made everything more expensive, and it worried those with a bureaucratic or economic stake in the development of new technology. Meanwhile, a "McGovernite" spirit on defense spending was alleged to be abroad in the Congress, and the prospect of even small cuts was alarming, as was the possibility of a new Democratic administration in 1977 that would be committed to further arms control.

Suspicion and hostility had developed against Henry Kissinger in almost every agency, including the State Department itself. Defense and the Joint Chiefs felt bitter about the "back channels" and the way they had been shut out of the SALT negotiations. The Yom Kippur war in 1973 created a new skepticism about detente and Soviet intentions, and delivered a traumatic shock to many members of the Jewish community who, until then, had leaned toward arms control. The concurrent rebirth of anti-Semitism in the Soviet Union caused further skepticism. Revelations by Alexandr Solzhenitsyn and other dissidents about the horrors of Stalinism and neo-Stalinism raised questions for many people about the "morality" of detente.

Finally—and this point should not be misinterpreted—the Soviets have increased the size and quality of their military establishment. It really is a society where the military constitutes a very powerful state within a state. (Such an arrangement also provides a means for wasting a great deal of resources.)

Those are the reasons for this broad and diverse coalition, but what about the case? What is the basis for believing that we are confronted with a Soviet military buildup as large-scale and dangerous as the AC would have us believe? The three major "circumstances" that provided the "proof" for the buildup have been handily summarized for us by one of AC's leading publicists, Lt. Gen. Daniel O. Graham (Ret.). Formerly the head of the Defense Intelligence Agency, and controversial because of his role in estimating enemy strength during the Vietnam war,\* he is now a research professor of international studies at the Center for Advanced International Studies at the University of Miami. He recently served on Team B, the high-level review committee charged by President Ford in his departing days with

reevaluating CIA analyses of Soviet strength. Team B apparently concluded that the CIA was much too soft on the subject. General Graham belongs to the National Strategy Committee of the American Security Council, and his articles on the Soviet buildup appear in publications as diverse as *Air Force* magazine and the editorial page of *The Wall Street Journal*.

Let us take the general's "circumstances," as he summarized them for the readers of *The Wall Street Journal*. These circumstances are critical, the heart of the matter, the evidence with which the AC builds its apocalyptic vision of the Soviet military buildup.

Circumstance number one, according to Graham: "We found that our old assessments of Soviet military spending—that it represented only some 6 percent to 8 percent of the U.S.S.R.'s gross national product—were way off-base. It is now agreed in intelligence circles that Russia is devoting two to three times that much."

Estimates of Soviet military spending have often been used as political tools, and these most recent are no exception. General Graham himself was being a little disingenuous in suggesting that the intelligence community had suddenly "discovered" an increase in spending. In an article he wrote in 1976, he himself pointed out that the Defense Intelligence Agency had for some time refused to accept the CIA's estimates. What apparently happened was that, in the period 1974-76, the CIA's analysts had buckled under to pressure from other agencies, and they came to agree that the Soviets were spending 11 to 13 percent of GNP on defense, as opposed to 5.5 percent for the United States.

According to General Graham, we should draw back in terror at these new "estimates," not because they prove that the Soviet Union is stronger but because they prove that the Soviet Union *intends* to be stronger, that they demonstrate, in Graham's words, "Moscow's resolve to extend Soviet military advantages, where they exist, cancel out the few remaining United States advantages, where they exist, and achieve recognition as the prime military power in the world."

These "estimates" demonstrate no such thing, and tell us very little. The revised figures are upward revisions of estimates of what it costs the Soviets to pay for their military force and equipment; they have nothing to do with any real change in the numbers or kinds of weapons. The estimators have even made this admission, but so quietly that it has been submerged under the headlines. The former CIA director, George Bush, explained to a Congressional committee last year that the new estimate "does not signify a dramatic jump in the size of Soviet defense programs. It does reflect an increase in our assessment of the cost of these programs." In the past, it was assumed that Russia's defense sector was insulated from the gross inefficiency that gums up its civilian economy. Now, as another CIA official expressed it last year, "We have come to a realization that the Soviet military production complex is not as efficient as we thought it was; it is about half as efficient as we thought it was, and much closer to civilian efficiency, if you please."

So the Soviets are in actuality *not* spending more, but we have concluded they spend more than we had thought to achieve the same effect.

The AC has another way of demonstrating that the Russians are outspending us. Its members like to quote huge estimates of what the Russians would be spending were they in the position to spend dollars. Such comparisons are notoriously tricky. It's what economists refer to as "the old index-number problem." The method is to figure out what it would cost us in dollars in our society to build this MIG or that Soviet mis-

sile, and to add up all such costs. The question is, How much would it cost the U.S. in dollars to field the Soviet military, given what everything costs here? Thus, if we increase the amount of money we spend—on wages for our soldiers, for instance—the assigned cost of the Soviet army automatically goes up. "Soviet wages are generally much lower than American wages," Rep. Les Aspin has observed. "But by computing Soviet manpower costs at U.S. rates, one discovers a huge Soviet defense manpower 'budget' of over \$50 billion that exists only in American documents. Using this methodology, the largest single reason that Soviet defense spending exceeds our own has been the American decision to switch to an all-volunteer army and to pay its servicemen civilian-level wages. The absurdity of this calculation then becomes clear: If the United States were to shave its military pay scales, Soviet defense 'spending' would fall."

Now, the relative defense efforts can be compared in rubles as well as in dollars. This is no less valid in economic terms. Under this system, we ask what would it cost in rubles for the Russians in their society to build a Minuteman, and so on. That type of comparison leads to the opposite conclusion. "Comparisons in dollars exaggerate Soviet defense expenditures relative to our own," observes Franklin Holzman, professor of economics at Tufts University, and author of *Financial Checks on Soviet Defense Expenditures*. "For example, American GNP is roughly one-and-a-half times the Soviet when both are measured in dollars but three times when both are in rubles. Defense comparisons in rubles are never published—these would exaggerate American defense expenditures relative to the Russians." Very little actual analysis has been done in the way of ruble comparison. The Deputy Director of the CIA politely pointed last year to the "scarcity of resources we have devoted to this problem." One can see why.

In fact, much American military technology is simply beyond Russian capabilities right now. So we can put a dollar price on what they do, but it is virtually impossible to put a ruble price on important things we do. "There's a fundamental problem in trying to price every single weapons system, let's say, of the United States in rubles," said the CIA deputy director. "In many of these the Soviets do not have the technology to produce the very advanced systems. Theoretically the price would be infinite, and we would have to leave some of those weapons out of our calculations, because it wouldn't make any sense." It would also end up making American defense expenditures (expressed in rubles) look much higher.

Circumstance two, according to Graham "has been a new awareness of a large, continuing, Soviet civil-defense effort, which was greatly stepped up after the ABM agreement and the accompanying Strategic Arms Limitation agreement in Moscow in 1972." The significance of a major Soviet civil-defense effort, according to the AC, is that it indicates that Russian leaders believe that many or most of their people and much of the economic infrastructure can survive a nuclear war. American nuclear thinking is based on the idea of deterrence and MAD—Mutual Assured Destruction, a thesis that restricts either side from launching nuclear war because the result would be catastrophe. But, according to Graham, the Soviet Union can now plan for a first strike and victory, confident of a high survival rate.

To many in the AC, the Soviet civil-defense "offensive" is convincing stuff. One of General Graham's most pessimistic collaborators is Maj. Gen. George Keegan, Jr., formerly director of Air Force Intelligence. The Soviet civil-defense effort, Keegan said not long ago, "was the decisive turning point

\*See "Vietnam Cover-up: Playing War with Numbers," by Sam Adams, *Harper's*, May 1975.



in my judgment that we had already lost the strategic balance." His conversion came four years ago, he said, explaining, "The implication is that they have quietly and at great expense taken measures to assure that the essential civilian-military leadership, the fighting capability and the production capacity can continue to function under conditions of total war. What it all means is that the Soviets believe they can survive a nuclear war."

The Soviets do have a more active civil-defense program than we do, and any major effort at "damage limitation" is going to raise questions about the stability of deterrence. But what does Soviet civil defense really signify? And could it be effective?

The AC assumes a Soviet intent to develop a civil-defense system necessary for a first-strike capability. They have yet to support that point with any real evidence. The civil-defense program is far too small-scale for a potential "offensive." One might just as readily conclude that the Russians are afraid of a war. After all, they actually fought military battles with the Chinese in 1969. There is another consideration, which the AC totally ignores. World War II is very much a part of contemporary Soviet culture, and was a very painful period in Soviet history. While American gross national product almost doubled, the Soviet Union was devastated. Twenty million of its citizens died, and virtually every family was touched. Only 2 percent of that number of Americans was killed. Were experiences reversed, most American leaders would feel compelled to pay obeisance to civil defense.

As to the value of the Soviet program, many in the AC believe in the importance of civil defense in this nuclear age. (In fact, they "discovered" the Soviet civil-defense program a couple of years ago, in the course of trying to stir up funding for an American program.) However, their arguments lack persuasiveness. They sometimes reach back to the Strategic Bombing Survey, done shortly after World War II, to suggest that air raids are not so damaging. They make two mistakes in so doing. They forget that the Strategic Bombing Survey was itself a tool in the postwar battle over unification of the military services, and they stretch the bounds of credulity when they suggest that a "survivability" quotient can be derived by comparing the effects of conventional bombing on Germany over four years to the effects of many hundreds of nuclear bombs exploding within minutes. They also underestimate the long-lasting radiation effects.

For a civil-defense program to be effective, there must be practice exercises. We have no evidence that any such have taken place in the Soviet Union. Such exercises are unlikely, for they might well set off a panic that could not be contained.

The AC flourishes sundry Soviet civil-defense manuals. We cannot guess how authoritative these are. After all, our own Civil Defense Preparedness Agency claims to have identified shelter capacity for about 227 million persons, including space for 6 million people in some 2,000 mine shafts—and no one takes all that very seriously. The Soviet literature has the same general quality.

Take, for instance, *Civil Defense: A Soviet View*, translated and published under the auspices of the U.S. Air Force. We are told that it is a very significant document. Many who believe this have obviously not read it. Thirty pages, some 10 percent of the total, is devoted to the proper use of gas masks in case of nuclear war. And here is what it says to do when the nuclear war is over: "The 'all clear' signal is given to inform the population that the threat of attack has passed. The signal is transmitted over the radio with the words: 'Attention! Attention! This is the civil defense staff speaking. Citizens! The danger of attack has passed. The air raid alert is

lifted.' . . . On this signal, all citizens leave the blast shelters and fallout shelters and go about their business."

#### FIGURING THE BALANCE

General Graham's third circumstance involves actual numbers: "U.S. hopes that detente and arms-control negotiations would diminish Soviet emphasis on military power—and hopes that were reflected in earlier national estimates—have been dashed by the unprecedented scope and scale of Russia's military buildup since the inception of detente in May 1972."

There is no question that Soviet military strength has been growing in every realm. Still, the AC has been exaggerating, and, I believe, doing a real disservice by overstating Soviet capabilities and denigrating our own. Much of what the Soviets are deploying today is the result of decisions taken in the early and middle 1960s, when Henry Kissinger was just another Harvard professor.

The question of Soviet might can be broken down into three parts. The first and the most dramatic involves strategic arms—the missiles, bombers, and warheads that would be called into action in a nuclear war.

If one figures the strategic balance one way, the Soviets look better. They have more missiles (2,450 to our 2,123), heavier missiles, and bigger warheads. But, if one figures it another way, the U.S. looks better. Our weapons are more sophisticated and more accurate. Given the deployment of MIRVs (several warheads on one missile), we have 8,500 strategic warheads versus 4,000 for the Russians—and we have added 3,000 during the past five years.

Let us take one of the AC's "worst case" scenarios—an extraordinarily improbable, even fantastic, case. Even if all our land-based ICBMs were destroyed in a Soviet first strike, all of our bombers, and three quarters of our submarines, we would still be able to deliver 1,600 warheads from surviving submarines—not only destroying Soviet society, but also making much of that land mass uninhabitable.

Even to make such a case, the AC must suggest strongly that the Russians intend an unexpected first strike. That is why the AC needs that civil-defense argument so badly.

The kegs of destruction on both sides are vast, much greater than required for the task of destroying either society. The bomb dropped on Hiroshima was the equivalent of about 13,000 tons of TNT. The Soviet nuclear arsenal is equivalent to 5.4 billion tons of TNT; the American arsenal, to 4.2 billion tons. The overkill capacity is fantastic on both sides, and both sides know it. It makes any notion of superiority impossible. A madman might try something, but then God help us all. While the Russian leaders are many things, as George Kennan has pointed out, "they are not mad."

The second part of the question of Soviet might concerns the Soviet naval "buildup"—which involves the most extreme case of over-sell. Certainly, the Soviet navy has grown considerably from what it was—which was virtually nothing. In terms of tonnage, the Soviet bloc navies are about a third of those of the Western allies. But one would think from the headlines that the ratio was reversed. For instance, the Department of Defense claimed last year that the Soviet Union had built 205 "major combatants" between 1965 and 1976, as opposed to 165 for the U.S. But information it subsequently was compelled to provide to Sen. Patrick Leahy indicated otherwise, for it turned out that a large number of the Soviet "major combatants" were nothing more than small escort ships, and that, in fact, between 1961 and 1975, the U.S. had built 122 "major surface combatants" of more than 3,000 tons, while the Russians had built just 57.

The hullabaloo of the "buildup" campaign

tends to obscure the shift in the conventional military balance in Europe, which is the third part of the equation. In the past decade, the Russians have added 130,000 men to their Warsaw Pact forces, and they have introduced new tanks and other advanced weapons at a rapid rate. It is thought they are producing as many as 2,000 tanks a year and are now introducing the Backfire bomber and a new intermediate-range missile, the SS-20. Although these developments are cause for worry, the AC goes on to claim that the Soviets now have the advantage. This is still oversell, and not very helpful for the Europeans. In terms of manpower, the Warsaw Pact is up to 920,000, while NATO has about 700,000. We also have 7,000 tactical nuclear weapons in Europe. Moscow no doubt recognizes the potential unreliability of its Eastern European allies, which could explain some of the Soviet additions. Furthermore, the overall quality of the equipment is still unknown. One recent defector, a high-ranking military official in the Warsaw Pact who was taken seriously by Western intelligence, brought tales of gross malfunctions—one-third of the armored vehicles actually failing to start in maneuvers.

It is absurd to think that the Soviets would want to launch an invasion of Western Europe. If they could get away with it, fine, but the risks are not minimal. "You know, you always have to differentiate when you talk about people," George Kennan has said, "between what they theoretically think would be just dandy, and what they really expect to achieve in the near future. I've often used the example of the businessman who would love to make \$1 million, but he'd be very happy if he could cover his debts for the next two months. Now the Soviet Union remains ideologically committed, surely, to a Communist world. But they live in a real world and their real hopes and plans and their real actions have to be geared to their real possibilities."

Nevertheless, the buildup is real, and may have considerable impact. We do have to be attentive to Soviet strength in Eastern Europe and the ways in which this power is perceived in Western Europe. In the case of a Yugoslavian crisis when Tito dies, for instance, both the reality and the perception of the wealthy could affect decisions on both sides. NATO definitely requires greater commitment and resources.

Another cause for real concern is represented by the Soviet-Cuban adventure in Southern Africa. This kind of involvement is unprecedented for the Soviet Union, which is being helped along by muddled thinking and a weak response on our part. We do not have to believe that the Soviet actions are part of some Kremlin master plan to realize that the Soviets do want to expand their influence and military presence and that our interests require an effective answer.

#### ARMS CONTROL AND SECURITY

Overall, we can identify at least seven reasons for the U.S.S.R. continuing to strengthen its military posture: (1) A feeling of vulnerability; (2) Bureaucratic momentum—they build tanks because they build tanks; (3) Arms-race momentum—when you are in a race, you race; (4) To establish a credible war-fighting capability as a deterrent or in case war should break out; (5) To politically "overawe" their rivals; (6) To better project their power; (7) To get themselves into position for the first strike.

The AC broods mostly about the last of these. Yet, based on what we know, that is the only one that is currently not credible. It is possible that some of the members of the AC do not actually believe in point seven, but feel that they must engage in such over-sell to arouse the attention of a bored or indifferent audience. But it is a very misleading maneuver.

The AC deserves a most serious hearing. After all, if they are right, then we are in trouble. Perhaps it will turn out that we should go ahead with those very expensive B-1 bombers and Trident submarines programs and other new weapons systems that the Pentagon and its allies are trying to get through Congress. But, the AC does have a responsibility to make its case in a fair and accurate way. As we are bombarded with their newspaper broadsides, we should remember that what is at the heart of the debate is not numbers, but interpretation—of Soviet ambitions and intentions—and the AC's interpretation are not terribly convincing.

In the past few years, there has been a subtle but important shift in the arguments of the AC—away from emphasizing the reality of the military balance toward an emphasis on the perception of this balance in the two superpowers and the rest of the world. Perhaps this new concern with perceptions is a result of the Vietnam war, which revealed that even the number-one superpower had its limitations. Today, certainly, the AC often says that because other people in the world regard the Soviets as stronger, they will gain an advantage and get their way. But it is the AC that now shapes those perceptions by overselling Soviet strength and underselling our own. If Europeans are worried, it is because they are told that the West is weak.

The process can be destructive. Gerard Smith, chief delegate to the first SALT talks, came up with ten dos and don'ts for negotiating arms control with the Russians. One of the most important was to discourage—"the practice of underrating our military posture vis-a-vis the Soviets as a means of getting Congressional appropriations for the Defense Department. The strength, variety and flexibility of our forces gave us ample bargaining power at the SALT talks, and in the next round the United States still holds the high card—technological superiority. The Soviets cannot match American scientific, engineering and industrial power."

Yet consider what readers and listeners around the world have been told.

"From the Soviet side, when the silence is broken, come self-assured statements that the Soviet strategic forces have what they need. From our side come expressions of concern about the growth of Soviet forces; worries about the vulnerability of American ICBM's; charges that SALT has endowed us with inferiority; new targeting doctrines and strategic initiatives that resemble efforts to imitate Soviet force structures and their presumed capabilities. It would be ironic if the pattern of poor-mouthing our position at home should lead to a second-best image abroad."

Serious arms control is more likely to promote our own security than an unrestrained arms race. Perhaps, finally, the Russians will turn out to be unwilling to cooperate, but the stakes are so large that we must try. There are risks in trying, but we must remember that all alternative courses of action also involve risks. Among those other courses are a destabilizing arms race that could end in apocalypse. We do well to ask, as the AC plays that old game of national security, whether it is not in the process of selling the United States—our strength, our capabilities, our intelligence, and our real interests—much too short.

#### A SALUTE TO SMALL BUSINESS

Mr. HARRY F. BYRD, JR. Mr. President, recently President Carter, by proclamation, has designated the week of May 22 through 28 as National Small Business Week, and Gov. Mills E. Godwin has made a similar proclamation for the

State of Virginia. I would like to take this opportunity to pay tribute to small businesses in Virginia and throughout the country.

The small business community is the backbone of America's free enterprise economy.

Statistics show that 97 percent of all American enterprises are small businesses. These businesses contribute to 48 percent of the American gross national product and provide 55 percent of all of the jobs in the private sector of our economy.

As significant as these statistics are, they do not tell the full story about small businesses in America.

As chairman of the Finance Subcommittee on Taxation and Debt Management generally, I have had the opportunity to chair and participate in a series of hearings, which will be completed in June, on the question of incentives for economic growth in our economy. Of special concern to me during these hearings have been the views of the small business community and the impact of current capital formation proposals upon small businesses, incorporated, and unincorporated.

Small businesses contribute uniquely to American society.

They are involved in all types of business endeavors. They include such diverse groups as merchants, manufacturers, retail and service establishments, and high technology companies.

We often think of our country as a country composed of big government, big labor, and big business. But the average American's daily contact is not with giant corporations, but with the small businesses that provide jobs, manufacture goods, and provide services in his neighborhood and community.

There are both risks and rewards in operating a small business. But whatever the outcome of such an endeavor, an individual receives the personal satisfaction of knowing the results stem from his own efforts and labor and he has the opportunity to make his own economic destiny.

In observing National Small Business Week, we should examine the adversities which small businesses face today. I do not believe that Congress and our Government have adequately understood and addressed the needs and concerns of small business.

Witnesses before the Subcommittee of Taxation and Debt repeatedly emphasized the adverse impact of big government upon small business.

There is a need today for a stable economic environment which is free from the threat of runaway inflation. Our Congress has not listened to this need. Earlier this month, the Congress voted for a deficit in Federal Government spending in fiscal year 1978 of \$65 billion. This is the second largest deficit in the history of our country, exceeded only by the deficit of \$67 billion in fiscal year 1976.

This huge outlay of Federal funds came at a time when the Federal debt was \$680 billion, the highest in the history of our country, and is expected to grow to \$802 billion in fiscal year 1978.

This trend of more money to the Federal Government means that less capital will be available for the private sector of our economy and leads to greater inflationary pressures.

The Federal Government—big government—is an ever-present partner with small business. The Federal Government through its taxes, shares in the profits of small businesses. To the extent that Federal taxes remain high to account for the high level of Government spending, small businesses are deprived of capital needed for investment for future growth.

The Federal Government affects small businesses in other ways through its rules, regulations, and paperwork. The impact of OSHA and ERISA immediately comes to mind.

In the tax field, the implications on small businesses of changes in our tax laws need to be carefully considered by the Treasury Department when they formulate their proposals and by the Congress when they enact the laws. Simplification of the Tax Code would be of great benefit for small businesses, as well as all American taxpayers.

Despite these adversities, the Virginia small business community is alive and well. This is evidenced by the efforts of Alfred Irvin Mollen who is Virginia's Small Business Person of the Year.

Mr. Mollen has received this award through a nomination made by the Small Business Administration district office in Virginia.

The award is based upon the success of the individual's business over a period of time, its impact on the job market, its continued growth, and improved financial position, its response to adverse conditions, and personal characteristics of the nominee such as entrepreneurial ability and community service efforts.

Mr. Mollen is a native of Richmond, Va., and president of Auto Audio, Inc., and Mollen's Inc. After World War II, Mr. Mollen began as a sales clerk for an auto parts firm and, by the end of 1947, established his own auto parts business. Later, he joined with his brother to venture into the automobile electronics industry.

In 1972, his brother was forced to retire due to failing health, and "Al" Mollen then changed his operation from retail sales and service to primarily wholesale distributorship. Results were astounding and sales increased nearly 800 percent and operating profits over 600 percent.

The Small Business Administration has participated in Al Mollen's success, by providing his venture with funds to get started. He exemplifies the purpose for which SBA was founded "to aid and assist in the growth and prosperity of small business."

My congratulations go to Mr. Mollen and the more than 65,000 other small businesses in Virginia. They are a vital part of the economy of Virginia, providing more than half of the State's employment and 43 percent of its business product.

I join with my colleagues in recognizing the accomplishments of Virginia's small business community and the out-



standing contributions of small businesses nationwide.

#### IN SUPPORT OF EXPANDED COMMODITY CREDITS ABROAD

Mr. DOLE, Mr. President, on April 28, I introduced legislation to permit the extension of favorable commodity credit terms to nonmarket countries, including the Soviet Union and the People's Republic of China. My purpose in proposing this legislation is to expand the overseas market for U.S. grain, and to thereby assist American farmers who are looking for better markets and prices for their produce.

Last Wednesday, the Des Moines Register published a supportive editorial, pointing out the anticompetitive aspects of our current trade policy toward nonmarket countries. The People's Republic of China, which is increasing its purchases of foreign wheat, is turning toward our international competitors who offer more favorable commodity credits. Our own export trade with Communist China has dropped precipitously from a peak of \$819 million in 1974, to \$135 million in 1976. It is time we took a decisive step to improve our export trade with those countries not excluded from our market by the Trading With the Enemy Act. The extension of Commodity Credit Corporation credit terms will enhance our prospects for obtaining better grain markets abroad and, consequently, a better economic return to American farmers for their commendable effort.

Mr. President, I ask unanimous consent that the text of the editorial "Correcting a Mistake," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

#### CORRECTING A MISTAKE

Senator Robert Dole (Rep., Kansas) has introduced a bill to permit the U.S. Department of Agriculture (USDA) to offer the People's Republic of China and other Communist countries short-term credit to buy U.S. grain. The bill deserves approval by Congress.

Dole's bill would allow China and the others to once again take advantage of the loan program of the USDA's Commodity Credit Corp. (CCC), which has been operating for over a decade. The recipient countries must pay the loans back within three years at prevailing interest rates.

China and other Communist economies were eligible to participate in the program until late 1974, when the Jackson-Vanik amendment to the 1974 trade act was passed. The amendment bars the extension of most-favored-nation trade status and the granting of most trade credits, including CCC loans, to Communist countries that do not permit free emigration.

China is trying to bolster its poor wheat crop with substantial imports. The Chinese have purchased at least 5.5 million metric tons of wheat from foreign sources this year, but none has come from the U.S. Dole and other farm-state senators believe that China's inability to utilize the credit program was a key reason the U.S. did not receive orders to supply any of this wheat. China is making use of Canadian and Australian credit programs.

Donald Novotny, director of the grain and feed division of the USDA's Foreign Agricultural Service, believes the Chinese will buy

at least another one to two million metric tons of wheat this year. If CCC credit were available, the U.S. would be in a better position to get some of these orders.

The U.S. is expected to export only 25.4 million metric tons of wheat in the 1976-77 marketing year, down from 31.5 million metric tons the previous year. A sale of an additional one to two million metric tons would not boost total sales all that much, or do much to reduce wheat carryover stocks, which are expected to total 30.1 million metric tons at the end of this month. This is the largest carryover of wheat since the early '60s.

But the Dole bill deserves approval as a step in the right direction on trade policy. The Jackson-Vanik amendment was intended to be a club to force the Soviet Union to grant more Jews the right to emigrate. The amendment has had the opposite effect: The number of Jews allowed to emigrate has declined dramatically; much of the Soviet Union's export business has been taken to other Western nations.

There is little reason to continue a trade policy that fails to achieve its purpose and hurts U.S. trade.

#### THE UAW'S BLUEPRINT FOR A FULL EMPLOYMENT ECONOMY

Mr. HUMPHREY, Mr. President, the membership of the United Auto Workers Union has drafted a clear legislative and administrative action plan to move the Nation toward a full employment economy without delay.

At its 25th annual convention in Los Angeles, the UAW adopted a five-point program aimed at providing job opportunities for adult workers able, willing, and seeking work and to create a system of planning to prevent violent swings in the American economy and keep it at full employment.

In adopting its full employment economy resolution, the union recognized that the Carter administration and the Democratic Congress have taken important steps to eliminate the disastrous conditions fostered by the Nixon-Ford administrations when unemployment reached a peak of 9 percent, the highest since the Great Depression and inflation soared to a double-digit figure.

At the same time the UAW recognized that much more needs to be done both in the short and long run to put the Nation's economy in high gear and keep it there.

In drafting and adopting its full employment resolution, the Auto Workers emphasized that many of the programs it advocates to reach this goal are contained in S. 50 and H.R. 50, the Full Employment and Balanced Growth Act of 1977, legislation introduced by me and by Representative AUGUSTUS HAWKINS with wide cosponsorship in Congress.

The union's full employment resolution concluded by urging the early enactment of this bill.

Mr. President, I ask unanimous consent that the United Auto Workers full employment economy resolution be printed in the RECORD so that all Members of Congress will have before them a clear articulation of the Nation's priority needs.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

#### A FULL EMPLOYMENT ECONOMY

The most fundamental need in our economy is to achieve full employment. From the end of World War II to the inauguration of Richard Nixon, the American economy went through four recessions, each of which left millions of workers unemployed. It took the policies of the Nixon-Ford Administration, however, to bring unemployment in America to the highest levels since the Great Depression of the 1930s.

When Richard Nixon became President, unemployment stood at only 3.4% of the workforce. Through his "game plan" policy of creating a recession to reduce inflation, Nixon was able to bring unemployment up to 6.1% in the worst months of 1970 and 1971. A painfully slow recovery was cut short when the Administration continued its tight budget and tight money policies in the face of the higher prices imposed by the food and energy crises. The result was the Great Recession that began in late 1974. Even the Wall Street Journal (November 30, 1976) conceded that the policies of Arthur Burns, Nixon's choice to head the Federal Reserve System, "surely contributed to the economy's deep decline in late 1974 and 1975."

Statistics only begin to describe the depth of that decline. Unemployment reached a peak of 9% in May of 1975. It averaged 8.5% for all of 1975 and was still as high as 7.7% for all of 1976. The Commerce Department has estimated that over those two years the economy produced \$290 billion less in goods and services than it would have produced if unemployment had been held to 4%. That amounts to more than \$1,300 for every man, woman and child in the country.

A slow economic recovery all but stopped completely toward the end of 1976. By December of 1976—the last full month of the Ford Administration—the unemployment rate was still at 7.8%, as high as any month but one from the beginning of World War II to the inauguration of Gerald Ford. The average unemployed worker had been out of a job more than 15 weeks, and 2½ million workers had been out of a job longer than 15 weeks.

Among specific groups the rates were even higher. Nearly 10% of all blue collar workers were unemployed. The unemployment rate for blacks was nearly double that for whites. The rate for teenagers was nearly triple that for those 20 years and older. Among black teenagers in the labor force, fully one third were unemployed, and that rate approached one-half in many of our central cities.

The official unemployment figures do not include those who only worked part time—or who were totally discouraged from seeking work—because of poor job prospects. The Labor Department estimates that there were 2½ million such persons in the last quarter of 1976. Nor do the figures include the social costs of unemployment—the higher rates of mental illness, child abuse, robbery, alcoholism, and suicide that are known to be associated with high unemployment. Professor Harvey Brenner of Johns Hopkins University has shown statistically that each of these social ills tends to increase significantly in response to economic recessions.

The Carter Administration and the Democratic Congress have taken some important steps to break out of the economic stagnation that was the legacy of Nixon and Ford. But much more needs to be done—in the short run, to achieve full employment in the economy, and in the long run, to create a system of planning to prevent violent swings in the American economy and to keep it at full employment.

We urge that the federal government enact legislation assuring useful paid employment at fair rates of compensation for all Americans able and willing to work.

In addition to using the overall tools of fiscal and monetary policy, including tax re-

form, the government must implement more specific actions to produce full employment. Some of those actions are:

Establishment of the federal government's role as "employer of last resort" for those able and willing to work but unable to find employment.

Expansion of programs of public service employment to meet national needs or specific community needs consistent with broad national goals. Among the needs uniquely fitted for public service employment are: cleaning up our cities, developing mass transit, constructing and repairing playgrounds and other public recreational areas, development of child care centers, schools and the school system, public works programs, rebuilding the railroad system, rebuilding the merchant marine, recycling solid wastes, restoring the natural environment destroyed in the construction of road systems etc.

Focusing job creation on areas of high unemployment to avoid the danger that a program of economic stimulus will create new excessive inflationary pressures.

The development of a wide shelf of public works and public service projects ready to be undertaken whenever local unemployment rates threaten to exceed specified levels.

Renewal and expansion of programs of budgetary support for those state and local governments hardest hit by unemployment.

Creation of special youth employment programs, including an expanded Neighborhood Youth Corps and a modern version of the old Civilian Conservation Corps.

Upgrading basic education in present areas of educational poverty.

Enlargement and improvement of public employment service placement and counseling activities, and provision for work-study programs and adequate counseling for teenagers.

Provision of federal subsidies for vocational education in the public school and colleges and for on-the-job training for teenagers who do not go on to college. Continuous job training and retraining programs designed to upgrade job skills, with an acceleration of such programs during local or national recessions. All special public service jobs should have a training component, to upgrade the skills and to foster the mobility of the workers involved. Such programs must be regularly reviewed to insure that they are geared to jobs that do or will exist.

Improving the effectiveness of the private job market by actions such as: (a) eliminating employment discrimination based on race, sex, or age; (b) increasing the overtime premium under the Fair Labor Standards Act, and enacting other legislation to reduce regular work time, so that there will be increased jobs rather than longer working hours; and (c) stabilization activities aimed at those sectors of the economy which show large swings in the number of workers employed.

To achieve a full employment society the UAW supports and urges a rapid enactment of the Full Employment and Balanced Growth Act, the Humphrey-Hawkins bill, which includes many of the programs outlined above.

#### COGENERATION AND WASTE HEAT UTILIZATION ACT

Mr. SASSER. Mr. President, on April 25, Senator HART introduced the Cogeneration and Waste Heat Utilization Act. I am pleased to cosponsor the act.

Cogeneration currently accounts for only 4 percent of the electricity produced in the United States. Twenty-seven years ago, it accounted for 15 percent.

Sweden gets 29 percent of its electricity from cogeneration. West Germany gets a similar amount.

Cogeneration uses wasted steam to generate power. As you know, two-thirds of the process steam produced by American industry is wasted. It floats, unused, up smokestacks into the sky.

We have become profligate users of energy. We have fallen into wasteful habits which we have almost taken for granted. As President Carter said in his speech to the Joint Session of Congress on April 20:

Our energy problems have the same causes as our environmental problems—wasteful use of resources. Conservation helps us to solve both problems at once.

Senator HART's well-constructed and carefully designed bill sets up a cluster of incentives and disincentives which last for only 3 years. The bill orders studies to be completed during this 3-year period.

I call attention to two articles of this bill which recently appeared in two very highly respected publications: "Energy Users Report" and "Energy Research Digest." The articles discuss this pioneering legislation in some detail. And they explain some of the technical details of an energy conservation method for which the time has come.

I ask for unanimous consent that the two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

#### HART COGENERATION BILL WOULD TAKE EDGE OFF ADMINISTRATION'S PROPOSALS

[From Energy Users Report]

In an effort to promote voluntary rather than mandatory resolutions of cogeneration problems, Senator Gary Hart (D-Colo.) is trying to get the Carter Administration to support his version of waste heat utilization legislation.

To date, however, Carter energy analysts have been noncommittal on Hart's bill (S. 1363), which would not give the Federal Energy Administration power to require cogeneration power at established tariff rates, both of which were proposed by Carter in H.R. 6831, the proposed National Energy Act.

The Hart bill, however, would retain the additional 10 percent refundable investment tax credit incentive for industrial cogeneration facilities and equipment.

It would encourage utilities to purchase surplus cogenerated power by removing the investment tax credit for those which "unreasonably refuse" to purchase. The reasonableness would be determined by the Federal Power Commission under standards prescribed by the Commission. Hart said this incentive was equitable for utilities, because the purchase of cogenerated power reduces utility capital investment requirements.

Finally, S. 1363 would include provisions for federal grants to help state utility commissions update their regulations on cogenerators. All three incentives are designed to expire in three years.

In a statement accompanying the bill as it was introduced, Hart explained that the legislation would delay most major decisions until the Congress has all the facts. This was better, he indicated, than "forcing the Congress and the President into hastily made major policy decisions which may plague us for years to come."

To carry out this policy, the bill would provide a comprehensive series of waste heat recovery and utilization policy analyses to be completed within 30 months. The studies will recommend the most practicable ways to recover and use waste heat, and model legislation and regulations to speed commercialization of cogeneration by industries and utilities.

Each recommendation will be accompanied by at least two alternative proposals. During the course of the study, progress reports will be submitted every six months.

A Hart energy aide said the studies hopefully will illuminate such complex issues as possible "waste heat taxes" or uniform tariff rate for cogenerated power. California, he noted, tried to establish such uniform rates, but found it unfeasible and had to return to a case-by-case approach.

A major study on cogeneration now being prepared for FEA by Resource Planning Associates, of Cambridge, Mass., will not address all the substantive issues, according to the aide. He said the effects of competition in the electric power industry will have to be analyzed, the effect of district heating ascertained, and the various legal questions settled.

He noted that there was a "disturbing trend" encouraging existing cogeneration technology involving less efficient "closed cycle" systems such as steam Rankine turbines. Cogeneration preferably will be brought along with advanced direct coal-fired systems such as fluidized-bed for optimum efficiency, he said. But, in the latest Energy Research and Development Administration budget which will go before the Senate later this week, there is a \$15 million line budget item for demonstrating existing cogeneration technology (196 EUR 23) in the textile, pulp and paper, and chemical manufacturing industries.

According to Princeton University's Center for Environmental Studies, using cogeneration in only three major industries could reduce by half ERDA's estimate for nuclear power needs in the year 2000. Cogeneration could also produce 30 percent of ERDA's total electricity forecast for the year 2000 from only three industries, with a 50 percent fuel savings and could reduce consumer electric bills by over 15 percent in 2000, if other factors remain constant, the same study reports.

#### [From Energy Research Digest]

#### COGENERATION BILL INTRODUCED

A bill directing ERDA to place far more emphasis on smaller-scale heat engines capable of burning heavy oils and fuels derived from coal or shale has been introduced by Sen. Gary Hart (D-Colo.).

The bill, the Cogeneration and Waste Utilization Act of 1977 (S. 1363), appears to incorporate many of the recommendations of the Carter Administration for promoting cogeneration. The bill provides an additional 10 percent investment tax credit to industries who install cogeneration equipment over the next 3½ years. In addition, the bill would take away the investment tax credit from utilities who unreasonably refuse to purchase power.

An identical bill, minus the research and development section, has been introduced in the House by Rep. Richard Ottinger (D-N.Y.). Ottinger plans to promote R&D on cogeneration through another avenue—an amendment to ERDA's 1978 ERDA authorization bill (see ERD, April 25, p. 1). Ottinger's amendments would provide for the demonstration of cogeneration in four industries. He is also considering the addition of small commercial and residential units with heat recovery to the demonstration program he is proposing.

The bill appears to differ from the President's proposal in its greater emphasis on R&D. For example, the bill directs the ERDA administrator to "initiate and carry out a research, development, demonstration and technology transfer program for the purpose of improving the efficiency and performance of industrial and utility site dual-purpose powerplants and providing... the capability to use effectively coal or fuels other



than natural gas or petroleum as a primary energy source."

ERDA technology programs along these lines shall focus on improving the cost effectiveness, performance and efficiency of prime movers and ancillary equipment "of the scale required for dual purpose powerplants," the bill says. "Ancillary equipment development shall emphasize heat recovery components with a view to improving existing powerplants and providing the necessary technology base for optimized heat recovery systems in new powerplants."

The bill also directs ERDA to develop further range alternatives, such as external combustion engines capable of operation with coal and topping cycles. The technologies spelled out for the development very closely match those under development by ERDA's Division of Conservation Research and Technology, which is becoming increasingly active in the area of cogeneration. Current activities planned for fiscal 1978 in CONRRT along these lines include developments in the areas of heat recovery from diesel and combustion turbine generators, combustion turbines in the 10 MW and 100 MW ranges, more efficient small steam turbines, externally-fired heat engines and 40 kW fuel cells.

#### NATIONAL SMALL BUSINESS WEEK

Mr. NELSON. Mr. President, this week May 22 through 28, has been proclaimed National Small Business Week by President Carter. The committee which I chair, the Select Committee on Small Business, takes a special interest in these observances each year. It is, therefore, very gratifying to be able to report that measures initiated, and in some cases already enacted, by this Congress have made this year's Small Business Week a genuine landmark.

More than ever before, Congress has been getting a clear signal that the American people want small and independent businesses to remain a strong part of our economy. In an era of multinational conglomerates and vast urban megalopolises, Americans are looking for renewed commitment to a competitive marketplace and businesses with a human face. Small is indeed becoming beautiful.

Small business' new stature is evident in a number of recent measures. The Senate recently passed unanimously a resolution calling on President Carter to convene a White House Conference on Small Business. Congress increased the authorization for the Small Business Administration in anticipation of a revitalization of that agency's services to small business. A bill now under consideration would set up a network of small business development centers nationwide, to provide technical assistance to small business. But Congress determination to strengthen the small business sector is nowhere more clear than in the tax measure President Carter signed on Monday. For the first time, Congress has passed special economic stimulus provisions aimed at encouraging labor-intensive businesses—such as most small businesses—to put America's unemployed back to work.

This is the fourth major tax reduction to benefit small business in the last year and a half. The estate tax law was

broadened to allow more small businesses to remain in the families of their owners. The corporate tax rate was reduced for small business—and the new tax law extends the reductions through 1978. Eligibility for the used machinery investment credit was greatly liberalized.

This is the first time in a generation taxes have been lowered on small businesses, and it probably would not have had enough support to pass even 5 years ago.

Much of the credit for getting the small business message across must go to the independent business associations of this country. One of the most active and constructive of these groups has been the Independent Business Association of Wisconsin—IBAW, one of whose organizers, Herman Williams, has been named Wisconsin Small Business Person of the Year. Mr. Williams, who built Williams Steel & Supply Co. of Milwaukee into a prosperous small business, has long been a persuasive spokesman for the small business community. His business acumen is demonstrated in the steady growth of his company. His unselfishness is shown in his lifelong interest in public affairs. And some measure of his success in both can be seen in the respect which is accorded his personal testimony before Congress.

Mr. President, it is a great pleasure to honor a man like Herman Williams during this landmark year for small business. I have known him since the 1950's when I was Governor of Wisconsin and he was becoming active in public affairs. I congratulate him on this fitting and suitable recognition he is now receiving. He and his lifelong business partner, his wife Ethel, exemplify American family enterprise at its best.

#### S. 790—WHAT'S AHEAD ON THE TAX-PAYER—IMPROVED WATERWAYS?

Mr. MCCLURE. Mr. President, the American taxpayers have spent several billions of dollars in recent years to construct new and improved inland navigation projects. More projects are on the drawing board. These projects are important to the Nation. But it should be noted that all of these were built at taxpayer expense, but used without charge by the barge industry. In the Senate Report 95-215 on S. 790, this point is made on the relation between inland navigation work and the justification for a system of waterway user charges:

It will be increasingly hard to win taxpayer, and thus political, approval of continued financing for new work on the waterways without some form of user charge. A gradual imposition of a reasonable user charge system meets that problem.

I agree. I believe fairness and expediency both support the need for a reasonable user charge system.

Mr. President, I ask unanimous consent that a partial list, prepared by the Corps of Engineers, of new inland projects finished in the past decade, those under construction, and those authorized, but not yet initiated, be printed in the RECORD. Taken together, this list

covers projects with an initial cost of \$9.8 billion, not including locks and dam 26 or works such as those in the Columbia River Basin.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

#### CORPS OF ENGINEERS INLAND NAVIGATION PROJECTS

##### OPERATIONAL STATUS ATTAINED AFTER JANUARY 1, 1967

| Project:  | Total Federal cost |
|---|--------------------|
| Alabama-Coosa River.....  | \$178,400,000      |
| McClellan-Kerr Arkansas River Navigation System...                        | 1,029,210,000      |
| John Hollis Bankhead Lock and Dam, Black Warrior and Tombigbee River..... | 53,400,000         |
| Calcasieu River Salt Water Barrier, Calcasieu River.....                  | 4,197,000          |
| Cordell Hull Dam and Reservoir, Cumberland River.....                     | 78,100,000         |
| Freshwater Bayou Lock, Freshwater Bayou Channel                           | 7,116,000          |
| Kaskaskia River Navigation.....   | 127,160,000        |
| Opekska Lock and Dam, Monongahela River.....                              | 25,200,000         |
| Hannibal Locks and Dam, Ohio River.....                                   | 87,500,000         |
| Willow Island Locks and Dam, Ohio River.....                              | 76,700,000         |
| Belleville Locks and Dam, Ohio River.....                                 | 62,200,000         |
| Racine Locks and Dam, Ohio River.....                                     | 65,900,000         |
| Cannelton Locks and Dam, Ohio River.....                                  | 97,300,000         |
| Newburg Locks and Dam, Ohio River.....                                    | 106,900,000        |
| Uniontown Locks and Dam, Ohio River.....                                  | 99,100,000         |
| Temporary Lock 52, Ohio River.....  | 10,100,000         |
| Jonesville Lock and Dam, Ouachita/Black Rivers.....                       | 43,700,000         |
| Columbia Lock and Dam, Ouachita/Black Rivers.....                         | 33,300,000         |
| Total .....   | 2,185,483,000      |

##### UNDER CONSTRUCTION

Total estimated Federal cost October 1976 price levels

| Project:   |               |
|--|---------------|
| Bayou La Fourche and La Fourche Jump Waterway.....                       | \$11,500,000  |
| Mississippi River Regulation Works between Ohio and Missouri Rivers..... | 151,000,000   |
| Missouri River, Sioux City to Mouth.....                                 | 450,000,000   |
| Smithland Locks and Dam, Ohio River.....                                 | 243,000,000   |
| Temporary Lock 53, Ohio River.....                                       | 37,200,000    |
| Pelsenthal Lock and Dam, Ouachita/Black Rivers.....                      | 61,420,000    |
| Callon Locks and Dam, Ouachita/Black Rivers.....                         | 45,577,000    |
| Red River Waterway, Shreveport to Mississippi River.....                 | 905,000,000   |
| Tennessee-Tombigbee Waterway.....  | 1,410,000,000 |
| Wallisville Lake, Trinity River.....                                     | 28,800,000    |
| Total .....  | 3,343,497,000 |

##### AUTHORIZED FOR CONSTRUCTION, WORK NOT INITIATED

| Project:   |             |
|--|-------------|
| Big and Little Sallisaw Creek Navigation, Arkansas River Basin ..... | \$1,200,000 |
| Coosa River Channel, Montgomery to Gadsden.....                      | 500,000,000 |
| Gulf Intracoastal Waterway, St. Marks to Tampa.....                  | 185,000,000 |

AUTHORIZED FOR CONSTRUCTION, WORK NOT INITIALED—continued  
CORPS OF ENGINEERS INLAND NAVIGATION PROJECTS—Continued

Total estimated Federal cost October 1976 price levels

| Project:  |               |
|---|---------------|
| Gulf Intracoastal Waterway, Petit Anse, Tigre and Carlin Bayous | 4,260,000     |
| Gulf Intracoastal Waterway, Rigolets Lock                       | 14,125,000    |
| Gulf Intracoastal Waterway, Seabrook Lock                       | 20,995,000    |
| Gulf Intracoastal Waterway, Vermillion Lock                     | 20,600,000    |
| Illinois Waterway Duplicate Locks                               | 769,000,000   |
| Kansas River Navigation   | 5,000,000     |
| Mound City Locks and Dam, Ohio River                            | 277,000,000   |
| Red River Waterway, Shreveport to Daingerfield, Texas           | 355,000,000   |
| Trinity River   | 2,010,000,000 |
| Yazoo River   | 130,000,000   |
| Total   | 4,272,180,000 |

SMALL BUSINESS VITAL TO AMERICAN PROSPERITY

Mr. HUMPHREY. Mr. President, on May 22 I had the opportunity to deliver the keynote address to the annual meeting of the Small Business Service Bureau in Worcester, Mass.

I was particularly pleased to participate in this meeting because two good friends and dedicated champions of small business were presented with awards for their work—Senator THOMAS MCINTYRE and Thomas McGee, speaker of the house in Massachusetts.

Both of these outstanding legislators have dedicated themselves tirelessly to the needs of small business enterprises. They have clearly recognized that without a healthy small business sector there is no inflation fighting, innovation producing, competition. That without healthy small business there is no prospect for full employment and financially sound cities and towns. And, that without healthy small business, big business would be forced to close its doors.

Mr. President, I also took the opportunity to outline legislation which Senator MCINTYRE and I are developing and which we will soon introduce. Our proposal would establish a national investment policy for small business, give the SBA Administrator cabinet level rank, and create a division of Advocacy, Economic Research and Analysis to cut through Federal redtape which threatens to strangle our smaller private businesses.

It was also a privilege to be addressing one of the most active and progressive small business groups in America on the first day of National Small Business Week. Under the able and energetic leadership of its president, Mr. Francis Carroll, the Small Business Service Bureau has become a significant and effective force in promoting the legitimate interests of our small business community.

Mr. President, I ask unanimous consent that my address to the Small Business Service Bureau on May 22 in

Worcester, Mass., be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR HUBERT H. HUMPHREY

Three years ago I had the honor of being the Small Business Service Bureau's annual meeting keynote speaker. It was a pleasure to perform that role then, and it is with a sense of even greater satisfaction and kinship that I am back with you again this year.

It is a special privilege to participate in honoring Senator McIntyre for his tremendous contribution to and support of American small business.

As a key member of the Senate Small Business Committee and the Senate Banking, Housing and Urban Affairs Committee, Senator McIntyre has proven his friendship to you and his understanding of your problems time and time again. And as Co-Chairman of the Federal Paperwork Commission, his efforts have saved each of you many hours and dollars that otherwise would have been spent filling out useless forms.

No man in Congress has demonstrated his concern for small business more effectively than Tom McIntyre. He has been your champion and he has earned your gratitude. I am delighted that he is being honored by you tonight with your "Outstanding Public Service Award."

I also am pleased that you are honoring Thomas McGee for his consistent and energetic support for small business as the Speaker of the House in Massachusetts. His support for small business in the Bay State certainly warrants his selection as Massachusetts Legislator of the Year.

There are two reasons why I enjoy being with you so much tonight. First, as many of you know, I grew up in and am still the owner of a small business—our family's drugstore. I learned most of my economics and a good deal about government as a small retailer.

Second, like myself, you are activists. When the Small Business Service Bureau, and your energetic leader Frank Carroll, see a problem that hurts small business, you get at it and stay at it until some improvement is made.

You've been presenting your views in a highly effective way to the policy makers who influence small business at the Federal, state and local level. I have been particularly impressed with your outstanding ballot on hospital care cost containment. The information you are developing will be of great value to all of us who must act on this important anti-inflation measure.

As a result of your efforts, many of our governors, state legislators, commerce commissioners, insurance commissioners, SBA directors, members of the Senate and House Small Business Committees, and officials in the Carter Administration are better informed of small business problems and your viewpoint. They hear what you're saying about the urgent need for full employment legislation, for meaningful tax reform for small business, and for an equitable solution to the product liability insurance crisis.

I always am impressed with your ability to get results. But nothing is more convincing than was your ability to arrange with President Carter that National Small Business Week should begin today on the date of your annual meeting.

It's true that Senators Nelson, McIntyre, myself and other introduced the Small Business Week resolution. But you can't convince me that the fact that it begins today was sheer coincidence.

The language of that Resolution clearly indicates why small business is so vital to a prosperous America. Small business employs 100 million Americans and is respon-

sible for nearly half of our total business production.

Without healthy small business there is no inflation fighting, innovation producing, competition. Without healthy small business there is no prospect for full employment and financially sound cities and towns. And, without healthy small business, big business would be forced to close its doors.

That resolution reads in part: "A successful small business is evidence of the independence, initiative and hard work of the man or woman who owns and operates it."

In my judgment this is one of the keys to our economic system. It is hardworking small business people like yourselves who nurture the inventive genius of the nation. Far more than any giant, bureaucracy-ridden corporation, it is small business that spawns the ideas and the devices which equip the nation with new tools to increase productivity and efficiency and make higher standards of living possible for all of us.

Without small business our free enterprise system would vanish overnight, and with it the tremendous benefits it brings to our people. Big business then would be able to divide up the marketplace to the mutual advantage of the Fortune 500.

My Joint Economic Committee Subcommittee recently published a study that said this a little differently. The report was written by Professor George Doyle, Chairman of the Department of Economics and Foreign Affairs of Assumption College. Its title is "Foundations For A National Policy To Preserve Private Enterprise In The 1980's." The heart of that study is the conclusion that the survival of the free enterprise system primarily depends on the survival of small business.

The recommendations of that study, along with a series of important proposals by Senator McIntyre, are now the primary elements of legislation which we soon will introduce.

This bill would establish a national investment policy for small business, give the SBA Administrator cabinet level rank, and create a Division of Advocacy and Economic Research and Analysis to cut through red tape, whether it is SBA's red tape or the red tape of any other Federal agency affecting small business.

Now let me outline the thrust of the major provisions of the bill as it now is being developed.

It would require the President to determine each year the capital investment needs of small businesses and how well they are being met. If we are failing, the President would be required to propose incentives to assure that your credit needs are satisfied.

It would designate the Administrator of SBA as a member of the President's Cabinet and the President's Economic Policy Group. The time is long overdue when you should be directly represented in all of the important White House debates on national economic issues.

The legislation would create the Division of Advocacy, Economic Research and Analysis within SBA. It would have offices and qualified staff located in every region of the country. And its job would be to represent the views and interests of small business before Federal and State departments and agencies whose policies affect small business. Most importantly, this office would be responsible for helping you deal with the Federal Government—any part of it—without getting an interminable run-around.

Our proposals also call for creation of a Small Business Management Institute. It would help you with management advice and training, sales and marketing consulting services, and assistance in developing SBA loan applications. It also would be responsible for proposing changes in OSHA and ERISA regulations that plague the days



and haunt the nights of every small business person.

Neither Senator McIntyre nor I claim that this proposal will solve all your problems. We know better. But we are convinced that it will give you a better chance of getting fair treatment from the Federal government. And we pledge to you our best effort to see that this proposal is enacted.

In the past, Congress has committed itself in legislation to the preservation of one class of small business—the family farm. We have stated repeatedly as broad policy and in specific programs our determination to prevent large corporate farming from taking over American agriculture. We have established this policy not because corporate farms are not efficient, but because they are a serious threat to a system of free enterprise and a way of life that we value.

It is time that Congress fully recognized that the rest of small business—manufacturers, retailers, tradesmen, and the like, should be given the same national policy commitment. Once this policy of assuring the healthy growth of small business is established, we can design our laws to carry out this policy.

Before concluding my remarks, I have three additional points I would like to make. They relate to urgent problems that must be confronted and resolved if you are to be successful in your businesses, proud of your communities, and confident about the future for your children and your nation.

First, America cannot afford to continue the economic waste and social costs of high unemployment. Today nearly seven million Americans, 3.5 million of whom are under the age of 25, are being told that they are not needed, that they have no useful role to play in our society.

I believe small business has a direct and major interest in seeing to it that our economy is restored to stable, vigorous growth. High unemployment means fewer dollars are in consumers' pockets to be spent on your goods and services. High unemployment among young people translates directly into more shoplifting, more vandalism, and more breaking and entering.

The balance sheets of your businesses and that of the Federal Government will be safely out of the red only when we again have full employment. We must commit ourselves to an economy that will provide job opportunities to every American who is able, willing and seeking to work.

Second, America's cities are decaying in a vicious cycle of urban flight, deteriorating services, ugliness and financial collapse. Our cities are becoming the home of the poor, the deprived minorities and the elderly.

If this process is allowed to continue, all of us will lose. Our towns, suburbs and rural areas cannot remain strong when our cities suffer the social and economic cancer of blight and decay.

America's cities require the same kind of bold and imaginative commitment of will and resources that we made to the cities of Europe under the Marshall Plan. We need a National Domestic Development Bank to provide the financing it will take to restore our cities and make them attractive places in which to live and do business.

Can we do less for ourselves than we have done for Europe and now are doing in Africa, Asia and elsewhere through development banks which we finance?

The answer is clear, and we must act now.

Third, particularly for you in New England and for us from the Upper Midwest, the energy crisis is much on our minds. For years we lived under an illusion of limitless supplies of cheap oil and gas. But the lines at the gas pumps in 1973 and the factory closings and cold homes of the past winter are stark reminders that we were wrong.

We must adopt a tough, but fair, and comprehensive national energy policy to put an end to our energy crisis. Without such action, the economic future of our businesses and our states is dark, cold and bleak.

We must make the sacrifices that are needed to guarantee that this does not happen. President Carter's proposals, by and large, make sense and move us in the right direction. He will need your support to translate his proposals into action.

Like America, small business faces serious challenges in the coming years. Yet, we probably are more aware of the nature of these challenges than we ever have been in the past. And we are more committed to resolving them.

There won't be any easy answer or magic formula—there never has been. But, once again we will draw on the basic strength of our people—their common sense and determination to do better. And, as we do, we will emerge a stronger nation and a more just society, by turning our problems into progress and our challenges into achievements.

#### SMALL BUSINESS WEEK

Mr. SASSER. Mr. President, President Carter has designated this week, May 22 through May 28, as Small Business Week. I applaud the President for upholding this tradition which was begun in the midsixties. It is proper that the Nation honor its entrepreneurs in such a manner. Small business is an integral and important part of the economic life of the country. The maintaining of small business must be a top priority of the Federal Government. I intend to do my part to uphold our responsibility, and I am glad to have this opportunity to pay tribute to the accomplishments of the Nation's small business men and women today.

We cannot allow ourselves to forget the important role that small business plays in maintaining a sense of economic stability. Small businesses account for 96.7 percent of the Nation's business concerns. Small businesses provide jobs for more than one half of the private, non-agricultural work force in the country, and contribute 43 percent of the gross national product and 48 percent of the total dollar volume by wholesaling, 73 percent of the total dollar volume by retailing, 54 percent of the total dollar volume by service industries, and 76 percent of the total dollar volume of construction. Mr. President, these figures serve as a reminder of the magnitude of the role of small businesses in our overall economic structure. They should cause the Members of this body to reaffirm our commitment to the progress of small business.

In our democratic society, the Nation's small businesses provide those qualities that are basic and fundamental to that society. The competitive nature of our society is encompassed in the daily transactions of the business community. Large numbers of small, independent businesses help to preserve competition and decrease the likelihood of excessive economic or political control. Small businesses also offer the opportunity for individual expression and growth of initiative, and are frequent sources of new and inventive

products and methods. Small businesses offer the American consumer the freedom to purchase what they want, while allowing for greater price and quality competition. These characteristics of small business are consistent with the freedoms granted by our Founding Fathers in the Bill of Rights. We must provide the means to assure that the freedom of small business is protected.

My State of Tennessee has certainly been a beneficiary of the productivity of small business. We are one of the growing economic centers of the South and the Nation. This could not be the case without the dedication of our small business community. In addition, the leaders of my State in civic, community, and political roles are the leaders of the business community. These leaders bring the same dedication and innovation to their community involvement as they give to their businesses. Not only in Tennessee, but in the Nation, the existence of small business is fundamental to the development and prosperity of our economy. The future of our Nation's free enterprise system is directly related to the long term success of our small businesses. In this week, dedicated to the Nation's small business men and women, I hope that each of us in the Senate will reaffirm our commitment to their future progress.

I thank my colleagues, many of whom have backgrounds in the business community, for the chance to recognize the accomplishments of small business today.

#### FORGOTTEN VETERANS OF "THAT PECULIAR WAR"

Mr. CULVER. Mr. President, it has long been recognized that war veterans have serious economic, social, and psychological problems readjusting to civilian society. These problems are especially acute for our Vietnam veterans. The conflict is over in Southeast Asia, but many of those who served there are still struggling with the lingering personal effects of that war.

Mr. Jan Craig Scruggs, a disabled veteran of Vietnam, has written an excellent article in the Washington Post entitled "Forgotten Veterans of 'That Peculiar War'." Mr. Scruggs has conducted an extensive and rigorous investigation of the sociopsychological impact of the Vietnam war on those who fought it. The results of his questionnaire are disturbing. Soldiers with heavy combat experience have a higher political alienation rate and are 11 times more likely to dream about Vietnam combat than veterans who served in units with no casualties. Only half of the sample and only one of the black respondents feel that Vietnam duty has not caused them psychological problems. Combat veterans have a 30-percent rate of marital separations and divorce. He also points out that the unemployment rate in March for the youngest age group of Vietnam-era veterans was 17.2 percent. Mr. Scruggs' conclusion is both an indictment and a challenge:

The dry statistics of the social sciences (reveal) a sad legacy remaining from a war that this country is trying to forget.

In a spirit of national reconciliation for our divisions and wounds from this tragic conflict, President Carter has pardoned draft evaders and instituted a program for reviewing and upgrading less than honorable discharges during the Vietnam period. The President's efforts at reconciliation make more compelling the need for imaginative and concerted efforts to assist those Vietnam veterans who served our Nation honorably. The administration's \$1.3 billion program to find 200,000 jobs for Vietnam veterans is long overdue. I recently supported an increase in the Veterans' Administrations fiscal year 1978 budget levels, subsequently approved by both Houses of Congress, which will provide more funds to make cost-of-living and other improvements in the Vietnam Era Veterans Readjustment Act of 1974 and the GI bill.

As Mr. Scruggs suggest, however, funds and programs are no guarantee of meaningful results. The administration and the Congress have an obligation to see that the employment programs are effective, and that new programs are designed to redress the many other readjustment problems of Vietnam veterans. As a practical matter, the longer these problems are insufficiently treated, the worse they will become, both for the individual veteran and for our Nation as a whole.

Mr. President, I wish to commend Mr. Scruggs for his valuable work and for reminding us again of the needs of our Vietnam veterans. I ask unanimous consent that his article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FORGOTTEN VETERANS OF "THAT PECULIAR WAR"  
(By Jan Craig Scruggs)

Just as the Vietnam war was unique in the way that it was waged—and lost—so that conflict has subjected our youngest-ever corps of war veterans to pressures unparalleled in American military history. The victory parades and hero status awarded to previous generations of military returnees were simply not present. The national turmoil surrounding the war made one's status as a Vietnam veteran a dubious distinction at best.

Probably no aspect of the war has been more exploited, misunderstood and officially neglected than the readjustment problems of Vietnam returnees. In the past two years the psychological and academic communities have finally started taking an interest in the effects of having participated in that conflict. We are seeing research indicating that serious and prolonged adjustment problems exist for many Vietnam veterans.

My personal interest in this topic is rooted in my own experience. When I was a naive teenager, a profound sense of duty compelled me to serve my country during time of war. After my tour, the wounds and medals I received as an infantryman in Vietnam became slowly transformed into reminders of my part in a cruel and meaningless conflict. My naive acceptance of America as a great and noble land gave way to more critical thinking as my conventional beliefs, attitudes and values were shaken by the war. I sometimes felt a deep bitterness toward this country as I reflected back to a quiet Sunday in 1970, when two very special friends of mine, a young black and a Jewish draftee, suddenly

lay dismembered and motionless in the dirt of Vietnam.

During graduate training in counseling psychology at American University, I initiated a long and expensive social psychological investigation of the war's effects upon college veterans. A questionnaire was designed to test the major hypotheses advanced by the scant literature available on this neglected topic. A prominent psychology professor, Dr. Allan Berman, provided excellent professional guidance. Questionnaires were given to 600 Vietnam veterans at local universities. Our 233 replies yielded some important findings about the psychological aftermath of that peculiar war.

The research found that men who served in units with a casualty rate of more than 25 per cent were statistically higher in political alienation. These veterans were also 11 times more likely to report dreaming of Vietnam combat than those who served in units with no casualties. Many evidenced low self-esteem. Only half of the sample did not feel that Vietnam duty had caused them psychological problems. Only one of the black combat veterans did not feel that Vietnam duty had hurt him psychologically. Some veterans who had psychological problems from the war indicated a reluctance to seek help from the Veterans Administration. Combat veterans had a 30 per cent rate of separations and divorce. The dry statistics of the social sciences revealed a sad legacy remaining from a war that this country is trying to forget.

In my present futile search for federal employment, I recently spoke with a civil-service counselor who has talked with several young men who refuse their five-point preferences rather than bear the stigma of being known as Vietnam veterans. One of the biggest and longest running jokes in this town is the special 10-point preference for disabled Vietnam veterans. Ronald Drach, employment director for the Disabled American Veterans and himself an amputee from Vietnam combat, states that it is generally not enforced and that cases exist where it has been intentionally circumvented by federal agencies. Most of the federal employees who have tried to help me and other disabled Vietnam veterans gain employment are also frustrated about this situation. The Department of Labor, which has been given the task of enforcing affirmative-action programs for hiring Vietnam-era veterans, sets a miserable example for private industry. Vietnam-era veterans constitute less than 1 per cent of the department's total work force, one of the lowest for any major federal agency. March unemployment statistics revealed that the unemployment rate for the youngest age group of Vietnam-era veterans has increased one percentage point, to 17.2 per cent. However, the unemployment rate for the same age group of male non-veterans has decreased one point to 10.4 per cent.

My findings are really not surprising. Several years back some leading psychiatrists, including Dr. Peter Bourne and Yale's Dr. Robert J. Lifton, warned that the Vietnam conflict would have serious, delayed consequences for many who served there. The very nature of this odd war—the lack of psychological justification for the soldier engaged in it, and society's indifference upon his return—perhaps made this inevitable.

It is, of course, not recent news that war has adverse effects on the human psyche. We have always known that. What is new, however, is that this country has never before given veterans the shoddy treatment that has been bestowed upon those who served in Vietnam. Many who volunteered or allowed themselves to be drafted did so with vague assurances of future educational benefits and employment. They returned to find that the GI Bill was inadequate and that many jobs

were filled by those who had purposely avoided their military obligation.

The new administration has taken some measures to provide assistance, however, belatedly, to those who became the victims of this nation's foreign-policy mistakes. It is not yet clear how far President Carter is willing to go to alleviate the appalling unemployment rate for veterans. He has, however, demonstrated his wisdom in the appointment of an energetic Vietnam returnee, Max Cleland, as the new chief of the Veterans Administration. Some healthy changes are now taking place to make the VA's services more in keeping with the needs of all veterans. Cleland wants to reverse his agency's poor retention rate for physicians. He wants to expand the drug- and alcohol-treatment facilities. Furthermore, he recognizes the need for the Veterans Administration to provide readjustment counseling, the lack of which has exacerbated the problems of many Vietnam veterans.

My research will soon be reviewed by the Senate and House committees on veterans' affairs. If nothing comes of that, the effort will be buried away in some academic journal. But my findings, as well as those of other researchers, highlight some very real problems that will not go away, for all the haste with which this country may seek to sweep a shameful war under the rug.

There is a major issue here for this country to resolve, for the indifference and lack of compassion that the veterans have received is, to a large degree, a reflection of our lack of a national reconciliation after Vietnam. The fundamental challenge should now be to meet the very real needs of this group as a major step toward America's final recovery from that war. The power—and the responsibility—to make good on the national obligation to Vietnam-era veterans ultimately rests with the President and the Congress. No efforts can provide compensation, of course, to the Americans who made the ultimate sacrifice in Vietnam. For them, perhaps, a national monument is in order to remind an ungrateful nation of what it has done to its sons.

#### REAL WELFARE REFORM

Mr. CURTIS. Mr. President, the administration has recently announced certain principles relative to its formulation of a welfare reform package.

As ranking minority member of the Senate Finance Committee, I have long had an interest in seeing that our public assistance programs are shaped to meet the requirements of the legitimately needy and, at the same time, to reflect a careful allocation of resources so that the taxpayers of this Nation do not bear an intolerable burden. As we begin to move into the subject of welfare reform, we should be guided by certain basic tenets, learned from our experience in the Finance Committee several years ago, and from the successful efforts of a number of States who have demonstrated the essential characteristics of real welfare reform, as a part of their own efforts since that time.

Members of Congress were asked by the Secretary to submit their views on this subject. In my judgment, there are a number of lessons which we can learn from these experiences, and there are several fundamental principles which should guide us in our consideration of this critical issue. Many of the ingredients which I regard as most important were reflected in my response to the Sec-



retary. I ask unanimous consent that this communication be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, D.C., March 8, 1977.

HON. JOSEPH A. CALIFANO, JR.,  
Secretary, Department of Health, Education,  
and Welfare, Washington, D.C.

DEAR MR. SECRETARY: I am grateful for your thoughtful letter inquiring into my views on welfare reform.

The overall problem with the present system, in my opinion, is that it fails to differentiate between those legitimately in need and those who either can be, or should be, supporting themselves. I believe that indiscriminate and imprecise eligibility criteria, and insufficient requirements for personal resource utilization, lie at the heart of the problem.

As a result, those legitimately in need—who have no other resource but public assistance—have been short-changed, as benefits remain static, and as both the Federal and State governments face increasing fiscal problems in the face of mounting tax requirements occasioned by the growing caseload.

The key, therefore, in my judgment lies in a very measured, detailed, and analytical refinement of the definition of need: as it relates to income, assets, outside resources, work requirements, and family responsibility. Through this kind of careful differentiation, massive resources can be freed to assist the nation's needy in a more adequate fashion.

California, New York, Michigan, New Hampshire, South Carolina, and a number of other States have had a significant amount of success with the kind of reform I describe. California had not had an increase in AFDC benefits in over thirteen years prior to its welfare reform program. As a part of its welfare reform efforts, that State cut its caseload by approximately 350,000 persons; raised grant levels by approximately 27%; instituted an annual cost-of-living increase, so that now grant levels are approximately 50% above where they were in 1971 (California is one of only two States—the other being Massachusetts—which has such an increase); and saved approximately \$1.5 billion over 3½ years—half of which were Federal funds.

Forty-two of 58 counties in California were able to reduce their property tax rates. Los Angeles County reduced the welfare portion of its property tax rate from \$1.62 to 97c. When caseloads nationally dropped for the first time in history in 1973-74, California was responsible for almost half of the national decline.

Significant potential exists for moving in similar areas federally. Many are outlined in the bill I discussed with you when you appeared before the Finance Committee prior to your confirmation. This bill (S. 1719, 94th Congress), which I cosponsored with nine of the eighteen members of the Senate Finance Committee, suggests numerous ways in which effective controls can be placed upon the AFDC program in particular.

I would point out, as well, that as you undertake steps to bring the caseload in this program under control, you will effect automatic savings in other programs, such as Medicaid, social services, and food stamps.

When you embark upon your welfare reform efforts, I would hope that they represent true welfare reform, particularly as long sought by the nation's taxpayers. With a strong sense of compassion for the needy, they do not seek a crippling of the welfare programs—but they do seek and insist upon careful and precise eligibility criteria, realistic benefit levels, strong work requirements, effective and complete use of outside re-

sources, and stringent and fully operative fraud control measures.

It is much better, in my opinion, to move in the direction I have outlined than to embark upon major, new, wholesale expansions of public assistance in this country. As you are aware, the Senate Finance Committee did not accept the premises of the Family Assistance Plan or a guaranteed annual income approach. I joined with the Chairman in expressing severe misgivings about that plan, for it would have brought even more persons under the mantle of public assistance, undermined initiatives, further weakened already ineffective work requirements, and exacerbated the dependency problem in this country. It is, in fact, the antithesis of real and meaningful welfare reform. I hope that you will reject it, or any approximation of it, as totally destructive to the future well-being of this country.

With every good wish, I am

Sincerely yours,

CARL T. CURTIS,  
United States Senator.

### SMALL BUSINESS PLANNING GUIDE

Mr. CULVER. Mr. President, as a member of the Senate Small Business Committee, I have had the privilege of talking with countless small business persons from Iowa and across the Nation. In chairing numerous hearings concerning the problems of small businesses—most notably the current product liability insurance crisis—I have been exposed to just how difficult it is today for the independent operator to get a successful start in business and maintain a viable company. Not only must the fledgling firm face the bewildering morass of Government regulations, but the uncertainties of our economy make eventual failure a very real danger.

There is no certain recipe for success; of course, none of us can foretell the future. Nevertheless, a carefully thought-out plan will allow the new firm to anticipate those conditions which are most likely to be encountered, and will thereby help to minimize unnecessary risks. I should like to share with my colleagues a list of questions which every prospective entrepreneur should ask before making a commitment to the difficult tasks of setting up his or her own business. These questions, and the accompanying text, are condensed from a new publication by David Bangs and William Osgood, the Business Planning Guide published in the Business Assistance Monograph series by the Federal Reserve Bank of Boston. They are intended to form the basis of a comprehensive business plan, and I believe they are extremely useful as a checklist for identifying the strengths and weaknesses of a new enterprise. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the planning guide was ordered to be printed in the RECORD, as follows:

#### BUSINESS PLANNING GUIDE

##### A. DESCRIPTION OF BUSINESS

Deciding what your business is—and what it will be in five years—is the most important decision you will have to make. A small business may be involved in more than one activity: If so, the judgment of what the central activity is (or what the central activities

are) is crucial. Your entire planning effort is based on your perception of what business you are in. If you make a serious error at this point, your chances of success will be sharply diminished. So, be sure to take the time to think this decision through.

The description of business includes:

1. The type of business: Is your business primarily merchandising, manufacturing, or service?
2. The status of your business: Is your business a start-up? an expansion of a going concern? a take over of an existing business?
3. The business form: sole proprietorship, partnership, corporation? (Your attorney's advice is helpful on this item.)
4. Why is your business going to be profitable?
5. When will (did) your business open?
6. What hours of the day and days of the week will you be (are you) in operation?
7. If yours is a seasonal business, or if the hours will be adjusted seasonally, make sure that the seasonality is reflected in your replies to 5 & 6.

##### For a new business

Your description of the business should contain responses to the following (as well as the seven items previously listed):

1. Why will you be successful in this business?
2. What is our experience in this business?
3. Have you spoken with other people in this kind of business? What was their response?
4. What will be special about your business?
5. Have you spoken with prospective trade suppliers to find out what managerial and/or technical help they will provide?
6. Have you asked about trade credit?
7. If you will be doing any contract work, what are the terms? Reference any firm contract or letter of intent, and include it as a supporting document.
8. How will you offset the slow payment by the customer?

##### For a takeover

1. When and by whom was the business founded?
2. Why is the owner selling it?
3. How did you arrive at a purchase price for the business?
4. What is the trend of sales?
5. If the business is going downhill, why? How can you turn it around?
6. How will your management make the business more profitable?

Some additional thoughts to keep in mind as you check out the business: Have you evaluated and aged the inventory? Checked with trade creditors? aged the receivables? What is the condition and age of operating machinery? does the business owe money—and if it does, will you inherit the liabilities?

Determine what you are buying. You are planning to put your money on the line. Don't be afraid to ask for advice before you commit yourself to any deal. A good attorney is essential at this point to help determine what you are buying and to make sure that the terms of sale are in your favor as much as possible.

##### B. THE MARKET

In order to generate a consistent and increasing sales flow, you must become knowledgeable about your market—the people who will be buying your service, product, or merchandise.

The basic marketing consideration are:

1. Who is your market?
2. What is the present size of the market?
3. What percent of the market will you have?
4. What is the market's growth potential?

5. As the market grows, does your share increase or decrease?

6. How are you going to satisfy your market?

7. How are you going to price your service, product, or merchandise to make a fair profit and, at the same time, be competitive?

8. How will you attract and keep this market?

9. How can you expand your market?

10. What price do you anticipate getting for your product?

11. Is the price competitive?

12. Why will someone pay your price?

13. How did you arrive at the price? Is it profitable?

14. What special advantages do you offer that may justify a higher price (you don't necessarily have to engage in direct price competition)?

In order to make a profit, a business must make more on sales than it spends (both directly, as in cost of goods sold, and indirectly, as in overhead and selling costs). Many businesses flounder because they lose sight of this simple truth.

#### C. COMPETITION

If you have decided on your target market and it is large enough to be profitable and contains reasonable expansion possibilities, the next step is to check out your competition, both direct (similar operations) and indirect. Consider these questions:

1. Who are your five nearest competitors?

2. How will your operation be better than theirs?

3. How is their business: steady? increasing? decreasing? Why?

4. How are their operations similar and dissimilar to yours?

5. What are their strengths and/or weaknesses?

6. What have you learned from watching their operations?

The objective of this section is to enable you to make your business more profitable by picking up the good competitive practices and avoiding the competitors' errors. A common error is opening a business in a market that is already more than adequately serviced. Carefully viewing the competition will sometimes lead you to alter your basic business strategy or change existing operations to compete more effectively. This should be an ongoing practice since markets shift and success attracts competition.

#### D. LOCATION OF BUSINESS

Different businesses have different location needs. If the enterprise is manufacturing or wholesale, low rent and easy access to transportation routes are very important. For most retail operations, exposure to people and accessibility to those people are most important. Traffic studies may be available for the area you are interested in and, if available, may give you the information you need to answer these questions about location. Sources of this information may be the state or local highway agencies, the local library, chambers of commerce, and large stores. Your local banker may well be your most useful reference. Some locations seem to be jinxed, and most likely he will know why and will tell you.

In this section of your business plan, you should answer the following:

1. What is your business address?

2. What are the physical features of your building?

3. Is your building leased or owned? State the terms.

4. If renovations are needed, what are they? What is the expected cost? Get quotes in writing from more than one contractor. Include quotes as supporting documents.

5. What is the neighborhood like? Does the zoning permit your kind of business?

6. What kind of businesses are in the area?

7. Have you considered other areas? Why is this one the desirable site for your business?

8. Why is this the right building and location for your business?

9. How does this location affect your operating costs?

The key to correct site selection is to keep in mind that a bad site can put you out of business, while a good site can increase your profits. Once you get started or if you are already located, keep a constant eye on changes in your location—new roads get built, populations shift from one class to another, people move, zoning ordinances change, and your business needs may alter too. Prepare to anticipate these changes. Compare Census reports over a period of time to see long-range shifts, for example. Try to find other current data that will help you be aware of these changes.

#### E. MANAGEMENT

According to various studies of factors involved in the failures of small business, roughly 98 percent of businesses fail because of managerial weakness; less than 2 percent of the failures are due to factors beyond control of the persons involved.

Your business plan must take this into account. If you are preparing a financing proposal you should make sure that your prospective financing source is aware of what steps you have taken or are taking to correct any weaknesses in your managerial staff (yourself and any other managerial persons involved); if you are to use your business plan to its fullest extent, you should use this segment to highlight both strengths and weaknesses of management for your own sake.

The failure factor breakdown provides a guide:

| (In percent)               |    |
|----------------------------|----|
| Managerial incompetence    | 45 |
| Inexperience in the line   | 9  |
| Inexperience in management | 18 |
| Unbalanced expertise       | 20 |
| Neglect of business        | 3  |
| Fraud                      | 2  |
| Disaster                   | 1  |
| Total                      | 98 |

There is no known cure for incompetence—but there are very direct cures for inexperience or unbalanced experience: 1) get the necessary experience yourself, or 2) find a partner or employee who has the requisite experience. The final three items represent managerial failures because neglect of business, being victimized by fraud, or put out of business by a disaster can almost always have been prevented by foresight. (Think of insurance, for example.)

This segment should include responses to the following questions:

1. What is your business background?

2. What management experience have you had?

3. What education have you had (including both formal and informal learning experiences) which have bearing on your managerial abilities?

4. Personal data: age; where you live and have lived; special abilities and interests; reasons for going into business.

The personal data needn't be a confession, but it should reflect where your motivation comes from. Without a lot of motivation, your chances of success are slight. It pays to be ruthlessly honest with yourself—even if you don't put the results on paper.

5. Are you physically up to the job? Stamina counts.

6. Why are you going to be successful at this venture?

Keep in mind that your family will be affected by your decision to go into business for yourself and try to assess the potential

fallout; while they may be supportive now, will they continue to be?

7. A personal financial statement must be included as a supporting document in your business plan if it is a proposal for financing.

Bankers and other lending sources want to see as much collateral as possible to secure their loan. Be forewarned: Under most circumstances, the personal creditworthiness of the principals will be a major concern of the banker. Also, you will undoubtedly be expected to sign personally for the loan. This means that your personal assets may be taken if the business fails—even if the business is a corporation.

#### Related work experience

This segment is a detailed response to the experience factors mentioned earlier. It includes (but is not limited to) responses to the following:

1. Direct operational experience in this type of business;

2. Managerial experience in this type of business;

3. Managerial experience acquired elsewhere—whether in totally different kinds of businesses, or as an offshoot of club or team membership, civic, or church work etc.

Some managerial skills are transferable; others are not. Unbalanced managerial experience can cause serious problems. For example, the talents required of a financial man are quite different from those of a used-car salesman. Combination of both sets of talents in one individual is rare.

#### F. PERSONNEL

Businesses stand or fall on the strength of their personnel. Good employees can make a marginal deal go; poor employees can destroy the best business. Studies have consistently shown that out of 100 customers who stop patronizing the average store, over 70 do so because they didn't get prompt, courteous attention. Here are some questions to think about in determining your hiring needs:

1. What are your personal needs now? In the near future? In five years?

2. What skills must they have?

3. Are the people you need available?

4. Full or part time?

5. Salaries or hourly wages?

6. Fringe benefits?

7. Overtime?

8. Will you have to train people? If so, at what cost to the business (both time of more experienced workers and money)?

#### G. APPLICATION AND EXPECTED EFFECT OF LOAN OR INVESTMENT

This section is important, whether you are seeking a loan or planning to finance your deal yourself. In determining how much money you'll need and for what purposes it will be used, do not rely on guesses when exact prices or firm estimates are available. If you must make an estimate, specify how you arrived at your figures. It may be helpful to make a three-column list:

##### Bare Bones

What you can just scrape by with—secondhand, make-shift—the bare minimum.

Example: used desk at \$7.

##### Reasonable

What you will most likely get—some new, some used, some fancy, and some plain.

Example: renovated desk at \$25.

##### Optimal

What you'd like if money were no problem and you weren't worried about making a profit.

Example: custom teak desk at \$750.

Fill out the bare bones and optimal columns first, then make your reasonable choice. It may be important to you to have a luxury item or two, but weigh the cost. This tabular worksheet is particularly useful for a start-



up business and can be used whenever a purchase of additional equipment is contemplated.

Make sure that this section contains responses to the following:

1. How is the loan or investment to be spent? This can be fairly general (working capital and new equipment, inventory, supplies).
2. What is the item or items to be bought?
3. Who is the supplier?
4. What is the price?

#### FINANCIAL DISCLOSURE OF SENATOR JAVITS, 1976

Mr. JAVITS. Mr. President, under the Senate rules, I filed with the Secretary of the Senate on May 13, 1977, a "statement of contributions and honorariums" which discloses all contributions or honorariums received by me during the calendar year 1976; also it incorporates by reference all reports of campaign contributions which are on file with the Secretary of the Senate. These reports are public documents.

In addition, on May 13, 1977, I filed, under the Senate rules, with the Comptroller General of the United States a "confidential statement of financial interests" which includes a list of my assets and liabilities in 1976 and my 1976 tax returns. As that report is not available to the public and as I have heretofore followed a policy of annual financial reports for some years, I am publishing a list of my assets and liabilities for calendar year 1976 as filed on May 13, 1977. The listing includes:

First, each of my interests in property having a value of \$10,000 or more;

Second, the assets held in a family trust established in 1937, of which I am the trustee and in which as a beneficiary I have a life interest, each item having a value of \$5,000 or more; and

Third, each of my liabilities having a value of \$5,000 or more.

Finally, I am including a summary of my 1976 Federal income tax returns and the amounts of State and local taxes paid for 1976.

I ask unanimous consent that these items be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### INTERESTS IN PROPERTY (1976)<sup>1</sup>

Nature of interest, type of property, and location:

Indian Trail Groves, Ltd., land, Miami, Fla.

Indian Trail Ranch Liquidating Trust—interests in mortgages on land, mortgages, Miami, Fla.

Arrowhead Associate, land, Tyson Corners, Va.

TBV Lessors, land, California.

Municipal Assistance Corp., municipal bond, New York, N.Y.

Molycorp., corporate stock, New York, N.Y.

Marcor, Inc. Installment Debentures, corporate bonds, New York, N.Y.

Watergate West, Inc.—stock, residence, Washington, D.C.

Computer Investors Group, Inc.—stock, corporate stock, New York, N.Y.

L. S. Inc.—stock, corporate stock, New York, N.Y.

American & Foreign Power Co. Debentures, corporate bonds, New York, N.Y.

Terra Bella Vineyards (investor-noncontrol), vineyards, California.

Southgate Associates (investor-noncontrol), land & buildings, Chicago, Ill.

Checking Account, Cash, First National City Bank, New York City.

West Indies and Caribbean checking account, development debentures, stock, cash, National Commercial Bank and Trust Company, Schenectady, N.Y.

Paintings, art works, objects and household furnishings, Watergate West, Washington, D.C.

#### BENEFICIAL INTEREST IN TRUSTS (1976)<sup>2</sup>

Name of trust of fiduciary interest: Ida Javits Trust.

Name of trustee or other fiduciary: Jacob K. Javits, trustee.

Address of trustee or other fiduciary: 322 East 57th Street, New York, N.Y.

Trust holdings:

Belco Oil & Gas Fund, land interest.

East Hampton Property, land interest.

Loxahatchee Real Estate, land interest.

Amex, Inc., bonds.

American Telephone & Telegraph Co., bonds.

Bartell Media, bonds.

Carolina Telephone & Telegraph Co., bonds.

Cavenham USA, Inc., bonds.

Government Employees Corp., bonds.

Government Employees Financial Corp., bonds.

Israel Savings, bonds.

Marcor, Inc., bonds.

N.Y.S. Power Authority, bonds.

N.Y.S. Tax Anticipation Notes, bonds.

Sachar Properties, bonds.

U.S. Treasury Bills, short-term paper.

American Standard, Inc., stocks.

Anderson Clayton & Co., stocks.

Arlen Realty & Development, stocks.

Bankers Securities Corp., stocks.

Canadian Cellulose Ltd., stocks.

Carolina Power & Light, stocks.

Cenco Instruments, stocks.

Citicorp, stocks.

Cities Service Corp., stocks.

Cone Mills, stocks.

Continental Illinois Properties, stocks.

Corporate Property Investors, stocks.

Corporate Realty Consultants, stocks.

Criterion Insurance Co., stocks.

Crown Zellerbach Corp., stocks.

Decicom, stocks.

Del Labs, stocks.

Duke Power Co., stocks.

Federal Paper Board Co., stocks.

Freeport Mineral, stocks.

Government Employees Financial Corp., stocks.

Government Employees Insurance Co., stocks.

Government Employees Life Insurance Co., stocks.

Graham Newman, stocks.

Great Northern Nekoosa Corp., stocks.

IBM, stocks.

ICM Realty SBI, stocks.

IDB Bank Holding, stocks.

IMC Magnetic Corp., stocks.

Inland Container Co., stocks.

Kennecott Copper, stocks.

Magic Marker Corp., stocks.

Molycorp, stocks.

Royal Palm Beach Colony, stocks.

Tishman Realty & Construction, stocks.

Transamerica Corp., stocks.

Tubos de Acero de Mexico, stocks.

United Brands, stocks.

Western Pacific Industries, stocks.

Westvaco Corp., stocks.

White Shield Exploration, stocks.

White Shield Indonesia Oil, stocks.  
Other property held for investment, paintings.

#### LIABILITIES (1976)

(Not including current trade bills)

Name of creditor, location of creditor, and type of liability.

1. Ida Javits Trust, c/o Jacob K. Javits, 322 East 57th Street, New York, New York, income advances unliquidated.

2. Citibank, New York, New York, contingent liability on partnership loan re Southgate Associates.

3. Citibank, New York, New York, personal short-term loan.

4. Northwestern Life Insurance Company, Travelers Insurance Company, Union Labor Life Insurance Company, Equitable Life Assurance Society, New York Life Insurance Company, Massachusetts Mutual Life Insurance Company, Mutual of New York, various loans on life insurance policies secured by cash surrender value of policies.

5. Samuel Friedland, Miami, Florida, non recourse secured by Florida orange grove interest.

#### Summary of 1976 Federal income tax return of Senator Jacob K. Javits

|               |          |
|---------------|----------|
| Senate salary | \$44,600 |
| Dividends     | 19,962   |
| Interest      | 452      |

|   |        |
|---|--------|
| Income other than wages, dividends and interest (includes rents and royalties, articles and lectures, investments and buy out of interest in law firm (Javits, Trubin, Stillcocks & Edelman) from which Senator Javits retired September 30, 1971); deductions appropriate to this item | 28,279 |
|---|--------|

|       |        |
|-------|--------|
| Total | 93,293 |
|-------|--------|

|   |        |
|---|--------|
| Other deductions (includes charitable contributions of \$4,169) | 49,866 |
| Federal tax   | 16,564 |

|                        |       |
|------------------------|-------|
| State and local taxes: |       |
| New York State Tax     | 5,133 |
| New York City Tax      | 1,528 |

|       |        |
|-------|--------|
| Total | 22,225 |
|-------|--------|

#### UNIONIZATION OF THE MILITARY

Mr. THURMOND. Mr. President, there appeared in the May 21, 1977, edition of the Washington Post an article by Harold J. Logan entitled, "Soldiers Fight Bill To Bar Organizing of Military."

This article points out that there is an effort within the military itself to gather support against legislation prohibiting military unions. I urge my colleagues here in the Senate to continue to support legislation which would ban military unions in any form. As I have stated on many previous occasions, unionization of the military can only have disastrous results on the security of this country.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

#### SOLDIERS FIGHT BILL TO BAR ORGANIZING OF MILITARY (By Harold J. Logan)

Five present and former soldiers, including one masked GI and an ex-paratrooper who contends he was kicked out of the Army for military union-organizing activities, yes-

<sup>1</sup> In all cases these are for normal investment only and do not represent any element of control or of relative major size.

<sup>2</sup> In all cases these are for normal investment only and do not represent any element of control or of relative major size.

terday presented a petition calling on Congress to defeat efforts to ban military unions.

Just over 1,900 service men and women from bases around the world have signed the petition presented to an aide to Sen. James Abourezk (D-S.D.) by the Enlisted People's Organizing Committee, a Washington-based group that advocates unionization of the military rank-and-file.

The aide, Megan Wahl, said Abourezk does not favor a union at this time, but does support the right of service personnel to work for one.

The petition's main target, the group said, is a bill introduced by Sen. Strom Thurmond (R-S.C.) and 43 cosponsors, that would make it illegal to join or form a military union. The bill is pending in the Senate Armed Services Committee.

The union that the petitioners are advocating would be unusual because it would forsake the most powerful weapon in the arsenal of most American labor organizations: the right to strike.

"Unions do not need the right to strike," said a Washington-area soldier who wore a white mask covering all but his eyes, nose and mouth because he said he fears reprisals from his superiors. He and his four colleagues held a news conference on Capitol Hill.

"They could assist in filing suits, both individual and class action," he said. "They could organize, have meetings, participate in personnel management on a policy level, serve as a check to ensure the NCO [non-commissioned officers] corps properly performs its management function, and, in cases of extreme mismanagement involving human abuse, stage protests."

The group's principal spokesman was Thomas Doran of Spring Lake, N.C., an ex-paratrooper who has sued the Army, alleging his discharge last December was a result of his efforts to organize a military union at Ft. Bragg.

Doran insisted a military union would not detract from the armed forces' ability to function in wartime.

At least two existing unions have taken steps toward recruiting members from the services. The American Federation of Government Employees, an AFL-CIO affiliated organization with 300,000 members, voted in September to amend its constitution to admit service personnel.

When some AFGE members objected to the prospect of military members because their presence might dilute the union's attention to the concerns of its civilian members, AFGE decided to poll its membership on the question.

The poll should be completed by October, said a union spokesman.

Meanwhile, the Association of Civilian Technicians, a group that represents about 6,000 National Guard and Reserve employees, has recruited "a couple of thousand" service personnel, said association president Vincent Paterno.

Paterno said the association has temporarily halted its recruiting activities, pending the fate of Thurmond's bill.

President Carter and Defense Secretary Harold Brown have said they oppose the idea of a military union but do not support legislation prohibiting unions for fear of overreacting to the concept.

#### SURFACE MINING CONTROL AND RECLAMATION ACT

Mr. BAYH. Mr. President, last week the Senate passed S. 7, the Surface Mining Control and Reclamation Act of 1977, hopefully ending almost a decade of Senate debate on strip mining practices.

Now that the Congress is acting, ending the uncertainty that the mining industry has lived with for years, we can get on with the development of our Nation's vast coal resources assured that increased coal production will not result in the ravaging of our land.

The environmental protections incorporated into S. 7 are especially timely now, as we turn toward coal to help meet our energy needs. In 1976, over 60 percent of the coal produced in the United States came from surface mines, disturbing some 1,000 acres of land each week. As demand for coal grows, the acreage disturbed will increase further. This certainty makes the need for balanced, uniform national standards and special protections for unclaimable lands more important than ever. Once damaged, our non-renewable natural resources—farm lands, water, parks, and wilderness areas—cannot be restored.

Mr. President, we have enough coal in this country to last us for hundreds of years. In most cases, existing technologies have been developed to reclaim stripped land economically and efficiently. What the strip mine bill provides are national guidelines to make sure we proceed responsibly and require operators in all States to meet similar minimum environmental protections. We must not act hastily now to meet our energy needs, only to find ourselves without adequate food, water, and recreational areas in the 21st century.

Mr. President, my State of Indiana will be vitally affected by this legislation and I have given the key issues raised by S. 7 a great deal of thought in the last few months.

Despite large underground reserves, virtually all of Indiana's coal comes from surface mines. Stripping is going on in 16 of Indiana's 92 counties, with 95 percent of total State production concentrated in 7 counties in the southwest corner of the State. Over 127,000 acres in these seven counties have been affected by mining operations, totaling about 7 percent of the total land area there.

These counties also contain large tracts of prime farmland, crucial to the Nation's food and trade needs, along with the well-being of people all around the world. Over 736,000 acres of prime farmland in southwestern Indiana with strip-minable coal are likely future targets for surface mine activities, accounting for 46 percent of the prime farmland there. Other States in the Midwest share similar dilemmas. We must make sure that if this land is stripped, it will once again provide the corn and soybeans and other foodstuffs so badly needed by our own citizens and those elsewhere in the world. The same assurances are needed for our western alluvial valleys, which provide scarce water for western farming and ranching operations.

In addressing the problem of competing food and energy needs, the Senate and House enacted different provisions affecting prime farmlands.

As passed by the Senate, S. 7 will require a case by case review process, involving the Secretaries of Agriculture

and Interior, as well as the State regulatory authority, for all mining plans which include more than 10-percent prime farmland. During the review, operators must demonstrate that they will be able to restore the land to its prior agricultural productivity in order to get a permit to mine the land. All mining operations with permits issued prior to the time President Carter signs the strip mining bill, and all operations later granted revisions or renewals of such permits, will be exempt from this requirement.

As originally introduced, this exemption from a special review process would have treated Indiana inequitably, because under Indiana State law technically there are only new annual permits and no renewals, even though operators meeting the conditions of their permit routinely get a new or renewed permit upon application.

I was very gratified that the author of the prime farmland amendment, my distinguished colleague, Senator CULVER of Iowa, modified his prime farmland amendment at my suggestion, to give ongoing Indiana stripping operations the same protections afforded operations in other States despite the unusual procedures mandated by our State's law.

The strip mining bill that passed the House of Representatives included different protections than S. 7 for prime farmland which, on balance, I would have favored.

The surface mining bill that passed the House allows mining on prime farmlands without a prior review process, but requires operators to follow very specific reclamation procedures which agronomists and soil specialists agree can return farmland to its prior productivity. These procedures require separation of topsoil and subsoil horizons, protective storage of these materials, and ultimate replacement of the soil horizons with proper compaction and uniform depth over the regraded spoil material.

Mr. President, I agree that protection of prime farmlands must be a national priority to assure our future food supplies. However, after studying the House and Senate bills, I have concluded that the language contained in the House bill meets this need without risking the administrative bottlenecks that may develop if the language in S. 7 prevails in conference. Experts consulted at the agriculture school at Purdue University and the Department of Agriculture's Soil Conservation Service feel the same way. I hope the conferees will take a very hard look at this issue before making a final decision.

Finally, Mr. President, I was very satisfied with the way the Senate resolved most of the other controversial issues raised by S. 7.

One of the most important features of S. 7 is the requirement that strip miners conduct their blasting operations in such a manner that there will not be damage outside of the permitted area. Strip mine blasting practices have become a major problem for people living near Appalachian and Midwestern coalfields. It is estimated that strip mine blasting caused damages of over \$200 million in these regions in 1975 alone.



In my home State of Indiana, blasting has caused serious difficulties for those who live near mining operations, particularly in Warrick County. A survey conducted by Jack Barnes, professor of geology at Indiana State University, indicates that there was structural damage caused by blasting to 89 percent of the buildings within a 2½-mile radius of the Ayrshire mine in that county. In other areas, blasting has caused serious harm to health, property, and the environment in the form of dust and fly rock.

I was very gratified that the Senate adopted my amendment to strengthen the blasting provisions of the strip mining bill. My amendment will require the strip miner to set out his plans for blasting in his application, so that the regulatory authority can know in advance if there will be adequate protection of the local community's health, property, and environment. Only with such information can potential problems be nipped in the bud. Further, a blasting plan will enable the public to gain a fuller understanding of the mining operation being proposed for their community at the outset. Without question, the citizens who will be most effected by mining operations deserve to know exactly what those operations will entail. This amendment should protect our citizens from the suffering others have experienced in the past in connection with strip blasting.

Other provisions of S. 7 with which I am particularly pleased are the protections provided for alluvial valleys in the West, which provide scarce water for western farming and ranching operations; the program passed to reclaim abandoned mines, which plague hundreds of thousands of acres of land in the eastern section of the country; and the program set up to provide assistance to coal mining research institutes. The research institutes in my own State have been of great help to both myself and others in Indiana and around the country trying to grapple with the many issues surrounding the use of coal as a major source of energy. In addition, I feel that the treatment afforded small miners in S. 7 is equitable. In acting to exempt miners producing less than 100,000 tons of coal annually from compliance with S. 7, the Senate recognized the real cash flow problems small operators face without, at the same time, allowing operators able to absorb reclamation costs sooner to skirt their responsibilities.

In closing, Mr. President, let me reiterate once again my satisfaction that the Congress has finally enacted minimum Federal standards for surface mining. My own State of Indiana has been way ahead of the Federal Government on the issue of strip mining control. In 1967, Indiana enacted strong and pioneering legislation to control strip mining operations within the State. Under S. 7, States will have the opportunity to administer and enforce their own State programs as long as they meet Federal guidelines. In addition, they will receive Federal assistance in order to improve their regulatory and enforcement efforts.

Given Indiana's early recognition of the need for environmental protection, its relatively long experience with regulating mining activities and the Federal assistance S. 7 will provide, Indiana should not experience any disruption in mining activities as a result of S. 7. Nor should other States which take advantage of the long lead time provided in this legislation for developing satisfactory State programs.

With these environmental protections on the books, I am looking forward to working with the administration and my colleagues here in the Senate toward increasing domestic coal production to meet the President's goal of a two-thirds production increase by 1985.

#### NATIONAL SMALL BUSINESS WEEK

Mr. ROTH. Mr. President, I would like to take this opportunity to remind the Senate that this week has been designated as National Small Business Week. Small business makes a tremendous contribution to American society, and I think it is appropriate to take this time to remind the Senate of the potentials of small business and to urge the Senate to provide greater recognition to the problems of small business.

Directly or indirectly, small business provides the livelihoods for 100 million Americans. Approximately 97 percent of all business organizations are classified as small, and 43 percent of this country's gross national product is produced by small business men and women. In addition, small businesses employ more than half of all working Americans.

Yet despite its importance to our economy, small business is struggling under Government overregulation—endless paperwork and reporting requirements and an excessive tax burden that has become topheavy with complexity and tax forms.

Although the recent tax bill did extend through 1978 the small business tax reductions enacted in 1975, small businesses are still being stifled by an excessive tax burden. I believe an across-the-board tax reduction, for individuals and businesses, will breathe life into our free enterprise system and provide small business with the capital needed to expand and grow. Lower tax rates on small business will stimulate job-producing investments and unharness the individual incentive and creativity that built this Nation. Permanent tax cuts will allow the private economy to grow and prosper, and they will help offset the increasing inflationary pressures in the economy.

Congress must also take steps to control the enormous deficit spending practices of the Federal Government. The Federal budget deficit for the upcoming fiscal year is projected to be nearly \$65 billion, one of the largest in the Nation's history, and I am deeply concerned that this type of excessive spending will only result in increased taxes, higher inflation, and more unemployment.

One of the most far-reaching proposals to reform Federal spending is the sunset legislation which I developed last

year with Senator EDMUND MUSKIE and which we have reintroduced in this Congress.

This legislation would give Congress a handle on Federal spending by forcing Congress for the first time to review all spending in the same function together. Federal programs would have to demonstrate that they are effective and worthwhile or face termination. Sunset will give Congress a method to weed out outmoded programs and consolidate duplicative ones. Each program would be subjected to review at least once every 5 years.

One of the most aggravating problems for the small businessman is keeping up with Federal paperwork requirements. Most small businesses do not have the time or resources to keep up with extensive reporting requirements imposed by Federal agencies to keep track of taxes, wages, pensions, equal employment opportunity, health and safety rules, and so forth. The owner-operated business cannot afford the accountants, consultants, advisers and lawyers that large firms hire to handle complicated Federal forms.

What is being done? Fortunately, there is a concerted effort today to eliminate needless forms. The Commission on Federal Paperwork is concluding a 2-year review of the more than 5,000 approved Federal forms and is making its recommendations to Congress.

The Commission has already recommended several key changes to exempt firms with fewer than 100 employees from OSHA requirements to keep a log of illnesses and injuries and to eliminate recordkeeping requirements where employee safety or health is not affected. The Congress, acting upon a Commission recommendation, last year moved to eliminate the quarterly wage reports required by the Internal Revenue Service. A major simplification of IRS' "Circular E—The Employer's Tax Guide"—has also been suggested. The Internal Revenue Service now imposes the largest amount of paperwork requirements on small businesses, and steps must be taken to reduce the number and complexity of IRS forms.

The Senate Finance Committee is currently holding hearings on the impact of the 1974 pension reform law. The existing regulatory structure for the administration of the pension law has resulted in excessive paperwork and redtape, particularly for small business. Legislation now being developed by the Finance Committee will reduce the paperwork burden by requiring that only a single annual form with a single filing date be submitted every year by pension plans.

The small businesses that survive Federal taxes and Federal redtape and paperwork face a formidable adversary from the goliath of Federal regulation.

Federal regulation has crept into all phases of private enterprise and a small businessman is often faced with a Hobson's choice of high compliance costs or stiff penalties for infractions.

The rules themselves are often developed in Washington without much con-

cern for business realities facing small firms.

The truth is that Government regulation is an enormous drag on the economy. It results in higher taxes, higher prices for goods and services, diversion of resources, and the stifling of private incentives for business growth and development.

The General Accounting Office places the annual price tag for Federal regulation at over \$60 billion—and that figure does not include the costs of compliance in the private sector. The Office of Management and Budget estimates that 8.1 percent of the American gross national product is devoted to Federal regulation costs. Businesses have to contend with a regulatory bureaucracy of over 100,000 people in 80 different regulatory offices.

Detailed Government specifications for contracts is another source of business frustration. A firm competing for a Federal mousetrap contract has to comply with a 120,000 word product specification. For every product purchased by the Government there is a product specification text which often runs more than a hundred pages.

Despite the constant drain of dollar resources due to Federal regulation, there is an even greater cost to the future of our private enterprise system.

The freedom for private enterprise and the incentives for individual initiative are being stifled by Government. The gradual intrusion of bureaucratic rule into our lives and commerce is driving the small entrepreneur out of business. It is sad but often true that only big business can afford to compete with big Government. We must assure that the backbone of our economy is the entrepreneur not the bureaucrat.

#### ENDANGERED SPECIES

Mr. STEVENS. Mr. President, I wish to address the Senate on a matter of grave importance to us all. There has been a great deal of talk recently about the deterioration of the environment and the number of species that are disappearing from the face of the Earth due to the wastefulness and greed of man. I would like to discuss the near demise of yet another breed which seems to be joining the list of endangered species. This particular breed differs, however, from most that we hear mentioned. For despite its obviously declining state, it has been offered little in the way of protection or consideration. It is, in fact, being stifled by the actions of people in both the public and private sectors, which makes it a wonder that it has managed to survive this long. The endangered species of which I speak is the small businessman.

Our Nation was originally a free and competitive environment in which small business flourished. The opportunity to engage in private business, unhampered by a restrictive political, social, or economic system was a great attraction to many immigrants. The spirit of free enterprise, as well as our democratic process, lured many an independent entrepreneur to settle in America and con-

tribute his innovative and inventive skills to a growing country. The private entrepreneurial spirit and the self-satisfaction and pride derived from ownership became part of the "American Dream." This dream was the motivating drive behind the rapid and enduring prosperity the United States enjoyed in its early years.

The role of small business in the creation of the most highly respected and most often emulated nation on Earth cannot be underestimated. The values of small business are those esteemed to be "American": Independence, competitiveness, free enterprise. These are the traits which led to the success of small business and the Nation.

Despite the impressive record of the small businessman and our country's economic need of his services, the atmosphere of freedom necessary for the continued success of small business has been allowed to deteriorate over the past 30 years. Albeit, with the best of intentions, our political system has become a heavy burden, encasing the small businessman in an environment detrimental to his survival. Government encroachment upon the self-determination of the private entrepreneur is making it increasingly difficult to stay in business. An unfair tax structure plagues the small businessman and the regulatory rigamarole which must be endured is comparable to slow strangulation. The source of the impetus, competition, and freedom is slowly disappearing. And yet, despite its being harassed, chided, and virtually ignored, small business still makes up 97 percent of all commercial and industrial enterprises. They employ 60 percent of the labor force, produce 48 percent of output, and contribute 43 percent to GNP. The afflictions imposed upon small businesses have proved to be crippling but not lethal. At least, not yet. The ability of small business to survive is due to its inherent independence and propelling competitiveness. As Adam Smith in his "Wealth of Nations:"

The uniform, constant, and uninterrupted effort of every man to better his condition, the principle from which public and national, as well as private opulence is originally derived, is frequently powerful enough to maintain the natural progress of things toward improvement in spite of both the extravagance of government and the greatest errors of administration.

The growing intervention and extravagance of Government can be seen in some of the actions of the ICC, FCC, FTC, and so on. The intricate web of rules and regulations have greatly complicated the life of the businessman. He has become overburdened with OSHA, IRS, and ERISA regulations. The amount of paperwork and time that is demanded of the small businessman in order to comply with these agencies' rulings adds an incredible cost to the operation of an enterprise. And, although all businesses are required to comply, the supervisory sting felt by big business has the effect of a headache, while that felt by the small businessman is comparable to a brain tumor. Errors of administration are exhibited in an unfair and burdensome tax structure which is actually a disincen-

tive for the formation of independent firms. The regimentation of Government intervention is injurious to the health of small business and to the principles upon which it was founded. The intricacies and complexities of the present-day regulatory maze would probably discourage even Adam Smith from entering the marketplace. Imagine his astonishment, after noting that the Declaration of Independence was written in 300 words, and Lincoln felt his Gettysburg Address adequate with its 266 words, that a recent Government order setting the price of cabbage contained no less than 26,911 words.

The time has come when we can no longer ignore the plight of the small businessman. It is imperative that we recognize the interdependence of small business and the rest of the economy. The fate of small business is intrinsically tied to the fate of the Nation. We cannot assume that small business will forever be able to withstand the efforts of Government to drain them of their spirit. And, what would be the outcome if businessmen and women no longer felt it worth their while to struggle against regulatory restraints? What would happen to the multitude of small towns and villages, to the large corporations, and Government itself if the organization upon which they all so heavily depend should become extinct? I suggest that we face up to reality and change our course of action before it is too late to remove small business from the list of endangered species.

#### NATIONAL SMALL BUSINESS WEEK

Mr. NUNN. Mr. President, I believe it is very important to give credit where credit is due. It is, therefore, always a pleasure for me to join several of my colleagues at this time of year in marking the occasion of National Small Business Week, and in acknowledging the great contributions to our Nation which are provided by our small businessmen.

America's free enterprise system stands at the very foundation of our country's greatness. Its preservation, upon which our individual freedom, our economic welfare, and even our national defense depend, relies to a great degree on the initiative and perseverance of the small businessman. In these troubled times, when our Nation faces some of the most difficult domestic challenges we have ever had to deal with, particularly in the energy field, small businessmen, with their continued dedication to those traditional American values of thrift, self-reliance, and resourcefulness, provide an excellent example for all of us to follow.

Mr. President, if I appear to be more pleased than usual to be noting Small Business Week this year, I have a good reason. His name is Larry Comer, and he has been named National Small Business Person of the Year in a ceremony at the White House on Tuesday afternoon.

Larry, a Navy veteran with 2 years active duty, is President of Metalux Corp. of Americus, Ga. He is past president of the Americus and Sumter County Chamber of Commerce, a director of the Americus and Sumter County Industrial De-



velopment Authority, and a member of the Young President's Organization. Perhaps more importantly, he is an outstanding example of what the small businessman can accomplish.

Metalux, a manufacturer of fluorescent lighting fixtures and equipment, had its beginnings in 1964. The new company, which received an SBA-bank guarantee loan for \$160,000 to help get it started, had three employees. Larry did not begin to show a profit until 1968; today, however, it is a different story. Last year, Metalux had sales of \$25 million, up from \$800,000 10 years earlier, and the company is now the fifth largest lighting manufacturer in the United States, with 375 employees.

I was honored to be with Larry when he was named the Georgia Small Business Person of the Year. I am sure that all Georgians join me in congratulating him on a job well-done. I join with all Americans in extending the same congratulations to the small businessmen of our country, whom Larry Comer so ably exemplifies.

#### NATIONAL SMALL BUSINESS WEEK

Mr. WALLOP. Mr. President, this week has been designated by President Carter as "National Small Business Week." It is fitting that tribute be paid to the people operating small business across the country who symbolize one of the pillars of the American way of life.

Small business is the basic strength and the hope of the American future. Enthusiasm for the individual or family-owned operation has manifested itself at all levels of business. The origin of this feeling is based on the thought that craftsmen and artisans could take pride in creating a product or providing a service. They could be proud they were self-sufficient and were contributing to America. Today, small firms are labor intensive and any growth in sales translates immediately into jobs that provide either directly or indirectly for the livelihood of over 100 million Americans.

A recent study shows that small independent businesses, not large corporations, are the social and economical backbone of local cities and towns across America. They will continue to produce if they are not burdened with taxes, paperwork and overregulation. These hard-working people know their markets and do not need the Government to tell them their business and to bog them down in redtape. Without excessive Government regulation these business people will continue to be the heart of America.

National Small Business Week is an appropriate time to pay tribute to the people who produce over half of the important industrial inventions and innovations in the United States. It is my privilege to join the President and many others in saluting the millions of Americans participating in small business throughout the United States.

#### INTERDEPENDENCE, THE UNITED STATES AND THE THIRD WORLD: THE NEW DIMENSIONS OF FOREIGN POLICY

Mr. HUMPHREY. Mr. President, recently I had the privilege to address commencement exercises at the University of Pennsylvania.

The experience was unique in many respects. As we enter the third century of our existence as the world's oldest democracy, the class of 1977 faces a world of increasingly complex problems. However, a new era of global relationships offers this generation unparalleled challenges and extraordinary opportunities to truly come to grips with the historic plagues of mankind—the bondage of hunger, disease, and illiteracy.

Although interdependence has become a common part of our lexicon, it is all too little understood. Yet, it is in our national interest to define the parameters of interdependence and understand its implications for our own country.

As I noted in my remarks:

The problems of energy, material resources, environment, employment, inflation, population, hunger, disease, and illiteracy; the question of the uses of space and the seas; and the trends in nuclear proliferation and terrorism—all these issues threaten the national security of our country as much as the possibility of nuclear confrontation with the Soviet Union.

In dealing with the growing pressures of interdependence, I pointed out it was also important to understand:

... that no one nation dominates the international scene. Our relations with the developing countries are fast becoming a major element of our foreign policy.

It is also clear that the importance of America's economic relations with developing countries continues to grow. Our nation sells more of its goods to developing countries than to the European Economic Community, Eastern Europe, and the Soviet Union combined. And developing countries provide us with critical raw materials and essential consumer goods.

But, I further emphasized to the class of 1977 that it was:

... an exciting time to be alive. The frontiers of science and technology are always being pushed forward. But it is in the political, economic and social fields where mankind's ingenuity and inventiveness must now be directed.

Who are we to be afraid of trying? Experimentation and change are a part of the American character and of our history.

Somehow, the American people, and their elected Representatives in the Congress, have to reestablish a sense of challenge and vigor into our policy deliberations. Too often we concern ourselves with a narrow and oftentimes parochial view of the world. Interdependence demands of us a greater understanding and appreciation of the global problems confronting us and a greater sense of mission in seeking their resolution.

As Franklin Delano Roosevelt noted during one of the darker periods of our Nation's history:

The only limit to our realization of tomorrow will be our doubts of today. Let us

move forward with a strong and active faith.

This concluding charge to the University of Pennsylvania graduates is also appropriate for Members of the Congress.

Mr. President, I ask unanimous consent that the full text of my remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

#### REMARKS OF SENATOR HUBERT HUMPHREY

This year marks the celebration of our nation's entrance into its third century and establishes us as the world's oldest democracy. This in itself makes the Class of 1977 unique in many respects.

Many of you will move directly into the mainstream of American economic life. Others will continue your education pursuits, seeking advanced degrees. But all of you are part of a world of increasingly complex problems, unparalleled challenges and extraordinary opportunity.

My remarks today are directed toward defining the world you stand to inherit. And I do mean "world," not just "nation." Because the fact is that we no longer can talk about American foreign policy as an isolated subject, sufficient unto itself.

What happens, or fails to happen, in America has an impact on the rest of the world. And surely what happens in other parts of the world—the Middle East, Africa, Western Europe, Asia and the Soviet bloc—can have, and does have, a significant impact on our well-being and security.

The basic reality of today is that we are solidly entrenched in an era of interdependence—an era in which domestic and global distinctions have become increasingly blurred. And we are fast approaching the time when domestic and foreign policy concerns will be inseparable.

Interdependence has become the catchword of the 1970's. And while it is all too commonly used, it is all too little understood.

The post World War II foreign policy of this nation has focused on the maintenance of the balance of power between the U.S. and the Soviet Union. As we enter our third century, protection against military threats still remains a major foreign policy focus of our nation.

However, our national security also is endangered by events outside the political-military sphere of major powers. The advances of modern technology have reduced the time and spatial distances between peoples and nations to relative insignificance. In so doing, it has increased the magnitude and importance of interaction among nations—and we are no longer immune from this interaction.

The problems of energy, material resources, environment, employment, inflation, population, hunger, disease, and illiteracy; the question of the uses of space and the seas; and the trends in nuclear proliferation and terrorism—all these issues threaten the national security of our country as much as the possibility of nuclear confrontation with the Soviet Union.

The international economic system created after World War II has shown itself to be inadequate for addressing the changing patterns of economic development and the increasing interdependence among nations.

Both the developed and the developing countries agree on the need for major changes in the existing international economic and political system. This process of renegotiating the world order already is underway in a variety of forums, where a

changing political climate is evidenced by the demands of the developing nations for a greater role in global decision-making.

We are compelled to recognize that no one nation dominates the international scene. Our relations with the developing countries are fast becoming a major element of our foreign policy.

It also is clear that the importance of America's economic relations with developing countries continues to grow. Our nation sells more of its goods to developing countries than to the European Community, Eastern Europe and the Soviet Union combined. And developing countries provide us with both critical raw materials and essential consumer goods.

With only six percent of the world's population, we consume nearly 40 percent of the world's resources. By 1985, the United States will depend on imports for more than one-half of our supplies of nine out of the thirteen critical minerals necessary to maintain our industrial economy. By the year 2000 we will be dependent primarily on foreign sources for our supply of each of the thirteen critical raw materials.

The demands of the developing countries and the requirements of the developed countries are a permanent feature of our evolving international relations. And how we respond will have a major impact on world peace, prosperity and stability for decades.

The major decisions in the world no longer can be made by a handful of Western leaders sharing a similar view of the world. These decisions increasingly are made in global forums, unwieldy in their size and torn by radically different perceptions of the world.

The inability to reach agreement at the protracted Law of the Sea Conference is just one example of likely future frustrations the industrial nations will suffer if they refuse to understand the concerns of developing nations and encourage their cooperation.

Failure, frustration and stalemate on vital issues will persist until we change the very nature of our decision-making process to reflect the democratization of world leadership.

The industrial nations quite understandably are reluctant to accept major changes in the present world system of relatively free trade and capital movements under which they have done so well for so long. However, it is equally understandable why the developing countries, frustrated so often in their attempts to improve their standards of living, are convinced that the current economic system has worked to their disadvantage.

The poorer countries no longer are willing to be dependent upon foreign aid alone for their progress, particularly where this assistance is subject to the uncertainties of the political climate in the richer countries. Instead, they want a more predictable foundation for their economic growth through the assurance of reasonable prices for their exports and guaranteed access to the world markets for their goods.

In essence, the developing countries are insisting upon a genuine commitment by the industrial nations to the principle of economic equity among all nations.

But the demand for change—yes, fundamental and radical change—has been coming. It is like a gathering storm and it has now arrived in all its fury. We have hoped that it might pass away or that minor adjustments would be sufficient to weather the storm. This is understandable. Change does not come easy. And change on a global basis is threatening, unsettling and revolutionary.

But the fact is that the balance of this century will continue to be a period of incredible, massive change in political, economic and social institutions.

The question is, will we, by our positive efforts, help to direct and affect this global upheaval in a direction consistent with our

values and beliefs. Or will we merely resist it? Will we design our future, or will we simply resign ourselves to it?

If the United States is to develop an effective, positive response to the demands of the less developed nations, we must first undertake some basic changes in our own thinking. These changes are likely to be far more difficult than devising the particular vehicles to implement economic and social reforms.

The first required change in our outlook is to recognize that we are not necessarily dealing with situations in which one side must lose for the other to gain.

For example, commodity agreements can stabilize prices and assure the supply of critical raw materials to the benefit of both producers and consumers. Resource transfers can help developing nations and also mean more exports of U.S. goods, and thus more jobs at home.

Second, we must understand that it is highly improbable that the developing nations will develop as did the West. There simply are not the resources, least of all the cheap energy, that will permit little copies of the United States to spring up around the world.

Perhaps the hardest adjustment in our thinking is to face the fact that our own society is likely to undergo far-reaching, even drastic, changes in the next few decades—quite apart from the demands of the developing countries—as we attempt to adapt our own lifestyle to a more realistic planetary scale.

The wastefulness that has been characteristic of our country cannot continue. Conservation must become priority national policy—both public and private.

This is the economic side of the concerns which we face. However, it is the human dimension of these problems which is even more threatening.

Today, there are 700 million adults in the world unable to read or write.

Today, there are 1.5 billion people in the world without effective health care.

Today, more than 500 million people in the world suffer from severe hunger and malnutrition.

And without a major effort by the international community, some 800 million of the world's poorest cannot expect any improvement in their condition of life for the rest of the decade.

These are some of the facts of our time. And these cruel, ugly facts are as threatening to our future as an uncontrolled arms race. These are time bombs which threaten global peace.

As Pope John XXIII so dramatically emphasized:

"In a world of constant want, there is no peace . . ."

Therefore, we must be as willing to respond to these threats as we are willing to face these of military aggression.

Last year the development assistance programs of the entire free world to the developing countries totaled only \$17 billion. In the same time span, more than \$285 billion was spent in the world for guns, bombers, and missiles.

The question we must decide is whether or not the conditions of social and economic injustice—poverty, illiteracy, and disease, are a real threat to our security. I think they are.

And they require the same commitment of policy, will, and resources as our so-called conventional national defense.

World hunger cannot be solved merely by American charity, but by technology and improved production of food and fiber on a world-wide basis. It can be done.

Disease can be conquered or at least its ravages minimized. The modern world knows how to do this if we have the will and provide the means.

The basic changes in our international financial institutions, which were designed for a world of yesterday, can provide much of the capital which is needed for development.

A war-torn Europe was rebuilt by the Marshall Plan. Yes, planning, resources, and management accomplished its goal.

A highly nationalistic Europe was brought together in the European Economic Community by strong political leadership, motivated by economic necessity.

It is possible to make changes. We have demonstrated there are few, if any, physical or technological barriers that this country is incapable of overcoming, provided that we are willing to make a national commitment to do so.

And remember, we are not alone.

There is a whole world of skill, talent and resources that must be called to the task.

What is needed is American leadership that understands and proclaims interdependence—the simple fact that we need each other; that no one is safe until all are secure.

What an exciting time to be alive. The frontiers of science and technology are always being pushed forward. But it is in the political, economic and social fields where mankind's ingenuity and inventiveness must now be directed.

Who are we to be afraid of trying? Experimentation and change are a part of the American character and of our history.

The message of the United States is not nuclear power, arms sales, and resistance to change. The message of the United States is a spiritual message. A statement of high ideals and perseverance in their achievement. It is the message of human dignity; it is the message of the freedom of ideas, speech, press, the right to assemble, to worship, and the message of freedom of movement of peoples.

It is the message of the Bill of Rights. It is the message of the Declaration of Independence where we boldly proclaimed to a world dominated by monarchs and tyrants that "all men are created equal, endowed by their Creator with certain inalienable rights, and among these are life, liberty and the pursuit of happiness."

This is the message of America. This is the source of our power. This is the source of our strength.

Our nation's security lies in the strength of our people—our people at work, in prosperous communities, in sound mental and physical health. This is where our true national security lies. This is the source of our strength—moral, political and economic.

America's leadership and concern in the area of human rights can't be exclusive, restrictive, or narrow in definition. For what are your human rights if you have no job? What are your human rights if your children are hungry? What are your human rights if you have no opportunity for education? What are your human rights if you are forced to live in decaying slums?

America must champion all human rights, be they economic, social, or political. In essence, our democratic institutions are threatened by an acceptance of the blight of poverty in a nation characterized by its tremendous wealth.

Yet, this concern does not stop at our nation's shores. We cannot proclaim democracy, social and economic justice at home and abandon these principles abroad.

We have made significant strides in recent months. Support of human rights has become a central tenet of American foreign policy.



A sense of moral values should be an imperative of our foreign policy. Unless it is, we will find it difficult to gain the support of peoples around the world who look to us for moral support in their struggles for freedom.

While it is true that we don't have the right to interfere in the internal affairs of another country, this does not mean we should not remind the world that human rights are of the highest priority of our government and our people, and that our policies will be directed accordingly.

When our Founding Fathers met here in Philadelphia two hundred years ago, they gave us and the world a set of promises—promises toward a more perfect, not the perfect union. America is a promise and a hope in the minds and hearts of all those who cherish liberty, justice and opportunity.

We live by hope. We do not always get all we want when we want it. But we have to believe that someday, somehow, someday it will be better and that we can make it so.

Surely we will not succumb to the predictions of the naysayers.

America will provide world leadership by drawing on its greatest strength—the common sense of its people. And we will turn challenges into accomplishments and idealism, crises into opportunities, and problems into progress.

My message to you today is simply this. We face great problems in America and in the world today. But, we can, and we will, overcome them.

We can launch a global assault on the historic plagues of mankind—the bondage of hunger, disease, and illiteracy—if we have the will to do so.

And as we do, we will move closer to fulfilling the promise of America—a life with dignity in the pursuit of happiness in a free society for our own people and for those throughout the world.

As Franklin Delano Roosevelt so dramatically noted during one of the darker periods of our nation:

"The only limit to our realization of tomorrow will be our doubts of today. Let us move forward with a strong and active faith."

#### NATIONAL SMALL BUSINESS WEEK

Mr. DOLE. Mr. President, the week of May 22-28 has been designated by President Carter as National Small Business Week. In Washington and across the country, the week will be marked by speeches and ceremonies noting the important social and economic role of independent business.

In addition, the Small Business Administration—SBA—selects a "Small Business Person of the Year" in each State at this time of the year. Kansas' 1977 representative is Mercurio Mascorro, president of the Grain Spouting and Elevators of Kansas, Inc. of Hutchinson, a manufacturer of grain elevator material, handling equipment, and air pollution devices.

Each one of the winners is an individual who has made a success of his business, while at the same time receiving aid or benefit from the Small Business Administration. Generally, he is an individual who has built his business from a meager beginning into a successful proprietorship.

Mr. Mascorro, or "Merk" as he is known, truly exemplifies this criteria as he is a Spanish-American who started from scratch in Hutchinson and made

such a success of his grain spouting and elevator business that he won the honor of representing all small businessmen from the State of Kansas.

Of course, not only "Merk" but all small businessmen can feel honored this week and all year long, for they are truly the backbone of the American free enterprise system. According to SBA statistics and definitions, 96.7 percent of Kansas businesses are small businesses and they account for 55 percent of the total Kansas business employment.

In 1976 in Kansas there were 4,628 small business manufacturers; 2,696 of them employed fewer than 10 persons and 1,296 employed between 10 and 49 persons. According to the U.S. Chamber of Commerce, every 100 manufacturing jobs create 69 employees in other fields such as service and retailing. This serves as one example of how a small manufacturer can contribute to a town's economic growth by bringing more people to an area and getting those people involved in various jobs and activities in the community. Of course, this is true for all small businesses, not only manufacturing.

However, since this year's winner of the "Small Business Person of the Year" award is a manufacturer, a look at a few other manufacturing statistics and what small manufacturers can do for a local community would be appropriate.

The role of small business according to the most recent comprehensive Kansas SBA report from April of 1975, every new 100 factory workers brings a total of 359 more people to an area, 97 more households, 79 more schoolchildren, \$490,000 in bank deposits, and one more retail establishment. It also increases retail sales per year by \$565,000, employs 68 more people in non-manufacturing jobs, and increases personal income per year to a total of \$1,336,000.

Clearly, the social and economic importance of small business to American society is evident. Just as small business plays a major role in the economic health of Kansas, it occupies an important place on the national scene. There are a total 13 million businesses in the United States and about 97 percent of those are small businesses.

Small business accounts for 43 percent of the gross national product and 48 percent of the gross business product, excluding Government and farm portions. In addition, small business provides for 55 percent of the total U.S. employment, less farms.

It can be said that either directly or indirectly, small business accounts for the livelihood of 100 million Americans.

Another important fact about small business is that the number of small businesses has increased annually without interruption for the past 30 years. This trend shows the promise of a bright future for small business, and certainly for America. With more Americans getting involved in business for themselves and becoming part of our free enterprise system, the country can only continue to grow and prosper if only the Congress has enough wisdom to create a healthy atmosphere for small business.

It is evident that small business plays a tremendous role in keeping America growing and improving. Small business provides jobs for Americans which leads to improvement of the surrounding society, which in turn helps the economy and the Nation.

I view small business as the backbone of the Nation's business world. Let us honor the small businessman not only during this specially designated week but all year long, to show him how much we appreciate what he has done by supplying jobs for America's people and economic growth to the Nation.

#### RURAL HEALTH HEARING

Mr. CLARK. Mr. President, on March 29, the Senate Rural Development Subcommittee conducted a hearing in Washington on the subject of medicare reimbursement for rural health clinic services. The hearing was a useful tool to gauge the impact of a restrictive medicare policy upon health care delivery in small towns and rural areas.

Witnesses from every corner of the Nation told the subcommittee that medicare should permit payment for primary care services provided by nurse practitioners and physician assistants. Their testimony, and that submitted by hundreds of persons from across the country, gave us a better understanding of the type of corrective legislation that is needed to remove a clear inequity from the medicare program.

In order to assist the Senate Finance Committee in its deliberations on this matter, my staff has written a report that summarizes the proceedings of the March 29 hearing. The report concludes with several recommendations for changes in S. 708, a bill that Senator LEAHY and I have introduced and that now has 51 other cosponsors.

The major recommendations are:

First. The term "physician extender" should be changed to "primary health care practitioner."

Second. Payment for rural health clinic services should go to the person or entity with responsibility for the provision of clinic services.

Third. Payment should be allowed for primary care services provided by physicians, in addition to those provided by primary health care practitioners.

Fourth. The term "clinic" should also encompass physician practices that utilize primary health care practitioners either onsite or in satellite settings.

Fifth. Provisions that deal with physician supervision should be clarified to emphasize that it involves arrangements for protocols for medical care and treatment and periodic review of medical services.

I ask unanimous consent that the entire report be printed in the RECORD, so that my colleagues will benefit from the insights we gained through the rural health hearing.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

SUMMARY AND RECOMMENDATIONS OF THE SENATE RURAL DEVELOPMENT SUBCOMMITTEE HEARING ON RURAL HEALTH CLINICS

SUMMARY

Background

Field hearings by the Senate Rural Development Subcommittee conducted in Iowa and Vermont last year disclosed a common problem with health care in rural communities. Small clinics staffed by nurse practitioners and physician assistants are not reimbursed for their services by Medicare. As a result, these clinics, whose income will always be marginal, may have to close when private and public sources of funding end. For some clinics in Appalachia and the South, that day will come this year.

S. 708 would amend the Medicare Act, Part B, Supplemental Medical Insurance to include rural clinic services. The key elements of the bill are as follows:

1. The clinic itself, rather than any particular provider within the clinic, would be reimbursed for primary health care services.

2. The reimbursement would be based upon the costs—rather than charges—of providing those services.

3. While S. 708 does not require the continual presence of a physician at the clinic it does allow reimbursement to clinics where physicians and other primary health care practitioners are simultaneously providing care.

4. The clinic must serve a rural, medically underserved population.

Dick Warden, speaking for the Department of Health, Education and Welfare, pointed out that in most states, the supply of physicians concentrate in Standard Metropolitan Statistical Areas (SMSAs). Figures collected by the Department show that of the 45.7 million persons who live in areas designated as medically underserved, 31.6 million—or fully two-thirds—live outside SMSAs. Others noted that urban residents of such areas experience inconvenience, but travel is not as great a problem as it is for rural residents of underserved areas.

To address the problem, over 500 of the 3400 rural medically underserved areas have organized small clinics with the help of public and foundation grants. Urban areas have an additional 225 clinics. These clinics are staffed by nurse practitioners and physician assistants who are trained to provide primary health care under some type of physician supervision. In some clinics, doctors also staff the clinics.

Vernon Wilson, Vice Chancellor for Medical Affairs of Vanderbilt University, challenged the DHEW suggestion that urban be included within this legislation. Speaking from Tennessee's experience with 70 such clinics, Wilson felt "that in fact rural clinics take a different kind of approach to the medical care problems; and to confuse the two would wind up doing neither as well as it should be."

Others, speaking on behalf of the "rural only" position, cited experience with other federal programs that permit urban and rural mix. In those cases the sophistication of users of urban programs helps them to get most of the benefits.

One physician, Dr. Corbett, who is practicing in a network of rural Virginia clinics, explained that Medicare should pay for what is provided, not who provides it. In his opinion reimbursing both urban and rural clinics would increase the supply of care in the cities and force the physicians to move out to the more rural areas in order to avoid intense competition. Ms. Dykstra a nurse practitioner, cited the North Carolina experience to counter this suggestion.

Opponents of urban also cited the need for more and tighter regulations if urban clinics were included, referring to the recently publicized information on "Medicaid Mills." Dr. Pickel, a practicing Iowa physician pointed

out that "a satellite in the city is not a good thing; there is too much temptation for over-utilization."

Definition

The terms "physician extender," "supervision" and "clinic" drew heavy reaction. None of the professional groups liked the term "physician extender." Alternatives proposed were: "nurse practitioner and physician assistant," "clinical nurse practitioner and nurse clinician," "health care practitioners," and "non-physician primary health providers."

The term "supervision" stirred mixed reactions. In all of the states, in all of the clinics represented, there was some physician participation in the care rendered by extenders. In none were the physicians required to be physically present when services were rendered, directly overseeing the care provided. Yet participation of both the physician and the physician extender in the preparation of protocols, or standing orders, was favored by all the witnesses, except the representative of the AMA, Edgar Beddingfield, M.D. In his opinion, the protocols would be prepared by the physician. Many of the witnesses pointed out that some of the services provided are nursing services, that can legally be offered without physician supervision. All agreed that the bill should in no way require direct oversight by physicians of all care needed in the clinics.

All of the witnesses were in favor of insuring that the clinics exercised some type of quality control. Many suggested internal audits, or audits conducted by local teams. Several echoed the recommendation of Eugene Corbett that the physician should be available to the clinic when help was needed. Dr. Ewell from Oregon included for the record the standards for his state, which spell out the type of relationship between the nurse practitioner and the method of quality control to be applied.

The question most frequently asked about the word "clinic" was whether or not it was intended to include a private physician's office. None of the witnesses objected to the specific requirements for clinic services, except the American Medical Association, which argued that this was creating a new and artificial provider. Instead, AMA asked that the bill simply expand the definition of physician to include the services of nurse practitioners and physicians assistants provided under the supervision of physicians.

Clinic sizes

Representatives testifying on behalf of clinics cited towns of 5,000 and fewer in size. Oregon and Georgia representatives told of repeated attempts to attract and hold physicians in such towns, only to lose them to others that had hospitals and could support group practices. Iowans repeated the story and the nurse practitioners from Vermont stressed the fact that most of the care that was needed in these sparsely settled areas was of the nature that was best handled by a non-physician. Bob Ewell from Oregon confirmed their suggestion, pointing out that the utilization of the small clinics in Oregon actually increased when physicians were replaced by nurse practitioners, because the care became more appropriate to the setting. The distance to nearby and referring physicians ranged from 10 to 30 miles, increasing as the terrain became less a barrier. All of the clinics reported high populations of elderly patients—18 to 30 percent.

Impact

Faye Henning, a nurse practitioner from Georgia and Sally Sundberg, a consumer from Iowa, reflected one of the clinics' major benefits—care closer to home caused people to use more preventive health care services. Others suggested that this resulted in less frequent hospitalization among clinic users. John Runyan, M.D., of Tennessee, confirmed this with data from 26 clinics in Shelby

County. His data compare favorably with data from both Kentucky's Frontier Nursing Service and the Los Angeles County Health Department.

Cost of care

Average costs per visit reported by the witnesses were in the \$10 to \$15, with the higher costs reflecting inclusion of laboratory and prescription services. Most of the witnesses favored the cost-related reimbursement. However, Senator Bellmon proposed that the current Medicare rates be continued and increased from 80 percent to 115 percent for providers in rural medically underserved areas, as an incentive to attract practitioners.

Offering the benefit of their experience with cost reimbursement, Steve Canfield of UMW and Oliver Fifield of New Hampshire-Vermont Blue Cross/Blue Shield both agreed that this could be done with a minimum of paperwork. In the past year, Fifield has been reimbursing two clinics in Vermont on this basis. UMW has been in the business for 20 years, and from that experience, Mr. Canfield made several suggestions for controls on this type of reimbursement, i.e. including:

1. Compensation for personnel should be adequate to retain them in the rural area.

2. The reimbursing must have productivity standards—low productivity is the major hazard with this type of reimbursement.

3. Eligible costs should include continuing education, recruitment and quality control.

Cost of S. 708

The cost to implement this bill would vary with both the number of clinics and the scope of eligible areas. If it is confined, as written, to rural medically underserved areas, the FY 1977 cost would be \$20 million, according to estimates from the Social Security Administration. By 1982, the number of clinics would be expected to increase to 950, and the costs to \$60 million. If the DHEW recommendations to include urban MUA clinics is accepted, the FY 1977 cost would be \$25 million for 725 clinics, and the number of clinics would increase to 1,952 by 1982, costing \$115 million.

Both estimates took into consideration the fact that physicians' offices would want to qualify as "clinics" and apply for cost reimbursement.

Recognition of physician extenders

The two exams proposed for credentialing of physician extenders under the bill troubled a number of the witnesses. Nurse practitioners complained that the ANA exam is given infrequently, only in major population centers, and excludes those who have not specifically trained as family or adult practitioners (such as pediatric nurse practitioners). Physician assistants were content with the American Academy of Physicians Exams, but were concerned that they would not be eligible for reimbursement until the date they passed the exam. Most witnesses favored deference to state laws in this regard. An exception was DHEW, which preferred crippled the concept of some minimum standards.

Other Suggestions

Many of those who testified requested that be set by the secretary. All witnesses supported home visits and nursing home visits be included as eligible for reimbursement when performed by a nurse practitioner or physician assistant.

RECOMMENDATIONS

The March 29 hearing allowed the Rural Development Subcommittee to hear from citizens on ways in which S. 708 should be improved. We conclude that S. 708 should be enacted as a separate piece of legislation, distinct from other Medicare reform legislation, and exclusively directed to rural, medically underserved Americans.

We further recommend that S. 708 be



modified, or committee report language be included, to clarify the following issues:

1. Throughout the bill, the term "physician extender" should be replaced by "primary health care practitioner".

2. Report language pertaining to page 1, lines 6 and 7, should state that payment for rural health clinic services should go to the person or entity with responsibility for the provision of clinic services.

3. Page 2, line 5 through 11 should allow payment for primary care services provided by physicians, in addition to those provided by primary health care practitioners.

4. Page 2, line 12, should be clarified in report language, so that a "clinic" would also encompass physician practices that utilize primary health care practitioners either on site or in satellite settings.

5. Provisions on page 2, lines 16 through 25, that deal with physician supervision should be retained, but clarified in report language to emphasize:

(a) That supervision would not require the physical presence of a physician where care is rendered; and

(b) That supervision should take the form of arrangements for standard orders for medical care and treatment and periodic review of medical services.

6. The bill should be amended on page 3, line 22, to state that clinics receiving reimbursement in areas that lose their designations as "medically underserved" should continue to receive reimbursement.

7. The bill should be amended on page 4, line 6, in the following two ways:

(a) Reimbursement for primary health care practitioner services should be permitted prior to full certification of the practitioner, in states where services may be provided by those practitioners; and

(b) The Secretary should review the certification requirements one year from the date of passage, and if necessary to insure high quality health care, set new standards of eligibility.

#### THE TERRORIST SITUATION IN THE NETHERLANDS

Mr. CASE. Mr. President, the situation in the Netherlands, where South Moluccan terrorists are holding school children hostage, is becoming increasingly outrageous. Terrorism in any form is deplorable. It is even worse when the target is school children, of whatever nationality. I have not followed in detail the cause of the Moluccans, but I can say that they are hurting, not helping, their cause. My deep sympathy goes to the children, their families and friends.

The incident shows the dangers of having let the virus of terrorism grow. It underscores the need for the civilized nations of the world to continue working toward bringing the problem under control.

I ask unanimous consent to place into the RECORD an editorial from today's Baltimore Sun on the subject.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

##### DESPAIR AND TERROR

When the siege of school and train in the northern Netherlands is ended and the fate of the few terrorists resolved, the Dutch will need to think fundamentally about the position of the Ambonese or South Moluccans in their midst. So will the leaders of that isolated community.

The whole world knows the destructive power of a nationalism unappeased. A particularly painful variant is the nationalism for which there is no place, the enduring dream of the nation which never was and cannot be. Such is the cause of the Republic of the South Moluccas, for which young men born in the Netherlands are prepared to die and to kill.

The people on Ambon in the South Moluccas, between New Guinea and the Celebes in eastern Indonesia, were created by empire from other ethnic groups. More Westernized than most, many became servants of the empire, officials and soldiers of the Dutch administration. Twenty-seven years ago, ex-colonial troops on Ambon mutinied against the troubled new giant of Indonesia and declared the Republic of the South Moluccas. A summer of destructive fighting put them down. The Netherlands took some 13,000 as refugees. What the Indonesian regime saw as the cancer of Moluccan nationalism was removed.

Too Dutch to be Indonesian, too Moluccan to be Dutch, these people clung to a refugee camp mentality even after spreading into the countryside near the town of Assen in the northern Netherlands, where their numbers have grown to 40,000. The Netherlands like other fallen empires has assimilated with varying ease people of different hues and cultures, from places it once ruled into the cosmopolitan culture of its cities. The Ambonese stayed near Assen without fitting in, dreaming of return to the islands where the younger ones have never been.

For the elders, nurturing the national dream holds off despair. For youths thus discouraged from facing Dutch realities, it creates despair. This most recent of several outrages of terrorism disturbs a broader peace. The terrible threat against innocent children provoked the possibility of retribution against the Ambonese neighbors innocent of terror.

It is time for those who kept the illusion of a South Moluccan nation alive to admit that they renounced Indonesia for a Dutch haven for themselves and a Dutch future for their children. Dutch leaders and Ambonese elders alike must encourage the young to full participation in Dutch national life, to avoid more horrors such as this one.

#### SMALL BUSINESS WEEK

Mr. CHAFEE. Mr. President, it is appropriate that this week is set aside to honor the outstanding contributions of the American small business community to our economy and our way of life.

The enterprising spirit of our independent small businessmen and women accounts for 95 percent of the businesses in the United States, and provides over 55 percent of our labor force with jobs. In addition, it is responsible for a substantial amount of the technological innovation that keeps American firms viable in domestic and world markets.

Mr. President, I would like to extend special congratulations to Mr. Samuel Forte, Rhode Island's Small Businessman of the Year. Mr. Forte is president of Fort, Inc., a jewelry manufacturing firm in East Providence, R.I. In 32 years, his company has grown from a 3-man operation to the 180 men and women who are employed there today.

Mr. Forte was selected for this distinction by the U.S. Small Business Administration because he exemplifies the spirit and qualities that small business contributes to America.

Also, Mr. President, I would like to commend the Senate Select Committee on Small Business for its legislative leadership and support of the small business community.

#### ADDRESS BY ACTION'S SAM BROWN TO THE WOMEN'S NATIONAL DEMOCRATIC CLUB

Mr. KENNEDY. Mr. President, recently I had the opportunity to read a significant address made last April by Sam Brown, Director of ACTION, to the Women's National Democratic Club.

Mr. Brown's remarks are inspiring to all of us who believe in ACTION and its concept of volunteer service at home and overseas, and who have worked in recent years to keep its programs alive.

Now, there is fresh cause for optimism. Under the leadership of the Carter administration and Mr. Brown, ACTION is coming in from the cold, and I look forward to a new era of activities and initiatives in its many vital programs.

In the course of his remarks, Mr. Brown speaks at length about the record and opportunities of the Peace Corps. Of special interest is his discussion of the role of the Peace Corps in helping to define the emerging concept of "appropriate technology" in foreign aid. As Mr. Brown states, the collective experience of the thousands of volunteers over the past 16 years is now being compiled in a series of monographs and manuals that are causing a "quiet revolution in international development."

Mr. President, I believe that Mr. Brown's remarks will be of interest to all of us concerned about ACTION's programs, and I ask unanimous consent that his address may be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

#### REMARKS BY SAM BROWN BEFORE THE WOMEN'S NATIONAL DEMOCRATIC CLUB, APRIL 14, 1977

Good afternoon. It is a pleasure to be back at the Women's National Democratic Club where I last spoke seven years ago.

I got a letter the other day from a volunteer who had served two years in India. He suggested I could relieve the tensions of the job through "sitting meditation." "It will do wonders for your head," he said.

No wonder I feel at home with the Peace Corps, I thought. The one way in which I don't feel quite at home is the size of the budget. At \$200 million, it is enough for rounding error at the Pentagon. By the standards of the anti-war movement, it would have been enough to stop the fighting in 1967.

But the war is over and I am at ACTION. And ACTION is more than the Peace Corps. It is the federal agency which promotes and supports the concept of voluntarism as well as the actual delivery of services through volunteers. The diversity of the agency's 10 programs allows for part- or full-time service for up to two years, with some people serving on a stipend. Domestically more than 230,000 Americans currently serve. People like Foster Grandparent Pearl Williams, our oldest volunteer who will celebrate her 108th birthday in May.

Whatever their programs or wherever they happen to serve, these volunteers have one

thing in common: they are working to alleviate the enormous human burdens of poverty, ignorance and powerlessness which are endemic to most of the world, including our own country.

Since its controversial inception in 1971, ACTION has come under increasing criticism for not being responsive to the constituencies which it is supposed to serve. Programs have been branded as being unnecessary duplications of successful locally-based efforts. ACTION leadership has been accused of trying to do away wholesale with programs for the aging, for having politicized the agency staff and for making the Peace Corps and VISTA prime candidates for the headman's axe.

I reserved most of what I had heard for judgment after my appointment. Now, after a month and a half of learning by doing, I know that ACTION has been badly mismanaged; its effectiveness dulled. Many of its programs have suffered from neglect and, at times, active management antagonism.

The agency has been over-organized to the point where it operates like a person with advanced arteriosclerosis. The free flow of ideas is constricted; communication among offices inevitably destined to short-circuit.

This is the direct result of the hiring and personnel practices initiated soon after the election of 1972. As detailed in a recent report on reform of the Civil Service by a group of public interest lawyers, there was a concerted attempt to gain political control of ACTION. The guiding premise was "you cannot hope to achieve policy, program or management control until you have achieved political control. This is the difference between ruling and reigning."

The most popular method of carrying out this cynical directive was through "layering." New positions were added to duplicate and supersede the functions performed by employees who were not considered "members of the team." In what must have been a record of its kind, 61 new positions were created like this in one day.

No wonder ACTION programs have been criticized. No wonder the morale of the agency has been very low. I believe that President Carter's commitment to revitalizing ACTION's programs—programs that best represent the contemporary spirit of idealism among Americans—has picked up that morale, and so it should.

So I've been talking to people both inside and outside ACTION to find out what's going on. How they feel. What the reaction has been to the change in leadership. At this point, ACTION's Deputy Director, Mary King, and I have met with almost half of the Washington employees in roundtable discussion groups of about 20 people each. These sessions have been very helpful. People seem to be excited about the changes they think can happen now.

ACTION is full of good, dedicated people who have strong ideas on what should be done to strengthen the agency and further its programs. They've got ideas about revitalizing the Peace Corps; about opening up the lines of communication with other federal agencies; about our domestic programs. The roundtables have been invaluable in helping to judge the health of the agency as well as the general public's interest in what is going on. The mail room tells me, for instance, that the volume of correspondence to the director's office is running three to five times heavier than under my predecessor.

This tells me that there is an enormous reservoir of good will and interest in ACTION programs. People are ready to be turned on again to the idea of voluntarism. They want to participate and I intend to help them do it.

A lot of my time has been spent searching for the most qualified people to run VISTA, the Older American programs, the Peace Corps, and our other programs. These appointees will reflect the diverse constituencies we serve. We are committed in our hiring to affirmative action at every level of responsibility, not because it is a federal directive, but because it is the best way to find the people who can make our programs more responsive and effective.

To keep them from working in a vacuum, a major review of our domestic volunteer programs and the management systems which support them has been initiated. This review, which has the direct support of the President, has two purposes: (1) to inventory existing programs as they relate to community needs; and (2) to review the current status of agency structures and systems in the field. The information generated will enable us to make better, more informed decisions about the substance of future programs and how best to implement them. As President Carter has said, "The combination of efficient management practices with the understanding and compassion of the volunteer spirit is not incompatible."

The review will be conducted by citizens' review committees in each of our 10 regions. Members will include seven or more local individuals familiar with the broad spectrum of regional volunteer projects, both urban and rural. Three of them will be officials of ACTION-sponsoring organizations.

These groups will be served by a staff of three, one of whom will be on detail from Washington and who will serve as liaison. The other two staffers will be from the local region. The committee members and their staffs will review a variety of volunteer projects. Simultaneously, members of 10 of the nation's largest, most reputable management consultant/accounting firms, donating their professional services in the public interest, will review systems now operating at the regional level to determine their effectiveness, efficiency and responsiveness to program purposes and needs. Project reports will be on my desk by June 1.

I want to stress that this entire project is designed to let us know what is out there; what our strengths are and where our weaknesses lie. It is not a witch hunt but a positive attempt to build for the future. It stems from the conviction that revitalized ACTION programs which reflect our strong national heritage of voluntarism can be a force for constructive change in thousands of communities and neighborhoods and institutions across America.

On the international side, the Peace Corps is in a state of flux after almost eight years of hostility from the previous administrations. Yet the basic idea has managed to survive, despite the lack of White House support. Now, with President Carter's active backing, it is on the verge of revitalization.

In my five trips to testify before the Congress to date, I have received a very cordial reception from the Senators and Representatives who have defended the Peace Corps through the years; who have restored its budgets when they have been cut; who have assured its existence when it has been threatened. The interest on the Hill for a renewed Peace Corps is substantial. But it must be a renewal which acknowledges the dramatic economic, social and political changes which have occurred in the world during the 16 years since the Peace Corps was founded.

For too long, emphasis at the Peace Corps has been on the highly trained professional person as the ideal answer to the requests by developing countries for increasingly sophisticated volunteer workers. Aside from

the fact that recruitment for these types of volunteers was extremely difficult, their performance in the field was not the unqualified success ACTION leadership had predicted it would be. The problems of adjustment, job satisfaction, living conditions, professional advancement and the like served to point up the gap between expectation and reality.

So now we find ourselves at a turning point in the history and fortunes of the Peace Corps. Confronted with markedly changed global realities, we must recruit a volunteer population which can be as flexible as the traditional generalist but as technically able as the recruited professional. And these volunteers must be fully cognizant of and responsive to the interdependent nature of today's world. It is a difficult task but one we can accomplish through a realistic evaluation of our past achievements and our future goals.

This summer the Peace Corps hopes to place 2,700 volunteer trainees throughout the 64 countries where its programs function. This is the highest number of requests from host country governments we had in the last five years. Several weeks ago I asked the staff at Peace Corps if it would be possible to top this goal for the summer by 500 additional trainees, an 18 per cent increase. Their response was terrific and the eagerness and intensity with which they tackled the job very reassuring.

The review and planning for the future of the Peace Corps involves a good deal of looking at our 16 years of experience in international development in a new way.

When the Peace Corps was founded by President Kennedy in 1961, there was immediate enthusiasm for the idea. The President struck a responsive chord in many. He was giving people the chance not only to do something for their country, but for other countries, too.

The head of the VFW cabled the President, saying, "This farsighted step in constructive Americanism will, we are sure, serve the cause of freedom and understanding among men everywhere . . ."

This was the sentiment of 16 years ago. Unfortunately, no one at the time had the faintest idea about the implications and long term effects of the intercultural experience.

The Peace Corps viewed itself strictly as a volunteer-sending organization. Its time and money were spent on selecting, training and supporting X-number of volunteers for a minimum of two years. Little comprehensive thought was given to utilizing the volunteer's specialized linguistic, cultural, technical, social and economic learning beyond the two-year term of service. Yet the collective experience of almost 76,000 past and present volunteers represents an enormous resource of specialized work in what is known now as appropriate technology.

Appropriate technology involves light capital investment and low maintenance costs, promotes local employment, utilizes local materials, is ecologically sound, and is compatible with the local culture and values. It is not massive amounts of money, sophisticated machinery nor complex technologies injected from foreign sources into countries which cannot possibly utilize them properly.

As a tool, appropriate technology has proven to be one of the most effective means of improving the quality of life among the neediest people in the world. To their credit, Peace Corps volunteers have been among its prime practitioners.

But the Peace Corps has rarely shared what its volunteers have learned with anyone, including itself. Now, however, an embryonic system has been devised to classify and review all Peace Corps-generated information concerning appropriate technology, from



teaching plans to technical designs to construction plans to manuscripts on the cultivation of dryland cereals.

It is significant that this system which is at once so powerful yet so simple an idea did not have the direct support of ACTION management. That it has been able to do so much with so little is indicative of the ability, the imagination, and the drive of the staff.

In a little more than 18 months, 20 monographs and several manuals have been published. And they are causing a quiet revolution in international development.

Other agencies are beginning to turn to the Peace Corps because of the tangible development information we possess. Significantly, none of these organizations, though they may fund millions of dollars worth of aid projects a year, have a network of people working in appropriate technology at the local level. This is the crucial difference between them and the Peace Corps.

It is why a manual such as "Small Farm Grain Storage," which is a compilation of the Peace Corps' experience worldwide in dealing with the problems of grain loss, is so valid. It contains successful, field-tested examples of appropriate technology as modified and utilized by volunteers in scores of countries over the years.

Since 75 percent of the world's grain remains in the areas where it is grown and up to 30 percent of this is destroyed each year by rats, mildew and other causes, widespread introduction of the appropriate technology in "Small Farm Grain Storage" could do much to alleviate one of the prime causes of world hunger. The farmer in Afghanistan and the one in Chad can be helped to solve their common problems in ways applicable to their common experience. This is fundamentally different development work from that which has built more fertilizer plants to produce more grain to feed more rats.

As the largest worldwide network of volunteers working in appropriate technology, Peace Corps is not a program for the marginal relief of the lower middle classes. It is a concerted fight against hunger, disease, ignorance and the other afflictions which bow down the world's poorest, neediest people.

The appropriate technology approach should not only make possible an improvement in the quality of life for the poorest people of the world, but should make possible a re-integration of the productive roles of women in developing nations. For example, small scale manufacturing enterprises, explicitly oriented to producing improvements which facilitate women's work, can be an important step in helping women to maintain or regain the roles they have traditionally held in subsistence economies.

The tangible contributions of Peace Corps can make to the solution of basic human problems are enormous. Not only abroad but at home. Appropriate technology is valid not only for our poor and hungry but for our dying cities and choking suburbs. In our rush to incorporate technological advances for their own sake, we have often not understood their potential impact on our culture. We have allowed our life style to undergo rapid and radical change without much regard for the side effects.

The perfect example of this is the development of waste disposal plants during the last 20 years. Popular thinking had it that with the expenditure of a few thousands or millions of dollars we could put up structures which would cleanse our rivers and streams overnight while they got rid of waste. Not true. What we bought with our money were hundreds of very efficient manufacturing plants. Nobody ever thought about the tons of sludge they produce annually. Now one of

our major ecological battles is to find ways to dispose of these sludge wastes.

Somewhere along the line we have got to begin to think things through in a more rational, deductive fashion. We have got to rid ourselves of our crisis mentality; a way of thinking that permits the paving over of an area equal to four states so we can drive bigger, faster and more energy wasteful automobiles while it lets a much more efficient form of transportation—the railroads—literally rot away.

We must begin to understand that appropriate technology is a two-way street from which we can derive very substantial benefits. This means we will have to get over our cultural arrogance that convinces us we are the only ones who can foster development. As long as we have ghetto dwellers who have more in common with street families in Calcutta than with other Americans, I believe we cannot afford such thinking.

There are numerous examples of the way in which this two-way developmental street operates. A tube well drilling program on an Indian reservation in Arizona and a mid-wifery program at Georgetown are direct, replicable offshoots of appropriate technology learned by PCVs in India and Africa.

I am not touting appropriate technology as an instant panacea for the world's ills. But I think it has great merit.

No longer can a volunteer in Nepal or one in Tonga be left to the microcosm of the individual experience. The volunteer is more than a one-on-one development worker. He or she has much to learn and impart through an informal communications network we are just beginning to understand.

Using this network to help people get control over their own lives is what the Peace Corps, VISTA and ACTION's other volunteer programs should be about. Appropriate technology is a key to that control.

Too frequently in recent years, people who have been fighting for control over their own lives have been accused of being unpatriotic. That simply isn't true. Patriotism is the struggle for social change. Patriotism in the 70's is a willingness to get back to work on the important human problems that we see all around us, both home and abroad.

In today's world the volunteer willing to dedicate a part of his or her lives to that work is the most patriotic of us all.

For those of you who want to come join us, we've got plenty for you to do.

#### SENATOR ROBERT C. BYRD MEETS THE PRESS

Mr. ROBERT C. BYRD. Mr. President, on May 22, 1977, I appeared on Meet the Press, an NBC television program. I ask unanimous consent that the transcript of this program be placed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD as follows:

#### TRANSCRIPT

Mr. HARTZ. Our guest on "Meet the Press" today is the Majority Leader of the United States, Senator Robert C. Byrd of West Virginia. Senator Byrd succeeded Mike Mansfield in January of this year as leader of the Senate Democrats and we will have the first question now from Judy Woodruff of NBC News.

Ms. WOODRUFF. Senator, earlier this year the White House seemed to be doing everything it could to pass the \$50 tax rebate proposal and then abruptly it was dropped. The President suggested maximum agricultural price support. Then under pressure he raised

them some more. And the President has strongly indicated at one time that he wanted to kill some 30 water projects and then he backed off on more than half of them.

With policy reversals like these in these early months, is the Administration developing a credibility problem with the Congress?

Senator BYRD. I don't think so. I think it indicates that Mr. Carter is flexible in the face of changing conditions. I think it might not have been wise to approach the water projects as was done but as to the rebate I believe it indicated that, in the face of the changing economic conditions, Mr. Carter was reasonable and flexible, and I think that at that time and under the circumstances he did the right thing.

Ms. WOODRUFF. Well, in addition to the energy legislation the White House has already sent to the Congress social security legislation, legislation to control hospital costs and you are soon going to be getting an environmental package, significant tax reform legislation, welfare reform legislation.

Speaker O'Neill has said that the White House is, in his words, throwing too many balls in the air at one time.

Would you agree that the President is trying to do too much, too soon?

Senator BYRD. He made a good many commitments during his campaign and he is trying to fulfill those commitments. Obviously, the Congress can only act so fast on the priorities that are sent up and Congress will take first things first, but I don't think the President should be criticized for sending up a good many packages.

I have also said the same as Mr. O'Neill that you can only put so much sausage in the meatgrinder at one time. It will only take so much. But he will pace his legislation, I am sure.

The tax reform legislation will not come up until next year, I don't believe, and welfare reform late this year so I am very well satisfied with the pace at which he is sending it up.

Ms. WOODRUFF. Well, the President has said he wants the Congress to complete action on tax reform this year in addition to the hospital cost legislation and social security.

How much of this can the Congress complete?

Senator BYRD. I don't think the President has said that the Congress should complete action on tax reform this year. That is going to be a massive bill. That won't be ready until next year. There may be some minor items of tax reform that will be taken care of this year, but we are going to take first things first and the energy legislation will be the top priority legislation.

Mr. BRODER. Senator, when President Truman fired General MacArthur there was a great uproar in Congress.

Do you anticipate any criticism of President Carter for relieving General Singlaub of his command?

Senator BYRD. No.

Mr. BRODER. What is your own attitude toward the firing?

Senator BYRD. I think he did what he had to do. And he didn't exactly fire him, he just relieved him of his responsibility as Chief of Staff in Korea. He will be reassigned somewhere else. I think he had no other choice but to do this.

Mr. BRODER. All the reports indicate that General Singlaub was just saying publicly what a good many other military men both American and Korean out there believe, that it would be a mistake to pull American troops out of Korea on the schedule the President has announced.

Do you support that troop withdrawal?

Senator BYRD. Yes, I do on the basis of a gradual withdrawal, as I understand it, and it will be over a period of 4 or 5 years. The exact modalities and timing of the withdrawal have not been determined. These will be discussed, as I understand it, within the next few days, but I agree that the time has come in view of the strong state of the Korean economy and the very strong forces that the South Koreans have, that it is time to withdraw our ground force role there. We are going to leave our air units there, and we are going to stand by our commitments to resist any attack upon South Korea.

Ms. ANGLE. Senator, you have already indicated that President Carter's energy package will be the top priority on the Hill for the moment. It appears the rebate aspects of that plan are in some trouble and you are one of those who has expressed reservations about the wisdom of rebating any gasoline tax or gas guzzler tax.

Do you think that part of the plan is dead?

Senator BYRD. I wouldn't say it is dead but I think certainly Congress ought to take a good look at the President's proposal. The President is showing flexibility in considering the suggestions that have been made with respect to utilizing the gas guzzler tax and possibly some of the other energy taxes for energy conservation projects. I think this would be a wise approach. I think that the rebate is a short-term benefit, whereas, if these taxes—if they are indeed enacted—are placed into energy conservation projects, they give the nation long-term benefits from the standpoint of environmental protection, employment, and also fuel conservation.

Ms. ANGLE. Don't you think most taxpayers would rather get the money back than see the government hang on to it for energy conservation?

Senator BYRD. Well, I am not sure that a rebate mechanism, except in the case of home heating fuels, is the wise way to attack our energy problem. I see problems with respect to giving rebates to purchasers of fuel-efficient cars. After all, we have a law that mandates fuel efficiency in the production of automobile engines. We would also have problems in connection with rebates on imported cars, so it seems to me we would avoid that problem and at the same time deal with the energy problem if we put these moneys into the rehabilitation of our railroads, into mass transit systems and so on, which are energy-conservation projects.

Mr. GERMOND. Senator, some of your colleagues, your Democratic colleagues in the Senate, particularly the liberals, Senator Kennedy, Senator McGovern, Senator Cranston—have been complaining about that. President Carter has his priorities on crooked, that he is giving too much attention to trying to achieve a balanced budget in his first term and not enough to social programs, to welfare reform, health insurance and the like.

What do you think about that? Do you think the balanced budget should be the first priority of this Administration?

Senator BYRD. I don't think the President has really said that a balanced budget will be the first priority. I think that he has made that a top priority. I can understand the feelings of Senator McGovern and Senator Kennedy, who have long shown concerns for various social programs. Mr. Kennedy is, in my judgment, the foremost expert in the Senate with respect to health and medical services legislation. He probably has his name on more legislation in that field than has any other Senator. I can understand his concern, and I must say I think there have been some changing signals that have come from the White House that have been confusing, but I think the President has now come for-

ward to say that he is going to send up a health insurance bill next year and it would seem to me that, all of these things being interrelated, the President should be commended on making a balanced budget a priority but at the same time he is not denigrating the necessity for phasing in some kind of health insurance program and other social service programs.

Mr. GERMOND. All of these programs, though—isn't he timing all of these programs so there will be no fiscal impact in the first term?

Senator BYRD. I think he is just being realistic. After all, the Congress can handle only so much legislation. We are going to try to deal with the energy priority legislation this year. This does not mean that there will not be other very important legislation that we will have to deal with, but at the same time, we cannot take tax reform, we cannot take welfare reform and do all these things the first year.

Mr. GERMOND. Do you think as a practical matter that he has any chance of achieving a balanced budget by 1981?

Senator BYRD. I think as a practical matter he has a chance. I think it will be pretty difficult to do it, but I commend him for at least having that as one of his goals.

Ms. WOODRUFF. Senator, would you agree with Federal Reserve Board Chairman Arthur Burns that inflation is a more serious economic problem right now than unemployment?

Senator BYRD. I think that inflation is a serious problem. Unemployment is a serious problem, but unemployment has an impact on inflation, so I think that the President and the Congress, the Democrat leadership in the Congress, are attempting to deal with inflation by lowering unemployment, by improving the economic growth rate, and by stimulating consumer and business confidence. All of these things have an impact on inflation.

Ms. WOODRUFF. If the President's rather modest anti-inflation program isn't working, isn't doing the job, say, six months down the road, would you foresee the President asking for and the Congress granting him broader powers to deal with inflation? For example, wage and price control authority?

Senator BYRD. Well, I think we have to wait and see whether or not the programs are working.

Ms. WOODRUFF. If they are not working?

Senator BYRD. I think the President's withdrawal of the \$50 tax rebate had as one of its bases the inflationary aspects. I think the President is dealing with this in a reasonable way, and Congress, I think, through its budget reform process, is also doing the same.

Ms. WOODRUFF. What if it doesn't work six months down the road?

Senator BYRD. Let's wait and see if it works.

Mr. BRODER. Senator, you have had occasion two or three times to chide the President semi-publicly for his failure to consult with Members of Congress. Do you think he has learned that lesson?

Senator BYRD. Yes, I think we have to keep in mind that this is a new administration. It has had virtually no experience in dealing with Washington. The President did not have any experience in serving in Congress as did a good many of his predecessors. It was trying—it had been trying to establish itself, and it has had the growing pains of any new administration. I think that he is a good learner; he is a good listener; and I think he is flexible, and I think he is reasonable, and I think some of the earlier problems probably can be understood and will not be repeated.

Mr. BRODER. You have used the word flexible I think three times now in describing him. What is the difference between a President who is flexible and a President who backs away whenever he sees a fight?

Senator BYRD. Well, of course, the implication there is that the President has backed away because of a fight. It might not be a bad idea to back away to avoid a skirmish today in order to win the war tomorrow.

I don't think the President has backed away, on the basis of the economic circumstances, and they do change. They were different in March from what they were last fall. The President, I think, did the right thing in withdrawing his \$50 rebate.

Now you can say he is flexible or inflexible or you can say he is backing away, but I think he did the right thing under the circumstances.

Mr. BRODER. Do we have congressional government in Washington today?

Senator BYRD. We have a tripartite system of government in which the legislative branch is equal and coordinate with the other branches of the government.

Ms. ANGLE. Senator, you have already mentioned the heavy list of bills that Congressmen deal with and the impossibility of getting all that meat through the sausage grinder this year. Couldn't Congress get a lot more done if it would spend more time in Washington? You are about to go out for a Memorial Day recess of 10 days, and there is the Fourth of July, and there is a month in August, and you are talking about quitting for the year in October.

Senator BYRD. I welcome that question. Congress also has a responsibility to go back to the people. It is the people's branch; it is the people's forum; and one of the reasons for these holiday periods is to allow Congressmen to get back to their home base and talk with the people.

Now, Congress is doing its work. Last week, the Senate enacted a military procurement bill in two days, and in the past we have seen that take six weeks or longer. It enacted the President's Department of Energy bill. It enacted a surface mining bill, and next week we will take up the farm bill.

In the final analysis, Congress will have a good record. We are going to deal with the top priorities. I have given the committees in the Senate every opportunity to meet and do the committee work, and now the bills are getting on the calendar, and we will get the work done, but Congress does have its responsibility to meet with, look the people in the eye, talk with them, and hear their concerns, and that is the purpose of these periods.

Ms. ANGLE. Well, don't many members spend those periods of nonlegislative work campaigning for reelection in one sense or another?

Senator BYRD. Well, I suppose it is a definition of terms, here. One always campaigns for reelection when he is in Congress. Every day. But in doing so, he is listening to the people; he is talking to the people; he is responding to their viewpoints and hearing theirs. One might call it campaigning, or one may call it whatever he wishes, but I think you would have to admit that the representatives of the people ought to get back and see the people.

During the last nonlegislative day period, I spent four days out of that whole period dealing with the flood problems of southern West Virginia, meeting with Federal agency representatives who have jurisdiction over programs to assist people in the flood stricken areas. That is just one example. Other members may catch up on the work in their offices; they may convene hearings either in



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Washington or in the country, but there has to be some time taken away from the Floor duties to do some of the other responsibilities of Members of Congress.

Mr. GERMOND. Senator, if there is anybody having more trouble with Congress this year than President Carter, it is labor. They were beaten on common situs picketing, apparently on the Hatch Act; they are not happy with the jobs program, don't think it goes far enough. They are not happy with the delay on health insurance. Now the AFL-CIO is spending close to \$1 million on a campaign for repeal of 14(b) of the Taft-Hartley Act right-to-work clause.

And your support to that would be critical to them. Do you think that is a do-able thing this year; would you support it?

Senator BYRD. 14(b) will not be called up in the Senate this year. It might be called up next year.

Mr. GERMOND. When did you decide that? Senator BYRD. Several weeks ago.

Mr. GERMOND. You just don't have the votes; is that it?

Senator BYRD. I didn't say that. I said several weeks ago, when the situs picketing bill failed of action in the House of Representatives, that I would not call up that bill at all, this year or next, but that—and that I would not call up 14(b) this year. It is simply a matter of priorities, as I have said repeatedly. We take first-things first. We have got to do the energy legislation. We have to do the Clean Air Act. We have to do the mine safety bill. We have to do the appropriations bills, and it is a matter of taking its place on the priorities. It may be called up next year.

Mr. GERMOND. Is your prime concern then a worry about a filibuster?

Senator BYRD. I think there is no doubt that there would be a filibuster, but that is not the prime concern. As I say, we have only so much time; we have a calendar crunch; and we are going to deal with first things first. That is not to say that labor is being neglected. We are going to also have up a bill dealing with the minimum wage.

As for the Hatch Act, that, as I understand it, is probably still going to be called up in the House.

Ms. WOODRUFF. How about the minimum wage since you brought it up? How much higher should it be than what the Administration has suggested.

Senator BYRD. The Administration has suggested I believe \$2.50. The labor leaders—Mr. Meany wants \$3.00. I think Mr. Dent in the House has introduced legislation that would make it something like \$2.80 or \$2.85. I think it will be something between \$2.50 and \$3.00 figure.

Ms. WOODRUFF. You disagree with the Administration proposal?

Senator BYRD. I simply say I think it will be somewhere between the two figures.

Ms. WOODRUFF. The White House just announced this week an agreement with Japan to limit import of television sets to 1.75 million a year. That agreement is to be approved by Congress within 90 days. Would you favor it?

Senator BYRD. It doesn't require approval by Congress, as I understand it. It is a matter that will go into effect if Congress does not disapprove it within 60 days. Yes, I favor the agreement. I commend the Administration on this agreement.

Ms. WOODRUFF. Does it sufficiently protect domestic television manufacturing—

Senator BYRD. I don't think it does. It goes a long way. It does reduce the number of completed sets and unassembled sets that will be brought in from Japan, which last year had 80 percent of the imports of television sets assembled and unassembled.

I think there is a possibility at least that predatory pricing may be going on, and I have asked the Attorney General to investigate the possibility of this unfair pricing charge that we have heard. So while the agreement doesn't deal with that, the Justice Department will be looking into it.

Mr. BRODER. Senator, you are from a great coal-producing state. Are the goals and timetables that the President has set for conversion of industry and utilities from oil and gas to coal practical goals?

Senator BYRD. I doubt that, under the circumstances, we can see the doubling of coal production by 1985. There are those who would disagree with me on that. I think there are environmental problems; there are problems in connection with railway transportation; there are problems in connection with the production, itself, at the mine.

In the face of these problems, while I think it is a goal that we ought to try to achieve—and I would not say it is unachievable—I think it is going to be difficult.

Mr. HARTZ. We have three minutes left. Mr. BRODER. If the coal program is probably unachievable, if the gasoline tax is probably not going to be passed by Congress, what is going to be left of this energy program?

Senator BYRD. The Congress will take a look at all of the President's energy proposals. It will make some changes therein, but we will enact an energy package. I think we have to understand that this package, while it is purportedly tough, is not going to deal with the energy problem in the long run. I think we are going to have to see Congress come back time and time again to deal with the energy problem as we see it develop in the coming years. I think this is a good starting point, and the President is to be commended with having come up with a comprehensive proposal.

Ms. ANGLE. Senator, we have already mentioned the fact that the Hatch Act revision is in trouble in the House. There is another part of Carter's election reform package, the instant voter registration, which seems to be equally under fire. Could either one of those bills get through the Senate today?

Senator BYRD. They couldn't get through the Senate today, but they might get through the Senate after some period of discussion.

Ms. ANGLE.

Senator BYRD. The Hatch has passed the Senate twice. Right now, the House, I think, is further along in its consideration of these measures. We don't even have the Hatch Act on the Senate calendar yet. As of now, we are putting other things ahead of it.

Mr. HARTZ. We have about a minute-and-a-half left.

Mr. GERMOND. I would just like to go back to Dave Broder's question.

You said Congress will take a look at the energy program, which would seem to me to be the minimum that you have to do.

Which element of that program, important elements are likely to get through, are there any of them?

Senator BYRD. Yes, and Congress is already moving in that direction. We will have the Outer Continental Shelf legislation coming along; we will have the coal conservation legislation coming along. We passed the cornerstone of the legislation this past week when we enacted the President's Department of Energy bill. The Finance Committee will be dealing with the tax aspects. The House Committee on Ways and Means, under the Constitution, certainly has first crack at that. Senator Jackson will be moving the other part of the legislation quickly. Hearings have already begun, and I see the Congress acting this year on the package.

Mr. HARTZ. I am sorry to interrupt but our time is up.

Thank you, Senator, for being with us today on "Meet the Press."

(This concludes additional statements submitted today.)

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

## LEGISLATIVE SCHEDULE

Mr. ROBERT C. BYRD. Mr. President, looking down the road following the recess, I think it would contribute to a more orderly legislative process and would alert committees with respective jurisdictions over the measures if at this time we could agree on a sequential ordering of certain measures which will be coming up following action on the Clean Air Act. I would suggest the following, and I propose my suggestion by way of a unanimous-consent request:

That upon the disposition of the Clean Air Act the Senate then proceed to the consideration of Calendar Order No. 152, S. 1340, the bill authorizing appropriations for ERDA; that upon the disposition of that measure, the Senate proceed to the consideration of Calendar Order No. 133, H.R. 5262, an act to provide for increased participation by the United States in the International Bank for Reconstruction and Development; that upon the disposition of that act, the Senate proceed to the consideration of Calendar Order No. 135, S. 1520, a bill to amend the Foreign Assistance Act of 1961.

This is all with the understanding that no time agreements are entered thereon, but that this is merely a sequential ordering of the measures.

That following the disposition of that measure, the Senate proceed to the consideration of Calendar Order No. 169, S. 1160, a bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act. That following the disposition of that measure, the Senate proceed to the consideration of Calendar Order No. 168, H.R. 6689, an act to authorize fiscal year 1978 appropriations for the Department of State; that upon the disposition of that measure, the Senate proceed to the consideration of Calendar Order No. 167, H.R. 6179, an act to amend the Arms Control and Disarmament Act; that upon the disposition of that measure, the Senate proceed to the consideration of Calendar Order No. 154, S. 717, the mine safety measure; and that that be followed with Calendar Order No. 165, S. 1529, the omnibus rivers and harbors bill; to be followed with Calendar Order No. 183, S. 1539, a bill to authorize appropriations for fiscal year 1978 for intelligence activities; to be followed by Calendar Order No. 156, S. 208, the Urban Mass Transportation Act.

Mr. BAKER. Mr. President, reserving

the right to object, and I shall not object, I, on the contrary, commend the distinguished majority leader for propounding this unanimous-consent request at this time. I am sure I betray no confidence when I apprise my colleagues of the fact that the distinguished majority leader saw fit to confer with the minority in this respect and to study in detail the calendar of bills available for consideration of the Senate and in some cases to anticipate measures that might be presented for the Senate's consideration.

At this time then, Mr. President, in keeping with this reservation, I express my appreciation of the majority leader for this method of handling proposed legislation. I think it is an extraordinarily effective way to approach the legislative agenda for the Senate. I think it is orderly. I think it is likely to contribute to the prompt dispatch of the legislative responsibilities of this body, and I think it is likely to minimize the prospects of conflict.

This is in no way an effort to limit the rights and opportunities of any Member to support or to oppose any of these issues. There is no limitation, as the majority leader points out, on the time for debate. There is no relinquishment of any rights by any Senator. There is no creation of any new rights on behalf of any Senator.

I think the very fact, though, that we are now scheduling 12 measures for consideration in sequence after we return from the Memorial Day nonlegislative period is a substantial step forward in the effective operation of the Senate, and I reiterate, Mr. President, not only do I not object, but I commend the majority leader for this effort and particularly for his consultation with the minority in trying to arrive at this legislative agenda.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader for his observations. I think it is in the interest of our proceeding ultimately toward the achievement of the hoped for October adjournment date, that this procedure be followed.

This recognizes the fact that some of these measures or most of them are measures which will require some time for debate. There will be amendments offered to them. Some of them will be somewhat controversial. But at some point in time, the leadership feels that the Senate is going to have to face up to these measures and act on them—one way or the other—and clear the decks for the energy legislation; and a number of the measures that are set forth in this sequential order are energy related.

There will come a time down the road when the Energy Committee and the Finance Committee will be bringing out legislation that will require considerable time for debate. All or most of it will be controversial. But we have to put first things first, and try the best we can to have an orderly procedure for disposing of the measures which are considered to be "must" legislation.

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We have to remember also that there are 13 regular appropriation bills which will be coming along from the House of Representatives in the latter part of June, and, hopefully, most of those appropriation bills will be completed before the Fourth of July non-legislative-day period.

I should say, moreover, while I am on my feet, that following the Memorial Day nonlegislative period, there will be only 4 weeks prior to the Fourth of July Independence Day holiday period. Following that, there will be only 4 weeks prior to the August recess. Following the August recess, there will be only 4½ weeks prior to the October 8 hoped for adjournment date.

That means that there are only 12½ weeks of Senate floor work prior to the hoped for adjournment date of October 8.

I say this to alert all Senators that there will be very difficult scheduling problems that will confront the leadership, and there will undoubtedly be long daily sessions. There will very likely have to be some Saturday sessions between now and the hoped for October 8 adjournment.

All of this will mean that from time to time it will be incumbent upon the leadership—and I say this most respectfully toward all Members on both sides of the aisle—to schedule measures which will inconvenience some Senators, perhaps, individually, but in the interest of conveniencing the Senate—and by so doing acting in the interests of all Members—the leadership will feel it imperative to go ahead with scheduling matters so as to waste no precious time in order to complete the work of the Senate prior to the hoped for October 8 adjournment.

I wish to express appreciation to the distinguished minority leader for his fine cooperation, his understanding, and his courtesy in working closely with me in this regard. I likewise express appreciation to all Members of the Senate for the understanding that they have shown up to this point, and for the splendid cooperation that the leadership has had in moving the measures along thus far.

I think the Senate has established a good record thus far. That record appeared in the CONGRESSIONAL RECORD yesterday. It will show that the Senate has demonstrated an ability to come to grips with difficult measures already this year, and to expedite the floor action thereon. It demonstrates a fine cooperative attitude on the part of Senators, and I personally again thank all Senators, and I beg their indulgence as time moves forward, and ask for their understanding and cooperation, because we will have to have longer sessions and some Saturday sessions.

I hope, therefore, that Members will, in making commitments for engagements from this day forward, keep in mind the fact that it is the Senate which must come first; that when a Member is inconvenienced the leadership regrets it, but that the Senate is larger than all of its component parts, and it is the Senate and the people who must be served in the final analysis, and sometimes to the

disadvantage of some of the Members individually.

There will be a time, and I do not think it is going to be far off, when the leadership will have to decline consent for committees to meet during the session of the Senate except in accordance with the provisions of the Stevenson resolution. There will be committees that will, by necessity, have to meet, and some have standing consent to do so, such as the Appropriations Committee and the Budget Committee; and other committees will have to meet to deal with energy problems, such as the Finance Committee and the Energy Committee. Other committees that feel bound to meet may meet, of course, when the Senate is not in session, but there will come a time soon I think, that if we really mean business in striving to adjourn in October and get the work done in the meantime, that the committees are just going to have to put the brakes on with respect to meetings.

I would be of the opinion, may I emphasize, that that time is not far off. So I think it appropriate and useful at this moment to say these things for the record, so that Senators will have had ample advance notification.

Mr. BAKER. Mr. President, I thank the distinguished majority leader for his further insights into our job yet before us this session. I join with him in urging that we take account of the fact that there is a heavy schedule, and that it will require diligence, dedication, great effort, and no doubt long hours for us to accomplish that purpose.

I am also pleased, Mr. President, that in arriving at this agenda of 12 items for consideration after Memorial Day, we were able to check with the ranking Republican members on each jurisdictional committee, or the representatives of those members, and ascertain that they, too, were agreeable to the sequence of these measures. I believe that shows a high degree of cooperation on their part and dedication to moving the schedule of the Senate.

#### ORDER FOR RECOGNITION OF SENATOR ALLEN ON MONDAY, JUNE 6, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, June 6, 1977, after the two leaders or their designees have been recognized under the standing order, Mr. ALLEN be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CLARIFICATION OF UNANIMOUS-CONSENT AGREEMENT—CLEAN AIR ACT (S. 252)

Mr. ROBERT C. BYRD. Mr. President, I call attention to the unanimous-consent agreement as printed in the calendar of business with respect to the Clean Air Act. There was a part of that agreement which provided for time on a motion to recommit with instructions by Mr. ALLEN of 1½ hours. That provi-



sion was in the agreement, it is in the CONGRESSIONAL RECORD, but it was inadvertently left out of the printed unanimous-consent agreement on the calendar. I call attention to that fact so that the calendar for the next day of session may be corrected accordingly.

The PRESIDING OFFICER. The calendar has been corrected.

Mr. ROBERT C. BYRD. Mr. President, in connection with the agreement that was entered into on the Clean Air Act, I inadvertently overlooked one amendment with respect to that measure. It is an amendment by Mr. HART. I was asked to get a time limitation of not to exceed 4 hours on that amendment, to be equally divided and controlled in accordance with the usual form. I ask unanimous consent at this time to amend the time agreement on the Clean Air Act accordingly.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRANSFER OF MEASURE BACK TO GENERAL ORDERS CALENDAR—S. 701

Mr. ROBERT C. BYRD. Mr. President, there is one measure on the Unanimous-consent Calendar in connection with which I believe there will be some amendments offered. Therefore, I ask that the clerk refer Calendar Order No. 116 back to the General Orders Calendar.

The PRESIDING OFFICER. The measure will be so transferred.

#### ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER FOR CONSIDERATION OF H.R. 6010 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning, after the two leaders

or their designees have been recognized under the standing order, the Senate proceed to the consideration of Calendar Order No. 202, H.R. 6010, an act to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE MEETINGS DURING SENATE SESSION TOMORROW

Mr. CRANSTON. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER FOR RECORD TO REMAIN OPEN UNTIL 6 P.M.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Senators may have until 6 p.m. tonight to insert appropriate matters in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RECESS UNTIL 10 A.M. TOMORROW

Mr. CRANSTON. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to; and at 3:40 p.m. the Senate recessed until tomorrow, Friday, May 27, 1977, at 10 a.m.

#### NOMINATIONS

Executive nominations received by the Senate May 26, 1977:

##### DEPARTMENT OF STATE

Marvin L. Warner, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Switzerland.

##### INTERNATIONAL MONETARY FUND

Thomas Byron Crawford Leddy, of Virginia, to be U.S. Alternate Executive Director of the International Monetary Fund for a term of 2 years expiring October 22, 1979 (reappointment).

##### DEPARTMENT OF THE TREASURY

John Gaines Heimann, of New York, to be Comptroller of the Currency, vice James E. Smith, resigned.

##### APPALACHIAN REGIONAL COMMISSION

Robert Walter Scott, of North Carolina, to be Federal Cochairman of the Appalachian Regional Commission, vice Donald W. Whitehead.

##### IN THE AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

##### To be lieutenant general

Maj. Gen. Thomas M. Ryan, Jr., xxx-xx-xx... FR (brigadier general, Regular Air Force), U.S. Air Force.

##### IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

##### To be general

Lt. Gen. Donn Albert Starry, xxx-xx-xxxx, Army of the United States (major general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

##### To be lieutenant general

It. Gen. Samuel Vaughan Wilson (age 53), xxx-xx-xxxx, Army of the United States (brigadier general, U.S. Army).

##### IN THE NAVY

Vice Adm. Joe Williams, Jr., U.S. Navy, for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

## HOUSE OF REPRESENTATIVES—Thursday, May 26, 1977

The House met at 10 o'clock a.m. Bishop J. O. Patterson, Church of God in Christ, Memphis, Tenn., offered the following prayer:

Gracious and Eternal God, having been enjoined by the Holy Scriptures to pray for kings, governors, rulers, and men of authority that we may live a quiet and peaceful life—

We pray for our President, that God will give him the wisdom and strength to lead this great Nation remembering that "Those who rule over men must be just."

Heavenly Father, bless this Congress and all legislative and judicial branches of our Government. In all of their deliberations may they learn to never lean upon their limited human understanding,

for you have said, "If any man lack wisdom let him ask of God who giveth freely and upbraideth not."

May the dove of peace hover over all of the nations of the world, and we soon learn to study war no more is my prayer. Amen.

#### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

#### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill and concurrent resolution of the House of the following titles:

H.R. 6752. An act to amend the Water Resources Planning Act (79 Stat. 244) as amended; and

H. Con. Res. 229. Concurrent resolution providing for an adjournment of the House from May 26 to June 1, and a recess of the Senate from May 27 to June 6, 1977.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is

requested, bills of the House of the following titles:

H.R. 2992. An act to authorize appropriations for fiscal year 1978 for carrying out the Comprehensive Employment and Training Act of 1973 as amended;

H.R. 3722. An act to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal year 1978;

H.R. 4746. An act to extend certain authorities of the Secretary of the Interior with respect to water resources research and saline water conversion programs, and for other purposes;

H.R. 6774. An act to make certain technical and miscellaneous amendments to provisions relating to higher education contained in the Education Amendments of 1976; and

H.R. 6823. An act to authorize appropriations for the United States Coast Guard for fiscal year 1978, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4746) entitled "An act to extend certain authorities of the Secretary of the Interior with respect to water resources research and saline water conversion programs, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GRAVEL, Mr. BENTSEN, and Mr. DOMENICI to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4088) entitled "An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. HOLLINGS, Mr. STEVENSON, Mr. FORD, Mr. GOLDWATER, and Mr. SCHMITT to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 11. An act to provide for the appointment of additional district and circuit judges, for the creation of a new 5th judicial circuit and a new 11th judicial circuit, and for other purposes;

S. 1131. An act to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes;

S. 1184. An act to amend section 7(e) of the Fishermen's Protection Act of 1967, and for other purposes; and

S. 1316. An act to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out State cooperative programs under the Endangered Species Act of 1973.

#### BISHOP J. O. PATTERSON

(Mr. FORD of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FORD of Tennessee. Mr. Speaker,

I rise today with great pride and thanksgiving for having with us here in our Chamber of the 95th Congress the inspirational Bishop J. O. Patterson. This distinguished Eighth District constituent and dear friend of mine who rose from his first pastorate at a church with only eight members, now presides over the massive Church of God in Christ. As of November 1976, at the church's annual convention, he was elected to his third term as presiding Bishop of that nationwide denomination. Currently the bishop is overseeing plans to build a \$20 million Saint's Center in the downtown area of Memphis.

My fellow colleagues, I am extremely elated and honored to have the bishop in our midst and to share with us the spiritual message and leadership that exalt him as a humanitarian and religious servant. As we continue with the legislative mission that each of us in this Chamber has been mandated to execute, let us recall with vigor Bishop Patterson's morning prayer and be guided by its charge.

#### PERMISSION FOR SUBCOMMITTEE ON MINORITY ENTERPRISE AND GENERAL OVERSIGHT OF COMMITTEE ON SMALL BUSINESS TO SIT DURING MORNINGS OF JUNE 1, AND 2, 1977, DURING 5-MINUTE RULE

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that the Subcommittee on Minority Enterprise and General Oversight of the Committee on Small Business may be permitted to sit during the mornings of June 1 and 2, 1977, during deliberations of the House under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

#### APPOINTMENT OF CONFEREES ON H.R. 4991, NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT, FISCAL YEAR 1978

Mr. THORNTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4991) authorizing appropriations to the National Science Foundation for fiscal year 1978, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas? The Chair hears none, and appoints the following conferees: Messrs. TEAGUE, THORNTON, FUQUA, HARKIN, KRUEGER, WYDLER, and HOLLENBECK.

#### SOME COGENT COMMENTARY ON THE CODE OF OFFICIAL CONDUCT

(Mr. ICHORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ICHORD. Mr. Speaker, there is a legislative maxim to the effect that it is not possible to legislate morality and integrity. Yet we have attempted to do so by our code of official conduct.

I have checked with sources unmarred by the influence of special interests and have verified that under clause 4 a lobbyist can wine and dine a Congressman every day of the year as long as the cost does not exceed \$35 per day. According to my calculations a lobbyist could thus spend \$12,775 on a Congressman without violating the law. Yet, if he spends \$35.01 for 3 meals on only 3 days of the year or a total of \$105.03, an offense would be committed.

In order to strictly comply with the law, to avoid recordkeeping, and also to avoid being sandbagged, I have devised a handy certificate which I intend to carry in my pocket and require any person inviting me to any function, who may be interested in legislation, to sign the certificate before I accept his hospitality. The certificate reads:

This is to certify that any food, beverage, or other sustenance to be provided to Congressman RICHARD H. ICHORD on this day is in full conformity with House Rule XLIII of the code of official conduct, and has not cost in excess of \$35.00. (Signed/date)

I would suggest that my other colleagues might prudently follow the same course. Such course could not only keep you out of jail, you might also avoid having to attend so many functions.

#### THE SUCCESS OF THE SENIOR CITIZEN INTERN PROGRAM

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOSTMAYER. Mr. Speaker, as I am sure my colleagues are aware, for the past ten days we have been ably assisted here in Washington by a group of 92 senior citizen interns from throughout the country.

The senior citizen intern program is designed to educate older Americans about the various services the Federal Government offers. More importantly, it gives senior citizens an opportunity to tell those of us in Washington how these services can be improved. It is their chance to educate us.

Mr. Speaker, the two senior citizens serving in my office, Mrs. Blanche Rothman of Buckingham, Pa., and Mr. Kenneth Satchell of Pennel, Pa., have asked me to read to the House the following letter on behalf of all the senior citizens participating this year:

To the Honorable Members of Congress:

We Senior Interns of 1977 express our appreciation for so many services given to us by the honorable Members of Congress and their staff personnel.

We feel that the Congressional Senior Citizens program is adequate in all pertinent areas.

Now, we are prepared to be helpful when we return home. Thanks also for your courteous, patient and warm attention to our needs.

Sincere blessing to all of you!

THE 92 INTERNS OF '77.



I think I can safely speak for all my colleagues, Mr. Speaker, by acknowledging the vigorous spirit exhibited by the interns during these 2 weeks and wishing them much success and happiness in future endeavors.

#### A TRIBUTE TO FORMER SPEAKER CARL ALBERT

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, I think all Members will want to take note of the presence in our Chamber today of one of our most beloved former colleagues. He who served in these vineyards for, lo, these many years and never made an enemy, but always made a friend. His word was as good as his bond. He compiled certainly one of the most distinguished records ever performed by any person who ever served in this Chamber. He is as down-to-earth as shoestrings, as brilliant as the noonday sun, and as friendly as a country hound pup from southern Oklahoma. He is the little giant from little Dixie, the former Speaker of the House of Representatives, your friend and mine, Carl Albert.

#### COLLIER AWARD DISRUPTION

(Mr. McDONALD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDONALD. Mr. Speaker, I was appalled on Tuesday night while attending the annual Robert J. Collier Award Banquet to find that a gathering designed to honor American technological achievement was disrupted and then made a vehicle for an attack on America's defense capabilities by a radical activist parroting Soviet propaganda with the consent of the organizers of the Collier Award ceremony.

The result of this rash, quixotic decision to grant time for a 5-minute harangue to Terry Provance, a Philadelphia-based professional organizer for the anti-B-1 smear campaign who is a willing collaborator and mouthpiece for the U.S.S.R.'s World Peace Council, was that those who gathered to honor American achievement were subjected to an anti-American diatribe.

The Collier organizers apparently did not stop to consider that their so-called free speech gesture was in fact a violation of free speech. Provance, a collaborator with a movement which denies free speech in the areas under its control, took advantage of his enemies' weakness to obtain a captive audience for his harangue.

American businesses, particularly the defense industries, show a lack of perception in differentiating between their friends and their enemies. They certainly should understand that appeasement does not moderate the enemies of freedom: It only encourages them in further disruptions. There is no doubt that we will see escalated disruptive actions by the enemies of American national defense and the friends of Soviet military aggression.

I refer my colleagues for more details to my Extension of Remarks of yesterday which appeared on pages 16776-16777.

#### PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MIKVA. Mr. Speaker, I had to catch a plane back to my district yesterday afternoon and missed a number of rollcalls. Had I been present, I would have voted "yes" on roll No. 280, a proposed amendment to the international foreign assistance bill which sought to reduce the military sales authorization by \$103 million. I would have voted "no" on roll No. 281, a motion to recommit the bill. On passage of the measure itself, roll No. 282,

I also would have cast a "yes" vote on roll No. 283, the rule under which the Clean Air Act amendments were considered.

#### PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES CONDUCTED BY AD HOC COMMITTEE ON ENERGY

Mr. THOMPSON. Mr. Speaker, pursuant to the order of the House on yesterday, May 25, 1977, I call up a privileged resolution (H. Res. 531) to provide for the expenses of investigations and studies to be conducted by the Ad Hoc Committee on Energy, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

#### H. RES. 531

Resolved, that on April 21, 1977, the expenses of investigations and studies to be conducted by the Ad Hoc Committee on Energy, acting as a whole or by subcommittee, not to exceed \$212,833, including expenditures for the employment of investigators, attorneys, and clerical, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(1) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(1)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed \$12,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(1) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(1)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Ad Hoc Committee on Energy shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. The authorization granted by the resolution shall expire immediately prior to noon on January 3, 1978.

SEC. 4. Funds authorized by this resolution

shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Speaker, House Resolution 531 which is in the amount of \$212,833, was considered by the Subcommittee on Accounts, chaired by our distinguished colleague, the gentleman from Pennsylvania (Mr. DENT) and was reported out unanimously by the subcommittee and by the full Committee on House Administration.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON. I yield to our distinguished colleague, the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, I thank the gentleman for yielding to me. I merely wanted to point out that the minority joins in the request of the gentleman from New Jersey and supports the resolution.

Mr. THOMPSON. Mr. Speaker, I thank the gentleman from Ohio.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### JOHN W. McCORMACK AWARD TO GILMAN G. UDELL

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, I rise at this time to announce that this morning there was presented the annual John W. McCormack Award of Excellence to Congressional Employees, to the superintendent of the House document room, Gilman G. Udell. Gil has served with the House of Representatives for over 30 years—longer than all but five Members of the House—under five Speakers from both parties. He is a native of Wisconsin who came to the House of Representatives in 1946 as an assistant in the document room after having served 4 years in the Army during World War II. He was promoted to assistant superintendent on February 5, 1949, and became superintendent on July 25, 1957.

This award, Mr. Speaker, was presented to Mr. Udell by the Speaker of the House of Representatives, the gentleman from Massachusetts (Mr. O'NEILL). It was encouraging that there was also on hand the former Speaker of the House, our distinguished colleague, Mr. Albert of Oklahoma.

This award is well deserved by Gil Udell and is, I hope, a tribute in which all Members of the House of Representatives will join.

Gil Udell was chosen for special recognition this year by a committee of of-

ficers of the House because of his long and exceptional service in a demanding job that affects the operation of the entire House. I only wish we could honor all of the thousands of men and women who have dedicated themselves to public service through work in the House of Representatives.

Gil Udell is the seventh recipient of the John W. McCormack Award, which is named for our former Speaker who served in the House for 42 years. The first to be honored was our late Parliamentarian, Lew Deschler, who received the award for 1970. The other distinguished winners over the years were Turner N. Robertson, chief page, for 1971; Bob Menaugh, superintendent of the Radio-TV Gallery, for 1972; Ernest Petinaud, headwaiter of the House dining room, for 1973; Charles A. Henlock, administrative officer of the Architect's office, for 1974; and Tom Iorio, Deputy Sergeant at Arms and pair clerk for the majority, for 1975. Now Gil Udell's name will be added to this distinguished roster, whose names are inscribed just outside the Speaker's rooms on the second floor of the Capitol.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAs. I am delighted to yield to the distinguished Speaker of the House of Representatives.

Mr. O'NEILL. Mr. Speaker, I am delighted and honored to be here at the presentation of the John W. McCormack Award for Excellence to Gilman Udell, superintendent of the House document room.

The late Speaker, Sam Rayburn, often used to say that the most beautiful word in the English language was "service." And Gil Udell has given to this House of Representatives 31 years of dedicated service, devotion to duty, and faithful performance of all his responsibilities.

Gil, you are not only a truly outstanding employee of the House of Representatives, but you possess, in addition, personal qualities that all of us in public life admire and respect so much. You are kind, friendly, conscientious, hard working and really love the House of Representatives. Gil, you treat everyone equally: You are so thorough in the performance of your duties as superintendent of the document room that whenever a Member or staff person calls for material from the document room, he knows that you will make sure that his request receives prompt attention. You have been so good to me and members of my staff and Gil, I just want to say from the bottom of my heart, thank you. I am especially grateful for your assistance in helping us establish the "whip packets," containing bills and committee reports of floor legislation which are delivered weekly to every Democratic office.

Gil, you have had a very active and diversified career and have been involved in several extracurricular activities—educated in public schools in Wisconsin, Gil was graduated from La Crosse State Teachers College.

A veteran of World War II, a former vice president of Northern Virginia Catholic Youth Organization, Gil organized and was later president of St. Anthony Catholic Youth Organization.

He has coached Little League and Babe Ruth baseball teams and girls basketball and softball teams.

Joining the document room as an employee on February 4, 1946, Gil became assistant superintendent on February 5, 1949, and was appointed superintendent on July 25, 1957.

Those of us who have known and served with you, Gil take this opportunity to thank you for a job well done, and, Gil we want you to know how much we have appreciated your devotion to duty over the years. We all admire and pay tribute to your accomplishments, and more significantly, to you. I know that your lovely wife, Elizabeth and your children and friends who are here to share this moment with you are mighty proud of all your achievements.

I can think of no one more deserving of this award than Gil Udell. Congratulations.

Mr. ADDABBO. Mr. Speaker, I am very delighted that this year's recipient of the John McCormack Award, which goes to an outstanding Capitol employee on an annual basis, is superintendent of the document room, Gillman G. Udell. I cannot think of a better choice. Mr. Udell, in his 31 years of outstanding and dedicated service to the House of Representatives, has proved to be a marvel of time and time again.

Mr. Udell, his lovely wife Betty, and his son Gillman Udell, Jr., who is a member of the Capitol Police bomb squad force, his daughters Karen Parker and Toni Udell and his grandchildren Erik and Heather, are undoubtedly proud of him as a recipient of this award, and they have every right to be.

Mr. Udell was born in Bangor, Wis., where he attended the public elementary and secondary schools. He attended LaCrosse State Teachers College and served 4 years in the U.S. military service during World War II.

Then at the age of 24, he was named assistant to the document room, where he served until February 1949, when he was named Superintendent of the document room.

As we all know, the activities of the Capitol have increased mightily in the last 28 years and no section of the Capitol has received such strain as has the document room, which has managed, somehow, to keep up with the pace of congressional work.

That the document room has flourished so well in a rapidly changing world is due primarily to the dedication and administrative abilities of Mr. Udell.

I congratulate Gillman Udell on this prestigious award he has received today. The men who have been named recipients of the John McCormack Award have been outstanding public servants and the selection of Mr. Udell today holds to that fine high tradition, which this award represents.

I congratulate him as well as his family and I wish him well in the days ahead.

#### GENERAL LEAVE

Mr. BRADEMAs. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the

subject of the John W. McCormack Award to Gilman G. Udell.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

#### AUTHORIZING ADDITIONAL APPROPRIATIONS FOR THE DEPARTMENT OF STATE FOR FISCAL YEAR 1977

Mr. FASCELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5040) to authorize additional appropriations for the Department of State for fiscal year 1977, together with the Senate amendments thereto, and concur in Senate amendments Nos. 1, 2, 3, 4, 5, 6, 8, 9, and 10, and concur in Senate amendment No. 7 with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, strike out lines 2 to 8, inclusive, and insert:

Sec. 2. Section 3 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved on August 1, 1956 (22 U.S.C. 2670), is amended by—

(1) striking out "and" at the end of subsection (h);

(2) striking out the period at the end of subsection (i) and inserting in lieu thereof a semicolon and "and"; and

(3) inserting at the end thereof the following new subsection:

"(j) provide emergency medical attention and dietary supplements, and other emergency assistance, for United States citizens incarcerated abroad who are unable to obtain such services otherwise, such assistance to be provided on a reimbursable basis to the extent feasible."

Page 3, line 11, after "Relations" "insert: ", and by inserting "upon recommendations of the majority and minority leaders of the Senate" immediately after "President of the Senate."

Page 3, strike out lines 17, 18, and 19, and insert:

"The Chairman or Vice Chairman of the House delegation shall be a Member from the International Relations Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation shall be a Member from the Foreign Relations Committee."

Page 4, line 2, after "Relations" "insert: ", and by inserting "upon recommendations of the majority and minority leaders of the Senate" immediately after "President of the Senate."

Page 4, line 7, strike out all after "sentence:" down to and including "Committee." in line 9 and insert: "The Chairman or Vice Chairman of the House delegation shall be a Member from the International Relations Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation shall be a Member from the Foreign Relations Committee."

Page 4, line 20, after "House" "insert: ", and by inserting "upon recommendations of the majority and minority leaders of the Senate" immediately after "President of the Senate."

Page 4, strike out line 21 and insert: (3) by striking out in the third sentence "five" and inserting in lieu thereof "seven"; and

Page 4, line 23, strike out all after "sec-



tion:" down to and including "Relations." in line 25 and insert: "The Chairman or Vice Chairman of the House delegation shall be a Member from the International Relations Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation shall be a Member from the Foreign Relations Committee."

Page 5, strike out all after line 23 over to and including line 4 on page 7 and insert:

(3) Such Act is further amended by adding at the end thereof the following new sections:

"Sec. 4. Senate delegates to each conference of the Interparliamentary Union, and to all other parliamentary conferences, shall be designated by the President of the Senate upon recommendations of the majority and minority leaders of the Senate. Unless the President of the Senate, upon the recommendations of the majority leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation shall be a member from the Foreign Relations Committee. Not fewer than two Senators designated to be in the Senate delegation to each conference of the Interparliamentary Union shall be members of the Committee on Foreign Relations."

"Sec. 5. After December 31, 1977, the executive secretary of the American group of the Interparliamentary Union shall be an officer or employee of the Senate or the House of Representatives and shall be appointed—

"(1) by the Chairman of the Senate delegation upon recommendations of the majority and minority leaders of the Senate for service during odd-numbered Congresses; and

"(2) by the Chairman of the House delegation for service during even-numbered Congresses."

"Sec. 6. The certificate of the Chairman of the respective delegation to the Interparliamentary Union (or the certificate of the executive secretary of the American group if the Chairman delegates such authority to him) shall be final and conclusive upon the accounting officers in the auditing of all accounts of the House and Senate delegations to the Interparliamentary Union."

(4) The second sentence of the nineteenth undesignated paragraph under the general heading "DEPARTMENT OF STATE" in title I of the Third Deficiency Appropriation Act, fiscal year 1937 (22 U.S.C. 276b) is deleted.

Page 7, after line 4, insert:

#### INTERNATIONAL AGREEMENTS

Sec. 5. (a) Section 112b, title I, United States Code, is amended by adding at the end thereof the following: "Any department or agency of the United States Government which enters into any international agreement on behalf of the United States shall transmit to the Department of State the text of such agreement not later than twenty days after such agreement has been signed."

(b) The second sentence of such section is amended by deleting the words "Foreign Affairs" and inserting in lieu thereof the words "International Relations".

The Clerk read the House amendment to the Senate amendment numbered 7, as follows:

In lieu of the matter proposed to be inserted by Senate amendment No. 7, insert the following:

(3) by amending the third sentence to read as follows: "Not more than seven of the appointees from the Senate shall be of the same political party."; and

Mr. FASCELL (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendments and the House amendment to Senate amendment No. 7 be dispensed

with and that they be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. BUCHANAN. Reserving the right to object, Mr. Speaker, will the gentleman explain the Senate amendments and the House amendment.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding. Mr. Speaker, I rise to propose further House action on H.R. 5040, the State Department supplemental authorization for fiscal year 1977, which originally passed the House on March 24. The Senate subsequently approved the House bill with 10 amendments.

Senate amendments 1 through 6 and 8 through 10 contain alterations acceptable to the Committee on International Relations. Senate amendment No. 1 provides formal authorization, but no authorization figure, for assistance to Americans incarcerated abroad by amending the act providing the basic authority for the State Department. The House bill authorized \$150,000 for the purpose. However, as there was no timely executive request, there were no funds specifically provided in the fiscal 1977 supplemental appropriation for the purpose. Therefore, the House authorization figure is unnecessary and the Senate provision is preferable. There should be sufficient funds available for the Department to utilize this new legal authority.

Senate amendments 2 through 6, 8, and 9 concern the changes regarding Senate participation in Interparliamentary Conferences and are analogous to the House changes. No substantive alterations were made in the House provisions.

Senate amendment No. 10 is a new section added by the Senate requiring departments or agencies entering into international agreements on behalf of the United States to transmit the text to the State Department within 20 days after the agreement has been signed. This section was added with the agreement of the chairman of the Committee on International Relations and complements the requirement of existing law which provides that the State Department submit such texts to the Congress within 60 days of receipt. Apparently, agencies have been slow to send the texts to the State Department, which in turn has made the Department slow in sending the agreements to Congress.

The Committee on International Relations finds the amendments I have described acceptable and recommends that the House agree to amendments 1 through 6 and 8 through 10.

Senate amendment No. 7 is a provision added to the act relating to the North Atlantic Assembly delegation which the House bill does not contain. As the Members may recall, we increased the num-

ber of participants in the NATO delegation to 24 from 18, thereby authorizing 12 delegates from each House. The Senate amendment sets a ratio for the House and Senate delegations which the International Relations Committee and the Speaker feel impinges unnecessarily on the prerogatives of the House. Therefore, I urge my colleagues to concur in Senate amendments 1 through 6, 8 and 10, and concur in Senate No. 7 with an amendment which retains the ratio for the Senate, which the Senate specified, but contains no ratio for the House.

Mr. BUCHANAN. Further reserving the right to object, Mr. Speaker, I would simply point up, just to make it clear, that it is the custom in the Senate to have set ratios. It is not the custom in the House because the composition of the House frequently changes and a ratio set into law would become unfair one way or the other in a short period of time.

Mr. FASCELL. If the gentleman will yield further, the gentleman, of course, is correct, and that is the reason for the change.

Mr. BUCHANAN. However, I would say to the distinguished Speaker that the present ratio for the North Atlantic Assembly is 6 to 3—6 Democrats and 3 Republicans. With the new arrangement that this will provide, it is my profound hope that the Speaker in his wisdom will see fit to make that arrangement 8 to 4, which is 2 to 1. I would simply point up that 8 to 4 is a lot closer to 2 to 1 plus than is 9 to 3, which would be a 3-to-1 ratio. So I hope the Speaker will see fit, in line with the traditions of the House, to keep the ratio on these assembly groups close to the ratio in the whole House and to continue that arrangement as it basically is in the present delegation.

Mr. Speaker, I withdraw my reservation of objection.

Mr. BUCHANAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6967, PEACE CORPS AUTHORIZATION, FISCAL YEAR 1978

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 95-368) on the resolution (H. Res. 600) providing for the consideration of the bill (H.R. 6967) to authorize appropriations for the Peace Corps for fiscal year 1978, which was referred to the House Calendar and ordered to be printed.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7010, VICTIMS OF CRIME ACT OF 1977

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 95-368) on the

resolution (H. Res. 601) providing for the consideration of the bill (H.R. 7010) to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### CLEAN AIR ACT AMENDMENTS OF 1977

Mr. ROGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6161) to amend the Clean Air Act, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. Rogers).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. THONE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 380, nays 1, answered "present" 1, not voting 51, as follows:

[Roll No. 288]

YEAS—380

|                |                |                 |
|----------------|----------------|-----------------|
| Akaka          | Burke, Fla.    | Edwards, Calif. |
| Alexander      | Burke, Mass.   | Edwards, Okla.  |
| Allen          | Burleson, Tex. | Ellberg         |
| Ammerman       | Burlison, Mo.  | Emery           |
| Anderson,      | Butler         | English         |
| Calif.         | Byron          | Eriksen         |
| Anderson, Ill. | Carney         | Ertel           |
| Andrews, N.C.  | Carr           | Evans, Colo.    |
| N. Dak.        | Carter         | Evans, Del.     |
| Annunzio       | Cavanaugh      | Evans, Ga.      |
| Applegate      | Cederberg      | Evans, Ind.     |
| Archer         | Chappell       | Fary            |
| Armstrong      | Chisholm       | Fascell         |
| Ashbrook       | Clay           | Fenwick         |
| Ashley         | Cleveland      | Fish            |
| Aspin          | Cochran        | Fisher          |
| Badillo        | Cohen          | Fithian         |
| Bafalis        | Coleman        | Flippo          |
| Baldus         | Collins, Ill.  | Flood           |
| Barnard        | Collins, Tex.  | Flowers         |
| Baucus         | Conable        | Flynt           |
| Bauman         | Conte          | Foley           |
| Beard, R.I.    | Conyers        | Ford, Mich.     |
| Beard, Tenn.   | Corcoran       | Ford, Tenn.     |
| Bedell         | Corman         | Fowler          |
| Benjamin       | Cornell        | Fraser          |
| Bennett        | Cornwell       | Frenzel         |
| Bevill         | Cotter         | Frey            |
| Biaggi         | Coughlin       | Fuqua           |
| Bingham        | D'Amours       | Gaydos          |
| Bianchard      | Daniel, Dan    | Gephardt        |
| Blouin         | Daniel, R. W.  | Gialmo          |
| Boggs          | Danielson      | Gibbons         |
| Boiland        | Davis          | Gilman          |
| Bolling        | de la Garza    | Ginn            |
| Boulton        | Delaney        | Glickman        |
| Bonker         | Derrick        | Goldwater       |
| Bowen          | Derwinski      | Gonzalez        |
| Brademas       | Devine         | Goodling        |
| Breaux         | Dickinson      | Gore            |
| Breckinridge   | Dicks          | Gradison        |
| Brinkley       | Dingell        | Grassley        |
| Brodhead       | Dodd           | Guyard          |
| Broomfield     | Dornan         | Hagedorn        |
| Brown, Calif.  | Downey         | Hall            |
| Brown, Mich.   | Drinan         | Hammer-         |
| Brown, Ohio    | Duncan, Oreg.  | schmidt         |
| Broyhill       | Duncan, Tenn.  | Hanley          |
| Buchanan       | Early          | Hannaford       |
| Burgener       | Eckhardt       | Hansen          |
| Burke, Calif.  | Edgar          | Harkin          |
|                | Edwards, Ala.  | Harris          |

|                 |                |               |
|-----------------|----------------|---------------|
| Harsha          | Meyner         | Santini       |
| Hawkins         | Michel         | Sarasin       |
| Hefner          | Mikulski       | Satterfield   |
| Heftel          | Mikva          | Scheuer       |
| Hightower       | Milford        | Schroeder     |
| Hillis          | Miller, Calif. | Schulze       |
| Hollenbeck      | Miller, Ohio   | Sebelius      |
| Holt            | Mineta         | Seiberling    |
| Holtzman        | Minish         | Sharp         |
| Horton          | Mitchell, N.Y. | Shipley       |
| Howard          | Moakley        | Shuster       |
| Hubbard         | Moffett        | Sikes         |
| Huckaby         | Mollohan       | Simon         |
| Hughes          | Montgomery     | Sisk          |
| Hyde            | Moore          | Skelton       |
| Ichord          | Moorhead,      | Slack         |
| Ireland         | Calif.         | Smith, Iowa   |
| Jacobs          | Moorhead, Pa.  | Smith, Nebr.  |
| Jeffords        | Mottl          | Snyder        |
| Jenkins         | Murphy, Ill.   | Solarz        |
| Jennette        | Murphy, N.Y.   | Spellman      |
| Johnson, Calif. | Murphy, Pa.    | St. Germain   |
| Johnson, Colo.  | Murtha         | Staggers      |
| Jones, N.C.     | Myers, Gary    | Stanton       |
| Jones, Okla.    | Myers, Michael | Stark         |
| Jordan          | Myers, Ind.    | Steed         |
| Kasten          | Natcher        | Steiger       |
| Kastenmeier     | Neal           | Stockman      |
| Kazen           | Nedzi          | Stokes        |
| Kelly           | Nichols        | Stratton      |
| Kemp            | Nix            | Studds        |
| Ketchum         | Nolan          | Stump         |
| Keys            | Nowak          | Symms         |
| Kildee          | O'Brien        | Taylor        |
| Kindness        | Oaker          | Thompson      |
| Koch            | Oberstar       | Thone         |
| Kostmayer       | Obey           | Thornton      |
| Krebs           | Otinger        | Traxler       |
| Krueger         | Panetta        | Treen         |
| LaFalce         | Patten         | Trible        |
| Lagomarsino     | Patterson      | Tsongas       |
| Le Pante        | Pattison       | Tucker        |
| Leach           | Pease          | Udall         |
| Lederer         | Pepper         | Ullman        |
| Leggett         | Perkins        | Van Deerlin   |
| Lehman          | Pettis         | Vander Jagt   |
| Lent            | Pickle         | Vanik         |
| Levitass        | Pike           | Vento         |
| Lloyd, Calif.   | Preyer         | Volkmmer      |
| Lloyd, Tenn.    | Pritchard      | Waggonner     |
| Long, La.       | Pursell        | Walgren       |
| Long, Md.       | Quayle         | Walker        |
| Lott            | Quile          | Walsh         |
| Lujan           | Quillen        | Wampler       |
| Luken           | Rahall         | Waxman        |
| Lundine         | Rallsback      | Weiss         |
| McClary         | Rangel         | Whalen        |
| McCloskey       | Regula         | White         |
| McCormack       | Reuss          | Whitley       |
| McDade          | Rhodes         | Whitten       |
| McDonald        | Richmond       | Wilson, Bob   |
| McFall          | Rinaldo        | Wilson, C. H. |
| McHugh          | Risenhoover    | Wilson, Tex.  |
| McKay           | Roberts        | Winn          |
| McKinney        | Robinson       | Wirth         |
| Madigan         | Rodino         | Wolf          |
| Maguire         | Rogers         | Wright        |
| Mahon           | Roncallo       | Wyder         |
| Mann            | Rooney         | Wylie         |
| Marks           | Rosenthal      | Yates         |
| Marlenee        | Rostenkowski   | Yatron        |
| Marriott        | Roybal         | Young, Fla.   |
| Martin          | Rudd           | Young, Mo.    |
| Mattox          | Ruppe          | Young, Tex.   |
| Mazzoli         | Russo          | Zablocki      |
| Meeds           | Ryan           | Zerferetti    |

NAYS—1

Mitchell, Md.

ANSWERED "PRESENT"—1

Fountain

NOT VOTING—51

|                 |              |               |
|-----------------|--------------|---------------|
| Abdnor          | Findley      | Price         |
| Addabbo         | Florio       | Roe           |
| Ambro           | Forsythe     | Rose          |
| AuCoin          | Gammage      | Roussot       |
| Badham          | Gudger       | Runnels       |
| Bellenson       | Hamilton     | Sawyer        |
| Brooks          | Harrington   | Skubitz       |
| Burton, John    | Heckler      | Spence        |
| Burton, Phillip | Holland      | Stangeland    |
| Caputo          | Jones, Tenn. | Steers        |
| Clausen         | Latta        | Teague        |
| Don H.          | McEwen       | Watkins       |
| Clawson, Del    | Markey       | Weaver        |
| Crane           | Mathis       | Whitehurst    |
| Cunningham      | Metcalfe     | Wiggins       |
| Dellums         | Moss         | Young, Alaska |
| Dent            | Poage        |               |
| Diggs           | Pressler     |               |

So the motion was agreed to.

The result of the vote was announced as above recorded.

#### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 6161, with Mr. DANIELSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, May 25, 1977, the Clerk had read through line 12, on page 357.

The Clerk will read section 201.

The Clerk read as follows:

#### LIMITATION ON INDIRECT SOURCE REVIEW AUTHORITY

SEC. 201. (a) Title III of the Clean Air Act is amended by adding the following new section at the end thereof:

#### "INDIRECT SOURCE REVIEW PROGRAM STUDY

"Sec. 318. The Administrator shall conduct a study to determine if, and under what conditions, indirect source review programs (as defined in section 124(a)) contained in, or which could be contained in, State implementation plans are necessary to, and are likely to be effective to reduce, or prevent or minimize any projected increase in, emissions of any mobile source-related air pollutant or otherwise assist in attaining or maintaining any national primary ambient air quality for such pollutant. Not later than one year after the date of enactment of the Clean Air Act Amendments of 1977, the Administrator shall report to the Congress the results and findings of the study conducted under this section. In carrying out this section, the Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences for an independent study to be conducted by the Academy. In conducting such study, the Administrator shall consult with other appropriate governmental agencies. In making the report under this section, the Administrator shall consider the study and advice of the Academy and of other appropriate governmental agencies. Of the funds authorized to be appropriated to the Administrator by this Act, such amounts as are required shall be available to carry out such independent study."

(b) Section 110(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) Except as may be otherwise provided under paragraph (2)(I) and section 124—

"(A) no applicable implementation plan, nor any amendment or revision thereof, shall be required under any provision of this Act, as a condition of approval of such plan under paragraph (2), to include, and no plan promulgated by the Administrator shall include, any indirect source review program (as defined in section 124(g)), and

"(B) any State may revise an applicable implementation plan approved under section 110(a) to suspend or revoke any such program included in such plan.

This paragraph shall not prevent the Administrator from approving any such program if it is adopted and submitted by a State as part of an applicable implementation plan."

(c) Section 110(a)(2) of such Act is amended by striking out the period at the end of section 110(a)(2)(H) and inserting in lieu thereof a semicolon and by adding the following new subparagraph at the end thereof:

"(I) it includes an indirect source review program meeting the requirements of section 124 if the Administrator determines—



"(i) as provided under section 124(a), that such program would be necessary in an air quality control region, or portion thereof, in the State in order to assist in attaining or maintaining a national primary ambient air quality standard, and

"(ii) as provided under section 124(b), that such program is likely to be effective in reducing emissions of a mobile source-related air pollutant, in preventing or minimizing any projected increase in such emissions, or otherwise assisting in attaining or maintaining any national primary ambient air quality standard for such pollutant;"

(d) Title I of the Clean Air Act is further amended by adding at the end thereof the following new section:

**"LIMITATIONS ON INDIRECT SOURCE CONTROLS"**

"SEC. 124. (a) Regulations promulgated by the Administrator under subsection (c) shall not require a State to include in the State implementation plan, as a condition of approval of such plan, an indirect source review program for any air quality control region, or portion thereof, unless, after notice and opportunity for public hearing, he determines, on the basis of the study conducted under section 318 (together with such other information as may be available to the Administrator) that such a program would be necessary to assure attainment of the national primary ambient air quality standards for mobile source-related pollutants by the primary standard attainment date of such pollutant or to assure maintenance of such standards thereafter assuming the following conditions existed—

"(1) Light-duty motor vehicles and engines manufactured during and after model year 1975 had achieved a reduction in emissions of carbon monoxide and hydrocarbons of 90 per centum from the emissions of such pollutants allowable under standards under section 202 applicable to model year 1970, and such vehicles and engines manufactured during and after model year 1976 had achieved a reduction in emissions of oxides of nitrogen of 90 per centum from the emissions of such pollutant allowable under such standards applicable to model year 1971.

"(2) All practicable emission limitations and transportation control measures in the applicable implementation plan had been implemented as provided in such plan.

"(b) (1) Regulations promulgated by the Administrator under section (c) shall not require a State to include in the State implementation plan, as a condition of approval of such plan under section 110(a) (2), an indirect source review program for any air quality control region, or portion thereof, unless, after notice and opportunity for public hearing, he determines, on the basis of the study conducted under section 318 (together with such other information as may be available to the Administrator), that such program is likely to be effective in such State to reduce emissions of a mobile source-related air pollutant, to prevent or minimize any projected increases in such emissions, or otherwise to assist in attaining or maintaining any national primary ambient air quality standard for any such pollutant—

"(A) in general,

"(B) under any specified set of conditions, or

"(C) in any designated air quality control region, or portion thereof.

"(2) If the Administrator makes the determination in paragraph (1) (B) or (C), then any such regulations may apply only in any air quality control region where the conditions specified in paragraph (1) (B) exist or in any region designated in paragraph (1) (C).

"(c) (1) (A) Within three months after the date required for completion of the study conducted under section 318, the Administrator shall publish proposed regulations requiring adequate State indirect source review programs to be included in appropriate State plans, as a condition of approval of such plans, subject to the limitations of subsections (a) and (b). Not later than three months after proposal of such regulations, the Administrator shall promulgate final regulations with appropriate modifications. Regulations promulgated under this section may be revised from time to time.

"(B) Within nine months after the later of (i) promulgation of final regulations under subparagraph (A) or (ii) determinations made under subsections (a) and (b), each State required to include an indirect source review program in the applicable implementation plan as a condition of approval under section 110(a) (2) shall submit to the Administrator a plan revision containing such a program.

"(C) under any specified set of conditions, or submission of a plan revision under subparagraph (B), the Administrator shall approve or disapprove so much of the implementation plan as provides for the implementation of, enforcement of, or variance from, such indirect source review program. The Administrator shall approve such provisions of such plan if he determines that the plan revision meets the requirements of regulations prescribed under this subsection. The Administrator may not disapprove any indirect source review program which he has previously approved unless he determines that the State in a substantial number of instances, has failed to carry out the requirements of such program in accordance with the provisions of this section. No determination of disapproval under the preceding sentence shall take effect for a period of three months following the date of such determination.

"(2) Regulations (or revisions thereof) published or promulgated under this subsection shall specify each State implementation plan with respect to which a plan revision will be required to comply with such regulations at the time such regulations (or revisions) are promulgated.

"(3) No indirect source (other than a parking facility which the Administrator determines will be used predominantly as part of a park-and-ride portion of a public transportation system which will assist in reducing regional air pollution concentrations) shall commence construction or modification after the date three months after the date required under paragraph (1) (C) for approval or disapproval of a State plan revision submitted under paragraph (1) (B) in any air quality control region for which the State is required to submit such a revision, unless the State's plan revision has been approved by the Administrator and such construction or modification complies with such approved plan.

"(d) (1) Except as provided in paragraph (2), any violation of a term or condition of any indirect source review program contained in an approved State plan (or in a plan promulgated under section 110(c), as permitted under subsection (e) (3)), any violation of a term or condition of any permit or variance under such an indirect source review program, and any violation of subsection (c) (3) of this section shall be treated as a violation of a requirement of an applicable implementation plan for purposes of this Act.

"(2) No person who has received a permit to construct or modify an indirect source

from a governmental unit with an approved indirect source review program and who complies with the terms and conditions of such permit shall be deemed to be in violation of an applicable implementation plan under this subsection with respect to such construction or modification and no such permit may be withdrawn or revoked by the Administrator.

"(3) The regulations promulgated under subsection (c) may not require any indirect source which commences construction or modification before the date six months after any revision of an applicable implementation plan required by reason of a revision or amendment of the regulations promulgated under subsection (c) to comply with any requirement of such revised or amended implementation plan.

"(e) (1) Except as provided in paragraph (3) of this subsection, the Administrator shall have no authority to promulgate, implement, or enforce regulations under section 110(c) (1) relating to an indirect source review program for any air quality control region or any portion thereof located in any State.

"(2) In the event an indirect source review program is required for any air quality control region or part thereof in any State and such State fails to adopt a program which meets the requirements of this section, the State's indirect source review program shall be disapproved by the Administrator.

"(3) Paragraph (1) shall not apply to promulgation, implementation, or enforcement of regulations respecting indirect source review programs which apply only to federally assisted highways, airports, and other major federally assisted indirect sources and federally owned or operated indirect sources. Nothing in this section shall be construed to limit the authority of the Administrator to conduct preconstruction or premodification review of a federally assisted highway, airport or other major federally assisted indirect source or federally owned or operated indirect source, which commences construction or modification on or before the date three months after the date required under subsection (c) (1) (C) for approval or disapproval of a State plan revision.

"(f) (1) The regulations promulgated by the Administrator under subsection (c) shall provide that variances may be granted by the Governor of a State with an approved indirect source review program permitting construction (or modification) and operation of an indirect source notwithstanding the requirements of the indirect source review program in any case in which such variance will encourage development of long-term transportation patterns and modes which will—

"(A) improve, in the long term, air quality and protect public health, and

"(B) be energy efficient, or which will prevent any requirement of the indirect source review program from creating any economic advantage or disadvantage for urban, suburban, or rural areas.

"(2) Except for a variance granted under this section, a plan promulgated under section 110(c) in conformance with subsection (e) (3) of this section, or a plan revision under section 110(a) (3) or 110(a) (5) (B), no variance, extension, compliance order, plan revision, or other action deferring or modifying a requirement of an applicable implementation plan may be taken with respect to any indirect source by the State or by the Administrator.

"(3) Any variance granted under this section shall terminate not later than Janu-

ary 1, 1985. Upon termination of any variance under this section, the indirect source to which such variance was granted shall be subject to all requirements and limitations of the applicable implementation plan.

"(4) A variance may be granted under this subsection only if the Governor determines that—

"(A) emissions from vehicles attracted to the indirect source with respect to which such variance is granted will not cause or contribute to air pollution concentrations in excess of any national primary ambient air quality standard for any mobile source-related pollutant in any part of the air quality control region in which such source is located upon expiration of such variance or thereafter (taking into account all other variances previously granted under this subsection),

"(B) any new indirect source receiving such a variance will be located so as to be (upon expiration of the variance) compatible with, and conveniently and economically served by, public transportation and such location will be compatible with any comprehensive public transportation measures under section 123(b)(5),

"(C) such indirect source will be designed and constructed so as to minimize emissions of mobile source-related pollutants from vehicles attracted to such source and will use the best practicable traffic flow measures, and

"(D) such indirect source as newly constructed or modified will become compatible with transportation control measures provided in the applicable implementation plan. No subsequent variance may be granted under this subsection if the Administrator determines, after notice and opportunity for public hearing, that variances have been granted without regard to the requirements of this paragraph in a substantial number of instances. The prohibition contained in the preceding sentence shall be for such period as the Administrator deems necessary to assure compliance with such requirements.

"(g)(1) For purposes of this section the term 'indirect source review program' means the facility-by-facility review of indirect sources of air pollution, including such measures as are necessary to assure, or assist in assuring, that a new or modified indirect source will not attract mobile sources of air pollution, the emissions from which would cause or contribute to air pollution concentrations—

"(A) exceeding any national primary ambient air quality standard for a mobile source-related air pollutant after the primary standard attainment date, or

"(B) preventing maintenance of any such standard after such date.

"(2) Such term shall include measures which—

"(A) require a prior permit for construction (or modification) of any such indirect source and require operation of such source in the manner approved pursuant to such permit; and

"(B) limit the issuance of any such permit to indirect sources which will not have the effects referred to in subparagraph (A) or (B) of paragraph (1)."

(e) Section 302 of such Act is amended by adding the following new subsections at the end thereof:

"(j) The term 'indirect source' means a facility, building, structure, installation, real property, road, or highway which attracts, or may attract, mobile sources of pollution. Such term includes parking lots, parking gar-

ages, and other facilities subject to any measure for management of parking supply (within the meaning of section 110(c)(2)(D)(ii), including regulation of existing on- and off-street parking). Direct emissions sources or facilities at, within, or associated with, any indirect source shall not be deemed indirect sources for the purpose of this Act.

"(k) The term 'mobile source-related air pollutant' means any air pollutant which is subject to regulation under section 202, 211(c)(1)(A), or 231 of this Act."

(f) Section 110(a)(2)(B) of such Act is amended by striking out "land-use and" and by inserting after "transportation controls" the following: "air quality maintenance plans, and preconstruction review of direct sources of air pollution".

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 201 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Page 357, strike out line 13 and all that follows down through line 20 on page 433, and insert in lieu thereof the following:

#### LIMITATION ON INDIRECT SOURCE REVIEW AUTHORITY

SEC. 201. (a) Title III of the Clean Air Act is amended by adding the following new section at the end thereof:

#### "INDIRECT SOURCE REVIEW PROGRAM STUDY

"SEC. 318. The Administrator shall conduct a study to determine if, and under what conditions, indirect source review programs (as defined in section 124(g)) contained in, or which could be contained in, State implementation plans are necessary to, and are likely to be effective to reduce, or prevent or minimize any projected increase in, emissions of any mobile source-related air pollutant or otherwise assist in attaining or maintaining any national primary ambient air quality for such pollutant. Not later than one year after the date of enactment of the Clean Air Act Amendments of 1977, the Administrator shall report to the Congress the results and findings of the study conducted under this section. In carrying out this section, the Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences for an independent study to be conducted by the Academy. In conducting such study, the Administrator shall consult with other appropriate governmental agencies. In making the report under this section, the Administrator shall consider the study and advice of the Academy and of other appropriate governmental agencies. Of the funds authorized to be appropriated to the Administrator by this Act, such amounts as are required shall be available to carry out such independent study."

(b) Section 110(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) Except as may be otherwise provided under paragraph (2)(I) and section 124—

"(A) no applicable implementation plan, nor any amendment or revision thereof, shall be required under any provision of this Act, as a condition of approval of such plan

under paragraph (2), to include, and no plan promulgated by the Administrator shall include, any indirect source review program (as defined in section 124(g)), and

"(B) any State may revise an applicable implementation plan approved under section 110(a) to suspend or revoke any such program included in such plan.

This paragraph shall not prevent the Administrator from approving any such program if it is adopted and submitted by a State as part of an applicable implementation plan."

(c) Section 110(a)(2) of such Act is amended by striking out the period at the end of section 110(a)(2)(H) and inserting in lieu thereof a semicolon and by adding the following new subparagraph at the end thereof:

"(I) it includes an indirect source review program meeting the requirements of section 124 if the Administrator determines—

"(i) as provided under section 124(a), that such program would be necessary in an air quality control region, or portion thereof, in the State in order to assist in attaining or maintaining a national primary ambient air quality standard, and

"(ii) as provided under section 124(b), that such program is likely to be effective in reducing emissions of a mobile source-related air pollutant, in preventing or minimizing any projected increase in such emissions, or otherwise assisting in attaining or maintaining any national primary ambient air quality standard for such pollutant;"

(d) Title I of the Clean Air Act is further amended by adding at the end thereof the following new section:

#### "LIMITATIONS ON INDIRECT SOURCE CONTROLS

"SEC. 124. (a) Regulations promulgated by the Administrator under subsection (c) shall not require a State to include in the State implementation plan, as a condition of approval of such plan, an indirect source review program for any air quality control region, or portion thereof, unless, after notice and opportunity for public hearing, he determines, on the basis of the study conducted under section 318 (together with such other information as may be available to the Administrator), that such a program would be necessary to assure attainment of the national primary ambient air quality standards for mobile source-related pollutants by the primary standard attainment date for such pollutant or to assure maintenance of such standards thereafter assuming the following conditions existed—

"(1) Light-duty motor vehicles and engines manufactured during and after model year 1975 had achieved a reduction in emissions of carbon monoxide and hydrocarbons of 90 per centum from the emissions of such pollutants allowable under standards under section 202 applicable to model year 1970, and such vehicles and engines manufactured during and after model year 1976 had achieved a reduction in emissions of oxides of nitrogen of 90 per centum from the emissions of such pollutant allowable under such standards applicable to model year 1971.

"(2) All practicable emission limitations and transportation control measures in the applicable implementation plan had been implemented as provided in such plan.

"(b)(1) Regulations promulgated by the Administrator under subsection (c) shall not require a State to include in the State implementation plan, as a condition of approval of such plan under section 110(a)(2), an indirect source review program for any air quality control region, or portion thereof, unless, after notice and opportunity for public hearing, he determines, on the basis of the study conducted under section 318 (together with



such other information as may be available to the Administrator), that such program is likely to be effective in such State to reduce emissions of a mobile source-related air pollutant, to prevent or minimize any projected increases in such emissions, or otherwise to assist in attaining or maintaining any national primary ambient air quality standard for any such pollutant—

"(A) in general,

"(B) under any specified set of conditions, or

"(C) in any designated air quality control region, or portion thereof.

"(2) If the Administrator makes the determination in paragraph (1) (B) or (C), then any such regulations may apply only in any air quality control region where the conditions specified in paragraph (1) (B) exist or in any region designated in paragraph (1) (C).

"(c) (1) (A) Within three months after the date required for completion of the study conducted under section 318, the Administrator shall publish proposed regulations requiring adequate State indirect source review programs to be included in appropriate State plans, as a condition of approval of such plans, subject to the limitations of subsections (a) and (b). Not later than three months after proposal of such regulations, the Administrator shall promulgate final regulations with appropriate modifications. Regulations promulgated under this section may be revised from time to time.

"(B) Within nine months after the later of (i) promulgation of final regulations under subparagraph (A) or (ii) determinations made under subsections (a) and (b), each State required to include an indirect source review program in the applicable implementation plan as a condition of approval under section 110(a) (2) shall submit to the Administrator a plan revision containing such a program.

"(C) Within eight months from the date required for submission of a plan revision under subparagraph (B), the Administrator shall approve or disapprove so much of the implementation plan as provides for the implementation of, enforcement of, or variance from, such indirect source review program. The Administrator shall approve such provisions of such plan if he determines that the plan revision meets the requirements of regulations prescribed under this subsection. The Administrator may not disapprove any indirect source review program which he has previously approved unless he determines that the State in a substantial number of instances, has failed to carry out the requirements of such program in accordance with the provisions of this section. No determination of disapproval under the preceding sentence shall take effect for a period of three months following the date of such determination.

"(2) Regulations (or revisions thereof) published or promulgated under this subsection shall specify each State implementation plan with respect to which a plan revision will be required to comply with such regulations at the time such regulations (or revisions) are promulgated.

"(3) No indirect source (other than a parking facility which the Administrator determines will be used predominantly as part of a park-and-ride portion of a public transportation system which will assist in reducing regional air pollution concentrations) shall commence construction or modification after the date three months after the date required under paragraph (1) (C) for approval or disapproval of a State plan revision submitted under paragraph (1) (B) in any air quality control region for which the State is required to submit such a revision, unless the State's plan revision has been approved by the Administrator and such con-

struction or modification complies with such approved plan.

"(d) (1) Except as provided in paragraph (2), any violation of a term or condition of any indirect source review program contained in an approved State plan (or in a plan promulgated under section 110(c), as permitted under subsection (e) (3)), any violation of a term or condition of any permit or variance under such an indirect source review program, and any violation of subsection (c) (3) of this section shall be treated as a violation of a requirement of an applicable implementation plan for purposes of this Act.

"(2) No person who has received a permit to construct or modify an indirect source from a governmental unit with an approved indirect source review program and who complies with the terms and conditions of such permit shall be deemed to be in violation of an applicable implementation plan under this subsection with respect to such construction or modification and no such permit may be withdrawn or revoked by the Administrator.

"(3) The regulations promulgated under subsection (c) may not require any indirect source which commences construction or modification before the date six months after any revision of an applicable implementation plan required by reason of a revision or amendment of the regulations promulgated under subsection (c) to comply with any requirement of such revised or amended implementation plan.

"(e) (1) Except as provided in paragraph (3) of this subsection, the Administrator shall have no authority to promulgate, implement, or enforce regulations under section 110(c) (1) relating to an indirect source review program for any air quality control region or any portion thereof located in any State.

"(2) In the event an indirect source review program is required for any air quality control region or part thereof in any State and such State fails to adopt a program which meets the requirements of this section, the State's indirect source review program shall be disapproved by the Administrator.

"(3) Paragraph (1) shall not apply to promulgation, implementation, or enforcement of regulations respecting indirect source review programs which apply only to federally assisted highways, airports, and other major federally assisted indirect sources and federally owned or operated indirect sources. Nothing in this section shall be construed to limit the authority of the Administrator to conduct preconstruction or premodification review of a federally assisted highway, airport or other major federally assisted indirect source or federally owned or operated indirect source, which commences construction or modification on or before the date three months after the date required under subsection (c) (1) (C) for approval or disapproval of a State plan revision.

"(f) (1) The regulations promulgated by the Administrator under subsection (c) shall provide that variances may be granted by the Governor of a State with an approved indirect source review program permitting construction (or modification) and operation of an indirect source notwithstanding the requirements of the indirect source review program in any case in which such variance will encourage development of long-term transportation patterns and modes which will—

"(A) improve, in the long term, air quality and protect public health, and

"(B) be energy efficient, or

which will prevent any requirement of the indirect source review program from creating any economic advantage or disadvantage for urban, suburban, or rural areas.

"(2) Except for a variance granted under this section, a plan promulgated under sec-

tion 110(c) in conformance with subsection (e) (3) of this section, or a plan revision under section 110(a) (3) or 110(a) (5) (B), no variance, extension, compliance order, plan revision, or other action deferring or modifying a requirement of an applicable implementation plan may be taken with respect to any indirect source by the State or by the Administrator.

"(3) Any variance granted under this section shall terminate not later than January 1, 1985. Upon termination of any variance under this section, the indirect source to which such variance was granted shall be subject to all requirements and limitations of the applicable implementation plan.

"(4) A variance may be granted under this subsection only if the Governor determines that—

"(A) emissions from vehicles attracted to the indirect source with respect to which such variance is granted will not cause or contribute to air pollution concentrations in excess of any national primary ambient air quality standard for any mobile source-related pollutant in any part of the air quality control region in which such source is located upon expiration of such variance or thereafter (taking into account all other variances previously granted under this subsection),

"(B) any new indirect source receiving such a variance will be located so as to be (upon expiration of the variance) compatible with, and conveniently and economically served by, public transportation and such location will be compatible with any comprehensive public transportation measures under section 123(b) (5),

"(C) such indirect source will be designed and constructed so as to minimize emissions of mobile source-related pollutants from vehicles attracted to such source and will use the best practicable traffic flow measures, and

"(D) such indirect source as newly constructed or modified will become compatible with transportation control measures provided in the applicable implementation plan. No subsequent variance may be granted under this subsection if the Administrator determines, after notice and opportunity for public hearing, that variances have been granted without regard to the requirements of this paragraph in a substantial number of instances. The prohibition contained in the preceding sentence shall be for such period as the Administrator deems necessary to assure compliance with such requirements.

"(g) (1) For purposes of this section the term 'indirect source review program' means the facility-by-facility review of indirect sources of air pollution, including such measures as are necessary to assure, or assist in assuring, that a new or modified indirect source will not attract mobile sources of air pollution, the emissions from which would cause or contribute to air pollution concentrations—

"(A) exceeding any national primary ambient air quality standard for a mobile source-related air pollutant after the primary standard attainment date, or

"(B) preventing maintenance of any such standard after such date.

"(2) Such term shall include measures which—

"(A) require a prior permit for construction (or modification) of any such indirect source and require operation of such source in the manner approved pursuant to such permit; and

"(B) limit the issuance of any such permit to indirect sources which will not have the effects referred to in subparagraph (A) or (B) of paragraph (1)."

(e) Section 302 of such Act is amended by adding the following new subsections at the end thereof:

"(j) The term 'indirect source' means a facility, building, structure, installation, real property, road, or highway which attracts, or may attract, mobile sources of pollution. Such terms includes parking lots, parking garages, and other facilities subject to any measure for management of parking supply (within the meaning of section 110 (c) (2) (D) (ii), including regulation of existing on- and off-street parking). Direct emissions sources or facilities at, within, or associated with, any indirect source shall not be deemed indirect sources for the purpose of this Act.

"(k) The term 'mobile source-related air pollutant' means any air pollutant which is subject to regulation under section 202, 211 (c) (1) (A), or 231 of this Act."

(f) Section 110(a) (2) (B) of such Act is amended by striking out "land-use and" and by inserting after "transportation controls" the following: "air quality maintenance plans, and preconstruction review of direct sources of air pollution".

#### EXTENSION OF TRANSPORTATION CONTROL COMPLIANCE DATES

Sec. 202. Title I of the Clean Air Act is amended by adding at the end thereof the following new section:

#### EXTENSION OF TRANSPORTATION CONTROL COMPLIANCE DATES

"Sec. 123. (e) (1) Upon application submitted by the Governor of a State, the Administrator may extend the date required for compliance with any transportation control measure adopted by a State and included in an applicable implementation plan.

"(2) Upon application submitted by the chief executive officer of a general purpose unit of local government which is carrying out responsibility delegated under section 110(c) (3), or on his own motion, the Administrator may extend the date required for compliance with any transportation control measure which was promulgated by the Administrator under section 110(c). In the case of an application submitted by such officer, such extension shall apply only to the extent that such measure applies within the jurisdiction of such unit.

"(b) (1) (A) No extension may be granted under subsection (a) with respect to any transportation control measure unless such measure is applicable in an air quality control region in which the State or unit of local government (or the Administrator, as the case may be) has implemented within such jurisdiction all requirements (except as provided in subparagraph (B)) of the applicable implementation plan which are required to be implemented as of the date of application and are intended to control any mobile source-related pollutant. Such implementation includes initiating and diligently pursuing enforcement actions to bring noncomplying persons into compliance.

"(B) For purposes of subparagraph (A), the State or unit of local government (or Administrator) shall not be required, as of the date on which such extension is granted, to have implemented:

"(i) transportation control measures with respect to which a finding has been made under paragraph (2), and

"(ii) requirements for indirect source review programs (as defined in section 124).

"(2) No extension may be granted under subsection (a) for any transportation control measure unless—

"(A) the Administrator finds that implementation of such measure on the required date would (i) cause, or contribute to, a failure to meet basic transportation needs of the area, (ii) be infeasible, or (iii) otherwise cause seriously disruptive and widespread economic or social effects,

"(B) the Administrator states with reasonable specificity the factual basis of the finding made under subparagraph (A), and

"(C) the applicant has submitted (or the Administrator has prepared, if acting on his own motion)—

"(i) a detailed planning study identifying and quantifying the respect (if any) in which the basic transportation needs of the area could not be met if the applicable measure were not extended, the seriously disruptive and widespread economic or social effects (if any) of not extending such measure, the respects (if any) in which implementation of such measure would be infeasible, and the effects on public health and welfare expected to result from the continued air pollution associated with the extension,

"(ii) an examination of measures (including establishment, improvement, or expansion of public transportation) other than those measures for which an extension is sought, which could be implemented and used to attain and maintain national ambient air quality standards as expeditiously as practicable, and

"(iii) a detailed description of the measures to be undertaken during all such extensions to minimize any risk to public health.

"(3) No extension may be granted under subsection (a) unless there has been prior notice and opportunity for public hearing.

"(4) No finding may be made under paragraph (2) (A) (i) unless the Administrator finds that implementation of public transportation (or other means) which would meet such needs by such required date would be impracticable.

"(5) (A) Except as provided in subparagraph (B) of this paragraph, each transportation control measure for which an extension is granted under subsection (a) shall be required to be implemented (under a compliance schedule containing increments of progress prescribed pursuant to such extension) as expeditiously as practicable but not later than January 1, 1980.

"(B) Such measure shall be required to be implemented as expeditiously as practicable but not later than January 1, 1985, if the applicable implementation plan is revised within the one-year period specified in paragraph (6)—

"(i) to include comprehensive measures (including compliance schedules containing increments of progress) to, as expeditiously as practicable, establish, expand, or improve public transportation to meet basic transportation needs while implementing transportation control measures necessary to attain and maintain national ambient air quality standards, and

"(ii) to meet the requirements of paragraphs (1) and (2) of subsection (d).

"(6) No extension for any transportation control measure under subsection (a) shall remain in effect for more than one year after such extension is granted unless, before such date, the applicable implementation plan is revised to include—

"(A) requirements to use (insofar as necessary), for the purpose of implementing the transportation control measures with respect to which such extension was granted, funds which are reasonably available to the State or local government; and

"(B) in the case of an area which has been granted an extension beyond January 1, 1980, requirements to use (insofar as necessary), for the additional purpose of implementing the comprehensive public transportation measures required under paragraph (5) (B), funds which are reasonably available to the State or local government.

"(c) In the case of any applicable implementation plan containing measures requiring—

"(1) retrofits on other than commercially owned in-use vehicles, or

"(2) gas rationing which the Administrator finds would have seriously disruptive and widespread economic or social effects if implemented before January 1, 1985,

the Administrator may, after notice and opportunity for public hearing, approve elimination of such measures from the plan notwithstanding the requirements of section 110(a). No later than nine months after approval of the elimination of any such measure is granted with respect to any applicable implementation plan, a revised plan must be submitted (as provided in section 110(a) (2) (H)) to meet such requirements.

"(d) Not later than one year after date of enactment of this section, the Administrator shall complete a review of all applicable implementation plans for mobile source-related pollutants to determine whether or not such plans would be adequate as of such date to attain, by the date required under section 110, the national primary ambient air quality standards for such pollutants and maintain them thereafter if no extensions, exemptions, or variances had been granted under sections 111(f), 118, 119, 121, 124, and this section. Unless the Administrator determines that any such plan would be adequate (within the meaning of the preceding sentence) he shall require revision of such plan. The revised plan shall be such as would be adequate (within the meaning of the first sentence of this subsection). The Administrator shall promptly notify the State when any plan revision is required under this subsection and shall require submission of such revised plan on such date (not sooner than sixty days or later than six months after such notice) as he may determine. Such revised plan shall—

"(1) identify and provide for implementation of the remaining emission reductions necessary for the plan to be adequate within the meaning of this subsection with respect to mobile source-related pollutants and the measures to be implemented to accomplish these reductions;

"(2) identify the financial and manpower resources necessary to carry out such measures, and commit the State or local government to provide those resources; and

"(3) include emission limitations, applicable to stationary sources which emit any mobile source-related air pollutant in significant amounts, requiring reduction of such emissions to the maximum extent technologically feasible (for a finding that any such emission limitation not so included is not necessary for the plan to be adequate within the meaning of this subsection and a justification for such finding). If the Administrator determines that a proposed plan revision does not incorporate the most expeditious practicable date for achievement of adequacy within the meaning of this subsection, he shall notify the Governor of the deficiencies in the proposed revision. This notification shall include the Administrator's judgment as to the additional control strategies that should be incorporated, and the most expeditious dates which are practicable for implementing the measures included or to be included in the plan. The notification shall also specify a date for submission of the modified plan revision not more than one hundred and twenty days from the date of notification.

"(e) Except for a compliance date extension issued under this section, a plan revision under section 110(a) (3), or an elimination approved under subsection (c), no extension, compliance order, plan revision, or other action deferring or modifying a requirement of an applicable implementation plan may be taken with respect to any transportation control measure by the State or by the Administrator.

"(f) (1) For purposes of this section and section 110 (a) (2) (B), the term 'transportation control measure' does not include any measure for management of parking supply (as defined in section 110(c) (2) (D) (ii) except that such definition shall be applied without regard to whether or not a facility



is new) or any indirect source review program (as defined in section 124).

"(2) For purposes of subsection (b) (6), the term 'funds which are reasonably available' means—

"(A) grants which have been made to a State or local government under Federal law,

"(B) funds which have been appropriated under State or local law, or

"(C) any combination of such grants, and funds, which may, consistent with the terms of the legislation providing for such grant or making such appropriation, be used for the purposes referred to in such subsection (b) (6)."

#### LIGHT-DUTY MOTOR VEHICLE EMISSIONS

SEC. 203. (a) Subparagraph (A) of section 202(b) (1) of the Clean Air Act is amended to read as follows:

"(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1977 through 1979 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.5 grams per vehicle mile of hydrocarbons and 15.0 grams per vehicle mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide from light-duty vehicles and engines manufactured during or after the model year 1980 shall contain standards which provide that such emissions do not exceed 9.0 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of hydrocarbons from light-duty vehicles and engines manufactured during or after model year 1980 shall contain standards which require a reduction of at least 90 per centum from emissions of such pollutant allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970."

(b) Subparagraph (B) of section 202(b) (1) of such Act is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1981 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured after the model year 1981 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.0 grams per mile except in the case of a revision or waiver by the Administrator under paragraph (5) or (6)."

(c) Section 202(b) of such Act is amended by striking out paragraph (5) thereof and substituting the following:

"(5) (A) Upon the petition of any manufacturer or on his own motion, the Administrator, after notice and opportunity for public hearing, shall revise the standard required under subparagraph (B) of paragraph (1) with respect to light-duty vehicles and engines manufactured during any period of two or more model years beginning after the model year 1981 if he determines that such standard should be revised due to (i) the lack of available, practicable, emission control technology to meet such standard during such period, (ii) the cost of compliance with such standard, and (iii) the impact of such standard on motor vehicle fuel consumption. No such revision may be made if the Administrator determines that such revision would endanger public health.

"(B) A revised standard established under this paragraph shall provide for such reduction of emissions of oxides of nitrogen from light-duty vehicles and engines as the Administrator deems appropriate based on

(i) technology which is available and practicable during the period for which such standard applies, (ii) the cost of compliance, (iii) the impact on motor vehicle fuel consumption, and (iv) the need to protect public health. No such standard shall permit emissions of oxides of nitrogen in excess of 2.0 grams per vehicle mile.

"(C) A revised standard promulgated under this paragraph shall apply for a period of not less than two model years.

"(D) A revised standard established under this paragraph shall take effect beginning with the third model year which begins after the model year during which it is promulgated. In the case of a petition submitted by a manufacturer under this paragraph within such period as may be appropriate for purposes of this subparagraph, the Administrator shall promulgate a revision, or refuse to promulgate such a revision within ninety days after the receipt of such petition.

"(6) (A) Upon the petition of any manufacturer, the Administrator, after notice and opportunity for public hearing, may waive the standard required under subparagraph (B) of paragraph (1) for any class or category of light-duty vehicles and engines manufactured by such manufacturer during any period of four or more model years beginning after the model year 1981 if he determines that such waiver is necessary to permit the use of an innovative power train technology in such class or category which use can produce a substantial energy saving for such class or category as compared to conventional power trains incorporating spark ignited, gasoline, internal combustion engines. No such waiver may be granted if the Administrator determines that such waiver would endanger public health.

"(B) Upon granting a waiver under this paragraph respecting any class or category of vehicles or engines, the Administrator shall promulgate an interim standard applicable to such class or category such as will (i) permit the use of the innovative power train technology on the basis of which such waiver was granted and (ii) take into account the need to protect public health. No such interim standard shall permit emissions of oxides of nitrogen in excess of 2.0 grams per vehicle mile.

"(C) A waiver under this paragraph shall apply for a period of not less than four model years.

"(D) An interim standard promulgated under this paragraph shall take effect beginning with the third model year which begins after the model year during which it is promulgated. In the case of a petition submitted by a manufacturer under this paragraph within such period as may be appropriate for purposes of this subparagraph, the Administrator shall grant a waiver or refuse to grant such a waiver within ninety days after the receipt of such petition.

"(7) (A) Following each model year, the Administrator shall report to the Congress respecting the motor vehicle fuel consumption consequences, if any, of the standards applicable for such model year in relationship to the motor vehicle fuel consumption associated with the standards applicable for the immediately preceding model year.

"(B) The Secretary of Transportation and the Federal Energy Administration shall each submit to Congress, as promptly as practicable following submission by the Administrator of the fuel consumption report referred to in subparagraph (a), separate reports respecting such fuel consumption."

#### EMISSION STANDARDS FOR HEAVY DUTY VEHICLES OR ENGINES AND CERTAIN OTHER VEHICLES OR ENGINES

SEC. 204. (a) Section 202(a) of the Clean Air Act is amended by adding the following new paragraph at the end thereof:

"(3) (A) (i) The Administrator shall pre-

scribe regulations under paragraph (1) of this subsection applicable to emissions of carbon monoxide, hydrocarbons, and oxides of nitrogen from classes or categories of heavy-duty vehicles or engines manufactured during and after model year 1979. Such regulations applicable to such pollutants from such classes or categories of vehicles or engines manufactured during model years 1979 through 1984 shall contain standards which reflect the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology.

"(ii) Unless a different standard is temporarily promulgated as provided in subparagraph (B) or unless the standard is changed as provided in subparagraph (E), regulations under paragraph (1) of this subsection applicable to emissions from vehicles or engines manufactured during and after model year 1985 shall contain standards which require a reduction of at least 65 percent in the case of oxides of nitrogen and a reduction of at least 90 percent in the case of carbon monoxide and hydrocarbons from the average of the actually measured emissions from heavy-duty gasoline-fueled vehicle weight, horsepower or such other factors as may be factored during the baseline model year.

"(iii) In establishing classes or categories of vehicles or engines for purposes of regulations under this subsection, the Administrator may base such classes or categories on gross vehicle weight, horsepower, or such other factors as may be appropriate.

"(iv) For the purpose of this paragraph, the term 'baseline model year' means, with respect to any pollutant emitted from any vehicle or engine, or class or category thereof, the model year immediately preceding the model year in which Federal standards applicable to such vehicle or engine, or class or category thereof, first applied with respect to such pollutant.

"(B) During the period of June 1 through December 31, 1979, and during each period of June 1 through December 31 of each third year after 1979, the Administrator may, after notice and opportunity for a public hearing promulgate regulations revising any standard prescribed as provided in subparagraph (A) (i) for any class or category of heavy-duty vehicles or engines. Such standard shall apply only for the period of three model years beginning five model years after the model year in which such revised standard is promulgated. In revising any standard under this subparagraph for any such three model year period, the Administrator shall determine the maximum degree of emission reduction which can be achieved by means reasonably expected to be available for production of such period and shall prescribe a revised emission standard in accordance with such determination.

"(C) Action revising any standard for any period may be taken by the Administrator under subparagraph (B) only if—

"(i) he finds that compliance with the emission standards otherwise applicable for such model year cannot be achieved by technology, processes, operating methods, or other alternatives reasonably expected to be available for production for such model year without increasing cost or decreasing fuel economy to an excessive and unreasonable degree; and

"(ii) the National Academy of Sciences has not, pursuant to its study and investigation under subsection (c), issued a report substantially contrary to the findings of the Administrator under clause (i).

"(D) A report shall be made to the Congress with respect to any standard revised under subparagraph (B) which shall contain—

"(i) a summary of the health effects found, or believed to be associated with, the pollutant covered by such standard,

"(ii) an analysis of the cost-effectiveness of other strategies for attaining and maintaining national ambient air quality standards and carrying out regulations under section 160 (relating to significant deterioration) in relation to the cost-effectiveness for such purposes of standards which, but for such revision, would apply,

"(iii) a summary of the research and development efforts and progress being made by each manufacturer for purposes of meeting the standards promulgated as provided in subparagraph (A) (ii) or, if applicable, subparagraph (E), and

"(iv) specific findings as to the relative costs of compliance, and relative fuel economy, which may be expected to result from the application for any model year of such revised standard and the application for such model year of the standard, which, but for such revision, would apply.

"(E) (i) The Administrator shall conduct a continuing pollutant-specific study concerning the effects of each air pollutant emitted from heavy-duty vehicles or engines on the public health and welfare. The results of such study shall be published in the Federal Register and reported to the Congress not later than June 1, 1979, and before June 1 of each third year thereafter.

"(ii) On the basis of such study and such other information as is available to him (including the studies under sections 214 and 216), the Administrator may, after notice and opportunity for a public hearing, promulgate regulations under paragraph (1) of this subsection changing any standard prescribed in subparagraph (A) (ii) (or revised under this subparagraph) or previously changed under this subparagraph. No such changed standard shall apply for any model year before the model year five years after the model year during which regulations containing such changed standard are promulgated.

"(F) For purposes of this paragraph, motorcycles and motorcycle engines shall be treated in the same manner as heavy-duty vehicles and engines unless the Administrator promulgates a rule reclassifying motorcycles as light-duty vehicles within the meaning of this section or unless the Administrator promulgates regulations under subsection (a) applying standards applicable to the emission of air pollutants from motorcycles as a separate class or category."

(b) Section 202(b)(3) of such Act is amended by adding the following new subparagraph at the end thereof:

"(C) The term 'heavy duty vehicle' means a truck, bus, or other vehicle manufactured primarily for use on the public streets, roads, and highways (not including any vehicle operated exclusively on a rail or rails) which has a gross vehicle weight (as determined under regulations promulgated by the Administrator) in excess of six thousand pounds. Such term includes any such vehicle which has special features enabling off-street or off-highway operation and use."

(c) Section 312 of such Act is amended by inserting "AND STUDIES OF COST-EFFECTIVENESS ANALYSES" at the end of the heading thereof and by adding the following new subsection at the end thereof:

"(c) Not later than January 1, 1979, the Administrator shall study the possibility of increased use of cost-effectiveness analyses in devising strategies for the control of air pollution and shall report its recommendations to the Congress, including any recommendations for revisions in any provision of this Act. Such study shall also include an analysis and report to Congress concern-

ing whether or not existing air pollution control strategies are adequate to achieve the purposes of this Act."

(d) Part A of title II of such Act is amended by inserting after section 216 the following new section:

#### "STUDY OF PARTICULATE EMISSIONS FROM MOTOR VEHICLES"

"Sec. 217. (a) (1) The Administrator shall conduct a study concerning the effects on health and welfare of particulate emissions from motor vehicles or motor vehicle engines to which section 202 applies. Such study shall characterize and quantify such emissions and analyze the relationship of such emissions to various fuels and fuel additives.

"(2) The study shall also include an analysis of particulate emissions from mobile sources which are not related to engine emissions (including, but not limited to tire debris, and asbestos from brake lining).

"(b) The Administrator shall report to the Congress the findings and results of the study conducted under subsection (a) not later than two years after the date of the enactment of the Clean Air Act Amendments of 1977. Such report shall also include recommendations for standards or methods to regulate particulate emissions described in paragraph (2) of subsection (a)."

(e) Section 206 of such Act (relating to compliance testing and certification) is amended by adding the following new subsection at the end thereof:

"(f) (1) In the case of any class or category of heavy-duty vehicles or engines or motorcycles to which a standard promulgated under section 202(a) of this Act applies, except as provided in paragraph (2), a certificate of conformity shall be issued under subsection (a) and shall not be suspended or revoked under subsection (b) for such vehicles or engines manufactured by a manufacturer notwithstanding the failure of such vehicles or engines to meet such standard if such manufacturer pays a nonconformance penalty as provided under regulations promulgated by the Administrator after notice and opportunity for public hearing.

"(2) No certificate of conformity may be issued under paragraph (1) with respect to any class or category of vehicle or engine if the degree by which the manufacturer fails to meet any standard promulgated under section 202(a) with respect to such class or category exceeds the percentage determined under regulations promulgated by the Administrator to be practicable. Such regulations shall require such testing of vehicles or engines being produced as may be necessary to determine the percentage of the classes or categories of vehicles or engines which are not in compliance with the regulations with respect to which a certificate of conformity was issued and shall be promulgated not later than one year after the date of enactment of the Clean Air Act Amendments of 1977.

"(3) The regulations promulgated under paragraph (1) shall, not later than one year after the date of enactment of the Clean Air Act Amendments of 1977, provide for nonconformance penalties in amounts determined under a formula established by the Administrator. Such penalties under such formula—

"(A) may vary from pollutant-to-pollutant;

"(B) may vary by class or category or vehicle or engine;

"(C) shall take into account the extent to which actual emissions of any air pollutant exceed allowable emissions under the standards promulgated under section 202;

"(D) shall create incentives for the development of production vehicles or engines which achieve the required degree of emission reduction; and

"(E) shall remove any competitive disad-

vantage to manufacturers whose engines or vehicles achieve the required degree of emission reduction."

#### AIRCRAFT EMISSIONS STANDARDS

Sec. 205. Section 231(c) of the Clean Air Act is amended to read as follows:

"(a) Any regulations in effect under this section on date of enactment of the Clean Air Act Amendments of 1977 or proposed or promulgated thereafter, or amendments thereto, with respect to aircraft shall not apply if disapproved by the Secretary of Transportation, after notice and opportunity for public hearing, on the basis of a finding that any such regulation would create a hazard to aircraft safety. Any such finding shall include a reasonably specific statement of the basis upon which the finding was made."

#### ASSURANCE OF PROTECTION OF PUBLIC HEALTH AND SAFETY

Sec. 206. (a) Section 202(a) of the Clean Air Act is amended by inserting "paragraph (1) of" before "this subsection" in paragraph (2) thereof and by adding a new paragraph at the end thereof:

"(4) (A) Effective with respect to vehicles and engines manufactured after model year 1978, no emission control device, system, or element of design shall be used in a new motor vehicle or new motor vehicle engine for purposes of complying with standards prescribed under this subsection if such device, system, or element of design will cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function.

"(B) In determining whether an unreasonable risk exists under subparagraph (A), the Administrator shall consider, among other factors, (i) whether and to what extent the use of any device, system, or element of design causes, increases, reduces, or eliminates emissions of any unregulated pollutants; (ii) available methods for reducing or eliminating any risk to public health, welfare, or safety which may be associated with the use of such device, system, or element of design, and (iii) the availability of other devices, systems, or elements of design which may be used to conform to standards prescribed under this subsection without causing or contributing to such unreasonable risk. The Administrator shall include in the consideration required by this paragraph all relevant information developed pursuant to section 214."

(b) Section 206(a) of such Act is amended by adding at the end thereof the following:

"(3) (A) A certificate of conformity may be issued under this section only if the Administrator determines that the manufacturer (or in the case of a vehicle or engine for import, any person) has established to the satisfaction of the Administrator that any emission control device, system, or element of design installed on, or incorporated in, such vehicle or engine conforms to applicable requirements of section 202(a)(4).

"(B) The Administrator may conduct such tests and may require the manufacturer (or any such person) to conduct such tests and provide such information as is necessary to carry out subparagraph (A) of this paragraph. Such requirements shall include a requirement for prompt reporting of the emission of any unregulated pollutant from a system, device, or element of design if such pollutant was not emitted, or was emitted in significantly lesser amounts, from the vehicle or engine without use of the system, device, or element of design."

(c) (1) Section 206(b)(2)(A)(i) of such Act is amended by inserting "and with the requirements of section 202(a)(4)" after "conformity was issued."

(2) Section 206(b)(2)(A) of such Act is amended by inserting "and requirements" after "such regulations" in each place it appears.



## TEST PROCEDURES FOR MEASURING EVAPORATIVE EMISSIONS

SEC. 207. Section 202(b)(1) of the Clean Air Act is amended by adding a new subparagraph (C) as follows:

"(C) Effective with respect to vehicles and engines manufactured after model year 1978 (or in the case of heavy-duty vehicles or engines, such later model year as the Administrator determines is the earliest feasible model year), the test procedure promulgated under paragraph (2) for measurement of evaporative emissions of hydrocarbons shall require that such emissions be measured from the vehicle or engine as a whole. Regulations to carry out this subparagraph shall be promulgated not later than two hundred and seventy days after date of enactment of this subparagraph."

## VEHICLE INSPECTION AND MAINTENANCE

SEC. 208. (a) Section 110(a)(G) of the Clean Air Act is amended by inserting the following before the semicolon at the end thereof: ", and it complies with applicable provisions of section 215 respecting the annual inspection and maintenance of motor vehicles registered in such State."

(b) Part A of title II of the Clean Air Act is amended by inserting the following new section after section 214:

## "INSPECTION AND MAINTENANCE"

"Sec. 215. (a) (1) Each applicable implementation plan which, as in effect on June 30, 1975, contained transportation control measures applicable to any air quality control region in a State, shall provide for the annual inspection and maintenance, and may provide for the testing, of all light-duty vehicles (other than new vehicles) to which this section applies which are registered in such region by any person whose residence or principal place of business (or both) is located in such air quality control region. Such program of inspection, and maintenance (and, if applicable, testing) shall be conducted in accordance with regulations of the Administrator which—

"(A) shall require that emission control systems and devices are properly installed and operative,

"(B) may require that the vehicle or engine components which are necessary for the proper operation of such systems and devices are restored to the settings specified by the manufacturer, and

"(C) may require that inoperative or malfunctioning parts which are necessary for the proper operation of such systems and devices are replaced.

Such plan shall, except as permitted under subparagraph (A) or (B) of paragraph (2), prohibit the registration and operation of vehicles (other than new vehicles) subject to such inspection and maintenance (and, if applicable, testing) in such State unless such vehicles comply with such program.

"(2) The regulations of the Administrator shall—

"(A) provide for the exemption from the inspection and maintenance (and, if applicable, testing) required under this section of such antique and other vehicles as the Administrator deems appropriate, and

"(B) authorize the operation of vehicles which have not met the requirements of regulations under paragraph (1) for such temporary period as may be appropriate to repair or adjust the vehicle in order to meet such requirements.

"(b) For purposes of complying with the provisions of subsection (a), the plan may require testing for emissions using testing procedures and equipment approved by the Administrator and shall permit the use of existing State motor vehicle inspection and testing facilities and procedures so long as they are consistent with such requirement. The Administrator shall approve testing procedures and equipment for purposes of this paragraph only if he determines that such

procedures and equipment comply with such standards respecting calibration, instrumentation, and maintenance as he deems appropriate.

"(c) (1) Each applicable implementation plan required under subsection (a) to prohibit the registration and operation of non-complying vehicles may permit the registration and operation of any such vehicle if—

"(A) following the inspection and maintenance (and, if applicable, testing) by reason of which such vehicle was determined to be a noncomplying vehicle, any measures required under the regulations promulgated under subsection (a) (1) have been taken with respect to such vehicle.

"(B) with respect to such vehicle, any nonconformity covered by section 207 (a), (b), or (c) has been remedied,

"(C) such vehicle has (for purposes of providing statistical information only) been reinspected and, if testing was originally required, retested under this section following the actions referred to in subparagraphs (A) and (B) of this paragraph. Nothing in the preceding sentence shall be construed to prohibit the Administrator from approving any implementation plan which contains any requirement prohibiting the registration and operation of any noncomplying vehicles.

"(2) The requirements or authority contained in this section shall not be deemed to affect or impair any requirement contained in any other provision of this Act.

"(d) Regulations of the Administrator under this section shall provide for retest of any vehicle which initially was tested and failed to meet applicable requirements of the program."

(c) Section 210 of such Act is amended by adding the following at the end thereof: "Grants may be made under this section by way of reimbursement in any case in which amounts have been expended by the State before the date on which any such grant was made. Any grant under this section may be reduced or suspended by the Administrator upon his determination, following notice and opportunity for a public hearing, that a State vehicle inspection and maintenance program it not equal to or more stringent than the requirements established pursuant to section 215."

(d) Not later than six months after the date of enactment of this Act, the Administrator shall notify each State which will be required to revise the applicable implementation plan to include an inspection and maintenance program for purposes of compliance with the amendments made by this section, and each such State shall, within nine months after receiving such notice, submit to the Administrator a revision of such plan. Within three months after the date required for submission of such revision, the Administrator shall approve or disapprove the revision if he determines that it complies with the amendment made by this Act and was adopted after reasonable notice and hearings. The provisions which are required under section 215 to be included in such plan shall be implemented not later than two years after the date of enactment of this Act.

## WARRANTIES AND MOTOR VEHICLE PARTS CERTIFICATION

SEC. 209. (a) Section 207(b)(2) of the Clean Air Act is amended by adding the following at the end thereof: "No such warranty shall be invalid on the basis of any part used in the maintenance or repair of a vehicle or engine if such part was certified as provided under subsection (a) (2)."

(b) Section 207(a) of such Act is amended by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)" respectively, by inserting "(1)" after "(a)" and by adding the following new paragraph at the end thereof:

"(2) In the case of a motor vehicle part or motor vehicle engine part, the manu-

facturer or rebuilder of such part may certify that use of such part will not result in a failure of the vehicle or engine to comply with emission standards promulgated under section 202. Such certification shall be made only under such regulations as may be promulgated by the Administrator to carry out the purposes of subsection (b). The Administrator shall promulgate such regulations no later than two years following the date of the enactment of this paragraph."

(c) Section 207(b) of such Act is amended by striking out "its useful life (as determined under section 202(d))" in each place it appears and inserting in lieu thereof "a period of eighteen months or eighteen thousand miles (or the equivalent), whichever first occurs".

(d) Section 207(c)(3) of such Act is amended by inserting after the first sentence thereof the following: "The manufacturer shall provide in boldface type on the first page of the written maintenance instructions notice that maintenance, replacement, or repair of the emission control devices and systems may be performed by any automotive repair establishment or individual using any automotive part which has been certified as provided in subsection (a) (2)."

(e) Section 207 of such Act is amended by adding the following new subsection at the end thereof:

"(g) Nothing in this section shall be construed to provide that any labor required to be provided at the cost of the manufacturer pursuant to warranty under regulations under subsection (b) (2) may be performed by any persons other than persons specified by the manufacturer or that any part required to be provided at the cost of the manufacturer under such warranty may be other than a part specified by the manufacturer."

(f) Section 207(a)(1) of such Act, as designated by subsection (b) of this section, is amended by adding the following at the end thereof: "For purposes of clause (1) (B) of this subsection the term 'defect' means a defect which existed at the time of sale of the new motor vehicle or motor vehicle engine to the ultimate purchaser."

(g) Section 214 of such Act is amended by adding the following new paragraph at the end thereof:

"(7) The term 'emission control device or system' means, for purposes of section 207, a catalytic converter, thermal reactor, or other component installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions. Such term shall not include those vehicle components which were in general use prior to model year 1968."

## PARTS STANDARDS; PREEMPTION OF STATE LAW

SEC. 210. Section 209 of the Clean Air Act (relating to State standards) is amended by redesignating subsection (c) as (d) and by inserting after subsection (b) the following new subsection:

"(c) Whenever a regulation with respect to any motor vehicle part or motor vehicle engine part is in effect under section 207(a) (2), no State or political subdivision thereof shall adopt or attempt to enforce any standard or any requirement of certification, inspection, or approval applicable to the same aspect of such part. The preceding sentence shall not apply in the case of a State with respect to which a waiver is in effect under subsection (b)."

## PROTECTION OF COMPETITION; ASSURANCE OF CONSUMER FREEDOM OF CHOICE

SEC. 211. (a) Section 207 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(g) If, after a review of the manufacturers' practices respecting the discharge of his emission control warranty responsibilities under this Act, the Attorney General finds that such practices are resulting in unfair or anticompetitive conditions, the Attorney General shall submit such finding,

together with his reasons therefor, to the Administrator. Upon receipt of such finding and reasons, the Administrator may, after notice and opportunity for a public hearing, promulgate such rules and take such other actions as may be necessary—

"(1) to minimize or eliminate such unfair or anticompetitive conditions; or

"(2) to protect or enhance consumer freedom of choice in the implementation of any requirement of this section."

(b) Section 203(a)(4) of such Act is amended by inserting the following at the end thereof:

"(D) to fail or refuse to comply with any requirement under section 207(g),

or for any person other than a manufacturer to fail or refuse to comply with any requirement under section 207."

#### TAMPERING

"Sec. 212. (a) Section 203(a)(3) of the Clean Air Act is amended by inserting "(A)" after "(3)" and by adding the following new subparagraph (B) at the end thereof:

"(B) for any person engaged in the business of repairing, servicing, selling, leasing, or trading motor vehicles or motor vehicle engines, or who operates a fleet of motor vehicles, knowingly to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title following its sale and delivery to the ultimate purchaser, or."

(b) Section 203(a) of such Act is amended by adding the following at the end thereof: "Nothing in paragraph (3) shall be construed to require the use of manufacturer parts in maintaining or repairing any motor vehicle or motor vehicle engine. For the purposes of the preceding sentence, the term 'manufacturer parts' means, with respect to a motor vehicle engine, parts produced or sold by the manufacturer of the motor vehicle or motor vehicle engine."

(c) Section 205 of such Act is amended to read as follows:

#### PENALTIES

"Sec. 205. Any person who violates paragraph (1), (2) or (4) of section 203(a) or any person, manufacturer, or dealer who violates paragraph (3)(A) of section 203(a) shall be subject to a civil penalty of not more than \$10,000. Any person who violates paragraph (3)(B) of such section 203(a) shall be subject to a civil penalty of not more than \$2,500. Any such violation with respect to paragraph (1), (3), or (4) of section 203(a) shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine."

#### COST OF VAPOR RECOVERY SYSTEMS TO BE BORNE BY OWNER OF RETAIL OUTLET

SEC. 213. (a) Title III of the Clean Air Act is amended by adding the following new section at the end thereof:

#### "COST OF EMISSION CONTROL FOR CERTAIN VAPOR RECOVERY TO BE DONE BY OWNER OF RETAIL OUTLET"

"Sec. 320. (a) The regulations under this Act applicable to vapor recovery with respect to mobile source fuels at retail outlets of such fuels shall provide that the cost of procurement and installation of such vapor recovery shall be borne by the owner of such outlet (as determined under such regulations). Except as provided in subsection (b), such regulations shall provide that no lease of a retail outlet by the owner thereof which is entered into or renewed after the date of enactment of the Clean Air Act Amendments of 1977 may provide for a payment by the lessee of the cost of procurement and installation of vapor recovery equipment. Such regulations shall also provide that the cost of procurement and installation of vapor recovery equipment may be recovered by the owner of such outlet by means of price increases in

the cost of any product sold by such owner, notwithstanding any provision of law.

"(b) The regulations of the Administrator referred to in subsection (a) shall permit a lease of a retail outlet to provide for payment by the lessee of the cost of procurement and installation of vapor recovery equipment over a reasonable period (as determined in accordance with such regulations), if the owner of such outlet does not sell, trade in, or otherwise dispense any product at wholesale or retail at such outlet."

(b) Section 113(b)(3) of such Act is amended by inserting "or section 320" before the semicolon.

(c) Title III of such Act is amended by adding the following new section at the end thereof:

#### "VAPOR RECOVERY FOR SMALL BUSINESS MARKETERS OF PETROLEUM PRODUCTS"

"Sec. 324. (a) Except as provided in subsection (b) the regulations under this Act applicable to vapor recovery from fueling of motor vehicles at retail outlets of gasoline shall provide, with respect to independent small business marketers of gasoline, for a three-year phase-in period for the installation of such vapor recovery equipment under which such marketers shall have—

"(1) 33 percent of their outlets in compliance at the end of the first year during which such regulations apply to such marketers,

"(2) 66 percent at the end of such second year, and

"(3) 100 percent at the end of the third year.

"(b) (1) The regulations referred to in subsection (a) shall not apply to independent small business marketers of gasoline before the expiration of the period ending two years after the date of enactment of this section or the period ending six months after the date of submission of the report under paragraph (3), whichever is later.

"(2) The Federal Trade Commission shall study, and not later than one year after the date of enactment of this section report to the Administrator on, the effect the application to independent small business marketers of gasoline of the regulations referred to in subsection (a) will have on the ability of such marketers to compete in gasoline marketing. In the course of such study, the Commission shall provide opportunity for a public hearing and for submission of written views, data, and argument and shall request the participation in such hearing of other interested departments and agencies (including the Federal Energy Administration).

"(3) Not later than eighteen months after the date of enactment of this section, the Administrator shall submit a report to the House Interstate and Foreign Commerce Committee and to the Senate Public Works Committee, which analyzes (A) the effect referred to in subsection (b)(2); (B) the need for such regulations to be applied to independent small business marketers of gasoline to assist in attaining or maintaining national ambient air quality standards or in preventing significant deterioration of air quality; and (C) the availability of means for eliminating or minimizing any effects referred to in subsection (b)(2) which are detrimental. The analysis required under clause (C) shall include a discussion of the measures referred to in subsection 202(a)(5) (pertaining to fill pipe standards) and 202(a)(6) (pertaining to onboard hydrocarbon technology). The Administrator's report under this paragraph shall include his conclusions as to whether, and to what extent, such regulations (or such other regulations relating to vapor recovery from fueling of motor vehicles at retail outlets of gasoline) should apply to independent small business marketers of gasoline.

"(4) The Administrator may, on the basis

of the conclusions contained in the report under paragraph (3), promulgate regulations—

"(A) exempting independent small business marketers of gasoline, or any class thereof, from the duty to comply with the regulations referred to in subsection (a);

"(B) deferring or modifying the regulations referred to in subsection (a) in the case of independent small business marketers of gasoline, or any class thereof;

"(C) containing provisions to eliminate or minimize any effects referred to in subsection (b)(2) which are detrimental; or

"(D) taking any combination of the actions referred to in subparagraphs (A) through (C).

Regulations under this paragraph may be promulgated by the Administrator only upon a finding that such regulations are necessary in order to assure that application of the regulations referred to in subsection (a) to independent small business marketers of gasoline will not cause each independent marketer to be unable to compete in gasoline marketing.

"(5) The Administrator and the Federal Trade Commission shall keep confidential the commercial or financial information obtained under this section, except that such information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.

"(c) For purposes of this section, an independent small business marketer of gasoline is a person engaged in the marketing of gasoline who would be required to pay for procurement and installation of vapor recovery equipment under section 320 of this Act or under regulations of the Administrator, unless such person (1) is a refiner, or (2) controls, is controlled by, or is under common control with, a refiner, or (3) is otherwise directly or indirectly affiliated (as determined under the regulations of the Administrator) with a refiner or with a person who controls, is controlled by, or is under a common control with a refiner (unless the sole affiliation referred to in (3) is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person). For the purpose of this section, the term 'refiner' shall not include any refiner whose total refinery capacity (including the refinery capacity or any person who controls, is controlled by, or is under common control with, such refiner) does not exceed 65,000 barrels per day. For purposes of this section, 'control' of a corporation means ownership of more than 50 percent of its stock."

#### HIGH ALTITUDE PERFORMANCE ADJUSTMENTS

SEC. 214. (a) Section 203(a) of the Clean Air Act is amended by adding the following at the end thereof: "No action with respect to any element of design referred to in paragraph (3) (including any adjustment or alteration of such element) shall be treated as a prohibited Act under such paragraph (3) if such action will not adversely affect the emission control performance of the vehicle or engine."

(b) Part A of title II of such Act is amended by inserting the following new section after section 214:

#### "HIGH ALTITUDE PERFORMANCE ADJUSTMENTS"

"Sec. 215. (a)(1) Any action taken with respect to any element of design installed on or in a motor vehicle or motor vehicle engine (manufactured before the 1978 model year) in compliance with regulations under this title (including any alteration or adjustment of such element), shall be treated for purposes of section 203(a) as not adversely affecting the emission control performance of the vehicle or engine if such action is per-



formed in accordance with high altitude adjustment instructions provided by the manufacturer under subsection (b) and approved by the Administrator.

"(2) If the Administrator finds that adjustments or modifications made pursuant to instructions of the manufacturer under paragraph (1) will not insure emission control performance at least equivalent to that which would result if no such adjustments or modifications were made, he shall disapprove such instructions. Such finding shall be based upon minimum engineering evaluations consistent with good engineering practice. In any case in which emissions of one or more pollutants are increased by reason of adjustments or modifications made to reduce emissions of one or more other pollutants, emission control performance may be found by the Administrator to be equivalent for purposes of this subsection if the aggregate effect of emission control performance resulting from such adjustments or modifications will be more protective of health and welfare than the effect of emission control performance if no such adjustments or modifications had been made.

"(b) (1) Instructions respecting each class or category of vehicles or engines to which this title applies providing for such vehicle and engine adjustments and modifications as may be necessary to insure emission control performance at different altitudes shall be submitted to the Administrator pursuant to regulations promulgated by the Administrator. If the Administrator does not disapprove such instructions on or before the sixtieth day following submission to him by the manufacturer, such instructions shall be treated as approved for purposes of this section.

"(2) If any instructions provided by a manufacturer for purposes of this section are disapproved by the Administrator, not later than sixty days after such disapproval, the manufacturer shall revise the instructions (in accordance with such requirements as the Administrator determines necessary for approval) and shall make the revised and approved instructions available to any person upon request.

"(3) Any knowing violation by a manufacturer of requirements of the Administrator under paragraph (1) or (2) shall be treated as a violation by such manufacturer of section 203(a) (3) for purposes of the penalties contained in section 205.

"(c) No instructions under this section respecting adjustments or modifications may require the use of any manufacturer parts (as defined in section 203(a)) unless the manufacturer demonstrates to the satisfaction of the Administrator that the use of such manufacturer parts is necessary to insure emission control performance."

(c) Section 202 of such Act is amended by adding the following new subsection at the end thereof:

"(f) (1) Section 307(d) of this Act shall apply to any high altitude regulation pertaining to light duty vehicles or engines manufactured during model year 1978 and thereafter and sold to ultimate purchasers for principal use in high altitude areas (as defined by the Administrator), and notwithstanding paragraph (1) thereof, such section 307(d) shall apply whether proposal of such regulation is before or after the date of the enactment of this subsection.

"(2) In promulgating any high altitude regulation referred to in paragraph (1), the Administrator shall consider and make findings with respect to—

"(A) the economic impact upon consumers, individual high altitude dealers, and the automobile industry of any such regulation, including the economic impact which was experienced as a result of the regulation imposed during model year 1977 with respect to high altitude certification requirements;

"(B) the present and future availability of emission control technology capable of meeting the applicable vehicle and engine emission requirements without reducing model availability;

"(C) the likelihood that the adoption of such a high altitude regulation will result in any significant improvement in air quality in any area to which it shall apply."

#### FILL PIPE STANDARDS

SEC. 215. Section 202(a) of the Clean Air Act is amended by adding the following new paragraph at the end thereof:

"(5) (A) If the Administrator promulgates final regulations which define the degree of control required and the test procedures by which compliance could be determined for gasoline vapor recovery of uncontrolled emissions from the fueling of motor vehicles, the Administrator shall prescribe, by regulations, fill pipe standards for new motor vehicles in order to insure effective connection between such fill pipe and any vapor recovery system which the Administrator determines may be required to comply with such vapor recovery regulations. In promulgating such standards the Administrator shall take into consideration limits on fill pipe diameter, minimum design criteria for nozzle retainer lips, limits on the location of the unleaded fuel restrictors, a minimum access zone surrounding a fill pipe, a minimum fill pipe or nozzle insertion angle, and such other factors as he deems pertinent.

"(B) Regulations prescribing standards under subparagraph (A) shall not become effective until the introduction of the model year for which it would be feasible to implement such standards, taking into consideration the restraints of an adequate leadtime for design and production.

"(C) Nothing in subparagraph (A) shall (i) prevent the Administrator from specifying different nozzle and fill neck sizes for gasoline with additives and gasoline without additives or (ii) permit the Administrator to require a specific location, configuration, modeling, or styling of the motor vehicle body with respect to the fuel tank fill neck or fill nozzle clearance envelope.

"(D) Any standards promulgated under subparagraph (A) or amendments thereto, may be prescribed only after consultation with the Secretary of Transportation in order to assure appropriate consideration for vehicle safety.

"(E) For the purpose of this paragraph, the term 'fill pipe' shall include the fuel tank fill pipe, fill neck, fill inlet, and closure."

#### ONBOARD HYDROCARBON TECHNOLOGY

SEC. 216. Section 202(a) of the Clean Air Act is amended by adding the following new paragraph at the end thereof:

"(6) (A) The Administrator shall determine the feasibility and desirability of requiring new motor vehicles to utilize onboard hydrocarbon control technology which would avoid the necessity of gasoline vapor recovery of uncontrolled emissions emanating from the fueling of motor vehicles. The Administrator shall compare the costs and effectiveness of such technology to that of implementing and maintaining vapor recovery systems (taking into consideration such factors as fuel economy, economic costs of such technology, administrative burdens, and equitable distribution of costs). If the Administrator finds that it is feasible and desirable to employ such technology, he shall prescribe, by regulations, standards which shall not become effective until the introduction to the model year for which it would be feasible to implement such standards, taking into consideration compliance costs and the restraints of an adequate lead time for design and production.

"(B) Any regulations promulgated under subparagraph (A), or amendments thereto, shall not apply if disapproved by the Secre-

tary of Transportation, after notice and opportunity for public hearing, on the basis of a finding that any such regulations would create a hazard to vehicle safety. Any such finding shall include a reasonably specific statement of the basis upon which the finding was made."

#### CARBON MONOXIDE INTRUSION INTO SUSTAINED USE VEHICLES

SEC. 217. (a) The Administrator, in conjunction with the Secretary of Transportation, shall study the problem of carbon monoxide intrusion into the passenger area of sustained-use motor vehicles. Such study shall include an analysis of the sources and levels of carbon monoxide in the passenger area of such vehicles and a determination of the effects of carbon monoxide upon the passengers. The study shall also review available methods of monitoring and testing for the presence of carbon monoxide and shall analyze the cost and effectiveness of alternative methods of monitoring and testing. The study shall analyze the cost and effectiveness of alternative strategies for attaining and maintaining acceptable levels of carbon monoxide in the passenger area of such vehicles. Within one year the Administrator shall report to the Congress respecting the results of such study.

(b) For the purpose of this section, the term "sustained-use motor vehicle" means any diesel or gasoline fueled motor vehicle (whether light or heavy duty) which, as determined by the Administrator (in conjunction with the Secretary), is normally used and occupied for a sustained, continuous, or extensive period of time, including buses, taxicabs, and police vehicles.

#### IMPLEMENTATION OF MOTOR VEHICLE EMISSION WARRANTIES

SEC. 218. Section 203(a) (4) of the Clean Air Act is amended by inserting after subparagraph (c) the following:

"(C) to fail or refuse to comply with the terms and conditions of the warranty under section 207 (a) or (b) with respect to any vehicle or to fail or refuse to comply with any requirement under subsection (b) (5) or (b) (6) of section 207, or"

#### TESTING OF FUELS AND FUEL ADDITIVES

SEC. 219. Section 211 of the Clean Air Act is amended by inserting a new subsection to read as follows:

"(e) (1) Not later than one year after date of enactment of this subsection and after notice and opportunity for a public hearing, the Administrator shall promulgate regulations which implement the authority under subsection (b) (2) (A) and (B) with respect to each fuel or fuel additive which is registered on the date of promulgation of such regulations and with respect to each fuel or fuel additive for which an application for registration is filed thereafter.

"(2) Regulations under subsection (b) to carry out this subsection shall require that the requisite information be provided to the Administrator by each such manufacturer—

"(A) prior to registration, in the case of any fuel or fuel additive which is not registered on the date of promulgation of such regulations; or

"(B) not later than three years after the date of promulgation of such regulations, in the case of any fuel or fuel additive which is registered on such date.

"(3) In promulgating such regulations, the Administrator may—

"(A) exempt any small business (as defined in such regulations) from or defer or modify the requirements of, such regulations with respect to any such small business;

"(B) provide for cost-sharing with respect to the testing of any fuel or fuel additive which is manufactured or processed by two or more persons or otherwise provide for

shared responsibility to meet the requirements of this section without duplication; or

"(C) exempt any person from such regulations with respect to a particular fuel or fuel additive upon a finding that any additional testing of such fuel or fuel additive would be duplicative of adequate existing testing."

#### TESTING BY SMALL MANUFACTURERS

Sec. 220. Section 206(a)(1) of the Clean Air Act is amended by adding at the end thereof the following: "In the case of any manufacturer of vehicles or vehicle engines whose projected sales in the United States for any model year (as determined by the Administrator) will not exceed three hundred, the regulations prescribed by the Administrator concerning testing of the manufacturer for purposes of determining compliance with regulations under section 202 for the useful life of the vehicle or engine shall not require operation of any vehicle or engine manufactured during such model year for more than five thousand miles or one hundred and sixty hours, respectively, but the Administrator shall apply such adjustment factors as he deems appropriate to assure that each such vehicle or engine will comply during its useful life with the regulations prescribed under section 202 of this Act."

#### CALIFORNIA WAIVER

Sec. 221. Section 209(b) of the Clean Air Act is amended to read as follows:

"(b)(1) The Administrator shall, after notice and opportunity for public hearing, waive application of this section to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such waiver shall be granted if the Administrator finds that—

"(A) the determination of the State is arbitrary and capricious,

"(B) such State does not need such State standards to meet compelling and extraordinary conditions, or

"(C) such State standards and accompanying enforcement procedures are not consistent with section 202(a) of this part.

"(2) If each State standard is at least as stringent as the comparable applicable Federal standard, such State standards shall be deemed to be at least as protective of health and welfare as such Federal standards for purposes of paragraph (1).

"(3) In the case of any new motor vehicle or new motor vehicle engine to which State standards apply pursuant to a waiver granted under paragraph (1), compliance with such State standards shall be treated as compliance with applicable Federal standards for purposes of this title."

And amend the table of contents accordingly.

Page 378, strike out line 23 and all that follows down through line 18 on page 385 and insert in lieu thereof the following:

#### LIGHT-DUTY MOTOR VEHICLE EMISSIONS

Sec. 203. (a) Subparagraph (A) of section 202(b)(1) of the Clean Air Act is amended to read as follows:

"(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1977 through 1979 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.5 grams per vehicle mile of hydrocarbons and 15.0 grams per vehicle mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide from light-duty vehicles and engines

manufactured during or after the model year 1980 shall contain standards which provide that such emissions do not exceed 8.0 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of hydrocarbons from light-duty vehicles and engines manufactured during or after model year 1980 shall contain standards which require a reduction of at least 90 per centum from emissions of such pollutant allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970."

(b) Subparagraph (B) of section 202(b)(1) of such Act is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1981 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured after the model year 1981 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.0 grams per mile except in the case of a revision or waiver by the Administrator under paragraph (5) or (6)."

(c) Section 202(b) of such Act is amended by striking out paragraph (5) thereof and substituting the following:

"(5)(A) Upon the petition of any manufacturer or on his own motion, the Administrator, after notice and opportunity for public hearing, shall revise the standard required under subparagraph (B) of paragraph (1) with respect to light-duty vehicles and engines manufactured during any period of two or more model years beginning after the model year 1981 if he determines that such standard should be revised due to (i) the lack of available, practicable, emission control technology to meet such standard during such period, (ii) the cost of compliance with such standard, and (iii) the impact of such standard on motor vehicle fuel consumption. No such revision may be made if the Administrator determines that such revision would endanger public health.

"(B) A revised standard established under this paragraph shall provide for such reduction of emissions of oxides of nitrogen from light-duty vehicles and engines as the Administrator deems appropriate based on (i) technology which is available and practicable during the period for which such standard applies, (ii) the cost of compliance, (iii) the impact on motor vehicle fuel consumption, and (iv) the need to protect public health. No such standard shall permit emissions of oxides of nitrogen in excess of 2.0 grams per vehicle mile.

"(C) A revised standard promulgated under this paragraph shall apply for a period of not less than two model years.

"(D) A revised standard established under this paragraph shall take effect beginning with the third model year which begins after the model year during which it is promulgated. In the case of a petition submitted by a manufacturer under this paragraph within such period as may be appropriate for purposes of this subparagraph, the Administrator shall promulgate a revision, or refuse to promulgate such a revision, within ninety days after the receipt of such petition.

"(6)(A) Upon the petition of any manufacturer, the Administrator, after notice and opportunity for public hearing, may waive the standard required under subparagraph (B) of paragraph (1) for any class or category of light-duty vehicles and engines manufactured by such manufacturer during any period of four or more model years beginning after the model year 1981 if he determines that such waiver is necessary to permit the

use of an innovative power train technology in such class or category which use can produce a substantial energy saving for such class or category as compared to conventional power trains incorporating spark ignited, gasoline, internal combustion engines. No such waiver may be granted if the Administrator determines that such waiver would endanger public health.

"(B) Upon granting a waiver under this paragraph respecting any class or category of vehicles or engines, the Administrator shall promulgate an interim standard applicable to such class or category such as will (i) permit the use of the innovative power train technology on the basis of which such waiver was granted and (ii) take into account the need to protect public health. No such interim standard shall permit emissions of oxides of nitrogen in excess of 2.0 grams per vehicle mile.

"(C) A waiver under this paragraph shall apply for a period of not less than four model years.

"(D) An interim standard promulgated under this paragraph shall take effect beginning with the third model year which begins after the model year during which it is promulgated. In the case of a petition submitted by a manufacturer under this paragraph within such period as may be appropriate for purposes of this subparagraph, the Administrator shall grant a waiver or refuse to grant such a waiver within ninety days after the receipt of such petition.

"(7)(A) Following each model year, the Administrator shall report to the Congress respecting the motor vehicle fuel consumption consequences, if any, of the standards applicable for such model year in relationship to the motor vehicle fuel consumption associated with the standards applicable for the immediately preceding model year.

"(B) The Secretary of Transportation and the Federal Energy Administration shall each submit to Congress, as promptly as practicable following submission by the Administrator of the fuel consumption report referred to in subparagraph (a), separate reports respecting such fuel consumption."

Page 402, strike out line 6 and all that follows down through line 8 on page 411 and insert in lieu thereof the following:

#### WARRANTIES

Sec. 209. (a) Section 207(b)(2) of the Clean Air Act is amended by adding the following at the end thereof: "No such warranty shall be invalid on the basis of any part used in the maintenance or repair of a vehicle or engine if such part was certified as provided under subsection (a)(2)."

(b) Section 207(a) of such Act is amended by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)" respectively, by inserting "(1)" after "(A)" and by adding the following new paragraph at the end thereof:

"(2) In the case of a motor vehicle part or motor vehicle engine part, the manufacturer or rebuilder of such part may certify that use of such part will not result in a failure of the vehicle or engine to comply with emission standards promulgated under section 202. Such certification shall be made only under such regulations as may be promulgated by the Administrator to carry out the purposes of subsection (b). The Administrator shall promulgate such regulations no later than two years following the date of the enactment of this paragraph."

(c) Section 207(b) of such Act is amended by striking out "its useful life (as determined under section 202(d))" in each place it appears and inserting in lieu thereof "a period of eighteen months or eighteen thousand miles (or the equivalent), whichever first occurs."

(d) Section 207(c)(3) of such Act is amended by inserting after the first sentence thereof the following: "The manufacturer



shall provide in boldface type on the first page of the written maintenance instructions notice that maintenance, replacement, or repair of the emission control devices and systems may be performed by any automotive repair establishment or individual using any automotive part which has been certified as provided in subsection (a) (2)."

(e) Section 207 of such Act is amended by adding the following new subsection at the end thereof:

"(g) Nothing in this section shall be construed to provide that any labor required to be provided at the cost of the manufacturer pursuant to warranty under regulations under subsection (b) (2) may be performed by any persons other than persons specified by the manufacturer or that any part required to be provided at the cost of the manufacturer under such warranty may be other than a part specified by the manufacturer."

(f) Section 207(a) (1) of such Act, as designated by subsection (b) of this section, is amended by adding the following at the end thereof: "For purposes of clause (1) (B) of this subsection the term 'defect' means a defect which existed at the time of sale of the new motor vehicle or motor vehicle engine to the ultimate purchaser."

(g) Section 214 of such Act is amended by adding the following new paragraph at the end thereof:

"(7) The term 'emission control device or system' means, for purposes of section 207, a catalytic converter, thermal reactor, or other component installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions. Such term shall not include those vehicle components which were in general use prior to model year 1968."

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. ROGERS. Mr. Chairman, may we have a copy of the amendment?

Mr. DINGELL. Mr. Chairman, the amendment was printed in the Record. It has been made available through that device to all of my colleagues. I regret I do not have a copy of the amendment immediately before me, but it is in the Record.

Mr. ROGERS. Mr. Chairman, I will ask the gentleman if it is identical to what is in the Record.

Mr. DINGELL. Mr. Chairman, it is identical to that which was published in the Record.

Mr. Chairman, this is the amendment which was cosponsored by my good friend and colleague, the gentleman from North Carolina (Mr. BROYHILL), and me. It has the support of the UAW, the AFL-CIO, the Automobile Dealers, the automobile companies, the American Automobile Association, and the auto market parts industry, as well as the support of a large number of organizations and individuals throughout the whole of our society, including the chamber of commerce.

Mr. Chairman, copies of the amendment and lists of those who join in sponsorship have been made available to my colleagues.

To my colleagues I point out that here

is the schedule that would be imposed under the legislation which we have before us. Observe that it is the same, for all intents and purposes, with regard to hydrocarbons at the end and throughout the length of the bill. It only goes to 9 grams per mile with carbon monoxide because California's and every other study has shown that this is about as low as we need to go. It goes to 1.0, which was the level agreed upon by the House last year, and allows a waiver up to 2.0 grams of NO<sub>x</sub> only for technology which gives additional mileage and only if there is a finding that this can be accomplished without endangering public health.

Mr. Chairman, I point out to my colleagues that to fail to do this will be to rule out diesels and other advanced technologies which are presenting enormous opportunities for energy savings.

Mr. Chairman, I would beg my colleagues to understand that the committee bill virtually rules out all advanced technology which will save energy, including diesels, lean burn, stratified charge, and even the gas turbine and turbocharged engines or new efficient driveline technologies.

Let me show my colleagues some of the information I think they ought to know. I tried very diligently to have the White House have the three-agency study updated with regard to health benefits, environmental benefits, cost savings, and fuel savings; but it was not done until last week. The EPA judgments on which the House has been called upon to act have been entirely deficient. The President had no complete or integrated analytical information available to him when he made his judgments.

Mr. Chairman, here are the consequences in terms of energy losses of the administration bill. Taking the middle figure of 140,000 barrels of oil a day, that is an energy loss of \$3.5 billion a day in oil and \$3.5 billion in foreign exchange every year.

Mr. Chairman, I beg my colleagues to understand the consequences of what we are doing. Here are the effects of the different strategies lying before us, and this is according to Mr. Costle of the EPA when he testified before our congressional committee.

Mr. Chairman, if adopted, the amendment offered by the gentleman from North Carolina (Mr. BROYHILL) and me will cost in new car prices, \$170 additional. The legislation sponsored by the gentleman from Florida (Mr. ROGERS) will cost a buyer \$350 additional; but with the 5- to 14-percent fuel penalty that will be involved, it will cost the consumers not only the initial payment of \$350 additional, but it will cost about \$190 more over the lifetime of the car. This is what has already been imposed on American consumers, according to Douglas Costle, the Administrator of EPA.

Mr. Chairman, \$1,000 in total Government regulations on the automobile is added by these things to the initial cost of the automobile. This is a figure, according to the EPA, of losses in automobile sales in the thousands on a yearly basis. The administration's proposal will

cost 99,000 cars. Under our proposals, there will be a loss of 32,000 sales, and there will be a loss in the number of jobs in thousands, according to the EPA.

Mr. Chairman, I call upon my colleagues to note that last year it was said that the current administration's proposal, which is substantially identical to that which is before us, in H.R. 6161, would cost as many as 100,000 additional jobs. According to the EPA, the proposal made by the gentleman from North Carolina (Mr. BROYHILL) and me will cost only 7,000 jobs.

Again, Mr. Chairman, I beg my colleagues to consider this at a time when the economy is only now recovering from the deepest recession in history. Here are the NO<sub>x</sub> effects, and I beg my colleagues to look at this because it is over NO<sub>x</sub> that the big controversy arises.

Here is what the DOT analysis said, and incidentally, the administration suppressed all of the information with regard to environmental consequences, health benefits, and other things until the gentleman from California (Mr. Moss) forced them to deliver to his committee that information under threat of subpoena.

Observe that it is evident that a reduction of automobile emissions from 2.0 to 0.4 grams could not produce the claimed reductions in lower health effects.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. The Department of Transportation analysis further said:

That it is difficult to put a price tag on health and even more difficult to judge the cost on life.

However it has also been suggested in health studies that additional health gains attributable to any lower emission controls would come more likely from tighter controls on stationary sources rather than automobiles across the Nation.

Of total damage in terms of health consequences: There is no health consequence which is demonstrated and by 1990 we will be at exactly the same place in terms of health consequences.

There has been a lot of fuss about carbon monoxide. I want the Members to observe this chart, carbon monoxide in the three main regions in the United States where we are told there are major environmental problems, take Los Angeles, Denver, and the Washington metropolitan area. Observe the 1.10 parts per million of the area where there is no hazard under three schedules. In Los Angeles, by the same time and by the same place, we get to zero evil effect in terms of carbon monoxide. The same is true of Denver. The same is true of the Washington metropolitan area. All three schedules, in terms of health consequences from carbon monoxide emissions, under any of the schedules, are exactly the same.

There are more additions to this proposal in our amendment which would preserve the economic warranty and

which would say to the small businessmen, that they would have a fair chance at the aftermarket parts sales. Let me point out that this industry, over 160,000 member firms strong, supports the aftermarket parts provision of the amendment which we offer.

I beg my colleagues, on the basis of jobs, on the basis of fuel savings, on the basis of conservation and on the basis of health environmental benefits, that the best schedule and legislation lying before the committee is here, Dingell-Broyhill. We save the consumers and we save our constituents almost \$350 a car over the life of the vehicle by voting for this amendment with no health penalties, right in this amendment. But there are other advantages from the amendment which are enormous.

I beg my colleagues to bear that in mind, to impose a greater burden on the American economy, the worker and the consumer is totally unjustified.

Unless there could be a showing of health benefits, and the EPA, Doug Costle and the administration, despite the fact they tried to suppress the information, have consistently made it plain that there is no certain or hard data on health benefits whatsoever going below the level fixed in Dingell-Broyhill. Indeed, California has pointed out that to go below 9 grams per mile constitutes a massive waste of energy. The catalyst manufacturers have said that this is as far as they can go in terms of providing rhodium and other precious metals that go into the catalysts. By 1983 diesels will be removed from the road by the administration's .04 NO<sub>x</sub> proposal, with a loss of 25 percent in fuel savings.

The whole consequence of these proposals before us is very clear when one looks at the facts and the information.

I would also point out that the foreign manufacturers, Volvo, the Japanese car makers and Volkswagen and all others have said this is exactly the schedule to which we should go.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(At the request of Mr. Russo, and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. RUSSO. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. The gentleman from Illinois has been gracious enough to get additional time for me, and I am glad to yield to him.

Mr. RUSSO. Mr. Chairman, I rise in strong support of the Dingell-Broyhill amendment and want to compliment the gentleman from Michigan on his presentation of the amendment.

Mr. Chairman, there can be no doubt that today's consideration of amendments to the Clean Air Act represents a key decision point in the development of our national energy policy for the next several decades. The vote today on the Dingell-Broyhill amendment will show just how serious we really are about energy conservation. The fleet average fuel economy performance standards for model years 1981 through

1985, set by the Energy Policy and Conservation Act of 1975, represent major targets of fuel conservation which we cannot afford to abandon at this time—ask any Arab oil minister and he will tell you why. The Dingell-Broyhill substitute assures us that the fuel economy goals can be met on time because the emission limits reflect realistically obtainable reductions in tailpipe emissions, NO<sub>x</sub> in particular.

The Dingell-Broyhill emissions schedule assures us that auto makers will not need to devote all of their research and quality control efforts toward improvements in existing control technologies. Rather, the flexibility will be there for them to channel research efforts toward new engine designs and more sophisticated add-on devices as the means to ultimately achieving greater emission reductions than are now possible.

And I am concerned over the proven effects which the emissions schedule as now written will have on the sticker price of every new car. The interagency report on the effects of various emission requirements, as updated this March, still shows that the levels required in H.R. 6161 would add up to \$340 in additional cost to the consumer. This, combined with the additional system maintenance costs of up to \$100, is more than can be justified by the resulting fuel penalties and insignificant air quality improvements promised by the administration proposal. The Dingell-Broyhill substitute offers the most reasonable balance here between the additional costs of achieving control and the need to keep from breaking the customer's pocketbook.

Finally, the Dingell-Broyhill substitute assures that, beyond the current average of over 80 percent emission reductions in 1977 cars, we will continue improving with further reductions in the auto component of overall air pollution. I am convinced that we can follow this course while maintaining the needed balance between our environmental, health, and energy needs.

With regard to the performance warranty and parts certification provisions, again I believe the Dingell-Broyhill substitute offers the best solution. I attach great importance to the automotive parts industry and independent garages as essential segments of the small business community. I have no doubt that the imposition of a 5-year/50,000-mile warranty would effectively shut out their shares of the emission control maintenance and related repair work.

The committee bill would authorize the automatic transfer to the 5 year/50,000-mile term after 3 years. The language holds out the slim possibility that a 2-year Federal Trade Commission (FTC) study on the market effects of the lengthier term could prove that there are significant anticompetitive effects. Even then, it would be up to the Congress to reverse the automatic effect of the committee bill's language. Well, there is enough evidence now to convince me of its anticompetitive effects. The March 1977 testimony before EPA by the Justice Department and the De-

cember 1974 report of the Small Business Subcommittee on Environmental Problems Affecting Small Businesses, Monopolistic Tendencies of Auto Emission Warranty Provisions, both conclude that there would be definite negative impacts on the automotive aftermarket created by the 5 year/50,000-mile warranty.

For 5 years customers would, for the assurance of proper maintenance to the specifications of the manufacturer, be inclined to depend on the dealer to perform this work. Once the customer is at the dealership, there is greater likelihood that he will request other maintenance and repair work which he might normally have done at an independent garage. Currently, 75 percent to 80 percent of the service work on automobiles is performed by independent garages in this country.

The Health Subcommittee adopted a provision to the section 209 language which was expected to defuse the projections of an auto company monopoly on parts and servicing. As H.R. 6161 now reads, it would authorize the vehicle owner to choose an independent garage to perform warranty work using certified automotive aftermarket parts. Auto companies would be obliged, under the law, to reimburse the independent garages for their work.

This arrangement thus takes the fundamental decisionmaking control over repair arrangements away from the manufacturer—who must still bear the liability for proper repair work—and gives it to the owner. This band-aid approach can only lead to greater built-in costs in the price tag of automobiles which the consumer will have to pay. Extending the manufacturer's liability to cover the work of anyone not of their choosing is just plain bad policy and promises to be unworkable in practice.

So we owe it to ourselves to think about this vote on the Dingell-Broyhill substitute and its impacts on the fuel conservation effort and on the viability of the automotive aftermarket industry. I urge my colleagues to adopt this amendment.

AMENDMENT OFFERED BY MR. PREYER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DINGELL

Mr. PREYER. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. PREYER as a substitute for the amendment offered by Mr. DINGELL: In lieu of the matter proposed to be inserted by the Dingell amendment, insert the following:

#### TITLE II—AMENDMENTS RELATING PRIMARILY TO MOBILE SOURCES

##### LIMITATION ON INDIRECT SOURCE REVIEW AUTHORITY

SEC. 201. (a) Title III of the Clean Air Act is amended by adding the following new section at the end thereof:

##### "INDIRECT SOURCE REVIEW PROGRAM STUDY

"Sec. 318. The Administrator shall conduct a study to determine if, and under what conditions, indirect source review programs (as defined in section 124(g)) contained in, or which could be contained in, State implementation plans are necessary to, and are



likely to be effective to reduce, or prevent or minimize any projected increase in, emissions of any mobile source-related air pollutant or otherwise assist in attaining or maintaining any national primary ambient air quality for such pollutant. Not later than one year after the date of enactment of the Clean Air Act Amendments of 1977, the Administrator shall report to the Congress the results and findings of the study conducted under this section. In carrying out this section, the Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences for an independent study to be conducted by the Academy. In conducting such study, the Administrator shall consult with other appropriate governmental agencies. In making the report under this section, the Administrator shall consider the study and advice of the Academy and of other appropriate governmental agencies. Of the funds authorized to be appropriated to the Administrator by this Act, such amounts as are required shall be available to carry out such independent study."

(b) Section 110(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) Except as may be otherwise provided under paragraph (2) (I) and section 124—

"(A) no applicable implementation plan, nor any amendment or revision thereof, shall be required under any provision of this Act, as a condition of approval of such plan under paragraph (2), to include, and no plan promulgated by the Administrator shall include, any indirect source review program (as defined in section 124(g)), and

"(B) any State may revise an applicable implementation plan approved under section 110(a) to suspend or revoke any such program included in such plan.

This paragraph shall not prevent the Administrator from approving any such program if it is adopted and submitted by a State as part of an applicable implementation plan."

(c) Section 110(a)(2) of such Act is amended by striking out the period at the end of section 110(a)(2)(H) and inserting in lieu thereof a semicolon and by adding the following new subparagraph at the end thereof:

"(I) it includes an indirect source review program meeting the requirements of section 124 if the Administrator determines—

"(i) as provided under section 124(a), that such program would be necessary in an air quality control region, or portion thereof, in the State in order to assist in attaining or maintaining a national primary ambient air quality standard, and

"(ii) as provided under section 124(b), that such program is likely to be effective in reducing emissions of a mobile source-related air pollutant, in preventing or minimizing any projected increase in such emissions, or otherwise assisting in attaining or maintaining any national primary ambient air quality standard for such pollutant;"

(d) Title I of the Clean Air Act is further amended by adding at the end thereof the following new section:

#### "LIMITATIONS ON INDIRECT SOURCE CONTROLS

"Sec. 124. (a) Regulations promulgated by the Administrator under subsection (c) shall not require a State to include in the State implementation plan, as a condition of approval of such plan, an indirect source review program for any air quality control region, or portion thereof, unless, after notice and opportunity for public hearing, he determines, on the basis of the study conducted under section 318 (together with such other information as may be available to the Administrator), that such a program would be necessary to assure attainment of the national primary ambient air quality standards for mobile source-related pollutants by the primary standard attainment date for such

pollutant or to assure maintenance of such standards thereafter assuming the following conditions existed—

"(1) Light-duty motor vehicles and engines manufactured during and after model year 1975 had achieved a reduction in emissions of carbon monoxide and hydrocarbons of 90 per centum from the emissions of such pollutants allowable under standards under section 202 applicable to model year 1970, and such vehicles and engines manufactured during and after model year 1976 had achieved a reduction in emissions of oxides of nitrogen of 90 per centum from the emissions of such pollutant allowable under such standards applicable to model year 1971.

"(2) All practicable emission limitations and transportation control measures in the applicable implementation plan had been implemented as provided in such plan.

"(b) (1) Regulations promulgated by the Administrator under subsection (c) shall not require a State to include in the State implementation plan, as a condition of approval of such plan under section 110(a)(2), an indirect source review program for any air quality control region, or portion thereof, unless, after notice and opportunity for public hearing, he determines, on the basis of the study conducted under section 318 (together with such other information as may be available to the Administrator), that such program is likely to be effective in such State to reduce emissions of a mobile source-related air pollutant, to prevent or minimize any projected increases in such emissions, or otherwise to assist in attaining or maintaining any national primary ambient air quality standard for any such pollutant—

"(A) in general,

"(B) Under any specified set of conditions, or

"(C) in any designated air quality control region or portion thereof.

"(2) If the Administrator makes the determination in paragraph (1) (B) or (C), then any such regulations may apply only in any air quality control region where the conditions specified in paragraph (1) (B) exist or in any region designated in paragraph (1) (C).

"(c) (1) (A) Within three months after the date required for completion of the study conducted under section 318, the Administrator shall publish proposed regulations requiring adequate State indirect source review programs to be included in appropriate State plans, as a condition of approval of such plans, subject to the limitations of subsections (a) and (b). Not later than three months after proposal of such regulations, the Administrator shall promulgate final regulations with appropriate modifications. Regulations promulgated under this section may be revised from time to time.

"(B) Within nine months after the later of (i) promulgation of final regulations under subparagraph (A) or (ii) determinations made under subsections (a) and (b), each State required to include an indirect source review program in the applicable implementation plan as a condition of approval under section 110(a)(2) shall submit to the Administrator a plan revision containing such a program.

"(C) Within eight months from the date required for submission of a plan revision under subparagraph (B) the Administrator shall approve or disapprove so much of the implementation plan as provides for the implementation of, enforcement of, or variance from, such indirect source review program. The Administrator shall approve such provisions of such plan if he determines that the plan revision meets the requirements of regulations prescribed under this subsection. The Administrator may not disapprove any indirect source review program which he has previously approved unless he deter-

mines that the State in a substantial number of instances, has failed to carry out the requirements of such program in accordance with the provisions of this section. No determination of disapproval under the preceding sentence shall take effect for a period of three months following the date of such determination.

"(2) Regulations (or revisions thereof) published or promulgated under this subsection shall specify each State implementation plan with respect to which a plan revision will be required to comply with such regulations at the time such regulations (or revisions) are promulgated.

"(3) No indirect source (other than a parking facility which the Administrator determines will be used predominantly as part of a park-and-ride portion of a public transportation system which will assist in reducing regional air pollution concentrations) shall commence construction or modification after the date three months after the date required under paragraph (1) (C) for approval or disapproval of a State plan revision submitted under paragraph (1) (B) in any air quality control region for which the State is required to submit such a revision, unless the State's plan revision has been approved by the Administrator and such construction or modification complies with such approved plan.

"(d) (1) Except as provided in paragraph (2), any violation of a term or condition of any indirect source review program contained in an approved State plan (or in a plan promulgated under section 110(c), as permitted under subsection (e) (3)), any violation of a term or condition of any permit or variance under such an indirect source review program, and any violation of subsection (c) (3) of this section shall be treated as a violation of a requirement of an applicable implementation plan for purposes of this Act.

"(2) No person who has received a permit to construct or modify an indirect source from a governmental unit with an approved indirect source review program and who complies with the terms and conditions of such permit shall be deemed to be in violation of an applicable implementation plan under this subsection with respect to such construction or modification and no such permit may be withdrawn or revoked by the Administrator.

"(3) The regulations promulgated under subsection (c) may not require any indirect source which commences construction or modification before the date six months after any revision of an applicable implementation plan required by reason of a revision or amendment of the regulations promulgated under subsection (c) to comply with any requirement of such revised or amended implementation plan.

"(e) (1) Except as provided in paragraph (3) of this subsection, the Administrator shall have no authority to promulgate, implement, or enforce regulations under section 110 (c) (1) relating to an indirect source review program for any air quality control region or any portion thereof located in any State.

"(2) In the event an indirect source review program is required for any air quality control region or part thereof in any State and such State fails to adopt a program which meets the requirements of this section, the State's indirect source review program shall be disapproved by the Administrator.

"(3) Paragraph (1) shall not apply to promulgation, implementation, or enforcement of regulations respecting indirect source review programs which apply only to federally assisted highways, airports, and other major federally assisted indirect sources and federally owned or operated indirect sources. Nothing in this section shall be construed to limit the authority of the Ad-

ministrator to conduct preconstruction or premodification review of a federally assisted highway, airport or other major federally assisted indirect source or federally owned or operated indirect source, which commences construction or modification on or before the date three months after the date required under subsection (c) (1) (C) for approval or disapproval of a State plan revision.

"(f) (1) The regulations promulgated by the Administrator under subsection (c) shall provide that variances may be granted by the Governor of a State with an approved indirect source review program permitting construction (or modification) and operation of an indirect source notwithstanding the requirements of the indirect source review program in any case in which such variance will encourage development of long-term transportation patterns and modes which will—

"(A) improve, in the long term, air quality and protect public health, and

"(B) be energy efficient, or which will prevent any requirement of the indirect source review program from creating any economic advantage or disadvantage for urban, suburban, or rural areas.

"(2) Except for a variance granted under this section, a plan promulgated under section 110(c) in conformance with subsection (e) (3) of this section, or a plan revision under section 110(a) (3) or 110(a) (5) (B), no variance, extension, compliance order, plan revision, or other action deferring or modifying a requirement of an applicable implementation plan may be taken with respect to any indirect source by the State or by the Administrator.

"(3) Any variance granted under this section shall terminate not later than January 1, 1985. Upon termination of any variance under this section, the indirect source to which such variance was granted shall be subject to all requirements and limitations of the applicable implementation plan.

"(4) A variance may be granted under this subsection only if the Governor determines that—

"(A) emissions from vehicles attracted to the indirect source with respect to which such variance is granted will not cause or contribute to air pollution concentrations in excess of any national primary ambient air quality standard for any mobile source-related pollutant in any part of the air quality control region in which such source is located upon expiration of such variance or thereafter (taking into account all other variances previously granted under this subsection),

"(B) any new indirect source receiving such a variance will be located so as to be (upon expiration of the variance) compatible with, and conveniently and economically served by, public transportation and such location will be compatible with any comprehensive public transportation measures under section 123(b) (5),

"(C) such indirect source will be designed and constructed so as to minimize emissions of mobile source-related pollutants from vehicles attracted to such source and will use the best practicable traffic flow measures, and

"(D) such indirect source as newly constructed or modified will become compatible with transportation control measures provided in the applicable implementation plan.

No subsequent variance may be granted under this subsection if the Administrator determines, after notice and opportunity for public hearing, that variances have been granted without regard to the requirements of this paragraph in a substantial number of instances. The prohibition contained in the preceding sentence shall be for such period as the Administrator deems necessary to assure compliance with such requirements.

"(g) (1) For purposes of this section the

term 'indirect source review program' means the facility-by-facility review of indirect sources of air pollution, including such measures as are necessary to assure, or assist in assuring, that a new or modified indirect source will not attract mobile sources of air pollution, the emissions from which would cause or contribute to air pollution concentrations—

"(A) exceeding any national primary ambient air quality standard for a mobile source-related air pollutant after the primary standard attainment date, or

"(B) preventing maintenance of any such standard after such date.

"(2) Such term shall include measures which—

"(A) require a prior permit for construction (or modification) of any such indirect source and require operation of such source in the manner approved pursuant to such permit; and

"(B) limit the issuance of any such permit to indirect sources which will not have the effects referred to in subparagraph (A) or (B) of paragraph (1)."

(e) Section 302 of such Act is amended by adding the following new subsections at the end thereof:

"(1) The term 'indirect source' means a facility, building, structure, installation, real property, road, or highway which attracts, or may attract, mobile sources of pollution. Such term includes parking lots, parking garages, and other facilities subject to any measure for management of parking supply (within the meaning of section 110(c) (2) (D) (ii), including regulation of existing on- and off-street parking). Direct emissions sources or facilities at, within, or associated with, any indirect source shall not be deemed indirect sources for the purpose of this Act.

"(k) The term 'mobile source-related air pollutant' means any air pollutant which is subject to regulation under section 202, 211 (c) (1) (A), or 231 of this Act."

(f) Section 110(a) (2) (B) of such Act is amended by striking out "land-use and" and by inserting after "transportation controls" the following: ", air quality maintenance plans, and preconstruction review of direct sources of air pollution."

#### EXTENSION OF TRANSPORTATION CONTROL COMPLIANCE DATES

SEC. 202. Title I of the Clean Air Act is amended by adding at the end thereof the following new section:

#### "EXTENSION OF TRANSPORTATION CONTROL COMPLIANCE DATES

"SEC. 123. (a) (1) Upon application submitted by the Governor of a State, the Administrator may extend the date required for compliance with any transportation control measure adopted by a State and included in an applicable implementation plan.

"(2) Upon application submitted by the chief executive officer of a general purpose unit of local government which is carrying out responsibility delegated under section 110(c) (3), or on his own motion, the Administrator may extend the date required for compliance with any transportation control measure which was promulgated by the Administrator under section 110(c). In the case of an application submitted by such officer, such extension shall apply only to the extent that such measure applies within the jurisdiction of such unit.

"(b) (1) (A) No extension may be granted under subsection (a) with respect to any transportation control measure unless such measure is applicable in an air quality control region in which the State or unit of local government (or the Administrator, as the case may be) has implemented within such jurisdiction all requirements (except as provided in subparagraph (B)) of the applicable implementation plan which are required

to be implemented as of the date of application and are intended to control any mobile source-related pollutant. Such implementation includes initiating and diligently pursuing enforcement actions to bring non-complying persons into compliance.

"(B) For purposes of subparagraph (A) the State or unit of local government (or Administrator) shall not be required, as of the date on which such extension is granted, to have implemented:

"(i) transportation control measures with respect to which a finding has been made under paragraph (2), and

"(ii) requirements for indirect source review programs (as defined in section 124).

"(2) No extension may be granted under subsection (a) for any transportation control measure unless—

"(A) the Administrator finds that implementation of such measure on the required date would (i) cause, or contribute to, a failure to meet basic transportation needs of the area, (ii) be infeasible, or (iii) otherwise cause seriously disruptive and widespread economic or social effects,

"(B) the Administrator states with reasonable specificity the factual basis of the finding made under subparagraph (A), and

"(C) the applicant has prepared (or the Administrator has prepared, if acting on his own motion)—

"(i) a detailed planning study identifying and quantifying the respect (if any) in which the basic transportation needs of the area could not be met if the applicable measure were not extended, the seriously disruptive and widespread economic or social effects (if any) of not extending such measure, the respects (if any) in which implementation of such measure would be infeasible, and the effects on public health and welfare expected to result from the continued air pollution associated with the extension,

"(ii) an examination of measures (including establishment, improvement, or expansion of public transportation) other than those measures for which an extension is sought, which could be implemented and used to attain and maintain national ambient air quality standards as expeditiously as practicable, and

"(iii) a detailed description of the measures to be undertaken during all such extensions to minimize any risk to public health.

"(3) No extension may be granted under subsection (a) unless there has been prior notice and opportunity for public hearing.

"(4) No finding may be made under paragraph (2) (A) (i) unless the Administrator finds that implementation of public transportation (or other means) which would meet such needs by such required date would be impracticable.

"(5) (A) Except as provided in subparagraph (B) of this paragraph, each transportation control measure for which an extension is granted under subsection (a) shall be required to be implemented (under a compliance schedule containing increments of progress prescribed pursuant to such extension) as expeditiously as practicable but not later than January 1, 1980.

"(B) Such measure shall be required to be implemented as expeditiously as practicable but not later than January 1, 1985, if the applicable implementation plan is revised within the one-year period specified in paragraph (6)—

"(i) to include comprehensive measures (including compliance schedules containing increments of progress) to, as expeditiously as practicable, establish, expand, or improve public transportation to meet basic transportation needs while implementing transportation control measures necessary to attain and maintain national ambient air quality standards, and



"(ii) to meet the requirements of paragraphs (1) and (2) of subsection (d).

"(6) No extension for any transportation control measure under subsection (a) shall remain in effect for more than one year after such extension is granted unless, before such date, the applicable implementation plan is revised to include—

"(A) requirements to use (insofar as necessary), for the purpose of implementing the transportation control measures with respect to which such extension was granted, funds which are reasonably available to the State or local government; and

"(B) in the case of an area which has been granted an extension beyond January 1, 1980, requirements to use (insofar as necessary), for the additional purpose of implementing the comprehensive public transportation measures required under paragraph (5)(B), funds which are reasonably available to the State or local government.

"(c) In the case of any applicable implementation plan containing measures requiring—

"(1) retrofits on other than commercially owned in-use vehicles, or

"(2) gas rationing which the Administrator finds would have seriously disruptive and widespread economic or social effects if implemented before January 1, 1985,

the Administrator may, after notice and opportunity for public hearing, approve elimination of such measures from the plan notwithstanding the requirements of section 110(a). No later than nine months after approval of the elimination of any such measure is granted with respect to any applicable implementation plan, a revised plan must be submitted (as provided in section 110(a)(2)(H)) to meet such requirements.

"(d) Not later than one year after date of enactment of this section, the Administrator shall complete a review of all applicable implementation plans for mobile source-related pollutants to determine whether or not such plans would be adequate as of such date to attain, by the date required under section 110, the national primary ambient air quality standards for such pollutants and maintain them thereafter if no extensions, exemptions, or variances had been granted under sections 111(f), 118, 119, 121, 124, and this section. Unless the Administrator determines that any such plan would be adequate (within the meaning of the preceding sentence) he shall require revision of such plan. The revised plan shall be such as would be adequate (within the meaning of the first sentence of this subsection). The Administrator shall promptly notify the State when any plan revision is required under this subsection and shall require submission of such revised plan on such date (not sooner than sixty days or later than six months after such notice) as he may determine. Such revised plan shall—

"(1) identify and provide for implementation of the remaining emission reductions necessary for the plan to be adequate within the meaning of this subsection with respect to mobile source-related pollutants and the measures to be implemented to accomplish these reductions;

"(2) identify the financial and manpower resources necessary to carry out such measures, and commit the State or local government to provide those resources; and

"(3) include emission limitations, applicable to stationary sources which emit any mobile source-related air pollutant in significant amounts, requiring reduction of such emissions to the maximum extent technologically feasible (for a finding that any such emission limitation not so included is not necessary for the plan to be adequate within the meaning of this subsection and a justification for such finding).

If the Administrator determines that a proposed plan revision does not incorporate the most expeditious practicable date for

achievement of adequacy within the meaning of this subsection, he shall notify the Governor of the deficiencies in the proposed revision. This notification shall include the Administrator's judgment as to the additional control strategies that should be incorporated, and the most expeditious dates which are practicable for implementing the measures included or to be included in the plan. The notification shall also specify a date for submission of the modified plan revision not more than one hundred and twenty days from the date of notification.

"(e) Except for a compliance date extension issued under this section, a plan revision under section 110(a)(3), or an elimination approved under subsection (c), no extension, compliance order, plan revision, or other action deferring or modifying a requirement of an applicable implementation plan may be taken with respect to any transportation control measure by the State or by the Administrator.

"(f) (1) For purposes of this section and section 110(a)(2)(B), the term 'transportation control measure' does not include any measure for management of parking supply (as defined in section 110(c)(2)(D)(ii) except that such definition shall be applied without regard to whether or not a facility is new) or any indirect source review program (as defined in section 124).

"(2) For purposes of subsection (b)(6), the term 'funds which are reasonably available' means—

"(A) grants which have been made to a State or local government under Federal law,

"(B) funds which have been appropriated under State or local law, or

"(C) any combination of such grants, and funds, which may, consistent with the terms of the legislation providing for such grant or making such appropriation, be used for the purposes referred to in such subsection (b)(6)."

#### LIGHT-DUTY MOTOR VEHICLE EMISSIONS

Sec. 203. (a) Subparagraph (A) of section 202(b)(1) of the Clean Air Act is amended to read as follows:

"(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles, and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during the model years 1977 through 1979 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.5 grams per mile of hydrocarbons and 15.0 grams per mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of such pollutants from such vehicles and engines manufactured during the model year 1980 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 0.41 gram per mile of hydrocarbons and 9.0 grams per mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during or after model year 1981 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970."

(b) Subparagraph (B) of such section 202(b)(1) is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1980 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per vehicle mile. Except as provided in paragraphs (5), (6), and (7), the regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during or after model year 1981 shall contain standards which provide that emissions from such vehicles and engines may not exceed 1.0 grams per vehicle mile."

(c) Section 202(b) of such Act is amended by striking out paragraph (5) thereof and substituting the following:

"(5) The Administrator shall, not later than June 30, 1980, and after notice and opportunity for public hearing, determine whether or not a standard for emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during and after 1983 which provides that emissions from such vehicles and engines may not exceed 4 grams per vehicle mile may reasonably be anticipated to be necessary to protect public health. If he so determines under the preceding sentence, such standard for such pollutant shall be 0.4 gram per vehicle mile.

"(6) In the case of any manufacturer of light-duty vehicles having worldwide production of not more than 300,000 such vehicles during model year 1976 (as determined by the Administrator) in lieu of the standard required under the third sentence of paragraph (1)(B), in the case of the model year 1981, there shall be applied a standard which provides that emissions from such vehicles and engines shall not exceed 2.0 grams per vehicle mile.

"(7) For the model years 1981 and 1982, the Administrator may, after notice and opportunity for public hearing, waive the standard required under the third sentence of paragraph (1)(B) in the case of qualified diesel vehicles manufactured by any manufacturer during such model years if the Administrator determines that—

"(A) emissions of oxides of nitrogen from such vehicles will not exceed 1.5 grams per vehicle mile for a period of 100,000 miles and emissions of other pollutants will not exceed the applicable standard for a period of 100,000 miles,

"(B) such manufacturer has made maximum feasible efforts to meet such standard required under the third sentence of paragraph (1)(B) for the model years 1981 and 1982, and

"(C) such vehicles will meet all applicable fuel economy standards.

In the case of any waiver under this paragraph, the applicable standard for purposes of this Act for vehicles to which such waiver applies shall provide that emissions of oxides of nitrogen from such vehicles shall not exceed 1.5 grams per vehicle mile. For purposes of this paragraph, the term 'qualified diesel vehicle' means a diesel powered vehicle weighing in excess of 3,000 pounds."

(d) Section 206 of such Act (relating to compliance testing and certification) is amended by adding the following new subsection at the end thereof:

"(g)(1) In the case of any class or category of vehicles or engines subject to a standard of 0.4 grams per vehicle mile for

oxides of nitrogen (as provided in section 202(b)(5)), a certificate of conformity shall be issued under subsection (a) and shall not be suspended or revoked under subsection (b) for such vehicles or engines manufactured by a manufacturer during any model year after the model year 1982 and before the model year 1986 notwithstanding the failure of such vehicles or engines to meet such standard if—

"(A) emission of oxides of nitrogen from such vehicles and engines do not exceed 1.0 grams per vehicle mile, and

"(B) such manufacturer pays a nonconformance penalty as provided under regulations promulgated, after notice and opportunity for public hearing, by the Administrator.

"(2) The regulations promulgated under paragraph (1) shall provide for a nonconformance penalty in an amount equal to the difference between the costs of compliance (by vehicles and engines subject to such penalty) with a standard of 0.4 grams per vehicle mile and the costs of compliance (by such vehicles and engines) with a standard of 1.0 grams per vehicle mile, for oxides of nitrogen.

"(3) In the case of any diesel vehicles if the Administrator determines, after notice and opportunity for public hearing, that such vehicles will meet a standard for oxides of nitrogen which provides that emissions of such pollutant shall not exceed 1.0 grams per vehicle mile for a period of 100,000 miles, a standard established under section 202(b)(5) shall not apply to such vehicles and the applicable standard for purposes of this Act shall provide that emissions of such pollutant shall not exceed 1.0 grams per vehicle mile."

(c) Part A of title II of such Act is amended by redesignating section 214 as section 218 and by inserting after section 213 the following new section:

**"STUDY OF UNREGULATED POLLUTANTS FROM MOTOR VEHICLES"**

"SEC. 214. (a) The Administrator shall conduct a study concerning the effects on health and welfare of emissions from motor vehicles or motor vehicle engines to which section 202 applies of sulfuric acid mist, other pollutants which are not subject to standards under section 202, and pollutants which may be present in the ambient air which are derivatives of any pollutant emitted from motor vehicles. Such study shall characterize and quantify such emissions, and determine the effects of such pollutants emitted from diesel, rotary, stratified charge, lean burn, catalytically equipped, and conventional internal combustion engines as well as engines or control devices which the Administrator determines are likely to come into common use.

"(b) The Administrator shall report to Congress the findings and results of the study conducted under subsection (a) not later than one year after the date of the enactment of the Clean Air Act Amendments of 1977 and annually thereafter.

"(c) The reports required to be submitted to the Congress under this section shall be submitted directly to the Congress by the Administrator before disclosure or submission of such reports to the Office of Management and Budget, the President, or any other department or agency of the United States. Nothing in this subsection shall be construed to preclude the Office of Management and Budget from submitting its comments concerning any such report to the Congress."

(f) Section 203(a)(4) of the Clean Air Act is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and by adding the following new subparagraph at the end thereof:

"(C) to fail to make maximum efforts which are feasible for such manufacturer

to comply with any standard under section 202 of this Act."

**EMISSION STANDARDS FOR HEAVY DUTY VEHICLES OR ENGINES AND CERTAIN OTHER VEHICLES OR ENGINES**

SEC. 204. (a) Section 202(a) of the Clean Air Act is amended by adding the following new paragraph at the end thereof:

"(3) (A) (i) The Administrator shall prescribe regulations under paragraph (1) of this subsection applicable to emissions of carbon monoxide, hydrocarbons, and oxides of nitrogen from classes or categories of heavy-duty vehicles or engines manufactured during and after model year 1979. Such regulations applicable to such pollutants from such classes or categories of vehicles or engines manufactured during model years 1979 through 1984 shall contain standards which reflect the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology.

"(ii) Unless a different standard is temporarily promulgated as provided in subparagraph (B) or unless the standard is changed as provided in subparagraph (E), regulations under paragraph (1) of this subsection applicable to emissions from vehicles or engines manufactured during and after model year 1985 shall contain standards which require a reduction of at least 65 percent in the case of oxides of nitrogen and a reduction of at least 90 percent in the case of carbon monoxide and hydrocarbons from the average of the actually measured emissions from heavy-duty gasoline-fueled vehicle weight, horsepower or such other factors as may be manufactured during the baseline model year.

"(iii) In establishing classes or categories of vehicles or engines for purposes of regulations under this subsection, the Administrator may base such classes or categories on gross vehicle weight, horsepower, or such other factors as may be appropriate.

"(iv) For the purpose of this paragraph, the term 'baseline model year' means, with respect to any pollutant emitted from any vehicle or engine, or class or category thereof, the model year immediately preceding the model year in which Federal standards applicable to such vehicle or engine, or class or category thereof, first applied with respect to such pollutant.

"(B) During the period of June 1 through December 31, 1979, and during each period of June 1 through December 31 of each third year after 1979, the Administrator may, after notice and opportunity for a public hearing promulgate regulations revising any standard prescribed as provided in subparagraph (A) (ii) for any class or category of heavy-duty vehicles or engines. Such standard shall apply only for the period of three model years beginning five model years after the model year in which such revised standard is promulgated. In revising any standard under this subparagraph for any such three model year period the Administrator shall determine the maximum degree of emission reduction which can be achieved by means reasonably expected to be available for production of such period and shall prescribe a revised emission standard in accordance with such determination.

"(C) Action revising any standard for any period may be taken by the Administrator under subparagraph (B) only if—

"(i) he finds that compliance with the emission standards otherwise applicable for such model year cannot be achieved by technology, processes, operating methods, or other

alternatives reasonably expected to be available for production for such model year without increasing cost or decreasing fuel economy to an excessive and unreasonable degree; and

"(ii) the National Academy of Sciences has not, pursuant to its study and investigation under subsection (c), issued a report substantially contrary to the findings of the Administrator under clause (i).

"(D) A report shall be made to the Congress with respect to any standard revised under subparagraph (B) which shall contain—

"(i) a summary of the health effects found, or believed to be associated with, the pollutant covered by such standard,

"(ii) an analysis of the cost-effectiveness of other strategies for attaining and maintaining national ambient air quality standards and carrying out regulations under section 160 (relating to significant deterioration) in relation to the cost-effectiveness for such purposes of standards which, but for such revision, would apply,

"(iii) a summary of the research and development efforts and progress being made by each manufacturer for purposes of meeting the standards promulgated as provided in subparagraph (A) (ii) or, if applicable, subparagraph (E), and

"(iv) specific findings as to the relative costs of compliance, and relative fuel economy, which may be expected to result from the application for any model year of such revised standard and the application for such model year of the standard which, but for such revision, would apply.

"(E) (i) The Administrator shall conduct a continuing pollutant-specific study concerning the effects of each air pollutant emitted from heavy-duty vehicles or engines on the public health and welfare. The results of such study shall be published in the Federal Register and reported to the Congress not later than June 1, 1979, and before June 1 of each third year thereafter.

"(ii) On the basis of such study and such other information as is available to him (including the studies under sections 214 and 216), the Administrator may, after notice and opportunity for a public hearing, promulgate regulations under paragraph (1) of this subsection changing any standard prescribed in subparagraph (A) (ii) (or revised under subparagraph (B) or previously changed under this subparagraph). No such changed standard shall apply for any model year before the model year five years after the model year during which regulations containing such changed standard are promulgated.

"(F) For purposes of this paragraph, motorcycles and motorcycle engines shall be treated in the same manner as heavy-duty vehicles and engines unless the Administrator promulgates a rule reclassifying motorcycles as light-duty vehicles within the meaning of this section or unless the Administrator promulgates regulations under subsection (a) applying standards applicable to the emission of air pollutants from motorcycles as a separate class or category."

(b) Section 202(b)(3) of such Act is amended by adding the following new subparagraph at the end thereof:

"(C) The term 'heavy duty vehicle' means a truck, bus, or other vehicle manufactured primarily for use on the public streets, roads, and highways (not including any vehicle operated exclusively on a rail or rails) which has a gross vehicle weight (as determined under regulations promulgated by the Administrator) in excess of six thousand pounds. Such term includes any such vehicle which has special features enabling off-street or off-highway operation and use."

(c) Section 312 of such Act is amended by inserting "AND STUDIES OF COST-EFFECTIVENESS ANALYSIS" at the end of the heading thereof and by adding the following new subsection at the end thereof:



"(c) Not later than January 1, 1979, the Administrator shall study the possibility of increased use of cost-effectiveness analyses in devising strategies for the control of air pollution and shall report its recommendations to the Congress, including any recommendations for revisions in any provision of this Act. Such study shall also include an analysis and report to Congress concerning whether or not existing air pollution control strategies are adequate to achieve the purposes of this Act."

(d) Part A of title II of such Act is amended by inserting after section 216 the following new section:

**"STUDY OF PARTICULATE EMISSIONS FROM MOTOR VEHICLES"**

"SEC. 217. (a) (1) The Administrator shall conduct a study concerning the effects on health and welfare of particulate emissions from motor vehicles or motor vehicle engines to which section 202 applies. Such study shall characterize and quantify such emissions and analyze the relationship of such emissions to various fuels and fuel additives.

"(2) The study shall also include an analysis of particulate emissions from mobile sources which are not related to engine emissions (including, but not limited to tire debris, and asbestos from brake lining).

"(b) The Administrator shall report to the Congress the findings and results of the study conducted under subsection (a) not later than two years after the date of the enactment of the Clean Air Act Amendments of 1977. Such report shall also include recommendations for standards or methods to regulate particulate emissions described in paragraph (2) of subsection (a)."

(e) Section 206 of such Act (relating to compliance testing and certification) is amended by adding the following new subsection at the end thereof:

"(f) (1) In the case of any class or category of heavy-duty vehicles or engines or motorcycles to which a standard promulgated under section 202(a) of this Act applies, except as provided in paragraph (2), a certificate of conformity shall be issued under subsection (a) and shall not be suspended or revoked under subsection (b) for such vehicles or engines manufactured by a manufacturer notwithstanding the failure of such vehicles or engines to meet such standard if such manufacturer pays a non-conformance penalty as provided under regulations promulgated by the Administrator after notice and opportunity for public hearing.

"(2) No certificate of conformity may be issued under paragraph (1) with respect to any class or category of vehicle or engine if the degree by which the manufacturer fails to meet any standard promulgated under section 202(a) with respect to such class or category exceeds the percentage determined under regulations promulgated by the Administrator to be practicable. Such regulations shall require such testing of vehicles or engines being produced as may be necessary to determine the percentage of the classes or categories of vehicles or engines which are not in compliance with the regulations with respect to which a certificate of conformity was issued and shall be promulgated not later than one year after the date of enactment of the Clean Air Act Amendments of 1977.

"(3) The regulations promulgated under paragraph (1) shall, not later than one year after the date of enactment of the Clean Air Act Amendments of 1977, provide for non-conformance penalties in amounts determined under a formula established by the Administrator. Such penalties under such formula—

"(A) may vary from pollutant-to-pollutant;

"(B) may vary by class or category or vehicle or engine;

"(C) shall take into account the extent to which actual emissions of any air pollutant exceed allowable emissions under the standards promulgated under section 202;

"(D) shall create incentives for the development of production vehicles or engines which achieve the required degree of emission reduction; and

"(E) shall remove any competitive disadvantage to manufacturers whose engines or vehicles achieve the required degree of emission reduction."

**AIRCRAFT EMISSIONS STANDARDS**

SEC. 205. Section 231(c) of the Clean Air Act is amended to read as follows:

"(c) Any regulations in effect under this section on date of enactment of the Clean Air Act Amendments of 1977 or proposed or promulgated thereafter, or amendments thereof, with respect to aircraft shall not apply if disapproved by the Secretary of Transportation, after notice and opportunity for public hearing, on the basis of a finding that any such regulation would create a hazard to aircraft safety. Any such finding shall include a reasonably specific statement of the basis upon which the finding was made."

**ASSURANCE OF PROTECTION OF PUBLIC HEALTH AND SAFETY**

SEC. 206. (a) Section 202(a) of the Clean Air Act is amended by inserting "paragraph (1) of" before "this subsection" in paragraph (2) thereof and by adding a new paragraph at the end thereof:

"(4) (A) Effective with respect to vehicles and engines manufactured after model year 1978, no emission control device, system, or element of design shall be used in a new motor vehicle or new motor vehicle engine for purposes of complying with standards prescribed under this subsection if such device, system, or element of design will cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation, function, or malfunction.

"(B) In determining whether an unreasonable risk exists under subparagraph (A), the Administrator shall consider, among other factors, (i) whether and to what extent the use of any device, system, or element of design causes, increases, reduces, or eliminates emissions of any unregulated pollutants; (ii) available methods for reducing or eliminating any risk to public health, welfare, or safety which may be associated with the use of such device, system, or element of design; and (iii) the availability of other devices, systems, or elements of design which may be used to conform to standards prescribed under this subsection without causing or contributing to such unreasonable risk. The Administrator shall include in the consideration required by this paragraph all relevant information developed pursuant to section 214."

(b) Section 206(a) of such Act is amended by adding at the end thereof the following:

"(3) (A) A certificate of conformity may be issued under this section only if the Administrator determines that the manufacturer (or in the case of a vehicle or engine for import, any person) has established to the satisfaction of the Administrator that any emission control device, system, or element of design installed on, or incorporated in, such vehicle or engine conforms to applicable requirements of section 202(a) (4).

"(B) The Administrator may conduct such tests and may require the manufacturer (or any such person) to conduct such tests and provide such information as is necessary to carry out subparagraph (A) of this paragraph. Such requirements shall include a requirement for prompt reporting of the emission of any unregulated pollutant from a system, device, or element of design if such pollutant was not emitted, or was emitted in significantly lesser amounts, from the vehicle

or engine without use of the system, device, or element of design."

(c) (1) Section 206(b) (2) (A) (i) of such Act is amended by inserting "and with the requirements of section 202(a) (4)" after "conformity was issued".

(2) Section 206(b) (2) (A) of such Act is amended by inserting "and requirements" after "such regulations" in each place it appears.

**TEST PROCEDURES FOR MEASURING EVAPORATIVE EMISSIONS**

SEC. 207. Section 202(b) (1) of the Clean Air Act is amended by adding a new subparagraph (C) as follows:

"(C) Effective with respect to vehicles and engines manufactured after model year 1978 (or in the case of heavy-duty vehicles or engines, such later model year as the Administrator determines is the earliest feasible model year), the test procedure promulgated under paragraph (2) for measurement of evaporative emissions of hydrocarbons shall require that such emissions be measured from the vehicle or engine as a whole. Regulations to carry out this subparagraph shall be promulgated not later than two hundred and seventy days after date of enactment of this subparagraph."

**VEHICLE INSPECTION AND MAINTENANCE**

SEC. 208. (a) Section 110(a) (G) of the Clean Air Act is amended by striking out "; and" and inserting in lieu thereof: ", and it complies with applicable provisions of section 215 respecting the annual inspection and maintenance of motor vehicles registered in such State;"

(b) Part A of title II of the Clean Air Act is amended by inserting the following new section after section 214:

**"INSPECTION AND MAINTENANCE"**

"SEC. 215. (a) Each applicable implementation plan which, as in effect on June 30, 1975, contained transportation control measures applicable to any air quality control region in a State, shall provide for the annual inspection, testing, and maintenance of all light-duty vehicles to which this section applies which are registered in such region by any person whose residence or principal place of business (or both) is located in such air quality control region. Such program of inspection, testing, and maintenance shall be conducted in accordance with regulations of the Administrator and shall require that vehicles meet requirements which are no less stringent than the program of inspection, testing, and maintenance in effect in the State of New Jersey on the date of the enactment of this section. Such plan shall, except as permitted under paragraph (1) or (2) of this subsection, prohibit the registration and operation of vehicles subject to such inspection and testing in such State unless such vehicles comply with such program. The regulations of the Administrator shall—

"(1) provide for the exemption from the inspection, testing, and maintenance required under this section of such antique and other vehicles as the Administrator deems appropriate; and

"(2) authorize the operation of vehicles which have not met the applicable standard for such temporary period as may be appropriate to repair or adjust the vehicle in order to meet such requirements or to undertake the tuneup required for registration and operation of the vehicle pursuant to subsection (c) (1).

"(b) (1) For purposes of complying with the provisions of subsection (a), except as provided in paragraph (2) of this subsection, the plan shall require testing for emissions using testing procedures and equipment approved by the Administrator and shall permit the use of existing State motor vehicle inspection and testing facilities and procedures so long as they are consistent with

such requirement. The Administrator shall approve testing procedures and equipment for purposes of this paragraph only if he determines that such procedures and equipment comply with such standards respecting calibration, instrumentation, and maintenance as he deems appropriate.

"(2) Upon promulgation of regulations under section 207(b)(1), the plan shall require testing for emissions using the short-test procedures and equipment established under section 207(b)(1), except that such adjustments and exceptions may be made as the Administrator deems necessary to phase in such testing procedures and equipment as expeditiously as practicable.

"(c)(1) Each applicable implementation plan required under subsection (a) to prohibit the registration and operation of non-complying vehicles may permit the registration and operation of any such vehicle if—

"(A) following the inspection and testing by reason of which such vehicle was determined to be a noncomplying vehicle or within the three-month period immediately preceding the date of such inspection and testing, a major engine tune-up has been undertaken with respect to such vehicle,

"(B) with respect to such vehicle, any nonconformity covered by section 207 (a), (b), or (c) has been remedied, and

"(C) such vehicle has (for purposes of providing statistical information only) been reinspected and retested under this section following the actions referred to in subparagraphs (A) and (B) of this paragraph.

Nothing in the preceding sentence shall be construed to prohibit the Administrator from approving any implementation plan which contains any requirement prohibiting the registration and operation of any noncomplying vehicles.

"(2) The requirements or authority contained in this section shall not be deemed to affect or impair any requirement contained in any other provision of this Act.

"(d) Regulations of the Administrator under this section shall provide for retest of any vehicle which initially fails to meet applicable requirements of the program."

(c) Section 210 of such Act is amended by adding the following at the end thereof: "Grants may be made under this section by way of reimbursement in any case in which amounts have been expended by the State before the date on which any such grant was made. Any grant under this section may be reduced or suspended by the Administrator upon his determination, following notice and opportunity for a public hearing, that a State vehicle inspection and maintenance program is not equal to or more stringent than the requirements established pursuant to section 215."

(d) Not later than six months after the date of enactment of this Act, the Administrator shall notify each State which will be required to revise the applicable implementation plan to include an inspection and maintenance program for purposes of compliance with the amendments made by this section, and each such State shall, within nine months after receiving such notice, submit to the Administrator a revision of such plan. Within three months after the date required for submission of such revision, the Administrator shall approve or disapprove the revision if he determines that it complies with the amendments made by this Act and was adopted after reasonable notice and hearings. The provisions which are required under section 215 to be included in such plan shall be implemented not later than two years after the date of enactment of this Act.

#### WARRANTIES AND MOTOR VEHICLE PARTS CERTIFICATION

Sec. 209. (a) Section 207(a) of the Clean Air Act is amended by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)"

and "(B)" respectively, by inserting "(1)" after "(a)" and by adding the following new paragraph at the end thereof:

"(2) In the case of a motor vehicle part or motor vehicle engine part, the manufacturer or rebuilder of such part may certify in writing that use of such part for the period specified by such part manufacturer or rebuilder will not result in a failure of the vehicle or engine to comply with emission standards promulgated under section 202 during such period. Not later than two years following the date of enactment of this paragraph and after notice and opportunity for a public hearing, the Administrator shall promulgate regulations respecting the certification under this paragraph. Such regulations with respect to any such part, or class thereof, shall specify—

"(A) such testing requirements, and

"(B) such other terms and conditions of a certification under this paragraph,

as the Administrator determines are necessary and appropriate to assure the suitability of any such part, or class thereof, as a substitute for any original equipment manufacturer's part for the purpose of this section. Following promulgation of such regulations, no such part may be certified except in accordance with such regulations.

"(3) For the purpose of this part, the terms 'motor vehicle part' and 'motor vehicle engine part' means any part (other than original equipment manufacturer's parts) intended for use on or in a motor vehicle or motor vehicle engine and includes new, rebuilt, and replacement parts."

(b) Section 207(a)(1) of such Act, as designated by subsection (a) of this section, is amended by adding the following at the end thereof: "For purposes of paragraph (1) (B) of this subsection, the term 'defect' means a defect which exists at the time of a claim respecting a warranty under this subsection and which may reasonably be determined by the Administrator to have existed at the time of sale of the new motor vehicle or motor vehicle engine to the ultimate purchaser, whether or not such defect was evident at the time of such sale."

(c) Section 207(b) of such Act is amended to read as follows:

"(b)(1) Not later than one year after the date of enactment of the Clean Air Act Amendments of 1977 and after notice and opportunity for a public hearing, the Administrator shall promulgate regulations requiring manufacturers of motor vehicles and motor vehicle engines to warrant the emission control device or system of each new motor vehicle or new motor vehicle engine to which a regulation under section 202 applies. Such regulations shall apply to new motor vehicles and new motor vehicle engines manufactured in a model year beginning after the Administrator first prescribes warranty regulations under this subsection. The warranty under such regulations shall run to the ultimate purchaser and each subsequent purchaser. Such warranty shall apply to the emission control system or device of each such vehicle or engine at any time during—

"(A) a period of eighteen months or eighteen thousand miles (or the equivalent), whichever first occurs, in the case of any motor vehicle or engine manufactured in a model year beginning after the date the Administrator first prescribes regulations under this subsection but before the date referred to in subparagraph (B), and

"(B) the useful life of the vehicle or engine (as determined under section 202(d)), unless otherwise provided by Act of Congress, in the case of any motor vehicle or engine manufactured after the date three years after the date the Administrator first prescribes such regulations.

Such warranty shall provide that, except as provided in paragraph (3), if any such vehicle or engine fails to conform as tested in

accordance with paragraph (2) during any such time to the regulations prescribed under section 202, such manufacturer shall bear the reasonable cost of remedying such nonconformity. Actual remedying of the nonconformity may be performed by the manufacturer or by any person engaged in the business of repairing or servicing motor vehicles, or, except as may otherwise be determined by the Administrator, by the owner of such vehicle or engine or any other individual, at the option of the owner.

"(2) Regulations under this subsection shall specify the alternative test methods, and equipment, which may be used to ascertain with reasonable assurance for the purpose of this subsection whether each vehicle and engine to which a regulation applies under section 202 will conform with the emission standards contained in such regulations for the period specified in paragraph (1) of this subsection. Such alternative test methods shall include the short-test method promulgated under section 206(a)(1), the test method required under section 215, and any test method required under section 110(a)(2)(G).

"(3) The warranty under this subsection shall cease to be effective with respect to any particular vehicle or engine if such vehicle or engine has been grossly abused in its operation or maintenance (as determined in accordance with regulations under this subsection).

"(4) If any part used in the maintenance or repair of a vehicle or engine is certified as provided in subsection (a)(2), a manufacturer may not claim that the warranty has ceased to be effective with respect to such vehicle or engine by reason of the use of such part.

"(5) Regulations respecting the warranty under this subsection and regulations respecting the parts certification under subsection (a)(2) shall require the inclusion in such warranty and such certification of such provisions as the Administrator determines are necessary and appropriate to—

"(A) establish orderly procedures for the implementation of this subsection in cases where the nonconformity is remedied by a person other than the manufacturer (or dealer); and

"(B) prevent fraud or abuse and, insofar as practicable, to minimize costs in the implementation of this subsection.

"(6) Regulations under this subsection and under subsection (c) shall include (A) measures to assure that necessary information and instructions are made available to any person who is authorized to remedy a specific nonconformity under either such subsection and (B) a requirement, as a condition of the warranty, or under a recall order, that the manufacturer, in appropriate cases as determined by the Administrator, shall provide such necessary information and instructions."

(d) The Federal Trade Commission shall undertake a study to determine whether or not any anticompetitive effects would result from any warranty required to be provided pursuant to section 207(b) of the Clean Air Act if such warranty applied, as provided in section 207(b), for the useful life (as determined under section 202(d) of such Act) of vehicles and engines to which such warranty applies in lieu of the eighteen months or eighteen thousand mile period, as provided in such section 207(b). Such study shall include public hearings. Such study shall include an analysis of alternative definitions of the term "emission control system or device" for the purpose of such section 207(b) and the effect such definitions may have on competition, health and welfare, and the durability of components which may affect emissions. Such study shall also include an analysis of any measures implemented by the Administrator to prevent or diminish such anticompetitive effects and



shall include a finding with respect to whether or not significant anticompetitive effects would nevertheless result from such warranty if the warranty applied for such useful life. Such study shall be undertaken primarily by the Bureau of Competition in consultation with the Bureau of Consumer Affairs. The results of such study shall be submitted to the Congress not later than the end of the first two model years during which the warranty under section 207(b) has been in effect. The Administrator shall submit, before the end of such first two model years, a report to Congress analyzing the effects of the warranty under section 207(b) of such Act on public health and welfare and on the durability of emission control devices and systems.

(e)(1) Section 207(c)(1) of such Act is amended—

(A) by striking out “, although properly maintained and used,” after “vehicles or engines” the first time it appears in the first sentence of such paragraph (1);

(B) by revising the second sentence of such paragraph to read: “The plan shall provide that, except as provided in the last sentence of this paragraph, such manufacturer shall bear the reasonable cost of remedying such nonconformity and shall include such measures as the Administrator determines necessary and appropriate to assure that the plan will be fully implemented.”;

(C) by inserting after such second sentence a new sentence to read: “Regulations of the Administrator under this subsection may in appropriate cases permit the actual remedying of the nonconformity to be performed by any person engaged in the business of repairing or servicing motor vehicles, by any class or category of such persons, by the owners of such vehicles or engines, by any other individual, or by any combination thereof, at the option of the owner and in accordance with regulations promulgated pursuant to subsection (b)(5).”; and

(D) by inserting the following new sentence at the end of such paragraph (1): “In making the determination of nonconformity under the first sentence of this paragraph and in determining the scope of any recall requirement under this subsection, the Administrator shall exclude from consideration any vehicle or engine which has been grossly abused in its operation or maintenance (in accordance with the regulations promulgated pursuant to subsection (b)(3)).”.

(2) The first sentence of section 207(c)(3) of such Act is amended to read: “The manufacturer shall furnish with each new motor vehicle or motor vehicle engine appropriate written guidelines (as determined by the Administrator) for the maintenance and use of the vehicle or engine for the purpose of this section.”.

(3) Section 207(c)(3) of such Act is amended by inserting after the first sentence thereof the following: “The manufacturer shall provide in boldface type on the first page of the written maintenance guidelines notice that maintenance, replacement, or repair of the emission control devices and systems may be performed by any person engaged in the business of repairing or servicing motor vehicles or any other person, using any motor vehicle part or motor vehicle engine part which has been certified as provided in subsection (a)(2).”.

(f) Section 208(a) of such Act is amended to read as follows:

#### RECORDS AND REPORTS

“Sec. 208. (a)(1) Every manufacturer shall establish and maintain such records, make such reports, conduct such tests, and provide such information as the Administrator may reasonably require for the purpose of carrying out this part and regulations thereunder.

“(2) For purposes of implementation and enforcement of this part and regulations thereunder, officers or employees duly desig-

nated by the Administrator, upon presenting appropriate credentials to the manufacturer or person in charge, are authorized (A) to enter, at reasonable times, any plant or other establishment of such manufacturer, for the purpose of conducting tests, or observing the conduct of tests, of vehicles or engines in the possession or under the control of the manufacturer, or (B) to inspect and copy at reasonable times, records, files, papers, processes, controls and facilities used by such manufacturer in conducting tests under regulations of the Administrator. Each such inspection shall be commenced and completed with reasonable promptness.”.

#### PARTS STANDARDS; PREEMPTION OF STATE LAW

“Sec. 210. Section 209 of the Clean Air Act (relating to State standards) is amended by redesignating subsection (c) as (f) and by inserting after subsection (b) the following new subsection:

“(c)(1) Whenever a regulation respecting the certification of any part or class thereof is in effect under section 207(a)(2), no State or political subdivision thereof shall adopt or attempt to enforce any standard or any requirement of certification, inspection, or approval applicable to the same aspect of such part.

“(2) In the case of a State with respect to which a waiver is in effect under subsection (b), the preemption contained in paragraph (1) shall not apply to any such State standard or requirement respecting any part or class thereof unless the Administrator determines, by rule after notice and opportunity for a public hearing, that the preemption of such State standard or requirement will not result in a failure of vehicles or engines to comply with emission standards established by such State.”.

#### PROTECTION OF COMPETITION; ASSURANCE OF CONSUMER FREEDOM OF CHOICE

Sec. 211. (a) Section 207 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

“(g) The Administrator may, after notice and opportunity for a public hearing, promulgate such rules and take such other actions as may be necessary and appropriate—

“(1) to minimize or eliminate any unfair or improper competitive advantage by vehicle or engine manufacturers or dealers in the repair or maintenance of motor vehicles or engines and the repair, maintenance or replacement of any motor vehicle part or motor vehicle engine part, which may result in part from any requirement of this section; or

“(2) to protect or enhance consumer freedom of choice in the implementation of any requirement of this section.”.

(b) Section 203(a)(4) of such Act is amended by inserting the following at the end thereof:

“(E) to fail or refuse to comply with any requirement under section 207(g),

or for any person other than a manufacturer to fail or refuse to comply with any requirement under section 207.”.

#### ANTITAMPERING PROHIBITION

Sec. 212. (a) Section 203(a)(3) of the Clean Air Act is amended by inserting “(A)” after “(3)” and by adding the following new subparagraph (B) at the end thereof:

“(B) for the person engaged in the business of repairing, servicing, selling, leasing, or trading motor vehicles or motor vehicle engines or who operates a fleet of motor vehicles, knowingly to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title following its sale and delivery to the ultimate purchaser.”.

(b) Section 203(a) of such Act is amended by adding the following at the end thereof after paragraph (5): “Nothing in paragraph (3) shall be construed to require the use of parts produced or sold by the manufacturer of the vehicle or engine in maintaining or

repairing any motor vehicle or motor vehicle engine.”.

(c) Section 205 of such Act is amended to read as follows:

#### “PENALTIES

“Sec. 205. Any person who violates paragraph (1), (2), or (4) of section 203(a) or any person, manufacturer, or dealer who violates paragraph (3)(A) of section 203(a) shall be subject to a civil penalty of not more than \$10,000. Any person who violates paragraph (3)(B) of such section 203(a) shall be subject to a civil penalty of not more than \$2,500. Any such violation with respect to paragraph (1), (3), or (4) of section 203(a) shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine.”.

#### COST OF VAPOR RECOVERY SYSTEMS TO BE BORNE BY OWNER OF RETAIL OUTLET

Sec. 213. (a) Title III of the Clean Air Act is amended by adding the following new section at the end thereof:

#### “COST OF EMISSION CONTROL FOR CERTAIN VAPOR RECOVERY TO BE BORNE BY OWNER OF RETAIL OUTLET

“Sec. 320. (a) The regulations under this Act applicable to vapor recovery with respect to mobile source fuels at retail outlets of such fuels shall provide that the cost of procurement and installation of such vapor recovery shall be borne by the owner of such outlet (as determined under such regulations). Except as provided in subsection (b), such regulations shall provide that no lease of a retail outlet by the owner thereof which is entered into or renewed after the date of enactment of the Clean Air Act Amendments of 1977 may provide for a payment by the lessee of the cost of procurement and installation of vapor recovery equipment. Such regulations shall also provide that the cost of procurements and installation of vapor recovery equipment may be recovered by the owner of such outlet by means of price increases in the cost of any product sold by such owner, notwithstanding any provision of law.

“(b) The regulations of the Administrator referred to in subsection (a) shall permit a lease of a retail outlet to provide for payment by the lessee of the cost of procurement and installation of vapor recovery equipment over a reasonable period (as determined in accordance with such regulations), if the owner of such outlet does not sell, trade in, or otherwise dispense any product at wholesale or retail at such outlet.”.

(b) Section 113(b)(3) of such Act is amended by inserting “or section 320” before the semicolon.

(c) Title III of such Act is amended by adding the following new section at the end thereof:

#### “VAPOR RECOVERY FOR SMALL BUSINESS MARKETERS OF PETROLEUM PRODUCTS

“Sec. 324. (a) Except as provided in subsection (b) the regulations under this Act applicable to vapor recovery from fueling of motor vehicles at retail outlets of gasoline shall provide, with respect to independent small business marketers of gasoline, for a three-year phase-in period for the installation of such vapor recovery equipment under which such marketers shall have—

“(1) 33 percent of their outlets in compliance at the end of the first year during which such regulations apply to such marketers,

“(2) 66 percent at the end of such second year, and

“(3) 100 percent at the end of the third year.

“(b)(1) The regulations referred to in subsection (a) shall not apply to independent small business marketers of gasoline before the expiration of the period ending two years after the date of enactment of this

section or the period ending six months after the date of submission of the report under paragraph (3), whichever is later.

"(2) The Federal Trade Commission shall study, and not later than one year after the date of enactment of this section report to the Administrator on, the effect the application to independent small business marketers of gasoline of the regulations referred to in subsection (a) will have on the ability of such marketers to compete in gasoline marketing. In the course of such study, the Commission shall provide opportunity for a public hearing and for submission of written views, data, and argument and shall request the participation in such hearing of other interested departments and agencies (including the Federal Energy Administration).

"(3) Not later than eighteen months after the date of enactment of this section, the Administrator shall submit a report to the House Interstate and Foreign Commerce Committee and to the Senate Public Works Committee, which analyzes (A) the effect referred to in subsection (b) (2); (B) the need for such regulations to be applied to independent small business marketers of gasoline to assist in attaining or maintaining national ambient air quality standards or in preventing significant deterioration of air quality; and (C) the availability of means for eliminating or minimizing any effects referred to in subsection (b) (2) which are detrimental. The analysis required under clause (C) shall include a discussion of the measures referred to in subsection 202(a) (5) (pertaining to fill pipe standards) and 202(a) (6) (pertaining to onboard hydrocarbon technology). The Administrator's report under this paragraph shall include his conclusions as to whether, and to what extent, such regulations (or such other regulations relating to vapor recovery from fueling of motor vehicles at retail outlets of gasoline) should apply to independent small business marketers of gasoline.

"(4) The Administrator may, on the basis of the conclusions contained in the report under paragraph (3), promulgate regulations—

"(A) exempting independent small business marketers of gasoline, or any class thereof, from the duty to comply with the regulations referred to in subsection (a);

"(B) deferring or modifying the regulations referred to in subsection (a) in the case of independent small business marketers of gasoline, or any class thereof;

"(C) containing provisions to eliminate or minimize any effects referred to in subsection (b) (2) which are detrimental; or

"(D) taking any combination of the actions referred to in subparagraphs (A) through (C).

Regulations under this paragraph may be promulgated by the Administrator only upon a finding that such regulations are necessary in order to assure that application of the regulations referred to in subsection (a) to independent small business marketers of gasoline will not cause each independent marketer to be unable to compete in gasoline marketing.

"(5) The Administrator and the Federal Trade Commission shall keep confidential the commercial or financial information obtained under this section, except that such information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.

"(c) For purposes of this section, an independent small business marketer of gasoline is a person engaged in the marketing of gasoline who would be required to pay for procurement and installation of vapor recovery equipment under section 320 of this Act or under regulations of the Administrator, unless such person (1) is a refiner,

or (2) controls, is controlled by, or is under common control with, a refiner, or (3) is otherwise directly or indirectly affiliated (as determined under the regulations of the Administrator) with a refiner or with a person who controls, is controlled by, or is under a common control with a refiner (unless the sole affiliation referred to in (3) is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person). For the purpose of this section, the term 'refiner' shall not include any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with, such refiner) does not exceed 65,000 barrels per day. For purposes of this section, 'control' of a corporation means ownership of more than 50 percent of its stock."

#### CALIFORNIA WAIVER

Sec. 214 Section 209(b) of the Clean Air Act is amended to read as follows:

"(b) (1) The Administrator shall, after notice and opportunity for public hearing, waive application of this section to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such waiver shall be granted if the Administrator finds that—

"(A) the determination of the State is arbitrary and capricious,

"(B) such State does not need such State standards to meet compelling and extraordinary conditions, or

"(C) such State standards and accompanying enforcement procedures are not consistent with section 202(a) of this part.

"(2) If each State standard is at least as stringent as the comparable applicable Federal standard, such State standards shall be deemed to be at least as protective of health and welfare as such Federal standards for purposes of paragraph (1).

"(3) In the case of any new motor vehicle or new motor vehicle engine to which State standards apply pursuant to a waiver granted under paragraph (1), compliance with such State standards shall be treated as compliance with applicable Federal standards for purposes of this title."

#### HIGH ALTITUDE PERFORMANCE ADJUSTMENTS

Sec. 215. (a) Section 203(a) of the Clean Air Act is amended by adding the following at the end thereof: "No action with respect to any element of design referred to in paragraph (3) (including any adjustment or alteration of such element) shall be treated as a prohibited act under such paragraph (3) if such action will not adversely affect the emission control performance of the vehicle or engine."

(b) Title II of such Act is amended by inserting the following new section after section 215:

#### "HIGH ALTITUDE PERFORMANCE ADJUSTMENTS

"Sec. 216. (a) (1) Any action taken with respect to any element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title (including any alteration or adjustment of such element), shall be treated for purposes of section 203(a) as not adversely affecting the emission control performance of the vehicle or engine if such action is performed in accordance with high altitude adjustment instructions provided by the manufacturer under subsection (b) and approved by the Administrator.

"(2) If the Administrator finds that adjustments or modifications made pursuant to instructions of the manufacturer under

paragraph (1) will not insure emission control performance at least equivalent to that which would result if no such adjustments or modifications were made, he shall disapprove such instructions. Such finding shall be based upon minimum engineering evaluations consistent with good engineering practice. In any case in which emissions of one or more pollutants are increased by reason of adjustments or modifications made to reduce emissions of one or more other pollutants, emission control performance may be found by the Administrator to be equivalent for purposes of this subsection if the aggregate effect of emission control performance resulting from such adjustments or modifications will be more protective of health and welfare than the effect of emission control performance if no such adjustments or modifications had been made.

"(b) (1) (A) Upon submission of any new motor vehicle or motor vehicle engine to the Administrator for purposes of obtaining a certificate of conformity under section 206 (a) (1), the manufacturer shall submit to the Administrator instructions providing for such vehicle and engine adjustments and modifications as may be necessary to insure emission control performance at high altitudes. If the Administrator does not disapprove such instructions on or before the issuance of the certificate of conformity for the vehicle or engine, such instructions shall be treated as approved for purposes of this section.

"(B) In the case of any model year beginning after the date of enactment of this section, instructions respecting vehicles or engines manufactured during such model year which have been approved by the Administrator, shall be included in the instructions required under section 207(c) (3) and shall, not later than the date on which a class or category of motor vehicles or motor vehicle engines first becomes available for sale to the general public, be made available to any person upon request.

"(C) In the case of any model year beginning before the date of enactment of this section, instructions respecting each class or category of vehicles or engines to which this title applies providing for such vehicle and engine adjustments and modifications as may be necessary to insure emission control performance at high altitudes shall be submitted to the Administrator not later than 12 months after the date of the enactment of this section. If the Administrator does not disapprove such instructions on or before the date 18 months after such date of enactment, such instructions shall be treated as approved for purposes of this section.

"(D) If any instructions provided by a manufacturer for purposes of this section are disapproved by the Administrator, not later than sixty days after such disapproval, the manufacturer shall revise the instructions (in accordance with such requirements as the Administrator determines necessary for approval) and shall make the revised and approved instructions available to any person upon request.

"(2) Any violation by a manufacturer of paragraph (1) shall be treated as a violation by such manufacturer of section 203(a) (3) (A) for purposes of the penalties contained in section 205.

"(c) No instructions which require the use of any parts produced or sold by the manufacturer of the vehicle or engine may be promulgated or approved by the Administrator under this section.

"(d) This section shall not apply to any motor vehicle or motor vehicle engine the sale or delivery of which was subject to the regulations of the Administrator respecting compliance with the standards under section 202 by vehicles or engines sold or delivered at designated high altitude locations."



## FILL PIPE STANDARDS

SEC. 216. Section 202(a) of the Clean Air Act is amended by adding the following new paragraph at the end thereof:

"(5) (A) If the Administrator promulgates final regulations which define the degree of control required and the test procedures by which compliance could be determined for gasoline vapor recovery of uncontrolled emissions from the fueling of motor vehicles, the Administrator shall prescribe, by regulations, fill pipe standards for new motor vehicles in order to insure effective connection between such fill pipe and any vapor recovery system which the Administrator determines may be required to comply with such vapor recovery regulations. In promulgating such standards the Administrator shall take into consideration limits on fill pipe diameter, minimum design criteria for nozzle retainer lips, limits on the location of the unloaded fuel restrictors, a minimum access zone surrounding a fill pipe, a minimum fill pipe or nozzle insertion angle, and such other factors as he deems pertinent.

"(B) Regulations prescribing standards under subparagraph (A) shall not become effective until the introduction of the model year for which it would be feasible to implement such standards taking into consideration the restraints of an adequate lead-time for design and production.

"(C) Nothing in subparagraph (A) shall (i) prevent the Administrator from specifying different nozzle and fill neck sizes for gasoline with additives and gasoline without additives or (ii) permit the Administrator to require a specific location, configuration, modeling, or styling of the motor vehicle body with respect to the fuel tank fill neck or fill nozzle clearance envelope.

"(D) Any standards promulgated under subparagraph (A), or amendments thereto, may be prescribed only after consultation with the Secretary of Transportation in order to assure appropriate consideration for vehicle safety.

"(E) For the purpose of this paragraph, the term 'fill pipe' shall include the fuel tank fill pipe, fill neck, fill inlet, and closure."

## ONBOARD HYDROCARBON TECHNOLOGY

SEC. 217. Section 202(a) of the Clean Air Act is amended by adding the following new paragraph at the end thereof:

"(6) (A) The Administrator shall determine the feasibility and desirability of requiring new motor vehicles to utilize on-board hydrocarbon control technology which would avoid the necessity of gasoline vapor recovery of uncontrolled emissions emanating from the fueling of motor vehicles. The Administrator shall compare the costs and effectiveness of such technology to that of implementing and maintaining vapor recovery systems (taking into consideration such factors as fuel economy, economic costs of such technology, administrative burdens, and equitable distribution of costs). If the Administrator finds that it is feasible and desirable to employ such technology, he shall prescribe, by regulations, standards which shall not become effective until the introduction to the model year for which it would be feasible to implement such standards, taking into consideration compliance costs and the restraints of an adequate lead time for design and production.

"(B) Any regulations promulgated under subparagraph (A), or amendments thereto, shall not apply if disapproved by the Secretary of Transportation, after notice and opportunity for public hearing, on the basis of a finding that any such regulations would create a hazard to vehicle safety. Any such finding shall include a reasonably specific statement of the basis upon which the finding was made."

## CARBON MONOXIDE INTRUSION INTO SUSTAINED USE VEHICLES

SEC. 218. (a) The Administrator, in conjunction with the Secretary of Transportation, shall study the problem of carbon monoxide intrusion into the passenger area of sustained-use motor vehicles. Such study shall include an analysis of the sources and levels of carbon monoxide in the passenger area of such vehicles and a determination of the effects of carbon monoxide upon the passengers. The study shall also review available methods of monitoring and testing for the presence of carbon monoxide and shall analyze the cost and effectiveness of alternative methods of monitoring and testing. The study shall analyze the cost and effectiveness of alternative strategies for attaining and maintaining acceptable levels of carbon monoxide in the passenger area of such vehicles. Within one year the Administrator shall report to the Congress respecting the results of such study.

(b) For the purpose of this section, the term "sustained-use motor vehicle" means any diesel or gasoline fueled motor vehicle (whether light or heavy duty) which, as determined by the Administrator (in conjunction with the Secretary), is normally used and occupied for a sustained, continuous, or extensive period of time, including buses, taxicabs, and police vehicles.

## IMPLEMENTATION OF MOTOR VEHICLE EMISSION STANDARDS AND WARRANTIES

SEC. 219. (a) Section 203(a)(4) of the Clean Air Act is amended by inserting after subparagraph (c) the following:

"(D) to fail or refuse to comply with the terms and conditions of the warranty under section 207 (a) or (b) with respect to any vehicle or to fail or refuse to comply with any requirement under subsection (b)(5) or (b)(6) of section 207, or"

(b) Section 206(a)(1) of such Act is amended by inserting at the end thereof the following: "The certification test requirements under this subsection shall be revised to include, in addition to the emission data and durability data tests, a short test to assist in determining conformity with such standards. Such short test shall be promulgated not later than one year after the date of enactment of this sentence. Such short test shall be effective as expeditiously as practicable in the judgment of the Administrator, but in any event such test shall be effective with respect to the 1982 and subsequent model year new motor vehicles and engines."

(c) Section 206(b)(1) of such Act is amended by inserting "(A)" after "(b)(1)" and by adding the following new subparagraph (B) at the end thereof:

"(B) (i) The Administrator shall, within one year after the date of enactment of this subparagraph promulgate regulations establishing a test procedure which implements the authority of subparagraph (A) and which meets the requirements of this subparagraph.

"(ii) Regulations promulgated under this subparagraph shall require the production line testing of each new motor vehicle or engine (or an adequate sample of each class or category of vehicles or engines, as determined by the Administrator) under the short test prescribed under subsection (a)(1) of this Act. Any such vehicle or engine which fails to pass such short test shall be deemed not to be covered by the certificate of conformity for that class or category of vehicles or engines."

(d) Section 206(b)(2) of such Act is amended by inserting "(A)" after "paragraph (1)" wherever it appears therein.

## TESTING OF FUELS AND FUEL ADDITIVES

SEC. 220. Section 211 of the Clean Air Act is amended by inserting a new subsection to read as follows:

"(e) (1) Not later than one year after date of enactment of this subsection and after notice and opportunity for a public hearing, the Administrator shall promulgate regulations which implement the authority under subsection (b)(2) (A) and (B) with respect to each fuel or fuel additive which is registered on the date of promulgation of such regulations and with respect to each fuel or fuel additive for which an application for registration is filed thereafter.

"(2) Regulations under subsection (b) to carry out this subsection shall require that the requisite information be provided to the Administrator by each such manufacturer—

"(A) prior to registration, in the case of any fuel or fuel additive which is not registered on the date of promulgation of such regulations; or

"(B) not later than three years after the date of promulgation of such regulations, in the case of any fuel or fuel additive which is registered on such date.

"(3) In promulgating such regulations, the Administrator may—

"(A) exempt any small business (as defined in such regulations) from or defer or modify the requirements of, such regulations with respect to any such small business;

"(B) provide for cost-sharing with respect to the testing of any fuel or fuel additive which is manufactured or processed by two or more persons or otherwise provide for shared responsibility to meet the requirements of this section without duplication; or

"(C) exempt any person from such regulations with respect to a particular fuel or fuel additive upon a finding that any additional testing of such fuel or fuel additive would be duplicative or adequate existing testing."

## PREEMPTION OF STATE LAW

SEC. 221. Section 209 of the Clean Air Act is amended by adding the following new subsections at the end thereof:

(d) Notwithstanding any other provision of this section, any State may test, or require to be tested by any new motor vehicle dealer, any new motor vehicle or new motor vehicle engine manufactured during or after the first model year in which the short test is effective under paragraph (1) of section 206(a). Such testing shall be in accordance with such short test prescribed under such paragraph (1), and the State may prohibit the sale or delivery by such dealer, or the registration or titling, or any such new motor vehicle or engine which fails to pass such test. In the case of any State in which a statewide vehicle inspection and maintenance program is in effect on the date of the enactment of this subsection, until the first model year in which such short test is effective under section 206(a)(1), such State may test, or require to be tested by any new motor vehicle dealer, under a test identical to the test used in such program as in effect on such date, any new motor vehicle or new motor vehicle engine and may prohibit the sale or delivery by such dealer, or the registration or titling, of any such new motor vehicle or engine which fails to pass such test. Any prohibition under this subsection may be enforced in State courts under State law.

(e) Notwithstanding subsection (a) of this section, any State in which a vehicle inspection and maintenance program is required to be implemented under section 215 of this Act may adopt and enforce for any model year new motor vehicle or engine emission standards which are identical to the California standards for which a waiver has been granted for such model year, unless either California or such State fails to adopt its standards at least two years prior to the commencement of such model year (as determined by the regulations of the Administrator)."

## TESTING BY SMALL MANUFACTURERS

Sec. 222. Section 206(a)(1) of the Clean Air Act is amended by adding at the end thereof the following: In the case of any manufacturer of vehicles or vehicle engines whose projected sales in the United States for any model year (as determined by the Administrator) will not exceed three hundred, the regulations prescribed by the Administrator concerning testing by the manufacturer for purposes of determining compliance with regulations under section 202 for the useful life of the vehicle or engine shall not require operation of any vehicle or engine manufactured during such model year for more than five thousand miles or one hundred and sixty hours, respectively, but the Administrator shall apply such adjustment factors as he deems appropriate to assure that each such vehicle or engine will comply during its useful life with the regulations prescribed under section 202 of this Act."

Mr. PREYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. DINGELL. Reserving the right to object, Mr. Chairman, this is a very long amendment. May I ask, has it been published in the Record?

Mr. PREYER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from North Carolina.

Mr. PREYER. I thank the gentleman for yielding.

This amendment has not been published in the Record. It is a long amendment. If the gentleman will yield, I think I can explain it very simply.

Mr. DINGELL. Yes, I yield to the gentleman. I would like to know what the differences are. It rises like Venus from the fountain, and I would like to have a rather fair appreciation of what the gentleman is doing.

Mr. PREYER. If the gentleman will yield further, the difference is that this amendment and the original committee provision of this title are very similar.

Mr. DINGELL. Is the gentleman saying this is the committee's proposal?

Mr. PREYER. This is a committee proposal with two changes which I can explain very simply. Otherwise, the other 76 pages are the same.

Mr. DINGELL. The gentleman has said this is the committee's position with a few changes? I have heard some talk of compromise around here. Will the gentleman tell me is he compromising with the committee, because, as I recall, he supported the committee earlier—or is this a compromise, and if so, with whom?

Mr. PREYER. If the gentleman will yield further, I will explain the amendment.

Mr. DINGELL. I have no objection, if the gentleman will just explain whether it is compromise, with whom it is a compromise, and what it does. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to

the request of the gentleman from North Carolina?

There was no objection.

Mr. PREYER. Mr. Chairman, my substitute amendment is simply the second title of the committee bill with two critical changes. The first change in my amendment would roll back the 1979 standards to 1980, that is, it delays the enforcement of the committee bill standards for another year. In other words, instead of mandated allowable emissions of 0.41 and 9.0 for hydrocarbons and carbon monoxide, respectively, by 1979, these figures would be required by 1980. This is consistent with the figures suggested by the gentleman from Michigan (Mr. DINGELL) and the gentleman from North Carolina (Mr. BROXHILL).

Second, it provides a waiver where oxides and nitrogen would go into effect for vehicles weighing 3,000 pounds or more, not 4,500 pounds or more as is presently provided in the committee bill. This action accurately reflects the intention of the Carter administration in this area and, I think, the intention of the committee. It is a technical oversight that it was put in at 4,500 pounds. This change recognizes the viability of the diesel engine and encourages its use. So that what this amendment does, in short, is for the model years 1978, 1979, and 1980 it adopts the Dingell-Broyhill figures. For the years 1980 through 1983 it adopts the committee bill's figures. Since the life of this bill is 3 years, the committee figures would be further subject to review by Congress before they would finally go into effect. We would have another crack at that.

While the figures have attracted the most attention in this section of the bill, there are other features in the committee bill which the Dingell-Broyhill amendment would strike out and which are retained by my amendment. For example, the assembly line short test of cars is retained. It retains the committee's position on warranty repairs. The question of warranty repairs is a very complex one, but I think we should point out that Mr. Griffin Bell, the Attorney General, has made it clear that in his judgment the position in the committee bill is the one that spurs free competition.

So that, in sum, I believe that my amendment that goes halfway between the Rogers position on the one hand and the Dingell-Broyhill position on the other is a compromise in the purest sense. It rolls back the 1979 standards 1 full year and provides for more latitude for diesel engines with respect to nitrogen oxide emissions.

I have participated with the gentleman from Florida, Chairman ROGERS, and the rest of the subcommittee working on the clean air bill now for some 3 years. I know at firsthand the kind of patient effort that the members of the committee and especially the chairman have put into this bill. The gentleman from Florida has worked unbelievably long hours on this bill in an effort to strike a balance, to resolve the controversies, and to come up with a fair solution.

We have seen the report on this bill. At least, even if we have never read it, we can weigh it, and I have never seen a more detailed report, I believe, since I have been here in the Congress. I commend the staff, especially Jeffery Schwarz and Steve Connelly, for the work they have done on this. I believe the thoroughness of the report indicates the kind of effort and care that have gone into the writing of this bill.

Few of us can understand all the scientific evidence laid out in that report. We are not scientists, and I think it is going to get down for most of us to a judgment call on this bill, that it will not be a question of clear scientific proof, that one position is clearly better than any other. Statistics do not always lie but they seldom voluntarily tell the truth, and we can argue any position on this bill from a set of statistics and some study or another. But what it is going to get down to for most of us is: Does it strike the balance fairly between the energy needs of this country, the increased costs involved, the need of the automobile industry for stability, and the importance of the health of our citizens and of the environment?

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

(On request of Mr. OTTINGER, and by unanimous consent, Mr. PREYER was allowed to proceed for 3 additional minutes.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, there are two things I want to clarify. As I understand it, what the gentleman's amendment does is to delay implementation of the committee's standards for 1 year, keeping the present standards in effect for 1 additional year, but then it goes to the committee's standards. Is that correct?

Mr. PREYER. The gentleman is correct.

Mr. OTTINGER. So that we will end up with the same protection that we would have in the committee bill but with the implementation being delayed 1 additional year.

Mr. PREYER. The gentleman is correct.

Mr. OTTINGER. And the second thing is that with respect to NO<sub>x</sub>, the committee position is preserved. There is no requirement that we go to a 0.4 NO<sub>x</sub>, but the committee position is maintained in that if the Secretary finds that the Nation's health requires it, the Secretary can then require that NO<sub>x</sub> go from 1.0 to 0.4.

Mr. PREYER. The gentleman is correct.

Mr. OTTINGER. I think the gentleman's position is acceptable and I support it.

Mr. PREYER. I thank the gentleman. Mr. Chairman, if I may complete my statement, I will then be glad to yield to all the gentlemen.

I have said that basically we have to decide this as a matter of judgment, and



I think in reaching that judgment it ought to carry great weight with us that the Department of Transportation, the Federal Energy Administration, the President's Energy Advisor, Mr. Schlesinger, the EPA, the Council on Environmental Quality, all of these agencies with different objectives have all endorsed the committee provisions in the bill. I think the fact that a man like Dr. Carter supports the committee provisions and the fact that many of the people on our committee who are environmentally strongly oriented, even though they thought the committee bill was too lax in this area, have supported it, should give us confidence that we have struck a fair balance in this bill.

I think the Dingell-Broyhill amendment is thoroughly respectable intellectually and I do not say that those who support it are "tools of the automobile industry." I know the gentleman from North Carolina (Mr. BROYHILL) does not have a strong United Auto Workers group in his area of the State. They just strike the balance differently.

My amendment moves toward the Dingell-Broyhill amendment in a spirit of compromise. I hope the Dingell-Broyhill supporters will also be willing to give some ground and will accept this amendment in the same spirit.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I would like to commend the gentleman for this amendment. This is a particularly troublesome issue to someone who comes from an area as I do that is dependent on the auto industry for its primary economic base; but on the other hand, it seems to me the evidence of possible health hazards is so overwhelming at this time that I think that to abandon key principles in the Clean Air Act before we know anything more about the impact of the proposed Dingell standards would be a serious mistake. However, having had long experience in industry and particularly being familiar with the auto industry, I recognize the problem of leadtime. For practical purposes, the 1979 model year is here. I think the industry should have 1 more year of time to complete the necessary tooling and preparatory work without facing possible dislocation and shutdowns. This amendment meets that requirement.

Mr. BROYHILL. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the Dingell amendment.

Mr. Chairman, I rise in support of the amendment offered by my colleague, the gentleman from Michigan (Mr. DINGELL), which has been offered on behalf of himself, also on behalf of myself, since the two of us have been asking our colleagues for the past several weeks to support this schedule of emission standards which I have on the easel here before me.

Mr. Chairman, I want to assure my colleagues that the goal of this substitute amendment that we have offered this morning is to achieve stricter air quality control. At the same time we want to

balance this concern with other national goals. We have other social goals in this country. Our amendment will not only control automobile pollution, it will also save fuel. It will hold down consumer costs and will preserve the strength of the American economy by not forcing people out of work.

Mr. Chairman, I want to emphasize and reemphasize what my colleague, the gentleman from Michigan, has already pointed out. It is important to note that this can be accomplished with the end result of having air just as clean as we would have under the committee proposal. I would invite our colleagues to examine the charts we have brought to the Chamber this morning. I think this is a most important point to remember.

Mr. Chairman, the energy savings that the Dingell-Broyhill amendment would achieve are significant. They would produce fuel efficiency in motor vehicles, the overall energy savings are quite significant. If we look at the California experience where automobiles are being sold there with different emission standards and the fuel penalty on the automobiles sold in California is significant, one automobile company testified that the penalty was 12 percent or more.

Another factor is that the models that are sold in the California market are significantly less than that in the other 49 States. Savings for consumers under the amendment, the schedule of emission standards we are advocating, is also significant. As pointed out by the gentleman from Michigan (Mr. DINGELL), it is as much as \$350 a car. This was the testimony of Mr. Costle, Administrator of EPA, before the Committee on Interstate and Foreign Commerce.

Mr. Chairman, my colleague, the gentleman from North Carolina, comes in with another amendment. I am not quite sure what it does. From what I can see, all it does is one thing, that is, that it continues the 1978 standard for 1 more year.

Of course, continuing the Dingell-Broyhill 1978 schedule of emissions standards for 1979 we thought was most important, because there is inadequate lead time at the present time for designing, planning, engineering, construction and building of a prototype for 1979. They should be doing this at the present time, and it makes absolutely no sense to require them to go back to the drawing board and to plan and engineer a new prototype for another year. We do think this would result in some significant savings to consumers.

But, there is still a significant difference between the schedule of emissions that we are suggesting and that which has been suggested by Mr. PREYER of North Carolina. That is in the NO<sub>x</sub> level, oxides of nitrogen—the last column on the right. Why is this important? The committee bill would reduce this NO<sub>x</sub> level to 1.0 gram per mile and give the Administrator the authority to lower it even further, to 0.4 gram per mile; whereas the schedule of emissions Mr. DINGELL and I offer would retain the standard at 1.0, and give the Administrator the authority to give a waiver to increase that up to 2.0, providing that it

is shown that new technological development is needed to develop more efficient automobile engines, and also provided that the Administrator determines that this level would not endanger public health.

Now, why is this important?

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Michigan.

Mr. DINGELL. The waiver up for 1.0 to 2.0 grams per mile cannot take place unless the technology to do so is in existence and it would not endanger public health.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

By unanimous consent Mr. BROYHILL was allowed to proceed for 5 additional minutes.

Mr. BROYHILL. Let me make sure we understand what the gentleman from Michigan just said. The waiver upward can only occur if they show that the technology is in existence to develop more fuel efficient engines; second, that it will not endanger public health.

Now, why is this problem of controlling NO<sub>x</sub> unique? I hope the Members will listen to this. When we raise the operating temperature of the automobile engine in order to make it more fuel efficient and thereby also burn up the hydrocarbons—in other words, other pollutants—what we do is increase the amount of NO<sub>x</sub>, that comes out of the tailpipe. NO<sub>x</sub>, or oxides of nitrogen, is not found in the gasoline. It is formed as a combination of the burning of the gasoline combined with the oxygen in the air.

If we lower the temperature of the burn, we are going to get less fuel efficiency, burn up less of the hydrocarbons in the gasoline, and we get more NO<sub>x</sub>. As someone pointed out, we just cannot repeal the law of thermodynamics.

So, this is a significant problem, this NO<sub>x</sub> level, if we are going to achieve the fuel efficiency goals that we have set in the bill that passed last year. So, I would urge that the Members recognize the need to set the oxides of nitrogen standards at this level, and that this is necessary in order to achieve the consumer savings that we have set as our goal in other legislation before us.

Mr. Chairman, the goal of the Dingell-Broyhill substitute offered this morning is to achieve strict air quality controls and, at the same time, balance this concern with other national goals. Our amendment will not only control automobile pollution, it will also save fuel, hold down consumer costs, and preserve the strength of the American economy. What is perhaps most important to note is that this will be accomplished through Dingell-Broyhill with the end result being air just as clean as we would have under the committee proposal.

This last point is an extremely important one for my colleagues to understand. Proponents of the committee bill would have Members believe that this is an issue of clean air verses filthy air. It simply is not.

There are several studies completed which support the view that the health

benefits will be as great with Dingell-Broyhill as with the committee bill. Excerpts from a new Yale University study of NO<sub>x</sub> include "an emission standard for NO<sub>x</sub> of 1 gram per mile—that which is contained in the Dingell-Broyhill substitute—would eliminate excess incidences of acute respiratory disease by 1981, or have roughly the same effect as the 0.4 gram per mile standard that is contained in the committee version."

The study goes on to report that—

The California 1975 and Federal 1977 automotive emission standard of 2.0 grams per mile would result in an acute respiratory illness rate of only approximately 5 percent that of 1973 by 1984.

Yet the Dingell-Broyhill substitute becomes twice as stringent as this.

A draft report by the Federal Task Force on Motor Vehicle Goals last September reported that—

Control of carbon monoxide (CO) at the present level of 15 grams per mile is sufficient to reduce projected excess cardiac deaths and person days of discomfort to ZERO by 2000 as emission-controlled cars replace older vehicles. Lower CO emission levels do not change these health indicators.

Yet Dingell-Broyhill still reduces the allowable CO emissions from 15 grams per mile to 9.

Last year, a study done by the Department of Transportation, the Federal Energy Administration, and the Environmental Protection Agency concluded that by 1990, the health effects of last years' Dingell-Broyhill amendment would have been the same as the committee bill. Yet Dingell-Broyhill this year is considerably more stringent.

The clean air or health effects of the two schedules are, at best, hotly contested. Do not believe that we will be voting on a health issue where the outcome of the two proposals will be vastly different. They will not, so far as the health of the Nation is concerned.

What we must examine, then, are the other benefits to be gained from the Dingell-Broyhill substitute. Not only will air quality increase as emissions standards become more stringent, but, with the Dingell-Broyhill substitute, the Nation will realize considerable other gains.

#### ENERGY SAVINGS

The emission schedule in Dingell-Broyhill would continue to produce fuel efficiency in motor vehicles and overall energy savings for the country while the committee schedule could waste fuel, conservatively estimated to be 2.41 billion gallons a year, or 140,000 barrels of oil per day, based on Government analyses. Last year's Federal task force report estimated that the committee standards of this year would result in a fuel penalty of 12 percent or more. We can also see this type of result if we examine the California experience, where one major automotive company reported that "the more stringent 1976 California standards cause a 12-percent fuel economy penalty, compared to cars meeting the current Federal standards". We expect the trend to continue in 1977, with California models suffering a 10-percent penalty.

Savings for consumers is also accomplished under Dingell-Broyhill. The

more stringent standards of the committee bill would require higher initial purchase costs of \$350 per car, according to testimony by Mr. Douglas Costle, Administrator of EPA. In addition, EPA's support data, the March 21, 1977 "Cost/Technology Analysis," revised April 11, also indicates that under the committee bill standards, maintenance costs to consumers might be increased as much as \$100 per vehicle. Some of the provisions in the committee bill pertaining to the automotive aftermarket threaten to raise maintenance and servicing costs to the consumer even higher.

#### JOB CERTAINTY

Jobs in the automotive industries would be protected under the standards in Dingell-Broyhill as customers would find the fuel efficient, clean burning, reasonably priced, and dependable vehicles produced under such standards more desirable and acceptable. Again, our aftermarket provisions insure the preservation of a competitive environment so essential to independent businesses. One study reported that 1 in 6 of every non-agricultural job was related to the automotive industry.

The Dingell-Broyhill schedule and its phase-in of tighter standards permits automobile and emission control parts manufacturers to maximize efforts to produce innovative fuel and emission control devices and systems. While new and innovative technologies for emissions reduction would not be blocked by the Dingell-Broyhill substitute, there are provisions in our bill to assure that such new devices will not endanger public health or safety.

Technology development is especially important in regard to the diesel engine.

It is important to note that auto manufacturers testifying before both the Health and Environment Subcommittee on clean air and before the Energy and Power Subcommittee on auto fuel economy recently, agreed to the need for the NO<sub>x</sub> suspension or waiver proceeding by EPA under the Dingell-Broyhill emission schedule for 1982 and beyond. Automakers, both foreign and domestic, who produce or plan to produce diesel engines for their models, testified to the need for the Dingell-Broyhill 1.0 NO<sub>x</sub> standard in 1982 and future model years to include the waiver to allow for the energy savings of the diesel engine to be realized and for the diesel to be put into mass production. Emission testing by manufacturers and government agencies of the various small and large diesel engines concludes that the NO<sub>x</sub> standard should not be set below 1.5, or the diesel would be lost for mass production. They have, in fact, urged that the NO<sub>x</sub> standard remain at 2.0. The diesel can claim up to a 25-percent fuel efficiency improvement above the spark ignited, gasoline powered vehicle, but that savings could be lost for the nation if diesels are outlawed or not encouraged for mass production.

The committee bill would have the effect of outlawing diesels under 4,500 pounds which are, of course, the most fuel efficient diesels. Both small and large diesels, including the GM Oldsmobile diesel to be introduced in model year 1978 at current emission standards,

would be lost under the committee's proposed standards and authority for EPA to lower the NO<sub>x</sub> level to 0.4. The 1978 model GM Oldsmobile diesel is projected to weigh in at less than 4,500 pounds. Diesels cannot now attain 0.4 NO<sub>x</sub> and could not be certified under EPA durability test procedures at 1.0 NO<sub>x</sub>. Dingell-Broyhill encourages increased production of diesels and their related fuel economy improvement. The committee bill does not.

Automobile manufacturers have come a long way in reducing polluting emission. According to studies done in 1966 by the National Air Pollution Control Administration, mobile polluters were the largest single contributor to pollution in the atmosphere. Exhaust from cars, trucks, and buses accounted for about 60 percent of the total air pollution, or about 90 million tons per year.

As of last year, emissions at the tailpipe of autos had been reduced by over 80 percent for CO and HC and by more than 40 percent for NO<sub>x</sub>. This was done with considerable effort and cost to both the industry and to the consumer.

The real improvement in air quality results from the replacement of older, polluting vehicles with newer, controlled automobiles. Rapid progress toward cleaner air continues, and would continue even if we froze today's standards. But if we raise car prices, increase maintenance costs, and make cars less fuel efficient, then older cars will stay on the road a longer time. This will result in no effective environmental improvement.

The major differences between the committee bill and Dingell-Broyhill are as follows:

First. The committee bill changes auto emission standards in 1979. As this bill realistically will not be enacted into law until June or July of this year, the 1978 standards should be carried through 1979. Inasmuch as the year-long EPA certification process for the 1979 model cars begins in midsummer this year, there is already an inadequate lead-time for designing, planning, engineering, testing, building of prototypes, and retooling for 1979 models if standards are changed for that year. Such a situation not only will result in disruption within the automobile industry, but may also result in substantial unemployment to automotive workers. As we have recently observed, the effect of such an occurrence is to produce significant adverse impacts throughout our national economy.

Second. In 1981, the committee bill reduces the NO<sub>x</sub> level to 1.0, while Dingell-Broyhill does not reduce to this level until 1 year later. Under Dingell-Broyhill, the Administrator is given the latitude to revise the standard up to 2.0 for periods of two or more model years if he determines that such standard should be revised due to: The lack of available technology; the cost of compliance with such standard; or the impact of such standards on motor vehicle fuel consumption. However, no such revision may be made if the Administrator determines that it would endanger public health.

Third. For 1983 and beyond, the committee NO<sub>x</sub> standard is reduced from 1.0



to 0.4. The Dingell-Broyhill amendment maintains the 1.0 NO<sub>x</sub> standard. With regard to NO<sub>x</sub>, the ultimate level which represents the best tradeoff between fuel economy and air quality will fall within the 1 to 2 grams per mile range. Not enough is known about the exact effects of NO<sub>x</sub>, so the Dingell-Broyhill amendment holds the standard to the lower figure.

During the Health and Environment Subcommittee hearings in 1975, and again in 1977, it was generally agreed to by the testimony that a 0.4 NO<sub>x</sub> standard was not technologically feasible in the foreseeable future. The Senate committee bill has already abandoned 0.4 gram per mile as a standard and goes no lower than 1.0 gram per mile. Furthermore, only catalytic converter technology appears to have possible potential in later years to meet 0.4 NO<sub>x</sub>, while other methods which are clean and fuel-efficient—lean burn, diesel, stratified charge—are unable to do so.

Thus, retaining the potential for a 0.4 NO<sub>x</sub> standard would inhibit development of these other innovative and fuel-efficient engines. This is precisely contrary to the purpose of the act stated in the committee report, to encourage improvement of technologies with significant fuel economy and emissions control potential.

The Motor Vehicle Goals, or "300 day study" identified five strategies to control NO<sub>x</sub> in the atmosphere, each of which would be more cost-effective than reducing auto emissions below 2 grams per mile. Even so, the Dingell-Broyhill NO<sub>x</sub> standard will be twice as stringent as this.

The problem of controlling NO<sub>x</sub> is unique, for if you raise the operating temperature of an engine to make it more efficient and to reduce hydrocarbons, you increase NO<sub>x</sub>. Conversely, if you lower the temperature to reduce NO<sub>x</sub>, you increase hydrocarbons. Thus Dingell-Broyhill sets the standard at a safe level, 1.0, yet allows the Administrator of the EPA to adjust the level higher to accommodate new technological developments which may be more efficient and thus more effective in reducing our national pollution problem. Here again, the higher NO<sub>x</sub> level would not be permitted if the Administrator determined that the level would endanger the public health, our primary consideration.

I again urge my colleagues to vote for a balanced policy, one that will clean up the air in a realistic and effective manner.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the distinguished gentleman for yielding to me. Does this same principle apply to diesel engines?

Mr. BROYHILL. Of course, diesel fuel burns at a higher temperature and diesel, of course, has to have a higher temperature. If the gentleman has operated a diesel engine, he knows it has to go through a preheating period before one actually turns the ignition on to start the engine.

Because of the diesel fuel burning at a higher temperature, there is more NO<sub>x</sub> that comes out. But remember this: In diesel technology, we have some very significant fuel savings. For example, the diesel engines that are coming out on experimental cars now are achieving as much as 25 percent or more better mileage than through the gasoline technology. But if we lower that NO<sub>x</sub> level or standard down, we are just going to completely cancel out the development of any diesel technology, and that would include, I would say, even the Volkswagen Rabbit.

Mr. CARTER. Mr. Chairman, if the gentleman will yield further, the principle of the diesel engine is entirely different from that of the ordinary combustion engine in the automobile, in that by compression the air must be heated before it fires. The diesel engine has no spark plugs.

Mr. BROYHILL. That is right.

Mr. CARTER. It is an entirely different operation.

Mr. BROYHILL. It burns at a far higher temperature.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from California (Mr. LLOYD).

Mr. LLOYD of California. I thank the gentleman for yielding.

Mr. Chairman, can the gentleman tell me how long the equipment which is to hold the emissions down is good for? Can we document, perhaps, that equipment goes out of standard within, say, 90 days?

Mr. BROYHILL. The automobile manufacturers under present law must build these emission control systems under a production warranty that they will last for 50,000 miles or 5 years, and they must so certify to EPA. Under the present law, not the law we are rewriting here, but under the present law, EPA has recall authority if they find that a significant number of these are not up to standard.

Mr. LLOYD of California. If the gentleman will yield further, would the gentleman agree that as an automobile is used, with the ignition systems we have today, breaking points, et cetera, spark plugs, that, in reality, there is a steady decline in an internal combustion engine of this type, such that there is constant maintenance on these emission control devices, and that, in reality, the thing literally goes down hill and it can actually produce more pollutants with a very less efficient fuel economy engine than if there were nothing on it, say, if you do nothing on it for 2 years and just drive it, as compared with having the equipment or not having the equipment? Is that true?

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. BROYHILL) has expired.

On request of Mr. LLOYD of California and by unanimous consent, Mr. BROYHILL was allowed to proceed for 3 additional minutes.

Mr. BROYHILL. I am not an engineer, but it certainly sounds reasonable that any piece of machinery or any equipment like this, if used for a period of

time, will require maintenance. Perhaps I do not know the point the gentleman is trying to make.

Mr. LLOYD of California. The point I am trying to make is that unless this equipment is maintained, that all of these emissions that occur are compounded because of the equipment on it to hold the pollution down. But it is the equipment itself that gets in the way, unless it is properly maintained. We would be better off if we cut the size of the engine by 50 percent than keeping an engine of 400 or 500 cubic inches and including all of these devices on it in order to reduce the emissions, when, in reality, we are just doing nothing but wasting gas. Would the gentleman agree with that?

Mr. BROYHILL. I suggest that we meet these other goals we have, and one of those is the more efficient automobile, and we are going to find that the engine weight as well as the total weight of the automobile is going to come down significantly.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, this Member is not as knowledgeable on this subject as the gentleman from North Carolina, and I would appreciate some assistance in considering these two amendments.

I understand that in the case of the NO<sub>x</sub> in all of these standards we are really talking about a health situation. That is why these standards are being imposed. It is for a health purpose. I would like to find out why the Dingell-Broyhill amendment in the provision for NO<sub>x</sub> does not permit the Administrator to go below the 1.0 level in the event that it is determined after a hearing that there is a health factor involved, to permit it to go down to the lower standard that was originally proposed.

Mr. BROYHILL. Mr. Chairman, the gentleman knows, of course, that this is only a 3-year bill; and I am talking about the 3-year authorization. Congress is going to be able to monitor the situation, if that is the case.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. BROYHILL) has expired.

By unanimous consent, Mr. BROYHILL was allowed to proceed for 2 additional minutes.

Mr. BROYHILL. To continue, Mr. Chairman, I would like to invite the gentleman from Georgia (Mr. LEVITAS) to study the material that we have brought to the floor, which shows very clearly that the standards that we are advocating here today will result in the same air quality as the standards that have been proposed by the committee and also by the gentleman from North Carolina (Mr. PREYER), and without the substantial economic penalties that would occur under the stricter provision.

Mr. LEVITAS. Mr. Chairman, if the gentleman will yield further I remember that last year when I supported the gentleman's amendment, it did have authority for the Administrator of the EPA

to go to a lower level, but there are other differences, not with respect to these numbers, but with respect to such things as the warranties, catalytic converters, or matters of that sort, so that there are differences between the gentleman's amendment and the Preyer amendment, is that not correct?

Mr. BROYHILL. Yes, and I would be glad to go into that later.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, there are only two differences that I can discern between the committee bill and the newly born Preyer substitute. One is that they change the weight limits on diesels. The other is that they give 1 additional year on 1.5, 1.5, and 2.0 at the beginning.

It is, I would say, a distinction without a real difference and leaves a 1 year, 1980, standard out on a limb which creates higher manufacturer costs for just a 1-year standard with those unnecessary costs hurting the consumer.

Mr. BROYHILL. The warranty section that is in the amendment offered by the gentleman from Michigan (Mr. DINGELL) and myself is a warranty section that is advocated by the after parts market people, and I would urge the Members' acceptance of that also.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. BROYHILL) has expired.

On request of Mr. ERTEL and by unanimous consent, Mr. BROYHILL was allowed to proceed for 2 additional minutes.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, I am curious about the last factor in the Dingell-Broyhill amendment with respect to nitrous oxide, the 1.0 to 2.0. I do not understand the standard there.

As I understand it the standard is 1.0, and then we can get a variance upward to 2.0, and that can be given upon application of the industry to, I guess, the EPA Administrator under the gentleman's amendment. Is that correct?

Mr. BROYHILL. There has to be a showing that it is necessary to develop a technology for significant savings in fuel; and second, that it will not have any adverse impact on public health.

Mr. ERTEL. However, it seems to me at that point we have the industry proving something against themselves. They are trying to prove that they cannot comply with the standards.

Mr. Chairman, I think the gentleman is asking the industry to basically come in and say that they are not accomplishing the task, rather than setting the standards.

Mr. BROYHILL. No I think the gentleman misunderstands the purpose of this amendment.

Mr. ERTEL. That is what I want to know.

Mr. BROYHILL. The purpose of this amendment is not for a waiver for the whole fleet. That is not the purpose and

not the intent. The purpose of this is only to permit the development of technology in certain automobiles and in perhaps a certain engine or in a certain new development, and only very small parts of the fleet would be involved.

The committee bill, in fact, has the same type of thing, except that they go from 0.4 to 1.0. However, we are saying that in order to develop technology with the potential of saving significant amounts of fuel, we should give this small waiver, not for the whole fleet, by any means. That was not our intent.

AMENDMENT OFFERED BY MR. STAGGERS TO THE AMENDMENT OFFERED BY MR. DINGELL

Mr. STAGGERS. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. STAGGERS to the amendment offered by Mr. DINGELL: Section 214 of the Dingell amendment is amended by striking out subsection (c) thereof and inserting in lieu thereof the following:

(c) Section 202 of such Act is amended by adding the following new subsection at the end thereof:

"(1) The high altitude regulation in effect with respect to model year 1977 motor vehicles shall not apply to the manufacture, distribution, or sale of 1978 and later model year motor vehicles. Any future regulation affecting the sale or distribution of motor vehicles or engines in high altitude areas of the country shall take effect no earlier than model year 1981.

"(2) Any future regulation applicable to high altitude vehicles or engines shall not require a percentage of reduction in the emissions of such vehicles which is greater than the required percentage of reduction in emissions from motor vehicles as set forth in Section 202(b). This percentage reduction shall be determined by comparing any proposed high altitude emission standards to high altitude emissions from vehicles manufactured during model year 1970. In no event shall regulations applicable to high altitude vehicles establish a numerical standard which is more stringent than that applicable to vehicles certified under non-high altitude conditions.

"(3) Section 307(a) shall apply to any high altitude regulation referred to in paragraph (2) and before promulgating any such regulation, the Administrator shall consider and make a finding with respect to—

"(A) the economic impact upon consumers, individual high altitude dealers, and the automobile industry of any such regulation, including the economic impact which was experienced as a result of the regulation imposed during model year 1977 with respect to high altitude certification requirements;

"(B) the present and future availability of emission control technology capable of meeting the applicable vehicle and engine emission requirements without reducing model availability; and

"(C) the likelihood that the adoption of such a high altitude regulation will result in any significant improvement in air quality in any area to which it shall apply."

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Chairman, the regulation which we are talking about

here affects the sale of cars in 166 counties located in the States of Arizona, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, and Wyoming.

It has to do with high altitude regulations of our pollution devices. The amendment would provide a suspension of the regulations through model year 1980 in order to allow the EPA to conduct a new rulemaking investigation respecting its various documents concerning reductions and increases in auto emissions EPA would be required to come up with schedules to insure that in the future high altitude vehicles will not impose a more stringent and burdensome requirement than that standard pertaining to auto emission standards at the sea level. We do not think the situation should exist. At the present time, though, automobiles in high altitude areas cost a lot more. We do not think this is a good business deal and it is not good for the people of America.

The car dealers are only making, at the present time, one-half of the number of cars that are available for high altitudes because the manufacturers claim they cost so much more money. We need twice as many such cars as are presently being made for the high altitude areas. They are only making half enough of them at the present time.

Fuel economy deteriorates considerably because of pollution devices when automobiles, enter the high altitudes. This is one of the places wherein we need to save fuel now.

Mr. BROYHILL. Will the gentleman from West Virginia yield?

Mr. STAGGERS. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, as I understand the amendment offered by the gentleman from West Virginia, it does not take authority away from the EPA to write these regulations for high altitude areas, the only thing it says is that the EPA will be rewriting the schedule of regulations so that they will have less economic impact and a lower cost factor in those areas.

Is that the purpose of the gentleman's amendment?

Mr. STAGGERS. That is right.

Not only that, but the cost is so much more and the pollution in these high altitude areas is so great that the EPA needs to do something to remedy this situation. We think EPA should act. EPA has admitted that it is not doing the job.

Mr. BROYHILL. Mr. Chairman, I thank the gentleman from West Virginia and I support his amendment.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, I am not so sure that this amendment will do as the gentleman from West Virginia says and I will rise later in opposition to his amendment. What we are doing is waiving all EPA requirements until 1981, which is totally unfair for the people in these mountainous regions.

Mr. STAGGERS. Let me say that the



gentleman from Colorado has not stated the truth. He has not read the amendment through and does not know what he is talking about. I think the gentleman had better reread the amendment. We have said it would run the car cost up. I believe the gentleman from Colorado will have to agree with that, and that today they are making only half of the cars needed for the high altitude portions of the country today. Does the gentleman disagree with that?

Mr. WIRTH. I will later quote from the amendment on my own time.

Mr. DINGELL. Mr. Chairman, would the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I want to say I am delighted that the gentleman from West Virginia (Mr. STAGGERS) has offered this amendment. It is a good amendment and I am delighted to support it. It is going to give an opportunity for EPA to rethink some of the standards that they have set for the westerly parts of our country, concerning high altitude emissions, and doing so under circumstances that they can come forward with standards which will protect both the health and environment of the people in those areas. It will also give them an opportunity to have greater model availability at a lower cost which is highly desirable. In my view it has no adverse health impact, since only 2 or 3 percent of the cars in those areas are sold with these requirements because most of the cars come into the high altitude areas from the outside areas.

I am glad to support the amendment offered by the gentleman from West Virginia (Mr. STAGGERS).

Mr. MARRIOTT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Staggers amendment.

Mr. Chairman, I rise in support of the Staggers amendment to the Dingell amendment. This amendment would in fact suspend until model year 1981 the present high altitude regulation. I would like to ask if my colleagues will remember the letter we sent out to all Members laying down the criteria and the benefits of this amendment. Effective this past September with the production of 1977 model cars, a new EPA regulation went into effect which requires that all cars sold for principal use in counties above 4,000 feet be certified at that elevation to meet Federal emission standards.

The regulation affects the sale of cars in 166 counties located in the States of Arizona, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, and Wyoming.

It requires all cars that are to be sold in these counties to be certified in a separate emission certification process from that required for the rest of the national auto fleet.

The purpose of the regulation is to improve air quality in certain metropolitan areas located above 4,000 feet where auto emission levels are adversely affected by high altitude operating conditions.

The present EPA regulation has created a number of problems for both consumers located in or near these high altitude areas and for new car dealers. Although the regulation has demonstrably interfered and adversely affected the new car market, it can offer no real hope of cleaning up the air in high altitude areas which presently experience auto related pollution problems.

At least as presently designed, the EPA regulation will not help the air pollution problem of these high altitude areas.

Effective this past September with the introduction of 1977 model autos, a new EPA regulation went into effect which required that all cars sold for principal use in counties above 4,000 feet be certified.

For these reasons, I am supporting this amendment to section 5 of the Dingell substitute. This amendment will suspend the present EPA high altitude regulation and require EPA to rethink its policy relative to the high altitude auto emissions problem.

The amendment specifies criteria which are to be considered by EPA in a new public rulemaking proceeding which must be held prior to the promulgation of any future high altitude regulation. These criteria include:

First. The economic impact which would be experienced by both consumers and new car dealers;

Second. The availability of technology capable of meeting high altitude emission standards; and

Third. The likelihood that the regulation would result in any significant improvement in air quality in those regions to which it would apply.

The amendment also contains a provision which would insure that the burden of meeting emission standards at high altitude is no greater in terms of percentage reductions of pollutants than that imposed by the Clean Air Act with respect to non-high-altitude cars.

I would note that the 166 high counties which are presently designated as high altitude for purposes of the current EPA regulation contain only 2 to 3 percent of the national sales market. The manufacturers have determined that it is not economically feasible to certify their entire line of products for use at high altitude.

The result has been a reduction in availability of models and options by approximately 50 percent.

Standard transmissions and six cylinder engines are among the most frequent options which are simply not available to high altitude consumers.

Due to the additional emission control equipment which is required to meet the high altitude regulation currently in effect, present high altitude vehicles are priced significantly higher than comparable low altitude cars.

The price of this additional equipment ranges anywhere from \$22 to \$90 depending upon make and model.

More significantly, however, is the added cost which high altitude customers must pay as a result of limited availability. Since many standard items

are simply not available on high altitude cars, the customer in these 166 counties is forced to pay extra costs for optional equipment.

The high-altitude customer may find himself paying for an automatic transmission, a larger engine, power steering and power brakes, et cetera, which he or she never intended to buy. The difference in cost may run as high as \$500 due to these factors alone. This \$500 figure does not take into account the added fuel costs which will result if all of this optional equipment is added.

Unfortunately, no one benefits from these higher costs. The customer does not benefit because his new car—which may not even be the car he really wanted—performs poorly and gets 5 to 7 percent less fuel economy than a comparable low-altitude car.

The dealer does not benefit because he loses sales due to the competitive disadvantage he finds himself in.

Nor does the environment benefit by means of this regulation. Metropolitan areas which do experience air quality problems are well known for the large amount of tourist and other nonresidential traffic flowing through them. These vehicles are not subject to the present regulation and are therefore not affected by it.

Due in large part to the regulation being totally unenforceable, many customers living in high-altitude counties merely drive to a nearby low-altitude area to buy their cars. This eliminates to a significant degree any potential air quality benefit. As local publicity has advertised the ease with which the present regulation may be avoided, these occurrences have become more and more widespread.

It has been estimated that the actual percentage of high-altitude cars being driven in the 166 high-altitude counties is negligible.

I will cite one last problem which, more than any other, truly highlights the absurdity of this regulation. Of 166 counties designated as high altitude by EPA, only 18 have been determined by EPA to have any type of auto-related pollution problem.

In the other 148 counties which contain mostly rural populations, small dealers are precluded from trading cars with neighboring dealers because they now have different types of cars. Without this ability to trade, many of these small dealers may go out of business. Yet there is no air quality problem in these 148 counties to justify any governmental intervention at all.

Because this regulation creates numerous problems for high-altitude car buyers and franchised dealers, because it seeks to apply a cure where no illness has been detected, because it is unenforceable and is being widely disregarded, and because it cannot begin to accomplish its goal of improving air quality in those areas where a problem does exist I would strongly urge you to support this high-altitude amendment.

Mr. WIRTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to

the amendment offered by the distinguished chairman of the committee, the gentleman from West Virginia (Mr. STAGGERS).

First of all I want to thank the gentleman from West Virginia (Mr. STAGGERS) for reflecting and recognizing the difficulties we face at high altitudes. There is no question we have very severe problems there. I am going to offer an amendment later to the Preyer substitute to focus attention on the problems of the emissions at high altitudes, a focus which unhappily the amendment offered by the gentleman from West Virginia (Mr. STAGGERS) does not contain.

There are some very significant problems with the amendment offered by the gentleman from West Virginia. Let me quickly go through those. First of all it repeals the certification by EPA until 1981.

The gentleman from West Virginia (Mr. STAGGERS) said I was not telling the truth when I mentioned that before. Let me read from the amendment:

Any future regulation affecting the sale or distribution of motor vehicles or engines in high altitude areas of the country shall take effect no earlier than model year 1981.

Let me quote again:

Shall take effect no earlier than model year 1981.

Effectively what we are doing in this amendment were we to pass the amendment offered by the gentleman from West Virginia (Mr. STAGGERS) is telling the Rocky Mountain region, which is, I admit, only 3 percent of the population, that we are going to do nothing about cleaning up the air in the Rockies until 1981. And this is in an area of the country, I remind my colleagues, in which we are going to have to move to very significant coal conversion if we are serious about our national energy problem and serious about conversion to coal from oil and natural gas. The air can absorb only so much pollution. If we refuse in this amendment to clean up the auto emissions, and then find that our air is filled with coal emissions, we are going to be in a disastrous situation in the Rocky Mountain area.

The most significant problem with the amendment offered by the gentleman from West Virginia (Mr. STAGGERS) is waiving the requirement until 1981 and then begin making progress. That is simply not fair to Denver or to Albuquerque or to other high-altitude cities. The Members know the problems we have now with the brown cloud difficulties. We have air pollution in Denver which is worse than it is in Los Angeles.

Mr. Chairman, we have very major problems there and they are getting worse. To accept this amendment, to say that we are going to do nothing until 1981 is, in my opinion, an immense disservice to the citizens of the Rocky Mountain region, who have enough burden already with twice the pollution at high altitudes.

Mr. Chairman, I would hope we would defeat this amendment and then come around and accept the constructive amendment that I will offer.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, the gentleman knows emissions devices are going to be put on all the cars manufactured for low level, high level, or any other level. To say that we are just taking the devices off at high altitudes is not true.

Mr. WIRTH. Mr. Chairman, I would like to reclaim my time.

The amendment says:

Any future regulation affecting the sale or distribution of motor vehicles or engines in high altitude areas of the country shall take effect no earlier than model year 1981.

The gentleman has got to read the amendment offered by Detroit, which the gentleman is offering, which is saying this will not go into effect until 1981. Now, that is unfair to the people of the Rocky Mountain area.

Mr. Chairman, I would ask that we defeat the amendment and come back and attempt a constructive approach later.

Mr. RONCALIO. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the Staggers amendment.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, the gentleman from Colorado keeps repeating that my amendment changes the date of application of the high altitude regulation to 1981. The gentleman did not answer my question whether emission control technology is required on all the cars in the low areas and the high altitude areas, and whether there will be air pollution devices on these vehicles, wherever they are located? It has been shown that control technology in high altitude areas is highly costly and just not doing the job and does not solve the problem of air pollution.

Mr. RONCALIO. Mr. Chairman, I want to commend my colleague, the gentleman from Colorado (Mr. WIRTH) very much for the gentleman's diligence in trying to do something about the air above Denver. I fly that area two or three times a month. I take off from Cheyenne, 100 miles north of Denver, at around 6,200 feet altitude. Denver is about a mile high. Sometimes I see the pollution as far north as Fort Collins, creeping almost into Wyoming.

I appreciate what the gentleman is advocating, but I do not believe the gentleman's proposition would be beneficial to the overall problem. We have got to go along in the hope that in the next several years, that those whose wisdom is greater than that of Congress—Members of those districts that manufacture automobiles, those who sell them, as well as those who drive them and who put up with all the fuel efficiency problems—can ultimately come up with the self-adjusting mechanism that will make every care acceptable at every elevation in the country. That will take place if we adopt the Staggers amendment and allow the transition toward that mechanism.

I am speaking for the auto dealers in Wyoming. If they are in cooperation with Detroit, that is how it is; but I think a column, like Mr. Buchwald's in this morning's Post, can do more toward goading Detroit toward shaping up than anything we do here.

Mr. Chairman, I call attention to the fact that the STAGGER's proposal maintains discretionary authority in EPA to determine the best means of achieving air quality at high altitudes. That is what is important. It then allows EPA to consider all the alternatives to the problem and take up all the self-adjusting mechanisms that are vital to solve this problem.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, the gentleman is absolutely correct in pointing out some of the technological problems also referred to by the chairman.

What we have got to do is make our way toward the adaptation of all cars to high altitudes. That does not mean that we completely preclude any kind of automobile from the emission standards, which this amendment does, by 1981.

What my amendment does is move up into that area where the technology works, we add to and maintain it where it is in position to meet it. We give the automobile companies a waiver so that we have a balanced approach which does not exist in this amendment. I am also very sympathetic to dealers' dilemmas which the gentleman refers to. The dealers in my district have the same problems. The amendment I will offer also provides relief to the dealers so that they have a full auto line without the brown cloud problems we have now.

Mr. RONCALIO. As I said, I have profound respect for my good friend from Colorado, but I simply happen to disagree with him on this particular point.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I just wanted to rise in support of the Staggers amendment and in support of the position taken by the gentleman in the well.

Mr. RONCALIO. I appreciate all kind remarks, especially from spokesmen of the great State of Colorado.

Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Utah.

Mr. MARRIOTT. Mr. Chairman, I want to clarify one thing. The reason the 1981 date is there is because they need at least 2 years.

Mr. RONCALIO. We are only talking about 2 years, only 2 years. It is not a 4-year continuation. The 1978 product is virtually being manufactured now.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

(On request of Mr. WIRTH and by unanimous consent Mr. RONCALIO was allowed to proceed for 2 additional minutes.)



Mr. WIRTH. Mr. Chairman, will the gentleman yield to me?

Mr. RONCALIO. I yield.

Mr. WIRTH. I thank the gentleman for yielding to me. When we are talking about the years involved, it is also important to understand what year the base on emission standards comes from. It comes from 1970 automobiles. Under the amendment offered by the gentleman from West Virginia, we are going to, hopefully by 1980, achieve 90 percent reduction in standards from a 1970 automobile. Unhappily, the 1970 standards at high altitude are twice those at sea level.

Consequently, what the gentleman from West Virginia is proposing today is that we accept the high altitude which, first, has twice as much emission as any other level in the country, or below 4,000 feet. That is one set of problems. Second, we are never going to get, given the mathematics of the way the formula is set up for high altitudes, there is no way in which we can arrive at cleaning up the air at high altitude under the amendment offered by the gentleman from West Virginia. Arithmetically, it does not work.

Mr. RONCALIO. I respectfully disagree with the gentleman. I think there will be a way to achieve his goal, and we are on the way to doing that. I think in the process we simply have to have certain trade-offs.

Yesterday, I voted against Mr. BREUX and his amendment, and I recognize the fact that in his opinion my stock fell yesterday. Today, I am going to support the Staggers amendment because I think a balance is necessary, and I think that the Rocky Mountains have to contribute to that balance.

Mr. WIRTH. I commend the gentleman for his stand on the Breux amendment.

Mr. HUBBARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Staggers amendment and the Dingell-Broyhill amendment, particularly its provisions regarding the performance warranty in the original Clean Air Act. Too, the Staggers amendment is a helpful addition.

It is critically important that the Congress extend the emission standards now in effect for the 1977 model year for the 1978 and 1979 models because of the long leadtime needed for auto production, for certification of compliance with Federal emissions and mileage standards, and for conversion to meet new standards. The Dingell-Broyhill amendment proposes to reduce hydrocarbon emissions from the current permissible level of 1.5 grams per mile to 0.41 grams per mile in the 1980 model year. This is the original goal of the Clean Air Act and, because of the clear health danger posed by hydrocarbon emissions, any relaxation of the original goal should be opposed.

Regarding carbon monoxide, the Dingell-Broyhill amendment sets a standard of 9 grams per mile in 1980. This standard is totally consistent with the need for air quality, though it is higher than the original goal of 3.4 grams per mile. With the 9-gram standard, EPA projects

that every city in the Nation will meet carbon monoxide air quality standards by 1990. The 9-gram standard will reduce carbon monoxide contaminants by 80 percent by 1990, while the 3.4-gram standard will reduce these contaminants by 83 percent—a negligible difference.

The performance warranty provisions of the committee bill will have a major anticompetitive and anticonsumer impact, not only in my opinion, but in the opinion of the House Small Business Committee and of the Antitrust Division of the Justice Department. I see no justification for simply reducing the performance warranty period to 3 years, as the committee bill would do, and calling for another study which will inevitably lead to the conclusions reached by the House Small Business Committee and the Department of Justice. The evidence clearly shows that the only solution to the anticompetitive and anticonsumer aspects of the performance warranty is its permanent reduction to 18 months or 18,000 miles, as provided by the Dingell-Broyhill amendment.

It is ludicrous to propose, as the committee bill does, that the independent aftermarket industry should be given the right to do warranty and recall work normally paid for by the manufacturer, and then be reimbursed by the manufacturer. This would place the independent garage industry in the same position in which the service station industry finds itself—under the thumb of the major oil companies capable of dictating prices and practices.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from Florida (Mr. Rogers).

Mr. ROGERS. I thank the gentleman for yielding.

Mr. Chairman, I just wanted to make a correction. The gentleman said that the Attorney General and the Justice Department supported the Dingell amendment. I have a letter here, dated May 12, 1977, from the Attorney General, which says to the contrary. I would be glad to supply this to the gentleman.

OFFICE OF THE ATTORNEY GENERAL,

Washington, D.C., May 12, 1977.

HON. PAUL ROGERS,

Chairman, Subcommittee on Health and Environment, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of May 11, 1977, concerning the position of the Department of Justice on pending amendments to the Clean Air Act, and in particular to Title II of H.R. 6161.

After consulting with the relevant divisions of this Department, I am advised that the Justice Department's Antitrust Division has in the past commented critically on regulations proposed by the Environmental Protection Agency with respect to implementation of the warranty provisions under section 207 of the Clean Air Act, although I understand that upon further consideration, the Division has taken a less critical view. However, the Division's original comments were not intended to be and should in no way be construed as an endorsement of the Dingell substitute, which was offered in the House Commerce Committee.

After reviewing Title II of H.R. 6161 and the language of the Dingell substitute, I have concluded that, on balance, the Department

would prefer the enactment of Title II of H.R. 6161. While there are specific provisions of Title II of H.R. 6161 with which the Department might not be in full accord, depending on their interpretation and implementation, I share your view that it represents an appropriate and fair balance of measures to protect the environment and assure free competition, free choice and consumer protection.

Yours sincerely,

GRIFFIN B. BELL,  
Attorney General.

The Department of Justice supports the committee proposition rather than the Dingell amendment, and I have the letter here for the gentleman.

Mr. HUBBARD. I believe my comments do not coincide with what the gentleman interprets them to be.

Mr. ROGERS. I understood the gentleman to say that the Department of Justice supported the Dingell amendment. I wanted the gentleman to know that this is not true.

Mr. HUBBARD. I said it called for another study which will inevitably lead to the conclusions reached by the House Small Business Committee and the Department of Justice.

I would agree that the gentleman from Florida is correct.

Mr. ROGERS. I thank the gentleman.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield on this point?

Mr. HUBBARD. I yield to the gentleman from North Carolina (Mr. Broyhill).

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Chairman, the Antitrust Division of the Justice Department submitted testimony to the EPA saying that their conclusion was that the present warranty is anticompetitive. If the gentleman would like to come over here and examine it, I have it right here.

Mr. HUBBARD. I think the gentleman is agreeing with my position.

Mr. ROGERS. Mr. Chairman, if the gentleman will yield, here is the letter dated May 12, and I will give it to the gentleman from North Carolina.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. Hubbard) has expired.

(By unanimous consent, Mr. HUBBARD was allowed to proceed for 1 additional minute.)

Mr. HUBBARD. Mr. Chairman, many of my constituents in the independent garage and aftermarket parts industry have made it clear to me they do not wish, nor have ever asked for the right, to do this type of warranty and recall work. Frankly, they resent the committee's inference that the stipulation of a manufacturer's right to do this work in the Dingell/Broyhill amendment is handing a so-called monopoly to the major domestic auto makers. This is not so, and I can assure you that if it were, the aftermarket parts and service industry would not be supporting the Dingell/Broyhill amendment to their own detriment.

I therefore urge my colleagues to support the Dingell/Broyhill amendment as a workable means of achieving our important clean air goals, and as the only equitable and permanent solution to the

anticompetitive and anticonsumer aspect of the performance warranty provisions of the Clean Air Act.

AMENDMENT OFFERED BY MR. CARR TO THE AMENDMENT OFFERED BY MR. PREYER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DINGELL

Mr. CARR. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. CARR to the amendment offered by Mr. PREYER as a substitute for the amendment offered by Mr. DINGELL: "Page 27 strike line 18 and insert:

"(A) emissions of oxides of nitrogen from such vehicles will not exceed 1.5 grams per vehicle mile for a period of 100,000 miles and emissions of other pollutants will not exceed the applicable standard for a period of 100,000 miles,

"(B) such manufacturer has made maximum feasible efforts to meet such standard required under the third sentence of paragraph (1)(B) for the model years 1981 and 1982, and

"(C) such vehicles will meet all applicable fuel economy standards.

In the case of any waiver under this paragraph, the applicable standard for purposes of this Act for vehicles to which such waiver applies shall provide that emissions of oxides of nitrogen from such vehicles shall not exceed 1.5 grams per vehicle mile. For purposes of this paragraph, the term 'qualified diesel vehicle' means a diesel powered vehicle of an inertial weight of 3,000 pounds."

(d) Section 206 of such Act (relating to compliance testing and certification) is amended by adding the following new subsection at the end thereof:

"(g) (1) In the case of any class or category of vehicles or engines subject to a standard of 0.4 grams per vehicle mile for oxides of nitrogen (as provided in section 202(b)(5)), a certificate of conformity shall be issued under subsection

Mr. CARR. Mr. Chairman, I should not need to take the whole 5 minutes. I have discussed this amendment with the gentleman from Florida (Mr. ROGERS). It is a technical and perfecting amendment to the substitute amendment offered by my dear friend, the gentleman from North Carolina (Mr. PREYER), in which he stated that he was lowering the weight limits for vehicles from 4,500 pounds to 3,000 pounds or in excess of 3,000 pounds.

Mr. Chairman, I would just advise the committee that automobile weights are sized in 500 pound classifications, and we seek merely to say "3,000 pounds or over."

In addition, Mr. Chairman, we seek, through this amendment, to clear up any ambiguity as to what kind of weight we are talking about. There are several kinds of weights that apply to automobiles. The inertial weight which my amendment uses is the same weight that EPA uses as the inertial weight on the dynamometer.

Mr. PREYER. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from North Carolina.

Mr. PREYER. Mr. Chairman, I thank the gentleman for yielding.

I have studied the amendment. It is

agreeable with me, and I think the committee has studied it and it is agreeable to this side of the aisle.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, we have no objection to the amendment on this side of the aisle.

Mr. CARTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I did not get a copy of the gentleman's amendment.

Mr. ROGERS. Mr. Chairman, if the gentleman will yield, I am sorry. I thought the gentleman had given him one.

Mr. CARTER. I would like to see it. Until I have the privilege of reading and understanding something about it, I would have to call for a vote on it. It may be all right.

#### PARLIAMENTARY INQUIRY

Mr. ECKHARDT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ECKHARDT. Mr. Chairman, do I understand correctly that we have before us, of course, the original instrument, and then we have the Dingell-Broyhill amendment and we have an amendment in the form of a substitute, which is denominated the Preyer substitute, and then we have before us an amendment by the gentleman from West Virginia (Mr. STAGGER): to the Dingell-Broyhill amendment?

The CHAIRMAN. The Chair will state that the gentleman is correct.

Mr. ECKHARDT. And then, Mr. Chairman, we have an amendment offered by Mr. CARR to the Preyer substitute amendment for the Dingell-Broyhill amendment?

The CHAIRMAN. The gentleman is correct.

Mr. ECKHARDT. Mr. Chairman, that, of course, is proper. There are four matters before us at this time, but we could not have a further amendment to either the Preyer substitute or to the Dingell-Broyhill amendment at this time; is that correct?

The CHAIRMAN. The Chair will state that the gentleman's position is correct. No further amendments to the Dingell amendment nor to the Preyer substitute amendment for the Dingell amendment could be entertained until the Staggers amendment to the Dingell amendment and the Carr amendment to the Preyer substitute for the Dingell amendment are first disposed of.

Mr. ECKHARDT. Mr. Chairman, is it not true that the order of voting would be first on the Staggers amendment?

The CHAIRMAN. That is correct. It has priority.

Mr. ECKHARDT. I thank the Chair.

The CHAIRMAN. Does the gentleman from Kentucky (Mr. CARTER) seek recognition?

Mr. CARTER. I do, Mr. Chairman, just to remove my objections to the amendment which we just considered.

The CHAIRMAN. That is the Carr amendment.

Mr. CARTER. That is exactly right, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. STAGGERS) to the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. CARR) to the amendment offered by the gentleman from North Carolina (Mr. PREYER) as a substitute for the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The amendment to the amendment offered as a substitute for the amendment as amended was agreed to.

Mr. MAGUIRE. Mr. Chairman, I move to strike the last word.

Mr. FLIPPO. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Alabama.

Mr. FLIPPO. Mr. Chairman, I do not pretend to understand the chemistry of thousands of possible combinations of carbon and hydrogen atoms that are grouped under the auto emission heading of "HC." Nor do I pretend to understand the chemistry involved in relating hydrocarbons to carbon monoxide, or to the eight different nitrogen oxides that we refer to simply as NO<sub>x</sub>.

I can, however, understand that the Dingell-Broyhill proposal will eliminate 90 percent of all auto emissions, and that the administration proposal will eliminate just a little more—93 percent—but at an extreme cost in both dollars and in fuel waste.

I find these facts very persuasive. Especially since the Environmental Protection Agency's own studies show no measurable difference in air quality between a 90-percent reduction in tailpipe emissions and the very expensive attempts to wring out an extra 3 percent by meeting the administration's 93-percent reduction standards.

The economics of Dingell-Broyhill, Mr. Speaker, have convinced me that its standards serve the Nation best in terms of less inflationary pressure, substantial gains in clean air, and a smaller upward impetus on unemployment than that which would be suffered under the committee proposal.

Mr. MAGUIRE. Mr. Chairman, I believe it is important as we debate the auto emissions issue today that we recognize that we are not coming into this Chamber and addressing this issue for the first time and that we are not being presented here with alternatives for the first time.

This matter does have a history. It was in 1970 that this Congress passed the Clean Air Act amendments which provide for a schedule for a reduction of emissions from automobiles. We had standards established which were to be met by 1975. They were delayed until



1976. They were delayed further until 1977. They were delayed still further until 1978. The committee this year has proposed that they be delayed again to take only the next modest step forward in 1979 and to stretch out the remainder of the steps through 1983. Certainly this is a modest enough proposal.

We now have the amendment offered by the gentleman from North Carolina (Mr. PREYER) as a substitute for the amendment offered by the gentleman from Michigan (Mr. DINGELL). I believe the Preyer substitute is well motivated. Although it provides for yet another extension, it does not abandon the statutory standards as does the Dingell amendment, but delays the next modest step from 1979 until 1980. But it represents, unhappily, yet another unnecessary modification of the projected standards.

Why does this keep happening? Last year we dealt with this bill and we discovered that every Member has automobile dealers in his district. We know how that works. The automobile dealers come in and they call upon the Members of Congress. They come in and all they know is what they are told by the companies. I do not believe anybody misunderstands that. Our job is not to rubber-stamp that, but to make reasoned judgments on the merits of any issue, including this one.

The companies have had a miserable record over the years on safety, on fuel economy and now on emissions control. I do not believe there is a Member in this body that does not recognize that that is the truth. But our job is to figure out what can be done and how we are going to protect the public health accordingly. I am sure we will all agree to that.

So, what is the question? The question is what actually can be done technically on what kind of a time schedule.

There is no question but that the manufacturers can meet the statutory deadlines for emission controls sooner than the committee proposal suggests. The National Academy of Sciences has said that they could have met them in 1977 with respect to HC and CO and probably with respect to 0.4 NO<sub>x</sub>.

EPA in its own documentation to us indicates that several of the controls on specific emissions can be met a year or more earlier even than the administration is proposing.

I do not believe anyone can believe that this or any other administration would insist that something can be done when in fact it cannot be done or if it would involve unacceptable tradeoffs. What we have before us today in the Preyer amendment is a compromise of a compromise of a compromise.

At what point in this compromising process do we desert altogether our responsibility to deal with the public health? I must express my appreciation for an administration which is at least willing to ask the right question and say, "What can the companies do and how close can we get to that? But when we start fading off of that too many different times for political reasons, then I

think we are not doing the job of protecting the public health.

The gentleman from Michigan (Mr. DINGELL) who has offered the amendment, says again and again that there are fuel economy penalties and that the costs are excessive. It would take much longer than we have in this debate this morning to analyze all of the technical aspects of the arguments of the gentleman from Michigan (Mr. DINGELL). The difficulty with the arguments of the gentleman from Michigan (Mr. DINGELL)—and this was true last year; it is true this year—is that he too often compares the impacts of the committee proposal not against what he has proposed, but against the present situation.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ECKHARDT, and by unanimous consent, Mr. MAGUIRE was allowed to proceed for 5 additional minutes.)

Mr. DINGELL. Mr. Chairman, will the gentleman yield? The gentleman has mentioned my name.

Mr. MAGUIRE. I will be happy to yield to the gentleman from Michigan when I have completed my critique. I do not yield to the gentleman at this point.

Or he takes a worst case for comparison. Or he cites California data from past years which are not relevant to current or future technologies and, therefore, are not applicable to the committee proposal. Or he assumes things that have not been proven. For example, in his own analysis he says he assumes a 10-percent fuel penalty, and there is no basis for that assumption. Once that assumption is taken out of the calculation, the whole argument falls like a pack of cards.

We do have the technical capability today to meet the statutory standards. The companies have met them on test vehicles of 4,500 pounds. Both GM and Ford have done that. They have not carried that out over 50,000 miles as yet, but the primary technical scientific problem has been solved. If the basic scientific problem had not been solved, it would be more difficult to say we ought to have a direct schedule for reduction of these emissions. But the primary scientific problem has been solved. All that remains is the secondary issue of how do we perfect this so that it extends over 50,000 miles through mechanical adjustments of the sensors and whatnot. That is a secondary, not a primary, technical problem and requires only modification and adjustments of what we already have achieved.

The Ford Motor Co. has testified it can meet the standards down to 1.0 NO<sub>x</sub> with minimum fuel economy penalties.

The administration goes beyond that and says if we optimize for fuel economy, we will have fuel economy improvements under the President's emissions control proposal. If we optimize for cost and put fuel economy in a secondary position of priority, we will still meet the emission standards without upsetting fuel economy. Indeed, the committee proposal may even be better than the Dingell proposal,

because when we move to three-way catalysts and we move to electronic controls on the engine, we move into new technologies which are good for fuel economy as well as for emission standards.

All of the arguments of the gentleman from Michigan (Mr. DINGELL) are based on what happened in California several years ago with an exhaust gas recirculation system, which has nothing to do with what we are planning to do and with what the administration is projecting with respect to electronic controls on the engine.

Mr. DINGELL. Mr. Chairman, the gentleman mentioned my name. Will he yield?

Mr. MAGUIRE. Now I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I observe with great distress the gentleman has not read my views. He has not observed we have not taken the worst case but the middle case. We have consulted with the Office of Management and Budget and as a matter of fact our figures are based entirely on the idea that there would be a three-way catalyst under either set of circumstances. We are only using the administration figures embodying the additional costs. We pointed out it will cost \$350 per car in their proposal and ours will cost \$70.

I urge my colleagues to look at the charts and see what the figures are.

Mr. MAGUIRE. The administration figures show that the cost increase for the committee proposal is only \$65 to \$70 more than the Dingell proposal if EPA stays at 1.0 NO<sub>x</sub>, and \$85 to \$165 if we go to 0.4 NO<sub>x</sub>.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. MAGUIRE) has expired.

Mr. MAGUIRE. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. HILLIS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman in the well, the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman from Texas.

Does the gentleman from Michigan want to tell us he does not assume a 10-percent fuel economy penalty as a basis for all of his calculations, because that is the way I read his views in the report. He says he "assumes"—that is his word—and that assumption is not supported by an analysis of the data. The EPA and DOT and FEA, and Dr. Schlesinger who is in charge of energy for the President all support the President's proposal and say there will be no fuel economy penalty.

Does not the gentleman "assume" a 10-percent penalty?

Mr. DINGELL. If the gentleman will permit me, he mentioned my name.

Mr. MAGUIRE. The gentleman from Texas has the time.

Mr. ECKHARDT. I yield to the gentleman from Michigan.

Mr. DINGELL. I suggest the gentleman read page 469 of the report. He will find I am quoting Government documents as to the fuel penalty, quoting EPA, DOT, and FEA, which all say there will be a fuel penalty of between 5 and 15 percent. These are the administration documents.

Mr. MAGUIRE. Those documents the gentleman is referring to all critiques of the EPA in-house proposal which is not the administration proposal.

Mr. ECKHARDT. Mr. Chairman, I would like to ask the gentleman in the well a question. I think he has very eloquently expounded the proposition that the automobile industry does have the capability of meeting the standards presented both in the bill and in the substitute offered by the gentleman from North Carolina (Mr. PREYER). All day yesterday or most of yesterday we were concerned about the ceilings on the development of industry all over this country and there are some problems with respect to ambient air quality. We are bumping up against the same ceiling, I understand.

Mr. MAGUIRE. That is correct.

Mr. ECKHARDT. Is it not true that if we do not require the automobile companies to do what the gentleman in the well has shown they are competent to do we will not be able within the next 5 or 10 years under section 117 to prevent the shutdown of industry in the districts of Members here on the floor. It is a trade-off, as I see it.

Mr. MAGUIRE. The gentleman is absolutely correct. The bill is designed to insist that the best available control technology be used by stationary sources and in the part relating to auto emissions that the companies be asked to do what foreign companies have been doing and what has been done for several years in California. They are asked to do what they can do and nothing more, and if they do that then we will have more room for economic development in other sectors.

Mr. ECKHARDT. And if we do not do that, we jeopardize far more jobs than exist in a single industry if we shut down stationary sources or freeze development throughout the Nation, as I see it. I think the tradeout would cost far more in jobs if we did not limit the automobile industry in a manner that is done with great discretion by the amendment offered by the gentleman from North Carolina (Mr. PREYER).

Mr. MAGUIRE. Mr. Chairman, I agree with the gentleman. If the gentleman will yield further, even with respect to the automobile industry itself, the projections made by the administration are that we are going to have dramatic increases in employment in the next few years in the auto industry, even given the administration's strategy for emission control.

And, of course, the bottom line is if they build the best cars, they will have the biggest sales.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I would like to associate myself with the remarks of the gentleman. I would like to make one point that was sort of highlighted or convoluted.

Mr. MAGUIRE. I apologize.

Mr. DOWNEY. That is not on the description of the gentleman from Michigan, but the fuel penalty, the 10 percent. Would the gentleman tell the Committee once again that this is an assumption of electronics in the dialog?

Mr. MAGUIRE. Mr. Chairman, if the gentleman will yield further, I would be happy to respond. The fact of the matter is that those 10- or 12-percent figures are based on experience with the California models several years ago with outmoded emission control technology and not on current technology with three-way catalysts and electronic controls. Therefore, the California data on fuel economy cited by the gentleman from Michigan is irrelevant.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the Dingell-Broyhill amendment.

Mr. Chairman, I think all of us have been studying this proposition for a long time. We debated this bill last year. We studied and debated the problem prior to last year. We now hear the same arguments from the automobile industry that we have heard since the first bill was ever brought to this floor. "Oh, it is going to destroy jobs."

Is it? Do you know what the first quarter 1977 earnings of General Motors, Ford, Chrysler, and American Motors were? They were \$1,451,400,000 for the first quarter. That is not too bad. In fact, this is the best year the automobile companies have ever had. I salute them and I am glad they are having such a fine year.

As a matter of fact, there are reports that General Motors is putting on second shifts at this time. The employment situation is improving.

Furthermore, the automobile manufacturers said all these pollution laws are going to cause jobs to be lost. The contrary has happened. A recent CEQ study showed that at most perhaps 17,000 jobs were lost nationwide as a result of environmental laws.

Do you know how many jobs were created? Between 600,000 and 1 million.

In his testimony Leonard Woodcock did not mention loss of jobs. The head of the United Auto Workers did not even bring up that issue before the committee, because the loss of jobs issue has no validity. It is just the contrary.

Now, can the automobile companies attain the statutory standards? Well, of course, they can. The automobile companies are already meeting tighter emissions standards in California.

California is already below 2 NO<sub>x</sub> this year; California is meeting a NO<sub>x</sub> standard of 1.5. The automobile manufacturers have already gone to 0.41 HC, less than 1.5. The research models are even attaining levels below the 0.4 NO<sub>x</sub> not for the

full 50,000 miles yet, but the technology exists. Nobody denies that. Even Mr. Woodcock in his testimony says that. When Senator McClure on the other side said, "Do you foresee us meeting both the pollution standards and the mileage standards without going to Pinto-size automobiles?"

Mr. Woodcock said, "I think it can be done, yes."

I agree.

The Dingell amendment would not permit the Administrator ever to consider the health effects. The Administrator could not set 0.4 NO<sub>x</sub> standards, even if the 1980 study shows that the 0.4 NO<sub>x</sub> standard is necessary for health. The Dingell substitute does not permit the consideration of the possible health effects of failing to go to 0.4 NO<sub>x</sub>.

No health considerations? Do the Members know what Mr. Woodcock said? Here is what he said in testimony before the subcommittee.

Mr. WAXMAN asked, "Mr. Woodcock, what if the Administrator finds that the 1.0 NO<sub>x</sub> is not enough?"

Mr. Woodcock said, "If it were found it would endanger public health, then it would come first."

Mr. WAXMAN, "Would you not agree with the notion we could allow for the EPA Administrator to have the power—that is all this bill does—to have the power to make the NO<sub>x</sub> standards even more stringent than 1.0?"

Mr. Woodcock himself answered, "If it were required to protect the public health, yes, sir."

That is what the committee bill does. That is what the Preyer compromise does. Let me just say this: The committee is willing to go ahead with the compromise. We think the bill is written properly. Schlesinger signed off on it; O'Leary of Energy signed off on it; we have the three-agency study and we just got a letter from Brock Adams, Secretary of Transportation. O'Leary, EPA, they all say the bill is reasonable. There will be no substantial fuel penalty, but we are willing to accept the Preyer compromise.

The CHAIRMAN. The time of the gentleman from Florida has expired.

By unanimous consent Mr. ROGERS was allowed to proceed for 5 additional minutes.

Mr. ROGERS. So, here again we have all of these tired arguments such as, "Oh, there is going to be a fuel penalty." Do the Members know how much has happened on fuel increase since 1974? In that year the automobile companies came in and said they would be ruined if they had to do a little bit to clean up? They have increased mileage. General Motors has said it in testimony, in the papers and in their ads—they have increased mileage 48 percent to 50 percent since 1974, although the auto emission standards have been tightened about 50 percent. That is a pretty good balance, to increase fuel economy at the same time we are cleaning up the air.

So, these are the facts. But again we hear those same old arguments. Perhaps the Members saw the editorial in the Star yesterday. The Star said it is tired



of hearing the automobile industry come out with the same things such as, "We are going to lose jobs, we can't do it, the industry will close down."

These statements are absurd. The standards of the Preyer subtitle are realistic. I would be willing to, and Dr. CARTER and other members of the committee will speak to this—I would be willing to go with the compromise to try to help Members in representing their constituencies. I think basically we will accept consideration of health elements by adopting the last half of the committee bill. We certainly give complete relief to the automobile industry by adopting the first half in the Dingell amendment. I do not know what more fair compromise could have worked out.

Let me tell the Members about health and why Dr. CARTER, who is one of the most distinguished physicians I know, and who certainly has contributed greatly to this body in the consideration of this bill, is concerned with it. The experts are now telling us that environmental causes result in 80 to 90 percent of cancer in this Nation—cancer.

Auto emissions cause aggravated heart conditions, lung conditions, bronchitis, asthma. We can go right down the line. Those are the effects of pollution. If we could not do anything, if we were helpless, that would be different, but we are not. We know the tougher standards can be met.

Look what California has already done. We know about what the difference in cost is. As the health study showed, if we have to go to 0.4, it will cost about \$70.

Do the Members know how many children it would affect if we do not go to 0.4 NO<sub>x</sub>? And I am talking about just children alone. About 11 million children would be harmed. That is a pretty substantial reduction in children adversely affected by automobile pollution if we go to 0.4 NO<sub>x</sub>.

Let me just give this to the Members and I will conclude. We had the three agencies 'EPA, DOT, FEA' do a study on what the cost difference is. The Members will see that the Dingell amendment costs something, too.

Mr. DINGELL. If the gentleman will yield, I gave the figures as \$170 for mine and \$350 for the administration's.

The CHAIRMAN. The gentleman from Florida (Mr. ROGERS) has the time.

Mr. ROGERS. Mr. Chairman, I will be glad to yield to the gentleman if he will allow me to conclude.

The committee bill contains the possibility of remaining at 1.0 NO<sub>x</sub>, as we first proposed, which the Dingell amendment also does. We do not necessarily go to 0.4 NO<sub>x</sub>. I am going to give the Members the range. I am not going to pick out the worst number. Here is the range. Yearly cost increase per car above those attributable to 1977 emission standards resulting from the committee bill range from \$18 to \$28 a year cost. All Dingell-Broyhill sponsors do is get a life cost of the car. The Dingell-Broyhill bill has a range of from \$11 to \$22. That is about \$6 or \$7 difference.

The fuel economy, if the manufacturer chooses to minimize costs, is 3 to 4 percent on the committee bill, and it is exactly the same, 3 to 4 percent here in the Dingell-Broyhill bill.

Fuel economy, if the manufacturer chooses to try to stress fuel economy, is a plus 2 percent on the committee bill and a plus 2 percent with the Dingell bill.

The CHAIRMAN. The time of the gentleman from Florida (Mr. ROGERS) has expired.

By unanimous consent, Mr. ROGERS was allowed to proceed for 3 additional minutes.

Mr. ROGERS. But look at what happens on carbon monoxide. The committee bill would produce a reduction of CO emissions by 77 percent. Dingell-Broyhill would achieve a reduction of only 40 percent. That is a difference of almost 40 percent. It is 37 percent. That translates into a 40 percent more emissions and will increase occurrences of heart attacks, impairment of heart and circulatory systems, and impairment of human reflexes. And evidence shows that many accidents are caused by this carbon monoxide. Hearing impairments and reduced visual acuity also result from excess CO. And, of course, the gentleman from Michigan (Mr. DINGELL) tried to focus only on headaches. Well, carbon monoxide causes those, too.

If we have to go to the 0.4 NO because of health effects of not doing so and that determination would be made after the Administrator makes a study—let me show what the cost difference would be. The committee bill cost would be between \$26 and \$43. That is the range. The Dingell-Broyhill range is \$11 to \$22. All it costs is about \$15 to \$20 more to clean up the air.

Fuel economy is 0 to minus 8 percent for the committee bill. The Dingell-Broyhill provision would cause minus 2 to minus 4 percent. In other words, we could get a plus 4 percent fuel gain to a minus 6 with the committee bill, because when the manufacturers attain 0.4, they could improve the engine and put some electronic equipment in the engine to improve fuel economy. If this is done the committee bill is 0 to plus 2 percent fuel economy gain. The Dingell substitute gets plus 2 percentage in fuel economy. But concerning NO<sub>x</sub> emissions there would be an 80-percent reduction under the committee bill, but only a 0- to 50-percent reduction with the Dingell substitute. So it is a difference of up to 80 percent with the committee bill, a difference of about 5.3 million to 11.6 million fewer respiratory attacks, if the Administrator's study confirms what we already believe.

The outstanding scientist, Dr. Stewart, said we ought to eliminate carbon monoxide, which the Dingell bill never allows to be reduced below 9, although last year, the Dingell provision would have reduced carbon monoxide to 3.4. The Preyer substitute is a proper compromise. When we consider fuel economy, the energy experts in the administration are all signed off on our bill. The bill would not cause excessive cost nor excessive fuel penalty. But most important the effects on health

are so dramatic that I would hope that the committee will make the judgment in this Congress that we can have all three, no excessive costs or fuel penalty, and beneficial health effects with the Preyer amendment.

The CHAIRMAN. The time of the gentleman from Florida (Mr. ROGERS) has again expired.

By unanimous consent, Mr. ROGERS was allowed to proceed for 1 additional minute.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I am delighted to hear the gentleman's comments.

I will be glad to put in the record a secret memorandum from EPA to the Department of the Treasury outlining interest costs, and my colleagues will find that the costs are exactly as set forth down there in the chart in the well.

Mr. ROGERS. Mr. Chairman I understand that the gentleman may have some secret report. Such report was never approved officially and never was a part of the record or the Dingell proposal. However, if the Members will notice—and we have the letters here for distribution—the three-agency study has just gone over this whole matter. As a matter of fact, those findings were just reported in the New York Times.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I would like to say that the gentleman from Florida (Mr. ROGERS), the chairman of the subcommittee, has done an excellent job.

This has not been an easy position for me to take. I am the only member of the Michigan delegation who has not gone along with this tremendous powerhouse coalition of labor, apparently, and management.

Mr. Chairman, I think this spells out very clearly the meaning of some of the remarks of Mr. Woodcock in supporting our position here today.

Mr. CARTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Preyer substitute amendment for the Dingell amendment.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, there are several proposals in Congress which set new auto emissions standards. Very real concerns exist regarding which offers the best solution to the problem of continuing to improve air quality standards while improving the fuel efficiency of automobiles. The factors which must be considered are numerous. In my judgment, the measure which properly weighs the issues and offers the best solution, is that proposed by Mr. DINGELL and Mr. BROYHILL.

Health data indicates that the emissions standards in the Dingell-Broyhill

bill are stringent enough to protect public health and continue the present rate of progress in air quality improvement. The Dingell-Broyhill emissions schedule simultaneously provides engineers with the leadtime necessary to develop technology to allow good auto driveability and easy auto maintenance. Further, a special exception is made in the Dingell-Broyhill standards for innovative fuel-efficient engines such as the lean burn and the diesel. In their bill, Dingell and Broyhill also allow for the possibility of maintaining the oxides of nitrogen standard of 2 grams per mile, a factor which would make a critical cross-the-fleet difference of  $1\frac{1}{2}$  miles per gallon.

The auto companies can probably meet the standards set by the Congress; that is not the issue. The issue is, given the absence of health reasons for adopting more stringent standards, why adopt standards which will result in the waste of precious fuel? The trade-offs on auto emissions are very clear. If we expect to have any chance of meeting the fuel economy standards set for 1985, the numbers set forth in the Dingell-Broyhill bill must be accepted as written. There is no room for negotiation or compromise.

There is no doubt we all want air of sufficient quality throughout our land that is noninjurious to any of us and we want to continue the present rate of progress in the improvement of air quality. All evidence indicates that the standards in the Dingell-Broyhill bill are stringent enough to protect the public health and to do these things. I join with many of my colleagues to urge each of you to support the Dingell-Broyhill amendment for your vote could make as much difference as 15 billion gallons of gasoline for the years 1978-85 compared between the schedule embodied in H.R. 6161 relative to or in comparison to the schedule under the Dingell-Broyhill standard. Now is the time that we have to balance energy and the environment. It appears to me that the adoption of Dingell-Broyhill amendment is the proper way to do so. It will chart sensible and steady progress toward reducing auto emissions without jeopardizing fuel efficiencies.

The United Auto Workers support the Dingell-Broyhill as does the Automobile Dealers Association. Commonsense dictates that the Dingell-Broyhill bill be accepted as the best available compromise.

Mr. CARTER. Mr. Chairman, I support the Preyer substitute amendment for the Dingell amendment.

Actually, if we look at the schedule, we will find that with the Preyer substitute amendment, for the years 1978, 1979, and 1980 the emissions will be exactly the same as Dingell-Broyhill.

We have been up the hill and down the hill and have been discussing everything under the Sun today, but the important thing about it is that for the next 3 years the standards will be exactly the same.

Mr. Chairman, I see no reason really for so much tremendous waste of voices

about this very subject when really the figures are the same for the next 3 years.

Mr. Chairman, over the years we have been told by some of our automobile dealers that they could not control their emissions. The fact is that not only have they controlled them, but they have improved gasoline mileage over the years. There is no question about that. As the chairman has stated, I believe it has been improved by approximately 50 percent. Yet, they say they cannot do it.

Mr. Chairman, they have confused the public many, many times as, for example, by placing Chevrolet motors in Buick and Oldsmobile automobiles.

Mr. Chairman, how can we trust people who do such things as that?

Mr. Chairman, let us get down to some of the health aspects of this matter.

I regret very much that it is necessary, in order to get this legislation through, to accept an increase in  $\text{NO}_x$ .  $\text{NO}_x$ , nitrous oxide, combines with amines to form nitrosamine, which is one of the most carcinogenic substances in the entire world. In our crowded cities we must do something about it. There is no question about that.

Mr. Chairman, in the canyons of New York City and Detroit  $\text{NO}_x$  is present, and I am happy to see that most of the men in those urban areas do support this legislation, because it impacts on them. It affects the health of their children and of their elderly more than it does in any other area in our country, and something must be done. We cannot go along with just a tap on the shoulder. We have to set standards. We have to set certain goals, and we have to reach them step by step. This legislation provides for that. It provides that in 3 years the  $\text{NO}_x$  standards will change. I wish it were sooner, because it would result in a great improvement in the health of the country.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman from Kentucky for the remarks he has made and I wish to associate myself with his remarks.

I would ask the gentleman from Kentucky, is it not true that one of the other points we should keep in mind in comparing the Preyer substitute to the Dingell amendment is that the Dingell proposal abandons altogether two of the final targets, that is the carbon monoxide target of 3.4 and the nitrous oxide target of 0.4? Also should we not remember that even the Dingell proposal last year would have permitted going down to 0.4 and this year's Dingell proposal does not? The Preyer substitute gives us the same the next 3 years as Dingell gives us, but at least keeps the three pollution control targets firmly in place for the future. Is this not one of the most important points we should keep in mind?

Mr. CARTER. Yes, it is.

Mr. MAGUIRE. I thank the gentleman from Kentucky.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. CARTER was allowed to proceed for 3 additional minutes.)

Mr. CARTER. Mr. Chairman, we have heard a lot about automotive parts and accessories dealers. I have a letter here from the Automotive Parts & Accessories Association, Automotive Service Councils, saying:

Do not be misled into thinking that all manufacturers and sellers of automotive parts favor the Dingell-Broyhill "Clean Air" bill.

Our associations, representing the majority of auto parts makers, volume retailers, and independent garage owners across the country, wholeheartedly champion H.R. 6161.

Let not your hearts be troubled by the fact that some dealers may oppose this, because they are not many; most of them support it.

Mr. Chairman, I urge the Members of the House to consider that this is one time when they should put the health of our country above political considerations.

We live in a country now in which 75 to 90 percent of cancer is caused by our environment.

There will be 690,000 cancer cases this year. One out of four Members here in the House can expect to develop cancer. There will be 395,000 deaths this year from cancer; 1,055 deaths per day.

Mr. Chairman, it is highly important, it is extremely important, that we proceed with dispatch to take these noxious substances, these carcinogenic substances, from areas that are absolutely killing the people of our country both young and old.

Mr. Chairman, I urge support of the Preyer substitute to the Dingell-Broyhill amendment.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I am delighted to yield to my colleague, the gentleman from California (Mr. LLOYD).

Mr. LLOYD of California. Mr. Chairman, I rise in support of the Dingell-Broyhill amendment. I am probably one of a handful of California Representatives to take this position. After extensive consideration, however, I think a "yes" vote best serves the interests of my constituency.

As you are all aware, California was exempted from auto emission levels set in the 1970 act in order to enforce even stricter standards. My vote either way on emission standards in this bill would have no effect on California air quality.

With this in mind, what are some of the other effects of the Dingell-Broyhill amendment which California could share? First is the question of auto efficiency. Estimates of up to 20 percent greater fuel efficiency under the Dingell-Broyhill amendment equate to a significant gasoline saving for the entire Nation. We need to reduce the trend of dependence on foreign oil. Greater fuel efficiency can help accomplish this for the entire Nation, including California. There



is a fear that the committee's emission levels will cost jobs in the auto industry. Unemployment is a problem for the entire Nation, including California. California can share in the economic and energy benefits of the Dingell-Broyhill amendment. California can also continue to set auto emission levels higher than national standards.

No one supports smog and pollution. Neither does anyone support unemployment and excessive energy consumption. My vote for Dingell-Broyhill is consistent with economic energy and antipollution goals for the State of California.

Mr. WAXMAN: Mr. Chairman, I rise to speak in opposition to the Dingell amendment.

Mr. Chairman, we are considering the most controversial part of the Clean Air Act. This is the part that will establish the time in which the auto industry will have to meet the standards to limit the amount of pollution that goes into the air from their cars. Automobiles are the single largest source of pollution.

What we are also going to do in this proposal is establish what those standards will be.

So we are considering two things. The time we are going to give the auto industry to meet the standards, and what standards they are ultimately going to have to achieve.

Everybody is for giving the auto industry more time. The committee proposal is for giving them more time. The Preyer amendment is for giving them more time, and the Dingell amendment is for giving them more time.

I just want to say quite frankly that we probably did not have to give them more time. The National Academy of Sciences insists they could have met those standards in 1977. I had occasion to talk to President Carter about this matter, and he said that he thought the auto industry could have met them a long time ago if they really wanted to meet those standards.

But why would not the auto industry want to meet those standards if they could have met those standards? They have had three extensions since the 1970 act was adopted—three extensions to meet that standard which was going to represent a 90-percent reduction in three pollutants. They had three extensions, and now they are coming in and asking Congress to change not only the standards to be achieved but to give them a fourth extension.

What they have done is come to Congress in one of the most incredible lobbying campaigns that I think Congress has ever seen to try to really get them off the hook permanently. What the Dingell proposal is suggesting is not just an extension of time for them to meet the standards, but they are asking for two out of three pollutant standards to be changed. For  $\text{NO}_x$ , a pollutant which causes people to get cancer, they are asking that they never have to meet the 0.4 standard which was set up in the original act but to go to a more lenient standard. For CO, they are asking for elimination of the permanent standard and to change it to one that is going to be a

little bit easier for them to meet, but which unfortunately will have an adverse health impact. The auto industry has spent an incredible amount of money in this lobbying campaign, and I think if they had spent that money in trying to meet these standards, we would not be fighting this fight out today, and we would be talking about cleaner cities and healthier people across the country.

Can they meet the standards? After all, the first couple of extensions were based on the fact that they could not meet the standards and they were thus granted more time. But they can meet the standards now. The auto industry testified before our subcommittee they can meet the standards. The EPA says they can meet those standards.

In California today they are already achieving emission levels at or very near to 0.41 grams per mile for hydrocarbons, 9 grams per mile on carbon monoxide, and 1.5 grams per mile for  $\text{NO}_x$ . The standards in California will become even tighter in 1980. The committee bill would not require the imposition of standards stronger than those of California until 1981, and under the Preyer substitute until 1982; that is, 5 years after they are already meeting the standards for 10 percent of the automobile market in California.

Will there be a fuel penalty? Will this hurt our energy program? President Carter told us that the energy crisis is tantamount to a state of war. There is no one more concerned about energy than President Carter and Dr. Schlesinger, the projected head of the new Department of Energy. They both state that the auto industry can meet these standards without a fuel penalty, and they support the proposal that the committee is recommending. Does anybody believe that the President of the United States would support a proposal that is going to hurt the ability of the United States to deal with this energy crisis?

Is it not easier for all of us to just go along with the auto industry and the UAW and give them what they want?

The CHAIRMAN: The time of the gentleman has expired.

(By unanimous consent, Mr. WAXMAN was allowed to proceed for 3 additional minutes.)

Mr. WAXMAN: It is absolutely politically easier to just go along. But it is not only politically easier for us to go along, it would have been politically easier for President Carter to go along. After all, he had facing him big labor—the UAW—and big business—the auto manufacturers—and the Business Roundtable—very formidable forces in our society arguing that we ought to give Detroit this break. But he looked at it, and despite all that political pressure, he said that is not right; we can meet those standards and protect the public health of the American people; and we can have fuel efficiency, and we can have a growing economy, and we are not going to hurt the auto industry.

It is embarrassing to see foreign automobile manufacturers meeting the standards that our own American man-

ufacturers cannot meet to protect us on fuel economy and on health.

Health is really what we are talking about. We are talking about heart disease and we are talking about lung disease and we are talking about cancer. One out of four people in this country will get cancer and it is coming from environmental causes.

When Leonard Woodcock was before us in our subcommittee, I asked him whether he would agree to allow the Administrator, if health consequences were involved, to tighten up that  $\text{NO}_x$  standard to 0.4, and he said "If it were required to protect the public health, yes, sir."

That is one of the essential differences between the proposals. What incentives are we giving to the automobile industry to finally do what we mandated them to do in 1970? If we pass the Dingell amendment we are giving them every incentive in the world never to try to tighten up the automobile standards because they will always know they can come into the Congress and lobby and get their way and never have to do what we would have them do to protect the American people.

The gentleman from Michigan Representative DINGELL would have this House make a series of false choices: Between clean air and increased use of gasoline, and between health and increased use of gasoline, and between costs and increased use of gasoline. But that is not the choice before us. What we are confronting is a choice between dirty air and the health of the American people, and between dirty air and clean cities, and between dirty air and economic growth, and between dirty air and decreased cancer rates.

Mr. Chairman, I honestly have more faith in the automobile manufacturers and makers of cars than they have in themselves. It is a sad day when they believe we are asking too much of them to achieve in 1981 what they are already doing today in California. It is a sad day when they say we are asking more of them than the health of the American people deserves.

Mr. STOCKMAN: Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Dingell amendment and in opposition to compromise No. 6, the Preyer substitute, and I indicate that because I believe in the last 2 years we have had six different compromises from the Health and Environment Subcommittee. But it is not really a compromise, I would suggest to the House, because the only place in which a compromise is made is in the front end of the schedule, in 1979.

But the real policy difference, the real contention between the Dingell approach and the committee bill, is in the final end of the schedule and whether we mandate by law to go below 1.0 on  $\text{NO}_x$  and 9.0 carbon monoxide and these items are the same in both the committee bill and the Preyer compromise. So the real question is between the Dingell substitute and the committee bill.

In the last few hours we have been inundated with a veritable blizzard of statistics and facts related to fuel economy and health effects and costs and so forth from the committee justifying the schedule in the bill. Indeed the committee report contains 40 pages of charts and numbers attempting to justify its position. But in all fairness I would suggest to the House that most of these are of highly questionable value because before statistics and figures can be useful they must be not only accurate but also relevant to the policy issues involved. The fact is most of the numbers we have heard are not.

Let me give the House a few examples. On page 245 of the committee report, and this number was just repeated a moment ago by the distinguished chairman of the subcommittee, we are given the glowing report that the GM fleet of new cars in 1977 is getting 43 percent better fuel economy than in 1974, and the suggestion is that by tightening up the standards we have not penalized fuel economy at all, and, that in fact, tighter and tighter emission controls and better fuel economy go hand in hand. But, I would suggest, anything would look good compared to the 1974 figures because 1974 was a disastrous year for fuel economy, an absolute disaster.

The more relevant comparison is to take those numbers for 1977, and compare them to the precontrol period, 1970 or 1968. We will find instead of a 48-percent gain in fuel economy, there has been less than a 10-percent gain since 1968, and most of that gain is due to the down sizing of cars this year and due to changes in the fleet mix.

We have been continually told by advocates of the committee position and continually told in the committee report that the California 1977 new car fleet is getting better fuel economy; in fact, is getting the same fuel economy as the rest of the country, despite the fact that there are tougher standards in the California law; but again, we are comparing apples and oranges, because we have a totally different fleet mix of cars in California, compared to the rest of the country. Forty percent of the 1977 cars in California are imports, compacts and subcompacts. They are small. That is compared to only 13 percent imports in the rest of the United States.

The fact is, if we make an appropriate comparison on a car-to-car basis from the Chevelle to the Olds, there is a 12-percent fuel penalty in the 1977 California models.

We are further told that any fuel penalties that may result from stiff emission standards will be miraculously wiped out with a technological fix coming down the road, the three-way catalyst. In the committee report on page 239 it says that it is already a proven technology. I would ask, what is the evidence for this? The committee report cites the Volvo. It says it is getting 0.4 NO<sub>x</sub>, but it does not say this Volvo does not even come close to the 50,000-mile durability test. In fact, the oxygen sensor has consistently burned out after 15,000 miles. It also does

not say that the Volvo uses ultrasophisticated electronic ignition and fuel injection, at a cost of \$500 or \$600 for the control system in a high-priced car that most people cannot buy, anyway.

The committee report and the advocates of the committee schedule have also noted that GM and Ford intend to market cars equipped in California with a three-way catalyst in 1978 and indicate that the current tests even now are below the statutory standards.

What has not been indicated is that these test cars are not meeting the 50,000-mile test. The Ford Pinto with a three-way catalyst failed at 50,000 miles and has consistently done so.

What the committee report and the advocates have not said is that American cars tested on the three-way catalyst have such high rhodium loadings they couldn't possibly be mass marketed.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. STOCKMAN was allowed to proceed for an additional 3 minutes.)

Mr. STOCKMAN. Mr. Chairman, I would also like to say something to the question of fuel economy, because we have been told that diesels are our major hope for keeping large family cars on the road, that is, large enough for family size, that can still meet the fuel economy goals of the EPCA. We have also been assured by the committee that the diesels, the Mercedes diesels being tested in California today are meeting the 0.4 NO<sub>x</sub>; but again what the committee report did not say is that these Mercedes in California being tested today contain an experimental exhaust gas recirculation system that certainly does not get NO<sub>x</sub> down below the standards, but what it also does is destroy the engine in a very short time because of the reintroduction of carbon particles. And we will never get the technology certified, unless it can be effective for the useful life of the engine, and certainly unless it does not destroy the engine.

I think we have had the same kind of misinformation or half information in the health area. It was suggested a moment ago that environmental causes account for 90 percent of all cancer in the country today; but what that statistic failed to include or note was that those environmental causes include cigarette smoking as well, and certainly that is not a relevant statistic to use in this debate.

At one point in the committee bill, there is a projection on page 259, which compares the Dingell amendment to the committee bill in terms of lower respiratory disease in children aged 6 to 12 for the year 2000. It indicates something very serious; that, under the Dingell standard there could be a 60-percent increase in reduced days of activity and in respiratory difficulties for children.

What the report does not say is that it is based on a projection of 15 or 20 years out, where we do not know the variables and where the fact is that we are using a base of something like 14.6 billion children days. When we compare the numbers against a base like that, we find the reduced days indicated in the report, il-

ness days, amount to 0.02 of 1 percent of all children days under the Dingell bill and 0.01 of 1 percent under the committee bill. In fact, there is no difference statistically; that statistic does not mean anything.

I would suggest that the case has not been made for the committee position. We can force Detroit to do anything we want, to get 35 miles per gallon, to get standards for emission even lower than are in this bill; but the fact is, we cannot force the American people to buy those cars, and we cannot force Detroit to produce a car that can be made at a cost, with the size and service characteristics that the American people want.

So, it is not a matter of a technological miracle around the corner, nor a breakthrough we just cannot overcome. It is a matter of costs and trade-offs, and the Dingell substitute contains a far better trade-off in that regard.

Mr. RINALDO. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Preyer amendment.

Mr. Chairman, I rise in support of the Preyer compromise, and I urge my colleagues to support this important amendment also. I do this as someone who originally supported the committee bill and opposed the Dingell-Broyhill amendment. I take this new position because the legislation, as far as I am concerned, with the Preyer amendment will strike an acceptable balance between economic and environmental priorities. I take this position despite the fact that the bill already contains some provisions that I do not support. The auto emissions provisions will grant the auto industry a few years of relief before it must meet new auto emission requirements. This approach will benefit the auto industry in particular, and the economy in general. At the same time, the bill balances this relief by requiring more stringent auto emission standards to be met in the 1980's. This approach will insure real progress toward achieving cleaner, healthier air.

Similarly, the bill's nondegradation provisions, while no longer as strong as I would prefer, will nevertheless place some restraint on the rate of pollution growth in areas with comparatively clean air. Yet, the restraints on pollution are not so rigid that they will block economic growth in such regions.

This legislation will also stimulate economic growth in a number of ways. It will curb EPA's authority to block construction of indirect emission sources, such as shopping centers. It will allow reasonable extensions of air quality compliance deadlines in nonattainment areas, thereby reducing present EPA restrictions on new industrial growth in such regions. It will eliminate EPA's authority to impose such drastic antipollution measures as parking restrictions, parking taxes, and gasoline rationing.

Air pollution could affect everyone's health.

This bill, with the Preyer amendment, will take an economically and technologically sound approach to the problem.



I urge your support of this very vital and important compromise amendment.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I thank the gentleman for yielding. I want to associate myself with the remarks of the gentleman from New Jersey and thank him for the contribution he has made to the debate.

For those Members who have been struggling with the choice of whether to vote for the committee bill or Dingell-Broyhill, the compromise offered by the gentleman from North Carolina (Mr. PREYER) is ideal.

It gives the automotive industry the easier auto emission standards of Dingell-Broyhill for model years 1978, 1979, and 1980. For the next 3 years, the committee bill standards would go into effect.

Recognizing the difficulty of passing the committee standards intact, all of our colleagues who joined the fight for strict standards, led by the distinguished chairman, the gentleman from Florida (Mr. ROGERS), have urged support for the Preyer compromise.

It is a sensible compromise and I urge my colleagues to give it their support.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. ROGERS. Mr. Chairman, I wonder if the gentleman would mind withholding just one moment to see if we could come to an agreed time.

Mr. Chairman, we have discussed this, the gentleman from North Carolina (Mr. PREYER), the gentleman from Kentucky (Mr. CARTER), and the gentleman from North Carolina (Mr. BROYHILL). So may I ask unanimous consent that all debate on the Dingell-Broyhill amendment and all amendments thereto be concluded in 30 minutes, and that a vote then would occur at 25 minutes past 1?

The CHAIRMAN. The Chair will ask the gentleman if he is setting the time by the clock or on the basis of minutes of debate?

Mr. ROGERS. I would say on the basis of debate, but I would hope it would be 1:25.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida that all debate on the Dingell amendment and on the Preyer substitute for the Dingell amendment, and all amendments thereto, be concluded in 30 minutes?

Mr. LEVITAS. Mr. Chairman, reserving the right to object, I have an amendment to the Dingell amendment which has not yet been offered. As I understand it, unless this amendment could be offered prior to 30 minutes, it could not be considered. Under those circumstances, I would reserve the right to object.

Mr. DINGELL. Mr. Chairman, reserving the right to object, to attack the problem raised by the gentleman from Georgia (Mr. LEVITAS), I would just reserve the right to object and ask if the gentleman from Florida would not in-

clude that in his unanimous-consent request.

Mr. ROGERS. Certainly, I will do that.

The CHAIRMAN. Would the gentleman restate his request?

Mr. ROGERS. Mr. Chairman, I would ask unanimous consent that all debate on the Dingell amendment, and all amendments thereto, which includes the amendment of the gentleman from Georgia (Mr. LEVITAS), be concluded in 30 minutes.

Mr. DINGELL. Mr. Chairman, reserving the right to object, I would specifically indicate that the gentleman from Georgia (Mr. LEVITAS) shall have time to offer his amendment.

Mr. ROGERS. He shall have time.

Mr. STAGGERS. Mr. Chairman, may I ask the chairman of the committee that I have my time?

The CHAIRMAN. Is there objection to the request of the gentleman from Florida (Mr. ROGERS)?

Mrs. SMITH of Nebraska. Mr. Chairman, reserving the right to object, could I offer my amendment also?

Mr. ROGERS. Mr. Chairman, I would include that in the unanimous-consent request.

I think the gentleman from West Virginia (Mr. STAGGERS) may have an amendment.

Mr. STAGGERS. Mr. Chairman, reserving the right to object, I have an amendment. I was standing on my feet. I would like to be recognized, and I would request that my 5 minutes not be taken out of this.

Mr. ROGERS. Mr. Chairman, I would ask unanimous consent that the gentleman from West Virginia (Mr. STAGGERS) have 5 minutes before the time begins to run, before the 30 minutes begins to run.

Mr. ECKHARDT. Mr. Chairman, reserving the right to object, let me ask this question: Will the gentleman from West Virginia (Mr. STAGGERS) have 5 minutes and no one else will have a chance to speak?

Mr. STAGGERS. If the gentleman will yield, I am not offering my amendment at this time. My request was to strike the requisite number of words.

The CHAIRMAN. The Chair understands the unanimous-consent request of the gentleman from Florida (Mr. ROGERS) is as follows: In the event the gentleman from West Virginia (Mr. STAGGERS), the chairman of the committee, is recognized for 5 minutes, following that 5 minutes, all debate on the Preyer substitute to the Dingell amendment and on the Dingell amendment, and any and all amendments thereto, be concluded in 30 minutes of debate.

Mr. ROGERS. With the right that the two amendments also be shown.

The CHAIRMAN. The Chair will announce that in the event the unanimous-consent request is granted, it is the Chair's intention to exercise its best discretion to allocate the time through the recognition of those who have amendments pending. Of course, all germane amendments can be considered and voted upon.

Mr. WIRTH. Mr. Chairman, I would

also like to reserve the right to object.

Mr. ROGERS. Mr. Chairman, I would have no objection to the gentleman's being included.

The CHAIRMAN. The Chair has stated his intent to first recognize, at his discretion, those Members wishing to offer amendments.

Mr. WIRTH. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. PEPPER. Reserving the right to object, Mr. Chairman, will the time that is allowed be allocated among those who are standing?

The CHAIRMAN. The Chair will restate the Chair's intent, and that is if a limitation on time is imposed, this, of course, essentially abrogates the 5-minute rule; and it is the intention of the Chair to first recognize those Members who will have amendments to offer within that 30-minute period.

Mr. PEPPER. Further reserving the right to object, Mr. Chairman, if there is time remaining after those who have amendments offer them, will that remaining time be allocated among those who are standing?

The CHAIRMAN. The Chair will state that if there is time remaining after those who have amendments pending have been recognized, then, yes, Members will be recognized as equitably as possible in the remaining amount of time.

Mr. PEPPER. Mr. Chairman, I withdraw my reservation of objection.

Mr. LEVITAS. Mr. Chairman, I withdraw my reservation of objection.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation of objection.

Mrs. SMITH of Nebraska. Mr. Chairman, I withdraw my reservation of objection.

Mr. ECKHARDT. Mr. Chairman, I withdraw my reservation of objection.

Mr. STAGGERS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to say that I am going to offer an amendment at the proper time to the Preyer substitute amendment.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I just wanted to state that I would like to associate myself with the remarks of my colleague, the gentleman from New Jersey (Mr. RINALDO); and I support the Preyer substitute amendment.

Mr. STAGGERS. Mr. Chairman, the amendment that I will offer protects the small automobile parts dealers of America from being wiped out.

I know that every Member representing every district in this land has some automobile parts dealers in his district.

Mr. Chairman, in the Preyer substitute amendment it says that at the end of 3 years, the 18 months or 18,000 miles provision would be wiped out; and there will be a study made then as to whether the warranty provision would go to 50,000 miles or 5 years.

Mr. Chairman, let me cite a personal example. The day before yesterday, in coming into Washington, my car stopped. I could not get it started; but after a while, the car, contrary-like, did start and then stopped a couple of more times. I arrived in Washington and found out that I needed a coil. I asked an establishment what the price was here in Washington. They said \$17.

I called my little auto parts dealer in Keyser, W. Va., and they have the same genuine part, and it was \$9.

Mr. Chairman, I do not want to wipe out those little auto parts dealers. We want some competition in America. There are 160,000 of them and they hire hundreds of thousands of people. I do not want to see them wiped out at the end of a 3-year period.

Yes, there is going to be a study; but the reversion back to the 5-year, 50,000-mile warranty provision would enable the manufacturer to supply all of the parts, and the parts will cost twice as much.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I would like to commend the gentleman from West Virginia (Mr. STAGGERS). He is pointing out a very significant effect in both the committee bill and in the Preyer substitute. He is pointing out that the little parts manufacturer and the little parts dealer would be wiped out at the end of 3 years because of the proposal that is offered by the committee and the proposal offered by the gentleman from North Carolina (Mr. PREYER), which would eliminate the little parts manufacturer and seller because they would require, at the end of 3 years, that the warranty for air pollution equipment go to 60 months and 50,000 miles and therefore permanently deny those people participation in the marketplace.

Again, Mr. Chairman, I commend the gentleman for pointing this out.

Mr. STAGGERS. Mr. Chairman, I thank the gentleman for his comments. The purpose of this amendment is to assure that the Clean Air Act contains adequate safeguards for free competition in the afterparts market in this country, and that is all it is for.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I certainly will support the amendment of the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I thank the gentleman.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I appreciate the gentleman's yielding.

The committee bill does suspend for 3 years the 5-year, 50,000-mile requirement and establishes 18 months or 18,000 miles.

Furthermore, the Dingell amendment would create a monopoly for the automobile manufacturers which would mean that the independents could not come in and sell the parts or put them on because the Dingell amendment says that the manufacturers are given a monopoly to designate who shall put the part on and where it shall be done.

Mr. STAGGERS. Mr. Chairman, I believe the gentleman from Florida is stating only for the first year. I think, then, this direction should come from the automobile manufacturers and the manufacturer should designate who should install the parts in that first 18 months.

Mr. ROGERS. That creates a monopoly for Detroit and I do not think the gentleman wants to do that.

Mr. STAGGERS. I can assure the gentleman that this will protect the 160,000 small parts dealers of this land.

The CHAIRMAN. The time of the gentleman has expired.

The Chair announces that at the time of the limitation of debate there were three amendments at the desk: by the gentleman from Colorado (Mr. WIRTH), the gentleman from Georgia (Mr. LEVITAS), and the gentleman from Nebraska (Mrs. SMITH). The Chair has also been notified that the gentleman from West Virginia (Mr. STAGGERS) may offer an amendment. In addition, some 35 Members have sought recognition.

The Chair will proceed as previously announced, to recognize first Members on the list who seek to offer amendments.

The Chair recognizes the gentlewoman from Nebraska (Mrs. SMITH).

AMENDMENT OFFERED BY MRS. SMITH OF NEBRASKA TO THE AMENDMENT OFFERED BY MR. DINGELL

Mrs. SMITH of Nebraska. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mrs. SMITH of Nebraska to the amendment offered by Mr. DINGELL: Add the following new language to the end of section 219:

"(f) (1) For the purposes of this subsection—

"(A) The terms 'gasoline' and 'refinery' have the meaning provided under regulations of the Administrator promulgated under this section.

"(B) The term 'small refinery' means a refinery producing gasoline which—

"(i) was in operation or under construction on October 1, 1976, and

"(ii) has a crude oil or bona fide feed stock capacity (as determined by the Administrator) of 50,000 barrels per day or less, and

"(iii) is owned or controlled by a refinery with a total combined crude oil or bona fide stock capacity (as determined by the Administrator) of 175,000 barrels per day or less.

"(2) No regulations of the Administrator under this section (or any amendment or revision thereof) respecting the control or prohibition of lead additives in gasoline shall require a small refinery to reduce the average lead content per gallon of gasoline refined at such refinery below the lower of the applicable amount specified in table A or table B below:

TABLE A

| If the gasoline production is no greater than 50 per cent of refining capacity and if the refinery capacity in barrels per day is— | The applicable amount (in grams per gallon) is— |
|--|---|
| 2,000 and under.....   | 3.0   |
| 2,001-4,000.....   | 2.9   |
| 4,001-6,000.....   | 2.8   |
| 6,001-8,000.....   | 2.7   |
| 8,001-10,000.....  | 2.6   |
| 10,001-12,000.....   | 2.5   |
| 12,001-14,000.....   | 2.4   |
| 14,001-16,000.....   | 2.3   |
| 16,001-18,000.....   | 2.2   |
| 18,001-20,000.....   | 2.1   |
| 20,001-22,000.....   | 2.0   |
| 22,001-24,000.....   | 1.9   |
| 24,001-26,000.....   | 1.8   |
| 26,001-28,000.....   | 1.7   |
| 28,001-30,000.....   | 1.6   |
| 30,001-32,000.....   | 1.5   |
| 32,001-34,000.....   | 1.4   |
| 34,001-36,000.....   | 1.3   |
| 36,001-38,000.....   | 1.2   |
| 38,001-40,000.....   | 1.1   |
| 40,001-42,000.....   | 1.0   |
| 42,001-44,000.....   | 0.9   |
| 44,001-46,000.....   | 0.8   |
| 46,001-48,000.....   | 0.7   |
| 48,001-50,000.....   | 0.6   |

TABLE B

| If the gasoline production is no greater than refining capacity and if the average gasoline production of the refinery (in the barrels per day) for the immediate preceding calendar year was— | The applicable amount (in grams per gallon) is— |
|--|---|
| 1,000 or under.....  | 3.0   |
| 1,001 to 2,000.....  | 2.9   |
| 2,001 to 3,000.....  | 2.8   |
| 3,001 to 4,000.....  | 2.7   |
| 4,001 to 5,000.....  | 2.6   |
| 5,001 to 6,000.....  | 2.5   |
| 6,001 to 7,000.....  | 2.4   |
| 7,001 to 8,000.....  | 2.3   |
| 8,001 to 9,000.....  | 2.2   |
| 9,001 to 10,000.....   | 2.1   |
| 10,001 to 11,000.....  | 2.0   |
| 11,001 to 12,000.....  | 1.9   |
| 12,001 to 13,000.....  | 1.8   |
| 13,001 to 14,000.....  | 1.7   |
| 14,001 to 15,000.....  | 1.6   |
| 15,001 to 16,000.....  | 1.5   |
| 16,001 to 17,000.....  | 1.4   |
| 17,001 to 18,000.....  | 1.3   |
| 18,001 to 19,000.....  | 1.2   |
| 19,001 to 20,000.....  | 1.1   |
| 20,001 to 21,000.....  | 1.0   |
| 21,001 to 22,000.....  | 0.9   |
| 22,001 to 23,000.....  | 0.8   |
| 23,001 to 24,000.....  | 0.7   |
| 24,001 to 25,000.....  | 0.6   |

"(3) Effective on the date of the enactment of this subsection, the regulations of the Administrator under this section respecting fuel additives (40 C.F.R. Part 80) shall be deemed amended to comply with the requirement contained in paragraph (2)."

Mrs. SMITH of Nebraska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Nebraska?



There was no objection.

Mrs. SMITH of Nebraska. Mr. Chairman, this amendment will offer relief for small gasoline refineries, most of which are located in rural areas. They are being forced to comply with Environmental Protection Agency regulations regarding the phasedown of lead in gasoline. These are regulations that were designed primarily for large refineries located near urban areas.

In its effort to set the 0.5 grams per gallon standard for lead in gasoline, the EPA has placed an almost intolerable burden on the small refinery. The cost of complying with these rules is prohibitive for most of these refineries and many might have to be closed.

The EPA is not requiring leaded gasoline to contain less lead than at present. However, it does require that by October 1, 1979, a refinery's gasoline production of all grades contain no more than an average of 0.5 grams of lead per gallon. To meet that lead level a refinery must either produce large volumes of unleaded gasoline or reduce the lead content of its leaded gasoline or do both. Small refineries are generally too small in capacity to justify the complex equipment necessary to produce unleaded gasoline or to lower the lead content of their existing volumes of gasoline.

As an alternative, I am proposing that small refineries—those with a production capacity of 50,000 barrels per day or less and owned or controlled by a refiner with a total capacity of 175,000 barrels per day or less—meet a lead standard per gallon of gasoline in inverse proportion to its size. A copy of the amendment was printed in the May 23, CONGRESSIONAL RECORD. There also is a lead standard established based on gasoline production.

The EPA itself is concerned about the effect of its phase down regulations on small refiners and refineries. It commissioned a study to be done on the subject. One of the findings was that—

Some small refineries or refiners will consider termination of their gasoline business and some of those that elect to do so may close their facilities unless they are granted either a complete waiver for lead limitations or unless an intermediate standard . . . is applied to them.

I do not believe this Nation can afford to forcibly reduce its gasoline production capacity at a time when we are facing severe energy shortages. In addition, if some of these affected refineries go out of business, jobs will be lost at a time when we are fighting a serious unemployment problem.

I believe my amendment sets some realistic standards for continued gasoline production and, at the same time, the amendment will not have the effect of putting more lead in the air. What it will do is allow those automobiles, farm equipment and other vehicles within a limited area—primarily rural—that use leaded gasoline to continue to do so.

In any case, the great weight of medical and scientific evidence establishes that the public—especially in rural areas—is not now, nor in the foreseeable future, facing any health hazard from

lead in the air as a result of lead in gasoline.

Therefore, it would seem to me that this amendment will not contribute to the deterioration of the environment nor endanger anyone's health. What is addressed is an injustice to a small segment of the petroleum industry. An injustice that can be corrected by the passage of this amendment.

Mr. DINGELL. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I have no objection to the amendment. Does the gentleman from Florida (Mr. ROGERS) have any objection to the amendment?

Mr. ROGERS. If the gentlewoman will yield, I have no objection to the amendment.

Mrs. SMITH of Nebraska. I thank the gentlemen.

Mr. BROYHILL. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, although I have not had complete opportunity to fully examine the amendment, it would appear from a brief examination to apply only to local refiners and I understand the product would still have to be adequately labeled. I will accept the amendment.

Mrs. SMITH of Nebraska. I thank the gentleman from North Carolina.

Mr. CARTER. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, we certainly have no objection to the amendment.

Mrs. SMITH of Nebraska. I thank the gentleman.

Mr. BURLESON of Texas. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Texas.

Mr. BURLESON of Texas. Mr. Chairman, I support the amendment offered by the gentlewoman from Nebraska (Mrs. SMITH). It is a very practical amendment. It will absolutely save the small refineries which could not survive under the provisions of the committee bill. The managers of this measure seemingly now recognize this situation by the fact they have agreed to accept the amendment. I appreciate their understanding and compliment the gentlewoman from Nebraska for her taking the lead in this matter.

Mr. JOHN T. MYERS. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Mr. Chairman, I congratulate the gentlewoman from Nebraska for offering this very fine amendment. This is going to help some very small refineries that are very much needed, especially in rural America, in order to provide fuel to the farmers of our country so that they may provide food and fiber for the large cities and the needs of our country, as well as for

purposes of export. Without this amendment, a number of these smaller refineries probably would be forced to cease operations and thereby causing greater problems toward supplying the fuel needed.

Mr. THONE. Mr. Chairman, I strongly support the amendment of Mrs. SMITH. It is a necessary and most practical amendment. Following is a telegram which very well sets out the issues involved:

MAY 18, 1977.

Farmland Industries is vitally interested in the amendment to the Clean Air Act (H.R. 6161) proposed by Mrs. Virginia Smith, Third District, Nebraska. This amendment will provide relief for small petroleum refineries now adversely affected by Environmental Protection Agency (EPA) regulation reducing the limits on lead in motor gasoline. The present regulations require that all refiners reduce the average lead content of their gasoline pool to .8 gram per gallon by January 1, 1978, and to .5 gram per gallon by October 1, 1979.

Studies done by qualified consulting firms and presented to the EPA show that compliance with these regulations will reduce U.S. gasoline production by 5 percent to 7 percent. An additional one million barrels per day of crude oil will have to be processed to maintain gasoline production at current levels. This regulation can hardly be in the best interests of energy conservation and maximum utilization of our energy resources.

In addition to this overall adverse effect on our Nation's energy supplies, the effect on small refineries is especially critical due to their limited capital resources. Also, their simplified processing equipment does not allow production of sufficient quantities of high octane gasoline to comply with the lead phasedown regulation while still meeting gasoline market demands.

The amendment offered by Mrs. Smith is a positive step providing relief for small refiners who serve a very critical section of the gasoline market. In the past, Congress has taken great pains to insure the competitive viability of small refiners. The relief proposed in the amendment continues that concept.

Under terms of the Smith amendment refineries operated by Farmland Industries at Phillipsburg, Kansas and Scottsbluff, Nebraska, and other small refiners can continue to operate efficiently and produce the petroleum products needed by the midwest agricultural markets they serve while also conserving crude oil in the midcontinent and Rocky Mountain area where supplies are becoming increasingly scarce.

Farmland industries asks your full support for this amendment to H.R. 6161.

Respectfully,

ERNEST T. LINDSEY,  
President, Farmland Industries, Inc.,  
Kansas City, Mo.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Nebraska (Mrs. SMITH) to the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The amendment to the amendment was agreed to.

ANNOUNCEMENT BY THE CHAIR

The CHAIRMAN. The Chair announces that there are three amendments remaining. The Chair will in its discretion recognize each Member for an amendment for a total of 3 minutes, and following the disposition of the amendments, the Chair will recognize the remaining 35 Members to the best of his ability.

AMENDMENT OFFERED BY MR. WIRTH TO THE AMENDMENT OFFERED BY MR. PREYER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DINGELL AS AMENDED

Mr. WIRTH. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment. The Clerk read as follows:

Amendment offered by Mr. WIRTH to the amendment offered by Mr. PREYER as a substitute for the amendment offered by Mr. DINGELL, as amended: At the end of section 215 insert:

(d) Section 203(a)(4) of such Act is amended by striking out "or" in subparagraph (D), by striking out the period at the end of subparagraph (E) and substituting "or", and by adding the following new subparagraph at the end thereof:

"(E) to knowingly discriminate in the pricing of new motor vehicles manufactured after the model year 1978, or in the availability of models of such new motor vehicles, between dealers located in high altitude areas (as determined under regulations of the Administrator) and dealers located in other areas."

(e) Section 202(b) of such Act is amended by inserting the following new paragraph at the end thereof:

"(7)(A) In the case of any class or category of new motor vehicles sold by a manufacturer in high altitude areas (as determined under regulations of the Administrator), such manufacturer may file with the Administrator an application requesting the suspension of the effective date of any standard required under any other provision of this section. No such suspension shall be effective for more than two model years and no manufacturer may apply for more than one such suspension with respect to any such standard.

"(B) The Administrator shall grant a suspension under this paragraph with respect to any standard only if he determines, after notice and opportunity for public hearing, that the applicant has established that it is not technologically feasible (taking cost into account) for such manufacturer to comply with such standard for the model year (or years as the case may be) for which the suspension would apply in the case of such class or category of vehicles sold in high altitude areas.

"(C) In the case of vehicles for which suspension of the standard for any pollutant has been granted under this paragraph for any model year, the applicable standard for such pollutant for purposes of this Act shall require the same reduction of emissions of such pollutant for such vehicles for such model year as was required for such vehicles for the last preceding model year during which no such suspension was in effect."

Mr. WIRTH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

Mr. DINGELL. Reserving the right to object, Mr. Chairman, I will ask, was the amendment published?

Mr. WIRTH. If the gentleman will yield, the amendment was published in the RECORD, yes.

Mr. DINGELL. Where in the RECORD? Mr. WIRTH. The amendment was published in the RECORD last night.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection

to the request of the gentleman from Colorado?

There was no objection.

Mr. WIRTH. Mr. Chairman, a recent poll by the Urban Observatory of the University of Denver found that air quality was the No. 1 concern of Denver's citizens.

And with good reason.

A brown poisonous cloud of pollutants hangs over Denver and daily threatens the lives of the city's 1.2 million people. Automobile emissions are a major source of that poison cloud, and the reason that it has grown to such alarming proportions—not only in Denver but in the entire Intermountain West—is clear: because of the simple variable of altitude, cars pollute twice as much in the Rockies, and in other high altitude areas, as they do at sea level.

To meet this problem, the EPA has required that cars manufactured for the current 1977 model year and sold at high altitudes, must be certified to meet high altitude emission standards.

The EPA requirement is well intentioned, Mr. Speaker, but as with many well-intentioned regulations, it has had unintended consequences which have penalized some groups of people, inconvenienced others, and, more importantly, frustrated the aims of the law itself.

What has resulted is this: to meet the EPA standards, Detroit has either adjusted the engine calibrations on cars to be sold at high altitudes, or has installed altitude-sensitive carburetors, which automatically adjust the fuel/air mixture to insure that emission standards are met. But, unhappily, at the same time that we are attempting to solve emission problems, we are creating marketing problems. The EPA requirements—according to the manufacturers—cannot be met by some models. As a result Rocky Mountain car dealers are offered less than a full range of car and truck models. Moreover, the models which are available are priced higher by the manufacturer to reflect the cost of meeting EPA standards—somewhere between \$22 and \$85 per car, generally around \$35 per car.

High altitude dealers justifiably complain that this puts them at a competitive disadvantage with low altitude dealers, and that they are losing sales. Their point is well taken. Because fewer models are available at high altitudes, and because those models cost more, consumers have an incentive to go to the flatlands to buy their cars with the result, as the Rocky Mountain dealers correctly argue, that the air quality standards are frustrated—even worsened—by the growing presence of autos which do not meet high altitude standards.

No one benefits from this situation—not the manufacturers; not the dealers; and, most certainly, not the people of the Rocky Mountains whose lives are endangered by auto emission pollutants.

Mr. Chairman, the issue is clear: How can we protect public health by insuring that emission standards are met at high altitudes without penalizing the area's automobile dealers?

The amendment which I am offering today is designed to deal with the problem and all its consequences.

First, to insure that clean air standards are met, the amendment will continue EPA's high altitude emission standards.

Second, by prohibiting discrimination in model range availability starting in 1979, the amendment creates a strong incentive for the manufacturer to work as hard on certifying high altitude cars as on low altitude cars. Part of the current problem is that manufacturers have not made the same effort to develop systems that meet standards at high altitude as they have for the low altitude fleet.

Third, by prohibiting pricing discrimination between high and low altitude dealers—again starting in 1979—the amendment assures that clean air compliance costs for high and low altitude cars will be spread over the entire nationwide production. These provisions will remove any competitive disadvantage for high altitude dealers and eliminate any incentive for consumers to shop for cars at lower altitudes.

Lastly, my amendment allows manufacturers a delay in meeting standards for new cars at high altitudes if they can prove that it is not technologically feasible—taking cost into account—to meet the high altitude standards by the same deadline as for low altitude cars. It does not require certification at any price—but only if and when the technology is reasonably available.

Beyond the specific provisions of my amendment lies a further point that must be considered. Because automobiles are responsible for a large proportion of the total air quality problem in the West, the more pollution given off by automobiles, the less "room" there is for growth by other industries which emit the same types of pollutants or similar pollutants. Thus, by tackling pollution from automobiles, this amendment provides some more breathing room for other industries which want to come in. This is particularly critical when Denver and other areas confront the problem on nonattainment: How does one permit growth in areas where the air already exceeds the health standards? Clearly, before such growth can occur, reductions in pollution from existing sources must be obtained—if at all reasonable, feasible, and practical.

Mr. Chairman, this amendment offers a fair and balanced solution to the thorny problem of high altitude emission standards.

It is fair to the Rocky Mountain consumer, who has model choice at equitable prices;

It is fair to the Rocky Mountain dealer, who can market models competitively;

It is fair to the manufacturer, who can obtain a waiver if compliance is not feasible;

And above all, it is fair to the health of the citizens of our high altitude areas, who are potential victims of twice as much dirty air as people living elsewhere in the United States.



Mr. Chairman, this amendment also maintains our clear national commitment to clean air, and I urge its adoption.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman.

I may say that I have looked at the amendment. I have discussed it with the gentleman from Kentucky (Mr. CARTER) and I have no objection to the amendment on this side.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the gentleman for yielding.

Certainly I have no objection to the amendment.

Mr. WIRTH. I thank the gentlemen for their support.

Mr. Chairman, I think the approach which I have outlined in my amendment is one which provides the kind of constructive attitude toward auto emissions, is not punitive toward Detroit, nor is it punitive toward the people in the Rocky Mountain region. I think it gives us an opportunity to work out the high altitude issue, and I urge my colleagues to accept my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. WIRTH) to the amendment offered by the gentleman from North Carolina (Mr. Preyer) as a substitute for the amendment offered by the gentleman from Michigan (Mr. DINGELL), as amended.

The amendment to the amendment offered as a substitute for the amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. LEVITAS TO THE AMENDMENT OFFERED BY MR. DINGELL AS AMENDED

Mr. LEVITAS. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS to the amendment offered by Mr. DINGELL, as amended:

At the end of section 203 of the amendment strike out the closing quotation marks and insert in lieu thereof the following:

"(8) The Administrator shall undertake a study and, not later than June 30, 1980, submit a report to Congress respecting whether or not a standard for emissions of oxides of nitrogen from light duty vehicles and engines which provides for a lower level of emissions than the level otherwise required under this section is necessary in order to protect public health."

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Chairman, this amendment deals with the Dingell amendment and provides that in the event the Dingell amendment should be adopted, the Administrator of EPA would be mandated to undertake a study

and report to Congress not later than June 30, 1980, respecting whether or not a standard for emissions of oxides of nitrogen from light-duty vehicles and engines which provides for a lower level of emissions than the level otherwise required is necessary in order to protect public health. I think it is a public health amendment, and I think it would go a long way toward alleviating many of the problems that exist. If the study shows that the health needs require a NO<sub>x</sub> level below 1.0 then it could be legislated by Congress based on the facts, for a change. If a level below 1.0 is needed we could provide it down to 0.4 or even lower or at whatever level the health requires based on the facts.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding.

The gentleman has had the opportunity to discuss this in some detail with the gentleman from Michigan (Mr. DINGELL), and I think it does strengthen the bill. It does provide for important information to come back to the Congress to help us fulfill our legislative responsibility.

Mr. LEVITAS. I thank the gentleman. Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

I happen to think a study to establish health benefits for NO<sub>x</sub> levels is eminently desirable. It provides information not now available to Congress. I urge my colleagues to accept the amendment. It is a good one.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS) to the amendment offered by the gentleman from Michigan (Mr. DINGELL), as amended.

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 43, noes 2.

So the amendment to the amendment, as amended, was agreed to.

The CHAIRMAN. There being no further amendments, at the time the limitation of time was called, there were 35 Members standing. First the Chairman will inquire: Do any of the Members who were standing have amendments to be offered?

There being none, the Chair recognizes the gentlewoman from New Jersey (Mrs. FENWICK).

(By unanimous consent, Mrs. FENWICK yielded her time to Mr. CARTER.)

(By unanimous consent, Messrs. HILLIS, KILDEE, and FORD of Michigan yielded their time to Mr. DINGELL.)

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, those of us from the major industrial areas are in a real bind. Last winter the

rubberworkers and the utility companies and the factory owners in my area came to me and said: "We have got to get relief from the stationary air pollution regulations." I went to bat and pleaded with EPA to try to be more practical and reasonable.

Now the auto makers and workers want similar relief, but what we have to understand, and we all have to understand it, is that we all breathe the same air and there is a limit to how much we can put in that air and still have public health. So we have to make some adjustments.

The Preyer amendment makes a reasonable adjustment and, therefore, I support the Preyer substitute.

(By unanimous consent, Mr. JENNETTE yielded his time to Mr. DINGELL.)

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. TRAXLER).

Mr. TRAXLER. Mr. Chairman, I rise in strong support of the Dingell amendment.

(By unanimous consent, Mr. TRAXLER yielded the balance of his time to Mr. DINGELL.)

The CHAIRMAN. The Chair recognizes the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Chairman, let me give a quick review of my high altitude auto emissions amendment that is in the committee bill and the Pryor bill. My amendment has two basic provisions:

First. It allows auto dealers to adjust emission control devices on all 1968 to 1976 model year vehicles and 1977 and later vehicles not manufactured for high altitude operation to improve the high altitude emissions performance of those vehicles.

Second. It mandates that auto manufacturers provide written instructions on how to best adjust the emission control devices for better performance at high altitudes.

The reason for my amendment going beyond model year 1976 is one of population mobility. With population being as mobile as it is, EPA's regulations requiring that all 1977 and later model year vehicles meet the air quality standards at their designated place of sale will not solve the high altitude air quality problem. If the high altitude auto emissions problem is to be dealt with effectively, the problem of post-1976 vehicles geared for sea level operation ending up in high altitude areas must be remedied.

Denver is a prime example of the magnitude of the population mobility problem. According to statistics provided by Bell Telephone Co., yearly migration from low altitude areas into the Denver SMSA is substantial. In 1973, the latest year for which statistics are available, 82.7 percent of the persons migrating into the Denver SMSA were from States in which there are no EPA-designated high altitude counties. Using the net migration figure of 20,100 for the Denver SMSA in 1973, this means that at least 16,623 persons migrated into the Denver SMSA from low altitude areas.

The future migration into Denver and other high altitude cities is sure to continue at a rapid pace. Virtually all of these people will be driving vehicles geared for sea level operation and, as time goes on, manufactured after 1976. If these post-1976 vehicles cannot be adjusted for proper high altitude performance, they will negate the air quality benefits gained thus far by the 1977 and later model year vehicles which have been manufactured for high altitude operation.

The language of my amendment has been reworked time and again to try to get all parties involved to agree on its provisions. The Dingell-Broyhill substitute leaves out a lot of the important parts of this amendment. I hope it was mere oversight for the language in the Dingell-Broyhill substitute is the conference report language from my high altitude amendment from the 94th Congress. The conference report language was the end product of confused Senate committee staffers who really did not understand my amendment and overworked House committee staffers who were trying to push something through before the October 2, 1976, adjournment date. As a result, it was chopped up pretty badly and weakened considerably.

In a nutshell, the differences between our amendment and the Dingell-Broyhill substitute are:

#### DINGELL-BROYHILL

1. Only applies to vehicles manufactured before the 1978 model year. It *doesn't* take into account the *population mobility factor*.

#### SCHROEDER

1. Applies to all 1968 to 1977 vehicles and 1977 and later model-year vehicles *not* manufactured for high-altitude operation. It takes into account the *population mobility factor*.

#### DINGELL-BROYHILL

2. Contains a provision which would allow manufacturers to require the use of manufacturer parts if they can convince the EPA Administrator that the use of these parts is necessary to insure emission control performance. This provision is unfair to the thousands of aftermarket parts manufacturers and suppliers that could supply parts that would perform equally well.

#### SCHROEDER

2. Stipulates that the use of manufacturer parts may *not* be required. Period. This makes it fair for everyone. The manufacturer can *suggest* that certain manufacturer parts should or can be used, but *cannot require* that these parts be used.

#### DINGELL-BROYHILL

3. Allows the manufacturer to get off the hook for failing to comply with the provisions of the amendment if the manufacturer says it wasn't a "knowing" violation.

#### SCHROEDER

3. If the manufacturer fails to live up to the bill's provisions, this failure shall be treated as a violation by such manufacturer of Sec. 203(a)(3) and subject to the penalties contained in Sec. 205.

In sum—the Dingell-Broyhill substitute only deals with half the problem. I spent 3 years working with the manufacturers, EPA, the auto dealers, and various health and environmental groups to get language that is acceptable to all. I hope this language is kept in the high al-

titude section of whichever amendment is adopted.

(By unanimous consent, Mrs. SCHROEDER yielded the balance of her time to Mr. PEPPER.)

(By unanimous consent, Mr. ROSE yielded his time to Mr. PREYER.)

(By unanimous consent, Mr. PREYER yielded his time to Mr. GLICKMAN.)

The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, I have been listening here for 2 days and I am so confused about the entire issue relating to the Clean Air Act amendments the Members could not believe it. We have heard about the NO<sub>x</sub> standards, the SO<sub>2</sub> standards, and the HO<sub>x</sub> standards, and not being an expert I basically supported the Dingell-Broyhill substitute because I felt an additional element was needed, and then because an additional year was needed to give the automobile industry time to comply, that is why I support the Preyer amendment. I think it represents a decent compromise. There is much too much emotion in this entire argument. We want clean air for future generations, and I believe that the purposes of clean air can best be served by the Preyer amendment, which gives the automobile industry an additional year to comply with stiff standards, and after that time, they must comply.

The gentleman from Michigan (Mr. STOCKMAN) reflected a little earlier that the Preyer amendment goes only to the first 3 years, but not to the last 3 years; and that is the whole point. The first 3 years should be where our concern is focused upon. We need to determine the impact on the energy question. This Preyer amendment is a fair compromise from somebody who basically is very worried about both energy needs and clean air and basically was going to support the Dingell-Broyhill amendment and probably will if this amendment fails, but I still believe it is a fair compromise.

Frankly, I do not see why the parties could not have compromised in the first place, because I do not think they were that far apart; but apart from this, I think it is reasonable and fair. We have debated this long enough.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, I rise in support of the Dingell-Broyhill amendment to title II of the bill.

The committee bill establishes auto emission standards which are unnecessarily stringent and based upon unrealistic projections. It fails to strike the necessary balance between environmental, employment, and energy concerns.

In my congressional district people often drive long distances from homes in rural communities to jobs in metropolitan areas and from isolated farms to towns in order to shop and conduct business. With public transportation not available in these areas, the auto is the only source of transportation. It must remain affordable and dependable. Moreover, in light of rising fuel costs and our

national energy goals, it must be made more fuel efficient. The emission standards in the committee bill would jeopardize our desire for energy conservation by wasting at least 2.41 billion gallons of fuel a year.

In addition, the standards in the committee bill would actually hinder efforts to meet national clean air standards. Because automobiles manufactured in compliance with the committee bill's standards will have higher sales prices, higher operating and maintenance costs, and reduced fuel efficiency. Consumers will thus keep their older, pollution-prone vehicles longer. This, in turn, will jeopardize thousands of jobs in the auto and related industries.

There is a more than good chance that if the standards for 1979 automobiles mandated in the committee bill are put into effect, the auto industry will not even be able to meet them, due to inadequate lead time. The result then would be disruption within the automobile industry, substantial unemployment among automobile workers, and a downturn in our national economy.

In contrast, the Dingell-Broyhill amendment presents a reasonable approach to the complex problem of balancing environmental standards with energy conservation and the economy. With Dingell-Broyhill, jobs would be protected and a strong economy maintained since it would allow a more careful, well-timed phase-in of emissions standards. Fuel efficiency in automobiles and overall energy savings could be attained, as auto manufacturers would be given ample lead time to produce innovative fuel and emission control devices and systems. Consumers who need autos for jobs and essential shopping would find them more fuel efficient and reasonable priced. This would encourage automobile sales and help maintain full employment in the automobile industry. Yet, Dingell-Broyhill is environmentally sound and would adequately protect public health.

It is for these reasons that I urge my colleagues in the House to adopt the Dingell-Broyhill amendment.

(By unanimous consent, Mr. LLOYD of California yielded his time to Mr. DINGELL.)

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I rise in opposition to the Dingell-Broyhill amendment and in support of the committee bill. I have listened to these arguments, as everyone else has, for 2 days. Frankly, I think they have led to more confusion than anything else. I am deeply concerned about public health and about energy economy and efficiency.

I believe that the committee bill will protect the public health and will give us energy economy and efficiency and that this is what we have to do.

Mr. Chairman, I distrust the automobile companies. I think if the Interstate and Foreign Commerce Committee had come in with the Dingell-Broyhill



amendment, they or other Members would have come in with further weakening amendments in order to prevent this Congress from regulating the automobile industry.

Mr. Chairman, I have faced this for the last 25 years and I think it is time that we draw the line and adopt the committee bill.

(By unanimous consent, Mr. WAXMAN yielded his time to Mr. PEPPER.)

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. BLANCHARD).

Mr. BLANCHARD. Mr. Chairman, I support the Dingell-Broyhill amendment.

(By unanimous consent, Mr. BLANCHARD yielded the balance of his time to Mr. DINGELL.)

(By unanimous consent, Mr. MAGUIRE yielded his time to Mr. ROGERS.)

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I rise only to point out one special thing that I think adds fuel to the fire against the Dingell amendment. It is on page 50. It says:

"(g) Nothing in this section shall be construed to provide that any labor required to be provided at the cost of the manufacturer pursuant to warranty under regulations under subsection (b) (2) may be performed by any persons other than persons specified by the manufacturer or that any part required to be provided at the cost of the manufacturer under such warranty may be other than a part specified by the manufacturer."

Mr. Chairman, I rise to point out that in this connection the Staggers amendment does not include that in the Richardson Preyer substitute.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Chairman, last year when the Dingell amendment was up, I was invited one evening to a dinner given by some of my automobile dealer friends to urge me to support the amendment. On my way to the dinner I had my radio on, and the announcer said that the pollution in the District of Columbia was so bad that the people who were elderly or those susceptible to respiratory problems should stay off the street.

There are no big industries here in the District of Columbia, so I do not know of any other cause for our periods of pollution except the automobile emission.

As chairman of the Aging Committee, as a senior citizen myself, and as one who has a relative gasping for breath in a hospital today, I support the position of the National Retired Teachers Association, the American Association of Retired Persons, the Urban Elderly Coalition, the National Council of Senior Citizens, the National Caucus on the Black Aged, and the National Council on the Aging, in supporting the Preyer amendment and opposing the Dingell amendment. I do this for the simple reason that the time allowed for performance by the two is the same, but there will be more protection against cancer, respiratory diseases, and heart trouble for the older

people and the children of this country under that amendment than would be afforded them under the Dingell amendment.

I think the least we can do is to do what we can to preserve the health, and lengthen the lives of the people of this Nation.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Chairman, in spite of, or perhaps because of all the information which has been circulated regarding the Dingell-Broyhill amendment to H.R. 6161, there still is considerable confusion about the warranty section of our substitute and the effects it would have on clean air, consumers, and the automobile industry.

The purpose of the warranty provisions in our substitute is to protect independent parts manufacturers and service and repair outlets from a possible parts and service "monopoly" by auto manufacturers and their franchised dealers. The Dingell-Broyhill substitute amends the Clean Air Act to insure that automobiles may be serviced, maintained, and repaired by independent operators, using rebuilt or replacement parts, without danger of voiding the car owner's warranty.

There are two key differences between our amendment and the Rogers-committee bill. Dingell-Broyhill requires that any warranty work which is the responsibility of the automobile manufacturer be performed by the manufacturer or an authorized representative. This pertains only to repair work which is a direct result of a manufacturing defect either in parts or in workmanship. Our provision in no way restricts the ability of the independent parts, repair, or service outlet to service or maintain an automobile in order to keep a warranty valid, or to perform nonwarranty repair work.

As with any warranty, whether it relates to any large consumer product, the manufacturer has the right to specify who may do the work for which it bears both the cost and the responsibility for repair. This is not only consistent with the concepts of the Moss-Magnuson Warranty Act, but is also supported by the trade associations which represent more than 166,000 aftermarket repair firms.

Chairman ROGERS' bill would force auto manufacturers to pay independent garages and service stations for "recall" or warranty work. They would have absolutely no control over work cost or quality. On March 16, 1977, the Justice Department addressed this very question when it reported:

If the manufacturer were required to honor a performance guarantee regardless of the identity of the repair shop, supply costs of the warranty would be expected to inflate rapidly . . . the manufacturers would be put in a situation in which it could exercise no effective cost control . . . the repair shop could charge, in effect, anything it wanted for services rendered . . . and, at the very least under these conditions, the price of new vehicles would skyrocket.

The second difference between the Dingell-Broyhill amendment and the committee bill is perhaps even more essential to the survival of the independent repair service and the aftermarket industry as a whole. Because some of the anticompetitive effects of the warranty program are inevitable, Dingell-Broyhill reduces the length of the performance warranty from 5 years/50,000 miles to 18 months/18,000 miles. This type of reduction was recommended by both the Justice Department and the Small Business Committee in the 93d Congress.

Mr. ROGERS eventually recognized the anticompetitive and anticonsumer problems inherent in the 5-year and 50,000-mile warranty provisions contained in his bill, so he adjusted the committee bill accordingly. He reduced the warranty period to 18 months and 18,000 miles so as to conform to the Dingell-Broyhill amendment.

The committee bill, however, reduces the warranty period for 3 years only, after which time it reverts back to the anticompetitive 5 years and 50,000 miles warranty duration. The reduction in warranty length is essential to the aftermarket industry and to the survival of the small, independent businessman. I have worked for such a reduction for 3 years, and was pleased to see the Justice Department recommendations of March 16, 1977. By mandating a return to the longer warranty period after 3 years, the committee chairman contradicts himself, for he would have the law revert to a situation which he now realizes is anticompetitive, anticonsumer, and anti-small-business. It is difficult to understand why Mr. ROGERS asserts that he is attempting to protect the consumer and the automotive aftermarket industry, when his bill at best provides only very temporary relief.

There are two questions which are foremost in our minds when debating the warranty provisions. Unfortunately, these are the questions which have become most distorted. The first is whether Dingell-Broyhill will assure that vehicle manufacturers will continue to produce durable and consistently effective auto emissions systems. The second question is whether Dingell-Broyhill will really protect the automotive aftermarket industry and the consumer from the adverse effects which accompany implementation of some of the clean air provisions.

Under Dingell-Broyhill, vehicle manufacturers will still be required to produce a durable system in order to pass the 50,000-mile EPA certification test under the production warranty. We propose no change in the length of the production warranty. Under the production warranty, the EPA not only certifies that the car's emission control system will last for 50,000 miles, but if a substantial number of systems fail during their on-the-road operation, the EPA can recall the entire lot for repair at the manufacturers' expense. In order to assure that emissions control systems continue to meet standards throughout their effective life, the Dingell-Broyhill substitute

includes a mandatory vehicle inspection and maintenance provision, to be administered by the EPA. Our amendment also makes it a prohibited act, subject to civil penalty, for a manufacturer to refuse to honor its warranty.

In response to the second question, our amendment guarantees the automotive aftermarket the right to perform all routine service and maintenance, using replacement parts, without danger of voiding the manufacturers' warranty. Our amendment also permanently reduces the performance warranty to 18 months and 18,000 miles. This will not affect actual operation of the emissions system, but rather only the length of time for which the manufacturer is directly responsible for the actual repair of defects in parts or in workmanship. Both of these provisions are supported by virtually every aftermarket firm in the United States, and virtually every aftermarket firm in the United States supports the Dingell-Broyhill amendment.

In conclusion, the Rogers bill would result in additional costs to the consumer, additional burdens to the independent businessman, and little, if any, gain in repair quality or convenience. The Dingell-Broyhill amendment will insure that small repair facilities will continue to operate in a competitive environment and will enable the car owner to obtain reasonable, reliable, and effective auto servicing while automobiles continue to meet Federal emissions standards.

I urge my colleagues to support the Dingell-Broyhill substitute when it is offered to H.R. 6161 on the floor of the House.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I rise in strong support of the Dingell-Broyhill amendment to H.R. 6161. The auto emission standards proposed in this amendment provide a reasonable balance between our energy needs and environmental concerns.

I certainly agree on the importance of reducing auto pollution. This is an important step in moving us toward our goal of clean air.

At the same time, however, we must consider our need to save energy, hold down consumer costs and preserve jobs. We cannot afford to waste our scarce energy resources. We cannot afford to pile on excessive new costs that consumers will be unable to pay. Nor can we afford to wipe out jobs in the automotive industry.

The proposed auto emission standards in the Dingell-Broyhill amendment arrive at a reasonable balance between these competing values. It will help bring about cleaner air without the bad side effects of the overly strict committee version.

First, the Dingell-Broyhill amendment would achieve a substantial energy saving. The committee bill, according to Government analyses, would waste an estimated 140,000 barrels of oil per day. Other estimates go even higher.

Second, the amendment would mean major savings for consumers. The committee version would add approximately \$350 to the price of a new car. Another \$100 may be added in the form of maintenance costs. Such a large price increase would have a negative impact on car sales.

Third, the Dingell-Broyhill amendment would protect American jobs. Car sales would be higher, as more people would be inclined to purchase the lower-priced, fuel-efficient vehicles resulting from adoption of the amendment. And more car sales mean more jobs throughout the entire automotive industry. The committee version, on the other hand, would cause a decline in auto sales. Shutdowns, layoffs, surplus inventories, and spiraling unemployment would be the sad result.

I urge adoption of the auto emission standards proposed in the Dingell-Broyhill amendment. Adoption of these standards in lieu of the committee version will be far healthier for the American economy and the American consumer.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I rise in support of the Dingell-Broyhill amendment.

The emission control guidelines legislated in 1970 through the Clean Air Act are absurd and clearly present a problem not only to the auto industry but also the American consumer. The stringent controls which will be placed on automobiles, if the amendment offered by my esteemed colleagues is not passed, will have an adverse effect at a time when our President is asking all Americans to conserve as much energy as possible.

Mr. Chairman, the United States is going through a period of high energy consumption and lower than normal production of new energy sources. We cannot afford to settle for standards which will destroy our efforts for better fuel efficiency. We all want a clean environment, free of pollutants, but at the same time, we also want our cars and trucks to operate as economically as possible in the use of fuel.

The Commerce Committee passed emission controls which will place inflationary pressures on our citizens and impose burdensome regulations on business and industry. At present, Government regulations cost the American people at least \$125 billion a year and additional environmental regulations will certainly bring this cost up substantially. The American people look to the Congress to solve inflationary problems not create them.

I would just like to say that if we expect to reach our goals of becoming less dependent on foreign oil as a result of conserving energy, we had better give more consideration to the amendment being offered here today.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, the is-

sue before us is complex and has been, unfortunately, much clouded in the debate. First of all, it pains me to differ with my good friend from Florida (Mr. ROGERS) but I think that it is important that we look at all of the considerations which relate to the legislation before us on balance.

First, no complete or integrated information was made available to the President; no such information was made available to the committee; of health consequences, job employment, fuel waste or consumer costs or anything else in a quantifiable form until last week, at which time the President and the committee had already acted and taken a position. I required the information of the administration, and it was finally produced under threat of subpoena from the gentleman from California (Mr. MOSS).

I would point out to my colleagues that the impact on jobs is substantial and is very significant. I point out that somewhere between 77,000 and 99,000 jobs per year are lost; that the additional cost of automobiles is \$350, as opposed to \$170. This is all from statements by Douglas Costle, Administrator of EPA.

The total cost of automobiles by reason of Government actions has been increased by over a thousand dollars. I would point out that no quantifiable health benefits with regard to NO<sub>x</sub>, carbon monoxide or hydrocarbons can be demonstrated as between the two plans—no difference whatsoever. The EPA and other agencies of Government have so stated.

I would point out that I have here one of the suppressed documents from the administration, which they would not make available earlier, but EPA says that the additional cost of automobiles is going to be \$350, \$170 more over the proposal offered by the gentleman from North Carolina and myself. I would point out that in 1990, no less than four air quality regions will be out of conformity with regard to NO<sub>x</sub> under either proposal.

There is no quantifiable information available as to going to 0.4 NO<sub>x</sub> over 1.0. I would point out that it is highly doubtful, in the language of every single manufacturer, that diesels can be functional under the proposal offered by the gentleman from North Carolina (Mr. PREYER) or the gentleman from Florida (Mr. ROGERS).

Last of all, there is not enough rhodium in the world to insure that the Rogers-Preyer standards can be met. Indeed, the catalytic converter manufacturers pointed out to the subcommittee in the course of the hearings that they supported the standards authored by the gentleman from North Carolina and myself, and they had grave doubts that they could meet the standards prescribed by the gentleman from Florida (Mr. ROGERS) and the gentleman from North Carolina (Mr. PREYER).

My colleagues should know the differences between the Rogers proposal and the Preyer proposal are the differences between tweedle-dum and tweedle-dee. The compromise, if it in fact exists, is between two persons on the same side. So my colleagues should not be deceived



into believing that they are voting for a compromise. They are voting for precisely the same thing if they vote for PREYER or for ROGERS. The two are indistinguishable in their effect.

I would urge my colleagues to understand that what really is involved here is a very, very fine engineering difference, but that engineering difference shows up in enormous consumer impact, in enormous additional costs of automobiles, in enormous additional fuel waste.

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Chairman, I want to say that I rise in strong support of the Preyer amendment to the committee amendment, and my reasons for doing so are as follows:

We must do something to abate pollution in this country. Forty to sixty percent of the pollution is caused by automobiles. Seventy-five to 90 percent of cancers are caused by the environment, of which pollution unfortunately is a part. Therefore, one-half of the cancers could well be caused by automobile emissions. One thousand fifty-five people a day are dying from cancer.

Mr. Chairman, we should do everything in our power to abate this. I strongly support the Preyer amendment in an effort to diminish pollution and to stop the threat of cancer.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, I want to conclude by saying this:

The purpose of the clean air bill is to improve the health of the American people, as the gentleman from Kentucky (Mr. CARTER), a physician himself, has stated.

I would like to read the Members a telegram from Citizens Against Cancer:

Please support the clean air bill without Dingell-Broyhill amendment to fight cancer.

Furthermore, the elderly will be severely impacted, as brought out by our distinguished colleague, the gentleman from Florida (Mr. PEPPER), who is chairman of the Select Committee on Aging. That gentleman has taken a strong stand against the Dingell-Broyhill amendment, which will adversely affect the health of senior citizens; it would lock them up in their houses whenever there is an air pollution alert. We just had one of those here in Washington the other day.

Do the Members know what the American Lung Association study has shown? I have it here, and I can show it to the Members. The actual study shows the very large health effects differences in the NO<sub>x</sub> standards which could be permitted under the Dingell-Broyhill amendment and the NO<sub>x</sub> standards permitted under the bill. Those standards are scuttled under the Dingell-Broyhill amendment.

Mr. FORD of Michigan. Mr. Chairman, I rise in support of the Dingell-Broyhill amendment to the Clean Air Act. The Dingell-Broyhill amendment is sup-

ported by: the UAW, AFL-CIO, National Automobile Dealers Association, foreign and domestic car manufacturers, American Automobile Association, Importers Association of America, Rubber Manufacturers Association, and the Transportation Association of America.

When I reflect back on the first 4 months of the 95th Congress I am proud that Congress has begun to address the two critical issues of unemployment and the energy shortage. First, the Congress overwhelmingly approved a public works jobs bill to create approximately 600,000 jobs. Second, with the President taking the initiative, Congress is preparing to tackle the energy crisis. Even though not all of us support every provision the President has outlined in his energy policy, every Member of Congress recognized the potential energy crunch in our country's future. Yet I am amazed and puzzled to see some of my colleagues, who supported the public works bill and the push for the creation of an energy policy, planning to vote against the Dingell-Broyhill amendment to H.R. 6161—the Clean Air Act.

Jobs will be jeopardized if the auto industry cannot meet the more stringent requirements called for in H.R. 6161. The word stringent can be a broad term, so I will elaborate. Should H.R. 6161 become law without the Dingell-Broyhill amendment, the auto manufacturers will have to meet the full 90 percent reduction for hydrocarbons in 1979. The Environmental Protection Agency requires 18 months leadtime to approve the technology needed to reduce hydrocarbons. This would leave manufacturers just 3 months from the bill's enactment to get their applications into EPA to meet the deadline. The bill also requires a reduction to 1 gram per mile of nitrogen oxide in 1983, but the technology to reduce nitrogen oxide emissions does not exist and there is no way to assure that it will be developed in time.

It is projected, Mr. Chairman, that up to 70,000 jobs could be lost if the Dingell-Broyhill amendment is not approved. Naturally, as a representative of a district with a large constituency of auto workers and from a State with an unemployment rate of 8.1 percent, I am concerned over the potential loss of jobs. But, Mr. Chairman, the auto industry and the auto supply industry does not provide employment only in the Detroit area but in many States throughout the Nation. These widespread industries have tremendous impact on the Nation's economy. We are talking about 70,000 jobs—a significant figure especially after Congress has just spent approximately \$6 billion to create 600,000 jobs. The Dingell-Broyhill amendment, by comparison, protects jobs by allowing a more careful, well-timed phase-in of the emissions deadlines, while still being environmentally sound.

There are now numerous studies before Congress which indicate that our country does have an energy problem. The world faces possible oil shortages as early as 1981 and a dangerous energy shortage by the year 2000. One study

by the Workshop on Alternative Energy Studies—WAES—projected that demand for energy supplies will result in shortages of all conventional energy resources beginning after 1985. Dr. Carroll Wilson, director of WAES, recommends conservation, as do many of my colleagues, as an interim solution. Conservation, although not the complete answer, will give our country the time it needs to formulate the solutions to our energy problems. The unnecessarily stringent auto emission standards of H.R. 6161 would drive us further into dependence on unreliable foreign oil sources.

The emission schedule embodied in H.R. 6161 would waste 15 billion gallons of gasoline between 1978 and 1985, relative to the savings of energy of the Dingell-Broyhill standards. This figure is based in large part from the administration's February 1977, "Analysis of Effects of Several Specified Alternative Automobile Emission Control Schedules Upon Fuel Economy and Costs." We must not enact standards which would speed the oil depletion process.

The Dingell-Broyhill amendment will, in addition, result in more fuel-efficient vehicles and thus yield an overall energy savings of 2.41 billion gallons of gasoline a year, or 140,000 barrels of oil per day.

In summary, Mr. Chairman, I see no need to impose a more rigid emission schedule, not only because it would contradict much of the progress of the 95th Congress but because of the good faith shown by the auto industry to produce anti-pollutant, energy efficient autos.

The Dingell-Broyhill amendment will provide for continued emission control advances at a pace that is environmentally sound without seriously affecting the economic viability of the auto industry and the Nation.

Mr. BROOMFIELD. Mr. Chairman, I rise in support of the Dingell-Broyhill amendment to H.R. 6161, the Clean Air Act Amendments of 1977.

Seven years ago, with the passage of the Clean Air Act of 1970, Congress set out to protect and enhance the quality of our air. Passage of this act was in recognition of the continually worsening national air quality as the rate of pollutant outputs grew substantially from 1940 to 1970, and of our desire to pass on a clean, healthy environment to our future generations.

We have made significant strides during these 7 years. We have been able to appreciably slow, stop, or even decrease the rate of output of various air pollutants.

Now, in our consideration of the Dingell-Broyhill amendment, we must decide how we will complete this effort, because the issue of mobile emissions standards play an important part in enhancing air quality. In this consideration, however, we must look at the total impact of our effort. We must look at energy costs, consumer interests, and continued employment as well as environmental improvement; these are interrelated, and we cannot affect one without affecting the others.

The Dingell-Broyhill amendment pre-

sents the best balance of these inter-related factors. It will protect public health through the continued gradual improvement of the ambient air quality. It will avoid significant fuel penalties, limit costs to the consumer, and protect the jobs of 16 million Americans working in auto-related industries.

With the present energy crisis, conservation of our natural resources is an important element in our response to this problem. The Dingell-Broyhill emission standards are clearly consistent with this conservation effort. Based on an analysis by agencies of the Government, it is estimated that the presently proposed committee standards in H.R. 6161 would waste 2.41 billion gallons of gasoline a year between 1978 and 1985, when compared to the Dingell-Broyhill standards.

This waste in gasoline not only affects our efforts at energy conservation but also costs to the consumer. The Administrator of the Environmental Protection Agency has stated that the more stringent committee standards will increase the initial purchase price of a new car by \$350, as opposed to \$170 under Dingell-Broyhill, and it will increase maintenance costs by as much as \$100.

The emissions standards that are finally enacted will have a major impact on the national employment picture. The auto-related industries employ almost one out of every five working Americans. That is more than 16 million Americans. In 1974, the annual payroll of auto-related industries was \$10.4 billion. However, increased costs to the consumer associated with the committee's more stringent standards will directly influence how frequently new cars are purchased and this, in turn, will affect the people employed in the auto-related industries.

This employment relationship should be kept in mind while considering the comments of William V. Luneburg, president of American Motors, as he writes, in support of the Dingell-Broyhill standards. Mr. Luneburg states:

While there are high technological risks associated with this schedule as well as major increases of investment and piece costs, it represents the most stringent set of goals that we believe it is possible for us to attain in the time frame without unduly impairing the competitive position of American Motors as a domestic car manufacturer.

The Dingell-Broyhill emissions standards are clearly more fuel efficient, consumer protective, and employment oriented than the committee proposals. With these benefits, there is no statistically significant difference in the improvement of the Nation's ambient air quality between these two proposed emissions standards.

Mr. Chairman, it is clear that the Dingell-Broyhill mobile emissions standards are far superior to the committee-proposed standards in H.R. 6161. Both bills continue the progress toward cleaning the ambient air quality at approximately the same rate. However, the Dingell-Broyhill standards provide the necessary balance between improving air quality and the other interrelated factors. The

Dingell-Broyhill standards best serve our Nation's interest and, therefore, I strongly urge my colleagues to join me in supporting this amendment.

Mr. MIKVA. Mr. Chairman, I want to commend Chairman ROGERS and the members of the Health Subcommittee on their work, and to add my support for H.R. 6161. The Clean Air Act amendments represent a good compromise among many conflicting realities—the problem of achieving realistic levels of auto emissions in a limited time, and the difficulty of implementing stringent emission standards or stationary sources of pollution in both clean and polluted areas. The bill is a strong and balanced affirmation of the Nation's dedication to significant improvement of the quality of the air that we breathe.

The three major parts of the bill have been worked out through extensive deliberation in the committee, and represent the most acceptable approaches to the maintenance and improvement of air quality.

In the significant deterioration provisions, the States are given the responsibility for preventing deterioration of the air quality in areas that are cleaner than the national standards. The States will divide their clean air into three classes, with established limits on the amount of increased pollution that will be allowed. This section seeks to assure that air that is currently cleaner than the national standard always will remain clean, and that parks, wilderness, and recreation areas be kept free of additional air pollution.

The nonattainment provision actually makes more flexible the standards in the 1970 Clean Air Act for halting the further pollution of already unclean areas. Additionally, the bill allows some economic growth in areas not meeting the standards, by giving the States the option of using a new program which would be tied to the State's making "reasonable further progress to assure attainment of the standards by the delayed deadlines."

The auto emissions standards which are required by the bill are clearly a compromise and a slackening of the more strict requirement of the bill introduced in the 94th Congress. The Dingell-Broyhill amendment would significantly cut into those standards, and allow the environment to continue to deteriorate. Not only are the standards relaxed, but they can be dropped substantially "for fuel economy reasons."

The amendment would also allow the auto manufacturers to delay their efforts to find new emissions controls until the 1980's. I am not convinced, however, that the auto industry is sufficiently committed to the needs of the environment to regulate emissions without firm guidelines from the Federal and State governments in the next several years.

Further, Mr. Chairman, when my fellow Members consider voting for this amendment to delay again the implementation deadlines, they must also be aware of the other parts of the Dingell-Broyhill amendment, which are clearly not in the best interest of car owners or the environment. The amendment's pro-

visions dealing with motor vehicle warranties and inspection are patently pro-industry, as they provide an "out" for car manufacturers in paying for warranty work, and shift the burden of proof in honoring warranties from the manufacturer to the consumer. The additional provisions of the amendment concerning the high altitude performance adjustments protect the auto manufacturers from competition and give other breaks to the industry.

The arguments which have been made in favor of the Dingell-Broyhill amendment are not convincing. The point that jobs will be in jeopardy if the auto industry cannot meet the stringent requirements and deadlines in the bill is spurious. In fact, if the environment continues to deteriorate, especially in areas now heavily polluted, jobs will be lost through the nonattainment provisions of the original act, as growth in other industry is restricted. The trade-off here is between the narrow interests of the auto industry, versus broader industrial needs.

The additional argument that applying the more stringent emission standards will sacrifice fuel efficiency, and therefore cost more money, is questionable. The standards have been carefully considered by the committee in consultation with administration experts, and are consistent with the country's energy conservation policy. Even if it were the case that fuel efficiency would be lost, the health of Americans is far more important than maintaining the current cost of operating an automobile.

Therefore, Mr. Chairman, I urge the passage of the Clean Air Act amendments in the form in which they were reported from the Committee on Interstate and Foreign Commerce. We must preserve the condition of the air in those places in which it is relatively pure, and improve it in those localities where it is polluted.

Mr. SLACK. Mr. Chairman, no other issue surrounding the automobile is so complex or so badly misunderstood as emissions standards. The fact is that more than 80 percent of all tailpipe emissions have been removed from today's new cars. No other industry has done so complete a job of controlling emissions. As a result, the air in this country is becoming steadily cleaner, year by year, as new cars replace old. Those are facts.

It is also a fact that emissions controls have a direct and serious effect on fuel economy. For example, the State of California today has tighter emissions standards than the other 49 States. The average new car sold in California, including both domestic and foreign cars, according to official EPA tests, gets 12 to 20 percent worse fuel economy than the average new car in the other 49 States. That is a fact.

There is no magic, no law, no government pronouncement that can change the law of nature which causes a fuel penalty from tighter standards. The challenge facing this Nation is to stop pretending that by some magic we can repeal a law of nature, and to start mov-



ing to establish a set of emissions standards that will provide the best trade-offs between clean air, fuel economy, and jobs.

Mr. Chairman, that set of standards is contained in the Dingell-Broyhill amendment, and I urge their adoption by this House.

Mr. TRAXLER. Mr. Chairman, the recent report prepared by the CIA for President Carter about our rapidly dwindling energy supplies is most disturbing. By 1985 the Soviet Union may be competing with us for Mideast oil, and world supplies will be outstripped by rising world demand long before the end of this century. The MIT study concluded that even if energy prices rise 50 percent above current levels, demand will exceed supply between 1985 and 1995.

A drop of oil will soon be more precious than diamonds.

Failure to recognize this fact—and to act upon it—could lead us into a worldwide catastrophe of immense proportions. That is why President Carter has called us to wage a war on energy waste, right now, in any effective way possible, and to use energy more efficiently.

This Congress should consider the energy impact of every single action it takes. We simply cannot afford to waste even a drop of oil.

Mr. Chairman, we can immediately make better use of energy used by automobiles if we pass the Dingell-Broyhill amendment before us. Compared to the administration's bill, we would get an average of 3 miles per gallon better fuel economy for every new automobile in this country.

That is like matching a full third of the expected daily oil production from Alaska's North Slope—and with no real investment on our parts at all.

In terms of air quality, EPA studies show that there is no significant difference between the two proposals. Considering the imminent seriousness of our national energy problem, I think this Congress must stand up, be responsible, and enact Dingell-Broyhill.

In addition to energy considerations, Mr. Chairman, this Congress should give very careful attention to the economic impacts of its actions. Right now we are recovering from the worst recession in history. Unemployment is still at a national level of 7 percent, a completely intolerable level. We must be exceedingly careful that our actions do not slow our recovery, add to inflation, or put more Americans out of work.

But an internal EPA memorandum, Mr. Chairman, estimates that the administration's bill will indeed have adverse economic impacts compared to Dingell-Broyhill.

This EPA memo was made public last week, but it was like pulling teeth to get it released. Why? Because the memo concludes that the administration's stringent emission standards will indeed add to the Nation's unemployment.

Many analysts in my own State of Michigan consider EPA's projections about job losses to be understated. Still, it should be made clear that 2 full months ago EPA's internal documents acknowledged that the impact of EPA's

proposal would cost fully 15,000 to 20,000 jobs by 1985. Publicly, of course, they were saying that there would be no adverse economic effects of their bill.

The automobile industry will not be the only one hurt by the administration's bill. Related industries like steel, rubber, glass will also be impacted. In fact, the economic health of the entire country depends to some extent upon the health of the auto industry and we simply cannot afford to put more people out of work.

A loss of a minimum of 20,000 jobs is simply not tolerable, especially when the Dingell-Broyhill proposal will result in substantially the same air quality for this country as the current bill.

Mr. Chairman, we all want clean air and both proposals will give us clean air. But the more sensible Dingell-Broyhill standards will preserve jobs and save energy, and that is why this Congress must act responsibly and enact Dingell-Broyhill.

Mr. CEDERBERG. Mr. Chairman, I rise in support of the substitute language offered by my good colleagues JOHN DINGELL and JAMES BROYHILL. The Dingell-Broyhill schedule for controlling auto emission represents the best compromise between environmental, health, energy, and economic needs.

Since the enactment of original Clean Air Act legislation, significant progress has been made in reducing pollution. We must continue to insure that the strictest and most feasible clean air, environmental and consumer protection standards for automobile pollution be enacted. The Dingell-Broyhill amendment would implement such a set of emission standards, to provide more stringent control of auto emissions. I must point out that the emission schedule in the current Dingell-Broyhill substitute is even stricter than the version which the House adopted during consideration last summer.

Although it will require stricter pollution standards for automobiles, the Dingell-Broyhill substitute is feasible in terms of energy and consumer costs. The standards imposed by the committee language would result in an unacceptable fuel penalty of about 2 billion gallons a year, or 140,000 barrels of oil per day. Such a waste of valuable petroleum is hardly consistent with a comprehensive energy conservation plan.

Besides higher fuel costs, consumers would be faced with higher initial costs, under the committee's bill standards. According to EPA estimates, new car prices would be about \$350 per car higher with the committee standards, considerably more than the cost to meet the Dingell-Broyhill standards. In addition, I think we can safely say that consumers are tired of being forced to buy expensive equipment on their car which reduces performance and increases fuel consumption. The standards under the Dingell-Broyhill schedule could be met in a much more feasible manner, with far less expense and fuel penalty.

The standards contained in the Dingell-Broyhill substitute will result in cleaner air for our Nation in a feasible way, without penalizing consumers and wasting needed energy.

Mr. KEMP. Mr. Chairman, I was a member of the House Small Business Committee and participated in the hearings in which we carefully analyzed and studied for almost a year, the probable impact of the performance warranty on the Clean Air Act of 1970. It was our committee's unanimous conclusion, all 19 members agreed, that the performance warranty of the Clean Air Act when implemented would, and I quote from the committee report, be "anticompetitive, anticonsumer, and unnecessary to the maintenance of clean air." We did not come to this conclusion lightly, but after a great deal of testimony and long arduous sessions in discussion and analysis of the problem.

The Dingell-Broyhill amendment which I support, responds to our study by reducing the performance warranty of the Clean Air Act to 18 months, 18,000 miles permanently. This is the only solution found by our committee which would correct the problems we found inherent in the warranty. I am opposed to the committee bill and its proposals to only reduce that warranty for 3 years and mandating yet another study of the issue, which I feel confident would end up as did the Small Business Committee study. The committee bill would only reduce the warranty for 3 years and then it would automatically revert to 5 years, 50,000 miles unless Congress acted to the contrary.

I find it hard to believe that Congress would take up this issue again in 3 years and on top of that I would feel that such a move would be a waste of our time as the issue has been very carefully studied by the House Small Business Committee and as a matter of fact, by the Antitrust Division of the Justice Department. I believe the facts are clear and we should act upon those facts. That is, reduce, as is done in the Dingell-Broyhill amendment, the performance warranty of the Clean Air Act to 18 months, 18,000 miles permanently and solve the problem.

The committee bill only sweeps the problem under the rug for a short time span and then would force the small business independent garage and replacement parts industry to attempt to get congressional attention again to help solve their problems. I believe that is unnecessarily burdensome and we should act upon the carefully arrived at conclusions of the Small Business Committee and Justice Department and I am therefore, strongly supportive and would urge my fellow members to support the permanent warranty reduction contained in the Dingell-Broyhill amendment, which would give permanent relief to the over 400,000 small business independent garages in this Nation which currently do 75 to 80 percent of the service work done on vehicles. We must not let this small business industry be destroyed through an ill-conceived federally mandated warranty which would force the consumer to return his car to the franchised dealer for all parts and service for 5 years or 50,000 miles.

I appreciate the careful analysis that went into the development of the language in the Dingell-Broyhill amendment and I would urge my fellow mem-

bers to support it as the only equitable solution to the anticonsumer and anti-competitive problems of the performance warranty of the Clean Air Act of 1970.

Mr. McKINNEY. Mr. Chairman, again Congress is considering amendments to the Clean Air Act of 1970, and again I come here in support of the Interstate and Foreign Commerce Committee bill, H.R. 6161. I only hope I will not have to repeat this performance next year. As I said last year, the committee-endorsed provisions of the Clean Air Act amendments offer the most reasonable means to maintain and improve air quality while considering the demands of energy conservation and economic recovery. One year and a barrage of information later, I have not altered my position.

The Clean Air Act was passed in 1970 with one basic purpose—the protection of the public health. Both stationary source and automobile emissions reduction goals were established to minimize the demonstrated health risks posed by the presence of certain chemical and particulate pollutants in the air. However, the act was an ambitious product of a more energy abundant and economically vibrant period. Within the context of 1977 energy and economic realities, new strategies must be chosen to achieve our Clean Air Act goals. Toward meeting these new realities, H.R. 6161 chooses new techniques but maintains the essential goals of the 1970 Act—clean air.

The aim of this bill is to extend compliance dates to allow for minimal economic disruption or energy waste, and to replace Federal controls with State decisionmaking in many important areas. Sections 103, 106, 112, 115, and 202 give the States the proper authority to grant compliance extensions for various reasons including conversion from oil to coal as a power source, testing new emission control technology, continuing growth in still dirty areas and infeasibility of transportation control techniques. Further, the bill will strictly limit the availability of the controversial indirect source review authority which some view as part of the EPA "no-growth" policy in limiting shopping center and parking facility construction. Indirect source review is a secondary pollution control technique and the committee bill insures that it remains just that.

In clarifying the court-endorsed policy that the Clean Air Act contains an inherent authority to prevent significant deterioration of already clean air, the committee bill proposes a three-tier system of classification for cleaner than required areas. Only 2 percent of certain Federal wilderness lands would automatically be termed class I with strict limits on development which increases existing pollution levels. All remaining Federal lands and all State areas would then be classified by the States either class II or class III. These categories permit areas to be "dirtied up" by 25 and 50 percent, respectively, of the lowest ambient air quality standard for given pollutants. Only the States may establish and alter these classifications.

The advantages of a workable policy to promote the prevention of significant

deterioration of air quality are many. First, this section of the bill would provide congressional guidance as to how the policy of significant deterioration should be defined and implemented, replacing harsh EPA regulations and "no-growth" court orders. It would also permit long-range growth planning until the class II and class III increments were used up. In my view, however, the most compelling of these benefits is in reduced risk to the public health. Research since the ambient air quality standards were set has shown that even these levels may be too high to eliminate serious health dangers. The lack of a prevention policy may result in the nationwide attainment of air quality levels from which we may have to retreat still further. With this in mind, I would rather maintain an effort to permit planned growth while protecting the purity of already clean, healthy areas.

In response to the realization that industrialized areas are not going to meet the national air quality standards by mid-1977, provision has been made to allow reasonable economic growth to continue in an area while making reasonable further progress to assure attainment of the standards by a fixed date. States exceeding these standards may continue to follow EPA's trade-off policy—allowing new sources if there results a net reduction in pollution—or revise their implementation plans. The new plans must identify all nonattainment areas for each pollutant, and assure attainment no later than 1982. In the case of the photochemical oxidant standards, which are the most difficult to attain, areas could have up to another 5 years to comply. During the interim, new sources may locate in these areas, and existing sources expand, only if the State is making reasonable further progress to assure attainment of the standards by the deadlines. Reasonable further progress is defined to mean equal reductions in emissions every 2 years, taking into account uncontrolled sources, new source growth and expansions of existing sources.

It is argued that these provisions are so tough that they can not be met, resulting in economic stagnation in the Nation's industrialized areas. Seven years have already been given to meet the deadline, however, and this extension reflects these concerns while striking an equitable balance between public health concerns and industrial development. Any broader conditions on expansion in nonattainment areas would require more stringent automobile emission standards, to offset the increase in industrial pollution.

H.R. 6161 also provides for annual motor vehicle inspection in the 29 areas where transportation control measures apply. States must adopt a vehicle inspection system at least as stringent as New Jersey's, or must implement some system to attain and maintain primary air standards. This provision reflects the fact that the majority of people, left to their own devices, have little regard for their car's emissions. Only through some form of mandatory inspection will cars continue, after leaving the factory, to meet the necessary standards. While I support this provision, I would suggest

that inspections not be limited only to the transportation control areas. A wider use of this important technique will successfully help reduce automobile pollution.

In regard to the length of warranties on emission control devices, under current law automobile manufacturers will have to guarantee the performance of control devices for 5 years/50,000 miles. This strong warranty provision was included in the 1970 act to encourage the design and production of vehicles capable of meeting emission standards in use. A longer warranty would also attract both State governments and consumers toward in-use testing, since consumers whose vehicles fail the test would have recourse against the manufacturer.

However, this long warranty period could have anticompetitive impacts on so-called aftermarket parts manufacturers and the independent service industry who would be cut out of the repair market for the length of the warranty. In recognition of this, the committee bill would reduce the warranty to 18 months/18,000 miles for a three year period. Then the longer warranty would be restored unless an FTC study found it was in fact anticompetitive. I find this a reasonable approach, considering the need to reconcile these apparently conflicting interests.

As I mentioned previously, I think the committee is to be commended for their approach to this legislation. In the area of auto emission controls, they have admittedly taken a middle of the road position. I think this is a responsible approach in that it strikes a workable balance between the legitimate needs of the auto industry for time to develop clean, fuel efficient technology, and the equally compelling need to reduce the concentrated presence of these substances, particularly in our urban areas. After all, there is no scientific or technological reason for the emission standards in this bill to cause fuel economy losses. There are technological means to accomplish both goals economically.

For these reasons, I cannot support the Dingell amendment. Passage of this proposal would mean that once again the auto industry could walk away from Washington satisfied with having won another legislative victory at the expense of the American people. The Dingell proposal would freeze present HC and CO emission controls through 1979 and never permit the NO<sub>x</sub> emissions level to go below 1 NO<sub>x</sub>, even if NO<sub>x</sub> emissions were proven to be a major cause of urban cancer. While promising cheaper, thriftier cars and little overall degradation of ambient air quality, such an amendment would exact costs far beyond those alleged savings. EPA studies show that while many areas may still be able to achieve the Clean Air Act's primary air quality standards in spite of an emissions freeze, there will be 46 percent more occasions when urban air quality in 26 major cities will exceed healthy levels. These more frequent pollution alerts threaten the health and property of millions and need not be tolerated in the name of auto efficiency improvements which I feel could be achieved using pres-



ent engine technology and emission controls.

Over the years, it has become obvious that clean, healthy air cannot be achieved through the control of individual pollutants, but by reducing the frequency of the many possible chemical combinations and reactions which occur in the atmosphere. In that nitrogen oxides react with various other pollutants to produce smog and a variety of hazardous—even potentially carcinogenic—substances, I do not favor an indefinite suspension of the ambient air quality standards. Through the formulation of implementation plans, the States have counted on the auto emission reduction schedule in choosing various stationary source control techniques. Should we now abandon the NO<sub>x</sub> standards for cars, many States would have to revise the pollution controls now required for powerplants and major industrial facilities to pick up the slack. Since the auto industry has had since 1970 to develop the technology to control this pollutant and has shown a consistent reluctance to do so, I do not think the Dingell amendment is justified.

On the other hand, there is increasing pressure to support the amendment offered by Mr. WAXMAN and Mr. MAGUIRE to force the auto industry into earlier compliance with stricter auto emission standards. While I will not hesitate to condemn the automakers for failing to act in good faith, I think the point must be made that the committee bill and the Waxman-Maguire amendment share the same final goal. However, the committee is simply more realistic in advocating an extended graduated scale in which to meet these goals. The committee bill firmly clamps down on the open ended "dates certain" which we have all grown familiar with during the past few years.

It makes absolutely no sense to kid ourselves into thinking that the "big three" are going to accelerate development of auto emission controls when we are all too familiar with their past records. Once and for all, we are finally saying, "this is the last time we are going to trust you" in language which the automakers can understand, with provisions which the automakers can cope with, and in standards which the automakers can and must meet if we are ever going to realize our goals of cleaner air. Overall, I am hopeful that during continued discussion of the amendments to the clean air bill, my colleagues will keep in mind the fact that while attractive alternatives might be offered, the committee bill offers the most responsible solutions to the problems we face today.

Mr. HANSEN. Mr. Chairman, since fuel economy is a major topic not only as it relates to the auto emission standards we are discussing today, but also to the entire energy policy, I suggest that we examine this critical factor as it relates to the issue of high altitude certification of automobiles. The fact is that fuel economy is significantly impaired as a result of the high altitude requirements. This is determined in two ways.

First, a high altitude car gets lower fuel economy than the corresponding nonhigh altitude car. At least one manufacturer has sent a correspondence

to all high altitude dealers stating that the EPA MPG rating does not apply to high altitude vehicles, and that it should be altered to reflect the lower fuel economy. The decrease in fuel economy which is experienced as a result of the addition of high altitude emission control equipment is in the vicinity of 5 to 7 percent.

Second, due to limited availability of engine-transmission configurations, many of the most fuel efficient combinations are not offered for sale at high altitude. Standard transmissions on small cars and six-cylinder engines on full-size cars are often not certified by the manufacturers for high altitude use. This means that those customers seeking the most fuel efficient vehicles are precluded from purchasing these vehicles at high altitude.

The challenge of energy conservation has been called by the President the "moral equivalent of war." In the face of this tremendous challenge, can we afford to waste fuel on high altitude vehicles which can offer no corresponding gain in terms of air cleanup? I suggest that continuing to enforce this regulation would be foolhardy in light of the evidence which has been presented here today.

Mr. McKAY. Mr. Chairman, I rise to speak in support of the Staggers high altitude amendment. Consumers and automobile dealers in my district have been adversely and, I believe, unfairly affected by EPA regulations which went into effect last year with respect to light duty motor vehicles used in high altitude areas of the country. The regulations call for separate emission certification for vehicles which are sold for principal use in some 166 designated high altitude counties nationwide. All 18 counties I represent are affected.

The EPA regulations have had the effect of reducing the availability of many popular models of automobiles to Utah buyers. Items such as standard transmission and six-cylinder engines are often not certified by the manufacturers due to excessive costs for sale in high altitude areas.

I believe the EPA regulations are unfair and discriminate against persons who live in high altitude areas. The EPA regulations in no way restrict automobiles bought outside Utah to come into the State. Tourists or Utahans who may purchase their car in a low altitude area are allowed to bring their cars into the State and travel without restriction. The impact is inequitable and imposes a real hardship to automobile dealers in my district.

For these reasons, I strongly support the Staggers amendment to the clean air bill which would suspend the existing high altitude regulations and establish criteria to be considered by EPA prior to establishing any future regulations. I believe this approach will result in a more equitable solution to the very real problem of air quality deterioration from auto emissions. I strongly support the amendment of the gentleman from West Virginia and urge its adoption.

The CHAIRMAN. The question is on the amendment, as amended, offered by the gentleman from North Carolina (Mr. PREYER), as a substitute for the amend-

ment, as amended, offered by the gentleman from Michigan (Mr. DINGELL).

The question was taken; and the Chairman announced that the ayes appeared to have it.

## RECORDED VOTE

Mr. DINGELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 202, not voting 41, as follows:

[Roll No. 289]

## AYES—190

|                  |                |               |
|------------------|----------------|---------------|
| Addabbo          | Fish           | Moss          |
| Akaka            | Fisher         | Mottl         |
| Allen            | Foley          | Murphy, N.Y.  |
| Ambro            | Ford, Tenn.    | Murphy, Pa.   |
| Ammerman         | Fowler         | Myers, Gary   |
| Anderson, Calif. | Fraser         | Neal          |
| Anderson, Ill.   | Fuqua          | Nix           |
| Andrews, N.C.    | Gephardt       | Nolan         |
| Ashley           | Gialmo         | Obey          |
| AuCoin           | Gibbons        | Otinger       |
| Badillo          | Gilman         | Panetta       |
| Baldus           | Glickman       | Patten        |
| Baucus           | Goodling       | Patterson     |
| Beard, R.I.      | Gore           | Pattison      |
| Bedell           | Gudger         | Pease         |
| Bennett          | Hannaford      | Pepper        |
| Blaggi           | Harkin         | Pettis        |
| Bingham          | Harrington     | Pike          |
| Blouin           | Harris         | Preyer        |
| Boggs            | Hawkins        | Pritchard     |
| Boland           | Heckler        | Rahall        |
| Bolling          | Hefner         | Rallsback     |
| Bonker           | Heftel         | Rangel        |
| Brademas         | Hollenbeck     | Rinaldo       |
| Brinkley         | Holtzman       | Rodino        |
| Brown, Calif.    | Howard         | Rogers        |
| Brown, Mich.     | Hughes         | Rose          |
| Buchanan         | Ireland        | Rosenthal     |
| Burke, Calif.    | Jacobs         | Roybal        |
| Burke, Fla.      | Jeffords       | Ryan          |
| Burlison, Mo.    | Jenkins        | Santini       |
| Burton, John     | Jenrette       | Scheuer       |
| Carter           | Jones, N.C.    | Schroeder     |
| Cavanaugh        | Jordan         | Seiberling    |
| Chappell         | Kastenmeier    | Simon         |
| Chisholm         | Keys           | Solarz        |
| Clay             | Koch           | Spellman      |
| Cohen            | Kostmayer      | St Germain    |
| Collins, Ill.    | Krebs          | Staggers      |
| Conce            | Leggett        | Stark         |
| Conyers          | Lehman         | Stokes        |
| Corman           | Lent           | Studds        |
| Cornell          | Levitay        | Thompson      |
| Coughlin         | Long, Md.      | Thornton      |
| Danielson        | Lujan          | Tsongas       |
| Davis            | Lundine        | Udall         |
| Delaney          | McClory        | Ullman        |
| Derrick          | McCloskey      | Van Deerlin   |
| Dickinson        | McKay          | Vanik         |
| Dicks            | McKinney       | Vento         |
| Dodd             | Maguire        | Waxman        |
| Downey           | Markey         | Weiss         |
| Drinan           | Mattox         | Whalen        |
| Early            | Meeds          | Wilson, C. H. |
| Eckhardt         | Meyner         | Wirth         |
| Edgar            | Mikulski       | Wolf          |
| Edwards, Calif.  | Mikva          | Wright        |
| Emery            | Miller, Calif. | Wyder         |
| Ertel            | Mineta         | Wylie         |
| Evans, Colo.     | Minish         | Yates         |
| Evans, Ga.       | Mitchell, Md.  | Yatron        |
| Fascell          | Moakley        | Young, Fla.   |
| Fenwick          | Moffett        | Zeferetti     |
|                  | Moorhead, Pa.  |               |

## NOES—202

|                  |                |               |
|------------------|----------------|---------------|
| Alexander        | Breaux         | Coleman       |
| Andrews, N. Dak. | Breckinridge   | Collins, Tex. |
| Annunzio         | Brodhead       | Conable       |
| Applegate        | Broomfield     | Corcoran      |
| Archer           | Brown, Ohio    | Cornwell      |
| Armstrong        | Broyhill       | Cotter        |
| Ashbrook         | Burgener       | Crane         |
| Aspin            | Burke, Mass.   | D'Amours      |
| Bafalis          | Burleson, Tex. | Daniel, Dan   |
| Barnard          | Butler         | Daniel, R. W. |
| Bauman           | Byron          | de la Garza   |
| Beard, Tenn.     | Carney         | Derwinski     |
| Benjamin         | Carr           | Devine        |
| Bevill           | Cederberg      | Diggs         |
| Blanchard        | Clausen        | Dingell       |
| Bonior           | Don H.         | Dornan        |
| Bowen            | Cleveland      | Duncan, Oreg. |
|                  | Cochran        | Duncan, Tenn. |

|                 |                |              |              |                 |              |                 |            |               |
|-----------------|----------------|--------------|--------------|-----------------|--------------|-----------------|------------|---------------|
| Edwards, Ala.   | Le Fante       | Roncalio     | Bonior       | Hagedorn        | Nichols      | Lehman          | Noian      | Solarz        |
| Edwards, Okla.  | Leach          | Rooney       | Bonker       | Hall            | Nowak        | Lent            | Obey       | Spellman      |
| Ellberg         | Lederer        | Rostenkowski | Bowen        | Hammer-         | O'Brien      | Long, Md.       | Otinger    | St Germain    |
| English         | Lloyd, Calif.  | Rousselot    | Brademas     | schmidt         | Oakar        | Lundine         | Panetta    | Staggers      |
| Erlenborn       | Lloyd, Tenn.   | Rudd         | Breaux       | Hanley          | Oberstar     | McCloskey       | Patten     | Stark         |
| Evans, Ind.     | Long, La.      | Ruppe        | Breckinridge | Hansen          | Pease        | McHugh          | Patterson  | Stokes        |
| Fary            | Lott           | Russo        | Brinkley     | Harsha          | Perkins      | McKinney        | Pattison   | Studds        |
| Fithian         | Lukens         | Sarasin      | Broomfield   | Hefner          | Pickle       | Maguire         | Pepper     | Thompson      |
| Flippo          | McCormack      | Satterfield  | Brown, Mich. | Hefel           | Pritchard    | Markay          | Pettis     | Tsongas       |
| Flood           | McDade         | Schulze      | Brown, Ohio  | Hightower       | Pursell      | Mattox          | Pike       | Tucker        |
| Flowers         | McDonald       | Sebelius     | Broyhill     | Hillis          | Quayle       | Meyner          | Preyer     | Udall         |
| Flynt           | McFall         | Sharp        | Horton       | Holt            | Quile        | Mikulski        | Railsback  | Van Deerlin   |
| Ford, Mich.     | Madigan        | Shipley      | Hubbard      | Huckaby         | Rahall       | Mikva           | Rangel     | Vanik         |
| Fountain        | Mahon          | Shuster      | Hughes       | Huckaby         | Regula       | Miller, Calif.  | Richmond   | Waxman        |
| Frenzel         | Mann           | Sikes        | Hyde         | Ichord          | Reuss        | Mineta          | Rinaldo    | Weiss         |
| Frey            | Marks          | Sisk         | Ichord       | Ireland         | Rhodes       | Minish          | Rodino     | Whalen        |
| Gammage         | Marlenee       | Skellton     | Ichord       | Jenkins         | Risenhoover  | Mitchell, Md.   | Rogers     | Wilson, C. H. |
| Gaydos          | Marriott       | Slack        | Ichord       | Jenrette        | Roberts      | Moakley         | Rosenthal  | Wirth         |
| Goldwater       | Martin         | Smith, Iowa  | Ichord       | Johnson, Calif. | Robinson     | Moffett         | Roybal     | Wolff         |
| Gonzalez        | Mazzoli        | Smith, Nebr. | Ichord       | Johnson, Colo.  | Roncalio     | Moss            | Ryan       | Wylder        |
| Gradison        | Michel         | Snyder       | Ichord       | Johnson, N.C.   | Rooney       | Mottl           | Santini    | Yates         |
| Grassley        | Miller, Ohio   | Stanton      | Ichord       | Jones, Okla.    | Rose         | Myers, Michael  | Scheuer    | Young, Fla.   |
| Guyer           | Mitchell, N.Y. | Steed        | Ichord       | Jones, Tenn.    | Rostenkowski | Neal            | Seiberling | Zerferetti    |
| Hagedorn        | Mollohan       | Steiger      | Ichord       | Jordan          | Rousselot    | Nix             | Simon      |               |
| Hall            | Montgomery     | Stockman     | Ichord       | Kasten          | Rudd         |                 |            |               |
| Hammer-         | Moore          | Stratton     | Ichord       | Kazen           | Ruppe        | Abdnor          | Florio     | Roe           |
| schmidt         | Moorhead,      | Stump        | Ichord       | Kelly           | Russo        | Badham          | Forsythe   | Runnels       |
| Hansen          | Calif.         | Symms        | Ichord       | Kemp            | Sarasin      | Beilenson       | Ginn       | Sawyer        |
| Harsha          | Murphy, Ill.   | Taylor       | Ichord       | Ketchum         | Satterfield  | Brooks          | Glickman   | Skubitz       |
| Hightower       | Murtha         | Thone        | Ichord       | Kildee          | Schroeder    | Burton, Phillip | Hamilton   | Spence        |
| Hillis          | Myers, Michael | Traxler      | Ichord       | Kindness        | Schulze      | Caputo          | Holland    | Stangeland    |
| Holt            | Myers, Ind.    | Treen        | Ichord       | Krueger         | Sebelius     | Clawson, Del    | Latta      | Steers        |
| Horton          | Natcher        | Tribble      | Ichord       | Krueger         | Sharp        | Cornwell        | McEwen     | Teague        |
| Hubbard         | Nedzi          | Tucker       | Ichord       | Krueger         | Shipley      | Cunningham      | Mathis     | Watkins       |
| Huckaby         | Nichols        | Vander Jagt  | Ichord       | Krueger         | Shuster      | Dellums         | Metcalfe   | Weaver        |
| Hyde            | Nowak          | Volkmer      | Ichord       | Krueger         | Sikes        | Dent            | Poage      | Whitehurst    |
| Ichord          | O'Brien        | Waggonner    | Ichord       | Krueger         | Sisk         | Evans, Del.     | Pressler   | Wiggins       |
| Johnson, Calif. | Oakar          | Walgren      | Ichord       | Krueger         | Skellton     | Findley         | Price      | Young, Alaska |
| Johnson, Colo.  | Oberstar       | Walker       | Ichord       | Krueger         | Slack        |                 |            |               |
| Jones, Okla.    | Perkins        | Walsh        | Ichord       | Krueger         | Smith, Iowa  |                 |            |               |
| Jones, Tenn.    | Pickle         | Wampler      | Ichord       | Krueger         | Smith, Nebr. |                 |            |               |
| Kasten          | Pursell        | White        | Ichord       | Krueger         | Snyder       |                 |            |               |
| Kazen           | Quayle         | Whitley      | Ichord       | Krueger         | Stanton      |                 |            |               |
| Kelly           | Quile          | Wilson, Bob  | Ichord       | Krueger         | Steed        |                 |            |               |
| Kemp            | Quillen        | Wilson, Tex. | Ichord       | Krueger         | Steiger      |                 |            |               |
| Ketchum         | Regula         | Winn         | Ichord       | Krueger         | Stockman     |                 |            |               |
| Kildee          | Reuss          | Young, Mo.   | Ichord       | Krueger         | Stratton     |                 |            |               |
| Kindness        | Rhodes         | Young, Tex.  | Ichord       | Krueger         | Stump        |                 |            |               |
| Krueger         | Risenhoover    | Zablocki     | Ichord       | Krueger         | Symms        |                 |            |               |
| LaFalce         | Roberts        |              | Ichord       | Krueger         | McFall       |                 |            |               |
| Lagomarsino     | Robinson       |              | Ichord       | Krueger         | Thone        |                 |            |               |

## NOT VOTING—41

|                 |          |               |
|-----------------|----------|---------------|
| Abdnor          | Ginn     | Roe           |
| Badham          | Hamilton | Runnels       |
| Beilenson       | Hanley   | Sawyer        |
| Brooks          | Holland  | Skubitz       |
| Burton, Phillip | Latta    | Spence        |
| Caputo          | McEwen   | Stangeland    |
| Clawson, Del    | McHugh   | Steers        |
| Cunningham      | Mathis   | Teague        |
| Dellums         | Metcalfe | Watkins       |
| Dent            | Milford  | Weaver        |
| Evans, Del.     | Poage    | Whitehurst    |
| Findley         | Pressler | Wiggins       |
| Florio          | Price    | Young, Alaska |
| Forsythe        | Richmond |               |

So the amendment, as amended, offered as a substitute for the amendment, as amended, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL), as amended.

The question was taken; and the chairman announced that the ayes appeared to have it.

## RECORDED VOTE

Mr. WAXMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 255, noes 139, not voting 39, as follows:

## [Roll No. 290]

## AYES—255

|                |           |              |
|----------------|-----------|--------------|
| Alexander      | Archer    | Bauman       |
| Allen          | Armstrong | Beard, R.I.  |
| Anderson, Ill. | Ashbrook  | Beard, Tenn. |
| Andrews, N.C.  | Ashley    | Benjamin     |
| Andrews,       | Aspin     | Bennett      |
| N. Dak.        | Bafalis   | Bevill       |
| Annunzio       | Baldus    | Blanchard    |
| Applegate      | Barnard   | Boggs        |

## NOES—139

|               |                 |             |
|---------------|-----------------|-------------|
| Addabbo       | Clay            | Fraser      |
| Akaka         | Cohen           | Gephardt    |
| Ambro         | Collins, Ill.   | Gialmo      |
| Ammerman      | Conte           | Gibbons     |
| Anderson,     | Conyers         | Gore        |
| Calif.        | Corman          | Hannaford   |
| AuCoin        | Cornell         | Harkin      |
| Badillo       | Coughlin        | Harrington  |
| Baucus        | Danielson       | Harris      |
| Bedell        | Dodd            | Hawkins     |
| Biaggi        | Downey          | Heckler     |
| Bingham       | Drinan          | Hollenbeck  |
| Blouin        | Early           | Holtzman    |
| Boland        | Eckhardt        | Howard      |
| Bolling       | Edgar           | Jacobs      |
| Brown, Calif. | Edwards, Calif. | Jeffords    |
| Buchanan      | Ellberg         | Kastenmeier |
| Burke, Calif. | Emery           | Keys        |
| Burke, Fla.   | Fascell         | Koch        |
| Burton, John  | Fenwick         | Kostmayer   |
| Carter        | Fish            | Krebs       |
| Cavanaugh     | Fisher          | Lederer     |
| Chisholm      | Fowler          | Leggett     |

## NOT VOTING—39

|                 |          |               |
|-----------------|----------|---------------|
| Abdnor          | Florio   | Roe           |
| Badham          | Forsythe | Runnels       |
| Beilenson       | Ginn     | Sawyer        |
| Brooks          | Glickman | Skubitz       |
| Burton, Phillip | Hamilton | Spence        |
| Caputo          | Holland  | Stangeland    |
| Clawson, Del    | Latta    | Steers        |
| Cornwell        | McEwen   | Teague        |
| Cunningham      | Mathis   | Watkins       |
| Dellums         | Metcalfe | Weaver        |
| Dent            | Poage    | Whitehurst    |
| Evans, Del.     | Pressler | Wiggins       |
| Findley         | Price    | Young, Alaska |

The Clerk announced the following pairs:

On this vote:

Mr. Hamilton for, with Mr. Florio against.  
Mr. Teague for, with Mr. Weaver against.  
Mr. Cornwell for, with Mr. Beilenson against.

Mr. Ginn for, with Mr. Dellums against.

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. ROUSSELOT. Mr. Chairman, I rise in opposition to H.R. 6161, the Clean Air Act Amendments of 1977. This bill, as reported by the House Committee on Interstate and Foreign Commerce, is a prime example of the kind of "no growth" position which is being foisted on us by the very same advocates who complain about environmental quality and turn around vociferating against high unemployment. They do not realize that the kind of unrealistic standards which they are intent upon imposing through legislation such as the bill before us now are the very standards that will have the effect of stunting growth and eliminating jobs for the unemployed.

Despite hours of testimony cautioning against moving in a hasty, imprudent fashion, the Interstate and Foreign Commerce Committee has produced a bill that would tend to aggravate many of the economic and energy shortage difficulties that are facing our country today, all in the name of unrealistic and virtually impossible-to-attain air quality standards. Specially, the problems of the bill can be broken down into four main areas:

First. Nonattainment: Present law absolutely prohibits industrial growth in areas where the national air quality standards are not being met. There have been serious questions recently regarding the validity of the scientific data base used to set the standards. Rather than extending these provisions, as H.R. 6161



does, the law should be made flexible to allow States to decide whether a new industry should be allowed to locate in a given area and grant variances where appropriate.

Adherence to the nonattainment provisions of the current law has already cost the economy millions of dollars and thousands of jobs. The following is a sample of the kind of development that has been stopped by EPA's strict enforcement of the ban on new construction in nonattainment areas:

A \$500 million low-sulfur crude oil refinery in Hampton Roads, Virginia.

A General Motors plant—along with 5,000 new jobs—in Oklahoma City, Oklahoma.

A \$500 million Dow Chemical plant in San Jose, California.

A \$1 billion ARCO facility in the same locality.

The much-sought-after Volkswagen assembly plant in Pennsylvania.

The multi-billion dollar Seadock facility off Houston Texas, to unload super-tankers away from shoreline areas.

A power plant in Jacksonville, Florida, which would have provided at least \$125 million worth of construction jobs alone.

Second. Nondegradation: We are told that nondegradation provisions are necessary to protect the "pristine" quality of our national parks. But it goes much farther than that. The Clean Air Act Amendments of 1977 would set up a Federal land use control system, to control major industrial development in areas where the air quality is already much better than health and welfare standards require.

Third. "Best Available Control Technology": H.R. 6161 contains separate provisions which would require the most effective control technology possible, with little regard for cost or benefit, to be installed on any new or modified industrial facility which emits a pollutant. Needless to say, such a requirement will cost industry billions—billions that could otherwise be spent on productive, economic expansion, and job creation. The authors of this legislation seem to forget that there are many alternative control methods—such as tall stacks, use of clean fuels; that is, low sulfur or oil, intermittent controls—which will do the same job at far less cost.

Fourth. Noncompliance penalties: The Clean Air Act amendments set unreasonably stiff penalties for industrial plants which for any reason do not meet the June 30, 1977, emission control deadline. It is ironic to note that the committee insisted upon imposing these penalties even though testimony was received that such fines might well result in even dirtier air since companies would first have to pay the fine, then try to find capital to buy the required control equipment, thereby delaying clean up of the facility.

Fifth. Auto air emission: Perhaps the most controversial provisions of the Clean Air Act deal with the auto air emission section. In my view, the standards set in this section are far too stringent and unrealistic. Furthermore, they have serious long-range effects on significant national priorities such as energy production, conservation, and employment.

The 1978 model auto emission standards, by everyone's best estimate—including EPA—cannot be met by the auto manufacturers. Relief is needed quickly if auto companies hope to deliver 1978 models and they will be forced to shut down unless an extension is provided. Since one out of every six employees in the private sector is dependent upon the auto industry, the impacts of such a shutdown would, of course, be enormous.

In response to the problems presented by the auto emission section, I will support the Dingell-Broyhill amendment. In my opinion, it offers the most balanced and realistic approach to related environmental energy and economic concerns. The standards proposed in the Dingell-Broyhill amendment are technologically feasible and they acknowledge the time needed to perfect technology to meet both emission controls and mandated fuel economy standards, while at the same time protecting public health and welfare.

In summary, Mr. Chairman, I think it is necessary and important to point out that central to this whole debate are the original 1970 standards that were set in 90 days by EPA bureaucrats. The information available then and the scientific data available now is vastly different. The well-known CHESSE studies that were originally used to support the 1970 EPA standards were so poorly executed and interpreted that according to one foreign expert "they are largely discounted outside of the United States." Rather than imposing strict standards now on the basis of much disputed information and evidence, it seems obvious to me that it would be far more prudent to defer judgment for the moment until a more reasoned and informed evaluation can be made of all the relevant statistics. I think we would be far better advised, particularly in light of the President's recently announced energy program, to carefully consider the impact of the standards we are being asked to rule on today on energy supply, conservation, and the economy—factors that to date have not been properly considered.

Accordingly, Mr. Chairman, I would urge my colleagues to defer consideration of these important matters until a more thorough analysis of all important information can be made and vote against H.R. 6161.

The CHAIRMAN. The Clerk will read title III.

The Clerk read as follows:

#### TITLE III—MISCELLANEOUS AMENDMENTS

##### REDESIGNATION OF AIR QUALITY CONTROL REGIONS

SEC. 301. Section 107 of the Clean Air Act (relating to air quality control regions) is amended by adding at the end thereof the following new subsection:

"(d) (1) Except as otherwise provided in paragraph (2), the Governor of each State is authorized, with the approval of the Administrator, to redesignate from time to time the air quality control regions within such State.

"(2) In the case of an air quality control region in a State, or part of such region, which the Administrator finds may significantly affect air pollution concentrations in

another State, the Governor of the State in which such region, or part of a region, is located may redesignate from time to time the boundaries of so much of such air quality control region as is located within such State only with the approval of the Administrator and with the consent of all Governors of all States which the Administrator determines may be significantly affected.

"(3) No compliance date extension granted under section 119 (relating to coal conversion) shall cease to be effective by reason of the regional limitation provided in section 119(c) (2) (D) if the violation of such limitation is due solely to a redesignation of a region under this subsection.

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that section 301 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. DINGELL. Mr. Chairman, reserving the right to object, would the gentleman mind asking that all of title III be read?

Mr. ROGERS. If the gentleman will yield, I think we had agreed, if the gentleman does not mind, to go section by section. There are a few amendments here. I do not think we have any problems with the amendments.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there amendments to section 301?

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for many months, the New York City delegation has been wrestling with the problem of the bridge toll requirement contained in the New York State Environmental Protection Agency implementation plan for New York City.

In 1973, the State of New York submitted an implementation plan to the U.S. Environmental Protection Agency to reach and maintain the national primary and secondary ambient air quality standards set forth in the Clean Air Act of 1970.

The New York plan was deemed inadequate by the U.S. Environmental Protection Agency and was disapproved. As a result of that disapproval, New York agreed to reduce traffic in the downtown area, and one of the approaches to reduce traffic was a bridge toll requirement. An additional purpose of this requirement for bridge tolls was to provide funds for mass transit and to provide an alternative which would both reduce traffic and improve the quality of air in Manhattan.

The plan containing the toll measure was subsequently approved by the Environmental Protection Agency. New York did not take steps to implement the bridge toll measure. As a result, the State was sued by an environmental group known as Friend of Earth. In 1976, the U.S. Court of Appeals affirmed the district court order requiring the State to carry out this bridge toll requirement.

Thus far, the bridge toll requirement

has not been carried out. There is substantial opposition to tolling bridges from the citizens of New York because, among other things, of its questionable impact on air quality—backups of 20-minute duration extending more than a mile from the toll plazas may actually increase air pollution; vehicle miles traveled will decrease no more than 3 percent and bridge and tunnel traffic will decrease by less than 5 percent, the lack of an alternative method for transportation; and finally, the time to construct toll plazas and the cost involved which is estimated at a minimum of 3½ years at \$65 million respectively. For all of these reasons and the fact that there is no space to install bridge toll booths and collector systems, New York does not wish to implement this plan.

Mr. Speaker, the delegation has worked in close cooperation on this issue, and we are grateful to Chairman ROGERS and his staff for their patience and helpfulness in developing an acceptable compromise which would save us from the necessity of going through the expensive, destructive, and counterproductive exercise of proceeding with the tolling of the Harlem and East River bridges while at the same time preserving intact the benefits flowing from this legislation to the 20 million residents of the New York City metropolitan area.

The amendment that will be offered on the House floor will solve this problem. It will allow the Governor of the State of New York to request of the Environmental Protection Agency—and will direct the Environmental Protection Agency to grant the request—that the bridge toll requirement be eliminated from New York's plan.

The effect will be that, upon the request of the Governor, the bridge toll will be removed from the State plan. When the bridge toll requirement is removed, the State will nonetheless be required to provide another measure or measures which will protect the health of its citizens. Thus, New York still remains obligated to submit a plan adequate to maintain health standards. This amendment will require measures to be taken to assist public transportation and to assure that the State will use whatever funds were reasonably available to provide an alternative to the use of the private automobile and to encourage the use of public transportation, thus reducing air pollution.

But the basic choice of the method of compliance to substitute the bridge toll requirement would be up to the State. That is the effect of the amendment. Unless this amendment is adopted, the Governor of the State will be subject to potential liability for violation of a court order which becomes effective within the next month. I am delighted that through the collective efforts of the New York delegation, most especially our colleague from Brooklyn, Representative HOLTZMAN, who will offer the amendment later today, working closely with Chairman ROGERS and his staff, we are achieving the goals of the legislation without the inordinate waste, hardships, and inconvenience which the toll plan would have occasioned.

The CHAIRMAN. Are there amendments to section 301?

Mr. TSONGAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman. I would like to address a number of questions to the gentleman from California (Mr. WAXMAN) if I may.

Since Congress, under the Resource Conservation and Recovery Act of 1976, Public Law 94-580, mandated the construction of resource recovery systems, does section 127 contradict the intent of Congress by restricting the construction of these facilities?

Mr. WAXMAN. No. There is nothing inconsistent in these provisions.

Mr. TSONGAS. Is it the intent of section 127 to permit the States to revise implementation plans for the attainment of air quality standards in a way that will give priority to the construction of resource recovery systems?

Mr. WAXMAN. Yes. States may do this.

Mr. TSONGAS. Is it the intent of section 127 to permit the States to grant priority to resource recovery systems when allowing the construction of new sources of hydrocarbon emissions under the offset policy?

Mr. WAXMAN. Yes. That is the intent.

Mr. TSONGAS. Is it the intent of section 127 that EPA and the States consider the environmental consequences of not building resource recovery systems and try to reconcile that with the need to improve the quality of air in non-attainment areas?

Mr. WAXMAN. The gentleman is correct.

The CHAIRMAN. The Clerk will read section 302.

The Clerk read as follows:

#### CONSULTATION

SEC. 302. (a) Title I of the Clean Air Act is amended by adding at the end thereof the following new section:

"CONSULTATION WITH LOCAL GOVERNMENTS, REGIONAL AGENCIES, AND COUNCILS OF GOVERNMENT

"SEC. 125 (a) An applicable implementation plan under section 110 shall provide a satisfactory process for consultation with general purpose units of local government, regional agencies, councils of government, and any Federal land manager having authority over Federal land to which such plan applies prior to the adoption of—

"(1) any transportation controls, air quality maintenance plans or preconstruction review of direct sources of air pollution, or

"(2) any measure referred to—

"(A) in section 110(a) (2) (I) (pertaining to indirect sources), or

"(B) in section 110(a) (2) (J) pertaining to prevention of significant deterioration)

adopted more than one year after the date of enactment of the Clean Air Act Amendments of 1977 as part of such plan. No such process shall be deemed satisfactory unless it meets the requirements of regulations promulgated by the Administrator to assure adequate consultation. Such regulations shall be promulgated after notice and opportunity for public hearing and not later than nine months after the date of the enactment of this section. The Administrator may disapprove any portion of a plan relating to any measure described in the first sentence of this subsection or to the consultation process required under this subsection if he determines that such plan does not meet the requirements of this section.

"(b) For purposes of section 307 or any other provision of law relating to judicial re-

view, only a general purpose unit of local government, regional agency, council of government, or State adversely affected by action of the Administrator approving or promulgating any portion of a plan referred to in this section may petition for review of such action or may intervene in any such action on the basis of a violation of the requirements of this section.

"(c) For purposes of this section, the term 'Federal land manager' has the same meaning as when used in section 160."

(b) Section 110(c)(1) of such Act is amended by adding the following new sentence at the end thereof: "Notwithstanding the preceding sentence, any portion of a plan relating to any measure described in the first sentence of section 125(a) or the consultation process required under section 125 shall not be required to be promulgated before the date eight months after such date required for submission."

Mr. BROTHILL (during the reading). Mr. Chairman, I ask unanimous consent that section 302 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. Are there any amendments to section 302?

There being none, the Clerk will read section 303.

Mr. BROTHILL. Mr. Chairman, I ask unanimous consent that the remainder of title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. WAXMAN. Mr. Chairman, I reserve the right to object.

Mr. BROTHILL. Mr. Chairman, if the gentleman will yield, it is my understanding there are only two amendments at the desk, and they are both noncontroversial.

Mr. WAXMAN. Mr. Chairman, I am compelled to object to the gentleman's request, because the chairman of the subcommittee, who is not here right at the moment, has agreed to go through the title section by section, rather than to consider the complete title as read.

Mr. Chairman, unless the gentleman withholds his request, I must object.

The CHAIRMAN. Objection is heard.

The Clerk will read section 303.

The Clerk read as follows:

#### DELEGATION TO LOCAL GOVERNMENT UNDER FEDERAL PLAN

SEC. 303. Section 110(c) of the Clean Air Act is amended by adding the following new paragraph at the end thereof:

"(3) Upon application of the chief executive officer of any general purpose unit of local government, if the Administrator determines that such unit has adequate authority under State or local law, the Administrator may delegate to such unit the responsibility to implement and enforce within the jurisdiction of such unit any part of a plan promulgated under this subsection. Nothing in this paragraph shall prevent the Administrator from implementing or enforcing any applicable provision of a plan promulgated under this subsection."

Mr. BROTHILL (during the reading). Mr. Chairman, I ask unanimous consent that section 303 be considered as read, printed in the RECORD, and open to amendment at any point.



The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. WAXMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the committee bill does not alter existing State-Indian relationships under the Clean Air Act. To the extent that States already have assumed jurisdiction over Indian lands under other Federal legislation, they may redesignate them in the same manner as other lands. Neither existing EPA regulations under the Clean Air Act of 1970, or this bill increase or decrease any State's authority over Indian lands. That would have to be accomplished by other, more explicit legislation. So the committee did not intend to alter either existing Indian-State relationships or existing EPA regulations under this section or under section 108 of the bill with respect to redesignation of Indian lands.

The CHAIRMAN. Are there further amendments to section 303?

There being none, the Clerk will read section 304.

The Clerk read as follows:

#### EMPLOYMENT EFFECTS

SEC. 304. The Clean Air Act is further amended by adding the following new section at the end thereof:

#### "EMPLOYMENT EFFECTS

"SEC. 319. (a) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the issuance of any requirements under this Act, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such requirements.

"(b) Any employee, or any representative of such employee, who is discharged or laid off, threatened with discharge or layoff, or whose employment is otherwise adversely affected or threatened to be adversely affected because of the alleged results of any requirement imposed or proposed to be imposed under this Act, including any requirement applicable to Federal facilities and any requirement imposed by a State or political subdivision thereof, may request the Administrator to conduct a full investigation of the matter. Any such request shall be reduced to writing, shall set forth with reasonable particularity the grounds for the request, and shall be signed by the employee, or representative of such employee, making the request. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days' notice. At such hearings, the Administrator shall require the parties, including the employer involved, to present information relating to the actual or potential effect of such requirements on employment and the detailed reasons or justification therefor. If the Administrator determines that there are no reasonable grounds for conducting a public hearing he shall notify (in writing) the party requesting such hearing of such a determination and the reasons therefor. If the Administrator does convene such a hearing, the hearing shall be on the record. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such requirements on employment and on the alleged actual or potential discharge, layoff, or other adverse effect on employment, and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public.

"(c) In connection with any investigation or public hearing conducted under subsec-

tion (b) of this section or as authorized in section 121(d)(1)(D), the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for emission data, upon a showing satisfactory to the Administrator by such owner or operator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes of such owner, or operator, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevant in any proceeding under this Act. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In cases of contumacy or refusal to obey a subpoena served upon any person under this subparagraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(d) Nothing in this section shall be construed to require or authorize the Administrator, the States, or political subdivisions thereof, to modify or withdraw any requirement imposed or proposed to be imposed under this Act."

Mr. BROYHILL (during the reading). Mr. Chairman, I ask unanimous consent that section 304 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. Are there any amendments to section 304?

There being none, the Clerk will read section 305.

The Clerk read as follows:

#### ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

SEC. 305. (a) Section 307 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(d)(1) This subsection applies to—

"(A) the promulgation or revision of any national ambient air quality standard under section 109,

"(B) the approving or disapproving of any State implementation plan (or any revision thereof) under section 110 or 111(d),

"(C) the promulgation or revision of an implementation plan by the Administrator under section 110(c),

"(D) the promulgation or revision of any standard of performance under section 111 or emission standard under section 12,

"(E) the promulgation or revision of any regulation pertaining to any fuel or fuel additive under section 211,

"(F) the promulgation or revision of any aircraft emission standard under section 231,

"(G) promulgation or revision of regulations pertaining to compliance date extensions for coal conversion under section 119 (but not including orders granting or denying any compliance date extensions),

"(H) promulgation or revision of regulations pertaining to delayed compliance orders for stationary sources under section 121

(but not including orders granting or denying any delayed compliance orders),

"(I) promulgation or revision of regulations authorizing compliance date extensions for transportation control measures under section 123 (but not including orders granting or denying such extensions),

"(J) promulgation or revision of regulations requiring indirect source review programs under section 124,

"(K) promulgation or revision of regulations under subtitle B of title I (relating to stratosphere and ozone protection),

"(L) promulgation or revision of regulations under subtitle C of title I (relating to prevention of significant deterioration of air quality and protection of visibility),

"(M) promulgation or revision of regulations under section 202 and test procedures for new motor vehicles or engines under section 206, and the revision of a standard under section 202(a)(3)(B),

"(N) the approval or disapproval of any application for a State program grant and any deobligation of grant funds under section 105,

"(O) promulgation or revision of regulations for noncompliance penalties under section 122,

"(P) promulgation or revision of any regulations promulgated under section 207 (relating to warranties and compliance by vehicles in actual use),

"(Q) action of the Administrator under section 126 (relating to interstate pollution abatement), and

"(R) such other actions as the Administrator may determine.

The provisions of section 553 through 557 and section 706 of title 5 of the United States Code shall not, except as expressly provided in this subsection, apply to actions to which this subsection applies. This subsection shall not apply in the case of any rule or circumstance referred to in subparagraphs (A) or (B) of subsection 553(b) of title 5 of the United States Code.

"(2) Not later than the date of proposal of any action to which this subsection applies, the Administrator shall establish a rulemaking docket for such action (hereinafter in this subsection referred to as a 'rule'). Whenever a rule applies only within a particular State, a second (identical) docket shall be simultaneously established in the appropriate regional office of the Environmental Protection Agency.

"(3) In the case of any rule to which this subsection applies, notice of proposed rulemaking shall be published in the Federal Register, as provided under section 553(b) of title 5, United States Code, shall be accompanied by a statement of its basis and purpose and shall specify the period available for public comment (hereinafter referred to as the 'comment period'). The notice of proposed rulemaking shall also state the docket number, the location or locations of the docket, and the times it will be open to public inspection. The statement of basis and purpose shall include a summary of—

"(A) the factual data on which the proposed rule is based;

"(B) the methodology used in obtaining the data and in analyzing the data; and

"(C) the major legal interpretations, policy considerations, and evaluations of competing risks underlying the proposed rule.

The statement shall also set forth or summarize and provide a reference to any pertinent findings, recommendations, and comments by the Scientific Review Committee established under section 109(d) and the National Academy of Sciences, and, if the proposal differs in any important respect from any of these recommendations, an explanation of the reasons for such differences. All data, information, and documents referred to in this paragraph on which the proposed rule relies shall be included in the docket on the date of publication of the proposed rule.

"(4) (A) The rulemaking docket required

under paragraph (2) shall be open for inspection by the public at reasonable times specified in the notice of proposed rulemaking. Any person may copy documents contained in the docket. The Administrator shall provide copying facilities which may be used at the expense of the person seeking copies, but the Administrator may waive or reduce such expenses in such instances as the public interest requires. Any person may request copies by mail if the person pays the expenses, including personnel costs to do the copying.

"(B)(1) Promptly upon receipt by the agency, all written comments and documentary information on the proposed rule received from any person for inclusion in the docket during the comment period shall be placed in the docket. The transcript of public hearings, if any, on the proposed rule shall also be included in the docket promptly upon receipt from the person who transcribed such hearings. All documents which become available after the proposed rule has been published and which the Administrator determines are of central relevance to the rule-making shall be placed in the docket as soon as possible after their availability.

"(1) The drafts of proposed rules submitted by the Administrator to the Office of Management and Budget for any interagency review process prior to proposal of any such rule, all documents accompanying such drafts, and all written comments thereon by other agencies and all written responses to such written comments by the Administrator shall be placed in the docket no later than the date of proposal of the rule. The drafts of the final rule submitted for such review process prior to promulgation and all such written comments thereon, all documents accompanying such drafts, and written responses thereto shall be placed in the docket no later than the date of promulgation.

"(5)(A) In promulgating a rule to which this subsection applies (1) the Administrator shall allow any person to submit written comments, data, or documentary information; (2) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions; (3) a transcript shall be kept of any oral presentation; and (4) during any such oral presentation, the Administrator shall include an opportunity for cross-examinations as provided in subparagraph (B).

"(B)(1) During any such oral presentation, the Administrator shall include an opportunity for cross-examination on any matter shown to be a disputed issue of material fact to such extent and in such manner as the Administrator considers necessary and appropriate in view of the nature of the issues involved, the number of participants and the nature of their interests, and any need for expedition, including that for meeting any statutory deadline for promulgation of the rule involved.

"(2) If only a single interested person seeks the opportunity for cross-examination or if the Administrator determines that all persons in a class who seek to avail themselves of such an opportunity share an identity of interest, the Administrator shall, upon the making of such a showing, afford such single interested person or representative of such class (as designated by the participants of such class) an opportunity to conduct cross-examination with respect to any such issue to the same extent that cross-examination is permitted under section 556 of title 5, United States Code, taking into account the need for expedition as provided in (1) above.

"(3) If all persons and classes of persons seeking to avail themselves of an opportunity to engage in cross-examination cannot agree upon one or more classes which, in

the discretion of the Administrator, reasonably afford representation of various interests and classes of persons potentially affected by the rule, the Administrator may deny cross-examination.

"(C) Any determination respecting the procedure provided for in subparagraph (A) or (B) may be held grounds for invalidating the Administrator's action only if such determination is arbitrary or capricious.

"(6)(A) The promulgated rule shall be accompanied by (i) a statement of basis and purpose like that referred to in paragraph (3) with respect to a proposed rule and (ii) an explanation of the reasons for any major changes in the promulgated rule from the proposed rule.

"(B) The promulgated rule shall also be accompanied by a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations during the comment period.

"(C) The promulgated rule may not be based (in part or whole) on any information or data which has not been placed in the docket as of the date of such promulgation.

"(7)(A) The record for judicial review shall consist exclusively of the material referred to in paragraph (3), clause (1) of paragraph (4)(B), and subparagraphs (A) and (B) of paragraph (6).

"(B) Only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. If the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within such time or if the grounds for such objection arose after the period for public comment and if such objection is of central relevance to the outcome of the rule, the Administrator shall convene a proceeding for reconsideration of the rule and provide the same procedural rights as would have been afforded had the information been available at the time the rule was proposed. If the Administrator refuses to convene such a proceeding, such person may seek review of such refusal in the United States court of appeals for the appropriate circuit. Such reconsideration shall not postpone the effectiveness of the rule. The effectiveness of the rule may be stayed during such reconsideration, however, by the Administrator or the court for a period not to exceed three months.

"(8) The sole forum for challenging procedural determinations made by the Administrator under this subsection shall be in the United States court of appeals for the appropriate circuit (as provided in subsection (b)) at the time of the substantive review of the rule. No interlocutory appeals shall be permitted with respect to such procedural determinations. In receiving alleged procedural errors, the court may invalidate the rule only if the errors were so serious and related to matters of such central relevance to the rule that there is a substantial likelihood that the rule would have been significantly changed if such errors had not been made.

"(9) In the case of review of any action of the Administrator to which this subsection applies, such action shall be affirmed by the court unless the court finds that it is not supported by substantial evidence in the rulemaking record (as defined in paragraph (7)(A)) taken as a whole. In addition, the court may reverse any such action found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; or

"(D) without observance of procedure required by law.

"(10) Each statutory deadline for promulgation of rules to which this subsection applies which requires promulgation less than six months after date of proposal may be extended to not more than six months after date of proposal by the Administrator upon a determination that such extension is necessary to afford the public, and the agency, adequate opportunity to carry out the purposes of this subsection.

"(11) The requirements of this subsection shall take effect with respect to any rule the proposal of which occurs after date of enactment of the Clean Air Act Amendments of 1977."

(b) Section 105 of such Act is amended by adding the following new subsection at the end thereof:

"(e) No application by a State for a grant under this section may be disapproved by the Administrator without prior notice and opportunity for a public hearing in the affected State, and no commitment or obligation of any funds under any such grant may be revoked or reduced without prior notice and opportunity for a public hearing in the affected State (or in one of the affected States if more than one State is affected)."

(c)(1) The first sentence of section 307(b)(1) of such Act is amended by striking out "or" after "211," and by inserting after "231" the following: ", any other nationally applicable regulations promulgated, or final action taken, by the Administrator under this Act".

(2) The second sentence of section 307(b)(1) of such Act is amended by inserting after "thereunder," the following: "or any other final action of the Administrator under this Act which is locally or regionally applicable".

(3) The last sentence of section 307(b)(1) of such Act is amended to read as follows: "Any petition for review under this subsection shall be filed within sixty days from the date notice of such promulgation, approval, or action appears in the Federal Register, except that if such petition is based solely on grounds arising after such sixtieth day, then any petition for review under this subsection shall be filed within sixty days after such grounds arise. No determination of the Administrator under section 122 shall be reversed by the court unless such determination is unsupported by substantial evidence on the record."

(4) Section 307(b)(1) of such Act is further amended by inserting the following after the second sentence thereof: "Notwithstanding the preceding sentence a petition for review of any action referred to in such sentence may be filed only in the United States Court of Appeals for the District of Columbia if such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination."

(d)(1) Clause (iii) of section 114(a) of such Act relating to inspection, monitoring, and entry, is amended by striking out "section 119 or 303" and inserting in lieu thereof the following: "any provision of this Act (except with respect to a manufacturer of motor vehicles or motor vehicle engines)".

(2) Section 114(a)(1) of such Act is amended by striking out "the owner or operator of any emission source" and inserting in lieu thereof "any person subject to any requirement of this Act (other than a manufacturer subject to the provisions of sections 206(c) or 208)".

(3) Section 114(a)(2)(A) of such Act is amended by striking out "in which an emission source is located" and by inserting in lieu thereof "of such person".

(4) Section 114(a)(2)(B) of such Act is amended by striking out "the owner or op-



erator of such source" and by inserting in lieu thereof "such person".

(e) (1) Section 301 of such Act is amended by inserting "(1)" after "(a)" and by inserting a new paragraph (2) to read:

"(2) Not later than one year after the date of enactment of this paragraph, the Administrator shall promulgate regulations establishing general applicable procedures and policies for regional officers and employees (including the Regional Administrator) to follow in carrying out a delegation under paragraph (1), if any. Such regulations shall be designed—

"(A) to assure fairness and uniformity in the criteria, procedures, and policies applied by the various regions in implementing and enforcing the Act;

"(B) to assure at least an adequate quality audit of each State's performance and adherence to the requirements of this Act in implementing and enforcing the Act, particularly in the review of new sources and in enforcement of the Act; and

"(C) to provide a mechanism for identifying and standardizing inconsistent or varying criteria, procedures, and policies being employed by such officers and employees in implementing and enforcing the Act."

(2) Section 301(a)(1) of such Act is amended by adding the following new sentence at the end thereof: "No legal interpretation of any provision of this Act or of any regulation thereunder by any officer or employee of the Environmental Protection Agency shall have any force and effect unless approved by the Administrator or by an officer or employee of the Office of General Counsel."

Mr. BROYHILL (during the reading). Mr. Chairman, I ask unanimous consent that section 305 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. Are there amendments to section 305?

There being none, the Clerk will read section 306.

The Clerk read as follows:

#### EMPLOYEE PROTECTION

SEC. 306. Title III of the Clean Air Act relating to general provisions, is amended by adding at the end thereof the following new section:

#### "EMPLOYEE PROTECTION"

"SEC. 317. (a) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

"(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act or a proceeding for the administration or enforcement of any requirement imposed under this Act or under any applicable implementation plan,

"(2) testified or is about to testify in any such proceeding, or

"(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act.

"(b) (1) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, within thirty days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(2) (A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within thirty days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for public hearing. The Secretary may not enter into a settlement (ii) such person to reinstate the complainant without the participation and consent of the complainant.

"(B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, (iii) compensatory damages, and (iv) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(c) (1) Any person adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

"(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any criminal or other civil proceeding.

"(d) Whenever a person has failed to comply with an order issued under subsection (b) (2), the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages. Civil actions filed under this paragraph shall be heard and decided expeditiously.

"(e) Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28 of the United States Code.

"(f) Subsection (a) shall not apply with respect to any employee who, acting without

direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this Act."

Mr. BROYHILL (during the reading). Mr. Chairman, I renew my request at this time.

Inasmuch as there are only two amendments at the desk, I ask unanimous consent that the remainder of title III be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. ROGERS. Mr. Chairman, reserving the right to object, may I say that I have had some concern expressed about this. I realize there are only two amendments left, but some Members have asked that the bill be read section by section, so I would have to object to the request.

The CHAIRMAN. Objection is heard.

The Clerk will continue to report section 306.

(The Clerk continued the reading of the section.)

Mr. BROYHILL (during the reading). Mr. Chairman, I ask unanimous consent that section 306 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. WAXMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will continue to read section 306.

Mr. BROYHILL. Mr. Chairman, I move that the remainder of title III be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. The Chair will inform the gentleman that his motion is not in order.

The Clerk will continue to read section 306.

(The Clerk continued the reading of the section.)

Mr. BAUMAN (during the reading). Mr. Chairman, I move that section 306 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. The Chair will inform the gentleman from Maryland (Mr. BAUMAN) that his motion is not in order.

The Clerk will continue to read section 306.

(The Clerk continued the reading of the section.)

The CHAIRMAN. Are there any amendments to section 306?

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not really know what the reason is for the majority Members insisting that the bill be read in full but it is pretty obvious I believe that when a tactic like that is used, it is used for a purpose. I can only surmise that the purpose is that having lost, overwhelmingly, on a very key amendment, they are either trying to draft amendments to be offered somewhere down the line, or they are trying to take

up the time of the committee and then move to rise and pull the bill off. I would suggest in that case, Mr. Chairman, that the committee should vote not to rise but to finish the bill.

As I understand it, Mr. Chairman, there are very few amendments pending of any great import, that they could be taken care of and then we could vote on the bill.

In the meantime, Mr. Chairman, the majority of the Members of the House may be considerably inconvenienced, in view of the fact that we are about to recess for 5 days.

It seems to me, Mr. Chairman, that at the very least the managers of the bill should make clear to the members of the committee exactly what their plans are and why they are engaging in this delaying tactic.

Mr. SNYDER. If the gentleman from Maryland will yield, I appreciate what the gentleman has to say. I would suggest that we should not forget that this is not a one-way street. We will have other large bills coming up. There is not anything we can do about prolonging the reading of this bill, but when other big bills come up we, too, can object to dispensing with the reading and can require that they be read.

Mr. ROGERS. If the gentleman will yield, let me say that we are hoping we can move as expeditiously as we can.

Mr. BAUMAN. Then the gentleman from Florida has no plans to rise but wants to finish the bill today?

Mr. ROGERS. I would like to rise, if I can.

Mr. BAUMAN. Would the gentleman take the committee with him?

Mr. ROGERS. One never knows.

Mr. BAUMAN. Mr. Chairman, I would suggest that I believe we have the answer to what the plans are. It is exactly what I was saying before. I would hope that we would oppose any motion to rise but rather finish our deliberations on this bill. We have enough other legislation already on our calendar that has to be taken care of. After all, Mr. Chairman, the majority has worked its will. We should have the right as a majority of the body, to do just that.

#### AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Chairman. I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN: Page 457, immediately after line 20, insert the following new section:

#### IMPLEMENTATION PLANS WHICH REQUIRE BRIDGE TOLLS

SEC. 306A. Section 110(c) (2) of such Act is amended by inserting at the end thereof the following new subparagraph:

"(F) (1) Any measure in an applicable implementation plan which requires a toll or other charge for the use of a bridge located entirely within one city shall be eliminated from such plan by the Administrator upon application by the Governor of the State, which application shall include a certification by the Governor that he will revise such plan in accordance with clause (1)."

"(1) In the case of any applicable implementation plan with respect to which a measure has been eliminated under clause (1), not later than one year after the date of the enactment of this subparagraph, such

plan shall be revised to include the provisions which would be required under section 123(b) (5) (B) and (6) (B) if an extension were granted under section 123.

"(ii) Any revision of an implementation plan for purposes of meeting the requirements of clause (1) shall be submitted in coordination with any plan revision required under section 123 (c) or (d)."

Ms. HOLTZMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. WAXMAN. Mr. Chairman, reserving the right to object, it seems to me that the bulk of the committee expressed a desire, on the part of some Members, that we have the bill and all the amendments read, so I am constrained to object.

I believe if it is appropriate for the Members to hear the entire bill read, then they also should hear the amendments read.

Therefore, Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk completed the reading of the amendment.

Ms. HOLTZMAN. Mr. Chairman, with some trepidation, I ask unanimous consent that I may be permitted to revise and extend my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Ms. HOLTZMAN. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I wish to thank the gentleman from New York for yielding.

May I say that we have had the opportunity to review this amendment, which I understand the gentleman from New York is offering on behalf of herself and the gentleman from New York (Mr. KEMP). It is my understanding that it deals with a local situation and that it solves the problem very well and that it causes absolutely no unfavorable environmental consequences.

So, Mr. Chairman, we on this side wish to congratulate the gentleman from New York on offering her amendment and wish to assure her of our support.

Ms. HOLTZMAN. I thank the gentleman for his comments. I would, however, like to say that there are other members of the delegation who have joined me in this amendment: Mr. SCHEUER, Mrs. CHISHOLM, Mr. RICHMOND, Mr. SOLARZ, Mr. ZEPERETTI, Mr. ADDABBO, Mr. DELANEY, Mr. WOLFF, Mr. ROSENTHAL, Mr. BIAGGI, Mr. BADILLO, Mr. BINGHAM, Mr. DOWNEY, Mr. MURPHY of New York, Mr. RANGEL, Mr. KOCH, Mr. NOWAK, and Mr. GILMAN. I am honored by the cooperation and support my colleagues from New York and especially from Brooklyn have given me on this issue.

This amendment requires the EPA Administrator to void a toll strategy upon the application of the Governor of the State, if the Governor certifies that the State will revise its transportation control plan within 1 year, and that the re-

vised plan will include measures to improve mass transit. I have discussed this amendment with the gentleman from Florida (Mr. ROGERS) who is the chairman of the subcommittee, and I believe it is agreeable to him. I would urge the adoption of this amendment.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

I have some questions I would like to ask the gentleman from New York about her amendment. As I understand, the chairman of the subcommittee has no problems with it.

Is this restricted to New York City, or will this apply to bridge tolls across the country?

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from New York.

Ms. HOLTZMAN. I thank the gentleman for yielding.

This applies to bridges that are wholly located within a city.

Mr. WAXMAN. Only located within a city.

Ms. HOLTZMAN. This only applies, as a practical matter at this point, to the city of New York since no other city in the country has a clean air plan which mandates tolls on bridges, I will tell the gentleman.

Mr. WAXMAN. If the State of California wanted to authorize legislation to allow the city-county of San Francisco to try to treat their bridge in the same manner, would this affect their ability to do so?

Ms. HOLTZMAN. I do not believe so, no.

Mr. WAXMAN. How would the State implementation plan affect this amendment?

Ms. HOLTZMAN. I would tell the gentleman that the amendment allows the Governor of the State to make an application to the Environmental Protection Administrator to void the strategy calling for the imposition of tolls. The Environmental Protection Administrator would have to void the tolls strategy if the Governor certified that he would, within 1 year, submit a revised plan that includes measures to improve mass transit.

Mr. WAXMAN. So the Administrator of EPA still has the authority to move in and reject the project if it is not satisfactory to him; is that correct?

Ms. HOLTZMAN. The Environmental Protection Administrator would have no discretion with respect to voiding the bridge tolls. The Environmental Protection Administrator would have, of course, whatever authority he has at the present time with respect to evaluating and enforcing a new proposal that would be offered by a Governor under my amendment. I will tell the gentleman from California that we have discussed this amendment with various environmental groups in New York who also support the amendment. I have discerned no opposition to the amendment.

Mr. WAXMAN. I thank the gentleman.

Mr. WEISS. Mr. Chairman, will the gentleman yield?



Mr. WAXMAN. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

Mr. Chairman, I simply want to call to the attention of the House that because of the brilliance of the gentleman from New York in her conception of this particular amendment and her masterfulness in its execution, there is agreement by the committee on both sides of the aisle. I am particularly heartened by the amendment, if I may point out to the chairman and the gentleman from California, because what it does really is to underscore the capacity of the Environmental Protection Administrator, working with the Governor, in fact to effect a meaningful change of an implementation plan, which everybody agrees ought to in fact be changed, and which for administrative or bureaucratic reasons has not been done. At the same time all the environmental safeguards of the Clean Air Act are still mandated and, in fact, as the gentleman from New York has drafted in the legislation, within 1 year after the application is sought and a certification is filed, there has to be a plan submitted to EPA which in fact would outline exactly how the environment is going to be adhered to.

So that what it does really is to move us steps forward in getting cleaner air for the people of the city of New York.

I thank the gentleman for yielding.

Mr. WAXMAN. I appreciate the comments of the gentleman.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I am very pleased to be so closely associated with my colleague from New York, Ms. HOLTZMAN, in supporting this amendment to bar the imposition of tolls on 13 bridges spanning the East and Harlem Rivers in New York City. Passage of this amendment represents a significant victory for the rights of State and local governments; freedom from arbitrary and unfounded meddling in their affairs by the Federal Government.

The wisdom of this amendment far outweighs the folly of the Federal order requiring that tolls be imposed on the bridges by August 31, 1978. The amendment requires the Administrator of the EPA to eliminate the tolls upon application by the Governor, and further requires that New York State's clean air plan be revised to include measures for improving public transportation.

A comprehensive study conducted jointly by the New York State Departments of Transportation and Environmental Conservation, concluded that the tolls were not justified. From an environmental standpoint, the reductions in pollution would be minimal and in fact, would be offset by increased pollutant concentrations in and around the toll plazas.

Economically, the tolls would have an especially adverse effect, the city of New York derives much of its revenue from

the commercial, retail, and entertainment industries of Manhattan. It was estimated that the numbers of shopping and recreational trips into Manhattan would be reduced by almost 30 percent with the new tolls. This would constitute a significant revenue loss for the city at a time when she can ill afford it. In addition, it was estimated that it would cost some \$65 million to construct the new toll plazas. The brunt of this bill would have to be footed by the State of New York, placing a great strain on its resources.

But, the most compelling argument against the tolls is a human one. I ask you to give first and foremost consideration to the people of New York. These tolls could add as much as \$375 to the average New Yorkers' already high yearly commuting bill, if he or she uses one of the affected bridges. This would have an especially devastating effect on low-income persons. The tolls would be regressive and repressive in nature. They would tax most heavily those least able to afford it.

No matter how they are viewed, the tolls make no sense. New Yorkers pay exorbitant transportation costs as it is. A new and sizable expense would not be welcomed. The EPA may see the tolls as the antidote to New York City's environmental ills, but the people of New York view the tolls as the start of a new malady.

It is therefore essential that we provide the means to ban these tolls. This amendment provides the mechanisms and makes good environmental, economic, and humanitarian sense. It merits full support.

Mr. WAXMAN. I would like to ask a question of the gentleman from New York. Does this in any way affect the New York transport plan in any other respect?

Ms. HOLTZMAN. If the gentleman will yield, other than to eliminate the tolls, the answer is "No."

Mr. ZEPERETTI. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from New York (Mr. ZEPERETTI).

Mr. ZEPERETTI. Mr. Chairman, I too want to pay tribute to the gentleman from New York who has worked so effectively to get this amendment passed.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Chairman, I thank the gentleman for yielding. I rise in enthusiastic support of the amendment offered by the gentleman from New York (Ms. HOLTZMAN). This amendment is of vital importance to the city of New York and it represents an agreement between all the parties, which has been worked out through the diligent efforts of Congresswoman HOLTZMAN.

The tolls controversy points up a number of issues that we must consider in the House as we write this bill. It is of unquestionable importance that the dirty air in major cities be cleaned up. To do this we must impose effective measures that will control automobile emissions

which are the major source of much of urban pollution. But it is necessary that in doing so we have a reasonable approach to how these improvements are implemented.

The ruling of the Federal judge that New York impose within 1 year tolls on the bridges did not allow for any other plan to be implemented by the State. Recently, agreement between the court and the Governor has been reached and the Governor will revise a plan for certification that is required. That is basically what this amendment establishes as law. In the case of where a measure has been eliminated, the State will have 1 year to revise the plan to suit the local conditions.

Basically, what this amendment does is requires the EPA Administrator to eliminate tolls as a means of reducing air pollution, when the Governor of a State makes the request to be allowed to propose an alternate plan. It does require the State to produce within 12 months the means to do just that and it requires the State to certify that the revision plans will be in accordance with the statutes contained in this law.

In the case of New York City the tolls that would be imposed by the end of August next year, would seriously hurt small businesses in the city by discouraging shoppers from coming into the city, either to entertain themselves or to do basic shopping. It would particularly be unfair treatment for the residents outside of Manhattan, namely Brooklyn, Queens, the Bronx, and Staten Island and there is every indication that pollution might be increased in those boroughs.

In New York City we have a difficult enough time with 8 million people trying to operate as one city. What the judge's rule would force upon us would be a division of the city into five separate areas and it would encourage businesses and middle-class residents to flee from the center of our city.

As I said earlier, Congresswoman HOLTZMAN did a commendable job of working with all segments before devising the language for this amendment. She has the support of Governor Carey and Mayor Beame of New York City, the Automobile Club of New York, the business associations and the clean air groups in New York. Additionally, she has the support of the subcommittee chairman and I believe she ought to have your support. I would urge you to vote for this amendment.

Mr. KOCH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do so simply to add my support to the gentleman from New York, and her amendment.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I too want to join in support of the gentleman's amendment, and congratulate her for bringing this worthy amendment forward to improve this legislation.

Mr. SISK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I hesitate to hold up the House here. I would hope we could finish and vote on this bill very promptly.

I would like to ask a few questions. What is the stall? I say to my colleague, the gentleman from California (Mr. WAXMAN) here, are we involved in a stall here? Would my colleague reply? I would like to hear from somebody who is suggesting that we have this bill read, why can we not go ahead with the bill?

Mr. WAXMAN. Mr. Chairman, if the gentleman will yield, the chairman of the subcommittee indicated there were some Members who were interested in having this read. I want to discuss this amendment with the gentleman. Is the gentleman aware of this amendment? Does he know what he is voting on?

Mr. SISK. Sure.

Mr. WAXMAN. I wanted to be sure everybody would understand what they were voting on.

Mr. SISK. Mr. Chairman, let me say I do not want to step on anybody's toes around here, but Members know we generally operate on the democratic principle of the majority rule.

Let me say just a couple of words as a member of the Rules Committee. This committee came before the Rules Committee and sought a rule. We had some discussion about the type of rule we would have. The normal procedure with any rule is to read a bill normally by sections. However a lot of the time we have them read by titles basically to save time. That was the type of rule we had set up on this bill. A discussion arose and so as a result of it we agreed that the bill would be read by sections, and the understanding was, and there was discussion, that this was not with any intent to hold up or to delay or obstruct the going ahead and handling of the Nation's business. All of a sudden here I am amazed to find some of my friends who are apparently creating a stall. I am not accusing the gentlemen, but if there is an understanding that somebody does not want to vote on this bill today, I want to know who it is.

Mr. WAXMAN. Mr. Chairman, if the gentleman will yield, I would ask him whether, as a member of the Rules Committee, he knows that the Members have a right to insist on the reading of the bill section by section consistent with the rule granted by his committee?

Mr. SISK. The gentleman is correct that under the rules of the House a Member can insist on a reading, but I am just a little bit curious.

Just a minute. I think, here we are well into the afternoon, Thursday afternoon, there is other legislation pending. The Committee on Rules has several bills pending here.

I understand next week we are going to have a short week. I just think there is no one here so naive as to not feel that something is going on, when we cannot get a unanimous consent request to consider the section read, where there is not even an amendment pending at all. I think everyone knows this particular

amendment is pending. As far as I am concerned personally, let me say, Mr. Chairman, I speak only for myself, but I am going to vote against any rising of this committee until we have completed action on this bill.

Let us go forward and vote the bill up or down.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

I would like to speak to this amendment. The very able—in fact, the brilliant—legislator from New York has presented an amendment that, of course, is greatly in the interest of the gentleman's district and area; but I do question whether or not the suggestion that there should be tolls was not made for good reason by the Department of Environmental Protection. According to what my colleague has said, there is a provision that within a year a mass transit proposal will have to be submitted by the governor to the Department of Environmental Protection. I presume that if that plan is not proper or not appropriate that the right to impose tolls would then return to the Department of Environmental Protection?

We have sustained some serious defeats for the cause of clean air in the House today. I am not against this amendment, but I would like to feel there is a provision here that will protect the interests of clean air in the amendment that my colleague has offered.

Ms. HOLTZMAN. Mr. Chairman, if the gentleman will yield, I wish to thank her for her extremely kind remarks. I know the gentleman is deeply committed to the cause of environmental protection. My colleagues from New York and I share this concern. We have worked very hard on this amendment to reach a consensus among all interested parties, including environmental groups. The original impetus for the amendment was that the tolls themselves would not lower air pollution or help the city meet clean air standards, but would simply move air pollution from Manhattan to some of the outlying boros of the city.

Mrs. FENWICK. Well, we have found that, when the Hudson River tolls were up to \$1.50 to get into New York, people were more apt to double up, or to take buses into the city; but that is not the issue I would like to address.

Is there a provision which would enable the Department of Environmental Protection, if they find it necessary, to impose the tolls in the event the plan of the governor is unsatisfactory or undesirable?

Ms. HOLTZMAN. Mr. Chairman, if the gentleman will yield further, I will tell the gentleman that immediately when the governor applies to remove the tolls strategy, the tolls must be eliminated from the clean air plan by the Environmental Protection Administrator, if at the same time the governor certifies he will provide, within a year's time, a substitute plan to improve mass transit. If the governor does not submit a satisfactory plan within that year, then the Environmental Protection Administrator has the power to require compliance us-

ing authority granted under the Act. I do not believe there would be any power to reinstate the tolls strategy.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(By unanimous consent, Mrs. FENWICK was allowed to proceed for 1 additional minute.)

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mrs. FENWICK. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I would like to point out that under the Clean Air Act the Administrator did not have the right on his own to impose the tolls. What happened was that the Governor and the mayor of the city of New York requested that that be included as one of the provisos of the transportation control plan.

So, by making that request at this point, they are simply doing that which they would have the right to do under any circumstances, but they simply got tied up in bureaucratic tangles.

Mrs. FENWICK. I thank my colleague.

Mr. SHUSTER. Mr. Chairman, I move to strike the requisite number of words.

I would like to direct an observation and question to the gentleman from New York (Ms. HOLTZMAN). I know that this involves bridge tolls, and I have heard reference repeatedly made to mass transit, which I believe comes under the jurisdiction of the Surface Transportation Subcommittee.

I would ask the gentleman if this amendment has been cleared with Chairman HOWARD, chairman of the Transportation Subcommittee.

Ms. HOLTZMAN. Mr. Chairman, if the gentleman will yield, I would say to the gentleman that, as he is very well aware, under the present amendments to the Clean Air Act, various transportation control strategies are in order. That is all we are talking about here. The purpose of the tolls strategy was originally to provide revenues to be used for mass transit. Therefore, in removing the toll strategy, we are requiring that substitute measures to improve mass transit be provided.

Mr. SHUSTER. Am I correct in inferring from the gentleman's statements that the amendment has not been discussed or cleared with the Surface Transportation Subcommittee?

Ms. HOLTZMAN. I do not believe there is any need to do so.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield to me?

Mr. SHUSTER. I am delighted to yield to the gentleman.

Mr. ECKHARDT. I am authorized to say for the chairman of the subcommittee that there is no objection to the amendment of the gentleman from New York.

Mr. SHUSTER. From Chairman HOWARD?

Mr. ECKHARDT. From Chairman ROGERS.

MOTION OFFERED BY MR. ANNUNZIO

Mr. ANNUNZIO. Mr. Chairman, I move that all debate on the amendment



offered by the gentlewoman from New York (Ms. HOLTZMAN) be limited to 5 minutes.

The motion was agreed to.

The Chair recognizes the gentleman from Oregon (Mr. AuCOIN).

Mr. AuCOIN. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman from California (Mr. WAXMAN).

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Chair recognizes the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. SISK).

Mr. SISK. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Mr. BINGHAM. Mr. Chairman, the committee bill has been so weakened by amendments that I am constrained to vote against it on final passage. However, I am gratified that the Holtzman amendment which would block the imposition of tolls on the East and Harlem River bridges in New York City was incorporated in the bill. I joined my colleagues from New York in this initiative because it has become apparent that tolling the bridges would fail in its stated purpose. It would not significantly improve the quality of air over New York City.

I must say that I feel no great sense of joy in blocking these tolls through congressional action. The bridge toll strategy was devised by the State of New York—with the cooperation of the city—in response to the Clean Air Act Amendments of 1970 which required municipalities with serious air pollution problems to draw up plans which could result in significant improvements in air quality. The New York plan, which was accepted by the Federal Government in 1973, included several different proposed actions to deal with the pollution problem—one of them was the bridge tolls.

It was believed by New York and Washington that the imposition of tolls on the free bridges would reduce the overall volume of traffic moving from the Bronx, Brooklyn, and Queens into Manhattan and also reduce unnecessary travel of cars going out of their way to avoid existing tolled crossings. A significant side benefit from the imposition of tolls would be increased revenues which could be used to improve the city's mass transit system. This too would have an indirect, but quite real, positive impact on the

condition of the city's air. Applying toll revenues to mass transit would improve subway and bus service and lead more and more commuters away from their cars and back into public transit. All this argued for the bridge tolls.

Unfortunately, since 1973 we have learned that the bridge toll strategy would simply not work. According to a report just issued by the New York State Departments of Transportation and Environmental Conservation, bridge tolls would result in only a modest improvement in air quality in the Manhattan central business district which would be more than offset by the doubling—and sometimes more than doubling—in carbon monoxide levels in the areas of the toll plazas which would have to be built. Traffic slowing down, and lining up, at the various toll booths would cause a serious new pollution problem which could not be rectified through any improvement in toll collecting technology. The bridge toll strategy is thus asking New Yorkers to accept a trade-off of higher air pollution in Brooklyn, the Bronx, and Queens for the minor improvement of conditions in mid-Manhattan. The bargain would be an especially bad one for the Bronx, since there are nine bridges over the Harlem river to upper Manhattan.

This is unacceptable. Beyond that, it could well be illegal. Environmental law, on the State and Federal level, has been increasingly moving in the direction of banning any deterioration of air quality standards anywhere. One of the provisions of H.R. 6161 would ban any new sources of industrial pollution in areas where health is already suffering because of dirty air. Certainly permitting air quality to further deteriorate in "dirty air" areas like Brooklyn, the Bronx, and Queens for the sake of minimal improvements in Manhattan is in violation of that spirit. This type of trade-off cannot be permitted.

Blocking the bridge tolls will not in itself cause any further deterioration in air quality over New York City but it will not improve it either. New York will continue to suffer from some of the dirtiest air in the United States. The people of New York will continue to suffer from the emphysema and other respiratory diseases which air pollution causes. Children and the elderly will especially be affected as "pollution alerts" force them back into their houses and apartments on those terrible gray days which make New York so unlivable in the summer.

Something must be done. A good first step would have been to maintain the emission standards on automobiles set forth in the committee bill. It is a shame that there will now be more delays in compliance, more extensions into the future. Detroit ought to meet emission standards for the rest of the United States as it has for California. Detroit's foot dragging is a national disgrace, especially since foreign car manufacturers are showing that decent emission standards can be met.

The Carter energy plan goes a step in the right direction in proposing tax

on large, wasteful, polluting automobiles. We must get those gas-guzzling polluters off the road through a prohibitive tax or an outright ban on production. But there is one area where the Carter proposal falls short to the detriment of both clean air and energy conservation: Mass transit.

The one benefit which bridge tolls would have would be the revenues they would bring in. It hurts to preclude the bridge tolls and, at the same time, preclude the \$160 million a year they would generate for mass transit. We must now be especially diligent in searching for new sources of mass transit aid. Unfortunately the President's energy plan omits any new aid proposal. I think that we in the Congress must add mass transit aid to the President's program. The gas standby tax or the guzzler tax could, and should, be used to aid mass transit systems like that in New York. Without that aid the transit system will continue to deteriorate and more and more people will virtually be forced into their cars. That must not be permitted to happen. It is especially incumbent on those of us from New York to fight for mass transit aid—in the energy bill, in the Williams mass transit bill, anywhere we can get it. Then and only then will we begin to remedy the air pollution problem in New York, and in fact around the country. Strict emissions control standards and mass transit aid will move us toward those air quality standards we all support.

The question is on the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 306?

There being none, the Clerk will read section 307.

The Clerk read as follows:

NOTICE TO STATE IN CASE OF CERTAIN INSPECTIONS, ETC.

Sec. 307. Section 114(a)(2) of the Clean Air Act is amended by adding at the end thereof the following: "In the case of any emission standard or limitation or other requirement which is adopted by a State, as part of an applicable implementation plan or as part of a compliance date extension under section 119, before carrying out an entry, inspection, or monitoring under this paragraph with respect to such standard, limitation, or other requirement, the Administrator (or his representatives) shall provide the State air pollution control agency with reasonable prior notice of such action, including a statement of the reasons for such action. The Administrator shall, upon a showing by the State agency that such an action will be detrimental to the administration of the State's program of enforcement, take such showing into consideration in determining whether to take such action. No State agency which receives notice under this paragraph of an action proposed to be taken may use the information contained in the notice to inform the person whose property is proposed to be affected of the proposed action. If the Administrator has reasonable basis for believing that a State agency is so using or will so use such information, notice to the agency under this paragraph is not required until such time as the Administrator determines the agency will no longer so use information contained in a notice under this paragraph. Nothing in

this section shall be construed to require notification to any State agency of any action taken by the Administrator with respect to any standard, limitation, or other requirement which is not part of an applicable implementation plan."

Mr. BROYHILL (during the reading). Mr. Chairman, I ask unanimous consent that section 307 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. ROGERS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will continue to read.

(The Clerk continued to read the section.)

The CHAIRMAN. Are there any amendments to section 307?

#### PARLIAMENTARY INQUIRY

Mr. ECKHART. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ECKHART. Mr. Chairman, if one would desire to place a new section immediately after section 307, would this be the time to offer an amendment?

The CHAIRMAN. This would be the time.

#### AMENDMENT OFFERED BY MR. GAMMAGE

Mr. GAMMAGE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GAMMAGE: Page 459, line 1, add the following: "Permits for Construction of New Sources Already Granted in Areas Violating Primary Air Quality Standards As Of the Enactment of the Clean Air Act Amendments of 1977, Provided Such Permits Were Issued Prior to the Date of Enactment of the Clean Air Act Amendments of 1977."

"Sec. 321. Operating permits may be issued to those applicants who were properly granted new sources construction permits, in accordance with law and applicable regulations in effect at the time granted, for construction of a new source in areas now violating primary air quality standards, *Provided*, That such construction permits were granted prior to the date of enactment of the Clean Air Act Amendments of 1977, *And provided further*, That the person issued any such permit is able to demonstrate that the emissions from the source are within the limitations set forth in such construction permit."

Mr. BROYHILL. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from North Carolina (Mr. BROYHILL) reserves a point of order against the amendment.

The gentleman from Texas (Mr. GAMMAGE) is recognized for 5 minutes in support of his amendment.

Mr. GAMMAGE. Mr. Chairman, yesterday during debate on section 117 of these amendments the chairman of the subcommittee, my distinguished colleague, the gentleman from Kentucky (Mr. CARTER), and the distinguished gentleman from Texas (Mr. ECKHART) agreed generally that some of the language I offered was acceptable, particularly that part relating to the issuance of operating permits for the purpose of

operating construction projects for which permits had already been issued prior to the effective date of these amendments.

At this time, Mr. Chairman, I offer this language, adding a new section, section 308, to the bill.

Basically, this allows operating permits to be issued to those applicants who were properly granted new source construction permits in nonattainment areas, prior to the effective date of these amendments, if these permits were issued in accordance with law and applicable regulations in effect at the time they were issued.

The amendment also provides that those operating permits require a demonstration by the person or facility issued the permit showing that the emissions which would come from this new construction comply with limitations set forth in his original construction permit. What this says is that we do not shut him down overnight; if they have complied with the law at this point, they can go ahead and complete their construction and conduct their operations.

Mr. BROYHILL. Mr. Chairman, I withdraw my reservation of a point of order against the amendment.

The CHAIRMAN. The gentleman from North Carolina (Mr. BROYHILL) withdraws his point of order.

Mr. ECKHART. Mr. Chairman, I rise in support of the amendment.

Although I am in favor of this amendment, Mr. Chairman, I would like to be clear with the gentleman from Texas (Mr. GAMMAGE) and make sure that we understand it in the same way.

As the gentleman knows, certain trade-off provisions went into effect in December of 1976. These trade-off provisions were proposed by EPA in order to create a certain degree of flexibility because the ceilings went into effect, as I recall, at the end of the month, actually at the end of the year, I believe, on December 31.

As I understand the gentleman's amendment, it is not intended to circumvent the trade-off regulations that went into effect in December of 1976, but it would require that the permits be in accordance with laws and applicable regulations, including those trade-off provisions in effect at that time.

Mr. GAMMAGE. Mr. Chairman, will the gentleman yield?

Mr. ECKHART. I yield to the gentleman from Texas.

Mr. GAMMAGE. Mr. Chairman, what the gentleman from Texas (Mr. ECKHART) has said is explicit in the amendment. The amendment contains the language that the gentleman and I discussed in consultation just a few moments before the amendment was introduced.

Mr. ECKHART. Mr. Chairman, I feel also that the language is clear in the amendment, and I want to congratulate the gentleman from Texas (Mr. GAMMAGE) for taking care of this matter, which is one, I think, that could have borne very heavily against industries in the district which he represents as well as in my district. This amendment is

offered, as the gentleman has said, in accordance with the discussion that the gentleman from Kentucky (Mr. CARTER), the gentleman from Texas (Mr. GAMMAGE), and I had in a three-cornered discussion on yesterday.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. ECKHART. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman for yielding.

This amendment would not permit the primary and secondary ambient air standards to be exceeded, would it?

Mr. ECKHART. It certainly would not, according to my understanding.

Is that the understanding of the gentleman from Texas (Mr. GAMMAGE)?

Mr. GAMMAGE. Mr. Chairman, if the gentleman will yield, that is generally my understanding.

I would add that this amendment is offered based on a presumption on my part that the State authorities who issued construction and operating permits are in compliance with existing Federal laws and regulations at the time the permits were issued.

Mr. CARTER. Mr. Chairman, throughout this discussion of this legislation and for the past several months I stood by the proposition that primary and secondary air quality standards should not be exceeded. In this case this is so, and they are not exceeded.

Therefore, Mr. Chairman, I would have no objection to this amendment.

Mr. GAMMAGE. Mr. Chairman, if the gentleman will yield further, I think it is critically important to those nonattainment areas seeking construction permits. This is all it applies to, not to significant deterioration of air quality standards, I say to the gentleman from Kentucky (Mr. CARTER), but to the nonattainment areas where we have existing construction under way, with, in some cases, construction permits issued by the licensing and permit authorities in the State charged with enforcing these regulations. I presume they are in compliance with these regulations, and this would remove any doubt that they can proceed with that construction and get those operating permits in those nonattainment areas.

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman, and I am glad that this has been settled amicably between the two gentlemen from Texas.

Mr. ECKHART. Mr. Chairman, I thank the gentleman from Kentucky (Mr. CARTER) for his comments.

Mr. KRUEGER. Mr. Chairman, will the gentleman yield?

Mr. ECKHART. I yield to the gentleman from Texas.

Mr. KRUEGER. Mr. Chairman, I simply rise in support of this amendment. It was part of the amendment offered yesterday. It seems to be quite a good amendment. I think that it may offer some relief, particularly to those industries which already have had construction permits granted and thus will be able to proceed with their construction projects. Perhaps they will have some assurance through this amendment.



Mr. ECKHARDT. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GAMMAGE).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 307?

If not, the Clerk will read section 308.

The Clerk read as follows:

#### EMERGENCY POWERS

SEC. 308. (a) Section 303 of the Clean Air Act is amended to read as follows:

#### "EMERGENCY POWERS

"Sec. 303. (a) Notwithstanding any other provision of this Act, upon receipt of evidence that a pollution source or combination of sources (including moving sources) is presenting an imminent and substantial endangerment to the health of persons, and that appropriate State or local authorities have not acted to abate such sources, the Administrator may, in order to protect the health of such persons, commence a civil action for appropriate relief, including a restraining order of permanent or temporary injunction. If it is not practicable to assure prompt protection of the health of persons solely by commencement of such a civil action, the Administrator may issue such orders as may be necessary to protect the health of persons who are, or may be, affected by such pollution source (or sources). Prior to taking any action under this section, the Administrator shall consult with the State and local authorities in order to confirm the correctness of the information on which action proposed to be taken is based and to ascertain the action which such authorities are or will be taking.

"(b) Any person who willfully violates or fails or refuses to comply with any order issued by the Administrator under subsection (a) may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than \$5,000 for each day during which such violation occurs or failure to comply continues."

(b) Section 313 of the Clean Air Act is amended by striking out "and" at the end of clause (9) and adding after clause (10): "and (11) (A) the status of plan provisions developed by States as required under section 110(a) (2) (F) (v), and an accounting of States failing to develop suitable plans; (B) the number of annual incidents of air pollution reaching or exceeding levels determined to present an imminent and substantial endangerment to health (within the meaning of section 303), by location, date, pollution source, and the duration of the emergency; (C) measures taken pursuant to section 110 (a) (2) (F) (v), and an evaluation of their effectiveness in reducing pollution; and (D) an accounting of those instances in which an air pollution alert, warning, or emergency is declared as required under regulations of the Administrator and in which no action is taken by either the Administrator, State, or local officials, together with an explanation for the failure to take action."

#### INTERSTATE POLLUTION ABATEMENT

SEC. 309. (a) Section 110(a) (2) (E) of the Clean Air Act is amended to read as follows:

"(E) It contains provisions (i) prohibiting any stationary source within the State from emitting any air pollutant in amounts which will prevent attainment or maintenance by any other State or any such national primary or secondary ambient air quality standard after the attainment date for such standard or interfere with measures required to be included in the applicable implementation plan for any other State to implement subtitle C of this title and (ii) insuring compliance with the requirements of section 126;"

(b) Title I of such Act is amended by adding at the end thereof the following new section:

#### "INTERSTATE POLLUTION ABATEMENT

"Sec. 126. (a) Not later than nine months after date of enactment of this section, the Administrator shall promulgate regulations establishing a procedure for abating interstate air pollution in accordance with the requirements of this section.

"(b) Regulations promulgated under subsection (a) shall require each applicable implementation plan—

"(1) to require each major proposed new (or modified) source which may significantly contribute to air pollution in any air quality control region outside the State in which such source intends to locate (or make such modification) to obtain a permit to construct from the State of intended location at least ninety days prior to the date of commencement of construction,

"(2) to provide written notice to all nearby States the air pollution levels of which may be affected by such source at least sixty days prior to the date on which commencement of construction is to be permitted by the State providing notice, and

"(3) to review and identify all existing major stationary sources which may have the impact described in paragraph (1) and to provide notice to all nearby States of the identity of such sources not later than eighteen months after date of enactment of this section.

"(c) Regulations under subsection (a) shall authorize any State or political subdivision to petition the Administrator for a finding that any major source would emit any air pollution in violation of the prohibition of section 110(a) (2) (E) (1). Within sixty days after receipt of any petition under this subsection, the Administrator shall provide opportunity for a public hearing and shall grant or deny the petition.

"(d) Notwithstanding any permit which may have been granted by the State in which the source is located (or intends to locate), it shall be a violation of the applicable implementation plan in such State (1) for any major proposed new (or modified) stationary source with respect to which a petition has been granted under subsection (c) to operate more than sixty days after such petition has been granted, or (2) for any major existing source to operate more than six months after such petition has been granted with respect to it, except that the Administrator may permit the continued operation of such source beyond the expiration of such six-month period if such source complies with such emission limitations and compliance schedules (containing increments of progress) as may be provided by the Administrator to bring about compliance with the requirement contained in section 110(a) (2) (E) (1) as expeditiously as practicable."

#### INTERAGENCY COOPERATION ON PREVENTION OF ENVIRONMENTAL CANCER AND HEART AND LUNG DISEASE

SEC. 310. Title I of the Clean Air Act is amended by adding the following new subtitle at the end thereof:

#### "Subtitle D—Prevention of Environmental Cancer and Heart and Lung Disease

#### "PREVENTION OF ENVIRONMENTAL CANCER AND HEART AND LUNG DISEASE

"Sec. 170. (a) Not later than three months after date of enactment of this section, there shall be established a Task Force on Environmental Cancer and Heart and Lung Disease (hereinafter referred to as the "Task Force"). The Task Force shall include representatives of the Environmental Protection Agency, the National Cancer Institute, the National Heart, Lung, and Blood Institute, and the National Institute on Environmental Health

Sciences, and shall be chaired by the Administrator (or his delegate).

"(b) The Task Force shall—

"(1) develop and implement a comprehensive research program to determine and quantify the relationship between environmental pollution and human cancer and heart and lung disease;

"(2) make recommendations for comprehensive strategies to reduce or eliminate the risks of cancer (or such diseases) associated with environmental pollution;

"(3) engage in such other research and recommend such other measures as may be appropriate to prevent or reduce the incidence of environmentally related cancer and heart and lung diseases;

"(4) coordinate research and control efforts by, and stimulate cooperation between, the Environmental Protection Agency, the Department of Health, Education, and Welfare, and such other agencies as may be appropriate to prevent environmentally related cancer and heart and lung diseases; and

"(5) report to Congress, not later than January 31 of each year, on the problems and progress in carrying out this section.

"(c) In developing and implementing its research program and making its recommendations, the Task Force shall consider the impact of personal health habits, including tobacco smoking, on the relationship between environmental pollution and human cancer and heart and lung disease."

#### CIVIL LITIGATION

SEC. 311. (a) Section 305 of the Clean Air Act is amended to read as follows:

#### "CIVIL LITIGATION

"SEC. 305. (a) Except as otherwise provided in subsection (b), in any civil action under this Act (including any civil action brought by any person with respect to action taken by the Administrator under this Act), the Administrator shall have exclusive authority to commence or defend, and supervise the litigation of, such action and any appeal of such action in his own name by any attorney of the Environmental Protection Agency designated by him for such purpose, unless the Administrator authorizes the Attorney General to do so. The Administrator shall inform the Attorney General of the exercise of such authority and such exercise shall not preclude the Attorney General from intervening under any other authority of law on behalf of the United States in such action and any appeal of such action.

"(b) (1) Notwithstanding subsection (a) the Attorney General shall have exclusive authority to determine whether or not an appeal shall be made from the decision of any court in an action in which the Administrator represented himself pursuant to subsection (a).

"(2) The authority of the Administrator under subsection (a) shall not apply in the case of actions before the Supreme Court.

"(3) In any case where the Attorney General represents the Administrator before the Supreme Court in any civil action in which the Administrator represented himself pursuant to subsection (a), the Attorney General may not agree to any settlement, compromise, or dismissal of such action, or confess error in the Supreme Court with respect to such action, unless the Administrator concurs.

"(4) For purposes of this subsection (with respect to representation before the Supreme Court), the term "Attorney General" includes the Solicitor General.

"(c) The provisions of this section shall apply notwithstanding any other provision of law."

(b) Section 307 of such Act is amended by adding the following at the end thereof:

"(e) In any judicial proceeding under this

section, the court may award costs of litigation (including reasonable attorney and expert witness fees) whenever it determines that such award is appropriate."

#### FINE PARTICULATE STUDY

SEC. 312. (a) Title III of the Clean Air Act is amended by adding the following new section at the end thereof:

#### "FINE PARTICULATE STUDY

"SEC. 321. Not later than eighteen months after the date of the enactment of the Clean Air Act Amendments of 1977, the Administrator, in cooperation with the National Academy of Sciences, shall study and report to Congress on (1) the relationship between the size, weight, and chemical composition of suspended particulate matter and the nature and degree of the hazards to public health or welfare presented by such particulate matter (especially with respect to fine particulate matter) and (2) the availability of technology for controlling such particulate matter."

#### AIR QUALITY MONITORING BY ENVIRONMENTAL PROTECTION AGENCY

SEC. 313. Title III of the Clean Air Act is amended by adding the following new section at the end thereof:

#### "AIR QUALITY MONITORING

"SEC. 322. Not later than one year after the date of enactment of the Clean Air Act Amendments of 1977 and after notice and opportunity for public hearing, the Administrator shall promulgate regulations establishing an air quality monitoring system throughout the United States which—

"(1) utilizes uniform air quality monitoring criteria and methodology and measures such air quality according to a uniform air quality index,

"(2) provides for air quality monitoring stations in major urban areas and other appropriate areas throughout the United States to provide monitoring such as will supplement (but not duplicate) air quality monitoring carried out by the States required under any applicable implementation plan,

"(3) provides for daily analysis and reporting of air quality based upon such uniform air quality index, and

"(4) provides for recordkeeping with respect to such monitoring data and for periodic analysis and reporting to the general public by the Administrator with respect to air quality based upon such data.

The operation of such air quality monitoring system may be carried out by the Administrator or by such other departments, agencies, or entities of the Federal Government (including the National Weather Service) as the President may deem appropriate. Any air quality monitoring system required under any applicable implementation plan under section 110 shall, as soon as practicable following promulgation of regulations under this section, utilize the standard criteria and methodology, and measure air quality according to the standard index, established under such regulations."

#### CERTAIN MINOR AND TECHNICAL AND CONFORMING AMENDMENTS

SEC. 314. (a) Section 203(a)(2) of the Clean Air Act is amended by inserting the following before the semicolon: "or for any person to fail or refuse to permit entry, testing, or inspection authorized under section 206(c)".

(b) Section 204(a) is amended by striking out "paragraph (1), (2), (3), or (4) of".

(c) Section 302(d) of such Act is amended by inserting before the period at the end thereof the following: "and includes the Commonwealth of the Northern Mariana Islands".

(d) Section 203(b)(3) of such Act is amended by striking out "subsection (a)"

the second time it appears and inserting in lieu thereof "section 202" and by striking out "country of export" in each place it appears and inserting in lieu thereof "country which is to receive such vehicle or engine".

#### STUDY AND REPORT CONCERNING ECONOMIC APPROACHES TO CONTROLLING AIR POLLUTION

SEC. 315. Title III of the Clean Air Act is amended by inserting the following new section after section 313:

#### "ECONOMIC CONTROLS STUDY

"SEC. 313A. (a) The Council on Environmental Quality (hereinafter in this section referred to as 'the Council') shall undertake a study and assessment of economic measures for the control of air pollution which could—

"(1) strengthen the effectiveness of existing methods of controlling air pollution,

"(2) provide incentives to abate air pollution to a greater degree than is required by existing provisions of this Act (and regulations thereunder), and

"(3) serve as the primary incentive for controlling air pollution problems not addressed by any provision of this Act (or any regulation thereunder).

"(b) The study of measures referred to in paragraph (1) of subsection (a) shall concentrate on (1) identification of air pollution problems for which existing methods of control are not effective because of economic incentives to delay compliance and (2) formulation of economic measures which could be taken with respect to each such air pollution problem which would provide an incentive to comply without interfering with such existing methods of control.

"(c) The study of measures referred to in paragraph (2) of subsection (a) shall concentrate on (1) identification of air pollution problems for which existing methods of control may not be sufficiently extensive to achieve all desired environmental goals and (2) formulation of economic measures for each such air pollution problem which would provide additional incentives to reduce air pollution without—

"(A) interfering with the effectiveness of existing methods of control, or

"(B) creating problems similar to those which prevent alternative regulatory methods from being used to reach such environmental goals.

"(d) The study of the measures referred to in paragraph (3) of subsection (a) shall concentrate on (1) identification of air pollution problems for which no existing methods of control exist, (2) formulation of economic measures to reduce such pollution, and (3) comparison of the environmental and economic impacts of the economic measures with those of any alternative regulatory methods which can be identified.

"(e) In conducting the study under this section, a preliminary screening should be made of the problems referred to in subsections (b)(1), (c)(1), and (d)(1) and economic measures should be formulated under subsections (b)(2), (c)(2), and (d)(2) in the most promising cases, giving special attention to structural and administrative problems. In formulating any such measure which provides for a charge, the appropriate level of the charge should be determined, if possible, and the environmental and economic impacts should be identified.

"(f) Not later than two years after the date of the enactment of this section, the Council shall conclude the study and assessment under this section and submit a report containing the results thereof to the President and to the Congress. Interim reports on specific pollution problems and solutions recommended shall be made available to the President and the Congress by the Council whenever available."

#### ENVIRONMENTAL ADJUSTMENT ASSISTANCE STUDY

SEC. 315A. (a) The Administrator of the Environmental Protection Agency shall undertake a study of adjustment assistance for employees dislocated as a result of the implementation of laws administered by the Administrator. Such study shall, at a minimum—

(1) estimate the number of employees who have been subjected to such dislocation;

(2) estimate the annual cost of a dislocation assistance program for such employees; and

(3) recommend the best method of administering such a dislocation assistance program.

(b) For the purposes of the study under subsection (a), the term "adjustment assistance" shall include—

(1) wage readjustment assistance, employment services, job training, job search allowances and relocation allowances,

(2) mortgage and rent relief,

(3) home sale assistance, and

(4) such other types of assistance that the Administrator considers to be appropriate.

(c) The Administrator shall submit to Congress the results of the study conducted under subsection (a) not more than one year after the effective date of this section.

#### LOSS OF PAY PROHIBITED IN CERTAIN CASES

SEC. 316. Section 110(a) of the Clean Air Act is amended by adding the following new paragraph at the end thereof:

"(6) No State plan shall be treated as meeting the requirements of this section unless such plan provides that in the case of any source which uses a supplemental, or intermittent control system for purposes of meeting the requirements of section 121, the owner or operator of such source may not temporarily reduce the pay of any employee by reason of the use of such supplemental or intermittent or other dispersion dependent control system."

#### RULE REVIEW

SEC. 317. (a) Any rule or regulation prescribed by the Administrator pursuant to the Clean Air Act may, by resolution of either House of Congress, be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of sixty calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the Administrator. The Administrator shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress within said sixty-day period, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

(b) Congressional inaction or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.

#### REDUCTION OF PAPERWORK; SIMPLIFICATION OF ADMINISTRATION

SEC. 318. The Administrator shall, not later than one year after the date of enactment of this section, study and report to Congress on methods for reducing paperwork and simplifying administration under the Clean Air Act, including appropriate recommendations for achieving these purposes.

#### CONFLICTS OF INTEREST

SEC. 319. (a) Section 110(a)(2)(F) of the Clean Air Act is amended by striking out "and" before "(v)" and by inserting the following at the end thereof: "and (vi) requirements that the State comply with the conflict of interest regulations under section 128," after "such authority;"



(b) Title I of such Act is amended by adding the following at the end thereof:

**"CONFLICTS OF INTEREST**

"SEC. 128. (a) Not later than the date one year after the date of the enactment of this section, each applicable implementation plan shall, pursuant to regulations promulgated by the Administrator, contain requirements (1) respecting disclosure of financial interests, and (2) prohibiting conflicts of interests, in the case of agencies, boards, committees, councils, departments, or other instrumentalities of a State authorized and empowered to carry out duties and functions pursuant to this Act (or any applicable implementation plan).

"(b)(1) Regulations promulgated by the Administrator under subsection (a)(1) shall provide that any person who—

"(A) serves on, or is employed by, any board, committee, council or other department, agency, or entity of a State or local government in any capacity having regulatory, enforcement, or policymaking responsibilities under this Act (or any applicable implementation plan), and

"(B) has any known financial interest (1) in any person subject to such Act (or plan), or (2) in any person who applies for or receives any grant, contract, or other form of financial assistance pursuant to this Act (or such plan),

shall, beginning six months after the promulgation of regulations under this section, annually file with such board, committee, council, department, agency or entity a written statement concerning all such interests held by such person during the preceding calendar year. Such statement shall be required to be available to the public.

"(2) Regulations promulgated by the Administrator under this section shall—

"(A) define the term 'known financial interest' for purposes of paragraph (1); and

"(B) establish the methods by which the requirement to file written statements specified in paragraph (1) will be monitored and enforced by the State.

"(c) Regulations promulgated by the Administrator under subsection (a)(2) shall provide that no person who—

"(1) is employed by, serves as attorney for, acts as a consultant for, or holds any other official or contractual relationship to—

"(A) the owner or operator of any major stationary source or any stationary source which is subject to a standard of performance or emission standard under section 111 or 112,

"(B) any manufacturer of any class or category of mobile sources if such mobile sources are subject to regulations under this Act (or under any applicable implementation plan), or

"(C) any trade or business association of which such owner or operator referred to in subparagraph (A) or such manufacturer referred to in subparagraph (B) is a member, or

"(2) owns any stock, bonds, or other financial interest in any such owner or operator, manufacturer, or trade or business association,

may serve in any capacity having regulatory, enforcement, or policymaking responsibilities, or be employed in any such capacity, on any agency, board, committee, council, department, or other instrumentality of a State or local government authorized and empowered to carry out duties and functions pursuant to this Act (or any applicable implementation plan)."

(c) The Administrator shall promulgate regulations for purposes of carrying out the amendments made by this section not later than the date 180 days after the date of the enactment of this Act.

**SAVINGS PROVISION; EFFECTIVE DATES**

SEC. 320. (a) No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under the Clean Air Act, as in effect immediately prior to the date of enactment of this Act shall abate by reason of the taking effect of the amendments made by this Act. The court may, on its own motion or that of any party made at any time within twelve months after such taking effect, allow the same to be maintained by or against the Administrator or such officer or employee.

(b) All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to the Clean Air Act as in effect immediately prior to the date of enactment of this Act, and pertaining to any functions, powers, requirements, and duties under the Clean Air Act, as in effect immediately prior to the date of enactment of this Act, and not suspended by the Administrator or the courts, shall continue in full force and effect after the date of enactment of this Act until modified or rescinded in accordance with the Clean Air Act as amended by this Act.

(c) Nothing in this Act nor any action taken pursuant to this Act shall in any way affect any requirement of an approved implementation plan in effect under section 110 of this Act or any other provision of the Act in effect under the Clean Air Act before the date of enactment of this section until modified or rescinded in accordance with the Clean Air Act as amended by this Act.

(d) (1) Except as otherwise expressly provided, the amendments made by this Act shall be effective on date of enactment.

(2) Except as otherwise expressly provided, each State required to revise its applicable implementation plan by reason of any amendment made by this Act shall adopt and submit to the Administrator such plan revision no later than one year after the date of enactment of this Act.

Mr. BROYHILL (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the title be considered as read, printed in the Record, and open to amendment at any point. I understand there is only one amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. ROGERS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. BROYHILL. Mr. Chairman, I ask unanimous consent that section 308 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. ROGERS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. BROYHILL. Mr. Chairman, I move that section 308 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. The Chair will advise the gentleman that the gentleman's motion is not in order.

The Clerk will read.

The Clerk continued to read section 308.

Mr. BROYHILL. Mr. Chairman, I ask unanimous consent that the rest of the

title be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. ROGERS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. ROGERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am sorry we have had to inconvenience the House for a few minutes here in the last half hour; but Mr. Chairman, we are trying to work out plans and I think we are ready to proceed with the bill now and go ahead and try to finish it up quickly.

Mr. Chairman, I would now ask unanimous consent that title III be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there any amendments to this title?

**AMENDMENT OFFERED BY MR. PREYER**

Mr. PREYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PREYER: Page 465, strike out line 1 and all that follows down to the closing quotation marks in line 5.

Mr. PREYER. Mr. Chairman, I have supported virtually every provision in this bill since its drafting began some 3 years ago. I think it is a good bill. I even support the concept in this section of the bill which would set up a task force on environmental cancer and heart and lung disease. I can appreciate its concern with coordinating regulatory measures to reduce environmental exposure to pollutants which risk our health. However, Mr. Chairman, I cannot support the last add-on paragraph to this section, section 310(c), which deals with a study of personal health habits.

This is a bill which primarily addresses itself to conventional environmental pollutants, such as smoke stack and tail-pipe emissions, and does not in any way deal with the personal health habits of the American people.

There may be some merit in studying the personal health habits of the American people but it is not germane to this legislation. EPA totally lacks any sort of expertise to make such a study. If we want to make that sort of a study, then it should be done by the National Institute of Health, or the Center for Disease Control, or the Research Triangle in my State, where we have the Environmental Health Science Agency.

Fundamentally, the Environmental Protection Agency deals with the controlling of emissions in the air and with effluents into the water. Its responsibility is to make findings with regard to these environmental hazards. It is not charged with regulating personal behavior or lifestyles.

Furthermore, no hearings were held on this section of the bill whatever.

If we are going to set out some kind of national health policy for personal

behavior, then it should not be done casually in this fashion.

Furthermore, there is something about this provision that I believe is very troubling. We can call this the "You're another" section of this bill. The spirit behind it seems to be that if you are to restrict my steel plants, or if you are going to penalize my automobile companies, then I am going to show that your beef and your dairy products and tobacco also affect health and you ought to be punished also. And while smoking is spelled out in the wording of this provision, let me make it clear that "personal health habits" go far beyond just smoking. It covers a lot more than tobacco. It deals with beef, beer, caffeine, eggs, corn oil, milk, margarine, even peanut butter. All of these things can affect our health, many things do. But there is not any question that even if we get enough sleep at night and have a proper diet, and if we only use tobacco and alcohol in moderate amounts, get plenty of exercise and watch the cholesterol in our diets, this is not going to prevent dirty air from tailpipes or smoke stacks.

I am all for clean living, but this is a clean air bill. It is not a clean living bill. This bill deals with the dangers to our health that are imposed by society as a whole; it does not deal with the dangers that we do to ourselves. So it is a red herring. It simply diverts the public policy from improving the air we breathe to a discussion about our personal health habits, and it undercuts the health premises of the clean air legislation. It will just confuse EPA's mission with a whole lot of data and recommendations about our health and personal lifestyles. It does not belong in this bill, and I urge the adoption of my amendment which simply strikes out this last paragraph and does no violence to the environmental study which is in this section.

Mr. GARY A. MYERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to be brief. Last year I offered the amendment which is now included in the bill because of the fact that I think there is increasing evidence that there is a relationship between cancer which is associated with the environment and cancer which is the effect of cigarette smoking—a combination of both. I would not ask for additional information to be generated unless I thought there was good cause to do so.

Last year I presented to the House a letter from the American Cancer Society in which they made this statement:

Certainly where any legislation addresses research strategies as a basis for regulatory measures to prevent and reduce environmental exposures to pollutants which increase the risk of cancer, as does Section 310 of H.R. 10498, the American Cancer Society is in full accord with the specific mention of tobacco smoking as such a pollutant.

Further on I would like to quote from a 1975 study of the Department of Health, Education, and Welfare. It says:

In summary, if an increased risk of chronic obstructive pulmonary disease due to air pollution exists, it is small compared to that due to cigarette smoking under conditions of air pollution to which the average person is exposed. The possibility remains that the two

different kinds of exposure may interact to increase the total effect beyond that contributed by each exposure.

I would further like to quote from a study made on the basis of individuals who work in the asbestos industry. This is part of the statement that I made last year about how there is an interaction between those who work in asbestos industries and smoking in comparison to cancer. Briefly stated, a study was made from 1943 to 1963 and extended on to 1967. In the projection of the death rates from 1963 to 1967, they made certain projections, and I would like to quote from a portion of that study:

When Dr. Selikoff and colleagues continued the study to 1967, it was calculated, given their smoking habits, that of the 87 with no smoking, there should not have been any cancer of the lung.

And there was not. Not one of these men died of lung cancer. "They died of other things—asbestosis, or gastrointestinal cancer, et cetera. They had much asbestos in their lungs," but they did not die of lung cancer. I have paraphrased that part.

On the other hand, he said, there should have been three lung cancer deaths among the 283 with a history of smoking. There were actually 24. It was not the asbestos alone, none died of lung cancer; it was not the smoking alone, only three would have died of lung cancer.

So there is an increased amount of evidence that has been generated to link a combination of factors with respect to the development of cancer.

The section of the bill we are talking about is subtitled "Prevention of Environmental Cancer and Heart and Lung Disease." I would like to further quote from the study of the Medical School of the University of Birmingham, and these are some of the statements:

Complex carcinogenic mixtures such as cigarette smoke and coal tars are believed to contain large amounts of co-carcinogens and relatively minor quantities of primary or pro-carcinogens.

In this connection, it seems appropriate to mention that cancer found in man and animals is, in many instances, probably the result of the simultaneous or sequential action of mixtures of agents. This point will need to be considered when investigating the precise nature of agents responsible for cancer in man. Up to now many bioassays and safety assessments have been conducted on single agents. While such studies have led to the discovery of a number of different chemical carcinogens future studies must delineate the carcinogenic risk of specific and rationally selected mixtures which may affect man.

I think it would be irresponsible to remove from this bill the request for more information. We are asking industry, and it is not just the gentleman's industry in his district but industry all over the United States, to make a significant investment in trying to decrease the amount of pollution we have.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 1 additional minute.)

Mr. GARY A. MYERS. Mr. Chairman, I do not think Congress wants to put

itself in the position of legislating in a way that they will have skewed the situation so that they absolutely cannot get the information they need for their basic decisions. All I ask and what the bill now provides is that there be consideration given to the health habits and particularly smoking and any others that might be identified which would be associated with cocarcinogens. I do not think the gentleman would want to go back to his constituency and say: "There is a hazard of cocarcinogens but I have asked Congress to ignore them on your behalf."

What we are all doing here is, first, to try to protect the health of the American people, and, second, to make this an acceptable bill.

This will not increase the cost greatly if we investigate the cocarcinogens but it will investigate the effect of smokestacks and smoking on health.

Mr. WAXMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. EDWARDS of Oklahoma. Mr. Speaker, I object, most regretfully.

The CHAIRMAN. Objection is heard.

The gentleman from California (Mr. WAXMAN) is recognized for 5 minutes.

Mr. WAXMAN. Mr. Chairman, I would like to ask a question of the gentleman who offered this amendment, the gentleman from North Carolina (Mr. PREYER).

Mr. Chairman, as the gentleman from North Carolina (Mr. PREYER) has explained the purpose of this amendment, it seems to me there was a task force developed to develop and implement a research program and consider the health habits and tobacco smoking. The gentleman wants to strike the words "including tobacco smoking"; is that correct?

Mr. PREYER. No; I wish to strike the whole subsection (c).

Mr. WAXMAN. Oh, I see.

Mr. PREYER. Which deals with the impact on personal health habits. I have no objection and I agree with the task force idea that we should study environmental pollution. I think in the context of the bill and the EPA, we are talking about conventional environmental pollutants, such as asbestos. EPA deals with clean air, clean water, tailpipes and smoke stack emissions; but subsection (c) is an add-on that changes all that from conventional environmental pollutants into the area of regulating personal health habits; that means cholesterol, diet, too much fat in the diet, smoking, drinking, and so forth. That is just not an area in which the EPA has any expertise.

Mr. WAXMAN. How can the gentleman make a demarcation between those carcinogens in the environment that may cause cancer and those that come about through personal habits, such as smoking and drinking and those that cause problems like that? Is there not a synergistic effect between those? Is there not a rela-



tionship between carcinogens that enter the body through personal habits?

Mr. PREYER. Yes, surely; but this bill deals with environmental impacts imposed on us by society, things we cannot do anything about ourselves. This is what EPA is good at. NIH, or some such body, should study such things as synergistic effects.

Mr. WAXMAN. Well, if the gentleman will yield further, the bill finds that the National Cancer Institute, the National Heart, Blood and Lung Institute, to be involved in this subject. Would not they have expertise on these subjects that the EPA might not have?

Mr. PREYER. They might have more expertise, but the EPA Director calls them together. He presides and so he controls.

I think we can deal with this in a more considered way.

Incidentally, no hearings have been held on this.

If the reason behind this is to set a national policy on health habits, we ought not to be discussing that in a casual way by throwing in amendments.

Whether the Government ought to be helping us do what is good for us in our personal lives, that is a subject worthy of some discussion.

Mr. WAXMAN. Mr. Chairman, I am going to reluctantly oppose the gentleman's amendment. It seems to me we cannot isolate environmental factors that do cause cancer. We have a representation by the National Cancer Institute and the National Heart, Blood and Lung Institute, along with the EPA. If we are going to have a task force then to go into this problem and it is worth looking into, because we now learn that 90 percent of all cancer is caused by environmental factors, then I see no reason to delete that aspect of cancer from the task force.

Mr. Chairman, I must reluctantly oppose the amendment.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this House is going to move in the next year or two toward a comprehensive national health insurance program. The estimates of the cost go upward of \$100 billion. Sooner or later, the American people have to come to an understanding that if we are going to get a handle on astronomically climbing health costs, they are going to have to take some responsibility themselves for their own health outputs; that the answer to the state of our national health is not going to be determined by how many tertiary hospital beds we have or by how many CAT scanners we have or how many open heart surgery units we have.

On the contrary, the profile of our national health is going to be determined by how we organize our lives in terms of consumption of alcohol, use of tobacco, exercise, diet, consumption of drugs and, above all, our propensity to involve ourselves in violent situations.

The way we face up to this challenge, individually and collectively, is going to determine our national health results and the degree to which we can get a handle on the inordinate cost of ever-climbing hospital and health costs.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from Florida.

Mr. ROGERS. I just want to say to the Members that this section was put in—and I would like to emphasize this—and intended here only that this task force be an advisory task force to study and make recommendations. It is not a regulatory body at all. I thank the gentleman for yielding to me.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent Mr. SCHEUER was allowed to proceed for 1 additional minute.)

Mr. SCHEUER. So, Mr. Chairman, the challenge facing this Congress as to how to get the American people to think about their own health outputs, to think about organizing their lives to produce a healthy, happy, sane population is an enormous one. We do not want to do it by compulsion, not by nonvoluntary ways, not by brainwashing. We want to do it in a voluntary way in what is essentially a voluntary, pluralistic society.

It seems to me that any opportunity that we can have scientifically and in a scholarly way to expose the American people of the results to them individually and collectively of consumption of alcohol, use of tobacco and drugs, improper diet, inadequate exercise, and unnecessary and irrational involvement in violence is all to the good; and, ultimately, if this collective effort is carried on systematically through all of the legislative products of this House, in a variety of different ways, we can save billions of dollars and millions of lives.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. PREYER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. GARY A. MYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

Mr. EDWARDS of California. Mr. Chairman, amendments to the Clean Air Act legislation have turned H.R. 6161 into a parody of the fine bill reported by the committee.

A favorable vote for final passage is a vote for dirty air for most areas of the United States well into the 1980's. By relaxing the standards for auto emissions, auto pollutants will "use up" the quota for numerous air basins, making it impossible to build factories and other job producing businesses.

I will vote against the bill as amended because it is bad for the public health, bad for the environment, and bad for employment.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise to lend my support for H.R. 6161, as reported by the House Commerce Subcommittee on Health and the Environment. Although the growth of U.S. air pollutants has lessened since 1940, it is clear to me that as a forward thinking body we must anticipate the future and preclude the possibility of a Nation of polluted air.

The bill before us, the Clean Air Act, is a reasonable measure designed to meet

the inevitable air health safety problems that we will face as a modern technological society. Even though the proponents of the Dingell-Broyhill amendment would have us believe that the present state of our air warrants weaker emission standards over a longer period than proposed by H.R. 6161, I am not lulled into a sense of satisfaction by knowing that currently nitrogen oxide, a difficult-to-control cancer-causing component of nitrosamines, has been reduced by 43 percent. That is fine, but I would like to see it reduced by 90 or 95 percent.

The Dingell amendment, as we all know, is yet another attempt to delay for the fourth straight year compliance with automobile emission standards designed to make our air cleaner and to protect our health. The reality is that the 50 million citizens of the 29 air quality regions not meeting Federal ambient air quality standards reside in major urban areas, where manufacturing and industrial activity places burdens on the purity of the air that we all breathe. How can we, by delaying the implementation of congressionally mandated clean air standards, even think of not trying to eliminate the respiratory illnesses dirty air has caused our citizens to suffer.

To those who cry that the bill is "technology-forcing," I reply, foul. America has long been a technological giant in the world. Since when has this become a status of which we are not proud? Based on the results of independent studies that have revealed the failure of the auto industry to make maximum feasible efforts to develop new pollution control technology during the nearly 7 years since the passage of the original act, my reasoning tells me that H.R. 6161 is needed because it puts teeth into the original 1970 Clean Air Act. For these and other relevant reasons, I urge my colleagues to defeat the Dingell amendment and join me in supporting the committee bill.

The CHAIRMAN. Are there further amendments to title III? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. DANIELSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6161) to amend the Clean Air Act, and for other purposes, pursuant to House Resolution 589, he referred the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on

the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

**MOTION TO RECOMMIT OFFERED BY MR. COLLINS OF TEXAS**

Mr. COLLINS of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. COLLINS of Texas. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. COLLINS of Texas moves to recommit the bill H.R. 6161 to the Committee on Interstate and Foreign Commerce.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROGERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 326, nays 49, not voting 58, as follows:

**[Roll No. 291]**

**YEAS—326**

|                |                |                 |
|----------------|----------------|-----------------|
| Addabbo        | Byron          | Fascell         |
| Akaka          | Caputo         | Fish            |
| Alexander      | Carny          | Fisher          |
| Allen          | Carr           | Fithian         |
| Ambro          | Carter         | Flood           |
| Ammerman       | Cederberg      | Flowers         |
| Anderson,      | Chappell       | Foley           |
| Calif.         | Chisholm       | Ford, Mich.     |
| Anderson, Ill. | Clausen,       | Ford, Tenn.     |
| Andrews, N.C.  | Don H.         | Fountain        |
| Andrews,       | Clay           | Fowler          |
| N. Dak.        | Cleveland      | Frenzel         |
| Annunzio       | Cochran        | Frey            |
| Applegate      | Cohen          | Gammage         |
| Archer         | Collins, Ill.  | Gaydos          |
| Armstrong      | Conte          | Gephardt        |
| Ashley         | Corcoran       | Glaimo          |
| Aspin          | Corman         | Gilman          |
| AuCoin         | Cornell        | Goldwater       |
| Baldus         | Cotter         | Gooding         |
| Barnard        | Coughlin       | Gore            |
| Baucus         | Crane          | Gradison        |
| Bauman         | D'Amours       | Grassley        |
| Beard, R.I.    | Daniel, Dan    | Gudger          |
| Beard, Tenn.   | Daniel, R. W.  | Guyer           |
| Bedell         | Danielson      | Hagedorn        |
| Benjamin       | Davis          | Hall            |
| Bennett        | de la Garza    | Hanley          |
| Biaggi         | Delaney        | Hannaford       |
| Blanchard      | Derrick        | Harkin          |
| Blouin         | Derwinski      | Harrington      |
| Boggs          | Devine         | Harris          |
| Boland         | Dickinson      | Harsha          |
| Boiling        | Dicks          | Hawkins         |
| Bonior         | Diggs          | Heckler         |
| Bonker         | Dingell        | Hefner          |
| Bowen          | Dodd           | Heftel          |
| Brademas       | Dornan         | Hightower       |
| Breaux         | Downey         | Hillis          |
| Breckenridge   | Drinan         | Hollenbeck      |
| Brinkley       | Duncan, Ore.   | Holt            |
| Brodhead       | Duncan, Tenn.  | Horton          |
| Broomfield     | Early          | Howard          |
| Brown, Calif.  | Eckhardt       | Hubbard         |
| Brown, Mich.   | Edwards, Ala.  | Huckaby         |
| Brown, Ohio    | Edwards, Okla. | Hughes          |
| Broyhill       | Eilberg        | Hyde            |
| Buchanan       | Emery          | Ichord          |
| Burgener       | English        | Ireland         |
| Burke, Calif.  | Erlenborn      | Jacobs          |
| Burke, Fla.    | Ertel          | Jenkins         |
| Burke, Mass.   | Evans, Ga.     | Jenrette        |
| Burlison, Mo.  | Evans, Ind.    | Johnson, Calif. |
| Butler         | Fary           | Johnson, Colo.  |

Jones, N.C.  
Jones, Okla.  
Jones, Tenn.  
Jordan  
Kasten  
Kastenmeier  
Kelly  
Kemp  
Ketchum  
Keys  
Kildee  
Kindness  
LaFalce  
Lagomarsino  
Le Pante  
Leach  
Lederer  
Leggett  
Lehman  
Lent  
Levitass  
Lloyd, Calif.  
Lloyd, Tenn.  
Long, Md.  
Lott  
Lujan  
Lukens  
Lundine  
McClary  
McCormack  
McDade  
McFall  
McHugh  
McKay  
McKinney  
Madigan  
Mahon  
Mann  
Markey  
Marks  
Marlenee  
Marriott  
Martin  
Mattox  
Mazzoli  
Meeds  
Meyner  
Michel  
Mikulski  
Milford  
Miller, Ohio  
Minish  
Mitchell, Md.  
Moakley  
Mollohan  
Montgomery

Ashbrook  
Badillo  
Bingham  
Burleson, Tex.  
Burton, John  
Cavanaugh  
Collins, Tex.  
Conyers  
Edgar  
Edwards, Calif.  
Fenwick  
Fraser  
Gibbons  
Gonzalez  
Hammer-  
schmidt  
Hansen

Abdnor  
Badham  
Bafalis  
Bellenson  
Bevill  
Brooks  
Burton, Phillip  
Clawson, Del.  
Coleman  
Conable  
Cornwell  
Cunningham  
Dellums  
Dent  
Evans, Colo.  
Evans, Del.  
Findley  
Filippo  
Florio  
Flynt

Moorhead, Calif.  
Moorhead, Pa.  
Mottl  
Murphy, Ill.  
Murphy, N.Y.  
Murphy, Pa.  
Murtha  
Myers, Gary  
Myers, Michael  
Myers, Ind.  
Natcher  
Neal  
Nedzi  
Nichols  
Nix  
Nowak  
Oakar  
Oberstar  
Obey  
Panetta  
Patten  
Patterson  
Pattison  
Pease  
Pepper  
Perkins  
Pettis  
Pickle  
Pike  
Pryor  
Pritchard  
Pursell  
Quillen  
Rahall  
Rallsback  
Rangel  
Regula  
Reuss  
Rhodes  
Rinaldo  
Roberts  
Robinson  
Rodino  
Rogers  
Roncallo  
Rooney  
Rose  
Rostenkowski  
Rudd  
Ruppe  
Russo  
Ryan  
Santini  
Sarasin  
Schroeder

**NAYS—49**  
Holtzman  
Jeffords  
Kazen  
Koch  
Kostmayer  
Krebs  
Krueger  
McCloskey  
McDonald  
Maguire  
Mikva  
Miller, Calif.  
Mineta  
Moffett  
Moore  
Moss  
Nolan

**NOT VOTING—58**

Forsythe  
Fuqua  
Ginn  
Glickman  
Hamilton  
Holland  
Latta  
Long, La.  
McEwen  
Mathis  
Metcalfe  
Mitchell, N.Y.  
O'Brien  
Ottinger  
Poage  
Pressler  
Price  
Quayle  
Risenhoover

Schulze  
Sebelius  
Seiberling  
Sharp  
Shipley  
Shuster  
Sikes  
Simon  
Sisk  
Skelton  
Slack  
Smith, Iowa  
Smith, Nebr.  
Snyder  
Spellman  
St Germain  
Staggers  
Steed  
Steiger  
Stockman  
Stokes  
Stratton  
Studds  
Taylor  
Thompson  
Thone  
Thornton  
Traxler  
Treen  
Trible  
Tsongas  
Tucker  
Udall  
Van Deerlin  
Vander Jagt  
Vento  
Volkmner  
Waggonner  
Walgren  
Walsh  
Wampler  
Whalen  
White  
Whitley  
Whitten  
Wilson, Bob  
Wilson, C. H.  
Wilson, Tex.  
Winn  
Wright  
Wyder  
Wylie  
Yatron  
Young, Fla.  
Young, Mo.  
Zablocki

Richmond  
Rosenthal  
Roussellot  
Roybal  
Satterfield  
Scheuer  
Solarez  
Stark  
Stump  
Symms  
Waxman  
Weiss  
Wirth  
Wolf  
Yates  
Young, Tex.

Mr. Fuqua for, with Mr. Bellenson against.  
Mr. Cornwell for, with Mr. Ottinger against.

**Until further notice:**

Mr. Dent with Mr. Holland.  
Mr. Filippo with Mr. Weaver.  
Mr. Metcalfe with Mr. Skubitz.  
Mr. McEwen with Mr. Long of Louisiana.  
Mr. Brooks with Mr. Del Clawson.  
Mr. Mathis with Mr. Steers.  
Mr. Phillip Burton with Mr. Young of Alaska.  
Mr. Flynt with Mr. Bafalis.  
Mr. Glickman with Mr. Spence.  
Mr. Roe with Mr. Conable.  
Mr. Cunningham with Mr. Price.  
Mr. Vanik with Mr. Findley.  
Mr. Evans of Delaware with Mr. Risen-  
hoover.

Mr. Ullman with Mr. Stanton.  
Mr. Coleman with Mr. Latta.  
Mr. Stangeland with Mr. Quile.  
Mr. Abdnor with Mr. Badham.  
Mr. Bevill with Mr. Watkins.  
Mr. Florio with Mr. Ginn.  
Mr. Pressler with Mr. Evans of Colorado.  
Mr. Whitehurst with Mr. Runnels.  
Mr. Mitchell of New York with Mr. Wiggins.  
Mr. Pressler with Mr. Walker.  
Mr. O'Brien with Mr. Quayle.

Messrs. RICHMOND, SOLARZ, CAVA-  
NAUGH, and MOORE changed their  
votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced  
as above recorded.

A motion to reconsider was laid on the  
table.

**AUTHORIZING THE CLERK TO MAKE  
CORRECTIONS IN ENGROSSMENT  
OF H.R. 6161**

Mr. ROGERS. Mr. Speaker, I ask  
unanimous consent that in the engross-  
ment of the bill H.R. 6161 the Clerk be  
authorized to correct section numbers,  
the table of contents, punctuation, and  
cross-references to reflect the actions of  
the House in amending the bill H.R. 6161.

The SPEAKER. Is there objection to  
the request of the gentleman from  
Florida?

There was no objection.

**GENERAL LEAVE**

Mr. ROGERS. Mr. Speaker, I ask  
unanimous consent that all Members  
may have 5 legislative days in which to  
revise and extend their remarks, and to  
include extraneous material, on the bill  
just passed, H.R. 6161.

The SPEAKER. Is there objection to  
the request of the gentleman from  
Florida?

There was no objection.

**GENERAL LEAVE**

Ms. HOLTZMAN. Mr. Speaker, I ask  
unanimous consent that all Members  
may have 5 legislative days in which to  
revise and extend their remarks on the  
amendment I introduced to the bill H.R.  
6161.

The SPEAKER. Is there objection to  
the request of the gentlewoman from  
New York?

There was no objection.

The Clerk announced the following  
pairs:

On this vote:

Mr. Zeferetti for, with Mr. Dellums against.  
Mr. Hamilton for, with Mr. Teague against.



# REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF (H.R. 6990) MILITARY CONSTRUCTION AUTHORIZATION ACT, 1978

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Report No. 95-369) on the resolution (H. Res. 602) providing for the consideration of the bill (H.R. 6990) to authorize certain construction at military installations, and for other purposes, which was referred to the House Calendar and ordered to be printed.

# REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6804, DEPARTMENT OF ENERGY ORGANIZATION ACT

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Report No. 95-370) on the resolution (H. Res. 603) providing for the consideration of the bill (H.R. 6804) to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes, which was referred to the House Calendar and ordered to be printed.

# APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 2, SURFACE MINING CONTROL ACT

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint three additional managers on the part of the House at the conference on the bill H.R. 2, the Surface Mining Control Act.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. RHODES. Mr. Speaker, reserving the right to object, would the gentleman explain why this request is made?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, after the conferees were appointed, I conferred with the gentleman from Kansas, the ranking minority member. The gentleman from Michigan (Mr. RUPPE) had been involved in this for a long time and had been deeply interested in this bill, and we are enlarging the conference from 7 to 10 largely to accommodate the gentleman from Michigan (Mr. RUPPE) and to appoint two additional majority members.

Mr. RHODES. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arizona? The Chair hears none and appoints the following additional conferees: Messrs. TSONGAS, RAHALL, and RUPPE.

# AUTHORIZING APPROPRIATIONS FOR SAN LUIS UNIT, CENTRAL VALLEY PROJECT, CALIFORNIA

Mr. MEEDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4390) to authorize appropriations for continuation of construction of distribution systems and drains on the San Luis Unit, Central

Valley Project, Calif., to mandate the extension and review of the project by the Secretary, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 5, lines 12 and 13, strike out "interim contract on the San Luis Unit, or any".

Page 5, line 16, after "14-06-200-2020-A)" insert: ", or any temporary contract extending more than one hundred and eighty days beyond December 31, 1977,".

Mr. MEEDS (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the Record, and that I be allowed to explain them.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MEEDS. Mr. Speaker, I am happy to explain the effect of the amendments of the Senate. First, there is no question but that the amendments are germane and they do not increase the cost of the measure to the Federal Government.

Their effect is actually to clarify the intent of Congress with respect to section 3 of the bill forbidding further contracting between the Secretary of the Interior and the Westlands Water District during the pendency of the Task Force report mandated by section 2 of the bill. The Senate amendment will make it possible for a temporary contract covering certain routine noncontroversial aspects of project management to be concluded while maintaining a moratorium on contracting in certain forbidden areas such as changes in water deliveries or altered repayment arrangements.

The Senate amendments have been considered by the original author of the bill in the House, the gentleman from California (Mr. SISK) the ranking minority member on the subcommittee, the gentleman from New Mexico (Mr. LUJAN) and the gentleman from California (Mr. MILLER) who offered section 3 to the bill as an amendment in committee.

Mr. SISK. Mr. Speaker, I believe that the Senate and House hearings, committee reports, and floor debates have well documented the urgent need for the enactment of H.R. 4390, a bill to amend the act of June 3, 1960, which authorized the Secretary of the Interior to construct the San Luis unit, Central Valley project, Calif.

I have no problem with the amendment to the bill adopted by the Senate and explained in its committee report. There is no reason why we should not accept the Senate modification and send the bill on to the White House for action by the President.

I am, however, concerned about a change which has been made in the bill and, were it not for the urgent need for its enactment forthwith, would seek to correct what I regard as a deficiency. I will explain my concern later in these remarks.

My purpose in introducing H.R. 4390 early in March was to address a critical

problem which, if not resolved, would have forced an abrupt halt of work on the distribution system and drains for providing surface water irrigation service to some 500,000 acres of prime agricultural land within the Federal San Luis Project on the west side of California's San Joaquin Valley. This problem arose because the 1960 act—through what I am confident was sheer inadvertence—failed to include the customary language covering adjustment of the authorized amount based on increase or decrease in the construction cost index.

At the time of authorization 5 years was represented as the optimum construction period for completion of these works. As of now the distribution system is approximately 75 percent complete. As a direct result of this ill advised and uneconomic stretched out construction period, the authorized amount will be used up in this year's construction program, and work must be halted unless H.R. 4390 is enacted.

Following introduction of H.R. 4390 I entered into discussions with our colleague GEORGE MILLER whose congressional district includes the Sacramento-San Joaquin delta area of California. I might pause at this point to salute Congressman MILLER as an able and fair-minded legislator. What impressed me most was his positive approach. He perceived the havoc that a work shutdown would cause. At the same time, he articulated the concerns of those who feel that the letter and the spirit of the San Luis enabling act and the basic Federal reclamation were being frustrated. While I personally do not agree with that assessment, I respect my colleague's conscientious concerns in the matter.

As the author, along with the late great Senator from California, Clair Engle, of the San Luis Act, I have kept in close touch with all aspects of the project during the protracted construction period. I believe firmly in the excess land limitations and other provisions of the Federal reclamation law. I further believe that existing law is being carried out in connection with development of the project. Like Congressman MILLER and others, I am most anxious to have all the facts pertaining to San Luis spread on the public record.

The version of H.R. 4390 pending before us today is a direct result of discussion between GEORGE MILLER and me and our staffs. Briefly, the bill would first authorize appropriation of \$31,050,000 for continuation of construction on the distribution and drain facilities during the fiscal year 1978. Secondly, it would establish a mechanism designed to secure an objective evaluation of the management, organization, and operation of the project in the light of provisions of the applicable law and commitments of the responsible local public entity, the Westlands Water District.

The legislation would establish a task force composed of the Commissioner of Reclamation, the Assistant Secretary of the Interior for Land and Water, the Solicitor of the Department of the Interior, the Comptroller General of the United States and representatives of the general public, the State of California, and of the Westlands Water District. No

later than January 1, 1978, the task force would be required to submit a report to the chairman of the House Committee on Interior and Insular Affairs and of the Senate Committee on Energy and National Resources. The bill designates 10 specific issues relating to the management and operation of San Luis which are to be analyzed, reviewed, or considered by the task force and included in its report.

Thus the enactment of H.R. 4390 will serve as a vehicle for not only averting an imminent shutdown of an important construction program, but also for ferreting out the basic facts in the long smoldering dispute over the San Luis project.

I might add that while the ten specific issues are presented in the framework of operations of the San Luis project several, if not all in one way or another, have implications which will have a bearing on Federal reclamation projects throughout the 17 Western States. In other words, I believe that if the task force functions as contemplated its findings and recommendations may well transcend San Luis and have a significant impact on the future direction of the Federal reclamation program.

I trust that my colleagues in this Chamber today will perceive from these remarks my enthusiasm over the promise which creation of the task force holds for the Federal reclamation program. Incidentally, that important program will celebrate its 75th birthday in the middle of next month. While enactment of the Reclamation Project Act of June 17, 1902, may go unheralded in the seemingly complex issues of today, its important contribution to development of the Western areas of our Nation cannot be gainsaid.

At the outset of these remarks I alluded to one change in the bill which is of concern to me. In the compromise developed by Mr. MILLER and myself and presented to the House Subcommittee on Water and Power Resources the task force was to be comprised on three high officials of the Department of the Interior and the Comptroller General of the United States. The Secretary of the Interior was given permission to select additional task force members from the general public, and from representatives of the State of California and the Westlands Water District.

An amendment offered in the subcommittee struck from the bill the discretionary authority of the Secretary to designate the non-Federal members of the task force and made such appointments mandatory. In my view that change was most unfortunate. I would have no objection whatsoever to the addition of a representative of the general public to the task force. In fact, the inclusion of such a member would be highly desirable providing the designee were endowed with characteristics of integrity, ability, and standing of the highest order, and had no previous connection with San Luis.

If the task force is to succeed in its difficult task of sorting out the facts and fiction in the dispute, its members must be detached from emotional involvement or preconception on the issues. In other

words, it is my strong conviction that none of the members of the task force should be a protagonist for any specific point of view related to San Luis. To me, the requirement that the Secretary appoint a representative of the State of California, the Westlands Water District, or any other special interest group to the task force is incompatible with the sine qua non of any fact finding body, namely, objectivity.

As stated earlier, having gone on record with respect to my stated concern, I nonetheless recommend approval of H.R. 4390 today so that the construction work now in progress may be continued without interruption.

I would, however, urge the Secretary of the Interior in the discharge of his responsibility to designate the "outside" members of the task force to select persons of unquestioned integrity. It is essential that he do so if the work product of the task force—its report—is to point the way for resolution of the controversy which has surrounded the San Luis project.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill H.R. 4390.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

#### LEGISLATIVE PROGRAM FOR WEEK OF MAY 30, 1977

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished acting majority leader as to the program for the balance of the week and for next week.

Mr. BRADEMAs. Mr. Speaker, if the distinguished minority leader will yield, I will respond.

Mr. RHODES. I yield to the gentleman from Indiana.

Mr. BRADEMAs. Mr. Speaker, Monday and Tuesday will be the Memorial Day district work period.

On Wednesday the House meets at noon and will consider the bill H.R. 6970, amendments to Marine Mammal Protection Act of 1972, under an open rule with 1 hour of debate.

That will be followed by H.R. 6967, Peace Corps authorization, under an open rule with 1 hour of debate.

Thursday and the balance of the week the House meets at 10 a.m. on H.R. 6804, the Department of Energy Organization Act, under an open rule with 3 hours of debate.

The House will adjourn by 3 p.m. on Fridays and by 5:30 p.m. on all other days except Wednesdays.

Conference reports may be brought up at any time.

Any further program may be announced later.

Mr. RHODES. Mr. Speaker, I take it that the Department of Energy Organization Act bill will be the only measure considered on Thursday?

Mr. BRADEMAs. The gentleman is correct and it is anticipated that that might take most of the day Thursday and, of course, could even go into Friday, depending on how the debate went.

Mr. RHODES. There is a possibility of a Friday session next week?

Mr. BRADEMAs. The answer to that is, of course, yes.

Mr. RHODES. Mr. Speaker, I thank the gentleman.

#### AUTHORIZING CLERK TO RECEIVE MESSAGES FROM SENATE AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS NOTWITHSTANDING ADJOURNMENT

Mr. BRADEMAs. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Wednesday, June 1, 1977, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

#### DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BRADEMAs. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday, June 1, 1977, be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

#### AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES AUTHORIZED BY LAW OR BY THE HOUSE, NOTWITHSTANDING ADJOURNMENT

Mr. BRADEMAs. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Wednesday, June 1, 1977, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

#### INTRODUCTION OF THE COAL SUBSTITUTION INCENTIVE ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentle-



man from Pennsylvania (Mr. MOORHEAD) is recognized for 5 minutes.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, this year, 1977, we will be spending at least \$83 billion for foreign oil. We must do so in order to keep our cars moving, our industry and utilities operating, and our homes warm and lighted. The most oft-quoted statistic, concerning our energy situation, stresses our growing dependence on imports which now exceed 40 percent of our total domestic oil demand.

It has become increasingly clear to the American people that such dependence is fraught with economic danger. The threat of increased prices and a restoration of the embargo, and all they imply in terms of economic disruption, are problems with which this Congress must deal. Indeed, in his energy message of April 29, President Carter pointed out in stark terms the degree of our commitment to oil and gas with which to operate our society, and equally so, our definite need to reduce such dependence as fast and as complete as the transition to other energy sources will permit.

For the record, it is important to note that industry and utilities used 4.8 million barrels of oil per day, and 5.9 million barrels of oil equivalent per day, in the form of natural gas, in 1976. The rate of consumption will probably be even higher this year. Both resources are, however, scarce in availability. Moreover, both are needed by other elements of our economy to as great a degree as industry and the utilities represent.

For that reason alone, it makes eminent good sense to promote conversion to other energy forms as quickly as possible. This can be done by turning to more abundant sources such as coal, which makes up 90 percent of our conventional energy reserves, but supplies only 18 percent of our energy consumed.

Mr. Speaker, we must ask ourselves how we can proceed to increase the demand for the use of our coal resources. Certainly, we should do all we can to remove those constraints which have held back such demand for this energy source in the past.

Mr. Speaker, one such constraint has been the obvious cost incurred by the user to meet necessary environmental standards, particularly those involving direct burning. The Clean Air Act of 1970 established high air quality requirements. The Edison Electric Institute has estimated the cost to utilities to be at least \$1.7 billion annually to meet those standards. These are imposing figures, but if we are to shift from oil- and gas-fired systems to those based on coal, it is clear to me that we must also provide suitable incentives and assistance to industry in its quest to accomplish such a massive undertaking.

Mr. Speaker, this is why I am introducing the Coal Substitution Incentive Act of 1977.

This bill, if enacted, would provide up to \$500 million annually in loan guarantees and \$100 million in low interest loans to companies shifting from oil and gas to coal. The funds made available would be for the acquisition of pollution control systems.

The legislation foresees a 10-year conversion effort, thus, the limits of these incentives could be \$5 billion in guarantees and \$1 billion in loans.

Mr. Speaker, as chairman of the House Banking Subcommittee on Economic Stabilization, I have devoted considerable effort to the review and examination of loan guarantees as forms of credit assistance, and as a means of reallocating our resources. This legislation I introduce today incorporates all of the acknowledged safeguards identified by our efforts that are intended to minimize the risk of Federal revenue loss should any default occur.

Mr. Speaker, President Carter has told us our energy problem has taken decades to grow, and may take decades to solve. I believe we can move toward that solution only if we recognize the nature of our problem, and only if we begin the task of its solution today. The equation is quite simple: We must reduce foreign oil and gas imports, and we must increase the use of our own resources. Our most abundant substitute is coal. I believe there is widespread support for incentives to go to coal substitution, and I believe that loans and loan guarantees should be considered in the range of incentives to be adopted.

Mr. Speaker, I urge my colleagues to support this measure, and I ask unanimous consent that the text of the bill appear at this point in the RECORD.

H.R. 7473

A bill to establish fiscal incentives for the conversion of existing petroleum-fired and natural gas-fired powerplants and fuel burning installations to coal as a primary energy source, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Coal Substitution Incentive Act of 1977".

SEC. 2. The Energy Supply and Environmental Coordination Act of 1974 is amended by adding the following new title.

#### "TITLE II

##### "FINDINGS AND PURPOSE

"SEC. 201. (a) The Congress finds that—

"(1) the United States is now and will increasingly be dependent on unreliable foreign sources of fossil fuel energy;

"(2) this dependency can be reduced by the use of domestic energy resources at existing major electric powerplants and fuel burning installations;

"(3) the only domestic energy sufficiently abundant to the primary energy source for such existing facilities is coal; and

"(4) the substitution of coal for petroleum or natural gas as the primary energy source in existing electric powerplants and fuel burning installations is expensive, and will not occur to a substantial degree without temporary Federal fiscal assistance.

"(b) The purposes of this title are—

"(1) to authorize the Federal Energy Administration to provide loan guarantees and low-interest rate loans for the purchase of pollution-abatement devices necessary to comply with applicable environmental requirements, thereby stimulating the conversion to coal as a primary energy source in existing electric powerplants and fuel burning installations now utilizing petroleum or natural gas; and

"(2) to ease the capital requirements temporarily imposed by a conversion to coal or other fuel as the primary energy source by existing electric powerplants and fuel burn-

ing installations now utilizing petroleum or natural gas as a primary energy source.

#### "DEFINITIONS

"SEC. 202. For the purposes of this Act:

"(a) The term 'Administrator' means the Administrator of the Federal Energy Administration.

"(b) The term 'natural gas' includes dry natural gas, casinghead gas, and synthetic natural gas derived from natural gas liquids and which is commingled with natural gas.

"(c) The term 'person' includes a Federal, State, or local agency, who owns, leases, operates, or controls any electric powerplant or fuel burning installation.

"(d) The term 'petroleum' includes crude oil, residual fuel oil, refined petroleum products, liquid petroleum gas or synthetic natural gas derived from petroleum.

"(e) The term 'coal or other fuel' means coal and any fuel other than natural gas or petroleum.

"(f) The term 'small electric powerplant' means a fossil-fuel fired electric generating unit, which is part of an electric utilities system with a total net generating capacity of less than one hundred and fifty megawatts, that produces electric power for the purposes of sale or exchange.

"(g) The term 'fuel burning installation' means an industrial installation, other than an electric powerplant, that contains a fossil-fuel fired boiler, a gas turbine unit, combined cycle unit, or diesel engine, that by design is capable of being fired for the generation of steam or heat and includes combinations of more than one such unit at the same site.

"(h) The term 'small industrial installation' means a fuel burning installation that by design is not capable of being operated at a total fuel heat input in excess of two hundred and fifty million British thermal units per hour.

"(i) The term 'primary energy source' means the fuel used by an electric powerplant or fuel burning installation for normal operation the minimum amounts of fuel required (1) for boiler start-up, testing, flame stabilization, control uses, and fuel preparation; (2) to alleviate or prevent acute short-term air quality emergencies; and (3) to alleviate or prevent any emergencies directly affecting the public health, safety, and welfare which would result from electric power outages.

"(j) The term 'air pollution control device' means equipment designed to reduce the quantity of atmospheric emissions by any electric powerplants and fuel burning installation using coal or other fuel as its primary energy source.

#### "LOAN GUARANTEES

"SEC. 203. (a) (1) The Administrator is authorized, in accordance with the provisions of this section and such rules and regulations as he shall prescribe, and after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee the bonds, debentures, notes, and other obligations issued by or on behalf of any person who owns, leases, operates, or controls any existing electric powerplant or fuel burning installation, for the specific purpose of financing the purchase and installation of air pollution control devices at such electric powerplants or fuel burning installations. The aggregate amount of outstanding indebtedness guaranteed under this section may at no time exceed \$5,000,000,000. No guarantee or commitment to guarantee shall be undertaken under this section after January 1, 1985.

"(2) An applicant for a guarantee under this section shall provide evidence in writing to the Administrator in such form and with such content and other submissions as the Administrator deems necessary to protect the interest of the United States. Each guarantee and commitment to guarantee shall be extended in such form, under such

terms and conditions, and pursuant to such regulations as the Administrator deems appropriate.

"(b) The Administrator shall guarantee or make a commitment under subsection (a) of this section, with respect to air pollution control devices, subject to conditions and priorities pursuant to section 205 of this title, and if—

"(1) the Administrator is satisfied that the guarantee will significantly reduce the borrowing costs associated with acquisition of capital for the purchase of such pollution control devices;

"(2) the Administrator is satisfied that the acquisition of such air pollution control devices would be significantly delayed in the absence of a loan guarantee;

"(3) the amount guaranteed does not exceed 66⅔ per centum of such air pollution control device acquisition costs;

"(4) the Administrator is satisfied that the financial assistance applied for is not otherwise available from other Federal agencies and that assistance as provided in section 204 of this title has not been obtained for such air pollution control devices; and

"(5) the bonds, debentures, notes, or other obligations for which guarantees are made shall not have redemption dates or a maturity in excess of ten years from date of issuance.

"(c)(1) The Administrator shall charge and collect such amounts as he may deem reasonable for the investigations for a guarantee, for the appraisal of properties offered as security for a guarantee, or for the issuance of commitments for a loan or other obligation guaranteed under this section, but such charge shall not exceed one-quarter of one per centum of the amount of the loan or other obligation.

"(2) The Administrator shall charge and collect an insurance fee designed to avoid a Federal revenue loss in the event of a default of a loan or other obligation guaranteed under this section, but such fee shall not exceed one-half of one per centum per annum of such guaranteed loan or other obligation during the twelve-month period following enactment of this title.

"(d) No guarantee or commitment to guarantee an obligation entered into by the Administrator shall be terminated, canceled, or otherwise revoked, except in accordance with reasonable terms and conditions prescribed by the Administrator. Such a guarantee or commitment to guarantee shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal interest, and other terms. Such a guarantee or commitment shall be valid and incontestable in the hands of a holder as of the date when the Administrator entered into the contract of guarantee or commitment to guarantee, except as to fraud, duress, mutual mistake of fact, or material misrepresentation by or involving such holder.

"(e)(1) If there is a default in any payment by the obligor of interest or principal due under an obligation guaranteed by the Administrator under this section and such default has continued for ninety days, the holder of such obligation or his agents has the right to demand payment by the Administrator of such unpaid amount. Within such period as may be specified in the guarantee or related agreements, but not later than forty-five days from the date of such demand, the Administrator shall promptly pay to the obligee or his agent the unpaid interest on an unpaid principal of the obligation guaranteed by the Administrator as to which the obligor has defaulted, using funds collected for such purpose as insurance fees pursuant to subsection (c), unless the Administrator finds that there was no default by the obligor in the payment of interest or

principal or that such default has been remedied.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection, he shall have all rights specified in the guarantee or related agreements with respect to any security which he held with respect to the guarantee of such obligation, including, but not limited to, the authority to complete, maintain, operate, lease, sell, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements.

"(3) If there is a default under any guarantee or commitment to guarantee an obligation, the Administrator shall notify the Attorney General who shall take such action against the obligor or any other parties liable thereunder as is, in his discretion, necessary to protect the interests of the United States. The holder of such obligation shall make available to the United States all records and evidence necessary to prosecute any such suit.

#### "COAL CONVERSION LOANS

"Sec. 204. (a) (1) The Administrator is authorized, in accordance with the provisions of this section and such rules and regulations as he shall prescribe, and after consultation with the Secretary of the Treasury, to make loans and to make commitments to loan to any person who owns, leases, operates, or controls any existing electric powerplant, or fuel-burning installation, for the specific purpose of financing the purchase and installation of air pollution control devices at such electric powerplants or such fuel-burning installations. The aggregate amount of loans outstanding under this section may at no time exceed \$1,000,000,000. No loan or commitment to loan shall be made under this section after January 1, 1985.

"(2) An applicant for a loan under this section shall provide evidence in writing to the Administrator in such form and with such content and other submissions as the Administrator deems necessary to protect the interests of the United States.

"(3) Each loan shall be extended in such form, under such conditions and terms, and pursuant to such regulations as the Administrator deems appropriate: *Provided*, That the Administrator shall, from time to time as he deems appropriate and on advice of the Secretary of the Treasury, establish the interest rate or rates at which loans shall be made under this section: *Provided further*, That this interest rate shall be established at the current rate being paid by the Secretary of the Treasury on bonds, notes, and other obligations of comparable duration issued on behalf of the Federal Government, plus such fees and other charges as the Administrator may specify pursuant to subsection (c) of this section, not to exceed 1 per centum per annum.

"(b) The Administrator shall loan or make a commitment to loan under subsection (a) of this section with respect to air pollution control devices, subject to conditions and priorities pursuant to section 205 of this title, and if—

"(1) the Administrator is satisfied that the financial assistance applied for is not otherwise available from other Federal agencies and that assistance as provided in section 203 of this title has not been obtained for such air pollution control devices;

"(2) the Administrator is satisfied that the acquisition of such air pollution control devices would not occur in the absence of a loan;

"(3) the loan does not exceed 66⅔ per centum of the cost of acquiring and installing such air pollution control devices; and,

"(4) the loan does not have a maturity date in excess of ten years.

"(c)(1) The Administrator shall charge and collect such amounts as he may deem reasonable for the investigations for a loan, for the appraisal of properties offered as

security for a loan, or for the issuance of a commitment: *Provided*, That such amounts shall not exceed one-half of one per centum of the loan amount authorized pursuant to subsection (a) of this section.

"(2) The Administrator shall charge and collect an insurance fee designed to avoid a Federal revenue loss in the event of a default of a loan made pursuant to this section. Such fee shall not exceed one-half of one per centum of such loan during the twelve-month period following enactment of this title.

"(d) No loan or commitment to loan entered into by the Administrator shall be terminated, canceled, or otherwise revoked, except in accordance with reasonable terms and conditions prescribed by the Administrator.

"(e)(1) If there is a default in any payment by the obligor of interest or principal due under a loan entered into by the Administrator under this section and such default has continued for ninety days, the Administrator has the right to demand payment of such unpaid amount, unless the Administrator finds that such default has been remedied, or a satisfactory plan to remedy such default by the obligor has been accepted by the Administrator.

"(2) In demanding payment of unpaid interest or principal by the obligor, the Administrator has all rights specified in the loan-related agreements with respect to any security which he held with respect to the loan, including, but not limited to, the authority to complete, maintain, operate, lease, sell, or otherwise dispose of any property acquired pursuant to such loan or related agreements.

"(3) If there is a default under any loan or commitment to loan, the Administrator shall notify the Attorney General who shall take such action against the obligor or other parties liable thereunder as is, in his discretion, necessary to protect the interests of the United States. The holder of such loan shall make available to the United States all records and evidence necessary to prosecute any such suit.

"(f) There are hereby authorized to be appropriated to the Administrator such sums as shall be sufficient for the purposes of this title, but which shall not exceed the sum of \$200,000,000 for each fiscal year 1978 through 1982.

#### "CONDITIONS AND PRIORITIES

"Sec. 205. (a) The Administrator shall guarantee or make a commitment to guarantee as authorized in section 203 of this title, or loan or make a commitment to loan as authorized in section 204 of this title, only when conditions set forth in such sections are satisfied, and if—

"(1) air pollution control devices to be acquired pursuant to this title shall satisfy any applicable environmental requirements;

"(2) the Administrator is satisfied that the acquisition of air pollution control devices will not create serious shortages in the supply of such items, or that temporary price increases will not occur as a result of such acquisitions;

"(3) the Administrator is satisfied that such air pollution control device is necessary to effect a substitution of coal for natural gas or petroleum as the primary energy source for an existing fuel-burning installation or electric powerplant;

"(4) the Administrator, in consultation with the Administrator of the Environmental Protection Agency, is satisfied that such air pollution control device does not duplicate or displace existing air pollution control devices with a remaining useful economic life in excess of two years and that such air pollution control devices being installed are—

"(A) being installed on or after the effective date of this title; or



"(B) being installed to replace an existing electric power plant or fuel-burning installation using natural gas or petroleum as its primary energy source; or

"(5) the Administrator has determined that there will be a continued reasonable assurance of full repayment of a loan, or that a realistic plan exists for redeeming all bonds, debentures, notes, or other obligations for which a guarantee is requested; and

"(6) the Administrator is satisfied that competition among private entities for the provision of air pollution control devices for any electric powerplants or fuel-burning installations using coal as their primary energy source to be assisted under this title will be in no way limited to or precluded.

"(b) In making guarantees or commitments to guarantee pursuant to section 203 of this title, or in making loans or commitments to loan pursuant to section 204 of this title, the Administrator is directed to—

"(1) allocate 25 per centum of available financial assistance, to the extent feasible and practicable, to existing small electric powerplants, and to small existing industrial installations; and

"(2) give priority consideration to requests for financial assistance by existing major fuel burning installations and electric powerplants subject to, and in receipt of, a coal conversion order issued by the Administrator pursuant to title I of the Energy Supply and Environmental Coordination Act of 1974.

"(c) (1) The Administrator shall require all persons receiving financial assistance or guarantees under this title whether in the form of loans, obligation guarantees, or other arrangements, to keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section or full repayment of interest and principal on a loan made or guaranteed pursuant to provisions of this title, have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Administrator or the Comptroller General may be related or pertinent to the loans, obligation guarantees, or other arrangements referred to in such subsection."

#### YES VOTE URGED ON AGENCY FOR CONSUMER PROTECTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. TUCKER) is recognized for 1 minute.

Mr. TUCKER. Mr. Speaker, every Member who believes the small businessman and average citizens of America are satisfied with the way our bureaucracy currently proposes and passes regulations should vote against the Agency for Consumer Protection when it comes before the House soon.

But, if you think a little better thought, commonsense, and cross examination might make for a better bureaucracy then it is worth giving very careful consideration to the merits of the Agency for Consumer Protection.

Leon Jaworski, on behalf of his client, the Business Roundtable, recently voiced

his client's objection to this bill. The May 18 Washington Star printed an interesting reply to Mr. Jaworski's client and I ask that it be printed in the RECORD at this point.

#### A REPLY TO JAWORSKI

(By Ralph Nader and Mark Green)

(NOTE.—Ralph Nader is the consumer advocate, and Mark Green is the director of Public Citizen's Congress Watch. The part of Mr. Jaworski's letter citing his connection with the Business Roundtable was not included in the excerpt used by The Star, because of a space limitation.)

Leon Jaworski, on retainer from the Business Roundtable, recently sent a letter to the House Government Operations Committee arguing against the establishment of an Agency for Consumer Protection. This 11th hour effort was received after hearings had been held and right before subcommittee and full committee consideration of ACP legislation.

Since the House committee was unable to cross-examine him, and since *The Star* has excerpted his letter ("Can a consumer czar represent us all?" May 6), we think it appropriate to examine closely Jaworski's claims.

He repeats and repeats that the ACP has great potential for political abuse, that it "would be vested with authority so broad that it could be easily turned to the political advantage of those who control it." This agency is said to have "practically limitless statutory authority."

Did he even read the bill? His article refers to not one section nor one sentence from the bill, perhaps because none support his wild assertions. The ACP has no political power and no regulatory authority. All it may do is to advocate before other agencies and occasionally require agencies to defend the soundness of their rulings in court.

Thus, all his warnings about there being "no effective check against abuse" are just pure business propaganda. He conveniently ignores any role for congressional oversight—although John Moss, D-Calif., has shown how oversight can be a valuable monitor of delegated authority. At worst, if an ACP makes a dumb or even malicious argument, the host agency or federal court can simply ignore it. A malicious Justice Department, on the other hand, could inflict great damage on individuals.

His anxiety about how an administrator can determine what is the consumer interest for all Americans also misses the mark. What does the EPA administrator now do but attempt to represent the environmental interest of all Americans? The Commerce Department does the same for business in America, though there are competing business interests. So why does it so surprise Jaworski for the ACP administrator to advocate an interest of consumers? Especially since, unlike the EPA or Commerce Department, an ACP can only advocate, not decide anything.

In this context, his assertion that it is dangerous "to vest in one unelected person the authority to represent, legally and politically, the interests of all the people" is laughable. What is the attorney general but an unelected person who represents "the people" in court? And what was Jaworski as special prosecutor? Now there was power, and the potential for political abuse.

The ACP—which cannot send anyone to jail, which cannot regulate any business or person, which has a budget 1/150th that of the Justice Department—hardly compares. Perhaps Jaworski's principle is that no unelected official should have such power—other than himself.

It is Jaworski's right to represent any client he wants—but not to misrepresent an important piece of legislation for that client's benefit. And since he failed to tell readers

what the consumer agency would do, we will.

For 25 cents a taxpaying family or one hour's budget of the Pentagon, the ACP would help make all other agencies less wasteful and more consumer-minded. It will save lives and dollars by, for example, persuading an FAA to require cargo doors with safer latches, by urging the ICC and CAB to stop acting like a price-fixing cartel, by reminding the FEA to follow lawful procedures when pricing unleaded gasoline.

Special interests have spokesmen within the federal government. Farmers have Agriculture. Business has Commerce. It is therefore illogical and self-serving for big business to argue that a small \$15 million a year agency shouldn't raise the consumer voice in executive and regulatory agencies.

A consumer watchdog in Washington with the standing to intervene in agency proceedings and court, is an essential step to make federal agencies more fair and effective. It is an important part of regulatory reform. We are surprised that a lawyer of Jaworski's experience would not apparently understand that the adversary process requires both sides to be represented in decisionmaking forums—not merely his clients.

#### INSTANT VOTING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, the fact that President Carter's election-day voter registration bill was pulled from the House calendar recently is a clear sign that this bill is a bad one and that support is lacking.

Hopefully we have heard the last of it for awhile, but there are signals that another try to gain support will be made in the future. If this is the case, it will be a mistake for the country.

Support for this proposed legislation is based on the false premise that poor voter turnout is due to the difficulty and delay in registration rules and procedures.

I agree that some of our voting registration and reidentification procedures could use some improvement. I know in my own case that it is difficult for me to get to the courthouse in Mobile, Ala., during the hours that the board of registrars is open. I think registrars should be available in the evenings and on weekends, for example, so working people can register more conveniently.

However, election-day, and post card registration for that matter, are not the answer.

The real culprit in poor turnouts is apathy—and that is a force which can not be countered by a law.

I sincerely want every eligible person to register and to vote, but election-day registration is an open invitation to fraud.

Election-day registration would allow a person to go to the polls on election day, show some type of identification, register on the spot, and then vote. The opportunities for fraud would be limitless.

Many close to voting procedures in Alabama and elsewhere throughout the country have said that registration at

least 30 days prior to an election is necessary to detect the common types of vote fraud. Justice Department officials have said that the signatures made on voter registration cards have been the principal basis for detection of recent voter fraud cases.

It would be almost impossible to locate someone who registers fictitiously on election day and then votes.

This election-day voter registration bill, in the opinion of many, amounts to a dangerous relaxation of the safeguards that presently exist.

It really does not seem to be asking too much to ask a citizen to take a few minutes to register in advance. But again, registrars should make it a lot easier.

This bill presents other problems as well. It would compel most States to rewrite their election laws and to train many new precinct workers to process instant registrations. It would amount to the Federal Government dictating how State and local elections would be run. States would have to either extend instant registration across the board or suffer the cost and confusion of running elections under two different sets of rules.

Finally, the Federal grants for administration of the new procedure and "voter outreach" campaigns strike me as virtually impossible to police without elaborate bureaucratic controls.

Good political organization, sound choice of issues, strong candidates, and vigorous campaigns still seem the best means to get more voters to the polls.

The truth is that there are still some jurisdictions where voter fraud is uncovered from time to time. But in my opinion, election-day registration would open the door to national fraud. I am surprised that the idea has even gotten this far.

#### HUGH A. HALL, ASSISTANT ADMINISTRATOR OF THE AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BOB WILSON) is recognized for 5 minutes.

Mr. BOB WILSON. Mr. Speaker, Hugh A. Hall, the Assistant Administrator of the American Revolution Bicentennial Administration, is retiring from Government service to his home in San Diego. As he leaves, I would like to bid him an admiring farewell—admiring because Hugh Hall helped give our country the best birthday ever.

Hugh brought to our Bicentennial celebration the experience he gained from directing San Diego's 200th birthday, experience that was much needed and used. The result of his work speaks for itself.

We will miss him sorely, but he has earned rewards and commendations from his many friends as he moves onward and upward.

#### EXEMPTING BINGO AND RELATED GAMES FROM TAXATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is

recognized for 10 minutes.

Mr. FRENZEL. Mr. Speaker, today I am introducing for the entire Minnesota delegation a bill which would exempt from taxation the proceeds from bingo and related games which are conducted by tax-exempt organizations in accordance with State and local laws. I am pleased to note that the entire Minnesota delegation in the House is cosponsoring this bill.

In Minnesota, certain charitable and fraternal organizations have encountered severe problems because of an IRS ruling to tax bingo income as unrelated business income, retroactive to 1970. These bingo games are not competing with profitmaking operations because, under Minnesota law, bingo is only allowed to be conducted by charitable or fraternal organizations. The bingo workers in Minnesota are paid a flat \$8 per night, which amounts to less than the minimum wage. The \$8 is specifically allowed under State law, and is really intended to be a partial reimbursement for volunteer expenses rather than a form of compensation.

The proceeds from the games are spent by the organizations for charitable functions and community services, such as youth athletic activities. Furthermore, thousands of hours are put in by volunteers conducting these activities. If these back taxes are required to be paid, an estimated 50 percent to 70 percent of these activities will have to be curtailed, just to handle this new tax liability.

Other States which it appears may soon encounter similar audits and assessments by the IRS on proceeds from bingo operations include Florida, Massachusetts, Michigan, Illinois, New Jersey, and California.

In order to allow charitable, fraternal, religious, and other similar organizations to continue to use the funds generated by bingo or related games to provide beneficial services to their communities, I am introducing the following bill:

#### H.R. 7460

A bill to amend the Internal Revenue Code of 1954 to treat the conducting of certain games by tax-exempt organizations as not being an unrelated trade or business

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 513 of the Internal Revenue Code of 1954 (defining unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(f) CERTAIN GAMES.—

"(1) IN GENERAL.—The term 'unrelated trade or business' does not include any trade or business which consists of conducting qualified games.

"(2) QUALIFIED GAME.—For purposes of paragraph (1), the term 'qualified game' means any game—

"(A) of a type in which usually—

"(i) the wagers are placed,

"(ii) the winners are determined, and

"(iii) the distribution of prizes or other property is made, in the presence of all persons placing wagers in such game.

"(B) the conducting of which is not an activity ordinarily carried on on a commercial basis, and

"(C) the conducting of which does not violate any State or local law."

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1969.

#### WHITE MOUNTAIN NATIONAL FOREST ADVISORY COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 10 minutes.

Mr. CLEVELAND. Mr. Speaker, last year during Jimmy Carter's successful bid for the Presidency, we heard a lot of talk about abolishing needless Federal agencies.

Apparently, shortly after his inauguration the determination to carry this out was conveyed to the various Cabinet members, and one of the first to respond was Secretary Bergland of the Department of Agriculture. He abolished 11 Department of Agriculture advisory White Mountain National Forest Advisory Committees, including the Peanut Advisory Board, as well as New Hampshire's sorry Committee.

I certainly have no quarrel with abolishing unnecessary advisory committees, but it makes no earthly sense to abolish bodies that are doing a good job.

The White Mountain National Forest Advisory Committee falls in the latter category. It has been serving its purpose exceptionally well and deserves to be continued. Unfortunately, it was carelessly swept into that group of committees to be abolished as part of the numbers games.

My support for the White Mountain National Forest Advisory Committee comes from a number of accomplishments. Perhaps the most important is that meetings of the committee find a representative of the Sierra Club, one from the snowmobilers organizations, and another from the trailbike riders organizations, all sitting down at the same table to discuss problems common to the National Forest. At a time when we have group fighting against group, and more rhetoric than rational discussion, the White Mountain National Forest Advisory Committee has been the scene of exactly the opposite—cooperation.

The case for the White Mountain National Forest Advisory Committee has been well stated by Paul Bofinger, executive director of the Society for the Protection of New Hampshire Forests, a highly regarded New Hampshire environmental organization. A copy of his letter to Secretary Bergland follows this statement, since I would like the Members of this body to know of the accomplishments of this one advisory committee, which was abolished apparently only to justify a news release announcing it.

Secretary Bergland has wisely decided to review the situation and consider whether this committee should be continued. If he looks at the facts dispassionately, I am confident he will decide to reverse his earlier decision, once again assuring that the various users of the White Mountain National Forest will



come together to discuss problems rather than fight over them.

I commend to the House the letter from Mr. Bofinger on an issue of great importance to the future of that national forest, which serves as a recreation area for so much of the northeastern part of the United States.

The letter follows:

SOCIETY FOR THE PROTECTION OF  
NEW HAMPSHIRE FORESTS,  
Concord, N.H., May 16, 1977.

Mr. BOB BERGLAND,  
Secretary of Agriculture, Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: I understand you are conducting a review of USDA advisory committees including the recently-terminated White Mountain National Forest Advisory Committee.

As a member of this committee since its inception and as a long-time advocate of open planning and public input, I believe I can offer some comments that may aid you in your evaluation.

Over the past eleven years, I have worked with three forest administrators on advisory groups ranging from ad hoc to semi-formal to official. I have represented the Society for the Protection of New Hampshire Forests, the state's oldest and largest conservation organization. Our Society has been deeply interested in the White Mountain National Forest (WMNF) since our vital role in passage of the Weeks Act in 1911.

While I approve of your actions in reviewing the effectiveness of advisory committees, I respectfully urge your reconsideration of the discontinuation of the WMNF Committee. This group, operating as an official USDA body, has been the most effective, most representative and most efficient of all in my experience.

Effectiveness may be measured by the complexity and scope of WMNF planning and action programs which have been successfully completed and in which the Advisory Committee has played an important part.

Representation is both broad-based and meaningful. Any group which does its job, gets results and can balance the diverse interests of trailbikers and birdwatchers, wilderness purists and forest industry, local government and vacation travel industry (to name just a few) must be achieving real public involvement to the benefit of both the public and the resource.

Efficiency may be judged, not in the paper and staff expenditures related to this Committee, but rather in terms of the far greater expense that would be necessary to achieve equally effective representation in some other manner.

I and many other members of our former Advisory Committee feel strongly enough about value of what we were achieving that we have agreed to continue to meet on an ad hoc basis at our own expense. To some of us, the financial burden is acceptable but for others the cost of travel, meals and lost wages is difficult if not impossible. We find ourselves in a "Catch 22" situation. Without expense reimbursement, we cannot insure a truly balanced committee; yet we are told that we are not a USDA sanctioned body because we are not representative.

The staff of the WMNF, working closely with the former Advisory Committee, has developed an exemplary process for open planning and participation open to all citizens. The complexities of planning on a heavily-used, diversified forest such as this requires both the open-ended public process and the more structured but nevertheless representative Advisory Committee.

Finally, I respectfully direct you to the just-published Conservation Foundation Report on the eastern national forests, "The

Lands Nobody Wanted". In addition to recommending establishment of advisory committees based on the WMNF example, this objective analysis contains opinions on advisory committee value based on interviews taken more than a year ago.

Thank you for your attention.

Cordially,

PAUL O. BOFINGER,  
President/Forester.

#### YOUNG (NOT ANDREW) CALLS FOR NATIONAL DEBATE ON FOREIGN AID

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. YOUNG) is recognized for 15 minutes.

Mr. YOUNG of Florida. Mr. Speaker, I am calling for a national debate on the future of our foreign aid program. It is time to involve the people who pay the bills—the American taxpayers—in the very important decisions that are being made and are about to be made concerning the future of our foreign aid program.

In the past 10 years, the cost of our foreign aid program has more than doubled. In 1967 we invested \$2.9 billion in foreign aid. In 1977, the figure will be over \$7 billion—an increase of 141 percent.

Because of our complex foreign policy and leadership position in the world, we are inclined to feel that it cannot be changed, and that the best we can do is try to keep it from getting further out of hand. I submit, Mr. Speaker, that it is about to get considerably out of hand.

At a meeting that I attended yesterday morning, with Secretary of State Cyrus Vance and numerous Under Secretaries, I was informed that it is the intent of this administration to double our foreign aid contributions in the next 5 years. Our 1978 budget request for foreign aid was for more than \$7 billion—that means an annual foreign aid cost of more than \$14 billion in 1982. At the same time, our domestic budget request for preventing and controlling diseases is only \$126 million; our domestic budget request for elementary and secondary school education is only \$3.1 million; grants to States for social services only \$2.5 billion; highway construction only \$7.3 billion; law enforcement and justice only \$3.9 billion. So compare the projected foreign aid figure with some of our own domestic programs and you see that \$14 billion, Mr. Speaker, is a great deal of money.

This is the reason, Mr. Speaker, that I am calling for a national debate on the part of the American people on our foreign aid program. President Carter has promised that the people of America would be consulted on our foreign aid program. He promised that they could be involved in the decisionmaking, and he promised to keep them constantly aware of what is happening. Well, the time has come to do just that.

While our foreign aid program has never been very popular with the American people, they swallow the present foreign aid program and foot the bill because they are a generous people who have almost without question provided

assistance to the less fortunate people of the world, almost since our beginning as a nation. I doubt, however, Mr. Speaker, in spite of their generosity and humanitarian instincts, that they want to consent to doubling the program in the 5 years, especially with the increasing emphasis that is being placed on "multilateral" foreign aid. Through our "bilateral" program, which is distributed in the form of gifts, loans, or services to receiving nations directly from the United States, we can, at least, monitor the results of our investment. A major and growing portion of our foreign aid program, however, is distributed through "multilateral" organizations in the form of cash contributions or loan guarantees. While these international organizations, such as the United Nations or the World Bank are supported by contributions from a number of nations, in practically every instance, the United States is the major contributor.

The World Bank, and other international financial institutions, in turn, provide funding for development to organizations within "developing" countries, generally on a loan basis. Certain of these loans are called "soft loans" because the financial terms of the loan are so lenient. Generally these loans are granted on a 50-year basis with no repayment required for the first 10 years. During the succeeding 40 years, the loans are expected to be repaid at no interest, with only a small service charge. Although we are a major contributor to these international financial institutions, we have very little to say about how our money will be spent. Our vote is somewhat weighted, because of the size of our contribution to the organization; however, with only one minor exception, our vote is not large enough to veto an individual loan, and in that case we have never used that veto anyway. Because of this procedure, we often find ourselves in the awkward position of contributing funds for development within countries we would rather not support, such as Vietnam and Uganda, for example. And, we have very little control over how much of the money we contribute to those organizations goes to the organizations themselves for administrative expenditures. Employee salaries within the international financial institutions, which are tax free, are often very high when compared to comparable employee positions in our own Government. Our lack of control over expenditures, and terms of the loans offered by these organizations, which are so broad that they would better be termed "grants" than the loans they purport to be, make our continued investment in these multilateral spending programs a questionable practice. Especially in light of the fact that in one year, from fiscal year 1977 to fiscal year 1978, our contributions to the international financial institutions doubled—from \$1.1 billion to \$2.2 billion.

As Members of the House of Representatives, we are elected to represent the people. Therefore, as their Representatives, we are in the best position to tell them the whole truth about our foreign aid program and to ask their ad-

vice. It is time for each of us to inform our constituency of the lack of proof that much of the money expended by the United States in the foreign aid program ever gets to the people who need it. If they knew that we are committed to spending \$30 million in the next 5 years in Uganda, where under the rule of Idi Amin exists one of the most ruthless and corrupt governments in existence today, guilty of flagrant human rights violations including murder and assassinations; if they knew that over 40 percent of all U.S. loan commitments to the International Development Association—over \$4.3 billion—has gone to India, and that while India received the assistance to help with her economic problems, our investment freed her own capital to purchase Soviet weapons and develop and explode a nuclear device; if they were fully aware of how little knowledge our Government has of how the money we spend is actually used, and how little oversight of its use we have—there would, I believe, be something resembling a political revolution in the United States.

It is time for us to bring this matter directly to the American people in the form of a national debate, in every congressional district, and with every constituent who has an opinion to express. And the time is now, before we make this commitment to double our program. The American taxpayer, Mr. Speaker, works 3 months of every year just to pay his taxes, and he should be entitled to object, if he feels the money he pays the Government is being handed over to outside interests, with no control over how they spend it.

The question to be posed to the American people is not whether we will continue to help the less fortunate people of the world. Obviously we, as a nation of caring individuals, will always do that. The question is rather, how shall we go about it? To what extent can we, in the light of our own domestic problems such as energy shortages, environmental problems, unemployment levels, and so forth, afford to increase our generosity? Who shall we help—all of those in need simply because they are in need, including countries which are politically anti-American and pro-Communist; or shall we be selective to the point of helping only those countries with whom we are philosophically in tune, and on whom we could depend should we ever need their support? And how should we help—through direct bilateral aid between our country and the receiving country; or through the multilateral financial institutions which were described by one Under Secretary yesterday morning as "an umbrella" or "catalyst" for international financial affairs? These are some of the questions which should be presented to the American people for discussion.

As complex as our foreign aid program is, it is easy to understand from the standpoint of dollars and cents. It is expensive beyond belief, and there is a great deal of proof that much of it is wasteful, ineffective, and misdirected. There is also very little proof that it has accomplished a whole lot, either for the United States or for the hungry people

in other parts of the world. Whether you are convinced of the effectiveness of our foreign aid program, Mr. Speaker, or I am, is not really the most important factor. It is time that the American people are sure, and I feel strongly that it is our responsibility to tell them the truth about our foreign aid program. To tell them the truth about the administration's plans to double the program in the future, and give them—the ones who pay the bill—a chance to register their feelings.

#### VETERANS' BENEFITS PASS- THROUGH LEGISLATION INTRO- DUCED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. REGULA) is recognized for 5 minutes.

Mr. REGULA. Mr. Speaker, today I am reintroducing legislation to provide for veterans' benefits passthrough.

At the present time, our elderly citizens who are trying to get by on small social security and veterans' benefits checks are faced with a reduction in veterans' benefits every time there is an increase in social security payments. The net effect, therefore, is that there is no increase for those drawing veterans' benefits.

With the upcoming increase of 5.9 percent in social security payments, quick action on my bill or similar legislation takes on added importance. I understand that if some corrective action is not taken 18,000 pensioners now receiving veterans' benefits will be dropped from the veterans' pension program and others will face a reduction in their veterans' benefits.

This is not fair, because it deprives a large number of people of any help in meeting the increased cost of living. Congress should act quickly to avoid this injustice.

#### CONGRESSMAN WILLIAM D. FORD APPLAUDS EFFORTS OF HEW SEC- RETARY CALIFANO AND EDUCA- TION COMMISSIONER BOYER FOR SIMPLIFYING PAPERWORK IN FEDERAL EDUCATION PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. Ford) is recognized for 5 minutes.

Mr. FORD of Michigan. Mr. Speaker, as the new chairman of the Subcommittee on Postsecondary Education, I have for the past several months been meeting with members of the postsecondary education community to learn about their thoughts and concerns with respect to Federal education programs. Virtually everywhere I go, the No. 1 problem I hear about is the tremendous amount of paperwork and red tape associated with Federal higher education programs.

Today I would like to commend the Carter administration for its response to the concerns being articulated by educators throughout the country, and for its prompt followthrough on President Carter's pledge to make the Federal Government more competent and manageable.

On March 8 of this year, only weeks after taking office, Secretary of HEW Joseph A. Califano, Jr., announced the most far-reaching restructuring of the Department of Health, Education, and Welfare in its 24-year history. As part of this reorganization, a new Bureau of Student Financial Assistance was established to consolidate the management of Federal student assistance programs.

Only 1 month later, on April 11, Ernest L. Boyer, the U.S. Commissioner of Education, announced a major reorganization of the Office of Education to improve the functions of the Office of Education through more efficient management, increased accountability, and better service. This action consolidated into two new offices the functions previously assigned to eight separate units within the Commissioner's office.

In his announcement, Commissioner Boyer stated, "The Office of Education has a dramatically important job to do. This reorganization, which we believe creates today the most effective structure in the history of the Office of Education, will provide stronger leadership and tighter control."

He went on to say, "The ultimate goal, of course, is not a better bureaucratic structure but better service to our Nation's schools and colleges."

Mr. Speaker, I cannot think of anyone who could not endorse this commonsense approach to solving many of the problems presently related to Federal education programs, and the Commissioner is to be highly commended for his stated goals.

During this past week, we have seen even further evidence of this administration's commitment and determination to following through on its stated goals with action.

On Monday, May 23, Secretary Califano announced the implementation of a new, simplified procedure for applying for student financial aid. The new procedure is expected to eliminate the need for over 2.5 million families to file Federal forms. It will be in effect in time for the applications filed this coming year for the 1978-79 academic year.

The Secretary also announced the introduction of a common date for starting the processing of all student aid applications. This will include a feature to accommodate those colleges and universities which make early decisions on admissions and financial aid.

Further, Mr. Speaker, on Tuesday, May 24, Commissioner Boyer announced a new application procedure for institutions applying for federally funded campus-based student assistance programs. This innovation is expected to reduce from several weeks to several days the time required to prepare the applications. The new procedure would affect virtually all institutions that presently administer college work/study, supplemental education opportunity grants and national direct student loan programs. It will permit them to file a new short form each year instead of the 15-page application presently required.

Mr. Speaker, I would like to commend the efforts of both Secretary Califano and Commissioner Boyer, as well as the ef-



forts of the Coalition for the Coordination of Student Financial Assistance which worked closely with the administration in bringing about some of these changes. These are some of the most significant and positive steps ever taken to streamline the delivery system of Federal aid to education. They stand as excellent examples of this administration's commitment to fulfill President Carter's campaign promise to ease the paperwork burden on American people.

I strongly encourage Secretary Califano and Commissioner Boyer to continue their efforts and I would like to state, as chairman of the Subcommittee on Postsecondary Education, that I will do everything I can to cooperate with them and assist them.

At this point, I would like to insert in the RECORD the HEW news releases explaining the actions taken by the Secretary and the Commissioner earlier this week:

HEW NEWS, TUESDAY, MAY 24, 1977

A new application procedure for postsecondary educational institutions applying for student aid funds under Federal programs but administered by the institutions was announced today by U.S. Commissioner of Education Ernest L. Boyer.

The change is expected to reduce from several weeks to several days time it takes to prepare the applications.

At present, participating institutions must reapply every year to secure Federal assistance for three Federal-aid programs they administer: College Work-Study (CWS), Supplemental Educational Opportunity Grants (SEOG) and National Direct Student Loan (NDSL). This means filling out a complicated 15-page application form (which contains 17 pages of instruction) each year.

Under the new procedure, participating schools and colleges with no change in size or economic status of their student bodies will file a short form—four or five pages in length. This is expected to reduce the time for preparation of the applications by about two-thirds. Only those colleges participating in the programs for the first time or those which have major shifts in enrollment would be asked to file a longer form.

Proposed new regulations covering the change will be published in June, and the simplified arrangement will be in place by September, in time for use for the 1978-79 academic year.

In noting that postsecondary institutions have been asked to go through this complicated process every year even though some of them have been in these programs for more than 19 years, Dr. Boyer said:

"The current procedure is wasteful and time-consuming. The institutions should not have to devote weeks to filling out these bulky forms year after year. I am confident that the new procedures, though requiring so much less work, will nonetheless provide sufficient information to ensure that the Federal money will go to the right institutions and in the right amounts."

HEW NEWS, MONDAY, MAY 23, 1977

Secretary of Health, Education, and Welfare Joseph A. Califano, Jr. announced today a simplified student financial aid procedure which will eliminate the need for over 2.5 million families to file Federal forms.

"This action, which will eliminate duplicate paperwork for millions of students and their parents, is a start toward fulfilling President Carter's commitment to simplify Government procedures and to ease the pa-

perwork burden on the American people," Secretary Califano said. "Equally important, the new system is a first step toward consolidation of all student-aid forms into one single form and toward improving financial-aid procedures that have become very complicated and confusing."

"Dr. Ernest L. Boyer, Commissioner of Education, has moved swiftly with this first step in the wake of the reorganization of the Student Financial Assistance Bureau in the Office of Education," the Secretary continued. "The new program will be in effect in time for the applications that are filed this coming year for the academic year 1978-79."

The new system involves the U.S. Office of Education's Basic Education Opportunity Grants (BEOG) program, which currently provides approximately \$1.5 billion annually in grants to nearly two million needy students.

At present, most students applying for either campus-based Federal aid or direct Federal financial help, or both, must fill out two separate forms: one for the college and another for the Office of Education. Under the new plan, the second form, a separate Basic Grant application, will be eliminated. The Office of Education will use the information secured by the college—using either a College Scholarship Service (CSS), American College Testing (ACT) or a state scholarship form—to determine the student's financial need and to establish his or her eligibility to receive a Basic Grant.

A common date for starting the processing of all student-aid applications also will be introduced. Students and parents will be given the forms after December 1, with instructions that they are to be filled out and filed after January 1. This distribution date—which is currently used by BEOG—is later than the one now used by ACT and CSS. The new schedule is designed to make it possible for families to report actual annual income to establish need, rather than estimated annual income. Use of more precise income figures should help assure that grant money goes only to those students and families who actually need it, and in the proper amounts.

For those colleges and universities still wishing to make early decisions on admission and financial aid, an early application procedure is being developed by CSS and ACT. "We intend to accommodate those universities and colleges that need more flexibility," Califano said.

For the coming 1977-78 school year, the Basic Grant program has a budget of \$1.7 billion. Grants will average \$850 per student. Currently the average Basic Grant is \$750.

The program announced today has been developed jointly by the Department of Health, Education, and Welfare and the Coalition for the Coordination of Student Financial Assistance, a non-profit private organization representing the Nation's colleges and universities and student assistance organizations. The Coalition is an outgrowth of the 1974 National Task Force on Student Aid problems, which was chaired by former Commissioner of Education Francis Keppel.

#### 135TH ANNIVERSARY OF THE FIRST POLISH-AMERICAN PUBLICATION IN THE ENGLISH LANGUAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, this year marks the 135th anniversary of the first Polish-American publication in the

English language. Paul Sobolewski, the brilliant and creative founder of the monthly publication in 1842, was honored recently in Chicago with a float in the Polish Constitution Day parade, and it was with pride that I attended this outstanding event to commemorate Poland's democratic Constitution of May 3, 1791.

Dr. Edward C. Rozanski recently published an article on Paul Sobolewski in *Straz*, the official weekly of the Polish National Union, which has been printed continuously for the past 80 years. In that article, Dr. Rozanski says:

Around 1840, Sobolewski moved from Philadelphia to New York where, together with his friend, Eustach Wyszynski, he started a monthly publication about Poland under the name "Poland, Historical, Literary, Monumental and Picturesque." It was the first Polish periodical in America and was published in the English language from 1112 Pine Street in New York.

Mr. Speaker, an article on Paul Sobolewski follows, which was taken from "Zgoda," an official publication of the Polish National Alliance:

One of the illustrious, yet little known figures in Polonia's history is Paul Sobolewski (1818-1884), poet, lecturer and translator who "opened the gates of Polish poetry to American World"...

He was also the founder, with his friend Eustach Wyszynski of Polonia's first publication in the English language, under the title "Poland, Historical, Literary, Monumental and Picturesque" which began publication in 1842 in New York.

His chief attainment, however, was the translation of the masterpieces of Polish poets. He published them single handedly in a volume entitled "The Poets and Poetry in Poland" which had two successful editions in 1881 and 1883.

For the 300th anniversary of King Jan III Sobieski victory at Vienna, Sobolewski published a highly readable and informative pamphlet describing this, one of the most important battles in World history and the part Sobieski and his Polish legions played in it.

Sobolewski came to the United States at the age of 17, in 1834 as one of the 284 Poles deported from Austria for their participation in the ill-fated November Uprising of Poland in 1831 against Russia.

"Had he not been deported to America," states Polonia's historian Dr. Edward C. Rozanski, "but instead become a part of the Great Polish Emigration that settled in France, he might have been able to develop his talent in the dimension of Adam Mickiewicz, Juliusz Slowacki and Cyprian Norwid, as the fifth great poet of the Polish literature in the 19th Century."

In America, Polonia of his times was not in a position to support a developing literary talent.

Thus Sobolewski was forced by circumstances to do many manual tasks even as a farmer, near Belvidere, Ill.

His restless intellect, however, was not to be chained to mundane pursuits.

He was the co-founder of the first school to teach the Poles the English language in Philadelphia.

He soon mastered the literary English sufficiently to write articles and feature stories for American newspapers. In his later years this free-lancing was the primary source of his modest income.

Sobolewski suffered one of his greatest personal losses in the Chicago fire of 1871. His

biographer Mieczyslaw Halman writes:—"In this terrible catastrophe, he (Sobolewski) lost not only all his manuscripts, but his lectures on poetry, a valuable library, a collection of rare sketches and drawings, in a nutshell:—all the fruits of some 30 years of labor".

Luckily, one of his major works, "Napoleon and his Marshalls" was published just before the fire consumed all research and source materials for the book.

His volume on The Poets and Poetry of Poland was enthusiastically received in American newspapers and magazines, even in German publications in the United States. Contemporary literary critics in Poland lauded his work.

Sobolewski died on May 30, 1884 in Chicago, —a bright intellect who in adverse circumstances created his own life-style of a cultured man in a strange land.

And it was fitting, proper and highly commendable, that Dziennik Zwiastkowy, with the co-operation of the Zwarycz family, memorialized Paul Sobolewski with a float (see above) at Chicago Polonia's May 3rd Constitution observance.

#### THE FEDERAL RESERVE IS BACK TO STOP-GO AGAIN—WHAT IS NEEDED IS STABILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 30 minutes.

Mr. REUSS. Mr. Speaker, in recent weeks interest rates are up, the stock market is down, and business lending is sluggish.

This unhappy state of affairs is in large part due, in my judgment, to wrong-headed actions by the Federal Reserve Board and the Federal Open Market Committee, our monetary managers.

Last February 9 majority members of the House Committee on Banking, Finance, and Urban Affairs wrote the Federal Reserve System stating that the growth target for 1977 of 4½-6½ percent for M-1—demand deposits and cash outside banks—seemed "generally adequate," and that "monetary policy during 1977 should aim at reducing unemployment and fostering recovery, without rekindling demand inflation."

This task of monetary management was made easier by President Carter's action a month ago in discarding the tax rebate, thus reducing the proposed budget deficit by some \$13 billion.

Instead, however, look what has happened. Instead of pursuing a steady-as-you-go monetary policy, the Fed has committed two major errors, one in April and one in May:

First. The April error. This was the wholly unnecessary April burst in the growth of M-1 of some 19.7 percent. This compares with 5.75 percent in January, 0.76 percent in February, and 6.1 percent in March 1977. The 19.7-percent April explosion is simply uncalled for.

A large part of this excessive growth was due to the failure of the Fed to do what many of us have urged—return to the practice which existed for many years, up to 1968, of calculating the required reserves for banks on the basis of their current deposits. Following 1968, and for reasons which I find unsubstantial, the Fed takes bank deposits that are 2 weeks old in applying reserve require-

ments, and hence lets the money supply get away from it.

Had the Fed in April 1977 used the pre-1968 technique of calculating required reserves contemporaneously, instead of on a lagged basis, much of the 19.7-percent jump-up could have been avoided. And some additional percentage points of unnecessary April M-1 growth could have been avoided if the Fed had simply been a little more conservative in the reserves it was creating through its open market policy; only a marginal increase in the Federal funds—interbank lending—rate would have been necessary to achieve this.

Prof. Milton Friedman, testifying before the Senate Committee on Banking, Housing, and Urban Affairs on November 4, 1975—hearings, pages 40 to 41—had this to say about the trouble caused by the lagged reserve requirement:

The major mistake of this kind (inability to control M-1), in my opinion, was the introduction of lagged reserve requirements in 1968. I may say that that change was made for reasons that had nothing to do with monetary policy. It was made fundamentally because it was believed that it would be attractive to small banks and thus might reduce their tendency to leave the system. The change has not worked out that way. I do not know anybody who has a good thing to say for the lagged reserve requirements system. The small banks don't like it. The big banks don't like it. It has introduced variability into every dimension of Federal Reserve policy and yet you have the standard phenomenon that you are so familiar with, once a bureaucratic change has been made, it is the devil and all to get it changed. But the most important single step at the moment in the regulations the Fed could take would be to eliminate those lagged reserve requirements.

Second. The May error. Having created too much M-1 in April, the Fed has been proceeding in May to create too little. We don't have the final figures for May yet, but M-1 was apparently squeezed until the pips squeaked.

This is not the first time the Fed has overreacted to a monetary bulge in M-1. In the spring of 1975, the tax refund created a hypersupply of M-1 for a few weeks. This need have done no harm. But instead the Fed panicked and mercilessly tightened M-1. Confronted with a temporary bulge of 11.8 percent M-1 growth in May and 13.35 percent in June 1975 the Fed jammed on the brakes, squeezing M-1 growth to 4.13 percent in July, 4.52 percent in August, 3.28 percent in September, and minus 1.23 percent in October, with dreadful results for the economy. Acting with its traditional techniques, the Fed achieved this monetary squeeze by raising the Federal funds rate, which it directly controls, from 5.49 percent in April 1975 to 6.24 percent in September.

Horses can be excused for shying when a piece of newspaper blows across the street. The Fed should be made of sterner stuff.

In fact, no very material correction of the April 1977 M-1 bulge was really needed. If you look in retrospect at M-1 creation for the year ending with and including April 1977 M-1 was 6.46 percent—within their 7-percent target. If

you look at M-1 creation for the 6 months ending with April 1977 it was 7 percent—just a shade over the band, again just about on target.

And even giving the Fed the benefit of the doubt, and accepting that a moderate M-1 correction was in order, the correction should have occurred over a 3- or 4-month period, not jammed into one orgy of money-tightening in May.

To achieve the May 1977 M-1 tightening, the Fed allowed the Federal funds rate, which it closely controls, to rise from 4.6 percent on April 6 to the current 5.5 percent.

The major banks, almost immediately seized on this increase in the Federal funds rate to increase their prime rate. Last week they raised their prime rate from 6¼ to 6½ percent, and are threatening to raise it again.

The prime rate increase is unjustified. Loan demand is slack. Most of the big banks that raised the prime rate are rumored to be secretly offering loans below the prime. Recent articles in two respected business journals tell the tale.

Ben Weberman, economics editor of Forbes magazine, commented in his column in the June 1, 1977, issue (p. 82), headed "Business Is Lousy: Let's Raise Prices":

Last issue ("I Can Get It For You Wholesale"), I reported that banks were offering loans at rates below their own official prime rates. So, how come the banks have just raised the prime rate from 6¼ percent to 6½ percent? It's the old story: "The merchandise isn't moving at \$19.98; we might as well not sell it at \$29.98."

Whatever the official prime rate, the demand for money just isn't there. The banks are resorting to all sorts of expedients to move loans. It is true that businessmen have been shaken by recent signs that interest rates are heading higher and, as a result, they have been making inquiries. (Inquiries, however, are not loans.)

I continue to feel that this bulge in short-term interest rates will top out by midyear and will not start moving upward again until toward the end of 1977. Even then, I do not see drastic increases in interest rates; fractions maybe, but nothing like even 1 percent. I still expect long-term yields to ease from the current levels and to end the year at about one-half percent lower than now.

As for the current bulge in interest rates, we saw the same thing last year. Last spring, too, the Federal Reserve started to tighten up on the money supply at the close of April because it felt the supply had expanded much too rapidly earlier in the month. It subsequently loosened up, and the bulge flattened out. Interest rates subsided over the summer.

A consequence of last spring's tightening was that the prime eventually moved to 7¼ percent from 6¼ percent before resuming its decline. Then, as now, a good many people became hysterical and predicted that we were headed back toward double-digit interest rates. Forget it. This is just an upward wiggle. As I've said many times before, don't be a wiggle-watcher.

And Business Week magazine, in an article in the May 30, 1977, issue (pp. 79-80), entitled "Why the Prime May Rise Again," commented:

The nation's biggest banks appear to be taking a calculated gamble. Last week they raised their prime lending rate to 6½ percent from 6¼ percent, and they are threatening to raise it again, at a time when their loan demand re-



mains slack and their best customers can borrow for much less in the commercial paper market. Despite these apparent drawbacks, the big money center banks followed with astonishing haste when Citibank led the way to the higher prime on May 13.

The big banks insist that they had no choice but to follow Citibank. Bank profits were only so-so in the first quarter, the move toward tighter money by the Federal Reserve has escalated the cost of money to the banks, and there still is no sign of the sort of loan volume that would offset those reduced spreads. In fact, it is this very profit squeeze that all but guarantees another rise in the prime rate soon. "Even with last week's uptick," says one banker, "spreads are at their lowest level in the past year. That's why we need another bump in the prime rate."

**Regional demand.** Loan demand at the regional banks is fairly strong this year, and it is getting visibly stronger. But there is no pickup at all at the giant New York City banks. The reason for the upturn at the regionals is clear. Their primary customers—small to medium-size businesses—are once again seeking loans as a strong economy has them fattening inventories and doing a little capital investing. The reason for slack loan demand at big New York and Chicago banks is equally clear: Their best customers—large corporations—have deserted them in favor of the commercial paper market, which has grown by nearly \$5 billion since the start of 1977. That is equal to the paper market's growth in all of 1976—following an actual decline in 1975.

Certainly, commercial paper is highly attractive to those corporations big enough and sound enough to enter the market. Currently, the large corporations are borrowing from each other via commercial paper at rates 1.5% below the prime, or minimum, rate that the banks charge their biggest and most creditworthy customers.

And the spread between paper and prime seems certain to hold now that banks across the nation have raised their prime rates. The increase posted by the regionals came as no surprise, since demand for their money is gaining enough strength daily to prevent a one-quarter of 1% jump from driving business away. Totally unexpected, however, was the uniformity and speed with which the big New York banks boosted their rates. "It means the big banks don't believe loan demand will pick up later this year," says one bank analyst.

**Rate-cutting.** The Fed policy aimed at cutting last month's spurt in the money supply has intensified the squeeze on bank profits. In just five weeks the average weekly rate on federal funds (the excess reserves that banks lend each other overnight) has soared to 5.31%, an increase of 71 basis points. In addition, the rates banks pay on large certificates of deposit—a primary source of funds for most big banks—have also risen, as has the three-week average on 90-day commercial paper on which Citibank bases its prime rate formula.

An irony in the situation is that the competition for commercial loan business remains so intense that the higher prime may in fact do little for profits. Some of the big banks that followed Citibank last week are rumored to be secretly offering loans below prime. "There's more rate-cutting than ever before," says a bank analyst. Banks are also booking loans to U.S. corporations at foreign branches, where rates are lower. Still other banks are reducing the compensating balances they demand of borrowers. And some are even pushing fixed-rate term loans—something they have tried to avoid since they were burned by rising rates during the credit crunch of 1974.

While the big banks have been trying to

attract new business with such techniques, the regionals have lured some of their old customers away. John R. Bunten, vice-president of Republic National Bank of Dallas, says that nearly half of his bank's recent rise in loan demand has come from medium-sized companies that formerly borrowed from banks in New York, Chicago, or Los Angeles.

**Competing for the middle.** But the big banks are fighting back. "There's a tremendous amount of external competition. In the old days, for example, most money center banks looked only at the largest companies," says Peter H. McCormick, senior vice-president of New England Merchants National Bank of Boston. "Today they are looking at medium-size companies with sales of \$50 million or so. These companies were and are our bread and butter."

What the money center banks really want, though, is an upsurge in capital spending. "For our kind of bank to see much steam beneath loan demand," explains Charles M. Bliss, president of Chicago's Harris Trust and Savings Bank, "we have to have capital spending and a continual growth in sales volume."

The stock market, taking note of the increase in the prime rate, has recently had a sharp selloff, to the lowest level in 16 months. Partly, this is due to the feeling by investors that higher interest rates are going to hurt our recovery, and that higher interest rates simply indicate more inflation, currently poison for the stock market. Whatever the cause, the lack of stock market optimism chills the economy at just the point in which we owe it to ourselves and the world to keep the recovery going.

Enough is enough. The Federal Reserve System should cease its reckless money tightening. It should stop raising the Federal funds rate, and indeed try to lower it. It should use its moral suasion with the major banks not to increase their prime rate, and indeed to retract the increase they have just made. Finally, the Fed should end the stop-go policy of the recent past, and instead adopt a steady-as-you-go hand on the tiller.

### WILD GREEN YONDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 5 minutes.

Mr. ADDABBO. Mr. Speaker, the Washington Post of May 24 contained a column by Art Buchwald titled the "Wild Green Yonder" which is quite appropriate to the situation that we face in marking up the defense appropriations bill. Since the bill will be before the House within a matter of weeks and since the Members are to be asked to vote on the B-1 bomber, the most expensive, unneeded plane in American history, I include the column in the RECORD on the hope that the Members will take time to read this informative newspaper article:

[From the Washington Post, May 24, 1977]

#### THE WILD GREEN YONDER

(By Art Buchwald)

They said it couldn't be done, but the U.S. Air Force managed to do it. It developed an airplane that would cost more than \$100 million. The B-1 bomber, which will be ready

for production as soon as President Carter gives the word, will be the most expensive aircraft in history; and since the Air Force wants to build 244 of them, it will cost the taxpayers conservatively \$40 billion, including operating expenses.

I went to the Army-Navy Military Industrial Complex Club as soon as the announcement was made, and there was great rejoicing and excitement. Aircraft contractors were buying drinks for everyone.

"The Navy scoffed at us," an Air Force general said. "The Army laughed at us, and the civilians in the Pentagon said we were out of our minds. They claimed no matter what we put on the plane we could never break the \$100 million barrier."

"How on earth did you do it?" I asked in admiration.

"We got together with our contractors, and we told them we wanted the most expensive bomber that money could buy. We wanted every sophisticated electronic gimmick they could think of. We wanted a plane that could fly high, a plane that could fly low, a plane that could carry nuclear warheads, super-sonic missiles, cruise missiles, and anything else they could think of. We said we wanted the biggest buck for the bang."

"What did the contractors say?" I asked.

"They were thrilled," the general told me. "No one had ever challenged them to make \$100-million aircraft before. It wasn't easy to think up new ideas to add to the cost, but we promised to work with them closely."

"I'll never forget the day the chief engineer from the company came in and said, 'The best we can do is build you a \$75-million bomber. We can't think of another piece of equipment to put on it.'"

"Well, we really blew our stacks and told him if his company couldn't come up with a \$100-million plane we'd fine one that could. We explained to him that the B-1 bomber was the Air Force's baby and the most vital strategic deterrent we had. If we couldn't make it expensive enough, the Navy wouldn't take it seriously. The Navy has been trying to sink the B-1 ever since we thought of it. If we brought in our plane for less than \$100 million, the Navy could claim it wasn't a deterrent at all."

"That must have frightened the engineer," I said.

"Scared the pants off him. We sat down with him and asked if he had thought of windshield wipers and he said he hadn't. Then we asked him why the plane didn't have whitewall tires. He couldn't explain it. We pointed out we needed leather seats and not the vinyl ones he had decided on. He kept writing figures down. The big breakthrough came, though, when someone thought of rear-window defrosters. The engineer protested that if he put in rear-window defrosters they would have to completely redesign the plane. 'That's what you're paid for,' we told him."

"Well, it took some doing, but we got the price up to \$101.7 million, and now the Navy is fit to be tied."

"I wonder what their answer will be?" I said.

"They'll probably try to come up with a plane of their own to match it. But they're fighting among themselves. Half the Navy wants nuclear submarines and the other half wants nuclear carriers. There isn't anybody in the Air Force who doesn't want the B-1 bomber."

"Because you can fly it, boy. What's the sense of having an Air Force if you can't fly a plane? Sure, our missiles are more accurate, but that means you have to sit in a bunker 1,000 feet underground. What the hell does that have to do with the wild blue yonder?"

# GRIGORY VIGDOROV—STILL WAITING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mrs. SPELLMAN) is recognized for 10 minutes.

Mrs. SPELLMAN. Mr. Speaker, I addressed this body a year ago in behalf of a young Soviet Jew whose only desire was to be reunited with his family. It is with great sadness that I advise the Congress that this young man and his family are still waiting for permission from Soviet authorities.

Grigory Vigdorov was born in 1947, near Moscow. After serving in the Army, he entered the university and majored in economics. When his family discussed emigrating to Israel, he left the university, after having completed 3 years. In March 1973 an exit visa was applied for for the entire family. In June 1973 the parents received permission. The son was refused and was told further, that he must leave his job. At that time, Mr. Vigdorov was a pressmaker in a small button factory.

Since his parents emigrated, Mr. Vigdorov and his wife, Marina, have had a second child. If anything, this second child has deepened the sadness of the separated family. In a recent letter from Israel, the Vigdorovs said:

Our family should have left the USSR together in July, 1973, but our son was refused permission to emigrate. General Verveyin of the Ministry of Internal Affairs, the man whom we consulted prior to our departure, promised us at that time that our son would be given permission to emigrate in the near future. Soon we will enter our fifth year of separation. From the day our son was born, to the day of our departure, we lived together as one family.

Since our departure our son has been followed by the authorities, has had his phone disconnected and has not found employment in Moscow. In search of work, Grigory went North, but even there he was not able to find work. When he returned to Moscow he found work chopping wood.

Grigory was laid up in the hospital for nearly two months as his ulcerous condition was aggravated by this hard and back-breaking work. Meanwhile, his mother here in Israel has developed glaucoma, possibly as a result of excessive crying and grief. She also grieves the fact that she has not yet seen a grandson who was born after our departure. . . .

The Vigdorovs' letter beseeches us to help reunite this family. It is an ongoing tragedy, and I can't help but feel and share the grief of the senior Vigdorovs. No crime has been committed against the Soviet Government; yet, the desire of a young family to be reunited with their parents has been treated as a crime by Soviet authorities, in stark contrast to the terms of the Helsinki agreements.

I hope that all of my colleagues will heed this appeal and join me in seeking justice for this young family.

## HATCH ACT AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN. Mr. Speaker, when the House resumes consideration of H.R. 10, the Hatch Act reform bill, I will offer an amendment to define the definition of "restricted person." A similar amendment was extensively debated during our markup on the bill in the Post Office and Civil Service Committee, and it garnered substantial support. The gentleman from Missouri (Mr. CLAY), to whom much credit should be given for undertaking the mammoth job of reforming the Hatch Act, offered a substitute provision regarding restricted positions during the hearing which was finally adopted by the committee. It is my understanding that Mr. CLAY will have clarifying language to propose regarding this section when we again consider H.R. 10.

While I support Mr. CLAY's amendment, I respectfully submit that it is deficient in one respect. I think Mr. CLAY and myself are motivated to protect the same interest—the public's confidence in the integrity of our Government. However, as we cannot insure the public's confidence in the integrity of our Government by hatching individuals in supervisory positions of an auditing or investigative nature and not also restrict the individuals who are actually engaged in performing the audit or investigation of the average citizen.

My amendment would enlarge the definition of a "restricted position" to include employees who actually carry out the audit, investigation or inspection in the field.

Mr. CLAY has suggested that the restriction is unnecessary because investigators, auditors, or inspectors really have no authority with respect to the final outcome of the actions or with respect to who is the target of the actions.

I respectfully disagree. There is a distinction made in the law between what is actual authority and what is apparent authority. To the average taxpayer who is called in on an audit or the small businessman who is visited by an OSHA inspector, that Government employee has authority. I think we must give the public adequate assurances that the implied or apparent authority of these Federal employees will not be abused. Furthermore, the Federal auditor or investigator is charged with the responsibility to make formal findings and recommendations. That responsibility in and of itself vests substantial authority or power in the hands of the investigator or inspector.

The danger in not restricting the investigator, auditor or inspector can be best demonstrated by the following example:

The Cast Metal Federation is suing OSHA's national emphasis program. Among other legal challenges, the foundries have alleged that individual OSHA inspectors have threatened member foundries with reprisals for asserting legal rights.

I am also concerned with the effect of inference. If the name of well-known

tax auditor in my district is prominently displayed on my campaign stationery and campaign letters are coincidentally sent out to a number of businesses whose tax returns the auditor will be reviewing in the near future, there would be no violation, no hint of improper conduct under the law. And yet, by mere inference, political pressure is being brought to bear.

I think my amendment will go a long way toward protecting the public's interest in the integrity of our Government and, just as important, will serve to protect Government employees who are investigators, inspectors or auditors from any taint of impropriety in carrying out their duties.

## LOOK, LOVE, LAUGH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. LEDERER) is recognized for 5 minutes.

Mr. LEDERER. Mr. Speaker, I would like to take this opportunity to insert into the RECORD a speech delivered by the Reverend Walter J. Burghardt, S.J., at the commencement of the St. Joseph's College class of 1977. This commencement address was delivered on May 14, 1977.

Father Burghardt is a professor at the school of religious studies in the Department of Theology of the Catholic University. The address is entitled "Look, Love, Laugh." I am sure the Members of this House will benefit from Father's remarks:

### LOOK, LOVE, LAUGH

The next fifteen minutes could be painful minutes. You do not know me, and I do not know you. You know nothing about me—except the gentle white lies on your program. You don't even know I'm the only theologian in captivity who is acceptable in Rome and banned in Owensboro. And I know nothing about you. Except that you have been educated in the shadow of the Declaration of Independence, and have emerged from four years of undeclared dependence in better condition than most POW's.

More than that: you and I are very different people. You do not look at the world the way I do, do not use words the way I do, do not quite think the way I do, do not dream my dreams or sing my songs. Even your experience of God may be different from mine. And so I feel very much in tune with Rod McKuen when he sings:

I make words for people I've not met,  
Those who will not turn to follow after me.  
It is for me a kind of loving.  
A kind of loving, for me.

The words to come are "a kind of loving," for I want to share with you not abstract aphorisms ("the pen is mightier than the sword"), not sentimental slush ("love is never having to say you're sorry"), not eloquent exhortations ("do unto others as you would have them do unto you"). I want to share . . . myself. At this critical moment, when you are in process of deciding what it means for you to be alive, to live, to be human, to be a man or a woman, I am going to tell you what, after a half century and more, I feel it means to be human, to be alive. What I feel. Not a priest, but this priest. Not a theologian, but this theologian.



Not talking to just anybody, but talking to you. And I shall develop three ideas sketchily. I shall say that to be human has three facets: to be human is to look, to love, to laugh.

I

First, to be alive is to look. You see, I am not genuinely alive simply because there is life in me. Simply because I watch a time clock from nine to five, or a Late Show from eleven to one. Simply because my standard of living is high, my cholesterol low. Simply because I offer the Sacrifice of the Mass each day, or am perpetually poor, chaste, and obedient. Simply because I sit at a desk or dig a ditch, wash diapers or trump aces. Simply because I eat and drink, weep and laugh, rock and roll. Simply because I am going through the motions of living—all the routines that enable a man or woman to get through life without living it.

The point is, I am not genuinely alive simply because I am not medically dead. I am alive to the extent that I am looking. With my mind, of course. For with this mind I look into a microscope and am filled with the wonder of life the naked eye cannot see. With this mind I speed over oceans more swiftly than the jet and touch human persons from Siberia to Zaire, from Egypt to East Germany. With this mind I flee back into the past and rediscover a universe perhaps five billion years old, rediscover an America five centuries young. With this mind I pluck meaning from the strings of a harp and the whisper of the wind, from a sonnet or a sonata, from Michelangelo's *Pietà* and the Mona Lisa, from Beethoven's *Pastoral Symphony* and Tchaikovsky's *Swan Lake Ballet* and Verdi's *Aida*, yes from Aerosmith and Jethro Tull and the Grateful Dead. With this mind I look into the minds of philosophers from ancient Greece to modern Britain, from Plato's world of ideas to Whitehead's experience and process, to share their tortured search for what is real, for what is true. With this mind I look into the mind of God as He reveals Himself in creation, on a cross, and in the lines of His own book.

Indeed I look with my mind. And only if I look, only if my mind is open, do I come face to face with what makes life come alive, makes life not endurable but entrancing and enrapturing, bewildering and challenging, mind-blowing and soul-searing. I mean the experience of mystery. I mean the realization that reality, the real, is incredibly complex and perplexing, profound and open-ended. Whether it's the inner you or outer space, whether it's a blade of grass or the ocean floor, whether it's God in His heaven or the person sitting next to you, the real is a fascinating, frustrating wedding of what I can grasp and what is still beyond my grasp.

That is what a remarkable rabbi, Abraham Joshua Heschel, saw so clearly and lived so completely. Interviewed on NBC shortly before his death, he was asked: What is the essence of being? What does it mean to live a human life? He replied:

"Actually, the greatness of man is that he faces problems. I would judge a person by how many deep problems he's concerned with. A person who has no problems is an idiot. Because a man has problems. And the more complicated . . . he is, the deeper are his problems. I'm not against pleasure, but the greatness of life is the experience of facing a challenge.

"In a very deep sense, religion is two things. It's an answer to the ultimate problems of human existence, and it is a challenge to all answers. This is a deep ingredient of existence—problems. And the tragedy of our education today is that we are giving easy solutions: be complacent, have peace of mind, everything is fine. No! Wrestling is the issue. Facing the challenge is the issue."

To be alive is to look. But not merely

with my mind—I am not naked intellect. If I am really to respond to the real, my whole being must be alive, vibrating to every throb of the real. Not only mind but eyes; not only eyes but smell and taste, hearing and touch. For reality is not reducible to some far-off, abstract, intangible God-in-the-sky. Reality is pulsing people; reality is fire and water; reality is a rainbow after a summer storm, a gentle doe streaking through a forest; reality is a foaming mug of Michelob, Beethoven's Mass in D, a child lapping a chocolate ice-cream cone; reality is a striding woman with wind-blown hair, reality is Christ Jesus.

And your looking will be most real when you no longer analyze what you experience or argue it, no longer describe what you see or define it, but are *one* with it; when you no longer move around the real but enter into it; when you simply "see" and what you see you love.

II

Which brings me to my second point. To be alive, to be human, it is not enough to *know* the real; I must *love* it: God's people, God's things, God Himself. Thomas Aquinas summed it up splendidly:

"There are two ways of desiring knowledge. One way is to desire it as a perfection of myself; and that is the way philosophers desire it. The other way of desiring knowledge is to desire it not [merely] as a perfection of myself, but because through this knowledge the one I love becomes present to me; and that is the way saints desire it."

The point is, I am most human when I go out of my small self, when I share not what I have but who I am, when I am "for others." My life is genuinely divine, therefore utterly human, to the extent that it reflects the very Being of God, where to be Father is to be turned totally to His Son, and to be Son is to be turned totally to His Father. To be human as a Christian should be human, my existence should be Godward and manward: turned totally to God, totally to God's images on earth. This is what it means to be a person, to be a Christian; this is what it means to love.

But precisely here I am profoundly discouraged. Why? Because the gut issues of '77 are so hate-full and we are so loveless.

At this moment, four billion persons walk or lie on this earth. At least one billion go to bed hungry each night, at least one out of every four. Each day ten thousand of the hungry die; but for each one who dies, another takes his place—and soon two may take his place. Tonight ten million Americans will fall asleep hungry; twenty-five million more are undernourished; sixty million are poor; two out of every seven.

At this moment, human rights are being violated, human persons raped by injustice: the nonwhite eighty-two percent in South Africa, the political prisoners in the Philippines, twelve million Russians in any given year imprisoned or tortured or killed in the Gulag Archipelago, the world's women still largely second-class humans.

At this moment, human blood is reddening the earth, from Zaire to the north of Ireland to the streets of your home city.

If those facts and figures sound abstract to you, here is how many years you could expect to live if you grew up in certain other countries: Cambodia, 44; Kenya, 43; Burma, 42; Sudan, 40; Ghana, 39; Madagascar, 38; Libya, 37; Cameroon, 36; South Vietnam, 35; Togo, 34; Chad, 32; Nepal, 25 to 40. And beneath these naked figures smolder volcanoes of envy and resentment, of fury and frustration and hate.

War and race, poverty and politics—these issues are hate-full in large measure because we are loveless. Oh, not everyone. But so many of us, the community called Christian, we do not come across as a community of

love. Who looks at the barbed wire in Derry or the hot sands of Sinai, the stinking streets of Calcutta or the decaying schoolhouses in Appalachia, and thinks of Christians as a community "for others"? Who sees us as turned totally to God, totally to man?

Today's world tells me forcefully that no definition of love, no protestations of love, will touch the gut issues of '77. Only persons in love can do that. And you are not in love if your horizons are narrow, if your arms do not reach out beyond your own country, your own color, your own creed, your own college, your own private cell. You are not in love if you are unwilling to risk, if you clutch defensively all you have gained, if you build a fence around your home and your possessions, your dear ones and your love. You are not in love if you imprison the Spirit of Love.

For you graduates, the gut issue of '77 is not Belfast or Zaire, not Appalachia or Calcutta. The gut issue is you. Can you honestly define yourself, can you answer the question "Who are you?" with "I am 'for others'?" If you can, who are these "others"? Only those who look like you, who love you? Or are you turned toward every other—not only the white or the black, but the white and the black and the red and the brown and the yellow? Not only the clean and the love-laden and the respectable but the dirty and the hate-choked and the repulsive? The gut issue is: Whose hand can you touch in love? Answer that question and you will know how profoundly or how superficially the Holy Spirit has laid hold of you. Whose hand can you touch in love?

III

My third point may sound strange to you: to be alive, to be human, is to *laugh*. And yet it follows inescapably from points 1 and 2. For if you look and love, if you respond to the real with every fiber of your being and are turned totally to others, you will laugh. For laughter is not hysteria; laughter is not primarily a belly explosion over a vulgar joke; laughter is joy in living. And therefore laughter is splendidly human, utterly Christian. And conversely, sadly, half the human race is less than human because it cannot joy in its living, and it cannot joy in its living because that living is less than human.

Eugene O'Neill once wrote a play—a muddled play in many ways, but a play with a splendid insight. It dealt with the life of Lazarus after the Son of God summoned him from the grave. O'Neill called his play *Lazarus Laughed*. It is the story of a lover of Christ who has tasted death and sees it for what it is—the story of a man whose one invitation to men is his constant refrain:

Laugh with me!  
Death is dead!  
Fear is no more!  
There is only life!  
There is only laughter!

And O'Neill tells us: Lazarus "begins to laugh, softly at first," then full-throated—"a laugh so full of a complete acceptance of life, a profound assertion of joy in living, so devoid of all fear, that it is infectious with love," so infectious that, despite themselves, his listeners are caught by it and carried away.

This, I submit, is intelligent Christianity. It is not that you blind yourself to sin and war and disease and death. These will touch you as cruelly as they touch the man or woman who does not believe, who cannot hope, who refuses to love. And still you can laugh, can joy in living. Why? Because in the midst of death you are constantly discovering life: in a glance or a touch or a song, in a field of corn or a friend who cares, in the moon or an amoeba, in a lifeless loaf transformed into the body of Christ. But you will discover life only if you look and love,

only if you open your whole self to a whole world of experience, open your whole self to others. Otherwise you will see only death; and when you see nothing but death you are . . . dead.

Graduates of '77: I have said nothing about labs and languages, about basketball hoops and baseball bats, even about Mass and sacraments. Not that these are unimportant, unrelated to scholastic existence. But the fact remains: St. Joe's is not a factory for facts; it is not an annex of Vic Tanny, a steam room for overweight Christians; it is not even a chapel, where faith is fortified against infidelity. Please God, you have amassed facts, lost fat, kept faith. Please God, you will leave here learned slender believers.

But more to the point, you will leave here "educated" to the extent that a college guided by the Spirit has opened you to looking and loving. You will leave here "educated" in the measure that St. Joe's has revealed a world that excites you with its mystery and its promise, has disclosed the "other" without whom you are not quite a person, not quite human, not quite alive. Looking and loving, you can leave here . . . laughing.

#### THOSE WHO CAN'T HEAR WILL BE HEARD—AT HEARINGS ON KOCH/FINDLEY BILL FOR A "TELEPHONE FOR THE DEAF" ON CAPITOL HILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Koch) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, every week our offices receive hundreds of telephone calls from our constituents who wish to discuss problems or certain pieces of legislation. But because deaf persons are unable to use normal telephone service, they are effectively denied the opportunity to express their views or contact their elected representatives expeditiously about difficulties they may be having.

Today, I am introducing legislation with my colleague Congressman PAUL FINDLEY of Illinois to provide for the establishment of a toll-free teletypewriter device in the Capitol to enable our hearing-impaired constituents to contact Members of Congress via telephone lines. In addition, I am very pleased to have recently learned that the House Administration Subcommittee on Accounts, to which our bill has been referred, hopes to hold hearings on the legislation sometime this summer. This bill, which Mr. FINDLEY and I are reintroducing with 31 House cosponsors, has also been introduced by Senator DOLE in the Senate. It calls for the placement of a TTY in the Capitol for the use of both the House and the Senate, so that people with hearing impairments would be able to place a toll-free call into this machine from one of the thousands of TTY's located across the country. A special operator would take the incoming call, and would then contact the appropriate congressional office to arrange for a reply. Members of Congress or staff members would then transmit the reply back to the constituent through this same installation.

This installation would not be the first TTY installed by the Federal Government. Offices such as the President's Commission for Employment of the

Handicapped, HEW's Office of Deafness and Communicative Disorders, and the Federal Communications Commission, as well as other agencies, have TTY installations. Perhaps the most exemplary use of this machinery has been made by the Internal Revenue Service. On December 1, 1976, the IRS installed a toll-free TTY so that deaf taxpayers from across the continental United States could call for information and answers to Federal tax questions. The system grew out of a series of pilot projects that began in Los Angeles in 1975, and was centralized in Indianapolis in 1976. Since the nationwide system became toll-free in December, the Indianapolis office has received over 1,000 calls on their TTY. The IRS system has become so responsive that in addition to calls on tax-related problems, they are receiving calls with regard to other problems. A recent IRS memo on the subject stated:

Taxpayer Service has provided the deaf community an access to the federal government. Taxpayers are beginning to call us seeking our assistance to help them contact other government agencies or general information as to what government agency they should contact to resolve a particular problem. The majority of these calls have been for Social Security information.

It is not the job of the IRS to handle constituent problems that are not tax-related, it is the job of Congressmen and Senators. It is absurd that the IRS is receiving these requests simply because the U.S. Congress does not have the equipment available to handle these communications. This legislation would remedy that situation.

I am appending to my statement an article describing the success of the Internal Revenue Service's program of customer service for the hearing-impaired:

[From the Garrett (Indiana) Clipper, Mar. 31, 1977]

#### IRS HOLDS VOICELESS TELEPHONE CONVERSATIONS

Their job is to answer the telephones, but when there's a voice on the other end, they get disturbed.

And when no voice answers back, they're pleased!

These are not "problem" employees in the Internal Revenue Service's Indianapolis Office, but instead specialists who use the phones to communicate with the nation's deaf and hearing impaired taxpayers.

The number is reserved for use with special equipment, but inevitably there are those who don't read the instructions and try to use the number for voice calls. These "talkies" are politely but quickly informed it's a special number for hearing impaired, and they're given another number for voice communication.

This is the first year that IRS has offered this nationwide, toll-free phone service for the hearing impaired. Centered in Indianapolis, the system uses ordinary telephones, which plug into electronics keyboard-TV set devices, or teletypewriters and allows printed communication over ordinary telephone lines. In use among the hearing impaired community for several years, the system is known as TTY, the abbreviation for "teletypewriter."

They've received about 700 TTY calls at IRS so far, and according to the IRS employees involved, the reactions have been good. Sally Skiles: "These people are very appreciative, they're beginning to be able to take advantage of free government services that have

been available to the hearing community for quite a while."

Cheryl Newton: "All I've talked with really appreciate it. We're providing a service they can't get anywhere else for free, so there's the satisfaction of knowing that you're providing something unique."

Debbie Moore: "They seem glad we're here. You get the definite idea that they haven't had too many services available to them like this."

Lisa Stone: "I have yet to have anyone who is rude."

Here's how a phone conversation works with a hearing impaired taxpayer: In the Indianapolis IRS office a telephone rings. Sally—or another of the TTY specialists—places the receiver in a special holder connected to the equipment, then types, "IRS, Sally Skiles, may I help you?" Then she types "GA" for "go ahead." Then, as Sally sits back, the teletype begins to clack by itself, or, if they're using the TV device, the words begin to silently appear by themselves across the screen, as the taxpayer asks the questions, and in turn types GA. Then it's Sally's turn again. The calls average 10-15 minutes each.

To Sally, communicating with the printed word over the telephone was new, but "when you do this long enough, you forget you're using a piece of equipment. I don't feel I'm communicating with a machine, but with people. This machine isn't a barrier . . . it actually breaks down the barrier between hearing impaired and the hearing."

What types of questions come in on TTY? According to Cheryl, they range from the easy-to-answer to the not-so-easy: "Mine go from deductibility of TTY equipment for the deaf, all the way to tax sheltered annuities and lump sum distribution!"

Any problems so far?

Dottie Gleich: "Many apologize for not being able to type well or fast, but we assure them it doesn't matter, it happens to us, too!"

Cheryl: Using written communication, I find it bothers me that I don't know for sure if they understand what I'm telling them. Nobody knows more than we do that the tax laws are complex, and I'm afraid that someone might be embarrassed to say they don't understand. But we urge callers, if they don't understand, to let us know and we'll be glad to go over it again. It doesn't bother us at all, that's what we're here for."

Taxes not being the most exciting subject, is it all tedious?

Sometimes, according to Cheryl, the caller will lace the conversation with humor, and "we try to give it right back to 'em, to let them know there's not some government 'monster' at the other end of the keyboard, just real people!"

Sally: In fact, I had one man call in and mention his income, so I routinely asked if this was his sole source of income for the year. He types back, "Yes . . . except for that \$16,000 I won in a Scrabble game!" I told him, now that I'd picked myself up off the floor, I'll try to answer his question!"

Is the program a success?

Cheryl: "We're getting repeaters, the same person calls back many times, so they must find it useful."

Dottie: "We have several people who invite others to their homes and call with several questions and we encourage this."

Sally: "We have a man in Chicago who calls regularly with a list of questions. He's probably doing the calling for friends, and we think this is great. Not everybody can afford their own TTY."

An official of a Rochester, New York deaf organization wrote to the IRS that while the agency is often the butt of sarcastic humor, its TTY program shows it to be "one of the government's most sensitive, aware and concerned agencies . . . (showing) exceptional tact, sensitivity, patience and efficiency."



For deaf and hearing impaired with access to TTY equipment, the numbers are: in Indiana, toll-free 800-382-4059. All other states (except Alaska and Hawaii) 800-428-4732. Calls on these lines will be answered only in TTY equipment, and not by voice.

Similar articles appeared in the following papers: Regional News, LaCrosse, Ind., April 1, 1977, and Westville Indicator, April 7, 1977.

#### LEGISLATION FACILITATING CONGRESSIONAL OVERSIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Moss) is recognized for 20 minutes.

Mr. MOSS. Mr. Speaker, I am today introducing legislation to limit questions reviewable by U.S. District Court judges in cases where the recipient of a congressional subpoena seeks to gain injunctive relief.

This bill would also institute procedures for expedited judicial review of controversies concerning the authority of congressional subpoenas.

The Supreme Court has held that where a congressional committee is authorized to issue a subpoena, and there is a legislative need for the information sought, then the courts will not question the matter further. The Court has based its decisions on the concept of separation of powers, stating that the "Speech or Debate" clause of the Constitution declaring that Congress "shall not be questioned in any other place" was intended by our Founders to be construed strictly.

Sadly, however, not all U.S. District Court judges have been willing to follow either the Speech or Debate clause or Supreme Court precedents in several very significant investigations involving the House Interstate and Foreign Commerce Subcommittee on Oversight and Investigations, which I chair.

In only one of our three controversies has the doctrine enumerated in Eastland versus U.S. Servicemen's Fund been followed. That case involved Gulf Oil Co.'s efforts to block the subcommittee from obtaining documents concerning an alleged uranium cartel. On May 4, 1977, U.S. District Court Judge George L. Hart, Jr. denied Gulf's request for a preliminary injunction and upheld the congressional powers of investigations.

Judge Hart wrote that:

Our subpoena was issued "pursuant to a properly authorized investigation [and] that the Subcommittee had a valid investigative purpose, [therefore] . . . under the case of *Eastland v. United States Servicemen's Fund*, 241 U.S. 491 (1975), the Subcommittee action may not be questioned in any other place."

In the case of two other subpoenas, one concerning an investigation of petroleum lease extensions and the other concerning warrantless wiretaps, our investigations have been delayed for unconscionably long periods of time because of judicial review on questions that have gone far beyond the scope of questions permitted under the Eastland doctrine.

The details of those controversies are reviewed in my letter to the Honorable PETER RODINO, chairman of the Judiciary

Committee. A copy of that letter, a bill to uphold the powers of Congress, and a technical explanation of the legislation are offered here for inclusion in the RECORD:

HOUSE OF REPRESENTATIVES,  
Washington, D.C., May 26, 1977.

Hon. PETER W. RODINO, JR.,  
Chairman, Judiciary Committee, U.S. House  
of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I have today introduced a bill which comes within the jurisdiction of your committee and with which you will therefore be dealing. Before you consider this proposed legislation, I think it may be helpful to advise you of the experiences of the Subcommittee on Oversight and Investigations, which I chair, during the 94th Congress and continuing until the present which, in my view, make enactment of the enclosed bill absolutely vital to the effective exercise of Congressional oversight authority.

In short, the bill on which I seek your assistance would limit the questions reviewable by the Federal judiciary in cases where the complainant seeks to restrain or avoid compliance with a Congressional subpoena. In this and the last Congress, bills have been introduced which would provide mechanisms by which the Congress can enforce its subpoenas against a recalcitrant individual, agency or organization. The sponsors of these bills recognize that both Congressional contempt proceedings and the criminal contempt process of the courts are cumbersome and not terribly effective methods of effectuating the subpoena process. Those bills therefore provide for civil contempt before the federal judiciary with a preliminary opportunity to show cause why the subject of the process believes he need not or should not comply. I applaud these efforts and believe that enactment of a measure of that type would afford an additional important tool to the Congress.

The bill which I am sponsoring addresses a different facet of the problem of achieving prompt compliance with a Congressional subpoena. The situation with which this Subcommittee has been faced involves the issuance of a subpoena to an agency or corporation which expresses willingness to supply the documents called for. However, before it has a chance to do so, a third party, asserting some interest in the documents to be delivered to the Congress, obtains a restraining order from a federal district court. The matter is then tied up in litigation for a year or 18 months or potentially even longer, the Subcommittee's investigation is stalled, and there is a strong danger that the documents, when they are finally obtained, have lost their currency.

This is a situation which this Subcommittee encountered on three separate occasions in the last Congress. In two of the cases, I sought and obtained a resolution of the House of Representatives authorizing my intervention in the litigation on behalf of the Interstate and Foreign Commerce Committee and the entire House of Representatives. These cases illustrate the inordinate delay which can be imposed upon legitimate and properly authorized Congressional investigations.

The first, *Ashland Oil Company v. Federal Trade Commission*, involved a subpoena of the Subcommittee to the Federal Trade Commission for specified reports it had required various corporations to file detailing natural gas reserve information. No subject could be of greater concern to the American people and hence to the Congress. While the Commission stated its intention to comply with the subpoena, it gave notice on November 18, 1975, to the affected companies and on November 24, 1975, just prior to the return date of the subpoena, Ashland obtained a temporary restraining order in

federal district court precluding the FTC's compliance. When the case was heard on the question of the granting of a permanent injunction, the Subcommittee having intervened on behalf of the Committee on Interstate and Foreign Commerce pursuant to H. Res. 899 (94th Congress), District Judge Corcoran on February 2, 1976, ordered the complaint dismissed. Thus, the result supported the Congress' constitutional right to investigate under its Article I legislative authority. However, the court granted a stay to permit Ashland to appeal. It did, the Court of Appeals issued its decision on September 20, 1976, almost 8 months later. The court's brief opinion affirmed the district court for the reasons set forth by Judge Corcoran. Again the propriety of the investigation and the Subcommittee's right to the information was upheld by the federal judiciary, and again its delivery was postponed. The Court of Appeals stayed its order to allow Ashland to seek review in the Supreme Court. Ashland chose instead to petition the Court of Appeals for rehearing *en banc*. The various supporting and opposing legal memoranda were filed but no action was taken by the court. Finally, on February 25, 1977, 15 months after the entry of the restraining order and a year after the district court had found that permanent injunctive relief was not proper, the Subcommittee filed a motion in the Court of Appeals requesting that the stay be vacated and the motion for rehearing be denied. There followed a short flurry of brief filing after which on March 2, 1977, the Court of Appeals entered orders terminating the stay, denying various other of Ashland's requests and allowing them two days to decide whether to appeal to the Supreme Court. When no further appeal was sought, the injunction was dissolved and the Subcommittee finally obtained the documents it sought.

The pernicious effect of this protracted litigation was not limited to the Subcommittee's investigation of natural gas reserves. Another Subcommittee investigation which was undertaken during approximately the same period pertained to the coal industry within the United States. Information was again sought from the Federal Trade Commission and the Union Carbide Corporation immediately went into court. Because of the superficial similarity of the fact patterns in the *Ashland* and *Union Carbide* cases, District Judge Pratt quickly enjoined the FTC ("upon plaintiff's motion for a temporary restraining order") from "releasing to any person outside the Commission any and all parts of the data, etc., until ten (10) days after a decision in *Ashland*" (Order, *Union Carbide Corp. v. Federal Trade Commission*, Civil Action No. 76-0793, May 7, 1976). Thus, the ripple effect of the *Ashland* suit and its dilatory handling by the judiciary impinged upon another Subcommittee inquiry into the national energy situation and caused nearly a year's delay in the receipt of information for our coal study.

The most troublesome case, one in which the Subcommittee is still involved, concerns its attempted oversight of the Federal Communications Act and the interception of telephone communications within the United States. The Subcommittee voted a subpoena on June 22, 1976, to the American Telephone and Telegraph Company, for records of wiretaps, upon request of the FBI, without any judicial order. The White House immediately contacted me and claimed that delivery of these letters to one place (the Subcommittee offices) would pose unacceptable security risks. (You should be aware that the Executive made this assertion with respect to documents that had been dispersed among the offices of the 24 subsidiaries of AT & T, had no security classification, and were handled by personnel of that private corporation who

had no security clearance.) The White House representatives offered instead the back-up memoranda in the case of these warrantless taps which had been prepared by the Federal Bureau of Investigation for the Attorney General. On the basis of the information contained in these memos, the Attorney General had decided to authorize the tap.

Subcommittee staff and members of the Justice Department then tried to develop a written memorandum of understanding which would detail what the staff would review and the procedures that would be followed. Perhaps the most difficult issue was that of access to at least a sample of unexpurgated memoranda so that the credibility and accuracy of the edited documents could be tested. When all the refinements appeared to have been agreed to by the staffs, and the signatures of the principals were sought, the White House disavowed the negotiated agreement, asserted that an agency relationship existed between AT & T and the U.S. Government, and claimed Executive Privilege over the papers of a private corporation. AT & T publicly denied any agency connection and reiterated its intention of complying with the Congressional subpoena. Thereupon, the Department of Justice went into District Court and on July 22 secured a temporary restraining order against AT & T. Because of the novelty of the Executive Privilege assertion, involving as it does, private papers, and in light of the fact that the Congress, rather than AT & T, was the real party in interest, I again sought (successfully) the adoption of a resolution by the House of Representatives authorizing my intervention and active participation through the representation of private counsel.

When the case was heard in the district court on the merits, an injunction was entered prohibiting AT & T from disclosing, either pursuant to subpoena or otherwise, the documents which the Subcommittee was seeking. The case was appealed, heard by the Court of Appeals on November 2, 1976, and a decision issued by Judge Levanthal on December 30, 1976.

Disappointingly, that opinion resolved nothing and the Subcommittee was still debarred from the AT & T records it sought. Judge Levanthal, speaking for the Court of Appeals, reviewed the issues raised by the litigation as well as the jurisdictional problems, but then backed away from reaching a decision. Instead, he reasoned that since the parties had come close to negotiating an agreement last summer, they might be able to do so now especially in light of the impending change in Administration and the fact that new representatives of the Executive Branch would now be at the negotiating table.

The Subcommittee made effort after effort to initiate and engage in the negotiating process. These steps are well documented in the correspondence and other materials filed with the district court which was charged by Judge Levanthal with keeping track of the parties' progress and reporting back to the appellate court. In the December 30 opinion, the appellate court had set a 90-day time limit for negotiations unless the parties agreed to further expansions. While we never agreed to any such prolongation of the time, various delays and court appearances stretched out that 90-day period until the present, although no fruitful or substantive negotiating has ever really occurred. On May 18, 1977, District Judge Gasch filed with the Court of Appeals his final report on the matter and the Court of Appeals has scheduled the matter for reargument there on June 3.

Thus, it is virtually certain that no resolution will be reached within the first year following issuance of the subpoena. As it

seems likely that the case will have to be heard by the Supreme Court, it will probably be substantially more than a year before the matter is decided.

The delays which this Subcommittee has undergone have substantially increased the burden of carrying on its functions. Indeed, all three investigations which I have described in this letter were initiated during the 94th Congress but their completion, in the manner in which the Subcommittee desired to fashion its work, was precluded by the protracted litigation.

I see legislation as offering the only effective solution to this problem. Therefore, I am introducing today the enclosed bill, which falls within the jurisdiction of your Committee. I have attached a brief technical description of the provisions of the bill and it therefore is unnecessary at this time to do more than describe its general thrust. The bill would expedite the process of judicial review of Congressional subpoenas through two means: (1) by prescribing procedures to minimize the layers of review and time for reviewing, and (2) by limiting (and in the process, defining) the questions which a court may consider. The three-pronged test recently enunciated by the Supreme Court in the *Eastland* case will be applied to determine the validity of the subpoena, the effect of which is sought to be avoided, and if it meets the *Eastland* criteria, only a substantial constitutional objection to compliance should stand in the way of the subpoena's immediate effectuation.

I believe that legislative action by the Congress is essential in order to permit it to effectively exercise its Article I authority. While some attention has been paid in recent years to the gradual accretion of power by the Executive Branch at the expense of the Congress, I fear that a comparable problem with regard to the judiciary has been neglected. The practical effect of that neglect is evidenced by the situations described above. Therefore, I would greatly appreciate your support in correcting this problem through prompt and, I hope, favorable consideration of my bill by your Committee.

Sincerely,

JOHN E. MOSS,  
Chairman, Subcommittee on Oversight  
and Investigations.

#### H.R. 7475

A bill to define the jurisdiction of the Federal courts with respect to challenges to Congressional subpoenas, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"Sec. 1364. Actions to restrain the enforcement of Congressional subpoenas.

"(a) Any suit in which one party seeks injunctive relief to avoid compliance (either his own or that of any other person) with a subpoena issued by the Congress of the United States or any committee (including any joint committee or subcommittee) thereof shall be commenced in the United States Court of Appeals for the District of Columbia circuit.

"(b) (1) When a suit is brought to which this section applies, the scope of review by the court shall extend only to determining whether the following criteria are met:

"(A) there is a legislative purpose on behalf of which information is sought,

"(B) authority has been delegated by Congress for the committee (including any joint committee or subcommittee) issuing the subpoena to conduct the inquiry,

"(C) the committee (including any joint committee or subcommittee) has complied

with the applicable rules of the Senate and House of Representatives, and

"(D) the information sought, documentary or testimonial, is pertinent to the subject under inquiry.

If the court finds that each criterion has been met in connection with the issuance of the subpoena, it shall dismiss the complaint unless the complaint makes a clear and convincing showing that compliance with the subpoena would raise substantial constitutional issues.

"(2) If the Court of Appeals concludes that there are substantial issues of fact in dispute between the parties, the resolution of which is a prerequisite to the disposition of the suit, the court may make findings of fact or may refer specified questions to the district court for the making of such findings within such time as the Court of Appeals prescribes.

"(3) The decision of the Court of Appeals may be reviewed by the Supreme Court only if the appropriate notice of appeal is filed within 5 days after the entry of an order by the Court of Appeals, and the Supreme Court will only consider whether the Court of Appeals correctly applied the standards of paragraph (1) or correctly decided any constitutional issues which were before it.

"(4) The Court of Appeals (and the district court, where applicable) shall assign any action to which this section applies for hearing at the earliest practicable date and cause it to be expedited in every way. Any appeal or petition for review from any order or judgment in such action shall be expedited in the same manner.

"(c) The committee (including any joint committee or subcommittee) of Congress authorizing the issuance of the subpoena, compliance with which is the subject of the action under this section, shall be permitted by the court to intervene in such action (at its inception or at any time thereafter) if it is not named as a party thereto."

Sec. 2. The amendment made by section 1 shall be effective upon enactment.

#### TECHNICAL EXPLANATION

This bill addresses the issue of the appropriate scope of judicial review when the basic thrust of the action involves a challenge to a Congressional subpoena. The bill would add a new section to Title 28 of the United States defining the questions which are reviewable by the courts and the procedures to be followed in cases such as these.

Subsection (a) states that the section applies in any case in which the plaintiff is attempting to have the federal judiciary enjoin compliance with a Congressional subpoena or hold that that subpoena is invalid. The language is intended to apply to suits which may be initiated by a person (including a public or private agency or association) served with the subpoena or a third party who is trying to enjoin someone else's compliance. Also, the subsection contains no exclusion for suits brought either by or against an officer of the United States; such actions would be subject to the same rules as those involving non-Federal litigants.

Subsection (a) also requires that these suits be commenced in the United States Court of Appeals for the District of Columbia, in recognition of the need to streamline and expedite judicial review of these cases. Since these cases generally raise only questions of law, it is appropriate to initiate these cases in the Court of Appeals. Provision is made in paragraph 2 of subsection (b) for the exceptional case which raises factual issues.

Subsection (b) (1) defines the limits of the court's review. Its primary function in this type of suit must be to determine



whether the Congressional subpoena was validly issued. In making this assessment, the bill would require application of the three-point test enunciated by the Supreme Court in *Eastland v. U.S. Servicemen's Fund*, 421 U.S. 491 (1975). If the court finds that the committee was acting properly in issuing the subpoena, then it must dismiss the complaint and allow subpoena enforcement to go forward unhindered, with only one exception. If a clear and convincing case is made (and the court so rules) that to comply with the subpoena would raise a constitutional issue of major proportions, then the court would be authorized to retain jurisdiction and dispose of the case as may be appropriate.

Paragraph (2) expressly authorizes the Court of Appeals to make findings of fact if such findings are necessary to resolution of the legal issues before it, or, in its discretion, to refer specifically identified questions to the District Court for findings of fact. When the appellate court chooses the latter method of fact-finding, it must specify the date by which the District Court is to return the matter.

Paragraph (3) of this subsection provides the exclusive basis for review by the Supreme Court. It specifies that the Court will limit its consideration to whether the Court of Appeals correctly determined the issue of the validity of the subpoena or the constitutional issues which were properly before it.

Paragraph (4) directs that at all stages in the judicial proceedings to which this section applies shall be expedited.

Subsection (c) authorizes the Congressional committee issuing the subpoena which is the subject of the litigation to intervene in the litigation whenever the committee finds that action appropriate. Thus, this subsection both provides permanent authority for a committee to participate in the action and also establishes its right to intervene insofar as the court and other parties are concerned.

The legislation would be effective upon enactment.

#### FIRST AMENDMENT CONFRONTATION

**THE SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. VAN DEERLIN) is recognized for 5 minutes.

Mr. VAN DEERLIN. Mr. Speaker, in our House Subcommittee on Communications we have begun a review, looking toward possible rewrite, of the Communications Act of 1934—the basic communications law of the land. We feel that the onrush of technological change has left the law in many ways inadequate to probable needs of the next two decades, let alone the 21st century.

An aspect of the 1934 act receiving much attention is the manner in which it bears on the first amendment rights of broadcasters, particularly in their coverage of news and public events. It was therefore with special interest that many of us heard or read views on this subject from one of broadcasting's most respected figures, Eric Sevareid, as delivered to the recent convention of the National Association of Broadcasters.

It was a speech that set forth an insider's slant on the substantial change that has marked the quality of broadcast journalism in the years since Congress set tight regulatory limits over all phases of broadcasting, including news and opinion. The question it raises is whether

changing conditions should prompt Congress to ease this regulatory burden—not in the interest of broadcasters themselves, but toward assuring the freest flow of news and information to the American public.

Mr. Speaker, I commend Mr. Sevareid's words to the attention of my colleagues:

Thank you for this invitation and honor.

You have me here, I assume, because my days in the public eye, ear and nostril are numbered—on this year's calendar.

I was not present at the creation of electronic journalism, but almost. What CBS' first real managing editor, Paul White, called the fine, careless rapture of the early radio days is gone. The miracles of communication have become commonplace. The gaudy process is now more routinized, institutionalized. But much better, I do believe; more responsible, better educated, as well as more efficient. This has been the first truly new form of journalism, ever, and I have no regrets at having been part of the agony and the ecstasy almost from the start.

We began with no form sheet, no precedents, no comforting tradition like that of the printed press, no proved techniques, no standards. We had to invent them as we went along; like politicians and children we were educated at the public's expense.

And broadcasting as an industry began in its own special way. Most newspapers were started by men who wanted an outlet for their views, usually political. Most broadcasting stations were started by men who wanted an advertising medium, a business. They found themselves, in time, co-trustees of the first amendment, a positive challenge to some, a discomfiture to others. But that goes with the job, with the right and the privilege. Station or network owners and managers unwilling to fight for full constitutional freedoms ought not be in the business.

I am not a spokesman for broadcasting as an industry. I have never paid much attention to its technical, managerial or financial problems. My bosses don't tell me what to say on the air and I don't tell them—not often, anyway—how to run the network's business. I don't know, quite, whether I'm in the news end of the broadcasting business or in the broadcasting end of the news business. But I do represent news, the hasty, often improvised and unstructured, often agonizing attempt to give the world a little glimpse of itself every day. It is not a profession in any strict sense, not exactly a business or a trade. It is a calling. We have to try to live at the growing points of human society, at the cutting edges of history. Wits and resourcefulness play a bigger role than learning or intellectual disciplines. We are pinch hitters every other inning. All one can hope for is a respectable batting average. What saves us is that the news business, broadcast or print, is a self-correcting institution.

Public officials, private cause groups, many lawyers and quantifying sociologists who work by slide rule may not approve, but the fact is that the theory of the free press never was that the full truth of anything would be revealed in any one account or commentary. The theory is that with free reporting and free discussion, the truth will emerge. It is a process, and must be followed, day by day, by readers and listeners as well as by writers and speakers.

There is, of course, the Sevareid Solution. I have offered it before; there were no takers; that is, news every day. No newspapers or news broadcasts, except to warn of nuclear attack or bubonic plague, on Monday, Wednesday, Fridays. We would do a better job; the public's nerve ends would be rested. I could go fishing more often. Short of that, we are obliged to wing it. Our condition is no

different from that described a hundred years ago by James Russell Lowell.

"In a world of daily, nay, almost hourly journalism, every clever man, every man who thinks himself clever or whom anyone else thinks clever, is called upon to deliver his judgment, point-blank and at the word of command, upon every conceivable subject of human thought."

But that's the way it is, as a colleague of mine would say. I have been at this calling some thirty-eight years now and I am perfectly sure that the grave, built-in fault of the press is not really bias. It is haste, and, particularly in broadcasting, the severe compression of the material required.

A central point about the free press is not that it be fair, though it must try to be; not that it be accurate, though it must try to be that. But that it be free.

I don't even want it to be too respectable. I would rather it be at least a little bit irresponsible than over-cautious and timid. It is the press that makes the community weather and sounds the notes of the day. Slide rules can provide only poor measurement of its performance.

This city of Washington is the greatest single center of world news since ancient Rome. I incline to the notion that it contains at present, too many of two kinds of people. Lawyers and press people. The lawyers complicate and paralyze everything. The press chews everything to bits, or tries to; every reputation, new idea, policy line, before they have much chance to mature.

Whenever lawyers and journalists come together, sometimes even when they are on the same side of an issue, they tend to reach a separating point. The lawyers are obliged to keep their eyes on the rules of the game; the journalists must keep their eyes on the game.

I have tried to do that over many years of reading and hearing the arguments about broadcasting and the first amendment. The notions that occurred to my unscientific, un-legal mind early on are still my notions for whatever they are worth.

They seem to be mostly negatives.

I have never understood the basic, legally governing concept of "the people's airways." So far as I know there is only the atmosphere and space. There can be no airway in any practical sense, until somebody accumulates the capital, know-how and enterprise to put a signal into the atmosphere and space. I have never understood why government should be empowered to affect the content of the signals anymore than it should affect the content of the newspapers carried in the newspaper truck on the people's streets. I thought the traffic laws, in both cases, were enough.

I have never understood the concept of "the people's right to know"; they have the right to find out, but that depends upon the publishers' right to publish. Publishers, print or electronic, have no constitutional right to be read or to be listened to. That, they have to earn, as the people have to earn knowledge.

I could never understand why so basic a right as the first amendment could be diluted or abridged simply because of technological change in the dissemination and reception of information and ideas. Particularly when the new technologies are becoming, almost everywhere, the most pervasive technologies. Though not necessarily the most persuasive.

I could never understand the court's argument that the fairness doctrine for broadcasting enhances the first amendment. The first amendment is a prohibition. How do you enhance a negative? No means No.

I have never understood the reasoning of those critics who seem to be saying that broadcasting will enjoy full rights under the

first amendment, when it is worthy of them. Who could be the timekeeper? In any case constitutional rights do not have to be earned; we were all born with them.

I can understand those who say that three big commercial networks plus public broadcasting and smaller groupings are not enough, though I suspect they would say the same were there four. Four, or even five would be all right with me and, I think, all right with most broadcast journalists, assuming they would be economically viable; and if they could provide the marvelously superior and different kinds of program fare that is supposed to be out there, somewhere, then everybody would be happy indeed.

Because there are only three we are told their content must be monitored, guided by government at various points. Their alleged power is too concentrated, we're told. Suppose there were only three daily newspapers which everyone read. No doubt there would be official and officious types who would feel the need to lay hands upon them. But the great majority of people, I suspect, would insist that their very scarcity made even more imperative their absolute freedom from the power of government, if this is to remain a free society, as the first amendment commands.

I have never quite grasped the worry about the power of the press. It has influence, surely, and influence is a kind of power; but diffuse, hard to measure. The press, after all, speaks with a thousand voices, in constant dissonance. It has no power to arrest you, draft you, tax you or even make you fill out a form, except a subscription form if you're agreeable. It is the power of government, especially the federal government and more particularly its executive arm, that has increased in my time. Many politicians have come to power in many countries and put press people in jail. I can't think of any place where the reverse has occurred.

The censorious instinct is always present and it shifts its operating base from time to time. The federal government, under Nixon, tried prior restraint which not even the Alien and Sedition Acts permitted. The federal government went through a spasm of subpoenas against news people but has since tried to restrain itself. Courts have increased their gag rules on journalists and both prosecuting and defending attorneys increasingly try to compel journalists' disclosure, sometimes just to make their own work easier.

I can think of innumerable cases where the press has led authority to situations of crime and corruption. I can't think of any case where sins of commission or omission by the press have resulted in gross injustice, at least in the sense of innocent people going to jail. History, experience, has its claims, too; on the whole the freer relationship had worked well.

Now we have entered a period where the censorious instinct concentrates on another nebulous concept called the right to privacy. To quote one leading communications lawyer, "In five short years the Supreme Court has taken a number of confused steps backwards, leaving journalists, broadcasters and publishers at the mercy of unclear laws, inconsistent judges and subjective juries. As a result no one can say for sure what the law of libel is in this country, who constitutes a public figure, when malice must be proved, what standards of negligence will be applied to reporters making valiant efforts to untangle judicial cats' cradles, what incredibly expensive and time-consuming legal proceedings might threaten." Unquote.

One result of all this nervous confusion is clear—it will increase another nefarious form of censorship—self-censorship.

Thomas Jefferson said that for his time the biggest threat of oppression would come from

the legislature, but that the time would arrive when it would come from the executive. I don't believe he thought of the judiciary, which has had far too much responsibility thrown upon it and has asserted far too much, in the compulsory arrangements of our daily lives.

Most judges are un-elected. That, said Mr. Agnew, some eight years ago, is the trouble with those presumptuous characters, the network reporters and commentators. Literal election, of course, would mean that the majority would hear only commentary and see news reports agreeable to it. That is not quite the idea of the free press. But in a sense, we are the most elected people around. Every time a listener turns his dial to the right number, he elects me; every time he turns it to the wrong number, he un-elects me.

Still, this is not good enough. Many years ago some psychologist said the Achilles heel of television would prove to be the fact that people can't talk back to the little box. They can, but not enough. Here the networks are found wanting, more than most local stations. I have argued this for years, at some risk perhaps of arguing myself out of a job or into a diminished job. It has not been a policy problem, but a problem of program rigidities. I want to see network air time opened up a good deal more to listeners' rebuttal and to differing persuasions. That would be one advantage inherent in expanding the network evening news programs to an hour. There must be ways to do it, not, certainly, under legal compulsion but by the free decision of broadcasting's managers.

It has been, in considerable part because of this imbalance between speaker and listener—as well as because my own temperament is what it is—that I have tried, all these years, to use this privileged position with restraint. I have been much criticized for my approach, especially by the zealots of so-called "advocacy journalism". I have my evangelical moments at times, but on the whole I have tried to illuminate more than to advocate, to teach more than to preach.

I have tried to remain objective, always aware, however, that objectivity and neutrality are not the same thing. Objectivity is a way of thinking about an issue, not the summation of the thought.

Such an approach will not often excite the multitude or bring rave reviews. But it has seemed to me the best way, for all the seasons, for the long haul. And my haul has been a long one.

Broadcasting steadily evolves and changes. For the better, in my opinion. It must do so, on its own, with the help of private citizens and their groups, with the help of the printed press, tainted with self interest though it often is—not with the help of government and its powers.

The wonder of television is not that it is as bad as it is, but that it is as good as it is. It will get still better, in news and in entertainment, if we have enough confidence in ourselves. We must not just react, particularly to the printed press. We have to keep in mind that we are the only business—or the only one I can think of, anyway—that has its chief competitor as its chief critic. That set of dice is permanently loaded against us.

It is a long time since the night when I was sitting at a United Press desk in Paris and a fellow named Ed Murrow called me from London, and asked me to throw in my lot with him.

He said, in effect, that I would never be pressured to produce scoops, or drama (though those things transpired), never expected to inflate the news beyond its honest

dimensions. He said, "I have an idea people might like that."

So, in my unimaginative way, I did so and do so now. I conclude that by and large people have liked it.

If they hadn't, it would not have taken the Stanton retirement rule at CBS to envelop me in the blessing of silence, come the year's end.

I don't much fear it. Trout fishermen have an affinity for quiet places.

#### CLEAN AIR ACT AMENDMENTS OF 1977: ON ELIMINATING THE PRICE DIFFERENCE BETWEEN LEADED AND UNLEADED GAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, in connection with the consideration of the Clean Air Act of 1977, we must not overlook the continued contamination of our environment through the widespread use of leaded gasoline, which is now used by almost one-half of American automobiles. The price variation between leaded and unleaded gas often results in greater economy through the use of leaded gas. I am preparing legislation to neutralize the price difference between leaded and unleaded gasoline. My bill will establish a tax on leaded "regular" gasoline equal to the difference in price between the two types of gas in order to remove the existing, substantial disincentive against buying the cleaner, unleaded gasoline.

Currently, the price difference between leaded and unleaded gasoline ranges anywhere from 3 to 10 cents per gallon. This difference, when multiplied by a tankful, amounts to a substantial and unwarranted savings for users of leaded gasoline. As we move to clean up our environment, it is inexcusable that we should be providing such an incentive to use dirtier burning fuel.

It is well known by buyers of cars with catalytic converters that they must use unleaded gasoline, and that they will ruin their emission control systems by using leaded gas. However, many cars that run on leaded gas will not be affected by using unleaded fuel, but will instead burn cleaner and not introduce the toxic lead into the atmosphere.

Most importantly, the elimination of this price differential will encourage new car purchases, whereas, the existing price structure encourages owners of old and less efficient cars to hold on to their gas guzzlers for as long as they can. By encouraging purchases of nonpolluting cars, we will speed up the national goals of clean air and improved gasoline mileage.

Mr. Speaker, I hope that the Congress can give serious consideration to this proposal when it takes up the President's energy tax package in the weeks ahead. I believe that it is in the best interests of the Nation to eliminate this present disincentive and to encourage conservation and a cleaner environment, rather than discouraging these goals on the basis of pocketbook choices.



## THE NEED FOR A NATIONAL CONSUMER COOPERATIVE BANK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

Mr. ST GERMAIN. Mr. Speaker, the Banking Committee has reported out a bill to create a National Consumer Cooperative Bank and a self-help development fund and we anticipate that this will be brought to the floor in the near future.

The action of the committee, in reporting this legislation on a 28-to-11 vote, has brought new attention on the growing role of cooperatives in providing consumer benefits in a wide variety of fields.

Mr. Speaker, the Washington Star carried an excellent article by Goody L. Solomon in its editions of Wednesday, May 25, concerning the need for a National Consumer Cooperative Bank and the role of consumer cooperatives in urban areas. Mr. Speaker, I want to place in the RECORD at this point a copy of that article:

### STARTING A CO-OP (By Goody L. Solomon)

Less than two years ago, a few people living in Bethesda, Md., wanted to create a food cooperative. It was not to be an informal having club but a store selling basics such as grains, seeds, and nuts as well as fresh produce and cheeses, all unprocessed, unpackaged and at prices below the supermarkets!

Community interest posed no problem. Financing did: banks would not extend credit to the organization. Undaunted, the leaders scraped together the startup capital by getting numerous small loans, at low or no interest, from folks in the neighborhood. In addition, the cooperative sold food certificates valued at \$5, \$10, and \$20 that were redeemable one year later. "We were lucky to be in this community. People could afford to put up some capital," said Esther Kamkar, one of the founding members.

In contrast, in Fort Greene, Brooklyn, N.Y., the low-income, essentially black population couldn't spare even small membership fees to give a proposed food cooperative a financial base. Bank loans proved impossible to obtain. Fortunately, the Fort Greene community leaders found an organization that guarantees loans for minority groups, according to Art Danforth of the Cooperative League of America.

Large, established, supermarket-type cooperatives have also encountered red lining by banks. For example, the Berkeley Co-op in California, the largest in the country with 84,000 family members and 13 branches, sought a loan for expansion purposes and was turned down by banks.

Although some cooperatives obviously have been able to locate alternative sources of money, many can't and therefore never get launched. "No one maintains a list of cooperatives that can't get started for lack of funds," said Danforth. However, he added, "from inquiries we get, we can guess that there are lots . . . We never hear of them again."

A bill reported out by the House Banking Committee offers hope. It proposes financial and technical assistance for "user-owner cooperatives" that offer a variety of goods and services. This is how:

Loans through a National Consumer Cooperative Bank modeled after the Farm Credit Administration, which has fostered agricultural cooperatives. At first, the U.S. Treasury would give seed money—\$100 mil-

lion a year and up to \$400,000 for four more years. Eventually, all the money would be paid back and the consumer cooperative bank would be owned and controlled by cooperative members. For it would lend money at market interest rates and each cooperative receiving a loan would have to buy stock.

A Self-Help Development Fund, with an initial authorization of \$10 million and a maximum of \$250 million over four years. It would lend money to cooperatives that cannot meet the criteria for loans from the bank. The fund would be administered through an Office of Consumer Cooperatives to be part of Action, the federal agency geared to assist minority and inner-city groups.

Technical assistance, such as management training, also to be a function of the Office of Consumer Cooperatives.

The bill has not been free of controversy. In fact, the version approved by the full committee calls for considerably less federal seed money than was authorized in the first draft of the subcommittee on financial institutions.

The modifications followed testimony by Roger Altman, assistant treasury secretary, recommending a two-year pilot project and a task-force study. Altman's view, however, didn't quite register on committee members as the Administration's ironclad policy, since numerous top officials previously had endorsed the idea of a consumer cooperative bank—among them, assistant secretary of housing and urban development, Monsignor Geno Baroni; assistant secretary of agriculture, Carol Foreman; consumer adviser to the President, Esther Peterson; Sam Brown, director of Action, and vice president Walter Mondale, who had co-sponsored a similar bill in the Senate last session.

Although the bill has wide endorsement in the Senate as well as the House, enactment faces opposition from such business interests as financial institutions and food retailers.

Speaking for the Food Marketing Institute (FMI), an organization of 850 retailers and wholesalers, Harold R. Sullivan (who is also a paid lobbyist for Kroger stores) testified, in essence, that food retailing is already a highly competitive, low-profit business, therefore cooperatives cannot—and would not—offer lower prices than traditional corporate enterprise.

"Grocery retailers and wholesalers are concerned over food prices and believe that if any progress is to be made in holding prices down, it must come through greater efficiency of operation within the food processing and distribution system," he said.

Supporters of the measure counterargue that many successful cooperatives are indeed providing high quality goods and services at low prices. As an example, the Bethesda Co-op, which competes with three major chains within walking distance—Safeway, Giant and A&P—is thriving so well it had obtained the store next door, where a bookstore and cafe will open soon. And, according to Danforth of the Cooperative League, after the Fort Greene cooperative opened, the area's one supermarket was forced to lower its prices. Other cases are documented in a recently issued study, "Cooperatives at the Crossroads" by the Exploratory Project for Economic Alternatives, a Washington-based economic think tank.

Supporters also contend that:

Cooperatives are an important means of bringing effective, community-based enterprises into ghetto areas that have been abandoned by traditional businesses.

The cost to Uncle Sam would be minimal, since the bank in a short time would be independent and self-supporting.

Cooperatives often buy commodities direct from farmers, thus encouraging the development of direct farmer-to-consumer markets

which bypass middlemen's costs. A law to that end passed Congress last year. More about the subject next week.

## ANNOUNCEMENT OF HEARINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, I am pleased to announce that the Select Committee on Ethics will hold hearings on Thursday, June 2, at 9:30 a.m. in room 2167, Rayburn House Office Building, on H.R. 7401, the Legislative Branch Disclosure Act of 1977. The committee will receive testimony from public and Government witnesses on that date.

I invite my colleagues to testify on this financial disclosure legislation on a subsequent day of hearings to be held on Tuesday, June 7, at 9:30 a.m. Members wishing to testify on that date or submit a statement for the record should address their requests to the Select Committee on Ethics, room 3506, House Annex No. 2. My introductory remarks and a summary of the bill appear in the RECORD of May 24, page H4993.

## LET THE SUN SHINE ON THE FEDERAL RESERVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. CAVANAUGH) is recognized for 5 minutes.

Mr. CAVANAUGH. Mr. Speaker, the distinguished chairman of the House Banking, Finance and Urban Affairs Committee is to be commended for his outstanding leadership in pursuit of one of the essential responsibilities of the committee, the oversight and review of the operations of the Federal Reserve System. Through the determined efforts of Chairman REUSS, the Congress and the public have, for the first time in the history of the Federal Reserve System, been provided an opportunity to review portions of the minutes of the meetings of the boards of directors of the 12 Federal Reserve banks for the years 1972, 1974, and 1975. Any reading of these minutes clearly demonstrates the dangers which invariably arise when any agency of Government is allowed to operate in total secrecy and free of any effective scrutiny by the American public or the U.S. Congress. A review of these heavily edited and incomplete records of the meetings of the boards of directors of the various Federal Reserve banks paint a very disturbing picture of an agency designed to serve the public interest but which has strayed very far from many of the recognized principles of public responsibility, propriety, and accountability. These records are filled with demonstrations of an insensitivity or total ignorance on the part of the various members of the boards of directors of the Federal Reserve banks for any standards concerning conflicts of interest. This sketchy but poignant record made available through the diligence of Chairman REUSS cries out for a thorough and complete review of the operations of the Federal Reserve System and

for a thorough explanation by the current Board of Governors of the Federal Reserve System of the policies and the procedures revealed in the minutes recently made public.

I therefore express my support and encouragement to Chairman Reuss that he pursue a more complete disclosure and full explanation from the Board of Governors of the Federal Reserve System.

#### NEW YORK STATE LEADERS SPEAK OUT AGAINST AN INCREASE IN TAXES

(Mr. KEMP asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KEMP. Mr. Speaker, the New York State Senate Labor Committee, under the outstanding leadership of Senator Norman J. Levy, recently conducted a survey of New York City's largest corporations. Business leaders were asked to comment on a recommendation by the mayor's temporary commission on city finances to increase the commuter tax on suburban residents who work in New York City. They were also asked to comment on the general impact of existing city and State taxes on the economic climate. Senator Levy is to be highly commended for standing up and focusing attention on the deplorable economic environment in New York City and New York State.

The response to an increase in taxes of any kind was uniformly negative. The consensus is that an increase in the commuter tax may be the final straw in many companies' decision to move out of New York City, as so many others have. Indeed, Leo Jaffe, chairman of Columbia Pictures, said that it is taxes like these that help businesses make up their minds to leave New York State.

I should emphasize that the problem here is entirely one of taxes on individuals, rather than on business as such. Companies have found that because of the high tax rates they cannot get top quality people to work in New York City. Typical was the comment made by Raymond C. Hagel, chairman of Macmillan, Inc.:

In our opinion, the cumulative effect of Federal, State and city taxes on individuals is counterproductive and is a significant factor in depriving business located in New York City of the services of outstanding graduates specializing in business administration and finance. We are expecting increasing difficulty in our college recruitment programs because these new graduates, seeing little advantage in assuming the heavy New York State/New York City tax burden, prefer to take other jobs offered to them for employment with large firms having headquarters out of New York.

Mr. Speaker, New York is being "Britishized" by excessive regulations and high taxes. The loss of jobs and businesses to other States is eroding our tax base and leading to a decline in State revenues. I mention that our State is being Britishized only to focus attention on the fact that in the United Kingdom more than 100,000 executives, middle managers, and entrepreneurs have left

the country in just the last 3 years, because of the crippling tax rates that discourage success and hard work.

In New York, as in Great Britain, the exodus of producing people is a direct result of high taxes. The only way to reverse the trend and encourage economic growth is to reduce tax rates across the board at the Federal, State, and local levels in order to stimulate production and investment. The irony is that at this point the only way to increase revenues and strengthen our tax base is to lower tax rates.

High personal income tax rates are impoverishing all New Yorkers and the sooner we reverse this trend the sooner we can get our State moving again, for as the late President Kennedy said, "A rising tide lifts all ships." We must, therefore, move in a bipartisan way to get the economic tide of New York moving again by reducing the tax barriers to work, production, investment, and entrepreneurship.

The following list of comments by business leaders compiled by Senator Levy is divided into three categories. Category I lists those corporations providing general negative responses to the proposed tax increase, including—but not limited to—possible relocation. Category II lists those corporations providing negative responses and which have announced partial corporate relocation. Category III lists those corporations providing negative responses and which are committed to remaining in New York City—at least for the time being.

Mr. Speaker, the fastest and surest way to help New York City and New York State as well as all Americans is to reduce the tax rates across the board so as to encourage production, jobs, and entrepreneurship:

#### CATEGORY I

Singer Corporation, J. B. Flavin, Chairman, Chief Executive Officer: "I am absolutely opposed to a 100 percent increase in the commuter tax. . . . I can say with certainty that this particular legislation—if eventually passed in Albany—would be a principal factor in the Singer Company's decision to move or stay."

Avnet, Inc., Simon Shelb, Chairman and President: "I am completely against it. It could well be a factor in the determination of my corporation to move its corporate headquarters out of New York State."

"The commuter tax is a perfect example of an irritant to cause a chief executive who lives in the suburbs to say: 'What do I need it for?' From the government's point of view those who can afford it, must be taxed. Don't keep taxing the people who can 'afford' to be taxed. You must keep in mind that the people who can 'afford' to be taxed usually have a choice—a choice of 50 states—many of which demonstrably are no worse as business locations than New York State or New York City."

Colt Industries, George A. Strickman, Chairman of the Board: ". . . I regard both New York State and City personal and business taxes so high that they are already causing us to look elsewhere, and any increases would be the straw that breaks the camel's back."

National Distillers and Chemical Corporation, Drummond C. Bell, Chairman of the Board: "I think it is entirely unfair that the state and city taxes nonresidents as they cannot vote. Originally, our revolution was fought on the basis of taxation without rep-

resentation and certainly New York does this. Any increase in non-resident taxes just aggravates the problem. The farther you go down this road, the more chances are that you will lose additional businesses . . . also, if you continue to increase taxes on individuals, particularly those not having a vote, it could be a major factor in the determination to move from the city."

Bristol-Myers Company, Richard L. Gelb, Chairman: "Let me answer the first question by saying there is no doubt in my mind that any consideration of moving from New York would be influenced by a substantial increase in the City's 'commuter tax.' I must expand on this statement by pointing out that this tax is only one of many New York State tax burdens which make it increasingly difficult to attract and keep good corporate people in New York City."

Anaconda Company, John B. M. Place, President: "I believe enactment of a higher Commuter Tax will cause many companies to re-examine the necessity and the wisdom of continuing to maintain their corporate headquarters in New York City, and in some cases it could be enough to trigger the decision to move out of the City."

United States Filter Corporation, Raymond A. Rich, Chairman of the Board: "Our Board of Directors has considered on a number of occasions the possibility of moving the headquarters of United States Filter out of New York City and New York State. If commuter taxes were to be increased 100% in New York City, and if additional taxes from New York State or New York City were to be loaded on business or the individual employee of this company, I am sure the directors would immediately consider getting the United States Filter headquarters out of New York City. . . . If further taxes are loaded on our commuting employees who live in surrounding counties or states, and if additional taxes are piled on the corporation, there is no question about immediate attention to the matter of change of location of headquarters."

American Standard, Inc., Benjamin F. Van Wormer, Vice President Public Affairs: "Certainly, a doubling of the 'Commuter Tax' would add to that burden and thereby be a factor in any determination to move a corporate headquarters."

Sun Chemical Corporation, Norman E. Alexander, Chairman of the Board, Chief Executive Officer: "The proposed 'Commuter Tax' would undoubtedly represent the final impetus to cause us to move our corporate headquarters out of the State of New York. . . . It is now exceedingly difficult because of the inequity of the tax structure in the State of New York to persuade promising and essential employees to move to corporate headquarters. . . . Accordingly, I can strongly recommend to you that the increase in the 'Commuter Tax' would undoubtedly have a negative effect on the intentions of any corporation to maintain its headquarters in the State of New York."

Collins & Aikman Corporation, Donald F. McCullough, Chairman of the Board: "In reply to your question regarding the commuter tax, there is no doubt about the fact that any increase in this area of taxation would have a negative impact in keeping our corporate headquarters in the City of New York."

Wallace-Murray Corporation, Franklin H. Kissner, Chairman of the Board: "I would not say that it alone, or any other single piece of tax legislation, would cause us to move our Corporation out of the City, but the successive impact of this kind of legislation is oppressive and obviously a motivating factor in the growing move to the suburbs."

Phelps Dodge Corporation, George M. Munroe, Chairman of the Board: "While an increase in this tax would not be the sole factor in determining whether Phelps Dodge Corporation would remain or move its head-



quarters outside of New York, it certainly could be a very negative factor in such determination."

St. Joe Minerals Corporation, John C. Duncan, President: "I appreciate your invitation to comment on the proposal that would result in a 100% increase in New York City's 'commuter tax.' The implementation of such an increase would most certainly be a factor in a decision to move our corporate headquarters out of New York."

Salant Corporation, Carl S. Forcheskie, Executive Vice President: "We at Salant Corporation view with grave seriousness any expansion of the 'Commuter Tax' rate. We feel businesses that are situated in New York City already are disadvantaged in providing adequate incentives to their people to attract qualified help. Any further imposition will cause a reassessment of our intention to stay in the City rather than relocate to some suburb."

Revlon Inc., Sander P. Alexander, Senior Vice President: "We would undoubtedly be concerned about a 100% increase in the New York City's Commuter Tax as this would affect many of our middle management people and would hope that this would not occur... Working and living in New York is, at the very least, expensive and we also would hope that any potential increase in either personal or business taxes would be seen from the point of view of the impact this would have on existing businesses in the City."

Combustion Equipment Associates, Inc., Robert M. Benington, President: "We would be against an increase in the New York City 'Commuter Tax,' as it would further tilt the balance against corporations such as ours remaining in New York State."

Bulova Watch Company, Inc., Harry B. Henshel, Chairman of the Board: "The constantly increasing taxation affecting people and corporations struggling to compete in the national and international marketplace from a New York City and State base, of which the proposed increase in commuter tax is only one, will make it increasingly difficult for business to remain in this City and State."

Norlin Corporation, Norton Stevens, "We've had a difficult time attracting key people to New York City and Buffalo recently specifically because of City and State taxes, which are apparently significantly higher than many other areas. This would seem to be counter productive for New York."

The Charter Company, Raymond K. Mason, President: "In this day and age, healthy economic activity is considered to be the source of all wealth and the place where that activity takes place will prosper. While a certain degree of taxation is necessary for the continuance of local government, taxes which 'go out of their way' to impose a burden upon persons who work in New York City and are residents outside, and who are often on a managerial level, will only serve to increase the pressure to move businesses, and, hence, the source of wealth, out of New York City. I am sure you see from my comments that I do not consider the proposed increase in taxes to be in the interests either of business or of New York City."

Sperry Rand Corporation, J. Paul Lyet, Chairman and Chief Executive Officer: "We agree with the Commission's statement that 'in order for New York City to experience economic resurgence, the aggregate level of taxation must be competitive with other states and regions'. Recognizing that we are already the highest taxed population in the nation, doubling the commuter tax will only worsen the non-competitive position we're in now. While the Commission made a very good case for holding the line on taxes, we think its advocacy of increasing the commuter tax is inconsistent and dangerous to the economic well-being of the City..."

With regard to your question about the effect of the proposed increase in the commuter tax on our intentions as to the location of our corporate headquarters, I cannot tell you that this proposal would, by itself, be a major factor in our decision. But, it would certainly add to the arguments for relocation when consideration is given to the heavy tax load the corporation and its employees now endure compared with other possible locations. As with any business, we must certainly question every item of cost to see if we're getting what we're paying for. And our employees have to do the same. They're already restive under the heavy personal income tax load they must carry, including the disincentives implicit in the New York State preference income tax, and local property taxes. . . . In our opinion, a start must be made toward reducing the tax burden on corporations and individuals in the State and City of New York. Otherwise, those of us who have so far resisted moving corporate headquarters to other locations, will be obliged to seriously consider that alternative despite the advantages that we see in keeping our headquarters in New York City."

Eltra Corporation, J. A. Keller, Chairman of the Board: "In fact, the taxes on personal incomes have reached a point where there is almost no turning of the tide of businesses leaving the State unless something is done to relieve the burden not increase it. The taxes on business comparatively are not as onerous but here again can hardly be called encouraging. . . . In our case, and in the case of many other companies, we continue to consider leaving this environment for one far more palatable for our key employees and the success of our business."

Pfizer, Inc., Edmund T. Pratt, Chairman of the Board: "... it is clear that I strongly oppose any increase in the commuter tax. Such a tax would increase the business exodus from New York, discourage business from coming in, and add to the unfavorable factors affecting the City's future, which so many of us are strenuously, and with modest success, seeking to reverse or remove."

Newmont Mining Corporation, Phillip C. Walsh, Vice President-Administration: "I view the current income tax on non-residents as a permanent feature of the City tax structure, but one that contains very destructive seeds. If the commuter tax level is materially increased, there will be a serious increase of pressure to consider self-help measures for relief. Moving a corporate headquarters does not involve a simple decision, but with all its difficulties and problems it can represent an increasingly attractive and eventually compelling alternative."

Westaco, David L. Luke, 3rd, President: "I do, however, feel quite strongly that the impact of the Commuter Tax (increase) would be negative insofar as the retention of business firms in New York City."

Dover Corporation, Thomas C. Sutton, Chairman of the Board: "Senator, Dover may move out even if the Commuter Tax is not raised. But passing the increase would look to us like a signal that the State and City cannot be expected to care about commuters any more in the future than they have in the past."

Colgate-Palmolive Company, Walter A. Hahn, President: "I think it would be fair to say on behalf of the Company that such an increase, while it would not constitute a sole factor for this Company to move its headquarters out of New York City or New York State, it would, nevertheless, be viewed negatively."

Burlington Industries, Inc., William A. Klopman, Chairman of the Board and President: "If we were considering the move of our sales headquarters out of New York

State, the burden on both the corporation and our employees of New York State and New York City would weigh heavily in the balance."

Macmillan, Raymond C. Hagel, Chairman: "In our opinion, the cumulative effect of Federal, State and City taxes on individuals is counterproductive and is a significant factor in depriving business located in New York City of the services of outstanding graduates specializing in business administration and finance. We are experiencing increasing difficulty in our college recruitment programs because these new graduates, seeing little advantage in assuming the heavy New York State/New York City tax burden, prefer to take other jobs offered to them for employment with large firms having headquarters out of New York."

"The difficulties employers face in attracting people to New York City are greater than ever before, and no let up is in sight. The proposed tax is, in my opinion, counterproductive and will accelerate further the movement of corporate headquarters from New York City and New York State."

Kennecott Copper Corporation, Frank R. Milliken, President: "Within the past few days, there have been press reports and resultant radio and television coverage bemoaning the fact that in the last year New York City has lost 117,000 jobs. This to me is not at all surprising in view of the general business environment in the City."

"New Yorkers are the most highly-taxed citizens in America. The individual income tax burden (City, State and Federal) is such that New York salaries for competent employees have to be considerably higher than salaries for similar jobs outside the State. This is further aggravated by other cost-of-living items in the City such as the expense of utilities, gasoline, housing, commutation, etc. . . . It is my belief that it is not only the taxes on business but also to an increasing extent the taxes on the individuals who manage the businesses that are governing factors in the decisions of corporations to leave New York City. Much as I feel that New York City is the logical place for the headquarters of a major organization, doubling of the commuter tax will likely give rise to still more such decisions."

Columbia Pictures Industries, Inc., Leo Jaffe, Chairman of the Board: "Many companies are considering an exodus from our great city and taxes of this type will only help them make up their minds to do so. We have been considering moving our corporation outside the confines of New York State. Our Studios are located in California and a good part of our organization is there today and we believe many economies may be effected by moving the balance of our company to California. We now occupy approximately 160 to 170 thousand square feet of space in the City."

Sterling Drug, Inc., W. Clarke Wescoe, M.D., Chairman of the Board: "An increase in the Commuter Tax would be particularly onerous. . . . Further increases in such taxes will make the burden intolerable not only for employees but for the company. . . . I have yet to see any action that would create a better business climate in New York as a State or in this City. Our company sees no incentive that would dictate our remaining here."

Revere Copper and Brass Incorporated, William F. Collins, President: "The City's existing commuter tax and the burden of New York State income tax are among the leading incentives inducing companies to move their offices out of the City to other States such as Connecticut and New Jersey. . . . The impact of the foregoing, plus the other New York State and City taxes on business, which are about as high as any I am aware of, provide a substantial disincentive for both new and existing in-

vestment and operations of any type in the City and State of New York."

United Merchants, Martin J. Schwab, Chairman of the Board: "Briefly, I oppose such taxes as New York City's Commuter Tax. Taxes like these are so terribly self-defeating and discouraging to the business community. It is another example of political expediency overriding sound economics. . . . Many companies, including ourselves, are experiencing substantial forced increases by virtue of being located in New York City. Unless the political leadership initiates legislation to redress some of these problems, the exodus of businesses will accelerate."

Amstar Corporation, John C. Reynolds, Vice President and General Counsel: "I think it would be unwise to increase the City's Commuter Tax, as I think it would be unwise at this juncture to increase any New York State or City taxes. . . . The New York tax burden on the Corporation is enormous. Periodically we must consider whether the state and local tax cost justifies our remaining at those locations."

American Brands, Inc., Robert K. Heimann, Chairman and Chief Executive Officer: "By this token, one would have to say that any move which increases the cumulative weight would have to make the City and State somewhat less attractive to individual residents, commuters and business firms."

M. Lowenstein & Sons, Inc., Robert Bendheim, Chairman, Chief Executive Officer: "I think that this would have very serious consequences to the City's economic health."

International Paper Company, J. Stanford Smith, Chairman: "My view is that New York cannot remain the State with the highest tax per capita and expect to attract and retain business. Clearly any increase in taxes would be counterproductive."

#### CATEGORY NO. II

SCM Corporation, Paul H. Elicker, President: "Our company is headquartered in New York City, and although one of the divisions currently housed with us is moving to Connecticut we have no present plans to move corporate headquarters. I say this despite the fact that there are a number of important arguments for doing so."

"Our costs in New York City are greater in almost every category than they would be elsewhere . . . given New York's work week and the necessities of commuting, the amount of productive time available is less."

"Most of the divisions of our company are located outside New York City, and it is natural for us to draw new headquarters personnel from these locations. It is getting harder and harder to persuade younger people to move here and the fact that in general they would be moving from lower taxed areas is one of the particular reasons. Although we do not want to move out of the city and have no intentions of doing so, the ever-increasing disparity in the individual tax burden forces us to reconsider the idea. Therefore, I urge you to oppose this increase."

Texaco, Inc., A. C. DeCrane, Jr., Senior Vice President and General Counsel: "Texaco's decision to relocate a substantial number of employees outside New York City was made well before the proposal for the latest increase of the city's commuter tax. A vast number of factors entered into the final decision but certainly the city's existing tax structure, the level of city and state personal income tax and the general difficulties of the city's financial situation and the prospect of interrupted services flowing from this situation are all important considerations. . . . we have experienced resistance on the part of company personnel when transfer to New York City has been proposed. This resistance, in part, has come from concern over the level of city and state taxes. Continuing increases in these taxes will gen-

erate additional resistance, we are sure. . . . we, like other companies, will have to continue to review the situation of our operations in New York City from time to time. A continuing record of increased taxation, particularly where the increases are at rates and to levels exceeding those of surrounding areas will certainly be an important factor in our formulation of plans for the future."

Mobil Oil Corporation, Anthony R. Corso, Public Affairs Manager: "One of Mobil's principal problems with a corporate headquarters in New York City is difficulty in inducing employees stationed in the field to accept transfers to New York City. . . . The very high New York State and City personal income taxes (including the commuter tax) when compared to such taxes in other states are a significant part of this problem because New York's high personal income tax contributes significantly to the high cost of living resulting from working in New York. Any increase in State or City personal income tax, including the New York City commuter tax, will further aggravate an already very serious problem by making New York income taxes further out of line with taxes in other areas."

St. Regis Paper Company, George J. Kneeland, Chairman of the Board and Chief Executive Officer: "It is my strong feeling that no attempt is being made to equate the Commuter Tax with the benefits or services provided to those who are asked to pay the tax. Rather, it would appear that this is viewed as an area where taxes can be raised with impunity to pay for services and fiscal excesses provided to others within the City's jurisdiction."

General Host Corporation, Harris J. Ashton, Chairman of the Board: "General Host Corporation has already made its decision to move to Stamford, Conn., which we intend to do so on May 1, 1977. . . . there is no question in my mind that an increase in New York City's commuter tax will force other management to come to a decision that they can no longer afford the luxury of doing business in the City of New York."

The Continental Group Inc., Thomas S. Thompson, Vice President-Public Affairs: "You asked how this (commuter tax increase) might affect a decision by Continental to move its corporate headquarters out of New York State. We have already announced that we are planning to move part of our headquarters group to Rowayton, Conn. The final arrangements for this move are not complete, and we can only comment that a further increase in the tax burden would be an added inducement to this action."

Grolier, Inc., William J. Murphy, Chairman of the Board: "Several years ago our mail order operations moved to Danbury because of the increasing New York City problems and rising taxes. This resulted in a loss of approximately 400 jobs in the area. Now, because of continued acceleration in expenses and taxes here, we have been forced to the decision to relocate all but a small staff in Connecticut. By the end of March, almost 200 jobs will be eliminated and by the end of the year another 200 or so. . . . The cost of doing business in New York is unrealistic, impractical and, in light of today's economy virtually impossible. It is regrettable that steps have not been taken over the years to maintain the attractions and benefits that New York City, in particular, once offered."

Chicago Pneumatic Tool Company, T. P. Latimer, President: "(we) have already transferred a number of jobs from New York City to other company locations and expects that such transfers will continue. These transfers have not yet involved company headquarters and to date, no decision has been made respecting a headquarters relocation. . . . The reasons for corporate transfers out of New York City have been well docu-

mented in articles and critical analysis appearing in the public press and need not be repeated here in detail. They are, in sum, the unfavorable financial and social atmosphere that makes New York City an expensive place in which to raise a family and enjoy amenities of life available elsewhere. While by no means the exclusive cause of such difficulties, the levels of both personal and business taxes without compensating services constitute a cause for relocation outside the City and State jurisdictions. . . . I am unable to comment specifically on the likely effect of the proposed increase in the "commuter tax." Nevertheless, to the extent that it represents a further increase in a level of taxation already the highest in the U.S., it would appear ill-advised."

Union Carbide Corporation, A. S. Hart, Vice President: "(Have announced a move to Connecticut) "It would appear that quantum increases in personal tax rates such as the proposed 100 percent increase in the commuter tax, would only tend to exacerbate the already deteriorating situation with respect to New York City's ability to attract and to retain business and the requisite labor force."

#### CATEGORY NO. III

Lever Brothers, Co., Lee H. Bloom, Administrative Vice President: "To talk of increasing that tax burden at City or State level, is to throw salt in the wounds of responsible corporate citizens like Lever Brothers Company who have stood up against the tide, supported the City in every reasonable way, and made the crucial decision to stick it out in New York. I hope that you and your colleagues will voice a strong negative vote on the proposals to increase the "Commuter Tax."

Avon, Robert J. Grimm, Director of Government Affairs: ". . . "It is unlikely that the imposition of a 100% increase in the Commuter Tax by itself would cause a reconsideration of that decision (Avon's decision to remain in NYC). . . . An increase in taxes on our employees who commute to New York City and who are already paying the highest state and local taxes in the country, only serves to make employment opportunities outside our State appear more attractive and compounds the difficulties we face in maintaining an appropriate work force."

GAF Corporation, Jesse Werner, Chairman and President: "While GAF, which traces the history of its operation in New York City back to 1842 has remained steadfast in its loyalty to the City, we find vast cause for concern. The proposal to double city income taxes on non-resident employees is another example of tax policies that penalize companies which remain in the City. . . . It is significant that, according to a recent study, corporate officials whose taxable income is \$100,000 would save \$18,835 in non-federal taxes if they had their companies moved from the city to Connecticut."

Exxon Corporation, H. C. Lang, Senior Tax Advisor: "A doubling of the New York City Earnings Tax on nonresidents would only serve to further aggravate this already serious matter."

Standard Brands, F. Ross Johnson, President and Chief Executive Officer: "The report by the State's Temporary Commission on City Finances, specifically its recommendation to double the commuter tax, puts questions in our minds as to whether or not there can be a consistency of business environment conducive to successful operation in this city and state. . . . with your help, Senator, we'd like to keep New York the exciting and unique business center it has always been. Increasing these taxes will do much to dampen the enthusiasm of those of us who have elected to stay in New York."

Gulf and Western, Henry F. Kelleher, Vice President, Employee Relations: "Gulf and Western has repeatedly expressed its com-



mitment to the City of New York. We are greatly concerned about the fiscal problems confronting the City, but we believe that any solution to these problems cannot lie in discouraging the growth of commerce by further increasing the cost of doing business in New York City."

McGraw Hill, Inc., Harold W. McGraw, Jr., Chairman and President: "In the late 60's we made our commitment to stay in New York, and the rationale we expressed in making that decision has been quoted frequently (and favorably) . . . thus, I don't think it is very likely that the commuter tax you mention would—of itself—lead us to change our minds. However, there have been times recently when those of us who have elected to stay in the city have felt we were being taken for granted. There is wide concern about companies which might move out; it seems equally important to us that the same concern be paid to making New York an attractive and efficient home for those of us who have elected to stay . . . As a commuter I am not enthusiastic about the proposed new tax, and as the chief executive officer of a company which employs thousands of commuters, I hesitate to endorse an action which would affect their paychecks. Yet, all of us, I am sure, would ultimately agree that there is a price which must be paid for creating a proper climate for where we make our living. What we would ask for, and what I think businessmen should demand, is an orderly and well-considered tax structure which will provide this desirable environment in the most economic manner. An increased commuter tax may be an answer; reductions in other forms of taxation may also need to be part of that answer. Until careful consideration is paid to the entire picture, I would not endorse an increase on any one aspect of the tax package."

RCA, Samuel M. Convisser, Staff Vice President—Education and Community Relations: "While the company has no formal position on this matter, I can tell you that any increase along the line of the recommended 100 percent would be self-defeating. As one who has been involved with many of New York City's activities and is a member of several committees working to improve the City, most businesses and employees recognize the need to provide some tax support to compensate the City for services rendered to employees, in particular those that commute from out-of-state. However, any increase would only encourage corporations both large and small to give serious consideration to leaving New York City."

Diamond International Corporation, V. M. Grout, Vice President—Finance: "Similarly, the addition of another, 45 percent on income of non-residents is not particularly burdensome and is unlikely to cause any corporation to move its headquarters out of New York. However, this is just one more example of a creeping tax burden with the passage of time and further increases might lead to consideration of another location."

American Home Products Corporation, Robert P. Greenlaw, Executive Vice President: "As you are certainly aware, the taxes appreciable to New York City and State residents are among the highest in the country. Many employees who work here and live out of state do have some tax advantage in comparison with residents. To obtain such advantage, they must commute which involves considerable inconvenience and expense. Doubtless, many would gladly work out of state if suitable employment opportunities were available. Any increase in commuter tax would make it more desirable for them to work in the state in which they live."

Reeves Brothers Inc., J. D. Moore, Chair-

man: "I would say that the added commuter tax along with problems already existing would not necessarily be the straw that broke the camel's back, but it certainly is getting closer to that point . . . it is my feeling that the added commuter tax, the existing City and State personal income tax (particularly for non-residents) as well as the other City and State taxes are so high on corporations have a great deal of bearing as to why corporations move."

#### BILL CABLE, STAFF DIRECTOR, COMMITTEE ON HOUSE ADMINISTRATION

(Mr. THOMPSON asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. THOMPSON. Mr. Speaker, as I am sure most of my colleagues will agree, rarely am I at a loss for words. Today, however, I find it particularly difficult to express my own personal feelings while properly paying tribute to a gentleman who leaves this body shortly to assume a new position downtown with the White House.

Many of you, and specifically you, Mr. Speaker, are well acquainted with Bill Cable who presently serves as the staff director and general counsel on the Committee on House Administration. Surely we will continue to see a great deal of Bill over the coming months and years, but I believe that some small tribute here on the House floor is necessary at this point to formally call attention to the accomplishments of a truly valuable, dedicated, reliable, and effective staff person.

Bill Cable came to the House of Representatives under the patronage of my distinguished colleague, CLEM ZABLOCKI, back in 1964 where he worked in the folding room—now our Publications Distribution Service. His home is Oconomowoc, Wis., and upon graduation from the University of Wisconsin he attended the George Washington University Law School while serving as a clerk to the Committee on Education and Labor. Many of you will remember his invaluable service to Chairman PERKINS—as well as the House as a whole—in the areas of education legislation, continued assessments of Great Society legislation, and House rules reform.

In addition to his brilliance professionally, Bill has served many of us well as a friend always willing to assist, analyze, and foresee in the solution of projects within the institution.

Bill is a fine young man whom I will personally miss. As we send him off to the other end of the avenue, I know we are fortunate to have his knowledge and understanding of the complexities of the House at hand in approaching the job he faces. To be sure, we will continue to have him within arm's reach as a part of the White House Office of Congressional Liaison. His service here, however, will not soon be forgotten and in my judgment will rarely be equaled.

I look forward to working with Bill in the future and feel confident that my colleagues share in my very best of wishes to him within the executive branch.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. ASHBROOK, for June 1 through June 10, on account of official business, attending ILO Conference in Geneva, Switzerland.

Mr. COLEMAN (at the request of Mr. RHODES), after 2 p.m. today, on account of death in family.

Mr. McEWEN (at the request of Mr. RHODES), after 11 a.m. today, on account of official business.

Mr. THOMPSON, for the period May 30 through June 10, on account of official business—attendance at the ILO Conference.

Mr. WHITEHURST (at the request of Mr. RHODES), for today through June 3, 1977, on account of official business.

Mr. YOUNG of Alaska (at the request of Mr. RHODES), for today through June 3, 1977, on account of official business.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EDWARDS of Oklahoma) to revise and extend their remarks and include extraneous matter:)

Mr. KEMP, for 15 minutes, today.

Mr. EDWARDS of Alabama, for 5 minutes, today.

Mr. BOB WILSON, for 5 minutes, today.

Mr. FRENZEL, for 10 minutes, today.

Mr. CLEVELAND, for 10 minutes, today.

Mr. YOUNG of Florida, for 15 minutes, today.

Mr. REGULA, for 5 minutes, today.

Mr. MOORHEAD of Pennsylvania, for 5 minutes, today and to revise and extend his remarks and include extraneous matter.

Mr. TUCKER, for 1 minute, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. CAVANAUGH) to revise and extend their remarks and include extraneous material:)

Mr. FORD of Michigan, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. REUSS, for 30 minutes, today.

Mr. ADDABBO, for 5 minutes, today.

Ms. HOLTZMAN, for 30 minutes, today.

Mrs. SPELLMAN, for 10 minutes, today.

Mr. RYAN, for 5 minutes, today.

Mr. LEDERER, for 5 minutes, today.

Mr. KOCH, for 10 minutes, today.

Mr. MOSS, for 20 minutes, today.

Mr. VAN DEERLIN, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

Mr. ST. GERMAIN, for 5 minutes, today.

Mr. PREYER, for 5 minutes, today.

Mr. CAVANAUGH, for 5 minutes, today.

Mr. VOLKMER, for 30 minutes, on June 1, 1977.

#### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ICHORD, to extend his remarks in two instances in the Extensions of Remarks today, and to include extraneous matter.

Mr. BROOMFIELD to revise and extend his remarks during debate on the Broyhill-Dingell amendment to H.R. 6161 in the Committee of the Whole today.

Mr. THONE to revise and extend his remarks just prior to passage of the amendment offered by Mrs. SMITH of Nebraska.

Mr. KEMP, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost \$1,046.50.

(The following Members (at the request of Mr. EDWARDS of Oklahoma) and to include extraneous matter:)

Mr. McKINNEY in two instances.

Mr. WALKER.

Mr. HARSHA.

Mr. VANDER JAGT.

Mr. MICHEL in two instances.

Mr. CRANE in two instances.

Mr. RUDD.

Mr. LAGOMARSINO in two instances.

Mr. DERWINSKI in two instances.

Mr. GILMAN.

Mr. BOB WILSON in three instances.

Mr. CONABLE.

Mr. HANSEN in three instances.

Mr. CORCORAN of Illinois.

Mr. HORTON.

Mr. KASTEN.

Mr. LUJAN in two instances.

Mr. GUYER.

Mr. KEMP in two instances.

Mr. LOTT.

Mr. MARTIN.

Mr. HAGEDORN.

Mr. WHALEN.

(The following Members (at the request of Mr. CAVANAUGH) and to include extraneous material:)

Mr. LEHMAN.

Mr. SISK.

Mr. MAZZOLI in two instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. GIALMO in five instances.

Mr. OTTINGER.

Mr. EILBERG in three instances.

Mr. MURTHA.

Mr. RODINO.

Mr. TEAGUE in six instances.

Mr. HEFTEL.

Mr. HARKIN.

Mr. ADDABBO in two instances.

Mr. MINETA.

Mr. FARY in two instances.

Ms. JORDAN.

Mr. CARR.

Mr. DOWNEY.

Mr. WOLFF.

Mr. RYAN.

Mr. MILLER of California.

Mr. LEDERER.

Mr. CARNEY in two instances.

Mr. MOORHEAD of Pennsylvania.

Mr. KOCH in six instances.

Mr. McDONALD in five instances.

Mr. EVANS of Indiana.

Mrs. MEYNER.

Mr. NICHOLS.

Mr. BRECKINRIDGE.

Mr. BARNARD.

Mr. ST GERMAIN.

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Mrs. COLLINS of Illinois in five instances.

Mr. BADILLO.

Mr. MOAKLEY.

Mr. NOLAN.

Mr. SIMON.

Mr. AMMERMAN.

Mr. EDGAR.

#### SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 11. An act to provide for the appointment of additional district and circuit judges, for the creation of a new fifth judicial circuit and a new eleventh judicial circuit, and for other purposes; to the Committee on the Judiciary.

#### ADJOURNMENT

Mr. CAVANAUGH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER. In accordance with House Concurrent Resolution 229, 95th Congress, the Chair declares the House adjourned until 12 o'clock noon on Wednesday, June 1, 1977.

Thereupon (at 4 o'clock and 7 minutes p.m.), pursuant to House Concurrent Resolution 229, the House adjourned until Wednesday, June 1, 1977, at 12 o'clock noon.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1574. A letter from the Assistant Secretary of Defense (Comptroller), transmitting notice of the Defense Department's intention to obligate funds available in the DoD Stock Fund for war reserve inventory for the Marine Corps, pursuant to section 735 of Public Law 94-419; to the Committee on Appropriations.

1575. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a list of contract award dates for the period May 15 to August 15, 1977, pursuant to 10 U.S.C. 139 (b); to the Committee on Armed Services.

1576. A letter from the Deputy Secretary of Agriculture, transmitting a draft of proposed legislation to amend title V of the Housing Act of 1949; to the Committee on Banking, Finance and Urban Affairs.

1577. A letter from the Executive Secretary, Administrative Conference of the United States, transmitting a report on the agency's activities under the Freedom of Information Act during calendar year 1976, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

1578. A letter from the Assistant Secretary of State for Congressional Relations, transmitting the 16th annual report of the Center for Cultural and Technical Exchange Between East and West, covering fiscal year 1976 and the transition quarter, pursuant to section 704(c) of the Mutual Security Act of 1960; to the Committee on International Relations.

1579. A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions made by Ambassadors-designate Herbert Salzman, John A. Linehan, and Arthur W. Hummel, Jr., and their families, pursuant to

section 6 of Public Law 93-126; to the Committee on International Relations.

1580. A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions made by Ambassadors-designate Albert W. Sherer, Jr. and John C. West, and their families, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations.

1581. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

1582. A letter from the Administrator, Federal Energy Administration, transmitting an amendment to the Strategic Petroleum Reserve Plan accelerating the plan's development schedule (Energy Action No. 12), pursuant to sections 154(b) and 159(d) of the Energy Policy and Conservation Act (H. Doc. No. 95-165); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

1583. A letter from the Acting Assistant General Counsel for International, Conservation, and Resource Development Programs, Federal Energy Administration, transmitting notice of a meeting related to the International Energy Program to be held June 1 and 2, 1977, in Pittsburgh, Pa.; to the Committee on Interstate and Foreign Commerce.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DODD: Committee on Rules. House Resolution 600. Resolution providing for the consideration of H.R. 6967. A bill to authorize appropriations for the Peace Corps for fiscal year 1978 (Rept. No. 95-367). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 601. Resolution provides for the consideration of H.R. 7010. A bill to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes (Rept. No. 95-368). Referred to the House Calendar.

Mr. DODD: Committee on Rules. House Resolution 602. Resolution providing for the consideration of H.R. 6990. A bill to authorize certain construction at military installations, and for other purposes (Rept. No. 95-369). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 603. Resolution providing for the consideration of H.R. 6804. A bill to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes (Rept. No. 95-370). Referred to the House Calendar.

Mr. LEHMAN: Committee on Post Office and Civil Service. H.R. 7012. A bill to provide for a 40 percent reduction of the burden on respondents in the censuses of agriculture, drainage, and irrigation taken in 1979 and thereafter, and for other purposes; with amendment (Rept. No. 95-371). Referred to the Committee of the Whole House on the State of the Union.



## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER (for himself, Mr. WATKINS, Mr. MOLLOHAN, Mr. HOLLAND, Mr. KREBS, Mr. JEFFORDS, Mr. OBERSTAR, Mr. RICHMOND, Mr. STEIGER, Mr. GINN, Mrs. LLOYD of Tennessee, Mr. JENNETTE, Mr. RAHALL, Mr. DE LUGO, Mr. MCCORMACK, and Mr. HARKIN):

H.R. 7444. A bill to amend section 306(a) of the Consolidated Farm and Rural Development Act to prescribe criteria for determining the amount of grants made under such section, to prescribe the priority of applicants for loans and grants under such section, and for other purposes; to the Committee on Agriculture.

By Mr. ANDREWS of North Dakota:

H.R. 7445. A bill to amend the Internal Revenue Code of 1954 to exempt certain farm vehicles from the highway use tax; to the Committee on Ways and Means.

By Mr. ARMSTRONG (for himself, Mr. CRANE, Mr. JOHNSON of Colorado, Mr. NOLAN, and Mr. PATTERSON of California):

H.R. 7446. A bill to amend title II of the Social Security Act to repeal the earnings limitation, to provide benefits for husbands, widowers, and fathers on the same basis as wives, widows, and mothers, to eliminate the 5-month waiting period for disability benefits, to provide for the payment of benefits to an individual through the month of his or her death, to provide an optional exemption from coverage for individuals 65 years of age and over, and to provide that a beneficiary's marriage or remarriage will not effect his or her benefits; and to amend title XVIII of such act to authorize direct payments to physicians and other providers at their option under the supplementary medical insurance program; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. BEDELL (for himself, Mr. AMMERMAN, Mr. HANLEY, and Mr. JENNETTE):

H.R. 7447. A bill to amend the Internal Revenue Code of 1954 to treat certain income derived by tax-exempt organizations from investments in farmland as unrelated business taxable income; to the Committee on Ways and Means.

By Mr. BENNETT (for himself, Mr. HARRINGTON, Mr. COHEN, Mr. BLANCHARD, Mr. GLICKMAN, Mr. RINALDO, Mr. LEGGETT, Mr. ETEL, Mr. LLOYD of California, Ms. KEYS, Mr. KREBS, Mr. PEASE, Mr. MOLLOHAN, Mr. SIMON, Mr. MANN, Mr. CHARLES WILSON of Texas, Mr. LAGOMARSINO, Mr. BINGHAM, and Mr. STUDDS):

H.R. 7448. A bill to amend the Defense Production Act of 1950, as amended; jointly, to the Committees on Banking, Finance and Urban Affairs, and Government Operations.

By Mr. BENNETT (for himself, Mr. TRIBLE, Mr. EDWARDS of California, Mrs. SPELLMAN, Mr. BLOUIN, Mr. CAVANAUGH, Mr. FORD of Tennessee, Mr. GILMAN, Mr. CAPUTO, Mr. FASCELL, Mr. MOFFETT, Mr. BURGNER, Mr. BAUCUS, Mr. BEDELL, Mr. NEAL, Mr. EDGAR, Mr. RICHMOND, Mr. EVANS of Delaware, Mr. D'AMOURS, and Mr. KOCH):

H.R. 7449. A bill to amend the Defense Production Act of 1950, as amended; jointly, to the Committees on Banking, Finance and Urban Affairs, and Government Operations.

By Mr. BENNETT (for himself, Mr. MURPHY of Pennsylvania, Mr. AU-

COIN, Mr. ST GERMAIN, Mr. SKUBITZ, Mr. OTTINGER, Mr. CHARLES H. WILSON of California, Mr. JACOBS, Mr. DUNCAN of Tennessee, Mr. ASHLEY, Mr. BEVILL, Mr. ELBERG, Mr. DRINAN, Mr. DELLUMS, Mr. LEHMAN, Mr. BADILLO, Mr. BUTLER, Mr. HUGHES, and Ms. HOLTZMAN):

H.R. 7450. A bill to amend the Defense Production Act of 1950, as amended; jointly, to the Committees on Banking, Finance and Urban Affairs, and Government Operations.

By Mrs. BOGGS (for herself, Mr. DORNAN, Mr. FOUNTAIN, Mr. JENNETTE, Mr. MURTHA, Mr. NICHOLS, Mr. PICKLE, Mr. ROONEY, Mr. SHIPLEY, Mr. SLACK, Mr. STAGGERS, Mr. STOKES, Mr. WALGREEN, Mr. YATRON, and Mr. ZEFERETTI):

H.R. 7451. A bill to provide recognition to the Women's Air Forces Service Pilots for their service to their country during World War II by deeming such service to have been active duty in the Armed Forces of the United States for purposes of laws administered by the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. CORMAN (for himself, Mr. BOWEN, Mr. DICKS, Mr. DUNCAN of Oregon, Mr. FAUNTROY, Mr. KEMP, Mr. PURSELL, Mr. RAHALL, and Mr. RONCALIO):

H.R. 7452. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. CORMAN (for himself, Mr. BLANCHARD, Mrs. FENWICK, Mr. MAGUIRE, Mr. MIKVA, Mrs. SCHROEDER, Mr. TRAXLER, Mr. TSONGAS, and Mr. WAXMAN):

H.R. 7453. A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain psychologists' services under the supplementary medical insurance benefits program established by part B of such title; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. CORMAN (for himself, Mr. BRODHEAD, Mr. DUNCAN of Tennessee, and Mrs. LLOYD of Tennessee):

H.R. 7454. A bill to amend title XVIII of the Social Security Act for the purpose of including community mental health centers among the entities which may be qualified providers of services for medicare purposes; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. CRANE (for himself, Mr. BARNARD, Mr. HANSEN, Mr. ADDABO, Mr. CEDERBERG, Mr. HIGHTOWER, Mr. TRIBLE, Mr. WINN, Mr. APPELEGATE, Mr. BAUCUS, Mr. ABDNOR, and Mr. GILMAN):

H.R. 7455. A bill to provide that in civil actions where the United States is a plaintiff, a prevailing defendant may recover a reasonable attorney's fee and other reasonable litigation costs; to the Committee on the Judiciary.

By Mr. DE LUGO:

H.R. 7456. A bill to amend the Revised Organic Act of the Virgin Islands with respect to the power of the Legislature of the Virgin Islands to impose customs duties; to the Committee on Interior and Insular Affairs.

By Mr. DUNCAN of Oregon (by request):

H.R. 7457. A bill establishing the Bull Run watershed management unit, Mt. Hood National Forest, specifying authorized uses therein, authorizing the Secretary of Agriculture and the city of Portland jointly and equally to manage the unit, and for other purposes; jointly to the Committees on the Judiciary, and Interior and Insular Affairs.

By Mr. ENGLISH:

H.R. 7458. A bill to amend the Flood Control Act of 1962 (Public Law 87-874) by authorizing the Secretary of the Army acting through the Chief of Engineers to design, construct, and provide treatment facilities and a regional conveyance system of water from Kaw Lake; to the Committee on Public Works and Transportation.

By Mr. FRASER:

H.R. 7459. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for the cost of removal of trees required by the United States or a State or local government to be removed to prevent the spread of Dutch elm disease; to the Committee on Ways and Means.

By Mr. FRENZEL (for himself, Mr. FRASER, Mr. HAGEDORN, Mr. NOLAN, Mr. OBERSTAR, Mr. QUITE, Mr. STANGELAND, and Mr. VENTO):

H.R. 7460. A bill to amend the Internal Revenue Code of 1954 to treat the conducting of certain games by tax-exempt organizations as not being an unrelated trade or business; to the Committee on Ways and Means.

By Ms. HOLTZMAN:

H.R. 7461. A bill to amend the provisions of title 18 and 28 that are commonly called the Rules Enabling Acts to provide a uniform method for the proposal and adoption of certain rules of court by the U.S. Supreme Court and for other purposes; to the Committee on the Judiciary.

By Mr. HOWARD (for himself and Mr. SHUSTER):

H.R. 7462. A bill to amend the Federal-Aid Highway Act of 1976 to provide an obligation limitation for fiscal year 1978; to the Committee on Public Works and Transportation.

By Mr. HYDE (for himself and Mr. RAILSBACK):

H.R. 7463. A bill to amend title XVI of the Social Security Act to provide that supplemental security income benefits shall be payable to a resident alien only if he has continuously resided in the United States for at least 5 years; to the Committee on Ways and Means.

By Mr. JONES of Oklahoma:

H.R. 7464. A bill to amend the Occupational Safety and Health Act of 1970 to extend its protection to congressional employees; to the Committee on Education and Labor.

By Mr. KASTEN:

H.R. 7465. A bill to amend the National Housing Act to provide for the insurance of graduated payment mortgages, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KOCH (for himself, Mr. FINDLEY, Mr. HOWARD, Mr. KILDEE, Mr. KOSTMAYER, Mrs. LLOYD of Tennessee, Mr. MINETA, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, Mr. NOLAN, Mr. PEPPER, Mr. SANTINI, Mr. SIMON, Mr. SOLARZ, Mr. STARK, Mr. STEERS, Mr. TREEN, Mr. VENTO, Mr. WALGREEN, and Mr. WINN):

H.R. 7466. A bill to provide for the use of telecommunication devices by the Senate and the House of Representatives to enable deaf persons and persons with speech impairments to engage in toll-free telephone communications with Members of the Congress; to the Committee on House Administration.

By Mr. KOCH (for himself, Mr. FINDLEY, Mr. APPELEGATE, Mr. BADILLO, Mr. BROWN of California, Mr. DELLUMS, Mr. DIGGS, Mr. DRINAN, Mr. ELBERG, Mrs. FENWICK, Mr. GILMAN, Mr. HARKIN, Mr. HARRIS, Mr. HAWKINS, and Ms. HOLTZMAN):

H.R. 7467. A bill to provide for the use of telecommunications devices by the Senate

and the House of Representatives to enable deaf persons and persons with speech impairments to engage in toll-free telephone communications with Members of the Congress; to the Committee on House Administration.

By Mr. KOCH:

H.R. 7468. A bill to amend title 18, United States Code, to prohibit the sexual exploitation of children and the transportation in interstate or foreign commerce of photographs or films depicting such exploitation; to the Committee on the Judiciary.

By Mr. KREBS (for himself, Mr. RYAN, Ms. HOLTZMAN, Mr. D'AMOURS, Mr. KOSTMAYER, and Ms. MIKULSKI):

H.R. 7469. A bill to enlarge the Sequoia National Park in the State of California by adding to such park the Mineral King Valley area, to provide for certain planning respecting the management of such addition, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, Interior and Insular Affairs.

By Mr. LEHMAN:

H.R. 7470. A bill to amend title 5, United States Code, to provide survivor annuities to subsequent spouses of certain additional classes of deceased annuitants who died after making available survivor annuities for previous spouses at time of retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. McCLODY:

H.R. 7471. A bill to amend title 28 of the United States Code to establish a Judicial Nominating Commission to advise the President with respect to nominations to judgeships in certain Federal courts; to the Committee on the Judiciary.

By Mr. MOAKLEY:

H.R. 7472. A bill to provide for the use of the Coast Guard cutter *Chautauqua* as an exhibition and education center; to the Committee on Merchant Marine and Fisheries.

By Mr. MOORHEAD of Pennsylvania:

H.R. 7473. A bill to establish fiscal incentives for the conversion of existing petroleum-fired and natural gas-fired powerplants and fuel burning installations to coal as a primary energy source, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, and Interstate and Foreign Commerce.

By Mr. MOSS:

H.R. 7474. A bill to amend title XIX of the Social Security Act to improve the early and periodic screening, diagnosis, and treatment program; to the Committee on Interstate and Foreign Commerce.

H.R. 7475. A bill to define the jurisdiction of the Federal courts with respect to challenges to congressional subpoenas, and for other purposes; to the Committee on the Judiciary.

By Mr. MOSS (for himself, Mrs. FENWICK, Mr. HAWKINS, Mr. MITCHELL of Maryland, Mr. NIX, Mr. NOLAN, and Mr. STARK):

H.R. 7476. A bill to provide basic standards for State no-fault benefit plans for the rehabilitation and compensation of motor vehicle accident victims, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GARY A. MYERS (for himself, Mr. MURTHA, Mr. MURPHY of Pennsylvania, Mr. WINN, Mr. RAHALL, Mr. MOAKLEY, Mr. KINDNESS, Mr. TREEN, Mr. KILDEE, Mr. SIMON, and Mr. BAUCUS):

H.R. 7477. A bill to amend title 23, United States Code, to expand the special bridge replacement program, and for other purposes; jointly, to the Committees on Public Works and Transportation, and Ways and Means.

By Ms. OAKAR:

H.R. 7478. A bill to amend the Clean Air Act to establish certain motor vehicle emission standards, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PIKE:

H.R. 7479. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. RAILSBACK:

H.R. 7480. A bill to amend the Internal Revenue Code of 1954 to allow a credit against tax for amounts paid by an individual as elementary or secondary school tuition for the education of his dependent children; to the Committee on Ways and Means.

By Mr. RINALDO (for himself, Mr. RODINO, Mr. ALLEN, Mr. MURPHY of Pennsylvania, Mr. WAXMAN, Mr. APPLEGATE, Mr. PURSELL, Mr. WINN, Mr. STEERS, Mr. BRODHEAD, Mr. WOLFF, Mr. WALGREEN, Mr. ETEL, Mr. YOUNG of Alaska, Mr. HOLLENBECK, Mr. LENT, Mrs. SPELLMAN, Mr. CAPUTO, Mr. BAUCUS, Mr. FORD of Tennessee, and Mrs. MEYNER):

H.R. 7481. A bill to amend the Older Americans Act of 1965 to provide relief for older Americans who own or rent their homes; to the Committee on Education and Labor.

By Mr. ROBERTS (for himself, Mr. TEAGUE, Mr. CARNEY, and Mr. HAMMERSCHMIDT):

H.R. 7482. A bill relating to the assignment of retired military personnel to the American Battle Monuments Commission; to the Committee on Veterans' Affairs.

By Mr. SEIBERLING (for himself, Mr. BADILLO, Mr. BEVILL, Mr. BLOUIN, Mr. CORCORAN of Illinois, Mr. D'AMOURS, Mr. DANIELSON, Mr. DOWNEY, Mr. DRINAN, Mr. EDGAR, Mr. EDWARDS of California, Mr. EDWARDS of Oklahoma, Mr. EILBERG, Mr. ENGLISH, Mr. FAUNTROY, Mr. FORD of Tennessee, Mr. FRASER, Mr. GLICKMAN, Mr. GIBBONS, Mr. HANNAFORD, Mr. HARRIS, Mr. HAWKINS, Mr. HEFNER, Mr. JEFFORDS, and Mr. LEGGETT):

H.R. 7483. A bill to amend title II of the Social Security Act to require that procedures be established for the expedited replacement of undelivered benefit checks, to require that decisions on benefit claims be made within specified periods and to require that payment of benefits on approved claims begin promptly; to the Committee on Ways and Means.

By Mr. SEIBERLING (for himself, Mr. LEHMAN, Mr. McHUGH, Mr. McKINNEY, Mr. MARKS, Ms. MIKULSKI, Mr. MINETA, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. NEAL, Mr. OTTINGER, Mr. PANETTA, Mr. PEASE, Mr. PEPPER, Mr. RAHALL, Mr. SHIPLEY, Mr. SIMON, Mrs. SPELLMAN, Mr. VENTO, Mr. WEAVER, Mr. WHELEN, Mr. WHITEHURST, Mr. CHARLES WILSON of Texas, Mr. CHARLES H. WILSON of California, and Mr. WON PAT):

H.R. 7484. A bill to amend title II of the Social Security Act to require that procedures be established for the expedited replacement of undelivered benefit checks, to require that decisions on benefit claims be made within specified periods and to require that payment of benefits on approved claims begin promptly; to the Committee on Ways and Means.

By Mrs. SPELLMAN (for herself and Mr. REUSS):

H.R. 7485. A bill to assist cities and States by amending section 5136 of the Revised Statutes, as amended, with respect to the authority of national banks to underwrite

and deal in securities issued by State and local governments, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. TRIBLE:

H.R. 7486. A bill to amend the Railroad Revitalization and Regulatory Reform Act of 1976 and the Regional Rail Reorganization Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. EDGAR (for himself, Mr. BADILLO, Mr. BAUCUS, Mr. BEDELL, Mr. BRADENAS, Mr. ETEL, Mr. HARKIN, Mr. MILLER of California, Mr. NIX, Mr. NOLAN, Mr. PANETTA, Mr. SIMON, Mr. VENTO, and Mr. WIRTH):

H.R. 7487. A bill to authorize appropriations for ride sharing programs, to consolidate existing Federal ride sharing programs, to foster ride sharing programs in States and localities, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. EILBERG (for himself, Mr. DELANEY, Mr. MOAKLEY, Mr. PEPPER, Mr. PEASE, Mr. CAVANAUGH, Mr. LAFALE, Mr. FASCELL, Mr. NIX, Mr. DOWNEY, Mr. RAHALL, Mr. HAWKINS, Mr. EDGAR, Mr. BROWN of Michigan, Ms. MIKULSKI, Mr. MURPHY of Pennsylvania, Mr. RICHMOND, Mr. BONTIOR, and Mr. BAUCUS):

H.R. 7488. A bill to provide that an electronically recorded summary of daily Chamber action in the Senate and the House of Representatives shall be made available by the Congress through the use of a toll-free telephone listing; to the Committee on House Administration.

By Mr. KASTENMEIER (for himself, Mr. SEIBERLING, Mr. BADILLO, Mr. CLAY, Mr. DOWNEY, Mr. HARRINGTON, Mr. MIKVA, Mr. MITCHELL of Maryland, Mr. NEAL, Mr. OBERSTAR, Mr. PATTON of New York, Mr. PEASE, Mr. ROSENTHAL, and Mr. SIMON):

H.R. 7489. A bill to amend title 18, chapter 119, United States Code, to provide special procedures in the case of applications for court orders for the interception of oral or wire communications to obtain foreign intelligence information; to the Committee on the Judiciary.

By Mr. MARKEY (for himself, Mr. McHUGH, and Mr. NEAL):

H.R. 7490. A bill to amend section 601(a) of the Legislative Reorganization Act of 1946 to provide that the salaries of Senators and Representatives may not be subject to any cost-of-living adjustment under such section before October 1, 1978; to the Committee on Post Office and Civil Service.

By Mr. NOLAN:

H.R. 7491. A bill to provide that in compiling unemployment statistics, the Bureau of Labor Statistics shall include farmers reporting net income losses for the preceding taxable year and shall include certain of their dependents, and to provide that Federal assistance distributed on the basis of unemployment shall take into account such farmers and dependents; to the Committee on Education and Labor.

By Mr. REGULA:

H.R. 7492. A bill to amend title 38 of the United States Code to make certain that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

By Mr. RODINO:

H.R. 7493. A bill to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of U.S. Magistrates, and for other purposes; to the Committee on the Judiciary.

By Mr. EILBERG:

H.J. Res. 489. Joint resolution granting the status of permanent residence to certain aliens; to the Committee on the Judiciary.



By Mr. RAILSBACK:

H.J. Res. 490. Joint resolution providing that residential subscriber interests, especially those of citizens in rural areas, be protected as competition is permitted in the telecommunications industry; to the Committee on Interstate and Foreign Commerce.

By Mr. ROBINSON (for himself, Mr. ABDNOR, Mr. BADHAM, Mr. BALDUS, Mr. BAUCUS, Mr. BUTLER, Mr. DERWINSKI, Mr. DICKINSON, Mr. DORNAN, Mr. ERTTEL, Mr. KETCHUM, Mr. LAGOMARSINO, Mr. LOTT, Mr. RAHALL, Mr. SATTERFIELD, Mrs. SPELLMAN, Mr. SPENCE, Mr. THONE, Mr. WHITEHURST, and Mr. WINN):

H.J. Res. 491. Joint resolution to authorize and request the President to issue a proclamation designating May 13 of each year as American Business Day; to the Committee on Post Office and Civil Service.

By Mr. HANSEN:

H. Con. Res. 231. Concurrent resolution disapproving the President's determination not to grant import relief to the U.S. sugar industry; to the Committee on Ways and Means.

By Mr. HYDE (for himself and Mr. EVANS of Delaware):

H. Con. Res. 232. Concurrent resolution directing the Secretary of Defense to inter a Vietnam Unknown Soldier at Arlington National Cemetery; to the Committee on Veterans' Affairs.

By Mr. WYLIE (for himself, Mr. DEVINE, Mr. FASCELL, Mrs. FENWICK, Mr. EILBERG, Mr. BINGHAM, Mr. BUCHANAN, Mr. SIMON, Mr. APPELGATE, Mr. GUYER, Mr. HARKIN, and Mr. ASHBROOK):

H. Con. Res. 233. Concurrent resolution to express the sense of the Congress that Galina Michelson and Olga Michelson should be granted exit visas by the Soviet Union; to the Committee on International Relations.

By Mr. RAILSBACK (for himself and Mr. VANDER JAGT):

H. Res. 604. Resolution expressing the sense of the House of Representatives that the effect on our society of the level of violence depicted on television requires more consideration and study; to the Committee on Interstate and Foreign Commerce.

## MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

169. By the SPEAKER: Memorial of the legislature of the State of Nevada, relative to completion of the Humboldt River and Tributaries project; to the Committee on Appropriations.

170. Also, memorial of the Legislature of the State of Nevada, relative to establishment of a veterans' hospital in Clark County, Nev.; to the Committee on Veterans' Affairs.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BADILLO:

H.R. 7494. A bill for the relief of Fernando Gutierrez Lazo and Dolores Moya Machado; to the Committee on the Judiciary.

By Mr. JACOBS:

H.R. 7495. A bill for the relief of See-Lon Cheng; to the Committee on the Judiciary.

By Ms. MIKULSKI (by request):

H.R. 7496. A bill for the relief of Rosario Bautista; to the Committee on the Judiciary.

By Mr. PIKE:

H.R. 7497. A bill for the relief of Elmeada Richards Winter and Amos Emanuel Winter; to the Committee on the Judiciary.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10

By Mr. BAUMAN:

On page 34, lines 10 and 11, strike the words "with respect to whom such employee is a superior".

On page 35, after line 5, add the following new subsection:

"(c) Notwithstanding any other provisions of law or this subchapter, no employee may solicit a political contribution from any person he regulates, audits, investigates, or who is the recipient of or applicant for any license, grant, subsidy, contract, or benefit which said employee monitors, reviews, or has decisionmaking authority in respect thereof.

By Mr. DERWINSKI:

On page 27, strike all after the enacting clause and insert the following:

### "SUBCHAPTER III—POLITICAL ACTIVITIES

"§ 7361. Political participation

"It is the policy of the Congress that employees should be encouraged to fully exercise, to the extent not expressly prohibited by law, their rights of voluntary participation in the political processes of our Nation.

"§ 7362. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means any individual, employed or holding office in the United States Postal Service;

"(2) 'candidate' means any individual who seeks nomination for election, or election, to any elective office, whether or not such individual is elected, and, for the purpose of this paragraph, an individual shall be deemed to seek nomination for election, or election, to an elective office, if such individual has—

"(A) taken the action required to qualify for nomination for election; or

"(B) received political contributions or made expenditures, or has given consent for any other person to receive political contributions or make expenditures, with a view to bringing about such individual's nomination for election, or election, to such office;

"(3) 'political contribution'—

"(A) means a gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose;

"(B) includes a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a political contribution for any political purpose;

"(C) includes the payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to such candidate or political party or affiliated organization without charge for any political purpose; and

"(D) includes the provision of personal services for any political purpose;

"(4) 'superior' means an employee who exercises supervision of, or control or administrative direction over, another employee;

"(5) 'elective office' means any elective

public office and any elective office of any political party or affiliated organization;

"(6) 'enforcing authority' means the general counsel of the Civil Service Commission or such other individual within the Commission as the Commissioners may designate to carry out investigation and enforcement activities under this subchapter;

"(7) 'State' means each of the several States and the District of Columbia;

"(8) 'person' means any individual, corporation, trust, association, any State, local, or foreign government, any territory or possession of the United States, or any agency or instrumentality of any of the foregoing; and

"(9) 'restricted position' means any position with respect to which there is in effect a determination by the Commission, by regulation, that—

"(A) the duties and responsibilities of such position require such employee, as a substantial part of his official activities, to engage in—

"(i) the enforcement of any civil or criminal law;

"(ii) the inspection or auditing of the activities of any person;

"(iii) the contracting for goods or services for the Government;

"(iv) the providing, administration, or monitoring of licenses, grants, subsidies, or other benefits; or

"(v) foreign intelligence or national security activities;

"(B) the duties and responsibilities of such position—

"(i) in the case of any inspection, audit, prosecution, or investigation under any civil or criminal law, employees holding such positions have the authority to make policy decisions binding on other employees under their control with regard to who shall be the subject of any such action; or

"(ii) in the case of any Government contract or any Government license, grant, subsidy, or other benefit, employees holding such positions have the authority to make binding decisions on other employees under their control with respect to such contract or benefit which involves any funds or other interest having a substantial monetary value; and

"(C) the restrictions on political activity imposed on such employee in such a position are justified in order to insure the integrity of the Government or the public's confidence in the integrity of the Government.

"§ 7363. Use of official influence or official information; prohibition

"(a) An employee may not directly or indirectly use or attempt to use the official authority or influence of such employee for the purpose of—

"(1) interfering with or affecting the result of any election; or

"(2) intimidating, threatening, coercing, commanding, influencing, or attempting to intimidate, threaten, coerce, command, or influence—

"(A) any individual for the purpose of interfering with the right of any individual to vote as such individual may choose, or of for any candidate or measure in any election;

"(B) any person to give or withhold any causing any individual to vote, or not to vote, political contribution; or

"(C) any person to engage, or not to engage, in any form of political activity whether or not such activity is prohibited by law.

"(b) An employee may not directly or indirectly use or attempt to use, or permit the

use of, any official information obtained through or in connection with his employment for any political purpose, unless such official information is available to the general public.

"(c) For the purpose of subsection (a) of this section, 'use of official authority or influence' includes—

"(1) promising to confer or conferring any benefit (such as any compensation, grant, contract, license, or ruling) or effecting or threatening to effect any reprisal (such as deprivation of any compensation, grant, contract, license, or ruling); or

"(2) taking, directing others to take, recommending, processing, or approving any personnel action (such as any appointment, promotion, transfer, assignment, reassignment, reinstatement, restoration, reemployment, performance evaluation or any adverse action under this title, suspension for 30 days or less, or other disciplinary action).

"(d) (1) No employee organization (including any national or international union, council, or department which includes such organization, or any affiliate of such organization), or officer, employee, or agent thereof, shall directly or indirectly intimidate, threaten, coerce, command, or directly or indirectly attempt to intimidate, threaten, coerce, or command—

"(A) any employee for the purpose of interfering with the right of any employee to vote as such employee may choose, or of causing an employee to vote, or not to vote, for any candidate or measure in any election;

"(B) any employee to give or withhold any political contribution; or

"(C) any employee to engage, or not to engage, in any form of political activity whether or not such activity is prohibited by law.

"(2) No portion of any dues, fees, or assessments levied on the membership, of any employee organization referred to in paragraph (1) of this subsection by such organization shall be used by such organization for any political purpose or by any political education or action committee of such organization for any purpose.

Page 40, line 17, strike out "or";

Page 40, line 19, insert "or" after "Columbia";

Page 40, after line 19, insert the following:

"(E) any entity or individual who is not an employee, with respect to any violation of section 7363(d);

"§ 7364. Solicitation; prohibition

"(a) An employee may not—

"(1) give or offer to give a political contribution to any individual either to vote or refrain from voting, or to vote for or against any candidate or measure, in any election;

"(2) solicit, accept, or receive a political contribution to vote or refrain from voting, or to vote for or against any candidate or measure, in any election;

"(3) knowingly give or hand over a political contribution to a superior of such employee; or

"(4) knowingly solicit, accept, or receive, or be in any manner concerned with soliciting, accepting, or receiving, a political contribution—

"(A) from another employee (or a member of another employee's immediate family) with respect to whom such employee is a superior; or

"(B) in any room or building occupied in the discharge of official duties by—

"(i) an individual employed or holding office in the Government of the United States,

in the government of the District of Columbia, or in any agency or instrumentality of the foregoing; or

"(ii) an individual receiving any salary or compensation for services from money derived from the Treasury of the United States.

"(b) In addition to the prohibitions of subsection (a) of this section, an employee holding a restricted position may not solicit, accept, or receive a political contribution from, or give a political contribution to, any individual who is an employee, a Member of Congress (or a candidate for such office), or a member of a uniformed service, or any agent of any such individual. The preceding sentence shall not be construed to prohibit an employee from giving a political contribution to a political committee.

"§ 7365. Political activities on duty, etc.; prohibition

"(a) An employee may not engage in political activity—

"(1) while such employee is on duty;

"(2) in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States, in the government of the District of Columbia, or in any agency or instrumentality of the foregoing; or

"(3) while wearing a uniform or official insignia identifying the office or position of such employee.

"(b) The provisions of subsection (a) of this section shall not apply to—

"(1) an individual—

"(A) paid from the appropriation for the White House Office;

"(B) paid from funds to enable the Vice President to provide assistance to the President; or

"(C) on special assignment to the White House Office;

"(2) the Mayor of the District of Columbia, the Chairman or a member of the Council of the District of Columbia; or

"(3) any activity of an individual which is not otherwise prohibited by or under law and which is part of such individual's official duties.

"(c) Nothing in this section shall be construed to authorize an individual designated in subsection (b) to engage in political activity otherwise prohibited by or under law.

"(d) (1) In addition to the prohibitions of subsection (a) of this section, an employee holding a restricted position may not take an active part in political management or political campaigns unless such part—

"(A) is in connection with (i) an election and preceding campaign if none of the candidates is to be nominated or elected at that election as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected or (ii) a question which is not specifically identified with a National or State political party or political party of a territory or possession of the United States; or

"(B) is permitted by regulations prescribed by the Civil Service Commission and involves the municipality or political subdivision in which such employee resides, when—

"(i) the municipality or political subdivision is in Maryland or Virginia and in the immediate vicinity of the District of Columbia or is a municipality in which a majority of voters are employed by the Government of the United States; and

"(ii) the Commission determines that because of special or unusual circumstances which exist in the municipality or political

subdivision it is in the domestic interest of the employees to permit political participation.

"(2) For the purpose of this subsection, 'an active part in political management or in political campaigns' means those acts of political management or political campaigning which were prohibited on the part of employees in the competitive service before July 19, 1940, by the determinations of the Civil Service Commission under the rules prescribed by the President.

"§ 7366. Candidates for elective office; leave, notification by employees

"(a) An employee shall promptly notify the agency in which he is employed upon becoming a candidate for elective office and upon the termination of such candidacy.

"(b) An employee who is a candidate for elective office shall, upon the request of such employee, be granted leave without pay for the purpose of allowing such employee to engage in activities relating to such candidacy.

"(c) Notwithstanding section 6302(d) of this title, an employee who is a candidate for elective office shall, upon the request of such employee, be granted accrued annual leave for the purpose of allowing such employee to engage in activities relating to such candidacy. Such leave shall be in addition to leave without pay to which such employee may be entitled under subsection (b) of this section.

"(d) The foregoing provisions of this section shall not apply in the case of an individual who is an employee by reason of holding an elective public office.

"§ 7367. Investigation; procedures; hearing

"(a) The enforcing authority shall investigate reports and allegations of any activity prohibited by section 7363, 7364, or 7365 of this title. Any such investigation shall terminate not later than 90 days after the date of its commencement. If the enforcing authority does not make the notification required under subsection (c) of this section before the close of the period for investigation, subsections (c) (2) and (3) and (d) of this section, and section 7368 of this title, shall not apply thereafter to the employee involved with respect to the activities under investigation.

"(b) As a part of the investigation of the activities of an employee, the enforcing authority shall provide such employee an opportunity to make a statement concerning the matters under investigation and to support such statement with any documents the employee wishes to submit. An employee of the Commission lawfully assigned to investigate a violation of this subchapter may administer an oath to a witness attending to testify or depose in the course of the investigation.

"(c) (1) If it appears to the enforcing authority after investigation that a violation of section 7363, 7364, or 7365 of this title has occurred, it shall so notify the employee and the agency in which the employee is employed.

"(2) Except as provided in paragraph (3) of this subsection, if it appears to the enforcing authority after investigation that a violation of section 7363, 7364, or 7365 of this title has occurred, the enforcing authority shall serve upon the employee a notice by certified mail, return receipt requested (or if notice cannot be served in such manner, then by any method calculated to apprise the employee)—

"(A) setting forth specifically and in detail the charges of alleged prohibited activity;

"(B) advising the employee of the penalties provided under section 7368 of this title;



"(C) specifying a period of not less than 30 days within which the employee may file with the enforcing authority a written answer to the charges in the manner prescribed by rules issued by the Commissioners; and

"(D) advising the employee that unless the employee answers the charges, in writing, within the time allowed therefor, the Commissioners may treat such failure as an admission by the employee of the charges set forth in the notice and a waiver by the employee of the right to a hearing on the charges.

"(3) If it appears to the enforcing authority after investigation that a violation of section 7363, 7364, or 7365 of this title has been committed by—

"(A) an employee appointed by the President by and with the advice and consent of the Senate;

"(B) an employee whose appointment is expressly required by statute to be made by the President;

"(C) the Mayor of the District of Columbia; or

"(D) the Chairman or a member of the Council of the District of Columbia; the enforcing authority shall refer the case to the Attorney General for consideration of prosecution, if appropriate, under title 18, and shall report the nature and details of the apparent violation to the President and to the Congress.

"(d) (1) If a written answer is not filed within the time allowed therefor, the Commissioners may, without further proceedings, issue their final decision and order.

"(2) If an answer is filed within the time allowed therefor, the charges shall be determined by the Commissioners on the record after a hearing conducted by a hearing examiner appointed under section 3105 of this title, and, except as otherwise expressly provided under this subchapter, in accordance with the requirements of subchapter II of chapter 5 of this title, notwithstanding any exception therein for matters involving the tenure of an employee. The hearing shall be commenced within 30 days after the answer is filed with the enforcing authority and shall be conducted without unreasonable delay. As soon as practicable after the conclusion of the hearing, the examiner shall serve upon the Commissioners, the enforcing authority, and the employee such examiner's recommended decision with notice to the enforcing authority and the employee of opportunity to file with the Commissioners, within 30 days after the date of such notice, exceptions to the recommended decision. The Commissioners shall issue their final decision and order in the proceeding no later than 60 days after the date the recommended decision is served. The employee shall not be removed from active duty status by reason of the alleged violation of this subchapter at any time before the effective date specified by the Commissioners.

"(e) (1) At any stage of a proceeding or investigation under this subchapter, the Commissioners may, at the written request of the enforcing authority or the employee, require by subpoena the attendance and testimony of witnesses and the production of documentary or other evidence relating to the proceeding or investigation at any designated place, from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, or the District of Columbia. Any Commissioner may issue subpoenas, and any Commissioner and any hearing examiner authorized by the Commissioners may administer oaths, examine witnesses, and receive evidence. In the case of contumacy or failure to obey a sub-

pena, the United States district court for the judicial district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(2) Any Commissioner may order the taking of depositions at any stage of a proceeding or investigation under this subchapter. Depositions shall be taken before an individual designated by the Commissioners and having the power to administer oaths. Testimony shall be reduced to writing by or under the direction of the individual taking the deposition and shall be subscribed by the deponent.

"(f) An employee upon whom a penalty is imposed by an order of the Commissioners under subsection (d) of this section may, within 30 days after the date on which the order was issued, institute an action for judicial review of the Commissioners' order in the United States Court of Appeals for the District of Columbia Circuit or in the United States court of appeals for the judicial circuit in which the employee resides or is employed. The institution of an action for judicial review shall not operate as a stay of the Commissioners' order. A copy of the summons and complaint shall be served as otherwise prescribed by law and, in addition, upon the Commissioners who shall then certify and file with the court the record upon which the Commissioners' order was based. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that the additional evidence may materially affect the result of the proceeding and that there were reasonable grounds for failure to adduce the evidence at the hearing conducted under subsection (d) (2) of this section, the court may direct that the additional evidence be taken before the Commissioners in the manner and on the terms and conditions fixed by the court. The Commissioners may modify their findings of fact or order, in the light of the additional evidence, and shall file with the court such modified findings or order. The Commissioners' findings of fact, if supported by substantial evidence, shall be conclusive. The court shall affirm the Commissioners' order if it determines that it is in accordance with law. If the court determines that the order is not in accordance with law—

"(1) it shall remand the proceeding to the Commissioners with directions either to enter an order determined by the court to be lawful (including an order for reinstatement with or without back pay) or to take such further proceedings as, in the opinion of the court, are required; and

"(2) it may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred by the employee.

"(g) The enforcing authority or the Commissioners may proceed with any investigation or proceeding instituted under this subchapter notwithstanding that the enforcing authority or the head of an employing agency or department has reported the alleged violation to the Attorney General as required by section 535 of title 28.

"(h) (1) All decisions of the Commissioners with respect to the exercise of their duties and powers under the provisions of this subchapter shall be made by a majority vote of the Commissioners.

"(2) A Commissioner may not delegate to any person his vote nor, except as expressly provided by this subchapter, may any decisionmaking authority vested in the Commis-

sioners by the provisions of this subchapter be delegated to any Commissioner or other person.

#### "§ 7368. Penalties

"(a) An employee who is found under section 7367 of this title to have violated any provision of—

"(1) section 7363 of this title shall, upon a final order of the Commissioners, be suspended without pay from such employee's position for a period of not less than 30 days, or shall be removed in which event that employee may not thereafter hold any position (other than an elected position) as an employee (as defined in section 7362(1) of this title);

"(2) section 7364 or 7365 of this title shall, upon a final order of the Commissioners, be—

"(A) removed from such employee's position, in which event that employee may not thereafter hold any position (other than an elected position) as an employee (as defined in section 7362(1) of this title) for such period as the Commissioners may prescribe;

"(B) suspended without pay from such employee's position for such period as the Commissioners may prescribe; or

"(C) disciplined in such other manner as the Commissioners shall deem appropriate.

"(b) The Commissioners shall notify the enforcing authority, the employee, and the employing agency of any penalty they have imposed under this section. The employing agency shall certify to the Commissioners the measures undertaken to implement the penalty.

#### "§ 7369. Educational programs; reports

"(a) The Commission shall establish and conduct a continuing program to inform all employees of their rights of political participation and to educate employees with respect to those political activities which are prohibited.

"(b) The Commission shall designate an employee within the Commission who shall be responsible for the establishment and administration of the program described in subsection (a) of this section. Such employee may receive and answer questions relating to the provisions of this subchapter. Information received by such employee and the identity of the person who provided such information shall not be disclosed by such employee except with the consent of the person who provided such information.

"(c) On or before March 31 of each calendar year, the Commission shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and the President pro tempore of the Senate for referral to the appropriate committees of the Congress. The report shall include—

"(1) the number of investigations conducted under section 7367 of this title and the results of such investigations;

"(2) the name and position or title of each individual involved, and the funds expended by the Commission, in carrying out the program required under subsection (a) of this section; and

"(3) an evaluation which describes—

"(A) the manner in which such program is being carried out; and

"(B) the effectiveness of such program in carrying out the purposes set forth in subsection (a) of this section.

#### "§ 7370. Regulations

"(a) The Civil Service Commission shall prescribe such rules and regulations as may be necessary to carry out its responsibilities under this subchapter. Regulations shall be prescribed under this subchapter in accordance with section 553 of this title, notwithstanding any exception therein for matters relating to agency management or personnel.

"(b) The regulations referred to in section 7362(9) of this title shall be prescribed not later than 90 days after the effective date of such section. Thereafter any revision of such regulations shall be prescribed not later than March 1 of the calendar year in which such revision is to take effect. Any employee holding any position with respect to which any such regulation is prescribed may institute an action for judicial review of such regulation by filing a petition in the United States Court of Appeals for the District of Columbia Circuit, or in the United States court of appeals for the judicial circuit in which such employee resides or is employed, except that no such action may be instituted more than 30 days after the effective date of such regulation."

(b) (1) Section 3302 of title 5, United States Code, is amended by striking out "7153, 7321, and 7322" and inserting in lieu thereof "and 7153".

(2) Section 1308(a) of title 5, United States Code, is amended—

(A) by inserting "and" at the end of paragraph (2);

(B) by striking out paragraph (3); and

(C) by redesignating paragraph (4) as paragraph (3).

(3) The second sentence of section 8332 (k) (1) of title 5, United States Code, is amended by striking out "second" and inserting "last" in lieu thereof.

(4) The section analysis for subchapter III of chapter 73 of title 5, United States Code, is amended to read as follows:

**"SUBCHAPTER VI—POLITICAL ACTIVITIES**

"7361. Political participation.

"7362. Definitions.

"7363. Use of official influence or official information; prohibition.

"7364. Solicitation; prohibition.

"7365. Political activities on duty, etc.; prohibition.

"7366. Candidates for elective office; leave, notification by employees.

"7367. Investigation; procedures; hearing.

"7368. Penalties.

"7369. Educational program; reports.

"7370. Regulations."

(c) (1) Sections 602 and 607 of title 18, United States Code, relating to solicitations and making of political contributions, are each amended by adding at the end thereof the following new sentence: "This section does not apply to any activity of an employee, as defined in section 7362(1) of title 5, unless such activity is prohibited by section 7364 of that title."

(2) Chapter 29 of title 18 of the United States Code is amended—

(A) by adding at the end of the following new section:

"§ 608. Extortion of political contributions from Federal personnel

"Whoever, by the commission of or threat of physical violence to, or economic sanction against, any person, obtains, or endeavors to obtain, from an officer or employee of the United States or of any department or agency thereof, or from a person receiving any salary or compensation for services from money derived from the Treasury of the United States, any contribution for the promotion of a political object, shall be imprisoned not less than two nor more than three years, or fined not more than \$5,000, or both;" and

(B) by adding at the end of the table of sections for such chapter the following new item:

"608. Extortion of political contributions from Federal personnel."

(d) Section 6 of the Voting Rights Act of 1965 (42 U.S.C. 1973d) is amended by striking

ing out "the provisions of section 9 of the Act of August 2, 1939, as amended (5 U.S.C. 1181), prohibiting partisan political activity" and by inserting in lieu thereof "the provisions of subchapter III of chapter 73 of title 5, United States Code, relating to political activities".

(e) Sections 103(a) (4) (D) and 203(a) (4) (D) of the District of Columbia Public Education Act are each amended by striking out "sections 7324 through 7327 of title 5" and inserting in lieu thereof "section 7325 of title 5".

(f) Sections 8332(k) (1), 8706(e), and 8906 (e) (2) of title 5, United States Code are each amended by inserting immediately after "who enters on" the following: "leave without pay granted under section 7326(b) of this title, or who enters on".

Sec. 3. (a) The amendments made by this Act shall take effect 120 days after the date of the enactment of this Act, except that the authority to prescribe regulations granted under section 7370 of title 5, United States Code, as added by section 2 of this Act, shall take effect on the date of the enactment of this Act.

(b) Any repeal or amendment made by this Act of any provision of law shall not release or extinguish any penalty, forfeiture, or liability incurred under such provision, and such provision shall be treated as remaining in force for the purpose of sustaining any proper proceeding or action for the enforcement of such penalty, forfeiture, or liability.

(c) No provision of this Act shall affect any proceedings with respect to which the charges were filed on or before the effective date of the amendments made by this Act. Orders shall be issued in such proceedings and appeals shall be taken therefrom as if this Act had not been enacted.

Amend the title so as to read: "A bill to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations or influences, and for other purposes."

Page 30, line 12, strike out "and".

Page 32, line 3, strike out the period and insert "; and" in lieu thereof.

Page 32, after line 3, insert the following:

"(10) 'sick leave' means leave allowed under section 6307 of this title or any other leave or absence (other than annual leave) allowed an employee by reason of injury, illness, disease, or physical incapacity, or for medical or similar examination or treatment."

Page 34, line 23, after "holding a restricted position" insert ", or who is on sick leave,".

By Mr. RYAN:

Page 36, line 11, after "holding a restricted position" insert ", or who is on sick leave,".

Page 30, strike out section 7322(9) of title 5, United States Code, as proposed by the bill, beginning on line 13 and ending on line 3 of page 32 and insert in lieu thereof the following:

"(9) 'restricted position' means any position with respect to which there is in effect a determination by the Commission, by regulation, that—

"(A) the duties and responsibilities of such position requires such employee—

"(i) as a substantial part of his official activities, to engage in foreign intelligence activities relating to national security;

"(ii) in the normal course of carrying out such duties and responsibilities—

"(I) to make decisions binding on employees with respect to whom he is a superior with regard to who shall be the subject of any action which is to be taken by any such employee in connection with the enforce-

ment of any civil or criminal law (including any inspection or audit under any such law);

"(II) to actually carry out any such action; or

"(III) to make a final determination with respect to any such action; or

"(iii) in the normal course of carrying out such duties and responsibilities—

"(I) to make binding decisions on who shall be awarded contracts which are for the procurement of goods or services for the Government and which have substantial monetary value, or who shall be awarded licenses, grants, subsidies, or other benefits, which involve funds or other interests having a substantial monetary value; or

"(II) to supervise individuals engaged in the awarding, administering, or monitoring of such contracts, licenses, grants, subsidies, or benefits; and

"(B) the restrictions on political activity imposed on such employee in such position are justified in order to insure the integrity of the Government or the public's confidence in the integrity of the Government.

By Mr. TAYLOR:

On page 35, line 14, strike out "or", and in line 16, strike out the period and insert a semicolon and the word "or", and immediately following line 16, add the following:

"(4) In any geographic area outside the area encompassing the political subdivision of the elective office for which he is a candidate, or for which he is supporting the candidacy of any other person, provided however, that such political activity shall be limited to the political subdivision in which he is a resident."

H.R. 6761

By Mr. EDWARDS of Oklahoma:

On page 4, line 4, insert immediately after the period the following new clause:

"(g) any activity, including youth camp activities which are conducted by a religious organization as defined under section 501(c) (3) of the Internal Revenue Code of 1954 and is exempt from taxation under section 501(a) of such Code."

H.R. 6804

By Mr. MOSS:

On page 76, strike all on line 7 through the semicolon on and renumber succeeding paragraphs accordingly.

On page 77, line 3, strike the semicolon and the word "and" and insert a period, and on line 4 strike all through the period on line 7.

On page 77, between lines 7 and 8 insert the following new subsection and renumber succeeding subsections accordingly:

"(c) In carrying out the functions transferred to the Secretary by subsection (b) of this section, the Secretary may issue, prescribe, make, amend, and rescind rules, regulations, and statements of policy pursuant to the Federal Power Act and the Natural Gas Act, which are of general applicability. Whenever the Secretary proposes any such action, he shall notify the Commission and if the Commission determines within such period as the Secretary may prescribe that such proposal may significantly affect any function administered by the Commission pursuant to Title IV of this Act, the Secretary shall provide the Commission a minimum period of thirty days to consider and comment on such proposal. The Secretary shall take into account any comment or recommendation received from the Commission pursuant to this subsection before taking such action. If such action by the Secretary is inconsistent in any way with such comment or recommendation, the Secretary, when taking such final action, shall publicly state the reasons for such inconsistency."



## EXTENSIONS OF REMARKS

TRIBUTE TO CAPTAIN EDMUND A. MILLER, USN

**HON. GLENN M. ANDERSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. ANDERSON of California. Mr. Speaker, the Long Beach Naval Shipyard has long been a vital economic force in the Los Angeles-Long Beach Harbor area. Since August of 1975, the shipyard has grown and flourished under the supervision of Capt. Edmund A. Miller, USN, whose performance as commander of the shipyard has been the epitome of professionalism and high quality.

When Captain Miller's retirement becomes effective in September of this year, the shipyard and the harbor area community will be without his energetic leadership and the example he has set through hard work and devotion to duty. Captain Miller will be remembered for the openness and fairness he brought to his position, as well as being one of the outstanding commanders in the shipyard's 34-year history.

Born in Booneville, Miss., on August 9, 1927, Edmund A. Miller grew up in the town of West Point, Miss. He attended Marion Military Institute in Alabama, and Mississippi State University. He was appointed to the U.S. Naval Academy in 1945; graduated and received a commission as an ensign in June 1949.

After spending 5 years at sea, Captain Miller was ordered to the Massachusetts Institute of Technology in 1954. He graduated in 1957 with a master of science degree in naval architecture and marine engineering, and a professional degree of naval engineer in naval construction.

While attending MIT, Ed—as he is known to his many friends—was elected to the honorary engineering fraternity of Tau Beta Pi and the honorary research fraternity Sigma Xi. In later years, Captain Miller received a master of science degree in administration from George Washington University.

Following his graduation from MIT, Captain Miller saw tours of duty at the Philadelphia Naval Shipyard—1957-59; supervisor of shipbuilding in Pascagoula, Miss.—1959-62; aboard the U.S.S. *Amphion* (AR-13), 1962-64; staff of Commander Cruiser Destroyer Force, U.S. Atlantic Fleet, 1964-67; Naval Ship Systems Command, 1967-72; and staff of the Chief of Naval Operations, 1973.

Captain Miller reported to the Long Beach Naval Shipyard in August, 1973, as production officer. Two years later, in August of 1975, Capt. Edmund A. Miller became commander of Long Beach Naval Shipyard and supervisor of shipbuilding, conversion, and repair.

During his tenure as commander, Captain Miller has been instrumental in the continued growth and development of the facility. His energetic leadership and ability to inspire others to perform to the best of their abilities has led to increased nationwide awareness of the ex-

cellent reputation earned by the Long Beach Naval Shipyard.

In addition, Captain Miller has been involved in community affairs. He is currently a member of the board of directors, Long Beach Chamber of Commerce; a member of the board of advisers of the School of Business and the Department of Industrial Technology at California State University, Long Beach; a member of the advisory board of the Harbor Occupational Center, Los Angeles Unified School District; and has twice served on career education policy seminars sponsored by the George Washington University Institute of Educational Leadership. Captain Miller is also an ordained deacon in the Southern Baptist Church, and has long served as a church school teacher.

His long and successful military career is reflected in his many decorations, which include the World War II Victory Medal, the European Occupational Medal, the United Nations Service Medal, the American Service Medal, the Korean Campaign Medal with one star, and the Korean Presidential Unit Citation.

Mr. Speaker, throughout his career Captain Edmund A. Miller, USN, has exemplified the qualities which make a person successful in life, both as a civilian and in the military. I would like to take this opportunity to extend by heartiest congratulations to him as he approaches the date of his retirement.

His lovely wife, Hannah, and their children, Edmund A., Jr., and Anita, must all be very proud of his outstanding career and many accomplishments.

#### THE LEGISLATIVE PRIORITIES OF NEW YORK'S PUERTO RICAN AND HISPANIC COMMUNITY: VI

**HON. HERMAN BADILLO**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. BADILLO. Mr. Speaker, I am pleased to include in today's RECORD another in the series of position papers that were presented at the conference on the problems of Puerto Ricans and Hispanics in the New York metropolitan area that I sponsored last month.

This paper, on the problems of the Puerto Rican and other Hispanic elderly, is particularly important because it points up that where all elderly poor are disadvantaged, the Hispanic elderly suffer greater hardships and receive fewer benefits. As this Congress reassesses its approach to social service programs over the next years, I hope that the special considerations presented in this paper will be taken into account:

#### THE PUERTO RICAN AND OTHER HISPANIC ELDERLY

The Puerto Rican elderly population comprises a particularly vulnerable class of needy persons within the already disadvantaged population of elderly Americans. Due to linguistic and cultural barriers, the continu-

ing breakdown in the extended family, and the disadvantages endemic to their minority group status, the Spanish-speaking elderly find themselves in even more precarious circumstances than the majority of the American elderly population.

Although the Spanish-speaking population comprises the second largest minority group in this country, small commitment, even in rhetoric, has been made to address its unique needs. Funds allotted for services to the elderly are not equitably distributed by agencies to provide for the needs of the Puerto Rican and Other Hispanic elderly. The myth of the return migration of Puerto Rican elderly has been dispelled by findings in recent surveys conducted in New York City. In so basic a benefit as Social Security, only 50% of the Hispanic elderly receive benefits compared to 75% of the remaining elderly population.

Some of the crucial factors in the lag between available services and participation by the Puerto Rican and Other Hispanic elderly are: the lack of programs to train researchers and related personnel, the paucity of Hispanic-directed agencies, and the lack of bilingual, bicultural personnel at all levels in agencies responsible for providing services to the Spanish-speaking elderly. Outreach through the use of bilingual, bicultural personnel and bilingual literature (S.S.A. or S.S.I. application forms, information and referral literature, newsletters, etc.) must be more comprehensively developed so as to insure maximum utilization of benefits and entitlements by the Puerto Rican and Other Hispanic elderly. In addition, training programs must be established for the purpose of developing skills of Hispanic senior citizens to prepare them for serving on committees, staffing centers, and assuming the strong leadership needed to reach the objective of effective outreach to, and involvement of, the Spanish-speaking community. These programs would also have a recruitment component that would enlist personnel qualified to bring existing services to the Puerto Rican and Other Hispanic elderly. Puerto Rican and Other Hispanic elderly must be offered proper training to insure ongoing, creative and meaningful employment.

Although there are services available to the Puerto Rican and Other Hispanic elderly, they are alarmingly inadequate. Therefore, we further recommend that the federal level of S.S.I. benefits be immediately increased at a rate which catches up to the Bureau of Labor Statistics' lower level of living standard and be adjusted to the middle level as soon as possible on a regional basis. We urge the Legislature to stand firm in their conviction that when cuts are projected they not be at the expense of the level of basic income for our poorest elderly citizens. We further recommend that the full amount of federal S.S.I. cost-of-living increases be passed on to S.S.I. recipients. We strongly urge the federal government to assume the responsibility of administering the Emergency Assistance to Adults Program on a permanent basis. Programs to train bilingual, bicultural personnel and Hispanic committees should be developed to alert the Hispanic elderly of their rights and to interpret complicated welfare reforms to the Spanish-speaking community.

We recommend that Supplementary Security Income benefits be extended to all citizens, including those in Puerto Rico and the Virgin Islands, and that the existing law be so amended. Puerto Rico presently does not receive S.S.I. benefits. In addition, we further recommend the expansion of services for the Puerto Rican and Other Hispanic elderly in their homes. An extended family approach is needed and must be

initiated and implemented by personnel representative of the clients who will be served if the rights of the Hispanic elderly are to be preserved. The Puerto Rican and Other Hispanic elderly must be apprised of the alternatives to institutionalization and how to pursue these alternatives. Again, this involves Puerto Rican and Other Hispanic persons at the policymaking level as well as at the providing level.

We recommend a universal, comprehensive health security program for all, as proposed in the Kennedy-Corman bill. Furthermore, such a program should be administered by a proportionate representation of the Hispanic elderly population. This bill represents the best of the current legislation and should be expanded. We recommend the funding and development of innovative senior centers in Puerto Rican and Other Hispanic communities under the guidance of Puerto Rican and Other Hispanic elderly and with Boards of Directors and staff sensitive to the Puerto Rican and Other Hispanic cultural heritage. Puerto Rican and Other Hispanic community persons should be given the responsibility of outreach and publicity regarding these services. Nutrition services should include such programs as home-based programs, meal-on-wheels, congregate meal programs, etc., and should reflect the Puerto Rican and Other Hispanic elderly's roots. The prevalence of the role of the "abuelita" among the Puerto Rican and Other Hispanic elderly indicates that child-care facilities must be provided in conjunction with senior centers in the Spanish-speaking communities.

To respond to the lack of information on the Puerto Rican and Other Hispanic elderly, we recommend that funds be allocated for research and for the training of Puerto Rican and Hispanic personnel to conduct this research.

To enter into the subjects of the effects of inflation on incomes of older persons, housing, transportation, security, age discrimination—all very complicated and complex issues, all affecting the life style and existence of Puerto Rican and Hispanic elderly persons—is beyond the limits of this paper. They are problems affecting all citizens and require broad, forthright city, state, and federal legislation. However, regardless of the changes made, humane and universal legislation must be developed at least in the interest of all senior citizens respecting the special needs of the Puerto Rican and Hispanic elderly.

#### THE PAPERWORK DISASTER

**HON. HAROLD E. FORD**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. FORD of Tennessee. Mr. Speaker, I rise today to express my deep concern about the morass of redtape and government forms that are stifling the citizens of this country. As a former small businessman, I am all too familiar with battles being waged by honest Americans who are making every effort to comply with the rules and regulations of the U.S. Government.

When I came to Congress in 1975, I had great hopes and aspirations about cleaning-up the bureaucracy and achieving meaningful reductions in the seemingly endless number of forms and pa-

perwork generated by the Federal Government. At that time, I placed my faith in the newly created Federal Paperwork Commission and had high expectations that relief from the onerous paperwork burden being borne by the American people would soon be on the way. An editorial which recently appeared in the Memphis Press-Scimitar newspaper captured my sense of disappointment and the feelings of millions of people across the country. I would like to insert it at this point in the RECORD for the benefit of the distinguished Members of this body:

#### THE PAPERWORK DISASTER

As Lewis Carroll put it, the walrus and the carpenter were walking on the beach and wept to see such quantities of sand.

The walrus, in his innocence, asked, "If seven maids with seven mops swept it for half a year, do you suppose that they could get it clear?"

The carpenter, obviously a realist, replied, "I doubt it," and shed a bitter tear.

Substitute federal government paperwork for Carroll's quantities of sand and you begin to get an idea of the utter improbability that the Federal Paperwork Commission will fulfill its mission.

The commission was set up in 1975 by former President Ford, and its aim—to cut down on paperwork, especially forms private citizens and businesses must fill out—is heartily endorsed by President Carter.

The federal bureaucracy being what it is, the commission didn't limit itself to a mere seven maids. The first thing it did was to hire 208 employees, buy three sophisticated copying machines and has now succeeded in digesting its entire \$11 million budget while producing a massive new dune of paperwork of its own to add to the mountain it's supposed to cut down to workable size.

One public member, an accountant from California who represents small businessmen, says this year and a half on the commission is "the most frustrating experience I've ever had. He's had to acquire an extra four-drawer filing cabinet just to store the paperwork generated internally by the commission."

A few months ago, the Office of Management and Budget reported that, although the number of forms citizens must fill out had dropped, the amount of paperwork had increased. At that time is required 143 million man-hours per year to do the work—13 million more than before the drive to eliminate unnecessary paperwork began. The reasons: New programs, more people in old programs and—worst of all—consolidation of some relatively simple forms into fewer but far more time-consuming longer ones.

The commission is due to go out of business in October. Based on the record to date, will it have made much of a dent in the paperwork dune? Like the carpenter, we doubt it, and join him in shedding a bitter tear about the way things are done in Washington.

#### SOCIAL SECURITY RIGHTS ACT

**HON. CHARLES W. WHALEN, JR.**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. WHALEN. Mr. Speaker, today my friend, the gentleman from Ohio, Mr.

SEIBERLING, is reintroducing the Social Security Rights Act along with 49 cosponsors. As a former cosponsor in the 94th Congress, I am pleased again to be associated with this legislation.

Recently, the Chairman of the House Subcommittee on Social Security circulated a questionnaire to Members and their caseworkers who deal with social security matters. In replying, my staff and I noted considerable improvement in the responsiveness of the Social Security Administration—SSA—over the past 5 years. Indeed, the actual processing of claims and the appeals process has improved over the same time period, largely due to legislation passed in December 1975.

Yet I continue to receive more legitimate complaints from constituents about social security programs—and in particular about the disability insurance program—than about any other Federal program. These concerns continue to deal with the long delays in disability claim determination; with the appeals process; and with the complicated, lengthy procedures involved in replacing missing benefit checks. Claims are still not processed promptly, often because of lack of adequate experienced and trained representatives in the district offices. In fact, in January of 1977 the median processing time was 220 days.

The Social Security Rights Act would insure that the SSA take the necessary steps to eliminate its hearing backlog—81,592 cases in January 1977—and to expedite benefit claim processing delays. It requires that initial and reconsideration decisions be made within 90 days. Hearing and appeals decisions on all social security claims must be made within 120 days. Claimants would have the right to receive benefit payments if their claims were not decided within these time limits.

The bill would enable benefit recipients to submit a request to replace a missing check if the regular payment were not received within 5 days of the regular delivery date. The SSA would be required to provide a duplicate check within 10 days or an explanation as to why the recipient is not entitled to it. This provision is directed at the often devastating effect of a lost check upon persons whose sole source of income is social security.

With increasing SSA responsibilities to administer not only social security, but supplemental security income—SSI—and now aid for families with dependent children—AFDC—Congress must not ignore the existing inadequate level of service to persons who have contributed regularly to their social insurance. This bill is well named. Americans who are eligible for social security have rights \* \* \* and these rights are earned. I believe the Social Security Rights Act will force both the SSA and the Congress to address in a realistic manner how new programs or program revisions can be administered by the SSA. I believe enactment will go a long way toward mak-



ing the SSA work for the people it was established to serve.

# SPERRY SOFTBALL LEAGUE

## HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. WOLFF. Mr. Speaker, I had the privilege on Saturday, May 21 to participate in a presentation made to the Sperry Softball League, in light of their outstanding achievement on behalf of the field of mental health and their warm and generous contribution to the Rehabilitation Institute, located in Mineola, Long Island.

In 1974, a small group of Sperry employees met to discuss how they might help local agencies which serve the handicapped. The idea which came out of this meeting was to hold a softball marathon which would raise funds to help one agency aiding the handicapped. The idea mushroomed within Sperry, and the first year over 350 employees participated in a game that lasted 29 consecutive hours, with 17 of those hours played in a torrential downpour.

Each year since that time, the community minded spirit within Sperry, and their deep compassion for the handicapped has built a larger and better Marathon. Each year, the concept behind the Marathon—concern and compassion for the handicapped—has been carried to more and more Long Island residents and has brought about greater understanding and acceptance of our handicapped neighbors.

The Sperry Softball League has shown others what caring for people is all about. They have helped to foster a more accepting environment on Long Island, in which the handicapped can live and work.

The Rehabilitation Institute—TRI—is a voluntary nonprofit organization founded in 1965. Its founders, Dr. Edmund Neuhaus and Mrs. Louise Friedman, whose diligence and hardwork have spurred the blossoms of the institute, have thus far placed over 1,300 rehabilitated clients in competitive employment and have returned hundreds more to healthy productive lives as homemakers. By virtue of its exemplary achievement, TRI has garnered the respect of its peers. TRI was awarded the 1976 program of the year award by the Long Island Rehabilitation and Counseling Association—the first award of its kind ever given.

Accepting the award for Sperry were vice president of personnel, Mr. Harold Dahl, and the commissioner of the Sperry Softball League, Mr. Lou Jaklitsch. Although both of these men work at full time jobs, they have evinced that there is always time to work and care for others. Other distinguished members of the marathon committee representing Sperry at the ball were Jim McDonald, Art Rommel, and Ms. Chris Lynch.

## CONSUMER ADVOCACY BILL

### HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. LOTT. Mr. Speaker, please permit me to call to the attention of my colleagues an editorial which recently appeared in the Laurel Leader-Call, an excellent newspaper serving south Mississippi. I think that this commentary states quite well my own reasons for feeling that the very last thing this Nation needs is an Agency for Consumer Advocacy.

The article follows:

#### CONSUMER ADVOCACY BILL

Along with the first crabgrass and dandelions of spring, that hardy perennial the Agency for Consumer Advocacy bill is popping up again. This year, the idea is to railroad it through Congress so fast that effective opposition won't have time to develop.

The ACA is an idea whose time has come and gone. Since its proposal eight years ago—when it was called the Consumer Protection Agency—there has been a revolution in consumer protection acts and regulatory reorganization. These new developments include the establishment of the Consumer Product Safety Commission, the Federal Energy Agency, the Occupational Safety and Health Administration, the National Highway Traffic Safety Administration, the Environmental Protection Agency, the Magnuson-Moss Federal Trade Commission Improvements Act, the Hart-Scott Antitrust Improvements Act, the Toxic Substances Control Act, the Medical Devices Amendments of 1976, the "Government in the Sunshine" Act, the Freedom of Information Act Amendments, and countless other consumer protection bills.

Consumer "advocacy" sounds like a great idea, in the abstract. It isn't until you get beneath the label that you learn what a bureaucratic farce the sponsors have in mind.

Consider the following list of functions for the agency, to which has been added, in parentheses, the existing governmental bodies responsible for the same function:

Plead the consumer's case within the government. (White House Consumers Advisor.)

Improve the ways rules and regulations are made. (Commission on Federal Paperwork; Office of Management and Budget; General Accounting Office)

Aid the President and Congress in identifying inefficient government programs. (All of the above.)

Help correct inequities in those programs that are designed to protect consumers. (Consumer Advisor; Paperwork Commission; Ombudsmen and Consumer Advocates in the various federal agencies and departments; senators and representatives)

Help fight inflation by monitoring governmental actions that unnecessarily raise costs for consumers. (Council on Wage and Price Stability)

Litigate on behalf of consumers in court. (Federal Trade Commission; Justice Department; Consumer Product Safety Commission; others)

The truth is, the ACA would have nothing to do with individual consumers. Rather, it would function as a taxpayer-financed mouthpiece and lawyer for self-appointed consumer activists.

The ACA would also have a license to in-

terfere in the proceedings of other federal regulatory agencies, which were themselves established to represent the consumer.

## MAHONING COUNTY COURTHOUSE "HISTORY OF LAW" MURALS TO BE HONORED IN EXHIBITION

### HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. CARNEY. Mr. Speaker, the "spirit of the law" has never been more magnificently captured than through the four murals displayed in the Rotunda of the Mahoning County Courthouse in Youngstown, Ohio.

I am pleased to announce that the Williams College Graduate School of Art History in Williamstown, Mass., will be honoring the four murals in the Mahoning County Courthouse as well as other famous paintings by Edwin Howland Blashfield—1848-1936—during an exhibition in its museum of art in the month of February 1978.

Mr. Blashfield was a student of Bonnat in Paris and a member of all the leading painting societies in America and abroad. He was also the president of the American Federation of Fine Arts. Mr. Blashfield was given the place of honor in the Rotunda of the Library of Congress in Washington, D.C., and his paintings hang in some of the country's most notable buildings.

The paintings in the Mahoning County Courthouse were painted at the suggestion and under the direction of Charles F. Owsley, architect, in 1911, and with the cooperation of the building commission. The commission believed that the erection of this monumental building, expressing one of the highest forms of architecture, should include some recognition of the sister art, painting.

The four phases in the "history of law" are depicted in these paintings: The law of classical antiquity, the law of the Bible, the law of the Middle Ages, and modern law.

The first period is a picture showing the Shepherdess symbolizing the ruling force in the time of antiquity, which was "love and tenderness," as further expressed by the child holding the lamb.

The second painting shows the law of force by arms, during the Roman domination of the world. The next painting shows the "law of faith" during the medieval period when the church was the dominant force of law.

The final painting, and perhaps the most interesting one, shows "modern law," which is created by the people and for the people. This idea is forcibly brought out by the copy of the Declaration of Independence held up as a model for all nations, and under the right arm of the figure is the ballot box.

The small figure in this picture, standing next to a telephone and machinery,

conveys the fact that laws of all nations over all ages are fast becoming reduced to a common standard by reason of rapid communication and understanding among them.

Mr. Speaker, these paintings have served as an inspiration to all who have passed through the halls of the Mahoning County Courthouse. It is my pleasure to bring public recognition of these excellent works of art.

#### UNITED STATES BACKS DOWN AT SUGAR NEGOTIATIONS

**HON. ROBERT F. DRINAN**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. DRINAN. Mr. Speaker, the international negotiations between sugar producing and consuming nations in Geneva, which opened 6 weeks ago, are scheduled to end tomorrow. The purpose of this conference was the formulation of a new international sugar agreement to insure stable and fair prices for producers and consumers alike.

According to reports relayed to me from Dr. Lee Richardson, president of the Consumer Federation of America, who is serving as a consumer representative at the conference, it appears unlikely that an agreement will be reached before adjournment. In an effort to reach an accord, however, the United States has retreated substantially from its earlier bargaining position in the talks. The American delegation is now willing to agree to a floor price for sugar of 11 cents per pound, well above the current market price. Even more significantly, our delegation has compromised its demand that an extensive reserve supply of sugar be maintained to protect against sharply escalating prices. Early in the conference, the United States had proposed a reserve of four million tons; our delegates have now suggested 2.5 million tons, 37 percent less.

I realize, Mr. Speaker, that international commodity negotiations such as these require careful diplomacy and judicious compromises to obtain an accord acceptable to all parties. I am concerned, however, that the American representatives appear willing to make numerous concessions to the sugar producing states while receiving little in return to protect the American consumer against a repetition of the 1974 sugar boom when prices soared to more than 60 cents per pound. We should not agree to a price floor unless we obtain an accompanying price ceiling in return. I would prefer to see no international sugar agreement at all than to acquiesce in an accord which fails to represent adequately the interests of the American retail consumer.

I look forward to receiving the reports of Dr. Richardson and the other two consumer representatives who attended the Geneva negotiations when they re-

turn to the United States next week. I am hopeful that the contribution made by these consumer spokespersons will encourage the State Department to continue the practice of inviting qualified consumer representatives to attend future commodity conferences which relate to the interests of the American retail consumer.

#### U.S. COVERUP OF ARGENTINIAN TERRORIST INVESTMENT IN NEW YORK BANK?

**HON. LARRY McDONALD**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. McDONALD. Mr. Speaker, recent investigations in Argentina have revealed that a group of Argentinian financiers, the Graiver group, which owned two banks in New York City and others in Latin America and Europe, used their banks and dummy accounts to transfer out of Argentina millions of dollars in kidnapping ransoms extorted by the Peronist Montoneros terrorist organization, and additional millions embezzled from the Argentinian treasury by deposed President Isabel Peron and her Finance Minister, Jose Gelbard, a member of the Graiver group now living in Washington, D.C., and resisting extradition. The Peronist Movement is broad enough to include the leftist Montoneros which collaborated with the Trotskyite Communist ERP terrorists, as well as unrepentant Nazis who fled to Argentina after World War II.

In this country the Graivers operated flamboyantly, gaining introductions to high level business and political circles by paying political figures large "consulting fees." Again, the involvement of Sol M. Linowitz, friend and adviser to Mr. Gelbard, with Latin American leftists is noted.

And I submit the following article exposing the current known facts of this affair for the particular consideration of my colleagues on the Banking Committee:

[From the Review of the News, May 25, 1977]

#### BANKING FOR TERRORISTS

(By John Rees)

Early this month the press of Argentina and Uruguay broke news of an enormous scandal involving an Argentinian international banking group (the Graivers) which invested millions of dollars obtained from kidnappings and extortion by the Montoneros terrorists, along with untold millions in public funds embezzled by a former Argentine President and her Minister of Finance, who were secretly in league with the Leftist terrorists. A New York bank was bought and used to provide the terrorists and their criminal allies with a "laundered" monthly income from the interest on their loot.

As a result of these manipulations, the American Bank and Trust Company failed—the fourth largest bank failure in U.S. history. David Graiver and his father, Juan, the leaders of the investment group, are reported dead. The larcenous President Isabel Peron

was deposed in March 1976 and is in jail awaiting trial; her Minister of Finance, Jose Gelbard, has taken refuge in Washington, D.C., and is resisting extradition with the help of influential figures in the Carter Administration.

Federal and state authorities have investigated the collapse of the bank and simply closed their investigations. Neither is anything likely to be done about the high-level political figures who were involved on the New York end of the Graivers' "terrorist investment service." Nevertheless, the public interest requires an examination of the evidence linking U.S. citizens to millions of dollars worth of assets belonging to Marxist-Leninist assassins.

The Graiver fortune was founded by Juan Graiver (father of David and Isidoro) and his brother Pedro, who emigrated to Argentina from Poland as boys. The Graiver brothers were backers of dictator Juan Peron and made their first millions in the early 1950s in real-estate speculation and construction before moving into banking in partnership with Juan's brilliant son David in the 1960s. In 1973, the Graivers and Jose Ber Gelbard were financial backers of Peronist President Hector Campora, who prepared the way for the return of Juan and Isabel Peron later in the year by legalizing the various Communist parties and releasing hundreds of jailed terrorists.

Peron's appeal for support was to the revolutionary Left, the radical student sector and the frenetic labor unions. During Juan Peron's exile (1956-1973), the Peronists had encouraged formation of the Montoneros terrorist organization, the armed wing of the Peronist Youth, which carried out vicious attacks on the Argentine military and on American-owned businesses and their executives. Key Montoneros received terrorist training in Cuba, as well as indoctrination in Marxism-Leninism. These terrorists soon criticized Peron for being too "moderate," and when Juan Peron chided them at his 1974 May Day rally, 30,000 Montoneros and their supporters stalked out of a mass rally in Buenos Aires.

After Peron died on July 1, 1974, the Montoneros and their crypto-Communist supporters among the Peronists planned to take absolute power via "popular struggle" and utterly defeat the Argentine conservatives and the military.

Meanwhile, the Montoneros-connected Jose Gelbard was Finance Minister in the Campora and the Peron Governments. He was also neck-deep in the Graiver banking operation. On Gelbard's advice, Isabel Peron established an account in Juan and David Graiver's Banco Comercial de la Plata in November 1972, six months before she and her husband returned to Argentina. In the name of the "Isabel Peron Cruzada de la Solidaridad." Then, as the Argentine newspaper La Nueva Provincia reported:

"Apparently in the spring of 1974, through the help of Jose Ber Gelbard, the Montoneros organizations deposited a \$17 million check of the United Swiss Bank in the La Plata Comercial Bank. Later this money, a product of kidnappings and robberies by Peronist armed bands, was deposited in two banks belonging to Graiver—the Banco de America del Sud and the Bank Pour l'Amérique du Sud of Belgium, and a third bank, the Suisse-Israel Bank, with which Gelbard, Broner and Graiver and other leaders of the group constantly worked."

These banks were closely linked with the American Bank and Trust Company (A.B.T.) in which David Graiver and his father soon purchased controlling interest for \$14 million, of which \$9 million was in cash. The



Montoneros terrorists, you see, had received a reported \$60 million ransom from the 1974 kidnappings of the Born brothers, Argentinian grain magnates, and there was need for serious cash management. The \$17 million Montoneros "investment," handled by the Graiver group, brought the terrorists a monthly income from interest of \$130,000.

In a May 4, 1977, press conference, Argentine President Jorge Videla said that the investigation of the Graiver group had been initiated by the Buenos Aires Provincial Police, who were conducting an investigation of illegal currency traffic. The investigation led to operations of the Graiver group and developed two aspects, one of them purely criminal and related to illegal currency traffic. "The second aspect, the most significant one," said President Videla, "is that this so-called Graiver group was working for subversion. It had received several million dollars to operate, both inside the country and abroad, for the benefit of subversion and with complete awareness of the origin of this capital."

The Argentinian government charges that deposed President Isabel Peron, with the assistance of José Gelbard, also diverted huge sums of public funds through the "Cruzada" account. It is believed that money from this account was in fact used by David Graiver in purchasing the American Bank and Trust Company; and that the New York bank was one of the means used to transfer the terrorists' ransom to other Graiver-owned banks in Belgium and Switzerland for exchange into "usable" currency.

As reporter Richard Karp observed in his meticulously researched articles on the collapse of the A.B.T. published by *Barron's* in December 1976: "How much money filtered out of the Argentine treasury into Isabel's account is anyone's guess. When the generals moved in on Isabel last spring, Economic Minister Gelbard fled to the U.S."

"El Grupo Graiver" did not operate in our country in a vacuum. When David Graiver, the portly, 35-year old Argentinian operator, moved to New York in 1975 to buy controlling interest in the American Bank and Trust Company, he had the help of many prominent political and financial figures from the "Liberal" Establishment. Papers obtained by our investigative news team establish links between one or more members of the Graiver group and Sol M. Linowitz, President Carter's Panama Canal giveaway architect; Mario Noto, the recently appointed Deputy Commissioner of the Immigration and Naturalization Service; New York City Mayor Abraham Beame; New York City campaign treasurer Howard Samuels, who placed the Carter campaign funds in Graiver's American Bank and Trust; New York City Democratic Party political bosses Mead Esposito and Patrick Cunningham; and, Theodore W. Kheel, a well-known labor negotiator who was on Graiver's payroll as a "consultant" at \$100,000 a year.

Others involved include Abraham Feinberg of New York and Phillip Klutznick of Chicago, both well-known Democratic Party fundraisers.

According to published reports, Graiver and his Banco Comercial de la Plata were provided with a letter of recommendation from U.S. Ambassador John P. Hill; from O.A.S. Secretary-General Alejandro Orfila, who received a large loan from A.B.T.; from former Secretary of State William P. Rogers; and, from former Citibank chairman George Moore.

Apparently no one publicly expressed curiosity about the origins of the \$9 million cash and the additional \$5 million in various securities with which the Argentinian banker bought controlling interest in American Bank and Trust. After all, such well-known

"Liberals" as Theodore Kheel were introducing Graiver into New York City political and financial circles.

Once in control of A.B.T. and its assets, Graiver began making heavy loans to his other ventures in Belgium, Switzerland, and Argentina. Graiver's New York political friends received loans, some of which were highly questionable, and received various "consulting fees." At the same time, A.B.T. received such plums as the Carter campaign account—which may or may not have been augmented as a means of purchasing political favor.

The bubble did not burst until August 1976, after the Montoneros, harried by the Argentine military Government which deposed Isabel Peron in March 1976, demanded the return of their illicit millions.

On August 6, 1976, a few days before the total collapse of the Graiver financial empire, David Graiver left New York's LaGuardia Airport with a pilot and copilot in a chartered Falcon jet. Headed for Acapulco, Mexico, Graiver was reportedly carrying \$28 million in negotiable securities. Around 2 A.M. on the following day, the jet went down in Mexico. The bodies of three occupants were burned beyond recognition. No flight recorder and no voice recorder were found at the crash site. A Mexican report refers to "tape transcriptions" of a pilot-to-tower conversation—but the tapes were erased before they could be audited by investigators, and the near automatic participation by the U.S. National Transportation Safety Board in the investigation of the crash of a flight which originated in the United States was curiously omitted.

Most damaging to the official Mexican report of the Graiver crash is a photo of the wreckage which shows part of the aircraft sitting amidst upright trees. As *Barron's* commented: "If the Falcon had careened into the wooded mountainside, it would have plowed those trees under like so many matchsticks. In other words, Falcon Jet 888 AR did not collide with a mountain, but simply fell out of the sky, possibly the result of an explosion in the air."

Relatives of David Graiver went to the accident site and "positively" identified the remains, which they quickly had cremated in violation of their religion. David Graiver had officially ceased to exist, but the possibility remains that he may have staged the crash and vanished (perhaps) during a refueling stop.

With David Graiver declared dead, the investigations into the operations of the American Bank and Trust Company commenced. In its December articles, *Barron's* informed the American financial community that the Graiver-controlled A.B.T. had been "robbed of its assets via massive borrowing on behalf of dummy companies" and that the Graivers had stolen depositors' money by diverting it into fake investments. The article concluded, "the ingenuity of those who looted the bank was matched only by the laxity of those charged with watching it."

In Argentina, where the investigation of the Graiver group's operations is continuing, many of its members are under arrest. These include Lidia Papaleo de Graiver, David's wife or widow; Isidoro Graiver, his brother; and David's uncle, Pedro Graiver. Their assets, and those of other Graiver group members including Eva Gtznacht de Graiver, Enrique Brodsky, and Jorge Rubinstein, have been frozen by the Argentinian authorities.

Since it is now apparent that a major criminal network and terrorist support apparatus was operating via the Graivers' banking interests in New York, Buenos Aires, Belgium, and Switzerland, it is appropriate

to examine those who were associated with them. They include:

Sol M. Linowitz, who according to a January account in the Buenos Aires daily, *La Nacion*, has acted as José Gelbard's U.S. attorney, claiming that Argentina's request for his extradition is part of an anti-Semitic plot. This has since been denied by a spokesman for Mr. Linowitz, who stated that although Ambassador Linowitz knew Sr. Gelbard, they had no professional relationship.

Maybe so, maybe not. When the Argentinian Government made its formal request for Gelbard's extradition in December 1976, the radical Council on Hemispheric Affairs (C.O.H.A.), directed by New School professor Larry Birns who has been active in pro-Castro endeavors, rallied to Gelbard's support. Since a number of those involved with C.O.H.A. have in the past acted as "Linowitz surrogates" in producing distillations of the Linowitz Commission recommendations (financed by the Ford Foundation), C.O.H.A. may reasonably be thought to have acted as a "Linowitz surrogate" in aiding Gelbard.

Castroite Birns charged that the extradition request was "an act of political subterfuge" and suggested that anti-Semitism was involved. Meanwhile *Argentine Outlook*, a newsletter with which Birns is connected, has been supporting revolutionary "political prisoners" in Argentina and has charged that the Argentina anti-Communist military Government is "fascist," "reactionary," and deliberately anti-Semitic.

Mario Noto, prior to his taking office as Deputy General Counsel of the Immigration and Naturalization Service on May 16, 1977, was José Gelbard's Washington, D.C., attorney.

Mayor Abraham Beame of New York, between his terms as City comptroller and mayor, was a director of Graiver's American Bank and Trust and head of the bank's finance committee.

New York City Democratic Party political bosses Mead Esposito and Patrick Cunningham both received fees from Graiver's A.B.T.

Former Secretary of State William P. Rogers, former Citibank chairman George Moore, and Organization of American States Secretary-General Alejandro Orfila provided friendly references as to David Graiver's integrity. Perhaps coincidentally, Secretary-General Orfila received a \$300,000 loan from A.B.T.

Theodore W. Kheel, the prominent New York labor negotiator, received a \$25,000 quarterly stipend from David Graiver for "advice and consultation." He also helped, and was helped by, the Graivers in making several major investments.

Howard Samuels, a former New York State gubernatorial candidate, former head of the Off-Track Betting operation in New York, and Jimmy Carter's state finance chairman, used the A.B.T. for the safekeeping of Carter campaign contributions. This may be one reason why the Argentinian press has speculated that the Graivers or their bank were themselves contributors to the Presidential campaign of James Earl Carter Jr.

Republican Party political boss Vincent Albano received from the Graivers some \$7 million in cash for his controlling stock in the Century National Bank and Trust Company. Graiver subsequently borrowed \$500,000 from Century and pledged his Century interest against some of his massive borrowings from A.B.T.

Abraham Feinberg was chairman of A.B.T. when it closed its doors last September. Phillip Klutznick was A.B.T.'s chairman from 1963 to 1972, and was also chairman of the Swiss holding company that sold A.B.T. to Graiver. As Richard Karp commented in *Barron's*:

"All of these big loans to Graiver had to be approved by ABT's board of directors or its executive committee, or at the very least by some high officer or a director such as Abe Feinberg, Stanley Kreitman, Saul Kagan, Jose Klein (who kept his seat) and Alexander Szasz (Klein's right-hand man)."

"Even if one grants that David Graiver simply hoodwinked the officers and directors of ABT into lending him large sums of money, it is unlikely that he could have acted alone in diverting deposits in ABT to his numerous dummy operations overseas. Huge sums flowed through ABT as time deposits and wound up as 'investments' in Graiver's deep pockets in other countries. Who were his accomplices? That remains a mystery."

But, of course, that is not the only mystery, or the only unanswered question. Others of paramount concern are:

Why was the F.B.I. investigation of the Graivers' New York operation closed?

Was José Gelbard the contact between American Bank and Trust and the Argentinian terrorists?

How did José Gelbard achieve "political refugee" status in the United States, and why was this extended to his son, Fernando?

Were Fernando Gelbard and David Graiver partners, and are Fernando Gelbard's recent trips to Switzerland related to Graiver family businesses?

What investments are the Gelbards now making in the Los Angeles area? With whose money?

What is the status of the F.D.I.C. report on these outrages, and how will investors in American Bank and Trust be reimbursed?

Did the Graivers and Gelbard hold a meeting in mid-1976 with Robert Vesco in Santa Domingo to form Overseas International Services?

What is being covered up and who is being protected?

The answers to these and other questions are known to a small and decreasing number of people. David Graiver has vanished and is presumed dead; his father, Juan Graiver, has now been reported dead; two lawyers intimately involved in the Graiver-Gelbard relationships have died mysteriously.

Fortunately others who know this story, and who have documentary evidence, are alive. Now that well-organized terrorists have learned how to operate through our banking system, it is imperative that those who know the full details of these transactions provide public testimony. Conservatives are urging Senators William Proxmire and Congressman Henry Reuss, respective Chairmen of the Senate and House Banking Committees, to look into these matters at once.

ROBBIE FTOREK

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. MOAKLEY. Mr. Speaker, this week, Robbie Ftorek, a 152-pound, wiry, towheaded young man from Needham, Mass., was named the most valuable player in the World Hockey League. The smallest player in the entire WHL, Ftorek has earned the same trophy which in past years had belonged to other hockey greats such as Gordie Howe, Bobby Hull, and Marc Tardiff.

Ftorek's story begins back at Needham

High School and continues through a spectacular performance at the 1972 Olympics. Rejected by the National Hockey League because of his weight, he emerged in the past 2 years as one of the Nation's premier players. His determination, talent, and assertiveness was especially visible during his team's performance in the Canada Cup when he was Team U.S.A.'s most valuable player.

Gordie Howe, during the presentation of the award at The Club in New York's World Trade Center, said that Ftorek, "had been an inspiration" to all of New England's upcoming crop of junior hockey players. More than that, Ftorek's accomplishments on the ice have done a good deal in promoting New England's already burgeoning reputation as the home of tremendous high school and college hockey talent. Recruiters no longer have to spend months exclusively in Canada evaluating just Canadian talent. New England high schools and colleges are offering the best competitive hockey programs in the Nation.

I salute Robbie Ftorek; his determination, skill, perseverance, and professionalism have done a great deal in bringing New England to the forefront in American hockey.

#### FOREIGN OIL TANKERS HURT THE AMERICAN ECONOMY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. EILBERG. Mr. Speaker, in recent days I have taken the opportunity to acquaint my colleagues in the Congress with the problems which are caused to the United States by foreign oil tankers.

The damage being done to the American economy by the carriage of so much of our oil imports in ships flying the flags of other nations is one of the most serious aspects of this problem.

So that my colleagues will be aware of the gravity of the situation, I am placing in the RECORD a copy of a fact sheet which has been provided to me by the U.S. Maritime Committee to Turn the Tide—a committee composed of shipping companies, unions and land-based industries which support our merchant marine:

#### FOREIGN OIL TANKERS HURT THE AMERICAN ECONOMY

While the United States strives for domestic energy independence, we rely greatly on imported oil transported in foreign flag tankers. We are producing about one million fewer barrels of oil a day than in 1973, and importing a million more. Our dependence on foreign oil imports is growing daily.

The U.S. is now importing 45% of its oil. 96% is carried on foreign flag tankers.

Next year our oil bill to foreign nations will come to perhaps \$40 billion. We pay \$1 billion alone to foreign flag tankers to carry our imported oil. By contrast, U.S. flag tankers return 71¢ of every dollar they receive back to our economy. This negative balance of payments position has recently effected the worst trade deficit in our nation's history.

Foreign flag oil tankers are used by multi-

national companies to shelter earnings from petroleum production, refining and distribution.

No one knows what it actually costs multinational companies to ship oil to the U.S. on foreign flag tankers. Rather than reflecting true operating costs, it appears that transportation prices are no more than artificial numbers set to enable multi-nationals to transfer the greatest possible profits to their foreign flag of convenience shipping subsidiaries. These enormous profits basically are beyond the reach of American taxation.

Most other maritime nations have recognized the economic benefits to be derived from a cargo preference policy, as evidenced by the adoption of various forms of cargo preference by 38 nations. Among them are France, Spain, Japan, Venezuela and the Arab oil exporting nations.

It's time to turn the tide in favor of the U.S. economy and the U.S. taxpayer. We need to support a cargo preference program that would give U.S. tankers a greater share in the transportation of our oil imports.

#### WHY IS THE MIGHTY SOVIET UNION AFRAID OF THE FRAIL SEMYON GLUZMAN?

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. KOCH. Mr. Speaker, on numerous occasions one after another of my colleagues has stood up and asked why the Soviet Union will not let Soviet Jews emigrate to Israel. Why does the mighty Soviet government expend so much energy harassing and repressing Jews who request permission to leave? Today I rise on behalf of a Soviet prisoner of conscience, Semyon Gluzman, who dreams of going to Israel but who languishes in a Soviet strict-regime labor camp for his decency and his dreams, and I again ask the same questions.

Dr. Gluzman is a 29-year-old psychiatrist who graduated from Kiev Medical School in 1968 and was offered a position as a psychiatrist at the Dnepropetrovsk Special Psychiatric Hospital, where Leonid Plyusch was being held at the time. Because he recognized and refused to be associated with the morally depraved Soviet practice of committing healthy political prisoners to psychiatric hospitals and medically treating them for insanity, Dr. Gluzman declined the position.

In 1971, Gluzman joined two fellow psychiatrists, who remain anonymous, in writing an alternative psychiatric diagnosis in absentia for Gen. Pyotr Grigorenko in which they rejected the official finding that Grigorenko was mentally ill. For this action motivated by human decency, Gluzman was convicted of "anti-Soviet agitation and propaganda," a standard catch-all charge commonly leveled at political dissenters, and sentenced to 7 years in a strict regime corrective labor camp.

While incarcerated, Dr. Gluzman has been strongly influenced by his fellow Jewish prisoners and ardent Zionists Anatoly Altman, Hillel Butman, Leib Knokh, and Lev Yagman, from whom came his dream of becoming a resident



and citizen of Israel. In October 1975 Gluzman wrote to his parents:

I am a Jew, and my Judaism speaks for more than memory—memory of the victims of genocide and of the persecutions caused by prejudice become dogma. My Judaism lies in the knowledge of our people as they are today, with their own State, their own history and, happily their own weapons. My Uncle Abram who was shot at Babi Yar did not grant me any "reconsiderations." Every September my spirit seethes with indignation for him. You know why.

In denying its citizens, Jewish and people of other faiths alike, the freedom to emigrate, the Soviet Union not only violates the Helsinki accord, to which it is a signatory, but it violates a fundamental and universal right, for without freedom to emigrate, the individual does not have a choice between embracing the principles of government under which he was born and seeking a different form of government elsewhere. Without that choice, there can be no genuine freedom, democracy, or legitimacy to a nation.

Again, I ask, why is the mighty Soviet Government afraid of a handful of people who wish to leave, who would no longer be in the U.S.S.R.? Perhaps the Soviet rulers are not afraid of them, as such, but of the influence they might have over the millions who remain—of the massive discontent that is locked away in their hearts and of the widespread protest that would erupt if that discontent came to the surface.

If the Soviet Union is the mighty world power it purports to be, then it should not be afraid of people like Semyon Gluzman. We cannot rest until all the people who wish to leave the Soviet Union are allowed to go.

#### HATCH ACT

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. DERWINSKI. Mr. Speaker, one of the obvious factors in the debate and ultimate vote in the House on the Hatch Act issue is the great preponderance of editorial opposition to H.R. 10.

In fact, outside of the Washington Post whose support of the bill is conditional, editorials across the country have been appearing in one voice against the emasculating of the Hatch Act.

Typical of the editorial commentary is one broadcast by WBBM, CBS Radio, Chicago, on May 18, in opposition to changes in the Hatch Act. The editorial follows for the review of the Members:

#### HATCH ACT

We are opposed to changes in the Hatch Act that would allow federal employees to participate in political campaigns by working directly for candidates or seeking office themselves. Changing the current restrictions on the political activity of civil servants would open the door to too many chances for abuse.

The House of Representatives is ready to vote on a bill allowing civil servants to participate more fully in the political process. But they have enough access to the process right now. They can contribute to cam-

paigns and they can, of course, vote. But they can't have a working involvement in campaigns and they shouldn't.

The Hatch Act was written to protect civil servants from political abuse but these changes could let them in for terrible trouble. Although the bill includes provisions prohibiting bosses from coercing employees or conducting political business on government time, it would be very difficult to prove that anyone had broken the law. As all of us who have ever worked in an office know, it's easy to exert pressure on co-workers very subtly.

Some civil servants might indeed have a better understanding of who should be elected to office and why. But their first job is to keep the government running smoothly in spite of the changes in political leadership at the top. And that's the way it should stay.

#### USDA HONORS POWELL COUNTY RURAL DEVELOPMENT COMMITTEE

### HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. BRECKINRIDGE. Mr. Speaker, I rise today to honor a select group of fellow Kentuckians from neighboring Powell County, Ky. The Powell County Rural Development Committee has been singled out by the U.S. Department of Agriculture to receive a Superior Service Award at the 31st Honor Awards Ceremony presented by our friend, the Secretary of Agriculture, Bob Bergland.

This national recognition for the Powell County Rural Development Committee is being presented for the committee's service as a dynamic catalyst and a followup resource in stimulating involvement, by many Kentuckians, in projects which have dramatically improved the social and economic well-being of Powell County, Ky.

As chairman of the Congressional Rural Caucus, a member of the Family Farms and Rural Development, and Special Studies Subcommittee of the House Agriculture Committee, and one who is deeply interested in rural development, I am honored that my neighbors in Powell County have been singled out by Secretary of Agriculture Bob Bergland to receive this award. The Powell County Rural Development Committee has had a long record of involvement in rural development since its beginnings in January of 1962. One of the main reasons for its effectiveness, in a rural county in the Appalachian foothills with a total population of over 7,700, lies in the fact that its members have been an integral part of every community development effort in the county during the last 14 years.

I understand that the achievements of the committee are long and varied, its activities including the construction of an 80-bed nursing home; the development of a dental health education program; the establishment of a well-baby clinic and a rescue squad, enrolling over 30 volunteers in an emergency medical technicians school; support of the annual Red-Reiver clean-up program; en-

couragement of the fiscal court to purchase the necessary equipment to meet State landfill standards; the preparation of an environmental inventory for a sewer and water plan for the community; the planning of a nature study center and the organizing of a successful effort in establishing a city park; work with local leaders in improving community water systems and better sewage disposals; pushed for and established a local radio station, adult education classes at local schools, vocational education classes, and local craftsmen classes, for local forest products.

As you can see from this impressive record, Mr. Speaker, the Powell County Rural Development Committee has distinguished its citizens, the State, and the Nation, in their worth-while endeavors on behalf of their community. I am pleased to recognize the members of the committee, a list of which is attached below, for their fine work and outstanding achievements—exemplary achievements which should constitute a challenge to us all:

#### POWELL COUNTY RURAL DEVELOPMENT (INTER-AGENCY) COMMITTEE

Barbara Crabtree, Ky. Dept. Human Resources.

Doug Fig, U.S. Forest Service.

Robert Friel, Powell County School.

Dan Grigson, Coop. Ext. Ser.

Grace Marsh, Bur. Rehab.

John Moore, U.S. Forest Service.

Ronald Ray, FmHa.

Rae Rogers, Comp. Care Ctr.

Glyn Skidmore, Ag Stab. & Conserv. Ser.

Rose Swope, Coop. Ext. Ser.

Jackson Taylor, Coop. Ext. Ser.

Roger Wiedeberg, Soil Conserv. Ser.

Ann May Howard, Ky. River Foothills Council.

Mary Lavin, Powell Co. Manpower Office.

#### THE FOUNTAIN SQUARE SENIOR CITIZENS CENTER

### HON. DAVID W. EVANS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. EVANS of Indiana. Mr. Speaker, the Fountain Square Senior Citizens Center which is located in the Sixth Congressional District at 901 Shelby Street in Indianapolis celebrated its fourth anniversary on May 21, 1977.

Since the center opened in 1973, it has provided senior citizens on the southside of Indianapolis a place to relax, meet their friends and share the companionship of other senior citizens through various activities.

There are two individuals associated with the center who deserve special recognition for their commitment and dedication to the success of the center.

As director, Mrs. Betty Sexson has given above and beyond the call of duty to assure the Fountain Square Senior Citizens Center never closes to those who need its services.

Another person who must be commended for their work with the center, is Mr. George Cafouros, who publishes the Southside Spotlight, a weekly community

newspaper. Mr. Cafouros has used his newspaper as a vehicle for community service by publicizing the center and when it was short on funds he assisted in raising several thousand dollars so the center could stay open.

As a member of the Select Committee on Aging in the House of Representatives, I am committed to helping our older Americans and will continue to be of assistance to the Fountain Square Senior Citizens Center.

Mr. Speaker, while congressional business prevented me from attending the fourth anniversary celebration of the Fountain Square Senior Citizens Center, I wanted to make my colleagues aware of the dedicated and hardworking people which reside in Indiana's Sixth Congressional District.

#### THE GREAT TUNA-PORPOISE WAR

### HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mrs. MEYNER. Mr. Speaker, the "great tuna-porpoise war" has been in progress now for over 5 years. Its earliest beginnings go back some 25 years when the Japanese tuna industry was offering such stiff competition that our tuna fleet decided to switch to the purse seine method of "on porpoise" fishing from large netboats costing about \$5 million each. The rewards for this capital investment were great: Just one of these sleek vessels returning from a 3-month cruise can expect to sell a full load of tuna for about \$1 million. The lucrative profits, reminiscent of those earned by New England whalers in the 19th century, have drawn giant, multinational corporations into the business. Today, in the tuna fishing waters of the eastern tropical Pacific, few foreign boats can compete successfully with our efficient fleet.

But at what environmental cost. Since the introduction of the new method, approximately 6 million porpoises have been drowned in the great purse seine nets of the American tunaboats.

Five years ago, the tuna-porpoise controversy began in earnest with the passage of the Marine Mammal Protection Act. The Federal Government then gave notice to the industry that the slaughter of porpoises would have to be "ratcheted" downward, with zero incidental mortality the ultimate goal.

Progress in enforcing compliance with the act has been less than encouraging. Since 1972, with a 1-year grace period granted by Congress and 3 years of an indulgent, dilatory administration, tuna boats have drowned an estimated 800,000 porpoises.

Encouraged by their success in delaying the enforcement of the act, the tuna industry has now repeated its insistence that more time is needed for compliance. We have a bill before us (H.R. 6970) that would further extend the over 100,000 per year allowable kill.

The March 1 quotas released by the Department of Commerce of the new

administration provoked the tuna industry. Tunaboat owners "beached" their boats and threatened to transfer their vessels to foreign flags. Cannery employees, pawns in the struggle, have been laid off by the thousands in California and Puerto Rico. Price increases of 20 to 50 percent for a can of tuna have been predicted by the industry. On the other side, environmentalists have called for a consumer boycott of tuna.

While I am deeply concerned about the supermarket cost of a can of tuna in America this summer, I am more worried about another aspect which in the heat of this internal struggle we tend to overlook. How does American permissiveness of the slaughter of porpoise look to other countries? Porpoise, a cheap source of protein, is needed and used by other countries for human consumption. We talk with compassion of feeding the world's starving people, but we leave 6 million porpoise for the sharks.

Crucial diplomatic negotiations are scheduled this month for the protection of marine mammals. In Australia, the International Whaling Commission meets shortly. What of our insistence to Japan and the U.S.S.R. that they adhere to strict "management procedures" in bringing about the replenishing of the world's depleted stocks of whales? Can we expect them to comply when we ourselves refuse to "back off" of another cetacean? In California, the Inter-America Tropical Tuna Commission convenes in June. Can the United States expect Central and South American members to accept tough restrictions on the killing of porpoise if we ourselves refuse to improve our record?

Legislation is before us, Mr. Speaker, which would undercut the Marine Mammal Protection Act, extending for 2 more years the indulgence which the tuna industry has used to excellent advantage for the last 5. The passage of this bill would simply indicate to other nations whom we face at the negotiating tables that we do not take seriously our talk about protecting marine mammals. If we do not, why should they?

#### PRESIDENT CARTER'S NEW ARMS TRANSFER POLICY

### HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. SIMON. Mr. Speaker, President Carter's new arms sales policy which is based on a presumption against such transactions is a step in the right direction.

I am particularly pleased to note that the President is committed to a reduction in the sale of our arms export business, to limiting the transfer of advanced weapons and their technology, to curbing the sales promotion activities of American arms merchants—Government and private—and to convening an arms suppliers' conference to discuss multilateral action in this field.

I strongly support this new policy. It

deserves the commendation and support of the Congress.

This new policy is a great advance. But we need to consider going further in some areas. Specifically we should look into setting an overall limit annually for all our arms transfers, perhaps around \$9 billion as a starter; setting regional sublimits within the overall figure; and confirming arms transfers exclusively to official channels.

#### REPRESENTATIVE LINDY BOGGS RECEIVES HONORARY DEGREE FROM SAINT MARY-OF-THE-WOODS COLLEGE

### HON. JOHN BRADEMÁS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. BRADEMÁS. Mr. Speaker, one of the most popular and respected Members of the House of Representatives is our distinguished colleague, CORINNE C. Boggs, better known as LINDY, representing in Congress the Second District of Louisiana.

Many of us in the House of Representatives have known LINDY and knew her late husband, the distinguished majority leader of the House, Hale, for many, many years and few persons have contributed so much to the service of the House and to their country than Hale and LINDY Boggs.

Since coming to Congress in 1973 to succeed Hale, LINDY has been an outstanding leader in a wide variety of areas of concern.

I am delighted therefore, Mr. Speaker—and not at all surprised—to note that on May 8, 1977, LINDY Boggs was awarded an honorary degree by Saint Mary-of-the-Woods College, Ind.

I insert at this point in the RECORD the remarks of Mrs. Thomas Walsh, a graduate of Saint Mary-of-the-Woods College, who lives in Washington, D.C., on the presentation of this honorary degree to our distinguished colleague.

TESTIMONIAL FOR CORINNE CLAIBORNE BOGGS, MEMBER OF CONGRESS, SAINT MARY-OF-THE-WOODS COLLEGE COMMENCEMENT EXERCISES, MAY 8, 1977

Lindy Boggs, the first woman to chair the national convention of a major American political party, has compiled an impressive record on behalf of justice in the political forum.

Born to a politically active Louisiana family, Corinne Claiborne met her future husband, Hale Boggs, at Tulane University. With their marriage and his subsequent election to Congress, Lindy Boggs was thrown into grass roots political activity, becoming an active campaigner for causes and candidates at local, state and national levels.

Her years of volunteer activity and the political savvy that developed with them were recognized in March, 1973 when—following the disappearance of her husband's plane over Alaska the previous October—Lindy Boggs was elected to his seat in Congress by 81 per cent of the voters in the second district of Louisiana. She was overwhelmingly elected to a full term the next year.

During her four years in the House of Representatives, Congresswoman Boggs has



sponsored measures in the fields of housing, health, energy research, credit rights and education. While justice for all Americans is her primary interest, she has had a special concern for the advancement of women.

Significant activities in the area of women's rights include votes—in the 93d and 94th Congress:

For the Federal Aid to Education amendments, including Title IX;

Against the Casey amendment which would have weakened Title IX provisions;

For an amendment which allowed women to enter the service academies;

For the Equal Credit Act (which she co-sponsored);

For both the initial passage and override of the National Health Revenue Sharing Bill, which she co-sponsored and which provided for a National Center for the Prevention and Control of Rape;

For the passage of an override of the School Lunch Amendment which provided for continued support of the Women, Infants and Children feeding program; and

For the Small Business Administration Amendments, which prohibit discrimination against women in the granting of small business loans.

Her current House appointment is a seat on the Appropriations Committee, which is designated an "exclusive committee" requiring resignation from any other committee appointment. Previously, Rep. Boggs served on the Banking and Currency and House Administration committees. The Joint Committee on Bicentennial Arrangements, which she chaired, expired at the end of 1976. Congresswoman Boggs is also a member of the Board of Regents of the Smithsonian Institution.

The Democratic Party recognized Lindy Boggs' many contributions in 1976 when she was named Chairwoman of the Democratic National Convention in New York, the first woman to hold that position in the history of major American political conventions.

A number of distinguished institutions have also honored Lindy Boggs for her contributions. She was named one of ten outstanding persons for 1976 by the New Orleans Institute for Human Understanding and was the first recipient of the AMVETS National Auxiliary Humanitarian Award. In 1976, St. Mary's Dominican College of New Orleans awarded her its Distinguished Service Medal, and, in 1975, Trinity College of Washington conferred upon her an honorary doctorate of public service. She has also received the Weiss Memorial Award from the National Conference of Christians and Jews and the Mother Gerard Philan Gold Medal given annually to an outstanding woman by Virginia's Marymount College.

From grass roots organizing to national prominence, Congresswoman Lindy Boggs, an active and dedicated Catholic woman, has served her country with vigor and distinction. It is in recognition of her service and her dedication to justice that I proudly present U.S. Rep. Lindy Boggs as a candidate for an honorary degree from Saint Mary-of-the-Woods College.

#### PROPOSED AGENCY NOT NEEDED TO PROTECT CONSUMERS

**HON. TOM HAGEDORN**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. HAGEDORN. Mr. Speaker, a perceptive article on the proposed Consumer Protection Agency in today's Wall Street Journal points out, quite correctly in my opinion, that the critical issue for

debate is whether or not the taxpayer should be made to support another Federal agency simply because the ones that are already being supported have not fulfilled their legislative mandates. As James G. Reynolds, the vice president of American Bakeries Co., notes, every existing Federal agency was originally charged, in most cases explicitly, with upholding the very "public interest" that the CPA is now supposed to uphold.

Why, if these agencies have failed to perform their functions properly, is it to be expected that a new agency will do any better? What are the structural differences between the CPA and other less rarefied agencies that would suggest that they will succeed where others have failed? Why not reform existing agencies rather than attaching a new one to the Federal bureaucracy? Until some of these questions can be answered satisfactorily, it is incomprehensible to me that Congress could blithely create a new governmental body certain to inflict new burdens upon the people. As Mr. Reynolds aptly puts it—

No organization in possession of even half its senses would conceive of solving such a problem by hiring another permanent staff with authority to advocate the interests of the organization and force the responsible employees to do their jobs properly.

In other words, the whole business of Government is supposedly the public interest. If our elected and appointed officials are not performing properly, replace them. Do not punish the public further by yoking upon them a new body. At this point in the RECORD, I include the full text of Mr. Reynolds' remarks:

#### PROPOSED AGENCY NOT NEEDED TO PROTECT CONSUMERS

(By James G. Reynolds)

Arguments against a Consumer Protection Agency have largely centered on the practical problems of implementation, i.e., how the agency would determine who is the consumer and how is he to be protected. These arguments are all well and good, but they miss the larger and more fundamental reason why Americans should oppose creation of this agency.

The express purpose of the proposed law, as announced by its sponsors, is to establish a federal agency to represent the interests of the consumer in federal agency proceedings. If the purpose is sound (it rings bells of Catch-22 to me), then the malaise is the failure of federal agencies to perform their legal and constitutional mandates.

In general, each federal agency was created for the express purpose of assuring that transactions which were to be the subject of such agency's power be conducted in the public interest to promote the greatest public justice in an area that might otherwise be subject to abuse if left in unfettered private hands.

This purpose is necessary to justify the birth of a government agency and to support its continued existence at the taxpayers' expense.

Taxpayers and consumers are identical. Tax-paying citizens are the same people who buy goods from businesses regulated by the FTC. What purchaser of securities is not already supposed to be represented by the mandate of the SEC? Is there a consumer of foods and drugs who is not now paying taxes to support a huge FDA staff whose legal duty is to regulate foods and drugs in his interest? The FTC and the FCC are there to assure that utilities and broadcasters provide full, fair and efficient service

under monopolistic conditions. For whose benefit? Consumers. Taxpayers. You and me.

From a tactical point of view it may seem logical to establish a federal agency to represent the consumer in federal agency proceedings. But philosophically, it's wrong. Maybe the agencies aren't doing their jobs. Perhaps they are influenced too much by special interests, and another system is required to channel the special interest of the consumer.

But why are taxpayers being told they need to pay for another agency just because the ones they are already paying for are not fulfilling their legal mandates, their constitutional purposes?

I suggest the people be told that another layer of government is required because the bureaucratic layer is out of control. The people should be told that our administration and our Congress do not know how to solve this problem from within the agencies. We don't know how to constitute our agencies so that they will perform their legal mandates.

The people should be advised that the purpose of this proposed agency is conceptually different from the normal management control functions of auditing and review necessary to assure continued performance by people we believe to be doing a good job right along. The purpose of the new agency is to cause (force) the responsible agency officials to do the job they are already supposed to be doing. The bill approved by the House Government Operations Committee would permit this proposed agency to sue other federal agencies.

It is inconceivable that a private organization would seek to solve a problem in one department by hiring a separate staff to force that department's employees to do their jobs properly. If a breakdown in performance were perceived to be complex or widespread, management might commission an outside group to study the situation.

And suppose this hypothetical outside group were to report that the purchasing department was overly influenced by suppliers bearing Super Bowl tickets, that the finance department was being swayed by bankers bearing low-interest personal loans, that production and engineering staffs were beset by equipment dealers offering free color TVs on the side?

No organization in possession of even half its senses would conceive of solving such a problem by hiring another permanent staff with authority to advocate the interests of the organization and force the responsible employees to do their jobs properly.

The responsible employees in purchasing, for example, know their job is to obtain high quality goods and services at the lowest cost, and to ignore suppliers bearing gifts. If a private organization were to pay people for not performing their jobs and also pay another group to force them to do their jobs, the inevitable result would be the deterioration and eventual ruin of the organization. Maintaining the organization would become too costly, and maintaining employee attitudes and spirit so necessary to continuing vitality would be impossible in light of management's acquiescence to large-scale non-performance.

Federal agencies are no different. Responsible agency employees know their jobs and their duties. The administration and the Congress, through existing offices and monitoring committees, should force the agencies to perform their duties in the first instance through proper budgeting, auditing, performance standards review and by firing people who are not doing their jobs properly.

Or have the federal agencies become so large, cumbersome and otherwise entrenched that we have several very expensive, uncontrollable monsters on our hands? Are matters so irreversible that what we really need for effective control is a regulatory advocacy

agency to regulate the regulators? And in due time, who regulates the regulatory advocacy agency?

The Consumer Protection Agency is wrong, not so much for what it would try to do, but because it admits to an incurable state of affairs within our government. We cannot as a nation afford to support a government that cannot control itself.

#### INTRODUCTION OF THE COAL SUBSTITUTION INCENTIVE ACT OF 1977

**HON. WILLIAM S. MOORHEAD**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, this year, 1977, we will be spending at least \$38 billion for foreign oil. We must do so in order to keep our cars moving, our industry and utilities operating, and our homes warm and lighted. The most oft-quoted statistic, concerning our energy situation, stresses our growing dependence on imports which now exceed 40 percent of our total domestic oil demand.

It has become increasingly clear to the American people that such dependence is fraught with economic danger. The threat of increased prices and a restoration of the embargo, and all they imply in terms of economic disruption, are problems with which this Congress must deal. Indeed, in his energy message of April 29, President Carter pointed out in stark terms the degree of our commitment to oil and gas with which to operate our society, and equally so, our definite need to reduce such dependence as fast and as complete as the transition to other energy sources will permit.

For the record, it is important to note that industry and utilities used 4.8 million barrels of oil per day, and 5.9 million barrels of oil equivalent per day, in the form of natural gas, in 1976. The rate of consumption will probably be even higher this year. Both resources are, however, scarce in availability. Moreover, both are needed by other elements of our economy to as great a degree as industry and the utilities represent. For that reason alone, it makes eminent good sense to promote conversion to other energy forms as quickly as possible. This can be done by turning to more abundant sources such as coal, which makes up 90 percent of our conventional energy reserves, but supplies only 18 percent of our energy consumed.

Mr. Speaker, we must ask ourselves how we can proceed to increase the demand for the use of our coal resources. Certainly, we should do all we can to remove those constraints which have held back such demand for this energy source in the past.

Mr. Speaker, one such constraint has been the obvious cost incurred by the user to meet necessary environmental standards, particularly those involving direct burning. The Clean Air Act of 1970 established high air quality requirements. The Edison Electric Institute has estimated the cost to utilities to be at

least \$1.7 billion annually to meet those standards. These are imposing figures, but if we are to shift from oil- and gas-fired systems to those based on coal, it is clear to me that we must also provide suitable incentives and assistance to industry in its quest to accomplish such a massive undertaking.

Mr. Speaker, this is why I am introducing the Coal Substitution Incentive Act of 1977.

This bill, if enacted, would provide up to \$500 million annually in loan guarantees and \$100 million in low interest loans to companies shifting from oil and gas to coal. The funds made available would be for the acquisition of pollution control systems.

The legislation foresees a 10-year conversion effort, thus, the limits of these incentives could be \$5 billion in guarantees and \$1 billion in loans.

Mr. Speaker, as chairman of the House Banking Subcommittee on Economic Stabilization, I have devoted considerable effort to the review and examination of loan guarantees as forms of credit assistance, and as a means of reallocating our resources. This legislation I introduce today incorporates all of the acknowledged safeguards identified by our efforts that are intended to minimize the risk of Federal revenue loss should any default occur.

Mr. Speaker, President Carter has told us our energy problem has taken decades to grow, and may take decades to solve. I believe we can move toward that solution only if we recognize the nature of our problem, and only if we begin the task of its solution today. The equation is quite simple: We must reduce foreign oil and gas imports, and we must increase the use of our own resources. Our most abundant substitute is coal. I believe there is widespread support for incentives to go to coal substitution, and I believe that loans and loan guarantees should be considered in the range of incentives to be adopted.

**PRESIDENT CARTER: HARD-NOSED WITH FARMERS—SOFT-NOSED WITH FOOD STAMP RECIPIENTS**

**HON. KEITH G. SEBELIUS**

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. SEBELIUS. Mr. Speaker, the House Committee on Agriculture this morning began the markup of a food stamp bill which is to become part of the farm bill (H.R. 7171) when the latter is considered on the floor of the House. Congressman JAMES JOHNSON of Colorado offered an amendment to the food stamp bill which incorporated a provision contained in the Carter administration food stamp proposal forwarded to the Congress and printed by the Senate as a committee print on April 15, 1977.

This administration provision on standard deductions—offered by Mr. JOHNSON—would have saved \$103 million in food stamp expenditures in fiscal year 1978.

The administration-Johnson proposal

included a \$80 standard deduction, but it did not include a separate shelter deduction or a separate child care deduction—as does the food stamp bill before the committee—because the standard deduction itself incorporates costs for these two items.

Secretary Bergland in testifying before the Subcommittee on Domestic Marketing, Consumer Relations and Nutrition, chaired by Congressman RICHMOND of New York, on April 5, 1977, had great praise for the Carter administration's food stamp proposal:

I come before you today with a major reform proposal. It is designed to tighten up the program, to eliminate or reduce benefits to the households with the highest incomes, to reduce errors, and to curb possibilities for abuse.

In addition, this proposal will vastly simplify and streamline the program. Finally, our proposal is designed to increase access to the program by those most in need.

Two, we would also place firm gross income limits on the program by replacing the many complicated itemized deductions in the current program with two simple standard deductions—a deduction of \$80 for all households, plus a deduction for working families in the amount of 20 percent of earned income to compensate for taxes, other mandatory deductions from salary, and work expenses.

Our new proposed legislation, which we will present to the committee within the next two days so that it can be incorporated as a title of the farm bill, is over 30 pages in length, and, in preparing it, we scrutinized all aspects of this program's operation.

I turn now to measures to simplify the program. First, standard deductions. As I mentioned previously, the Department is proposing to substitute two basic, simple standard deductions in place of the current itemized deductions.

This will greatly simplify administration of the program, and will also reduce errors. About 30 percent of all errors now stem from errors in determining the proper level of itemized deductions.

In addition, the time now used in calculating itemized deductions can be spent in the more important area of verifying income. This should further reduce errors.

I should note that the various aspects of our proposal cannot be divorced from each other. Our income limits and standard deductions reduce costs by over \$400 million a year, and balance off most or all of the cost of providing benefits to the new participants who enter the program due to the elimination of the purchase requirement.

If our income limit and standard deduction proposals are not adopted and higher eligibility and benefit levels are substituted in their place, then the cost of the food stamp program will increase in a manner that is unacceptable to this Administration.

In the consideration of the Johnson amendment today, Mr. Robert Greenstein, special assistant to Secretary Bergland, after supporting the administration's \$80 standard deduction proposal on April 5, 1977, indicated that the Carter administration could accept the more costly—by \$103 million—provision in the committee bill:

Mr. Greenstein, special assistant to Secretary Bergland:

In working on the food stamp proposal, we did not have a great deal of time as a new administration. Actually at one point very near submission of the bill to the Congress, the Secretary sent a proposal to the White House that included a shelter allowance and a child care deduction. Then after some con-



sideration, we went with the \$80 standard deduction. It was a close call on our part.

There were a couple of things that we were not aware of at that point. We did not until after the bill came out have the figure that there were over 700,000 households that lost over \$20 a month in benefits under our bill.

When the shelter allowance and the child care deduction began to get some support and we heard they were coming up, we had internal discussions with the White House and other agencies, and the general Administration position was that we were not going to be extremely hard-nosed about this—that we could live with the shelter approach, provided that it remained within the general cost frame that the Administration came up with. That was the real concern, as I said during the Subcommittee markup. When these issues came up again, the cost was one of our concerns.

Now the Congressional Budget Office figures indicate that due to the shelter deduction, etc., that the Subcommittee bill is about \$45 million more costly than the Administration proposal during its first year. However, the CBO figures also indicate that by the third year, the costs are roughly the same and that by the fourth year, the Subcommittee bill is actually less expensive and cheaper than the Administration proposal.

So we find the general costs of the overall package of the bill to be indeed within the cost frame the Administration has provided. And that being the case, we really should live with the Subcommittee approach, and we really do not have a strong position one way or the other.

At the same time Mr. Greenstein was testifying before the House Committee on Agriculture and stating that the Carter administration would not be hard-nosed—in fact, would be “soft-nosed”—about the \$103 million additional costs of the committee's shelter and child care deductions, President Carter was holding a press conference at the White House threatening a veto of the farm bill.

It is clear that President Carter is going to be hard-nosed in giving help to the farmers—but “soft-nosed” and generous to strikers and other individuals who receive food stamps.

In October 1976, in Wichita, Kans., Vice President MONDALE was campaigning and criticizing President Ford and his vetoes of farm bills and claiming that “Even those—wheat loans—at \$2.75 are too low.”

Vice President MONDALE also said at that time that if elected:

I will tell you who runs the Department of Agriculture fundamentally—it is the President.

Well, President Carter—the real Secretary of Agriculture—as Vice President MONDALE apparently refers to him—has made it clear who he is going to be hard-nosed with during his administration. It is the farmer. Perhaps when our wheat farmers go broke and get in the food stamp lines, they will start getting some “soft-nosed” generous treatment from President Carter.

#### WASHINGTON'S UNCIVIL SERVANTS

**HON. EDWARD J. DERWINSKI**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. DERWINSKI. Mr. Speaker once again die-hard advocates of the measure

to allow the politicizing of government employees are trying to pass H.R. 10.

Nicholas von Hoffman the reputable card-carrying liberal takes a look at the repeal of the Hatch Act of his column appearing in the May 21 Chicago Tribune. I insert his article in the RECORD for the benefit of the Members from the other side of the aisle:

#### WASHINGTON'S UNCIVIL SERVANTS

(By Nicholas von Hoffman)

WASHINGTON.—Under the label of reform, a bill repealing most of the Hatch Act is making its way through Congress toward the Oval Office where the President has said he'll sign it. Oddly enough, the Hatch Act, which prohibits government employees from taking part in partisan, electoral politics, was considered a reform measure when it was passed in 1939.

Its purpose was to prevent a President from using the large numbers of recently hired government employees as campaign workers. The Roosevelt administration was often accused of winning elections via this route, but national administrations weren't set up to run huge battalions of campaign workers at the precinct level; unless the patronage could be turned over to state and local officials it was not very useful for winning elections.

Despite his enemies' accusations, FDR didn't try this use of federal employees so he had no trouble living with the Hatch Act. In actuality, the law was superfluous because the protections and job securities afforded by the civil service robbed politicians of the weapons of coercion to make employees into campaign workers. How can you force a postal clerk to work for Gruntz for President if the clerk knows you can't fire him?

In the years after the passage of the Hatch Act, electoral politics underwent a change. In the language of economics it swung from being labor intensive to capital intensive. The costly armies of precinct workers were replaced by television campaigning, which allows a candidate to reach more people per dollar spent than the knock-on-the-door method. Thus it's questionable these federal employees would have been used by presidential incumbents even if there had been no law.

Nevertheless, the Hatch Act has been accomplishing another unintended good. If the political use of federal employees by Presidents was never likely, the use of the same employees by labor unions is a much more real possibility.

Without the right to strike or take part in political campaigns, federal employees are already among the highest paid in the country. Without a Hatch Act they would have long since extorted the right to strike from Congress and along with it even greater advantages in pay, pensions, and other fringe benefits. That's not mere supposition, as the record of the county and municipal workers' unions attests.

When public employees are given the right to strike, as well as the right to engage in partisan political activity, there is delivered into their hands a combination of levers no other group of workers gets.

The members of the automobile workers union can strike to enforce their wage demands, but what would the price of cars look like if the union could also participate in the election of the auto manufacturers' boards of directors?

In addition, for many years public employees have had to negotiate with a pussy cat management; to wit, public officials who weren't spending their own money when they voted wage increases and productivity decreases.

In the last few years the pussy cats have stiffened somewhat because the rest of organized labor, the part that works in the private sector, has gotten so angry. The repeal of the Hatch Act, however, will make

it more difficult to keep government salaries in line with those of the rest of the world.

That may be the least of it. It is already close to impossible to fire a government employee because of the civil service. People on the public payroll are given, by law, greater security and tenure than workers in the private sector can get through collective bargaining. Now, by repeal of the Hatch Act, civil service employees will get so much more protection, and all coercive power to make them work will have been de facto abolished.

Repeal of the Hatch Act will demolish any good that may come from Jimmy Carter's zero-based budgeting or contemplated departmental reorganizations. It doesn't make any difference if a federal program is good or bad in concept if it is to be administered by a bureaucracy in which all supervisory control over the employees has been extinguished or attenuated to the point that the civil servants can be as abusively arrogant to their nominal bosses as they are already to the various publics they make wait in the endless lines of weary and frustrated people stretching out of every government office in America.

The lowest price that should be exacted for the repeal of the Hatch Act is a repeal of the Civil Service Act. Instead, President Carter will sign the measure proclaiming as he does that this is the political emancipation of the enslaved bureaucrats. But the first time he tries to put this creaking government to some good and efficient use, they'll thank him by shoving their fists down his mouth.

#### ILLEGAL IMMIGRATION: A MEXICAN VIEWPOINT

**HON. HERMAN BADILLO**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. BADILLO. Mr. Speaker, I have, as my colleagues know, held a deep interest in the problem of illegal immigration to this country. As time passes, it becomes increasingly clear that the root of the problem is not what is happening in this country, but what is happening in the sender countries. It does not matter whether we patrol our borders more thoroughly, or whether we institute criminal, or even civil, sanctions against employers of undocumented workers, and it will not matter whether we institute forgeproof methods of identification. Until we begin actively to work with the leaders of other countries, and direct our aid programs in positive job-producing industries in those countries, people will continue to seek economic opportunity in the United States.

An article by Alan Riding in this morning's New York Times vividly points this position up through an interview with Dr. Jorge A. Bustamante, one of Mexico's outstanding authorities on illegal immigration. Dr. Bustamante echoes the position of those of us who feel that the current direction of American immigration policy will only exacerbate an already critical situation. I commend this article to you:

#### MEXICAN SAYS UNITED STATES INVITES DISASTER ON ILLEGAL ALIENS

(By Alan Riding)

MEXICO CITY, May 25.—Mexico's leading expert on illegal migration to the United States has sharply criticized the Carter Administration's plans for dealing with the problem and has warned that its “myopic policy” could

bring disastrous consequences for both the United States and Mexico.

"The United States is looking at illegal Mexican migration as if it were simply a domestic problem," said Dr. Jorge A. Bustamante, an academic who has advised successive Mexican governments on the problem. "The Carter Administration isn't even considering the impact of its unilateral decision on our economy, on our levels of unemployment and, above all, on the border regions."

Although President Carter has still to announce his policy toward illegal migration, it is expected to include an amnesty for illegal aliens with several years' residence in the United States, new legislation to penalize employers of illegal aliens and a strengthening of the border patrol to stem the flow of Mexicans slipping into the United States.

The six-month-old Government of President José López Portillo has so far withheld comment on the American plans, but the issue was believed to have been discussed at a meeting in Washington today between the Mexican Foreign Minister, Santiago Roel, and Secretary of State Cyrus R. Vance.

In an interview, the 39-year-old Dr. Bustamante, a researcher at the Colegio de México, warned that any amnesty for illegal aliens in the United States would encourage hundreds of thousands more Mexicans to go north in search of employment. At the same time, he said, the Carter Administration's plan to bolster the border patrol and fine employers of illegal aliens would push the Mexican migrants back toward the 2,000-mile-long border.

Dr. Bustamante's fear is that such a policy would not only aggravate Mexico's economic problems but would also create a vast army of restive unemployed in the overcrowded and run-down Mexican border towns, spawning huge new slums and feeding the crime and violence that have already become serious problems.

"The phenomenon of social chaos in the border towns could bring a backlash on the American side and affect the broad spectrum of our bilateral relations, and it could well produce a wave of repression on both sides of the border," he said.

#### MOOD OF HOSTILITY NOTED

The population of Mexico's border towns has doubled to three million over the last 15 years, with most of the inhabitants living in shantytowns within one mile of the United States. The rapid and chaotic growth of the towns is expected to continue as unemployment in Mexico drives growing numbers to seek jobs in or near the United States.

Dr. Bustamante, who six years ago crossed into the United States as an illegal alien as part of his research into the problem, recognized that President Carter is under great pressure from organized labor to tackle the issue.

"There is a growing mood of hostility toward Mexican migrants," he noted. "All this talk of a 'silent invasion' has helped Americans associate such problems as unemployment, taxation and crime with illegal aliens. People are increasingly convinced that the Mexican migration is an evil that has to be eradicated."

"It's all so simple," he went on. "There are 6.7 million Americans out of work and they say there are six million illegal Mexicans in the U.S., so get rid of the Mexicans and you've got rid of unemployment."

But Dr. Bustamante insists that the Carter Administration's response to the problem is based on false premises. He believes that there are not six million to eight million Mexicans in the United States illegally but many fewer and that most illegal aliens are not taking jobs away from Americans but doing low-paid menial work that Americans refuse to do.

#### THIRTEEN INDICTED IN TEXAS BANKING CASE

### HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. ST GERMAIN. Mr. Speaker, last year, the Subcommittee on Financial Institutions Supervision, Regulation, and Insurance conducted an extensive investigation and hearings into the collapse of the Citizens State Bank of Carrizo Springs, Tex., and the various "control groups" which operate widely in Texas banking circles.

These hearings and related investigation have given us an important insight into the manner in which banks are bought and sold and milked for the benefit of their temporary ownership-control groups. The hearings produced evidence of classic patterns of insider lending and manipulation as well as a new look at Federal and State regulation of banks.

Last week, a Federal grand jury in San Antonio, Tex., indicted 13 persons in connection with the Citizens State Bank case. It is my understanding that this Federal grand jury is continuing its investigation and undoubtedly we will be hearing more of this case in the coming weeks.

Mr. Speaker, I want to place in the RECORD at this point three articles from the Dallas Morning News outlining the indictments and other aspects of this ongoing case:

[From the Dallas Morning News, May 21, 1977]

#### THIRTEEN INDICTED IN ALLEGED BANK SCHEME (By Stewart Davis)

SAN ANTONIO.—A federal grand jury indicted 13 persons Friday for their alleged roles in what investigators have termed the Texas "rent-a-bank" scheme.

The 49-count indictment charges 12 of the defendants with "reckless disregard" for the best interest of Citizens State Bank of Carrizo Springs, which was closed June 28, 1976, when \$3.5 million in bad loans were discovered.

Thirty-six loans involving \$1,912,800 are identified in the indictment as misapplications of bank funds.

Indicted were:

Enrique M. Salinas of Eagle Pass, director and majority stockholder when the bank collapsed. FBI agents were seeking to arrest and hold him on \$100,000 bond.

Gretchen Salinas, his wife, owner and operator of Galeria Inc. gift shop in Eagle Pass. Her bond was set at \$50,000, with release authorized on her personal recognizance.

Lewis Woodul of Cotulla, farmer, rancher and former president of the bank.

Dan Sanchez Jr. of Encinal, farmer and former co-chairman of the board at the bank.

Atlano de la Garza, a rancher from Del Rio and Muzquez, Mexico.

Luis E. Salinas, brother of Enrique Salinas, who is a Mexican citizen with an Eagle Pass address.

Ron Guess of San Antonio, former executive vice-president of the bank.

Blanca Alicia de Aldaco of Eagle Pass, reportedly a cousin of Enrique Salinas.

Bicknell Eubanks, II, U.S. customs inspector from Eagle Pass, identified in testimony before a U.S. congressional subcommittee as

the recipient of a loan from the bank used to purchase an airplane for Enrique's brother. Urban Farrow of Carrizo Springs, former chairman of the bank board.

Jesus Davis of Eagle Pass and foreman of De la Garza's ranch at Muzquez, Mexico.

Jose L. Flores of Eagles Pass and Monterrey, Mexico, owner of an insurance agency and Salinas' brother-in-law.

Richard George of Carrizo Springs, president of the bank before its takeover by Salinas.

Five of the defendants had been arrested late Friday. They are George, Farrow, Eubanks, De Aldaco and Guess. Two were released. Urban Farrow was released on \$50,000 personal recognizance bond, and Richard George posted a \$50,000 cash security bond.

The "rent-a-bank" phrase was used by investigators to describe the practice of bank "control groups" buying into banks and allegedly using bank assets for insider loans and other abuses.

Another state bank subsequently folded in Rio Grande City, another South Texas town, and the Federal Deposit Insurance Corporation has reported 60 "problem banks" in Texas, with some 35 of them having serious difficulties.

U.S. Attorney John E. Clark of San Antonio said the indictments were the first to result from a federal-state probe of South Texas banking practices that began last July after the collapse at Citizens State.

Clark said the indictments represent the end of the first phase of the inquiry. He indicated additional indictments would be issued against other people within two or three months.

Maximum penalties for the offenses charged range from five years in prison and \$10,000 fine on the alleged conspiracies and five years' imprisonment and \$5,000 for misapplication of bank funds and making false entries in bank records.

Salinas faced a total of 41 counts, his wife, 4, and Woodul faced 30 counts. The others were indicted on one to five counts. All except George, were charged with conspiracy. George was accused of disbursing a \$39,000 loan from which he benefitted personally.

The conspiracy accusation lists Enrique Salinas' late brother, Juan Salinas, as an undisciplined co-conspirator, along with Alex Short, his secretary, died in a mysterious plane crash on De la Garza's ranch.

Nance, vice-president of the bank when Salinas took control, was a key witness in congressional subcommittee hearings into the Texas bank situation last fall. U.S. Atty. Clark refused to comment on what role Nance might play in the defendants' trial, which under federal speedy trial procedures might come up this summer.

[From the Dallas Morning News, May 22, 1977]

#### INDICTMENTS NEXT CHAPTER IN BANK'S COLLAPSE

(By Stewart Davis)

SAN ANTONIO.—Enrique M. Salinas, 35, who pyramided a financial statement and Mexican ranchland into a 6-bank empire, was in Uvalde County jail Saturday, accused of conspiring to drain bank assets through his family and friends.

Salinas' empire of bank holdings collapsed when Citizens State Bank of Carrizo Springs was closed June 28, 1976, with \$3.5 million in "bad" loans, about \$2 million of that amount to him, relatives and associates.

Joseph E. O'Connell, FBI special agent in charge here, said Salinas and Salinas' wife, Gretchen Bentley Salinas, voluntarily surrendered to FBI agents at 10:30 p.m. Friday and were still in custody, awaiting arraignment before the U.S. magistrate at Del Rio.

Salinas was held in lieu of \$100,000 bond.



His wife was held in lieu of \$50,000 bond, subject to release on personal recognition by the magistrate.

Eleven others were indicted by a federal grand jury here, along with Salinas and his wife, for their alleged roles in what is known as a Texas "rent-a-bank" scheme, which consists of "control groups" gaining controlling interest in banks with borrowed money, then using bank assets for insider loans.

Five of the others were arrested, and two were released on bonds.

Salinas' group consisted of his brother, Juan, who died in a plane crash in Mexico a week before the bank closed, another brother, Luis, a Mexican citizen indicted in the alleged conspiracy, and Ron Guess of San Antonio, a financial adviser to Salinas and president of Maverick Air Inc. Charter Service, also indicted.

Salinas' group purchased Citizens State Bank from another group, headed by Ron Bramble, Willard Mertz financial consultants from San Antonio, and Dr. James Bauerle, a San Antonio oral surgeon and University of Texas regent.

The indictment named Salinas' late brother, Juan, as a co-conspirator but not as a defendant.

The federal allegation contends the conspiracy to milk funds from Citizens State Bank started with the naming of two Salinas associates, Lewis Woodul and Dan Sanchez Jr. (both indicted) as president and vice-chairman of the bank board, respectively. At the time, Salinas was borrowing about \$600,000 from Alamo National Bank of San Antonio to take ownership at Citizens State Bank.

Thereafter, the indictment spells out, the principals and their associates engaged in 36 loan transactions involving \$1,219,800 in purportedly legitimate loans which were improperly granted, totally or incompletely secured and granted with "reckless disregard" for the best interest of the bank.

Salinas was the main beneficiary in most cases, with relatives and associates receiving some of the funds, the indictment claims.

Urban Farrow, 73, president of the bank for 20 years until 1974 and one of those indicted, said after his release on bond in the case, that he signed for a \$67,500 loan on Jan. 6, 1976, as "an accommodation" to Salinas, who he said told him he needed the financial help for only a "few days."

Farrow denied he was part of any conspiracy, and he claimed handling of the entire Citizens State Bank closing by FDIC (Federal Deposit Insurance Corporation) officials and State Banking Commissioner Robert Stewart was "strange."

"There's no question," Farrow said in an interview, "from the moment they came in for the (bank examination, they had their hatchets in their hands."

He explained he felt the authorities never gave Salinas an adequate opportunity to obtain the funds necessary to cover the questionable loans discovered during bank examinations.

Salinas also contended in testimony before a U.S. congressional subcommittee hearing into the matter last year that he was the victim of prejudiced authorities.

Salinas contended he personally lost about \$3 million or \$4 million when the closure of Citizens State Bank led to foreclosure on the loans with which he had acquired control of Union State Bank of Carrizo Springs (which is in Dimmit County, South Texas), Security State Bank of McCamey (Upton County, West Texas), First Bank of Coppel (Dallas County), Comfort State Bank (Kendall County, Central Texas) and First National Bank of Anderson (Grimes County, East Texas).

Salinas claimed he obtained control of Citizens State to protect his cash deposits there.

Salinas was unavailable to comment on his indictment.

Others indicted by the federal grand jury in the alleged scheme include Atilano de la Garza, a rancher from Del Rio and Mexico; Blanca Alicia de Aldaco, a cousin of Salinas from Eagle Pass; Bicknell Eubanks III, a U.S. Customs inspector from Eagle Pass and Jesus Davis, a ranch foreman for De la Garza.

Also indicted separately was Richard George, president of Citizens State Bank prior to the takeover by the Salinas group. He was charged with converting a \$39,000 loan to his personal use, even though the loan was in the name of another person.

An example of the type of insider loans alleged by the indictment is a \$25,000 advance to Galeria Inc., an antique and jewelry gift shop operated by Gretchen Salinas in Eagle Pass.

The indictment claims the loan was not well secured and that the gift shop was not entitled to the bank's credit because no credit report on Galeria had been obtained, no collateral was pledged for the loan, no deed of trust was pledged to the bank and no verified financial statement of Galeria was obtained, all in violation of federal law.

In another case, customs agent Eubanks was alleged to have obtained a \$40,000 loan for an aircraft, without a lien on the plane ever given to the bank as collateral. The indictment alleged the plane wasn't worth \$40,000 and Eubanks never filed a verified financial statement.

Testimony to the congressional subcommittee examining questionable Texas bank activities showed the loan was used to purchase a plane for the use of Luis Salinas, Enrique's brother, because Luis, a Mexican national, was not eligible to own a plane with United States registry.

FDIC reports to the congressional subcommittee indicated possibly widespread banking abuses, including "control groups" and abusive banking practices that placed up to 60 Texas banks on a "problem" list.

About eight or nine "control groups" have been identified for scrutiny by government officials.

U.S. Atty. John Clark of San Antonio said additional indictments will be issued in a couple of months, naming others in the alleged abuse of legal banking practices.

Clark's year-long inquiry into the banking situation has been assisted by Texas Assistant Atty. Gen. John Blanton, on assignment as a special assistant U.S. attorney. Clark described cooperation from Atty. Gen. John Hill's office as excellent, and Clark cited other state and federal agencies for their assistance and cooperation in the probe.

Assistant U.S. Atty. W. Ray John headed the federal portion of the grand jury's investigation.

[From the Dallas Morning News, May 21, 1977]

#### CHARGES SPAWNED BY BANK COLLAPSE

SAN ANTONIO.—The indictment of 13 South Texans Friday is another in a series of ripples from the collapse last summer of Citizens State Bank in Carrizo Springs.

Closing of Citizens State has resulted in: Hearings last fall by the subcommittee on financial institutions of the U.S. House Banking, Currency and Housing Committee, aimed at remedial legislation and congressional oversight of regulatory enforcement agencies.

State legislative passage, upon Gov. Dolph Briscoe's recommendation, of a statute designed to screen new owners who buy 25 per cent or more of a bank's stock, thus becoming a "control group."

Grand jury probes in San Antonio and Dallas-Fort Worth.

Investigations by a myriad of governmental agencies, including the Justice Department, the Texas attorney general, the FBI, the Internal Revenue Service and the Federal

Home Loan Bank Board into the affairs of an assortment of banks, savings associations, insurance companies, government agencies and private firms and individuals.

Citizens State was closed by State Banking Commissioner Robert Stewart when bad loans totaled \$3.5 million.

Some of those loans were cited in the federal grand jury indictments filed here Friday, alleging a conspiracy to defraud the bank.

The indictment claims Enrique M. Salinas, whose ownership of five Texas banks disintegrated upon the collapse of Citizens State, obtained control of Citizens State Bank and put Lewis Woodul in as president and Dan Sanchez Jr. as director.

The indictment contends Woodul and Sanchez misapplied bank money in the form of numerous loans to the other accused "purporting to be legitimate loans made in the ordinary course of banking, but which were in truth and fact improperly granted, improperly secured or totally unsecured and granted with a reckless disregard for the best interest of the said Citizens State Bank."

The charge goes on to say that the proceeds of the loans were converted to the personal use of Salinas and other members of the group, exceeding the legal loan limit of the bank.

The alleged conspiracy was accomplished, the indictment said, through numerous false and fraudulent entries in the bank books as a coverup of the true nature of the loans and "to deceive the Federal Deposit Insurance Corporation and agents and examiners appointed to examine the affairs of the bank."

The indictment also alleged the conspiracy included such actions as making the bank records reflect legitimate loans so that the accused could sell a share of those transactions to other financial institutions, thereby obtaining additional funds from other financial institutions "to disburse to and among themselves..."

Bank certificates of deposit were issued, the indictment claimed, which had not been paid for, and these certificates were pledged for loans at other financial institutions.

Further, the indictment claims some of the accused gave immediate credit to checks drawn on foreign banks by the accused, even though in some instances the checks were never honored.

The indictment then describes each of 36 loans for \$1.9 million alleged to be misapplications of bank money.

Salinas testified under oath to the congressional subcommittee last fall that he may have been the victim of bank control groups that sold to him. He contended he was using family wealth from Mexican ranch lands to go into the banking business in Texas.

Salinas, 35, formerly a school teacher in Eagle Pass, said he lost several million dollars personally when his control of six Texas banks was lost as lienholders foreclosed.

#### THE FARM UNEMPLOYMENT STATISTICS BILL

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. NOLAN. Mr. Speaker, Congress has passed a great many laws providing economic aid and stimulus to State and local governments. We have appropriated funds for public works jobs, CETA, community development projects, revenue sharing, and a host of other programs. I wholeheartedly support the concept behind returning these funds to the localities, but I am deeply concerned about

the unjust manner in which these funds are being distributed.

We have not given due consideration to the ways in which many of those laws discriminate against people in rural areas as a result of the fact that their distribution is based entirely or partially on unemployment statistics that do not accurately reflect the economy in rural areas. Congress chose those statistics as a basis for distributing Federal funds largely because it has been assumed that employment means earnings and, therefore, buying power—and that buying power reflects economic conditions in a given area. On the surface, these statistics may seem to provide a nationwide common denominator, but it does not hold true in rural areas because they do not reflect one of the most basic components of the rural economy: the buying power of the farmer.

The Bureau of Labor Statistics does not really know how to deal with the occupation of farming. Because farmers are always "working" in the traditional sense of the word, they are always counted as "employed," and are therefore included when the total civilian labor force is calculated. However, they never show up in the unemployment statistics, regardless of whether or not they are "earning money" in the sense of having cash to put back into rural businesses. The economic health of those rural businesses is vitally dependent on the financial condition of the farmers in the area—yet severely depressed farm earnings and the resulting depressed earnings in local businesses do not show up in the statistics by which we are supposedly measuring the area's need for economic assistance. My district's farmers lost over \$50 million last year because of drought, but the unemployment rate stayed between 2 and 4 percent. Because of the way the BLS definitions weight the scales, those statistics are a distortion of the true situation. Clearly, the economy in those rural communities needs help, but because we refuse to acknowledge the different nature of those economies, the needs of rural people are being ignored.

This situation can have devastating effects on rural areas by forcing the mobile members of small communities to move to the urban and suburban areas where unemployment statistics are high enough to rate Federal jobs programs. This exodus of small businessmen and wage earners will result in the erosion of the local tax base as town revenues become dependent on senior citizens with fixed incomes and lower income people who are unable to relocate in the urban centers. This will add impetus to the downward spiral of the local economy as the repercussions are felt in local school systems and community services dependent on local taxes. By ignoring the interrelationship between local farm income and the well-being of the rural economy as a whole, we are contributing to the erosion of the rural way of life.

It is time for Congress to strengthen rural communities—not add to the pressures that turn them into ghost towns. If we continue to distribute Federal assistance inequitably between urban and rural areas, rural citizens will be compelled to flock to wherever the jobs are

being created. This will only compound the unemployment problem in cities and urban dependency upon the Federal Government will only grow as welfare rolls and unemployment assistance payments increase.

We must acknowledge the fact that farming falls into an employment category entirely different from most other occupations in this country. Farmers cannot control the weather, and "working" 365 days a year to bring in good crops does not necessarily mean the market price will allow them to recover their cost of producing those crops. Some people argue that "those are just the risks of farming and they have to be accepted"—and we will be arguing that issue here on the floor in the near future as we consider the farm bill—but the economic impact on the rural economy when farmers have no cash to spend at local businesses cannot be denied.

On the whole, unemployment statistics provide a relatively acceptable reflection of buying power in urban areas where most labor is compensated by wages or salaries. The challenge, then, is to provide a means whereby low buying power is adequately reflected in rural areas. I believe my proposal provides a workable compromise. It is based on recognition of the fact that when an individual whose sole occupation is farming reported a net farm loss for a given tax year, his "income" situation is roughly equivalent to "unemployment" for someone who normally works for wages or a salary. Neither has much income to put back into the rural economy. In fact, the farmer is usually deeply in debt since he has to borrow money to put in the next year's crop. And because the adult members of his family who also work on that farm are also dependent on the farm's net income, they, too, are economically equivalent to "unemployed."

I am proposing that the Bureau of Labor Statistics be required to compile statistics on these individuals with the assistance of the Internal Revenue Service, and that they be included in the unemployment statistics on which distribution of Federal assistance is based.

When we weigh the need for economic stimulus and support in urban and rural areas, we should make sure the scales are not unfairly weighted at the outset. I hope my colleagues will recognize the justice in my proposal and support it.

#### NATURALIZATION CEREMONIES— FEBRUARY 22, 1977

#### HON. THOMAS A. LUKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. LUKE. Mr. Speaker, I would like to share with my colleagues the text of a speech given by my constituent, Dr. Nicholas J. Tapay, at naturalization ceremonies on George Washington's birthday, February 22, 1977.

Dr. Tapay was born in Hungary and has been a naturalized citizen since 1962. In June 1951 when he was a senior medical student in Budapest, he was deported

with his family to a labor camp in eastern Hungary because his father was a professional army officer of the prewar regime. In November 1951, Dr. Tapay was released from the camp to finish his medical studies, but his family was left behind in camp for 2 more years.

On November 1, 1956, during Hungary's fight for freedom, Dr. Tapay became the youngest member of the Council of Cegled. In December of the same year, he escaped to the West and came to the United States on February 26, 1957.

From 1957 to 1962, Dr. Tapay trained in Cincinnati and in Kansas City as a pediatrician. After becoming a citizen in 1962, he has been practicing medicine in College Hill in my district. Dr. Tapay is a past president of the American-Hungarian Society of Cincinnati.

I think you will enjoy, as I have, Dr. Tapay's profound appreciation for our country and the principles upon which it was founded:

#### GREETINGS TO THE NEW CITIZENS ON GEORGE WASHINGTON'S BIRTHDAY

Your Honor Judge Porter, Dear New Fellow Citizens and Friends: It is indeed a great honor for me to participate in this festive occasion and greet you as new citizens of the United States. For a naturalized citizen like me, it is certainly an exceptional privilege to have an opportunity to do this today, February 22nd, on the birthday of the father of our country. As we gather here today, enjoying the spiritual and material achievements of 200 years of independence let us go back for a few minutes in memory to those times when this nation was created. It was created by a conscious act of men who set as fundamental goals for their country liberty, justice, equality and progress. These were almost unheard ideals in the political reality of the 18th century and it is no wonder that it took a revolutionary war to establish these ideals as guiding principles for a functioning political system. It was exactly these ideals of the founding fathers which made America so unique among the nations of the world. They attracted and still attract people from all over the world since they express basic, simple but long suppressed human aspirations. I'm sure they had much to do with your decision too as you were planning to leave the old country and settle in a new one. We Americans owe probably no one more for what has been achieved than George Washington who so conscientiously guarded these ideals during his 2 terms as this nation's first president.

When in his kind invitation Judge Porter reminded me that this day would be actually Washington's birthday, although officially it was observed yesterday, I thought it most appropriate to do a little research into his speeches, proclamations and writings and present you with a few of his thoughts. In doing so I will quote him a few times. For the sake of easier understanding please permit me to substitute modern English for some of his archaic words.

How did he envision the functioning of our government?

He most humbly offered his prayers "to enable us all, whether in public or private positions, to perform our duties properly and punctually; to render our national government a blessing to all the people, by being a government of wise and just and constitutional laws, discreetly and faithfully executed and obeyed."

The need to hear a wide range of opinions in the political life of the nation was interpreted by him in the wisest way when he

Footnotes at end of article.



said: "A difference of opinion on political matters is not to be charged to free men as a fault, since it is to be presumed that they are all caused by an equally laudable and sacred regard for the liberty of their country."<sup>2</sup>

What a far cry this is from the attempt of many political systems today to unnaturally unify the political expression of a citizenry and claim it as the "will of the people".

He felt that there are 2 factors essential for the internal stability of a country—free elections and an informed electorate.

"... it remains for the citizens of the US to show the world that the accusation that republican governments are not stable is without foundation, when that government is the deliberate choice of an enlightened people."<sup>3</sup>

In his political philosophy the role of the government and the leaders was beautifully summarized when he stated: "Government being, among other purposes, instituted to protect the persons and consciences of men from oppression, it certainly is the duty of rulers not only to abstain oppression themselves, but also to prevent it in others."<sup>4</sup>

He took justifiably great pride in religious liberty already established: "In this enlightened age and in this land of equal liberty, it is our boast that a man's religious tenets will not forfeit the protection of the laws, nor deprive him of the right of attaining and holding the highest offices that are known in the US."<sup>5</sup>

He defined as the sources of national and personal happiness: "Your love of liberty, your respect for the laws, your industriousness and your practice of the moral and religious obligations are the strongest claims to national and individual happiness, and they will, I trust, be firmly and lastingly established."<sup>6</sup>

He summarized the essence of his foreign policy as follows: "... my foreign policy has been to cultivate peace with all the world; to observe treaties with pure and absolute faith; to check every deviation from the line of impartiality; to explain what may have been misapprehended and correct what may have been injurious to any nation, and having thus acquired the right ... to insist upon justice to ourselves."<sup>7</sup>

For me, who 20 years ago had to risk my life to reach the sanctuary of the free world, it is amazing how he foresaw this country as the asylum for political refugees. In one of his Thanksgiving proclamations he asked the Almighty: "... to render this country more and more a safe and proper asylum for the unfortunate of other countries."<sup>8</sup>

In perspective he saw the role of this nation as follows:

"The virtue, moderation and patriotism, which marked the steps of the American people in framing, adopting and thus far carrying into effect our present system of government, have excited the admiration of nations; it is only up to us to uphold these principles, that we may gain respect abroad and insure happiness to ourselves and our children. It should be the highest ambition of every American to extend his views beyond himself and to bear in mind that his conduct will not only affect himself, his country and his next generation, but that its influence may be felt all over the world and stamp political happiness or misery on ages yet unborn."<sup>9</sup>

As closing remark let me quote from one of his addresses to Congress in which he asked the Lord: "... to perpetuate to our country that prosperity which his goodness has already conferred and to verify the anticipations that this government be a safeguard to human rights."<sup>10</sup>

Footnotes at end of article.

As the cause of human rights was foremost in the mind of our first president so it appears to be a leading principle of our new president too. In his recent, quite sensational letter to Sakharov, the great Russian scientist and brave dissident, he emphasized that: "... we will continue our efforts to shape a world responsive to human aspirations in which nations of differing cultures and histories can live side by side in peace and justice."

One cannot fail to see that as centuries have passed, our first and present presidents still see their duty unchanged: to provide and protect equal liberty in peace with justice for all.

I'm sure much happiness and joy fills your heart when this country with these ever lasting principles officially accepts you as one of her citizens. As you start a new life among us I wish all of you good luck in all your endeavors.

God bless you—fellow citizens.

#### FOOTNOTES

Reference: The Writings of George Washington by Jared Parks Volume XII. Ferdinand Andrews Publisher. Boston, 1839.

<sup>1</sup> Page 120.

<sup>2</sup> Page 157.

<sup>3</sup> Page 205.

<sup>4</sup> Page 168.

<sup>5</sup> Page 202.

<sup>6</sup> Page 172.

<sup>7</sup> Page 53.

<sup>8</sup> Page 133.

<sup>9</sup> Page 165.

<sup>10</sup> Page 54.

### SISTER STELLA MARIE CELEBRATES HER GOLDEN JUBILEE

#### HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. FARY. Mr. Speaker, I am often inspired and deeply moved with pride when I reflect on the great and humble personalities I have known in my lifetime. One such personality that stands at the forefront of my thoughts is Sister Stella Marie who will celebrate her golden jubilee as a religious nun on May 30, 1977. This golden jubilee celebration is but one of the many milestones in the 50 years Sister Stella Marie has been a servant of the Lord, an administrator, and an educator.

Sister Stella Marie Benben, is the daughter of the late Stanley and Josephine Siwek Benben. She was born on September 9, 1909, in Chicago, Ill. Her elementary education was received at Saints Peter and Paul and Nathanael Green Schools, and she graduated from Good Counsel High School.

August 15, 1927 marked the first landmark on a road that led Sister Marie to many years of gratifying service; she entered the Felician Community on that day. A year later, on August 12, 1928, she was invested in the habit of St. Francis. Then, with the passing of another year, she professed her first vows of chastity, obedience, and poverty. Her perpetual vows were taken 6 years later.

Later, Sister Marie was given a teaching assignment at St. James School in Chicago marking yet another milestone.

Teaching became a passion with Sister Marie. She served the children as she serves the Lord: with total devotion. For 8 years she taught the intermediate grades at St. James School, and spent 1 year at Holy Rosary School in North Chicago, Ill.

In 1938 Sister Stella Marie took her devotion to De Paul University where she worked for 2 years as a day student. On August 1, 1940 she received her bachelor science of commerce degree.

She joined the faculty at St. Joseph High School in Chicago and opened the secretarial department teaching shorthand, typewriting, and religion. She taught there for 17 years. Even while teaching she continued her personal education, working toward her master of arts degree in education which she received on June 13, 1951 from De Paul University.

Her hard work and devotion at St. Joseph led to the position of principal of Good Counsel High School. For 10 strong years she served as administrator there. She took on many ambitious projects which benefited the school. It was her supervision that guided the building of the new Good Counsel High School which she moved to in January 1966.

Later she returned to St. Joseph High School where she served as both a teacher in the business school and the assistant principal.

In 1971 and 1972 Sister Stella Marie served as the personnel manager at St. Mary's Home for the Aged in Manitowoc, Wis.

Sister Marie loved the people at the home but her heart was in the classroom. After 2 years she returned to St. Joseph High School where she is presently teaching shorthand, typewriting, and secretarial skills.

The celebration of her Golden Jubilee will be held on May 30, 1977 at the Motherhouse located at 3800 Peterson Avenue, Chicago, Ill., where a special Mass will be celebrated in her honor.

At the same Mass there will be many other nuns celebrating their Diamond, Golden, and Silver Jubilees. Those celebrating their Diamond Jubilee—75 years of service—will be Sister Mary Sanctuslaus Stempowski and Sister Mary Ambrose Manicki. Those celebrating their Golden Jubilees—50 years of service—will be:

Sister Mary Fidells Wyzkowski, Sister Mary Alacoque Wilczek, Sister Mary Lambert Rogala, Sister Mary Miriam Kontny, Sister Mary Ferreria Wardzala, Sister Mary Albinetta Tamillo, Sister Mary Dulceda Wirtel, Sister Mary Jeanne D'Arc Szczawinski, Sister Mary Viterbia Chmielewski, Sister Mary Cypriana Pawlikowski, and Sister Mary Lucretia Stopka.

Sister Mary Pontiana Kuspa, Sister Mary Theonille Veteska, Sister Mary Ewald Lupa, Sister Mary De Paul Sykta, Sister Stella Marie Benben, Sister Mary Redempta Lazarski, Sister Mary Nativitas Wlodarczyk, Sister Louise Marie Goralski, Sister Mary Geraldine Stopka, and Sister Mary Virgilia Raclawski.

Silver Jubilarians—25 years of Service—will be Sister Mary Franceline Gorski, Sister Mary Virginia Sztorc, and Sister Mary Marcelitta Krygowski.

These women are a great source of

pride. Their lives have served to inspire many, just as the life of Sister Stella Marie has inspired me to reflect, with such esteemed pride and honor, here before the House of Representatives.

# THE U.S. DEFENSE EFFORT REQUIRES CRUISE MISSILE DEVELOPMENT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. KEMP. Mr. Speaker, Clarence Robinson of Aviation Week & Space Technology, recently wrote a most important article on the cruise missile and its relationship to the ongoing SALT II negotiations.

Mr. Robinson discussed the vital nature of this program to our defense effort and the threat to the future of our cruise missile technology posed by shortsighted negotiations.

We should take note of the fact that a moratorium on cruise missile development, as Mr. Robinson reminds us, would be one sided indeed, as the Soviets already have deployed cruise missiles with nuclear warheads that can be targeted against major U.S. population centers.

The article follows:

## CRUISE MISSILE HALT CONSIDERED

(SALT negotiators base talks on development moratorium in exchange for backfire restrictions, delivery vehicle cuts.)

(By Clarence A. Robinson, Jr.)

WASHINGTON.—U.S. is considering a moratorium on cruise missile development in order to reach an agreement with the Soviet Union for a second strategic arms limitation treaty.

U.S. and Soviet strategic arms negotiators meeting last week in Geneva based their discussions on the proposed moratorium for cruise missile development for an interim period in exchange for possible restrictions by the Soviet Union on its Tupolev Backfire bomber and some reductions in the total number of strategic delivery vehicles.

The cruise missile moratorium would be for the period between a second strategic arms treaty and a more comprehensive agreement reducing nuclear weapons called SALT-3.

Still unclear is the effect such an accommodation by the U.S. will have on hundreds of cruise missiles already deployed at sea by the USSR on surface vessels and submarines, and on a U.S. program designed to develop tactical antiship cruise missiles.

Verification of cruise missile limitations will be a sticky point in any agreement, according to U.S. officials, and even an on-site inspection, which the Soviets have rejected in the past, will not be foolproof because cruise missiles on both sides have been designed to carry both conventional and nuclear warheads.

Range limitations also are being considered by the U.S. and USSR negotiators to insure that cruise missiles are limited to tactical applications, but many cruise missiles already in the Soviet inventory, which are now guidance-limited, have aerodynamic capabilities far in excess of present guidance restrictions.

President Jimmy Carter is eyeing range restrictions for cruise missiles, which would permit deployment of only the air-launched

cruise missile (ALCM-A) with a range of under 1,000 naut. mi., according to some Administration officials. This would preclude the U.S. from completing development of the longer-range ALCM-B, the ground-launched Tomahawk or sea-launched strategic cruise missiles with ranges of about 2,000 naut. mi.

U.S. Negotiators also are preparing to begin talks in Washington next month aimed at reaching an agreement with the Soviets for a complete test ban treaty barring all nuclear weapons testing by both nations.

Like a cruise missile moratorium, such an agreement calling for a complete test ban places the U.S. in a disadvantaged position as opposed to the Soviet Union, U.S. officials said. The reason is that U.S. nuclear weapons laboratories need to complete some testing of nuclear weapons devices for the advanced mobile MX ICBM, the Trident D-5 submarine-launched ballistic missile and other weapons.

Such an agreement would halt all nuclear weapons testing in the U.S., but the Soviet Union could continue to test nuclear devices below a level of about 20 kilotons without detection by the U.S.

"Testing of such low yields may not seem important to those not knowledgeable in nuclear weapons development," a U.S. official said, "but it has permitted this country to make necessary fixes to warheads in the inventory over a period of years. The U.S. would certainly honor any such treaty, but the Russians might not, and we would not know about it until too late."

The U.S. cruise missile development programs and the Soviet Backfire bomber have been the focal point for disagreement between the two nations since the Ford-Brezhnev Vladivostok meeting when both sides agreed in principle to a limit of 2,400 strategic delivery vehicles and a limit of 1,300 multiple independently targetable reentry vehicles. President Carter wants a SALT-2 pact, but is pressing for reductions below the Vladivostok level.

While the U.S. might not be able to deploy cruise missiles under any treaty providing for a moratorium, the Soviets already have deployed cruise missiles with nuclear warheads that can be targeted against major U.S. population centers. Soviet Echo 2 submarines armed with cruise missiles can lay off New York City at the 100-fathom line, which is about 95 mi. from the coast, and launch cruise missiles. The 100-fathom mark is about 125 mi. from Washington, D.C.

The ranges of Soviet SS-N-3 and an advanced SS-N-12 Shaddock-type cruise missile are guidance-limited to about 250 naut. mi., but their aerodynamic range is about 500 naut. mi. The missiles have provisions for a 2,200-lb. nuclear or conventional warhead, and missiles in the inventory are armed with both. Since the 1960s, the USSR has produced more than 5,000 cruise missiles in a variety of ranges. Cruise missile ranges generally fall into three categories:

Up to approximately 25 naut. mi., where the cruise missile can be guided to its target by radar, electro-optical and infrared sensors on the launch platforms. The U.S. Navy's Standard Arm missile on some small patrol boats and the USSR's SS-N-2 and SS-N-11 carried by Osa-class boats and some destroyers are in this category, as are submarine-launched SS-N-7 Sirens and the anti-submarine SS-N-14 missile.

Up to about 100 naut. mi. for use against targets over the horizon, where targeting is performed by helicopter or fixed-wing aircraft. The U.S. McDonnell Douglas Harpoon missile and the Soviet SS-N-9 missile are in this range category.

More than 100 naut. mi., with either fixed-wing aircraft or satellites used for targeting by the USSR. The U.S. Navy/General Dy-

namics Tomahawk cruise missile and the USAF/Boeing air-launched cruise missile would fall into this category along with the USSR SS-N-3 and its successor the SS-N-12, which is now deployed on the Soviet carrier Kiev. The U.S. cruise missiles use terrain contour matching guidance and are extremely accurate.

The SS-N-3 and SS-N-12 are deployed with a guidance relay system for use against moving targets such as ships at ranges to 250 naut. mi. This range limit now is determined by data link limitations. The missiles fly at altitudes of 10,000 to 20,000 ft., and the data link is used to correct drift errors in the early stages of flight.

The air-launched cruise missile is the only U.S. strategic cruise missile program now in development. The Tomahawk cruise missile, which could have a range of more than 2,000 naut. mi. with extreme accuracy, is now funded in development as a shorter-range anti-ship tactical weapon and theater nuclear weapon even though its potential as a strategic delivery vehicle is greater than the air-launched missile.

One of the major reasons the Soviets have been so adamant about halting the U.S. cruise missile program is the concern that the cruise missile will be deployed on the West German plains with nuclear warheads to replace U.S. aircraft now standing alert in Europe.

With the range capability of the Tomahawk, which would be the missile airframe for the ground-launched cruise missile, the weapon would reach areas of the Soviet land mass as well as defend against massed armor attacks thrown at North Atlantic Treaty Organization nations.

One of the major reasons the U.S. is moving toward placing cruise missiles in its inventory is the recent decline in the number of large aircraft carriers now providing principal striking power in conventional and tactical nuclear weapons for the Navy. The accuracy available in the weapon and the low altitudes at which it flies below radar detection make it an attractive weapon system, particularly in view of the thousands of surface-to-air missiles deployed in the Soviet Union. None of the U.S. cruise missiles now deployed matches the average weight of Soviet cruise missiles, and neither the Standard Arm nor the Harpoon has a nuclear warhead capability. All of the Soviet cruise missiles are believed to have a nuclear warhead option except the SS-N-2 and its successor, the SS-N-11.

Before the initial deployment of the Harpoon in 1976, only four small patrol craft operating in the Mediterranean were armed with the Standard Arm missile. The Harpoon is scheduled for deployment this summer on a large number of surface vessels, submarines and aircraft.

The USSR now has about 230 vessels at sea armed with cruise missiles. This includes surface ships in the aircraft carrier/missile cruiser configuration like the Kiev and several classes of cruisers and destroyers, as well as several classes of nuclear-propelled submarines.

The Defense Dept. was being asked last week by U.S. negotiators in Geneva to assess the effect of a moratorium on cruise missiles and to determine range limitations that could still permit development and deployment of tactical anti-ship cruise missiles.

The Joint Chiefs of Staff were scheduled for a White House meeting late last week to discuss the cruise missile issue and what the ramifications of a moratorium or range limitations would be on the weapons system.

In the June meeting in Washington on a complete test ban treaty, the U.S. is preparing to respond to a Soviet initiative offered earlier at Geneva for a complete test ban for a period of 18 to 24 months. The USSR wants to have other nations with nu-



clear weapons join in accepting a complete test ban agreement, particularly China. The interim period proposed is to see if other nations will agree to the ban along with the U.S. and the USSR.

#### EDITORIAL SCORES CONGRESS FOR NEGLECT OF MASS TRANSIT

**HON. ROBERT W. EDGAR**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. EDGAR. Mr. Speaker, I was very disappointed that President Carter's April 20 energy message failed to propose vitally needed legislation to improve our deteriorating public mass transit systems. Recently, Secretary of Transportation Brock Adams offered a proposal to use part of the standby gasoline tax for the purpose of revitalizing our transportation network. While I do not endorse the specifics of this proposal, which has not been approved by the administration, I feel that it is certainly a step in the right direction toward meeting the vital transportation needs of this Nation.

An editorial of the Philadelphia Inquirer appeared yesterday which underscored the need for more sensitivity toward our transportation needs, in view of our goals to reduce energy consumption. I would like to share this editorial with my colleagues:

IT IS TIME FOR CONGRESS TO END TRANSIT  
NEGLECT

U.S. Secretary of Transportation Brock Adams, testifying before the House Ways and Means Committee, has suggested that gasoline tax revenues in the Carter energy program be earmarked for mass transit purposes.

That is a significant breakthrough—an encouraging indication of increased concern with transit needs by the Carter Administration. Such concern was absent conspicuously in the President's initial energy proposals.

The Adams suggestion merely scratches the surface, however. The time has come for America, now more urban than rural, to make a commitment to energy-efficient mass transit comparable to the commitment that was made to highways.

The Highway Trust Fund, fed by the gasoline tax and other vehicle-related revenues, has poured billions annually into highway construction for decades. Mass transit, a neglected orphan, wasted away in the process.

One place it wasted away was in the nation's capital. Despite belated efforts to catch up on transit needs with construction of a subway system, Washington public transportation has serious service and financial difficulties. Rush-hour bus fares will rise from 40 to 50 cents in July.

Secretary Adams, in another indication of growing Carter Administration concern about transit, has made a provisional offer of federal aid to help resolve the fiscal crisis in Washington's public transportation system.

On the same day that Secretary Adams testified before the Ways and Means Committee, Chairman James McConnon of the Southeastern Pennsylvania Transportation Authority also was on Capitol Hill. Testifying before the Surface Transportation Sub-

committee of the House, he made a strong case for comprehensive congressional action on mass transit this year.

More specifically, he called for increased federal aid for mass transit through establishment of a predictable funding base so that transit systems can meet immediate and long-range responsibilities in a nation confronted with limited energy resources.

An affirmative response to urban transit problems is required by Congress not only in the Philadelphia area, where SEPTA's financial troubles are of crisis proportions, but in cities and suburbs large and small throughout the country.

The Highway Trust Fund, as Mr. McConnon testified, "is grossly inequitable and unfair against the citizens in our metropolitan and urban areas" where mass transit systems are essential.

Mass transit, including rail lines, is in essence an urban extension of the highway system and should be funded with the recognition that, just as rural areas can't get along without highways, cities and suburbs can't get along without mass transit.

Highways and mass transit are not really competitive. They are complementary. Urban and rural members of Congress, working together, should produce a mutually acceptable program whereby substantial proceeds from gasoline tax revenues will be earmarked for mass transit commensurate with need.

Existing transit funds should be distributed equitably. Present formulas favor less densely populated areas at the expense of more densely populated areas. Chairman McConnon noted, for example, that the six-cents-per-passenger federal subsidy received by SEPTA compares with as high as 20 cents per passenger in some cities. Federal funds to SEPTA amounting to 20 percent of the operating deficit compare with subsidies as high as 50 percent elsewhere.

Commuter railroad services, a particularly attractive form of mass transit in terms of both travel time and energy conservation, urgently need stronger federal financial support. Existing federal law phases out U.S. contributions to cover commuter rail operating deficits. Congress should amend the law to preserve U.S. operating subsidies for commuter railroad lines.

State, regional and local governments also have heavy responsibilities to maintain and improve mass transit. But, it is the duty of Congress to recognize that prolonged federal neglect of mass transit, while highways were king, is the primary cause of the pitiful state of urban public transportation in the United States today. That neglect should be ended by Congress this year.

#### HOW REMOTE THE RISK OF SACCHARIN

**HON. JAMES G. MARTIN**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. MARTIN. Mr. Speaker, the American people are greatly concerned that the FDA is about to move to ban saccharin from diet foods and drinks and even as a necessary sweetener for toothpaste orally administered medicines. They are becoming more concerned that Congress has done nothing to stop the ban. They do not regard the FDA claim as indicating much of a risk.

Only about a fourth of the population uses saccharin, but a recent survey

showed that the public opposes the ban 5-to-1. Since the risk is remote at worst, most people reject the need for a ban, feeling that it would suffice to require warning labels and educate the public as to the risk.

What is the risk?

That can only be answered by making a series of assumptions based on the 1977 Canadian research. The FDA has estimated there would be 0-to-1,200 additional cases, only a 4-percent increase over the current 30,000 cases a year. That upper range is based on inflated arithmetic, and is probably high by a factor of 40.

First, you must assume that humans are as sensitive at their low dose as the rates are at the experimentally necessary, but nevertheless outrageously large, overdose. You must assume that the carcinogenic effect observed in the rats is chemically induced rather than the result of extreme physical irritation—otherwise there would be a no-effect threshold just a little lower than the massive overdose. If you allow these doubtful assumptions, for the sake of calculation, then you can assume that the dose/response curve is a straight line: that the frequency of cancer is proportional to the saccharin consumed.

Any average daily dose can then be used for the calculation, because whether you figure 1 million consumers taking two cans of diet drink or 2 million consuming one can per day, the predicted tumor incidence will be the same. This calculation will use a 150 mg/day dosage, because that is about the saccharin content of a single 12½-ounce diet beverage, and because that is the dose assumed in the FDA calculation. For a 60 kilogram—132 pound—human, 150 mg represents a saccharin diet of 2.5 mg per kg of body weight; which is one-thousandth the rat dosage of 2,500 mg/kg.

It is pointless to assume next that every man, woman and child in America consumes 150 mg of saccharin a day. That would total 26 million pounds of the stuff a year, when in actual fact: Only 6 million pounds of saccharin is actually consumed in this country. So, there's only enough for 50 million Americans to get an average of 150 mg per day.

First, 216 million Americans times 150 milligrams per day over 454 grams per pound times 365 days per year over 1,000 milligrams per gram equals 26 million pounds.

Second, 6 million pounds per year over 365 days per year times 454 milligrams per pound over 150 milligrams per day per person equals 49.7 million persons.

While some argue that women consume more saccharin than men, it does not affect the next step much to assume the simplest case, that the 50 million Americans consist of 25 million each of men and women. This could of course be refined further, as could the 60 kilogram body weight average, and would only result in a slightly smaller calculated risk.

Now, if 25 million males ingest 2.5 mg/kg of saccharin per day their risk—as a first approximation—would be 0.1

percent of the fraction of the male test animals found to develop bladder tumors at 2,500 mg/kg dosage. Since 24 percent of the test rats developed tumors, the chance for 25 million human males would be:  $25,000,000 \times 0.24 \times 0.001 = 6,000$  tumors over their lifetime.

Since the life expectancy of U.S. males is 71 years, there would be 85 cases a year ( $6,000 \div 71$ ), unless modified by other assumptions.

In the 1977 Canadian research, female test rats had no significant increase in cancer. Rather than assume that females are immune, a better assumption would be that since human females experience only one-third the incidence of bladder tumors as males: their sensitivity would be one-third that of males. Accordingly, with a life expectancy of 73 years, the risk—first approximation—for 25 million females would be  $25,000,000 \times 0.24 \times 0.001 \times 0.33 \div 73 = 27$  tumors.

The combined total would be  $85 + 27 = 112$  tumors per year—not 1,200—as an upper limit, provided no other assumptions are required. Another inescapable assumption is, however, required.

There is no experimentally significant increase in cancer in test rats unless both of two drastic conditions are imposed:

First. They must be fed at least 2,500 mg/kg/day; and

Second. This high dosage must begin with the mother at conception, continuing throughout the pregnancy, so that the fetus is exposed in utero to a very high concentration effect within the placenta.

If both conditions are met, there is a significant increase in bladder tumors; if not, there is no significant result. If, as already assumed, there are 50 million saccharin users—23 percent of the population—then 23 percent of mothers might be expected to use saccharin during pregnancy. Thus, only 23 percent of the lifetime users would also meet the second test of being exposed in utero. That reduces the upper risk to 23 percent of 112, or 26 tumors.

Once again, it must be emphasized that this is an upper limit of a range of 0-to-26. If you assume, as I do, that the carcinogenic effect in the rat is only due to an unrelenting physical torture of the bladder tissues by the microcrystals formed at such high doses, then it is highly unlikely that lower doses would cause any tumors at all.

Two further observations should be made. Since one-third of bladder tumors are benign, the upper limit of malignant cancers may be even smaller ( $26 \times .67 = 17$ ).

Since 30 percent of bladder tumors are fatal, the mortality rate predicted by the upper limit of this calculation would be:  $(26 \times 0.30) = 8$ . These numbers are regrettable if there is in fact even one such death, but are small indeed when compared with the current American rate of 30,000 bladder tumors a year and a bladder cancer mortality rate of 9,000 a year. Thus, less than 0.1-percent increase is predicted.

No one is in favor of even one addi-

tional cancer, just as we are not in favor of one additional highway fatality or heart attack. Nevertheless, it is important to correct the earlier faulty estimate that the risk is in the range of 0-to-1,200 cases a year, because that upper number is being quoted as though: first, it were a reasonable calculation; and second, there were actually some evidence to back it up.

In fact, there is no evidence that any human has ever gotten one tumor from the normal consumption of saccharin.

Even if all the assumptions are granted and the upper limit of 8 additional deaths is assumed, it would make no more sense to ban saccharin over this, than it would to ban leafy vegetables, grains, nuts, processed meats, milk, eggs, and butter; or reduce the automobile speed limit from 55 mph to 54.9 mph.

#### ASSESSMENT ON CIVIL DEFENSE

### HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES  
Thursday, May 26, 1977

Mr. BOB WILSON. Mr. Speaker, civil defense as a part of our national security program has been too long ignored, while the Soviet Union has for years been extremely active in this critical area.

Col. John Bex has been one of our most outstanding directors in our civil defense effort. An acknowledged expert in the field, Colonel Bex has written an assessment of our current state of civil defense, and I commend most highly his thoughts to my colleagues:

#### NATION LACKS BASIC POLICY, DIRECTION (By Col. John E. Bex, USAFR)

(The purpose of this article is to provide an assessment of the mismanagement and neglect which has existed in the federal government in preparing the United States citizenry for survival and recovery under national and local emergency conditions and to propose a different direction. The author is Director, Region II, Defense Civil Preparedness Agency, Department of Defense.)

We are lacking a basic national Civil Defense policy and direction which would provide for survival of the nation and which would serve to guide the efforts of all federal agencies involved and provide a model for state and local governments to follow.

The House Armed Services Committee Report No. 84-39 states that, "It is apparent . . . that civil defense, or emergency preparedness in a broader concept, has no settled place in the federal government." The Federal Civil Defense Act of 1950, as amended, authorizes a system of civil defense for the protection of life and property from an attack. To administer this act there has been a succession of agencies—FCDA, OCD, OCDD, OCD and now DCPA—which have been established to taken certain actions in preparation for an attack situation.

The National Security Act of 1947, as amended, the Defense Production Act of 1950, as amended, the Federal Civil Defense Act of 1950, as amended, and related Executive Orders cause the General Services Administration, Federal Preparedness Agency (GSA/FPA), to be responsible for Federal Agency

coordination, policy guidance and planning related to attack and recovery.

The Disaster Relief Act of 1974 and related Executive Orders cause the Federal Disaster Assistance Administration (FDAA) to be responsible for administering and coordinating certain planning and relief programs related to natural disaster situations.

#### 39 UNITS INVOLVED

In all there are 11 federal departments and 28 or more federal agencies that have emergency preparedness assignments involving national preparedness and our ability to survive.

Not since 25 May 1961, when President Kennedy delivered his civil defense message to Congress, has a Chief Executive publicly addressed the need for civil defense. Civil Defense is a part of our total strategic deterrent posture. It is a primary element for national survival. But the need for survival planning and its acceptance as an essential way of life in the nuclear age have not been articulated convincingly to the public from the executive level.

#### EFFECTS

Lack of national purpose and direction has resulted in little more than a holding action on United States civil defense. The defense part of the offense/defense equation has been continuously de-emphasized. The Civil Defense part of the defense posture has suffered out of proportion to all other elements. Of the 114.9 billion dollars projected for FY National Defense Budget, only \$82.5 million (.07%) of the National Defense Budget was set aside for Civil Defense.

The lack of national priority, unified management and supervisory controls has resulted in duplication of effort, disparity in actions, waste of money, and inefficient accomplishment of the nation's emergency needs. Confusion due to the splintered federal effort is reflected at state and local government levels. These jurisdictions find it extremely difficult to ascertain which federal agencies are doing what and for whom.

In recent hearings on Civil Preparedness and Limited Nuclear War, before the Joint Committee on Defense Preparedness, Gen. Otto Nilson, Jr. (Ret.) stated that "... numerous Governmental agencies . . . have . . . an emergency or crises role as an extension of their everyday duties and responsibilities. What is needed is for this to be spelled out and organizational means developed to assure that this is done, that the work is monitored to assess performance, and that the pieces are put together on the basis of some workable coordination effort."

#### LACK OF RESOLUTION

Apathy at state and local levels reflects the lack of federal resolution and purpose of a national scale. The defense of the country and the protection of the people are elements of the common defense as provided for under the Constitution and are primarily a federal responsibility. The general public reacts to a national situation in the way in which their leaders react. Apathy and indifference at the federal level cascades and permeates all political levels making the prospect of providing adequately for the common defense an insurmountable task.

Cuts in the federal budget for Civil Defense are echoed in the budgets of state and local governments. The result is widespread atrophy. For example, there is erosion in the National Shelter System, Radiological Defense System and Emergency Public Information System. At the same time, we are only able to effectively warn about 47 percent of the national population and have a "minimum" nuclear disaster operational capability for about 36 percent of the national population.

Avoidance of the issues by recent Chief Executives has left the public confused, uncer-



tain, fatalistic and virtually uninformed as to the value of Civil Defense as an instrument of national survival. The result is a weakness in our national will to sustain crises, and survive attack, inviting coercion or blackmail in our strategic posture. Former Secretary of State Kissinger said that "a thermonuclear war which broke over a psychologically unprepared population might lead to a loss of faith in society and government."

#### PLAN FOR ACTION

The Congress and Chief Executive should undertake coordinate action to establish and promulgate a policy of emergency preparedness and survival. This policy should cover the complete spectrum of emergency preparedness from local natural and accidental disaster to that of a nuclear attack upon the country, since there is large element of commonality in the systems and services which are involved in such situations.

Emergency preparedness functions and services presently under the three agencies (DCPA, GSA/FPA and FDAA) should be combined into a single agency to provide for management control and operational efficiency. This agency should be placed in the Department of Defense (at the Secretary or Service level) so that a balanced effort between offensive and defensive priorities can be achieved. Primary responsibilities would be vested in the Department of Defense with other federal departments and agencies providing directed support.

In order for civil preparedness to be successful, the Secretary of the new agency must be a strong leader who is dedicated and firmly committed to the survival mission. He must have the confidence of the President and Secretary of Defense, must be experienced in effecting rapport with the congressional, state and local leadership. He must be unencumbered in his personal commitment to a viable civil preparedness and readiness posture. This position requires a creative manager dedicated to change.

Adequate funding support is required for civil preparedness and national emergency support functions to assure a viable program which can develop into a significant element of national strategic defense and provide civilian protection from the effects of a national calamity.

While we cannot keep the American populace continuously mobilized for war, we must keep the people informed and do a better job of educating them to the kind of austerity and commitment that they would be called to undertake in a nuclear emergency.

TO THE CLASS OF 1977: NOT EVERYTHING IS WRONG WITH OUR COUNTRY—BY ROBERT M. BLEIBERG

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. KEMP. Mr. Speaker, in the fall of 1973, then Ambassador to India, DANIEL PATRICK MOYNIHAN, authored an essay for Saturday Review, entitled "A Country in Need of Praise." It stands today as one of the most thoughtfully and convincingly articulated writings in praise of the American people's accomplishments to be published.

But the greatest impact of that article was in his description of what unbridled, "irresistibly chic" criticism of America, its institutions, its achievements, and of what falsely characterizing segments of its people can do to the national mood.

In short, he showed how such self-flagellation undercuts the social energies needed to set right those things which are wrong, how it can become a self-fulfilling prophecy.

Let me quote briefly from this essay:

In 1970, toward the end of his life, so unhappily cut short, Richard Hofstadter described the 1960s as "The Age of Rubbish." A man of the Democratic Left, he was depressed by the rise of a vulgar—but "irresistibly chic"—radicalism among the well educated and well to do. He found "almost the entire intellectual community . . . lost in dissent." There was almost no dialogue left "between those who are alienated from society and those who are prepared to make an intelligent defense of it."

A generation ago the great social critic Joseph Schumpeter described the mind-set of a type of intellectual, endemic to bourgeois democracy, who avoids having to acknowledge any evidence that the society has successfully undertaken and achieved certain objectives by dismissing the objectives as trivial: "A sneer will serve as well as a refutation. . . ." It sometimes seems we have gone beyond this to the point where evidence is not so much trivialized as politicized. Facts become a kind of code in which, seeming innocuous to the uninformed, they reveal sinister realities to the initiated.

Now, the apocalyptic style of recent politics has been costly. It wears out its welcome. Already one can sense the nation turning away from important matters that it was patiently, and on the whole successfully, working at. If nothing is ever achieved, what, then, is the point of trying?

This is the danger of dwelling only, or mainly, on the nation's troubles. And how much the nation deserves praise, and how much it needs it! To recognize and acknowledge success, however modest, is fundamental to the practice of government. It is a first principle of leadership in a democracy, where loyalty must be directed more to institutions than to individuals. Robert C. Tucker notes that charismatic leadership derives in considerable measure from the ability to "accentuate the sense of being in a desperate predicament." This is rarely a climate in which liberties flourish. It perhaps accounts for the unease with which many view the relentless emphasis on social failure and corruption that characterizes the New Politics. It too readily follows that a system that could tolerate so much wrong must itself be wrong. In any event, it is no way to summon the social energies that are needed to set things right.

Mr. Speaker, I had not since seen any other presentation which made the point as cogently, as convincingly, until I read in the current issue of Barron's excerpts from the commencement address of its editor, Robert M. Bleiberg, at the 125th commencement exercises of Hillsdale College, Hillsdale, Mich., this month.

Bob Bleiberg observes how the constant chiding from some quarters in our country of the market economy, the free enterprise system, business and commerce in general has done exactly what PAT MOYNIHAN predicted. It has obscured the inalienable link between political and economic freedom. It has diverted the attention of society on from how to replicate the many successes to how to ameliorate the relatively small number of failures. It has drawn managers and workers alike from their principal tasks—making more and better mousetraps at less cost to the consumer. In short, no matter how well intentioned, government intrusion in and interfer-

ence with the economy has hurt more than it has helped.

I commend Bob Bleiberg for this address. He is an astute observer of the economy and of the social and political milieu in which it tries to function.

This is well worth the careful reading of every Member of Congress. It follows:

TO THE CLASS OF 1977 NOT EVERYTHING IS WRONG WITH OUR COUNTRY

(By Robert M. Bleiberg)

Herewith some thoughts (random and otherwise) suitable for use on Commencement Day. And now, Class of '77, let's get down to business. You're about, as the saying goes, to go out into the world, and, by most contemporary accounts, an ugly world it is. So many shortcomings and failings—high unemployment, rampant pornography, widespread pollution, corruption in high places, notably the executive suite. Illegal political contributions, corporate payoffs, foreign bribes by hundreds of major U.S. corporations. Watergate gone, but not forgotten. From Wall Street to Washington, nearly everyone, it sometimes seems, is a crook.

That's what sells newspapers, and, as far as it goes, it's true enough. But let's try to put the facts in perspective. Some four hundred companies have owned up to impropriety or worse. Thousands of others have been found guilty of nothing. To illustrate, the ranks of publicly owned companies include 1,145 listed on the American Stock Exchange, 1,553 listed on the New York Stock Exchange, and roughly 11,000 traded over-the-counter, or nearly 14,000 publicly owned concerns in all. Last time I looked, the 400-odd culprits constituted barely 3% of the publicly owned total.

All told, there also happen to be more than two million U.S. corporations, public and private alike, as well as more than one million partnerships and roughly 11 million individual proprietorships. Fourteen million units do business in this country. How many, and what percentage, of them have been publicly involved in shady dealings? What percentage of the tens of millions of U.S. businessmen, or the trillion-plus dollars worth of goods and services which they help to produce have been tainted by impropriety or illegality?

Nor can we afford to forget that allegedly improper corporate conduct may cover a multitude of sins. On this score, eloquent testimony has come from Albert Sommer Jr., former SEC Commissioner. Last spring, Mr. Sommer told the Ohio Legal Institute that owing to the absence of clear-cut standards of disclosure, "Many companies have simply chosen to disclose every payment, no matter how trifling, that might in any way be questioned. Thus we have learned that huge multinational corporations made political and other questionable contributions in amounts as little as \$100; in many instances, disclosure has been made of small payments which were clearly legal under the laws of the country where made, and in other instances were at worst of questionable legality. All of this reminds me of the sorry spectacle in Soviet Russia in the 1930s, when erring bureaucrats almost literally fell over each other confessing various 'crimes' against the state."

So much for crime in the suites. To the corporate coin, there is another more glittering—if far less publicized—side. While the number of jobless (a figure, by the way, which greatly overstates the case, since it includes a good many workers who have just quit their jobs) does stand at 7% of the labor force, more Americans today are gainfully employed than ever before in U.S. history. Indeed, in January-March of this year, the private sector created over one million jobs

(and, in the past 12 months, more than 2.6 million).

By the same token, thanks to American industry, marvels of technology—citizens band radios, hand calculators, home computers, with all their built-in potentialities for enlarging our capacities and enriching our lives—flow in an endless stream from drawing-board to assembly line. The much-maligned Lockheed Corp. deploys the Hercules Airlifter, which, when famine, flood or earthquake strikes, gets there fastest with the mostest by way of disaster relief. And despite the many obstacles raised by the Food and Drug Administration, the U.S. pharmaceutical industry continues to make significant additions to the nation's medicine chest.

On this score, despite the environmentalist hue and cry over chemical additives, pesticides and pollution, the people of this country over the decades have enjoyed an uninterrupted growth in longevity. For example, since World War II—here's a statistic you're not apt to read in the daily press or hear over the major television networks—life expectancy in the U.S. has increased from 65.9 years to 72.5 years. In the past decade alone, it's risen by two-plus years.

Many other things are right with the country, including a steady growth in benevolence. According to that benevolent institution known as the Internal Revenue Service, over the past 10 years charitable contributions by taxpayers have increased from \$9.1 billion to \$15.4 billion; tax-deductible or not, that's a lot of good works. And even today, despite the proliferation of federal regulation, the number of new businesses incorporated year-by-year shows a steady rise. Finally, for young people like yourselves, here's a noteworthy statistic: in 1977, for only the sixth time in the 32 years since World War II, compulsory military service, with all its ugly statist overtones, is no longer part of the domestic scene.

Contrast the glittering record of private enterprise with that of the public sector, a comparison which, unfortunately, too few of our fellow citizens ever seem to make. Indeed, with respect to the relative performance of government and industry, a curious and ugly double standard has long come into play. For government can commit the most egregious blunders—if they aren't recorded for posterity on tape, or somehow leaked to Jack Anderson—with apparent impunity. After 30 years and the outlay of hundreds of billions of dollars, the powers-that-be confess that the welfare state has become an unworkable mess and blandly seek new, and doubtless costlier, federal solutions. After more than a generation of something for nothing, the Social Security system piles up over \$4 trillion in unfunded liabilities, and, as even its most fervent proponents have just been forced to concede, is well on the way toward going broke.

Some of the specific facts and figures cited above may be news to you. However, thanks in large measure to your college years, the views which I have tried to express—an abiding confidence in private initiative, deep suspicion of government—are now a basic part of your intellectual equipment. And thanks to your distinguished teachers, you've learned perhaps the most important lesson of all, namely, that one man on the side of right is an army.

Nor need one be an educator, journalist or other kind of professional to fight the good fight. On this score, there are a couple of businessmen about whom you ought to know more (and whom I learned about from my colleague, Jim Grant). One sells groceries in Bessemer, Ala., the other sells sportswear in San Jose, Calif. Each owns his own business, and each, when threatened by coercive government action, stood his ground and fought back. Mel Solomon, the California retailer,

mailed out a 25,000-piece promotion for a Fourth of July sale two years ago. The Post Office (which, by law, he had to patronize) promptly lost 10,000 of his flyers. The sale was a flop and Solomon, out of pocket some \$20,000 brought suit. It's still in progress.

Meanwhile, in Bessemer, Ala., the owner of a food store, Sam Pilitteri by name, reached the conclusion that the State Milk Commission had no right to tell him what prices to charge. He proceeded to cut prices, in defiance of the law, but to the benefit of his customers' pocketbooks and to his own ultimate profit. Served with an injunction, he counter-sued, demanding that the Commission be declared unconstitutional. As the trial began, the latter abolished its own pricing decree, but Pilitteri wasn't satisfied. The trial went forward.

The result? Two months ago, the Alabama State Circuit Court ruled in Pilitteri's favor. Cost studies used by the state, so the Court held, "have resulted in subsidizing the inefficient producer, processor, distributor and retailer at the expense of the more efficient producer, processor, distributor and retailer, as well as subsidizing such inefficiency at the expense of the consuming public. Ordered, adjudged and decreed, that the actions of the plaintiff in fixing, establishing, administering and enforcing the price or prices of fluid milk be and said actions are hereby declared to be null and void."

Some may say that freedom is a lost cause, and, despite the moral imperative of Commencement, which virtually compel one to look on the bright side, in all candor there's plenty of cause for concern. Compared to the alternatives, however, this is one cause, lost or otherwise, for which everyone here should be ready, willing and able to take up the cudgels.

#### TRIBUTE TO STANLEY J. HATOFF

#### HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. MOAKLEY. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues the remarkable accomplishments of one of Boston's most outstanding community leaders, Stanley J. Hatoff. Stan is general chairman of the Greater Boston Israel Bond Campaign and vice president of Temple Mishkan Tefila, and in that position, he has been awarded the Shield of Honor Award.

The bond campaign leaders, in discussing the significance of the award, noted that Stan Hatoff is a "man who has never said no to a friend or any noteworthy endeavor. He is a dynamic and articulate leader whose notable triumphs in spearheading civic and communal projects for so many of our key community agencies and institutions has resulted in new levels of accomplishment. His leadership in behalf of Israel Bonds has enrolled many new supporters and raised the level of support for Israel."

Stan Hatoff came up through the ranks of the Boston Israel Bond Organization, serving as cash mobilization chairman, congregations chairman and as executive vice chairman of the campaign cabinet.

Despite his manifold duties as head of the Israel Bond Campaign, Stan finds

time to provide needed leadership for numerous major local organizations and institutions. He is a fellow of Brandeis University; vice president and fundraising chairman of the Boston Brandeis Club; vice president of Associated Synagogues of Massachusetts; trustee of new England Sinai Hospital; a patron of the Jewish Theological Seminary, from which he received the National Community Service Award in 1974.

Stan is the kind of man whose commitment, dedication and integrity set him apart from the great majority of people. I would like to take this opportunity to join the Jewish community in Boston and throughout Massachusetts in honoring Stan Hatoff, and in honoring Stan Hatoff, and in congratulating him on receiving the Shield of Honor.

#### MEMORIAL DAY: A TIME TO REMEMBER THE DEAD AND HONOR THE LIVING

#### HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. WOLFF. Mr. Speaker, Monday marks this Nation's observance of Memorial Day when we traditionally pay tribute to those men and women who gave of themselves so that we may be free today. Their sacrifices are the cornerstone upon which we have built this Nation's greatness.

In addition to paying tribute to those who died in the service of their country, Memorial Day should also be a day when we honor and rededicate ourselves in behalf of those men and women who are our living veterans and who so honorably served this Nation. In particular, I think it appropriate that we honor those veterans who served this country with honor during the difficult and controversial years of the Vietnam war. We must do so by providing them with educational and employment opportunities which will help restore to them their rightful and proper place in our society. The present structure of the Vietnam veterans' GI bill prohibits hundreds of thousands—perhaps millions—of our most needy and deserving veterans from obtaining the educational and vocational training to facilitate their readjustment. Our programs specifically designed to assist Vietnam veterans in gaining meaningful employment suffer from acute disorganization and lack of coordination.

We in the Congress, Mr. Speaker, are in the unique position of being able to right these wrongs and the legislation necessary to accomplish this end is pending before the Committee on Veterans' Affairs. H.R. 2231, the Comprehensive Veterans Readjustment Assistance Act of 1977, which has been cosponsored by over 70 of my colleagues, and H.R. 1370 specifically are designed to restore our Vietnam veterans with the educational opportunities they need. H.R. 6590, the Comprehensive Veterans Employment Training and Supportive



Services Act of 1977, would, by establishing coordination between the Department of Labor and employers, bring order out of the chaos of our present veterans employment programs. These bills, as well as many others now pending in committee, would help bring meaning back into the lives of our forgotten Vietnam veterans.

Mr. Speaker, as we honor our dead on this Memorial Day, let us also rededicate ourselves in behalf of those living veterans who can only look to us for a solution to their problems. In the memory of the dead let us honor the living.

#### FARM BILL A COMPROMISE

### HON. JOSEPH S. AMMERMAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. AMMERMAN. Mr. Speaker, the House will soon debate the Agricultural Act of 1977—H.R. 7171. I want to report to you on the committee action which shaped the bill and my views on it.

After lengthy hearings and drafting sessions which have occupied most of the year to date, the House Agriculture Committee, of which I am the only Pennsylvania member, at last has reported out a comprehensive farm bill.

Most of the major Federal agricultural legislation was up for renewal this year. Thus, the committee was confronted with the task of extending, or at the very least reexamining, a massive number of programs.

One of the major struggles during the committee's work on the bill was to keep the price supports for farmers—or more correctly, the crop target price and loan programs—at reasonable levels. President Carter's proposals called for very tight spending limits on price supports.

I can only report mixed results to you on this issue.

On a narrow 23 to 22 vote, Committee Chairman THOMAS S. FOLEY, Democrat of Washington, was able to beat back an effort to increase wheat target prices to a level far above that acceptable to President Carter. I voted with Representative FOLEY against that increase.

We also defeated a similar move on corn prices. Even so, the bill as reported by the committee provides price levels somewhat above those requested by the Carter administration, although substantially below those set in the Senate's farm bill.

Farmers in Pennsylvania for the most part expressed concern that higher feed grain prices would increase the cost of the dairy operations which are a key element of Pennsylvania agriculture.

I am not completely happy with the way the bill came out, but I do recognize that Chairman FOLEY had to strike a very delicate balance among the conflicting objectives of the grain belt farmers, eastern dairymen, and other important groups.

As far as the dairy price support program itself was concerned, most of the Pennsylvania farmers who contacted me

said they did not favor an increase in the statutory floor for such supports which currently is 75 percent of parity. The Secretary of Agriculture can set higher support levels and Secretary Bergland recently increased them to 83 percent of parity.

We did not win this fight in committee, but we did hold the increase in the support floor at 80 percent of parity instead of the 85 percent some committee members sought.

For research, extension service, teaching and facilities, the bill authorizes \$950 million in fiscal year 1978 and will increase spending on these programs to \$1.4 billion by the 1982 fiscal year. These programs all have been authorized for 5 years while the price support programs are extended for 4.

The bill's provisions are so numerous that I really cannot list them all. Further, the measure provides spending authorizations for such programs as food stamps and the Federal Insecticide, Fungicide and Rodenticide Act, which will be addressed in separate legislation.

As with anything so complex, the bill has its good points and its weak points. It will be helpful to Pennsylvania in many ways; less helpful in others. But I think the benefits were sufficient for me to vote for it in committee and to join Chairman FOLEY in cosponsoring the version being sent to the House floor.

#### ARMED FORCES WEEK

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. DERWINSKI. Mr. Speaker, last week was "Armed Forces Week." At a time, when we are not faced with a major threat of war, we must recognize the necessity of maintaining a strong military defense force, second to none, in order to protect our national security interests and the peace and freedom in the world.

Members of our military services deserve our respect, appreciation, support and prayers. I insert a very fine editorial broadcast by Chicago's WGN Radio and TV, on May 16, in honor of this special observance.

[WGN Editorial No. 77-118, Monday, May 16, 1977]

#### "ARMED FORCES WEEK"

This week all across the nation, has been proclaimed "Armed Forces Week." In paying tribute to the men and women of our Armed Forces, let us not forget the importance of a "Total Force." This includes the thousands of civilians working in many areas of our Armed Services; also, the National Guardsmen and Reservists who have assumed an even greater role in our nation's defense, and are deeply involved in the total combat capability.

No longer do these Reserve Forces have to depend upon obsolete equipment handed down to them. They now receive the most modern and sophisticated weapons available. These are no longer just weekend warriors; they are now full-fledged partners with their active duty counterparts.

Spending for national defense takes one of

the larger chunks of our federal tax dollars. We have the right as taxpayers to insist that these dollars be spent as carefully as is consistent with maintaining our national defense. It is our opinion that the total force concept, the linking of regular forces and what we call the weekend warriors, is one way to assure that this is being done.

So, here is a verbal salute to those dedicated men and women, all of those who wear a uniform every day or only for drills and summer exercises . . . from all of us.

#### THE 1976-77 REPORT ON THE POLISH CULTURAL SOCIETY OF AMERICA, INC.

### HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. MURPHY of New York. Mr. Speaker, it is a great pleasure to report that the Polish Cultural Society of America, Inc., P.O. Box 31, Wall Street Station, New York, N.Y. 10005, is a loyal American service organization which endeavors to represent the best interests of 11,000,000 loyal and dedicated Americans of Polish heritage throughout the Nation. The national chairman of the Polish Cultural Society of America is Mr. Raymond H. Paluch, a distinguished businessman, patriot, and past commander of the New York State Veterans Association as well as an active member of many civic organizations engaged in philanthropic, eleemosynary, social amelioration and humanitarian endeavors.

The basic purpose of the Polish Cultural Society of America is "to undeviatingly support the Constitution of the United States of America and the institutions of freedom and democracy embodied in our American Bill of Rights as enunciated in the first 10 amendments to the Constitution." Membership in the Polish Cultural Society of America, Inc. and in its subdivisions is open without any restrictions or hindrance, whatsoever, to all loyal Americans irrespective of differences of race, color, creed, sex, or country of origin.

Mr. Speaker, it is my privilege and pleasure to submit for the Record, the 1976-77 Report on the Polish Cultural Society of America, Inc. The society is a national organization devoted to serving the interests and needs of 11 million members of the Polish-American community.

#### THE 1976-1977 REPORT ON THE POLISH CULTURAL SOCIETY OF AMERICA, INC.

THE POLISH CULTURAL SOCIETY OF AMERICA, INC. MAKES A SIGNIFICANT CONTRIBUTION TO UNIVERSAL HUMAN RIGHTS

In the past year, The Polish Anti-Defamation League placed itself in the forefront of the organizations fighting the infamous Arab boycott of American businesses because these companies trade with Israel or have American Jews who are owners or directors of these businesses. The Arab boycott of American business in this respect has been declared, by President Jimmy Carter, "as an absolute disgrace." In addition, The Polish Anti-Defamation League, a subsidiary of The Polish Cultural Society of America Inc., worked with its utmost effort not only in honoring the millions of Polish and Jewish victims of the

Nazi Holocaust, but in also attempting to secure the ratification of the Geneva International Convention Against Genocide by The United States Senate.

**UNIVERSAL HUMAN RIGHTS DECLARATION OF THE POLISH ANTI-DEFAMATION LEAGUE**

(1) The Polish Anti-Defamation League Is Dedicated To The Proposition That All Human and Civil Rights Are Universal, Defensible, and Sacred.

(2) The Polish Anti-Defamation League Believes That The Sacred Universal Rights Of All Human Beings Must Be Legally Defended and Protected At All Times.

(3) The Polish Anti-Defamation League Believes That All People of Good Will Must Join The Crusade For Enlightened Humanity! . . . The Polish Anti-Defamation League, In Traditional and Historic Reliance On The American Bill of Rights and The Constitution of the United States, and in Affirmation of the United Nations Covenant On Human Rights . . . Believes That Indifference and Apathy to Character Assassination, Vilification, Derogation of Integrity, and Corrosive Defamation, Oral and Written, of Persons of Polish or of Any Origin, Constitutes a Farflung, Destructive, Pathological Social Degeneration Which Can Only Be Cured By the Direct and Dedicated Social Involvement of Enlightened Individuals and Corporations Who Will Not Only Defend and Fight For Their Own Precious and Unalienable Rights and Liberties, But Also For the Sacred Rights and Liberties Of Others.

**FINANCIAL SUPPORT REQUIRED!**

(4) Therefore, In This Era of Growing Technological and Telecommunications Expansion and Tension, The Polish Anti-Defamation League Has Instituted Appeals To All Citizens In All Walks of Life To Financially Support This "Crusade For Universal Equal Humanity" Supported By and Under The Fatherhood of GOD and The Brotherhood of Man.

**NEW SUBDIVISIONS**

Among the new subdivisions formed by The Polish Cultural Society, Inc. were the Polish Genealogy Society, The Polish-American Consumers Council, The Polish-American Senior Citizens League, The Copernicus CB Club, The Radio and Television Listeners of America and The Society of the Friendly Sons and Daughters of Copernicus, US Merit Awards Council and The Copernicus International Travel Club.

**AWARDS AND HONORS**

Among the distinguished world and public citizens who have received Awards "For Distinguished Public Service" from The Polish Cultural Society of America Inc. are: Artur Rubinstein, John Chancellor, Gerald R. Ford, Clarence M. Kelley, Edmund G. Brown, Percy Sutton, Shirley Chisholm, Jesse Zaslav, Abraham Beame, Norman Lent, John M. Murphy, Jacob K. Javits, Edward Koch, Jack R. Muratori, Daniel P. Moynihan, Jonathan Bingham, Benjamin S. Rosenthal, Lester L. Wolff, Theodore Weiss, Harrison Williams, James J. Delaney, Herman Badillo, Jack F. Kemp, Henry Jackson, Edward H. Lehner, Gary Hart, John Mulhearn, Barry Farber, Bruce Morrow, Dick Summer, Steve Powers, Dan Meenan, Bob Grant, Evrard Williams, John W. Wylder and Howard Cannon.

**A BRAVE BOY SCOUT**

**HON. MANUEL LUJAN, JR.**

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. LUJAN. Mr. Speaker, next month will mark the sixth anniversary of the

drowning of an Albuquerque, N. Mex., Boy Scout in the Green River in Utah. Peter McCarthy was well prepared for his trip and along with the other Scouts of Troop 442, he met his fate in an accident when his raft encountered rapids and fallen trees in the river.

The majority of the Scouts were able to reach the shore immediately. However, Peter and another Scout were swept downstream. Peter's friend had lost his lifejacket and Peter, in a heroic gesture, called out to him to hang on to his jacket in order to keep from falling deeper into the rapids.

The couple floated for approximately 3 or 4 hours when Peter appeared to be losing consciousness. The two tried to reach safety at the crown of a bank, but Peter, in weakened state, could not make the climb. His body was found downstream by another group of Scouts.

I would like to recognize Peter posthumously as a brave and fearless young man who reached out to save a friend's life only to lose his own. I would like to offer my prayers to Peter's family and close friends at this time and ask my colleagues to join with me.

**THE DEBAUCHERY OF OUR CHILDREN**

**HON. CARDISS COLLINS**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mrs. COLLINS of Illinois. Mr. Speaker, the time is at hand for the people of our Nation to rebel against the nefarious "exploitation" of the children of America. It is deplorable that our youngsters are becoming victimized by the purveyors and practitioners of what psychoanalyst Rollo May calls the "new puritanism," the current philosophy which promotes "sex without love and sex deliberately separated from the unique human capacities of passion and commitment."

I am appalled by recent reports of children—some as young as 3 years old—being shown in pornographic films and magazines, posing for explicit sexual acts. It is my understanding that this segment of the booming, billion dollar pornography industry is perpetrated by a steady supply of runaway children who, as Time reports, serve as a "ready pool of 'acting talent' for photographers" for a meal or money, and who often become residents of houses of prostitution.

Little imagination is needed to realize the psychological effect of all this on the child-victims of the craze of perversion. New York psychoanalyst Herbert Freudenberger states that:

Children who pose for pictures begin to see themselves as objectives to be sold. They cut off their feelings of affection, finally responding like objects rather than people.

An even greater damage and danger to the community at large is that, in the opinion of Los Angeles psychiatrist Roland Sumit, sexually abused children may become sexually abusing adults. And so, the sinister cycle continues.

I feel real outrage over the absence of protective and punitive Federal legislation in the area of child pornography; but, I am encouraged by the recent legislative initiatives of my colleagues. Twenty-five percent of the Members of the House of Representatives have joined in the cosponsorship of effective child protection legislation—H.R. 4572, the "Child Abuse Protection Act". In the Senate, two similar bills have been introduced and cosponsored by at least 20 percent of that body.

A principal argument by the detractors of these legislative measures is that they pose first amendment problems akin to those created by obscenity laws. However, as Congressman JOHN MURPHY says,

This legislative approach focuses on the immensely important fact that such pornography materials are an unconscionable abuse, both mental and physical, on the children involved; our bill does not determine whether such materials are obscene.

H.R. 4572, also known as the Kildee-Murphy bill, calls for up to 20 years' imprisonment and/or a \$50,000 fine for the production of pornography involving children, or knowingly permitting a child under 16 years of age to be photographed in sexual acts. It also mandates a sentence of up to 15 years and/or a \$25,000 fine for shipping or selling such materials. Hearings on this matter have already begun in Congress and in many State and local legislative bodies.

Current reports reveal that measures to outlaw "child-porn" have been introduced in 23 State legislatures. In March of this year, the Illinois General Assembly overwhelmingly voted to consider a stringent measure that not only calls for prison sentences of up to 10 years for anyone found guilty of obscene conduct involving a child, but provides for jail terms of 1 to 10 years for anyone dealing in child pornography. It also prohibits judges from sentencing such a person to probation, periodic imprisonment, or conditional release.

In conclusion, I urge my colleagues to support similar measures to insure the protection of our offspring and the morality of our Nation.

**THE NEED FOR A RENEWED CHRISTIAN AMERICA**

**HON. RICHARD H. ICHORD**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. ICHORD. Mr. Speaker, in this age of realism we seem to have strayed far from our foundations. Seemingly, we have become more acquiring than inquiring, more material than spiritual, more clever than possessed with character, and more witty than wise. Our Bicentennial celebrations reminded us of our foundations, but even in those moments of reevaluation, little was said about the role of religion in the founding of this Nation. As my good friend and fellow Missourian, the Rev. Dr. Arthur C. Fulbright points out in his



March 13 sermon to the First United Methodist Church of Sikeston, Mo.:

Our fathers built this nation upon God and religion.

His sermon points to the great need for all of us to renew our idealism as a Christian republic and to regain our spiritual heritage. It is a sermon which I recommend to all of my colleagues as a challenge to us and to our Nation:

"THE COMMUNIST CONSPIRACY IS KNOWN! I!"

The Communist conspiracy is known. The diabolical Marxian philosophy of dialectical materialism has caused the historical record of Communism's amazingly rapid spread across much of Europe and Asia. Its tactics and techniques of conquest, subversion and infiltration; its atheistic immorality; its barbarities; and its ultimate objective—world conquest—is known and accepted by the majority of mankind!

Why the advancement of Communism? The great philosopher, Edmund Burke, once said: "If no certain laws, establishing invariable ground of hope and fear . . . keep the actions of men in a certain course, or direct them to a certain end . . . (then) the commonwealth itself would, in a few generations, crumble away, be disconnected into the dust and power of individuality."

What are the "certain laws, establishing invariable ground of hope and fear . . ." that have held society together "in a certain course?" These certain laws have been and are—the Ten Commandments! Here in the Ten Commandments we find stated the enduring principles upon which our civilization is based. We may call them God's laws, the natural law, the moral law, or the common law as they came to be known when translated in the rules which our ancestors established for governing the conduct of mankind.

Society is breaking down today because these enduring principles are no longer honored as rules for our conduct! Many of our citizens have no knowledge of the Bible. Many, indeed, have never heard of the Ten Commandments! How can we expect our society to prosper and endure—if the principles upon which it was founded and which gave it meaning and purpose are to be ignored and forgotten?!! Therefore, whatever power controls the mind will soon control the people!!!

If I am any student of history at all, I see World War III approaching. We can look for one sore spot after another erupting on the surface of this globe, little revolutions, keeping us and the United Nations in a constant stew running here and there putting out the fire, trying to restore peace and order. And all the while, the USSR and Red China, behind this smokescreen, are feverishly working to bring their economic order and nuclear stockpiles to a level comparable to ours.

Wishful thinkers keep hoping for a state of peace in the world, but there is no peace! The shameful Cuban disaster, the Vietnam defeated struggle, all Southeast Asia in ferment, Korea seething with apprehension, Red China pawing the shoreline looking longingly at Formosa, Africa foaming and steaming, Germany divided by an ugly wall, Israel and Arabian states in constant turmoil, Latin America in a perpetual state of unrest, demonstrations at home and abroad. Skirmishes, upheavals, riots, armed revolts on every continent and in every nook and corner of the earth . . . one festering sore after another coming to a head and all according to the Communist time-table!

In April 1975 the world took note of the shameful and appalling Communist take-over of Cambodia with their acts of murder and rape of a gentle people and land. The Communists murdered over one million Cam-

bodians in their take-over. The account of the full awesome truth about the new holocaust is revealed by two renowned writers, Mr. John Barron and Mr. Anthony Paul in their recent book, "Murder of a Gentle Land", the story is told as the Cambodians witnessed the Communist murder and rape of their gentle people.

There is a feeling that the present Soviet Government is somewhat less militarily belligerent than Red China, but no one who looks at the situation realistically suggests that there has ever been a significant change in the Russian objective. Their eventual aim is still World Domination! You recall what Lenin said: "As long as Capitalism and Socialism exist, we cannot live in peace; in the end, one or the other will triumph."

The adherents of Communism believe—and that belief is a strong conviction, a flaming passion—that our way of life is doomed to failure because of its weaknesses, which they see, but seemingly we are not able to accept and see; or if we do, we shrug our shoulders and disinterestedly pass by. Russia thinks she foresees the eventual decay of our democracy.

Please note the seven deadly sins that are destroying our nation:

1. Politics without principle;
2. Pleasure without conscience;
3. Knowledge without work;
4. Wages without labor;
5. Business without morality;
6. Science without humanity;
7. Worship without sacrifice!!!

What, then, is the over-all Marxian strategy?

1. Foment trouble throughout the world without becoming directly involved.
2. Sap the strength of the democratic nations. And while moral, spiritual and psychological decay is working within our democracy, she will continue to wear us and the Western World down by ingeniously planned uprisings in every part of the world.

3. The Communist chief purpose is to demoralize the Western World, to weaken and wear us down, waiting until we eventually crack up.

4. Then with one masterful stroke, having already infiltrated government, education, business and religion, start a bloody revolution.

Every student of Marxism knows that is the strategy! When we go into a declared war against World Communism, we will already be wearied, weakened and defeated within. That is the advantage the Communists want, and they are staking everything on getting it.

There it is—the Communist plot! In defending our way of life on many fronts we are speeding up its decay within. Then at the strategic moment Communism steps in for the kill. And that is what I am afraid is happening, which leads me now to the really serious thought in my address:

Could there be more truth than we are willing to admit in the Marxist appraisal of our democracy? Are there glaring weaknesses in our way of life which will jeopardize its chances for survival? Are we nearing a moral and spiritual breakdown?

I venture an answer:

Our Capitalistic system may be headed for a downfall, unless we re-think, re-organize and revitalize our whole economy. The old method of fair and friendly competition is dying simply because it has been emptied of the true Christian spirit and is now hollow and dry. My friends, when your profit motive becomes your all-consuming purpose to the exclusion of every humanitarian outlook, then dry-rot sets in and your capitalistic system takes a tumble. When materialistic and secularistic thinking supplants the essential Christian principle and the Christian in-

reach and out-reach of life, then the days of your economy are numbered. A materialistic humanistic philosophy which puts possessions before service and holds them to be more sacred than human welfare, you can't deny the dry-rot. We give the impression in America that only material things count. So on and on we try to out-bid Communism at the level of gross materialism. We forget that human greed is insatiable. You can never satisfy it. Even if we outbid Communism on that level of materialism, they have won, because it is the materialism that has won—not the spiritual ideals that so-called Christian America professes.

Who can deny that our American Democracy has fallen sick? My friends, we are not as Christian a nation as we rationalize ourselves into believing we are. And Communism knows that! Do you think Communism would dare tamper with our way of life if she thought we were as sold on it as we were our early American Fathers?

I think it is time for somebody to tell the truth! Fifty million Americans are avowedly Godless. And just how Christian are the 115 million Americans who statistically belong to somebody's church? How many of them actually practice the Golden Rule? How many of them stand four-square for righteousness and justice? How many of them attend church regularly? What percentage of them are in church today?

Rome survived about a thousand years. Greek civilization survived about 500 years. We are 200 years old, and unless we change the trend we may not live another fifty years as a civilization and a first class nation.

Our very existence as a sovereign nation is in jeopardy. A nation can carry its indebtedness. It can correct its errors in judgment. It can rebuild its physical wreckage after natural disaster. But history makes plain that immorality and Godlessness lead to destruction!

So you see, my friends, it isn't war with the Communists that I fear. It is the decay of our Christian civilization that I dread, which would be even worse than war. Unless we experience some kind of moral and religious awakening in this country, the Communists will accomplish their Godless aims with war.

Are we heading for World War III? We are heading for something worse—more disastrous—the collapse of our morals, the loss of our spiritual heritage, the loss of our idealism as a Christian republic.

What can we do? Can we save ourselves and our beloved America? Can we experience such an awakening that the Communists will be jolted out of their egotistical assumption that everything is going their way right down the line? Can we make ourselves strong within? Can we find that spiritual power that will give us the decided edge? Can we upset the Marxian time-table? Can we lead the world to a just and lasting peace?

YES! That is why this address is necessary.

First of all, this is a personal matter. The place to begin is with ourselves. We must humble ourselves. We must repent of our sins. We must learn to discipline ourselves and re-organize our lives and our philosophies about the traditional spiritual values and concepts of life. We must simplify our living, slow down our pace, settle our racial differences and get back into our churches and out into the world with as much Christian love as American money. We must give God the chance He needs and cannot have unless we let Him have it!

Here's our predicament. Here's our need. Here's our challenge, our chance. Here's our hope, society's hope, the world's hope, put together in one verse of Holy Scripture.

"If my people, who are called by my name shall humble themselves, and pray and seek my face, and turn from their wicked ways; then will I hear from heaven, and will forgive their sin, and will heal their land."—II Chronicles 7:14

Either we are going to discipline ourselves for our own sake, for our nation's sake, and our world's sake, or else discipline will be imposed upon us from without. Men know right but do wrong. Men, free to worship God according to conscience, use that freedom not to worship God at all. Men, free to build a commonwealth, use their trained minds for exploiting others and set in motion forces which destroy democracy. Men who know the value of law become lawless. Men who want a peaceful world are not at peace in their own homes, in their churches, or in their communities. We produce too many citizens with more wit than wisdom, more cleverness than character—using liberty for license.

You know the truth: "Liberty is not the right to do what you choose. It is the responsibility of choosing to do what is right."

And that is where religion comes in. You must get back into the church and become a vital part of its effort to save our society through Jesus Christ and the gospel. That may not be all of the solution, but it is a definite and indispensable part of it.

Caesar built a civilization upon power, and it failed. The medo-Persians built a great nation, but they drank their way to doom, and that civilization failed. Egypt flourished until she forgot God, and diminished into obscurity. Greece, under Alexander conquered the world, but Alexander couldn't conquer himself and died in a drunken orgy. Rome was once the proud center of the world, but luxury and lust ate at the center of her life, and she perished.

Our fathers built this nation upon God and religion. Do you recall that picture of George Washington at Valley Forge? His little army was almost starving and freezing to death. Everything they held dear was at stake. They were fighting against insurmountable odds. But out there in the snow was George Washington on his knees, praying to God for guidance. That was the spirit that built America! That has been the spirit that sustained America. That will be the spirit that will save America!!!—Amen.

Respectfully submitted,

ARTHUR C. FULBRIGHT, Th. D.,  
United Methodist Minister.

#### TUNA/PORPOISE CONTROVERSY

**HON. BOB WILSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. BOB WILSON. Mr. Speaker, next week, we will be considering H.R. 6970, a bill that will provide some measure of relief to our tuna fishermen while going far toward reducing porpoise mortality.

Recently, the Washington Post, in an editorial, made comment on the tuna/porpoise controversy and took exception to the actions of the chairman of the House Merchant Marine and Fisheries Committee.

In an effort to set the record straight and to place accurate information at the disposal of my colleagues—particularly in view of the fact that tomorrow this question will be brought before us, I would like to include Chairman Mur-

phy's reply to the Post editorial as an extension of my remarks.

**PORPOISES, TUNA BOATS AND A NET OF FACTS**  
(By John M. Murphy)

It is hard to determine where to begin the corrections to The Post's May 15 editorial "Save the Porpoises," which attacked my tuna/porpoise amendments. However, I think I will start with the pejorative implication that I was "caught" by the tuna fleet. I was certainly not caught by the fleet, but by a net of facts, a net successfully eluded by The Post. I found the facts after a personal investigation of the affected areas of the country, months of committee meetings and after reading a hearing record replete with testimony, which The Post obviously did not bother to read.

First, the tuna men did not "beach [their] own fleet" to put pressure on Congress. The government failed to issue permits to fish using the dolphin-following technique until April 15, 1977. When it did, the government allowed a catch of 59,000 dolphins—but not one dolphin of the species known as the Eastern Spinner. As a result, the tuna boats that tried to operate under the 1977 federal regulations found themselves in violation of the law if they caught one of these dolphins, which they use to spot and catch tuna in the first half of the fishing year. They sailed home "partly" in protest, but mainly because the regulations were not workable.

My bill calls for an allowable take of 6,500 of these particular dolphins. At a recent hearing Dr. Robert White, the head of the National Oceanic and Atmospheric Administration, presented evidence that the government now agrees that the allowable take of the Eastern Spinner should be at the 6,500 level. White's revised scientific data have put the total allowable dolphin take at 69,000 over the next six months, with projected increases in the stocks of dolphins in the coming years.

The Post says the tuna industry has been slow in installing the proper nets and using the proper techniques for saving the dolphin. But the editorial fails to point out that it was the U.S. fleet that pioneered the fishing techniques that reduce the dolphin mortality rate. It was a fisherman who developed the backdown procedure used by the entire tuna fleet long before the Marine Mammal Protection Act, for which I voted and worked, ever became law. The Post implies that the fleet objects to this procedure. The fine-mesh nets that The Post referred to were invented by a fisherman named Medina; they are on 70 per cent of the boats in the fleet and will be on all the tuna boats as quickly as they are produced.

But most important, the editorial ignored a judicial interpretation of the law that put tens of thousands of people out of work. My amendments can help these thousands of cannery workers and ordinary seamen, who have been without paychecks since November 1976, to go back to work without threatening the depletion of the dolphin population. Most of these workers are minority and female, and in many cases they are the heads of households. They provide 30 per cent of the fish protein eaten by American citizens. And this inexpensive protein is about to become exorbitant in price or even nonexistent if the present stalemate is allowed to continue. It's time these people went back to work.

You refer to "administration" legislation. I waited for eight months for an administration solution, which by their own admission was finalized under pressure from committee hearings. The House Merchant Marine and Fisheries Committee has conducted endless

hearings and meetings without coming up with a bill. Sen. Alan Cranston's apparently acceptable compromise was wrecked by an intransigent group of environmentalists. It was then and only then that I decided to take action. My bill picks up the Cranston compromise. We are well on the way to solving this controversy. Editorials such as the one in The Post only exacerbate the problem and continue the polarization of the radical elements on both sides of the issue.

Finally—and this is the unkindest cut of all—The Post promotes the myth that the American tuna fleet cannot transfer to a foreign country and that, even if it did, a U.S. import ban would solve the problem. These old arguments have been discarded for weeks. The fleet is not made up of boats alone. It is made up of highly skilled captains and crews. They are the ones who are preparing to go to Latin America, and the foreigners would be only too happy to supply the vessels for these expert American fishermen. And in a world that is increasingly devoid of a cheap source of protein, it would be a Pyrrhic victory indeed for this country to ban an inexpensive protein source that everyone else in the world wants—and will buy.

**SHOULD THERE BE GREATER REGULATION OF LAND USE AT THE STATE AND FEDERAL LEVELS—**  
BY BERNARD H. SIEGAN

**HON. JACK F. KEMP**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. KEMP. Mr. Speaker, one of the most controversial issues before Congress in recent years—and again this year—has been the role of the Federal and State governments in land-use planning and control. The controversy is not going to go away.

Caught up in the give and take of lobbying efforts either for or against greater Federal or State roles, most authors, no matter how knowledgeable, lose sight of the fundamental, core questions. That is why I was impressed with, an article I read over the past weekend by Bernard H. Siegan, one of our country's most respected and outstanding authorities on zoning and land use. He has avoided the pitfall which catches other commentators and has addressed himself squarely to those fundamental, core issues.

Perhaps I can summarize Mr. Siegan's conclusions most accurately by quoting directly from this article:

We have had four or five different zoning systems or strategies in this country. Each has been introduced with what has turned out to be greatly inflated rhetoric as to what it would accomplish. And each in turn has for the most part, failed to meet the expectations created by that rhetoric. The result, each time, is a new effort at the drawing boards, resulting in more and severer rules and regulations which, experience suggests, is not likely to be more successful than the previous program.

The question arises, can these widely recognized problems be solved by state or federal land use regulations? The simple answer is that political pressures moral and legal corruption and bad laws are not confined to local government. A second answer comes



from the experience of regulation in this country. That record has been an extremely poor one.

The proponents of higher land use regulation are doing what seems to come instinctively these days, to ask for more or a different kind of government regulation when the existing ones have failed. This attitude represents what Dr. Samuel Johnson called, when speaking of another endeavor, "a triumph of hope over experience."

Not only would state or federal land use regulations not solve the many problems seen by its proponents, it would be harmful to our society.

The situation demands deregulation. We should start dismantling the regulatory processes which harm the economy and prevent people from acquiring the best and most desirable shelter. There surely should be no greater regulation of land use at either the state or federal level.

Mr. Speaker, the complete text of the article follows:

SHOULD THERE BE GREATER REGULATION OF LAND USE AT THE STATE AND FEDERAL LEVELS?

(By Bernard H. Siegan)

My position is that there should be less regulation of land use at both the state and federal levels of government. The existing problems of land use can best be solved by deregulation, not increased regulation. I will be speaking about area-wide regulation and not specific land use control proposals.

Let me begin by referring briefly to the experience of zoning in this country, so that we can better understand the operation of land use controls. We have a very rich history of zoning regulation, even just including the part the public knows about. Area-wide land use controls arrived in 1916 in the form of the New York zoning resolution, the country's first zoning ordinance. It was a modest ordinance containing three use districts: residential, commercial and unrestricted; five classes of height districts and three classes of area districts. At my last count, New York had 66 zoning districts, and a host of other controls never conceived of by the draftsmen of its original ordinance. A similar story applies to other cities. Small, modest ordinances in time become very complex and complicated ones. One reason for this is of course the change in conditions, techniques and thinking that occurs over the years and is reflected in our laws. But there are two other explanations for the uncontrolled growth of zoning.

The first is that zoning has been the story of unrealized expectations. We have now had four or five different zoning systems or strategies in this country. Each has been introduced with what has turned out to be greatly inflated rhetoric as to what it would accomplish. And each in turn has for the most part, failed to meet the expectations created by that rhetoric. The result, each time, is a new effort at the drawing boards, resulting in more and severer rules and regulations which, experience suggests, is not likely to be more successful than the previous program.

The current situation in San Diego provides an example. The existing zoning system has been deemed inadequate and a great many promises are being made as to what the new proposed five tier zoning policy will accomplish. One gets the impression that even if only a portion of these promises materialize, this city will surely be another Camelot.

Another reason for the large growth in zoning regulations is that the process is basically one of resolving differences between various special interest groups in the community. No matter how perfect the zoning plan, some people will be helped and others

hurt by it. The losers, experience shows, will immediately after passage of the ordinance, start doing those things that will make them winners. Owners of property will seek to rezone it, so that it will be worth more. Homeowners and conservationists will try to downzone property and civic groups will try to overcome the inadequacies they discover. The courts may also cause significant changes to be made. It will not take long before the original plan has been reduced to not much more than an historical document, having grafted upon it innumerable amendments. The dominant factors in zoning have been public pressures, political pressures and just plain politics. Matters such as highest and best use of the land, conservation of the land, satisfying consumer demands and sound planning have been subordinate and often nonexistent considerations.

The question arises, can these widely recognized problems be solved by state or federal land use regulations? The simple answer is that political pressures, moral and legal corruption and bad laws are not confined to local government. A second answer comes from the experience of regulation in this country. That record has been an extremely poor one. The most immediate example is the regulation of airlines. President Carter, Senator Kennedy, Ralph Nader and Milton Friedman all agree upon substantial economic deregulation of the airline industry.

The evidence is rather clear that airline regulation has been harmful to the nation. A study by the General Accounting Office has concluded that a reduction in federal regulation of airlines during a six year period would have resulted in fare reductions ranging from 22 to 52 percent. The lower fares would have resulted in savings to domestic air passengers on the order of \$1.4 billion to \$1.8 billion per year. The Carter administration has now also proposed deregulation of the ICC which controls rail and truck rates, thereby joining Ralph Nader and Milton Friedman who have long held this view.

Even in the area of health and safety, it is most questionable how effective regulation has been. Consider the case of the FDA, and I do not refer to the current flap about saccharine. Some very extensive studies have shown that while the FDA is keeping out of the market bad drugs, it may be excluding an even greater number of beneficial drugs, such as those which might help us relieve or control heart disease and cancer.

There have now been numerous studies of the many regulatory agencies and many of them have been printed in the *Journal of Law and Economics* published by the University of Chicago Law School. Professor Ronald Coase, editor of the *Journal*, has this to say about these studies, and I quote:

"The main lesson to be drawn from these studies is clear; they all tend to suggest that the regulation is either ineffective or when it has a noticeable impact, that on balance the effect is bad, so that consumers obtain a worse product or a higher priced product or both, as a result of the legislation. Indeed, this result is found so uniformly as to create a puzzle; one would expect to find in all these studies at least some government programs that do more good than harm."

A recent article in the *Bell Journal*, favorable incidentally to regulation, written by Economics Professor Victor Goldberg, affirmed Professor Coase's conclusion in this manner:

"The failure of regulation has been widely chronicled in recent years. Among economists the disdain and contempt for regulation is nearly universal; if effective, it is thought to be pernicious, and if ineffective, a waste of resources."

Accordingly, based upon the history of

zoning and other regulation, the lesson should be clear that additional regulation of land use should not be imposed unless there is extremely strong cause for it and even then, only if it is very likely to accomplish its purpose.

Using these criteria, existing proposals for state and federal land use controls fail. To demonstrate this, let me discuss with you the objectives of the principal groups seeking such regulation. These include the environmentalists, egalitarian-civil rights groups and a portion of the development industry.

The environmentalists seek to carefully screen and/or prevent development in areas considered environmentally sensitive. What are environmentally sensitive lands? The definition is not as simple as may appear. This was evident in the Bill sponsored by Congressman Morris Udall and others, which would have partially subsidized state land use programs, and which nearly passed the House in 1974. That bill's definition of areas of environmental concern was so broad many of us thought it included most of the land West of the Mississippi river. In a subsequent bill introduced by Udall and others in 1975, the definition was refined and among other things, eliminated agricultural land, but it still involved a great amount of territory. I quote to you just one portion of the definition contained in the later bill, Section 302(A), designating as areas of critical state concern the following: "natural or historic lands with significant scientific, educational, recreational or aesthetic values, such as significant shorelands of rivers, lakes and streams, rare or valuable eco-systems and geological formations, significant wildlife habitats and fragile areas. . . ." The language would still cover large quantities of land, and is subject to considerable expansion.

However, regardless of the language or intent of its sponsors, it is not likely that all development will or can be prohibited within these areas. What will happen in all probability is much more of what is already occurring under local zoning. There would be less development, more land would be used for urban purposes and real estate prices and rents would tend to increase. However, relatively few of the critical areas would be preserved in their natural setting.

There are two basic reasons for this. First are the "taking" and due process provisions of federal and state constitutions which limit the extent to which private property can be regulated. The second reason is that the regulatory process tends to solve controversies through some compromise formula, an approach which would be reinforced in this situation by the constitutional provisions I have mentioned.

We tend to be sanguine about compromise under regulation and ignore its realities. In that context, compromise may be likened to throwing a fifteen foot line to someone drowning twenty feet out, while claiming to be meeting him more than halfway.

The history of California's coastline regulation established in 1972 by public initiative, tells us more specifically how land use controls would probably operate in areas of critical environmental concern. Bear with me briefly while I present some statistics.

In 1973, over 6200 permit applications were received by the six regional commissions given permit power under the coastal zoning law. Of these, about 5200 or 83 percent, were granted. In 1974, over 4700 permit applications were received and approximately 4400 (or 94 percent) were granted. To get a better understanding of what these numbers mean, Professor Bruce Johnson has made an analysis of the operation of the Santa Barbara Coastal Commission on which he served. During the first fourteen months in the life of that Commission, it approved

95 percent of the applications received for single family dwellings, but granted only 60 percent of the single family units requested on these applications. While 77 percent of the multi-family applications received approval, only 51 percent of the units applied for were allowed. What all of these figures mean is that if a developer applies for a permit to build 100 units on his five acre tract adjoining the ocean, he will, after considerable delay, red tape, maneuvering, arguing and possibly a nervous breakdown, have his request whittled down to roughly around 70 units. That's what is referred to in regulation as "balancing".

The five acres in our example will still remain in private ownership and not normally accessible to the public, except possibly for an easement to the coastline that would be required, but which would have more theoretical than practical value. It is questionable that better views would be provided since the buildings might also have to be aesthetically compromised. The question that now presents itself is what happens to the thirty units that were disallowed? One probable answer is that these, along with other disallowed units, represent unsatisfied demand and would in time, cause greater or more rapid development of the coast, something entirely inconsistent with the aims of the initiative. It is of course, possible that the thirty units would never be built, in which case, society will have lost the benefits of approximately three-fourths of a million dollars worth of construction for business, employment, tax revenues and housing supply and there will be less housing.

Possibly these 30 units may find their way into existing vacant land within a developed city. But they would then reduce the amount of land available there for other projects. Another alternative is that the disallowed units will increase demand for building in rural, undeveloped areas at the expense of other environmentally sensitive land, or of land used or suitable for agriculture, grazing and mining. The result in this case would be more spread and sprawl, exactly those horrors from which regulation is supposed to protect us. But this consequence is not an unusual one these days. Slow and controlled growth policies have caused development to leapfrog the areas so restricted and sprawl and spread further and further into areas that are or should be used for other purposes such as farming, grazing and mining.

A recent article on Austin, Texas in the Texas Monthly, describes the situation very succinctly. It concludes the following about the growth policies of the Austin City Council:

"The irony is that the most anti-growth council in Austin history may have done more to bring about urban sprawl than did any of the pro-developer councils that preceded it. Over 75 percent of the homes built in the Austin metropolitan area last year were outside the city's extraterritorial jurisdiction."

Such a pattern, while perhaps not always as drastic would be likely for areas of critical environmental concern in demand for development and much more than just the California coastline would be involved. Development would take place, but with less intensity of use and while there would be more open space, it would be privately owned and not normally accessible to the public. I submit that the proposed state controls would accomplish more of what the proponents say they want to prevent: instead of conserving a precious resource, more of it will be misused and wasted.

Developers have not been blind to the regulatory dynamics. In October 1975, an article in the San Diego BCA Builder advised its readers on how to handle the situation, and I quote:

"It is generally advisable to be prepared to give something up. Don't go into the public hearing with a bare minimum proposal. Be ready to barter something away."

Many developers can be expected to try to beat the game by asking for more than they really want and that would mean that frequently the entire process would accomplish little more than waste the public's time and money and further undermine the credibility of government.

As I indicated, some civil rights groups are also demanding state land use controls. They want the state to require all or most municipalities to allow development of projects catering to minorities and low and moderate income families. They condemn exclusionary zoning and argue that it can only be overcome by state or federal laws.

One problem with their approach is that zoning or land use regulation will not build housing and the housing they are talking about requires government subsidies which are not very plentiful these days. Nor are they likely to succeed in obtaining the kind of land use regulations they want. Most legislatures are suburban/rural dominated, or strongly beholden to such forces, and they are not about to force low and moderate income housing down the throats of unwilling municipalities. The State of New York provides an example. Its Urban Development Corporation had for many years the power to override local zoning ordinances and develop low income housing in suburbia. When it finally attempted to implement this power by announcing a number of projects, it was stripped of it by the New York legislature in 1973. There is one state however, that has made an effort to deal with this problem, but its results are minimal and possibly counterproductive.

In 1969 Massachusetts passed an anti-snob zoning law under which developers of low income projects could appeal local denials to a state agency. In the first five years under this statute, 27 comprehensive building permits were issued for 2281 units, which constitutes even less than tokenism, considering the state's population is under six million and contains 350 cities and towns. Despite the encouragement of this law, developers have found it too difficult to obtain the subsidies and finances necessary to build the housing and fight battles with City Hall.

It might be said that even this number is better than nothing. Such a conclusion is highly questionable. Cities and towns that contain or have zoned for low income housing are not reticent about disclosing this and righteously claiming that consequently they have fulfilled their obligation to mankind. They say they should now be left alone to do as they wish with respect to the balance of their zoning. Some courts have accepted this line. Thus the Federal Appeals Court upholding the severe growth restrictions of Petaluma, California, in part justified its decision on the basis of the small amount of zoning for lower income people provided in the city's plan.

The court noted that the city had allowed annually for about fifty units of such housing and somehow was not deterred by the fact that the development controls that it validated excluded probably ten to fifteen times that number of conventional units. This is a very poor trade-off for the housing consumer, poor and rich alike, especially considering there is little funding available for subsidized housing. But the idea has politically attractive features which could be implemented in state controlled zoning, and create an even more exclusionary result.

Some of the development industry wants the state and federal governments to control zoning in the hope that they will provide better for them than the localities have. These developers believe that state controls will bring about a kind of one-stop service so they would only have to go to one state

agency for a development permit. All the evidence suggests that this is no more than a pipe dream, although it was very seriously advanced by supporters of the Udall bill. State land use controls will bring with it the plethora of state agencies that would have to pass upon development proposals much as now occurs at the local level. The problem for most developers probably would be compounded, not relieved.

The proponents of higher level land use regulations are doing what seems to come instinctively these days, to ask for more or a different kind of government regulation when the existing ones have failed. This attitude represents what Dr. Samuel Johnson called, when speaking of another endeavor, "a triumph of hope over experience."

Not only would state or federal land use regulations not solve the many problems seen by its proponents, it would be harmful to our society. Consider how it would affect the development industry. At the present time, the complexity of local regulations has forced many small builders to drop out. They do not have the funds to hire lawyers and experts that are so necessary these days for those who have to cope with zoning. The troubles of this group would be intensified when a new set of regulators emerged at the state or federal capitals. The bigger and wealthier builders are in a much better position to hire the needed help. As a result, we might in time lose the very great efficiency, creativity and imagination of the small builder, and that would indeed be a serious loss for the country.

Faced by criticism of this sort, both Udall bills for national land use policy contained provisions safeguarding property rights. These provisions stated that nothing in the Act "shall be construed to enhance or diminish the rights of owners of property as provided by the Constitution of the U.S. and constitution and laws of the state in which the property is located." For the Rockefellers and Gettys, such a provision may be comforting. But for the small landowner it is close to meaningless. No matter how wicked, reprehensible and confiscatory a regulation is, a bolt from heaven will not strike it dead. It can only be declared unconstitutional or illegal by a court of law, and this means that the owner must be in a position to use costly and lengthy court processes to sue for such a ruling. From the moment the regulation is even contemplated—perhaps just a glimmer in a planner's eye—those financially able will begin employing lawyers and experts to protect their interests.

The big owners and developers have the capabilities and will often modify or defeat regulations. While the state authorities may find it difficult to overcome such people, they will easily succeed against those who cannot fight back. The latter group may have to settle for lower prices, await future appreciation, or just pray that someday the meek will inherit the earth. In other words, state and federal controls will operate to do exactly the reverse of what is written and intended in the Udall bill. The regulatory process will, in effect, enhance property rights for the wealthier owners and diminish those of the less affluent owners.

Finally, let us consider the impact of additional state and federal land use regulation upon the country. In spite of the dangers of refueling inflation, the national government is spending billions upon billions of dollars to reduce unemployment, stimulate the economy and increase housing starts. Housing in particular has been badly hit during the last three years with starts substantially decreased. At the national level, the emphasis is clearly on greater economic growth and any reduction in gross national product such as came to light with the recently revised figures for the last quar-



ter of 1976 seems to send shivers through Congress and the administration.

A contrary perspective prevails at much of the local levels of government. There, through the use of zoning laws, efforts have been under way to manage, slow or even stop, growth. The impact of the billions being spent nationally to promote growth are being countered by local efforts to restrain it.

These policies at the local level are not only harmful to the economy, but they hurt the most primary of environmental concerns: employment, better housing and better housing conditions. The people desperately in need of a better quality of life are those who are unemployed and living in substandard housing. Under our system, only private industry can help alleviate these troubles, but its efforts are currently being shackled by the innumerable restrictions and regulations of local government. New regulations at higher levels will only add to the problem. The proposed state or federal regulations will cause a large number of new rules to be superimposed on a large number of existing rules and at the very least, that will result in confusion and uncertainty for owners and land developers. Two or three government levels will then have a piece of the zoning pie. It may be necessary to hire experts in the locality, in the state capitol and possibly, if national land use is enacted, in Washington, as well, just to determine what the new rules are.

The situation demands deregulation. We should start dismantling the regulatory processes which harm the economy and prevent people from acquiring the best and most desirable shelter. There surely should be no greater regulation of land use at either the state or federal level.

#### PERSONAL EXPLANATION

### HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. MAZZOLI. Mr. Speaker, on Tuesday, May 24, I missed several recorded votes because of previous commitments in my district.

Had I been present, I would have voted "yes" on roll No. 277; to resolve into the Committee of the Whole to consider H.R. 6884, the International Security Assistance Act of 1977.

I would have voted "no" on roll No. 278 on the Ichord amendment to delete the provisions establishing a South Africa Special Requirements Fund and to provide \$100 million in security supporting assistance for the fund.

I would have voted "yes" on roll No. 279 on the Bonker substitute—for the Bauman amendment—to strike out "majority rule" as a precondition for countries to receive aid from the South African Special Requirements Fund.

I would have voted "yes" on roll No. 280 on the Harkin amendment to reduce foreign military sales authorizations by \$103 million.

I would have voted "no" on roll No. 281 to recommit the bill.

I would have voted "yes" on roll No. 282, final passage of the bill, H.R. 6884.

With respect to the bill, H.R. 6161, the Clean Air Act amendments, I would have voted "yes" on roll No. 283 to adopt

House Resolution 589, the rule providing for the consideration of H.R. 6161.

#### GALLAUDET COLLEGE COMMENCEMENT

### HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. BUCHANAN. Mr. Speaker, this Monday I had the distinct pleasure and honor to attend the 113th commencement of Gallaudet College. Since 1864, this school has provided hope and opportunity to thousands of persons who have impaired hearing or are totally deaf.

Along with my good friend and colleague from California (Mr. RYAN), I have the privilege of serving on the Board of Directors of Gallaudet. I commend the president, Dr. Edward C. Merrill, the administration, and the faculty for the outstanding work they are doing. I also congratulate the 204 graduates in the Class of 1977 and wish them the best of luck in the future.

The commencement address was given by the Honorable Jack Ashley, a member of the British Parliament. Mr. Ashley, while in Parliament, lost his hearing, because of an ear infection after an operation. He has continued to serve in Parliament by using his wife as an oral interpreter and using a palantype—a system which makes use of court reporting—stenotype—to present a phonetic display for a deaf person. In his address, Mr. Ashley cites the deprivation of educational opportunity and individual human rights for the millions of deaf persons in the world, and calls on the graduates to be ambassadors of all deaf people. The text of his address follows:

#### ADDRESS PRESENTED BY MR. JACK ASHLEY

It is a great privilege to attend this notable occasion and I am deeply appreciative of the honour.

Anyone the world over who is deaf, or interested in the problems of deafness, would welcome the opportunity to visit Gallaudet, for it is a world famous institution of great renown.

I know it is world famous because wherever I have travelled—in Europe, Africa or Asia, the name and the fame of Gallaudet have been warmly acknowledged.

This fame owes much to your ambassadors from the College itself. At a recent conference in London, opened by our Prime Minister, your President, Dr. Merrill, spoke with eloquence and pride of the Gallaudet legacy. It was, if I may say so, impressive testimony to the achievements of the College.

In the past, Gallaudet has accommodated students from many nations—some from Britain—and today they include people from no less than 27 countries; and it is through them, also, that people of all nations learn of the work of Gallaudet.

I personally know of Gallaudet simply because I am deaf. For any man or woman afflicted by deafness looks to this international beacon of educational light—however dark may be their own personal tunnel.

Gallaudet undoubtedly stands at the pinnacle of the educational pyramid of deaf people throughout the world. But this pyramid—despite the eminence of its pinnacle—is malformed as a result of its very

low and enormously wide base. Millions of deaf people throughout the world are denied educational opportunity and are therefore burdened with the dual handicap of deafness and educational deprivation.

They are no tiny, under-privileged minority. The number of deaf people in the world is greater than that of the whole population of the U.S.A. In fact it is greater than the population of any nation in the world, except India or China; and the vast majority of them receive a much lower standard of education than the average in their own countries.

It is against this sombre background that the legacy of Gallaudet, and the achievements of the College, should be viewed—and it is only in this context that their true nature can be appreciated. It is, by any standard, deeply impressive. But to have surmounted such formidable obstacles as those which face all deaf people is a dazzling institutional and individual accomplishment, and one of which they can be very proud.

Of course Gallaudet graduates will go forth and face the same problems and prejudices as confronting deaf people all over the world. There may be some slight national variations but, in the main, deaf people are subject to discrimination simply because of their disability.

It is remarkable that mankind, which can recognise and respond to great national disasters with understanding and generosity, fails to appreciate and alleviate the myriad personal disasters of deafness.

This failure is based on ignorance, which in turn is based on fear. It is fear of the unknown, because the problems of deaf people are largely unknown. They are not amenable to simple exposition, still less to easy solutions.

The graduates of Gallaudet, will be better equipped than most to face these unequal odds, to mitigate the ignorance and to dispel the fear. They will become not only the ambassadors of Gallaudet, but the ambassadors of all deaf people—carrying with them the hopes, the trust, and the aspirations of millions who share this disability.

Each man or woman will tackle these problems, and make their contributions in their own individual way. By virtue of their individuality, nurtured and cherished at Gallaudet, they will help to dispel the common illusion that all deaf people are the same—the myth that they are an inferior, homogeneous group to be lumped together and brushed aside.

The graduates can help society to see a deaf person as an individual who happens to have a disability, rather than as a member of a disabled group who happens to be a person. They will thereby not only add to collective wisdom; they will help lighten the burden of those who are to follow.

An acceptance of the value of individuality is crucial to the future of all deaf people. For far too long they have been denied rights which are part of their natural heritage. Anyone concerned with deafness must place a high priority on insisting that full rights be accorded to all deaf people.

This claim for full human rights has a hallowed tradition. Men and women have fought throughout the centuries to establish their rights—most of them motivated by the highest ideals—and seeking to redress fundamental grievances.

This tradition has been renewed and revitalised by President Carter. By his insistence on full human rights, he has made a major contribution, and won the support of all free men throughout the world. His is a noble and altruistic ideal to which we should all aspire because wherever the rights of men and women are diminished, for political, economic, social or religious reasons—or because they are disabled—so mankind itself is diminished.

The clarion call of the President of the United States has not only been heard in the U.S.A.; it has found an echo in all parts of the globe. And it is a call with special relevance to all deaf people because their particular disability deprives them of vital human rights.

It is a regrettable fact that deafness is an unfashionable disability provoking derision and scorn rather than the sympathy and understanding accorded to other disabilities. Deafness robs men of their rights; deprives women of their due; and denies children their destiny. Deafness is destructive. It destroys human rights as effectively, yet more silently and with greater subtlety, than the most perverse dictatorship. For deafness results in second class citizenship—which by definition means deprivation of human rights.

In many nations there are people fighting to preserve and extend the rights of deaf people. In Britain, we have the Royal National Institute of the Deaf doing outstanding work in this field. The British Broadcasting Corporation also plays an important part with special weekly programmes like "News Review" with captions—all to help deaf people. These are important and heart-warming developments which are furthering a great change in the lives of deaf people which I can now sense in Britain.

In the U. S. A., you have Gallaudet College and it is no coincidence that the College has established a special Center for Law and the Deaf, advocating equal rights for all deaf people. By pursuing the rights of one deaf person, we enhance the rights of all deaf people under the law. That is a splendid aim, and the commendable objective, of Gallaudet, and many people appreciate it.

Gallaudet helps in individual cases to secure legal rights—yet simultaneously accepts international responsibilities to establish the rights of many others through its International Center. In doing so, it recognizes the basic truth that justice—like truth—is indivisible; and justice for deaf people means including those millions who do not have the same wonderful opportunities as the graduates of Gallaudet.

Most of the major problems of deaf people in every country derive from adverse public attitudes—and these can best be changed by deaf people themselves. This is not to say that they should behave in a uniform way. Every individual must decide for himself how to deal with the difficulties—whether to face the challenge of mixing in public or be content with the smaller circle of his family and other deaf people, with whom he can communicate easily.

Neither is more laudable than the other; they are just different. It would be as wrong to attempt to persuade one deaf man to mix in public against his will, as it would be to try to cajole another to segregate himself from others he wished to join. Individual choice is, and must remain, the main consideration.

Those who choose to make their way in public will find, at first, that deafness deprives a person not only of his hearing but of his confidence. This is due largely to the condescending attitude of many people to the deaf, motivated partly by a natural feeling of superiority to any disabled person, and partly because lack of confidence is easily detected, even by the most ungracious, and quickly exploited.

There is, of course, no simple answer, and it is pointless to urge a timid deaf person to act like a lion. But deaf people should never permit patronage, nor allow abuse, because of their disability. Nor should they allow the public to judge them by their deafness rather than their personalities. If deaf people lose confidence in themselves, they cannot expect to win confidence from others.

This is perhaps the most difficult battle

of all—especially in the early years, and for those deaf people venturing into an indifferent or hostile environment. They face a kaleidoscopic pattern of life—a rapidly changing picture of despair and hope; occasionally depressing with failure but frequently shining with promise.

I believe that there is a new public awakening to the problems of deaf people—and a realization that these need not lie, as they have lain so long, in the shadows of public and private indifference. Deaf people can now rely on some of the people some of the time—but they cannot rely on all of the people all of the time.

To fulfill their own potentialities, deaf people must take a firm hand in their own destiny—relying on neither friend nor foe to determine their future. There is the same birthright as other human beings', to life and laughter, joy and sorrow, failure or achievement. Their handicap is but one more hazard in the steep climb of life; and by determination to surmount it, they can win the glittering prizes of happiness, accomplishment and fulfillment.

And for those graduating today there is a very special advantage. Whatever they do, wherever they go, they can claim with truth and pride, "I come from Gallaudet."

#### ARMENIAN INDEPENDENCE DAY

#### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. BIAGGI. Mr. Speaker, this Saturday, May 28, 1977, is the 59th anniversary of Armenian Independence Day. It is my pleasure to take this opportunity, as Americans and the citizens of the world again pause in remembrance of that solemn occasion, to pay tribute to the memory of outstanding Armenian nationalists and leaders throughout the annals of history. We can also salute their proud counterparts of today, those who continue to display the indefatigable spirit of their very brave people in the fight for human rights. Their account merits our attention. Their valor is worthy of our esteem.

It is terribly sad that one instantly recalls the horrifying genocide of 1.5 million Armenians, living under Turkish rule from 1915 to 1917, when thinking of the story of these noble people. We reflect on that experience with repulsion, but such atrocities are truly hard for us to fully comprehend as a people who have always lived with liberty.

Americans have been allied with the Armenian struggle for many years. It is not widely known that our President, Woodrow Wilson, has emerged through the chronicle of their survival as a true champion and ally of the Armenians. I would like to share some of that remarkable history, and a special American contribution, with you and my colleagues here today.

When the Russian Army withdrew from the Caucasian front in October of 1917, an ill-equipped Armenian Army of refugees and volunteers from abroad fought the invading Turkish divisions to a standstill. That heroic feat prevented the Turks from seizing the Baku oilfields for the use of the German war machine.

These military successes led directly to the establishment on May 28, 1918, of the independent Republic of Armenia.

Two years later, a joint attack by Turkish Kemalist forces and Russian forces led to the destruction of Armenian freedom. This overwhelming, mortal takeover occurred despite all of the promises and assurances of the Allies.

The United States was moved to recognize the free Armenian Republic of 1918 to 1920, the only government of that nation to be accorded that status by our country. The high regard and importance with which the United States viewed Armenia led to an American mandate to intercede. As the major part of that effort, President Wilson arbitrated the boundaries of that small, but fearless, nation with Turkey, pursuant to the Sevres Treaty.

As Americans take the time to celebrate Armenian Independence Day, we, as the greatest freedom-loving people in the world, should strengthen our bonds with all those who similarly enjoy freedom. At the same time, we must renew our commitment to all those people who continue to struggle under the bonds of oppression.

The courageous people of Armenia have spent far longer than 59 years searching for true liberty. Their struggle has ensued through centuries of persecution and ruthless domination. Yet, throughout these long years, the freedom-loving spirit of the Armenian people has remained undaunted, and today they continue their struggle for freedom.

I am very proud to be considered a friend of the cause of Armenian freedom by my constituents of Armenian heritage, and particularly their leadership, as represented by the Armenian National Committee and their chairman, Harry Derderian.

The Armenian-American citizens of the United States have contributed much to our Nation, and for that we are grateful. It remains our hope that freedom may yet return to Armenia so that next May 28 we can truly celebrate Armenian Independence Day.

#### UNIVERSITY OF NEW MEXICO LEADS THE NATION

#### HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. LUJAN. Mr. Speaker, I rise for the purpose of bringing deserved recognition to the University of New Mexico as being No. 1 in the Nation of major State universities as the leader on all levels, including undergraduate, graduate, and professional programs in percentage of minority student participation.

I believe that the University of New Mexico should stand out as a model for other institutions of higher learning in order to provide the necessary education and experience to the numerous minority students willing and wanting to attend college.

There are many factors which must be



present to successfully carry out the functions of a multicultural university. These include cooperation and positive action by both the University and the State government, and most importantly—the large minority groups that live in New Mexico.

At this time, I would like to share with you a summary of the Presidential progress report on ethnic minorities which includes the latest available national statistics:

The University of New Mexico is the national leader among major state universities and colleges in providing educational opportunities for minority students. University of New Mexico President William E. Davis said at a news conference today.

Referring to a presidential progress report on minority educational opportunities Davis said that according to the latest available national statistics (1974) undergraduate minority enrollment at UNM is approximately 22 per cent, while the national average is 7.1 per cent.

The 1974 U.S. Dept. of Health, Education and Welfare survey also shows a wide gap between national averages and enrollment at UNM in graduate and professional schools.

UNM's population of minority graduate students is 15.69 per cent with the national average 7.11 per cent.

UNM's professional school minority enrollment is 23.09 per cent with the national average 8.15 per cent.

When compared to other major universities with large minority populations the record shows UNM still emerging as the leader.

At the University of Texas at Austin, with an enrollment of 39,048 students, the Hispanic enrollment is 2613 students or 6.6 per cent.

The two major institutions in the University of California system, UCLA and California at Berkeley, also lag behind the Hispanic student enrollment at UNM.

UCLA this year has a student enrollment of 29,055 domestic students and a total of 1890 Hispanic students or 6.5 per cent. California at Berkeley, with a total enrollment of 28,343 students shows an Hispanic enrollment of 977 students or 3.5 per cent.

The University of New Mexico has an Hispanic enrollment of 4684 students or approximately 22 per cent.

While UNM is number one among all major state universities in minorities as a percentage of enrollment, the state as a whole—that is, all of the institutions of higher education in New Mexico—ranks second in percentage of minorities enrolled among total student population in all but one category.

In graduate level education New Mexico ranks fifth nationally. UNM, as a major state university, is well ahead of comparable institutions in other states in service to minorities, but smaller institutions in other states absorb a greater percentage of the total minority student population than is the case in New Mexico.

During 1975-76, the latest year for which accurate figures are available, UNM awarded a total of \$10,000,000 in grants, scholarships, loans and work-study arrangements.

Of that amount, 45 per cent or \$4,500,000 went to minority students who represented approximately 25 per cent of the student body.

That means that minority students received nearly half of the financial aid distributed at UNM while representing only about a quarter of the total enrollment.

During the same year UNM allocated another \$4,600,000 to minority-emphasis recruitment-retention programs and put more than \$140,000 into three ethnic student centers.

The UNM financial aid office estimates that it will have distributed approximately \$12,-

000,000 this year with, once again, at least 45 per cent going to minority students.

## POSTSECONDARY EDUCATION

### HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. CORCORAN of Illinois. Mr. Speaker, as we shortly approach the time when the appropriations bills for fiscal year 1978 will be considered, it would be wise to reflect on one area where Congress and the President have differing opinions and legislative proposals—that is, in the area of education. The President had originally provided no funds for the national direct student loan program in his fiscal year 1978 budget proposal. This program provides a revolving fund to colleges to offer loans for students. The Carter position was the repayment of earlier student loans from the NDSL program would amount to \$276 million next year. The budget plan rationale noted that other new and expanded Federal loan programs aimed at the underprivileged, would make up for a cutback in NDSL funds. Several colleges and universities, though, objected to the Carter proposal. Some argued that they had not been able to collect student loans which were past due.

As a result of heated and long drawn-out negotiations, the House Appropriations Committee's Subcommittee on Labor—Health, Education, and Welfare added \$379 million to the fiscal year 1978 education appropriations bill for the national direct student loan program. This action will most surely be sustained by the entire House when this bill is considered on the floor.

As a result of this confusion and inherent weaknesses of the NDSL and other loan programs. I think that the time has come to study new proposals to help assist our families as they attempt to cope with the ever-increasing costs of college education for their children.

I have become very concerned with this problem and have introduced a bill (H.R. 6301) with nearly 30 cosponsors to come to grips with this unsettling situation. As part of our attempt to convince the House of Representatives to consider our proposal, I was pleased to testify before the House Budget Committee about this bill on May 12. I would like to, at this time, include the text of my remarks before the committee in the RECORD:

#### STATEMENT BY HONORABLE TOM CORCORAN

I am pleased to be here today to testify before the first House committee to hold hearings on an idea which has been neglected for too long.

The idea of tax credits for post-secondary education is not a new one. Twice, during 1976, the Senate passed such legislation. This House, for what reasons I do not know, has rejected this legislation.

Similar legislation has been introduced again this year, and I have come to join Senator Roth in urging you to look with favor on our proposal.

The costs of a college education are rising at a terrifying rate, while we struggle just to

keep our heads above water with paychecks that always seem just a little too short.

Consider, for a moment, these facts, supplied to me by the House Education and Labor Committee. The cost of one year in a public college will be four percent higher in the 1977-78 school year than it is in the 1976-77 school year. At private schools, the increase will be 5.2 percent. This is not an isolated instance. The trend of higher and higher college costs is persistent.

In the years between 1970 and 1977 the cost of tuition alone increased 57.2 percent at public colleges! Fifty-seven percent, and there's no end in sight. If you have an 18-year-old child, one who plans on entering college next year, it will cost you, on the average, \$17,500 for four years at a public university. If, on the other hand, your child is in the first grade this year, you can plan on spending \$35,420 for his bachelor's degree. Finally, if your child is born this year, college costs will be \$47,330 for four years when the child enters college.

To meet this expense, you would have to save \$1,570 every year. In addition, if you want your child to attend a private college, and about one-fourth of our college students do go to private institutions, the cost for a baby today will be \$82,830 by the time he or she reaches college age.

So far, I've talked about four-year colleges and universities. What about those students who prefer a two-year school—either a junior college or a vocational school? The increase in cost at two-year schools has risen over one hundred and thirty percent since 1970. It now costs nearly as much to attend a two-year school as it did to attend a four-year school not that long ago.

During the past two years, state support for education, on a per student basis, and adjusted for inflation, has declined in about half of the states. This creates still another pressure toward increased costs for post-secondary education.

The result of this increase in the cost of post-secondary education is quite simple, and equally frightening. Many able and eager young students are being priced out of school. They are being denied what most Americans have always considered a basic right—the right to better themselves through education.

I am aware of the studies which show that, today, a college degree does not mean a person will automatically get a better job, or that he will be better paid. Indeed, Mr. Chairman, we all too often equate a better job or higher pay with a better person. I believe that we, in the United States, are guilty of perverting the idea of what a college education, or indeed any education, is. Education, especially at the post-secondary level, should not be merely a training program for some job. Education should be nourishment for the mind and heart; it should contribute to the creation of a thoughtful, well-rounded person—one who is equipped to apply his God-given talents and abilities to the problems of everyday life; problems which are becoming increasingly complex.

So, Mr. Chairman, because education is so important, I am worried. I am worried by the increasing numbers of young people in all income brackets who are no longer going to college. I am most concerned, though, with figures which show the biggest decline attending college is in the middle-income range; that is, from families whose income is between \$10,000 and \$15,000 per year. During the 1974-75 school year, there was a drop of nearly seven percent in students entering college from middle-income families as compared with the 1972-73 school year.

These figures make it clear, at least to me, that something needs to be done. It is equally clear that the Guaranteed Student Loan Program, the National Direct Student

Loan Program and other loan programs like them are not the complete solution. Both of these programs are costly to administer, and both have very high default rates. For example, four years ago, Congress appropriated \$40 million to cover defaults on these loans. This past year, five times as much money—200 million dollars—has been appropriated for defaults. In addition, President Carter has proposed elimination of the NDSL Program, which is one of the largest of the student loan programs, in his fiscal 1978 budget.

I think the legislation Senator Roth and I have introduced—an income tax credit for post-secondary education expenses—can be a viable replacement.

This legislation provides a meaningful incentive for parents to continue the education of their children beyond elementary and secondary levels. Known as "The College Tuition Tax Relief Act of 1977", this bill would provide tax credits for college education expenses paid by an individual for himself, his spouse, or his dependents. The amount of tax credit is an incremental progression: \$250 in 1977; \$300 in 1978; \$400 in 1979; and \$500 in 1980 and thereafter.

These credits would apply to tuition, fees, books, supplies and equipment required for courses of instruction of eligible institutions. Only full-time students are eligible for this credit who are above the secondary education level and attend an institution of higher education (including community colleges) or a vocational school.

Such a tax credit would have three advantages. First, and foremost, it is aid directly to those who bear the brunt of college costs, especially the middle class, which has financed most student aid programs while being denied the benefits of those programs. Every student, or the parent of a student who is not self-supporting, can take advantage of the credit. It is a form of aid with few strings attached.

Secondly, the tax credit is simple and inexpensive from an administrative point of view.

Finally, the cost of the program, in terms of revenue loss, would not be prohibitive. The revenue ceiling in the Fiscal '77 budget is \$348.5 billion. According to the figures I've been given by the Joint Committee on Taxation, the revenue loss from a tuition tax credit, if it became effective on June 30, 1977, would only be \$138 million, or less than three one-hundredths of one percent of total revenues. In Fiscal 1978, when the credit would be increased from \$250 to \$300, and when the proposed revenue ceiling will be \$396.3 billion the revenue loss would be \$988 million—still only about one-quarter of one percent.

In the Federal budget for 1977, only 2 percent was spent on education. If we consider the revenue loss from a tuition tax credit as an expenditure, we will still be spending less than 3 percent of our budget for higher education. Is such an expenditure out of line when we in Congress spend more than that on our own operations? In a world which grows more intricate with each passing day, we must educate as many of our young people as we can; educate them not only in terms of vocational skills, but in terms of knowledge itself.

In short, Mr. Chairman, we must school our young people in the way to learn. We must instill in them the thirst for information, the desire to seek out all the mystery that life has to offer and to use it for their own betterment.

It is for that reason that I urge this committee to support this legislation.

Thank you, and I would be happy to entertain any questions.

## CITIZEN COMMENT ON THE CLAM-SHELL ANTI-NUCLEAR LUDDITIES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. McDONALD. Mr. Speaker, the Clamshell Alliance's antinuclear power organizers, veterans of the pro-Vietcong demonstrations of the 1960's, have misjudged the effect of their mass lawbreaking adventure on May Day. They have gained their support from the fringes of the ecology movement, from the Marxist New Left, and from naive students; but they have alienated themselves from the mainstream of citizens.

The Clamshell Alliance and its subsidiaries rely for funds on a tax-exempt foundation, the Haymarket People's Fund, which only provides money to groups it determines are organizing in support of eventual Marxist revolution. The Haymarket money is provided by radical heirs to free enterprise fortunes, the dilettantes of dissent, who take a tax exemption for donations to groups conspiring to break the law.

The perceptive citizens of New England, however, have not been taken in by radical protests. I was delighted to read a letter to the editor of the Manchester Union Leader by Mrs. Louise G. Muzzey, a Massachusetts resident, which shows a clear understanding of the issues, and the steps necessary to remedy the problem. The letter follows:

[From the Manchester (H.N.) Union Leader, May 18, 1977]

### TIME, MONEY TO THROW AWAY

Addressed to William Loeb: It is very interesting to read letters in the MUL from around this nation from individuals wondering where the malcontents get their money to survive.

The young people in the age bracket from 20 to 35 who have inherited wealth and have liberal thinking can only support those groups that are considered progressive and for social change. They have too much time and money to throw away.

Those nuke-haters at Seabrook are a good example. They either are supported by inherited wealth or by the taxpayers. If they had legal jobs and other responsibilities, they would have no time for protesting.

Although I live in the Bay State, I hope no disaster comes up in this state because we deserve no help from the other New England states seeing our Governor refused help to New Hampshire because of Seabrook. For one who wants regional government, he was quick to say no when the need arose for help.

It is not surprising to know that nearly half of the protestors at Seabrook were from the Hot-Bed of Radicalism on the East Coast (Massachusetts).

People should become aware of reading material other than local papers because data turns up in out-of-town material that sometimes proves very interesting.

It is about time the American public woke up and started complaining to Congress about the fact that the people of the United States of America have no protection for the internal security of this country. No individual has any rights today unless they are left-of-center but I would rather be Right.

In closing, Seabrook is a good example of the future of New England unless the public stands up and supports those in favor of our Republic.

Mrs. LOUISE G. MUZZEY.

SOMERVILLE, MASS.

## INSTANT VOTERS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. MAZZOLI. Mr. Speaker, the following, which appeared in the May 21 Washington Post, offers some interesting points on H.R. 5400, the Universal Voter Registration Act:

### INSTANT VOTERS

It is not clear whom President Carter had in mind when he told the United Auto Workers the other day that "some powerful special interests are trying to kill the electoral reform bill, because they don't want working people to register and to vote." That formulation may serve the President's interest—and perhaps his party's—in bringing about instant, election-day voter registration. But one need not be a "special interest" in order to see grave defects in the bill. To sum up our own view in Mr. Carter's terms, we do want working people and others to register and vote—but not necessarily on the same day.

The bill's wrongheadedness starts with its premise that pre-registration is a major barrier to voting. That used to be true. But registration rules and procedures have been greatly eased since 1960—and the percentage of voting-age Americans who turn out in presidential elections has been dropping anyway. The primary causes of the decline are demographic changes, public disenchantment and apathy—forces that can't be countered by a law. While simplifying pre-registration—by using a postcard system, for example—is a good idea in itself, it does not necessarily lead to larger turnouts at the polls. Even abolishing pre-registration may affect the turnout less than the nature of a given campaign. Last November, turnouts were a few percentage points above 1972 levels in the four states with instant registration. But they were also higher in most Southern states, where pre-registration is still required.

It's generally assumed that larger turnouts would help the Democrats, which is why partisan lines are drawn so sharply on this bill. The basic question, though, is whether democracy as well as Democrats would be well served by making election-day registration available in every precinct in the land. An impressive array of state and local election officials, among others, say no. They predict widespread fraud if they can no longer obtain signature cards and verify addresses of all potential voters before election day. Requiring voters to show IDs and sign an affidavit at the polling place may deter fraud in Minnesota and other states where elections are generally scandal-free. In areas with more turbulent traditions, though, stronger precautions have proven desirable—as Rhode Island's secretary of state said in Senate testimony excerpted For the Record on this page.

The administration's bill presents other problems, too. It would compel most states to rewrite their election laws in short order, and to train many new precinct workers to process instant registrations. It would trample on the tradition of state governance of state and local elections. States would have to



either extend instant registration across the board or suffer the cost and confusion of running elections under two different sets of rules. Finally, the federal grants for administration and "voter outreach" strike us as virtually impossible to police without bureaucratic controls so elaborate that the states will rebel and the Federal Election Commission will collapse.

All in all, the more we study this proposal, the worse it looks. We have no quarrel with instant registration, or no registration, where the integrity of elections is not jeopardized thereby. But the states ought to make that judgment for themselves. We see no current abuses so flagrant, and no potential benefits so great, as to justify the dangers this program would open up and the disruption it would cause. If the Democrats want to get more voters to the polls, they could try to do so in the time-honored way: through good political organization, a sound choice of issues, strong candidates and vigorous campaigns.

#### URGES SUPPORT FOR DINGELL-BROYHILL AMENDMENT

#### HON. TENNYSON GUYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. GUYER. Mr. Speaker, I wish to indicate my support for the amendment being offered to the House by the gentleman from Michigan (Mr. DINGELL) and the gentleman from North Carolina (Mr. BROYHILL).

I am most interested in the solutions proposed by the amendment and the committee bill to eliminate the anti-competitive and anticonsumer aspects of the performance warranty of the Clean Air Act. My first observation is that both the committee bill and Dingell-Broyhill amendment recognize that the performance warranty is anticompetitive, so there appears to be agreement on that point. After careful consideration of both measures, it is obvious to me that enough study has taken place on the issue. The committee bill reduces the warranty for only 3 years and mandates yet another study. This is not an effective solution. The committee bill would force Congress to act in 3 years to keep the warranty from automatically reverting to 5 years, 50,000 miles. This, Congress is not likely to find the time to do. Enough study has taken place on the issue, all 19 members of the House Small Business Committee recommended that the warranty be reduced because of its anticompetitive and anticonsumer aspects and the recent statement of the Antitrust Division of the Justice Department indicates that the warranty would create enormous costs to the consumer and have a major anticompetitive impact.

I would urge my colleagues to support the Dingell-Broyhill amendment which corrects the anticompetitive and anticonsumer aspects of the performance warranty permanently and has the support of 102 aftermarket associations representing over 166,000 business member firms. The Members of the House should remember that the committee bill submitted to the House and approved by the House last year carried a permanent

reduction to 18 months and 18,000 miles, similar to the Dingell-Broyhill provision. Unless this problem is permanently solved now, the independent garage and aftermarket industry would not be able to survive what the Small Business Committee indicated the performance warranty would do without relief—that is mandate a monopoly for parts and services by the Big Four.

Again, I would urge my fellow Members to support the Dingell-Broyhill amendment as the only permanent solution to the problems inherent in the performance warranty of the Clean Air Act.

#### FORGOTTEN VETERANS OF VIETNAM

#### HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. MURTHA. Mr. Speaker, for the information of the Members, I insert into the RECORD an article from the May 25 Washington Post by Jan Craig Scruggs. As many of you know, I am a Vietnam veteran and this article eloquently adds to many of the comments I have been making over the past few years about the treatment of Vietnam veterans:

#### FORGOTTEN VETERANS OF THAT PECULIAR WAR (By Jan Craig Scruggs)

Just as the Vietnam war was unique in the way that it was waged—and lost—so that conflict has subjected our youngest-ever crop of war veterans to pressures unparalleled in American military history. The victory parades and hero status awarded to previous generations of military returnees were simply not present. The national turmoil surrounding the war made one's status as a Vietnam veteran a dubious distinction at best.

Probably no aspect of the war has been more exploited, misunderstood and officially neglected than the readjustment problems of Vietnam returnees. In the past two years the psychological and academic communities have finally started taking an interest in the effects of having participated in that conflict. We are seeing research indicating that serious and prolonged adjustment problems exist for many Vietnam veterans.

My personal interest in this topic is rooted in my own experience. When I was a naive teenager, a profound sense of duty compelled me to serve my country during time of war. After my tour, the wounds and medals I received as an infantryman in Vietnam became slowly transformed into reminders of my part in a cruel and meaningless conflict. My naive acceptance of America as a great and noble land gave way to more critical thinking as my conventional beliefs, attitudes and values were shaken by the war. I sometimes felt a deep bitterness toward this country as I reflected back to a quiet Sunday in 1970, when two very special friends of mine, a young black and a Jewish draftee, suddenly lay dismembered and motionless in the dirt of Vietnam.

During graduate training in counseling psychology at American University, I initiated a long and expensive social psychological investigation of the war's effects upon college veterans. A questionnaire was designed to test the major hypotheses advanced by the scant literature available on this

neglected topic. A prominent psychology professor, Dr. Allan Berman, provided excellent professional guidance. Questionnaires were given to 600 Vietnam veterans at local universities. Our 233 replies yielded some important findings about the psychological aftermath of that peculiar war.

The research found that men who served in units with a casualty rate of more than 25 per cent were statistically higher in political alienation. These veterans were also 11 times more likely to report dreaming of Vietnam combat than those who served in units with no casualties. Many evidenced low self-esteem. Only half of the sample did not feel that Vietnam duty had caused them psychological problems. Only one of the black combat veterans did not feel that Vietnam duty had hurt him psychologically. Some veterans who had psychological problems from the war indicated a reluctance to seek help from the Veterans Administration. Combat veterans had a 30 per cent rate of separations and divorce. The dry statistics of the social sciences revealed a sad legacy remaining from a war that this country is trying to forget.

In my present futile search for federal employment. I recently spoke with a civil-service counselor who has talked with several young men who refuse their five-point preferences rather than bear the stigma of being known as Vietnam veterans. One of the biggest and longest running jokes in this town is the special 10-point preference for disabled Vietnam veterans. Ronald Drach, employment director for the Disabled American Veterans and himself an amputee from Vietnam combat, states that it is generally not enforced and that cases exist where it has been intentionally circumvented by federal agencies. Most of the federal employees who have tried to help me and other disabled Vietnam veterans gain employment are also frustrated about this situation. The Department of Labor, which has been given the task of enforcing affirmative-action programs for hiring Vietnam-era veterans, sets a miserable example for private industry. Vietnam-era veterans constitute less than 1 per cent of the department's total work force, one of the lowest for any major federal agency. March unemployment statistics revealed that the unemployment rate for the youngest age group of Vietnam-era veterans has increased one percentage point, to 17.2 per cent. However, the unemployment rate for the same age group of male non-veterans has decreased one point to 10.4 per cent.

My findings are really not surprising. Several years back some leading psychiatrists, including Dr. Peter Bourne and Yale's Dr. Robert J. Lifton, warned that the Vietnam conflict would have serious, delayed consequences for many who served there. The very nature of this odd war—the lack of psychological justification for the soldier engaged in it, and society's indifference upon his return—perhaps made this inevitable.

It is, of course, not recent news that war has adverse effects on the human psyche. We have always known that. What is new, however, is that this country has never before given veterans the shoddy treatment that has been bestowed upon those who served in Vietnam. Many who volunteered or allowed themselves to be drafted did so with vague assurances of future educational benefits and employment. They returned to find that the GI Bill was inadequate and that many jobs were filled by those who had purposely avoided their military obligation.

The new administration has taken some measures to provide assistance, however belatedly, to those who became the victims of this nation's foreign-policy mistakes. It is not yet clear how far President Carter is willing to go to alleviate the appalling unemployment rate for veterans. He has, however, demonstrated his wisdom in the appointment of an energetic Vietnam returnee, Max Cleland,

as the new chief of the Veterans Administration. Some healthy changes are now taking place to make the VA's services more in keeping with the needs of all veterans. Cleland wants to reverse his agency's poor retention rate for physicians. He wants to expand the drug- and alcohol-treatment facilities. Furthermore, he recognizes the need for the Veterans Administration to provide readjustment counseling, the lack of which has exacerbated the problems of many Vietnam veterans.

My research will soon be reviewed by the Senate and House committees on veterans' affairs. If nothing comes of that, the effort will be buried away in some academic journal. But my findings, as well as those of other researchers, highlight some very real problems that will not go away, for all the haste with which this country may seek to sweep a shameful war under the rug.

There is a major issue here for this country to resolve, for the indifference and lack of compassion that the veterans have received is, to a large degree, a reflection of our lack of a national reconciliation after Vietnam. The fundamental challenge should now be to meet the very real needs of this group as a major step toward America's final recovery from that war. The power—and the responsibility—to make good on the national obligation to Vietnam-era veterans ultimately rests with the President and the Congress. No efforts can provide compensation, of course, to the Americans who made the ultimate sacrifice in Vietnam. For them, perhaps, a national monument is in order to remind an ungrateful nation of what it has done to its sons.

#### PHILADELPHIA'S MEMORIAL DAY CEREMONIES TO BE HELD ABOARD HISTORIC NAVY VESSEL

**HON. JOSHUA EILBERG**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. EILBERG. Mr. Speaker, I am pleased to be able to announce that Philadelphia's official Memorial Day ceremonies will be held aboard the U.S.S. *Olympia*, Monday, May 30, at Penn's Landing.

The special memorial services are being sponsored by the Cruiser Olympia Association in conjunction with the city's 30-member United Veterans Council.

Speakers include Adm. Wycliffe D. Toole, Jr., commandant of the Fourth Naval District, and Fire Commissioner Joseph R. Rizzo.

Admiral Toole and Commissioner Rizzo will receive special citations from the Cruiser Olympia Association in recognition of their efforts in helping to preserve the historic ship which served as Adm. George E. Dewey's flagship during the battle of Manila Bay in May 1898.

Floral wreaths will be tossed onto the waters of the Delaware in memory of the Nation's war dead. Taps will be sounded by members of the Police and Firemen's Band and volleys will be fired by a U.S. Marine Corps squad.

Entertainment will be provided by the Police and Firemen's Band, the Artisans Memorial American Legion Band, and the Former Big Band All Stars.

Many other Memorial Day ceremonies will be held throughout the city over the weekend as Philadelphians join with

Americans all across the country in honoring those who served in the armed forces.

#### A HOUSING PROGRAM TO AID YOUNG FAMILIES

**HON. ROBERT W. KASTEN, JR.**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. KASTEN. Mr. Speaker, an increasing number of Americans today cannot afford to purchase their own homes because of the rapid rise in housing prices which we have experienced during the last few years. We are reaching the point where the American dream of owning your own home is a luxury for the fortunate few and beyond the reach of the vast majority of Americans.

#### INFLATIONARY STRAIN

While inflation over the past 7 years has placed strains on all segments of our economy, it has been especially severe on the housing sector. Since 1970 the relative cost of homeownership has risen at an annual rate of 8.3 percent compared to an overall increase in the Consumer Price Index of 7.7 percent. Sale price of a new home has risen at an annual rate of 9.4 percent while an existing home has risen at a rate of 10.7 percent.

For the first time in history, the average new American home costs \$51,600—38 percent more than the price just 3 years ago.

As housing prices have continued to escalate, the proportion of American families able to afford a median-priced new home has declined from 54.7 percent in 1970 to 39.6 percent in 1975—after income tax considerations. During the same time, we have also witnessed a decline in the proportion of families able to afford existing homes. Recent studies indicate that only about one-fourth of all U.S. families could afford to buy the average new home at today's prices.

While the statistics confirm the damage already done to the housing market, the outlook for the future is even more discouraging. If we assume a 7-percent inflation rate in the overall economy, it is estimated that by 1986 the median-priced new home will sell for close to \$90,000 with the average downpayment required averaging close to \$23,000.

There are several recognizable factors which have contributed to this steady rise in prices: Rapidly rising sales prices, rising mortgage interest rates, and rising utility and maintenance costs.

The effect is devastating.

If present trends continue, more and more Americans will simply not be able to afford their own home. Young families seeking to purchase their first home will be hit hardest.

The first-time home buyer is confronted with the full impact of cost increases, and he lacks the necessary resources to meet those increases. A study prepared by the Congressional Budget Office shows that the cost of a median-priced new home for first-time home

buyers has on average risen one and a half times as fast as their incomes in the period of 1970-75.

That is why, Mr. Speaker, legislative efforts are necessary to keep homeownership within the reach of most Americans. During my study of legislative remedies, I became most interested in the proposals being advanced by Senator Brooke of Massachusetts. I am pleased to introduce in the House of Representatives a two-part bill which embodies these proposals. I believe adoption of this bill will make the dream of a decent home possible for millions of Americans who cannot afford to purchase a home.

#### GRADUATED PAYMENT MORTGAGE

The graduated payment mortgage concept is designed to attack one of the major defects of the present standard fixed-payment mortgage, which bases the amount of house a family can afford on its income at the time the house is purchased—even though they may live in the house for many years and their income can be expected to increase during that time.

The idea is to structure the mortgage payment so that it rises over time rather than remaining fixed for the life of the loan.

In effect, the graduated payment mortgage simply tilts the mortgage payment stream so that it more closely corresponds to a typical family's income growth over a period of years. In the early years of the loan, a family or individual would pay lower monthly mortgage payments with payments increasing over the duration of the loan.

The primary advantage is that it enables most families to purchase a home that they would not have been able to afford with a standard level payment mortgage—provided that they have good reason to expect their income to grow in the future. Thus, the graduated payment mortgage is particularly suited to young families buying their first home.

The concept of the graduated payment mortgage is not new. The Department of Housing and Urban Development has initiated an experimental program, and the bill I propose would extend that experiment to better reflect market realities. Essentially, I propose allowing the Federal Housing Administration to insure graduated payment mortgages under certain specified conditions.

The best way to experiment with this concept is to remove all volume restrictions and let potential home buyers choose between a conventional mortgage and readily available graduated payment mortgages.

#### INDIVIDUAL HOUSING ACCOUNT

The second part of my bill is designed to help the potential first-time home buyer meet the substantial downpayment necessary for purchase of a home. It is estimated that at the present time a young household needs between \$10,000 to \$12,000 to purchase a home. By 1986, if present trends continue, between \$20,000 to \$23,000 could be required.

Accumulation of the downpayment can be prohibitive, particularly when an individual or family is just starting out.



The best way to assist these individuals is to offer an incentive for them to save enough money to pay the downpayment.

I, therefore, propose creation of an individual housing account—IHA—a tax-exempt savings account.

This savings account would permit a potential home buyer to deposit up to \$2,500 a year to a maximum of \$10,000. This amount would be deductible from income for tax purposes, and the interest income would be exempt from taxation. At any point, this money could be withdrawn and used toward the purchase of a home. As long as the IHA was applied toward the purchase of a home, no tax would have to be paid on this sum or the interest income which has accrued in this account. These special IHA accounts would be restricted to first-time home buyers—a group which does not have the advantage of equity accumulation in an existing home.

This particular proposal includes a provision to recapture a portion of the lost taxes. At the time of resale, a homeowner would subtract from the original purchase price of the house that portion of the downpayment which was derived from the individual housing account.

Since the program would be restricted to first-time home buyers, it would benefit young and low- and moderate-income households. It provides a positive incentive for frugality without resembling a giveaway program.

#### STAKE IN SOCIETY

Mr. Speaker, homeownership has traditionally been a way in which American families build a stake in our society. If, for reasons largely beyond their control, families are denied the opportunity of owning their own home, we will have lost one of the most important stabilizing forces in our society. That would be frustrating for the individual and damaging to society as a whole.

I do not want to see this happen, and that is why I am pleased to endorse the concepts contained in this proposal. I commend this legislation to the attention of my colleagues.

#### PERSONAL EXPLANATION

### HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. LEHMAN. Mr. Speaker, yesterday I had to miss the recorded vote on the motion that the House resolve itself into the Committee of the Whole House for consideration of H.R. 6161, the Clean Air Act amendments.

At the time when the vote was taken, I was meeting with EDA officials concerning the implementation of the Local Public Works Capital Development and Investment Act of 1976. Because of procedural errors in last year's program and a number of questions which have been raised by Dade County, I wanted to be sure that no mistakes would be made this time and that all communities in my district had a clear understanding of the guidelines.

I believe my time was well spent in this endeavor. Had I been present on the floor of the House when the vote was taken, I would have voted "yea."

#### UNNECESSARY HYSTERECTOMIES

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. WAXMAN. Mr. Speaker, in our country which boasts medical technology second to none, American women should not receive medical care that is second best. According to recent hearings on unnecessary surgery held by the House Subcommittee on Oversight and Investigations, some estimate that up to 40 percent of the hysterectomies performed each year in the United States are not medically required.

Unnecessary hysterectomies subject women to all the risks of major surgery, as well as postoperation depression and physical complications. One out of every 10 fatalities in surgery is due to anesthetic. Commonsense tells us surgery should never be performed where it is not clinically indicated.

These unnecessary operations are big business for unscrupulous surgeons. In 1975, more wombs were removed than tonsils—725,000. This is an increase of 25 percent since 1970. By age 65, half of all American women will have had a hysterectomy. Many of these women are subjected to the risk of cancer from hormone replacement therapy following surgery.

Rarely have I felt as dismayed at a hearing as I did when listening to the testimony of Dr. James Sammons, executive vice president of the American Medical Association, before the Oversight and Investigations Subcommittee. Dr. Sammons not only defended but actually advocated hysterectomy to relieve women's anxiety about pregnancy or cancer—even where there were no clinical signs that surgery was warranted.

I would expect great care and restraint to be exercised in ordering this serious surgical procedure. Instead, at the hearings I heard a callous litany of reasons why the United States has the highest number of hysterectomies per capita of any industrial nation. The hysterectomy rate in the United States is 2½ times that of England, and 4 times that in Sweden.

Most disturbing of all is the finding of the Oversight and Investigations Subcommittee that the rate of hysterectomies is higher when surgeons are paid on a fee for service rather than a salaried basis. Are surgical operations to be determined by the profit motive rather than sound medical judgment? This strikes at the very core of medical ethics, and casts a long shadow over one of our most learned and esteemed professions.

I would like to close my remarks by including in the Record a recent article by one of America's most discerning

columnists, Ellen Goodman. I include her article on the surgery hearings, because it capsulizes so well the indignation we all should feel at the casual escalation of unnecessary surgery on American women:

#### U.S. WOMEN ARE HAVING TOO MANY HYSTERECTOMIES (By Ellen Goodman)

BOSTON.—The man from the American Medical Association was pretty direct about it. If a woman had hysteria, then the cure might well be a hysterectomy.

Yes, there was something positively Grecian about the dogged line of reasoning pursued by Dr. James Sammons as he testified before the House Commerce oversight subcommittee that has been investigating unnecessary surgery.

The word "hyster" began its unfortunate etymological history as Greek for "uterus." It doesn't take a National Organization for Women task force to trace its descent into the English word "hysteria"—"an uncontrollable outburst of emotion or fear."

With that background, it should not have been surprising to find Dr. Sammons telling the congressional hearing that the AMA supported surgery as a means of cutting out fear. He condoned a hysterectomy for women in states of "acute pregnophobia" (fear of pregnancy) and acute cancer phobia.

In the process, he pointed up one thing: Hysterectomies have become big business. In 1975, more wombs were removed than tonsils—725,000 in all, up a full 25 percent from 1970. At this rate, half of all American women over 65 will have had their uteruses taken out.

Of course, relatively few of these operations are done for the fearful, but Dr. Sammons' casual attitude toward the procedure shows up in the statistics. The hysterectomy rate in the United States is 2½ times that of England and 4 times that of Sweden.

Of all these procedures, no more than 20 percent are performed for cancer or other life-threatening disorders. A large number, however, are done for sterilization, despite the availability of less drastic and less complicated procedures. At Los Angeles County Hospital for example, 20 percent were done openly for contraception.

That does not count the ones that are done less openly. Dr. Malkah Notman, associate professor at the Harvard Medical School, has noted that "there is a group of Catholic women who are in conflict about contraceptives. They come to the doctor with 'symptoms.' If they are 'sick' and 'need' a hysterectomy, then they are off the hook. Everybody, including the doctor, goes along with it."

Their operations become part of the 15 to 40 percent of all hysterectomies that, by conservative estimate, are "questionable." In the attempt to understand how this happens, some blame "consumer demand," and some blame surgeons for being profit-motivated and/or knife-happy.

Yale Medical School's Dr. John Morris testified that some California surgeons now pay \$100 a day for malpractice insurance; and added: "That can't help but affect some surgeons' judgment." It is known that the rate of operations is higher among the patients of doctors who are paid on a piece-rate (rather than salaried) basis.

Aside from the money incentive, surgeons in general are prone to work by the motto, When in doubt, cut it out. Dr. Notman, who has studied depression in posthysterectomy patients says: "There are too many hysterectomies done because they appeal to the surgeon's sense of tidiness. It is the obvious way to get rid of the symptoms."

This attitude combines with another, says Dr. Notman: "It's pretty clear that most

surgeons think that the uterus is useless once women are done having babies."

A study by a sociologist, Diana Scully, in Illinois found that many surgical residents develop a "sales pitch" for the operation, which she quoted this way: "Think of the uterus as a cradle. After you've had all your babies, there's no reason to keep the cradle."

Surgeons themselves often maintain that women seek, and even shop, for a hysterectomy. Dr. Kenneth Ryan, chairman of Harvard Medical School's obstetrics and gynecology department—who also testified in Washington—does not believe that happens very often. When it does, he says, "we ought to figure out why instead of just going ahead and doing it. In the menopausal years, especially, we need more medical care to avoid the procedure rather than encouraging women to have it."

As for the notion of surgically removing the wombs of the fearful, Dr. Ryan was set against it. "The AMA went out on a limb," he said, "I think their position has become untenable."

Indeed, during his testimony the man on the limb had also condoned removing breasts, bunions and assorted limbs under similar acute "mental" symptoms. By the end of the afternoon he was calling the members of Congress by the title "Doctors." There were those who believed that he sounded a touch hysterical.

#### TRIBUTE TO ALEX HALEY

#### HON. BARBARA JORDAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Ms. JORDAN. Mr. Speaker, it is highly uncommon to pay tribute to a living memorial. It is not the kind of thing that is taken lightly. However, uncommon this task may be, it is nonetheless, done with a great deal of pride and an abundance of sincerity.

Prior to the publication and eventual television drama of "Roots, the Saga of an American Family," this country was becoming increasingly apathetic toward the problem of racial injustice. It appeared that the revolutionary efforts of the 1960's and early 1970's were about to be diminished. People were justifying their apathy by saying that minorities have made substantial gains in recent years, now it is our turn. "Roots" jolted Americans out of this retrogression and served to raise their consciousness level to a new peak. It was a not so subtle reminder that racial prejudice in this country pervades every facet of our society and remains the underlying force which prevents us from coming together as a nation unified to preserve what the Founding Fathers laid down as the law of the land—equal justice. In the reading of Mr. Haley's book, we had to come to grips with this enigma. We had to face the problem squarely in the eye. It is obvious that we will have to direct all of our future efforts to proving that the founders of America had a certain foresight that we have yet to achieve. "Roots" gives us that added push to pursue this common goal vigorously. I applaud Alex Haley's unselfish and courageous efforts. It is an experience that all Americans can share.

#### THE PLANNED STRATEGIC COMPUTER SALE TO THE SOVIET UNION BY A U.S. FIRM SHOULD BE STOPPED

#### HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. RUDD. Mr. Speaker, much concern has been voiced over the years about the sale by U.S. companies of sophisticated technology—particularly that with a military capability or use—to the Soviet Union.

This is a valid concern, because the Soviet Government will definitely convert to military use any technology at its disposal.

The latest planned U.S. sale of potentially lethal strategic technology to the Soviet Union is the reported plan of Control Data Corp. to sell its \$13 million Cyber 76, the highly sophisticated computer used by our own Armed Forces for navigation and weapons guidance in modern aircraft, submarines, missiles, and other defense systems.

I strongly oppose such a sale, and have joined several colleagues in a letter to President Carter requesting the administration not to approve the necessary license for the sale of the Cyber 76 to the Soviets.

Jack Anderson and Les Whitten wrote an excellent column reporting Control Data's planned sale, which was published yesterday by the Washington Post. I include that column and our letter to the President at this point in the RECORD. [From the Washington Post, May 24, 1977]

#### A SUPER-COMPUTER FOR THE SOVIETS

(By Jack Anderson and Les Whitten)

Control Data is preparing to sell the Soviets a \$13 million electronic brain, which could be turned against us to track U.S. missiles, planes and submarines. It is also capable of decoding sensitive U.S. intelligence transmissions.

The miracle machine is the Cyber 76, which will soon be on its way to the Soviet Union unless there is a last-minute stop order. It not only will be the largest computer ever delivered behind the Iron Curtain, but it is more than a decade ahead of the Soviets' own computer technology. It operates at least 20 times faster than anything the Soviets produce.

A top-secret, interagency study warns tersely that the Soviets can convert the Cyber 76 to military use. Not only can it be used for tracking and decoding, but it could also improve the production of nuclear warheads multiple-headed missiles, aircraft and other military hardware.

There is no sure safeguard to prevent this, the study declares. An intelligence source put it more bluntly. "For a few bucks," he told us, "we're willing to give the Soviets the means to destroy us. We're becoming our own executioners."

Government officials, citing the strict secrecy, refused to show us a copy of the study. But sources with access to the original draft have told us of its warnings. They fear it may be softened in order to make the computer deal more palatable.

Control Data executives, in repeated meetings with U.S. officials, have insisted that the Cyber 76 will be used by the Soviets strictly

to study the weather. The company kept hammering at Washington to get an export license. Final Commerce Department approval of the deal, according to our sources, was imminent until our inquiries caused some hesitation.

The sale of computers to Russia was pushed originally by ex-Secretary of State Henry A. Kissinger. Eager to promote détente, he overruled military objections to earlier computer sales. Now that the Soviets have already received lesser computers, they will be enraged if the Cyber 76 is withheld from them, say our sources.

One high official source, talking to us in confidence, related how a mysterious Soviet official showed up in the United States a few years ago. The Central Intelligence Agency immediately spotted him as a man with a purpose. He had come here, the CIA warned, to seek strategic U.S. computers.

The State Department, under Kissinger, persuaded the CIA to soften its warning and to pass off the visitor as merely the house guest of Soviet Ambassador Anatoli F. Dobrynin.

This helped lead to computer sales not only to Russia but also to China and Hungary. In return for these sophisticated computers, according to an International Trade Commission report, the Soviets have offered the U.S. "horses, asses and mules" at favored prices. Russia's famous vodka will also be sold to the United States at a tariff of \$1.25 a gallon, instead of the present \$5.

Frustrated U.S. officials complain that the Soviets are getting the best of the deal. They have gained strategic advances from the computers that have already been delivered, these officials assert. But the Cyber 76 would give them a technological boost that no amount of vodka could justify, they say.

The secret study declares categorically that the wonder machine both could and would be misused by the Kremlin for military purposes. Those officials who favor the sale contend, however, that the Soviets will use the Cyber 76 to increase their participation in a world meteorological network. The result, they say, would be better international weather data, larger crops and fewer unexpected natural disasters.

A spokesman for Control Data assured our reporter John Schuber that the computer can be set up in Moscow in a way to prevent any misuse. Any diversion to military use, he said, could be detected immediately. Then Control Data would pull out its technicians and refuse parts to the Soviets, thus crippling the electronic monster.

But other computer experts told our reporter Tony Capaccio that Control Data's arguments are spurious. One former Control Data executive, referring to the alleged safeguards, said derisively: "That's a joke." Other experts agreed that the Soviets could train their own technicians, and eventually locate parts from other countries.

Footnote: At the Commerce Department, spokesmen confirmed that the secret study disclosed "some problems" relating to safeguards against the misuse of the Cyber 76. But the draft report, said the spokesman wasn't final.

#### HOUSE OF REPRESENTATIVES,

Washington, D.C.

The President,  
The White House,  
Washington, D.C.

DEAR MR. PRESIDENT: We, the undersigned Members of Congress, wish to express our strong opposition to the pending sale to the Soviet Union of Control Data Corporation's "Cyber 76" computer.

The "Cyber 76" can be used for navigation and weapons guidance in modern missiles, aircraft, tanks, high performance satellite-



based surveillance systems, ABM defense systems, and submarines.

The "Cyber 76" is the brain center of the Pentagon, the U.S. Air Force, the National Security Agency, and the National Aeronautics and Space Administration. The Energy Research and Development Agency has fifteen "Cyber 76s"—they have been described as the backbone of our nuclear research. Moreover, the Cyber series is also used by the North American Air Defense Command.

Soviet assurances that this computer will be used for peaceful purposes are unreliable at best and there is no practical method of monitoring the uses to which the computer is put.

We believe that the strategic military applications of the "Cyber 76" are such that the sale of this advanced technology is not in the national interest of the United States. Therefore, we urge that the license for the sale of the "Cyber 76" not be approved. We also urge that exacting scrutiny be used in the future when evaluating all future sales of advanced design computers which have military applications.

Respectfully,

ROBERT K. DORNAN.  
CLAIR W. BURGNER.  
ELDON RUDD.

#### EXAMPLE OF PERFDY

### HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial from the Santa Maria Times entitled "Example of Perfidy," which comments on Vietnam's determination to subjugate all people it can conquer:

#### EXAMPLE OF PERFDY

Those who feel it is time for normalization of relations with Vietnam have gotten a lesson in the perfidy of the Communist nation.

After having on several occasions told the U.S. that there are no missing in action (MIA) Americans in Vietnam, that nation has now announced that it will not cooperate with the U.S. in searching for MIAs unless agreement is reached over aid to repair damages from the war.

Once again it has been demonstrated that communism uses the truth as a weapon, and the truth becomes a victim just as much as anyone who believes Vietnam can be dealt with truthfully.

Both Ex-President Nixon and his Secretary of State, Henry Kissinger, have stated that Vietnam abrogated the portion of an agreement dealing with aid when it continued its aggression. Thus, what America agreed to give as a condition for its withdrawal, is not to be forthcoming—at least as a provision of that agreement.

Any aid that comes now must be under a program by President Carter and with approval of Congress. We see this as doubtful, in view of Congress' action of last week in turning down aid both for Cuba and Vietnam.

Vietnam has remained communistic and has remained unswerving in its determination of subjugating all whom it can conquer.

For the U.S. to supply aid would be a help toward this goal.

#### DRIVE TO REPEAL HATCH ACT

### HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. CRANE. Mr. Speaker, in the aftermath of the House's decision to postpone indefinitely consideration of H.R. 10, the Hatch Act bill, it is encouraging to note that this legislation was perceived for what it was—another special interest measure that would not so much give more freedom to workers as it would more power to Federal employee unions. One can only hope that, rather than reconsider this measure, the House will simply let it die a quiet, well-deserved death.

The underlying difficulty with any legislation of this type is that it fails to take into account the fact that working for Government is not the same as working for private industry. For one thing, Government is the only supplier of the services it provides while, by virtue of the antitrust laws, there are alternative suppliers in the private sector. For another thing, Government is by definition, sovereign; through its power to tax and regulate, it exercises control over all individuals and businesses in the private sector. Thus, granting public service employees either the right to bargain collectively or the right to be active political partisans, gives them political leverage that private sector employees, even if they were fully unionized, cannot match.

Carrying this explanation a step further, granting a public sector union the right to bargain collectively when it has a monopoly over the delivery of services puts it in a position of being coequal with Government in the setting of public policy, including tax rates. By contrast, a private sector union on strike does not deal directly with Government, does not impact directly on Government services, and often is not the sole provider of goods or services in the private sector. Furthermore, no company would permit its employees to campaign against it in their spare time, whereas repeal of the Hatch Act, coupled with the civil service protections already written into law, would permit Federal employees to campaign against their employer with impunity.

So, the real winner, if the Hatch Act were to be repealed, would be the unions. They would have life or death power over Government and, as a result, would pressure the Federal Government into settlements they would never be able to get if they were operating in the competitive private sector. Moreover, union members would be able to campaign, without fear of retribution, for those who supported their position, or the tax increases to finance it, or both. In any other circumstance, such a situation would be viewed as an inherent conflict of interest.

There are a number of other points that can and should be raised along these

lines but rather than duplicate the excellent presentation of them done recently by columnist Nicholas Von Hoffman, I ask unanimous consent that Mr. Von Hoffman's column, which appeared in the May 19 edition of the Baltimore News American, be inserted in this Record at this time. It is well written, thought-provoking, and in my opinion, worthy of the attention of every Member of Congress:

#### DRIVE TO REPEAL HATCH ACT

(By Nicholas von Hoffman)

Under the label of reform, a bill repealing most of the Hatch Act is making its way through Congress and toward the Oval Office where the President has said he'll sign it. Oddly enough, the Hatch Act, which prohibits government employees from taking part in partisan, electoral politics, was considered a reform measure when it was passed in 1939. Its purpose was to prevent a president from using the larger numbers of recently hired government employees as campaign workers.

The Roosevelt Administration was often accused of winning elections via this route, but national administrations weren't set up to run huge battalions of campaign workers at the precinct level; unless the patronage could be turned over to state and local officials it was not very useful for winning elections.

Despite his enemies' accusations, FDR didn't try this use of federal employees so he had no trouble living with the Hatch Act. In actuality, the law was superfluous because the protections and job securities afforded by the civil service robbed politicians of the weapons of coercion to make employees into campaign workers. How can you force a postal clerk to work for Gruntz for President if the clerk knows you can't fire him?

In the years after the passage of the Hatch Act, electoral politics underwent a change. In the language of economics it swung from being labor intensive to capital intensive. The costly armies of precinct workers were replaced by television campaigning, which allows a candidate to reach more people per dollar spent than the knock-on-the-door method. Thus it's questionable these federal employees would have been used by presidential incumbents even if there had been no law.

Nevertheless, the Hatch Act has been accomplishing another unintended good. If the political use of federal employees by presidents was never likely, the use of the same employees by labor unions is a much more real possibility.

Without the right to strike or take part in political campaigns, federal employees are already the highest-paid people in the country. Without a Hatch Act they would have long since extorted the right to strike from Congress and along with it even greater advantages in pay, pensions and other fringe benefits.

That's not mere supposition, as the record of the county and municipal workers' unions attests. When public employees are given the right to strike, as well as the right to engage in partisan political activity, there is delivered into their hands a combination of levers no other group of workers gets. The members of the automobile workers union can strike to enforce their wage demands, but what would the price of cars look like if the union could also participate in the election of the auto manufacturers' board of directors?

In addition, for many years public em-

ployee unions have had to negotiate with a pussy cat management; to wit, public officials who weren't spending their own money when they voted wage increases and productivity decreases.

In the last few years the pussy cats have stiffened somewhat because the rest of organized labor, the part that works in the private sector, has gotten so angry. The repeal of the Hatch Act, however, will make it more difficult to keep government salaries in line with those of the rest of the world.

That may be the least of it. It is already close to impossible to fire a government employee because of the civil service. People on the public payroll are given, by law, greater security and tenure than workers in the private sector can get through collective bargaining.

Now, by repeal of the Hatch Act, civil service employees will get so much more protection, and all coercive power to make them work will have been de facto abolished.

Repeal of the Hatch Act will demolish any good that may come from Jimmy Carter's zero-based budgeting or contemplated departmental reorganizations. It doesn't make any difference if a federal program is good or bad in concept if it is to be administered by a bureaucracy in which all supervisory control over the employees has been extinguished or attenuated to the point that the civil servants can be as abusively arrogant to their nominal bosses as they are already to the various publics they make wait in the endless lines of weary and frustrated people stretching out of every government office in America.

The lowest price that should be exacted for the repeal of the Hatch Act is a repeal of the Civil Service Act. Instead, President Carter will sign the measure proclaiming as he does that this is the political emancipation of the enslaved bureaucrats. But the first time he tries to put this creaking government to some good and efficient use, they'll thank him by shoving their fists down his mouth.

ET TU THUNNUS?

**HON. STEWART B. MCKINNEY**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. MCKINNEY. Mr. Speaker, it was a group of junior high school students from Greenwich, Conn. who in 1974 first brought to my attention the incidental taking of the porpoise by the tuna fishing industry. These students pleaded for something to be done immediately to save these intelligent and affectionate creatures from death at the hands of the American tuna fishermen. It is truly unfortunate that in the past 3 years the killing of hundreds of thousands of porpoises has been allowed to continue resulting in the depletion of several species, including the Eastern Spinner which is nearing extinction.

It is interesting to note the large scale killing of the porpoise by tuna fishermen did not begin until 1957 when the industry began to catch yellowfin tuna by setting large purse seine nets around both tuna and porpoise. This method replaced the traditional hook and line technique and uses the porpoise as a beacon to locate yellowfin tuna since this fish typically swims under and behind the porpoise. However, it is important to realize

catching "tuna on porpoise" does not necessarily mean that hundreds of thousands of porpoises must die. Through skilled shiphandling known as "backing down" it is possible to sluice living porpoise from the purse seine nets. In addition, the use of fine mesh nets have significantly reduced porpoise mortality. True, such methods require extra time and care on the part of the tuna fishermen, but to do otherwise surely means further depletion and possible extinction of a valuable marine resource and friend to man.

Shortly, the House will consider a possible method to save the porpoise, H.R. 6970. Generally, this legislation as approved by the Merchant Marine and Fisheries Committee does provide some protection for the porpoise. As you know, the legislation establishes a 100 percent observer program for the tuna fleets which will be paid for both by the industry and the Department of Commerce. Placing an observer on every tuna boat is vital if accurate figures on the number of porpoises killed are to be recorded. Moreover, according to testimony before both House and Senate committees, most of the porpoise killing was done by only a few culprit tuna boats. Thus, a total observer program will insure that those fishermen who are taking all steps to save the porpoise will not be unduly penalized by the irresponsible actions by those few who are too careless to do the same.

In addition, H.R. 6970 gives additional incentives for saving the porpoise by penalizing skippers with abnormally high kill rates and charging a \$32 fine for each porpoise killed in excess of the industry's average kill rate per ton. Finally, the bill would place restrictions on the transfer of any tuna vessel to a foreign registry unless the new owner agrees to fish in accordance with the Marine Mammal Protection Act. Thus, it provides a way for the United States to extend its environmental protection abroad and, more importantly, does not put American tuna fishermen who comply with such goals at a competitive disadvantage.

However, a serious problem with this legislation is that it provides for a higher 1977 quota of allowable porpoise kills—78,900 instead of 59,050. The latter figure was proposed by the administration and would require a continued reduction or "ratcheting down" of the annual kill quota. To allow a quota as high as 78,900 without providing for any further reduction in subsequent years would certainly spell disaster for those stocks of porpoise which are already badly depleted, such as the eastern spinner. Moreover, it is an especially untenable position for the United States to enact into law as it violates the rules of the International Whaling Commission—IWC—because it allows the taking of a depleted marine mammal species. In view of the strong environmentalist position that the United States has taken in the IWC during the past few years, permitting unratcheted and unpenalized killing of the depleted stocks

would certainly weaken our credibility as a world leader in conservation.

I would hope the House will adopt the amendment proposed by my colleagues Mr. McCLOSKEY and Mr. PRITCHARD which will limit the total incidental mortality and serious injury rates authorized in 1980 to no more than 50 percent of that authorized in 1977 and that subsequent annual reductions shall be set at the discretion of the Secretary.

Allowing H.R. 6970's 78,900 annual kill quota to go into effect without reduction during the next several years will only lead to disaster for the porpoise. And whatever the personal feeling about the plight of these fascinating and amicable creatures, it must certainly be asked—without them, can the tuna themselves survive?

A TRIBUTE TO THE LATE HONORABLE JOHN F. KENNEDY ON THE OCCASION OF THE ANNIVERSARY OF HIS BIRTH, MAY 29, 1917

**HON. JOHN G. FARY**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. FARY. Mr. Speaker, Saturday, May 29, marks the anniversary of the birth of the late Hon. John F. Kennedy, 35th President of the United States. I would like to express my admiration for the purposes and accomplishments of his brief administration, and hail him as a leader of the highest quality and the most inspiring nature.

As President, John Kennedy was exceptional in many different ways, so much so, and with so many beneficial results, it is hard to realize his term in office was actually of such limited duration.

As President of the United States, John Kennedy was confronted by international situations calling for a full knowledge of the diplomatic arts with which he was well acquainted from an early age. During the service of his father, Joseph Kennedy, as Ambassador to England, John Kennedy was employed as a member of the American Embassy staff in London in which capacity he witnessed at close range the awesome development of World War II. As President in the Berlin crisis of 1961 and the Cuban missile crisis of 1962 he would reveal an astonishing capacity for diplomatic negotiation.

In the matter of civil rights, John Kennedy brought to the Presidency a totally new concept, in that he fought all his battles against majority oppression right out in the open where there was no doubt as to what he was doing.

Gone was the old, time-honored policy of secret messages to and secret negotiations with Southern Governors. Now, at long last, the Federal Government was taking an open, defiant, public stand against racial segregation; and when Southern officials sought to circumvent the law, the President brought to bear the full force of Federal authority.

Concerned with the living conditions of



poor and middle-income people in many sections of the country, John Kennedy promoted the Housing Act of 1961 to the benefit of many thousands of Americans, and many hundreds of American communities.

To vary a metaphor, the proof of an American political pudding is in the eating—in the anger engendered among the members of the opposition. Not one of the great American Presidents had gone through his term or terms in office without bring down upon his head the outright curses of the opposition. So it was with Washington, with Jefferson, Jackson and Lincoln; so it was with Wilson, both the Roosevelts, and Harry Truman. And so it was for John Kennedy.

Cut down by an assassin and rendered a martyr, he is mainly remembered today in melodramatic terms: The young President, the man who brought a youthful flair to politics, the man who captured the imagination of American youth—and all that is true, of course.

But more than that, he was a brave and bold reformer in a period desperate for reforms long overdue—reforms opposed by important elements in Congress, Business, Labor, the Press, and every other influential force.

In the end, death robbed him of his victories, but he had been a President of principle, who fought for justice—not for glory.

It was an honor, Mr. Speaker, to our country to have experienced the leadership of such a man as John F. Kennedy whose record of accomplishments has placed him high among the heroes of our national purposes and the democratic cause throughout the world.

President Kennedy is a man long to be remembered.

#### CONGRESSMAN McDONALD'S TESTIMONY ON H.R. 6575

#### HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. CRANE. Mr. Speaker, earlier this month the Health Subcommittee of the Ways and Means Committee and the Health and Environment Subcommittee of the Interstate and Foreign Commerce Committee held 3 days of joint hearings on H.R. 6575, President Carter's Hospital Cost Containment proposal. During these hearings we heard from more than 50 witnesses representing the administration, the hospitals, medical professionals, and consumer groups.

On two previous occasions before the House, I stated the reasons for my opposition to H.R. 6575, citing the many factors behind rising hospital costs and the effects that this legislation will have on the quality of hospital care. However, I do not believe that anyone has made a more succinct case against the enactment of this bill than our own colleague, Congressman LARRY McDONALD. As a physician he is particularly qualified to speak to this issue, and I include the remarks he made before the joint hearings

at this point in order that we may all have the benefit of his sage advice:

#### THE PRESIDENT'S HOSPITAL COST CONTAINMENT PROPOSAL

Thank you, Mr. Chairman. I appreciate this opportunity to testify on the President's Hospital Cost Containment Proposal, H.R. 6575.

Before commenting on the President's proposal, I would like to briefly consider the problem it is designed to solve and the causes of that problem.

Medical costs have been rising at an average rate of 9 percent per year since 1965, whereas the general rise in prices has averaged 7 percent per year over the same period. Hence the cost of health care is rising more rapidly than can be accounted for by inflation, and that is the problem. Since hospital costs comprise about 40 percent of all health care expenditures, they are one of the first areas to consider in attempting to deal with the problem. (All statistics are from the 1976 Statistical Abstract, Bureau of the Census, unless otherwise indicated.)

Before we can propose solutions, however, we must identify the causes.

Obviously the major cause of the rise in cost is inflation, which is the result of the deficit spending and credit manipulation policies of the Federal government. Discounting this, we have only a 2 percent per year increase to account for.

Various factors have been suggested causing part of this increase. Construction costs, for example, have risen drastically in recent years. Grady Memorial Hospital was built in Atlanta in 1958 at a cost of \$18,000 per bed; whereas St. Joseph's Hospital is presently being completed in Atlanta at a cost of \$100,000 per bed. New discoveries and advanced technology may also be a factor. Whereas in most areas of the economy technological advances constitute a savings and increase efficiency, in medicine they often expand available services and increase demand.

But whatever role such factors may play, I believe it is negligible in comparison to that of the government. In 1965 government at all levels spent \$9.5 billion on health care, which was 24 percent of the total. By 1975 government spending increased 5 times to \$50 billion, which constituted 42 percent of total spending on health care. Consider how this enormous increase in government spending effects the cost of health care.

Price is determined by demand relative to supply times a constant ( $P=D/S \times K$ ), the constant being the money supply which hasn't been so constant in the past 10 years. If demand increases relative to supply, then the price increases and virtually all of this increase in government spending has gone to increase demand, not supply. Hill-Burton funds, for example, may have increased supply slightly, but their amount is insignificant in comparison to spending under programs such as Medicare and Medicaid. These programs offer medical care to eligible recipients at little or no personal cost, producing a kind of open-ended demand force. Obviously this increases demand relative to supply and forces prices to rise. It is, of course, these types of programs which account for most of the increase in government spending. The fiscal 1978 Budget in Brief estimates that Medicare and Medicaid together will account for 82 percent of fiscal year 1977 federal health outlays.

Another way of looking at the effect of the increase in government health care funding is to consider the effect of an increase in the money supply in our price formula. Obviously price is proportional to the money supply, rising with an increase and falling with a decrease. In the past 10 years we have not only had a vast increase in inflation but an even greater increase in the money spent on health care due to the infusion of government funds.

As further proof of the effect, consider the increase in spending on health care relative to the Gross National Product (GNP). In 1965, 5.9 percent of the GNP went for medical expenses, 4.45 percent private funding and 1.45 percent government funding. But by 1975, health care accounted for 8.2 percent of the GNP, with the government spending 3.46 percent and private sources 4.74 percent. Of the increase in percentage of GNP of 2.3 percent from 1965 to 1975, government spending accounted for 2.01 and private spending for only .29—that is, government spending accounted for 87 percent of the increase.

Hence private spending on health care has remained relatively constant, while government spending has increased enormously. Clearly it is this rapid infusion of government funds which is responsible for increased health care costs.

Now let's turn to the Hospital Cost Containment Proposal. Its most striking feature is that it totally ignores the causes of rising hospital costs—inflation and government health care funding. Instead it addresses itself only to the effects—the rising costs themselves. Frankly, I find this unbelievably naive. Legislatively ordering prices to hold still by limiting hospital income is no solution, unless one considers rising costs as an isolated, causeless phenomenon, which may be stamped out of existence by legislative fiat.

In fact, the rising prices have specific causes and if these are not treated, the problem will not be solved. The prices may be temporarily "contained", but the causes will continue to work and the effects will be disastrous.

Consider the results of H.R. 6575. If hospital costs don't rise above the 9% ceiling, then there is no reason for the bill. But if prices do rise to the ceiling, then hospitals will be forced to cut costs. There is only so much room for increased efficiency; sooner or later something in terms of health care service will have to go.

Probably the first to go will be medical innovations and new technology. We will not hear of these new life-saving techniques, they simply won't come into existence. We may never know if or how many lives might have been saved if hospitals would have been allowed to adopt the new medical advances.

Possibly next to go will be hospital expansion. It will surely be too expensive, and besides there will be innumerable layers of government bureaucracy to wade through to get permission to expand.

And as the costs keep bumping the income ceiling, something else must be cut. Hence hospitals find themselves unable to hire new nurses, and quality of health care declines proportionally.

Demand, however, increases incessantly. The population continues to expand and government health programs direct people in ever-increasing numbers through the hospital doors. But by now the supply cannot keep pace, shortages develop and lines begin to form at these same hospital doors. After the initial limitation of new technology in an effort to hold costs, the next step will mean rationing of hospital services in some form and under some label.

Clearly something must be done to insure equal treatment and separate the malingers and neurotics from the authentically sick. So the government expands the Professional Standards Review Organizations' authority to cover everyone, and the government is soon deciding who may be treated and who may not, who may have a needed operation this year, and who must wait for next year, and the next and the next. This in effect is rationing as in England today but always presented under some more palatable term.

There will, of course, be a side door for a new elite—those with political pull. But the vast majority of decent, honest, hard-working citizens will be unable to plan their lives

and make provisions for health emergencies. Even if they work overtime, setting aside extra money to pay for the operation of a loved one, well, that's sure unfortunate. But they'll have to wait in line like anyone else.

Now this scenario may sound grim and there is no way to know how soon it will happen. Nevertheless, it is the inevitable result if we attempt to control costs while continuing to inflate the currency and pour funds into government health programs.

H.R. 6575 would more accurately be titled the Government Mandated Lower Quality Health Care Act.

Mr. Chairman, I ask the committee not to pass any legislation to place cost ceilings on hospital services. It is not hospital income that should be controlled, but government spending. However, even if government spending is not controlled, it is better to allow prices to rise because at least people will be able to plan their future and control their access to health care. The government has no right to mandate lower quality health care and restrict its availability in order to hold down its cost.

Instead, I would hope the respective committees will investigate the actual causes of these cost increases and design legislation to correct the root of the problem. If this requires controlling government spending, then let's get on with it. And if controlling government spending is politically unpalatable, consider the alternative.

Thank you, Mr. Chairman.

#### WHAT'S IN A NAME?

### HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. VANDER JAGT. Mr. Speaker, there are countless substantial reasons for opposition to the so-called Agency for Consumer Protection. But, an excerpt from a recent editorial in the Muskegon Chronicle, Muskegon, Mich., may have summed it up best:

We'll never do anything about big government and excessive regulation by adding "another layer or bureaucracy" that will harass business, slow down government machinery and aggravate inflation.

Perhaps another weakness of the entire concept is the fact that there has been such difficulty in naming it. When first proposed, it was to be called the Consumer Protection Agency. Then later it was named the Agency for Consumer Advocacy. But, now we are talking about the Agency for Consumer Protection. So, we might ask what's in a name? In this instance, nothing. We really do not need a name any more than we need more bureaucracy. What we really need is protection from the Consumer Protection Agency, the Agency for Consumer Advocacy, or the Agency for Consumer Protection—whatever its name.

I am pleased to insert an excellent editorial from the April 27, 1977, edition of the Muskegon Chronicle at this time:

PLEASE, NOT ANOTHER BUREAUCRACY!

We noted in these columns during the 1976 presidential campaign that then-candidate Carter had managed adroitly, and often, to get on both sides of an issue.

An arresting example of this talent—if that is the word—was his appearance on both sides of the "cut-the-bureaucracy" fence.

He assured voters that if elected he would reduce the burgeoning federal bureaucracy and reform the powerful, inefficient and costly regulatory system.

He would do that, and at the same time press for enactment of a bill—already several times defeated—that would create a new, superpowerful, independent Agency for Consumer Protection (ACP).

It is a very bad bill, essentially the same as when first introduced back in 1970. It would further bloat the bureaucracy and, through the ACP's authority to intervene in the proceedings of other regulatory agencies, give it the power in court to challenge, disrupt, delay and overturn the decisions of virtually all other government rule-making bodies.

In addition to these powers, the ACP also would have information-gathering authority that would permit it to demand business records to a degree that would turn officials of the government's 33 regulatory agencies—even OSHA bureaucrats—green with envy.

The last thing business needs is another paper-work deluge. Labor wants no part of the bill—it managed to get itself exempted—and, Ralph Nader to the contrary, it is decidedly not needed by the tax-battered American consumer.

The ACP bill in 1975 won Senate approval and, considering the infusion of newly elected liberal, consumer-oriented members, was expected to sail easily through the House.

But 1975 was a year of growing public disenchantment with the federal bureaucracy, and by the time the bill reached the House floor—where it was fought vigorously by Rep. Guy M. Vander Jagt, R-Luther—it slithered through with a slim nine-vote margin.

Then-Senate Minority Leader Robert P. Griffin, R-Mich., had urged President Ford to veto the measure (a virtual certainty) and, since the margin of adoption was far short of the number of votes needed to override, it was allowed to die.

But it didn't stay dead.

Unhappily for all of us it was resurrected after Carter pledged support, and unless the public again voices strong opposition the result this year could be different.

The bill is objectionable on many scores, and particularly in its assumption that it would speak for all consumers. All Americans are consumers, granted. But as opponents point out, consumers have a vast variety of wants, needs, interests, tastes, life-styles and buying habits.

These interests often conflict, and it is an arrogant absurdity to assert there is a "consumer interest" which can be represented by a single agency.

There are all kinds of consumer groups, each with its own platform and lobbying organization, and the most effective of these, speaking in their own specific interests, would find in an ACP super-bureaucracy a club ready-made to inflict their minority views on the majority.

As noted, the ACP would have almost unlimited powers to interfere in the affairs of other agencies by arranging to fight and to appeal decisions in the courts.

It is estimated it will cost at least \$60 million to set up and run the ACP for three years, and it's a safe bet that that's a conservative guess.

It doesn't take into consideration the costs of other agencies forced to respond to ACP interference, nor the costs to business and consumers of regulations promulgated by the new agency.

As a matter of fact, the 1975 ACP bill carried a price tag of only \$10 million for the first year. This time around it's pegged at \$15 million—which will scarcely surprise taxpayers who know the financial feeding habits of federal bureaucracies.

The consumer does need to be protected. And heaven knows there exist plenty of laws and agencies designed to do this. Plainly, they don't do this well. Thoroughgoing reform is badly needed. But not this way.

Not by making "big government" bigger still.

Much the better course is that recommended—and started—by the Ford Administration. President Ford wanted measures taken to safeguard consumer interests within the agencies themselves, directing them to review their procedures to be sure these interests were being adequately heard and represented.

He also called on the heads of the major regulatory agencies to evaluate the costs and benefits of proposed regulations. The heads of the major independent regulatory agencies were ordered in to discuss the need for changes, and a similar session on regulatory reform was held with congressional leaders.

These efforts and initiatives would be scrapped if APC is created as an all-inclusive agency.

We think most of our readers will agree with President Ford's response to the last Naderite effort to "protect" us all into the poor house. He said:

"I do not believe that we need yet another federal bureaucracy in Washington, with its attendant costs ... and hundreds of employees."

It is gratifying that Sen. Griffin and Rep. Vander Jagt are ready, again, to fight the bill. And Sen. Donald M. Riegle, the Flint Democrat, should.

If you are concerned, readers—and we hope you are—you can help the cause by writing to them, and to President Carter.

We'll never do anything about big government and excessive regulation by adding "another layer of bureaucracy" that will harass business, slow down government machinery and aggravate inflation.

The addresses: President Jimmy Carter (the salutation is "Dear Mr. President:"). The White House, Washington, D.C. 20004; Sen. Robert P. Griffin, 353 Russell Office Building, Washington, D.C. 20515; Sen. Donald J. Riegle, Jr., 1205 Dirksen Office Building, Washington, D.C., 20515; and Rep. Guy M. Vander Jagt, 1211 Longworth Office Building, Washington, D.C. 20515.

#### THE DECLINE OF THE AMERICAN SHOE INDUSTRY

### HON. WILLIAM H. HARSHA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. HARSHA. Mr. Speaker, I have long been concerned over the adverse effect the importation of many products has had on American industries and on the jobs of thousands of American workers.

It is particularly unfortunate that the industries most vulnerable to foreign competition are those which are labor intensive and provide jobs for many semi-skilled workers who find it extremely difficult to find new employment. One of the industries that has suffered the most is the footwear industry. Many of our shoe plants are in small rural communities or towns and are often the largest or among the largest employers in the area. When they go out of business or layoff workers, this creates an immediate and serious economic and employment problem for the entire com-



munity. In these instances there are few available jobs for the unemployed to seek in the vicinity, and most workers are reluctant to leave their homes to move to other areas which might have more encouraging employment prospects.

One good example of this situation is my hometown—Portsmouth, Ohio. A major employer—a shoe factory—was forced to close down more than a year ago as a result of increased shoe imports, and hundreds of workers lost their jobs. Prior to the closing of this plant, the unemployment situation in this area was already unacceptably high—almost 20 percent. As the unemployment rates in adjoining counties are comparable, there are few, if any, available jobs for our unemployed shoe workers in their home town or nearby communities.

An excellent article appeared in the *Cleveland Plain Dealer* on April 17, 1977, concerning the decline of the American shoe industry and the effect this has had on one community—Portsmouth, Ohio. I would like to take this means of sharing this article with my colleagues:

**SHOE IMPORTS CRIPPLE PROUD INDUSTRY**  
(By Richard G. Ellers)

PORTSMOUTH, OHIO.—Ohio's shoe-making industry, with about 3,000 workers, is threatened with extinction, like an endangered animal species.

As in the 11 other major American shoe states, Ohio's shoe industry is barely a shadow of its former self. Fifty years ago, close to 40,000 people made shoes in some 30 Ohio factories.

The Depression and post-war competition took a toll of companies, plants and jobs. But the current foe is the low-cost foreign shoes that have captured 52% of the retail market.

In the dozen years since shoe importing began in great numbers, Ohio has lost an estimated 12,000 jobs and a dozen factories in shoemaking and related industries.

The swift decline of the American shoe industry in the face of imports was demonstrated clearly here, in river a town that once considered itself a shoe capital of mid-America.

In the 1950s, the city had 8,000 employees in five shoe factories and two others that made shoe parts and equipment.

Today, Portsmouth only has former shoe workers. About 1,200 are on unemployment compensation, having lost their jobs when Williams Manufacturing Co. closed last year.

Williams made women's fashion shoes that sold for under \$10.

Only five years ago, Williams management celebrated the company's 50th anniversary with glowing pride over increased sales at a time when imports had a substantial growing share of the market.

Today, the seven-story Williams factory stands empty, except for a financial vice president and a small staff closing out the company's books.

The production equipment was sold at auction. The buyers of some of the equipment said they would be shipping the machinery to foreign shoe factories.

Industry leaders today say the Williams boom of five years ago was misleading, that the company's increase in sales came not from improved marketing, but because Williams was reaching some markets that were abandoned when other shoe companies folded.

David F. Bussler, vice president of Boot and Shoe Workers Local 385 at the Williams plant, said the company did all it could trying to stay ahead of imports in its markets.

"We had a modern plant, the best equipment and good workers," Bussler said. "But

what can anyone do when the competition is from Taiwan and South Korea, where workers are paid only an eighth of American wages?"

"And you have to realize that, historically, shoe workers have been one of the lowest-paid trades in the United States."

Worker complaints here and in Ohio's still working shoe factories are bitter against President Carter.

They had expected Carter, a Democrat, to take their side against imports, partly because he had labor support in his campaign last year and particularly because he has emphasized the importance of employment in solving America's problems.

But earlier this month, Carter announced his rejection of the U.S. International Trade Commission recommendations that shoe imports be reduced to 1974 levels and tariffs be significantly higher for above-quota imports.

But instead of quotas and tariff control, the President said he is sending representatives abroad, starting in Taiwan and South Korea, to negotiate for voluntary export controls.

Carter said he would also ask Congress for higher unemployment pay and more job-retraining benefits for workers in shoe and other industries who lose their jobs because of high imports.

Company officials who deal with markets have very little hope that voluntary controls will work.

"They have tried that before and it failed," said George R. Utley, president of Irving Drew Corp. in Lancaster.

"They (the exporters) almost had the American market in control, and we'd be foolish to expect them to give it up now."

Shoe workers have also ridiculed Carter's proposal for increased aid to displaced workers as a solution to the import problem.

David L. Gray, regional director of the Boot and Shoe Workers of America, said, "Increasing and extending unemployment pay is not the answer. It just delays the problem."

"What do these people do when unemployment pay ends? There are no jobs, especially in an area like Portsmouth where unemployment has been running close to 20%."

"Age is another factor. At least 50% of the Williams people are past 55. There is no way they will get new jobs with or without job training or a federal anti-age discrimination law."

Trudy M. Legge, secretary-treasurer of the Williams union local, said federal retraining benefits are mostly meaningless to the women who were a majority of the factory's work force.

Mrs. Legge, divorced and supporting a 20-year-old son who cannot find work, recently became one of the first Williams workers to start retraining under the federal trade assistance program.

Although the factory closed last June, it took until recently for the bureaucratic paperwork to get the retraining program under way.

"I'm studying accounting at Shawnee State College, but, after 20 years, it is hard to be a student again," Mrs. Legge said.

The older workers problems here are complicated because the company's pension program is tied up in the mandatory review under new federal regulations.

Louis A. Kindelberger, financial vice president who is closing out the Williams Co., said the government's long delay in approving the final pension program has understandably worried the workers.

Shoe workers who still have their jobs are also worrying.

Ohio's three independent shoe companies make footwear that has been invulnerable, so far, to the cut-rate competition of imports because they make fewer shoes, but sell them for a higher price.

Irving Drew Corp. in Lancaster and Miller

Shoe Co. in Cincinnati make working women's shoes.

Brooks Shoe Co. in Nelsonville manufactures nuns and boys "service" shoes.

John W. Brooks, the owner, said he is trying to keep the plant "important proof" by concentrating on small specialized markets.

Arthur P. Weigand, president of Miller Shoe, said he thinks his "grandmother" shoe market is safe from imports indefinitely because "it is too small for the imports to compete in efficiently and, as good as the imports are, we have a higher degree of perfection."

Weigand said he has problems with supplies, rather than markets, due to the imports. Machinery is no longer manufactured and he must buy equipment from closed plants, such as Williams, for replacements and spare parts.

While their jobs seem safe, workers in these three independent plants are not ignoring the war against imports.

They've given up on Carter's support and are deluging Ohio's senators and representatives with letters, postcards and phone calls, asking them to override the President's decision and make the ITC recommendation into law.

Shoe workers and shoe plant operators are also angry at the operators of retail shoe stores and shoe departments in department stores.

They said, nationally, the retailers have been as strongly opposed to import controls as the manufacturers have been in favor of them.

Retailers contend the lower cost of imports keeps prices under control.

But many people, like William J. Burns, personnel manager at Miller Shoe, called it a "smokescreen that retailers use to hide their real motive, which is greed."

"What the public doesn't know is that a retailer buys an imported shoe at \$6 wholesale and sells it for \$19, in competition with the \$20 American-made shoe that wholesales for \$10."

"The retailer is not helping the public when he takes a triple markup on the cheaper imported shoe."

I am sure the situation is similar in many other communities throughout our country. It is my understanding that since 1968 more than 300 shoe plants have closed with the loss of over 70,000 jobs and \$500 million in annual payrolls. A great many of these plants, as I have mentioned, were in small communities and the impact of the job loss upon thousands of families and many small businesses has been devastating.

In Ohio alone, eight plants have been closed, and employment has been reduced by 18.7 percent in this time period. Inasmuch as imports are entering our country at a rapidly increasing rate, the situation is worsening. In 1968 shoe imports accounted for approximately 20 percent of domestic sales. Today it is estimated that imports have captured nearly 50 percent of the U.S. market. We face a possible demise of this vital industry unless action is taken to protect the industry from unfair competition resulting from low-paid foreign labor. This would, of course, greatly increase the financial problems of many American workers and small businesses and adversely affect the economic well being of many small towns, such as Portsmouth.

I strongly supported the recommendations made by the International Trade Commission calling for the imposition of tariff-rate quotas on the importation of footwear and joined with other con-

cerned Members of the House to urge the President to approve these recommendations. Regrettably, he rejected the ITC's recommendations and, instead, stated he would try to obtain relief for the industry by negotiating voluntary quotas with shoe-exporting countries.

I was tremendously disappointed at the President's decision as I very much doubt that these negotiations will provide effective relief for the industry. If the President's trade negotiator is unsuccessful in negotiating voluntary quotas that are adequate to protect our domestic industry, I feel we should seriously consider overriding his decision. This may be necessary if this vital domestic industry is to survive.

#### UNITED STATES CHAMBER'S PAPERWORK REDUCTION RECOMMENDATIONS

### HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. HORTON. Mr. Speaker, the Chamber of Commerce of the United States has submitted to the President, and the Commission on Federal Paperwork, of which I am privileged to be chairman, a number of recommendations for reducing the paperwork burden imposed by the Federal Government. Along with these recommendations, I am also inserting into the RECORD Mr. Richard L. Leshner's letter of transmittal to the President.

The recommendations forwarded by the chamber are based on the suggestions submitted by thousands of business men and women throughout the country as well as the ongoing work of the Paperwork Commission. I urge my colleagues to carefully consider these recommendations:

RECOMMENDATIONS TO THE PRESIDENT OF THE UNITED STATES FOR ACTION TO REDUCE THE FEDERAL PAPERWORK BURDEN, PRESENTED BY THE CHAMBER OF COMMERCE OF THE UNITED STATES, MARCH 25, 1977

March 25, 1977.

The President,  
The White House,  
Washington, D.C.

DEAR MR. PRESIDENT: I am pleased to submit to you the National Chamber's recommendations for reducing the paperwork burden created by the Federal Government, in fulfillment of your request to our chairman, Herbert S. Richey, our vice chairman, William K. Eastham and me at our meeting on February 24.

National Chamber representatives have personally invited thousands of business men and women throughout the United States—and, in particular, our small business members through our Council of Small Business—to submit their suggestions and comments on this problem. Our recommendations are based on their pleas, as well as on the continuing work of the National Chamber and the Commission on Federal Paperwork.

The reduction of superfluous paperwork is closely related to your other major goals of government reorganization, regulatory reform and zero-base budgeting. To a large extent, success in reducing the paperwork

burden will depend on success in these areas as well. The National Chamber will strongly support your efforts to attain these highly desirable objectives.

Much has been promised over the years in each of these problem areas, but little has been accomplished. One major reason for lack of success, we believe, is that an ad hoc effort is totally inadequate. Continuous close monitoring by high level authority is necessary. It is for that reason that our report concentrates on organizational and management recommendations.

We sincerely believe that your vigorous personal leadership is the key to effective action in each of these areas.

Many of our members have sent to us and to the Federal Paperwork Commission specific examples of burdensome paperwork requirements. Because of the great volume of these submissions, we have not put them in the body of the report. We have, however, included a sample of the more interesting case histories and suggestions in an appendix.

Sincerely,

RICHARD L. LESHER.

It will be of little avail to the people that the laws are made by men of their own choice if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood, if they be repealed or revised before they are promulgated, or undergo such incessant changes that no man, who knows what the law is today, can guess what it will be like tomorrow.—James Madison.

#### RECOMMENDED ADMINISTRATIVE ACTION

1. The Office of Management and Budget (OMB) should be divided into two separate suboffices: The Executive Budget Office (EBO), and the Executive Management Office (EMO), each headed by a deputy director of OMB.

The Executive Budget Office would be responsible for preparing the President's budget.

The new Executive Management Office would assist the President in applying sound management principles to the operations of the departments and agencies. The EMO would develop cost/benefit information on federal programs as a basis for selecting priorities; improve interagency and intergovernmental coordination; develop common standards for regulation, information collection and definitions; train and motivate agency executives; and control paperwork by serving as a clearinghouse for all new federal reporting requirements prior to their official promulgation.

2. Departments and agencies should be required to submit to the EMO and Congress comprehensive estimates of the potential paperwork impact of Administration bills providing for mandatory reports.

3. The Administration should require that reporting and record keeping assessments be published during the notice and comment period for all new or revised regulations issued by executive agencies.

4. The clearance function within the individual agencies should be strengthened so that unwarranted forms can be eliminated before coming to the EMO for review.

5. The ombudsman function which is now in the Commission on Federal Paperwork should be transferred to the proposed Executive Management Office. This ten-person function responds well to the public, is highly cost-effective, and is needed on a continuing basis.

6. Federal Government report forms should follow a standard format which provides essential facts about the information request, including:

A clear statement of the purpose of the request;

A statement as to whether a response is mandatory or voluntary;

An identification of the authority for the request—Congress, EMO, or an independent regulatory agency;

An explanation of the legal penalty for not responding to the request.

The standard format should include a readable print size, and adequate space for filing in the information requested.

7. There should be an increased effort to train the persons responsible for drafting federal questionnaires in the techniques of report form drafting.

8. Information requests should be coordinated to spread the reporting burden over the year, eliminating peaks which impose excessive burdens on respondents.

9. Requests from two or more federal agencies for identical or nearly identical information should be consolidated in one form so that respondents may report essential information once instead of many times. Submitting the same information to more than one agency is justified only when privacy and confidentiality are primary considerations.

10. The frequency of recurring reports should be stretched out to the maximum extent possible to minimize the reporting burden, consistent with the benefits to business of the information developed.

11. The Executive Management Office should establish an effective process for assessing the actual benefits of ongoing reporting programs.

#### RECOMMENDED CONGRESSIONAL ACTION

1. The Administration should prepare and strongly support legislation to require independent regulatory agencies to submit to the EMO a comprehensive estimate of the potential paperwork impact of bills and rules initiated by such agencies.

2. The Administration should urge House action to require that any bill involving reporting requirements be accompanied by a comprehensive estimate of the potential paperwork impact. (The Senate already has such a requirement.)

3. The Administration should support legislation authorizing the transfer from the General Accounting Office (GAO) to the proposed Executive Management Office the current GAO responsibilities for clearance and review of the information requests of independent regulatory agencies.

4. The Federal Reports Act of 1942 should be revised and strengthened to:

Involve the business community in the preparation of information requests so the information needs of the government are met with the least possible costs;

Require pilot testing of report forms with a representative group of the persons affected before the reports become mandatory;

Allow adequate lag time between the date a new or revised report form has been announced and the date on which a response becomes mandatory, to permit respondents to develop the required data;

Establish an appeals procedure through which respondent could challenge specific reporting requirements;

Require that agencies make public their reasons for not accepting suggestions submitted during the notice and comment period for proposed reporting requirements;

Require that all public use reports, both exempt and nonexempt, be "logged" in a computer facility to cross check data elements, thus minimizing duplication and facilitating measurement of the total burden on the public.

5. The Federal Government should reimburse expenses incurred responding to mandatory information requests made to obtain information essential for government policy decisions and not for the specific benefit of the businesses affected. Such federal paperwork burdens should be financed from the general revenues instead of constituting a special "tax" on the respondents. If the expense of mandatory surveys of business were



funded through the appropriations and budget processes, the cost of federal paperwork would be clearly identified for the information of the Executive Branch and Congress.

#### RECOMMENDED JOINT ACTION

1. A greater use of sampling techniques should be required in place of 100 percent canvassing. Exceptions should be made only when information about each and every business firm is clearly essential to achieve the objective of the survey.

2. Exceptions from most reporting requirements should be provided for very small businesses. It is important to include all business firms in basic census surveys which establish the conditions, problems, and trends affecting business. However, small businesses—such as those having ten or fewer employees, or a gross income of less than \$100,000—should be relieved of responsibility for responding to frequently recurring information requests.

#### HYDROPOWER—TAKING THE WATERS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. OTTINGER. Mr. Speaker, on May 17, John B. Oakes, the senior editor of the New York Times wrote an "op-ed" article on the great potential for cheap hydroelectric power production from existing dams. The article, entitled, "Taking the Waters," heartily endorses the idea of moving ahead to obtain such cheap, environmentally compatible, and fuel-conserving power production. As he indicates,

The real problem isn't identifying the sites, as Mr. Carter seems to think, or in determining whether small-scale hydro production is economically feasible. (It is even possible now to produce power from flowing streams where there is virtually no fall of water.) The real problem is overcoming the inertia of old patterns of thought and the hostility of old vested interests, especially of the power companies.

Mr. Speaker, I am convinced that passage of the Small Hydroelectric Power Projects Act of 1977, which I introduced on May 24, would enable us quickly to show the country the advantage and feasibility of using existing dams for power production. I am inserting the article by Mr. Oakes for the benefit of my colleagues.

#### TAKING THE WATERS

(By John B. Oakes)

Tucked away in one paragraph of the 28-page fact sheet issued last month by the White House on President Carter's national energy program is this intriguing statement: "The President has directed the Corps of Engineers to report within three months on the potential for additional hydropower installations at existing dams throughout the country—especially at small sites." (emphasis added).

With these words Mr. Carter somewhat rectified his failure to make any mention, in his previous addresses to the nation and to Congress, of this long-neglected source of supplementary energy production that is relatively cheap, readily available and environmentally acceptable.

Mr. Carter may have deliberately played

down the potentialities of small-scale hydroelectric power because he did not wish to risk confusing it in the public's mind with those large-scale power and water-control projects on which he has been locked in battle with Congress.

There is no relation, however, between the two. One involves generation of electric energy through rehabilitation of small dams and installation of small plants to serve local needs on a decentralized basis without seriously damaging the regional ecology. The other is typified by such ruinous pork barrels as Dickey-Lincoln in the State of Maine—so hideously expensive that it is doubtful that they can ever become economically justifiable, quite aside from the permanent environmental damage they cause.

But it is quite a different story with small-scale hydropower. During the 19th and early 20th centuries, thousands of dams were built for a variety of purposes on millstreams and small rivers throughout the country, particularly in New England and New York. They powered grist mills, saw mills, paper mills; and eventually some were fitted out with installations for local generation of electric power, which ultimately fell into disuse or were altogether removed when large-scale power plants and regional distribution systems began to absorb the market.

It is these sites—plus many untapped navigation and flood-control dams in the Middle West—that afford a valuable and available source of easily, quickly and cheaply developed hydroelectric power. Ronald A. Corso, an official of the Federal Power Commission, estimates that if only 10 percent of the 50,000 existing small dams in the United States were developed to an average capacity of 5,000 kilowatts—which is very small indeed—the resultant hydroelectric production could save the equivalent of 180 million barrels of oil a year, about 6 percent of present oil imports. Put another way, these small dams could produce 24,500,000 kilowatts, increasing the present supply of hydroelectric power in the United States by more than one-third.

Representative Richard L. Ottinger of New York's 24th District points out that in this state alone there are more than 600 such untapped dams, which—if only 10 percent of them were put to work at that small 5,000 kw. capacity—could provide the equivalent of the total electric consumption of a city bigger than Albany. And on almost every tumbling stream of New England, there stand today several of these ancient dams—3,000 in all—harking back to a simpler past, when their water power was tamed to turn the mill wheels of another day. If small generators were installed in but 10 percent of these, they could produce enough electricity to supply a population equal to that of Boston.

From the investigations already conducted by such public agencies as the Federal Power Commission and by such private ones as the Development and Resources Corporation (headed by David E. Lillenthal, former chairman of T.V.A.), enough is already known about potential hydroelectric generation at small sites to warrant immediate and intensive Federal encouragement of this use of a permanently renewable natural resource.

Here is where Congress comes in. One way to encourage small-scale hydro-power technology, to which American manufacturers have given scant attention, would be through Federal grants to demonstrate various new techniques in small-scale power development. Another might be through low-interest loans for rehabilitation of existing dams and installations of small turbines and generating plants. Another might be through a form of investment tax credit.

The real problem isn't identifying the sites, as Mr. Carter seems to think, or in determining whether small-scale hydro production is economically feasible. (It is even possible now to produce power from flowing

streams where there is virtually no fall of water.)

The real problem is overcoming the inertia of old patterns of thought and the hostility of old vested interests, especially of the power companies. As President Carter says, this is a time for innovation—and the irony is that in this case, innovation means going back to first beginnings with modern technology now waiting to be used.

#### PRESIDENT CARTER'S NEW AFRICAN POLICY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by my constituent, Gen. Henry Huglin. General Huglin is a retired Air Force brigadier general and syndicated columnist. He comments on President Carter's new African policy. The article follows:

#### CARTER'S NEW AFRICAN POLICY

(By Henry Huglin)

The Carter Administration has a new and controversial policy approach for the problems and aspirations of the blacks in southern Africa—apparently intended to promote needed changes peaceably, gain influence, and undercut Soviet and Cuban moves.

The focus of the new policy is firstly on South-West Africa (Namibia), which the Republic of South Africa controls, and secondly on Rhodesia (Zimbabwe), but also on South Africa itself. President Carter has chosen to side clearly with the black Africans calling for early replacement of the present white-minority governments with back-majority governments.

This policy, obviously, stems partly from the emphasis on human rights that Mr. Carter has made a keystone of his foreign policy.

But this new policy is also apparently based somewhat on the hope that, by helping the black nationalists come to power in southern Africa, they will be pro-West and not be captured by the Soviets' and Cubans' wooing them with arms and advisors.

Our overly-outspoken UN ambassador, Andrew Young, has had a major role in the development of this new approach. And he recently played a major role at a UN conference in Mozambique which was focused on how to end white rule in southern Africa.

Further, Vice President Mondale recently met in Vienna with Prime Minister Vorster of South Africa, in furtherance of this new policy, for a frank exchange of conflicting viewpoints.

And President Carter said on May 17th that the U.S. is "willing to use all the levers we can to bring an end to racial discrimination in South Africa."

These developments are important. Much is at stake in Africa for our interests.

Great raw material resources that we will need are in that large continent. And the sea lanes for transporting 40% of the vital crude oil from the Mideast to Europe and to our country skirt Africa's shores and could be militarily interdicted from them.

Further, the nations of that continent have become a major target for geopolitical and ideological exploitation by Soviet Russia and Cuba, and somewhat by China.

The Soviets are making particularly great efforts in Africa. And their goal is not political evolution or economic betterment for the benefit of Africans, but power for their

clients and influence and bases for themselves.

Now, there is much reason for feeling that our country and other major non-Communist countries hold much more attraction for responsible black Africans than do the Russians, Cubans, or Chinese. We have more of what they really need and want: trade, and monetary, economic, and technological development aid.

The nub of the matter is what is the best way for our country to promote peaceable changes in Africa for the good of the Africans, black and white, and also avoid the area becoming more of an ideological and military battleground.

Now, few people will quarrel with our government standing four-square for human rights. But many may well quarrel with the one-sided public condemnation of southern African governments, policies, which may harden their positions against needed change, and thereby increase the possibilities of expanded guerrilla war.

And it has yet to be shown how this new policy will be even-handedly applied, if it will, to some black-ruled African nations, where the denial of human rights and perpetration of gross injustices are greater than in white-rural southern Africa.

With any policy—and ironically especially with one based on human rights concerns over southern Africa—we have to face the prospect that, if the leaders of the black nationalist movements do come to power there soon, they will follow the authoritarian path of most of the black-ruled African nations. In these countries there are widespread violations of human rights and, of the 38 changes of government that have taken place since blacks assumed power, all have been by coups, none by elections.

In some ways, the blacks in southern Africa—though greatly discriminated against—now have more rights, justice from the courts, and chances to be informed by a relatively free press than the majority of blacks in many of the black-ruled nations.

So, the situation is far from just "black and white" or even "black versus white." And President Carter's new African policy approach can be questioned on grounds of being overly moralistic, selectively applied racially, and naive as to what is effective in bringing peaceful democratic change to southern Africa and in countering the Soviets' and Cubans' moves in that area.

But we now need to hope that it will soon succeed—or be changed.

#### TRUTH IN LENDING—LAWYER'S AGITATION

**HON. J. J. PICKLE**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. PICKLE. Mr. Speaker, I have introduced legislation to have the creditor not liable for meaningless, technical violations of the truth-in-lending law.

Some people are aware that I have done this as letters have been received from various lawyers indicating support or opposition.

From time to time I want to share with my colleagues some of the feedback I am receiving from attorneys about the legislation, H.R. 5206.

Today's letter is from Mr. Tom Curtis of the Clark, Thomas, Winters & Shapiro law firm in Austin, Tex. This letter brings to light a very interesting point.

This point is that the vast amount of lawsuits being heard in the truth-in-lending area are lawyer-generated, not consumer-generated. The fact is that Mr. Curtis does not know of one instance where a consumer came forward to sue because he had been injured because of a violation of "truth-in-lending."

Instead, the situations Mr. Curtis is familiar with occur after a dispute arises, and the borrower has a lawyer brought in. This lawyer, knowing much of the incredibly technical and unclear requirements of the regulations promulgated under the truth-in-lending law, and knowing the strict liability of any technical violation of truth-in-lending by the creditor, immediately sets out to find a technical violation.

Please note, the consumer has not been injured, nor does he have a complaint. It is after the lawyer who sniffs out something to create one of the many lawsuits now underway under "truth-in-lending." Perhaps that is fair game, but it ought to be kept at a minimum.

Mr. Speaker, the letter from Mr. Curtis says it better than I, so I place the letter in the RECORD at this point:

CLARK, THOMAS, WINTERS & SHAPIRO,  
Austin, Tex., April 29, 1977.

Re Proposed Amendment to Truth-In-Lending.

Congressman J. J. PICKLE,  
Cannon House Office Building  
Washington, D.C.

We have handled the defense of a good many Truth-In-Lending cases and so far as I know, none was ever instigated or brought to the attention of the creditor by the debtor himself. In other words, all of these cases came about as a result of some controversy existing outside the parameters of Truth-In-Lending which brought the contract to the attention of an attorney and subsequent to that time, the Truth-In-Lending violations were alleged by the attorney. The majority of these cases arose where the debtor could not make his payments and had either been sued by the creditor or threatened with suit, at which time he took the case to an attorney who discovered the Truth-In-Lending problems.

While I would not take the position that substantive violations of Truth-In-Lending should be without a remedy under Truth-In-Lending or some other law, it is apparent that with regard to the many many technical requirements of Truth-In-Lending, the debtors are not aware of them and in nearly every case, the action complained of once the case gets in the hands of a plaintiff's attorney, is for a technical violation of the law as opposed to a substantive violation where some conceivable injury has been caused the debtor.

Your proposal that the creditor substantially comply with the regulation would be of considerable help, depending on how substantial compliance is interpreted. To my mind, Regulation Z was intended to show the debtor the cost of credit and the simple interest rate that he would be charged, together with the total he would be expected to repay. I have no fault with that but the many intricacies of the law now exist as a legal trap for the creditor, even the wary creditor with adequate counsel. In short, it is virtually impossible to advise a creditor that his form is in compliance with Regulation Z. The law is simply too complex and there have been too many rulings requiring constant revision of the form making it all but impossible for the wary creditor to constantly stay abreast of the many interpretations. The small businessman, I sus-

pect, finds it wholly impossible to stay in compliance with the amorphous changes in the law.

This is somewhat akin to strict liability and if the creditor is to be punished in the form of statutory penalties and attorney's fees, without substantive injury to the plaintiff, these costs, where possible, will simply be an increased cost of doing business for those businesses that can pass it along.

#### BODY, MIND, AND NOISE

**HON. CECIL "CEC" HEFTTEL**

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. HEFTTEL. Mr. Speaker, today I would like to insert in the RECORD information that I recently received from the Citizens Against Noise Association of Honolulu, Hawaii. The text of their research statement follows:

#### DOCUMENTED RESULTS FROM WORLDWIDE RESEARCH

Noise is a slow agent of death! (Dr. Vern O. Knudsen, a founder of the Acoustical Society, N.Y. Times Magazine, Nov. 23, 1969, p. 131.)

Commonsense awareness of the relationship between noise and the sleep needed for health has existed for centuries. In ancient Sybaris, 2500 years ago, roosters and forges were banned in residential areas. Julius Caesar banned chariots after 10 p.m. on Rome's stone-cobbled streets. Elizabethan England didn't permit wife-beating after 10 p.m. In many European cities less than a century ago you'd have known which house had an ill resident. Straw in front deadened the sounds of horse and carriage. "Quiet Zone—Hospital" is a taken-for-granted sign today. As one moves up the executive ladder so does insulation from the sound of typewriters, telephone, and talk. In ancient Hawaii all sound was taboo while fishing lures were tied. Legend has it noise made the fish god angry. Logie has it that tying a natural fiber lure took concentration. If it fell apart in the water—no fish!

Experiments with animals and noise show rapid advance of arteriosclerosis, a 25% increase in fetal deformities, 60% drop in fertility, loss of libido, convulsions, enlarged hearts combined with shrunken adrenals, ovaries, and kidneys, more tooth decay, nervous breakdown, and even death.

Testing people and noise has limits. There are no volunteers for mass autopsies to evaluate experiments. Studies of people who live or work in noisy places are well into the third decade in many countries. Initially done to document hearing loss, it is impossible not to be impressed by scientific recognition of physical, psychological and mental skills effects.

"Noise affects people's communication, sense of touch, vision, performance of skilled tasks, orientation and coordination... contributes to fatigue, loss of sleep, psychosomatic symptoms, and possibly impairments of circulation and brain functions." (1954: Army, Navy, Air Force Joint Committee on Hearing and Bio-Acoustics, Report No. 2.)

Noise rules have been part of public health legislation in Britain since 1960.

"We know that noise is as much of a health hazard as other pollutants." (1969: Keynote address of Dr. Gerald Dorman at Sixth American Medical Association Conference on Environmental Health—all on noise.)

"There is evidence that workers exposed to high levels of noise have a higher incidence



of cardiovascular disease, ear-nose-and-throat disorders, and equilibrium disorders than do workers exposed to lower levels of noise." (Environmental Protection Agency Report to the President, December 31, 1971.)

"Daily encounters with workplace noise may degrade hearing mask reception of desired sounds, heighten emotions and psychologic activity, disrupt concentration, or otherwise hinder job safety. The collective impact of these noise effects clearly poses a significant challenge to the employee's health, productivity and well-being." (1972: Health Education & Welfare Department study—Occupational Exposure to Noise, p. IV-16.)

"Acute noise exposure has been shown to markedly affect various hormone secretions. Immunological function can be affected. . . ." (1976: National Institute of Environmental Health Sciences report, pub. by Department of Health, Education & Welfare.)

"In disease states such as anxieties, duodenal ulcers, and other so-called tension ills, the additive deleterious effect of noise is real and immediate." (Dr. Lee Farr, writing in the AMA Journal 1967, Vol. 202, pp. 171-174.)

Noise and learning: Probably the most significant study of the effect of noise on classroom achievement was done in 1973. Elementary children living in four 32 story buildings built in air rights over a heavily travelled New York freeway were tested. Final evaluation was done on 54 children. Noise outside the buildings averaged 76-79 dBA (except when heavy trucks roared by). The apartment living rooms, with windows closed, ranged from 70 dBA at the lowest floor to 51 dBA on the 32nd floor. (Note: an increase of 10 dBA means twice as loud.)

When data was analyzed and adjusted for all variables, including educational attainment of parents, noise level (floor level) emerged as the most significant factor in aural word discrimination, speech, and reading achievement. Children in the quietest apartments consistently scored higher in all three categories than children in noisier school noise levels were also tested.) Mentioned in every book on noise since 1973, this study, by Glass, Cohen and Singer, was first reported in *Psychology Today* under the title "Urban Din Fogs the Brain."

Tests in Japan in 1964 (Nomura Research Group of Tohoku University); in England in 1969 (London Institute of Psychiatry) and the U.S. (there are three pages of bibliography in *Noise and Children: A Review of the Literature—Journal of the Acoustical Society of America*, Vol. 58, No. 4, Oct. 1975) all indicate that exposure to noise for extended periods affects the acquisition of speech, language, listening, and such related skills as reading. In other words, good listening situations are prerequisites to learning how to speak and read.

Last year Jerome Singer reported further noise and mental skills tests on subjects of varying ages. Skills were tested during noise exposure and just after it stopped. He found subjects in about two dozen experiments could not find errors when proofreading, did not persist as long in difficult or important problems, were not able to process conflicting information as well. (Internoise, '76, pp 499-504.)

Noise and hostility: Singer also found that during and after noise exposure subjects "were not as willing to do a favor when requested." He writes "The specific noise effect need not be very large for a large social effect to occur as the behaviors involved are strongly influenced by modeling and imitations. That is, one occasion of noise-influenced aggression may set the model for many others . . . a small number of affected people may trigger . . . aggression or failure to help others." (Remember the rocks thrown at Lale tour buses?) About every six

months a noise-triggered murder becomes a national news event.

Detroit riots investigator Dr. Edward Crip-pen told the American Public Health Association's 95th Annual Meeting he felt ghetto tension was related to interrupted sleep. (Robert Alex Barron, *The Tyranny of Noise*, 1970, p. 61.)

Noise and your eyes: Blood vessels in the conjunctiva around the eyes contracted and grew pale as noise increased to 87 dBA while blood vessels in the retina responded to noise as they did to digitalis—by expanding. Documenting photographs were taken by Professor Giovanni Straneo in Pavia, Italy (reported in Berland, p. 100.) Testing pupil enlargement during noise, Dr. Gerd Jansen found that where subjects attempted precision work during and after noise, "test objects were not where the subjects thought they were!" (Theodore Berland, *The Fight for Quiet*, 1970, p. 85.)

Blood pressure, heart, and health: At Pavia's Institute of Occupational Medicine, Dr. Straneo's experiments confirmed German results found by Jansen. His findings: Finger pulse arterioles contract, cutting their blood supply in half within three seconds of the start of 87 dBA noise. It took at least five minutes after the noise ended to return to normal.

A cardiologist, Straneo also found a correlation between noise and irregularities in EKG tracings. Noise, he concluded, can affect the heart directly through nervous system stimulation and indirectly by changing the dynamics of the vascular system.

By the sixth month after conception the fetus responds to noise with a faster heartbeat. In tests using a vaginal microphone, Karolinska Institute (Stockholm) researchers found how much noise was masked by the mother's body, placenta, etc., and determined that when the fetus heard 50 dBA (like a quiet office) for one second, fetal heartbeat went from 130 per minute as high as 170 per minute. (Berland, p. 85.)

Over 1,000 people who lived near Stockholm highways were asked a series of questions in a masked interview in which the subjects didn't know the purpose. Of those disturbed by traffic noise more than half answered questions on general health by complaining of bad stomachs, headaches, insomnia and nervousness. (Researcher was Anders Kajland at Karolinska Institute, reported in Berland, p. 56.)

Noise from London's Heathrow Airport apparently generated so much stress that a substantially greater number of affected residents required psychiatric treatment for mental illness than inhabitants of comparable, quiet, areas. (The Lancet, December 1969.)

Commissioned by the Government of Luxembourg to research the psychological impact of noise on factory workers, Dr. Jansen found workers in noisy industries were more aggressive, more likely to quarrel with foremen and had more than twice as many domestic problems than workers in quieter industries. (Berland, p. 92.)

Although it wasn't part of his contract, Jansen also measured physical reactions. He found: "Their skin was pale, the mucosa of their mouths were pale and dry, their hearts had extra systoles, their peripheral circulatory systems were apparently under high tension." (Berland, p. 92.)

Noise and sleep: Working with test volunteers who were awake and knew what the test was about, Dr. Jansen found peripheral vasoconstriction didn't show up until about 75 dBA. But in subjects who were sleeping soundly, blood vessels in fingers and toes constricted at 55 dBA. Just a fraction of a second exposure at 70 dBA took several minutes to wear off. Jansen's conclusion: "An adaption made by a person to noise is made at the intellectual level . . . your body can never adapt to noise." (Berland, p. 97.)

The person awakened by noise has no trouble making the connection, but many tests have shown that people who aren't aware of being disturbed by noise nevertheless shift from deep sleep to a lighter (dream phase) sleep. On awakening they feel fatigued, often have palpitations. (Dr. George Thiessen, National Research Council of Canada; Dr. Gerd Jansen (cited above); Dr. Nathaniel Kleitman, University of Chicago, among many others. Berland, pp. 87-88.)

Noise and hearing: "The population at risk with regard to noise-induced hearing loss may be greater than any other hazard in the work environment." (Occupational Exposure to Noise, HEW 1972, p. IV-7). Today's cities are often noisy as a factory. Recreational noise is often quadruple that of a factory.

How does hearing loss happen? Usually so slowly the victim isn't aware of change. Like the well-trod path where grass withers and vanishes, hair cells in the ear (which translate sound pressures into words, music or noises that tell us what is happening) shrivel and disappear with abuse.

To experience "temporary threshold shift" in hearing, leave the car radio at "on" when you turn off the ignition after coming home after work (or noisy play). When the ignition key turns your radio on in the morning at last night's comfortable volume, you'll be surprised at how loud it sounds. Yesterday's noise assault dulled your hearing for a time. Over the years recovery is less and less complete.

Women do hear better than men. Drs. William Wilson and William Zung ran tests at Duke University in 1965 and found that "women were three times more likely to be roused from sleep by noise than men." The difference starts to emerge at age eleven. Is it because boys play with firecrackers, shoot targets, ride motorcycles, and drive unmuffled cars more than girls? Is it because men are more likely to run power mowers, fly planes, work in noisy industries, hunt, and train for war?

By age 13 hearing starts to deteriorate in our noisy world. "Audiometer Tests of Tennessee students gave the sobering information that while only 3.8% of sixth-grade children had some degree of hearing loss, 11% of ninth-graders did, and 30.2% of freshmen in college. The last figure seemed implausible to Dr. David Lipscomb, director of Audiology Clinical Services at the University of Tennessee, so he repeated the study with the next class of incoming freshmen. Instead of obtaining the lower figure he hoped for, this time hearing losses were measured in 60.7%. Many of the deficiencies were for sounds at seldom-used frequencies, but even for those used in normal speech, hearing was below expectations for this age." (Lucy Kavalier, *Noise: The New Menace*, p. 38, 1975.)

No wonder there is talk of a "deaf generation" in this age of loud music. Lipscomb tested rock musicians. One out of three tested had "notable hearing losses for high-frequency tones." (Kavalier, p. 50.)

Noise and the elderly: Commonsense tells us falsely that noise is less of a problem to older people because hearing impairment is common. Not so. Sleep patterns differ with age. As we grow older it takes longer to fall asleep and deep sleep intervals are fewer and shorter. Noise intrudes more easily and sleep shifts quickly to drowsiness . . . or even anger, wakefulness and insomnia. Stanford Research Institute studies by sleep specialist Dr. Jerome Lukas showed noise intrusions disturbed hardly any five-to-eight-year olds, 18% disturbed the middle-aged, and 32% of noise intrusions disturbed the sleep of the elderly.

Another handicap for the retired is the feeling of being trapped by noise trespass into places where they live.

Many scientists now believe that much "old age hearing loss" results from noise. They point to the remote African Mabaan tribe where 70-year-olds hear as well as those in their twenties. Tests with equally quiet-environment, but high saturated fat diet tribes in India's Nilgiri plateaus showed no hearing losses, no high blood pressure and no heart problems! (Berland, p. 87.)

Going without food, or even water, may be easier than going without sleep. Sleep deprivation is a standard torture, brainwashing, or "third degree" weapon. It can reduce the victim to a robot, physically and mentally disabled. And, as Mt. Sinai Hospital's famous Dr. Smith Rosen says, "You may forgive noise, but your arteries never will." (Office, 1972.)

## J. CRAIG SMITH MOURNED

### HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. NICHOLS. Mr. Speaker, I have been fortunate to know many great men during my lifetime but none have surpassed the achievements of the late J. Craig Smith. A close personal friend, Craig was one of Alabama's finest sons and was recognized around the world as an astute businessman and an outstanding civic leader.

His long list of achievements, his dedication to his fellow man, and his concern for the betterment of the community will long be remembered by Alabama and his many friends across the Nation.

My deepest sympathies have been expressed to his wife, Mrs. Page Thompson Smith, and his daughter, Miss Mignon Comer Smith of Washington, D.C., and their prayers will be joined by the many friends and businessmen who knew, respected and admired this great American.

Mr. Speaker, I submit for the RECORD the following two newspaper articles about J. Craig Smith, both of which appeared in the Sylacauga News and I join with Craig's many friends in this Congress who mourn his death:

ENTIRE TOWN DEEPLY AFFECTED BY LOSS OF AN OLD FRIEND

(By Joe Patton)

A profound sense of loss shrouded Avondale Mills along with an entire town Thursday morning at news of the unexpected passing of J. Craig Smith whose mourners here and abroad are legion.

One of the most admired and respected figures in the textile industry succumbed of a heart attack at Chicago, Ill. while attending a meeting of Illinois Central and Gulf Railroad directors.

The gravity of his loss will be measured in terms of what he meant to thousands in Sylacauga over the years, and a steady influence that spanned the textile world.

Although officially in semi-retirement since 1970, the former Avondale Mills president and board chairman remained active in company affairs as chairman of its executive committee, Avondale Educational and Charitable Foundation chairman, company director, and trustee of the Avondale Mills Employees Profit-sharing Trust in which he played a founding role.

At 71 years of age, Smith was pursuing a variety of business, civic, professional, and

philanthropic activity with the enthusiasm and vigor of a much younger man.

He was a giant among American textile leaders, the only American ever to serve as International Federation of Cotton and Allied Textile Industries president of which he was also an honorary life member. Smith had also served as president of the American Textile Manufacturers Institute and the National Cotton Council of America and was a Liverpool Cotton Association, Ltd. honorary member.

Showered with numerous awards, among the proudest were his being honored by the editors of Dixie Business as Man of the South for 1970, his selection by the International Council of Industrial Editors as Communicator of the Year for 1970, the first time it had been made to anyone from the South or the textile industry, and his naming to the Textile Award by the Alabama Textile Manufacturers Association in 1971, only the third such award in ATMA history.

The grandson of Avondale Mills founder, B. B. Comer, who also served Alabama as a Governor and United States Senator, was named to the Alabama Academy of Honor in 1974.

Smith was a director of South Central Bell Telephone Company, Southern Bancorporation, Illinois Central Industries, Birmingham Trust National Bank, Protective Life Insurance Company, General Machinery Corporation, and First Federal Savings & Loan Association of Sylacauga, the latter also as board chairman.

His public office record included Alabama Water Improvement Commission, University of Alabama Medical Center Advisory Board, Alabama Education Study Commission, Alabama Institute for the Deaf and Blind executive committee, Alabama State Advisory Committee on Public Education, and Sylacauga Hospital board service.

The lengthy list of civic affiliations and offices Smith had enjoyed included The Eye Foundation, chairman and trustee, Alabama Safety Council, president and director, Sylacauga Park and Recreation Board, vice chairman, Boys Club of Sylacauga, honorary trustee, South Talladega County Chapter of the American Red Cross, honorary member, Sylacauga Exchange Club, honorary member, Sylacauga Rotary Club, president.

Smith had also served the Alabama Chamber of Commerce as president and chairman of the board, and was a member of the University of Alabama School of Commerce board of visitors.

His legacy to Sylacauga may be found in the new J. Craig Smith Community Center in testament to 32 years of faithful Sylacauga Parks and Recreation service, and the coveted J. Craig Smith Medal and Scholarship Award annually bestowed on an outstanding B. B. Comer Memorial School female graduate.

A wide, natural smile that became something of a Smith trademark belied a latent shyness, and a native business acumen the Virginia Military Institute graduate's early ambition to one day become a journalist.

The ability to identify with the common man and captains of industry alike endeared Smith to thousands of Avondale Mills employees who over the years attached a value beyond price to their coworker relationship. The pride with which his coworkers embraced a Zero Defects program that Smith was instrumental in implementing gave him as much satisfaction as any of his many achievements. It is a program that has made the Avondale Mills label a byword for quality throughout the textile industry.

A newspaper employee who had known Smith for many years, Jack Leach, used to shock associates with a "Hi, buddy!" greeting. Smith said not long ago it had often made his day. Of such was attached great worth.

Although a Birmingham native, Smith was considered one of Sylacauga's own.

Services for Smith were held Friday afternoon from graveside at Elmwood Cemetery in Birmingham, his wife, Page Thompson Smith, and daughter, Miss Mignon Comer Smith of Washington, D.C., among the multitude who mourn his passing.

Giants have walked this land, a remarkable J. Craig Smith among them.

## CASUAL COMMENTS

(By Charles H. Greer)

"Ave Maria, gratia plena, Dominus tecum" . . . the strains coming from the 73 beautiful voices of the Sylacauga Community Chorus as the second song of the evening concert was dedicated to the memory of Sylacauga's warm friend, J. Craig Smith. How sad it was . . . the realization this kind and friendly gentleman would never be among us again.

"Dominus tecum, Dominus tecum" . . . my mind kept going back ever so many years as I thought of the shock registered not only in this state, the country as a whole . . . but the world. And it was so true . . . because J. Craig Smith indeed had worldwide recognition both as an industrialist and as a humanitarian. I knew, of course, that my family had indeed lost a friend . . . but it was astounding to note how many, many people said the same thing over again and again . . . each had lost a very dear friend.

Yet, it was easy to understand because this man did not put off living . . . he made his own epitaph . . . his life drew it up in terms so flattering that only he could deserve such a glowing inscription.

Mr. Craig, as I respectfully called him, was one of three men who made a profound impact on my life. He, along with my father and uncle, Roe Greer, gave me impossible goals to emulate . . . but the examples of their lives have been the cause of any successes I might have. Our youngest son, Craig, is his namesake.

"Benedictus, benedicta tu in mulieribus" . . . so many remembrances kept coming back. The time his only daughter, Mignon, fell from her horse . . . and it was touch and go for a few days before his and others' prayers were answered. How he worried about his life's companion, Page, as she suffered ill health. That time he got lost trying to find our house where he was headed with a gift for his namesake who was sick. The many visits he would make to the office before he moved to Birmingham . . . and the way he would walk through the plant and shake hands with every employee. The last time our family had lunch with him . . . and he let Craig drive the Cadillac.

I remembered, too, the younger Craig Smith . . . particularly his love and respect for Donald Comer, Sr., one of the kindest and most gentle men in the world. And I can recall his stories of trips made in efforts to sell Avondale products when that great company like all the rest of the nation, was still recovering from the great depression.

Then there were those years when he edited the *Avondale Sun*. Man oh man, could he ever write. His editorials were sought out by all. Though he quit writing after his retirement, he never lost interest in the company publication . . . and would brag on his cousin, Donald Comer, Jr., and his editorials. He was particularly proud to see the *Sun* continually improve.

*et benedictus fructus ventris tui Jesus* . . . memories kept coming back. There is just no way (other than through his loyal and efficient secretary, Mary Edmunds) to count the many people who received gifts from him and Page as they returned from their European trips. Then, of course, there were countless cards and letters and phone calls concerning bereavements, birthdays, graduations and the list goes on.



I thought back to the many gifts . . . most of them in our library . . . that we have treasured from him. I remembered how much he enjoyed receiving mail and papers from home at hotels in London, Zurich . . . wherever he went. His was a fantastic sense of humor. I remember telling him once there was really no reason for him to write us . . . that we couldn't read his handwriting anyway. Mary wasn't on these trips to make them legible.

Just that afternoon at his services a beautiful young lady and a recipient of the J. Craig Smith Scholarship was telling us that Craig had called prior to her graduation from the University of Alabama . . . just to make sure she was graduating. He was proud she had accepted a job with Avondale Mills and was going into sales out of the New York office. Treasure was not alone. He checked on every one of his scholarship winners . . . and was so proud of them.

Maybe he didn't know every single member of the Avondale Family . . . but I think he did. I do know this . . . he numbered among his friends those employees from the lowest to highest category of employment. Many of them were there to tell their former boss "goodbye" Friday afternoon.

*Sancta Maria, Mater Dei ora pro nobis peccatoribus . . .* he just didn't have a jealous bone in his body. He wanted so much for people to advance in life's chosen professions. When it came to family, such was doubled in spades. He encouraged the younger generations of the Comer Family to enter the successful business begun by his grandfather, Gov. B. B. Comer.

No man I ever met could have enjoyed life more than Craig Smith. He loved to travel . . . enjoyed being wealthy but wore this wealth in a manner that demanded respect.

Perhaps the best description of Craig Smith as a man can be found in the writings of Henry Amiel who stated: "It is not what he has, or even what he does which expresses the worth of a man, but what he is." No one questions what he was . . . a gentleman.

*nunc et in hora mortis nostrae. Amen . . .* The hymn was finished as is Craig Smith's life. Today there is a living memorial to Craig Smith. It is probably one of the things for which he was most grateful and proud . . . the J. Craig Smith Community Center. I'm so glad he lived to see this beautiful center dedicated to his memory.

I just hope one of his associates did for him what he did for my dad . . . that of placing a vase of roses on top of the desk . . . as a tribute to an executive who had gone to his reward.

Somehow or other I can see my dad, Uncle Roe and Craig Smith all together once again . . . as I see my son with his grandfather in that great Valhalla in the sky.

#### CONTINUING CRISIS IN FOSTER CARE

#### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. MILLER of California. Mr. Speaker, earlier this week, I reported on the highly successful comprehensive emergency services program in Nashville. Today, I would like to discuss another project which has modeled itself after the Nashville design and achieved similarly successful results, the CES program in San Francisco.

With full funding of Child Welfare Services, title IV-B of the Social Security Act, as contained in H.R. 7200, and my own Foster Care and Adoption Reform Act of 1977, many more communities would be able to replicate this highly proven and cost-effective alternative to our present system which deemphasizes prevention and reunification in favor of expensive, long-term maintenance.

In 1974, before the CES program existed in San Francisco, more than 800 children were annually admitted to public custody. There were no emergency foster home beds, no Outreach programs, and no in-home services to prevent the need for foster home placement. Thus, as in so many cases, the first intervention in a family crisis was by police, not by potentially helpful social workers, and the result was removal of the child, not the offering of emergency services. In this manner, children are forced into a system with very little accountability where many do not belong and from which many exit only after years of needless or inappropriate placement.

Within only 2 years of that situation, the CES program was achieving major reforms. The administrative procedures were streamlined and similar programs were merged to provide more effective assistance:

Children in Youth Guidance Center Dependent Cottage: 1974, 24.3 daily; 1976, 2 daily (45 percent for less than 1 day).

Emergency Foster Beds: 1974, 0; 1976, 22. Special Subsidy to Emergency Foster Parents: 1974, 0; 1976, \$100/month.

Adolescent Shelter Beds With 24-hour intake: 1974, 16; 1976, 32.

24-hour intakes for Emergency Foster Homes & Adolescent Shelter: 1974, 0; 1976, all on 24-hour intake.

24-hour, 7-day outreach: 1974, 0; 1976, 6 teams.

Reduction petitions filing dependent children: 1974, 37/mo.; 1976, 16/mo (down 43 percent).

Increase in intake of CES Unit over 1974: 32 percent.

Impressive as these results are, such programs are so financially strapped, because of inadequate Federal support that other aspects of the CES project go wanting. San Francisco's CES has not been able to develop emergency caretaker and homemaker services and respite care which would dramatically reduce the need for the removal of children from their homes. The CES staff has only been able to partially meet their plan for emergency family shelters and emergency child care. Nor are San Francisco and Nashville alone in demonstrating that such preventive services programs can work effectively. In New York City, a study by the Child Welfare League several years ago disclosed that the average stay of children in foster care was nearly 5½ years. Over 30 percent of the children reviewed had no discharge plans whatever, but would indefinitely remain in foster care at an annual cost of \$5,000 to \$13,000.

A preventive service program was initiated on an experimental basis to attempt to alter this sad and expensive state of affairs. Several services, of the sorts which would be provided with the foster care reforms contained in H.R.

7200, were offered to 373 children in an experimental group. The results of the year-long project were reported in HEW's publication, *Children Today*, November-December 1976, in the article from which the following is excerpted:

#### REDUCING FOSTER CARE THROUGH SERVICES TO FAMILIES

(By Mary Ann Jones)

According to nearly every measure, better results were obtained among the experimental group than the control group, usually to a significant degree. Some of the highlights of the findings follow:

The project was successful in both preventing and shortening foster care placements.

Of those children home at the time of assignment to the project, only seven percent of the experimental group but 18 percent of the control group had entered placement by the end of the evaluation period.

Of the children starting out in placement, 47 percent of the experimental group, compared to 38 percent of the control group, had returned home by the end of the evaluation period.

During the time that cases were open in the project, the children in the control group were in care for an average of 24 days longer than the children in the experimental group. If the experimental group children had spent the same number of days in care, this would have amounted to an additional 44 years of foster care during the project year alone!

These positive effects of the project were even more marked when a follow-up on the whereabouts of the children was conducted six months after the end of the evaluation period. This notable increase in the impact of the demonstration services was most evident among the children who started out in placement. At the time of the six-month follow-up, 62 percent of the children in the experimental group who were in placement at the time of assignment to the project had gone home, as compared with 43 percent of the children in the control group.

The reduction in foster care was accomplished without detriment to the well-being of the children in the experimental group and it was accompanied by many positive changes in the functioning and problem situation of the families.

#### FINANCIAL IMPLICATIONS

The savings in foster care expenditures resulting from one year of operation of this project with the 373 families in the experimental group are estimated to be over \$2 million. Approximately \$286,000 in foster care costs were saved during the project year alone on the 663 children in the families which received the intensive services. Additional savings of about \$1.8 million in foster care expenditures are expected to accrue over the next four years because of the reduction in placement with this sample of children.

A second question, of course, is how much it cost to save foster care expenditures that were, perhaps, in excess of \$2 million. The total reimbursement to the participating agencies for the demonstration services (other than foster care) during the evaluation year was \$1 million. For a variety of factors related to the demonstration nature of the program, such as the slow build-up and low turnover of caseloads, and the heavy reporting and travel demands, we think the reimbursement figure greatly exaggerates the cost of providing such services on an ongoing basis. In addition, the participating social service districts were unable to estimate the non-foster care costs of serving children in the usual way in their system. So, while we had a figure for providing services other than foster care to the children in the experimental group (the \$1 million figure), we had no

comparable figure for the children in the control group. For all of these reasons, we feel a more accurate reflection of the additional costs incurred by providing the demonstration services would be in the neighborhood of \$500,000 during the evaluation year. In sum, a \$500,000 investment in services in one year yielded a savings estimated at over \$2 million in foster care expenditures over five years.

These figures do not include the cost of any further service that might be required to sustain the gains achieved during the evaluation period, nor do they include the increased AFDC costs to maintain the families re-established as a result of the project. On the other hand, neither are the continuing non-foster care costs of the control group included, nor the myriad costs and benefits that might accrue as the result of this project, as the children from both the experimental and the control groups grow into adulthood.

#### SERVICES PROVIDED

Families in the experimental group received about twice as many service contacts during the evaluation period as the families in the control group. The principal differences were in the number of in-person interviews with the mothers during the eight and one-half months that the average case was open (17 interviews in experimental cases versus 10 in control cases) and the number of telephone contacts (29 versus 9). The experimental workers also had much more frequent contact with other community resources.

Many more kinds of services were provided to families in the experimental group. A significantly greater proportion of them received every service about which we inquired except placement of children and psychological or psychiatric evaluation or treatment. Obviously, the demonstration was successful in delivering a battery of preventive and rehabilitative services to project families.

The work with the families in the experimental group was active in many respects in addition to the number of service contacts and the kinds of services delivered. Over 75 percent of the interviews were conducted outside of the office; the workers most frequently described their principal role in interviews with family members as one of giving advice, guidance and direction; and in one-third of the cases the workers engaged in special advocacy efforts on behalf of the clients, particularly with the income maintenance system.

There are many, many communities in which these first steps to improving child service programs will not be made without more Federal support. That level of funding can be provided the States and local communities—which already outspend the Federal Government in this area 7 to 1—with the passage of H.R. 7200, which I urge my colleagues to support enthusiastically.

LLOYD C. FOWLER—PUBLIC WORKS  
MAN OF THE YEAR

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. MINETA. Mr. Speaker, I rise today to honor a gentleman I have known for many years. Mr. Lloyd C. Fowler, the chief engineer of the Santa Clara Valley

Water District, has been chosen by the American Public Works Association and seven other organizations cosponsoring National Public Works Week as one of the "Top Ten Public Works Men of the Year."

Mr. Fowler is a registered civil engineer with over 25 years of experience in irrigation, hydraulics, flood control, water supply, and river control works. He is a member of several professional societies and currently serves as president of Watercare, the California Association of Reclamation Entities of Water.

Mr. Speaker, I am sure that you and all of my colleagues in the House will join me in congratulating Mr. Lloyd C. Fowler on his selection as a "Man of the Year."

#### INVESTIGATES RELIGIOUS "BRAIN-WASHING"

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. GIAIMO. Mr. Speaker, in February, more than 40 of my colleagues joined me in asking the Attorney General or his principal deputy to meet with experts in the area of "brainwashing." Several other Members of the House and the other body contacted the Justice Department on their own. We hoped we would be able to provide Department of Justice officials with some information to help them understand better the allegations of "brainwashing" that have been raised against several of the seemingly religious cults with which we are all familiar.

The meeting was requested because many parents of young adult cult members are convinced that their children have been brought into and kept in these cults against their wills. I decided to approach the Justice Department because it is charged with the responsibility to investigate and prosecute suspected violations of Federal law.

After some initial difficulties, we managed to hold a meeting on May 18. Although one of the original experts whom I had invited was unable to attend, the meeting with officials from the Criminal Division included professionals with considerable knowledge of the legal, psychological, and ethical implications of the charges that have been made by the parents and several former cult members.

This was an informal informational meeting, and no prepared statements were issued. I shall, however, ask the Justice Department to comment officially on this meeting in the near future.

In the meantime, I believe that I owe it to my colleagues to summarize my impressions of what I thought were the major points discussed.

I appreciate and respect the constitutional limits that must be imposed on any matter so closely linked to the first amendment. This does not mean, however, that every activity of every re-

ligious group is beyond legal investigation. The courts in the past have distinguished between legitimate religious activities and those which have no legitimate connection to religion.

The central question in my mind is whether these young people freely are choosing to remain with these cults. In response to this query, I in turn was asked questions that emphasize the difficult preliminary matters which must be settled before the question of freedom of action can be answered in a legal sense.

How do you define a "cult"? One person's cult may be another person's religion. We must remember that at one point or another in history, nearly every religious group has been labeled a cult in the eyes of society.

Even if you should be able to define the type of organization that you seek to investigate, and if you are able to show that it is not being investigated because it is a religious group, another problem emerges. How can you prove "brainwashing," or coercion? What appears to be coercion to one person may in fact be a sincere religious conviction. With all of its advances, medical science cannot emphatically distinguish between the two.

In essence, I believe that the Justice Department was asking how one could develop a test which would pass a first amendment challenge and show beyond a reasonable doubt that improper influence had been used against a cult member's free will. I confess that for this I have no answer at this time, but I also think that, with its considerable resources and expertise, the Justice Department should be able to establish a plausible test.

I recognize the difficulties this issue creates. When a person's life and liberty are at stake, we correctly should not be frivolous with accusations; this narrow view of criminal laws may appear to be insensitive to some people, but it is a proper point of view legally and constitutionally.

I am convinced that we need a redefinition of our legal terminology. Last year, the Justice Department presented its policy in a letter to me, and I had that letter included in the January 31 CONGRESSIONAL RECORD. This policy is based on major court cases a generation old. Over the years, we have learned that, indeed, brainwashing exists. The experience of Korean war POW's substantiates this fact. It often takes decades for the law to recognize medical facts. Perhaps a test case is needed to determine exactly where we stand now with respect to the law's interpretation of this matter.

I did not ask the Justice Department to initiate an investigation of any particular cult or case. I hope, however, that the officials with whom I met will review with an open mind the comments that were made and will consider the possibility of examining in greater detail the allegations they have on file.

In the near future, I shall ask the Justice Department to indicate to me whether or not it intends to modify its



earlier position in light of our meeting. Naturally, I shall advise my colleagues of whatever reply I may receive.

Mr. Speaker, nobody need tell me that this is a complicated and sensitive issue. Many parents will think that nothing was accomplished at this meeting, and many civil libertarians will condemn its occurring in the first place.

I requested this meeting because I am convinced that our federal law enforcement officials must consider this problem in greater detail than they seem to have been doing in the past. Many of the parents and friends of cult members feel helpless in light of what they consider governmental indifference toward this problem. Their frustration has led to such activities as kidnapping and deprogramming. While I do not condone these actions, I am concerned about the entire situation, and I hope that Justice will not assume that there is nothing it can do in response to allegations being raised against the cults.

In conclusion, Mr. Speaker, many difficult questions have been posed, and few of them have been answered. Perhaps they cannot be answered to everyone's satisfaction. In any event, I hope that some light has been shed on this problem.

#### LET US PRESERVE OUR FREEDOM

### HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. WALKER. Mr. Speaker, I would like to bring to your attention an article that was written by Dr. Stephen D. Lockett which brought him the Freedoms Foundation Award. In this article he expresses his concern for preserving freedom in this country and the whole Western culture. I am including at this point in the RECORD this article because I think that it will be of some interest to my colleagues:

#### FREEDOM

(Let Us Preserve Our Freedom: The Most Expensive And Valued Commodity In The World)

(By Stephen D. Lockett)

Freedom is yours to defend and uphold. For many years, newspaper and periodical headlines have presented to the American public examples of rapport between the East and West. President Gerald Ford works actively towards bridges to the East. The foreign policy academicians present views of peaceful engagement and cooperation (détente, cultural exchange, athletic contests). The ultimate questions still remain:

1. What are the present Communist activities which bear upon this subject, and,
2. Are the Communist regimes really reaching accommodation with the West, or are recent actions merely within the context of historical Communist aims of expansion and ultimate world rule?

In this letter, I will try to present Soviet Foreign Policy in a historical prospective pointing out those significant factors which bear upon present and past Soviet world conduct.

The Soviet geography reveals through the centuries the most pressing force upon her

foreign policy. Although most good Marxists would probably deny the importance of the United States to Soviet Russia's geographical position; this fact stands out significantly throughout her long history.

Geo-politicians had been aware of said fact for at least fifteen decades. No natural limits exists to which the United States of Soviet Russia could define or direct her energies. Due to the vast plains and steppes, the country is almost indefensible with the Russian boundaries often reflecting the strengths or weaknesses of her past and present rulers. The traditional aims of the Russian foreign policy are to absorb weak neighbors and to exercise as much control over those unwilling to yield and capable of resistance. Russia's specific territorial objectives have always been sea-outlets, ice-free ports, the subject of historical drives towards the Straits, the Persian Gulf, and the Yellow Sea.

The great demands placed upon Communist rulers have established a need for unity and centralization. Although her Constitution is Federal in form (distribution of powers from the top down), the Soviet Union perpetuates the old Tsarist tradition of central control of the Communist party. This control is exercised most rigidly.

Soviet territorial hunger can often be compared with a rancher, who when questioned why he was acquiring so much land, said, "I don't want much land, I just want that which joins my ranch." So it is, with the United States of Soviet Russia—she merely wants the security of ruling all the land that adjoins her. As she expands through the device of using subservient communist parties to control or to gain control of nominally independent nations, with the result that her borders extend and there are more neighbors to absorb.

Historically, considerable debate has taken place over Franklin D. Roosevelt's actions at Yalta. One aspect is now clear: the United States of Soviet Russia received her go-ahead to proceed with her ambitions and expansion. Franklin D. Roosevelt's closest advisor, Harry Hopkins, stated after the Yalta conference: "The Russians had proved that they could be reasonable and far-seeing, there wasn't any doubt in the minds of the President or the rest of us (with the exception of Winston Churchill) that we could live with them and get along with them peacefully as far far into the future as any of us could imagine."

The post-World War II era provided Russia with her great opportunity to fulfill five centuries of expansionist plans and dreams. She contends that her moves were within her legitimate spheres of interest, and were of absolutely no concern to the West. Thus, with almost 200 armed divisions, she filled the vacuum left by the Allies, who as now know, pulled their troops out of occupied areas too rapidly. Not until the Soviet Union became a threat to the interests of the United States and the freedom loving countries of Europe, did we answer the challenge; a challenge answered only after millions of people were enslaved (please read Gulag Archipelago by Aleksandr I. Solzhenitsyn).

One may define, therefore, the Soviet Union's drive to the seas, her search for agricultural lands, and her insatiable need for world recognition in the terms of Communism, pan-slavism, messianism, or Colonist-imperialism.

The ends have remained immutable and distinguished or guided by differing principles, Communism today has a direct legacy in Russian history.

As we proudly celebrate the 200th Anniversary of the Birth of our Nation, the Land of the Free, it becomes the task of the United States to remember our national interest and the national interests of free men everywhere. If cultural bridges, detent, or athletic

contests, in anyway serve as an avenue for communistic expansion or the enslavement of more people, then we must re-analyze this game. Let us divorce ourselves from gaming with the Soviet Union in every manner and look to the end to which she hopes to gain in close contact with the West. If these ends are consistent with our policy, let us proceed. Five centuries of Russian rule counsel extreme cautions.

#### RUSSELL DAM

### HON. DOUG BARNARD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. BARNARD. Mr. Speaker, the Atlanta Constitution is fortunate to have on its editorial staff Mr. Bill Shipp. I have found myself both agreeing and disagreeing with him, depending on the issue of the day, but I always respect his lucid reasoning.

In yesterday's edition, he addressed himself to the controversy surrounding the proposed Richard B. Russell Dam under construction on the Savannah River between Georgia and South Carolina. Since the Appropriations Committee has reported out a bill for continued funding of the dam, and we in the House will likely be voting its fate in the coming weeks, I urge my colleagues to review his arguments in favor of the Richard Russell Dam's completion, and include it to be reprinted in the Extension of Remarks:

#### RUSSELL DAM

(By Bill Shipp)

A few centuries hence, our successors in these parts may send out an expedition to explore the wilderness area near the old town of Elberton. There they may find huge mounds of dirt and land that once was cleared and allowed to grow over. They will wonder what they have discovered. Is it a monument or tribute to some long-lost cause?

That is exactly what it is here and now. It is a monument to the fiscal irresponsibility of the federal government of the United States in the 1970s and a symbol of faltering efforts to develop sources of energy in the '70s and '80s.

These mounds and flat space, unless the political winds suddenly shift, will be the residue of plans and an expensive but abandoned startup on construction of the Russell Dam and Reservoir on a desolate stretch of the Savannah River.

The excavations and beginning of a dam represent \$21 million in taxpayers' money. They represent a long-term commitment to construct a hydroelectric dam between Lake Hartwell and Clark Hill. They represent the pledges of five previous Georgia governors, including Jimmy Carter, to support the Russell Dam. (Carter as governor signed off on a promise that the state would help provide recreation in the area once the dam and lake were in place.)

As President, Carter asked Congress to kill 15 water projects, including the Russell Dam. Carter gave environmental concerns as his major reason for putting the Russell Dam project on the chopping block.

Some observers believe, however, that the Russell Dam was the sacrificial lamb used by Carter to soothe the governors and congressmen

from other states who were irate at him for killing their water projects.

"See, I struck down a water project in my home state, so why are you fellows so upset?"

A House subcommittee has restored funding for the Russell project, and it is expected to go to the floor for a vote sometime in June.

I called an old friend in Washington to inquire about the project and the \$21 million of our money that may have been thrown down the drain. "Twenty-one million dollars is nothing," he said. Strange how Washington changes a fellow's perspective.

Nevertheless, if environmental concerns are now so important in the area, why weren't they used to kill the project five or six years ago? The same environment existed then as exists now.

I sympathize with the conservationists. But they made their pitch and lost \$21 million ago. This \$276 million project that would be used mainly to generate electric power needs to be allowed to move forward. The Georgia Electric Membership Corp. already has agreed to buy every unit of power produced by the generators at Russell Dam.

If the Russell Dam were to be built in a virgin river and forest area, I would say amen to the objectors. But it is not. That stretch of the Savannah River was torn asunder long ago by upstream development including Lake Hartwell. The stretch of river below Hartwell now runs through scrub woods and barely qualifies as a creek or branch much of the time because of the regulation of the flow at Hartwell. Carter also objects on the basis that as many as 60 families would be displaced by the project.

Let's face it. If the Census Bureau is correct, this stretch of the Savannah should be named the Welfare River. A large number of inhabitants in the area live on annual wages well below the poverty level. Hopefully, a new dam and recreation area would provide new and better employment opportunities.

Now we could make a point here of asking how Jimmy Carter can call off an energy-producing project while he calls for greater production of energy? That is not really fair. The conservationists have some good points in their arguments, all of which were made long ago.

But any taxpayer, including the bird-and-bunny folks, should be incensed at seeing \$21 million thrown away simply to mollify some disgruntled congressmen who lost out on projects in their home states.

#### OUR NEW IMMIGRATION CHIEF COULD BENEFIT FROM ON-THE-JOB TRAINING

**HON. B. F. SISK**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. SISK. Mr. Speaker, on May 13, Leonel J. Castillo was sworn in as the new Commissioner of the Immigration and Naturalization Service and already he has become a controversial figure. As the representative of a district which has a relatively high concentration of illegal aliens, I am very much concerned with Mr. Castillo's seeming desire to down-play the illegal immigration problem. According to recent news articles, he feels we really cannot tell whether illegal aliens have a positive or negative impact on this country because we do not have any hard figures on the actual numbers of illegal immigrants here or how

much they cost us in social services and lost wages. He concedes that there are additional costs associated with having more people in the community, but that those costs are offset if they are working and generating more revenue and paying property taxes.

With that kind of attitude we are never going to get to the root of the problem. Has Mr. Castillo seen recent apprehension figures of his own agency? In April alone, 3,996 illegal aliens were apprehended in northern California and 79 percent were employed, many earning substantial wages. Sixteen of those apprehended were receiving welfare or other public assistance. What about the costs to our school systems and those expensive bilingual education programs? What about medical care costs which county governments must absorb because illegal aliens are not covered by Medicaid? I have evidence to show that illegal aliens are costing California taxpayers millions of dollars annually for emergency medical care alone. The list goes on and on.

But even if one were to concede that the costs of illegal aliens in lost wages and social services were offset by their contributions to this country, their effect on U.S. population growth cannot be ignored. According to the Environmental Fund, illegal immigration is the source of almost half of our population growth. This is, of course, a nation of immigrants, and I have consistently supported a liberal immigration policy. However, we already admit roughly 400,000 legal immigrants each year, more than the total number of immigrants accepted by all of the rest of the nations on Earth.

The Immigration and Naturalization Service apprehended more than twice that many illegal aliens last year, 900,000, and whether or not Mr. Castillo wishes to believe his own people, they say we are only skimming the surface.

Continued population growth in the United States is certainly incompatible with a healthy human and natural environment and I hope our new Commissioner will take cognizance of the role illegal immigration has in that growth. I do not favor sealing our borders or isolating us from the poor people of the world, but that does not mean that I favor unlimited and uncontrolled immigration. Hopefully on-the-job training will give the new Commissioner the insight into the illegal alien problem he surely will need to effectively lead the one agency of our Government charged with enforcing our immigration laws.

In closing, I might say that I applaud Mr. Castillo's expressed desire to place increased emphasis on providing services to immigrants and their families, a function which has been given reduced priority by INS in recent years and which has resulted in a tremendous backlog of applications by aliens seeking legal entry into this country.

I insert for my colleagues attention an article which appeared in the Los Angeles Times on May 19 by staff writer Frank del Olmo, who recently interviewed the new Commissioner:

#### NEW IMMIGRATION CHIEF SPELLS OUT HIS VIEWS

(By Frank del Olmo)

In marked contrast to his controversial predecessor, the new U.S. immigration service chief said here Wednesday that there is "mixed evidence" as to whether the impact of illegal immigration in this country is positive or negative.

In his first press conference since being sworn in Friday as commissioner of the U.S. Immigration and Naturalization Service, Leonel J. Castillo expressed several views that differed from those of the previous commissioner, Leonard F. Chapman.

Castillo, a 38-year-old Mexican-American from Texas, said "it is very hard to get firm figures" on the number of illegal immigrants in the country, and added that "the approach I'd like to take is to use only those figures that are documented and verifiable."

One such documented figure cited by Castillo was the more than 800,000 illegal aliens apprehended in the United States last year, almost a tenfold increase from the number of INS apprehensions a decade ago.

"Those figures are high enough to justify increased attention to this problem," Castillo said.

Castillo indicated he would not speculate as to the number of illegal aliens that might be in the country, as Chapman did on occasion, because no firm figures are available.

Chapman, who usually estimated the number of illegal immigrants in the United States at from 6 million to 12 million, was often criticized by pro-immigrant groups for exaggerating the numbers of illegal aliens in order to create anti-alien feelings.

And unlike Chapman, who said that illegal aliens cost the United States millions of dollars in social services and lost wages, Castillo said the "actual costs" of illegal immigration also are not clear.

"It's true there are additional costs associated with having more people in your community," Castillo said. "But if they are working, they are generating revenue. If they live in houses they pay some property taxes."

Although illegal immigration is now being debated at the highest levels of government after years of neglect, Castillo said any final solutions are still a long way off.

"You will see a lot of action toward solving the illegal immigration problem over the next few months," he said, "but this problem has developed over the last decade and it will still take some time."

Castillo said that in the meantime, he will begin instituting immediate changes in INS procedures to reduce administrative problems that have developed in the agency in recent years due to manpower shortages.

He announced that on June 5 a special crash program will begin in six major cities, including Los Angeles, to reduce a backlog of applications by aliens seeking legal permanent residence in the United States.

The program will begin in Los Angeles, the busiest INS facility in the country, where a task force of 20 immigration officers and 30 clerks will work on a backlog of 8,600 applications.

Other cities where task forces will be formed are New York, Newark, San Francisco, Miami and Chicago.

Castillo said other INS programs would be launched soon to increase automation, provide overtime work for agency personnel, and to improve law enforcement along the border.

Castillo said that he, like President Carter, favors the concept of granting amnesty to illegal immigrants who have lived in the country for some time and developed "equity."

He warned, however, that an amnesty plan is still "quite a ways from becoming an actual program" because it must be approved by



Congress even after being proposed by the President.

During his visit to Los Angeles Tuesday, Carter said his Administration's new policy on immigration would be made public in about two weeks.

In addition to amnesty, Castillo said, the President's immigration policy will include: Sanctions against employers who knowingly hire illegal immigrants. Still being debated are whether those penalties should be civil or criminal, Castillo said.

Stricter enforcement of existing laws which can be used to keep workers from being exploited by unscrupulous employers such as federal safety regulations, minimum-wage laws and income-tax regulations.

More policing of U.S. borders to cut down on the number of illegal entrants.

Proposals for international financial activity to stimulate the economy of Mexico and other countries that send large numbers of illegal immigrants into the United States.

Castillo said that proposals for a new identity card or work permit that would be carried by all persons wanting to work will probably not be part of the Administration package.

He said the idea of a universal identity card was opposed by Atty. Gen. Griffin Bell both as a possible infringement on civil liberties and because of its potential cost.

While the idea of a new identity card is not dead, Castillo said, "It's limping pretty badly."

EDWARD W. LITTLEFIELD

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. CARR. Mr. Speaker, I rise today to honor a great man, a former constituent celebrating today his 80th birthday—Mr. Edward W. Littlefield. I make special note of this occasion not only because Mr. Littlefield is a fine American, but because his life provides an example of a life well lived—one of responsibility, patriotism, energy, civic involvement, and a constant effort toward education and self-improvement. It is important that we recognize this kind of positive life as an example to others, especially the Nation's youth.

Mr. Littlefield would be a notable individual even if one only looked at his public life and activities. He served briefly in the Army at the age of 17, and was disappointed that World War I ended without giving him a chance to get in on the action. He began a college education at Harvard with the idea of a career in writing. There is little doubt he would have succeeded in that endeavor, as evidenced by his publication of numerous articles and letters throughout his life.

His love of the outdoors, however, got the better of him, and he transferred to the University of Michigan and earned a master's degree in forestry. Mr. Littlefield's abilities took him to the position of Assistant Commissioner for the New York State Conservation Department. Throughout his career, he was an ardent advocate of protecting our remaining forests and wilderness. After retiring in 1952, he taught both at Syracuse Uni-

versity in New York and at the University of Michigan.

Despite this distinguished public career, it is as a friend, a father, a grandfather and a man of limitless interests and experiences that Mr. Littlefield has made his special impact.

Mr. Littlefield's childhood and youth were full of the exciting experiences that were a part of the robust and energetic Nation of the early part of this century. There were the times in Boston—the marathon, the symphony, the great molasses explosion, the Boston police strike, the famous Harvard-Yale football game, and camping on Cape Cod. And there were the thrills of the first movies, the model T's and the flying machines. I might add that he tells these stories, and hundreds more, with a gift for "spinning yarns" that has become all too rare. The fortunate audiences of his tales invariably feel as though they are living those times and events themselves.

He has always been a man of intense devotion to his family. His strong character has served as the single greatest model for his seven grandchildren.

Then there are his numerous and richly varied hobbies: classical music, literature, current events, public speaking, the German language, forestry, health, the Unitarian Church, writing, politics, and poetry, just to name a few.

Let me close by saying that Edward Littlefield has lived the kind of life to which we all might aspire. His life has been a model for all of us, and his influence upon those he has touched will last for many generations to come.

#### PERSONAL EXPLANATION

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. HARKIN. Mr. Speaker, due to your appointment of me as a member of our delegation to the recent Council of Europe meeting in Strasbourg I was necessarily absent from the House of Representatives on April 27, 28, and 29. There were a number of recorded votes taken on those days and had I been present I would have voted in the following manner:

Rollcall No. 156, "yea."  
Rollcall No. 157, "no."  
Rollcall No. 158, "no."  
Rollcall No. 159, "yea."  
Rollcall No. 160, "yea."  
Rollcall No. 161, "yea."  
Rollcall No. 162, "yea."  
Rollcall No. 163, "no."  
Rollcall No. 164, "no."  
Rollcall No. 165, "no."  
Rollcall No. 166, "yea."  
Rollcall No. 167, "yea."  
Rollcall No. 168, "yea."  
Rollcall No. 169, "yea."  
Rollcall No. 170, "yea."  
Rollcall No. 171, "yea."  
Rollcall No. 172, "no."  
Rollcall No. 173, "no."  
Rollcall No. 174, "yea."

#### HOME WEATHERIZING PROGRAM

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. ADDABBO. Mr. Speaker, I have recently been informed of the success of a unique home improvement program, Government funded, that is operating in Queens. I think the program should be adapted by all parts of the country, if similar programs are not already operating there, and I would like to share with the Members the information about what this program can do, as it was performed by two beautiful people.

Accordingly, I insert the following newsletter into the RECORD. The text of the newsletter is self-explanatory:

May 20, 1977.

Re: Home Weatherizing Program.

Mrs. EILEEN LEE,  
Project Director, Operation Open City,  
Jamaica, N.Y.

DEAR MRS. LEE: It is with enthusiasm and unconditional thanks upon having personally observed the maximum productivity and magnificent effectiveness regarding your Home-Weatherizing program.

About three months ago, we learned of the availability of your local operation through an announcement in our Community Planning Board 12's monthly newsletter; and immediately we were aware of one very special home (123-11 146th Street, South Ozone Park) owned by Miss Young and Miss Lyons, such house as of a year ago was a totally vandalized hulk of a wreckage before the same two ladies successfully purchased the house from HUD on an as-is bid; and the two ladies (75 years of age) through their own pioneering spirit and their own total equity-sweat (hammer, nails, paint brush, plumbers wrenches, cement hoes, etc.) did put that house together as liveable, and in effect started the first really genuine step to the housing rehabilitation of our community. . . . However, as with most Senior Citizens it was never their age that got in the way of their energy or ability, but the fact of the matter is that they are typically and unfairly striving with incredible imagination on the low fixed income social security which in no way follows anywhere close the continuing out-of-control inflationary economics of our times. And their home, like almost all of our homes whether new or old, was never built with fuel-crisis economics as critical objectives. Indeed the costs of "fuel-savings" reconditioning of any of our homes is almost as impossible as it is for affording the fuel bills; and with respect to most fixed income "Senior Citizens" without such programs as now administered by Operations Open City, none of us could really rest too much hope for a better day.

As it turned out, we advised the two ladies to contact your office for application to the Weatherizing program—and in the week of May 6th through May 13th, 1977, your marvelous team of energetic and skilled young men moved in to do one heck of an incredible job, the scope and thoroughness none of us could have guessed or imagined. In all too short praise, we do commend your program as vital, efficient, productive, compassionate and honest. We especially praise the actual men we so closely observed, Mr. Herbert Cosby, Field Manager, Mr. George Stallins, Tenant Service Coordinator and Mr. Milton Pratt, Deputy Manager, and Team Workers Mike Smith, Arthur Franklin, Arthur Cundy, Gregory Lee and Joseph Bryant.

We would wish that all government funded programs should be administered with as maximum effectiveness and compassion for which your service program has so exemplary demonstrated; it is to the spirit of such citizens as the two ladies Miss Young and Miss Lyons and to the spirit of such programs as Operation Open City which most nearly represents the only kinds of people and programs that can put our country back together again.

Sincerely,

J. R. SPILLER,  
Communications Correspondent.

#### NEW JERSEY SLOVAK HERITAGE FESTIVAL

**HON. PETER W. RODINO, JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. RODINO. Mr. Speaker, in one fashion or another, we, as Americans, are all immigrants. Aside from our priceless freedoms, perhaps the most cherished inheritance enjoyed by most of us is the culture and traditions of our ancestors.

In our Nation, which takes great pride in its diversity, it would indeed be tragic if we failed to appreciate the varied backgrounds from which we came.

It is, therefore, with great pleasure that I today salute Americans of Slovak descent who have set aside May 28 as an occasion dedicated to renewing the appreciation of their roots through the New Jersey Slovak Heritage Festival. Additionally, the festival is devoted to raising money for the Garden State Arts Center Cultural Fund which develops free programs for disabled veterans, senior citizens, school citizens, and the blind.

Mr. Speaker, the important and valuable contributions of those Slovak people who have chosen America as their home, are far too infrequently recognized.

From the arrival of Count Mauricus Augustus De Beniowsky in 1785, Slovaks have formed the backbone of industrial growth in various areas of the Nation. Particularly in the mines and mills Slovak Americans proved a major factor in building the vast steel industry so vital to American manufacturing.

But Slovak achievements are certainly not limited to the areas of technology and industry. The adult educational and recreations organizations called Sokols have served as models for similar programs among many other groups of new citizens. My home State of New Jersey is enriched by the presence of the headquarters of two of these worthwhile organizations—the Slovak Catholic Sokol and the Sokol Gymnastic Union Sokol of the U.S.A., both of which have numerous branches and are national in scope.

In the arts, especially in musically related fields, Slovaks have gained for themselves a prominent position. Further, in all fields of athletic endeavor but most particularly in gymnastic prowess, Slovaks have earned great renown.

Mr. Speaker, in summary I believe it would be difficult to surpass the simple eloquence of President Franklin D. Roosevelt who stated:

The country is mindful of the vast contribution the Slovaks have made to the cause of furthering the development and growth—moral, cultural and material. The stout hearted, clear minded, freedom loving and determined people of Slovakia, who... turned to America seeking a new home, now compose with their children and grandchildren an asset in the life industry and culture of this great land, that defies human power of appraisal.

#### A BILL OF RIGHTS FOR THE DISABLED

**HON. THOMAS J. DOWNEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. DOWNEY. Mr. Speaker, I would like to bring to the attention of my colleagues a compelling document that provides a framework and a set of goals for our legislative efforts to aid America's handicapped citizens in their struggle to enter the mainstream of our society. "A Bill of Rights for the Disabled" sets a standard for the Nation's policymakers, and I urge my colleagues to heed its message:

#### A BILL OF RIGHTS FOR THE DISABLED

Whereas, the disabled in the United States, constituting a large minority with a commonality of needs and a unity of purpose, seek only to obtain for themselves what all Americans believe to be their birthright life, liberty and the pursuit of happiness; and

Whereas, impediments and roadblocks of every nature are to be found at every hand, effectively preventing the fulfillment of life's promise for a large proportion of the disabled; and

Whereas, the American people, largely through lack of knowledge and misinformation have not as yet recognized the disabled as fellow human beings with a handicap to which all should make some accommodation, and who deserve equal opportunity as citizens; and

Whereas, the Congress of the United States and the legislatures of the various States, counties and municipalities have not as yet, by legal means, made it possible for the disabled person to attain equal access to those benefits of life enjoyed by the able bodied, be it resolved;

Health 1. That all disabled persons be afforded the opportunity for full and comprehensive diagnostic, therapeutic, rehabilitative and follow-up services in the Nation's hospitals, clinics and rehabilitation centers without regard to race, religion, economic status, ethnic origin, sex, age or social condition.

Health 2. That all disabled persons requiring same be given and trained to use such orthotic, prosthetic or adaptive devices that will enable them to become more mobile and to live more comfortably.

Education 3. That all disabled persons be given every opportunity for formal education to the level of which they are capable and to the degree to which they aspire.

Employment 4. That all disabled persons, to the extent necessary, have the opportunity to receive special training commensurate with residual abilities in those aspects of life in which they are handicapped so that they may achieve the potential for entry into the labor market in competitive employment.

Employment 5. That all employable disabled persons, like other minorities, be covered by equal opportunity legislation so that equal productivity, potential and actual, receives equal consideration in terms of jobs,

promotions, salaries, workloads and fringe benefits.

Employment 6. That those disabled persons who because of the severity of their handicaps are deemed unable to enter the normal labor market be given the opportunity for special training and placement in limited work situations including sheltered work shops, home base employment and other protected job situations.

Employment 7. That a nationwide network of tax-supported sheltered workshops be created to offer limited work opportunities for all those severely disabled persons unable to enter the competitive labor market.

Housing 8. That nationwide and local programs of special housing for the disabled be established to permit the man opportunity to live in dignity and reasonable comfort.

Architectural Barriers-9. That federal state & local legislatures pass laws requiring the elimination of architectural barriers to buildings, recreational, cultural & social facilities & public places. Such legislation should include architectural standards for all new construction.

Architectural Barriers-10. That federal, state & local legislation be passed establishing standards & a reasonable time for modification of existing sidewalks, buildings & structures for the comfortable use of the handicapped.

Transportation-11. That every community, county or other legally constituted authority establish programs & standards for the creations of special transportation for the disabled including modification of existing mass transportation systems & the development of new specially designed demand schedule transportation facilities. Income Maintenance-12. That every disabled person who because of the nature of his handicap is unable to be self-supporting be given a guaranteed minimum income not below established federal standards adequate to live in reasonable comfort & in dignity.

Institutional Care-13. That federal, state & local laws be enacted for the benefit of the disabled confined to any form of institution, setting minimum standards of housing, conveniences, comfort, staff & services.

Civil Rights-14. That civil rights legislation, national & local, be amended to include disability as one of the categories against which discrimination is unlawful.

Training-15. That federal & state tax-supported programs of training be established to prepare professional & non-professional personnel for work with the handicapped in the fields of health, education, recreation & welfare.

Research-16. That federal legislation be enacted expanding existing & developing new programs of research & demonstration by grant & contract, in both basic & applied fields, dealing with problems of disabling conditions & the disabled.

Be it further resolved that these rights, being urgent & critical to the well being of the disabled population of the United States, be given the high priority they justly deserve in the hearts, minds & programs of our nation's leaders.

#### FIRST CONCURRENT BUDGET RESOLUTION

**HON. BOB WILSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. BOB WILSON. Mr. Speaker, though I am disappointed with the funding level contained in the conference report on the first concurrent budget res-



olution for national defense, I nevertheless supported it on the basis that half a loaf is better than none at all.

I believe the present military balance vis-a-vis the U.S.S.R. demands a great deal more concern with the condition of our own military and that this is not the time to attempt to build our own national defense system on the cheap.

In the future, it may not be necessary for us to concern ourselves so with our national security. But this is not the reality of the present. Trying to achieve financial restraint at the expense of self-protection is in my opinion a reckless course to follow.

#### MUZZLE ON THE MILITARY?

### HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. McDONALD. Mr. Speaker, during the early years of then President Kennedy and Defense Secretary McNamara, we went through another period of "muzzling the military" and in my view, it cost us dearly. Specifically, policies were put into operation that started us on the downhill slide that cost us not only Vietnam, but also our No. 1 military position in the world. Today, another such period appears to be upon us. As a member of the House Committee on Armed Services, I attended the session of the Subcommittee on Investigations yesterday, chaired by Congressman STRATTON and I found what General Singlaub had to say in support of his position to be very significant and persuasive. His evidence was formidable and was presented in a very factual manner. Therefore, it is my feeling that the Carter administration serves the Nation poorly if it permits dissent only from such as Secretary of Labor Marshall and U.N. Ambassador Young.

In this connection, please see my statement in the CONGRESSIONAL RECORD of May 24, 1977, page 16222. As columnists Evans and Novak recently pointed out, the military is not even being consulted on key decisions. The column appeared in the Washington Post of May 25, 1977, and with the exception of their statement on General MacArthur with which I disagree, I commend it to the attention of my colleagues:

#### A MUZZLE ON THE MILITARY?

(By Rowland Evans and Robert Novak)

Just as President Carter was publicly rebuking Maj. Gen. John K. Singlaub, resentment among senior military officers was given a stronger impetus when the Joint Chiefs of Staff belatedly learned about the latest proposal for the strategic arms limitation talks.

The JCS was briefed only last week on the new U.S. arms-control plan some two weeks after it was submitted to the Russians. The new proposals embrace basic questions of U.S. military strength, including retarded development of the cruise missile. That has generated rising resentment among senior officers that reaches into the JCS itself.

This is similar to both the cause and the underlying meaning of the Singlaub affair.

His out-of-order public criticism of troop withdrawals from Korea reflected widespread frustration among the generals for not having been consulted in shaping that policy. So, in both Korea and SALT, the military's complaint is not so much that it disagrees with a policy but that it is ignored in policy formation.

Herein lies an unhealthy situation not fully comprehended at the White House. While nobody questions civilian supremacy, senior officers grumble that they are given no chance to submit their views but are simply handed a completed policy—along with a muzzle.

Oddly, JCS Chairman George Brown plays no part in this simmering revolt. Kept at his post by sufferance of President Ford and now Carter after his string of indiscreet public remarks, Brown wants to serve out his term without further trouble. But other senior officers, including members of the chiefs, want a greater policy voice. Gen. Bernard Rogers, Army Chief of Staff, has pushed particularly hard for a military role in SALT policy-making.

The Army is at the center of Pentagon discontent mainly because of concern with Korea. When Carter entered office, he did not ask the Pentagon's advice on whether to remove troops from South Korea but merely requested their comments on the best way to do it (as he did on his plan for drastic mutual reduction in long-range missiles).

The troop withdrawal had been decided on by Carter long before he became President. Admittedly a novice in foreign affairs, candidate Carter based his decision more on the imperatives of presidential politics than any exhaustive study of the Korean situation.

Singlaub's view stated to The Washington Post that Carter's Korean policy will lead to war is nearly universally shared by other U.S. generals, as well as many of the most politically sensitive Japanese. Since the understrength U.S. 2nd Infantry Division is obviously not a significant military factor, the question is whether its departure, along with U.S. support troops, will be interpreted by Communist North Korea as an invitation to attack. While the debate clearly has two sides, the generals resent not having a chance to argue their case.

That resentment was intensified by the President's ordering Singlaub to the Oval Office. Old hands in Washington were amazed that the President had chosen public humiliation of a distinguished officer when a quiet reprimand and transfer would have sufficed.

To some officers, it appeared Carter was seeking to emulate Harry Truman's historic sacking of Gen. Douglas MacArthur. But MacArthur was a major political figure who repeatedly defied his President; Singlaub is a subordinate (third-ranking officer in Korea) guilty of one indiscreet interview. Actually, senior officers are even more concerned about the sudden exclusion of the military from SALT policymaking. While the Pentagon helped prepare Secretary of State Cyrus Vance's negotiating position in Moscow, it had no part in devising the new, softer stand in Geneva.

The possibility of a pattern here is suggested by the downgrading of military intelligence units, putting the CIA in a monopolistic status. While deprived of a full advisory voice before positions are taken, the officers are barred by the Constitution from commenting afterwards—as John Singlaub has learned.

The gagged condition of the military contrasts starkly with the rest of the open-mouthed administration, most conspicuously Secretary of Labor Ray Marshall criticizing the President's economic policies and U.N. Ambassador Andrew Young saying whatever comes to his mind. At a time of U.S. military decline in relation to the Soviet Union,

this anomaly breeds angry frustration among the military.

#### ON THE OPPOSITION TO EXPANSION OF REDWOOD NATIONAL PARK

### HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. RYAN. Mr. Speaker, a few days ago a group of citizens from Humboldt County, Calif., were here in Washington to express their opposition to legislation introduced by my colleague PHIL BURTON which would expand Redwood National Park. I respect their right to tell the Congress and the country how they feel about this legislation, and I also want them to know we are not ignoring their concerns.

Early this Congress, the Government Operations Committee issued a report titled "Protecting Redwood National Park." The report outlines the arguments in favor of expansion of the park; I do not intend to repeat them here. Included in that report is a chapter which discusses the impact of park expansion on the local economy. The report recommends that—

Congress should consider and assess the impact on the economy of Humboldt County of any legislation expanding Redwood National Park.

#### The report also urges that—

Congress and the Administration work closely with the State of California to determine what legislative and executive action is needed . . . to offset the expected initial and interim loss of jobs and revenue to Humboldt County.

I am happy to report today that both Congress and the Carter administration are working to insure that the purchase of old-growth redwood timber for additional parkland will not cause any significant increase in Humboldt County unemployment. In fact, our studies lead us to believe that better forest management practices by the timber companies could even increase employment in the area. The administration has also promised to spend Federal money to create alternative jobs for displaced timber industry workers. Representatives of the Departments of the Interior, Labor, and Commerce have already begun an onsite assessment of the job impact of park expansion. I am aware that Representative BURTON is working on an addition to his bill to deal with job losses, and I applaud his efforts.

No, the citizens of Humboldt County, Calif., are not being ignored in the Redwood Park legislation. Their legitimate and understandable concern about the efforts of park expansion on their lives is being heard and responded to.

I want to make it very clear that my support of expansion of Redwood Park has not diminished one bit. As we stand here today, groves of magnificent redwoods in the Redwood Creek basin are being eradicated by the lumber companies. Some of the very best quality

redwood timber is scheduled to be clear-cut in the next 90 days.

Interior Secretary Andrus is currently developing a strategy for purchasing a portion of the beautiful Skunk Cabbage Creek area along U.S. 101, partly with money donated to the Federal Government by the Save the Redwoods League. Both the Secretary and the league are to be commended for their efforts to stop the Arcata Redwood chainsaw from destroying this magnificent watershed.

Frankly, I am amazed that there would be any question of national support for purchase of enough land to give the absolute minimum protection to those coastal redwoods that are the tallest trees in the world. Nine years ago we bought those trees in order to save them. Now we find that the purpose of that action has been endangered because we did not provide enough land to save the tall trees from being destroyed by natural forces: water, erosion, and wind.

These redwoods are surely as much a part of our national heritage as are the crown jewels of Britain in the Tower of London. Would the British accept the argument that their beleaguered financial condition requires that they sell off their jewels? Surely not.

Certainly we must not use the argument that we cannot afford the limited funds needed to save our own national crown jewels. And our tall trees are presently far more fragile and in far greater danger than the stones in the British crowns.

I believe it is about time for Congress to act positively and forthrightly to save the redwoods—which is a national concern—while the livelihood of Humboldt County and its citizens is also protected.

UNITED STATES MAY SEIZE KEY PARCEL OF REDWOODS

(By Robert A. Jones)

U.S. Interior Secretary Cecil Andrus has approved "in concept" a plan to seize a key redwood parcel next to Redwood National Park before the old-growth trees can be cut down by the lumber company that owns the land, Interior officials said Friday.

The plan would employ condemnation powers granted the secretary under the 1968 law creating the park. It was developed in a frenetic series of meetings after a \$1 million offer by the Save-the-Redwoods League to pay for the land.

The offer, previously unannounced, was made by the league earlier this week.

In announcing its offer on Friday, the league said, "While Congress is considering an expansion of Redwood National Park . . . the major lumber companies of Northern California are continuing to log the finest remaining old-growth redwoods which adjoin and should be included within the present park. It is now a literal race between the lumber companies' chain saws and the Congress."

Interior officials cautioned that problems of procedure and additional financing remained to be solved before the plan could be put into effect. "The will is there," said one official. "But it may be next Wednesday before we are ready to move."

The action would be unprecedented in the tumultuous history of Redwood National Park. In part it reflects the urgency of the Interior Department as it tries to preserve remaining stands of old-growth timber until Congress votes on proposals to expand the 58,000-acre park north of Eureka.

Congress currently is considering two plans for park expansion, one that would add 48,000 acres and another that would add 74,000. The area under consideration by the Interior Department, known as Skunk Cabbage Creek, is included in both expansion plans.

Last week the California Board of Forestry approved a partial moratorium around the park, preventing companies from cutting three sections next to the park's southern portion. The moratorium, however, does not apply to the parcels in Skunk Cabbage Creek since the timber company involved, Arcata Redwood Co., already has received permits to begin harvesting.

The area has long been regarded by both environmentalists and the National Park Service as critical to any expansion of the present park. Arcata, however, has said in recent weeks that it plans to begin harvesting there soon.

Only one-third of the Skunk Cabbage Creek watershed remains in old growth. But maturing second-growth stands cover the remaining areas and in its expansion proposal the National Park Service said the watershed "will provide an unbroken park from the Pacific Ocean to the first major ridge" in the coastal mountains.

The condemnation procedure would secure only the two small areas within the watershed that are planned for harvesting, Interior officials said. If logged, the clear cuts would be visible from U.S. 101.

In fact, the visibility of the cuts from 101 proved to be critical, for the powers granted to the interior secretary under the original park legislation include the authority "to acquire . . . lands and interest in lands . . . to maintain or to restore a screen of trees between the highway and the land behind the screen."

The purpose of such a screen is to hide the scars of logging from passersby on the highway.

While Interior Department officials expressed the fear that Arcata, once notified of the plan, would hasten its logging operations, an Arcata official said late Friday that such action was "unlikely."

William Walsh, executive vice president of Arcata, said the plan was "just part of a total effort to take our property from us until it becomes impossible for us to continue."

Nonetheless, Walsh said, "We can't change our scheduling to react to every threat like this. It is not that easy to do." Walsh noted that the timber permits would have allowed the company to begin harvesting on April 1. "And you didn't see us marching in there on April 2," he said.

Interior officials said extra financing for the plan was the thorniest problem remaining. Agency estimates put the total value of the land at \$1.6 to \$2 million. "Even with the league's money, that means we have to come up with the rest from somewhere," said one official.

The agency was known to be looking for additional funds within its own budget and from other private donors.

## BETTER HEARING AND SPEECH MONTH

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. CONABLE. Mr. Speaker, May is Better Hearing and Speech Month. One out of every 10 Americans has a speech, hearing, or language problem and cannot communicate easily, and so it is important that we be aware of the efforts in

our communities to deal with these problems. A great many people and institutions are involved in these programs throughout the Nation. The American Speech and Hearing Association is the national scientific and professional society of more than 25,000 speech pathologists and audiologists who are carrying out the work of improving the speech and hearing of those affected. The association earlier this year published in Newsweek magazine a message to Americans about the problems, needs, and opportunities in this area, and I enter it in the RECORD for the information of our colleagues:

### HUMAN COMMUNICATION IS ESSENTIAL TO LIFE

More than 20 million Americans have some form of speech, language or hearing disorder. Six out of every one hundred children have such a disorder. One out of every four people who are sixty-five or older has a hearing loss. The ability to develop speech and language skills and to exchange ideas verbally is unique to human beings. Communication is the binding force in every human culture and the dominant influence in the personal life of every one of us.

Speech pathologists and audiologists are the professionals who identify, evaluate and provide help for communicative handicaps in individuals. Speech pathologists study speech and language, its normal development and its disorders. Audiologists specialize in hearing problems and are concerned with the detection, evaluation, and alleviation of hearing loss.

Professional help for persons with communication disorders is available in a variety of settings throughout the country. In schools. In clinics and hospitals. In community health centers. In private practice. In colleges and universities. In business and industry. In local, state and national governmental agencies.

If you, or someone you care about, has a communication problem, seek the help of a speech pathologist or audiologist in your community. Your local school district or health department can assist you in locating one. Or write to the American Speech and Hearing Association, 9030 Old Georgetown Road, Washington, D.C. 20014.

... For half a century, helping the communicatively handicapped achieve a meaningful life, through science and service.

## A BILL TO STRENGTHEN INSPECTION OF IMPORTED MEAT AND DAIRY PRODUCTS

HON. RICHARD H. ICHORD

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. ICHORD. Mr. Speaker, I am introducing legislation today which establishes stronger inspection standards for imported meat and dairy products and requires these products to be labeled as imported. This measure will be fair to producers and beneficial to consumers.

The American consumer deserves and demands a sanitary, wholesome, and pure food supply. The consumers who are wary of the conditions surrounding the production, processing or distribution of imported meats should certainly have the right to know whether the product they are buying is domestic or imported. Only



then can the customer be assured of a true choice between products in the marketplace. The labeling provisions of this bill would help bridge this inequity.

Throughout the 1970's, American consumers have demanded higher quality produce in our Nation's grocery stores. U.S. milk, meat, fresh fruits and vegetables, and cheese are produced and processed under the most stringent sanitary standards. Unfortunately, such is not the case in many foreign countries. The Food and Drug Administration, FDA, presently inspects less than 20 percent of all foreign dairy products entering the United States, yet 4 to 10 percent of the products inspected are rejected because they contain pesticides, salmonella, or some other contaminant. If we enact this legislation, we subject foreign manufacturers to the same scrutiny as domestic producers.

Agriculture is one of the Nation's largest businesses. Today, the American farmer produces enough to feed himself and 57 others, compared to being able to feed 15 people 25 years ago. The National Milk Producers Federation has recently completed a breakdown of milk production by congressional districts on the basis of information in the 1974 Census of Agriculture. This report revealed that milk producers in the State of Missouri produced over 2.5 billion pounds of milk with the dairymen of the Eighth District of Missouri producing over 339 million pounds of milk. While the numbers of farmers working the land are few, all of agriculture and rural America comprise 30 percent of the population of the United States. The agricultural industry, with so few people working directly on farms, is the most vital industry in our Nation, affecting every individual citizen.

I urge my colleagues from the cities and farm areas to support this bill to improve the wholesomeness of the food we eat and to restore equity between our inspection standards for our domestic and foreign meat and dairy products.

Following is the text of the bill:

H.R. —

A bill to require that imported meat and meat food products made in whole or in part of imported meat be subjected to certain tests and that such meat or products be identified as having been imported; to require the inspection of imported dairy products and that such products comply with certain minimum standards of sanitation; to require that the cost of conducting such tests, inspections, and identification procedures on imported meat and meat food products and on dairy products, as the case may be, be borne by the exporters of such articles, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

#### TITLE I—MEAT AND MEAT PRODUCTS

Sec. 101. Section 20(a) of the Federal Meat Inspection Act (21 U.S.C. 620(a)) is amended by inserting "(1)" after "(a)", and by adding at the end thereof the following:

"(2) The Secretary shall, with respect to any carcass, part of a carcass, meat or meat food product of a cow, sheep, swine, goat, horse, mule, or other equine which is capable of use as human food and which is imported into the United States, require by regulation or otherwise that any such article or any

product made in whole or in part from any such article, if capable for use as human food, or that the package or container of such article or product, be labeled or otherwise marked in such manner as the Secretary determines practicable to inform the retail consumer of such article or product at the time of purchase that such article or product was imported, in whole or in part, as the case may be, into the United States.

"(3) No carcasses, parts of carcasses, meat or meat food products of cattle, sheep, swine, goats, horses, mules, or other equines which are capable of use as human food shall be imported into the United States unless—

"(A) tests have been conducted on the carcasses, parts of carcasses, and meat and meat food products, including internal organs, of the animals from which such articles came, to determine whether such articles (i) contain any substance prohibited in any carcass or meat or meat food product from any domestically produced animal referred to above, and (ii) contain a level of any substance in excess of the maximum level of such substance permitted under law or regulation in any carcass or meat food product from any domestically produced animal referred to above;

"(B) such tests have been conducted, in the country from which such articles are being imported, by persons who have been initially certified (and subsequently recertified) in the same or similar manner and under the same criteria as persons who are initially certified (and subsequently recertified) by the Department of Agriculture to conduct such tests on articles of animals produced in the United States; and

"(C) the appropriate government official of the country from which any such article is being imported has certified to the Secretary that such article has been tested in accordance with regulations issued by the Secretary and that such article does not contain any substance referred to in subparagraph (A) or contain a level of any substance in excess of the maximum level referred to in such subparagraph, as appropriate.

"(4) In order to verify the accuracy of testing required for substances referred to in paragraph (5), the Secretary shall conduct a program under which inspectors of the Department of Agriculture take, from time to time, samples of carcasses, parts of carcasses, and meat and meat food products of animals referred to in paragraph (5) which are intended for export to the United States, including the internal organs of the animals from which such carcasses and meat and meat food products came, and send such samples to the United States for appropriate testing.

"(5) As used in paragraphs (3) and (4) of this subsection, the term 'substance' means any chemical matter for which the Department of Agriculture conducts tests on carcasses, parts of carcasses, and meat and meat food products, including the internal organs, of cattle, sheep, swine, goats, horses, mules, or other equines which are capable of use as human food, for the purpose of determining whether residues of such chemical matter are present in such articles or to determine whether the residues of such chemical matter present in such articles exceeds levels authorized by law or regulation.

"(6) (A) The Secretary shall prescribe such assessments and fees on imported meat and meat food products as he determines necessary to cover the costs of inspections, certifications, testing, and labeling (or other marking) required under this section.

"(B) In establishing the level or rate of assessments and fees to be imposed under this title, the Secretary shall take into consideration the volume of exports, the value thereof, and such other factors as he deems appropriate in order to achieve a fair and equitable allocation of such assessments and fees among exporters.

"(C) The Secretary shall have authority to suspend or revoke the privilege of any exporter of meat or meat food products to export such products to the United States if such exporter fails to pay the assessments or fees for which he is responsible to pay under this title."

#### TITLE II—DAIRY PRODUCTS

Sec. 201. For purposes of this title—

(1) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(2) The term "person" means any individual, partnership, corporation, association, or any other business unit.

(3) The terms "dairy products" and "milk products" mean those food products derived from milk, or any combination or portion thereof; such as all forms of butter, cheese (whether natural or processed), milk, cream, skim milk, whey, buttermilk, edible casein, caseinates and frozen desserts; and any other food product which is prepared in whole or in part from any of the aforesaid products as the Secretary may hereafter designate.

(4) The term "wholesome" means sound, healthful, clean, and otherwise fit for human food.

(5) The term "labeling" means labels and other written, printed, or graphic matter on or attached to the container of any dairy product.

(6) The term "purity" means free from poisonous or deleterious substances which may render the product injurious to health.

(7) The term "administration and supervision" means the administrative review of foreign country laws, regulations, and enforcement procedures offered as being comparable to United States laws, regulations, and enforcement procedures, under the provisions of this title, and the supervision of inspection personnel both inside and outside the United States.

(8) The term "inspection" means the official service rendered by the Department of Health, Education, and Welfare, under the administration and supervision of the Secretary, for the purposes of carrying out the provisions of this title.

Sec. 202. (a) No dairy product shall be imported into the United States unless the Secretary shall first certify that such product originated from supplies of milk which are pure and wholesome and unless the plants in which such products were produced, manufactured, or processed comply with all minimum standards of sanitation prescribed by the Secretary pursuant to the provisions of this title. The standards prescribed by the Secretary shall include standards for sanitation procedures in the production, cooling, storage, transportation, and handling of milk, and in the manufacture, processing, handling, and transit of dairy products, as well as standards concerning the wholesomeness and purity of the final product.

(b) The standards established by the Secretary for any imported dairy product and for the establishments in which such imported dairy product is produced, manufactured, or processed shall be comparable to those standards of purity, wholesomeness, and sanitation recommended by the Secretary for domestic dairy products produced, manufactured, or processed in the United States and for establishments in the United States in which domestic dairy products are produced, manufactured, or processed.

Sec. 203. (a) For the purpose of establishing comparable inspection requirements and preventing the importation of dairy products produced, manufactured, or processed in foreign plants not meeting the minimum standards prescribed by the Secretary pursuant to the provisions of this title, the Secretary shall, where and to the extent necessary, cause to be inspected imported dairy products and require such products to be accompanied by a certificate of compliance issued by the Secretary in accordance with rules and regulations prescribed by the

Secretary establishing minimum standards as to the sanitation of the milk, plant facilities, equipment, and procedures used in the production and transportation of milk, and the manufacture, processing, handling, and transit of such imported dairy products.

(b) All imported dairy products shall, after entry into the United States, be subject to the Federal Food, Drug, and Cosmetic Act.

Sec. 204. The Secretary shall require all dairy products imported into the United States, or the packages or container of such products, to be labeled or otherwise marked in such manner as he determines practicable to inform the retail consumer of such products at the time of purchase that such products were imported, in whole or in part, as the case may be, into the United States.

Sec. 205. (a) The Secretary is authorized to prescribe rules and regulations to carry out the purposes of this title.

(b) In carrying out the provisions of this title, the Secretary may cooperate with foreign governments, other departments and agencies of the Federal Government, and with appropriate State agencies, and may conduct such examinations, investigations, and inspections as he determines necessary or appropriate through any officer or employee of the United States, of any State, or of any foreign government, who is licensed by the Secretary for such purpose.

Sec. 206. The provisions of this title shall be in addition to the requirements of all other laws relating to imports of dairy products.

Sec. 207. (a) The Secretary shall prescribe such assessments and fees on imported dairy products as he determines necessary to cover the cost of inspections, certifications, and labeling (or other marking) required under the provisions of this title.

(b) In establishing the level or rate of assessments or fees to be imposed under this title, the Secretary shall take into consideration, in the case of any exporter, the annual volume of exports, the value thereof, and such other factors as he deems appropriate in order to achieve a fair and equitable allocation of such assessments and fees among exporters.

(c) The Secretary shall have authority to suspend or revoke the privilege of any exporter of dairy products to export such products to the United States if such exporter fails to pay the assessments or fees for which he is responsible under this title.

Sec. 208. The cost of administering and supervising the provisions of this title shall be borne by the United States.

Sec. 209. There is hereby authorized to be appropriated such sums as are necessary to carry out the administration and supervision of the provisions of this title.

Sec. 210. If any provisions of this title or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

ADDRESS OF JAMES RESTON,  
MIAMI UNIVERSITY, OXFORD,  
OHIO, MAY 15, 1977

**HON. JOHN BRADEMAs**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. BRADEMAs. Mr. Speaker, on May 15, 1977, the distinguished columnist of the New York Times, Mr. James Reston, delivered the principal address on the occasion of commencement exercises

at Miami University, in Oxford, Ohio. I ask that Mr. Reston's comments, a perceptive appraisal of the world facing American college graduates of 1977, be placed at this point in the RECORD:

COMMENCEMENT ADDRESS, MIAMI UNIVERSITY,  
MAY 15, 1977

(By James Reston)

Mr. President, members of the Class of '77, ladies and gentlemen: To begin, I congratulate the parents of the Class of '77. Raising a family in these last twenty years cannot have been one long picnic. Also, I think it was very clever of the Old Folks to arrange things so that their children got out of college in 1977, for this is really the first year in an entire generation when the nation is at peace. This graduating class may have a little trouble getting the jobs they want, and if Jimmy Carter has his way, you may have to drive smaller cars and live in houses that are not boiling in winter and freezing in summer, but on the whole, this is not a bad time to be young and alive, particularly when you consider the alternatives.

Commencement is an old-fashioned tradition. It was based on the theory, not always supported these days, that after graduation, you were supposed to Commence—that is to say, to get along, and get off the old man's back. On your way out, you were expected to listen to some elderly type, telling you that you are the smartest bunch of students in the history of the Republic, and that the rest of us just can't wait to step aside and let you take over.

Well, I have news for you: This is rubbish. We are not eager to step aside. We're going to stick around until you elbow us out of the way. The first lesson of post-graduate life is that you have to spend a lot of time in your Twenties and Thirties listening to eminent bores, and Commencement addresses are just the first lesson in this tedious discipline.

#### A CALMER FUTURE

I want to say a few words about luck, for by the accident of history, my guess is that you are going to have a better chance to arrange your private lives in the last quarter of this century than your parents and grandparents had in the previous three quarters. In the first quarter, we had the first World War, which was really a kind of Civil War within the Western World. In the second quarter, we had a second World War and a world-wide economic depression that destroyed the old Empires and established the power of the Communist nations over most of Continental Europe and Continental Asia. In the Third Quarter, we had the Korean and Vietnam wars that divided and corrupted our country, and led to the retirement of one President and the banishment of another.

I will spare you a history lecture. My point is simply that these events tore up lives of men and women and their families, whose dreams, I can assure you, were as noble and ardent as your own. They had to grapple with Hitler, the military draft, and declarations of war. You have to deal with freedom, with Jimmy Carter, William James and "the moral equivalent of war." It won't be easy, but comparatively, it's not a bad deal.

It all depends, I suppose, on how you approach personal life, family and friendship and the life of the nation. When he came to the end of his life, G. K. Chesterton asked himself what he had learned. He thought everything depended on whether you took the miracle of life, with all its wonders and perplexities—whether you took it for granted or regarded it with gratitude. Everything, he concluded, depended on your approach, your assumptions, what you expected.

Many years ago, Judge Bettman of Cincinnati told me a story about this University that illustrates my point. A farmer, I think in

Hamilton County, sent his daughter to Miami University, and turned her over to the brilliant minds of the faculty and the tender mercies of the Administration, who in their wisdom promptly flunked her out.

This is not some Old Folks' tale. You can look it up in the legal records. The Old Gentleman took the case to court—all the way to the Ohio Supreme Court. The State argued that she just wasn't smart enough to make it. Her father argued that he knew she wasn't smart, but that he had paid his taxes, this was a state university, and therefore it was the duty of the State to make her smart. I suppose his approach to the problem was wrong, but I was a "C" student at the University of Illinois myself, and I always wondered sympathetically what happened to that girl. For all I know she's working for Jimmy Carter, whose staff is full of brilliant academic failures.

#### AN OPTIMISTIC OUTLOOK

What kind of a world are you going into? This no doubt is what you'd like to know. I am a reporter and not a prophet, but I believe we can see certain trends or tendencies that are bound to influence your lives and which, on the whole, are more optimistic than the popular pessimism of the time would allow.

In practical terms, I have mentioned the likelihood of general peace. There will be uprisings and rebellions, tribal wars in Africa, maybe even terrible racial but limited wars in the South of that turbulent continent; certainly great tension in the Middle East between Israel and the Arab nations; and much confusion over how to use atomic energy for peaceful purposes without losing control over the expansion of nuclear military weapons. But there is a new balance of power or terror in the world and the prospects for avoiding a major world war between your age and mine (which is quite a distance) are pretty good.

Second, the job market is not all that bad. Vice President Henry Wallace was condemned as an impractical dreamer when he talked in the Thirties about the possibility of creating "60 million jobs in America." Last week the Department of Labor announced that we had exceeded 90 million jobs for the first time in our history.

Third, the Class of '77, I believe, is graduating at a much healthier time than the graduates of the Sixties and the first half of the Seventies.

The divisions between the races in America, between the rich and the poor, between the generations, between management and labor, between the major political parties, and between the North and South are far less pronounced.

The extremists of the left and right have not been able to impose their will on the nation. Mr. Lincoln said "as our problems are new, we must think anew," and I believe the process of self-examination, of reappraisal, and even of reform has set in.

#### TIME OF MODERATION

Our problems are so new and complicated at home and abroad that no ideology has been able to deal with them—not the Welfare state ideology of George McGovern out of Dakota or the conservative ideology of the Tafts in Hamilton County, or the Fabian Socialists in Britain, or the Communists in Moscow and Peking. All the lovely ideological theories have been murdered by the brutal facts of modern life. So there is, I think, a new spirit of moderation coming to the fore in this country, and even, in a vague and fugitive way, in the other advanced nations of the world.

On a more personal level—perhaps more relevant to this year's graduates—I believe this same process of reappraisal is going on, with hopeful but not yet definite results. All the relationships of American life are under review—in the university between faculty



and students; in the church, between ministers, priests, rabbis and their parishioners; in the family between parents and children; in business between manager and workers and everywhere in the relations between men and women.

I have the impression, for example, that the worst of the drug culture has passed, at least for university students, that they have looked over the edge of that steep precipice and don't like what they have seen, and have begun to pull back. In the Victorian Age, we had love without sex and in the Modern Age, we have had sex without love, and I gather that lately a lot of people have been wondering whether the Age of Freedom produced even more problems than the Age of Repression. I'm not an expert of this subject, but I gather there's a difference between fun and happiness.

#### NEW EMPHASIS ON VALUES

In any event, if you look around these days, you will find that there is a revival of discussion on ethics and values. The Congress is putting down new ethical rules for its members, and passing new laws about the financing of political campaigns. Big Corporations, caught in illegal political contributions at home and bribery for contract abroad, are establishing new codes of business conduct. After Watergate, the law schools are wondering how Ehrlichman and Mitchell and all those legal eagles went wrong, and even that most self-righteous institution in the land, The Press, is beginning to police itself.

The President of Harvard University, Derek Bok, illustrated this rising concern with ethical values at Brown University in Providence the other day.

"More attention is being given today," he said, "to developing problem-oriented courses in ethics. These classes are built around a series of contemporary moral dilemmas. They may take any one of several forms. Some may emphasize issues of deception, breach of promise. . . ."

"Thus, premedical students can grapple with issues of abortion, euthanasia and human experimentation, while students interested in public service may discuss whether government officials are ever justified in lying to the public, or leaking confidential information, or refusing to carry out the orders of their superiors. . . ."

I find this very interesting, for he was talking very much like the Presidents of the little church-oriented colleges of 100 years ago in Ohio—from Oberlin and Ohio Wesleyan to Wittenberg, and responding, I think, to some yearning in our people who may no longer believe in the old values but still believe in believing.

This University was founded by an odd collection of Scotch and English preachers and editors—the Rev. John W. Browne, Robert Owen, a wandering Scottish school master and many others—and if you read their early sermons, you will understand the danger of inviting another Presbyterian to address you here on a Sunday morning, but I will be brief.

#### TOO MANY CHOICES?

The one thing that may be very hard on the Class of '77 is that its members have so much freedom. This has removed many barriers and silly taboos, and provided many advantages.

There is less loneliness in America. The generosity of young people today, their willingness to share what they have is beautiful. On the whole, personnel relations have become more gentle, but as Huxley observed many years ago, "a man's worst difficulties begin when he is able to do as he likes."

I have been watching and reporting on the revolution in American manners, customs, and particularly the attitudes toward sex, work, the family, the church, etc., for quite

a long time, and I would like to be able to say that I thought the New Freedom had made the graduates of the Fifties and Sixties happier than we were in the Thirties, I want to believe this is true but I can't.

Walter Lippman defines the problem better than I can. The prisoners of the puritan age have been released, he noted. They ought to be serene and composed. They are free to make their own lives. There are no conventions, no taboos, no gods, priests, princes, fathers, or revelations which they must accept.

Yet, he added, the result is not as good as they thought it would be. There is no moral authority to which the liberated young people must turn, but there is the coercion of opinions, fashions, and fads, and some, joining or inventing new creeds and cults, "put on manacles to keep their hands from trembling."

"What most distinguished the generation who have approached maturity since the debacle of idealism," Lippman concluded, "is not their rebellion against the religion and moral code of their parents, but their disillusionment with their own rebellion. It is common for young men and women to rebel, but that they should rebel sadly and without faith in their own rebellion, that they should distrust the New Freedom no less than the old certainties—that is something of a novelty."

If it is any consolation to this year's graduates, I should note that this was Lippman talking, not about your generation but about mine in "A Preface to Morals", but what was beginning to be true in the Thirties is I think, much more moral dilemma in the Seventies.

#### RANDOM THOUGHTS

I have nothing but a few random thoughts about the moral insecurity of the present age: The first is that personal license or self-gratification may be a self-limiting disease. For if it is true—as I believe—that the sexual and drug experiments of the Fifties and Sixties did not lead to a more satisfactory life but to frustration and middle-aged confusion and boredom, then the chances are that the graduates of the Seventies will begin to wonder and even to search for more enduring answers to the human problem.

Second, if the cynicism of the present age is justified—which I don't believe—and you find nothing good in the church, the government, the press, and the other modern institutions, then it seems to me your best hope lies in personal friendship, in faithful love, and in the integrity of the family.

I must say in passing that "the bitch-Goddess Success" is no sure answer either. A newspaper reporter spends a good deal of his time with successful or at least notorious people—I have been watching them in Washington for 36 years—and in my experience there is no inevitable relationship between success and happiness. Anybody who has watched Richard Nixon on the television these last couple of weeks will understand what I mean.

Third, it is not true in my experience—to quote that eminent philosopher Leo Durocher—that "nice guys finish last." Many scoundrels succeed—they are on the front pages every day, often under indictment—but in the generality of things, simple honesty, reliability, and hard work are still rewarded in this country. The cruelest book that I could write—and never will—would deal with the failure of success—and particularly what happened to the children of the people who put success in politics, business, or the press ahead of the family and everything else.

Finally, I think it's a little silly to believe, as so many do now, in the end of the American frontier, that the challenges before this generation are less exciting than

when the Old Folks cleared the Plains or when the Ohio General Assembly on February 6, 1810 directed the trustees of this founding institution to "lay out a town to be called Oxford and create a college township without a road leading to it."

Our frontier is now the world, and its main hope of creating a decent life for the human family lies as usual right here in America. We are just beginning to realize that for the first time in history, we have a world economy in which each nation's actions affect the lives of all other nations—if the two world wars and Vietnam didn't convince you, look at the price of gas or coffee. This year's college graduates will be just about 45 years of age at the end of the Century—at that point in life when you have just enough experience and energy to be needed and to be helpful, which in my view, is the key to what the Founding Fathers called "the pursuit of happiness."

Sometimes you have to be personal to be understood, so I will end on a personal note. This was the first University I ever saw. I bummed down on the pike when I was in high school in Dayton to see a basketball game. I forget whether you won—you usually do—but many years later when I went as a reporter to that other Oxford, where the British were educating the elite, I came to understand the genius of the American Land Grant colleges, which started in Mr. Lincoln's time at my own University in Urbana, Illinois, and insisted that education was not for the elite but for anybody's children who wanted to dream of a larger life.

Accordingly, Mr. President, I congratulate you, and the faculty, and the Members of the Class of '77. I hope they keep on dreaming, for this is not the end of anything for them or for America. The magic is still here. It is a beginning, a Commencement, and as I see it, the frontier is wider than ever, and very bright.

#### GENERAL SINGLAUB CITES WIDE OBJECTION TO U.S. PULLOUT

#### HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. McDONALD. Mr. Speaker, a major point brought out in General Singlaub's testimony yesterday before the Subcommittee on Investigation of the House Armed Services Committee was the fact that the Armed Forces of North Korea and South Korea are not evenly matched as some so-called experts have led us to believe. Thus, the withdrawal of the American forces will not only be a psychological blow to the free world, it will also tip the military balance further in Communist North Korea's favor. General Singlaub, whatever his future assignment will be, has again served his country well by bringing these facts to light so that if President Carter persists in his policy and war ensues, he will have been forewarned as well as the American public. The story from the Washington Star of May 25, 1977, follows:

SINGLAUB CITES WIDE OBJECTIONS TO U.S. PULLOUT

(By Vernon A. Guidry, Jr.)

Maj. Gen. John K. Singlaub said today that that no American officer in a responsible position in South Korea agrees with the Carter administration's plan to withdraw all U.S. ground troops there.

Singlaub testified before the House Armed Services subcommittee on investigations. He repeated his own estimate that withdrawal would mean war with North Korea.

(In Seoul, President Carter's two special envoys, Philip C. Habib and Gen. George S. Brown, today told President Park Chung Hee of plans to withdraw 33,000 American troops from Korea in four to five years, the Associated Press reported.)

(Park did not welcome the plan, but agreed to accept it as America's "established policy," an aide said. He said Park asked for U.S. help in strengthening South Korea's military.)

Singlaub, who was fired from his job as chief of staff of U.S. forces in Korea by President Carter and recalled to this country, said it was the opinion of senior officers of the South Korean armed forces that withdrawal of the U.S. ground troops would mean "flat-out, clearly, unequivocally" that North Korea would attack.

Singlaub said that on purely military grounds "I agree with that." The general said that it also was his impression that senior U.S. civilian officials also believed the withdrawal of American ground forces to be a mistake.

Subcommittee Chairman Samuel S. Stratton, D-N.Y., asked Singlaub if the "overwhelming majority" of official Americans in Korea opposed withdrawal.

"That is absolutely correct," he replied. What then was the reason for the withdrawal, Stratton wanted to know.

Singlaub said the Korean command wanted to know that, too.

The general continued that requests from the Korean command for a rationale for the withdrawal had brought no response, including a query directed to the Joint Chiefs of Staff.

Singlaub did not accept the proposition that the balance of forces between North and South Korea would permit withdrawal. He said there was "a clear military superiority of the North over the South" that would only be worsened by withdrawal of U.S. ground troops.

The general was fired from his post after an interview in which he expressed similar views was published in the Washington Post. Today he said he had thought his remarks to a reporter were "on background," a phrase that indicates the information may be printed but not attributed to the speaker by name.

"I realize that some will believe that regardless of whether I thought that my remarks were for non-attribution my aim was still the same—to take issue with our country's stated national security policy. However, I can state categorically that such was not my intent," the general said.

He said that as a professional military officer he supports the administration's policy. His contrary testimony was prompted under a convention of congressional testimony spelled out by Stratton. That permits committee members to solicit the personal views of military men after they have testified in favor of whatever it is their bosses want to do.

#### FIRST GLOBAL EXPERIMENT OF THE GLOBAL ATMOSPHERIC RESEARCH PROGRAM

**HON. GEORGE E. BROWN, JR.**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. BROWN of California. Mr. Speaker, today's New York Times contains an excellent review by Walter Sul-

livan of the major climatic research experiment soon to be undertaken jointly by the World Meteorological Organization and the International Council of Scientific Unions. This first global experiment of the global atmospheric research program, which will begin in September, is the kind of concentrated, cooperative effort which this country increasingly needs to support if we are to better understand climatic variations and the effects of climate on human activities.

As you know, H.R. 6669, the National Climate Program Act of 1977, which was reported May 6 to the House by the Science and Technology Committee, establishes a national, multi-agency program to finally address climate-related questions in an integrated way. I believe our participation in the first GARP global experiment would be facilitated if the Climate Program Office outlined by this legislation were already in place. I hope we of the Congress can move quickly to provide this stronger framework for our participation in these international climate research and monitoring efforts.

The article follows:

[From the New York Times, May 26, 1977]  
WORLD STUDY SEEKS TO LEARN WEATHER FORECASTING LIMITS  
(By Walter Sullivan)

GENEVA, May 20.—To test the intrinsic limits on weather forecasting and lay the basis for an understanding of climate change, one of the most extensive international scientific experiments in history is being organized.

The tools will include American, European, Japanese and Soviet earth satellites, some 50 research ships, hundreds of balloons adrift in the high atmosphere and buoys adrift in little frequented parts of the oceans.

French Argus receivers, riding American satellites, will collect data from the balloons and buoys, determining their positions. Transoceanic airliners will carry "black boxes" automatically recording weather data on the way. Some may report their readings over earth satellite relay.

The buildup of the operational network and testing of equipment will begin in September in preparation for a year of full-fledged observations starting in September 1978. During that year there will be two "special observing periods," in January-February and May-June.

#### FOCUS ON THE TROPICS

These will focus on the most problematic area of the world weather picture—the tropics—and will employ the more costly devices, such as dropsondes that are to parachute down from American long-range aircraft. These will indicate wind speeds and directions at many levels over tropical latitudes in the Pacific and Indian Oceans.

Virtually every country in the world is expected to participate, since ground-based observations will be made by the thousands of national weather stations integrated into the global network known as the World Weather Watch. Only the role of China remains uncertain.

The project is being organized by the World Meteorological Organization here, of which China is a member (Taiwan is not). The co-sponsor, however, is the International Council of Scientific Unions to which Taiwan still belongs and which has therefore been shunned by Peking.

The program is known as the First GARP Global Experiment. GARP is the acronym for the Global Atmospheric Research Program, started a decade ago as a long-term

effort. As stated in the prospectus of the global experiment, "The entire atmosphere of the earth and the sea surface will be observed in detail for the first time."

#### AFRICA-TO-BRAZIL STUDY

It is a successor to GATE, the GARP Atlantic Tropical Experiment carried out in 1974, which studied intently the region between Africa and Brazil.

Because conditions within a large part of the atmosphere, notably in the Southern Hemisphere and over tropical seas, are normally unobserved, long-range forecasts are currently imprecise or impossible. Yet there is also uncertainty as to how much would be gained by a more extensive—and costly—observing system.

It is assumed that beyond a certain time period weather becomes intrinsically indeterminate. Some suspect it may be two weeks. The global experiment seeks to find the answer by providing the huge weather center computers with two classes of information they now lack.

One is a succession of reasonably complete pictures of the state of the atmosphere at all levels and in all parts of the world during one year. The other is to derive from such observations better formulations of the rules that govern the atmosphere's behavior.

#### CONCERN OVER CHANGES

Because of recent concerns over climate change, an effort will be made to investigate its causes "within the limitation of a one-year period of observation."

The satellite observations will be made from four vehicles in north-south orbits and five in geosynchronous orbits, evenly spaced around the Equator. In a geosynchronous orbit, the vehicle, 22,000 miles aloft, is high enough so that its movement matches the earth's rotation and it remains above the same geographical location.

One American satellite, already in orbit, has been assigned a position above South America scanning ocean areas to either side of the Americas. Another American vehicle is over the central Pacific.

On Aug. 31 the Meteosat of the European Space Agency is to be launched to orbit over Africa. A Japanese vehicle will be placed over New Guinea, scanning the western Pacific, and in late 1978 the Soviet Union plans to place a GOMS satellite over the Indian Ocean.

These vehicles will transmit successive images of cloud cover from which wind directions at three levels of the atmosphere can be derived. This will be done two to four times daily.

#### SOVIET AND U.S. SATELLITES

Of the satellites in polar, or north-south, orbits, two will be of the American Tiros type and two of the Soviet Meteor system. Being only a few hundred miles aloft they will provide more detailed information on snow, ice and cloud cover as well as temperatures at various levels within the atmosphere and on sea surfaces.

The Tiros satellites will also carry the French balloon and buoy data collection and position-determining system. Some 320 constant-level balloons will be released to drift through tropical skies at a height of about 47,000 feet. They will transmit temperature data and their drift will reveal upper air winds.

They will be released from such sites as Samoa and Canton Island in the Pacific and Ascension Island in the Atlantic. The project is being organized by the National Center for Atmospheric Research in Boulder, Colo., with launchings to focus on the two Special Observing Periods.

It is also during those periods that the buoys are to be deployed in the region between 20 and 65 degrees south latitude. They are designed to fill in the largest gap of all—



the vast oceanic area surrounding Antarctica. Ships supplying bases on that continent will be among those launching the buoys, 100 of which are to be furnished by Canada, plus 200 from other countries.

Ships of participating nations at least twice daily will release balloons to ascend through the atmosphere reporting weather data.

The tropics are the focus of special efforts, not only because they are poorly observed but also because small-scale phenomena there seems to play an important role, providing most of the energy for atmospheric circulation.

#### STEVE EDNEY—MAN OF THE YEAR

#### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 1977

Mr. ANDERSON of California. Mr. Speaker, on June 3, 1977, the Maritime Trades Department of the Southern California Ports Council, AFL-CIO, will honor a man whose assertive leadership has been instrumental in making organized labor a strong force in the harbor community. As president of the United Cannery and Industrial Workers of the Pacific, Steve Edney has worked tirelessly through the years for the working men and women who belong to his organization, and has also been active in expanding the scope of organized labor in the maritime world.

Currently, the tuna industry finds itself in a difficult situation due to Government regulations restricting fishing operations by American vessels. Steve has been extremely active in trying to resolve this situation, which has adversely affected the employment security of many members of his union who work in the major fish canneries in my district on Terminal Island.

This is just one example of the concern Steve Edney has always demonstrated, as well as the direct action he is willing to take on behalf of the men and women he represents. His efforts to save the jobs of cannery workers in this and other situations are just a sample of the reasons he will be honored by organized labor and the Los Angeles-Long Beach harbor community.

Born on January 10, 1917, Steve Edney first worked in the canneries in 1945. He became a shop steward in the Pan Pacific Cannery on Terminal Island, and his natural leadership ability and interest in helping people soon moved him up the ranks.

After serving as health and welfare director, chairman of the shop steward council, and business agent and vice president of the United Cannery and Industrial Workers of the Pacific, Steve was elected president of the union in 1965. His performance in this job has been marked by total devotion to his duties, and an openness and accessibility to the rank-and-file members of his union.

Steve has been involved in organized labor activities to a very large degree. Currently vice president of the California State Federation of Labor, AFL-CIO, he is also vice president of the Seafarers' International Union of North America. In addition, he serves as chairman of the Fisheries and Cannery Workers Conference.

He has been active in community and civic affairs as well. A former president of the Los Angeles harbor chapter of the National Association for the Advancement of Colored People—NAACP—Steve has also served on the board of directors of the Young Men's Christian Association. He is currently vice chairman of Los Angeles mayor Tom Bradley's city economic committee, and also serves on the mayor's welfare planning council.

Mr. Speaker, few individuals have deserved the title of "Organized Labor Man of the Year" as Steve Edney has this year. His leadership and ability have not only benefited the working men and women who belong to the United Cannery and Industrial Workers of the Pacific, but have helped improve the Los Angeles-Long Beach harbor area as a place in which to live and work.

My wife, Lee, joins me in congratulating Steve as he receives this award, and in wishing him continued success and good fortune in the years to come. We are positive that his lovely wife, Alberta, and son, Henry, must be justly proud of Steve as his many achievements are recognized by his peers in organized labor.

### SENATE—Friday, May 27, 1977

(Legislative day of Wednesday, May 18, 1977)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. SPARK M. MATSUNAGA, a Senator from the State of Hawaii.

#### PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O God, our Father, help us to learn the lessons that life is teaching us. Save us from multiplying our mistakes, from repeatedly yielding to the same temptations, from refusing to see our own faults, from concealing our bad judgment, from harboring resentment and ill will—until personality is blemished and the Creator's image is effaced.

Keep us close to Thee, O Lord, and close to the people we serve. Help us daily to grow stronger, purer, kinder, to shed old faults and to gain new virtues, until, by Thy grace, life becomes altogether new. By becoming better help us to make a better world.

Be with us in our coming in and our going out, now and forever. Amen.

#### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, D.C., May 27, 1977.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. SPARK M. MATSUNAGA, a Senator from the State of Hawaii, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,  
President pro tempore.

Mr. MATSUNAGA thereupon took the chair as Acting President pro tempore.

#### THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Thursday, May 26, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I believe we got an order yesterday authorizing all committees to meet during the session of the Senate today, did we not?

The ACTING PRESIDENT pro tempore. Yes, we did.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I have nothing more at this time.

Mr. BAKER. Mr. President, I yield to the distinguished Senator from South Carolina.

#### DECISION BY JUDGE RICHARD OWEN REGARDING UNEMPLOYMENT BENEFITS FOR STRIKERS

Mr. THURMOND. Mr. President, a few days ago, I offered an amendment to S. 275, the Food and Agriculture Act, which would have made strikers ineligible to receive food stamps. By a vote of 38 to 56, the Senate tabled that amendment. That action was a disappointment not only to me, but more importantly, to everyone who believes that our programs of public assistance must be limited to the truly needy.

This issue will come back to haunt us again. The Federal Government and the States are reaching the end of their ropes in terms of the financial resources they can afford to allot for welfare programs. Every food stamp dollar gobbled up by strikers, with the consent of the Congress, is a dollar taken away from the poor, the hungry, the destitute elderly, and needy children. Giving food stamps to strikers might be good politics, for some, but it is not good government. In my mind, it breaks faith with both the

taxpayers, who fund the food stamp program, and the poor, who depend upon it for nutritional assistance.

Mr. President, the battle of food stamps for strikers is over for at least a while. Looking to the future, however, we would do well to consider the implications of a decision handed down by Judge Richard Owen in Federal district court in Manhattan this week. On the very day on which the Senate, by its tabling vote, abdicated responsibility to protect the food stamp program against striker abuse, Judge Owen ruled unconstitutional the New York State law which, for 40 years, has allowed strikers to collect unemployment compensation while they were out of work.

Out of work, indeed. In the particular case decided by Judge Owen, strikers had received \$49 million in unemployment benefits. Forty-nine million dollars for one strike. Then the Congress is asked to bail out sinking unemployment compensation systems, not to mention the city and the State which are so free with funds to subsidize strikes. While the strikers of New York were getting that \$49 million, they were, of course, being counted among the unemployed by the Federal Bureau of Labor Statistics, whose unemployment rates no longer reflect the real number of people who, for one reason or another, do not have a job to their liking.

Mr. President, I believe that, sooner or later, an outraged public will force the Congress to face squarely the issue of striker abuse of food stamps, just as Judge Owen has courageously faced the issue of striker abuse of the unemployment compensation system. In tribute to Judge Owen, as well as for the information of our colleagues, I ask unanimous consent that the Wall Street Journal account of his decision be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

**JOBLESS BENEFITS FOR STRIKERS ARE STRUCK DOWN—U.S. JUDGE RULES NEW YORK LAW UNCONSTITUTIONAL IN SUIT BY UNITS OF A.T. & T.**

**NEW YORK.**—A federal district court judge in Manhattan ruled unconstitutional a New York state law allowing striking workers to collect unemployment benefits.

Judge Richard Owen said the law conflicts with the policy of free collective bargaining established under federal labor laws. He said that the tax-free payments, of up to \$95 a week, affect workers' willingness to go out and remain on strike, thereby improving their bargaining position.

The ruling was on a suit filed by New York Telephone Co. and several other American Telephone & Telegraph Co. units following a seven-month strike in New York in 1971-72. By the end of the strike, employees had received \$49 million in unemployment benefits and New York Telephone's credit in the state unemployment fund was depleted by about \$40 million. The fund is maintained by a tax on employers.

New York Telephone paid assessments of \$6 million in 1974 and \$9 million in 1975 to restore its balance in the fund. Judge Owen scheduled a hearing for next week to determine how to proceed on the question of damages.

The telephone companies contended in

their suit that the New York law compelled "employers to subsidize strikes against themselves." The company yesterday said Judge Owen's decision "restored an equilibrium to collective bargaining."

A spokesman for New York Attorney General Louis J. Lefkowitz said the state will ask for a stay of the decision pending appeal.

Morton Bahr, a vice president of the Communications Workers of America, which represents telephone company employees but wasn't a party to the suit, said he felt certain that an appeal would be successful in overturning the decision.

According to a 1976 U.S. Chamber of Commerce analysis, two states, New York and Rhode Island, grant unemployment benefits to strikers in all instances and 29 other states grant benefits to strikers when the employer continues to operate during the strike. Business groups for a number of years have urged courts and states to deny unemployment benefits to strikers.

Organized labor asserts that a person who is out of work for whatever reasons needs and is entitled to any available benefits, such as those provided by unemployment insurance.

In his 37-page opinion, Judge Owen referred to testimony that unemployment benefits strengthen the union's staying power during a strike and may lead employers to make concessions because they anticipate a rise in their unemployment insurance tax. The judge noted that the New York Telephone strike ended when the company's unemployment insurance account was approaching a negative balance and the strikers were still eligible for several months more of compensation. He referred to statements made by the Communications Workers that unemployment compensation assisted its members during the strike.

The U.S. Supreme Court is scheduled to decide two related issues before its current term ends next month. The Justices are reviewing a lower court decision ordering Ohio to pay unemployment benefits to workers who were involuntarily laid off because of a strike against their company by another union. The high court also is considering in a Maryland case whether states may deny welfare benefits to families of strikers. A lower court said they couldn't.

#### AMENDMENT OF THE FEDERAL AVIATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 6010, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 6010) to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 343

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of the distinguished senior Senator from Kansas and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of the Senator from Kansas (Mr. PEARSON), proposes unprinted amendment No. 343.

At the end of the bill, insert the following: SEC. 8. Section 406(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1376) is amended by deleting the period at the end thereof and

by adding the following: "Provided, That nothing in this section shall prohibit the Board from making payments as compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, for the period August 1, 1973, through July 31, 1975, where such payments have already been provided by Board order, to the holder of a certificate authorizing the transportation of mail by aircraft, to the account or for the benefit of any air carrier designated an "air taxi operator" by the Board, which provided air transportation between points named in the holder's certificate in satisfaction of an express condition to the suspension by Board order of the holder's certificate authority to engage in air transportation between those points. In no event shall such payments differ from the amount previously provided by such Board order."

Mr. BAKER. Mr. President, the text of this amendment is identical to S. 1325, a bill introduced by Senator PEARSON on April 20 and reported without amendment by the Committee on Commerce, Science, and Transportation on May 16. The bill was reported by the committee without dissent.

Mr. President, this amendment has the support of the Civil Aeronautics Board and the U.S. Department of Transportation. The Office of Management and Budget has indicated that, from the standpoint of the administration's program, there is no objection to this measure.

Mr. President, this amendment simply provides explicit statutory authority for an experiment in small community air service conducted by the Civil Aeronautics Board from August 1, 1973, through July 3, 1975. The amendment has no prospective effect.

Under the terms of the experiment, Air Midwest, then a commuter air carrier operating under Board approval as a substitute carrier for Frontier Airlines in Dodge City, Great Bend, and Hutchinson, Kans., received—through Frontier Airlines—subsidy payment for performing its service obligations.

Mr. ROBERT C. BYRD. Did the Senator mention Dodge City?

Mr. BAKER. He did.

Mr. ROBERT C. BYRD. That is where Matt Dillon used to have his shootouts.

Mr. BAKER. No doubt, if Mr. Dillon were still around to observe the actions of the Senate in this respect, he would be happy that he had a way to get out of town.

[Laughter.]

Mr. ROBERT C. BYRD. I do not think Chester would let him get out of town.

[Laughter.]

Mr. BAKER. Mr. President, because Air Midwest was not—at that time—a certificated air carrier, the U.S. Court of Appeals for the District of Columbia Circuit found that the CAB had inadequate statutory authority to authorize the experiment. Thus, under the terms of the Federal Claims Collection Act, the CAB is obligated to seek reimbursement from Air Midwest and Frontier for the subsidy payments made during the course of the experiment.

By providing explicit statutory authority for the Frontier-Air Midwest "flow through" subsidy experiment in small



community air service, the amendment will relieve the CAB of the duty to seek reimbursement for payments made to the carriers during that experiment.

Mr. President, the carriers involved acted in good faith in conducting the experiment. They acted according to CAB order. The obligations of the carriers during the experiment to provide effective air service to the three small communities were performed in accordance with the CAB requirements.

Therefore, Mr. President, the mechanical operation of the Federal Claims Collection Act, in this instance, would impose a great injustice on the affected parties.

Mr. President, this amendment does not authorize future "flow through" subsidy programs. It serves only to eliminate any question as to the legality of the one "flow through" experiment conducted by the CAB during 1973-75.

Mr. President, I ask unanimous consent to have printed in the RECORD an extract from the committee report dealing with this amendment, following my remarks on behalf of Mr. PEARSON.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### PURPOSE AND BRIEF DESCRIPTION

The purpose of S. 1325, as reported, is to provide explicit statutory authority for the payment of "flow-through" subsidy pursuant to an experimental program administered by the Civil Aeronautics Board (CAB) during the period August 1, 1973, through July 31, 1975.

#### BACKGROUND AND NEED

Beginning August 1, 1973, the Civil Aeronautics Board conducted an experimental local air service program in cooperation with Frontier Airlines, a local service air carrier based in Denver, Colo., and with Air Midwest, a Kansas-based commuter air carrier that was subsequently certificated by the Civil Aeronautics Board as a local service airline. Under the terms of the experiment, part of the subsidy that would be paid to Frontier Airlines for service to selected points was transmitted through Frontier to Air Midwest in return for scheduled air services performed by Air Midwest at those selected points on Frontiers certificate of public convenience and necessity. This experiment, called the "flow-through" experiment, was approved by the Board in Order 74-1-78.

Subsequently, the U.S. Court of Appeals for the District of Columbia Circuit invalidated the "flow-through" experiment and vacated the CAB order which authorized Air Midwest to perform Frontier's service responsibilities in return for some subsidy payment. (*Air Line Pilot's Association, International v. Civil Aeronautics Board*, 515 F. 2d 1010 (1975)). The Court simply found that the Board lacked explicit authority under section 406 of the Federal Aviation Act of 1958 to conduct the experiment.

The General Accounting Office has determined that the CAB is obligated, under the Federal Claims Collection Act of 1966 (31 U.S.C. 951, *et seq.*), and the regulations adopted thereunder (4 C.F.R. Parts 101-105), to seek restitution for all payments made to Frontier for the beneficial use of Air Midwest, the carrier, which actually provided the service, pursuant to the "flow-through" experiment. The mechanical application of the Federal Claims Collection Act, in this case, would result in a gross inequity and injustice to the carriers who, in good faith, participated in the Board's innovative experi-

ment to develop improved ways and means to provide small community air service at reduced cost to the taxpayers.

The amount of subsidy payment made to the carriers during the course of the experiment is \$240,172. The payments were made to these carriers on the basis of the Board's determination that service to the local communities could only be provided through the subsidy which the Federal Aviation Act authorizes in such circumstances. The U.S. Court of Appeals did not hold that subsidy was not appropriate to maintain service; the court simply held that the method of making subsidy payments, as chosen by the CAB, was not a valid exercise of the Board's discretion.

Both Air Midwest and Frontier accepted the "flow-through" subsidy arrangement to maintain operations entirely consistent with the intention of the Federal Aviation Act. The Board's recent certification of Air Midwest as a subsidy-eligible carrier constitutes a reaffirmation that subsidy-assisted service to the subject communities is required by the public convenience and necessity.

#### EXPLANATION OF THE BILL

As reported, the bill would provide explicit statutory authority for the payment of "flow-through" subsidy pursuant to the experimental program administered by the Civil Aeronautics Board during the period August 1, 1973 through July 31, 1975. The bill has no prospective effect whatsoever.

#### ESTIMATED COSTS

The Committee estimates that implementation of S. 1325, as reported, will result in no cost to the Federal Government beyond the \$262,212 actually earned by the designated carriers pursuant to CAB order under the CAB's "flow-through" experiment. Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has submitted the following cost estimate to the Committee:

| Fiscal year: | Estimated cost |
|--------------|----------------|
| 1978         | 1 \$262,212    |
| 1979         | -----          |
| 1980         | -----          |
| 1981         | -----          |
| 1982         | -----          |

<sup>1</sup> This figure includes the \$240,172 already expended in prior fiscal years. Therefore the actual dollar expenditure during fiscal 1978 would not exceed \$22,040.

#### REGULATORY IMPACT STATEMENT

Implementation of S. 1325, as reported, will neither increase Federal regulation nor require additional paperwork.

#### AGENCY COMMENTS AND RELEVANT CORRESPONDENCE

CIVIL AERONAUTICS BOARD,  
Washington, D.C., April 6, 1977.

HON. JAMES B. PEARSON,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR PEARSON: I am writing you in regard to the operations of Frontier Airlines, a subsidized local service carrier, and of Air Midwest, a Kansas-based commuter carrier recently certificated to provide service between eight local communities in Kansas and Colorado and to the hub airports at Denver, Wichita, and Kansas City. Because of a Court of Appeals decision invalidating a 1974 Board decision awarding subsidy through Frontier to Air Midwest, it appears that the Board is now required to demand that Air Midwest and Frontier Airlines refund the \$240,172 subsidy paid them during court review of the Board's decision. Given the circumstances, the Board believes legislation to relieve the air carriers of the refund obligation may be appropriate.

The Board's staff has consulted with the General Accounting Office on the question of

the Board's obligation to attempt to recover the subsidy paid under the vacated Board order. The Acting General Counsel of the GAO issued an opinion dated November 24, 1976, in which he concluded that the Board must make a written demand upon Frontier and Air Midwest for repayment of the full amount of the "flowthrough" subsidy. GAO reasoned that the Government has a valid claim for repayment and that the carriers do not appear to have defenses to that claim. The GAO opinion relies on the general proposition that the United States is entitled to recover public moneys which have been wrongfully, erroneously, or illegally paid by its agents, whether by mistake of law or of fact. Moreover, the opinion states that the Board is obligated under the Federal Claims Collection Act of 1966 (31 U.S.C. 951, *et seq.*) and the regulations adopted thereunder (4 C.F.R. Parts 101-105) to attempt to collect the claim against Air Midwest and Frontier. Furthermore, the Board is not empowered to pass upon the validity of the claim or to compromise it. Accordingly, the Board is required to demand of Air Midwest and Frontier repayment of the \$240,172 "flow-through" subsidy disbursed to them.

The Board, pursuant to the GAO opinion, intends shortly to make such a demand on the carriers. The purpose of this letter is to inform you of this intention and to express our view that the possible liability of the carriers for subsidy paid during court review raises the question of whether the public interest would be served by legislation relieving the carriers of that liability. The payments were made to the carriers on the basis of the Board's determination that service to the local communities could only be provided through the subsidy which the Federal Aviation Act authorizes in such circumstances (Section 406(b) of the Act, 49 U.S.C. 1376(b)). The court's decision does not hold that subsidy was not appropriate to maintain service. Both Air Midwest and Frontier, therefore accepted the "flow-through" subsidy arrangement to maintain operations wholly consistent with the statute. The Board's recent certification of Air Midwest as a subsidy-eligible carrier constitutes a reaffirmation that subsidy assisted service to the communities is required by the public convenience and necessity.

Legislation to relieve the carriers of refund liability would assure that the carriers' financial ability to continue operations would not be impaired by the amount of the refund. If such legislation is deemed appropriate, the Board of course, stands ready to provide any requested assistance.

Sincerely,

JOHN E. ROBSON,  
Chairman.

Enclosure.

U.S. GENERAL ACCOUNTING OFFICE,  
OFFICE OF GENERAL COUNCIL,  
Washington, D.C., November 24, 1976.  
JAMES C. SCHULTZ, Esq.,  
General Counsel,  
Civil Aeronautics Board

DEAR MR. SCHULTZ: Our advice has been requested concerning whether the Civil Aeronautics Board (CAB) has a claim for the recovery of certain "flow-through" subsidy payments made by the Board under an order which was judicially determined to be invalid. For the reasons set forth hereafter, we believe that the Board does have a claim for recovery of the full amount of subsidy payments already made, which should be pursued against either or both of the air carriers involved. Needless to say, we likewise believe that subsidy amounts withheld should not be paid.

The "flow-through" subsidy was purportedly authorized by section 406(a) of the Federal Aviation Act of 1958, 49 U.S.C. § 1376(a) (1970), which provides:

"The Board is empowered and directed, upon its own initiative or upon petition of

the Postmaster General or an air carrier, (1) to fix and determine from time to time, after notice and hearing, the fair and reasonable rates of compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith (including the transportation of mail by an air carrier by other means than aircraft whenever such transportation is incidental to the transportation of mail by aircraft or is made necessary by conditions of emergency arising from aircraft operation), by each holder of a certificate authorizing the transportation of mail by aircraft, and to make such rates effective from such date as it shall determine to be proper; (2) to prescribe the method or methods by aircraft-mile, pound-mile, weight, space, or any combination thereof, or otherwise, for ascertaining such rates of compensation for each air carrier or class of air carriers; and (3) to, publish the same." (Emphasis added.)

The relevant facts are stated below. In 1970 the CAB suspended the duty of Frontier Airlines, a "certificated" carrier, to serve three Kansas cities, on condition that substituted service be provided. This substituted service was supplied by Air Midwest, a "non-certificated" commuter air taxi operator.

On August 1, 1973, Air Midwest applied to the CAB for an allocation of subsidy funds, under section 406(a) of the Act, *supra*, to support the substituted service it was providing. Apparently recognizing that Air Midwest was not eligible for a direct subsidy due to its noncertificated status, it was proposed that the subsidy be allocated to Frontier, the certificated carrier, which would then pay over the subsidy to Air Midwest. Hence, the subsidy would "flow-through" Frontier to Air Midwest. In CAB Order 74-4-77 (April 12, 1974), the Board approved the flow-through proposal, allowing subsidy payments for a 2-year period commencing retroactively as of August 1, 1973, and terminating on July 31, 1975. The CAB Order recognized the unprecedented nature of this subsidy arrangement, describing it as an "experimental program to test the feasibility and desirability of the 'flow-through' subsidy concept \* \* \*." *Id.*, at 1. It also rejected objections by several participants in the proceeding that the Board lacked authority under section 406(a) to subsidize services provided by a noncertificated carrier. *Id.*, at 4.<sup>1</sup>

Subsequently, in response to petitions to review the CAB subsidy order, the United States Court of Appeals for the District of Columbia Circuit vacated the order. *Air Line Pilots Association, International v. Civil Aeronautics Board*, 515 F.2d 1010 (1975) (hereafter referred to as *ALPA*). The court first pointed out that the flow-through subsidy could not be justified as meeting a "need" of Frontier under section 406(b) of the Act, as construed in *Delta Airlines, Inc. v. Summerfield*, 347 U.S. 74 (1954), which requires that need be established in relation to the entire operations of a carrier.

"The Board argues that the flow-through subsidy is in literal compliance with the statute because the money is paid to the certificate holder, Frontier. It further argues that the subsidy meets the 'need' of Frontier because, unless Air Midwest is supported, it will stop flying to the three cities, and in that case Frontier will have to reinstitute service itself. In the Board's view, Frontier has a legally cognizable 'need' to be protected against the activation of its continuing obligation to provide service.

"\* \* \* the Board erred in approving the flow-through subsidy. The Board wishes to pay Frontier not to reimburse it for expenses,

<sup>1</sup> See also, the Board's Order to Show Cause in the flow-through subsidy application, CAB Order 94-1-78 (January 14, 1974).

but to keep Frontier from incurring expenses at all. Moreover, in calculating the amount to be paid the Board has reference only to the operating experience of Air Midwest. \* \* \* In wholly ignoring the financial condition of Frontier, the Board violated the dictate of *Summerfield* to look at the need of the carrier to be subsidized. What Frontier's need might be does not appear from the record, but it could be that Frontier as a whole is so successful that even if it were forced to resume service to Hutchinson, Great Bend, and Dodge City, it would not be able to show a need for subsidy." 515 F.2d at 1013.

The Court went on to hold that: "In any case, the Board has no power to subsidize Air Midwest nor any other non-certificated carrier. Even though the Board may have been correct in finding Air Midwest more efficient at serving the three Kansas cities than Frontier would be and even if, therefore, it is desirable to keep Air Midwest in that service, Congress has not given the Board power to pursue that end by giving public money to Air Midwest." *Id.*

Accordingly, the CAB order was "vacated" by the Court "and the cause remanded to the Civil Aeronautics Board with instructions to deny the request for subsidy \* \* \*." *Id.*

As of the date of the Court's decision—July 11, 1975—flow-through payments had already been made in the amount of \$240,172. The Board has withheld the remaining amounts—\$22,040—which would have been payable under the flow-through subsidy program.

A memorandum dated July 25, 1975, from a CAB attorney to the General Counsel explores the question of whether flow-through amounts already paid should be recovered. The memorandum notes that under section 3(a) of the Federal Claims Collection Act of 1966, 31 U.S.C. § 952(a) (1970), the CAB "shall attempt collection of all claims of the United States for money or property arising out of \* \* \* [its] activities \* \* \*," and that, as a general proposition, the United States is entitled to recover public moneys which have been wrongfully, erroneously, or illegally paid out by its agents, citing *United States v. Wurtz*, 303 U.S. 414 (1938). However, the memorandum goes on to discuss three theories which could possibly establish an exception to the requirement for recovery in this case.<sup>2</sup>

One of the three theories explored is that flow-through subsidy payments received prior to the judicial determination of invalidity may be retained in the same manner as payments under non-mail rate orders. See pages 3-5 of the memorandum. However, the memorandum ultimately rejects this theory on the basis that the flow-through subsidy is not analogous to an ordinary rate order for this purpose, and, in any event, the flow-through subsidy order was determined to be "void" rather than "voidable." We concur in the memorandum's discussion and conclusion on this point, and see no need to restate that analysis here. We will address our views primarily to the other two theories raised, which concern, respectively, "detrimental reliance" and "ratification by specific appropriation."

According to the memorandum, it might be argued that Air Midwest should be permitted to retain subsidy payments for its

<sup>2</sup> The memorandum points out that CAB's authority to compromise claims is subject to the \$20,000 limitation contained in 31 U.S.C. § 952(b) (1970). The compromise authority of our office is subject to the same limitation. Accordingly, since the amount here involved exceeds \$20,000, the memorandum and our response are concerned only with the issue of whether a claim exists, rather than whether there are any grounds for compromise.

performance of substituted service, at least to the extent that those services were performed in reliance on the CAB order.<sup>3</sup> The memorandum cites, for example, *Missouri Utilities Co. v. City of California*, 8 F. Supp. 454 (W.D. Mo. 1934), appeal dismissed, 79 F.2d 1003 (8th Cir. 1935), where "the Court indicated that it would be inequitable to require repayment of United States funds even if wrongfully paid, if the recipient had acted to his detriment in reliance upon the ostensible legality of the payments." Memorandum at page 3.

The opinion in *Missouri Utilities* did suggest, by way of dictum, that a recipient of Federal funds in a manner consistent with a Federal statute would have the right to rely on the constitutionality of the statute, so that there might be no equitable basis for recovery should the statute be declared unconstitutional. While this case seems to have no bearing on the facts here involved,<sup>4</sup> we recognize that the law is somewhat uncertain concerning whether, and to what extent, theories in the nature of estoppel apply against the United States, judicial decisions, as well as decisions of our Office and other authorities, have considered the estoppel doctrine applicable to the United States in some circumstances. See e.g., *United States v. Georgia-Pacific Co.*, 421 F.2d 92 (9th Cir. 1970); *Smale & Robinson, Inc. v. United States*, 123 F. Supp. 457 (S.D. Cal. 1954); 55 Comp. Gen. 911, 931 (1976); 53 Comp. Gen. 502, 506, (1974); see generally, 2 Davis, *Administrative Law Treatise*, §§ 17.01-17.04 (1958 & 1970 Supp.); Annot., 27 A.L.R. Fed. 702.

However, the great weight of authority (including many decisions which recognize the applicability of estoppel in some contexts) supports the view that estoppel cannot apply to, in effect, sanction payments which are made, or would be made, contrary to a Federal statute or valid, statutory regulations. Accordingly, it is our opinion that the strict rule against estoppel in *Federal Crop Insurance Co. v. Merrill*, 332 U.S. 380 (1947), and related cases, precludes a defense of estoppel in the instant matter since it involves payments made contrary to statute. See, e.g., 27 A.L.R. Fed. 702, *supra*, § 5; 51 Comp. Gen. 162, 165 (1971). This position has very recently been affirmed by the Court of Claims:

"It is a well-settled principle that the Government has inherent authority to recover sums illegally or erroneously paid, and that it cannot be estopped from doing so by the mistakes of its officers or agents. See *United States v. Wurtz*, 303 U.S. 414, 415, 58 S. Ct. 637, 82 L.Ed. 932 (1938); *American Fidelity Fire Ins. Co. v. United States*, 513 F.2d 1375, 1381, 206 Ct. Cl. 570, 580 (1975); *Fansteel Metallurgical Corp. v. United States*, 172 F. Supp. 268, 270, 145 Ct. Cl. 496, 500 (1959). As this court recognized in *Fansteel Metallurgical Corp. v. United States*, 172 F. Supp. at 270, 145 Ct. Cl. at 500:

"[W]hen a payment is erroneously or illegally made it is in direct violation of article IV, section 3, clause 2, of the Constitution. [case citation.] Under these circumstances it is not only lawful but the duty of the Government to sue for a refund thereof \* \* \*."

<sup>3</sup> The memorandum indicates that this theory would apply only to \$153,059 of the subsidy payments already paid. The remaining \$87,113 of the amounts paid represents retroactive payments for which there could have been no reliance on the CAB order.

<sup>4</sup> In the instant case, of course, payments were made in violation of the terms of a statute, concerning which there was no constitutional challenge. *Missouri Utilities* actually supports the view that persons are charged with knowledge of statutory requirements.



*Aetna Casualty & Surety Co. v. United States*, 526 F. 2d 1127, 1130 (1975), cert. denied, 44 U.S.L.W. 3659 (U.S. May 10, 1976).

While we thus conclude that the estoppel theory is inapplicable here as a matter of law, there is any case an inadequate factual basis to invoke estoppel in this matter. Even where consideration of estoppel is appropriate, it seems clear that the party seeking to invoke this doctrine must establish that he acted reasonably in relying upon the actions (or inactions) of the party to be estopped. See, *United States v. Georgia-Pacific Co.*, supra; *Smale & Robinson, Inc. v. United States*, supra.

We do not believe that the airlines can claim reasonable reliance, for purposes of estoppel, on the validity of the CAB order. As noted previously herein, (1) the Board itself described the flow-through subsidy as a novel and experimental concept; (2) the express terms of the statute refer only to payments to certificated carriers; and (3) the Board's authority to grant the flow-through subsidy was subject to legal challenges in its own proceeding and in the subsequent petition for judicial review, which was pending while most of the subsidy payments were made. In this context, it is abundantly clear to us that the airlines accepted subsidy payments with their eyes open, having full notice of the potential legal objection, and thereby assumed the risk that the Board's order would be invalidated. There is no indication that the Board concealed, misrepresented, or in any way attempted to minimize the legal questions concerning its authority. Indeed, the public record known to the airlines spoke for itself.

In sum, we consider the estoppel argument inapplicable to this case as a matter of law and fact.

The third theory considered in the memorandum is that the action of Congress in appropriating for section 406 subsidies, with knowledge that the Board was making flow-through subsidy payments, constitutes a "ratification" of such payments. This theory is expressed in two alternative forms: (1) that the appropriations constitute an implied repeal of section 406 insofar as it excludes payments to a non-certificated carrier under the flow-through experiment; or (2) that the appropriations ratify flow-through payments made up to the time of the judicial determination of invalidity.

The Department of Transportation and Related Agencies Appropriation Acts for the fiscal years 1975 and 1976 provide for section 406 subsidies, under the heading "Payments to Air Carriers," as follows:

"For payments to air carriers of so much of the compensation fixed and determined by the Civil Aeronautics Board under section 406 of the Federal Aviation Act of 1958 (49 U.S.C. 1376), as is payable by the Board \* \* \*."

Pub. L. No. 93-391 (August 28, 1974), 88 Stat. 768, 778; Pub. L. No. 94-134 (November 24, 1975), 89 Stat. 695, 707.

As the memorandum points out, the House and Senate appropriation hearings for each of the 2 fiscal years contain various references to the flow-through subsidy experiment, as well as the pending judicial challenge to it. These references consist of presentations by CAB officials, and exchanges between Board officials and committee members, concerning the nature and status of the flow-through subsidy experiment. None of these references, nor anything else (to our knowledge) in the legislative histories of the appropriation acts, indicates any congressional sentiment concerning the Board's legal authority to pay flow-through subsidies.

The memorandum rejects the first alternative theory that the appropriations implicitly repeal section 406 in relation to the flow-through subsidy. We agree that this theory is without merit. As the memorandum points out, repeals by implication are not favored, citing *Committee For Nuclear Re-*

*sponsibility, Inc. v. Seaborg*, 463 F. 2d 783 (D.C. Cir. 1971). The memorandum also notes that "it would be rather late in the day" to urge an argument of repeal by implication now since this argument was not even raised in *ALPA*. Actually, we believe that such an argument is necessarily precluded by *ALPA*.

The second alternative of this theory is that the appropriations serve to ratify subsidy payments up to the date of the *ALPA* decision on a "pro tanto" basis. The memorandum relies here on *Committee For Nuclear Responsibility*, supra, in which the court held that the enactment of authorization and appropriation legislation for a nuclear test project did not constitute a determination as to the adequacy of the environmental impact statement for the test project under the National Environmental Policy Act (NEPA). The court observed, 463 F. 2d at 785-86:

"\* \* \* Congress must be free to provide authorizations and appropriations for projects proposed by the executive even though claims of illegality on grounds of non-compliance with NEPA are pending in the courts. There is, of course, nothing inconsistent with adoption of appropriations and authorizations measures on the pro tanto assumption of validity, while leaving any claim of invalidity to be determined by the courts. That is the effect of the authorization and appropriations measures relating to the Cannikin test. This conclusion is established by the general principles just discussed. Nothing in the legislative history leads to a different result. On the contrary, there is an affirmative indication that at least some of the Congressmen voting for the authorization and appropriations measures specifically contemplated that the claim of illegality remained for resolution by the courts. The legislative history indicates that while the impact statement was used as reference material by both proponents and opponents of the test, Congress did not purport to make a binding determination on the issue whether the statement was in compliance with NEPA."

Based on the analysis in *Committee For Nuclear Responsibility*, the memorandum suggests an argument that:

"\* \* \* Air Midwest should be permitted to retain the subsidy payments which it received up until the time of the *ALPA* decision, since Congress, with specific awareness of the Board's experiment appropriated funds for subsidy payments to be made pending the outcome of the judicial challenge. Nor would the present assertion of this argument by the Board be inconsistent with the failure to interpose it as a defense in the *ALPA* case, since there the issue was the basic legality of the experiment under § 406 and not the question of the Board's pro tanto authorization, by Congressional ratification, to make particular subsidy payments to Air Midwest until such time as its ineligibility to receive such payments might be judicially determined."

However, it also points out that applicability of the "pro tanto ratification" theory here would depend on the existence of an adequate factual background from which to infer congressional ratification of flow-through subsidy payments pending the outcome of *ALPA*.

As in the case of estoppel, "we consider this ratification argument inapplicable, both legally and factually."

Initially, we do not believe that *Committee For Nuclear Responsibility* can be read as supporting any "pro tanto ratification" theory of the type described in the memorandum, i.e., a ratification of illegal payments made pending the determination of illegality. There was nothing illegal about the underlying purpose for which appropriations were to be used in *Committee For Nuclear Responsibility*—conduct of a nuclear test. The test could not actually take place unless and until an adequate NEPA statement was issued. However, presumably some

funds were properly used in preparation for the test prior to issuance of the statement, and, once an adequate statement was issued, funding could proceed. In other words, *Committee For Nuclear Responsibility* has nothing to do with a challenge to the basic use of funds as such nor does the opinion suggest the possibility of a pro tanto ratification in such circumstances.

Turning to the instant case, certainly the CAB appropriations would have been available for flow-through subsidy payments to the extent that such payments were legal under section 406, but the *ALPA* decision holds that the payments were never legal. As noted previously, the court in *ALPA* "vacated" the CAB flow-through subsidy order and remanded the cause to the Board "with instructions to deny the request for subsidy \* \* \*." Clearly, therefore, the flow-through subsidy order was void from the outset and all payments made under it were illegal.

We find absolutely no indication of a congressional intent to ratify illegal flow-through payments made prior to the *ALPA* decision. The appropriations are by their terms available for payments of "so much of the compensation fixed \* \* \* under section 406 \* \* \* as is payable by the Board \* \* \*." As a result of *ALPA*, no flow-through subsidy was payable by the Board at any time. In our view, the existence of appropriations for section 406 payments is an entirely neutral fact here. At most, the Congress left determination of the legality of flow-through payments to the court; and the judicial determination, once made, governed all such payments.

The final point addressed in the memorandum is how, and against whom, collection should be effected, assuming that a claim exists. The memorandum indicates that a claim against Frontier Airlines could be collected by offset against other subsidy payments due to Frontier, but that there is no source for offset of a claim against Air Midwest. However, it concludes that, while Air Midwest is clearly liable for a claim, Frontier probably could not be held liable. This conclusion is based on the structure of the flow-through subsidy arrangement, "particularly as perceived by the court in the *ALPA* case," under which Frontier received payment only in nominal capacity:

"In these circumstances a claim by the United States for money had and received would not be likely to prevail against Frontier which—with the full understanding of the Board, Frontier and Air Midwest—did not receive these moneys for its own use but solely as a nominee for the intended recipient, Air Midwest."

While this analysis appears correct on the surface, we do not think it is quite so clear that Frontier has no liability. As the memorandum points out, at page 2, the claim is "for restitution of money had and received, to prevent unjust enrichment by the recipient of unauthorized payments of public funds." It seems to us that Frontier, rather than Air Midwest, could well be considered the party unjustly enriched. While Air Midwest at least performed services for which the subsidy was paid, there is ample basis to conclude that Frontier was a real beneficiary of the subsidy as well as the nominal payee.

Under the substituted service arrangement, which led to the flow-through subsidy application, suspension of Frontier's obligation to serve the three Kansas cities was contingent upon Air Midwest's service to those cities. Had Air Midwest been unable to continue service without the subsidy, Frontier obligation would have been automatically renewed. Moreover, as the *ALPA* court noted, it is not clear that Frontier could have qualified for a subsidy for this service under the appropriate standard, which requires consideration of the carrier's overall operations and financial condition. The court in *ALPA*

thus concluded that the flow-through subsidy could not be justified as meeting Frontiers' "need" within the meaning of section 406. However, the court does seem to have recognized that Frontier was more than a nominal payee by observing that:

"\* \* \* The Board wishes to pay Frontier not to reimburse it for expenses, but to keep Frontier from incurring expenses at all. \* \* \* 515 F.2d at 1013. (Emphasis added.)"

While we cannot instruct the Board on exactly how to seek collection of the claim we do suggest, in view of the foregoing, that further consideration be given to Frontier's possible liability.

Sincerely yours,

MILTON J. SOCOLAR,  
Acting General Counsel.

CIVIL AERONAUTICS BOARD,  
Washington, D.C., April 20, 1977.

HON. JAMES B. PEARSON,  
Committee on Commerce, Science and Transportation, U.S. Senate, Washington, D.C.

DEAR SENATOR PEARSON: This will respond to your letter of April 20, 1977, requesting the Board's views concerning a proposed amendment to section 406 of the Federal Aviation Act which would provide statutory authority for the Board's flow-through subsidy program conducted from August 1, 1973, through July 31, 1975. The bill would have no prospective effect.

The Board supports the proposed legislation.

Sincerely,

JOHN E. ROBSON,  
Chairman.

OFFICE OF THE SECRETARY OF  
TRANSPORTATION,  
Washington, D.C., May 2, 1977.

HON. HOWARD W. CANNON,  
Chairman, Aviation Subcommittee, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for Department comments on S. 1325, a bill "To amend section 406(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1376) to provide explicit statutory authority for the payment of 'flow-through' subsidy pursuant to an experimental program administered by the Civil Aeronautics Board during the period August 1, 1973 through July 31, 1975."

The bill would permit a specific carrier, Air Midwest, Inc., to keep Federal funds it received from the Civil Aeronautics Board (the Board) "flow-through" subsidy experiment. In 1974, the Board approved an experiment under which Air Midwest, then a commuter air carrier, received Federal air subsidy funds indirectly through Frontier Airlines. The funds were received for serving, pursuant to suspension/substitution arrangements, the cities of Hutchinson, Great Bend, and Dodge City, Kansas, all on Frontier's certificate of public convenience and necessity. Air Midwest, now a certificated carrier, served the cities between August 1, 1973, and July 31, 1975, and received approximately \$240,000. After these moneys had been paid to Air Midwest, the U.S. Court of Appeals for the District of Columbia Circuit held that the Board did not have authority to authorize the "flow-through" subsidy arrangement. Consequently, in November 1976, the General Accounting Office ruled that the Board should seek return of the funds.

The Department poses no objection to the bill.

The Office of Management and Budget has advised that, from the standpoint of the Administration's budget, there is no objection to the submission of this report for the consideration of the Congress.

Sincerely,

LINDA HELLER KAMM,  
General Counsel.

Mr. BAKER. Mr. President, I urge the adoption of this amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 1325 be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### ENVIRONMENTAL RESEARCH AND DEVELOPMENT AUTHORIZATION ACT OF 1977

Mr. ROBERT C. BYRD. Mr. President, on the Unanimous Consent Calendar is a measure which has been cleared for action, Calendar No. 162. I ask unanimous consent that the Senate proceed to the consideration of that measure.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1417) to authorize appropriations for environmental research and development activities of the Environmental Protection Agency, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works with an amendment in the nature of a substitute.

Mr. BAKER. Mr. President, I understand that these are technical amendments.

I ask the majority leader, is that the proper characterization? They are not substantive amendments, as I understand.

Mr. ROBERT C. BYRD. This is the technical budget amendment.

Mr. BAKER. I thank the majority leader.

#### UP AMENDMENT NO. 344

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a technical amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 344.

On page 13, line 7, after "\$10,000,000" insert "for fiscal year 1978".

On page 13, line 10, after "\$2,000,000" insert "for fiscal year 1978".

On page 13, line 15, after "\$5,000,000" insert "for fiscal year 1978".

On page 13, line 20, after "\$5,000,000" insert "beginning in fiscal year 1978".

The ACTING PRESIDENT pro tempore. Without objection, the amendment is agreed to.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 5101 be discharged from the Committee on Environment and Public Works and that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5101) to authorize appropriations for environmental research and development activities of the Environmental Protection Agency, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move that all after the enacting clause of H.R. 5101 be stricken, that the text of S. 1417 as amended be inserted in lieu thereof, that H.R. 5101 as amended be considered as having been read the third time and passed, that the motion to reconsider be laid on the table, and that S. 1417 be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The text of the bill (H.R. 5101), as amended and passed, is as follows:

#### H.R. 5101

That this Act may be cited as the "Environmental Research and Development Authorization Act of 1977".

#### SCIENCE ADVISORY BOARD

Sec. 2. (a) There is established in the Environmental Protection Agency a Science Advisory Board which shall provide such scientific advice as the Administrator of the Environmental Protection Agency requests. In addition, such Board shall advise the Administrator on the adequacy of scientific information supporting proposed regulations published under any Act which the Administrator shall administer.

(b) Such Board shall be composed of a Chairperson and eight members appointed by the Administrator for a term of four years, except that four of those members first appointed shall have terms of two years. Each member of the Board shall be qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board under this section.

(c) (1) The Administrator, at the time any



proposed criteria document, standard, limitation, or regulation under the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, the Noise Control Act, the Toxic Substances Control Act, the Safe Drinking Water Act, or any other authority of the Administrator, is provided to any other Federal agency for formal review and comment, shall make available to the Board such proposed criteria document, standard, limitation, or regulation, together with relevant scientific and technical information in the possession of the Environmental Protection Agency, on which such proposed action is based.

(2) The Board shall make available to the administrator, its advice and comments on the adequacy of the scientific and technical basis of the proposed criteria document, standard, limitation, or regulation, together with any pertinent information in the Board's possession.

(d) In preparing such advice and comments, the Board shall avail itself of the technical and scientific capabilities of any Federal agency, including the Environmental Protection Agency and any national environmental laboratories.

(e) The Board is authorized to constitute such member committees and investigative panels as the Administrator and the Board find necessary to carry out this section. Each such member committee or investigative panel shall be chaired by a member of the Board.

(f) (1) The Board shall appoint and prescribe the duties of a Secretary, and such other employees as it deems necessary to exercise and fulfill its powers and responsibilities. The compensation of all employees appointed by the Board shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title V of the United States Code.

(2) Members of the Board shall be entitled to receive compensation at a rate to be fixed by the President but not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title V of the United States Code.

#### LONG-TERM ENVIRONMENTAL RESEARCH

SEC. 3. (a) ESTABLISHMENT.—The Administrator shall establish a separately identified program to conduct continuing and long-term environmental research and development. Unless otherwise specified by law, 15 per centum of any funds appropriated to the Administrator under section 5(a) of this Act or under any other Act shall be allocated for long-term environmental research and development under this section.

(b) NATIONAL ENVIRONMENTAL LABORATORY.—The Administrator, after consultation with the Science Advisory Board, shall submit to the President and the Congress a report concerning the desirability and feasibility of establishing a National Environmental Laboratory, or a system of such laboratories, to assume or supplement the long-term environmental research functions created by subsection (a) of this section. Such report shall be submitted on or before September 30, 1977, and shall include findings and recommendations concerning:

(1) specific types of research to be carried out by such laboratory or laboratories;

(2) the coordination and integration of research to be conducted by such laboratory or laboratories with research conducted by existing Federal or other research facilities;

(3) methods for insuring continuing long-range funding for such laboratory or laboratories; and

(4) other administrative or legislative actions necessary to facilitate the establishment of such laboratory or laboratories.

#### MANAGEMENT OF ENVIRONMENTAL RESEARCH AND DEVELOPMENT FUNDING

SEC. 4. (a) GENERAL.—The Administrator shall assure that the expenditure of any

funds appropriated under this Act or other provision of law for environmental research and development related to regulatory program activities shall be coordinated with and reflect the research needs and priorities of the program offices, as well as the overall research needs and priorities of the agency, including those defined in the five-year research plan.

(b) PROGRAM OFFICES.—For purposes of subsection (a), the appropriate program offices are:

(1) the Office of Air and Waste Management, for air quality activities;

(2) the Office of Water and Hazardous Materials, for water quality activities and water supply activities;

(3) the Office of Pesticides, for environmental effects of pesticides;

(4) the Office of Solid Waste, for solid waste activities;

(5) the Office of Toxic Substances, for toxic substance activities;

(6) the Office of Radiation Programs, for radiation activities; and

(7) the Office of Noise Abatement and Control, for noise activities.

(c) REPORT.—Administrator shall submit to the President and the Congress a report concerning the most appropriate means of assuring, on a continuing basis, that the research efforts of the agency reflect the needs and priorities of the regulatory program offices, while maintaining a high level of scientific quality. Such report shall be submitted on or before September 30, 1977.

#### AUTHORIZATION FOR APPROPRIATIONS

SEC. 5. (a) ENVIRONMENTAL RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated to the Administrator the following amounts for environmental research and development activities for fiscal year 1978:

(1) \$96,000,000 for water quality activities authorized under the Federal Water Pollution Control Act;

(2) \$10,800,000 for activities concerning the environmental effects of pesticides;

(3) \$830,000 for radiation activities; and

(4) \$8,200,000 for toxic substances control activities.

(b) INTERDISCIPLINARY ACTIVITIES.—There are authorized to be appropriated to the Administrator for the Office of Research and Development \$28,000,000 for fiscal year 1978, to be used for interdisciplinary activities. Of this amount, \$4,000,000 shall be made available for long-term research and development.

(c) PROGRAM MANAGEMENT AND SUPPORT.—There are authorized to be appropriated to the Administrator \$19,000,000 for fiscal year 1978 for program management and support related to environmental research and development.

(d) LONG-TERM RESEARCH AND DEVELOPMENT.—In addition to other sums authorized by this section or other provisions of law, there are authorized to be appropriated to the Administrator for long-term research and development in accordance with section 3 of this Act, \$10,000,000 for fiscal year 1978.

(e) TRAINING.—There are authorized to be appropriated to the Administrator through the Office of Research and Development \$2,000,000 for fiscal year 1978, to be available until expended, for training of health scientists, needed for environmental research and development in fields where there are national shortages of trained personnel.

(f) ENVIRONMENTAL EMERGENCIES.—There are authorized to be appropriated to the Administrator \$5,000,000, for fiscal year 1978, to be available until expended, for scientific and technical support and services for response to environmental emergencies.

(g) GULF COAST AIR QUALITY.—There are authorized to be appropriated to the Administrator \$5,000,000 beginning in fiscal year 1978 for a study of air quality in the Gulf Coast region, including analysis of liquid and solid aerosols and other fine particulate matter and the contribution of such substances

to visibility and public health problems in the region.

#### COORDINATION WITH OTHER FEDERAL AGENCIES

SEC. 6. (a) GENERAL.—The Administrator shall coordinate and cooperate with other Federal agencies to minimize unnecessary duplication of environmental research programs, projects, and facilities.

(b) REPORT BY THE COUNCIL ON ENVIRONMENTAL QUALITY.—Not later than January 1, 1978, the Chairman of the Council on Environmental Quality shall submit to the President and the Congress a report identifying the environmental research and development activities of all Federal agencies, together with such recommendations as the Council deems appropriate regarding coordination of environmental research and development among such agencies. In carrying out this subsection, the Council is authorized to request the assistance of personnel from any Federal department, agency, or entity, with the consent of the head of such department, agency, or entity. There are authorized to be appropriated to the Council on Environmental Quality \$500,000 for fiscal year 1978 for this purpose.

#### MINIMIZATION OF PAPERWORK

SEC. 7. It is the national policy that to the maximum extent possible the producers utilized for implementation of this Act shall encourage the drastic minimization of paperwork.

#### QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### TANKER AND VESSEL SAFETY ACT OF 1977

##### UP AMENDMENT NO. 345

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that notwithstanding the third reading and passage yesterday of S. 682, a bill to amend the Ports and Waterways Safety Act of 1972, to establish a program of oil pollution research, and for other purposes, the following amendments be made to the bill which I send to the desk. They are technical amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes certain technical amendments.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

Page 38, delete lines 11 through 15.

Page 49, line 1, before the words "the Board" insert the word "or".

Page 49, line 4, before the words "the Board" insert the word "or".

Page 50, lines 13 through 14, delete the words "Ports and Waterways Safety Act Amendments of 1977" and insert the words "Tankers and Vessel Safety Act of 1977".

Page 71, line 4, delete "305" and insert in lieu thereof "306".

Amend the title so as to read: "A bill to amend the Ports and Waterways Safety Act of 1972, and for other purposes."

Mr. ROBERT C. BYRD. Mr. President, these amendments are occasioned by the elimination of the second title of the bill, and therefore there is no need in the portions of the bill which remain, to refer to particular titles of the bill.

I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments are considered en bloc and agreed to en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the unanimous-consent request that the bill be printed for the use of the Senate be vitiated, and I ask unanimous consent that the bill, as amended, be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The text of the bill (S. 682), as amended and passed, is as follows:

S. 682

An act to amend the Ports and Waterways Safety Act of 1972, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Tanker and Vessel Safety Act of 1977".

## SEC. 2. DECLARATION OF POLICY AND DEFINITIONS.

The Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.) is amended by inserting the following new sections immediately after the first section thereof and immediately before title I:

### "SEC. 2. FINDINGS, PURPOSES, AND POLICY

"(a) FINDINGS.—The Congress finds and declares the following:

"(1) Navigation and vessel safety and protection of the marine environment are matters of major national importance. Increased vessel traffic in the Nation's ports and waterways creates substantial hazard to life, property, and the marine environment.

"(2) International standards for navigation and vessel safety and protection of the marine environment are incomplete and fail to provide adequate protection of the marine environment. The Federal Government should seek to require more stringent standards for any vessel using (A) any port of the United States or (B) operating in the navigable waters of the United States.

"(3) Standards developed through regulations under this Act shall incorporate the best available technology. Such standards shall be required unless clearly shown to create undue economic hardship which is not outweighed by environmental benefits.

"(4) Increased inspection and enforcement efforts by the Federal Government are necessary to reduce the possibility of vessel or cargo loss, or damage to life, property, or the marine environment.

"(b) PURPOSES.—It is therefore the purposes of Congress in this Act—

"(1) to authorize a comprehensive inspection and enforcement program for increased navigation and vessel safety and enhanced protection of the marine environment;

"(2) to direct the Federal Government to establish stringent standards for the design, construction, equipment, maintenance, alteration, repair, operation, and manning of all vessels which (A) use any port of the United States or (B) operate in the navigable waters of the United States; and

"(3) to establish a program to prevent any substandard vessel from (A) using any port of the United States or (B) operating in the navigable waters of the United States.

"(c) POLICY.—It is further declared, to be the policy of the Congress in this Act—

"(1) to authorize no impediment to, or interference with, the right of innocent passage or any recognized legitimate use of the high seas; and

"(2) to support and encourage continued active United States efforts to obtain international agreements concerning navigation and vessel safety and protection of the marine environment.

### "SEC. 3. DEFINITIONS.

"As used in this Act, unless the context otherwise requires:

"(1) The term 'discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, or emptying, however caused.

"(2) The term 'domestic trade' means trade between ports or places in the United States, its territories or possessions, either directly or via a foreign port, including trade on the navigable waters of the United States.

"(3) The term 'foreign trade' means any trade other than the domestic trade.

"(4) The term 'foreign vessel' or 'vessel of a foreign nation' means any vessel documented or numbered under the laws of any nation other than the United States.

"(5) The term 'hazardous material' means any material or substance which is—

"(A) flammable or combustible;

"(B) designated a hazardous polluting substance under section 311(b) of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1321); or

"(C) designated a hazardous material under section 104 of the Hazardous Material Transportation Act (49 U.S.C. 1803).

"(6) The term 'high seas' means all waters beyond the territorial sea of the United States and beyond the territorial sea of any foreign nation, to the extent that such sea is recognized by the United States.

"(7) The term 'marine environment' means the coastal zone, defined in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1)); the seabed, subsoil, natural resources, and waters of the territorial sea of the United States; the waters of the contiguous zone; the waters and fishery resources of any zone over which the United States asserts exclusive fishery management authority; the waters of the high seas; and the seabed and subsoil of the Outer Continental Shelf of the United States.

"(8) The term 'oil' means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

"(9) The term 'person' means any individual (whether or not a citizen or national of the United States), or any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government of any entity of any such government.

"(10) The term 'public vessel' means a vessel which—

"(A) is owned, or chartered by demise, and operated by the United States or any foreign government; and

"(B) is not engaged in commercial service.

"(11) The term 'Secretary' means the Secretary of Transportation.

"(12) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States, including the Trust Territory of the Pacific Islands.

"(13) The term 'United States', when used in the geographical context, means all the States thereof.

"(14) The term 'vessel' means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation through or on water.

"(15) The term 'vessel of the United States' means any vessel documented or numbered under the laws of the United States."

## SEC. 3. NAVIGATIONAL AND VESSEL SAFETY AND PROTECTION OF THE MARINE ENVIRONMENT.

Title I of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221–1227) is amended to read as follows:

### "TITLE I—NAVIGATION AND VESSEL SAFETY AND PROTECTION OF THE MARINE ENVIRONMENT

#### "SEC. 101. VESSEL TRAFFIC SERVICES.

"(a) IN GENERAL.—The Secretary, in accordance with section 103, may, in the ports, harbors, navigable waters of the United States and in any area covered by any international agreement negotiated pursuant to section 303—

"(1) establish, operate, and maintain vessel traffic services;

"(2) require any vessel except self-propelled fishing or recreational vessels under 300 dead weight tons, which operates within waters subject to any vessel traffic service, to utilize or comply with any such service, including requiring the installation and use of any electronic or other device necessary for such utilization or compliance;

"(3) control vessel traffic by—

"(A) specifying times of entry, movement, or departure;

"(B) establishing vessel traffic routing schemes;

"(C) establishing vessel size and speed limitations and vessel operating conditions; and

"(D) restricting operation, in any hazardous area or under hazardous conditions, by any vessel which has particular operating characteristics or capabilities, in a manner deemed necessary for safe operation under the circumstances.

The Secretary shall publish and distribute any relevant information with regard to actions taken under this section to all interested persons, including citizens of any foreign country.

"(b) SPECIAL POWERS.—The Secretary may order any vessel to operate or anchor in a manner he directs if—

"(1) he has reasonable cause to believe such vessel does not comply with any regulation promulgated under this Act or any other applicable law or treaty;

"(2) he determines that such vessel does not satisfy the conditions for port entry set forth in section 106; or

"(3) by reason of weather, visibility, sea conditions, or the condition of such vessel, he is satisfied that such directive is justified in the interest of safety.

"(c) EXTENDED SERVICES.—The Secretary shall, in accordance with section 103, establish advisory vessel traffic services in appropriate areas of the high seas. The Secretary shall take appropriate action to have any routing measures associated with such services adopted by the relevant international organization.

"(d) EXCEPTION.—This title shall not apply to any vessel of any foreign nation (1) that is in transit through the navigable waters of the United States which form a part of any international strait, and (2) that is destined for any port outside the United States, except pursuant to international treaty, convention, or agreement.

#### "SEC. 102. WATERFRONT SAFETY.

"The Secretary, in cooperation with the Secretary of the Army, may take such action as is necessary (1) to prevent damage to, or the destruction or loss of, any dock, bridge, or other structure on or in the navigable waters of the United States, or any structure on land, or any shore area, immediately adjacent to any such waters; and (2) to protect the navigable waters and the resources therein from vessel operation damage, destruction or loss or from structure damage, destruction or loss. Such action may include, but need not be limited to—

"(A) establishing procedures, measures, and standards for the handling, loading, unloading, storage, stowage, and movement on



any such structure (including the emergency removal, control, and disposition) of any oil or hazardous material;

"(B) prescribing minimum safety equipment requirements for any such structure to assure adequate protection from fire, explosion, natural disasters, and other serious accidents or casualties;

"(C) establishing water or waterfront safety zones, or other measures for limited, controlled, or conditional access and activity of vessels when necessary for the protection of any vessel, structure, waters, or shore area; and

"(D) establishing procedures for inspection to assure compliance with minimum safety requirements for such structures.

#### "SEC. 103. CONSIDERATIONS BY SECRETARY.

"The Secretary shall, in carrying out his duties and responsibilities under section 101, take into account all relevant factors concerning navigation and vessel safety and protection of the marine environment, including, but not limited to—

"(1) the scope and degree of the risk or hazard involved;

"(2) vessel traffic characteristics and trends, including traffic volume, the sizes and types of vessels involved, potential interference with the flow of commercial traffic, the presence of any unusual cargoes, and other similar factors;

"(3) port and waterway configurations and variations in local conditions of geography, climate, and other similar factors;

"(4) the proximity of fishing grounds, oil and gas drilling and production operations, or any other potential or actual conflicting activity;

"(5) environmental factors;

"(6) economic impact and effects;

"(7) existing vessel traffic services;

"(8) local practices and customs, including voluntary arrangements and agreements within the maritime community; and

"(9) the Secretary shall establish procedures for consulting with, and receiving and considering the views of, officials of State and local governments, and persons within the maritime community, who are knowledgeable about and experienced in dealing with local problems of vessel traffic.

#### "SEC. 104. PILOTAGE.

"The Secretary may require a pilot on (1) any self-propelled vessel of the United States engaged in the foreign trade, and (2) any foreign vessel, operating in the navigable waters of the United States in areas and under circumstances where a pilot is not otherwise required by State law. Such pilot may be required until the State involved establishes a requirement for a pilot in any such area or under the circumstances involved.

#### "SEC. 105. INVESTIGATORY POWERS.

"(a) SECRETARY.—The Secretary may investigate any incident, accident, or act which—

"(1) results in any loss or destruction of, or damage to, any structure or area referred to in section 102, or any vessel; or

"(2) affects, or may affect, vessel safety or environmental quality in any port, harbor, or the navigable waters of the United States.

"(b) BOARD.—(1) The National Transportation Safety Board may investigate any transportation-related incident, accident, or act which—

"(A) results in any loss or destruction of, or damage to, any structure or area referred to in section 102, or any vessel; or

"(B) affects, or may affect, transportation or vessel safety in any port, harbor, or the navigable waters of the United States.

"(2) Investigations conducted by the Board under this section shall be for the purpose of determining the facts, circumstances, and the cause or probable cause, of any accident, incident, or act investigated under paragraph (1).

"(c) POWERS.—In any such investigation, the Secretary or the Board may issue sub-

penas to require the attendance of any witness and the production of any document or other evidence relating to any such incident, accident, or act. If any person refuses to obey any such subpoena, the Secretary or the Board may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance with such a subpoena. Any of the district courts of the United States may, in the case of such refusal to obey such a subpoena, issue an order requiring compliance with such subpoena, and any failure to obey such order may be punished by the court as a contempt thereof. Witnesses may be paid fees for travel and attendance at such rates not exceeding those allowed in a district court of the United States.

#### "SEC. 106. CONDITIONS FOR ENTRY TO PORTS OF THE UNITED STATES.

"(a) IN GENERAL.—No vessel which carries, or is designed to carry, oil or any hazardous material in bulk as cargo shall operate in the navigable waters of the United States, or transfer cargo in, any port or place under the jurisdiction of the United States if such vessel—

"(1) has a history of accidents, pollution incidents or serious repair problems which, as determined by the Secretary, creates reason to believe that such vessel may (A) be unsafe or (B) create a threat to the marine environment;

"(2) fails to comply with any applicable regulation issued under this Act or any other law or treaty;

"(3) discharges any oil in violation (A) of any treaty to which the United States is a party or (B) of any law of the United States; or

"(4) does not comply with any vessel traffic service established by the Secretary under section 101;

unless and until the owner of such vessel proves, to the satisfaction of the Secretary, that such vessel is (A) no longer unsafe or a threat to the marine environment, or (B) complies with the applicable regulation, law, or treaty, as appropriate.

"(b) EFFECTIVE DATE.—This section shall become effective on the date of enactment of the Tankers and Vessels Safety Act of 1977, except subsection (a) (3) shall not become effective until January 1, 1979, unless before such date, the Secretary, by regulation, provides that such subsection will become effective before January 1, 1979, in which case, such subsection (a) (3) shall become effective on the date provided by the Secretary.

#### "SEC. 107. MARINE SAFETY INFORMATION SYSTEM.

"(a) IN GENERAL.—The Secretary shall establish a marine safety information system. Such system shall contain information with regard to any vessel (which carries, or is designed to carry, oil or any hazardous material in bulk as cargo) which enters, or transfers cargo in, any port or place under the jurisdiction of the United States. Such information shall include, but need not be limited to—

"(1) the names of any person with an ownership interest in any such vessel, in accordance with regulations prescribed by the Secretary;

"(2) financial responsibility information, if required for any vessel under section 311 (p) of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1321);

"(3) registration information, including all changes in the name of any such vessel;

"(4) the history of accidents or serious repair problems of any such vessel;

"(5) a record of all inspections or examinations of any such vessel conducted under section 202; and

"(6) any other data or information which the Secretary deems appropriate to carry out the purposes of this Act.

"(b) INTERAGENCY COOPERATION.—The head of each department, agency, or other instru-

mentality of the Federal Government shall, upon written request from the Secretary, furnish any available data or information which the Secretary deems necessary to carry out the provisions of this Act.

#### "SEC. 108. LIGHTERING.

"(a) IN GENERAL.—After June 30, 1978, no vessel may unload any cargo of oil or hazardous material at any port of the United States if such cargo has been transferred from another vessel on the high seas or in the navigable waters of the United States, unless such transfer was conducted in accordance with regulations prescribed by the Secretary pursuant to subsection (b).

"(b) REGULATIONS.—The Secretary shall, by June 30, 1978, prescribe, and may amend or repeal, regulations for transferring, in whole or in part, any cargo of oil or hazardous material on the high seas or in the navigable waters of the United States. Regulations prescribed by the Secretary under this subsection shall include, but need not be limited to, standards for—

"(1) minimum safe operating conditions, including sea state, wave height, weather, proximity to channels or shipping lanes, and other similar factors;

"(2) prevention of oil spills;

"(3) equipment for responding to any oil spill;

"(4) prevention of any unreasonable interference with international navigation or other reasonable uses of the high seas, as defined by treaty, convention, or customary international law; and

"(5) other matters which the Secretary deems necessary to promote navigation and vessel safety and protect the marine environment.

"(c) PROHIBITION.—No transfer of cargo at sea may be authorized under this section if such transfer is engaged in for the purpose of aiding the avoidance of standards relating to the design, construction, equipment, maintenance, alteration, repair, operation or manning of vessels promulgated under this Act or section 417a of the Revised Statutes of the United States.

#### "SEC. 109. APPLICATION OF TITLE.

"This title shall not apply to the Panama Canal. The authority granted the Secretary under this title may be delegated to the Saint Lawrence Seaway Development Corporation to the extent the Secretary determines such delegation is necessary for the proper operation of the Seaway."

#### SEC. 4. VESSELS CARRYING CERTAIN CARGOES IN BULK.

Section 417a of the Revised Statutes of the United States (46 U.S.C. 391a) is amended to read as follows:

"SEC. 417a. (1) APPLICABILITY.—Except as provided in subsections (2) and (3), this section shall apply to any vessel—

"(A) regardless of tonnage, size, or manner of propulsion;

"(B) whether self-propelled or not;

"(C) whether carrying freight or passengers for hire or not;

"(D) which is documented or numbered under the laws of the United States, which operates in the navigable waters of the United States, or which transfers cargo in any port or place under the jurisdiction of the United States; and

"(E) which carries, or is designed to carry, oil or any hazardous material in bulk as cargo.

Any such vessel shall be deemed to be a steam vessel for the purposes of title 52 of the Revised Statutes of the United States and shall be subject to the provisions thereof.

"(2) EXCEPTIONS.—This section shall not apply to—

"(A) any public vessel;

"(B) any vessel of not more than 500 gross tons documented in the service of oil exploitation which are not tank vessels and which would be subject to this section only because of the transfer of fuel from fuel

supply tanks of such vessel to offshore drilling or production facilities; or

"(C) any vessel of any foreign nation (i) that is in transit in navigable waters of the United States which form a part of any international strait and (ii) that is destined for any port or place outside the United States.

"(3) FISHING VESSELS.—Notwithstanding the other provisions of this section, cannery tenders, fishing tenders, and fishing vessels of not more than 500 gross tons used in the salmon or crab fisheries of the State of Oregon, Washington, or Alaska, when engaged exclusively in the fishing industry, shall be allowed to have on board inflammable or combustible cargo in bulk to the extent and upon conditions as may be required by regulations promulgated by the Secretary.

"(4) STANDARD-SETTING AUTHORITY.—(A) The Secretary shall issue, and may from time to time amend or repeal, regulations containing standards for the design, construction, alteration, repair, operation, manning, or maintenance of vessels to which this section applies, as may be necessary for increased navigation and vessel safety and enhanced protection of the marine environment. The standards issued by the Secretary under this subsection shall be in addition to any other standards, promulgated under other provisions of law, that may apply to such vessels. The standards issued by the Secretary under this subsection shall include, but need not be limited to, standards relating to—

"(i) superstructures, hulls, cargo holds or tanks, fittings, equipment, appliances, propulsion machinery, auxiliary machinery, and boilers;

"(ii) the handling or stowage of cargo, the manner of such handling or stowage of cargo, and the machinery and appliances used in such handling or stowage;

"(iii) equipment and appliances for life saving, fire protection, and prevention and mitigation of damage to the marine environment;

"(iv) requirements for the manning of such vessels and the duties and qualifications of the officers and crew, in accordance with subsection (7);

"(v) improvements in vessel maneuvering and stopping ability and other features which reduce the possibility of collision, grounding, or other accidents;

"(vi) the reduction of cargo loss in the event of a collision, grounding, or other accident;

"(vii) the reduction or elimination of discharges during ballasting, deballasting, cargo handling, or other such activity; and

"(viii) the reduction or elimination of discharges aboard vessels during cargo handling, tank cleaning, ballasting, deballasting, and other such activity.

"(B) In establishing standards under paragraph (A), the Secretary shall give due consideration to the kinds and grades of cargo permitted to be on board any such vessel.

"(5) MINIMUM STANDARDS.—In addition to any standards prescribed by the Secretary pursuant to subsection (4), or pursuant to any other law, any self-propelled vessel in excess of 20,000 dead weight tons which carries, or is designed to carry, oil in bulk, as cargo shall—

"(A) not later than June 30, 1979, be equipped with—

"(i) a dual radar system, one with short-range and one with long-range capabilities and each with true-north features;

"(ii) a collision avoidance system;

"(iii) a long-range navigation aid;

"(iv) adequate communications equipment;

"(v) a fathometer;

"(vi) a gyrocompass;

"(vii) up-to-date charts; and

"(B) not later than June 30, 1983, be equipped with—

"(i) a segregated ballast system;

"(ii) a transponder, or such other appropriate position-fixing equipment as the Secretary determines to be appropriate;

"(iii) a gas inerting system; and

"(iv) for any vessel the construction of which is contracted for, or actually commenced, after January 1, 1980, a double bottom (fitted throughout the cargo length of such vessel).

The Secretary may prescribe standards to substitute for any standard listed above if such substitute standard provides, as appropriate, equivalent or improved navigation accuracy, vessel safety, or environmental protection. Such equivalency or improvement shall be determined by the Secretary on the record after a hearing in accordance with section 553 of title 5, United States Code.

"(6) EVIDENCE OF COMPLIANCE.—(A) No vessel of the United States to which this section applies, shall have on board oil or hazardous materials in bulk as cargo until (i) it has been issued a certificate of inspection issued under the provisions of title 52 of the Revised Statutes of the United States, and (ii) such certificate has been endorsed to indicate that the vessel is in compliance with the rules and regulations established under this section. If any vessel is found not to be in compliance, the Secretary shall notify the owner of the vessel and indicate how the vessel may be brought into compliance.

"(B) No foreign vessel to which this section applies, shall operate in the navigable waters of the United States or transfer cargo in any port or place under the jurisdiction of the United States unless such vessel has been issued a certificate of compliance by the Secretary. The Secretary shall not issue such certificate until the vessel has been examined by the Secretary and found to be in compliance with the provisions of this section and the rules and regulations promulgated hereunder. If any such vessel is found not to be in compliance, the Secretary shall notify the owner of the vessel and indicate how the vessel may be brought into compliance. The Secretary may allow provisional entry for the purposes of conducting the examination.

"(C) The Secretary may accept, as evidence of compliance with this section (in whole or in part), a certificate, endorsement, or document issued by any foreign nation pursuant to any treaty, convention, or other international agreement to which the United States is a party.

"(D) No vessel may carry any kind or grade of cargo unless its certificate of compliance is endorsed to allow such carriage. No such endorsement may allow such carriage. No such endorsement may allow any vessel to carry any material prohibited by section 4472(3) of this title.

"(E) A certificate of compliance, or an endorsement, issued under this subsection shall be valid for a period not to exceed 1 year, as specified by the Secretary, and may be renewed. The Secretary may issue a temporary certificate of compliance, or a temporary endorsement, under this subsection in appropriate circumstances; except that such temporary certificate or endorsement shall be valid for not more than 30 days. Any certificate or endorsement shall be revoked or suspended if the Secretary finds that the vessel involved no longer complies with the conditions upon which such certificate or endorsement was issued.

"(7) RETROFIT OF CERTAIN MANDATORY REQUIREMENTS.—(A) On and after July 1, 1980, the Secretary shall not issue a certificate of compliance to any vessel to which subsection (5) applies, unless—

"(i) such vessel has a segregated ballast system (as required under subsection (5) (B) (i)) and a gas inerting system (as required under subsection (5) (B) (ii)); or

"(ii) the Secretary determines that tanks in such vessel have been designated for, and are used only for carrying ballast water

alone; and the owner of such vessel has paid a retrofit incentive fee levied on such vessel by the Secretary.

"(B) The Secretary shall determine the amount of the retrofit incentive fee applicable to any vessel (according to classes of vessels based on size, displacement, and configuration) by determining for vessels in each such class the estimated annualized cost of compliance with the requirements of subsections (5) (B) (i) and (5) (B) (ii). The Secretary shall estimate the annualized cost of compliance, based on a retrofit technique that he determines would enable typical vessels in each class to comply with such requirements, taking into account planning and design costs, equipment costs (including purchase, transportation, installation, and start-up or testing), operating and maintenance costs, cost of capital, inflation, taxes, and other relevant costs. The Secretary shall propose retrofit incentive fees for each class of vessels not later than July 1, 1979, and shall adopt fees, in accordance with section 553 of title 5, United States Code, not later than January 1, 1980. The Secretary may by regulation adjust the fee for a class of vessels if he determines that the fee varies significantly from the actual or probable annualized costs of compliance with such requirements, and he may provide for the automatic adjustment of a fee based on the performance of a suitable index or indices. The Secretary may, in his discretion, waive the fee if he determines that a good faith effort has been made to comply with the provisions of this paragraph.

"(C) Any interested person may seek judicial review of the action taken by the Secretary under paragraph (B) to establish retrofit incentive fees by filing a petition therefor in the Court of Appeals of the United States for the circuit in which such person resides. Such petition shall be filed within 90 days after the date of such action, or, if such petition is based solely on grounds which arose after such ninetieth day, any time thereafter. Action by the Secretary with respect to which review could have been obtained under this paragraph shall not be subject to judicial review in any civil or criminal proceeding relating to enforcement or collection of the fee established by such action. In any action brought under this paragraph, no court shall grant any stay, injunction or other similar relief before final judgment by such court in such action.

"(D) The Secretary shall prescribe, and may from time to time modify or repeal, such regulations as he deems necessary to carry out this subsection. Such regulations may include, but need not be limited to, requirements respecting—

"(i) submission of technical and cost information relating to compliance with the requirements of subsections (5) (B) (i) and (5) (B) (ii);

"(ii) marking areas designated as ballast areas for easy identification; and

"(iii) reporting of information relating to the designation of areas as ballast areas and the installation of segregated ballast and gas inerting systems.

"(E) Any retrofit incentive fee which is not paid in a timely basis shall be subject to a late payment penalty in an amount determined by the Secretary, but which shall not be more than 20 percent of the amount of such fee unpaid.

"(F) If any person or vessel fails to comply with any provision of this subsection, in addition to denying certification (as provided in paragraph (A) of this subsection), assessing a late payment penalty (as provided in paragraph (E) of this subsection), and assessing a civil penalty (as provided in section 203(a) of the Ports and Waterways Safety Act of 1972), the Secretary may pursue any other appropriate remedy authorized by any other applicable provision of law.

"(8) MANNING AND TRAINING REQUIREMENTS.—The Secretary shall prescribe stand-



ards for the manning of any vessel subject to the provisions of this section and the duties, qualifications, and training of the officers and crew thereof, including, but not limited to, standards relating to—

"(A) instruction in vessel and cargo handling and vessel navigation under normal operating conditions in coastal and confined waters and on the high seas;

"(B) instruction in vessel and cargo handling and vessel navigation in emergency situations and under accident or potential accident conditions;

"(C) license qualifications by specific class and size of vessels;

"(D) measurement of qualifications for licenses by use of simulators developed for the training of marine-oriented skills;

"(E) health and physical fitness criteria for all personnel;

"(F) periodic retraining, and special training for upgrading positions, changing vessel class or size, or assuming new responsibilities;

"(G) determination of licenses, conditions of licensing, and period of licensing by reference to experience, amount of training completed, and regular performance testing; and

"(H) recordation of safety and pollution control violations on licenses.

"(9) MODIFICATIONS.—The Secretary may modify any regulation or standard prescribed under this section to conform to an international treaty, convention, agreement, or an amendment thereto, which is ratified by the United States."

#### SEC. 5. IMPROVED PILOTAGE STANDARDS.

(a) Section 4442 of the Revised Statutes of the United States (46 U.S.C. 214) is amended to read as follows:

"SEC. 4442. (a) The Commandant of the United States Coast Guard shall, in accordance with subsection (b) of this section, establish eligibility requirements for the issuance of a license to pilot any steam vessel.

"(b) No person may be issued a license to pilot any steam vessel unless he—

"(1) is at least 21 years of age;

"(2) is of sound health and has no physical limitations which would hinder or prevent the performance of a pilot's duties;

"(3) agrees to have a thorough physical examination each year while holding a pilot's license;

"(4) demonstrates, to the Commandant's satisfaction, that he possesses the requisite general knowledge and skill to hold a pilot's license;

"(5) maintains adequate knowledge of the waters to be navigated as a pilot;

"(6) has sufficient experience, as determined by the Commandant, to evidence his ability to handle any vessel of the type and size which he may be endorsed to pilot; and

"(7) meets any other requirement which the Commandant considers reasonable and necessary.

"(c) No license to pilot any steam vessel shall be valid for a term longer than 5 years. Upon expiration of any such license, the holder may reapply for an additional term and may be reissued a license if he meets the requirements specified under subsection (b) of this section.

"(d) The Commandant may revoke or suspend any license to pilot any steam vessel, after notice and an opportunity for a hearing, upon satisfactory evidence of—

"(1) negligence;

"(2) unskillfulness;

"(3) failure to adhere to any requirements for a license;

"(4) willful violation of title 52 of the Revised Statutes; or

"(5) other just cause related to the performance of pilot duties, including conduct when acting solely under the authority of a State pilot license.

"(e) The Secretary shall develop and shall seek adoption by the States of uniform, minimum standards relating to the regula-

tion of pilotage at least equal to those required of federally licensed pilots."

(b) Section 304(a) (9) (B) of the Independent Safety Board Act of 1974 (49 U.S.C. 1903 (a) (9) (B)) is hereby amended by replacing the final period with a semicolon, and adding: "or section 4442 of the Revised Statutes of the United States (46 U.S.C. 214)."

#### SEC. 6. INSPECTION AND ENFORCEMENT.

Title II of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.) is amended to read as follows:

##### "TITLE II—INSPECTION AND ENFORCEMENT

###### "SEC. 201. PROHIBITED ACTS.

"It is unlawful—

"(1) for any person—

"(A) to violate any provision of this Act or any regulation issued pursuant to this Act or section 4417a of the Revised Statutes of the United States;

"(B) to refuse to permit any officer authorized by the Secretary to enforce the provisions of this Act or section 4417a of the Revised Statutes of the United States to board any vessel, or enter any shore area, place, or premises, under such person's control for purposes of inspection pursuant to this Act or section 4417a of the Revised Statutes of the United States; or

"(C) to refuse to obey any lawful directive issued pursuant to this Act or section 4417a of the Revised Statutes of the United States; and

"(2) for any vessel subject to the provisions of this Act or section 4417a of the Revised Statutes of the United States—

"(A) to operate in the navigable waters of the United States while not in compliance with any provision of this Act or any regulation issued pursuant to this Act or section 4417a of the Revised States of the United States; or

"(B) to fail to comply with any lawful directive issued pursuant to this Act or section 4417a of the Revised Statutes of the United States.

###### "SEC. 202. INSPECTION.

"(a) NATIONAL PROGRAM.—(1) The Secretary shall establish a national program for inspection of any vessel subject to section 4417a of the Revised Statutes of the United States. Each such vessel shall be inspected or examined at least once each year. Any such vessel over 10 years in age shall undergo a special and detailed inspection of structural strength and hull integrity, as specified by the Secretary.

"(2) An inspection or examination may be conducted by any officer authorized by the Secretary. If any such officer is not reasonably available, the Secretary may contract for the conduct of inspections or examinations in the United States and in foreign countries. Under such contract, an inspector may be authorized to act on behalf of the Secretary; except that no such inspector may issue a certificate of inspection or compliance, but may issue a temporary such certificate.

"(3) The Secretary shall prescribe by regulation reasonable fees for any inspection or examination conducted pursuant to this section based on the cost incurred. The owner of any vessel inspected or examined by the Secretary or his designee shall be liable for such fee. Amounts received as fees under this paragraph shall be credited to the appropriations bearing the cost of such inspection or examination.

"(b) VESSEL DOCUMENTS.—Any vessel subject to the provisions of this section shall have on board such documents as the Secretary deems necessary for inspection or enforcement under this Act, including, but not limited to, documents indicating—

"(1) the kind, grade, and approximate quantities of any cargo on board such vessel;

"(2) the shipper and consignee of such cargo;

"(3) the points of origin and destination of such vessel; and

"(4) the name of an agent in the United States authorized to accept legal process.

"(c) RECIPROCITY.—The Secretary may accept, as evidence of compliance with the provisions of this Act, any certificate or document issued by any foreign nation pursuant to any treaty, convention, or other international agreement to which the United States is a party.

###### "SEC. 203. PENALTIES.

"(a) CIVIL PENALTY.—(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing to have committed an act prohibited by this Act or by section 4417a of the Revised Statutes of the United States shall be liable to the United States for a civil penalty, not to exceed \$25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability any history of prior offenses, ability to pay, and such other matters as justice may require.

"(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subsection.

"(3) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

"(b) CRIMINAL PENALTY.—(1) A person is guilty of an offense if—

"(A) in reckless disregard of the risk that his conduct would cause damage to property, he commits any act prohibited by subparagraphs 202(1) (A) or 202(2) (A); or

"(B) he willfully and knowingly commits any other act prohibited by section 202.

"(2) Any offense described in paragraph (1) is punishable by a fine of not more than \$50,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this Act, or places any such officer in fear of imminent bodily injury, the offense is punishable by a fine of not more than \$100,000, or imprisonment for not more than 10 years, or both.

"(3) As used in this subsection, a person's state of mind is 'reckless' with respect to:

"(A) an existing circumstance if he is aware of a risk that the circumstance exists but disregards the risk; and

"(B) a result of his conduct if he is aware of a risk that the result will occur but disregards the risk.

The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that a reasonable person would exercise in such a situation.

"(c) FEDERAL JURISDICTION.—There is Federal jurisdiction over any offense described in this section.

"(d) IN REM LIABILITY.—Any vessel subject to the provisions of this Act and found to be in violation of this Act shall be liable in rem and may be proceeded against in the United States district court for any district in which such vessel may be found.

"(e) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this Act or regulations issued hereunder, for cause shown."

## SEC. 7. MISCELLANEOUS PROVISIONS.

The Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.) is amended by adding the following new title at the end thereof:

## "TITLE III—MISCELLANEOUS PROVISIONS

## "SEC. 301. REGULATIONS.

"The Secretary is authorized to issue, amend, or repeal regulations to carry out the purposes and provisions of this Act, in accordance with the provisions of section 553 of title 5, United States Code. In preparing such regulations, the Secretary shall provide an opportunity for full consultation and cooperation with all other interested Federal agencies and departments (in particular the Environmental Protection Agency, the Department of Commerce, and the Department of State), and the States, and for consideration of views presented by any members of the general public, including representatives of the maritime community, environmental groups, consumer organizations, and persons concerned with navigation and vessel safety and protection of the marine environment.

## "SEC. 302. REPORT.

"Within 6 months after the end of each fiscal year, the Secretary shall submit to the Congress (1) a report on the administration of this Act during the preceding fiscal year; (2) a summary of inspection and enforcement activities during the preceding fiscal year; and (3) recommendations to the Congress for any additional legislative authority necessary to improve navigation and vessel safety and protection of the marine environment.

## "SEC. 303. INTERNATIONAL AGREEMENTS.

"(a) TRANSMITTAL OF REGULATIONS.—The Secretary and the Secretary of State shall undertake international negotiations, utilizing the appropriate international bodies or forums, to achieve acceptance of regulations promulgated or required under this Act as international standards.

"(b) NEGOTIATIONS.—The Secretary of State may—

"(1) enter into negotiations, in cooperation with the Secretary, with Canada and Mexico, and any other neighboring nation, to establish compatible vessel standards and vessel traffic services in appropriate areas and circumstances;

"(2) enter into negotiations through appropriate international bodies—

"(A) to establish mandatory vessel traffic services in appropriate areas of the high seas, and

"(B) to prohibit any discharge of oil in appropriate areas of the high seas;

"(3) enter into negotiations, in cooperation with the Secretary, with Canada and Mexico, and any other neighboring nation to establish, operate, and maintain international vessel traffic services in appropriate areas; and

"(4) enter into such other negotiations as may be necessary and appropriate to further the purposes, policy, and provisions of this Act.

"(c) OPERATIONS.—The Secretary, pursuant to any agreement negotiated under subsection (b), may—

"(1) require vessels to utilize or to comply with the vessel traffic service, including the carrying or installation of electronic or other devices necessary for the use of the service; and

"(2) waive, by order or regulation, the application of any law or regulation concerning the design, construction, manning, and equipment standards of vessels operating in waters over which the United States exercises jurisdiction if such vessel is not en route to or from a United States port, and if vessels en route to or from ports of the United States are accorded equivalent waivers of laws and regulations of the foreign nation.

## "SEC. 304. AUTHORIZATION OF APPROPRIATIONS

"Beginning October 1, 1977, there are authorized to be appropriated to the Secretary, for the purpose of carrying out the provisions of this Act, such sums as may be necessary."

## SEC. 8. SAVINGS CLAUSE.

Regulations previously issued under statutory provisions repealed, modified, or amended by this Act shall continue in effect as though promulgated under the authority of section 4417a of the Revised Statutes of the United States (46 U.S.C. 391a) or the Ports and Waterways Safety Act of 1972 as amended by this Act, as the case may be, until expressly abrogated, modified, or amended by the Secretary. Any proceeding under section 4417a of the Revised Statutes of the United States or the Ports and Waterways Safety Act of 1972 for a violation which occurred before the effective date of this Act may be initiated or continued to conclusion as though such section or Act had not been amended thereby.

## SEC. 9. STUDY OF MONITORING SYSTEMS.

(a) CONTENT.—The Secretary of Transportation, in consultation with the Administrator, the Secretary of Commerce, and other appropriate agencies or instrumentalities of the Federal Government, shall evaluate various shore-station monitoring systems of vessels, including fishing vessels, within the fishery conservation zone as defined in section 3(8) of the Fishery Conservation and Management Act of 1976. Each system examined shall be capable of reporting vessel position, identification, course, and speed using either a land, sea, or space monitoring technique.

(b) REPORT.—Within 2 years after the date of the enactment of this Act, the Secretary shall report his findings to Congress. This report shall describe the capabilities, limitations, and cost effectiveness of each monitoring system examined from the standpoint of both the Federal Government and any vessel owners who would be affected by the imposition of each approach. The report shall also include the Secretary's recommendation for a single, comprehensive, cost effective shore station monitoring system within the fishery conservation zone.

## SEC. 10. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for the purposes of section 9, not to exceed \$500,000 for the fiscal year ending September 30, 1978, and not to exceed \$500,000 for the fiscal year ending September 30, 1979.

## ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are

printed at the end of the Senate proceedings.)

## MESSAGE FROM THE HOUSE

At 10:03 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 4390) to authorize appropriations for continuation of construction of distribution systems and drains on the San Luis Unit, Central Valley project, California, to mandate the extension and review of the project by the Secretary, and for other purposes.

The message also announced that the Speaker has appointed Mr. Tsongas, Mr. RAHALL, and Mr. RUPPE as additional managers on the part of the House of the conference on the disagreeing votes of the two Houses on the bill (H.R. 2) to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes.

## ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the enrolled bill (H.R. 6752) to amend the Water Resources Planning Act (79 Stat. 244), as amended.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. MATSUNAGA).

## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC-1400. A letter from the Chief Commissioner of the U.S. Court of Claims transmitting, pursuant to law, a report concerning the allowance of attorney expense claims in proceedings conducted pursuant to the Alaska Native Claims Settlement Act in docket No. F-22, Lester W. Miller, Jr., and docket No. F-26, Jackson & Fenton, Barry W. Jackson and Thomas E. Fenton (with an accompanying report); to the Committee on Appropriations.

EC-1401. A letter from the Deputy Assistant Secretary of Defense, Installations and Housing, transmitting, pursuant to law, notice of three construction projects to be undertaken by the Navy and Marine Corps Reserve (with an accompanying report); to the Committee on Armed Services.

EC-1402. A letter from the Secretary of the Interior transmitting a draft of proposed legislation to amend the Wild and Scenic Rivers Act by designating certain rivers for study as potential additions to the National Wild and Scenic Rivers System (with accompanying papers); to the Committee on Energy and Natural Resources.

EC-1403. A letter from the Secretary of the Interior transmitting a draft of proposed legislation to amend the Wild and Scenic Rivers Act by increasing the appropriation authorizations therein, and for other purposes (with accompanying papers); to the Committee on Energy and Natural Resources.

EC-1404. A letter from the Secretary of the Interior transmitting a draft of proposed legislation to establish National Historic Trails as a new category of trails with-



in the National Trails System (with accompanying papers); to the Committee on Energy and Natural Resources.

EC-1405. A letter from the Acting Administrator of the Energy Research and Development Administration transmitting, pursuant to law, proposed legislation authorizing appropriations for the fiscal year 1978 for ERDA (with accompanying papers); to the Committee on Energy and Natural Resources.

EC-1406. A letter from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "If Defense and Civil Agencies Work More Closely Together, More Efficient Search/Rescue and Coastal Law Enforcement Could Follow" (LCD-76-456) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1407. A letter from the Director of the Federal Mediation and Conciliation Service transmitting, pursuant to law, a report on the administration of the Freedom of Information Act for the calendar year 1976 (with an accompanying report); to the Committee on the Judiciary.

EC-1408. A letter from the Director of the Administrative Office of the U.S. Courts transmitting a draft of proposed legislation to make technical and administrative amendments in the Federal Magistrates System (with accompanying papers); to the Committee on the Judiciary.

EC-1409. A letter from the Director of the Administrative Office of the U.S. Courts transmitting a draft of proposed legislation to enlarge and amend the trial jurisdiction of U.S. magistrates in misdemeanor cases (with accompanying papers); to the Committee on the Judiciary.

EC-1410. A letter from the Executive Secretary of the Administrative Conference of the United States transmitting, pursuant to law, a report on the administration of the Freedom of Information Act for the calendar year 1976 (with an accompanying report); to the Committee on the Judiciary.

EC-1411. A letter from the Acting General Counsel of the Council on Wage and Price Stability transmitting, pursuant to law, a report on the administration of the Freedom of Information Act for the calendar year 1976 (with an accompanying report); to the Committee on the Judiciary.

#### PRESENTATION OF A PETITION— POM-210

Mr. BAKER. Mr. President, I have received a petition from my constituent, Mr. William A. Roscoe of Erwin, Tenn., who requests that the Congress repeal the withholding tax law. Mr. Roscoe has asked that I present his petition to the Senate, and I now submit it for appropriate referral.

The ACTING PRESIDENT pro tempore. The petition will be received and referred to the Committee on Finance.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EAGLETON, from the Committee on Governmental Affairs:

S. Res. 180. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1061. Referred to the Committee on the Budget.

By Mr. ABOUREZK, from the Select Committee on Indian Affairs:

With an amendment:

S. 103. A bill to convey to the Ely Indian Colony the beneficial interest in certain Federal land (Rept. No. 95-233).

By Mr. STENNIS, from the Committee on Armed Services:

With an amendment:

S. 1372. A bill to amend titles 10 and 5, United States Code, to disestablish one of the positions of Deputy Secretary of Defense and establish an Under Secretary of Defense for Policy, and for other purposes (Rept. No. 95-234).

By Mr. ROBERT C. BYRD (for Mr. BURDICK):

Conference report on S. 521, to amend the John F. Kennedy Center Act to authorize funds for the repair of leaks (Rept. No. 95-235).

By Mr. ABOUREZK, from the Select Committee on Indian Affairs:

With an amendment:

S. 1377. A bill to extend the time for commencing actions on behalf of an Indian tribe, band, or group (Rept. No. 95-236).

S. 667. A bill to declare certain federally owned land held in trust by the United States for the Te-Moak Bands of Western Shoshone Indians (Rept. No. 95-237).

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Patricia M. Derian, of Mississippi, to be a Coordinator for Human Rights and Humanitarian Affairs.

Robert Harry Nooter, of Missouri, to be Deputy Administrator, Agency for International Development.

Arthur A. Hartman, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to France.

Malcolm Toon, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Union of Soviet Socialist Republics.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

#### POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Arthur A. Hartman.

Post: Paris, France.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, none.

4. Parents names, Richard V. Ford, \$125.00 in 1976 to his local Congressional candidate in Haddonfield, New Jersey.

5. Grandparents names, none.

6. Brothers and spouses names, none.

7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Toon, Malcolm.

Post, Moscow.

Nominated, April 25, 1977.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, Barbara Jane Toon, Alan Malcolm Toon, Nancy Margaret Toon, all unmarried.

4. Parents names, George Toon, Northboro, Mass.

5. Grandparents names, deceased.

6. Brothers and spouses names, George and Lorraine Toon, Jr.—none, Spalding and Anne Toon—contributions to local, regional and national candidate, but not exceeding \$100.

7. Sisters and spouses names, Constance and GE Williams, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ROBERT C. BYRD (for Mr. MAGNUSON):

S. 1617. A bill to establish a program of ocean pollution research and monitoring, and for other purposes; to the Committee on Environment and Public Works for not to exceed 30 days, by unanimous consent.

By Mr. ANDERSON:

S. 1618. A bill for the relief of Sang Yun Yoon; to the Committee on the Judiciary.

By Mr. DOMENICI:

S. 1619. A bill for the relief of Nikolaos Athanassios Stergiou; to the Committee on the Judiciary.

By Mr. HUMPHREY (for himself and Mr. STENNIS):

S. 1620. A bill to authorize and direct the Secretary of Agriculture to carry out forest and rangeland renewable resources research, to provide cooperative forest resources assistance to States and others, and for other purposes; to the Committee on Agriculture, Nutrition, and Research.

By Mr. MELCHER:

S. 1621. A bill for the relief of Josefina Gonzales Batoo; to the Committee on the Judiciary.

By Mr. HATFIELD (for himself and Mr. PACKWOOD) (by request):

S. 1622. A bill establishing the Bull Run Watershed management unit, Mount Hood National Forest, specifying authorized uses therein, authorizing the Secretary of Agriculture and the city of Portland jointly and equally to manage the unit, and for other purposes; to the Committee on Energy and Natural Resources.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROBERT C. BYRD (for Mr. MAGNUSON):

S. 1617. A bill to establish a program of ocean pollution research and monitoring, and for other purposes; to the Committee on Environment and Public Works for not to exceed 30 days, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President on behalf of the distinguished Senator from Washington (Mr. MAGNUSON), I introduce a bill concerning ocean pollution research and monitoring. I ask unanimous consent that the bill be referred to the Committee on Environment and Public Works for not to exceed 30 days and that, upon the expiration of that time

period, the bill be placed on the Senate calendar.

This referral arrangement comports with an agreement struck between the members of the Senate Committees on Commerce, Science, and Transportation and Environment and Public Works. This bill is, in essence, title II of S. 682, which was reported by the Committee on Commerce, Science, and Transportation. S. 682 was passed by the Senate on May 26. Since title II contained matters which fall within the jurisdiction of both committees, as defined in Senate Resolution 4, this procedure provides the Environment and Public Works an opportunity to express its views with regard to this legislation before the Senate acts on it.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ADDITIONAL COSPONSORS

S. 1420

At the request of Mr. McGOVERN, the Senator from New Jersey (Mr. CASE), the Senator from North Dakota (Mr. BURDICK), and the Senator from Hawaii (Mr. MATSUNAGA) were added as cosponsors of S. 1420.

#### SENATE CONCURRENT RESOLUTION 26

At the request of Mr. CRANSTON, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of Senate Concurrent Resolution 26.

#### SENATE RESOLUTION 180—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 1061

(Referred to the Committee on the Budget.)

Mr. EAGLETON, from the Committee on Governmental Affairs, reported the following original resolution:

#### SENATE RESOLUTION 180

*Resolved*, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1061. Such waiver is necessary because the Committee wished to consider this measure, which authorizes new borrowing authority for the District of Columbia government, in conjunction with other measures affecting the operations of the District of Columbia but which did not involve the authorization of new budget authority and therefore were not required to be reported by May 15. Hearings were held relatively late because of the reorganization of the Senate at the beginning of the 95th Congress.

#### SENATE RESOLUTION 181—SUBMISSION OF A RESOLUTION RELATING TO PROFESSIONAL FOOTBALL GAMES

(Referred to the Committee on Commerce, Science, and Transportation.)

Mr. ANDERSON submitted the following resolution:

S. RES. 181

*Resolved*, That it is the sense of the Senate, that—

(1) any attempt by a private promoter to acquire the exclusive rights to National Football League playoff and championship games for the purpose of providing private viewing

in theaters raises the critical issue of the public's right to view events held in publicly owned stadiums;

(2) stadiums in which these games are held are usually built and supported with the assistance of governments and tax dollars, and half-time entertainment is often provided by publicly supported institutions;

(3) two of every five Americans viewed the 1977 Super Bowl game from their homes, and most of them would be unable to attend such games even if enough tickets were available and few could afford the extremely high price of a ticket to view championship games in private theaters; and

(4) since the public has long supported professional football teams, the owners of football teams, as responsible businessmen, should take the public interest into account, and National Football League teams should be responsive to the American public by assuring that playoff and championship games continue to be available to the general public on television.

Mr. ANDERSON. Mr. President, I am deeply concerned by the recent offer of a west coast promoter to buy rights to the National Football League—NFL—playoff and championship games for exclusive closed-circuit theater entertainment. If agreed to by the NFL, this system of theater-only viewing of football games would deny tens of millions of Americans the opportunity to watch televised football games in their homes.

According to a recent report by the New York Times, a Mr. Bill Sargent has offered the NFL \$400 million for exclusive broadcasting rights to the next five seasons' championship games. Under the Sargent proposal, any person interested in watching the yearly NFL playoff games or the Super Bowl would have to purchase a ticket for a closed-circuit showing of a game in a theater. Current home television viewing of these games would end.

The NFL at present receives \$60 million from all of the networks for broadcasting rights to the NFL's entire season. The average business enterprise could not afford to easily reject a proposal several times more lucrative than the present arrangement. The National Football League and its member teams, however, are not average businesses. While football teams are privately owned businesses, the majority of the stadiums in which the teams play are funded, partially or completely, by local taxpayers.

Football teams enjoy overwhelming support from their respective cities. It is the support of these cities, from both financial backers and fans, that increases a team's publicity—and its gate receipts.

On June 15, owners of the 28 teams in the NFL will meet to discuss the Sargent offer. In my judgment it would be a terrible disservice to the American public if the league adopts the proposal and blacks out millions of our citizens who regularly watch these televised sports events.

Sporting events, including professional sports, have become a national pastime. In 1975 while only 81,000 people were able to personally attend the Super Bowl game at Tulane Stadium in New Orleans, the television audience was 71.3 million. The audiences at theaters around the Nation under the Sargent proposal would

certainly be greater than the attendance at Tulane Stadium. However, that number would be many millions less than the 71 million who in 1975 were able to view the game for free from the privacy and comfort of their own living room.

In 1977, the Super Bowl television audience grew to 81.9 million. Even if as many as 1 million persons purchased the \$100 tickets envisioned by Mr. Sargent to watch the game in theaters, over 80 million fans who had previously been able to watch the Super Bowl would be shut out.

Mr. President, the Federal Government normally should not tell privately owned athletic teams who they may or may not sell their broadcasting rights to. In this case, however, much more than money is involved. An acceptance of the Sargent offer would be a slap in the face to the millions of faithful football fans across this Nation. Many of these fans are senior citizens or others who are confined to their homes. Many others are in hospitals or nursing homes or live many miles away from possible theater locations.

Football is looked upon as a great American sport. I would hate to see it become a sport only available to those with \$100 in their pocket and able to go to a closed-circuit theater showing of an NFL playoff or championship game.

Mr. President, I am today introducing Senate Resolution 181, intended to express the sense of the Senate with respect to the public's right to view National Football League championship games. My resolution indicates to the NFL the Senate's opposition to the Sargent scheme. I urge all of my colleagues to support this resolution.

#### AMENDMENTS SUBMITTED FOR PRINTING

##### CLEAN AIR ACT—S. 252

AMENDMENT NO. 354

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to the bill (S. 252) to amend the Clean Air Act, as amended.

AMENDMENT NO. 355

(Ordered to be printed and to lie on the table.)

Mr. HART. Mr. President, today Senator CRANSTON and I are offering an amendment which would modify the automobile emission standards provided for in S. 252, the Clean Air Act Amendments of 1977. I ask unanimous consent that the text of this amendment, along with a brief analysis be printed in the Record following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HART. Mr. President, the automobile emission section in S. 252 has serious implications for the protection of public health. It would again delay the implementation of pollution controls on auto emissions and weaken the ultimate standards to allow more nitrogen oxide pollution from cars.

Supporters of this section, as well as supporters of industry efforts to further



weaken automobile emission standards, argue that stringent control of automobile pollution is not needed to protect public health. They also argue that the technology to reduce automobile pollution is expensive and involves a substantial decrease in fuel economy.

These arguments are not supported by the facts. Stringent control of auto pollution is needed to reduce the incidence of respiratory disease and to reduce the presence of cancer-causing substances in the air. Furthermore, the necessary technology is available. And, this technology can be employed at reasonable cost with no loss of fuel economy.

S. 252 allows for a 1-year extension of emission standards. We support this provision. Without this relief, auto manufacturers might have to shut down in 1978.

We do not support, however, the committee's stand on long-term nitrogen emissions. The committee proposes to relax the 0.4 gram per mile NO<sub>x</sub> standard to 1 gram per mile, allowing 250 percent more pollution from cars. This is neither necessary nor safe.

The amendment we are introducing today strengthens S. 252's ultimate nitrogen oxide standard by requiring a 0.4 gram per mile NO<sub>x</sub> standard in 1983, together with a flexible financial incentive program of noncompliance penalties and rebates.

The administration has endorsed the approach taken in this amendment, but the President's recommendation to Congress provides that the adoption of this approach be left up to administration discretion. Our amendment differs from the administration's recommendation only in that the 0.4 gram per mile standard and penalty-rebate program would be established by congressional mandate and not be left to the discretion of the Administrator of the Environmental Protection Agency.

Mr. President, Mr. Douglas Costle of the Environmental Protection Agency testified before the Senate Committee on Environment and Public Works that current evidence points toward the need for a 0.4 gram per mile NO<sub>x</sub> standard. We agree with Mr. Costle and ask that our colleagues act on that evidence when the Senate takes up S. 252 by rejecting efforts to weaken the committee will and by supporting our amendment.

The amendment is as follows:

On page 94, line 17, insert the following: strike "model year 1980 and thereafter" and insert in lieu thereof "model years 1980, 1981, and 1982".

On page 94, after line 20, insert the following new section and renumber accordingly:

"Sec. 22. (a) Section 202(b) (2) of the Clean Air Act, as amended, is amended by striking 'paragraph (1)' and inserting 'paragraphs (1) and (6)' in lieu thereof.

"(b) Section 202(b) of the Clean Air Act, as amended, is amended by adding the following paragraph:

"(6) (A) In addition to the requirements of paragraph (1) of this subsection, the regulations under subsection (a) applicable to emissions of oxides of nitrogen from light duty vehicles and engines manufactured during or after model year 1983 shall contain standards which provide that such emissions shall not exceed 0.4 gram per vehicle mile.

"(B) (1) Subject to subparagraph (C) of this paragraph, the Administrator may issue

a certificate of conformity with the regulations prescribed under this section, in accordance with section 206 of this Act, for a new motor vehicle or motor vehicle engine which does not attain the standards specified in subparagraph (A) of this paragraph. In any such case, notwithstanding the provisions of section 205, the manufacturer of such motor vehicles or motor vehicle engines shall be subject to a penalty, to be paid for each motor vehicle or motor vehicle engine before such vehicle or engine can be sold, offered for sale, introduced, or delivered for introduction, into commerce, or imported into the United States, as covered by a certificate of conformity issued under this subparagraph and in compliance with section 203(a) of this Act.

"(II) Such penalty shall be established by the Administrator at the time such certificate is issued, and based upon his determination of the difference between the cost of attaining the standards specified for the appropriate model year in subparagraph (A) of this paragraph and the cost of attaining the standards specified for such model year in subparagraph (C) of this paragraph, plus 2 per centum of the retail price of each vehicle subject to the penalty. Such penalty shall be established at a rate per vehicle or engine, and the Administrator may reduce such penalty in an amount proportional to any decreases in the levels to which any such vehicle or engine is certified below those required under subparagraph (C) of this paragraph.

"(III) In the case of any new motor vehicle or motor vehicle engine which is certified at levels below those required under subparagraph (A) of this paragraph or those required under paragraph (1) of this subsection, the Administrator is authorized to provide a rebate or incentive payment to the ultimate purchasers of such vehicles or engines. Such rebate or incentive payment shall be established by the Administrator at a rate proportional to the decreases in levels of emissions below those required under subparagraph (C) of this paragraph and on a basis equivalent to the amount per-unit of emissions of the penalty established under clause (II) of this subparagraph. Such rebate or incentive payment may be paid to the manufacturer to be credited against the purchase price of such vehicle or engine or directly to a purchaser of a vehicle or engine. Payments of such rebates or incentive payments shall be paid out of the proceeds of penalties collected under this subparagraph or out of funds appropriated for such purpose.

"(C) Notwithstanding the provisions of subparagraph (B) of this paragraph, and consistent with the requirements of paragraph (1) of this subsection, the regulations under subsection (a) applicable to emissions of oxides of nitrogen from light duty vehicles and engines manufactured during or after model year 1983 shall contain standards which provide that in no event shall such emissions exceed 1.0 gram per vehicle mile.

"(D) A certificate of conformity issued under section 206 in accordance with the provisions of this paragraph, and the particular levels of emissions to which a new motor vehicle or motor vehicle engine is certified under the authority of this paragraph, shall be deemed to be the certificate, and the regulations on which such vehicle or engine is certified to conform, for all purposes under this title."

"(c) Section 210 of the Clean Air Act, as amended, is amended by adding '(a)' after 'Sec. 210.' and by adding the following subsection:

"(b) The Administrator is authorized to make grants to States and political subdivisions thereof for the purpose of implementing transportation control plans approved or promulgated under section 110 of

this Act. The total amount of such grants in any year shall not exceed the amount collected in penalties under section 202(b) (6) of this Act, less the total amount of any rebates or incentive payments made under such provision. There are authorized to be appropriated such sums as may be necessary to carry out this subsection, not to exceed the amount specified in the preceding sentence."

"(d) Section 209(c) of the Clean Air Act as amended is amended by striking the period and adding a comma and the following: 'or to establish penalties in excess of those established under subsection 202(b) (6)'."

"(e) The Administrator of the Environmental Protection Agency shall conduct a study of the public health implications of attaining an emission standard on oxides of nitrogen from light duty vehicles of 0.4 gram per vehicle mile, and the cost and technological capability of attaining such standard. The Administrator shall submit a report of such study to the Congress, together with recommendations for implementing the noncompliance penalty and rebate program established under section 202(b) (6) of the Clean Air Act and identifying the penalties and rebates to be paid, not later than July 1, 1980."

#### PROVISION OF NO<sub>x</sub> AMENDMENT

The tighter NO<sub>x</sub> standard and penalty-rebate program would begin in 1983, giving auto manufacturers and the Environmental Protection Agency time to prepare. In 1983, the Federal emission standard for nitrogen oxide (NO<sub>x</sub>) would be 4 grams per mile.

Manufacturers would be encouraged but not required to make and sell cars meeting the 4 gram NO<sub>x</sub> standard. Cars that do not meet the standard would be subject to a noncompliance penalty. Cars that do meet it would not be subject to a penalty. Consumers who purchase cars that are cleaner than the HC, CO, or NO<sub>x</sub> standard would be eligible for a rebate.

To ensure the protection of public health, cars would not be allowed to be sold if emissions of NO<sub>x</sub> exceed a maximum pollution level of 1 gram per mile (the ultimate level adopted by the Senate Committee on Environment and Public Works). While cars could pollute up to that level and be subject to the noncompliance penalty, cars producing more than 1 gram per mile would not be allowed.

The penalties and rebates are to be calculated by the EPA and would be based on the cost of complying with the 4 gram standard plus 2 percent of the retail price of the automobile.

The EPA Administrator would be authorized to distribute any net revenue generated by the penalty and rebate program to state and local governments to help them implement transportation control programs.

The Environmental Protection Agency is required to study the health impact, cost and technological feasibility of a 4 gram per mile NO<sub>x</sub> standard. The EPA must report to Congress by 1980 the findings of that study and recommendations for implementing the noncompliance penalty and rebate program.

#### AUTHORIZATION OF APPROPRIATIONS FOR TERRITORIES

##### AMENDMENT NO. 356

(Ordered to be printed and referred to the Committee on Energy and Natural Resources.)

Mr. ABOUREZK. Mr. President, on behalf of the distinguished Senator from Louisiana (Mr. JOHNSTON), I submit for printing an amendment intended to be proposed to H.R. 6550, legislation to authorize certain appropriations for the

territories of the United States, to amend certain acts relating thereto, and for other purposes. The amendment which is being proposed would permit the government of Guam to issue bonds to cover the costs of the purchase of a new hospital to replace the present structure which is inadequate to properly minister to the needs of Guam and which has been severely damaged by the recent Super-typhoon Pamela which devastated the island. The amendment is submitted at the request of Congressman WON PAT in order that the Department of the Interior will have a chance to review its provisions prior to the hearings on H.R. 6550 which the Committee on Energy and Natural Resources will hold shortly after the Memorial Day recess.

#### NOTICES OF HEARINGS

##### FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Mr. LEAHY. Mr. President, I wish to announce that hearings will be held by the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry on June 8 and 9, pertaining to legislation to extend the authorization of the Federal Insecticide, Fungicide, and Rodenticide Act.

The hearings will start at 8 and conclude at 10:30 a.m. on both days with outside witnesses invited to participate. Witnesses are asked to submit their testimony 3 days in advance, and they will be limited to a 10-minute presentation summarizing their position. The full text of their statement will be made a part of the RECORD.

##### FINANCE SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT GENERALLY SETS HEARING ON TAX ASPECTS OF BLACK LUNG LEGISLATION (S. 1538)

Mr. HARRY F. BYRD, JR. Mr. President, the Subcommittee on Taxation and Debt Management of the Finance Committee will hold a hearing on the tax aspects of S. 1538, a bill modifying the black lung benefits program and its financing.

The hearing will be held at 9 a.m. on Friday, June 17, 1977, in room 2221, Dirksen Senate Office Building.

The present black lung benefits program provides benefits for miners disabled by pneumoconiosis and for their dependents and survivors. This program is administered by the Department of Labor and the Department of Health, Education, and Welfare. Under current law, black lung benefits are financed partly by charges against coal mine operators—to the extent that individual liability can be established—and partly by the appropriations from Federal general revenues where no individual operator is determined to be liable or where the liable operator is no longer in business.

The bill, S. 1538, would make a number of changes in eligibility standards under the black lung benefits program and would also significantly modify the method for financing the program. The bill establishes a Federal trust fund for this program and provides for financing benefits which cannot be charged to in-

dividual operators by levying an excise tax on the mining of coal. The proceeds of the coal tax would be held in a new trust fund established by the bill.

Since this funding mechanism in the bill as reported by the Senate Committee on Human Resources is an exercise of the Federal taxing power, S. 1538 has been referred to the Committee on Finance for consideration of these tax aspects of the legislation.

Witnesses desiring to testify during this hearing must submit their requests to Michael Stern, staff director, Committee on Finance, 2227 Dirksen Senate Office Building, Washington, D.C. 20510, not later than 12 noon, Friday, June 10, 1977. Witnesses will be notified as soon as possible after this cutoff date as to whether they are scheduled to appear. If for some reason the witness is unable to appear as scheduled, he may file a written statement for the record of the hearing in lieu of a personal appearance.

All witnesses who have a common position or with the same general interest are urged to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the committee. This procedure will enable the committee to receive a wider expression of views than it might otherwise obtain. All witnesses should exert a maximum effort, taking into account the limited advance notice, to consolidate and coordinate their statements.

#### ADDITIONAL STATEMENTS

##### NEEDED MAIL SERVICE

Mr. McGOVERN. Mr. President, we appear to be in a situation where the U.S. Postal Service, without any input from the Congress, is moving to implement certain portions of the report of the Commission on Postal Service that will reduce mail service, eliminate much after hours processing of mail, and ultimately lead to a 16-cent first-class postage.

This arbitrary procedure on the part of the present managers underscores, again, the need for Congress to take direct and immediate action to bring postal operations back under some kind of public control.

The case for congressional oversight on postal matters together with an adequate public investment to insure that vital mail service continues was made recently in an editorial in the Sioux Falls Argus-Leader, the largest daily paper in South Dakota. I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Sioux Falls (S. Dak.) Argus-Leader, May 19, 1977]

##### CONGRESS SHOULD ACT TO CHANGE POSTAL SERVICE'S STATUS

The 95th Congress has one crucial question on its hands affecting all Americans. That is the problem of the U.S. Postal Service and what to do about it.

How Congress reacts to that problem may determine whether the promised renaissance of the national legislature in holding a tighter rein on the presidency and bureauc-

racy is meaningful or just some more hot air.

Postmaster General Benjamin Ballar says the Postal Service will start work within 60 days to boost first-class postage rates as much as three cents while cutting deliveries to five days a week. He promised corresponding increases for other classes of mail. He said the higher rates would probably take effect in the second quarter of 1978 and the delivery cuts in the first months of the year. Ballar has also said the agency will resume closing post offices in areas where it feels service will not be hurt.

Thus, citizens of this country have been promised more deterioration in postal service, and higher rates. Only the government can handle the business of moving the mails for all Americans. Ballar's program would be a disaster for rural America. It would also be harmful to urban areas.

U.S. Rep. Charles Wilson, D-Calif., and U.S. Rep. James M. Hanley, D-N.Y., who are chairmen of two postal subcommittees, are drafting legislation to make major changes in the law that created the independent postal service in 1970. Wilson wants to abolish the Postal Board of Governors and make the postmaster general a presidential appointee again. He wants to give Congress power over rate increases. However, neither he nor Hanley has proposed new subsidies. Presumably, they're waiting for an indication from the White House. A new subsidy could cause problems for President Jimmy Carter's promise for a balanced budget by 1981.

It is odd that Congress can appropriate money for aid to foreign countries and other projects, but can't vote money to provide this country with an efficient, on-time postal service. A five-day schedule is not sufficient for most Americans, and will only result in further clogging of the mails on weekends.

The preceding Congress ducked the postal question by referring it to a study panel. The time for further discussion has long since passed. The members of this Congress will have to stand up on the postal service question. Their constituents will count how they stand.

Congress should do two things: (1) abolish the postal service as an independent agency and return it to cabinet status, with appointment of the postmaster general by the President and (2) subsidize the mails to the extent necessary to ensure an efficient, on-time service.

##### NATIONAL SMALL BUSINESS WEEK; BILLY CARTER SPEAKS TO THE REAL ISSUES

Mr. HATCH. Mr. President, as a newly elected representative of the people, I find the thinking in Washington very different from the way people think back home. In Washington, we see all sorts of problems that require the Government to do more. Washington sees the solution in bigger government.

Back home the people see all sorts of problems that require the Government to do less. They see the solution in getting Government out of their pocketbooks and off their backs. I doubt that very many of us were sent to Washington by constituents who want us to spend more, inflate more, tax more, and regulate more—certainly not a majority of us were sent here to spend, inflate, tax, and regulate. Nevertheless, that is Washington's way. The process gets pasted over with intellectualisms, but Washington likes problems that require Washington solutions.

The contributions of small business to



American society are of such a nature that it is difficult to imagine our society without these contributions. What is clear is that if Washington solutions continue, we would not have any small business. The famous brother of an American President has expressed himself in no uncertain terms about Washington solutions. I want to pass on to my colleagues the perspective from back home.

#### Billy Carter on the minimum wage:

Every time the minimum wages goes up, we have to lay off a few more people. I'd rather give these people jobs, but I have to look at costs. A lot of people simply aren't worth the minimum wage.

#### Billy Carter on welfare:

In Sumter County we have as many people administering welfare and related programs as there are in the rest of the county government. They raise hell if people getting welfare go to work. The trouble with the welfare program is that the more people they have on the payroll the more they hire, and the more they hire the more the director gets.

#### Billy Carter on unemployment abuse:

When unemployment was at the highest, I needed a man to run a peanut drying machine. It would have paid \$250 to \$300 a week. I couldn't hire a single person. They would rather draw \$90 in unemployment benefits every week and pick up food stamps at the same time.

#### Billy Carter on Federal regulation:

The major complaint I have is that 90 per cent of the folks they send here to inspect us don't know anything. All of the employees working around the gin had to wear earplugs. So I had to do the ginning. You see, as the owner, there was no way I could be made to wear earplugs. There are about 80 electric motors on a cotton gin, and the only way you can tell when there is a problem is to hear it. You can't convince OSHA about things like that.

#### Billy Carter on filling out forms:

Some of these quarterly, semi-annual and annual reports are a three and four-day job. Some are almost impossible to fill out. When they do these agricultural censuses, you can almost say the hell with everything else for almost a month because it's going to tie you up that long.

Mr. President, that is the way Washington solutions look to the people who have to live with them.

If we consider the tax burden that small business bears in addition to the high costs of all of these Washington solutions, it is hard to imagine anything more that the Federal Government could do to destroy small businesses. Judging from all of this, I would conclude that the Government is opposed to small business. After all, the fewer the number of firms and the more concentrated they are, the easier it is for Washington to run them. It is too hard to keep up with large numbers of small firms spread all over the country. It would be easier for Washington to plan the economy if there were not any small businesses.

I believe that something must be done about the cost burden and the tax burden that Washington imposes on small business. I do not believe anything could do more good for America than to greatly reduce the tax rates on small business and, in addition, to treat the cost of com-

plying with Federal regulations as a tax credit.

The Government is not content to raise the costs of small businesses and to take away half of their profits. It also makes it difficult for them to get started and to grow by making it difficult for them to attract risk capital. I believe that the \$500,000 regulation A exemption should be expanded to \$3 million and that we must stop the multiplicity of the business-destroying 10b-5 security "fraud" suits in small business matters by making them more difficult to bring except in cases of actual common law fraud. Let the Government get the welfare fraud in its own house in order before it throws any more stones at private businessmen.

Mr. President, I ask unanimous consent to have the Washington Post's article about Billy Carter's thoughts as a businessman printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 22, 1977]

#### THOUGHTS OF CHAIRMAN BILLY

*William Alton Carter III, of Plains, Ga., is known nationally as a beer-drinking gas station owner and archetypical Good Ol' Boy. But the President's brother is also the operator of the Carter family's peanut warehouse business, and it is in the role of a Concerned Businessman that he recently appeared in the pages of the May issue of the U.S. Chamber of Commerce magazine, Nation's Business. Here are some samples of the views of Billy Carter, businessman:*

#### ON THE MINIMUM WAGE:

"Every time the minimum wage goes up, we have to lay off a few more people. I'd rather give these people jobs, but I have to look at costs.

"Actually, I would much prefer some kind of system where we could hire people at a lower figure and gradually raise them to the minimum wage. That way, we would have a chance to see if they can do the work, or even show up for work, before giving them a regular job.

"I'm really on the spot. Every time the minimum wage goes up, I have to raise my other employees. It's not fair to have your better employees making the same as those who don't put as much into their work.

"You know, I shouldn't be talking like this. Every time I say anything about the minimum wage, I get more hell. Especially from the unions. But I'm going to say it again. A lot of people simply aren't worth the minimum wage."

#### ON WELFARE:

"We have a lot of trouble in this area with welfare. In Sumter County we have as many people administering welfare and related programs as there are in the rest of the county government. Five years ago we had eight people handling welfare; now there are close to 60. They raise hell if people getting welfare go to work.

"Here's a good example of what I mean. I had a man working for me—a big, strapping fellow—who had some kind of chronic leg ulcer. He went to a new doctor who told him he had to stay off the leg for a couple of weeks. They put him on welfare. At that time the work was seasonal, and he was making as much on welfare as by working. That was 15 years ago.

"I see him every once in a while walking down the street. On Saturday afternoon he's drunk and raising hell. I finally complained to the welfare people, and you know what they told me? 'Well, we check him every Thursday afternoon, and he's always there

sitting in a chair with his foot propped up.' I got mad. I said, 'Damn it, if I was drawing what you're paying him, I know damned well that one afternoon a week I'd sit there and watch television with my foot propped up when you come in.'

"The trouble with the welfare program is that the more people they have on the payroll the more they hire, and the more they hire the more the director gets."

#### ON UNEMPLOYMENT ABUSE:

"Our unemployment compensation system is so much abused. I guess we brought 50 people here from the state employment office this year when the rush season was on. I know of only one man who took a job and stayed on for a few weeks. The only thing most of them want to do is come out here and get us to sign the slip showing they applied for a job. Then they go back home and continue drawing benefits. We operate 60 and 70 hours a week in the rush season, so we had the jobs if people really wanted to work.

"When unemployment was at the highest, I needed a man to run a peanut drying machine. It would have paid \$250 to \$300 a week. I couldn't hire a single person. They would rather draw \$90 in unemployment benefits every week and pick up food stamps at the same time."

#### ON FEDERAL REGULATION:

"I'm not going to deny that some of those OSHA [Occupational Safety and Health Administration] and EPA [Environmental Protection Agency] regulations are good. They are. But I'm talking about all the ridiculous regulations we have to put up with.

"The major complaint I have is that 90 per cent of the folks they send here to inspect us don't know anything. We have some kids right out of college who don't know a damned thing. I could tell them this [pointing to his bookcase] is a peanut sheller, and they wouldn't know the difference. The trouble is that they don't educate these inspectors before they send them out.

"All of the employees working around the gin had to wear earplugs [as a result of one OSHA directive involving a cotton gin in the Carter warehouse]. So I had to do the ginning. You see, as the owner, there was no way I could be made to wear earplugs. There are about 80 electric motors on a cotton gin, and the only way you can tell when there is a problem is to hear it. You can't convince OSHA about things like that.

"I had to put in an expensive wall across the whole new shelling plant to cut down the noise. That wall is completely worthless for anything else.

"Now they're after me to put a couch in the women's washroom in case someone gets sick. Hell, I don't have room to put in any couches. So I told 'em to go to hell, and I haven't done it yet."

#### ON FILLING OUT FORMS:

"Some of these quarterly, semi-annual and annual reports are a three and four-day job. Some are almost impossible to fill out. I had some forms that had to be filled out by the 15th of the month, so for five days before the 15th we didn't do a thing but government paperwork.

"Take these crop reports and the agricultural census. A lot of them have to do with my finances. I don't like that information going through 40 government hands. Me, I'm kind of peculiar. I have six or seven bank accounts because I don't like everybody to know how much money I have in the bank.

"When they do these agricultural censuses, you can almost say the hell with everything else for almost a month because it's going to tie you up that long. I have to help the farmers who deal with us. The only place they can get the information to fill out their own census forms is right here. So we have to go through all our back records to satisfy

the government. And you can't get out of it because it's required by law."

# YOUTH UNEMPLOYMENT: A GROWING WORLDWIDE PROBLEM

Mr. HUMPHREY. Mr. President, when the President signs the Youth Employment and Training Act which we passed yesterday, we should recognize that the actions we have taken will not only have a major impact on our own Nation's youth, but will also provide an excellent example to other industrial nations around the world on ways to alleviate their own growing problem of high youth unemployment.

As I pointed out in a speech on the Senate floor on February 11, high youth unemployment is no longer just an American problem but one which plagues many other countries. In Canada, Australia, Japan, France, Germany, Great Britain, and Italy—the few countries for which we have reliable data—the youth unemployment rate has risen dramatically during the 1970's.

This problem has only recently received the concern and public attention it needs. Youth unemployment was a major topic of discussion at the London economic summit conference. This aspect of the London conference was reported by Paul Lewis in the May 8 New York Times, and by David Pauly in the May 23 Newsweek. In addition, the International Labor Organization featured an article on "Why It's Hard to Cut Youth Unemployment," in their first 1977 issue of the ILO Information magazine. These are excellent articles that point out the need for creating youth jobs as well as the need for the United States to cooperate with other industrial countries to develop effective and long-lasting solutions to the problem of high youth unemployment.

To begin this process of cooperation, I and 18 of my colleagues in the Senate sent President Carter a letter on February 28 urging him to call a Conference on Youth Unemployment among the member nations of the Organization for Economic Cooperation and Development, OECD. This suggestion received a very favorable response from the administration, with the State and Labor Departments working together now to develop a formal proposal for an OECD Conference on Youth Unemployment. I will report further on this later.

But, for now, I want to point out to my colleagues that the Youth Employment and Training Act will be a very important first step in the development of an effective youth employment and training program in this country. It will help hundreds of thousands of unemployed disadvantaged youths in our own country, and it will show the world's leaders that intelligent and effective steps can be taken in their own countries to relieve their own problems of youth unemployment.

Mr. President, I ask unanimous consent that the articles from the New York Times, Newsweek, and ILO Information be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

CXXIII—1075—Part 14

[From Newsweek magazine, May 23, 1977]

## EUROPE: IDLE YOUTH

In Paris, 21-year-old Catherine Jousse finally gave up hope that her college degree would help her launch a career. Lowering her sights, she borrowed money from her grandmother and learned to be a cosmetician. The result: she still can't find a job. In Messina, Sicily, the city council has hired two law-school graduates—as refuse collectors. And in Rome, a former sociology student hops on a bus during rush hour every morning—but not for the usual reason. "I've got no work to go to, but it makes me feel better just to pretend I do," he says.

So it goes throughout Western Europe. The youth-unemployment disease that has plagued the United States since the early 1960s has crossed the Atlantic. More than 2 million people under 25 may be out of work in the nine Common Market countries, and at the economic summit in London this month, youth unemployment emerged as one of the West's thorniest issues. The danger is that disillusioned and sidelined youths may take a sharp political turn to the left. "We just can't afford to have young people out on the street at the mercy of radical ratchets," says West German Chancellor Helmut Schmidt.

## WISHFUL THINKING

At the summit, leaders of the seven industrialized countries pledged in their joint communique to "promote the training of young people in order to build a skilled and flexible labor force so that they can be ready to take advantage of the upturn in economic activity as it develops." But unfortunately for the politicians, the problem is a structural one that won't disappear even with a sharp economic recovery. Postwar babies are coming into Western European job markets in far greater numbers than can be absorbed. Common Market officials estimate that their member nations would have to produce new jobs at an annual rate of 7 to 8 per cent in the next three years in order to absorb the new workers expected in that period—but this seems improbable, given the relatively modest growth rates anticipated in these countries.

Some young people can't find work because they lack training, but just as many find themselves overqualified for the jobs that are available. Italy and Britain in particular are turning out university graduates in fields already saturated with job applicants. Many of them end up as shop assistants or waiters, but others refuse to take work they consider beneath them. One foundry in Modena, for instance, has to employ 192 Turks because no Italians will do the work.

Young Europeans who fail to find work upon leaving school often develop attitudes and life-styles that make them unfit for work when jobs do develop. And, as in the U.S., those who are passed over tend to stay that way; employers generally look for recruits among those leaving school—not those already on the breadline. Worried governments are revving up their subsidy machines to encourage the hiring and training of youth. France plans to spend \$660 million this year, and President Valéry Giscard d'Estaing has ordered his ministers to the provinces for the summer—not for a vacation, but to see to it that the job-creating measures are implemented. But the training schemes work only so long as the demand for labor increases—and like most of Europe, France's recovery remains sluggish. The result: French employers frequently release trainees once the subsidies run out.

[From the New York Times]

## JOBLESSNESS AMONG YOUNG KEY TOPIC IN LONDON TALKS (By Paul Lewis)

LONDON, May 7.—The leaders of the major industrial democracies expressed growing

concern today at their economic conference about the continuing high level of unemployment, especially among young people. About 40 percent of the 15 million unemployed in the 24 Western member countries of the Organisation of Economic Cooperation and Development are under 25 years old.

According to conference sources, this pre-occupation is likely to emerge as a major theme and will be stressed in a communique expected tomorrow.

The fact that so many young people are finding jobs hard to get means that the leaders assembled here may soon find themselves facing an alienated generation lacking a secure position in their societies.

As a result, the issue is being taken equally seriously by countries like West Germany, which still want the West to give priority to the fighting of inflation, and by those like Britain, which hope to see faster economic growth.

"The problem of unemployment, and especially of unemployment among the young, is a basic challenge to our whole economic system," President Valéry Giscard d'Estaing of France told the meeting this morning. Spokesmen said the sentiment was echoed around the table.

Officials say the conference is likely to produce agreement on a common strategy of simultaneously fighting both unemployment and inflation.

The seeds of this compromise were sown at a finance ministers' meeting last weekend at Versailles in France.

There, the weaker countries like Britain, Italy and France agreed to stop urging West Germany, the United States and Japan to expand their economies. In return, the stronger countries promised that they would not let their concern over inflation plunge the world into another recession with soaring unemployment. Some experts say the stronger countries will have to adopt more expansionary policies if they are to keep this promise.

## GROWTH RATES LIKELY TO BE SHORT

The British Chancellor of the Exchequer, Denis Healey, said today at a news conference that West Germany was committed to a 5 percent growth rate this year, while the United States would aim for 5.8 to 6 percent and Japan for 6.7 percent.

But, according to unpublished forecasts by the O.E.C.D., growth rates will fall short without expansionary measures, and will be 4 percent in West Germany, 4.5 percent in the United States and 5 percent in Japan. This would add a million to the 15 million already unemployed.

It is not hard to see why Western leaders are concerned about unemployment among young people. Figures recently published by the International Labor Organization put the total number of unemployed in the O.E.C.D. countries under 25 years of age at 7 million.

Although this age group represents 22 percent of the total work force, it makes up 40 percent of the unemployed. In the nine Common Market countries, the young people represent one in three of the 5 million people without jobs.

## IN U.S. 17.8% OF TEEN-AGERS JOBLESS

In the United States, where unemployment has slipped to its lowest level in 29 months at 7 percent of the labor force, 17.8 percent of teen-agers looking for work are without employment.

Experts say that the high rate of unemployment among young people will not be easy to correct. An O.E.C.D. study published last week speaks of a "longer-term imbalance between the growing demand for employment and the absorptive capacity of the economy."

Moreover, last summer the organization published a 10-year projection for the Western industrial economies suggesting that in



the decade between 1975 and 1985 they would experience higher rates of unemployment and inflation and lower rates of economic growth than they have known since the end of World War II.

#### WHY IT IS HARD TO CUT YOUTH UNEMPLOYMENT

The army of unemployed youth in the industrialized West has reached an all-time peak—7 million in the OECD group alone—but even if the recession miraculously disappeared overnight, there would still be large numbers of youths without jobs walking the streets with little hope that something would turn up.

Main reasons: the failure of educational systems to prepare the young adequately for the world of work, lack of training opportunities, reluctance of many employers to give youngsters a break, and society's indifference to the situation.

The seeds of the problem were sown well before the oil crisis of 1973. A textbook example is the United Kingdom where there were some 28,000 unemployed teenagers in 1968, 58,000 in 1971, 175,000 in 1975 and more than 200,000 in 1976.

A similar pattern can be traced in other countries, including Canada, France, Italy, and the United States which all had high youth unemployment levels in the 1960s.

The recession has accelerated the trend so dramatically that now about 40 per cent of the unemployment total in the world's 23 richest countries are young people under 25 years, although they constitute only 22 per cent of the total population.

In the nine Common Market countries those under the age of 25 looking for jobs have more than doubled since 1973 and now account for one out of every three of the 5 million unemployed.

Teenagers are hardest hit, especially those looking for their first job. Even in countries with relatively low levels of joblessness, such as Sweden and Norway, teenage unemployment is twice or thrice higher than that of other workers.

Statistics, however, underestimate the extent of the problem, ILO unemployment watchers point out. Youngsters often get tired of looking for a job and once they stop actively seeking work, they are not counted as jobless.

Moreover, as the number of people holding jobs starts slowly climbing up again, youth employment is marking time or eases very slowly.

Recent reports of the U.S. Bureau of Labor Statistics show, for instance, that the jobless rate for all American workers has dropped 15.7 per cent from October 1973 to April 1976, but the teenage unemployment rate has edged down only 5.4 per cent during the same period.

#### DEVALUATION

Why are young people so severely affected? And why will it be so difficult to cut youth unemployment even when prosperity returns?

One reason is that schools are becoming increasingly selective and competitive—a process which begins in primary school. This constant siphoning off of gifted and motivated youngsters leads to a devaluation of all others. They go to general and vocational schools where educational levels are also devaluing. When the youngsters leave them, they are confronted with a strange world of labor which requires skills, knowledge and behavior they have not acquired. Many of them will never have a second chance because the number of training places has decreased practically everywhere. Some enterprises are not ready or not able to meet higher training costs, and many small firms offering mostly on-the-job training have been phased out.

An estimated one-third of all unemployed teenagers in the European Community have finished compulsory schooling but have not received any additional vocational education. Also, increasing numbers of youngsters do not meet the standards required for training in modern industry.

Unprepared for the work game, many youngsters feel they face a stacked deck. This leads to apathy, stress, drifting and other social problems.

#### ROADBLOCK

Still another roadblock is the reluctance of many employers to hire young people because it costs more to break them in than older workers and because their output is lower, at least at the beginning of employment.

Paradoxically, young workers are disadvantaged by certain laws, originally adopted to protect them, that latter-day technological advances have rendered obsolete. Special rules are necessary for the safety and health of young workers; however, regulations which are relics of a more dangerous past should not block equal opportunity for the young.

#### REMEDIES

What is being done to cut youth unemployment?

Most industrialized countries have recently taken steps to improve education and training but their impact will be too late for 7 million jobless young people who virtually make up a 24th nation of the OECD.

As a stopgap measure, some governments have proposed that youngsters should stay longer in school to delay their entry into the labor market, which would mean an additional public as well as family burden.

In other places, school-leavers and drop-outs are enrolled in new and more differentiated training facilities, but in some cases it is training for training's sake.

#### NO SOLUTION

Moreover, training extension does not help much, ILO experts warn, if it is not accompanied by vigorous job creation programs, including public works, or bolstered by subsidies to enterprises to encourage employment of young workers.

In the United Kingdom something like 5,000 youngsters have been taken on by firms to gain experience of work without actually being employed or taking someone else's job. For this the firm gets some willing hands, and is reimbursed about \$29 a week it pays to the trainee by the government.

Under a French plan a bonus of \$700 is given to any artisan for accepting and training a young person as an apprentice.

The Dutch are trying an unconventional approach—job sharing—whereby two teenagers do the same job and each receives half the wage and half of the unemployment benefits.

All these measures can bring some relief. But no one has yet figured out a quick, permanent solution—nor has the tide yet turned in favor of the young unemployed.

#### MEMORIAL DAY

Mr. THURMOND. Mr. President, as all of my colleagues in the Senate know, Monday is Memorial Day. On this occasion our Nation pays solemn tribute to the casualties of all the wars in which we have participated.

The first National Memorial Day is generally agreed to have been held on May 30, 1868. The date of May 30 was selected because it was considered to have been the peak of the flower season. The Nation's Capital was a focal point of the 1868 observance, particularly at Arlington Cemetery at the site of the

Tomb of the Unknown who fell in the Civil War.

The origin of Memorial Day, however, is generally credited to the South where more than one State claims to have held the first official observance of honoring the Civil War dead. In South Carolina a few weeks after the Civil War, it is reported that an individual named James Redpath was saddened by the unkempt condition of a Union graveyard near Charleston. Redpath with the aid of volunteers enclosed the cemetery with a fence and secured permission for a dedication holiday. On the morning of May 1, 1865, a number of citizens, led by children, marched around the graves and covered them with flowers. They then adjourned to neighboring groves for picnics. This event has been reliably acknowledged as America's first Memorial Day. Confederate Memorial Day is now observed in South Carolina on May 10, the anniversary of the death of Gen. Stonewall Jackson. The separate observance of Memorial Day is also a custom in other Southern States.

The tribute which our country will pay on Monday to those who have died on the field of battle is by no means confined to the Civil War dead, however. In the wars which this country has been engaged since 1865, human sacrifice has been costly. The Spanish-American War saw 385 battle deaths; World War I, 53,402; World War II, 291,557; the Korean War, 33,629; and the Vietnam conflict, 45,941.

On December 7, 1976, there appeared in the Charleston Evening Post a short editorial memorializing the American soldiers who had died at Pearl Harbor 35 years previously. Thomas Wolfe at his best could not have fashioned a more poignant reminder of the obligation that this country owes to those who gave their lives, not only at Pearl Harbor or in World War II, but in all the wars.

Mr. President, I ask unanimous consent that this memorial be printed in the RECORD.

There being no objection, the memorial was ordered to be printed in the RECORD, as follows:

[From the Charleston (S.C.) Evening Post, Dec. 7, 1976]

#### PEARL HARBOR: R.I.P.

They never tasted the victory. Nor for them the exultance, the hysteria of V-J Day—the clashing arms of beautiful women, the dancing in the streets, the drinking, the shouting, the sheer joy of it all.

They never tasted the victory. Nor for them they never joined the Fifty-two-twenty club. They never moved into the Levittowns, never bought the big, new, gas-guzzling powerful cars of post-war America. They never sent their sons and daughters to college. They never went themselves. They never lived the best years of their lives.

The Cold War passed them by. They never watched, breathless, a Cape Canaveral countdown. Kentucky Fried Chicken, freeways, Lee Harvey Oswald meant nothing to them. Vietnam? They never heard of it.

Their bones are covered now by soft, sea-slime, and they sleep the long sleep in an iron, watery tomb. They repose in the twisted puzzled, frantic, prayerful and resigned attitudes the Japanese bombs found them in on a Sunday morning 35 years ago today.

In memoriam: Pearl Harbor, Dec. 7, 1941.

# AWARD OF ATTORNEYS FEES IN TAX CASES

Mr. CRANSTON. Mr. President, I am very pleased to cosponsor with my distinguished colleague from Alabama (Mr. ALLEN) S. 1610, legislation to authorize the discretionary award of attorneys fees to taxpayers who prevail against the IRS in tax litigation.

As part of the compromise on the civil rights attorneys fees bill last year, the Senate accepted an amendment offered by Senator ALLEN to provide for the award of attorneys fees when the taxpayer prevails against IRS.

On May 16, the U.S. Tax Court in Key Buick against Commissioner of Internal Revenue held that the Tax Court was not authorized by the provisions of Public Law 94-559 to award attorney fees to the prevailing taxpayer.

The court read the language of the statute to permit the award of attorneys fees only when IRS sues the taxpayer, not when the taxpayer challenges IRS. In addition, the Tax Court ruled that the statute applies only to the Federal district and appellate courts, not to the Tax Court which is an administrative law court.

The decision appears to me to be correct reading of the words of the act. Nevertheless, it was my understanding and that of Senator ALLEN, and I am confident, of other Senators, that the intent of the amendment, no matter how inartfully drafted in the heat of debate, was to permit taxpayers to be awarded attorneys fees when they prevailed against IRS in all courts.

Therefore, I am pleased to join with Senator ALLEN in seeking restoration of our original intent. Our purpose is to make sure that IRS is not tougher on low- and middle-income taxpayers just because they cannot afford to contest a tax assessment in the courts.

We want to make IRS think twice about pushing a tax assessment beyond the point of fairness. And taxpayers who think they are in the right should not be deterred from fighting IRS because of high legal fees.

I wish to emphasize that the award of attorney fees will be discretionary with the court. Among the factors the court will consider under our proposal will be the resources of the litigant and what is at stake. The individual taxpayer, of course, will have to weigh the risks of losing and consequently facing the payment of significant legal fees. The litigious taxpayer would not get a free ride.

Our courts should be a source of individual tax equity. Easing the costs of litigating tax questions can help reduce pressure on Congress to respond legislatively to individual tax problems whose solutions ought to be attempted first in the courts. Anything done in this direction will be to the good.

Mr. President, Paul Ziffren of Los Angeles, a tax attorney and former Democratic National Committeeman, has written an article on this subject in the Los Angeles Times of May 11. I ask unanimous consent that his article be printed in the Record.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, May 11, 1977]

## TILTING AT THE IRS WINDMILL? TAKE HEART (By Paul Ziffren)

Most Americans have already completed their annual joust with the federal tax man, but for many others the battle has just begun. Their returns will be questioned by the Internal Revenue Service, and so they will have to justify each debt deduction.

Everybody makes simple mistakes in addition. Beyond that, many of us claim small deductions to which, as it turns out, we have no right. This year, with the revision of Form 1040, such minor taxpayer errors have increased greatly.

But what happens if your version of your tax liability differs significantly from that figured by the IRS? Last year, many taxpayers who were found in arrears made their peace with the government by paying up—whether or not they felt they owed the money. They did so in the knowledge that the cost of obtaining an attorney to defend their position was bound to consume part, if not all, of the money they stood to gain.

From now on, however, disgruntled taxpayers may be more willing to press such cases in court because judges have the right to award a victorious taxpayer his "reasonable" attorney's fees along with the judgment ("reasonable" fees are set by the judge, and may well be less than what your attorney actually charges). This much-needed revision of the tax laws was passed last year as a clause of the Civil Rights Attorney's Fees Award Act, a measure allowing federal courts to award legal fees to citizens who successfully bring suit under various civil-rights laws.

The tax clause has yet to be tested in the courts, but if it proves to say what it seems to, its application will dramatically extend taxpayers' rights.

The apparent meaning of this clause is that a citizen who believes that he is right about a tax question at least gains the prospect of winning a full and equitable award—including reimbursement of attorney's fees—if he proves his point.

This contrasts with the previous practice under which a taxpayer is practically forced to plunk down money he cannot hope to see returned—either to the IRS in a settlement or to a private attorney if he seeks to contest the findings—at the first flick of the tax auditor's pen.

I do not mean to malign the IRS, for few of its agents callously and consciously set out to put the squeeze on taxpayers. In fact, most IRS employees are conscientious and sensitive to the rights of taxpaying Americans. But the new law will exert a balancing effect on the practical workings of the IRS system as a bureaucracy.

For example, it has been easier for an IRS auditor to set up a "deficiency"—a formal recommendation that more tax is owed—than it has been to justify not doing so (especially since his bosses already knew the return had been questioned for one reason or another).

Indeed, though IRS officials have vigorously denied it, most tax lawyers are convinced that an unwritten quota system forced auditors and agents to be harder on taxpayers than was necessary or appropriate.

Under the new law, an overzealous IRS auditor—and, perhaps more important, his superiors—will soon realize that recommendations of a "unjustified deficiency" may publicly reveal IRS mistakes and also force the government to make penalty payments.

Some tax experts claim that, on testing in the courts, the clause may prove less significant than had been thought because it would apply only to cases where the govern-

ment has been found guilty of harassment or bad faith. But a simple reading of the statute shows no such limitation. (These observers may be confusing an earlier proposal that the Senate rejected with the version that became law.)

Other critics contend the law applies only to cases where the IRS, as plaintiff, sues the taxpayer—not the other way around. But the author of this section of the law, Sen. James B. Allen (D-Ala.), disagrees.

"I find that suggestion ludicrous," Allen said not long ago. "There is only one kind of tax dispute regardless of who is a named plaintiff or a named defendant, or who is an appellant or an appellee. A tax dispute is inherently a taxpayer asserting that he is not liable for a tax and the government insisting that he is. The reasons of public policy which would make proper a discretionary award of fees are thus present or not present in a given tax controversy regardless of the formal position of the parties."

If Allen's view is sustained by the courts, this law not only brings good news to federal taxpayers but also establishes a principle that could be extended to other government agencies.

Why not grant reasonable attorneys' fees, for example, in every case where a citizen prevails against unjustified attacks by the Securities and Exchange Commission, the Federal Trade Commission or the Department of Justice? Why not such laws on the state level? These reforms would be significant in controlling a bureaucracy that too often has oppressed the individual.

In far too many cases these days, the problem in America is not protecting government from citizens but protecting citizens from their government. Allowing taxpayers to fight a sometimes overbearing U.S. bureaucracy without fear of financial hardship is a step in the right direction.

## AN UNTAPPED 500-YEAR SUPPLY OF NATURAL GAS

Mr. HELMS. Mr. President, as a nation we are deeply concerned about the future sources of energy which will be available to us, and about the political and economic concerns which could place severe restraints upon our economy and our way of life. On many occasions in the past it has likewise appeared that we were about to run out of energy supplies; yet time and time again entirely new sources of supply are discovered, and the gloomy predictions were proved wrong.

Even now, some geologists are beginning to point to a completely untapped domestic supply of natural gas that could furnish the needs of this Nation, by conservative estimate, for 500 years. No one knows exactly how much gas could be available, but for practical considerations the 500-year estimate is based upon recovering only 10 percent of the supply.

The reason why this gas has been overlooked is because it lies in unconventional geological strata, in depths up to 25,000 feet, and is dissolved in water in geothermal pressure zones. It is not associated with petroleum.

The technology exists today to tap these pressure zones. The methane is dissolved in hot salt water which must be recovered to separate out the gas. The temperatures of the waters range up to 425° F. and the heat can be converted to generate electricity; in some cases the pressure is great enough to drive turbines.



The methane exists in its purest form and can be converted into methanol at the wellhead. Recent technology indicates that methanol, either straight or in blends with gasoline, can be used to fuel automotive engines efficiently and cleanly. So we are talking not only about gas for heating, but also for transit.

I am told that the best locations to tap these geothermal pressure zones lie along the gulf coast, both onshore and offshore.

Mr. President, I do not pretend to be an expert in the technology of locating or assessing such energy resources. I am only repeating here what is being discussed in some scientific circles. However, I am also told that there is at least one test well operating which has been very successful. Yet, because this theory proposes that an unconventional source be tapped, it has been generally ignored both by industry and by Government.

Mr. President, I would like to call attention to the work, in particular, of an eminent geologist from Louisiana State University in Baton Rouge, Dr. Paul H. Jones. Dr. Jones has written a number of scientific papers on this topic, but unfortunately most of them are dependent upon charts and diagrams which cannot be reproduced in the CONGRESSIONAL RECORD. However, he has one technical paper, "Natural Gas From Unconventional Geologic Sources," delivered last year to the Board on Mineral Resources of the Commission on Natural Resources of the National Academy of Sciences, which is not completely dependent upon the diagrams, and would be of interest to my colleagues.

Mr. President, I ask unanimous consent that Dr. Jones' paper be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

#### NATURAL GAS FROM UNCONVENTIONAL GEOLOGIC SOURCES

#### CHAPTER 1.—NATURAL GAS RESOURCES OF THE GEOPRESSURED ZONES IN THE NORTHERN GULF OF MEXICO BASIN

##### Introduction

(By Paul H. Jones)

The world's natural gas resources occur within or adjacent to petroliferous sedimentary basins, but most of the gas is not found associated with oil. More than 80 percent of the natural gas produced in Louisiana in 1972, and 82 percent of the reserves, were classified as nonassociated (Carleton 1974: 10-11). Methane, the principal constituent of natural gas, is a stable and end-product of the thermal diagenesis of petroleum hydrocarbons in the zone of abnormally high interstitial fluid pressure—generally known as the geopressured zone. At depths where the temperature exceeds 300°F (150°C) very little petroleum is found; this is the domain of natural gas (Fertl and Timko, 1972).

Wherever methane gas is associated with reservoir waters, those waters are saturated in dissolved methane. Saturated formation waters associated with the more than 8,000 producing gas reservoirs in the geopressured zone of the Gulf Coast occur in a depth range from about 9,000 to 22,000 ft. (about 3 to 7 km). The solubility of methane in water is a function of temperature, pressure, and water salinity; the methane content of formation waters in any reservoir at saturation can be estimated if data on these par-

ameters are available (Dodson and Standing 1944:173-179, Culberson and McKetta 1951: 223-226).

The maturation of petroleum hydrocarbons (or more properly the conversion of insoluble organic matter known as kerogen to water-soluble hydrocarbons), is primarily a temperature-controlled process (LaPlante 1974:1288). In young, deep sedimentary basins filled primarily by noncarbonate clastic rocks, sand and clay) where the sediments are being exposed to geothermal heat for the first time, the conversion of kerogen to petroleum hydrocarbons progresses with increasing depth of burial, at a rate controlled by the geothermal gradient. At a depth where the "threshold" conversion temperature is exceeded, petroleum maturation accelerates. At some greater depth (and higher pressure and temperature) natural catalytic cracking of trapped liquid hydrocarbons begins. And at even greater depth, pressure, and temperature, all but the heaviest (tar) molecules have been converted to methane (Fertl and Timko 1972).

If the amount of hydrocarbon generated by maturation of kerogen is great enough, and if the escape of petroleum liquids is sufficiently retarded, then this natural cracking process yields sufficient methane to saturate all of the formation waters in the geopressured zone, and more. The excess methane in reservoir rocks collects in structural highs, forming the gas reservoirs commonly tapped by wells for commercial production. Most of the gas occurs in reservoirs having pressure gradients greater than 0.7 pounds per square inch per foot of depth (psi/ft.) (FPC 1966 unpublished data, Meyerhoff 1968, Perry 1969).

Methane-saturated formation waters of the geopressured zone escape upward into the hydro-pressured zone (Stuart 1970:2) and out of the sedimentary basin as natural compaction and consolidation of the sediments occurs. As these waters move to shallower depths and zones where the temperature is lower and the confining pressure is less, gas comes out of solution. This gas collects in reservoir rocks or escapes at outcrop.

Extensive studies of the dissolved hydrocarbons in subsurface waters in the hydro-pressured zone of the Gulf Coast, reported by Buckley et al. (1958), show that "the concentration of dissolved hydrocarbons in a particular formation increases with depth and increases basinward up to a certain degree" (p. 850), and that "throughout the region sampled the Frio water . . . [was] either saturated or nearly saturated with dissolved (methane) gas in nearly every well sampled" (p. 868). The bubble point of Frio water increased linearly with depth over the interval from 3,700 to 8,000 feet (1.15 to 2.5 km) and closely followed the hydrostatic pressure in the formation. No anomalous local enrichment of methane content was observed in samples taken in close proximity to Frio oil or gas fields.

More recently (1972), water from an aquifer at a depth of 3,200 ft (1 km), pumped from an offshore water-supply well in Block 16, Grand Isle, Louisiana, was found to contain 14.1 cubic feet (cf) of methane per barrel—its saturation content at the in situ pressure and temperature of the aquifer. At a pumping rate of 900 gallons per minute (gpm), this well produced some 400,000 scf/day.

All subsurface waters below a depth of about 3,000 ft (about 1 km) in Cenozoic deposits of the Gulf of Mexico Basin are probably saturated in methane.

#### Nature and physical dimensions of beds containing source of gas

Cenozoic deposits, mainly sand and clay of alluvial or deltaic origin, fill the Gulf Coast geosyncline (Figure 1.1) to depths greater than 50,000 feet (about 15 km)

(Hardin 1962:1). Geopressure (Stuart 1970:2) occurs below depths of about 9,600 to 16,000 ft (3 to 5 km) beneath an area greater than 150,000 mi<sup>2</sup> (388,000 km<sup>2</sup>) (Jones 1975:1), and it probably extends downward to the base of the Cenozoic deposits (Figure 3.6). Growth-faulted sand and clay bed systems, formed as prograding deltas encroached upon the northwestern margin of the Gulf, extend to depths averaging about 25,000 feet or about 8 km (Figure 1.2) (O'connor 1961:139, Jones 1975:32). "Stacked" sand-bed aquifers in growth-faulted blocks are the reservoirs to be tapped by wells designed to produce the hot, high pressure water and its dissolved methane.

The areal extent of growth-faulted blocks (Figure 1.2) ranges from about 120 to 400 mi<sup>2</sup> (about 300 to 1,000 km<sup>2</sup>), but they may be grouped geologically into larger areas for purposes of resource assessment (USGS 1975: 126). Within each block, the sand-bed reservoirs are commonly 50 to 160 ft. (about 15 to 50 m) thick, and their cumulative thickness is perhaps half the total vertical thickness of the fault block. Between linear fault-block trends, in long ridges sub-parallel to the Gulf margin, are "whale-backs" of geopressured shale (Figure 1.2). Separating major delta fault-block systems are subembayment shale wedges which tongue landward between them, transverse to the Gulf margin. These shale deposits underlie perhaps 30 percent of the area of the geopressured system described in the previous paragraph.

Detailed mapping of "stacked" sand-bed sequences in each of the major Cenozoic deltaic systems will be necessary to enable definition of potential reservoirs for development. Sediment facies maps should be made, in addition to cumulative sand-bed thickness maps, for each major prograding delta system. These maps, together with detailed structure maps of the same units, will be necessary for well design and well-field layout. Information is readily available for the mapping, and it should be done at appropriate scale—perhaps 1:250,000.

Faulting of host beds may cut off sand-bed reservoirs, resulting in hydraulic barriers and reduced yield from wells. Thermal diagenesis of the clay mineral montmorillonite releases water containing large amounts of silica, and this precipitates where pressure and temperature drop. Flush of the waters of diagenesis from clay beds and the cementation and consolidation of sand beds have greatly reduced the permeability and porosity of reservoirs, especially where large amounts of high-temperature water have escaped through them—as in parts of the lower Rio Grande Embayment of Texas. Modification of permeability distribution in host beds by natural processes must be analyzed, and the most suitable zones for development must be identified and mapped.

#### Extent of resource (gas in place)

The amount of gas dissolved in geopressured zone formation waters in Cenozoic deposits of the Gulf Coast can be estimated, using the following assumptions:

1. All formation waters of the geopressured zone are saturated in methane;
2. The top of the geopressured zone can be mapped;
3. The total volume and depth distribution of sand-bed reservoirs and associated shale deposits in the geopressured zone can be calculated (areal extent and cumulative thickness);
4. The porosity of sand-bed reservoirs and associated shale deposits can be described numerically, with reference to depth below the top of the geopressured zone; and
5. The pressure, temperature, and salinity of formation waters can be described with reference to depth below the top of the geopressured zone.

These assumptions enable calculation of (1) the gas content of sand-bed formation water at selected depths, with reference to the top of the geopressured zone, and (2) estimation of the total amount of gas in solution in sand-bed formation waters. Factors involved in the calculations include the following:

1. The methane content of fresh water at saturation, for pressures ranging up to 10,000 psi and temperatures up to 350°F (177°C), is described by the curves of Culberson and McKetta (1951: 226), illustrated in Figure 1.3. These curves must be extrapolated to about 25,000 psi and 525°F (273°C) for conditions in the geopressured zone to a depth of 15,000 ft (about 8 km).

2. The depth to the top of the geopressured zone onshore has been mapped by the U.S. Geological Survey (USGS), for Cenozoic deposits of the Gulf Coast. The average depth, given for subareas identified by Popadopoulos, Wallace, Wesselman, and Taylor ranges from about 6,000 to 12,700 ft (1.82 to 3.88 km) (USGS 1975: fig. 15, p. 126, and table 21, p. 128).

3. The cumulative thickness of sand beds between the top of the geopressured zone and the deepest part of each growth-faulted block in the subareas mapped by the USGS as described above has not been determined. Information on representative dip sections and a proved rationale for assignment of regional sediment facies distributions were used to develop the numbers used in making the following estimate.

4. Porosity determinations have been made and reported for many thousands of sand-bed reservoirs in the geopressured zone (in

rate-case hearings of the Federal Power Commission 1962; 1966; 1972). A generalized plot of porosity at indicated depths is shown in Figure 1.4 (Stuart 1970), for sand beds and shale beds. In the following estimate, only porosity data for sand-bed reservoirs in the geopressured zone are used; Stuart's curve has been extrapolated to 25,000 ft (7.8 km), where porosity of sand beds may be expected to average about 15 percent. The decrease of porosity, with increasing depth, from 37 percent at 13,000 ft to 15 percent at 25,000 ft (22 percent in 12,000 ft) amounts to 1.8 percent per 1,000 ft, or 5.85 percent per kilometer of depth.

5. Pressure and temperature gradients in the geopressured zone range widely, from area to area as well as locally; reliable estimation to the dissolved methane content of formation waters, requires detailed pressure gradient maps and isothermal maps. For this purpose, regional maps of the 0.6, 0.7, 0.8, and 0.9 psi/ft isopressure surfaces will be required for each major geopressured deltaic system. The 212°F (100°C), 250°F (120°C), 302°F (150°C), 356°F (180°C), 302°F (200°C), 428°F (220°C), and 482°F (250°C) isotherm maps will also be needed for each such system. Formation water salinity must be mapped wherever it exceeds about 20,000 mg/l because methane solubility decreases appreciably as dissolved solids increase (Dodson and Standing 1944:173).

Although the pressure, temperature, and water salinity maps described above are not available at this time, reasonable generalizations of them can be made using available maps and knowledge of gradients and regional trends (Jones 1975: figs. 18-21, 24,

25, 32, 34-40, 45, 47-49). Popadopoulos et al. (USGS 1975: fig. 15 and table 21) estimate the total reservoir thickness of the geopressured zone onshore to be 9,840 to 13,120 feet (3 to 4 km), sandbed porosity to range from 18 to 21 percent, and shale-bed porosity to range from 9 to 12 percent. They estimate the total amount of methane in water solution in these sediments to be  $236.18 \times 10^{14}$  cubic feet, or  $669.3 \times 10^{12}$  cubic meters (USGS 1975: 132, table 24).

This figure,  $236.18 \times 10^{14}$  cf, or 23,618 Tcf of methane in formation water solution, is a conservative estimate for the onshore area of the geopressured zone in Cenozoic deposits of the Gulf Coast. The thickness of the zone for development is probably 13,120 to 19,680 ft (4 to 6 km) rather than 9,840 to 13,120 ft (3 to 4 km); and the average porosity of sand beds is probably close to 25 percent, rather than 18 to 21 percent. But only about 50 percent of the area is underlain by deltaic or delta-front deposits which contain sand beds that would serve to drain the shales.

The calculation in Table 1.1 of the methane dissolved in sand-bed formation waters beneath one square mile of Subarea DT-2 (USGS 1975: fig. 15, p. 126) illustrates the method used in making the estimate given in this paper. Extrapolation of the gas saturation curves of Culberson and McKetta (1951:4) may be open to question, as no experimental data are available to support it; and the effects of water salinity on methane solubility at high temperature and pressure are unknown. The temperature and pressure gradients in Subarea DT-2 can be closely approximated, however, and the calculated methane contents are believed reasonable.

TABLE 1.1—METHANE DISSOLVED SANDBED FORMATION WATERS

| Depth                | $\Delta P$ (psi/ft) | Pressure <sup>1</sup><br>(psi $\times 10^3$ ) | Temperature<br>(°F) | Gas in<br>solution <sup>2</sup><br>(scf/bbl) | Sandbed<br>porosity <sup>3</sup><br>(percent) | Cumulative<br>thickness of<br>sand (feet) | Volume of<br>water (ft <sup>3</sup> $\times 10^9$ ) | Water<br>(bbl/mi <sup>2</sup> $\times 10^9$ ) | Gas in solution<br>(scf/mi <sup>2</sup> $\times 10^{10}$ ) |
|----------------------|---------------------|---|---------------------|--|---|---|---|---|--|
| Feet $\times 10^3$ : |                     |   |                     |  |   |   |   |   |  |
| 8.....               | 0.55                | 4.8   | 194                 | 18.8   | (?)   |   |   |   |  |
| 9.....               | .60                 | 5.4   | 199                 | 20.0   | 27.0  | 200                                       | 1,505   | 268   | 0.537  |
| 10.....              | .70                 | 7.0   | 212                 | 23.7   | 30.0  | 300                                       | 2,509   | 448   | 1.061  |
| 11.....              | .75                 | 8.2   | 237                 | 27.9   | 32.5  | 400                                       | 3,624   | 647   | 1.805  |
| 12.....              | .80                 | 9.6   | 261                 | 32.1   | 34.0  | 500                                       | 4,739   | 846   | 2.716  |
| 13.....              | .85                 | 11.0  | 285                 | 39.0   | 36.96   | 600                                       | 5,182   | 1,103   | 4.305  |
| 14.....              | .90                 | 12.6  | 307                 | 46.8   | 35.13   | 600                                       | 5,876   | 1,049   | 4.910  |
| 15.....              | .92                 | 13.8  | 331                 | 55.0   | 33.30   | 600                                       | 5,570   | 994   | 5.470  |
| 16.....              | .95                 | 15.2  | 354                 | 64.0   | 31.47   | 500                                       | 4,386   | 783   | 5.013  |
| 17.....              | .96                 | 16.1  | 376                 | 73.0   | 29.64   | 400                                       | 3,305   | 590   | 4.308  |
| 18.....              | .96                 | 17.2  | 397                 | 82.0   | 27.71   | 300                                       | 2,317   | 413   | 3.393  |
| 19.....              | .97                 | 18.4  | 414                 | 92.0   | 25.98   | 400                                       | 2,897   | 517   | 4.759  |
| 20.....              | .97                 | 19.4  | 434                 | 103.0  | 24.15   | 500                                       | 3,366   | 601   | 6.191  |
| 21.....              | .97                 | 20.3  | 450                 | 114.0  | 22.32   | 500                                       | 3,111   | 555   | 6.333  |
| 22.....              | .97                 | 21.3  | 466                 | 125.0  | 20.49   | 400                                       | 2,284   | 408   | 5.100  |
| 23.....              | .98                 | 22.5  | 480                 | 137.0  | 18.66   | 300                                       | 1,560   | 278   | 3.817  |
| 24.....              | .98                 | 23.5  | 500                 | 150.0  | 16.83   | 200                                       | 938   | 137   | 2.513  |
| 25.....              | .98                 | 24.5  | 520                 | 164.0  | 15.0  | 100                                       | 418   | 74  | 1.224  |
| Total.....           |                     |   |                     |  |   |   |   |   | 63.455   |

<sup>1</sup> Ferti and Timko (1972).<sup>2</sup> Culberson and McKetta (1951) curves extrapolated by Jones (this volume).<sup>3</sup> Stuart (1970).

According to these calculations, the amount of methane dissolved in sand-bed formation waters of the geopressured zone beneath each square mile of Subarea DT-2, above a depth of 25,000 feet, is 634 billion cubic feet (Bcf). The total area of Subarea DT-2 is 5,155 km<sup>2</sup>, or 1,902.95 mi<sup>2</sup>. The dissolved gas resource of this subarea is estimated to be about 1,200 Tcf. About 70 percent of the onshore geopressure zone in Cenozoic deposits of the Gulf Coast is believed to be underlain by deltaic and/or delta-front sand-bed systems, and perhaps 30 percent of the area of these systems is underlain by high-pressure shale ridges subparallel to the Gulf shoreline (Bruce 1973: 879). The onshore area underlain by sand-bed systems in which the dissolved methane resource occurs is therefore about half of the 145,265 km<sup>2</sup> (53,624 mi<sup>2</sup>) of the onshore geopressure zone, or about 26,812 mi<sup>2</sup>. The onshore resource is, on this basis, about 17-100 Tcf of dissolved methane. If conditions

offshore are comparable, sand-bed systems underlie about 50,000 mi<sup>2</sup>, and the dissolved methane in them amounts to some 31,900 Tcf. The total estimated dissolved methane resource in Cenozoic geopressured sand-bed systems of the northern Gulf of Mexico basin is, on this basis, about 49,000 Tcf. A comparable volume of methane-saturated water is present in the associated geopressured shales, an appreciable part of which might migrate into pressure-depleted sand-bed reservoirs as production occurs. Perhaps 100,000 Tcf of dissolved methane is present in Cenozoic deposits of the geopressure zone in the northern Gulf of Mexico basin.

Additional critical data needed to establish the extent of the resource include:

1. Dissolved methane gas content, as well as temperature, pressure, and dissolved solids of formation waters of the geopressured zone; sand and clay bed texture, porosity, and permeability determinations; geologic studies of the sediments; and hydraulic test

data for aquifer systems, to enable calculation of production characteristics of reservoirs.

2. Detailed maps of sediment facies, isothermal surfaces, pressure gradients, and salinity of formation waters, with respect to depth and sediment facies distribution.

3. Representative information on sediment facies and mineralogy, geologic structure, temperature, pressure, and formation water dissolved solids and gases sufficient for processing into computer data banks; and a mathematical model of the basin adequate to define its structural, hydrologic, geothermal, and hydrochemical evolution.

No serious geologic uncertainties need be overcome to create recoverable reserves from this resource base.

#### Recovery

Recoverable reserves of dissolved methane from the geopressured zone of the northern Gulf of Mexico basin are believed to exceed



258.2 Tcf, the proved domestic natural gas reserves as of Dec. 31, 1970, reported in 1973 in the publication National Gas Reserves Study (FPC 1973). They could very well exceed 1,146 Tcf, the potential U.S. natural gas supply estimated in 1972 by the Potential Gas Committee (FPC 1975:218, Table 9-2). The "dissolved-in-water" source was not included in either estimate.

This estimate of recoverable gas dissolved in geopressure zone formation water is based upon a development concept involving the installation of thousands of large-capacity wells flowing hot, gas-saturated water through turbines and gas separators.

All geopressed gas reservoirs now in production derive much of their gas from this "dissolved-in-water" source (Figure 1.5); exsolution of methane from associated formation waters occurs with gas production and resulting reservoir pressure decline; exsolved gas moves to the gas cap. No water wells have yet tapped the geopressured zone, but wells pumping gas-saturated aquifer waters from the overlying hydropressured zone produce gas. Production technology is well advanced, but as yet unproved; it could probably be proved in less than one year.

Ultimate volumes and flow characteristics of a single project that might be carried out are limited only by water well production rates. A reasonable facility might include 20 water wells, each flowing 50,000 barrels per day (bpd) at 30 cf/bbl, producing 30 million cf/day of methane. Installations ten times this size are believed possible in some areas.

A project of 20 wells could be on stream in less than 2 years; if in a "crash program", in less than 1 year.

Gas can be recovered from this source through several different development schemes. Multi-use systems, in which geothermal energy, hydropressure energy, and natural gas are derived simultaneously from wells, appear to be most attractive economically. Technology is sufficiently advanced on all aspects of such developments to make them possible now, but no field projects have yet been undertaken. They are, however, in the planning stage, and field demonstration should occur within a year or two under present schedules.

Production records for many geopressed gas reservoirs show two distinct slopes in the plot of shut-in pressure vs. cumulative production (P/Z plot), used to predict reserves (Hammerlindl 1971:7). The initial slope is much flatter than the final slope, and this is generally explained as due to gas expansion, formation compaction, water expansion, or influx of water from shale beds bounding the reservoir. Although exsolution of natural gas dissolved in associated reservoir water has not been considered in published papers, it is believed to be the most important factor in the P/Z curve trend with production.

This conclusion leads to an interesting and important concept with regard to the development of the dissolved-in-water gas resource of the geopressured zone. It could increase enormously the recoverability of natural gas from this source. It is as follows:

Withdrawal of formation water at large rates by multiple-well systems tapping large geopressed reservoirs will lower fluid pressure over broad areas. As reservoir pressure declines, dissolved gas throughout the reservoir will be released from solution; this gas, when its volume exceeds 4 or 5 percent of the pore volume of the reservoir, will collect and move to structural highs in the reservoir, forming gas caps. When these gas caps have grown to sufficient size, they can be tapped by gas wells and produced in the same way as some 8,000 gas reservoirs now in production. In effect, water production to obtain dissolved gas simply speeds up the natural process of pressure decline that has resulted in the known gas reservoirs.

Such artificially-formed gas caps can be found by seismic survey, first by locating the structural highs, and then by observing gas cap formation as re-surveys detect it, by growth of a "bright spot" or "bright zone" in the record.

No serious technological problems need to be overcome to create recoverable reserves from this resource base.

#### *Economic and institutional considerations*

A. The economics of a typical project to secure gas from this source are unproved, but conceptual studies by Wilson et al. (1974) and House et al. (1975) indicate that economical development projects are possible under 1975 market conditions. The gas is so pure that it can be converted to commercial grade methanol or marketed directly; it is the same gas that is produced (nonassociated) from some 8,000 geopressed gas reservoirs in the Gulf area.

B. Capital and basic goods and service requirements necessary to make this an important source of gas are essentially "on the shelf"; some modifications of technique in drilling and completing wells in the geopressure zone, already pioneered, will be necessary; and specialized above-ground equipment designed to handle the fluids in new ways, already well along in conceptual and engineering aspects, will be needed. Expanding comparable effort in exploration and production of gas from conventional sources could not produce comparable results, in terms of gas production, under the most favorable circumstances.

C. Legal, institutional, and environmental problems associated with exploitation of this resource have already received considerable attention in connection with geopressed geothermal resources research since the production effects are identical. The principal legal problem relates to ownership of the gas dissolved in formation waters: Does the mineral lease include it, or is it a part of the ground water (which must be produced for its recovery) and thus governed by groundwater law? Institutional problems are largely those of governmental regulation (federal, state, or local) and the determination of which agency or agencies have prior authority in this matter. Environmental problems relate to disposal of saline water produced to obtain the gas, and land subsidence that may result from the large-scale withdrawal of formation water. These problems are not unique to this resource development, and have already received adequate study for effective management policy decisions.

D. Multiple use of fluids produced in the gas production strategy have received sufficient study for feasibility evaluation (Wilson et al. 1974, House et al. 1975), even though gas recovery alone may not be economic under 1975 market conditions.

E. The energy balance between the total energy required in a project to explore, develop, and produce gas from this source, compared to the energy of gas ultimately recovered from the project, is highly favorable indeed. This is because the exploration effect has already been largely accomplished by the oil and gas industry; development technology has been perfected, and equipment required has been fabricated by the oil and gas industry and the water well industry; and because the production technology and equipment already exist or are well advanced. The energy resulting is in the most desirable form; it can be converted to methanol at the well head, used to produce electric power at the well head, or shipped by pipeline to users through an existing and highly effective distribution system.

#### *Assessment of potential of the source*

The key decision required for development of this source is the choice of location of the first project installation. Government can fund and make available government lands

for such development, under a favorable lease and cost-sharing arrangement. Industry (the oil and gas industry, a major utility, or a major power users such as Dow Chemical, USA) could contribute all of the management and operational requirement. The project could be entirely done under contract.

Key differences in judgment covering the quantity of resources or reserves relate to (1) percent saturation of formation waters in methane; (2) recoverability of formation waters for extraction of dissolved methane; and (3) abundance of aquifers in the geopressured zone, suitable for development by production wells. Key differences regarding the state of recovery technology relate mainly to methods of well construction and well field design, and to reservoir permeability. Continuous rock cores for intensive laboratory study, and a series of production tests using carefully designed well fields, are needed to narrow the range of judgment.

The upper limit of contribution, in annual volume, from this source of gas cannot be estimated with confidence at this time, but it should be at least 1.5 Tcf/yr, or about 5 percent of the total U.S. requirement of 28 Tcf forecast for 1975, made by the Denver Research Institute (University of Denver 1973) cited in Table 7-1, p. 184, v. 1, Federal Power Commission Report, National Gas Survey, 1975. This estimate is based upon 1,000 wells each producing 4 million gpd of water containing 1 cf/gal, or 4 Bcf/day. It is possible that this source might ultimately produce ten times this amount, mainly from the Outer Continental Shelf—perhaps half the total U.S. annual natural gas requirement.

This source could contribute very significantly to the U.S. gas supply in the immediate future (2 to 5 years), perhaps 2 percent of the U.S. requirement within 4 years.

The contribution of gas from this source could be half the U.S. annual requirement in 10 years, and perhaps 80 percent of the annual requirement in 25 years.

The methane dissolved in formation waters of the geopressured zone is by far the largest, most readily accessible, and least expensive alternative source of natural gas in the United States.

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T. Bock of Phillipsburg, N.J., president of Bock Plastics, as New Jersey's Small Businessman of the Year. I offer my congratulations to him for his achievements which have brought him recognition and honor as New Jersey's Small Businessman of the Year.

Mr. President, in addition to their central role in our economy, small businesses must survive and prosper if we are to further the important human values that prompt people like Mr. Guy Bock to initiate enterprises. Initiative, creativity, self-reliance, perseverance—characteristics possessed by Mr. Bock, are traits which must be encouraged and developed if we are to continue to be a society admired throughout the world. The challenge of successfully operating a small business nurtures these characteristics. We must provide a climate which promotes the growth and development of new, small and independent enterprises.

There are certain actions which can and should be taken at the Federal level to create a better environment for the success of small business. Both the legislative and executive branches of Federal Government should, for example, search for ways to eliminate unnecessary regulatory controls and excessive reporting requirements which are burdensome to the small businessman.

An example of another kind of initiative which can be taken to help small business is the Business Opportunity Conference which I have joined in sponsoring with my distinguished colleague, Senator CASE, to be held in Cherry Hill, N.J., on June 17. At this conference, representatives of major industries and of Federal, State, and local government agencies will counsel local business people from across the State on the problems, techniques, and opportunities involved in the development of Government markets.

Let us, this week, not only pay tribute to the small business sector for its many contributions, but also focus on the present needs of the small business sector and consider how we may assist it in meeting its needs in the future.

#### RETIREMENT OF EDWARD STILLWELL

Mr. THURMOND. Mr. President, an outstanding public educator, Edward Stillwell principal of North Augusta High School in South Carolina will retire June 30.

Mr. Stillwell has devoted 32 years of his life to the North Augusta school system. During that time he has given outstanding leadership not only in the educational process, but in the community as a whole.

Too little recognition is given to our educators whose efforts and counsel are so critical in the education of our children.

Mr. Stillwell is a man of considerable executive ability as is testified by the efficient operation of North Augusta High School over the years. He is a man of character integrity, and competence, and the citizens and young people of his community have benefited because of his unselfish attention to his duties.

In recognizing Mr. Stillwell I would

like to also recognize other school administrators and teachers who, in giving their lives to public education, achieve one of the most worthwhile goals in our great Nation.

Mr. President, I ask unanimous consent that an article appearing in the Augusta Chronicle newspaper May 14, 1977, under the title "Retiring Principal Believes Students Haven't Really Changed," by J. C. Hixenbaugh, be printed in the RECORD.

#### RETIRING PRINCIPAL BELIEVES STUDENTS HAVEN'T REALLY CHANGED (By J. C. Hixenbaugh)

Students come and students go, but North Augusta High School Principal Edward Stillwell said that in the 38 years he's been an educator, they haven't really changed.

"Human nature hasn't changed one whit," he said. However, he added, "In students today I do see a new interest in morality and religion and this encourages me."

Stillwell is retiring June 30 after 32 years in the North Augusta school system and 26 years as principal at North Augusta High School.

Friday was "Stillwell Day" in North Augusta, beginning with an assembly of the student body.

The Greater North Augusta Chamber of Commerce honored him at a luncheon and a reception was held in the North Augusta High School gymnasium Friday night, sponsored by the North Augusta High Parent-Teacher Association.

When Stillwell came to North Augusta High School in 1945 as teacher and coach, 250 students were enrolled in the school, compared with 1,350 students this year. He came to North Augusta from Dillon, S.C., where he taught and coached athletics for six years.

Some differences exist between students of the 1950s and today, one of which is the attitude students take toward discipline today, he said.

"Students today are a little less accepting of discipline you mete out. There was a time when a teacher's word was law."

"Now, questions are asked, as they ought to be, and acceptance of discipline is not as ready as it used to be." Students today know more about their constitutional rights regarding discipline than earlier, he added.

The students and faculty have a good relationship at North Augusta, he said.

That relationship was the subject of a commendation in a five-year interim examination of the school in April by the Southern Association of Secondary Schools and Colleges.

According to the report: "It is obvious that the administration and staff take great pride in the school, its reputation and accomplishments."

"The genuine respect and affection for the principal by the staff contributes decisively to the outstanding achievements of North Augusta High School."

One of the major changes since he has been principal has been the impact of the Savannah River Plant, Stillwell said.

Within a couple of years, school enrollment doubled and the buildings had become inadequate, he said.

That resulted in the first of two moves the high school would make. In 1954, the classes were moved from the school building on Georgia Avenue to the building that now houses North Augusta Junior High School. In 1969, classes were moved to the new building on Knobcone Avenue.

The native of Johnston, S.C., said one of the changes in education at the school has been to do more for the students who do not plan to attend college by offering more vocational education.

#### NATIONAL SMALL BUSINESS WEEK

Mr. WILLIAMS. Mr. President I am pleased that President Carter has proclaimed this week, May 22-28, National Small Business Week to give special recognition to the tremendous contribution the small business community has made to the growth and development of our Nation and the stability of our economy.

About 97 percent of all U.S. enterprises are defined as small business. Small business produces 43 percent of the country's gross national product. Small enterprise plays a vital role as a provider of jobs, employing 52 percent of all the country's non-Government employment. Studies show that individual inventors and small firms continue to account for more than one-half of all inventions and innovations. These statistics underscore the central role small business plays in our national economy.

Each year the Small Business Administration selects one person from each State as Small Businessman of the Year. This year the SBA has chosen Mr. Guy



"North Augusta has traditionally been a college preparatory school," he said. Of last year's graduating class of 346, 214 entered college or a technical school, he said.

Stillwell, a member of the University of South Carolina football team during his undergraduate years at the school, spoke proudly of the school's successful athletics teams.

## THE FEDERAL FLOOD INSURANCE PROGRAM

Mr. EAGLETON. Mr. President, on Monday, June 6, the Senate will take up S. 1523, the Housing and Community Development Act. At that time, I will offer an amendment to allow communities which for good reason of their own decide not to participate in the Federal flood insurance program, at least to have access to private bank financing.

Mr. President, the Federal Register of May 16, carries notification of the suspension of 44 additional communities from this program for failure to adopt or enforce HUD land use regulations. These communities represent only a small fraction of the thousands of towns and cities against which HUD is applying sanctions, including elimination of virtually all private construction credit.

The amendment I will offer on Monday seeks to restore a small degree of self-determination to those local communities, and to put an end to some of the worst excesses of this Federal land use program. I ask that a copy of the HUD notice, which was printed in the

Federal Register of May 16, be printed in the RECORD.

There being no objection, the notice was ordered to be printed in the RECORD, as follows:

### TITLE 24—HOUSING AND URBAN DEVELOPMENT CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### Subchapter B—National Flood Insurance Program

[Docket No. FI-2883]

#### Part 1914—Areas Eligible for the Sale of Insurance

##### Suspension of Community Eligibility

Agency: Federal Insurance Administration, HUD.

Action: Final rule.

Summary: The purpose of this rule is to list communities where the sale of flood insurance as authorized under the National Flood Insurance Program will be suspended because of noncompliance with the program regulations.

Dates: The last date that appears in the fourth column is the effective date of the suspension of the sale of flood insurance.

For further information contact: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

Supplementary information: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a

flood plain area having special hazards within any community identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and insurance is purchased. Accordingly, for communities listed under this Part such restriction exists as of the effective date of suspension because insurance, which is required, cannot be purchased.

Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities suspended in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the list below.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community.

The entry reads as follows:

§ 1914.6 List of eligible communities.

Effective date of authorization of sale of flood insurance for area

| State        | County         | Location                        | Emerg.        | Reg.          | Susp.         | Hazard area identified            | Community No. |
|--------------|----------------|---------------------------------|---------------|---------------|---------------|-----------------------------------|---------------|
| Michigan     | Menominee      | Stephenson, city of             | Aug. 7, 1973  | May 16, 1977  | June 15, 1977 | May 17, 1974 and May 28, 1976     | 260139A       |
| Minnesota    | St. Louis      | Cook, city of                   | Mar. 1, 1977  | Mar. 1, 1977  | Do            | Mar. 29, 1974                     | 270420A       |
| Do           | Anoka          | Coon Rapids, city of            | Mar. 15, 1977 | Mar. 15, 1977 | Do            | June 1, 1973                      | 270011A       |
| Do           | Stearns        | St. Cloud, city of              | Mar. 31, 1972 | Apr. 1, 1977  | Do            | Dec. 17, 1973 and Sept. 26, 1975  | 270456A       |
| New York     | Broome         | Conklin, town of                | Nov. 2, 1973  | May 16, 1977  | Do            | Apr. 5, 1974                      | 360042A       |
| Do           | Broome         | Dickinson, town of              | July 22, 1975 | Apr. 15, 1977 | Do            | Mar. 8, 1974 and Dec. 19, 1975    | 360044A       |
| Do           | Oswego         | Oswego, city of                 | Apr. 30, 1973 | May 16, 1977  | June 15, 1977 | May 10, 1974                      | 360656A       |
| Pennsylvania | Lebanon        | Anville, township of            | Mar. 16, 1973 | Apr. 15, 1977 | July 1, 1977  | Nov. 9, 1973 and Sept. 3, 1976    | 420570A       |
| Do           | Northampton    | Bangor, borough of              | Feb. 2, 1977  | Feb. 2, 1977  | July 1, 1977  | Feb. 1, 1974                      | 420716A       |
| Do           | Lebanon        | Cleona, borough of              | Mar. 9, 1973  | Apr. 1, 1977  | July 1, 1977  | Dec. 28, 1973                     | 420571A       |
| Do           | Chester        | Downingtown, borough of         | Dec. 3, 1971  | Apr. 15, 1977 | July 1, 1977  | Feb. 9, 1973                      | 420275        |
| Do           | Chester        | East Bradford, township of      | Aug. 16, 1974 | Apr. 15, 1977 | July 1, 1977  | Aug. 16, 1974 and Oct. 24, 1975   | 420276A       |
| Do           | Luzerne        | Edwardsville, borough of        | Dec. 1, 1972  | Apr. 15, 1977 | July 1, 1977  | Mar. 23, 1973                     | 420604        |
| Do           | Dauphin        | Highspire, borough of           | Nov. 10, 1972 | Apr. 15, 1977 | July 1, 1977  | Mar. 23, 1973                     | 420381        |
| Do           | Wayne          | Honesdale, borough of           | Mar. 1, 1977  | Mar. 1, 1977  | July 1, 1977  | Nov. 30, 1973                     | 420864A       |
| Do           | Cambria        | Johnstown, city of              | Aug. 4, 1972  | Apr. 15, 1977 | July 1, 1977  | Jan. 16, 1974                     | 420231A       |
| Do           | Broome         | Port Dickinson, village of      | Mar. 25, 1975 | May 2, 1977   | June 15, 1977 | Feb. 1, 1974 and Nov. 28, 1975    | 360053A       |
| Ohio         | Greene         | Bellbrook, city of              | July 28, 1972 | June 1, 1977  | June 15, 1977 | Nov. 2, 1973 and Apr. 23, 1976    | 390194A       |
| Do           | Licking        | Newark, city of                 | Aug. 25, 1972 | Apr. 15, 1977 | June 15, 1977 | Nov. 28, 1973 and Aug. 15, 1975   | 390335A       |
| Do           | Wayne          | Wooster, city of                | Feb. 2, 1977  | Feb. 15, 1977 | June 15, 1977 | Oct. 26, 1973                     | 390579A       |
| Oregon       | Douglas        | Roseburg, city of               | Dec. 23, 1971 | June 15, 1977 | June 15, 1977 | June 7, 1974 and Apr. 23, 1976    | 410067A       |
| Wisconsin    | Waupaca        | Freemont, village of            | Mar. 29, 1974 | June 15, 1977 | June 15, 1977 | Nov. 30, 1973                     | 550496A       |
| Do           | Winnebago      | Oshkosh, city of                | Nov. 12, 1971 | May 16, 1977  | June 15, 1977 | Nov. 23, 1973                     | 550511A       |
| Do           | Ozaukee        | Unincorporated areas            | May 14, 1971  | May 16, 1977  | June 15, 1977 | May 16, 1977                      | 550310        |
| Do           | Luzerne        | Larksville, Borough of          | Mar. 23, 1973 | Apr. 1, 1977  | July 1, 1977  | July 6, 1973                      | 420614A       |
| Do           | Dauphin        | Lower Swatara, township of      | Nov. 3, 1972  | Apr. 15, 1977 | July 1, 1977  | Jan. 9, 1974 and June 4, 1976     | 420385A       |
| Do           | Luzerne        | Luzerne, borough of             | Mar. 2, 1973  | Apr. 15, 1977 | July 1, 1977  | Nov. 23, 1973                     | 420616        |
| Do           | Montour        | Mahoning, township of           | Mar. 19, 1974 | Apr. 15, 1977 | July 1, 1977  | Sept. 13, 1974 and Sept. 24, 1976 | 421234A       |
| Do           | Luzerne        | Nanticoke, city of              | Apr. 4, 1973  | Apr. 15, 1977 | July 1, 1977  | Aug. 24 and Dec. 14, 1973         | 420617B       |
| Do           | Lycoming       | Old Lycoming, township of       | Jan. 19, 1973 | Apr. 15, 1977 | July 1, 1977  | Aug. 31, 1973 and Aug. 13, 1976   | 420652A       |
| Do           | Clinton        | Pine Creek, township of         | Apr. 24, 1973 | Apr. 1, 1977  | July 1, 1977  | Apr. 1, 1977                      | 420332        |
| Do           | Luzerne        | Plymouth, borough of            | Oct. 27, 1972 | Apr. 1, 1977  | July 1, 1977  | Mar. 30, 1973 and Mar. 29, 1974   | 420622B       |
| Do           | do             | Plymouth, township of           | Feb. 2, 1973  | Apr. 15, 1977 | July 1, 1977  | Feb. 8, 1974 and July 2, 1976     | 420623A       |
| Do           | Chester        | Pocopson, township of           | Jan. 21, 1972 | Apr. 15, 1977 | July 1, 1977  | Apr. 15, 1977                     | 420286        |
| Do           | Northumberland | Riverside, borough of           | Nov. 19, 1973 | Apr. 15, 1977 | July 1, 1977  | Mar. 29, 1974 and June 11, 1976   | 420740A       |
| Do           | Delaware       | Rose Valley, borough of         | Feb. 2, 1977  | Feb. 15, 1977 | July 1, 1977  | May 25, 1975                      | 420431C       |
| Do           | Dauphin        | Royalton, borough of            | Mar. 16, 1973 | Apr. 15, 1977 | July 1, 1977  | June 15, 1973 and Sept. 10, 1976  | 420384A       |
| Do           | Bradford       | Sayre, borough of               | Feb. 19, 1974 | Apr. 15, 1977 | July 1, 1977  | May 17, 1974 and June 4, 1976     | 420175A       |
| Do           | Centre         | Spring, township of             | Oct. 13, 1972 | Apr. 15, 1977 | July 1, 1977  | June 21, 1974 and June 25, 1976   | 420259A       |
| Do           | Dauphin        | Steelton, borough of            | Jan. 7, 1972  | Apr. 15, 1977 | July 1, 1977  | Aug. 31, 1973 and Dec. 26, 1975   | 420396A       |
| Do           | Monroe         | Stroud, township of             | May 9, 1973   | Apr. 15, 1977 | July 1, 1977  | Jan. 17, 1975                     | 420693*       |
| Do           | Schuylkill     | St. Clair, borough of           | Mar. 15, 1977 | Mar. 15, 1977 | July 1, 1977  | Mar. 15, 1977                     | 420786A       |
| Do           | Chester        | Thornbury, township of          | Mar. 1, 1977  | Mar. 1, 1977  | July 1, 1977  | Aug. 2, 1974 and Aug. 13, 1976    | 425390A       |
| Do           | Northumberland | West Chillisquaque, township of | Jan. 28, 1974 | Apr. 15, 1977 | July 1, 1977  | May 10, 1974 and June 4, 1976     | 421033A       |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001-4128) and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, Feb. 27, 1969, as amended 39 FR 2787, Jan. 24, 1974.)

Issued: April 29, 1977.

J. ROBERT HUNTER,  
Acting Federal Insurance Administrator.

## NATIONAL SMALL BUSINESS WEEK

Mr. THURMOND. Mr. President, I am happy to join my colleagues in recognizing National Small Business Week.

Not enough Americans realize the tremendous importance of the small businesses and small businessmen of this country. For example, small businesses provide 55 percent of all employment in the private sector. They contribute 48 percent of the gross national product, and 53 percent of the business output. In addition, 97 percent of all U.S. enterprises, or nearly 13 million, are small businesses. These include some of America's fastest growing companies. Small business is the source of most of the new jobs created in the private sector.

In my opinion, small businessmen are the backbone of our Nation. As a group, they exemplify the traits which made America great. They are willing to work for their rewards, depending on resourcefulness, ingenuity, and innovation for their success. They believe in the marketplace; they believe in economic freedom. I have supported and will continue to support measures in Congress to limit regulations and restrictions that overburden small businessmen. Furthermore, I believe that Congress needs to work to provide an atmosphere conducive to the strengthening and growth of small business.

In conjunction with this annual occasion, the Small Business Administration selects a "small business person of the year." This year, Mr. Matz Lischerong of Spartanburg, S.C., was selected for this honor from my home State.

In the finest tradition of American business, Mr. Lischerong worked his way up from a humble beginning. Born in Strasburg, Germany, in 1934, he went to work as a mechanic after his secondary education. Developing an interest in the textile business, he thereafter attended a special school in Reutlingen and became a textile engineer. Over the next 6 years he gained further expertise, and put it to work, in his job with a manufacturer of textile machines in Germany. He also traveled all over Europe setting up facilities for the production of knitted goods.

In 1961, an American businessman from the Piedmont section of South Carolina, meeting Mr. Lischerong in Germany, invited him to come to the United States to set up a knitting plant. To the great good fortune of my State, he accepted.

Eight years later, still in South Carolina and full of the American entrepreneurial spirit, he launched his own firm, Primaknit, Inc., a manufacturer of double knits. This was a courageous act. A new business is a risky proposition under the best of circumstances, and Mr. Lischerong had the added burden of being a relative newcomer to our country, and its economic practices.

The gamble paid off handsomely. So successful was Primaknit that Mr. Lischerong established a companion corporation, Litex International, Inc., only 3 years later.

These two companies, Primaknit and Litex, are a model of sound and responsible management. Our country needs

more like them, and more men like Mr. Lischerong. His story is an inspiring one, for it shows the continuing vitality of the American free enterprise system. By initiative and dedication, Mr. Lischerong has not only made an abundant lift for himself, but has benefited many of his friends and neighbors in the process.

It gives me great pleasure to join friends and associates of Matz in congratulating him for the honor that has crowned his efforts, and in extending best wishes for continued success.

## THE GENOCIDE CONVENTION: A HIGHER RESPONSIBILITY

Mr. PROXMIER. Mr. President, the Genocide Convention cannot be categorized along with the routine items on the Senate's agenda. It does not involve appropriations. It does not present a plan for Government reorganization. If the convention fell into any of the areas of legislation normally considered by the Senate, it would receive quick attention. But the convention's uniqueness should not provide an excuse to overlook the Senate's responsibility to act upon the convention.

It is a special sort of commitment which calls upon us to pass the Genocide Convention. President Kennedy, in presenting three related human rights treaties to the Senate, summarized that commitment:

The day-to-day unfolding of events makes it ever clearer that our own welfare is interrelated with the rights and freedoms assured the peoples of other nations. . . . There is no society so advanced that it no longer needs periodic recommitment to human rights. The United States cannot afford to renounce responsibility for support of the very fundamentals which distinguish our concept of government from all forms of tyranny.

Mr. President, let us not evade this important responsibility. I urge my fellow Senators to join me in supporting the Genocide Convention.

## COMPREHENSIVE YOUTH UNEMPLOYMENT ACT

Mr. HATCH. Mr. President, the Senate yesterday overwhelmingly passed S. 1242 to provide additional employment and training opportunities for youth. Unfortunately, I was unable to be present on the floor for the vote. As a member of the Subcommittee on Handicapped, I was participating with Senators RANDOLPH and STAFFORD at the President's National Conference on the Handicapped at another location here in Washington. I am anxious to indicate my support for this important legislation.

While initially I had some reservations about this bill, I have decided to support it and indeed cosponsor it because the problem of youth unemployment in the United States has stayed with us far too long. I believe extraordinary measures are justified in dealing with this phenomenon which is not responsive to the normal phases of the business cycle. I think it is fair to say that the basic problem of youth employment is far different from that which prevails among other groups. Whatever stimulus does ensue

from such monetary and fiscal measures as may be imposed for the general economy does not often trickle down enough to make a significant dent on youth unemployment. Hence, I think this bill represents a step on the right road in considering programs which will specifically target on the youth group.

I continue to have some reservations about some of the elements of this bill. I am concerned that the young men and women after participating in the various programs will for the most part leave the government payroll with no more job skills, employability, than they had when they entered. I am most concerned that some of the program sponsors will fail to give our youth something of real value—job experience and training that will make them truly employable in the future in unsubsidized jobs. And to the maximum extent possible, we should provide for the greatest involvement of the private sector in job experience and job training with a view to providing a transition for the youth to permanent jobs.

I hope and expect that program sponsors will deal with those concerns and will insure a successful implementation of the various programs authorized in this bill.

I am pleased to note that one of the serious problems in this bill was resolved at the committee level. I call your attention to part A of the bill which establishes a National Youth Adult Conservation Corps to be administered by the Department of Labor through interagency agreements with the Departments of Interior and Agriculture. While I did not particularly have a problem with regard to this program being opened to all those who meet the requisite age criteria, however, I did have a problem with building in a preference for employment of those youths who live in areas having unemployment rates of 6.5 percent or higher.

Needless to say that section as written could have in fact limited eligibility for participation for most youths residing in Utah, and I suspect in many other States.

For example, the unemployment rate of adults in my State is approximately 4.2 percent. And yet the unemployment rate among youth is calculated to be in excess of 10 percent. Since this bill's stated purpose is to provide employment and other benefits to youth, it only seems logical that any eligibility criteria consider the rate of youth unemployment rather than the rate of unemployment for all labor force participants. In this respect, the committee with my urging applied the rationale underlying the language of part B section 813(a) in determining an equitable distribution of the resources available for part A. Thus, with part A amended to insure minimum funding for all States the youth of Utah who can really permanently benefit by part A programs will have a chance to participate.

Moreover, unemployment among youth is very high in various geographic sections of the country. In 1976, for example, it was 23 percent in the inner cities of metropolitan areas, but was also as high as 13 percent in the suburbs, as well as 17 percent in nonmetropolitan areas. The particular problems of rural youth unemployment have been brought to the



attention of the committee by both Dr. Marshall and Senator CLARK, and I think it very significant that the committee in the final version of this bill recognized that the problems of unemployment, the lack of education and training and some of their other concomitants including crime, drug trafficking, et cetera, are not exclusive problems of particular classes, color, ethnic, or even income groups.

Therefore, the legislation will assure that groups with important differentials in joblessness are able to get full access to the programs which they might not otherwise have. I think it is important that we bar no group from such access if they need it and indeed could benefit from it, even if they come from a high family income class, for example. Accordingly, I think it is important to make some of these youth programs available regardless of the overall unemployment rate, adjusting their size in funding rather than their sheer availability to the trend in unemployment. I believe this is a more equitable and balanced approach and will be received more favorably by those unemployed youth whose hopes are heightened by passing a bill of this magnitude.

#### GUIDELINES NEEDED FOR DNA RESEARCH

Mr. METZENBAUM. Mr. President, the complex issue of recombinant DNA research has been before the Congress since early in this session. Extensive hearings have been held before several House and Senate committees. Careful balancing of the protection of the public health and safety and possible medical benefits is imperative.

In the Washington Post of May 24, 1977, Victor Cohn has written about the recent breakthrough in insulin production using recombinant DNA techniques. The world's diabetics are nearly outstripping the ability of current technology to supply sufficient insulin to maintain their lives.

This breakthrough holds the promise of producing virtually unlimited quantities of insulin. However, we must not allow the promise of future benefits to override careful consideration of the safety aspects.

Current guidelines from the National Institutes of Health cover only a part of the research now underway or proposed. They do not directly address the question of production of recombinant DNA products such as insulin.

As an interim measure the NIH guidelines must be extended to all research and careful study must be given to revising them if necessary.

I have introduced legislation to this end. S. 945 would extend the guidelines to all researchers and create a national commission to study the current and anticipated impact of recombinant DNA research and technology on health, safety, and society.

We must move quickly to meet potential threats to public health—but we must move with great care.

An article in the May 15, 1977, issue of the San Diego Union also speaks directly to this issue. I ask unanimous con-

sent that both articles be printed in the RECORD.

I urge all my colleagues to give serious attention to these articles.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the San Diego Union, May 15, 1977]

SOME SCIENTISTS FEAR BARRIERS TO RESEARCH

(By Clifford Grobstein)

Basic research has rarely been defined to everyone's satisfaction. A case can even be made that it exists only in the eye of the beholder and nowhere else. Nonetheless, most scientists find the idea of coupling regulation with basic research disconcerting.

Regulation suggests inhibitory control and basic research is often described as the untrammelled pursuit of knowledge for its own intrinsic interest. In fact, interference with the free pursuit of knowledge has raised hackles and still rattles skeletons extending back in time to the ancient Greeks. Yet recombinant DNA research was the subject of a temporary and self-imposed partial moratorium by involved investigators themselves. The research is currently under the quasi-regulation of federal "guidelines" and there is proposed regulatory legislation aimed at it in at least two state legislatures as well as in the Congress of the United States.

What is recombinant DNA research? Why has it drawn this attention? What are the public policy issues that it poses?

DNA is a chemical occurring in all living organisms. Its full name is deoxyribonucleic acid. It is a long thread-like molecule that was shown in the past quarter-century to carry in chemical language the basic hereditary information that is transferred between biological generations.

The chemical language involves only four "letters" or kinds of submolecules of DNA. These are strung along the length of the molecule by the thousands, in a sequence that is specific for particular organisms and their hereditary properties. So specific is the message that substitution or deletion of only one of the thousands of sub-molecules is sufficient not only to change a hereditary property but to threaten the survival of the "mutant" organism that results. This is true because the sequence of DNA determines the sequence of another class of submolecules that make up proteins and the properties of proteins are key to the structure and function of all organisms.

Recombination between DNA threads involves the transfer between them of sections containing specific sequences. Recombination has long been known to occur naturally, but molecular geneticists, in the past five years, have learned how to accomplish and control the process in a test tube almost at will. The result is the capability to transfer genes, the specific sequences that control proteins, and thereby determine hereditary properties.

Transfer is possible between strains and species regardless of their relatedness. This was first demonstrated between bacteria; it is now known to be possible between bacteria and essentially any other species—probably including man. The biological world, subject to technical obstacles, can be considered to contain a single gene pool, potentially exchangeable by human ingenuity well beyond natural probability.

The actual recombination of DNA is a biochemical technique and its procedures have been referred to as a technology. The procedures stem, however, entirely from basic research that originally had little direct motivation for practical application. Even now most investigators want to use the technique to fathom basic processes of heredity and its expression. Yet it takes no great imagination to conceive of practical consequences of the techniques, both inad-

vertent and deliberate. Harmless bacteria might be transformed to disease-producers, or disease-producers might be rendered more dangerous by addition or change of genes that affect antibiotic resistance. Also, bacteria might be endowed with the capacity to synthesize unnatural but useful products; for example, for bacteria to make human proteins just as they contribute to the making of beer or cheese. Humans with defective genes might even have these repaired and all species could conceivably be altered in their evolutionary courses by appropriate genetic intervention. Here pessimistic imaginings begin to generate shivers of a tyrannized world.

These currently are, however, all imagined consequences, each with its particular degree of probability and each certainty a different distance down the road of the technological future. Nonetheless, they have all been taken sufficiently seriously to be suggested to be potential immediate biological or social dynamite. For three years a debate has been rising to crescendo, fueled by these fertile imaginings.

The question I want to discuss is: With such potential, although it is as yet untested and surrounded by uncertainty, what is the appropriate public policy to guide the growth and use of this new knowledge? Alternatives have been suggested ranging from individual self-discipline and good judgment to a total federally imposed ban on the whole business. Today words like public liability, misdemeanor and felony are occurring in discussion of activities that were, less than five years ago, called fascinating, profound and filled with promise. A radical transformation has occurred and a hysterical overshoot is not impossible.

What should be the policy objectives of the legislation that now is being proposed at all levels of government?

First, to respect the fact that promoting the generation of new knowledge is a fragile process that we have not yet fully mastered. It still can easily be disrupted by hasty and ill-considered action.

Second, to accept the current quasi-regulation under the existing NIH guidelines as a reasonable first effort that contains means of modification and has not had opportunity to be fully tested. However, one basic deficiency of the guidelines already is clearly apparent. The quasi-regulation now operating is applicable only to research by federal grantees. The guidelines should be extended legally to all recombinant DNA research and use, including that getting under way in the private and commercial sectors.

Third, to address urgently the needs to reduce the uncertainty of risk-benefit assessment that surrounds recombinant DNA research at the present time. Given the recency of the technique, there is insufficient information to judge how great the risks or benefits of particular experiments may be. Before accepting regulation that conceivably may suffocate valuable research, the entire approach should be studied in all of its aspects to improve our sense of the directions to be taken safely and constructively.

I believe that a high-level federal commission is required to provide a wider perspective by conducting a comprehensive and objective appraisal to include all current concerns. The appraisal should include the probable effectiveness of the regulatory mechanisms already in place or planned. It should recommend means and provide resources to conduct, under suitable precautions, "regulatory research" to assess actual risk of experiments that are currently judged potentially hazardous. It should determine the directions now being taken by recombinant DNA investigators and should give "early warning" of potential applications.

It should consider priorities to be assigned to potential practical applications and should recommend arrangements under

which they should occur. It should examine the social and ethical implications of all aspects of genetic engineering. It should recognize, too, that recombinant DNA research to date has been a federal monopoly.

As with atomic energy a quarter-century ago, there is reason to consider carefully whether and when it will be appropriate for release of that monopoly.

The commission should, of course, give attention to longer-term arrangements. The debate to this point has put great emphasis on potential hazard, emphasizing threatened pandemics and suggesting fatal adulteration of the evolutionary process. These speculative possibilities should not be overlooked. But they should be recognized to be "worst possible cases" readily seized upon by "doomsday theorists."

It is entirely possible that a decade hence, biotechnology may prove either to have been exaggerated or to be readily controllable. By then recombinant DNA may be an accepted tool for more effectively cultivating genetic resources, maximally for domesticated species, perhaps very gingerly even with respect to humans. The responsible regulatory agency then may be focused not on controlling biotools but on furthering intelligent use of genetic information that has been hard won over eons of evolution and is now preserved in the sequences in DNA molecules that are only accessible in existing species whose genetic properties they control. As survival of these organisms is increasingly threatened, they may be conserved in wilderness areas or their precious information may also be stored in pristine form—as known sequences of DNA.

Of several bills already introduced in Congress, one adopts the cautious approach outlined. It is SB945, introduced by Sen. Howard Metzenbaum, D-Ohio, and referred to the Committee on Human Resources. The bill finds it necessary "to give the minimum safety procedures established by the National Institutes of Health the force of law over all recombinant DNA research." But it cautions that it would be "premature to establish a finalized policy with respect to the advantages of continued recombinant DNA research." Therefore, it mandates the establishment of a National Commission for the Study of Recombinant DNA Research and Technology.

The Commission would have 13 members appointed by the Secretary of Health, Education, and Welfare in the varied fields of medicine, law, ethics, theology, the biological, physical and environmental sciences, philosophy, humanities, health administration, government and public affairs. Included also would be six members active in recombinant DNA research.

Commission duties would encompass the entire range of issues addressed in the current debate, including special comprehensive study of ethical, social and legal implications. It would report finally to the President, the Congress and the secretary of Health, Education, and Welfare in not more than two years but might make interim recommendations along the way.

It is to be hoped that Senator Metzenbaum's bill will receive careful attention by both the general public and the public policy community. It would go far to reduce current tensions and to assure rational and orderly decisions. It may lead from the proposed interim commission to a more permanent mechanism to view recombinant DNA research as one aspect of our rising need and capability to conserve and utilize the world's genetic resources.

No one could now imagine trying to create the existing diversity of living organisms by randomly constructing DNA sequences. Modern organisms represent the DNA combinations that have proved themselves over eons

of time and the earth's complex changing circumstances. They constitute a resource at least as valuable as that of energy, natural products or even of human variety.

In a closing world society we cannot afford to waste or lose any of our remaining resources. They are part of the heritage of the species in facing its unpredictable but still promising future. This is the context in which we should view the uncertain opportunities and hazards of recombinant DNA. Their management may eventually become the responsibility of a permanent Commission on the Conservation and Cultivation of Genetic Resources.

#### SCIENTISTS DUPLICATE RAT INSULIN GENE (By Victor Cohn)

California scientists have successfully copied the genes that make insulin in rats, a breakthrough they feel could lead to easier and cheaper production of human insulin by 1979.

The development is one of the major accomplishments so far of the new "recombinant DNA" research by which scientists can insert genetic material from one species into cells of another.

What workers at the University of California in San Francisco reported yesterday is that they are growing, or "cloning," rat insulin genes (which consist, like all genes, of deoxyribonucleic acid, or DNA) in colonies of the bacterium called *E. coli*.

Their hope is to isolate and grow the human insulin gene in the same way, then again use harmless strains of *E. coli* as factories to make almost endless supplies of insulin for diabetics.

Insulin is now extracted from cattle or pig pancreases. It is essential for thousands of diabetics, who must inject it into themselves once or twice a day to make up for the insulin their own bodies fail to produce. But insulin has sometimes been in short supply, and some diabetics develop allergic reactions to cattle or pig insulin. The body requires insulin to metabolize sugar.

The California work was reported by Professors William Rutter and Howard Goodman, whose laboratories and workers have collaborated.

Normal insulin is produced by cells called islets of Langerhans in the pancreas. The Californians used genes from rats because fresh human pancreases are hard to get, and because any such work with human DNA would have to be done in a kind of tightly sealed laboratory that does not yet exist.

Safety guidelines set by the National Institutes of Health in Bethesda specify that such work must be confined to a so-called P4 laboratory, lest some unexpectedly dangerous genes or bacteria result and cause harm.

Two P4 laboratories will be completed soon at NIH and its satellite facilities at Ft. Detrick, Md., "and if necessary we'd go to Ft. Detrick to work," Rutter said.

Some scientists have said the manufacture of insulin in laboratory factories by genetic engineering is five to ten years away.

"But I believe it'll be done sooner than anyone has expected," Rutter said.

The Californians' next step will be to try to induce their new mass-produced genes to actually manufacture insulin—in biological language, to make the genes express themselves.

"This is a complicated business with a lot of complicated technology, and the insulin protein goes through several stages before it is completed," Rutter said. "But I have confidence that within a year we'll have demonstrated this."

He and Goodman believe they will do still more. For their achievement includes learning much that is new about insulin genes—rats have two separate genes that do the

job, not just one as in humans—as well as about insulin manufacture in animal cells.

Another benefit, Rutter said, could be "to understand what regulates gene expression," the way genes govern cells to make every living creature and every part of the body what it is.

#### A MODERN-DAY PARABLE OF THE 20 MEASURES OF OIL

Mr. BARTLETT. Mr. President, a noteworthy constituent of mine, Mr. Wayne E. Swearingen of Tulsa, Okla., has sent me a copy of a parable he recently wrote. It provides some useful insight into our current national energy predicament, and I would like to share it with my colleagues.

I ask unanimous consent that "A Modern-Day Parable of the 20 Measures of Oil" be printed in the Record.

There being no objection, the parable was ordered to be printed in the Record, as follows:

#### A MODERN-DAY PARABLE OF THE 20 MEASURES OF OIL

(By Wayne E. Swearingen and Warren H. Schmidt)

Once upon a time a great nation was formed. The people were fruitful and multiplied and took dominion over the land.

And it was good, wasn't it?

It was revealed that a wise and kind Providence had hidden 20 measures of oil under the land and the adjacent waters. The first nine generations used a total of three measures of that oil, leaving 17.

Some people in the ninth and tenth generations studied the geology of the land. They learned some of the subtle secrets of nature—and great gushers of oil were drilled. Others built automobiles and highways. There was little need for public transport systems, for oil was cheap. It was called progress.

And it was good, wasn't it?

And so it was that the tenth generation used as much oil as all previous generations leaving but 14 measures. Some people noticed this change and spoke out, but few listened to their warnings.

The eleventh generation used four measures of oil, leaving but ten.

Other nations on Earth not so blessed raised prices and enforced conservation. But this land was a free land and low prices for oil, gasoline, and electrical power always bring a great joy in the political system of a free land.

It was in the twelfth generation that others arose in the midst of the people and cried, "Our oil is diminishing. It is finite in quantity. It is becoming more costly to find. Soon our factories may stand idle and our schoolhouses may be cold." But the leaders of the people ignored them. "There will always be enough oil," they said to themselves "for we are creative and wise and wealthy in all things. We can buy oil from others."

And so they built great ships to carry the precious oil. But a sad day came when the ships did not sail from distant lands. In places with strange names, men withheld their oil. Prices were raised. And that marked the end of the era of cheap and abundant energy. There was much unrest in the world. The pain resulting from the great change fell unevenly upon the poor of that land and Third World Nations.

And so it was that the people learned that energy was controlled by others whom they could not understand or dominate. But suddenly the embargo was lifted. The ships sailed again and the voices of those who cried for action and moderation were lost in the celebration, for great was the joy in the land.



And so, in the twelfth generation five measures of oil were produced from that land and used, leaving only five for all future generations! Nearly half of all the oil used in the twelfth generation was imported from foreign places. This brought threats to the monetary system of the land. The military leaders were worried about the defense of the land.

Some who learned of the shortage grew fearful and were filled with despair. But others said, "The truth is not in these 'Prophecies of Doom'—they cry 'shortage' only to justify higher prices."

When the elected leaders could no longer ignore the danger, they counseled among themselves. "We dare not restrict use or allow prices to rise. We know we should encourage exploration and production of our own resources. But, if we do, the people might remove us from high office"—(for those were the days of public-opinion polls, where political popularity was computed each Thursday). So they spoke in tongues, but dared not to act.

But fortunately some who saw and heard did have courage. They bent their efforts to persuade their countrymen to curb their appetite and to husband the precious supply of oil and to encourage development of all possible sources of energy, so that their children and their children's children might have freedom.

History will tell us that this was a time of crisis and conflict, when the people learned a new morality of conservation. The political leaders, labor leaders, and Captains of Industry heard the people and were strengthened to make hard choices for the long-term good. And the young people of that twelfth generation understood that their parents did care for them. And that was the beginning of a new era in the land.

And that was good, wasn't it!

Wayne E. Swearingen is a Petroleum Management Consultant from Tulsa, Oklahoma. Swearingen recently served as Chairman of Oklahoma's Energy Awareness and Conservation Month. He is a member of the National Petroleum Council, and is Oklahoma Governor Boren's representative on the Interstate Oil Compact Commission.

Dr. Warren H. Schmidt is Senior Lecturer in Behavioral Science at the UCLA Graduate School of Management, Los Angeles. Dr. Schmidt authored an animated film, entitled, "Is It Always Right to be Right?" This won an Academy Award in 1971.

The two men wrote this parable while both served as speakers for the American Management Association.

#### FUTURE OF AIRLINE SERVICE IN SOUTH DAKOTA

Mr. McGOVERN. Mr. President, South Dakotans continue to be concerned about the future of airline service in our State and the upper Great Plains. The pending proposals on airline deregulation do not, in our view, provide sufficient protection for service to smaller communities.

The Old West Regional Commission, composed of the five States of South Dakota, North Dakota, Nebraska, Montana, and Wyoming, has gone on record against airline deregulation. In addition, their plans for supplemental air service have been set aside until a determination is made at the Federal level as to what the airline regulatory climate will be in the future.

Recent editorials in the Huron Daily Plainsman and the Aberdeen American

News, major newspapers in South Dakota, have addressed these concerns. I ask unanimous consent that these editorials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Aberdeen (S. Dak.) American News, May 15, 1977]

#### THREAT OF LOSS OF AIRLINE SERVICE POSES SERIOUS PROBLEM FOR SOUTH DAKOTA

South Dakotans, preoccupied by problems of drought and need for irrigation, and concerned about how fuel shortages will affect farming and the tourist business, have still another major worry: the threat of loss of airline service through lifting of federal regulations governing it.

The immensity of the negative impact of reduced airline accommodations is beginning to make a profound impression upon people of this sparsely settled state. The possibility of cutting back or completely eliminating air service in most parts of South Dakota cannot be ignored. It can happen here. There was a time in earlier days of this state when people were certain the railroads were here to stay. But it has been proved to the alarm of the public that railroads can and do suspend service and dig up the ties and tracks.

It is understandable that South Dakotans, warned of the threat of a brush off by the scheduled airlines, are appealing to their representatives in Congress to resist legislation that would free the airlines of government guidance.

Indicative of the concern in South Dakota, the City Council of Watertown and the City Commission of Huron have adopted resolutions urging that two deregulation bills now in the Senate be defeated.

Those two cities are among the ones that could be without scheduled airline service if regulations are lifted and the commercial air carriers engage in cutthroat competition for the more profitable business of the nation's dense population areas.

The key to the thrust for deregulation, which appeals to supporters in Congress, appears to be the promise of lower air fares if air carriers are permitted to choose their own courses.

But opponents of deregulation contend that a "rate war" might reduce fares for a short time on a few major routes as new carriers enter potentially lucrative markets but they point out that deregulation will not change the cost of operating airlines and this will preclude anything more than temporary fare reductions.

Persons weighing the pros and cons of deregulation side with an opinion expressed in the Air Line Pilot magazine which said Congress "should not dismantle an industry under the guise of promising lower fares. This is a cruel hoax which should not be perpetuated any further."

South Dakotans can help discourage this hoax by continuing to support the efforts of their Washington representatives in opposition to deregulation.

[From the Huron (S. Dak.) Daily Plainsman, May 15, 1977]

#### KEEP OUR AIR SERVICE

Gov. Richard Kneip gave the Old West Commission delegates some good advice when he asked that they defer action on a plan to finance aircraft for commuter air service in the Old West states. As a result, the five governors went on record opposing airline deregulation.

There is no doubt that the proposals for airline deregulation now being considered in

the Congress will be bad news for South Dakota if adopted in their present form. Airline service as now scheduled would be sharply reduced here and in the other Old West states.

The plan presented in Sioux Falls would have the Old West Commission purchase some \$12.9 million worth of 19-passenger planes and lease them to commuter airlines. The problem seems to be that commuter airlines cannot get the money to buy their own planes. We expect that there are good reasons why the commuter lines cannot get the money and that these reasons are somehow related to service and public acceptance of that service.

Kneip argued, correctly we believe, that action on such a plan now would only encourage airline deregulation, and the other governors honored his request for deferral. However, the plan has been sent on to the respective congressional delegations for recommendations and comments and will probably surface again before the deregulation debate is over.

It is difficult to see how the government will effect savings by removing airline subsidies—one of the arguments for deregulation—and then turn around and substitute another type of subsidy for commuter lines—in the form of financing aircraft.

But it is easy to see how such a switch could diminish service, particularly at the smaller, scheduled airline airports. And with diminished service, experience has shown, comes diminished use.

South Dakota will be much better off if it can retain the airline service which it now enjoys, a point that seems to be well understood not only by Gov. Kneip but by the members of our congressional delegation. They should be encouraged to continue to fight.

#### BIOGRAPHY OF LINUS PAULING ON TELEVISION

Mr. HATFIELD. Mr. President, I would like to call to my colleagues' attention, a television program which will be aired on June 1 at 8 p.m. on PBS stations as a part of the Peabody Award "Nova" series. This will be a film biography of the acclaimed scientist and fellow Oregonian, Linus Pauling.

Linus Pauling is one of the world's unique contemporary figures, a Renaissance man of our times, with unparalleled achievements. He is the only person to have won two unshared Nobel awards—for chemistry in 1954, and for peace in 1962. I ask unanimous consent that the following information on the life of Linus Pauling be printed in the RECORD:

There being no objection, the information was ordered to be printed in the RECORD, as follows:

#### LINUS PAULING: CRUSADING SCIENTIST

LINUS PAULING: CRUSADING SCIENTIST is a "Nova" Public Television one-hour film to be shown nationally on June 1.

Pauling's scientific and human achievements may be unparalleled in world history. He is the only person to have been awarded two unshared Nobel prizes.

In 1954 the Nobel Committee presented him with the Chemistry prize, for his work on the nature of the chemical bond.

In 1962 Pauling was the recipient of the Nobel Peace Prize for 1962, for his international crusade to bring a halt to the testing of nuclear weapons in the atmosphere.

He received the Presidential Medal of Merit in 1975 in recognition of his contributions to a range of scientific fields—chemistry, biology, genetics, medicine, etc.

There are some who describe Pauling as the world's greatest scientist of this century, as a man who helped revolutionize chemistry. Others consider him a "confused health crusader" because of his Vitamin C controversy.

Linus Pauling was born in Portland, Oregon in 1901. He lived in Condon, a small cowboy town in eastern Oregon, where he first went to school. After his father died, when he was nine, Linus returned with his family to Portland, where he attended Washington High School. He went to Oregon Agricultural College (now Oregon State University) in Corvallis.

In his senior year in college he was asked to teach freshmen chemistry. The first day in this assignment he met Ava Helen Miller, a student who after a few years became his wife.

Pauling went to graduate school at Throop College—now named California Institute of Technology. His professors soon observed his genius, and he began to make original contributions to science when he was in his twenties. In 1926 he went to Europe after receiving one of the first Guggenheim Fellowships awarded.

In 1930 he made a revolutionary breakthrough in science, with his discovery of the nature of the chemical bond. His teachers accurately predicted that someday this insight would lead the young scientist to international renown and a Nobel Prize.

From study of the molecular structure of minerals and crystals Pauling moved to the study of molecular substances in the human body. His insights into the nature of the disease, sickle cell anemia, contributed to the beginning of an entirely new science, molecular biology.

During the Second World War Pauling helped develop rocket propellants for the Navy, and tried to develop artificial blood. He was asked to head the chemistry section of the Manhattan Project, but was too busy with other war work to take on this historic assignment.

Albert Einstein asked Pauling to join a small group of scientists after World War Two ended, to alert the world to the new dangers of the atomic age. Pauling soon began to speak out on this question, and after helping launch a petition calling for a halt in atmospheric testing of nuclear weapons, he became one of the nation's most controversial figures, the leading scientist spokesman for what became a ten-year crusade.

Pauling's activism made him a target during the "McCarthy era." He was branded as a Communist, a charge he consistently denied. Nevertheless, in 1952 he was refused a passport to England, where he was to give a lecture to the Royal Scientific Society, on his discovery of the alpha helix, a basic structure of protein in all life. Had he gone to London, some speculate Pauling would then have seen key data that would have assured his discovery of DNA—the so-called double helix—and thus perhaps been awarded a third Nobel Prize.

He was denied a passport again in 1954, but this decision was overruled by the State Department after it was announced that Pauling had been awarded the Nobel Chemistry prize.

In 1960 Pauling faced jail after he refused to tell a Senate Internal Security subcommittee the names of those who helped gather signatures for his world wide petition against atmospheric testing of nuclear weapons. With the signing of the Nuclear Test Ban Treaty in 1963 Pauling's crusade was culminated, and the day the treaty went into

effect it was announced that he had been awarded the Nobel Peace Prize.

During the Vietnam war Pauling spoke out against this conflict, but he had chosen after a few years of this kind of effort, to devote most of his time to science and teaching. He worked on the nature of memory, the nature of anesthesia, a field he terms "Orthomolecular Psychiatry" and Vitamin C, a basic part of his views on preventive medicine.

He has continued to gather awards from around the world for his monumental achievements.

These include the Pasteur Medal, the Davy Medal of the Royal Society, 28 honorary doctorates (including Princeton, Yale, Chicago, Oxford, Cambridge, London, Paris, Melbourne, Cracow and Berlin). He has also received the International Lenin Peace Prize, the Grotius Medal for Contributions to International Law.

In recent years Pauling has focused his activity at his Institute for Science and Medicine in Menlo Park, California. His work there has largely centered on preventive medicine.

Pauling is the author of about 400 scientific papers, 100 articles on social and political matters, particularly about peace; and several books. His college textbooks on chemistry are used internationally.

For the State of Oregon Pauling is one of its most renowned and revered figures. Linus Pauling: Crusading Scientist, produced, directed and written by Robert Richter (a former Oregonian), celebrates the life and times of a man whose achievements and humanity will be an inspiration to the millions of Americans who will see this film on June 1.

#### BUSINESS SUPPORT FOR CONSUMER PROTECTION AGENCY

Mr. METZENBAUM. Mr. President, perhaps no new Federal program has sparked as much public debate as the legislation which would create an independent Consumer Protection Agency to represent the interests of citizens before Government agencies. Virtually every consumer organization has made this issue their No. 1 priority. In the last Congress, it was thought by most that legislation to create this Agency would succeed but for the threatened White House veto. This assumption was an illusion. The opposition had no need for vocal demonstrations. They had their spokesman, allowing them silence and patience.

With a new administration, the White House becomes not only a consumer ally, but a vocal consumer leader. The illusion is over; the opposition—long silent—speaks again. With too few exceptions, a concerted effort by business has surfaced again to oppose the creation of a consumer advocacy agency.

As a former businessman I view such opposition as puzzling. Any good business person knows that the consumer's good is business' gain. In other words, what is good for the consumer is good for business.

I was heartened to read in a full page advertisement in the May 4 issue of the New Jersey Suburbanite, that Kings, a supermarket company, supports the Consumer Protection Act of 1977. Obviously, Kings knows what is good for business. I commend Kings for its leadership.

Under the heading, "Kings is Supporting the New Consumer Protection Agency Bill: Here's how you can, too," a major east coast business displays good business sense. Mr. President, I ask unanimous consent to print in the RECORD the full text of the advertisement illustrating Kings' support for the Consumer Protection Agency bill.

There being no objection, the advertisement was ordered to be printed in the RECORD, as follows:

[From the Madison Eagle-Chatham Courier, May 5, 1977]

#### KINGS IS SUPPORTING THE NEW CONSUMER PROTECTION AGENCY BILL

##### HERE'S HOW YOU CAN, TOO

Chances are, you've heard about the new legislative bill that would create a Consumer Protection Agency in Washington.

The agency would be independent and non-regulatory. It would have the power to represent the interests of consumers before government agencies and courts. And it would provide the public with information about consumer matters.

In short, it would give consumers in general a vital voice in decision making.

We've looked at the legislation and we think it works to the benefit of the consumer.

We've looked at the budget and, while we're concerned about adding to the federal bureaucracy, we believe it is a reasonable budget and is well worth it.

And we've looked at the list of people who support the bill—including President Carter and his newly-appointed Special Assistant for Consumer Affairs, Esther Peterson, who sent a strong message to Congress recommending passage of the bill—and we are impressed with its broad support.

Kathy LaPier, Kings' Director of Consumer Affairs, supports the Consumer Protection Agency bill. She urges you to send your voice of support to Washington.

Why is Kings, a supermarket company, supporting a Consumer Protection Agency?

If you're a Kings customer, you're probably not surprised. You've heard us say many times that, "What's good for you is good for us." The fact is, we believe very strongly that consumer participation in government decision making is good for consumers, business and government alike.

That's why we—as a company and as individuals—are writing to our senators and congressmen, urging them to vote in favor of the Consumer Protection Agency bill. And we urge you to do the same.

The bill is Senate Bill No. S. 1262 when writing to your senator and House Bill No. H.R. 6118 when writing to your congressman.

With all our support, the Consumer Protection Agency can become a reality and a real benefit to all Americans.

For, when you come right down to it, we're all consumers.

Kings is supporting the new Consumer Protection Agency bill.

Kings: Ridgewood, Chatham, Morristown, Maplewood, Orange, Millburn, East Orange, Montclair, Livingston, Summit, Ivy Hill, Cresskill.

Here are the people to write to:

Senators: Harrison A. Williams; Clifford P. Case. Addresses: Federal Office Building, Washington, D.C. 20510.

Representatives:

For Essex County: Peter W. Rodino, Joseph G. Minish, Joseph A. LeFante.

For Union County: Matthew J. Rinaldo.

For Bergen County: Andrew Maguire, and Harlod C. Hollenbeck.



For Morris County: Robert A. Roe, Mill-cent Fenwick.

Address: House of Representatives, Washington, D.C. 20515.

### THE PANAMA CANAL CAN BE DEFENDED

Mr. HELMS. Mr. President, the U.S. Department of State has been carrying on an extensive propaganda campaign asserting that the Panama Canal is indefensible. The purpose of this campaign is to frighten U.S. citizens into supporting the surrender of our sovereignty and rights in the Canal Zone.

The tactics of the State Department are deplorable, especially inasmuch as the canal has been successfully defended throughout many wars. For example, during World War II, the Nazi government had spread its influence in many countries in Latin America, and its spies and operatives moved freely throughout the hemisphere. Yet proper precautions were taken in the Canal Zone, and the attempts at sabotage were thwarted.

There is no doubt today among the military men with whom I have talked that the canal can be defended successfully if the proper steps are taken. The canal is protected against nuclear attack by the same nuclear umbrella that protects our entire Nation; guerrilla attacks and rioting require only certain precautions and preparations of which we are fully capable.

Now the U.S. Defense Department has confirmed what has been known all along. The canal can be defended. In a statement to Virginia Prewett, one of the most knowledgeable and experienced reporters we have reporting on the Latin American scene, the Defense Department confirmed not only that we could defend the canal, but also that we are better prepared to do so today than we were in 1964 when Communist-inspired riots broke out.

In her "Hemisphere Hotline" released today, May 27, Miss Prewett reports:

"Acting on a leak, Virginia Prewett last week formally asked the Defense Department to confirm or deny a report that U.S. forces there, commanded by Lt. Gen. Dennis McAuliffe, can indeed defend the Zone and Waterway from 'guerrillas' and/or 'rioters erupting into the Zone.' After due consultation with the powers-that-be, the official spokesman told Prewett that Gen. McAuliffe's command indeed can and will do just that.

A hint at the Pentagon shift came when Gen. McAuliffe, in a recent interview in Mexico, was asked about the Canal's defensibility. He replied that his 193rd Brigade in the Zone, some 7,000 men, are better trained and equipped than U.S. forces there in 1964 at the time of outbursts in the area. And that they can defend the Zone and waterway from any attack.

Mr. President, Virginia Prewett also points out in her "Hotline" that another dubious treaty rationale put forward by U.S. officials has also been weakened—and this time by the Panamanian dictator, General Torrijos himself. The State Department has been claiming that the new treaty is needed because "all of

Latin America" is demanding that the canal be handed over to Panama.

Mr. President, I know from my own personal experience in Latin America, and my private conversations with Presidents and foreign ministers of some of the most important countries in the southern continent that most of Latin America definitely opposes handing over the canal to a weak country like Panama. The idea that South America wants us out of the Canal Zone is a myth manufactured in the State Department.

But now, as Virginia Prewett points out, Torrijos himself has admitted that he is under pressure from South American governments that think the United States is giving away too much to him. Indeed, he is supported only by Mexico, Costa Rica, Colombia, and Venezuela—and incidentally, the last three have a special client status because of treaties with Panama by which they hope to get favorable concessions if Panama is given the canal.

Mr. President, since Miss Prewett's entire report contains many interesting details about the situation in Panama, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

#### DEFENSE DEPARTMENT CALLS CANAL "DEFENSIBLE"

[From Hemisphere Hotline Report]

WASHINGTON, D.C.—The Pentagon—which would have to have had approval from the Carter White House to do so, is reversing a long-standing State Department argument for a concessionary new Panama Canal treaty. The Department of Defense nowadays is quietly saying that the U.S. military can indeed defend the Canal and Zone against any attack.

Apparently, it has occurred to somebody in the administration that if Pres. Carter gets a new treaty including the U.S. right-to-defend, as he promised in his campaign, it should not be said U.S. forces are unable to defend the Canal. Henry Kissinger in 1975 got the Ford White House to make the Pentagon go along fuzzily with the State Department's opposite contention.

Acting on a leak, Virginia Prewett last week formally asked the Defense Department to confirm or deny a report that U.S. forces there, commanded by Lt. Gen. Dennis McAuliffe, can indeed defend the Zone and waterway from "guerrillas" and/or "rioters erupting into the Zone." After due consultation with the powers-that-be, the official spokesman told Prewett that Gen. McAuliffe's command indeed can and will do just that.

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Torrijos' personal Canal Treaty negotiator, Panama's Rómulo Bethancourt, assailed Gen. McAuliffe, saying he had contradicted a 1976 stance of U.S. Joint Chiefs Chairman Gen. George S. Brown. In Hill testimony then, Brown had inferred grave perils from guerrillas or mobs.

But last week, exclusively, the DOD spokesman cheerfully told Prewett that McAuliffe's statement does not "run counter" to Gen.

Brown's stance. As a by-product, the DOD destroys State's main rationale for making the new treaty.

Panama Strongman Omar Torrijos has threatened in many ways and on many occasions that if he doesn't get the treaty he wants, guerrillas or direct attack (which he himself might lead) will overwhelm the Zone. He threatened violence recently in his own interview in Mexico.

Kissinger put pressure on the White House to get Gen. Brown to head a very high-level U.S. mission to Panama in September 1975 to shore up the then-teetering Torrijos. From then on, State's thesis of Canal indefensibility had at least implied Pentagon concurrence.

#### TORRIJOS AND THE BANKERS

Prewett has also learned the following from a source many times proved reliable: Torrijos is heavily trying the patience of the big U.S. banking interests that have given major private-sector support for the Kissinger-type treaty.

Torrijos, it is learned, must have around \$65 million in new foreign loans by June 1, else important payrolls may go unpaid. Big New York banks already much exposed in Panama will arrange a package of some \$300 million to pay debt service, with some money in an early installment for payroll purposes, it is learned. That is, if Torrijos will sign the kind of treaty he is now being offered.

That treaty, it has been understood from the time Carter took office, must allow the U.S. to play a continuing defense role in Panama—to "guarantee the Canal's neutrality" for as long as the waterway has a useful life.

Carter named Amb. Sol M. Linowitz, energetic spokesman for the New York banks' point of view, as co-negotiator on a Kissinger-type treaty. After he began negotiating, it was pointed out that Linowitz held two high posts with the Marine Midland Bank of New York, which has made loans to the Torrijos regime. Under fire for a conflict of interests, Linowitz resigned the bank posts. But the New York banking community in effect has in Linowitz a representative of their viewpoint on the present negotiating team.

Ironically, a charge made by the pro-treaty camp is that the old treaty, made in the early 1900's, was too strongly influenced by U.S. financial interests.

#### ANOTHER TREATY RATIONALE WEAKENS

Another oft-heard rationale for concessions to Torrijos has been materially weakened by the Panamanian strongman himself.

In an interview with several foreign women journalists, Torrijos, expansive and indiscreet, confessed that only four Latin American presidents are willing to go to bat for him. (They are those of Mexico, Costa Rica, Colombia and Venezuela.) He said that "rightist" South American governments think the U.S. is giving away too much to him—and that under their pressure, he will allow the U.S. a continuing right to intervene for defense "against third nations". He said, however, he would never sign a "written" agreement to allow U.S. intervention "in Panama"—presumably against rioters or guerrillas, his repeated threat.

Torrijos' group has frantically tried, without success, to deny he ever made the statements. The Hotline has reported for some ten months that Torrijos was losing, and now has lost, most of Latin America's support. The State Department, in reference to Torrijos' admission that he now has real support from only four neighbor regimes, said that all Latin American governments are "on the record" as favoring the new treaty—at least "publicly".

So much for the second rationale for the Kissinger-type Canal treaty.

Torrijos' indiscretions to the lady reporters is of a piece with other private admissions and boasts his group has made on informal occasions, such as cocktail parties. When Rep. Robert Dornan (R, Cal.) was in Panama with a House Subcommittee earlier this year, a Torrijos official at a party boasted that when they get the Canal, they can "make a big profit" with preferential toll charges. If Japan ships Toyotas to New Orleans, the ship carrying them may pay very high, was the example. Russia and Cuba might get much better rates.

Such concerns are hardly ever broached in the U.S. national press, though Washington Post editorialists now admit that 48 "hard" votes in the Senate oppose the treaty. But proteate legislators and their staff members are concerned.

Delta Lines Pres. J. W. Clark told the Institute on Foreign Transportation and Port Operations in New Orleans May 6 that "Communist shipping has become a real threat to U.S. flag lines and our Western trading partners."

"Their prime target seems to be the lucrative U.S. trades. Insidious rate-cutting practices, on a non-commercial basis, prompted even the chairman of the U.S. Federal Maritime Commission to initially endorse . . . giving the Communists rate advantages as a lesser evil to 'confrontation' between governments. . . . Private steamship lines alone can hardly stand up to state-owned, politically motivated, raw maritime power."

Russia and Communist China each have 100 ships under Panamanian registry, Capt. Clark said.

#### HOUSING: STILL ON THE SAME OLD DANGEROUS ROLLER COASTER

Mr. HUMPHREY. Mr. President, a recent article by Robert Simson, in the Wall Street Journal, provides some interesting facts about the housing boom which is sweeping this Nation.

Although I am delighted with this long-awaited good news, I am disturbed by the lack of stability which plagues the housing industry. Each turn that the economy takes is magnified in the housing industry—a recession in the rest of the economy will insure a housing depression, as we have recently seen. This depression, of course, is felt throughout the housing-related industries such as the lumber, insulation, concrete, furniture, appliance industries, and the like.

Our economy simply cannot afford to have the housing industry fluctuate so severely in response to swings elsewhere in the economy. Housing simply should not be a boom or bust industry. Not only is this phenomenon detrimental to the rest of the economy, but it also deprives Americans of the opportunity for home ownership. It is important that each American be assured of a decent and affordable home. A housing slump not only limits the units available, but, in doing so, drives up their prices. The March 1977 median price of a new home was \$46,000, up 6 percent from March 1976, and 18 percent from March 1975. At this pace, it is becoming increasingly difficult for young families to purchase homes.

At this point I would like to call your attention to the legislation I have intro-

duced to create a Federal Housing Bank. This bank would make mortgage funds available for home purchases at no more than 6 percent for most mortgages and on a consistent basis related to housing needs. I cannot overstate the importance of such legislation. The Federal Government must not leave the fluctuations of this important sector to the capriciousness of the private market exclusively. We must insure potential homeowners low interest rates, market stability, and affordable homes. Without these, homeownership will become a privilege reserved only for the wealthiest segments of our population.

Mr. President, I ask unanimous consent that the Wall Street Journal article discussing the happy side of our boom-or-bust housing industry be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOUSING BOOM SPREADS FROM COAST TO COAST: FEARS OF INFLATION HELP—SOME TRACTS ALREADY EXCEED SALES FOR ALL LAST YEAR; A QUICK-TRADING FAMILY—SUN BELT AND SNOW BELT BUSY.

(By Robert L. Simpson)

What started last year in California is a regional flurry of frenzied home buying has spread eastward and is developing into the biggest single-family housing boom on record.

From Southern California, where lotteries often determine who gets to order a new house, all the way to New Jersey, where some developments this year have already exceeded sales for all of 1976, demand is far outstripping builders capacity to deliver new houses.

Instead of a firm sales contract, more and more prospective buyers in places like Denver, Houston and Washington, D.C., are being offered only a spot on a waiting list. While the pace is clearly hottest in the West, "there are no bad markets anywhere," says Michael Sumichrast, chief economist of the National Association of Home Builders.

Fueling the boom are favorable mortgage conditions and a growing demand from newly formed households. But especially important this year is fear of renewed inflation. New-house prices have doubled since 1970 and show no signs of leveling off. "A lot of the buying in this country is panic buying," says a Denver home builder. "People are buying because they think they will never have another chance."

#### A HOUSE IS A HEDGE

"The price of the house is the only thing that's holding up for people," says Judy Mackey, a consultant at Townsend-Green-span & Co. of New York. "The stock market failed them, gold failed them and their savings accounts aren't keeping up with inflation. Families are buying houses more freely and putting more of their incomes into them as a hedge against inflation."

Thus, Terence and Sheryllyn Odo, both airline employees in their early 30s, are buying their second house in just six months. "We don't have a lot of money," Mrs. Odo says. "There's no way we could save \$40,000, and yet we've made that much in six months on our house."

After taking an \$18,000 profit last August on the sale of a condominium they had owned three years, the Odos, who have two children, bought in November a new, \$71,000, three-bedroom house in Foster City, Calif., near San Francisco. Now they're confident of

selling the same house for well over \$110,000, even though "it's just a pleasant house that nobody would go screaming after," Mrs. Odo says.

The Odos recently took turns standing in line for two nights and a day so that they could sign up to buy a new, \$111,500, four-bedroom house not far from their old one. To keep their monthly housing payments at about \$630 and within reach of their combined monthly income of \$2,000, they plan to put \$60,000 down on the new house.

#### SPECULATION A FACTOR

Rampant speculation is helping to overheat the California market. Many buyers don't want a house; they want a quick profit. Such speculation doesn't seem to be spreading to other states, but frantic buying like the Odos' is.

"What happened in California last year is happening here now," says William Tucker, executive vice president of Wood Brothers Homes Inc. of Denver. "We're selling faster than we can build." The firm doubled its year-ago sales pace in the city to 600 units in the first four months. At Writer Corp. of Denver, "I put the brakes on" sales after April, says George S. Writer Jr., president. First quarter sales of 164 units were 30% ahead of schedule; April sales of 83 units were 76% ahead.

Near Phoenix, sales at Del E. Webb Corp.'s Sun City retirement community hit 2,400 units in the first quarter, ahead of 1,695 units for all of 1976 and close to 1973's one-year record of 2,516. U.S. Home Corp., a national builder based in Clearwater, Fla., reported 55% year-to-year sales gains in March and April after a 40% gain in February. Kaufman & Broad Inc., with operations in California, Chicago and New Jersey, posted a 76% increase in March orders over the year-earlier level. In the previously depressed New York-Long Island market, single-family building permits rose 70% in the first quarter from a year earlier.

#### BEST YEAR ON RECORD?

Such sales rates indicate that single-family home building is on the way to its best year since the Census Bureau started recording such starts in 1959, experts say. The National Association of Home Builders has forecast 1.4 million single-family starts for all of 1977, up from a healthy 1.16 million in 1976. (The record year at present is 1972, when 1.3 million single-family units were started.) In March, single-family starts hit a 1.33-million-unit annual pace, aided by starts that were delayed by bad weather in January and February. The April rate was 1.44 million, down from March but 35% ahead of the April 1976 pace.

The single-family boom is good news for both the housing industry and the economy in general. With multifamily starts expected to rise to between 460,000 and 500,000 units from 1976's anemic 373,800, total 1977 housing starts are expected to approach 1.9 million units, a robust 23% ahead of 1976's 1.55 million starts. Some forecasters are raising their 1977 predictions to two million units.

A booming housing industry generally helps stimulate the rest of the economy, for new-house production affects sales not only of such building materials as lumber, insulation and concrete but also of household items like appliances and furniture. Housing's job impact is similarly broad.

One key to the boom is a favorable financing situation. Savings flows into savings and loan associations are continuing at high levels and are expected to total \$46 billion for the full year, only slightly below 1976's record \$49.7 billion, according to Donald M. Kaplan, chief economist of the Federal Home Loan Bank Board. As a result of such inflow, S&Ls are expected to make a record



\$98 billion of mortgage loans this year, up \$10 billion from 1976.

After declining steadily the first four months to an average of 8½% to 8¾% on loans for 80% of the purchase price, mortgage interest rates at lending institutions are only now starting to firm and edge up in some markets. Rates as low as 8¼% are available in some places, and industry experts forecast only a gradual rise in rates to about 9% by year-end.

Another key: The Census Bureau reports continued high levels of new-household formations—1.7 million, last year, up from 1.3 million in 1975. "We have ideal circumstances with the post-World War II babies coming through and buying houses," says Frank Crossen, chairman of Centex Corp., which posted a March 31 backlog of 3,049 orders for new houses, up 40% from the year-earlier level of 2,185.

But skyrocketing prices make it increasingly difficult for first-time buyers to afford new houses. In 1976, the median sales price of new houses rose 12% from the previous year, and the March 1977 median price of \$46,400 was up 6% from March 1976.

Without a house to trade in, Dennis Sprovero, 29 of Hercules, Calif., and his wife "had to scrape" to come up with the 10% down payment they needed to buy a \$50,000 house. Although their combined income is \$25,000 a year—he is a merchandise manager at a Richmond, Calif., store; she is a schoolteacher—they had to borrow from their parents to raise the down payment.

The rise in the median price partly reflects sales of bigger new houses, with added amenities like fireplaces and air conditioning, but inflation is rapidly closing the existing-home market, too, to first-time buyers. The median existing-home price in March was \$41,000, up 10% from a year earlier, according to the National Association of Realtors. At those prices, the median home-buying family's income in 1976 was \$21,615, well above the national median income of \$14,750, according to the home builders' Mr. Sumichrast. He notes that only 35% of the new-home buyers are in the housing market for the first time.

At the same time, escalating resale prices mean that young homeowners like Stephen Bieri of Denver can rapidly trade up. He and his wife, Barbara, who both work for the Denver Rockies professional hockey team, are buying a new, \$72,500 house, their third house in two years.

The Bieris had to borrow from his parents to buy their first used house two years ago in California. But a \$5,000 profit from the sale of that house after six months gave them a down payment for a used house they bought last August in Denver for \$49,500. After seven more months, the Bieris sold that house at an \$8,000 profit, and they had saved enough to make a \$14,500 down payment on the new house they're now buying. With an income of more than \$30,000 a year, they expect to easily afford the \$550 monthly payments.

Because the price of such a house has gone up \$3,100 since they ordered one in February, Mr. Bieri figures "we can't lose money on it, and if we'd waited any longer, it would have been an \$80,000 house, and we couldn't swing that."

Recognizing that buyers are more and more limited to those with two incomes and sizable equities in existing homes, builders are introducing bigger, fancier houses with the more affluent buyer in mind. "We're catering to the trade-up market now instead of the 'no frill's home' market," says a spokesman for Kaufman & Broad. During the recession, Kaufman & Broad helped lead a building trend toward scaled-down, "back-to-basics" houses with modest price tags, but

now it is having success with larger, more expensive models.

In Denver, Sanford Homes, Inc., which sells most of its houses in the \$65,000-to-\$85,000 range, has introduced a plush, 2,800-square-foot "manor house" that now sells for \$95,000 to over \$100,000. After selling eight of the houses, Sanford has a waiting list of 20 buyers for the next manor house it builds in a planned subdivision.

Also contributing to higher prices are rising costs of materials and labor. In recent weeks, price increases have been posted covering cement, roofing, hardboard, insulation and other building products. In especially hot areas of the Southwest, some builders are temporarily running out of such supplies as wallboard and insulation as manufacturers ration production. Spot labor shortages are developing. In Dallas, Jim Walter Homes runs newspaper ads urgently asking for carpenters. In the Los Angeles area, carpenters command a \$20-a-day premium in addition to base pay of \$12 to \$13 an hour, according to Centex Homes.

#### LOT PRICES SOAR

But probably the biggest cause of the rising home prices is the dizzying climb of land costs. In California, "the top price for a single-family lot, with improvements, was \$12,000 two years ago, but now the standard price is \$20,000, and they go up to \$75,000 for a finished lot in the San Francisco Bay area," says John Hensley, president of Centex Homes of California.

Builders say that a major cause of the rising land costs is the long delays often forced by environmentalists and opponents of growth after a developer buys property but before he sells it to builders. A delay may last 2½ years. The developer has to spend money fighting the objections and has to carry the debt that much longer, all of which raises his price to builders.

And sometimes he is forced to drop the project. Partly because of such obstacles, home-building sites are harder to come by. According to Advance Mortgage Corp., California builders face an imminent shortage of buildable land, and home prices are rising by 2% to 4% a month.

Thus, mob scenes often result when California builders try to sell houses. In Garden Grove, Shappell Industries Inc. recently held a lottery to choose 91 buyers out of 1,000 applicants for its \$115,000 houses. "There was nothing else we could do," says a spokesman. Hopeful customers offer to bribe salesmen, and disappointed buyers threaten to injure them. "It's just no fun selling any more," laments Bob Moon of Oakridge Realty in San Jose.

Builders face site problems in other parts of the country, too. In the Denver area, Public Service Co. of Colorado, facing restraints on natural-gas supplies, puts builders on a 12- to 15-month waiting list for new gas taps. Tight supplies of water also hold up building there; the Denver suburb of Westminster recently began a building-permit allocation program after a 130% increase in permits in the first quarter threatened to jeopardize the suburb's water supplies.

A typical single-family lot in the Denver area, with utilities and streets, sells for \$12,000 now, up 14% from a year ago. New-house prices are rising by at least 1% a month, builders say.

Signs of a land rush are appearing in Denver. Most builders have sold all the houses they can build through the summer, and some have stopped taking firm orders. "We don't want to get too far ahead of building with sales because we might get locked into unfavorable costs or a poor money market," says William Butler, sales and marketing director at Wood Brothers Homes,

which is taking lot reservations for houses it won't deliver until late fall. U.S. Home's Witkin Homes unit in Denver says that 185 new houses priced between \$30,000 and \$70,000 were ordered in two months at the builder's Summer Valley Ranch development—before models were built and the project was officially opened.

"I guess you either afford it now or it's worse later," sighs Carol Schenderlein, who with her husband, Robert, is buying a new, \$53,500 house in the Denver area after selling their old one for \$37,500.

Last winter's cold weather has apparently sparked a new movement to the sun spots of Arizona and Florida. Other Phoenix and Tucson builders besides Sun City are doubling year-ago sales levels, and "Florida is in a full bloom situation," according to James J. Shapiro, president of U.S. Home's Countryside Division in Clearwater, Fla. "This winter we found the walkaway Northern homeowner who said, 'That's it,' closed the door on his house and moved to Florida," Mr. Shapiro says. At Countryside, U.S. Home is building condominiums for the first time in two years, and single-family sales are double the level of two years ago.

But new-house sales are also up in colder areas—up 42% in Chicago, according to Home Data Corp. in hard-hit Buffalo, N.Y., Marrano Enterprises Inc. posted a 10% sales gain in the first quarter despite the weather and expects to increase production by 20% for the full year. James Chiswell, executive vice president of the Buffalo builders' association says:

"People found out the old house just wasn't what they thought it was and are buying houses with more insulation."

#### S. 790—FICTION AND FACT ON WATERWAY USER CHARGES

Mr. DOMENICI. Mr. President, several recent letters and statements analyzing the effects of S. 790 and waterway user charges have come to my attention. These assessments by the barge industry are designed to show that the waterway user charges in S. 790 will bring "destruction" to the waterways. There is only one difficulty with this case: It is built on a foundation of fictional figures. The doom-speakers of the barge industry ignore the 10-year phase-in of waterway user charges in S. 790. They ignore the congressional veto in S. 790. They ignore the opportunity for a mid-course correction in S. 790. They ignore the full Federal subsidy now spread among the big barge companies. They ignore the many evaluations by various independent Federal agencies. And they ignore the language in S. 790 that protects existing waterways against user charges that would cause serious economic impacts.

Worst of all, they ignore the facts.

Most of the barge industry lobbying against waterway user charges, which would give the taxpayers a fair shake, has been based on an argument that "we don't know enough." If we only consider the barge industry's figures, I would agree. But I believe a look at independent analysis, and some simple mathematics, will enable my colleagues to come to the reasonable conclusion that the arguments of the barge industry can be safely dismissed.

To give my colleagues a flavor of these statements, I shall share with you sev-

eral of these flights of fictitious fancy, and show how the real impact of S. 790 is far more reasonable.

## FICTION

The Ohio Valley Improvement Association has been a leader in the dissemination of information that inflates the effect of user charges. For example, they state that a barge trip from Huntington to Charleston, W. Va., will bring with it a user charge of \$1.93 per ton of commodity. Since this involves a voyage of about 100 river miles, the OVIA user charge works out to about 2 cents per ton-mile.

## FACT

According to the Corps of Engineers, some 162 billion ton-miles of traffic moved by barge on the Mississippi River system in 1972. If you multiply that OVIA figure of 2 cents per ton-mile by the 1977 traffic levels, you quickly find that the Ohio Valley Improvement folks have come up with a user charge that raises \$3.2 billion a year on just the Mississippi system alone.

Since the Corps of Engineers spends only \$400 million yearly on inland waterway improvements, and S. 790 recovers only a percentage of that expenditure, I think it is a bit unfair to base your arguments on figures that go up to \$3.2 billion. Other barge operators have told me privately that S. 790 would add an average of 1 mill to ton-mile shipping costs after 10 years, which I think is high.

## FICTION

The President of Jones and Laughlin Steel Co. is quoted by the barge industry as saying: "Unless we can ship our steel down the river by the bargeload, it will be more difficult—maybe \$20 a ton more difficult—to compete with foreign products."

## FACT

In its thorough study of the impact of waterway user charges, the Department of Transportation estimates that a user charge system for full recovery would add from 4.7 to 14.9 cents to the cost of a ton of steel by the basic oxygen process. That seems to me to be a bit at variance with "\$20 a ton." The DOT study goes on to make these points:

The average user charge on barge coal in this region would be between 6.7 and 12.2 cents under the segment toll and between 4.0 and 10.9 cents for a uniform fuel tax. This compares to a delivered price of metallurgical coal in this area for forty-five dollars in 1976—including transportation of \$1.50 to \$2.50 per ton. These increases in the delivered cost of coal would add between three to ten cents to the cost of producing one ton of steel, depending on the plant and the form of the user charge.

User charges for the recovery of 100% of Federal OM&R (operation, maintenance, and repair) expenditures on the inland waterway system would have small impacts on the cost of producing steel in the areas bordering the river system—a fraction of one percent of total costs even for the worst case.

## FICTION

The President of one barge company is quoted by Inland Waterway Weekly as saying "there is no logic in taxing navigation and not irrigation, reclamation, and flood control."

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## FACT

I agree. Irrigation water and reclamation projects are now subject to cost recovery. They have been for decades. Flood control, when specific beneficiaries can be identified, is also subject to recovery. To make certain that such a policy is carried out effectively, I sponsored a section that is incorporated in S. 1529, now on the Senate Calendar, to assure the recapture of windfall land-encroachment benefits from flood control projects.

## FICTION

I also recently came across a statement by the president of the United States Steel Corp., warning that waterway user charges would reduce operations at United States Steel plants employing 100,000 persons, and reduce "tax revenues collected by all levels of government."

## FACT

Such an assessment must be placed in context. As noted above, waterway user charges would add a few pennies to the cost of a ton of steel. That is not even 1 percent of United States Steel's recent \$22 a ton increase in its price on cold-rolled sheet steel, the industry's No. 1 product. United States Steel now charges \$338 per ton for cold-rolled sheet steel. User charges might add a dime to the cost of some of that steel. The executive also fails to mention the United States Steel is one of the Nation's largest barge companies. It has been so successful that United States Steel's 1976 barge business rose 21 percent from the year before, and now includes more business each year than the entire Missouri and Arkansas Rivers systems combined. It is probably safe to assume that the "free-enterprise" worries of United States Steel center more on the fate of their captive barge companies, than any worry over steel prices.

## FICTION

An executive of Martin Marietta aggregates wrote to the Congress, noting that the company dredges some 500,000 tons of sand and gravel annually from the bed of the Ohio River, then ships it by barge 20 miles or so to Louisville. "Any increase in costs will be reflected in higher consumer charges," the company warns.

## FACT

That may be true. But even using the outside figure of S. 790—adding 1 mill per mile to costs—estimates by other barge operators—the price of sand or gravel will rise about 2 cents a ton as a result of that 20-mile trip, after 10 years. I hardly think that merits the ominous warning of "higher consumer charges."

## FICTION

Harry M. Mack, President, Ohio Valley Improvement Association, warned the Congress that:

Waterway use taxes at the high levels proposed in the bills before your committee, associated with the consequent probably disallowance of modernized navigation works, would inevitably generate a sharp increase in the price of gasoline paid by millions of motorists in the Upper Ohio Basin.

## FACT

Let us look at the costs of shipping gasoline on the waterways. Representa-

tives of the barge industry have told me that they believe that the charges in S. 790 would add 1 mill to their ton-mile costs, after the decade long phase-in. A ton of gasoline contains about 8 barrels, with each barrel containing 42 gallons. Thus a ton of gasoline contains approximately 336 gallons of gasoline. Gasoline today carries a wholesale price of about 40 cents a gallon at the refinery, before any normal distribution costs. Thus, a ton of gasoline has a wholesale value at the refinery of about \$134.40. When gasoline is barged for 400 miles—the average distance of a waterway shipment of petroleum products—the cost of that ton of gasoline would carry with it a user-charge increase of 400 mills, or 40 cents. That is after the decade-long phase-in. And that assumes the barge industry's estimate of costs. Thus, the waterway user charges in S. 790 would add 40 cents to a cost of \$134.40 after 10 years. It would add less than one-eighth of a penny to the price of a gallon of gasoline shipped on the waterway, after 10 years. Does anyone really believe that one-eighth of a penny per gallon after 10 years represents a "sharp increase?"

## FICTION

Another barge representative said this:

This is hardly a time to commit the country to taxes which would close down some rivers and divert traffic to less energy efficient transport modes.

## FACT

This statement makes two erroneous assumptions. Barge traffic is not more energy efficient than competing modes. In fact, it appears to be less energy efficient on a point-to-point basis. The Congressional Budget Office surveyed 11 reports and found energy use for barge traffic was greater than for rail. That's on a ton-mile basis. After you count in the meandering nature of rivers, the barge disadvantage becomes far greater.

Nor will S. 790 "close down some rivers." There is specific language on page 8 of S. 790 that assures against this: "In establishing user charges under this section, the Secretary is directed to assure that user charges that apply to any particular existing segment of the inland waterways of the United States shall be set at a level so as not to cause serious economic disruption among the commercial users of such segment."

## FICTION

J. W. Hershey, president of the National Waterways Conference, Inc., termed S. 790 "the product of either a grievous lack of understanding, preparation and study of the complexities of waterway transportation and related water resource functions or, as we trust is not the case, a contempt for water transportation so profound that, for the sponsors of these bills, any weapon is acceptable for the destruction of the water transportation system."

## FACT

I fail to understand how support for legislation to gradually recover a portion of the annual taxpayer investment in navigation improvements qualifies as "contempt" for water transportation, or how it shows a "lack of understanding,



preparation, and study." Nor do I believe such a characterization is fair to the Secretary of Transportation or the President of the United States, both of whom support waterway user charges. Rather, I believe it shows an interest in fairness, and a desire to achieve a measure of balance in our national transportation program before it becomes necessary that the American family taxpayer must subsidize all modes of transportation to the degree the barge industry is currently subsidized.

FICTION (ALICE IN WONDERLAND CATEGORY)

Mr. President, I guess the most bizarre comment I have come across is the statement by a Louisville sand and gravel executive. The executive said:

The imposition of user taxes or tolls could very well make our mode of river transportation into a non-profitable one that would possibly require a subsidy like the railroads and airlines now require.

FACT

A Federal subsidy now exists exceeding 40 percent of industry revenues for the barge companies. One river, with one commercial user, carries a subsidy of nearly half the total value of the products shipped yearly on that waterway. Granted, there are many who oppose user charges, and say, "Why bother; we'll give the railroads their share, too." That is not the point. Giving industrial welfare to all does not make welfare any more responsible. User charges will bring a better balance in national transportation policy. They will bring a measure of relief to the overburdened American taxpayer. They will stave off the day when we might have to pour billions of relief, your tax dollars and mine, into the railroads. They will bring a little more fairness to national policy. They might also bring a little hope among the public that the big interests do not always get what they want.

#### RECOGNIZING THE FAMILY FARM

Mr. McGOVERN. Mr. President, farmers in South Dakota have come upon hard times the last few years. A series of drought years has plagued our State, operating costs continue to rise, and prices resulting from abundance in other areas have been driven down to levels where many farmers are faced with severe credit restraints. All this is compounded by the hard view the administration has taken with respect to the recently passed Senate Farm bill.

John Bohr of Pierre, S. Dak., has sought to dramatize this situation by the formation of an organization called the South Dakota Drought Aid Association. Recently the association adopted a policy resolution regarding the importance of the family farm in America. Permit me to seek unanimous consent that the text of this resolution be printed in the RECORD.

There being no objection, the text of the resolution was ordered to be printed in the RECORD, as follows:

#### RESOLUTION

Whereas the basic productive unit of agriculture since the Congressional passage of

the Homestead Act of 1862 has been and continues to be the small family farm, we herein seek to recognize and define the place of the family farm within our nation.

The family farm is herein recognized as that portion of land in a given area which can be practically and economically tilled and operated by the members of one family group.

Whereas the family is recognized as the stabilizing influence in our national life we herein recognize the family farm as the stabilizing influence in agricultural production.

Whereas our people and institutions have sprung from the land we seek to preserve the agricultural community which has provided unquestioningly through all national emergencies, two world wars, and two world wide droughts.

Therefore, be it resolved that the family farm be recognized and declared to be the basic unit of American agriculture.

#### PROBLEMS WITH COMMUNITY RE-INVESTMENT PROVISIONS IN THE HOUSING BILL

Mr. SCHMITT. Mr. President, very soon the Senate will consider S. 1523, the Housing and Community Development Act of 1977. I am extremely concerned about title IV of the bill which hints at the need for credit allocations and promises to increase the paperwork burden of our financial regulatory agencies and the institutions which they supervise.

Title IV of S. 1523 was originally introduced as the Community Reinvestment Act. In its present form, it would require lending institutions to provide information necessary to assist the regulatory agencies in specifying where loans should be made. The institutions concerned include commercial banks, savings banks, and savings and loan institutions. With this information, directives of a Federal regulatory agency would then be substituted for the judgment of individual banks and savings and loan officials.

In addition to major new paperwork requirements, I have serious reservations about the wisdom of title IV. By allowing Federal examiners to determine who is a worthy recipient of a loan, the bill would remove the decision from the hands of the local lending specialist, who has the skills to analyze the local housing market. This decision now would be turned over to a Federal agent whose primary skill is in the area of financial accounting and auditing.

In addition to a substantive thrust which goes in the wrong direction by providing the groundwork for credit allocation, the wording of title IV leaves key words and phrases undefined, thus opening the door to possible misinterpretation of the legislation and the possibility of vast pages of regulations designed to accommodate this lack of precision. Regulatory agencies would be required to establish guidelines in each market area—guidelines which could easily become out-of-date in many dynamic neighborhoods.

In testimony before the Senate Banking Committee, the Acting Chairman of the Federal Home Loan Bank Board testified that one criteria used by the Board

in its decision to grant charters is the "convenience and needs" test which looks at the possibility of aiding depressed neighborhoods. Other regulatory agencies use similar criteria in determining whether financial agencies should be permitted to branch. Thus, the needs of the community are evaluated under present regulations.

Rather than attempting to allocate credit through the Federal financial regulatory agencies, we should be making every effort to improve the flow of capital across cities, States, and the country to provide credit where it is required. Unfortunately, title IV goes in the wrong direction. The Federal Government should instead be encouraging local governments to provide the type of environment necessary for the encouragement of private assistance necessary to improve public services—including sewage, police and fire protection, and road and highway service—for the affected areas.

Too often in the past, we have passed legislation which is well-intentioned but misses the mark widely in really solving the problem. The Real Estate Settlement Procedures Act is an example from history of the regressive and burdensome regulation which can develop through careless legislation. I urge my colleagues to join me and other Senators from the Banking Committee in our efforts to strike title IV of S. 1523.

#### THE PRIORITIES DEBATE

Mr. McGOVERN. Mr. President, in recent days I have attempted to encourage public examination of the priorities that ought to be set by the new administration.

Some have chosen to interpret my remarks as a political attack on the President. Others have cast the question in terms of liberal versus conservatives, or the old New Dealers versus the new realists. Another interpretation has been that the crux of the debate was spending or not spending.

All of those are incorrect. Two newspapers in my State, one of them in my hometown of Mitchell, have accurately captured the sense of what I and a few others have been trying to say.

I ask unanimous consent that the editorial from the May 25, 1977, Sioux Falls Argus Leader, and the May 18, 1977, Mitchell Daily Republic be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Mitchell (S. Dak.) Daily Republic, May 18, 1977]

#### McGOVERN VERSUS CARTER

As long as there is a democracy in this country there is a freedom to voice opinions, whether it be to support the actions of a president or whether it be to offer constructive criticism.

There may be an unwritten law that says it is unpopular to criticize a president early in his Administration, especially if he is of our own party, but there is also a duty of conscience to voice criticism if there is genuine reason for concern.

The feud that has erupted between President Carter and Sen. George McGovern is

drawing much attention. In this exchange of suggestions, we find two men of the same party exercising their freedom of speech.

Much of what South Dakotans should be concerned about that frustrates McGovern did not get attention in the national press.

But during that Americans for Democratic Action speech, he reviewed his concerns for the fate of the South Dakota farmer and for the future of water development due to early positions taken by Carter.

Just as there has been a period of silence by foes in the past, there has also been a traditional transition with caution by the new president. But with Carter it has been different.

Intent on giving the country an early indication of what they bought in the November election, he has made some early and bold moves that have given supporters and opponents of his policies fuel for compliment and criticism.

We depend on the Chief Executive as members of his constituency, to look after our best interest. And when segments of his constituency are upset with his direction, we look to officials who represent our state to call attention to our concerns.

For this we give Sen. McGovern credit. He opened himself to attack by his own party members, but he also gave the first real national signal that the honeymoon for Carter was in danger.

Again it is through the efforts of our senior senator that we hear a call for accountability. No elected official relishes the thought of chastizing one of his own party, but when the motive becomes legitimate, delaying criticism for the sake of tradition is allowing the problem to compound.

Unless someone like McGovern steps forward and seeks an explanation for the course being pursued, we as South Dakotans, can face another era of neglect by the powers in Washington.

[From the Sioux Falls, Argus-Leader, May 25, 1977]

#### McGOVERN MAKES POINT FOR DISAGREEING WITH PRESIDENTS

Should a United States Senator go along with the majority or his party's president in the interest of unity and harmony?

No, says U.S. Sen. George McGovern, who said his vote for the late President Lyndon B. Johnson's Gulf of Tonkin resolution in 1964 left him with a bitter memory. McGovern said he felt at the time that this country's participation in the Vietnam War was wrong, but voted for the congressional endorsement of Johnson's policy of escalation for reasons of harmony.

McGovern told a Downtown Rotary Club audience this week that if the resolution had drawn more opposition than the two Senate votes recorded against it history might have been different. Later, McGovern's criticism of the Vietnam War irritated LBJ.

McGovern believes the proper course for him is to speak his mind, even if it involves criticizing another Democratic President—Jimmy Carter—for attempting to halt water projects or for espousing a farm bill the Senator feels is not in the state's best interest.

Former President Gerald Ford, a Republican, last September named McGovern as one of 10 representatives in this country's delegation to the 31st session of the United Nations. Ford did so despite the fact that McGovern differed with the President's decision to veto membership in the United Nations for Vietnam. Ford saw a plus for this country in having McGovern in the delegation.

South Dakotans have often disagreed with McGovern, but most of them, we think, appreciate the fact that he speaks his mind.

Positions taken for the sole purpose of unity or harmony do not endure and do not contribute either to public understanding or better government.

#### COAL CLEANING—A VEHICLE FOR MORE EFFECTIVE COAL UTILIZATION

Mr. RANDOLPH. Mr. President, coal production for electric generation alone will expand from approximately 447 million tons in 1985 to 1,315 million tons in the year 2000. The continuing shift to electricity and the number of converted and new coal-fired powerplants and industries will require that serious attention be given to new technologies for cleaning coal.

As chairman of the Environment and Public Works Committee, I will make a determined attempt to assure that we have an institutional structure which will provide the necessary capital funding coupled with environmental safeguards for a meaningful national energy policy. Effective coal cleaning is essential as we convert our industries from oil and gas to coal or to synthetic fuels processed from coal, to protect the health of our citizens.

Mr. President, I bring to the attention of my colleagues the address I made on May 25 at the Conference on Coal Cleaning sponsored by the Environmental Protection Agency and the Battell Institute, in Arlington, Va., and I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

#### COAL CLEANING—A VEHICLE FOR MORE EFFECTIVE COAL UTILIZATION

(By Senator JENNINGS RANDOLPH)

The energy problems we face stem from a long history of unintentional neglect and the manner in which we have attempted to shape the components of the United States energy policy. No single villain has brought us to our present situation, just as no simple and single action will suffice. It is essential that conferences such as this one—on coal cleaning—continue to provide the opportunity to counsel together. We must try to mold pieces of the puzzle which will ultimately provide our total energy approach.

A recent report stated that the annual United States consumption of wood, coal, crude oil, natural gas, hydroenergy and nuclear energy from 1850 to 1971 totalled 158 quadrillion B.T.U.'s. A tremendous amount of fuel was used to create this energy output.

This serves to highlight that individually we enjoy a short span of responsibility and involvement with energy problems. We tend to ignore how similar, in certain areas, the past patterns of energy growth or replacement have been to those of today. Because our figures are dramatically large now it does not mean that all changes of recent significance have occurred in the last few years.

A fact is that our use of energy has been moving constantly upward since before the turn of the century. So the energy gap which exists today has not been a product of the last two or three decades, but one of a much longer period. We must now as a Nation reach toward a consensus on exactly what is the energy problem. The problem has several parts, each of which influences and is influenced by other national goals such as a

clean environment, full employment and national security. I believe the diversity of our natural resources—with coal as a base—with the capacity and desire we possess for using energy more efficiently will give us room to maneuver and finally solve these problems.

The pattern of coal consumption has changed significantly since 1945. At the end of World War II, coal had major markets in the railroads, manufacturing industries, home heating and in coking plants for steel. Since then, however, America has left the coal bucket behind, and is not likely to bring coal back as originally used. Homes, businesses, factories and transport systems today require energy in three basic forms: electricity, pipeline gas, and a variety of petroleum products. Thus, coal must be converted to these forms. Why? Because our coal reserves are sufficient to last for several hundred years and can supply power, gas, and oil in large commercial volumes.

Coal is the one fossil fuel that is likely to remain in abundant supply at relatively low cost for the remainder of this century and into the next. It is the one major alternative replacement fuel that can bridge the gap from our current dependence on oil and gas to a future era of renewable energy resources.

In 1976, United States coal production reached 665 million tons, up 10 percent from the 1974 level but only 3 percent over 1975. Those most closely involved with energy problems in our country would like to see coal production increased to at least 1.2 billion tons per year.

Coal is an effective source of heat and can be converted into gaseous and liquid fuels and chemicals. The role for coal as a natural successor to oil and gas is thus established. Realizing coal's potential will, however, depend on a recognition of the need to use coal, and the necessary policies to make such use possible.

The Energy Supply and Environmental Coordination Act of 1974 has required the Federal Energy Administration, under certain circumstances, to issue orders to power plants and some major industrial installations to convert or start using coal, rather than oil or gas boilers. On May 11, 1977, the Federal Energy Administration announced its first round of orders to major industrial plants under the provisions of the 1974 Act.

The "notices of intent" will require industries to convert to coal utilization in plant activities. A total of 56 "notices of intent" were issued in 25 states. Of these, 24 were to plants currently burning oil and gas as fuel. The other 32 are construction orders to plants in the planning stage which will from "day one" burn coal.

The first round of "notices" to utilities were announced in June of 1975. A second round was issued in April of this year. If all 102 boiler operations at the 50 sites told to convert to coal by the Federal Energy Administration comply, the yearly energy savings would be 84 million barrels of oil and 59 billion cubic feet of natural gas.

The question still remains as to whether to continue intervention by the Federal government as a necessity to increase the use of coal in utilities and industry. To encourage greater coal utilization, I introduced S. 273, the Natural Gas and Petroleum Conservation and Coal Utilization Act of 1977 on January 14. This bill would prohibit construction of new electric power plants and major fuel-burning installations not using energy sources other than gas or oil. In addition, it would extend the Federal Energy Administration's authority to issue construction and prohibition orders until September 30, 1980. Installations constructed to use alternative energy sources, of course, must



be consistent with environmental policies. This measure would provide a stability to future energy supplies not presently afforded by oil imports.

Last week the Senate passed S. 1469, a measure that would extend the Federal coal conversion program for six months under Section 2 of the Energy Supply and Environmental Coordination Act of 1974. This would allow for the Federal Energy Administration to consider a second round of construction and prohibition orders until January, 1978. It would also give the Energy and Natural Resources Committee extra time for full consideration of proposals for broader coal conversion authorities. Evaluation of these proposals can now proceed without disruption of the present coal conversion program.

Participants in this conference know that a major proposal before the Energy and Natural Resources Committee is the Coal Utilization Act of 1977, which incorporates provisions from my bill, S. 273, and reflects the findings of the Senate's National Fuels and Energy Policy Study started six years ago. The Committee is expected to conduct its final day of hearings on this bill soon and mark up will begin in early June.

Realizing coal's potential also will require satisfactory solutions to the environmental problems associated with its mining and burning. Congress has determined that where the physical and economic capabilities to burn coal exist, coal should be burned—but only to the extent that environmental constraints permit. As Chairman of the Committee on Environment and Public Works, I am concerned that we maintain the momentum of recent years in achieving a cleaner and healthier environment. Energy production and environmental improvement need not be conflicting goals. We can have a wholesome society at the same time we have a productive society. But we must agree that the issues surrounding growth and environmental quality are reconcilable. That has yet to occur. I am encouraged by conferences such as this in which I see advocates of both environmental protection, and growth and production working together to find better ways to clean our coal.

On May 10, 1977, we reported the Clean Air Amendments of 1977 (S. 252). The underlying premise of this legislation was the continuing preservation of the fundamental belief that public health should not be compromised in the pursuit of economic growth. Federal minimum source performance and ambient air quality standards are essential.

The bill does contain modifications that will facilitate our national conversion effort to coal. Under its provision the States that originally established more stringent emission standards than necessary to meet national ambient air quality requirements, can revise them to assure they are reasonable and equitable.

Citizens of a state or regional area will be afforded an opportunity to influence the character of economic growth in their region by making their own decisions on certain aspects of new sources. This will enable some industries to burn a lower grade of coal and allow increased sulfur emissions in some areas. When national ambient air quality standards for protection of public health are being achieved and maintained; and when Federal new source performance standards will be met; then the States, in my judgment, should have sufficient flexibility to determine what are the appropriate environmental requirements to achieve economic growth with environmental quality.

Such decisions should be reached with public participation. The burden of proof should be placed on those individuals proposing new construction to justify its associated environmental impacts.

Another provision of the 1977 amendments, which I introduced during Committee consideration recommends that one state may no longer allow emission of pollutants which adversely affect a neighboring state. A facility located in one state must notify the adjoining state of the potential impact of its emission prior to the commencement of construction of a new facility or modification of an existing stationary source. The amendment also provides that a state or local subdivision may petition the Administrator of the Environmental Protection Agency for relief if a facility would be in violation of the adjoining state's air pollution standards.

It is essential that the Clean Air Act provide a rapid mechanism for equality of enforcement of applicable air pollution laws among the states with a minimum of uncertainty and a lessening of red tape. The Clean Air Amendments of 1977 are scheduled to be debated in the Senate next week.

I emphasize that we need to remain vigilant in our quest to achieve acceptable methods of removing most of the sulfur from the coal we burn. Almost one-half of the electric energy in America is generated today by coal-fired plants. But one of the biggest problems the coal industry faces is that the bulk of recoverable reserves, as well as much of present capacity, does not meet today's sulfur standards. Forty-one percent or 176 million tons of the coal burned by electric utilities in 1975 did not meet sulfur standards. In the East, 48 percent of the coal burned could not comply. So the question is: "How can we best clean coal to make electricity?"

Scrubbers will be improved and used. By the year 2000, most of the electricity made from coal will still be made, as it is now, by burning it in pulverized fuel boilers—large numbers of these boilers will probably be fitted with scrubbers. There are some 6,000 megawatts of scrubbing capacity now in existence, and some 40,000 more are in design or construction. Scrubbing adds about 20 percent to new power plant investment. Moving Western low-sulfur coal to the East, to avoid scrubbing, requires the same 5-8 percent energy loss for transportation as does the scrubbing process itself. The cross-country transportation of Western coal to avoid scrubbers, therefore, is not economical.

In the long term, significant improvements also are possible in the direct utilization of coal by fluidized bed combustion. This technology offers dramatic improvements in the efficiency of coal utilization and in reducing adverse environmental impact when compared with conventional systems. A fluidized bed test facility is planned at the Morgantown, West Virginia, Energy Center by the Federal Energy Research and Development Administration.

Development of coal-related technologies will be accelerated. As we develop these technologies (especially scrubbing techniques) I hope to see the Environmental Protection Agency, and the new Energy Department do more extensive research into the extent that sulfur oxide and other sulfur compounds cause major health hazards.

When and if a final consensus is reached on coal conversion, the policy on which it is based should state that:

High sulfur coals must be used in producing a large part of our power.

Scrubbers constitute the best immediate answer to pollution control until technologies such as fluidized bed are commercially developed.

Where air quality standards are not impaired, coal washing and regional coal blending can meet the requirements of sound public policy, and scrubbing devices can be delayed or further improved.

A National Commission on Energy Policy

might be the forum on which to build such a consensus. A Commission could make a complete investigation of the 71 separate measures that have been enacted into law over the last five years. I introduced legislation creating such a body on March 15 of this year.

Total recoverable reserves of low sulfur coal in the United States are estimated at about 67 billion tons. Of this amount, only about 14 billion tons are in the East, and much of this is high quality metallurgical coal already owned by or dedicated to the steel industry. These facts, however, should not keep us from mining what is available. The Appalachian region contains abundant coal resources that can only be competitively mined by small producers. Eighty percent of the low-sulfur coal reserves east of the Mississippi are in states where small producers predominate.

Small coal producers in Appalachia often are unable to obtain necessary financing to expand production. The Federal loan guarantee program enacted by the Congress in December, 1975, has never been utilized by the Federal Energy Administration despite the congressional mandate and the urgent need for financing by hundreds of coal producers in the region.

To encourage the production of environmentally acceptable coal supplies, the 1975 Act authorized loan guarantees to small producers for expansion of new underground low-sulfur coal production. This program was reaffirmed by the Congress in August, 1976, but the Federal Energy Administration has not implemented the program. The Bureau of Mines estimates that over 52 billion tons of Eastern low-sulfur coal reserves would be potentially eligible for Federal loan guarantees if the program is implemented. Under the loan guarantee program an estimated 20 to 40 million tons of coal could be produced annually by 1982. By comparison, only 14 million tons of Eastern low-sulfur coal were delivered to utilities in 1975.

The entire United States economy is at present three-fourths dependent on diminishing domestic supplies of petroleum and its geological partner, natural gas. President Carter is making a praiseworthy effort to persuade American citizens to come to grips with the genuine energy crisis facing our nation. I have commended the President for his recent energy proposal to Congress. The previous five consecutive administrations have failed to come to grips with this problem.

His proposals to increase coal production and utilization need some modification. When we get into specific details on legislation it is quite likely that this can be worked out.

His proposal to Congress does not include a comprehensive plan for synthetic fuel development. Coal conversion can rapidly increase coal utilization for heating the power. At the same time, we must advance the production of synthetic fuels to supplant oil and natural gas.

The coal industry faces tremendous problems in increasing its annual output by two-thirds, to 1.2 billion tons by 1985. I had hoped that the Carter energy program would recognize these problems, the potential shortages of manpower and materials, and the tremendous capital investments that will be required. Above all, there must not be unnecessary restrictions which would impede the production of coal.

His proposal to significantly increase gasoline taxes presents problems. It will require that American people change their travel habits. I believe that consumers are ready to make sacrifices, if they are convinced that such sacrifices are equitable and fair. But

they are not ready to assume hardships that will not produce results.

In West Virginia for example, many coal and industrial workers must drive as much as 80 miles a day to get to and from their jobs. There is no public transportation in most of these rural areas. Something will have to be worked out in cases such as this, when long auto travel is necessary. Hearings are scheduled to begin in June on the non-tax provisions of the President's energy proposal in the Energy and Natural Resources Committee.

Choices that we make today will seriously affect our options for the future. The decisions we make in the next few years will have reaching consequences. International policy is closely linked to how we handle our energy problems and we must develop them together. Environmental policy is, as I have emphasized, intertwined with energy production. Federal energy resource management also has an essential bearing on energy issues. It affects adequacy of domestic energy supplies, energy prices, and environmental protection because most of the nation's undeveloped energy resources are on government land.

Coal conversion is one energy choice we have before us. There is more than one path before us involving the development of energy—nuclear, solar, hydro, wind and synthetic fuels—each has its own advantages and pitfalls. Our primary task as members of the concerned energy community and energy-conscious citizens is to inform ourselves of what lies ahead before we choose our way.

#### A VETO OF THE FARM BILL WILL PRODUCE MORE GOOBERS

Mr. MELCHER. Mr. President, after transmitting veto threats against the Senate farm bill to us at least three times through Secretary of Agriculture Bob Bergland, President Carter yesterday, at his press conference, personally raised that possibility.

It is a lot of hot air because the President is not going to veto a bill that saves the Treasury \$871 million on peanut program costs over the next 5 years just to avoid a \$400 million exposure on wheat target prices.

I called the Senate's attention to this situation during the debate on the farm bill when Secretary Bergland wrote us about the President's concern over the 1977 wheat target price. Since the President has again raised the veto threat personally, I believe the effect of that on the outlays for the peanut crop should be examined.

President Carter's repeated threats to veto the farm bill if wheat price supports are not reduced are straight hot air because a veto would cost the Treasury \$871 million on peanut payments to save half that amount on the 1977 wheat crop.

A veto would not help anyone but the peanut growers, who would get \$871 million more subsidies in the next 5 years if the bill is vetoed than they would if it passes. If there is a veto, peanut growers would go back to the present peanut program required under existing law. The estimated cost of the peanut loan program over the next 5 years under the present law is \$1.148 billion. By reducing the loan rate on peanuts to \$420 a ton and cutting minimum poundage

quotas about 240 million pounds over 5 years, the Senate bill reduces the estimated cost of the peanut program through 1982 to \$277 million—a savings of \$871 million.

A veto would eliminate those savings to reduce supports on wheat about \$400 million.

The peanut growers still have a good deal. At \$420 a ton or 21 cents a pound their minimum support is about twice the world market price and about 150 percent the Department of Agriculture's estimate of their cost of production. The total acreage of peanuts grown in the United States is about 1½ million acres as compared to about 70 million acres of wheat.

At \$2.25 per bushel the wheat loan is only 45 percent of parity and the target price, at \$2.90, is only 57 percent of parity. It is a half dollar a bushel under USDA's most honest cost of production figure.

Wheat prices are now below cost of production but if the Senate farm bill gets to Mr. Carter's desk for signature, he will have a choice of signing it and increasing wheat supports \$400 million more than he intended this year, or vetoing it and giving peanut growers \$870 million more than he had budgeted during the next 5 years.

If his talk about vetoing the Senate farm bill is not straight poppycock, then his talk about trying to balance the budget is.

The President is evidently trying the technique of the old doctor who threw patients whose ills he could not diagnose into a category he termed fits because he was hell on fits.

Unfortunately for the President, Congress has a lot of experience with the fits technique and has developed considerable immunity to it. It is not frightened by repeated veto threats, particularly when the threat is to put a billion dollars into peanuts to save half that on wheat in a world that depends more on flour than goobers.

#### NATIONAL SMALL BUSINESS WEEK

Mr. BUMPERS. Mr. President, I am pleased to have this opportunity to mark National Small Business Week.

Happily, this observance coincides with a renewed awareness of the importance of small businesses to our economy, and to our national well-being. The openness of our economic system has been the key to its success; and that openness has been maintained through the constant birth and growth of small businesses. A new small business' chances for survival are only one in four; and yet, every year, thousands of entrepreneurs test the odds. Thanks to them, our country has never become the rigid, stratified place it might have become if it were not possible for individual Americans to present their ideas in the marketplace.

Although small business accounts for only 43 percent of our gross national product, they employ 52 percent of our workers—and they make up 97 percent

of all U.S. businesses. They are the roots of the American economy—largely invisible, but vital to the economy's health and prosperity.

Unfortunately, the Federal Government's attitude toward small business could be characterized, too often, as "out of sight, out of mind." Big business dominates Government contracting—especially for research, where 90 percent of all contracts have been awarded to big corporations. At the same time, the number of Federal regulations has grown tremendously, and although big business has made the obligatory complaints, it is small business that has felt the crushing weight of these regulations. Big business can, in many instances, absorb the cost of regulation and, through control of markets, pass them on to consumers; small businesses enjoy no such opportunity. They have been squeezed between big business and big Government.

Now, we are seeing a reversal of this destructive trend. In both Congress and the White House, attention is being paid to small business, and there is determination to relax the regulatory burden and to break up the frequently cozy relationships of large corporations and Government agencies. We have a small businessman in the White House, and he has already demonstrated his desire to give small business its place in the Sun.

It will take a sustained effort to root out the bad habits of many years, but I am confident that the effort will be made.

#### NOTICE OF THE DETERMINATION AND WAIVER UNDER RULE XLIII BY THE SENATE COMMITTEE ON ETHICS

Mr. STEVENSON. Mr. President, under paragraph 4 of rule XLIII of the Senate, Members who contemplate acceptance of invitations to participate in educational programs sponsored by a foreign government or organization involving foreign travel paid for by the sponsor, and Members who wish to make similar arrangement for staff under their supervision, are required to notify the Select Committee on Ethics in writing.

At the request of Senator CULVER, Senator ROTH and Senator HEINZ, the select committee found at its meeting on May 19, 1977, based upon the information submitted by the Senators, that the principal objective of the program to be sponsored by the Center for Strategic and International Studies of Jakarta, Indonesia, near Jakarta, May 30, 1977, through June 1, 1977, is educational. We are advised that representatives of the Department of State will attend, along with representatives of other foreign governments. The committee also found that participation in the program by Senator CULVER and Senator ROTH, and Mr. Charles Morrison of Senator ROTH's staff, and Mark Bisnow of Senator HEINZ' staff is in the interest of the Senate and the United States.

(This concludes additional statements submitted today.)



## COMMITTEE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the committees may have until 6 p.m. today to file committee reports.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## AUTHORITY FOR COMMITTEES TO FILE REPORTS DURING RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Friday, June 3, 1977, between the hours of 9 a.m. and 3 p.m., committees be authorized to file reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

## S. 1620—FOREST AND RANGELAND RENEWABLE RESOURCE RESEARCH

Mr. HUMPHREY. Mr. President, I understand my distinguished friend from Mississippi has to catch a plane and I have a bill I am going to introduce.

Mr. President, on this other subject I want to introduce legislation today known as the Forest and Rangeland Renewable Resources Research Act.

I am the author, Mr. President, of the Forest and Rangeland Renewable Resources Planning Act, which was the bill in the year 1974.

It may be one of the most far-reaching pieces of legislation for the proper planning and use of conservation of our natural resources that the Congress has ever passed.

Mr. President, in 1974, when the Forest and Rangeland Renewable Resources Planning Act became law, we embarked on a policy of identifying the opportunities to improve the usefulness of the 1.5 billion acres of forest and rangeland that Americans enjoy.

Today, I am introducing on behalf of myself and Senator STENNIS a bill in keeping with the 1974 act. It repeals outmoded research authorities for forest, rangelands, and their resources, replacing them with a modern set of research authorities. This bill has been developed by the American Forestry Association with the support of foresters throughout the country and the able assistance of the colleges and universities—the departments of these universities and colleges—that give their attention to forest and rangeland.

This bill should not be considered as the last word on this subject. I am introducing this bill to stimulate discussion and to receive constructive comments.

Another point that should be stressed is that this bill does not contain a specific dollar authorization level for research. The 1974 act created the machinery to develop a program with a research component. The program is developed in 5-year blocks and submitted to the Congress which can accept or modify it. When approved, the program becomes a budget guide for the next 5 years. The President is required to inform the Congress when he submits the

budget as to why the budget does not request the full program level if that is the case. Congress retains the complete flexibility to appropriate annually the sums it finds will be required.

There is no doubt in my mind that we need to do more research on the ecological and economic fabric of our 1.5 billion acres of forest and rangeland. We also need to improve the dissemination and effective application of research. We need to improve the process from the laboratory stage to the field application stage.

It is this last statement which expresses the thrust of this bill, rather than an effort to define areas for research that may seem to be of importance to one or another group.

Further, this bill recognizes that there must be close coordination and cooperation among those who conduct research in forestry and rangeland. I especially want to call attention to the close linking that this bill provides between the Forest Service and the 61 forestry schools of the Nation whose research is supported in part by the McIntire-Stennis Act of 1962. I am pleased to note that the Association of State College Forestry Research Organizations, representing the 61 forestry schools, has already endorsed the essential content of this bill.

It is my hope that as we move to modernize the research charter for forests and rangelands that all who are concerned will come forward with constructive contributions.

I am pleased to have with me as a cosponsor of this legislation the distinguished Senator from Mississippi, JOHN C. STENNIS. There are few Members of this body with a record as distinguished as his on forestry issues. I take great pleasure in having him as a cosponsor of this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record and that the bill be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the bill is as follows:

S. 1620

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476, as amended) is redesignated as "TITLE I—FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING" and sections 1 through 16 are redesignated as sections 101 through 116, respectively.*

*SEC. 2. The Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476, as amended) is amended by adding a new title II as follows:*

*"TITLE II—FOREST AND RANGELAND RENEWABLE RESOURCES RESEARCH*

## RESEARCH PROGRAM

*"SEC. 201. (a) The Congress declares that scientific discoveries and technological advances must be made and applied to support the protection, management, and utilization of the Nation's renewable resources. It is, therefore, the purpose of this title to authorize and direct the Secretary of Agriculture (hereafter the "Secretary") to carry out a*

*comprehensive program of forest and rangeland renewable resources research, and research dissemination.*

*"(b) The Secretary is authorized and directed to conduct, support, and cooperate in investigations, experiments, tests, and other activities he deems necessary to obtain, analyze, demonstrate, and disseminate scientific information about protecting, managing, and utilizing forest and rangeland renewable resources in rural, suburban, and urban areas. The activities conducted, supported, or cooperated in by the Secretary under this title shall include, but not be limited to, the five major areas of renewable resource research identified in paragraphs (1) through (5) of this subsection.*

*"(1) Renewable resource management research may include activities related to reproducing and growing, forest and rangeland plants; planting and managing vegetation on forest and rangelands for wood, forage, water, wildlife and fish, aesthetics, recreation, wilderness, and other products and purposes.*

*"(2) Renewable resource environmental research may include activities related to understanding and managing surface and subsurface water flow, preventing and controlling erosion, and restoring damaging or disturbed soils on forest and rangeland watersheds; maintaining and improving wildlife and fish habitats; managing trees and shrubs to change weather and climatic conditions, reduce air and water pollution, provide amenities and for other purposes; and understanding, predicting, and modifying weather, climatic, and other environmental conditions that affect the protection and management of forests and rangelands.*

*"(3) Renewable resource protection research may include activities related to protecting vegetation, and other forest and rangeland resources, as well as wood and wood products in storage or use from fires, insects, diseases, noxious plants, animals, air pollutants, and other agents through biological, chemical, genetic, silvicultural, and other control methods and systems; and protecting people, natural resources, and property from fires in rural areas.*

*"(4) Renewable resource utilization research may include activities related to harvesting, transporting, processing, marketing, distributing, and utilizing wood, and other materials derived from forest and rangeland renewable resources; recycling and fully utilizing wood fiber; testing forest products, including those grown or produced in other countries, including necessary field work associated therewith; determining the role of forest and rangeland management in diversified agriculture, in the productive use of forests and rangelands, and in mining, transportation, and other industries; and developing economic and social alternatives for the management of forests and rangelands that will make possible the fullest and most effective use of their multiple products and services.*

*"(5) Renewable resource assessment research may include activities related to developing and applying scientific knowledge and technology in support of the survey and analysis of forest and rangeland renewable resources described in section 103(b) of this Act.*

## RESEARCH FACILITIES AND COOPERATION

*"SEC. 202. (a) In carrying out this title, the Secretary is authorized to establish and maintain a system of experiment stations, experimental areas, and other forest and rangeland research facilities. The Secretary is authorized, with donated or appropriated funds, to acquire by lease, donation, purchase, exchange, or otherwise, land or interests in land within the United States needed*

to carry out this title, to make necessary expenditures to examine, appraise, and survey such property, and to do all things incident to perfecting title thereto in the United States. The Secretary may receive money and other contributions from any State, other political subdivision, organization, or individual for the purpose of establishing and operating any forest and rangeland research facility.

"(b) In carrying out this title, the Secretary may cooperate with Federal, State, and other governmental agencies, with public or private agencies, institutions, universities, and organizations, and with businesses and individuals in the United States and in other countries. The Secretary may receive money and other contributions from cooperators under conditions he may prescribe. Any money contributions received under this subsection shall be covered into the Treasury as a special fund which is hereby appropriated and made available until expended as the Secretary may direct for use in conducting the research activities authorized by this title and in making funds to contributors.

#### COMPETITIVE RESEARCH GRANTS

"Sec. 203. In addition to any grants made under other laws, the Secretary is authorized to make competitive grants to Federal, State, and other governmental agencies, to public or private agencies, institutions, universities, and organizations, and to businesses and individuals in the United States that will further the research activities authorized by this title. In making these grants, the Secretary shall emphasize basic and applied research activities that are important to achieving the purposes of this title, and to obtain, through review by qualified scientists and other methods the participation, in research activities, of scientists throughout the United States who have expertise in matters related to forest and rangeland renewable resources. Grants made under this subsection shall be made at the discretion of the Secretary under whatever conditions he may prescribe, after publicly soliciting research proposals, after allowing sufficient time for submission of the proposals, and after considering qualitative, quantitative, financial, administrative, and other factors which he deems important in judging, comparing, and accepting the proposals. The Secretary may reject any or all proposals received under this section if he determines that it is in the public interest to do so.

#### GENERAL RESEARCH PROVISIONS

"Sec. 204. (a) The Secretary may make funds available to cooperators and grantees under this title without regard to the provisions of section 529 of title 31 of the United States Code, which prohibits advances of public money.

"(b) To avoid duplication, the Secretary shall coordinate cooperative aid and grants under this title with cooperative aid and grants he makes under any other authority.

"(c) The Secretary shall use the authorities and means available to him to disseminate the knowledge and technology developed from research activities conducted under or supported by this title. In carrying out this responsibility, the Secretary shall cooperate, as he deems appropriate, with the organizations identified in subsection (d) (3) of this section and with others.

"(d) In carrying out this title, the Secretary, as he deems appropriate and practical, shall—

"(1) Use, and encourage cooperators and grantees to use, the best available scientific skills from a variety of disciplines within and outside the fields of agriculture and forestry;

"(2) Seek, and encourage cooperators and grantees to seek, a proper mixture of short term and long term research and a proper mixture of basic and applied research;

"(3) Avoid unnecessary duplication and coordinate his activities under this section among agencies of the Department of Agriculture and with other affected Federal departments and agencies, State agricultural experiment stations, State extension services, State foresters or other appropriate State officials, forestry schools, and private research organizations; and

"(4) Encourage the development, employment, retention, and exchange of qualified scientists and other specialists through postgraduate, post-doctoral, and other training, national and international exchange of scientists, and other incentives and programs to improve the quality of forest and rangeland research.

"(e) This title shall be construed as supplementing all other laws relating to the Department of Agriculture and shall not be construed as limiting or repealing any existing law or authority of the Secretary not specifically repealed.

"(f) For the purposes of this title, the terms 'United States' and 'State' shall include each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories, possessions, and trust territories of the United States.

#### RESEARCH APPROPRIATIONS AUTHORIZATION

"Sec. 205.—There is authorized to be appropriated annually such sums as may be needed to carry out this title and for administrative expenses associated therewith. Money appropriated under this title shall remain available until expended."

Sec. 3. Section 103(b) of the Forest and Rangeland Renewable Resources Planning Act (88 Stat. 476, as amended), as redesignated by this Act, is amended to read as follows:

"(b) To assure the availability of adequate data and scientific information needed for development of the Assessment, the Secretary of Agriculture is authorized and directed to make and keep current a comprehensive survey and analysis of the present and prospective conditions of and requirements for the renewable resources of the forests and rangelands of the United States and of the supplies of such renewable resources, including a determination of the present and potential productivity of the land, and of such other facts as may be necessary and useful in the determination of ways and means needed to balance the demand for and supply of these renewable resources, benefits and uses in meeting the needs of the people of the United States. The Secretary shall carry out the survey and analysis under such plans as he may determine to be fair and equitable, and cooperate with appropriate officials of each State, territory, or possession of the United States, and either through them or directly with private or other agencies. There is authorized to be appropriated annually such sums as may be needed to carry out this subsection, and money appropriated under this subsection shall remain available until expended."

Sec. 4. The McSweeney-McNary Act of May 22, 1928 (45 Stat. 699, as amended: 16 U.S.C. 581, 581a, 581b-581i) is hereby repealed.

Mr. STENNIS. Mr. President, first, I thank warmly the Senator from Minnesota for an opportunity to join him in connection with this bill and to work with him not only for such fulfillment

as we may be able to bring about in passing the measure but also in other phases of nationwide forestry programs.

The passage of comprehensive forestry legislation in the last two Congresses, and the passage of time since the basic law on forestry research, make it very appropriate that the research legislation be brought up to date.

The bill Senator HUMPHREY is introducing, with my cosponsorship, is offered as an additional title to the Forest and Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976. It would be title II, Forest and Rangeland Renewable Resources Research.

This bill would repeal the McSweeney-McNary Act of 1928, which has served well as basic authority for research on forestry, but needs to be broadened in some ways and made more specific in others, in order to meet the objectives established by the legislation of recent years.

The Renewable Resources Planning Act requires specific processes for assessment, program, and planning purposes. This bill provides for research to improve those processes. It is also aimed at the expanding scope of multiple-use forest management for environmental purposes, and it recognizes the growing importance of forestry research to meet urban needs.

This bill gives the Secretary of Agriculture better flexibility and broader authority in cooperative research efforts and the acceptance of contributions thereto, and it expands foreign cooperation in pursuit of mutual objectives.

Weather, climatic, and other environmental conditions as they affect forests are stressed. The fire research provisions recognize the great importance of rural community fire protection.

The Secretary presently has, of course, certain general granting authorities for research purposes. These would remain unchanged. Among them are the cooperative State research grants under the 1962 act which I cosponsored with then Congressman Clifford McIntyre of Maine. These grants are commonly called McIntyre-Stennis grants, and they will continue without change.

This bill will specifically authorize the Secretary to make competitive grants for forest and rangeland research, and permit him to involve selected sources across the scientific community. By competitive grants is meant not only a dollar comparison, but the inclusion of qualitative factors.

Under the bill, money appropriated for research would be available until expended, in order to plan multiyear research projects and provide flexibility to make the most effective use of the money provided.

Mr. President, this bill will strengthen forestry research that is aimed at the objectives set forth in the Forest and Rangeland Renewable Resources Planning Act. It will help to show the Nation how to attain the growth in forest productivity that we know we must have



in the foreseeable future. It will improve research management and cooperation.

I am proud to offer this bill as a co-sponsor with the distinguished Senator from Minnesota. I am confident that the Senate Committee on Agriculture, Nutrition, and Forestry will agree on its merit and that it will receive the approval of the Senate when it is considered on the floor.

As the Senator from Minnesota said, this bill opens the door for constructive suggestions from all sources—at committee hearings, by testimony, of a Senator or anyone else.

This is really a comprehensive bill and is an attempt to bring up to date various acts we already have.

One special word, Mr. President: I can recommend this subject to any Senator who comes from a State where there is an appreciable amount of forest land. It is a subject that is open to great possibilities in the decades ahead. It deals with reproducible resources—the growing of various kinds of timber, for example.

One morning last week, I had an ordinary ham and egg breakfast, and I counted the items surrounding me that were made from forest products, many of which were not used at all and only a few of which were used as short a time as 10 years ago. There were nine items connected with that breakfast, beginning with a paper napkin and going on to the milk container, then on to the half-and-half cream container, and on to other items in which had been wrapped some of the things that constituted the breakfast. This shows a tremendous expansion in the use of various products within the last few years.

I recall that during the time I have been in Congress, many of the dedicated people in forest research, for example, in the National Forest Service, have been working out in the woods, in shacks, and the only desks they had were made from boxes, because of the lack of better facilities. Still, they were out there, with great dedication, those fine minds, with imagination; and they transformed the forests of this great Nation so that the production of these useful products has been increased a hundredfold or more.

I am proud that my home State, years ago, exempted growing timber from ad valorem taxes, which was an easy and simple thing to do. Not many people appreciated the significance of it at that time. We paid, however, a severance tax at the proper time. When the tree had produced income, it paid its part in the form of tax.

We have not one, two, or three but several of the finest forest production mills in the Nation—Georgia Pacific, Weyerhaeuser, and many others—growing more timber now per year than we did back in the days when we had many thousands of grown, mature pine forests—pine in particular, although we grow the other kind, too.

This is one of the great, reassuring things in the future of our country, as I think about the possibilities of the reproducible forests of our Nation.

Those are some of the things that the Senator from Minnesota and other Members of this body have been working on, and additional great results will come from his bill. I thank him again for his very fine words and for the work he put into this matter.

The late Representative from Maine, Clifford McIntire, a longtime Member of the House of Representatives, and I worked together on what has become known as the McIntire-Stennis Act with reference to forestry research. Under this act, small grants—no great sum of money—now go to 61 State institutions and perhaps two or three privately owned institutions throughout this Nation for forestry research. That has paid off tremendously. It indicates not only the possibilities of what can be done but also the eagerness and willingness of that many institutions and more which want to share in this forward-looking program.

#### ORDER FOR RECORD TO REMAIN OPEN UNTIL 5 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Record may remain open until 5 p.m. today for the introduction of petitions and memorials, bills, joint resolutions, and statements into the Record.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### SMALL BUSINESS ADMINISTRATION AUTHORIZATIONS AND DISASTER LOAN PROGRAM AMENDMENTS

ORDER TO PRINT H.R. 692, AS AMENDED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 692, SBA authorizations, which passed the Senate on May 19 be printed with the Senate amendments.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### ORDER FOR CHANGE OF REFERENCE—H.R. 5638

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of the bill H.R. 5638, an act to amend the Fishery Conservation Zone Transition Act in order to give effect during 1977 to the reciprocal fisheries agreement between the United States and Canada, and that the bill be referred to the Committee on Foreign Relations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

#### JOHN F. KENNEDY CENTER ACT AMENDMENTS—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President on behalf of the Senator from North Dakota (Mr. BURDICK) I submit a report of the committee of conference on S. 521 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 521) to amend the John F. Kennedy Center Act to authorize funds for the repair of leaks, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The ACTING PRESIDENT pro tempore (Mr. MATSUNAGA). Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of June 2, 1977.)

Mr. BAKER. Mr. President, this is the conference report, as I understand, making good the \$4.5 million appropriation for the repair of the Kennedy Center, which was included in the fiscal 1977 supplemental appropriations bill on the motion of the distinguished majority leader, who is also chairman of the Appropriations Subcommittee for Interior and Related Agencies. That is, it completes the authorization process for the repair, renovation, and reconstruction of the John F. Kennedy Center for the Performing Arts as necessary to correct water leaks in the roof and terraces and drive—both to restore the interior from resulting damage and to prevent any recurrence in the future.

The action of the distinguished majority leader was particularly helpful in securing the necessary funds at the first legislative opportunity in this session, and that appropriation was conditioned upon later completion of the authorization through the passage of "S. 521 or similar legislation." This conference report fulfills that condition, and I am advised that it is in the form consistent with the appropriations language and report, and further with the bill as adopted by the Senate on February 24.

I think it appropriate to recognize at this point the efforts of Senator BURDICK,

who as chairman of the Public Works Subcommittee having jurisdiction, would be managing this conference report if he were here today. Senator BURDICK studied faithfully, as he always does, this matter and has steadfastly supported the Senate position. He has asked that we proceed with the adoption of the conference report at this time.

We all owe our particular thanks to Senator JIM MCCLURE, who made a special effort this week to bring this matter to a successful conclusion, who is the ranking Republican member of the subcommittee, and who also cleared the conference report before his necessary departure. It was Senator MCCLURE's amendment that was adopted by the Senate, and he has devoted a great deal of time and attention to this subject. I know his interest will continue.

As I recall, it was Senator MCCLURE who, as a member of the Committee on Environment and Public Works, assured in a colloquy on the Senate floor with Senators CANNON and HATFIELD during reorganization that the Kennedy Center jurisdiction would be retained by that committee—including the authorities and relationships through the National Park Service of the Department of the Interior, which is charged by existing law with the operation and maintenance of the facility itself as distinguished from the performing arts functions, and to which this authorization and appropriation are also directed. The conference report, I note, confirms in the statement of managers that jurisdiction is retained by the House and Senate Committees on Public Works which, as we know, originated and have amended as necessary the Kennedy Center Act.

The majority leader will also recall, I believe, that our colleague, Senator PERCY, who is also Vice Chairman of the Board of Trustees of the Kennedy Center, wrote and spoke to him during markup on the supplemental, asking that funds be included for the repair of the Center. He did so with my full support, as did Senator MCCLURE. While Senator PERCY is not in the Chamber at this moment, we expect him later today and are sure that he will be pleased.

We all discussed this matter at the time—when Mr. Roger Stevens, Chairman of the Board of Trustees visited also with each of those I have named.

Since that time we are glad that work has begun—I believe the scaffolding is now up—and we trust that the House of Representatives will act on this conference report immediately upon its return.

Mr. President, I might also note, parenthetically, that my wife is a member of the Board of Trustees of the Kennedy Center. The Kennedy Center has an effective lobbying agent in Mrs. Baker, who insisted that her roof be fixed.

Mr. President, I ask unanimous consent that I may have printed in the RECORD a statement by the distinguished Senator from Idaho (Mr. MCCLURE) in support of the conference report.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### STATEMENT OF SENATOR MCCLURE

I am pleased that the Senate and House Conferees have agreed to the conference report on S. 521 and I strongly recommend it to my colleagues.

The conference agreement authorizes funds to the Secretary of Interior, acting through the National Park Service—rather than to the Board itself—which is consistent with the Senate-passed bill, S. 521, and with the appropriation contained in the 1977 Supplemental Appropriations Act. This provision will enable the appropriation to be obligated and the necessary and urgent repairs to commence without delay. It is important to begin emergency repairs as soon as possible to avoid further deterioration and to correct existing damage.

While the House receded on the point of authorizing funds directly to the Board of Trustees of the Kennedy Center, the Senate accepted language giving the Board authority to approve any contract before the Park Service may enter into such contract. In addition, no final payment can be made under a contract unless it has been approved by the Board. I believe it is appropriate that the Park Service—which has continuing authority for operation and maintenance of the non-performing arts functions, which is familiar with the necessary repairs, and which has already done preliminary work—should do the work and disburse any public funds. I believe it is also appropriate that the Board share in the decisions and responsibility.

The Statement of Managers directs the Park Service and the Board of Trustees to submit separate reports monthly to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation regarding the progress of the work. The reports should identify the progress of work authorized by this legislation; a listing of expenditures to date; any problems or difficulties encountered; and any change in projected plans, cost, or required work.

On other matters, the Senate accepted House language directing that no funds shall be expended under any incentive-type contract and it accepted the House authorizing amount of \$4.7 million instead of \$4.5 million contained in the Senate bill. While further review and scrutiny of financial needs and operations is needed before additional relief to the Kennedy Center is considered, I recommend the Conference Report to my colleagues and urge its passage.

I have been very glad to work on this subject with Senator Burdick and other Senators, and with Chairman Johnson, Congressman Mineta, and our colleague Congressman Walsh. There is keen interest in the Kennedy Center and its continued success.

I trust the constructive association we have established through working on this bill—including the relationship between the Center and the Park Service—will continue to serve us well in the future.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MILITARY CONCERN DISCLOSES WEAKNESS OF ADMINISTRATION'S KOREAN POLICY

Mr. DOLE. Mr. President, I am seriously disturbed by the President's decision on May 21 to dismiss Maj. Gen. John K. Singlaub as Chief of Staff of the 8th U.S. Army in South Korea. I believe the President's action in firing this outstanding veteran officer of three wars was a glaring overreaction to the circumstances at hand. President Carter's decision clearly sheds doubt on his willingness and ability to accept responsible questioning of his foreign policy program, and reflects a rather thin-skinned reaction to criticism. It is for this reason that I have already requested that the Senate Armed Services Committee conduct open hearings on the situation, in order to accept testimony from Major General Singlaub, Secretary of State Cyrus Vance, Secretary of Defense Harold Brown, and Gen. John W. Vessey, Jr., head of United Nations Forces in South Korea.

#### A MUZZLE ON THE MILITARY

Whether intended or not, the President's decision to dismiss General Singlaub will have the effect of placing a muzzle on military officers who have firsthand knowledge of strategic circumstances in critical areas throughout the world. It is counterproductive to U.S. policy and security interests to effectively stifle informed input in this way. In his interview with the Washington Post in Tokyo, General Singlaub advised that, "An intensive intelligence effort over the last 12 months has discovered North Korea to be much, much stronger than we thought." This is vital information which should bear on American policy in South Korea and, in my opinion, the President should have summoned the general to the White House to request further information about these intelligence reports.

It appears to many of us that there is a double standard in this administration when the U.N. Ambassador can say almost anything and General Singlaub, with greater expertise and experience, can say nothing.

General Singlaub's comments regarding the risks involved in U.S. troop withdrawals are not unique among those military personnel most familiar with the strategic situation in Korea. Three weeks ago, Gen. John W. Vessey, Jr., head of United Nations forces in South Korea, said essentially the same thing about the risk of withdrawal, when he stated:

In my view, the withdrawal of all the American ground troops would raise the possibility of war in Korea.

The Deputy to the Commander of U.N. and U.S. Forces in Korea has also em-



phasized the importance of retaining American ground troops in Korea. According to some reports, most U.S. military officers feel that the President's announced intention of withdrawing U.S. ground troops from South Korea within 4 to 5 years is a mistake that can only lead to a North Korean invasion of the South. In the future, however, military leaders will likely be reluctant to express their personal views on such matters for fear they will suffer a fate similar to that of Singlaub.

I certainly understand that, under our constitutional system, civilians are responsible for the determination of U.S. foreign policy, and that is as it should be. Active duty military officers should not ordinarily be taking personal positions in public on national defense policies which they are sworn to execute. This does not mean, however, that military officers should be prevented from expressing their considered professional judgments, through properly constituted channels, to their superiors in the Defense Department or to the committees of Congress. I should not want to see this form of policy advice curtailed or inhibited.

As much as President Carter might like to draw a parallel between the present situation and President Truman's dismissal of Gen. Douglas MacArthur in 1951, the scenarios are entirely different. General MacArthur openly defied direct orders from the White House in the midst of Korean warfare. Major General Singlaub, in a much different context, expressed personal concern about a policy decision, but pledged to "execute it with enthusiasm and a high level of professional skill" if implemented.

#### KOREAN WITHDRAWAL SHOULD BE RECONSIDERED

In view of widespread concern among U.S. military officers about the impending withdrawal of 42,000 American ground troops from South Korea, and in light of recent intelligence reports that support such concern, the President should carefully reconsider his pronounced military policy in Korea. Clearly, North Korean aggression has not subsided. Only last August, North Korean troops stationed along the demilitarized zone brutally attacked and murdered two American officers stationed in the area with U.N. forces. That attack, instigated by North Koreans, was in clear violation of United Nations peace-keeping efforts in the demilitarized area between North and South Korea. Currently, there is no military or strategic logic for withdrawal of U.S. troops from the United Nations peace-keeping force, which continues to provide overall stability on the Korean peninsula. The withdrawal of about 40,000 U.S. troops within 5 years will unquestionably create a power vacuum in the South that North Korean aggressors cannot ignore. The military situation in Korea today is essentially stable; if U.S. ground troops are withdrawn, I fear we will have another Saigon on our hands.

It is not only a question of military stability, but one of American credibility and resolve as well. The significant re-

duction of U.S. troops from South Korea will be interpreted by our allies and foes alike as a disengagement of U.S. interests in the area. It will throw into question the whole matter of U.S. defense of the South Pacific region. There is no question that it will be interpreted by the North Koreans as a lessening of our commitment to South Korean sovereignty.

Japanese leaders have already expressed serious concern about the erosion of a U.S. defensive posture in the South Pacific, which has served to counterbalance Soviet and Communist Chinese power. There can, indeed, be no question that the withdrawal of tens of thousands of American troops from Korea will shed doubt on the role of the United States as a trusted ally and as a force for peace in the Pacific. It will most likely require the involuntary remilitarization of Japan as the sole counterbalancing force to Soviet and Chinese expansion in the area, and it may well lead to aggressive initiatives by North Korean troops. The President was prepared to bear the responsibility for the consequences of American troop withdrawals.

#### HEARINGS WOULD BE USEFUL

In the wake of Major General Singlaub's dismissal, I believe it would be extremely useful for the Senate Armed Services Committee to schedule hearings and request relevant testimony from the general himself, from his own commanding officer, Gen. John W. Vessey, Jr., and from Secretaries Cyrus Vance and Harold Brown. Such testimony should address itself to the question of U.S. strategic interests in the South Pacific, the future security of South Korea, the consensus of military attitudes about U.S.-Korean policy, and the appropriateness of public statements about that policy by military personnel. The President's decision, beyond having an immediate negative impact on the outstanding military career of Major General Singlaub, has certain implications for the future foreign policy advisory role of U.S. military officers.

It is distressing to me that our President, who has championed the concept of broad public input into national policy decisions, should react so adversely to expressions of concern about his Korean policy. Instead of offering a receptive ear to advice from those who are most directly familiar with the military situation in Korea and elsewhere, the President has taken action that will only serve to intimidate those who would question his policy plans. Major General Singlaub and his colleagues have something to say and they should be heard. If military officers on the scene believe troop withdrawals will lead to war our Nation's policymakers should know about it.

The Undersecretary of State and the Chairman of the Joint Chiefs of Staff, as the President's special representatives, held discussions with South Korean officials earlier this week on the scheduled withdrawal of U.S. troops. I believe it would be best for Congress to carefully examine the President's proposed disengagement of U.S. ground forces before

any irreversible plans are made to initiate the policy. Time is short and we must direct our attention to this matter without delay.

#### BIRTHDAY GREETINGS TO THE HAPPY WARRIOR

Mr. DOLE. I join my colleagues, Mr. President, in wishing the happiest of birthdays to the senior Senator from Minnesota (Mr. HUMPHREY), that unflappable happy warrior of the Democratic Party. For many years, HUBERT has been both personal friend and political foe of the highest integrity. His unbounded enthusiasm is an inspiration to all men and women who aspire to success, personal and political. His honorable record of service in the Senate adds luster to this great institution. On this day, the 66th anniversary of the birth of HUBERT HORATIO HUMPHREY, it is a special privilege for his friends on the Republican side to express our affection for our distinguished and beloved colleague.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

#### BIRTHDAY GREETINGS TO SENATOR HUBERT H. HUMPHREY

Mr. MATSUNAGA. Mr. President, today we commemorate the birthday of one of the greatest, if not the greatest, living statesmen, not only in America, but in the entire world, HUBERT H. HUMPHREY.

Of course, the fact that this happens also to be my daughter Merle's birthday does not color my views in any manner. But, for the record, I would like it to be known that I got to know HUBERT H. HUMPHREY rather well when he was Vice President because it was then that I traveled with him to Korea and to Alaska, and greeted him when he visited Hawaii.

In all of my experience, I have never met anyone with a more voracious mind than HUBERT H. HUMPHREY. With him life seems to be a constant learning process.

When he was in Korea, for example, he picked up the customs of the people there so rapidly that the people immediately accepted him as one of their own champions and loved him.

I accompanied the then-Vice President HUMPHREY to attend the second inauguration of President Park in 1967, and I must relate this funny incident for the record. When we arrived at the airport in Seoul, we were greeted by the Korean protocol officer, Mr. Lee, who mistook me as the Vice President's Korean interpreter.

He came up to me and addressed me

in Korean, whereupon I responded in Korean because I do, in fact, speak the Korean language.

Mr. Lee was convinced that I was a Korean interpreter for the Vice President of the United States and not a representative of the Congress with the rank of ambassador to attend the inauguration of President Park.

When I was introduced to him as SPARK MATSUNAGA his ears, evidently, were attuned to hearing a Korean name and he heard "SPARK" as "Park" and he kept calling me "Mr. Park."

After I convinced Mr. Lee my name was SPARK MATSUNAGA, not "Park Mat Song," and that I was an American of Japanese ancestry, not of Korean ancestry, he committed an error which he himself called the most embarrassing moment in his life. It all happened as follows: During the inaugural ceremonies whenever we proceeded from one function to another, we would proceed in the order of protocol. The order of protocol being that the delegation from the oldest nation would proceed first, followed by the delegation of the second oldest nation, then the third, and so on.

When we were finished with the state dinner, Mr. Lee, the Korean protocol officer, stood up and announced, "We will now proceed to the theater to view the cultural show in the usual order of protocol."

Whereupon, Vice President Yen of the Republic of China and his Chinese delegation stood up and headed toward the exit where the vehicles were waiting for us to take us to the theater. Prime Minister Sato and his Japanese delegation then followed, and Vice President HUMPHREY and his American delegation then joined the procession to the exits and the waiting vehicles.

As I was walking along leisurely, chatting with Vice President HUMPHREY following in double line, behind the Japanese delegation, along came Mr. Lee from the head of the line, rushed over to me, grabbed me by my elbow and ushered me to the head of the line and nearly shoved me into the car already occupied by Prime Minister Sato of Japan.

Fortunately for me, the great Vice President of the United States, HUBERT HUMPHREY, sharp as a flash of lightning, immediately saw what was happening, and yelled out, "Hey, wait a minute, he's one of us."

Being saved by Vice President HUMPHREY, I returned to the United States and supported him enthusiastically and strongly for President of the United States.

There were other instances wherein we had good times together, as in Alaska when we went fishing and caught over 200 fish within a period of less than 2 hours. But those stories must wait for an appropriate time—my colleagues are obviously anxious to go into recess. While I still have the floor, I would like to say this about the senior Senator from Minnesota. In the person of HUBERT HUMPHREY is embodied the true spirit of

America, the spirit of freedom, the spirit of equality, the spirit of courage to speak up and to do what is right, not what is politically expeditious.

So today I stand in the Senate to extend my congratulations and best wishes for many, many more productive and happy years to HUBERT HORATIO HUMPHREY on his 66th birthday. "Hauole la hanau, Hubert!"—meaning "happy birthday" in Hawaiian.

Mr. President, I thank the Chair, and yield the floor.

#### HAPPY BIRTHDAY SENATOR HUMPHREY

Mr. THURMOND. Mr. President, I rise today to extend warm wishes for a happy 66th birthday to Senator HUBERT H. HUMPHREY. Although Senator HUMPHREY and I have differed philosophically a number of times over the years, he is a dynamic force in the country and has millions of admirers. His enthusiasm, his optimism, and his cheerful disposition have turned many a political foe into a personal friend.

Mr. President, I wish my friend, HUBERT HUMPHREY, many happy returns, the recognition his career deserves, and long life and much happiness with his lovely wife, Muriel.

Mr. CRANSTON. Mr. President, I, too, would like to rise to congratulate our distinguished and beloved colleague from Minnesota on the occasion of his 66th birthday.

His lifetime is marked by a singular record of devoted service to the Nation.

I know I express the unanimous view of this body in saying that, like some of his speeches, we hope he will go on and on.

On this occasion, I want to wish him all the happiness and good health he so richly deserves.

The PRESIDING OFFICER (Mr. RIEGLE). Does any Senator desire recognition?

#### QUORUM CALL

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### STATUTE OF LIMITATIONS FOR INDIAN CLAIMS

Mr. ROBERT C. BYRD. Mr. President, S. 1377 has been reported unanimously by the Select Committee on Indian Affairs. Action on this measure has been cleared all the way around, by unanimous consent. I ask unanimous consent

that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1377), to extend the time for commencing actions on behalf of an Indian tribe, band, or group.

The Senate proceeded to consider the bill, which had been reported from the Select Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert the following:

That (a) the third proviso in section 2415(a) of title 28, United States Code, is amended by deleting the words "more than eleven years after the right of action accrued" therein, and substituting the words "after December 31, 1981" in their place.

(b) the proviso in section 2415(b) to title 28, United States Code, is amended by deleting the words "within eleven years after the right of action accrues" therein, and substituting the words "on or before December 31, 1981" in their place.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The bill (S. 1377) was read a third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. ABOUREZK, I move to reconsider the vote by which the bill was passed.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the Senator from Rhode Island (Mr. PELL) as Congressional Adviser to the SALT Delegation, Geneva, Switzerland, during 1977.

#### AUTHORITY FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES DURING RECESS OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, the Senate will be recessing until Monday, June 6, at 12:30 p.m. I ask unanimous consent that during that non-legislative-day period, the Secretary of the Senate be authorized to receive messages from the President of the United States and the House of Representatives and that such messages may be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.



# AUTHORITY FOR CERTAIN ACTION TO BE TAKEN DURING RECESS OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the same period, the Vice President of the United States, the President pro tempore of the Senate, the Acting President pro tempore of the Senate, and the Deputy President pro tempore of the Senate be authorized to sign all duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session, to consider nominations on the Executive Calendar, following "State Department." I understand they have been cleared on both sides of the aisle.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all the nominations, other than No. 219, be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations referred to are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Eleanor Holmes Norton, of New York, to be a member of the Equal Employment Opportunity Commission.

### DEPARTMENT OF JUSTICE

Robert L. Wright, of Kentucky, to be U.S. marshal for the western district of Kentucky.

### DEPARTMENT OF DEFENSE

Robert L. Neison, of the District of Columbia, to be an Assistant Secretary of the Army.

Sundry nominations in the U.S. Air Force, U.S. Army, U.S. Navy, and U.S. Marine Corps.

Sundry nominations placed on the Secretary's desk in the Air Force, Army, and Navy.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate

return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, are we still in morning business?

The PRESIDING OFFICER. We are. Mr. ROBERT C. BYRD. That is fine.

I will just suggest that we stay there for a little while.

## PURPOSE OF NONLEGISLATIVE PERIODS

Mr. ROBERT C. BYRD. Mr. President, before the Senate goes out for the Memorial Day nonlegislative period I wish again to state, as I have stated before, the purposes of such nonlegislative-day periods. The purposes are manifold.

As an example, during the last nonlegislative-day period, the Easter holiday, I went to West Virginia to visit some of the areas that had been severely stricken with floods. That trip consumed 1 day. On 3 additional days thereafter during that week, I spent practically the better part of each of those 3 days in meeting with U.S. Army Engineers and various Federal officials who have jurisdiction over Federal disaster programs.

I also had a great deal of work in my own office that needed to be completed. The work in my office backs up considerably from time to time when the Senate is very busy.

I do not recall ever having taken a vacation during these so-called nonlegislative-day periods. There is always work to be done. And I can remember several non-legislative-day periods in which I have conducted committee hearings and in which I have conducted markup sessions on bills. The Budget Reform Act is a good example. I spent an entire non-legislative-day period—many people call them recesses, and one can call them whatever one wishes—but I spent that entire non-legislative-day period upon that occasion working with staff members of committees. I, as a member of the Rules Committee—and at that time as the chairman of the then Subcommittee on Rules—spent that entire non-legislative-day period—call it recess if you will—working with staff people on that bill, revising it, and preparing it for final committee action.

I am sure that many other Senators use the periods, from time to time, to conduct hearings here in the city, in their home States, or elsewhere around the country.

(At this point, Mr. MATSUNAGA assumed the chair.)

Additionally, the correspondence load of a Senator is something that very few people really understand. Many Senators get from 5,000 to 10,000 or 15,000 communications a week, and many of these communications have to be read and responded to by Members themselves. Much of this workload has to be given attention at such times. Meetings with Federal agencies on constituents' problems are often conducted during these holiday periods.

Congress is the people's branch. It is the people's forum. It is the people's hope. Members need to get back to their

respective congressional districts and States to talk with their constituents and to speak at various events occurring within their States and congressional districts.

For example, I have two speaking engagements during the forthcoming Memorial Day holiday. I could have had many more. I had to turn down a good many invitations. I normally try to limit my speaking engagements only to West Virginia, the District of Columbia, or, in the event another Senator asks me to go to his State, if I can go I will. These two engagements are at high school commencements where I will be speaking to graduating classes. A part of a Senator's many responsibilities is to speak to the youth of the country, to get back and look his people in the eye, answer their questions, and to find out from them their feelings on the issues. This is an important part of the American legislative process.

Some of our Members have to go to Canada and to Mexico this weekend. These countries are our neighbors. And I would imagine that many countries in the world envy the United States, situated as it is, and envy the countries of Canada and Mexico situated as they are. We are neighbors. We have no armies. Mr. President, on our borders with these states. These are three peace-loving, neighborly, friendly states.

It is important that the Senate of the United States, which is vested with certain responsibilities that are not incumbent upon the House of Representatives—for example, the consideration and ratification of treaties, and so forth—it is important for Members to visit other countries and particularly our neighbors, so we have a few Members from both Houses attending interparliamentary conferences in Mexico and Canada during this next week.

And I want very much that such important business meetings be conducted with other countries when the Senate is not meeting. So I insisted, for instance, that the meeting in Mexico not occur at a time when the Senate is in session, because otherwise either Senators cannot go and represent the United States—which would be an affront to the Mexicans if Members of the Senate or Members of the House of Representatives did not go, or if such interparliamentary meetings occur when the Senate is in session, then Senators are obliged to miss rollcalls and committee meetings which sometimes causes the Senate to delay its action on particular bills because those Senators may have the responsibility of floor managing bills at such times.

These periods of non-Senate workdays are utilized necessarily by most Senators, surely, in a way that carries out their responsibilities under the Constitution. A Senator who does not get back home until election year may have some problems in being reelected to the Senate.

I know there are those who say, "Well, Senators are campaigning when they go back home."

A Senator is always campaigning. A Member of the House of Representatives is always campaigning. Any elective public official is always campaigning, be-

cause every action he takes, every speech he makes, has an impact, slight though it may be—sometimes it may be an adverse impact—on his political future.

But that is the legislative process; and, especially where the members of the people's branch are concerned, it is important that there be times when Members can go back to their States, can commit themselves to engagements weeks in advance, without fear or concern that such engagements will have to be canceled because of Senate floorwork. Otherwise, they cannot schedule such commitments with assurance that they can live up to them.

During the Memorial Day weekend and early June, high schools all over the country are having commencements, and Members of Congress are asked to deliver commencement addresses. That is a service to the people, and it is a responsibility of a Member of Congress. The Members of the people's branch need to stay in touch with the people. If we were not to have had this forthcoming week, many Members would have had to turn down commencement addresses; either that or accept them and run the risk of missing rollcall votes in the Senate.

So, by way of brief explanation, Mr. President, I hope there will be a little better understanding on the part of those who read the CONGRESSIONAL RECORD as to the purpose of these holiday periods.

Incidentally, the attendance during the Senate workdays has been exemplary. The attendance on rollcalls this year in the Senate has averaged 88.19 percent. That is a good attendance.

So having the scheduled recesses—I will use that word for the moment because it is better understood—having a nonlegislative period scheduled for the Senate enables Senators to make their engagements in advance for times when the Senate is not in session, and to be on hand for Senate floorwork at times when the Senate is in session.

I repeat, that is a splendid attendance record. That is the average. Senator PROXMIER has not missed a rollcall in more than 5,000 rollcalls. Many Senators have rollcall attendance records in the high 90's. Such good attendance is made possible in part because Senators do have these times when they know in advance that they can schedule visits back home without fear of missing rollcall votes and floor debate on important legislation.

The Senator who loses touch with his constituents may find that they have also lost touch with him. The road to Washington leads back home. One always has to be a politician before he can be a statesman. A Senator cannot be a statesman if he is no longer here. People want to see him back home from time to time.

Last year, I visited 54 out of my 55 counties, at least once, and my rollcall voting record was better than 99 percent. The year before that, I was in each of the 55 counties of West Virginia at least once—in some cases twice, three times, four times, five times, or six times. And West Virginia is not the most level State in the Union. Sometimes, it is a little difficult to get from place to place. Other Senators have similar problems.

So, let it not be said by those who

ought to know better, that these recesses are vacations.

I am not looking for a vacation. To be very frank about it, just to be away from the Senate floor, for me, and to be back in my office doing my office work, is a period of relaxation for me.

#### SENATE LEGISLATIVE ACHIEVEMENTS— JANUARY 4 TO MAY 27, 1977

I compliment the Members of the Senate on the splendid attendance record to which I have just referred. I also compliment the Senate on the legislative record that it has made thus far during this session.

A good lawyer knows where to find the law. In the past 5 months, the Senate has addressed a variety of problems. Of prime importance have been programs instrumental to improving the Nation's economy. The 95th Congress has enacted the major portions of the President's economic stimulus proposals.

We have authorized an additional \$4 billion for local public works projects which provide jobs through construction in places with the most distressing levels of unemployment.

We have enacted \$20.1 billion in a special economic stimulus appropriation to implement programs for public service employment, public works projects, countercyclical revenue sharing, and training of unemployed youths, veterans, unskilled workers, and older Americans.

We have authorized \$3.25 billion to extend the countercyclical revenue sharing program to help States and local governments to maintain basic services until national unemployment drops below 6 percent.

We have enacted the 3-year, \$34 billion tax cut for individuals and businesses.

Forty-six million Americans, 90 percent, with incomes under \$20,000, will pay less taxes.

Corporations will be allowed a tax credit on hiring new employees in an effort to encourage business expansion and reduce unemployment.

Moreover, 96 percent of all taxpayers will benefit from having a simpler method of computing their taxes.

In January, we sent the President a measure granting him special emergency pricing and allocation authority to deal with the national gas shortage during the record cold winter months.

The Senate has passed a surface mining bill.

The Senate last week passed the cornerstone of the President's energy program—legislation creating a Department of Energy, which will administer a national energy policy.

As passed by the Senate, the energy-related functions of some 50 agencies will be incorporated into a single Cabinet-level department that will have pricing, allocation, pipeline, and other authorities previously splintered, scattered, and dispersed among numerous entities.

The Senate confirmed a new Cabinet shortly after the President's inauguration.

The Senate this week passed an omnibus farm bill, a bill that extends for 5

years the basic price support program for major commodities.

The Senate has passed an omnibus judgment bill.

The Senate has passed legislation dealing with the Arab boycott.

The Senate has passed a measure to halt the importation of chrome from Rhodesia. I did not support the bill, but the Senate passed it.

The Senate passed legislation authorizing the President to submit plans for reorganization of Federal agencies—one of the basic, fundamental cornerstones of the President's program. Congress has already enacted that authority for reorganization of the Federal agencies.

The Senate passed an extension of the unemployment compensation program to aid those temporarily unemployed.

In 2 days, the Senate passed the \$35.9 billion authorization for procurement of aircraft, missiles, naval vessels, and weapons.

It passed a military construction authorization bill in the amount of \$3.7 billion.

Other measures enacted by the Senate are: An extension of important public health programs; a bill seeking to eliminate the problem of oil pollution from tankers and to improve vessel safety; and with regard to internal Senate reforms, the Senate early in the session agreed to an extensive realignment of committee jurisdictions and other changes that will expedite the flow of business.

The Senate adopted a tough Code of Conduct for Members and staff which requires extensive financial disclosure.

These are just a few of the many measures that have been acted upon by the Senate already this year. For a more detailed account of total Senate legislative achievements, I ask unanimous consent to have printed in the RECORD a report prepared by the Democratic Policy Committee staff, so that the public may read and see for themselves the list of measures which have been acted upon already by the Senate this year.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

#### LEGISLATIVE DIGEST—JANUARY 4–MAY 27, 1977 ECONOMY–UNEMPLOYMENT

**Tax cut.**—Congress has enacted a 3-year \$34 billion tax cut. Forty-six million Americans—90% with income less than \$20,000—will pay less taxes. Corporations will be allowed a tax credit on hiring new employees. Ninety-six percent of all taxpayers will have a simpler method of computing their taxes.

**Economic Stimulus Appropriations.**—Congress has enacted a measure providing \$20.1 billion to implement the President's economic stimulus proposals including funds for public works projects, public service employment and countercyclical revenue-sharing to help State and local governments continue their basic services and to target employment and training programs to youth, veterans and unskilled workers.

**CETA—Youth Employment.**—The House and Senate passed a bill extending CETA through fiscal year 1978 with provisions for increased participation by disabled and Vietnam-era veterans under 27 years of age and added a new title designed to deal with the problems of youth unemployment.

**Public Works Employment.**—Congress has



enacted a measure authorizing \$6 billion for local public works projects which provide jobs through construction in places with the most distressing levels of unemployment.

**Unemployment Compensation.**—Congress has extended the unemployment compensation program until October 31 to aid those temporarily unemployed with an income to meet their day-to-day living expenses.

#### ENERGY

**Emergency Natural Gas.**—Congress enacted early this year a measure giving the President special emergency authority to deal with the natural gas shortage during the winter months.

**Department of Energy.**—The Senate passed last Wednesday a bill to create a cabinet level Department of Energy incorporating some 50 energy-related agencies including FEA, ERDA and the FPC.

**Strip Mining.**—The Senate and the House have both passed a measure to minimize the degradation of the environment by requiring minimum uniform standards for mining and reclamation.

**Comprehensive Energy Policy.**—Senate and House committee hearings will continue throughout this month and next on energy supply, conservation, natural gas, and public utilities regulation as part of a broad program for cutting energy consumption, conserving energy supplies and increasing domestic sources of energy.

#### SENATE REFORM

**Committee Reorganization.**—At the beginning of the session, the Senate reduced the number of Senate committees and realigned jurisdictions into a more rational order. It agreed to numerous other changes to spread legislative responsibilities more equally among all Senators.

**Ethics Code.**—The Senate adopted an official code of conduct for Senators and staff which requires extensive financial disclosure.

#### OTHER MEASURES

**Arab Boycott.**—Under consideration by House-Senate conferees is a bill attacking the most repugnant aspects of the Arab boycott against Israel and generally improving export administration.

**Rhodesian Chrome.**—Congress acted early this year to halt the importation of chrome from Rhodesia which was in violation of U.N. sanctions against trade with that country.

**Presidential Reorganization Authority.**—Congress extended the authority of the President to submit plans for reorganization of Federal agencies which shall take effect within 60 days if Congress does not disapprove by resolution.

**Omnibus Farm Bill.**—The Senate has agreed to extend the basic price support programs for major commodities and the Food for Peace (PL 480) program. This bill also makes important revisions in these programs as well as needed reform to the Food Stamp program which is extended for two years.

**Tanker Safety.**—The Senate has agreed to a measure strengthening Federal standards governing vessels transporting oil in waterways under U.S. jurisdiction.

#### [95th Congress, 1st Session]

##### SENATE LEGISLATIVE ACHIEVEMENTS

(Prepared by Senate Democratic Policy Committee, Robert C. Byrd, Chairman)

##### SENATE ACTIVITY

|                            |        |
|----------------------------|--------|
| Days in Session.....       | 81     |
| Hours in Session.....      | 415:18 |
| Total Measures Passed..... | 242    |
| Private Laws.....          | 0      |
| Public Laws.....           | 31     |
| Treaties.....              | 0      |
| Confirmations.....         | 32,867 |
| Record Votes.....          | 170    |

Symbols: (VV)—Passed by Voice Vote; numbers in parentheses indicate number of

record vote on passage, conference report, or reconsideration.

#### AGRICULTURE

**Federal Crop Insurance Corporation Capital.**—Amends the Federal Crop Insurance Act to increase the authorized capital stock of the Federal Crop Insurance Corporation from \$100 million to \$150 million in order to replenish its operating capital which was nearly exhausted as a result of indemnity payments to insured farmers for crop losses during the 1976 drought and harsh winter of 1977. S. 955—Passed Senate April 25, 1977 (VV)

**Grain Inspection.**—Amends the United States Grain Standards Act to facilitate and improve the implementation of the amendments made in 1976 (Public Law 94-582); establishes a temporary 12-member committee (representing farmers, consumers and all segments of the grain industry) to advise the Administrator of the Federal Grain Inspection Service (FGIS) on the implementation of the 1976 act, and provides for its termination 18 months after the date of enactment; eliminates the requirement that grain merchandisers and elevator operators using grain inspection or weighing services maintain certain itemized types of records requires them instead to keep only such records as the Administrator may prescribe for administration and enforcement; repeals, effective October 1, 1977, the authority for the charging of fees for Federal supervision of grain inspection and weighing and provides instead for funding of these activities through the regular appropriations process; makes several technical amendments; and prohibits effective May 1, 1977, subclassing of the hard red winter wheat on the basis of color, kernel content, or percentage of dark, hard and vitreous kernels. S. 1051—Passed Senate March 30, 1977. (88)

**Land and water resources conservation.**—Establishes a mechanism for making long-range policy to encourage the wise and orderly development of the Nation's soil and water resources; requires the Secretary of Agriculture to (1) prepare an appraisal of the Nation's land, water and related resources and (2) develop a national land and water conservation program setting forth the direction for future soil and water conservation efforts on the Nation's private and non-Federal lands by December 31, 1979, and to update them each fifth year thereafter; requires that the appraisal and the program together with a detailed statement of policy intended to be used in framing budget requests for Soil Conservation Service activities to be transmitted to Congress on the first day it convenes in 1980 and at each 5-year interval thereafter; requires that programs established by law be carried out in accordance with the statement of policy unless either House adopts a disapproval resolution within 90 days of receipt; provides that Congress may revise or modify the statement of policy, and that the revised or modified statement of policy shall be used in framing budget requests; requires, beginning with the fiscal 1982 budget, that requests sent by the President to Congress governing Soil Conservation Service activities express the extent to which the projected programs and policies meet the statement of policy approved by Congress; requires the President to set forth reasons for requesting Congress to approve a lesser program or policy where budget recommendations fail to meet the established policy; and requires the Secretary to submit to Congress beginning with fiscal 1982, an annual report evaluating the program's effectiveness. S. 106—Passed Senate March 23, 1977. (VV)

**Omnibus farm bill.**—Extends for 5 years through 1982 the basic price support programs for wheat, feed grains, cotton, rice, and wool; extends, with major changes, the food stamp program into 1979; extends into

1982 the Food for Peace Program (P.L. 480) with some changes; and establishes a new charter and clearer direction for the Federal role in agricultural research;

**Payments limitation.**—Places a limitation of \$50,000 on the total payments which a person may receive annually under one or more of the programs for wheat, feed grains, upland cotton, extra long staple cotton, and rice instead of the present \$20,000 limitation and the separate \$55,000 limitation on rice;

**Commodity programs.**—Milk—sets the price support at 80% of parity adjusted semiannually but reviewed quarterly; extends for 5 years the Class I base plans, seasonal base excess plans, and seasonal takeout-payback plans for 5 years; Wool—updates the support levels to 90% of the formula; Wheat—sets the target price for wheat at 1977 at \$2.90 per bushel; and the target price for 1978 at \$3.10 per bushel and an increase thereafter if the cost of production exceeds that level; Feedgrains—sets target price levels for corn at \$2.28 per bushel in 1978 and increases thereafter based on cost of production, and ties the support level for other feedgrains to corn; Cotton—establishes a target price of 51.1 cents per pound for 1978 to increase in subsequent years in relation to cost of production increases; Peanuts—establishes a national acreage allotment and a minimum national poundage quota; sets up a price support program for producers through loans, purchases or other operations; Soybeans—requires price support loans for producers on the 1978 through 1982 crops at not less than \$4 per bushel;

**Grain Reserves.**—Requires the Secretary to formulate a producer storage program on original or extended price support loans for wheat and feedgrains at the same support level as provided by the 1949 Act, as amended; authorizes the President to negotiate a system of food reserves for humanitarian food relief and to maintain such a reserve of food commodities as a contribution of the United States to the system; expands the authority of the Secretary to acquire commodities for disposition in the event of national disasters; makes the following changes in the farm storage facility loan program; authorizes the Secretary of Agriculture to use guarantees on secured loans as well as direct loans as a means of assisting farmers to construct or purchase on-farm facilities; permits the making or guaranteeing of loans for the construction of facilities to store high moisture grain and forage crops, as well as dry grain; and requires, with respect to direct loans, that the borrower put up security for the loan and base the interest rate charged to farmers on the rate charged the Commodity Credit Corporation;

**Food for Peace Program (P.L. 480) Reforms.**—Extends into 1982 the program and increases the annual authorization to \$750 million;

**Food Stamp Reforms.**—Extends the current food stamp program for 2 years; eliminates the purchase requirement and establishes a single benefit reduction rate at 30% of net income; limits participation to households at or below official Federal poverty levels; replaces current itemized deductions with standardized deductions; requires unemployed participants to seek unemployment; requires a 60-day period of ineligibility for a household whose head voluntarily terminates employment; eliminates automatic, categorical eligibility of welfare recipients; gives Indian tribal organizations greater authority over food distribution programs on reservations; increases incentives for States to root out program abuse and improve administration; authorizes pilot projects to improve administration; and extends authority to purchase commodities and establishes the Federal share of administra-

tive costs for the Commodity Supplemental Food Program.

**Food and Agricultural Research.**—Expands support for research programs, improved dissemination of research findings, increased efficiency and coordination of Federally-funded food and agricultural research including nutrition research and animal health research; creates three interrelated advisory panels to improve coordination; provides for a program of competitive grants within the Department to initiative high priority research activities; authorizes the Secretary to make grants to agriculture experiment stations and land-grant universities to support the Federal-State cooperative research program; authorizes research on solar energy as applied to agriculture; directs the Secretary to develop and implement a national nutrition research and extension program.

**Grain inspection.**—Added the language of S. 1051, the Federal Grain Inspection and Weighing Program Improvements bill as earlier passed by the Senate which amends the United States Grain Standards Act with respect to recordkeeping requirements and supervision fees, and establishes an advisory committee to provide advice to the Administrator of the Federal Grain Inspection Service.

**Other Provisions.**—Amends the authorizations for several existing rural development and conservation programs and contains other provisions including those relating to the inclusion of aquaculture and human nutrition as functions of the Department of Agriculture, beekeepers indemnity, and the importation of filberts. S. 275—Passed Senate May 24, 1977. (169)

**Wheat producers assistance.**—Provides temporary emergency assistance to wheat producers who planted prior to January 1, 1977, in order to prevent further increases in carryover stocks resulting from record U.S. wheat production and decreasing U.S. exports; requires the Secretary of Agriculture to carry out, through the Commodity Credit Corporation, a special wheat acreage grazing and hay program for the 1977 crop whereby a wheat producer who elects to participate may designate an acreage of cropland on his farm, of not to exceed 40 percent of the wheat acreage allotment, for grazing purposes or hay production only; requires that the producer designate the specific acreage on the farm to be so used; directs the Secretary to pay any participating producer an amount determined by multiplying the number of acres placed in the program times the projected yield established for the farm times \$1; makes the producer ineligible for any other payments or price supports, including deficiency payments and disaster payments under section 107 of the Agricultural Act of 1949, on that portion of the wheat allotment placed in the program; provides that such acreage shall be deemed to have been planted for harvest for the purposes of wheat acreage history; and authorizes the Secretary to issue the necessary regulations to carry out this act. S. 650—Passed Senate March 16, 1977. (60)

**Wheat referendum.**—Defers the wheat marketing quota referendum for the 1978 crop, which by law must be held no later than August 1, until 30 days after the adjournment of Congress or October 15, whichever is earlier, in order to provide additional time for enactment of legislation, presently being considered by Congress, for the 1978 and subsequent wheat crops which would eliminate the need for a referendum. S. 1240—Passed Senate April 25, 1977. (VV)

#### APPROPRIATIONS

##### Fiscal 1977:

**Continuing.**—Extends the continuing resolution (Public Law 94-473) which expires on

March 31, 1977, until April 30, 1977, to provide financing authority for the following programs traditionally funded under the Departments of Labor, and Health, Education and Welfare Appropriations Acts: higher education; National Health Service Corps; home health services; emergency medical services; library resources; teacher corps; alcohol abuse and alcoholism prevention, treatment and rehabilitation; health professions educational assistance; D.C. medical and dental manpower; activities under title VI of the Comprehensive Employment and Training Act; vocational education; and National Institute of Education; and amends the resolution to provide such amounts as necessary for the calendar quarter ending March 31, 1977, for general revenue sharing payments to State and local governments. H.J. Res. 351—Public Law 95-16, approved April 1, 1977. (VV)

**Economic stimulus.**—Makes economic stimulus appropriations in the total amount of \$20,101,484,000 in new budget obligatory authority for fiscal year 1977 which is \$3,692,365,000 under the budget estimate; includes the following to implement the economic stimulus proposals recommended by the President in his message of January 31, 1977:

**Public Works Projects.**—\$4 billion for acceleration of local public works projects;

**Revenue Sharing Program.**—\$4,991,085,000 for revenue sharing payments for the last three quarters of fiscal 1977;

**Antirecession Financing.**—\$632.5 million for increased antirecession payments under Public Law 94-369 to States and local governments in areas of high unemployment to assist them in maintaining basic services;

**Public Service Employment.**—\$7,987 billion for public services jobs which will expand the present Comprehensive Employment and Training Act (CETA) public service programs from the current 310,000 jobs to 600,000 jobs by September 30, 1977, and 725,000 jobs by December 31, 1977;

**Targeted Employment and Training Programs.**—\$1,438 billion for programs targeted to youth, veterans and those in need of new skills; and

**Older Americans.**—\$59,400,000 for an additional 14,800 jobs for community service employment for older Americans;

In addition, includes the following appropriations: \$95 million for production of NASA's third shuttle orbiter; \$300 million for the construction grants reimbursement program for sewage treatment plants; \$175 million for a drought assistance program contingent upon enactment of authorizing legislation; \$35 million increase in the obligation limitation on airport development grants; \$366 million for various programs authorized under the Federal-Aid Highway Act. \$50 million for the Northeast Corridor improvement programs to speed up construction currently underway; and \$2 million for IRS accounts collection and taxpayer service. H.R. 4876—Public Law 95-29, approved May 13, 1977. (130)

**Supplemental.**—Makes supplemental appropriations in the total amount of \$28,923,859,260 for fiscal year 1977 for almost every department and agency of the Federal Government including appropriations to cover costs associated with the October 1, 1976, general government pay raise. H.R. 4877—Public Law 95-26, approved May 4, 1977. (98)

**Urgent disaster supplemental.**—Makes urgent supplemental appropriations of \$200 million for fiscal year 1977 for disaster relief activities resulting from the severe weather conditions prevalent throughout the nation. H.J. Res. 269—Public Law 95-13, approved March 21, 1977. (VV)

**Urgent power supplemental.**—Makes urgent power supplemental appropriations of \$6.4 million for fiscal year 1977 for the Department of the Interior, Southwestern Pow-

er Administration, for power purchases caused by critically low stream flow conditions in the area served by the Administration; and removes the restrictions in Public Laws 94-355 and 94-373 which limit the use of funds appropriated to ERDA subject to enactment of authorizing legislation to assure the continued funding of essential energy research, development and demonstration programs. H.J. Res. 227—Public Law 95-3, approved February 16, 1977. (VV)

#### ATOMIC ENERGY

**Nuclear Regulator Commission authorization.**—Authorizes \$299,640,000 for fiscal year 1978 for the Nuclear Regulatory Commission; includes \$41,480,000 for nuclear reactor regulation, \$12,130,000 for standards development, \$36,050,000 for inspection and enforcement, \$22,090,000 for nuclear materials safety and safeguards, \$148,400,000 for regulatory research, \$10,180,000 for program technical support, and \$29,310,000 for program direction and administration; provides for a reduction in appropriations if (1) the Clinch River Breeder Reactor Project is cancelled or indefinitely deferred, (2) the license application is withdrawn or further construction is cancelled for the fuel reprocessing plant at Barnwell, S.C., and (3) plans for commercial fuel reprocessing and plutonium recycling are cancelled; and directs the Administrator of the General Services Administration to study and report to the Environment Committee by June 15, 1977, on the feasibility of consolidating the NRC which is presently housed in nine buildings throughout the Washington metropolitan area. H.R. 3733—Passed House May 17, 1977; Passed Senate amended May 25, 1977. (VV)

#### BUDGET

##### Rescissions:

**Helium purchases.**—Rescinds 47.5 million in contract authority for helium purchases under Public Law 87-122 as recommended by the President in his message of September 22, 1976, for which purchase contracts were terminated by the Interior Department in 1973 and the contract authority therefore is no longer needed. H.R. 3347—Public Law 95-10, approved March 10, 1977. (VV)

**Second budget rescission.**—Rescinds \$644,050,000 of the \$941,278,000 in budget authority recommended by the President in his message of January 17, 1977, as follows: Department of Defense—Military—\$143.6 million in retired pay, \$452.6 million in Naval shipbuilding and conversion because of the decision not to procure the fourth nuclear powered aircraft carrier (CVN-71) or convert the nuclear powered cruiser USS Long Beach to the Aegis air defense weapons system, and \$145.35 million for Air Force procurement because of termination of the Advanced Logistics System (ALS); \$41.5 million in funds appropriated to the President for foreign military credit sales; and \$12 million for the Department of State contributions for international peacekeeping activities because of the lower budget levels established by the U.N. General Assembly; and disapproves \$277,228,000 as follows: Department of Commerce—\$525,000 for salaries and expenses of the U.S. Travel Service and \$1.5 million for operations, research and facilities of the National Oceanic and Atmospheric Administration to continue surveys, mission and cost analysis and initiation of design and engineering studies for Oceanlab; and \$6,803,000 for the Department of Transportation for retired pay for the Coast Guard. H.R. 3839—Public Law 95-15, approved March 25, 1977. (VV)

##### Resolutions:

**Third Budget Resolution, 1977.**—Revises the Second Budget Resolution (S. Con. Res. 139) for fiscal year 1977 setting the level of revenues at \$347.7 billion, outlays at \$417.45



billion, deficit at \$69.75 billion, budget authority at \$472.9 billion and public debt at \$718.4 billion; contains an adequate funding level to permit enactment of up to \$13.8 billion in tax legislation stimulus as proposed by the administration and \$3.7 billion in increased outlays to produce jobs in areas of high unemployment; sets a level of budget authority at \$1.1 billion and outlays at \$760 million for EPA construction grants, railroad and highway construction and improvement in recreational facilities; sets the following levels of funding for the relief of individuals and families hard hit by the recession and the harsh winter: (1) 1.8 billion in budget authority and outlays for direct payments to recipients of social security, SSI, and railroad retirement, or any similar stimulus proposals, (2) \$508 million in budget authority and \$508 million in outlays to extend the Federal supplemental benefits program for the unemployed, and (3) \$200 million in budget authority and \$200 million in outlays for Federal assistance to low- and moderate-income families to help them meet fuel costs during the winter emergency; includes adequate levels of budget authority for housing to support increased reservations for a total of 360,000 dwelling units for low- and moderate-income families; and makes the following revisions to the totals for budget authority and outlays contained in the Second Budget Resolution to reflect savings which have been achieved and additional costs which have arisen under existing programs (in billions of dollars):

National Defense—BA: \$108.8 instead of \$112.1, O: \$100.1 instead of \$100.65;

International Affairs—BA: \$7.9 instead of \$8.9, O: \$6.8 instead of \$6.9;

General science, space, and technology—BA: \$4.5 instead of \$4.6, O: \$4.4 instead of \$4.5;

Natural resources, environment, and energy—BA: \$18.7 instead of \$18.2, O: \$17.2 instead of \$16.2;

Agriculture—BA: \$2.3 instead of \$2.1, O: \$3.0 instead of \$2.2;

Commerce and transportation—BA: \$17.3 instead of \$17.2, O: \$16.0 instead of \$17.4;

Community and regional development—BA: \$14.8 instead of \$9.55, O: \$10.55 instead of \$9.05;

Education, training, employment and social services—BA: \$30.4 instead of \$24.0, O: \$22.7 instead of \$22.2;

Health—BA: \$40.6 instead of \$40.5, O: \$39.2 instead of \$38.9;

Income Security—BA: \$170.9 instead of \$155.9, O: \$141.3 instead of \$137.2;

Veterans benefits and services—BA: \$18.9 instead of \$20.3, O: \$18.1 instead of \$19.5;

Law enforcement and justice—BA: \$3.5, O: \$3.6;

General Government—BA: \$3.5 instead of \$3.6, O: \$3.5;

Revenue sharing and general purpose fiscal assistance—BA: \$7.6, O: \$7.7;

Interest—BA: \$388 instead of \$39.6, O: \$38 instead of \$39.6;

Allowances—BA: \$0.8 instead of \$0.7, O: \$0.8;

Undistributed offsetting receipts—BA: \$15.6 instead of \$16.8, O: \$15.6 instead of \$16.8. S. Con. Res. 10—Action complete March 3, 1977. (38).

First Budget Resolution, 1978.—Sets the level for total budget outlays for fiscal year 1978 at \$460.95 billion, estimated revenues at \$396.3 billion, new budget authority at \$508.45 billion, and the estimated deficit at \$64.65 billion as compared to the President's estimates of \$462.6 billion in budget outlays, \$404.7 billion in revenues, \$506.2 billion in new budget authority, and a proposed deficit of \$57.9 billion; sets the appropriate level of the public debt at \$784.9 billion and the

amount by which the statutory amount may be increased to \$33.6 billion; for estimated revenues (1) assumes the level of fiscal stimulus in fiscal 1978 provided in the Tax Reduction and Simplification Act as agreed to by House and Senate conferees; (2) accepts a \$65 million allowance for miscellaneous tax and tariff legislation; (3) considers the entire cost of the earned income credit as a reduction of revenue; and (4) postpones the treatment of tax credits in excess of recipients tax liabilities until development of the second budget resolutions; recommends outlays for budget programs by function for fiscal year 1978 as compared with the President's proposed budget outlays as follows:

National Defense: \$110.0 billion as compared to \$112.8 billion;

International Affairs (conduct of foreign affairs, foreign information and exchange activities, the Peace Corps, Food for Peace, and non-military foreign assistance): \$7.3 billion as compared to \$7.2 billion;

General Science, Space and Technology: \$4.7 billion, which is the same estimate submitted by the President;

Natural Resources, Environment, and Energy: \$20.0 billion as compared to \$20.9 billion;

Agriculture: \$4.35 billion as compared to \$4.4 billion;

Commerce and Transportation: \$19.4 billion as compared to \$19.9 billion;

Community and Regional Development: \$10.8 billion as compared to \$9.9 billion;

Education, Manpower, and Social Services: \$27.2 billion as compared to \$27.0 billion;

Health: \$44.3 billion as compared to \$44.6 billion;

Income Security (social security and unemployment insurance, retirement systems for Federal and railroad employees and assistance programs for the needy): \$146.7 billion as compared to \$148.7 billion;

Veterans Benefits and Services: \$20.2 billion as compared to \$18.8 billion;

Law Enforcement and Justice: \$3.85 billion as compared to \$3.8 billion;

General Government: \$3.85 billion as compared to \$4.0 billion;

Revenue Sharing and General Purpose Fiscal Assistance: \$9.7 billion, which is the same estimate submitted by the President;

Interest: \$43.0 billion as compared to \$40.9 billion;

Allowances (includes Federal pay increases for civilian agencies and other expenditures which cannot be reasonably assigned to other functions): \$1.9 billion as compared to \$1.2 billion; and

Undistributed Offsetting Receipts (includes receipts from rents and royalties on leases on the Outer Continental Shelf and other deductions from outlays which cannot be reasonably assigned to other functions): \$16.3 billion in undistributed offsetting receipts in the Congressional budget as compared to \$16.0 billion in the President's budget. S. Con. Res. 19—Action completed by both Houses May 17, 1977. (137, 142)

#### CONGRESS

Congressional Campaign Committee Employees Retirement Credit.—Amends title V, U.S.C., to provide that a congressional employee may credit not to exceed 10 years of service as an employee of the Democratic Senatorial Campaign Committee, the Republican Senatorial Campaign Committee, the Democratic National Congressional Committee or the Republican National Congressional Campaign Committee for Civil Service Retirement purposes provided the required deposits for such service are made to the fund; and makes the provisions of this act applicable to an employee who retires on or after the date of enactment. S. 992—Passed Senate March 5, 1977. (VV)

Joint Committee on Atomic Energy Abolishment.—Abolishes the Joint Committee on Atomic Energy and provides for the disposition of its staff and the transfer of its statutory functions and authority to other congressional committees having jurisdiction over the development, utilization or application of atomic energy; establishes, until March 31, 1979, an Office of Classified National Security Information under the policy direction of the Majority and Minority Leaders and the administrative direction of the Secretary of the Senate which shall be responsible for safeguarding national security information and other restricted data; authorizes the office to classify and declassify information within the guidelines developed for restricted data by the responsible executive agencies and to establish a central repository in the Capitol for safeguarding such data; directs the Office, within 30 days of enactment, to furnish the Senate Armed Services, Energy, Environment and Foreign Relations Committees with a listing of all records, data, charts, and files to be transferred and to indicate which committee may have jurisdiction; directs the chairmen of the committees involved to resolve any jurisdictional problems which may arise; makes necessary conforming amendments to certain laws which pertain to the Joint Committee on Atomic Energy; and provides that this act shall become effective on the tenth day after the date of enactment. S. 1153—Passed Senate March 31, 1977. (VV)

#### CRIME—JUDICIARY

Daughters of the Confederacy Patent Renewal.—Extends for 14 years design patent number 29,611 which is the insignia of the United Daughters of the Confederacy. S. 810—Passed Senate May 13, 1977. (VV)

Jefferson F. Davis.—Restores posthumously full rights of citizenship to Jefferson F. Davis effective December 5, 1968. S.J. Res. 16—Passed Senate April 27, 1977. (vv) U.S. District Court Terms: Amends section 104(a) (1), title 28, U.S.C., to provide for holding terms of the U.S. District Court for the Eastern Division of the Northern District of Mississippi at Aberdeen, Ackerman, and Corinth. S. 662—Passed Senate April 7, 1977. (vv)

North Dakota Judicial District.—Amends title 28, U.S.C., to realign the judicial districts of North Dakota by transferring Bottineau, McHenry, and Pierce Counties from the Northeastern Division to the Northwestern Division and transferring Sheridan and Wells Counties from the Southeastern Division to the Northwestern Division in order to reduce the average distance which litigants, attorneys, and jurors in these counties must travel to the nearest place of holding court by approximately 100 miles. S. 195—Passed Senate May 24, 1977. (vv)

Omnibus Judgeship.—Provides for the appointment of 110 additional permanent district court judges in 65 specified judicial districts; creates three temporary district court judgeships, for a minimum of 5 years, in the Eastern District of Kentucky, Southern District of West Virginia, and Southern District of Florida; divides the fifth circuit into a new fifth circuit consisting of Alabama, Florida, Georgia, and Mississippi which would have 14 judges, and a new eleventh circuit consisting of Louisiana and Texas which would have a total bench of 12 judges; creates a total of 35 new circuit court judgeships distributed as follows: one new judgeship in the first circuit; two in the second circuit; one in the third circuit; three in the fourth circuit; five for the revised fifth circuit; two for the sixth district; one for the seventh circuit; one for the eighth circuit; ten for the ninth circuit; one for the tenth circuit; and six for the new eleventh circuit; contains a "report back" provision which re-

quires the Judicial Council of the Ninth Circuit Court to make recommendations for a solution to the unique problems of that circuit within one year of the date on which the tenth new judge is appointed; authorizes the Administrative Office of the United States Courts to upgrade and reclassify eight employee positions; and amends existing law to require that actions brought against rail or motor carriers on claims for damage or delay to shipments be subject to a minimum jurisdictional amount of \$10,000 for each bill in lading, in order to prevent abuse of the Federal judicial process by persons bringing such actions simply as a means of tolling the statute of limitations while settlement negotiations are undertaken. S. 11—Passed Senate May 24, 1977. (16)

## DEFENSE

**Coast Guard authorization.**—Authorizes \$1,360,421,000 for fiscal year 1978 for the Coast Guard for the procurement of vessels and aircraft, construction and improvement of shore and offshore facilities, alteration and removal of obstructions, aids to navigation, pollution abatement, administrative expenses, and operating expenses; authorizes a year-end strength for active duty personnel of 39,129; contains authorization and personnel to supplement the recent Presidential program of boarding and inspecting oil tankers; funds for the reactivation of Coast Guard cutters to be used as back-up vessels in the enforcement of the 200-mile Fishery Conservation Zone; funds and personnel to supplement the present enforcement of the Fishery Conservation and Management Act of 1976; funds and personnel to create a search and rescue mission capability at the Portage, Mich., Coast Guard station; restoration of funds expended by the Coast Guard as a result of the unanticipated winter storm damages; funds for two additional ice-breaking tugs and one large ice-breaker; funds for the procurement of radar and other equipment for a continuation of various vessel traffic systems; and funds for the study of oil spill containment in high seas or fast rivers; and authorizes the commandant of the Coast Guard to assist HEW in providing medical emergency helicopter transportation services to civilians. H.R. 8823—Passed House May 16, 1977; Passed Senate amended May 25, 1977. (VV)

**Defense production extension.**—Extends for two years, through fiscal 1979, the titles of the Defense Production Act of 1950, as amended, which contain the sole authority for a number of programs designed to maintain the national defense production base in peacetime, prepare for mobilization, provide a pool of trained manpower for war production management, provide uniform cost accounting standards for negotiated defense contracts, provide for the examination of national policy with regard to material supplies and shortages, and continue the Joint Committee on Defense Production. S. 853—Public Law 95—, approved 1977. (VV)

**Military construction authorization.**—Authorizes \$3,726,633,000 for construction and other related authority for the military departments, and the Office of the Secretary of Defense within and outside the United States; contains authority for the construction of new projects which will create an estimated 50,000 jobs in the construction industry and to operate and maintain the current inventory of military family housing; directs DOD to give the chemical weapons storage site program top priority; contains \$100 million for energy conservation programs; direct DOD to examine long-term goals which would eliminate reliance on oil and natural gas and utilize coal as a fuel

source and to report to Congress before submitting the 1979 authorization; directs DOD to report on the construction backlog for the U.S. Forces in Europe including efforts to increase NATO and/or host nation participation; includes \$7.3 million for construction of support facilities for personnel stationed at Diego Garcia; increases from \$400,000 to \$1 million DOD authority for emergency minor construction projects without specific authorization; makes clear congressional intent that commissary surcharge funds may be used to provide new commissaries and renovate existing commissaries anywhere in the world; permits the Secretary to acquire by exchange certain lands contiguous to Fort Bliss Military Reservation, El Paso, Texas; increases from \$2 million to \$3.3 million the authorization for the construction of shore-side facilities for the U.S.S. Arizona memorial in Hawaii; and permits the use of certain former military land conveyed to San Francisco for public purposes other than park and recreational uses thus permitting the city to construct a sewage treatment facility on the site. S. 1474—Passed Senate May 13, 1977. (VV)

**Military enlistment and reenlistment bonuses.**—Amends chapter 5, title 37, U.S.C. to extend for 15 months, from June 30, 1977, to September 30, 1978, present law authorizing the armed services to pay enlistment and reenlistment bonuses to select enlisted personnel who possess a critical skill or to those who enlist for service in a critical skill including the combat arms; and adds a provision whereby a member would forfeit his bonus if he becomes technically unqualified in the skill for which the bonus was paid unless it is the result of an injury, illness, or other impairment which is not a result of his own misconduct. H.R. 583—Passed House February 8, 1977; Passed Senate amended May 2, 1977. (VV)

**Military procurement authorization.**—Authorizes \$35.955 billion for fiscal year 1978, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development test, and evaluation for the Armed Forces; prescribes the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense; and authorizes the military training student loads. H.R. 5970—Passed House April 25, 1977; Passed Senate amended May 17, 1977; In conference. (144)

## DISTRICT OF COLUMBIA

**D.C. Armory Board.**—Amends the Home Rule Act to allow the Armory Board of the District of Columbia, which manages Robert F. Kennedy Stadium and the D.C. Armory, to operate under a fiscal year coinciding with the calendar year, rather than the October 1–September 30 fiscal year required of all city government agencies in order to accommodate the special seasonal nature of the revenues earned by the concerns, and changes the filing date for the Board's annual reports from January to July. S. 1062—Passed Senate May 26, 1977. (VV)

**D.C. Bonds.**—Adds a new subsection to that section of the Home Rule Act authorizing the issuance of revenue bonds to provide that payments made pursuant to acts authorizing such bonds may be made without further authorization or approval. S. 1063—Passed Senate May 26, 1977. (VV)

**D.C. reciprocal tax collection.**—Authorizes any State, territory or possession to bring suit in the Superior Court of the District of Columbia to recover any tax lawfully due and owing to it, if a reciprocal right is accorded to the District by the State, territory

or possession. S. 1103—Passed Senate May 26, 1977. (VV)

**George Washington University.**—Restates completely the charter of the George Washington University, substituting a more adequate, flexible and modern document for the cumbersome and antiquated original charter granted in 1821; changes the name from George Washington University to The George Washington University; cites the school's purposes and states explicitly that a policy of nondiscrimination must govern its pursuit of those objectives; enumerates the specific powers of the University to control and direct its operations; provides for the creation of a board of trustees and its executive committee; vests in the board the powers to control and direct the operation of the University, in addition to authority over school personnel and the bylaws; empowers the trustees to merge the University with other nonprofit organizations; and ensures the continuity of the school's corporate status. S. 1060—Passed Senate May 26, 1977. (VV)

## ECONOMY—FINANCE

**Export Administration—Arab boycott.**—In title I, amends and extends the Export Administration Act of 1969 to September 30, 1979; requires reviews of export control lists and rules and regulations issued under the act within 1 year of enactment; provides for a continuing analysis of national security export controls so that a country's Communist or non-Communist status is no longer the sole determinant of U.S. policy; provides for a review of national security export controls to determine whether modifications are necessary in light of evolving technology, the availability of restricted items from sources outside the United States, and other relevant matters; improves the role of industry representatives in formulating and implementing national security export controls; improves the process of export licensing review and decision; increases the penalties applicable to violations of the Export Administration Act; and otherwise improves the administration of U.S. export controls;

Exempts agricultural commodities purchased for export and stored in the United States from subsequent export restrictions; requires that when export controls are imposed on farm commodities for foreign policy reasons or domestic shortages, the President must submit a detailed report of his reasons to Congress which has 30 days to veto the action; requires a study of the national security impact of the export of technical information to restricted countries within 6 months of enactment; and adds reporting and notification requirements to the act;

In title II, seeks to prevent most forms of compliance with foreign boycotts; prohibits refusal to do business with blacklisted firms and boycotted friendly countries pursuant to foreign boycott demands; prohibits discrimination against other U.S. persons on the grounds of race, religion, sex, or national origin in order to comply with a foreign boycott; prohibits U.S. persons from furnishing information about another person's race, religion, sex or national origin for foreign boycott enforcement purposes; provides for public disclosure of requests to comply with foreign boycotts; requires domestic U.S. persons who receive such requests to disclose publicly whether they are complying with such requests; provides that these provisions apply to all domestic concerns and persons, including intermediaries in the export process;

Exempts the following from the antiboycott provisions: (1) transactions in which a unilateral and specific selection is made by a boycotting country, or national or resident thereof; (2) to allow United States persons residing in a foreign country to comply



with the laws of that country with respect to his activities exclusively therein; (3) to permit a negative certification with respect to carriers or route of shipment in order to comply with requirements protecting against war risks and confiscation; and (4) to allow compliance with immigration or visa requirements with respect to the individual and members of his family; preempts all State foreign boycott laws; provides a 2-year grace period for agreements in effect on or before March 1, 1977, with three additional 1-year extensions available in cases where good faith efforts are being made; and generally strengthens U.S. law against foreign boycotts to reduce their domestic impact. H.R. 5840—Passed House April 20, 1977; Passed Senate amended May 5, 1977; Conference report filed. (140)

Foreign corporate bribes and domestic disclosure.—Amends the Securities Exchange Act of 1934 to require companies subject to the jurisdiction of the Securities and Exchange Commission to maintain accurate records, prohibit certain bribes, and expand and improve disclosure of ownership of the securities of U.S. companies;

In title I, requires companies subject to SEC jurisdiction to maintain strict accounting standards and management control over their assets; prohibits the falsification of accounting records and the deceit of accountants auditing the books and records of such companies; makes it a crime for U.S. companies to bribe a foreign government official for the specified corrupt purposes; imposes a maximum fine \$500,000 on companies and \$10,000 and 5 years imprisonment on individuals for violation of the criminal prohibitions;

In title II, requires those persons who already file reports with the SEC when they own more than 5 percent of the shares in a U.S. company to identify their residence, citizenship, and the nature of their beneficial ownership; provides for the development of a comprehensive system in publicly held companies; requires the Commission to consolidate the various beneficial ownership reporting requirements of the Securities Exchange Act into a centralized nonduplicative system for the collection of such information, and to tabulate and make it available to regulators and the public; requires the Commission, within 30 months of enactment, to report to Congress with respect to the effectiveness of the ownership reporting requirements and the desirability and feasibility of reducing or otherwise modifying the 5-percent disclosure threshold giving appropriate consideration to specified regulatory and public policy; and provides the Commission with authority to assure that the jurisdictional effectiveness of section 15(d) of the Securities Exchange Act is not inappropriately limited because of the use of nominee and street name registration of securities. S. 305—Passed Senate May 5, 1977. (VV)

Interest rates (Regulation Q)—Federal Credit Unions.—Extends from March 1, 1977, until December 15, 1977, existing authority (commonly known as Regulation Q) under the Interest Rate Control Act by which Federal financial regulatory agencies set interest rate ceilings on deposits in financial institutions under their respective jurisdictions; extends until August 31, 1977, the Treasury Department's authority to borrow funds from the Federal Reserve System;

Modernizes the powers of Federal credit unions under the Federal Credit Union Act in order that they may provide more contemporary financial services to their members; considers demand deposit accounts of state chartered credit unions as member accounts, if they qualify pursuant to state law, thus making them eligible for Federal

share insurance; establishes varying self-replenishing lines of credit to member borrowers; removes the distinction between secured and unsecured loans and raises the maximum loan to 12 years (currently 5 years on unsecured loans and 10 years on secured loans); empowers the board of directors to establish their own loan maturity and collateral requirements; removes the \$2,500 maximum amount for unsecured loans; provides the necessary flexibility to meet members' needs in accordance with the applicant's creditworthiness and the credit union's soundness rather than arbitrary loan ceilings; permits real estate loans with maturities up to 30 years; and includes the following restrictions on such lending authority: (1) loans must be secured by a first lien, (2) loans must be for a one-to-four family dwelling, (3) the dwelling must be the principal residence of the borrower, and (4) the sales price must not exceed 150 percent of the median sales price of residential real property to be determined on a market area basis; allows loans with maturities of up to 15 years for the purchase of mobile homes used as the member's residence or for the repair, alteration or improvement of a member's residence; permits Federally guaranteed or insured loans, such as the VA guaranteed mobile home loans, with maturities as specified in those statutes; increases the officials' borrowing limits on unsecured loans from \$2,500 plus pledged shares to \$5,000 plus pledged shares and permits them to guarantee or endorse up to the same amounts without board approval; clarifies the existing provisions regarding the penalty for excess interest and the provision regarding loan amortization; ensures that a member may repay his or her loan prior to maturity with no penalty; authorizes loans to other credit unions and credit union organizations; and contains other provisions. H.R. 3365—Public Law 95—, approved , 1977. (VV)

Securities and Exchange Commission Authorizations.—Amends the Securities Exchange Act of 1934 to increase the authorization for fiscal year 1977 from \$55 million to \$56.5 million. S. 1025—Public Law 95—, approved , 1977. (VV)

Authorizes \$58,290,000 for fiscal year 1978 for the operation of Securities and Exchange Commission. H.R. 3722—Passed House May 17, 1977; Passed amended Senate May 25, 1977. (VV)

Small business amendments.—Disaster relief loans.—Amends the Small Business Act to authorize \$954.7 million for the Small Business Administration for fiscal year 1978 of which \$47.1 million is for the surety bond guarantee program, \$4 million for the lease guarantee program, and \$171 million for salaries and expenses; places ceilings for the first time on SBA lending programs except for the physical and economic injury disaster loans which are open ended authorizations; places greater emphasis on the non-lending programs by (1) directing SBA to develop a small business procurement source data bank, (2) authorizing additional procurement officers to increase the total value of small business set asides awarded by the Federal Government, and (3) increasing the authorization for development of various business management training program; gives SBA the discretionary authority to suspend interest and principal payments on both direct and guaranteed loans made by private lenders, authorize SBA to certify a small business company's ability to perform a specific Government contract; makes handicapped sheltered workshops eligible for small business set-aside procurement contracts; directs that priority be given to labor surplus areas when awarding small business

set-aside contracts; enables homebuilders to obtain SBA financial assistance by permitting financial for residential or commercial construction or rehabilitation for sale or rental; provides that nonprofit groups of 75 members or less who have organized for purposes of rehabilitating blighted urban or rural areas may also obtain loans; allows SBA to make compliance loans to small firms who must meet Federal regulatory standards adopted prior to 1974;

Authorizes the Administrator, upon certification by a State Governor, to make loans to small business concerns that have suffered economic injuries as a result of a disaster occurring after July 1, 1975, and are in need of financial assistance not available on reasonable terms in the disaster area; places a \$100,000 limitation on the amount of a loan and permits the Administrator to defer payment of principal and interest for 1 year; lowers the interest rate on physical disaster loans for the uninsured damaged portion of a principal residence and property from the present rate of 6% percent to the following: 1 percent on the first \$5,000 worth of damage, 2 percent on the second \$5,000, and 3 percent on all damage above \$10,000; limits to 3 percent the interest rate on all other loans and permits the forgiveness of principal amounts over \$500 as follows: up to \$1,000 when the uninsured damage is equal to between 10 and 20 percent of the market value, up to \$2,000 when the uninsured damage is equal to between 20 and 30 percent of the market value, and up to \$3,000 when the uninsured damage is equal to 30 percent or more of the market value; gives qualifying applicants the option of receiving a one-third payment equal to the amount that would be forgiven in place of a loan; makes the loan rate of the Farmers Home Administration compatible with that of SBA by reducing from 5 to 3 percent the interest rate on loans to finance the repair or replacement of property, including crops and livestock, which was lost, damaged or injured because of a disaster occurring on or after July 1, 1976; authorizes SBA to increase the principal of a loan by not to exceed \$2,000 in order to insulate property which was damaged or destroyed during the period April 1, 1977, to October 1, 1977, whether or not the property was insulated at the time of the damage; and requires the Administrator to submit a report to Congress evaluating the program and making recommendations as to its continuation, modification or termination. H.R. 692—Passed House February 9, 1977; Passed Senate amended May 19, 1977; Senate requested conference May 19, 1977. (VV)

Small business loan ceilings.—Amends the Small Business Act to increase the fiscal year 1977 authorization ceilings for the following SBA financial assistance programs: Business Loan and Investment Fund from \$6 billion to \$7.4 billion, Economic Opportunity Loans from \$450 million to \$525 million, and Small Business Investment Company Program from \$725 million to \$887.5 million; and amends the Small Business Investment Act of 1958 to increase the fiscal year 1977 ceiling on the Surety Bond Guarantee Program from \$56.5 million to \$110 million. H.R. 2647—Public Law 95-14, approved March 24, 1977. (VV)

U.S. International Trade Commission.—Authorizes \$12,187,000 to the U.S. International Trade Commission for fiscal year 1978; makes the Chairman, rather than the full Commission, responsible for administrative matters; and authorizes the Commission to continue publication of its reports on synthetic organic chemicals until 1981. H.R. 6370—Passed House April 25, 1977; Passed Senate amended May 17, 1977. (VV)

White House Conference on Small Business.—States as the sense of the Senate that

the President should convene a White House Conference on Small Business to develop recommendations that will increase public awareness of the importance of small business; identify the problems of new, small, and independent business enterprise; and suggest appropriate governmental actions to encourage and maintain the economic interests and potentials of the small business community in order to strengthen the overall economy of the Nation. S. Res. 105—Senate agreed to March 28, 1977. (VV)

#### EDUCATION

**Education of the Handicapped.**—Extends certain programs under the Education of the Handicapped Act for 5 years, through fiscal year 1982, with authorizations for each of fiscal years 1976 through 1982, respectively, as follows: (1) Part C, Centers and Services to Meet Special Needs of the Handicapped—\$76 million, \$80 million, \$86 million, \$89 million, and \$93 million; Part D, Training Personnel for the Education of the Handicapped—\$77 million, \$82 million, \$87.5 million, \$92.5 million, and \$97.5 million; Part E, Research in the Education of the Handicapped—\$20 million, \$22 million, \$24 million, \$26 million, and \$28 million; Part F, Instructional Media for the Handicapped—\$24 million, \$25 million, \$27 million, \$29 million, and \$29 million; and provides the authority for the Bureau of Education to support model education projects for all handicapped children under section 641 of the act. H.R. 6692—Passed House May 9, 1977; Passed Senate May 23, 1977. (VV)

**Higher education technical amendments.**—Makes technical and miscellaneous changes to higher education provisions contained in the Education Amendments of 1976 (Public Law 94-482). H.R. 6774, Public Law 95—, approved—1977. (VV)

**Vocational education amendments.**—Makes a number of technical amendments to title II of the Education Amendments of 1976, Public Law 94-482, dealing with printing and clerical errors and changing certain reporting dates; removes the \$25 million a year limit for State administrative expenses and authorizes funds under the basic State grant for this purpose with the requirement that States match Federal funds used; requires States to set forth in their State plan the amount of Federal funds it plans to retain at the State level for administration; and gives each local recipient the option of using a percentage of Federal funds which is equal to the percentage of Federal funds in their vocational education program or to use any amount of Federal funds as long as they are matched by State appropriated funds for administrative expenses. H.R. 3437—Public Law 95—, approved—1977. (VV)

#### ELECTIONS

**Federal Election Commission Authorization.**—Authorizes \$7.5 million for activities of the Federal Election Commission for fiscal year 1978. S. 1435—Passed Senate May 5, 1977. (VV)

**Overseas citizens voting rights.**—Amends the Overseas Citizens Voting Rights Act of 1975 and the Federal Voting Assistance Act of 1955 to improve the administration and operation of these laws; vests the authority and responsibility for collecting and disseminating absentee voting information to citizens overseas in the President's designee (currently the Secretary of Defense) under the Federal Voting Rights Assistance Act; authorizes utilization of the same ballot application and free airmail postage provisions presently contained in the Federal Voting Assistance Act for all citizens residing overseas; provides the designee with the authority to revise the absentee registration and ballot application forms currently recom-

mended for use by military personnel and civilians temporarily residing abroad and to develop a single form which could also be used by citizens covered by the Overseas Voting Act; provides that any balloting material sent from the United States to persons covered by either act or returned by them to this country shall be sent by priority airmail or by the most expeditious postal service available; directs the designee to publicize and notify appropriate citizens and State election officials of the availability of free postage and the expedited mail delivery of balloting material; and provides that the exercise of the right to register or vote in Federal elections by citizens residing overseas shall not affect the determination of his place of residence or domicile for the purpose of any tax imposed under Federal, State, or local law. S. 703—Passed Senate May 9, 1977. (VV)

#### EMPLOYMENT

**CETA.**—Extends the authorization of sums as may be necessary for all titles of the Comprehensive Employment and Training Act (CETA) through fiscal year 1978; extends the amendments to title VI made by the Emergency Jobs Programs Extension Act of 1976 which provides that each prime sponsor of a public service employment program may use its allocation, first, to sustain its existing number of public service job holders under the Act, and shall thereafter fill any additional public service jobs with low-income persons unemployed for at least 15 weeks who have been receiving or are eligible for unemployment compensation, and also provide that 50 percent of title VI job vacancies due to attrition must meet those eligibility requirements, but the remaining 50 percent may be filled under the original title VI requirements (15 days unemployment in areas having 7 percent or higher unemployment rates, and 30 days unemployment in other areas). H.R. 2992—Passed House March 29, 1977; Passed Senate amended May 25, 1977. (VV)

**Emergency unemployment compensation.**—Extends the Emergency Unemployment Compensation Act to October 31, 1977, to provide a maximum of 13 weeks of emergency benefits (which combine with the 26 weeks of regular and 13 weeks of extended benefits for a total of 52 weeks of unemployment benefits) in States where the insured unemployment rate is 5 percent or more, with a phase-out under which individuals eligible before October 31, 1977, may continue to receive benefits until January 31, 1978; extends until April 30, 1977, the maximum 26 week program now in effect (which combine with 26 weeks of regular and 13 weeks of extended benefits for a total of 65 weeks of unemployment benefits) in order to avoid terminating benefits for certain participants in that program; provides that the cost of emergency unemployment compensation paid after March 31, 1977, be met from nonrepayable general revenues without the present law requirements that the costs ultimately be met from Federal Unemployment Tax.

Provides that, in addition to any eligibility requirements of State law, an individual would be disqualified from receiving emergency benefits for failing to (1) actively seek work, (2) apply for any suitable work which was referred by the State agency, or (3) accept any offer of suitable work; defines suitable work as that which (1) is within the capabilities of the claimant, (2) meets conditions of present Federal law, (3) meets the conditions of State law and practices pertaining to suitable or specific disqualifying work such as unreasonable travel distance or threat to morals, health, or safety, (4) pays wages equal to Federal or State minimum wages, (5) pays gross average weekly remuneration equal to the individual's weekly un-

employment benefits plus any Supplemental Unemployment benefits he might be entitled to and (6) was listed with the State employment service or offered in writing; allows a State to waive these requirements if an individual furnishes satisfactory evidence that prospects for obtaining work within a reasonable period of time in his or her occupation are good;

Establishes new statutory authority and procedures for the treatment of fraud and erroneous payments; disqualifies applicants submitting false or erroneous information; requires States with certain exceptions, to recover any overpayments made to individuals; makes fraud in connection with the program a Federal crime and imposes a fine of up to \$10,000 and imprisonment for up to 5 years;

Provides for State implementation of changes made by this act; requires each State to enter into a modification if its present agreement within 3 weeks after the Secretary of Labor proposes the modification to the State; provides that if modification is not entered into, the Unemployment Compensation Program in that State would expire within the last week which ends on or before March 31, 1977; permits Kentucky, which does not have a scheduled meeting of its legislature during 1977, to defer until 1979 compliance with certain requirements of the act;

Simplifies administration by terminating an individual's entitlement to emergency benefits two years after the end of the benefit year for which regular benefits were payable; extends for two years, through 1979, the moratorium under which the Federal unemployment tax is automatically increased to recapture any loan to a State which is unpaid after 2 years; prohibits benefits to an individual who was illegally working at the time he earned his eligibility; allows States to deny unemployment compensation to teachers during brief mid-year vacation periods if the teacher was employed by the school system immediately before the start of the vacation and has reasonable assurance of the employment continuing at the conclusion of the vacation; makes clear that groups of local governments are to be provided the same options for financing unemployment compensation as those provided to single government units; extends from September 30, 1979, to March 31, 1980, the provision contained in Public Law 94-566 which requires States to reduce the unemployment benefits of an individual by the amount of any public or private pension including social security and railroad retirement annuities in order to conform this enactment date with the final reporting extension granted the National Commission of Unemployment Compensation; extends the time by which the National Commission on Unemployment Compensation must submit its interim report from March 31, 1978, to September 30, 1978, and the time by which it must submit its final report from January 1, 1979, to July 1, 1979; and amends present law to require an affirmative vote of the Senate and the House to make effective the President's quadrennial recommendations regarding the salary increases of Members of Congress, the Federal judiciary Cabinet officials and other top Federal personnel. H.R. 4800—Public Law 95-19, approved April 12, 1977. (82)

**Public works employment.**—Authorizes an additional \$4 billion to extend the program of grants to State and local governments to provide jobs through construction in places with the most distressing levels of unemployment as originally authorized under Title I of the Public Works Employment Act of 1976; provides that 65 percent of the funds be allotted on total numbers of unemployed and 35 percent on the basis of the relative severity of unemployment, with States participation in the 35 percent allocation only if their



unemployment rates exceed 6.5 percent for the most recent 12-month period; provides that no State shall receive less than three-fourths of 1 percent nor more than 12.5 percent, requires that with a State 70 percent or more of the funds be spent in areas with rates of unemployment above the national average and 30 percent for areas with rates below the national average but above 6.5 percent, provides a \$70 million set aside for grants that were not received, considered or rejected solely because of an error by a U.S. employee or officer; contains a 2½ percent set-aside for Indian and Alaskan Natives projects to insure a substantial fund for such projects while permitting high-unemployment non-Indian communities a competitive chance to be awarded projects in States with Indian communities; includes the transportation of water to drought-stricken areas within the term "public works project" and permits an applicant who received a grant to substitute one or more projects for the project for which the grant was made under certain conditions approved by the Administrator; requires that all articles, materials and supplies used in a project be produced and made from substances mined or produced in the U.S. except in certain cases; requires a grant applicant to expand 10 percent of the funds for minority business enterprises if available within project areas; requires that priority and preference be given to pending applications resulting in energy conservation; repeals the provision permitting the Secretary to consider the unemployment rate in adjoining areas from which the labor force for a project may be drawn; ensures that all laborers and mechanics employed on projects are paid the prevailing wage rate under the Davis-Bacon Act; requires the Secretary to consider only those applications for grants submitted on or after December 23, 1976, and before the date of enactment except for applications from the Trust Territory of the Pacific, Indian tribes and Alaska Native Villages or any applicant if a sufficient number of applications were not received; requires the Secretary of Commerce to study public works investment in the U.S. and report his findings to Congress within 18 months of enactment; requires the promulgation of regulations assuring special consideration to the employment of qualified disabled and Vietnam-era veterans;

Mandates, in Title II, the obligation of funds for water resource projects for fiscal 1977 (with the exception of the Meramec Dam in Missouri) and states congressional intent not to uphold any prospective budget rescissions or deferrals regarding these projects; provides that the rates of interest or discount used to access the return on Federal investment in projects carried out by the U.S. Army Corps of Engineers or the Department of Interior Bureau of Reclamation be those established by the Water Resources Development Act of 1974 or by prior law authorizing such projects. H.R. 11—Public Law 95-28, approved May 13, 1977. (48,126)

Youth employment and training.—Adds a new title VIII to the Comprehensive Employment and Training Act of 1973 (CETA) and authorizes such sums as may be necessary to carry out the new title; creates, in part A, a National Young Adult Conservation Corps to provide work for unemployed youths in the Nation's parks and forests; authorizes, in part B, youth community conservation and improvement projects to put unemployed youths to work on the rehabilitation or improvement of public facilities, neighborhood improvements, weatherization and basic repairs to low-income housing, and conservation, maintenance, or restoration of natural resources on non-Federal public lands; authorizes, in part C, support for a

broad variety of employment and training programs designed to enhance job prospects and career opportunities for young persons, including activities involving useful work experience opportunities in community betterment and appropriate training and services such as outreach, counseling, occupational information, institutional and on-the-job training, and transportation assistance;

Requires the Secretary of Labor to take steps to increase CETA participation by disabled veterans and Vietnam-era veterans under 27 years of age; provides that, in filling teaching positions in public schools with financial assistance under CETA title II (public service employment in high unemployment areas) or title VI (Jobs Corps), each prime sponsor shall give special consideration to unemployed persons with previous teaching experience who are certified by the State and who are otherwise eligible under CETA; and adds the Soil Conservation Service to government agencies where youth employment may be used.

H.R. 6138—Passed Senate amended May 26, 1977; Senate requested conference May 26, 1977. (170)

#### ENERGY

Coal Conversion Authority.—Extends for 6 months, from June 30, 1977, until December 31, 1977, the authority for the Federal Energy Administration to issue coal conversion orders pursuant to section 2 of the Energy Supply and Environmental Coordination Act of 1974 in order that Congress has sufficient time to study pending coal legislation without disrupting the present conversion program. S. 1468—Passed Senate May 11, 1977. (VV)

Deepwater ports.—Extends through fiscal year 1980 the annual \$2.5 million authorization under the Deepwater Port Act of 1974 which established a licensing and regulatory program governing offshore deepwater port development beyond the territorial limits of the United States. S. 891 (Identical to H.R. 6401)—Passed Senate May 17, 1977. H.R. 6401—Public Law 95—, approved 1977. (VV)

Department of Energy.—Creates a cabinet-level Department of Energy (DOE) to permit coherent administration of the national energy policy by merging the following components: all functions of the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission; four Regional Power Marketing Administrations and the power-marketing functions of the Bureau of Reclamation currently under the Department of Interior; functions relating to fuel supply and demand analysis currently under the Bureau of Mines; authority for development and promulgation of new building conservation standards now vested in the Secretary of HUD; Commerce Department programs to promote voluntary industrial energy conservation; jurisdiction over three naval oil reserves and three naval oil shale reserves currently administered by the Department of Defense; authority currently vested in the Interstate Commerce Commission to regulate oil pipelines; and authority to publish guidelines for the Rural Electrification Administration on the issuance of loans or loan guarantees for generation and transmission facilities;

Provides that responsibility for promulgation of automobile efficiency standards will remain with the Department of Transportation but gives the Energy Secretary the right to appeal to the President if he is dissatisfied with the DOT's regulations; leaves responsibility for policing clean air standards with the Environmental Protection Agency; continues responsibility for actual leasing of resources for the extraction of energy sources

from public land in Interior, but places control over economic terms and conditions of such leases in DOE; requires cabinet-level departments and agencies with conservation responsibilities to designate a principal conservation officer within their Department;

Creates a three-member Energy Regulatory Board, whose members shall be appointed by the President, subject to Senate confirmation, with responsibility for all major direct pricing actions and certification of pipeline routes; gives the Board primary responsibility for actions which directly establish rate and charges under the Natural Gas Act and the Federal Power Act, including the wellhead pricing for natural gas, wholesale electric rates, pipeline transmission charges; gives the board primary responsibility for actions under the Emergency Petroleum Allocation Act which affect the price and allocation of crude oil or oil products; creates an Energy Information Administration and an Economic Regulatory Administration; strengthens energy-related data-gathering authority; provides for Congressional review of transfer authority relating to oil transportation and remedial orders by the Energy Regulatory Board; requires an annual financial profile of the energy industry which includes an accounting of foreign ownership of domestic energy sources; contains measures to ensure public accountability; requires the preparation and submission of a national energy policy plan. S. 826—Passed Senate May 16, 1977. (148)

ERDA authorization.—Authorizes a total of \$4,946,261,000 for the Energy Research and Development Administration for fiscal year 1977, of which \$1,175,671,000 is designated for non-nuclear scientific research and programs, and \$3,770,590,000 is designated for non-weapon nuclear scientific research programs; includes: \$461,801,000 for fossil energy; \$286.2 million for solar energy; \$65.7 million for geothermal energy; \$221 million for conservation research and development; \$10 million for a high Btu pipeline gas demonstration plant; \$5 million for a fuel gas low Btu demonstration plant; and \$10 million for solar energy projects; authorizes funds for numerous plans to make improvements to comply with safety regulations; contains authorizations for capital equipment not related to construction to replace obsolete or worn-out equipment and to purchase certain new equipment to meet the needs of expanding progress and new technology at ERDA installations; provides an additional \$50 million for the clean boiler fuel demonstration plant authorized by Public Law 94-187 and \$15 million for the 5 megawatt solar thermal test facility authorized by Public Law 94-187; provides guidelines under which funds for fossil energy programs may be utilized; deauthorizes authorized fossil energy projects which were not appropriated within 3 full fiscal years; allows the Administrator to assist in the demonstration of the production of synthesis gas, methane, methanol, anhydrous ammonia, and similar energy intensive products from municipal waste by entering into agreements with units of local government or persons proposing to construct facilities for the manufacture of such products; provides authority by which ERDA may reprogram funds between major program areas; directs ERDA to relate the funds authorized and appropriated in annual authorization and appropriation measures to the objectives and goals of the various enabling legislation under which the Agency operates; amends the Federal Nonnuclear Energy Research and Development Act of 1974 to transfer responsibility for preparation of demonstration project water assessments from ERDA to the Water Resources Council; requires the Administration to classify the recipients of ERDA contracts into

various categories including: Federal agency, non-Federal governmental entity, profitmaking enterprise, non-profit enterprise, and nonprofit education institution; authorizes the establishment of a small grants program to promote the research, development, and demonstration of energy related systems and technologies appropriate to the needs of local communities; requires the Administrator, in consultation with ERDA, to report to the Congress on the environmental monitoring, assessment and control efforts related to its various energy demonstration projects;

Authorizes \$464,302,000 for work in biomedical and environmental research, operational safety, environmental control technology, the materials sciences, and molecular and geosciences portion of the basic energy sciences program and program supports; provides \$26.7 million for plant and capital equipment obligations including construction, acquisition, or modification of facilities, land acquisition, and acquisition and fabrication of capital equipment not related to construction; prohibits ERDA from starting projects if the current estimated cost exceeds the original estimated cost by more than 25 percent;

Authorizes ERDA to transfer sums from its "Operating Expenses" to other agencies for work which the moneys were appropriated; authorizes "Operating Expenses" and "Plant and Capital Equipment" as no year funds; authorizes any Government-owned contractor operated laboratory, energy research center or other laboratory performing functions under contract to ERDA to use a reasonable portion of its operating budget for funding employee suggested research projects up to the pilot plant state of development; permits ERDA to contract for advanced architect/Administrator services for construction projects essential to meet the needs of national defense or the protection of life, property, health or safety prior to congressional authorization; requires any officer or employee of ERDA in a policy making position to report certain known financial interests in various energy technologies and related resources; directs the Administration to develop regulations that would avoid conflicts of interest in ERDA contracts with private persons or organizations involved in energy research and development; and authorizes the establishment of a National Energy Extension Service. S. 36—Public Law 95—, approved 1977. (VV)

ERDA defense program.—Authorizes a total of \$1,780,436,000 for fiscal year 1977 and \$2,030,144,000 for fiscal year 1978 for certain Energy Research and Development Administration (ERDA) programs which have military applications; includes funding of the three national defense programs; (1) weapons activities—supporting the operation of the three weapons laboratories; research on advanced weapons and the full scale development of the following 7 weapons—B-61 and B-61-4 tactical bombs, Trident I missile warhead, full fuzing option strategic bomb, Mark 12-A warhead, 8-inch artillery projectile, and common warhead for land attack cruise missiles and short range attack missile; continued development of improved nuclear test detection methods necessary to monitor compliance with the limited Test Ban Treaty, Threshold Test Ban Treaty and Peaceful Nuclear Explosives Treaty; operation of the Nevada Test Site and the related costs of tests of advanced weapons concepts; maintenance and reliability assessment of the current weapons stockpile, production engineering for new weapons, nuclear materials recycle and recovery and security measures to protect nuclear shipments; and production of the following 9 new weapons for the war reserve: B-61-3, B-61-4, and B-61-5 tactical bombs,

Lance enhanced radiation warhead, Trident I missile warhead, full fuzing option strategic bomb, Mark 12-A warhead, 8-inch artillery projectile, and common warhead for the land attack cruise missiles and the short range attack missile; (2) special materials production—supporting 3 reactors which produce enriched weapons grade uranium, plutonium and tritium; R & D associated with special materials production and management of radioactive wastes; and surveillance, maintenance and management of production reactor waste; and (3) nuclear explosives applications—supporting development of understanding of applications of nuclear explosives for peaceful purposes; includes \$411,344,000 for plant and capital equipment; provides for cost variations in the authorized amounts for projects; provides authority to merge funds appropriated in different years for the same requirement category; directs that funds appropriated pursuant to this act remain available until expended; authorizes ERDA to proceed to design any project subject to the total amount authorized for the activity; authorizes ERDA to retain monies received from outside sources and use them for operating funds; and authorizes ERA to transfer funds to other agencies supporting its programs. S. 1339—Passed Senate May 22, 1977. (VV)

ERDA synthetic fuel loan guarantee program.—Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to establish a loan guarantee program to be administered by the Energy Research and Development Administration (ERDA) whereby the Administrator may guarantee the payment of interest and principal of bonds, debentures, notes, and other obligations issued for the purpose of financing the construction and initial operation of commercial-sized demonstration facilities for the conversion of biomass into synthetic fuel or other useable forms of energy; authorizes guarantees of up to 75 percent of the total project cost and, during the construction and start up period, up to 90 percent; limits the total outstanding indebtedness that may be guaranteed at any one time to \$300 million; requires ERDA, before approving an application, to notify the appropriate State and local government officials and to give the Governor of the State an opportunity to make his recommendation respecting the facility; prohibits ERDA from guaranteeing a project if the Governor recommends against it; authorizes the Administrator, in the event of default, to complete the project and assure management of the facility including the authority to sell the products or energy produced; provides that any patents and technology resulting from the facility will be treated as assets in cases of default and requires that the guarantee agreement contain a provision assuring their availability to the Government if needed to complete the facility; and requires ERDA to submit a report of the proposed guarantee and facility to the appropriate committees of Congress which shall have 90 days to disapprove by passage of a disapproval resolution. S. 37—Passed Senate March 31, 1977. (VV)

Natural gas emergency.—Authorizes the President to declare a natural gas emergency if he finds that a severe shortage exists or is imminent in the United States which would endanger the supply of natural gas for high-priority uses and the exercise of his authorities is reasonably necessary to assist in meeting requirements for such uses; provides that these authorities shall terminate when the President finds that shortages no longer exist and are no longer imminent.

Emergency allocation.—Authorizes the President, during a declared natural gas emergency, to require (1) any interstate pipeline to make emergency deliveries or trans-

port interstate natural gas to any other interstate pipeline or a local distribution company served by an interstate pipeline; (2) any intrastate pipeline to transport interstate natural gas from one interstate pipeline to another or to any local distribution company served by an interstate pipeline; or (3) the construction and operation by any pipeline of necessary facilities to effect deliveries or transportation; directs the President, in issuing such orders, to consider the availability of alternative fuel to users of the interstate pipeline ordered to make deliveries and to determine that they would not have an adverse effect on the natural gas supply or exceed the transportation capacity of the pipeline; provides that these authorities shall terminate by April 30, 1977, or after the President terminates the emergency, whichever is earlier.

Emergency Sales at Deregulated Prices.—Authorizes interstate pipelines or local distribution companies to purchase supplies of natural gas for delivery before August 1, 1977, from intrastate pipelines at unregulated prices as reviewed by the President for fairness and equity; provides that these purchases could be delivered from intrastate pipelines and any producer of natural gas not affiliated with an interstate pipeline unless such natural gas was produced from the Outer Continental Shelf, and the sale or transportation of the gas was not, immediately prior to the date of the contract for purchase of the gas, certificated under the Natural Gas Act; authorizes the President to require, by order, any interstate or intrastate pipeline to transport gas and operate facilities necessary to carry out emergency purchase contracts;

Miscellaneous.—Authorizes the President to subpoena information to carry out his authority under the Act; contains antitrust protection provisions available as a defense against civil or criminal action brought against any person for violation of the antitrust laws with respect to actions taken pursuant to a Presidential order; gives the Temporary Emergency Court of Appeals exclusive jurisdiction to review all cases including any order issued or other action taken under this act; imposes civil penalties of up to \$25,000 a day for violations of orders and \$50,000 a day for willful violations; directs the President to require weekly reports which shall be made available to the Congress on prices and volume of natural gas delivered, transported or contracted for, and to report to Congress by October 1, 1977, on all actions taken under this act; and authorizes the President to delegate all or any portion of the authority granted to him to such executive agencies or officers he deems appropriate. S. 474—Public Law 95-2, approved February 2, 1977. (21)

Radiation exposure.—Extends the program of the Energy Research and Development Administration (ERDA) to provide financial assistance to limit radiation exposure resulting from the widespread use of sand containing mill tailings in the construction of approximately 500 public and private buildings in the Grand Junction, Colorado area; calls for a cooperative arrangement with the State of Colorado whereby ERDA is authorized to provide 75 percent of the costs to the program; extends the deadline for applying for remedial work under the program from 4 to 7 years; provides that property owners who removed mill tailings at their own expense prior to the date of enactment and without the administrative determination required may apply for such reimbursement within the first year of enactment; permits the State of Colorado to waive the requirement that it perform the remedial work; and increases the authorization therefor from \$5 million to \$8 million. S. 266—Passed Senate April 4, 1977. (VV)



Stripmining control and reclamation.—Establishes a program for the regulation of coal surface mining activities and the reclamation of coal mined lands to assure that surface coal mining operations—including exploration activities and the surface effects of underground mining—are conducted so as to prevent or minimize degradation to the environment and that such surface coal mining is not conducted where reclamation is not feasible; sets forth a series of minimum uniform requirements for all coal surface mining on both Federal and State lands which deal with (1) preplanning (requires that an operator applying for a permit do certain research regarding adjacent land uses, the characteristics of the coal and the overburden, and hydrologic conditions and requiring inclusion in his application of the planned methodology and timetable for the operation in a reclamation plan); (2) mining practices (requires that mining methods be used which will minimize or obviate environmental damage or injuries to public health and safety including restrictions on the placement of overburden, blasting regulations, water pollution control requirements, and waste disposal standards); and (3) post-mining reclamation (requires reclamation and restoration of the mined land to its pre-mined condition including backfilling and regarding to approximate original contour, restoration of water quality and quantity, revegetation to pre-mining conditions and elimination of erosion and sedimentation); provides that these minimum Federal standards be administered and enforced by the States and by the Secretary of the Interior on Public lands; authorizes funds to assist States in improving their regulatory and enforcement programs; provides for Federal enforcement of a State program if a State fails to comply with the Act; Provides for the protection of scarce and vital water resources in the permit application requirements, reclamation standards and provisions for designation of areas unsuitable for mining; provides for a mechanism on both State and Federal lands for citizens to petition that certain areas be designated as unsuitable for surface coal mining; prohibits stripmining of lands which cannot be reclaimed under the standards of the Act, national park areas (except for such lands which do not have significant forest cover within those national forests west of the 100th meridian); and areas which would adversely affect such parks; prohibits stripmining 300 feet from an occupied building, 100 feet from a public road or 500 feet from an underground mine;

Permits certain variances to the mining-reclamation standards of the bill by allowing (1) a surface mine operator to postpone reclamation of limited segments of his mined area where he can prove to the regulatory authority that such segments are necessary to the operation of a planned underground coal mine; and (2) the Secretary of the Interior at his discretion to permit variances for experimental practices that show potential for improved environmental protection over prescribed or currently accepted practices; requires with regard to lands where the Federal government owns the coal but not the surface estate that if the surface owner does not consent, he shall be compensated at twice the difference between the fair market value, without reference to the coal, before and after mining plus relocation costs, 2 years loss of income, and other damages; exempts mining operators with under 100,000 tons annual production from compliance with provisions of the Act for 24 months;

Bans strip mining in alluvial valleys only if it interrupts or prevents farming but exempts strippers who were already mining in 1976 or had received a State permit to do so by January 4, 1977;

Requires that applicants seeking to stripmine on prime farmland demonstrate to the State regulatory authority that they can restore the land to its full premining agricultural potential;

Establishes a fund to be used to reclaim abandoned mined lands to be derived from a reclamation fee to be levied on every ton of coal mined at 35 cents per ton for surface mined coal and 15 cents per ton for all coal mined by underground methods or 10 percent of the value of the coal at the mine, whichever is less; requires that 50 percent of all fees collected in any one State be returned to that State; provides that the fee does not apply to lignite coal;

Provides that, beginning no later than 6 months from the date of enactment continuing until a State program has been approved or a Federal program has been implemented, the Secretary is required to carry out a Federal enforcement program which includes inspection and enforcement actions in accordance with the act; and contains comprehensive provisions for inspections, enforcement notices and orders, administrative and judicial review, penalties, and citizen participation. H.R. 2—Passed House April 29, 1977; Passed Senate amended May 20, 1977. Senate requested conference May 25, 1977. (159)

#### ENVIRONMENT

Disaster relief programs.—Amends the Disaster Relief Act Amendments of 1974 to extend the authorizations for the Federal disaster assistance programs of the Federal Disaster Assistance Administration, which expire on June 30, 1977, through fiscal year 1980. H.R. 6197—Passed House May 17, 1977; Passed Senate amended May 24, 1977. (VV)

Drought Emergency Authority.—Provides temporary authorities to the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976-77 drought conditions affecting irrigated lands in the western States; authorizes the Secretary, acting through the Bureau of Reclamation and the Bureau of Indian Affairs, to: (1) study available means to augment, utilize, or conserve Federal reclamation and Indian irrigation projects water supplies and to undertake construction (which must be completed by November 30, 1977), management, and conservation activities to mitigate drought damage, (2) acquire water supplies by purchase from willing sellers and redistribute the water to users based upon priorities he determines, and (3) undertake evaluations and reconnaissance studies of potential facilities to mitigate the effects of a recurrence of a drought emergency and make recommendations to the President and Congress; provides that payment for water acquired from willing sellers be at negotiated prices; directs the Secretary to determine the priority of need in allocating the acquired or developed water; authorizes the Secretary to defer without penalty, the 1977 installment charge payments, including operation and maintenance costs, owed to the U.S. on Federal reclamation projects, with the costs to be added to the end of the repayment period which may be extended if necessary; requires that this program be coordinated, to the extent practicable, with emergency and disaster relief operations conducted by other Federal agencies under existing provisions of law; requires the Secretary to report to Congress by March 1, 1978, on all expenditures made under this act; authorizes the Secretary to make interest-free five year loans to individual irrigators for construction, management and conservation activities or acquisition of water; authorizes \$100 million to carry out the water purchase and reallocation (water bank) program of which 15 percent shall be available to carry out other programs authorized by this act; and pro-

vides that up to 15 percent of fiscal 1977 funds available to the Secretary for the Emergency Fund Act may be used for non-Federally financed irrigation projects, 5 percent for State Government drought emergency programs, and \$10 million for the purchase of water. S. 925—Public Law 95-18, approved April 7, 1977. (54)

Drought emergency relief.—Authorizes \$225 million in grant and loan authority to the Economic Development Administration for assistance to States, Indian tribes or units of local government with a population of 10,000 or more for drought-related projects; includes among the permissible activities for which grants may be made the improvement or expansion of existing water supply facilities, construction of new facilities, well drilling or impoundment where appropriate, transportation of water by pipeline, and purchase of water if it is the most economic method of providing the needed supply; gives the Secretary of Commerce authority to designate areas eligible for assistance; limits grants to 50 percent of the cost of any project and provides that loans shall be at 5 percent interest for not to exceed 40 years and at terms determined by the Secretary; directs the Secretary to consider the relative needs of the applicants giving priority to communities facing the most severe problems; permits obligation of funds for drought impacted projects conducted by eligible applicants during fiscal year 1977 if they are compatible with the purposes of the act; permits funds to be obligated to December 31, 1977, and requires that projects be completed by April 30, 1978; and extends the time allowed for convening the White House Conference on Balanced Growth and Economic Development from 12 to 18 months after the date of enactment of Public Law 94-487. S. 1279—Public Law 95-31, approved May 23, 1977. (VV)

Earthquake hazards reduction.—Establishes a national earthquake hazards reduction program under the direction of the President to minimize the loss and disruption resulting from future earthquakes; specifies the objectives of the program which includes the following four elements: (1) a research element dealing with fundamental earthquake risk analysis for land-use consideration, hazards assessment, and engineering and research to reduce earthquake vulnerability; (2) an implementation plan to be prepared within 6 months setting year-by-year targets through at least 1985, specifying roles for Federal agencies, and recommending appropriate roles for State and local units of government, individuals, and private organizations; (3) a State assistance program allowing assistance to the States under the Disaster Relief Act of 1974; and (4) the opportunity for wide sectors of the population to participate in the formulation and implementation of the program; calls for cooperation among a number of Federal agencies including the U.S. Geological Survey and the National Science Foundation; requires the President to report annually to the Congress on progress achieved in the program; and authorized therefor \$55 million, \$70 million and \$80 million over a 3-year period for the U.S. Geological Survey and National Science Foundation to undertake specific activities and such sums as necessary for other agencies involved in the program. S. 126—Passed Senate May 13, 1977. (VV)

Endangered species.—Extends through fiscal year 1980 the authorization for section 6(1) programs under the Endangered Species Act of 1973 at a rate of \$9 million for the Department of the Interior and \$3 million for the Department of Commerce to assist States in developing programs for the protection of threatened and endangered species

of fish, wildlife, and plants. S. 1316—Passed Senate May 25, 1977. (VV)

National Advisory Committee on Oceans and Atmosphere.—Repeals the Act of August 16, 1971, which established a National Advisory Committee on Oceans and Atmosphere and establishes a new and smaller National Advisory Committee on Oceans and Atmosphere (NACOA) to replace it, consisting of 15 members (which is reduced from 25 in the original act) appointed by the President for staggered 3-year terms; sets more stringent qualifications for membership; provides for the transfer of the personnel, positions, records, and unexpended funds to the new Committee; directs the Committee to undertake a continuing review of national ocean policy (on a selective basis), coastal zone management, and the status of U.S. marine and atmospheric science and service programs and advise the Secretary of Commerce with respect to the National Oceanic and Atmospheric Administration; requires the Committee to submit a report by June 30 of each year to the President and Congress and such other reports as may from time to time be requested; gives the Secretary of Commerce 60 days (instead of 90 days) to review and comment on the annual report; directs the Secretary to provide administrative support and services to the Committee; and authorizes \$480,000 for fiscal year 1978. H.R. 3849—Passed House May 16, 1977; Passed Senate amended May 23, 1977. (VV)

EPA authorization.—Extends through fiscal year 1978 the authorization for the environmental research and development program conducted by the Environmental Protection Agency. S. 1417—Senate passed May 27, 1977. (VV)

Noise control.—Authorizes \$10.9 million for general technical assistance, regulatory and administrative responsibilities under section 19 of the Noise Control Act of 1972 and \$2.1 million for research and development for fiscal year 1978. S. 1511—Passed Senate May 18, 1977. (VV)

Safe drinking water.—Amends the Safe Drinking Water Act of 1974 to extend through fiscal year 1978 the following authorizations which expire on September 30, 1977: \$17 million for technical information and training, \$20.5 million for State water supply supervision programs, \$6 million for State underground injection control program, \$25 million for technology demonstration grants, and \$16 million for research and development activities; and requires the Administrator of the Environmental Protection Agency to make grants under section 1444(c) of the Act which authorizes funding of projects demonstrating technology for cycling waste waters for drinking purposes. S. 1528—Passed Senate May 24, 1977. (VV)

Sea grant program.—Extends for 2 years, through fiscal 1979, the authorization for the national sea grant program as follows: \$50 million annually for the basic sea grant projects, and \$3 million annually for international cooperation assistance. H.R. 4301—Passed House May 16, 1977; Passed Senate amended May 24, 1977. (VV)

#### FISHERIES

Atlantic tunas.—Extends for an additional 3 years, until 1980, the Atlantic Tunas Convention Act of 1975 which implemented an international convention governing fishing for tuna and tuna-like fishes in the Atlantic Ocean and authorizes therefor such sums as necessary; and redefines the term "fishery zone" to mean the 200-mile fishery zone described in Public Law 94-265. H.R. 6205—Public Law 95—, approved 1977. (VV)

Commercial fisheries.—Extends the Commercial Fisheries Research and Development Act for 2 years, through fiscal 1980, and increases the annual authorization for fiscal year 1978 and the two subsequent years as

follows: \$10 million for section 4(a) general programs (increased from \$5 million); \$3 million for section 4(b) which provides funds on an emergency basis if there is a commercial fishery disaster or serious disruption affecting future production due to a resource disaster arising from natural or undetermined causes (increased from \$1.5 million); and \$500,000 for the section 4(c) program of grants to develop new commercial fisheries (increased from \$100,000). H.R. 6206—Passed House May 10, 1977; Passed Senate amended May 17, 1977. (VV)

Fishery conservation zone transition.—Gives Congressional approval of the fishery agreements between the United States and the People's Republic of Bulgaria, the Socialist Republic of Romania, the Republic of China, the German Democratic Republic, the Union of Soviet Socialist Republics, and the Polish People's Republic; provides that these agreements will enter into force on the date of enactment of this joint resolution; waives the 60-day Congressional review period; limits to 7 days the 45 day period for review and comment on application permits required of the Regional Fishery Management Councils created under the Fishery Conservation Zone Act during 1977 for those applications received by the Council on or before the date of enactment and those received by the Council from the Secretary of State after the date of enactment to provide for an orderly transition from the 12 mile to 200 mile fishing limit; waives, until May 1, 1977, the requirement that foreign fishing vessels have a valid permit on board and permits the Secretary to waive the fee required before fishing permits may be issued if he is satisfied that the foreign nation will pay the fee before May 1, 1977; and repeals, effective March 1, 1977, the Northwest Atlantic Fisheries Act of 1950. H.J. Res. 240—Public Law 95-6, approved February 21, 1977. (VV)

Gives Congressional approval of the fishery agreements between the United States and Spain, Japan, South Korea, and the countries of the European Economic Community (Iceland, France, Italy, Luxembourg, the United Kingdom, Denmark, Belgium, West Germany, and the Netherlands); contains essentially the same provisions as H.J. Res. 2440 (Public Law 95-240) to provide for an orderly implementation of foreign fishing within the 200-mile fishery zone of the United States after March 1, 1977, including the 7-day period of comment by the Fishery Management Councils and the public with respect to applications for permits, the May 1 extension of time for the payment of fees and permit requirements, and waives the 60-day Congressional review period. H.R. 3753—Public Law, 95-8, approved March 3, 1977. (VV)

Fishermen's protection reimbursement program.—Extends the provisions of the Fishermen's Protective Act of 1967 which expires October 1, 1977, to October 1, 1979; establishes a Federal Government loan program whereby the Secretary of Commerce may make a loan after October 1, 1977, to the owner or operator of any U.S. vessel to replace or repair vessels or gear lost, damaged, or destroyed by any foreign vessel; conditions loans upon assignment to the Secretary of all rights of recovery and directs the Secretary, with the assistance of the Attorney General, to take appropriate actions to collect on any right assigned to him; cancels repayment of a loan if it is determined that the owner or operator was not at fault; and provides that loans may be granted for any damage which occurred after October 1, 1976. S. 1184—Passed Senate May 24, 1977. (VV)

#### GENERAL GOVERNMENT

Age discrimination report.—Nutrition programs for elderly.—Amends the Age Discrimination Act of 1975 to extend for 6 months,

until November 1977, the time in which the U.S. Commission on Civil Rights must submit its report on unreasonable discrimination based on age in programs and activities receiving Federal financial assistance; and

Amends the Older Americans Act to extend the surplus commodities provision of the title VIII nutrition program for the elderly through fiscal year 1978 in order that it will coincide with the authorization period of the other programs of the act; and gives States the option to receive cash in lieu of such commodities. H.R. 6668—Passed House May 9, 1977; Passed Senate amended May 18, 1977. (VV)

Federal assistance program information.—Increases the availability of information about Federal domestic assistance programs by requiring the Director of the Office of Management and Budget (OMB) to: (1) establish and maintain a data base containing specified information on all Federal domestic assistance programs; (2) develop and maintain a computerized information system to provide for the widespread availability of information contained in the data base by computer terminal facilities; and (3) publish annually a catalog of Federal domestic assistance programs containing information from the data base, a detailed index and any other information deemed appropriate; authorizes therefor \$1.2 million for the first year; \$1.7 million the second year and \$2.2 million the third year;

Amends section 201 of the Intergovernmental Cooperation Act of 1968 to give OMB the responsibility to insure that information is provided to the States through their Governors or designated information centers on Federal financial assistance; requires the Director to report his recommendations to Congress for improving, consolidating and further developing Federal financial information systems; and requires the General Accounting Office to submit a report to Congress 1 year after enactment on actions taken by OMB to implement this act and, within 2 years of enactment, a progress report including an evaluation of its effectiveness and any legislative recommendations. S. 904—Passed Senate May 17, 1977. (VV)

GAO audits of IRS and ATF.—Amends the General Accounting and Auditing Act of 1950 to provide that the General Accounting Office may conduct management and financial audits of the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms; contains provisions to insure the confidentiality of information including Congressional oversight and penalties for unauthorized disclosure; and requires the Comptroller General to submit to the Senate Finance and Governmental Affairs Committees, the House Ways and Means and Government Operations Committees, and the Joint Committee on Taxation, every six months, the names and titles of GAO employees having access to tax returns and information; to submit as frequently as possible results of the audit; and to submit annually a report of his findings and recommendations which must also include the procedures established for protecting the confidentiality of tax return information and the scope and subject matter of the audit. S. 213—Passed Senate March 11 1977. (VV)

Kennedy Center authorization.—Authorizes \$4.7 million for the John F. Kennedy Center for the Performing Arts, to remain available until expended, for the Secretary of the Interior, acting through the National Park Service, to correct leaks in the roof, terraces, kitchen, and East Plaza Drive and the damage which has resulted from these leaks; and authorizes \$4 million for fiscal year 1978; S. 521—Passed Senate February 24, 1977; Passed House amended March 4, 1977; Senate agreed to conference report May 27, 1977. (VV)



**Kennedy Presidential Library.**—Authorizes the Administrator of General Services to accept land, buildings, and equipment that have been or may be offered to the United States without reimbursement, for the purpose of maintaining, operating and protecting as part of the National Archives system a Presidential archival depository located next to the University of Massachusetts campus on Columbia Point in Boston in memory of John Fitzgerald Kennedy. H.J. Res. 424—Public Law 95—, approved 1977. (VV)

**Library services and construction.**—Extends through October 1, 1982, and revises the Library Services and Construction Act; retains current use and allocation of funds but adds a provision to direct one-half of the funds after the appropriation level of \$80 million is reached (current funding level is \$56.9 million) to urban resource libraries, which are defined as public libraries in incorporated areas with populations exceeding 100,000; provides that any State that does not have an incorporated area with at least 100,000 persons will nevertheless be considered to have at least one urban resource library; adds a new title to the Act which provides special aid to and study of urban libraries; authorizes funds for projects to make libraries more energy efficient; and contains other provisions. S. 602—Passed Senate May 20, 1977. (VV)

**NASA authorization.**—Authorizes \$4,038,789,000 for the National Aeronautics and Space Administration for fiscal year 1978 of which \$4.04 billion is for research and development, \$161.8 million is for the construction of facilities, and \$846,989 million is for research program and management; includes funds to support the following new programs: (1) 5 space shuttle orbiters, (2) development of the shuttle-launched space telescope for research in astronomy, (3) a third generation earth resources survey spacecraft, Landsat-D, to carry an advanced scanning instrument, (4) initiation of a search and rescue satellite system in cooperation with Canada, and (5) initiation of a Jupiter orbiter probe mission; provides continued funding of the Space Shuttle; and includes the second funding increment for a fuel efficient aircraft technology development program designed to decrease fuel consumption of commercial jet transports by 50 percent. H.R. 4088—Passed House March 17, 1977; Passed Senate amended May 13, 1977. (VV)

**National Science Foundation authorization.**—Authorizes \$894.0 million for fiscal year 1978 and \$1,051.4 million for fiscal year 1979 to the National Science Foundation and an additional \$5 million for fiscal 1978 and \$8 million for fiscal 1979 in foreign currencies which the Treasury Department determines to be in excess to the normal requirements of the U.S.; specifies amounts to be spent for programs to support minorities, women and handicapped persons in scientific fields, graduate fellowships, continuing education for scientists and engineers, "Science for Citizens" and "Public Understanding of Science" programs which are designed to improve public understanding of public policy issues involving science and technology, and a study to assess the science education in two-year colleges; and contains other provisions. H.R. 4991—Passed House March 24, 1977; Passed Senate amended May 5, 1977; in conference. (VV)

**Presidential reorganization authority.**—Extends for three years from the date of enactment, the authority of the President under chapter 9, title 5, U.S.C., to submit reorganization plans to Congress proposing the reorganization of agencies in the executive branch; expresses Congressional

intent that the President provide appropriate means for public involvement in reorganization; requires that the President, on a continuing basis, examine the organization of all agencies of the executive branch and determine what changes are necessary to accomplish the purpose of the statute;

Provides that reorganization plans may: create new agencies, transfer or consolidate the whole or part of agencies or their functions to other agencies, abolish all or part of the functions of an agency except any enforcement function or statutory program, change the name of an agency, authorize an agency official to delegate any of his functions, and provide that the head of an agency be an individual, commission or board with a fixed term not to exceed 4 years;

Requires that each plan be based upon a Presidential finding stated in a message to Congress that the proposed action is necessary to accomplish one or more of the purposes of the statute; requires that the message specify, with respect to each plan, the reduction of or increase in expenditures likely to result from the plan, as well as any improvements in the effectiveness or efficiency of the government anticipated as a result of the plan;

Prohibits the use of reorganization authority to: create a new executive department, abolish an executive department or an independent regulatory agency, abolish any function mandated by Congress through statutes, increase the term of an office beyond that provided by law, create new functions not authorized by pre-existing statutes, or continue a function beyond the period authorized by law;

Requires the President to submit each plan, which must deal with only one logically consistent subject matter, to both Houses of Congress simultaneously for referral to the Senate Governmental Affairs Committee and the House Government Operations Committee; requires the Chairman of the respective committee to introduce a disapproval resolution whenever a reorganization plan is submitted to assure that there will be a resolution for the Committee to act on and to report either favorably or unfavorably a disapproval resolution for each proposed plan; provides that plans shall become law at the end of 60 calendar days of continuous session of the Congress or if specified, at a later date, unless either House passes a resolution of disapproval or prior to that time if both Houses defeat a disapproval resolution; requires the committees in both Houses to file recommendations on each plan with the full House within 45 days and provides, if the committee has not done so, the resolution will automatically be discharged from further consideration and placed on the calendar; specifies that no more than three reorganization plans may be pending in the Congress at any one time;

Allows the President to (1) amend a plan within the first 30 days after submission if neither committee has ordered reported a disapproval resolution or made any other recommendations on the plan, or (2) withdrawn a plan at any time prior to the conclusion of the 60 day period;

Provides that any member may move to proceed to consider a disapproval resolution once it has been reported or discharged; limits to 10 hours floor debate on a disapproval resolution and on appeals and motions made in connection therewith, and makes motions to postpone consideration or amend the resolution out of order;

Provides that suits brought against an agency affected by a reorganization plan, or regulations or other actions taken by an agency under a function affected by the plan shall not abate as a result of the plan, ex-

cept in the case where the function is abolished; specifies that plans may provide for the transfer or other disposition of affected records, property, and personnel, and for the transfer of unexpended appropriations if the funds will be used for their original purpose; and requires that unexpended funds revert to the U.S. Treasury. S. 626—Public Law 95-17, approved April 6, 1977. (40)

**Privacy Protection Study Commission extension.**—Extends the life of the Privacy Protection Study Commission from July 10, 1977, to September 30, 1977, to provide additional time for the printing of a set of appendix volumes for its final report. S. 1443—Public Law 95—, approved 1977. (VV)

**Smithsonian Institution—Canal Zone biological area.**—Increases from \$350,000 to \$750,000 the annual authorization for the Canal Zone Biological Area (the Barro Colorado Island Facility of the Tropical Research Institute of the Smithsonian Institution). S. 1031—Passed Senate May 2, 1977. (VV)

#### GOVERNMENT EMPLOYEES—FEDERAL OFFICIALS

**Federal salary increases.**—Denies the October 1 cost-of-living increase to Members of Congress, the Supreme Court Justices and other members of the Judiciary, Cabinet officials, and top Executive personnel who received the March 1 quadrennial pay increase under which salaries were increased as follows: Members of Congress from \$44,600 to \$57,000; Cabinet officers from \$63,000 to \$66,000; the Vice President, Speaker, and Chief Justice from \$65,000 to \$75,000; the President Pro Tempore and Majority and Minority Leaders from \$52,000 to \$65,000; circuit court judges from \$44,600 to \$57,500; district judges from \$42,000 to \$54,500; sub-cabinet assistants from \$44,600 to \$57,500; and other top Federal personnel from \$42,000 to \$52,000. S. 964—Passed Senate March 10, 1977 (44)

**Secret Service protection of former Federal officials.**—Authorizes the Secret Service to continue to furnish protection to certain former Federal officials (Secretaries Kissinger and Simon and Vice President Rockefeller) or members of their immediate families who received such protection immediately preceding January 20, 1977, if the President determines that they may be in significant danger, and provides that such protection shall continue for a period determined by the President but not beyond July 20, 1977, unless otherwise permitted by law. S.J. Res. 12—Public Law 95-1, approved January 19, 1977. (VV)

#### HEALTH

**Public health programs—biomedical research.**—Extends through fiscal year 1978, without major substantive modifications, the assistance programs under the Community Mental Retardation and Community Mental Health Centers Act and the programs under the Public Health Service Act, including biomedical research; computes the authorizations for these programs generally on a formula of the higher of the fiscal 1977 authorization or the fiscal 1977 appropriation plus 20 percent;

Establishes five supergrade positions for the National Institute of Alcohol Abuse and Alcoholism in order to attract highly qualified senior level scientific personnel; increases the number of National Cancer Institute consultants from 100 to 200; authorizes the Secretary of Health, Education and Welfare to develop minimum public health standards to maintain preventive health care programs; directs the Secretary to arrange for studies of international health issues and opportunities and to submit a final report by January 1, 1978; authorizes an additional \$185 million to enable the Secretary to make grants for construction and modernization projects to assist public hos-

pitals to meet life and safety codes and avoid loss of accreditation;

Amends the Health Profession Educational Assistance Act to provide for equity in student loan programs, scholarship programs, and payback provisions for medical students within the National Health Service Corps (NHSC) who had made commitments under previous legislation; assures that all physicians graduating from medical schools accredited by the Liaison Committee on Medical Education are treated equally; provides that individuals with obligated service to the NHSC may participate in residency training programs as officers in the regular or reserve corps of the Public Health Service prior to fulfilling the obligated service in an underserved area; permits an area Health Education Center to conduct training in general pediatrics as well as in family medicine and general internal medicine; allows the Secretary to repay, in return for service in a health manpower shortage area, educational loans obtained by health professions students before October 12, 1976; guarantees that students who graduated from two year U.S. medical schools will be treated the same as U.S. students who completed 2 years at a foreign medical school when transferring to degree-granting institutions; authorizes construction assistance for the establishment or expansion of regional health professions programs; and amends the Public Health Service Act to conform certain provisions of the student loan program with those in the NHSC;

Increases to \$399,864,200 the authorization for the maternal and child health grant programs under the Social Security Act and extends through fiscal 1980 the authority for 100 percent Federal financing of medicare skilled nursing and intermediate care facility inspection and enforcement costs; extends the Committee on Mental Health and Illness of the Elderly for 1 month, until August 30, 1977, to coordinate its actions and recommendations with the Presidential Commission on Mental Health; provides that States shall not receive less than their 1976 formula grant allotments under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act; and authorizes \$140 million for preventive family planning project grants and \$5 million for the Sudden Infant Death Syndrome Counseling and Information Services. H.R. 4975—Passed House March 31, 1977; Passed Senate amended May 4, 1977; Senate requested conference May 4, 1977. (131).

#### HOUSING

Supplemental housing authorizations.—Authorizes additional funds for housing assistance for lower income Americans in fiscal year 1977; extends the riot insurance and crime insurance programs; and establishes a National Commission on Neighborhoods;

Increases, in title I, the authorization for section 8 rental assistance; the major housing program for lower income Americans, by \$378 million for a total of \$1,228,050,000; increases operating subsidy funds for public housing projects by \$19.6 million to pay for this winter's unexpectedly high heating costs; extends the contract period for new, privately developed section 8 housing from 20 to 30 years in order to attract more private financing; authorizes such appropriations as may be necessary for reimbursement of the FHA general insurance fund for losses on the sale of foreclosed properties from the FHA inventory; contains a \$10 million increase for a total of \$15 million for the HUD urban homesteading program as a means of attracting additional rehabilitation funds into neighborhoods and disposing of the HUD inventory of foreclosed properties; increases from \$500 million to \$1.341

billion the ceiling for losses incurred by the Federal Housing Administration General Insurance Fund; extends HUD's authority to write crime insurance and riot reinsurance policies through September 30, 1978, and authorizes continuation of policies in force before April 30, 1978, through September 30, 1981; extends from April 30, 1978, to September 30, 1978, the date that the Secretary must submit a plan for the liquidation and termination of these programs; deletes the requirement whereby mortgages may be insured under section 220 of the National Housing Act only if the property is located in an area which has a workable program for community development; makes clear that mortgages insured under section 221(d)(4) of the Act may be executed by a mortgagee which is a public body or agency, or a cooperative, limited dividend corporation or other entity, private nonprofit corporation or association, as well as a profit motivated entity, as defined by the Secretary; and

Authorizes, in title II, \$1 million for the establishment of a National Commission on Neighborhoods to assess existing policies, laws and programs having an impact on neighborhoods and make recommendations regarding investments in city neighborhoods, community government participation, economically and socially diverse neighborhoods, rental housing, and rehabilitation of existing structures, among other issues. H.R. 3843—Public Law 95-24, approved April 30, 1977. (VV)

#### INDIANS

American Indian Policy Review Commission.—Extends from February 18, 1977, to May 18, 1977, the period of time in which the American Indian Policy Review Commission must submit its final report to the Congress and increases the authorization therefor from \$2.5 million to \$2.6 million. S.J. Res. 10—Public Law 95-5, approved February 17, 1977. (VV)

Indian Claims.—Extends the statute of limitation for filing land claims by Indian tribes, bands and groups. S. 1377—Passed Senate May 27, 1977. (VV)

Sioux Black Hills claim.—Authorizes the U.S. court of Claims to review, without regard to the technical of res judicata or collateral estoppel the determination of the Indian Claims Commission entered February 14, 1974; that the act of February 28, 1877, effected a taking of the Black Hills portion of the Great Sioux Reservation in violation of the fifth amendment. S. 833—Passed Senate May 3, 1977. (VV)

Wichita tribal land claim.—Authorizes the Indian Claims Commission to consider claims by the Wichita Indian Tribe and affiliated bands with respect to aboriginal title to lands which were acquired by the United States without payment of adequate compensation. S. 773—Passed Senate May 5, 1977. (VV)

Zuni lands.—Directs the Secretary of the Interior to acquire through purchase, trade or otherwise the 618.41 acres in the State of New Mexico upon which the Zuni Salt Lake is located and hold such land in trust for the Zuni Indian Tribe; confers jurisdiction upon the Court of Claims to hear and determine an aboriginal land claim that the Tribe failed to file with the Indian Claims Commission under the Act of August 13, 1946, which established that forum; and authorizes the Tribe to purchase and exchange lands in the States of New Mexico and Arizona notwithstanding the restrictions in the act of May 25, 1918, expressly prohibiting further expansion of Indian reservations in these States. S. 482—Passed Senate May 3, 1977. (VV)

#### INTERNATIONAL

Abu Daoud.—States as a sense of the Senate that the release by France of Abu Daoud, a known terrorist who is accused of having planned the murder of Olympic athletes in Munich in 1972, is harmful to the effort of the community of nations to stamp out international terrorism; further states that the United States should consult promptly with France and other friendly nations to seek ways to prevent a recurrence of a situation in which a terrorist leader is released from detention without facing criminal charges in a court of law; and directs the Secretary of the Senate to provide a copy of this resolution to the Secretary of State for transmission to the Government of France. S. Res. 48—Senate agreed to January 26, 1977. (13)

Harp seal killings.—Urges the Canadian Government to reassess its present policy of permitting the killing of newborn harp seals in Canadian waters which is considered by many citizens of the U.S. to be cruel and, if continued at the current high level, may cause the extinction of that species of seal. H. Con. Res. 142—Action complete April 6, 1977. (VV) to amended March 31, 1977. (VV)

International cooperation on nuclear proliferation.—Commends the President for his stated intentions to give diplomatic priority to the pursuit of nonproliferation measures; endorses and strongly supports active consultations with world leaders on the highest level to: (1) curb the spread of nuclear enrichment and reprocessing facilities and otherwise discourage the diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices, (2) achieve universal acceptance of international safeguards on all peaceful nuclear activities, as well as to seek international cooperation to improve the packaging and handling of high-level wastes and to provide for international storage of plutonium, spent reactor fuel, and other sensitive nuclear materials, (3) explore possible international arrangements for the provision of nuclear fuel services to help meet the legitimate energy needs of cooperating states, (4) reach agreement on sanctions to be applied against any nation which seeks to acquire a nuclear explosives option, and (5) strengthen the safeguards of the International Atomic Energy Agency; and pledges prompt Senate action on legislation to enact a clear statement of goals for U.S. nonproliferation policy providing guidance and support to these Presidential diplomatic initiatives, and to establish a clear statutory framework for the development and implementation of U.S. nuclear export policy. S. Res. 94—Senate agreed to April 28, 1977. (VV)

Peace Corps authorization.—Authorizes \$84.8 million to finance the operation of the Peace Corps for fiscal year 1978 and \$1 million for increases in salary, retirement, or other employee benefits authorized by law. S. 1235—Passed Senate May 26, 1977. (VV)

Portugal military assistance.—Modifies the existing statutory limitations on the allocation of military assistance funds for fiscal year 1977 contained in section 504(a)(1) of the Foreign Assistance Act of 1961, as amended, to add Portugal to the list of eligible countries and specify that \$32.25 million be allocated to that country to upgrade its armed forces which were debilitated as a result of prolonged colonial wars in Africa. S. 489—Public Law 95-23, approved April 30, 1977. (VV)

Rhodesian chrome.—Amends the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome by nullifying the effect of Section 203 (the so-called Byrd amendment) of the Armed Forces Appropriations Act of 1972, Public Law 92-



156, which permitted the importation into the United States of chromium and other strategic minerals from Rhodesia, despite mandatory U.N. sanctions against trade with that country which the United States supported by its vote in the United Nations Security Council and by Executive Order 11419; prohibits the importation into the United States of Rhodesian commodities and products as specified in that Executive Order, of July 29, 1968, as well as steel mill products containing Rhodesian chromium in any form, establishes an enforcement mechanism which requires a certificate of origin for these products confirming that they do not contain chromium from Rhodesia; and authorizes the President to suspend the act if he determines that it would encourage meaningful negotiations and further the peaceful transfer of government from minority to majority rule in Rhodesia. H.R. 1746—Public Law 95-12, approved March 18, 1977. (59)

Romanian earthquake.—States as a sense of the Senate that the United States should join with other nations and international, public, and private organizations to assist the people of Romania following the 1977 earthquake; and expresses deepest sympathy to the victims and their families on behalf of the people of the United States. S. Con. Res. 12—Action complete March 17, 1977. (VV)

Romanian earthquake authorization.—Authorizes \$20 million to the President for fiscal year 1977, to remain available until expended, for the relief and rehabilitation of refugees and other earthquake victims in Romania; requires the President to transmit a report to the Foreign Relations Committees of the Senate and House 60 days after enactment and quarterly thereafter on the obligation of authorized funds; and states that nothing in this act shall be interpreted as endorsing any measure undertaken by the Government of Romania which would suppress human rights as defined in the Conference on Security and Co-operation in Europe (Helsinki Declaration) Final Act and the United Nations Declaration on Human Rights or as constituting a precedent for or commitment to provide development assistance to Romania and requires that the Romanian Government be so notified. H.R. 5717—Public Law 95-21, approved April 18, 1977. (VV)

Soviet expulsion of George A. Krinsky.—States as a sense of the Senate that: (1) the Soviet expulsion of Associated Press reporter George A. Krinsky is contrary to the spirit of the Helsinki Declaration respecting the rights of journalists; (2) the decision serves only to obstruct the implementation of the free flow of information provisions contained in the Declaration; (3) the action only invites and justifies steps of a reciprocal nature by the U.S. Government; and (4) the U.S. and Soviet Governments should seek greater communication in this area to prevent similar events of a counter-productive nature from occurring in the future; and directs the Secretary of the Senate to transmit a copy of this resolution to the President for the Department of State to convey directly to General Secretary Leonid Brezhnev of the Central Committee of the Soviet Communist Party. S. Res. 81—Senate agreed to March 4, 1977. (VV)

Soviet freedom of emigration.—Conveys to the Soviet Government the sustained interest of the American people regarding Soviet adherence to the Helsinki Declaration, including their pledge to facilitate freer movement of people, expedite the reunification of families, and uphold the general freedom to leave one's country. S. Con. Res. 7—Action complete March 22, 1977. (39)

State Department supplemental authorization.—Provides a supplemental authorization of \$89.5 million for the Department of

State for fiscal year 1977 as follows: (1) \$60 million to pay U.S. dues and assessments to UNESCO for 1975 and 1976, in arrears because of Congressional action suspending further payments until the President certified that UNESCO's policies were in line with its objectives and less political, and part of the 1977 assessment, (2) \$11,325,000 for aid to Soviet and East European refugees not settling in Israel and \$7.4 million for the Indochinese Refugee Program administered by the United Nations High Commissioner for Refugees to continue U.S. support of 80,000 refugees in Thailand who arrived from Vietnam, Cambodia and Laos in 1975, and (3) \$10,775,000 to provide for the construction of 108 apartment units for the U.S. mission in Cairo—36 for the State Department and 72 for AID; authorizes the Secretary to use appropriated funds to provide emergency medical attention, dietary supplements, and other assistance to U.S. citizens incarcerated abroad; requires that the Chairman or Vice-Chairman of the Senate and House delegations to the four interparliamentary union groups (Canada-U.S., Mexico-U.S., North Atlantic Assembly, and Interparliamentary Union) be a member of their respective foreign affairs committee; increases from 18 to 24 the size of the delegation to the North Atlantic Assembly and specifies that no more than 7 of the Senate Members be of the same political party; and amends Public Law 94-203 (known as the Case Act which requires the Secretary of State to transmit the text of any international agreement entered into force with respect to the United States) to require any department or agency entering into an international agreement on behalf of the United States to transmit the text of the agreement to the Department of State within 20 days following the date on which the agreement was signed. H.R. 5040—Public Law 95- , approved 1977. (VV)

Uganda human rights.—Expresses the sense of the Senate that the actions of the current regime in Uganda violating the human rights of its citizens and residents deserve condemnation by the world community and by the Organization of African Unity; urges all nations supplying lethal arms to Uganda to halt all deliveries of weapons; and urges the U.S. Ambassador to the United Nations to request that the situation in Uganda be investigated by an appropriate agency in the United Nations. S. Res. 175—Senate agreed to May 25, 1977. (VV)

Vietnam POW's and MIA's.—Directs the President, as Commander in Chief of the Armed Forces, to require an accounting of all military personnel presently categorized on personnel rosters of the various branches of the U.S. Armed Forces as prisoner of war, missing in action, or killed in action in Southeast Asia; directs the President, by executive order, to require the Secretary of State to pursue enforcement of the Paris agreement of January 27, 1973; states that the Congress, having passed Public Law 88-408 authorizing the deployment of U.S. Armed Forces for the maintenance of international peace and security in Southeast Asia, recognize a corresponding duty and obligation to determine the fate of missing or unaccounted for Americans; requires that the President, through the Secretary of State, hold the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam responsible to account for and provide information not otherwise available to satisfactorily dispose of the POW/MIA problem in accordance with the Paris agreement or seek alternatives that might resolve the question; and requires responsible officeholders in the executive and legislative branches to address the authority of their office toward a satisfactory resolution of the problem, make a public accounting,

and remove any question as to the integrity of their function. S. Con. Res. 2—Senate agreed to February 21, 1977. (VV)

States as a sense of the Congress that the honor of those Americans who upheld the dignity of the law and served in the U.S. Armed Forces should be reaffirmed and that the Government should do everything possible to address the problems of those who served during the Vietnam war; and urges that there be established, in view of the recent issuance of a general pardon for U.S. draft evaders of the Vietnam war era, a Presidential Task Force on Missing in Action and Prisoners of War to purpose courses of action to achieve the fullest possible account for all Americans listed in a missing status in Southeast Asia, including the return of remains, and to make recommendations concerning Federal policies relating to POW's and MIA's. S. Con. Res. 3—Senate agreed to February 21, 1977. (VV)

#### MEMORIALS, TRIBUTES AND MEDALS

Alex Haley.—Honors and pays tribute to Alex Haley for his exceptional achievement in writing *Roots* and extends to him the highest praise of the Senate. S. Res. 112—Senate agreed to March 14, 1977. (VV)

Charles A. Lindbergh.—Honors Charles A. Lindbergh for his service to our country in peace and war, and expresses appreciation for his leadership and advocacy in the conservation of natural resources and for his daring and courageous contributions to the field of aviation and aeronautical science. S. Res. 177—Senate agreed to May 19, 1977. (VV)

Cora Rubin Lane 100th birthday.—Expresses the gratitude and appreciation of the Senate to Cora Rubin Lane for her long and outstanding service as an assistant to Senator William E. Borah and expresses best wishes to her on the occasion of her 100th birthday. S. Res. 162—Senate agreed to May 3, 1977. (VV)

Francis R. Valeo.—Commends Francis R. Valeo for his long, faithful and exemplary service as an employee of the Senate and his ten years of service as Secretary of the Senate. S. Res. 133—Senate agreed to April 1, 1977. (VV)

Gerald R. Ford Building.—Names the Federal building located at 110 Michigan Avenue, N.W., in Grand Rapids, Mich., the "Gerald R. Ford Building". S. 385—Public Law 95-25, approved May 4, 1977. (VV)

Jaycees International Conference.—Commends the "Old Sourdough Jaycees" of Anchorage, Alaska, the U.S. Jaycees, and the Jaycee International for bringing together Jaycee leaders around the world who have contributed to the betterment of mankind. S. Res. 137—Senate agreed to April 6, 1977. (VV)

Lt. Gen. Ira C. Eaker Medal.—Authorizes the President to present, on behalf of the Congress, to Lieutenant General Ira C. Eaker, U.S.A.F. (retired), a gold medal of appropriate design in recognition of his distinguished career as an aviation pioneer and Air Force leader; provides a \$5,000 authorization therefor; and authorizes the Secretary of the Treasury to have duplicate medals struck in bronze and sold at cost. S. 425—Passed Senate May 13, 1977. (VV)

Marian Anderson Medal.—Authorizes the President to award to Marian Anderson, in the name of the Congress, a gold medal with suitable emblems and inscriptions in recognition of her highly distinguished and impressive career; provides that bronze duplicates of the medal shall be coined and sold under regulations prescribed by the Secretary of the Treasury; and authorizes therefor \$2,500. H.J. Res. 132—Public Law 95-9, approved March 9, 1977. (VV)

Motion Picture Academy 50th anniversary.—Congratulates the Academy of Motion Picture Arts and Sciences for its past achievements on the occasion of its 50th anniversary

on May 11 and extends best wishes for the future. S. Res. 168—Senate agreed to May 11, 1977. (VV)

Philip A. Hart, death of.—Expresses the sorrow of the Senate over the death of Senator Philip A. Hart, of Michigan. S. Res. 15—Senate agreed to January 4, 1977. (VV)

President and Mrs. Ford.—Congratulates and commends President and Mrs. Ford on their exemplary conduct as President and first lady and for their dedicated public service to the Nation during their entire career of public service. S. Res. 22—Senate agreed to January 10, 1977. (VV)

President Ford.—Commends President Ford for the manner and integrity with which he carried out his responsibilities and wishes him Godspeed in his new and active life. S. Res. 38—Senate agreed to January 18, 1977. (VV)

President-elect Carter.—Extends best wishes to President-elect Jimmy Carter and to all those who will serve in his administration. S. Res. 23—Senate agreed to January 10, 1977. (VV)

St. Patrick's parish anniversary.—Commemorates the people of St. Patrick's Parish, in Pottsville, Pennsylvania, who this year are celebrating the 150th anniversary of the founding of the parish. S. Res. 116—Senate agreed to March 17, 1977. (VV)

Vice President Rockefeller.—Commends Vice President Rockefeller for the manner and integrity with which he carried out his responsibilities and wishes him Godspeed in his new and active life. S. Res. 37—Senate agreed to January 18, 1977. (VV)

William O. Douglas.—Dedicates the canal and towpath of the Chesapeake and Ohio Canal National Historical Park to Justice William O. Douglas; directs the Secretary of the Interior to provide the necessary identification to inform the public of the contributions of Justice Douglas and to erect and maintain within the exterior boundaries of the Park an appropriate memorial; and authorizes such sums as necessary to carry out the act. S. 776—Public Law 95-11, approved March 15, 1977. (VV)

#### NATURAL RESOURCES—NATIONAL HISTORIC SITES

Eleanor Roosevelt national historic site.—Authorizes the Secretary of the Interior to establish 175 acres, including the Val-Kill estate in Hyde Park, New York, as the Eleanor Roosevelt National Historic Site to commemorate the life of Eleanor Roosevelt as well as provide a location for the conduct of studies and seminars relating to the issues with which she was concerned. H.R. 5562—Public Law 95—, approved, 1977. (VV)

Land and Water Conservation Fund.—Amends the Land and Water Conservation Fund Act of 1965 to establish a special account for use in acquiring the backlog of lands previously authorized for inclusion in the national park system and certain similar Federal areas; increases the authorized level of the fund from \$600 million to \$900 million in fiscal year 1978 and from \$750 million to \$900 million in fiscal 1979 with the additional \$450 million to be credited to the special account and to remain available until appropriated; provides that prior acquisition ceiling limitations on authorized areas may be exceeded in any one fiscal year by up to \$1 million or 10 percent of the statutory limitation, whichever is greater; gives the Secretary the authority to make boundary revisions under specified conditions; and permits preacquisition work such as title searches, mapping, and other preliminary work which does not interfere with the rights of private landowners if Congressional authorization appears to be imminent. H.R. 5306—Public Law 95—, approved 1977. (VV)

Reclamation projects.—Authorizes \$31,050,000 for fiscal year 1978 for continuing construction of the distribution system and

drains of the San Luis Unit, Central Valley project, California; and provides for the establishment of a task force to review the management, organization and operation of the Unit and to report to Congress by January 1, 1978, the results of an examination of certain specified issues. H.R. 4390—Public Law 95—, approved—1977. (VV)

Water resources development.—Authorizes appropriations for rivers and harbors works of the Corps of Engineers for flood control, navigation, water supply, and other purposes for fiscal year 1978. H.R. 6752—Passed House May 17, 1977; Passed Senate amended May 25, 1977. (VV)

Water Resources Development—Saline Water Conservation.—Authorizes general water resources research; repeals the Water Resources Act of 1964 and replaces it with similar, but stronger and more comprehensive language; authorizes maintenance of State water institutes, which were established under the old Act; continues support of non-academic water resource research centers; expands the saline water program and reestablishes many of the provisions of the expired Saline Water Conservation Act of 1971; redirects and strengthens saline water conversion programs which are developing technology to help states expand available water supplies. H.R. 4746—Passed House May 17, 1977; Passed Senate amended May 25, 1977. (VV)

#### WILDERNESS AREAS STUDIES

Montana wilderness.—Directs the Secretary of Agriculture to study 9 areas of land totaling approximately 973,000 acres located within the following National Forests in Montana to determine their suitability for designation as wilderness under the provisions of the Wilderness Act of 1964: Beaverbrook National Forest—West Pioneer Wilderness and Taylor-Hillard Wilderness; Bitterroot National Forest—Bluejoint Wilderness and Sapphire Wilderness; Kootenia National Forest—Ten Lakes Wilderness and Mt. Henry Wilderness; Lewis and Clark National Forest—Middle Ford Judith Wilderness and Big Snowies Wilderness; and Gallatin National Forest—Hyalite-Porcupine-Buffalo Horn Wilderness; requires the Secretary to complete the studies and report his findings to the President within 5 years of enactment who is to submit his recommendations with respect thereto to the Congress within 7 years of enactment; and directs the Secretary to administer the areas so as not to diminish their presently existing wilderness character and potential until Congress determines otherwise. S. 393—Passed Senate May 18, 1977.

Wildlife refuges.—Extends through fiscal year 1980 the authorization for the acquisition and development of the San Francisco Bay National Wildlife Refuge in California (consisting of approximately 21,000 acres), the Tinicum National Environmental Center in Pennsylvania (consisting of approximately 1,200 acres), and the Great Dismal Swamp National Wildlife Refuge in Virginia (consisting of approximately 107,360 acres). H.R. 5493—Passed House May 16, 1977; Passed Senate amended May 24, 1977. (VV)

#### NOMINATIONS

##### (Action by Rollcall vote)

Griffin B. Bell, of Georgia, to be Attorney General.—Nomination confirmed January 25, 1977. (10)

Joseph A. Califano, Jr., of the District of Columbia, to be Secretary of Health, Education, and Welfare.—Nominations confirmed January 24, 1977. (7)

Peter F. Flaherty, of Pennsylvania, to be Deputy Attorney General.—Nomination confirmed April 5, 1977. (99)

Ray Marshall, of Texas, to be Secretary of Labor.—Nomination confirmed January 26, 1977. (12)

Andrew J. Young, of Georgia, to be U.S. Representative to the United Nations.—Nomination confirmed January 26, 1977. (14)

Paul C. Warnke, of the District of Columbia, for rank of Ambassador for SALT negotiations and to be Director of the Arms Control and Disarmament Agency.—Nominations confirmed March 9, 1977. (41 and 42)

#### PROCLAMATIONS

American Business Day.—Designates May 13 of each year as "American Business Day." S.J. Res. 40—Passed Senate April 27, 1977. (VV)

Grandparents Day.—Designate the first Sunday of September of each year as "Grandparents Day." S.J. Res. 24—Passed Senate May 16, 1977. (VV)

#### SENATE

Commission on the Operation of the Senate.—Extends for an additional 30 days, until April 1, 1977, the Commission on the Operation of the Senate. S. Res. 93—Senate agreed to February 24, 1977. (VV)

Committee reorganization.—Amends the Standing Rules of the Senate to reorder and rationalize the jurisdictions of Senate committees, effective February 11, 1976, among 15 standing committees and 6 other special, select or joint committees; abolishes the Aeronautical and Space Sciences Committee and transfers its jurisdiction to a newly created Committee on Commerce, Science, and Transportation; abolishes the District of Columbia Committee and the Committee on Post Office and Civil Service and transfers their jurisdictions to a newly created Committee on Governmental Affairs; transfers the jurisdiction of the former Interior Committee to an Energy and Natural Resources Committee; transfers the jurisdiction of the former Public Works Committee into a new Environment and Public Works Committee; transfers the jurisdiction of the former Labor and Public Welfare Committee to a new Human Resources Committee; continues the existence of the Special Committee on Aging with membership reduced to 9 in the next Congress; continues the existence of the Select Committee on Nutrition and Human Needs until December 31, 1977, after which its jurisdiction will be transferred to the Committee on Agriculture, Nutrition and Forestry; establishes a temporary Select Committee on Indian Affairs to consider all legislation relating to Indians for the duration of the 95th Congress after which its jurisdiction will be transferred to the Human Resources Committee;

Limits the number of committee and subcommittee memberships a Senator can hold generally to two major or class "A" committees and one class "B" committee and eight subcommittees thereof; prohibits committees and eight subcommittees thereof; prohibits committees from establishing subunits other than subcommittees; permits the Majority and Minority Leaders to temporarily increase the sizes of committees to ensure majority party control; allows Senators to serve on joint committees where such service is required to be from members of a committee on which such Senator serves; prohibits Rules Committee members from serving on any joint committee unless the Senate members of such committees are required by law to be from the Rules Committee; exempts members of the Budget Committee during the 94th Congress from certain assignment limitations during the 95th Congress; continues grandfather rights for Senators who are serving on three standing committees as a result of an exemption in the Legislative Reorganization Act of 1970 to continue to do so during the 95th Congress; allows the chairmen and ranking minority members of the Post Office and Civil Service Committee and the District of Columbia Committee to serve on the Governmental Affairs Committee and two other committees of the same class, as long as their service on Governmental Affairs remains continuous; prohibits a Senator from serv-



ing as Chairman of more than one standing, select, special, or joint committee unless the jurisdiction is directly related to that of the standing committee he chairs; prohibits Senators from serving as chairman of more than one subcommittee of each standing, select, special or joint committee; limits members to two class A committee or subcommittee chairmanships and one class B committee or subcommittee chairmanship, effective at the beginning of the 96th Congress; requires that not later than July 1, 1977, the appropriate standing committees shall report legislation terminating the statutory authority of the Joint Committee on Atomic Energy, on Congressional Operations and on Defense Production; requires that the appropriate standing committees report recommendations not later than July 1, 1977, with respect to the Joint Committees on the Library and on Printing; allows Senators to serve on joint committees considered for termination pending final disposition of the issue;

Provides for sequential and joint referral of bills that cross jurisdictional lines based on motions by the Majority and Minority Leaders, instead of by unanimous consent; provides for a computerized schedule of committee meetings by the Rules Committee; permits committees to meet without special leave until the conclusion of the first 2 hours of a meeting of the Senate or 2:00 p.m., except for the Appropriations and Budget Committees which may meet at any time without special consent; requires that morning meetings of committees and subcommittees be scheduled for one or both of two periods, one ending at 11:00 a.m. and a second beginning at 11:00 a.m. and ending at 2:00 p.m.; provides for continuous review of the committee system by the Rules Committee in consultation with the Majority and Minority Leaders; prohibits consideration of committee amendments to bills when the amendments are not in the jurisdiction of the committee proposing them; requires committee reports to contain an evaluation of the regulatory impact which would be incurred by individuals and businesses in carrying out the provisions of the bill; provides for the transition of staff from abolished or realigned committees to the new committees and provides for salary and tenure of committee staff during a transition period; provides that committee staff reflect the relative numbers of majority and minority members and that one-third of the committee staffing funds be allocated to the minority members for compensation of minority staff; provides that such adjustment be made over a four-year period beginning July 1, 1977, with not less than one-half being made in 2 years; provides for funding of increases in the expenditures of new committees resulting from this resolution; incorporates provisions of S. Res. 60 of the 94th Congress relating to individuals appointed by Senators to assist them with committee work; provides for the referral of measures according to the realigned jurisdictions; and provides that legal references to old committees are to be construed as referring to their successors. S. Res. 4—Senate agreed to February 4, 1977. (36)

Deputy President pro tempore.—Establishes, effective January 5, 1977, the Office of Deputy President Pro Tempore which shall be held by any Senator who is a former President or Vice President of the United States; authorizes the President Pro Tempore and the Deputy President Pro Tempore each to appoint an administrative assistant, a legislative assistant and an executive secretary; authorizes the Sergeant at Arms to provide and maintain an automobile for use by the Deputy President Pro Tempore and to employ a driver-messenger; and authorizes the Secretaries of the Conferences of the Ma-

jority and Minority each to appoint two staff assistants in each office. S. Res. 17—Senate agreed to January 10, 1977. (VV)

Names Hubert H. Humphrey of Minnesota Deputy President Pro Tempore of the Senate, effective January 5, 1977. S. Res. 27—Senate agreed to January 11, 1977. (VV)

Senate Ethics Code.—Amends the Standing Rules of the Senate to create a Code of Official Conduct; amends Senate Resolution 338, the original resolution establishing the Select Committee on Ethics, to provide for additional procedures for enforcing the new Code as well as other laws and rules of the Senate; and directs other Senate committees to study certain matters related to this resolution;

Public Financial Disclosure.—Requires Senators, candidates for the Senate, officers and employees of the Senate earning in excess of \$25,000 per year to file a report listing their earned income and the sources and categories of value of their income, other than earned income, and all other interests, assets, and holdings held for the purposes of investment or income production;

Gifts.—Prohibits knowingly accepting a gift or gifts having an aggregate value of over \$100 during a year from any individual or organization defined as having a "direct interest in legislation;"

Outside Earned Income.—Limits outside earned income of a Senator, officer or employee earning over \$35,000 to 15 percent of the person's salary; limits each honorarium to \$1,000 for Senators and to \$300 for officers and employees; allows Senators or staff to accept honoraria up to \$25,000 if immediately donated to a tax-exempt charity;

Conflict of Interest.—Bars the use of one's official position to introduce or aid the progress of legislation the principal purpose of which furthers one's own financial interest; allows Members or staff who earn over \$25,000 to provide professional services for compensation if not affiliated with a firm or association and if their work is not carried out during regular Senate office hours; directs committee employees earning over \$25,000 to divest themselves of any holdings which may be directly affected by the actions of the Committee for which they work unless permitted by their supervisor and the Ethics Committee; prohibits Senators from lobbying the Senate for one year after leaving the Senate; applies a similar prohibition to employees lobbying the Committee or office for which they worked;

Unofficial Office Accounts.—Abolishes unofficial office accounts, those accounts defined as not including personal funds of a member, official funds, political funds and reimbursements;

Foreign Travel.—Prohibits "lame duck" travel by a defeated or retiring member; prohibits receipt of counterpart funds where there has been reimbursement from another source; restricts per diem allowance to food, lodging and related expenses and places the responsibility on the person receiving the per diem to return any unused funds;

Franking Privilege—Radio-TV Studio—Senate Computer.—Prohibits mass mailings and the use of the radio-TV studios within 60 days of an election; requires the use of official funds to purchase paper, to print, and prepare mass mailings under the frank; requires a Senator to register mass mailings annually for public inspection; prohibits the use of the Senate computer to store names identified as campaign workers;

Political Activity by Officers and Employees.—Restates the present ban on staff soliciting or receiving campaign contributions; allows a Senator to name one assistant each in his Washington and State office to receive and handle campaign funds;

Discriminatory Employment Practices.—Prohibits discrimination on the basis of race, color, religion, sex, national origin, or state

of physical handicap in employment practices in the Senate;

Enforcement.—Sets forth procedures for the Select Committee on Ethics in investigating complaints of violation of the Code and enforcing its provisions;

Further Studies.—Requires the Appropriations Committee to report within 120 days regarding an adjustment of official allowances; requires the Finance Committee to report within 120 days on the tax status of funds raised and expended to defray ordinary and necessary expenses of Members; directs the Rules Committee (1) to report within 120 days on the desirability of promulgating rules providing for: (a) periodic audits by GAO of all committee and office accounts; (b) a centralized recordkeeping system of accounts, allowances, expenditures and travel expenses of all committees and offices; (c) suggested accounting procedures for committee and office accounts; and (d) public disclosure and availability of information on the accounts of all committees and offices in a form which segregates the allowances and expenses of each committee and office; (2) to report within 120 days on the desirability of requiring that only official Senate funds may be used to pay for any expenses incurred by a Senator in the use of the radio-TV studios; and (3) to study laws relating to contributions made by officers or employees as well as on proposals to prohibit the misuse of official staff in election campaigns and report thereon within 180 days; requires the Governmental Affairs Committee to report (1) within 180 days regarding employee discrimination complaints and the desirability of establishing rules requiring "blind trusts" by members, officers and employees of Senate and (2) within 120 days regarding the use of simplified form of address for franked mail; and directs the Foreign Relations Committee to report in 90 days on the problem of travel, lodging and other related expenses provided members and staff paid for by foreign governments where it is not possible to procure transportation, lodging or other related services or to reimburse the foreign government for those purposes. S. Res. 110—Senate agreed to April 1, 1977. (94)

Special Committee on Official Conduct.—Establishes a temporary Special Committee on Official Conduct composed of fifteen members appointed by the President pro tempore of the Senate (eight appointed upon the recommendation of the majority leader and seven upon the recommendation of the minority leader, with the chairman designated by the majority leader and the vice chairman by the minority members) to conduct a complete study of all matters relating to standards of conduct of Members, officers and employees of the Senate in the performance of their official duties including standards for: (1) annual public disclosure of income, assets, debts, gifts, and other financial items; (2) restrictions on the elimination of, outside income from honoraria, legal fees, gifts and other sources of financial or in-kind remuneration; (3) conflicts of interest arising out of investments in securities, commodities, real estate, or other sources; (4) office accounts, and excess campaign contributions; (5) Senate travel; and (6) engaging in business, professional activities, employment, or other remunerative activities, so as to avoid any conflict with the conscientious performance of official duties; requires the Committee to submit a report of its findings by March 1, 1977, together with a resolution setting forth, by way of proposed amendments to the Standing Rules of the Senate, a Code of Official Conduct for Members, officers, and employees of the Senate;

Provides that on March 1, 1977, after the conclusion of routine morning business, the resolution shall become the pending busi-

ness of the Senate under a 50 hour time limitation with a 2 hour time limitation on amendments thereto and 1 hour on amendments in the second degree, debatable motions or appeals; provides that amendments not germane to the bill will not be received; states that motions to limit debate are not debatable and that motions to table or recommit are out of order;

Authorizes the Committee to utilize the facilities and services of the staff of any other committee and provides that expenses of the Committee shall be paid from the contingent fund of the Senate. S. Res. 36—Senate agreed to January 18, 1977. **NOTE:** (On March 3, 1977, the Senate, by unanimous consent, extended until midnight, March 7, 1977, the time for the Committee to file its report and provided that the leadership may call the resolution up on March 8, 1977, or any time thereafter.) (VV)

Teamsters pension fund.—Authorizes the Committee on Human Resources to inspect and receive any tax return, return information, or other tax related matter held by the Secretary of Treasury with respect to the Teamsters' Central States Southeast and Southwest Area Pension Fund, and any related matter which the committee demonstrates, to the satisfaction of the Secretary, contains or may contain information directly relating to its study and oversight proceedings. S. Res. 139—Senate agreed to April 22, 1977. (VV)

#### TAXATION

Sick pay exclusion.—Delays for one year, to taxable years beginning after December 31, 1976, the changes made by the Tax Reform Act of 1976 with regard to the exclusion of "sick pay" from income; makes a similar delay of the effective date of the provisions regarding the tax treatment of income earned abroad by U.S. citizens; modifies the withholding requirement enacted in the 1976 Tax Reform Act on proceeds of wagers placed in parimutuel pools with respect to horse races, dog races, and Jai Alai requiring a 20 percent withholding tax on winnings of \$1,000 or more only if the odds are 300 to one or more; extends for one year the provisions of the Internal Revenue Code to allow State legislators to treat their place of residence within their legislative district as their tax home for purposes of computing the deduction for living expenses; and waives the interest and penalties with regard to certain errors regarding underpayments of estimated tax and withholding that might be made in the tax returns for 1976. H.R. 1828—Passed House April 4, 1977; Passed Senate amended April 6, 1977; House agreed to Senate amendments with amendment which omitted the provisions regarding the treatment of income earned abroad by U.S. citizens April 6, 1977; Senate requested conference April 19, 1977; (100) (**NOTE:** Provisions included Tax Reduction and Simplification which became Public Law 95- ).

Tax reduction and simplification.—Amends the Internal Revenue Code of 1954 to extend the individual and business income tax reductions enacted in 1975 and to provide tax simplification as follows:

Standard Deduction and Tax Simplification.—Permanently changes the standard deduction to \$2,200 for single returns and heads of households and \$3,200 for joint returns; revises the tax tables to simplify tax computation for 96 percent of all taxpayers by building into the tax tables the personal exemption, the general tax credit, and the standard deduction;

Individual and Corporate Tax Reductions.—Extends through 1978 the general tax credit of \$35 per person or 2 percent of the first \$9,000 of taxable income, whichever is larger; extends the earned income credit equal to 10 percent of the first \$4,000 of earned income which is phased out as income rises from \$4,000 to \$8,000;

Extends through 1978 the corporate tax cuts, enacted in 1975 and subsequently extended, which reduced the tax rate on the initial \$25,000 of corporate taxable income from 22 percent to 20 percent and reduced the rate on the next \$25,000 from 48 to 22 percent;

Filing Requirements and Withholding Changes.—Increases the income level at which a tax return must be filed from \$2,450 to \$2,950 for a single person and a head of household and from \$3,600 to \$4,700 for a joint return; requires modification of the withholding rates to reflect the changed standard deduction;

New Jobs Credit.—Provides a new jobs tax credit for 1977 and 1978 equal to 50 percent of the increase in each employer's wage base under the Federal Unemployment Tax Act (FUTA) above 102 percent of that wage base in the previous year; reduces the employer's deduction for wages by the amount of the credit, thereby reducing the maximum gross credit for each new employee from \$2,100 to \$1,806; limits the credit to no more than: (1) 50 percent of the increase in total wages paid by the employer for the year above 105 percent of total wages in the previous year; (2) 25 percent of the current year's FUTA wages; (3) \$100,000 per employer; and (4) the taxpayer's tax liability with provision of carrying back credit for 3 years and carrying forward credit for 7 years; provides an additional 10 percent nonincremental credit for hiring the handicapped, including handicapped veterans, who have received vocational training;

Postponement of Changes in 1976 Act.—Postpones for one year the effective date of revisions made by the Tax Reform Act of 1976 in the tax treatment of sick pay and income earned abroad; relieves individual taxpayers for periods prior to April 16, 1977, and corporations for period prior to March 16, 1977, from additions to tax and interest arising from changes in the tax law made applicable to 1976 by the 1976 Act; relieves employers from penalties for under withholding in 1976 on remuneration which became taxable prior to January 1, 1976, as a result of the 1976 Act; lifts the exclusive use of the test in the 1976 Act for business deductions for the use of the home for day care services for children, handicapped individuals and the elderly and limits such deductible expense; extends for 1976 the election to treat a State legislator's place of residence within the legislative district he represents as his tax home for purposes of determining deductions for travel and expenses;

Minimum Tax on Intangible Drilling Costs.—Provides for taxable years beginning in 1977 that intangible drilling costs incurred in oil and gas production operations are to be subject to the minimum tax to the extent that these expenses exceed oil and gas production income;

Charitable Contributions of Conservation Easements.—Extends through June 13, 1981 the period during which deductions are allowable for charitable contributions of remainder interests in real property exclusively for conservation purposes as well as the period during which deductions are allowable for charitable contributions exclusively for conservation purposes of easements with respect to real property, if the easement is perpetual;

Work Incentive (WIN) Program.—Authorizes an additional \$435 million in each of fiscal years 1978 and 1979 for employment and supportive services for welfare recipients with no requirement for State matching funds;

Child Care Facilities Amortization.—Extends through 1981 the 5-year amortization provision for expenditures relating to child care facilities for children of the taxpayer's employees;

Retirement Income Credit Election.—Allows taxpayers over age 65 to choose be-

tween the retirement income credit as it existed before the 1976 Act and as revised by it for 1976 taxes only;

Accrual Accounting for Farm Operations.—Postpones until 1978 the effective date for requiring accrual accounting by any farm corporation if either (a) two families own at least 65 percent of the stock, or (b) three families own at least 50 percent of the stock and substantially all of the remaining stock is owned by employees or their families;

Gambling Withholding.—Modifies the 1976 requirement for withholding on gambling winnings to provide that withholding is required on proceeds of more than \$1,000 from bets placed on parimutuel pools involving horses, dogs or jai alai but only if the amounts of the proceeds is at least 300 times as large as the amount wagered;

Extension of Countercyclical Revenue Sharing.—Extends for 6 quarters, or until national unemployment drops below 6 percent, the current countercyclical revenue sharing legislation which expires September 30, 1977 to help State and local governments maintain services; authorizes up to \$1 billion in additional funding for fiscal year 1977 for a total of \$2.25 billion; authorizes up to \$2.25 billion for FY 1978; requires that the most recent data be used in the allocation formula and that the national amount be determined on the basis of tenths of the unemployment percentage in excess of 6 percent rather than on half percentage points; provides that each tenth of a percentage point will generate \$80 million for allocation in addition to the basic \$125 million; extends the program to Guam, American Samoa, Puerto Rico and the Virgin Islands;

Other Provisions.—Amends the Social Security Act to clarify the law which provides for the garnishment of Federal payment for purposes of child support and alimony; and contains other provisions. H.R. 3477—Public Law 95-30, approved May 23, 1977. (128)

Air Transportation Subsidy.—Amends the Federal Aviation Act of 1958 to provide explicit statutory authority for the payment of "flow-through" subsidy pursuant to an experimental local air service program administered by the Civil Aeronautics Board (CAB) in cooperation with Frontier Airlines during the period August 1, 1973, through July 31, 1975. H.R. 6010—Passed House May 17, 1977; Passed Senate amended May 27, 1977. (VV)

#### TRANSPORTATION

Aircraft Registration.—Amends the Federal Aviation Act of 1958 to permit citizens of foreign countries lawfully admitted for permanent residence in the U.S. and corporations lawfully organized and doing business under U.S. or State laws to register aircraft in the United States provided that (1) the aircraft is based or primarily used in the U.S. thus enabling the Secretary of Transportation to condition registration on reasonable inspection by FAA personnel and (2) as at present, the aircraft is not registered under the laws of any foreign country. H.R. 735—Passed House February 2, 1977; Passed Senate amended May 11, 1977. (VV)

Interstate Commerce Commission Interim Regulatory Reform.—Amends the Interstate Commerce Act to authorize \$71,216,000 for fiscal year 1978, \$80,474,000 (for fiscal 1979), \$90,935,000 for fiscal year 1980 and \$102,755,000 for fiscal 1981; provides for regulatory reform of the ICC by requiring the agency to review and recodify systematically all of the rules and regulations which it has promulgated and which are still in effect and applying certain provisions with respect to one or more of the independent regulatory agencies and found to be both useful and practicable such as (1) timely consideration of petitions, (2) Congressional access to information, (3) avoidance of conflict of interest, (4) appoint-



ment of the chairman by the Presidency by and with the advice and consent of the Senate, and (5) Congressional oversight through the process of an authorization of appropriations not to exceed 4 years S. 1534—Passed Senate May 20, 1977 (VV)

**Maritime Authorization.**—Authorizes \$552,974,000 for programs of the Maritime Administration for fiscal year 1978 as follows: \$135,000,000 for acquisition, construction, or reconstruction of vessels and construction-differential subsidies, \$372,109,000 for payment of ship operating differential subsidies, \$20,725,000 for research and development, \$5,137,000 for the reserve fleet, \$14,633,000 for maritime training at the Merchant Marine Academy at Kings Point, N.Y., and \$5,370,000 for financial assistance to the State marine schools which includes an increased annual student subsidy from \$600 to \$1200; authorizes additional supplemental amounts to cover increases in salary, pay, retirement, or other employee benefits authorized by law and for certain expenses of the Merchant Marine Academy at Kings Point; and authorizes an additional Assistant Secretary of Commerce to be the principal advisor to the Secretary for Congressional relations. S. 1019—Passed Senate May 24, 1977. (VV)

**Rail Reorganization.**—Office of Rail Public Counsel.—Amends the Regional Rail Reorganization Act of 1973 to authorize an additional \$15 million for fiscal year 1978 to the United States Railway Association to cover litigation and other anticipated expenses involving the reorganization of the Northeast railroads, and amends the Interstate Commerce Act to authorize an additional \$2 million for the Office of Rail Public Counsel which is the statutory successor to the Office of Public Counsel of the Interstate Commerce Commission. H.R. 4049—Passed House May 3, 1977; Passed Senate amended May 23, 1977. (VV)

**Tanker Safety.**—Amends the Ports and Waterways Safety Act of 1972, which creates vessel traffic services and systems in the Nations waterways; establishes more stringent construction and maintenance standards for all tankers entering U.S. ports; provides clear authority for the Secretary of Transportation to bar substandard vessels from U.S. waters; authorizes the creation of a Marine Safety Information System to identify substandard vessels and true ownership of ships; authorizes the establishment of regulations for controlling vessel-to-vessel transfer of cargo; mandates that all self-propelled vessels of 20,000 dead-weight tons or larger carrying oil in bulk be equipped with specified safety equipment and systems by June 30, 1979, and others by June 30, 1983; creates an expanded inspection and enforcement program; authorizes the promulgation of improved manning and qualification standards; and provides for study and evaluation of shore-station monitoring systems of vessels as defined in the Fishery Conservation and Management Act of 1976. S. 682—Passed Senate May 26, 1977. (VV)

#### VETERANS

**Veterans' Care in State Homes.**—Amends title 38, U.S.C., to consolidate the construction grant-assistance programs under section 644 (for State home domiciliary and hospital facilities) and under subchapter III of chapter 81 (for State home nursing care facilities) and create new statutory authority for grants for the construction of new domiciliary facilities and the expansion of domiciliary and hospital facilities, and for initial equipment in both categories; increases to \$15 million the annual authorization for fiscal years 1978 and 1979; removes the 3-fiscal-year limitation on the availability of sums appropriated for the consolidated programs, making the funds available until expended; makes the allowable nonveteran population of a grant-assisted State nursing home domiciliary, or hospital facility 25 percent in order to make

allowance for veterans' spouses, surviving spouses, and Gold Star mothers; sets at 33½ percent the limit which any one State may receive in any year of the total amount appropriated for the program; includes domiciliary and hospital projects under the statutory nursing home program recapture provision; allows the Administrator to reduce the recapture period to less than 7 years in cases of expansion, remodeling, and alteration; limits recapture to not more than the amount of grant assistance provided for the project; repeals existing statutory authority for making grants for the remodeling of State home domiciliary and hospital facilities and governing the operation of this program; provides for an October 1, 1977, effective date with a savings provision for hospital and domiciliary grants made under the section to be repealed; and gives existing nursing home program grantees the right to obtain grant modifications consistent with the new act. H.R. 3695—Passed House April 4, 1977; Passed Senate amended May 24, 1977. (VV)

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| S. 662 U.S. District Court Terms                        | Crime           | S. 1468 Coal Conversion Authority                                      | Energy          |
| S. 682 Tanker Safety                                    | Transportation  | S. 1474 Military Construction Authorization                            | Defense         |
| S. 703 Overseas Citizens Voting Rights                  | Elections       | S. 1511 Noise Control  | Environment     |
| S. 773 Wichita Tribal Land Claim                        | Indians         | S. 1528 Safe Drinking Water  | Environment     |
| S. 776 William O. Douglas                               | Memorials       | S. 1534 Interstate Commerce Commission Authorization—Regulatory Reform | Transportation  |
| S. 810 Daughters of the Confederacy Patent Renewal      | Crime           | Senate Resolutions:  |                 |
| S. 826 Department of Energy                             | Energy          | S. Res. 4 Senate Committee Reorganization                              | Senate          |
| S. 838 Sioux Black Hills Claim                          | Indians         | S. Res. 15 Philip A. Hart, Death of                                    | Memorials       |
| S. 853 Defense Production Extension                     | Defense         | S. Res. 17 Deputy President Pro Tempore                                | Senate          |
| S. 891 Deepwater Ports                                  | Energy          |  |                 |
| S. 904 Federal Assistance Program Information           | Gen. Gov.       |  |                 |
| S. 925 Drought Emergency Authority                      | Environment     |  |                 |
| S. 955 Federal Crop Insurance Corporation Capital       | Agriculture     |  |                 |
| S. 964 Federal Salary Increases                         | Gov. Emp.       |  |                 |



## INDEX BY BILL NUMBER FOR SENATE LEGISLATIVE ACHIEVEMENTS—Continued

(Prepared by Senate Democratic Policy Committee, ROBERT C. BYRD, Chairman)—Continued

| Senate Resolutions             |  | Report category | House Bills:                  |   | Report category |
|--------------------------------|--|-----------------|-------------------------------|---|-----------------|
| S. Res. 22                     | President and Mrs. Ford                            | Memorials       | H.R. 3722                     | Securities and Exchange Commission Authorization        | Economy         |
| S. Res. 23                     | President-Elect Carter                             | Memorials       | H.R. 3733                     | Nuclear Regulatory Commission Authorization             | Atomic          |
| S. Res. 27                     | Deputy President Pro Tempore (Sen. Humphrey)       | Senate          | H.R. 3753                     | Fishery Conservation Zone Transition                    | Fisheries       |
| S. Res. 37                     | Vice President Rockefeller                         | Memorials       | H.R. 3839                     | Second Budget Rescission                                | Budget          |
| S. Res. 36                     | Special Committee on Official Conduct              | Senate          | H.R. 3843                     | Supplemental Housing Authorizations                     | Housing         |
| S. Res. 38                     | President Ford                                     | Memorials       | H.R. 3849                     | National Advisory Committee on Oceans and Atmosphere    | Environment     |
| S. Res. 48                     | Abu Daoud  | International   | H.R. 4049                     | Rail Reorganization—Office of Rail Public Counsel       | Transportation  |
| S. Res. 81                     | Soviet Expulsion of George A. Krimsky              | International   | H.R. 4088                     | NASA Authorization                                      | Gen. Gov.       |
| S. Res. 93                     | Commission on the Operation of the Senate          | Senate          | H.R. 4301                     | Sea Grant Program                                       | Environment     |
| S. Res. 94                     | International Cooperation on Nuclear Proliferation | International   | H.R. 4390                     | Reclamation Projects                                    | Natural Res.    |
| S. Res. 105                    | White House Conference on Small Business           | Economy         | H.R. 4746                     | Water Resources Development—Saline Water Conservation   | Natural Res.    |
| S. Res. 110                    | Senate Ethics Code                                 | Senate          | H.R. 4800                     | Emergency Unemployment Compensation                     | Employment      |
| S. Res. 112                    | Alex Haley   | Memorials       | H.R. 4876                     | Economic Stimulus App., 1977                            | Approp.         |
| S. Res. 133                    | Francis R. Valeo                                   | Memorials       | H.R. 4877                     | Supplemental Appropriations, 1977                       | Approp.         |
| S. Res. 137                    | Jaycees International Convention                   | Memorials       | H.R. 4975                     | Public Health Programs—Biomedical Research              | Health          |
| S. Res. 139                    | Teamsters' Pension Fund                            | Senate          | H.R. 4991                     | National Science Foundation Authorization               | Gen. Gov.       |
| S. Res. 162                    | Cora Rubin Lane 100th Birthday                     | Memorials       | H.R. 5040                     | State Department Supplemental Authorization             | International   |
| S. Res. 168                    | Motion Picture Academy 50th Anniversary            | Memorials       | H.R. 5306                     | Land and Water Conservation Fund                        | Natural Res.    |
| S. Res. 175                    | Ugandan Human Rights                               | International   | H.R. 5493                     | Wildlife Refuges  | Natural Res.    |
| Senate Concurrent Resolutions: |  |                 | H.R. 5562                     | Eleanor Roosevelt National Historic Site                | Natural Res.    |
| S. Con. Res. 2                 | Vietnam POW's and MIA's                            | International   | H.R. 5717                     | Romanian Earthquake Authorization                       | International   |
| S. Con. Res. 3                 | Vietnam POW's and MIA's                            | International   | H.R. 5840                     | Export Administration—Arab Boycott                      | Economy         |
| S. Con. Res. 7                 | Soviet Freedom of Emigration                       | International   | H.R. 5970                     | Military Procurement Authorization                      | Defense         |
| S. Con. Res. 10                | Third Budget Resolution, 1977                      | Budget          | H.R. 6010                     | Air Transportation Subsidy                              | H.R. 6010       |
| S. Con. Res. 12                | Romanian Earthquake                                | International   | H.R. 6138                     | Youth Employment and Training                           | Employment      |
| S. Con. Res. 19                | First Budget Resolution, 1978                      | Budget          | H.R. 6205                     | Commercial Fisheries Authorization                      | Fisheries       |
| Senate Joint Resolutions:      |  |                 | H.R. 6206                     | Atlantic Tunas Authorization                            | Fisheries       |
| S.J. Res. 10                   | American Indian Policy Review Commission           | Indians         | H.R. 6370                     | U.S. International Trade Commission                     | Economy         |
| S.J. Res. 12                   | Secret Service Protection of Federal Officials     | Gov. Emp.       | H.R. 6401                     | Deepwater Ports   | Energy          |
| S.J. Res. 16                   | Jefferson F. Davis Citizenship                     | Crime           | H.R. 6668                     | Age Discrimination Report—Nutrition Program for Elderly | Gen. Gov.       |
| S.J. Res. 24                   | Grandparents Day                                   | Proclamations   | H.R. 6752                     | Water Resources Development                             | Natural Res.    |
| S.J. Res. 40                   | American Business Day                              | Proclamations   | H.R. 6774                     | Higher Education Technical Amendments                   | Education       |
| House Bills:                   |  |                 | H.R. 6917                     | Disaster Relief Programs                                | Environment     |
| H.R. 2                         | Stripmining Control and Reclamation                | Energy          | H.R. 6992                     | Education of the Handicapped                            | Education       |
| H.R. 11                        | Public Works Employment                            | Employment      | House Concurrent Resolutions: |   |                 |
| H.R. 583                       | Military Enlistment and Reenlistment Bonuses       | Defense         | H. Con. Res. 142              | Harp Seal Killings                                      | International   |
| H.R. 692                       | Small Business Authorization—Disaster Relief       | Economy         | House Joint Resolutions:      |   |                 |
| H.R. 735                       | Aircraft Registration                              | Transportation  | H.J. Res. 132                 | Marian Anderson Medal                                   | Memorials       |
| H.R. 1746                      | Rhodesian Chrome                                   | International   | H.J. Res. 227                 | Urgent Power Supplemental Appropriations, 1977          | Approp.         |
| H.R. 1828                      | Sick Pay Exclusion                                 | Taxation        | H.J. Res. 240                 | Fishery Conservation Zone Transition                    | Fisheries       |
| H.R. 2992                      | CETA   | Employment      | H.J. Res. 269                 | Urgent Disaster Supplemental App., 1977                 | Approp.         |
| H.R. 3347                      | Budget Rescission—Helium Purchases                 | Budget          | H.J. Res. 351                 | Continuing Appropriations, 1977                         | Approp.         |
| H.R. 3365                      | Interest Rates (Regulation Q)—Fed. Credit Unions   | Economy         | H.J. Res. 424                 | Kennedy Presidential Library                            | Gen. Gov.       |
| H.R. 3437                      | Vocational Education Amendments                    | Education       |                               |   |                 |
| H.R. 3477                      | Tax Reform and Simplification                      | Taxation        |                               |   |                 |
| H.R. 3695                      | Veterans' Care in State Homes                      | Veterans        |                               |   |                 |

## 5-YR COMPARISON OF SENATE LEGISLATIVE ACTIVITY THROUGH MAY 27

|                       | 1973   | 1974   | 1975   | 1976   | 1977   |                                       | 1973  | 1974  | 1975  | 1976  | 1977  |
|-----------------------|--------|--------|--------|--------|--------|---------------------------------------|-------|-------|-------|-------|-------|
| Days in session       | 70     | 66     | 73     | 73     | 81     | Senate average attendance (percent)   | 86.47 | 88.29 | 90.22 | 85.82 | 88.16 |
| Hours in session      | 330:00 | 395:17 | 391:55 | 400:21 | 415:18 | Sessions convened before 12 noon      | 25    | 43    | 40    | 40    | 28    |
| Total measures passed | 204    | 222    | 193    | 322    | 242    | Sessions convened at noon             | 45    | 23    | 33    | 33    | 17    |
| Rollcall votes        | 145    | 207    | 194    | 205    | 170    | Sessions convened afternoon           | 0     | 0     | 0     | 0     | 36    |
| Public laws           | 35     | 41     | 22     | 88     | 31     | Sessions which continued after 8 p.m. | 2     | 1     | 7     | 5     | 9     |
| Treaties              | 5      | 2      | 1      | 5      | 0      | Saturday sessions                     | 2     | 0     | 1     | 0     | 0     |
| Confirmations         | 22,772 | 27,652 | 24,511 | 17,133 | 32,867 |                                       |       |       |       |       |       |

## 13-YR COMPARISON OF SENATE SESSIONS THROUGH MAY 27 (1965-77)

| Year | Total number of rollcall votes | Total number of days in session | Total days convened before noon | Total days convened at noon | Total days convened after noon | Total rollcall votes before noon | Year | Total number of rollcall votes | Total number of days in session | Total days convened before noon | Total days convened at noon | Total days convened after noon | Total rollcall votes before noon |
|------|--------------------------------|---------------------------------|---------------------------------|-----------------------------|--------------------------------|----------------------------------|------|--------------------------------|---------------------------------|---------------------------------|-----------------------------|--------------------------------|----------------------------------|
| 1977 | 170                            | 81                              | 28                              | 17                          | 36                             | 7                                | 1970 | 138                            | 82                              | 65                              | 17                          | 0                              |                                  |
| 1976 | 205                            | 73                              | 40                              | 33                          | 0                              | 18                               | 1969 | 26                             | 57                              | 8                               | 49                          | 0                              |                                  |
| 1975 | 194                            | 73                              | 40                              | 33                          | 0                              | 16                               | 1968 | 128                            | 89                              | 31                              | 57                          | 1                              |                                  |
| 1974 | 207                            | 66                              | 43                              | 23                          | 0                              |                                  | 1967 | 97                             | 82                              | 28                              | 54                          | 0                              |                                  |
| 1973 | 145                            | 70                              | 25                              | 45                          | 0                              |                                  | 1966 | 42                             | 74                              | 24                              | 50                          | 0                              |                                  |
| 1972 | 169                            | 80                              | 59                              | 21                          | 0                              |                                  | 1965 | 80                             | 78                              | 18                              | 60                          | 0                              |                                  |
| 1971 | 65                             | 71                              | 50                              | 20                          | 1                              |                                  |      |                                |                                 |                                 |                             |                                |                                  |

## STATUS OF MAJOR MESSAGES AND COMMUNICATIONS OF THE PRESIDENT, 95TH CONG., 1ST SESS., BY SENATE DEMOCRATIC POLICY COMMITTEE, ROBERT C. BYRD, CHAIRMAN, AS OF MAY 27, 1977

| Message or communication title, bill No.   | Senate action   | House action  | Conference or other action  | Date approved  | Public Law No. |
|--|---|---|---|--|----------------|
| PM 21 (Jan. 17, 1977): Budget Rescission (\$452.6 million for Nimitz-class nuclear carrier and AEGIS); H.R. 3839.    | P/S Mar. 15, 1977   | P/H Mar. 3, 1977  |   |  | 95-1           |
| PM 22 (Jan. 17, 1977): Top Level Executive, Legislative and Judicial Salary Increases.                               | S. tabled Allen, et al., amendment to S. Res. 4 disapproving pay recommendation Feb. 2, 1977; Voted Mar. 3, 1977, against repealing increase.                     | H. twice objected to request to consider disapproval resolution, H. Res. 115, Feb. 16, 17, 1977.                        |   | Feb. 20, 1977 became effective.  |                |
| PM 22 (Jan. 17, 1977): Ethics Code   | S. Res. 110 (S. Ethics Code) Apr. 1, 1977.  | H. Res. 287 (H. Ethics Code) Mar. 2, 1977.  |   | House code became effective Mar. 2, 1977; Senate code became effective Apr. 1, 1977. |                |
| EC 441 (Jan. 26, 1977): Emergency Natural Gas Act: S. 474 (Adm. Bill).   | P/S Jan. 31, 1977   | P/H amended Feb. 2, 1977  | Conf. rept. agreed to Feb. 2, 1977, in S.; Feb. 2, 1977, in H.                                    | Feb. 16, 1977  | 95-2           |
| PM 32 (Jan. 31, 1977): Economic Recovery:  |   |   |   |  |                |
| (a) Economic Stimulus Appropriations (Public works jobs, revenue sharing, and public service employment): H.R. 4876. | P/S May 2, 1977   | P/H Mar. 15, 1977   | Conf. rept. agreed to May 4, 1977 in H.; May 5, 1977, in S.                                       |  | 95-29          |
| (b) Public Works Jobs (\$4 billion increase): H.R. 11.   | P/S amended Mar. 10, 1977   | P/H Feb. 24, 1977   | Conf. rept. agreed to Apr. 29, 1977, in S.; May 3, 1977, in H.                                    |  | 95-28          |
| (c) Countercyclical Revenue Sharing.   | P/S as amendment to H.R. 3477, Apr. 29, 1977.   | H.R. 6810, P/H Apr. 13, 1977  |   |  |                |
| (d) Tax Reform and Simplification for individuals and business (Tax rebate withdrawn): H.R. 3477.                    | P/S Apr. 29, 1977   | P/H Mar. 8, 1977  | Conf. rept. agreed to May 17, 1977, in H. and S.  | May 23, 1977   | 95-30          |
| PM 33 (Feb. 4, 1977): Presidential Reorganization Authority: S. 626.   | P/S Mar. 3, 1977  | P/H amended Mar. 29, 1977   | S. agreed to H. amendments Mar. 31, 1977.   | Apr. 6, 1977   | 95-17          |
| PM 40 (Feb. 21, 1977) and 57 (Mar. 24, 1977): Water Development Projects.  | S. adopted Johnston amendment to H.R. 11 expressing sense of Congress to continue funding for water projects.   | Approp. Subcte. on Public Works agreed to continue funding for fiscal year 1978 on May 2; full Cte. to consider May 25. |   | In H.R. 11, Public Works Jobs, Public Law 95-28.                                     |                |
| PM 41 (Feb. 22, 1977): 1978 Budget Revisions: S. Con. Res. 19.   | P/S May 4, 1977   | P/H amended May 5, 1977   | Conf. rept. agreed to with amendment May 16, 1977, in S.; H. agreed to S. amendment May 17, 1977. | Action Complete.   |                |
| PM 42 (Mar. 1, 1977): Creates Cabinet Dept. of Energy.   | S. 826, P/S May 18, 1977  | H.R. 6804, On Union Calendar (Cal. No. 193); H. to debate June 2.   |   |  |                |
| PM 45 (Mar. 4, 1977): Airline Deregulation.  | Commerce Subcte. on Aviation hearings on S. 292 and S. 689, Mar. 21-25, 28-31, and Apr. 1, 4, 6, 7; Field hearings in Anchorage May 16; mark-up in 30 to 60 days. | Pub. Wks. Subcte. on Aviation hearings Apr. 18.   |   |  |                |
| PM 47 (Mar. 9, 1977): Youth Unemployment:  |   |   |   |  |                |
| (a) \$342 million increase for Job Corps.  |   |   |   | In H.R. 4876, Econ. Stim. Appro., Public Law 95-29.                                  |                |
| (b) New youth title to CETA.   | P/S amended May 26, 1977  | H.R. 6138, P/H May 17, 1977   | H. conferees not yet named  |  | 95-            |
| (c) 1 year extension of CETA: H.R. 2992.   | Pls amended May 25, 1977  | P/H Mar. 29, 1977   |   |  |                |
| PM 51 (Feb. 17, 1977): Foreign Aid:  |   |   |   |  |                |
| (a) Multilateral Development Assistance (Financial institutions): H.R. 5262.   | On S. Calendar (Cal. No. 133)   | P/H Apr. 6, 1977  |   |  |                |
| (b) Bilateral Development Assistance (\$1.3 billion).  | S. 1520 on S. calendar (Cal. No. 135).  | H.R. 6714, P/H May 12, 1977   |   |  |                |
| (c) PL-480 Program Extension.  | In S. 275 (title of farm bill) P/S May 24, 1977.  | In H.R. 6714, P/H May 12, 1977  |   |  |                |
| (d) Security Assistance.   | S. 1160 on S. Calendar (Cal. No. 169).  | H.R. 6844, P/H May 24, 1977   |   |  |                |
| PM 52 (Feb. 17, 1977): Oil Tanker Spills.  | S. 682 (tanker safety) P/S May 26, 1977; Commerce Cte. hearings on S. 687 (oil pollution) not yet scheduled.  | Mer. Mar. and Fisheries Cte. reptd. H.R. 6803 May 16; Public Works Cte. —no action scheduled.                           |   |  |                |
| PM 55 (Mar. 22, 1977): Election reform:  |   |   |   |  |                |
| (a) Voter Registration.  | S. 1072 on S. Calendar (Cal. No. 144).  | H.R. 5400 on Union Calendar (Cal. No. 163).   |   |  |                |
| (b) Public Financing.  | Rules Cte. mark-up on S. 926 May 26, 1977; (will report clean bill).  | Adm. Cte. held hearings on campaign reform; No action scheduled on H.R. 5157.   |   |  |                |
| (c) Campaign Act Amendments.   | Rules Cte. mark-up on S. 15, 16, 105, 962, 966, 1320, and 1344 May 26.  | do  |   |  |                |
| (d) Direct Election of President.  | Jud. Cte. hearings on S.J. Res. 1, 8 and 18 completed Feb. 10; mark-up not yet scheduled.   | Jud. Subcte. on Monopolies and Commercial Law hearings on H.J. Res. 33, 118 and 350 not yet scheduled.                  |   |  |                |
| (e) Hatch Act changes.   | Gov. Aff. Cte. hearings on S. 80 not yet scheduled.   | H. debated H.R. 10 May 18, 1977; bill withdrawn from floor, not yet rescheduled.  |   |  |                |



STATUS OF MAJOR MESSAGES AND COMMUNICATIONS OF THE PRESIDENT, 95TH CONG., 1ST SESS., BY SENATE DEMOCRATIC POLICY COMMITTEE,  
ROBERT C. BYRD, CHAIRMAN, AS OF MAY 27, 1977—Continued

| Message or communication title, bill No.   | Senate action  | House action  | Conference or other action               | Date approved   | Public Law No. |
|--|--|---|--|---|----------------|
| PM 56 (Mar. 23, 1977): Drought Assistance:   |  |   |  |   |                |
| (a) EDA Emergency Water system improvement: S. 1279.   | P/S May 11, 1977.  | P/H May 17, 1977.   |  | May 23, 1977.   | 95-31          |
| (b) FHA Emergency water system improvement and Southwest Power assistance to irrigators on Fed. Reclamation Bureau projects. |  |   |  | In H.R. 4877 Supplemental App., 1977, Public Law 95-26. |                |
| (c) SBA drought assistance loan program: H.R. 692.   | P/S amended May 19, 1977.  | P/H Feb. 9, 1977.   | H. conferees not yet named.              |   |                |
| (d) Water Bank objectives: S. 925.   | P/S Mar. 15, 1977.   | P/H amended Apr. 4, 1977.   | S. agreed to H. amendments Apr. 4, 1977. | Apr. 7, 1977.   | 95-18          |
| (f) Transfer of emergency livestock feed program.  | S. agreed to Humphrey amendment to S. 275 (Farm bill) which P/S May 24, 1977.  | H.R. 4295 in full Cte. (President no longer supports because of Subcte. amendments).  |  |   |                |
| PM 64 (Apr. 6, 1977): Agency for Consumer Advocacy.  | S. 1262 on S. Calendar (Cal. No. 143).   | H.R. 6805 on Union Calendar (Cal. No. 183).   |  |   |                |
| PM 71 (Apr. 25, 1977): Health Care System Improvements:  |  |   |  |   |                |
| (a) Hospital Cost Containment Act.   | Human Res. Subcte. on Health hearings on S. 1391. May 24, 26.  | Joint hearings held on H.R. 6675 complete; Ways and Means Health Subcte. mark-up to be scheduled end of June; Inter. and For. Comm. Cte.—no action scheduled.                   |  |   |                |
| (b) Child Health Assessment Program.   | Finance Committee hearings on S. 1392 not yet scheduled.   | Inter. and For. Comm. Subcte. on Health hearings on H.R. 6706 scheduled last week in June.  |  |   |                |
| PM 74 (Apr. 27, 1977): Nuclear Non-proliferation Policy.   | Gov. Aff. Subcte. on Energy mark-up on S. 1432 in June; For. Rel. Subcte. on Arms Control hearings June 8, 15, 23; Energy Cte. hearings June 10. | Int. Rel. Subcte. on Inter. Econ. Sec. and Scientific Aff. and Subcte. on Inter. Econ. Policy and Trade joint hearings on H.R. 17, H.R. 4409, H.R. 6910 (Adm. bill) May 19, 26. |  |   |                |
| EC 1246: Energy Policy:  |  |   |  |   |                |
| (1) Pricing, Regulatory and Non-Tax (S. 1469).   | Energy Cte. hearings on May 18 on economic impact.   | Commerce Cte. hearings in progress on H.R. 6831; Subcte. mark-up June 2; Full Cte. mark-up June 21 through July 13; Banking Subcte. on Housing hearings May 23-26.              |  |   |                |
| (a) Natural Gas.   | Energy Cte. to hear testimony from Adm. June 7, 13, 14.  | do.   |  |   |                |
| (b) Conservation.  | Energy Cons. and Regul. Subcte. hearings June 21, 22.  | do.   |  |   |                |
| (c) Supply.  | Energy Prod. and Supplies Subcte. hearings on strategic reserves June 9, 10; Coal Conversion—mark-up S. 977 June 15, 16.                         | do.   |  |   |                |
| (d) Utility Rates.   | do.  | do.   |  |   |                |
| (2) Tax Provisions (S. 1472).  | Finance Subcte. on Administration of the I.R.S. Code to hold hearing June 6, 27 on the administrative difficulty of anticipated tax revenues.    | Ways and Means Cte. hearings on H.R. 6831 May 16 through June 1.  |  |   |                |
| PM 78 (May 3, 1977): Ethics in Government.   | Gov. Aff. Cte. repts. S. 555 May 16 (S. Rept. 95-170).   |   |  |   |                |
| PM 79 (May 9, 1977): Social Security Trust Funds (Draft leg. not yet received).  | Ref. to Finance Cte.   | Ways and Means Soc. Sec. Subcte. has held a hearing.  |  |   |                |
| Message (May 23, 1977): Genocide Convention ratification.  | For. Rel. Cte. hearings May 24, 26.  | No action needed.   |  |   |                |
| PM 83 (May 23, 1977): Environmental Protection.  | Jointly ref. to Env., Pub. Wks., Agri., Banking, Commerce, For. Rel., Govt. Aff., and Human Resources Ctes.                                      | Ref. to Interior Cte.   |  |   |                |

# STATUS OF PRESIDENT'S ENERGY BILL: EXECUTIVE COMMUNICATION 1246 AS OF MAY 27, 1977

(95th Congress, 1st Session)

(By Senate Democratic Policy Committee, ROBERT C. BYRD, Chairman)

|   | Senate action   | House action  |
|---|---|---|
| Pricing, Regulatory and non-tax provisions (S. 1469, H.R. 6831) | Energy Cte. hearings on May 18 on economic impact.    | Commerce Subcte. on Energy hearings in progress.  |
| (a) Conservation  | Energy Cons. and Regul. Subcte. hearings June 21, 22. |   |
| Utility Insulation  | Energy Cons. and Regul. Subcte. hearings June 21, 22. | Energy Subcte. held hearings May 9, 10; Subcte. mark-up scheduled June 2; Commerce Cte. mark-up scheduled June 21.    |
| Residential Provisions  | Energy Cons. and Regul. Subcte. hearings June 21, 22. | Banking Subcte. on Housing hearings May 23-26; Commerce Cte.—no action scheduled.                                     |
| Appliance and Automobile Efficiency                             | Energy Cons. and Regul. Subcte. hearings June 21, 22. | Energy Subcte. held hearings May 11; Subcte. mark-up scheduled June 3; Commerce Cte. mark-up scheduled June 22.       |
| School and Hospital Conservation                                | Energy Cons. and Regul. Subcte. hearings June 21, 22. | Energy Subcte. held hearings May 16; Subcte. mark-up scheduled June 6.  |
| Federal Vanpooling program                                      | Energy Cons. and Regul. Subcte. hearings June 21, 22. | Government Operations Subcte. on Government Activities and Transportation to hold hearings within the next two weeks. |
| Solar heating and cooling in Federal buildings                  | Energy Cons. and Regul. Subcte. hearings June 21, 22. | Public Works and Transportation Subcte. on Public Bldgs. and Grounds to hold hearings within 30 days.                 |

|                                     | Senate action   | House action  |
|-------------------------------------|---|---|
| (b) Natural Gas                     | Energy Cte. to hear testimony from Adm. June 7, 13, 14.   | Energy Subcte. hearings scheduled May 12, 13, 17, 18; Subcte. mark-up scheduled June 7-9; Commerce Cte. mark-up scheduled June 28-30.             |
| (c) Supply (Coal Conversion)        | Energy Prod. and Supplies Subcte. hearings on strategic reserves June 9, 10; Coal Conversion mark-up on S. 977 June 15, 16.   | Energy Subcte. hearings scheduled May 25-27; Subcte. mark-up schedule June 15-17; Commerce Com. mark-up scheduled July 11-13.                     |
| (d) Public Utilities                | No action scheduled.  | Energy Subcte. hearings scheduled May 19, 20, 23, 24; Subcte. mark-up scheduled June 10, 13, 14; Commerce Com. mark-up scheduled June 23, 24, 27. |
| Tax provisions (S. 1472, H.R. 6831) | Referred to Finance Cte. Subcte. on Administration of the Int. Rev. Code to hold hearings June 6 and June 27 on the Administrative difficulties of anticipated energy tax revenues. | Ways and Means Cte. hearings from Adm. May 16-17; from general public May 18-June 1.  |

### THE LEGISLATIVE WORKLOAD AHEAD

Mr. ROBERT C. BYRD. Mr. President, looking down the road and contemplating the very sizable workload that confronts the Senate between this date and the hoped-for October 8 adjournment, I call attention to the fact, as everyone knows, that, following the Memorial Day holiday, there will be only 4 workweeks prior to the July 4 Independence Day nonlegislative day period, following which there will be only 4 workweeks prior to the August recess, which is mandated by law.

When the Senate reconvenes on September 7, there will be only 4½ weeks prior to the hoped-for October 8 adjournment date. All of this adds up to a total of only 12½ weeks in which Senate floor sessions will be held between the Memorial Day holiday, upon which we are about to enter, and the hoped-for October 8 adjournment.

Aside from the energy bills which have been made top priority, and which will involve some controversy and require some time, there is a very heavy workload of other measures, many of which must be enacted before the Senate can adjourn for the year, and a good many of which will be time-consuming.

I shall cite just a few examples:

S. 1523, the housing authorization bill; S. 252, the Clean Air Act; S. 1529, rivers and harbors; H.R. 6262, international financial institutions; S. 1520, bilateral development assistance; H.R. 6689, foreign relations authorization; 13 regular appropriation bills which fund every Department of the Government; the September budget resolution, which is mandated under the Budget Reform Act; water pollution legislation: social security financing; a Canadian pipeline treaty, in all likelihood; Mexican and Canadian prisoner exchange treaties, in all likelihood; minimum wage legislation; S. 717, the mine safety bill; S. 1538, the black lung bill.

By no means, however, do the foregoing constitute the exclusive list. I merely cite these few measures to indicate the nature of the extremely heavy workload ahead. There may also be a SALT Treaty and there may be a Panama Canal Treaty before the session ends.

These are just a few of the major legislative and executive matters which lie

ahead of us before the Senate's work will end this year.

In view of the situation we are up against, Mr. President, it will be absolutely necessary to have some lengthy daily sessions and some Saturday sessions if we are to make the October deadline. Obviously, the October target date will depend upon our success in dealing with this workload.

Keeping in mind that energy legislation is of the highest priority, at some point not too far down the road—soon, as a matter of fact—it will be necessary to stop committees from meeting during Senate sessions—except the first 2 hours of a Senate session, but not after 2 o'clock p.m. in accordance with the Stevenson resolution, enacted earlier this year.

Of course, there are certain committees that have standing authorizations to meet without consent: the Committee on Appropriations and the Committee on the Budget. And there are other committees that will need to be given consent. Of course, any Senator may object to such consent. But they are the committees that will deal with the energy legislation: Senator Jackson's Committee on Energy and Senator Long's Committee on Finance.

I feel it necessary to strongly urge all Members to keep themselves available as much as possible for Senate floor action from here on out. It will just not be possible to hold up Senate floor action because of the absence of Members. I urge my colleagues, most respectfully, therefore, that all Members keep this necessity in mind before committing themselves to engagements that will otherwise take them away from the floor during workdays, evenings, and Saturdays included. Saturday sessions will be held to the barest minimum. I cannot say at this time when such Saturday sessions will have to occur, but obviously, at some point between now and October, some Saturday sessions may be unavoidable. Of course, the likelihood increases as the Senate nears a nonlegislative day period, naturally.

During the first 5 months, and in accordance with my commitment at the beginning of the session, I have meticulously sought to avoid rollcall votes prior to 12 noon and, whenever possible, to avoid convening the Senate prior to 12 noon. As a matter of fact, only seven roll-

call votes have occurred prior to noon to date this year, and the Senate has, to date, convened prior to 12 noon only 28 times out of 81 days of session.

Of the remaining 53 days of session, the Senate has convened at noon 18 times and has convened at hours subsequent to the noon hour 35 times—which is something quite unique, may I say, Mr. President? During the past 20 years, the Senate has convened subsequent to the hour of noon only four times. During the past 10 years, the Senate has convened subsequent to the hour of noon only twice. The Senate, this year, however, to date, already, has convened subsequent to the noon hour—subsequent to the noon hour—35 times; often at 1 o'clock p.m., 2 o'clock p.m., 3 o'clock p.m., 4 o'clock p.m., and so on. I have tried to live up to my commitment as best I could, but the time has come, now, when the Senate will have to come in prior to noon more often to deal with the calendar workload.

Mr. President, in closing, I express my appreciation for the absolutely splendid cooperation that I have received from the distinguished minority leader. He has been most understanding and helpful and supportive. It has been a pleasure to work with him and with the distinguished minority whip (Mr. STEVENS).

Mr. STEVENS, by the way, is the ranking member on my Appropriations Subcommittee on the Department of the Interior and he is, in fact, my right arm in the conduct of committee hearings and the handling of the bills that pass through that subcommittee.

I also express my gratitude for the fine cooperation that all Senators have given to date. Without this cooperation, the leadership is "bound in shallows and in miseries." But with that kind of cooperation, the Senate has been able to make a fine record thus far.

I respectfully ask the indulgence, the understanding, the patience, and the continued cooperation of all Senators with the leadership when the necessity arises for the leadership to schedule measures at times which will, perhaps, inconvenience individual Senators, but which will be necessary for the convenience of the Senate—and, therefore, all Members thereof—in meeting the hoped-for October adjournment.

I yield the floor. I say to the very, very distinguished Senator from Minnesota,



former Vice President of the United States, and a truly great American, I thank him for his indulgence and his patience. I have been trying to say a few things here that will explain the reasons for scheduled nonlegislative day periods, what the responsibilities of Senators are, and Members of the House, in the utilization thereof, and why we have to have them.

I have also stated for the record the enumeration of the bills and resolutions that have been enacted by the Senate already this year. In so doing, I have also pointed out the workload that is ahead of the Senate, calling attention of Senators to the fact that we are going to be busier down the road, as far as Senate floor activity goes, than we have during the first 5 months.

May I say in closing, referring to my friend, the distinguished Deputy President pro tempore of the Senate, that I value the very strong support that he has given to me throughout the days of this session. I value the advice and counsel that he has given. He has been a pillar of strength for the leadership and I am very grateful for it.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Minnesota.

#### TRIBUTE TO THE MAJORITY LEADER

Mr. HUMPHREY. I thank the Chair.

First, I commend our majority leader on his report of the Senate to the Nation and to add that, in my many years here, in the Senate, I have never had the privilege of working with a leader that was so considerate of the Members of this body and was so willing to consult with his colleagues on both sides of the aisle as the distinguished Senator from West Virginia, our majority leader. I say that with great sincerity.

It has been a joy to work with you, Senator BYRD, and I believe that we are going to have a splendid record by the time we are through with this 1st session of the 95th Congress.

Of course, we all know, those of us that serve in this body, that you judge a Congress by the two sessions of the Congress. We shall have a very heavy workload the balance of this year, with the emphasis upon needed energy legislation and what some people call the routine items of legislation, which, in fact, are anything but routine; for example, the appropriations bills, which are highly contentious; the number of bills that are reauthorizations of existing legal authority; and besides that, we have, as the majority leader has pointed out, a standing number of new pieces of legislation that need to be enacted.

I think the Senate should know that our majority leader has met repeatedly with the chairmen of the committees of the Senate. He has met with the Policy Committee more often than I can ever recall. He has also convened the conference of the majority party on more occasions than at any time in my experience.

I mention that because I have been here—with the exception of 4 years as Vice President, when I was the Presiding Officer, and 2 years when I was sent

home to pasture as the result of the election of 1968—every year since 1949.

I have seen a number of leaders, we have had some great ones, and each one in his own way put his stamp or imprint of his style and character upon this body.

The Senator from West Virginia, without a doubt, is the most prodigious, hard-working, efficient, able and considerate leader that this Senate could ever have.

I mean that and I want him to know it.

We also appreciate the cooperation, of course, of the minority because without it this body cannot operate. We cannot operate in a constant stage of political war. It is impossible.

Likewise, we need to know how to cooperate between the executive and the legislative.

By and large, I think that has worked well. It is inevitable that there will be differences. That is the nature of our system. That is one of those unique purposes, to have the ventilation of ideas and not to have a sense of unanimity when there are really differences of view.

This is what we mean by a separation of powers. This is what we mean by the three branches of the Government, the checks and balances.

I realize that at times the so-called arguments between majority and minority, the arguments between executive and legislative, seem to make the headlines. But that is the nature of our system. It is one of competition. At times it becomes one of confrontation. But most of the time, it is one of constructive cooperation.

It takes a great deal of patience to be a legislator and it must take a great deal of patience to be a President, working with a strong-willed legislative body.

But today I am convinced we have an extraordinarily able President who wants to work with us. I know we have leadership in the Senate and the House that will walk the extra mile to accomplish the common good and the common goals of the administration.

#### EXPRESSION OF THANKS TO SENATOR MATSUNAGA

Mr. President, I also want to express my thanks to the present Presiding Officer of the Senate for a statement he made earlier today.

I was not here at that moment, but word has reached me that the distinguished Senator from Hawaii (Mr. MATSUNAGA) had some nice things to say about me on my birthday.

He recalled our trip to Korea together. He recalled how I rescued him from being snatched away, so to speak, and taken off with the Japanese delegation.

That is one of the good acts of my life and out of that has come a great friendship.

I say to the Senator how pleased I am to see him here in this body. He makes a fine looking presiding officer. He has distinction, quality, all of those characteristics that make us proud of him as he presides over this body.

The PRESIDING OFFICER. The Chair will state this, that he does not think so, but what is his opinion against the opinion of the senior Senator from Minnesota.

Mr. HUMPHREY. Again, may I say that the Senator from Hawaii has shown his unusual capacity to make sound judgment.

#### TRIBUTE TO THE MAJORITY WHIP

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Minnesota.

I also want to take occasion to thank the distinguished majority whip (Mr. CRANSTON) who has worked very closely with the leadership, with the Deputy pro tempore, the President pro tempore, and with the majority leader.

In all of our conferences with the chairmen, the policy committee, and in our party conferences, the majority whip is able, he is diligent, he is cooperative and most helpful. I want to express my gratitude and my commendations with respect to ALAN CRANSTON's work as the majority whip.

#### TRIBUTE TO SENATOR INOUE

I also want to thank DAN INOUE, who is the secretary of the Democratic Conference, who, too, does a fine job. He is chairman of the Intelligence Committee, also, and is also a very able member of the Appropriations Committee, and works there very diligently.

#### BIRTHDAY GREETINGS TO SENATOR HUMPHREY

Finally, I want to congratulate the distinguished Senator from Minnesota (Mr. HUMPHREY) on his birthday, which occurred earlier this week.

Mr. HUMPHREY. No. It is today.

Mr. ROBERT C. BYRD. It is today?

Mr. HUMPHREY. Today.

Mr. ROBERT C. BYRD. Well, today.

Edmund Burke, I believe, said:

Providence raises a nation to greatness through the virtues of her great men.

I think that HUBERT HUMPHREY, a truly great American, has added much luster to the greatness of America.

I want to say that in all my years of service with Senator HUMPHREY I have found him to be a man who is clean on the inside and clean on the outside; a man who neither looks up to the rich nor down on the poor; a man who is considerate of widows and orphans and old people; a man who is too generous to cheat and too industrious to shirk and who believes in working for his share of the world's goods and letting other people work for theirs.

He is truly an American gentleman.

Mr. HUMPHREY. I want to thank the leader very much. It is generous of him.

#### SENATE ACHIEVEMENTS—THE MINORITY VIEW

Mr. HATCH. Mr. President, I would be somewhat remiss if I did not take this opportunity, on behalf of the minority, to thank the distinguished majority leader for his kind words concerning the minority and its cooperation and the minority leadership and their cooperation. I am sure that they feel equally as impressed with the great work and service that our distinguished majority leader has rendered to the Senate during this term, thus far.

I wish to give some perspectives of a freshman Senator who has only been in the Senate 5 months now.

Anyone who thinks that this body is not a hard-working body should follow the majority leader around for a day, or any number of us Senators, including the distinguished Senator from Minnesota. I have seen him everywhere. In fact I have seen him more sometimes than I wanted to see him. Not really. But you have been everywhere in this Senate and you take your duties seriously.

And our majority leader, I think, could not be any better. I have been impressed with many of the late nights we have been here. That has been a good experience. I believe in that. I think we can accomplish great things together. I believe that the minority has deep respect for the leadership on both sides. And you have our cooperation and our desire to cooperate in every way that we can in those matters that are beneficial to this country. We will have differences, as our wonderful Senator HUMPHREY has said. But that is the way this country became great and is great because of differences in the refinements that occur as a result of this great legislative process with the right to debate.

#### BIRTHDAY GREETINGS TO SENATOR HUMPHREY

I wish to say a couple words about my dear friend and colleague who is presiding over the Senate, HUBERT HUMPHREY. Today is your birthday.

The DEPUTY PRESIDENT pro tempore. That is correct.

Mr. HATCH. I just want to let you know that I hope that you have many, many more birthdays and many in the service of this country because again, in the perspective of a freshman U.S. Senator and as a minority, a Member of the minority, as a Republican, I want to tell you I believe you are one of the greatest men who has ever sat here. I think that you are not only a man of great integrity but a man of great depth, foresight, ability to forensically tell it the way it is in many ways, and I think a person in whom I have a great deal of confidence and for whom I have a great deal of love. That is not to say that we agree on everything together. As you know we disagree on many things. But I know one thing: You are a very sincere and dedicated public servant, and I give you great credit for that.

Last but not least I wish to say a few words about JOHN STENNIS. He is not here, and that is just fine with me. But I have learned to know Senator STENNIS in the Senate prayer breakfast every Wednesday morning, and he is truly a statesman and one of the great leaders here in the Senate.

And I think I would be remiss again if I did not mention that inasmuch as we are about to recess for this short recess. I feel it is an honor to serve with you men. I hope we will have many years together within which we can cooperate for the benefit of this great country in many ways that none of us contemplated up to now.

With that, I simply give my respect to you and again thank you on behalf of the minority.

The DEPUTY PRESIDENT pro tempore. May the Chair just very briefly say a very sincere and heartfelt thank you,

distinguished Senator, who is my friend. I appreciate your words.

Mr. HATCH. Thank you.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

I feel that our new Members are to be congratulated. We have found them to be hard-working on both sides of the aisle, and they add a new perspective and a new dimension. We are the better for the contributions that are made by our new Members. I am very grateful for the kind words that have been stated by the distinguished Senator from Utah, and I am glad that he also mentioned our colleague Mr. STENNIS.

Mr. STENNIS had been in the Senate quite a while when I came to the Senate, and I found him to be an inspiration to me. Here is a man who looked like a Senator, talked like a Senator, acted like a Senator ought to act, and he is one of the men for whom I will always have the greatest of respect and admiration.

Mr. President, I am going to put in a final quorum. If no Senator indicates by telephone that he wishes to have the floor we will shortly recess.

I suggest the absence of a quorum.

The DEPUTY PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The DEPUTY PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the distinguished majority leader for reiterating the arrangement and sequence of events. As one Member on this side said after reviewing that list this morning, "Gosh, that may take 2 or 3 days." [Laughter.]

I think that is, however, a very, very good precedent, to try to arrange the sequence of events, and I was pleased to work with the majority leader in trying to do that, so that the Members on both sides of the aisle could have a good accounting of what the agenda would be. Even though we do not have agreements for time limitations and the like, I think it serves everyone's good purposes to know in advance what the agenda is going to be.

I agree with the majority leader that in view of the circumstances, and the possibility, although it may be a remote possibility, that the housing bill will be finished before we are qualified to turn to the Clean Air Act, we would find some other business to turn to, and I would join him in that ambition.

#### HAPPY BIRTHDAY TO SENATOR HUMPHREY

Mr. President, I take this opportunity, now, to congratulate the distinguished occupant of the chair—the Deputy President pro tempore, Mr. HUMPHREY—on an important time, and that is the celebration of this natal day, his birthday. I am sure I speak for every single Member on this side of the aisle when I not only wish him a happy birthday and many happy returns of this day, but to say that we look forward to celebrating with him today and on other birthdays.

I watched with great interest on the Today show this morning as they presented the distinguished Deputy President pro tempore with a birthday cake. He seemed to enjoy that celebration, as we did vicariously while watching it.

So, Mr. Vice President, we share with you your joy on this occasion.

The DEPUTY PRESIDENT pro tempore. The Chair wishes to express appreciation for the Senator's kindness.

Mr. HATCH. Mr. President, I am sure you will be interested to know at this time that a number of our Republican pages wish to enter into the RECORD the following statement:

We the Republican pages of the U.S. Senate respectfully wish Senator Humphrey a happy birthday.

Karlis Streips, Mark Jaffe, Kim Brower, Steve Karbowski, George Cartagena, Velda Davies, James Westbrook, Mark Robertson, Bob Fourtellotte, Paul Pacheco, Grady Jordan, David Tulanian.

The DEPUTY PRESIDENT pro tempore. The Chair surely wants to express his thanks to his wonderful young friends. I wish each of you, at your time, a happy birthday as well.

Mr. ROBERT C. BYRD. Mr. President, I feel that is a very generous and thoughtful thing for the Republican pages to do. We have not seen that occur previously, I do not believe, in my 19 years in the Senate; and I am not going to recess the Senate until the pages on the Democratic side have had an opportunity to do likewise. [Laughter.]

I think it is a remarkable and very thoughtful and considerate thing for the Republican pages to do. They certainly have set a fine example. It just goes to show what fine young people we have here in the Senate, helping us to help our constituents.

Ah, great it is to believe the dream  
As we stand in youth by the starlit stream,  
But greater still to live life through  
And find at the end that the dream is true.

The DEPUTY PRESIDENT pro tempore. The Chair forgot to note this morning that the majority leader is also a poet. He has so many talents.

Mr. BAKER. Mr. President, if the Chair will permit—

The DEPUTY PRESIDENT pro tempore. Yes.

Mr. BAKER. We would like to take note that the Democratic leader not only is a poet of great keenness and accuracy, but he is also a musician of great accomplishment.

I would like to say, just to underscore the remarks of the majority leader, that I was not aware the Republican pages were going to do that, and I congratulate them on their thoughtfulness. It was not a prompted thoughtfulness; they did it on their own.

The DEPUTY PRESIDENT pro tempore. The Chair recognizes the distinguished Senator from West Virginia for whatever time he would like to use, as he awaits the results of the commission just a few moments ago.

#### THE VIRTUOSO

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader has a



continuing event down in his great State of Tennessee. It is the Grand Old Opry.

Going back to my boyhood years in the coal mining towns of southern West Virginia, when all that we had for recreation was the radio—I can remember the first radio I ever saw, which was on the occasion of the second Dempsey-Tunney prize fight. I was disappointed because Dempsey did not win. I have told our former colleague John Tunney that, and I told his father, Gene Tunney that on one occasion. I went away that night 50 years ago a disappointed lad because Jack Dempsey did not win. I was also disappointed because I did not get to listen to the fight. There was only one set of earphones for that radio.

Later we were fortunate enough to have electricity in our house, and we finally were able to get a radio. I believe it was an old Philco, Atwater Kent, Majestic, or some such, and on Saturday nights we would listen to the Grand Old Opry. There was the solemn old judge, and there was Roy Acuff, and Uncle Dave Macon, the Fruit Jar Drinkers, and Arthur Smith and his Dixieliners. I will never forget Arthur Smith and his Dixieliners and how he would play "Listen to the Mockingbird" on the violin.

This brings to mind a story that I read in yesterday's great Washington afternoon paper, the Evening Star, which said Washington people were going to get tired of Senator BYRD's renditions of "Rye Whisky" and "The Cumberland Gap."

Well, for the benefit of that distinguished and able reporter, those two tunes do not constitute my total repertoire. The next time, I hope that gentleman will just walk up to me when I have that violin, so that I will know he is present, and I will dedicate to him Arthur Smith's number, "Listen to the Mockingbird," or I will play for him "Sally Good'in"; or "Turkey in the Straw"; or "Will the Circle Be Unbroken?" or President Carter's favorite selection, "Amazing Grace"; or that old fiddling tune called the "Forked Deer"; or the "Mississippi Sawyer"; or "Soldier's Joy"; or the "Arkansas Traveler"; or "Old Joe Clark"; or "Fire in the Mountain"; or the "Black Mountain Rag"; or "Bill in the Low Ground"; or "Chicken Reel"; or "Swing Low, Sweet Chariot"; or "When You and I Were Young, Maggie"; or the "Old Time Religion"; or the "Roving Gambler"; or "Cottonseed Joe"; or the waltz, "Over the Waves."

I could go on, and I could just fiddle on and on and on and on. It is the only hobby I have, Mr. President, and I do not confine it to the two tunes, Rye Whisky and Cumberland Gap, as I shall demonstrate, upon the next occasion that I play in this great city.

Let me say further that I always carry my fiddle with me—or almost always—but I never take it into a crowd unless I am invited to do so, and when they invite me to come, I play what I want to play. If I want to play Rye Whisky, I play Rye Whisky; if I want to play Little Brown Jug, I play Little Brown Jug;

if I want to play Old 97, or She'll Be Coming Round the Mountain, I play those tunes. I am my own vocalist, and I charge no fee for my music.

I am ready to play anytime, anywhere, and almost anything on that violin. It used to be that I would bore people with classical music. I had some little exposure to Beethoven, Bach, Mozart, and Chopin; and I used to hear about Fritz Kreisler.

But, Mr. President, as the most famous fiddler ever to come out of West Virginia, I always tell the people of West Virginia that they have always had, five friends: God Almighty, Sears Roebuck, Carter's Little Liver Pills, the Democratic Party, and Robert C. Byrd. [Applause.]

So, to the able and fine reporter who said that the people of Washington would soon get tired of hearing Rye Whisky and the Cumberland Gap, I have listened to those tunes now for almost 50 years I have been playing on that fiddle.

Incidentally, I have more than one fiddle. I have several violins. They have about all been given to me over the years. An auctioneer once gave me a violin. I go here and go there in West Virginia and the people give me violins. They know I like to play, and they like to hear my renditions. I have been playing around with the violin for 49 years and I have not yet gotten tired of listening to Rye Whisky and the Cumberland Gap—especially when I play them.

I say all this in the best of humor, but let the Record not leave the impression that I can only play those two numbers. I want the Record to be clear.

Mr. BAKER. Mr. President, I am sure all of us have profited by the recent story in the Washington Star, which has unleashed a torrent of retaliation. I commend the distinguished majority leader. I listened in rapt attention as he recited his earliest experiences with radio and the Grand Ole Opry, which, of course, originates in Nashville, Tenn.

I would share with the Chair and with my colleagues in the Senate the fact that the distinguished majority leader is not only a great public servant, and obviously a great musician with an extensive repertoire, but he has also been invited to perform at his pleasure at any time on the Grand Ole Opry.

I want to say further, Mr. President, that if and when he accepts that invitation, it would be my pleasure to take him to my State, to assure him of safe conduct, to present him to that distinguished audience, and to make sure that a lot more people will hear him now than heard him then. The only regret and fear I have is if the entire country is regaled with his musical prowess we might lose him from the field of public service to the field of entertainment.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

I would say, in closing, that I am sure the people of the United States would not begrudge my earning a salary of \$57,500 as a Senator for playing "Rye Whisky" and "Cumberland Gap."

The DEPUTY PRESIDENT pro tempore. We accept that judgment. I think that would be unanimous.

Mr. ROBERT C. BYRD. We may hear some objections to the salary being paid to me as a Senator, but when it comes to playing that fiddle, they tap their feet and they will not object to that salary for a good mountain fiddler.

HAPPY BIRTHDAY TO SENATOR HUMPHREY

Now, Mr. President, on our side of the aisle, our Democratic pages, not to be outdone by the fine Republican pages, wish to join their Republican page friends in most respectfully wishing a happy birthday to Senator HUMPHREY.

This greeting is signed Jeff Dickerson, Cindy McNair—you know, there is an old tune I play called "Get Along Home, Cindy" [laughter]—Estelle Grant—and there is another one I play, "There's More Pretty Girls Than One" [laughter].

Oh, I must say to the Senator in the Chair, the distinguished presiding officer is celebrating his birthday today. If it is the good Lord's will, the day after tomorrow my wife and I will celebrate our 40th wedding anniversary, which recalls this little story to mind:

I could not afford any candy and chewing gum when I was a lad going to high school. I wore blue denims because I had nothing else. They had patches in the rear. There was a boy in my class whose name was Julius Takach. His father was a grocerman. This was back in the thirties, the depression. Julius would always bring to school some candy and chewing gum from his father's grocery. I always made it a point to be the first to greet Julius at the schoolhouse door upon his arrival, because he would always give me a handful of candy and chewing gum. But I did not chew the gum, and I did not eat the candy. When the classes changed, I gave that candy and chewing gum—of course, I did not tell her I had gotten it from Julius Takach; I let her feel I had bought it—I gave that candy and chewing gum to my high school sweetheart. That is what you call courting your girl with another boy's bubble gum. [Laughter.]

On Sunday she is going to enjoy her 40th wedding anniversary with that same boy who used to give her the candy and the chewing gum when the classes changed at school a long time ago. Now to continue reading the names of pages: Paul Souler, Al Motivans, Bob Bean, Steve Miller, Todd Manzi, Bob DeConcini, Perry O'Neill—that is a familiar name—Keith Macy, John Harris, David Watson, Brooks Mosely, John Mobley, Bill Norton, Edward Hartzog, and Justin Biedeman.

I thank all of the Democratic pages. The DEPUTY PRESIDENT pro tempore. May I say to the leader how grateful I am to the Democratic pages for their good wishes and to our young friends on the other side, the Republican side. I consider this a high honor. There is only one other high honor I had, and I thought it was almost the best, when I was made an honorary student of Georgetown. I have many honorary degrees, but to be made an honorary

student, that is something. Now to be wished a happy birthday by this young group, bright, scintillating, active, charming, brilliant young people, makes me feel 10 years younger. I would like to be 15 years younger. I thank the pages very much.

Mr. ROBERT C. BYRD. Mr. President, I join with the distinguished Deputy President pro tempore in thanking our pages.

#### PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 12:30 p.m. on Monday, June 6. The two leaders will be recognized under the standing order, after which there will be a period for the transaction of routine morning business of not to exceed 30 minutes with statements limited therein to 5 minutes.

Upon the conclusion of routine morning business, the Senate will take up the housing bill, S. 1523. There is a time agreement on that bill and rollcall votes will undoubtedly occur on Monday, June 6. It is possible and certainly hoped that the action by the Senate will be completed on that measure that day. If not, the continuing action will go into the day of Tuesday.

Upon the disposition of the housing bill but not before Wednesday, June 8, the Senate will take up the Clean Air Act, S. 252, on which there is also a time agreement.

Following the Clean Air Act, the Senate will take up S. 1340, the bill authorizing appropriation for ERDA. Following the disposition of that measure the Senate will take up the bill, H.R. 5262, an act to provide for increased participation by the United States in the International Bank for Reconstruction and Development. That will be followed by the bill to amend the Foreign Assistance Act of 1961, S. 1520.

Following the disposition of S. 1520, the Senate will take up S. 1160, a bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act. Then the Senate will proceed to the consideration of H.R. 6689, to authorize fiscal year 1978 appropriations for the Department of State. That will be followed by H.R. 6179, an act to amend the Arms Control and Disarmament Act.

Upon the disposition of that measure the Senate will take up the bill, S. 717, the mine safety bill. That will be followed by S. 1529, the omnibus rivers and harbors bill. Then the Senate will take up S. 1539, a bill to authorize appropriation for fiscal year 1978 for intelligence activities, and that measure will be followed by S. 208, the Urban Mass Transportation Act.

These measures, Mr. President, have by unanimous consent on yesterday been locked in as to the sequence in which they will be taken up. It is the understanding, however, that if on Monday, June 6, the Senate were to complete action on the housing bill, I have assured the distinguished minority leader—and he has in turn assured me of no objection, in view of the fact that the Clean

Air Act will not come up until Wednesday—that other measures cleared for action will be taken up in the interlude on Tuesday.

We thought it would be helpful if Senators would know the order in which these very important measures will be called up, and they can then plan accordingly.

This does not mean, of course, that other measures—including conference reports—may not be cleared for action and brought up at any time while we are working our way through the above-listed items.

#### RECESS UNTIL 12:30 P.M., MONDAY, JUNE 6, 1977

Mr. ROBERT C. BYRD. Now, Mr. President, to close this moment of high drama, I move, if there be no further business to come before the Senate, and in accordance with the provisions of House Concurrent Resolution 229, and out of further respect and admiration for the distinguished American whose birthday is today, HUBERT HUMPHREY, that the Senate now recess until the hour of 12:30 p.m. on the day of Monday, June 6, in the year of our Lord 1977.

The motion was agreed to; and at 12:49 p.m., the Senate recessed until Monday, June 6, 1977, at 12:30 p.m.

#### NOMINATIONS

Executive nominations received by the Senate May 27, 1977:

##### DEPARTMENT OF DEFENSE

Antonia Handler Chayes, of Massachusetts, to be an Assistant Secretary of the Air Force, vice Juanita Ashcraft, resigned.

##### DEPARTMENT OF JUSTICE

Virginia Dill McCarty, of Indiana, to be U.S. attorney for the southern district of Indiana for the term of 4 years, vice James B. Young, resigning.

James K. Robinson, of Michigan to be U.S. attorney for the eastern district of Michigan for the term of 4 years, vice Philip M. Van Dam.

#### CONFIRMATIONS

Executive nomination confirmed by the Senate May 27, 1977:

##### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Eleanor Holmes Norton, of New York, to be a member of the Equal Employment Opportunity Commission for the term expiring July 1, 1981.

##### DEPARTMENT OF JUSTICE

Robert L. Wright, of Kentucky, to be U.S. marshal for the western district of Kentucky for the term of 4 years.

##### DEPARTMENT OF DEFENSE

Robert L. Nelson, of the District of Columbia, to be an Assistant Secretary of the Army.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

##### IN THE AIR FORCE

The following officer to be placed on the retired list in the grade indicated under the

provisions of section 8962, title 10, of the United States Code:

##### To be lieutenant general

Lt. Gen. Walter T. Galligan, ~~xxx-xx-xxxx~~ FR (major general, Regular Air Force), U.S. Air Force.

The following officer, under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

##### To be lieutenant general

Maj. Gen. Benjamin N. Bellis, ~~xxx-xx-xxxx~~ FR (major general, Regular Air Force), U.S. Air Force.

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8926, title 10 of the United States Code:

##### To be lieutenant general

Lt. Gen. Sanford K. Moats, ~~xxx-xx-xxxx~~ FR (major general, Regular Air Force), U.S. Air Force.

##### IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

##### To be general

Gen. William Eugene DePuy, ~~xxx-xx-xxxx~~ Army of the United States (major general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

##### To be lieutenant general

Lt. Gen. Henry Everett Emerson, ~~xxx-xx-xxxx~~ Army of the United States (major general, U.S. Army).

##### IN THE NAVY

Vice Adm. Edwin K. Snyder, U.S. Navy, for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Adm. Daniel J. Murphy, U.S. Navy, for appointment to the grade of admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

##### IN THE MARINE CORPS

The following-named officers of the Marine Corps for permanent appointment to the grade of major general under the provisions of title 10, United States Code, section 5780:

|                    |                    |
|--------------------|--------------------|
| Warren R. Johnson  | William B. Fleming |
| Calhoun J. Killeen | Charles G. Cooper  |
| Edward J. Megarr   | John K. Davis      |

The following-named officers of the Marine Corps for permanent appointment to the grade of brigadier general under the provisions of title 10, United States Code, section 5780:

|                       |                         |
|-----------------------|-------------------------|
| Alexander P. McMillan | Dwayne Gray             |
| Vincente T. Blaz      | Albert E. Brewster, Jr. |
| David B. Barker       | Richard A. Kuci         |
| William A. Scott, Jr. | Ernest C. Cheatham, Jr. |
| Lawrence R. Seamon    | John V. Cox             |
| Thomas R. Morgan      | George B. Crist         |

The following-named officer of the Marine Corps Reserve for permanent appointment to the grade of major general under the provisions of title 10, United States Code, section 5911:

Hugh W. Hardy

The following-named officers of the Marine Corps Reserve for permanent appointment to the grade of brigadier general under the provisions of title 10, United States Code, section 5911:

John B. Hirt

Kenneth W. Weir



## IN THE AIR FORCE

Air Force nominations beginning Lee F. Bernhard, to be colonel, and ending Raymond E. P. Zimmerman, to be colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 13, 1977.

Air Force nominations beginning Randy D. Abele, to be second lieutenant, and ending Anthony Zych, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 13, 1977.

## IN THE ARMY

Army nominations beginning John C. Avampato, to be colonel, and ending Earl L.

Lucas, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 13, 1977.

## IN THE NAVY

Navy nominations beginning Albert J. Werr, to be lieutenant commander, and ending Richard N. Wiernik, to be lieutenant commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 13, 1977.

Navy nominations beginning George B. Foley, to be permanent lieutenant (j.g.) and temporary lieutenant, and ending John V. O'Connor, Jr., to be ensign, which nomina-

tions were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 13, 1977.

Navy nominations beginning Roy Vernon Aasen, to be lieutenant, and ending Marcella Rose Zettler, to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 13, 1977.

Navy nominations beginning Philip J. Aarons, to be ensign, and ending Kenneth M. McDonald, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 24, 1977.

## HOUSE OF REPRESENTATIVES—Wednesday, June 1, 1977

The House met at 12 o'clock noon. The Reverend Henry B. Luffberry, D.D., pastor, St. Paul's Lutheran Church, Washington, D.C., offered the following prayer:

Lord of time and eternity, the ancient psalmist prayed:

*So teach us to number our days that we may apply our hearts unto wisdom.—Psalms 90: 12.*

Since the convening of the 95th Congress 148 days have passed—days bright with challenge and achievement, days shadowed by disappointment and frustration. Help us evaluate honestly our progress, measuring humbly each completed task. Drive us in solemn conscience toward purposes not yet accomplished, missions perhaps not even realized. Fashion our days, Lord, into years of useful service to our citizens, our country, and our Creator. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 521) entitled "An act to amend the John F. Kennedy Center Act to authorize funds for the repair of leaks."

The message also announced that the Senate had passed with amendments, in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5101. An act to authorize appropriations for activities of the Environmental Protection Agency, and for other purposes;

H.R. 6010. An act to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes; and

H.R. 6138. An act to provide employment and training opportunities for youth.

The message also announced that the Senate insists upon its amendments to

the bill (H.R. 6138) entitled "An act to provide employment and training opportunities for youth," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NELSON, Mr. CRANSTON, Mr. HATHAWAY, Mr. RIEGLE, Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. KENNEDY, Mr. JAVITS, Mr. HATCH, Mr. CHAFEE, Mr. SCHWEIKER, and Mr. STAFFORD to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 275. An act to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes;

S. 682. An act to amend the Ports and Waterways Safety Act of 1972, to establish a program of oil pollution research, and for other purposes;

S. 1060. An act to amend the Act of February 9, 1821, to restate the charter of The George Washington University;

S. 1062. An act to amend section 441 of the District of Columbia Self-Government and Governmental Reorganization Act;

S. 1063. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act;

S. 1163. An act to permit States the reciprocal right to sue in the Superior Court of the District of Columbia to recover taxes due the State;

S. 1235. An act to further amend the Peace Corps Act; and

S. 1377. An act to extend the time for commencing actions on behalf of an Indian tribe, band, or group.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,

May 27, 1977.

Hon. THOMAS P. O'NEILL, JR.,  
The Speaker, House of Representatives,  
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted on May 26, 1977, the Clerk has received this date the following messages from the Secretary of the Senate:

That the Senate passed without amendment House Concurrent Resolution 162;

That the Senate agreed to the amendment of the House of Representatives to the amendment of the Senate numbered 7 to the bill H.R. 5040; and

That the Senate agreed to the amendment of the House of Representatives to the

amendment of the Senate numbered 2 to the bill H.R. 5308.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, JR.,  
Clerk, House of Representatives.

## DISCHARGING COMMITTEE ON POST OFFICE AND CIVIL SERVICE FROM FURTHER CONSIDERATION OF HOUSE RESOLUTION 36, HOUSE RESOLUTION 532, HOUSE RESOLUTION 533, AND HOUSE RESOLUTION 534, AND REFERRAL OF THOSE RESOLUTIONS TO COMMITTEE ON INTERNATIONAL RELATIONS

Mr. NIX. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of House Resolution 36, House Resolution 532, House Resolution 533, and House Resolution 534, and that such resolutions be referred to the Committee on International Relations.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

## PROVIDING FOR CONSIDERATION OF H.R. 6970, MARINE MAMMAL PROTECTION ACT AMENDMENTS

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 594 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 594

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6970) to amend the Marine Mammal Protection Act of 1972 with respect to the taking of marine mammals incidental to the course of commercial fishing operations, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries now printed in the bill as an original bill for the purpose

of amendment, and all points of order against said amendment for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, this is an entirely normal 1-hour open rule. The committee amendment recommended is to be considered as an original bill. There is a minor waiver on germaneness, and it provides for a motion to recommit with or without instructions.

Mr. Speaker, there was no controversy over the rule before the Committee on Rules. I understand that there is some controversy over the bill, however.

I therefore reserve the balance of my time, Mr. Speaker.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as stated by the gentleman from Missouri, House Resolution 594 is a 1-hour, open rule providing for the consideration of H.R. 6970, the Marine Mammal Protection Act Amendments of 1977. The rule makes in order the consideration of the committee substitute now printed in the bill as an original bill for purposes of amendment. Points of order are waived against portions of the legislation relating to requirements placed on foreign-flag vessels for failure to comply with clause 7 of rule XVI—the germaneness rule. Last, the resolution allows for a motion to recommit with or without instructions.

There was testimony before the Rules Committee, when this rule was being considered, to the effect that the U.S. tuna fleet has been idle since November of last year. Fifty thousand people are estimated to be out of work because a Federal judge interpreted the Marine Mammal Protection Act to mean that zero porpoise or dolphin could be taken incidental to the catching of tuna.

I am advised that the legislation soon to be before us is designed to alleviate this hardship by authorizing an incidental taking of marine mammals at a level of 78,900 for 1977 and 1978 and on a prorated basis in 1980. An observer program is provided which places an observer on all vessels of 400 tons or more from October 1, 1977, to March 31, 1979. A \$32 per dolphin fee is charged for each dolphin killed in excess of the industry kill factor, and such funds are to be used to help pay for the observer program.

The projected cost to the Federal Government for fiscal year 1978 for this legislation is approximately \$5 million.

Mr. Speaker, I am aware of some amendments that may be offered to the legislation under the 5-minute rule. However, I know of no objections to this rule; and I urge its adoption at this time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### PROVIDING FOR CONSIDERATION OF H.R. 6967, PEACE CORPS AUTHORIZATION FOR FISCAL YEAR 1978

Mr. DODD. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 600 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

##### H. RES. 600

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6967) to authorize appropriations for the Peace Corps for fiscal year 1978. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Connecticut (Mr. DODD) is recognized for 1 hour.

Mr. DODD. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT) for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 600 provides for the consideration of H.R. 6967, an act authorizing an appropriation of \$81 million for the Peace Corps for the 1978 fiscal year. The bill also authorizes to be appropriated for this fiscal period such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law.

House Resolution 600 is a simple open rule, providing for 1 hour of general debate.

Mr. Speaker, as an ex-Peace Corps volunteer, and I understand there are only two of us in the Congress, I would like to express to this House my sense of how vitally important the Peace Corps continues to be in today's world.

The Peace Corps remains one of this Nation's most noble endeavors in international relations, and it continues to deserve the support it has received from

Congress, and from the House International Relations Committee.

In the 16 years since it was founded by President Kennedy to inject "a torch of idealism" into the international development effort, the Peace Corps has weathered the same international forces that vastly altered the idealistic values of 1961.

The early Peace Corps tapped an American commitment to voluntary service in the name of national optimism, with its rising expectation for what dedicated Americans could accomplish both at home and abroad.

And despite dramatic changes in the world political environment since 1961, and a realization by this country that there are appropriate limits to even its great powers and capabilities, the mission of the Peace Corps to promote better understanding among the peoples of the world retains its unique importance.

The Peace Corps is one of the few U.S. Government programs abroad which places Americans in direct contact with the full social, economic, and cultural spectrum of citizens of other nations.

While other U.S. foreign policy efforts seek to improve conditions for the poor in developing countries, many Peace Corps volunteers are in daily contact with the poor as advisers, coworkers, and friends.

While cultural and educational programs encourage greater communication among nations, the Peace Corps reaches those individuals least likely to participate in traditional exchange efforts.

Mr. Speaker, like many other Federal programs, the Peace Corps is undergoing a period of reevaluation and revitalization under the new administration. It is expected that many improvements will be forthcoming.

The amount of money authorized in this bill—\$81 million—is the same amount authorized by Congress for fiscal 1977. But it is an amount which it is expected will provide some support for this revitalization effort—especially in the area of an active and aggressive volunteer recruitment program.

Mr. Speaker, I urge adoption of the rule in order that this measure can be considered, and I urge my colleagues to overwhelmingly pass H.R. 6967 to allow the worthy programs of the Peace Corps to continue.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished gentleman from Connecticut, a former Peace Corps volunteer in his younger days, has outlined the terms of this rule. It is simply a 1-hour, open rule providing for the consideration of the bill H.R. 6967, the Peace Corps authorization for fiscal year 1978.

The legislation authorizes \$81 million for the Peace Corps in fiscal year 1978 plus such sums as may be necessary for increases in salary, pay, retirement, or other employee benefits.

Mr. Speaker, I am concerned mainly about two aspects of our consideration of this bill. First of all, there is significant confusion as to just what the administration requested for the Peace Corps in



fiscal year 1978. I am told that when the authorizing committee finally got the request it was for \$74.8 million. Yet, the committee apparently as arbitrarily authorized \$81 million plus. I have not been able to discern to this day just who wants what.

Second, I did not find any provision in the legislation to aid in having our Peace Corps direct its efforts toward helping foreign nations help themselves. I believe this should be the goal of our contributions abroad in this area, but year after year all we do is just give the organization more money and hope it promotes some goodwill for us internationally.

Mr. Speaker, I certainly would hope these and other questions are addressed during the debate on this bill. I reserve the balance of my time.

Mr. DODD. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HILLIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 333, nays 2, not voting 98, as follows:

[Roll No. 292]

YEAS—333

|                  |                 |                 |
|------------------|-----------------|-----------------|
| Abdnor           | Burlison, Mo.   | Edwards, Ala.   |
| Addabbo          | Burton, Phillip | Edwards, Calif. |
| Akaka            | Butler          | Edwards, Okla.  |
| Allen            | Byron           | Ellberg         |
| Ammerman         | Caputo          | Emery           |
| Anderson, Calif. | Carney          | English         |
| Annunzio         | Carr            | Erlenborn       |
| Applegate        | Carter          | Ertel           |
| Archer           | Cavanaugh       | Evans, Colo.    |
| Armstrong        | Cederberg       | Evans, Del.     |
| Ashley           | Chisholm        | Evans, Ga.      |
| AuCoin           | Clawson, Del    | Evans, Ind.     |
| Badham           | Clay            | Fascell         |
| Badillo          | Cleveland       | Fenwick         |
| Bafalis          | Cochran         | Findley         |
| Baldus           | Cohen           | Fish            |
| Barnard          | Coleman         | Fisher          |
| Baucus           | Collins, Ill.   | Flithan         |
| Bauman           | Collins, Tex.   | Flowers         |
| Beard, R.I.      | Conable         | Foley           |
| Beard, Tenn.     | Conte           | Ford, Mich.     |
| Bedell           | Conyers         | Forsythe        |
| Beilenson        | Corcoran        | Fountain        |
| Benjamin         | Corman          | Fowler          |
| Bennett          | Cornell         | Frenzel         |
| Bevill           | Cornwell        | Frey            |
| Blaggi           | Cotter          | Fuqua           |
| Blanchard        | Crane           | Gammage         |
| Blouin           | Cunningham      | Gaydos          |
| Boggs            | D'Amours        | Gephardt        |
| Boland           | Daniel, Dan     | Gialmo          |
| Bolling          | Daniel, R. W.   | Gilman          |
| Bonior           | Danielson       | Ginn            |
| Bonker           | Davis           | Glickman        |
| Bowen            | de la Garza     | Goldwater       |
| Brademas         | Derrick         | Gore            |
| Breckinridge     | Derwinski       | Gradison        |
| Brinkley         | Dickinson       | Grassley        |
| Brodhead         | Dicks           | Guyer           |
| Brooks           | Diggs           | Hagedorn        |
| Broomfield       | Dingell         | Hall            |
| Brown, Ohio      | Dodd            | Hamilton        |
| Buchanan         | Drinan          | Hanley          |
| Burgener         | Duncan, Oreg.   | Hannaford       |
| Burke, Fla.      | Duncan, Tenn.   | Hansen          |
| Burke, Mass.     | Early           | Harrington      |
|                  | Edgar           | Harris          |

|                 |                  |
|-----------------|------------------|
| Hawkins         | Mikva            |
| Heckler         | Miller, Ohio     |
| Hefner          | Minish           |
| Heftel          | Mitchell, Md.    |
| Hightower       | Mitchell, N.Y.   |
| Hillis          | Moakley          |
| Holt            | Moffett          |
| Holtzman        | Montgomery       |
| Horton          | Moore            |
| Howard          | Moorhead, Calif. |
| Hubbard         | Moorhead, Pa.    |
| Huckaby         | Moss             |
| Hughes          | Mottl            |
| Hyde            | Murphy, Ill.     |
| Ireland         | Murphy, N.Y.     |
| Jacobs          | Murphy, Pa.      |
| Jenkins         | Murtha           |
| Johnson, Calif. | Myers, Michael   |
| Jones, N.C.     | Myers, Ind.      |
| Jones, Okla.    | Natcher          |
| Jones, Tenn.    | Nedzi            |
| Kasten          | Nix              |
| Kastenmeier     | Nolan            |
| Kazen           | Nowak            |
| Kelly           | O'Brien          |
| Kemp            | Okar             |
| Ketchum         | Oberstar         |
| Keys            | Obey             |
| Kildee          | Ottinger         |
| Kindness        | Panetta          |
| Kostmayer       | Patten           |
| Krebs           | Patterson        |
| Krueger         | Pattison         |
| LaFalce         | Pease            |
| Lagomarsino     | Pepper           |
| Latta           | Perkins          |
| Leach           | Pettis           |
| Lederer         | Pike             |
| Leggett         | Preyer           |
| Lent            | Quayle           |
| Levitas         | Quile            |
| Lloyd, Tenn.    | Quillen          |
| Long, La.       | Rahall           |
| Lukens          | Rangel           |
| Lundine         | Regula           |
| McClary         | Reuss            |
| McCloskey       | Rhodes           |
| McDade          | Richmond         |
| McEwen          | Rinaldo          |
| McFall          | Risenhoover      |
| McHugh          | Roberts          |
| McKay           | Robinson         |
| Madigan         | Rogers           |
| Maguire         | Rooney           |
| Mahon           | Rose             |
| Markay          | Rosenthal        |
| Marks           | Rousselot        |
| Marriott        | Roybal           |
| Mathis          | Rudd             |
| Mattox          | Runnels          |
| Mazzoli         | Ruppe            |
| Meeds           | Russo            |
| Metcalf         | Ryan             |
| Meyner          | Sarasin          |
| Mikulski        |                  |

NAYS—2

McDonald

NOT VOTING—98

|                  |                |               |
|------------------|----------------|---------------|
| Alexander        | Gibbons        | Pickle        |
| Ambro            | Gonzalez       | Poage         |
| Anderson, Ill.   | Goodling       | Pressler      |
| Andrews, N.C.    | Gudger         | Price         |
| Andrews, N. Dak. | Hammer-        | Pritchard     |
| Ashbrook         | schmidt        | Pursell       |
| Aspin            | Harkin         | Railsback     |
| Bingham          | Harsha         | Rodino        |
| Breaux           | Holland        | Roe           |
| Brown, Calif.    | Hollenbeck     | Roncalio      |
| Brown, Mich.     | Ichord         | Rostenkowski  |
| Broyhill         | Jeffords       | Santini       |
| Burke, Calif.    | Jenrette       | Scheuer       |
| Burleson, Tex.   | Johnson, Colo. | Schroeder     |
| Burton, John     | Jordan         | Sebelius      |
| Chappell         | Koch           | Skubitz       |
| Claussen         | LeFante        | Smith, Iowa   |
| Condon H.        | Lehman         | Steers        |
| Coughlin         | Lloyd, Calif.  | Stratton      |
| Delaney          | Long, Md.      | Taylor        |
| Dellums          | Lujan          | Teague        |
| Dent             | McCormack      | Thompson      |
| Devine           | McKinney       | Wampler       |
| Devin            | Mann           | Waxman        |
| Downey           | Marlenee       | Weaver        |
| Eckhardt         | Martin         | Whalen        |
| Fary             | Michel         | Whitehurst    |
| Flippo           | Miller, Calif. | Whitten       |
| Flood            | Mineta         | Wiggins       |
| Florio           | Mollohan       | Wyder         |
| Flynt            | Myers, Gary    | Young, Alaska |
| Ford, Tenn.      | Neal           | Young, Mo.    |
| Fraser           | Nichols        | Zeferetti     |

The Clerk announced the following pairs:

|   |
|---|
| Mr. Zeferetti with Mr. Anderson of Illinois.    |
| Mr. Teague with Mr. Don H. Clausen.             |
| Mr. Chappell with Mr. Devine.                   |
| Mr. Breaux with Mr. Eckhardt.                   |
| Mr. Koch with Mr. Brown of Michigan.            |
| Mr. Lehman with Mr. Ford of Tennessee.          |
| Mrs. Burke of California with Mr. Broyhill.     |
| Mr. Waxman with Mr. Gonzalez.                   |
| Mr. Florio with Mr. Dellums.                    |
| Mr. Bingham with Mr. Andrews of North Carolina. |
| Mr. Le Fante with Mr. Flood.                    |
| Mr. Ambro with Mr. Harkin.                      |
| Mr. Delaney with Mr. Andrews of North Dakota.   |
| Mr. Dent with Mr. Fraser.                       |
| Mr. Flippo with Mr. Ashbrook.                   |
| Mr. Mann with Mr. Burleson of Texas.            |
| Mr. McCormack with Mr. Coughlin.                |
| Mr. Pickle with Mr. Goodling.                   |
| Mr. Price with Mr. Dornan.                      |
| Mr. Mineta with Mr. Hammerschmidt.              |
| Mr. Rodino with Mr. Aspin.                      |
| Mr. Thompson with Mr. Hollenbeck.               |
| Mr. Alexander with Mr. Harsha.                  |
| Mr. Nichols with Mr. Lujan.                     |
| Mr. Rostenkowski with Mr. Brown of California.  |
| Mr. John L. Burton with Mr. Gudger.             |
| Mr. Santini with Mr. Jeffords.                  |
| Mr. Roncalio with Mr. Holland.                  |
| Mr. Downey with Mr. Gibbons.                    |
| Mr. Fary with Mr. Lloyd of California.          |
| Mr. Flynt with Mr. Whalen.                      |
| Mr. Jenrette with Mr. Long of Maryland.         |
| Mr. Milford with Mr. Whitehurst.                |
| Mr. Miller of California with Mr. Taylor.       |
| Ms. Jordan with Mr. Wiggins.                    |
| Mr. Smith of Iowa with Mr. Young of Alaska.     |
| Mr. Weaver with Mr. Wyder.                      |
| Mr. Mollohan with Mr. Wampler.                  |
| Mr. Neal with Mr. Pressler.                     |
| Mr. Whitten with Mr. Pritchard.                 |
| Mr. Gary Myers with Mr. Young of Missouri.      |
| Mr. Pursell with Mr. Sebelius.                  |
| Mr. Roe with Mr. Skubitz.                       |
| Mrs. Schroeder with Mr. Steers.                 |
| Mr. Stratton with Mr. Martin.                   |
| Mr. Scheuer with Mr. Marlenee.                  |
| Mr. Michel with Mr. McKinney.                   |

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### ANATOLY SHARANSKY CHARGED WITH TREASON IN U.S.S.R.

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. FENWICK. Mr. Speaker, Members of the House, I have just received a most sad message from my office. Mr. Anatoly Sharansky, who perhaps is known to many Members, has been accused of treason in the U.S.S.R., for which the penalty is 10 years to death.

Mr. Sharansky happens to be Jewish, but he was concerned with the problems of Catholics, Lutherans, Baptists, and others in the Soviet Union. For example, he did all the translating for Yuri Orlov in the work of the committee which monitored compliance with the Helsinki Accord in the U.S.S.R.

I would like to direct the attention of the House to this brave man, who has

done much for human rights in the Soviet Union.

There is little that we in the Congress can do, but certainly at the very least we owe him the tribute of our attention and concern.

#### MAKING TECHNICAL AND MISCELLANEOUS AMENDMENTS TO PROVISIONS RELATING TO HIGHER EDUCATION IN EDUCATION AMENDMENTS OF 1976

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6774) to make certain technical and miscellaneous amendments to provisions relating to higher education contained in the Education Amendments of 1976, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 12, strike out all after line 24 over to and including line 2 on page 13 and insert:

(40) (A) The first sentence of section 493 (a) of such Act is amended by—

(i) striking out "part A or C" and inserting in lieu thereof "subpart 2 of part A, part C, or part E";

(ii) striking out "either" and inserting in lieu thereof "any"; and

(iii) striking out "in lieu of reimbursement for its expenses during such fiscal year in administering programs assisted under such part" and inserting in lieu thereof "for the purposes set forth in subsection (c)".

(B) The second sentence of such section 493 (a) is amended by adding before the period at the end thereof a comma and the following: "plus (C) the principal amount of loans made during such fiscal year from its student loan fund established under part E".

(C) Section 493(b) of such Act is amended to read as follows:

"(b) The aggregate amount paid to an institution for a fiscal year under this section may not exceed \$325,000."

Page 17, lines 17 and 18, strike out "(16), (19), and (20)" and insert: "(17), (20), and (21)".

Page 18, line 3, strike out "(19)" and insert: "(20)".

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. BUCHANAN. Mr. Speaker, reserving the right to object, would the gentleman explain the amendments?

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, H.R. 6774 contains technical and miscellaneous amendments to provisions of the Education Amendments of 1976 (P.L. 94-482) which relate to higher education. These amendments include corrections of typographical errors, effective dates and corrections in the agreed-upon text of the original legislation.

H.R. 6774 was reported unanimously by the Education and Labor Committee and was passed by this body on May 9 by a vote of 382 to 1.

The two additional amendments added by the other body are both technical in nature.

The first contains language, suggested

by the Department of Health, Education, and Welfare as technical assistance to the Congress, which will assure that administrative cost allowances for the national direct student loan program will be treated in the same fashion as those for the supplemental educational opportunity grant program and the college work-study program, as intended by the conferees on Public Law 94-482.

The second amendment merely corrects a misnumbering of paragraphs in the effective date section for the various provisions of the guaranteed student loan program.

Mr. BUCHANAN. Mr. Speaker, in light of the fact, as I pointed out earlier on the floor, that this was a very long conference, and we had many areas of disagreement which were worked out, we need the technical amendments, and these are purely technical.

In view of that fact and the explanation of the gentleman, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

A motion to reconsider was laid on the table.

#### AUTHORIZING APPROPRIATIONS FOR FISCAL YEARS 1978, 1979, AND 1980 TO CARRY OUT COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT OF 1964

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6206) to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out the Commercial Fisheries Research and Development Act of 1964, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, line 19, after "Act:" insert: *Provided*, That the Secretary shall give a preference to those States in which he determines there is a commercial fishery failure or serious disruption affecting future production due to a resource disaster arising from natural or undetermined causes in providing funds to States from the amount in clause (2) of this subsection.

Mr. MURPHY of New York. Mr. Speaker, the purpose of H.R. 6206, which passed the House on May 10, is to increase the funding for Federal-State efforts in research and development under the Commercial Fisheries Research and Development Act.

Mr. Speaker, on May 17, the Senate concurred in the House bill, with a Senate amendment to section 4(b) of the bill. Under section 4(b) of the bill as it passed the House, there would be authorized to be made available in the form of grants \$3 million per year for fiscal years 1978, 1979 and 1980 to the Secretary of Commerce for use in assisting those States in which there has been a commercial fishery failure due to a resource disaster arising from natural or undetermined causes.

The Senate amendment to the bill would authorize grants to the States, not only when a commercial fishery failure has occurred, but also when there has been a serious disruption affecting future production due to a resource disaster arising from natural or undetermined causes.

Mr. Speaker, I think this is a good amendment in that it broadens the provision to allow for financial assistance in the event of an impending disaster. In essence, the amendment would permit the use of 4(b) funds in advance of the actual loss of resources, when, for example, it can be demonstrated that damage to the fishery is predictable.

An example of the recent resource disaster occurring on the Atlantic coast that would probably be eligible for funding under the provisions of the Senate amendment has to do with the very low ocean oxygen content in a vast area south of Long Island and east of New Jersey which adversely affected the standing stock of surf clams. Another example occurred in the Chesapeake Bay, which resulted from this winter's extremely cold weather in the Eastern United States, causing serious damage to oyster stocks and blue crabs. Also, it is now known that last winter's prolonged cold weather wiped out the entire overwintering spring crop of white shrimp from North Carolina to northeastern Florida. If a similar cold water condition appears probable for next winter, the affecting States might jointly apply under the amended provisions of 4(b) for disaster funds to ease the economic disruption and provide substitute fisheries.

On the Pacific coast, funds might be applied for now in California in the face of certain obvious impacts of lack of rainfall. The recent drought is certain to have a devastating effect on salmon, striped bass, shad, and other anadromous species. It could be very useful to apply the funds now to save those fish instead of waiting until the drought has made its impact and then applying for funds to restore the fisheries.

Mr. Speaker, the Senate amendment is germane to the bill and it did not result in an increase in the cost of this program to the Federal Government.

I urge the House to concur in the Senate amendment to H.R. 6206.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

#### MARINE MAMMAL PROTECTION ACT AMENDMENTS

Mr. MURPHY of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6970) to amend the Marine Mammal Protection Act of 1972 with respect to the taking of marine mammals incidental to the course of commercial fishing operations, and for other purposes.



The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. MURPHY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 6970, with Mr. MONTGOMERY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New York (Mr. MURPHY) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. RUPPE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Committee on Merchant Marine and Fisheries has reported H.R. 6970 to the House in an attempt to resolve the tuna-dolphin controversy and get thousands of unemployed fishermen, cannery workers, tuna boat repairmen, and others back to work.

The bill was reported out of committee with nearly unanimous approval. It represents a good faith compromise position between those concerned about continuing protection for dolphin populations and those who want to insure the continued economic viability of the \$1 billion tuna industry—from the 1,000 small bait boats employing 1,550 fisherman to the destroyer-size purse-seining vessels to the 13,000 cannery employees.

I am convinced that this bill accomplishes both important goals. The tuna-dolphin controversy results from fishing practices which make use of the little understood relationship between yellowfin tuna and certain species of dolphin. Commercial tuna purse seiners use dolphin to spot large schools of tuna. The fishermen herd the dolphins, enclose them with nets, and thereby catch the yellowfin tuna which swim beneath and behind them. Unfortunately, a portion of the dolphins captured in the net become entangled and expire.

A significant percentage of the U.S. tuna catch is landed in association with dolphin. This process, pioneered by the U.S. fleet, has led to a substantial increase in the yearly harvest of yellowfin tuna.

Over the past year, the tuna fleet has been in disarray as a result of judicial interpretations of the Marine Mammal Protection Act. This year the Department of Commerce has promulgated regulations which will cause severe economic hardship for the industry, and may very well work to the detriment of the dolphins.

The 1977 regulations provide for a quota of 59,050 dolphins. Most importantly, the regulations totally prohibit any intentional setting on the eastern spinner dolphin which is vital to the economic well-being of the American fleet.

We would all like to get the dolphin quota down to zero, but this is simply not possible to do overnight without putting the American tuna fleet out of business.

The American fleet has developed and pioneered all of the equipment advances over the last few years that have led to dramatic reductions in dolphin mortality. The current regulations would end this progress by making it impossible for the fleet to operate.

However, the fleet is not the only party suffering from the current regulations. In addition to the fishermen, an estimated 20,000 workers have been unemployed as a result of the restrictive 1977 regulations. Thousands more are scheduled to join the unemployed and yet additional thousands will go on reduced hours and reduced paychecks. These workers are primarily from minority groups, women and heads of households—people that can ill afford to wait months for Washington to pay attention to their plight.

The hardest hit area is Puerto Rico with thousands of unemployed cannery workers adding to an already unacceptably high unemployment rate.

The basic problem here is that while the American fleet has demonstrated its concern for dolphins, the foreign fleet has not. Foreign fishermen are estimated to kill 2½ times per set the number of dolphins taken by American fishermen.

The ultimate irony of the current regulations is that while they purport to protect the dolphin, they may very well condemn them. If the U.S. fleet cannot fish because of the regulations, you can be sure that the foreigners will. As the foreign share of the tuna catch increases, dolphin mortality will inevitably increase.

Although H.R. 6970 would increase the quota in 1977 over that now in effect, it establishes incentive and penalty provisions designed to encourage the industry to reduce dolphin mortality.

The bill would do the following:

First. It would provide a quota of 78,900 dolphins in 1977, including 6,500 eastern spinners. This represents a significant reduction from the 300,000 level of 1972 and the 96,100 level recommended by the administrative law judge for this year. National Marine Fisheries Service scientists testified that this quota would permit two of the populations of the three major species subject to purse-seining to increase by 103,000 this year—eastern spinner and offshore spotted. The third species would suffer an insignificant decline—whitebelly.

Second. H.R. 6970 would provide for the same quota in 1978 except that the Secretary could reduce the quota if new fishing technology made a reduction feasible or if the populations had suffered in 1977.

Third. The bill would establish a 100-percent observer program on all large tuna vessels and would require the tuna fleet to pay a \$2 million incentive fee to the Government. A portion of this fee will be returned to those masters with the lowest mortality rates; another portion of the fee would go to pay the operating

expenses of the research vessel that the industry is required to provide to the Government under the bill. The research vessel will investigate methods of reducing dolphin mortality.

Fourth. The legislation would provide the Secretary with the authority to revoke the fishing certificate of any master whose mortality rate exceeds the industry rate by 100 percent. It also would charge the owners of tuna vessels \$32 for every dolphin taken in excess of the fleet-wide average.

Fifth. Finally, the bill would restrict the transfer of any purse seine vessel to foreign registry unless the transferee posts a performance bond and agrees to fish according to U.S. standards.

As you can see, H.R. 6970 is not an industry bill, an environmentalist bill, or an administration bill: It represents the considered judgment of the Merchant Marine and Fisheries Committee which originated the Marine Mammal Protection Act.

The bill's provisions are carefully balanced to provide the needed scientific information and to encourage the technological innovation necessary if we are ever to attain the near-zero dolphin mortality rate which we all desire.

Mr. RUPPE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 6970, a bill which provides urgently needed relief for the U.S. tuna industry and, at the same time, insures that eastern Pacific porpoises are given the greatest protection possible. Without this bill, there are no winners, just losers. With this bill, the long-term prospects for both the porpoise population and the U.S. tuna industry are measurably enhanced.

Extensive hearings conducted by our committee have indicated time and again that the 1977 regulations promulgated by the Department of Commerce could cripple the U.S. tuna industry. The regulations prohibit the industry from setting on a species upon which it heavily depends—the eastern spinner porpoise. Moreover, the overall quota of 59,050 will shut down industry fishing well before the season's end and the fleet as a whole could lose more than \$31 million of catch. If the situation is not changed quickly, the U.S. tuna industry may not survive.

It should be noted that as to long-term prospects of the porpoise the foreign tuna fleet kills porpoises at a rate that is 2.5 times higher than the U.S. fleet. They most certainly fish where our boats have previously fished.

The bill we are considering today will allow the tuna industry to fish with a quota of 78,900 porpoises—a level which will allow the industry to survive. However, this quota does not, I repeat does not, endanger the porpoise populations. Under an aggregate 78,900 quota, the stocks in question will actually increase in the next year and a half. The population of the offshore spotted porpoise will increase by 139,000—an increase of almost 4 percent. The eastern spinner porpoise stocks will grow by 52,000 in the next year and a half—an increase of 5.3 percent.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I am privileged to yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I believe in order to understand the "numbers game" we have to understand how we arrived at these numbers.

This morning at 11 o'clock I talked with the fisheries expert in La Jolla, Calif., who works at the Government lab that is responsible for determining these figures. They are in the process and will be for the next 2 weeks of trying to establish more precise figures on the dolphin populations. We are only dealing with the lowest level "guesstimates" of marine fisheries results. We do not have an idea of where the dolphin are in the Pacific Ocean. We have some idea of where the dolphin are in just the areas that we have fished in the past, but we are getting indications there are many more dolphin in other areas.

Also we are trying to find out if any of those species are endangered. I asked about the endangerment of these species and the answer was no, in no way is any species endangered.

Again I want to thank the gentleman from Michigan for the balanced presentation he is making. Again I want to emphasize that we are dealing with the very lowest level of figures as to the dolphin population.

Mr. RUPPE. Mr. Chairman, I thank the gentleman from New York. I want to say at this point in time that I believe the chairman, the gentleman from New York, has put in a tremendous amount of time into trying to resolve this issue. It is a difficult one to resolve because the tuna fishermen are rather hard liners on one side and then we have the environmentalists on the other who certainly feel most keenly about this matter. As I say, it has been a difficult issue to resolve. I believe the gentleman from New York (Mr. MURPHY), the chairman, has taken the initiative to tackle this question.

The third species of porpoise taken in association with tuna, the whitebelly spinner, will remain in a healthy state almost 28.5 points above the danger level for the population. H.R. 6970 authorizes the Secretary of Commerce to reduce the overall quota in 1978 and in the first quarter of 1979 if she finds that such a reduction is required because of new information regarding the size or health of the porpoise populations or if she finds that a lower quota can be achieved because of new gear technology. This language, which has been largely overlooked or ignored by many groups commenting on this legislation, provides an effective mechanism for reducing the annual quota.

In addition to this language, H.R. 6970 contains several other important provisions designed to protect and conserve porpoise populations. First, H.R. 6970 calls for a full observer program on tuna-boats of 400 tons or more beginning no later than October 1, 1977, and extending through March 31, 1979. Such a program will provide valuable data regarding the population dynamics and inci-

dental mortality of eastern Pacific porpoises. Data that, I believe, has been sadly lacking in the past.

Second, the industry will, as a condition of obtaining a permit to fish for tuna taken in association with porpoise, pay a fee of \$2 million to be used, in part, to provide a tuna vessel for the sole purpose of scientific research. Such research promises to increase greatly our understanding of fishing procedures, gear, and porpoise behavior. This type of basic research is absolutely critical if continued progress is to be made in reducing porpoise kill.

Third, H.R. 6970 contains an incentive program for skippers to reduce porpoise mortality. Skippers who are proficient in saving the lives of porpoises will be financially rewarded.

Fourth, an amendment I offered calls for the removal of careless skippers from the fleet. This provision stipulates that any skipper whose porpoise kill rate is twice as high or higher than the industry kill rate will be denied a certificate of inclusion for all or part of the next fishing season.

Fifth, the owners of vessels whose porpoise kill rate exceeds the industry kill rate will be financially penalized. An amendment I introduced, which was adopted by our full committee, calls for a vessel owner to pay \$32 per porpoise for each porpoise caught in excess of the industry average. Although the original amendment I offered provided for a fee of \$32 for each porpoise mortality, the committee felt it would be more appropriate to levy the fee for porpoises killed in excess of the industry average. Under either proposal but essentially under my amendment vessels will have a strong financial incentive to minimize their kill of porpoises.

A critical provision of H.R. 6970 centers on the international aspects of the tuna-porpoise problem. This bill requires the Secretary of Commerce and the Secretary of State to commence bilateral and multilateral international negotiations with nations engaged in fishing on porpoise. The purpose of these negotiations is to effect agreements to place observers on foreign vessels engaged in fishing for tuna in association with porpoise.

Mr. Chairman, in conclusion I can only reiterate the need for H.R. 6970. Without this legislation, the already substantial unemployment in the tuna industry will grow worse and the price of tuna to the consumer will probably increase. However, under the terms of H.R. 6970, porpoise populations will probably increase by a total of 211,000 animals in the next year and a half. For the third species of porpoise taken in association with tuna, the population will remain well above the danger level for the population. H.R. 6970 therefore represents a balanced piece of legislation and I urge its adoption.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I would like to take this opportunity

to state that unless it is considerably amended, I am opposed to the legislation before us today to amend the Marine Mammal Protection Act of 1972, and I will continue to oppose future legislation that in any way weakens the provisions of that act. My own bill, H.R. 1383, introduced on the opening day of this Congress and the previous Congress, amends the act to prohibit the issuance of general permits which authorize the taking of marine mammals in connection with commercial fishing operations; a provision which serves only to strengthen the provisions of the Marine Mammal Protection Act of 1972.

The subject of marine mammal protection, Mr. Chairman, is one with which I am very familiar. I first introduced my bill in 1974, and during the past 4 years, I have read a great deal of material offering viewpoints on both sides of the issue. I have also personally answered well over 1,000 letters from my constituents on the subject. In all this time, my opinion that the act is justified, has not been changed; and it has been firmly substantiated by many noted authorities.

In May of 1976, Judge Charles Richey submitted a decision ordering a complete ban on the taking of porpoises by the tuna industry in connection with the commercial fishing industry. In a suit brought by the Committee for Humane Legislation, Judge Richey ordered the Department of Commerce to revoke all permits to the tuna fleet which permit "the incidental killing of porpoises unless and until such killing is not to the disadvantage of the porpoises and is otherwise consistent with the intent of the Marine Mammal Protection Act of 1972."

In considering the suit brought by the Committee for Humane Legislation, the court agreed that the primary purpose of the Marine Mammal Protection Act is to protect marine mammals and that the act was not intended as a "balancing act" between the interests of the fishing industry and the mammals.

In handing down his decision, Judge Richey said:

The Marine Mammal Protection Act does not direct the defendants to afford porpoises only that amount of protection which is consistent with the maintenance of a healthy tuna industry. The interests of the marine mammals comes first under the statutory scheme, and the interests of the industry, important as they are, must be served only after protection of the animals is assured.

The Court continued:

Since the two year grace period [provided when the Act was passed] expired on October 20, 1974, the only limits the agency has placed on the general license to take marine mammals have concerned certain gear and fishing techniques; the agency has never set a limit [as mandated by the Act] on the number of porpoises which can be taken, despite the fact that incidental porpoise mortality during this period has been on the rise.

It is now nearly a year later, Mr. Chairman, and still nothing has changed. The tuna fishing industry has not only dragged its feet in complying with the law, it has engaged in a great



many theatrics to convince the American people that it cannot comply. Periodic threats, directly or indirectly, from the industry have been made to convince the public that if the tuna fishermen are forced to comply with the Marine Mammal Protection Act, the price of tuna fish will rise "out of sight." It has been suggested that the only recourse for the industry is to sell its ships to foreign interests which do not have such strict requirements, and we all know that to substantiate these claims, fleets of tuna boats have stayed in port to deliberately effect a temporary squeeze on the consumer.

The fact is that none of this is necessary or justified. By the fall of last year, improved net designs and new behavioral techniques for releasing porpoises from the nets, resulted in almost perfect porpoise safety records for some boats. One ship, observed by scientists throughout a single fishing trip in October and November, encircled 45 schools of porpoises and tuna, caught over 1,000 tons of tuna and caught and released unharmed 30,233 porpoises with a mortality of only 16. Under this improved system, the porpoises are able to wait safely in the center of the net and then go quietly out of the net opening like cattle going through the gate. Obviously, all it takes to solve this problem is a little effort and a little caring on the part of the tuna fishermen.

In a letter to the editor of the New York Times, Karen Pryor and Philippe Vergne, biologists with the Porpoise Rescue Foundation, and Warren Stunitz, program manager of the tuna/porpoise behavior study at the University of California, all of whom traveled with the expedition in October/November of last year, stated:

The American fishermen by now are highly motivated to adopt the new net designs and techniques. They are well aware of the need to preserve the porpoises, and the new techniques are far safer for the crew, more efficient and cost effective. The fishing industry, however, seems reluctant to defend itself on the basis of the new capability, perhaps lest regulations become even tighter before every boat has acquired the new gear and mastered the new techniques.

Such reasoning, Mr. Chairman, is based on emotion or temperament, not logic or justification. I understand that the legislation before us today is intended to be a compromise between two highly emotional points of view, and it is a fact that compromise is frequently the only solution to many problems that come before us in this Chamber. In this case, however, it is not only unjustified; it is unnecessary. The tuna industry has behaved badly. It has defied the law, and even now, when the solutions to the problem are clearly available in the form of improved equipment and techniques, readily available to all concerned, it continues to refuse to obey the law. The penalty of taking the necessary precautions to avoid willing porpoises unnecessarily is really only the necessity of waiting 2 minutes after each set of the net to allow the porpoises that are waiting in the bottom of the net to surface for

air, at which time they can be liberated. We all have a right to demand that the tuna industry invest that extra 2 minutes before making its catch.

Mr. Chairman, the bill we are considering now fails to establish any incentives for conscientious operators who are attempting to minimize the kill of porpoises, and gives a great deal of license to those operators who simply do not care. It allows a level of mortality that is higher than the level allowed in any year since the Marine Mammal Protection Act was passed in 1972, and it puts the Congress of the United States in a position of backing down from its responsibility to the preservation of marine mammals—a species we have a chance to save before it reaches the "endangered" status—because of pressure brought to bear by an industry on which only very reasonable demands for precaution have been made.

I urge my colleagues to resist falling into the comfortable pattern of compromise on this issue, and to exercise the courage of conviction that this body was justified in passing the Marine Mammal Protection Act of 1972, and is justified today in demanding that the provisions of that act be heeded.

Mr. MURPHY of New York. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. LEGGETT), chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment.

Mr. LEGGETT. Mr. Chairman, H.R. 6970 seeks to resolve the tuna-dolphin controversy, which concerns one of the most serious and challenging problems addressed by the Marine Mammal Protection Act of 1972—the unwanted killing of thousands of dolphins incidental to commercial tuna fishing operations in the Pacific Ocean. The solution to this problem has been actively sought by the Federal Government, the tuna industry and conservation organizations for the past decade. Progress has been made, but much more needs to be done.

Some background to this problem is helpful in putting the issues addressed by H.R. 6970 in perspective. Tuna fishermen have known for a long time that yellowfin tuna in the eastern tropical Pacific swim beneath and behind groups of certain species of porpoise or dolphin. The reason for this association between tuna and dolphin is unknown. Since dolphins are larger and more active on the sea's surface than tuna, fishermen have for many years located tuna by searching for dolphin. More recently, they have developed a fishing technique called purse seine fishing on porpoise. As part of this technique, high-powered speedboats herd groups of dolphin into large purse seine nets much like cowboys herd cattle. The yellowfin tuna follow the dolphin and both are trapped when the net is closed or pursed around them. On some sets, over a thousand dolphins may be encircled.

Dolphins are air-breathing mammals. They are killed when they become trapped in the net, cannot surface to breathe, and suffocate. Others die from shock or physical injury. Last year, over

100,000 dolphin were killed by the U.S. purse seine fleet of 117 vessels.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding.

We have heard so much about physical injury of dolphin. I observed two settings on dolphins, of 1,000 in one instance and of 1,500 dolphin in the second instance.

In neither instance was there any serious injury. There were two drownings in just one of the sets. So in the setting on 2,500 animals, there were two kills both of which resulted from drownings. In my conversations with the captains in this fleet, I was told the serious injury factor is virtually a fraction of a percent.

So we are not dealing with serious injury. We are dealing with the resolving of the problem of nets and net technology and we have made great strides since the last statistics. If we enact this legislation, within 1 year we will have cut dramatically into this problem.

Mr. LEGGETT. Maybe the gentleman from New York can give us statistics on the tons taken and the kill per ton on the sets that he observed.

Mr. MURPHY of New York. The kill per ton was zero in the one set and it would be in the hundreds on the second set because of the very small proportion. The problem of course occurs with the breakdown of equipment and this is one of the areas that we are resolving in cooperation with the American Tuna Boat Association and with the National Marine Fisheries Service experts who are working in concert to bring these numbers down. We know definitely that they will be brought down.

Mr. LEGGETT. Is it the observation of the gentleman that these particular sets he saw were set up for him to look at or is it his impression that these kinds of kill rates can be achieved over a period of time with proper training and gear?

Mr. MURPHY of New York. They do not set up on 1,000 porpoises in the middle of the Pacific Ocean just for play because they are dealing with the situation inside the agreed-to fishing area where those dolphin have been fished before, and as we know these animals are very intelligent. Only the finest type of equipment can possibly encircle them.

We are making much progress now and if this legislation is enacted as is, I think we will resolve the problem for this industry as well as the environmental concerns.

Mr. LEGGETT. I would say the chairman has taken an extraordinary interest in this problem that certainly has vexed myself, as chairman of this subcommittee. We have held two dozen hearings in the field and in Washington on the tuna-porpoise issue over the past several years. We knew we had a tough bill when we made the compromises we made in the 1972 act. We knew we had more work to do and that is why we are back here.

I would ask one additional question of the gentleman. If we pass this bill as such

will we probably be back here in another 2 years to make another fix?

Mr. MURPHY of New York. Based on the requirement of this legislation that there be a research vessel funded by the industry and with the backing of the National Marine Fisheries Service experts on that vessel I am certain we will have resolved this problem. The fleet has now equipped itself with the Medina nets and the Bold Contender nets on the vessels involved. The fleet has been out about 10 days and the statistics show dramatic reduction in kills, but we must have the experience through this season in order to see certain technologies that the vessel and scientists can develop. I am certain if we have that, we will be able to resolve this problem and the Marine Mammal Protection Act will properly reflect what it is intended to reflect.

Mr. LEGGETT. This bill merely allows the taking of spinners for a 2½-year period. If there is to be any take of eastern spinners after that point, that will require additional legislation?

Mr. MURPHY of New York. Yes, but this limits the take to 6,500.

Mr. LEGGETT. I understand that.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I would ask, under the present law how many porpoises were killed last year?

Mr. LEGGETT. They estimate there were a little over 100,000 last year. We tried to take only 72,000.

Mr. CARTER. Even after the judicial decision 100,000 were killed?

Mr. LEGGETT. And that compares with 300,000 before the bill was enacted in 1972.

Mr. CARTER. Mr. Chairman, I think it is a tragedy beyond compare that this highly intelligent mammal is being killed.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, this statistic of over 100,000 was arrived at this way. There were observers on some vessels and based on the figures from just certain vessels they extrapolated those figures through the fleet. The 100,000 may well have been over 100,000 or much less than 100,000.

The CHAIRMAN. The time of the gentleman from California (Mr. LEGGETT) has expired.

Mr. MURPHY of New York. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, if I could recapture part of my time, I would say we only observed like 8 to 10 percent of the cruises. There was a large kill on a few boats; so we extrapolated those figures. The large kill was not well represented. It could be that last year we only took 60,000 porpoises. On the other hand, maybe we took 120,000. That is why the Murphy bill requires observers on every trip, so we do not have this confusion when we come back in about 1½ years.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield further?

Mr. LEGGETT. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I would like to point out a statistic to my distinguished colleague, the gentleman from Kentucky. There are 1.8 million white-tailed deer in Kentucky; tens of thousands in the State of Kentucky went deer hunting last year. Would the gentleman express himself on that situation?

Mr. CARTER. Mr. Chairman, if the gentleman will yield. I do not kill any deer at all. But a deer is a bovine animal which over the years has been used for food and it does not have the mental acuity of a porpoise, nor does it have the human characteristics.

Mr. LEGGETT. Mr. Chairman, I would say on that point these mammals, of course, are used for food by the Japanese and the Japanese ate 70,000 of them last year. We do not plan to do that. We want to get the incidental kill numbers down to 10,000. I think we can.

Mr. Chairman, in the past few years, I have received thousands of letters from all over the country expressing concern that this killing of dolphin be ended as soon as possible. Some tuna fishermen have made significant, even heroic, efforts to save those dolphin which become trapped in their nets.

I believe that both the tuna fishermen and the general public share the same goal of reducing dolphin losses to insignificant levels approaching zero as soon as possible. There has been a continuing and emotional controversy, however, over how to achieve this goal.

During the past few years, the Subcommittee on Fisheries and Wildlife Conservation and the Environment has held several lengthy hearings on the problem. Based upon the extensive record of these hearings and those conducted on H.R. 6970 by the full Committee on Merchant Marine and Fisheries, I believe that substantial progress has been made. Data indicates a better than 60 percent reduction in dolphin mortality since the act was passed in 1972.

This reduction has been accomplished with the benefit of substantially improved fishing gear and methods developed by both industry and Government experts. Last year one vessel, the *Elizabeth C.J.* achieved a dramatic reduction in the number of dolphin killed during an experimental cruise. A total of 20 vessels using the new fishing techniques and equipment tested during this experimental cruise also achieved remarkable reductions in mortality. I am convinced that the long-term solution to this problem is to develop new fishing gear and methods which will not kill dolphin.

Efforts to find a way to reduce dolphin losses, however, have been frustrated recently with problems and disappointments. At the beginning of this year, a confusing series of court orders struck down earlier Federal regulation and left the fleet out at sea with no legal authority to kill any dolphin. As a result, most of the fleet returned to port. Over 1,500 fishermen were left idle. This extraordi-

nary disruption of fishing not only caused serious economic harm, but interrupted the testing and development of new fishing gear and methods by the fleet to reduce dolphin mortality.

At the present time, the fleet is fishing under a new permit which limits the number of dolphin which can be killed this year to 59,050. This quota does not allow the taking of any dolphin from the eastern stock of spinner dolphin because this stock was found to be "depleted" under the act. Fishermen, however, must be able to take some of these dolphin if they are to be able to catch their normal harvest of tuna. Spokesmen for the administration, tuna industry, and a few conservation organizations agree that some eastern spinner dolphin should be allowed to be taken and that the total quota should be adjusted. H.R. 6970 would provide such an adjustment on a temporary basis provided that the size and health of the affected populations of dolphin are not adversely affected.

During the interim period provided by the bill, a vessel would be used to conduct basic research on new fishing gear and methods and Government observers would be placed aboard each tuna vessel so that complete information can be gathered on dolphin losses. By the end of the interim period in April 1979, we should be in a much better position to determine how we can achieve the goal everyone shares of reducing dolphin mortality and serious injury to insignificant levels approaching zero.

I expect that progress in reducing dolphin mortality will continue under H.R. 6970. To insure that this occurs, the bill would establish a new system of economic incentives to individual skippers to reduce killing. Penalties would also be imposed against those vessels with excessive rates of kill. The bill also attacks the threat to dolphin from foreign fishermen. This threat is becoming increasingly more serious as foreign fleets grow in size and adopt our method of fishing "on dolphin." H.R. 6970 directs that international agreements be negotiated to insure that foreign fishing is subject to control and regulation consistent with U.S. standards. It also would place restrictions on the transfer of U.S. vessels to foreign countries to insure that U.S. standards are satisfied after the vessel is transferred. The potential transfer of the U.S. fleet to foreign countries is recognized by conservationists as potentially disastrous. If the fleet goes foreign, our ability to end the killing will be undercut, if not destroyed.

H.R. 6970, in short, offers a comprehensive and balanced solution to this controversy. I urge its passage.

Mr. RUPPE. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Chairman, I rise in support of H.R. 6970.

Mr. Chairman, in the late 1950's the U.S. tuna fleet began to develop a new fishing technique. This technique utilized a net known as a purse seine. By the late 1960's the U.S. fleet consisted primarily of vessels equipped with this net.

One result of this new technology was



that the U.S. tuna fleet became the most efficient tuna fleet in the world. Another result was the death of thousands of porpoises which became entangled in the nets.

During this same period the improvement of our environment became a national goal. We became aware that industrial progress is often accompanied by environmental degradation.

It is these two forces—the technological achievement of an industry and the national commitment to a better environment—which have collided in the so-called tuna/porpoise controversy—and it is this controversy which has resulted in H.R. 6970—legislation which attempts to strike a balance between the concerns of the industry and the concerns of the environmental community.

Under H.R. 6970 the 1977 National Marine Fisheries Service quota for incidental porpoise mortality will be increased from 59,050 to 78,900. However, in evaluating these numbers, there are certain things we must bear in mind.

First, this increase in the quota represents just over three-tenths of 1 percent of the total population of the three major species of porpoise involved in the tuna fishery. Second, the populations of two species—the offshore spotted dolphin and the eastern spinner—will increase by 3.8 percent and 5.3 percent in the next year and a half.

In regard to the third species, the whitebelly spinner, the population may decrease by 1.5 percent under the terms of H.R. 6970. But this figure should also be placed in perspective. The whitebelly spinner population is presently at 80 percent of its preexploitation population. If the lower bound of a species' optimum sustainable population is 50 percent of the species' preexploitation population, then the whitebelly spinner is presently 30 points above this level. Under H.R. 6970 it will remain 28.5 points above the lower bound of its optimum sustainable population.

Thus, under H.R. 6970 we will be meeting the conservation objectives of the Marine Mammal Protection Act. The porpoise populations involved will remain healthy and will continue to be a significant functioning element of the marine ecosystem. In fact, in two instances the populations will increase substantially.

While protecting and enhancing the porpoise populations of the Eastern Pacific, H.R. 6970 also provides relief to the U.S. tuna industry. If the Congress fails to act, the U.S. fleet will lose approximately \$31 million in 1977. This loss equals more than a quarter of a million dollars per vessel. At the same time, the price of tuna to the consumer could increase approximately 12 percent with a total cost to the consumer of approximately \$86 million. These figures clearly illustrate the severe economic impacts which will befall the U.S. tuna industry and the consumer if the present regulations remain unchanged.

Already more than 5,700 cannery workers have been unemployed and it is anticipated that within the next few

months, an additional 4,600 cannery workers will be unemployed. However, these figures underestimate the true employment impact of the current regulations because they do not include the number of individuals in related industries which have been and will be unemployed as a result of the current crisis.

Mr. Chairman, after evaluating all of these facts, the Committee on Merchant Marine and Fisheries reported H.R. 6970. This legislation will eliminate the unemployment that now pervades the tuna industry. H.R. 6970 will also protect and enhance the porpoise populations of the world.

In balancing the interests of the tuna industry and of the environmental community, H.R. 6970 provides for a reduction in the annual quota. Under the bill the Secretary is authorized to reduce the quota if she determines that such a reduction is possible because of new gear technology or if she determines that the size or health of the population requires such a reduction.

H.R. 6970 also establishes a system of rewards and penalties to further reduce porpoise mortality. The legislation provides for a fee of \$32 per porpoise for every porpoise that is taken in excess of the industry average. At the same time the legislation provides for an incentive payment for those tuna skippers whose porpoise kill rate is substantially less than the industry average. Further, H.R. 6970 requires that any skipper whose porpoise kill rate is more than double the industry average will have his permit removed until such time as he completes a training program and demonstrates a significant improvement in his ability to reduce porpoise mortality.

Mr. Chairman, H.R. 6970 represents a balance between the two forces which have collided to create the tuna/porpoise controversy. It is a compromise legislative package and I urge its adoption.

Mr. RUPPE. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Chairman, I would first of all like to compliment Chairman MURPHY on his commitment to resolving the tuna/porpoise issue before us. For a considerable time now, the administration has been reluctant to act on this matter. And, it is not an easy issue to resolve. We still have very little scientific data on the actual population levels of many of these species of marine mammals which we are discussing here. Also, there is a lack of reliable data on the actual "industry kill" of porpoise and also questions about the actual economic effects on the industry given the requirement of further porpoise mortality reductions.

Therefore, we must indeed direct more research efforts at these uncertainties. But, research and a better and more accurate understanding of marine mammal populations takes time and, neither Congress nor the administration can be expected to come up with a complete solution at this time. Any legislation which is passed must be an interim measure to be updated as better information becomes available. Ultimately the National Marine

Fisheries Service should have considerable administrative discretion on these matters. But, Congress must act. As our chairman has pointed out, it is very costly for this country to have its tuna fleet at anchor. I think it is commendable that our chairman has decided to join the issues at this time and even though the controversy is high, in the course of our deliberations we have made significant progress, and recently, both the administration and the Senate are also moving on this issue.

Mr. Chairman, I support this measure. I have high hopes that we can accept some amendments which I think will strengthen it and make it a better bill. I think the industry can live with these amendments.

One of them, which I will be offering, will be to reestablish the Ruppe amendment as it was offered in the committee, which is to make a flat \$32 charge on each porpoise that is taken. This amendment will be coming up after the McCloskey amendment, and I will discuss it at that time.

But I do want to compliment the chairman. I think it is almost disgraceful that this Congress did not move on this issue earlier. I think we have done a disservice to the country and to the tuna industry because we have been so slow, and I am delighted that we are finally getting to it.

Mr. RUPPE. Mr. Chairman, I yield 7 minutes to the gentleman from California (Mr. McCloskey).

Mr. McCLOSKEY. Mr. Chairman, I take this opportunity to discuss some amendments which I would like to offer to the chairman's bill. I think it is fair to point out that until April 28 of this year, just about a month ago, the tuna industry did not want any legislation to be enacted. It is to the chairman's credit that he finally focused attention on this problem and has reported out a bill to relieve the tuna industry from one basic problem, the fact that the Marine Mammal Protection Act of 1972, requires that if a species were found to be depleted, none of that species could be taken. Since the eastern spinner population, was found to be depleted, it is literally impossible for the tuna industry to set on any porpoise. Recognizing that dilemma, H.R. 6970 allows 6,500 eastern spinner to be taken in order to permit this billion dollar industry to proceed. The question now comes as to what balance we should strike between the protection of porpoises, as provided in the Marine Mammal Protection Act, and our desire to keep this industry in business.

Mr. Chairman, let me call the committee's attention to one fact and one fact alone. Five years ago, in 1972, the industry was killing over 300,000 porpoises a year. When we enacted the Marine Mammal Protection Act in 1972 we gave the industry a 2-year moratorium to devise the means and methods to reduce the killing of porpoises. And last year, 4 years later, they killed roughly 100,000 porpoises. The courts said, properly, "This does not meet the test of the statute of near-zero mortality, and we in-

struct the industry to take steps to meet that goal."

The fishing of tuna on porpoises is no mystery. The fishermen use nets some 4,000 feet long and 360 feet deep. If a school of porpoises is discovered, speedboats encircle that school of porpoises with their nets and the purse seine is drawn tight, catching the tuna underneath the porpoises. All but 10 boats of the U.S. tuna fleet now have been equipped with the fine mesh at the top of the net to save the porpoise's life.

So we have every anticipation that the porpoises killed this year will be substantially below the number killed last year.

Now let me call the committee's attention to the Department of Commerce figures: Of 54 observed trips last year by American tuna fishing boats, the 20 best skippers killed an average of 52 porpoises per trip. We know that there may be somewhere around 350 trips this year.

If the entire tuna fleet is required to meet the standard of those 20 best skippers, there will be less than 20,000 porpoises killed next year.

The question that is really involved with the amendments to the Murphy bill is this: Should we increase the quota set by the Government from 59,000 to 79,000 porpoises, or should we reduce the quota?

Mr. Chairman, the first amendment I will offer contains this provision: Instead of the 59,000 that the present administration regulations permit and instead of the 79,000 that the Murphy bill provides, I reduce that quota to 69,000 porpoises. If the 20 best boats can kill at an annual rate of less than 20,000, with a quota of 69,000 porpoises, we are allowing the U.S. tuna fleet to kill more than 3 times as many porpoises as the good skippers have demonstrated may have to be killed.

This is not any longer a matter of gear, because all but 10 boats have the necessary gear. If the best skipper can set the purse seine as close as he wants and can back his boat, using speedboats, and can hold open the chute at the opposite end, there is no reason why all or nearly all the porpoises cannot be saved. But that runs counter to what you and I as fishermen would want to do. We know that if we can go out and catch a thousand tons of tuna in 12 weeks, we can make ourselves a lot of money; if it takes us 14 weeks, we can make some money; if it takes us 16 weeks, we break even; but then if it takes 20 weeks, we lose money.

There is no commercial fisherman who is not under the incentive to collect those tuna as rapidly as he can, and the devil take the porpoises if they cannot get out.

What we want to do in this bill is to give a reasonable quota so that the tuna industry can survive, but we want to penalize those skippers who kill more porpoise than they should and we want to give a reward to those who kill less. We can do that in this bill if we accept these amendments.

There is a second principle involved, and the question is this: Who should pay for the costs of this full observer program? Let there be no mistake. We are not putting these observers on every boat to obtain better information, although

that is one benefit of the program. We are putting observers on every boat because we cannot trust the word of the tuna skippers. And why not? Because on the 54 observed trips last year they reported 4 times as many porpoises killed as on the unobserved trips. It transcends belief that the skippers on unobserved trips killed only one-quarter of the porpoises killed on observed trips. So as a matter of law, to protect the porpoises, we put an observer on every boat.

But does that mean that the U.S. taxpayer should pay the cost of policing the tuna industry?

Mr. Chairman, the second amendment would merely transfer the cost of the full observer program from the taxpayer of the United States to the tuna industry, and that cost is roughly \$4.5 million. This tuna costs roughly 30 cents a pound to catch, and it was stated in testimony before us that this would increase the cost about 1 cent per pound. That would increase the cost of U.S. tuna from 30 cents to 31 cents a pound.

Foreign tuna already costs 8 to 10 cents more, so this will not put the American tuna industry at a disadvantage if we put this cost burden on the industry.

Mr. Chairman, there is a third amendment, an amendment to require that if boats are transferred to foreign flag, the consent of the transferee must be obtained to meet American standards. We have 14 U.S. tuna boats that have applied for transfer to a foreign flag. It is proper that they do that, but certainly, if we are going to protect the U.S. tuna industry, we should not encourage foreign competition to be able to compete at an advantage and to fish without meeting American standards.

Mr. MURPHY of New York. Mr. Chairman, I yield 4 minutes to the Resident Commissioner from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Chairman, I rise today to express my strong support for H.R. 6970. This legislation provides short-term relief to the beleaguered U.S. tuna industry while simultaneously insuring that all species of porpoise are given rigorous protection.

The need for this legislation has been dramatically demonstrated in the last 6 months. While the tuna boats were tied up in the docks because of unrealistic Government regulations, the economies in many areas of the country suffered dire consequences.

The importance of tuna fishing to the area I represent is tremendous. In Puerto Rico the tuna industry directly employs 6,630 canning workers with an annual payroll of \$34.6 million. Another 12,801 workers are indirectly employed. The reports from individual tuna canning plants in Puerto Rico are frightening. In Ponce the National Packing Co. has laid off 2,000 of its employees. In Mayaguez, Starkist has laid off 250 workers and the remaining 1,900 workers have been employed on a reduced work-day basis in the month of May. I have been informed that the Neptune Packing Co. had sufficient supplies to employ its 506-person workforce for only 1 more week, after which 75 per-

cent of the workers would be laid off. Bumble Bee, another tuna plant in Puerto Rico, has sufficient supplies to keep less than 400 of its 1,346 employees at work in the coming months. The combined layoffs and reduced working hours represent a 47 percent reduction in tuna industry employment in Puerto Rico.

If the present crisis continues, I anticipate that some 6,630 tuna factory workers in Puerto Rico will be laid off. Unemployment in Ponce and Mayaguez, the second and third largest metropolitan areas in Puerto Rico, will soar since tuna industry employees represent approximately 40 percent of the work force in these cities. Unemployment compensation to those previously employed, directly and indirectly, in the tuna industry will equal \$4.1 million per month. Annually, direct and indirect payroll losses would total about \$95.5 million and unemployment assistance would amount to \$49.2 million.

For the mainland United States, the closing of Puerto Rico's tuna plants would mean an annual loss of 221 million pounds of highly nutritious tuna—about 41 percent of the entire U.S. production—with a value of \$226 million. Such a decrease in supply will result in sharply-increased prices for consumers.

Mr. Chairman, I have just described the impact of the overly restrictive 1977 regulations on Puerto Rico. Similar impacts will be felt up and down the west coast of the United States. But I ask you, is this sacrifice of an industry and of thousands of jobs necessary? The facts clearly argue that the answer to this question is "no." The porpoise population will be protected under H.R. 6970 and in two cases will increase. At the same time, H.R. 6970 will reverse the trend of unemployment within the tuna canneries. Without this legislation, areas such as the one I represent will be immobilized by widespread unemployment and therefore I urge that this bill be enacted.

Mr. RUPPE. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. BURGNER).

Mr. BURGNER. Mr. Chairman, I thank the gentleman for yielding.

The best thing we can do, Mr. Chairman, to preserve the dolphin or the porpoise and at the same time protect a vital industry is to pass this bill without major amendment.

If we fail to pass it, Mr. Chairman, the foreign fleet will take the porpoise 2½ times faster than we have been taking them.

For the first time, Mr. Chairman, we are going to have an observer on every boat, that is, the ones over 400 tons, so that we will not any longer have to guess about the taking of the mammal. Furthermore, we are asking the industry to pay rather heavily for this surveillance and to provide its own research boat. If there are careless captains, they will be penalized; and that is proper.

Mr. Chairman, I think we should remember that the porpoise kill has dropped rather dramatically, and this is all to the good. As recently as 1972 it was 306,000, estimated. Last year it was



103,000, estimated; and this year, under this bill, it will be 78,900, and very possibly even less than that.

Mr. Chairman, we are not sure that the porpoise is truly an endangered species. However, the passage of this bill and the passage of time, of a year or so, will really give us the answer to that question.

Mr. Chairman, the committee report says that even by taking 6,500 eastern spinners, "with virtual certainty, the population of that species will increase"—will increase, not decrease.

Therefore, Mr. Chairman, this is a compromise bill. It is not an industry bill. It is not an environmentalist bill. It is a compromise. It is the one thing that will permit us to fix reductions in the taking of porpoise, and within a year or 2 years we will know exactly where we stand so that we can further refine the legislation.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BURGNER. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I believe the question of depletion must be carefully analyzed. To respond to the gentleman from California (Mr. McCloskey), biological depletion means that there are more deaths than there are births.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RUPPE. I yield 1 additional minute to the gentleman from California.

Mr. MURPHY of New York. But depletion, as defined in the act, means in general that the species has fallen below its optimum sustainable population. In other words, there are, under existing conditions, more births than deaths so that we are not facing biological depletion as some people would have us believe.

The eastern spinner under the 6,500 quota that we are placing will increase by 36,000 at least.

So, Mr. Chairman, let us be correct semantically: We are not dealing with an endangered species or a depletion of the species in the pure terms of depletion as defined in the act.

Mr. BURGNER. I thank the gentleman.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. BURGNER. I yield to my colleague, the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I rise in support of H.R. 6970. I feel that our distinguished colleague from New York (Mr. MURPHY) has fashioned an acceptable and reasonable interim compromise on the tuna/porpoise controversy until new studies can give us the needed information on porpoise populations as well as mandating that the tuna industry achieves new fishing technology as soon as possible.

While I support the basic goal of the Marine Mammal Protection Act to save the porpoise from extinction, I do not want to see the entire tuna industry destroyed. The act was never intended to force the American tuna fleet to cease fishing, nor does the act prohibit purse seine fishing on porpoise.

As a practical matter, the American tuna fisherman is very much aware of

the need to preserve the porpoise population because tuna are often found in close association with the porpoise. In fact, 14 years before the marine mammal protection act became law, and before most of the tuna boats had converted to purse seining, an American tuna boat captain developed the "back down" procedure which releases 95 percent of the encircled porpoise. Also, the medina panel, a fine mesh net panel, was developed by an American captain before the act became law.

The industry has, and is continuing to invest large sums of money in research and equipment to reduce porpoise deaths. Too often this effort goes unnoticed by those who advocate the strictest possible interpretation of the act.

Tragically, we are forcing our tuna fleet out of the ocean while foreign-flag seiners continue to catch tuna and destroy porpoise. These regulations do not apply to foreign countries who, I am told, kill approximately two and a half times more porpoise. Nor have these countries made any significant contribution to reducing porpoise kill, as has the American tuna industry.

I cannot believe that anyone in the Congress wants to purposely destroy the American tuna fishing industry. Yet, unless we act, there is no question that 30,000 Americans directly affected by this problem are going to seek other means of employment. And, millions of Americans in the lower income bracket who depend on a relatively inexpensive source of protein—tuna—will be victimized.

This bill is a balanced approach to the current crisis within the tuna industry, and I urge my colleagues to support it.

Mr. BURGNER. Mr. Chairman, I thank both the gentleman from California (Mr. GOLDWATER) and the gentleman from New York (Mr. MURPHY) for their contributions. Passage of this bill will help solve this major problem.

Mr. MURPHY of New York. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, I rise in support of H.R. 6970. This bill, which has been hammered out by the Merchant Marine and Fisheries Committee, represents a sensible approach to the tragic tuna-porpoise problem. I say tragic, because the current situation, as Mr. MURPHY has pointed out, is counterproductive from every point of view. As is widely acknowledged, the crippling of the U.S. tuna fleet, which we are currently facing, will help neither the porpoise nor the industry. Thousands of jobs will be affected—witness the layoffs of cannery workers in California and Puerto Rico, and the fishermen who were idled. Yet the porpoise will not be helped by such job losses.

H.R. 6970 provides for a meaningful reduction in mortalities—a reduction of approximately 25,000 below the mortality level in 1976. Under the bill, the stocks of porpoise will increase by at least 97,000 in 1977 alone. Furthermore, the bill provides for acceleration of research in porpoise mortality reduction through the requirement that the industry provide \$2,000,000 for a tuna vessel dedicated to research.

I believe the various amendments which Mr. McCloskey has stated he will introduce on the floor, should be summarily rejected. These amendments would destroy the delicate balance contained in this legislation, which was achieved by the committee after extensive deliberation. Furthermore, through such provisions as the automatic "ratcheting down" of the quota, these amendments would serve only to exacerbate the crisis, rather than resolve it. There is currently not enough information available to support any such provision at this time. I believe the provision for a 2-year observer program should provide enough information to allow the Congress to make better judgments on long-range approaches to the act. Let us not pass so-called long-range solutions in a vacuum.

In addition, I take particular exception to the Pritchard amendment, which would impose a \$32 penalty for each porpoise killed by tuna fishermen. H.R. 6970 contains the amendment I authored, which sets a far more reasonable penalty of \$32 for each porpoise killed in excess of the kill rate. The adoption of the Pritchard amendment would be fatal to the U.S. tuna industry.

Those who allege that H.R. 6970 is anti-environmental clearly miss the point. Environmental interests were given extensive consideration by this committee. Important provisions, suggested by environmentalists, were adopted in this legislation. The importance of reducing the dolphin mortality rate is recognized in this bill. Many of the supporters of this bill including myself have been strong supporters of legislation to protect our ocean mammals. My vote in support of H.R. 6970 does not in my mind violate my earlier positions.

This legislation does not represent the alpha or omega. Yet when one considers the alternatives to not passing H.R. 6970—namely the continued paralysis of the important tuna industry—support becomes even more compelling. The balance between industry, environmental and consumer interests are there in H.R. 6970. Any of the proposed amendment will shatter the balance and destroy the bill. Therefore I urge support for H.R. 6970 as reported.

Mr. RUPPE. Mr. Chairman, I yield the final 3 minutes of debate to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Chairman, I wonder how we can increase employment if the porpoise take is lessened. If we diminish the number of porpoise taken, how are we going to increase the amount of the tuna take? Actually, as we understand it, yellow-fin tuna follow porpoises, and they throw the net around all of them, and they try to release, hopefully, the porpoises.

I want to say this about porpoises. The first time I saw them many years ago in Florida, they were highly trained animals. They could play basketball. They are highly intelligent animals and lovable. They have a constant grin or laugh upon their faces. I also saw them on troop ships in both the Atlantic and the Pacific, and they were considered harbingers of good weather and of good luck as hundreds of them leapt over the

waves throughout the Atlantic and the Pacific.

Some of our psychologist friends have checked the intelligence quotients of some of these animals and it is as high as 168. Actually it is much higher than the average of that of us humans. I would hate very much to shoot a porpoise to kill it. To shoot a highly intelligent mammal such as this is the utmost in cruelty. I should think that methods could be developed to diminish the number of porpoises that are taken. In fact, I do not think any should be taken. As far as I am concerned, I would do without tuna rather than see this highly intelligent, lovable animal decimated as it has been and as it is being done at the present time. I have heard some say that it is not being decimated, but we know from the figures and by the statements of some of the men who have spoken here today that certain species are. While it is stated that the catch of porpoises will be diminished this year to some 79,000, it is difficult to accept this.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MURPHY of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Hawaii (Mr. AKAKA).

Mr. AKAKA. Mr. Chairman, I rise in support of H.R. 6970. The Committee on Merchant Marine and Fisheries has fashioned a reasonable compromise between the demands of environmentalists and the tuna industry.

We are all interested in protecting dolphins. I wish that we could prevent all dolphin mortality tomorrow. I also wish we could end poverty, ignorance, and war. Some goals are simply not achievable overnight.

The U.S. tuna fleet has dramatically improved its performance over the last several years. In 1972 the fleet was estimated to take some 300,000 dolphins; last year they took an estimated 100,000. Because of advances developed by our fishermen, 99.2 percent of the dolphins captured in the net are now released safely. These hard facts belie any charge that the fleet has not made an honest effort to reduce dolphin mortality.

We should continue to reduce dolphin mortality, and H.R. 6970 would insure that. But if we require more of the fleet than they are physically capable, the effect will be disastrous for both the dolphins and the fleet.

The cruel irony of the Marine Mammal Protection Act is that it is only effectively enforced against American fishermen. Foreign fishermen have a mortality rate far in excess of the U.S. rate. If we force our fleet out of business, foreign fishermen will gladly take up our share of the tuna and more than our share of the dolphins.

The gentleman from California has proposed an amendment to reduce the quota to 34,000 by 1980. While I agree with this goal there is simply no information in the record that this can be achieved.

The industry is using the fine-mesh system for the first time this year. It has only been used experimentally heretofore. The National Marine Fisheries Service has stated that it does not be-

lieve the fleet will have immediate success with the new gear. A period of intense experimentation by individual skippers will be required.

H.R. 6970 offers a more realistic and practical reduction in the quota. Assuming the fleet will take the traditional volume of yellowfin tuna on dolphin—approximately 110,000 tons—the 78,000 quota in H.R. 6970 would force a fleet-wide mortality per ton of 0.7 dolphin. Such a mortality per ton would represent a significant reduction from the 1976 rate of 1.1 dolphins per ton of tuna caught.

Under H.R. 6970 the Secretary could reduce these numbers even further in 1978.

We all want to see an end to dolphin mortality. Wishing the problem away will not accomplish that aim.

I urge passage of H.R. 6970.

Mr. MURPHY of New York. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Chairman, section 2 of the Marine Mammal Protection Act states that the purpose of the act is to insure that the marine mammal populations of the world will be maintained in a healthy state and will continue to be significant functioning elements of the marine ecosystem. H.R. 6970 is fully consistent with that objective.

There are three species of dolphins which are taken incidental to commercial fishing operations for tuna. Under the terms of H.R. 6970, each species will be maintained at a healthy level. In fact, for two species the population will actually increase under H.R. 6970. In the case of the offshore spotted dolphin, the population will increase by at least 139,000 or 4.2 percent over the next 2 years.

For the second species, the eastern spinner, the population will probably expand by 72,000 animals over the next 2 years—an increase of 5.3 percent. Although much attention has been focused on the eastern spinner dolphin because it has been designated as depleted, the simple fact is that H.R. 6970 will permit this population to increase by approximately 5.3 percent by the end of 1978.

The environmental defense fund, which represents several other environmental groups, and the Marine Mammal Commission have both recognized this fact. When the 1977 regulations were being considered, both groups stated that 6,500 eastern spinners could be taken without any adverse impact on the species. The administration bill, which permits the taking of up to 6,500 eastern spinners, also recognizes that the language of H.R. 6970 will not harm the population.

As to the third species of dolphin involved in the tuna fishery, the whitebelly spinner, H.R. 6970 permits a minimal reduction in the overall population. In considering this fact, we must bear in mind that as a general rule the danger level for a population is when it is at 50 percent of its maximum population. As of today, the population of the whitebelly spinner is at 80 percent of what was once its maximum population. Under H.R. 6970 the population will decrease by a maximum of 1.5 percent. Assuming this

reduction actually occurs, the population will still be 28.5 points above the danger level.

Mr. Chairman, it is clear that H.R. 6970 is consistent with the overall purposes of the Marine Mammal Protection Act. The population of the three major species of dolphins involved in the tuna fisheries will be maintained in a healthy state. In at least two instances the population will increase by a substantial amount. In my opinion, H.R. 6970 represents a balanced environmental measure that protects and enhances the marine mammal populations involved while simultaneously preventing the massive unemployment that will result if the Congress fails to act. Therefore, Mr. Chairman, I urge my colleagues to support this legislation.

Mr. MURPHY of New York. Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. VAN DEERLIN).

Mr. VAN DEERLIN. Mr. Chairman, it is not surprising that those of us from southern California and particularly those of us from the home of the tuna industry, San Diego and San Pedro, should feel strongly that this legislation must be enacted, without amendment.

From small beginnings a half century ago, we have seen these free enterprisers hack out an industry which has meant jobs for themselves and for thousands of cannery workers. We have seen them fight off many a threat from outside the United States: First, in the early days after World War II when favorable quotas on the import of Japanese fish permitted a competition which our boat owners felt was unfair and—with this probably many of the Members are more familiar—there were then the unending difficulties that were experienced before worldwide adoption of the 200-mile limit, when our men from southern California, fishing on the high seas, were put upon by the nations of western South America. Our fishermen spent time in jail, they had shots fired across their bow, they were taken captive, and they were forced to pay fines and stiff penalties.

The newest threat to our tuna fleet comes not from foreign shores, but from fellow citizens here at home.

The gentleman from New York, Chairman MURPHY, has put his finger on the principal point to be made here. It is that there is no way of saving porpoise by imposing penalties only on our own fishermen. There is no way, with legislation we enact in this House, that we can regulate what is done by foreign fishermen.

As was noted by Dr. Kenneth S. Norris, deputy director of the Center for Coastal Marine Studies at the University of California, Santa Cruz:

If the fleet goes foreign, no amount of American indignation can be expected to save the porpoises. The very activism of the conservation community will have sealed the fate of the eastern Pacific porpoise populations.

Mr. REUSS. Mr. Chairman, the Marine Mammal Protection Act, in my judgment, requires amendments to make sure that porpoise kills by tuna fisher-



men are reduced steadily and at a sensible rate—without harming the industry. I intend to support those amendments.

The need for strict standards is obvious. One recent report on the tuna industry found such appalling figures as 505, 326, and 1,041 porpoise killed in single sets of the tuna nets. These numbers must be reduced.

While the present bill sets standards, they are too lax. That happened because of the haste in which it was drafted. According to the minority report from committee, the bill was invisible until an hour before the convening of the markup session. What amendments were made to it were hastily drafted and often inconsistent.

While decidedly improved during markup, H.R. 6970 remains an inadequate piece of legislation. Many of its provisions will be operative for only 1 year, even though the bill terminates on March 31, 1979.

Mr. UDALL. Mr. Chairman, I rise in support of the package of amendments to H.R. 6970 offered by my good friends from California (Mr. McCloskey) and Washington (Mr. Pritchard) on behalf of the administration. It is unfortunate that the bill as reported by the Committee on Merchant Marine and Fisheries did not embody these protective provisions. Without them, we face the possible destruction of the Marine Mammal Protection Act of 1972 over which we labored so hard and which has proven so effective in saving the endangered cetacean population.

On controversial proposals before this body over the years a favorite saying often has been that the Senate will save us if we fail to do the right thing. On this occasion, I suspect that many of my colleagues really want stronger protection for these beautiful, intelligent animals but are confused about the contents of the bill reported to the floor, hesitant to vote against the supposed expertise of the committee of jurisdiction, and just hopeful that if H.R. 6970 passes without strengthening amendments the Senate will once again correct our error. That would be a nice easy solution to our problem here today, but it does not relieve us of our responsibility to do everything we can to improve the Marine Mammal Protection Act so that endangered species are protected rather than depleted further, which would be the result if these amendments are not adopted.

The fishing industry has operated successfully under the provisions of the act with gradually improving technology resulting in lower porpoise takes. Only a few operators have failed to comply. Yet they have set the standard that will prevail for fear that further demands on the tuna fleet might drive them to foreign registry. Such a threat is unlikely to materialize because the negative impact of such a course far outweighs any potential benefits.

The committee has not offered a bad bill but it is inadequate. It has omitted some important protections that we ought to include. While setting the kill quota for porpoises at a figure 20,000 higher than that currently in effect, the bill also has no provision for a gradual

reduction in that quota but maintains the highest level for over 2 years; it makes no special provision for protecting the most endangered species, the Eastern Spinner; it does not require observers on transferred vessels nor does it impose an importation ban on foreign-caught tuna by boats not complying with MMPA standards. While the committee bill wisely includes the observer program on domestic boats, it has the Government bear its entire cost. These costs could and should be shifted to the industry through the permit system contained in the amendments.

The committee's bill provides a \$32 penalty per porpoise taken in excess of the fleet quota. However, since this fee is tax deductible, its value as a deterrent or to building the observer fund is negligible. Instead, we should adopt the amendments which would penalize the killing of any porpoise at a rate of \$32 plus increasing the penalty to \$100 for the highly vulnerable Eastern Spinner. Only with these kinds of penalties will there be any incentive to avoid the taking of porpoises.

We are being pressed to take prompt action on a bill which was rushed through committee because the fleet had been idle and many cannery workers laid off. The fact is that the tuna fleet deliberately refused to sail in an effort to force an easing of restrictions on the porpoise. Canneries, therefore, were forced to rely on expensive imported tuna and the prohibitive costs necessitated laying off workers. Yet the fleet has now put to sea for voyages of many months, presumably operating under current regulations, belying the need for precipitous action by the Congress. We do need to come to a resolution of this problem, but we need not do so with such haste that we fail to consider all the consequences of our work.

However, since the bill is now before us, we must take all possible steps to insure that the purposes of the Marine Mammal Protection Act will be carried out without being further diminished.

I would like to see all of the amendments accepted but I want to reiterate that the most important is the first which provides for progressive annual reduction in the taking rate to levels approaching zero. To have any effect whatever, we must include the so-called ratcheting provision to reduce the kill quota 50 percent by 1980 and another 50 percent by the following second year. H.R. 6970 contains no such mandate and will simply allow the fishing industry to procrastinate its compliance with the act, a fact that presents ever increasing dangers to the cetacean population.

Another vital factor to be considered is the virtually untenable position that will be imposed on our negotiator at the International Whaling Commission meeting later this month with Japan and the Soviet Union. We cannot adopt a double standard of management procedures for porpoises to benefit the U.S. tuna fleet while at the same time demanding strict adherence to those same procedures by other nations to protect depleted whale stocks. The U.S. Commissioner to the IWC must be able to retain his credibility in pushing the

whale protection issue. This he cannot do if we fail to include in this legislation ratcheting and penalty provisions to protect the eastern spinner dolphin.

The same old arguments rage here today—can we save the environment and still have jobs and healthy industry? I say we can and we must. We must adopt legislation that is as sound environmentally as it is for management practices. Adoption of these amendments will not result in a bill punitive to the tuna fleet, but failure to adopt them will be punitive to the porpoise.

As with all other endangered species, land and waters, once they are gone we cannot recover them. Their numbers are finite and their fate lies with us here today. If we fail to protect them, we have failed ourselves and our children and generations to come.

We must provide incentives to the industry both to continue improving its technology which, to its credit, has occurred almost to the point of making our action unnecessary. We can hope that in a few years depleted stocks of dolphins and whales will be replenished. But this will not happen under the current system which allows the same old methods to be used, methods which neither encourage better technology nor reduced kill rates through strong penalties.

I urge my colleagues to consider carefully the consequences if we merely go along today, failing to act when we have an opportunity presented so graphically. No amount of handwringing, no clear hindsight, no action by the Senate will save a porpoise today. We must act now and we must act decisively.

Mr. BONKER. Mr. Chairman, any amendment of the Marine Mammal Protection Act of 1972 has been viewed as an action that should not be taken by the Congress. However, amendment is necessary to strengthen the intent of the law and to assure that the provisions of it are realized fully.

To say no amendment is needed or desired is to say that we are ready to accept the turmoil of the past few years that has erupted into court tests and boycotts by industry, consumer, and conservation interests.

Without amendment, we would continue to rely on suspect data. However, that need not be the case. One of the proposed amendments contained in H.R. 6970 provides for observers on each tuna harvest vessel. That person would not only collect data on the number and types of porpoises taken, but also would monitor constantly the activities of the master and crew to insure full compliance with the law.

These data, gathered by actual observation, would end the necessity of the Department of Commerce relying on extrapolated figures of mortality to determine yearly quotas. They would allow evaluation of new fishing techniques and gear that have been developed to lower porpoise mortality. They would also end much of the aura of uncertainty that surrounds the continuance of several species of porpoise and the tuna harvest industry.

I feel great strides have been made by the industry in attempting to reduce porpoise mortality. I feel also that conser-

vationists, in concert with the Congress, have been instrumental in keeping porpoise mortality at the center of the conscience of America. So, if the 100-percent observer program had been in place during the last harvest year, no further amendment to the law would be necessary.

That was not the case, however. So we have a situation in which the Department of Commerce set one mortality quota level, the administrative law court suggested another, and the tuna industry requested yet another. The result was confusion. Since one section of the regulations issued by Commerce contained a total prohibition of mortality of eastern spinner porpoises, the tuna industry felt compelled to tie up to the docks and refused to go fishing again until the regulations were eased.

I do not know whether the industry could have fished without fear of fines and seizure if they had taken eastern spinner porpoises. But I do know that all the scientists who testified before the committee advised that this particular species intermingled with the other species and possibly could suffer mortalities during the pursuit of tuna.

In the midst of charges and countercharges, the Merchant Marine and Fisheries Committee met to hear these same scientists declare that there could indeed be a mortality quota allowed on eastern spinner and the species would still be able to sustain its present level of population. This despite the fact that it was officially listed as depleted.

The 100 percent observer program contained in H.R. 6970 would eliminate most of these problems and provide an accurate data base. Then, after 2 years of observed harvest, the Department of Commerce will have irrefutable data on which to base its mortality quotas. The observers will also serve the industry by reporting on the effectiveness of new types of gear and different fishing techniques that have proved efficient and productive.

The amendment to allow 78,900 porpoise mortalities is coupled with both an amendment for industry to provide \$2 million for the operation of a research vessel, and an amendment that gives the Secretary of Commerce discretionary power to lower the quota any time any development indicates such a necessity. Since constant progress by the industry in the development of better gear and fishing techniques has been claimed without argument by any party, a lowering of the quota could be ordered before the interim term of H.R. 6970 ends. In any case, the research vessel, in conjunction with the observer program, will help us explore all areas of concern.

I believe the compromises offered by H.R. 6970 will allow us to continue to have a profitable tuna fishing industry and still reduce the number of porpoise mortalities to a level that allows each species population to maintain strong growth patterns.

And most importantly, we will have set the stage for future decisions to be determined from an actual data base

rather than from data that are arrived at through partial observation and extrapolation.

Mr. BROOMFIELD. Mr. Chairman, I rise in opposition to H.R. 6970, the bill to amend the Marine Mammal Protection Act, as it was reported from the Merchant Marine and Fisheries Committee.

The committee bill represents another round in the ongoing tuna-porpoise debate which should have been settled with the passage of the Marine Mammal Protection Act of 1972.

With the passage of the 1972 act, Congress set as national policy the protection and preservation of the porpoise and the other marine mammals such as whales and seals. This goal was to be accomplished by steadily lowering the permissible level of incidental mortality of porpoises caught during tuna fishing. The ultimate goal is a zero incidental mortality.

Today, the committee asks us to reverse this policy of conservation. We are asked to raise the level of permissible incidental kills for the rest of 1977 to about 79,000 porpoises—almost 20,000 over the currently regulated level of 59,000 allowable porpoise deaths. The committee-proposed figure is far too high, especially when we are given no assurance that the committee level will go down again in compliance with the 1972 law.

The National Marine Fisheries Service has found that present technology exists to allow for compliance with the law. With the use of fine mesh nets or the bold contender system, porpoise kills can be reduced dramatically. Presently, many tuna boat skippers are meeting the near-zero mortality goal. There seems little reason to believe that all skippers cannot meet this same goal within a few years.

Mr. Chairman, presently, the United States is one of the leaders in encouraging other nations to join in protecting marine mammals. We are encouraging the Japanese and the Soviets to adhere to strict "management procedures" in trying to save the whale. We are encouraging our neighbors in Latin America to help protect the porpoise. We have passed a resolution to encourage the Canadian Government to help save the harp seals.

One cannot help but wonder how our negotiators can persuasively advocate these policies to other nations if we, in Congress, undermine our own Marine Mammal Protection Act. Passage of the committee bill indicates that we do not take our own policies seriously, so why should other nations.

Mr. Chairman, for these reasons, I oppose the committee proposed bill to amend the Marine Mammal Protection Act of 1972, and I strongly urge my colleagues to join me in this opposition.

Mr. BOB WILSON. Mr. Chairman, I rise in support of Chairman MURPHY's bill, H.R. 6970, and urge its passage in the strongest of terms. An industry is dying while we debate and time is absolutely critical to its survival.

Because of language the Congress included in the Marine Mammal Protection

Act of 1972, our tuna fishing industry has almost been driven out of business.

Late last year, the fleet was forced to suspend operations entirely in the face of conflicting court decisions. Two U.S. district courts, through differing interpretations of the act, placed the fishermen in the middle of a legal tug of war, where obedience to one court would violate the ruling of the other. The only course of compliance to keep within the law was to quit fishing, which the fishermen did.

The argument has been made that this is a fishermen's strike, that they have purposely imposed this economic hardship on themselves to force the Congress to bend the law to their advantage. Nothing could be further from the truth. The fact of the matter is that, in addition to the legal confusion of last year, they were forbidden to fish at all this year until mid-April, when the National Marine Fisheries Service issued its fishing permit for 1977. Prior to that time, no permit, no fishing. Then, when the permit was finally issued, the regulations it contained made conditions so restrictive that not only did fishing become uneconomic, but that disobedience to the regulations—even though accidental—was punishable by criminal penalties and jail sentences. Therefore, to avoid these penalties, not to mention incurring extra expenses by going to sea when the prospect of even a break-even trip was small, the fishing boats remained in port.

What the situation boils down to is this: From the conflicting court orders of last year, the withholding of the permit by the Government and the excessive regulations that accompanied it when it was ultimately issued, most of our fishermen have not drawn a paycheck in something like 7 months.

This enforced idling of our tuna fleet has resulted in a ripple effect that has, is, and will continue to be felt for months to come. Of course, the first to feel the crunch were the fishermen themselves. Next came the cannery workers, for without fish to can, plants were forced to shut down and employees either laid off or placed on shortened work weeks.

This effect is spreading throughout all of the business whether closely or peripherally associated with the tuna fishing industry—the contractors, investors, shipbuilders, warehousemen, engineers, scientists, net weavers, soy bean oil suppliers, steel and paper workers, wholesalers, retailers—workers across our entire Nation.

The final ripple will hit the already suffering consumer, who will face price increases of 20 to 50 percent unless relief is granted. Tuna will no longer be a common food on America's tables, but will be priced right out of the market. And not only will the average consumer be affected, but also the nutrition programs that we have instituted for our elderly and disadvantaged which depend on tuna as an inexpensive source of protein.

On the other hand, the question rises, "What of the porpoise? If the fishermen go back to sea, won't this lead to irreparable damage to the stocks of these friendly animals?" I think not. I believe



the only chance that the porpoise truly has is to get our fishermen back to sea. The porpoise is the fisherman's friend and ally. For years he has practiced porpoise conservation. The existing techniques and gear to reduce porpoise mortality were developed prior to the adoption of the Marine Mammal Protection Act. But our own efforts in the area of porpoise conservation ended when our fleet stopped fishing.

We must bear in mind that we are not the only nation in the world that fishes for tuna. Other nations also purse seine for tuna, only they have no restrictions placed upon them whatsoever as far as killing porpoises is concerned. We are the only country in the world that has any interest in saving the porpoise, but as a result of governmental action, all progress in that direction has ceased.

H.R. 6970 is the legislation that is needed to both provide relief and jobs for some 30,000 people and to continue our conservation efforts. In its present form it provides for a limited taking of porpoise, but it also places upon the industry a responsibility for its actions—a heavy responsibility, but one the industry can shoulder. If any further burdens are added to this responsibility, the net effect will be to worsen an already dire situation—that is to say, hammering the final nails in the tuna industry's coffin.

I urge your support of H.R. 6970 in its present form. By no means is it an "industry" bill as some have charged, for it contains extremely stringent conservation provisions. It is a reasonable and just measure. It will put productive people back to work in these times of unemployment.

Mr. Chairman, H.R. 6970 is the best possible short-term solution we have to this problem. Without it, we will wipe out a major part of our domestic fishing industry, along with tens of thousands of badly needed jobs. With it, our citizens can go back to work and continue to supply the tables of America with an inexpensive, wholesome and nutritious food.

Let us make this happen here today.

Mr. ANDERSON of California. Mr. Chairman, this tuna-porpoise problem has seen much emotional "heat," and some factual "light."

Not one of us here wants to legislate the killing of animals, especially a mammal like the beautiful and intelligent porpoise.

As the author of the 1972 Marine Mammal Protection Act, which H.R. 6970 amends, I am very concerned about passing a bill that is both a long term solution, and a fair compromise.

Many of us view this bill as an interim solution to the tuna-porpoise controversy. Its aim is to allow a traditional American industry to go back to work, while we in Washington try once again to negotiate a lasting answer.

Mr. Chairman, this is not an administration or industry bill. It is a bill that should make the environmental community happy, since it penalizes and regulates fishermen, in exchange for the right to fish. It is important to realize that the goal here is to encourage a reduction in the annual taking of porpoise

by U.S. fishermen—a goal even the fishermen agree with.

Let us keep in mind that the tuna fishermen, not the government, pioneered porpoise saving practices. The "Medina" panel, fine mesh netting, and a boats backdown maneuvers were in use by tunamen before the government became involved. Now, H.R. 6970 mandates that the tuna fishermen donate a boat to the Government for pure research purposes, ante-up \$2 million to be used for the payment of the operating expenses of the research vessel, and for rebating of incentive payments to captains whose individual kill rate is equal to or less than 50 percent of the total kill of all fishermen. In addition, captains will pay a \$32 per porpoise fee for each porpoise killed in excess of the industry kill factor.

Besides the financial burden, captains are subject to a government suspension of their permit if—as the committee's report puts it—"his individual mortality factor is more than 100 percent of the industry mortality factor, and to provide for the removal of such suspension if such master participates in a suitable 30-day training program."

Moreover, each boat is required to have on board a government observer.

In return, H.R. 6970 allows tuna fishermen to go back to work, and take 78,900 porpoise while fishing for yellow-fin tuna. That is a mandated reduction from the 1976 estimated take of 103,753 porpoise.

I will vote for H.R. 6970, but I will oppose any and all weakening amendments. After all, the National Marine Fisheries Service (NMFS) estimates that foreign vessels fishing on porpoise have a kill rate per set two and one-half times the American rate. Does it not make good sense that we pass a bill that allows an industry to work, while establishing safeguards to protect the porpoise?

H.R. 6970 strikes a temporary balance, and allows time for a solution to be reached based on a solid foundation of knowledge and logic instead of emotion. As a Member of Congress who has long taken pride in our record on environmental legislation, I plan to vote "aye" on the committee's bill.

Mr. MIKVA. Mr. Chairman, I am opposed to postponing further enforcement of the Marine Mammal Protection Act of 1972, which was intended to end the unnecessary slaughter of porpoises and other marine mammals. H.R. 6970 not only recants on that commitment, it threatens to undermine the impending International Whaling Commission negotiations. We cannot afford to do either.

Few bills have been as hastily drafted or poorly conceived as H.R. 6970. The bill was hurriedly written following 3 days of equally sudden hearings. Members of the Merchant Marine Committee have said that they did not even see the legislation until 1 hour before the markup. The minority report states that many amendments were so hastily drawn that they required substantial staff modification just to conform to the subject. Some Members have complained that there was so little time for consideration or debate that they could do little more than glance at the bill before voting. This lack of

preparation is reason enough to reject this bill.

Of even greater importance, however, is the senseless porpoise slaughter sanctioned by H.R. 6970. Despite the fact that Congress granted the tuna industry a 2-year grace period following enactment of the Marine Mammal Protection Act, as well as 3 years during which enforcement has been delayed, this legislation would actually raise kill quotas for the next 2 years, while eliminating the requirement to reduce porpoise kills "to insignificant levels approaching zero mortality." H.R. 6970 would also allow 6,500 of the already depleted Eastern Spinner species to be killed, 700 more than were killed last year, when no quotas were in effect.

Enactment of these amendments would put the United States in the hypocritical position of authorizing the killing of a depleted porpoise species while proscribing the killing of depleted whales. This smacks of the worst kind of economic self-service, while it totally compromises the credibility that this country has earned before the International Whaling Commission, whose next meeting is in June. The longer we continue to grant reprieves, the more tarnished is our word and the emptier are our voices, when speaking for the conservation of marine mammals, some of the most highly developed forms of life on Earth. If there was no alternative to killing these hundreds of thousands of porpoises while fishing for tuna, legislative relief such as H.R. 6970 might be appropriate. But newly developed techniques and equipment have rendered porpoise killing obsolete, and, thus, unconscionable, as a necessary byproduct of the tuna fishing process.

Mr. Chairman, I am confident that the tuna industry can conform to the quotas which have been set by the administration. Indeed, many of the largest boats have already improved upon the allowable porpoise kill limits. Those boat captains, and other wise industry representatives, realize that they have a vital stake in preserving the porpoise, as this most intelligent mammal is the very reason tuna is so easy for them to locate and net.

Finally, we ought not be deterred from rejecting this bill because some fishermen have threatened to switch flags if quotas are not raised. These are hollow threats; the boat captains know full well that any tuna caught in violation of the Marine Mammal Protection Act would be prohibited from importation into the United States.

Our vote today is an important test of our resolve to preserve threatened and depleted species of marine mammals. Over 5 years ago, Congress courageously acted in the face of the wanton destruction of the ecological balance in the oceans. At that time, we had the will to resist pressure from an industry which does not need this kind of special environmental waiver. I hope that we will affirm that foresight today, by rejecting the continued killing of a most precious marine mammal—the porpoise.

The CHAIRMAN. All time has expired. Pursuant to the rule, the Clerk will now

read the committee amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries now printed in the reported bill as an original bill for purpose of amendment.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 104 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374) is amended by adding at the end thereof the following new subsections:*

"(1) Notwithstanding any other provision of this title, and subject to paragraph (2) of this subsection, the Secretary shall issue permits under this section for the taking, incidental to commercial purse seine fishing operations for yellowfin tuna on porpoise—

"(A) during each of calendar years 1977 and 1978, of the following number of animals from the following stocks of marine mammals:

| "Stock  | Number permitted to be— |           |           |
|---|-------------------------|-----------|-----------|
|   | Killed                  | Encircled | Pursued   |
| (A) Spotted dolphin ( <i>Stenella attenuata</i> ).....                        | 50,400                  | 5,387,000 | 8,040,000 |
| (B) Whitebelly stock of spinner dolphin ( <i>Stenella longirostris</i> )..... | 17,000                  | 1,420,000 | 2,120,000 |
| (C) Eastern stock of spinner dolphin ( <i>Stenella longirostris</i> ).....    | 6,500                   | 549,000   | 820,000   |
| (D) All other stocks, inclusive.....  | 5,000                   | 652,650   | 974,400;  |

and

"(B) during the first quarter of calendar year 1979, the number of animals specified in subparagraph (A) from each stock set forth in such subparagraph, but prorated appropriately by the Secretary.

"(2) The Secretary may reduce the number of animals specified in paragraph (1) of this subsection of any stock of marine mammal which may be killed, encircled, and pursued during calendar year 1978 and during the first quarter of calendar year 1979 if the Secretary—

"(A) finds that such reduction—

"(i) is feasible in view of advancements made in the technology of fishing gear or fishing methods, or both, or

"(ii) should be imposed as a result of new information regarding the size or health of the population of any such stock; and

"(B) establishes such reduction for calendar year 1978 before December 16, 1977, and for the first quarter of calendar year 1979 before December 16, 1978.

"(j) (1) (A) For purposes of this paragraph, the term 'fishing period' means any calendar year after 1977.

"(B) As soon as practicable after the close of each fishing period, the Secretary shall determine the industry kill factor for such fishing period and the individual kill factor for such fishing period for each certified master.

"(C) (i) Except as provided in clause (iii) of this subparagraph, if the Secretary determines under subparagraph (B) of this paragraph that the individual kill factor for any fishing period for any individual who was a certified master for such period exceeded by 100 per centum or more the industry kill factor for such period, the Secretary shall refuse to grant to such individual status as a certified master, for all of the fishing period next succeeding the fishing period for which such determination was made (or for such part of such succeeding period as the Secretary deems appropriate), under any permit issued by the Secretary for such succeeding fishing period.

"(ii) The Secretary may revoke any action taken by him under clause (i) of this subparagraph with respect to any individual at any time after the individual (i) participates in a suitable training program of thirty days established by the Secretary in conjunction with a person issued a permit, and (ii) demonstrates, to the satisfaction of the Secretary, a significant improvement in ability to reduce porpoise mortality while engaging in purse seine fishing for yellowfin tuna on porpoise.

"(iii) The Secretary may waive the application of clause (i) of this subparagraph with respect to any individual if the Secretary determines that the difference between the individual kill factor of such individual and the industry kill factor, for the fishing period concerned, was attributable to unforeseeable weather conditions or unforeseeable gear failure.

"(2) (A) For purposes of this paragraph, the term 'fishing period' means the period referred to in section 111(d) (2) (B) of this title which ends at the close of March 31, 1979.

"(B) No permit shall be issued by the Secretary for calendar year 1978 unless the permittee pays to the Secretary at the time of issuance of the permit a special assessment in the amount of \$2,000,000. The permittee shall collect the assessment from among certified masters on such basis as the Secretary deems equitable, taking into account the relative time during which such masters have engaged, or may engage, in purse seine fishing for yellowfin tuna on porpoise during the fishing period and the relative tonnage of the vessels used, or which may be used, by such masters while engaged in such fishing.

"(C) The special assessment paid to the Secretary under subparagraph (B) of the paragraph shall be deposited to the credit of appropriations made to carry out the following purposes (the amount of such special assessment to be apportioned, as the Secretary deems appropriate, for crediting among appropriations to carry out each such purpose):

"(i) Payment of the operating expenses for the vessel required to be provided to the Secretary under section 111(d) (6) of this title.

"(ii) Payment of incentive payments under subparagraph (D) of this paragraph.

"(D) As soon as practicable after the close of the fishing period, the Secretary shall determine the industry kill factor for such period and the individual factor for each certified master for such period, and thereafter shall pay an incentive payment to each certified master whose individual kill factor for such period is equal to, or less than, one-half of the industry kill factor for such period. The amount of the incentive payment made under this paragraph to each certified master eligible therefor shall equal the amount obtained by dividing the total amount appropriated to carry out the purposes of this paragraph by the total number of eligible certified masters.

"(3) (A) For purposes of this paragraph, the term 'fishing period' means each of the following periods:

"(i) The period beginning on the first day of the period referred to in section 111 (d) (2) (B) and ending at the close of December 31, 1977.

"(ii) The period beginning on January 1, 1978, and ending at the close of December 31, 1978.

"(iii) The period beginning on January 1, 1979, and ending at the close of March 31, 1979.

"(B) As soon as practicable after the close of each fishing period, the Secretary shall determine the industry kill factor for such fishing period and the individual kill factor for such fishing period for each certified master.

"(C) If the Secretary determines that the individual kill factor for any certified master for any fishing period exceeds the industry kill factor for such fishing period, the Secretary shall—

"(i) determine the number of porpoises which would (had not such number been killed during commercial purse seine fishing operations on porpoise engaged in by such master) result in the individual kill factor of such master being equal to the industry kill factor; and

"(ii) assess against, and collect from, the owner of the fishing vessel used by such master during such operations a fee in an amount equal to the product of \$32 multiplied by the number of porpoises determined under clause (i) of this subparagraph.

"(D) The Secretary shall deposit into the special account established under section 111(e) of this title all fees collected by the Secretary under this paragraph.

"(4) For purposes of this subsection—

"(A) The term 'certified master' means any individual who is authorized, pursuant to any permit issued for any fishing period referred to in paragraph (1), (2), or (3) of this subsection, to engage in commercial purse seine fishing operations for yellowfin tuna on porpoise during such fishing period.

"(B) The term 'individual kill factor' means, with respect to any certified master for any fishing period referred to in paragraph (1), (2), or (3) of this subsection, the number obtained by dividing—

"(i) the total number of porpoises killed incidental to commercial purse seine fishing operations (for yellowfin tuna on porpoise) by such master during such period, by

"(ii) the total tonnage of yellowfin tuna caught during such operations by such master during such period.

"(C) The term 'industry kill factor' means, for any fishing period referred to in paragraph (1), (2), or (3) of this subsection, the number obtained by dividing—

"(i) the total number of porpoises killed incidental to commercial purse seine fishing operations (for yellowfin tuna on porpoise) by all certified masters during such period, by

"(ii) the total tonnage of yellowfin tuna caught during such operations by all certified masters during such period.

"(D) The term 'permit' means any permit issued under this section for the taking of marine mammals incidental to the course of commercial purse seine fishing operations for yellowfin tuna on porpoise."

(b) Section 101(a) (3) (B) of such Act (16 U.S.C. 1371(a) (3) (B)) is amended by inserting immediately before "during the moratorium" the following: "and except as provided in section 104(i) of this title."

Sec. 2. Section 111 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1381) is amended—

(1) by amending subsection (c)—

(A) by inserting "(1)" immediately after "(c)", and

(B) by adding at the end thereof the following new paragraph:

"(2) The Secretary and the Secretary of State are directed to commence bilateral negotiations immediately with appropriate foreign governments, and further to commence negotiations within the Inter-American Tropical Tuna Commission, to effect agreements under which observers shall be placed aboard commercial vessels under the flag of the nations concerned and which engage in fishing for yellowfin tuna on porpoise."

(2) by amending subsection (d) to read as follows:

"(d) (1) The Secretary shall establish and maintain a program under which the Secretary shall place observers, in accordance with paragraph (2) of this subsection,



aboard fishing vessels to carry out the functions set forth in paragraph (3) of this subsection while such vessels are engaging in fishing trips. Except as provided for under subsection (e) of this section, all costs incurred in the establishment and maintenance of the program shall be borne by the Department of Commerce.

"(2) (A) Except as provided in subparagraph (B) of this paragraph, the Secretary shall place observers aboard such number and kinds of fishing vessels, and for such number of fishing trips, as the Secretary deems appropriate to carry out the purposes of this subsection.

"(B) As soon as practicable after the date of the enactment of this paragraph (but not later than October 1, 1977) and until the close of March 31, 1979, the Secretary shall place an observer aboard each fishing vessel having a carrying capacity of four hundred tons or more for each fishing trip engaged in by such vessel.

"(3) Each observer placed aboard any fishing vessel by the Secretary under the authority of this subsection shall, during the course of the fishing trip undertaken by the vessel, carry out the following functions (and only the following functions):

"(A) The collection of such data relevant to the conservation of porpoise stocks (including, but not limited to population and mortality statistics) as the Secretary shall require.

"(B) The observation of the fishing methods and gear employed in the fishing for yellowfin tuna on porpoise for the purpose of—

"(1) determining the compliance of the vessel with the regulations issued under this title regarding such fishing; and

"(2) recommending improvements to, or new, fishing methods and gear in order to reduce the taking of marine mammals incidental to such fishing.

"(4) Observers shall carry out the functions referred to in paragraph (3) of this subsection in such manner as to minimize interference with fishing operations. No master, operator, or owner of any fishing vessel shall impair, or in any way interfere with, the carrying out of such functions by any observer.

"(5) Each observer shall be an individual who is—

"(A) an officer or employee of the Department of Commerce; or

"(B) an officer or employee of any other Federal agency who may be detailed, on a reimbursable basis or otherwise, to the Secretary for assignment as an observer.

"(6) No permit shall be issued under section 104 of this title for the taking of marine mammals during calendar year 1978 incidental to the course of commercial purse seine fishing operations for yellowfin tuna on porpoise unless the permittee enters into an agreement with the Secretary under which the permittee agrees to provide to the Secretary a suitable vessel, during such times within the period beginning after the date of the enactment of this paragraph and before January 1, 1979, as the Secretary may require, for use by the Secretary in carrying out further research (A) regarding fishing gear and methods which may reduce the incidental taking of porpoise during commercial fishing operations for yellowfin tuna, and (B) relating to the conservation of porpoise stocks affected by such fishing.

"(7) For purposes of this subsection the term 'fishing trip' means any voyage by a fishing vessel during which commercial purse seine fishing, or the attempt to so fish, for yellowfin tuna on porpoise will or may occur, if the vessel is under the command of any individual who is authorized, pursuant to a valid permit issued under section 104 of this title, to engage in such fishing; and

(3) by adding at the end thereof the following new subsections:

"(e) There is established a special account in the Treasury of the United States into which the Secretary shall deposit all fees collected under section 104(j)(3) of this title. The Secretary shall use all sums available in the special account, to the extent provided for in appropriation Acts—

"(1) to pay costs of the observer program established under subsection (d) of this section incurred during the period ending at the close of March 31, 1979, referred to in paragraph (2)(B) of such subsection; and

"(2) if any sums remain in the special account after payments are made under paragraph (1) of this subsection, to pay such other costs of the observer program as the Secretary deems appropriate.

"(f) If the approval of the Secretary is sought under the provisions of sections 9 and 37 of the Shipping Act, 1916 (46 U.S.C. 808 and 835) for the transfer to foreign registry, or to any person not a citizen of the United States, of any vessel which is designed for use, or may (with or without subsequent modification) be used, in commercial fishing for yellowfin tuna on porpoise, the Secretary shall not grant such approval unless the transferee—

"(1) agrees to comply, when using such vessel for such fishing, with United States standards with respect to the incidental taking of marine mammals; and

"(2) files with the Secretary a bond in an amount and form determined by the Secretary to be necessary and appropriate to insure performance of such agreement."

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENTS OFFERED BY Mr. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer four amendments of a technical nature and ask unanimous consent that the amendments be considered en bloc, considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The amendments are as follows:

Amendments offered by Mr. MURPHY of New York: Page 7, between lines 5 and 6, insert the following:

"(3) For purposes of applying this subsection and subsection (j) of this section, any marine mammal seriously injured incidental to commercial purse seine fishing operations for yellowfin tuna on porpoise shall be considered to have been killed.

Page 10, line 17, strike out "certified master" and insert "fishing vessel used by one or more certified masters during such period".

Conforming amendments:

Page 10, line 19, strike out "certified master" and insert "fishing vessel".

Page 10, line 25, and page 11, line 1, strike out "master" and insert "vessel".

Page 11, line 4, strike out "the fishing vessel used by such master during such operations" and insert "such vessel".

Page 11, line 19, after "master" insert the following: "or any fishing vessel, as the case may be."

Page 11, line 24, and page 12, line 2, after "master" insert the following: "or such vessel".

Page 10, line 22, strike out "porpoises" and insert "marine mammals".

Page 11, lines 6 and 22, strike out "porpoises" and insert "marine mammals".

Page 12, line 8, strike out "porpoises" and insert "marine mammals".

Page 12, between lines 22 and 23, insert the following:

(c) Immediately after the date of the enactment of this Act, the Secretary of Commerce shall amend the permit, which is dated April 15, 1977 and was issued under section 104 of the Marine Mammal Protection Act of 1972 for the incidental taking, during calendar year 1977, of marine mammals incidental to commercial purse seine fishing operations for yellowfin tuna on porpoise, to conform with the provisions of section 104(i)(1) of such Act (as added by subsection (a) of this section) to the extent that such provisions relate to calendar year 1977. No provision of this title, nor any other requirement imposed by law, relating to agency rulemaking shall apply with respect to the amendment required to be made under the preceding sentence.

Mr. MURPHY of New York. Mr. Chairman, these amendments are technical in nature and are simply meant to clarify the intent of the legislation. They do not make any substantive change in the bill.

The amendments would do the following:

First. The first amendment makes it clear that any marine mammal seriously injured in the course of fishing operations will be considered killed for purposes of the quota and for the purpose of establishing the industry and individual mortality factor.

The bill, as originally drafted, contained similar language; the language was inadvertently dropped after the committee's action;

Second. The second amendment makes it clear that the \$32 penalty provision is to be assessed against the owner on the basis of the mortality rate of his vessel.

This change merely clarifies the existing language by making it clear that an owner will not be able to avoid the penalty fee by employing several certified masters on the same vessel in 1 year;

Third. The third amendment inserts marine mammals in the place of porpoise.

This amendment is intended to make it clear that the bill applies to marine mammals whether they are referred to as dolphins or porpoises;

Fourth. The last amendment makes it clear that the Secretary shall amend the 1977 permit, as provided in H.R. 6970, without adhering to the procedural requirements of the Act.

This clarification is necessary in order to avoid any delay in amending the 1977 permit.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, I would agree these are technical amendments. I do support the amendments as offered by the chairman of the committee.

Mr. CARTER. Mr. Chairman, will the gentleman from New York yield?

Mr. MURPHY of New York. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I would

like to ask the distinguished gentleman from New York another question.

Throughout this discussion the gentleman from New York has referred to dolphins. Of course, porpoises are sometimes called dolphins, but there is a fish which is a dolphin, also. I trust that the gentleman is aware of that.

Mr. MURPHY of New York. Yes. Many environmentalists feel that to refer to such a noble mammal as a dolphin by using the name porpoise is a disservice to it.

Mr. CARTER. Mr. Chairman, if the gentleman will yield further, I am one of the people who think that calling a porpoise by the name dolphin renders a disservice to the porpoise, because that is a general name. Porpoise is what it is called almost always. It is not known, as a dolphin, as the gentleman has stated, but more generally as a porpoise.

Mr. MURPHY of New York. The purpose of my technical amendments was to qualify that difference in understanding.

Mr. CARTER. Mr. Chairman, then I do not object.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. MURPHY).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. McCLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: Page 5, strike out line 20 and all that follows thereafter through line 5, page 7, and insert the following:

SEC. 1. That section 2 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361) is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and by adding at the end thereof the following new paragraph:

"(7) while substantial efforts have been undertaken to reduce the incidental mortality and incidental serious injury of marine mammals, in the course of commercial fishing operations for yellowfin tuna, this mortality and serious injury should be further reduced and measures should be taken to develop and promote fishing techniques which do not result in the incidental taking of marine mammals."

SEC. 2. Section 101(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)) is amended—

(1) by amending paragraph (2) thereof to read as follows:

"(2) (A) Except as provided in subparagraph (B) and (C), marine mammals may be taken incidentally in the course of commercial fishing operations and permits may be issued therefor pursuant to section 104 of this title, subject to regulations prescribed by the Secretary in accordance with section 103 of this title. It shall be the immediate goal that the incidental mortality and incidental serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate.

"(B) During calendar year 1977 marine mammals may be taken incidentally in the course of commercial fishing operations for yellowfin tuna pursuant to the provisions of the regulations, permits, and certificates issued under this title in effect on April 15, 1977; except that the number of mammals from the eastern stock of spinner dolphin

(*Stenella longirostris*) authorized to be taken shall be 6,500 killed or seriously injured, 549,000 encircled, and 820,000 pursued; and the number of white-belly spinner dolphin (*Stenella longirostris*) authorized to be taken shall be 11,200 killed or seriously injured, 1,402,000 encircled, and 2,120,000 pursued.

"(C) (1) Subsequent to calendar year 1977 marine mammals may be taken incidentally in the course of commercial fishing operations for yellowfin tuna and permits may be issued therefor pursuant to section 104 of this title, subject to regulations prescribed by the Secretary in accordance with section 103 of this title. The incidental mortality and serious injury of marine mammals allowed shall be progressively reduced to insignificant levels approaching zero. The Secretary shall achieve this reduction by establishing annual quotas for affected species and populations that accomplish significant reductions in the total incidental mortality and serious injury each year and that ensure that no such species or population will be reduced below its level of optimum sustainable population. The total incidental mortality and serious injury authorized in calendar year 1980 shall be limited to no more than 50 percent of that authorized for calendar year 1977, and subsequent annual reductions shall be set at the discretion of the Secretary.

"(ii) Any holder of or applicant for a permit to take marine mammals incidental to commercial fishing operations for yellowfin tuna may petition the Secretary for extraordinary relief to increase the limitation on total quotas set forth in clause (1) above at least six months prior to the time such limitation becomes applicable. The Secretary may, in consultation with the Marine Mammal Commission, grant such relief after an agency hearing on the record in which the petitioner shall have the burden of proving that—

"(I) the total reduction required by the limitation, even if the best available fishing techniques and equipment and due care in fishing operations to minimize incidental mortality and serious injury of marine mammals are used, cannot be achieved without serious economic and social disruption of the tuna industry; and

"(II) an alternative limitation can be imposed that will avoid such serious disruptions and will be otherwise consistent with the provisions of this title.

"(iii) During such period as the eastern stock of the spinner dolphin (*Stenella longirostris*) is determined by the Secretary to be depleted, the Secretary may issue permits for the taking of mammals from such stock incidental to commercial fishing operations for yellowfin tuna until December 31, 1981; except that the number of spinner dolphin from such stock authorized to be taken each year shall be—

"(I) maintained at as low a level as possible and in any event shall not result in the killing or serious injuring of more than 6,500 of such stock;

"(II) limited to taking that is accidental or in association with other stocks of species for which a permit has been granted; and

"(III) limited so as to assure, on the basis of the best estimate, significant annual increases in such stock and the recovery of such stock to its optimum sustainable population as soon as possible but in no event later than December 31, 1981, and, on the basis of virtual certainty, that the present population of such stock will not be reduced.

"(D) The Secretary of the Treasury shall ban the importation of commercial fish and products from fish which have been caught with commercial fishing technology which results in the incidental mortality or incidental serious injury of ocean mammals in

excess of United States standards. The Secretary shall insist on reasonable proof from the government of any nation from which fish products will be exported to the United States of the effects on ocean mammals of the commercial fishing technology in use for such fish or fish products exported from such nation to the United States."; and

(2) by amending paragraph (3)(B) by inserting immediately before "during the moratorium" the following: "and except as provided in section 101(a)(2) of this title,".

Page 12, line 23, strike out "Sec. 2." and insert "Sec. 3.".

Mr. McCLOSKEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. McCLOSKEY. Mr. Chairman, I have some hope that the committee might accept this amendment because what it does, essentially, is to restore the steady progress toward near zero mortality which the industry itself has achieved since 1972 when the enactment of the Marine Mammal Protection Act put the industry under law.

Essentially, this amendment requires the Secretary to make progressive reduction in the quotas of porpoise from the 69,000, which would be in the bill this year, to at least no more than half of that amount, or roughly 35,000 porpoise, by 1980; and sets later progressive reductions as the Secretary might see fit.

The amendment provides that if the industry will be seriously economically or socially disrupted, by a showing of that fact, the industry can obtain relief from the Secretary of Commerce. These provisions, incidentally, were in the administration bill, which was not received by the Committee on Merchant Marine and Fisheries until our last day of markup, which was May 16. When the committee recessed on May 16, we really had no idea that the chairman would submit an entirely new bill the following day which would not accept the administration's quota.

Let me recite what happened in the years from 1972, when over 300,000 porpoises were killed, until this year. The administration this year, the Department of Commerce, set a quota of approximately 59,000 porpoises that could be taken. The administration did that on the basis of 54 observed trips last year, 1976, on which a Department of Commerce observer noted that good tuna skippers could kill very few porpoise if they took care in drawing these nets to a close; whereas careless skippers might kill an exceedingly large number of porpoise.

Based on that fact and the development of this new fine-mesh net, with backdown procedure using speedboats to keep a chute open as the net closed, the administration reached a figure of 59,000 porpoise this year.

The reason that the legislation is needed is not because of that number of 59,000, but because under the law no eastern spinner could be taken, since the eastern spinner is a depleted species as defined in the Marine Mammal Act. All



parties agree that we should permit 6,500 eastern spinner to be taken.

I might say, in response to the gentleman from Kentucky, that we are trying to strike a balance here. We would like to kill no porpoise, but we do not want to put out of business an industry like the tuna industry, which has half a billion dollars invested in these 141 purse seine boats.

But once we reach that point, why in 1977 should we pass emergency legislation which not only does not continue the steady progress toward less porpoises killed, but adds 20,000 porpoises to that which was in the administration bill?

My amendment, instead of accepting 79,000 as potentially killed, reduces that figure to 69,000, requires that by the year 1980 the figure be reduced to roughly half of that, 35,000, and as equipment and methods are improved, that the Secretary continue with that.

My amendment basically supports the initial provision of the Marine Mammal Protection Act. We are not dealing with the Tuna Protection Act. We are dealing with an act of Congress intended to protect the lives of as many marine mammals as we can. To suggest that we increase the quota to 79,000 is in effect to give this industry the license to kill three times as many porpoises as good tuna skippers have demonstrated need to be killed in order to keep their industry prosperous.

I commend to the Members this Department of Commerce chart. Everyone got a copy of it. It is on page 50, I believe, of the report on this bill. If we look at that chart, as to the number of porpoises killed per set on tuna, we find that some skippers killed as many as 15 porpoises per 100 tons of tuna. Some skippers killed less than two-tenths of a porpoise per 100 tons of tuna. To say that we are going to give this industry the right to kill three times as many porpoises as some skippers have demonstrated can be killed is a license to kill. It is not the protection of marine mammals.

It is hard for me to understand why the committee should not want to accept this amendment.

The CHAIRMAN. The time of the gentleman from California (Mr. McCloskey) has expired.

(On request of Mr. BONKER and by unanimous consent, Mr. McCloskey was allowed to proceed for 1 additional minute.)

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mr. McCloskey. I yield to the gentleman from Washington (Mr. BONKER).

Mr. BONKER. I thank the gentleman for yielding.

Mr. Chairman, I would be interested in knowing exactly what figure is being established for 1977. The figure I heard earlier was 73,100. Is the gentleman referring to a different figure this morning?

Mr. McCloskey. In my amendment, the figure is 68,910. That is the administration bill. 68,910 porpoises. It is roughly 10,000 less than the committee bill. It is 10,000 more than the Department of Commerce set as the quota for this year.

Mr. BONKER. If the gentleman will

yield further, then I understand in the gentleman's amendment that in 1980 the quota would be reduced to 50 percent?

Mr. McCloskey. It would be cut in half, to roughly 34,450.

Mr. BONKER. And then in 1982 it would be 50 percent of that?

Mr. McCloskey. No. I did not pick up the administration ratchet provision that thereafter went to 50 percent down per year. I left it with the discretion of the Secretary as to what rate the reduction should be.

The CHAIRMAN. The time of the gentleman from California (Mr. McCloskey) has again expired.

(On request of Mr. BONKER and by unanimous consent, Mr. McCloskey was allowed to proceed for 1 additional minute.)

Mr. BONKER. If the gentleman will yield further, do I understand the gentleman correctly that his amendment does not incorporate the so-called ratchet method?

Mr. McCloskey. That is correct. It cuts it in half over a 3-year period, and then leaves it to the discretion of the Secretary as to the future quotas, but requires they be progressively reduced unless the industry can show an economic disruption.

Mr. BONKER. That takes place in 1977 to 1980?

Mr. McCloskey. The cutting in half takes place from 1977 through 1980. From 1980 on is at the discretion of the Secretary.

Mr. BONKER. I thank the gentleman.

Mr. LEGGETT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I hesitate to oppose the amendment offered by my colleague, the gentleman from California (Mr. McCloskey), because he is a valuable member of my Subcommittee in Fisheries and Wildlife Conservation and the Environment and has immeasurably contributed to some of the environmental bills, particularly in this area. However, I think the Murphy of New York bill in its current form is a good compromise.

The Murphy bill forces the industry and the environmentalists to come together and accept a new amendment to the act that will go into effect sometime in 1979.

I think we would all like to institute today once and for all a program that would reduce targets by 50 percent in various time frames, then reduce them again by another 50 percent, and reduce them once again by 50 percent. Then we would all feel better, and we could go home. But I do not believe we would solve the problem that way.

I think we must all keep in mind the fact that the foreign industry is out there, that they are fishing, and that they have built up a foreign fishing fleet by 113 percent over the past 5 years. We must all remember, too, that no boat has been built in our fleet over the past several years.

We got out of the whaling industry ourselves, but still this year, with the new, improved goals that we have set under the International Whaling Commission, foreign fishermen still take 34,000 or

35,000 whales throughout the world. None is taken by the United States, but other countries that were whaling when we were whaling are still whaling.

Mr. Chairman, we can do the same thing in this industry. We can say that these animals are holy, because they have an intelligence quotient of 160. But let me say that we have met with a Navy Board of Inquiry and we have analyzed the capability of the porpoise. The porpoise is a bright animal, somewhere between a dog and a chimp.

We all recognize that if incidentally we took porpoises at the same rate as they did on the *Elizabeth C. J.*—an experimental boat that we had operating last year—and our results could be like those on the *Elizabeth C. J.*, we, in fact, could get down to a level of about 10,000 or perhaps less at some future date, even though the National Marine Fisheries Service indicated in their report that they do not know how we would get to that point.

Mr. Chairman, let me point out something else about the gentleman's amendment. The gentleman from California (Mr. McCloskey) did not read the amendment, and I know why he did not read it. It is long, it is involved, it is complicated, and it promotes litigation. The gentleman has a hole in his amendment, in particular the language on page 3 of the amendment, as follows:

The total reduction required by the limitation, even if the best available fishing techniques and equipment and due care in fishing operations to minimize incidental mortality and serious injury of marine mammals are used, cannot be achieved without serious economic and social disruption of the tuna industry;

Now, the gentleman knows very well that if we are in the same spot in 3 or 4 years that we are in today, we are going to find that the industry is going to make its exact same catch, and they are going to say, "Well, we have had a target of zero, but you have also said you can abort that target if our industry is going to have serious economic and social problems." And if that means that some 20,000 or 30,000 or 50,000 people are going to be unemployed, certainly ipso facto and automatically, we will have these social, economic, and cultural problems, and so forth. Therefore, under these standards we would desecrate the targets that we have set in the Marine Mammal Protection Act of 1972.

Mr. Chairman, I know that the gentleman does not want to do that, but he writes it right into the law.

That is one of the reasons why the environmentalists did not want to amend this law, because they knew it was a touchy law, that it is plagued with litigation, and that litigation would necessarily follow every single word that we utter here on the floor and put in this bill.

The CHAIRMAN. The time of the gentleman from California (Mr. LEGGETT) has expired.

(By unanimous consent, Mr. LEGGETT was allowed to proceed for 5 additional minutes.)

Mr. LEGGETT. Mr. Chairman, the gentleman from California (Mr. McCloskey) in his amendment, which is

quite involved, did not talk at all about the foreign ban.

Mr. McCLOSKEY. Mr. Chairman, if the gentleman will yield, that is presently in the act, and the Murphy bill does not contain that language.

Mr. LEGGETT. We can talk about that, of course, but I do not think we need the foreign ban section that the gentleman has appearing over on page 5.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield on that point?

Mr. LEGGETT. Yes, I will yield.

Mr. McCLOSKEY. Mr. Chairman, let me direct a question to the chairman of the subcommittee.

The bill of the subcommittee chairman amends section 104; it does not take out of the act the present prohibition against foreign tuna. I would think that we could all agree that we should not penalize the U.S. fleet by allowing the importation of tuna that is caught under restrictions less onerous than our own.

That is the reason why it is not in my amendment. It is already in the act, and the Murphy amendment does not change it. Let me direct that to the subcommittee chairman.

Mr. LEGGETT. Mr. Chairman, if the gentleman will address that to me, since it is my time, I will respond to it.

If it is in the existing law, why does the gentleman put it in here?

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield so I may answer that question?

Mr. LEGGETT. Mr. Chairman, I did not mean that to be a question. That is just a statement.

We have promulgated a regulation that is going to go into effect on July 31, and that says as follows:

No tuna or tuna products from "countries of origin" whose vessels operate in the yellowfin tuna purse seine fishery in the eastern tropical Pacific Ocean may be unloaded in the United States unless the Director of the National Marine Fisheries Service, in consultation with the Department of State finds either: 1) the fishing is conducted in conformity with U.S. standards or regulations; or 2) although not in conformity, the fishing does not result in an incidental kill or serious injury in excess of that which results from U.S. fishing operations. In order for the Director to make such a finding, the country of origin must first submit a statement containing the following information:

- (a) quantity and types of fish or fish products expected to be imported;
- (b) a detailed description of the fishing technology and procedures;
- (c) disclosure of the incidental kill of marine mammals for the previous year;
- (d) the incidental kill total in 1977 and the impact of the kill on the population on a species-by-species basis;
- (e) a statement explaining the procedures limiting the level of kill to U.S. standards and procedure for prohibiting sets after the level of mortality allowed is reached;
- (f) copies of the applicable laws and regulations; and
- (g) a list of vessels which may be involved in taking of marine mammals incidental to yellowfin tuna purse seining; and a list of United States citizens working on these vessels.

Further, no yellowfin tuna or products may enter the United States after July 31, 1977 unless accompanied by a "Yellowfin Tuna Certificate of Origin" signed by the exporter and by a responsible government official of

the country whose flag vessel caught the fish or the vessel master. The Yellowfin Certificate of Origin must include the following:

- (a) country of origin of the fishing vessel;
- (b) identify the exporter;
- (c) identify the consignee;
- (d) identify and quantity of yellowfin tuna to be imported listed by U.S. Tariff Schedule number;
- (e) name of vessel which caught the yellowfin tuna;
- (f) fishing method used;
- (g) other documentation as may be required after the Director grants the finding mentioned above; and
- (h) signature, certification and declaration requirements.

Mr. Chairman, that is just for openers, and they really have a gut-cutting regulation that is going to accomplish the very objectives that the gentleman has been talking about all year long, and certainly I think they are moving in this area, because of the gentleman's very aggressive action.

Therefore, Mr. Chairman, the gentleman has to recognize that he is getting a pound and a half of what he has asked for already in this regulation.

Mr. Chairman, we will not do what is proper if we enact a further amendment that is going to change the standards for one that is going to set some dogmatic numbers where we say that in 1980 we are going to set a number of 40,070. The chairman's number does not go that far, because he talks about progressive reductions and not an increase in the number that he has, but he does not go out to 1980.

Mr. Chairman, we would hope that by 1980 we could get down to *Elizabeth C.J.* standards, and we would hope we could explain to the world what the *Elizabeth C.J.* standards are so that the IATTC can adopt those standards. Then, this foreign fleet that currently has been expanding by over 100 percent for the last 5 years can comply with what we are doing.

Mr. McCLOSKEY. Mr. Chairman, if the gentleman will yield further, what the gentleman is saying is that the *Elizabeth C.J.* used techniques known to everyone, that the kills are acceptable to everyone and that the fine-mesh net, the speedboats, the chute, and the backing-down procedure have achieved a method of taking tuna which would take 10,000 porpoises a year.

In this amendment we set the limit at 69,000 and require that it be reduced.

Why in the devil should we allow any tuna fisherman to fish except with the methods of the *Elizabeth C.J.*? All but 10 of the boats have this fine-mesh net.

Why is it any economic hardship to set a quota of 69,000 porpoises when 107 out of 117 boats could presumably meet that test today?

Mr. LEGGETT. Hopefully, they could. The gentleman made a statement in his minority views in the report that some seven boats took one porpoise or dolphin per 500 tons.

I have searched through all of the gentleman's statistics here, and we do not find that they are really quite that good.

The CHAIRMAN. The time of the gentleman from California (Mr. LEGGETT) has expired.

(By unanimous consent, Mr. LEGGETT was allowed to proceed for 1 additional minute.)

Mr. LEGGETT. In the cruise in the case of 433, 26 porpoise were taken with 208 tons of tuna, for a 0.125 kill rate per ton. That was excellent, but then the boat went right back out again. I do not know what happened, but apparently it had the same skipper and the same crew, and it took 546 porpoise and only took 509 tons. The kill rate went up to 1.07.

We can say that one can lie with figures and that figures lie, but really, I do not think we can go into international forums with these kinds of fragile statistics and tell them they have to accept what we do when we cannot exactly tell them what we are doing.

Mr. Chairman, that is why in the Murphy bill we are not going to accept a 10-percent observer program; we are requiring a 100-percent observer program.

Mr. McCLOSKEY. Is that not because we cannot believe the tuna skippers?

Mr. LEGGETT. The gentleman knows very well that we have no way of verifying their figures. A 100-percent observer program would help in that regard.

The CHAIRMAN. The time of the gentleman from California (Mr. LEGGETT) has again expired.

(On request of Mr. MURPHY of New York and by unanimous consent, Mr. LEGGETT was allowed to proceed for 3 additional minutes.)

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I appreciate my colleague's yielding.

I would like to speak to a point that I do not think is relevant in the debate, and that is the veracity of the count and numbers about which we are speaking. We all know that we are in a numbers game, but the tuna skippers are under surveillance.

They do maintain with the U.S. Coast Guard their exact positions. They have been forced to give away most of their trade secrets from the records that are carefully examined by the National Marine Fisheries Service. I feel that the records that I have examined are correct and that they are viable. Also the limited observers that have been out confirm the veracity of the tuna captains. I think it is a disservice to them and to the industry to imply that there is impropriety in their normal reporting procedures.

Mr. LEGGETT. Mr. Chairman, if I may recapture some of my time, I would say this, that we have known for years that when you have one man paid by the Federal Government to sit on their boat and do nothing but estimate the number of porpoise that are pursued, estimate the number that are encircled, estimate the number that are maimed in the water and die, or perhaps that are dragged up on deck, that those numbers might be considerably different than those the skipper of that boat might estimate when he is trying to run his nets, oversee the



running of the speedboats, and catch tuna, hopefully. The skipper is primarily oriented toward catching tuna and not to counting porpoise.

Mr. McCLOSKEY. Do I understand that the chairman of the subcommittee is agreeing with the chairman of the full committee or that he is agreeing with me?

Mr. LEGGETT. All that I am doing is explaining why the numbers are different. I believe there is a tendency to paint the most optimistic picture. An environmentalist can look out there and say, you know, that there are 10,000 porpoise out there whereas someone else might look out and say there are 1,000 porpoise.

Mr. McCLOSKEY. Is the gentleman agreeing with my statement that we cannot believe the skipper? Was the former statement correct?

Mr. LEGGETT. The gentleman from California has made a great point of that in the past. The National Marine Fisheries Service has said that they do not rely on the skipper's data to make their estimate. It does not mean that the skippers are not telling the truth as far as they perceive it, it merely means that as far as the number of porpoises that are actually killed is perhaps somewhat different than that being perceived by an individual skipper. That is because they do not have time to see what is really out there. That is why we will have an observer on every boat and hopefully will be able to get better statistics.

Mr. BOB WILSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I have been following this debate so far with great interest. My colleague, the gentleman from California, I am sure is trying to follow the dictates of some of the environmentalists in his area, of which there are many. I am concerned and I have more interest. I must admit, in my district, which is the main fishing center for tuna.

Mr. Chairman, let me say that this bill is a tough and a rough bill on the tuna fisherman. It is about as much as he can stand without going under.

I commend the chairman of this committee, the gentleman from New York (Mr. MURPHY) for his understanding and his thorough research when he could have joined with and have followed the conservationists, I am sure, coming from his district. He does not have any tuna fishing around Staten Island. Instead he took the time to go out to San Diego where my colleagues from California, Mr. VAN DEERLIN and Mr. BURGNER, live and near where the gentlewoman from California (Mrs. PETTIS) lives. He did so in order to try to understand this problem and to really find out the truth about it. That is because we are getting so many conflicting arguments. Not only that, as he told us, the gentleman just returned from actually going out on a fishing boat and watching them set a net on porpoises and to see the remarkable techniques they are using.

I commend the gentleman from New York for doing that. I believe there are very few chairmen in the history of this

Congress who have gone as far as he has to try to observe and understand the problem before this committee.

I think it would be a discredit to the Chairman to try to amend this bill and make it more onerous and make it completely unworkable.

I think the gentleman from California (Mr. LEGGETT) has made his point very well that this bill is a limited bill. It has a cutoff period. Let us find out exactly what is going on. Let us have an observer on these boats and find out how many porpoises there are and how many porpoises are actually being caught unnecessarily.

I do not think that this amendment will accomplish anything, Mr. Chairman, except to fuzz-up the bill, to make it unworkable, and to drive the tuna fishermen to some other area where they can fish, or else just drive them into bankruptcy. I would hope that we will understand that with this bill, as long as the fishermen are allowed to fish, we are going to see fewer porpoises caught and taken than otherwise. If this bill is made tougher, there will be fewer U.S. fishermen fishing, and the foreign fishermen will be the ones who will be catching the tuna. Everyone has previously said the foreign fishermen have no such restrictions. They will be able to take as many porpoises as they want, and they will get up into the hundreds of thousands again rather than the limited number in this bill. So I urge my colleagues in this Congress to oppose this amendment.

Mr. Chairman, I yield back the remainder of my time.

Mr. RUPPE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I certainly respect the knowledge and interest of my colleague, the gentleman from California (Mr. McCLOSKEY). I would like to ask the gentleman for some clarification concerning his amendment. On page 3 there is a reference to serious economic and social destruction to the tuna industry. I really would like to ask my colleague, what is the tuna industry? Is it the cannery workers, the vessel owners, or the vessel operators? Is it the related industries? I think we should have some pretty specific understanding as to whom we are referring when we say that the Secretary can grant relief to the industry under certain conditions when there is disruption to the tuna industry.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding and for asking this question.

The intention is to apply to the canneries in the United States, in Puerto Rico, and in U.S. territories, and also to the fishing boats, and the fishing industry. I think the most significant testimony before our committee was not necessarily from the tuna skippers, who until at least the 28th of April wanted no new legislation because they preferred that the Government not have observers on every boat. They knew that whatever legislation was enacted would require an observer on every boat. The

really significant testimony came from the cannery representatives, speaking for some 30,000 workers ashore in the United States, cannery workers who would be put out of business if the tuna fleet continued to strike.

The industry is presently under investigation by the Federal Trade Commission, and under their rules of confidentiality we can learn nothing more than that the investigation involves alleged price-fixing and alleged anticompetitive activity.

Certainly if there should be social disruption or economic disruption of the tuna industry, comprising the three branches, the fishermen, the boat owners or the cannery workers, we think the Secretary of Commerce should have the power to relieve them from the burdens of this act.

Mr. RUPPE. The only thing I see as a problem with this amendment is that the cannery workers can make an argument to Congress, but as far as a petition before the Secretary of Commerce, only a holder of a permit or an applicant for a permit can make the case. So regardless of whether we like or dislike the tuna boat operators, only they before the Secretary of Commerce can make the case in favor of relief for the industry, whether it is for the boat operators, the cannery workers, or any other individuals related to it. Also, whether we like the boatowners or not, they are the only ones permitted to make that case for relief to the Secretary.

Mr. McCLOSKEY. If the gentleman will yield further, the reason that the language is drafted in this manner is that this is the manner in which the administration drafted it.

The administration apparently felt that if there should be dislocation of the canneries and cannery workers, that the people with whom the administration had dealt, the boat operators, would certainly make this kind of petition.

Mr. RUPPE. Whether they are loved or unloved, they are the ones who are going to have to make it.

Mr. McCLOSKEY. Under this amendment, that is correct.

Mr. RUPPE. Then I would ask the gentleman another question. On page 4 the language of the gentleman's amendment provides:

An alternative limitation can be imposed that will avoid such serious disruptions [to the industry] and will be otherwise consistent with the provisions of this title.

Is that not a bit of a Catch-22 situation? We say the Secretary can impose an alternative limitation, but how can we have an alternative limitation that will guarantee that there will not be serious disruption to the industry and yet will be in conformity with the provisions of this title which calls for zero killing and not more? Is that not going both ways, one way to protect the tuna industry and the other to reach the zero mortality, all in the same time?

Mr. McCLOSKEY. When we first considered this act 5 years ago we did not want to precisely define near-zero mortality. We would probably concede that the CJ standard, translated into 10,000 deaths per year, probably is near-zero.

Mr. RUPPE. There is no way relief can be established which at the same time will permit more porpoises to be killed but yet goes at the same time toward zero mortality. That would be moving under the exception in two different directions.

Mr. CARTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from California (Mr. McCloskey).

Mr. CARTER. Mr. Chairman, I support the amendment offered by the gentleman from California (Mr. McCloskey). I would feel better about this if none of the porpoises were killed. Actually it reduces the number from 79,000 to 69,000 and therefore I support it since that helps and it does not kill these 10,000 highly intelligent animals.

During the Vietnam disaster mammals were trained by frogmen in demolition. They were that intelligent. They have been known to push drowning men ashore. As far as their intelligence quotients are concerned, I do not know whether they were tested by the Stephen Benet test, or just what, but they were found to have an intelligence quotient of 168. That is the way it is. We know the average intelligence quotient of a human usually is between 110 and 120. When we get above 140 we get into the genius area.

To me needless killing of the porpoises is almost like killing humans. I think we should avoid with all the strength we have the unnecessary killing of these mammals. They are highly intelligent and they ought to be protected and they are an endangered species.

I urge support of the McCloskey amendment.

Mr. BURGNER. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I think the most onerous and unworkable part of this amendment is not the 69,000, although I think the committee bill is better with the 79,000, but I think the real onerous and very difficult part of this amendment will very likely bring us back in this Chamber debating this again in a year or two or it will have the fleet lying idle, and that is the part where by number it automatically reduces to some 35,000 by 1980.

Mr. Chairman, I just do not think we have the information to write down a number like that and be sure about it. The reason the fleet sat idle in San Diego from January until a couple weeks ago was because under the regulation with a zero number on the eastern spinner, the fishermen risked going to jail and being heavily fined. It was a risk they just could not take; so I maintain, if we put in a figure, however desirable, and we all want the same, we all want to reduce the take of porpoises to zero; but we must be practical about it. We must remind ourselves that as recently as 5 years ago the take was 300,000. Now it has been reduced to 103,000 last year and under this bill some 79,000 of a species that we are not even sure is endangered. To write into the law an arbitrary, although highly desirable figure for 1980, I think is unrealistic and will bring us here again.

Mr. VAN DEERLIN. Mr. Chairman, will the gentleman yield?

Mr. BURGNER. I yield to the gentleman from California.

Mr. VAN DEERLIN. Mr. Chairman, would the gentleman agree that by imposing too strict a limit on porpoise kills, one that would keep American fishermen off the sea, we would be making it more difficult than ever to enforce the yellow-fin tuna conservation program, which is well underway, thanks to the American Tropical Tuna Commission?

Mr. BURGNER. I agree, and I think the net result if we adopt this amendment will be by 1980 the taking of more porpoise, not fewer, not by our fishermen, but by the rest of the world.

AMENDMENT OFFERED BY MR. BONKER TO THE AMENDMENT OFFERED BY MR. McCLOSKEY

Mr. BONKER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. BONKER to the amendment offered by Mr. McCloskey: In the proposed subparagraph (C) (1), strike out the following: "The total incidental mortality and serious injury authorized in calendar year 1980 shall be limited to no more than 50 percent of that authorized for calendar year 1977, and subsequent annual reductions shall be set at the discretion of the Secretary."

Mr. BONKER. Mr. Chairman, it is not my intention to add to the confusion of this subject or to the McCloskey amendment, but to provide an honest compromise, so that we can establish in the bill an opportunity to achieve those targets that were originally in the Marine Mammal Protection Act and are realistic enough for the fishermen and will also reduce substantially the incidental catch of porpoises.

Very simply, my amendment retains the 69,100 quota for 1977 that is recommended in the McCloskey amendment and would strike the 50-percent reduction provision between 1977 and 1980.

Mr. Chairman, I urge adoption of the amendment.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman's amendment could not be more ill-conceived. There is absolutely no evidence in the record that the technology is available to reduce the quota to 34,000 by 1980.

In fact, it appears that the gentleman has misread the record. He states in his dissenting views that 7 vessels last year had a mortality rate of less than 1 dolphin for every 500 tons of tuna landed. This fact is cited as evidence that the fleet can drastically reduce mortality by 1980. In fact, none of the vessels cited by the gentleman had such a mortality rate—his arithmetic is simply wrong.

Moreover, of the seven vessels incorrectly cited for their admirable records, four were experimental gear cruises. But even the National Marine Fisheries Service admits that the rate of a few experimental cruises cannot be approached by the entire fleet without training and experience.

I might add that even if the fleet had miraculously duplicated the success of

the experimental fine-mesh cruises last year, the mortality would have been 60,000—a far cry from the 34,000 called for in the gentleman's amendment.

The basic problem of this amendment is that it could very well spell disaster for the dolphins. Foreign vessels have a mortality rate per set that is 2½ times the American rate. If we prohibit our fishermen from setting on dolphins, you can be assured that the foreigners will pick up the slack. You can also be assured that they will not have the concern for the animals that our fishermen do.

We all want to reduce dolphin mortality—including the fishermen. In fact, it was an American fisherman that developed the backdown maneuver and the Medina panel that have so significantly reduced dolphin mortality.

Let us remember one thing—purse seining is a very complex and technical fishing method. It requires incredible skill on the part of the captain and crew who sometimes have to work under adverse weather and sea conditions. You just cannot put a new net on a vessel and expect immediate dramatic results.

Even the best skippers in the fleet can experience a disastrous set in which many dolphin are killed. Last year, for example, one experimental vessel had a mortality rate of 0.12 dolphin per ton of tuna landed on one trip and a mortality rate of 1.07 per ton on another trip—nearly 10 times higher than the first trip. Obviously, this skipper was good—he had a tremendous record on the first trip. But, obviously, something uncontrollable happened on the second trip to increase his mortality rate.

The gentleman's amendment ignores the plain fact that even the best skippers can have trouble with their equipment or with the weather.

And, the amendment is not improved by the provision permitting "extraordinary relief." If there ever was language with litigation written all over it, this is it. What does "due care" mean, and what would "serious disruption" amount to? And, how could the Secretary increase the quota and be "otherwise consistent with the act," which calls for a goal of zero mortality?

Uncertainties in the law have created much of the current problem. The gentleman's amendment will only exacerbate the situation by guaranteeing law suits and continued disruption of the fishing industry.

H.R. 6970 includes a much more sensible and realistic reduction in dolphin mortality. The bill would establish a maximum quota of 78,900 in 1977. This quota is significantly less than the estimated mortality of 300,000 in 1972 and the 103,000 estimated for last year.

The fleet will have to improve in 1977 under this quota; they will have to improve further in 1978, and the first quarter of 1979. The committee has made it clear that it expects annual reductions in these two periods.

H.R. 6970 would permit the Secretary to reduce the quota in 1978 and the first quarter of 1979, but she could not increase the quota.

We are going to reduce dolphin mortal-



ity, but the way to do it is with more research and incremental reductions based on the results of that research. The gentleman's amendment is just not the way to go.

Mr. BOB WILSON. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. BOB WILSON. Mr. Chairman, I thank the gentleman in the well for making a very good point. I want to ask him concerning a question raised in his colloquy with the gentleman from California (Mr. McCloskey). Does the gentleman think that all the tuna skippers are liars, untrustworthy individuals who just completely lie on every occasion?

Mr. MURPHY of New York. I will respond to my colleague from California (Mr. Wilson). I did not give up the Memorial Day weekend to go away from my district for no reason. One of the interesting statistics of the American tuna fleet is the very high number of American veterans who are skippers, ex-Navy men who have fought in World War II, the Korean war, and in Vietnam.

On the vessel I was on, there were three ocean masters as part of the crew. Most of the crew were veterans, with the exception of some of the young men. The fact that I was associating with veterans on a Memorial Day weekend in a fact-finding expedition is proof of the fact that the veracity of those men cannot be questioned.

Mr. BOB WILSON. Mr. Chairman, of course, the bill will prove that point. I think the gentleman is going to find that in some instances many of the boats will catch a lot more porpoises than should be caught, but just to say baldly that all tuna fishermen are liars, I think is an insult. I just could not disagree more than I am with my friend and colleague from California. We might just as well say that all Congressmen are liars. Some do, but that does not mean that all do. I hope the gentleman will clarify his remarks in that regard.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. McCLOSKEY. First of all, I do not like it said that I said that, but the subcommittee chairman, the gentleman from California (Mr. Leggett) said, "Of course, we know you cannot trust a tuna skipper," or words to that effect.

And the reason for that remark was that last year, 1976, we had observers on 12 percent of the boats. They went out on 54 observed trips.

The CHAIRMAN. The time of the gentleman from New York (Mr. Murphy) has expired.

(By unanimous consent, Mr. MURPHY of New York was allowed to proceed for 5 additional minutes.)

Mr. McCLOSKEY. If the gentleman will yield further, on the unobserved trips, I might say to my colleague, the gentleman from California, the bridge logs of the respective skippers show that on the unobserved trips the skippers

were reporting a kill rate of one-quarter of the observed trips. Therefore, the Department did not accept any unobserved trip figures but instead prorated the figures of unobserved trips and estimated 103,000 porpoise killed.

When the tuna industry appeared before the committee, no tuna skipper, no witness for the industry contested the Department of Commerce extrapolation, which in effect was a tacit acquiescence that they did not believe their own skippers' logs. In fact, their own skippers' logs were one-quarter of what had actually been happening. That is why the chairman of the committee, as I understand it, in his bill insisted that we put an observer on every boat, not because we want to, but because we cannot trust the bridge logs to be accurate.

Mr. MURPHY of New York. Mr. Chairman, I would say the gentleman makes the point we are trying to make here, and the point is this: this 78,900 as written, takes care of the problem on a temporary basis. We put 100 percent observers on so we get the facts from the vessel's viewpoint. We then put out an experimental vessel, and we charge the industry \$2 million to finance that vessel, we put on that vessel experts from the National Marine Fisheries, and we get the facts from them also on fishing gear, on the technology of using that fishing gear. One cannot teach a fleet overnight how to use fine mesh gear and nets, we cannot determine overnight the exact size and circumference of that net, how to back it down, how to use it in different sea conditions, how to see in which area of that vast Pacific we are going to fish in. We say in this bill, "Let us determine the facts, let us check them out," and we charge the industry to find out what those facts are.

Then we say that for 1 year we will have a take of 78,000, which is almost 20,000 below what an administrative law judge recommended after months of intensive hearings. Then we say the responsibility of the Secretary the second year is based on the analysis of those figures. "You may reduce, Madam Secretary, based on fact, not on an automatic irrational 50 percent reduction." We do not know where we are going to be fishing 2 years from now, in 1980, and we cannot take into account immediately all of the differences in fishing techniques, size of vessel, and so forth. Further, within the IATTC yellowish regulatory area the porpoises have been fished on and set on repeatedly. The dolphin in that area is a very bright animal, as my colleague pointed out, and it is most difficult to encircle them. Therefore, the tuna fishing fleet has moved out into the Central Pacific, south of the Hawaiian Islands.

We are dealing with an entire different species and type of porpoise in these new areas outside the CYRA and the reaction of the porpoises is different. How that porpoise reacts in the net is vital to the take. The porpoises within the line, 99 percent go right over the corking area. But outside the line, where they have not been set on, they are a little

bit more confused and there may be a different technique necessary to get the porpoise out of the line in that area.

We felt, and the National Marine Fisheries felt, there were no porpoises south of 1 degree latitude below the equator. The American fleet, which is a pioneer fleet, went down to the 3d and 4th parallel south, found very, very productive yellowfin tuna areas, new areas of porpoises, where the National Marine Fisheries Service said there would be no porpoises.

All of this intelligence is being drawn together now. We want to hold this legislation the way it is. We want to bring down the mortality rate. We say, "Bring it down properly, scientifically, with the technical knowledge that we will gain by taking an industry and making that industry pay."

The CHAIRMAN. The time of the gentleman from New York (Mr. Murphy) has again expired.

(By unanimous consent, Mr. MURPHY of New York was allowed to proceed for 2 additional minutes.)

Mr. MURPHY of New York. This bill expires on the 31st of March, 1979. By that time we will have had the ability to legislate, to bring down to the minimum, the absolute minimum, the take on this very fine mammal which we all are interested in protecting.

Mr. Chairman, I would ask that the committee reject the amendment offered by the gentleman from California.

Mr. PRITCHARD. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Bonker amendment.

Mr. Chairman, I would like to bring us back to the subject that is before us, which is the Bonker amendment, and I wonder if I could ask the gentleman from Washington (Mr. Bonker), just so I am clear in mind, what his amendment does.

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Washington.

Mr. BONKER. Mr. Chairman, I thank the gentleman for yielding.

My amendment is very simple. I believe it represents a true compromise on this issue, which has placed many of us between a rock and a hard place. That compromise is that it retains the 1977 quota of 69,100 that is contained in the McCloskey amendment.

Mr. PRITCHARD. And that is the administration's figure?

Mr. BONKER. As I understand it, that is the administration's figure.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, let me tell the Members something about the administration's figure.

Mr. PRITCHARD. Mr. Chairman, I wish the gentleman would do that.

Mr. MURPHY of New York. Mr. Chairman, we have the National Marine Fisheries Service that is out trying to obtain technical information, and they report

this information to the bureaucrats here in Washington. Some bureaucrat takes that technical figure, throws in a little policy, and then the policy reacts on that technical figure. That is how we get the administration's figure. We would not have gotten it had this committee not brought this bill out to resolve the problems between those who wish to save porpoises and those who want to see the tuna industry survive.

Mr. PRITCHARD. Mr. Chairman, let me just say to the gentleman from New York (Mr. MURPHY) that I stated that in my remarks, and I complimented him. I was critical of the administration.

However, I think the administration finally moved, and I asked the question only because I wanted to be sure that the Bonker amendment did start out with the 69,000 figure, which is the administration's figure.

Mr. BONKER. Mr. Chairman, if the gentleman will yield, let me say that the gentleman is correct.

The second part of the amendment contains this provision: It eliminates that provision that calls for a 50-percent reduction by 1980. It retains the rest of the McCloskey language, and I believe it is a suitable compromise.

Mr. PRITCHARD. Mr. Chairman, I want to compliment the gentleman from Washington (Mr. BONKER). I think this is a compromise that all sides can live with.

I for one am going to support the Bonker amendment, and I ask the Members to support it.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, the 1.5 billion cans of tuna processed each year use approximately 50,000 tons or 100,000,000 pounds of soybean oil annually. In addition, the tuna industry has been a growing industry and thus an expanding purchaser of soybean oil.

Tuna fish are primarily caught off the coast of South America. The neighboring countries would like their fleet to supplant the U.S. fleet in these fishing waters. They do not worry about killing porpoises, of course. These South American countries would welcome the 90,000 jobs directly and indirectly related to the tuna industry which currently are filled by U.S. citizens. And, if the tuna industry moves south, these canneries would likely buy Brazilian soybean oil instead of U.S. oil, so again the United States would lose.

Currently, U.S. tuna fishermen succeed in getting about 97.8 percent of porpoises safely out of their nets and returned alive to the sea. On an average less than one porpoise is killed per ton of tuna caught. In addition, about 48 percent of the tuna processed by U.S. canneries is caught by foreign vessels and 52 percent by U.S. ships. And no foreign country worries about porpoises the way we do.

Clearly, this is a case where we, as U.S. citizens, can do an immense amount of good by adopting the committee bill and thereby demonstrating worldwide

leadership on this important question. Or, we can set standards which may prove impossible to meet and consequently risk losing not only the industry and jobs which might go to other countries, but also our position of leadership which is necessary if we are to help save the porpoises. Either way, Americans will continue to eat tuna. The only question may be whether it is caught and produced by U.S. hands or by foreign hands. There is no reason why we in Congress should make it impossible for our own industry to compete.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, let me ask this question:

How can the gentleman from Washington (Mr. PRITCHARD) be assured that the administration figure is any better than the other figure, if they second-guessed it, as my colleague, the gentleman from New York (Mr. MURPHY), has just stated? I hope that this figure is better than their figures on water conservation in the West.

Does the gentleman think that is possible?

Mr. PRITCHARD. I think it is highly possible.

Mr. Chairman, I do not think at this point we would do much to improve the situation unless we accept the Bonker amendment.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, what kind of research did they do in order to come up with this great figure?

Mr. PRITCHARD. The National Marine Fisheries Service has the people that have done this work.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, I am prepared to accept the Bonker amendment, because if we look at the original quota of the administration this year, we find it was 59,000, not the 69,000 contained in this bill.

I am satisfied that if the Secretary of Commerce is left the discretion to progressively reduce the figure, the quotas will probably be at the 35,000 figure or below by 1980. If all skippers behaved as the one on the *Elizabeth C.J.* did, the quota would be roughly 10,000.

Mr. Chairman, I am pleased to accept the amendment.

Mr. RUPPE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the author of the amendment the following question:

Is it my understanding that under this amendment and under the McCloskey amendment the kill would go down to 68,000 porpoises? I understand that is based on the authentic figures by the National Marine Fisheries Service.

On the other hand, as I understand it, an administrative law judge took approximately 3,000 pages of testimony from all types of experts within and without the industry, and my under-

standing of his recommendations is that his figure for the take of porpoises this year is 96,100.

So I think that presents a valid question as to which way we should go. Should we be talking about 58,000 or 68,000, or should we be talking about the figure established by the law judge, who took 3,000 pages of testimony and, after an exhaustive study, recommended 96,100 porpoises as the catch?

Mr. Chairman, it would seem to me that we take the figures in the Murphy legislation and then lay over that the amendment that we placed in committee, whereby we put a penalty of \$32 a porpoise above the industry average, we would be reaching a very balanced position because we would be taking a compromise figure between the low of the McCloskey amendment and the high of the administrative law judge.

In addition to taking that compromise figure, we are slapping on the bad boat owners a fee of \$32 a porpoise over the industry average. If I am correct, it would seem to me that on an industry average, they would be paying somewhere between, in the one case, \$60,000 and \$120,000 in penalties; and in the case of the other, somewhere between \$20,000 and \$40,000 in penalties based on the number of porpoises taken in relationship to the tuna catch.

Therefore, Mr. Chairman, what I am suggesting is that if we were to take the Murphy figure, which is a balance between the low of the administration and the high of the administrative law judge, and superimpose upon that a \$32 per porpoise penalty on those vessel owners who have not had a good track record or who have had an atrocious track record, whichever the case may be, we would be achieving a relatively balanced bill.

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Washington.

Mr. BONKER. Mr. Chairman, the gentleman is posing questions that do not relate to my particular amendment; and he should direct them to the author of the original amendment, the gentleman from California (Mr. McCloskey). However, the committee report that is before the House does establish those figures. The administrative law judge recommended that a quota of 96,100 be established for 1977.

The NMFS published its final regulations on March 1, 1977, and established a quota of 59,050. Then in their suggested amendments to H.R. 6970 the administration recommended the figure of 68,910, which is in the McCloskey amendment that I am attempting to amend.

Mr. RUPPE. I thank the gentleman.

Mr. BOB WILSON. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from California.

Mr. BOB WILSON. Mr. Chairman, I would like to clarify whether or not the chairman of the committee has accepted the McCloskey amendment.

I think there is some question, and I would appreciate his clarifying that point.



Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, my colleague, the gentleman from Michigan (Mr. RUPPE), clearly stated the number of 78,900 in the legislation, which is the reason I am opposing the Bonker amendment as well as the McCloskey amendment.

That figure was derived at based upon the number of 6,500 eastern spinner, the specific number of white bellied dolphins and a specific number of spotted. That is the midpoint figure between the National Marine Fisheries Service, as testified to before the administrative law judge, and the 96,000 figure of the law judge.

Mr. Chairman, that is how we broke it down, keeping those optimum figures in mind. For that reason, we must vote and act as closely to fact as possible.

We know that if we adopt the figures in my bill, we will have an increase of 103,000 in the overall dolphin population. Therefore, we feel that we can use this figure until we have further facts to move into a long-range solution.

Mr. BOB WILSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment to the amendment.

I just want to say briefly again that the Murphy bill, as far as I am concerned and as far as many of us here are concerned, is a good compromise.

If we fuzz it up with these amendments to amendments to amendments and so forth, we are going to end up with a hodgepodge here that no body can accept; and the tuna fleet will go down the drain.

Therefore, Mr. Chairman, I urge a vote against the amendment to the amendment and the amendment itself.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. BONKER) to the amendment offered by the gentleman from California (Mr. McCloskey).

The question was taken; and on a division (demanded by Mr. BONKER) there were—ayes 32, noes 22.

So the amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCloskey) as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. MURPHY of New York. Mr. Chairman, I demand a recorded vote, and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

#### QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further

proceedings under the call shall be considered as vacated.

The Committee will resume its business.

#### RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from New York (Mr. MURPHY) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 244, noes 109, not voting 80, as follows:

[Roll No. 293]

#### AYES—244

|                 |                |               |
|-----------------|----------------|---------------|
| Alexander       | Evans, Del.    | Moore         |
| Allen           | Evans, Ind.    | Moorhead,     |
| Ambro           | Fascell        | Calif.        |
| Ammerman        | Fenwick        | Moorhead, Pa. |
| Andrews,        | Fish           | Moss          |
| N. Dak.         | Fisher         | Mottl         |
| Applegate       | Fithian        | Murphy, Ill.  |
| Archer          | Filippo        | Murphy, Pa.   |
| Armstrong       | Flowers        | Murtha        |
| Ashley          | Foley          | Myers, Ind.   |
| Badillo         | Ford, Mich.    | Natcher       |
| Bafalis         | Fountain       | Nedzi         |
| Baldus          | Fowler         | Nolan         |
| Barnard         | Frenzel        | Oakar         |
| Baucus          | Freym          | Obeys         |
| Bauman          | Fuqua          | Oettinger     |
| Beard, R.I.     | Gammage        | Panetta       |
| Beard, Tenn.    | Gaydos         | Patten        |
| Bedell          | Gibbons        | Patterson     |
| Belenson        | Gilman         | Pattison      |
| Benjamin        | Ginn           | Pease         |
| Bennett         | Glickman       | Perkins       |
| Blanchard       | Gonzalez       | Pickle        |
| Blouin          | Gore           | Pike          |
| Boggs           | Gradison       | Preyer        |
| Boland          | Grassley       | Pritchard     |
| Bolling         | Gudger         | Quayle        |
| Bonior          | Guyer          | Quile         |
| Bonker          | Hagedorn       | Quillen       |
| Brademas        | Hamilton       | Rahall        |
| Breckinridge    | Hanley         | Regula        |
| Brinkley        | Harrington     | Reuss         |
| Brodhead        | Harris         | Richmond      |
| Brooks          | Heckler        | Rinaldo       |
| Broomfield      | Hefner         | Robinson      |
| Brown, Ohio     | Hillis         | Rodino        |
| Buchanan        | Holland        | Rogers        |
| Burke, Fla.     | Holt           | Rose          |
| Burton, John    | Holtzman       | Rosenthal     |
| Burton, Phillip | Horton         | Roybal        |
| Butler          | Howard         | Russo         |
| Byron           | Huckaby        | Ryan          |
| Caputo          | Hyde           | Sarasin       |
| Carney          | Ireland        | Sawyer        |
| Carr            | Jacobs         | Schulze       |
| Carter          | Jenkins        | Seiberling    |
| Cederberg       | Jones, Okla.   | Sharp         |
| Clay            | Kasten         | Simon         |
| Cleveland       | Kastenmeier    | Slack         |
| Cohen           | Kelly          | Smith, Nebr.  |
| Coleman         | Keys           | Solarz        |
| Collins, Ill.   | Kildee         | Spellman      |
| Collins, Tex.   | Kostmayer      | St Germain    |
| Conable         | Krebs          | Stanton       |
| Conte           | Lagomarsino    | Stark         |
| Conyers         | Latta          | Steiger       |
| Corcoran        | Leach          | Stockman      |
| Cornell         | Lederer        | Stokes        |
| Cornwell        | Lent           | Studds        |
| Cotter          | Levitas        | Thone         |
| Coughlin        | Lloyd, Tenn.   | Thornton      |
| Crane           | Long, La.      | Traxler       |
| Daniel, R. W.   | McClary        | Tribble       |
| Dellums         | McCloskey      | Tsongas       |
| Derwinski       | McDade         | Tucker        |
| Dicks           | McHugh         | Vanik         |
| Diggs           | McKay          | Vento         |
| Dingell         | Madigan        | Volkmer       |
| Dodd            | Maguire        | Walgren       |
| Drinan          | Markey         | Walker        |
| Duncan, Oreg.   | Marks          | Walsh         |
| Duncan, Tenn.   | Mattox         | Weiss         |
| Early           | Mazzoli        | White         |
| Eckhardt        | Metcalfe       | Wilson, Tex.  |
| Edgar           | Meyner         | Winn          |
| Edwards, Ala.   | Mikva          | Wirth         |
| Edwards, Calif. | Miller, Ohio   | Wolff         |
| Edwards, Okla.  | Minish         | Wyllie        |
| Emery           | Mitchell, Md.  | Yates         |
| English         | Mitchell, N.Y. | Yatron        |
| Ertel           | Moakley        | Young, Fla.   |
| Evans, Colo.    | Moffett        | Zablocki      |

#### NOES—109

|               |                 |               |
|---------------|-----------------|---------------|
| Abdnor        | Goldwater       | Oberstar      |
| Addabbo       | Hall            | Pepper        |
| Akaka         | Hannaford       | Pettis        |
| Anderson,     | Hansen          | Rangel        |
| Calif.        | Hawkins         | Rhodes        |
| Andrews, N.C. | Heftel          | Risenhoover   |
| Annunzio      | Hightower       | Roberts       |
| AuCoin        | Hubbard         | Rooney        |
| Badham        | Hughes          | Roussetot     |
| Bevill        | Johnson, Calif. | Rudd          |
| Biaggi        | Jones, N.C.     | Runnels       |
| Bowen         | Jones, Tenn.    | Ruppe         |
| Brown, Calif. | Jordan          | Santini       |
| Burgener      | Kazen           | Satterfield   |
| Burke, Mass.  | Kemp            | Shipley       |
| Burlison, Mo. | Ketchum         | Shuster       |
| Cavanaugh     | Kindness        | Sisk          |
| Chisholm      | Krueger         | Skelton       |
| Clawson, Del. | LaFalce         | Snyder        |
| Cochran       | Leggett         | Spence        |
| Corman        | Lott            | Staggers      |
| Cunningham    | Luken           | Stangeland    |
| D Amours      | Lundine         | Steed         |
| Daniel, Dan   | McDonald        | Stump         |
| Danielson     | McEwen          | Symms         |
| Davis         | McFall          | Treen         |
| de la Garza   | Mahon           | Ullman        |
| Derrick       | Marriott        | Van Derlin    |
| Dickinson     | Mathis          | Vander Jagt   |
| Ellberg       | Meeds           | Waggoner      |
| Erlenborn     | Mikulski        | Watkins       |
| Evans, Ga.    | Montgomery      | Whitley       |
| Findley       | Murphy, N.Y.    | Wilson, Bob   |
| Ford, Tenn.   | Myers, Michael  | Wilson, C. H. |
| Forsythe      | Nix             | Wright        |
| Gephardt      | Nowak           | Young, Tex.   |
| Glaimo        | O'Brien         |               |

#### NOT VOTING—80

|                |                |               |
|----------------|----------------|---------------|
| Anderson, Ill. | Ichord         | Roe           |
| Ashbrook       | Jeffords       | Roncalio      |
| Aspin          | Jenrette       | Rostenkowski  |
| Bingham        | Johnson, Colo. | Scheuer       |
| Breaux         | Koch           | Schroeder     |
| Brown, Mich.   | Le Fante       | Sebelius      |
| Broyhill       | Lehman         | Sikes         |
| Burke, Calif.  | Lloyd, Calif.  | Skubitz       |
| Burleson, Tex. | Long, Md.      | Smith, Iowa   |
| Chappell       | Lujan          | Steers        |
| Clausen,       | McCormack      | Stratton      |
| Don H.         | McKinney       | Taylor        |
| Deaney         | Mann           | Teague        |
| Dent           | Marlenee       | Thompson      |
| Devine         | Martin         | Udall         |
| Dornan         | Michel         | Wampler       |
| Downey         | Millford       | Waxman        |
| Fary           | Miller, Calif. | Weaver        |
| Flood          | Mineta         | Whalen        |
| Florio         | Mollohan       | Whitehurst    |
| Flynt          | Myers, Gary    | Whitten       |
| Fraser         | Neal           | Wiggins       |
| Goodling       | Nichols        | Wyder         |
| Hammer-        | Poage          | Young, Alaska |
| schmidt        | Pressler       | Young, Mo.    |
| Harkin         | Price          | Zeferetti     |
| Harsha         | Pursell        |               |
| Hollenbeck     | Rallsback      |               |

Messrs. BARNARD, HEFNER, GUDGER, MURTHA, CHARLES WILSON of Texas, TRAXLER, CLAY, and EDWARDS of Alabama, Mrs. COLLINS of Illinois, Mr. CORNWELL, Mr. FLOWERS, and Mrs. LLOYD of Tennessee changed their vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

#### AMENDMENT OFFERED BY MR. McCLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: Page 13, line 20 is amended by deleting "all costs incurred in the establishment and maintenance of the program shall be borne by the Department of Commerce." and inserting in lieu thereof: "The Secretary shall establish and charge a fee for all or part of the costs incurred in the establishment and maintenance of the program. Such fees may be established on the basis of the number and kind of marine mammals authorized to be killed or seriously injured, and may

provide an incentive to masters, owners, operators and crews of individual fishing vessels to reduce the incidental taking of such mammals, and in particular to reduce to the maximum extent possible the incidental mortality and serious injury of the eastern stock of spinner dolphin (*Stenella longirostris*). Such fees may be returned in whole or in part if the Secretary determines, in his discretion, that the return of such fee or portion thereof would further the purposes and policies of this Act."

Mr. McCLOSKEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. McCLOSKEY. Mr. Chairman, this amendment is a simple one.

The committee bill that the chairman has presented provides that the costs of the observer program shall be borne by the Department of Commerce.

Mr. Chairman, when we speak of the costs of the program, we speak of a full observer program as contained in the committee bill. If the committee bill is adopted in its present form, the cost of putting an observer on each of the 117 purse-seiners which make approximately three trips each a year would be between \$3.5 million to \$4.5 million a year, less credits from the \$2 million assessed against the industry for the dedicated vessel research program.

Mr. Chairman, if this provision is added to the bill, it leaves to the Secretary of Commerce not the requirement, but the right to establish fees for tuna fishing which places the cost of the \$10,000 per trip observer program on the permit applicant or on the tuna industry rather than on the taxpayer of the United States.

The reason that we are asking for observers on every boat is that last year the skippers on unobserved trips reported only one-fourth as many porpoises killed in their bridge logs as were reported on the observed trips. Because of that fact, the administration and the committee were unanimously in agreement that we should put an observer on every boat.

Mr. Chairman, these trips, numbering anywhere from 350 to over 400 per year, lasting from 10 to 16 weeks, will impose a cost on the Government of between \$3.5 million and \$4.5 million.

This amendment would shift that cost to the industry.

What are we talking about with respect to the cost of a can of tuna? The testimony before the committee was that tuna last year was costing roughly \$700 per ton or 30 cents per pound, and that if the cost of the observer program were shifted to the industry, it would increase the cost of a can of tuna perhaps 1 cent a pound or up to 2 cents a can.

Mr. Chairman, we are talking about an industry last year in which 248,000 tons of tuna were caught, with a value of \$173,600,000. By adding to that cost \$4.5 million, we are adding roughly, at the most, 2½ percent to the operating costs of this industry.

Clearly, Mr. Chairman, if the industry

bears this cost of the full observer program to protect porpoises, it will be passed on to the consumer at an additional cost of perhaps 2 cents or, at the maximum, 2½ cents a can of tuna, although the testimony before the committee was that it could be as low as 1 cent per can.

The question is very simple. If an industry of this kind requires Government regulation, should the taxpayers pay the cost of that regulation, or should the industry itself, passing it on thereafter to the consumer?

Mr. LEGGETT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment the gentleman from California (Mr. McCLOSKEY) has offered really is a further confounding of this bill. I do not believe it is required. The gentleman from California talks about putting the burden on the industry and then taking it off the shoulders of the taxpayers. But then in his proposed amendment he states that:

Such fees may be returned in whole or in part if the Secretary determines, in his discretion, that the return of such fee or portion thereof would further the purposes and policies of this act.

We have already established a fee program. We are going to charge the fishermen \$32 for certain of the porpoises that they have taken and then we will give back to those fishermen who fish according to a standard of excellence a portion of those fees. I believe we also know that we have charged the fishermen for the first time in this bill \$2 million for the privilege of fishing. Also, they have to furnish a ship for research purposes. Further, they will be required to have observers on board and they are going to have to pay this \$32 fee per porpoise taken over the industry kill average.

Mr. Chairman, there comes a point when you try to interface too much of a new idea with an existing program, and it becomes utterly compounded. We have a program under the Murphy bill that looks forward to a 100-percent observer program this year. If we accept this amendment that has been offered by my colleague, the gentleman from California (Mr. McCLOSKEY) we do not know how this will interface with the existing fishing requirements. This will require new rulemaking. This will require some kind of a procedure to figure out how much of this cost is going to be assessed against the fishermen and how much the fishermen are going to get back in some kind of a small revolving fund.

This is not an environmental procedure in any sense of the word. It will not do any good. I believe it should be defeated.

Mr. BOB WILSON. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from California.

Mr. BOB WILSON. Mr. Chairman, could the gentleman from California tell me whether the inspectors for the Government in a meatpacking plant are paid by the meatpacker or they are paid by the Government?

Mr. LEGGETT. Inspectors for EPA

and OSHA and all of the other Federal agencies generally are paid for by the Federal Government. They are employees of the Federal Government. To now impose a very large burden on this industry and then pay it back again on some kind of an amorphous standard is going to promote and extend additional litigation in this area that already is encumbered with too many lawsuits.

Mr. BOB WILSON. Will the gentleman from California tell me if the fishermen are going to pay the inspectors on board, are they going to pay for the Government retirement also, and all of the other things that go with being in the Government service?

Mr. LEGGETT. That would require some further rulemaking.

Mr. BOB WILSON. It will produce the biggest hodgepodge of a mess one can imagine if we were to pass this amendment.

Mr. VAN DEERLIN. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from California.

Mr. VAN DEERLIN. I thank the gentleman for yielding.

If it is the purpose of the bill as written to establish an incentive to the good fishermen to remain good fishermen, and to reduce the porpoise kill, then let the \$32 charge per porpoise be borne by those who kill the most porpoises.

Mr. LEGGETT. Exactly. We are trying to set up a standard here that we can enforce on foreign boats. How do we enforce a standard like this on a foreign boat? Obviously it is just going to apply to the American boats, and it is going to be largely discriminatory.

Mr. VAN DEERLIN. The amendment should be rejected out of hand.

Mr. LEGGETT. It should be rejected out of hand.

Mr. VAN DEERLIN. I thank the gentleman.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from New York.

Mr. BIAGGI. I thank the gentleman for yielding.

If the industry is paying the observer, is it not more likely that the observer would be more sympathetic toward the industry and would be more susceptible to some favoritism in its reporting?

Mr. LEGGETT. Certainly. That is an arguable point.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the requisite number of words, and I rise to oppose the amendment.

Mr. Chairman, the gentleman would have the industry pay for the cost of the observer program, but we already have the industry paying throughout this bill.

Industry penalties will offset the cost of the observer program; the industry will provide \$2 million in incentive fees; and the industry will be required to supply the Government with a research vessel. There comes a point when the industry has been flogged enough. That point has already been reached.

The gentleman says that the industry should pay because we cannot trust their



statistics. Well, the Government has thousands of policing programs, but I have never heard it suggested that the investigated party should pay the investigator's salary. Do the domestic industries pay the salaries of EPA investigators? Of course not. Yet, the gentleman would have us establish a special penalty in the case of tuna fishermen.

The gentleman suggests that the cost of the observer program should be passed on to the 84 percent of American families that consume tunafish. I would agree with the amendment if I thought that only tuna consumers have an interest in reducing dolphin mortality. We all have an interest in saving dolphins, and we all should pay for it. Let us not penalize the tuna consumer simply because he has the misfortune of not being able to afford steak.

I urge a "no" vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCloskey).

The question was taken; and on a division (demanded by Mr. McCloskey) there were—ayes 29, noes 64.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. PRITCHARD

Mr. PRITCHARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PRITCHARD: Page 10, strike out lines 14 through page 11, line 2 and insert the following:

"(B) As soon as practicable after the close of each fishing period, the Secretary shall—  
 "(1) determine the number of marine mammals killed during commercial purse seine fishing operations on porpoise engaged in by each certified master; and

Conforming amendments.

Page 11, line 8, strike out "(D)" and insert in lieu thereof "(C)."

Page 11, line 20, strike out "(2), or (3)" and insert in lieu thereof "or (2)".

Mr. PRITCHARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

Mr. BOB WILSON. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will continue to read the amendment.

The Clerk completed the reading of the amendment.

Mr. PRITCHARD. Mr. Chairman, this amendment would remove the stipulation which requires that the \$32 penalty fee be imposed on only those vessels which are incidentally taking mammals at a level above the "industry kill factor." Under this amendment, the \$32 penalty fee would be levied on each vessel for each porpoise mortality, regardless of the industry kill factor. This approach would establish a sound incentive to stay as far below the quotas as possible in order to reduce fishing costs.

The way the bill is currently worded, with only those exceeding the "industry kill factor" actually paying the penalty fee, there exists a strong potential, in fact an incentive, for the industry kill factor to be sufficiently high for the

allotted quota of mammals to always be completely filled. H.R. 6970 currently provides only a slight modification of a simple quota approach, and as with any quota system, there is always an incentive to consume the entire quota.

If a fee is levied for each mammal taken, as I am suggesting, then many vessel owners as well as skippers and crew will at least find it in their interest to stay as far below the quota as possible. Also, further advances in the development of better technology and fishing practices may be stimulated by such a fee.

In addition, this penalty fee, applied for each mortality, would provide roughly \$2 to \$2.5 million which could help defray the costs of the observer program and required research. This would average out to approximately \$18,000 per vessel and would constitute roughly seven-tenths of 1 percent of the tuna fleet's annual gross revenues. This does not seem unduly burdensome and would have little, if any, appreciable effect on market demand or price.

Mr. Chairman, I might add that I think that the structuring of an incentive system such as the one I have proposed will provide a stronger impetus for the reduction of marine mammal mortalities and, it will also provide a more efficient mechanism for ultimately achieving the goals of the Marine Mammal Protection Act.

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to my colleague, the gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Chairman, I support the gentleman's amendment. I think it is laudatory and positive. Under the previous amendment we rejected we would have imposed an assessment on the industry for the cost of the Government observers, but I think the gentleman's amendment is more constructive and it would encourage the tuna fishermen to be more cautious and to reduce the amount of the dolphin catch.

We discussed this matter in the committee and I fully support it and I ask the other Members of the House to do likewise.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Michigan (Mr. RUPPE).

Mr. RUPPE. Mr. Chairman, I thank the gentleman for introducing the amendment. I think it would do more than anything else we could do in this Congress to reduce the porpoise mortality and at the same time it would help pay for the observers. Accordingly, I do support the amendment and the goals the gentleman from Washington has presented to us.

Mr. PRITCHARD. I thank the original architect of this amendment for supporting it.

Mr. BURGNER. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from California (Mr. BURGNER).

Mr. BURGNER. I want to make sure my arithmetic is correct. We have \$32 times 69,000 which is a \$2,208,000 penalty. I would feel that would be onerous in

addition to the \$2 million already asked for in providing for one boat and for research. Is this another \$2 million?

Mr. PRITCHARD. Yes. But let us remember this: that in the \$2 million per boat we have to remember that the catch of the boat is going to be subtracted from the amount that the tuna industry pays and the incentive program that they are contributing to, the rest of that \$2 million they are contributing to is going to go back to them in rebates for encouragement, not penalties. It would be for encouragement.

Mr. BURGNER. For the good guys?

Mr. PRITCHARD. That is right. Our figures, computed with the help of the National Fisheries, is that this would represent a little less than about seven-tenths of 1 percent cost on the cost of the product landed; so it is less than 1 percent of the catch of the product that the tuna industry catches. I do not think that is out of line.

Mr. BURGNER. Mr. Chairman, if the gentleman will yield further, however, the new penalty of \$2 million, and it will be that, or fee or whatever, does not add to the incentive payment; does it?

Mr. PRITCHARD. Oh, it adds greatly, as every fish they catch is going to be a \$32 penalty. Remember, it is not a \$2 million add-on. Under the Murphy bill, there was a \$32 cost for everybody over the 50-percent mark; so what we are doing is adding about \$1 million to \$1,100,000; so it really is not a total of \$2 million.

Under the Murphy bill, they will pay about 25 percent of the cost. Under my amendment, they will split the cost of the program. I think it is fair.

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, this amendment was originally offered in the committee by the gentleman from Michigan (Mr. RUPPE). No matter how we characterize this, it remains a penalty. It is a punitive action. It was subsequently amended by an amendment I offered, which would apply the \$32 penalty; which would commence after the fisherman had reached the industry kill rate. Beyond that point, the \$32 penalty would become operative and would provide the incentive, because no one for a moment agrees or thinks that by virtue of the \$32 per porpoise from point a that it would eliminate the killing of these mammals. If there is to be an incentive, it would be as a result of the amendment that is currently in the bill. It was discussed. It was accepted. The committee did act, almost unanimously.

Mr. Chairman, the gentleman's proposal is to revert back to the Ruppe amendment, which was considered punitive and it is, in fact, punitive. It would heap an additional burden on those burdens previously enumerated by the chairman. If we are talking in terms of a balanced piece of legislation, the Murphy bill provides that. It is delicately balanced. It deals with the industry. It permits them to function. It makes extraordinary concessions to the environmentalists.

The environmentalists have made many suggestions. Those suggestions

have been incorporated into this legislation. To impose this additional \$32 is to, in fact, inflict a counterproductive hardship on an already burdened industry. There will come a time when we break the camel's back and the industry will say, "The Devil with it," as they did when they remained in port for more than 6 months. As a result, the great employment problem developed as the fishing stopped, with the foreign vessels prospering without any regulation.

No one quarrels with the objective. We have worked diligently in an effort to obtain that objective; but the gentleman's amendment to strike that provision in the name of incentive is really misleading and should be rejected.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I think my colleague, the gentleman from New York, and my colleague, the gentleman from California (Mr. BURGNER) have very carefully drawn two valuable points as to why we should oppose this amendment. No. 1, it adds another very substantial monetary burden upon the industry, and we rejected the last amendment because of that factor.

We do not want to overburden this industry. The second point my colleague from New York made was that, as the bill is now written, there is an incentive to the boat and the skipper and the crew to be below the industry average. By adopting this amendment to take away that incentive, no longer are the good boats under an incentive not to take dolphin.

Very simply put, the environmental aspect of this amendment is clear, that it should be defeated. We certainly understand that an incentive of this type is certainly far better than to take away that incentive and just put an across-the-board assessment on the fleet.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Chairman, we keep hearing about the burden on the industry, but does it not really boil down to the fact that the consumer is going to be the one the burden is placed upon? If we add costs to the industry, they just pass it on to the consumer. This is going to cause each can of tuna to go up. It may be just a penny, but a penny here and a penny there adds up and it gets out of control. The consumer eventually will pay for this, is that not true?

Mr. MURPHY of New York. The gentleman makes the point about the consumer, but the tuna consumer is consuming a protein, and in many instances he can only afford the cheapest type of protein, which is tuna fish.

Mr. VAN DEERLIN. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. VAN DEERLIN. For the purpose of putting a question to the author of the amendment, inasmuch as the amend-

ment refers to this \$32 as a penalty, is it the intent of the author that this would be tax deductible?

Mr. PRITCHARD. If the gentleman will yield, I will say no, it would be a fee and not a penalty. That way, it will be tax deductible. So, it is much less than the cost suggested to the industry of \$1 million.

I thank the gentleman for clarifying that point. It is important that it is a fee and not a penalty, and both of us understand the reasons why.

Mr. VAN DEERLIN. I only attempt to clarify it only should the worst happen and the amendment be adopted.

Mr. McCLOSKEY. Mr. Chairman, I move to strike the last word, and I rise to speak in favor of the amendment.

I would like to lay before the committee the precise costs we are talking about. I would like to do that from the committee report, on page 50. One of those fishing trips, No. 433, 208 tons of tuna was caught and only 26 porpoises were killed. That is a good record. That 208 tons of tuna would be worth \$140,000, so this skipper, with that good record, would be paying roughly \$900 compared to a catch worth \$140,000. Certainly, the good skipper paying \$900 against a catch of \$140,000 is not financially burdened.

The next skipper on the chart would be. The next skipper below that caught 509 tons of tuna and killed 546 porpoises. Five hundred and nine tons of tuna would be worth \$350,000, and for the 546 porpoises he would pay \$17,000. Now, \$17,000 would be a significant penalty even against a value of \$350,000.

It seems to me that, with those figures, we do not impose an incredibly big burden on the industry, and we impose the very best concept of a free enterprise system: that of a financial penalty on the skipper who kills too many porpoise. Under the bill the gentleman from New York, Mr. MURPHY presented, should a skipper kill less than the industry average, he would get a substantial amount of money back. So a good skipper is not going to be materially hurt. A bad one would be, under the best way we know how making a financial penalty on the bad skipper.

Mr. FORSYTHE. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to my colleague, the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. I thank the gentleman for yielding.

Is it true that in the two instances the gentleman referred to, that the same boat was involved?

Mr. McCLOSKEY. I cannot answer that.

Mr. MURPHY of New York. If the gentleman will yield, they are the same boat.

Mr. McCLOSKEY. They are trip 279 and trip 323. The boat is listed as 433 under the vessel code. It is the same boat.

Mr. FORSYTHE. The same boat. I think this points out one of the reasons why at this point in time we have to be very careful how we use these types of penalties because the whole technology situation at this time is not sure enough. Here we are, with the same boat, with

two radically different situations, in terms of porpoises killed. To me, it is one more reason why I would oppose this amendment.

Mr. McCLOSKEY. Mr. Chairman, we heard skippers testify before the committee that their crew jumped into the water to save porpoises. Much of this is an individual attitude and action on the part of the crew and the skipper. The testimony before us was that quite often the skipper had 51 percent of the profit, the crew had 49 percent. With this kind of a financial reward, we think the crews and skippers would break their backs to save porpoises, which essentially is our goal.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. I thank the gentleman for yielding.

Mr. Chairman, my colleague from New Jersey carefully points out that vessel 433 in one set did take 26 porpoises, and then on another voyage it takes 546 porpoises. That probably was a good skipper, in spite of that great difference. This could have been a mechanical breakdown or severe weather change that caused that difference. My bill, in its present form, does penalize in its present language the bad skipper, overall; it does not penalize the good skipper who might have had a serious incident or difficult problem at some time.

Therefore, I would urge that the committee reject the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. PRITCHARD).

The question was taken; and on a division (demanded by Mr. PRITCHARD) there were—ayes 32, noes 38.

#### RECORDED VOTE

Mr. PRITCHARD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 158, noes 194, not voting 81, as follows:

[Roll No. 294]

#### AYES—158

|              |                 |                |
|--------------|-----------------|----------------|
| Alexander    | Carter          | Guy            |
| Allen        | Cederberg       | Hamilton       |
| Ambro        | Cleveland       | Harrington     |
| Ammerman     | Cohen           | Heckler        |
| Andrews,     | Coleman         | Hillis         |
| N. Dak.      | Conable         | Holtzman       |
| Archer       | Conte           | Horton         |
| Armstrong    | Corcoran        | Hyde           |
| Badillo      | Cornell         | Ireland        |
| Bafalis      | Cotter          | Jacobs         |
| Beard, R.I.  | Daniel, Dan     | Jenkins        |
| Bedell       | Dellums         | Kasten         |
| Beilenson    | Drinan          | Kastenmeier    |
| Benjamin     | Edgar           | Kelly          |
| Bennett      | Edwards, Calif. | Keys           |
| Blouin       | Edwards, Okla.  | Kildee         |
| Boggs        | Emery           | Kostmayer      |
| Boland       | Ertel           | Lagomarsino    |
| Bolling      | Evans, Del.     | Latta          |
| Bonior       | Evans, Ind.     | Leach          |
| Bonker       | Fenwick         | Lederer        |
| Brademas     | Findley         | Lent           |
| Breckinridge | Fish            | Levit          |
| Brinkley     | Fithian         | McClary        |
| Brodhead     | Fowler          | McCloskey      |
| Broomfield   | Frenzel         | McDade         |
| Brown, Ohio  | Frey            | McEwen         |
| Buchanan     | Fuqua           | Maguire        |
| Burke, Fla.  | Gibbons         | Marks          |
| Butler       | Gilman          | Meyner         |
| Byron        | Glickman        | Mikva          |
| Caputo       | Gore            | Miller, Ohio   |
| Carr         | Gradison        | Mitchell, N.Y. |



Moakley  
Moffett  
Moore  
Moorhead, Pa.  
Mottl  
Murphy, Ill.  
Murphy, Pa.  
Natcher  
Nolan  
O'Brien  
Obey  
Ottinger  
Patten  
Perkins  
Pettis  
Pike  
Pritchard  
Quile  
Quillen  
Regula

Reuss  
Richmond  
Rinaldo  
Rodino  
Rosenthal  
Ruppe  
Russo  
Ryan  
Sawyer  
Sharp  
Shibley  
Simon  
Smith, Nebr.  
Solarz  
Spellman  
St Germain  
Stanton  
Stark  
Steiger  
Stockman

Thone  
Traxler  
Trible  
Tucker  
Udall  
Vanik  
Vento  
Volkmer  
Walgren  
Walker  
Walsh  
Weiss  
Winn  
Wirth  
Wolff  
Wyllie  
Yates  
Yatron  
Young, Fla.  
Zablocki

## NOES—194

Abdnor  
Addabbo  
Akaka  
Anderson, Calif.  
Andrews, N.C.  
Annunzio  
Applegate  
AuCoin  
Badham  
Balduz  
Barnard  
Baucus  
Bauman  
Beard, Tenn.  
Bevill  
Blaggi  
Blanchard  
Bowen  
Brooks  
Brown, Calif.  
Burgener  
Burke, Mass.  
Burlison, Mo.  
Burton, John  
Burton, Phillip  
Carney  
Cavanaugh  
Chisholm  
Clawson, Del.  
Clay  
Cochran  
Collins, Ill.  
Collins, Tex.  
Conyers  
Corman  
Cornwell  
Crane  
Cunningham  
D'Amours  
Daniel, R. W.  
Danielson  
Davis  
de la Garza  
Derrick  
Derwinski  
Dickinson  
Dicks  
Diggs  
Dingell  
Dodd  
Duncan, Ore.  
Duncan, Tenn.  
Early  
Eckhardt  
Edwards, Ala.  
Ellberg  
English  
Erlenborn  
Evans, Colo.  
Evans, Ga.  
Fasell  
Fisher  
Flippo  
Flowers  
Foley

Ford, Mich.  
Ford, Tenn.  
Forsythe  
Fountain  
Gammage  
Gaydos  
Gephardt  
Glaimo  
Ginn  
Goldwater  
Gonzalez  
Grassley  
Gudger  
Hagedorn  
Hall  
Hanley  
Hannaford  
Hansen  
Harris  
Hawkins  
Hefner  
Heftel  
Hightower  
Holland  
Holt  
Howard  
Hubbard  
Huckaby  
Hughes  
Johnson, Calif.  
Jones, N.C.  
Jones, Okla.  
Jones, Tenn.  
Jordan  
Kazen  
Kemp  
Ketchum  
Kindness  
Krebs  
Krueger  
LaFalce  
Le Fante  
Leggett  
Lloyd, Tenn.  
Long, La.  
Lott  
Luken  
Lundine  
McDonald  
McFall  
McHugh  
McKay  
Madigan  
Mahon  
Markey  
Marriott  
Mathis  
Mattox  
Meeds  
Metcalfe  
Mikulski  
Minish  
Mitchell, Md.  
Montgomery  
Moorhead, Calif.

Moss  
Murphy, N.Y.  
Murtha  
Myers, Michael  
Myers, Ind.  
Nedzi  
Nix  
Nowak  
Oakar  
Oberstar  
Panetta  
Patterson  
Pattison  
Pease  
Pepper  
Pickle  
Preyer  
Quayle  
Rahall  
Rangel  
Rhodes  
Risenhoover  
Roberts  
Robinson  
Rogers  
Rooney  
Rose  
Roussellot  
Roybal  
Rudd  
Runnels  
Santini  
Sarasin  
Satterfield  
Schulze  
Seiberling  
Shuster  
Sisk  
Skelton  
Slack  
Snyder  
Spence  
Staggers  
Stangeland  
Steed  
Stokes  
Studds  
Stump  
Symms  
Thornton  
Treen  
Tsongas  
Ullman  
Van Derlin  
Vander Jagt  
Waggonner  
Watkins  
White  
Whitley  
Wilson, Bob  
Wilson, C. H.  
Wilson, Tex.  
Wright  
Young, Tex.

## NOT VOTING—81

Anderson, Ill.  
Ashbrook  
Ashley  
Aspin  
Bingham  
Breaux  
Brown, Mich.  
Brodyhill  
Burke, Calif.  
Burlison, Tex.  
Chappell  
Clausen  
Don H.  
Coughlin  
Delaney

Dent  
Devine  
Dornan  
Downey  
Fary  
Flood  
Florio  
Flynt  
Fraser  
Goodling  
Hammer  
schmidt  
Harkin  
Harsha  
Hollenbeck

Ichord  
Jeffords  
Jenrette  
Johnson, Colo.  
Koch  
Lehman  
Lloyd, Calif.  
Long, Md.  
Lujan  
McCormack  
McKinney  
Mann  
Marlenee  
Martin  
Mazzoli

Michel  
Milford  
Miller, Calif.  
Mineta  
Molohan  
Myers, Gary  
Neal  
Nichols  
Poage  
Pressler  
Price  
Pursell  
Railsback

Roe  
Roncalio  
Rostenkowski  
Scheuer  
Schroeder  
Sebelius  
Sikes  
Skubitz  
Smith, Iowa  
Steers  
Stratton  
Taylor  
Teague

Thompson  
Wampler  
Waxman  
Weaver  
Whalen  
Whitehurst  
Whitten  
Wiggins  
Wydler  
Young, Alaska  
Young, Mo.  
Zeferetti

Mr. COLLINS of Texas and Mr. NEDZI changed their vote from "aye" to "no."

Mr. BEARD of Rhode Island and Mr. NOLAN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

## AMENDMENT OFFERED BY MR. McCLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: Page 17, line 13, strike out "and."

Page 17, between lines 13 and 14 insert the following:

"(2) agrees to allow observers approved by the Secretary to board and accompany such vessel in a manner consistent with subsection (d) of this section; and".

Page 17, line 14, strike out "(2)" and insert "(3)".

Mr. McCLOSKEY. Mr. Chairman, this amendment is very simple, and if I could ask the Committee to look at page 17 of the bill, the Committee will note the requirements that the bill imposes. This amendment is intended to protect the U.S. tuna skipper who complies with the requirements that we impose upon him by this law. There were about 117 U.S. purse seiners last year. They comprised about two-thirds of the total world purse-seine tonnage, with one-third of the purse seiners in the Pacific Ocean being under foreign flag.

One of the problems that the committee has had in coping with this problem has been that the tuna fishing fraternity, fishing out of San Diego and San Pedro, primarily, has felt very badly about any Government regulation at all. Some of these skippers, upset with the fact that their Government was imposing upon them regulations which were not imposed on foreign skippers, have sought to transfer U.S. fishing ships to foreign flag in order to escape the application of U.S. law.

The committee bill—the chairman's bill—on page 17 requires that before there be permission from the Secretary of Commerce to transfer a U.S. ship to foreign flag, the transferee must agree to comply—and I quote—"when using such vessel for such fishing, with United States standards with respect to the incidental taking of marine mammals;" and the transferee must file with the Secretary "a bond in an amount and form determined by the Secretary to be necessary and appropriate to insure performance of such agreement."

My amendment adds a third provision that the transferee of this U.S. tuna boat must agree to allow observers approved by the Secretary to board and accompany such vessel in a manner consistent with subsection D of this section. In other words, we require that before a U.S. boat

is transferred to foreign registry that it not only comply with U.S. law and post a bond, but that it also accept an observer, which is the same requirement we put on U.S. fishermen. It seems to me that we should protect our tuna fleet against unfair competition by requiring that observer on foreign boats because without the observer we have no way of guaranteeing that they will comply with the same requirements as U.S. fishermen.

Mr. RUPPE. Mr. Chairman, I rise in opposition to the amendment.

I have really a great deal of concern over that entire paragraph. It would just seem to me that if the bill we are passing is not that onerous on the tuna industry, they would be most willing to stay in the United States. What I fail to understand is that if a tuna boat operator wants to sell his boat, he cannot transfer it or sell it outside the United States unless he posts a bond and does a number of things under this bill.

Under the McCloskey amendment, the operator cannot do that unless he has an observer on the boat. The boat costs \$5 million. If a man puts that much into a boat and wants to get out of the business, I cannot understand why he cannot sell that boat anywhere in the world. Why should we say, as the bill does say, that he has to post a bond with a number of restrictions, and then with the McCloskey amendment says we require an observer on the boat. It seems to me we are taking that man's value away. Certainly he will not be able to sell that boat for the amount of money he would get for it prior to the passage of this legislation.

I really fail to understand why we should penalize a tuna boat operator who has lived under all our regulations in the United States and who now wants to sell his boat to someone in Timbuktu or anywhere else and put this burden on him, saying in effect that if he wants to sell this boat outside the United States, under this amendment, we will be virtually insuring that he will take a financial shellacking.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, I understand the gentleman's objection to the bill. But all my amendment does is make his abiding by the U.S. law enforceable. Why should a foreign boat not have to abide by the same requirements we put on a U.S. fisherman? Once we say in this bill that a U.S. fisherman has to accept our regulations, why not make foreign people observe those regulations?

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. MURPHY of New York. Once they update and upgrade their equipment, and in this industry it is necessary, then if they want to sell it and go into a much higher-type capability vessel, I think we have prevented our industry from upgrading by many of the amendments we have here, consequently, I have to oppose the gentleman's amendment. I do

not think it adds anything. We require many things in the bill as it is presently written. They have to comply with the Marine Mammal Protection Act and that has a stipulation that we put observers on a vessel even if it is sold foreign. Frankly I think it is unnecessary, but it did give our colleague, the gentleman from Michigan, the opportunity to point out the further restrictions we put on this industry.

Mr. BURGNER. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Would the chairman of the committee respond to a question related to this?

The bill already requires a bond, that if we transfer a boat, the transferee must file a bond. That would seem sufficient. My question is: What is the committee's intention as to the size of the bond roughly?

Mr. MURPHY of New York. A reasonable bond would be \$150,000.

Mr. BURGNER. My second question would have to do with the \$2 million fee. This is an enormous provision and I would vote against it; but we are asking to come up with \$2 million for research, is that correct?

Mr. MURPHY of New York. That is correct, primarily for research.

Mr. BURGNER. What I want to establish is a normal cost of doing business; at least those that show it, to be chargeable as a business expense.

Mr. MURPHY of New York. That is correct.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCloskey).

The amendment was rejected.

Mr. VAN DEERLIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to put two questions to the chairman of the committee.

This bill provides for allowing the Secretary to reduce the quota during calendar year 1978 and during the first quarter of 1979, if she finds—she or he—finds that such reduction, first, is feasible in view of the advancements made in the technology of fishing gear or fishing methods; and second, if he or she finds that such reduction should be imposed as a result of new information with regard to the size or the health of any dolphin population. With respect to the first criterion, I would like to be assured that the intent of the bill is that the quota be reduced only if it is economically and technically feasible.

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, I would like to state the original intent of the bill was to have the power in the Secretary to reduce quotas only upon such a finding. However, Mr. Chairman, I yield to the gentleman from Washington for a further explanation.

Mr. BONKER. Mr. Chairman, my amendment to the McCloskey amendment was to maintain the 69,000 quota for 1977 and, in the period between 1977 and 1980, would have deleted the original McCloskey amendment which provided for a 50-percent reduction. That was stricken, so quotas would be at the

discretion of the Secretary of Commerce during that period of time.

Mr. VAN DEERLIN. Mr. Chairman, my second question regards the provision for a 100-percent observer program through the first quarter of 1979. Is it the committee's intention that the observer program after March of 1979 be sufficient to provide a statistical sample of the fleet, but not necessarily be maintained at 100-percent coverage?

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, the gentleman's interpretation is correct. We require 100-percent observers for a period of time, until March 31, 1979, so that we can establish the facts as to numbers taken, as to dolphin pursued, and as to dolphin populations. After that, the observer program would be discretionary for the Secretary to utilize as he deems appropriate to carry out the purposes of the act.

Mr. VAN DEERLIN. Mr. Chairman, I thank the gentleman from New York.

Mr. KETCHUM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I stand in support of the bill sponsored by my distinguished colleague from the State of New York.

For several months now we have been privy to both sides of the argument in the tuna-porpoise controversy. As we continue to debate this issue, we prolong the long-standing plight of the tuna fisherman, the tuna cannery worker, and other laborers contingent upon the industry. Over 30,000 jobs are at stake, and we must not delay any longer in resolving this problem.

Congressman MURPHY's course of action affords the soundest balance between the porpoise mortality rate and the catch of tuna. Instead of a marine mammal mortality rate of almost 100,000 in 1976, the bill will substantially lower the figure by 20,000.

I wish that I could stand here today endorsing a plan which would lower this rate even further. The cold, hard facts, however, dictate that this is a virtual impossibility. To allow our American tuna fishermen to get back on the job we must enact the prudent provisions of H.R. 6970 now.

Furthermore, we must not forget that the real porpoise conservationists in the future will not be the Government but the tuna fishermen themselves. Their current success in adopting new net designs and techniques has been commendable. They realize the great need to preserve the porpoises and will act accordingly. To monitor their progress, H.R. 6970 judiciously allows for an observer program to enable the Government to collect statistics on the porpoise populations and ongoing technological advancements in the field. In addition the bill requires the establishment of a tuna research vessel which would seek to reduce marine mammal mortalities. The end result is a positive step in the direction of conservation and the perpetuation of the tuna industry.

I commend my colleague for his great foresight, and I urge my fellow Members to vigorously support his incisive and far-reaching measures.

Mr. ROUSSELOT. Mr. Chairman, in

recent months, the regulations promulgated under the Marine Mammal Protection Act have almost succeeded in crippling the American tuna fishing industry. With the imposition of an impossible porpoise mortality quota system issued by the National Marine Fisheries Service, fishermen have been idled for over 2 months. Only because Congress has taken up the gauntlet, has the fleet agreed to sail. If we fail here today, an industry which directly impacts on all of us will be totally wiped out. When you consider the fact that Americans consume over 1.5 billion cans of tuna each year; that it is used in 84.1 percent of all our homes; that it represents 26 percent of all fish and shellfish eaten; and, that upwards of 55,000 jobs depend on our action, our responsibility is enormous.

H.R. 6970, to amend the Marine Mammal Protection Act of 1972 with respect to the taking of marine mammals incidental to the course of commercial fishing operations, comes as close as possible to the needs of the tuna fleet so that it may function at an economically viable level while still meeting the original intent of the Marine Mammal Protection Act. The bill's major provisions do the following: Establish an aggregate quota of incidental porpoise mortalities of 78,900 for calendar year 1977 and 1978, call for a 100-percent observer program for tuna vessels to observe the incidental take by the U.S. fleet and require the industry to provide a tuna vessel dedicated to research methods of reducing dolphin mortalities.

Mr. Chairman, the industry has come under fire from various environmental groups for not doing enough to save the dolphin. Nothing is further from the truth. Dolphin mortality works to the detriment of the fishermen in that a high number in the net can significantly slow set time and reduce fishing efficiency. I would like to point out that it was a fisherman who designed the backdown technique and it was a fisherman who invented the fine mesh webbing to prevent dolphin mortality due to entanglement. That webbing is now on 70 percent of the boats in the tuna fishing fleet and will be on them all as quickly as the Medina nets are produced.

Conservation of porpoise depends largely on the ability of the U.S. tuna fleet to continue to fish. Transfer of our boats to foreign flags would be disastrous because foreign vessels have a per boat kill rate 2½ times the rate of the American fleet. We all know that the Marine Mammal Protection Act cannot be effectively enforced against foreign concerns. As foreign nations capture a greater share of the tuna catch, more dolphins will be killed.

H.R. 6970 is a reasonable, balanced approach to the crisis we face in the tuna fishing industry. It allows additional time for research and discovery of new means to protect porpoise, while at the same time achieving a better catch of tuna. Unless this bill is passed, the almost 55,000 boat owners, captains, crewmen, yard workers, cannery workers, and cannery employees directly affected are going to be out of work. This translates into more unemployment compensation, more welfare,



more food stamps and greater dependence on foreign imports which further enlarges the balance of payments deficit. The economic impact of an American tuna industry shutdown would be disastrous. Let the tuna industry continue to reduce porpoise losses through improvements in gear and techniques, but let it also continue to grow and provide for a hungry world.

The CHAIRMAN. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MONTGOMERY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6970) to amend the Marine Mammal Protection Act of 1972 with respect to the taking of marine mammals incidental to the course of commercial fishing operations, and for other purposes, pursuant to House Resolution 594, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair will count.

One hundred and sixty-one Members are present, not a quorum.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 334, nays 20, not voting 79, as follows:

[Roll No. 295]

YEAS—334

|               |              |               |
|---------------|--------------|---------------|
| Abdnor        | Ashley       | Boggs         |
| Addabbo       | AuCoin       | Boland        |
| Akaka         | Badham       | Bolling       |
| Alexander     | Badillo      | Bonior        |
| Allen         | Bafalis      | Bonker        |
| Ambro         | Baldus       | Bowen         |
| Ammerman      | Barnard      | Brademas      |
| Anderson,     | Baucus       | Breckinridge  |
| Calif.        | Bauman       | Brinkley      |
| Andrews, N.C. | Beard, R.I.  | Brooks        |
| Andrews,      | Beard, Tenn. | Broomfield    |
| N. Dak.       | Bellenson    | Brown, Calif. |
| Annunzio      | Bennett      | Brown, Ohio   |
| Applegate     | Bevill       | Buchanan      |
| Archer        | Biaggi       | Burgener      |
| Armstrong     | Blanchard    | Burke, Fla.   |

|                 |                  |               |
|-----------------|------------------|---------------|
| Burke, Mass.    | Harris           | Pattison      |
| Burlison, Mo.   | Hawkins          | Pease         |
| Burton, John    | Heckler          | Pepper        |
| Burton, Phillip | Hefner           | Perkins       |
| Butler          | Heftel           | Pettis        |
| Byron           | Hightower        | Pickle        |
| Caputo          | Hillis           | Preyer        |
| Carney          | Holland          | Pritchard     |
| Carr            | Holt             | Quayle        |
| Cavanaugh       | Horton           | Quile         |
| Cederberg       | Howard           | Quillen       |
| Chisholm        | Hubbard          | Rahall        |
| Clawson, Del    | Huckaby          | Rangel        |
| Clay            | Hyde             | Regula        |
| Cleveland       | Ireland          | Rhodes        |
| Cochran         | Jacobs           | Richmond      |
| Cohen           | Jenkins          | Rinaldo       |
| Coleman         | Johnson, Calif.  | Risenhoover   |
| Collins, Ill.   | Jones, N.C.      | Roberts       |
| Collins, Tex.   | Jones, Okla.     | Robinson      |
| Conable         | Jones, Tenn.     | Rodino        |
| Conyers         | Jordan           | Rogers        |
| Corcoran        | Kasten           | Rooney        |
| Corman          | Kazen            | Rose          |
| Cornell         | Kelly            | Rosenthal     |
| Cornwell        | Kemp             | Rousselot     |
| Cotter          | Ketchum          | Roybal        |
| Crane           | Keys             | Rudd          |
| Cunningham      | Kildee           | Runnels       |
| D'Amours        | Kindness         | Ruppe         |
| Daniel, Dan     | Kostmayer        | Russo         |
| Daniel, R. W.   | Krebs            | Ryan          |
| Danielson       | Krueger          | Santini       |
| Davis           | LaFalce          | Sarasin       |
| de la Garza     | Lagomarsino      | Satterfield   |
| Dellums         | Latta            | Sawyer        |
| Derrick         | Le Fante         | Schulze       |
| Derwinski       | Leach            | Seiberling    |
| Dickinson       | Lederer          | Sharp         |
| Dicks           | Leggett          | Shipley       |
| Diggs           | Lent             | Shuster       |
| Dodd            | Levitas          | Sikes         |
| Duncan, Oreg.   | Lloyd, Tenn.     | Simon         |
| Duncan, Tenn.   | Long, La.        | Sisk          |
| Early           | Lott             | Skelton       |
| Eckhardt        | Luken            | Slack         |
| Edgar           | Lundine          | Smith, Nebr.  |
| Edwards, Ala.   | McClory          | Snyder        |
| Edwards, Calif. | McCloskey        | Solarz        |
| Edwards, Okla.  | McDade           | Spellman      |
| Eilberg         | McDonald         | Spence        |
| Emery           | McEwen           | St Germain    |
| English         | McFall           | Staggers      |
| Erlenborn       | McHugh           | Stangeland    |
| Ertel           | McKay            | Stanton       |
| Evans, Colo.    | Madigan          | Stark         |
| Evans, Del.     | Mahon            | Steed         |
| Evans, Ga.      | Markey           | Steiger       |
| Evans, Ind.     | Marks            | Stockman      |
| Fascell         | Marriott         | Stokes        |
| Fenwick         | Mathis           | Studds        |
| Findley         | Mattox           | Symms         |
| Fish            | Meeds            | Thone         |
| Fisher          | Metcalfe         | Thornton      |
| Flithian        | Mikulski         | Traxler       |
| Fliippo         | Miller, Ohio     | Treen         |
| Flowers         | Minish           | Trible        |
| Foley           | Mitchell, Md.    | Tsongas       |
| Ford, Mich.     | Mitchell, N.Y.   | Tucker        |
| Ford, Tenn.     | Moakley          | Udall         |
| Forsythe        | Moffett          | Ullman        |
| Fountain        | Montgomery       | Van Deerlin   |
| Fowler          | Moore            | Vander Jagt   |
| Frenzel         | Moorhead, Calif. | Vanik         |
| Frey            | Moorhead, Pa.    | Vento         |
| Fuqua           | Moss             | Volkmer       |
| Gammage         | Murphy, Ill.     | Waggonner     |
| Gaydos          | Murphy, N.Y.     | Walgren       |
| Gephardt        | Murphy, Pa.      | Walker        |
| Gialmo          | Murtha           | Walsh         |
| Gilman          | Myers, Michael   | Watkins       |
| Ginn            | Myers, Ind.      | Weiss         |
| Glickman        | Natcher          | White         |
| Goldwater       | Nedzi            | Whitley       |
| Gonzalez        | Nix              | Wilson, Bob   |
| Gore            | Nolan            | Wilson, C. H. |
| Gradison        | Nowak            | Wilson, Tex.  |
| Grassley        | O'Brien          | Winn          |
| Gudger          | Oakar            | Wirth         |
| Guyer           | Oberstar         | Wolff         |
| Hagedorn        | Obey             | Wright        |
| Hall            | Oettinger        | Wylie         |
| Hamilton        | Panetta          | Yatron        |
| Hanley          | Patten           | Young, Tex.   |
| Hannaford       | Patterson        | Zablocki      |
| Hansen          |                  |               |
| Harrington      |                  |               |

NAYS—20

|          |          |             |
|----------|----------|-------------|
| Bedell   | Conte    | Kastenmeier |
| Benjamin | Coughlin | Maguire     |
| Blouin   | Drinan   | Meyner      |
| Brodhead | Gibbons  | Mikva       |
| Carter   | Holtzman | Mottl       |

Pike Reuss Stump Yates Young, Fla.

NOT VOTING—79

|                |                |               |
|----------------|----------------|---------------|
| Anderson, Ill. | Harsha         | Price         |
| Ashbrook       | Hollenbeck     | Pursell       |
| Aspin          | Ichord         | Rallsback     |
| Bingham        | Jeffords       | Roe           |
| Breaux         | Jenrette       | Roncalio      |
| Brown, Mich.   | Johnson, Colo. | Rostenkowski  |
| Broyhill       | Koch           | Scheuer       |
| Burke, Calif.  | Lehman         | Schroeder     |
| Burleson, Tex. | Lloyd, Calif.  | Sebelius      |
| Chappell       | Long, Md.      | Skubitz       |
| Clausen,       | Lujan          | Smith, Iowa   |
| Don H.         | McCormack      | Steers        |
| Delaney        | McKinney       | Stratton      |
| Dent           | Mann           | Taylor        |
| Devine         | Marlenee       | Teague        |
| Dingell        | Martin         | Thompson      |
| Dornan         | Mazzoli        | Wampler       |
| Downey         | Michel         | Waxman        |
| Fary           | Millford       | Weaver        |
| Flood          | Miller, Calif. | Whalen        |
| Florio         | Mineta         | Whitehurst    |
| Flynt          | Mollohan       | Whitten       |
| Fraser         | Myers, Gary    | Wiggins       |
| Goodling       | Neal           | Wylder        |
| Hammer-        | Nichols        | Young, Alaska |
| schmidt        | Poage          | Young, Mo.    |
| Harkin         | Pressler       | Zeferetti     |

The Clerk announced the following pairs:

Mr. Thompson with Mr. Anderson of Illinois.  
 Mr. Teague with Mr. Roncalio.  
 Mr. Breaux with Mr. Devine.  
 Mr. Lehman with Mr. Fary.  
 Mr. Mann with Mr. Ashbrook.  
 Mr. Mazzoli with Mr. Goodling.  
 Mr. Weaver with Mr. Hollenbeck.  
 Mr. Stratton with Mr. Dornan.  
 Mr. Rostenkowski with Mr. Jeffords.  
 Mr. Nichols with Mr. Flood.  
 Mr. Florio with Mr. Brown of Michigan.  
 Mr. Dent with Mr. Hammerschmidt.  
 Mr. Chappell with Mr. Marlenee.  
 Mrs. Burke of California with Mr. Broyhill.  
 Mr. Bingham with Mr. Gary A. Myers.  
 Mr. Koch with Mr. Flynt.  
 Mr. Millford with Mr. Harsha.  
 Mr. Miller of California with Mr. Don H. Clausen.  
 Mr. Mineta with Mr. Martin.  
 Mr. Neal with Mr. Lloyd of California.  
 Mr. Burleson of Texas with Mr. Pressler.  
 Mr. Waxman with Mr. Downey.  
 Mr. Zeferetti with Mr. Michel.  
 Mr. Ichord with Mr. Price.  
 Mr. Jenrette with Mr. Long of Maryland.  
 Mr. Aspin with Mr. Pursell.  
 Mr. Dingell with Mr. McKinney.  
 Mr. Fraser with Mr. Young of Missouri.  
 Mr. Harkin with Mr. Sebelius.  
 Mr. Mollohan with Mr. Rallsback.  
 Mr. McCormack with Mr. Skubitz.  
 Mr. Smith of Iowa with Mr. Young of Alaska.  
 Mrs. Schroeder with Mr. Wylder.  
 Mr. Scheuer with Mr. Steers.  
 Mr. Roe with Mr. Wampler.  
 Mr. Whitten with Mr. Whalen.  
 Mr. Delaney with Mr. Lujan.  
 Mr. Taylor with Mr. Wiggins.

Mr. MAGUIRE changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6970, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PEACE CORPS AUTHORIZATION FOR  
FISCAL YEAR 1978

Mr. HARRINGTON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6967) to authorize appropriations for the Peace Corps for fiscal year 1978.

The SPEAKER. The question is on the motion offered by the gentleman from Massachusetts (Mr. HARRINGTON).

The motion was agreed to.

## IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 6967, with Mr. CHARLES H. WILSON of California in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Massachusetts (Mr. HARRINGTON) will be recognized for 30 minutes and the gentleman from Kansas (Mr. WINN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. HARRINGTON).

Mr. HARRINGTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to speak today in support of H.R. 6967, which was reported by the International Relations Committee to authorize Peace Corps programs for fiscal year 1978.

First, the major purpose of the bill is to authorize \$81 million for continued Peace Corps operations during fiscal year 1978. This level is exactly the same sum as authorized for fiscal year 1977, and is \$3.8 million lower than the administration's current budget request. At the time the committee acted, however, the administration supported an open-ended authorization, until the new ACTION Director could formulate a new fiscal year 1978 budget and program. Rather than leaving the funding level open as requested, the committee decided to set the authorization at \$81 million, so as to insure that Peace Corps programs could continue at their current level.

Second, the bill authorizes such sums as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law. This is a standard provision, estimated by the Congressional Budget Office to amount to no more than \$1 million.

While our immediate concern must necessarily rest with the budget figures I have just explained, I feel it is more instructive to look beyond the numbers, to see just what the Peace Corps is and what it is trying to accomplish.

In 1977, the Peace Corps is a more mature 16-year-old, which has matched the idealistic energy of many Americans with the material needs of people in developing countries. It has enriched both a generation of Americans, through a unique international adventure, and the many people in need with whom they have worked abroad.

More importantly, in 1977, the unemployment rate among our youth has reached an alarmingly high 13 percent, with over 2.5 million people between ages 18 and 24 without creative outlets for their energies and talents. Among these underutilized young people who are clearly not finding fulfilling work outlets, as well as among the public at large, there has been a general declining faith in Government, a loss of the kind of idealistic spirit which made the Peace Corps possible in 1961.

Despite these social trends which seem to call for an expansion of the Peace Corps efforts, Peace Corps applications dropped in the last 10 years by over half. Volunteer strength dropped from a high of 12,000 in 1967 to less than 6,000 at present. A national asset of symbolic, as well as practical importance, was allowed to atrophy as a result of conscious policy.

This year's bill represents a reversal of that trend. By holding the authorization level at \$81 million, against earlier administration requests for a lower figure, the bill stems the financial hemorrhage of Peace Corps programs of recent years. It insures a stable flow of trainees and a slight increase in volunteer strength, the first such increase in 3 years.

But even more important than the actual funds it authorizes, this bill represents a new commitment by both the Congress and the administration to "revitalize," in Vice President MONDALE's words, the Peace Corps and restore its role as an aggressive and innovative part of U.S. development programs abroad. The committee report details the changes in emphasis and program direction contained within the budget total and endorsed by the committee. In short, these changes can be summed up as a greater recruitment effort; a renewed emphasis on the generalist volunteers of all ages, with specialized skill training where needed; new country programs stressing grassroots development programs designed to meet basic human needs; and an increase in volunteer strength.

The committee was well aware of some proposals to changing the bureaucratic structure which places Peace Corps within the larger volunteer agency, ACTION, but felt that the important task of restoring a program's vitality, vision, and strength took a first priority to reshuffling the lines on an organizational chart. We are not unmindful that organization can affect the nature of a program, and thus we intend to consider the various proposals—in cooperation with ACTION officials who have willingly agreed to join in that effort—in due course.

As noted in the committee report—

The innovative spirit and energy of a new administration and a new ACTION management team . . . encourages the Subcommittee to refrain from seeking an organizational solution to the Peace Corps' past problems.

Aggressive and creative leadership, as well as a conducive organizational structure, are both required for any program to meet its full potential. This year's bill seeks to encourage the new admin-

istration to fulfill the former goal, while leaving until next year's bill the resolution of the latter.

In conclusion, I urge the adoption of this bill, as recommended by the Committee on International Relations, both because it preserves the spirit that created Peace Corps in 1961, and enables Peace Corps to better meet its global task for 1977 and beyond.

Mr. WINN. Mr. Chairman, I rise in support of H.R. 6967, a bill to authorize funding for the Peace Corps for fiscal year 1978. Passage of this bill will permit the new leadership at ACTION, the parent organization of the Peace Corps. To commence the groundwork for the "revitalization" of the Peace Corps promised when the new ACTION Director appeared before the Subcommittee on International Development of the International Relations Committee.

H.R. 6967 is a very simple piece of legislation, containing only two provisions. It authorizes \$81 million for fiscal year 1978 plus such sums as may be necessary for increases in salary, retirement, or other benefit authorized by law. This is precisely the same level of funding authorized for the last fiscal year, fiscal year 1977.

The Carter administration had originally submitted an authorization request for \$74.8 million. That figure was submitted prior to the appointment of the new ACTION Director, Mr. Brown, and that initial request represented a cutback in Peace Corps programs and volunteer levels. Twelve days after his appointment as Director of ACTION, Sam Brown testified before the Subcommittee on International Development. Mr. Brown outlined generally his intention to, in his word, "revitalize" the Peace Corps. Due to his very short tenure as ACTION Director at that point, Mr. Brown was naturally unable to provide the subcommittee with much in the way of details on the implementation of the administration's revised policy. The proposed revitalization was broadly described in terms of reemphasizing direct assistance programs of intermediate technology and development skills addressed to the basic human needs of the poorest people in host countries. Implementation of these initiatives contemplates expansion and improvement in Peace Corps recruitment and upgrading of volunteer training programs, including the expansion of the skills training program.

The committee refrained from acting on the Peace Corps authorization legislation for more than a month and one-half in the hope and expectation that the administration would complete internal executive branch action on a revised Peace Corps budget request consistent with the revitalization policy. When a revised budget request was not forthcoming and after the lengthy period I mentioned, the subcommittee felt that mark-up could no longer be delayed.

The subcommittee knew at that point of the administration's revised policy of "revitalization" of Peace Corps programs, and that an authorization at the level of the administration's original request



would not be consistent with the revised administration policy. The subcommittee, therefore, struck a compromise between recommending a justifiable, but clearly inadequate authorization level or arbitrarily setting a higher figure without the benefit of a detailed justification from the administration. That quite reasonable compromise was to recommend an authorization level the same as that of fiscal year 1977, \$81 million. An \$81 million authorization would allow the administration to take some initial steps to begin implementation of its new policy for the Peace Corps.

Two additional points are worth mentioning in closing. First, on May 17, 1977, ACTION officially notified the Speaker of the House of the administration's new budget request of \$84.8 million, \$3.8 million more than the amount proposed in H.R. 6967. Secondly, on May 23, the Foreign Operations Subcommittee of the Appropriations Committee approved an appropriation for the Peace Corps for fiscal year 1978 of \$81 million, the same level as the authorization proposed in H.R. 6967.

The Peace Corps' direct, people-to-people, self-help assistance programs have been helpful to some of the poorest people in developing countries. They have also provided a creative outlet for the energies of countless Americans of all ages. More importantly in the long run, perhaps, is the fact that Peace Corps programs, carried on as they are by citizen volunteers, are a concrete expression of the innate value of human beings as individuals and the dedication to helping our fellow men improve their condition which are fundamental American ideals.

In conclusion, I urge the passage of H.R. 6967.

Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Chairman, I also wish to indicate my support for the passage of H.R. 6967. The Peace Corps was established in 1961 to mobilize American volunteers willing to assist the people of host countries and to promote better understanding between the American people and the people of other countries. Despite profound changes in the world situation since the creation of the Peace Corps, and in spite of administrative and other problems which have arisen from time to time, the Peace Corps has generally been effective in providing capable, volunteer, self-help assistance to needier people abroad on a direct, people-to-people basis.

I welcome the new ACTION leadership's announced intention to place greater emphasis on Peace Corps programs which provide assistance in the form of intermediate technology useful in helping the people of host countries to meet basic human needs. In this regard, the Peace Corps apparently intends to increase the recruitment of interested "generalists" as volunteers who will then be put through more extensive intermediate technology skills training. I certainly hope this announced policy is not merely a euphemistic expression to cover a return to the style of that period when the less mature products of some of our

campuses used service in the Peace Corps as a vehicle for expressing their own personal political views abroad.

I am confident that the committee will exercise careful and comprehensive oversight to insure that such politicization does not occur. Hopefully, the new leadership at ACTION can strike a balance between the past when too many volunteers were long on enthusiasm and short on needed skills and the trend that some see emerging of putting too much emphasis on volunteers who are much more highly skilled than actually necessary to the people-to-people, self-help programs at which the Peace Corps has been most successful.

I have supported the Peace Corps in the past and I feel the new leadership should be given an opportunity to perform on its promises. Therefore, I intend to support H.R. 6967.

Mr. WINN. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I rise in support of this measure to authorize appropriations for the Peace Corps for fiscal year 1978.

My contact with the Peace Corps has been extensive during the 16 years of its existence, and I continue to believe that it is one of the most effective instruments of American foreign policy we have.

As a member of the Foreign Operations Appropriations Subcommittee, I have seen the Peace Corps develop, expand, and improve over the years. And on several occasions, I have had the opportunity to see the Peace Corps in action, in the field.

On these visits, I have been tremendously impressed with the caliber of our Peace Corps volunteers, and with the great work being done by them. Perhaps the most impressive thing I found was the reaction of the people of the host country toward the Peace Corps presence.

I have been out to some Peace Corps outposts hundreds of miles away from anything, where there is no electricity, no running water, even no radio. Many of the people out there did not know anything about international relations or the competition between the United States and the Soviet Union. But what they did know was that the United States had sent them a Peace Corps volunteer or team to help them improve their water supply, or show them how to grow more and better food, or help build a school and teach them how to read and write.

And perhaps most important, they were grateful.

During the 1960's when anti-American feelings ran so high throughout the world, the Peace Corps was often the only American presence many of these countries would accept. And under such circumstances, the Peace Corps did an outstanding job of making friends for the United States.

The new administration has declared its commitment to "revitalize" the Peace Corps, through an active and aggressive recruitment program and a major effort to focus Peace Corps activities on those areas which are best suited for this kind of attention.

Among other things, the Peace Corps program is uniquely equipped to promote the dissemination of light or "appropriate" technology, a matter which has been of considerable interest to both the authorizing and appropriations committees.

Mr. Chairman, I strongly support this people-to-people approach to development, and urge the approval of this authorization.

Mr. HARRINGTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin (Mr. ZABLOCKI), chairman of the Committee on International Relations.

Mr. ZABLOCKI. Mr. Chairman, I rise in support of H.R. 6967, a bill to authorize appropriations for the Peace Corps for fiscal 1978 and fully endorse the recommendations of our International Relations Committee's Subcommittee on International Development.

I wish to commend the subcommittee chairman, Mr. HARRINGTON and the members of the subcommittee for reporting a Peace Corps' bill that deserves the enthusiastic support of all Members of Congress.

As the gentleman from Massachusetts (Mr. HARRINGTON) has pointed out, the authorization level contained in this bill is the amount approved by the full committee in its original views and estimates report to the committee on the budget and subsequently in markup. It represents \$3.8 million less than the administration's revised request, which was submitted too late to be considered by our committee, but which has subsequently been approved by the Senate. In other words, this is a minimal authorization request we are acting upon today—which provides for no expansion in the program over fiscal year 1977—and is clearly justifiable, especially when inflationary cost factors are taken into account.

As Members are aware, the Peace Corps is currently in a period of transition—with a new ACTION Director and Deputy Director on board, but with a number of key appointments still pending.

The new management team at ACTION is now in the process of reviewing and evaluating Peace Corps program objectives and clearly has not yet had a chance to "put its act together"—so to speak. The appointment of a new Peace Corps Director—the so-called Associate Director of ACTION for International Operations—is the most pressing need at the moment, upon which other management decisions are largely dependent. In this connection, I would like to call attention to the following observation, included in the committee's report:

In the Committee's judgment, major attention should be devoted to the recruitment of qualified Peace Corps leadership, both in Washington and overseas, to provide adequate direction to, and supervision over, Peace Corps activities worldwide. The future of the Peace Corps is largely dependent on ACTION's success in meeting this important goal.

During the past several years, the committee's oversight of Peace Corps operations has uncovered problems in the personnel field—especially ACTION's apparent inability to maintain continuity in the country director position. As docu-

ments included in this year's hearing record confirm, the high turnover in country directors has continued during fiscal year 1977—especially in West Africa. I hope, therefore, that ACTION will give this matter its immediate, priority attention.

Experience confirms that good projects and successful programs do not just happen—they have to be planned carefully and coordinated with most government officials who will be responsible for their implementation. Getting the right people to perform this function is therefore essential to program effectiveness.

Other management problems also need to be addressed. Among these are: Inadequate advance programing and, especially, followup on Peace Corps volunteer assignments; a lack of coordination between Washington and the field; and inadequate screening procedures to select out unacceptable candidates before they are sent overseas. These are problems, I should add, of longstanding which have been inherited by the present administration. In all fairness, the new ACTION team should be given sufficient time to conduct its review and take corrective action wherever feasible. The committee will, however, be monitoring the progress in these areas—or lack of it—in the years ahead.

While there is some understandable impatience among our committee membership to "get on with the job" of revitalizing the Peace Corps and making it more effective, I would also urge the ACTION leadership to move cautiously and advisedly, as well as vigorously, in devising and introducing new programs. Above all, it is essential that volunteers have real jobs to perform—jobs which the host governments both need and are willing to support—before volunteers are sent overseas in large numbers. One good volunteer, it has been pointed out, is worth several marginal contributors and can have a multiplier effect which is positive and beneficial. Conversely, one Peace Corps failure can serve to discredit an entire program.

With these thoughts in mind, Mr. Chairman, I ask my colleagues to give the new ACTION Director and his colleagues an opportunity to put the Peace Corps house in order and provide the type of direction which is clearly required. This authorization will enable the Peace Corps to do precisely that, and I urge the adoption of H.R. 6967, as reported by the Committee on International Relations.

Mr. HARRINGTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. CARR).

Mr. CARR. Mr. Chairman, I rise in strong support of this legislation. I only wish as a strong supporter of the Peace Corps that we were moving ahead this year. I would like to ask the chairman of the subcommittee a few questions about why we are not moving ahead faster.

I think by passing this bill in this manner we are really slipping in one important year when the Peace Corps could really further its development.

I have had occasion to give some time

and attention to monitoring what has been going on down there with respect to the Peace Corps. I am disappointed that my good friend Hon. Sam Brown has not moved with more dispatch in naming a new Director for the Peace Corps. I am wondering if the gentleman's hearings on this particular piece of legislation shed any light on what seems to be the problem in getting some personnel appointed. I am not sure we are going to have that new and revitalized plan for the Peace Corps if we do not have any people to lead it. Apparently the new team has had other things to take their time and attention. I appreciate that they have had a whole new set of problems to deal with, but I think with President Carter's orientation on foreign policy, the Peace Corps should be a high priority and that directorship should get filled.

Can the chairman of the subcommittee enlighten me?

Mr. HARRINGTON. Mr. Chairman, if the gentleman will yield, I think the gentleman has summed up essentially what is a bipartisan concern and what has been expressed publicly and privately with Mr. Brown. I talked to him in the middle of last week and expressed this concern again and was assured they have personnel for a couple of areas of some significance and they would hope very soon that they will have found and named publicly someone to take over the directorship of the operation.

We hope it works. The gentleman has already described this will be done. We concede the effort made to convey the urgency and enthusiasm that Mr. Brown brought to the committee early this spring. Let me say parenthetically in defense of the program that all the problem of personnel and administration has been one imposed within the administration by the Office of Management and Budget in attempting to determine what the level of funding might be and what he might be doing to induce talent and fulfill this role; but I do not think there have been answers to the concerns the way the gentleman has described. I am glad the gentleman has had this chance to reinforce our concerns, since we wish him well to do that quickly.

Mr. CARR. Mr. Chairman, we do wish him well and we do support the Peace Corps.

I have heard a number of rumors about people being offered jobs and refusing and another whole group of applicants who seem ably qualified and have been interviewed and have been in the mill and have not had a job offer extended to them. It all seems rather peculiar, when we relate that to the rest of the job-filling activities of the administration.

I would just hope that the subcommittee would prod Mr. Brown to meet with the subcommittee and do it quickly.

Mr. WINN. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. BURKE).

Mr. BURKE of Florida. Mr. Chairman, I rise in opposition to H.R. 6967. My views on this subject have been expressed in the committee report, and I do not intend to spend your time or that of my

colleagues in repeating them. There are some additional observations I would like to make.

I believe that the impulse which gave rise to the Peace Corps was well-meant and generous, but that the Peace Corps never fit into our foreign policy, because it never was thoroughly clear just what the Peace Corps was supposed to do. Those programs which it has undertaken successfully either have been due to the energy of our fine young people or organizations that could have just as well been done by the Agency for International Development or private, volunteer organizations.

You will note, Mr. Chairman, that my distinguished colleague, Mr. HAMILTON, perceptively questions the administrative structure of the Peace Corps, raising questions that when carried to their logical extreme suggest to me at least that those things the Peace Corps should do could in most instances be assigned to the Agency for International Development. Mr. WINN, my good friend from Kansas, also has questions about the administration's commitment to the Peace Corps. I share his concern. Once again, if you take his questions seriously, as I do, it is hard to escape the conclusion that administrative uncertainty reflects continuing problems with the Peace Corps that could best be solved by simply forcing the valuable programs into other, more viable agencies.

I recognize that both my capable colleagues favor continuing funding for the Peace Corps, and say so in their respective supplemental views. I am not optimistic that at this late stage I can persuade this body to perform the surgery necessary. I plan to vote against this bill. I believe we should force the administration to put the good programs in AID—and if necessary, Congress should take a good hard look at that Agency's approach—and leave others to the appropriate volunteer organizations. We can save ourselves considerable money, tighten up our foreign policy apparatus, and eliminate a source of considerable suspicion about the United States abroad. I encourage my colleagues to join me in voting against this authorization.

Mr. WINN. Mr. Chairman, if I may continue, I will guarantee the gentleman from Florida that this Member will do everything possible to see to it that the new revitalization plans of Mr. Brown and the Peace Corps, as soon as it gets a new Director appointed, are thoroughly investigated. We will not just take their word for it in the future that they hope to have this revitalization plan.

I know, too, that the chairman of the subcommittee wants to know more about what this revitalization means, how we can cope with it, and what we can do to help revitalize the Peace Corps.

Mr. Chairman, I have just returned from a United States-Canadian Inter-Parliamentary Group meeting in Canada this past weekend. It was quite clear that our friends to the north are quite concerned about third world activities, as well they should be. It was quite clear, too, that they intend to do everything



possible to help their philosophy be accepted in the third world countries.

We have through the Peace Corps, even though it does not have a Director at the present time, a way for us to have access to a great many of these third world countries. There may be other ways, and there are other ways, in which we have access to the people, particularly the poor people of these countries; but the Peace Corps has been basically a successful organization. It still has, of course, a long way to go; but I will guarantee the gentleman from Florida that I will do everything possible to make it effective. We may not be able to satisfy the gentleman's wants, but we will keep an eye on the Peace Corps to see that we get our money's worth.

As I pointed out earlier, the other body did approve an authorization of \$84.8 million, which obviously is more than the \$81 million that we are requesting.

Mr. Chairman, I yield back the balance of my time.

Mr. DERWINSKI. Mr. Chairman, since the late 1960's when the Peace Corps matured, I have been a consistent supporter of the program. At that time, the Peace Corps began a determined and successful effort to recruit volunteers with maturity and skills as well as the "missionary zeal" of previous years. As a result, the Peace Corps in recent years has become widely accepted—in fact sought after—by developing nations. Under our former colleague, John Delenbach, the Peace Corps received more requests for the services of its volunteers than it could meet.

Now we are beginning a new era in which the Peace Corps is to be "revitalized" under its new leadership. I trust we will not find the Peace Corps radicalized to the point where volunteers become more committed to political action than they are to the down-to-earth jobs through which they are to help the people of developing nations to help themselves.

I will continue to support the Peace Corps so long as it reflects the positive developments of the last several years, which I hope will survive the process of "revitalization."

Mr. COLLINS of Illinois. Mr. Chairman, I take this occasion to join my colleagues in support of H.R. 6967. This bill, which effectively maintains the Peace Corps budget at the \$81 million level authorized for fiscal year 1977, is essential to the revitalization of this unique institution.

It is my feeling that the goals of the Peace Corps have always been sound government policy. As defined in the Peace Corps Act, they include the promotion of world peace and friendship by helping to meet the need for trained manpower and by developing mutual understanding between Americans and other peoples.

In my opinion, the problems that have befallen the Peace Corps in recent years have been the result of subordinating these humanitarian principles to the policies of an administration that was, on the whole, insensitive to the real needs of the Third World and to the fundamental idealism of young Americans.

A revitalized Peace Corps, one that combines professionalism with idealism, is a necessary component to the "New Directions" that the present administration hopes to undertake in its policy toward the developing countries. Our failure, at this time, to lend substance to this ideal, would rightly be interpreted by the people of this country, as well as by people overseas, as a continuing and dismal lack of faith in the possibility of international cooperation at the grass roots level.

For these reasons, I urge my colleagues to approve H.R. 6967.

Mr. HARRINGTON. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read. The Clerk read as follows:

H.R. 6967

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3(b) of the Peace Corps Act is amended by inserting "and for fiscal year 1978 not to exceed \$81,000,000" immediately after "\$81,000,000,"*

*(b) Section 3(c) of such Act is amended—*  
*(1) by striking out "and fiscal year 1977" and inserting in lieu thereof "for fiscal year 1977, and for fiscal year 1978 by subsection (b)"; and*

*(2) by striking out "for fiscal year 1977" and inserting in lieu thereof "for fiscal years 1977 and 1978."*

The CHAIRMAN. If there are no amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. CHARLES H. WILSON of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 6967) to authorize appropriations for the Peace Corps for fiscal year 1978, pursuant to House Resolution 600, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 305, nays 43, not voting 85, as follows:

[Roll No. 296]

YEAS—305

Abdnor  
Addabbo  
Akaka  
Alexander  
Allen  
Ambro  
Ammerman

Anderson,  
Calif.  
Andrews, N.C.  
Andrews,  
N. Dak.  
Annunzio  
Applegate

Armstrong  
Ashley  
AuCoin  
Badillo  
Bafalis  
Baldus  
Baucus

Beard, R.I.  
Bedell  
Beilenson  
Bennett  
Biaggi  
Blanchard  
Blouin  
Boggs  
Boland  
Bolling  
Bonior  
Bonker  
Bowen  
Brademas  
Breckinridge  
Brinkley  
Brodhead  
Brooks  
Broomfield  
Brown, Calif.  
Brown, Ohio  
Buchanan  
Burgener  
Burke, Mass.  
Burlison, Mo.  
Burton, John  
Burton, Phillip  
Byron  
Caputo  
Carney  
Carr  
Cavanaugh  
Cederberg  
Chisholm  
Clay  
Cleveland  
Cochran  
Cohen  
Coleman  
Collins, Ill.  
Conable  
Conte  
Conyers  
Corcoran  
Corman  
Cornell  
Cornwell  
Cotter  
Coughlin  
Cunningham  
D'Amours  
Danielson  
Davis  
de la Garza  
Dellums  
Derrick  
Derwinski  
Dickinson  
Dicks  
Diggs  
Dingell  
Dodd  
Drinan  
Duncan, Ore.  
Duncan, Tenn.  
Eckhardt  
Edgar  
Edwards, Ala.  
Edwards, Calif.  
Eilberg  
Emery  
English  
Erlenborn  
Ertel  
Evans, Colo.  
Evans, Del.  
Evans, Ga.  
Evans, Ind.  
Fascell  
Fenwick  
Findley  
Fish  
Fisher  
Fithian  
Flowers  
Foley  
Ford, Tenn.  
Forsythe  
Fowler  
Frenzel  
Frey  
Fuqua  
Gammage  
Gephardt  
Giaino  
Gibbons

Gilman  
Ginn  
Glickman  
Goldwater  
Gonzalez  
Gore  
Gradison  
Grassley  
Gudger  
Guyer  
Hagedorn  
Hamilton  
Hanley  
Hannaford  
Harrington  
Harris  
Hawkins  
Heckler  
Hefner  
Hightower  
Hillis  
Holland  
Holtzman  
Howard  
Hubbard  
Huckaby  
Hughes  
Hyde  
Ireland  
Jacobs  
Jenkins  
Johnson, Calif.  
Jones, N.C.  
Jones, Okla.  
Jones, Tenn.  
Jordan  
Kasten  
Kastenmeier  
Kazen  
Kemp  
Ketchum  
Keys  
Kildee  
Kindness  
Kostmayer  
Krebe  
Krueger  
LaFalce  
Lagomarsino  
Latta  
Le Fante  
Leach  
Lederer  
Leggett  
Lent  
Levitass  
Long, La.  
Luken  
Lundine  
McClory  
McCloskey  
McDade  
McEwen  
McFall  
McHugh  
Madigan  
Maguire  
Mahon  
Markey  
Marks  
Mathis  
Mattox  
Meade  
Metcalfe  
Meyner  
Mikulski  
Mikva  
Miller, Ohio  
Minish  
Mitchell, Md.  
Mitchell, N.Y.  
Moakley  
Moffett  
Moore  
Moorhead,  
Calif.  
Moorhead, Pa.  
Moss  
Mottl  
Murphy, Ill.  
Murphy, N.Y.  
Murphy, Pa.  
Myers, Michael  
Natcher  
Nedzi  
Nix

Nowak  
O'Brien  
Oskar  
Oberstar  
Obey  
Ottinger  
Panetta  
Patten  
Patterson  
Pattison  
Pease  
Pepper  
Perkins  
Pettis  
Pickle  
Pike  
Preyer  
Pritchard  
Quayle  
Quie  
Rahall  
Rangel  
Regula  
Reuss  
Rhodes  
Richmond  
Rinaldo  
Risenhoover  
Rodino  
Rogers  
Rooney  
Rose  
Rosenthal  
Rostenkowski  
Roybal  
Ruppe  
Russo  
Ryan  
Santini  
Sarasin  
Sawyer  
Schulze  
Seiberling  
Sharp  
Shipley  
Sikes  
Simon  
Sisk  
Skellton  
Smith, Nebr.  
Solarz  
Spellman  
Spence  
St Germain  
Staggers  
Stangeland  
Stanton  
Stark  
Steed  
Steiger  
Stockman  
Stokes  
Studds  
Thone  
Thornton  
Traxler  
Treen  
Trible  
Tsongas  
Tucker  
Udall  
Ullman  
Van Deertlin  
Vander Jagt  
Vank  
Vento  
Volkmere  
Walgren  
Walker  
Walsh  
Watkins  
Weiss  
White  
Whitley  
Wilson, C. H.  
Winn  
Wirth  
Wolff  
Wright  
Wylie  
Yates  
Yatron  
Young, Fla.  
Young, Tex.  
Zablocki

NAYS—43

Bevill  
Burke, Fla.  
Butler  
Carter  
Clawson, Del.  
Collins, Tex.  
Crane  
Daniel, Dan  
Daniel, R. W.  
Edwards, Okla.  
Flippo  
Gaydos

Archer  
Badham  
Barnard  
Bauman  
Beard, Tenn.  
Benjamin

|              |             |             |
|--------------|-------------|-------------|
| Hall         | Montgomery  | Satterfield |
| Hansen       | Murtha      | Shuster     |
| Holt         | Myers, Ind. | Slack       |
| Kelly        | Quillen     | Snyder      |
| Lloyd, Tenn. | Roberts     | Stump       |
| Lott         | Robinson    | Symms       |
| McDonald     | Roussiot    | Waggoner    |
| McKay        | Rudd        |             |
| Marriott     | Runnels     |             |

## NOT VOTING—85

|                |                |               |
|----------------|----------------|---------------|
| Anderson, Ill. | Harsha         | Pressler      |
| Ashbrook       | Heftel         | Price         |
| Aspin          | Hollenbeck     | Pursell       |
| Bingham        | Horton         | Railsback     |
| Breaux         | Ichord         | Roe           |
| Brown, Mich.   | Jeffords       | Roncalio      |
| Broyhill       | Jenrette       | Scheuer       |
| Burke, Calif.  | Johnson, Colo. | Schroeder     |
| Burleson, Tex. | Koch           | Sebelius      |
| Chappell       | Lehman         | Skubitz       |
| Clausen        | Lloyd, Calif.  | Smith, Iowa   |
| Don H.         | Long, Md.      | Steers        |
| Delaney        | Lujan          | Stratton      |
| Dent           | McCormack      | Taylor        |
| Devine         | McKinney       | Teague        |
| Dornan         | Mann           | Thompson      |
| Downey         | Marlenee       | Wampler       |
| Early          | Martin         | Waxman        |
| Fary           | Mazzoli        | Weaver        |
| Flood          | Michel         | Whalen        |
| Florio         | Millford       | Whitehurst    |
| Flynt          | Miller, Calif. | Whitten       |
| Ford, Mich.    | Mineta         | Wiggins       |
| Fountain       | Mollohan       | Wilson, Bob   |
| Fraser         | Myers, Gary    | Wilson, Tex.  |
| Goodling       | Neal           | Wyder         |
| Hammer-        | Nichols        | Young, Alaska |
| Schmidt        | Nolan          | Young, Mo.    |
| Harkin         | Poage          | Zeferetti     |

The Clerk announced the following pairs:

Mr. Thompson with Mr. Anderson of Illinois.  
 Mr. Teague with Mr. Roncalio.  
 Mr. Breaux with Mr. Devine.  
 Mr. Lehman with Mr. Ashbrook.  
 Mr. Mann with Mr. Goodling.  
 Mr. Mazzoli with Mr. Hollenbeck.  
 Mr. Weaver with Mr. Dornan.  
 Mr. Stratton with Mr. Jeffords.  
 Mr. Fountain with Mr. Flood.  
 Mr. Nichols with Mr. Brown of Michigan.  
 Mr. Florio with Mr. Hammerschmidt.  
 Mr. Dent with Mr. Marlenee.  
 Mr. Chappell with Mr. Broyhill.  
 Mr. Bingham with Mr. Gary A. Myers.  
 Mr. Koch with Mr. Flynt.  
 Mr. Millford with Mr. Harsha.  
 Mr. Miller of California with Mr. Don H. Clausen.  
 Mr. Mineta with Mr. Martin.  
 Mr. Neal with Mr. Lloyd of California.  
 Mrs. Burke of California with Mr. Pressler.  
 Mr. Waxman with Mr. Downey.  
 Mr. Zeferetti with Mr. Michel.  
 Mr. Ichord with Mr. Price.  
 Mr. Jenrette with Mr. Long of Maryland.  
 Mr. Aspin with Mr. Pursell.  
 Mr. Fary with Mr. McKinney.  
 Mr. Fraser with Mr. Young of Missouri.  
 Mr. Harkin with Mr. Sebelius.  
 Mr. Mollohan with Mr. Railsback.  
 Mr. Smith of Iowa with Mr. Skubitz.  
 Mr. McCormack with Mr. Young of Alaska.  
 Mrs. Schroeder with Mr. Wyder.  
 Mr. Scheuer with Mr. Steers.  
 Mr. Ford of Michigan with Mr. Wampler.  
 Mr. Whitten with Mr. Whalen.  
 Mr. Heftel with Mr. Burleson of Texas.  
 Mr. Delaney with Mr. Early.

Mr. MEEDS changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. HARRINGTON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1235) to further amend the Peace Corps Act.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill, as follows:

## S. 1235

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b)) as precedes the first proviso thereof is amended to read as follows: "There are authorized to be appropriated for fiscal year 1978 not to exceed \$84,800,000 to carry out the purposes of this Act."*

SEC. 2. Section 3(c) of the Peace Corps Act (22 U.S.C. 2502(c)) is amended to read as follows:

"(c) In addition to the amounts authorized for fiscal year 1978, there are authorized to be appropriated for fiscal year 1978 \$1,000,000 for increases in salary, pay, retirement, or other employee benefits authorized by law."

## MOTION OFFERED BY MR. HARRINGTON

Mr. HARRINGTON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HARRINGTON moves to strike out all after the enacting clause of the Senate bill S. 1235 and to insert in lieu thereof the provisions of H.R. 6967, as passed, by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To authorize appropriations for the Peace Corps for fiscal year 1978."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 6967) was laid on the table.

## GENERAL LEAVE

Mr. HARRINGTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6967, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

## COMMUNICATION FROM SERGEANT AT ARMS—SUBPENA AND FINDINGS OF COURT

The SPEAKER pro tempore laid before the House the following communication from the Sergeant at Arms:

WASHINGTON, D.C.,  
June 1, 1977.

HON. THOMAS P. O'NEILL, Jr.,  
The Speaker,  
U.S. House of Representatives,  
Washington, D.C.

DEAR MR. SPEAKER: On May 24, 1977 I was served with the attached subpoena duces tecum, together with the accompanying court findings, for certain bank records of the Honorable Richard T. Hanna and the Honorable Cornelius Gallagher.

By previous subpoena and order, certified copies of certain bank records of Congressman Hanna, for the period January 1, 1970 to December 31, 1974, and of Congressman Gallagher for the period January 1, 1970 to De-

cember 31, 1972, were furnished to representatives of the Department of Justice. The instant subpoena and order concern records relating to transactions conducted by Congressman Hanna for the period January 3, 1975 to June 23, 1975 and by Congressman Gallagher for the period January 1, 1973 to May 11, 1973, during which periods of time neither were Members of Congress.

In accordance with the provisions of House Resolution 10, I am transmitting said subpoena and order and the matter is presented for the consideration of the House.

Sincerely,

KENNETH R. HARDING,  
Sergeant-at-Arms,  
U.S. House of Representatives.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 10, without objection, the subpoena and findings of court will be printed in the RECORD.

There was no objection.

The subpoena and findings of court referred to follow:

[In the U.S. District Court for the District of Columbia, Misc 77-0113]

## SUBPENA DUCES TECUM

In re Possible Violations of 18 U.S.C. §§ 201 and 371:

To: Honorable Kenneth R. Harding, Sergeant at Arms, U.S. House of Representatives, Washington, D.C. or his authorized representative

Bring with you: All bank records, not heretofore produced pertaining to accounts maintained with you by former Congressmen Richard T. Hanna and Cornelius Gallagher from 1971 until such accounts were closed. Records should include monthly statements, deposit slips and checks and deposit items in the amount of \$500 or more.

You are hereby commanded to appear before the Grand Jury of this Court on Monday, June 13, 1977 at 10:00 a.m. to testify and produce the aforesaid documents on behalf of the United States, and not depart the Grand Jury without leave of the Court or the United States Attorney.

Witness this 23rd day of May, 1977.

JOHN J. SERICA,  
Judge.

[Misc. No. 77-0113]

## FINDINGS OF COURT

In re Possible Violations of 18 U.S.C. §§ 201 and 371.

Upon consideration of *in camera* disclosures made by representatives of the Office of the United States Attorney for the District of Columbia and of U.S. House of Representatives Resolution No. 10 adopted January 4, 1977, it is this 23rd day of May 1977,

Found, that the papers, documentary evidence, and materials subpoenaed under the subpoena duces tecum dated May 20, 1977, and addressed to the Honorable Kenneth R. Harding, Sergeant at Arms of the House of Representatives of the United States or his authorized representative, a facsimile of each of which is attached hereto, are necessary, material, and relevant to a pending Grand Jury investigation in this judicial district and in this Court for the promotion of justice.

Wherefore, the Court desires that the documentary evidence or certified copies thereof which are the subject of the subpoena duces tecum be supplied to its authorized representative and agent, Clerk of this Court James F. Davey, accompanied by Department of Justice Attorneys John Kotelly and Craig Bradley as representatives of the proper party to this proceeding, to wit: the Federal Grand Jury, pursuant to said subpoena duces tecum and in conformance with House Resolution No. 10.

JOHN J. SERICA,  
Judge, U.S. District Court for the District of Columbia.



# A CALL FOR CONGRESSIONAL INITIATIVE IN WELFARE REFORM

(Mr. THONE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. THONE. Mr. Speaker, in general, Congress has not shown enough initiative on legislation. Too often, Congress has only reacted to proposals from the executive branch. Too seldom has Congress led the way in offering solutions to America's most urgent problems. And as the House majority leader said yesterday, "If the President and the Congress agree on everything—one of them would not be doing his job."

Specifically, it is time for Congress to take the lead in the field of welfare reform.

Shortly after his inauguration, President Carter ordered that a plan for complete overhaul of America's welfare programs be given him by May 1st. The goals for welfare reform that have been presented to him have been extremely vague. Secretary of Health, Education, and Welfare Joseph Califano has said that it may be impossible to get welfare reform without higher costs than under our present scattered programs. This delay is intolerable.

As a recent Christian Science Monitor editorial said,

If President Carter delays welfare reform as long as his statement this week suggests, Congress ought to move ahead of him on this urgent matter. No one could fault Mr. Carter's generalized goals of efficiency, fairness, family stability and encouragement to the self-help for those who can help themselves which is central to individual morale and national vitality. But after the experience of several previous administrations and the elaborate publicized study by this one, it is too easy to say, as Mr. Carter did, that "it is worse than we thought"—and put off necessary action.

Mr. Speaker, I suggest that the House attack the welfare reform problem directly. I recommend that the Speaker establish immediately an ad hoc Committee on Welfare. This would be made up of members of the committees which presently deal with the myriad of welfare and public assistance programs. It would draw upon the existing committees for staff. The committee would expire once its job was done.

Mr. Speaker, we can achieve welfare reform now. We can treat the American public—including the disadvantaged—more fairly. We can encourage the work ethic. We can do all these things within the limits of present spending for scattered welfare programs.

For the good of America, it is urgent that we complete this task in the current Congress. Mr. Speaker, I urge adoption of the resolution I am now introducing for the ad hoc Committee on Welfare to attack this problem.

# ILLEGAL ALIENS BEING REFERRED FOR JOBS BY U.S. EMPLOYMENT SERVICE

(Mr. SISK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SISK. Mr. Speaker, I am sure my colleagues will be as shocked as I was to learn that the U.S. Employment Service, at least in California, is referring illegal aliens to jobs.

If the situation were not so serious, I would be inclined to laugh at the absurdity of it all. But it is no joke. Consider that we have the Immigration and Naturalization Service, on the one hand, apprehending and removing illegal aliens, while on the other, the Department of Labor is helping them find jobs.

The Congress has not as yet been able to adopt meaningful legislation to make it illegal for most employers to hire illegal aliens, but under the Farm Labor Contractor Registration Act, farm labor contractors are prohibited from knowingly hiring illegal aliens. The Farm Labor Contractor Registration Act is also administered by the Department of Labor. Thus, we have one agency referring illegal aliens to employers, while at the same time it is prosecuting certain employers for hiring such aliens.

I believe this practice must be stopped, and I have written to the Administrator of the U.S. Employment Service and the Governor of California to urge them to look into the problem and to take appropriate measures to insure that illegal aliens are not referred to jobs by State and Federal employment offices. I insert those letters for my colleagues' review:

HOUSE OF REPRESENTATIVES,  
Washington, D.C., May 23, 1977.

Mr. WILLIAM B. LEWIS,  
Administrator, U.S. Employment Service, U.S.  
Department of Labor, Patrick Henry  
Building, Washington, D.C.

DEAR Mr. LEWIS: I am shocked by reports that many of the offices of the U.S. Employment Service throughout the country are referring illegal aliens for work.

The illegal alien, by the very nature of his undocumented and unauthorized status is not supposed to be in this country, let alone be employed. While the Immigration and Naturalization Service, on the one hand, is charged with the responsibility of apprehending and removing those aliens in this country illegally, it appears that the Department of Labor is encouraging illegal aliens to violate the law by accepting unauthorized employment.

Recently I have received numerous complaints from constituent employers who have received illegal alien referrals from the U.S. Employment Service. One such employer, a farm labor contractor, is prohibited by law from "knowingly" hiring illegal aliens. Yet the Department of Labor, which administers the Farm Labor Contractor Registration Act, is through another division, the U.S. Employment Service, telling him to hire illegal aliens.

I am enclosing for your information a copy of an article which recently appeared in the "Fresno Bee" on this problem. I believe your Department has the responsibility to stop this practice of referral of illegal aliens to jobs. It is aiding and abetting those already in violation of our laws.

I would appreciate your investigation into this problem and your report on your findings and contemplated corrective action. It seems to me that appropriate regulations should be adopted to prohibit State Employment agencies from referring illegal aliens, and to require such agencies to report illegal aliens seeking employment to the Immigration and Naturalization Service. Your early response will be appreciated.

Sincerely,

B. F. SISK,  
Member of Congress.

# BROWN BLOCKING EFFORTS TO STEM ILLEGAL ALIEN FLOW?

LOS ANGELES. A Federal effort to stem the flow of illegal aliens into California is meeting opposition from the Brown Administration, federal immigration official says.

Joseph Sureck, district director of the Immigration and Naturalization Service, has complained in a letter to Gov. Brown that California unemployment offices simply accept a person's word on whether he is an illegal alien.

A copy of the letter was obtained by the Los Angeles Times.

"The illegal alien problem and the resultant unemployment that it generates, is one of our most serious domestic issues," Sureck wrote. He added that the state has "sought to ignore and disregard federal and state laws" designed to curb the problem.

Brown's only reply has been that he is waiting for President Carter's final proposal for dealing with illegal aliens and that he depends on state agencies to obey the law.

However, key Brown appointees have said they oppose the current state law calling for punishment of employers who knowingly hire illegal aliens.

Martin Glick, director of the California Department of Economic Development, has said that he and state health and welfare secretary Mario Obledo "completely agree" that such laws are "wrong and unworkable."

Glick contends that enforcements on such a law would result in discrimination against all brown-skinned Spanish-speaking workers.

Sureck said unemployment offices often send illegal aliens out to fill jobs that have often just been vacated by other illegals apprehended by federal officers.

In addition, Glick conceded that state unemployment offices do not report illegal workers to the INS.

"We must preserve the integrity of the system so people will give you full and honest and complete information when you ask them for it. So we don't turn over the names," said Glick, adding, "We just ask the questions. If a person says 'I am a U.S. citizen,' that's the end of it. Always has been."

HOUSE OF REPRESENTATIVES,  
Washington, D.C., May 25, 1977.

HON. EDMUND BROWN, JR.,  
Governor, State of California, State Capitol,  
Sacramento, Calif.

DEAR JERRY: Recently I noticed a wire service report out of Los Angeles which indicated that the State of California has "sought to ignore and disregard federal and state laws" designed to curb the illegal alien problem. Specifically the report stated that State employment offices under the Employment Development Department were referring illegal aliens to jobs.

I fully realize that we do not yet have a federal law which would impose sanctions on employers for hiring illegal aliens "knowingly," but the fact remains that the undocumented or illegal alien by the very nature of his status is not supposed to be in this country, let alone be employed. By referring illegal aliens to jobs, your Department is deliberately aiding and abetting the law breaker.

Farm labor contractors are, however, prohibited by federal law from "knowingly" hiring illegal aliens, yet according to some farm labor contractors in my district, the State employment office frequently refers illegal aliens to them for employment. It seems to me that if we are going to impose sanctions on employers for hiring illegal aliens, then at the very least we should expect that the government agencies which refer workers have done some checking to ascertain their citizenship or alien status. I would like to know what, if any, check is made by state employment offices to ascertain the status of aliens they refer to jobs.

On a related matter, I would like to know

what steps the Employment Development Department has taken to implement Public Laws 94-566 and 95-19, which prohibit payment of unemployment compensation to illegal aliens. As the author of the House amendment to include such a provision in the Unemployment Compensation Amendments of 1976, I have more than a casual interest in seeing that that federal mandate is followed by all of the States.

In view of the reports of the reluctance of some of your Department heads to implement laws which they consider "wrong" or "unworkable," I trust you will understand my skepticism and respond fully to the matters I have raised herein.

With kind personal regards,

Sincerely,

B. F. SISK,  
Member of Congress.

#### HATCH ACT REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. VOLKMER) is recognized for 30 minutes.

Mr. VOLKMER. Mr. Speaker, I understand that when the House resumes consideration of H.R. 10, Hatch Act reform, my amendment will be in order when the Committee of the Whole again resumes deliberation. I also understand that the restriction on debate will continue and there will be no time in order to fully explain my amendment.

The gentleman from Missouri (Mr. CLAY) has stated his position in the CONGRESSIONAL RECORD of May 24, 1977, beginning at H4994 in opposition to my amendment and has stated that when I offer my amendment, he will offer a substitute. He has also generously provided me with a copy of his substitute amendment. I have had time to thoroughly acquaint myself with it and I appreciate his courtesy. I believe that it is very fair to say that the difference between the substitute, which will be offered by Mr. CLAY, and my original amendment both of which restrict certain Federal employees from becoming politically active are in the areas of "enforcement" and "auditing." CLAY's amendment would limit the restriction to "supervisory" personnel, while my amendment would not only restrict "supervisory" personnel, but also "field" agents.

The restricted field agents for law enforcement which would include Federal Bureau of Investigation, Alcohol, Tobacco, Firearms, and Narcotics, and other Federal law enforcement officials and also field auditors for the Internal Revenue Service. My amendment would allow restriction of these persons by the Civil Service Commission. Mr. CLAY's substitute amendment would permit field agents to be politically active and run for office, but exclude the supervisory employees over them. It is my humble opinion that an FBI agent or Tobacco agent or an Internal Revenue agent even if he is a field agent should not be completely involved in the political process including the holding of political party office or the holding of a county, State, or Federal office.

I would like to draw on my experience in Missouri where, since its inception, the State highway patrol members have all been denied participation in the political arena and would like to say I am very

proud that the Missouri State Highway Patrol has been above partisan politics and, I believe, is recognized as one of the best law enforcement agencies in the Nation. I am familiar with other law enforcement agencies that are directly involved with political activities and feel that many of their decisions are based on political expediency rather than proper law enforcement.

I sincerely dispute the estimates as to the number of people who would be restricted under my amendment from political participation. Clerks, typists, and so forth, who are not actually involved in the enforcement of the law would not be restricted. Neither would clerks, typists, and so forth, involved in typing up audits, and so forth, be restricted.

However, I do not believe it would be proper to have an IRS field agent do an audit or an FBI agent make an investigation along with a question as to how a person voted or who they supported in the last political campaign. Under Mr. CLAY's amendment I believe that they the authority to do so and, even if such action did not actually take place, the fact that they could occur could lead to abuses and would lead to lack of credence and faith in those agencies.

For that reason, I respectfully request the Members of the House to support my amendment and let us see how the Hatch Act reform actually works in the future and then decide whether or not we wish to thereafter include these additional members. I personally am going to vote for the Hatch Reform Act, but like others, feel that we should go a little slow in certain areas, and at this time I feel strongly that we should not extend these permissible political activities into the areas of law enforcement and auditing.

#### REMARKS ON INTRODUCTION OF HOUSE CONCURRENT RESOLUTION ON THE U.S. EMPLOYMENT SERVICE AND REVIEW OF THE WAGNER-PEYSEY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. SYMMS) is recognized for 10 minutes.

Mr. SYMMS. Mr. Speaker, in the 94th Congress, I had imperative occasion to introduce a resolution designed to require the concentration of the U.S. Employment Service, in its funding and its personnel, upon what is clearly its primary responsibility, namely, the placement of the unemployed, especially those in minority groups and among the veterans and the handicapped throughout the Nation.

The U.S. Employment Service has been miss-directed in this duty as evidenced by: First, the wholly inadequate number of its placements; second, its inattention to genuine service to our people—as most recently confirmed by the General Accounting Office report on its operations, third, the appalling cost-benefit accounting of its placement; and fourth, its widespread and costly advertising of its readiness to locate in still higher paying jobs those already employed.

Such policies and practices are an affront to the people of the United States, whose tax dollars support this expensive

and unsatisfactory agency of our Government, and to the Congress itself, under whose legislative authority it exists.

I believe the time has long since passed when such abuses can be tolerated. Critical unemployment in our Nation is not a matter for bureaucratic indifference and irresponsibility. The Congress must act to protect our citizens in need of jobs and to require that the U.S. Employment Service devote itself primarily and vigorously to that need. In this same regard, I urge review, evaluation and, as may be necessary, the amendment of the Wagner-Peyser Act, in order that its provisions be brought up-to-date and made truly effective to this very end—the prompt assistance of America's unemployed.

For this purpose, Mr. Speaker, I send to the desk for appropriate committee assignment a House concurrent resolution encompassing these objectives.

#### AN ENERGY CZAR IS NOT IN THE INTEREST OF CONSUMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, this week the House is considering the establishment of a Cabinet-level Department of Energy in something of a panic atmosphere. This panic has been created by dire warnings from President Carter and others that the United States is on the very brink of running out of energy altogether. I can only say that this is absolute nonsense. The only way the argument can be sustained even for a moment is by totally ignoring the effects of price on supply. Everyone seems to assume that we will never have more natural gas than we have today at the controlled price of \$1.45 per thousand cubic feet. In fact, there is enough natural gas to last for a considerable time frame, at least at the price of about \$2.50 per million cubic feet.

The following editorials from the Wall Street Journal present some of the best evidence I have seen to the effect that our present energy shortage is entirely created by Government price controls. Perhaps after reading them my colleagues will realize that the United States does not need a Department of Energy, it only needs less Government bureaucrats and interference.

If we decontrolled the price of natural gas, I believe the retail price would fall within a short time. But more importantly, the people of the Northeast United States would not have to pay \$4 or \$5 per million cubic feet for imported natural gas or synthetic natural gas.

A \$10 billion super energy agency is in the interest of OPEC and the giant oil companies, it is not in the interest of new supplies of natural gas or our environment.

The material follows:

#### THE 1,001 YEARS OF NATURAL GAS

The conventional wisdom about President Carter's energy program seems to be that the gasoline tax won't fly in Congress, but that the other elements of the plan will sooner or later be enacted. Indeed, there is a deep suspicion among the political crowd



that the gas tax was designed to lose, in the process drawing off the opposition's energies so the rest of the package could go through unmolested.

Our own estimate, though, is that the whole package will collapse a piece at a time. This estimate is not merely wishful thinking, although it certainly expresses our hopes. But it is more firmly based on the fact that the United States has been seriously thinking about energy for more than three years. Not only the general public, but also Congress and the press corps have developed a sophistication about energy issues, and we think we are now past the point of being vulnerable to blindly adopting scare scenarios and emergency solutions.

The notion that we may soon be freezing in the dark unless we sacrifice by paying higher taxes to Washington could not be sold to Congress by President Ford and Vice President Rockefeller when we were all relative greenhorns at the energy game. Yes, Mr. Carter certainly deserves his chance to scare Congress into action. But because he seems to learn quickly and is flexible rather than stubborn, there is a good chance Mr. Carter will discover the true shape of the energy problem in the process of failing to get any major portion of his package adopted.

Take natural gas, for example. Mr. Carter apparently thinks the United States is running out of the stuff. If that were true, we might be as scared as he seems to be. But in the course of the debates on his plan, the President will discover that while we are now consuming 20 trillion cubic feet of natural gas every year and that—if prices were only decontrolled—we have roughly 20,000 trillion cubic feet of natural gas at hand, with some estimates that there may be 50,000 trillion cubic feet of it. That is, enough to last between 1,000 and 2,500 years at current consumption.

The President's energy advisers know this. It was explained to them recently in a briefing by specialists of the American Gas Association. Experts in ERDA have been trying to tell the White House too, but have been snubbed apparently on the ground that this news would take the sting out of the scare.

What Mr. Carter has been told is that we have only 216 trillion cubic feet of proven reserves of natural gas, 10 years' supply. But that number was developed by the U.S. Geological Survey in 1974 relating resources available at 1974 technology and 1974 prices, of 52 cents per thousand cubic feet. USGS does not and never has projected what resources would be available at higher prices.

ERDA though, has unofficially estimated that at an uncontrolled price of \$2.25 the nation would be awash with natural gas. It would bring in 230 trillion cubic feet of what USGS calls "inferred reserves," make economic the 285 trillion cubic feet of Devonian shale in Appalachia, the 600 trillion cubic feet of Western "tight sands" and between 200 trillion and 300 trillion cubic feet of coal-seam methane.

At somewhere between \$2.50 and \$3.00 per thousand cubic feet, the industry could tap the big deposit—geopressed methane that exists at depths of 15,000 feet, both onshore and offshore, in the Gulf region. This natural gas dissolved in water runs to between 20,000 and 50,000 trillion cubic feet. If you consider that 1,000 cubic feet of natural gas is roughly equivalent to one million British Thermal Units, this exotic natural gas is not all that expensive at \$3 per million BTUs. Americans now pay about \$2.05 per million BTUs of natural gas delivered at their homes, \$3 per million BTUs of fuel oil and \$10 per million BTUs of electricity.

The only conceivable way Americans would freeze in the dark anytime in the near future is if the government continues to keep the price of natural gas from getting into the ranges that would finance tapping these re-

serves. Holding down the price is of course precisely what President Carter proposes, a ceiling of \$1.75 per thousand cubic feet.

We can't believe that President Carter genuinely desires that we freeze in the dark because of his policies. Instead, we assume it will take him a little time to get fully informed on the true nature of the energy problem. Perhaps some friend will call him up and tell him about this editorial, and we can begin thinking of dancing in the dark instead of freezing in it.

#### ERDAGATE!

We were frankly astonished at the reaction to our April 27 editorial, "1,001 Years of Natural Gas": telephone messages from high officials, a deputation from Exxon, an urgent letter from Robert Fri, acting administrator of the Energy Research and Development Administration. Naturally, the attention made us curious.

Having put together most of the pieces, we can now report on the cause of the excitement. Deep in the bowels of ERDA, an outfit the MOPPS solution, but here in our editorial the monster was rising again.

called the Market Oriented Program Planning Study (MOPPS) had solved the energy crisis for five days in April. It took that long for the administration, the oil companies and ERDA to snuff out the solution and get the crisis back on the track. They thought they had driven a wooden stake through the heart of

In January, about 70 ERDA people were thrown into a task force to study potential supply and demand. In most resource studies, such a thing as prices never appears. So apparently nobody thought it was necessary to warn the MOPPS people against calculating supply curves, that is, calculating how much gas would be available at different prices in an unregulated environment. In their innocence, they tried to apply a little economics.

The study estimated that at \$2.25 per thousand cubic feet (mcf) the nation would be awash in natural gas. From \$2.50 to \$3 we'd be engulfed with it. MOPPS reckoned that at \$2.50 the U.S. would have about 45 years' worth of natural gas at current levels of consumption. The price would have to go higher to tap some of the unconventional sources, like geopressed methane, which conceptually would last us for a thousand years. But why would anyone worry about these exotic sources if we had 45 years' worth of the usual stuff likely to be available at lower prices?

Indeed if that were true how could there be an energy crisis? How could the President go on television with ringing calls for sacrifice? Why should American taxpayers be scared into coughing up billions of dollars—something like 5% of GNP—to cause conservation? How could Exxon recoup its investments in gasification research and coal properties by supplying gas from these sources at \$3.75 per mcf?

The innocent scientists and technicians in MOPPS had no idea what vested interests their simple calculations threatened. Even more to the point, bearing this unwanted message to the White House would be a black mark against the ERDA bureaucracy. The Federal Energy Administration would be in a position to gobble up all of the best spots when the two were merged into the new Department of Energy.

Given these realities, there was only one answer to the no-energy-crisis crisis. The ERDA brass recalled the MOPPS study, and threw out all the charts that had been so innocently put together over the months. By April 6, it had a "revised" MOPPS study, with the charts looking much like those from the FEA.

In these five days, the price projections jumped so high that the energy crisis was back in business. Mr. Carter's regulated gas price of \$1.75 looked good, because MOPPS II showed that higher prices in an unregulated market won't do much good anyway. And

surely it would be prudent to give Exxon and other coal-gasification people a few billion dollars of tax money to spend on their plants.

A higher price can even be given to exotic sources like geopressed methane; Mr. Fri assures us ERDA will do the research on that. Gas sources of two or three generations hence do not threaten anyone. The problem is allowing prices of ordinary gas to rise into the \$1.75-\$3.00 range, where if MOPPS I is right they would bring on the next generation of gas at threatening low prices. While promising to do the research, ERDA has disbanded the MOPPS I crew, reassigning its members to study almost anything else but natural gas.

Now we have no idea whether the price figures in MOPPS I are correct. It is certainly possible for other groups in the administration to dispute them in all good faith. And clearly Exxon has made serious investment decisions on the basis of other numbers though perhaps tempered with "political reality." But to us the MOPPS I estimates seem not at all implausible, given the one thing we know for sure about natural gas: Since the Phillips decision in 1954 its price has been held at not only artificially but, in recent years, ridiculously low levels. Most of the gas found has only been a by-product of oil exploration. It stands to reason that if looking for gas suddenly becomes profitable a lot will suddenly be found. But the point is—the point of our original editorial was—that no one will know until the price is deregulated.

MOPPS certainly does show, though, how many vested interests need the energy crisis. The President needs a war to fight. Without an energy crisis the energy bureaucracies cannot grow. The energy companies are turning into a regulated industry, all of which try to dampen innovation. We now hear energy czar James Schlesinger bragging that privately most companies do not favor deregulation. This is not yet true, but in time the proposed policies certainly would reduce the oil companies to the state of the airlines.

With all of this clout behind the energy crisis, it is scarcely surprising that a crude but effective message goes out: By gosh, boys, there has to be an energy crisis, so don't nobody find no energy.

#### WHAT BABY DOE WILL COST

A Chevron statistician has been sizing up the \$10.6 billion budget of the proposed new Department of Energy. For example, it is about double the value of all the oil the U.S. imported from Saudi Arabia last year. It exceeds capital and exploration expenditures by the petroleum industry to find and produce oil, gas and gas liquids in the U.S. in 1975. It exceeds by \$800 million the 1974 profits of the seven largest international oil companies; Chevron can't resist adding that those profits were described by a U.S. Senator as "obscene." It is equivalent to about \$3 a barrel of domestic crude oil production, which means, if our own arithmetic is correct, that you could decontrol all domestic crude oil prices and still end up paying less for oil than the federal energy bureaucracy costs. And one should keep in mind that the \$10.6 billion is only the cost of the newly born baby DOE. Think what it will cost when it grows up!

#### METRIC CONVERSION ACT MISINTERPRETED BY FEDERAL HIGHWAY ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 15 minutes.

Mr. GRASSLEY. Mr. Speaker, I was shocked and disappointed to learn that the Federal Highway Administration has

proposed rules to require all highway marking signs now designated in miles per hour to be totally replaced with similar signs giving distances and speeds in metric figures only. The Highway Administration claimed authority for this action under the Metric Conversion Act of 1975. I remember that legislation well but could not recall it granting any such authority to any Federal agency. Therefore I undertook and have just concluded an extensive review of the legislative history of the Metric Conversion Act and found that in fact not only has this agency acted beyond its authority in promulgating these rules, it is specifically ignoring the intent of Congress as expressed in the act and its legislative history in at least six ways.

Based upon this information I have today requested the Administrator of the Highway Administration to withdraw his proposal immediately and abandon all plans to continue to ignore congressional intent on this most important issue.

The full facts of this unfortunate situation are spelled out in my letter to Mr. William M. Cox, the Administrator of the Federal Highway Administration:

WASHINGTON, D.C.,  
June 1, 1977.

Mr. WILLIAM M. COX,  
Administrator, Federal Highway Administration,  
Washington, D.C.

DEAR MR. COX: On April 27 the Federal Highway Administration published in the Federal Register notice of proposed rulemaking concerning metric conversion. In the notice you advise it is your intention to force the conversion of all existing sign legends to metric system standards. Through conversations with the media and my office your staff has indicated that the result of this proposed rule would be to force, through the threat of loss of federal highway funds, these conversions on all roads whether on system or off system. Additionally, this action would require the exclusive use of metric signs and the existence of a dual system would be prohibited. Your notice stated specifically that you were proposing these rules under the authority of the Metric Conversion Act of 1975, and no secondary authority was claimed.

Unfortunately, it appears that your office is not aware of the specific provisions and legislative history of this act. Even the most cursory examination of the provisions of this Act (P.L. 94-168), or its legislative history as developed in the House hearings (Hearings of the House Committee on Science and Technology, Subcommittee on Science, Research, and Technology, April 29, 30, May 1, 6, 7, 8, 1975), the Senate hearings (Hearings of the Senate Committee on Commerce, October 8 and 10, 1975), the House debate (Debate on H.R. 8674, September 5, 1975, *Congressional Record* pages 27710-27722), or the Senate debate (Debate on S. 100, December 8, 1975, *Congressional Record* pages 39011-39018) on the Act, indicates clearly that the Act does not grant you the authority you claim.

Specifically, there are six ways in which you are either exercising authority you do not have or are in violation of national policy as expressed and formulated by Congress. Those six ways are:

1. The Act you rely on did not grant you any authority to propose these rules.
2. Congress has not established an official policy of conversion.
3. Congress expected any metric highway signs to be a complement to and not a substitute for customary system signs.

4. The Act stressed voluntary conversion and granted compulsory powers to no one.

5. The Act was not to be used to force costs upon anyone.

6. By proceeding without the help and guidance of the Metric Board, you will be contributing to the haphazard conversion which Congress feared.

You will find an explanation of each of these points in the attached Addendum. The excerpts from the House and Senate Hearings and Debates found therein will emphasize these points beyond a reasonable doubt. The Action you are taking is not only without the statutory authority you claim, it is also in clear violation of Congressional intent.

*Therefore, continuation of this action on your part should be considered illegal. I request that you immediately withdraw your Notice of Proposed Rulemaking and abandon all plans to force metric conversion upon American motorists.*

The Metric Conversion Act of 1975 represented a carefully and skillfully constructed approach to meet our nation's needs and address the justified fears of conversion of most Americans. The intent of Congress was so clear and loud it should not be disregarded by agencies who derive their power from that same Congress. In light of this, I hereby request that you forward to me copies of any internal memorandums circulated within the Federal Highway Administration which discuss the legality of your action.

Sincerely,

CHARLES E. GRASSLEY,  
Member of Congress.

#### Attachment.

1. The Act you rely on did not grant you any authority to propose these rules.

The Act gives no direct authority to any federal agency or department to convert to metric, nor for the agency to exercise its rulemaking authority in such a manner as to force anyone else to convert to the metric system. There is not so much as a single mention of federal agencies receiving such power in the Act nor in the legislative history leading to the adoption of the Act.

One point was made obvious, however, by the Acting Director of the National Bureau of Standards. His testimony indicated that despite the operations of the Interagency Committee on Standards Policy and its metrication Subcommittee—the participating agencies recognized that they could not proceed with forced metrication without endorsement of the change from Congress.

"Dr. ERNEST AMBLER. The Interagency Committee on Standards Policy, which is chaired by the Department of Commerce, has established a metrication subcommittee to help coordinate Federal agency metric activities. As one of its first tasks, this group is compiling a directory of federal metric activities and of the key people involved in them. When the changeover to metric is endorsed by the Congress, this subcommittee will be ready to assist the Metric Board that will be established by the legislation now under consideration." (Senate Hearings, P. 61)

2. Congress has not established an official policy of conversion.

It is beyond question that the intent of your rules is to adopt the metric system as the single official measurement system for use on our highways and roads, to the exclusion of all other methods of measurement. The Metric Conversion Act of 1975 does not in any way authorize adoption of the metric system as the sole official system for our country, nor any segment of our government's operations. Congress was careful in its wording of the Act so that such a meaning could not be construed, and in fact changed the title of the bill so that such a misconception would be less likely. As

Congressman Symington, the Chairman of the Subcommittee which drafted the Act, stated in House debate:

"Does the policy of H.R. 8674 mandate a change to the metric system?"

"The answer is that rather than mandating a change to the metric system, the policy of H.R. 8674 responds to the problems associated with the increasing use of the metric system. The bill would do this by establishing a mechanism to coordinate the metric conversion activities, by studying the associated problems, and by educating the public on the usage of the metric system."

"In fact, one of the reasons for changing the title of the bill is to place the chief emphasis on the voluntary nature of the adoption of the metric system. By eliminating any reference in the title to a policy of adopting the metric system, and emphasizing the coordination function of the government's role, we expect to make it clear that the bill does not mandate the change, but only aims at providing coordination based on voluntary participation." (House Debate, pp. 27711-27712)

This point that the Act was not establishing a national policy on metrication was further emphasized by both House and Senate backers of the Act in debate before those bodies:

"Representative LLOYD: This bill remains flexible and does not predetermine that Congressional policy will make metric units the predominant language of measurement. Let legislative history show that this bill is in effect saying that it is the policy of Congress to study metrication and then decide the correct course of action." (p. 27716; emphasis added)

"Senator INOUYE: It must be made clear here that the bill being considered today does not make conversion compulsory or that the metric conversion is adopted as the sole system of measurement." (p. 39014)

The point that this Act did not even intend to create an official United States policy of metric conversion was also recognized in the testimony of private sector organizations who both favored or opposed such an official policy; such as the American Bar Association, which favored a forceful "full speed ahead" approach, and the AFL-CIO, which was much more reserved in its opinion and desired a slower and voluntary conversion process.

"Mr. WILLIAM E. ZEITER (representing the American Bar Association): The House-passed bill, rather than simply expressing a national policy in favor of a coordinated approach to voluntary conversion and establishing housekeeping details for the proposed Metric Board, makes no change in existing law." (Senate Hearings, P. 90)

"Mr. THOMAS HANNIGAN (International Brotherhood of Electrical Workers): Such a commitment is inconsistent with the policy of H.R. 8674 which requires the Federal Government to remain neutral regarding metric conversion, and limit its efforts to planning and coordinating its increasing use."

"Obviously, all agencies of the Federal Government must clearly understand Congressional intent on metric conversion and consistently apply it." (Senate Hearings, P. 80-81)

"Mr. HANNIGAN: Obviously, any type of metric legislation, regardless of the thoroughness and technical detail, will trigger a flood of misguided and irresponsible metric activities."

"Metric flim-flam artists and peddlers in pursuit of a fast buck will falsely claim that the United States has adopted the metric system." (Senate Hearings, P. 80)

3. Congress expected any metric highway signs to be a complement to and not a substitute for customary system signs.

While the Act does not specifically mention traffic control signs, the legislative history does, and contemplates that should metric



highway signs appear it would be only in addition to and not in lieu of existing customary usage signs. This point is clearly made in the following colloquy between one of the co-sponsors of the Act, Congressman Fuqua (ranking majority member of the Subcommittee), and Mr. Thomas A. Hannigan, Assistant to the International Secretary of the International Brotherhood of Electrical Workers, in the House hearings:

"Mr. HANNIGAN: In one case of labor trouble that I've been informed of in Australia—the details might not be quite accurate, but could be checked. When they changed highway signs, elevations on bridges and tunnels and distances, the Transportation Union down there went on a strike. They just refused to drive until they put the signs in dual measurements. When they put signs with dual measurements up they went back to work. I don't know how long that strike lasted.

"Mr. PETERSON: The Teamsters, when they were driving along, had to convert.

"Mr. FUQUA: I would certainly think that that's what we would have to do in this country, as they do in Ohio.

"Mr. HANNIGAN: And the purpose is what? Why do you do it? Just leave it where it's at, and you don't have any problem.

"Mr. FUQUA: Until we were phased in, and people, such as myself and others, who can't really compute these, all that stuff in their heads.

"Mr. HANNIGAN: Right. You're driving along at 60 miles per hour and the sign ahead in front of you is in kilometers.

"Mr. FUQUA: But that would be something that the Board would have to work out. As to how long it would be, I don't think they would just take them all down today and put up new ones tomorrow.

"Mr. HANNIGAN: No.

"Mr. FUQUA: You'd have a lot of lost souls." (House Hearings, Pages 315-316)

That dialog makes two points clear. Congress did not expect anyone to be so foolish as to follow the Australian misadventure of not using a dual system. Secondly, and possibly more importantly, the problems of planning how to convert would be a question left up to the Board to work out and make the appropriate recommendation to Congress.

Mr. Symington also indicated in the hearings that he expected a dual sign system to be voluntarily developed by the states.

"I imagine that some States are going to be ahead of others in deciding to put dual signs up and to allocate certain of their resources for that purpose." (House Hearings, p. 317)

Chairman Symington clearly could not make a statement such as that one and yet anticipate an action such as you are attempting.

Not only were the Chairman and ranking member of the Subcommittee convinced the Act could not be used in the manner you are attempting, but at least one prominent and respected national organization which was opposed to forced conversion legislation at least in part because of the confusion and expense it would cause by forcing highway signs to change, was willing to support the legislation which created this Act because this legislation did not confer this kind of power.

The National Federation of Independent Business publication "Little Known Facts About Metric" included the following references to the subject at hand as indicative of reasons for their opposition to forced conversion:

"All road signs would have to be changed to reflect metric distances."

4. The Act stressed voluntary conversion and granted compulsory powers to no one.

The rules you have proposed would force total conversion on our nation's highways and roads. No option would be present for individuals to remain with the customary standards or to allow a dual system to exist.

In short, it cannot be questioned that your rules would force compliance and would prevent a voluntary approach.

You have taken this approach despite the straightforward Congressional intent expressed in this Act that any metrication in this country proceed on an entirely voluntary basis. Your notice of proposed rulemaking cited only part of section 3 of the Act; specifically that part of section 3 indicating "the policy of the United States shall be to coordinate and plan the increasing use of the metric system in the United States". Had you continued the section you would note it reads "and to establish a United States Metric Board to coordinate the voluntary conversion to the metric system". The key words in this policy, therefore, are "plan", "coordinate", and "voluntary". The statute makes no use of the words "implement", "force", or "enact", nor of any time limit. Had any of these words of compulsion appeared, it is likely that this Act would have met the same defeat that met just such a compulsory act in the 93rd Congress. This point is made clear by repeated references during House and Senate debate to the voluntary nature of the Act.

"Mr. FUQUA: The bill does not contain, and does not give to the U.S. Metric Board any power to force anyone to go metric." (House Debate, p. 27714)

"Mr. DOB: In addition, Mr. Chairman, no sector of our economy will be forced into conversion nor will any time limit be set on Metric road signs and maps would be useless and confusing unless all automobile speedometers and odometers are changed to measure in metric." (House Hearings, Page 194-195)

The NFIB was able to support metric legislation which did address their fears:

"In light of this, we must recommend caution and we would strongly favor additional in-depth studies to determine the impact of metric conversion on the various segments of the small business community. In terms of legislation, this would mean that we would be most comfortable with the approach put forward in the chairman's bill, H.R. 6177, the Metric Monitoring and Assistance Act of 1975." (House Hearings, Page 323)

"Mr. INOUYE: It must be made clear here that the bill being considered today does not make conversion compulsory or that the metric conversion is adopted as the sole system of measurement." (Senate Debate, p. 39014)

"Mr. INOUYE: The bill before us calls for voluntary conversion also. They are not forced to do this. It is just an educational method." (Senate Hearings, P. 70)

"Mr. SYMINGTON: The committee feels strongly that in any sector, the marketplace—not the Congress or the Metric Board—should provide the impetus in deciding whether, when and how metric conversion activities should proceed." (House Debate, p. 27712)

"Mr. MOSHER: I strongly support this legislation. H.R. 8674 is meant to coordinate and harmonize the voluntary conversion of the United States to the metric system of weights and measures.

"The objective of this legislation is not complete conversion regardless of costs. It is instead metric conversion, on a voluntary basis, to the extent practical and reasonable and at a minimum cost." (House Debate, p. 27713)

"Mr. SYMINGTON: I wish to emphasize at the outset that under this bill the change to the metric system would be entirely voluntary in nature. The bill has no compulsory powers which would force a business, an industry, or an individual to adopt and use the metric system." (House Debate, p. 27711)

The record is precise. Congress refused to force anyone to convert. It refused to grant the metric board the power to force anyone to convert. It assured the American public

that the bill has no compulsory powers to force anyone to convert. Yet you claim authority under the Act to force this system upon every American.

The fact that the bill was voluntary in nature only was also recognized by those representatives of the private sector who testified on its merits.

"Dr. AMBLER: On the other hand, H.R. 8674 provides that programs will be accepted by the Board without submission to the President and Congress.

"The bills are similar in the following respects: Both bills call for voluntary change-over to metric. They include no authority to compel firms or individuals to go metric against their interests." (Senate Hearings, P. 63)

These witnesses also made it clear that they did not consider actions of federal agencies in adopting only one measurement system to be "voluntary".

"Mr. PETERSON (AFL-CIO): Sir, if the DOD starts to order in the metric system, it is no longer voluntary on the part of the companies then to go metric. It is an obligation, if they want to stay in business, if they are doing business with the DOD or another agency of the Government." (Senate Hearings, P. 70)

The fact that this Act presented this voluntary—non-compulsory—approach was of concern to the American Bar Association. Its witness testified at great length in the Senate Hearings of the problems which could be caused by passing the bill in that voluntary form, and urged the committee to place powers in the hands of the Metric Board to force its plan to go into effect unless the plan was specifically vetoed by the President or Congress. Without such a provision the ABA feared that the planning function of the Board would be useless, as full Congressional action would be necessary before the plan could become law. What types of things would require this action and could be sped along by the ABA recommendation? The ABA gave a specific example:

Mr. ZEITZ: The following are examples of changes in laws and regulations which might be made by a metric conversion plan:

"The speed shall not exceed 55 miles per hour" could become, "The speed shall not exceed 90 kilometers per hour." (Senate Hearings, P. 92)

Thus the American Bar Association presumed that something more was necessary in the Act before it could work to change the speed limit signs on our nation's highways. But Congress refused to request and did not add those compulsory powers.

This point on the voluntary nature of the Act is reinforced by the fact that groups who opposed any form of forced conversion or mandatory conversion legislation did in fact support the approach of this bill. A leading example of this is the AFL-CIO. The testimony of Kenneth T. Peterson, Legislative Representative, American Federation of Labor and Congress of Industrial Organization, made the point succinctly:

"We are happy to note that H.R. 6177 calls for planning and co-ordination of 'voluntary substitution of metric measurement units for customary measurements' and for 'voluntary participation' in planning and co-ordination. And we note that the Metric Board proposed in H.R. 6177 'shall have no compulsory powers'.

"There are still too many unanswered questions, there is still insufficient evidence to support an official U.S. Government policy of facilitating and encouraging metric conversion.

"There is still no evidence, no basis for a decision about the extent to which metric usage is necessary and practical.

"There is still no foundation for a decision about the degree to which metric usage should be exclusive, predominant, or complementary to existing measurement methods.

"And there is still no basis for a decision about some appropriate conversion period."

"In short, Mr. Chairman, the AFL-CIO supports the approach taken in your bill, H.R. 6177, and opposes any Government policy of facilitating or encouraging metric conversion, and specified conversion period." (House Hearings, Pages 151-152)

Mr. Peterson was able to re-state this position in even more precise relationship to the final form of the Act when he testified before the Senate Commerce Committee after the Act had passed the House (in almost identical form to the final public law version):

"Mr. PETERSON: It is premature, therefore, for Congress to pass any legislation which would commit the Federal Government to any official policy of facilitating or encouraging metric conversion. Conversion must not be compulsory. We believe conversion to the metric system must be entirely voluntary." (Senate Hearings, P. 70)

"Mr. PETERSON: As you know, the House of Representatives has approved H.R. 8674, a bill to declare a national policy of coordinating the increasing use of the metric system in the United States and to establish a U.S. Metric Board to coordinate the voluntary conversion to the metric system. The House-passed bill is generally in line with the position of the AFL-CIO." (Senate Hearings, P. 69)

"Mr. PETERSON: The language in section 3, subsection (1) of S. 1882 goes beyond the House-passed bill in its effort to make the metric system predominant, although not exclusive. We say that such language is contrary to the voluntary, noncompulsory approach on which there is general agreement, and we say such language should be struck out of the bill." (Senate Hearings, P. 73)

"Senator INOUYE: Mr. Peterson, are you that deeply concerned that these words would imply a policy of compulsory conversion?"

"Mr. PETERSON: Yes, sir." (Senate Hearings, P. 73)

Another prominent national organization shared the position of the AFL-CIO in supporting voluntary conversion and therefore backing the approach of this Act. That organization is the National Education Association.

"National Education Association Briefing Memo, Instruction and Professional Development, September, 1974, No. 7:

"3. The changeover should be voluntary.  
"4. The initiative for changeover should not come from the federal government." (Senate Hearings, P. 125)

"Mr. INOUYE: Do you have any comments to make on the House-passed measure, H.R. 8674?"

"Mr. CORTRIGHT: Yes. We like that bill and we support it, and give our endorsement to it." (Senate Hearings, P. 124)

5. The Act was not to be used to force costs upon anyone.

Congress was specifically concerned that nothing in the Act be construed as to cause costs to be placed upon anyone. This point can be seen throughout the debate on this bill's passage in both Houses. Despite the fact that Congress guaranteed that the Act would not force costs on anyone, your regulations would force costs of conversion of road signs upon local governments and the costs of speedometer conversion upon millions and millions of Americans whose automobiles are not metrically calibrated.

"Mr. FRUQUA: The bill does not contain, and does not give to the U.S. Metric Board any power to force anyone to go metric. Thus in no way can it be said to impose costs on anyone." (House Debate, p. 27714)

6. By proceeding without the help and guidance of the Metric Board, you will be contributing to the haphazard conversion which Congress feared.

Finally, this act created the authorization

for a National Metric Board to study the conversion that was voluntarily going on in this country, anticipate the problems which would be caused by further conversion; then make recommendations as to how to change laws and regulations of state, local, and federal governments. This board is not yet functioning yet you are proceeding to act anyway. By acting without guidance and direction you will be causing the problems Congress hoped to avoid through the Act. Congress feared the repercussions of embarking upon a national policy of conversion or proceeding to convert haphazardly, without first studying the likely effects and establishing a plan first. Through the action you are attempting to make, Congress' worst fears will be realized.

"Mr. EMERY: The Board will supply the needed impetus and framework for an efficient conversion." House Debate, p. 27719)

"Mr. MATSUNAGA: That conversion without some coordination at the national level would be costlier and less efficient than with some rational plan as a guide." (House Debate, p. 27712)

"Mr. FREY: I am convinced we need to carefully plan the transition to metric so as to help the different sectors of our economy adjust and guide our relationships abroad.

"Further, we have determined it is in the best interests of our Nation that conversion be accomplished in a deliberate and careful fashion through a coordinated national effort." (House Debate, pp. 27718-27719)

"Mr. INOUYE: Furthermore, the Board will be required to submit a report not later than 1 year after appropriations are provided for this act on the need to provide an effective structural mechanism for converting customary units to metric units in statutes, regulations, and other laws at all levels of government on a coordinated and timely basis in response to voluntary programs adopted and implemented by various sectors of society under the auspices and with the approval of the Board.

"In closing, I would stress again that the bill will leave the decision of the metric conversion to the individual economic sector. It will not be compulsory and is designed to achieve maximum economic efficiency based on the best informed determination of each separate industry." (Senate Debate, p. 39014)

#### NEW YORK TIMES ENDORSES HOUSE DEBT COLLECTION BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO), is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the New York Times in an editorial Friday, June 27, 1977, strongly endorsed the proposed Debt Collection Practices Act which passed the House April 4 and is now being considered in the Senate. The Times editorial in favor of the legislation follows one on April 11 by the Chicago Daily News and reflects growing support for the debt collection bill. It was pointed out in the editorial that such legislation is needed because consumers are suffering from abuses such as calls to neighbors or employers to embarrass the consumer, threats of bodily harm, and impersonation of policemen and other public officials. The House Banking Subcommittee on Consumers Affairs has learned, for instance, that one consumer was harassed so terribly that he suffered a heart attack. Another consumer was told to give her son up for adoption to help repay a debt. Testimony before the subcommittee revealed one instance in which a doc-

tor working in an emergency room was harassed every half-hour during an entire afternoon.

State laws offer inadequate protection. For example, 13 States with a population of over 40 million have no law at all, while 11 other States have toothless laws. The situation for consumers is even worse in the area of interstate debt collection. Even States with good laws are no help where interstate collection is involved.

This legislation would, for the first time, protect consumers from interstate debt collection abuse. The bill is clear and straightforward, setting out prohibited practices that result in harassment or intimidation. It also prohibits false or misleading statements and certain unfair practices such as soliciting postdated checks for the purpose of threatening criminal action. The bill should be easy for consumers and debt collectors to understand. Unlike many other Federal laws, this legislation will stand on its own; no Federal agency will issue regulations to implement it. Reputable debt collectors should have no difficulty complying with the legislation since they undoubtedly do not engage in the prohibited unethical practices, and since there are no recordkeeping or other paperwork burdens.

The New York Times editorial makes several important points: First, most consumers are not unwilling, but rather unable to pay; second, the two largest debt collection trade associations—the American Collectors Association and the Associated Credit Bureaus, Inc.—admit that some of their members use too extreme measures; and third, the ACA and the ACB both support the proposed bill. This reflects that while the legislation would protect consumers, it is fair in the view of reputable collectors.

The final point made by the Times editorial eloquently sums up the problem:

It remains for the Federal Government to collect the debt of decency due all of us.

Following is the text of the New York Times editorial in support of the proposed Debt Collection Practices Act:

#### A BILL FOR BILL COLLECTORS

Professional bill collectors cannot, in the nature of things, expect to win popularity contests, but they are hardly required to set new records for obnoxious behavior. The excesses of some collectors are among the most common consumer complaints to the Federal Trade Commission and have deservedly attracted the attention of Congress. The House has already passed a measure designed to keep collectors within the bounds of civilized behavior, and similar legislation is now before the Senate.

There are some 5,000 debt-collection agencies around the country. They take the unpaid bills of department stores, hospitals, banks, utilities and others, and try to turn them into paid bills—for a percentage. Their methods, as revealed in the House hearings, have included heavy harassment; repeated telephone calls; nuisance calls in early morning and late at night; calls to neighbors or employers designed to embarrass the debtor; rude language and even threats of bodily harm. Some professional collectors have represented themselves as policemen, tax agents or attorneys to bring a delinquent to bay.

Most debtors are not unwilling but unable to pay; they are in trouble—and some collectors have perfected techniques for exploit-



ing their distraught condition. The House was inspired to act by experiences like that of a hard-pressed California woman, who was advised by a collector to seek welfare, end support of her mother, give her son for adoption or, as a last resort, commit suicide.

Though it is difficult to legislate against that sort of behavior, the proposed bill does promise some relief. It would outlaw all abusive phone calls, and any call for payment between 9 p.m. and 8 a.m.; calls or visits to a debtor's place of work or to neighbors and relatives; and all misrepresentations by the collector.

Deadbeats, though they represent only a minuscule proportion of people in debt, are a growing problem for business; creditors are entitled to pursue their money, and this may sometimes require a degree of psychological pressure. But even the two largest associations of collection agents support the proposed law, acknowledging that some of their members have gone too far. State regulation has proved generally ineffectual, so it remains for the Federal Government to collect the debt of decency due all of us.

### SOVIET THREAT TO THE PANAMA CANAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Flood) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, in various addresses in the Congress, I have repeatedly stressed that the U.S. owned Panama Canal is a pawn in superpower politics, with the Republic of Panama only serving as the "tip of the iceberg." The passage of time has proved the accuracy of this appraisal.

In addition to the establishment of a Soviet beachhead in Cuba, radical movements for the "liberation" of Puerto Rico, the subversive efforts to organize Communist power in Jamaica and the Red drive to bring about the give-away of the Canal Zone to Panama are well underway, the last with the determined support of the U.S. Department of State.

One of the major deceptions in the current massive propaganda campaign now being led by State Department officials, at the taxpayer's expense, is that Latin America is "unanimous" in supporting the radical demands of the Panama revolutionary dictatorship for surrender of U.S. sovereign control over both the Canal Zone and canal. Because this contention is false, this fact should be understood.

While it is true that officials of certain Latin America countries have publicly supported Panamanian demands, members of the U.S. Congress who have recently visited Latin America report differently. Some going to the Isthmus have stated that officials in the U.S. Embassy in Panama were far more ardent in their advocacy of the surrender treaty than were high Panamanian officials. Others visiting certain of the larger Latin countries, after discussing the subject with many from Presidents down, report that they found strong opposition to the projected surrender by the United States of its sovereign control over the Canal Zone. Knowledgeable observers state that Latin American business leaders know that their interests require the continuation of such control and oppose giving the zone to Panama.

Fortunately, there are many well informed leaders in the United States on Latin American policy question who cannot be hoodwinked, among them the Honorable Spruille Braden of New York. After a distinguished business career, he served with the rank of Ambassador in 1938 to negotiate the end of the Chaco war between Bolivia and Paraguay; as U.S. Ambassador to Colombia, 1939-42; Cuba, 1942-45; Argentina, 1945; and, finally, as Assistant Secretary of State for Latin American Affairs, 1946-47.

In a notable address on February 28, 1977, before the Belair Council of the Navy League of the United States in California, entitled "The Soviet Threat to the Panama Canal," Ambassador Braden gave a discussion of other areas in the Western Hemisphere including Argentina, Chile, and Cuba.

In these general connections, we must never forget that the Panama Canal is a vital element in the seapower of the United States and that loss of its sovereign control would be a matter of the gravest consequence affecting the security of the entire free world in the current struggle for world domination.

Mr. Speaker, because of the exceptional qualifications of Ambassador Braden to speak with the authority of a vast experience, I shall quote the indicated address as part of my remarks and commend it for reading by all Members of the Congress and their staffs working on the canal question.

The address follows:

#### SOVIET THREAT TO THE PANAMA CANAL (By Hon. Spruille Braden)

During many years of an active life throughout the Americas, I have accumulated many convictions and I hope perspicacity, in keeping with the old Spanish saying: "The devil knows more by reason of his age, than because he is a demon."

One of my strongest persuasions is that the greatest threat to "our civilization" is a world-wide breakdown in morality. This we witness in and out of government penetrating every strata of society.

I further believe that the most widely destructive of all immoralities is that centered in and emanating from Moscow. Vide:

(1) The unending and outrageous cruelties perpetrated on the Russian people, as described by Solzhenitsyn;

(2) The so-called "liberation" movements propagated everywhere by Soviet agents, foreign communists and misguided dupes;

(3) Russian ambitions for world hegemony. The Soviet already is progressing by strides in its plans to convert the American republics into a conglomeration of satellite and slave states.

Today I shall summarize only the four most critical areas in the western hemisphere.

#### ARGENTINA

First: Argentina exemplifies how a superior, educated, wealthy and religious nation, possessing virtue and great mental and physical assets for over three decades has suffered a deluge of evils as her government sank into the depths of degradation, corruption, venality and irresponsibility. Murder, torture, kidnapping, terrorism and guerrilla warfare ensued.

The cause of all this was the breakdown in morality and communist infiltration.

As far back as 1945, when I served as ambassador in Buenos Aires, the then vice president and dictator, Peron, while pretending opposition to communists, actually

was intriguing closely with them; they had replaced the Nazis in his esteem.

Simultaneously he, his mistress, later wife, Evita, and his henchmen, enriched themselves on a vast scale.

When Peron died, his third wife and heir, Isabelita (a former bar girl) suddenly found herself the nominal head of a government which had fulfilled 85 percent of the program laid down by Karl Marx and Friedrich Engels. Presently she is imprisoned for stealing public funds.

As Argentina was about to fall completely into communist hands, the armed forces, under General Jorge Rafael Videla (a man of highest character) seized power. They enlisted in their government some patriotic and experienced civilians, such as the new minister of economy, Martinez De Hoz. As a result of the military's firmness and courage, communism, terrorism and corruption gradually are being eradicated. Argentina at long last now may hope eventually to retrieve its old position as a responsible, respected and prosperous nation. Realistic reforms may recapture Argentina's idealism.

From 1922 through 1938 I knew Argentina at the apex of its prosperity, political and social well-being. But in 1945, when I returned as ambassador, I witnessed the beginnings of the decomposition. Communism and its twin, terrorism, later almost leading that pitiable nation into the jaws of destruction.

What I saw beginning 30 years ago in Argentina, I now observe starting in the U.S.A.—traditionally cherished ideals are attacked, while disintegrating corruption is tolerated and exotic ideologies are circulated through our schools, the media, and pretty much everywhere.

#### CHILE

Second: The collapse of Chile into communism was more precipitous and complete than Argentina's; first came the election to power of the Christian-Democrats (actually socialists); four years later they helped the Marxist, Allende, to the presidency, with only a 35 percent constitutional vote.

This accession to power with his socialist-communist cohorts, was planned, incited and aided by the Soviet Union. Moscow was anxious to create another communist satellite in Latin America, and in so doing, to obtain a naval base at Talcahuano on Chile's south Pacific coast, just as it had acquired its naval bases, underground submarine pens, missile sites, encampments and other facilities in Cuba.

Unfortunately the Chileans, overly confident in their dedication to democracy, credulously did not awaken to the threatening communization and loss of freedom until their backs were against the wall.

For more than a year the populace, deceived and helpless, allowed matters to drift. Finally, they were awakened with a bang by the killings and tortures, imprisonments and property confiscations, plus the influx of trained commissars and guerrillas from the Soviet Union, Cuba and elsewhere, along with shiploads of arms and munitions for the Allendistas. Fierce fighting broke out between communists, both national and foreign, and patriotic Chileans.

The first mass protest was staged by women from all walks of life demonstrating in the streets and surrounding the presidential palace, banging pans and kitchenware. Some were arrested; others physically abused. There followed a paralyzing strike by truck drivers.

In the nick of time, the military intelligence discovered that Allende and his co-conspirators had developed a so-called "Z Plan" to assassinate within one week all top military officers and leading citizens.

Immediate counter-action was imperative. It was taken and thousands of communists, guerrillas and criminals were arrested; Allende committed suicide.

The new military government had to fight

fire with fire. Some ill-treatment even of innocent people, was unavoidable if Chile were to be saved from Moscow-controlled communism.

Please believe me when I assert that:

(1) The only thing the communist respect or fear is physical force greater than their own.

(2) A communist commitment or pledge is very rarely fulfilled.

Chile is the only nation, with scant aid from abroad, which has been able, by the courage and sacrifice of its citizenry, to overthrow a firmly established communist dictatorship which had seized power nefariously and by trickery. Chile still has to defend her independence from armed communist bloc attacks from within and without her borders; it also must clear away the lies and deceit disseminated throughout the world, by communists and too often believed by the gulleible.

Despite the catastrophic economic and social results of the Marxist regime, the Chilean people have tightened their belts and are repairing the damage. Their record on "human rights" is now better than the majority of countries in the United Nations who accuse them.

On reflection, we must see that Chile and Argentina are major battlegrounds between east and west, between the forces of communism and freedom. Nevertheless, Washington is alienating these two friendly nations by spurning and aggravating them.

#### CUBA

Third: Cuba, as a full-fledged Soviet satellite and Soviet-occupied fortress, is a major danger to the United States.

At Moscow's command, Havana dispatched 15,000 or more troops to fight for communism in Angola, Mozambique, and elsewhere in Africa. The USSR maintains at least 10,000 of its own military, KGB and intelligence services in Cuba. It directs that island's forces, provocateurs and espionage services in and out of Cuba. It operates the missile, naval and submarine bases I have mentioned.

Castro first attracted notice as a gangster and murderer. Under his regime, thousands have been tortured and killed, 20,000 to 40,000 political prisoners are suffering or perishing in prisons today.

Yet despite all of these horrors and the threat to the U.S.A. from only 90 miles off our shores, there are those high in government, even business, who advocate renewing diplomatic relations with Cuba. How blind or callous can they get?

#### PANAMA

Fourth: It suffices to say about Panama that our sovereignty and ownership of the Canal Zone in perpetuity twice has been reaffirmed by U.S. Supreme Court decisions, by many leading Panamanian statesmen, presidents and ministers, as well as by lower U.S. courts. As recently as December 17, 1976, District Judge Guthrie F. Crowe stated that he believes the U.S.A. owns the Canal Zone: "I think the United States is the owner of this property by reason of the treaties with Panama and Colombia, payments to the French (Canal Co.) and the creation of The Land Commission in which people from Panama and the United States functioned as a court with thousands of claimants. (The land) was paid for with United States money."

Our title is every bit as secure legally as are our territorial acquisitions from France, Spain, Mexico, Denmark and Russia.

The total U.S. investment in Panama is estimated at nearly \$7 billion.

The arguments by our State Department and its representatives as to why we should negotiate a new treaty ceding our full rights to the canal and the Zone are largely fallacious in substance and logic.

The illegally constituted dictator, Torri-

jos, threatens that unless we deliver the Panama Canal Zone and operations of the canal to his government within a limited period, we will have to wage another Vietnam War in that area.

Castro reportedly has several thousand troops now in Panama, and, of course, could bring back his armies from Africa, already trained in Angola. The State Department and our negotiators supinely agree that Torrijos will precipitate guerrilla warfare and sabotage.

Actually Torrijos fears if we do not sign the new treaty, he will be thrown out of power. In this event, he knows Moscow and Castro could not rescue him. On the other, if, with the help of the later two, he can deliver the canal, even indirectly to the comintern, he will be assured of his job for life, just as is Castro.

We have defended the canal for 70 odd years, through two world wars, countless riots and attempted sabotage. Are we so weak and timid that we must now run away from Torrijos' and Castro's Soviet-inspired threats and blackmail?

The real issue from the U.S.A. is not vis-a-vis Panama, but the U.S.S.R.

If we lost the Panama Canal Zone to the Soviets, even indirectly, this humiliation would be disastrous indeed. It might well cause our friends and allies, especially in Latin America, to lose all respect for and confidence in us and abandon our leadership, in order to play with the Soviet. Everybody wants to be with the winner.

#### SOME HISTORICAL BACKGROUND

The following bits of history are pertinent:

A. Phillip II of Spain declared that whoever controls the Caribbean will dominate the Western Hemisphere. President Jefferson expressed the same thought. Admiral Mahan, one of our greatest strategists, warned that any enemy of the U.S.A. controlling the Caribbeans could invade our gulf coast and so proceed up the Mississippi valley to capture the heartland of the United States.

B. Lenin listed in sequence the following "musts" for the Soviets to make effective their world domination:

- (1) Secure U.S.S.R.'s western borders through absorption or Moscow rule;
- (2) communize and control the Far East, especially southeastern Asia;
- (3) proceed similarly in Africa;
- (4) the same for Latin America;
- (5) the United States, thus surrounded, would fall like over-ripe fruit.

Lenin's successors raised point 6: to build their naval forces to overwhelming strength, accompanied by widely dispersed and fully equipped bases. Their objectives include the domination of all sea lanes, passages and routes; among these the Panama Canal is paramount.

Self-evidently the aforementioned six points are well on the way to successful fruition. The security of Russia's western frontier, including Latvia, Lithuania, Estonia, the Ukraine, and Eastern European countries has been ratified by the Helsinki Agreement signed August 1, 1975, by the United States and other western governments.

Moscow and Havana jointly have violated the Helsinki Agreement in Angola, Mozambique and elsewhere, communists have ignored concessions obtained by the free world at Helsinki stipulating greater freedom of movement for western journalists and promises to insure human rights throughout the Warsaw Pact nations.

The Soviet Union's hankering to control the Panama Canal Zone was openly stated by Major Sergei Yuworov in an article published in the Soviet military organ "Red Star," reproduced by the Cuban magazine "Bohemia" on March 17, 1957 in respect of the canal:

"Due to its privileged location as the junc-

ture between South America and the rest of the continent, including the canal, which permits U.S.A. warships to operate simultaneously in the Atlantic and Pacific, must for the Soviet Union be considered as a 'priority zone'."

He adds that Panama can be attacked from Central America, Colombia or from Cuba, Puerto Rico and other Caribbean islands. He intimates that some or all of these can serve as Soviet naval bases.

It is essential for us to remember that for over a quarter of a century, we have been beset by one humiliation after another, each of them contrived, usually financed, militarily aided and equipped by Moscow.

Our major blunders or defeats in policy and/or action were:

MacArthur prohibited from crossing the Yalu or bombing the bridge;

The inconclusive falsely labeled U.N. action in Korea;

Failure to lend help by air to the Hungarian uprising against Russian troops;

Non-resistance to the Berlin Wall;

No aerial help at the Bay of Pigs;

The Cuban missile crisis—tearing up the Monroe Doctrine;

Or shameful commitment to Khrushchev neither to invade Cuba nor permit others to do so;

The "no-win" war in Vietnam;

The so-called "Paris Peace Treaty with honor," with which North Vietnam never complied.

#### NATIONAL SECURITY COUNCIL

This series of surrenders only become explicable when one reads National Security Council Report number 68 (NSC-68) of April 14, 1950, drafted after President Truman's orders as a statement of our basic policies with respect to the U.S.S.R.

The study, opinions and conclusions of NSC-68 were based on reports from the Secretaries of State and Defense; they also were considered in at least one council meeting by the Secretary of Treasury and the heads of the other three top economic agencies of the government.

The content and portent of this super "top secret" 65-page document has been kept completely unknown to the public, Congress and even senior Army, Navy and Air Corps officers commanding at the time of the afore-listed humiliations.

The "top secret" classification, pursuant to law, terminated in April, 1975. On September 30, 1976, a brilliant journalist, Alice Widener, began publishing her expose and analysis of NSC-68. She sums up its principal aims as follows:

1. "To avoid nuclear war but to accept a Soviet nuclear first strike against us if necessary, hoping to ward it off by building up our own and our allies' military, economic, and social strength as a deterrent.

2. "To confine U.S. military action to strictly limited counteractions."

3. "To seek co-existence with the Soviet Union in the hope that democracy will win out eventually against dictatorship, that time would be on our side, and that the U.S.S.R. would undergo changes eventually leading to abandonment of its goal of world domination."

4. "To try to contain the expansion of the Soviet Union beyond its territory, but not to do anything directly challenging Soviet prestige."

"In conceding Soviet prestige as untouchable, NSC-68 seeks to protect the Soviets from any kind of effective attack—be it military, ideological, or psychological."

NSC-68 is a self-contradictory document, at times dove-ish and weak; at others hawk-ish and vigilant. On the one hand, it accurately sets forth the objectives of the U.S.A. for peace and freedom, as laid down by the constitution and the founding fathers.



On the other hand, it describes the fundamental and unchangeable program of the U.S.S.R. as follows:

"The design, therefore, calls for the complete subversion or forcible destruction of the machinery of government and structure of society in the countries of the non-Soviet world and their replacement by an apparatus and structure subservient to and controlled from the Kremlin. To that end, Soviet efforts are now directed toward the domination of the Eurasian land mass. The United States, as the principal center of power in the non-Soviet world and the bulwark of opposition to Soviet expansion, is the principal enemy whose integrity and vitality must be subverted or destroyed by one means or another if the Kremlin is to achieve its fundamental design."

Later, NSC-68 states:

"With particular reference to the United States, the Kremlin's strategic and tactical policy is affected by its estimate that we are not only the greatest immediate obstacle which stands between it and world domination, we are also the only power which could release forces in the free and Soviet worlds which could destroy it. The Kremlin's policy toward us is consequently animated by a peculiarly virulent blend of hatred and fear."

NSC-68 continues to characterize all the evils of totalitarian dictatorship and the latter's determination to dominate the world only limited by expediency. It says:

"It is estimated that, within the next four years (i.e. from 1950), the U.S.S.R. will attain the capability of seriously damaging vital centers of the United States, provided it strikes a surprise blow and provided further that the blow is opposed by no more effective opposition than we now have programmed."

The first time I read NSC-68, I said:

"In each assumption the authors establish a series of ideals as definite possible objectives to be carried out, then turn around and prove that these ideals are utterly impossible of accomplishment. The ink on NSC-68 was no sooner dry than the outbreak of the Korean War made a mockery of this do-gooding optimism."

The Comintern's leaders—perhaps due to blood and inheritance—possess a strain of Mongol innate cruelty, dishonesty and a shrewd depravity. They follow the precepts of Sun Tzu, who in China 600 to 500 years before Christ, wrote the following in a military textbook:

"Undermine the enemy first, then his army will fall to you. Subvert him, attack his morale, strike at his economy, corrupt him, sow internal discord among his leaders; destroy him without fighting him."

This is precisely the formula Moscow successfully has pursued and is directing against the U.S.A.

#### CONCLUSION

As a result, we are drawing nigh to the finish line. Yet there has been no perceptible inclination by either Democratic or Republican administrations to get rid of the NSC-68 policy recommendations, which so often have imperilled and still are entrapping United States' security with an apparently endless chain of humiliations.

If, due to our innate kindness of spirit and our religions' teachings of peace, we endure and add to the list I have already given you one more humiliation, one more breach of a solemn agreement, one more surrender of our rights and sovereignty under the 1903 treaty with Panama, then indeed the Caribbean, adjoining waters and sea lanes will become part and parcel of a huge Soviet lake.

If this happens, we then may have three options:

(1) If possible, to rebuild a definitive superiority in military power and defenses.

(2) To await a Soviet blackmailing ultimatum for surrender.

(3) Nuclear war.

May God save us from the last two alternatives.

#### PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. McHUGH) is recognized for 5 minutes.

Mr. McHUGH. Mr. Speaker, on May 26, 1977, I was unavoidably absent from the House during the consideration of Mr. PREYER's amendment to H.R. 6161, Clean Air Act Amendments of 1977. Had I been present, I would have voted aye on this rollcall, No. 289.

#### ONE HUNDRED AND SEVEN HOUSE MEMBERS SAY IMMEDIATE CONGRESSIONAL ACTION NEEDED TO PREVENT NURSING HOME FIRE DEATHS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 10 minutes.

Mr. PEPPER. Mr. Speaker, with 107 cosponsors, I am today reintroducing legislation which would require the installation of automatic sprinkler systems in all medicare and medicaid skilled and intermediate nursing homes. This legislation is urgently needed to prevent the deaths of residents of nursing homes.

A U.S. General Accounting Office investigation, conducted at my request following the deaths of 32 elderly persons and injuries to 50 others in nursing home fires in Chicago, recommended that the Congress enact such legislation.

In addition, an investigation conducted by the Subcommittee on Health and Long-Term Care, which I have the privilege of serving as chairman, concluded that present fire standards are not adequate to prevent multiple death fires. In a committee report, "The Tragedy of Multiple Death Nursing Home Fires: The Need for a National Commitment to Safety," the full House Select Committee on Aging, which I also chair, recommended legislation to require sprinklers. The report concluded:

Half of the Nation's 16,500 medicare and medicaid nursing homes are not fully protected with automatic sprinkler systems. Yet full protection by automatic sprinkling is the best way to prevent disastrous multiple death fires.

Unfortunately, there has been no congressional action on this legislation, which I introduced both in the 94th and 95th Congresses to implement this recommendation. Meanwhile, there have been even more nursing home fires, most recently in the Zion Nursing Home in Zion, Ill., which resulted in the death of two elderly residents and serious injury to 13 others, including 2 firemen.

Must we wait for the next tragic fire—and the next one after that—before we insist that our older citizens have decent protection against fire? This is another example of the kind of senseless, preventable tragedy that results from our hesitation to act—even when we have the answers.

This legislation (and the identical bills,

H.R. 1129, 5433, 5434, and 5435) has now been cosponsored by some 107 Members of the House. They are:

Mr. Roybal, Mr. Rooney, Mr. Blaggi, Mr. Edward Beard of Rhode Island, Mr. Blouin, Mr. Bonker, Mr. Downey, Mr. Florio, Mr. Harold Ford of Tennessee, Mr. Hughes, Mrs. Lloyd of Tennessee, Mr. Drinan, Mrs. Meyner, Mr. Russo, Mr. Cohen, Mr. Walsh, Mr. Rinaldo.

Mr. Glenn M. Anderson of California, Mr. Annunzio, Mr. Ashley, Mr. Badillo, Mr. Baucus, Mr. Bingham, Mr. Bonior, Mr. Brademas, Mr. Brodhead, Mrs. Yvonne B. Burke of California, Mr. Carney, Mrs. Chisholm, Mr. Clay, Mrs. Cardiss Collins of Illinois, Mr. Conyers, Mr. Corman.

Mr. Cornell, Mr. Dellums, Mr. Dicks, Mr. Diggs, Mr. John J. Duncan of Tennessee, Mr. Edgar, Mr. Don Edwards of California, Mr. Ellberg, Mr. Fascell, Mrs. Fenwick, Mr. Findley, Mr. Fish, Mr. Wm. D. Ford of Michigan, Mr. Frey, Mr. Gephardt, Mr. Gilman.

Mr. Harkin, Mr. Harrington, Mr. Hawkins, Mrs. Heckler, Mr. Hollenbeck, Ms. Holtzman, Mr. Howard, Mr. Hyde, Mr. Ireland, Mr. Kastenmeier, Mr. Ketchum, Ms. Keys, Mr. Koch, Mr. Kostmayer, Mr. Lagomarsino, Mr. Lehman, Mr. Lent, Mr. Jim Lloyd of California, Mr. Clarence D. Long of Md., Mr. Luken, Mr. McHugh, Mr. Maguire.

Mr. Metcalfe, Ms. Mikulski, Mr. Mikva, Mr. Mineta, Mr. Parren J. Mitchell of Md., Mr. Moakley, Mr. Moffett, Mr. Mottl, Mr. Austin J. Murphy of Pennsylvania, Mr. Michael O. Myers of Pennsylvania, Mr. Neal, Mr. Nix, Mr. Nolan, Mr. Ottinger, Mr. Patten, Mr. Rahall.

Mr. Rangel, Mr. Richmond, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Ryan, Mr. St Germain, Mr. Scheuer, Mr. Simon, Mr. Snyder, Mr. Solarz, Mr. Stark, Mr. Stokes, Mr. Tonry, Mr. Udall, Mr. Weiss, Mr. Charles H. Wilson of California, Mr. Yatron, Mr. C. W. Bill Young of Florida, and Mr. Zefteretti.

I am grateful for their strong support. I hope that because of the wide support for this bill, there will be immediate congressional action. I call on my colleagues, DAN ROSTENKOWSKI and PAUL ROGERS, to report this bill to the House floor with the greatest possible speed.

#### VIOLATIONS OF CIVIL SERVICE LAWS AT THE U.S. INTERNATIONAL TRADE COMMISSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, on April 25, the House of Representatives passed the fiscal year 1978 authorization for the U.S. International Trade Commission, ITC. The House report on this legislation (H. Rept. 95-217), prepared by my subcommittee, documented some of the administrative problems which have plagued the Commission during the past year. The report stated:

Despite a number of meritorious innovations in operations . . . there has been a completely unwarranted amount of time spent by Commissioners bitterly debating minor administrative or personnel matters, often in public session.

In an attempt to improve the quality of ITC operations, the House passed legislation which provides for a new method of selecting the Commission chairman, new criteria for being appointed to the Commission, and assigns the carrying out of most Commission administrative details to the chairman's

office. In an effort to measure the progress the Commission is making in improving its operations, the report provides for the following:

The Commission is directed to report to the Committee on Ways and Means six months after the . . . enactment of this bill on what actions have been taken to (1) Complete the reorganization of the Commission staff in conformity with Civil Service rules; . . .

The Subcommittee on Trade has received a copy of a Civil Service Commission report on the ITC reorganization. This report—probably the most critical Civil Service Commission report I have ever read—was received too late to incorporate into our consideration of the ITC authorization. The Civil Service Commission found, in part that:

Certain CSC rules and regulations were violated which resulted in an adverse impact on the rights of affected employees.

The manner in which the reorganization was implemented creates the appearance that the reorganization was designed to selectively remove employees from their positions, with significant adverse impact on employee morale. (Of 68 employees interviewed on-site, 43 claimed the major reason for the reorganization was to get rid of certain employees.)

The Agency's manner of implementing the reorganization caused morale to sink to an extremely low level. This can be seen by the following: A total of 68 employee-requested interviews were conducted. This included almost every major component of ITC. The employees interviewed during 1½ weeks on-site represent almost 20% of all agency employees. In addition, several other employees requested interviews, but due to time constraints, could not be scheduled. With 2 or 3 exceptions, every employee interviewed had some complaint about the reorganization's implementation.

Of these 68 employees, 49 volunteered the opinion that there was poor morale throughout the agency because of the reorganization.

This report came as no surprise to the subcommittee, since we have long been concerned about the quality of leadership at the Commission. The Civil Service Commission listed a number of corrective actions which must be taken to comply with the law and to restore employee confidence in the agency.

It was my hope that the Commission which has now received a detailed critique of its reorganization efforts, would have proceeded as fast as possible to correct its past mistakes and restore employee morale at the agency.

Unfortunately, on April 28, 1977, the Commission voted by four to one to appeal the civil service report. Further, by a vote of three to one, they voted to authorize themselves "to contract for special legal and/or other counsel's advice which may be needed to assist in the representation of the U.S. International Trade Commission before the Civil Service Commission, including preparation of this agency's appeal to the CSC evaluation report."

In other words, rather than facing up to their past mistakes which have demoralized this agency for month after month, they have voted to spend the taxpayers dollar to protest a finding of their errors with respect to employee rights and sound management principles in reorganizing the agency. As

chairman of the subcommittee that passes on the authorization for this agency, I find this an unacceptable use of taxpayers' funds.

In the past few days, one Commissioner, whose term had expired, resigned. I hope that when the President considers an appointment to fill the vacancy, that he will make a special effort to appoint an individual with expertise in the area of trade who is also noted for his administrative judgment and ability to work with others.

The Senate did not accept the House recommendation for changes in the ITC organization. I am hopeful that in conference we can convince our Senate colleagues that the House provisions are preferable to the Senate approach in correcting the unfortunate situation at the Commission. Certainly, the ITC also desperately needs now, perhaps more than ever before in its history, the appointment of a person of outstanding judgement and ability.

Attached are the public portions of the civil service evaluation:

#### A REPORT ON INTERNATIONAL TRADE COMMISSION

(Prepared by: U.S. Civil Service Commission Bureau of Personnel Management Evaluation)

Information that would invade an individual's privacy if released to the public has been deleted from this report, under exemption 6 of the Freedom of Information Act, 5 U.S.C. 552(b) (6).

#### I. INTRODUCTION

A. After lengthy discussion, the International Trade Commission (ITC) on January 2, 1977, implemented a significant reorganization. The reorganization focused on realigning functions and reporting relationships rather than adding or changing functions.

The major aspect of the reorganization was the abolition of the Office of the Executive Director, and its replacement by a Director of Operations and a Director of Administration. Various offices which had reported to the Executive Director now report to the two new offices.

In the Office of Operations, there are newly established offices of Consumer Affairs and Nomenclature, Valuation and Related Activities.

The Office of Trade and Industry has been renamed the Office of Industries. Several functions were transferred, such as the support and nomenclature functions. The Accounting Division was eliminated. The Agriculture Division and Lumber and Paper Division were combined, reducing the number of commodity divisions from 7 to 6. Also, various commodities were switched from one division to another.

The Office of Administration combines various functions which had reported to the Executive Director. Included are Services, Finance and Budget, and Production. This office also includes separate offices of personnel and management analysis. These had been combined in the old organization. (The old and new organizational charts are shown as Appendix A and Appendix B respectively.)

B. The agency effected the reorganization by taking mass change actions, changes to lower grade, separations, and reassignments to vacant positions. The reassignment of employees released from their competitive levels to continuing vacant positions (for example: . . .), established the use of vacancies in RIF as agency policy.

In the Headquarters, 2 employees were changed to lower grade, 7 were reassigned to

vacant positions, and 2 employees elected discontinued service retirement. In the New York office, 3 employees were separated by RIF, 1 employee was retained pending disability retirement and 1 employee's RIF NOTICE was cancelled. Two employees were released from their competitive levels in the excepted service in the headquarters; 1 elected discontinued service retirement and 1 was changed to lower grade in a vacant position ( . . . Case #4, Appendix C).

#### II. MAJOR PROBLEMS

We found 2 major problems associated with the ITC reorganization.

A. Certain CSC rules and regulations were violated which resulted in an adverse impact on the rights of affected employees. These violations fell into 5 categories:

1. One group of employees received an invalid General RIF Notice from ITC. The Notice was invalid because the employees occupied positions in the new organization and their positions of record were not being abolished.

2. One employee was reassigned to an unestablished position with no position description. There is no basis to believe the new position is classifiable at the same grade as the old position.

3. Other employees were misinformed by management as to their rights. They were told that they were surplus and should seek employment elsewhere. This is not the case.

4. One employee was downgraded in violation of CSC regulations. He was not given a proper RIF Notice and was not informed of his appeal rights.

5. Employees were reassigned to positions which do not support their current grades. The reassignments were also reductions-in-rank. As neither RIF or Adverse Action procedures were followed, these reassignments were improper. (For specific details and required corrective actions, See Appendix C.)

B. The manner in which the reorganization was implemented creates the appearance that the reorganization was designed to selectively remove employees from their positions, with significant adverse impact on employee morale. (Of 68 employees interviewed on-site, 43 claimed the major reason for the reorganization was to get rid of certain employees.)

1. Had ITC taken all personnel actions associated with the reorganization at the same time, using RIF procedures when required, most of the subsequent problems would have been avoided. Instead, the agency continued to take actions which could not help but increase employee uncertainty and apprehension, and decrease employee morale.

2. Numerous ITC employees were designated as "Acting" in their positions of record. Examples are: "Acting" Director of Personnel; "Acting" General Counsel; 5 "Acting" Division Chiefs, Office of Industries.

3. Another group of 15 employees from the Office of the General Counsel were "temporarily assigned" to the Office of Operations for up to 6 months (see January 4, 1977 Memo signed by Director, Personnel Division).

4. Another large group of employees were designated as "overhires." Employees perceived this to mean that they were surplus employees, subject to another RIF at some future date. Approximately 60 employees have been designated as "overhires" at some time since the January, 1977 reorganization. At the time of our review, 26 employees continued to be carried in this status (see Section III-C for a more detailed discussion of "overhires").

5. Two of these employees have been told that they are surplus to ITC and that they should look elsewhere for employment or retire. Yet, the agency is currently recruiting for vacancies in the same occupation and grade (see Case 3, Appendix C).

6. ITC advertised the positions of some



employees who felt that they had legitimate rights to the advertised positions. In some cases, for example, the 5 Division Chiefs in the Office of Industries (case 1, Appendix C) and 2 Branch Chiefs, Office of Industries (case 5, Appendix C) the employees had to apply for positions which they already incumbered.

7. On August 19, 1976 and again on December 30, 1976 the Commission failed to pass resolutions which would have provided that the reorganization would be carried out in accordance with CSC regulations. Many ITC employees were aware of these Commission actions, and combined with the factors described above, these votes further increased employee fears and suspicions.

8. Throughout the period, employee dissatisfaction was unnecessarily increased because the agency did not take sufficient steps to keep all employees informed of their rights. Of 68 employees interviewed, 45 said that they were uncertain about their rights or what their status would be in the near future.

9. The agency's manner of implementing the reorganization caused morale to sink to an extremely low level. This can be seen by the following:

(a) A total of 68 employee-requested interviews were conducted. This included almost every major component of ITC. The employees interviewed during 1½ weeks on-site represent almost 20% of all agency employees. In addition, several other employees requested interviews, but due to time constraints, could not be scheduled. With 2 or 3 exceptions, every employee interviewed had some complaint about the reorganization's implementation.

(b) Of these 68 employees, 49 volunteered the opinion that there was poor morale throughout the agency because of the reorganization.

#### 10. Corrective Action Required:

(1) Correct specific cases listed in Appendix C.

(2) Discontinue use of "Acting" designation of all employees not actually detailed to a position other than their position of record.

(3) Discontinue use of "Overhire" designation for employees unless they have been reached for release from their competitive level through proper RIF procedures.

(4) Refrain from advertising positions which are already incumbered.

#### III. ASPECTS OF THE REORGANIZATION STILL PENDING

(A) General Counsel Staff and Investigative Staff

1. No decision has yet been made by ITC on how to organize the Office of the General Counsel and the Investigative Staff.

Morale of the employees in these 2 offices was extremely low. (23 of 23 employees interviewed complained of low morale). These employees stated that this condition is likely to continue as long as the present uncertainty continues.

#### 2. Corrective Action Recommended:

The agency should make a speedy decision on the organization desired for the Office of the General Counsel and the Investigative Staff, and implement this decision, placing these employees in their permanent positions. (The provisions of FPM Chapters 351 and 752 or other requisite personnel requirements must be followed if and when a change is implemented).

#### (B) Attorney Positions:

1. We understand there is a current proposal at ITC to permanently reassign GS-905 attorneys to GS-1810 investigator positions. The duties of the new positions are still unestablished and no PD's have been written. However, based on a review of the types of investigations (337) presently being conducted by these attorneys, it appears that the positions are still appropriately classified as GS-905 attorneys.

2. If, at some future time, these duties become classifiable in the GS-1810 series, CSC Rule 6.5 prohibits the performance of these duties by Schedule A, excepted service, employees, without prior CSC approval.

#### (C) "Overhires":

As of April 6, 1977 the Agency had 26 employees on "overhire" status. During the on-site review we had 19 complaints from employees concerning "overhire" status. Upon interview with one of the Commissioners, it was explained that employees considered to be "overhires" would be subject to job abolishment if they had not been placed in continuing positions prior to June 1977. These employees have been given the impression that they are surplus to the needs of the agency. This is the major concern to employees identified as "overhire" as they do not know how long they will have a job and exactly what will happen to them. It is interesting to note that the Agency is currently recruiting for some of the positions which have been determined to be surplus, such as investigators at the GS-13 level.

The agency should be aware that positions are surplus to the needs of the agency, not employees. If and when it is determined that certain positions are no longer needed to carry out the functions of the organization, these positions can be abolished; however, incumbents of abolished positions may, or may not, be subject to RIF. In fact, comparison of the list of "overhires" and the current retention register indicates that the majority of these 26 employees are probably not within reach for release from their competitive levels at this time.

#### Corrective Action Required:

Explain fully to all 26 employees that they are not considered surplus until such time as they are issued a RIF notice. Also, fully explain to the 26 employees that if at some later date it is necessary to have a RIF, their rights in accordance with the appropriate CSC regulations will be strictly observed, as will those of all employees of the ITC and that they will not necessarily be the ones separated or otherwise adversely affected.

#### IV. PROCEDURAL PROBLEMS WITH THE REORGANIZATION'S IMPLEMENTATION

##### (A) RIF Documentation:

1. The Agency retention register was dated August 4, 1976. This retention register was not completely updated before it was used for the Reduction in-Force of January 2, 1977. Not all new hires had been added to the register, nor had all promotions been documented. Up-to-date registers are required by the regulations:

(a) Section 351.404 CFR requires the agency to establish a separate retention register from the current retention records of employees.

(b) Section 351.506 CFR states that the retention standing of each employee released from his competitive level is determined as of the date he is so released.

#### (c) Corrective Action Required:

No specific action is required since no specific employee rights were violated. However, in any future RIF action the agency must take care to use an up-to-date retention register.

2. There were 2 employees at the ITC Headquarters adversely affected by the Reduction in-Force who were in the excepted service. These 2 employees did not appear on the agency retention register, even though excepted employees are covered by RIF procedures.

(a) Excepted employees are covered by RIF procedures. (See Civil Service Regulation 351.202, 351.403(b), and 351.502.)

#### (b) Corrective Action Required:

Corrective action for the employee still on the rolls is specified in Appendix C, case No. 4.

3. The agency did not document the retention register to show which employees

were adversely affected and how these employees were affected.

(a) This documentation is required by Civil Service Regulation 351.505 and by FPM Chapter 351, 4-6(a).

#### (b) Corrective Action Required:

In any future RIF, the register must be documented to show what happened to affected employees.

#### (B) Staffing Concerns

##### 1. Repromotion Consideration:

No procedure currently exists which ensures that the two employees of ITC demoted through RIF (PMS, GS-201-12 and Administrative Services Officer, GS-341-11) are given priority consideration for repromotion. Agencies are required to give employees priority consideration for repromotion to the grade from which demoted through no fault of their own, such as through RIF procedures. This is required by FPM Chapter 335, Subchapter 2, Requirement 1.

#### Corrective Action Required:

Establish a procedure to ensure that and are given noncompetitive reconsideration for repromotion to any positions for which they are qualified at their former or any intervening grade. This must be done prior to efforts to fill vacancies by any other means, in accordance with FPM Chapter 335, Subchapter 2, requirement 1 and section 4-3, c.

##### 2. Reemployment Priority List:

The agency is not utilizing a reemployment priority list for each commuting area in which group I or II employees have been separated by reduction-in-force. This is required by Civil Service Regulation 351.1001.

To date this list should include the 3 employees separated by RIF in the New York Office.

#### Corrective Action Required:

(a) At the time of our review, no vacancies had been filled in New York for which any of these 3 employees would qualify.

However, ITC is currently recruiting for an International Trade Specialist, GS-1140-11, in New York, (vacancy announcement #77-17). One of the 3 employees, may be qualified for this vacancy. The agency must review his qualifications to determine if he should be considered for the vacancy under the provisions of Civil Service Regulation 351.1001 and FPM 351, Subchapter 10. Report to CSC the results of this review.

(b) Establish and maintain a reemployment priority list in accordance with Civil Service Regulation 351.1001 and FPM 351, Subchapter 10.

#### V. GENERAL CORRECTIVE ACTION

The various corrective actions listed in this report serve to correct the specific regulatory and program deficiencies identified during the on-site review of ITC. We are confident that the specific corrective actions already listed rectify those defective personnel actions already taken by the agency.

Because of the nature of the problems enumerated in this report and their adverse impact on employee morale, we are concerned about the need to fully protect employee rights and equities in the future.

Therefore, we recommend that ITC advise the CSC before taking any reduction-in-force actions, adverse actions, or any reassignments or other personnel actions which could reasonably be construed as being disadvantageous to any ITC employee so that a prior review may be conducted if it is deemed warranted.

#### SUPPORT FOR McCLOSKEY AMENDMENTS TO PREVENT NEEDLESS KILLING OF PORPOISES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 5 minutes.

Mr. KOCH. Mr. Speaker, earlier this

spring the American tuna fishing fleet returned to port in a dramatic protest over the Commerce Department's regulations issued under the Marine Mammal Protection Act (MMPA) limiting to 59,050 for 1977 the number of porpoises that may be killed by the fleet incidental to its tuna fishing operations. Most American tuna boats, which are the most modern and productive in the world, employ a technique called "purse seine" fishing in which yellowfin tuna are caught by surrounding schools of porpoises with huge nets. For unknown reasons, this particular species of tuna, which constitutes 65 to 75 percent of the tuna caught by U.S. fishermen in a given year, swims below schools of porpoises. Because the porpoises are easily spotted on the surface, they act as guides for the fishermen, but tragically, many porpoises become entangled in the nets along with the tuna and drown.

Today the House is considering legislation proposed by Chairman JOHN M. MURPHY of the House Merchant Marine and Fisheries Committee to amend the MMPA to raise the allowable limit of porpoises killed to 78,900 and of the depleted eastern spinner porpoises to 6,500. The purpose of this legislation is to enable the American fleet and thousands of workers in tuna-related industries such as canning to return to work. The fleet has recently put back to sea on assurances from Chairman Murphy that he has the votes to get his legislation accepted.

While I share the Chairman's motives, I do not feel the excessive limits he has proposed are justified, and I believe they will be detrimental to the porpoise populations as well as to the intent of the MMPA. The dramatic return to port by the tuna boats was ostensibly forced by the Federal regulation that in addition to the 59,050 limit on porpoises killed no porpoises of the depleted eastern spinner species could be killed. The fishermen claimed that this requirement was impossible to meet; however, in March, Secretary of Commerce Juanita Kreps had assured the industry that accidental killings of eastern spinners that were mixed in with schools of other major species of porpoise involved in purse seine fishing would not be prosecuted. Therefore, the lay-offs in tuna-related industries were not caused by the Government regulations, as charged by the fishermen and supporters of the Murphy amendments, but by the industry's dramatic ploy to bring attention to their complaints.

Today Representative McCloskey is offering several floor amendments to the Murphy bill, all of which I support. The first and most important would lower the total number of porpoises which could be killed this year under the Murphy bill to 69,000 and would require that by 1980 the limit be half that number. In contrast, the limit proposed by Representative MURPHY for the remainder of this year is not only above what the industry asked for, but the same limit would apply each year through the first quarter of 1979. A year-by-year reduction in the limit is needed to make all the boats in the American fleet adopt the equipment and techniques needed to

reduce the porpoise kill to a figure approaching zero. It has already been demonstrated by a research tuna boat using advanced techniques that thousands of tons of yellowfin tuna can be surrounded and caught by means of the purse seine method with an insignificant number of porpoise kills; and furthermore, statistics show that a handful of irresponsible captains cause a large majority of the present-day porpoise drownings.

I do welcome the provisions in the chairman's bill that require every tuna boat over 400 tons to have a Federal observer on board to insure that the regulations are carried out and to keep statistics on the number of porpoises killed, that make the tuna industry pay \$2 million by 1978 to fund a research tuna fishing boat which will accompany the fleet and search for ways to reduce the porpoise mortality rate further, and that place a \$32 fine for every porpoise killed by a boat in excess of the fleet average kill rate. Nevertheless, these do not go far enough. I support the McCloskey proposal which calls for a \$32 fine for every porpoise killed, not just those in excess of the fleet average, and a \$100 fine for every eastern spinner killed. Strong penalties such as these are needed to encourage every captain to kill as few porpoises as possible and bring about an eventual end to the porpoise slaughter.

Finally, Representative McCloskey is proposing amendments that would make the industry pay for the Federal observer program and would require that boats transferred to a foreign flag nevertheless retain a U.S. observer on board to insure compliance with U.S. regulations. Without such observers, enforcement would be impossible. It has been shown that the tremendous efficiency of the American fleet would enable it to meet the requirements being proposed today by Representative McCloskey, including industry funding of the observers, while still enjoying a significant economic advantage over foreign tuna fishermen.

It is my belief that these measures will enable the American tuna industry to remain healthy and profitable and at the same time reduce the needless slaughter of porpoises. The means to reduce porpoise deaths to near zero exist, and it is the job of Congress to see that they are employed so that the highly intelligent and friendly porpoises in our oceans will survive and prosper.

#### HELSINKI'S UNFULFILLED PROMISE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 5 minutes.

Mr. HARRIS. Mr. Speaker, I wish I were able to stand and report to you that my friends, Eugene and Sophia Reinberg had been granted exit visas and could now leave the Soviet Union and join their son and only child in Israel. Unfortunately, I am unable to take this action because the Reinberg's situation is the same as in my last report to you, which I delivered the first day of the first session of the 95th Congress.

Briefly, Yevgenny and Sophia Rein-

berg, 55 years of age, applied to leave the Soviet Union over 2 years ago, hoping to join Yuri who had received permission to emigrate. Yuri's only sister died a few years ago at the age of 20 of Hodgkins disease.

The Reinberg's were refused permission to leave and Yevgenny, a Ph. D. in physics, was demoted from his position as a specialist in metallurgy at the institute for shipbuilding to foreman for building repairs. Many believe that he is being used as an example to others at the institute to discourage them from applying to leave the U.S.S.R.

All of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries. Because the Soviets are not living up to that promise, Members of Congress are conducting a vigil on behalf of the many separated families, such as the Reinberg's, whom I have described today. Eugene and Sophia have not given up hope and I have assured them that those of us who believe in freedom will continue to speak out on their behalf.

#### TRIBUTE TO FRANK C. OSMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, Frank C. Osmers was a man whose first commitment was to his country. He honored that commitment for 40 years and more, in his native State of New Jersey, in the military and in the House of Representatives. Always, he was prepared to go where he believed he was most needed.

In World War II, Frank Osmers gave up his seat in the House to enlist in the Army as a private. He served with distinction in the Pacific Theater and was discharged with the rank of major.

A few years after his return to civilian life, Mr. Osmers once again believed that his services were needed in the Congress and he regained his seat, serving with honesty and integrity until 1965. Even after leaving the House his record of public service continued in his home State.

Mr. Speaker, the death of Frank Osmers has taken from us a dedicated and principled public servant. He leaves as his legacy to all of us his example of a good and decent man who placed the interests of his country and his fellow citizens above his own. It is an example of which his family and we, his friends and colleagues, are justly proud.

#### PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. GLICKMAN) is recognized for 5 minutes.

Mr. GLICKMAN. Mr. Speaker, several weeks ago, May 18, 1977, we debated H.R. 10, the Federal Employees Political Activities Act of 1977. Toward the end of the debate that evening Mr. ASHBROOK offered an amendment that, as I understood it, tightened the restrictions of



the act to prohibit any employee organization from attempting to intimidate Federal employees to vote, or not vote, for any candidate or measure in any election and from directly or indirectly intimidating Federal employees to give or withhold political contributions. The amendment further provided that no portion of any dues, fees, or assessments levied on members of an employee organization be used by such organizations for political purposes.

Although I generally favored the thrust of this amendment and originally voted "aye" on the motion, upon further reflection I felt that the last portion of this amendment appeared inconsistent with existing law. I was disturbed over the lack of debate afforded—perhaps resulting from the lateness of the hour—this complex amendment, and in all honesty did not really understand the entire scope and purpose of the Ashbrook proposal. I doubt if many, especially my freshman colleagues, did. I therefore changed my vote, an action toward which I am disinclined, from "aye" to "present."

Mr. Speaker, I would also like to state for the record that I was absent during two important rollcall votes on last Thursday May 26, due to long-standing obligations in my district. Had I been present, I would have voted "aye" on rollcall No. 290 and "aye" on rollcall No. 291.

#### CONGRESSMAN BROOKS—A LEADER IN THE EFFORT TO ACHIEVE SYSTEMS STANDARDIZATION IN NATO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PHILLIP BURTON) is recognized for 5 minutes.

Mr. PHILLIP BURTON. Mr. Speaker, last week at the North Atlantic Assembly meetings in Brussels, our distinguished colleague from Texas, Mr. Brooks, strongly encouraged our allies in NATO to vigorously pursue the much discussed and infrequently achieved goals of weapons and systems standardization and interoperability.

BROOKS, the Vice President of the Assembly, made his remarks to the Economic Committee, of which he is a member and former chairman. His remarks were well received by the delegates, particularly his intent to "support an active standardization campaign in the U.S. Congress," an effort in which he has the support of the ranking minority member of his Government Operations Committee, Congress FRANK HORTON.

In view of the distinguished gentleman from Texas' long record with standardization in computer development and use by the Federal Government, his interest in pursuing such objectives relating to NATO are most promising. He struck a particularly sympathetic chord with the delegates by emphasizing the economic, as well as the military benefits to be derived from realization of standardized systems and interoperable components.

So that our colleagues here in the Congress can have the benefit of his remarks, I include them at this point in the RECORD:

#### REMARKS OF CONGRESSMAN JACK BROOKS

The efficient allocation of resources within our respective countries, and within the Alliance as a whole, is a natural and important concern—especially for those of us with an interest in the work of the Assembly's Economic Committee.

In my legislative career, I have taken a special interest in efforts to make the U.S. Government work better. Among my efforts, I have promoted the development of meaningful and uniform standards for computer software and hardware. Through legislation and hearings, I have attempted to encourage more effective cooperation in this area between government agencies and industries producing computer equipment. This work has convinced me of the potential gains for my country from more efficient government procurement, operation, and maintenance of automatic data processing systems and other commonly utilized systems.

Similarly, efficiency in our Alliance—through cooperation in armaments—has long been accepted as a desirable goal. But this goal has proved particularly elusive, and the progressive standardization of NATO's forces and armaments has become an absurdity in terms of resources available for NATO defense and in view of the continued improvements in Soviet and Warsaw Pact forces.

It is my belief that the Alliance now has a chance—perhaps the first real such chance since the opportunity was missed in the early years of the Alliance—to do something about this problem; and, it is my hope that you will join with me, particularly in the work of your own parliaments, in supporting the major initiative that will be required to develop an effective system of economic cooperation in armaments.

In the past, the issue of standardization has been dealt with primarily as a military problem. The Military Committee of this Assembly, for example, has carried the major burden of our standardization initiatives. While the goal of standardization is essentially military—to support a more effective common defense—both the causes of and the potential cures for NATO's standardization are highly political and economic in nature. Unless we begin to look at the problem as a political and economic, as well as a military task, we will make little more progress than we have in the past 25 years.

In my remarks today, I would like to suggest some directions in which our countries might move to begin to remedy the problem.

First, let me say that the problem is with us in spite of the very dedicated efforts of people in NATO who have worked at various civilian and uniformed levels to deal with it. Their efforts have produced some progress in setting standards and, perhaps most importantly, illustrating that significant progress will require top level policy attention in all of the Alliance countries.

If we look at the history of the standardization problem, we find that although standardization was an early Allied objective, our dependence on nuclear superiority placed a very low priority on effective conventional defense. As a result, we all went our own ways in defense research and production. For the major producers of weapons in the Alliance, defense production was seen as a source of employment, of potential foreign exchange earnings, and as a symbol of national prestige and power. There were, in sum, many more pressures for us to continue to compete with one another rather than to cooperate.

I feel that the reasons for economic cooperation in armaments are now much more compelling than the more narrowly construed impetus for wasteful competition. We no longer can count on the Soviet Union being deterred from military or political adventures in Europe by U.S. strategic nuclear capability alone. We now must give the mean-

ing to our policy of flexible response. One of the most glaring deficiencies of our conventional defense effort is the fact that much of the equipment of our national forces is not interoperable with that of other allied forces. Our respective forces are supported by overlapping and duplicative logistics systems. Eliminating unnecessary duplication in support and logistics is clearly a priority objective for the Alliance. But the impact of such efforts will be limited unless there is also progress toward adoption of common weapons systems—since the weapons systems in part establish the requirements for the support systems. This is why standardization of our forces is a keystone to the maintenance of a credible Western deterrent. If we continue to develop, produce, procure, and support our forces as we have in the past, we face the serious possibility of losing that deterrent edge, or, alternatively, paying dearly for defenses sufficient to defend against a potential Warsaw Pact attack.

A number of factors encourage me to believe that we do now have a good chance of achieving greater standardization of NATO forces. The military rationale is clear and compelling. The United States military disengagement from Southeast Asia permits our defense planners to focus more clearly on European contingencies. The U.S. Congress has declared standardization to be the policy of the United States, even though our record of actions on individual weapons systems does not yet fully reflect that commitment.

And, in Europe, the work of the Eurogroup, and now the European Program Group, has made some tentative progress toward rationalization of the European arms effort—something which I think is a prerequisite to fuller development of a "two-way street" in arms sales between the United States and Europe. Another prerequisite, of course, is a greater willingness on the part of the United States to give equitable consideration to European-made weapons systems.

Given the urgency as well as the opportunity for cooperation, what else is required? In my opinion, we must, as a matter of top priority, develop our knowledge of the economic factors involved, on both domestic and Alliance levels. We are still operating with insufficient data to support positive far-sighted decisions and to develop effective forms of cooperation. Secondly, we must provide a much stronger political impetus behind standardization. Without strong and effective policy leadership at the highest levels in our legislatures, the old ways of doing business will persist and the technical obstacles to cooperation will remain major barriers.

The price that the Alliance pays for the current lack of armaments cooperation has been acknowledged in previous Assembly documents. It has been widely accepted that we waste billions of dollars annually. But we're not talking about "saving" money through standardization. To hold out the promise of funds being diverted from defense to domestic programs would not be accurate. We're talking about more efficient use of the money that we already spend developing and sustaining our conventional forces.

In addition, it would be unrealistic to suggest that because we are wasting many billions of dollars annually that we can eliminate all of that waste. In an ideal world, maybe. But in the world that we have to work with, we will do well to eliminate a portion of that waste, particularly in the absence of a comprehensive system of armaments cooperation. We must recognize that in the near future, individual projects, initiated in the name of standardization, may actually involve short term costs that appear excessive. We will have to guard against inefficient approaches to standardization and accept apparent inefficiencies only to the point that they might be required by carefully considered military needs.

## CURRENT TOOLS

The tools currently being used to cope with NATO's destandardization are essentially the following: (1) direct purchase of an ally's weapons system; (2) competitive research and development with licensed co-production; (3) cooperative research and development and joint production; and (4) the effort to make dissimilar systems interoperable.

The principal advantage of direct purchase is that it allows the purchasing nation to save the R & D expenses of developing a similar system, as well as the expense of establishing a separate production base. Direct purchase can extend production runs and reduce unit costs. Standardization is achieved between the buyer and seller. The problem with direct purchase is that it can result in balance of payments and domestic impacts which are not automatically offset or accounted for at the project level. Contracts for domestic producers may be lost, and jobs as well.

And so, while direct purchase may be the most economic approach to arms cooperation currently available, its use is limited by the fact that we do not have a more comprehensive system of cooperation to balance off—in military or nonmilitary transactions—some of the international financial and domestic implications of direct purchase decisions.

Competitive research and development with licensed co-production is regarded by many experts—and by the U.S. Department of Defense—as the most viable presently available approach to arms cooperation in NATO. The main advantage of this approach is that it tends to mitigate some of the political and economic problems that are engendered by direct purchase. Co-production means that jobs can be created in all participating countries. Many analysts believe that an important advantage of co-production is the fact that the existence of more than one production base is a better guarantee of continued supplies in time of war. This approach also leads to standardization among the participating states—as long as countries do not redesign features of the system in the process of co-production. We should not be misled to expect great budgetary savings when we use the co-production approach. While co-production of one weapons system is more economic than separate production of two or more systems, it is not generally as efficient as direct purchase from a single weapons supplier.

Cooperative research, development, and production involves multinational cooperation from the earliest stages of weapons conceptualization through to production and procurement. The experience with this approach so far, however, has not been that good.

In some cases, such as the U.S.-German attempt to collaborate on a main battle tank for the 1970s, cooperation broke down altogether. In other cases, such as the European Multi-role combat aircraft (MRCAs) Tornado, this approach has involved increased costs and an extremely long time from initiation to delivery. If we develop a more cooperative environment in our armament relations, we might have more success with this approach in the future.

I mention interoperability as a fourth "tool"—and, in my judgment, a very important tool—because in the absence of standardization we must attempt at least to make system work together as best as possible. Doing so, however, after systems are in manufacture or in place, will not necessarily save us money. In fact, making systems interoperable in this manner can be very costly. This illustrates the importance of achieving interoperability in pre-production systems design so that we do not have to struggle continually to make existing dissimilar systems interoperable. While I am not an engineer, it seems to me that it would be both desirable and attainable to utilize

to the greatest extent possible interoperable parts in designing and developing common weapons systems.

I believe that it is sufficiently clear that we need a new use of cooperation that will enable us to make more effective use of these cooperative tools. We must aim high—beyond the consensus that may realistically exist now among our countries. We must begin by convincing the leaders of our respective governments that they must sit down and agree to begin work on building a political structure to create a systematic approach to armaments cooperation. I sincerely hope that the members of the European Program Group, in their deliberations, will come to the same conclusion.

In order for us to move in this direction, a number of factors must be considered, a number of actions taken. I would like to stress a few of these areas.

First, the United States clearly must give greater consideration to European weapons systems in making its armament procurement decisions. When a European manufacturer has a system that represents advanced technology and would improve NATO defenses, the United States should consider procuring or co-producing that system.

Second, the United States and the European countries should work toward more fully sharing technological information. I know that until we all have faith in the mutual advantages of a cooperative approach, there will be great reluctance to share some technological information. But we must still try to do better.

Third, the European members of the Alliance must continue to move toward greater cooperation and mutual efforts in developing a rational approach to the European Arms production effort. Most authorities believe that such rationalization is a prerequisite to a successful comprehensive approach to standardization. Europe cannot expect, and I do not believe that European governments and industries do expect, their allies to buy inferior equipment at exorbitant prices. And it seems unquestionable that Europe's future competitive ability depends on greater specialization and concentration of currently fragmented research and production efforts.

The cooperative European efforts, to be sure, must take place in a framework of cooperation with the United States and Canada. If they should take on a separatist, defensive appearance, the entire effort will fail. While the European members of the Alliance will reach their own conclusions about how the work of the European Program Group should be coordinated with the United States and Canada, I do not think that we can afford a leisurely approach to this problem.

With regard to how this European-American connection is made, I know that we have discovered over the years that how we go about sustaining the common defense is almost as difficult to agree among us as actually doing it. We should not in this case let procedural difficulties—disagreements over the most appropriate organizational framework for cooperation—stand in the way of progress. In particular, if France will seriously pursue a cooperative approach, the nations which do participate in NATO's integrated command structure should accommodate within reason the particular French organizational preferences. The cooperation of France is vital to the rationalization of the European armaments efforts. We take this factor into account. We only hope that France perceives cooperation with her European allies and with the United States and Canada as vital to French interests.

Fourth, I believe that we all will be assisting the standardization effort if we do everything possible to promote strong and steady economic recovery in our respective countries. According to one recent Congressional report: "If the Western countries make a

sufficiently strong recovery from the current recession, chances will improve that NATO members will accept short-term costs in hopes of gaining long-term benefits. If the recovery is not sufficiently strong, industrial production does not revive vigorously, and unemployment remains at high levels, standardization initiatives may be severely limited." This is an area in which we, in acting on our national budgets and in scrutinizing our governments' economic policies, can play a distinct role.

Finally, and perhaps most importantly, we must realize that all of our hopes and plans for progress toward standardization will be meaningless if they do not have the sympathy and support of our people. It will not be sufficient for Americans and Europeans to recognize standardization as a "good thing." They must also be convinced that they will not individually or communally be injured by standardization programs.

For my part, I intend to support an active standardization campaign in the United States Congress. In this work, I will urge that expectations be realistic, and that we not let short-term problems and difficulties cloud the longer-term objectives. In this regard, I want to point out that the Ranking Minority Member of the Government Operations Committee of the House of Representatives, Congressman Frank Horton, fully shares my views of the need for greater standardization of NATO Weapons Systems.

I will make a determined effort to convey to my government the feeling that NATO Standardization is not a panacea; simply a necessity. Our efforts could make the necessity a reality.

Thank you.

#### SMALL REFINERS STRIKE GUSHER IN FEA OIL RULE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of Oklahoma. Mr. Speaker, on May 29, 1977, the Washington Post carried a story pointing out another failing of the Federal Energy Administration's bureaucracy.

The article in the Post concerned a ruling promulgated by the FEA dealing with "small refiners bias," and its relation to the entitlements program administered by the FEA.

I do not think I need to point out to my colleagues that the source of the problem described in the Post article is not the alleged greed of businessmen in the private sector, but rather the imposition of governmental overregulation in an area of extreme complexity. FEA's attempts to allocate and regulate our Nation's energy industry, has resulted in inequality, confusion, disincentives to further production of energy supplies, and in this case, apparent abuse.

The "gods" on FEA's Mount Olympus have tried to produce uniform regulations on a diverse industry, only to have these attempts backfire in their faces. Along with many of my colleagues, I have fought the institutionalization of the FEA as a fixture in the Federal regulatory landscape. The story in the Post convinces me further that our efforts must go forth to decrease governmental intrusion of the FEA. Unequal advantage obtained by businesses is usually the stepchild of well-meaning



attempts to impose equality by bureaucratic fiat in an area best left to the workings of a free market.

At this time, I request permission to insert the full text of the Post story in the Record as an example of what government regulation can lead to:

**"SMALL" REFINERS STRIKE GUSHER IN FEA OIL RULE**

(By J. P. Smith)

This is the story of Paragraph 211.61(e) in regulations of the Federal Energy Administration. Five hundred words long, the paragraph is adding \$55 million a month to the cash flow of the nation's "small" oil refiners.

The "small" refiners benefitted by the paragraph include such up-and-coming concerns as Pennzoil Corp., Dow Chemical Co., the Union Pacific Corp. and a refining company partly held by the heirs of the late H. L. Hunt. (Dow and Pennzoil are on the "Fortune 500" list of top U.S. corporations. The tale of Paragraph 211.67(e), known in the oil business as the "small refiner bias," illustrates how private interests, astute legal advice and the political process can work in Washington to benefit those who know how to milk the system.

The paragraph was originally put into the regulations in 1974, in response to a general directive from Congress that FEA protect the ability of small refiners to compete with the major oil companies.

In 1975 this "bias" in favor of "small" refiners was significantly enlarged, largely through the assiduous efforts of an influential Washington lawyer and lobbyist, now Secretary of Health, Education and Welfare, Joseph A. Califano Jr.

It has since been expanded even further by FEA, in part to offset what the agency regarded as some unfair effects of the changes Califano won.

Califano declined to comment directly on either the fee he was paid or his exact role in amending legislation to benefit a group of small refiners. Well-informed industry sources reported the fee to have been in excess of \$1 million. The aggregate value to the refiners of the amendment during its six-month longevity was \$237 million.

In the personal financial statement he filed before joining the Carter Cabinet, Califano reported an income of \$505,490 from his former law firm of Williams, Connolly & Califano in 1976.

The small refiner bias is part of the complicated entitlements program FEA administers under the Emergency Petroleum Allocation Act.

When the Arab and other oil-exporting nations quadrupled the price of crude oil in the winter of 1973-74, the federal government did not let U.S. domestic oil prices quadruple.

Instead, it put U.S. oil under price controls.

Those controls created two kinds of oil—"old" and new. Old oil—essentially oil from wells that had been drilled before 1973—was limited to a "low" price which is now about \$5.25 a barrel. New oil was allowed to rise toward the world price; it now sells for a little over \$11 a barrel.

The reason for this system was partly to keep producers of old, or flowing, oil from reaping windfall profits as world oil prices rose.

The difficulty with the system was that it gave some refiners a huge competitive advantage over others. Those whose sources of supply were mainly "old" oil had an advantage over those that had to pay new oil or world prices for their crude.

The entitlements program was designed to offset this advantage. It is a giant price equalization scheme. The government maintains a kind of kitty; refiners who have more than the average amount of old oil coming

into their refineries pay money into the kitty, and this money is used to compensate those who have above-average amounts of higher-cost new or imported oil.

In theory, everyone's costs per barrel of crude thus end up the same.

The original small refiner bias that FEA created in this system was simple. A small refiner that owed money to the kitty because it had more than the average percentage of old oil did not have to pay as large an equalizing fee per barrel as a large refiner in the same circumstances. Similarly, small refiners owed money from the entitlements kitty got more per barrel than large refiners in the same position.

But some small refiners wanted even more of an advantage than this. One of them, the Pasco Oil Co., then based in Englewood, Colo., went to Califano in 1975.

Pasco was a company with an above-average amount of low-cost old oil, but it did not want to make the payments to the entitlements kitty that this required. Its objective was an amendment to the entitlements program, under which small refiners that owed money to the pot would be forgiven those obligations entirely. Those who were owed money would continue to receive it as before.

In effect this amounted to an increase in the bias, but only for some small refiners, not all.

Califano initially sought a ruling from FEA exempting Pasco from making entitlements payments. Later he spearheaded a successful lobbying effort on behalf of as many as 30 small refiners to get the exemption enacted into the 1975 Energy Policy and Conservation Act.

His amendment was introduced in the Senate by Frank Church (D-Idaho) and in the House by Rep. Bob Eckhardt (D-Tex.), both legislators with liberal credentials.

Their amendments, as finally put in the law, exempted small refiners from paying entitlements fees on the first 50,000 barrels of oil a day they processed, and allowed them a reduction in payments on the next 50,000 barrels.

There were then 112 refiners in the country that met the congressional definition of "small"—refiners with a capacity of less than 175,000 barrels of crude oil per day (That is the equivalent of more than 7 million gallons of gasoline with a retail value of about \$5 million.)

Half those small refiners were in the same position as Pasco, in that they owed money to the entitlements kitty.

The Califano amendment saved these 56 refiners up to \$39 million a month during the six months it remained in effect.

The problem was that it disadvantaged those other small refiners that were owed money under the equalization program; the Pasco-type refiners ended up with lower costs than their other "small" competitors.

FEA wanted to correct the unevenness in the program. At the same time it was under intense political pressure from the Pasco-type refiners not to increase their costs too much, if at all.

In May of last year the agency found a way to satisfy both, conflicting pressures, at least in part. It went back to its original type of small refiner bias, giving the same advantage per barrel to small refiners which owed and were owed payments under the program. But it sweetened this advantage per barrel for small refiners versus large ones.

It is this sweetened bias provision that is now adding \$55 million a month to small refiners' net income—most of which goes to profits.

That \$55 million a month is not coming directly from the public, but from the larger refiners. The entitlements program is a zero-sum game, in which the amount paid out equals the amount paid in. The more the small refiners take out—or the less they pay in—the greater the cost to their larger rivals.

But FEA experts say some of these higher costs are passed on by the larger companies to the public in higher prices for refined products.

John Hill, former FEA deputy administrator, said, "Joe was the guy who put it together . . . it was an incredible lobby coming from every side."

Califano was assisted in his lobbying for the 1975 exemption by another attorney, Jerry L. Shulman. They put together a letter-writing campaign asking senators and House members to write letters in the small refiners behalf to Ford administration energy policy-makers.

Pasco also received a helping hand from the Justice Department. Donald I. Baker, who headed the department's Antitrust Division, wrote a memorandum to FEA asserting that, without changes, the entitlements program "would force Pasco to buy entitlements which . . . could significantly affect its marketing area and the industry generally."

Pasco was the only refiner mentioned in the letter.

"We spoke to Baker," Shulman acknowledged in an interview. "We brought the problem to their attention." But he said "we had nothing to do with drafting their statement; that was entirely theirs."

Hill says "Califano successfully painted it as the big refiners against the little refiners." Another onlooker, who was a Senate aide during the 1975 drafting sessions, said Califano's success was based on "Congress' Robin Hood mentality that the big oil companies are inherently evil, and the small firms deserve anything they want."

Yet the small firms, this former aide observes, "have a long history of rolling over the federal government, going back to the 1950s."

The problem with the program now is that FEA experts think it overcompensates the small refiners. They also say the bias is so great that it has led to abuses—and they are seeking ways, at the staff level at least, to tighten the system.

These abuses include a proliferation of small so-called "tea-pot refineries" which J. Lisle Reed, director of FEA's office of oil and gas, says are "coming out of the woodwork . . . just to get some of this entitlements action" under which a small refiner can sell at a greater profit than a larger rival company.

There is also a suspicion within FEA that small refiners are spinning off individual plants under "dummied" ownership, so they can increase their cash flow through the entitlements system, under which the smaller the refiner, the larger the bias. FEA is now investigating at least one such company, and other investigations may follow.

FEA has also come upon:

A series of "processing agreements" under which small refiners sometimes claim entitlements benefits for oil processed in other refineries. For example, C & H Refinery Co., the nation's smallest refiner, has a 200-barrel-a-day plant in Lusk, Wyo. Last December the company claimed over \$500,000 in entitlement benefits for 9,700 barrels a day processed in a Hawaiian refinery over 3,000 miles away. FEA has now promulgated a ruling to stop such processing agreements which takes effect at the end of this month.

Growing evidence that small refiners' profits have been so high that some refiners have been able to "pay out" the cost of a new refinery in less than a year, using just the increased cash flow from the small refiner bias. Generally, according to James Cunningham, vice president and energy financing expert of First National Bank of Chicago, it takes about seven years for a refinery to pay out.

Most damaging of all is a recent FEA report indicating that the small refiner bias—on a weighted basis—gives a 10,000 barrel a day operation a 44 cent a barrel margin on gasoline over refiners larger than 175,000 barrels a day. For naphtha, a refined product

used in petrochemical processes, the margin goes up to 87 cents on the barrel.

An internal FEA document says that "the impact of the present bias levels goes far beyond (the original) intent. . . . The small refiner bias in the entitlements program provides incentives that lead to the creation of a group of refiners who exist only by reason of the bias. This result is undesirable for the interests of the consumers the industry or the government."

Califano spoke of his part through Eileen Shanahan, HEW's assistant secretary for public affairs. "As far as he is concerned," she said, "he didn't do anything wrong, he got a lot of money for his clients."

And the next year, she quoted Califano as saying, "the big oil companies beat us."

#### THE SCIENTISTS VERSUS PORNOGRAPHY: AN UNTOLD STORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. McKay) is recognized for 15 minutes.

Mr. McKay. Mr. Speaker, on May 17, 1977, the Honorable CHARLES B. RANGEL of New York introduced into the RECORD an article written by Dr. Amitai Etzioni, professor of sociology at Columbia University. The article stated, in effect, that most adults who view X-rated materials are not affected by them; that there is little support for the notion that pornography breeds criminality; and that as to sex crimes, porn seems to provide a relief rather than a stimulant.

Mr. Speaker, I wish to introduce an article into the RECORD which was written by Dr. Victor B. Cline, a distinguished professor of psychology from the University of Utah, which refutes the findings of Dr. Etzioni. The results of numerous studies by Dr. Cline and others reveals that pornography does in fact breed sex crimes and is a detriment to our society.

The article is entitled "The Scientists vs. Pornography: An Untold Story," which originally appeared in *Intellect* magazine in 1976:

#### THE SCIENTISTS VS. PORNOGRAPHY: AN UNTOLD STORY

(By Victor B. Cline)

The U.S. Commission on Obscenity and Pornography was established under Public Law 90-100 in October, 1967, when Congress determined traffic in obscenity to be "a matter of national concern." Congress assigned the commission four tasks: to analyze pornography control laws and evaluate and recommend definitions of obscenity; to assess traffic, methods of distribution, and volume of pornography; to study the effects of pornography on the public, especially minors, and its relationship to crime and other antisocial behavior; and to recommend such legislation and administrative or other advisable and appropriate actions as the commission might deem necessary to regulate effectively the flow of such traffic without interfering with Constitutional rights. On Sept. 30, 1970, the U.S. Commission on Obscenity and Pornography issued a final report summarizing its findings. [Page references to this report refer to the *Report of the Commission on Obscenity and Pornography* (New York: Bantam Books, 1970).]

The 18-member commission, originally appointed by Pres. Lyndon Johnson, was chaired by William B. Lockhart, a law dean from the University of Minnesota. All commission members (two other attorneys, three clergymen, two psychiatrists, two sociologists, a librarian, a college English teacher, a graduate student-teacher in broadcast journalism,

a book publisher, a magazine and book distributor, a judge, a state's attorney general, and a CBS research director) were assigned to one of four panels dealing with legal issues, sales and distribution, positive approaches, and effects of pornography. Specifically, those who served on the Effects Panel were Otto Larson (chairman), Joe Klapper, Morris Lipton, Marvin Wolfgang, and G. William Jones.

A comprehensive review of the full report of the Pornography Commission plus the many thousands of pages of supporting scientific studies (funded by the commission, but not published until several years after the release of the original report) and outside literature indicates that considerable data suggesting harms associated with pornography exposure were suppressed or covered up by several scientist-members of the Effects Panel and, possibly, their two-man support staff. The evidence strongly suggests that the non-scientist members of the commission and Chairman Lockhart were misled or deceived by withheld negative effects evidence. This undoubtedly influenced the decision of many of the commissioners to recommend repeal of nearly all pornography laws.

The crucial "fact" which led 12 of the 18 commissioners to vote for this repeal was the Effects Panel's "finding" that "empirical research . . . has found no evidence to date that exposure to explicit sexual materials plays a significant role in the causation of delinquent or criminal behavior among youth or adults" (p. 32). Although the Effects Panel originated this conclusion, variations of this statement appear repeatedly in the full report of the commission, later public and professional journal articles authored by commission members, countless public addresses, and many court appearances (testifying in defense of professional pornographers). Because of this, the general notion that "pornography has been judged and found guiltless" now appears as established fact in such sources as the *World Book* and *Americana* encyclopedias and the *Handbook of Psychiatry*.

Commission members Morris Lipton and Edward Greenwood were so strongly committed to the "no harm" findings of the Effects Panel that they wrote (with Joe Klapper also endorsing):

"We should have welcomed evidence relating exposure to erotica to delinquency, crime, and antisocial behavior, for if such evidence existed we might have a simple solution to some of our most urgent problems. However, the work of the Commission has failed to uncover such evidence. [The research studies] fail to establish a meaningful causal relationship or even significant correlation [emphasis added] between exposure to erotica and immediate or delayed antisocial behavior among adults. To assert the contrary from available evidence is not only to deny the facts, but also delude the public." . . . (p. 452).

Thus, scientists Lipton, Greenwood, and Klapper profess that not only are there no causal linkages between exposure to pornography and harm, but neither are there significant relationships or correlations of any kind between the two.

Sociologists Larson and Wolfgang called for repeal of all pornography laws, including those currently controlling unsolicited pornographic advertisements sent through the mail unwanted into homes, obscene public display ads, and pictorial pornography for children. The rest of the commission refused, however, to go along with such an extreme position.

#### NEGATIVE EFFECTS EVIDENCE IN COMMISSION-FINANCED RESEARCH

Space limitations prevent a detailed recitation of most harmful evidences which raise major concerns about the validity of their conclusions, as well as malfeasance. (Information is available to the reader in the au-

thor's *Where Do You Draw the Line?*) However, several salient examples may serve to suggest the nature of the negative effects evidence.

In a sophisticated commission-financed study of seven different populations of subjects comprising 365 people, Davis and Braucht<sup>2</sup> assessed the relationship between exposure to pornography and moral character, deviance in the home and neighborhood, and sex behavior. In their study, impressive in its rigorous methodology and statistical treatment, they conclude that "one finds exposure to pornography is the strongest predictor of sexual deviance among the early age of exposure subjects." They also found that there was "a positive relationship between sexual deviance and exposure to pornography at all ages of exposure levels" (p. 213): "In the early age of exposure [to pornography] subgroup, the amount of exposure was significantly correlated with a willingness to engage in group sexual relations, frequency of homosexual intercourse, and 'serious' sexual deviance; and there were trends for the number of both high school heterosexual partners and total homosexual partners to be positively related to [pornographic] exposure" (p. 206).

Correlation alone never demonstrates a causal relationship—however, it does permit a reasonable hypothesis. Because the researchers have partitioned out the contribution of other key variables in this study, the possibility of causation is highly suggested. Although this commission contracted and financed research was in the hands of the commission's staff for many months and was referred to many times in their report, no mention is made in their report of these negative finds.

Obviously, more research of this kind must be done, but, as was true with the early studies linking smoking with lung cancer, it seems irresponsible not to report negative findings—especially in the commission's Effects Panel Report—for few people have either access to the original research or scientific expertise to understand and evaluate the elaborate, highly complex statistical analyses.

Much evidence and data from the commission's own technical reports, such as the Davis-Braucht research, conflict with the refrain repeated so often in the commission report (p. 58) that "extensive empirical investigation both by the Commission and by others provides no evidence that exposure to or use of explicitly sexual materials play a significant role in the causation of social or individual harms such as crime, delinquency, sexual or nonsexual deviancy, or severe emotional disturbances," and with the reassurance of Commissioners Lipton and Greenwood to all their fellow psychiatrists in the *Psychiatric News*<sup>3</sup> that "the many varied studies . . . are remarkably uniform in the direction to which they point. This direction fails to establish a meaningful significant causal relationship or even significant correlation [emphasis added] between exposure to erotica and immediate or delayed antisocial behavior. . . ."

In another commission study by Goldstein and associates<sup>4</sup> sex offenders, homosexuals, transsexuals, pornography users, blacks, and a control group were interviewed and compared. Although Goldstein states his work "clearly supports the view that pornography does not incite criminal or antisocial acts," Goldstein's actual data support the opposite conclusion.

In Goldstein's interviews, he asked his subjects if they had ever "tried out" the sexual behavior depicted during a peak adolescent exposure to pornography. Fifty-seven percent of his rapists replied yes (p. 76, Table 9).<sup>5</sup> Yet, in his chapter summary, Goldstein curiously comments: "While the [rapists] noted

Footnotes at end of article.



an intense desire to imitate the [sexual] activities shown [by the pornography], only rarely did they satisfy it (p. 79).<sup>9</sup> The use of the term "rarely" to describe 57 percent of the rapists who acted out or imitated the pornography modeled for them is not really accurate. The data show that 77 percent of the child molesters with male targets and 87 percent with female targets reported trying out or imitating the sexual behavior modeled by the pornography seen during this peak adolescent experience. Even more interesting is the fact that 85 percent of the normal controls also indicated they had imitated behavior modeled by the pornography. All groups then were significantly affected by the pornography, and some, apparently, in an antisocial direction.

#### ADDITIONAL NEGATIVE EFFECTS EVIDENCE

Other very powerful cause-effect data come from the conditioning laboratories of investigators such as Rachman,<sup>7</sup> who demonstrated that, with the use of erotica, sexual deviations can be created in individuals. Additionally, the work of McGuire<sup>8</sup> suggests that exposure to special sexual experiences (which could include witnessing certain types of pornography) as well as masturbating to the fantasy of this exposure can sometimes later lead to participation in deviant sexual acts.<sup>9</sup> The massive literature on therapy for sex deviates suggests that their sexual orientation can frequently be changed with the use of erotica as a therapeutic tool.<sup>10</sup> If these data are valid, then one must allow for the possibility that deliberate or accidental exposure to erotica can facilitate antisocial sexual behaviors and conditioning of sexual aberrations.

One might plausibly argue that these accidental kinds of conditionings of persons into deviant sexuality through exposure to pornography might be relatively infrequent events. However, if pornography were a factor in causing only one adolescent or adult into having disturbed sexual feelings, changed sexual orientation, or some manner of antisocial sexual deviancy, and if this person yearly influenced only one other individual who, in turn, affected only one other, in 20 years, 1,048,575 sexually or otherwise disturbed people would be the result—a major consequences.

In sum, five commission studies (some causal, but all unreported in the commission report) linked pornography and sexual arousal with aggression; commission-financed literature reviews told how sexual deviations could be created in the laboratory using erotic pictures; 254 psychotherapists reported in their practices cases in which pornography was found to be an instigator or contributor to a sex crime, personality disturbance, or antisocial act; and another 324 professionals suspected such relationships in cases with which they had worked. Additionally, much violence literature linked filmed violence with aggressive behavior, a fact that has major relevance to that pornography which models sadomasochistic and sexually violent behavior (e.g., rape, "snuff films," etc.).

In critiquing the commission's majority report, a distinguished British psychologist and social scientist comments:

"It should be borne in mind that the Commissioners were concerned to 'make a case,' and that in doing so they may not always have been entirely scrupulous about weighing the evidence impartially. . . . The writers of the majority report tend to generalize too freely. Such generalizations are not permissible. The limitations should be recognized and emphasized. Failure to do so implies a slide from scientific discussion to propaganda. Worse, the majority report suppressed information that goes against its recommendation."<sup>11</sup>

Undoubtedly, the harms associated with pornography will affect only a minority of consumers, but there seems little doubt that some people can be harmed. While, in a free

society, some individuals may choose to immerse themselves in a pornographic milieu just as some people may choose to smoke excessively, in both cases these individuals should be made fully cognizant of the health hazards involved so they can make informed decisions.

Although it is perfectly responsible and permissible for scientists to disagree in interpretations about the meaning of a body of data, to suppress or cover up harmful effects data—especially in an area involving health and welfare concerns, where one is in a position of trust—is highly unethical, irresponsible, and contrary to most canons of the scientific community. Responsible scientists may never hide or suppress data merely because it is contrary to their personal values or social-political orientation, especially where possible hazards are involved. That this apparently happened in the case of several of the scientists affiliated with the Presidential Commission on Obscenity and Pornography is a regrettable episode in the history of the behavioral sciences.

#### FOOTNOTES

<sup>1</sup> Victor B. Cline, *Where Do You Draw the Line?: Explorations in Media Violence, Pornography, and Censorship* (Provo, Utah: Brigham Young University Press, 1974).

<sup>2</sup> Keith Davis and G. N. Braucht, *Exposure to Pornography, Character and Sexual Deviance: A Retrospective Survey, Technical Report and the Commission on Obscenity and Pornography*, Vol. VII (Washington, D.C.: U.S. Government Printing Office, 1971).

<sup>3</sup> Morris Lipton and E. D. Greenwood, "The Pornography Commission: A Psychiatric Assessment," *Psychiatric News*, March 15, 1972.

<sup>4</sup> M. Goldstein and H. Kant, *Pornography and Sexual Deviance* (Berkeley: University of California Press, 1973).

<sup>5</sup> *Ibid.*, p. 76, Table 9.

<sup>6</sup> *Ibid.*, p. 79.

<sup>7</sup> S. Rachman and R. Hodgson, "Experimentally Induced 'Sexual Fetishism': Replication and Development," *Psychological Record*, 18:25, 1968.

<sup>8</sup> R. McGuire, et al., "Sexual Deviations as Conditioned Behavior: A Hypothesis," *Behavior Research Therapy*, 2:185, 1965.

<sup>9</sup> Cline, *op. cit.*, p. 210; and Albert Bandura, *Principles of Behavior Modification* (New York: Holt, Rinehart and Winston, 1969), pp. 511-523.

<sup>10</sup> Cline, *op. cit.*, p. 209.

<sup>11</sup> Hans Eysenck, "Obscenity—Officially Speaking," *Penthouse*, July, 1972, p. 98.

#### PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. FOUNTAIN) is recognized for 5 minutes.

Mr. FOUNTAIN. Mr. Speaker, on Thursday, May 26, the House vote—roll No. 288—to resolve itself into the Committee of the Whole for the further consideration of H.R. 6161, the Clean Air Act Amendments of 1977.

I am recorded on this vote as answering "present." It appears that I inadvertently inserted my voting card into the "present" slot rather than the "yea" slot which was my intention.

Mr. Speaker, I ask that the permanent edition of the RECORD show that I intended to vote "yea" on roll No. 288.

#### TESTIMONY BEFORE LABOR-HEW SUBCOMMITTEE REGARDING HYDE AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

man from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, I understand that the Labor-HEW appropriations bill will be considered by the full House later this month. Accordingly, I would like to submit my testimony of April 18 before the Labor-HEW Subcommittee. This testimony is in regard to the Hyde amendment, which would restrict Federal Medicaid funds for abortions.

The abortion issue has generated a great deal of controversy, not only in Congress, but in millions of American homes as well. Certainly, very few believe that abortion is an advisable method of birth control, but many of these same people favor abortion to unwanted pregnancies.

As a member of the Health Subcommittee of the Interstate and Foreign Commerce Committee, I have sponsored legislation that encourages family planning. The Health Services Extension Act of 1977, passed last month by the House, includes a family planning provision. This is the route we ought to be taking; we ought to give the highest priority to educating our people about the constructive alternatives to abortion.

Notwithstanding, it is my view that an unwanted child is subject to the double jeopardy of rejection by the mother, and quite often, by society as well. This does not mean that we should be encouraging abortions, but rather that this option should be left open to all women who choose it.

Accordingly, I oppose Congressman Hyde's amendment to restrict federal Medicaid funds for abortions. This amendment would not stop abortions, because people who could afford them would pay the necessary costs. The effect of this amendment would be discrimination against poor women who have insufficient funds to pay for abortions, an action that would affect their entire lives.

It is unconscionable to think that this Congress would, in effect, sanction abortions for those who can afford them, and prohibit them for those who can't. Such action is constitutionally dubious, and serves as a challenge to the equal protection guarantees of the Fifth and Fourteenth Amendments. I will not participate in a tragic maneuver that would put the government in the position of interfering with existing state statutes.

We are dealing with an emotional issue that merits sober, rational consideration. Support of the Hyde Amendment would represent a giant step backwards for the sanctity of the Constitution and for the dignity of all women, rich or poor.

#### RESOLUTION REQUIRING PAPERWORK ASSESSMENTS BE INCLUDED IN REPORTS OF HOUSE COMMITTEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 20 minutes.

Mr. HAMILTON. Mr. Speaker, as the Nation enters its third century many of us in public office are aware that Americans from all walks of life are losing confidence in the Government. The signs of disapproval are everywhere. We see the dismal results of polls; we receive hundreds of letters from disillusioned constituents; we witness unrelenting criticism in the press; we hear harsh complaints from the halls of the Government itself. Though the erosion of confidence is not as marked now as it

was a few years ago, it must be a matter of continuing concern to us all.

Surely there are many causes of the public's disapproval of the Government. Today, however, I wish to discuss one of them: the Federal paperwork burden. No one who has experienced it will deny that Federal paperwork has a heavy hand. Tax returns which seem to grow more complex every year overwhelm the ordinary citizen; forms for the agricultural census frustrate the farmer; unbelievable reporting requirements smother the educator; reams of paper confront the businessman who wants his place of business to be safe for workers. Many Americans have concluded that the Government's sole purpose is to harass them with its unnecessary, duplicative, and frivolous paperwork. In the minds of these Americans a benefactor has become a nuisance.

A brief look at some general statistics should convince even the most stubborn bureaucrat that Federal paperwork has gotten out of hand. As of June 1976, there were 4,054 duplicative reports being used by those agencies subject to the Federal Reports Act. It took individuals, businesses, and institutions approximately 140 million man-hours to fill the reports out. By one estimate, the bureaucracy generates 10 billion pieces of paper every year, enough to occupy 4.5 million cubic feet of space. In terms of cost, the General Services Administration calculates that Federal paperwork drains \$40 billion annually from the economy, enough to create 1.5 million permanent jobs in the private sector if properly invested. The additional costs of Federal paperwork in terms of stifled creativity and stultifying delays cannot be accurately measured.

To make matters worse, there is reason to believe that the problem has increased fivefold in the last decade. Forms for taxes, social security, grants, loans, directives, reports, and even other forms are proliferating at an alarming rate. No sector of the society or the economy is untouched by Federal paperwork. It encompasses millions of individuals, businesses and institutions, as well as thousands of State and local governments. The latter, of course, add to all the paperwork. A close look at this bureaucratic maelstrom reveals at least three main reasons for it.

A lack of centralization is one of the main reasons for excessive paperwork. Many reports required of businesses, for example, duplicate information already on file with other Government agencies. Duplication takes place because there is no central "data bank" of nonsensitive information. One agency does not know what facts another agency is collecting, and so each agency must incur the expense of gathering redundant data on its own.

Another main reason for excessive paperwork is the promulgation of overly complex regulations. A well-meaning Congress passes a law and well-meaning executive personnel write the regulations on which enforcement of the law will be based. However, the regulations sometimes go far beyond what Congress intended both in scope and detail. The Occupational Safety and Health Act is a

case in point. Passed in 1970 as a remedy to the serious problem of death and injury in the workplace, the act has become a regulatory nightmare. The blizzard of petty and ultimately unenforceable regulations promulgated in connection with it has made it an object of ridicule. Employers and employees alike are intensely dissatisfied with it. Unfortunately, the Occupational Safety and Health Act is not the only overinterpreted law on the statute books. Almost any person, whether at work or at leisure, can tell a similar tale.

The final reason for excessive paperwork is the action of Congress itself. All too often Congress passes a law whose implementation and enforcement require too much paperwork, no matter what the writers of regulations do. Behind such legislation one frequently finds a mistaken notion of what Congress can do, or how Congress should proceed, to solve a problem. For example, consider legislation to preserve the environment. As things stand, the Government attempts to control directly some 100 million mobile sources of air pollution. The amount of paperwork entailed by this direct control is as staggering as its cost, but such is the concept of the law. Many experts now believe that this legislation mandates the impossible. They suggest that a national system of effluent charges could do the job more efficiently and economically. It is possible that the experts are right. In this case and many others, Congress must face the fact that the means provided by legislation may be ill conceived even though the ends are not. Failure to face the fact means more paperwork.

Though Congress should try to get a rein on Federal paperwork in any way possible, it has a special responsibility to see that the laws it enacts do not contribute to the problem. Consequently, it is with great pleasure that I introduce today a resolution to require that paperwork assessments be included in the reports of House committees. The resolution is brief and to the point, so I include its text in the RECORD:

#### H. RES. 607

*Resolved*, In clause 7 of rule XIII of the Rules of the House of Representatives, insert after subparagraph (a) (2) the following:

"(3) An evaluation of the paperwork which would be incurred in carrying out the bill or joint resolution. The evaluation shall include, but not be limited to, estimates of the amount of time and financial costs required of affected parties, showing whether the effect of the bill could be substantial; as well as reasonable estimates of the recordkeeping requirements that may be associated with the bill, or in lieu of such evaluation, a statement of the reasons why compliance by the committee is impracticable."

It is my firm belief that the passage of the resolution would take us a long way toward a very desirable goal: The elimination of Federal paperwork at one of its primary sources. The resolution already has the support of the Commission on Federal Paperwork. In addition, it can claim as advocates 66 other Members of the House of Representatives.

It is obvious how the resolution would help eliminate Federal paperwork. First, and prior to the casting of votes, the res-

olution would provide information on the "paperwork impact" of bills to Members of Congress. Members would be obliged to do some hard thinking about paperwork. They would have to balance the potential social or economic benefits of a bill against its bureaucratic implications. Second, and prior to the writing of regulations, the resolution would make executive agencies privy to the intent of Congress in the matter of the reporting and bookkeeping requirements of bills passed. Executive agencies would appreciate the additional guidance. Conferences between distressed legislators and confused writers of regulations would become less common. The upshot of the resolution would surely be less paperwork on all sides.

Mr. Speaker, there is one final reason why the resolution should be passed. On February 4, 1977, the Senate amended its rules to require that committees estimate the cost in dollars and hours of work which would result from the passage of a bill. On that occasion Senator THOMAS MCINTYRE, a sponsor of the amendment, said:

At long last, the Congress will face up to its responsibilities in bringing about effective control of paperwork. For too long, we in Congress have been the culprits. Now the Senate is no longer part of the problem, but is an active force in the solution. I hope the House will follow the example of the Senate.

We must all hope that the House will follow the example of the Senate. I urge prompt and positive action on this important measure.

#### MOSS-BROWN AMENDMENT TO H.R. 6804

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Moss) is recognized for 5 minutes.

Mr. MOSS. Mr. Speaker, as Members may be aware, my colleague Mr. Brown of Ohio and I plan to offer an amendment to H.R. 6804, the Department of Energy Organization Act, which would transfer the authority for regulating the first sale of natural gas in commerce from the Secretary to the Federal Energy Regulatory Commission, and limit the rulemaking authority of the Secretary to functions identified in section 301(b) (2) (7) of the bill. It is essential that broad authorities under the Natural Gas and Federal Power Acts should be vested in a collegial regulatory commission at least until the Congress considers the President's substantive energy bill.

This is an important amendment to consumers. Several leading consumer organizations, including the Energy Policy Task Force of the Consumer Federation of America, the American Public Power Association, and the American Public Gas Association, support this amendment. Their letters on this issue follow:

ENERGY POLICY TASK FORCE,  
Washington, D.C., June 1, 1977.

Hon. JOHN E. MOSS,  
House of Representatives,  
Washington, D.C.

DEAR CONGRESSMAN MOSS: The Energy Policy Task Force of the Consumer Federation of America, the country's largest consumer organization, strongly supports your



proposed amendments to H.R. 6804, which would (1) transfer the authority for regulating the sale of natural gas from the Secretary of Energy to the Federal Energy Regulatory Commission, and (2) limit the rulemaking authority of the Secretary to the regulatory functions enumerated in Section 301(b) parts 2-7 of H.R. 6804. Moreover, we support, in general, those amendments which will protect the procedural framework for assuring due process in regulatory proceedings.

As currently drafted, H.R. 6804, the Department of Energy Organization Act, would substantially reorganize the structure and function of both executive and regulatory branches in the key areas of natural gas, oil and other energy policymaking. In the past, natural gas rates have been decided by a five-person independent regulatory commission, the Federal Power Commission, which has determined rates based upon either adjudicatory proceedings or substantial evidence tests. These proceedings have allowed consumers, producers, pipelines, and others to bring forth evidence under oath to support their views in favor of or in opposition to higher (or lower) gas rates. The changes proposed in H.R. 6804 would seriously erode these protective standards.

An amendment to require a test of substantial evidence is critical to prevent arbitrary and capricious decision-making in the setting of "just and reasonable" prices for energy. In creating this massive new agency, with such broad authority, it is essential that there be provision explicitly ensuring due process for consumers as well as producers and other parties in all judicial review proceedings. The requirement of a substantial evidence test must be clearly spelled out to prevent "arbitrary and capricious" energy pricing decision-making.

Moreover, preserving an independent regulatory board as the rate-setting body provides far more insulation from political influence than vesting such power in any one individual, regardless of whom that individual may be.

Without these amendments, we have little confidence that this agency could adequately protect consumers' interests. We are pleased to learn that you intend to propose these critical amendments and will support them in any way we can.

Additionally, we would like to express support for the Conyers proposal to establish a Public Energy Administration that could, upon direction by the President or the Secretary of Energy, serve as the nation's sole importer of oil and gas from abroad. In our view, this is a highly useful authority that could work to the benefit of this nation and its consumers in an effort to offset the strength of the OPEC international oil cartel.

Sincerely,

LEE C. WHITE.

AMERICAN PUBLIC GAS ASSOCIATION,

Washington, D.C., May 27, 1977.

Hon. JOHN E. MOSS,

U.S. House of Representatives, House Office Building, Washington, D.C.

DEAR MR. MOSS: On behalf of the members of the American Public Gas Association, which represents municipally owned gas distribution systems throughout the nation, I would like to express support for amendments to H.R. 6804 which would protect the procedural rights of all parties under the provisions of the Natural Gas Act.

H.R. 6804, the "Department of Energy Organization Act," as reported by the House Committee on Governmental Operations, contains provisions which, we believe, could alter the due process rights presently available at the Federal Power Commission. As this bill is intended to reorganize existing federal agencies and not make substantive changes in the laws under which those agen-

cies operate, we believe the bill should be amended on the floor of the House of Representatives to eliminate any provisions which appear to alter existing law under the Natural Gas Act.

In particular, APGA would like amendments enacted which assure that the Federal Energy Regulatory Commission which would be created by H.R. 6804 is vested with all the responsibilities of the Federal Power Commission to establish final, just and reasonable rates under the Natural Gas Act, subject to due process safeguards for all parties.

Such amendments should clarify the fact that the Energy Regulatory Commission would establish final just and reasonable rates for all sales of natural gas subject to FPC jurisdiction, pursuant to the procedural safeguards of Sections 54-557 of the Administrative Procedure Act prescribing procedures for full adjudicatory hearings. Under these procedures, notice, opportunity to present direct evidence and rebuttal, cross-examination, and a written decision based upon the evidence is required. Without amendments to H.R. 6804 to insure these due process safeguards, it is possible that precedents set by the Federal Power Commission in administering the provisions of the Natural Gas Act could be changed to the detriment of all parties.

APGA was pleased to note that Chairman John D. Dingell of the House Commerce Committee Subcommittee on Energy and Power, on May 24, issued a statement expressing concerns about the procedures established in H.R. 6804, and that these concerns under the Natural Gas Act are shared by Representative Clarence J. Brown, ranking member of the Subcommittee. In his statement before the House Rules Committee on H.R. 6804, Representative Brown stated: "These precedents (under the Natural Gas Act) have arisen out of the need to protect the due process rights of individuals appearing before the Commission. In my opinion, these precedents should be retained and followed by whoever sets wellhead gas prices. But under this bill, these precedents would not have to be followed. This should be corrected."

Representative Brown, in his statement, indicated that he would join with you in sponsoring an amendment vesting gas pricing authority in an independent Federal Energy Regulatory Commission within the new DOE, in order to insure that procedural due process is maintained.

APGA offers its strong support for such an amendment. Maintenance of procedural safeguards under the Natural Gas Act is the only way to assure consumers that the prices they pay for natural gas are the result of the hard scrutiny afforded by full adjudicatory hearings.

Respectfully yours,

ARIE M. VERRIPS,  
Executive Director.

AMERICAN PUBLIC POWER ASSOCIATION,

Washington, D.C., May 25, 1977.

Hon. JOHN E. MOSS,

U.S. House of Representatives,  
Rayburn House Office Building,  
Washington, D.C.

DEAR CONGRESSMAN MOSS: The American Public Power Association is concerned over the regulatory framework contained in H.R. 6804, as reported. As you know, the responsibilities of the Federal Power Commission would be divided between the Secretary of Energy and a five-member Regulatory Commission. The Secretary would have jurisdiction over certain specified issues, including the authority to issue rules on wellhead sales of natural gas, and the resolution of emergency interconnection and wheeling disputes. The Secretary, in addition, would have the authority to issue rules of general applicability under the Federal Power and Natural

Gas Acts. APGA believes that this general rulemaking authority places too much power in the hands of a single individual who could, through the exercise of that power, sharply circumscribe the essentially adjudicatory nature of the regulatory activities of the Regulatory Commission.

It can be argued that there are certain issues under the Federal Power and Natural Gas Acts over which the Secretary should have jurisdiction. It appears to us, however, that no attempt should be made, through the guise of reorganization, to alter the manner in which very important issues, such as establishment of policies which will be used to determine rates and charges under the two acts, will be resolved. These are issues which should be considered by the appropriate legislative committees.

The two amendments which I understand you plan to offer during House consideration of H.R. 6804 would narrow the rulemaking authority of the Secretary, thereby enlarging the jurisdiction of the Regulatory Commission. APGA is pleased to support you in your effort to secure the passage of these two amendments.

Sincerely,

ALEX RADIN.

#### LEGISLATION TO ESTABLISH A REDUCED RATE OF POSTAGE FOR CERTAIN MAIL MATTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 5 minutes.

Mr. FORD of Michigan. Mr. Speaker, each morning in my office, and I am sure in the offices of every Member of Congress, hundreds and hundreds of letters are received. These letters represent a broad cross-section of my district and the country. Some are from business, some from labor, some may be from church groups, and some from many other organizations. But the letter which always catches my eye first, and in my view, requires some special attention, is that handwritten, personal letter from an individual constituent involving some problem or some issue which to him or her is of great import.

That individual has taken the time to gather stationery, envelopes, stamps, pen to write his Congressman as his court of last appeal. It is letters such as these which tell me the true feeling of the people who have elected me to represent them in this body.

As I thumb through all of these letters, the thought often strikes me that that individual constituent who writes me pays as much for his or her postage stamp as do those large corporations which also frequently write me. But actually the individual is paying more—because our tax laws permit corporations to "write-off" their postage costs. This means that while the private citizen is paying 13 cents to mail a letter, the corporations are actually paying only about 6½ cents. Over the last 6 years our citizens have experienced a 117-percent increase in their mail rates, a rate of increase which has climbed more rapidly than even gasoline prices. This is neither fair nor reasonable.

I am, therefore, introducing legislation today to protect the millions of individuals in this country from rapidly rising postal rates. This legislation, entitled the

Citizens' Postal Rate Relief Act of 1977, is based on the concept that all Americans are willing to accept some increases in postage rates, so long as they are fair and reasonable.

This legislation would freeze the present 13-cent rate for matter mailed by private citizens until December 31, 1978. At that time, and at every 2 years thereafter, private citizens' first class mail rates would be adjusted by the amount the cost of living has changed over the preceding 2-year period. This rate would apply to all letters sent by individual private citizens. A civil penalty of \$2,500 would be imposed for each letter mailed by anyone other than a private individual.

Mr. Speaker, in carrying out its role in commerce, the Postal Service should not forget the private citizens who write their Congressmen, the child who sends a greeting to a distant friend, or the young adults who take the time and care enough to write to some loved ones. Perhaps nothing so clearly demonstrates the most basic and important role of the Postal Service as the quotation inscribed over the main entrance of the Washington, D.C. Post Office. It reads:

Messenger of sympathy and love  
Servant of parted friends  
Consoler of the lonely  
Bond of the scattered family  
Enlarger of the common life

The one true and meaningful means for the American people to communicate must be available to them at a price which is reasonable and fair. This bill will accomplish that goal, and I urge my fellow Members to join with me in cosponsoring it.

The text of Citizens' Postal Rate Relief Act of 1977 follows:

#### H.R. 7537

A bill to amend title 39, United States Code, to establish a reduced rate of postage for certain mail matter of private individuals

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Citizens' Postal Rate Relief Act of 1977".

SEC. 2. (a) Subchapter II of chapter 36 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 3629. Reduced rate for certain mail matter of individuals

"(a) Notwithstanding the provisions of this subchapter or of subchapter III of this chapter, the rate of postage for qualified mail matter (as defined in subsection (d) of this section) shall be established only in accordance with subsection (b) of this section.

"(b) (1) Until such time as an adjustment is made under paragraph (2) of this subsection, the rate referred to in subsection (a) of this section shall be 13 cents for the first ounce of each piece of mail matter and 11 cents for each additional ounce or fraction of an ounce.

"(2) (A) (i) Each October 1 of each even-numbered year, the Postal Service shall adjust the amount which is in effect under this subsection by multiplying such amount by the ratio which the price index for the calendar year immediately preceding the year in which the adjustment is made bears to the price index for the base period and such amount, as adjusted and rounded to the lower whole cent, shall be the amount in effect for the two calendar years immediately

following the year in which the adjustment is made.

"(ii) In any case in which an adjusted amount derived under subclause (i) of this clause includes a fraction of a cent before such adjusted amount is rounded to the lower whole cent, such fraction shall be carried forward and added to any fraction of a cent which results from a subsequent derivation of an adjusted amount under subclause (i) of this clause until such fraction which is carried forward, when so added to any such additional fraction, results in an amount which is equal to or exceeds a whole cent.

"(ii) The Postal Service shall not make any adjustment required in clause (i) of this subparagraph if the amount which is in effect under this subsection, when so adjusted, would exceed the rate of postage currently in effect for that class of mail for which the Postal Service provides the most expeditious handling and transportation under section 3623(d) of this title.

"(B) For purposes of subparagraph (A) of this paragraph—

"(i) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(ii) the term 'base period' means the calendar year 1976.

"(c) (1) Any person (other than an individual to whom subsection (a) of this section applies) who sends any mail matter as qualified mail matter to which the maximum rate prescribed by subsection (a) of this section applies shall be subject to a civil penalty of \$2,500 for each piece of mail matter so sent.

"(2) The Postal Service may commence an action for the assessment and collection of the penalty prescribed under paragraph (1) of this subsection against any person subject to such penalty in the district court of the United States in which the act constituting the violation occurred or in which such person resides or transacts business. Any process in such actions may be served in the district in which such action is brought and in any other district in which such person resides or transacts business. Any subpoena issued by the district court in which such action is brought may be served in any other district.

"(d) For purposes of this section, the term 'qualified mail matter' means any mail matter which—

"(1) is sealed against inspection;

"(2) is mailed within the United States;

"(3) is not the mail matter of a person other than an individual, provided that, for the purpose of this subsection 'person other than an individual' means a corporation, company, business, association, partnership, professional entity, proprietorship, institution, or governmental unit or any similar entity; and

"(4) bears such evidence of being qualified mail matter

(b) The table of sections for subchapter II of chapter 36 of title 39, United States Code, is amended by adding at the end thereof the following new item:

"3629. Reduced rate for certain mail matter of individuals."

SEC. 3. Section 2401(c) of title 39, United States Code, is amended by striking out "and 3626" and inserting in lieu thereof "3626, and 3629".

SEC. 4. The amendments made by the foregoing provisions of this Act shall apply to any qualified mail matter (as defined in section 3629 of title 39, United States Code, as added by section 2 of this Act) which is mailed on or after the date of the enactment of this Act, except that if on such date the existing permanent or temporary rates in effect exceed 13 cents per ounce per piece of such mail matter, such amendments shall apply with respect to mail matter mailed on

or after the 100th day after the date of the enactment of this Act.

### STOPPING OIL FROM TAKING OVER COAL AND URANIUM—HAS PRESIDENT CARTER CHANGED HIS POSITION?

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, for some time those of us who have been concerned about preserving competition in the energy industries have felt that the incipient takeover of the coal and uranium industries by the major oil companies needed legislative attention, if competition between competing energy sources was to be maintained. Early in this session, our colleague MORRIS UDALL and I introduced a bill which, among other things, would have prohibited a major oil company from owning coal and uranium. To date, we have 35 cosponsors on this proposed legislation.

We were encouraged in proceeding with such legislation by Mr. Carter's position expressed during the Presidential campaign last year. His initial position was:

I support legal prohibitions against ownership of competing types of energy, oil and coal, for example.

He expressed a similar position with respect to oil company ownership of uranium as well. After Mr. Carter received the Democratic nomination, he continued to reiterate this position, although his issues chief, Stuart Eizenstat, indicated that such prohibitions might apply only to future acquisitions of competing forms of energy.

To my surprise and disappointment, President Carter's energy message of April 20 and his energy program released on April 29 appear to have abandoned any advocacy of horizontal divestiture between oil on the one hand and coal and uranium on the other. While the energy message continued to express concern, it indicated that the only action would be continued monitoring of the situation by the Justice Department. In fact, the actual language of the message almost appears to have been written by the oil companies with respect to this particular point.

All this is spelled out in specific detail in an article by James F. Flug in the May 28 issue of the Nation under the title, "Fudging Away from a Hard Line." Because of the importance of this subject, I am offering the entire article for printing in the RECORD following these remarks.

Let me add that I cannot believe that Mr. Carter has changed his explicit and oft repeated views on this subject. It is apparent, however, that someone representing the oil company point of view has managed to infiltrate that point of view into Mr. Carter's energy proposals. It is important that those Members of Congress and others who are concerned about this issue be made aware of this astonishing situation so that we can consider the best way of moving ahead



with appropriate legislation to insure competition between different sources of energy.

The article follows:

**CARTER ON OIL AND GAS: FUDGING AWAY FROM A HARD LINE**

(By James F. Flug)

On January 14, 1976, less than a week before the Presidential campaign began in earnest with the Iowa precinct caucuses, an ad entitled "Iowans Want Some Straight Answers on Energy" appeared in the *Des Moines Register*. It contained the results of a questionnaire on energy policies sent by a new consumer group, Energy Action, to fifteen Presidential hopefuls during December. Ten of the fifteen responded; Mr. Carter was not among them. But on January 16, in the same paper, the Carter campaign placed a larger ad. It explained that Governor Carter had not answered Energy Action's six questions because they "could not be answered honestly and directly with a yes or no answer." It then answered all six questions in detail.

Question Number 2 read, "There are legislative proposals to stimulate more competition among different sources of energy by preventing major owners of one type of energy resource from owning other types. Do you support or oppose legislative efforts in the U.S. Congress to prevent 'horizontal integration' and require major energy companies to divest themselves of such competing energy sources?" Carter's response was, "I support legal prohibitions against ownership of competing types of energy, oil and coal, for example."

Question Number 5 was, "A major issue before the U.S. Congress is whether the price of natural gas should continue to be set under a system which assures gas producers a 'reasonable return' or should be allowed to be set by the oil and gas companies themselves at whatever price (probably at least triple current prices) they think gives them the highest possible profits and allows them to take advantage of the high monopoly prices for oil set by the international oil cartel. What is your position?" Mr. Carter replied: "I support legal restrictions to allow a 'reasonable profit' on oil and natural gas rather than allowing prices to be set without restriction. . . . I support the overwhelming position of the National Governors' Conference to limit deregulation of natural gas to that small portion (less than 5 percent) of production not under existing contracts. This deregulation should not exceed five years."

Two key energy issues. Two entirely different types of answer. An unequivocal yes to horizontal divestiture of the oil companies, a proposal that was popular with consumer groups and anathema to Big Oil. An equivocal and puzzling answer on natural gas deregulation—priority Number One to the oil industry, for which each 10¢ rise in the average price of natural gas meant \$2 billion more a year in profits. Equivocal because the commitment to "legal restrictions to allow a 'reasonable profit'" clearly conflicted with the reference to "deregulation." And the discussion of deregulation was in terms of a limit in amount (5 percent) and time (five years). Puzzling because in fact the Governors' Conference had not adopted such a position. A few weeks later, when the proposal was made to the conference, it was rejected.

Several things happened next. On divestiture, the late Senator Philip Hart (D., Mich.) standing side by side with Energy Action founder, Paul Newman, announced a major effort to pass vertical divestiture, a separate proposal to break the oil companies into their producing, transporting, and refining and marketing segments. It made horizontal divestiture look mild by comparison. As of May, when the Hart bill was, to everyone's

surprise, reported from the Judiciary Committee, many legislators were saying, "I may not be able to go along with vertical but I would go with horizontal."

On gas the pressures were conflicting. On the one hand, Carter the candidate was courting Oklahoma Gov. David Boren, a notable cheerleader for gas deregulation. But at the same time the House of Representatives, in early February, reversed a previous Senate vote for deregulation and not only rejected deregulation for all except small, independent producers but went on to extend regulation to the previously uncontrolled intrastate gas market.

Carter's positions reflected these developments. His stand on horizontal divestiture became even stronger. A campaign fact sheet, reiterating his support for horizontal separation, added new language: "When competition inadequate to insure free markets and maximum benefits to America's consumers exists, I will support divestiture. At the present time, I consider these circumstances to exist or to be a threat . . . within the coal and uranium industries because of excessive ownership and control by the oil companies."

The stand on natural gas became even more complex and puzzling. The campaign's gas fact sheet talked of deeper gas wells and said, "Under the present regulated price structure, producers who attempt to exploit these deeper wells are forced to take a loss on every cubic foot of gas they pump." On its face the statement was ludicrous. No one would produce gas at a loss. Actually, however, it was erroneous, too, for any producer with a high-cost well could and would go to the Federal Power Commission for an exception from the general price limit.

But the same fact sheet added a new element. The five-year period of limited deregulation now had a special purpose: "At the end of a five-year period, the success of the programs should be evaluated and appropriate new actions taken." In other words, Carter was not necessarily accepting the arguments for deregulation, just expressing a willingness to test them out.

This approach was even more explicit in Carter's written presentation to the Democratic Platform Committee on June 16, 1976, after he had clearly locked up the Democratic nomination. He called for "price protection for the consumer." And again his reference to deregulation was in terms of a limitation. "For natural gas, we should regulate the price of only that natural gas not currently under existing contract (less than 5 percent) for a period of five years. At the end of the period of time, we should evaluate this program to see if it increases production and keeps gas-related products at prices the American people can afford." (Emphasis added.) The June position on horizontal divestiture was almost word for word the same as the January position.

Since Carter was firmly in control of the party by the time the Platform Committee met, hardly a word went into the platform that Carter issues chief, Stuart Eizenstat, and Washington representative, Joseph Duffey, had not specifically approved. And, perhaps because Carter was about to make a fund-raising swing into Texas, the energy planks were given special scrutiny. Yet there it was again, the promise of a "legal prohibition against corporate ownership of competing types of energy, such as oil and coal." And: "We believe such 'horizontal' concentration of economic power to be dangerous both to the national interest and to the functioning of the competitive system."

On natural gas, the platform moved further away from deregulation. It called for continued price controls on both oil (Carter's previous position) and gas, though it talked about narrowing the gap between oil and gas prices. In an interview about this time with the industry publication, *Oil and Gas Journal*, Eizenstat still spoke of what the

publication called "the trial test on natural-gas deregulation." And for the first time there was mention of a possible hedge on horizontal divestiture. *Oil and Gas Journal* reported that "Eizenstat says 'legal prohibitions' would 'not necessarily' apply to existing industry structure but rather future purchases of competing forms of energy." That is, a prospective rather than retrospective remedy.

At this time—mid-July—the industry feeling, as reflected in *Oil and Gas Journal*, was that the Democratic platform was "tinted anti-oil" because it "calls for continued oil and gas price controls and for restrictions on integration by majors and on their ownership of other energy sources."

Sen. J. Bennett Johnston (D., La.), speaking for Carter at a July fund-raiser in Tulsa—an oil boomtown—took a more "optimistic" view, but one which confirms the general perception of—and industry reaction to—Carter's positions on coal/oil connections and gas. According to Platt's Oilgram, Johnston conceded Carter "could conceivably be for horizontal divestiture" but said, "While I don't think this is particularly wise, I don't think it is particularly crucial either." Platt's continued: "Carter also is for controls on 'old' natural gas, but favors a five-year trial decontrol period for new gas. 'I don't like the five-year proposition,' Johnston said, and I think we can get him to back off on that.'"

Nominee Carter spoke twice on energy during August of 1976, and did not relent on what was now his clear position against horizontal integration. Appearing at a luncheon sponsored by Ralph Nader, Carter said he would sharply restrict the investment of big oil companies in competing energy sources such as coal and uranium unless he was convinced there was "an adequate amount of competition, which there is not now." And, reporting to the press on a mid-August energy briefing in Plains, Carter described the discussion of vertical divestiture and complained that "there had been no discussion of horizontal divestiture, which he considered more important," according to The New York Times dispatch.

At about the same time, Sen. Adlai Stevenson (D., Ill.) floated what he called a "compromise" on natural gas which reflected his political judgment that if he didn't push a new price system that approached deregulation, immediate deregulation might be stymied through Congress before the election. Stevenson's friends in the consumer movement were outraged, since his proposal would have tripled the price of natural gas from 52¢ per mcf (thousand cubic feet) to more than \$1.50 per mcf. Their outrage was compounded when in late July, the Federal Power Commission moved on its own to raise the price for new gas contracts to \$1.42 per mcf. In fact, the FPC action amounted to administrative deregulation. To reach the \$1.42 level, three commissioners, all of whom were on the record as opposing the cost-based price regulations they were supposed to enforce, had to accept all the industry's cost and productivity data, and add hypothetical income tax (40¢ worth) at the highest rate.

That the industry data are highly suspect goes without saying. That there was no evidence that the producers pay any income tax, let alone the highest rates, should not be surprising. What should the price have been? The FPC's own staff found that at a price around 60¢ per mcf, the producers would recover all their costs and net about 18 percent return on investment. The dissenting commissioner found the \$1.42 price "excessive," and a large group of consumer organizations, Senators, Congressmen, municipal gas distributors, and states immediately took the FPC to court. The arguments against the FPC's price also applied to the Stevenson price, and his bill died quietly.

A strange thing happened in October, however. A letter to the Governors of Texas, Louisiana and Oklahoma, over Carter's signature, began circulating in industry circles. It contained rhetoric and advocacy for the joys of natural gas deregulation that were unlike anything that had appeared in any other Carter position on gas. Much later, it was revealed that although it had been sent from Carter headquarters, the letter had a peculiar origin, involving Governor Boren of Oklahoma and one Duke Ligon, an oil industry advocate in Washington. Even on its face, it was obviously a strange document. It said nothing about the five-year and 5 percent limitation, or about the "test" to evaluate the arguments for deregulation. On the other hand, its operative sentence was virtually meaningless: "I will work with the Congress, as the Ford administration has been unable to do, to deregulate new natural gas." The reason Ford could not work with Congress on gas was, of course, that Congress itself was split on the subject: the Senate had been stampeded into a vote to remove most gas price regulation. The House had narrowly voted not only to continue regulation of interstate gas but to extend controls to the previously uncontrolled intra-state market. Which way, then, did Carter intend to go?

In fact, the industry recognized that what came to be called the "Ligon letter" was an aberration, that even Carter, who had been known to adjust his positions, could not all that suddenly have abandoned his careful and clever straddle on natural gas. And as the final *Oil and Gas Journal* before the election made clear, the industry read into the letter Carter's oft-stated 5 percent and five-year limitations, and even focused on the letter's mention of an intent to "protect the consumer against sudden, sharp increases in the average price of natural gas," as a basis for continuing to question Carter's real sympathy for the industry position. The Washington column in that issue of the magazine was entitled, "May We Read the Fine Print, Please," and not only say the earlier Carter qualifications as still operative but explicitly rejected that offer of a limited deregulation test as too little and too short. "Gas producers don't like the sound of a five-year plan," the article went on, pointing out that Senator Mondale, the very day before the Ligon letter, had told a Denver audience that the Carter administration would work to keep controls on oil and gas prices. Nevertheless, responsible journalists who should have known better, and industry officials and politicians who did know better, began after the election to talk about how Carter's "commitment" to natural gas deregulation had helped him win Texas and Louisiana.

The irony is that even if Carter had made a real commitment to deregulation, it would not have helped him with the voters of the gas-producing states. The people in places like Texas have, over the past two years, come to realize that nationwide deregulation of natural gas prices is the worst thing that could happen to them, since it would drive even higher the uncontrolled prices they now pay both for gas and, more importantly, for electricity made from gas. As small farmers have been driven out of business because they can't afford to run their irrigation pumps, and as householders see their utility bills running higher than their mortgage payments, Texans have come to realize that their interests are not identical to those of the oil and gas industry. There has been strong public pressure in Texas for tight state controls on gas prices, and New Mexico has already enacted such a law.

And strange as it must seem to those who claim there was a Carter "commitment" to deregulation, despite the winter's gas-supply problems—which would have sent Gerald

Ford into a frenzy of deregulation rhetoric—President-elect Carter and President Carter never mentioned deregulation except when pushed by reporters, and then always in vague terms of describing his past statements about a five-year test. Had Carter been panting to espouse deregulation, one would have expected his January 21st statement on the natural gas emergency to be full of urgent calls for deregulation. But not a word. Why not? Energy adviser James Schlesinger may have provided the answer when he said, just before Inauguration Day, that the industry had received "considerable price increases recently" as an incentive for oil and gas searches, that "the problem has been uncertainties for the industry," not insufficient price, and that since consumers can't defend themselves against unfair price increases without regulation, "these are not ideal circumstances to deregulate gas." Asked point-blank whether he was opposed to deregulation, he told the A.P. that "the Carter administration has no position on deregulation so far."

And on February 10, Schlesinger pointedly told a consumer audience not to think that the administration's willingness to allow emergency natural gas sales at essentially uncontrolled prices during last winter's gas crisis represented Carter's long-term view on gas pricing. Again, when asked whether his statement meant that the White House was not committed to deregulation, he answered, "That would be a fair inference." The administrator-designate of the Federal Energy Administration, John O'Leary, had also been saying that raising gas prices would not increase supplies because "there just isn't that much gas to be found."

And Carter himself on January 30, responding to a question on gas, showed that the industry had been correct in focusing on his campaign words about protecting the consumer. Built into his gas policy, he said, "would have to be some prohibition against excessive or windfall profits from energy costs at the expense of the consumer." And at his first press conference: "I am going to try to make sure that all the natural gas companies . . . don't derive unwarranted profit when we cut back on consumption and when we encourage production." And, in his first fireside chat: "Oil and natural gas companies must be honest with all of us about their reserves and profits. . . . We will ask private companies to sacrifice, just as private citizens must do."

In the meantime, President Carter said and did nothing to dilute his clear commitment to horizontal divestiture. On the contrary, two key energy appointees, FEA's John O'Leary and Cecil Andrus, Secretary of the Interior, expressed their own support for the concept. The only new factor was a concerted industry drive to fight horizontal divestiture. At the American Petroleum Institute's winter meeting, there was a marked and open shift in emphasis from the previous industry focus on vertical divestiture to horizontal. The institute's literature against horizontal divestiture began appearing on Capitol Hill. Exxon and Gulf TV advertising began to extol the beauties of having oil companies in the coal, nuclear and solar energy businesses. The industry appeared at the White House "miniconferences" held by Schlesinger and his staff during March, to plead the case.

There were also numerous private meetings between oil executives and high-level administration officials to discuss horizontal divestiture—as well as gas and other issues of billion-dollar levels of interest to the companies. And so the scene was set for the April unveiling of the Carter policy. The bidding up to then was:

**Natural Gas:** Hedged and conflicting statements, including on the one hand, Carter's January 1976 stand for a "reasonable profit" standard, against setting prices "without restriction," and his later opposi-

tion to "unwarranted" "excessive or windfall profits" for the gas producers; but, on the other hand, a willingness to test the arguments for deregulation by a trial for a limited time (five years) and limited amount (less than 5 percent), something the industry did not want and had rejected during the campaign.

**Horizontal Divestiture:** A clear, unequivocal, oft-repeated position that horizontal divestiture was important and necessary, and an undiluted commitment to do something about it. The only hedge was the isolated Elzenstat suggestion—never repeated by Carter—that the action might be prospective instead of retroactive.

On April 18, President Carter gave his "sky is falling" speech, a statement of energy goals and principles with no specifics as to program. Carter told Americans that "you may be right" in suspecting that gas was being withheld from the market, as a series of Congressional, executive and company reports all through the winter had indicated. He promised the energy companies fair treatment, but said he would not let them "profiteer." He said the sacrifices would be fair; that "no one will gain an unfair advantage."

April 20, E-day. The President's speech to a joint session of Congress was as ambivalent on gas as his campaign rhetoric. "Immediate and total decontrol of . . . natural gas prices would be disastrous for our economy and for working Americans, and would not solve long-range problems of dwindling supplies. . . . Because fairness is an essential strategy of our energy program, we do not want to give producers windfall profits beyond the incentives they need for exploration and production." This was clearly inconsistent with any notion of deregulation or with any price much beyond the 60¢ range which the FPC experts had said would provide adequate incentives. He added that he would also end the unreasonable distinction between interstate (controlled) and intra-state (uncontrolled) gas sales which had "caused people in the producing states to pay exorbitant prices" for their gas. Still no sign of a spirit of deregulation, since ending controls would drive all prices not only up and over the "exorbitant" \$1 to \$1.50 range at which intrastate gas had been selling during the previous two years but beyond the \$1.50-to-\$1.60 level to which much (but not all) intrastate gas had risen when the FPC's \$1.42 price took effect.

Then the ghost of the "Ligon letter" reappeared in a paragraph that looked as though it had been thrown in at the last minute by someone who had not read the preceding sentences—perhaps by the same person who had dispatched the "Ligon letter" itself, since the wording was so similar: "I want to work with the Congress to give gas producers an adequate incentive for exploration, working carefully toward deregulation of newly discovered natural gas as market conditions permit." No five-year trial? No test to see whether higher prices really accelerate the finding of new supplies? No 5 percent limit? What had happened to the person who was worried about "fairness," about "windfall profits"?

Clearly the Ligon half of the split personality was in control when the next paragraph was written. For in that paragraph the proposal was that the new gas price be set at the price of the "equivalent energy value" of U.S. crude oil, which the accompanying "Fact Sheet" explained would be \$1.75 per mcf:

Six and a half times the 26¢ price which producers had agreed in 1970 was high enough to last through 1977.

Almost three and a half times the last (1976) judicially approved "just and reasonable" price of 52¢.

Almost three times the 60¢ range which the FPC staff said should produce ample returns and incentives.



Well above the overall trend of uncontrolled ("exorbitant") intra-state prices, especially without the aberrational emergency spot sales.

About 25 percent over the \$1.42 price by which the Ford-Nixon FPC had administratively deregulated, and which most observers agreed would be overturned in court as being unsupported by evidence that it was "just and reasonable."

Almost by definition, any gas price set at an oil-price equivalent would be a windfall price since domestic oil, unlike gas, did not have a history of cost-based pricing. On the contrary, the domestic price had been artificially inflated through production limits and import protection before the OPEC price jump and, despite the vestiges of post-1973 controls, had been drawn sharply upward in the 1970s on the coattails of the cartel's quintupling of world prices. Thus from an average price of \$3.39 per barrel in 1972 U.S. crude has risen to \$5.25 or \$11.28, depending on the date it went into production.

Nor did the "Fact Sheet" provide any encouragement to the reader who thought that the speech's later exhortation that "the energy industry should not reap large unearned profits" might require some application to the gas area. The gas section of the "Fact Sheet" began with a hymn to the need for deregulation. Again no reference to the campaign qualifications about time and amount, no assurances that this was merely "a test," no recognition that the price picked was "exorbitant," no acknowledgment that the "current \$1.42 mcf ceiling" was likely to be overturned in court, no estimate of the fantastic revenue benefits to the producers, not even the bone which Gerald Ford threw to the public interest when he tried to deregulate—the imposition of an excess profits tax and means to assure that extra gas profits would go to further gas exploration.

Those waiting to hear about horizontal divestiture on April 20 waited in vain. It was not mentioned, except that Carter did say he believed in competition, "and we don't have enough of it right now." He said he would get new data from the energy companies about their operations: "strict enforcement of the antitrust laws based on this data may prevent the need for divestiture." Well, at least, he still thought there might be a "need."

The "Fact Sheet" added detail: "Effective competition in the energy industries is a matter of vital concern." Thus we would have "continuous vigilance" by an "Under Secretary." Finally the operative section: "Horizontal diversification by oil and gas producers, particularly into the coal industry has aroused fears that the major firms will be able to restrict the development of alternative fuel sources. The existence of such power could be very detrimental to the nation as it increases its reliance on coal, uranium and renewable energy sources. The trend of oil and gas company entry into coal mining merits continuous close attention."

Fine. Now what are they going to do about it—pass a law? Sue? Condition federal leases on horizontal separation? Not give help on coal or nuclear or solar projects to oil companies? No. The "Fact Sheet" continued: "From information available at the present time, it does not appear that new laws mandating either vertical or horizontal divestiture are required in order to promote or maintain competition in the energy industries. That conclusion is subject to change. If it should appear that there are anti-competitive problems in the energy industries that cannot be reached under current laws, new legislation would be proposed."

Well, it could have been worse, an optimist might say. It still recognizes the evils of horizontal integration. It specifically opens the door to future legislative action as the case becomes clearer under the new reporting requirements. The realist would have to say—it just isn't there. Words, maybe. Com-

mitment, hardly. Action, nil. It couldn't be any worse.

The realist would have been wrong. It could have been worse and became much worse in the week between the April 20th message and the April 29th release of the actual "National Energy Plan," a 103-page tome with what appears to be part of an unfinished spider web on the cover. The metamorphosis has both subtle and blockbuster elements to it. The subtle: "has aroused fears" becomes "has led to concern"; "the existence of" horizontal market power is now "the potential exercise of such power"; "very detrimental" is downgraded to "detrimental."

The blockbuster: A new paragraph that can be described only as a brief *against* horizontal divestiture. Only a complete quote can give its full flavor—remember that it is supposed to represent the view of the man who wanted "legal prohibition against ownership of . . . oil and coal," because "there is not now" an "adequate amount of competition":

"Traditionally, the structure of the coal industry has been extremely competitive. It is still relatively unconcentrated compared to industries such as steel and automobiles. Nevertheless, recent trends have caused legitimate concern. A total of 32 oil and gas companies accounted for 16 percent of total U.S. coal production in 1974, a 48 percent increase over their share in 1967. These companies accounted for more than 18 percent of coal shipped to electric utilities in 1974, a 27 percent increase over their share in 1967. In 1974, they held 5 percent of total U.S. coal resources, compared to 1 percent in 1967. These figures do not indicate that the oil and gas companies have a dominant position or even significant market power in the coal industry. But the trend of oil and gas company entry into coal mining and the companies' activities and performance merit continuous attention to make sure that a competitive industry does not become noncompetitive."

The whole is incredible enough but the parts are mindboggling:

"Unconcentrated compared to . . . steel and automobiles." Someone has a weird sense of humor. If you saw a film of a hostage who said his captors were gentlemen compared to Attila the Hun and Jack the Ripper you would know (a) that he is under duress and can't talk freely; and (b) that, like Attila and Jack, his captors were not gentlemen at all. Is there a speech writer hidden somewhere in the White House trying to signal us (a) that he's being held captive and forced to write paragraphs like this one against his will; and (b) that, like steel and autos, coal is really very concentrated?

"Thirty-two oil companies account for 16 percent of coal production." Why would anyone use that figure when the American Petroleum Institute itself admits that eight oil companies produced more than 20 percent of our coal, and other figures show an even higher percentage?

"Five percent of total U.S. coal resources." Off by a factor of 700 percent from other credible estimates of oil company coal holdings. Yet it is "these figures" that lead the Plan's author to conclude that the oil companies do not have "even significant market power in the coal industry."

Whereas on April 20 the "trend of oil . . . entry into coal" was enough to merit concern, by April 29 we would really only worry if, after the fact, we found that "the companies' activities and performance" were evil. A careful but vital distinction to any antitrust lawyer. It is not monopolistic structure and acquisition of a capacity to restrict competition that would trigger action but only getting caught in the act of overt misbehavior. And a final message from the April 29th phantom: to avoid any confusion as to why the oil-coal connections merit attention, he or she tells us "to make sure that a competitive industry does not become non-competitive."

And so Mr. Carter came around by 180 degrees—from firm advocacy of horizontal divestiture between oil and coal, to worrying about that possibility, and finally to advocating the industry position that there is really nothing to worry about. Although the "Fact Sheet" on April 20 concluded that present information did not require new laws on competition, it warned: "That conclusion is subject to change." There was a change nine days later—the warning was deleted.

Meanwhile, the industry was not satisfied to rest on its laurels in the matter of gas. It had already managed to expand the definition of "new gas": Schlesinger's original draft, which made all gas within 5 miles of an existing well "old gas," had been changed to put the boundary at 2.5 miles. The industry began a public relations and lobbying campaign to expand the "new gas" definition even further, and it had the gall to complain about the \$1.75 price as well.

Who cares, you say? Well the President says he does, and in so saying, suggests why you should: "If producers were to receive tomorrow's prices for yesterday's discoveries, there would be an inequitable transfer of income from the American people to the producers, whose profits would be excessive and would bear little relation to actual economic contribution."

Fine rhetoric, an excellent description of what the proposed gas pricing will do. The numbers are hard to estimate but here's a ballpark calculation to keep in mind:

If the FPC staff was right about the 60¢ price being ample a year ago, and we generously add 25 percent for inflation since then, we get 75¢ per mcf as the "ample incentive" price.

At \$1.75 there is \$1 of windfall on each mcf, even more on "old gas" that Carter will permit to be recontracted at \$1.42 despite its low-cost, fully depreciated origins.

Even if we take the old Carter standby of 5 percent as the amount of gas to which the new gas, or other bonus prices, will apply, there will be a windfall of \$1 billion that first year, \$2 billion the second year, and so on, until by 1985 there has been a cumulative windfall of \$36 billion—a gift from all of us to "them."

That estimate may be very low. The American Gas Association told James Schlesinger that its estimate was 5.5 billion mcf of "new gas" by 1980 (their broader definition is probably offset by their desire to have a conservative number, so this projection is relevant). That would mean about \$60 billion of profiteering by 1985 on "new gas" alone, not to mention the "roll-over" windfalls, the Alaska oil bonus, the "new oil" windfall, the drilling tax de-reform, and other goodies to assure that the oil and gas people escape their share of the national sacrifice.

Why? How? Who? We must all try to find out. For if the ghost of Duke Ligon and the April 29th Phantom are running around the White House and can turn a campaign fudge on gas-price deregulation into a multibillion-dollar commitment to the oil and gas industry, and can transmute a promise to the people to break Big Oil away from Big Coal into a tract against oil-coal separation, we all had better keep our hands on our wallets.

#### THE WELFARE TRAP

(Mr. THONE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. THONE. Mr. Speaker, James Treloar is a writer for the Detroit News. He has written a study of one family that has been receiving welfare for four generations. His series was widely re-

printed, including in my State, by publication in the Omaha World-Herald.

The articles showed how one family has been robbed of their energy to succeed on their own—robbed by welfare measures that were intended to help. The articles also showed how one welfare family collected more than \$1,400 in monthly payments—far more money than millions of hardworking families are able to take home.

Mr. Treloar's articles point up the urgent need for welfare reform now!

Mr. Speaker, I include the aforesaid articles for reprinting in the CONGRESSIONAL RECORD, as follows:

(By James Treloar)

When Mrs. Elizabeth Reed was a little girl, her mother used to say: "A woman's duty is to honor her husband by giving him children."

It was a maxim that had served the family well. In tribal Africa, families that had many children were people to be reckoned with. They could dominate the political life of a village.

In America, children helped keep black families intact through 200 years of slavery. After the Civil War, children brought comfort in a hostile world.

So in 1925, when she was 17, Elizabeth married Charles Reed and honored him with 15 children.

Reed couldn't—or wouldn't—hold a job or support his family. He had a reputation for chasing women, and would be gone for weeks at a time. He took off for good in 1946, leaving the care of his family in the hands of welfare agencies. He was last known to be living in New York.

Mrs. Reed first ran into financial trouble and applied for welfare in 1928. Now, nearly half a century later, the family is still on welfare—down to the fourth generation. Mrs. Reed has 109 living descendants, and most of them are receiving welfare.

The money and services coming into her house from Social Security, Aid to Dependent Children (ADC), Medicaid, food stamps, and freedom from taxes are estimated at \$20,000 a year.

Her case makes a thick file at Michigan's Wayne County Social Services. Social workers who have examined it are appalled, but they can offer no explanation of what went wrong with the family or how the welfare pattern could have been broken.

Perhaps you, the reader, can.

#### ROACHES

It's nearly two years now since Mrs. Reed bought a 1920 house on Detroit's near east side, but she has never seen the second floor of her own home. The stairs aren't to be trusted. She says she'll have a man look at them—some day.

She's had the place fumigated three times already, but cockroaches continue to scurry along her walls and around the family pictures Mrs. Reed displays proudly in her dining room china cabinet.

Fourteen people—representing four generations—live in the house. Mrs. Reed's daughter, Rose Marie Sadler, and five of her children occupy the two upstairs bedrooms, trying to avoid the broken stairs when they go to bed at night. The sixth waits until Mrs. Reed gets up in the morning, then slips into her bed.

Mrs. Reed has been responsible for five other grandchildren since the death of their mother, Mrs. Caroline Wylie. Four of them sleep in one of the downstairs bedrooms. The fifth, Briane, sleeps with Mrs. Reed when she's in a tolerable mood; otherwise she sleeps on the sofa with her baby.

The clock on Mrs. Reed's living room wall

always proclaims 5:16. When the battery went dead, Mrs. Reed resigned herself to accepting the clock as a mere decoration.

The clock isn't necessary, Mrs. Reed can keep track of time by what is showing on her TV set. The set is on all day while Mrs. Reed watches a succession of game shows and soap operas from an easy chair in her living room. Callers sometimes peek in the front window before knocking. If Mrs. Reed isn't in her easy chair, they know something is very wrong.

#### "ALL THE NEWS"

She has a telephone with a long extension cord that reaches her chair, and it rings constantly. When any of her relatives has something to report, Mrs. Reed hears first. "I get all the news," she says with great pleasure.

Mrs. Reed is 68. It's hard to believe that she was once a strong, handsome woman, but she has the pictures to prove it. She's had a series of heart attacks. Her weight soared to 266 pounds. And she has only one tooth left. She insists that no dentist will ever get that one.

Life has not been the bright promise it was when the family arrived in Detroit 53 years ago.

Mrs. Reed was born Elizabeth Jenkins in 1908 on a farm outside Talladega, Ala., to Arthur and Caroline Jenkins.

She is one of 15 children and the eldest daughter.

Her earliest recollections are of sitting in a corner and listening to her great-grandmothers tell of living in slavery. She heard tales of whippings and the auction block.

Her parents had both attended Talladega College, a school for blacks run by the Congregation Church, but it's not certain how far they went in school. Talladega had its own elementary school on campus, and it's possible that her parents just went there. In later years, however, Arthur Jenkins was able to tutor his own children in high school math, which suggests he went further than grade school.

He was also well educated enough to pass the examination for mail carrier, but was refused the job because he was black.

#### TRAIN NORTH

Elizabeth's maternal grandfather, Jeremiah Burt, was the first of the family to arrive in Detroit. He got a job in Highland Park where the Maxwell car was built. Chrysler later took over the factory.

Burt found a job in the Maxwell plant for Elizabeth's father, sent for him, and one morning in 1923 the family stood with all their possessions on the station platform in Rendalia, Ala., to catch the train north.

They found a house on St. Aubin Street. Unlike their home in Alabama, it had electricity and running water. It was the first time Elizabeth had seen a flush toilet.

Her education in Alabama had been spotty at best, and Elizabeth was put into the 6th grade, although she was 14. It is as far as she'd ever go in school.

Her mother had chronic heart trouble and was unable to do housework. She became a seamstress and sat at her sewing machine all day making gowns and outfits for a growing clientele. Many weeks she made more money with her sewing than her husband and two sons together earned at the factory. Once she made a wedding gown for a Grosse Pointe debutante who was so appreciative that she gave Mrs. Jenkins a \$50 tip.

It was a hard-working family. Elizabeth's father labored 18 years for Chrysler, and missed only 10 days' work—the time he went back to Alabama to bury his wife.

But the hardest worker was Elizabeth. With her mother an invalid, Elizabeth became "little momma" and was put in charge of the housework. She rose at 5 every morning, made breakfast for her father and two

older brothers, packed their lunches and got them off to work. Then she got breakfast for the children, made sure they were washed and dressed properly and sent them off to school.

#### TWO EXTRA PLACES

When they were old enough, the younger boys took over the dishwashing chores.

Before every meal, Elizabeth's mother came to inspect the table setting. There had to be two extra places set, in case neighbor children wandered in and were hungry. No child was ever turned away from her home.

Though Elizabeth left school after the 6th grade, her brothers and sisters continued their education. Most made it through tenth grade, and a few finished high school.

They found good jobs and made sound marriages.

Not one of them ever sought welfare.

The six still living are gracious, well-spoken people who live in well-kept homes.

#### TOO MUCH

Elizabeth says she quit school because, with all the housework, it was too much. "I was tired all the time," she says.

She admits now that perhaps she got married for the same reason.

She met Charles Reed at a neighborhood party. His father was a junkman and sometime-preacher who combed the neighborhood with a push-cart, finding scraps to sell.

"His parents thought the sun rose and set on Charles," Elizabeth says. "He was their only son. I guess he got the idea he was too good to work." All she can remember of the attraction is that Reed was a good dancer.

The wedding was held in her parents' living room. Elizabeth, 17, made punch, cake and lemonade for the occasion. Her mother made the satin gown. Most of the wedding guests were white. "It was different in those days," Elizabeth recalls. "We had white friends and neighbors. It wasn't like it is now."

After the wedding, her husband borrowed a Model "T" Ford from one of Elizabeth's brothers, and drove his bride to her aunt's house for the night.

He didn't have money for a honeymoon. He didn't have money for an apartment, either, and the newlyweds moved in with his parents.

#### ANXIOUS

Elizabeth says her husband never held a job for more than four weeks all the time they were together.

When the babies started coming, the support of two families was too much for Elizabeth's father-in-law.

Records show that Elizabeth first applied for welfare in 1928, at the Department of Social Services. "It was for the usual," she says, "—coal, food, clothing."

After five years of living with her in-laws, Elizabeth became increasingly anxious.

"They were always nice to me," she remembered. "But I'm a woman. I wanted a woman's place. A woman should have her own place to take care of. It's not right, being in someone else's house, always wondering if you're doing things the way they want."

One day in 1930, a cousin summoned Elizabeth Reed to her home across the street and gave her a lecture. Charles, Mrs. Reed's husband, was obligated to support his family, she said, and could be made to.

It was a revelation to Elizabeth. She'd never heard of "nonsupport" before.

So the cousin took Mrs. Reed downtown to the Friend of the Court's office.

That was on a Friday.

Monday, her husband got a letter from the court ordering him to appear. He went into a rage, but nothing like the one he threw when he returned home.

He said they called him "a dog" and ordered him to give his wife \$30 every month. There was a violent scene at home, and



knives were drawn. Mrs. Reed says there'd have been bloodshed, too, if her father-in-law hadn't stepped in and ordered his son from the house.

Her husband's response to the court order was to immediately quit his job and put his family on welfare.

That was all right with Mrs. Reed.

"I was so tired the way things were before," she says, "I was proud to get the welfare. It was a real break. We got our own place for good, and I didn't have to depend on his parents."

The Detroit Department of Public Welfare apparently wasn't concerned with why Reed was unemployed—just that he needed money.

#### SOMETIME THING

For several years, welfare was a sometime thing. Mrs. Reed's husband would get a job and they'd be off welfare for a few weeks. Then he'd lose his job, and Mrs. Reed would be back on welfare.

The babies kept coming. All 15 of them were born at home. Seven were stillborn or died shortly after birth. All but the first delivery were paid for by the City Physician's office. No one discussed birth control with Elizabeth—it was a taboo subject.

The Reeds were separated three times before making a final break in 1946.

In July, 1940, during one separation, Mrs. Reed applied for Aid to Dependent Children (ADC) but was denied on grounds that her husband hadn't been gone for a year, a requirement that has since been changed.

In August 1946, with six youngsters, she claimed she'd been separated 10 years, even though her last four children had been born during those years. This time, ADC was granted.

In 1958, a caseworker wrote a summary of information gathered on Mrs. Reed's family since they'd been on ADC:

"On 8-26-48 a neighbor complained that Mrs. Reed's (Elizabeth) children were neglected and starving. They had been seen eating from garbage pails. It was reported that Mrs. Reed was taking her ADC check and going to beer gardens and spending the money there.

"The bureau made a home call to investigate the situation, and the house was found dirty and untidy. This was the usual description throughout the record. Soiled clothing was lying about, and the children were home alone. They told (the social worker) that Mrs. Reed was at her sister's house and that she usually spent the weekends there . . .

"The children's school records were checked after this complaint was received. It was found that Norma and Charles have been in Juvenile Court for nonattendance. Norma was finally sent to Adrian School for Girls . . .

#### POOR ADJUSTMENTS

"Most of Mrs. Reed's children made very poor adjustments in life. Though Arthur married, his marital adjustment was poor and he eventually left his family, causing them to seek public assistance; and Charles, at the age of 17, had gotten into trouble for stealing items from a junkyard. He also had been to Juvenile Court for truancy from school.

"Norma, at the age of 16, quit school and became illegitimately pregnant by a married man. Mrs. Reed was not at all disturbed about the girl's situation. (The social worker) described Mrs. Reed's attitude as follows:

"She accepted it as a natural thing," Norma later married but made a poor adjustment to marital life. Eventually she applied for ADC as Norma Harris.

"Mrs. Reed's daughter, Jessie Davis, also made a very poor adjustment in her marital life and eventually received ADC for her eight children. Rose Marie, at the age of 14, became pregnant. Mrs. Reed dismissed statu-

tory rape charges against the boy as she felt Rose Marie was equally guilty."

None of Mrs. Reed's children has ever gone far from home, and they still call or visit their mother almost daily.

Her home is where the clan gathers on holidays, and at times of tragedy. It's where her children find a haven from quarrels with their spouses. It's the dumping ground for babies when they want to go on a trip.

She keeps taking in people who need help.

#### GENEROSITY

This year, she displayed a generosity that would dismay most people—she took in the boy who had made her granddaughter pregnant. He'd been thrown out of his own home, and was sleeping in a car.

Mrs. Reed's daughter, Caroline, suffered chronic heart trouble, and died in her mother's arms five years ago. Mrs. Reed has since had custody of Caroline's children, three of whom are receiving Social Security benefits and two ADC.

Two years ago, Mrs. Reed was evicted from her apartment and moved in with her daughter Rose Marie Sadler while trying to find a house to buy.

She was there when Rose Marie's home burned to the ground. Everything was lost.

Mrs. Reed and Mrs. Sadler both received cash grants from ADC to buy new clothes and bedding.

Now Mrs. Sadler and her children live with Mrs. Reed, along with Caroline's children.

Mrs. Sadler is 35. She was born and raised on welfare. She's had 12 illegitimate pregnancies and has eight surviving children. Her eldest son has fathered two children with a girl he does not intend to marry, and she's now on ADC. Her second eldest son has a girl pregnant, but does not intend to marry.

#### REVIEW OVERDUE

ADC cases are supposed to be reviewed every six months, but Mrs. Reed says she hasn't seen her caseworker in about two years.

Instead of interviewing clients, ADC now just mails them a form, and clients fill in the amount of money they need.

But even with the new mail system, Elizabeth's case has not been reviewed during the last six months. Nor have 125 of the 205 other cases her social worker is responsible for.

#### WELFARE SOURCES

Following is a breakdown of monthly income into Mrs. Reed's household. Figures for housekeeper and disability stem from Mrs. Reed's frailty, and, accordingly, inability to do housework.

| From ADC                                    |       |
|---|-------|
| Mrs. Reed.....                              | \$220 |
| Mrs. Sadler.....                            | 660   |
| Mrs. Reed's housekeeper.....                | 160   |
| From Social Security                        |       |
| Mrs. Reed's disability.....                 | 192   |
| Death Benefits for Caroline's children..... | 162   |
| From Food Stamps                            |       |
| Mrs. Reed.....                              | 83    |
| Total all sources.....                      | 1,477 |

#### PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, due to a typographical error, my personal explanation in the Journal of May 26, 1977, did not include my vote on roll No. 282,

passage of the International Security Assistance Act. I would have voted "yes."

#### PRESS SUPPORTS CHANGES IN POSTAL POLICY

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, on Tuesday, May 24, several Members of this body expressed varying opinions about the Postal Service. The general thrust of those remarks was that significant changes in organization and approaches were required.

Recently, two major newspapers printed editorials which agree with that approach. The following are editorials from the Washington Star of May 23 and the Syracuse Herald-Journal of Thursday, May 19:

#### ANOTHER MAIL RATE INCREASE?

A study commission created last year by Congress to advise it on the Postal Service found in a poll that 79 per cent of the people would rather have mail delivery cut to five days a week than to have an increase in postal rates.

Well, if the U.S. Postal Service's board of governors has its way, we'll have both. The other day it approved the preparation of a request to increase the first-class letter rate by 3 cents (to 16 cents) and to cut back delivery to five days, probably eliminating delivery on Saturdays.

But is either necessary? Probably yes, if the aim is to make the Postal Service pay its own way. Probably no, if Congress and the people are willing to underwrite progressively larger Postal Service deficits with tax money.

Congress established the quasi-independent U.S. Postal Service in 1970 with the hope that removing mail service from politics would result in more efficiency and make the postal service self-supporting. But it has proven to be far from a break-even operation; and if it is more efficient, you wouldn't know it from the complaints.

Furthermore, it has not been removed from politics. Members of Congress constantly are breathing down the Postal Service's neck, and with good reason for the most part. There is a bill in Congress at the moment, for example, to require continued six-day service.

The outlook for improving the Postal Service's operation is not good. Increases in postal rates have caused patrons, particularly large-scale users, to try other methods of delivery. Electronic communications systems are taking away business. Further rate increases and a cutback to five-day delivery likely would cause an additional decline in volume.

Costs, meanwhile, would continue to escalate. As business continues to drain away, the Postal Service could be left with the least profitable segments of its service. And it still would be saddled with the congressional requirement that postal wages be subject to collective bargaining, which has made Civil Service postal employees among the highest-paid workers in the country.

Among recommendations of the congressional study commission were a cutback to five-day delivery, a cutback in costly overnight sorting of mail, consideration of getting into electronic message transmission, and an increased subsidy of postal operations from the current fixed level of \$920 million a year to a sum equal to 10 percent

of the Postal Service's expenses (about \$1.5 billion this year).

Significantly, the commission, which had only one congressman among its seven members, declined to go along with pressures to bring the Postal Service under closer political scrutiny. Some members of Congress would like, for example, to see the Postal Service's board of governors abolished. There also is a move afoot in Congress and the White House to have the postmaster general appointed by the President rather than the board of governors.

Obviously, something must be done. It is apparent after more than six years of experience that the objectives hoped for in turning mail delivery over to a quasi-independent Postal Service have not been achieved, and likely cannot be.

It seems clear that, even with more efficiencies, mail delivery cannot be put on a self-sustaining financial basis while at the same time maintaining the kind of service that the public wants at postal rates the public and the Congress consider acceptable.

Congress must accept the fact that large federal subsidies are necessary to keep this vital service going. And the study commission's recommendations notwithstanding, it seems to us that the Postal Service ought to be brought under closer control of the White House and the Congress.

#### USPS DOESN'T WORK

There is a point at which it becomes obvious that a failure is destined to be just that—a failure.

The ill-fated and mistakenly conceived U.S. Postal Service is an example.

Back in 1971, when Congress cut the cord and created the autonomous, private entity to deliver the mail, the idea was to make it—eventually—self-sustaining while keeping the cost of sending a letter within reasonable bounds.

It didn't work and it won't work. The experiment has been a failure and it's time to try alternative solutions.

What we don't need is Postmaster General Benjamin Bailar trying to balance the books by cutting back on services and jacking up the price of a stamp.

Despite the fact that in fiscal 1976 the operations of the "independent" Postal Service cost the taxpayers nearly \$2.9 billion in subsidies over and above postage rates paid by the users, Bailar proposes now to cut back service to five days a week and raise the price of a first-class stamp to 16 cents.

Syracuse's Rep. James Hanley, chairman of the subcommittee on postal operations and service, was right when he, along with Rep. Charles Wilson, chairman of the subcommittee on postal personnel and modernization, charged that Bailar's independence is inappropriate, considering the source of the USPS's funds.

According to Hanley and Wilson, "On a number of occasions Bailar has arrogantly refused to appear before either committee. . . . Our patience is growing thin. We believe Mr. Bailar's uncooperative attitude reflects a total lack of willingness to work with the House of Representatives to help develop postal policies for decades to come."

Within reason, of course, Bailar's independence is his right—since he is running an independent agency.

By his own word, "there is no legal requirement for legislative action," on his plans to eliminate suburban post offices and cut deliveries to five days a week.

As for the increase in rates, that's a matter for the Postal Rate Commission to decide under the present arrangement.

But the present arrangement isn't working!

The current, quasi-independent Postal Service never will pay its way and it shouldn't be expected to. If we are to get the services we need and expect, our tax dollars will have to subsidize the USPS.

President Carter will ask Congress for sweeping changes in the postal system—including the return of the postmaster general to the Cabinet.

Among recommendations expected to be passed by the President to Congress are a return of the Postal Service to the control of the Executive Branch, with assurances that "politics" not play a part in the selection of the postmaster general.

He also will ask that Congress reserve for itself the right to veto rates set by the Postal Rate Commission.

Perhaps his most important recommendation will be a provision that Congress subsidize the mails to keep rates from climbing as rapidly as they have since the Postal Service was made an autonomous agency.

(Since May 16, 1971, when the USPS replaced the Post Office Department, the price of a first-class letter has risen from eight cents to the present 13 cents and, if Bailar has his way, will continue to go up.)

The Postal Service is what the name says—a service. Just as many other government services do not pay for themselves, it cannot be expected to be self-sufficient.

Our taxes will help pay for it and our elected officials should have a say in how the tax money is to be spent.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. CHAPPELL (at the request of Mr. WRIGHT), for June 1, 2, and 3, on account of official committee business.

Mr. DEVINE (at the request of Mr. RHODES), for today and the balance of the week, on account of medical reasons.

Mr. JEFFORDS (at the request of Mr. RHODES), for today and the balance of the week, on account of official business.

Mr. LEHMAN (at the request of Mr. WRIGHT), for June 1, 2, and 3, on account of official business.

Mr. MCKINNEY (at the request of Mr. RHODES), for an indefinite period, on account of illness.

Mr. MANN (at the request of Mr. WRIGHT), for June 1 through 3, on account of official business.

Mr. YOUNG of Alaska (at the request of Mr. RHODES), from May 26 to June 6, on account of official business.

Mr. ZEFERETTI (at the request of Mr. WRIGHT), for today, on account of official committee business.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WALKER) and to revise and extend their remarks and include extraneous matter:)

Mr. ARMSTRONG, for 60 minutes, today.  
Mr. SYMMS, for 10 minutes, today.  
Mr. KEMP, for 10 minutes, today.  
Mr. GRASSLEY, for 15 minutes, today.

(The following Members (at the request of Mr. IRELAND) to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.  
Mr. GONZALEZ, for 5 minutes, today.  
Mr. FLOOD, for 5 minutes, today.  
Mr. McHUGH, for 5 minutes, today.  
Mr. PEPPER, for 10 minutes, today.  
Mr. VANIK, for 5 minutes, today.  
Mr. KOCH, for 5 minutes, today.  
Mr. HARRIS, for 5 minutes, today.  
Mr. RODINO, for 5 minutes, today.  
Mr. GLICKMAN, for 5 minutes, today.  
Mr. PHILLIP BURTON, for 5 minutes, today.

Mr. JONES of Oklahoma, for 5 minutes, today.

Mr. MCKAY, for 15 minutes, today.  
Mr. FOUNTAIN, for 5 minutes, today.  
Mr. PREYER, for 5 minutes, today.  
Mr. HAMILTON, for 20 minutes, today.  
Mr. MOSS, for 5 minutes, today.  
Mr. FORD of Michigan, for 5 minutes, today.

#### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. EDWARDS of California in three instances and include extraneous matter.

Mr. SEIBERLING and to include extraneous matter notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost \$1,046.50.

Mr. ROUSSELOT immediately preceding the vote on final passage of H.R. 6970, Marine Mammal Protection Act amendments.

(The following Members (at the request of Mr. WALKER) and to include extraneous matter:)

Mr. SARASIN.  
Mr. ARMSTRONG in four instances.  
Mrs. PETTIS.  
Mr. FORSYTHE.  
Mr. BOB WILSON in three instances.  
Mr. McCLORY.  
Mr. EDWARDS of Alabama.  
Mr. DERWINSKI in five instances.  
Mr. GILMAN in two instances.  
Mr. SYMMS in two instances.  
Mr. HYDE.  
Mr. KETCHUM.  
Mr. BROWN of Ohio.  
Mr. KEMP in two instances.  
Mr. ROUSSELOT in two instances.

(The following Members (at the request of Mr. IRELAND) and to include extraneous matter:)

Mr. ROSENTHAL in 10 instances.  
Mr. SISK in two instances.  
Mrs. LLOYD of Tennessee in five instances.  
Mr. ANNUNZIO in six instances.  
Mr. ANDERSON of California in three instances.  
Mr. GONZALEZ in three instances.  
Mr. BROWN of California in 10 instances.  
Mr. HAMILTON in 10 instances.  
Mr. BLANCHARD in two instances.  
Mr. BAUCUS in two instances.  
Mr. EILBERG in 10 instances.



Mr. CARNEY.  
 Mrs. COLLINS of Illinois in three instances.  
 Mr. McDONALD in three instances.  
 Mr. DRINAN in two instances.  
 Mr. MOAKLEY.  
 Mr. STEED.  
 Mr. EDWARDS of California.  
 Mr. HARRIS.  
 Mr. HOLLAND in three instances.  
 Mr. KILDEE in five instances.  
 Mr. OTTINGER.  
 Mr. DICKS.  
 Mr. ROE.  
 Mr. STUDDS.  
 Mr. REUSS.  
 Mr. FORD of Tennessee.  
 Mr. EVANS of Indiana.  
 Mr. RUSSO.  
 Mr. SIMON.  
 Mr. GINN.  
 Mrs. SPELLMAN.  
 Mr. VOLKMER.  
 Mr. WALGREN.  
 Mr. KOCH.  
 Mr. BRECKINRIDGE.

### SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

- S. 682. An act to amend the Ports and Waterways Safety Act of 1972, to establish a program of oil pollution research, and for other purposes; to the Committees on Merchant Marine and Fisheries and International Relations.  
 S. 1060. An act to amend the act of February 9, 1821, to restate the charter of the George Washington University; to the Committee on the District of Columbia.  
 S. 1062. An act to amend section 441 of the District of Columbia Self-Government and Governmental Reorganization Act; to the Committee on the District of Columbia.  
 S. 1063. An act to amend the District of Columbia Self-Government and Government Reorganization Act; to the Committee on the District of Columbia.  
 S. 1103. An act to permit States the reciprocal right to sue in the Superior Court of the District of Columbia to recover taxes due the State; to the Committee on the District of Columbia.

### ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

- H.R. 4390. An act to authorize appropriations for continuation of construction of distribution systems and drains on the San Luis Unit, Central Valley project, California, to mandate the extension and review of the project by the Secretary, and for other purposes;  
 H.R. 5040. An act to authorize additional appropriations for the Department of State for fiscal year 1977;  
 H.R. 5306. An act to amend the Land and Water Conservation Fund Act of 1965, and for other purposes; and  
 H.R. 6752. An act to amend the Water Resources Planning Act (79 Stat. 244) as amended.

### BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on May 27, 1977 present to the President, for his approval, a bill of the House of the following title:

H.R. 6752. An act to amend the Water Resources Planning Act (79 Stat. 244) as amended.

### ADJOURNMENT

Mr. IRELAND. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 43 minutes p.m.), the House adjourned until tomorrow, Thursday, June 2, 1977, at 10 o'clock a.m.

### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1584. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects to be undertaken by the Navy and Marine Corps Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

1585. A letter from the Acting General Counsel, Council on Wage and Price Stability, Executive Office of the President, transmitting a report on the Council's activities under the Freedom of Information Act during calendar year 1976, pursuant to 5 U.S.C. 552 (d); to the Committee on Government Operations.

1586. A letter from the Director, Federal Mediation and Conciliation Service, transmitting a report on the agency's activities under the Freedom of Information Act during calendar year 1976, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

1587. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to amend the Wild and Scenic Rivers Act by designating certain rivers for study as potential additions to the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

1588. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to amend the Wild and Scenic Rivers Act by increasing the appropriations authorizations therein, and for other purposes; to the Committee on Interior and Insular Affairs.

1589. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to establish National Historic Trails as a new category of trails within the National Trails System, and for other purposes; to the Committee on Interior and Insular Affairs.

1590. A letter from the Chief Commissioner, U.S. Court of Claims, transmitting a report on the allowance of attorney expense claims in docket No. F-22, Lester W. Miller, Jr., and docket No. F26, Jackson & Fenton, Barry W. Jackson and Thomas E. Fenton, pursuant to section 20 of the Alaska Native Claims Settlement Act; to the Committee on Interior and Insular Affairs.

1591. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the

Federal Republic of Germany for permission to loan certain U.S.-origin defense equipment to an Italian company, pursuant to section 3(d) of the Arms Export Control Act; to the Committee on International Relations.

1592. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Federal Republic of Germany for permission to transfer certain U.S.-origin defense equipment to the Government of Turkey, pursuant to section 3(d) of the Arms Export Control Act; to the Committee on International Relations.

1593. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of a license for the export of major defense equipment sold commercially to Saudi Arabia (Transmittal No. MC-45-77), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

1594. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Malcolm Toon, Ambassador-designate to Russia, and his family, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations.

1595. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

1596. A letter from the Administrator, Federal Energy Administration, transmitting a report covering the month of January 1977, on sales of refined petroleum products, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

1597. A letter from the President, National Academy of Sciences, transmitting a summary of the Academy's report on drinking water and health prepared for the Environmental Protection Agency pursuant to section 1412(e) of the Public Health Service Act, as amended (88 Stat. 1664); to the Committee on Interstate and Foreign Commerce.

1598. A letter from the Chairman, U.S. Railway Association, transmitting the first annual report on the performance of the Consolidated Rail Corporation, pursuant to section 307(b) of the Regional Rail Reorganization Act of 1973, as amended (90 Stat. 99); to the Committee on Interstate and Foreign Commerce.

1599. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to improve the administration of the Federal Magistrates System, and for other purposes; to the Committee on the Judiciary.

1600. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to enlarge and amend the trial jurisdiction of U.S. magistrates in misdemeanor cases; to the Committee on the Judiciary.

1601. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on New York and New Jersey channels, in response to resolutions of the House Committee on Public Works adopted March 30, 1955, and June 27, 1956; to the Committee on Public Works and Transportation.

1602. A letter from the Chairman, John F. Kennedy Center for the Performing Arts, transmitting the Center's annual report and audit for fiscal year 1976 and the transition quarter, pursuant to 72 Stat. 1700 and 78

Stat. 4; to the Committee on Public Works and Transportation.

1603. A letter from the Acting Comptroller General of the United States, transmitting a report on the need for greater cooperation between military and Federal civil agencies conducting search and rescue and law enforcement missions along the coasts or in U.S. coastal waters (LCD-76-456, May 23, 1977); jointly, to the Committees on Government Operations, Armed Services, and Merchant Marine and Fisheries.

1604. A letter from the Comptroller General of the United States, transmitting a report on NASA's Space Transportation System (Space Shuttle) (PSAD-77-113, May 27, 1977); jointly, to the Committees on Government Operations, Science and Technology, and Armed Services.

1605. A letter from the Comptroller General of the United States, transmitting a report on the Department of Labor's first-year record in investigating and certifying worker petitions for adjustment assistance, pursuant to section 280(a) of Public Law 93-618; jointly, to the Committees on Government Operations, and Ways and Means.

1606. A letter from the Comptroller General of the United States, transmitting a report on the examination of the financial statements of the Federal Prison Industries, Inc., Department of Justice, for fiscal year 1976, pursuant to section 106 of the Government Corporation Control Act, as amended (FOD-77-03, May 31, 1977) (H. Doc. No. 95-166); jointly, to the Committees on Government Operations, and the Judiciary and ordered to be printed.

1607. A letter from the Acting Administrator, U.S. Energy Research and Development Administration, transmitting a revised draft of proposed legislation to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes; jointly, to the Committees on Science and Technology, Armed Services, Interior and Insular Affairs, and International Relations.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DANIELSON: Committee on the Judiciary. H.R. 4885. A bill to authorize appropriations for the Indian Claims Commission for fiscal year 1978; to facilitate the transfer of cases from the Indian Claims Commission to the United States Court of Claims; and for other purposes; with amendment (Rept. No. 95-234, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. Supplemental report on H.R. 7073. A bill to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Rept. No. 95-343, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMPSON: Committee on House Administration. Report of the Committee on House Administration pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 95-372). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee on the District of Columbia. Report on allocation of budget authority and outlays by major programs (Rept. No. 95-373). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2502. A bill to extend certain oil and gas leases by a period sufficient to allow the drilling of an ultradeep well; with amendment (Rept. No. 95-374). Referred to the Committee of the Whole House on the State of the Union.

Mr. DAN ELSON: Committee on the Judiciary. H.R. 5023. A bill to amend the statute of limitations provisions in section 2415 of title 28, United States Code, relating to claims by the United States on behalf of Indians; with amendment (Rept. No. 95-375). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 5846. A bill to amend the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments under certain medical and life insurance policies, to provide that ConRail shall be entitled to a loan under section 211 (h) of such act in an amount required for such premium payments, and to provide that such premium payments shall be deemed to be expenses of administration of the respective railroads in reorganization; with amendment (Rept. No. 95-376). Referred to the Committee of the Whole House on the State of the Union.

Mr. FLOWERS: Committee on the Judiciary. H.R. 6893. A bill to amend title 4 of the United States Code to make it clear that Members of Congress may not, for purposes of State income tax laws, be treated as residents of any State other than the State from which they were elected (Rept. No. 95-377). Referred to the Committee of the Whole House on the State of the Union.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California (for himself, Mr. McFALL, Mr. ROGERS, and Mr. GARY A. MYERS):

H.R. 7498. A bill to amend title 38, United States Code, to provide for the payment of service pensions to veterans of World War I and the surviving spouses and children of such veterans; to the Committee on Veterans' Affairs.

By Mr. BRINKLEY:

H.R. 7499. A bill to provide for limited public financing of congressional general election campaigns, to provide that candidates receiving public funds in Presidential elections may accept certain contributions and make increased expenditures, and for other purposes; to the Committee on House Administration.

By Mr. COHEN:

H.R. 7500. A bill to amend section 212 of title 18 of the United States Code which relates to the offering of loans by banks to bank examiners; to the Committee on the Judiciary.

H.R. 7501. A bill to amend the Maritime Academy Act of 1958 in order to authorize the Secretary of the Navy to appoint students at State maritime academies and colleges as Reserve midshipmen in the U.S. Navy, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Armed Services.

By Mr. COHEN (for himself and Mr. Mr. EMERY):

H.R. 7502. A bill to direct the Secretary of the Department under which the U.S. Coast Guard is operating to cause the vessel *Quoddy Pride*, owned by the Washington County Vocational Technical Institute of Calais, Maine, to be documented as a vessel of the United States so as to be entitled to engage in the American fisheries; to the

Committee on Merchant Marine and Fisheries.

By Mr. DELANEY (for himself, Mr. CORNELL, Mr. BIAGGI, Mr. FITHIAN, Mr. TRAXLER, Mr. OTTINGER, Mr. HANLEY, Mr. AKAKA, Mr. LAGOMARSINO, Mr. FARY, Mr. ROUSSELOT, Mr. BADHAM, Mr. CLEVELAND, Mr. DORNAN, Mr. ELBERG, Mr. MURPHY of New York, and Mr. CAPUTO):

H.R. 7503. A bill to amend the Internal Revenue Code of 1954 to allow a taxpayer to deduct, or to claim a credit for, amounts paid as tuition to provide an education for himself, for his spouse, or for his dependents; to the Committee on Ways and Means.

By Mr. DICKS (for himself, Mr. BAUCUS, Mr. BEDELL, Mr. CORNWELL, Mr. ELBERG, Mr. GILMAN, Mr. MCCORMACK, Mr. PATTERSON of California, Mr. ST GERMAIN, Mr. SEIBERLING, Mr. SOLARZ, Mr. TRIBLE, Mr. VENTO, Mr. WHITEHURST, and Mr. YOUNG of Alaska):

H.R. 7504. A bill to require the Secretary of Defense to conduct a systematic cost-effectiveness review before contracting for personal services; to the Committee on Armed Services.

By Mr. EDWARDS of California:

H.R. 7505. A bill to amend title XVIII of the Social Security Act to eliminate the deduction from benefits with respect to blood donation from benefits with respect to blood provided an individual which is not replaced; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. FINDLEY (for himself and Mr. RUPP):

H.R. 7506. A bill to terminate age discrimination in employment; to the Committee on Education and Labor.

By Mr. GILMAN (for himself, Mr. BADILLO, Mr. BAUCUS, Mr. CORNWELL, Mr. CONYERS, Mr. CORRADA, Mr. D'AMOURS, Mr. DOWNEY, Mr. DUNCAN of Tennessee, Mr. EDWARDS of Oklahoma, Mr. FAUNTROY, Mr. FITHIAN, Mr. GEPHARDT, Mr. HAWKINS, Mr. HOLLENBECK, Mr. KINDNESS, Mrs. LLOYD of Tennessee, Mr. MINETA, Mr. MITCHELL of New York, Mr. MURPHY of Pennsylvania, Mr. OTTINGER, Mr. PEPPER, Mr. RANGEL, Mr. SPENCE, and Mr. YATRON):

H.R. 7507. A bill to amend title 38, United States Code, in order to entitle veterans to 54 months of educational assistance for all educational programs under chapter 34 of such title, to eliminate the time limitation within which educational assistance must be used, and to restore on behalf of certain veterans educational assistance benefits previously terminated; to the Committee on Veterans' Affairs.

By Mr. GILMAN (for himself, Mr. SIMON, Mr. SCHEUER, Mr. THONE, Mr. WHITEHURST, Mr. CHARLES WILSON of Texas, and Mr. YATRON):

H.R. 7508. A bill to amend title II of the Social Security Act to reduce from 72 to 65 the age beyond which deductions on account of an individual's outside earnings will no longer be made from such individual's benefits; to the Committee on Ways and Means.

By Mr. HAGEDORN:

H.R. 7509. A bill to amend the Internal Revenue Code of 1954 to exempt certain agricultural aircraft from the aircraft use tax, to provide for the refund of the gasoline tax to the agricultural aircraft, and for other purposes; to the Committee on Ways and Means.

By Mr. HANSEN:

H.R. 7510. A bill to prohibit the expenditure of Federal Funds for the conversion to the metric system of measurements posted on highways without a direct authorization



by the Congress for such expenditure; to the Committee on Public Works and Transportation.

By Mr. HYDE (for himself, Mr. BAUCUS, Mr. BURGNER, Mr. COLLINS of Texas, Mr. CORCORAN of Illinois, Mr. EDWARDS of Oklahoma, Mr. ERTTEL, Mr. FRENZEL, Mr. HAGEDORN, Mrs. HECKLER, Mr. KETCHUM, Mr. KINDNESS, Mr. LaFALCE, Mr. LAGOMARSINO, Mr. LENT, Mr. MOTT, Mr. MURPHY of Pennsylvania, Mr. ROBINSON, Mr. WALKER, Mr. WHITEHURST, and Mr. WINN):

H.R. 7511. A bill to amend title 18, United States Code, relating to the production of false documents or papers of the United States, and the use of false information in obtaining official documents and papers of the United States, involving an element of identification; to the Committee on the Judiciary.

By Mr. HYDE (for himself, Mr. ARDOR, Mr. BAUCUS, Mr. BLANCHARD, Mr. BUTLER, Mr. CLEVELAND, Mr. COLEMAN, Mr. CORNWELL, Mr. DERWINSKI, Mr. DORNAN, Mr. DOWNEY, Mr. DUNCAN of Tennessee, Mr. EDWARDS of Oklahoma, Mr. EILBERG, Mr. EVANS of Delaware, Mrs. FENWICK, Mr. FLOWERS, Mr. FOUNTAIN, and Mr. FRASER):

H.R. 7512. A bill to have an inscription and appropriate medals, ribbons, and tributes placed upon the crypt at the National Cemetery at Arlington, Va., reserved for an American soldier who lost his life in Southeast Asia during the Vietnam era, and whose identity is unknown; to the Committee on Veterans' Affairs.

By Mr. HYDE (for himself, Mr. FRENZEL, Mr. GILMAN, Mr. GRASSLEY, Mr. GUYER, Mr. HALL, Mr. HANSEN, Mr. HUGHES, Mr. JENNETTE, Mr. KETCHUM, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. LEDERER, Mrs. LLOYD of Tennessee, Mr. LONG of Maryland, Mr. McHUGH, and Mr. MARIOTT):

H.R. 7513. A bill to have an inscription and appropriate medals, ribbons, and tributes placed upon the crypt at the National Cemetery at Arlington, Va., reserved for an American soldier who lost his life in Southeast Asia during the Vietnam era, and whose identity is unknown; to the Committee on Veterans' Affairs.

By Mr. HYDE (for himself, Mr. MICHEL, Mr. MILLER of Ohio, Mr. MURPHY of Pennsylvania, Mr. NEAL, Mr. OBERSTAR, Mr. PRESSLER, Mr. RICHMOND, Mr. SCHULKE, Mr. SIMON, Ms. SPELLMAN, Mr. SPENCE, Mr. TREEN, Mr. WALSH, Mr. WHITEHURST, Mr. CHARLES WILSON of Texas, Mr. WINN, Mr. WYDLER, Mr. YOUNG of Alaska, and Mr. YOUNG of Missouri):

H.R. 7514. A bill to have an inscription and appropriate medals, ribbons, and tributes placed upon the crypt at the National Cemetery at Arlington, Va., reserved for an American soldier who lost his life in Southeast Asia during the Vietnam era, and whose identity is unknown; to the Committee on Veterans' Affairs.

By Mr. KETCHUM:

H.R. 7515. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. McDONALD:

H.R. 7516. A bill to reduce expenditures by the Federal Government, except expenditures for national defense and national security, for the fiscal year 1978; to the Committee on Government Operations.

By Mr. MIKVA (for himself, Mr. BLOVIN, Mr. BROWN of Michigan, Mr.

CARNEY, Mr. CEDERBERG, Mr. DRINAN, Mr. EVANS of Colorado, Mrs. FENWICK, Mr. HANLEY, Mr. MAGUIRE, Mr. OBERSTAR, Mr. PREYER, and Mr. STUDDO):

H.R. 7517. A bill to correct inequities in certain franchise practices, to provide franchisors and franchisees with even-handed protection from unfair practices, to provide consumers with the benefits which accrue from a competitive and open market economy, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MIKVA (for himself and Mr. HANLEY):

H.R. 7518. A bill to correct inequities in certain sales representatives practices, to provide protection for certain sales representatives terminated from their accounts without justification, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MITCHELL of Maryland:

H.R. 7519. A bill to amend title 23 of the District of Columbia Code to remove the automatic disqualification of any person who has been convicted of an offense involving moral turpitude from engaging in the bonding business in the District of Columbia; to the Committee on the District of Columbia.

By Mr. MITCHELL of Maryland (for himself, and Ms. HOLTZMAN):

H.R. 7520. A bill to amend section 1979 of the Revised Statutes to provide that States, municipalities, and agencies or units of Government thereof, may be sued under the provisions of such section; to establish rules of liability with respect to such States, municipalities, and agencies or units of Government thereof; and for other purposes; to the Committee on the Judiciary.

By Mr. MURPHY of New York (for himself, Mr. KILDEE, Mr. BLOVIN, and Mr. KOSTMAYER):

H.R. 7521. A bill to amend the Child Abuse Prevention and Treatment Act to prohibit the sexual exploitation of children and the transportation and dissemination of photographs or films depicting such exploitation; to the Committee on Education and Labor.

H.R. 7522. A bill to amend title 18, United States Code, to prohibit the sexual exploitation of children and the transportation in interstate or foreign commerce of photographs or films depicting such exploitation; to the Committee on the Judiciary.

By Mr. PEASE (for himself, Mr. GEPHARDT, Mr. VENTO, Mr. WIRTH, Mr. BONIOR, Mr. CARNEY, and Mr. ROSE):

H.R. 7523. A bill to amend title XVI of the Social Security Act to provide that certain aliens may not qualify for supplemental security income benefits unless they not only are permanent residents of the United States but have also continuously resided in the United States for a period of 5 years, and to provide that an alien may not be admitted to the United States unless a citizen of the United States agrees to provide support to such alien for a period of 5 years after admission, and for other purposes; jointly, to the Committees on Ways and Means, and the Judiciary.

By Mr. PEPPER (for himself, Mr. BEARD of Rhode Island, Mr. BEDELL, Mr. BEVILL, Mr. BINGHAM, Mr. BLOVIN, Mr. CARNEY, Ms. CHISHOLM, Mr. CONTE, Mr. DAN DANIEL, Mr. DAVIS, Mr. DIGGS, Mr. EDWARDS of California, Mr. EILBERG, Mr. EVANS of Delaware, Mr. FASCELL, and Mr. FAUNTROY):

H.R. 7524. A bill to amend the Social Security Act to provide for inclusion of the services of licensed practical nurses under medicare and medicaid; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. GILMAN, Mr. GLICKMAN, Mr. HARRINGTON, Ms. HOLTZMAN, Mr. HOWARD, Mr. HUGHES, Mr. HYDE, Mr. JENNETTE, Mr. LEHMAN, Ms. LLOYD of Tennessee, Mr. LOTT, Mr. LUKE, Mr. MANN, Ms. MIKULSKI, Mr. MINETA, and Mr. MITCHELL of Maryland):

H.R. 7525. A bill to amend the Social Security Act to provide for inclusion of the services of licensed practical nurses under medicare and medicaid; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. MOAKLEY, Mr. NEAL, Mr. OTTINGER, Mr. PATTISON of New York, Mr. PEASE, Mr. RANGEL, Mr. REUSS, Mr. RONCALIO, Mr. SANTINI, Ms. SPELLMAN, Mr. ST GERMAIN, Mr. WALGREEN, Mr. WEAVER, Mr. WEISS, Mr. WINN, Mr. WOLFF, Mr. YOUNG of Missouri, and Mr. ZEFERETTI):

H.R. 7526. A bill to amend the Social Security Act to provide for inclusion of the services of licensed practical nurses under medicare and medicaid; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. ANDERSON of California, Mr. ANNUNZIO, Mr. BADILLO, Mr. BAUCUS, Mr. BINGHAM, Mr. BONIOR, Mr. BRADENAS, Mr. BRODHEAD, Mr. CARNEY, Mr. CLAY, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. CORMAN, Mr. DELLUMS, Mr. DIGGS, Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. EDWARDS of California, Mr. EILBERG, Mr. FASCELL, Mr. FINDLEY, and Mr. FORD of Michigan):

H.R. 7527. A bill to amend the Social Security Act to require automatic sprinkler systems in all nursing facilities and intermediate care facilities certified for participation in the medicare or medicaid program, and to provide for direct low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. FREY, Mr. GILMAN, Mr. HARKIN, Mr. HARRINGTON, Mr. HAWKINS, Ms. HECKLER, Ms. HOLTZMAN, Mr. HOWARD, Mr. HYDE, Mrs. KEYS, Mr. KOCH, Mr. LAGOMARSINO, Mr. LEHMAN, Mr. LENT, Mr. MAGUIRE, Ms. MIKULSKI, Mr. MINETA, Mr. MOAKLEY, Mr. MOTT, Mr. MURPHY of Pennsylvania, Mr. NEAL, Mr. NIX, and Mr. NOLAN):

H.R. 7528. A bill to amend the Social Security Act to require automatic sprinkler systems in all nursing facilities and intermediate care facilities certified for participation in the medicare and medicaid program, and to provide for direct low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. ROYBAL, Mr. ROONEY, Mr. BIAGGI, Mr. BEARD of Rhode Island, Mr. BLOVIN, Mr. DOWNEY, Mr. FLORIO, Mr. FORD of Tennessee, Mr. HUGHES, Mr. DRINAN, Mrs. MEYNER, Mr. RUSSO, Mr. COHEN, and Mr. RINALDO):

H.R. 7529. A bill to amend the Social Security Act to require automatic sprinkler systems in all nursing facilities and intermediate care facilities certified for participation in the medicare or medicaid program, and to provide for direct low-interest Federal loans to assist such facilities in construction or purchasing and installing automatic sprin-

kler systems; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. OTTINGER, Mr. PATTEN, Mr. RAHALL, Mr. RANGEL, Mr. RICHMOND, Mr. RODINO, Mr. ROSENTHAL, Mr. RYAN, Mr. ST GERMAIN, Mr. SCHEUER, Mr. SIMON, Mr. STOKES, Mr. UDALL, Mr. WEISS, Mr. CHARLES H. WILSON of California, Mr. YATRON, Mr. YOUNG of Florida, and Mr. ZEPERETTI):

H.R. 7530. A bill to amend the Social Security Act to require automatic sprinkler systems in all nursing facilities and intermediate care facilities certified for participation in the medicare or medicaid program, and to provide for direct low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. RICHMOND:

H.R. 7531. A bill to amend the Employee Retirement Income Security Act of 1974 to promote more efficient and satisfactory management of the functions of the Federal Government relating to employee pension and welfare benefit plans and more effectively carry out the purposes of such act, and for other purposes; to the Committee on Education and Labor.

By Mr. SISK (for himself, Mr. KREBS, Mr. JOHNSON of California, Mr. McFALL, and Mr. PANETTA):

H.R. 7532. A bill to amend the National Labor Relations Act, as amended, to amend the definition of "employee" to include certain agricultural employees; to the Committee on Education and Labor.

By Mr. SISK (for himself and Mr. MARKEY):

H.R. 7533. A bill to amend the Immigration and Nationality Act to facilitate the adoption of more than two children; to the Committee on the Judiciary.

By Mr. THONE (for himself, Mr. GRASSLEY, and Mr. WAMPLER):

H.R. 7534. A bill to amend the Internal Revenue Code of 1954 to authorize a tax credit for certain expenses of providing higher education; to the Committee on Ways and Means.

By Mr. BURKE of Massachusetts (for himself, Mr. LaFALCE, Mr. RODINO, Mr. BOLAND, Mr. MURPHY of Pennsylvania, Mr. EILBERG, Mr. SIMON, Mr. COTTER, Mr. NIX, Mr. STUDDS, Mr. CARNEY, Mr. BROWN of California, Mr. MOAKLEY, Mr. CAPUTO, Mr. BADILLO, Mr. WAXMAN, Mr. STARK, Mr. NOLAN, Mr. PATTERSON of California, and Mr. ROSE):

H.R. 7535. A bill to authorize the Secretary of Agriculture to distribute seeds and plants for use in home gardens; to the Committee on Agriculture.

By Mr. DUNCAN of Tennessee:

H.R. 7536. A bill to amend the Small Business Act by authorizing the Small Business Administration to furnish reinsurance for property liability insurers for small business concerns which would not otherwise be able to obtain product liability insurance on reasonable terms, and for other purposes; to the Committee on Small Business.

By Mr. FORD of Michigan:

H.R. 7537. A bill to amend title 39, United States Code, to establish a reduced rate of postage for certain mail matter of private individuals; to the Committee on Post Office and Civil Service.

By Mr. GONZALEZ:

H.R. 7538. A bill to amend title 5, United States Code, to provide for grade retention benefits for certain Federal employees whose positions are reduced in grade, and for other

purposes; to the Committee on Post Office and Civil Service.

By Mr. HEFTTEL:

H.R. 7539. A bill to restore the wartime recognition of certain Filipino veterans of World War II and to entitle them to those benefits, rights, and privileges which result from such recognition; to the Committee on Veterans' Affairs.

By Mr. JENKINS:

H.R. 7540. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers who deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. JONES of Oklahoma:

H.R. 7541. A bill to amend the Internal Revenue Code of 1954 to allow a deduction as an expense for geological and geophysical costs in the case of wells for oil, gas, or geothermal resources and to allow a deduction as an expense for intangible drilling costs in the case of wells for geothermal resources; to the Committee on Ways and Means.

By Mr. RODINO (for himself, Mr. KOCH, Mr. BLANCHARD, Mr. MINETA, and Mr. NOLAN):

H.R. 7542. A bill to amend chapter 5 of title 5, United States Code (commonly known as the Administrative Procedure Act), to permit awards of reasonable attorneys' fees and other expenses for public participation in Federal agency proceedings, and for other purposes; to the Committee on the Judiciary.

By Mr. ROONEY (for himself and Mr. SKUBITZ):

H.R. 7543. A bill to establish an Office of Foreign Business Practices within the Department of Commerce, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and International Relations.

By Mr. SATTERFIELD:

H.R. 7544. A bill to amend the Food Stamp Act of 1964, to exclude from coverage under the act households which have members who are on strike, and for other purposes; to the Committee on Agriculture.

By Mrs. SPELLMAN (for herself, Mr. BONIOR, Mr. MIKVA, Mr. MURPHY of New York, Mr. O'BRIEN, and Mr. OTTINGER):

H.R. 7545. A bill to amend title 38 of the United States Code in order to extend specially adapted housing benefits to certain disabled veterans; to the Committee on Veterans' Affairs.

By Mr. VANDER JAGT:

H.R. 7546. A bill to correct inequities in certain franchise practices, to provide franchisors and franchisees with evenhanded protection from unfair practices, to provide consumers with the benefits which accrue from a competitive and open market economy, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 7547. A bill to amend title 38, United States Code, to provide for the payment of service pensions to veterans of World War I and the surviving spouses and children of such veterans; to the Committee on Veterans' Affairs.

By Mr. ADDABBO (for himself and Mr. FORD of Michigan):

H.J. Res. 492. Joint resolution authorizing the President to proclaim September 8 of

each year as National Cancer Prevention Day; to the Committee on Post Office and Civil Service.

By Mr. ANDERSON of California (for himself, Mr. SKELTON, and Mr. MITCHELL of New York):

H.J. Res. 493. Joint resolution to provide for the designation of a week as "National Lupus Week"; to the Committee on Post Office and Civil Service.

By Mr. DEL CLAWSON (for himself, Mr. McDADE, Mr. MIKVA, Mr. MURPHY of Pennsylvania, Mr. NEAL, Mr. PATTERSON, Mr. QUAYLE, Mr. ROGERS, Mr. SHUSTER, Mr. TEAGUE, and Mr. YOUNG of Alaska):

H.J. Res. 494. Joint resolution to authorize the President to issue a proclamation designating the week in November which includes Thanksgiving Day in each year as "National Family Week"; to the Committee on Post Office and Civil Service.

By Mr. GLICKMAN (for himself, Mr. BALDUS, Mr. BAUCUS, Mr. COLLINS of Texas, Mr. DORNAN, Mr. EDWARDS of Oklahoma, Mr. EMERY, Mr. ERTTEL, Mr. EVANS of Delaware, Mr. HOLLENBECK, Mr. JONES of Oklahoma, Mr. KELLY, Mrs. KEYS, Mr. KOSTMAYER, Mr. LAGOMARSINO, Mr. MAZZOLI, Mr. NEAL, Mr. PANETTA, Mr. PATTISON of New York, Mr. PEASE, Mr. STOCKMAN, Mr. TRIBLE, Mr. VOLKMER, Mr. WHITEHURST, and Mr. WIRTH):

H. Con. Res. 234. Concurrent resolution requiring the elimination through attrition of operators for automated elevators in the Capitol and its associated buildings; to the Committee on House Administration.

By Mr. RINALDO:

H. Con. Res. 235. Concurrent resolution to express the commitment of the American people to human rights and a thorough discussion of all violations of the Helsinki Final Act at the Belgrade Conference on European Security and Cooperation; to the Committee on International Relations.

By Mr. SYMMS:

H. Con. Res. 236. Concurrent resolution to give priority to the placement of the unemployed; to the Committee on Education and Labor.

By Mr. CHARLES H. WILSON of California (for himself, Mr. CLAY, Mr. ABDNOR, Mr. ALEXANDER, Mr. AUCOIN, Mr. BADILLO, Mr. DANIELSON, Mr. DE LUGO, Mr. GAYDOS, Mr. GILMAN, Ms. HOLTZMAN, Mr. KINDNESS, Mr. LaFALCE, Mr. LE FANTE, Mr. LEGGETT, Mr. MATHIS, Mr. NEAL, Mr. NOWAK, Mr. OTTINGER, Mr. QUILLIN, Mr. RINALDO, Mr. ROSENTHAL, Mr. SEBELIUS, Mr. SISK, and Mr. THOMPSON):

H. Con. Res. 237. Concurrent resolution expressing the sense of the Congress that the U.S. Postal Service should not reduce the frequency of mail delivery service; to the Committee on Post Office and Civil Service.

By Mr. CHARLES H. WILSON of California (for himself, Mr. MICHAEL O. MYERS, Mr. BIAGGI, Mr. BLOVIN, Mr. CARNEY, Mr. DICKINSON, Mr. DOWNEY, Mr. EDWARDS of Oklahoma, Mr. EILBERG, Mr. FISH, Mr. HAGEDORN, Mr. ICHORD, Mr. IRELAND, Mr. LLOYD of California, Mr. MITCHELL of Maryland, Ms. OAKAR, Mr. PEPPER, Mr. POAGE, Mr. ROGERS, Mr. ROSE, Mr. SIMON, Mr. SKELTON, Mrs. SMITH of Nebraska, Mr. VOLKMER, and Mr. WATKINS):

H. Con. Res. 238. Concurrent resolution expressing the sense of the Congress that the U.S. Postal Service should not reduce the frequency of mail delivery service; to the Committee on Post Office and Civil Service.



By Mr. DODD (for himself, Mr. MURPHY of Pennsylvania, Mr. WEAVER, Mr. VENTO, Mr. JACOBS, Mr. KRUEGER, Mr. LEVITAS, Mr. MOAKLEY, Mr. HUGHES, Mr. GAYDOS, Mr. KREBS, Mr. ETEL, Mr. DERWINSKI, Ms. HOLTZMAN, and Mr. DOWNEY):

H. Res. 605. Resolution directing the Committee on Banking, Finance and Urban Affairs, the Committee on Appropriations, and the Committee on International Relations to conduct a full review of all U.S. assistance for developing countries which is not currently subject to prior congressional review on a country-by-country basis, especially indirect assistance furnished through bilateral and multilateral lending institutions, in order to identify ways to increase congressional control over such assistance; to the Committee on Rules.

By Mr. DODD (for himself, Mr. GEPHARDT, Mr. CAVANAUGH, Mr. PEASE, Mr. WAXMAN, Ms. MIKULSKI, Mr. ROUSSELOT, Mr. BEILSON, Mr. BADILLO, Mr. BAUCUS, Mr. EDWARDS of Oklahoma, Mr. MANN, and Mr. JENNETTE):

H. Res. 606. Resolution directing the Committee on Banking, Finance and Urban Affairs, the Committee on Appropriations, and the Committee on International Relations, to conduct a full review of all U.S. assistance for developing countries which is not currently subject to prior congressional review on a country-by-country basis, especially indirect assistance furnished through bilateral and multilateral lending institutions, in order to identify ways to increase congressional control over such assistance; to the Committee on Rules.

By Mr. HAMILTON:

H. Res. 607. Resolution amending clause 7 of rule XIII of the Rules of the House; to the Committee on Rules.

By Mr. MEEDS:

H. Res. 608. Resolution providing for the printing of the final report of the American Indian Policy Review Commission; to the Committee on House Administration.

By Mr. PATTISON of New York (for himself, Mr. AKAKA, Mr. BADILLO, Mr. BAUCUS, Mr. BONIOR, Mr. CORCORAN of Illinois, Mr. CORNWELL, Mr. DOWNEY, Mr. DUNCAN of Tennessee, Mr. FLORIO, Mr. FRASER, Mr. HARRINGTON, Mr. HOLLENBECK, Ms. HOLTZMAN, Miss JORDAN, Mr. KETCHUM, Mr. KOSTMAYER, Mr. MCHUGH, Ms. MEYNER, Mr. MILLER of California, Mr. MITCHELL of New York, Mr. MOSS, Mr. MURPHY of Pennsylvania, Mr. NOLAN, and Mr. OBERSTAR):

H. Res. 609. Resolution to authorize each Member of the House of Representatives to hire two additional Lyndon Baines Johnson congressional interns and to authorize payment of additional compensation for such interns from the clerk hire allowance; to the Committee on House Administration.

By Mr. PATTISON of New York (for himself, Mr. OTTINGER, Mr. PANETTA, Mr. RICHMOND, Mr. RODINO, Mr. SANTINI, Mr. SOLARZ, Mr. STOKES, Mr. STUMP, Mr. WIRTH, and Mr. WON PAT):

H. Res. 610. Resolution to authorize each Member of the House of Representatives to hire two additional Lyndon Baines Johnson congressional interns and to authorize payment of additional compensation for such interns from the clerk hire allowance; to the Committee on House Administration.

By Mr. THONE:

H. Res. 611. Resolution to establish an ad hoc Committee on Welfare; to the Committee on Rules.

## MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

171. By the SPEAKER: Memorial of the Legislature of the State of Montana, relative to complete reconstruction of the Fort Union Trading Post National Historic Site; to the Committee on Interior and Insular Affairs.

172. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to telephone service; to the Committee on Interstate and Foreign Commerce.

173. Also, memorial of the Legislature of the State of Nevada, requesting that Congress propose an amendment to the Constitution of the United States requiring a balanced Federal budget except in national emergencies; to the Committee on the Judiciary.

174. Also, memorial of the Legislature of the State of Louisiana, relative to tax exemptions on fuel used for farming or fishing or the manufacture of fertilizer; to the Committee on Ways and Means.

175. Also, memorial of the Legislature of the State of Nevada, relative to the proposed Public Employee Retirement Income Security Act; jointly, to the Committees on Education and Labor, and Ways and Means.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER:

H.R. 7548. A bill for the relief of Pedro Avad-Alvarez; to the Committee on the Judiciary.

By Mr. AKAKA:

H.R. 7549. A bill for the relief of Everlita Rivera; to the Committee on the Judiciary.

By Mr. HARRINGTON:

H.R. 7550. A bill for the relief of Joanne Lapointe; to the Committee on the Judiciary.

By Mr. PEASE:

H.R. 7551. A bill for the relief of Noel Abueg Emde; to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

116. By the SPEAKER: Petition of the Democratic State Executive Committee, Columbus, Ohio, relative to the proposed Universal Voter Registration Act; to the Committee on House Administration.

117. Also, petition of the city council, Prichard, Ala., relative to low-cost spaying and neutering clinics; to the Committee on Interstate and Foreign Commerce.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10

By Mr. ALLEN:

In section 7325(d)(1), insert a period after the word "campaigns" and strike out the remaining language of said subsection (1).

Delete from Sec. 7326 subsections (b) and (c) thereof, substituting therefor a new subsection (b), below, and change the designation of subsection (d) to "(c)";

"(b) An employee who desires to become a candidate for any elective office shall first be required to obtain a leave of absence without pay from the last workday preceding the

day said employee shall either qualify as a candidate or announce his or her candidacy for such elective office, said leave of absence without pay to terminate the day after said election or the day after said employee withdraws as a candidate for elective office, whichever is sooner."

H.R. 6804

By Mr. DINGELL:

Page 90, strike out line 21 and everything that follows through page 95, line 17, and insert in lieu thereof the following:

## TITLE V—ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

Sec. 501. (a) Subject to the other requirements of this title, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply in accordance with its terms to any rule or regulation, or any order having the applicability and effect of a rule (as defined in section 551(4) of title 5, United States Code), issued pursuant to authority vested by law in, or transferred or delegated to, the Secretary, or required by this Act or any other Act to be carried out by any other officer, employee, or component of the Department, other than the Federal Energy Regulatory Commission, including any such rule, regulation, or order of a State, or local government agency or officer thereof, issued pursuant to authority delegated by the Secretary in accordance with this title. If any provision in any Act, the functions of which are transferred, vested, or delegated pursuant to this Act, provides administrative procedure requirements in addition to those provided in this title, such additional requirements shall also apply to actions under that provision.

(b) (1) In addition to the requirements of subsection (a) of this section, notice of any proposed rule, regulation, or order described in subsection (a) shall be given by publication of such proposed rule, regulation, or order in the Federal Register. Such publication shall be accompanied by a statement of the research, analysis, and other available information in support of, the need for, and the probable effect of, any such proposed rule, regulation, or order. Other effective means of publicity shall be utilized as may be reasonably calculated to notify concerned or affected parties of the nature and probable effect of any such proposed rule, regulation, or order. In each case, a minimum of thirty days following such publication shall be provided for opportunity to comment prior to the effective date of any such rule, regulation, or order; except that the requirements of this subsection as to time of notice and opportunity to comment may be waived, subject to paragraph (3) of this section, where strict compliance is found by the Secretary to be likely to cause serious harm or injury to the public health, safety, or welfare, and such finding is set out in detail in such rule, regulation, or order.

(2) Public notice of all rules, regulations, or orders described in subsection (a) which are promulgated by officers of a State or local government agency pursuant to a delegation under this Act shall be provided by publication of such proposed rules, regulations, or orders in at least two newspapers of statewide circulation. If such publication is not practicable, notice of any such rule, regulation, or order shall be given by such other means as the officer promulgating such rule, regulation, or order determines will reasonably assure wide public notice.

(3) The requirements of this subsection may be satisfied within a reasonable period of time subsequent to the promulgation of the rule, regulation, or order if the Secretary finds, under paragraph (1), that an emergency exists requiring the immediate implementation of any such rule, regulation, or order.

(c) (1) If the Secretary determines at the time of publication of a proposed rule, regulation, or order described in subsection (a) that no substantial issue exists and that such rule, regulation, or order is unlikely to have a substantial impact on the nation's economy or large numbers of individuals or businesses, the proposed rule, regulation, or order may be promulgated in accordance with section 553 of title 5, United States Code, except that subsection (a) (2) of section 553 shall not apply. If the Secretary determines at the time of publication of any such rule, regulation, or order that a substantial issue exists or that such rule, regulation, or order is likely to have a substantial impact on the nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be provided.

(2) Any person, who would be adversely affected by the implementation of any proposed rule, regulation, or order issued pursuant to the first sentence of paragraph (1) and who desires an opportunity for oral presentation of views, data, and arguments, shall offer evidence supporting the existence of such substantial issues or such impact during the period established for public comment. If the Secretary determines that such evidence is sufficient to establish the existence of such issues or impact, the Secretary shall provide an opportunity for such oral presentation.

(3) Following the notice and comment period, including any oral presentation required by this subsection, the Secretary may promulgate such rule, regulation, or order, which shall include therewith an explanation responding to the major comments, criticisms, and alternatives offered during the comment period.

(4) A transcript shall be kept of any oral presentation with respect to a rule, regulation, or order described in subsection (a).

(d) The Secretary, or any officer authorized to issue rules, regulations, or orders under the Federal Energy Administration Act, the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environmental Coordination Act of 1974, or the Energy Policy and Conservation Act shall provide for the making of such adjustments, consistent with the other purposes of the relevant Acts, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens, and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, exception to, or exemption from, such rule, regulation, or order. The Secretary or any such officer shall additionally insure that each decision on any application or petition requesting an adjustment shall specify the standards of hardship, inequity, or unfair distribution of burden by which any disposition was made, and the specific application of such standards to the facts contained in any such application or petition. If any person is aggrieved or adversely affected by a denial or a request for adjustment under the preceding sentences, such person may request a review of such denial by the Secretary and may obtain judicial review in accordance with this title when such a denial becomes final. The Secretary shall, by rule, establish appropriate procedures, including a hearing when requested, for review of a denial, and where deemed advisable by the Secretary, for considering other requests for action under this subsection, except that no review of a denial under this subsection shall be made by the same officer denying the adjustment.

(e) (1) With respect to any rule, regulation, or order, the effects of which, except for indirect effects of an inconsequential nature, are confined to—

(A) a single unit of local government or the residents thereof;

(B) a single geographic area within a State or the residents thereof; or

(C) a single State or the residents thereof; the Secretary shall, in any case where appropriate, afford an opportunity for a hearing or the oral presentation of views and provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in paragraphs (A) through (C) of this paragraph as the case may be.

(2) For purposes of this subsection—

(A) the term "unit of local government" means a county, municipality, town, township, village, or other unit of general government below the State level; and

(B) the term "geographic area within a State" means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(3) Nothing in this subsection shall be construed as requiring a hearing or an oral presentation of views where none is required by this section or other provision of law.

(f) (1) Judicial review of agency action taken under any law the functions of which are vested by law in, or transferred or delegated to, the Secretary or any officer, employee, or component of the Department shall, notwithstanding such vesting, transfer, or delegation, be made in the manner specified in such law.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under rules, regulations, or orders issued exclusively thereunder, other than any actions taken to implement or enforce any rule, regulation, or order by any officer of a State or local government agency under this Act, except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the unconstitutionality of this Act or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the unconstitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code. Cases or controversies arising under any rule, regulation, or order of any officer of a State or local government agency may be heard in either (A) any appropriate State court, or (B) without regard to the amount in controversy, the district courts of the United States.

(3) Where authorized by any law vested, transferred, or delegated pursuant to this Act, the Secretary may, by rule, prescribe procedures for State or local government agencies authorized by the Secretary to carry out such functions as may be permitted under applicable law. Such procedures shall apply to such agencies in lieu of this section, and shall require that prior to taking any action, such agencies shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) a reasonable time before taking the action.

(4) Notwithstanding any other law, the litigation of the Department shall be subject to the supervision of the Attorney General pursuant to chapter 31 of title 28, United States Code. This paragraph shall

not apply to the Federal Energy Regulatory Commission.

Sec. 502. (a) Section 501 of this title shall remain in effect for two years after the effective date of this Act. Any proceeding commenced under such section prior to the termination of its effect shall, notwithstanding such termination, be conducted in accordance with such section. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payment shall be made pursuant to such orders as if such section had not terminated; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if such section had not terminated.

(b) Within one year after effective date of this Act, the Secretary shall submit a report to Congress concerning the actions taken to implement section 501. The report shall include a discussion of the adequacy of such section from the standpoint of the Department and the public, including a summary of any comments obtained by the Secretary from the public about such section and implementing regulations, and such recommendations as the Secretary deems appropriate concerning the extension and revision of such section.

(c) Nothing in this title shall be construed as repealing by implication any existing provision of law relating to administrative procedures and judicial review applicable to any authority vested, transferred, or delegated pursuant to this Act, except that such existing provisions shall, to the extent provided by section 501, be superseded by the provisions of such section during the two years specified in subsection (a).

Page 90, strike out line 21 and everything that follows through page 95, line 17.

By Mr. DODD:

Page 75, after line 16, insert the following new section:

Sec. 207. (a) The Secretary shall assign, to a single administrative officer, responsibility for all energy technology transfer programs which are transferred to, and vested in, the Secretary by title III of this Act and shall take such other measures as may be necessary to centralize and to provide for improvement in the efficiency and coordination of such programs.

(b) As used in subsection (a), the term "energy technology transfer programs" includes programs for the transfer of energy technology through making available, to other Federal agencies, State and local governmental agencies, and industrial and other private concerns, expertise, information, apparatus, rights, and other products and results of energy technology research and development, and includes programs providing assistance in patent and licensing, adaptive engineering, market identification and aggregation, commercialization, and data-base information systems operations.

By Mr. HUGHES:

Page 96, after line 23, insert the following: "(B) an individual compensated under the Executive Schedule, as provided in subchapter II of chapter 53 of title 5 of the U.S. Code."

Redesignate subparagraphs (B) through (D) as (C) through (E), respectively.

Page 100, after line 21, insert the following:

"(C) For a period of two years after ceasing to be an employee of the Department, no supervisory employee who exercised regulatory responsibilities under this Act shall accept employment or compensation, directly



or indirectly, from any person subject to regulation by the Department."

By Mr. MEEDS:

Strike subsection (a) through (c) of section 302, page 77, line 15 through page 79, line 4, and insert in lieu thereof the following:

Sec. 302. (a) There are hereby transferred to and vested in the Secretary all functions and authorities of the Secretary of the Interior under section 5 of the Flood Control Act of 1944 (16 U.S.C. 825a), and all other functions and authorities of the Secretary of the Interior, and officers and components of the Department of the Interior, with respect to—

(1) the Southeastern Power Administration;

(2) the Southwestern Power Administration;

(3) the Alaska Power Administration;

(4) the Bonneville Power Administration including but not limited to the authority contained in the Bonneville Project Act of 1937 (50 Stat. 731), as amended, and the Federal Columbia River Transmission System Act (88 Stat. 1376);

(5) the power marketing functions of the Bureau of Reclamation including the construction, operation, and maintenance of transmission lines and attendant facilities; and

(6) the transmission and disposition of the electric power and energy generated at Falcon Dam and Amistad Dam, international storage reservoir projects on the Rio Grande, pursuant to the Act of June 18, 1954, as amended by the Act of December 23, 1963.

(b) The Southeastern Power Administration, the Southwestern Power Administration and the Alaska Power Administration shall be preserved as separate and distinct orga-

nizational entities within the Department; shall each be headed by an Administrator appointed by the Secretary at an Executive Schedule level or a General Schedule grade not less than the level or grade for the chief executive officer of each such administration in effect on the effective date of this Act. The functions and authority hereby transferred to the Secretary shall be exercised by the Secretary, acting by and through such Administrators. Each such Administrator shall maintain his principal office at a place located in the region served by his respective Federal power marketing entity.

(c) There is hereby created a separate and distinct Administration within the Department of Energy which shall be headed by an Administrator appointed by the Secretary who shall serve at an Executive Schedule level not less than the level held by the Bonneville Power Administrator on the effective date of this Act; the functions and authority transferred in paragraph (a) (5) or (a) (6) of this section shall be exercised by the Secretary, acting by and through such Administrator; and the Administrator shall establish and shall maintain such regional offices as necessary to facilitate the performance of such functions. Neither the transfer of functions and authority effected by subsection (a) (5) of this section nor any changes in cost allocation or project evaluation standards shall be deemed to authorize the reallocation of joint costs of multipurpose facilities theretofore allocated unless and to the extent that such change is hereafter approved by Congress.

By Mr. ROSE:

Page 114, strike out line 17 and insert in lieu thereof the following: "life of the Nation, including a comprehensive summary of data pertaining to all fuel and energy needs

of residents of the United States residing in—

"(A) areas outside standard metropolitan statistical areas; and

"(B) areas within such areas which are unincorporated or are specified by the Bureau of the Census, Department of Commerce, as rural areas;"

Page 65, after line 20, insert the following new paragraph:

(3) in the conservation and development of energy resources, the energy needs of both rural and urban residents shall be given full consideration;

Page 65, line 21, strike out "(3)" and insert in lieu thereof "(4)", and on page 66, line 1, strike out "(4)" and insert in lieu thereof "(5)".

By Mr. ROUSSELOT:

Page 129, after line 6, insert the following new section:

SEC. 719. Effective 90 days after the effective date of this Act, all authority with respect to the allocation of petroleum, petroleum products, or natural gas under the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environmental Coordination Act of 1974, the Energy Policy and Conservation Act, and the Natural Gas Act which is transferred or delegated to, or vested in, the Secretary or the Federal Energy Regulatory Commission shall terminate. The Secretary shall, within 30 days after such effective date, submit legislation to the Congress to conform such statutes to the purposes of the preceding sentence.

By Mr. UDALL:

Strike Section 302(d) (1) (C) and renumber Section 302(d) (1) (D) and 302(d) (1) (E) accordingly; and

Strike Section 303 and renumber succeeding sections accordingly.

## EXTENSIONS OF REMARKS

### DEPARTMENT OF ENERGY LEGISLATION SHOULD BE POSTPONED

#### HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. ARMSTRONG. Mr. Speaker, tomorrow the House will consider H.R. 6804, legislation to create a Department of Energy.

On the surface, it is tremendously appealing to vote for a plan that might bring order out of the chaos which is our Federal energy establishment. And, I would like to accommodate President Carter and to cooperate with his efforts to reorganize the executive branch. I feel the President is entitled to considerable latitude in managing the Government.

But H.R. 6804 goes too far. It is no mere reorganization measure. No, it represents a drastic change in long-standing policy, and House action on this legislation should be deferred at least for the time being. I would like to explain why:

We are getting the cart before the horse. Obviously, this Nation urgently needs a coherent and responsible energy policy. President Carter has submitted a series of energy proposals which he himself has rightly termed "one of the most complicated \* \* \* legislative packages that a President has ever sent to Con-

gress." Hearings are now being held on Mr. Carter's proposals and, hopefully, additional hearings will soon be held on recommendations presented by Members of Congress, including myself, and other interested persons. After we have evaluated the proposals and have made basic energy policy decisions would be the proper time to establish the agency needed to administer that policy.

Moreover, it is likely this new agency will impose great costs on the Nation's consumers and taxpayers. I personally doubt that more Government regulation of our economy is the answer to the Nation's energy shortage. Indeed, the available evidence seems to indicate such regulations have heavily contributed to the existing crisis and have created many economic dislocations and injustices. So I would personally favor loosening existing regulations rather than creating new ones.

But to return to the practical question of cost. Today's Wall Street Journal summed up the issue succinctly:

A Chevron statistician has been sizing up the \$10.6 billion budget of the proposed new Department of Energy. For example, it is about double the value of all the oil the U.S. imported from Saudi Arabia last year. It exceeds capital and exploration expenditures by the petroleum industry to find and produce oil, gas and gas liquids in the U.S. in 1975. It exceeds by \$800 million the 1974 profits of the seven largest international oil companies; Chevron can't resist adding that those profits were described by a U.S. Senator as "obscene". It is equivalent to about \$3 a

barrel of domestic crude oil production, which means if our own arithmetic is correct that you could decontrol all domestic crude oil prices and still end up paying less for oil than the federal energy bureaucracy costs. And one should keep in mind that the \$10.6 billion is only the cost of the newly boring baby DOE. Think what it will cost when it grows up!"

But the truly ominous aspect of H.R. 6804 is the extent to which it will consolidate unprecedented power over energy producers and consumers in the hands of one person. In a Nation whose very essence is freedom, Congress should go slow in giving any person the kind of power granted to the new Secretary of Energy under this legislation:

Oil pricing and allocation, conservation, coal utilization, strategic petroleum reserve, energy information, resource development;

Natural gas regulation, interstate wholesale electric rate setting, and hydroelectric licensing;

R. & D. in fossil, nuclear, fusion, solar, geothermal and conservation—energy efficiency—uranium enrichment and production military applications and safeguards, environment and health research;

Power marketing functions—the power marketing functions of Bonneville, Alaska, Southwestern, Southeastern Power, and Defense Electric Power Administration; and the marketing power by the Bureau of Reclamation—coal mine production research fuel date, production goals;

Naval Petroleum Reserves No. 1, 2, 3, and Naval Oil Shale Reserves No. 1, 2, 3; Pipeline valuation, pipeline rate setting;

Industrial energy conservation program;

New buildings energy efficiency standards—program will continue to be carried out through HUD;

Competitive bidding among companies for Federal leases, use of alternative bidding systems, production rates, due diligence requirements that mandate development of a lease within a certain time limit, distribution of lease revenues; and, the authority to approve all economic terms and conditions of leases;

Authority over electric utility mergers;

Authority to approve loans made by the Agriculture Department's Rural Electrification Administration for construction, operation, or expansion of utility plants, and a role in advising the Department of Transportation on automobile efficiency standards;

A total of 20,000 employees and a \$10.6 billion budget.

The Secretary would not only be able to control the energy we need to power our economy and keep us working, but he would also be able to control when we get it; from whom we get it; at what price we get it; who can produce it; and from where they can produce it.

Exercising such control over energy is tantamount to holding hostage every economic interest in the Nation. As John Winger, Chase Manhattan's vice president for energy affairs correctly observed:

To some degree, every single business activity is dependent upon energy in one form or another. None could function totally without it.

Thus total control over energy implies total control, however benignly exercised, over every farm, every business, every job, every community and region of the Nation.

The distinguished economist Dr. Milton Friedman warns that:

A Department of Energy has the potential of being the most powerful, and the most harmful, of all Federal agencies. It would control the lifeblood of our economic system. Its tentacles would reach into every factory, into every dwelling in the land. Our economic system has been able to survive the U.S. Postal Service. It has been able to survive Amtrak. I suspect that it will survive Conrail—though Conrail is potentially more harmful than its predecessors. But can our economic system survive Federal control of the pricing, the production, the distribution, the import of energy?

Do not be misled into supposing that the energy problem is a purely technical problem that engineers can solve. No government engineer is in as good a position as you are to decide whether you would rather use expensive energy for heating your home, driving your car, or helping to produce one or another product for you to buy. No government engineer is in as good a position as the owner of a factory to choose the most economical fuel for his purposes or the cheapest way to conserve energy. No government engineer can replace the market in calculating the indirect effects of energy use or conservation. And no government engineer will enforce the ever more numerous edicts that will come down from on high. That will be done by policemen.

Make no mistake about it. The establishment of a Department of Energy, with the

powers requested by the President, would be a further major step toward converting our free-enterprise system into a corporate state.

Mr. Speaker, let us reflect upon the true implications of the Department of Energy legislation.

This proposal has been formed to fit a policy which awaits action from this body. The President's energy package will take long hours of debate and discussion to hammer out. Rather than transferring powers from independent regulatory commissions to a new bureaucracy, inevitably subject to political pressure, let us defer action on this broad powerful process which is a prelude to the new energy program until we know the particulars of that program.

And by taking the time to do so, we will also permit time to develop safeguards over the power of the new Department and, hopefully, to avert the dangers of which Dr. Friedman and others have so properly warned.

#### THE NEED FOR AN ELITE EDUCATION

HON. ROBERT MCCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. MCCLORY. Mr. Speaker, a distinguished educator, John R. Silber, president of Boston University, who is particularly perceptive with respect to educational programs and opportunities in our Nation presented an excellent exposition of his views in the June issue of Harper's magazine which, in turn, was reprinted in the Sunday, May 28, issue of the Chicago Tribune.

In his article, Mr. Silber questions the wisdom of reducing admission and educational standards in order to accommodate minority groups. On the contrary he emphasizes the importance of rewarding excellence in education and in all other human activities as the standard which should apply to all Americans.

Mr. Silber particularly questions the present-day tendency to accommodate those coming from Spanish-speaking families by resorting to bilingualism. It is clear that by authorizing or requiring the use of the Spanish language for the benefit of Latin American immigrants we imply that they are incapable of learning the English language as the German, Italian, Russian, Polish, Greek, and other immigrant groups have done.

Particular attention is drawn to the recent Voting Rights Act amendments which exempted segments of our population from a requirement to understand and use the English language in voting.

Mr. Speaker, our Nation's preeminence in the world has resulted in large measure from our respect for excellence. Persons of all races and creeds and from all ethnic backgrounds should strive to perpetuate this goal. If we downgrade our respect for excellence and accept or adopt a standard of mediocrity, we jeopardize the future of all of our citizens.

Mr. Speaker, with this inadequate introduction, I wish to laud Mr. Silber and to call to the attention of my colleagues

and to all Americans the following excellent, well-timed, and perceptive message from which all of us can benefit:

[From the Chicago Tribune, May 28, 1977]

#### THE NEED FOR AN ELITE EDUCATION

(By John R. Silber)

The only standard of performance that can sustain a free society is excellent. It is increasingly claimed, however, that excellence is at odds with democracy; increasingly we are urged to offer a dangerous embrace to mere adequacy.

By this I do not mean that our performance is necessarily becoming worse. In the sports in which precise comparison is possible we excel our predecessors with a consistency and regularity that threaten to become monotonous.

Athletes have never run so fast, jumped so high, or sunk so many baskets. Even as we recognize what appears to be our prevailing inability to teach most children to read and write, we reassure ourselves that educational opportunity has never been greater and that science and mathematics have never been taught more effectively.

Consumer goods have been developed to such a degree of sophistication, low cost, and reliability that one can now buy for a few dollars a tiny device whose capabilities were unavailable 40 years ago in any size and at any price, the pocket calculator.

Our flight from excellent is different and apart from this progress. It is profoundly philosophical. Out of a well-intentioned but inept concern with equality of opportunity, we have begun to reject anything that exceeds anyone's grasp.

Some might argue that it is our right to engage in this curious flight, and so it is, the right of free men to be fools. But do we have the right as citizens in a free society to reject excellence on behalf of others who may not be so foolish?

Much of the present-day rejection of standards is precisely by people and institutions that act in trust for others. This is flagrantly true of higher education, and especially regrettable because higher education purports to be and has been a repository for the highest standards.

One of the most obvious examples here is the war against grading. While there are many motives and rationales behind the movement to substitute pass/fail or pass/no-entry "grading" for the traditional scales, all begin with the same crucial assumption: that there is no compelling reason to distinguish between excellence and adequacy, and that it is wrong—either educationally or morally—to record evidence of inadequacy or failure.

A related phenomenon is grade inflation, whereby teachers behave as if all students are equally gifted and hardworking. Declining standards are also reflected in the relaxed indifference shown by many professors and institutions to the wholesale and retail distribution of plagiarized materials by corporations selling term papers and other academic assignments.

In all cases the threat to excellence is obvious, for our refusal to reject inauthentic work or to identify excellence will eventually render us unable to recognize it or care about it.

Last year the City University of New York abandoned open enrollment. It did not, however, return to its earlier admissions standards, but instead established as the minimum qualification for admission the competence expected of an eighth-grade education.

This is less an indictment of the standards of CUNY, which was, after all, seeking rather tentatively to step back from the abyss, than it is of the high schools. For while prospective students at CUNY must now have reached an eighth-grade level, they must also be high-school graduates—so, in theory, they must also have attained a twelfth-grade edu-



cation. Implicit in the admissions standards of CUNY is a one-third devaluation of the New York high-school diploma.

Every day it becomes more obvious that a technologically sophisticated society will need more, not fewer, educated citizens. Postindustrial society will be grim for a functional illiterate, and it will itself be badly disrupted by the presence of large numbers of semilliterates whose skills, if any, are suited to a world that no longer exists. A restoration of excellence is therefore in the interest of society at large and of each of its members.

Some people believe that the pursuit of excellence is essentially antidemocratic. This fallacy is most obvious in the commonly voiced charge that educational institutions with high standards of excellence in admissions and faculty recruitment are "elitist," a term that for most people is redolent of special and unearned privilege and suggests that these institutions are havens for the incompetent offspring of the rich.

Our society is ambivalent about elitism. We refer easily and unselfconsciously to Ruth, Gehrig, and Mays as the elite of baseball, to Simpson and Baugh as the elite of football, to Jones, Palmer, and Trevino as the elite of golf, and to Zaharias, Thorpe, and Owens as the elite of athletics itself: but outside of sports we use the word as a reproach. This confusion did not afflict Jefferson or Adams. "That all men are born to equal rights is true," said Adams.

Every being has a right to his own, as clear, as moral, as sacred as any other being has. . . . But to teach that all men are born with equal powers and faculties . . . is as gross a fraud, as glaring an imposition on the credulity of people as ever was practiced.

Jefferson recognized a natural aristocracy based on virtue and talents. He contrasted to this aristocracy an artificial one, founded on wealth and birth without regard to virtue or talent. The natural aristocracy, Jefferson believed, was "the most precious gift of nature." He not only acknowledged, but embraced, the idea that people are born with varying degrees of intelligence and talent.

Speaking on the occasion of receiving an Alumnae Award recently at Boston University, Rep. Barbara Jordan [D., Tex.] pointed out that our confusion has had deleterious effects on the federal government's effort to aid higher education. She said:

"We have been so brainwashed by an erroneous definition of democracy that we have difficulty prescribing any program or formula, or giving any grant which is better or more than some other grant, because we don't want to be accused of being antidemocratic because we recognize that some people are excellent. . . . As members of Congress, we should not be engaged in a leveling process. . . . We ought to enunciate and promote those policies which would lead absolutely, categorically, and without hesitation, to the best this country has to offer."

Calls for the maintenance of standards are often denounced as racist and sexist, but only a sexist or racist could believe that women or members of minorities are in fact inferior to everyone else, and would be unable to compete on an equal basis if judged by performance alone.

The movement to establish the United States as a bilingual nation provides a striking example of this condescension. Until recently, the United States was unique in the world as a very large nation covering a great land mass that maintained a single national language with dialects that were easily mutually intelligible.

It is remarkable that a nation of such ethnic diversity has not been torn apart by intercommunal violence. Our comparative peace and the single language are almost certainly related: unlike Canada, Belgium, and other nations with explosive linguistic problems, the United States has been able to sus-

tain its diverse culture within the context of one official language.

Recent attempts to require bilingual ballots erode the position of the national language by assuming that it is possible to be a citizen even if one is literate only in the language of one's ethnic group.

The proposal is designed to exempt one large group of citizens from a requirement that has hitherto been expected of all citizens, the acquisition of some modest competence in the national language. This reduces the standard of performance expected of citizens to a derisory level.

It patronizes the Hispanic culture by implying that it cannot survive coexistence with the English language. And it has racist overtones, suggesting that Spanish-speaking American citizens cannot be expected to acquire the same level of competence that was acquired by immigrants from Germany, Italy, Russia, Poland, Greece, and many other countries, and that was until recently expected of Spanish-speaking citizens.

A similar question arises with regard to the various dialects of English. In 1974 the National Council of Teachers of English issued a position paper maintaining that students who grow up speaking dialectal variants of English should not be required to learn standard English.

On a recent television program an obviously intelligent and educated young black student said it was plain that students who grew up speaking dialects arrived in school ill prepared to function in the standard dialect. He did not think that attempts to require these students to use the standard dialect grew out of "overt racism of elitism. . . . That's the way it's mapped out by society."

Recognizing that the good intentions of such attempts precluded their being overtly racist, he nevertheless left the impression that he considered them part of unconscious societal racism.

Nothing could be farther from racism or elitism than requiring students from the ghetto to learn standard English. For this is to treat them as the equals of the great majority of students.

It is particularly reprehensible for white professors and white middle-class students to encourage black students in the mistaken belief that it does not matter whether they learn to speak and write with educated middle-class proficiency.

The black student who speaks only ghetto English is not able to communicate fully. He can communicate effectively only with those who speak his own dialect, but an educated black can converse with anyone in the English-speaking world.

White professors and students, already proficient in standard English, retain their monopoly in it and protect themselves from black competition by encouraging blacks to renounce their educational opportunities. Thus blacks may remain tragically isolated from the mainstream of their national culture, and pay the price for the ideological whims of whites.

Lowered expectations are a threat to all our students, since their ability to develop is very largely dependent upon the goals we establish for them. But it is not students alone who need a vision of excellence. Writing in 1830, Alexis de Tocqueville noted that in times of faith, people concern themselves with a distant supreme goal beyond this life. In so doing, they learn by imperceptible degrees to repress a crowd of petty passing desires in order ultimately to best satisfy the one great permanent longing which obsesses them. When these same men engage in worldly affairs, such habits influence their conduct. . . . That is why religious nations have often accomplished such lasting achievements. For in thinking of the other world, they have found out the great secret of success in this.

But in skeptical ages, Tocqueville continued, the vision of the life to come is lost, a problem that is exacerbated in democracies, where people are set free to compete with each other to improve their situations.

In such a combination of circumstances, "the present looms large and hides the future, so that men do not want to think beyond tomorrow." Tocqueville thought it especially important that the philosophers and rulers in skeptical democracies should always "strive to set a distant aim as the object of human efforts; that is their most important business."

He did not specify the nature of the goals which need to be set in such ages, but we can hardly doubt that such goals require the best efforts not merely of individuals but of the society as a whole.

In a secular age in which few believe in a life to come and in which God is, if not dead, at most indifferent, a vision of excellence—a secular kingdom of God—in which individuals fulfill themselves through education and useful public service may be essential.

## OUR AID FOR ARGENTINA

### HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. STUDDS. Mr. Speaker, on May 23, I offered a amendment to the foreign military aid bill which would have eliminated our military training assistance and cash military sales to the Government of Argentina. I offered this amendment—which was defeated by a very narrow margin—because I believe that the Argentine Government is currently engaging in a consistent pattern of gross violations of internationally recognized human rights, and that it should therefore be considered ineligible for U.S. military aid.

Last week, I was visited by Dr. Maximo Victoria, a nuclear physicist and former member of the Argentine Atomic Energy Commission. Dr. Victoria was arrested almost immediately after the current Argentine Government seized power. I think that the doctor's experiences subsequent to his arrest might be of interest to my colleagues. I ask them to remember, while reading this statement by Dr. Victoria, that the United States trained the head of the Argentine secret police, and that the House has just authorized an additional \$700,000 in training for the Argentine military:

TESTIMONY FROM MAXIMO PEDRO VICTORIA

#### 1. DETENTION PROCEDURES

I'm a physicist, doing research in physical metallurgy. I have worked for the Argentine Atomic Energy Commission (CNEA) since 1952. Since August, 1973, I was a member (Director and then Vice-President) of the National Institute of Industrial Technology (INTI), on a leave of absence from the CNEA position.

After the military coup of the 24th of March, 1976 I was asked to resign from my post at INTI, by the military authorities that had taken over that institution when I returned to CNEA. I was asked to present myself at the Personnel Office. There I was told by the Personnel Manager, a Navy Captain, that I was under arrest. No reason was given to me for my detention.

At gunpoint I was taken back to the entrance hall of CNEA. I was then placed in a

police car. About three blocks from the CNEA building the car went into a side road. I was then gagged, blindfolded and a hood was put over my head. Always at gunpoint, I was told to lie on the floor of the police car. I was then driven to what I suppose was the port of Buenos Aires, taken to a cabin in a navy boat, where I stayed for the next fourteen days, completely isolated. The whole procedure was very violent, being constantly beaten with fists and guns.

In the boat, I was constantly harassed by my guardians, who came to knock and kick the cabin door at all times of the day, while shouting that I was next in line to be shot or thrown into the sea. At no time I was allowed to see the faces of my custodians, since I had to face a wall each time the door was open or put a hood over my head when I had to go out of the cabin to use the toilet.

On April the 13th, I was given back my shoes, gagged and blindfolded once more and banded hands in my back, with one cord that tied my wrists and neck with self-adjusting knobs. With this procedure, I started to suffocate after a short period since even the smallest movement produced a tightening of the rope. I probably fainted. Sometime afterwards, I was told that I "had survived for another day" and untied. The next day I went through the same procedure, but this time I was taken out of the cabin, placed in the floor of some sort of wagon and driven to another boat.

Here the treatment was even more rough, and I was not allowed to take off the hood and blindfold at any time. I was firmly chained to one of the bedposts in such a way that I had to remain rigidly in a seated position. I was interrogated a number of times by different persons, on my political and religious beliefs, and on my connections with several people many of them fellow scientists.

It was on this boat, on hearing the names of other prisoners being called, that I realized that other nine members of the CNEA were at the same place under detention. No food or water was given to us.

After one or two days, we were taken to Devoto Prison. I found out later from my family, that during this whole period we had been technically "kidnapped", since they couldn't obtain any information on my whereabouts or even if I was still alive, from the moment I was taken from the CNEA building on April 1st.

#### 2. THE CONDITIONS AT DEVOTO PRISON

In Devoto we were all placed under arrest at the disposal of the Executive (PEN). In this condition a person can remain in jail for an indefinite period of time, even without any accusation being brought against him. Up to the military coup, an individual under PEN, had the constitutional right to leave the country into exile, but this right was "suspended" by the military junta. In a number of cases I met in Devoto, people were placed under PEN after they had been discharged by normal judicial procedures.

Political prisoners are placed into Devoto in the "high security ward". This is a five floor building, totally occupied by political prisoners, from 100 to 120 people per floor. This means an average of five prisoners to a cell of about 2 by 3 meters, including a sector for the W.C. on the floor. They are not only very crowded quarters, but also very poor sanitary conditions. The food is extremely poor, with almost no proteins, meat, milk or cheese are seldom provided or hot at all. It was only in the last two months in Devoto that we were allowed to buy powder milk from the prison store.

Medical attention is almost nonexistent. When one is finally able to reach a prison physician, one is usually "checked" through the cell bars and given an aspirin. A number of fellow prisoners that had underwent tor-

ture still had ulcers from burns or electric shock. One of them had a deep wound in one foot as a result of a bullet. The resulting infection went on for months. The medical attention they received came mainly from three medical doctors who were imprisoned in the same floor.

The whole treatment of political prisoners is a violent and terrorizing one. We were subjected to constant body inspections or sent to solitary confinement on the least of excuses. These are isolation cells of 1 by 2 meters, where a mattress is provided at night and taken at six in the morning.

At one point, we were locked in our cells for 45 days, without any communication with the outside world. All visits, even from lawyers, were prohibited. No mail came in or went out. No reason was given for this procedure.

#### 3. THE TRANSFER TO SIERRA CHICA PRISON

On the 6th of September about fifty political prisoners, Dr. Santiago Morazzo and myself among them, were taken from their cells at about 6:00 a.m. We were introduced into a large locutory, requisitioned and all our personal belongings taken out from us. We were transported to the military airport at Palmar, with a guard of four armored vehicles and a tank. At about nine o'clock. The beatings with both, sticks and guns started as we were introduced in a military transport plane, where we sat with our heads between our knees. About ten guards from the Federal Prison System continued to beat us, walk over our backs, while we were forced to shout "long live the military!" "long live, general Vilas", etc. After a 45 minute flight we arrived at an airport somewhere near Sierra Chica. The beating continued while we went down, the guards having been joined by army people with dogs and while we were transported to prison. Once in here, we were striped naked for a "medical check up" and forced through a double file of guards that beat with sticks.

The beating continued while we tried to pick up our personal belongings. One at the time and nude we were made to run the distance to the cell pavilion, about a hundred meters from the main building. The floor was covered with small sharp stones and it was probably here that two toes of my right foot were broken. We were waited at the pavilion by about fifteen guards, and the beatings continued while we were taken to our cells. A few minutes afterwards, one by one, we were violently taken from our cells to the back of the pavilion and asked, among a shower of blows to pick our clothing, given an ice cold shower and brought back to our cells. It was about 6:00 p.m.

In the process, I had not only two broken toes, but also my front teeth beaten out and my back was covered with sores. Dr. Morazzo, whom I was to see some days later had two broken ribs. The whole contingent were in similar or worse conditions. No medical attention was provided. Two days afterwards we were asked to sign a paper saying that the wounds had been self inflicted or we would not be allowed visitors.

This sort of procedure during transfers of prisoners became standard, and I was a witness to reception of three other contingents.

#### 4. CONDITIONS AT SIERRA CHICA PRISON

The conditions of political prisoners at Sierra Chica are even worse than at Devoto. We were initially placed in isolation, one prisoner to a cell. Because of the increasing number of prisoners, we were finally put two to a cell (I would calculate between 1000 y 1200 political prisoners are detained at Sierra Chica).

Prisoners are only allowed to go out of their cells into one of the prison yards only for half hour, three times a week. They are not allowed to lie down during the day and they can only sit in the metal frame of the beds. They are allowed to buy one news-

paper, but books are prohibited. Sierra Chica is one of the oldest prisons in the country and the conditions of the buildings show their age. Every cell has leaks some of them have no running water.

The conditions I have described are not the exception but the rule, I have met entire families in prison that were detained because the agents of repression did not find someone whom they were looking for and instead took everyone in the house, after pillaging all belongings of value.

I have also witnessed the results of torture in those that survived it. In Sierra Chica at least two fellow prisoners were psychologically disturbed as a result of torture. Another one had lost the use of one arm because of electrical shocks. No medical attention was given to them.

I was released on the 11th of October, 1976, from Sierra Chica. During the whole detention period I was not officially accused nor told the reasons for my detention. The same is true for the rest of the members of CNEA that were in prison with me.

Having been told that both, the security of my family and my own life were in danger. I left Argentina on October 11, 1976.

#### CONTROL DATA'S CYBER 76

#### HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. HYDE. Mr. Speaker, a recent column by Jack Anderson and Les Whitten directed their readers' attention to Control Data's pending sale of their Cyber 76 computer to the Soviet Union.

This situation is not of recent vintage. On December 28, 1973, one of the most farsighted and patriotic industrialists I know, Mr. Gerald Gidwitz, chairman of the board of Helene Curtis Industries, Inc., wrote to William C. Norris, chairman of the board of Control Data Corp., expressing great concern about the trend in some elements of American industry to heap our technological bounty upon the Soviet Union.

Mr. Gidwitz's letter states these concerns so very well that I want to share it with my colleagues, as well as his recent letter to me:

MAY 25, 1977.

HON. HENRY J. HYDE,  
Oak Park, Ill.

DEAR HENRY: I am enclosing a copy of a newspaper article by Jack Anderson and Les Whitten about the U.S. selling the Cyber 76 computer to the Russians. I began reading about this as far back as December 1973, when I became involved in correspondence with William C. Norris, the Chairman of the Board of Control Data, who seems to have built up a very substantial business with the Russians. At that time I complained that the modern equipment he was selling would enable the Russians not only to control industry and manufacturing processes there but that it would have substantial benefits in controlling their population and would be used for military purposes.

I am enclosing a copy of my original letter of December 28, 1973. Subsequently, on January 29, 1974, I wrote him as follows:

"... The situation is far worse than I thought it was.

"You obviously have the facts and draw the wrong conclusions. Russia's large core of engineering talent is, has been, and will continue to remain directed toward its main



objective and that is world domination. This is evidenced by the fact that its major technology and development are entirely in the military field or in related fields. Those areas where civilian technology can be used for military purposes and where it hasn't been used so far, is because either the Russians were too concentrated on their military technology, or overlooked the importance and relationship of these other fields, or merely because of their cumbersome organization they could not develop all of these technologies at once.

"Several years ago, I think it was in 1966, when we made the first wheat shipments to Russia we opened the flood gates to European business deals and technological transfers to Russia. The present attitude of this administration and of companies like yours actually stimulates competitions from European companies. . . ."

Apparently nothing that I have been able to write to Mr. Norris or say to anyone else has had any effect on the sale of the Cyber 76 to the Russians, which will give them a quantum jump in technology as well as provide them with the instrument that, in my judgment, would be extremely dangerous for them to have as far as we are concerned.

If there is anything you can do to stop this nonsense of assisting in the building of the Russian industrial complex to support their military, I wish you'd do it. A couple of years ago I talked to people in the government who were afraid to raise their voices against these transactions. It appears that they have not stopped with the new administration.

Sincerely yours,

GERALD GIDWITZ,  
Chairman of the Board.

HELENE CURTIS INDUSTRIES, INC.  
December 28, 1973.

MR. WILLIAM C. NORRIS,  
Chairman of the Board,  
Control Data Corp.  
Minneapolis, Minn.

DEAR MR. NORRIS: The other day I was having a conversation with Ben Schemmer of the Armed Forces Journal about the problem of the United States industrializing Russia and its effect, not only upon our present trade with Russia, but the effect on our world trade when these construction programs come to fruition. Ben thought that your letter to him of December 19 would be of great interest to me and I agree with him. He sent me a copy, and I am taking the liberty of writing to you about it.

In the conclusion of your letter, you remarked that the USSR has many more scientists and engineers than do we. I was in Russia in 1958 and there was practically no visible evidence of Russian scientific knowledge, either on the streets, in the stores, in factories where we were allowed to visit, nor in private homes. In the conversation that I had with the woman in charge of the construction materials exhibit in Moscow, I was told that most of the steel produced in Russia did not go into the construction industry or into consumer goods, but went into their military program.

Russian engineering talent also all goes into their military program. If we furnish the consumer goods technology, we not only build a competitor in the world markets, but we reduce the internal pressure from the Russian consumer to divert talent in that direction.

Industrial power is the key to military power. We ship them whole plants financed by the Ex-Im Bank at subsidized interest rates that are the equivalent of a gift. (You are aware that with a mortgage at a 7%

interest rate, an 8.27% constant retires the principal in twenty-five years.)

Russian engineering development has almost all been in the military field. Russian plants, whether heavy-duty trucks, plastics, automobiles, and other items, depend upon exports to pay for the plants. Many plants call for the American company to take products from the plants as payment. When we are building a petrochemical plant and are taking plastics in payment, it is nonsense. We would be better off building the plants here.

We shipped them 164 of the subminiature ball bearing grinders that are only made in the U.S. The sole use of the 77 we have in this country are for bearings on the guidance system of the MIRV.

We ship computers.

Perhaps, some enterprising entrepreneur may try to get a license for our "clean" atomic explosives on the ground that there will be less permanent damage in the event we get into a shooting war.

The enclosed Washington Report of June 1973 is illuminating.

Don't you think this whole program of helping Russian industry should stop until we have Russian policy changes that no longer condone stopping our oil, inciting wars, and imprisoning anyone who raises a voice objecting to practices that are repugnant to free people?

Sincerely yours,

GERALD GIDWITZ.

GUARDIAN OF THE MENORAH TRIBUTE BANQUET TO HONOR STANLEY ENGEL OF YOUNGSTOWN, OHIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

MR. CARNEY. Mr. Speaker, on Sunday, June 5, 1977, the eighth annual B'nai B'rith Guardian of the Menorah Award will be presented to Mr. Stanley Engel.

The B'nai B'rith Guardian of the Menorah Award is given each year to the outstanding individual who has shown, through service and commitment, a devotion to youth and the community. In conferring the award on Stanley Engel, B'nai B'rith is recognizing Mr. Engel's many years of distinguished service to the city, State, and Nation, through his active participation and leadership in a wide range of civic, cultural, educational, religious, and service associations.

Born in Youngstown, Stanley Engel was raised in a Cleveland Jewish orphan home. He attended Ohio State University and earned a bachelor of science degree in social administration in 1939. Following his graduation from Ohio State, he returned to Youngstown and became the first full-time social caseworker engaged by the Jewish Federation of Youngstown. In 1943, he became executive director of the Tri-State Jewish Welfare Council, with headquarters in Pittsburgh, Pa. Two years later, he again returned to Youngstown, this time to serve as executive director of the Jewish Fed-

eration, a position he has held for the past 27 years.

The Jewish Federation of Youngstown is a functional federation and embraces various disciplines of the social work practice, including social casework, community organization, and community relations. Its various departments include the Jewish Family and Children's Service, Jewish Community Center, Jewish Community Relations Council, and the Annual Jewish Federation Campaign. The Federation provides community planning, fund raising, and coordinating services for the health, welfare, and social group work and recreational needs of the Youngstown Jewish community.

Mr. Engel's activities include member of the National Association of Social Work, National Association of Jewish Center Workers, American Civil Liberties Union, Ohio State Alumni Association, National Conference of Jewish Communal Service, Academy of Certified Social Workers, Association of Jewish Community Organization Personnel, and American College of Nursing Home Administrators; member of the board of Educational Opportunity Youngstown, Inc.; Mahoning County Council on Aging—currently serving as treasurer; and Kent State University Hillel-Jewish Services Center.

Mr. Engel has also been a member and chairman of various committees of the Eastern Ohio Chapter of the National Association of Social Workers, serving as its president from 1962 to 1964. A former member of the board of the local health and welfare council, he has been involved in many other community endeavors, such as: Executive secretary of the Youngstown Fair Employment Practices Committee, which helped bring about the enactment of a local fair employment practices ordinance, and chairman of the first social service division of the Greater Youngstown Community Chest Campaign.

In addition, Mr. Engel was formerly a member of the board of directors of the Anshe Emeth Temple, and a member of the Inter-racial Committee which preceded the Mayor's Human Relations Committee. He has made numerous special surveys and studies, including a study on the needs of the Jewish Aging in Youngstown, which led to the founding of Heritage Manor, the Jewish Home for the Aged.

Stanley Engel is married to the former Eleanor Moranz. The Engels have three children: Alan S. Engel, MSQ, campaign director of the St. Louis Jewish Federation; Miss Susan Engel, a graduate of the University of Massachusetts in medical technology and now associated with Photo Plate, Inc., a division of the Dow Chemical Corp., and Brian Jay Engel, a freshman at Ohio University.

The funds raised from the Guardian of the Menorah Tribute Banquet will be donated to the B'nai B'rith Youth Services Appeal, which supports Hillel Foundations on 290 college campuses, B'nai B'rith youth organizations, serving about 35,000 teenagers, and Career Counseling

Services, which provide youth with college placement and job search assistance. B'nai B'rith is the oldest and largest Jewish service organization in the world, with representation in over 40 countries of the free world and a membership of over half a million men, women, and youth.

Stanley Engel has demonstrated his commitment to the well-being of his fellowman by serving in virtually every facet of community life. Because he has given so much of his time and energy to help others, it is altogether fitting and proper that this year's Guardian of the Menorah Award be presented to him. Mr. Speaker, I wish to extend my sincere congratulations to Stanley Engel and his family on his fine achievement. When his many friends join in honoring him, I hope to be there.

KONSTANTIN VIKTOROVICH RUSAKOV, BREZHNEV'S NEW MAN IN THE POLITBURO

### HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. McDONALD. Mr. Speaker, last week the press featured the dropping of Podgorny from the Soviet Politburo and barely mentioned the promotion of Rusakov to that vacancy. Rusakov for at least the past 3 years has been a personal assistant to Brezhnev and their association may date back to at least 1960. Rusakov is no youngster, having been born in 1909.

In 1930, he graduated from the Kalinin Polytechnical School in Leningrad and from 1930-39 held various engineering positions in construction trusts in Leningrad, Leninakan, and Irkutsk, respectively. From 1946 until 1957, he held various positions in the fishing industry of the Soviet Union in administrative positions. In the period from 1948 through 1952, there is a gap, but he may have been in the fishing industry during that time also.

In 1958, he assumed his first diplomatic position as counselor to the U.S.S.R. Embassy in Poland. He left this job in 1960 for a position in the all-powerful Central Committee where he stayed until 1962. In 1962, he again returned for a short stint in the diplomatic service as Ambassador to Mongolia for a year.

In October 1964, Rusakov was made a deputy department head in the Central Committee and he has been in the Central Committee apparatus ever since. One key position he held was chief of the Department for Liaison with Foreign Communist Parties, a position he may now reassume in place of the recently demoted Katushev.

In January of 1966, he accompanied Brezhnev to Bulgaria, Rumania, and Czechoslovakia and has seemed to be in Brezhnev's shadow ever since.

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In sum, he is both a well-trained technician and party man personally responsible to Brezhnev and in his new position will enhance Brezhnev's leadership role.

OUR NATION SALUTES REV. EUGENE KOWALSKI OF NEW JERSEY, ESTEEMED PASTOR, COMMUNITY LEADER, AND GREAT AMERICAN

### HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. ROE. Mr. Speaker, on Saturday, June 4, the residents of my congressional district and State of New Jersey will join with the congregation of St. Stanislaus Kostka Roman Catholic Church, Garfield, N.J., in honoring an outstanding clergyman, distinguished citizen, and good friend, the Reverend Eugene Kowalski, in celebration of the 35th anniversary of his consecration into the Sacrament of Holy Orders.

Father Kowalski has maintained the highest standards of excellence throughout his lifetime in his many, many achievements, so unselfishly and willingly dedicated to the betterment of mankind. His exemplary service to God and country are mirrored in the happiness and security he has provided our people in his steadfast quest for the religious and cultural enrichment of all of our citizens, young and adults alike.

Mr. Speaker, there is so much that can be said of the love, affection, and reverence with which Father Kowalski is held by all who have had the good fortune to know him. He was born in Bayonne, N.J., on September 20, 1915, one of five sons of Ignatius and Janina—nee Hilinski—Kowalski. From 1930 to 1934 upon his graduation from local public schools in his hometown of Bayonne, he attended St. John Kanty Preparatory School in Erie, Pa. From 1934 to 1936 he continued his education at St. John Kanty College, also in Erie.

Father Kowalski received his bachelor of arts degree from Seton Hall University in 1938. He then attended Immaculate Conception Seminary in Darlington, N.J., and completed his theological studies at Catholic University, Washington, D.C., receiving his STL—licentiate in sacred theology.

He was ordained to the holy priesthood on May 30, 1942. As a young curate he served for 3 years at Our Lady of Czestochowa, Jersey City, N.J. He then served at Immaculate Conception Parish in Secaucus, N.J., for 4 years and at St. Ann's Parish in Jersey City, N.J., for the following 2 years. During the next 17 years he served at St. Adalbert's Parish in Elizabeth, N.J.

On September 14, 1968, Father Kowalski was appointed pastor of St. Benedict's in Newark, N.J., where he served until his appointment as pastor of St. Stanislaus Kostka Roman Catholic

Church, Garfield, N.J., on November 17, 1973.

Mr. Speaker, I appreciate the opportunity to present this profile of a distinguished man of God who has dedicated his life's purpose and fulfillment to helping others and guiding them in their pathway of life. His comfort and aid which he unselfishly and willingly gives to those in need and those who seek his spiritual guidance has truly enriched our community, State, and Nation.

Mr. Speaker, as Father Kowalski celebrates the 35th anniversary of his ordination to the priesthood I know that you and all of our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations for the excellence of his service to his church, our Nation, and all mankind. We do indeed salute the Reverend Eugene Kowalski, esteemed pastor, community leader, and great American.

FOREIGN OIL TANKERS TAKE AWAY U.S. JOBS

### HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. EILBERG. Mr. Speaker, this Congress will shortly be called upon to deal with tanker cargo preference legislation that would require that a significant percentage of America's oil imports be carried on U.S.-flag ships.

As things now stand, U.S.-flag tankers carry only about 4 percent of our imported oil, and this contributes to the critical unemployment of Americans. Thousands of jobs aboard ships, in shipbuilding and in service industries would be generated for American workers by the enactment of tanker cargo preference legislation.

The U.S. Maritime Committee to Turn the Tide has put this employment situation into perspective, Mr. Speaker, and I am placing in the RECORD at this point the text of a factsheet which they have prepared on this subject:

FOREIGN OIL TANKERS TAKE AWAY U.S. JOBS

Currently, without cargo assurance, U.S. shipbuilding potential is not being realized. At the end of 1978, the U.S. shipbuilding industry will have only 14 merchant ships on order.

The shipbuilding industry is an especially effective job-generating industry, which can contribute significantly to the Administration's program to reduce unemployment. Dependent on private investment, the shipbuilding industry recruits unskilled persons, and provides training in skilled trades.

The industry generates 33 man years of employment for each \$1 million of shipbuilding contracts, one of the highest ratios in the manufacturing sector of our economy. By contrast, each \$1 million of aircraft contracts will generate only 19 man years of employment.

Approximately 31% of the shipyard work force and 17.5% of shipboard crews are members of minority groups, substantially above



the 11% national average of the minority work force.

It is estimated that each additional 1% of total imports carried by U.S. flag tankers could result in shipyard employment of 6,864 man years—and in shipboard employment of 5,610 man years.

It's time to turn the tide and generate more U.S. jobs in shipbuilding, sea-going and on-shore labor, and support service industries.

## THE ANNIVERSARY OF THE ARMENIAN GENOCIDE; A CALL TO CONSCIENCE

**HON. ROBERT F. DRINAN**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. DRINAN. Mr. Speaker, recently the world observed, all too quietly, the 62d anniversary of the genocide of 1.5 million Armenians in Turkey. This atrocity remains unredressed. The Minority Rights Group, based in London, described the genocide of the Armenians in Turkey in 1915-18 as a "national catastrophe compared to that suffered by the Jews" during World War II. Sadly, it is a catastrophe which the world prefers to ignore.

On Memorial Day, May 30, the New York Times published on its editorial page a letter on this subject by Mr. K. Donabedian, of the Armenian National Committee in Boston. Mr. Donabedian eloquently called for more than token memorials. He called upon the Turkish Government to offer some kind of belated acknowledgment of guilt; to offer some form of restitution, even if in a largely symbolic sense, to the families of the victims of the genocide; and to cease its efforts to deny the nature and scope of this infamous massacre.

I commend to the attention of my colleagues Mr. Donabedian's letter to the New York Times, which follows:

[From the New York Times, May 30, 1977]

### OF TURKEY AND AN ARMENIAN ANNIVERSARY

TO THE EDITOR: Armenians throughout the world recently observed the 62d anniversary of the genocide of 1.5 million Armenians in Turkey. In the past, these manifestations of collective grief and outrage have been treated by the media simply as memorial activities designed to "remind the world" in hopes of deterring future genocides. They represent much more than that.

In this respect, C. L. Sulzberger's recent column "Deadline for More Terrorism," which deals with recent developments on the Armenian question, is a welcome sign that a prominent journalist recognizes there is more to the Armenian question than mere memorials. Particularly significant and indicative of his refreshing insight into the real issue is his suggestion that "indeed, it would be advisable even at this late date for the Turkish republic to offer some kind of belated guilt acknowledgement, an apologetic restitutional act plus compensation to descendants of survivors of the gruesome events that occurred, as Konrad Adenauer and Willy Brandt did for Israel." Perhaps it is not so much that our message finally got through but that someone was willing to acknowledge publicly that Turkey does have a responsibility to take some positive steps to cor-

rect the injustices of the past, the contemporary effects of which are very real and pressing.

In its recently released Report No. 32, "The Armenians," the respected Minority Rights Group (London) describes the genocide of the Armenians in Turkey in 1915-18 as a "national catastrophe compared to that suffered by the Jews" and one which "threatens to become more and more of a live issue." At the core of this indeed very live issue is the attitude of the present-day Turkish Government, which continues to deny or distort the well-known and extensively documented truth—that 1.5 million Armenians were slaughtered and hundreds of thousands driven from their homes in a cold-blooded and premeditated act designed to remove them forever from their ancestral lands.

Today, in sharp contrast to post-war German behavior, a major boulevard in the Turkish capital is named after Talaat Pasha, the chief architect of the mass slaughter, and Istanbul even boasts a monument to the archcriminal. In fact, in recent propaganda mailings from Ankara to U.N. delegates, U.S. Congressmen and others, the Turks go so far as to attempt to picture the victims as the perpetrators.

Armenian frustration and indignation—especially in the face of Turkish distortions and denials—have led to renewed determination to struggle to regain Armenian territorial and national rights. Recent developments, which prompted the Sulzberger piece, indicate that some Armenians have apparently lost faith in the willingness or capacity of the world's governments to listen to, or act on, peaceful appeals.

However, the Armenian National Committee will continue to press the Armenian case in every appropriate forum.—K. DONABEDIAN, Armenian National Committee, Boston, May 14, 1977.

## HEARINGS ON FBI CHARTER

**HON. DON EDWARDS**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. EDWARDS of California. Mr. Speaker, on June 6, 1977, at 9:30 a.m., the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary will begin a series of hearings on creating a charter for the Federal Bureau of Investigation. Past and present Attorneys General, the Director of the FBI and numerous concerned individuals agree that a statutory foundation is essential for the future of the FBI and for the protection of our citizens' rights.

The approaches to the creation of a statute differ, but those differences should be resolved by a thorough consideration of the objectives of such legislation. The statute must be drafted in a way that those subject to it can understand its provisions and not require constant interpretation of its meaning from higher authority. We must not attempt to recodify existing laws and penalties as some proposals suggest. The language must avoid symbolism and rhetoric; the duties of the agents must be described in a manner that enables the enforcement of existing and future Federal laws while allowing the necessary flexibility to deal with a limitless variety of fact situations.

To begin this process we will first look

at what now comprises the FBI's charter. That charter includes existing law and a series of guidelines issued by the office of the Attorney General. We will ask the Department of Justice and the Federal Bureau of Investigation to share with the subcommittee the effects of and problems with the domestic security guidelines that have occurred since they were promulgated in the spring of 1976. These views should provide valuable insight into the problems encountered by those charged with working within and interpreting those orders.

After we have heard from the Department of Justice we plan to hear from a variety of interested persons and organizations with regard to the proposals for a charter. The General Accounting Office will report to the subcommittee this summer on their followup study of domestic security cases now pending in the FBI field offices. The GAO will have recommendations as to additional legislative efforts which should be made to define the FBI's proper role in our society.

Our goal is a positive definition of the duties of the FBI in those areas which have caused harm to our citizens and discredit to the FBI. We assume the cooperation of all concerned will enable us to attain this goal.

**ANDREW R. ATHENS**

**HON. MARTY RUSSO**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. RUSSO. Mr. Speaker, Mr. Andrew A. Athens, Chicago industrialist, president of the United Hellenic American Congress and layman of the Greek Orthodox Church, was selected last month as one of eight Americans to be honored as typifying the "high ideals reflected by persons who entered the United States as immigrants via Ellis Island or descended from such persons."

In ceremonies held at Ellis Island in the harbor of New York, on April 30, the award from the Restore Ellis Island Committee was presented to Mr. Athens by Prof. Peter Sammartine of Fairleigh Dickinson University and chairman of the committee.

I am privileged to count Andy as a personal friend and I know of no other person who more deserves recognition for his service to humanity and to civic affairs. He is a fine and decent human being whose character and integrity are as strong as his generosity and warmth.

I would like to quote now from the news article on the event that appeared in the Hellenic Times the week of May 19:

In presenting the award, Prof. Sammartine cited Athens' altruistic and philanthropic activities and his many citations for his dedication to the church, to civic affairs, and for his leadership in youth programs. Reference was also made to his military service in the U.S. Army, his participation on Sen. Percy's Committees: Alliance to Save Energy and the Senatorial Advisory Commit-

tee and his extensive leadership in industry as president of the Metron Steel Corporation in Chicago, which he founded in 1950 and which is one of the largest independent steel service centers in the Midwest.

In an emotional response, Athens thanked the committee for the award and recalled that his late father passed through Ellis Island in 1904 in search of "precious freedoms—political, religious, and freedom from want."

I am deeply proud of Andy and I know my colleagues join with me in commending him for his unselfish contributions to those around him and in congratulating him on attaining such a prestigious award.

#### CONTRACTING OUT

### HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. DICKS. Mr. Speaker, the subject of contracting out has received increasing congressional attention as of late, as can be expected with the Office of Management and Budget's increased emphasis on performing work by contractors rather than by Government personnel.

I have no problem with contracting out—if such action makes sense in terms of saving the taxpayer's dollars, and in the case of defense contracts, if such action does not impair mobilization readiness or individual or unit retraining. Unfortunately, the recent spate of contracting out has raised questions in both areas.

For this reason, I believe the House of Representatives—following the lead of the Armed Services Committee—acted wisely in passing the fiscal year 1978 defense authorization bill. This bill contains two provisions which, in my view, will eventually lead toward a more rational and justifiable approach toward contracting out. First, this proposed legislation would, in effect, place a moratorium on contracting out until the Secretary of Defense reports back to the Congress by December 31, 1977. This study would "evaluate the methods for conducting cost analyses and identification of those mission essential functions which do not lend themselves to performance by private contractors."

Second, the House agreed to give the Secretary of Defense a 3-percent leeway in exceeding civilian personnel ceilings imposed by the Congress. In the past, civilian personnel ceilings—and not cost-effectiveness—have proven to be a prime motivating factor behind contracting out decisions. Giving the Secretary of Defense a 3-percent leeway can help to ease this pressure. I hope that the House conferees on the fiscal year 1978 defense authorization bill will stand firm on both contracting out initiatives.

There is still much to be done on this issue, however. Today, I am reintroducing a bill on contracting out, H.R. 6188, with 14 cosponsors. This proposed legislation is very simple and straightforward.

ward. It would require the Defense Department to conduct systematic cost-effectiveness audits prior to entering into any contract over \$100,000.

This review must include a simple cost-comparison between contractor and in-house personnel, as well as a review of the impact that any proposed contracting out action would have on individual or unit retraining of military personnel or on mobilization readiness. H.R. 6188 has an exemption clause which would waive cost-effectiveness audits on those activities where a sufficient record already exists with regard to cost comparison and defense readiness.

Finally, H.R. 6188 would establish a requirement for post-contract award audits to compare a contractor's promise with his performance. All too often, I am afraid that contractors bid low to win a contract, knowing that they may well become the sole source for such services. Subsequent contracts naturally rise, as the alternative of reverting to Civil Service personnel appears disruptive and unattractive. It seems to me that the Government should initiate post-contract audits to make certain that its interests are truly served by contracting out decisions.

In my view, this legislation is needed because of deficiencies in current practice. The key policy documents on contracting out are OMB Circular AX76, and the implementing Department of Defense directives. As difficult as it may be to believe, neither the OMB circular nor the implementing directives by the services call for systematic cost-effectiveness analyses.

In the case of the Navy, for example, cost effectiveness analyses for on-going programs earmarked for contracting out have been extremely shallow, according to the GAO. In the case of new starts, a cost-effectiveness study is discretionary, based on the views of the Assistant Secretary for Installations and Logistics. In my judgment, these procedures do not provide the data base on which sound contracting out decisions can be made. Similar situations exist within the Army and the Air Force.

By reintroducing H.R. 6188 today, I hope to call attention to this state of affairs. I wish to underscore the point that H.R. 6188 has no bias for or against contracting out. It merely directs the affected agency to prepare the statistical evidence from which valid contracting out decisions can be made. I hope more of my colleagues will join in cosponsoring this bill.

#### MEASURE INTRODUCED TO CORRECT UNFAIR CIVIL SERVICE DOWNGRADING

### HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. GONZALEZ. Mr. Speaker, I am introducing a measure today that I feel

is needed to correct an unfair and arbitrary procedure in the civil service program, the downgrading of Federal jobs.

The procedure of downgrading came about a number of years ago when it was discovered that Federal employees, all doing the same job but in different agencies, were being paid different salaries. In an attempt to develop a single coordinated pay system, many jobs were downgraded; that is, the grade level for that particular job was reduced.

While I realize that we want to insure equal pay for equal work, I am concerned that this procedure produces a serious effect on the morale of the employees involved and will certainly hamper their job performance.

The measure I am proposing would give a Federal agency 3 years to downgrade a job classification. After that, an incumbent employee would be protected against having this classification changed.

Under the current procedure, a civil service employee is subject to a lifetime of uncertainty, never knowing when he might be notified that his grade will be lowered. My bill would guarantee him a sense of security after he has performed successfully at a particular job for a period of 3 years.

I believe that this legislation is necessary and I hope that Congress can take expedient action to rectify the current downgrading practice, and I believe that my bill is fair and equitable to both the employee and the agencies involved.

#### NORTH BAKERSFIELD RECREATION AND PARK DISTRICT

### HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. KETCHUM. Mr. Speaker, it is my great honor to bring to the attention of my colleagues the dedicated public service of the North Bakersfield Recreation and Park District.

This year we celebrate with the district its 20th year of existence. During its service to the community it has opened its doors to the young and old alike and has effectively instituted innovative projects in the area of recreational programming. Today the benefits of the district extend to over 35,000 people in an area of 125 square miles.

In addition, the district has pioneered cooperative agreements with county departments, area school districts, churches, and community organizations. Through this effort the districts' programs have been geared to promote values of personal initiative as well as community pride.

The foundation of the district has grown into an impressive unit of three swimming pools, five wading pools, two community centers, one gymnasium, five programed parks, three undeveloped park sites, and an office complex. Over 400,000 participant sessions are held each



year with an annual participation growth rate of 4.22 percent.

At the forefront of this outstanding record has been a highly competent and professional staff which continues to serve with great distinction. Under the supervisory framework of the district a Board of Directors governs without compensation to a community which extends into the area of Oildale, Fruitvale, Norris, and Rosedale. The fulltime staff has distinguished itself in maintaining the excellence of the recreational and park system.

Mr. Speaker, I consider it a personal privilege to commend the North Bakersfield Recreation and Park District for its outstanding service. The work which it has accomplished throughout these years should stand as a model to similar communities across the country.

#### HOW POOR ADMINISTRATION IS KILLING THE SOLAR HEATING AND COOLING DEMONSTRATION PROGRAM

**HON. MAX BAUCUS**

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. BAUCUS. Mr. Speaker, the solar energy section is perhaps the least controversial section of President Carter's energy plan. The President proposed not only tax credits to make the purchase of solar equipment cheaper but a commitment to use solar energy where possible in Federal buildings. The only complaint about the solar proposals is that they do not go far enough. Some solar supporters advocate loans and grants in addition to credits. Nevertheless, adoption of the President's solar program will be a big step toward putting solar equipment in millions of homes. Solar energy, like good weather, is something almost no one is against.

The President's progressive program presents a marked contrast to HUD and ERDA administration of Public Law 93-409, the Solar Heating and Cooling Demonstration Act of 1974. The act set up a program to bridge the gap between development of individual solar heating and cooling systems and their widespread sale and use. Public interest in solar energy was to be aroused by demonstration of solar equipment at sites around the Nation, and commercialization of solar equipment would rapidly follow. Unfortunately, the national program for solar heating and cooling has been a source of disappointment for many reasons, especially for those of us with strong, longstanding interests in solar energy.

Public Law 93-409 had several objectives. First, it set up a research program to work on the problems which kept the cost of solar systems high—problems such as heat storage over long cloudy periods. Second, the demonstration program was to provide maximum opportunities for small business participation. The intent here was to prevent the new solar industry from being taken over

and dominated by big corporations. Third and most important, the act set up a Federal effort to demonstrate currently available solar systems in order to generate consumer interest in purchasing them. Finally, the program was to provide information for the development of consumer protection standards and purchase incentives. On paper, the program appeared capable of creating a large market for solar equipment by the end of the decade.

Performance has lagged far behind the promise of the program. The Department of Housing and Urban Development was assigned to administer the residential demonstration section of the program. The Energy Research and Development Administration was given responsibility for commercial demonstration and for research and development. Both agencies relied on high-priced solar systems when equally efficient, cheaper units were available. With a fixed budget, this resulted in fewer demonstration sites. Both agencies tended to favor big business in making grants. HUD made grants available only to developers for units not yet sold.

And ERDA played down the heating and cooling program in its budget request in favor of work on the more remote solar electric applications.

At the end of this statement I have attached a copy of my letter to Dr. Henry H. Marvin, who last fall was the Director of ERDA's Solar Energy Division. In the letter I outlined these complaints. A copy of his response is attached as well. As I will show, the Director's response has proved to be less than satisfactory.

Reliance on expensive equipment is documented in a special study report released on February 18, 1977, by the Sheet Metal and Air Conditioning Contractors' National Association. In the first round of HUD residential grants, solar collectors were purchased at prices ranging from \$19 per square foot up to the astounding price of \$255 per square foot. In the ERDA commercial program, collector prices in the first round varied from \$39 to \$210 per square foot. Most solar collectors on the market today sell for less than \$25 per square foot. HUD favored the more expensive, less efficient liquid systems in 85 percent of its grants. ERDA used the liquid systems in 97 percent of their demonstrations. According to Dr. George Lof, a noted expert in the field:

... air systems have overwhelming advantages over the liquid type ... (including) lower capital cost, higher efficiency, greater reliability and durability, superior compatibility with conventional warm air heating systems, and freedom from the liquid hazards of freezing, corrosion, boiling, and leak damage.

If the goal is to encourage consumer purchases, it seems logical that the lower cost air systems should be demonstrated. Otherwise, data generated at the demonstration sites will indicate that solar power is not economical, when, in fact, it is. HUD and ERDA have not yet arrived at this logical conclusion.

I sent copies of my letter and Dr. Marvin's reply to several solar manufacturers. Their replies highlight the prob-

lem of reliance on expensive equipment. Dr. Harry Thomason, for example, had given several Congressmen a tour of his self-designed solar home. They went on to push Public Law 93-409 through the House, citing the influence of their visit to Dr. Thomason's home. Thomason wrote that "the policy of both HUD and ERDA allows Government funds only for the 'incremental' cost of solar, over and above the cost of conventional." Thus, contractors get bigger grants for more expensive units. Solar systems which perform as well but cost less are closer in price to conventional units; hence contractors get smaller grants if they purchase them. This policy was not in the original legislation; it was adopted by HUD and ERDA. Dr. Marvin claimed in his letter that ERDA gave priority to "technical performance and potential reliability" in equipment selection for solar demonstrations.

Calvin D. MacCracken, president of CALMAC Manufacturing Corp., replied with the suggestion that "it would be very easy for ERDA to simply state in the solicitation that costs must be under \$2 per square foot." Unfortunately, such easy solutions are often overlooked.

While it is true that a large portion of demonstration project awards went to small business concerns, this is no surprise since even the largest contractor usually qualifies as a small business by virtue of the nature of the contracting industry. Thus the fact that most contractors who received grants were small businesses is understandable. It should be noted that the top five producers from whom contractors purchased solar equipment with Federal grants in the first two HUD rounds were all major corporations: General Electric, PPG, Lenox-Honeywell, Northrup, and Revere. This is not because these corporations produce the cheapest solar equipment; quite the contrary, the HUD/ERDA grant system encourages the purchase of their high-priced systems.

A more realistic view of ERDA priorities is afforded by the fact that, in the research and development section of the program, 10 percent of fiscal year 1976 funds went to small businesses. The solar energy industry has the potential to be a source of growth for small businesses, but HUD and ERDA policy continues to feed funds to the existing giants.

In selecting participants for the residential demonstration program, HUD limited its choice to contractors who would put solar systems into homes which they planned to build but which they had not yet sold. Thus, even though a homeowner wants to put a solar system in his home and is willing to participate in the demonstration program, he will not even be considered for a demonstration grant. Once again, this policy was not set up in the original legislation but was adopted by HUD. Of course, only a portion of the homeowners who might apply for grants if they were allowed to could actually receive one. But one purpose of this program was to provide information on possible incentive systems. In fact, both agencies opposed immediate enactment of incentives during 1976 because such incentives were still being studied in the dem-

onstration program. What better way to study the effect of loans and grants on the total cost of a solar system than to experiment with different approaches through the program by allowing individual homeowners to participate?

Finally, ERDA has overemphasized solar electric at the expense of solar heating and cooling, which is far more advanced. Over 70 percent of ERDA's proposed 1978 solar budget is for solar electricity. Dr. Lof comments:

Research in this area is certainly needed, but the hundred-million-dollar pilot plants and demonstrations now planned represent a great misuse of public funds.

As an additional personal note, in response to Dr. Marvin's contention that Montana has received so few solar grants because only two groups have applied, I agree that this may indicate a lack of interest in solar energy in Montana. My experience, however, teaches me that it more likely indicates that applications are deterred by lengthy and complicated application procedures. Such a phenomenon has doubtless been noted by many of my colleagues from various parts of the country. However, I understand that HUD and ERDA are revising and simplifying their application procedures. I welcome this development.

Clearly, the solar heating and cooling demonstration program could stand substantial improvements. I regret that the program is already half way to completion, but perhaps revisions will help put it back on track for its last 30 months. I intend to communicate my views to Dr. James Schlesinger with the hope that the new Department of Energy will upgrade the administration of this program.

If changes are not made, and if solar equipment is to be used in millions of homes, I am afraid it will have to occur in spite rather than because of Public Law 93-409. The equipment being demonstrated is too costly, and because of this, there are not enough demonstration sites. Hopefully, when incentives are available and market forces operate, people will purchase solar equipment from the low cost small firms which have led the development of the solar industry. The potential of solar power will be realized in this low cost high efficiency world, not in the opposite world of HUD and ERDA.

The letters follow:

HOUSE OF REPRESENTATIVES,  
Washington, D.C., September 21, 1976.

DR. HENRY H. MARVIN,  
Director, Division of Solar Energy, Energy  
Research and Development Administration,  
Washington, D.C.

DEAR DR. MARVIN: I am writing to you to get your reaction to certain observations I have made concerning the administration of P.L. 93-409, the "Solar Heating and Cooling Demonstration Act of 1974." My observations are based on my research of ERDA and HUD administrative actions in connection with P.L. 93-409, my personal discussions with interested constituents in Montana, and conversations with my colleagues.

I am specifically interested in your implementation of four parts of the Act:

(1) Section 14, which indicates a congressional desire for maximum participation opportunities for small businesses;

(2) Section 15(a), which expresses a similar desire for a good geographical distribution of demonstration sites;

(3) Section 15(b), which implies that administrators should purchase the least expensive components and systems which perform at a given level; and

(4) Sections 5(c), 5(d), 6(d), and 6(e), which give the Secretary of HUD broad discretion in choosing the homes and homeowners to participate in the program and to receive the benefit of low-interest finance of expensive solar equipment granted under Section 13.

I realize that this fourth area of interest involves HUD rather than ERDA administrative policies. However, I am writing to you because funds for the HUD section of the program are funneled through ERDA.

According to a report of the Senate Select Committee on Small Business entitled "Energy Research and Development and Small Business," small businesses, as defined by SBA, received only 5.9% of the dollar amount of contracts awarded in connection with P.L. 93-409 over the past two fiscal years. Is this consistent with the congressional intent cited above?

Montana, which houses eight NOAA Principal Climatological Stations and is divided by two major climate systems, has not yet received a P.L. 93-409 demonstration project. HUD and ERDA officials informed me that Montanans have shown a lack of interest in the program, yet my personal conversations with my constituents do not confirm this. Over sixty individuals and groups applied for Montana state coal tax funds to conduct solar R & D. How is it that a state with such expressed interest and climatological diversity has been left out of the P.L. 93-409 program?

According to my written correspondence and personal conversations with solar inventors, developers, and manufacturers, HUD and ERDA have tended to rely on more expensive components and systems for the program than are needed to meet certain performance levels. What evidence can ERDA give to demonstrate compliance with Section 15(b) of P.L. 93-409?

Finally, in selecting participants for the demonstration section of the program, is it true that only contractors who have not pre-sold the units to be used for demonstration and testing are chosen? Is it possible for an individual homeowner, or a contractor with pre-sold units, to apply for and be included in participation in the residential demonstration program? And if not, why is such a policy necessary in carrying out the provisions of P.L. 93-409?

I realize that answering these questions may require detailed and time-consuming work. However, as a member of the House Committee on Appropriations, I feel that these questions must be settled in my own mind before any further consideration of ERDA appropriations.

If you need any clarification of my questions, please contact either Jerry Tinlanow or Steve Browning of my office. I appreciate your cooperation in replying to my questions, and I hope to learn from you in the near future.

Sincerely,

MAX BAUCUS.

U.S. ENERGY RESEARCH AND  
DEVELOPMENT ADMINISTRATION,  
Washington, D.C., October 29, 1976.

Hon. Max Baucus,  
House of Representatives, Washington, D.C.

DEAR MR. BAUCUS: Thank you for your letter of September 21, 1976, requesting information on the administration of Public Law 93-409, the Solar Heating and Cooling Demonstration Act of 1974.

In answer to your question about small business participation, I will discuss small business participation in each of four areas:

(1) demonstrations (residential and commercial), (2) research and development (3) development in support of demonstrations, and (4) agriculture and process heat. In 1975, the Energy Research and Development Administration (ERDA) issued a Program Opportunity Notice (PON) inviting proposals for solar heating and cooling demonstration projects. Thirty-four projects were selected for awards. The total amount for these awards was about \$7.5 million.

In twenty-eight of the thirty-four awards, the system contractor was a small business company (82% participation). Of the remaining six awards, five went to large corporations and one went to a state agency.

Among the major subcontractors to the solar system contractor, we find 63 small business concerns and 11 large corporations (85% small business participation). Our original objective was to obtain a 50% small business participation. The results are gratifying to us since they show that small business can compete effectively in solar heating and cooling.

Demonstration grants awarded by the Department of Housing and Urban Development (HUD) for residential projects were made to builder-developers, to universities, to Indian tribes, to cities, and to public housing authorities. All of the 55 awards were either small business or public bodies. The total amount of these grants was about \$1.1 million.

In the research and development program for FY 1976, small business received 12 awards for 10% of the R&D funds, whereas large business received 15 awards for 28% of the R&D funds. The remaining awards and funding went to universities and government laboratories.

In the program for development in support of the demonstration program being administered for ERDA by the National Aeronautics and Space Administration (NASA), Marshall Space Flight Center (MSFC), five RFP's were issued in FY 1976. Small business received 25% of the funds and 75% of the awards resulting from these RFP's.

In the agriculture and process heat program, most of the funds and awards have gone to universities and the U.S. Department of Agriculture, but 4 awards were made to small business for 17% of the funds.

In answer to your question about the participation of Montana in the solar heating and cooling program, both ERDA and the Department of Housing and Urban Development (HUD) are primarily using open competitive solicitations to invite participation in the solar program and to identify potential solar heating and cooling demonstration projects. In the first HUD solicitation inviting proposals about 250 applications were received, but only one was submitted from Montana. That proposal was from the Blackfoot Tribe Housing Authority and they were awarded a grant for five single family dwellings. In the second HUD solicitation for residential demonstration projects, over 300 applications were received and again only one was received from Montana. Awards on this solicitation were recently announced by Secretary Carla A. Hills and the Montana application did receive a grant award. Enclosed for your information is a copy of the HUD press release listing all grantees.

In ERDA first solicitation for commercial demonstration projects, 308 proposals were received, but none were received from Montana.

In summary, we have received over 750 expressions of interest in solar heating and cooling demonstration projects and only two were from Montana.

In May 1975, a National Solar Energy Workshop was held in Huntsville, Alabama. The purpose of this workshop was to discuss the solar heating and cooling program with the states and identify how the states could be-



come more involved in the program. All fifty states were invited and 30 states were represented, but no one attended from Montana. A copy of the proceedings was sent to the Montana State Energy Office.

In answer to your question about ERDA and HUD relying on more expensive solar systems in demonstrations, two methods are used in the residential and commercial demonstrations to select solar systems for demonstration. One method involved the selection of acceptable solar systems and the integration of these systems into selected sites. Through a joint solicitation last year, ERDA and HUD selected a number of solar systems for use in selected residential demonstration projects. In selecting these systems, consideration was given to technical performance and potential reliability, and not primarily to cost; we believe that current system costs are still uncertain and that significant price changes will occur as manufacturing capabilities, mass production, system performance, and competition are better understood.

The other method of selecting solar systems was where the solar system was selected by the applicant and submitted as part of an integrated project proposal. This is the way the construction industry works, and we believe it is essential to the rapid acceptance of solar energy by the industry and its customers for the normal supplier-developer relationships to be established as quickly as possible. In evaluation of project applications, both ERDA and HUD look primarily at the technical capability but also consider costs of the systems in the proposed application, and we have required cost-sharing by private commercial users.

In the second cycle of residential demonstrations, HUD has declined to accept several projects where system costs are far too high for the market, and has accepted several where low cost systems that have been proposed, even though technical consultants have indicated that maintenance and serviceability problems may result in higher operating costs. Low initial first cost does not necessarily mean low life-time costs, and Section 15(b) calls for consideration of both production and maintenance costs.

Primarily, though, we believe that in this early stage of the demonstration program we must establish acceptable levels of technical performance and maintenance capability, and that all systems which appear to hold promise of being economical in given applications should be demonstrated and tested. As we build a basis of experience in performance and actual costs, we will be concentrating on the proven economical systems.

In answer to your question about the use of pre-sold residential units in the demonstration program, at this time HUD is not awarding project grants to individuals for their private homes or to builders who have pre-sold the units to individuals. There are two reasons for this decision. First, one of the primary objectives of the demonstration program is the development of a residential market, and the determination of the potential barriers to the development of such a market. By requiring the grantees to market the demonstration units after construction, we can obtain data on market acceptance and builder willingness to use solar as a marketing device which could not come from projects for private owners. Second, HUD has received over 10,000 inquiries from individuals about obtaining Federal assistance in installing a solar system to reduce heating costs. It would be most difficult to select on an equitable basis a few hundred "lucky" individuals to receive such grants. A lottery system has been considered but a number of problems exist with the lottery approach.

If you need additional information or

clarification on the above, please let me know.

Sincerely,

H. H. MARVIN,  
Director, Division of Solar Energy.

#### RECOMP

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. BOB WILSON, Mr. Speaker, the editorial in last week's Air Force Times was directly on target with respect to the long smoldering recompensation issue. Opponents seem to feel that recompensation, like old soldiers, will simply fade away. Believe me, they are wrong. With each passing year of congressional inaction, the inequity against the older retirees is only magnified. I commend to my colleagues' careful attention this Times commentary:

#### RECOMP

For some years, a determined body of retirees has argued unsuccessfully for "recompensation" of retired pay.

Recomp died so long ago that the term probably is meaningless to much of today's generation of service people.

Here, roughly, is the idea: Years ago, the law required that whenever active duty pay was raised, a similar adjustment would be made in retired pay. Then—almost 20 years ago—recompensation was terminated. There was a modest percentage raise in retired pay in 1963 but since then, retired raises have been based on changes in cost of living.

Since recomp ended in 1958, there has been an increase of more than 100 percent in retired pay under the cost-of-living formula. The problem is that the increase in active duty pay has been more than 150 percent during the same period.

The result is that thousands of service people who retired when active duty pay was low have not felt the benefit of the substantial raises given the active force. They have received increases in pay with the rise in the Consumer Price Index.

These percentage increases serve to widen the gap between the pay of the early retirees and that of people retired more recently.

Successive administrations have explored the question of recomp. Congress has considered reviving it at least on a one-time basis to bring the pay of early retirees more in line with that of recent retirees. To date, however, there has been no action to remedy the situation.

As is often the case in legislation affecting the military, critics of recomp focus on the extreme cases. Retired general officers already receive substantial retired pay checks. Recomp would increase the take for some of these people when they aren't really hurting, the argument goes.

We are not greatly concerned about the benefits for generals. What does concern us is the plight of lower ranking retired officers and enlisted members.

When recomp died, many of these were drawing only modest retirement benefits. Under the present system, they never can catch up. In fact, they will continue to lose ground to inflation.

Realistically, we do not see much chance for early passage of recomp legislation. The present administration is trying to reduce defense costs and retired pay in general is being looked at critically. Nor is Congress

likely to press expensive legislation not supported by the White House and the Pentagon.

In another sense, however, the time seems ripe for one more try at recomp. Another major pay study is underway and the Pentagon's retiree pay modernization plan is pending. While future pay and retirement benefits are being considered, it would seem only logical to find some remedy for past omissions.

Those who support recomp suggest that if the government does not play fair with past retirees, it will have trouble getting future members. In the past, that argument did not impress us much. We doubted that new potential recruits would be much concerned about the problems of people who retired while the present generation still was in grade school.

Recently, we have seen more merit in the argument. The question of the government's living up to its written and implied promises has become a major one in the discussion of erosion of benefits and possible unionization. Those fighting for recomp can point to their experience as a case in point.

We don't know whether there is any chance for recompensation in the near future. We do think it deserves more serious attention than it has received recently and that the time is ripe for consideration of at least a one-time readjustment.

The alternatives are some other kind of support for many of the aging retirees. It would be better to provide their earned entitlements than to subject them to the humiliation of some other form of government subsistence.

DR. LYMAN SPALDING, FOUNDER OF  
"PHARMACOPOEIA"

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. BROWN of Ohio. Mr. Speaker, I wish to share with my colleagues the following statement submitted to me by a constituent, Rylance Allen Lord, M.Sc., R.Ph., of Springfield, Ohio, who has spent much time and effort in an attempt to gain approval for the issuance of a commemorative stamp to honor Dr. Lyman Spalding, the founder of this country's official drug standard, the "United States Pharmacopoeia":

Fellow Americans: We are attempting to secure interest in obtaining what we feel is long overdue formal recognition for the founder of the United States Pharmacopoeia—this country's official drug standard.

For 157 years, all Americans have been the beneficiaries of the keen foresight of Doctor Lyman Spalding when he encouraged the adoption of an official drug compendium of medicines and preparations as early as 1798 while he was assisting in the founding of Dartmouth Medical School in Hanover, New Hampshire.

During his short life (1775-1821), Doctor Spalding contributed much to the health and welfare of his fellow citizens which directly benefit us all today.

History cannot succeed in recording, for posterity, each and every American who has a part in each and every significant event. Spalding and the founding of the United States Pharmacopoeia (1817-1820), it is felt, just got "lost in the shuffle" of events which surrounded a very young nation grasping for its very survival after two wars within 30 years to achieve and maintain its freedom and independence.

However, we feel that appropriate and timely commemoration of the work of Doctor Lyman Spalding is at hand and should be made via the vehicle of a United States postage stamp, and we urge the members of both branches of the Congress to exhibit a favorable opinion in this regard to the officials of the United States Postal Service. The subject has been before them since the Fall of 1975.

#### FEDERAL PAPERWORK COSTS SCHOOLS BILLIONS

**HON. WILLIAM L. ARMSTRONG**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. ARMSTRONG. Mr. Speaker, Dr. Calvin Frazier, Colorado's Commissioner of Education, came to Washington last week to express his concern about a large and growing problem that threatens to overwhelm the financial structure of school systems throughout the United States.

The problem is the excessively high cost, in time and money, of doing all the paperwork required by the Federal Government.

In his testimony before the House Subcommittee on Elementary, Secondary and Vocational Education, Dr. Frazier estimated that school districts in Colorado spent approximately \$3 million in 1975-76 to collect the more than 2 million items of educational information demanded by various Federal agencies.

Dr. Frazier said:

If our state is an indication, this would mean 250 to 300 million dollars were spent compiling K-12 educational data by all states last year.

The figure is staggering, and gets worse beyond the elementary and secondary school level.

One college estimated recently the costs of complying with Federal regulations at between \$4.6 million and \$8.3 million. The American Council on Education reported in 1975 that the overall impact of Federal regulations was an increase in the cost of running the Nation's colleges by the equivalent of from 5 to 18 percent of total tuition revenues. And Change magazine estimates that Federal regulations cost as much as the total of all voluntary giving to the Nation's private schools—about \$2 billion a year.

Since Federal aid to education accounts for only about 7 percent of the budgets for elementary and secondary school systems—less than that in Colorado—it is clear that local school officials are spending a grossly disproportionate amount of their time doing Federal paperwork, much of which is needless and duplicative.

Colorado currently is conducting a detailed study of the cost of providing required data to the Federal Government. The survey will not be concluded until August or September of 1978, but the preliminary findings give a clear indication of the scope of the problem.

Frazier said that in order to report only 1,000 summarized data items to the Federal Government, several million individual student data items had to be collected by Colorado's vocational education system.

A data item is a single response to a question such as: "How many students do you have in the sixth grade?" Reporting costs vary widely, from 30 cents per item to as much as \$20 per item. The average cost to report a data item is \$1.31.

Dr. Frazier proposed a number of reforms to ease the paperwork burden imposed on State and local school officials:

1. Centralize the review of data collection forms and procedures in one agency.
2. Expand the scope and responsibility for preliminary review of forms to weed out those which are duplicative or unnecessary.
3. Coordinate Federal data collection activities that impact on local school districts through the state education agency.
4. Establish a data item directory as a means for identifying duplication of effort.
5. Require all new requests for data and changes to existing surveys to be defined and approved for collection by the December prior to the school year in which it is to be collected, to permit more orderly planning by local school districts.
6. To reimburse the suppliers of data for the costs they incur in complying with Federal requests for information.

Dr. Frazier's proposals are sound and necessary reforms, and I will do what I can to see that they are enacted. Our children deserve the best education our money can buy, but the money we spend on education should go toward educating our children, not filling out forms.

#### REPRESENTATIVE FRANK C. OSMERS

**HON. EDWIN B. FORSYTHE**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. FORSYTHE. Mr. Speaker, I would like to express my regret regarding the recent death of Frank C. Osmers, Republican, New Jersey. During his total of 17 years in the U.S. Congress, spanning four decades, Representative Osmers displayed an intense sense of responsibility and distinction. His career in public office involved all levels of government and politics.

First elected to Congress in 1938, Congressman Osmers was reelected in 1940. He did not run for reelection in 1942, however, as he enlisted in the Army as a private 2 days after the attack on Pearl Harbor. Despite his isolationist views, he had patriotically vowed to enlist if this country were attacked, and subsequently voted in Congress for war immediately after the Japanese strike.

This courageous man rose to the rank of major in an infantry division and served in the Philippine and Okinawa invasions and the Korean occupation. After his discharge in 1946, he remained an officer in the Army Reserves and

then resumed his private business pursuits.

He continued his active interest in politics and in a special election in 1951, Osmers returned to the Congress filling a vacancy as the Representative from his Bergen County district in New Jersey. This fine man was reelected to the six succeeding Congresses, serving until January 3, 1965. His exemplary service in Congress will be remembered with honor by those who knew him.

Even after his retirement from public life, Frank Osmers displayed continued interest in politics and public affairs at the local, State, and Federal levels. I speak for his colleagues in many places and at many different levels in expressing my deep sense of sadness at his death. My heartfelt sympathy goes out to his wife, Marguerite, and their two children, Frank C., III, and Nancy Wysocki. He will be greatly missed by all.

#### WEATHER OR WASHINGTON

**HON. JOHN H. ROUSSELOT**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. ROUSSELOT. Mr. Speaker, as Congress considers tomorrow H.R. 6804, to create a Department of Energy, I would urge that serious consideration be given to the complete decontrol of the price of these commodities and letting their value be determined by the free market. This, more than any other single action, would contribute to an improved energy outlook for our country.

It has been credibly established by the American Gas Association and the Energy Research and Development Agency that there are vast supplies of natural gas deposits available to last between 1,000 and 2,500 years—but not at the present Government-regulated price levels. Only if the price of natural gas is decontrolled and permitted to be set by the market will there be sufficient growth and development capital to access these resources.

In a recent Newsweek editorial, dated February 28, 1977, Nobel prize-winning economist, Milton Friedman, makes a persuasive case for decontrol. Suggesting that the recent winter gas shortage was due more to Government regulation than bad weather, Friedman recommends that the best way to end the fuel shortage is to abolish the Federal Energy Administration and eliminate the power of the Federal Power Commission to fix the price of natural gas—or any other product. As Congress deliberates over different solutions to our country's energy problems, I would urge my colleagues to lend an ear to Dr. Friedman's sage counsel:

GAS CRISIS: WEATHER OR WASHINGTON?

(By Milton Friedman)

The statements and proposals about the gas crisis emanating from Washington these days remind me of the story of the young man, convicted of murdering his mother and



father, who threw himself on the mercy of the court as an orphan!

True, the winter has been extremely severe in large parts of the country. Under the best of circumstances, the severe winter would have imposed a hardship, raised costs, and interfered with production. But there have been hard winters before, and they have never been accompanied by some of the problems specific to this one: widespread shortages of natural gas, leading to compulsory rationing and the closing of schools, factories and other establishments.

#### HOW TO PRODUCE A SHORTAGE

The source of the difference should by now be crystal clear: Federal control of the prices of natural gas and oil. For natural gas, price control, which goes back to 1954, has produced a crazy-quilt price structure that encourages wasteful consumption and discourages production. Some natural gas (from so-called old wells) must be sold at 52 cents per 1,000 cubic feet; some (from so-called new wells) at \$1.42; and some, which is used intrastate, is not subject to control by the Federal Power Commission and sells at a free market price, currently around \$2. In addition, utilities pressed to supplement domestic supplies have been purchasing liquefied natural gas from abroad at prices ranging up to \$3.50 per 1,000 cubic feet. Make sense of all that, if you can!

This crazy-quilt structure has been erected in the name of protecting the consumer from the greed of the producer. But the predictable effect has been very different. Economists may not know much; but one thing we do know: how to produce a shortage. Force the price of anything—from tomatoes to town houses—below the market price, and you can be sure eager buyers will scramble for inadequate supplies. So it has been with gas. Consumers lucky enough to get gas have benefited; those denied gas have been forced to use more expensive fuels. Industrial users have been induced to move to states where they can buy gas free from controls—the availability more than compensating for the higher market price. Those remaining dependent on interstate gas have experienced expensive interruptions.

My own senator, Adlai Stevenson of Illinois, illustrates dramatically the perversity of the political process. He has consistently supported low price ceilings on natural gas, which inevitably means a shortage of gas and, hence, gas rationing. Politics assures that residential users will get first priority. As a result, the bills that Senator Stevenson has sponsored could accurately be described as bills to drive industry out of Illinois. Has he truly been serving the interests of his constituents by making gas cheap and simultaneously depriving them of jobs? By making gas cheap to some, and forcing others to rely on more expensive fuels? By assuring interruptions of schools and other governmental services?

But, you may say, why blame Senator Stevenson and his colleagues? Are not the real culprits the greedy gas producers who prefer to sell gas intrastate for \$2 per 1,000 cubic feet, instead of shipping it interstate at 52 cents or \$1.42? Before answering a resounding "yes" to that question, let me suggest that each of my gentle readers ask himself whether he would voluntarily take a large salary cut in the name of protecting the consumers of the product that he helps to produce. If not, why do you expect the workers and stockholders of the corporations producing gas to do so? Do you really prefer government allocation of jobs and of output, to voluntary cooperation in a free market?

#### HOW TO END A SHORTAGE

Nothing Washington can do will change the weather. But assuring an end to the fuel shortage and the misallocation of fuel is

easy: simply abolish the Federal Energy Administration and eliminate the authority of the Federal Power Commission to fix the price of natural gas—or any other product. That is the only effective way to assure that the present output of fuel is used efficiently and that future supplies are found and developed. It would also be the most effective blow that we could strike to speed the breakdown of the OPEC cartel.

The hard winter will have been a blessing in disguise if it drives this lesson home.

### PEACE THROUGH READINESS

#### HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. STEED. Mr. Speaker, on Armed Forces Day, May 21, Maj. Gen. Donald M. Keith, the commander of Fort Sill, Okla., gave an incisive address on the state of our defense system and the role of Fort Sill in particular.

His remarks, given at a luncheon at the fort, provide a telling illustration of the Armed Forces Day theme, "Peace Through Readiness," so essential to our security.

The text follows:

#### PEACE THROUGH READINESS

Thank you, Colonel Moran. Ladies and Gentlemen: I am pleased to be with you—particularly on an occasion like today. Each year, Armed Forces Day offers every American the opportunity to take a close-up look at the nation's military forces. This year, the Armed Forces Day theme is "Peace Through Readiness." Therefore, the thrust of our activities nationwide is to demonstrate how we are helping prevent the next war by being ready to win it. My remarks will focus on what the Army is doing, and more specifically, what Fort Sill is doing to exemplify and support "Peace Through Readiness."

There are a great many things that make up this condition we call readiness. It has to do with equipment, organization, training . . . really with just about everything the Army does. But the key to readiness is people. The primary consideration in achieving combat readiness is having quality people. To this end, the Army has placed a heavy emphasis on recruiting high school graduates who score well on military examinations. Young men and women who have graduated from high school have demonstrated that they perform more effectively, are twice as likely to complete their enlistments, and cause fewer disciplinary problems than non-graduates. Today, over 80% of our soldiers have high school or equivalent diplomas.

Although we consider recruiting to be the foundation of our quality program, it's not enough by itself. Equally important is "skill match," a program with the objective of putting the right soldier in the right job at the right time. Success in this area results in job satisfaction, and contributes to unit morale and that all-important combat readiness.

Both morale and efficiency were enhanced at Fort Sill during the past year when we instituted our one station training and one station unit training programs. In both programs, a soldier receives his basic and his advanced training right here. In OSUT, where the basic cannoner is trained, the soldier

stays in one unit, and we have been able to reduce the period of training from 16 weeks to 12 weeks. This is a money saver since we don't have to move the field artillery trainee from his basic training post to Fort Sill for advanced individual training. We have found no degradation in the quality of our product because we can provide him an earlier exposure to the field artillery while he is learning the basics of being a soldier. By not uprooting the individual in the midst of his training, we have found that his morale and motivation is better than under the old split system.

Although we don't have any female cannoners, women are playing an increasingly important role in today's Army. In the past five years, the number of women in the active Army has quadrupled to about 47,000. The Army has come to realize that women make good soldiers in more areas than we had previously expected—officers as well as enlisted. And at the present time, we're getting more high school graduates among women than men. Of a total of 406 enlisted job categories in the Army, 371 are now open to women. Among officers, we now have women assigned to all branches except the combat arms. Here at Fort Sill, there were 518 women military personnel in 1975; today there are 853. Last year, as all of you know, women were enrolled as cadets in the United States Military Academy for the first time and by all accounts, they're doing quite well. Last year, also, the first 150 women graduates were commissioned through the Reserve Officer Training Program, so we now have alternate sources for female officers other than Officer Candidate School.

I would be less than candid if I discussed only the good points of our personnel situation. You've heard the volunteer Army concept questioned on more than one occasion recently. Last fall you may recall that I went on record as favoring a standby draft. The Selective Service System has been dismantled to such an extent that it can no longer meet our manpower needs in the early months of a future war. While I believe that the all-volunteer Army has worked for us up to this point, there is no doubt that the recent state of the economy helped us. But the fact is that now we are beginning to experience some real problems in getting both the quantity and quality of soldiers that we need, particularly for the Reserve components. When the draft was terminated, greater emphasis was placed on keeping the active Army up to strength—there simply wasn't enough money available to effectively promote the National Guard and Reserve at the same time as the active force. Moreover, Reserve component shortages were not an immediate problem: The six-year obligation of draft-induced Guard and Reserve enlistees from the Vietnam era had not expired yet. However, in the past few years, those obligations have been ending, and new recruitment has not made up the difference. The incentives just aren't there. I am encouraged, though, by public pronouncements by some concerned members of Congress that suggests we should institute some form of broad-based universal service, one part of which would be a military option.

Frankly, we don't talk as much as we should about our Reserve components. Most of the emphasis seems to be on the active force. But our total Army is made up of the active element, plus the National Guard, the selected Reserves, the individual ready Reserves, and the standby Reserves. Together, the Reserve components make up over half of the total Army, and serve to round out the units on the line. Selected Guard and Reserve units have even become integral parts of the actual structure of four active divisions. These "roundout" units, as we call them, are vital to the Army total force structure.

I would be remiss if I didn't note at this point the large number of people at Fort Sill and our sub-installation, Fort Chaffee, deserving credit for supporting the Guard and Reserves. You don't hear much about it, but Chaffee alone trains over 20,000 Guardsmen and Reservists each year. With the Selective Service machinery in a "deep standby" status, effective training of our Reserve component assumes greater significance. In the event of a national emergency, the Guard and Reserve will be called upon to fill the gap between our peacetime capability and our wartime requirement.

The manpower situation, then, is of concern throughout the Army. I should emphasize that right now we are not in any sort of a weakened state. We have met the challenge of a voluntary service to date. But being ready means looking ahead to future needs, too. That's why some of us are sounding the alarm—we can look ahead and see where we might have a real problem in the not-too-distant future, if we don't act now.

At the beginning of my remarks, I noted that one aspect of readiness is equipment. It's the old situation of having the right tool for the job. The Army has a vital research and development program to keep our "tools" current. For example, full-scale development of the Army's new tank, the XM-1, began in November of last year. It is scheduled to be part of the active Army inventory by 1980. Also on the horizon are the all-weather advanced attack helicopter, the mechanized infantry combat vehicle, the patriot surface-to-air missile system, and a new utility helicopter which is entering production.

Within the field artillery, we have a number of exciting modernization items. The cannon-launched guided projectile (now named Copperhead) is in the final phase of development. During tests last year, these projectiles fired from 155mm howitzers at ranges of about 13 miles scored direct hits on moving tanks that were being illuminated by an observer with a low power laser device.

Also, rocket-assisted projectiles are being developed for our existing howitzers. The rocket motors in the base of these projectiles burn for just a few seconds, but increase considerably the range of the shell.

There are many other artillery or artillery-related developments that I don't have time to cover in any detail today. But they include new radars and other target acquisition devices, a new multiple rocket system to attack the enemy's artillery and air defenses, and a new automated command and control system which will greatly improve our ability and responsiveness to do the artillery job. We simply must harness the best that technology has to offer if we are to fight outnumbered and win.

The Army's combat capability is its 24 combat divisions—16 active and eight National Guard. They, of course, are augmented by the necessary combat support and service type units to balance the force. What you see locally are the 15 battalions and three battery-size units of III Corps Artillery constantly maintaining a high degree of readiness. All of our military units are structured for a variety of missions in different world environments. But the goal is to maintain a total Army force available for a commitment anywhere U.S. interests require—peace through readiness.

Efforts during the past year—including 26 major training exercises—have resulted in improved combat readiness. Looking to the future, Army goals are designed to sustain a highly professional, combat-ready force by: recruiting and retaining high quality soldiers; improving the career management and professional development of both officer and enlisted personnel; developing and procuring

improved materiel; and molding the active and Reserve components into a fully-manned, fully-equipped, and fully-trained total Army.

George Washington, the Army's first Commander-in-Chief and the nation's first President, said: "To be prepared for war is the most effectual means of preserving the peace." That axiom is as true today as it was in the eighteenth century. But readiness has never been cheap—or easy. Modern weapons systems are costly—costly to develop, and costly to maintain—and the cost of manpower has increased even more dramatically. People costs in the volunteer Army now account for over half of our annual budget. Even so, and contrary to the belief of many Americans, the Department of Defense is not the top spending agency in the Federal Government. Defense expenditures for fiscal 1978, for example, will be about half of what will be spent for social and economic programs. Viewed over a longer period, defense spending has increased about 112 percent since fiscal 1964; social programs have jumped some 517 percent during the same period.

The defense load is indeed heavy, but history has taught us the price of unpreparedness: a high cost in lives, resources, and equipment—and that is unacceptable. We must, in Washington's words, be prepared to maintain the peace.

That spirit of "Peace Through Readiness" must remain as important to the volunteer men and women of today's total Army—who serve the needs of our country and protect the American way of life—as it was to General Washington and the Continental Army, and as it is to all of you here today.

Thank you for your continuing interest in and support of the U.S. Army—both worldwide and here at Fort Sill. It has been my pleasure to have this opportunity to report to you today.

#### THE FEDERAL RESERVE

#### HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. VENTO. Mr. Speaker, the series of letters between Chairman HENRY REUSS and the Chairman of the Federal Reserve Board of Governors points up the need for considerable concern by Members of Congress.

The reasonable and timely requests of Mr. REUSS have been treated with disdain by the Federal Reserve Board. The begrudging submission of abbreviated minutes of the 12 Federal Reserve Districts with some 900-plus deletions serves notice on Congress of a serious problem. The Federal Reserve System has a unique regulatory responsibility in our economy, certainly one that requires public trust and avoidance of potential conflicts of interest.

The fragmented minutes that have been submitted and analyzed by the staff of the House Committee on Banking, Finance and Urban Affairs indicate that there are indeed conflicts of interest which are permitted to thrive within the Federal Reserve.

That conclusion is arrived at from the information made available to the committee. There has been, apparently, no acceptance of an invitation to the Federal Reserve Board Chairman to appear before the full committee and address these concerns.

Frankly, I am not satisfied with the response of the Federal Reserve Board Chairman and officers, nor should the committee or Congress be satisfied. As a member of the committee, I view our role seriously and responsibly. The oversight review of various programs and agencies and boards is a major endeavor, and Congress has equipped itself with competent staff and important support from agencies such as the General Accounting Office to help achieve those goals.

The overwhelming conclusion that is gleaned from this recent evaluation is that the Federal Reserve System has not been sufficiently protective of the public trust, that flagrant conflicts of interest are tolerated and that the covert conduct of the 12 Board of Directors is deemed to be above review by this or any other Congress.

For my part, I most emphatically reject this attitude and fully support Chairman REUSS in his efforts to review the minutes of these Federal Reserve Bank Boards. I call upon the Chairman of the Federal Reserve Board of Governors to provide an immediate and full explanation of the conduct of these boards and the complete sets of minutes.

It is obvious that the Federal Reserve Board of Governors and the 12 Federal Reserve Banks have a legal and moral responsibility to remedy the conduct of their members. The improper covert utilization of the district Federal Reserve Bank meetings to engineer lobbying efforts at this very Congress, at various State legislatures; the attempts to encourage member banks to lend funds to real estate trusts and utilities; the indiscriminate distribution of special gifts, favors, and the self-serving loan demonstrate a contempt for ethics which challenges the American people's sense of fairness.

Certainly, I do not question the rights of fiduciary institutions to form trade associations and the attempt to provide input on legislation or regulations. Nor do I question the necessary capital needs of utilities or an employer's small mementoes to employees or loan programs.

However, the Federal Reserve System is not a private business entity, but rather one of the primary mechanisms in our national monetary system charged with tremendous responsibilities and public trust.

I am alarmed that the various Federal Reserve Bank Boards, charged with these very significant responsibilities, should exercise such poor judgment, that some individuals with the ability and experience to serve objectively have sought to abuse the public trust and have covertly engaged in improper self-serving activities.

It is, indeed, unfortunate that the Federal Reserve System as a regulator is losing sight of its unique role and status. The answer clearly focuses upon the need for congressional action. It is ironic that the Federal Reserve Bank Board directors' actions to defeat legislative proposals which would mandate a GAO audit, reinforce the need for it.

In the struggle to retain their auton-



omy and special treatment, they amplify the importance of more consistent treatment and compliance with codes of conduct in effect for almost all branches of Government.

What will prevent future problems of this nature when the current turmoil subsides? More congressional oversight? Improved legislation? New board members? The eventual answer must include public exposure. The actions, minutes, and meetings must be public insofar as possible. The assumption that fair policy is made only by experts from the financial community has been dealt a serious blow. We must seek involvement by the nonexpert consumer, the nonpolitical citizen, and public membership from outside the financial community.

The general policy represented in Federal law and regulations that has evolved in most instances to delineate the proper conduct of individuals, either as employees or appointed individuals in public policy roles, should be applied to the Federal Reserve System. These criteria must provide a basic assurance to the public that regulated industries' decisions will be objective, that the public policy will reflect the public interest, and that it will be decided in an open manner with the rights of the public to representation and voice in decisions fully protected.

Finally, I would like to give credit to our distinguished chairman, the esteemed gentleman from Wisconsin, for his leadership in this instance has initiated a needed focus on some tough questions. His commendable crusade to make the Fed responsible to the legitimate inquiries of Congress has been ably assisted by an excellent staff. I believe this effort brings distinction and responsibility to our committee and the chairman and this initiative deserves the complete support of all Members.

#### LET'S NOT FORGET THE LADIES

**HON. SHIRLEY N. PETTIS**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mrs. PETTIS. Mr. Speaker, currently the Senate Veterans' Affairs Committee is conducting hearings on legislation to provide recognition to the Women's Air Force Service Pilots for their service to their country during World War II by deeming such service to have been active duty in the Armed Forces of the United States in order that they might receive veterans' benefits.

As an article from the Washington Post—which I am inserting—indicates, these women courageously volunteered to ferry fighter and bomber planes, tow targets for combat pilots to fire at and train other pilots, in order to free male pilots for combat duty overseas. Additionally, they test flew aircraft—including the P-39 and B-26—which male pilots refused to fly because they were considered to be unsafe. Thirty-eight of these women died while in service with the WASP's.

Though promised "militarization,"

they were abruptly disbanded after the war so that "they would not take jobs away from men." As one of my constituents, Mrs. Lila Moore Mann—a former WASP—recently wrote:

I enlisted in the WASP program in 1944 with the understanding that I was serving my country in a military capacity, the same as my brother who was then in the naval training program at Pensacola, Fla. I was released from a teaching contract in order to enable me to "serve in the military," since it was the intention of the Army Air Force to militarize the WASP's.

Mr. Speaker, I am cosponsoring a similar bill to provide these women with veterans' benefits, and I urge my colleagues in the House Veterans' Affairs Committee to hold hearings on this matter as soon as possible.

It is a very sad commentary on our attitude toward those who honorably serve this country, that we would on one hand provide veterans' benefits to those who deserted during the Vietnam conflict and have subsequently had their discharges upgraded, while, on the other hand, we refuse to give the same benefits to those 800 remaining members of the Women's Air Forces Service Pilots, who assisted their country during World War II. We must correct this inequity.

Article follows:

#### WORLD WAR II WOMEN FLIERS SEEK EQUALITY

(By Kathy Sawyer)

During World War II more than 1,000 of them flew military planes a total of more than million miles. They ferried fighter and bomber planes to points of embarkation, towed targets for combat pilots to fire at and helped train other pilots. Thirty-eight of them were killed while on active duty.

They were all women and they belonged to the Women's Airforce Service Pilots (WASP). Though they were subject to military discipline and lived in military barracks, they got smaller travel allowances than men doing the same job. They had been promised military commissions, but were abruptly disbanded after the war so that they would not take jobs away from men.

Even now they are not eligible for military benefits.

"We just didn't question things that much" during the war, Margaret Boylan, a former WASP who is now a branch chief for the Federal Aviation Administration, said recently. "We were so young, and we expected to be made part of the military all along."

"We were so pleased, so delighted, to have this chance to fly these aircraft," she said.

Now times have changed and the collective consciousness of the WASP has been raised. Boylan and many among the estimated 850 WASPs still living are lobbying Congress for veterans' benefits.

Their leading champion on Capitol Hill is Sen. Barry Goldwater (R-Ariz.), who flew with WASP ferry pilots during the war. He says their performance was equal to or better than that of their male counterparts.

Goldwater is sponsoring legislation in the Senate that would entitle the women to veterans' benefits from the date of enactment. Rep. Lindy Boggs (D-La.) and Rep. James Quillen (R-Tenn.) have introduced similar bills in the House.

The Veterans Administration and some veterans' groups have opposed past efforts to extend benefits to WASP alumnae, on the grounds that they would then have to grant similar privileges to other civilian groups who served under military jurisdiction during war time, such as the Merchant Marine.

The WASPs feel that their case is unique, and this year, better prepared than ever, they feel optimistic about their ability to convince Congress.

In an office on I Street NW not far from the White House, WASPs, aided informally by the son of a general who organized them in 1942, are collecting paper ammunition for their mission. This includes documentation for their claims that they operated under military discipline, rules and regulations, lived in military barracks and ate Army food, went through officers training, got low military-type pay and no insurance, and earned military decorations—all with the understanding that they would be militarized and commissioned as second lieutenants.

During the WASP's brief existence, between September, 1942, and December, 1944, some 25,000 women applied for fewer than 2,000 slots as WASP trainees. Those who were accepted earned \$150 a month during training, and the 1,074 who graduated earned \$250 a month thereafter. Out of this they paid for, among other things, their room and board.

Wearing baggy men's GI uniforms, which they called "zoot suits," they ferried fighters to points of embarkation in the U.S. and Canada and flight-tested aircraft and performed other duties in order to free male pilots for combat.

They plan to show Congress that when a male and female pilot were killed in the same air crash, the male received full military honors and benefits, while the female copilot and her family received nothing.

Penny Houghton, a former WASP, now the mother of three and a court reporter in the District Superior Court, recalls that once after a classmate was killed in a crash during training, "the other girls had to pass the hat to collect money to ship the body home."

As an 18-year-old WASP, Houghton was an engineering test pilot for training craft.

"Some of the girls were so little that they had to put pillows behind them to reach the pedals," she recalled recently.

Penny Houghton's current WASP duties include alerting members in other states to come here for the Congressional hearings when the dates are set. WASP alumnae include lawyers, scientists, employees of aircraft companies and housewives, many of them grandmothers.

So far, the more militant rhetoric associated with recent women's rights issues has not been a part of the WASP style. They favor a softer "sting."

"Oh, it was (sex) discrimination, but we're going to try not to hit at that point. It's used so much," said Mrs. Joseph Haydu of Palm Beach Gardens, mother of three and current president of the WASP alumnae.

A WASP ferry pilot, she recalled that the daily travel expense allowances were \$7 for males and \$6 for females delivering aircraft. "Did we get our meals for less? Did we pay less for our rooms? It's little things like that that shows discrimination."

The FAA's Boylan was 21 when she entered the WASP in 1942. She ferried planes, mostly fighters, to bases in the U.S. and Canada. "We worked seven days a week, sun-up to sun-down."

In some instances, the women were used as psychological goads for the men, she said. "Some men were refusing to fly certain planes—P-39s, B-26s—because they said they had a lot of bugs and were killing people. They had us fly the planes and that way they shamed the men into flying them."

The unfamiliar sight of female pilots created a stir sometimes. For instance, Boylan recalled, "Sometimes we'd get on a commercial flight (returning from a ferry run) with our uniforms and our parachutes on and other passengers would start getting off. They wanted to know, 'Why don't WE have parachutes?'"

Congress first denied the WASP military status in 1944, when the House defeated by 19 votes a bill that had been approved by the Armed Services (then called Military Affairs) committee and endorsed by the Secretary of War, the Army chief of staff and the commander of the Army air forces.

The bill failed largely because of pressure from civilian male pilots who had, as one WASP put it, "sat out the war in higher paying jobs training pilots for the military; as those jobs were phased out, they were afraid they would be drafted as foot soldiers. They wanted our flying jobs in order to avoid that."

Gen. H. H. (Hap) Arnold, chief of the U.S. Army air forces and organizer of the WASP, told the women when they were disbanded: "You have freed male pilots for other work . . . The situation is that if you continue in service, you will be replacing, instead of releasing, our young men."

Almost three decades later, in 1972, some of the WASP alumnae held a reunion at Avenger Field, in Sweetwater, Tex., the old Wasp training field. This and subsequent get-togethers put the women, as Boylan said, "back in touch and in action."

They had invited Col. Bruce Arnold (U.S. Air Force, retired), son of their late "founder," to that 1972 reunion.

"There was a parade, and lots of drinking and hell-raising," Arnold said, "and in a weak moment, after three martinis, I volunteered" to help them take on the Congress. "Seriously, I felt responsible, in a way," he added. "I wanted to finish up some 30-year-old business my old man didn't have a chance to finish."

Now his I Street office has become a base of operations for the WASP, the worktables and some floor space littered with newspaper articles from several states, collected to show public interest in the WASP cause, and with other WASP documents. Arnold emphasizes that he is just an "unpaid, concerned citizen."

Since the WASP re-activated their Capitol Hill crusade, several attempts to pass legislation in their behalf have failed. The group credits Goldwater with securing the Congressional commitment to hold hearings on the matter.

Goldwater is "very hopeful of the success of the bill," according to his legislative aide. "The ladies will make tremendous witnesses."

A spokesman for the Veterans Administration did not rule out the possibility that, with the change of administration, the agency might soften in its opposition to extending benefits to the WASP members, but he said there would be no comment either way until the hearings.

Meanwhile, Arnold said, "The women do a lot of 'hangar-flying' when they get together, tell each other lies about what they did during the war, just like men do. Only I think they do it better than men."

#### JEWISH ACADEMY OF ARTS AND SCIENCES HOLDS 51ST CONVOCATION

##### HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. EILBERG. Mr. Speaker, on May 15, 1977, I had the honor of attending the 51st Convocation of the Jewish Academy of Arts and Sciences, at the Dropsie University in Philadelphia, Pa., where I was among seven persons re-

ceiving the academy's citation of Fellowship Award.

The proceedings were highlighted by an address by the Honorable Simcha Dinitz, Ambassador to the United States from the State of Israel.

The academy was founded in 1927 as an honor society of Jews who had attained distinction in the arts, sciences, and professions. It has enjoyed the leadership of several scholars who have served over the years as president, including Dr. Henry Keller, Dr. Morris Raphael Cohen, Dr. Chaim Tchernowitz, and Dr. Leo Jung. The academy's objectives are to encourage and promote the arts, sciences, and all other departments of knowledge; to stimulate an interchange of views on all branches of learning; and to maintain friendly intercourse among its members and fellows.

Today, Dr. Jung serves as president. Other guiding hands of the academy are Dr. Abraham I. Katsh, chairman of the board, and Dr. Hirsch Lazaar Silverman, secretary.

Those honored as fellows of the academy, beside myself, were Dr. Edward J. Bloustein, president of Rutgers, the State University of New Jersey; Ambassador Dinitz; Dr. Leon Nemoy, professor at the Dropsie University; the Honorable Maxwell M. Rabb, New York attorney; the Honorable William B. Thomas, university board chairman, New York; and Dr. David Wechsler, past chief psychologist at the Bellevue Hospital, New York City.

#### LET'S GET THE BUREAUCRATS OUT OF PRIVATE MEDICINE

##### HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. SYMMS. Mr. Speaker, for some time now there has been an increasing clamor for the enactment of universal, mandatory national health insurance, mainly confined to special interest groups and their advocates in the Government who seem to be oblivious to the enormous tax burden such a plan would entail, not to mention the disastrous effect it would have on health care in this country. President Carter has pledged to send an NHI proposal to Congress in 1978 and, in the meantime, has put forth plans to limit hospital costs and expand Federal health programs for children as steps toward the enactment of NHI.

Aside from the enormous costs of NHI or my philosophical opposition to the involvement of the Federal Government in an area which should properly be left to the free market, the Government's track record in the management of health programs, not to mention the U.S. Postal Service, leaves much to be desired. Costs in the medicare and medicaid programs have skyrocketed to the point where they represent over 80 percent of the Federal Government's expenditures for health. Fraud, abuse, and mismanagement in these programs have resulted in reform

legislation now pending before the Congress.

It should be obvious to even the short-sighted proponents of NHI that the problems with Government health begin with the bureaucracy, not with the medical profession. As with any Government program, more Federal involvement means more rules, regulations and paperwork which, in turn, lead to higher costs, decreased efficiency and a decline in the quality of service.

Our colleague, Congressman PHIL CRANE, has long been a staunch advocate of free enterprise health care. As a member of the Ways and Means Committee's Subcommittee on Health, he has a special insight of the problems associated with Government involvement in health care. In a recent article in *Private Practice* magazine, Mr. CRANE spelled out some of these problems and the legislative proposals he has offered to correct them.

Those who have resigned themselves to the inevitability of further encroachments by the Federal Government in the health care field and the eventual enactment of NHI should read Mr. CRANE's article and heed his advice. Unless we reverse the growing trend toward total Federal control of medical care and resist efforts to nationalize U.S. medicine, the chaos experienced by countries such as Great Britain and Sweden will result. If that situation should come about, the doctors would not be the only ones to suffer—the very health of every American will be at stake.

For the benefit of my colleagues, I am inserting Mr. CRANE's article in the RECORD at this point:

DOCTORS: LET'S GET THE BUREAUCRATS OUT OF PRIVATE MEDICINE!

(By Congressman PHILIP M. CRANE)

More than at any other time in recent years, the nation's private free-choice system of medical care is besieged by bureaucrats and politicians who would sink it under the weight of rules and regulations in the name of quality and cost control. Physician and patient alike are confused by the alphabet soup of medical bureaucracies—HMOs, UROs, PSROs, HSAs, etc. We are constantly being warned that our medical system is in a crisis state due to rising costs, and the medical profession itself is being portrayed as a group of greedy individuals more concerned with "ripping off" Medicare and Medicaid dollars than healing the sick.

And what is the solution being proffered to resolve this "crisis"? Why, National Health Insurance, of course. Rather than admit their premises were incorrect, the social tinkers ascribe the failures of their proposals to two limitations: not enough money and not enough regulations. If only they had more of these, they cry, their programs would have worked. Instead of shelving their experiments as wasteful expenditures of resources—be they Federal housing projects, job training programs, or social welfare schemes—more regulations and more money to throw down the rat holes are called for, with little concern for the taxpayers' pocketbooks.

It didn't take an expert to predict that, when Medicare and Medicaid were adopted a decade ago, costs would sky rocket, as inevitably happens with any open-ended program featuring wide eligibility and including little to discourage unnecessary utilization of available benefits. Now, it is fashionable to attack the medical profession for the ills in these programs instead of affixing the blame



to the bureaucrats responsible for administering them.

The medical profession, after a valiant resistance, lost the Medicare battle; but there are indications that it has already given in to NHI without a fight. Despite a campaign promise by Jimmy Carter to put NHI into effect early in his administration, many factors, such as the enormous price tag and procedural problems in the Congress, weigh against it. However, if the AMA and other organizations in the medical care field continue to support some form of NHI on the grounds it is "inevitable," then it becomes a self-fulfilling prophecy.

If our medical system is indeed approaching a crisis due to rising costs, it is not because of the lack of government planning or intervention, but rather because of the sheer weight of government programs, regulations, and the paperwork they entail. Instead of racing full steam ahead into National Health Insurance, which would lead to a disastrous socialized system of medical care, we need to relieve our private doctors and hospitals of the inhibitive controls and uncontrollable costs imposed on them by the Congress and the Federal bureaucracy. A government that can't even run a medical program for the poor and aged or deliver the mail on time can hardly call itself qualified to administer NHI.

To alleviate many of the detrimental side effects of Federal intervention under which our medical care system has suffered, I introduced a bill last August (HR 15043) that would guarantee quality medical care to all Americans by providing Congressional oversight of proposed regulations, eliminating utilization review and PSRO procedures, and insuring patients who are not receiving Federal assistance for medical care that their medical records will not be surveyed by the prying eyes of Federal bureaucrats.

All too often, Federal departments and agencies have adopted regulations contrary to the intent of Congress as set forth in the relevant legislation. The Congress then cries loudly about "bureaucratic bungling," and hastens to restate Congressional intent while ignoring the fact that it is the Congress' abdication of power that caused the problem in the first place. It is politically expedient to pass "consumer-oriented" legislation, then blame the bureaucrats when chaos erupts, as in OSHA, or the doctors in the case of Medicare and Medicaid.

A section of my comprehensive bill would provide for a Congressional review period of 90 legislative days before proposed Federal rules in the medical care field would go into effect, giving us the opportunity to examine all their ramifications, both good and bad. During that period, Congress could either pass a resolution opposing the rule, or allow it to go into effect automatically if no congressional action is taken within those 90 days. Though I am sure there would be some howling in both the bureaucracy and the Congress if this proposal were adopted, it is about time that we stopped passing bills to give Federal officials free rein and started taking responsibility for the Frankenstein monsters we have created.

Current regulations in the utilization review organizations, in the Medicare, Medicaid and child health programs, and in the Professional Standard Review Organizations (PSROs), pose a serious threat to the traditional doctor-patient relationship. Physicians are placed in the position of having to tread a narrow path within the bounds of PSRO norms and standards or be prepared to justify completely any deviation from the average. No longer can a doctor rely on his own good judgment in treating patients receiving Federal medical care benefits, unless he wishes to face a mountain of red tape and a review board. Thus, these regulations discourage individualized and innovative treatment and the develop-

ment of new medical techniques. In addition, there is always the possibility that a physician could be sued for malpractice if the patient didn't respond as expected to the treatment given in accordance with the norms set up by the PSRO. The confidentiality of patient medical records is threatened as PSRO clerks and other medical personnel punch these statistics into computers in order to determine PSRO standards and any deviation from them.

By far the greatest threat posed by PSROs is that they are the harbinger of things to come under NIH. In fact, HEW bureaucrats even boast that PSROs are the perfect vehicle for carrying out such a plan. Dr. Michael J. Goran, Director of the Bureau of Quality Assurance in HEW's Health Services Administration, stated in testimony before the House Committee on Interstate and Foreign Commerce last February:

The next 3 years will see the full implementation of PSROs in hospitals across the country. By the end of 1978 all Medicare and Medicaid hospital admissions will be under PSRO review. PSROs, which currently are conducting hospital review, will extend review to long-term care facilities. PSROs may also have expanded review for private insurance companies, an activity which we are encouraging once Federal review is in place. The surveillance which the PSROs apply to delivery of medical care should assure that services are rendered within accepted standards of efficiency and effectiveness. This PSRO review system will constitute a nationwide framework for quality assurance which will be available for National Health Insurance.

It is clear that while Congress may have intended PSROs to serve as quality and cost control mechanisms for Medicare and Medicaid, a worthy-sounding if somewhat dubious purpose, HEW bureaucrats are practically drooling over its potential relative to NHI.

Though the program started out slowly, PSROs are well on their way toward becoming institutions. Out of the 203 areas designated for PSROs, there are 100 conditional PSROs in existence receiving funds and performing review and 20 more are in the planning stage. Authorization has been given to start PSROs in the remaining areas in FY 1977. The PSRO budget for FY 1977 is \$90 million, including \$37 million in Social Security trust funds. The preliminary budget request for FY 1978 is \$150 million. PSROs reviewed over one million Federal admissions in FY 1976 and are expected to review five million Federal cases, or one-third of the total U.S. hospital admissions, when the program is fully implemented in 1978. Virtually no medical care institution or profession will be left untouched, and the effects of PSROs will be felt directly or indirectly by every private patient.

While the medical profession has resisted the implementation of PSROs in many areas and has taken the issue to court, there is a feeling among physicians that PSROs are an inevitability that must be lived with. The doomsayers moan that it is better to have a piece of the action than to let someone else run the game—or better to get stabbed in the back than shot through the head. But the battle isn't lost yet. In December 1975, Congress extended the date before which only physician groups can be designated as PSROs, until January 1, 1978. Under the process currently in operation, the Secretary of HEW must notify all doctors in a PSRO area of an application. If 10 percent report that the group requesting designation doesn't represent them, a poll is taken. If 50 percent of those responding to the poll state the group doesn't represent them, the group can't be contracted as a PSRO. However, after January 1, 1978, if an agency has been voted down through this polling process or if the local medical group has a policy in opposition to

PSROs, the Secretary of HEW can make a PSRO designated without having to submit it to a physician poll. Understandably, many physicians feel compelled to give in now while they have input into the designation process. But medical societies that have opposed PSROs should not give up now, with the deadline a year off, while there is still time to repeal the legislation or win the court challenges or both. To do so would be to widen the door for NHI.

With a growing awareness of the right to privacy, the lack of protection for confidential patient records is of great concern today, especially with the Federal government taking an ever-increasing role in providing medical care. Some government agencies now have the authority to inspect the records of all patients, not just those receiving Federal aid—a practice required of PSRO employees in order to set up their standards or norms for medical care.

Technically, PSROs are authorized and funded only to review Medicare, Medicaid, and child and maternal health cases. However, in order to determine these initial standards and norms, it is inevitable that private cases will have to be taken into account to provide a large enough sample for statistical purposes. In fact, HEW bureaucrats admit that PSROs are encouraged to contract with private plans (Blue Cross, for example) to conduct private reviews as well, though the Federal Government would only pay for the portion of cases reviewed that were under Federal care. At present, there is no real way of knowing whether PSROs are stepping outside their bounds and peering into private care records without authorization. My bill would forbid, under penalty of law, the acquisition or inspection of records of those not receiving Federal medical assistance without the patient's express written authorization.

While the passage of this legislation is not the whole answer to the problem of government intervention in medicine, it would resolve a number of problems. First of all, it would discourage malpractice suits due to perceived deviations from arbitrary "norms." Second, it would encourage innovation on the part of doctors in medical treatment and insure private patients that the nature of their treatment would be kept confidential. Third, it would promote the efficient utilization of manpower by lifting the paperwork burden. Fourth, it would maintain freedom of choice in the acquisition of medical care; and finally, it would hold down the spiral in medical costs due to factors other than inflation.

But as important as any benefits that might be gained from the passage of this bill is the need for the medical profession to stand fast and hold the line against further Federal encroachment. It is hard enough fighting the battle here in Congress without the loss of faith from within the ranks of the medical profession. Moreover, at the bargaining table, if you start from a compromise position, you shouldn't be surprised when the final agreement is even more of a compromise. Rather than support a half-hearted proposal for NHI in the mistaken belief that it has a chance of being adopted as a substitute for the radical comprehensive plans, professional organizations in the medical care field must firmly state their opposition to NHI and be willing to put their words into action. There's no use kidding ourselves—those who favor proposals such as Kennedy-Corman have no love, or even sympathy, for the medical profession.

I have been blunt, but there is no place for niceties when the existence of private medical care is at stake. In this comprehensive bill, which I will reintroduce early in 1977, I have attempted to reverse the growing trend toward total Federal control

of medical care. But much more effort is needed if we are to avoid the chaos experienced by such countries as Great Britain and Sweden. Whether it is forthcoming is up to you.

#### EXTENDING VETERANS EDUCATIONAL BENEFITS

**HON. BENJAMIN A. GILMAN**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. GILMAN. Mr. Speaker, I recently introduced H.R. 6775, legislation which would: First, entitle a veteran who served 18 months or more of active duty to 54 months of educational assistance; second, eliminate the time limitation for completing an approved program of study; and third, extend eligibility for these benefits to World War II veterans and veterans of the Korean and Vietnam conflicts.

Previous legislation providing veterans educational benefits has acknowledged this Nation's immense debt to its veterans. The legislation I introduced maximizes the opportunity a veteran will have to avail himself of these benefits.

Citing the responsibilities of raising children and developing a career, which often impinge upon the time a veteran may have to devote to continuing his education, I noted that there is little justice in terminating a veteran's eligibility for these benefits because his obligations to family and job have prevented him from completing formal course requirements within an arbitrarily restrictive time limit.

A number of my colleagues have indicated that they concur with these conclusions and wish to cosponsor this legislation. Accordingly, I insert the names of the Members cosponsoring H.R. 6775 to be listed at this point in the RECORD:

COSPONSORS OF H.R. 6775

Mr. Badillo, Mr. Baucus, Mr. Cornwell, Mr. Conyers, Mr. Corrada, Mr. D'Amours, Mr. Downey, Mr. Duncan of Tenn., Mr. Edwards of Okla., Mr. Fauntroy, Mr. Fithian, and Mr. Gephardt.

Mr. Hawkins, Mr. Hollenbeck, Mr. Kindness, Mrs. Lloyd of Tenn., Mr. Mineta, Mr. Mitchell of N.Y., Mr. Murphy of Pa., Mr. Ottinger, Mr. Pepper, Mr. Rangel, Mr. Spence, and Mr. Yatron.

#### A VICTORY FOR DISABLED VETERANS

**HON. CARLISS COLLINS**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mrs. COLLINS of Illinois. Mr. Speaker, I wish to express my satisfaction over the passage of three bills by the House of Representatives on Monday, May 23: H.R. 1862, H.R. 6501, and H.R. 6502, which increase compensation benefits and extend automobile assistance to disabled veterans.

Former veterans whose livelihoods have been impaired by injuries resulting from military service will receive assistance through enactment of H.R. 1862.

This bill, the Veterans Disability Compensation and Survivors Benefits Act, also provides relief for the widows and children of veterans who die of a service-related cause. Six percent increases are also provided for: Disability compensation for disabled veterans; dependency and indemnity compensation for survivors of veterans; additional compensation given to dependents of veterans with service-connected disabilities of at least 50 percent; and grants an increase in the annual clothing allowance of approximately 6 percent.

By passage of H.R. 6501, Members of the House voted their support for increased compensation for certain disabled veterans who had suffered the loss of one of a pair of vital organs, such as the loss of one hand or one foot. Prior to this bill, these veterans so impaired could receive disability compensation at a rate applicable to the loss of both organs, only if that organ were an eye, kidney, or loss of hearing in an ear. The House-ratified bill extends the disability compensation to veterans who have lost a hand or foot due to service-related causes, and subsequently loses, or loses the use of, the other hand or foot due to nonservice-related causes.

Finally, in acknowledgment of the discrimination existing against disabled veterans of World War I in denying them eligibility for automobile assistance allowance and automotive adaptive equipment, my colleagues of the House of Representatives are to be applauded for waging a victorious battle in the offensive for equitable assistance for disabled veterans.

#### DR. BARRY COMMONER'S ARTICLE: THE HIDDEN JOKERS IN CARTER'S ENERGY DECK

**HON. RICHARD L. OTTINGER**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. OTTINGER. Mr. Speaker, last Sunday's Washington Post contains a very alarming analysis of President Carter's energy program by Dr. Barry Commoner, director of the Center for the Biology of Natural Systems at Washington University, St. Louis and chairman of the Scientists' Institute for Public Information. The column raises many important questions about the real impacts and effects of the Carter program, indicating in many respects consequences quite the opposite of those claimed by the administration for the program.

While the article may be unduly harsh, it deserves consideration because of the seriousness of the questions raised, and the need to address them in the actions we take on the program in Congress. I am inserting the article for the benefit of my colleagues who may have missed it while Congress was in recess:

THE HIDDEN JOKERS IN CARTER'S ENERGY DECK

(By Barry Commoner)

The popular response to the National Energy Plan is that, although President Carter

deserves credit for confronting the long-neglected energy crisis, his plan has many faults. In Congress, most of its numerous provisions have already come under attack. Presumably, the surviving fragments will eventually be patched together to legislate the great national effort which Carter has urged upon us as the "the moral equivalent of war."

But such piece-by-piece criticism will miss the plan's most serious fault: that, wittingly or not, it is a deception, an exercise in political sleight-of-hand in which the words about what the plan is supposed to achieve say one thing and the numerical facts about what it would achieve often tell us the opposite.

The plan claims to be an equitable program of energy conservation, but in fact saves little energy and heavily favors industry over consumers and the rich over the poor.

Carter has promised to use nuclear power as only a "last resort," but the plan proposes a sharp increase in nuclear power plant construction.

The plan claims to "... stimulate the development of a large solar market," but would in fact block solar energy from the markets that it could now enter.

The plan is supposed to be a means of gaining time before we decide how to make the inevitable transition to a long-term renewable energy source, but in fact it covertly makes that choice and commits us to a nuclear future.

And all this raises a final question: If the plan is not what it seems to be, then what is it really?

According to Carter, "... the cornerstone of our policy is to reduce demand through conservation," encouraging the popular impression that the plan is primarily a way of meeting the crisis by shrinking energy demand rather than by increasing supplies. It comes as something of a surprise therefore, to discover from the National Energy Plan (the detailed 103-page description recently released by the White House) that in 1985, the plan's target year, total U.S. energy demand would be the equivalent of 48.3 million barrels of oil per day without the plan and 46.4 million barrels of oil per day if the plan is implemented. This amounts to only a 4 per cent reduction in total demand.

However, it must be kept in mind that the total energy demand expected in 1985 is made up of the present actual demand plus the increase in demand anticipated in the next 8 years. The new plan can, of course, only affect this future period, so that it is pertinent to judge the plan by how it would meet the increase in energy demand that is expected to occur between now and 1985. According to the plan, between 1976 and 1985 16 per cent of the additional demand would be met through conservation and 84 per cent by increasing the energy supply. Coal would meet 50 per cent of the added energy demand; nuclear power, 23 per cent; domestic oil, 9 per cent; and solar energy, 1.6 per cent. Oil imports would remain essentially unchanged.

Judged by these numbers, rather than by its prose, the plan would rely more on nuclear power (23 per cent) than on conservation (16 per cent) to meet new demand. The plan's "cornerstone" would appear to be mislaid.

The administration's rhetoric is concentrated on the voluntary "sacrifices" needed to cut energy demands and on the plan's goal of equitably distributing this burden among different sectors of society. In fact, the main stress of the plan is to redistribute energy supply—and to do so inequitably.

BLOW TO THE CONSUMER

Consider, for example, how energy supply would be shared between consumers and industry. Their relative shares can be estimated from the division of demand among the three



conventional energy categories: residential and commercial (which supports consumers and the sale of consumer goods); industrial (which supports industrial production) and transportation (which is divided between consumer passenger traffic and the industrial freight).

In 1976, each of the first two sectors received about 37 per cent of the total energy budget and transportation received 26 per cent. With the plan in effect, only 15 per cent of the energy added during 1976-1985 would be allotted to residential/commercial demand and 74 per cent to industrial demand, with transportation receiving 11 per cent.

In mandating this drastic shift in energy allotments, the administration technicians have changed the ground rules that usually govern computations of future energy demand, which are customarily based on past trends. For the last 10 years, the share of the national energy budget devoted to residential and commercial uses has increased steadily while the share used by industry has declined. The projections on which the plan is based sharply reverse this trend. As a result, whereas the plan assigns 74 per cent of the increase in demand in 1976-1985 to industry, the comparable figure projected by the Federal Energy Administration on the basis of past trends is 44 per cent, with the residential/commercial sector receiving 56 per cent and transportation no increase at all. Although this shift in favor of industrial energy consumption is not attributed to the plan in the administration documents, it is in fact incorporated in it and is just as much a policy decision as the plan's other proposals.

The shift in demand projected by the plan would have serious consequences for consumers, who, under the plan, would be allotted much less energy than they would expect to receive in the next 8 years on the basis of other projections, such as FEA's. This amounts to a form of rationing, with all the problems entailed when involuntary restrictions are imposed on an economic good as essential to one's living standard as energy. Further, the plan imposes a much heavier burden of voluntary conservation on the residential/commercial sector than on the industrial sector, relative to their shares of added energy. Far from equitably distributing the burdens of the 1976-85 period of energy restrictions, the plan would heavily favor industry, assigning most of the burden to consumers.

Among the plan's more elaborate features are several for taxing fuel. Recognizing that the resultant increase in the price of energy would place an especially heavy burden on low-income families (energy costs take a relatively large part of their budgets), the plan envisages a system of rebates to relieve this burden. However, the complex bureaucratic machinery that would be created to administer such schemes would only encroach on the funds available for other government, social programs—given that Carter plans to balance the budget—on which the poor most heavily depend. Thus, the plan's acknowledged cost to the poor would only be transferred from one pocket to another, with the likelihood that the poor will only suffer in the process.

Once more, the plan's words and its proposed actions are in conflict. The plan speaks of equitably sharing the burden of conservation—of voluntary reductions in demand—but the real inequity of the plan lies elsewhere: in a thus-far unmentioned diversion of scarce energy supplies from consumers to industry and in a new bureaucracy that would further jeopardize the financial insecurity of the poor.

The plan, we are told, is supposed to solve energy problems "...while protecting jobs,

avoiding rampant inflation and maintaining economic growth." Here again, the plan's promising words point in one direction and its actions in another. It is widely recognized that the sharply increased energy prices mandated by the plan would only accelerate the current, unprecedented escalation of energy prices, which is already responsible for much of the recent increase in the rate of inflation. Also, since the sharp rise in energy prices makes predictions of future costs highly uncertain, it considerably increases the investment risks involved in building new industrial plants, contributing to the present lag in industrial capital investment.

#### WASTING CAPITAL

The plan, too, would reduce the efficiency with which capital is used to produce energy and therefore tend to worsen the shortage of investment capital. Capital invested in domestic oil production yielded annually (in 1974) about 17 million BTU (British thermal units) per dollar; about 2 million BTU per dollar when invested in strip-mined coal; 29,000 BTU per dollar for coal-fired electric power; and only 22,000 BTU per dollar for nuclear power. In general, the capital efficiency of energy production technologies is highest when fuels are used for direct heating and lowest when fuels are used to produce electricity. Yet, perversely, according to the National Energy Plan, 53 per cent of the energy added in 1976-85 would be used for electricity and 36 percent for direct heat, in contrast with 1976 when only 28 per cent of the national energy budget was used for electricity and 46 per cent for direct heat. This shift would sharply increase the average amount of capital needed to produce a unit of energy.

If the plan is implemented, in 1985 about 54 per cent of U.S. electricity would be produced by coal-fired plants, 25 per cent by nuclear power plants, 12 percent by oil-and gas-fired plants and 10 percent by renewable sources, chiefly hydroelectric power. This results from a plan-mandated shift from oil and natural gas to coal and nuclear power. Since the capital requirements of power plants fueled by oil or gas are relatively low, somewhat higher for coal-fired plants and highest for nuclear plants, the plan would reduce the overall efficiency with which invested capital produces electricity.

Thus, the plan would intensify the demand for capital for energy production, draining capital from other investments, so that the energy sector would be impeding the economic development of its own customers.

Moreover, by diverting energy supplies preferentially to industry, the administration's program would encourage the post-war trend toward energy-intensive industries (that is, those with a low economic yield relative to the amount of energy used). Inasmuch as industries that are energy-intensive are also capital-intensive, this aspect of the plan would also increase the overall industrial demand for capital. Since in the next decade the economy is expected to be nearly 30 per cent short of needed investment capital, the plan's heavy impact on the demand for capital is hardly a good way to "maintain economic growth."

Contrary to its claim of maintaining employment levels, the plan is likely to do the reverse. Many of the industrial sectors which use energy and capital intensively tend to be correspondingly low in their demand for labor. The outstanding example is the petrochemical industry, which not only burns energy but uses it as raw materials, flooding markets previously held by energy-conserving natural materials (such as leather, cotton and wool) with synthetics. As the energy-conserving, labor-intensive industries are displaced, technological unemployment—which now accounts for about half of the unemployment rates—is bound to increase.

Thus, rather than encouraging economic growth, the plan would affect the industrial uses of energy, capital and labor in ways that would worsen the basic problems that now threaten the economy—unemployment, inflation and the shortage of investment capital.

#### A HIDDEN NUCLEAR COMMITMENT

Finally, we come to the climax of this exercise in political conjuring, in which the plan—ostensibly a program to trim the fat out of the U.S. energy budget in order to facilitate a later shift to renewable sources of energy—turns into something quite different: a long-term commitment to breeder-supported nuclear power.

The plan acknowledges the well-known fact that the root cause of the energy crisis is our present, almost exclusive dependence on non-renewable energy sources. As supplies decrease, the law of diminishing returns takes hold and energy becomes ever more costly to produce, driving prices upward at an escalating rate. Obviously—as the plan also acknowledges—a transition from our present non-renewable energy sources to renewable sources is the only long-term solution.

In practical terms, only two renewable energy sources are in being and would be available at the turn of the century when, at the very latest, the transition would need to begin. One choice is solar energy. The other option is nuclear power, with breeder reactors used to extend the life of the non-renewable fissionable fuels—which would otherwise run out in 20 to 30 years—for perhaps 1,000 years or more.

As long-term solutions to the energy crisis, the nuclear and solar options are mutually exclusive. Nuclear power requires a highly centralized energy system, based on a relatively few very large and extremely expensive installations; it would produce only electricity for power-grid distribution. An energy system based on solar energy would be highly decentralized, consisting of numerous relatively small units; at present, it would produce only direct heat, and later, when solar electric power becomes economic, much of it will be produced directly where it is being used.

As a result, each source would require its own kind of national system with very little overlap; the nation, already short of capital, could afford to build only one of these systems. If the plan is indeed designed to gain time before the choice between two options is made, clearly it ought not foreclose one or the other of them.

As already indicated, the plan mandates the massive introduction of light water nuclear reactors at a rate far exceeding the pace achieved in the last few years. Although only a few nuclear plants have been ordered in the last two years, the 70-90 new 1,000-megawatt plants that the plan requires would need to be built in the next 8 years. By the turn of the century, nuclear power plants would generate a major part of the nation's power, and since we would then heavily depend on electricity, there would be no choice but to continue the nuclear fission systems. With uranium supplies depleting and rapidly rising in price, it would then be necessary to extend the supply of fissionable fuels—by adding breeders to the system.

In keeping with its proclivity for beguiling us with one goal while in fact moving toward another, the plan's commitment to a breeder-based nuclear program is artfully tucked away in a statement which refers to a presidential action that is widely regarded as anti-breeder: "It is the President's policy to defer any commitment to advanced nuclear technologies that are based on the use of plutonium while the United States seeks a better approach to the next generation of nuclear power than is provided by plutonium

recycling in the plutonium breeder . . . The President has proposed to reduce the funding for the existing breeder program, and to redirect it toward evaluation of alternative breeders, advanced converter reactors and other fuel cycles." (Emphasis added) By the turn of the century then, the nation would heavily depend on fuel-short nuclear reactors and, as promised by this statement, an "alternative breeder" would be ready to feed them for a thousand or more years.

Meanwhile, the plan would have effectively foreclosed the choice of the solar route. For one thing, research on alternative breeders—perhaps based on thorium rather than plutonium—would, like the present development of the plutonium breeder, be so expensive as to preclude all but minor research on other energy systems. Moreover, as anticipated by the National Energy Plan, electricity would heavily replace oil and natural gas in the residential/commercial sector—where the largest, unsaturated market for electrical appliances is in space heat, hot water and air-conditioning. This would effectively block solar energy from the one market that is presently open to it, which, as it happens, is also space heat, hot water and (shortly) air-conditioning. Thus, if we adopt the National Energy Plan, at the turn of the century, when the nation would have to choose its renewable energy source, we would find that this crucial decision had already, long ago, been made.

The decision is portentous. The nuclear route would saddle the country with the risks of radiation for thousands of years. It would concentrate the nation's energy system in a few, necessarily huge and expensive units that would inevitably fall under the control of either mammoth corporations or the government. The enormous damage that could be inflicted by even a few handfuls of stolen nuclear fuel—turned into home-made bombs, or even used deliberately to contaminate the environment—would, with equal inevitability, place nuclear installations under military control. The nuclear route could easily end with the nation's energy system, and therefore its entire life, or military force could capture control of its few, central generating stations.

The solar route goes the other way. Because sunshine falls everywhere and small solar installations are as efficient as large ones, solar energy is inherently decentralized; there is no economy of scale in most solar operations, and businesses of all sizes could compete equally. Solar energy can be directly controlled by those who use it. The solar route fosters democracy.

The nation's future hangs on the choice between these two routes. We cannot afford to make the choice in the dark, without open, public debate. But that is what would happen if the National Energy Plan were adopted as it now stands.

#### BUSINESSMAN'S BONANZA

How can we explain the striking disparities between what the plan says it would do and what it would actually do? The least interesting explanation would be that it is very difficult for a newly appointed staff in only three months to produce a consistent plan to reorganize the nation's fearfully complex energy system. It is more interesting to work backward from the real effects of the plan (as distinct from its claims) in trying to discover what unexpressed goal it might serve.

A major clue is that the plan would heavily divert energy supplies toward industry, while simultaneously worsening the shortage of investment capital, thereby severely limiting the ability of industrial development to absorb the new supply. However, another outstanding feature of the plan can resolve this seeming inconsistency; the missing capital could be provided by the huge

amounts of new taxes—estimated at \$80 billion per year by 1988—that, according to the plan, would be collected largely from consumers. Despite original claims that these funds would be returned to the people as rebates, the chairman of the House Energy Committee, Rep. L. Ashley (D-Ohio), has said that "... in this area, as in others he [Carter] has been soft."

Given the "flexibility" which Carter wants, the tax funds could be diverted to industry, Lockheed-style. A likely recipient of such subsidies might be the nuclear power industry. General Electric has already informed the administration that, because of continued unprofitability, it may abandon its nuclear operations. Government subsidies could be justified as a means of avoiding the demise of a major supplier of nuclear plants when the plan calls for building them at an unprecedented rate.

Such an approach would nicely fit a prescription for meeting the capital shortage that has been frequently voiced in business circles: to cut consumer spending so that savings will grow and produce more investment capital. As a New York Stock Exchange report has put it, "Essentially, the task of accumulating enough capital means that people must save more and consume less."

The plan's energy tax program could respond to this admonition in two ways: If, as the administration hopes, the stand-by gasoline tax successfully reduces consumption and the resulting savings were not devoured by inflation, they could be accumulated by the banks and thus increase the supply of investment capital. On the other hand, if the gasoline conservation program failed, and the tax was imposed, the resulting funds, accumulated by the government, could be used as subsidies for the capital-short energy industry.

This would bring us full circle, back to President Ford's proposal to spend \$100 billion of tax money to subsidize nuclear power, synthetic oil and other capital-intensive energy operations. The new administration's energy plan could accomplish the same thing, but this time under the banner of conservation—a way of convincing the public "to save more and consume less" that might be regarded less suspiciously than if its origins in the business community were more apparent.

This hypothesis might also explain one of the plan's most puzzling features—that support for mass transit and the railroads is wholly absent from the plan, although they are four to 10 times more fuel-efficient than autos, planes and trucks—far more effective ways to conserve energy than most of the plan's measures. This would require huge capital expenditures that would benefit consumers rather than industrial production. But that is not what the business community has in mind, for the capital shortage about which businessmen complain is for investment in profit-making enterprises, among which mass transit and most railroad operations are rarely included.

Behind these considerations lies a fundamental problem of the U.S. economic system—that its rate of investment in new productive machinery is lagging far behind the rest of the industrialized world. In the United States between 1960 and 1973, 13.6 per cent of the gross national product was devoted to industrial investment, less than Italy's 14.4 per cent and far less than our main competitors in world trade, Japan (29 per cent) and West Germany (20 per cent). This deficiency could be readily eliminated if the United States were to reduce the military budget's share of the GNP to match that of the losers of World War II.

As a result, in the last decade labor productivity (output per man hour) in U.S. manufacturing industry has increased at an average annual rate of only 2 per cent, com-

pared to Japan's 9.5 per cent, Italy's 5.7 per cent and West Germany's 5.3 per cent. Thus, the capital shortage threatens the long-held U.S. dominance of world markets for manufactured goods—a spectre which is likely to haunt the halls not only of the Chase Manhattan Bank but of the White House as well. Perhaps the National Energy Plan is really a response to this crisis, which in some quarters might be regarded as the more ominous threat.

All this suggests that the plan must be scrutinized more profoundly than it has been thus far. While its numerous, smaller defects can be corrected in Congress, there is one fundamental generic fault which cannot be reconciled by piecemeal modification: The plan would commit the country, without its consent, to an ominous nuclear future and deprive the people of the United States of their democratic right to direct the only step that can solve the energy crisis rather than delay it—the transition to renewable energy. The answer is to begin an open public debate on these, the real issues of the energy crisis.

#### JUVENILE JUSTICE

#### HON. CARLIS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mrs. COLLINS of Illinois. Mr. Speaker, I am pleased by the passage of H.R. 6111, the Juvenile Justice and Delinquency Prevention Act Amendments, which extend related youth programs for an additional 3 years.

The need for such an extension was obvious to even the most cursory scanner of newspaper headlines. Day after day, one opens the chronicles to find blaring headlines about juvenile-committed violence in schools and vandalism are on the increase. Even more alarming is the fact that juvenile arrests for serious crimes—robbery, aggravated assault, forcible rape, and homicide—increased between 1960 and 1973 by 247 percent.

It is critically important to break the pattern of juvenile delinquency because studies have repeatedly shown that juveniles committing violent crimes will often continue to do so upon reaching adulthood. Not a problem that will be easily cured, it involves complex legal and social dilemmas. The passage of H.R. 6111 was an important and worthy action because it encourages a comprehensive approach toward creating a national strategy for dealing with juvenile delinquency.

I am particularly encouraged by the provision calling for the National Institute for Juvenile Justice and Delinquency Prevention to begin studies, "assessing the influence of family violence, sexual abuse and media violence on delinquency, interstate placement of juvenile offenders, the role of recreation and arts in delinquency prevention, and the extent and ramifications of disparate treatment of youngsters within the justice system on the basis of sex." I believe that this provision of the bill illustrates a real commitment toward developing alternative and innovative solutions to the juvenile delinquency problem. It is obvious that many of the solutions of the past have been less than effective.



# LEGISLATION TO RESTORE A BALANCED BUDGET AND A SOUND ECONOMY

**HON. LARRY McDONALD**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. McDONALD. Mr. Speaker, today I am introducing legislation to stimulate the economy, create jobs and stabilize

the currency by reducing Government spending. It is the conservative alternative to the liberal policies of greater Government intervention and spending which have brought us inflation and recession.

For the past 40 years the dominant political trend has been the growth of the welfare state, which is a process of redistributing income from those who earn it to those who do not. As this redistribution process grows, so does the

Federal Government and its budget. In 1950 the Federal Government spent \$42.6 billion; the present estimate for 1978 is \$464 billion, a more than tenfold increase. In terms of Federal spending per person, the figure has risen from \$283 in 1950 to approximately \$2,100 per person this coming fiscal year.

The following table illustrates that this rapid growth in Federal spending is part of the welfare state-redistribution process:

[In billions of dollars]

| Year: | Federal outlays | Defense | Defense percent of outlays | Defense 1972 dollars | Defense percent of GNP | Health, Education, and Welfare | HEW (Percent) | HEW (Percent GNP) |
|-------|-----------------|---------|----------------------------|----------------------|------------------------|--------------------------------|---------------|-------------------|
| 1965  | 68.5            | 39.9    | 58.3                       | 75.9                 | 10.5                   |                                |               |                   |
| 1966  | 92.2            | 45.2    | 49.0                       | 73.9                 | 9.1                    |                                |               |                   |
| 1967  | 118.4           | 48.6    | 41.1                       | 71.0                 | 7.4                    | 29.7                           | 25.1          | 4.5               |
| 1968  | 196.6           | 79.3    | 40.3                       | 91.1                 | 8.3                    | 64.1                           | 32.6          | 6.7               |
| 1969  | 324.6           | 86.6    | 26.7                       | 67.0                 | 6.0                    | 151.4                          | 46.6          | 10.4              |
| 1970  | 464.3           | 109.9   | 23.7                       | 68.7                 | 5.4                    | 220.3                          | 47.5          | 10.8              |

The trend is obvious. In 1955 national defense constituted 58 percent of the Federal budget, but will account for only 23 percent this next fiscal year. Not only has defense spending declined as a percentage of our Gross National Product, from 10.5 to 5.4, but also in absolute terms. Adjusted to the value of 1972 dollars, we were actually spending more for national defense in 1955 than we will in 1978.

Redistributive spending, on the other hand, as measured by Federal outlays for welfare, education, and health, has soared from \$29.7 billion in 1965 to an estimated \$220.3 billion next year, approaching 50 percent of the Federal budget. These three categories are the largest areas of redistribution, but there are others.

Virtually all the welfare state programs are the result of the "New Deal" legislation of the 1930's and the "Great Society" legislation of the 1960's, all of which is the product of the liberal philosophy that government should control people's lives, becoming not their protector but their provider by taking from some and giving to others. These programs were continued by the recent Republican administrations and apparently will be expanded by President Carter.

This rapid increase in welfare spending is having very detrimental consequences, both economic and social. Direct taxes alone have not provided the necessary funds, so the Government has resorted to deficit spending. By the end of this next fiscal year the Federal debt will be \$792.5 billion, having increased by \$306 billion just since 1974. These deficits are financed either by borrowing or inflating the currency. Borrowing depletes the economy of the capital necessary to finance production and growth; inflation erodes the value of savings and income, hitting those on fixed incomes the hardest. The overall effect is to transfer resources away from production and into consumption, resulting in stagnation, recession, and higher unemployment.

Socially, the consequences are as bad, if not worse. The welfare state punishes

those who work and produce, but rewards those who do not. This discourages productivity and creates social strife and antagonism. As more and more of an individual's income is taken and redistributed to someone else, he is gradually forced into joining some pressure group to lobby for a return of at least some of his earnings. This political redistribution process breeds antagonism and conflict not only between the beneficiaries and the victims, but also among the beneficiaries themselves who are at odds about their "fair and proper" shares. As the noted Prof. Hans Sennholz has pointed out, the redistributive society is a conflict society that jeopardizes its individual freedoms and economic well being.

What has made this possible was the erosion of our constitutional form of government. The Constitution was designed to strictly limit the power of the Federal Government and, predominantly, served this purpose until the 1930's when the Roosevelt-packed Supreme Court began interpreting the Constitution so loosely that virtually any activity could fall under the general welfare or interstate commerce clauses. Once the limits on Federal authority were removed, politicians quickly stepped in with vote-buying promises.

If we are to preserve our freedom and prosperity, we must reverse this ominous trend toward total government. But this can only be done with the support of the public. I believe the vast majority of the American people do not want to lose their freedom and do not want inflation, recession and unemployment. But they have not been informed that it is the growth of Government that is responsible for these problems. As each new social welfare program achieves the exact opposite of its stated intention, the liberals and the news media blame free enterprise and propose another Government program to "solve" the problems created by the present Government program.

The purpose, therefore, of my legislation is twofold: to reverse the trend toward total government and to stimulate

public discussion of this trend. The legislation accomplishes this by doing the following:

First. Reducing all spending by the Federal Government for fiscal 1978 by 5 percent, except for national defense and security. This would reduce the fiscal 1978 budget by approximately \$17 billion.

Second. Reducing all spending for compensation of Federal employees, including Members of Congress and their staffs but not employees engaged in national defense or security, by 10 percent for fiscal 1978. Thus Federal salaries and/or the number of Federal employees would have to be reduced. However, the 5 percent reduction in Federal spending would allow the Government to operate with fewer employees and this reduction could be quickly achieved by a temporary ban on Federal hiring.

As the Federal Government reduces its spending, its demand for loan funds would decline immediately. The dollar would be stabilized and interest rates would decline substantially. A 2 percent decline, which would be a realistic expectation, would reduce the interest burden on the Federal debt by \$14 billion.

Altogether, this reform program would save the American taxpayer about \$33 billion during the next year. It would stabilize the U.S. dollar and halt the drift toward Government omnipotence and social strife.

It is, however, only the beginning and not the final solution. Once adopted it should be followed with another 5 percent reduction in each succeeding year until the budget is balanced and until the unconstitutional transfer payment segment of the Federal Government is eliminated.

Since the public is becoming aware that inflation is caused by deficit spending, we find much campaign rhetoric about balancing the budget. Therefore it should be emphasized that this legislation sets up a mechanism to actually achieve a balanced budget.

As Government spending is reduced, inflation will first decline and then disappear when the budget is balanced. Productivity will increase rapidly since the

Government will be transferring fewer resources out of the economy, and unemployment will drop swiftly.

In other words, the results of this program if carried out will be a tranquil society, with a stable dollar, a stable free enterprise economy, and a constitutionally limited Government.

#### ON THE NEED FOR LEGISLATION TO STOP CHILD PORNOGRAPHY

**HON. EDWARD I. KOCH**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. KOCH. Mr. Speaker, yesterday it was my privilege to testify at hearings of the Subcommittee on Select Education and Labor, held at the Covenant House in New York City, concerning legislation to prohibit the use of children in pornographic films or magazines. I was shocked to learn earlier this year that many young children have been used as performers in explicitly sexual movies and photographs, which are then distributed and sold throughout the country.

I believe that the Government has no business telling consenting adults what they should see, read, or do with respect to sex, as long as it does not involve children or impact adversely on other adults who do not wish to be involved. When children are involved, however, I believe the Government, both State and Federal, has a duty to protect children against their being used or abused in either hardcore or softcore pornographic scenes.

Many Members of Congress have introduced or cosponsored legislation to amend the Federal criminal laws and the Child Abuse and Treatment Act to make it a crime for any adult to produce, distribute, or sell material which employs children under 16 years old in a sexually explicit scene. I have introduced H.R. 7468, which also accomplishes these purposes.

I commend the efforts of Congressman JOHN M. MURPHY of New York and Congressman DALE KILDEE of Michigan, who have been instrumental in drafting legislation in this area and in obtaining hearings on the subject. With their cooperation and that of many other Members of Congress, I hope that we can adopt legislation this year that effectively ends this sordid problem of child pornography.

I am appending a copy of the testimony I gave at yesterday's hearings:

#### TESTIMONY OF HON. EDWARD I. KOCH

Mr. Chairman, I am pleased to be here this morning to state my concern that young children are being used and abused in the production of pornographic movies and photographs. It is a hopeful sign, that this hearing into these shocking abuses of young children is being held here at Covenant House—which is an institution providing refuge for teenagers and young adults.

Last winter I was dramatically introduced to some of the worst examples of movies and

magazines featuring children engaged in sexual acts. I viewed examples of this pornography at establishments located at 7th Avenue and 42d Street here in New York City. Other cities in this country also have bookstores and theaters featuring material using children. Through the crusading of Judge Anne Densen-gerber of Odyssey House and others concerned with the welfare of children, both this Committee and the Congress has been made aware of the need to put a stop to the abuse of children in pornographic scenes.

Members of this Committee have introduced legislation to amend both the federal criminal laws and the federal Child Abuse and Treatment Act to make it a crime for any adult to produce, distribute or sell material which employs or uses children under age 16 in a sexually explicit scene. I have also introduced H.R. 7468, which is similar to the bills introduced by Congressmen Murphy, Kildee, and Blagel, but with a few differences. Both those bills and my own outlaw the use of children in a number of explicit sexual activities, which we all agree are shocking for children to be exposed to. However, in my bill I do not outlaw absolutely "any other sexual activity" or "nudity," because I am concerned about the breadth of these terms. For instance, if Tom Sawyer kisses Becky in a movie based on Mark Twain, that should not automatically be banned. Thus my bill forbids certain explicit "sexual acts" and also "any other sexual activity or nudity, if depicted in a manner which appeals to the prurient interest and as part of a work which, taken as a whole, lacks serious literary, artistic, political, or scientific value and is patently offensive." Although this standard does require more proof, I believe it helps perfect the bill's important objectives without penalizing innocent behavior.

I would also like to make it clear that I believe the State has no business telling consenting adults what they should see, read or do with respect to sex, as long as it does not involve children or impact adversely on other adults who do not wish to be involved.

When one comes to children, however, I believe the State has to protect children against use or abuse, whether in hard or soft core pornographic situations. The use of children for such purposes cannot be tolerated yet it has escalated with pornographic films and peep shows which lewdly display children, some in explicit sex acts with other children and in some cases, adults. On the streets of New York one can buy today films and magazines with pictures that demean and use children, infants as well as teen agers, and their bodies. Many of the publications and films are produced out of state, but some are produced in New York State. It is the duty of the State and its law enforcement agencies to prosecute and where convictions result to heavily punish the abuses of children.

I am pleased that the New York legislature is considering legislation to forbid the use of children in any "sexual performance." According to information provided me by the Library of Congress, only six states now explicitly forbid the use of minors in an obscene performance. The federal statutes are also inadequate, because they focus on the importation or distribution of "obscene" material, rather than on the protection of children per se.

I consider the use and abuse of a child for sexual purposes to be equal in its impact on the victim and society as a crime of violence, and should have the same priority that we accord to serious crimes of violence. The sexual abuse of a child may injure that child for the rest of his or her natural life and prevent him or her from maturing into a healthy wholesome human being. The pornographers at every end of the spectrum using children, from the producer of the pic-

ture to the ultimate dispenser must know that such abuses now occurring not only in the City of New York but across the country will not be tolerated.

#### HELSINKI TO BELGRADE

**HON. EDWARD J. DERWINSKI**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. DERWINSKI. Mr. Speaker, prior to the convening of the Belgrade Conference, a very timely article, appearing in the May issue of the American Bulletin, a publication of the Czechoslovak National Council of America, concentrates specifically on the situation of the oppressed people of Czechoslovakia. However, with adjustments of personalities, geography, and the degree of Soviet interference, the same stories could be told for every country in Eastern Europe. I insert this commentary into the RECORD for the attention of the Members:

#### FROM HELSINKI TO BELGRADE

The Helsinki agreement was adopted in Helsinki on August 1, 1975. Americans of Central and East European background despaired at the time for they were convinced that the Soviet Union had no intention of observing Basket Three, the part dealing with human rights. The Soviets had reason to rejoice, for Basket One ratified their vast territorial grabs and Basket Two opened up new avenues for expansion of their commerce and economy. They gloated over Basket One, made full use of Basket Two, and ignored Basket Three.

The Soviet Union was somewhat surprised at our insistence on Basket Three. If the Soviets and satellites cannot divert our attention to Basket Two, to subjects of great interest to them, to energy, environment, economic cooperation etc., they will take the offensive and accuse us of being transgressors against human rights.

Soviet spokesmen and the Soviet press make this very clear. Moscow has kept up a steady drum fire of articles about the alleged violations of human rights in the United States and other Western countries." (Soviet World Outlook, May 15, 1977, Washington, D.C.). New Times (No. 17, April, 1977) insists that the human rights-information problem "is resolved in practice by each state within the context of its own sovereignty... It is racism, colonialism, rightist extremism, fascism, continuation of the arms race, that are jeopardizing basic human rights." Tass argues (April 25) that "the Belgrade meeting is a meeting at a working level, consultative in character; any attempt to modify Helsinki is doomed to failure."

An attack will be made on Radio Free Europe and Radio Liberty which broadcasts behind the Iron Curtain. "It is not a matter of freedom of exchange of ideas, because the Final Act of Helsinki simply does not include this or any similar situation," writes Kommunist, (No. 5, March 1977). Moscow was very angry when President Carter recommended to Congress that appropriations for broadcasting be doubled. Moscow is ready, it would seem, to jam any new transmissions.

In Washington, the Commission on Security and Cooperation in Europe, headed by Rep. Dante Fascell—consisting of six members of the House and 6 from the Senate and 3 from the Administration—has been preparing U.S. material for Belgrade. For weeks it has held hearings of exiles and



informed Americans about the situation in the captive nations. On March 15, the Commission called Czech writer Jan Benes and Mrs. Anna Faltus, representing the Czechoslovak National Council of America, to testify about Czechoslovakia. They submitted proof about divided families, travel and immigration violations. On May 9, Jiri Hochman, former Rudé Právo correspondent in Western Europe, Moscow and Washington, and former editor of Reporter, a liberal weekly under Dubcek, (now living in the United States), testified on the abuse of human rights in Czechoslovakia.

Finally, in response to the invitation of the Commission, the Czechoslovak National Council of America submitted the following report, as compiled by Prof. Francis Schwarzenberg and Vlasta Vraz:

The Czechoslovak National Council of America, as an organization devoted to the cause of freedom in general, and more specifically to a free Czechoslovakia, has been asked by the Commission on Security and Cooperation in Europe to submit a report on Czechoslovakia. The question is: Has respect for human rights in Czechoslovakia improved since the signing of the Helsinki agreement? Regrettably, the answer is categorically NO.

This organization has over the past year submitted a wealth of information concerning concrete cases of violations of the clauses of the Helsinki agreement. Most of the cases came under the heading of "Cooperation in humanitarian and other fields," commonly known as the "Third Basket." Predominantly, they dealt with separated families, delayed and refused visas and exit permits, travel for personal or professional reasons, conditions for tourism on an individual or collective basis, circulation of, access to, and exchange of oral and printed information and related problems.

At this time it appears advisable to stress the broader framework of continued repression, existing in an undiminished degree in Czechoslovakia, even after the signing, ratification and promulgation of the Helsinki agreements and other international treaties, such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, signed by the Czechoslovak government.

Here the pertinent question may arise, to what extent the principles of the U.N. Charter and of the Universal Declaration of Human Rights constitute obligations in an area which has been traditionally considered to be the field of domestic jurisdiction.

Communist propaganda tries to confuse the issue by invoking exemption of matters of domestic jurisdiction from international scrutiny. It quotes the principles of "socialist international law" which differs from international law as generally accepted by civilized nations.

Before and after signing of the Final Act of Helsinki, the Soviet government, as well as the satellite governments, whenever challenged on a humanitarian question, have invoked the "7th Principle of the U.N. Charter." Yet it should be clear that these questions are no longer purely matters of domestic jurisdiction, but should be considered a proper concern for the community of nations since they are mentioned repeatedly in the U.N. Charter (Preamble: "faith in fundamental human rights, in the dignity and worth of human persons"; Art. 1, par. 2: "self-determination of peoples"; Art. 55: "universal rights and fundamental freedoms for all without distinction as to race, sex, language, or religion" etc.) Since 1945 and 1948 respectively, the development has progressed even further.

These principles of the U.N. Charter and of the Universal Declaration of Human Rights have been incorporated into the text of multilateral treaties, duly signed, ratified,

and promulgated by Communist governments, including the government of Czechoslovakia. They no longer represent a mere declaration of intentions, nor are they only "a matter of proper concern"; being an integral part of a multilateral treaty, they are binding in international law.

Thus it should be clear beyond any possible doubt that the exemption of "matters of domestic jurisdiction" from international scrutiny is no longer applicable, since obligations concerning human rights have been spelled out in binding international treaties.

Here the only applicable principle is the sanctity of treaties—*pacta sunt servanda*—the basic principle of all international intercourse among civilized nations.

Chapter VII of the Final Act of Helsinki is devoted to "Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief." The final paragraph refers to "the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights."

Since these two documents are specifically mentioned in the Final Act of Helsinki, the pertinent articles of the U.N. Charter and the Universal Declaration form an integral part of the Final Act of Helsinki. Therefore it is more than proper for signatory states of the Helsinki agreement to scrutinize the present situation existing in the other signatory states on the basis of all three above mentioned documents.

And thus we find that the government of Czechoslovakia falls short of its assumed obligations. A brief review of a number of articles in these three documents should be sufficient to prove this point.

#### PRINCIPLES OF THE U.N. CHARTER

The continued occupation of Czechoslovakia by the armed forces of the Soviet Union constitutes in itself a severe violation of the Principles of the U.N. Charter.

#### HELSINKI AGREEMENT

The Final Act establishes the right to opt for neutrality. This is what the citizens of Czechoslovakia clamored for in 1968—neutrality—in the very brief period of the Spring thaw. Current government propaganda in Prague is directed against those who would advocate neutrality for Czechoslovakia. Such a desire is called "the most vulgar form of anti-communism," "an attack on the Warsaw Pact alliance and the Soviet Union." People who under the guise of Helsinki advocate neutrality "do not really want peace and the lessening of tensions" (History and the Military, Prague, 1976, No. 2, pp. 60-72).

#### UNIVERSAL DECLARATION OF HUMAN RIGHTS

Although almost every article is violated, only the more blatant violations are mentioned here:

Art. 3: "Everyone has the right to life, liberty and the security of person."

Art. 6: "Everyone has the right to recognition everywhere as a person before the law."

Art. 7: "All are equal before the law; all are entitled to equal protection etc."

Art. 8: "Everyone has the right to an effective remedy by the competent national tribunal etc."

Art. 9: "No one shall be subjected to arbitrary arrest, detention or exile."

Art. 10: "Everyone is entitled to a fair and public hearing."

Art. 11: "Everyone has the right to be presumed innocent until proved guilty."

Amnesty International released in March 1977 a 16-page report that analyzes the violations of the above articles, namely: the existence and application of laws which prescribe imprisonment for the non-violent exercise of certain rights of conscience; the inadequacy of legal safeguards and the abuse of legal provisions relating to house search (without warrant) and pre-trial detention; the poor treatment and conditions of detention for individuals convicted of political

offenses, a treatment harsher than that inflicted on criminals; hardships and continued persecution of released prisoners of conscience.

Art. 12: "No one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence."

Every family in an apartment is under surveillance by a house informer. Long distance telephone conversations are tapped and discontinued if anything but personal matters are discussed. Foreign mail is processed (especially from people who left illegally) by a special department of the Ministry of Interior, which is equipped with computers and detection devices. Some letters are copied and filed for future use by the State Security police.

Citizens corresponding with friends abroad were given the following questionnaire to fill out (reported to a friend in Australia, November 1976):

"I affirm that I have been duly informed of my duty: a) to report any written or personal contact with my close relatives who left the Republic illegally and to inform proper authorities of any changes pertaining to their residence (change of address, etc.); b) to report all my written and personal contacts with citizens of capitalistic states, including Yugoslavia; first, to ask permission of proper authorities in case I wish to come in contact with these citizens of capitalistic states and furthermore, to report subsequently should there have occurred any unscrupulous personal contact with these citizens, in which case the same ruling is applicable. I am required to report these facts to my direct supervisor and at the proper Special Designation (Zvláštního určení). I am to be held fully responsible for any violation of this ruling which is punishable by law."

Art. 13: "Everyone has the right to leave his country, including his own and return to his country."

It is common knowledge that Czechoslovakia's borders are surrounded by a no-man's land of mined fields, electrically charged wire-fences, manned by police etc. If citizens denied an exit permit decide to flee across the border, they are fired upon; if captured, they are sentenced from six months to five years prison, or to correction camps, or to loss of property (Penal Law, par. 109, 1966). Anyone caught helping others to escape is sentenced from three to ten years prison or to loss of property.

Art. 15: "No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality."

Due to the ambiguity of the legal problems and the arbitrary decisions of the Czechoslovak government, it is impossible to explain briefly the various violations of this article.

Art. 17: "No one shall be arbitrarily deprived of his property."

There is hardly any need to discuss this article as private ownership in Czechoslovakia has been limited to such a degree as to make it a mockery.

Art. 18: "The right to freedom of thought, conscience, and religion."

This basic right is completely disregarded in Czechoslovakia. The situation has not improved any after Helsinki, although the accused often refer to the Helsinki agreement in their defense (see Charter 77).

Communist control of the Church (Catholic, Protestant, Jewish, etc.), through a system of law and penal codes, is absolute. The Communist Government Bureau for Church Affairs has such wide jurisdiction that it is omnipotent: it has complete authority to approve (choose) the clergy, control their actions, sermons, finances, to penalize the clergy, divest them of their office. Communist Secretaries for Religious Affairs possess the right to issue or take away the state's "approval," i.e. the license for discharging

ministerial duties. They bar seminary graduates from entering their chosen profession and instead, many of them have to perform manual labor. The authorities approve—or do not approve—candidates for various offices within the church hierarchy, including the bishops.

The state is also in charge of church finances and pays ministerial salaries far below the scale applicable to any other profession: 650 crowns a month to a pastor; every three years this beggarly salary is increased by 30 crowns. Professionals in other fields receive from 2,000 to 4,000 crowns.

The Party screens candidates for the seminaries and has the final word who will be ordained. Their number is severely limited and decreasing year by year. (Five priests are ordained to replace 20 priests who died during the year).

A report on conditions in Czechoslovakia was presented at the International Eucharistic Congress in Philadelphia by the Most Reverend John L. Morkovsky, Bishop of Galveston-Houston, Texas (Congressional Record, Sept. 2, 1976, E 4859-4869).

A similar report on "Religious Oppression" of Slovak Ev. Lutheran Church was prepared by Dr. Martin Kvetko (Our Trends, March 1976). Persecution of churches has deepened to such an extent that informed observers speak of the "quiet liquidation of spiritual and religious life in the country."

Liquidation is the deliberate, insidious plan of the Communist Party, as outlined by Vasil Bejda in a secret protocol presented by the ideological department to the inner circle of the governing body of the Communist Party. (The protocol was smuggled out of the country and reprinted in part in *Listy*, No. 1, February 1976, Rome). Vasil Bejda is the right-hand man to the traitor Vasil Bilak, one of the most influential among Moscow's stooges.

Bejda speaks of the importance of spreading "the Marxist world view through scientific-atheistic propaganda." He complains that there are "strong remnants of various religious prejudice, some twenty sects in Czechoslovakia," which must be eliminated. He quotes President Husak as saying that the only political opposition in Slovakia is Catholicism. Four new bishops have been appointed illegally, which proves that the Communists practice freedom of religion. However, the Church must obey the law. "As soon as the bishops should disobey, we shall take justice into our own hands."

In Czech lands, the situation is somewhat different, says Bejda. Here the Protestants are practicing "the ideology of parasites"; they are advocating loafing. This "policy of do nothing" is intended to "undermine our socialist state and the socialist participation of our people." Bejda concludes that "war against religious delusions is inevitable" and that it is "vitaly important to spread scientific atheism . . . The primitive ideology (of religious delusions) finds support, understanding and action not only among our grandmothers and grandfathers, but also among our youth."

Art. 19: "Everyone has the right to freedom of opinion and expression."

On January 1, 1977, a group of Czech intellectuals presented a petition to their government, now known as Charter 77, signed by almost 300 and eventually by 600 citizens from all walks of life. It was an appeal to the government to abide by the Helsinki Agreement and by Law No. 120 of the Czechoslovak Collection of Laws, issued Oct. 13, 1976, which includes the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

The outcome of this petition is well known to us in the free West. The police cracked down on the "dissidents." Of the three spokesmen, playwright Vaclav Havel is in

jail since January, to be charged with "crimes" against the state; former Ambassador to the U.N., Dr. Jiri Hájek is under house arrest; Prof. Jan Patocka, distinguished scholar, is dead following exhausting police interrogations. Many signers are threatened with loss of job. The Communist regime has succeeded in isolating the dissidents by depriving them of their telephones, automobiles, and livelihood.

American and other Western correspondents have been refused visas to Czechoslovakia (see Eric Bourne's reports to the *Christian Science Monitor*, April 11 and 15, 1977). Others—foreign correspondent Tad Szulc, Disko Doder of the *Washington Post*, Reuters, etc. were denied visas earlier; Paul Hofman of the *New York Times* was mistreated (February 1977).

Art. 20: "Everyone has the right to freedom of peaceful assembly."

Right of Assembly is non-existent and even small meetings of friends in private homes are under police surveillance (Vaclav Havel, author Ludvik Vaculik, playwright Pavel Kohout, Dr. Jiri Hájek, etc.) Without a search warrant, police storm into their homes, ransack their apartments, confiscate their manuscripts (described by Malcolm W. Browne, *New York Times*, Jan. 16, 1977).

2) "No one may be compelled to belong to an association"

If a child hopes to acquire a better education or position, he signs at an early age in Pioneer and later in the youth organization *Svaz mládeže*. To resist signing up in the various professional and other organizations, all under Communist supervision, is an empty brave gesture which closes doors to promotion and advancement.

Art. 21: "Everyone has the right to free elections, the right to take part in the government, directly or through freely chosen representatives."

This article becomes a farcical travesty in any Communist country and especially in a country occupied by the Soviet army. There are no opposition parties or groups at elections. Everybody has to vote for the candidates already chosen by the local or central committee of the Communist Party. (For appearance sake, some of the names are listed as representing other affiliated parties, but this is window-dressing). Newly elected members of parliament are told how to vote by the instructors of the central committee of the Party.

Art. 23: "Everyone has the right to work, to free choice of employment, to form and join a union."

Transgressions against art. 23 were best illustrated by the protest of historians "Acta Persecutionis," a document presented to the XIVth International Congress of Historical Sciences, held in San Francisco, August 1975. It includes 147 names of former historians, who have all been ousted from their positions. The regime does not trust them that they would interpret Czechoslovak history from Moscow's standpoint. Most of them have been assigned menial jobs.

The situation has not improved since 1975; on the contrary, if any had dared to sign the Charter, they were undoubtedly evicted from their job.

Not only historians, but all other professions are treated similarly. Priests, nuns, teachers, former professors and lawyers, army officers, etc. are now janitors, garbage collectors, truck drivers, warehouse men, laborers. Many journalists, writers and radio commentators are harassed and as punishment for continued disobedience have been ousted even from their manual jobs. This places them in the category of "parasites" of society, which makes their situation all the more dangerous. (Example: writer and radio commentator Vladimir Skutina, who has twice served prison sentences.)

Unions exist in name only. Under Commu-

nist Party control they have become instruments of the Party, whose interests they serve. Strikes, bargaining, demand for higher wages and other benefits are unthinkable.

Art. 26: "Everyone has the right to education."

Top students with highest grades are usually barred from higher schools of learning because of the bourgeois background of their parents, or grandparents, although they are long dead and their property has been confiscated decades ago. Their religious belief, or that of their parents, also puts them at a great disadvantage. Almost from the cradle, parents pray and plan how to protect the future of their children against discrimination.

Poor students from Communist families have all the advantages; no school is closed to them, despite a low scholastic record.

Art. 27: "Everyone has the right to participate in the cultural life, etc."

Even painting and music, let alone literature, must conform to ideological orthodoxy. Everything must be created "in the interests of the state" (meaning the Communist Party) and must reflect "socialistic realism" and "class consciousness." Non-conformist playwrights cannot be present on opening night abroad (most recent example: Pavel Kohout); one writer was refused permission to collect a literary prize which had been awarded him. Painters and other creative artists are often not permitted to accept an invitation to exhibit in the West and if their work is exhibited, they are not allowed to be present at the installation. If their works are sold, they are advised one or two years later by the government bureau about the sales and are given less than half from the proceeds of the sales or of the royalties.

A group of non-conformist musicians was arrested at a private wedding party and tried on charges of hooliganism. "The Plastic People," a rock music group, claim to be apolitical but the Communist regime looks upon their performance as "a political statement which implies a rejection of the very basis of the Husak regime." Twenty-two were arrested; several were tried separately and were sentenced from eight to 30 months imprisonment ("Czech rock stars face the music," *The Chicago Tribune*, August 30, 1976).

Art. 28: "Everyone has duties to the community in which alone the free and full development of his personality is possible."

"Duties to the community" are interpreted as duties to the Communist Party, without any regard to one's inclination or belief.

From the above, it is evident that conditions concerning human rights have not improved since the signing at Helsinki. "Rude Pravo," the government mouthpiece, declared openly as recently as March 17, 1977: "Socialist states will never permit anybody to interfere in their internal affairs." Seemingly, the government has succeeded in silencing and isolating the signers of the Charter. Their harassment—unjustified as it is—nevertheless is less severe than it would have been some time ago. The people in Czechoslovakia are convinced that this is due to the West's new interest in human rights.

#### LEAA AT THE CROSSROADS

#### HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. DRINAN. Mr. Speaker, the Law Enforcement Administration has been the subject of much critical comment over the past few years. In part



that criticism is based on a growing disillusionment with the benefits of the program. Despite the spending of billions of dollars, LEAA-approved projects, it is said, have had little impact on crime and the improvement of the criminal justice systems.

Francis W. Sargent, former Governor of Massachusetts, recently addressed this issue in an article published in the Boston Globe. Rather than advocating abolition of the agency, Governor Sargent suggests improving the funding mechanisms presently used by LEAA. The new Administrator of LEAA should take seriously the considered opinions of knowledgeable persons, such as Governor Sargent. His monograph is inserted here for such consideration:

#### REMEDIES FOR THE LEAA AILMENT

(By Francis W. Sargent)

Some top cops were talking about crime this week, and the talk was optimistic for a change, different from the gloom and doom I usually hear in my work as chairman of the Police Foundation in Washington.

They were saying a new beginning is in the offing with the expected appointment of a new administrator of the Law Enforcement Assistance Administration (LEAA), the agency that parcels out Federal money to fight crime across the country.

They think new boss means a new approach to an agency its supervisor, Attorney General Griffin Bell, has called "a can of worms" and something "I can't get a handle on."

So far, LEAA has been nothing much more than a money-shipper. Presidents Johnson and Nixon both declared a "War on Crime" and tried throwing money at the problem, as much as \$800 million a year, in fact. LEAA did the throwing, and the fact is they weren't too fussy where they threw it. What a state proposed, LEAA funded. Believe it or not, in the history of LEAA, a state plan has never been rejected, whether it called for tanks, teargas or drum and bulge corps.

Few states thought in terms of the over-all criminal-justice system, or correction reform, or improvement of the causes and not just the effects of crime.

Now, it looks like change is on the way. Candidate Carter, by accident or design, never promised a "War on Crime," never talked about a secret plan to end such a war, hasn't oversold a program he might find he can't deliver.

So, not bound to the past or to a promise, he and a revitalized LEAA can go a different way, different, that is, from the way of heavy rhetoric, massive spending—and dubious results.

The pros I've talked to think the new way ought to go like this:

Washington should set clear goals, name the kind of programs that will get Federal help, set standards for states and cities to meet and make violent crime top priority.

Washington should require states to show how those Federal standards are going to be met. No vague state plan should be allowed. Chapter and verse of how the plan is going to work should be required.

Washington should monitor what it is financing. Progress must be noted, timetables set, impact measured, and what isn't working ought to be junked fast.

And that means, of course, that states will have to decide where their crime-fighting energy is going. In Massachusetts, for example, Boston, with 11 percent of the population, has 24 percent of the crime rate. Common sense indicates that major money ought to go to Boston.

And states have to do for cities and towns what Washington has to do for states: set standards, timetables and deadlines and es-

tablish a method of monitoring the results. If not, states will be doing nothing more than shoveling money along the line, and their role will be that of useless middleman.

Pat Murphy, president of the Police Foundation, said this week of the impending changes at the LEAA's highest level, "This appointment is vital because it can be a brand new start for crime-fighting in this country."

Amen. And the sooner the better.

#### THE NEXT RESOURCE CRISIS: WATER

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for June 1, 1977, into the CONGRESSIONAL RECORD:

#### THE NEXT RESOURCE CRISIS: WATER

Even as the country grapples with an oil and gas shortage, there are growing signs that the next resource crisis involves water.

This drought year is fixing attention on America's most vital resource—water—and it reminds us that the nation's water lifeline is slender. Water supply is largely taken for granted as a limitless resource, but increased population, the concentration of people in the cities, and the extravagant use of water is rapidly changing all of that.

The signs of growing concern about water are all around: in parts of California water is rationed; Montana is threatening to sue the State of Washington if it seeds the clouds and steals water that might have fallen on Montana; in Colorado ranchers kill off breeding stock because water-starved land cannot sustain them; wells are running dry, forcing farmers to dig deeper. So, water problems are substantial, and they will continue.

The growing demand for water over the next 25 years will compel us to find or make twice as much clean fresh water as the world already uses. 1200 billion gallons of water a day run through America's rivers and streams. In 1970 one-third of that was used, which was a 20% increase since 1965, but by the year 2000 this nation will use three-fourths of that fresh water. By that time only 3 out of 19 water regions in the United States (New England, the Ohio River Basin, and the South Atlantic-Eastern Gulf Area) will be able to live comfortably with its water supply.

Ironically, the world has plenty of water. The problem is that very little of it is directly useable by man. About 97.3% of all water is ocean water and three-fourths of the remaining fresh water is locked in glaciers or is otherwise inaccessible. Much less than 1% of the world's water supply is available for human use. Or, to put it another way, if all the world's water were represented in a half-gallon carton, the amount of fresh water available for human use would be one-half teaspoon.

The demand on this limited supply is increasing at ominous rates. Agriculture, which accounts for 80% of all the water used by people, and industry are using increasing amounts of water. Even farmers shake their heads at the amount of water they use; it takes 1000 tons of water to grow a ton of grain; 136 gallons to produce a loaf of bread; 900 gallons to produce cotton pajamas.

Water supply is increasingly becoming a concern for Hoosiers too. The United States Department of Interior has informed me that water supply problems for Ninth District counties could develop, especially if the

near-drought conditions of recent months continue. These counties lie south of the areas formed by the Wisconsin glacier, which means that the material above the bedrock is shallow, water runs off the land quickly, and most streams do not have a sustained flow. In the Department's view, neither surface water nor ground water is dependable in southeastern Indiana.

The Indiana Department of Natural Resources identified several Ninth District communities which need, or will soon need, additional water sources, including: Connersville, Corydon, Greensburg, North Vernon, Vernon, Osgood, Napoleon, Scottsburg, Versailles, Milan, Holton, and Westport. The water sources of the several rural water systems serving rural residents in the 9th District appear adequate, but increased usage could quickly change that outlook.

Effective management of water resources could probably solve most foreseeable problems. It would certainly conserve water. Americans, of course, waste water on a grand scale. New Yorkers, for example, use 270 gallons a day per person compared with 68 gallons a day for a resident of London. A recent GAO study shows that half of the water used for irrigation of crops is wasted.

Many methods are being used to increase the supply of water, including desalinization, deeper wells, recycling, and even diverting rivers. Water can be harvested by conserving water runoff in forest areas by managed tree growth, and better irrigation techniques can save vast quantities of water. It is estimated that 20 million acre feet of water are lost each year through seepage and evaporation in faulty irrigation systems. Urban landscaping with native desert plants can be used instead of trees, grass, and shrubs, and improved storage facilities can reduce evaporation from reservoirs.

A new look must be taken at long-range water problems. The nation should begin to be prepared for droughts, rather than to be surprised by them. Food reserves should be built in anticipation of droughts. Conservation of water should be encouraged on a regular basis, rather than only during a crisis. Greater soil conservation measures are necessary. A number of specialized technologies need to be developed, including trickle irrigation, which minimizes waste, prospecting for underground water by satellite, rainwater harvesting, and reducing loss of water from soils by chemical treatment.

Each day the world gets thirstier, and unless steps are taken now to reduce waste of water and to improve water management, the wells and streams and lakes could run dry tomorrow.

SALE OF CONTROL DATA CYBER 76  
ADVANCED COMPUTER TO THE  
SOVIET UNION MUST BE STOPPED

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. SYMMS. Mr. Speaker, recently I had reported to me some very astonishing events regarding the proposed sale of a Control Data Cyber 76 computer to the Soviet Union for weather prediction research. It is my understanding, from what I would consider to be a knowledgeable source, that in 1974 a private guest of Soviet Ambassador Anatoly Dobrynin in the United States was identified by our intelligence people as one of the top agents of the KGB. It is also my understanding, Mr. Speaker, that at that time, U.S. counter-intelligence alerted

Dr. Henry Kissinger and others as to the true identity of Ambassador Dobrynin's "guest" and revealed that this agent's real purpose for being in the United States was to make arrangements for the purchase by the Soviet Union of advanced computers from Control Data Corp.

In January of this year Control Data reapplied for an export permit for the sale of their advanced Cyber 76 computer to Russia for the purpose of performing research related to global weather prediction. Although it is claimed that the use of this machine in the Soviet Union will be monitored by Control Data personnel and/or others, I am strongly opposed to this proposed technology transfer. It is very difficult to prevent diversion of computer technology to military applications.

I do not know if the Cyber 76 sale proposed this year has any connection with the 1974 incident involving Ambassador Dobrynin's guest—which, by the way, was kept quiet by the U.S. Government so as not to upset detente I am told—but there are several points that should be brought out regarding the strategic military implication of high speed/high capacity computer capability on the part of the Soviet Union:

Specifically, the Cyber 7600 series computer could significantly increase Soviet air defense capability and could give them significant antiballistic missile—ABM—capability when combined with phased array radars and high-acceleration interceptors now in development. Also, with an effective civil defense program—which the Soviets may have—the ABM problem is dramatically simplified so that a single central computer such as the Cyber 76 could support a high-leverage ABM defense of several major Soviet cities.

With regard to air defense, U.S. bomber penetration capability is predicated on the assumption that the Soviet SAM's—surface-to-air missiles—cannot engage targets outside the field of vision of the SAM site radar. Increased computer capability could allow intercepts to be made at a point outside the field of vision of a particular missile site radar, thereby allowing the Soviets to use missile systems such as the SA-2 which are not now effective against low-flying bombers. One estimation given me is that the Cyber 76 could potentially increase by 100 fold the Soviet air defense capability.

The issue appears to be what margin of capability does the Cyber 76 provide that is not provided by the IBM 360's that the Soviets now possess. Cyber 76 is 16 to 64 times faster than the IBM 360 and has twice the word length, which doubles its precision in tracking. The Cyber 76 is basically the same as the CDC 7600 computer used at Kwajalein for the U.S. ballistic missile defense program. In short, the IBM 360 is basically a "business" machine while the Cyber 76 is an advanced high-speed scientific computer.

In view of the potential of the Cyber 76 to improve Soviet air defense effectiveness and possibly to provide some ABM capability in advanced air defense systems, it is crucial that a competent and thorough analysis of this issue be made, preferably by an independent agency, be-

fore this sale proceeds any further. Furthermore, it is known that the Cyber 76 system is especially suited for computation in nuclear weapon design problems and in high energy physics research. It is known that the Soviets have aggressive R. & D. efforts underway in these areas that are military related.

Again, it is stated that the Soviets want this machine, the Cyber 76, for weather prediction research programs. But, the question comes to mind as to why such a high-speed machine is needed for weather prediction work. What is it about this machine that cannot be fulfilled by the IBM 360?

In conclusion, I intend to raise these questions to the President and his national security advisor and to other appropriate levels of responsibility. I hope to have many of my colleagues in Congress join in this effort.

Mr. Speaker, I was pleased to see that columnist Jack Anderson devoted his May 24, 1977, column in the Washington Post to this issue. I was also pleased that he gave an accounting of the incidents surrounding Ambassador Dobrynin's "guest" that corroborated a statement that I made to the same effect on the floor of the House on Monday, May 23, 1977.

The Jack Anderson column reads as follows:

#### A SUPER-COMPUTER FOR THE SOVIETS

(By Jack Anderson and Les Whitten)

Control Data is preparing to sell the Soviets a \$13 million electronic brain, which could be turned against us to track U.S. missiles, planes and submarines. It is also capable of decoding sensitive U.S. intelligence transmissions.

The miracle machine is the Cyber 76, which will soon be on its way to the Soviet Union unless there is a last-minute stop order. It not only will be the largest computer ever delivered behind the Iron Curtain, but it is more than a decade ahead of the Soviets' own computer technology. It operates at least 20 times faster than anything the Soviets produce.

A top-secret, interagency study warns tersely that the Soviets can convert the Cyber 76 to military use. Not only can it be used for tracking and decoding, but it could also improve the production of nuclear warheads, multiple-headed missiles, aircraft and other military hardware.

There is no sure safeguard to prevent this, the study declares. An intelligence source put it more bluntly. "For a few bucks," he told us, "we're willing to give the Soviets the means to destroy us. We're becoming our own executioners."

Government officials, citing the strict secrecy, refused to show us a copy of the study. But sources with access to the original draft have told us of its warnings. They fear it may be softened in order to make the computer deal more palatable.

Control Data executives, in repeated meetings with U.S. officials, have insisted that the Cyber 76 will be used by the Soviets strictly to study the weather. The company kept hammering at Washington to get an export license. Final Commerce Department approval of the deal, according to our sources, was imminent until our inquiries caused some hesitation.

The sale of computers to Russia was pushed originally by ex-Secretary of State Henry A. Kissinger. Eager to promote detente, he overruled military objections to earlier computer sales. Now that the Soviets have already received lesser computers, they will be enraged if the Cyber 76 is withheld from them, say our sources.

One high official source, talking to us in confidence, related how a mysterious Soviet official showed up in the United States a few years ago. The Central Intelligence Agency immediately spotted him as a man with a purpose. He had come here, the CIA warned, to seek strategic U.S. computers.

The State Department, under Kissinger, persuaded the CIA to soften its warning and to pass off the visitor as merely the house guest of Soviet Ambassador Anatoli F. Dobrynin.

This helped lead to computer sales not only to Russia but also to China and Hungary. In return for these sophisticated computers, according to an International Trade Commission report, the Soviets have offered the U.S. "horses, asses and mules" at favored prices. Russia's famous vodka will also be sold to the United States at a tariff of \$1.25 a gallon, instead of the present \$5.

Frustrated U.S. officials complain that the Soviets are getting the best of the deal. They have gained strategic advances from the computers that have already been delivered, these officials assert. But the Cyber 76 would give them a technological boost that no amount of vodka could justify, they say.

The secret study declares categorically that the wonder machine both could and would be misused by the Kremlin for military purposes. Those officials who favor the sale contend, however, that the Soviets will use the Cyber 76 to increase their participation in a world meteorological network. The result, they say, would be better international weather data, larger crops and fewer unexpected natural disasters.

A spokesman for Control Data assured our reporter John Schuber that the computer can be set up in Moscow in a way to prevent any misuse. Any diversion to military use, he said, could be detected immediately. Then Control Data would pull out its technicians and refuse parts to the Soviets, thus crippling the electronic monster.

But other computer experts told our reporter, Tony Capaccio, that Control Data's arguments are spurious. One former Control Data executive, referring to the alleged safeguards, said derisively: "That's a joke." Other experts agreed that the Soviets could train their own technicians, and eventually locate parts from other countries.

Footnote: At the Commerce Department, spokesmen confirmed that the secret study disclosed "some problems" relating to safeguards against the misuse of the Cyber 76. But the draft report, said the spokesman wasn't final.

#### YOUTH EMPLOYMENT

#### HON. CARLIS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mrs. COLLINS of Illinois. Mr. Speaker, the unemployment of an increasing proportion of our young people is one of the most serious results of the recent recession. Youths between the ages of 16 and 24 currently account for more than 46 percent of the jobless workers in the Nation. If the unemployment rate among white youths of between 16 and 19 years of age is serious enough at 18.6 percent to merit national attention, then the situation is more crucial for black youths of the same age exhibiting an unemployment rate of 37.7 percent. As the Representative of an inner city district in Chicago, I have more than a passing familiarity with the particular problem.

What is to become of our young people,



who, at the threshold of adulthood, are denied the opportunity to assume the responsibilities incumbent upon all of us as free citizens? How can we ask them to accept, if not defend, the economic and political system that we have developed and are continuing to improve upon, if we leave them without a productive role to fill within it? Our responsibilities in this matter begin with the task of making certain that everyone who is capable of working is able to find a productive job. Our further obligation is to see that work that needs doing is not left undone. The challenge, one that seems to have eluded us so far, is to match the unskilled jobseeker with the job that will train him or her in a productive skill.

In attempting this, it is important not to raise false hopes, in the form of temporary expedients that will, like a revolving door, deposit our youth back on the streets, jobless and unskilled, after a seasonal stint on the assembly line. We need jobs that will attack the roots of structural unemployment, programs aimed at youths from poor families in areas of the country where unemployment is a chronic problem. The work we provide must train our young people in skills for which there will be a steady and growing demand in the future.

There are those who claim that Government-mandated jobs are make-work jobs, and that such jobs do not really train the unskilled or accomplish anything of significance for society. Let me assure my colleagues that in supporting the recent passage of the Youth Employment and Training Act of 1977—H.R. 6138—I have considered all of these factors and determined that the jobs proposed in H.R. 6138 have nothing of the character of temporary or make-work jobs, but addressed essential needs in our society that might otherwise remain unmet.

There is indeed, no limit to the unfinished business of restoring our environment and rehabilitating our public facilities. These are precisely the areas that H.R. 6138, through the establishment of a young adult conservation corps and community demonstration projects, promises to develop in training participants in reforestation, wildlife preservation and soil enrichment along with urban development. These new programs will impart skills that will remain relevant to our needs so long as we continued to cherish our urban and rural environments.

For these reasons, I applaud my colleagues for supporting the passage of H.R. 6138 which, although a modest proposal, is a step in a necessary and right direction.

#### CHASTISING SINGLAUB

### HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

#### CHASTISING SINGLAUB WAS HYPOCRITICAL

(By Patrick J. Buchanan)

As commander-in-chief, President Carter was within his authority in firing Maj. Gen. John Singlaub from command of American forces in Korea. The general's publicized statement, "If we withdraw our ground forces (from Korea) on the schedule suggested, it will lead to war," clearly contradicted settled U.S. policy.

Yet the general merits his countrymen's admiration and respect. In risking his career to warn the nation of the consequences of what he believes is dangerous public policy, he has exhibited a moral courage to match the physical bravery that has marked a long military career.

In 1944, as a young lieutenant, John Singlaub was dropped behind the German lines to train French partisans. Transferred to the Far East, he led Chinese guerrillas in raids on Japanese positions along the India-China frontier. During the final days of World War II he was parachuted onto Hainan Island in a daring and successful raid to rescue 400 allied prisoners of war.

He served in Korea; and during Vietnam he led an American unit operating behind enemy lines in Laos. General Westmoreland specifically praised his heroism. His combat decorations include the Croix de Guerre, the Purple Heart, the Bronze Star, the Silver Star.

By expressing concern over the consequences of a U.S. withdrawal, Singlaub was only saying publicly what a majority of American officers are saying privately. He was acting in the tradition of Billy Mitchell and Douglas MacArthur, risking his career, rather than leaving his countrymen ignorant of the potential dangers of present policy.

Those delighted that Singlaub was dismissed might ask themselves how the general should have behaved, confronted with that question by *The Washington Post*. Should he have lied and denied any concern? Should he have hidden behind the guise of an "informed source"? Or should he have spoken his mind and accepted the consequences?

In recent years many of the editorialists most pleased at Singlaub's departure have deplored the absence of public officials willing to stand up and speak out in dissent against administration policy. Had the general denounced the South Korean Government as repressive and unworthy of our support, many of those hailing his departure would be singing hosannas to this "enlightened and courageous" soldier.

What makes this writer particularly unimpressed with Mr. Carter's public humiliation of the general is the spinelessness the President has exhibited in indulging the continuing idiocies and insubordinations of United Nations Ambassador Andrew Young.

Within 24 hours of Singlaub's public dissent, Andy was in Mozambique informing the collective thuggery that rules Black Africa that they had been "betrayed" by the United States. No word of protest from the White House, no order for Young to get on the next plane home. Indeed, that night Andy was photographed by *The Associated Press* jiggerbugging with one of the local belles in downtown Maputo.

President Carter says his U.N. ambassador is fast becoming a "hero to the third world." I do not doubt it, for the road to stardom in the Third World is to dump incessantly upon the United States, which is the specialty of our U.N. ambassador.

If, for a single indiscretion, the President finds it easy to ruin the career of a distinguished military officer, why does he find it impossible to bridle the braying donkey of American diplomacy? Was Singlaub's honest comment more damaging to U.S. policy than the uninterrupted jackassery of Young?

Contrast the record of the two men, and

the treatment accorded them. Singlaub, humiliated and fired, risked his life during three wars in furtherance of this nation's military and foreign policy. And Young, meanwhile, earned his battle stars integrating lunch counters and being hosed down by Dixie fire departments while singing "We Shall Overcome."

#### SYMPOSIUM ON GOVERNMENTAL FINANCIAL MANAGEMENT

### HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mrs. SPELLMAN. Mr. Speaker, I would like to call the attention of my colleagues to a symposium on governmental financial management that promises to be an outstanding forum for professional presentations and discussions here in the Nation's Capital.

The symposium which is being sponsored by the Association of Government Accountants at the Sheraton Park Hotel, Washington, D.C., on June 27, 28, and 29, 1977, is built around the theme "Serving Government More Effectively." The association's 9,000 members in 75 chapters throughout the world look forward to this annual event as the medium to improve the state of their art and thus provide better professional service to Federal, State, and local governments.

The distinguished symposium speakers on the program represent a wide spectrum of affiliations, positions, and disciplines including:

Hon. Bert Lance, Director, Office of Management and Budget.

Hon. Richard M. Harden, Special Assistant to the President.

Hon. Elmer B. Staats, Comptroller General of the United States.

Hon. Jule M. Sugarman, Vice Chairman-nominee, U.S. Civil Service Commission.

Hon. JACK BROOKS, Congressman from Texas.

Hon. Robert D. Ray, Governor of Iowa.

Hon. Kenneth A. Gibson, mayor of Newark, N.J.

Ms. Julia M. Walsh, vice chairman of the board, Ferris Co.

Mr. Frederick Neuman, director, Defense Contract Audit Agency.

Mr. Ellsworth H. Morse, Jr., Assistant Comptroller General of the United States.

Mr. Harvey Kapnick, chairman and chief executive, Arthur Andersen & Co.

Mr. David Mosso, Fiscal Assistant Secretary, Department of the Treasury.

Mr. Theodore C. Barreaux, vice president, American Institute of Certified Public Accountants, Washington Office.

Mr. John J. Doyle, Jr., Peat, Marwick, Mitchell & Co.

Mr. Alan J. Reynolds, Director of Audit and Investigation, Department of Interior.

In addition, the symposium will feature 47 technical workshops involving 155 expert discussion leaders on every significant subject affecting governmental financial management. These work-

shops are recognized as important training media by the U.S. Civil Service Commission and various State boards of accountancy for continuing professional education.

A national awards banquet will conclude the symposium on the night of June 29, 1977, where recognition will be given to those members of the association who have distinguished themselves by outstanding service or accomplishments.

Mr. Speaker, I cannot recommend this symposium too highly for those of our colleagues and their constituents who are interested in improved financial management at all levels of government.

#### WORLD DAY FOR SOLIDARITY WITH SOVIET JEWRY

**HON. JAMES J. BLANCHARD**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. BLANCHARD. Mr. Speaker, next Thursday, June 12, will mark the observance of World Day for Solidarity with Soviet Jewry.

I would like to bring this occasion to the attention of my colleagues. I believe it is especially important to be aware of the plight of Jews in the Soviet Union at this time, since next month the signatories to the Helsinki Accord will meet in Belgrade, Yugoslavia, to review the results of the accord since its signing.

I think it is vital for Members of Congress to be aware that today, despite the Helsinki Accords' guarantee of freedom of religion and despite their reaffirmation of the right to emigrate freely, Jews in the Soviet Union are harassed regularly and continue to be denied permission to emigrate to Israel or the United States.

In May 1976, the Public Group to Promote the Observance of the Helsinki Agreements was formed by leaders of the Soviet Jewish community. Of 11 persons identified as leaders of the group, one has since emigrated. One has been exiled to Siberia, and three have been arrested. In the Soviet Union today, seeking to promote human rights is still an offense which can bring about punishment by the state.

From time to time, in accordance with the language endorsed by the U.S.S.R. in the Helsinki Agreement and in the 1948 Universal Declaration of Human Rights—that "everyone has a right to leave any country, including his own, and to return to his country"—I have written to the Soviet Union and to our own State Department on behalf of Jews seeking to emigrate from Russia.

A recent response which I have received from the State Department graphically illustrates the problem. It says, in part, that Secretary Vance "expressed our interest in the resolution of a large number of cases of Soviet Jews refused exit visas for Israel. A list of several hundred names \* \* \* was submitted to the Soviet Government."

Mr. Speaker, I endorse the human rights initiative which has been undertaken by President Carter, and I hope that the State Department will continue to do all it can on behalf of these people. The treatment of Jews in the Soviet Union remains a blot on the history of that nation—one which, on this coming day of solidarity with Soviet Jewry, we should all pause to remember.

#### DO CONSUMERS REALLY NEED ANOTHER FEDERAL AGENCY?

**HON. JACK EDWARDS**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. EDWARDS of Alabama. Mr. Speaker, I would like to bring to your attention an article which appeared in the Mobile Press recently concerning the proposed Consumer Advocacy Agency. It is absurd to think that we can create a new Government agency with this broad responsibility and expect at the same time to be able to reduce the cost of Government and the mass of bureaucratic redtape already entangling the Government. I think the following article expresses the problem well:

#### DO CONSUMERS REALLY NEED ANOTHER FEDERAL AGENCY?

Legislation, supported by President Carter, is pending in Congress to create an independent agency with authority to intervene in the affairs of other federal agencies on behalf of consumers and consumer interests.

This measure sounds good on the surface but, in our studied opinion, it is flawed.

R. Heath Larry, chairman of the National Association of Manufacturers, puts the proposed legislation in its proper light:

"With all due respect to the President's proposal for a new consumer protection agency it must be said that the one thing the American consumer needs most is protection from government over-regulation. . . .

"Consumers, as taxpayers, are now paying \$4 billion a year to support the many federal agencies riding herd on business. Business itself, in turn, is spending untold billions more to comply with the thousands of government regulations which come under the heading of 'consumer protection.' These costs eventually must be paid by the consumers themselves.

"Congress will be doing a great service for America by rejecting this latest effort to add to regulatory overkill."

The idea is credited by many to consumer activist Ralph Nader, who sometimes goes into orbit in his attacks on business and industry.

The pending measure has its share of opponents, however. The main argument against it is that it would only add another stifling layer of red tape on top of the multitude of present layers, with consumers footing the bill.

In addition, there are already enough federal laws to protect consumers against almost everything except themselves.

If Congress passes this proposed legislation it will transfer its historic responsibility to exercise oversight of its regulatory bodies and other federal agencies to a single federal administrator.

And the cost of operating the new agency, as expensive as it would be, would be dwarfed by the expensive burden which would be

placed on business in any situation in which the agency chose to intervene. These inevitably translate into higher costs for consumer goods and services.

So who will gain extra protection from the new consumer protection agency? No one that we know of.

Who will be hurt by it? Every taxpayer and consumer in the country.

#### IMPROVING OUR POSTAL SYSTEM

**HON. DAVID W. EVANS**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. EVANS of Indiana. Mr. Speaker, as with the other Members of this Chamber, I hope that this Congress will give serious attention to modernizing our postal system to make it more effective and efficient in meeting today's increasing needs and demands.

It is clear that we need postal reform, yet for too many years Congress has neglected this important service and has only offered band-aid solutions to some very complicated and perplexing Postal Service problems. The idea of establishing a Commission on Postal Service to study the system and make recommendations on improving it was honorable, but I must say their report and its proposed recommendations greatly concern me and the people of the Sixth Congressional District.

I am appalled at the possible cutting of delivery service from 6 to 5 days and the potential for closing many of our small and rural post offices. It was a pleasure to hear that the Postmaster General has stated his intention not to cut delivery service. The ramifications of such action would be negative and certainly would not be conducive to bettering our mail service nor would it help to reinforce our citizen's trust and confidence in it.

Not only would our residential customers be inconvenienced by delays in delivery, but also our rural areas and its residences would lose a certain identity and would be seriously inconvenienced in receiving and sending mail. Many of our businesses, both large and small, depend on Saturday deliveries to continue their commerce and to provide the services and benefits to their customers. Elimination of Saturday delivery could have serious economic ramifications for many of them. In addition, it has been estimated that approximately 23,000 jobs within the postal system would be lost as a result. The fact is that the elimination of Saturday delivery would save less than 1 cent on the cost of first-class stamps and any substantive cost-savings would not be realized for at least 2 years. For all the problems such action would cause, the price surely does not seem worth it.

Our Postal Service is an intricate part not only of our lifestyles but also of our economic growth and prosperity. I do not believe we can afford as a country to ignore this system or allow it to shrink its services nor shirk its respon-



sibility to the American people. Whether we like it or not, the postal system is currently a Government service. As such, we in Congress should be striving for comprehensive legislation to make it an effective service to our constituents at a reasonable cost.

#### LEGISLATION TO ELIMINATE BLOOD REPLACEMENT FEE

#### HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. EDWARDS of California. Mr. Speaker, I am today introducing legislation to eliminate the "blood replacement fee" currently in effect under our medicare program. This burdensome requirement no longer serves any useful purpose for the Nation. My bill will relieve medicare recipients and the medicare program of this onerous and useless burden.

When medicare was first enacted we were under the belief that financial coercion to replace blood was necessary to insure an adequate supply. Therefore, we held the medicare recipient "responsible" for replacing the first 3 pints of blood transfused, either through donation of blood or by paying a replacement fee. The Federal Treasury pays the "replacement fee" beyond the first 3 pints.

Figures from HEW indicate that in 1971 and 1972, 64 percent of the elderly were unable to replace transfused blood and had to come up with the replacement fee penalty out of their limited, fixed incomes. In 1972, 1.2 million units provided to medicare recipients were not replaced. The elderly had to pay some \$13 million and the Government paid \$25 million from the Federal Treasury for blood processing fees for medicare patients.

Are these enormous costs really necessary to insure an adequate supply of blood? It appears not. Where an effort has been made to secure volunteer blood, as in my own Santa Clara County, adequate supplies are available. The Red Cross has never used the nonreplacement penalty and collects some 5 million pints a year. Our Nation's blood policy calls for a volunteer program and questions the propriety of the penalty fee. This bill is one step toward a volunteer blood program.

Irregularities in many nonvolunteer blood programs are focusing attention on this problem. I have recently learned that three Federal agencies are currently taking a look at possible abuses that may be occurring in the program. I am also informed that the California Department of Consumer Affairs has today filed suit against a blood bank which utilizes replacement fees in that State.

Many developed nations have all-volunteer programs. There is every reason to believe that we have sanctioned through this medicare provision, a mechanism which is ineffective in its stated purpose, and financially burdensome to

elderly people. We must move in the direction of a voluntary system by removing this callous burden from our elderly.

#### AMENDMENT TO THE DEPARTMENT OF ENERGY ORGANIZATION ACT

#### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. CONYERS. Mr. Speaker, it is my intention to introduce three amendments to the Department of Energy Organization Act, H.R. 6804, when it is under consideration by the full House. The amendments are as follows:

A first amendment would eliminate the Economic Regulatory Administration in section 205 of the bill.

A second amendment would eliminate the Federal Energy Regulatory Commission in title IV, and replace it with a National Energy Board.

These amendments would, in combined effect, eliminate the regulatory apparatus within the Department of Energy, and create a new and independent regulatory board, the National Energy Board, which would be comprised of seven members selected to incorporate the full diversity of views on energy prices.

A third amendment would create, within the Department of Energy, a Public Energy Administration, which would, when directed specifically by the President, become the sole legal importer of foreign petroleum and refined products, and further, would implement a new leasing procedure in which the government would retain control over products extracted from Federal lands.

This third amendment is a proposal that would create new competition in both international and domestic petroleum markets. At present, negotiations with OPEC are carried out by an elite of global energy firms, clustered around the Seven Sisters of Oil. These multinational corporations have, in the words of Dr. Schlesinger, "mixed motives" with respect to the price of international crude oil, and in the eyes of more severe critics, little motive to minimize the price of oil. Not only do higher international oil prices protect these firms' massive investments in shale oil, and new coal and natural gas technology, but now that the Carter program ties the price of new oil and gas to the international OPEC price, higher prices in the international market translate directly into higher profits for these corporations. It is essential that we change this institutional setting in which foreign petroleum is purchased. A Government importer would be able to pursue the most competitive price, free of the conflicting objectives a corporate negotiator would bring to bear.

Furthermore, the auctioning of imported petroleum within the United States would give independent refiners and distributors the opportunity to have the same access to crude products as do the majors. By creating a strong group

of independent oil operators, competitive pressure on domestic oil prices would ensue. Thus, a competitive energy sector could be achieved without confiscatory measures of a government bureaucracy over production.

The amendment also suggests a new leasing procedure. In section 302 of the bill, the Secretary of Energy is directed to implement new procedures that would foster competition, establish diligence requirements, and implement alternative bidding procedures for Federal properties. Such a procedure would be that proposed in our amendment; the Government would pay firms that presented sealed, competitive bids with contracts to produce from Federal lands. The products would then be auctioned together with imported products here in the United States. Leasing procedures traditionally employed, in which firms pay to work Federal reserves and then sell those products that they have extracted, have been subject to a wide series of abuses, ranging from underreporting of reserves for the purpose of deceiving the Government over the royalty payment, to the creation of bidding consortiums that prompted antitrust recommendations within the Department of Justice. These abuses would be eliminated, along with the possibility of nonproducing wells such as those that occurred last winter, by our procedure, in which firms bid for the right to manage the Government's reserves and do so with strict specifications as to production scheduling.

My goals in preparing these amendments have been to minimize the creation of a Federal bureaucracy yet at the same time to define a planning role for Government that allows for profitable activity by the private sector. These amendments have found that middle ground.

The text of the amendments follow:

#### AMENDMENT TO H.R. 6804, AS REPORTED, OFFERED BY MR. CONYERS

On page 69, strike out line 6 and all that follows down through line 4 on page 70, and redesignate the following sections in Title II accordingly.

Staff are authorized and directed to make technical and conforming changes as are necessary to incorporate the above amendment into the bill.

#### AMENDMENT TO H.R. 6804, AS REPORTED, OFFERED BY MR. CONYERS

On page 84, strike out line 17 and all that follows down through line 14 on page 90 and insert in lieu thereof the following new title:

#### TITLE IV—NATIONAL ENERGY BOARD

SEC. 401. (a) (1) There is hereby established an independent regulatory board to be known as the National Energy Board (hereinafter referred to in this title as the "Board").

(2) There are hereby transferred to, and vested in the Board (A) all functions and authority of the Federal Power Commission under the Federal Power Act and the Natural Gas Act which are not specifically transferred to, and vested in, the Secretary pursuant to section 301(b) of this Act, (B) all functions transferred to the Secretary by section 301(b) of this Act which relate to establishment of rates and charges under the Federal Power Act and the Natural Gas Act, (C) all functions which may be delegated by the President under the Emergency

Petroleum Allocation Act of 1973, (D) all functions of the Energy Research and Development Administration with respect to uranium enrichment prices under the Energy Reorganization Act, and (E) all other functions transferred by title III of this Act which involve an agency determination required by law to be made on the record after opportunity for an agency hearing.

(3) Notwithstanding section 301(b)(1), the Board shall have the authority to prescribe, issue, make, amend, and rescind rules, regulations, and statements of policy under section 309 of the Federal Power Act and section 16 of the Natural Gas Act.

(b) The Board shall be comprised of seven members appointed by the President, by and with the advice and consent of the Senate. One of the members shall be designated by the President as Chairman. Members shall hold office for a term of four years and may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office. Appointments shall be made with due regard for maximizing the diversity of representation on the Board and for considering the views of recognized interest groups, including, but not limited to, groups involving consumers, environmentalists, labor and management from energy and nonenergy industries, agriculture and different regions of the country. The terms of the members first taking office shall expire (as designated by the President at the time of appointment), two at the end of two years, two at the end of three years, two at the end of four years, and one at the end of five years. Not more than four members of the Board shall be members of the same political party. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may continue to serve after the expiration of this term until his successor has taken office, except that he may not so continue to serve more than one year after the date on which his term would otherwise expire under this subsection.

(c) (1) The Chairman shall be responsible on behalf of the Board for the executive and administrative operation of the Board, including functions of the Board with respect to (A) the appointment of such hearing examiners as he deems necessary to assist in the performance of the Board's functions and to fix their compensation in accordance with the provisions of title 5, United States Code, except that assignment, removal, and compensation of such hearing examiners shall be in accordance with sections 3105, 3314, 5302, and 7521 of title 5, United States Code, (B) the selection, appointment, and supervision of personnel employed by or assigned to the Board, except that each member of the Board may select and supervise personnel for his personal staff, (C) the distribution of business among personnel and among administrative units of the Board, and (D) the use and expenditure of funds appropriated for Board functions. The Secretary shall provide to the Board such support and facilities as the Board may need to carry out its functions.

(2) The hearing examiners appointed pursuant to this section shall be subject to the laws governing employees in the classified civil service, except that appointments shall be made without regard to section 5108 of title 5, United States Code.

(d) In each annual authorization and appropriation request for the Board under this Act, the Chairman shall include a statement showing (1) the amount requested by the Board in its budgetary presentation to the Office of Management and Budget and (2) an assessment of the budgetary needs of the Board. Whenever the Board submits any legislative recommendation or testimony, or comments on legislation, to the Secretary, the President, or the Office of Management

and Budget, it shall concurrently transmit a copy thereof to the appropriate committees of Congress.

(e) A decision of the Board shall be a final agency action within the meaning of section 704 of title 5, United States Code, with respect to matters within the Board's jurisdiction.

(f) The Chairman of the Board may from time to time designate any other member of the Board as Acting Chairman to act in the place and stead of the Chairman during his absence. The Chairman (or the Acting Chairman in the absence of the Chairman) shall preside at all sessions of the Board and a quorum for the transaction of business shall consist of at least four members present. Each member of the Board, including the Chairman, shall have one vote. Actions of the Board shall be determined by a majority vote of the members present. The Board shall have an official seal which shall be judicially noticed.

(g) The Board is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions. Until changed by the Board, the rules of the Federal Power Commission shall continue in effect.

(h) In carrying out all its functions, the Board shall have the powers authorized by the Federal Power Act and the Natural Gas Act to hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate. The Board may, by one or more of its members or by such agents as it may designate, conduct any hearing or other inquiry necessary or appropriate to its functions.

Sec. 402. (a) No person in the employ of, or holding any official relation to, any person, firm, association, or corporation engaged in the production, generation, transmission, distribution, or sale of electric power, petroleum, petroleum products, natural gas, coal, nuclear material, synthetic fuels, or energy from renewable resources, wastes, or geothermal steam, or in energy research or development, or owning stock or bonds thereof, or who has a pecuniary interest therein, shall enter upon the duties of, or hold the office of, Board member. Members shall not engage in any other business, vocation, or employment while members of the Board.

Sec. 403. The principal office of the Board shall be in or near the District of Columbia, where its general session shall be held; but the Board may sit anywhere in the United States.

Sec. 404. Subject to applicable provisions of law, officers of all Departments of the Government and all Federal agencies shall cooperate with the Board in providing, upon request, such information as it may require.

Sec. 405. Nothing in this title shall be construed in any way to limit the functions of the Secretary relating to activities within the jurisdiction of the Secretary, including any shared with the Board.

Sec. 406. The Secretary may as of right intervene or otherwise participate in any adjudicatory proceeding before the Board. The Secretary shall comply with rules of procedure of general applicability governing the timing of intervention or participation in such proceeding or activity and, upon intervening or participating therein, shall comply with rules of procedure of general applicability governing the conduct thereof. The intervention or participation of the Secretary in any proceeding or activity shall not affect the obligation of the Board to assure procedural fairness to all participants.

Sec. 407. For the purpose of section 552b of title 5, United States Code, the Board shall be deemed to be an agency.

Sec. 408. Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended

by adding at the end thereof the following new subsection:

"(h) (1) The National Energy Board, upon consultation with the Secretary, is authorized to promulgate a rule which shall be deemed a part of the regulation issued under subsection (a) and which shall provide, consistent with the objectives of subsection (b), for the establishment of a program for the rationing and ordering of priorities among classes of end-users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to end-users of such products of rights, and evidence of such rights, entitling them to obtain such products in precedence to other classes of end-users not similarly entitled.

"(2) The rule under paragraph (1) of this subsection shall take effect only if the National Energy Board, upon consultation with the Secretary, finds that (A) national or regional energy shortage conditions exist which are of such severity or scope as to require the exercise of the end-use rationing authority, or (B) available petroleum products are or are likely to be no more than sixteen million barrels a day.

"(3) Recognizing that gasoline usage may vary according to characteristics of individual regions of the country, in establishing standards of end-use gasoline rationing under paragraph (1) of this title, the National Energy Board, upon consultation with the Secretary, shall designate individual regions of the country as (A) rural, (B) suburban, or (C) urban, on the basis of population density and establish variable gasoline allocation criteria accordingly.

"(4) The National Energy Board, upon consultation with the Secretary, shall provide for procedures by which any end-user of crude oil, residual fuel oil or refined petroleum products for which priorities and entitlements are established under paragraph (1) of this subsection may petition for review and reclassification or modification of any determination made under such paragraph with respect to his rationing priority or entitlement. Such procedures may include procedures with respect to such local boards as may be authorized to carry out functions under this subsection pursuant to section 120 of the Standby Energy Emergency Authorities Act.

"(5) No rule or order under this section may impose any tax or user fee, or provide for a credit or deduction in computing any tax.

"(6) Nothing in this act may be construed to prohibit the legal sale of gasoline coupon rations by holders of such coupons.

"(7) (a) Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of petroleum products and electrical energy among classes of users or resulting in restrictions on use of petroleum products and electric energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among classes of users, unless the Administrator determines that such a policy would be inconsistent with the purposes of this Act, or other Federal laws and publishes his findings in the Federal Register. Allocations shall contain provisions designed to foster reciprocal and nondiscriminatory treatment by foreign countries of United States citizens engaged in commerce.

"(b) To the maximum extent practicable, any restriction on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy without imposing an unreasonably disproportionate share of such burden on any specific industry, business, or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments



whose function is to supply goods and services of an essential nature."

Staff are authorized and directed to make such technical and conforming changes as are necessary to incorporate the above amendment into the bill.

AMENDMENT TO H.R. 6804, AS REPORTED  
OFFERED BY MR. CONYERS

On page 90, after line 20, insert the following new title:

TITLE V—PUBLIC ENERGY  
ADMINISTRATION

PART A—DEFINITIONS, ESTABLISHMENT, FUNCTIONS, AND AUTHORITY

SEC. 501. For purposes of this title, the term—

(1) "Administration" means the Public Energy Administration.

(2) "United States" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

(3) "Crude oil" includes natural gas, liquefied natural gas, and natural gasoline.

(4) "Refined petroleum products" includes all products refined or manufactured from crude oil with the exception of petrochemicals and manufactured products containing petrochemicals.

(5) "Qualified buyer" means a citizen of the United States, or a domestic corporation, or any department, agency, or other instrumentality of the United States or any State.

(6) "Person" includes any individual, corporation, governmental agency, department, or instrumentality, or other entity.

SEC. 502. (a) There is established within the Department of Energy the Public Energy Administration (hereinafter referred to in this title as the "Administration"). The Administration shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. Under the supervision and direction of the Secretary, the Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control of all personnel and activities of the Administration.

(b) There shall be in the Administration a Deputy Administrator who shall be appointed, by and with the advice and consent of the Senate, and who shall perform such duties and exercise such powers as the Administrator may prescribe. The Deputy Administrator shall act as, and exercise the powers of, the Administrator during his absence or disability.

SEC. 503. When authorized by the President, the Administration shall, by regulation, provide that no person shall import into the United States any crude oil or refined petroleum product unless:

(1) said crude oil or refined petroleum products have been purchased from the Administration, and a copy of the bill of sale verifying such purchase is submitted to the customs officer at the point or port of entry,

(2) said refined petroleum product is manufactured from crude oil purchased from the Administration, and an affidavit attesting to such manufacture, together with a copy of the bill of sale verifying the original purchase of crude oil, is submitted to the customs officer at the point or port of entry, or

(3) the person importing such oil is in possession of a valid import permit, issued by the Administration pursuant to section 504(h) and permitting the importation of the type, grade, and quantity of crude oil or refined petroleum product being imported and submits said import permit to the customs officer at the point or port of entry.

SEC. 504. (a) When authorized by the President, the Administration shall, by regula-

tion, provide that the Administration shall act as the exclusive agent of the United States in—

(1) purchasing crude oil produced outside the United States for importation into the United States,

(2) purchasing crude oil produced outside the United States for sale to refiners outside the United States pursuant to subsection (g) of this section, and

(3) purchasing refined petroleum products outside the United States for importation into the United States.

(b) All crude oil and refined petroleum products purchased by the Administration pursuant to subsection (a) of this section shall be sold to qualified buyers free on board the point of purchase. The Administration shall not engage in the business of producing, transporting, or refining crude oil or refined petroleum products on its own account or on the account of others.

(c) The Administration shall endeavor to buy and sell pursuant to this section without profit or loss. It may, however, in the case of any individual transaction, sell crude oil or refined petroleum products at a price above or below the cost of same if, in the judgment of the Administrator, such sales may result in progress toward a lower price for oil sold in international commerce.

(d) The Administration may buy crude oil and refined petroleum products pursuant to this section through direct purchase, through barter, through the acceptance of sealed offers of sale, or through any other means which, in the judgment of the Administrator will enable the Administration to secure these commodities at the lowest real cost.

(e) The terms of any contract or agreement entered into by the Administration to purchase crude oil or refined petroleum products pursuant to this section shall, to the maximum extent practicable, be kept secret by the Administration, its officers and employees.

(f) (1) The Administrator shall by the issuance of regulations, determine the system by which sales of crude oil and refined petroleum products purchased by the Administration pursuant to this section shall be made to qualified buyers.

(2) No regulation shall be promulgated under authority of this subsection without full public notice and hearing on same prior to its promulgation.

(3) Any regulation promulgated under authority of this subsection shall (A) encourage competition within the domestic petroleum industry, (B) allocate available supplies of crude oil and refined petroleum products equitably on a geographical basis, and (C) insure the maximum utilization of petroleum refining facilities located within the United States.

(g) The Administration shall sell crude oil and refined petroleum products pursuant to this section exclusively for importation into the United States, except that the Administration may sell crude oil to qualified buyers intending to refine it outside the United States for future importation into the United States in the form of refined petroleum products, if the following conditions are met:

(1) The refinery in which the crude oil in question is to be run is owned directly by a qualified buyer, and not owned through a foreign subsidiary or affiliate of same;

(2) The qualified buyer has contracted with the Administration to import into the United States all refined petroleum products manufactured by it from crude oil sold to it by the Administration; and

(3) The Administration has taken care, pursuant to subsection (f) (3) of this section, to insure the maximum utilization of petroleum refining facilities located within the United States.

(h) The Administration may, in an emergency as determined by the President, permit the importation into the United States of crude oil and refined petroleum products not purchased from it by qualified buyers. When the Administrator determines that such action under this subsection is in the national interest, permits to import specified quantities, types, and grades of crude oil and refined petroleum products shall be auctioned by the Administration under a system of sealed bids. All such import permits issued by the Administration shall be fully transferable to persons other than the original purchaser.

SEC. 505. Any procedure provided for in an amendment to a regulation made by the President pursuant to section 13 of the Emergency Petroleum Allocation Act of 1973 shall provide that the import and purchase of any product which is the subject of such amendment shall be carried out by the Administration in accordance with sections 503 and 504.

SEC. 506. (a) In the performance of its functions the Administration is authorized:

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operation and the exercise of powers vested in it by those laws;

(2) to appoint and fix compensation of such officers and employees as may be necessary to carry out such functions, and, to the extent that it determines such action necessary to the discharge of its responsibilities, to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, scientific, engineering, and administrative personnel and compensate such personnel without regard to the provision of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but in no event in excess of the maximum rate of GS-18 of the General Schedule under section 5332 of title 5, United States Code;

(3) to contract for the purchase of crude oil and refined petroleum products from any private individual, foreign state, or foreign or domestic corporation;

(4) to contract for the purchase of manufactured goods, commodities, and technical and managerial expertise within the United States for use in barter arrangements with seller of crude oil or refined petroleum products;

(5) without regard to section 3648 of the Revised Statutes (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements and other transactions and to make such grants as may be necessary in the conduct of its work and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory, or possession of the United States, or with any political subdivision thereof, or with any other person; and

(6) to sue and be sued in its own name in any court of the United States.

(b) All contracts and other obligations entered into by the Administration shall be guaranteed by the full faith and credit of the United States.

SEC. 507. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

SEC. 508. (a) The Administration shall submit to the Secretary for transmittal to the Congress in January of each year a report which shall include a comprehensive description of the activities of the Administration during the prior calendar year.

(b) Any report made under this section shall contain such recommendations and additional legislation as the Administrator, the Secretary, or the President may consider necessary or desirable to accomplish the purposes of this Act.

SEC. 509. Chapter 93 of title 18, United

States Code, is amended by adding at the end the following new section:

"§ 1924. Disclosure of information concerning crude oil or refined petroleum products and speculation thereon

"Whoever, being an officer, employee or person acting for or on behalf of the United States or any department or agency thereof, and having by virtue of his office, employment, or position, become possessed of information which might influence or affect the market value of crude oil or refined petroleum products, which information is by law or by the rules of such department or agency required to be withheld from publication until a fixed time, willfully imparts, directly or indirectly, such information, or any part thereof, to any person not entitled under the law or the rules of the department or agency to receive the same; or, before such information is made public through regular official channels, directly or indirectly speculates in any such product by buying or selling the same in any quantity; shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

"No person shall be deemed guilty of a violation of any such rules, unless prior to such alleged violation he shall have had actual knowledge thereof."

#### PART B—DOMESTIC EXPLORATION AND EXTRACTION

Sec. 511. (a) When authorized by the President, the Public Energy Administration—

(1) shall have exclusive authority to contract for—

(A) the exploration of Federal lands and waters, and

(B) the construction and management of extractive facilities (including any mine, rig, well, platform, or in situ excavation) on such lands and waters,

for energy-related purposes on the basis of sealed bids submitted to the Administrator, except that no such contract for management of extraction facilities which has a term of more than five years may be entered into by the Administration.

(b) The Administration may not, notwithstanding any other provision of law, enter into a lease, contract, or other transaction which divests the United States of its ownership or any other interest in or control over extracted crude oil or other energy products, including, but not limited to, coal, uranium, and shale oil, or reserves of any of the foregoing.

(c) The Administration may not, notwithstanding any other provision of law, accept any consideration (including any royalty, payment, license, or fee) on behalf of the United States with respect to any contract entered into pursuant to paragraph (1).

(d) The Administration shall sell all energy products extracted under its authority from Federal lands and waters in the manner prescribed in part A (relating to importation of crude oil and refined petroleum products).

And redesignate succeeding titles, sections, and references thereto accordingly.

#### SOUTH KOREA NEEDS U.S. TROOPS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. McDONALD. Mr. Speaker, in all the recent furor over the statement by General Singlaub relative to the possibility of renewed war in Korea following the scheduled withdrawal of American

forces, several cogent factors appear to have been overlooked. First and foremost the effect on Japan's security and United States-Japanese relations have been largely overlooked. Japan could well choose to seek further accommodations with the Asian Communist powers rather than bear the financial burden of more substantial rearmament in the face of our retreat. In either case, the choice will be painful.

Second, both Japan and the United States have a large economic stake in Korea and if the climate generated by an American withdrawal results in a lack of confidence the South Korean economy could suffer seriously. Indirectly, our economy would suffer also.

These and other factors such as the effect on Taiwan and other friendly Asian nations will be considerable, and therefore, I commend to the attention of my colleagues the editorial by David Rees, which appeared in the London Daily Telegraph of May 10, 1977. The editorial follows:

#### SOUTH KOREA NEEDS U.S. TROOPS

(By David Rees)

Mr. Carter's pledge last December that he expected to conduct a "gradual and slow" withdrawal of the American troops in South Korea has opened a Pandora's box of strategic and political problems in north-east Asia.

In January, Vice-President Walter Mondale arrived in Tokyo to seek Japan's approval for the new policy. After talks with the new Japanese Premier, Takeo Fukuda, an *anodyne* communiqué confirmed the projected troop withdrawal from the Republic of Korea. Mr. Fukuda stated that the matter was a bilateral one between Washington and Seoul, a statement that was probably made for protocol purposes.

However, following these talks in Tokyo, Mr. Mondale emphasised that the withdrawal of troops would be carefully phased, that it would be implemented in consultation with Seoul and Tokyo, and that American air units would remain in South Korea. Altogether about 33,000 troops are based in South Korea, mostly in the American 2nd Infantry Division. There are also about 8,000 Air Force personnel from the 314th Air Division, with its headquarters at Osan, about 40 miles south of Seoul. Last August, following the axe-slaying of two American officers by North Korean guards at Panmunjom, the United States mounted a powerful demonstration of its ability to send air reinforcements to South Korea. Phantom jets were flown up from Okinawa, B-52s arrived from Guam, and even F-111s were sent from the United States.

It was an impressive show of strength. But as everyone in South Korea and Japan knows, it is the presence of troops that provides the real American commitment to South Korea. It is these troops that underwrite the mutual security treaty signed between the two countries in 1953. So whatever the mellifluous phrases used by Mr. Mondale in Tokyo, the retention of the ground troops in South Korea can no longer be taken for granted. The Mondale mission was thus the beginning, and not the end, of mounting apprehension in Japan and South Korea over America's real intentions in northeast Asia.

At the centre of the heightened concern is a new awareness of Korea's strategic situation. The security interests of the world's four largest countries converge on this small, heavily armed peninsula. Well over a million armed men stand on either side of the demilitarised zone (DMZ) which divides the two Koreas.

Tension remains high in the peninsula be-

cause the real source of anxiety is the self-proclaimed ambition of Kim Il Sung, the megalomaniac ruler of North Korea, to impose Communism on the South. But since the 1953 Korean armistice, an effective balance of power has existed in the region due to the United States presence in South Korea. The preservation of this stability over a quarter of a century has materially contributed to the rise of the mighty Japanese economy. At the same time, the American guarantee, combined with large-scale investment, has helped South Korea to embark on its own economic miracle.

Now this balance of power is placed in quite gratuitous jeopardy by the new troop withdrawal policy. For in both Seoul and Tokyo it is well remembered that American troops have been withdrawn once before from South Korea, with disastrous results. This happened during 1949, following the establishment of the Republic of Korea the previous year. In January 1950, Secretary of State Dean Acheson specifically excluded South Korea from the American "defensive perimeter" in the West Pacific.

Then, as now, Kim Il Sung was eager to conquer the South. Five months after Acheson's speech, the Communists struck over the 38th Parallel, the United States and the United Nations intervened and only after three years' fighting was the *status quo* restored. The lesson is that any change in the carefully-poised Korean balance of power could result in new aggression from the North.

#### INVASION "TRIPWIRE"

It is not only the presence of American troops in South Korea that is important. Their very disposition is significant as a "tripwire" against renewed aggression. The U.S. 2nd Infantry Division, guards the western extremity of the DMZ. This straddles the primary invasion route towards Seoul.

Here only 30 miles separates the South Korean capital, with its seven million inhabitants, from the DMZ, north of the Imjin. Seoul is also within range of North Korean Frog surface-to-surface missiles based near Kaesong and Kumsong. So there is a profound awareness in South Korea of the potential vulnerability of this sector.

Successive defence lines extend in this sector from Munsan into the suburbs of Seoul. But South Koreans remember that Communist tanks advanced swiftly along this route to capture Seoul in June, 1950. The following year, the Chinese Communist host moved southwards through these same hills, only to have its spearhead blunted by the gallant Glosters at Solma-ri.

All the arguments are well understood in Tokyo, where South Korea's security is considered inseparable from that of Japan's. Barely a hundred miles separates the two countries across the Tsushima straits. Even before Mr. Mondale's Tokyo visit, the Japanese Foreign Ministry had announced a significant recasting of the country's defence plans. Because of the Carter policy over Korea, contingency planning for the Japanese Self-Defence Forces now envisages the transfer of Army units away from Hokkaido and the north to Japan's western coast. Another factor in Japan's strong reaction to Mr. Carter's plan is the future of the country's £2,000 million investment in South Korea, now Japan's largest market in Asia.

The Japanese possess considerable leverage with the new American administration. Mr. Carter needs the support of Japan in his world economic summitry. Another very strong card held by the Japanese is the probability that American troop withdrawal from Korea would almost certainly result in some form of Japanese rearmament, including the development of nuclear capability. Japanese defence spending is minimal at present, yet any decisive rearmament would shatter the tacit, *de facto* alliance between Japan,



China, and the United States. American influence in north-east Asia would contract. Only the Russians would benefit.

The South Korean regime has recently attracted much criticism in the West. Yet, so carefully poised is the military situation along the DMZ that the majority of South Koreans, including the legal parliamentary opposition, accepts the need for extraordinary internal security measures. Even the jailed dissident leader, Kim Dae Jung, has declared his opposition to the troop cuts, as this might encourage Kim Il Sung to invade the South.

Finally, perhaps, it should be noted that Korea was unique in being colonized by another Asian Power. The liberation from Imperial Japan in 1945 thus encouraged a flood of sentiment towards the West that still endures. Perhaps the gravest aspect of troop cuts would be the alienating, demoralizing effect on a brave and loyal ally of the West. In an uncertain world, where the balance of forces continues to tilt against the West, this would surely be the most unforgiving folly of all.

### LET'S KEEP COOL AND SEE HOW BEGIN DOES IN TOP SPOT

**HON. EDWARD J. DERWINSKI**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. DERWINSKI. Mr. Speaker, I believe it would be a practical recommendation for both administration spokesmen and Members of Congress to give the new Israel Government a chance to organize their administration.

An article in the Chicago Tribune of May 27 by Nick Thimmesch, comments on the recent political developments in Israel and the reaction in the United States to these election results:

LET'S KEEP COOL AND SEE HOW BEGIN DOES IN THE TOP SPOT

(By Nick Thimmesch)

WASHINGTON.—One reaction here to the extraordinary election results in Israel was a feeling of extreme concern, especially over whether there still remained a possibility of a Middle East settlement this year, Jimmy Carter style. One would have thought that the peace dove had flown the coop after Israel's "super hawk," Menachem Begin, had taken over.

The defeat of Israel's Labor Party, not exactly a habitat for doves, and the victory of Begin's Likud bloc could understandably cause professional worrywarts here to wrinkle their brows anew. But it's always best to see just what kind of government will be formed, and how all the parties in the Middle East drama ultimately react.

Begin is regarded by most Palestinians as a "war criminal," not a statesman. In the late '40s, Begin, as founder and leader of the Irgun guerrillas, got into bloody escapades.

His group shot and killed British troops and Arabs, pulled reprisal raids, and became known to Zionists as "patriots" and to the other side as "terrorists."

To this day, Palestinian terrorists cite the death-dealing Irgun and Begin as compelling reasons to fight back in kind.

But Israel's new prime minister isn't likely to be an Attila the Hun, looking for Arabs to kill. Begin does have a strong sense of Jewish identity, has been a Zionist since youth, and is deeply scarred by memories of his father's execution by the Nazis. He is a tough-minded guy in a tough nation, and evidently a col-

lection of nonestablishment, "forgotten" Israelis felt it was time for his kind of spice.

Begin says that he will invite Arab leaders to sit down and talk over what he says Israel is striving for, "peace."

But he won't say Israel has "occupied territories." He invokes biblical history to call them "liberated territories," and that characterization could be trouble.

Several Arab governments have put considerable pressure on President Carter and his administration for an authentic peace effort this year. Always, the Arab leaders insist that it will take American pressure on its friend, Israel, to achieve this peace.

The Arab drive and the dictum that the United States must pressure Israel irk the Israelis. They believe a solid peace will come only when they engage in direct negotiations with the Arab states, and when there is no outside imposition of peace by powers like the U.S. and the Soviet Union.

Moreover, the Israelis aren't exactly enchanted with the way Carter has conducted himself on the Middle East situation. They question his single-minded determination to make 1977 the magic year for peace.

Nor do they like the way Carter, in their view, wavers on language. One day he supported "defensible borders," the code term which reassures Israelis, and the next day he took it back by describing that phrase as "just semantics." Finally, Carter's casual remarks about a homeland for Palestinians, some Israelis believe, made Israeli voters anxious and less confident in the ruling Labor Party. In effect, they turned to a George Wallace for security in this election.

The realities seem to be these: There is unrest in Israel over its external affairs and its security. Thus, the "Ins" are out. There is a moderate tone in the pronouncements of a growing number of Arab leaders, and there is good reason for the Saudis, for example, to want a quick peace settlement.

So, as usual, the Middle East situation is clouded. What a pity that the striving Arab nations and besieged Israel can't make peace and together build a prosperous Middle East.

In the meantime, though, I think that we should give Israel's next prime minister the opportunity to show that the reputation he built years ago doesn't apply now. At 63, and in command of a nation which needs diplomatic skill as much as it needs raids on neighboring villages, he is in a far different role than the violent Irgun days.

Let Prime Minister Begin begin.

### THE FEDERAL THREAT TO ACADEMIC FREEDOM

**HON. WILLIAM L. ARMSTRONG**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. ARMSTRONG. Mr. Speaker, under the guise of aiding higher education, the Federal Government is beginning to exert an ominous degree of influence over the Nation's colleges and universities.

Prominent scholars and administrators warn that Federal programs are subtly, and in some instances not so subtly, interfering with academic freedom. If they are right, and I am convinced they are, this is a problem of utmost concern to every thoughtful person.

This issue is brought into sharp focus by a thought-provoking article published recently by Christianity Today. In the

November 5, 1976, issue, Dr. Dennis F. Kinlaw, president of Asbury College of Wilmore, Ky., forcefully and persuasively calls our attention to this threat against academic freedom and religious liberty which is inherent in Federal involvement on campus. I commend this worthwhile article to the attention of my colleagues:

### OF EQUAL OPPORTUNITY AND OTHER BUREAUCRATIC INTRUSIONS

(By Dennis F. Kinlaw)

A revolution has taken place in American life and thought. Few have taken note of it, and even those who have seem unaware how radical the change has been and how important the long-range implications are for us all. The revolution is in the relation of the government to higher education.

One great strength of the American way has been its careful separation of powers. We have just gone through a traumatic reaffirmation of the integrity of the legislative and judicial branches in the face of pressure from the executive branch. In another balance of power we have historically declared that the family, the church, the school, and the press are to be free from governmental control. Recent Supreme Court decisions have reaffirmed the separation of church and state and the freedom of the press, but a vast change has occurred in relation to the school.

As late as the 1930s the federal government had little or no control over higher education. Laws such as those providing for social security, workmen's compensation, and unemployment insurance, binding upon almost every other sector of society, specifically exempted educational institutions.

Just a little over two decades ago the Commission on Financing Higher Education declared that the strength of higher education was in its freedom and that this freedom "must be protected at all costs." It predicted that federal financing would bring federal controls that would be destructive to originality and diversity and would finally produce uniformity, mediocrity, and complacency. But in 1952 this was only a prediction.

Independence characterized American higher education from its start. When Harvard College was founded in 1636, the question was raised as to whether it could grant a degree. In England at that time, Oxford and Cambridge had royal charters to grant degrees and thus had a monopoly on higher education. With their religious tests for admission they gave to the Anglican church a favored position that guaranteed both a political and a religious elite. In 1642 when President Henry Dunster and his colleagues assumed for Harvard the right to grant degrees, they assumed a right reserved in England only for those institutions with special royal favor. Less than a century later Yale College followed suit. The result was that when the Revolutionary War broke out, nine institutions in the young republic were granting degrees that only Oxford and Cambridge could give in England. The groundwork was laid for equal educational opportunity for all, and that without governmental involvement. The result has been an educational system unique among the nations of the world.

Despite the urging of many, the U.S. government has never established a national university. It has entered the higher educational domain only with its service academies like West Point and Annapolis, though even here the accreditation of the academic programs has never been done by the government. The value and acceptability of the work in these national academies is determined by regional accrediting agencies in the private sector.

We have benefited from this "arm's length"

relationship. President Derek Bok of Harvard in his most recent presidential report was able to say without fear of contradiction:

"In an era of universal dissatisfaction, it is well to begin by pointing out that our system of higher education, for all its faults, has emerged as the best in the world in the eyes of almost every qualified observer. In terms of the quality of our research, the eminence of our leading universities, the degree of access afforded to all groups and income strata, and the responsiveness of the system to widely varying student needs, higher education in this country has no equal. Pre-eminence of this kind is a precious asset. It is a status that cannot be claimed for the quality of our government service, the achievements of primary and secondary education, the performance of our labor unions or the record of many of our older institutions" (*The President's Report*, Harvard University, 1974-75, p. 5).

The values of this independent educational system to our country have been incalculable. Persons educated in institutions not controlled by the government were able to develop their minds and critical faculties freely and bring them to bear fearlessly upon our national problems. What a resource!

Unquestionably the freedom of Americans to organize religious colleges that grant accredited degrees (a privilege almost unknown outside the United States) has been a major factor in the strength of the religious element of American life. No religious group was by governmental decree kept on the margin of American life. The center was open to all.

But the careful respect by the government for the independence of the educational world is long gone. Non-involvement has changed to intrusion, respect to financial and regulatory control. The extent is frightening.

President Bok reports that compliance with federal regulations in 1974-75 at Harvard consumed over 60,000 hours of faculty time. President Willis Weatherford of Berea College says that one-fourth of his time this past year has been spent on governmental matters. Bok estimates that the cost to Harvard in the same year was between \$4.6 million and \$8.3 million. The American Council on Education reported in 1975 that the equivalent of 5 to 18 per cent of tuition revenues was spent on the implementation of federally required social programs. *Change* magazine estimates that the cost of such programs to higher educational institutions last year equaled the total of all voluntary giving to such institutions, just over \$2 billion. So we run our development programs, not to sustain or strengthen our educational program, but to appease the government so that we can stay in business.

Nor is the cost in dollars and time alone. In most meetings of educational organizations today, any creative discussion of education is at a disadvantage in competing for a place on the agenda with the problems of governmental regulations. Energies that should go into education are spent elsewhere. The 1952 warning of the Commission on Financing Higher Education that heavy federal involvement would produce mediocrity and uniformity will soon be fulfilled simply by pre-emption. Time, energies, and resources necessary for first-rate education will have been spent on compliance.

The problem now is more than one of intrusion. It is rapidly becoming one of control. Federal regulations now determine decisions in areas once considered vital to academic integrity. Decisions on admission, selection of faculty, curriculum, and expenditure of institutional funds that could once be made with eyes wholly on the quality of the educational process must now be made with one eye on a multitude of federal regulations. Many decisions once made by school administrators are now being made by the decrees of bureaucrats in Washington.

Someone may say that the schools deserve their fate because they were foolish enough to accept federal funds. A number of administrators felt that with federal money would come controls, and so they courageously resisted the urge to enjoy the benefits of government aid. It is instructive to see how they have fared. One regulation from the Department of Health, Education, and Welfare on July 21, 1975, simply redefined the term "recipient" of federal financial assistance. Title IX of the Education Amendments of 1972 declared any institution to which "federal financial assistance was extended directly or through another recipient" (italics mine) to be officially and legally a recipient of federal aid and thus bound by all the governmental regulations that control such recipients. To have one veteran attending on the G.I. bill puts the institution in the "recipient" category. No institution is now exempt. President Kingman Brewster of Yale suggested that the government's philosophy is, "Now that I have bought the button, I have a right to design the coat."

How did this involvement become so deep so fast? It was not done without reasons, even good reasons. The Second World War, Sputnik, and the post-war social problems made all America aware that scientific discovery and new knowledge were essential to national security and well-being. The best place to get these things was in the colleges and universities. Their resources were not substantial, and so the government offered assistance. With assistance, though, goes accountability, and with accountability, controls. Then came the quickened social conscience of the fifties and sixties. The government assumed responsibility for guaranteeing social justice, equal opportunity, and consumer protection. When the passage of laws did not seem to be enough, other means were sought. "Reception" of federal monies became the key. Executive orders and bureaucratic regulations followed that produced the maze in which we are now trapped.

All this happened in a period of great difficulty for the colleges and universities. They were all struggling with inflation, recession, and declining enrollments. Private colleges were unsure they could survive, and many pled for help from Washington. When survival and integrity are the options, integrity finds itself upstaged.

In a society where great social programs like those adopted within the last forty years involve the great majority of our citizens, the federal dollar is almost omnipresent. The young share in educational-assistance programs and the old in social security. Every tax-exempt organization stands in a federally protected position. Reception of benefits from a federal program became the key to getting near universal compliance with the federal strategies for achieving social justice, equal opportunity, and consumer protection. Executive orders and bureaucratic regulations followed that now are covering us all.

But the cause is good. To object to fight virtues more noble than motherhood and love of country. Should we not comply joyously?

Some observations are in order here. First, there is a difference between law and regulations Congress passed a law against discrimination on the basis of sex. Thirty-seven words of law were turned by HEW into eighteen triple column pages of fine print. When legislators who passed the law learned of the contents of the regulation, many of them insisted that they had not intended this when they passed the law. The regulation carries the same weight as law. Yet none of these rules and regulations has ever been voted upon directly by the people who represent the electorate. And some suggest that it would be an intrusion of the legislative into the executive domain for Congress to get very concerned about this. Anonymous writers of regulations beyond the reach of the people,

what some call "the fourth branch of government," are now determining the character of much of American life.

Second, our government is now becoming the judge of matters of deep religious import. Some areas intended by the writers of the Constitution to be kept inviolate from governmental intrusion are now under federal regulation. Consider four areas of concern under Title IX:

**Marital status.** In the Christian religion, marriage is held to be an enduring, God-ordained relationship. Every Christian institution wants to put examples of marital success and stability before its young. Yet today a Christian college "shall not make pre-employment inquiry as to the marital status of an applicant for employment." Thus reads Section 86.60(a) of Title IX of the Education Amendments of 1972.

**Pregnancy.** In the Christian perspective, the conception of a child within a proper marriage is a reason for joy; outside marriage it is tragic and wrong. Yet according to current federal regulations, pregnancy outside marriage is to be considered a "temporary disability." A Christian college is now precluded from dismissing or disciplining a teacher or administrator for an extramarital pregnancy, and from refusing to hire an applicant on these grounds. The regulation, Title IX, Section 86.57(b), hold that we "shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom."

**Abortion.** To the Christian, the sacredness of human life has the binding effect of law. The termination by one person of another's life is a religious question. Yet we are not to discriminate against an employee or applicant for "termination of pregnancy." It is now wrong to treat a person, single or married, who has an abortion differently from one who develops the fetus.

**Human sexuality.** The Scripture says that in the beginning God made human beings male and female. In other words, one's sexuality or gender is not an accident of nature but an essential part of one's personhood. It is not like race or national origin. There is a profound difference between a male and a female, a divinely wrought difference. One's fulfillment individually should be sought in terms of one's divinely wrought personhood. Therefore a truly Christian educational program must on occasion recognize the gender difference and treat people for what they are, male or female, in order not to discriminate against them. But that is now counter to federal regulations.

Academic freedom and religious liberty have been vital parts of the atmosphere that has enabled American democracy to flourish. Both are fragile and need some protection. It is an illusion to think that political liberty will long survive if these freedoms go. Today the balance that has made possible American academic freedom and American religious liberty, to the envy of much of the world, is threatened. How tragic if in the fight for social reform, very valid in its own right, we should destroy the integrity of the institutions essential for achieving social justice and equal opportunity.

Few people are aware of the unique role that evangelical colleges have played in the development of America and in producing Christian leadership for the world. A look at Christian leaders around the world will show that a handful of small schools have had a disproportionate influence. These are a priceless resource that we can ill afford to lose now. Some semblance of autonomy, both financial and philosophical, is essential if they are to survive. They never have flourished elsewhere. If the trend of the last decade cannot be reversed, they will not survive here.

If they go, it will not be the Christian



world alone that suffers. The conditions under which they flourish are the same as those required for a truly free university. If a government can impose its secular moral philosophy upon all our institutions today, it can impose its political philosophy tomorrow. The pattern and the machinery will already be in place. More than academic or religious freedom is at stake.

# WATER, ENERGY, AND BOOKS— COMPETITION, WILL IT HELP OR HURT?

**HON. PAUL SIMON**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. SIMON. Mr. Speaker, for some time I have been concerned about the increasing concentration of media power in the hands of fewer and fewer people. Roy Fisher, dean of the University of Missouri School of Journalism, is one who has spoken out on this issue.

Another is our colleague from Arizona, MORRIS UDALL. A few weeks ago he spoke to the Association of American Publishers, the Nation's major book publishers, at their national convention, talking candidly about the problems of diminishing competition in this country. Like on other issues, Mr. UDALL has brought both wit and wisdom to bear on this matter, and I urge my colleagues to read his speech, which I am inserting in the RECORD:

# WATER, ENERGY, AND BOOKS—COMPETITION, WILL IT HELP OR HURT?

(By Morris K. Udall)

I come before you today, a man chastened by experience. First, a bloody battle with the newspaper publishers, the subject of three weeks of editorials in such august journals as *Editor and Publisher* and *Publishers Auxiliary*. And I'm reminded of the old story about the fellow who pressed the local editor about his stand on a controversial issue, and he said, "Listen son, I haven't made up my mind, but when I do I'll be bitter." That's been the attitude of some reaction, but not all. And why was all this attention directed at the Chairman of the House Interior Committee? Well, it seems in a recent speech before the Press Club in Washington, I had the effrontery to suggest the trend toward concentrated power—economic and editorial—in the newspaper industry was something that troubled me.

An old Washington figure, Tom L. Johnson, said, "When you see a situation you cannot understand, look for the financial interest." So I come to Bermuda to address this group of influential Americans, not fully understanding the publishing industry, and therefore, this last week I looked at the financial interest. I have some thing to say which will be greeted, no doubt, with less than total acclaim. But my good friends, I see similarities in your industry and the newspaper publishers. Indeed, in some cases you represent the two combined. And while I'm quoting Johnson, let me go back to old Samuel Johnson in setting the stage for some comments on publishers and publisher reaction. He said, "The liberty of the press is a blessing when we are inclined to write against others, and a calamity when we find ourselves overborne by the multitude of our assailants."

My Washington Press Club speech revolved around a central theme: That a shift of global wind had dumped 10 feet of snow

on Buffalo, giving us the toughest winter in history, and reminded us that the natural gas that runs our homes and factories is running out. That the same shift of winds reminded us that we are running out of water in the West, and that this is a key shortage which may be next. That another kind of cold wind was blowing out the local independent publisher, and that lack of competition was now a key factor more and more in our society.

So I will have something to say tonight about publishers and broadcasters and the book fraternity. But what I have to say on this subject and on energy and resources blows from some of my basic assumptions and beliefs. In not every case will they be yours, but you will better understand what I have to say when I lay them out in the beginning. These basic assumptions and beliefs are three:

1. Competition is essential to American life. Sometimes it is unpleasant and harsh. It's the law of the jungle that eliminates one drug store in a town too small to support two. But those who preach the most about competition sometimes practice it the least and understand it only slightly. There was a Sinclair Lewis character in the 1930's that reminded me of a man in my hometown. Of such people it was said, "He would have been as horrified to have heard Christianity doubted as he would have been to see it practiced." Thus it is with the Chamber of Commerce, the NAM, and I'm afraid some publishers. All of them ought to be backing the Udall program for divestiture of oil companies. For unless we save competition, our system can collapse. For it is a system that succeeds on incentives, on the freedom to innovate, and rewards those who produce the most.

2. The second basic belief is the concern about bigness. I'm not against bigness per se, and I'm not going to shed too many nostalgic tears over the corner grocery or the hometown brewery. A complex society requires big institutions, bigger than yesteryear. I draw a distinction between accepting a measure of bigness necessary for our time and our society, and the mad rush to conglomerates and multinationals which threatens to destroy the central principles upon which our economy is built. Over the last thirty years, without deciding to do so, we have let our tax laws and the incentives that are available reward tycoons who give you IT&T. I don't think we get better rent-a-cars or hotels because IT&T gobbles up Avis and Sheraton. We probably get worse.

I lament the old dream of the man who owned a hardware or drug store, who maybe wanted to take his son into the business to expand into two or three. Well now he is gone, gobbled up by a local group and then a chain, and then the chain by a conglomerate, and a conglomerate by a multinational headquartered in Cleveland or someplace, and who couldn't care less about your neighborhood. Just twenty years ago, 400 companies owned two-thirds of the manufacturing assets in America. Today, it's down to 200 companies. At the rate we are going, it will be 100 within another decade. This alarms me and saddens me, and threatens things that I think are basic.

3. When I call for breaking up oil companies, I still believe in free enterprise. We need oil companies; they need to be quite large given the risks and the money involved. Oil companies need incentive and rewards, and they ought to be able to make a bundle of money finding the remaining oil and gas to be found. So, I speak tonight of economic concentration in the communications industry that has three television networks holding the nation's national television news firmly in their grasp. Of a trend towards concentration in newspaper publishing that

saw the daily independent newspaper in my hometown become one of seventy-three "properties" (a terrible word making my hometown newspaper sound like a racetrack, or a book sound like a can of beans). My hometown newspaper was absorbed by Gannett in a trend that now has twenty-five newspaper chains controlling more than half the daily circulation in the country, and even in publishing where some 58 mergers or acquisitions last year reduced the number of competitors and saw the Justice Department cast a critical eye at this trend.

But first, just a few thoughts on competition (or the lack of it) in the search for energy and new resources that must be a key to solving the serious problems I've outlined. I believe that competition must play a vital role in this energy issue, that we will fail if it does not.

We Americans are accustomed to expecting the big problems to be solved by big exotic, sexy solutions. In energy for a long time, it was nuclear power. We were told by Admiral Strauss in the 1950's, nuclear power would be so cheap by 1979 that we would not have to meter it. In the 1980's nuclear probably has some kind of a role. But I have a feeling that the eventual solution will come, not from one grand answer, but a dozen component parts—solar, coal, conservation, wind and even firewood might be part of the picture—5% here, 2% there and 25% from conservation. We will see the inventiveness of Americans come to our aid if we do it right. But none of this will come to pass unless we restore true competition to the energy industry. I think of my friend Congressman Reuss, who has a windmill that provides electricity for his house and feeds back into the Wisconsin power grid what he is not using, taking dollars off his bill. I think of the little hydrogen car which takes the hydrogen out of water, compresses it into a tank, plug it into your Oldsmobile and it will drive you around the block. I helped such a car be demonstrated on Capitol Hill.

There is an even more compelling reason why competition must be restored, and that is this: no energy program will ever succeed without sacrifice and a real change in the way Americans live and travel and work. No matter how many times the President appears on our television screens and asks for sacrifice, until the oil companies show some sacrifice, the American people are going to continue to believe that they are being ripped off, that energy crisis is not real, that it is the creature of big oil that will fatten their profits. The best way, indeed maybe the only way to break through that confidence barrier, is for a little sacrifice on Wall Street and Houston, through vertical and horizontal divestiture of these energy conglomerates. The reality of the matter is that Shell is not about to let its coal subsidiary undercut its oil sales in 1978, nor will it in 1988. The Exxon refineries are not about to sharpen their marketing pencils when they own their own gas stations.

Why does the tide of concentration go only one way? I read every week of more concentration, more mergers, more acquisitions. We almost never read of spin-offs, but only of the mad rush to dinosaurs. It's a one way street. Most executives in this room tonight know of still another merger in the making. Are we really better off because of this? When will the day come when the Wall Street Journal might report in today's issue that the X Company, in the interest of efficiency and stockholder strength, is spinning off a division, turn it loose on its own, and not to be a captive, stifled by a giant global octopus.

Divestiture and a turn in the other direction might be good for us, and it might even be exciting for oil executives. Back in 1911, they broke up Standard Oil, the Rockefeller

trust, into 33 companies, and panic was almost in the air. Two years later, it turned out to be good for everybody. If you owned a share of stock in 1911 worth \$600, two years later, you owned 33 shares in divested companies worth \$900. It was good for consumers, stockholders, and even good for oil executives. Some of them who were third Vice Presidents going nowhere in a giant company, were having a wonderful time running their own little independent companies, competing, innovating, and really experiencing the competition they had preached.

This year I propose one major step back toward old fashioned competition, a step that might bring us some of the new energy we need. Let me put it into focus. In this time of difficulty, the American people get one great break for a change. Most of the remaining energy reserves—off-shore oil, oil shale, geothermal, western coal—are owned by the public, they are on the public lands. I've introduced a bill that might bring some competition to the energy industry by limiting the leasing of those lands to those companies that are non-integrated, independent concerns. We wouldn't be forcing anyone to divest, but we would encourage new companies to enter the field and that's the point. Competition breeds innovation and efficiency. Absent competition, industry gets lazy and sometimes fails to pay sufficient attention to anything more than a profit/loss statement. So, my bill says that by 1980, if you want to lease the federal energy reserves, you better be an independent oil company or an independent coal company. We'll give the little guy a chance. If Exxon wants to get in on the act, let them try a spin-off, let them create a producing division that will be eligible for oil and gas, because it is not vertically integrated or owning assets in uranium and coal.

There are some social responsibilities that are part of doing business in our world, but they are being lost in some industries, notably in the newspaper industry, and perhaps in the book publishing industry.

First, a whack at the newspapers, if I can, and then I'll get back to you. Just a generation ago, nearly every American city had two or more daily newspapers. This was a healthy thing, a valuable source of news and opinion. The hometown publisher and editor was a key figure in making decisions. The local publisher carried a passion for the good of the community absent in the board rooms of the big chains. And now today we have 97.5% of the cities with daily newspapers having no local competition. The trend of acquisition of newspapers by chains has escalated to having chains buying other chains, like the giant fish swallowing the big fish who swallows the little fish. When will the publishing industry stop wringing its hands, defending this trend and telling us it is inevitable? When will they start to ask whether the British are really better off to have an American oil company running one of their dailies? Or whether it's really in anyone's interest to have Rupert Murdoch, honorable and brilliant though he may be, running newspapers in San Antonio and Manhattan and Greenwich Village.

This trend toward bigness and absentee ownership signifies a real loss to American society: in this case, a publisher without roots in the community. If the trend in concentration goes on, so too will the likelihood that we'll lose forever the independent spirit in the community who had the power, and sometimes the disposition to blow the whistle on the politicians and the promoters.

The agitation that followed my press club speech ranged from oratory by the President of Knight-Ridder to a visit to my office by the Chairman of the Board of the Gannett chain, and a complimentary letter from an old adversary, William Loeb of Manchester,

New Hampshire. Many of them said I was trying to relive the good old days, but that the tax codes and higher priced paper and computers all dictated a change to bigness. And they reminded me, correctly, that not all chain papers are bad and that there are independents like Loeb who aren't always good or responsible. Well, let's change the tax code then. We did it to save the family farm, surely the local newspaper is a valuable enough institution to give attention to the ills that beset the industry. My bill calling for an industry-by-industry review by a special blue ribbon Commission may give us the means to assist and not hurt these troubled industries. Let me give a brief explanation of my bill.

The Commission would take three years looking over those industries to see how they are performing, considering such criteria as efficiency, innovation, social impact, price and profit. For those that are performing well, it may make little difference whether there are two competitors or 200, though in case of doubt we should favor the latter. For those not performing well, the Commission's analysis would show what particular factors contribute to the problem and would prescribe a set of remedies tailored to the specific conditions.

These remedies will probably include the tax code, with its unintentional bias toward centralization and conglomerate. Perhaps we will need tougher antitrust laws in some cases, legislated divestiture in others, while in others the conventional suit under present laws would be enough. Exemptions from antitrust law may also need reexamination, to see if they are meeting the intended purpose. In some manufacturing fields, we may need tax incentives or temporary direct subsidies to new entrants, while in other simple changes in federal procurement policies may help open up the market. We ought to consider every kind of action that might help.

And now to book publishing. A statistic came to my attention recently and it fits into my concern about concentration of power in any industry. It is a fact that there were 58 mergers or acquisitions in the printing and publishing field in 1976, a sizable increase over the previous year. Off-setting this trend of concentration somewhat is a growing number of new publishing companies in the industry, but with increasing frequency we see the giants getting bigger and more influential within industry.

Policies and trends in your industry soon may not reflect the spirit of innovation, creativity and courage that has always been a cherished part of publishing in giving the unknown author a chance. What will be the impact of conglomerate ownership such as CBS owning Holt, Rinehart and Winston, and now Fawcett, or RCA's ownership of Random House, or RCA owning G. P. Putnam's, and Gulf and Western owning Simon and Schuster. Or the newspaper corporations such as the New York Times and Dow Jones and Times-Mirror who publish books? Like IT&T with Avlis, maybe there might be some gain. But do we really get better books, more chance for unknown authors, or merely more profits for the conglomerate entrepreneurs?

Many in this room will disagree. Some will agree privately. But my purpose is to begin a dialog, to establish that there may be a problem to force the spokesmen of this industry to examine it and its social implications.

For if any industry has a social responsibility, it is publishers of books. For we face the loss of communication and an acute absence of ideas in almost every other medium, the principal culprit being concentration and lust for the dollar. Yours is a healthy industry. Your receipts were up 7% in 1976 and an anticipated 8% in this year up to \$4.1 billion. But earning reports

are the siren song of concentration. An industry has the capability of monitoring its own trends and warning against what may be attractive to the accountants, but may be bitter to society. Must we always surrender to a profit? The people of this nation sense the corporate growth to bigness, and similar to their healthy disbelief in the protestations of the oil companies that their profits are not large enough, they may soon tire of the trade publishers spoon-feeding best sellers and leaving the fresh and the bold to fend for themselves.

The history of our country and economic system has been the need every 40 or 50 years to rejuvenate and revive and make fundamental change when the system breaks down. Theodore Roosevelt did it when the trusts dominated America, and Franklin Roosevelt came along in the 1930's to set the stage for the great economic expansion of our own time. FDR used to tell the story on himself of the tycoon who arrived at his Wall Street office every morning in the '30s, bought a paper from the boy for a nickel, looked at the front page and cursed and threw it into the trash. After a week, the boy said to the publisher, "Sir, why do you waste your money, pay me a nickel, curse, and throw the paper in the trash?" The tycoon said, "Son, it's none of your business, but to be honest I am looking for an obituary." The boy said, "But sir, the obituaries are not found on the front page, but on the back of the paper." The tycoon responded, "Listen kid, believe me, the obituary I'm looking for will be on the front page."

Maybe the obituary for our economic system or a free independent publishing industry may not be on the front page, if that day ever comes. These great central values may just slip away, merger by merger, acquisition by acquisition, stock split by stock split.

Albert Schweitzer said that the city of truth cannot be built on the swampy ground of skepticism and so it is with people's minds. Don't abandon ideas, don't abandon competition. All we have to lose is everything this country is about.

#### THE CLEAN AIR ACT OF 1970

#### HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. FRENZEL. Mr. Speaker, the Clean Air Act of 1970 was a giant step forward in our efforts to clean up the environment. It was conceived with the best of intentions and passed by this body with the highest of hopes. However, we are back here today, as we were in the last session's futile attempt, to construct a reasonable program based upon what this Nation can do rather than what we would ideally like to have it do.

We can continue to grow and expand as a nation only if we do it with care and concern for the land we live on and the air we breathe. It may be difficult to achieve that measure of balance but I think we can take a step forward in that effort by supporting several amendments to today's bill.

In the 94th Congress, I supported the Dingell-Broyhill amendments on mobile source, or automobile, emission requirements. This session I have cosponsored their measure and believe that its pas-



sage is necessary if we are to meet our national energy goals and continue our progress out of the latest recession. Other Members have expounded at length upon the specifics of NO<sub>x</sub> and CO requirements. I cannot claim to explain it as well as they have, but I do realize that the cost of improving the last 10 percent of our emission levels will be many times greater than the cost of the first 90 percent.

According to the EPA, the fuel penalty will be around 8 percent and other reliable estimates have placed it as high as 20 percent. The cumulative penalty cited by the administration for model years 1978 through 1985 is in excess of 15 billion gallons or 140,000 barrels per day. This is excessive. In addition, I believe that we should not restrict industry options, in performing up to our criteria, to catalytic converters alone. We should allow the additional leadtime required for effective implementation.

One of the most glaring flaws in our 1970 act was the inclusion of a 5-year or 50,000-mile warranty on emissions systems. I agree completely with the Justice Department statements that—

We are not convinced that expanding the warranty—in effect, transforming it into a performance guarantee will lead to an improvement in its cost effectiveness. The potential cost of extending the present production warranty to control emissions subsequent to vehicle purchase will in all probability, far outweigh the potential benefits. . . . The Federally mandated warranty would have severe implications for the long run viability of independent garages and service stations. . . . it would become impossible for the independent service stations to compete with the service departments of dealers that are franchised by the national automobile manufacturers. Concentration in the automobile aftermarket would increase substantially and the advantages of free competition would be lost.

The only comment that could add to the Department's statement would be the unanimous conclusion of the Small Business Committee that—

The performance warranty of the Clean Air Act is anti-consumer, anti-competitive and unnecessary to the maintenance of clean air.

Both the Dingell amendments and the committee bill act to rectify this situation by establishing a 18-month/18,000-mile warranty. However, here I must differ with Representatives DINGELL and BRODYHILL. I believe that the committee bill will more adequately preserve competition, prevent monopoly development, and permit a complete scientific examination of the consequences of our new regulations.

The intent of the Clean Air Act was to establish a set of national standards. However, in the drafting process we seem to have left a number of vital questions unanswered. First among these to be judicially settled was the question of significant deterioration. Congress, in its deliberations, carefully plotted levels of primary and secondary standards necessary to protect the public's health and welfare. We measured variances and deliberated on maximum levels, but we left it to the Federal district court to determine that the nondegradation of air

quality already cleaner than the national ambient standards was mandated.

I for one am not convinced that this body would have passed that language in 1970 and am not certain that it is appropriate for 1977. I will be supporting measures to study this question further and to preserve the rights of our States in these determinations.

Explained in very simplistic terms the "nonattainment" provisions of the 1970 act meant that, under law, if a geographic area could not attain the ambient air standards set for it there would be no major new or expanded sources permitted. This effectively prohibited 88 percent of the areas monitored from considering major growth. This is a part of the logic which lead the committee to make significant amendments in these provisions. However, I do not believe that the committee's tradeoff or offset policy is the best answer. I am not sure that it is legal and I am even less convinced that it is fair. Under the present language, pollution and polluting industries may become a marketable commodity. Therefore, I will be supporting amendments to permit waiver of the offset policy and adjustments to grant further flexibility to the States in meeting photochemical oxidant standards.

We can continue to make great progress in cleaning up our air and in preserving those gains which we have already made. I believe that this bill, with some amendment, can accomplish that goal. I also believe that we owe a vote of thanks to the committee members and organizations which have devoted so many hundreds of hours to its development.

#### THE STORY OF NICOLAE DASCALU

#### HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. BLANCHARD. Mr. Speaker, the Washington Star last Friday carried the tragic account of Nicolae Dascalu, a 32-year-old dissident in Romania.

Inasmuch as the question of extending "most-favored-nation" trade status to Romania is likely to be before us again in the next few months, I want to bring this report to the attention of my colleagues.

It is my hope that at the very least, we will again consider the questions of human rights and emigration in Romania when this legislation is brought up.

The article follows:

ENCOUNTER WITH A DISSIDENT IN DESPAIR—ROMANIAN IS BEATEN AFTER SIGNING PROTEST; U.S. ASYLUM REFUSED

(By William Beecher)

BUCHAREST, ROMANIA.—Nicolae Dascalu had fear in his eyes, but resignation, too.

"I'm not strong enough to take my own life. So I came to the American Embassy to seek political asylum. It was my last chance, but they cannot help me. But I'm not going to become an informer, and I'm not going to take any more beatings. So, if I am not arrested when I leave here, I'll go to my home village of Stejaru near the border with

Yugoslavia. I haven't seen my parents for two years. They don't know about my trouble. I don't know how I'll tell them, but I must.

"Maybe when the police come to arrest me I'll resist and they will have to use their pistols. I cannot. And it will be over."

Nicolae Dascalu, a 32-year-old teacher of English at a high school here, is resigned to the fact that he has no future.

He is a Romanian dissident who is a victim of the government's decision to nip dissidence in the bud before it can blossom into a significant movement.

When asylum was refused on Monday, he asked if an American correspondent was around. I happened to be, so we met and his story can be told to an audience he never expected to reach.

He is a slight, wirey man, about 5-feet-8, with bushy brown hair, a full beard and mustache, and a ruddy complexion. There are deep laugh lines around his eyes, suggesting his personality in happier times.

But this is not a happy time for him. It started in March when he read a story in the International Herald Tribune reporting a letter by Romanian novelist Paul Goma calling for the government to live up to its promises of free expression and other human rights in its own constitution.

"I thought this was wonderful, finally someone was standing up for human rights here. I felt everyone should rush to sign his letter. I did, with two friends.

"Goma heard about this fellow who could write English. He wanted to meet me. I went to his apartment. There were eight there signing the letter. He asked me to stay behind to talk, but when the eighth man signed, the police broke in. I never had a chance to talk with him.

"The police took our identity cards, took down the names, then let all but two men go. I was released," he said.

It should be explained here that at that time the Romanian government was trying to decide how to handle the dissident problem. For a while it was very forbearing, trying to show the world that it was different, less severe than the Soviet Union and Czechoslovakia in responding to the challenge.

But on April 2 Goma and a number of other dissidents were arrested. Perhaps the government wanted to stifle their efforts well before the preliminary conference on the Helsinki agreement to take place in Belgrade in June. Perhaps it had lost its patience when, in the face of the need for national unity to snap back from a devastation of the March earthquake, a handful of men were sowing discontent.

"For me," Dascalu said, "life became hell on April 15. For 10 days running I was brought to security headquarters for from three to eight hours of interrogation every day. On April 18, the questions, the beatings, the threats lasted for 16 hours. They threatened me with death many times. They said they'd cut my body into little pieces and throw them in the river and no one would know what happened to me.

"They would beat me and then ask me to write statements, such as that I only signed the Goma letter because I wanted a passport, that all other human rights were all right. I wrote. Over 10 days I wrote hundreds of pages."

Dascalu sat straight in his chair. He kept wringing his hands as he talked. His was an intelligent, good looking, friendly face, but his eyes looked out of red sockets. I've seen that look in Vietnam, on the faces of men who had seen too much combat. It is a haunting look of humans who have been pushed beyond the brink of endurance, who have experienced unspeakable things, yet who survive.

He spoke good English, with a trace of a British accent. Had he been schooled in England? No, he had done a lot of summer work as a tour guide with British visitors, he said, and listens often to the BBC.

He had hoped to write. "I have the ideas for 15 novels in my head. But they wouldn't be published here. They would be too honest. So I postponed and postponed and postponed, telling myself one day the time would be right."

"In the meantime, I wanted to study medicine, to keep my mind busy, otherwise I would go mad. I was going to take an examination this summer. But I have no more plans now."

The final straw, he said, came last Sunday. He had been left alone for two to three weeks. "They called me in at 10 o'clock in the morning. As soon as I entered they started beating me. They asked about everyone I had seen the previous week and what was said. They kept me until 1 p.m. They said they would beat me until I'm their best informer. I didn't talk. I just wanted to come out."

"I then realized that the only chance I have now is suicide—but I'm not strong enough to do it. Last night I prayed my heart would fail me. That would solve the problem. But I must be too strong. So I came here, to the American embassy, as my last chance. But they cannot help me."

"What bothers me right now is not to get arrested when I leave here so I can see my parents. My father had a small farm. It was collectivized. He had to work on construction for about 10 years but now is pensioned. He is a simple man, but my brothers and my sister and I all got educations."

"I don't know how to break the news to my parents. I was supposed to go to security headquarters at four o'clock today. Instead I came here."

"I'm leaving Bucharest because I have no purpose here. I have no plan. I'll just wait for them to arrest me."

"I think they must be waiting for me outside. I saw the policemen. But maybe not."

He said goodbye and thanked me for listening to his story. "Maybe it will give others courage," was the last thing he said to me as we shook hands.

I don't know whether Nicolae Dascalu made it past the police, made it to his parents' cottage in Stejaru. As he left the embassy I was called to the phone. An appointment with an official to talk about economic recovery had been arranged. I hope he made it home.

## RANGER BATTALIONS

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. GINN. Mr. Speaker, the men who make up the elite fighting force of the United States are the men of the Ranger Battalions of the U.S. Army. These personnel are the most proficient and professional soldiers I have ever had the honor of meeting, and it is an object of great pride to me that the Army's 1st Battalion of Rangers is stationed at Fort Stewart, Ga., in my congressional district.

The work of the Rangers is one of those tasks that go largely unnoticed by the general public. And yet it is on men such as these that the freedom and safety of all of our people depend. We owe the Rangers and the other men and women of our Armed Forces a prayer of thanks

each day for making the sacrifices and enduring the hardships of military training so that our Nation is free from foreign military intrigue.

The story of the modern Rangers is a great one, and it is a story that was recently recounted in the May issue of Army magazine. Without objection, I include this article in the Record at this point:

### THE BLACK BERETS

(By Lt. Col. Tom Hamrick, U.S. Army, Retired)

One thousand-plus supermen—there just are no other words to describe them—are standing in the wings ready for instant blast-off if Washington ever demands a distant show of force or finds itself with an Entebbe of its own thousands of miles away.

They are the "Black Berets," the Army's tough and effective Ranger units.

Two battalions strong, one stationed on the east coast, the other on the west, these airborne Rangers are intended as a versatile fighting force constantly on push-button alert.

By day and night, their training program and reason for being reads like an 007 script. The two battalions constitute a battle team which is prepared to drop behind unfriendly lines tonight, march 100 miles into combat carrying everything from bullets to dehydrated beans on its back, and conduct a successful strike.

Moreover, either battalion is ready to then infiltrate its way back to a pickup zone or delay an enemy long enough—as much as five days—until resupply and reinforcement come along.

The name of the game for the 1st and 2nd Battalions of Airborne Rangers is the accomplishment of "Mission Impossible" through a combination of paradrop, foot-mobility, stealth, surprise, combat savvy, audacity and pure guts.

A ready-for-anything kind of military organization, the Rangers are trail-blazers in an army which often requires months to move from camp to combat. If need be, the Rangers are prepared to strike now and return home, errand fulfilled, before the story hits the headlines. What they might be called upon to do, to free hostages or even capture an aggressive dictator in his own capital, could conceivably prevent an incident from becoming a war.

The two battalions are designed to give the United States a Sunday punch which would preclude a cliff-hanging scurry to improvise a slapped-together task force which still might take days in the making.

The battalions are the muscle-plated responses to a drawing board dream of the late Gen. Creighton Abrams when he was Army chief of staff in 1973. His format, which became reality the following January, demanded "an elite, light and most proficient infantry battalion in the world, a battalion that can do things with its hands and weapons better than anyone."

Today, ready to go, with its all-man-trans-portable equipment pre-palletized at nearby airlift points, the 590-man 1st Battalion is located at Fort Stewart, Ga. Across the nation, at Fort Lewis, Wash., a counterpart unit has been honed to move out on a battalion-sized blitz in the other half of the world.

The geographic battle zone should not be a problem. The Rangers think they are prepared for anything. Rugged, realistic practice in arms routinely carries them on arduous training stints ranging from the steaming jungle to the icy Arctic, or splashing ashore amphibiously. Two weeks a month in the field has become routine; no-notice alerts are the expected.

Once airborne, they know they may be dropped on an unannounced mission hun-

dreds of miles away. They never know where morning coffee will be held when they participate in an alert.

"If we had an Entebbe of our own and the Army didn't call on us, we'd be pretty damned mad," is the way 1st Battalion commander Lt. Col. Edward Yaugo puts it. "We are the cream of the Army. The Entebbe thing is just what we're trained to do."

Every Black Beret would tell you that the Rangers could carry out a shock treatment just as effectively as the Israelis did in Uganda, and some of them would swear they could do it better—morale is that tall.

So is pride in preparedness. Col. Yaugo has had to post an order insisting that no off-duty training be undertaken voluntarily without his permission.

"Some of these guys are workaholics," he claims. "They're forever wanting to get in what they call 'a little extra training.'"

You volunteer to join and if you want out, you just ask. But grown men, being forced out for minor disciplinary infractions or because they did not measure up, have been known to beg for a second chance. A unit personnel officer had to check his records to determine when the last AWOL cropped up; it was six months ago.

"Some of our people consider themselves so important they won't take leave," Col. Yaugo said. At 38, Col. Yaugo claims he feels like a "granddaddy" by comparison. "You ever see a soldier before who had virtually to be forced to take leave? Happens here," he said.

Whatever the holiday, 85 percent of the battalions' strength is on tap. If Washington blew the whistle a minute from now, advance elements would be expected to be airborne in a couple of hours; the rest of the unit would be following by nightfall. If the unit can't carry it, it doesn't own it. On-post mechanization is limited to two jeeps a battalion.

"This is a great place to build up your ankles," said one young Ranger.

Foot-mobility is indeed the standing order of the day. Dawn sees every trooper undertaking physical training, followed by a three-to-five-mile road march to further warm up for an exhausting day. It is SOP for a Ranger to be able to hoist upward of 100 pounds of personal and unit gear on his spine and march 12 miles in three hours. A 20-mile spurt in eight hours is normal.

Entebbe-type practice runs were a battalion routine long before the Israeli rescue raid made headlines last 3 July.

"If we were given orders to rescue the governor of Pennsylvania who was being held somewhere in the world, all we'd need is a picture of him, know who was holding him and how his captors were armed," a unit officer said. "We'd be ready to take it from there."

During last year's training stint, as a typical example, Rangers conducted a series of full-scale exercises to "rescue" political hostages. They stormed a desert hideaway in Texas to free an American consul and liberated an American ambassador held behind barbed wire. A month before the real Entebbe raid, the 1st Battalion swooped down on a make-believe oil refinery to rescue 30 American workers being held hostage.

Realism is built-in. In the latter instance, a mock-up refinery was constructed, hostages were imprisoned and antiaircraft missiles were installed around the site. Before the subsequent surprise strike, Rangers studied aerial photographs of the sector and devised a two-step strategy. (They prefer to strike by night.)

Nine 11-man squads parachuted from Chinook helicopters under cover of darkness and moved into positions around the refinery. When they seized the antiaircraft weapons, 500 more Rangers pivoted down from C-130s to land inside the refinery area.



"It went like it was written by Columbia Pictures," boasted a Ranger sergeant.

You won't get an argument from at least one general officer. Although his division had been alerted to expect a Ranger assault during a war game in Germany, the general still had his command post infiltrated and knocked over. He became POW Number 1.

"We think we really shake up people when they're trying to guard against us," Col. Yaugo said. "And when we're successful, and we expect to be successful, the guys get a huge charge out of it."

His battalion is thick with such men: combat veterans personally familiar with the power of surprise after two or more battle tours in wartime Indochina.

Even minus their Pentagon-authorized black berets, members of two battalions stand out. Every Ranger has a skin-tight haircut and his camouflage jungle fatigues are tailored and starched, not by Army order but rather by individual preference.

A Ranger salute is brittle, as militarily immaculate as a how-to demonstration in an Army training film. You can almost hear the elbow snap. And every salute is accompanied by the claim, "Rangers lead the way, sir." Respect runs so high that it isn't unusual to see privates saluting sergeants. It isn't required; they just do it. "All the way" is the reply.

The same degree of high esprit pervades Ranger families, too. Wife Carol Norton is "just one of the women around here who is terribly proud to be married to a soldier in the finest unit in the whole Army." With the Rangers away so much, wives link together in their absence for coffee, spaghetti suppers and shopping tours. "We try to be like a big family, supporting those guys any way we can," reports Mrs. Norton.

Unit officers keep wives briefed to maximum. As far as Rangers are concerned, by unofficial edict the wives are members of the organization, too. They know that women married to that kind of man can have rough edges: when two troopers became entangled in a demonstration parachute before the horrified eyes of 1st Battalion wives last year, and then plummeted to their deaths before a stunned audience, troop leaders anticipated a mass submission, prompted by wives, of transfer requests. Not one was turned in.

Individual dedication among Rangers almost shouts. "This is no place at all for a coward or a goldbrick," said one private. "If you don't act like a Ranger, the people around here will turn your life into a living hell. When we tell somebody we're Rangers, we want it to mean something."

Unit sick books tell a story of their own. Ranger sick call reportedly runs about ten percent of the Army norm. The Fort Stewart hospital commander, Col. Arthur Buswell, grumbles that his staff hates to perform an appendectomy on a Ranger. "We have to go through all that muscle."

How good, really, are the Rangers? Officers and NCOs point to past records for proof. The Rangers have scored toweringly in every competitive field exercise on home or alien turf, matching their brags with hard statistics. Letters from pleased visiting generals and such ranking personages as cabinet members ring with praise.

A war-experienced newsman reported to Forces Command commander Gen. Frederick J. Kroesen that after several days with the Rangers, "If a Ranger bet me five dollars he could walk on water, I wouldn't take the bet."

The reporter asked Gen. Kroesen his evaluation of the Rangers, compared to the rest of the Army.

The general hedged, diplomatically. He couldn't answer the question, comparing one unit to others with an entire Army looking

on, but he conceded that "I'm sure your observations are as good as mine."

Training is merciless and demanding. Every Ranger is cross-skilled to do his job and somebody else's. Every Ranger knows first aid and he is expected to be as familiar with some foreign arms as he is with his own.

"We would expect to use anybody else's weapons we could capture," Col. Yaugo notes. Use of demolitions is another aspect of training.

Endless hours are spent in fire proficiency. A Ranger receives perhaps five to six times as much practice with an M16 as the average infantryman, unit officers say. Hand-to-hand combat is also ever on the training ticket. A Ranger is expected to know how to kill quietly, if it comes to that, and to believe that his bayonet can be as good a buddy in a showdown as his rifle.

In a strike, Rangers are trained to exercise ingenuity and survive by their wits. In a real Entebbe situation, one or both of the battalions might expect to be out of contact with the outside world until the mission was completed. Their short-range communications equipment is designed primarily for intra-unit usage. A signal might get out—or it might not.

The Rangers have stuck rigidly to Gen. Abrams' own-what-you-can-carry directive. A company's man-movable fire support is limited to nine M60 machine guns, two 60-mm mortars and three 90-mm antitank weapons. In the field, a Ranger would regard even a pup tent as a luxury; whatever the weather, his shelter by night is his poncho. Battalion headquarters in the rough is a pair of ponchos strung together.

Because Rangers cannot anticipate where they might be sent to serve, their training program reads like a travel folder. They parachute by night at least once a month and their "battlefield" may be the rattlesnake-infested swamps and pine woods of coastal Georgia, the fetid back jungles of Panama or a target zone atop an Alaskan mountain at the end of a rope climb. Their next training mission could carry them to a surprise training assault at an Army post hundreds of miles away, to a barren strip of Southwestern desert or a landing by sea somewhere on Chesapeake Bay.

A Ranger on a five-day field exercise is burdened down with everything he thinks he may use, including dehydrated rations he stuffs into every crevice in his pack of clothing. If he cannot build a fire to heat water to make his dry supper more palatable, he is expected to grin and use whatever liquid at whatever temperature his pair of canteens holds.

They may be tigers in the outback, but on and off post a Ranger must be every inch a gentleman in khaki. When Gen. Abrams created his Rangers, he insisted that "hoodlums and brigands" would not be tolerated, and they are not. Discipline is as tough as the training.

A fight in a tavern in the town can lead to quick expulsion. ("We know that most of our men could easily beat another man," said Col. Yaugo.) Two tickets for driving under the influence of alcohol also mean the gate. If a Ranger is caught using drugs, "there isn't any acceptable excuse," reports headquarters commandant Capt. Frank Norton. He's got to go. We have to be able to depend on a man 24 hours a day because we face the constant possibility we may be called out a minute from now. And the way we're trained, his buddies must be able to count on him, too.

By Pentagon decree, the Ranger mission calls for the battalions "to conduct special military operations in support of the policy and objectives of the United States of America." The fine print is more definite, almost as if it had been ripped from the pages of an imaginative adventure novel.

Preparedness orders to the Rangers detail them to be ready for "raids or special operations against deep enemy targets, that is, nuclear storage sites, missile sites, key enemy personnel or resources." The same Pentagon planning alerts them to be geared to "rescue U.S. POWs or political hostages" and to "safeguard U.S. citizens, property or investments." Other directives have them standing by to tie into heavier forces in an operation or to conduct show-of-force assignments.

Overall, insists the same edict, the Ranger battalions "must also be able to perform all traditional light infantry missions, to include movement to contact, the daylight contact, the night attack, delays and withdrawals, the defense and other missions."

Not a line of this directive is an in-house secret. Word for word, it is published in a pamphlet for visitors. Ranger chiefs hope that trotting it all out into the open will preclude any public misconception that the Army has an unsavory secret weapon which might be too embarrassing to talk about. "In no way do we want the public or other soldiers to think of us as a hot blood-and-guts outfit," said Col. Yaugo.

The battalions do nothing to stir up public interest or news coverage. On paper, the 1st Battalion has a public information officer, but he generates no publicity. Even photo coverage is bone-bare, almost nonexistent. What few photos one reporter visiting Fort Stewart found available "were generally limited to some atrocious color stuff made by members of the unit themselves." If the Pentagon decided tomorrow to start churning the publicity crank, it might find past photo records of these unique elements woefully inadequate.

There is no plan in mind to alter this course of inaction. "We're just not interested in creating sensationalism," said Col. Yaugo. "We're afraid we just might project the wrong kind of image to the public."

Rangers appear too proud of themselves not to lay it on the line. One reporter came away unexpectedly surprised, and pleased, that "they give you answers, honestly and without any attempt at evasion. You don't feel that they're trying to keep secrets from the taxpayer." Consequently, what minimum coverage the Rangers have received has invariably been good.

Yet, the Rangers admit that they have a clinging, ill-conceived tough-guy image to overcome, even from some Army generals they feel ought to know better. Twice, on foreign assignment, the 1st Battalion has found local commanders suggesting installation of a special guard perimeter around a Ranger encampment for skimpily defined "protective" measures.

"We tell 'em right quick we're not there to rip anything down," Col. Yaugo said. "When we leave, we expect to leave behind a favorable reputation, and we do."

There is a waiting line of volunteers and Ranger selectees are handpicked. Officer or EM, every incoming Ranger undergoes a 30-day trial period. Men who do not measure up to the Ranger standard are ousted in a hurry, a power delegated to the battalion commander.

The battalion loses a dozen or so volunteers a month because of the demanding criteria. Some fall by the wayside because, as Sgt. Maj. Henry Caro said, "they can't take the Spartan life we lead." Still, reenlistment runs to 60 percent or better.

The senior citizen of the 1st Battalion, CWO José Ibarra, at 48, is one such constant face in the lineup. Leaving the outfit would be akin to the world's ending for him. He gets a raft of ribbing from fellow officers who are non-Rangers.

"They tell me I'm nuts to keep going through all this rugged stuff," said Mr. Ibarra. But in his mind, "They're just

jealous." He's been jumping out of planes since 1949. "It's the only way to travel," he asserted.

Individual and unit esprit hits you in the eye. Even six men on litter-pickup detail went about their assignment with grins and snatches.

"Nobody around here sloughs off," said Sp. 4 Bernard Larsen. "It's easy to be gung ho, even picking up gum wrappers."

S. Sgt. William H. Abebes, who joined the 1st Battalion at its founding in early 1974, agrees that "you just don't see people like this in the rest of the Army. Working with men of this caliber, guys who have drive, pride and ambition, makes Ranger service a pleasure."

Do they moan about training? Sure they do. "Everybody complains, but at nights and their days off you see these same jokers running out in the field or working out in the gym or doing some of the same stuff they did all day long," remarked an amazed Pvt. Mark Polunci three days after he joined the Rangers.

"You couldn't run 'em out of the Rangers with a cannon," Pvt. Polunci believes. If there's ever an American Entebbe, the Pentagon is going to have some mad hornets on its hands if the Rangers don't get the job. Count on it.

#### LOUISE DARLING HONORED BY VETERANS OF FOREIGN WARS

#### HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. MOAKLEY. Mr. Speaker, I rise today in order to share with my distinguished colleagues of the Congress an article which appeared in the May 3, 1977, edition of one of the Nation's great dailies, the Boston Herald-American. The notable career of Cambridge Police Officer Louise Darling is highlighted in the newspaper's report. For 27 years, Mrs. Darling has performed her official duties with competence and diligence. Because of this eventful history of community service, she was recently honored by the Veterans of Foreign Wars which named her Massachusetts Police Officer of the Year. Through professional dedication and outstanding work, she has achieved the esteemed recognition which she so richly deserves. Her spirit of self-sacrifice, quiet reliability, and steadfast resourcefulness serves as a beacon to us all. Louise is truly one of Massachusetts' finest. I join the VFW in congratulating her for a remarkable record of many successful efforts. It is both an honor and a pleasure to bring the accomplishments of this peerless public servant to the attention of the House of Representatives and the American public:

WOMAN OFFICER WINS VFW HOOVER AWARD  
(By Dan McLaughlin)

The top police officer in Massachusetts this year, as chosen by the Veterans of Foreign Wars, is Cambridge Officer Louise Darling, 57, a veteran of 27 years on the department.

She will be presented the VFW's J. Edgar Hoover Gold Medal Award during the organization's state convention in Springfield June 17.

Officer Darling was sponsored by the Russell E. Hoyt V.F.W. Post 299 of Cambridge. She will compete later with officers from the

other 49 states for the national officer of the year award.

Darling has worked in every facet of police work during her career, and was one of three Cambridge officers in the original arrest of the so-called Boston Strangler, Albert DeSalvo. The other two were Sgts. Duncan McNeill and John Gallagher.

Darling recalled DeSalvo was arrested at the corner of Concord and Huron Aves, after Det. Paul Leonard supplied a picture of him. He had been wanted in several surrounding communities for questioning about sex offenses.

The only comment she had about the suspect was, "I always thought that he was the strangler."

During World War II, Darling served in the WACS from 1943 to 1945 with part of her duty in New Guinea and Manila. Her four brothers also were in the service during the war.

Selection for the annual Gold Medal Award is based on four requirements. They are: A contribution to the preservation of and perpetuation of the ideals of law and justice upon which our government is based; Recognition by her colleagues of her service, whether that service be one of quiet dedication of one achieving wide publicity to the best and highest interests of the nation, her community and law and order.

The third is unswerving loyalty to, and active performance in the defense and security of the nation, against its foes, and the last, dedication to her official responsibility over a period of years and continues growth in her responsibility and experience.

Darling lives in Cambridge with her husband, Ralph J., supervisor of fire alarm for the City of Cambridge, her daughter, Lesley, 22, who is studying for her master's degree in public administration at Suffolk University, and her son, Toby, 19, a freshman at Stonehill College in Easton.

#### ZERO-BASE BUDGETING

#### HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. BAUCUS. Mr. Speaker, because of the current interest in zero-base budgeting, I am submitting for the RECORD an article describing our recent Appropriations Committee experiment with ZBB and a letter to President Carter explaining some of the results of that experiment.

One interesting observation is that, while ZBB can be a valuable tool for holding down the Federal budget, the President may be implementing ZBB in every Federal agency too fast to give the technique a fair trial.

The article and letter follow:

[From the Wall Street Journal, May 24, 1977]

#### APPLYING ZERO-BASE BUDGETING

(By Arien J. Large)

WASHINGTON.—Less than a month after seating himself in the Oval Office Jimmy Carter told the bureaucracy to use a zero-base system in preparing the budget he'll submit to Congress next January. "By working together under a zero-base budgeting system," said the President, "we can reduce costs and make the federal government more efficient and effective."

Even as he wrote that, however, an actual test of zero-base budgeting was in progress

for three tiny parts of the government. The guinea pig agencies were busily converting their portions of President Ford's farewell budget into "decision packages" and other trappings of zero-base budgeting. This new-fangled paperwork was submitted to a subcommittee of the House Appropriations Committee which, after Mr. Carter won the Democratic nomination last summer, decided it ought to get some early practice.

The experiment comes to an end today when the full House Appropriations Committee meets to vote on the agencies' money for the 1978 fiscal year starting next Oct. 1. It will be the first appropriations bill ever written that is derived, in part, from a zero-base budget request. Rep. Edward Boland (D., Mass.), chairman of the appropriations subcommittee that ran the experiment, tells how this bill differs from those of earlier years: "Very little. Very little."

Yet like everyone else involved, Mr. Boland says "It's been a useful exercise." At least a part of Congress has had some exposure to the government-wide budget concepts it will be facing next January. Officials of the agencies involved have had some experience in imposing the mental discipline of zero-base budgeting on their comfortable we've-always-done-it-that-way plans for spending tax money. Above all, the participants have learned something about the limitations of Mr. Carter's magic budget wand, limitations that appear to give self-protective bureaucrats plenty of room to hide from zero-base economizers.

#### NO SPECTACULAR RESULTS

"There will be no spectacular results," says Rep. Max Baucus (D., Mont.), a two-term member of the subcommittee who suggested the experiment to chairman Boland. "ZBB is going to chip away at little bits here and there. It will force the agencies to think twice about what their purpose is."

Indeed, Mr. Baucus and others think the new process will be more useful to Executive Branch managers who formulate the budget than to the Congressmen who later scrutinize it. "It would be an impossible task for Congress itself to get into the maze of paperwork that ZBB generates," says Rep. Boland.

In a bureaucratic cycle as regular as the seasons the annual federal budget originates deep in the bowels of each agency. Traditionally, existing programs are regarded as eternal and agency budget officers think only about the increments by which funds should be increased. In the fall, Cabinet members and agency heads send their proposed budgets to the White House Office of Management and Budget. These draft budgets are widely assumed to be padded in anticipation of OMB cuts. Late in the year the President himself settles major disputes between the agencies and OMB, and each January the final product is sent to Capitol Hill.

Earlier this month OMB Director Bert Lance told the agencies how this basic cycle will be modified by zero-base budgeting for fiscal 1979. Each of an agency's identifiable activities will become a "decision package," with goals specifically described. Agency managers are to rank each decision package in relative importance. Each decision package is to carry at least two future budget projections, a roughly current level of spending and a lower "minimum" level. It's presumed that any cut below the minimum level would make the activity not worth doing at all. "When appropriate," a decision package may get a proposed budget increase.

#### THE FINAL WORD

Decision packages are to be lumped together, or culled out, as the budget proposals climb the agency's management hierarchy. As now, OMB and the President will have the final word on what ultimately goes to Congress.



When a presidential budget hits Congress it's split up into 13 appropriations bills, each handled by a specialized subcommittee in the House and Senate. Chairman Boland's subcommittee handles money for housing and for a collection of agencies that don't have an appropriations home elsewhere. He and Mr. Baucus picked two of these for the zero-base experiment with the Ford budget: the Consumer Product Safety Commission, a young agency that's already acquired a reputation for wheel-spinning inertia; and the National Aeronautics and Space Administration, known as a crisp performer of its expensive feats in the solar system.

Sen. William Proxmire (D., Wis.), chairman of the counterpart Senate subcommittee, also decided to try out the new procedure. He asked the Environmental Protection Agency to submit decision packages for its research and development projects related to energy.

The guinea pig agencies promised to cooperate in the experiment. NASA officials boned up on the writings of Peter Pyhrr, a pioneer of zero-base budgeting in private business. The Consumer Product Safety Commission sent a team to Georgia, where former Gov. Carter had applied the technique to state budgeting. Fiscal experts at the Congressional Budget Office coached the agencies on the new paperwork required, with forms based on those used in Georgia.

Rep. Boland's subcommittee opened hearing on the Consumer Product Safety Commission's zero-base budget submissions on March 16. "We really do appreciate this opportunity to be part of this experiment," commission Chairman John Byington told the Congressmen. But a little later, he was saying that zero-base budgeting didn't quite fit with the way the commission operates.

Rep. Baucus asked why the commission had failed to rank its 21 decision packages against each other in importance, as requested. "Trying to rank our programs against each other would be like in Georgia ranking the highway department against the health department," said Mr. Byington. "I personally think that ZBB is an excellent management tool, but I think in its classical sense it may be a little unwieldy as a total budget document. I think that it can be adapted."

Four of the commission's decision packages involved purely administrative functions of helping the five commissioners decide things and pay the bills. Or, in the eye-glazing lingo of bureaucrats everywhere, the job of the decision package labeled "commission direction" is: "to translate concrete staff operating plans for a finite number of product/project-specific priority product areas, as well as a limited number of new areas emerging during the year which cannot now be forecast, and a given number of resource commitments, into actions designed to maximize the present value of reduced injuries consistent with other general commission policies, objectives and priorities."

The commission, which has authorized slots for 890 employees, said it will need 194 slots earmarked for administrative people. That's just about the "minimum" level the commission insisted; any cut would "lessen both the quantity and quality" of help to the commissioners. But it gave the subcommittee little supporting evidence of that, and the members agreed to cut the administrative slots to 164. It's not clear how much zero-base thinking was involved in that decision; the subcommittee last year, before the arrival of the new technique, had warned the commission about administrative fat.

Later in March, the subcommittee held a hearing on NASA's budget request. The ex-

periment applied only to the operations of the Johnson Space Center in Texas, the Marshall Space Flight Center in Alabama and the Kennedy Space Center in Florida. Once again, the officials said they were pleased to be part of the experiment, and once again they explained why zero-base budgeting didn't quite apply to everything they do. Lee Scherer, director of the Kennedy Center, testified it's his job to launch anything sent him from the rest of the agency, "so there aren't many decision-package levels that I can see."

#### LEGISLATIVE TRADE-OFF

The subcommittee settled some key NASA budget decisions without using a zero-base rationale at all. One was the fate of the space telescope the agency wants to put in orbit. Members finally decided to grant the money for this telescope, but only after denying funds for a new spacecraft trip to Jupiter. That's the kind of legislative trade-off made all the time in Congress. "We could arrive at that decision without the budget being zero-based," acknowledges Rep. Boland.

The subcommittee's bill probably contains all the zero-base thinking it will receive in the House. The technique may be mentioned but not actually used at this afternoon's meeting of the full 55-member Appropriations Committee, which traditionally ratifies most of its subcommittees' decisions before sending bills to the House floor.

So the experiment has shown to the satisfaction of Reps. Boland and Baucus that zero-base budgeting's greatest potential impact will occur in the bureaucracy "downtown" before the budget ever reaches Capitol Hill. There, the limited exercise in producing actual decision packages points up a potential danger that any initial impact of zero-base budgeting may just fade away in bureaucratic time unless the Carterites are watchful.

Mayors skilled at getting money out of the government practice an art called "grantsmanship." Federal employees seeking to have their skins may quickly learn an analogous skill—decision package management?—in describing their programs to higher-ups in terms suggesting doomsday if the knife falls. Mr. Carter can only hope the bureaucracy doesn't learn very fast.

HOUSE OF REPRESENTATIVES,  
Washington, May 24, 1977.

HON. JIMMY CARTER,  
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: It is gratifying to see that you are following through strongly on your campaign pledge to implement zero-base budgeting in the federal government. I have been a strong advocate of ZBB here in the House of Representatives.

Following my recommendations, the HUD and Independent Agencies Subcommittee of the House Appropriations Committee recently engaged in an extensive experiment with zero-base budgeting. I have enclosed a copy of the report for the FY 1978 HUD-Independent Agencies Appropriations bill, which explains the experiment in detail, but would like to outline for you the Committee's major conclusions from that study.

Our primary conclusion from the experiment was that time is the crucial factor in the preparation of useful ZBB budget materials. In brief, we wanted succinct, useful information in decision package form with very little added paperwork. What we received was marginally improved analysis and reams of useless paper. We think that this is because the agencies were pushed to do too much too soon. If every federal agency is forced to do a complete ZBB presentation for the entire agency in the space of only a few months, no real analysis will go into the budget submissions. We feel that it is unrealistic to expect line managers, budget

analysts, and planners to be able to do any real analysis in a ZBB context in such a short period of time. And, lacking the hard, substantive work that must go into these preparations, I fear that the paperwork will be voluminous and the "meat" sparse. It is also unrealistic to expect that OMB, which is already greatly overextended, can review the submissions in any depth for either content or failures in ZBB analysis.

While I realize that the OMB instructions of May 2 mandate across-the-board ZBB presentations for the entire federal government in FY 1979, I think that the massive size of the initial job and the speed with which it is being carried out will greatly compromise the tremendous promise that ZBB has to offer. Thus, I would urge that only selected agencies be required to implement ZBB across the board this year and that all other agencies be required to analyze only selected portions of their budget for FY 1979. This would allow OMB the time and manpower to fully analyze the submissions of the few agencies and closely monitor their implementation progress. It would also allow the other agencies to learn from the many mistakes that the lead agencies will assuredly make in the next few months.

While the problem of "too much too soon" was the primary focus of our Subcommittee's report, there were several other recommendations I think you will find interesting. First, the Committee feels that the upper level ranking of decision packages should be by both organizational units and by programs. In our hearings on the Consumer Product Safety Commission, it became clear that the Commission needed to establish priorities among organizational units, among programs which cut across organizational units, and among the products which it was charged to regulate. The usefulness of each type of ranking cannot be pre-set by overall regulations. Each agency must carefully work out which type of ranking will prove most useful and do that ranking in a flexible format.

Next, the Committee feels strongly that it will be reasonable for the Executive Branch to transmit traditional, incremental budget books to Congress while working on the ZBB process only if two other requirements are met. There should be no fall-off in quality of the incremental books due to the diversion of budget analysts into ZBB work. And, Congress should have access to all ZBB materials within each agency, particularly those at the higher aggregation levels. Finally, we have asked the General Accounting Office to analyze the broader implications of Congressional involvement in the ZBB process. While the GAO report has not been finalized, I think that the major GAO conclusions will be an important supplement to the Subcommittee report. While GAO has several recommendations, I would like to emphasize only their two most important ones at this time. First, GAO feels strongly that priority rankings must be available to Congress in both the form and the detail that allows Congressional ranking of the decision packages. There should be a clear array of agency rankings at the top managerial level, revised agency rankings at the secretarial level, and the final revised OMB rankings. This will allow Congress to base its funding decisions partially on Executive Branch analysis rather than on unsubstantiated Executive Branch conclusions that could lead to blind "tinkering" with the budget.

Also, Congress must see the agencies' program goals and objectives in order to know whether Congressional intent is being interpreted correctly by each agency. We must see not only alternative means to attain each objective, but alternative objectives to

gain the major goals of each agency. As an example, the OMB guidelines of May 2 state a goal in the mental health field which seems thoroughly reasonable, but the major objective under that goal is more the summation of the means chosen to arrive at that goal than any policy decision resulting from consideration of alternative major objectives to accomplish the goal. I shall make the GAO report immediately available to you when it is completed.

I hope that these thoughts and recommendations will be useful to you as you continue to monitor OMB's progress in initiating ZBB in the federal government. I think that it might be useful for me to meet with OMB on ways to make the implementation of ZBB a success and would be pleased to do so if you or they desire it.

With best personal regards, I am

Sincerely,

MAX BAUCUS.

## BOSS TWEED WOULD HAVE LIKED UNIVERSAL VOTER REGISTRATION

**HON. WILLIAM L. ARMSTRONG**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. ARMSTRONG. Mr. Speaker, somewhere, Boss Tweed is smiling.

William Marcy Tweed departed this life on April 12, 1878, under rather unpleasant circumstances. He died in jail, following his conviction on more than 200 counts of fraud, extortion, and bribery.

From 1866 to 1871, the Tweed Ring had a stranglehold on New York City government, and nearly as firm a grip on the State government in Albany.

Tweed owed his wealth and power to the reliable regularity with which New York City voters elected Tweed-backed candidates to local, State, and Federal offices.

Tweed's success was due primarily to the bold and imaginative ways in which he extended the franchise. Tweed voted people who were late getting to the polls, or who were out of town. He voted people who were underage, people who were dead, people who had never been born. Voter turnout in Tweed's precincts was always high, often exceeding 100 percent.

Tweed's bones lie moldering in the Greenwood Cemetery in Brooklyn, but his spirit lives on in President Carter's proposal for universal voter registration.

Universal voter registration—UVR—is the rather optimistic name the President has given to his plan to permit persons old enough to vote to register at the polls on election day and then immediately cast ballots for Federal candidates. It includes grants to entice States to adopt similar provisions for their own elections, and sets new penalties for vote fraud.

Supporters of UVR describe it as the best possible means of arresting the steady decline in voter turnout, which slumped to 53.4 percent in 1976. There is some evidence to support this view.

Minnesota and Wisconsin adopted universal voter registration in 1976. Voter turnout in these two States was up 4

percentage points from 1972, as opposed to a 2- to 8-point decline in other Northern States. Political analyst Kevin Phillips estimates that if it were applied nationally, UVR could swell turnout in 1980 by 6 to 10 percentage points.

On the other hand, turnout was also up in most Southern States, and they did not have UVR.

Despite the lack of evidence to support their view, supporters of UVR are hailing it as the next great leap forward in voting rights, of a kind with woman suffrage and abolition of the poll tax.

Attorney General Griffin Bell has described the proposal as "the logical next step in the historic trend toward greater democracy in America."

Bell's enthusiasm is not shared by Craig Donsanto, the nonpolitical chief of the election unit of the Justice Department's Criminal Division.

"I oppose the concept embodied in H.R. 5400—the universal voter registration bill—as a dangerous relaxation of what precious few safeguards presently exist against abuse of the franchise," Donsanto wrote in a memorandum to his superiors.

"The experience of the Criminal Division in enforcing the Federal election laws indicates there is a tremendous potential for fraud in H.R. 5400," Donsanto said.

Lest it be thought Donsanto is merely an overzealous cop standing in the way of progress, it should be noted that about two-thirds of all election officials share his concern about the potential for vote fraud in UVR.

That concern is especially strong in Chicago, the city where Boss Tweed's maxim of "vote early and often" has been most faithfully observed.

John Hanly, a Democrat who is chairman of the board of election commissioners in Chicago told the Senate Rules Committee:

Election day registration will set the cause of honest elections back many years. It will erode the integrity of our election . . . it will congest and disrupt our polling places and certainly turn off, if not away, the voter who is civic-minded enough to get registered in the normal way.

Franklin J. Lunding, chairman of the Illinois State Board of Elections, said UVR "would severely damage the integrity of the electoral process and would pose almost insurmountable administrative problems."

Steven Klein, director of the Americans for Democratic Action affiliate in Illinois, said UVR would mean "the enfranchisement of every tombstone, firehouse, and lamppost in the city of Chicago."

Robert F. Burns, Rhode Island's secretary of state, described UVR as "an election day gimmick designed to accommodate the few at the peril of many."

"This bill not only invites fraud, it makes it easy," Burns said.

Harold Tyrell, chairman of the Cook County, Chicago, Republican Committee, is even more succinct: "since this is a license to steal," he said, "you ought to charge a fee."

Donsanto explained in his Justice De-

partment memo why the safeguards the Carter plan would wipe out are so vital:

First, the fact that a prospective voter is required to appear in person and to provide pertinent information about his qualification to vote at least 30 days before an election provides local election officials with ample time to check the veracity of his claim to the franchise to assure that previous registrations he may have had are voided before the election takes place. This in turn assures that a registrant is indeed qualified to vote in the place where he is seeking the franchise, and that he is permitted to vote only in that one place.

Second, by providing for a "control" sample of a registrant's signature, registration laws enable many states to protect themselves from vote fraud by additionally requiring a voter to sign a roster at the polling station itself.

Abolition of pre-election registration will, for all intents and purposes, prevent the states from protecting themselves against individuals who may seek to vote at several locations where they are known, as well as prevent them from assuring that a voter is indeed qualified to vote before he casts his ballot.

Donsanto dismissed the antifraud provisions of the Carter plan as "inadequate."

In the first place, Donsanto said, there are already on the books a large number of laws containing severe penalties for vote fraud. If they have not been able to discourage fraud, he said, an additional penalty is likely to be "of little foreseeable help."

The effect of the antifraud provisions in UVR are watered down even further because enforcement would be turned over to the overworked, understaffed Federal Elections Commission rather than to the Department of Justice, Donsanto said.

But most important is the fact that the President's plan could not prevent vote fraud; at best it could detect it after it had occurred. Once a fraudulent ballot has been cast, it looks like any other, and there is no way to get it back. The damage has been done.

Concern about vote fraud clearly is not idle. Donsanto, speaking from his years of experience in the Justice Department, says flatly: "Election fraud is widespread in both State and Federal elections."

Examples of vote fraud abound. Just in this last month, the House had to vote on five congressional races in which allegations of voting irregularities had delayed certification of who won and who lost, and a U.S. Congressman and 25 election officials were indicted in Louisiana for multiple voting in a House race in 1976.

It would not take much of an increase in vote fraud to have a drastic impact on the political future of this country. A change of roughly one vote per precinct would have altered the result of every Presidential election but two since 1960.

Supporters of UVR pooh-pooh the prospect of fraud. They cite a Government Accounting Office survey which reported only 3 percent of election boards reported charges of registration fraud, and the fact that there have been no vote fraud convictions in Wisconsin and Minnesota following adoption of UVR.

What UVR supporters do not say is that a 3-percent rate of fraud is quite



enough to change the outcome of a great many elections, and that that rate is certain to increase if election rules are liberalized.

It is true that as of now there have been no convictions of vote fraud in Wisconsin or Minnesota. But wait awhile. Investigations by local district attorneys are still underway. In Milwaukee County alone, 2,421 cases of possible fraud have been under investigation.

Furthermore, Wisconsin and Minnesota have the reputation of being exceptionally "clean" States in politics, and should not be regarded as typical. Other States, such as Illinois, Louisiana, Maryland, and New Jersey have a far different reputation.

The potential for vote fraud is the principal, but far from the only, objection that has been raised to UVR.

Local officials who testified at Senate and House hearings said UVR would cost far more to administer than proposed Federal subsidies would cover; that it would be difficult to recruit and train the additional election workers who would be needed, and that voters would experience long delays at the polling places.

Their concern about administrative overload was borne out in Wisconsin, where voters in some precincts were waiting in line at midnight in order to cast their votes.

Despite all these objections and a distinct lack of enthusiasm for it on the part of the American people—a recent Gallup poll indicated 55 percent opposed—backers of UVR are pushing on.

There are those who believe that the reason for this has rather little to do with the high ideals that have been piously invoked since the drive for UVR began.

Virtually all supporters of UVR are Democrats, and they are buoyed in their zeal to extend the franchise by the expectation that most of the new votes will go to the Democrats.

Opponents of UVR, most of them Republicans, are reinforced in their concern for the integrity of the electoral process by the suspicion that what the Democrats think about the way the new voters will vote is accurate.

Last December, Patrick Caddell, President Carter's pollster, wrote a 56-page memorandum on political strategy. On pages 30 and 30a of that confidential memo, Caddell advised the then President-elect:

One item that does not fit in this outline is voter registration and turnout. A simple explanation of the election numbers makes it imperative that the postcard registration take place nationally. Beyond that there needs to be some study of ways to induce voters to vote. Part of the problem, of course, is the lack of efficacy voters feel which can only be solved by responsive and successful government. However, perhaps there are other incentives, whether they be tax credits or the like, that can be devised to induce people to go to the polls and vote. Increasingly higher turnouts almost certainly mean a greater political success for Governor Carter; lower turnouts put his political future in some jeopardy.

Whatever the motives of those behind it, UVR is moving steadily along, and likely will pass—there being more Democrats in Congress than Republicans.

The irony of it all is that a survey by the U.S. Bureau of Census in November 1976 found that fewer than 2 percent of persons surveyed cited registration difficulties as a reason for not registering or voting.

The Census Bureau survey confirmed the findings of a September 1976 poll by Peter D. Hart Research Associates, which determined that attitudinal factors were more important than structural ones in explaining nonvoting. The reasons most often cited for not voting, Hart found, were: "candidates say one thing and do another," and "it doesn't make any difference who is elected because things never seem to work out right."

Politicians will have to look elsewhere—perhaps in a mirror—to find the real reasons for declining voter turnouts.

## HOW NOT TO SERVE THE ENERGY PROBLEM

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. BAUMAN. Mr. Speaker, later this week we will be asked to pass judgment on H.R. 6804 which creates for the first time a Federal Department of Energy which has been billed as part of a solution to our national energy shortages and problems. Before we rush headlong into approving this new bureaucratic creation, we ought to seriously recall that it has been the Federal Government's policies and agencies which have created many of our current energy problems, including the natural gas shortage and declining production of domestic oil supplies, to name but a few.

Will the creation of this new super-agency really help the situation all that much? Or would not it be better, as the gentlemen from New York, Mr. WYDLER, suggests in his opposing views on the bill, to carefully review the roles of the many agencies we now have.

Well-known columnist John D. Lofton, Jr., writing in this week's *Human Events*, points out the grave risk contained in this legislation and his words are worthwhile reading before we vote.

The column follows:

THE DEPARTMENT OF ENERGY BOONDOGGLE

(By John D. Lofton Jr.)

The problem with many Republicans is that to the extent they have any convictions at all, they lack the courage to follow through on these convictions. A classic example of this failure of leadership is the recent 74-10 Senate passage of S. 826 which establishes a new Department of Energy that will cost \$10 billion initially and employ 20,000 bureaucrats.

The ostensible purpose of this bill was the need to consolidate the activities of three existing energy agencies: the Federal Energy Administration, the Federal Power Commission, and the Energy Research and Development Administration. But the legislation's real purpose was a power grab, plain and simple, designed to increase the Carter Administration's control over all energy matters, both large and small.

A week prior to the passage of S. 826 on May 18, all 38 GOP senators offered an energy

initiative of their own as an alternative to the Carter energy plan. This initiative was founded on solid, traditional Republican principles. It declared:

"The Administration proposals, despite their pious hopes for increased energy resources, call for more of the same measures that created our national inability to respond swiftly and adequately to the problems created by the OPEC oil embargo.

"The only practical way in which solutions can be found for our energy crisis is by greater reliance on competitive pricing and on the resilience, resourcefulness and the drive of our market system when confronted with difficult challenges."

Denouncing the Carter Administration's energy proposals for offering only "further regulation, further bureaucratization, further governmental intervention into every facet of the energy problem," the Republican senators stated:

"We must return to a competitive market in energy. The collective decisions of Americans will make better energy policy than any system of regulations or allocations through a government agency."

So, along comes S. 826, the first opportunity for Senate Republicans to put their professed principles into action. And what happens? Twenty-two Republicans vote for this monstrosity, nine vote against it, and five don't vote at all. The GOP senators who opposed this measure are: Garn (Utah), Goldwater (Ariz.), Hansen (Wyo.), Hatch (Utah), Helms (N.C.), Laxalt (Nev.), McClure (Idaho), Scott (Va.) and Tower (Tex.). The lone Democrat voting "no" was Sen. John Durkin of New Hampshire.

Explaining why he would vote for S. 826, Senate GOP "leader" Howard Baker of Tennessee expressed "certain reservations" yet, he observed, the bill was largely "organizational and procedural." But, it is nothing of the kind. As the floor manager of the bill, Sen. Abraham Ribicoff (D.-Conn.), candidly admitted, the legislation gives the new Energy Department "extensive powers to set prices and make other far-reaching regulatory decisions."

Writing in his column in *Newsweek* magazine, Dr. Milton Friedman, the Nobel Prize-winning economist, says of the new federal Energy Department:

"It enthrones a bureaucracy that would have a self-interest in expanding in size and power and would have the means to do so—both directly, through exercising price control and other powers, and indirectly, through propagandizing the public and the Congress for still broader powers. The new Energy Department will produce distortions and disruptions, with its secretary and its bureaucrats will take not as evidence of their own malfeasance but as demonstrating the need for still broader powers.

"The scenario is by no means purely hypothetical. The Federal Energy Administration was established in 1973 in response to the Arab boycott. After several extensions, its staff has gone from zero to 4,000 in less than four years. And by now, it is only one of no one knows how many agencies that have mushroomed to 'solve' the energy crisis that the FEA and its associated agencies have created. We are now at the next stage: the drive to consolidate them into a department—to start out with nearly 20,000 employees. . . .

"A Department of Energy has the potential of being the most powerful, and the most harmful, of all federal agencies. It would control the life-blood of our economic system. Its tentacles would reach into every factory, into every dwelling in the land."

Anyone who takes the time to read S. 826, and admittedly this is a chore, will see that what Dr. Friedman says is true. The new Energy Department perpetuates precisely what the 38 GOP senators said in their state-

ment they are against, that is, the "further regulation, further bureaucratization, further governmental intervention into every facet of the energy problem."

Just to hit a few low-lights of S 826:

Title I, Section 102 lists the purposes of the department which include providing for "permanent mechanisms" to implement and develop a comprehensive national energy policy; facilitating the establishment of a strategy for "distributing and allocating" fuels in periods of short supply; and protecting the interests of consumers in "an adequate and reliable supply of energy at reasonable cost." Not until purpose number 19 is private enterprise even mentioned! And then it is only said that "to the maximum extent practicable" will the private sector be "utilized" in the development of the purposes already mentioned.

Title II, Section 205 establishes within the department an Economic Regulatory Administration, to be headed by an administrator appointed by the President with the advice and consent of the Senate. This person, it is said, shall be someone qualified to "assess fairly the interest and needs of producers, consumers, and users of energy." How such distinctions are to be made is, naturally, not explained. Perhaps this is because producers and consumers are energy users and, in many cases, vice versa.

Title VII, headed "Energy Planning," Section 6 (b) (1) allows the President to "establish energy production, utilization, and conservation objectives, for periods of five and 10 years, necessary to satisfy projected energy needs of the U.S. to meet the requirements of the general welfare of the people of the U.S. and the commercial and the industrial life of the nation, paying particular attention to the needs for full employment, price stability, energy security, economic growth, environmental protection, special regional needs, and the efficient utilization of public and private resources."

Speaking recently to the graduating class at Salem College, Sen. Daniel Moynihan (D-N.Y.) noted that while we, as a nation, have organized our internal defenses against the abuse of governmental power, what we have not done so carefully is to cultivate a sensibility to that deformation of a political system which arises simply from the enlargement of power: that is, not the misuse of government, but its growth.

Commenting on President Carter's use of the William James quote, the need for a "moral equivalent of war," to describe his plan to solve the energy crisis, Sen. Moynihan observed:

"A splendid phrase that. And yet how ironic it would be if James' concern to support the pacifist movement of his time . . . should now become the battle cry of a not less fatal enterprise, the irreversible growth of the power of government here in the United States. In the modern age, nothing has so much enlarged the power and scope of government as war. Should we not assume that simulated war will do as much?"

Most assuredly we should assume this. Because it will. And how ironic that Sen. Moynihan was one of the 74 senators who voted for a new federal Department of Energy.

Having passed the Senate, President Carter's proposal for a new Department of Energy now heads for the House floor where in early June it is expected to be scheduled for three hours of debate, plus five minutes each for any amendments offered.

The House version of the Senate bill—HR 6804—is much closer to what President Carter wants. In that it gives the prospective Secretary of Energy, Dr. James Schlesinger, significantly more energy pricing authority than does S 826, which invests this authority in the Energy Regulatory Board.

## BOUTIQUE CONSERVATIONISTS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

"BOUTIQUE CONSERVATIONISTS" MAY SUCCEED IN KILLING AN ENTIRE INDUSTRY

A newcomer has joined the furbish louseward and snail darter on the endangered species list. It's the American tuna fisherman.

Soon, if the environmental fanatics have their way, there will be no U.S. tuna fishing industry. Americans will still be able to eat tuna sandwiches, however, because foreign fishing fleets are rushing in to catch and sell to us the tuna which U.S. fishermen normally would bring in.

The reason for this bizarre state of affairs is the environmentalists' concern over killing of porpoises incidental to the "purse-seining" of tuna.

Fishermen catch tuna by trapping them in huge nets. Because porpoises swim along with the tuna, fishermen use them as a guide for setting their nets.

But the air-breathing porpoises drown if not released from the underwater nets, so fishermen—prodded by the 1972 Marine Mammal Protection Act—have developed methods whereby nearly 99 per cent of the trapped porpoises can be freed to swim to safety.

That still leaves one per cent of the porpoises to die—sacrificed, at least until better methods are developed, to the need for tuna.

Such a sacrifice so far has been too much for what the Washington Star calls the "boutique conservationists" who scream "for an environmental impact statement before Grandma cuts off a chicken's head for Sunday dinner."

Groups such as the Committee on Humane Legislation recently have won legal battles forcing an interpretation of the 1972 law which, in effect, bans the taking of tuna by "fishing on porpoise."

American tuna fishermen, based in San Pedro and San Diego, Calif., have fought in vain for a more liberal interpretation of the law.

Sen. S. I. Hayakawa (R-Calif.) has introduced a bill to change the law, but it has gone nowhere. Sen. Alan Cranston (D-Calif.) is trying to arrange a compromise. Several California representatives have spoken in support of the fishermen.

But little has been done on the congressional front, and the fishermen say it is obvious that the environmentalists—more practiced in such matters—have intimidated many congressmen.

Fishermen point to numerous "Save the Porpoise" ads on television stations, particularly in the East, and to one-sided information presented to school children. The latter resulted in thousands of letters to congressmen protesting the "murder" of friendly, fun-loving porpoises by greedy fishermen.

The environmentalists—but not the porpoises—are aided in the battle by a loophole in the 1972 law, which bans the importation of tuna caught in violation of U.S. mammal-protection standards—but makes no provision for checking foreign fishing fleets.

As a result, Japanese, Russian and other fishermen can kill as many porpoises as they want, yet still sell tuna to the U.S. merely by lying about their fishing methods. Such illicit tuna presumably will be sold to U.S. canneries in increasing quantities to satisfy consumer demand.

And that means fishermen may not be able to enlist the aid of consumers in their efforts to persuade Congress to change the law.

One wonders: Are the environmentalists still eating tuna sandwiches?

## AN AMERICAN HERO

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. DERWINSKI. Mr. Speaker, it was especially appropriate that Mrs. Charles Lindbergh accompanied the U.S. delegation, headed by Secretary of Transportation, Brock Adams, to the Paris Air Show this past weekend, as this month commemorates the 50th anniversary of her husband's solo transatlantic flight to Paris.

The Chicago Tribune of May 22, remembers Charles Lindbergh not only for his famous flight from New York to Paris and as a pioneer in air travel, but also as an American hero. I insert this fine tribute in the RECORD at this time:

### REMEMBERING LINDBERGH'S FAMOUS FLIGHT

Time may indeed be one of the few constants in life, but to anyone past the half century mark a famous event that took place 50 years ago this month may make them feel that "time's winged chariot" is hurrying by faster than ever. It also compels attention to the dramatic advances in aviation technology during that period.

The event, of course, was the historic solo flight of Charles A. Lindbergh nonstop across the Atlantic from New York to Paris. In his single-engine "Spirit of St. Louis," the former U.S. air mail pilot spanned the 3,610 miles in 33½ hours—an astonishing feat for the day. (Today the supersonic Concorde makes the same flight in 3½ hours.)

Overnight, Lindbergh became an international figure of epic proportions. He was idolized everywhere and all sorts of honors were heaped upon him. Lindbergh, of course, was not the first person to fly the Atlantic nonstop (Alcock and Brown had done it in 1919, from Newfoundland to Ireland). But Lindbergh did it alone—and that made a big difference. Besides, he was young (25), he was handsome and he was very modest. (Upon landing in Paris he resisted all efforts to give him a medical examination, exclaiming: "Don't bother. I am all right. I would like to have a bath and a glass of milk.") The public ate it up.

Returning to New York, the intrepid flier was accorded the largest ticker-tape parade in the city's history, which launched him upon a remarkable career as an authentic American hero.

Few men and events in modern history have so captured the popular imagination and affection as Lindbergh and his epoch-making flight. It was just the right thing at the right time needed to win greater public acceptance of the fledgling aviation industry.

Of those early days, Lindbergh once said: "The hazards of aviation loomed high during the night of ignorance, and shrank with the dawn of knowledge."

Lindbergh himself, although he never claimed as much, contributed a great deal to helping to push back the barriers of ignorance. He also went on to score achievements in other fields—science, conservation and the protection of wildlife. It is for his flight across the Atlantic May 20-21, 1927, however,



that he will be forever remembered. And it all happened just 50 years ago.

We are all closer to our roots than we think.

## WHEN THE DOOR IS CLOSED TO ILLEGAL ALIENS, WHO PAYS?

**HON. DON EDWARDS**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. EDWARDS of California. Mr. Speaker, the perplexing problem of illegal aliens is analyzed in an article by Wayne A. Cornelius, associate professor of political science at the Massachusetts Institute of Technology and director of a 4-year study of Mexican migration to the United States sponsored by the National Institute of Child Health and Human Development of the National Institutes of Health.

I commend this incisive article to my colleagues:

WHEN THE DOOR IS CLOSED TO ILLEGAL  
ALIENS, WHO PAYS?

(By Wayne A. Cornelius)

CAMBRIDGE, MASS.—A very predictable thing happens in this country whenever the economy takes a sharp turn for the worst: The illegal alien is rediscovered. Politicians, journalists, organized labor, and other interest groups rush to blame him for every imaginable problem afflicting American society, from high unemployment to rising crime rates, escalating social-service costs, overpopulation, and balance-of-payments deficits.

Immigration authorities crank out ever-more-frightening "guess-timates" of the numbers of illegal aliens "silently invading" the country. The public is warned in urgent and ominous tones that illegal aliens are out to take their jobs away and add billions of dollars to their tax bills.

We are now witnessing yet another "rediscovery" of the illegal alien. Pressures for new restrictive measures—particularly legislation that would impose civil or criminal penalties and fines on United States employers who "knowingly" hire illegal aliens—have mounted steadily. Such restrictive measures form the core of the policy package reportedly recommended to President Carter by his Cabinet-level task force on illegal aliens, and they have been proposed repeatedly by various members of Congress.

The case for a more restrictive immigration policy is based on three principal assumptions: that illegal aliens compete effectively with, and displace, large numbers of American workers; that the benefits to American society resulting from the aliens' contribution of low-cost labor are exceeded by the "social costs" resulting from their presence here; and that most illegal aliens entering the United States eventually settle here permanently, thus imposing an increasingly heavy, long-term burden upon the society.

There is as yet no direct evidence to support any of these assumptions, at least with respect to illegal aliens from Mexico, who still constitute at least 60 to 65 percent of the total flow and more than 90 percent of the illegal aliens apprehended each year.

Where careful independent studies of the impact of illegal immigration on local labor markets have been made, they have found no evidence of large-scale displacement of legal resident workers by illegal aliens. Studies have also shown that Mexican illegals make amazingly little use of tax-supported social services while they are in the United States, and that the cost of the services they do use

is far outweighed by their contributions to Social Security and income tax revenues.

There is also abundant evidence indicating that the vast majority of illegal aliens from Mexico continue to maintain a pattern of "shuttle" migration, most of them returning to Mexico after six months or less of employment in the United States. In fact, studies have shown that only a small minority of Mexican illegals even aspire to settle permanently in the United States.

While illegal aliens from countries other than Mexico do seem to stay longer and make more use of social services, there is still no reliable evidence that they compete effectively with American workers for desirable jobs. The typical job held by the illegal alien, regardless of nationality, would not provide the average American family with more than a subsistence standard of living. In most states, it would provide less income than welfare payments.

Certainly in some geographic areas, types of enterprises, and job categories, illegal aliens may depress wage levels or "take jobs away" from American workers. But there is simply no hard evidence that these effects are as widespread or as serious as most policymakers and the general public seem to believe.

The notion that curtailing illegal immigration will significantly reduce unemployment among the young, the unskilled, members of minority groups, and other sectors of the United States population allegedly being displaced by illegal aliens may prove to be a cruel illusion.

Many of the jobs "liberated" in this way are likely to be eliminated through mechanization or through bankruptcy of the enterprises involved, and many others cannot be "upgraded" sufficiently—even with higher wages and shorter hours—to make them attractive to native workers.

While the benefits of a more restrictive immigration policy to the American worker have been grossly exaggerated, the costs of such a policy to both the United States and the illegal aliens' countries of origin have been consistently underestimated.

The impact of "closing the door" to illegal aliens will be felt by the American consumer, in the form of higher prices for food and many other products currently produced with alien labor. Failures among small businesses—those with 25 or fewer employees, which hire more than half of the illegal aliens from Mexico—will also increase, eliminating jobs not only for illegals but for native Americans.

But the adverse impact of restrictive measures will be felt most intensely in Mexico, which is currently struggling to recover from its most serious economic crisis since the 1930's. At least 20 percent of the population—and a much higher proportion of the rural poor—depend upon wages earned in the United States for a large share of their cash income.

An employer-sanction law that is even partly effective in denying jobs to illegal aliens is likely to produce economic dislocations and human suffering on a massive scale within Mexico. This will not be simply a problem for Mexico; the implications for United States economic and foreign policy interests are obvious.

All available evidence indicates that employer sanctions and other restrictive measures—short of erecting a Berlin-type wall—will fail to deter economically desperate Mexicans from seeking employment in the United States.

In the long run, every dollar that is spent trying to enforce new restrictive policies would be much better spent on programs to reduce the "push" factors within Mexico and other sending countries that are primarily responsible for illegal immigration: rural unemployment and underemployment, low incomes, and rapid population growth.

For example, studies indicate that resources invested in labor-intensive, small-scale rural industries could significantly reduce the flow of illegal aliens within five to eight years.

In the short run, the best approach would be an expanded program of temporary worker visas permitting up to six months of employment in the United States each year. A temporary-worker program that did not require a prearranged contract between the alien worker and a particular United States employer (in contrast to the former *bracero* program of contract labor) would minimize exploitation of alien workers while reducing illegal immigration and keeping open a critically important safety valve for Mexico. It would also benefit United States workers, since the use of legal alien labor is likely to have a less depressing effect on wages and working conditions than the use of illegal alien labor.

It is ironic that a more restrictive immigration policy is being advocated by many at a point in our history when declining birth rates, the end of unlimited legal immigration, and an American labor force with more education and higher job expectations than ever before all foreshadow a shortage of workers to fill low-skill, low-wage, low-status jobs in the United States economy. When this occurs, in the not-too-distant future, the aliens who are now viewed as a burden on United States society may be seen as a highly valuable asset.

## THE REAL CRISIS

**HON. HAROLD E. FORD**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. FORD of Tennessee. Mr. Speaker, I rise today to call the attention of my colleagues in the House to the continuing problem of welfare reform. I have been critical of the administration's handling of its welfare reform package, because of the long delay that will come in implementing it. The President's welfare message of last month stated broad goals that are acceptable to most of us, but did not mention any specifics. It is clear to me that welfare reform is not the high priority item with the administration that it should be.

I would like to share with my colleagues a recent article by noted columnist Carl Rowan, outlining the problem and its urgency. I am sure this article will enlighten most of us, and I now insert it in the RECORD:

## THE REAL CRISIS

(By Carl T. Rowan)

WASHINGTON.—The Carter Administration rushed glibly into the "welfare reform" thicket and retreated faster than a rabbit that had bumped into a porcupine.

You wonder why?

The word is that Jimmy Carter wants to reform welfare on the cheap—that is, without spending any more money—and the social and moral trend in America is such that that is just not possible.

We are in the midst of rapid erosion of the American family. This is reflected in the fact that the divorce rate has doubled in a decade. There were more than a million divorces last year, with even more separations and desertions. Government analysts estimate that of every five couples who marry this year, three will not remain together.

This produces the growing phenomenon of the single-parent family. We had 3,260,000 of

them in 1970. Last year we had 4,900,000. And all but 500,000 of these single-parent families were headed by women.

To understand the impact of this, you have to understand that single-parent families are the poorest in the land—especially those 4,400,000 families headed by women. If you want a grim summary of what has happened to the American family, ponder these statistics:

More than 11 million children under age 18—that's one out of every six—now live with only one parent.

Eleven percent of all white children live in homes where the father is absent.

Forty-one percent of all black children live in homes where the father is absent.

Of the white children who live with their mothers, 37 percent live below the poverty line.

Of the black children who have only a mother present, two out of three live in poverty.

The trend toward single-parent families grows because of another social-moral phenomenon. I reported in an earlier column that this country has an epidemic of teenage pregnancies, with some 200,000 teenagers bearing babies out of wedlock every year.

With movie stars and other celebrities now openly bearing babies outside marriage, a lot of the stigma of "illegitimacy" is off. Thus more than half our pregnant teenagers now want to keep their babies.

This adds immensely to the cost and complications of welfare. The nation's largest cash assistance welfare program is Aid to Families with Dependent Children (AFDC). HEW reports that there were 11,215,436 recipients in January, an increase of 31,902 over December. The total cost in January was \$844,787,000.

Now, the federal government paid only 55 percent of that AFDC tab in January. Unless President Carter wants the governors, mayors and other local officials beating down the gates to the White House, his welfare reform had better say that the federal government will now pay 100 percent of the AFDC bill.

There is just no way Uncle Sam can do that and meet Carter's dream of welfare reform without spending any more federal dollars. It can't even be done without raising the total overall cost of welfare.

That ought to suggest to someone that this country's greatest problem is not the energy crisis, or crime, or the Soviet military threat. Our great weakness lies in the fact that we have 11 million children in single-parent families, many of whom know nothing but instability of family life, poverty, hopelessness.

The crucial question before the Carter Administration is this: Does anybody there really know how to "reform" welfare so as to enable these children to later join in producing stable, productive families?

**PROF. MILTON FRIEDMAN SUGGESTS THAT THE NEW DEPARTMENT OF ENERGY WOULD BE A TROJAN HORSE**

**HON. JACK F. KEMP**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. KEMP. Mr. Speaker, the House is on the verge of considering a bill to establish a \$10 billion Department of Energy. I believe that such an agency is entirely unnecessary, unlikely to do anything except perpetuate the Government controls which caused our present energy problems, and likely to become the vehicle of special interests who will use it

to increase Government spending on favored energy projects and increase the power of energy bureaucrats. Consequently, I hope my colleagues will think twice about the need for a super energy agency and I hope they will take the time to read Prof. Milton Friedman's analysis of such an agency:

**A DEPARTMENT OF ENERGY?**

(By Milton Friedman)

Recent news stories on President Carter's energy proposals stress an alleged contrast between rhetoric and substance. The rhetoric is tough—talk of the "moral equivalent of war," the need to change life-styles, the sacrifices that citizens will be asked to bear. The substance, it is said, is mild—a hypothetical future gas tax, every stick to the consumer balanced by a carrot, the invisible corporation rather than the visible household to bear the brunt of costly conservation. Even the President is reported as telling lawmakers that the program is not really so tough.

**A TROJAN HORSE**

I submit that these news stories overlook, or take as innocuous, the key element in the proposal. If it alone were adopted, it would presage a major revolution in the institutional arrangements for producing and distributing energy. That element is the establishment of a Federal Department of Energy with far-reaching powers. This is the Trojan Horse, or to mix metaphors, the entering wedge, that is camouflaged by the 103 specific pieces of the complex Carter-Schlesinger program.

Why is the establishment of a Department of Energy so important? Because it enthrones a bureaucracy that would have a self-interest in expanding in size and power and would have the means to do so—both directly, through exercising price control and other powers, and indirectly, through propagandizing the public and the Congress for still broader powers. The new Energy Department will produce distortions and disruptions, which its Secretary and its bureaucrats will take not as evidence of their own malfeasance but as demonstrating the need for still broader powers.

This scenario is by no means purely hypothetical. The Federal Energy Administration was established in 1973 in response to the Arab boycott. After several extensions, its staff has gone from zero to 4,000 in less than four years. And by now, it is only one of no one knows how many agencies that have mushroomed to "solve" the energy crisis that the FEA and its associated agencies have created. We are now at the next stage: the drive to consolidate them into a department—to start out with nearly 20,000 employees.

Moreover, the experience is by no means unique to energy. For example, the Department of Health, Education and Welfare was established in 1953 to consolidate a growing number of separate agencies. Its total spending has exploded from less than \$7 billion in 1954 to about \$160 billion currently; the number of bureaucrats, from fewer than 36,000 to more than 140,000. It now has the largest budget of any Cabinet department, and no end is in sight.

It would be child's play to multiply examples. The typical Federal agency starts small, grows slowly for a while, and then explodes.

**TOWARD A CORPORATE STATE**

A Department of Energy has the potential of being the most powerful, and the most harmful, of all Federal agencies. It would control the lifeblood of our economic system. Its tentacles would reach into every factory, into every dwelling in the land. Our economic system has been able to survive the U.S. Postal Service. It has been able to survive Amtrak. I suspect that it will survive Conrail—though Conrail is potentially more

harmful than its predecessors. But can our economic system survive Federal control of the pricing, the production, the distribution, the import of energy?

Do not be misled into supposing that the energy problem is a purely technical problem that engineers can solve. No government engineer is in as good a position as you are to decide whether you would rather use expensive energy for heating your home, driving your car, or helping to produce one or another product for you to buy. No government engineer is in as good a position as the owner of a factory to choose the most economical fuel for his purposes or the cheapest way to conserve energy. No government engineer can replace the market in calculating the indirect effects of energy use or conservation. And no government engineer will enforce the ever more numerous edicts that will come down from on high. That will be done by policemen.

Make no mistake about it. The establishment of a Department of Energy, with the powers requested by the President, would be a further major step toward converting our free-enterprise system into a corporate state.

**THE HOSPITAL COST CONTAINMENT ACT OF 1977**

**HON. DOUGLAS WALGREN**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 1, 1977

Mr. WALGREN. Mr. Speaker, the AFL-CIO is supporting the objectives of President Carter's hospital cost containment proposal. The AFL-CIO's legislative director, Andrew J. Biemiller, testified on May 11, 1977, in support of the basic thrust of H.R. 6575, the administration measure, and suggested some amendments to the bill.

Mr. Biemiller testified at a joint hearing of the Health Subcommittees of the Ways and Means and Commerce Committees. I include his statement at this point in the RECORD and urge that my colleagues take time to read it:

On behalf of the AFL-CIO I wish to thank you for the opportunity to share with the Health Subcommittees of the House Ways and Means Committee and the Interstate and Foreign Commerce Committee our views with regard to H.R. 6575, the Hospital Cost Containment Act of 1977.

This bill would establish a Federal program to place a ceiling on hospital revenue increases of about nine percent per year, allow states with established hospital cost containment programs and some others to opt out of the Federal program, provide for an automatic adjustment to the ceiling for hospitals in growing communities and declining communities and allow for an exception process for hospitals which might experience hardship in meeting the ceiling. Since wages of nonsupervisory workers have not contributed significantly to hospital cost inflation, they are appropriately not taken into account in determining the ceiling under the Federal program. The bill has minimal disclosure provisions and Title II would place a limit on hospital capital expenditures.

The average cost per day of a hospital stay has been increasing at a rate of about double the rate of increase of the Consumers Price Index. According to the Council on Wage and Price Stability the average cost per day of a hospital confinement was \$191 in September 1976. This represents an 18.4 percent increase over the same month in the previous year.



Clearly, something must be done.

We believe the basic approach of H. R. 6575 is a feasible one over the short run. It will not be, nor can it ever be, a permanent solution to the escalating cost of health care. Any attempt to single out a single industry to the exclusion of others tends to build up distortions and stresses with respect to the allocation of manpower and capital resources.

Moreover, H. R. 6575 singles out only one segment of the health industry, albeit a large segment, without controlling physician fees and incomes, the high cost of drugs, nursing home care and home health services and without recognizing the inevitable impact on costs of dumping expensive long-term chronically ill patients onto the public hospital sector.

A far more effective and flexible means of cost control over hospital expenditures would be to phase-in coverage for hospitalization under the principles of the Health Security Bill (H. R. 21 and S. 3) introduced by Representative Corman (D-Calif.) and Senator Kennedy (D-Mass.). Under the Health Security Program the Health Security Board would have the leverage of being the sole source of payment for hospital services. This establishes a situation where negotiation between two parties, each having considerable power, can strike a bargain as to each hospital's total budget. These negotiations would take place on a hospital-by-hospital basis to provide maximum flexibility, equity and adaptation to local circumstances. Under Health Security there would be no arbitrary ceilings, no complicated prospective reimbursement formulas nor a deluge of complicated regulations.

It should be pointed out that negotiation between payors and providers of health services is a characteristic of western European national health insurance schemes. Payors and providers mutually respect the power and integrity of each other. In this country, the providers have all the power to set charges and fees and all third parties play the passive role of paying bills unilaterally determined by the providers. America has made a rather unique contribution to provider reimbursement in that the United States is the only country in the world that reimburses hospitals and physicians retroactively, that is, by cost-plus reimbursement of hospitals and usual and customary fees for physicians. No wonder the United States has outstripped every other country in the world in the percentage of the gross national product it devotes to health care. For example, in the year ending June 30, 1975 Canada spent 7.0 percent of their GNP on comprehensive health services without any deductibles and covered 99 percent of their population while the United States spent 8.3 percent of the GNP for health care with deductibles, with substantial benefit gaps and left 12 percent of the population without any health insurance at all, public or private.

But for the short run, in general, the AFL-CIO supports the Administration's plan to establish limits on total hospital revenues, or hospital budgets, especially since, unlike current programs, such limits would apply equally to all third party payors including Blue Cross, Blue Shield and commercial insurance as well as to Federal reimbursement under the Medicare, Medicaid and Maternal and Child Health Programs.

President Carter's health message stated with respect to the Hospital Cost Containment Program:

"This legislation is not a wage-price control program. It places no restrictions on the hospital's ability to determine its charges for any particular service. It places no limit on the size of any wage demand or settlement. The program establishes an overall limit on the rate of increase in reimbursements, per-

mitting doctors and hospital administrators to allocate their own resources efficiently."

Commenting on the President's statement, AFL-CIO President George Meany on April 25, 1977 stated:

"In his message, the President recognizes that hospital workers have not been responsible for hospital cost inflation and proposes adjustments in the containment formula for wage increases for nonsupervisory hospital employees." (The complete text of President Meany's release is attached as Appendix A of this statement).

We strongly support the concept that the wages of nonsupervisory employees must be determined by free collective bargaining.

Hospital wages still lag behind the average wage for all private nonsupervisory employees and even behind the average wage for service employees. In 1976, the average hourly earnings of nonsupervisory employees in all nonfarm employment amounted to \$4.87. For service employees, it was \$4.36 and for hospital workers only \$4.18. Assuming a full work-year of 2080 hours, the annual earnings of the average hospital worker would come to \$8694, substantially below the level of an average worker of \$10,041 for a family of four in an urban community. From 1968 to 1976 the wages of hospital employees increased by only 1.87 while those of employees in service jobs increased by 1.93 and of all nonsupervisory employees in private industry by 2.02 even though it was during this period that hospital employees gained coverage under the Fair Labor Standards Act and for the first time large numbers of them were benefited by collective bargaining negotiations. (See Appendix B for the average hourly earnings for all private employment, all service employment and hospital employment from 1968 to 1976).

Clearly, hospital workers are still underpaid.

The Administration hopes that through this program, hospital expenditures can be contained to about a nine percent increase annually. Elimination of wages from the base will not compromise this goal. In fact, an average wage increase of nine percent per year is better than what unions in this industry have been achieving. Collective bargaining settlements have averaged much less. In 1975, the median bargained wage increase amounted to 7.7 percent. In that year, the cost-of-living rose 9.1 percent. Even organized hospitals were unable to keep up with the cost-of-living. In 1976, the average negotiated wage increase amounted to 6.4 percent while the cost-of-living increased 5.8 percent which still meant a drop in real wages over the two-year period. Nor do anticipated wage increases in this industry represent a threat to the nine percent ceiling.

The AFL-CIO unions with substantial membership in the hospital industry are the Service Employees International Union, the American Federation of State, County and Municipal Employees and Local 1199, of the Retail, Wholesale and Department Store Union. These unions will be testifying in more detail with respect to wages in the hospital industry and their collective bargaining contracts.

The recent staff report of the Council on Wage and Price Stability, "The Rapid Rise of Hospital Costs," clearly shows that hospital wages have only been a minor factor in escalating hospital costs. Total labor costs were the source of only about one-tenth of the annual increase in average costs per patient, per day. According to the American Hospital Association, payroll expenses have steadily declined as a proportion of total hospital expenses from 66 percent in 1962 to 51 percent in the last quarter of 1976. But AHA payroll data includes salaries of supervisory employees. The percent of hospital expenses represented by nonsupervisory employees is only 35 percent.

Thus, since wage increases of nonsupervisory employees have no bearing on the runaway inflation in hospital costs, we strongly urge the exclusion of the wages of nonsupervisory employees from the hospital's base accounting year for purposes of determining the allowable increase.

However, request for such exclusion should not be optional with the hospitals as is provided in Section 124 of H. R. 6575. This section purports to exempt nonsupervisory personnel wage increases from the hospital revenue limit. Instead, it provides an incentive for hospitals to continue to increase expenditures in those areas which have been most responsible for health care inflation. This loophole is provided by the optional nature of the recalculation of revenue limits as stated in Section 124. In short, if hospitals request a modification of their revenues to eliminate the effects of nonsupervisory wages, then nonlabor costs can only rise by the permissible limit (e.g., nine percent). If, on the other hand, a hospital does not request such a modification, then it is possible for nonlabor costs to rise by as much as 14 percent by shifting the burden of the program onto the shoulders of low-wage workers by not granting such workers any increases.

The following numerical example illustrates the problem:

Assumptions:

1. Nonsupervisory labor costs=35 percent of total operating costs.
2. Nonlabor expenses plus administrative salaries=65 percent of total operating costs.
3. Cap=nine percent.

If a hospital can hold wage increases to zero percent the net effect is as follows:

Labor costs held to 0 percent  $\times .35 = 0$   
Nonlabor costs rise by 13.85 percent  $\times .65 =$   
9 percent

Total increase, 9 percent

In other words, nonlabor costs which have been the source of health care inflation could increase by nearly 14 percent.

The solution to this flaw in the legislation is to require the Secretary to modify for all hospitals the inpatient hospital revenue limit to assure exclusion from the base of wage increases of nonsupervisory employees.

This can readily be accomplished by dropping the language at the beginning of Section 124(a) which states:

"At the request of any hospital which is subject to the provisions of this title and which provides the data necessary for the required calculation."

Section 124(a) would then begin:

"The Secretary shall modify . . . etc.

The principal cause of hospital cost inflation is not wages but the control doctors exercise over the manpower and capital resources of the hospital. This control in voluntary hospitals is exercised without any accountability to either the hospital or to the public. The result is dual administration, poor planning, duplication of expensive and seldom used equipment and the purchase of new equipment the effectiveness of which is seldom evaluated.

Unfortunately, the bill provides initially for the exclusion of at least six states, provided the Governors of these states request exclusion and the Secretary of the Department of Health, Education and Welfare approves. The states that could opt out of the program under Section 117(a) include: Massachusetts, Connecticut, Maryland and Washington. Section 117(b) would also allow the states of New York and New Jersey to opt out of the Federal program.

The AFL-CIO strongly favors a national program with uniform standards and uniform administration. We find no convincing evidence that these states have performed an effective job of controlling hospital costs. A study conducted by ICF Incorporated for the Federation of American Hospitals indicates that in 1974-75 the states with manda-

tory rate-setting programs had slightly smaller increases in hospital expenditures per case than states without controls. However, this reduction was more than offset by increased utilization. The result was that the annual increase in hospital expenditures on a per capita basis was 19.1 percent for the states with controls versus 18.7 percent for the states with no controls for the years 1974 and 1975.

Furthermore, Section 117 would leave the door wide open for other states to opt out of the Federal program in the future. Section 118 would also allow any state to opt out of the Federal Hospital Cost Containment Law simply by establishing an experimental or demonstration program of prospective reimbursement under Medicare. Sections 117 and 118 are nothing less than an invitation to the states to assume the responsibility for hospital cost containment, a task they have been unable to perform in a satisfactory manner in the past.

However, if despite our recommendations, the possibility for states to opt out remains, then state hospital cost containment programs must include all of the requirements of the Federal law including the exclusion of nonsupervisory wages from the nine percent ceiling. The President's health message clearly stated:

"Allow states which operate cost containment programs, and are capable of meeting the Federal program's criteria, to continue their own regulatory approaches."

H.R. 6575 does not conform to the President's message. One of the specific criteria stated by the President is "an adjustment for hospitals which provide wage increases to their nonsupervisory employees." But H.R. 6575 would not make receipt of a waiver by a state conditional upon meeting that criterion. If waivers are to be permitted, this must be made explicit in the statute.

Section 124(d) would single out for review the adjustment to hospital revenue that would result from the exclusion of nonsupervisory wages from the base year. Wages should not be singled out for review in eighteen months. The AFL-CIO believes the whole program should be reviewed within eighteen months by Congress and not only by the Administration. The dislocations and inequities that will inevitably develop through time of a ceiling on one industry's expenditures would require annual review in our opinion. Eighteen months is the maximum amount of time that should be allowed for the Administration and Congress to review the whole program.

#### DISCLOSURE

One of the major disappointments of the Administration's bill is the weak disclosure provisions. The Medicare Cost Report (SSA Form 2552) is a potentially useful but baffling mass of data covering some 33 pages. The Report is unquestionably designed to meet the needs of fiscal intermediaries, but it is of limited use to consumers and hospital employees. It fails to list specific administrative salary and major cost information on such important areas as pathology and radiology. In fact, only a trained hospital accountant could conceivably make good use of the Medicare Cost Report.

As stated by President Meany, "the President's proposal also lacks adequate disclosure provisions of hospital finances and expenses. For too long, hospitals have operated under a veil of secrecy, despite the fact that tax dollars are a major source of hospital income. Taxpayers have a right to know how these funds are expended and we will urge Congress to include adequate disclosure provisions in the final bill."

Unfortunately, H.R. 6575 does not meet the President's commitment for adequate disclosure. Therefore, with respect to disclosure, we urge the following:

Each hospital should provide promptly on request by any citizen all cost reports submitted to Medicare, Medicaid and third-party payors during 1975 through the present. In addition, the hospital should disclose on request its IRS Form 990 or an equivalent complete listing of its total receipts, expenses and disbursements, including its total assets and liabilities for the period 1975 through the present.

Each hospital should disclose on request the total wages, including all fringes and benefits (for example automobile, housing, etc.) paid to its ten highest paid employees; and in the case of hospitals which pay such salaries, the hospital should disclose the names, salaries and all fringe benefits of employees receiving in excess of \$30,000 per year.

Detailed conflict of interest statements should be disclosed by the hospital on request for all hospital governing board members, administrative staff and medical staff chairmen. Conflict of interest statements must list all investments and holdings representing an interest in excess of 0.5 percent in any concern doing business with the hospital.

The hospital should disclose on request for the current and three most recent fiscal years, the total receipts of its pathology and radiology departments, including the gross income received by the physicians in charge of these departments. In the case of anesthesiologists, pathologists and radiologists who practice in the hospital but who bill separately for services, all such physicians should disclose their gross and net incomes for the current and three most recent fiscal years.

In addition, it would be desirable to disclose the following:

Each health systems agency should have authority to collect from each hospital in its health service area a listing of the total cost for an average stay in the hospital for the ten most common medical and ten most common surgical procedures performed by acute care hospitals in the health service area at least every six months. The health systems agency should be required to promptly compile the listings and each hospital should prominently post the listings at its main entrance area and make the listing available on request to any person.

Each hospital should prominently post in its main entrance area the following information:

(1) whether or not the hospital conducts preadmission certification for all elective admissions.

(2) whether or not the hospital requires a second opinion for all elective surgery.

(3) whether or not the hospital shares services with other neighboring hospitals and what services are shared.

We are concerned about another problem. For-profit and voluntary nonprofit hospitals should not be allowed to transfer their underinsured patients—those without Medicare, Medicaid or private insurance or with minimal private insurance—on public hospitals. A ceiling on hospital revenues will provide an incentive to private hospitals to accelerate and expand such practices which already are all too prevalent.

We, therefore, recommend that H.R. 6575 contain strong provisions forbidding hospitals to reduce their share of care of "unprofitable" patients except within the context of a coordinated and systematic community health plan. Hospitals should be required to maintain their patient mix, bad debt ratio and gross to net revenue ratio.

Allowable cost reimbursement formulas can be adjusted to reward hospitals which continue to serve the poor and underinsured and penalize those which transfer such patients onto public hospitals. Section 126 attempts to meet this problem by allowing an aggrieved hospital to file a complaint with

the local Health Systems Agency. The HSA is authorized to investigate the complaint and upon a finding that the complaint is justified, the Secretary may exclude the offending hospital from participation in Medicare, Medicaid and the Maternal and Child Health Programs.

This section is not strong enough. For one thing, the Health Systems Agencies have insufficient funds to conduct such investigations nor are they staffed to perform this function. We believe this section should be strengthened by providing incentives for voluntary hospitals not to transfer unprofitable patients and reward public hospitals for accepting such patients.

#### TITLE II—LIMITATIONS ON HOSPITAL CAPITAL EXPENDITURES

This title would set an annual national limit on new capital expenditures for hospital construction. The national limit would be allocated to the states on a formula basis which would also take into account other factors such as the number of beds in the state or local service area.

The AFL-CIO strongly supports this limit on new hospital construction. As stated by President Meany, "we endorse the Administration's plan to limit capital expenditures for new hospitals and the proposed efforts to encourage Health Maintenance Organizations." With respect to the construction of new hospitals for HMOs, the construction or modernization of a one hundred bed hospital would reduce the need for hospital beds in a given community by more than two hundred beds. Prepaid group practice plans only need 1.5 beds per thousand subscribers while the standard for fee-for-service hospitals is 4.0 beds per thousand. Priority should be given, therefore, to construction funds for HMO hospitals.

In conclusion, Mr. Chairman, we approve the basic thrust of this bill which would establish a ceiling on hospital cost increases but the burden of cost containment must not be borne by low-paid hospital employees. We strongly urge that the improvements we have suggested be incorporated into the final bill that is reported out and passed by the House of Representatives.

#### APPENDIX A

*Statement of AFL-CIO President George Meany, on Administration's Hospital Cost Containment Program, April 25, 1977*

AFL-CIO President George Meany today made the following comment on President Carter's health message:

President Carter's health message has focused public attention on the need to contain hospital costs now rising at a rate of more than 15 percent annually.

The AFL-CIO has a long history of supporting efforts to achieve effective and equitable containment of health care costs. In fact, the Health Security bill, which we support, contains the most stringent and effective cost controls of any national health insurance proposal.

The President's program, however, will only restrain and not stop the escalation in health care costs, for example there are no controls over physician fees.

Union-negotiated health plans are under extreme pressure to reduce benefits because of unacceptable extravagance in the hospital industry. Waste, unnecessary hospitalization and surgery, duplication of expensive hospital services and outlandish salaries and fees, such as those paid to radiologists and pathologists, must be brought under control.

Specifically, we endorse the Administration's plan to limit capital expenditures for new hospitals and the proposed efforts to encourage Health Maintenance Organizations.

In his message, the President recognizes that hospital workers have not been responsible for hospital cost inflation and proposes adjustments in the containment formula for



wage increases for nonsupervisory hospital employees.

If states are permitted to operate their own hospital cost containment programs, as the President proposes, their programs must meet all of the criteria of the federal program, including the provisions concerning wage increases for hospital employees. We will ask Congress to make this explicit in any legislation.

The President's proposal also lacks adequate disclosure provisions of hospital finances and expenses. For too long, hospitals have operated under a veil of secrecy, despite the fact that tax dollars are a major source of hospital income. Taxpayers have a right to know how these funds are expended, and we will urge Congress to include adequate disclosure provisions in the final bill.

The President's message also outlines a \$180 million program to extend benefits and expand availability of comprehensive health services for low-income children, which the AFL-CIO strongly supports.

Further, we welcome the President's renewed commitment to developing a workable program of national health insurance. We believe that the Health Security bill presently pending in the Congress is such a program and can truly contain health care costs and provide comprehensive health care services to all Americans.

#### APPENDIX B

##### Average hourly earnings

[Nonsupervisory employees]

|                 | Total<br>private | Service | Hospitals |
|-----------------|------------------|---------|-----------|
| 1968 -----      | \$2.85           | \$2.43  | \$2.31    |
| 1969 -----      | 3.04             | 2.61    | 2.57      |
| 1970 -----      | 3.22             | 2.81    | 2.79      |
| 1971 -----      | 3.43             | 3.01    | 2.96      |
| 1972 -----      | 3.65             | 3.40    | 3.08      |
| 1973 -----      | 3.92             | 3.46    | 3.22      |
| 1974 -----      | 4.22             | 3.76    | 3.45      |
| 1975 -----      | 4.54             | 4.06    | 3.83      |
| 1976 -----      | 4.87             | 4.36    | 4.18      |
| Dollar increase |                  |         |           |
| 1968-76 -----   | 2.02             | 1.93    | 1.87      |

Source: Bureau of Labor Statistics.

#### SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

#### MEETINGS SCHEDULED

JUNE 3

11:00 a.m.  
Joint Economic  
To hold hearings to receive testimony on the employment/unemployment situation in May.

1202 Dirksen Building  
JUNE 6

9:00 a.m.  
Judiciary  
Improvements in Judicial Machinery Subcommittee  
To hold hearings on S. 1612 and S. 1613, to expand the jurisdiction of U.S. Magistrates.

2228 Dirksen Building

9:30 a.m.  
Commerce, Science, and Transportation  
To hold hearings on the nomination of Robert A. Froesch, to be Administrator of NASA.

5110 Dirksen Building

10:00 a.m.  
Banking, Housing, and Urban Affairs  
To hold hearings on H.R. 5675, to authorize the Treasury Department to make short-term investments of any portion of its excess operating cash balance.

5302 Dirksen Building

Commerce, Science, and Transportation  
Communications Subcommittee  
To hold oversight hearings on the cable TV system.

235 Russell Building

Select Indian Affairs  
To hold oversight hearings on the Indian Education Reform Act (Public Law 93-638).

Room to be announced

2:00 p.m.  
\*Commerce, Science, and Transportation  
To hold hearings on the nomination of Alfred Edward Kahn, to be a member of the Civil Aeronautics Board.

5110 Dirksen Building  
JUNE 7

8:30 a.m.  
Finance  
Health Subcommittee  
To hold hearings on S. 1470, Medicare and Medicaid Administrative and Reimbursement Reform Act.

2221 Dirksen Building

9:30 a.m.  
Energy and Natural Resources  
To receive testimony on part D (natural gas pricing) of S. 1460, National Energy Act.

3110 Dirksen Building

\*Judiciary  
Criminal Laws and Procedures Subcommittee  
To hold hearings on S. 1437, Criminal Code Reform Act of 1977, and the following criminal sentencing bills: S. 31, 45, 181, 204, 260, 888, 979, and 1221.

2228 Dirksen Building

Select Small Business  
To resume hearings on alleged restrictive and anticompetitive practices in the eyeglass industry.

424 Russell Building

10:00 a.m.  
Banking, Housing, and Urban Affairs  
To hold hearings on S. 1397, to increase from 16 to 19 the size of the Board of Directors of FNMA.

5302 Dirksen Building

Commerce, Science, and Transportation  
Communications Subcommittee  
To continue oversight hearings on the cable TV system.

253 Russell Building

Foreign Relations  
To consider the nomination of John C. West, to be Ambassador to the King-

dom of Saudi Arabia, and to hold hearings on an agreement with Canada concerning the transit oil pipeline (Exec. F, 95th Cong., 1st sess.), and the Inter-American Treaty of Reciprocal Assistance (Exec. J., 94th Cong., 1st sess.).

4221 Dirksen Building

Governmental Affairs  
Intergovernmental Relations Subcommittee

To resume hearings on S. 600, the Regulatory Reform Act of 1977.

6226 Dirksen Building

Human Resources  
Health and Scientific Research Subcommittee

To hold hearings to evaluate information upon which the FDA based its decision to propose regulations banning the use of saccharin.

4232 Dirksen Building

Joint Economic  
Economic Growth and Stabilization Subcommittee

To hold hearings on economic development in rural areas.

1202 Dirksen Building

Select Indian Affairs  
To continue oversight hearings on the Indian Education Reform Act (P.L. 93-638).

Room to be announced

10:30 a.m.  
Appropriations  
Transportation Subcommittee  
To mark up proposed appropriations for fiscal year 1978 for the Department of Transportation.

S-128, Capitol

JUNE 8

8:00 a.m.  
Agriculture, Nutrition, and Forestry  
Agricultural Research and General Legislation Subcommittee  
To hold hearings on proposed legislation to extend the authorization of the Federal Insecticide, Fungicide, and Rodenticide Act.

Until 10:30 a.m. 324 Russell Building

Judiciary  
Improvements in Judicial Machinery Subcommittee

To continue hearings on S. 1612 and S. 1613, to expand the jurisdiction of U.S. Magistrates.

2228 Dirksen Building

8:30 a.m.  
Finance  
Health Subcommittee  
To continue hearings on S. 1470, Medicare and Medicaid Administrative and Reimbursement Reform Act.

2221 Dirksen Building

9:00 a.m.  
Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee  
To hold hearings on S. 421, to establish a program to educate the public in understanding climatic dynamics.

5100 Dirksen Building

10:00 a.m.  
Banking, Housing, and Urban Affairs  
To continue hearings on S. 1397, to increase from 16 to 19 the size of the Board of Directors of FNMA.

5302 Dirksen Building

Commerce, Science, and Transportation  
To continue oversight hearings on the cable TV system.

235 Russell Building

Energy and Natural Resources  
Parks and Recreation Subcommittee  
To hold hearings on S. 975, to improve the administration of the National Park System.

3110 Dirksen Building

## Energy and Natural Resources

## Energy Research and Development Subcommittee

To receive testimony on proposed legislation authorizing funds for fiscal year 1978 for nuclear programs of ERDA.  
Room to be announced

## Foreign Relations

## International Operations Subcommittee

To hold oversight hearings on the role of the media, business, banking, labor, national security, etc. in the current and future international flow of information.

4221 Dirksen Building

## Governmental Affairs

## Intergovernmental Relations Subcommittee

To continue hearings on S. 600, the Regulatory Reform Act of 1977.

6226 Dirksen Building

## Human Resources

## Health and Scientific Research Subcommittee

To hold oversight hearings on environmental toxins in mother's milk.

Until 12:30 p.m. 4232 Dirksen Building

## Judiciary

## Criminal Laws and Procedures Subcommittee

To continue hearings on S. 1437, Criminal Code Reform Act of 1977, and the following criminal sentencing bills: S. 31, 45, 181, 204, 260, 888, 979, and 1221.

2228 Dirksen Building

## Joint Economic

To hold hearings to review economic conditions, and to discuss the future outlook.

6202 Dirksen Building

## Select Small Business

To hold hearings on alleged late payments by the Federal Government to small business contractors.

424 Dirksen Building

10:30 a.m.

## Judiciary

To hold hearings on the nomination of Finis E. Cowan, of Texas, to be U.S. district judge for the southern district of Texas.

2228 Dirksen Building

2:30 p.m.

## Foreign Relations

## Arms Control, Oceans, and International Environment Subcommittee

To resume hearings on S. 897 and 1432, proposed Nuclear Nonproliferation Act.

4221 Dirksen Building

JUNE 9

8:00 a.m.

Agriculture, Nutrition, and Forestry  
Agricultural Research and General Legislation Subcommittee

To continue hearings on proposed legislation to extend the authorization of the Federal Insecticide, Fungicide, and Rodenticide Act.

Until 10:30 a.m. 324 Russell Building

8:30 a.m.

## Finance

## Health Subcommittee

To continue hearings on S. 1470, Medicare and Medicaid Administrative and Reimbursement Reform Act.

2221 Dirksen Building

9:00 a.m.

Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee

To continue hearings on S. 421, to establish a program to educate the public in understanding climatic dynamics.

5110 Dirksen Building

9:30 a.m.

## Banking, Housing, and Urban Affairs

To hold hearings on the nomination of John Heilmann, to be Comptroller of Currency.

5302 Dirksen Building

## Energy and Natural Resources

## Energy Research and Development Subcommittee

To hold hearings on S. 1432, proposed Nuclear Non-Proliferation Act of 1977.

6226 Dirksen Building

10:00 a.m.

## Energy and Natural Resources

## Energy Production and Supply Subcommittee

To hold oversight hearings on strategic petroleum reserves.

3110 Dirksen Building

## Foreign Relations

## International Operations Subcommittee

To continue oversight hearings on the role of the media, business, banking, labor, national security, etc., in the current and future international flow of information.

4221 Dirksen Building

## Governmental Affairs

## Reports, Accounting, and Management Subcommittee

To resume hearings to review the processes by which accounting and auditing practices and procedures, promulgated or approved by the Federal Government, are established.

6202 Dirksen Building

## Judiciary

## Criminal Laws and Procedures Subcommittee

To continue hearings on S. 1437, Criminal Code Reform Act of 1977, and the following criminal sentencing bills: S. 31, 45, 181, 204, 260, 888, 979, and 1221.

2228 Dirksen Building

## Joint Economic

To continue hearings to review economic conditions, and to discuss the future outlook.

1202 Dirksen Building

## Select Small Business

To continue hearings on alleged late payments by the Federal Government to small business contractors.

424 Dirksen Building

JUNE 10

8:30 a.m.

## Finance

## Health Subcommittee

To continue hearings on S. 1470, Medicare and Medicaid Administrative and Reimbursement Reform Act.

2221 Dirksen Building

9:00 a.m.

Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee

To continue hearings on S. 421, to establish a program to educate the public in understanding climatic dynamics.

5110 Dirksen Building

## Judiciary

## Improvements in Judicial Machinery Subcommittee

To continue hearings on S. 1612 and S. 1613, to expand the jurisdiction of U.S. Magistrates.

2228 Dirksen Building

9:30 a.m.

## Human Resources

## Health and Scientific Research Subcommittee

To continue oversight hearings on environmental toxins in mother's milk.

Until noon 4232 Dirksen Building

10:00 a.m.

## Energy and Natural Resources

## Energy Production and Supply Subcommittee

To continue oversight hearings on strategic petroleum reserves.

3110 Dirksen Building

## Foreign Relations

## International Operations Subcommittee

To continue oversight hearings on the role of the media, business, banking,

labor, national security, etc., in the current and future international flow of information.

4221 Dirksen Building

JUNE 13

9:30 a.m.

Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee

To resume hearings on S. 657, to establish an Earth Resources and Environmental Information System.

235 Russell Building

## Finance

## Taxation and Debt Management Subcommittee

To receive testimony on proposals which seek to encourage economic growth and employment.

2221 Dirksen Building

10:00 a.m.

## Banking, Housing, and Urban Affairs

To hold hearings on S. 1594 and H.R. 5959, to revise and extend the Renegotiation Act of 1951.

5302 Dirksen Building

## Energy and Natural Resources

To resume hearings on part D (natural gas pricing) of S. 1469, National Energy Act.

3110 Dirksen Building

## Governmental Affairs

## Reports, Accounting, and Management Subcommittee

To resume hearings to review the processes by which accounting and auditing practices and procedures, promulgated or approved by the Federal Government, are established.

6226 Dirksen Building

## Judiciary

## Criminal Laws and Procedures Subcommittee

To hold hearings on S. 1566, Foreign Intelligence Surveillance Act of 1977.

2228 Dirksen Building

JUNE 14

9:30 a.m.

Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee

To continue hearings on S. 657, to establish an Earth Resources and Environmental Information System.

5110 Dirksen Building

## Finance

## Taxation and Debt Management Subcommittee

To receive testimony on proposals which seek to encourage economic growth and employment.

2221 Dirksen Building

## Select Small Business

## Monopoly and Anticompetitive Activities Subcommittee

To hold hearings on the safety and effectiveness of over the counter sleepaids.

6202 Dirksen Building

10:00 a.m.

Agriculture, Nutrition, and Forestry  
Rural Development Subcommittee

To hold oversight hearings on the implementation of the Rural Development Act of 1972.

322 Russell Building

## Banking, Housing, and Urban Affairs

To continue hearings on S. 1594 and H.R. 5959, to revise and extend the Renegotiation Act of 1951.

5302 Dirksen Building

## Energy and Natural Resources

To continue hearings on part D (natural gas pricing) of S. 1469, National Energy Act.

3110 Dirksen Building

## Governmental Affairs

## Energy, Nuclear Proliferation, and Federal Services Subcommittee



To resume hearings on a report of the Commission on Postal Service.  
3302 Dirksen Building

Joint Economic  
Economic Growth and Stabilization Subcommittee  
To resume hearings on economic development in rural areas.  
1202 Dirksen Building

Judiciary  
Criminal Laws and Procedures Subcommittee  
To continue hearings on S. 1566, Foreign Intelligence Surveillance Act of 1977.  
2228 Dirksen Building

JUNE 15

9:30 a.m.  
Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee  
To continue hearings on S. 657, to establish an Earth Resources and Environmental Information System.  
235 Russell Building

10:00 a.m.  
Banking, Housing, and Urban Affairs  
To mark up S. 1433, 895, 71, and 73, dealing with Federal regulation and supervision of financial institutions.  
5302 Dirksen Building

Foreign Relations  
To hold hearings on treaties with Mexico and Canada on prisoner exchanges (Exec. D and H, 95th Cong., 1st sess.).  
4221 Dirksen Building

Joint Economic  
Economic Growth and Stabilization Subcommittee  
To continue hearings on economic development in rural areas.  
6226 Dirksen Building

JUNE 16

9:00 a.m.  
Veterans' Affairs  
Compensation and Pension Subcommittee  
To hold hearings on proposed increases in veterans' pensions.  
6226 Dirksen Building

10:00 a.m.  
Agriculture, Nutrition, and Forestry  
Rural Development Subcommittee  
To continue oversight hearings on the implementation of the Rural Development Act of 1972.  
322 Russell Building

Commerce, Science, and Transportation  
To hold oversight hearings on the effects of radiation on humans, i.e., health, safety, and environment.  
5100 Dirksen Building

Commerce, Science, and Transportation  
Surface Transportation Subcommittee  
To hold hearings on general conditions of the intercity motorbus industry and suggestions for increased ridership.  
235 Russell Building

Energy and Natural Resources  
Energy Production and Supply Subcommittee  
To continue markup of S. 977, to conserve gas and oil by fostering increased utilization of coal in electric generating facilities and in major industrial installations.  
3110 Dirksen Building

Foreign Relations  
To continue hearings on treaties with Mexico and Canada on prisoner exchanges (Exec. D and H, 95th Cong., 1st sess.).  
4221 Dirksen Building

Select Small Business  
To hold hearings on S. 1526, to establish the position of Associate Administrator for Women's Business Enterprise.  
424 Russell Building

11:00 a.m.  
Human Resources  
Health and Scientific Research Subcommittee

To resume hearings on S. 1391, Hospital Cost Containment Act of 1977.  
Until 1 p.m. 4232 Dirksen Building

2:30 p.m.  
Foreign Relations  
Arms Control, Oceans, and International Environmental Subcommittee  
To resume hearings on S. 897 and 1432, proposed Nuclear Nonproliferation Act.  
4221 Dirksen Building

JUNE 17

9:00 a.m.  
Finance  
Taxation and Debt Management Subcommittee  
To hold hearings on S. 1538, proposing reform in the administration of the black lung benefits program.  
2221 Dirksen Building

9:30 a.m.  
Human Resources  
Health and Scientific Research Subcommittee  
To continue hearings on S. 1391, Hospital Cost Containment Act of 1977.  
Until 12:30 p.m. 4332 Dirksen Building

Veterans' Affairs  
Health and Readjustment Subcommittee  
To hold oversight hearings on veterans' employment-unemployment situation.  
Until 12:30 p.m. 6226 Dirksen Building

10 a.m.  
Commerce, Science, and Transportation  
To continue oversight hearings on the effects of radiation on humans, i.e., health, safety, and environment.

JUNE 20

9:30 a.m.  
Human Resources  
Handicapped Subcommittee  
To hold hearings on proposed extension of the Rehabilitation Act of 1973 and Education of the Handicapped Acts.  
Until 1 p.m. 4332 Dirksen Building

10:00 a.m.  
Banking, Housing, and Urban Affairs  
Financial Institutions Subcommittee  
To hold hearings on proposed legislation on financial institution reform.  
5302 Dirksen Building

Energy and Natural Resources  
To resume hearings on part D (natural gas pricing) of S. 1469, National Energy Act.  
3110 Dirksen Building

Judiciary  
Criminal Laws and Procedures Subcommittee  
To resume hearings on S. 1437, Criminal Code Reform Act of 1977, and the following criminal sentencing bills: S. 31, 45, 181, 204, 260, 888, 979, and 1221.  
2228 Dirksen Building

JUNE 21

9:00 a.m.  
Energy and Natural Resources  
Energy Conservation and Regulation Subcommittee  
To receive testimony on proposals embodied in parts A, B, C, and G of S. 1469, the National Energy Act.  
3110 Dirksen Building

9:30 a.m.  
Human Resources  
Handicapped Subcommittee  
To continue hearings on proposed extension of the Rehabilitation Act of 1973 and Education of the Handicapped Acts.  
Until 1 p.m. 4232 Dirksen Building

Human Resources  
Health and Scientific Research Subcommittee  
To hold hearings to evaluate information upon which the FDA based its decision to propose regulations banning the use of saccharin.  
Until noon 1202 Dirksen Building

Select Small Business  
Monopoly and Anticompetitive Activities Subcommittee

To resume hearings on the safety and efficiencies of over the counter sleep-aids.  
6202 Dirksen Building

10:00 a.m.  
Banking, Housing, and Urban Affairs  
Financial Institutions Subcommittee  
To continue hearings on proposed legislation on financial institution reform.  
5302 Dirksen Building

Judiciary  
Criminal Laws and Procedures Subcommittee  
To continue hearings on S. 1437, Criminal Code Reform Act of 1977, and the following criminal sentencing bills: S. 31, 45, 181, 204, 260, 888, 979, and 1221.  
2228 Dirksen Building

JUNE 22

9:00 a.m.  
Energy and Natural Resources  
Energy Conservation and Regulation Subcommittee  
To receive testimony on proposals embodied in parts A, B, C, and G of S. 1469, the National Energy Act.  
3110 Dirksen Building

Veterans' Affairs  
Health and Readjustment Subcommittee  
To hold hearings on the effectiveness of VA programs on mental health, alcohol and drug abuse, readjustment counseling, and health.  
Until 2 p.m. 6226 Dirksen Building

9:30 a.m.  
Human Resources  
Handicapped Subcommittee  
To continue hearings on proposed extension of the Rehabilitation Act of 1973 and Education of the Handicapped Acts.  
Until 1 p.m. 4232 Dirksen Building

Select on Nutrition and Human Needs  
To hold hearings on nutrition as it relates to mental health and development.  
Until 1 p.m. 6202 Dirksen Building

10:00 a.m.  
Banking, Housing, and Urban Affairs  
Financial Institutions Subcommittee  
To continue hearings on proposed legislation on financial institution reform.  
5302 Dirksen Building

Judiciary  
Constitution Subcommittee  
To hold hearings on S. 1393, to give statutory authority to the Justice Department to initiate suit to enforce constitutional and other federally guaranteed rights of institutionalized persons.  
2228 Dirksen Building

Joint Economic  
Subcommittee on Economic Growth and Stabilization  
To hold hearings to receive testimony from public pollsters on the current status of and future conditions affecting the economy.  
1202 Dirksen Building

JUNE 23

10:00 a.m.  
Banking, Housing, and Urban Affairs  
Financial Institutions Subcommittee  
To continue hearings on proposed legislation on financial institution reform.  
5302 Dirksen Building

Commerce, Science, and Transportation  
Communications Subcommittee  
To hold hearings on S. 1547, to assure that all those providing communications services are able to use existing communications space on poles which are owned by regulated utilities, and to simplify FCC forfeiture provisions.  
235 Russell Building

Energy and Natural Resources  
To consider pending calendar business.  
3110 Dirksen Building

Judiciary  
Antitrust and Monopoly Subcommittee

To hold hearings on the President's proposed energy programs.

2228 Dirksen Building

JUNE 24

9:00 a.m.

Veterans' Affairs

Health and Readjustment Subcommittee

To hold hearings on proposed increases in rates of veterans' education benefits.

Until 2 p.m. 6226 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation Communications Subcommittee

To continue hearings on S. 1547, to assure that all those providing communications services are able to use existing communications space on poles which are owned by regulated utilities, and to simplify FCC forfeiture provisions.

235 Russell Building

JUNE 27

9:30 a.m.

Veterans' Affairs

Health and Readjustment Subcommittee

To hold hearings on proposed legislation to amend the Veterans' Physician and Dentists' Pay Comparability Act.

Until noon 6226 Dirksen Building

Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To hold hearings on legislation to amend the Truth in Lending Act, including S. 1312 and S. 1501.

5302 Dirksen Building

Commerce, Science, and Transportation

To resume oversight hearings on the effects of radiation on humans, i.e., health, safety, and environment.

5110 Dirksen Building

JUNE 28

9:00 a.m.

Veterans' Affairs

Housing, Insurance, and Cemeteries Subcommittee

To hold hearings on S. 718, to provide veterans with certain cost information relating to the conversion of Government-supervised insurance to individual life insurance policies.

6202 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To continue hearings on legislation to amend the Truth in Lending Act, including S. 1312 and S. 1501.

5302 Dirksen Building

Commerce, Science, and Transportation

To continue oversight hearings on the effects of radiation on humans, i.e., health, safety, and environment.

5110 Dirksen Building

Governmental Affairs

Energy, Nuclear Proliferation, and Federal Services Subcommittee

To resume hearings on a report of the Commission on Postal Service.

3302 Dirksen Building

Judiciary

Improvements in Judicial Machinery Subcommittee

To resume hearings on the jurisdiction of U.S. Magistrates.

2228 Dirksen Building

JUNE 29

9:00 a.m.

Veterans' Affairs

Health and Readjustment Subcommittee

To resume hearings on proposed increases in rates of veterans' education benefits.

Until 2 p.m. 6226 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To continue hearings on legislation to amend the Truth in Lending Act, including S. 1312 and S. 1501.

5302 Dirksen Building

Commerce, Science, and Transportation

To continue oversight hearings on the effects of radiation on humans, i.e., health, safety, and environment.

5110 Dirksen Building

Judiciary

Improvements in Judicial Machinery Subcommittee

To continue hearings on the jurisdiction of U.S. Magistrates.

2228 Dirksen Building

JUNE 30

9:00 a.m.

Veterans' Affairs

Housing, Insurance, and Cemeteries Subcommittee

To continue hearings on S. 718, to provide veterans with certain cost information relating to the conversion of Government-supervised insurance to individual life insurance policies.

6226 Dirksen Building

9:30 a.m.

Select Small Business

To resume hearings on S. 972, authorizing the Small Business Administration to make grants to support the development and operation of small business development centers.

424 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To mark up H.R. 5294, S. 918, and S. 1130, to amend the Consumer Protection Act so as to prohibit abusive practices by independent debt collectors.

5302 Dirksen Building

JULY 12

9:30 a.m.

Human Resources

Health and Scientific Research Subcommittee

To hold hearings to evaluate information upon which the FDA based its decision to ban Laetril from interstate commerce.

Until noon 4232 Dirksen Building

10:00 a.m.

Foreign Relations

To hold hearings on the Vienna Convention on the Law of Treaties (Exec. L. 92d Cong., 1st sess.).

4221 Dirksen Building

JULY 13

10:00 a.m.

Foreign Relations

To review the operation and effectiveness of the War Powers Resolution of 1973.

4221 Dirksen Building

JULY 14

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To receive a report from the National Commission on Supplies and Shortages on materials policy research and development.

5110 Dirksen Building

Human Resources

Health and Scientific Research Subcommittee

To hold oversight hearings on the cost of drugs.

Until noon 4232 Dirksen Building

10:00 a.m.

Foreign Relations

To review the operation and effectiveness of the War Powers Resolution of 1973.

4221 Dirksen Building

JULY 15

10:00 a.m.

Foreign Relations

To review the operation and effectiveness of the War Powers Resolution of 1973.

4221 Dirksen Building

JULY 19

9:30 a.m.

Commerce, Science, and Transportation Science, Technology, and Space Subcommittee

To review a report from the National Commission on Supplies and Shortages on materials policy research and development.

5110 Dirksen Building

10:00 a.m.

Foreign Relations

To hold hearings on the following five tax treaties. Convention with Israel (Exec. C, 94th Cong., 2nd sess.); Convention with Egypt (Exec. D, 94th Cong., 2nd sess.); Convention with the United Kingdom (Exec. K, 94th Cong., 2nd sess.); Convention with the Republic of Korea (Exec. P, 94th Cong., 2nd sess.); and Convention with the Republic of the Philippines (Exec. C, 95th Cong., 1st sess.).

4221 Dirksen Building

JULY 20

10:00 a.m.

Foreign Relations

To hold hearings on the following five tax treaties. Convention with Israel (Exec. C, 94th Cong., 2nd sess.); Convention with Egypt (Exec. D, 94th Cong., 2nd sess.); Convention with the United Kingdom (Exec. K, 94th Cong., 2nd sess.); Convention with the Republic of Korea (Exec. P, 94th Cong., 2nd sess.); and Convention with the Republic of the Philippines (Exec. C, 95th Cong., 1st sess.).

(Exec. C, 95th Cong., 1st sess.).

4221 Dirksen Building

JULY 26

10:00 a.m.

Foreign Relations

To hold hearings on protocol to the Convention on International Civil Aviation (Exec. A, 95th Cong., 1st sess.), and two related protocols (Exec. B, 95th Congress, 1st sess.).

4221 Dirksen Building

## HOUSE OF REPRESENTATIVES—Thursday, June 2, 1977

The House met at 10 o'clock a.m.

Father John Putka, S.M., Covington Catholic High School, Covington, Ky., offered the following prayer:

Our Father, You have assured us through Your Psalmist that—

*Those who trust in God are like Mount Zion, unshakable, standing forever.—*  
Psalms 125: 1.

This House has proclaimed its trust in You by causing to be engraved over its dais the motto "In God we trust." Grant

to the Speaker and the Members who deliberate here the wisdom to sincerely discern Your divine will in all that they do, so that they may effectively govern Your people according to Your truth.

We ask this through Jesus Christ, Your Son and our Lord. Amen.



## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

### TRIBUTE TO FATHER JOHN PUTKA, S.M.

Mr. SNYDER. Mr. Speaker, I take great pleasure, along with the other Members of the House, in welcoming Father John Putka to offer the opening prayer today.

Father John is a native of Cleveland, Ohio, and an adopted son of Kentucky.

He entered the religious order known as the Society of Mary, or Marianists, in 1957, being ordained to the priesthood in 1969. He has been in Kentucky ever since.

His education consists of a bachelor's degree from the University of Dayton; a master's degree from St. Louis University; a degree in theology from the University of Fribourg, Switzerland; and he is now completing the writing of his dissertation for a Ph. D. in political science at the University of Cincinnati. The subject for his thesis for the doctorate is: "The Supreme Court's Abortion Decisions."

I might say he knows his political science activities well for he serves his country and his party as a precinct captain and he teaches political science in Thomas More College and teaches at Covington Catholic High School. Since 1970 he has been bringing the American history class of Covington High School to Washington.

He is a past recipient of the Outstanding Educator of the Year Award by the Covington-Kenton County Jaycees. He has served on Kentucky's Citizen Committee on Consumer Protection, by appointment of Gov. Louie B. Nunn.

He is a great friend and student of the Congress and a great student of politics, generally, and I might say he is my personal friend. Along with the other Members I am pleased to welcome him here today.

### PROVIDING FOR CONSIDERATION OF H.R. 6804, DEPARTMENT OF ENERGY ORGANIZATION ACT

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 603 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 603

*Resolved*, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6804) to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Gov-

ernment in order to secure effective management to assure a coordinated national energy policy, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, two and one-half hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations and one-half hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and all points of order against said amendment for failure to comply with the provisions of clause 5 of rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 6804, the House shall proceed to the consideration of the bill S. 826, section 402 (a) of the Congressional Budget Act to the contrary notwithstanding, and it shall be in order in the House to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof the provisions contained in H.R. 6804 as passed by the House.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 60 minutes.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, this is a relatively complicated rule on a relatively complicated matter. There are a number of waivers. The chairman of the Committee on the Budget appeared with regard to the waivers in the Budget Act.

Another waiver has to do with the possible interpretation of some language to be making appropriations on a legislative bill.

The rule is open. It makes the committee amendment in order as a substitute. It provides that the committee amendment be read by titles, rather than by sections, for purposes of amendment.

It also makes it in order to go to conference with the Senate after consideration of the bill.

There was absolutely no controversy before the Committee on Rules concerning the rule.

The division of time is 2½ hours to the Committee on Government Operations and one-half hour to the Committee on Post Office and Civil Service.

The rule apparently was agreed to by both committees and both the majority and minority on each committee.

I know of no controversy on the rule.

I see no reason to take further time at this time.

I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Missouri (Mr. BOLLING) has explained the situation exactly as it is. I know of no objection to the rule. Whatever feelings we might have on the bill while it is debated for 3 hours, when it reaches the floor of the House, we can express our views then.

Mr. Speaker, I rise in support of House Resolution 603, the rule making in order the consideration of H.R. 6804, the Department of Energy Organization Act. As the able gentleman from Missouri (Mr. BOLLING) has described, the rule provides a waiver of section 402(a) of the Congressional Budget Act, a waiver of the provisions of clause 5 of rule XXI, and 3 hours of general debate, 2½ to be divided and controlled by the Committee on Government Operations and one-half hour to be divided and controlled by the Committee on Post Office and Civil Service.

The rule further provides that after the passage of H.R. 6804, the House shall proceed to the consideration of the bill S. 826, section 402(a) of the Congressional Budget Act notwithstanding, and that it shall be in order to move to strike out all after the enacting clause of S. 826 and insert in lieu thereof the provisions of H.R. 6804 as passed by the House.

This is an open rule which permits the offering of any germane amendments, and although there are some controversial provisions in the bill, I know of no opposition to the rule.

H.R. 6804 was reported out of the Committee on Government Operations on a vote of 37 to 2 and was reported out of the Committee on Post Office and Civil Service on a vote of 25 to 0. There are certain provisions of considerable importance contained in H.R. 6804 which are in conflict with provisions of S. 826, the companion bill of the other body. These issues can be fully debated under this rule.

The most important difference between the two bills is, perhaps, the differing approaches in regard to the pricing of oil and natural gas. H.R. 6804 permits, as the administration requests, the new Secretary of Energy to set oil and natural gas prices, while the language of S. 826 places such authority in a semi-independent, three-member board. The power to establish energy prices is central to the development of a national energy policy, but valid questions have been raised that such power ought not be vested in the Office of the Secretary of Energy to be created by this bill.

Mr. Speaker, H.R. 6804, as reported from the Committee on Government Operations is, despite a number of amendments, substantially the administration bill proposed by the President 3 months ago.

The bill creates a new Department of Energy by combining all of the powers and functions now held by the Federal Power Commission, the Federal Energy Administration, and the Energy Research and Development Administration.

Additionally, H.R. 6804 provides that the new Energy Department would inherit the building standards program from the Department of Housing and Urban Development, the industrial compliance program from the Department of Commerce, jurisdiction over three naval petroleum reserves and three oil shale reserves from the Department of Defense, regulatory authority over oil pipelines from the Interstate Commerce Commission, and many marketing, data collection, and public land leasing powers now exercised by the Department of the Interior.

Mr. Speaker, we are talking about a big new Government department with a big budget and a very great deal of authority. Too much authority in the considered judgment of some of our colleagues, and certainly their arguments, especially in regard to energy pricing powers, appear to have some merit.

But aside from certain controversial sections, there is very strong support for placing the Federal Government's energy policy operations under one strong department so that the management of our national energy policy will be conducted efficiently and smoothly.

It is essential that this new Department of Energy provide the unified policy and management direction that the country demands. It is also essential that this new Department follow the mandate that the Congress is charging it with by acting on this bill. The last thing the Federal Government needs or the American people can tolerate is the creation of another bureaucratic nightmare of endless redtape, inefficiency, and confusion. What is urgently required is a strong new Department of Energy in charge and in control of the total national energy program. We need a unified approach without overlapping jurisdictions and interagency bickering. We need a department moving decisively in the right direction and moving with dispatch and purpose. This is my own intention. This is what I will support.

Mr. Speaker, the new Department of Energy to be established by this legislation will not in itself solve our energy problems. We are in serious trouble if we continue to waste fuel, if we do not provide incentives to increase domestic fuel production and reduce our dangerous dependence on foreign supplies, and if we do not rapidly develop new alternative sources of energy such as solar, synthetic, and geothermal steam. All of this and more is urgently required in order to halt the spiraling rise in energy costs and to provide the energy we need to increase our standard of living and to provide more jobs for our workers.

Nevertheless, the creation of a new Department of Energy will provide the vehicle and the structure to devise and to implement a coherent and comprehensive national energy policy which is so urgently needed.

Mr. Speaker, I urge adoption of the rule so that we may begin debating what I consider to be one of the most important bills we are likely to act on during this Congress.

Mr. Speaker, I reserve the balance of my time.

Mr. ARMSTRONG. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Colorado.

Mr. ARMSTRONG. Mr. Speaker, I have not asked for time to speak to the merits of the bill, but I would like to call attention to the handful of Members in the Chamber. H.R. 6804 is no mere reorganization or housekeeping measure, as many have been assuming. This bill makes drastic changes in very long-standing policies relating to the energy and economy of this Nation, changes which I think are quite undesirable, at least in part; so I am hoping that the Chamber will soon fill and Members will pay utmost attention to the debate on this legislation, because this is a very, very important bill, not just a routine measure.

Mr. QUILLEN. Mr. Speaker, the gentleman is correct. I appreciate the gentleman's contribution.

Mr. Speaker, I reserve the balance of my time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 345, nays 2, not voting 86, as follows:

[Roll No. 297]

YEAS—345

Abdnor  
Addabbo  
Akaka  
Alexander  
Allen  
Ammerman  
Anderson, Calif.  
Andrews, N. Dak.  
Annunzio  
Applegate  
Archer  
Armstrong  
AuCoin  
Badham  
Badillo  
Bafalis  
Baldus  
Barnard  
Baucus  
Bauman  
Beard, R.I.  
Beard, Tenn.  
Bedell  
Benjamin  
Bennett  
Bevill  
Biaggi  
Bingham  
Blanchard  
Boggs  
Boland  
Bolling  
Bonior  
Bonker

Bowen  
Brademas  
Breckinridge  
Brinkley  
Brodehead  
Brooks  
Broomfield  
Brown, Calif.  
Brown, Ohio  
Broyhill  
Buchanan  
Burke, Fla.  
Burke, Mass.  
Burlison, Tex.  
Burlison, Mo.  
Burton, Phillip  
Butler  
Byron  
Caputo  
Carney  
Carter  
Cavanaugh  
Cederberg  
Chisholm  
Clawson, Del.  
Clay  
Cleveland  
Cochran  
Cohen  
Coleman  
Collins, Tex.  
Conable  
Conte  
Conyers  
Corcoran  
Corman

Cornell  
Cornwell  
Cotter  
Coughlin  
Crane  
Cunningham  
D'Amours  
Daniel, Dan.  
Daniel, R. W.  
Danielson  
Davis  
de la Garza  
Derrick  
Derwinski  
Dickinson  
Dicks  
Diggs  
Dingell  
Dodd  
Drinan  
Duncan, Oreg.  
Duncan, Tenn.  
Eckhardt  
Edgar  
Edwards, Ala.  
Edwards, Calif.  
Edwards, Okla.  
Ellberg  
Emery  
English  
Evans, Colo.  
Evans, Del.  
Evans, Ga.  
Evans, Ind.  
Fascell  
Fenwick

Findley  
Fish  
Fisher  
Fithian  
Flippo  
Flowers  
Flynt  
Foley  
Ford, Tenn.  
Forsythe  
Fountain  
Fowler  
Frenzel  
Frey  
Fuqua  
Gammage  
Gaydos  
Gephardt  
Gialmo  
Gibbons  
Gilman  
Ginn  
Glickman  
Gonzalez  
Goodling  
Gore  
Gradison  
Grassley  
Gudger  
Guyer  
Hagedorn  
Hall  
Hamilton  
Hanley  
Hannaford  
Hansen  
Harrington  
Harris  
Harsha  
Hawkins  
Hefner  
Heftel  
Hightower  
Hillis  
Holland  
Holt  
Holtzman  
Horton  
Howard  
Hubbard  
Huckaby  
Hughes  
Hyde  
Ireland  
Jacobs  
Jenkins  
Johnson, Calif.  
Jones, N.C.  
Jones, Okla.  
Jones, Tenn.  
Jordan  
Kasten  
Kastenmeier  
Kazen  
Kelly  
Kemp  
Ketchum  
Keys  
Kildee  
Kindness  
Kostmayer  
Krebs  
Krueger  
LaFalce  
Lagomarsino  
Latta  
Le Fante  
Leach  
Lederer  
Leggett

Lent  
Levitas  
Lloyd, Tenn.  
Long, La.  
Lott  
Luken  
Lundine  
McClary  
McCloskey  
McEwen  
McFall  
McHugh  
McKay  
Madigan  
Maguire  
Mahon  
Markey  
Marks  
Marriott  
Martin  
Mathis  
Mattox  
Mazzoli  
Meeds  
Metcalfe  
Meyner  
Michel  
Mikulski  
Mikva  
Miller, Ohio  
Minnish  
Mitchell, Md.  
Mitchell, N.Y.  
Moffett  
Montgomery  
Moore  
Moorhead, Calif.  
Moss  
Mott  
Murphy, Ill.  
Murphy, N.Y.  
Murphy, Pa.  
Murtha  
Myers, Michael  
Myers, Ind.  
Natcher  
Nedzi  
Nix  
Nolan  
Nowak  
O'Brien  
Oakar  
Oberstar  
Obey  
Ottinger  
Panetta  
Patten  
Patterson  
Pattison  
Pease  
Pepper  
Perkins  
Pettis  
Pickle  
Pike  
Preyer  
Pritchard  
Quie  
Quillen  
Rahall  
Rallsback  
Rangel  
Regula  
Reuss  
Rhodes  
Richmond  
Rinaldo  
Risenhoover  
Roberts

Robinson  
Rodino  
Roncallo  
Rooney  
Rose  
Rosenthal  
Rostenkowski  
Rousset  
Roybal  
Rudd  
Runnels  
Ruppe  
Russo  
Sarasin  
Satterfield  
Sawyer  
Schroeder  
Schulze  
Seiberling  
Sharp  
Shipley  
Shuster  
Sikes  
Simon  
Sisk  
Skelton  
Slack  
Smith, Nebr.  
Snyder  
Solaz  
Spellman  
Spence  
St Germain  
Staggers  
Stangeland  
Stanton  
Stark  
Steed  
Steiger  
Stockman  
Stokes  
Studds  
Stump  
Thone  
Thornton  
Traxler  
Treen  
Trible  
Tsongas  
Tucker  
Udall  
Ullman  
Van Deerlin  
Vanik  
Vento  
Volkmmer  
Waggonner  
Wagren  
Walker  
Walsh  
Wampler  
Watkins  
Waxman  
Weiss  
Whalen  
White  
Whitley  
Whitten  
Wiggins  
Wilson, C. H.  
Winn  
Wirth  
Wolf  
Wright  
Wylie  
Yates  
Yatron  
Young, Fla.  
Young, Tex.  
Zablocki

NAYS—2

McDonald

Symms

NOT VOTING—86

Ambro  
Anderson, Ill.  
Andrews, N.C.  
Ashbrook  
Ashley  
Aspin  
Bellenson  
Blouin  
Breaux  
Brown, Mich.  
Burgener  
Burke, Calif.  
Burton, John  
Carr  
Chappell

Clausen,  
Don H.  
Collins, Ill.  
Deaney  
Dellums  
Dent  
Devine  
Dornan  
Downey  
Early  
Erlenborn  
Ertel  
Fary  
Flood  
Florio

Ford, Mich.  
Fraser  
Goldwater  
Hammer-  
schmidt  
Harkin  
Heckler  
Hollenbeck  
Ichord  
Jeffords  
Jenrette  
Johnson, Colo.  
Koch  
Lehman  
Lloyd, Calif.



|                |             |               |
|----------------|-------------|---------------|
| Long, Md.      | Nichols     | Stratton      |
| Lujan          | Posge       | Taylor        |
| McCormack      | Pressler    | Teague        |
| McDade         | Price       | Thompson      |
| McKinney       | Pursell     | Vander Jagt   |
| Mann           | Quayle      | Weaver        |
| Marlenee       | Roe         | Whitehurst    |
| Milford        | Rogers      | Wilson, Bob   |
| Miller, Calif. | Ryan        | Wilson, Tex.  |
| Mineta         | Santini     | Wylder        |
| Moakley        | Scheuer     | Young, Alaska |
| Mollohan       | Sebelius    | Young, Mo.    |
| Moorhead, Pa.  | Skubitz     | Zeferet       |
| Myers, Gary    | Smith, Iowa |               |
| Neal           | Steers      |               |

The Clerk announced the following pairs:

Mr. Thompson with Mr. Ambro.  
 Mr. Teague with Mr. Bellenson.  
 Mr. Zeferet with Mrs. Burke of California.  
 Mr. Breaux with Mr. Don H. Clausen.  
 Mr. John L. Burton with Mr. Anderson of Illinois.  
 Mr. Delaney with Mr. Florio.  
 Mr. Flood with Mr. Brown of Michigan.  
 Mr. Fary with Mr. Chappell.  
 Mr. Lehman with Mr. Early.  
 Mr. McCormack with Mr. Devine.  
 Mr. Ford of Michigan with Mr. Fraser.  
 Mr. Mineta with Mrs. Collins of Illinois.  
 Mr. Moakley with Mr. Ertel.  
 Mr. Stratton with Mr. Andrews of North Carolina.  
 Mr. Santini with Mrs. Heckler.  
 Mr. Rogers with Mr. Blouin.  
 Mr. Moorhead of Pennsylvania with Mr. Hammerschmidt.  
 Mr. Smith of Iowa with Mr. Lloyd of California.  
 Mr. Nichols with Mr. Erlenborn.  
 Mr. Price with Mr. Ichord.  
 Mr. Young of Missouri with Mr. Ashbrook.  
 Mr. Weaver with Mr. Goldwater.  
 Mr. Ryan with Mr. Marlenee.  
 Mr. Wilson of Texas with Mr. Long of Maryland.  
 Mr. Roe with Mr. Burgener.  
 Mr. Scheuer with Mr. Hollenbeck.  
 Mr. Jenrette with Mr. McDade.  
 Mr. Ashley with Mr. Gary A. Myers.  
 Mr. Harkin with Mr. Carr.  
 Mr. Mann with Mr. Pressler.  
 Mr. Milford with Mr. Dornan.  
 Mr. Neal with Mr. Quayle.  
 Mr. Mollohan with Mr. Pursell.  
 Mr. Dent with Mr. Lujan.  
 Mr. Downey with Mr. McKinney.  
 Mr. Dellums with Mr. Sebelius.  
 Mr. Aspin with Mr. Steers.  
 Mr. Miller of California with Mr. Young of Alaska.  
 Mr. Wylder with Mr. Bob Wilson.  
 Mr. Whitehurst with Mr. Skubitz.  
 Mr. Taylor with Mr. Vander Jagt.  
 Mr. Koch with Mr. Jeffords.

So the resolution was agreed to.  
 The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### THE CONTINUING INHUMANE EMIGRATION POLICY OF THE SOVIET UNION

(Mr. RUSSO asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. RUSSO. Mr. Speaker, over a year ago I addressed the House on the plight of Celia and Josef Kats and their son Albert, a family being forcibly detained in the Soviet Union. Sadly, I again have the opportunity to speak on their behalf. Celia's mother, Goldetha Fooxman, lives alone in Bat Yam, Israel. For her the pain of separation is an ever-present heartache.

All of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries. I find it unconscionable that the Soviet Union is not living up to that pledge. Because of this situation Members of Congress are conducting a vigil on behalf of the families that remain separated.

A recent letter from Mrs. Fooxman dramatically details this tragic problem:

I, mother Goldea Mozithevna Fooxman, repatriated to Israel in 1973 and settled down there. After my arrival in Israel my daughter and her family were refused an exit visa to Israel because my son-in-law served in the army and therefore cannot be allowed to leave the country for five years after service.

To the best of my knowledge he hasn't had any access to secret materials and things of such nature. Thus the reason given for refusal above was completely untruthful. In two-and-one-half years, my children received thirty-four refusals. Of note, five years have already passed since his army service now, but no definite decision toward my children's destiny has been made by the Russian authorities.

Please understand, such separation is a tragedy for me and my children. Please help us to rejoin our family as soon as possible. I am relying on your help...

It is my fervent hope that this is the last statement I will make on behalf of the Kats family. The tragic circumstances of this family, and so many others like them, is beyond words. I can only say that taking note of the Kats family that this House be moved to protest the present inhumane emigration policy of the Soviet Union.

#### PERMISSION TO FILE REPORT ON INTERPARLIAMENTARY UNION

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that I may file today my report from the Interparliamentary Union Conference to be included with the special order report of the gentleman from Illinois (Mr. DERWINSKI) last week.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

#### NEW HAMPSHIRE LEGISLATURE VOTES TO PERMIT PRAYERS IN SCHOOLS

(Mr. WYLIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WYLIE. Mr. Speaker, I note with pleasure in this morning's Washington Post an article reporting that the Legislature of the State of New Hampshire has given its final approval to a bill to permit voluntary religious exercises—including prayers—in public schools.

As the sponsor of a constitutional amendment, narrowly rejected by this House a few years ago, to do just this to offset the effect of a Supreme Court ruling that cast doubt as to whether public school prayer services were unconstitutional, I welcome the action of the New Hampshire Legislature and express the hope that other States will take similar

action. The Associated Press newsstory follows:

#### NEW HAMPSHIRE LEGISLATURE VOTES TO PERMIT PRAYERS IN SCHOOLS

CONCORD, N.H., June 1.—The New Hampshire House has given final legislative approval of a bill to allow voluntary religious exercises in public schools.

The House Tuesday voted 199 to 110 to support a Senate-passed bill providing for a five-minute period before the start of school during which students could participate in religious exercises if they chose. The bill now goes to Gov. Meldrim Thomson, who is expected to sign it.

The House Constitutional Revision Committee had recommended defeat of the bill, citing the constitutional and legal problems associated with school prayer bills.

#### REPORT ON H.R. 7552, TREASURY DEPARTMENT, U.S. POSTAL SERVICE, EXECUTIVE OFFICE OF PRESIDENT, AND CERTAIN INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR ENDING SEPTEMBER 30, 1978

Mr. STEED, from the Committee on Appropriations, submitted a privileged report (Rept. 95-378) on the bill (H.R. 7552) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1978, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. MILLER of Ohio reserved all points of order on the bill.

#### REPORT ON H.R. 7553, MAKING APPROPRIATIONS FOR PUBLIC WORKS FOR WATER AND POWER DEVELOPMENT AND ENERGY RESEARCH FOR FISCAL YEAR ENDING SEPTEMBER 30, 1978

Mr. BEVILL, from the Committee on Appropriations, submitted a privileged report (Rept. 95-379) on the bill (H.R. 7553) making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1978, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. CONTE reserved all points of order on the bill on behalf of the minority.

#### REPORT ON H.R. 7554, APPROPRIATIONS FOR DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND SUNDRY INDEPENDENT EXECUTIVE AGENCIES, BOARDS, BUREAUS, COMMISSIONS, CORPORATIONS, AND OFFICES FOR FISCAL YEAR ENDING SEPTEMBER 30, 1978

Mr. BOLAND, from the Committee on Appropriations, submitted a privileged report (Rept. 95-380) on the bill (H.R. 7554) making appropriations for the Department of Housing and Urban Development and for sundry independent executive agencies, boards, bureaus, com-

missions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. COUGHLIN reserved all points of order on the bill.

**REPORT ON H.R. 7555, APPROPRIATIONS FOR DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES, FOR FISCAL YEAR ENDING SEPTEMBER 30, 1978**

Mr. NATCHER, from the Committee on Appropriations, submitted a privileged report (Rept. 95-381) on the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. CONTE reserved all points of order on the bill on behalf of the minority.

**REPORT ON H.R. 7556, MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES FOR FISCAL YEAR ENDING SEPTEMBER 30, 1978**

Mr. SLACK, from the Committee on Appropriations, submitted a privileged report (Report No. 95-382), on the bill (H.R. 7556) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1978, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. CONTE reserved all points of order on the bill.

**REPORT ON H.R. 7557, MAKING APPROPRIATIONS FOR THE DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES FOR FISCAL YEAR ENDING SEPTEMBER 30, 1978**

Mr. McFALL, from the Committee on Appropriations submitted a privileged report (Report No. 95-383), on the bill (H.R. 7557) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1978, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. CONTE reserved all points of order on the bill.

**REPORT ON H.R. 7558, MAKING APPROPRIATIONS FOR AGRICULTURE AND RELATED AGENCIES PROGRAMS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1978**

Mr. WHITTEN, from the Committee on Appropriations submitted a privileged

report (Report No. 95-384), on the bill (H.R. 7558) making appropriations for Agriculture and related agencies programs for the fiscal year ending September 30, 1978, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. CONTE reserved all points of order on the bill.

**PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON MILITARY CONSTRUCTION APPROPRIATIONS**

Mr. McKAY. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Utah? There was no objection.

Mr. CONTE reserved all points of order on the bill.

**CONFERENCE REPORT ON S. 521, AUTHORIZING FUNDS TO REPAIR ROOF LEAK AT KENNEDY CENTER FOR THE PERFORMING ARTS**

Mr. JOHNSON of California submitted the following conference report and statement on the Senate bill (S. 521) to amend the John F. Kennedy Center Act to authorize funds for the repair of leaks:

**CONFERENCE REPORT (H. REPT. NO. 95-385)**

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 521) to amend the John F. Kennedy Center Act to authorize funds for the repair of leaks, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That (a) section 8 of the John F. Kennedy Center Act (Public Law 85-874, as amended) is amended by adding the following new subsection:

"(c) There are authorized to be appropriated to the Secretary of the Interior, acting through the National Park Service, not to exceed \$4,700,000 for repair, renovation, and reconstruction of the John F. Kennedy Center for the Performing Arts necessary to correct water leaks in the roof, the terraces, the kitchen, and the East Plaza Drive and to correct any damage which has resulted from those leaks. No contract shall be entered into for any property or services necessary to carry out this subsection unless such contract has been approved by the Board, and no final payment for such property or services shall be made under any such contract unless such payment has been approved by the Board. No part of the funds authorized by this subsection shall be expended under any cost-plus-a-percentage-of-cost, cost-plus-a-fixed-fee, or similar incentive-type contract. Funds authorized by this subsection shall be expended under a contract only after advertising and competitive bidding for the property or services to be provided by such contract."

(b) Subsection (a) of section 8 of such Act is amended by striking out "section." and inserting in lieu thereof "subsection."

Sec. 2. Subsection (e) of section 6 of the John F. Kennedy Center Act is amended by striking out the second sentence thereof, and in the last sentence thereof by striking out "and" and the period at the end thereof and inserting in lieu thereof a comma and the following: "and \$4,000,000 for the fiscal year ending September 30, 1978."

And the House agree to the same.

HAROLD T. JOHNSON,  
NORMAN Y. MINETA,  
TENO RONCALIO,  
BO GINN,  
DOUGLAS APPELGADE,  
WM. H. HARSHA,  
WILLIAM F. WALSH,

*Managers on the Part of the House.*

QUENTIN N. BURDICK,  
LLOYD BENTSEN,  
WENDELL R. ANDERSON,  
JAMES A. MCCLURE,  
PETE V. DOMENICI,

*Managers on the Part of the Senate.*

**JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE**

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 521) to amend the John F. Kennedy Center Act to authorize funds for the repair of leaks, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

**SENATE BILL**

The Senate bill provides an authorization to the Secretary of the Interior, of \$4,500,000 for repairing, renovating, and reconstructing the John F. Kennedy Center for the Performing Arts to correct water leaks and other damage.

**HOUSE AMENDMENT**

The House amendment authorizes \$4,700,000 to the Board of Trustees of the John F. Kennedy Center for the Performing Arts to correct water leaks in the roof and other damage. These funds are not to be expended under any incentive-type contract but only under contracts entered into after advertising and competitive bidding. In addition, the Board is required to appoint a comptroller as disbursing officer for these funds and the comptroller is given appropriate authority for disbursing and auditing the account.

**CONFERENCE SUBSTITUTE**

The conference substitute authorizes \$4,700,000 to be appropriated to the Secretary of the Interior, acting through the National Park Service for repairing, renovating, and reconstructing the John F. Kennedy Center for the Performing Arts to correct water leaks and other damage. No contract is to be entered into for property or services necessary to carry out this provision unless the contract has been approved by the Board and no final payment is to be made on any such contract unless such payment has also been approved by the Board. The prohibition against incentive-type contracts and the requirements of advertising and competitive



bidding contained in the House amendment have been retained in this conference substitute.

The final payment referred to is intended to be that payment representing the bulk of the work actually done and not any amounts which may be set aside in escrow for final settlement of minor claims.

The conferees agree that the situation dealt with by this legislation is extraordinary, and the methodology chosen for its resolution should in no way be construed to diminish the jurisdictions of the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation over the John F. Kennedy Center for the Performing Arts.

Further, the conferees expect the Board of Trustees and the Secretary of the Interior each to submit a report to the Committee on Public Works and Transportation of the House and the Committee on Environment and Public Works of the Senate by July 1, 1977, and monthly thereafter, on the progress being made on the work authorized by this legislation, together with a listing of expenditures to date, by category, of the funds authorized by this legislation.

HAROLD T. JOHNSON,

NORMAN Y. MINETA,

TENO RONCALIO,

BO GINN,

DOUGLAS APPELGATE,

WM. H. HARSHA,

WILLIAM F. WALSH,

*Managers on the Part of the House.*

QUENTIN N. BURDICK,

LLOYD BENTSEN,

WENDELL R. ANDERSON,

JAMES A. MCCLURE,

PETE V. DOMENICI,

*Managers on the Part of the Senate.*

#### APPOINTMENT OF CONFEREES ON H.R. 6668, TO AMEND AGE DIS- CRIMINATION ACT OF 1975

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6668) to amend the Age Discrimination Act of 1975 to extend the date upon which the U.S. Commission on Civil Rights is required to file its report under such act, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and appoints the following conferees:

Messrs. PERKINS, BRADEMANS, BEARD of Rhode Island, MILLER of California, KILDEE, HEFTL, HAWKINS, BIAGGI, QUIE, JEFFORDS and PRESSLER.

#### TO EXTEND AND REVISE THE LI- BRARY SERVICES AND CON- STRUCTION ACT

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 602) to extend and revise the Library Services and Construction Act, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 602

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Library Services and Construction Act Amendments of 1977".

SEC. 2. (a) Section 4(a)(1) of the Library Services and Construction Act is amended by striking out "and" and by inserting before the period a comma and the following: "and \$150,000,000 for the fiscal year 1978 and for each succeeding fiscal year ending prior to October 1, 1982".

(b) Section 4(a)(2) of such Act is amended by inserting before the period a comma and the following: "and for the fiscal year 1978 and for each succeeding fiscal year ending prior to October 1, 1982".

(c) Section 4(a)(3) of such Act is amended by striking out the word "and", and by inserting before the period a comma and the following "and \$20,000,000 for the fiscal year 1978 and for each succeeding fiscal year ending prior to October 1, 1982".

(d) Section 4(a)(4) of such Act is amended by striking out "and", and by inserting before the period a comma and the following: "and for the fiscal year 1978 and for each succeeding fiscal year ending prior to October 1, 1982".

SEC. 3. (a) Section 2(a) of the Library Services and Construction Act is amended by striking out "and in promoting" and by inserting in lieu thereof "in promoting", and by adding before the period at the end thereof a comma and the following: "and in strengthening major urban resource libraries".

(b) Section 3 of such Act is amended by adding at the end thereof the following:

"(14) 'Major urban resource library' means any public library which serves a major portion of the residents of a city having a population of one hundred thousand or more individuals, as determined pursuant to regulations of the Commissioner.

"(15) 'Designated urban area' means any city in which a major urban resource library is located, or in a State which has no such city, a city designated in accordance with section 6(b)(4) of this Act."

(c) Section 101 of such Act is amended by striking out "and" the third time it appears in such section, and by inserting before the period a comma and the following: "and in strengthening major urban resource libraries".

(d)(1) Section 5(a)(2) of such Act is amended by striking out "From" and inserting in lieu thereof "Except as provided in subsection (c) and section 102(c), from".

(2) Section 5 of such Act is amended by adding at the end thereof the following:

"(c) From allotments available under this section for title I, no State shall receive in any fiscal year an amount less than the amount received in fiscal year 1977. In the event that funds available are insufficient to pay all the allotments required by the preceding sentence, the allotments shall be ratably reduced."

(e) Section 6(b) of such Act is amended by striking out "and" at the end of clause (3), redesignating clause (4), and all references thereto, as clause (5), and by inserting after clause (3) the following new clause:

"(4) in the case of any State in which there is no major urban resource library, designates a city for the purpose of section 102(a)(3)(B); and."

(f) Section 102(a) of such Act is amended—  
(1) by inserting "and subsection (c) of this section" after "5(a)" in the matter preceding clause (1) of such section;

(2) by striking out "and" at the end of clause (1);

(3) by striking out the period at the end

of clause (2) and inserting in lieu thereof a semicolon and the word "and".

(4) by adding at the end thereof the following new clause:

"(3) for (A) supporting and expanding library services of major urban resource libraries which, because of the value of the collections of such libraries to individual users and to other libraries, need special assistance to furnish services at a level required to meet the demands made for such services, and (B) supporting and expanding library services for a public library in a city designated in accordance with section 6(b)(4) in any State in which there is no major urban resource library," and

(5) by adding at the end thereof the following new sentence: "No grant may be made under clause (3) of this subsection unless the major urban resource library or the public library designated under clause (3)(B) provides services to users throughout the regional area in which such library is located."

(g) Section 102 of such Act is amended by inserting at the end thereof the following new subsection:

"(c) Subject to such criteria as the Commissioner shall establish by regulation, in any fiscal year in which sums appropriated pursuant to paragraph (1) of section 4(a) exceed \$60,000,000—

"(1) 50 per centum of the amount in excess of \$60,000,000 for that year shall be allotted by the Commissioner to each State in an amount which bears the same ratio to such 50 per centum as the population of all designated urban areas in that State bears to the population of all such designated urban areas in all States; and

"(2) 50 per centum of the amount in excess of \$60,000,000 for that fiscal year shall be allotted in accordance with section 5 of this Act.

For the purpose of allotments made under this subsection the designated urban area having the largest population in each State shall be deemed to have a population of 250,000 individuals or the actual number of individuals, as determined pursuant to most recent satisfactory data available to the Commissioner, whichever is greater. For the purpose of clause (1) of the first sentence of this subsection, the term "State" shall not include American Samoa, Guam, the Virgin Islands, or the Trust Territory of the Pacific Islands."

(h)(1) Section 103(1) of such Act is amended by inserting "subject to clause (2) of this section," after "program" the first time it appears in such section.

(2) Section 103 of such Act is amended by redesignating clauses (2), (3), and (4) of such section as clauses (3), (4), and (5), respectively, and by inserting after clause (1) the following new clause:

"(2) set forth a program for the year submitted under which the amount allotted to the State under clause (1) of section 102(c) will be used for the purposes set forth in clause (3) of section 102(a);"

(3) Section 103 of such Act is further amended by adding at the end thereof the following new sentence: "No State shall, in carrying out the provisions of clause (2) of this section, reduce the amount paid to an urban resource library or a public library designated under subclause (B) of section 102(a)(3) below the amount that such library received in the year preceding the year for which the determination is made under such clause (2)."

SEC. 4. Section 103(3) of the Library Services and Construction Act (as redesignated by this Act) is amended by striking out "the fiscal year ending June 30, 1971" and inserting in lieu thereof the following: "the second fiscal year preceding the fiscal year for which the determination is made."

SEC. 5. The second sentence of section 202

of the Library Services and Construction Act is amended by inserting after "libraries" a comma and the following: "for the remodeling of public libraries necessary to meet standards adopted pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, and for remodeling designed to conserve energy in the operation of public libraries".

SEC. 6. The Library Services and Construction Act is amended by adding at the end thereof the following new title:

**"TITLE V—URBAN LIBRARY DEVELOPMENT PROGRAM"**

**"GRANTS TO STATES TO IMPROVE URBAN LIBRARY PROGRAMS"**

"SEC. 501. The Commissioner is authorized to carry out a program of making grants to States which have an approved plan under section 6, and an application approved under section 503 which is consistent with the long-range program and the annual plan submitted under this Act, to enable such States to improve the capability of public libraries in urban areas to undertake innovative, demonstration, and special development projects.

**"USES OF FEDERAL FUNDS"**

"SEC. 502. Funds appropriated pursuant to section 504 shall be available for grants to States having applications approved by the Commissioner under section 503. Such grants shall be used—

"(1) for special programs of a pilot and demonstration nature designed to improve the quality, availability, accessibility, visibility, and understanding of library services in urban areas; and

"(2) for assessment, evaluation, and measurement of the impacts and consequences of such programs, including implications for the coordination of urban libraries with other institutions crucial to the functioning of urban areas.

**"APPLICATION"**

"SEC. 503. (a) Any State desiring to receive a grant under this title for any fiscal year shall submit an application at such time, in such manner, and containing or accompanied by such information as the Commissioner may reasonably require. Each such application shall—

"(1) be developed and submitted by the State library administrative agency;

"(2) set forth a program for the year submitted under which funds paid to the State will be used, consistent with the long-range program of the State, for the purposes set forth in section 502, and set forth a detailed description of the projects for which assistance under this title is sought; and

"(3) set forth assurances that an opportunity will be provided to public libraries throughout the State to be heard in the development of the application.

"(b) The Commissioner shall approve applications which meet the requirements of subsection (a) and the following criteria:

"(1) The projects described in the application shall serve public libraries in high-density population areas.

"(2) The State developing and submitting the application is either relatively densely or relatively sparsely populated.

"(3) The projects described in the application will aid the State library administrative agency in developing, implementing, and evaluating new urban-focused library services programs.

"(4) The findings of, and the experience under, projects described in the application when disseminated will aid all State library administrative agencies in the country in developing, implementing, and evaluating new urban-focused library services programs.

**"AUTHORIZATION OF APPROPRIATIONS"**

"SEC. 504. For the purpose of making grants to States for the improvement of urban

library programs under this title, there are authorized to be appropriated \$20,000,000 for the fiscal year 1978, \$25,000,000 for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1982."

**MOTION OFFERED BY MR. PERKINS**

Mr. PERKINS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PERKINS moves to strike out all after the enacting clause of the Senate bill S. 602 and to insert in lieu thereof the text of the House bill, H.R. 3712, as passed by the House on March 21, 1977, as follows:

That (a) section 4(a) (1) of the Library Services and Construction Act (20 U.S.C. 351b (a) (1)) is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof the following: "\$110,000,000 for the fiscal year ending September 30, 1978, \$130,000,000 for the fiscal year ending September 30, 1979, and such sums as may be necessary for the fiscal years ending September 30, 1980, and September 30, 1981".

(b) Section 4(a) (2) of the Library Services and Construction Act (20 U.S.C. 351b (a) (2)) is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof the following: ", and such sums as may be necessary for the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, and September 30, 1981".

(c) Section 4(a) (3) of the Library Services and Construction Act (20 U.S.C. 351b (a) (3)) is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof the following: "\$15,000,000 for the fiscal year ending September 30, 1978, \$20,000,000 for the fiscal year ending September 30, 1979, and such sums as may be necessary for the fiscal years ending September 30, 1980, and September 30, 1981".

(d) Section 4(a) (4) of the Library Services and Construction Act (20 U.S.C. 351b (a) (4)) is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof the following: "and the fiscal year ending September 30, 1978, September 30, 1979, September 30, 1980, and September 30, 1981".

SEC. 2. (a) The Act (20 U.S.C. 351 et seq.) is amended by inserting immediately after section 7 the following new section:

**"ADMINISTRATIVE COSTS"**

"SEC. 8. The amount expended by any State, from an allotment received under this Act for any fiscal year, for administrative costs in connection with any program or activity carried out by such State under this Act shall be matched by such State from funds other than Federal funds."

(b) Section 102(b) of the Act (20 U.S.C. 353(b)) is amended by inserting immediately after "Subject to" the following: "the provisions of section 8 and".

Mr. PERKINS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the motion be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS).

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill, S. 602, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none and appoints the following conferees: Messrs. PERKINS, BRADEMANS, BEARD of Rhode Island, and QUIE.

**DEPARTMENT OF ENERGY ORGANIZATION ACT**

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6804) to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

**IN THE COMMITTEE OF THE WHOLE**

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 6804, with Mr. NEDZI in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. BROOKS) will be recognized for 1 hour, 15 minutes; the gentleman from New York (Mr. HORTON) will be recognized for 1 hour, 15 minutes; the gentleman from Colorado, (Mrs. SCHROEDER) will be recognized for 15 minutes; and the gentleman from New York (Mr. GILMAN) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, in recent months, America has become increasingly conscious of the challenges facing us in meeting our energy needs in the coming years. The Arab oil embargo of 1973, the extremely cold winter of 1976-77, and the diminishing reserves of domestic natural gas supplies have focused the spotlight on our severe energy problems. Congress has reacted to meet the short-term needs with such legislation as the Emergency Petroleum Allocation Act, the Federal Energy Administration Act, and the Energy Research and Development Act. We are now grappling with establishing a long-term national energy policy and there is presently pending the National Energy Act.

While there will be vast differences of opinion as to what the policy should be, there seems to be general agreement that any national policy will require a single unified structure in the executive branch of the Government through which we can deal with our energy prob-



lems in a comprehensive manner. H.R. 6804 creates such a structure.

The Department of Energy that would be established by the bill will be a Cabinet-level department in which all the energy-related functions of the Federal Government will be consolidated. It will be responsible for developing national policy, for the collection and analysis of energy data and information, for research, development and demonstration of various energy resources, and for most energy regulatory activities. It will be concerned with the conservation of energy and the protection of the environment, and with fostering competition in the energy field.

These functions are now scattered throughout the Government, with no individual or organization in a position to coordinate them into a broad, national policy that will help us meet the difficult times we know are ahead.

There are now over 40 executive departments and agencies gathering information about fuel supplies and reserves, about consumption and future needs. Research and development goals in the energy field are now pursued independently, often in competition with each other.

The same arbitrary divisions exist in the pricing and allocation of fuels, with different agencies responsible for regulating different fuels—greatly complicating efforts to manage fuel supplies in times of emergency such as we experienced last winter.

In H.R. 6804, we have tried to bring all these functions into a balanced organization with sufficient power to develop and carry out a national policy, but with sufficient safeguards to make sure that power is not abused.

Three agencies—the Energy Research and Development Administration, the Federal Energy Administration, and the Federal Power Commission—would be abolished by this legislation, with all their functions and personnel transferred to the Department of Energy.

From the Department of the Interior, the new department would receive the functions of the Bonneville, Alaska, Southwestern and Southeastern Power Administrations, and the marketing of power by the Bureau of Reclamation. It would also receive the Bureau of Mines' coal production research functions, and some of the Interior Department's responsibilities relating to the leasing of federally owned energy resources.

The new department would take over the industrial energy conservation program now operated by the Department of Commerce, and the authority to develop energy conservation standards in new buildings now exercised by the Department of Housing and Urban Development.

The regulation of oil pipelines would be transferred to the Energy Department from the Interstate Commerce Commission, and it would get authority over three petroleum reserves and three oil shale reserves from the Defense Department.

In putting together this organization, Mr. Chairman, our committee was concerned with the extent of power that

would be vested in the Secretary who will run it. One point I want to emphasize is that this bill does not create any new authority, power, or programs. The Government Operations Committee has made every effort to avoid altering any substantive laws. It is the intent of the committee that neither the Secretary nor any other officer of the department have any authority that does not presently exist somewhere in the Federal Government.

The purpose of this bill is to pull those authorities together. Obviously, decisions have to be made as to where the authority will reside in the new department. One issue that has raised particular concern involves the transfer of some of the regulatory functions of the Federal Power Commission to the Secretary of Energy. The legislation before us does not change the substance of, or authority contained in, the Natural Gas Act or the Federal Power Act. But, the Government Operations Committee did decide that certain functions should be placed in the Secretary rather than a board. In the committee bill, the Secretary would be authorized to assume the functions of the Federal Power Commission under the Natural Gas Act and the Federal Power Act which involve the issuance of rules and regulations of general applicability, including the function commonly referred to as wellhead pricing of natural gas. It is the position of the committee that the rulemaking power of general applicability should reside in the head of the department as an essential element of his policymaking role.

On the other hand, the committee felt the Secretary should not have the function of adjudicating specific case-by-case determinations. The Federal Power Commission's functions of an adjudicatory nature have been transferred to a five-member Federal Energy Regulatory Commission, which, although established within the department, will be independent of the Secretary and other department officials.

The five members will be appointed by the President and confirmed by the Senate. They will hire their own staff and hearing examiners, and the commission will have a separately identified allocation in the Department's budget. This commission will perform all the case-by-case adjudications now carried out by the FPC, preserving all the elements of due process that are now provided.

That is not all the committee has done to limit the authority of the Secretary of Energy. The vitally important Energy Information Administration established as part of the Department will be headed by an administrator appointed by the President and confirmed by the Senate. And this administrator will not be responsible to, or subject to the direction of, the Secretary or any other official of the Department.

The Administrator of the Economic Regulatory Administration, another division of the Department that will carry out the regulatory functions not transferred from FPC to the new five-member commission, will also be appointed by the President and confirmed by the Senate.

And we have established an Office of

Inspector General in the Department, who, while under the general supervision of the Secretary, can only be removed from office by the President. One of the duties of the Inspector General will be to keep Congress fully and currently informed of any problems or abuses in the administration of the Department's programs.

Finally, I want to again emphasize that the Secretary will not have any powers that have not been created by Congress. What Congress gives, it can take away.

I believe, Mr. Chairman, that far from creating an energy "czar" who will have dictatorial powers over our lives and economy, we have created an office with balanced, carefully prescribed powers.

We are dealing with a grave issue affecting the lives of every one of us, and the future of our country. We must have an organization that can respond to this massive challenge. H.R. 6804 establishes such an organization, and I urge the Members to support it.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I would be pleased to yield.

Mr. WYLIE. Mr. Chairman, what would be the additional cost to the Government in the creation of this new Department of Energy?

Mr. BROOKS. We do not anticipate any additional cost. The thrust of this legislation is to coordinate and pull together the divergent authorities now existing in Government and their staffs. This does not contemplate any additional cost. There is plenty of cost already incurred in the existing authorized agencies.

Mr. WYLIE. Mr. Chairman, if the gentleman will yield further, so any money authorized to other agencies, such as ERDA, will be transferred to this new Department of Energy and it is not anticipated that additional money will be asked for in the form of appropriations?

Mr. BROOKS. The gentleman is correct.

Mr. WYLIE. One additional question, if the gentleman will yield further. Is it contemplated that additional Federal employees would be required to administer the new Department of Energy?

Mr. BROOKS. It is not.

Mr. WYLIE. Mr. Chairman, I thank the gentleman from Texas.

The CHAIRMAN. The time of the gentleman from Texas (Mr. Brooks) has expired.

Mr. BROOKS. Mr. Chairman, I yield myself 1 additional minute.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, on page 76, of the bill and page 77, there is a provision transferring, as I understand it, the powers of the Federal Power Commission respecting rates and charges of natural gas sold for resale in interstate commerce under the Natural Gas Act to the Secretary of the Department of Energy.

Now, I think I understand the provisions correctly, but I would like to ask the distinguished gentleman from Texas: This does not create any new or addi-

tional powers in the Secretary of the Department of Energy. It merely transfers such powers as presently exist in the Federal Power Commission respecting first sale of natural gas in interstate commerce to the Secretary.

Mr. BROOKS. Mr. Chairman, the gentleman is correct.

Mr. ECKHARDT. So as the gentleman says, the bill is procedural, rather than substantive?

Mr. BROOKS. That is correct.

The CHAIRMAN. The time of the gentleman from Texas (Mr. Brooks) has again expired.

Mr. BROOKS. Mr. Chairman, I yield myself 1 more minute.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield further?

Mr. BROOKS. I yield to the gentleman.

Mr. ECKHARDT. Mr. Chairman, I ask this to clarify a matter in my own mind. Does the Federal Power Commission stay in effect with respect to other functions, other than the pricing of natural gas at the producer level?

Mr. BROOKS. All the existing authority within the Federal Power Commission is transferred to the new Department and whatever authority they have now is transferred to the new Department for exercise by that Department.

Mr. ECKHARDT. Not only with respect to price at the wellhead, but also with respect to transmission?

Mr. BROOKS. Would the gentleman repeat that.

Mr. ECKHARDT. I think the gentleman has answered it very comprehensively that, in effect, the bill would discontinue the Federal Power Commission and transfer its authority to the agency.

Mr. HORTON. Mr. Chairman, I yield myself 11 minutes.

Mr. Chirman, I rise in support of H.R. 6804, a bill to create a Department of Energy. I want to express at the outset my sincere congratulations to the chairman of the Government Operations Committee, the gentleman from Texas (Mr. Brooks) for the outstanding job he did in shepherding this legislation through lengthy hearings, a very thorough subcommittee markup and a spirited and objective consideration by the full committee.

The entire legislative process undertaken by the committee was a comprehensive attempt to provide an opportunity for all interested parties to express their concern about the administration's original legislative proposal and offer alternatives. The Chairman also provided a substantial opportunity for other committees of the House to present their views, and in many instances have their recommendations included in the final product approved by the full committee. Involved in the deliberations were the House Committees on Interstate and Foreign Commerce, Science and Technology, Interior and Insular Affairs, and Post Office and Civil Service.

It is important to emphasize the thoroughness of the hearings and the markup process because one theme seemed to prevail as the committee received vol-

umes of testimony. Witness after witness supported the creation of the Department of Energy except for the provision which directly affected his area of interest. This position was repeated time and time again by private industry; public interest groups and, yes, even some Members of Congress.

These qualified endorsements underscore for me a major reason for the creation of the Department of Energy. Despite the Arab oil embargo, or the subsequent inaction by the Congress for 3 years on the development of a comprehensive national energy policy, or the nearly disastrous impact of the "winter of 1977," a great number of interested parties are unwilling to accept the need for a major overhaul of the energy decisionmaking machinery of the Federal Government.

For the most part, testimony received by the Legislation and National Security Subcommittee contained few recommendations on how to improve this decisionmaking process. Instead, virtually everyone wanted to retain the status quo while tacitly supporting a cosmetic change which would have little impact on resolving the problems facing the many agencies involved in making the energy decisions during the years ahead.

The committee report defined succinctly the need for the creation of a new Department. It says in part:

Present organization and arrangements for handling energy problems within the Federal Government are clearly inadequate. Responsibility is scattered and there is no single point from which energy policy can be developed and effectively carried out. Different agencies administer different programs or different aspects of the same program often with contrary results.

As examples of this type of fragmentation we need only to look at the testimony developed during hearings. No single agency has the responsibility or accountability for the development and execution of a national energy policy.

There are currently 261 energy data programs operated by over 40 executive departments and agencies.

Five Federal agencies share responsibility for energy conservation programs.

Energy research and development, despite the creation of ERDA 2 years ago remains partially fragmented and in many instances independent of national energy priorities.

In the area of regulation of energy supplies, the situation is equally fragmented. The Federal Power Commission regulates the price and allocation of interstate natural gas, electricity, and hydroelectric power. The Federal Energy Administration regulates oil prices. ERDA determines the price of enriched uranium.

Virtually all of the Federal energy agencies have some jurisdiction over resource development. Quoting the committee report, the record developed during hearings shows that—

As a result, individual programs for development of coal, oil, natural gas, and uranium, as well as geothermal and solar energy have suffered from a lack of overall focus and sense of urgency.

We have come to a critical juncture in our deliberations during the 95th Congress about the future of the energy policy of this country. We are now in the process through committees of the House and Senate, of seeking to define that policy. But history and common sense tell us that if we do not give the executive branch the necessary means by which to execute this policy, legislation written with the wisdom of Solomon will not solve the energy problem.

That is why we need the Department of Energy now. There is no question that the way in which a policy will be administered is affected by the structure of the agencies involved. But can any Member of this Chamber objectively say that the present bureaucratic nightmare has been effective?

The Federal establishment has been incapable of responding to the energy problems of the past 5 years. It boggles my mind to contemplate how the present structure would react to the complicated legislation now being considered by the Congress.

The Congress has not been extremely helpful in resolving the problem because we have never defined our national energy policy. That is why the time for action on the Department is now; not when the energy policy is decided.

There have been a number of controversial issues attendant to the consideration of H.R. 6804. None has been more widely debated nor more effectively confused than the question of how the regulatory functions of the Federal Power Commission and the Federal Energy Administration will be folded into the new Department.

I want to try to set the record straight at the beginning of this debate about the manner in which these functions will be handled if the committee approved bill is adopted by the House.

H.R. 6804 establishes a Federal Energy Regulatory Commission and an Economic Regulatory Administration.

The Commission, to be composed of five members, received special attention by the committee to insure its independence. The members will be appointed by the President and confirmed by the Senate. The Commission will have jurisdiction to determine the rates charged by wholesale distributors of natural gas and electric power, and may also receive other functions as the Secretary may decide. The Secretary may intervene in an action before the Commission, but the decisions of the Commission will be final for the Department.

The Economic Regulatory Administration will be the vehicle by which the Secretary carries out the responsibilities of issuing rules and rates of general applicability. This includes the regulatory activities now accomplished by the Federal Energy Administration, for the pricing and allocation of petroleum and petroleum products as well as the initial pricing of natural gas presently performed by the Federal Power Commission. The exceptions and appeals process presently utilized by the FEA will be continued.

There is no attempt in this bill to eliminate, reduce or restrict the rights of



any party; not for private parties, public interest groups or a Government agency which presently might possess such a right.

There is an attempt to provide some symmetry to the process by which decisions are made. It seems to me ironic that many individuals bitterly critical of the Federal Power Commission are now concerned that it might be eliminated. In fact, every procedure of the FPC will be transferred to the Commission or to the Economic Regulatory Administration.

This issue is but one of many which occupied the time and consideration of the committee. It is but one example of an element of the legislation which has been opposed because it changes the status quo.

We need to face clearly the question before us today. Are we capable as a legislative body of recognizing the seriousness of the problem and responding to it with a positive, constructive remedy? Support for H.R. 6804 would be a resounding answer in the affirmative.

I urge my colleagues to consider carefully the contents of the bill approved by the committee. I would urge the same care during the consideration of amendments. What may be offered under the guise of protecting rights of interested parties, is in reality an institutionalization of a process which has been uncoordinated and unproductive.

Mr. Chairman, I urge prompt approval of H.R. 6804.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would point out that I like the concept of the bill's consolidation of function, and I like the rifle-shot approach to the problem of energy, but, on the other hand, I do not want this to become another layer of bureaucracy.

I asked a question along that line of the distinguished chairman of the Government Operations Committee a little earlier. I asked if carrying out the purposes of this bill would require any more Federal funds, and he said it would require none. I asked him how many more Federal employees would be required to administer the Act, and he said it would require none.

I would like to ask the gentleman from New York (Mr. HORTON) this question: How does that square with the language on pages 104 and 105 of the bill which authorizes the Secretary to appoint 14 executive level IV and V employees and up to 105 supergrade employees under the civil service law, in addition to supergrade employees transferred into the department?

Mr. HORTON. Mr. Chairman, we have put a limit on the number of supergrades, and there cannot be any more supergrade employees appointed than now exist or are authorized in the agencies that are being transferred, those agencies being FEA, ERDA, and the Federal Power Commission. Therefore, there are no additional supergrades.

Mr. WYLIE. So there will be no additional supergrades created by this bill,

and there will be no additional Federal employees required?

Mr. HORTON. No. We felt very strongly about that. The number of employees transferred is the same number of employees now authorized for the three agencies. I think that amounts to something over 19,000 employees.

Mr. WYLIE. Mr. Chairman, I thank the gentleman.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, today the House of Representatives considers what may well be the single most important ingredient in the establishment of a comprehensive national energy policy. In order for the other parts of the President's National Energy Conservation Plan to be effective, they must be implemented through an effective, coordinated mechanism. This bill provides that essential mechanism. To insure that the existing Federal energy programs work, they too must be carried out in a coordinated manner. H.R. 6804 will achieve this coordination.

The committee-reported bill will bring together all functions of ERDA and FEA. It will also bring into the Department certain energy-related functions from the Department of the Interior, Department of Commerce, Department of Housing and Urban Development, Interstate Commerce Commission, and the Department of Defense. These functions will go far in allowing the proper implementation of a national energy policy.

However, just as important as these functions are those being transferred to the Department from the Federal Power Commission. In order to successfully coordinate a national energy policy there are certain functions under the Natural Gas Act and Federal Power Act which must be transferred to the Secretary of DOE. Particularly important among these functions are general rulemaking authority and the establishment of the wellhead price of natural gas under the Natural Gas Act. I would like to make it very clear that in transferring these authorities to the Secretary, which are so important to policymaking, no procedural safeguards guaranteed by the Federal Power Act or Natural Gas Act would be compromised. For example, the substantial evidence test upon which all actions of the FPC must be justified would apply to the Secretary.

Mr. Chairman, the bill reported by the Committee on Government Operations under the dedicated and able leadership of the chairman, is very specific in transferring authorities to the Secretary which are essential to national energy policy. The other functions of the FPC are placed in an independent Commission within the Department. I urge my fellow Members not to tamper with the delicate balance contained in H.R. 6804.

I fully support this measure, compliment the chairman and the ranking Republican member, Mr. HORTON, on a superb effort and urge prompt passage of H.R. 6804.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Colorado (Mr. ARMSTRONG).

Mr. ARMSTRONG. Mr. Chairman, I am grateful to my colleague, the gentle-

man from New York (Mr. HORTON), for yielding this time to me.

I would like very much to support this bill. The idea of voting to reorganize the sprawling bureaucracy which is our energy establishment, to streamline it, and to somehow bring order out of chaos is very appealing.

But H.R. 6804 goes far beyond reorganization. It makes some drastic and unfavorable changes in longstanding policies. It is, as Dr. Friedman described it recently, a "Trojan horse."

Mr. Chairman, we are getting the cart before the horse. We do not know what the Nation's energy policy will be after Congress has massaged the proposal sent to us by the Carter administration, a proposal which the President himself has described as one of the most complex ever submitted by a President to the Congress. I think that is a fair evaluation. In addition, there are pending other proposals by Members of Congress and other interested persons which are going to require very extensive hearings and serious consideration.

It is the expectation of many of us that the plan submitted by the White House will not be approved in its present form. Yet, we are bringing to the floor today a bill which has been tailored to the Carter administration energy program.

Would it not make sense to wait and see what the policy is before we create an apparatus to administer that policy?

May I also point out that this will be a very costly agency. I would like to quote briefly from an editorial in yesterday's Wall Street Journal which well sums up this issue:

A Chevron statistician has been sizing up the \$10.6 billion budget of the proposed new Department of Energy. For example, it is about double the value of all the oil the U.S. imported from Saudi Arabia last year. It exceeds capital and exploration expenditures by the petroleum industry to find and produce oil, gas and gas liquids in the U.S. in 1975. It exceeds by \$800 million the 1974 profits of the seven largest international oil companies.

Mr. Chairman, the editorial continues but I will skip to the last line of the editorial. I quote:

One should keep in mind that the \$10.6 billion is only the cost of the newly born baby. The Department of Energy thinks it will cost more when it grows up.

Mr. Chairman, I am well aware this spending is already occurring, but, for the most part, these are expenditures by agencies which did not even exist a few years ago.

What concerns me is that when we create a new agency with an ill-defined purpose to administer a policy not yet in existence that the increase in expenditure in the future is likely to be very great.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ARMSTRONG. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding.

I want to emphasize the point the gentleman just made because that article or editorial in the Wall Street Journal on the Chevron statistician seemed to imply that this was an additional \$10 billion.

It is my understanding that the \$10 billion referred to is the existing cost of operating those agencies, bureaus, and boards which are presently in existence. It may be that those are not proper expenditures in and of themselves, but I think it would be unfair and inaccurate to suggest that this is an additional \$10 billion.

Mr. ARMSTRONG. Mr. Chairman, I believe the gentleman is correct; but I think he would also agree that these are expenditures, in large measure, for agencies that did not exist just 4 years ago.

Third and most important, I think there is a truly ominous aspect in concentrating as much power as is proposed by this bill in the hands of a single politically appointed administrator. It has been asserted here that we are not giving new power to the Secretary of Energy, that we are merely consolidating power that already exists; but at least in some instances, in the present form of the bill, we are consolidating power which has been exercised by an independent regulatory agency, an agency bound by certain safeguards, procedural requirements, and which is, to some degree, at least, insulated from political pressure and, least to some degree, isolated from the temptations of corruption. We are taking decisions out of that kind of regulatory setting, and the power in the hands of one person.

Mr. Chairman, by consolidating this power in one person, we are making that person, the new Secretary, more powerful in the energy field than anybody has ever been before. Since every business, every farm, every job in this Nation depends to a greater or lesser extent on energy, we give the Secretary of Energy the right to say who gets to keep his job and who does not.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. ARMSTRONG) has expired.

Mr. HORTON. Mr. Chairman, I yield 2 additional minutes to the gentleman from Colorado.

Mr. ARMSTRONG. Mr. Chairman, I thank the gentleman for yielding further.

To continue, Mr. Chairman, we are talking about the life and death power over every farm, business, job, community, and region of this Nation. No matter who exercises that power, I suggest that such discretion should not be given to any one person in a country that prizes economic freedom.

Under the circumstances, Mr. Chairman, I could propose a great many amendments to this bill, and it is possible that I will propose at least one to correct what I see as one of the outstanding problems. However, in view of the concerns which I have expressed and which have been even more forcefully expressed by others about the concentration of power, about cost, about the fact that we are putting the cart before the horse, would it not be a good idea to send this bill back to committee so that we can first formulate our policy, get a better handle on the cost, and then when we bring the legislation back to the floor, to create a Department of Energy, if that is what we are going to do, to pro-

vide a degree of isolation from political pressure, provide procedural safeguards, separate the rulemaking function from the day-to-day administration of programs? I think this would be wise.

Therefore, Mr. Chairman, for those reasons, I hope that if a motion to recommit is offered, it will be adopted so this bill will be given some further study. Otherwise the bill should be defeated.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. MOSS).

Mr. MOSS. Mr. Chairman, I rise in support of the main thrust of this bill. The creation of a Department of Energy is a desirable move by this Congress and I will vote to create that department. But I have spoken bluntly in the past of my reservations about the miracles which are claimed to flow from this bill. Most of the structure it seeks to create is worth a try, but I do not think we should be overly optimistic that it is going to accomplish many of the things claimed for it.

There are elements of the structure which are contained in the administration's proposal which should be modified. I have the greatest respect for President Carter and I have the highest regard for the man who will probably serve as the first Secretary of the Department of Energy, the very distinguished former Secretary of Defense, James Schlesinger, but it is our duty as Members of this House to recognize that this department will long outlast the present administration. My comments are predicated upon that long term view—not today's personalities, although, in all candor, I would propose them whether or not I had assurances that those who administer the programs would continue in office in perpetuity.

From that perspective, Mr. Chairman, I think many will agree that the structure established by the bill before us is deficient in four important ways.

First, the bill does not create a clear focus for energy research activities within the new department. Five of the nine assistant secretaries created by this legislation will have some research responsibilities. Clearly this will involve problems of coordination and possible fragmentation of our critical energy research efforts. This is particularly acute in areas of basic research which will be the fountainhead of energy technologies which we will and must use in the future.

To cure this problem I will offer an amendment to the legislation to create an office of energy research within the Department of Energy which will advise the Secretary on research matters, manage portions of our basic energy related physical research and administer such other research programs as directed by the Secretary, including those which are necessary but not strictly within the responsibility of any of the nine assistant secretaries.

Second, H.R. 6804 seeks to vest far too much power in a single individual, a Secretary of Energy appointed by the President of the moment. In particular, H.R. 6804 would create a Secretary of Energy with authority to set the well-head prices of natural gas and issue rules of general applicability under the Na-

tural Gas and Power Acts, including presumably rules relating to construction work in progress, wholesale power rates, and the wheeling of electrical energy.

The amendment to be offered by me, with the support of my distinguished friend, the gentleman from Ohio (Mr. BROWN) solves this problem by vesting these general authorities in the new Federal Energy Regulatory Commission created by the bill. The amendment is supported by a broad coalition of Members and organizations who believe that at least until a far more specific mandate is given the executive through substantive amendment of the law, these general authorities should remain within a collegial regulatory agency.

Third, the bill makes substantive changes in the administrative procedures which have been employed in the laws which are being made the responsibility of the Secretary of Energy. This is not the bill to make such changes. As a consequence, I urge Members to support the amendment to be offered by the distinguished chairman of the Subcommittee on Energy, the gentleman from Michigan (Mr. DINGELL).

Finally, the bill is deficient in that the Federal Energy Regulatory Commission created by section 401 is not clearly granted the status of an independent regulatory commission for purposes of the Executive Reorganization Act. This oversight will be addressed by a technical amendment which I will offer later in the day.

In closing, let us support the main points of this bill, but let us make the changes we must make in order to guarantee that the structure to be created by H.R. 6804 works for the public interest in this and in succeeding administrations.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROOKS. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

I wonder if the gentleman has noted that this bill also rewrites administrative procedures and judicial review that now exists in FEA, but apparently these might well be extended to the enlarged functions provided with respect to regulating the price of natural gas. Under title V the only matters that are subject to the Administrative Procedure Act, as I read the bill, are things in the nature of a rule and not enforcement orders.

Mr. MOSS. That is correct.

Mr. ECKHARDT. Presently the FEA exerts enormous authority in its enforcement orders, and if we extend greater authority to this department beyond those that the FEA now utilizes, it seems to me that we leave an administrator with almost czarlike powers with respect to enforcement orders.

Mr. MOSS. I agree with the gentleman completely, and I think that the powers granted by this bill are far in excess of what is necessary to reasonably carry



out the duties imposed on a head of energy.

Mr. ECKHARDT. I thank the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HORTON. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from New York.

Mr. HORTON. I thank the gentleman for yielding.

I want to commend the gentleman on the work that he did in the subcommittee, and in the full committee. He was most helpful in arriving at a compromise agreement which established the Federal Energy Regulatory Commission. It was the work of the gentleman from California (Mr. Moss), the gentleman from Texas (Mr. Brooks) and myself that resulted in the establishment of this new Commission.

I just want to ask whether or not the gentleman is satisfied that we did all we could to try to create as independent an agency as we could under the circumstances.

Mr. MOSS. I think we did almost all, and I hope that we do that additional necessary thing today by making it subject to the same limitation on reorganization as applies to other independent commissions. I would not want to see us create this, and then 6 months from now have it reorganized out of existence.

Mr. HORTON. Is the gentleman making the point that this would not be subject to the Reorganization Act?

Mr. MOSS. It would as the bill is now written, but with the amendment I will offer, if adopted, it would then be subject to the same limitation on reorganization we impose in the reorganization of all other independent regulatory commissions.

Mr. HORTON. There have been some questions with regard to whether or not this is truly an independent agency, and people have asked whether or not the head of this Commission would be responsible for appointment of personnel. What we tried to do in the subcommittee and full committee was to make it as completely independent as possible. As I understand it, the Commission would be responsible for the appointment and control of its own personnel, would have separate budget items, and would not be subject to control in any manner by the Secretary of the Department of Energy, that all this Secretary could do would be to intervene in matters before the Commission as in any other forum. Is this the gentleman's understanding?

Mr. MOSS. That is my understanding, again with the caveat that we need to make it clearly subject to the same limitation on reorganization that we have made other independent regulatory agencies.

Mr. HORTON. Is it the gentleman's feeling if we do not accept his amendment that this Commission could be reorganized by the Commission or by the Secretary or by the President?

Mr. MOSS. That is my conviction.

Mr. HORTON. Either one or all three? Mr. MOSS. It could be reorganized by the President. It could be reorganized by the departmental Secretary, under delegation from the President.

Mr. HORTON. I certainly would agree with the gentleman we want to make certain that is not going to happen and it sounds as though this amendment would get to that, and I certainly would be interested in having that amendment offered to make certain that this is an independent agency.

Mr. MOSS. I thank the gentleman. Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, it is not just a cliché to say about the legislation before us today that we are indeed dealing with the lifeblood of our Nation. Energy resources are the basis of our economy and national power.

A few weeks ago I had the unhappy duty, as the ranking minority member of the Subcommittee on Energy and the Environment of the Committee on the Interior, of handling the opposition to the strip mining bill, which I feel will strongly curtail the production of coal in this Nation and goes in the opposite direction of what I understand to be President Carter's desire to win this war against the energy problem.

Today we have before us a bill that has been put forth by some of its sponsors as being little more than a modest reorganization of existing governmental agencies and personnel. I am indebted to my colleague, the gentleman from Colorado (Mr. ARMSTRONG), for his very persuasive statement pointing out many of the defects of this legislation.

Mr. Chairman, again like the strip mining bill, in this bill we seem to be going in the wrong direction. The energy problem has been with us for nearly 4 years now, and the winter of our discontent, during the 1973-74 Arab boycott, is still vivid in the memories of the watermen on the eastern shore of Maryland, the farmers who had to curtail their activities and the commuters who had no mass transit to use then or now and those who waited in the long lines, frustrated and angry.

It seems to me in the creation of this new monster bureaucracy, to be known as the Department of Energy or DOE, we are in fact totally ignoring the basic causes of our national energy problem. This bill might however give you some comfort, some reason to pat yourselves on the back or to tell your constituents that you are voting for energy once again by reorganizing and creating this new Federal department.

Long ago in one of the middle years of the Roman Empire one of the observers of that epic era, Gaius Petronius, Governor of Bithynia, I believe it was in A.D. 75 or before, said:

We tend to meet any new situation by reorganizing and a wonderful method it can be for creating the illusion of progress while producing confusion, inefficiency and demoralization.

Of course, he was talking about imperial matters, but the same sort of all too human factors are still operable in

the current bureaucracy. If we did not learn from the decline of the Roman Empire, we certainly ought to learn from the marked decline of the operation of the Government of the United States we have seen in recent years.

The basic and underlying assumption implicit in the legislation before us, if we read the policy objectives stated in the first few pages of the bill, is that the Government can do it better, but the Government is nothing more than a collective of individuals who know no more and no less than the people engaged in the private sector in the energy industry. In fact, the Government has a track record of seriously holding back the production of needed resources, such as natural gas, to the point that factories had to be closed in Baltimore and other cities last winter. In fact, there have been no new hookups for commercial or home use natural gas in Maryland for several years. Other States suffer similar problems.

It is the same Government which, in the face of the continuing energy crisis stood by and watched petroleum imports soar while petroleum production in this country has declined to the point where half of the products we need now come from abroad.

So again today, not only are we concerned or should we be concerned about the massive power that will be placed in the hands of the apostate Republican, Mr. Schlesinger who apparently will be our new Secretary of Energy, who will with all the zeal that he opposed the Soviets and called for military supremacy, now calls for bureaucratic supremacy in the field of energy. I have no great sympathy for big oil companies or big labor or any undue concentrations of power. But the same rule must apply to big government.

I could perhaps support this legislation, and I would hope that some of the amendments to be offered will be accepted, as they will assuage some of my fears; but just like the FEA before, this new baby doe, soon do grow will not produce one drop of oil, one cupful of gas, nor will it in any way enhance the energy potential of this great Nation, if history is any lesson. Quite the contrary it may well make any rational solution impossible. As it is presently before us, I urge defeat of this bill.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, the bill that we have before us contains several basic deficiencies. Therefore, I would like to describe two amendments that remedy these problems and, after briefly describing them, I will later offer them to the floor for consideration.

The first amendment would create a National Energy Board based on the premise that we should have an independent regulatory body outside of the Department of Energy. My amendment challenges the motion that, within the Department of Energy, we can actually have an independent regulatory agency.

My first amendment would go one step beyond the position advocated by my friend and colleague, the gentleman from

California (Mr. Moss), who seeks to separate the FPC from the Department of Energy. Under my amendment, in addition to taking the natural gas pricing power out of the Department of Energy, I want to remove the FEA's oil pricing powers from the Department and place the energy pricing powers of both FPC and FEA in a single, independent regulatory agency, which I have designated the National Energy Board.

Under H.R. 6804, we would have in one office of the giant energy bureaucracy an independent agency—the Economic Regulatory Administration—that supposedly would tell the new super-agency Secretary—and the President—that they are wrong. Instead, I believe we need a multifaceted body, representing many divergent views, composed of seven members appointed by the President.

I hope that the Members of Congress will realize that it is their policymaking power that under H.R. 6804 that will be swept into one agency under a single person. I was pleased that, on a 12 to 19 vote in the committee, I received bipartisan support for preventing this result.

If it can be argued that under my first amendment I am taking some power away from the Secretary of Energy, under the second amendment I would offer I want to provide him with some additional power. My second amendment would give to the Department of Energy the authority to purchase imported oil from OPEC nations and from any other foreign sources. This authority would be vested in a Public Energy Administration whose Administrator, under auction bidding procedures, would buy imported oil in a manner that has been discussed and debated at length in committee hearings and has been studied and recommended many times in the past 3 years.

As a matter of fact, the Presidential authority to do this already is in the law since 1974. In this reorganization proposal, my second amendment merely provides the office for this function to be used at the discretion of the Secretary. And I would hope that the Secretary and the President would use it.

In the haste and innocence with which this bill was put together, we seem to have forgotten where we are obtaining 50 percent of our oil supplies—from foreign sources. Unless we have such purchasing authority located in the Department of Energy, the new Secretary will have to read the morning newspaper to find out what the latest import price of oil per barrel is because, within his huge superagency, he will have no powers whatsoever over its costs.

In my second amendment, I would add to that power the authority of the Department to implement a new leasing procedure for domestic oil. Under this procedure, the private sector would manage extraction of crude oil on a contractual basis for fee, permitting the U.S. Government to own those products after extraction but to pass them on in sequential bidding operations.

Mr. HORTON. Mr. Chairman, I yield 10 minutes to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Chairman, this bill to

create a super new Department of Energy should be defeated.

The Federal Government's bureaucratic interference to date in the energy area has only led to higher prices and less supplies of energy.

It has even led to the suppression of data demonstrating that an end to Federal price regulation of energy would allow enough domestic energy production to provide all our energy needs at current levels of consumption for generations to come.

Look at the record with natural gas—the cleanest form of energy—which is regulated by the Federal Government.

The wellhead price of natural gas is currently held at the artificially low price of \$1.42 per thousand cubic feet.

This wellhead price accounts for only 10 to 18 percent of the price that consumers pay for home heating. The rest of the consumer price is pipeline costs, other incremental costs, and a small profit.

But the fact that Federal regulation has kept the wellhead price of natural gas artificially low has discouraged and prevented exploration and development of natural gas.

This is because costs of drilling an average well increased 62 percent in just 3 years between 1971 and 1974, while Federal regulators kept the wellhead selling price at the artificially low level.

The result was very little natural gas production during those years when additional natural gas was desperately needed—and a 42 percent decline in total U.S. natural gas reserves since 1968.

Staff analysts of the Energy Research and Development Administration's market oriented program planning study recently developed data to prove that an end to Federal control of natural gas prices could solve the energy problem for a millennium or more.

The MOPPS analysis estimated that at \$2.50 per thousand cubic feet, the United States would have about 45 years' worth of natural gas at current levels of consumption.

Estimates are that at a slightly higher price, energy producers would be able to develop approximately 500 trillion cubic feet of geopressured methane under the 400-square-mile basin in Texas, New Mexico, and parts of the Gulf of Mexico.

But ERDA's original MOPPS analysis demonstrating the need for deregulation of natural gas did not agree with the administration's position that natural gas prices should continue to be regulated, and allowed to rise to a wellhead price of no more than \$1.75 per thousand cubic feet.

And so the ERDA MOPPS analysis was deep-sixed and suppressed.

The MOPPS study later released for public consumption was laundered by ERDA officials to fit the administration's preconceived policy in favor of continued natural gas regulation.

Mr. Chairman, the facts of this cover-up would probably not be known today were it not for the enterprising investigative work of the Wall Street Journal, which published the news of this "ERDA-gate."

I would like to include the Wall Street Journal's May 20 editorial at this point in the Record:

[From the Wall Street Journal, May 20, 1977]

ERDAGATE!

We were frankly astonished at the reaction to our April 27 editorial, "1,001 Years of Natural Gas": telephone messages from high officials, a deputation from Exxon, an urgent letter from Robert Fri, acting administrator of the Energy Research and Development Administration. Naturally, the attention made us curious.

Having put together most of the pieces, we can now report on the cause of the excitement. Deep in the bowels of ERDA, an outfit called the Market Oriented Program Planning Study (MOPPS) has solved the energy crisis for five days in April. It took that long for the administration, the oil companies and ERDA to snuff out the solution and get the crisis back on the track. They thought they had driven a wooden stake through the heart of the MOPPS solution, but here in our editorial the monster was rising again.

In January, about 70 ERDA people were thrown into a task force to study potential supply and demand. In most resource studies, such a thing as prices never appears. So apparently nobody thought it was necessary to warn the MOPPS people against calculating supply curves, that is, calculating how much gas would be available at different prices in an unregulated environment. In their innocence, they tried to apply a little economics.

The study estimated that at \$2.25 per thousand cubic feet (mcf) the nation would be awash in natural gas. From \$2.50 to \$3 we'd be engulfed with it. MOPPS reckoned that at \$2.50 the U.S. would have about 45 years' worth of natural gas at current levels of consumption. The price would have to go higher to tap some of the unconventional sources, like geopressured methane, which conceptually would last us for a thousand years. But why would anyone worry about these exotic sources if we had 45 years' worth of the usual stuff likely to be available at lower prices?

Indeed if that were true how could there be an energy crisis? How could the President go on television with ringing calls for sacrifice? Why should American taxpayers be scared into coughing up billions of dollars—something like 5% of GNP—to cause conservation? How could Exxon recoup its investments in gasification research and coal properties by supplying gas from these sources at \$3.75 per mcf?

The innocent scientists and technicians in MOPPS had no idea what vested interests their simple calculations threatened. Even more to the point, bearing this unwanted message to the White House would be a black mark against the ERDA bureaucracy. The Federal Energy Administration would be in a position to gobble up all of the best spots when the two were merged into the new Department of Energy.

Given these realities, there was only one answer to the no-energy-crisis crisis. The ERDA brass recalled the MOPPS study, and threw out all the charts that had been so innocently put together over the months. By April 6, it had a "revised" MOPPS study, with the charts looking much like those from the FEA.

In these five days, the price projections jumped so high that the energy crisis was back in business. Mr. Carter's regulated gas price of \$1.75 looked good, because MOPPS II showed that higher prices in an unregulated market won't do much good anyway. And surely it would be prudent to give Exxon and other coal-gasification people a few billion dollars of tax money to spend on their plants.

A higher price can even be given to exotic



sources like geopressed methane; Mr. Fri assures us ERDA will do the research on that. Gas sources of two or three generations hence do not threaten anyone. The problem is allowing prices of ordinary gas to rise into the \$1.75-\$3.00 range, where if MOPPS I is right they would bring on the next generation of gas at threateningly low prices. While promising to do the research, ERDA has disbanded the MOPPS I crew, reassigning its members to study almost anything else but natural gas.

Now we have no idea whether the price figures in MOPPS I are correct. It is certainly possible for other groups in the administration to dispute them in all good faith. And clearly Exxon has made serious investment decisions on the basis of other numbers though perhaps tempered with "political reality." But to us the MOPPS I estimates seem not at all implausible, given the one thing we know for sure about natural gas: Since the Phillips decision in 1954 its price has been held at not only artificially but, in recent years, ridiculously low levels. Most of the gas found has only been a by-product of oil exploration. It stands to reason that if looking for gas suddenly becomes profitable a lot will suddenly be found. But the point is—the point of our original editorial was—that no one will know until the price is deregulated.

MOPPS certainly does show, though, how many vested interests need the energy crisis. The President needs a war to fight. Without an energy crisis the energy bureaucracies cannot grow. The energy companies are turning into a regulated industry, all of which try to dampen innovation. We now hear energy czar James Schlesinger bragging that privately most companies do not favor deregulation. This is not yet true, but in time the proposed policies certainly would reduce the oil companies to the state of the airlines.

With all of this clout behind the energy crisis, it is scarcely surprising that a crude but effective message goes out: By gosh, boys, there has to be an energy crisis, so don't nobody find no energy.

Mr. Chairman, I submit that passage of this bill would only invite more of this kind of deception at the hands of Federal energy planners and bureaucrats.

If Congress approves this super new Department of Energy—centralizing all Federal energy functions and powers in the hands of one agency administered by one energy czar—the scenario will likely follow the usual bureaucratic pattern.

This energy department will continue to plan and regulate our Nation into increased energy shortages and higher prices for consumers—rather than allowing the market to operate freely to provide abundant energy at lower prices for our citizens.

The Federal energy czar and his army of energy bureaucrats will then justify existence and growth of the Department of Energy on this continuing energy crisis of the Federal Government's own making.

The Department will inevitably mushroom from its current proposed collection of 20,000 employees from existing Federal energy offices—and its \$10.6 billion annual budget—to 100,000 or more Federal employees and a \$60 or \$100 billion budget a few years from now.

This growth is predictable, based upon the history of the Department of Health, Education, and Welfare, and similar agencies.

To compound this bureaucratic disruption of our economy, and this unwar-

ranted growth of the bureaucracy, we have this problem of deception and manipulation by the energy bureaucracy to force its policy initiatives onto the people.

With any powerful, centralized bureaucracy of the type proposed by this legislation, there is always the dangerous possibility that this department will manipulate or deep-six data that disagrees with or disapproves the bureaucratic mind-set as a means to control public opinion, our national economy, and public policy in the entire energy area.

For these reasons, I urge defeat of this legislation and passage instead of alternate energy proposals to eliminate Federal interference and control of our economy in the energy area.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. RUDD. Yes, I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding.

I want to compliment my colleague, the gentleman from Arizona (Mr. RUDD), on his statement, especially the point he is making that this is a major step toward the nationalization of a major industry in this country. I think that is an unfortunate step. I do not think it is for the betterment of our country or of mankind.

I think we should have learned, from the results of England's having nationalized so many industries, that nationalization really does not encourage competition or production and it tends to centralize the decisionmaking process.

Mr. Chairman, I believe that the several points the gentleman from Arizona (Mr. RUDD) has made are correct, and that he is to be complimented for a very, very thoughtful statement.

It is unfortunate that during these floor debates so many of our colleagues are unable to be present. Of course, many of them are attending other committee meetings, and for that reason many Members do not always get the benefits of all the statements made during general debate.

Mr. Chairman, I feel that my colleague, the gentleman from Arizona (Mr. RUDD), who is a new Member, has spoken very thoughtfully and that he has given us a great deal of good material which we can digest. I thank the gentleman for his contribution.

Mr. RUDD. Mr. Chairman, I thank the gentleman from California (Mr. ROUSSELOT) for his remarks.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, today we are to consider perhaps the most important legislation to date in the 95th Congress. The act to create a new Department of Energy is a good one and I urge my colleagues to support H.R. 6804.

For far too many years, responsibility for energy research, development and demonstration has been scattered among a multitude of agencies. Although it would be easy to criticize some of the workings of these agencies, I believe they have all done their best to be responsive.

The lack of one central control over energy matters at the national level, however, is all too evident and, by creating the Department of Energy, we will achieve the necessary control.

Only an ostrich with his head in the sand would not recognize the serious and critical nature of our present energy situation. We can and must become less dependent on foreign sources for our energy needs and this can only be accomplished by the creation of one agency, and one cabinet officer, responsible to the President, Congress and the American people for the majority of energy-related matters.

The divisions established for research, at the Assistant Secretary level, are logical ones and are not restrictive. New technologies we have not even dreamed of may be developed and there is certainly a place for them under this agency.

Some may argue that the powers and responsibilities given the Secretary of Energy are excessive. They are, no doubt, enormous powers to deal with an enormous problem. It is high time that we set up one agency to be responsible for the diverse energy questions we face if we are to solve this most crucial of problems.

The new Secretary of Energy will not be a czar. The Subcommittee in Legislation and National Security and the House Government Operations Committee have seen to that. We were presented with a complex piece of legislation that demanded many hours of work and modification was certainly in order. As with all proposals Congress receives from a President, this one shifted too much authority to an administrative agency and too little congressional control and oversight was mandated.

We have changed all that. For example, the administration wanted to control the financing of one small segment of the electric utility industry, the REA's. Their proposal would have shifted ultimate control over REA's from the Department of Agriculture, where they are accorded priority status, to the Department of Energy which will have far bigger fish to fry. The result would have been a gross delay in loan applications and endless bureaucracy. No other segment of the electric industry was singled out for this treatment and I was gratified when an amendment I introduced to remove the veto power was approved.

The administration bill would also have limited reports to Congress and contained no provision for an Inspector General with responsibility to root out wrongdoing within the agency. These, too, were changed in our desire to create a new agency to handle energy without creating a Frankenstein's monster to terrorize small business and run amuck with no way to rein it in.

My friend and colleague, BEN ROSENTHAL, introduced an amendment to strengthen the conflict of interest provisions and I supported his efforts in committee. We must assure the American people that the people running this department are working for them and are not just there for a couple of years in the hope of landing a good job with industry. This problem, too, has been solved.

Yes, the Department of Energy does have enormous powers. It can set the price of wellhead oil and natural gas and can ultimately have a great impact on the energy supply in the country. But we have the power to control this agency and we have already in place the restrictions felt necessary to keep the agency in line.

The powers retained by the various other departments concerned with energy matters are retained because of their logical connection to that Department's specialty. The Secretary of Energy will hopefully be able to coordinate activities with these other agencies and I believe the results will not be bureaucratic redtape but, rather, consultations at the highest level of Government officials.

Let me turn my attention briefly to the powers we do give the Secretary. Trusting that my colleagues have read the bill, the committee's report and other extraneous matter on the legislation, I will not dwell on the specifics. Let me add only that I firmly believe that with the passage of this act, we will have made a great stride in our energy independence drive.

Coordination and simplification, the elimination of overlapping functions and bureaucratic entanglements, the concentration of research programs and demonstration projects and the accountability we so desperately need will be advanced by H.R. 6804. I do not offer this new Department of Energy as a panacea but, rather, as a hopeful bright new beginning in our energy effort.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. ROSE).

Mr. ROSE. Mr. Chairman, I rise in support of this bill, H.R. 6804.

I have a great deal of confidence that our President is serious about attacking the energy crisis in this Nation, and I think that by the passage of this legislation we will give him the tools that he needs to accomplish that goal.

However, I want to talk for just a brief moment about the energy needs of agriculture and the energy needs of rural America.

Mr. Chairman, one of the things that we do well in this country is to produce food and fiber for ourselves and for a hungry world. In the course of consideration of amendments to this bill, I will offer two short amendments that will simply say that it shall be the policy of this country to give equal consideration to the energy needs of both urban and rural segments of our economy, and that in the report that the administrator of this department submits to the Congress each year, he shall supply us with data indicating the energy needs of those elements of our country that are outside of standard metropolitan statistical areas.

Mr. Chairman, we cannot produce agriculture with the same efficiency with which we produce it today if we are not sensitive to the energy needs of agriculture, and the energy needs of those people who live in rural areas to produce this great agricultural system that we have.

Mr. Chairman, the other body has adopted amendments similar to those that I will offer.

I urge my colleagues to support this legislation, and I hope that they can help in the adoption of my amendments.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, I rise in support of this measure, urging the passage of this bill to create a Department of Energy.

I think that at this time in history we are reaching another milestone in meeting the needs of Americans, and one thing that we hope to do is to create a better government which works better for the people of our country.

Mr. Chairman, historically, the executive departments have been developed in response to fundamental needs of the people of our country.

The first Congress in 1789 established three executive departments, the Departments of State, War, and Treasury. In addition, at that time they had two other posts that were not actually department posts, but they did create the offices of Attorney General and Postmaster General.

As time passed and the needs of the country increased, Congress responded with new executive departments. In 1798 the Department of the Navy was established. In 1849 Congress created the Department of the Interior.

After the War Between the States, Congress provided for the Department of Justice, the Post Office Department, and the very important Department of Agriculture.

By the early 1900's, the United States was becoming an industrial giant, and its growth in industry and commerce was making commercial history. Also, at that time the activities of the unions and labor were in need. This prompted Congress in 1903 to create the Department of Commerce and Labor. In 1913 these two areas were divided into two separate departments, the Department of Commerce and the Department of Labor.

In 1949 the Department of Defense was established combining the Departments of War and Navy.

Of course, more recently, in 1953, the Department of Health, Education, and Welfare came about and the Department of Housing and Urban Development in 1965 and, most recently, the Department of Transportation.

Mr. Chairman, as we now see ourselves, we find that a specter of energy uncertainty has arisen. We find energy needs and problems that were undreamed of a decade ago—oil embargoes, fuel shortages, a need for new types of energy and a need for conserving the energy we have on hand.

Consequently I feel that we are at a milestone. We should have one department, one head, where we can say this is where the decisions lie. I have the privilege of representing the district of former President Harry Truman. He was known for saying that "the buck stops here." I think we should have a department

where we can say, "The buck stops here," to create a single department so as to give energy leadership to this country. I hope by doing so, in reaching this milestone, we can make our Government work better for our people.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I thank the distinguished chairman of the Committee on Government Operations, the gentleman from Texas (Mr. Brooks) for yielding to me and I want to compliment the gentleman, in the beginning, for his healthy skepticism toward this entire problem but, at the same time his cooperative and instructive approach.

I should like to ask the gentleman concerning title V on page 90 of the bill.

As I understand title V, in section 501 (a) it provides that the Administrative Procedures Act shall apply to a rule or an order having the effect of a rule. Of course, in so applying, it would require the type of hearing afforded under section 553 of the Administrative Procedures Act in rulemaking, as I understand it. But it does not seem to me to extend to an enforcement order the provisions of section 554 of the Administrative Procedures Act.

Would the gentleman from Texas construe the matter in that way?

Mr. BROOKS. I do not believe that necessarily does, unless they are subject to that now. This is not intended to write a new law, but to transfer the necessary substantive law.

Mr. ECKHARDT. If I understand what the present law is, I think that FEA is not now required in an enforcement order to follow any particular procedural process, or, at any rate, it is not now doing so. FEA was set up in a rather emergency situation and its enforcement orders I do not believe are subject to the adjudicatory process of the Administrative Procedures Act.

Mr. BROOKS. I think that is correct, and I do not think they would be under this legislation. This is not changing.

Mr. ECKHARDT. I understand that. I thank the gentleman.

Mr. ERLÉNBERG. Mr. Chairman, I yield 10 minutes to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. I thank the gentleman from Illinois for yielding the time.

Mr. Chairman, I am very concerned with a number of aspects of this new Department of Energy. I know that the proponents of this Department have said that if we consolidate all existing energy agencies into one department, we will increase efficiency. However, if we look at the record, there is absolutely no proof that this will happen. With the merging of the already large agencies such as FEA, ERDA, and the Federal Power Commission into a larger, more powerful department, the Department of Energy, we are creating an even larger bureaucracy.

By the President's own account it shows that he will have about 19,767 people working in the Department of Energy. How are we going to know that the Department of Energy is not going to grow larger? The fact is that we have a



very good example that we can look to just recently with respect to energy. It is called the Federal Energy Administration, an agency that we never should have created in the first place, an agency that has done nothing to help solve the energy problem, but will only raise taxes and harass American citizens in general.

The FEA people are now spending their time in Idaho going around to petroleum dealers trying to find out how much they charged for products from October 1973 through March 1974, and how much they had on inventory. These same petroleum dealers seemed to have a lot of customers, happy customers, but with these little Government bureaucrats running around harassing them daily with figures, they are costing them an outrageous amount of money in just bookkeeping charges, doing nothing to produce needed energy.

In those 4 short years this FEA, this nonproductive agency, has gone from a staff of zero people to 4,000 people. Are we so naive as to think that the same process will not happen to the Department of Energy?

The power granted to the Department of Energy is absolutely awesome. Dr. Milton Friedman, Nobel prizewinner in economics, recently addressed this in his *Newsweek* column, and I quote:

A Department of Energy has the potential of being the most powerful, and the most harmful of all Federal agencies. It would control the life-blood of our economic system. Its tentacles would reach into every factory, into every dwelling in the land.

What about the Department of Energy makes Professor Friedman so apprehensive about its functions? A short perusal of these proposals will reveal plenty to be worried about.

For instance, in title VII, headed "Energy Planning," section 6(B) (1) allows the President to "Establish energy production, utilization, and conservation objectives, for periods of 5 and 10 years, necessary to satisfy projected energy needs of the United States to meet the requirements of the general welfare of the people of the United States and the commercial and the industrial life of the Nation, paying particular attention to the needs for full employment, price stability, energy security, economic growth, environmental protection, special regional needs, and the efficient utilization of public and private resources."

It is going to take a smart fellow to do that; that is all I can say. We are going to trust that to one agency, one person, and give him unlimited power to do all of these things?

With such a full menu as that, no wonder the distinguished Senator ABRAHAM RIBICOFF admitted that this legislation gives the Energy Department "extensive powers to set prices and make other far-reaching decisions."

It, therefore, appears that even though Mr. Friedman and Senator RIBICOFF have different views on the necessity of this Energy Department, they at least agree on the enormous power this agency will have.

Finally, the cost to the taxpayer for this new Department is massive, to say

the least. Initial budget outlays for fiscal year 1978 will be \$10,612 million, in other words, \$10.6 billion. Anyone who believes that the cost of this white elephant will not increase progressively should have his head examined. There is only one thing we can be really sure of: the cost of government goes up, and it will increase progressively, as I said. Unfortunately, we do not know the additional cost on energy exploration and development that will be caused by the untold red tape and paper-shuffling that will be created by this new bureaucracy.

Mr. Chairman, most of this energy crisis was caused by government regulation and harassment instead of letting the free market rule. It seems that the White House has not learned this lesson and, unfortunately, the taxpayers are going to get shafted again by Washington. I, for one, will not take part in this shafting of the American people by this legislation.

Mr. Chairman, there are many, many more arguments I would like to make and I hope to make as the debate goes on today, but I think the major thrust of what is happening today, and we are missing the whole point, is if Congress had the guts to deregulate the price at the well-head of natural gas and oil in the United States, much of this problem would disappear. There is something called supply and demand. But Government people think like supply clerks and think there is only so much energy and we are going to run out. That is ridiculous. We are not going to run out. We only run out at 52 cents c.f.w.; if the price were \$2.50 c.f.w. there would be plenty.

My distinguished friend, the gentleman from Missouri (Mr. SKELTON), made the point that as time goes along it becomes time for Government action, but if 100 years ago today the Government or the Congress, in its lack of wisdom, had created a Department of Energy, I would say we would have collapsed economically before now and we would have run out of whale oil. But here we are today, because we have a little shortage of energy, because the Congress stayed out of it. Today we are refusing to allow the marketplace to work; we are calling for the whips and guns of Government force to allocate scarce resources.

Mr. Chairman, under leave I will obtain in the House, I include at this point a copy of a Wall Street Journal article, dated May 27, 1977, and entitled "The 'Energy Crisis' Explained," and I will just say it goes into detail about what will happen.

The article is as follows:

#### THE "ENERGY CRISIS" EXPLAINED

The energy crisis is a snare and a delusion. Worse, it's a hustle. We're now prepared to explain it once and for all.

We would be the first to affirm that the subject of energy is enmeshed in a very real intellectual and political crisis. There is also a real national security problem, which deserves to be treated separately. For now, suffice it to say that the emergency stockpile program is the one good part of current energy policy, and that we really ought to stop taxing domestic energy production in order to subsidize imports from OPEC (see Hall and Pindyck in the adjacent readings). But what "energy crisis" usually means is

that one fine morning we will look on the shelf and exclaim, "My God, we've run out of energy." Then civilization will grind to a halt and we will all freeze in the dark.

This is nonsense.

The best way to understand why is to distinguish two views of the world. You can look at the world the way economists do, which is to look at prices. Or you can look at the world the way inventory clerks do, trying to tally up the resources in the earth's crust.

Economists, or anyway most of them, view the world like this:

(Chart not reproduced.)

This view of the world has invariably worked in the past. At least, it is difficult if not impossible to find historical examples of commodities for which it failed. Nor is it suspended because a cartel someplace controls a lot of production. Higher prices still reduce demand and increase supplies, which is how cartels are broken.

Following the Club of Rome's startling discovery that the weight of the earth is finite, the public mind has been gripped by the inventory-clerk's view of the world. This view pervades not only the Carter administration's energy offices, but also the oil companies, the recent CIA study of resources and the MIT Workshop of Alternative Energy Strategies. In the inventory-clerk's world, there are "gaps" between supply and demand. Its version of the curves looks like this:

(Chart not reproduced.)

A number of things should be observed. First, in the inventory-clerk's world, prices never appear. But in those demand and supply curves, a price assumption is always implicit. We have drawn that assumption in the shaded area of the chart above, adding it to the usual version. It is the assumption that price will remain constant that causes the "gaps" between supply and demand.

Second, the inventory-clerk's view of the world is absolutely correct in one circumstance. It is precisely the way the world does behave when governments prohibit prices from moving to equilibrate supply and demand. It is in fact the way the world has reacted to control of U.S. natural gas prices.

Third, the inventory-clerk's view of the world is based not only on the truism that the amounts of oil, gas, uranium and so on in the earth's crust are finite, but also on the assumption that the clerks know what those amounts happen to be. Against their own better judgments, geologists do make such predictions; their track record is ludicrous (see readings). Of course, it is always conceivable that sometime the inventory clerks may be right. But to sustain the comfortable assumptions about its own infallibility, the Carter administration already has had to start suppressing natural gas reports by its own experts, as we have previously reported.

The current administration, in fact, is so confident about its geologists and inventory clerks that it knows not only how much energy is in the earth's crust, but what price will be necessary to call it all forth. Its policy for natural gas, for example, is based on the following supply curve:

(Chart not reproduced.)

A natural gas price of \$1.75, far less than the energy equivalent of the world oil price, will be "sufficient incentive" to drain the earth of usual forms of natural gas. Once this is sucked out, the next source of gas will be synthetic gas from coal, which will cost \$3.75. To the inventory clerk, the policy prescription is obvious: You outlaw the sale of gas at prices above \$1.75, except that you subsidize the production of gas at prices above \$3.75. This is the Carter policy in a nutshell.

All of which brings us to the vested interests. We have seen this kind of supply

curve before. In arguing for subsidies for plutonium recycle and the breeder reactor, the nuclear industry offers a uranium supply curve with the same zigs and zags—flat from \$40 a pound to \$125 a pound. In the sense that nothing in the universe is impossible, the actual supply curves may look just like that. But to us, the zig-zags look as if they were drawn by folks who are after a lot of taxpayer money. To breed plutonium at \$125, or gasify coal at \$3.75. Or worse, by folks who want protection from competition of gas at prices between \$1.75 and \$3.75. As we said, a hustle.

Now, down at Charlottesville the other day, Energy Czar James Schlesinger hectoring the local free marketeers with a Mark II version of the inventory-clerk's argument, centering on the capital stock. Not only does he know the exact price "sufficient" to drain the last drop of natural gas from the earth's crust, he also knows exactly what must be done today to achieve the optimal capital stock in 1995. Come now. Allocating the capital stock is the job of the financial markets, and anyone who can outsmart them would be rich. The markets are the collective result of thousands of individual decisions; vagaries of human judgment wash out and facts prevail. They will always beat any individual, even as brilliant as Mr. Schlesinger.

To be specific, the administration proposals would require industry to invest enormous amounts of capital converting from gas to coal. If the suppressed natural gas report happens to be right, by 1995 natural gas is likely to be our most plentiful and cheapest source of energy. Maybe the report is right; maybe Mr. Schlesinger is right. How many billions do you want to bet on one throw of the dice? How many percent of GNP?

To meet energy or capital needs of 1995, we need above all a system that provides flexibility, that allows us to correct human mistakes gradually and without huge costs. Policies based on a static and conjunctural inventory of the earth's crust, or on the zig-zag curves above, freeze us on a set course. Above all, they create new vested interests. The more you induce Octopus Oil to invest in gasification or LNG at \$3.75, the harder it will be to unleash competition at \$2.25.

This is why anyone with the economist's view of the world prescribes price decontrol. This provides the incentive to find the cheapest form of energy, whether or not the White House finds it first. Decontrol might cost five or six cents a gallon on gasoline, which is anyway less than Mr. Carter's proposal. We think it would be free for the consumer (see Phelps and Smith in readings), though costly for some oil companies with a vested interest in the entitlement program.

Decontrol, accordingly, might or might not create "windfall" profits. The more we understand the "energy crisis," the less affection we ourselves have for oil companies. Still, we would prefer that any windfall go to them, where it would be put into investment, rather than to the government, where it would be put into consumption. But if someone wants a windfall profits tax, that is a small matter compared with the imperative of restoring markets.

There is one way to cut through the intellectual and political morass that has been labeled the "energy crisis," and one way to ensure energy for 1995. This is to decontrol prices. By the way, there is also one way to keep the oil and other energy companies in check. This is to stop giving subsidies to those with the brightest lobbyists, and to stop legislating price controls where a comma here or there determines which company gains and which loses. Free the price, and let the companies fight it out not in Washington but in the marketplace.

I think the distinguished gentleman from Arizona (Mr. RUDD) mentioned the article about "ERDA-gate" and made the point that we had plenty of natural gas but it is not available at 52 cents c.f.w. but it is at \$2.50. If we get our price in line with how much it is going to cost to extract the gas from the ground we would have plenty of energy.

Mr. Chairman, a distinguished gentleman from San Francisco, Calif., Sam H. Husbands, Jr., started writing letters back and forth to a friend of his, Mr. Arntz, who works at 111 Pine Street in San Francisco, and who is Director of the FEA on the west coast. I want to read into the record one of the pieces of correspondence from Mr. Husbands to Mr. Arntz, because Mr. Husbands had written earlier that the Wall Street Journal considered we have 1,000 years supply of natural gas and many people actually consider we have 4,000 years supply in the United States if we would just have the courage to deregulate the price of natural gas, but they came up with a figure of 1,000 years of natural gas. Through this correspondence Arntz wrote back to Husbands, and then this is the reply of Husbands to Arntz which I will read into the record because I think it is so important for Members of Congress to hear this message. It reads:

SAN FRANCISCO, CALIF.,  
May 16, 1977.

MR. WILLIAM C. ARNTZ,  
Federal Energy Administration,  
San Francisco, Calif.

DEAR BILL: I appreciate your reply to the note I sent with the Wall Street Journal editorial.

To be fair, I don't think there is any thinking person living today who doesn't believe we have an energy problem. The difference of opinion comes in the question of what it is that causes an energy problem.

Carter talks of ten year reserves of natural gas, and putting the nation on a "war footing" to conserve energy, and never once mentions price as being the determinate of how much we have in energy reserves. Unless price is considered in any supply and demand equation, reserves and availability mean nothing. The next question is, who should determine price, the market or bureaucrats?

Since the Wall Street Journal was simply quoting a different Government source than Carter, I don't see how they can be accused of "jiggling the numbers around." Carter was talking of reserves at 52 cents/thousand feet, and ERDA was talking of reserves \$2.25/thousand feet and up. A Rolls Royce sedan if priced at \$5,000 will be in perpetual shortage, and allocation will be made by bribery, favor, or ten-year waiting lists. Priced at \$50,000, there are just enough buyers to meet the supply of automobiles, and the market clears in an orderly fashion.

To those of us who value personal freedom, as I know you do, the specter of Government assuming an ever increasing role in the producing and distribution of energy should be seen as an ominous development. It sounds too similar to that debate between Helmut Schacht, Hitler's Economic Minister, and his boss over the merit of autarchy (national economic independence), as recounted in John Toland's new biography of Hitler.

Were one to contrive the shortest step to the corporate state and fascism, in its Italian and early German manifestations, the control over energy would be the quickest way of achieving it without having to directly nationalize industry.

You are right in implying that spokesmen from the two previous administrations and

much of the industrialized world believe that Government should be used as the major allocator of scarce resources.

However, I might in return note that there are two recent Nobel Laureate Economists (Hayek and Friedman), a growing list of academicians, some individuals within both major parties, and certainly the membership of a dozen foundations and the Libertarian Party, who would share my belief that the source of the energy shortage is nothing more than a surplus of Government.

You are right, we'll just have to redouble our efforts.

Regards,

SAM H. HUSBANDS, JR.

Mr. Chairman, I thank the committee for its indulgence. I would urge the defeat of this monstrosity of the Department of Energy that will be paid for by the taxpayers of this country and will be doing nothing to solve the problem of production of energy that the United States needs so badly at this time in our history.

Mr. Chairman, the issue, is freedom versus Government coercion and harassment—we should be here today calling for a removal from producers the glut of surplus Government; in short, what is needed is not more Government, but repeal, repeal, repeal.

Why not try freedom, it has always worked in the past, why abandon our faith in free men working through free institutions to solve our problems?

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, I would like to ask the distinguished chairman of the Committee on Government Operations a couple questions. I have serious concerns about the continuity of functions that are presently handled by the Federal Power Commission, FEA, and the other energy-related agencies. I have a substantial number of oil and gas producers in my district who feel there will be a lack of continuity that will result in the following three areas:

No. 1, existing rules promulgated by the FPC and what will be the effect on those rules, regulations, and pronouncements.

No. 2, court cases presently on appeal in circuit courts of appeals are of concern. People in Kansas are concerned about to whom in this new Energy Department will decisions be remanded.

No. 3, what is going to happen during the period of time that the Agency and the Department gets started, this 18-month period where we have a broad array, a backlog of existing cases; rate cases.

Mr. Chairman, these are of serious concern to all oil and gas producers, particularly independents.

I would like to see if we can get some sort of clarification on these questions.

Mr. BROOKS. Mr. Chairman, my feeling is that the rules will remain the same. This is a transfer of existing rulemaking authority and of the existing rules and regulations.

As to any delay in the organization of that new Department, we are going to move in place the given agencies. We will move in place virtually the same people, the same personnel, the same expertise.

I would think there will be less delay



in the functioning of this Department than any department we have ever created.

Mr. GLICKMAN. Mr. Chairman, in order to perhaps assure some of these people that the substantive rules and substantive procedures, as opposed to procedural aspects of this bill, remain exactly the same, there is no alteration whatsoever in substantive rules and practices of constituency, agencies, and departments to be combined into the new Department of Energy.

Mr. BROOKS. That is correct.

Mr. GLICKMAN. And all the existing rulemaking procedures by the FPC or FEA or whatever, good or bad, remain in effect; they are all here?

Mr. BROOKS. That is correct; they are all transferred.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, if I could ask the distinguished chairman in the same line of questioning, will all the powers that this Congress gave to the executive branch under the Emergency Petroleum Allocation Act of 1973 be transferred to this new energy agency?

Mr. BROOKS. That is correct, yes.

Mr. ROUSSELOT. So the power we gave in certain price-fixing and allocation of various resources of petroleum, those powers are all transferred? If so, I have an amendment to reduce some of those authorities.

Mr. BROOKS. Most all of that is; some of that power was vested in the President of the United States, as the gentleman recalls; so that part would not be changed.

Mr. Chairman, I yield 2 minutes to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Chairman, I thank my long-standing, eminent friend from Texas (Mr. BROOKS).

Mr. Chairman, I did want to take a few minutes to congratulate the gentleman from Texas (Mr. Jack Brooks), and particularly commend him on the graciousness and good philosophic understanding the gentleman has used with President Carter in the last 3 months in bringing this legislation to the floor. There is no question but what it is a most important lawmaking function before us today. It is therefore ironic that so few Members are on the floor of the House right now taking part in this great debate. A few minority spokesmen tell us we will nationalize the oil and gas industry. It is almost enough to make one shake one's head in dismay.

#### WATER IS ENERGY

I hope no amendments will be offered, Mr. Chairman, that would seek to permit the slurring of coal from Rocky Mountain States, where coal is in great abundance, without requiring the recycling of water used therein, which is in great scarcity.

I call attention to the fact that recently Texas—that great State from which Mr. JACK BROOKS comes—and Oklahoma, another great oil-producing

State, have both recently passed State laws stipulating that in their slurry right-of-way bills, none of the water of Texas or none of the water of Oklahoma shall be used to slurry coal through those States. I find that of great interest, and I call it to the attention of the gentle and lovely lady from Colorado, because I see that the Colorado Legislature is now working on legislation also stating that none of their water shall be used to slurry coal. So let us not do unto my beloved Wyoming what we would not do unto ourselves, my dear Texas and Oklahoma colleagues.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. BROOKS. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. RONCALIO. So, let us not be victimized by efforts that would permit the slurring of coal from any Western State without requiring the recycling of the water to be used. Only in this way can we treat with some degree of fairness the States of the Rocky Mountain area with severe water problems.

Mr. Chairman, my statement includes letters to President Carter and Dr. Schlesinger including this plea from the State of Wyoming.

The letters follow:

HOUSE OF REPRESENTATIVES,  
Washington, D.C., June 2, 1977.

The President,  
The White House,  
Washington, D.C.

DEAR MR. PRESIDENT: So far the concept of coal slurry pipelines omits recognition of the serious problem of consuming vast quantities of scarce western water. I write in the hope that your consideration of coal slurry pipelines will include the ramifications of the water issue.

Legislation pending in the Congress to grant the right of eminent domain to coal slurry pipelines fails to provide any protection for our scarce western water. With this in mind, I propose a single amendment to the bill, requiring companies to recycle a substantial portion of the water used to lubricate slurry lines. I hope, Mr. President, you will consider such an amendment and will support it.

I also encourage you to promote a program to study and develop alternative means of slurry line lubrication. Methods have been devised to reduce water requirements by up to 50 percent, yet these findings have not been incorporated into slurry line proposals. Energy companies, intent upon moving coal at the lowest possible cost regardless of the consequences to Wyoming, have disregarded these alternative technologies.

Mr. President, I respectfully seek your cooperation and help on this matter of most serious concern to the people of Wyoming and the arid West.

Respectfully yours,

TENO RONCALIO,  
Congressman for Wyoming.

HOUSE OF REPRESENTATIVES,  
Washington, D.C., June 2, 1977.

Dr. JAMES R. SCHLESINGER,  
Assistant to the President, The White House,  
Washington, D.C.

DEAR DR. SCHLESINGER: I respectfully request and urge you to help initiate a crash program to investigate technologies of coal slurry pipelines.

While coal slurry pipelines may be economically feasible and environmentally acceptable, the use of water from the arid western coal producing states is just plainly an affront to the people of these states.

Products are already available which can

reduce water requirements by 50 percent when added to the slurry mixture, yet energy companies intent on lowest possible costs, have not incorporated such ideas into their slurry proposals. What has happened to research into moving coal with pneumatic lines instead of water?

Such a study should include, but not be limited to, costs of recycling water used in slurry lines, the feasibility of pneumatic lines, and the possibility of alternative lubricating agents to reduce or eliminate the use of water in slurry lines.

I'd be grateful for your help.

Respectfully yours,

TENO RONCALIO,  
Congressman for Wyoming.

Mr. BROOKS. Mr. Chairman, I reserve the balance of my time.

Mr. HORTON. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, the Committee on Post Office and Civil Service, having the bill, H.R. 6804, by sequential referral procedures, ordered the bill reported with six amendments relating to the committee's subject matter jurisdiction over the bill.

The amendments are as follows: First, there is an amendment to strike the provision of the bill which would make the Inspector General of the Energy Department subject to the Hatch Act's prohibition with regard to political campaigning.

Second, there is an amendment which will assure Department of Energy hearing examiners the same rights as other hearing examiners and assure their independence from the Energy Department by placing them into the Civil Service pool from which the bulk of the Government's hearing examiners are chosen.

Third, there is an amendment which amends the Government Operations Committee bill to remove the special employment authorities for the Department and replace them within the framework of the existing law which most Federal employees and Federal agencies must and do deal.

Fourth, there is an amendment which will delete the extraordinary authority in the Government Operations bill which would permit the loaning of Federal employees to other agencies, State and local governments and foreign governments, and the borrowing of employees from these entities, outside of present standards, restrictions, and programs on such borrowing and lending.

Fifth, there is an amendment to delete language from the bill which may have the unintended effect of transferring not only employees, but positions for such employees outside of Civil Service Commission purview, into the Department.

Sixth, there is an amendment which will require the Civil Service Commission to report to the Congress on this first of many reorganizations planned by the Administration, so that we all may be better informed.

These amendments are the result of long and hard work by the Committee. Mr. Chairman, I can assure my col-

leagues that in our expert opinion, these amendments will not and do not intend to hamper the mission, the functions, or the organizational structure of the Department. Rather, these amendments work with existing law to assure—with tested devices—that the mission, functions, and organization of the Department will be better. These amendments do this within the civil service merit system, a system which having seen us through wars is well in tune to see us through the moral equivalent of war.

Mr. Chairman, the view has been expressed that these amendments we will offer somehow cut back or limit the number of supergrades for the new Department under the levels which are presently at work in the agencies and offices which will be transferred to it. I must stress that this is neither the intention nor the fact of the amendments; and the amendments, if accepted, will mean that the same number of supergrade or supergrade equivalents as the Government Operations Committee saw fit to grant will exist. Very simply, the 689 supergrade employees authorized now at agencies and departments performing functions which are transferred will be at the Department.

The only thing that the committee intends is that proper accountability for these positions exist.

Generally, H.R. 6804 provides that employees of the new Department shall be appointed in accordance with existing civil service laws and that the personnel authorities of the Department will be consistent with career merit system authorities. There are, however, significant exceptions which we believe are unwarranted and contrary to the efforts our Committee, and all my colleagues, should be making to insure effective control of a bureaucracy which is becoming unmanageable.

Specifically, H.R. 6804, as reported by the Government Operations Committee, authorizes the Secretary of Energy to appoint without regard to civil service laws the number of scientific, engineering, and professional executive personnel—GS 16, 17, and 18—who are currently employed in excepted positions in the Energy Research and Development Administration. In addition, the bill authorizes a special agency authority for 105 more supergrades subject to the standards and procedures of Title 5, United States Code, but not within the Civil Service Commission pool. Moreover, the bill would permit an unspecified number of supergrade administrative law judges to be appointed for the use of the Energy Regulatory Commission and removed from the Civil Service Commission administrative law judge pool which most other agencies have to use.

We do not believe that such special authorities are fair to other departments and agencies, nor will they effectuate good management of high level Federal employees. The committee amendments will impose a measure of fairness and good management by first, eliminating the special administrative law judge pool; second, creating 350 new supergrade slots in the Civil Service

Commission pool earmarked for Energy Department personnel moving into them, and creating another 200 slots earmarked by the Energy Department within the "quota" scientific and professional personnel category of supergrades; and third, relying upon two laws now in effect—one of which permits the Civil Service Commission to create by regulation scientific and professional personnel, the other of which permits the President to create expected positions—to add flexibility to the system to accommodate the rest of the employees affected by the transfer.

In addition, of the up to 350 employees who will be accommodated by the "quota" or regular supergrade positions, there is a "grandfather clause" to assure that these provisions may be used to fill any type of position including scientific, engineering, and professional jobs, as long as the duties are similar in nature to the ones from which the employee was transferred and for so long as the appointment is held by an employee transferred into the agency by the act.

Mr. Chairman, I will explain more fully the remainder of amendments when the time for offering them arrives, however, as I have stressed with the ones of most concern to us, they are built on what the committee believes is a sound basis: that the happenstance created by a Government reorganization is not the time for laboratory experiments in changing the manner in which the Civil Service is to be run. I urge the adoption of the committee's amendments.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mrs. SCHROEDER. I yield to the gentleman from New York (Mr. HORTON).

Mr. HORTON. I thank the gentleman for yielding.

With respect to the Inspector General, the gentleman's amendment concerning the Hatch Act seems to be predicated upon the passage of H.R. 10. What happens to the Inspector General if H.R. 10 is not enacted?

Mrs. SCHROEDER. No. Actually, my amendment is not predicated upon the passage of H.R. 10. What I am saying is that some of the reasons that people wanted the Inspector General exempted is that they do not like the way the Hatch Act is now. There are a lot of people in the Federal civil service who do not like the way the Hatch Act is written, but if we start to take each department and exempt the different classifications because we do not like the way the Hatch Act is written, I do not think that is a good way to do business. We have a law, and that is the Hatch Act, and everybody is to be under it. If we do not like the way it is written, then we will have an argument as to how it is written in H.R. 10. So it still applies to everybody. But what I object to is exempting specific slots because then I think we lose the whole purpose of the Hatch Act, which is that all Federal employees will be exempted from certain types of political activities; and it is up to the Congress to make the policy as to what that is, but it should be uniform

to everybody, whether it is H.R. 10 or the Hatch Act as it is now.

Mr. HORTON. If the gentleman will yield further, what about the Inspector General position we created last year in HEW? Is that position exempted or is that position covered by the Hatch Act?

Mrs. SCHROEDER. Mr. Chairman, to be very honest, I do not know if it is exempt. I did not have jurisdiction of this subcommittee during the last session. But one of the main concerns of the subcommittee and of the full committee has been the consideration of these exemptions in supergrades under the Hatch Act, and so forth. Everything is becoming a trade, and that is making the management of the bureaucracy almost impossible.

We literally have to have supergrades under title V, and we have to have everybody under the Hatch Act. If we start allowing a lot of specific exemptions, that would be a very bad precedent.

This is the first bill over which our committee has had jurisdiction since I have been chairman of the subcommittee. But I promise the gentleman that if we find anybody at HEW, for instance, who is trying to be exempted, we will take exactly the same position. It is our feeling that they should all be subject to the same law.

Mr. HORTON. Mr. Chairman, the other area I want to ask the gentleman about is concerning the amendment she has proposed with regard to supergrades.

In the bill that we reported out of the Committee on Government Operations we permitted and authorized the same number of supergrades in the new department as is now in the other agencies that are being melded into the Department of Energy.

What does the gentleman's amendment do with regard to that limitation that we put on the number of supergrades? In other words, the bill as we reported it out authorizes no more than is now presently authorized in the Federal Power Commission, the FEA, and ERDA.

Mrs. SCHROEDER. Mr. Chairman, let me point out what the difference is.

My amendment would not cut down the number of supergrades. The number of supergrades remains the same.

This is where the difference comes in: Under the bill as it is written by the Committee on Government Operations, the 350 positions would constitute special Department of Energy supergrade pool employees. Our committee feels strongly and unanimously that those 350 positions should remain as allocated to the Department of Energy, but they come through the civil service supergrade pool. There is a civil service supergrade pool for all agencies.

So we increase the civil service supergrade pool by 350 employees, and in that way we take care of the people in the Department of Energy. We up the figure that much.

Mr. HORTON. But there are more than 350.

Mrs. SCHROEDER. That is right. They are all taken care of in the way they were in the past. Some of them are



special engineers and scientists, employees in that category. Those employees are taken care of, but the administrative employees are the ones who form the real crux of the difference. Those are the 350 employees.

What we will do is this: The 350 employees will transfer in just the way they are now, and as those employees retire, or whatever happens, the 350 slots will still remain within the civil service supergrade pool. However, for the Department of Energy to retain that number it will have to compete with HEW and the other agencies to prove that its supergrade positions are more eminent than those of some other department.

Again, this is a problem of management. If we keep the bill the way it is written, these 350 supergrade pool employees are personnel that none of us can touch. Those employees are theirs, and they cannot be touched.

Mr. HORTON. That is true, except that they cannot fill them unless they go through this pool, so civil service could effectively prevent them from filling those 350 jobs or 200 jobs, or whatever the figure might happen to be.

Mrs. SCHROEDER. Mr. Chairman, as the gentleman knows, the positions are filled now, and it does not affect any of the 350 people now in line. They are filling them through civil service. It is still under civil service, either way we do it. They are filling them through civil service at the regular pool level, and they will do that later on when these people retire or resign.

The difference is that under title V of the Civil Service Act we have a way of controlling the total number of supergrades. Again let me say that if every agency comes in and wants its own supergrade pool, then it becomes a whole new ego thing as to who has the biggest supergrade pool. When that happens, we in Congress might as well give up on trying to control the bureaucracy.

Mr. HORTON. Mr. Chairman, I can understand the gentlewoman's concern.

The other problem about which I am concerned is that in ERDA, when we created that new agency, we had to create an additional number of supergrades because of the nature of the operation. Because of the research and development requirement, we had to secure a certain number of technical people.

Mrs. SCHROEDER. That is right. Mr. HORTON. So we required a number of supergrades. Will those supergrade positions be affected?

Mrs. SCHROEDER. No.

Mr. HORTON. Of course, they will be transferred, too.

Mrs. SCHROEDER. No, the quota of scientific and professional personnel that will be transferred will be the same. Where the difference is concerns those 350 slots I mentioned.

Mr. HORTON. Mr. Chairman, I thank the gentlewoman.

Mr. UDALL. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I want to point out for the benefit of the gentleman from New York (Mr. HORTON) that

with the amendments that the gentlewoman from Colorado (Mrs. SCHROEDER) is supporting we are trying to turn things around here and do something very basic, if we can.

I support the Department of Energy bill. I believe the committee has done a good job on the bill. I hope that we will not single out the Department of Energy to bear the brunt of new controls on the explosion of high-paid executives.

But what has happened here is that in the last 20 years we have doubled the number of supergrades and executive positions in the Government.

We all complain about too many admirals and generals and having more now than we had in World War II. On the civilian side it is as bad or worse. What has happened is that we have lost control case by case, agency by agency. The Committee on Agriculture will create a new program; they will have a new agency that comes in, and they may want 25 new supergrades and 3 new executive positions. So we give them those permanent positions, and it creeps along, the number of executives and supergrades simply grows.

We started out a long time ago with the idea of pooling. We said we were going to have all the Government agencies assigned a pool of a number of supergrades. If Mr. Schlesinger or President Carter wants some new ones, let them find departments where old programs have expired or lessened, and then we can transfer the needed supergrades and executives to new departments and missions. As we go along with this job of reorganizing the Federal Government, I think we ought to get back to some overall limits that are written into the law.

We ought to get back to flexibility; and if the President wants to create a new program or create a new mission, he had better find a place where a mission has been completed and where executive slots can be taken out of the pool.

Our committee is serving notice in this legislation that when each of these major reorganization programs comes along, we are going to insist that we move back toward a Governmentwide pool and insist that we establish by law an overall quota for the Federal Government on both supergrades and executive levels; and what the gentlewoman from Colorado (Mrs. SCHROEDER) is doing here is very critical and very important.

We are not trying to get back at this one department. We are trying to get this explosion of high grades, executive and supergrade positions, under control.

Mr. HORTON. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I just wanted to make clear that the legislation, when it was first sent up, proposed—it is my recollection—150 additional supergrades.

Following the testimony of the gentleman from Arizona (Mr. UDALL) before the committee we refused to go along with that request. We cut it back to the number that are now authorized in the three agencies that are to be transferred.

So we are not creating any additional grades. However, I do not want to have an amendment which is going to undercut that number because it does seem to me that the new agencies are going to need the number authorized now.

Mrs. SCHROEDER. Mr. Chairman, if I may recall what time I have left, I assure the gentleman that we are not undercutting the number. We are just trying to deal with the management procedure through the civil service pool, which I think the gentleman from Arizona (Mr. UDALL) emphasized.

That is what it is, Mr. Chairman. There is no quarrel on numbers at all.

Mr. GILMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the amendments that are to be offered today by the Committee on Post Office and Civil Service to H.R. 6804, the Department of Energy Organization Act.

I commend our subcommittee chairperson, the gentlewoman from Colorado (Mrs. SCHROEDER), and the members of the entire Post Office and Civil Service Committee for the expeditious manner and bipartisan spirit that they demonstrated in considering this significant legislation which reorganizes all of the energy functions of the Federal Government.

Mr. Chairman, as the ranking minority member of the Subcommittee on Employee Ethics and Utilization, from which these amendments originated, I can attest to the thorough consideration given to H.R. 6804 and the recognition within both our subcommittee and the full committee of the need to act on the requirements of the new Department of Energy, without, at the same time, violating the integrity of our merit system laws and regulations. I believe that our committee amendments superbly achieve that end.

Mr. Chairman, anticipating the possible need for sequential referral, after noting the committee's jurisdiction in this matter, the Subcommittee on Employee Ethics and Utilization began to prepare the groundwork for such future action. Accordingly, on April 19, 1977, the subcommittee conducted hearings on H.R. 6804, during which representatives of Dr. Schlesinger's staff and the executive director of the Civil Service Commission testified on this proposed legislation. Subsequent to that hearing, the subcommittee prepared the six personnel policy amendments we are offering today.

Mr. Chairman, the new Administration has urged the committees of both Houses to act in the closest cooperation in their consideration of this reorganization proposal and future reorganization plans. Acceding to this request, the Committee on Post Office and Civil Service has attempted to act in the fullest cooperation with the Committee on Government Operations in the consideration of H.R. 6804. In this regard, we first noted our partial jurisdiction of the subject matter and the possible need for perfecting amendments in a letter to the chairman of the Committee on Government Operations, the able gentleman from Texas (Mr. BROOKS), back on

April 1, 1977. After the preparation of our committee amendments, we conveyed these same amendments to the committee chaired by the gentleman from Texas (Mr. BROOKS), well in advance of the subcommittee markup, and later, full committee action.

Regrettably the Committee on Government Operations rejected the majority of our amendments. Faced with this reality, we had little choice but to request of the Speaker sequential referral to insure the vitality of our merit system's laws, rules, and regulations. After sequential referral was granted, the committee having already done their homework, we were able to expeditiously consider H.R. 6804, as reported, and promptly marked up this legislation reporting it as amended by our committee action on May 18, by the unanimous vote of 25 in favor and none in opposition.

Mr. Chairman, I believe the committee amendments are noncontroversial, providing for: First, deletion of mini-Hatch Act requirements; second, application of the Civil Service Commission rules to the employment of Hearing Examiners; third, the deletion of unnecessary and overly broad authority by the secretary for the appointment of supergrade positions; fourth, the utilization of the Intergovernmental Personnel Act for all details of Federal, State, local or foreign personnel; fifth, the transfer of all functions in accordance with Civil Service laws; and sixth, a Civil Service Commission report to the Congress on the impact of reorganization on the employees affected.

We have attempted to strike a fair balance between the real need of the new Department and yet reflect our own concern with the expansion of the practice of providing special legislative authority for the employment of top level personnel and the bypassing of established procedures for the appointment and employment of personnel and their classification and pay.

Mr. Chairman, since this is the first of the reorganization plans to come down to us from the Administration, it is my hope that in the future our committee and the Committee on Government Operations, can attempt to work in closer cooperation so that the need for sequential referral and the necessity for floor amendments can be obviated.

At the appropriate time, I will urge the adoption of the six amendments offered by the Committee on Post Office and Civil Service.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the remarks of my colleagues on this issue of supergrades, especially and particularly, their opposition to the exceptional authority authorized in section 608 of this bill that could potentially increase the already swollen number of supergrades that could be employed by the Government without the concurrence of the Civil Service Commission or the Congress.

As my colleague, the gentleman from Arizona (Mr. UDALL) has already

stated—and I probably should preface my remarks by saying that we do not always agree on everything, but I believe in this case the gentleman is correct—this is an attempt on the part of our committee to insure that in authorizing supergrade positions for this new department that we do not give the future Secretary of DOE the kind of broad authority that this bill would allow him if these amendments are not agreed to.

So, Mr. Chairman, I would like to associate myself with the remarks of the gentleman now in the well, the gentleman from New York (Mr. GILMAN), and those of my colleague, the gentleman from Colorado (Mrs. SCHROEDER), and my colleague, the gentleman from Arizona (Mr. UDALL), that these amendments are necessary if we want to stop the unnecessary enlargement of the Federal bureaucracy.

It is not just the supergrade positions on which we are putting a ceiling, but all the people who would serve underneath them. The Committee on Government Operations probably did not have an opportunity to study this issue in as much detail as they may have liked, and for this very reason, I hope that they will accept our committee amendments.

These amendments are needed if we want to prevent this new department from proliferating into another huge bureaucracy. It is not just the question of exceptional authority for the hiring of supergrades that we are trying to address; but also, all the other people that would serve underneath them—the secretaries and clerks. So I compliment my colleague on his statement.

Mr. GILMAN. I thank the gentleman from California for so eloquently underscoring the need for this particular amendment. The committee believes that such exceptional authority as that contained in section 607, which refers to the supergrades, is unnecessary to meet the personnel needs of the new Department, and that not to apply merit system rules would be an unwise precedent.

Mr. ROUSSELOT. If the gentleman will yield further, additionally, President Carter himself has said—and he ran for the presidency on this platform—that he wants to curtail a mushrooming bureaucracy. While our committee amendments permit the transfer of most personnel positions from existing agencies, we still guarantee by our action that we will be imposing the same ceilings on supergrades that presently exist. So the President himself has stated that he wants to stop the mushrooming bureaucracy. The support of these six amendments, and especially the one the gentleman from New York has addressed, is essential if we are to accomplish that end.

I appreciate the comments of my colleagues.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

I want to commend the gentleman from New York on his statement. There is either something very fishy going on

or something very basically right going on when the gentleman from California and the gentleman from Arizona can agree.

Mr. ROUSSELOT. If the gentleman will yield, the fishing went on yesterday.

Mr. UDALL. All right. There is a principle at stake here, and that is that we cannot discipline ourselves, we cannot get hard and tough on the expansion of these positions unless we set limits.

We have seen at the White House in the last eight years under conservative presidents a doubling and redoubling of executive positions in the White House. Jimmy Carter campaigned on cutting down the White House staff, and now we find that he has not been very successful. We have general legislation coming up, and I hope very soon, in this Congress, and I hope we will get broad support on the changes we are going to face for the executive branch of the Government, the total number of supergrades, and the total number of executive positions. As we go through this reorganization process of the executive branch during the next 2 or 3 years, people who want new positions for newly organized departments are going to have to find places where they are going to cut down positions.

The gentleman from California is right. When we create a general, we have not just created a general; we have created a general's aide, a deputy to the general, a bunch of secretaries, assistants, and civilians to help him around, an automobile to carry him in, flags to fly, and airplanes for him to go places in. So when we cut down a supergrade or cut down an executive position, we have done much more than eliminate just one position.

Mr. GILMAN. I thank the gentleman from Arizona for his remarks. I know the gentleman from Arizona and the gentleman from California are both aware that our Post Office and Civil Service Committee has been consistently opposed to the granting of special authority to establish supergrade positions outside of the Government-wide pool and the control of the Civil Service Commission as would be the case if section 608(b) prevailed.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the distinguished gentleman from Texas.

Mr. BROOKS. I thank the gentleman for yielding. I want to make it clear that the position of the Committee on Government Operations was that we were not creating one new supergrade. We struck any new ones. We provided none in excess of those that were then authorized, and we will not attempt to add any. We just want to leave them in the position that they were in from the standpoint of supergrades. If the committee wants to change the supergrade positions for all of the government agencies, I would look with favor on it. I have no great love for them, but I do not want on a piecemeal basis to limit the number the Department of Energy is going to have. I do not want to take away from them what they now are entitled to under their authority. It just does not seem



right that we hamper them and handicap them in beginning their operation. Later if the committee wants to change the regulations under which we have supergrades and they want to limit the number, or whatever they want to do, we will consider that. But I do not want to do it on a piecemeal basis with this department. We are not creating one new supergrade. We want to leave them with what they had.

Mr. GILMAN. In response to the distinguished Chairman, the gentleman from Texas, I think both the Committee on Post Office and Civil Service and the Committee on Government Operations have the identical intent of permitting the exact same number of supergrades to be transferred into the new department. The Committee on Post Office and Civil Service is merely requesting that these positions that are transferred be subject to existing merit system's law, rules, and regulations.

Mr. BROOKS. This is the crux of the matter. Only if they transfer existing bodies to the Department of Energy will they have the assurance of being entitled to utilize that number of supergrades. If they do not transfer the same people, they will then revert into the pool, and they will then—maybe, maybe not—have a chance at getting them.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I hate to tell the agency where the little loophole is, but let us do that. OK? There is a way that the agency can guarantee that they can retain them all. They get to retain all of the supergrades that are in the bill if they transfer in those supergrades from the agencies that were consolidated. Right?

Mr. BROOKS. Right, if they transfer those in, I would not want to discourage transferring them in from the other agencies.

Mrs. SCHROEDER. The loophole is they have 200 supergrades who are scientific employees who are assigned only to ERDA that they will keep, that do not go into the pool and that they will keep separate. So if they do not have all those, they take a few people out of their own pool and keep those general slots and they can fill their own specific slots and they do not have to bid against other agencies.

Mr. BROOKS. I would not want to encourage such devious actions.

Mrs. SCHROEDER. I know. But we also have assurance from the Civil Service Commission to make sure that those slots come in, but if that does not work, there is this little devious way to do it if we do not trust the Civil Service Commission. But I think everyone will work at this to make it work.

Mr. GILMAN. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, the distinguished chairman of our Post Office and Civil Service Committee (Mr. NIX) should be commended for blowing the whistle on a practice which, if

left unchallenged, eventually will undermine the impartiality of the civil service system. At his request, this legislation which reorganizes the Government's energy functions, was sequentially referred because many of its provisions deal with policies and laws relating to Federal employees. Such matters clearly are within the purview of the Post Office and Civil Service Committee.

Too often in the past legislation has given rise to new programs which in turn resulted in the creation of new positions wholly or partially excepted from existing laws relating to the appointment and classification of Federal employees. As a rule, the committee with original jurisdiction over the creation of a new program overlooked or ignored such considerations, or simply bypassed our committee. It has made it difficult, if not impossible, to exercise effective control over jobs which have been given preferential or exceptional treatment.

In unanimously adopting a series of amendments relating to the transfer, appointment, and tenure of employees in the new Energy Department, our committee is serving notice it will insist on uniform treatment for all Federal employees. At the same time, the House is being put on alert that legislation dealing with laws and policies applicable to Federal employees is the primary concern of the Post Office and Civil Service Committee.

While our committee amendments are a meaningful contribution to the orderly processes of government, we may, in the near future, have an opportunity to take an even more significant step by retaining the Hatch Act in its present form.

Mr. HORTON. Mr. Chairman, I yield myself 2 minutes.

I would like to have the attention of the gentleman from Colorado. According to the lid we have placed on the supergrades, we have limited the number that are now authorized. All of those are not filled. What would be the effect of the transfer of those authorized that are not filled? Would they have to go through this pool concept?

Mrs. SCHROEDER. Let me go through this again. As I say, I feel a little bit guilty pointing out the loophole. There are two different pools, a general civil service pool and the pool of 200 scientists for the Department of Energy only.

Mr. HORTON. I understand that but I am talking about the 350.

Mrs. SCHROEDER. And those 350 are all theirs and they get to keep all those slots and do not have to share them with any other agency as long as they are 350 transferred to the Department of Energy from other agencies. If they do not have 350 supergrades to transfer do they have to bid against other agencies for those slots we have created in the general by pool by raising it to 350?

Mr. HORTON. Mr. Chairman, that is what my question is. Would they have to go through the pool concept?

Mrs. SCHROEDER. Yes; my answer is that they would have to go through the general pool; but No. 1, we have assurance from the Civil Service Commission that they will do everything possible to

get the positions to the Department of Energy they need.

No. 2, there is a gigantic loophole, because there is nothing to prevent them from taking anyone in their 200 special supergrades and moving them to the general pool of 350. To get the number to 350, they transfer them all in and they can replace those transferred from the 200 pool to get the general pool numbers to 350, because it is their own pool and not in the Government-wide pool; so there is a loophole, but we do not think they will have any problem, because Civil Service is anxious to get control of civil service manpower back on track, and I am sure will cooperate so such utilization of the described loophole would not be needed.

Mr. HORTON. Mr. Chairman, I want to indicate my support for the concept. Certainly, I agree with what the gentleman from Arizona (Mr. UDALL) was saying with regard to the need for having some limitation or some way to get a handle on this continuing growth of the bureaucracy; but on the other hand, I do not want to penalize this agency when we are creating the agency and start it off with too much difficulty. They do have a need for supergrades, because of the technical and professional work there.

I understand those that are now in ERDA are exempt. We are talking about the 350. I am not sure whether all those 350 are filled. If I had some assurance those 350 could be filled without going through the pool concept, I do not believe I would have as much concern.

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will look at pages 6-8 of the committee report, it tells how many supergrades there currently are in each of these agency slots. I think the gentleman will find nearly all of the agency slots are filled. There are very few left open.

Mr. HORTON. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Chairman, the Department of Energy bill, H.R. 6804, is truly a landmark piece of legislation and I commend the President and my colleagues here in the House for bringing this bill to the floor. While talk of a comprehensive national energy policy has been batted about for years, unfortunately action has been slow. Creation of an Energy Department represents a giant step for our country and will give the Nation's pressing energy needs priority attention in our Federal Government. Coordinated, concentrated attention to our energy problems—which ripple throughout every phase of our economy and our life—is needed now. And I enthusiastically support creation of this new department to respond to the needs of the times.

#### CONTROLLING SUPERGRADE SPRAWL

I am pleased to support a group of amendments developed and approved by the House Post Office and Civil Service Committee which I believe will greatly enhance the effectiveness of this new agency. These amendments, I believe, will bring order to the department and very importantly balanced control in the

creation and evolution of positions within the new department.

The civil service amendments bring within a carefully constructed framework a number of top-level positions. Rather than giving the Department the authority to establish supergrade jobs outside civil service procedures, our amendments place most supergrade jobs within the central "supergrade pool" under the control of the Civil Service Commission.

The Post Office and Civil Service Committee strongly believes that the practice of creating separate supergrade positions outside the central supergrade pool has got to stop. Congress has created the supergrade pool with a tight numerical lid and responsibility for allocation of positions from the pool vested in the Civil Service Commission. However, over the years, we have circumvented the pool by writing special authorities for agencies giving them an unknown number of top-level jobs without regard to the central pool. The result has been an uncontrolled growth of top jobs with no real controls. The committee amendments represent an important step toward keeping the supergrade slots under accepted civil service laws and practices.

The problem addressed by these amendments point to the need for a new look at the creation of supergrade jobs and I believe call for legislation like that I have cosponsored with my colleague, Mr. UDALL, to eliminate all the exceptional authorities under which agencies can now create top jobs without regard to the pool. This bill, H.R. 5544, reaffirms our commitment to a central pool with a fixed limit and repeals all the current "loopholes" which I believe have created a "supergrade sprawl" throughout the Federal Government. I look forward to action on this bill in the near future.

#### CURBING UNCONTROLLED DETAILING AND BORROWING

Two other committee actions bring important controls to the agency. One amendment would repeal the provision in the bill which gives the Department the authority to borrow the services and personnel of other Federal, State, local, and even foreign agencies. We believe that this authority is unnecessary and would allow the agency to exceed the budgetary parameters set by Congress. Similarly, the committee is uncomfortable with the breadth of the authority granted to the Secretary to utilize members of the Armed Forces in the Department, detailed from their regular jobs. And our report includes an admonition and our expectation that the Department of Energy would not use these individuals extensively and particularly for functions normally performed by civilian employees.

#### KEEPING CONFLICTS OF INTEREST OUT OF ENERGY POLICY

I welcome the conflicts-of-interest provisions approved by the Government Operations Committee. Under these provisions supervisory employees are prohibited from receiving compensation or having financial interests in an energy concern and they are required to disclose previous employment with energy con-

cerns. Certain other nonsupervisory employees must disclose financial interests in yearly reports to the Secretary and the bill includes penalties for violations of these disclosure provisions. The public expects and we must demand our top energy policymaking officials to put the public's interest first—not their own private interests, not regional interests, not the oil companies interests. I commend President Carter for his initiatives in requiring top officials to disclose their financial holdings and support the disclosure provisions of this bill.

These civil service provisions, which could easily get lost "in shuffle" of the total bill, represent a responsible approach to how our energy policies are made. I commend my distinguished colleague Congresswoman SCHROEDER for her leadership in this important area.

Mr. HORTON. Mr. Chairman. I yield 1 minute to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, I recently retrieved from the Archives a statement that I submitted to the Cabinet task force on oil import control in 1969. The purpose of this task force was to consider whether or not the mandatory oil import program established by President Eisenhower should be retained or abolished.

In 1969 the posted price per barrel of crude from the major exporting countries ranged from \$1.59 to \$2.23. In contrast, crude produced in the United States was selling for \$3.09 per barrel. There was, as a result, a hue and cry by many in this Nation that we should in the name of low prices for the consumer import more of this foreign oil, because it was less costly and the consumer would benefit.

My advice to the task force was not to eliminate the oil import quota program but to strengthen it. In 1969, our import level was 21 percent with most of that oil coming from Canada and Venezuela. The Cabinet task force rejected my advice, and recommended the elimination of the oil import quotas. The task force predicted that the removal of controls on the importation of foreign oil would save American consumers "about \$5 billion annually now—1970—and over \$8 billion annually by 1980." We all know now how utterly ridiculous that statement was. I told the task force in my statement that there would be no such savings.

I would like to quote from my 1969 statement, because what I said would happen is exactly what did happen.

I said the following:

First:

If the import controls were removed, there would be a rapid rise of imports of lower cost foreign oil . . .

This is exactly what happened.

Second:

And with the next few years, the national dependence upon oil (foreign) would soar from approximately 21 percent now to more than 50 percent . . .

This is exactly what happened.

Third:

As soon as the self-sufficiency of the United States fell by a significant amount, the world

demand would be greater and thus the world price of oil could be expected to rise.

This is exactly what happened.

Fourth:

Moreover, the growing dependence upon foreign oil would strengthen the bargaining power of the producing nations, who can probably be expected to seek the highest possible price for their oil.

This is exactly what happened.

Fifth. I said in my remarks that the removal of the import quotas would reduce domestic production activity. Wells drilled dropped from 30,815 in 1969 to 27,408 in 1970 to 26,077 in 1971. And I went on to say that this would affect natural gas production. I said:

With decreased oil production activity, the supplies of natural gas would also drop. Since gas is often found during the search for oil, and about 25 percent of domestic gas is produced along with oil, a change in the oil import policy likely would mean less gas for the U.S. market.

As we know, this is exactly what happened over again.

Sixth: I also said:

If we had to depend upon any foreign country or regions for a large portion of our oil supplies, the United States would have to be at the good will of these foreign governments. What if the producing countries were to withhold petroleum exports to the U.S. if they did not agree to our foreign policy? The United States cannot allow itself to be victimized by the threat of a petroleum boycott.

All of us remember the oil embargo, and what I warned about in 1969 came true because we eliminated the quotas. We hurt the domestic oil industry and by reducing our own capacity to produce became more and more dependent on foreign sources.

Seventh. Here is the concluding paragraph of my statement:

At the present reserves to production ratios, our oil industry will have to find 80-85 billion barrels by 1985. Where will this new supply come from in so short a time if exploration and development by our home industry is not stimulated and supported by strong, positive government action? Our self-sufficiency and economic independence is at stake . . . Only by protecting and encouraging our domestic oil industry can we hope to meet the twin challenges of vital national security needs and ever-increasing national energy demands for the future.

What did we do, instead of what I recommended? We removed the oil import quotas. We first reduced and then eliminated the oil depletion allowance. We placed price controls on oil while continuing price controls on national gas. We have been eliminating, one by one, incentives to explore for and develop domestic sources of energy. Is it any wonder that we have an oil and gas shortage?

Mr. BOLAND. Mr. Chairman, I rise today not only in support of this bill, H.R. 6804, but also in support of the entire concept of a Department of Energy. This Nation finds itself at an important point in our history. Actions we take now will determine our survival as a free people and a world power. The creation of a Department of Energy is an important, crucial step in dealing with the No. 1 challenge facing this country—energy. By creating this Department, we



are preparing ourselves to deal with the energy amendments of a future that may best be labeled as uncertain.

I am certain that when the Founding Fathers established the first few executive departments almost two centuries ago, they did not envision the departments we now have—Transportation; Housing and Urban Development; Health, Education, and Welfare. I suppose some will say that this newest Department is just one more departure from the ideal envisioned by those early statesmen. I do not agree with that view. Times change, countries grow, resources dwindle, and international relations become vastly more complex. These inescapable facts demand that our Government grow and change to meet new problems and challenges. The greatest of the challenges facing us as a nation today is energy. We fail our duty if we do not use all our resources to meet this challenge. To marshal and channel these resources, we need a Department of Energy.

Mr. Chairman, by creating this Department, we do not dispose of the energy problem. This action does not in one fell swoop remove energy from our list of concerns. This action does, however, provide us with an important and necessary tool for dealing with these problems. We are not expanding the Federal bureaucracy—we are consolidating and streamlining existing programs so as to better deal with problems now facing all of us. I was startled, for example, to discover that there are now 261 existing energy data programs scattered throughout the Federal Government. The duplication of effort is staggering. Mr. Chairman, all of us are concerned about a proliferating bureaucracy. Approving a department that, among other things, consolidates these functions into one separate Energy Information Administration is an excellent way to express that concern.

I know many of us in this body have concerns about certain provisions of this bill. Those provisions can be worked out. It is rare that legislation with such far-reaching effects cannot be improved with amendments. Mr. Chairman, I welcome any amendments which will help make this Department more effective and better equipped to perform its necessary task.

Mr. Chairman, in the field of energy policy, the maxim of "divide and conquer" just does not hold up. Right now, we must consolidate and conquer. We cannot effectively deal with energy policy questions when we have five Federal agencies promoting conservation, three agencies handling research and development, and two agencies responsible for the economic regulation of fossil fuels. We all recognize the gravity of the energy questions facing this country. We must, therefore, all recognize the need for one department to deal with this problem. Mr. Chairman, this is not flash-in-the-pan legislation. This is an attempt to prepare this country for its third century. I urge my fellow Members to give their full support to H.R. 6804.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of this bill

to consolidate and coordinate the energy affairs of the Government into a new Department of Energy.

It is self-evident that the Federal Government needs to eliminate the duplicative, overlapping, and conflicting policies and programs in energy.

One team—playing in the same league—must have the authority to develop and implement a bold policy for the future energy needs of our country.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of H.R. 6804, the Department of Energy Organization Act.

The energy shortages of last winter should have reminded us that we face a chronic and ever-worsening crisis of energy supply and demand. I know that my constituents have not forgotten the cruel combination of record cold weather, sporadic fuel deliveries, and high utility costs from which they, and many others like them, suffered.

On a national scale we are consuming finite supplies of oil and gas at a faster rate than we are discovering new deposits. In the past, our response to this situation has been to increase imports. We now import between 40 and 50 percent of our domestic oil consumption. The OPEC embargo and quadrupling of crude oil prices in 1973 and 1974 should have taught us a lesson. Instead, we have increased our dependency on imported OPEC oil as oil prices continue to rise.

The President has clearly and forcefully brought to the Nation's attention the need to begin immediately to conserve our scarce domestic energy resources and to utilize our imported oil more efficiently. However, these goals cannot be accomplished without a comprehensive national energy plan administered on a Federal level. Such a plan, as proposed by the administration, is now being considered by the Congress.

Regardless of one's opinions concerning this or that aspect of the plan, its implementation would be inconceivable without drastic changes in the way the Federal Government formulates and administers its energy policy. With jurisdiction over energy matters scattered throughout at least eight different departments, agencies, and commissions, it is no wonder that, as some foreign observers have astutely observed, the United States does not really have an energy policy. Information on energy supplies alone is provided by more than one hundred different Government sources. No other modern industrial country conducts its energy policies in such an uncoordinated way.

The proposed legislation, by consolidating existing programs into a single Cabinet-level Department of Energy, will at last provide the Federal Government with the resources and the authority to determine and effectively administer our national priorities in this crucial area.

The transformation will be accomplished through an orderly transfer of funding and personnel from existing agencies and programs to the new Department. Conservation will be a top priority. Tough new provisions will eliminate possible conflicts of interest among the employees.

While I do not generally consider my-

self to be a proponent of bigger and more centralized government, we are faced with a difficult choice in the energy field. Shall we invest the Government with the tools for a potentially effective energy policy, or shall we let the self-interest of the international oil companies dictate ad hoc solutions to a crisis that threatens our way of life? Given these options, it is best to establish a Department of Energy which will consolidate the multitude of energy related programs in the executive branch and deal with the energy crisis in a comprehensive manner. I urge my colleagues to support this measure.

Mr. ANNUNZIO. Mr. Chairman, I strongly support the legislation before us to establish a Department of Energy. Creation of this Department is an important step in assuring that the serious, difficult, and urgent task of meeting the Nation's energy needs is carried out in a more efficient and coordinated manner.

I believe it is clear that the present organizational framework in the Federal Government for energy is inadequate for the task before us. The Arab oil embargo in 1973 served warning that the United States is dangerously vulnerable to interruptions in imported energy supplies. We responded in a piecemeal fashion to that crisis, creating several new agencies which each had "a piece of the action," but none with overall responsibility. To date we still have not put in place the necessary consolidated department or agency to take responsibility for and focus on energy policy. That drawback has serious consequences, as we experienced last winter. In that period of prolonged severe weather, we learned that energy shortages within the country have drastic economic consequences.

Such crises as the Arab oil embargo and the shortages of last winter must be avoided. They must be avoided by strong Government action to plan for such events, and to provide viable and reliable alternatives to current energy sources. This can best be done through centralized, comprehensive organization.

The present administration took office with a pledge to reorganize the Government to better manage energy issues; it pledged a strong energy program and effective energy policy. This legislation to create the Department of Energy is the first step in fulfilling that pledge, and is an excellent effort in the right direction.

With this legislation we shall put in place a strong department which consolidates in one place the Energy Research and Development Administration with its important programs to provide essential alternative energy technologies and to improve existing energy supply systems; the energy resource allocation, data, and regulatory functions of the Federal Energy Administration; the natural gas and electric transmission regulatory functions of the Federal Power Commission; the energy leasing and power marketing functions of the Interior Department; as well as providing important functions for the Energy Secretary in energy policy formulation, regulation of oil pipelines, and establishment of stand-

ards and criteria for energy conservation in housing and transportation.

This legislation does not create any new authority or programs—but it does streamline the administration of our energy programs, creating a visible focal point for energy policy and for coordinating existing authorities more effectively.

The new Department which this legislation creates will also be instrumental in avoiding waste and duplication in our efforts to conserve existing energy sources, to develop new energy sources, and to become energy self-sufficient in the years ahead.

Its role also will be to assist in formulation of future policies to fill the gaps and plan ahead to avoid the disasters of the recent past.

President Carter recently forwarded to Congress a comprehensive proposal for substantive energy legislation. This proposal deserves our most serious consideration, and I believe we can demonstrate our seriousness at the outset by establishing the necessary organizational framework—the Department of Energy—which will be in a position to implement that program as it is developed by Congress.

Mr. Chairman, by setting in place this Department of Energy we take responsibility for dealing with the energy problem comprehensively, and I believe the public is demanding an end to the existing duplication and fragmentation in our energy organizational pattern.

I hope that this legislation can be swiftly considered and passed with the overwhelming support of this House. The Congress must take decisive action now so that our country may become energy self-sufficient without further delay. Only by decisive action on our part now can our children and grandchildren live free of fear of the high-handed black-mailing techniques that the OPEC nations have on occasion forced on the free world in the past.

Mr. FASCELL. Mr. Chairman, I rise in support of H.R. 6804, a bill to create a new Cabinet-level Department of Energy in the Federal Government.

This legislation has been requested by the Carter administration as a means of helping our Nation meet the energy challenge which is rapidly being thrust upon us.

Basically, the bill seeks to reorganize the Government in the area of energy so that it may be better equipped to deal with and hopefully to solve the energy crisis.

We know that changing the structure of the Government cannot by itself give us the energy we need and make us less dependent on imported sources. But, reorganization can help to better coordinate our efforts and focus our resources on the most promising areas of improvement.

Much of what the Government does in the field of energy involves research and development, by both the Government itself and private organizations. The new Department of Energy will consolidate our programs in R. & D. to prevent duplication and overlap.

The Government also regulates existing energy production and transmission activities. Under the new Department,

these functions will be more closely meshed into an overall policy.

Presently, five Federal agencies are charged with promoting fuel conservation. H.R. 6804 will bring these efforts under a single department.

This legislation will remedy the existing situation by creating one agency with the resources and authority to formulate and implement energy policy. We can no longer afford to allow the Government to proceed in a disjointed, haphazard fashion in responding to recurring crises.

The oil embargo, last winter's natural gas shortage, and the rapidly increasing dependence on imported oil tell us that the energy crisis is real and will not simply go away. We need adequate measures to cope with energy scarcities which affect our national security and way of life.

This legislation does not in itself increase Federal costs in the field of energy. It takes programs and employees from the Energy Research and Development Administration, the Federal Energy Administration, the Federal Power Commission, and other departments and places them within one new Department. In turn, ERDA, FEA, and the FPC are abolished.

The Department of Energy will be headed by a Secretary of Energy to be appointed by the President and confirmed by the Senate. He will have the authority to arrange programs within his Department as he likes, except that he cannot revise organizational units established by the act.

Four organizational units are set forth by the bill. These are the Federal Energy Regulatory Commission, an independent regulatory commission within the Department, whose five members are appointed by the President and confirmed by the Senate; the Economic Regulatory Administration; the Energy Information Administration; and the Office of Inspector General. The latter three offices are also headed by persons appointed by the President and confirmed by the Senate.

Other provisions of the bill deal with personnel transfers and policies, conflict of interest safeguards, and reports to Congress on energy needs and resources.

The legislation has received wide support from environmental organizations, private industry, and academic groups. It is supported by the administration in the form it has been approved by the committee. Therefore, I request that H.R. 6804 be approved by the House.

Mr. McCLOSKEY. Mr. Chairman, I intend to offer an amendment to title VI of H.R. 6804 to provide for the specific designation of energy conservation officers within the Department of Defense, the Department of Commerce, the Department of Housing and Urban Development, the Department of Agriculture, the Department of Transportation, the Department of the Interior, the U.S. Postal Service, and the General Services Administration.

In strong support of the energy conservation purposes of H.R. 6804, I think it important to provide clear legislative intent that the new Department will have full, high-level cooperation from other

key offices in the executive branch in the area of energy conservation efforts.

A similar provision has already been adopted by the Senate. I offer the following amendment:

On page 116, after line 2 insert the following:

"SEC. 624. The Secretary of Defense, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Secretary of Transportation, the Secretary of the Interior, the United States Postal Service, and the Administrator of General Services shall each designate one Assistant Secretary or Assistant Administrator, as the case may be, as the principal energy conservation officer of such Department or of the Administration. Such designated principal conservation officer shall be responsible for coordination with the Department with respect to energy matters."

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the Clerk will now read by titles the committee amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 6804

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Energy Organization Act".*

#### TITLE I—DECLARATION OF FINDINGS, POLICY, AND PURPOSES

SEC. 101. (a) The Congress of the United States finds that—

(1) the United States and the world face an increasing shortage of nonrenewable energy resources;

(2) this energy shortage presents a serious threat to the national security of the United States and to the health, safety, and welfare of its citizens;

(3) a strong national energy program is needed to increase the efficiency of energy use and availability of energy resources, particularly renewable energy resources;

(4) responsibility for energy policy execution, regulation, and research, development, and demonstration is presently vested in many agencies and departments, and this fragmentation hinders development of an effective Federal response to the energy shortage; and

(5) formulation and implementation of a national energy program require the integration of certain Federal energy functions into a single department in the executive branch.

(b) It is the policy of the United States that—

(1) energy conservation shall enjoy the highest priority in any national energy program, and shall be carefully considered as an adjunct to programs to increase energy supply and as an option to programs that may present health, safety, or other environmental hazards;

(2) major emphasis shall also be given to the development and commercial use of solar, thermal, recycling, and other technologies utilizing renewable energy resources;

(3) the environmental and social consequences of any national energy program shall be analyzed and considered in evaluation of the program's potential; and

(4) public participation in the development and enforcement of any national energy program shall be provided for, encouraged, and assisted.

SEC. 102. The purposes of this Act are (1)



to establish a permanent Department of Energy in the executive branch, (2) to vest in the Secretary of Energy such functions as are vested in, or transferred to, him by this Act, (3) to achieve, through the Department, effective management of energy functions of the Federal Government, (4) to provide the mechanism through which a coordinated national energy policy can be formulated and implemented to deal with the short-, mid-, and long-term energy problems of the Nation, (5) to safeguard and serve our natural resources and environment, and (6) to promote the interest of consumers.

Mr. BROOKS (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
OFFERED BY MR. ERLBORN

Mr. ERLBORN. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. ERLBORN: Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Department of Energy Organization Act".

TITLE I—DECLARATION OF FINDINGS,  
POLICY, AND PURPOSES

SEC. 101. (a) The Congress of the United States finds that—

(1) the United States and the world face an increasing shortage of nonrenewable energy resources;

(2) this energy shortage presents a serious threat to the national security of the United States and to the health, safety, and welfare of its citizens;

(3) a strong national energy program is needed to increase the efficiency of energy use and availability of energy resources, particularly renewable energy resources;

(4) responsibility for energy policy execution, regulation, and research, development, and demonstration is presently vested in many agencies and departments, and this fragmentation hinders development of an effective Federal response to the energy shortage; and

(5) formulation and implementation of a national energy program require the integration of certain Federal energy functions into a single department in the executive branch.

(b) It is the policy of the United States that—

(1) energy conservation shall enjoy the highest priority in any national energy program, and shall be carefully considered as an adjunct to programs to increase energy supply and as an option to programs that may present health, safety, or other environmental hazards;

(2) major emphasis shall also be given to the development and commercial use of solar, thermal, recycling, and other technologies utilizing renewable energy resources;

(3) the environmental and social consequences of any national energy program shall be analyzed and considered in evaluation of the program's potential; and

(4) public participation in the development and enforcement of any national energy program shall be provided for, encouraged, and assisted.

SEC. 102. The purposes of this Act are (1) to establish a permanent Department of Energy in the executive branch, (2) to vest in the Secretary of Energy such functions as are vested in, or transferred to, him by this Act, (3) to achieve, through the Depart-

ment, effective management of energy functions of the Federal Government (4) to provide the mechanism through which a coordinated national energy policy can be formulated and implemented to deal with the short-, mid-, and long-term energy problems of the Nation, (5) to safeguard and conserve our natural resources and environment, and (6) to promote the interest of consumers.

TITLE II—ESTABLISHMENT OF DEPARTMENT

SEC. 201. There is hereby established at the seat of government an executive department to be known as the Department of Energy (hereinafter in this Act referred to as the "Department"). There shall be at the head of the Department a Secretary of Energy (hereinafter in this Act referred to as the "Secretary") who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

SEC. 202. There shall be in the Department a Deputy Secretary, nine Assistant Secretaries, and a General Counsel, each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions as the Secretary shall prescribe from time to time. The Assistant Secretaries shall be designated as follows:

(1) Assistant Secretary for Public, Congressional, and Intergovernmental Relations;

(2) Assistant Secretary for Conservation;

(3) Assistant Secretary for Defense Programs;

(4) Assistant Secretary for Environment;

(5) Assistant Secretary for Fossil and Nuclear Energy Technologies;

(6) Assistant Secretary for Policy, Evaluation, and International Programs;

(7) Assistant Secretary for Competition;

(8) Assistant Secretary for Resource Applications; and

(9) Assistant Secretary for Solar, Geothermal, Recycling, and Other Energy Technologies.

SEC. 203. The Deputy Secretary shall act for, and exercise the functions of, the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Secretary shall designate the order in which the Assistant Secretaries, General Counsel, and other officials shall act for, and perform the functions of, the Secretary during the absence or disability of both the Secretary and Deputy Secretary or in the event of vacancies in both of those offices.

SEC. 204. (a) There shall be within the Department an Energy Information Administration to be headed by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. Such Administrator shall be a person who, by reason of professional background and experience, is especially qualified to manage an energy information system. There shall be transferred to and vested in the Administrator (on a nonexclusive basis as the Secretary may determine) all functions and authorities transferred to, and vested in, the Secretary under this Act relating to collection, analysis, and dissemination of energy information and data. The Administrator shall be subject to all duties and responsibilities established under part B of the Federal Energy Administration Act of 1974.

(b) In the performance of his professional functions in connection with collecting, analyzing, and disseminating energy information, the Administrator shall not be responsible to, or subject to, the direction of any officer, employee, or agent of the Department.

(c) The Administrator shall, upon request, promptly provide any information or analysis in his possession to any other administration, commission, or office within the De-

partment relating to the functions of such administration, commission, or office.

SEC. 205. (a) There shall be within the Department an Economic Regulatory Administration to be headed by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall by rule provide for a separation of regulatory and enforcement functions assigned to or vested in the Administration.

(b) The Secretary shall utilize the Economic Regulatory Administration to administer—

(1) any function which may be delegated to the Secretary under the Emergency Petroleum Allocation Act of 1973; and

(2) such other functions as the Secretary may consider appropriate.

(c) The Administrator shall insure an adequate opportunity for public participation, including an opportunity for hearings, in issuing any rules or regulations under this section.

SEC. 206. (a) (1) There shall be within the Department an Office of Inspector General to be headed by an Inspector General, who shall be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report to, and be under the general supervision of, the Secretary or, to the extent such authority is delegated, the Deputy Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

(2) There shall also be in the Office a Deputy Inspector General appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy shall assist the Inspector General in the administration of the Office and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that Office, act as Inspector General.

(3) The Inspector General or the Deputy may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(4) The Inspector General shall, in accordance with applicable laws and regulations governing the civil service, appoint an Assistant Inspector General for Audits and an Assistant Inspector General for Investigations.

(b) It shall be the duty and responsibility of the Inspector General—

(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to programs and operations of the Department;

(2) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by the Department for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between the Department and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by the Department, and (B) the identification and prosecution of participants in such fraud or abuse; and

(4) to keep the Secretary and the Congress fully and currently informed, by means of the reports required by subsection (c) and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs

and operations administered or financed by the Department, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(c) The Inspector General shall, not later than March 31 of each year, submit a report to the Secretary and to the Congress summarizing the activities of the Office during the preceding calendar year. Such report shall include, but need not be limited to—

(1) an identification and description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities;

(2) a description of recommendations for corrective action made by the Office with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1);

(3) an evaluation of progress made in implementing recommendations described in the report or, where appropriate, in previous reports; and

(4) a summary of matters referred to prosecutive authorities and the extent to which prosecutions and convictions have resulted.

(d) The Inspector General shall report immediately to the Secretary and to the appropriate committees or subcommittees of the Congress whenever the Office becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the Department. The Deputy and Assistant Inspectors General shall have particular responsibility for informing the Inspector General of such problems, abuses, or deficiencies.

(e) The Inspector General (1) may make such additional investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable; and (2) shall provide such additional information or documents as may be requested by either House of Congress or, with respect to matters within their jurisdiction, by any committee or subcommittee thereof.

(f) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary and to the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval. The Inspector General shall, insofar as feasible, provide copies of the reports required under subsection (c) to the Secretary sufficiently in advance of the due date for their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(g) In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, and other material available to the Department which relate to programs and operations with respect to which the Inspector General has responsibilities under this section;

(2) to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this section, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court; and

(3) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions and responsibilities under this section.

(h) For purposes of this section, the term "Department" includes any component thereof.

### TITLE III—TRANSFERS OF FUNCTIONS

SEC. 301. Except as otherwise provided in this Act, there are hereby transferred to, and vested in, the Secretary all of the functions vested by law in the Administrator of the Federal Energy Administration or the Federal Energy Administration, the Administrator of the Energy Research and Development Administration or the Energy Research and Development Administration; and the functions vested by law in the officers and components of either such Administration.

SEC. 302. There are hereby transferred to, and vested in, the Secretary:

(a) All functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department, to the extent such functions relate to or are utilized by the Southeastern Power Administration, the Southwestern Power Administration, and the Bonneville Power Administration. The authority for the functions so transferred includes, but is not limited to, section 5 of the Flood Control Act of 1944, the Bonneville Project Act of 1937, and the Federal Columbia River Transmission System Act. Notwithstanding sections 606 and 705 of this Act, each of the three such Power Administrations shall be maintained as a distinct entity within the Department.

(b) Such functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department as relate to, or are utilized by, the Alaska Power Administration for the transmission and disposition (including acquisition by purchase or exchange) of electric power and energy and by the Bureau of Reclamation for the disposition (including acquisition by purchase or exchange) of electric power and energy, except that the authority for, and function of, operating the dams constructed pursuant to the Eklutna Project Act and section 204 of the Flood Control Act of 1962 shall remain in the Secretary of the Interior. The authority for the functions so transferred includes, but is not limited to, the Eklutna Project Act, section 204 of the Flood Control Act of 1962, the Reclamation Act of 1902, and Acts amendatory thereof and supplementary thereto, including, but not limited to, the authority for the sale of electric power or lease of power privileges under section 9(c) of the Reclamation Project Act of 1939, and the authority under section 303 of the Colorado River Basin Project Act.

(c) All the authority of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department for the transmission and disposition of the electric power and energy generated at Falcon Dam and Amistad Dam, international storage reservoir projects constructed on the Rio Grande pursuant to the Act of June 19, 1954, as amended by the Act of December 23, 1963.

(d) (1) The authority of the Secretary of the Interior to prescribe regulations under the Outer Continental Shelf Lands Act, the Mineral Lands Leasing Act, the Mineral Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act, which relate to the—

(A) fostering of competition for Federal leases (including, but not limited to, prohibition on bidding for development rights by certain types of joint ventures);

(B) implementation of alternative bidding systems authorized for the award of Federal leases;

(C) establishment of diligence requirements for operations conducted on Federal leases (including, but not limited to, procedures relating to the granting or ordering by the Secretary of the Interior of suspension of operations or production as they relate to such requirements;

(D) setting rates of production for Federal leases; and

(E) specifying the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind,

except that such regulations shall be promulgated by the Secretary only after consultation with the Secretary of the Interior.

(2) The Secretary of the Interior shall retain any authorities not transferred by paragraph (1) of this subsection and shall be solely responsible for the issuance and supervision of leases and the enforcement of all regulations applicable to the easing of mineral resources, including, but not limited to, lease terms and conditions and production rates. No regulation issued by the Secretary shall restrict or limit any authority retained by the Secretary of the Interior under this paragraph with respect to the issuance or supervision of leases. Nothing in this subsection shall be construed to affect Indian lands and resources or to transfer any responsibilities of the Secretary of the Interior concerning such lands and resources.

(e) Those functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department under the Act of May 16, 1910, and other authorities, exercised by the Bureau of Mines, but limited to—

(1) fuel supply and demand analysis and data gathering;

(2) research and development relating to increased efficiency of production technology of solid fuel minerals, other than research relating to mine health and safety and research relating to the environmental and leasing consequences of solid fuel mining, which shall remain in the Department of the Interior; and

(3) coal preparation and analysis.

(f) The functions of the Secretary of the Interior to establish production rates for all Federal leases.

SEC. 303. The Secretary of the Interior shall afford the Secretary a reasonable opportunity, prior to the execution of a Federal lease, to disapprove any term or condition of such Federal lease which relates to the matters with respect to which the Secretary has authority to prescribe regulations under section 302(d). No such term or condition may be included in such a lease if it is disapproved by the Secretary.

SEC. 304. As used in sections 302 and 303 of this Act, "Federal lease" means an agreement which, for any consideration, including, but not limited to, bonuses, rents, or royalties conferred and covenants to be observed, authorizes any person to explore for, develop, or produce (or to do any or all of these) oil and gas, coal, oil shale, tar sands, or geothermal resources in public, acquired, or submerged lands or interests therein under Federal jurisdiction.

SEC. 305. All functions vested by law in the Director of the Office of Energy Information and Analysis by part B of the Federal Energy Administration Act of 1974 are hereby transferred to the Administrator of the Energy Information Administration.

SEC. 306. There are hereby transferred to and vested in the Secretary all of the functions vested in the Secretary of Housing and Urban Development by the Energy Conservation Standards for New Buildings Act of 1976 (title III of the Energy Conservation and Production Act).

SEC. 307. There are hereby transferred to and vested in the Secretary such functions as are set forth in the Interstate Commerce Act and vested by law in the Interstate Commerce Commission or the Chairman and members thereof as relate to transportation of oil by pipeline.

SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested by chapter 641 of title 10, United States Code, in the Secretary of the Navy as they relate to the administration of, and



there is hereby transferred to, and vested in, the Secretary jurisdiction over—

(1) Naval Petroleum Reserve Numbered 1 (Elk Hills) located at Kern County, California, established by Executive order of the President, dated September 2, 1912;

(2) Naval Petroleum Reserve Numbered 2 (Buena Vista), located in Kern County, California, established by Executive order of the President, dated December 13, 1912;

(3) Naval Petroleum Reserve Numbered 3 (Teapot Dome) located in Wyoming, established by Executive order of the President, dated April 30, 1915;

(4) Oil Shale Reserve Numbered 1, located in Colorado, established by Executive order of the President, dated December 6, 1916, as amended by Executive order of the President, dated June 12, 1919;

(5) Oil Shale Reserve Numbered 2, located in Utah, established by Executive order of the President, dated December 6, 1916; and

(6) Oil Shale Reserve Numbered 3, located in Colorado, established by Executive order of the President, dated September 27, 1974.

The surface management of such reserves shall be carried out by the Secretary of the Interior under applicable laws, including the Federal Land Policy and Management Act of 1976, administered by such Secretary.

Sec. 309. There are hereby transferred to and vested in the Secretary all functions of the Secretary of Commerce, the Department of Commerce, and officers and components of that Department, as relate to or are utilized by the Office of Energy Programs, but limited to industrial energy conservation programs.

Sec. 310. (a) The Division of Naval Reactors, established pursuant to section 25 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2035), and responsible for research, design, development, health and safety matters pertaining to naval nuclear propulsion plants and assigned civilian power reactor programs, is transferred to the Department under the Assistant Secretary for Fossil and Nuclear Energy Technologies and shall be deemed to be an organizational unit established by this Act.

(b) The Division of Military Application, established by section 25 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2035), and the functions of the Energy Research and Development Administration with respect to the Military Liaison Committee, established by section 27 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2037), are transferred to the Department under the Assistant Secretary for Defense Programs and such organizational units shall be deemed to be an organizational unit established by this Act.

#### TITLE V—ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

Sec. 501. (a) Subject to the other requirements of this section, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply in accordance with its terms to any rule or regulation, or any order having the applicability and effect of a rule (as defined in section 551(4) of title 5, United States Code), issued pursuant to authority vested by law in or delegated to the Secretary or any officer, employee, or component of the Department, including any such rule, regulation, or order of a State or local government agency or officer thereof, issued pursuant to authority delegated by the Secretary.

(b) In addition to the requirements of subsection (a), notice of any proposed rule, regulation, or order described in subsection (a) shall be given by publication of such proposed rule, regulation, or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this subsection as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious harm or

injury to the public health, safety, or welfare, and such finding is set out in detail in such rule, regulation, or order. In addition, public notice of all rules, regulations, or orders described in subsection (a) which are promulgated by officers of a State or local government agency shall be achieved by publication of such rules, regulations, or orders in at least two newspapers of statewide circulation, except that, if such publication is not practicable, notice of any rule, regulation, or order shall be given by such other means as the officer promulgating such rule, regulation, or order determines will assure wide public notice.

(c) In addition to the requirements of subsection (b), if any rule, regulation, or order described in subsection (a) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the issuance of such rule, regulation, or order, but in all cases such opportunity shall be afforded no later than forty-five days after the issuance of any such rule, regulation, or order. A transcript shall be kept of any oral presentation.

(d) The Secretary or any officer authorized to issue rules, regulations, or orders under the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environmental Coordination Act of 1974, or the Energy Policy and Conservation Act shall provide for the making of such adjustments, consistent with the other purposes of the relevant Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rule, regulation or order.

(e) (1) With respect to any rule or regulation of the Secretary the effects of which, except for indirect effects of an inconsequential nature, are confined to—

(A) a single unit of local government or the residents thereof;

(B) a single geographic area within a State or the residents thereof; or

(C) a single State or the residents thereof; the Secretary shall, in any case where appropriate, afford an opportunity for a hearing or the oral presentation of views and provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in subparagraphs (A) through (C), as the case may be.

(2) For purposes of this subsection—

(A) the term "unit of local government" means a county, municipality, town, township, village, or other unit of general government below the State level; and

(B) the term "geographic area within a State" means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(3) Nothing in this subsection shall be construed as requiring a hearing or an oral presentation of views where none is required by this section.

(f) (1) Judicial review of agency action taken under any law, the functions of which are transferred by this Act, shall, notwithstanding such transfer, be made in the manner specified in such law.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under rules, regulations, or orders issued exclusively thereunder, other than any actions taken to implement or enforce any rule, regulation, or order by any officer of a State or local government agency under this Act, except that

nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the unconstitutionality of this Act or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the unconstitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code. Cases or controversies arising under any rule, regulation, or order of any officer of a State or local government agency may be heard in either (1) any appropriate State court, or (2) without regard to the amount in controversy, the district courts of the United States.

(3) The Secretary may, by rule, prescribe procedures for State or local government agencies authorized by the Secretary to carry out such functions as may be permitted under applicable law. Such procedures shall apply to such agencies in lieu of section 501, and shall require that prior to taking any actions, such agencies shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) a reasonable time before taking the action.

(4) Notwithstanding any other law, the litigation of the Department shall be subject to the supervision of the Attorney General pursuant to chapter 31 of title 28 United States Code.

#### TITLE VI—ADMINISTRATIVE PROVISIONS

Sec. 601. (a) For purposes of this section—

(1) the term "Department" includes any agency, administration, commission, or other component thereof;

(2) the term "Department proceeding" includes any Department hearing, application, rulemaking or other determination, contract, grant, reward, fund transfer, claim, controversy, charge, accusation, or arrest;

(3) the term "employee" means any person holding a position in the Department;

(4) the term "employment" means employment with an energy concern and includes employment as a consultant, agent, attorney or otherwise and includes voluntary employment;

(5) the term "energy concern" means any person significantly engaged in the production, generation, transmission, distribution, or sale of electric power, petroleum or petroleum products, synthetic fuels, energy from renewable resources, wastes, or geothermal steam, nuclear energy, natural gas, coal, solar energy, or other energy-related source or resource, or in any research or development significantly related to such production, generation, transmission, distribution, or sale;

(6) the term "participate" includes participation by way of decision, approval, disapproval, recommendation, the rendering of advice, or investigation; and

(7) the term "supervisory employee" means any of the following officers or employees of the Department—

(A) an individual compensated at the rate provided for grade of GS-16 or above under section 5332 of title 5, United States Code;

(B) any other individual who, in the judgment of the Secretary, exercises sufficient decisionmaking authority so that the provisions of this section should apply to such individual;

(C) the Director or Deputy Director of any State, regional, district, local, or other field office; or

(D) an employee or officer who has responsibility with respect to the award, review, modification, or termination of any

grant, contract, reward, or fund transfer within the authority of the Secretary.

(b)(1) No supervisory employee shall knowingly receive compensation from, or hold any official relation to, any energy concern, or own stocks or bonds thereof, or have any pecuniary interest therein.

(2) Personnel transferred to the Department pursuant to section 701 of this Act shall have six months to comply with the provisions of paragraph (1) of this subsection with respect to prohibited property holdings. Any person transferred pursuant to section 701 shall notify the Secretary of all circumstances which would be violative of the restrictions described in subsection (b)(1) not later than fifteen days after the date of such transfer as determined by the United States Civil Service Commission.

(3) Where exceptional hardship would result, or where the interest is vested, the Secretary is authorized to waive the requirements of this subsection with respect to any person covered. Such waiver shall:

(A) be published in the Federal Register; (B) contain a finding by the Secretary that exceptional hardship would result; and

(C) indicate the steps taken by the Secretary to minimize conflict of interest and the appearance of conflict of interest.

Such waiver shall in no instance constitute a waiver of the requirements of section 208 of title 18, United States Code.

(c)(1) Each supervisory employee shall file with the Secretary, in such form and manner as the Secretary shall prescribe, a report describing all previous employment with any energy concern.

(2) Each former supervisory employee of the Department shall file with the Secretary, in such form and manner as the Secretary shall prescribe, not later than the November 15 of—

(A) the fiscal year following the fiscal year in which such person ceased to be an employee of the Department, and

(B) each of the succeeding two fiscal years, a report describing any employment with any energy concern during the fiscal year to which such report relates.

(3) Each report filed pursuant to paragraphs (1) and (2) shall contain the name and address of the person filing the report, the name and address of the energy concern with which he held employment, a brief description of his duties and work for the energy concern, the dates of his employment, and such other pertinent information as the Secretary may require.

(4) The Secretary shall maintain a file containing the reports filed with him pursuant to paragraphs (1) and (2). All such reports shall be available for public inspection and copying at all times during regular working hours.

(d)(1)(A) For a period of two years after terminating any employment with any energy concern, no supervisory employee shall knowingly participate in any Department proceeding in which his former employer is substantially, directly, or materially involved, other than in a rulemaking proceeding which has a substantial effect on numerous energy concerns.

(B) While an employee of the Department, no supervisory employee shall knowingly participate in any Department proceeding for which he had direct responsibility, or in which he participated substantially or personally, while in the employment of any energy concern.

(C) No supervisory employee who solicits, negotiates, or arranges for employment with any energy concern shall participate in any Department proceeding in which such energy concern is substantially, directly, or materially involved.

(2)(A) For a period of two years after ceasing to be an employee of the Department, no supervisory employee shall, in any professional capacity for anyone other than

the United States, appear or attend before, or make any oral or written communication or submission to, or filing with, the Department or any officer or employee of the Department in connection with any Department proceeding which was directly or indirectly under his official responsibility while a supervisory employee.

(B) For a period of five years after ceasing to be an employee of the Department, no supervisory employee shall, in any professional capacity for anyone other than the United States, appear or attend before, or make any oral or written communication to, or filing with, the Department or any officer or employee of the Department in connection with any Department proceeding in which he participated substantially or personally while a supervisory employee.

(3) Notwithstanding any penalty imposed under subsection (e), any violation of this subsection shall be taken into consideration in deciding the outcome of any Department proceeding in connection with which the prohibited appearance, attendance, communication, or submission was made.

(4) Whenever the Secretary makes a written finding as to a particular supervisory employee that the application of a particular restriction or requirement imposed by paragraph (1) or (2) of this subsection in a particular circumstance would work an exceptional hardship upon such supervisory employee or would be contrary to the national interest, the Secretary may waive in writing such restriction or requirement as to such supervisory employee. The Secretary shall maintain a file containing all findings and waivers made by him pursuant to this paragraph, and all such findings and waivers shall be available for public inspection and copying at all times during regular working hours. Any waiver made by the Secretary of a restriction imposed under paragraph (2) of this subsection shall also be filed with any record of the Department proceeding as to which the waiver for purposes of participation is granted. No such waiver shall in any instance constitute a waiver of the requirements of section 207 of title 18, United States Code.

(e) Any person who violates subsections (b), (c), or (d), taking into account any waiver under subsection (b)(3) or (d)(4), shall be subject to a civil penalty, assessed by the Secretary, not to exceed \$10,000 for each violation.

(f) Nothing in this section shall be deemed to limit the operation of section 207 or section 208 of title 18, United States Code.

Sec. 602. (a) Each officer or employee of the Department who has any known financial interest—

(1) in any person engaged in the business, other than at the retail level, of developing, producing, refining, transporting by pipeline, or converting into synthetic fuel, minerals, wastes, or renewable resources, or in the generation of energy from such minerals, wastes, or renewable resources, or in conducting research, development, and demonstration with financial assistance under this Act or any Act, the administration of which is transferred pursuant to this Act;

(2) in property from which coal, natural gas, crude oil, or nuclear material is commercially produced;

(3) in any person engaged in the production, generation, transmission, distribution, or sale of electric power; or

(4) in any person engaged in production, sale, or distribution of nuclear materials; shall, beginning on February 1, 1978, annually file with the Secretary a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such statement shall be subject to examination, and available for copying, by the public upon request.

(b) The Secretary shall—

(1) act, within ninety days after the effective date of this Act, by rule—

(A) to define the term "known financial interest" for purposes of subsection (a); and (B) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) include, as part of the report made pursuant to section 621, a report with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b), the Secretary may identify specific positions, or classes thereof, within the Department which are of a nonregulatory or non-policy-making nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, subsection (a) shall be fined not more than \$2,500 or imprisoned not more than one year, or both.

Sec. 603. The Secretary is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in him.

Sec. 604. Except as otherwise expressly prohibited by law, the Secretary may delegate any of his functions to such officers and employees of the Department as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary or appropriate.

Sec. 605. The Secretary is authorized to establish, alter, consolidate, or discontinue and to maintain such State, regional, district, local, or other field offices as he may deem to be necessary to carry out functions now or hereafter vested in him.

Sec. 606. The Secretary may, from time to time, establish, alter, consolidate or discontinue such organizational units or components within the Department as he may deem to be necessary or appropriate, except that such authority shall not extend to the abolition of organizational units or components established by this Act.

Sec. 607. In the performance of functions transferred to, and vested in, the Secretary or any officer or component of the Department, the Secretary is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code, except that to the extent the Secretary deems such action necessary to the discharge of his functions, he may establish scientific or professional positions within the Department as provided in section 3104 of title 5, United States Code.

Sec. 608. (a) There shall be within the Department not more than fourteen additional officers in positions authorized by sections 5315 and 5316 of title 5, United States Code, who shall be appointed by the Secretary and who shall perform such functions as the Secretary shall prescribe from time to time.

(b)(1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place at GS-16, GS-17, and GS-18, not to exceed 350 positions of the positions subject to the limitation of the first sentence of section 5108(a) of such title.

(2) Any position placed at GS-16, GS-17, or GS-18 under the authority of paragraph (1) may be filled only by a person who is transferred in connection with a transfer of function under this Act and who, immediately before the effective date of this Act, held a position having duties comparable



to those of such position. Appointments under this paragraph may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Civil Service Commission of appointments to GS-16, GS-17, and GS-18.

(3) The Secretary's authority under this subsection with respect to any position shall cease when the person appointed to fill such position under paragraph (2) leaves such position.

Sec. 609. The Secretary may obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code, for persons in Government service employed intermittently.

Sec. 610. Section 17 of the Federal Energy Administration Act of 1974 shall be applicable to advisory committees chartered by the Department.

Sec. 611. (a) The Secretary is authorized to provide for participation of Armed Forces personnel in carrying out functions performed, on the date of enactment of this Act, in the Energy Research and Development Administration and under chapter 641 of title 10, United States Code. Members of the Armed Forces may be detailed for service in the Department by the Secretary concerned (as said term is defined in section 101 of such title) pursuant to cooperative agreements with the Secretary.

(b) The detail of any personnel to the Department under this section shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy or hold or any emolument, perquisite, right, privilege, or benefit incident to, or arising out of, such status, office, rank, or grade, nor shall any member so detailed be charged against any statutory or other limitation on strengths applicable to the Armed Forces or the Department. A member so detailed shall not be subject to direction or control by his armed force, or any officer thereof, directly or indirectly, with respect to the responsibilities exercised in the position to which detailed.

Sec. 612. (a) With their consent, the Secretary may, with or without reimbursement, use the research, equipment, and facilities of any agency or instrumentality of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, or of any political subdivision thereof, or of any foreign government, in carrying out any function now or hereafter vested in the Secretary.

(b) The Secretary may, with or without reimbursement, provide research, equipment, and facilities to any agency or instrumentality of the United States or any State, territory, the Commonwealth of Puerto Rico, the District of Columbia, or any political subdivision thereof, or to any foreign government, whenever he deems such action to be necessary and appropriate to the performance of functions now or hereafter vested in him.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary or the head of the agency or instrumentality of the United States involved, as the case may be, to pay directly the costs of the equipment or facilities provided, to repay or make advances to appropriations or funds which do or will initially bear all or a part of such costs, or to refund excess sums when necessary, except that such proceeds may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 619 of this Act, and used under the law governing such fund, if the fund is available for use for providing the equipment or facilities involved.

Sec. 613. The Secretary is authorized to enter into and perform such contracts, leases, cooperative agreements, or other

similar transactions with public agencies and private organizations and persons, and to make such payments (in lump sum or installments, and by way of advance or reimbursement) as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in the Secretary.

Sec. 614. The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, such personal property (including patents), or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

Sec. 615. (a) As necessary and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote locations:

- (1) emergency medical services and supplies;
- (2) food and other subsistence supplies;
- (3) messing facilities;
- (4) audiovisual equipment, accessories, and supplies for recreation and training;
- (5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;
- (6) living and working quarters and facilities; and
- (7) transportation of school age dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary to pay directly the cost of such work or services, to repay or make advances to appropriations of funds which will initially bear all or a part of such cost, or to refund excess sums when necessary: *Provided*, That such payments may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 619 of this Act, and used under the law governing such fund, if the fund is available for use by the Department for performing the work or services for which payment is received.

Sec. 616. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

- (1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;
- (2) licenses under copyrights, patents, and applications for patents; and
- (3) releases, before suit is brought, for past infringement of patents or copyrights.

Sec. 617. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

Sec. 618. The Secretary shall cause a seal of office to be made for the Department of such design as he shall approve and judicial notice shall be taken of such seal.

Sec. 619. The Secretary is authorized to establish a working capital fund, to be available without fiscal-year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interests of economy and efficiency. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund in such amounts as may be necessary to provide additional working capital are authorized. The working capital fund shall recover from the appropriations and funds for which services are performed, either in advance or by way of reimbursement, amounts which will approximate the costs incurred, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from the sale or exchange of its property, and receipts in payment for loss or damage to property owned by the fund.

Sec. 620. To the extent necessary or appropriate to perform any function transferred by this Act, the Secretary may exercise, in carrying out the function so transferred, any authority or part thereof available by law, including appropriation Acts, to the official or agency from which such function was transferred.

Sec. 621. The Secretary shall, as soon as practicable after the end of each fiscal year, commencing with the first complete fiscal year following the effective date of this Act, make a report to the President for submission to the Congress on the activities of the Department during the preceding fiscal year. Such report shall include a statement of the Secretary's goals, priorities, and plans for the Department, together with an assessment of the progress made toward the attainment of those goals, the effective and efficient management of the Department, and progress made in coordination of its functions with other departments and agencies of the Federal Government. In addition, such report shall include the information required by section 15 of the Federal Energy Administration Act of 1974, section 307 of the Energy Reorganization Act of 1974, and section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974, and shall include:

(1) projected energy needs of the United States to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation;

(2) an estimate of (A) the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives, and (B) the quantities of energy expected to be provided by different sources (including petroleum, natural and synthetic gases, coal, uranium, hydroelectric, solar, and other means) and the expected means of obtaining such quantities;

(3) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation;

(4) a summary of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, and to encourage conservation practices, and shall include recommendations for developing technologies

capable of improving the quality of the environment and increasing efficiency;

(5) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices) employed by Federal, State, and local governments and nongovernmental entities to achieve the purposes of this Act.

Sec. 622. The Secretary, when authorized in an appropriation act, in any fiscal year, may transfer funds from one appropriation to another within the Department, except that no appropriation shall be either increased or decreased pursuant to this section more than 5 per centum of the appropriation for such fiscal year.

Sec. 623. Appropriations to carry out the provisions of this Act shall be subject to annual authorization.

#### TITLE VII—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Sec. 701. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are hereby transferred to the Secretary for appropriate allocation.

(b) Positions expressly specified by statute or reorganization plan, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule (5 U.S.C. 5312-5316) on the effective date of this Act shall be subject to the provisions of section 705 of this Act.

Sec. 702. Except as otherwise provided in this Act, the transfer of full-time personnel (except special Government employees) and part-time personnel holding permanent positions pursuant to this title shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of enactment of this Act.

Sec. 703. Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in the new position.

Sec. 704. Employees transferred to the Department holding reemployment rights acquired under section 28 of the Federal Energy Administration Act of 1974 or any other provision of law or regulation may exercise such rights only within one hundred and twenty days from the effective date of this Act.

Sec. 705. Except as otherwise provided in this Act, whenever all of the functions vested by law in an agency, commission, or other body, or any component thereof, have been terminated or transferred from that agency, commission, or other body, or component by this Act, the agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5316), shall terminate.

Sec. 706. The Director of the Office of Man-

agement and Budget, in consultation with the Secretary, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an agency, commission or other body, or component thereof affected by this Act, to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with the functions transferred by this Act as he may deem necessary to accomplish the purposes of this Act.

Sec. 707. All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department after the date of enactment of this Act, and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Secretary, or other authorized officials, a court of competent jurisdiction, or by operation of law.

Sec. 708. (a) (1) The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(b) Except as provided in subsection (d)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(c) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(d) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the Secretary or other official, as the case may be, substituted.

Sec. 709. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

Sec. 710. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or other official or component of the Department in which this Act vests such functions.

Sec. 711. Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of, or authority available to, the President which he had immediately before the effective date of this Act; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

Sec. 712. (a) The Federal Energy Administration Act of 1974 is hereby amended as follows:

(1) in section 4—

(A) by striking out the heading of such section and inserting in lieu thereof "Conflicts of Interest";

(B) by striking out subsections (a) through (h) of such section and redesignating subsections (i) and (j) as subsections (a) and (b), respectively; and

(C) by striking out, in the subsection redesignated as subsection (b), "holding any of the positions described in subsections (a), (c), (d), and (e) of this section" and inserting in lieu thereof "who is compensated at level II, III, or IV of the Executive Schedule and who is assigned principal responsibility for any program under this Act";

(2) in section 7—

(A) by striking out subsections (a) and (b) and redesignating subsection (c) as subsection (a);

(B) by striking out subsections (d), (e), (f), (g), and (h);

(C) by striking out "(i) (1)" and by striking out subparagraphs (A), (B), (C), (E), and (F) of subsection (i) (1) and redesignating subparagraph (D) of such subsection as subsection (b);

(D) by striking out, in the matter redesignated as subsection (b), "the rules, regulations, or orders described in paragraph (A)" and inserting in lieu thereof "any rule or regulation, or any order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, pursuant to this Act";

(E) by striking out, in such subsection, "paragraph (2) of this subsection" and inserting in lieu thereof "subsection (c)";

(F) by redesignating paragraph (2) (A) of subsection (i) as subsection (c) and by striking out subparagraph (B) of subsection (i) (2); and

(G) by striking out paragraph (3) of subsection (i) and by striking out subsections (j) and (k);

(3) by repealing sections 9, 28, and 30; and

(4) in section 52(a)—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding after such paragraph (3) the following new paragraph:

"(4) the States to the extent required by the Natural Gas Act and the Federal Power Act."

(b) The Energy Reorganization Act of 1974 is hereby amended by repealing section 108.

(c) (1) The Atomic Energy Act of 1954 is hereby amended by repealing section 26.

(2) Section 161(d) of the Atomic Energy Act of 1954 shall not apply to functions transferred by this Act.

(d) Section 502 of the Motor Vehicle In-



formation and Cost Savings Act is amended by adding at the end thereof the following:

"(h) The Secretary shall consult with the Secretary of Energy in carrying out his responsibilities under this section."

(e) The Energy Conservation Standards for New Buildings Act of 1976 is hereby amended as follows:

(1) in section 303(11), strike out "Secretary of Housing and Urban Development" and insert in lieu thereof "Secretary of Energy";

(2) in section 304(c), by inserting "the Secretary of Housing and Urban Development," after "the Administrator,"; and

(3) in section 310, by inserting "Secretary of Housing and Urban Development," after "the Administrator,".

(f) The Rural Electrification Act of 1936 is hereby amended by adding a new section 16 to title I thereof to read as follows:

"Sec. 16. In order to insure coordination of electric generation and transmission financing under this Act with the national energy policy, the Administrator in making or guaranteeing loans for the construction, operation, or enlargement of generating plants or electric transmission lines or systems, shall consider such general criteria consistent with the provisions of this Act as may be published by the Secretary of Energy."

Sec. 713. Section 19(d) (1) of title 3, United States Code, is amended by inserting immediately before the period at the end thereof the following: ", Secretary of Energy".

Sec. 714. (a) Section 101 of title 5, United States Code is amended by adding at the end thereof the following:

"The Department of Energy."

(b) Subsection (a) of section 3104 of title 5, United States Code, is amended by inserting after paragraph (4) the following new paragraph:

"(5) Department of Energy—not more than 200."

(c) Subsection (a) of section 5108 of title 5, United States Code, is amended by striking out "an aggregate of 2,754" and inserting in lieu thereof "an aggregate of 3,104".

(d) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(14) Secretary of Energy."

(e) Paragraph (22) of section 5313 of title 5, United States Code, is amended to read as follows:

"(22) Deputy Secretary of Energy."

(f) Section 5314 of title 5, United States Code, is amended by amending paragraph (60) to read as follows:

"(60) Administrator, Economic Regulatory Administration, Department of Energy."

(g) Section 5315 of title 5, United States Code, is amended by striking out paragraph 102, and by adding at the end of the section the following:

"(114) Assistant Secretaries of Energy (9).

"(115) General Counsel of the Department of Energy.

"(116) Administrator, Energy Information Administration, Department of Energy.

"(117) Inspector General, Department of Energy.

"(118) Additional Officers, Department of Energy (4)."

(h) Paragraphs (135) and (136) of section 5316 of title 5, United States Code, are amended to read as follows:

"(135) Deputy Inspector General, Department of Energy.

"(136) Additional Officers, Department of Energy (10)."

Sec. 715. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions have been transferred to the Secretary for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

SEC. 716. The Civil Service Commission shall, as soon as practicable but not later than one year after the effective date of this Act, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this Act, which shall include—

(1) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this Act;

(2) a statement of the number of employees entitled to pay savings by reason of the reorganization under this Act;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative recommendations for improvements in personnel management within the Department as the Commission considers necessary.

SEC. 717. The transfer of functions under titles III and IV of this Act shall not affect the validity of any draft environmental impact statement published before the effective date of this Act.

SEC. 718. As used in this Act (1) references to "function" or "functions" shall be deemed to include reference to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and (2) references to "perform" when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

#### TITLE VIII—EFFECTIVE DATE AND INTERIM APPOINTMENTS

SEC. 801. (a) The provisions of this Act shall take effect one hundred and twenty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II and title IV of this Act may be nominated and appointed, as provided in those titles, and (2) the Secretary may promulgate regulations pursuant to section 708(a) (2) of this Act at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), functions of which are transferred to the Secretary by this Act, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(b) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act, the President may designate any officer, whose appointment was required to be made by and with the advice and consent of the Senate and who was such an officer immediately prior to the effective date of the Act, to act in such office until the office is filled as provided in this Act. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

Mr. ERLBORN (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object—and I do not know that I will—but I would like to ask

how long the gentleman's substitute amendment is.

Mr. ERLBORN. If the gentleman will yield—

Mr. ROUSSELOT. I would be delighted to yield.

Mr. ERLBORN. The substitute is quite long. It contains all but one of the titles that are in the bill under consideration. It strikes the title that provided for the transfer of the Federal Power Commission authorities to the new Department of Energy. That is the sole effect of the substitute, to leave the Federal Power Commission intact with all of its present authorities.

Mr. ROUSSELOT. So the gentleman strikes which title in his substitute?

Mr. ERLBORN. Title IV.

Mr. ROUSSELOT. And that is the only change? In all other respects, the substitute is the same as the original bill?

Mr. ERLBORN. That is right. There are conforming amendments in the other titles, and that is why it was necessary to offer this as an amendment in the nature of a substitute. There are references to the Federal Power Commission transfers in the other titles, but the other changes made are only conforming.

Mr. ROUSSELOT. So the gentleman can assure us that there are absolutely no other changes in any of the other titles except the conforming amendments the gentleman mentioned?

Mr. ERLBORN. That is correct.

Mr. ROUSSELOT. Only the elimination of title IV?

Mr. ERLBORN. That is correct.

Mr. ROUSSELOT. I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLBORN. Mr. Chairman, in the exchange with the gentleman from California a moment ago, I have completely and thoroughly defined and described the amendment in the nature of a substitute that I have offered. It eliminates title IV of the bill H.R. 6804, and it makes other technical and conforming amendments to eliminate references to the transfers that were contained in title IV.

Title IV provides for the dissolution of the Federal Power Commission and transfer of the authority to the new Department of Energy. It was obvious, I think, from the outset of our committee deliberations, that the most difficult part of the bill, the most controversial, was this transfer of Federal Power Commission authority to the new Department of Energy. The Federal Power Commission is a regulatory agency, an independent regulatory agency, patterned after the other independent regulatory agencies fashioned by the Congress over the years to make decisions—basically economic decisions—relative to the private sector; economic decisions that the Congress felt were not properly made in the judicial system and were too subject to political influence to be made in the executive branch.

So, to insulate these economic decisions from the very political atmosphere—and properly so—of the execu-

tive branch, these economic decisions were put in independent agencies more responsive to and responsible to the Congress than to the executive branch. We have always felt that the regulatory agencies were creatures of the Congress; that we should maintain oversight of their exercise of the authority that we have given them, and that they were to be kept free—free—of the influence of the executive branch.

It is the very nature of the independent regulatory agencies, and that is the purpose for which they were created. The proposition contained in H.R. 6804 is in the field of energy, to move this economic decisionmaking from that protected atmosphere into the very highly politically charged atmosphere of a Cabinet-level department; a Cabinet-level department that will be headed initially, probably, by Dr. Schlesinger, whom I think enjoys the respect of just about everyone in this Chamber.

We are not talking about individuals. We are really talking about governmental structure here. It is not Dr. Schlesinger that we are talking about. It is whether or not this type of decision-making properly belongs in the executive branch, or were we right when we created the Federal Power Commission to insulate these decisions from political considerations?

I think it is obvious why the Federal Power Commission ratemaking is being transferred to the Department of Energy. Dr. Schlesinger was very open about this in the testimony before our subcommittee. He said that if we are to have an effective energy policy it must be implemented through ratemaking. It must be implemented through ratemaking. That is why they are suggesting the transfer of this authority to the Department.

What does this mean? Maybe it was not fair of me to put it in these terms, but in the hearings I said to Dr. Schlesinger:

It sounds to me that what you are saying is you want to fix the court. You want to pre-judge and prejudice the decisions made relative to rates to implement a policy which has nothing to do with the economics of the situation but is a political decision of the Administration.

As I say, that may be gross terms with which to describe what is being attempted here, but I think it is accurate. The decisions now are to be made based on policy, which is congressional policy, which is established in the underlying law. Facts are to be determined by the independent agency. It holds hearings for this purpose generally and under the procedures described in the basic law, in the Administrative Procedure Act. Having found the facts, they apply the facts to the policy established by the Congress, and they come out with a decision as to the rates.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 5 additional minutes.)

Mr. ERLENBORN. Mr. Chairman, a new element will be introduced into this ratemaking decision process. As I say,

it is much to the credit of Dr. Schlesinger that he was open and honest in telling us what that new element is; and that new element is not congressional policy. That is already established, and we can change it as we see fit by amending the basic underlying law. It is not the facts, obviously, because the facts speak for themselves; and we have the hearing structure that will, to some extent at least, be maintained in the Department of Energy. Although even there, there is a breaking down of that hearing process. Some things which were necessarily on the record and after hearing may not be on the record after hearing if the Federal Power Commission is destroyed and its power put in this new agency. But the new element which is introduced into the decisionmaking, which I am describing here, is the political judgment of whatever administration happens to be in power at the time. We are not talking about Democrat against Republican or conservative against liberal or Jimmy Carter against some other President. This is a structure I hope we would all see apart from the vagaries of the political elections every 2 or 4 years. But we are establishing a structure for the Government for some considerable time, until conditions would change to warrant the change in the structure.

So I am not talking about whether it is this administration or some other. I hope I would feel the same—and I am sure I would feel the same—if it were a Republican administration at the present time. The problem is that political decisions will be made, decisions will be made in the White House, and they will be reflected in the rates that are determined when a Department of Energy is enforcing the ratemaking authority that we have established in the basic law.

I observed that the power companies, the energy companies, testified without exception in opposition to this transfer of power. And, by the way, so did the consumer-related testimony tend to criticize this transfer of power. About the only ones I recall being in support of it were the administration witnesses themselves.

But I said to the power companies when they were testifying, "I am surprised that you are in opposition to this transfer." I said that because if the policy of this administration is as it has been announced—and I am sure that it is—it appears that they want to discourage the use of energy, and if we are going to use ratemaking to discourage the use of energy, that means higher prices. It certainly means there will be higher prices.

It is obvious why consumer-related witnesses would be opposed to this transfer, but I was bemused by the fact that the power companies themselves were opposed to this transfer, because I would think the inevitable result of a policy of discouraging the consumption of energy would be higher prices for that energy. That, I think, is fine if it is done relative to policy considered and adopted by the Congress, but I do not think that this body should give up the authority over policy in this area and give the Executive this sort of influence in the ratemaking structure relative to energy.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to my colleague, the gentleman from New York.

Mr. HORTON. Mr. Chairman, I was only handed this amendment by the gentleman from Illinois (Mr. ERLENBORN) about 2 minutes before he offered his substitute, so I have not had an opportunity to read the some 62 pages comprising the amendment. I was not aware that the gentleman had planned to introduce this substitute, so I have not had the opportunity to read it and determine what it does.

However, as I understand it from the explanation given by the gentleman, what he is doing with this substitute is keeping the Federal Power Commission intact, with all its authorities, and this agency would then be comprised basically of the Federal Energy Administration and the Energy Research and Development Administration.

Mr. ERLENBORN. Does the gentleman include the Nuclear Regulatory Agency as well?

Mr. HORTON. No. The Nuclear Regulatory Agency is not in the bill.

Is that included in this amendment that the gentleman has offered?

Mr. ERLENBORN. No; it is not.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(On request of Mr. HORTON and by unanimous consent, Mr. ERLENBORN was allowed to proceed for 3 additional minutes.)

Mr. HORTON. Mr. Chairman, will the gentleman yield further?

Mr. ERLENBORN. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, do I understand that what the gentleman is proposing to do is just to keep the Federal Power Commission with its authorities as it now exists?

Mr. ERLENBORN. The gentleman is correct.

Mr. HORTON. The Federal Power Commission would not be involved in the reorganization?

Mr. ERLENBORN. The gentleman is correct.

Mr. HORTON. I just happened to read this one provision as I thumbed through the amendment. In lines 3 through 6 on page 8 of the gentleman's substitute—and I do not relate this to the bill at the moment—it strikes out this language:

The Inspector General and the Deputy shall each be subject to the provisions of subchapter III of chapter 73, title V.

Is it the intention of the gentleman to strike out the portion concerning the Inspector General and the authority that he has?

Mr. ERLENBORN. That was not my purpose. I will have to consult with the gentleman relative to the question he raises here. I am not able to answer the question immediately as to why in the drafting of this amendment we have affected that particular language.

Mr. HORTON. Mr. Chairman, will the gentleman yield further?

Mr. ERLENBORN. I yield to the gentleman from New York.



Mr. HORTON. Mr. Chairman, I have just been informed that the portion to which I referred was a change that was made by the Committee on Post Office and Civil Service, and that it is not a part of the gentleman's amendment.

Mr. ERLBORN. Mr. Chairman, I thank the gentleman for being able to answer the question that he posed to me and that I was unable to answer. I thank him very much for that.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. ERLBORN. Mr. Chairman, I will yield to the gentleman in just a second.

First, I wanted to make the observation that I understand the gentleman from California (Mr. Moss) has circulated an amendment or has announced his intention to offer an amendment that would affect this ratemaking authority by insulating it within the new Department of Energy. I understand there was some similar, though not identical, activity on the floor of the Senate.

I will let the gentleman from California speak to that matter himself, but I might say that the purpose of the gentleman from California (Mr. Moss) might be served by the adoption of this substitute amendment which provides that we keep this ratemaking authority in the Federal Power Commission where it is today.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield now?

Mr. ERLBORN. I am happy to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman for yielding.

I just want to observe for the benefit of those Members who might be offering amendments to the bill that the gentleman from Illinois (Mr. ERLBORN) has presented us with somewhat of a parliamentary dilemma, because his amendment is in the nature of a substitute for the committee amendment, which is itself a substitute.

I happen to have an amendment at the desk that I will offer, and any one of us who offers amendments will now have to attempt to amend the gentleman's substitute against the possibility that it may be adopted. If it is adopted without any amendments being offered, that would preclude further amendments to the bill.

Mr. ERLBORN. Yes, the gentleman is correct, and I am sorry I was forced to offer the amendment in this form.

However, by eliminating title IV and making copious changes in all the other titles by way of conforming amendments, there seemed to be no other feasible way than to offer a total substitute.

Mr. Chairman, I would point out to the gentleman and to others who might have amendments that we have used the basic structure of the bill under consideration. Pages have been renumbered, but lines have not, so that probably all that it would require would be to change the page reference on the gentleman's proposed amendment to make it conform. However, the gentleman is correct.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLBORN) has expired.

(On request of Mr. ROUSSELOT and

by unanimous consent, Mr. ERLBORN was allowed to proceed for 2 additional minutes.)

Mr. ERLBORN. Mr. Chairman, I thank the gentleman.

I would like to conclude that thought. The gentleman from Maryland (Mr. BAUMAN) is right in saying that if this substitute is adopted, it will conclude the business of the Committee of the Whole. Therefore, if the gentleman does intend to offer perfecting amendments to the bill, they probably should be offered to the substitute amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ERLBORN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding.

I have planned to support an amendment that the gentleman from Maryland (Mr. BAUMAN) has and also some additional amendments which the gentleman from Michigan (Mr. CONYERS) has, which would go a little further than the substitute amendment does in eliminating title IV. However, many Members are not now really prepared to have their amendments conform with the gentleman's substitute.

Therefore, Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

#### QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I believe that the adoption of the amendment would seriously weaken our country's ability to mount an effective energy program. We need to construct an effective Government organization that can meet the challenge and propose a rational solution. In my opinion, such an organization can only be effective if we confer upon the Secretary of Energy the authority to establish overall policy direction on energy matters, the right to manage resources, to coordinate the manner and the ability to meet energy demands, including recurrent crises, in an expeditious and effective manner. Placing basic administrative power over energy policy in an independent regulatory agency will not solve our problem. A collegial body is not equipped by temperament or structure to make long-range policy or to meet emergency needs. Rather, such a body is designed to act in a deliberate way, to pass upon case-by-case adjudications in a quasi-judicial manner. In this regard I should point out that what we establish in this bill is a Federal Energy Regu-

latory Commission to resolve case-by-case adjudication and to afford all the necessary procedural protection, including hearings, oral arguments, written decisions, the right to cross-examine in proper cases, and the right to appeal. The regulation of national policy and general authority cannot effectively be handled by a commission. It has not been done to date.

I urge the Members not to adopt this amendment and thereby reduce this country's chance to gain control over the management of our energy needs.

I would suggest to my distinguished friend, the gentleman from Illinois (Mr. ERLBORN), that we might well have this type of an amendment at the end of the bill if it were going to be a substitute. A motion to recommit would be a more appropriate time to consider this type of legislation.

Mr. Chairman, I move the previous question on the amendment.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment.

#### PARLIAMENTARY INQUIRY

Mr. ERLBORN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. Will the gentleman yield for a parliamentary inquiry?

Mr. HORTON. I yield to the gentleman from Illinois.

The CHAIRMAN. The gentleman will state the parliamentary inquiry.

Mr. ERLBORN. Mr. Chairman, I understood the gentleman from Texas to move the previous question on the amendment.

The CHAIRMAN. That motion is not in order in Committee of the Whole. The Chairman did not recognize the gentleman for that purpose.

Mr. ERLBORN. I thank the Chairman.

Mr. HORTON. Mr. Chairman, I rise in opposition to this substitute.

When the legislation was first sent up to the Congress and we first met with the administration officials, I must say that there was some very serious question in my own mind as to whether or not we ought to abolish the Federal Power Commission and whether or not we ought to transfer those functions of the FPC over to this new agency. I was very much concerned about that and I did not make up my mind until we had gone through a great number of the hearings and until I had the opportunity to meet on several occasions with the administration officials and after much research by the staff and by me personally. But I came to the conclusion that in order for us to really make any headway in solving this energy problem it was going to be necessary for the Department of Energy to have the tools and the ability to respond in the circumstances in which this Nation finds itself at the present time.

There is no question but that we could leave ERDA like it is, and we could leave FEA like it is, and we could leave the FPC like it is, but when we do that we still have the diversification of the energy problem so that there is no single handle that anyone can put on the problem to try to resolve it.

So I came to the conclusion that it is not appropriate that ERDA set the ura-

nium prices and that FEA set the oil prices and that FPC set the gas prices. There ought to be one place where those are going to be set.

I understand some Members of Congress would disagree with that, and as a matter of fact the gentleman from California (Mr. Moss) wants to offer an amendment to do something different, and the gentleman from Michigan (Mr. CONYERS) has another amendment to set up something separate outside the regulatory agency, and there are different other tactics and proposals other Members will be following.

But I submit to the Members that after all the testimony and after all the study and after the hearings and after the deliberations by the subcommittee and the full committee, we came to the conclusion that what we ought to do is set up a separate agency within the Department, and that is what we tried to do when we set up this Federal Energy Regulatory Commission with five members.

At the present time the FPC is bipartisan. That is to be transferred over to the new agency, to the FERC, the Federal Energy Regulatory Commission. We have five Commissioners to be appointed by the President with the advice and consent of the Senate. We have made it so that the Commission has complete independence with regard to hiring of staff. That was not the way it was sent up to us. The committee set it up separately that way.

We have also provided that the Secretary of the Department can only get involved by intervening as any other party could intervene with the Federal Energy Regulatory Commission.

We further provided that the decision of the Commission is final.

I do not know how we can make it any more independent unless we keep it out of the Department.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, I commend the gentleman. He is absolutely correct.

Furthermore, we insulate him by his budget, so that it cannot be arbitrarily changed or reduced by the Secretary to put on pressure.

Mr. HORTON. That is correct, and it is a very important point.

In addition we felt there were some phases of the work of the FPC that should go to the independent regulatory commission.

So we provided that those functions that are not regulatory would go to this independent agency that we establish. I say, we can do it any way we want. We can keep the FPC; we can keep the FEA, keep ERDA, and not have this Department. Many people do not want to do that; but I think we have got to find some handle in order to resolve the energy crisis that we have in the country today; so I opted for providing the Department with the tools necessary to do the job; that is, to create a separate commission for these functions that are now handled by the FPC.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. HORTON was allowed to proceed for an additional 3 minutes.)

Mr. HORTON. Mr. Chairman, we studied long and hard the authorities of FPC. These are the three authorities that are transferred over to the regulatory aspect, which would be under the control of the Secretary: Setting policies of general applicability; taking emergency action and gathering energy information for the rest of the staff in this independent agency.

Now, in my judgment, that is the way to resolve this energy problem insofar as an organization is concerned.

Mr. Chairman, I would hope that my colleagues will vote down this substitute amendment or any other amendment that would try to take away this authority from the Secretary of Energy. In my judgment, if we do not give it to him, we might as well forget about resolving the energy problem.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, is it not correct that for the purposes of congressional oversight, it is better to have one department with all responsibility, rather than fragmented responsibilities, as the present situation is?

Mr. HORTON. I would agree. The gentleman has made a good point.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I am not being critical of what the committee is recommending; but I am a little at a loss to note the difference between the powers the Secretary would have if he did not have this independent commission within the Department, or the powers the Secretary would have with this independent commission within the Department. It is an independent agency, as I understand it.

Mr. HORTON. That is right.

Mr. EVANS of Colorado. Mr. Chairman, if the gentleman will yield further, what is the difference between being outside the Department or being inside the Department, if it is independent and hires its own staff and has a separate budget and so forth?

Mr. HORTON. The point is that there are certain functions the FPC has, like the setting of well-head prices of natural gas. That is in the FPC.

If we adopt the Erlenborn substitute amendment, that would remain in the FPC.

Under the bill, that authority would be vested in the Secretary. Other important functions, such as determination of the rates which may be charged by wholesale distributors of electric power and natural gas would be under a quasi judicial body; the Federal Energy Regulatory Commission.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(By unanimous consent, Mr. HORTON was allowed to proceed for an additional 2 minutes.)

Mr. HORTON. Mr. Chairman, the judicial aspect would be under the Federal Energy Regulatory Commission. The important thing is the transfer of regulatory functions to the Secretary of the Department.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield further?

Mr. HORTON. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, this is what I was worried about. I think everybody wants to have a commission and everybody wants to have it independent, and yet as we speak of this provision in the bill we also find ourselves speaking about the provision for getting the Secretary more of what he should have to carry out what the policy should be; yet it is an independent commission, as the bill establishes.

Mr. HORTON. That is right. We have transferred those authorities. We were very careful to define those authorities and with the help of the gentleman from California (Mr. Moss), the chairman of the committee, the gentleman from Texas (Mr. Brooks) and I tried to distinguish between those authorities that should go to the independent commission and those that would stay with the Secretary. That is the important aspect of it.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I would like to address a comment to the gentleman from Colorado regarding his inquiries. One of the things that needs to be said in this explanation concerns administrative procedures, the rights of persons who are affected by the decisionmaking resulting from that process. This applies whether it is a utility company, Ralph Nader, an environmentalist or whoever it is.

If the Federal Power Commission remains as it is, we know what those procedures are, and they are fully protective of the rights of all the persons involved, both under the law, the Natural Gas Act and the Federal Power Act, and by the precedents of the Commission which would continue to be in effect.

The CHAIRMAN. The time of the gentleman from New York has expired.

(On request of Mr. Brown of Ohio and by unanimous consent Mr. HORTON was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Under the legislation submitted by the administration, the authorities of the Secretary that are taken over from the Federal Power Act and the Natural Gas Act—those authorities formerly held by the Federal Power Commission—would also embrace his opportunity to change those administrative procedures at his will. That is one of the big hooks here, because he might limit the administrative procedures under his own authority when the choice comes to him. I do not think they should be limited.

The question of setting up a Federal Energy Regulatory Commission raises



doubts on both sides of that issue. Does the Federal Energy Regulatory Commission, which Mr. Moss and I would hope to see retain the powers and the independence of the Federal Power Commission, really retain all those powers? Well, I would hope so, and this is why I support the Moss amendment and will support it if it is, in fact, offered.

I also support the Erlenborn amendment because I think it makes further assurances that the Federal Power Commission will be independent and that these rate decisions it has to take in the whole energy area will be made under the old administrative procedure.

Mr. HORTON. I want to make the point again that we can do it any way we want. I think it is better to put it under the aegis of this new department and under this independent commission that we have established. Let us not go back to ground zero. That would be what we would be doing if we adopt the Erlenborn substitute.

Mr. ARMSTRONG. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the committee owes a debt of gratitude to the gentleman from Illinois for bringing this amendment before us. The amendment corrects the most important shortcoming of the legislation. Let us think a moment about why we have historically developed the tradition of independent regulatory agencies rather than simply vesting regulatory power in the President or politically appointed executives. At least four reasons occur to me.

First, to mitigate at least the worst temptations to corruption. If there is one thing we have discovered over the years, it is that when Federal officials are in a position to convey large economic benefits, whether we are talking about airline routes or radio-television licenses, bank charters, setting milk prices or any other kind of economic benefit that the Federal Government may bestow on or withhold from the private sector, the temptation for corruption is very, very great.

While our regulatory process has been scandal-ridden, at best, the very worst scandals and abuses have occurred under precisely the kind of framework suggested by the bill, that is, where one person has the opportunity to make, without proper safeguards, a decision that has a large economic impact.

In this respect, the Erlenborn amendment is a great improvement.

Second, we have established the tradition of independent regulatory bodies, rather than one man decisions, because it avoids politicizing the decisions. I think the gentleman from Illinois has already explained that Dr. Schlesinger himself admits the reason for concentration of power in the new Secretary of Energy is to permit the use of a political judgment in addition to whatever other factors is taken into account.

The third reason why we have independent regulatory bodies is to provide procedural safeguards, the hearings, the notices, the appellate process; and, most

important, it separates the policymaking, the rulemaking, from the day-to-day program administration.

While I have very serious reservations about other aspects of the bill, the amendment the most glaring problem of this bill and I certainly do hope the Erlenborn substitute will be adopted.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. ERLBORN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ERLBORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

Mr. ERLBORN. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty-one Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

At the time the point of order of no quorum was made, the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. ERLBORN) was before the Committee, a recorded vote had been refused, and in the opinion of the Chair the amendment in the nature of a substitute had not carried.

For what purpose does the gentleman from Illinois (Mr. ERLBORN) rise?

Mr. ERLBORN. Mr. Chairman, on the question of my amendment in the nature of a substitute, I demand a division.

On a division (demanded by Mr. ERLBORN) there were—ayes 29, noes 51.

Mr. SYMMS. Mr. Chairman, on that I ask unanimous consent for a recorded vote.

The CHAIRMAN. Is there objection to the request of the gentleman from Idaho?

Mr. MEEDS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. So the amendment in the nature of a substitute was rejected.

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BROWN of Ohio. Mr. Chairman, is it appropriate to ask for the yeas and nays at this point?

The CHAIRMAN. The Chair will state in response to the gentleman's parlia-

mentary inquiry that it is not in order to ask for the yeas and nays in Committee of the Whole.

Are there amendments to title I?

AMENDMENT OFFERED BY MR. ROSE

Mr. ROSE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROSE: Page 65, after line 20, insert the following new paragraph:

(3) in the conservation and development of energy resources, the energy needs of both rural and urban residents shall be given full consideration;

Page 65, line 21, strike out "(3)" and insert in lieu thereof "(4)", and on page 66, line 1, strike out "(4)" and insert in lieu thereof "(5)".

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk concluded reading the amendment.

Mr. ROSE. Mr. Chairman and Members of the House, my concern in offering this amendment is that rural and urban energy needs are as diverse as their respective lifestyles. I believe that in formulating and implementing the Nation's energy policy, it is incumbent upon the Secretary of Energy to view these energy needs as different and assess them accordingly.

My amendment is quite simple: It makes a commitment to assessing the energy needs of both urban and rural residents. Such a commitment will assure that the many unique and differing uses for energy in the United States are properly considered in the Nation's energy policy.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ROSE. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, the gentleman has submitted his amendment to us.

What he is trying to do, in my judgment, is to include rural areas with urban areas. I think it is a good amendment, and I would be perfectly willing to accept it.

Mr. ROSE. I thank the gentleman.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. ROSE. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. ROSE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I know that the gentleman from Maryland (Mr. BAUMAN) has an amendment, and I

would offer in his name or in my name an amendment to page 66, after line 3, of the bill.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. BROOKS: On page 66, after line 3, add the following new language:

(5) to the maximum extent practicable the productive capacity of the private sector of the free enterprise system shall be utilized in the development and achievement of the policies and purposes of this act.

Mr. BROOKS. Mr. Chairman, I will not take more than a half minute to say that the gentleman from Maryland (Mr. BAUMAN) drafted this language and asked my consideration of it. He also discussed it with the gentleman from New York (Mr. HORTON). It seemed like an excellent amendment.

Mr. Chairman, the gentleman from Maryland (Mr. BAUMAN) is unavoidably off the floor at this particular time, but I would say that I would be pleased to accept the amendment.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, the gentleman from Maryland (Mr. BAUMAN) talked with me about the amendment; and I am willing to accept the amendment.

Mr. BAUMAN. Mr. Chairman, I regret that I was momentarily absent from the Chamber when title 1 was being considered. I do want to express my sincere appreciation to the gentleman from Texas (Mr. BROOKS) for offering my amendment during my absence and for the kind words which accompanied that offering.

Mr. Chairman, my amendment to the policy declaration section of the bill simply seeks to inject a small amount of economic reality into a bill which lacks such commonsense in many important respects. As I said earlier in debate, the basic premise of this legislation seems to be that the same Government which must accept responsibility for many of the energy problems we now suffer is now to be the savior for those very same problems.

My amendment simply puts the Congress on record as recognizing that without the full use of the private sector of our economy there can be no solution to our energy situation. Would that this was the theme echoed throughout this legislation, but lacking that, perhaps this language will serve as some small direction to the new energy bureaucracy warning them that the Congress expects them to work with and promote the free enterprise system.

Again, I thank my colleagues for their support and urge the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. BROOKS).

The amendment was agreed to.

Mr. BENNETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 6804, to establish a Department of Energy in the executive branch. The legislation is needed and I solicit the full support from the House for it.

I particularly want to commend the distinguished chairman, JACK BROOKS, and the entire committee for their wisdom in assuring that the essential features of the Atomic Energy Act that bear on the common defense and security of the United States remain undisturbed by the reorganizational and related provisions of this bill. Thanks to the work of the committee, section 202 establishes a separate Assistant Secretary to be in charge of "defense programs," and section 310 now expressly continues in effect the division of military applications established by section 25 of the Atomic Energy Act of 1954, as amended, and the functions of ERDA with respect to the Military Liaison Committee as provided for in section 27 of that act.

Suitably separated from the Department's general energy missions, the important national security activities that the Department will inherit from ERDA can continue to be conducted in an effective, comprehensive manner, as in the past. Under the control of the Assistant Secretary for Defense Programs—who will answer directly to the Secretary—responsibility can be appropriately discharged for the nuclear weapon program, for control of the weapon laboratories and production and testing facilities comprising the weapon complex, for fulfillment of restricted data requirements, and for satisfaction of other common defense and security obligations, all without hampering interference, and reasonably apart from the Department's general administration addressed to its responsibilities for civilian energy.

I extend my compliments to the committee, and I feel sure that my remarks would be wholeheartedly endorsed by MEL PRICE, the distinguished chairman of the Armed Services Committee on which I have the honor to serve.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

#### TITLE II—ESTABLISHMENT OF DEPARTMENT

Sec. 201. There is hereby established at the seat of government an executive department to be known as the Department of Energy (hereinafter in this Act referred to as the "Department"). There shall be at the head of the Department a Secretary of Energy (hereinafter in this Act referred to as the "Secretary") who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

Sec. 202. There shall be in the Department a Deputy Secretary, nine Assistant Secretaries, and a General Counsel, each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions as the Secretary shall prescribe from time to time. The Assistant Secretaries shall be designated as follows:

(1) Assistant Secretary for Public, Congressional, and Intergovernmental Relations;

(2) Assistant Secretary for Conservation;

(3) Assistant Secretary for Defense Programs;

(4) Assistant Secretary for Environment;

(5) Assistant Secretary for Fossil and Nuclear Energy Technologies;

(6) Assistant Secretary for Policy, Evaluation, and International Programs;

(7) Assistant Secretary for Competition;

(8) Assistant Secretary for Resource Applications; and

(9) Assistant Secretary for Solar, Geothermal, Recycling, and Other Energy Technologies.

Sec. 203. The Deputy Secretary shall act for, and exercise the functions of, the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Secretary shall designate the order in which the Assistant Secretaries, General Counsel, and other officials shall act for, and perform the functions of, the Secretary during the absence or disability of both the Secretary and Deputy Secretary or in the event of vacancies in both of those offices.

Sec. 204. (a) There shall be within the Department an Energy Information Administration to be headed by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. Such Administrator shall be a person who, by reason of professional background and experience, is especially qualified to manage an energy information system. There shall be transferred to and vested in the Administrator (on a nonexclusive basis as the Secretary may determine) all functions and authorities transferred to, and vested in, the Secretary under this Act relating to collection, analysis, and dissemination of energy information and data. The Administrator shall be subject to all duties and responsibilities established under part B of the Federal Energy Administration Act of 1974.

(b) In the performance of his professional functions in connection with collecting, analyzing, and disseminating energy information, the Administrator shall not be responsible to, or subject to, the direction of any officer, employee, or agent of the Department.

(c) The Administrator shall, upon request, promptly provide any information or analysis in his possession to any other administration, commission, or office within the Department relating to the functions of such administration, commission, or office.

Sec. 205. (a) There shall be within the Department an Economic Regulatory Administration to be headed by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall by rule provide for a separation of regulatory and enforcement functions assigned to or vested in the Administration.

(b) The Secretary shall utilize the Economic Regulatory Administration to administer—

(1) any function which may be delegated to the Secretary under the Emergency Petroleum Allocation Act of 1973;

(2) any function transferred to the Secretary by section 301(b) of this Act which relates to establishment of rates and charges under the Federal Power Act and the Natural Gas Act (subject to the provisions of section 401); and

(3) such other functions as the Secretary may consider appropriate.

(c) The Administrator shall insure an adequate opportunity for public participation, including an opportunity for hearings, in issuing any rules or regulations under this section.

Sec. 206. (a) (1) There shall be within the Department an Office of Inspector General



to be headed by an Inspector General, who shall be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report to, and be under the general supervision of, the Secretary or, to the extent such authority is delegated, the Deputy Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

(2) There shall also be in the Office a Deputy Inspector General appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy shall assist the Inspector General in the administration of the Office and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that Office, act as Inspector General.

(3) The Inspector General or the Deputy may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(4) The Inspector General and the Deputy shall each be subject to the provisions of subchapter III of chapter 73, title 5, United States Code, notwithstanding any exemption from such provisions which might otherwise apply.

(5) The Inspector General shall, in accordance with applicable laws and regulations governing the civil service, appoint an Assistant Inspector General for Audits and an Assistant Inspector General for Investigations.

(b) It shall be the duty and responsibility of the Inspector General—

(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to programs and operations of the Department;

(2) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by the Department for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between the Department and other Federal agencies, State and local governmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by the Department, and (B) the identification and prosecution of participants in such fraud or abuse; and

(4) to keep the Secretary and the Congress fully and currently informed, by means of the reports required by subsection (c) and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by the Department, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(c) The Inspector General shall, not later than March 31 of each year, submit a report to the Secretary, to the Federal Energy Regulatory Commission, and to the Congress summarizing the activities of the Office during the preceding calendar year. Such report shall include, but need not be limited to—

(1) an identification and description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities;

(2) a description of recommendations for corrective action made by the Office with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1);

(3) an evaluation of progress made in implementing recommendations described in the report or, where appropriate, in previous reports; and

(4) a summary of matters referred to prosecutive authorities and the extent to which prosecutions and convictions have resulted.

(d) The Inspector General shall report immediately to the Secretary, to the Federal Energy Regulatory Commission as appropriate, and to the appropriate committees or subcommittees of the Congress whenever the Office becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the Department. The Deputy and Assistant Inspectors General shall have particular responsibility for informing the Inspector General of such problems, abuses, or deficiencies.

(e) The Inspector General (1) may make such additional investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable, and (2) shall provide such additional information or documents as may be requested by either House of Congress or, with respect to matters within their jurisdiction, by any committee or subcommittee thereof.

(f) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary, to the Federal Energy Regulatory Commission, if applicable, and to the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval. The Inspector General shall, insofar as feasible, provide copies of the reports required under subsection (c) to the Secretary and the Commission, if applicable, sufficiently in advance of the due date for their submission to Congress to provide a reasonable opportunity for comments of the Secretary and the Commission to be appended to the reports when submitted to Congress.

(g) In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, and other material available to the Department which relate to programs and operations with respect to which the Inspector General has responsibilities under this section;

(2) to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this section, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court; and

(3) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions and responsibilities under this section.

(h) For purposes of this section, the term "Department" includes any component thereof, including the Federal Energy Regulatory Commission.

Mr. BROOKS (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

#### COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment recommended by the Committee on Post Office and Civil Service.

The Clerk read as follows:

Committee amendment: Page 71, strike out line 3 and all that follows down through line 6 and on page 71, line 7, strike out "(5)" and insert in lieu thereof "(4)".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the remaining committee amendments recommended by the Committee on Post Office and Civil Service.

The Clerk read as follows:

#### Committee amendments:

Page 86, line 12, strike out "the appointment" and all that follows down through line 18, and insert in lieu thereof: "the appointment and employment of hearing examiners in accordance with the provisions of title 5, United States Code."

Page 87, strike out line 3 and all that follows down through line 7.

(3) Page 104, beginning on line 23, strike out "he may appoint" and all that follows down through line 11 on page 105 and insert in lieu thereof the following: "he may establish scientific or professional positions within the Department as provided in section 3104 of title 5, United States Code."

Page 105, strike out line 18 and all that follows down through line 25 and insert in lieu thereof the following:

(b) (1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place at GS-16, 17, and 18, not to exceed 350 positions of the positions subject to the limitation of the first sentence of section 5108(a) of such title.

(2) Any position placed at GS-16, 17, or 18 under the authority of paragraph (1) may be filled only by a person who is transferred in connection with a transfer of function under this Act and who, immediately before the effective date of this Act, held a position having duties comparable to those of such position. Appointments under this paragraph may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Civil Service Commission of appointments to GS-16, 17, and 18.

(3) The Secretary's authority under this subsection with respect to any position shall cease when the person appointed to fill such position under paragraph (2) leaves such position.

Page 124, insert after line 15, the following new subsections:

(b) Subsection (a) of section 3104 of title 5, United States Code, is amended by inserting after paragraph (4) the following new paragraph:

"(5) Department of Energy—not more than 200."

(c) Section (a) of section 5108 of title 5, United States Code, is amended by striking out "an aggregate of 2,754" and inserting in lieu thereof "an aggregate of 3,104".

Page 124, line 16, strike out "(b)" and insert "(d)" in lieu thereof.

Page 124, line 19, strike out "(c)" and insert "(e)" in lieu thereof.

Page 124, line 22, strike out "(d)" and insert "(f)" in lieu thereof.

Page 125, line 5, strike out "(e)" and insert "(g)" in lieu thereof.

Page 125, line 18, strike out "(f)" and insert "(h)" in lieu thereof.

(4) Page 107, line 8, strike out "services."

Page 107, line 9, strike out "personnel."

Page 107, line 17, strike out "service," and "personnel."

Page 108, lines 3 and 4, strike out "services," and "personnel."

Page 108, line 11, strike out "services."

Page 108, line 12, strike out "personnel."

(5) Page 114, line 22, strike out "personnel positions."

(6) Page 126, after line 6, insert:

Sec. 716. The Civil Service Commission shall, as soon as practicable but not later than 1 year after the effective date of this Act, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this Act, which shall include—

(1) an identification of any positions within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this Act;

(2) a statement of the number of employees entitled to pay savings by reason of the reorganization under this Act;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative recommendations for improvements in personnel management within the Department as the Commission considers necessary.

Page 126, line 7, strike out "Sec. 716." and insert "Sec. 717." in lieu thereof.

Page 126, line 11, strike out "Sec. 717." and insert "Sec. 718." in lieu thereof.

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that all of the remaining committee amendments, which were set forth in the report of the Committee on Post Office and Civil Service, be considered en bloc, be considered as read and be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the Government Operations Committee language in section 206(a)(4) says that "notwithstanding any exemption from such provisions which might otherwise apply." Subchapter III of chapter 73 of title 5, United States Code, the Hatch Act, will apply to the Inspector General and Deputy Inspector General of the Department of Energy.

Our committee strikes this subsection.

Under the present Hatch Act, employees who are appointed by the President by and with the advice and consent of the Senate, and who determine policies to be pursued by the United States in the nationwide administration of Federal laws, are excluded from the prohibition that the general run of employees have against taking an active part in political management or in political campaigns. This exclusion would cover the Inspector General, and the Deputy, who would be prohibited from such activities, because neither are in-

involved in the nationwide administration of Federal laws. And any employee is prohibited from using his official authority or influence for the purpose of interfering with or affecting the result of an election.

The problem with this, however, is that the "notwithstanding any other provision of law clause" in the Government Operations' bill may backfire if H.R. 10, the Hatch Act revisions, is passed. It would make this single officer the only officer not subject to the Hatch Act at all, "notwithstanding" the tightening up H.R. 10 does with regard to the general class of employees to which the Inspector General belongs.

The committee urges adoption of this amendment, to preserve its own jurisdiction over to whom the Hatch Act should or should not apply.

#### AMENDMENT NO. 2

This amendment does two things:

First, it corrects certain references to the law applied to the appointment, assignment, removal, and compensation of hearing examiners. H.R. 6804 as reported by the Government Operations Committee does not cite all applicable sections of title 5 and thus raises the inference that the Department of Energy hearing examiners would not be subject to all provisions of hearing examiner law.

Second, and quite importantly, the amendment deletes the language which would permit the Department of Energy's Federal Energy Regulatory Commission its own hearing examiner pool rather than making it use the Civil Service Commission pool (created in 5 U.S.C. 5108 (a)), which most other agencies and departments requiring hearing examiners must use.

Without this amendment we cannot be assured that Commission hearing examiners will receive all the benefits and guarantees of impartiality and independence which the Administrative Procedures Act requires for hearing examiners holding hearings under the act.

Without these amendments, adjudications by Commission hearing examiners might be open to collateral attack on the basis that, although the Commission is supposed to hold hearings under the APA, its hearing examiners do not qualify as true APA hearing examiners, because they do not have all the protections of independence—from proper benefits to—by their being in a special energy department pool—proper independence from their appointing body—which other APA examiners by statute have.

I want to note that, as a matter of the status quo, the Federal Energy Administration and the Federal Power Commission now use Civil Service pool hearing examiners, and that on this point the Government Operations Committee bill is granting an authority—the special pool—beyond merely reorganizing these agencies. Since other parts of the bill will transfer these hearing examiners to the Department of Energy, there will be ample examiners available for the Department to start up.

In addition, I will note that our committee has reported a bill (H.R. 6375) which will soon come to the floor which

will increase the Civil Service Commission pool of supergrade hearing examiners. We believe that this approach, which will assist all departments and agencies facing hearing examiner shortages, including the Department of Energy if it finds itself in that position, is the better management approach than the creation of special pools of high level bureaucrats at specific departments.

#### AMENDMENT NO. 3

This amendment—unless Congress believes the merit system cannot deliver the goods—and I cannot but believe from the debate over the Hatch Act that we are not concerned with the merit system—in no manner interferes with the mission of the Department of Energy. It merely permits the Department of Energy like any other department to meet its goals through employees obtained by established means.

It will not affect any of the employees covered by it one iota.

It does not reduce the number of employees in these jobs.

This amendment amends section 607 of the bill, relating to the appointment of scientific and professional personnel, and section 608, relating to the establishment of supergrade GS-16, -17, and -18—positions. In addition, there are corresponding amendments to sections 3104(a) and 5108(a) of title 5, United States Code.

Section 607, as reported by the Government Operations Committee, authorizes the Secretary to appoint an unspecified number—estimated to be approximately 511—of scientific, engineering, and professional personnel without regard to the civil service laws and to fix the compensation of such personnel at rates not in excess of the rate for grade GS-18 of the general schedule—currently \$47,500. The effect of this authority is to except such personnel from the laws and regulations governing the competitive service—merit system rules would not apply—and from the laws governing the classification of positions and the pay of Federal employees.

The committee believes that such exceptional authority is unnecessary to meet the personnel needs of the new Department. Therefore, this committee's amendment strikes from section 607 the Secretary's authority to appoint and fix the pay of scientific, engineering, and professional personnel without regard to civil service laws and inserts, in lieu thereof, authority to establish scientific or professional positions within the Department as provided in section 3104 of title 5, United States Code. This amendment, together with a corresponding amendment to section 3104(a) of title 5, will authorize the Secretary to establish 200 scientific or professional positions to carry out the research and development functions of the new Department. In accordance with existing laws—section 3325 of title 5—these scientific or professional positions will be in the competitive service, but appointments to such positions will be made without competitive examination on approval of the qualifications of the proposed appointees by the Civil Service Commission. Also in



accordance with existing law—5 U.S.C. 5361—the rate of basic pay for such positions may be fixed by the head of the agency, subject to the approval of the Civil Service Commission, at a rate not less than GS-16 nor more than GS-18 of the general schedule.

Section 608(b), as reported by Government Operations, authorizes on a permanent basis 105 GS-16, -17, and -18 positions for the new Department. These positions would not be part of the Government-wide pool of supergrade positions established under section 5108(a) of title 5.

This committee consistently has been opposed to the granting of special authority to establish supergrade positions outside of the Government-wide pool and beyond the control of the Civil Service Commission. In lieu of such authority, this committee's amendment enlarges the Government-wide pool under section 5108(a) of title 5 by 350 positions and temporarily allocates such positions to the Department of Energy. However, the amendment specifically provides that such positions may be filled only by a person who is transferred to the new Department in connection with a transfer of function under the act and who, immediately before the effective date of the act, held a position which had duties comparable to those of the supergrade position. The initial appointments to the 350 positions are authorized to be made without regard to section 3324 of title 5, which requires Civil Service Commission approval of the qualifications of a proposed appointee to a position in GS-16, -17, or -18.

The allocation of 350 supergrade positions from the Government-wide pool to the Energy Department is intended to facilitate the transfer of supergrade and supergrade-equivalent employees from existing agencies such as ERDA and the Federal Energy Administration. This special allocation insures that the Secretary immediately will have at his disposal a sufficient number of supergrades to meet the staffing needs of the new Department.

However, to be consistent with this committee's policy of keeping the control over supergrades in the Civil Service Commission, the amendment further provides that each of the 350 supergrade positions will revert to the Government-wide pool and to the control of the Civil Service Commission when the person originally appointed to such position subsequently vacates the position. Thereafter, the Department of Energy, as any other Federal agency, will have to request allocation of supergrade positions from the Civil Service Commission.

This amendment is the most important of the committee package. Without it, there would be at the Secretary of Energy's disposal, an authority unprecedented in any department to fill 511 top jobs without regard to civil service laws and regulations, without review, and without accountability.

While we may all know the present administration—and the presumed Secretary of Energy—will not fill these jobs with undeserving individuals, the au-

thority in H.R. 6804 without the amendment is broad enough to assure that all 435 of us in the House could—without even putting on white coats—go to work for the Department of Energy as "scientists, engineers, and professional" types, and have a good many jobs left over.

#### AMENDMENT NO. 4

This amendment amends section 612 of H.R. 6804, deleting the words "services" and "personnel" throughout the section.

As reported by the Committee on Government Operations, section 612 grants extraordinary authority to the Secretary of the Department of Energy and to the Federal Energy Regulatory Commission to use the research, services, equipment, personnel, and facilities of any Federal, State, local, and foreign governmental agency or to provide research, services, equipment, personnel, and facilities to such Federal, State, local, or foreign governmental agencies. It is extraordinary because although the law provides for certain detailing of personnel to and from Federal, State, and local governments, nowhere does the law which applies to governmental departments grant such broad authority and nowhere does the law permit the rather interesting concept of loaning or borrowing employees from foreign governments.

This committee makes no judgment with respect to the authority for using or furnishing research, equipment, and facilities. However, with respect to the using and furnishing of services and personnel, we believe that the provisions of section 612 conflict with the Intergovernmental Personnel Act which adequately provides for the assignments of employees to and from State and local governments. Moreover, during the hearings conducted by my Subcommittee on Employee Ethics and Utilization, administration witnesses could not justify the need for this extraordinary authority with respect to the use and furnishing of personnel and services, nor could they offer examples of how the authority would be used which could not be handled through the IPA or other arrangements which are available to Government departments.

#### AMENDMENT NO. 5

This amendment strikes out the reference to "personnel positions" in section 701 of the bill. Section 701 in H.R. 6804 as reported by the Committee on Government Operations provides for the transfer of personnel, personnel positions, property, records, and funds to the Secretary of energy for appropriate allocation.

The committee believes that the authority to transfer personnel to the new Department in connection with the various transfers of functions authorized under the provisions of the bill is sufficient to accomplish the purposes of the act.

It is not necessary to transfer "personnel positions." Since the words "personnel positions" are a term of art in the Civil Service, and could be interpreted as meaning excepted positions are to be transferred, such authority conflicts with section 607 of the bill which provides

that officers and employees of the Department of Energy shall be appointed in accordance with the civil service laws.

#### AMENDMENT NO. 6

This amendment inserts a new section 716 in the bill. The new section requires the Civil Service Commission to prepare and transmit to the Congress a report on the effects on employees of the reorganization under the act. The Commission's report must be transmitted not later than 1 year after the effective date of the act.

Because of the magnitude of the reorganization which will take effect under this act, the 20,000 employees which will be affected by such reorganization, and the thousands of others who will have their jobs revamped at other agencies because of the moves, this committee believes that the Congress should be furnished comprehensive information relating to the overall impact of the reorganization. Therefore, the Commission's report will cover such matters as:

Positions which have become unnecessary due to the consolidation of functions under the act;

The number of employees who have separated as a result of the reorganization;

An estimate of the personnel costs associated with the reorganization; and

Recommendations for improvements in personnel management within the Department of Energy.

In this light, although the Office of Management and Budget will oversee the general reorganization, the committee expects that in order to carry out its reporting, the Civil Service Commission will have to play a great part in overseeing the effects of the reorganization upon employees. This report will be especially valuable when further administration reorganizations take place as a resource tool to assure that mistaken policies do not repeat themselves, and good policies are repeated.

The CHAIRMAN. The question is on the committee amendments recommended by the Committee on Post Office and Civil Service.

The committee amendments were agreed to.

Mr. HORTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to point out that one of the Assistant Secretaries—who will be called the Assistant Secretary for Defense Programs—will be responsible for, and will report directly to the Secretary in regard to, the common defense and security functions provided for in the Atomic Energy Act. This responsibility will pertain to the nuclear weapons program, including essential control over the weapon complex, to the restricted data process spelled out in the Atomic Energy Act, and to the sensitive nuclear activities that affect the common defense and security of our country. These important features of the Atomic Energy Act, including the related organizational units established by that act and designated, respectively, the Division of Military Application and the Military Liaison Committee, will continue in effect without modification.

## AMENDMENT OFFERED BY MR. MOSS

Mr. MOSS. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. Moss: Page 75, after line 16, add the following new section:

Sec. 207. (a) There shall be within the Department an Office of Energy Research to be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) It shall be the duty and responsibility of the Director—

(1) to administer the physical research program transferred to the Department from the Energy Research and Development Administration;

(2) to monitor the Department's energy research and development programs in order to advise the Secretary with respect to any undesirable duplication or gaps in such programs;

(3) to advise the Secretary with respect to the well-being and management of the multipurpose laboratories under the jurisdiction of the Department, excluding laboratories that constitute part of the nuclear weapon complex;

(4) to advise the Secretary with respect to education and training activities required for effective short- and long-term basic and applied research activities of the Department;

(5) to advise the Secretary with respect to grants and other forms of financial assistance required for effective short- and long-term basic and applied research activities of the Department; and

(6) to carry out such additional duties assigned to the Office by the Secretary relating to basic and applied research, including but not limited to supervision or support of research activities carried out by any of the Assistant Secretaries designated by section 202 of this Act, as the Secretary considers advantageous.

Mr. MOSS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MOSS. Mr. Chairman, the organizational unit my amendment would add to the new Department will perform certain valuable functions that I believe need to be expressly delineated in the Department's legislative charter. These are:

First. Administration of ERDA's extensive physical research program.

This program includes basic and applied research to further our understanding of natural laws and phenomena governing all matter. It encompasses research in high energy, medium energy, low energy, and nuclear physics, in the properties of materials, in chemical sciences, and in engineering, mathematics and geosciences. Essentially, it comprises all basic research, except research geared to defense programs or the life sciences.

The physical research program spawned the fusion program, which is now an advanced, very promising energy mission that will be the responsibility of one of the Department's Assistant Secretaries. And it is logical to expect that basic and applied research in the

physical sciences will ultimately enable the human brain to penetrate the innermost secrets that nature employs in its amalgamation of elemental particles and forces to create the building blocks of matter and the fount of all energy.

Second. The second category of functions will help assure the avoidance of any undesirable duplication or gaps in the Department's research programs. Through overall monitoring by this Office of Energy Research the possibility of any such undesirable misapplication or nonapplication of effort and money will be minimized.

Third. The third category of functions addresses the very important need to assure the continued well-being and effective management of the multipurpose laboratories that the Department will maintain. The advice of the Director of the Office my amendment would establish, and the conduct by the Office of related contract negotiations and other duties with respect to the Department's non-weapon-related laboratories that the Secretary may well prefer that the Office be responsible for, will help assure appropriate departmental attention to the proper maintenance of these major national assets.

Fourth. The fourth category of functions is the vital area of education and training activities that are essential for the fulfillment of all of the Department's research and development functions. Appropriate liaison and programs with academic and other institutions, and effectively tailored procedures, must address the variety of educational and training needs that will be required to assure an adequate reservoir of talents and skills for long-range progress toward solving our energy dilemma. This Office will play a key role in this important area.

Fifth. The fifth category would assist the Secretary in getting the adequate base of full information and advice with respect to grants and other forms of financial assistance that will be required for some of the Department's basic and applied research activities.

Sixth. Finally the Office would carry out such additional duties as the Secretary may consider desirable. For example, the Secretary, from time to time, might well consider it advantageous to the Department to require the Office to supplement certain of the basic or applied research activities generally within the bailiwick of a particular Assistant Secretary.

From an overall standpoint, I firmly believe the amendment is necessary to help provide a realistic prospect for the existence, maintenance, and availability of a healthy scientific base on which the Secretary can—and will have to—draw.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from New York.

Mr. HORTON. I thank the gentleman for yielding.

I want to join with the gentleman in his remarks. During the course of the testimony of the administration witnesses, I expressed concern about the

long-term research and development aspect of the new Department. If the gentleman will remember, this committee, the Committee on Government Operations, handled the formation of the new Energy Research and Development Administration, and I felt I had a very important part in the development of that agency.

I feel it is very important that we protect and preserve that long-range research and development. I think that the gentleman's amendment does solve that deficiency in the creation of this Department. I feel it is a very important amendment, and I hope that the House and the committee will support the amendment because it does give the important ingredients for the academic research and development that is so important for the overall long-range research and development in this very important field.

Mr. MOSS. I thank the gentleman. I would like to observe that not only has he made significant contributions to the creation of the Energy Research and Development Administration, but he has served with distinction on the Joint Committee on Atomic Energy and given a great deal of leadership in that area.

Mr. HORTON. I thank the gentleman from California.

Mr. MOSS. I thank the gentleman.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want to say that I appreciate the concern of the gentleman from California (Mr. Moss), and I recognize the necessity and desirability of giving due recognition—and it is almost impossible to give enough recognition—to the issue of research and development in the new Department. But there is no question that research and development will be a major activity of the Department as now structured.

My personal feeling is that energy research and development can be adequately performed and monitored within the structure of the committee bill. As the gentleman knows, I did not prefer naming all of the Assistant Secretaries, but when the committee adopted an amendment allocating functions among the Assistant Secretaries, on a bipartisan effort by Republicans and Democrats, several of those Assistant Secretaries, particularly the Assistant Secretary for Fossil and Nuclear Energy Technologies and the Assistant Secretary for Solar, Geothermal, Recycling, and Other Technologies, will have the responsibility for policy and management of research and development, including demonstration. About five Assistant Secretaries will have some research requirements and responsibilities. And the Assistant Secretary for Policy should certainly be in a position to coordinate the research and development functions and ultimately the Secretary himself would undoubtedly wield substantial influence as well.

I hesitate to encumber the Department with numerous fragmented offices which may or may not fit into the ultimate scheme at all. I do not share the concern of the university community, including my own alma mater and many others, that there will be any lack of



attention paid to research and development. For those reasons, I reluctantly oppose the amendment offered by the gentleman from California.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to speak in support of the gentleman's (Mr. Moss) amendment to establish an Office of Energy Research within the Department of Energy.

I think that the establishment of this Office is of great importance for meeting our Nation's energy needs in the future. Since President Carter's energy message in April there has been a greater awareness of the role that alternative energy sources will play in the coming years.

New sources such as solar, geothermal, wind, biomass conversion, fusion, and synthetic fuels must be developed to fill the gap when our fossil fuel supplies begin to drop off. The development of these new sources is so important to our future that we cannot afford to take a hodge-podge approach to this research. We must have a coordinated, intensive national research and development program.

We cannot allow our Nation's energy research efforts to be shifted from one office to another with the right hand not knowing what the left hand is doing. It should be done out of one office not only to avoid duplication of efforts but also to assure that no stone is left unturned in our search for new sources of energy.

By passing this amendment and establishing this Office, we will be assuring that energy research will continue as one of the country's top priorities.

In my district, the University of Texas at Austin has been conducting one of the country's leading energy research programs. The Center for Energy Studies headed by Dr. William Drummond at UT has set up a broad program of energy research that is making important advances in the areas of fusion energy, geothermal energy, gasification, and solar energy.

This work must continue and it should continue in coordination with all of the other energy research that is being conducted throughout the country.

I urge my colleagues to accept this amendment to create a balanced, centralized approach to energy research and development.

The Department of Energy needs an organizational component in the Office of the Secretary responsible for its total research program that takes into account immediate, middle range, and long range research needs. The research program must be coordinated in a way that establishes balance without discouraging initiative, and special pains must be taken to insure that research which does not fit neatly into the categories of energy programs is adequately supported. The program must insure both that research required to meet immediate needs is carried out, and that research basic to the mission of the Department is adequately supported in the face of strong and proper pressures to act decisively to

meet immediate needs. These responsibilities of the Department can most effectively be carried out by an Office of Energy Research which would have the following responsibilities:

Advise the Secretary on coordination and development of the near and long range basic and applied research programs of the Department;

Monitor energy problems to insure that the research required for effective programs is undertaken;

Review the research programs of the operating divisions;

Arrange for independent technical and scientific advice to the Secretary on the full range of the plans and programs of the operating divisions;

Advise the Secretary on Department-wide policies to insure the appropriate involvement of university, industrial, and National laboratories in energy research;

Monitor needs for persons with special training required for the total national energy research and development effort, and insure that these needs are met;

Assess levels of investment across the Department in basic and applied research and in development to insure that they are balanced and directed toward solution of current and long-range problems;

Provide support for those long-range research activities that do not fall within the missions of the operating divisions; and

Insure that clear and useful information on the national energy research program is presented to Congress and the White House in a timely manner.

These tasks can best be effectively carried out in the Office of the Secretary. The tasks have such a large scientific and engineering component, and they are of such magnitude and variety, that the Secretary and the Deputy Secretary would find it impossible to carry them personally.

The need for such an Office is generated by a research program with characteristics like the research program of the Department of Defense. Both are complex, diverse, and located primarily in operating entities with a substantial degree of autonomy. Both need central monitoring and coordination. Both Secretaries need competent, independent advice to complement advice from operating components.

All of these considerations lead to the placement of this cross-cutting research and development function in an Office of Energy Research reporting to the Secretary. The research and development functions are so intertwined with all operating aspects of the Department and are so central to the mission of the Department that such an Office of Energy Research for this purpose should be created by law, with a person of the highest qualifications to be appointed by the President and confirmed by the Senate.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Texas (Mr. Brooks).

Mr. BROOKS. Mr. Chairman, I want to say to my distinguished friend from north Texas that nobody better represents his constituents. I want to commend the gentleman for the gentleman's dedication and say with all due respect that I reserve my right to feel that it would be duplicatory and unnecessary to create such a separate agency to funnel money into these university research projects.

Mr. PICKLE. Mr. Chairman, I am not speaking now of the University of Texas alone. I am talking about the university in coordination with dozens of others in this land of ours that are carrying on work highly needed.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, I thank the gentleman for his remarks, because I think it focuses on one of the objectives stated repeatedly by the administration in seeking this Department, to have better coordination of our effort in meeting the energy needs, the ongoing energy needs of this Nation. There is nothing more logical than to tie together the research programs, so that they are monitored, so that they are coordinated. That is not possible if five or nine Assistant Secretaries are to share responsibilities, with no one acting as a coordinator.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I appreciate the gentleman yielding.

I have a great deal of respect for the gentleman from California (Mr. Moss) and for the gentleman in the well (Mr. PICKLE); yet I am not convinced that what the gentleman is trying to do will be done by the amendment. We have various Assistant Secretaries on various energy-related matters in the bill. Now, if the amendment of the gentleman from California were to pass, each of the other Assistant Secretaries having made up their minds what their recommendations for research would be, would then have to go to the Assistant Secretary for Research for his recommendations when the budget is made up.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. EVANS of Colorado, and by unanimous consent, Mr. PICKLE was allowed to proceed for an additional 2 minutes.)

Mr. EVANS of Colorado. Mr. Chairman, if the gentleman will yield further, as these budgets are made up, it seems to me we are creating a competing Secretary where all these other Assistant Secretaries, after they have made up their minds, will then have to funnel their ideas before they get to the Secretary. I think it is mischievous.

Mr. PICKLE. Mr. Chairman, I must reply to the gentleman this way. It is not setting up duplicating groups for the various programs to coordinate. In the five or six different agencies, each one can make their own recommendation on

certain emphasis on research. That ought to be done, but it should be coordinated in the one agency. If they do not, it will just proliferate down there and end up with one great big laboratory. If we do not do that, it will damage the other research being done in American universities. It does just the opposite of the apprehension the gentleman raises.

Mr. EVANS of Colorado. Mr. Chairman, if the gentleman will yield further, I think the responsibility for this decision stays in the Secretary. They are in the Secretary. I do not think an additional Secretary would be very efficient.

Mr. PICKLE. I will say to the gentleman from Colorado, the Secretary will have that authority to do it through his office. That office will be immediately under the Secretary. Whatever that division does would have to be cleared with the Secretary. That is all the more reason to have it.

Mr. HORTON. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, as I indicated to my colleague, the gentleman from California (Mr. Moss), I think this is a good amendment. I hope that the committee will adopt the amendment.

Mr. Chairman, I received a copy of a letter from a very good friend of mine who is also the President of the University of Rochester, Robert L. Sproull. I would like to read two paragraphs of the letter because it goes to the substance of what we are talking about here.

Bob says:

The proposed organization pattern for the new Department of Energy is notably deficient in one critical aspect: There is no provision within the organization to emphasize the urgency of and give recognition to the crucial importance of a strong and balanced research and development effort for this country's greatest problem, energy resources for the future. From my experiences in government, on national scientific committees and panels, and at a research university, it is my strongest opinion that this country must safeguard the role of research and development in the energy program if we wish to conquer the many obstacles in the long path of solving the energy problems.

To suggest, as some have, that research and development will be adequately covered in each of the program organizational units is a specious argument. The history of research programs proves clearly that unless there is strong leadership for and statutory recognition of the program in the organizational structure at the highest level, the near-term development efforts will drive away the more difficult and long-range fundamental research tasks that are absolutely necessary to lay the foundations for the resolutions to future problems. This country would make a serious error if it did not act now to give a strong, central role to energy R&D on the basis of what we learned at great expense over the years in other programs.

There are other points which I will not refer to here now except to say that the Energy Research and Development Administration is charged with the principal responsibility for long-term research and development. They only had about 2 years to get started. It is very true that if we do not do something to protect that long-term research and development, it is going to get swallowed up in

trying to resolve the immediate problems. So, I think it is very important that we adopt this amendment.

I also have copies of telegrams from the president of Ohio State University, Harold L. Enarson; Archie R. Dykes, chancellor, University of Kansas; John W. Oswald, president, the Pennsylvania State University; and also the executive director of the National Association of State Universities and Land-Grant Colleges, Ralph K. Hutt.

Mr. Chairman, I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss).

The amendment was agreed to.

#### AMENDMENTS OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendment offered by Mr. CONYERS: On page 69, strike out line 6 and all that follows down through line 4 on page 70, and redesignate the following sections in Title II accordingly.

Mr. CONYERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. The Chair will state that the amendment has been read in full.

Mr. CONYERS. Mr. Chairman, I submitted a combined amendment that brought together that language and the National Energy Board. I ask unanimous consent that these amendments be considered en bloc, be considered as read, and be printed in the Record.

The CHAIRMAN. The Clerk will report the second amendment.

The Clerk read as follows:

Amendment offered by Mr. CONYERS: On page 84, strike out line 17 and all that follows down through line 14 on page 90 and insert in lieu thereof the following new title:

#### TITLE IV—NATIONAL ENERGY BOARD

Sec. 401. (a) (1) There is hereby established an independent regulatory board to be known as the National Energy Board (hereinafter referred to in this title as the "Board").

(2) There are hereby transferred to, and vested in the Board (A) all functions and authority of the Federal Power Commission under the Federal Power Act and the Natural Gas Act which are not specifically transferred to, and vested in, the Secretary pursuant to section 301(b) of this Act, (B) all functions transferred to the Secretary by section 301(b) of this Act which relate to establishment of rates and charges under the Federal Power Act and the Natural Gas Act, (C) all functions which may be delegated by the President under the Emergency Petroleum Allocation Act of 1973, (D) all functions of the Energy Research and Development Administration with respect to uranium enrichment prices under the Energy Reorganization Act, and (E) all other functions transferred by title III of this Act which involve an agency determination required by law to be made on the record after opportunity for an agency hearing.

(3) Notwithstanding section 301(b)(1), the Board shall have the authority to prescribe, issue, make, amend, and rescind rules, regulations, and statements of policy under section 309 of the Federal Power Act and section 16 of the Natural Gas Act.

(b) The Board shall be comprised of seven

members appointed by the President by and with the advice and consent of the Senate. One of the members shall be designated by the President as Chairman. Members shall hold office for a term of four years and may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office. Appointments shall be made with due regard for maximizing the diversity of representation on the Board and for considering the views of recognized interest groups, including, but not limited to, groups involving consumers, environmentalists, labor and management from energy and nonenergy industries, agriculture and different regions of the country. The terms of the members first taking office shall expire (as designated by the President at the time of appointment), two at the end of two years, two at the end of three years, two at the end of four years, and one at the end of five years. Not more than four members of the Board shall be members of the same political party. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may continue to serve after the expiration of this term until his successor has taken office, except that he may not so continue to serve more than one year after the date on which his term would otherwise expire under this subsection.

(c) (1) The Chairman shall be responsible on behalf of the Board for the executive and administrative operation of the Board, including functions of the Board with respect to (A) the appointment of such hearing examiners as he deems necessary to assist in the performance of the Board's functions and to fix their compensation in accordance with the provisions of title 5, United States Code; except that assignment, removal, and compensation of such hearing examiners shall be in accordance with sections 3105, 3314, 5302, and 7521 of title 5, United States Code, (B) the selection, appointment, and supervision of personnel employed by or assigned to the Board, except that each member of the Board may select and supervise personnel for his personal staff, (C) the distribution of business among personnel and among administrative units of the Board, and (D) the use and expenditure of funds appropriated for Board functions. The Secretary shall provide to the Board such support and facilities as the Board may need to carry out its functions.

(2) The hearing examiners appointed pursuant to this section shall be subject to the laws governing employees in the classified civil service, except that appointments shall be made without regard to section 5108 of title 5, United States Code.

(d) In each annual authorization and appropriation request for the Board under this Act, the Chairman shall include a statement showing (1) the amount requested by the Board in its budgetary presentation to the Office of Management and Budget and (2) an assessment of the budgetary needs of the Board. Whenever the Board submits any legislative recommendations or testimony, or comments on legislation, to the Secretary, the President, or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the appropriate committees of Congress.

(e) A decision of the Board shall be a final agency action within the meaning of section 704 of title 5, United States Code, with respect to matters within the Board's jurisdiction.

(f) The Chairman of the Board may from time to time designate any other member of the Board as Acting Chairman to act in the place and stead of the Chairman during his absence. The Chairman (or the Acting Chairman in the absence of the Chairman) shall preside at all sessions of the Board



and a quorum for the transaction of business shall consist of at least four members present. Each member of the Board, including the Chairman, shall have one vote. Actions of the Board shall be determined by a majority vote of the members present. The Board shall have an official seal which shall be judicially noticed.

(g) The Board is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions. Until changed by the Board, the rules of the Federal Power Commission shall continue in effect.

(h) In carrying out all its functions, the Board shall have the powers authorized by the Federal Power Act and the Natural Gas Act to hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate. The Board may, by one or more of its members or by such agents as it may designate, conduct any hearing or other inquiry necessary or appropriate to its functions.

Sec. 402. (a) No person in the employ of, or holding any official relation to, any person, firm, association, or corporation engaged in the production, generation, transmission, distribution, or sale of electric power, petroleum, petroleum products, natural gas, coal, nuclear material, synthetic fuels, or energy from renewable resources, wastes, or geothermal steam, or in energy research or development, or owning stock or bonds thereof, or who has a pecuniary interest therein, shall enter upon the duties of, or hold the office of, Board member. Members shall not engage in any other business, vocation, or employment while members of the Board.

Sec. 403. The principal office of the Board shall be in or near the District of Columbia, where its general session shall be held; but the Board may sit anywhere in the United States.

Sec. 404. Subject to applicable provisions of law, officers of all Departments of the Government and all Federal agencies shall cooperate with the Board in providing, upon request, such information as it may require.

Sec. 405. Nothing in this title shall be construed in any way to limit the functions of the Secretary relating to activities within the jurisdiction of the Secretary, including any shared with the Board.

Sec. 406. The Secretary may as of right intervene or otherwise participate in any adjudicatory proceeding before the Board. The Secretary shall comply with rules of procedure of general applicability governing the timing of intervention or participation in such proceeding or activity and, upon intervening or participating therein, shall comply with rules of procedure of general applicability governing the conduct thereof. The intervention or participation of the Secretary in any proceeding or activity shall not affect the obligation of the Board to assure procedural fairness to all participants.

Sec. 407. For the purpose of section 552b of title 5, United States Code, the Board shall be deemed to be an agency.

Sec. 408. Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(h) (1) The National Energy Board, upon consultation with the Secretary, is authorized to promulgate a rule which shall be deemed a part of the regulation issued under subsection (a) and which shall provide, consistent with the objectives of subsection (b), for the establishment of a program for the rationing and ordering of priorities among classes of end-users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to end-users of such products of rights, and

evidence of such rights, entitling them to obtain such products in precedence to other classes of end-users not similarly entitled.

"(2) The rule under paragraph (1) of this subsection shall take effect only if the National Energy Board, upon consultation with the Secretary, finds that (A) national or regional energy shortage conditions exist which are of such severity or scope as to require the exercise of the end-use rationing authority, or (B) available petroleum products are or are likely to be no more than sixteen million barrels a day.

"(3) Recognizing that gasoline usage may vary according to characteristics of individual regions of the country, in establishing standards of end-use gasoline rationing under paragraph (1) of this title, the National Energy Board, upon consultation with the Secretary, shall designate individual regions of the country as (A) rural, (B) suburban, or (C) urban, on the basis of population density and establish variable gasoline allocation criteria accordingly.

"(4) The National Energy Board, upon consultation with the Secretary, shall provide for procedures by which any end-user of crude oil, residual fuel oil or refined petroleum products for which priorities and entitlements are established under paragraph (1) of this subsection may petition for review and reclassification or modification of any determination made under such paragraph with respect to his rationing priority or entitlement. Such procedures may include procedures with respect to such local boards as may be authorized to carry out functions under this subsection pursuant to section 120 of the Standby Energy Emergency Authorities Act.

"(5) No rule or order under this section may impose any tax or user fee, or provide for a credit or deduction in computing any tax.

"(6) Nothing in this act may be construed to prohibit the legal sale of gasoline coupon rations by holders of such coupons.

"(7) (a) Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of petroleum products and electrical energy among classes of users or resulting in restrictions on use of petroleum products and electric energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among classes of users, unless the Administrator determines that such a policy would be inconsistent with the purposes of this Act, or other Federal laws and publishes his findings in the Federal Register. Allocations shall contain provisions designed to foster reciprocal and nondiscriminatory treatment by foreign countries of United States citizens engaged in commerce.

"(b) To the maximum extent practicable, any restriction on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy without imposing an unreasonably disproportionate share of such burden on any specific industry, business, or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments whose function is to supply goods and services of an essential nature."

Staff are authorized and directed to make such technical and conforming changes as are necessary to incorporate the above amendment into the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan that the amendments be considered en bloc?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan that further reading of the amendments be dispensed with?

There was no objection.

Mr. CONYERS. Mr. Chairman and my colleagues, the thrust of this amendment is one that has been carefully examined in the Committee on Government Operations, and I am very pleased to bring it to the attention of the Members because it follows along the thrust of the substitute offered earlier by the gentleman from Illinois (Mr. ERLBORN), and it also follows along the thrust of the amendment which may be offered by the gentleman from California (Mr. MOSS). It addresses preserving the regulatory agencies that are being swallowed up by innocence, by accident, or by design in this super-agency.

The discussion thus far has focused on preserving the Federal Power Commission and its regulatory powers over natural gas. I think that this matter is extremely important. What distinguishes my amendment from the substitute offered by the gentleman from Illinois (Mr. ERLBORN) and the amendment offered by the gentleman from California (Mr. MOSS) is that it also preserves the authority of the Federal Energy Administration with regard to the wellhead pricing of oil and the establishing of import prices, and it combines both the FPC and FEA in one regulatory agency.

Essentially my amendment preserves these regulatory agencies in the best tradition of the Congress. Mr. Chairman, I would remind my colleagues that these regulatory agencies were established in the first instance by congressionally derived powers. In other words, there would be no Federal Power Commission or Federal Energy Administration were it not the judgment of this body that the complicated and politically sensitive considerations pertaining to energy resource pricing and allocation must necessarily receive the attention of an independent regulatory body. And so I think quite soundly Congress created independent commissions to handle this authority.

But what may happen today, if we are not careful, is that we are taking those independent authorities, wisely created by congressional enactment and, in this sweeping super reorganization, placing them fully within the ambit of an executive department. That, I contend, is a fundamental contradiction, which has also been expressed in the views submitted by several members on both sides of the aisle on the committee.

Because of this blatant contradiction, I propose to strike a portion of the section in title IV, starting at page 84. On page 84, line 19, the bill before us says:

There is hereby established with the Department an independent regulatory commission to be known as the Federal Energy Regulatory Commission.

Have the Members ever heard of an independent regulatory commission established within an executive department? Not only is this unprecedented, I think it is an insult to our collective intelligence that we have been asked to

endorse, in a vast bureaucracy to be administered by a prospective Secretary who may well become the second most powerful man in Government, the creation of one small office with a door which says "Independent Regulatory Commission." This commission will be making controversial decisions, sometimes at the displeasure of this awesome bureaucracy, with regard to energy pricing and allocation.

I would argue that we should maintain the regulatory process that has already been established by Congress, but consolidate the regulatory agencies. This does not mean that I uncritically accept the past history of either the FPC or the FEA. On the contrary, I come before the Members as a critic of the FPC in particular. But the fact that these agencies will operate independently, and not be subject to the fluctuations of changing Presidents and their Secretaries of Energy, should encourage us to support this amendment. I should note that my amendment failed in committee by a vote of 12 to 19 but it did enjoy bipartisan support.

Mr. Chairman, I urge the consideration and support of this amendment by the Members because it would maintain the independence of the FPC and the FEA.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CONYERS) has expired.

(On request of Mr. WALKER and by unanimous consent, Mr. CONYERS was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, do I understand the thrust of the gentleman's amendments is in part to keep the regulatory authority from becoming politicized as it might so become in the structure of the Department of Energy?

Mr. CONYERS. The gentleman is correct. Mr. Chairman, if I may say this to the gentleman, the whole notion of keeping these decisionmaking organs of Government out of the political process and not subject to the action of the current President or the current Secretary is critical and bears on the reason why we established them in the first place.

Mr. WALKER. Mr. Chairman, I would like to commend the gentleman from Michigan (Mr. CONYERS) for offering the amendments. I supported the amendments in the committee, and I intend to support them again on the floor.

Mr. CONYERS. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. WALKER).

The CHAIRMAN. The question is on the amendments offered by the gentleman from Michigan (Mr. CONYERS).

The question was taken; and on a division (demanded by Mr. CONYERS) there were—ayes 17, noes 24.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Seventy-one Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

#### QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

#### RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Maryland (Mr. BAUMAN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 83, noes 277, not voting 73, as follows:

[Roll No. 298]

#### AYES—83

|                 |                  |             |
|-----------------|------------------|-------------|
| Abdnor          | Frey             | Rallsback   |
| Addabbo         | Gilman           | Rangel      |
| Armstrong       | Glickman         | Rhodes      |
| Ashley          | Goodling         | Rousselot   |
| Badillo         | Grassley         | Rudd        |
| Bauman          | Hagedorn         | Sawyer      |
| Benjamin        | Harris           | Shuster     |
| Bonior          | Hawkins          | Simon       |
| Brodhead        | Heckler          | Skubitz     |
| Burke, Fla.     | Jordan           | Solarz      |
| Burton, John    | Kostmayer        | Spence      |
| Burton, Phillip | Lagomarsino      | Stark       |
| Carter          | McClory          | Stokes      |
| Cederberg       | McEwen           | Symms       |
| Chisholm        | Marriott         | Thone       |
| Clawson, Del.   | Meeds            | Tucker      |
| Clay            | Metcalfe         | Vanik       |
| Cochran         | Miller, Ohio     | Vento       |
| Collins, Ill.   | Moorhead, Calif. | Walgren     |
| Conyers         | Mottl            | Walker      |
| Dellums         | Myers, Ind.      | Walsh       |
| Dickinson       | Nix              | Waxman      |
| Diggs           | Nolan            | Weiss       |
| Early           | O'Brien          | Whalen      |
| Erlenborn       | Ottinger         | Wiggins     |
| Findley         | Fatten           | Winn        |
| Ford, Tenn.     | Quayle           | Yates       |
| Forsythe        |                  | Young, Fla. |

#### NOES—277

|                  |                |                 |
|------------------|----------------|-----------------|
| Akaka            | Brown, Calif.  | Drinan          |
| Alexander        | Brown, Ohio    | Duncan, Oreg.   |
| Allen            | Broyhill       | Duncan, Tenn.   |
| Ambo             | Buchanan       | Eckhardt        |
| Ammerman         | Burke, Mass.   | Edgar           |
| Anderson, Calif. | Burleson, Tex. | Edwards, Ala.   |
| Andrews, N. Dak. | Burlison, Mo.  | Edwards, Calif. |
| Annuzio          | Butler         | Edwards, Okla.  |
| Applegate        | Byron          | Ellberg         |
| Archer           | Caputo         | Emery           |
| AuCoin           | Carney         | English         |
| Bafalis          | Carr           | Ertel           |
| Baldus           | Cavanaugh      | Evans, Colo.    |
| Barnard          | Cleveland      | Evans, Del.     |
| Baucus           | Cohen          | Evans, Ga.      |
| Beard, R.I.      | Coleman        | Evans, Ind.     |
| Beard, Tenn.     | Collins, Tex.  | Fascell         |
| Bedell           | Conable        | Fenwick         |
| Bellenson        | Conte          | Fish            |
| Bennett          | Corcoran       | Fisher          |
| Bevill           | Corman         | Fithian         |
| Blaggi           | Cornell        | Fippo           |
| Bingham          | Cornwell       | Fynt            |
| Blanchard        | Cotter         | Forley          |
| Blouin           | Coughlin       | Ford, Mich.     |
| Boggs            | Crane          | Fountain        |
| Boiland          | Cunningham     | Fowler          |
| Bolling          | D'Amours       | Frenzel         |
| Bonker           | Daniel, Dan    | Fuqua           |
| Bowen            | Daniel, R. W.  | Gammage         |
| Brademas         | Danielson      | Gaydos          |
| Breckinridge     | de la Garza    | Gephardt        |
| Brinkley         | Derrick        | Glaime          |
| Brooks           | Derwinski      | Gibbons         |
| Broomfield       | Dicks          | Ginn            |
|                  | Dingell        | Goldwater       |
|                  | Dodd           | Gonzalez        |

|                 |                |               |
|-----------------|----------------|---------------|
| Gore            | McFall         | Roncalio      |
| Gradison        | McHugh         | Rooney        |
| Gudger          | McKay          | Rose          |
| Guyer           | Madigan        | Rosenthal     |
| Hall            | Maguire        | Rostenkowski  |
| Hamilton        | Mahon          | Roybal        |
| Hanley          | Markey         | Runnels       |
| Hannaford       | Marks          | Ruppe         |
| Harrington      | Martin         | Russo         |
| Harsha          | Mathis         | Santini       |
| Hefner          | Mazzoli        | Sarasin       |
| Heftel          | Meyner         | Satterfield   |
| Hightower       | Michel         | Schroeder     |
| Hillis          | Mikulski       | Schulze       |
| Holland         | Minish         | Seiberling    |
| Holt            | Mitchell, N.Y. | Sharp         |
| Holtzman        | Moakley        | Shipley       |
| Horton          | Moffett        | Sikes         |
| Howard          | Montgomery     | Sisk          |
| Hubbard         | Moore          | Skelton       |
| Huckaby         | Moorhead, Pa.  | Slack         |
| Hughes          | Moss           | Smith, Nebr.  |
| Hyde            | Murphy, Ill.   | Snyder        |
| Jacobs          | Murphy, N.Y.   | Spellman      |
| Jenkins         | Murphy, Pa.    | St Germain    |
| Johnson, Calif. | Murtha         | Staggers      |
| Jones, N.C.     | Myers, Michael | Stangeland    |
| Jones, Okla.    | Natcher        | Stanton       |
| Jones, Tenn.    | Nedzi          | Steed         |
| Kasten          | Nowak          | Steiger       |
| Kastenmeier     | Oakar          | Stockman      |
| Kazen           | Oberstar       | Studds        |
| Kelly           | Obey           | Stump         |
| Kemp            | Panetta        | Thornton      |
| Ketchum         | Patterson      | Traxler       |
| Keys            | Pattison       | Treen         |
| Kildee          | Pease          | Trible        |
| Klindness       | Pepper         | Tsongas       |
| Krebs           | Perkins        | Udall         |
| Krueger         | Pettis         | Ullman        |
| LaFalce         | Pickle         | Van Deerlin   |
| Latta           | Pike           | Vander Jagt   |
| Le Fante        | Preyer         | Volkmer       |
| Lederer         | Pritchard      | Wampler       |
| Leggett         | Quile          | Watkins       |
| Lent            | Quillen        | White         |
| Levitass        | Rahall         | Whitley       |
| Lloyd, Tenn.    | Regula         | Whitten       |
| Long, La.       | Reuss          | Wilson, C. H. |
| Long, Md.       | Richmond       | Wilson, Tex.  |
| Lott            | Rinaldo        | Wirth         |
| Luken           | Risenhoover    | Wright        |
| Lundine         | Roberts        | Wylie         |
| McCloskey       | Robinson       | Yatron        |
| McDade          | Rodino         | Young, Tex.   |
| McDonald        | Rogers         | Zablocki      |

#### NOT VOTING—73

|                |                |               |
|----------------|----------------|---------------|
| Anderson, Ill. | Hansen         | Neal          |
| Andrews, N.C.  | Harkin         | Nichols       |
| Ashbrook       | Hollenbeck     | Poage         |
| Aspin          | Ichord         | Pressler      |
| Badham         | Ireland        | Price         |
| Breaux         | Jeffords       | Pursell       |
| Brown, Mich.   | Jenrette       | Roe           |
| Burgener       | Johnson, Colo. | Ryan          |
| Burke, Calif.  | Koch           | Scheuer       |
| Chappell       | Leach          | Sebelius      |
| Clausen,       | Lehman         | Smith, Iowa   |
| Don H.         | Lloyd, Calif.  | Steers        |
| Davis          | Lujan          | Stratton      |
| Delaney        | McCormack      | Taylor        |
| Dent           | McKinney       | Teague        |
| Devine         | Mann           | Thompson      |
| Dornan         | Marlenee       | Waggonner     |
| Downey         | Mattox         | Weaver        |
| Fary           | Mikva          | Whitehurst    |
| Flood          | Milford        | Wilson, Bob   |
| Florio         | Miller, Calif. | Wolff         |
| Flowers        | Mineta         | Wyder         |
| Fraser         | Mitchell, Md.  | Young, Alaska |
| Hammer-        | Mollohan       | Young, Mo.    |
| schmidt        | Myers, Gary    | Zerferetti    |

Mr. NOLAN and Mr. WALSH changed their vote from "no" to "aye."

Mr. EVANS of Georgia changed his vote from "aye" to "no."

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. CHARLES WILSON OF TEXAS

Mr. CHARLES WILSON of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CHARLES WILSON of Texas: Page 67, line 18, insert "Production and" immediately after "Assistant Secretary for".



Mr. CHARLES WILSON of Texas. Mr. Chairman, members of the committee, this amendment simply changes the title of the Assistant Secretary for Resource Application to Assistant Secretary for Production and Resource Application, in order to put some emphasis on the product side of the problem.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I see no objection to this amendment. This just mentions the word "production", and production is one of the key factors in the solution of our energy problems.

Mr. CHARLES WILSON of Texas. I thank the gentleman.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. Will this insure that there will be better production in the private sector?

Mr. CHARLES WILSON of Texas. Hopefully, this will point out that somebody in this new department is responsible for the production side of the equation. It will mean that there is an Assistant Secretary of Production.

Mr. ROUSSELOT. They are supposed to be for production in the private sector?

Mr. CHARLES WILSON of Texas. Yes. That is the only place we have production.

Mr. ROUSSELOT. Does the gentleman mean that is the only place in this bill there is any discussion of production in the real world?

Mr. CHARLES WILSON of Texas. This is the only place.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. CHARLES WILSON).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read. The Clerk read as follows:

#### TITLE III—TRANSFERS OF FUNCTIONS

SEC. 301. (a) Except as otherwise provided in this Act, there are hereby transferred to, and vested in, the Secretary all of the functions vested by law in the Administrator of the Federal Energy Administration or the Federal Energy Administration, the Administrator of the Energy Research and Development Administration or the Energy Research and Development Administration; and the functions vested by law in the officers and components of either such Administration.

(b) Except as provided in section 401, there are hereby transferred to, and vested in, the Secretary the functions of the Federal Power Commission, or of the members, officers, or components thereof—

(1) in prescribing, issuing, making, amending, and rescinding rules, regulations, and statements of policy, pursuant to the Federal Power Act and the Natural Gas Act, which are of general applicability;

(2) relating to energy information, subject to subsection (c) of this section, under sections 304 and 311 of the Federal Power Act and sections 10 and 11 of the Natural Gas Act;

(3) under section 202(a) of the Federal Power Act (relating to establishment of regional districts);

(4) under section 202 (c) and (d) of the Federal Power Act (relating to emergency interconnections);

(5) under section 202(e) of the Federal Power Act (relating to regulation of exports of electric energy);

(6) under (A) section 3 of the Natural Gas Act, and (B) section 7 of such Act (to the extent such section is applicable to the regulation of exports and imports of natural gas);

(7) under sections 4, 5, and 7 of the Natural Gas Act (to the extent that such sections relate to the establishment and review of priorities for curtailments of natural gas deliveries); and

(8) relating to regulations of general applicability with respect to the rates and charges at which natural gas is first sold to any natural gas company for resale in interstate commerce under the Natural Gas Act.

(c) The Secretary and the Federal Energy Regulatory Commission shall, to the extent necessary to carry out their respective functions, utilize the data-gathering authorities of sections 304 and 311 of the Federal Power Act and sections 10 and 11 of the Natural Gas Act. The Secretary and the Commission shall coordinate their data-gathering activities to avoid duplication and undue burden on any person.

SEC. 302. There are hereby transferred to, and vested in, the Secretary:

(a) All functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department, to the extent such functions relate to or are utilized by the Southeastern Power Administration, the Southwestern Power Administration, and the Bonneville Power Administration. The authority for the functions so transferred includes, but is not limited to, section 5 of the Flood Control Act of 1944, the Bonneville Project Act of 1937, and the Federal Columbia River Transmission System Act. Notwithstanding sections 606 and 705 of this Act, each of the three such Power Administrations shall be maintained as a distinct entity within the Department.

(b) Such functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department as relate to, or are utilized by, the Alaska Power Administration for the transmission and disposition (including acquisition by purchase or exchange) of electric power and energy and by the Bureau of Reclamation for the disposition (including acquisition by purchase or exchange) of electric power and energy, except that the authority for, and function of, operating the dams constructed pursuant to the Eklutna Project Act and section 204 of the Flood Control Act of 1962 shall remain in the Secretary of the Interior. The authority for the functions so transferred includes, but is not limited to, the Eklutna Project Act, section 204 of the Flood Control Act of 1962, the Reclamation Act of 1902, and Acts amendatory thereof and supplementary thereto, including, but not limited to, the authority for the sale of electric power or lease of power privileges under section 9(c) of the Reclamation Project Act of 1939, and the authority under section 303 of the Colorado River Basin Project Act.

(c) All the authority of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department for the transmission and disposition of the electric power and energy generated at Falcon Dam and Amistad Dam, international storage reservoir projects constructed on the Rio Grande pursuant to the Act of June 19, 1954, as amended by the Act of December 23, 1963.

(d) (1) The authority of the Secretary of the Interior to prescribe regulations under the Outer Continental Shelf Lands Act, the Mineral Lands Leasing Act, the Mineral Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act, which relate to—

(A) fostering of competition for Federal

leases (including, but not limited to, prohibition on bidding for development rights by certain types of joint ventures);

(B) implementation of alternative bidding systems authorized for the award of Federal leases;

(C) establishment of diligence requirements for operations conducted on Federal leases (including, but not limited to, procedures relating to the granting or ordering by the Secretary of the Interior of suspension of operations or production as they relate to such requirements);

(D) setting rates of production for Federal leases; and

(E) specifying the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind,

except that such regulations shall be promulgated by the Secretary only after consultation with the Secretary of the Interior.

(2) The Secretary of the Interior shall retain any authorities not transferred by paragraph (1) of this subsection and shall be solely responsible for the issuance and supervision of leases and the enforcement of all regulations applicable to the leasing of mineral resources, including, but not limited to, lease terms and conditions and production rates. No regulation issued by the Secretary shall restrict or limit any authority retained by the Secretary of the Interior under this paragraph with respect to the issuance or supervision of leases. Nothing in this subsection shall be construed to affect Indian lands and resources or to transfer any responsibilities of the Secretary of the Interior concerning such lands and resources.

(e) Those functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department under the Act of May 18, 1910, and other authorities, exercised by the Bureau of Mines, but limited to—

(1) fuel supply and demand analysis and data gathering;

(2) research and development relating to increased efficiency of production technology of solid fuel minerals, other than research relating to mine health and safety and research relating to the environmental and leasing consequences of solid fuel mining, which shall remain in the Department of the Interior; and

(3) coal preparation and analysis.

(f) The functions of the Secretary of the Interior to establish production rates for all Federal leases.

SEC. 303. The Secretary of the Interior shall afford the Secretary a reasonable opportunity, prior to the execution of a Federal lease, to disapprove any term or condition of such Federal lease which relates to the matters with respect to which the Secretary has authority to prescribe regulations under section 302(d). No such term or condition may be included in such a lease if it is disapproved by the Secretary.

SEC. 304. As used in sections 302 and 303 of this Act, "Federal lease" means an agreement which, for any consideration, including, but not limited to, bonuses, rents, or royalties conferred and covenants to be observed, authorizes any person to explore for, develop, or produce (or to do any or all of these) oil and gas, coal, oil shale, tar sands, or geothermal resources in public, acquired, or submerged lands or interests therein under Federal jurisdiction.

SEC. 305. All functions vested by law in the Director of the Office of Energy Information and Analysis by part B of the Federal Energy Administration Act of 1974 are hereby transferred to the Administrator of the Energy Information Administration.

SEC. 306. There are hereby transferred to and vested in the Secretary all of the functions vested in the Secretary of Housing and Urban Development by the Energy Conserva-

tion Standards for New Buildings Act of 1976 (title III of the Energy Conservation and Production Act).

SEC. 307. There are hereby transferred to and vested in the Secretary such functions as are set forth in the Interstate Commerce Act and vested by law in the Interstate Commerce Commission or the Chairman and members thereof as relate to transportation of oil by pipeline.

SEC. 308. There are hereby transferred to and vested in the Secretary all functions vested by chapter 641 of title 10, United States Code, in the Secretary of the Navy as they relate to the administration of, and there is hereby transferred to, and vested in, the Secretary jurisdiction over—

(1) Naval Petroleum Reserve Numbered 1 (Elk Hills) located in Kern County, California, established by Executive order of the President, dated September 2, 1912;

(2) Naval Petroleum Reserve Numbered 2 (Buena Vista), located in Kern County, California, established by Executive order of the President, dated December 13, 1912;

(3) Naval Petroleum Reserve Numbered 3 (Teapot Dome) located in Wyoming, established by Executive order of the President, dated April 30, 1915;

(4) Oil Shale Reserve Numbered 1, located in Colorado, established by Executive order of the President, dated December 6, 1916, as amended by Executive order of the President, dated June 12, 1919;

(5) Oil Shale Reserve Numbered 2, located in Utah, established by Executive order of the President, dated December 6, 1916; and

(6) Oil Shale Reserve Numbered 3, located in Colorado, established by Executive order of the President, dated September 27, 1974.

The surface management of such reserves shall be carried out by the Secretary of the Interior under applicable laws, including the Federal Land Policy and Management Act of 1976, administered by such Secretary.

SEC. 309. There are hereby transferred to and vested in the Secretary all functions of the Secretary of Commerce, the Department of Commerce, and officers and components of that Department, as relate to or are utilized by the Office of Energy Programs, but limited to industrial energy conservation programs.

SEC. 310. (a) The Division of Naval Reactors, established pursuant to section 25 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2035), and responsible for research, design, development, health and safety matters pertaining to naval nuclear propulsion plants and assigned civilian power reactor programs, is transferred to the Department under the Assistant Secretary for Fossil and Nuclear Energy Technologies and shall be deemed to be an organizational unit established by this Act.

(b) The Division of Military Application, established by section 25 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2035), and the functions of the Energy Research and Development Administration with respect to the Military Liaison Committee, established by section 27 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2037), are transferred to the Department under the Assistant Secretary for Defense Programs and such organizational units shall be deemed to be an organizational unit established by this Act.

Mr. BROOKS (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

#### AMENDMENT OFFERED BY MR. MOSS

Mr. MOSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moss: Page 76, line 7, strike out "(1)" and all that follows through the semicolon on line 10 and redesignate paragraphs (2) through (7) accordingly.

Page 76, line 24, insert "and" after the semicolon.

Page 77, line 3, strike out "; and" and insert in lieu thereof a period.

Page 77, line 4, strike out "(8)" and all that follows through the period on line 7.

Page 77, after line 7, insert the following new subsection (c):

(c) In carrying out the functions transferred to the Secretary by subsection (b) of this section, the Secretary may issue, prescribe, make, amend, and rescind rules, regulations, and statements of policy pursuant to the Federal Power Act and the Natural Gas Act, which are of general applicability. Whenever the Secretary proposes any such action, he shall notify the Federal Energy Regulatory Commission, established by section 401 of this Act, of the proposed action. If the Commission determines, within such period as the Secretary may prescribe, that the proposed action may significantly affect any function administered by the Commission pursuant to title IV of this Act, the Secretary shall, except in a case where the Secretary determines that an emergency exists which requires immediate action, allow the Commission an additional period of at least 30 days to comment on the proposed action. Before taking the proposed action (other than immediate action required by an emergency), the Secretary shall take into account any comment or recommendation received from the Commission pursuant to this subsection. If the Secretary takes the proposed action and such action is inconsistent in any respect with such comment or recommendation, the Secretary shall publish in the Federal Register the reasons for such inconsistency.

Page 77, line 8, strike out "(c)" and insert in lieu thereof "(d)".

Mr. MOSS [during the reading]. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MOSS. Mr. Chairman, many of us on both sides of the aisle are deeply concerned by the transfer to the Secretary of Energy of authorities which have been traditionally vested in independent regulatory agencies. Of particular concern to us in the transfer to the executive of authorities under the Federal Power and Natural Gas Acts to issue rules of general applicability and to set the wellhead price of natural gas.

These authorities are broad while the statutory guides to their use are flexible. For example, each penny increase in the price of jurisdictional natural gas increases consumer gas bills \$115 million per year. Despite the importance of such pricing decisions to consumers and industry alike, section 4 of the Natural Gas Act (15 U.S.C. 717c) merely requires that such prices be "just and reasonable." Recognizably this standard vests in the

individual or organization which administers the act substantial discretion—discretion which can be improperly applied or even abused.

Under present law, one of the principal checks against abuse of discretion under the Federal Power and Natural Gas Acts is the requirement that these broad powers be exercised through an independent, collegial regulatory agency. Only when Congress has enacted more specific standards—or during short term national emergencies—has it delegated to an executive agency authority to control important sectors of the economy. For example, the Emergency Petroleum Allocation Act, as amended, authorizes the President to regulate petroleum prices but that act carefully specifies, among other things, the average, first sale price of domestic oil and a congressional veto procedure for removal of price controls from petroleum products.

Similarly at least until the Congress has acted to specify national policies under the Federal Power and Natural Gas Acts, a cabinet officer, whether of this or any administration, should not be allowed to issue rules of general applicability or to set the wellhead price of natural gas. As a consequence we will support an amendment to vest these authorities in the Federal Energy Regulatory Commission, an independent collegial regulatory agency within the Department of Energy. Specifically the amendment Mr. Brown of Ohio and I are offering would do the following:

First. Limit the authority of the Secretary of Energy to issue rules of general applicability pursuant to the Natural Gas and Power Acts to functions identified in section 301(B)(2)-(7). This would insure that rules of critical consumer interest, including those related to construction work in progress and the wheeling of power, are decided by a collegial regulatory commission. It should be noted that language with respect to rules of general applicability is not intended to expand whatever rulemaking authority which is enjoyed by the Federal Power Commission.

Second. Transfer to the Federal Energy Regulatory Commission the authority to set the well head price of natural gas. This transfer is essential at least until the Congress specifies natural gas and power policies through substantive amendments to the Natural Gas and Federal Power Acts.

Third. Provide that the Federal Energy Regulatory Commission shall have a minimum of 30 days, except in cases of emergency as determined by the Secretary, to comment upon rules proposed by the Secretary which would affect functions vested in the Commission.

This amendment is reasonable; it is responsible. It is supported by a board coalition of members and organizations. I hope you will join with us in supporting this proposal.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this Nation undoubtedly faces dislocations in the production



and distribution of energy resources. Our petroleum and natural gas reserves are rapidly declining; the ability to effectively extract and utilize our coal reserves is in doubt; solar and geothermal energy is still in the developing stages; the use of nuclear energy is surrounded with serious problems; dependence on foreign energy resources creates uncertainty; and the price of all energy is bound to escalate in the years to come.

Complicating our efforts to deal with this problem is the amount of control over all forms of energy that has been captured by a small group of private concerns which now hold dominant ownership positions in petroleum, natural gas, nuclear, coal, and other energy sources.

If we are to meet these challenges in a way which fully protects the public welfare, we must create the proper instrument in Government. In establishing the Department of Energy, we are carrying out that purpose. We must establish within the Department a single individual, namely the Secretary, who shall have the authority to meet crises and to contend with monopolistic forces in a rapid and concise manner and one which will rationalize policy objectives in broad areas of concern.

The amendment before us would deny the Secretary two essential tools to meet these crises. First, it would seriously limit the Secretary's authority to issue general rules and regulations. That would have the effect of precluding the Secretary from issuing regulations of general applicability pertaining to rates and charges under the Federal Power Act, and the issuance of certificates of convenience and necessity under the Natural Gas Act.

Second, it would have the effect of denying to the Secretary the authority to set wellhead prices of natural gas. The denial of this authority would hamstring the ability of the Secretary to establish a national policy designed to meet energy crises in the most equitable and expeditious manner. This could be detrimental to the welfare of the country because the amendment would transfer these authorities to a five member collegial body. Recent studies of this Commission have raised serious questions as to ability of a collegial body to perform the functions which this amendment would give it. Such a body inherently moves slowly. That type of function has its place and we create such a body in this bill in the Federal Energy Regulatory Commission but the authority we give to the FERC is to decide case-by-case issues in a quasi-judicial manner.

I recognize that fears have been expressed over centralizing too much power in the hands of an energy czar. I sympathize with such concerns although I must reiterate that when a nation faces crises, it must confer necessary authority upon Government officials to meet such crises. Giving the Secretary of Energy the ability to issue rules and regulations of general applicability is designed to enable the Secretary to harmonize particular energy issues with overall

national energy policy objectives. This rulemaking power would not confer new power upon the Secretary, but would simply transfer to the Secretary the power now available to the Federal Power Commission to issue such rules. He must do so through the issuance of rules and regulations in the same manner in which the Federal Power Commission now exercises this authority under the Natural Gas Act and Federal Power Act.

For these reasons, I urge the defeat of the amendment.

Mr. HIGHTOWER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, it has been stated, emphasized, repeated, and reemphasized, both in the committee and in the debate here today, that the Federal Energy Regulatory Commission will be independent of the Secretary.

It is very well to say these things, but we want to be sure that our actions are equal to our words.

Mr. Chairman, there seems to me to be a valid question as to the way the rule-making authority is placed. It is similar to some of the old "now you see it, now you don't" games.

Mr. Chairman, as section 301(b) presently reads, the Secretary is vested with eight specific functions or powers of the Federal Power Commission, with all other functions not specifically vested in the Secretary transferred to the Federal Energy Regulatory Commission.

Section 301(b) (1) vests in the Secretary all power to make rules, regulations, statements of policy, and so forth "which are of general applicability." Section 401 (a) (3) states:

Except as provided in section 301(b) (1), the Commission shall have the authority to prescribe, issue, make, amend, and rescind rules, regulations, and statements of policy under the Federal Power Act and the Natural Gas Act, and, in exercising such authority, shall coordinate its actions with the Secretary.

Similarly, section 401(h) specifically provides:

The Commission is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions. Until changed by the Commission, such rules of the Federal Power Commission shall continue in effect.

But since section 301(b) (1) vests all powers therein enumerated "which are of general applicability" in the Secretary, sections 401(a) (3) and 401(h) are virtually meaningless and could create considerable confusion.

Mr. Chairman, it was recognized on the Senate side and by some views expressed in the committee that the Secretary should not be made a czar and the proposed Federal Energy Regulatory Commission should be a strong and viable entity.

Mr. Chairman, the amendment that has been offered by our friend, the gentleman from California (Mr. Moss), does clearly state the rulemaking authority of the Secretary and the rulemaking authority of the Regulatory Commission.

Mr. Chairman, I would like to engage my colleague, the gentleman from California (Mr. Moss), in a little colloquy

here and ask him for an explanation or whether this is his intention. Is it the intention of the gentleman that his amendment will vest the Federal Energy Regulatory Commission with all the necessary authority to prescribe, issue, make, amend, and rescind all the rules and regulations and statements of policy under the Federal Power Act and the Natural Gas Act in carrying out the functions vested in it?

Mr. MOSS. Mr. Chairman, if the gentleman will yield, my answer is yes, with the exception of functions which would remain with the Secretary under my amendment, functions identified in section 301(b) (2) through 301(b) (7).

The Commission would have, pursuant to section 401(a) (3), as amended, authority under the Federal Power and Natural Gas Acts to issue or amend rules to the extent, and no further, allowed under present law. The Secretary's authorities are further limited by requiring that even with respect to rules issued by the Secretary within his jurisdiction, as established by section 301(b) (2) through (7), the Commission has, except in emergencies, the right to review such rules for 30 days before they could take effect.

Mr. HIGHTOWER. In other words, the Commission will have the full power and authority to carry out its functions without domination or interference by the Secretary; is that correct?

Mr. MOSS. That is the intent of the amendment.

Mr. HIGHTOWER. Mr. Chairman, I thank the gentleman.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, as now drafted, H.R. 6804 contains several serious defects.

My major concern with the legislation is that the several Power Commission authorities over such things as wellhead natural gas pricing and electric utility interconnection would be transferred to the Secretary of the Department of Energy.

Under existing law, wide discretion is given to the Federal Power Commission in its establishment of wellhead natural gas prices. The National Gas Act provides that prices must be just and reasonable, as determined by the Commission. These findings of justness and reasonableness, if supported by substantial evidence, shall be conclusive upon judicial review. This wide discretion now vested in the FPC, an independent, collegial body, bipartisan in its makeup, well insulated from the politics of the moment, protected by established administrative procedures both in law and by precedent, would come into the hands of the single Secretary of the Department of Energy, under the bill we are considering today.

Mr. Chairman, so long as I agree with the energy policies practiced by this single administrative decisionmaker, perhaps I should not mind that he is no longer an independent collegial agency, but, Mr. Chairman, administrations and policies change. We may not always have the same administration. We may not

always have the same Secretary. We may not always wish to see the administration hold to precisely the same policies.

We know that energy policies are among the most hotly debated policies ever to come to Congress in years, and that debate will be warm again this year. It is particularly important that regulatory decisions be made in an environment where all views can be expressed fully. That was not possible within the FEA legislation when we had the emergency. So we provided for the review of some of the actions by FEA by the full Congress, so that we could have all of the various views fully debated and considered.

These decisions should not be taken in an imbalanced situation, or a situation where only one viewpoint, the administration's viewpoint, comes in, or where they might be subject to total political domination.

There are many new energy regulating authorities contained in the companion National Energy Act now under consideration by the Congress, which will be vested in the Secretary of the Department of Energy. I feel that a commission is more likely to retain its objectivity and independence than would a single secretary or his delegate.

Under the committee reported bill there is little assurance that important energy issues will be resolved in an independent manner, at least less assurance than would be given us if these functions had been maintained in the independent Federal Energy Regulatory Commission within the DOE.

With the gentleman from California (Mr. Moss) I join in this amendment which would vest gas pricing authority in the Federal Energy Regulatory Commission, within the Department of Energy. But although the Federal Energy Regulatory Commission would be within the Department of Energy, the Moss-Brown of Ohio amendment would not permit the decisions to be set or vetoed or reviewed by the Secretary so that he would not be in a position to dominate. He would be able to intervene in the decisionmaking process just like a power company or just like Ralph Nader or anybody else who wants to participate in that decision, but he could not review or change the decision of the Federal Energy Regulatory Commission.

I hope that my colleague will support me in this effort.

There are a couple of other angles which ought to be considered. One is that out of this very Committee on Government Operations we produced legislation for government in the sunshine, which was enacted by the Congress last year. But this only applies to collegial agencies, it does not apply to decisions taken by a single administrator, a single Secretary. Therefore, if the Secretary makes a decision there is no way for us to get into his mind or understand the debate that he went through to come to that conclusion. There is that opportunity under a collegial agency, the Federal Energy Regulatory Commission.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Brown of Ohio was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, I would hope that we would support the Moss-Brown amendment in the hope that we will have these policy decisions which are guided by congressional legislation made by an independent—although independent within the Department of Energy—regulatory commission where we will have the application of the sunshine legislation and the opportunity for all to have full administrative procedure protections in a collegial bipartisan body.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Texas.

Mr. HALL. I thank the gentleman for yielding.

Does the gentleman understand that if this amendment passes, the Administrator, or Dr. Schlesinger, will or will not have the power to set the prices of intrastate gas?

Mr. BROWN of Ohio. I do not think the price of intrastate gas can at present be set by the Administrator in any event. The intrastate question will be resolved presumably in the new National Energy Act, which is under consideration right now in the Commerce Committee, one way or the other. It has been proposed that it would be covered. He will only have the power to intervene in a decision made by the Federal Power Commission to deal with interstate gas prices under the present law.

Mr. HALL. But not intrastate.

Mr. BROWN of Ohio. But not intrastate under the present law.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this situation reminds me of an occurrence that happened many years ago when our distinguished former colleague, the gentleman from Alabama, Mr. Rains, was floor manager of a bill. An amendment was offered, and he said it reminded him of the story of the little boy who was fishing. He caught a fish, and the fish was flopping around, and the little boy said, "Lie still, little fish; all I want to do is gut you."

I think that is what the effect of this amendment would be.

There seems to be an unwritten assumption in the amendment which is currently before us, and that assumption is that somehow the Secretary of Energy should have less ability than other Cabinet officers to prescribe rules under which decisions affecting matters within his Department's authority should be decided. By severely limiting the rule-making power of the Secretary with regard to the functions the Department will be inheriting under the Natural Gas Act and the Federal Power Act, this amendment would make the Secretary

less able than the Secretary of Transportation or the Secretary of the Interior, or any other Cabinet officer, to prescribe such rules.

Let us take a look at what the committee bill actually does. The committee-reported bill would very carefully divide the Federal Power Commission's functions between the Secretary and the new Federal Energy Regulatory Commission within the Department in a manner that allows each to do what it should be able best to do. The Secretary would deal with those general issues that impact on national energy policy; the Commission with the resolution of individual disputes which should be performed by someone other than the policymaker. This is a division that makes sense in practice, and it will help ensure that we do not have a Secretary moving in one direction and a Commission moving in another on major policy decisions, thereby frustrating the developing of a coherent policy on vital issues dealing with natural gas and electricity policy. We in the Congress will provide oversight over the Department. We can and should change the underlying mandates of the statutes if they are in need of change, but let us not try to cure one potential problem by removing from the Secretary the tools he needs to make our energy policy work. We need a workable energy policy, and the amendment should be defeated.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to the gentleman from California.

Mr. MOSS. I thank the gentleman for yielding.

I thank the gentleman for his kind characterization of the amendment as a gutting amendment—a most inaccurate characterization. But would the gentleman name for me a single Cabinet officer who has succeeded to the powers previously held and exercised for over a half century by an independent regulatory commission?

Mr. MOORHEAD of Pennsylvania. I cannot name one. I do not believe it has been done. But I think the gentleman would agree, even if he does not agree with the result, that the committee attempted to preserve those things which should be handled by an independent regulatory commission as opposed to those that ought to be handled by the Secretary so that we could have a coherent national energy policy.

Mr. MOSS. Will the gentleman yield further?

Mr. MOORHEAD of Pennsylvania. Of course I yield to the gentleman from California.

Mr. MOSS. Is there less coherency to include one other function historically performed by a collegial body?

Mr. MOORHEAD of Pennsylvania. I believe there is. I believe this is the issue of the amendment: Whether we have a national coherent energy policy.

Mr. MOSS. But it is hardly of such magnitude as to cause a gutting characterization to be placed on an amendment offered in good faith to improve a piece of legislation.



Mr. MOORHEAD of Pennsylvania. If I may reclaim my time, if I inferred any lack of faith on the part of the gentleman from California, I did not intend it. I am sure the gentleman offered the amendment in good faith. However, I think it has a very disastrous effect on the carefully worked out structure of this legislation and that was the reason I used that characterization.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the Moss-Brown-Dingell amendment. The amendment does two things my colleagues ought to know about. The first is it strikes the authority of the Secretary over well-head pricing of natural gas and invests it in the collegial commission which we set up in this bill. This insures that the Sunshine Act—the prohibition against ex parte communications—and all of the other protections of fairness to the consumer are fully and fairly observed. And it means that the decisionmaking process becomes open so that all persons might know what their Government does with respect to the pricing of natural gas. That is very important.

Second of all, it does another thing that I regard as being of extreme importance, and that is it requires that a Secretary not be able to issue rules of general applicability.

What are rules of general applicability? A rule of general applicability might deal with the wholesale price of electricity or wheeling or interchange of electricity in interstate commerce. It might allow the Secretary by fiat, functioning behind closed doors, to issue a rule which would allow construction work in progress on the construction of electrical facilities, something to which the consumers are violently and totally opposed.

On May 24 we had a hearing before the Subcommittee on Energy and Power and we brought the representatives of the administration before us, and they talked to us about the criteria which would be applied by the administration in connection with the pricing which it would do on wellhead pricing of natural gas. In that there was a very interesting interchange with regard to the criteria which would be imposed by the Secretary. I will now quote from a colloquy between me and one of the administration officials on what criteria would be imposed by the Secretary:

Mr. DINGELL. Mr. O'Leary, you have comforted me greatly. Please tell me where in the bill that is.

Mr. O'LEARY. Mr. Chairman, none of this is in the bill.

Mr. DINGELL. I see.

Mr. O'LEARY. The authority is in the Secretary to set prices.

Mr. DINGELL. I am less comforted. You are asking that I take this then on which of the three great virtues: faith, hope or charity.

Mr. O'LEARY. We are dealing in faith at the moment, a great deal of hope, and, as ever in your case, with some charity.

Mr. DINGELL. I suspect there is very little of the last, possibly some of the second, and practically none of the first.

Mr. O'LEARY. Mr. Chairman, you know the great discipliner in this sort of activity is the very fact that whoever is running this agency would have from time to time to come before you and to explain his actions. I think if he were in the position of having made great gifts to the oil producing industry or the gas, more particularly to the gas producing industry under this authority, that you would cut—pull him up short in short order and knowing that would be the case, he would use great restraint and discipline...

What Mr. O'Leary was saying, and I very specifically qualified him to be speaking on behalf of the administration, is that there is no—repeat, no—criteria whatsoever with regard to the unfettered, untrammelled, and absolute jurisdiction that would exist here with regard to the Secretary's authority concerning wellhead prices.

A somewhat similar situation obtains with respect to the orders of general applicability.

Mr. Chairman, the age of the kings expired with the French revolution. I plead with this body, do not set up a new king here in Washington.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I think it might be said to the gentleman in the well that the gentleman and I may have somewhat different views of the desirability or lack of desirability of deregulation of the price of natural gas, for instance, or perhaps even certain actions with reference to the pricing of electric power; but we are in agreement that if an action is taken in this very significant area, that it ought to have the full light of day, not only in sunshine legislation or in a collegial body, but it also ought to have the full opportunity for all those persons who feel different views about the desirability of the action and that all the procedures that have been either by precedent or law part of the Federal Power Commission used to share those contradictory views.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(At the request of Mr. BROWN of Ohio, and by unanimous consent, Mr. DINGELL was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield further, so that there is full approval of all the ramifications of the action of a collegial body or the Federal Power Commission or the National Energy Commission would take.

Mr. DINGELL. I fully agree with the gentleman. If we want a full, open and free process where people can watch the Government work, if we want to see to it that the Sunshine Act works, if we want to see to it that due process works, where ex parte action is done behind closed doors, then support the Moss amendment. It makes good Government and it makes good sense.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I have the greatest respect for the gentleman from Michigan; but I must take exception to one statement in support of the Moss amendment, both for the reason of setting the record straight or in the event the Moss amendment should not pass, that the Secretary would not have the legislative history of having untrammelled power.

Mr. DINGELL. Mr. Chairman, if the gentleman will permit, I do not think he has untrammelled power, but the language of the bill without that appears to give it to him.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(At the request of Mr. LEVITAS, and by unanimous consent, Mr. DINGELL was allowed to proceed for an additional 2 minutes.)

Mr. DINGELL. Mr. Chairman, I do not want that any more than the gentleman does; but the problem is when the door is closed and one man is making the decision, and under the criteria we have that may well be the situation; I can only quote Mr. O'Leary again.

Mr. LEVITAS. Mr. Chairman, if the gentleman will yield further, I would just like to observe that it is my understanding that the legislation simply transfers to the Secretary the same powers that are now possessed, for example, by the Federal Power Commission and that the statutory requirements are that in setting the well-head prices he would have to set a just and reasonable rate and that this has been very clearly defined by a series of decisions; so he is not able to exercise arbitrary power.

Mr. DINGELL. The gentleman may be correct; but at a lengthy hearing where we had the FEA speaking on behalf of the Administration and on behalf of the bill here for the Subcommittee on Energy and Power did not indicate that either the procedure, the openness of the rules which bind the Federal Power Commission or the precedents which bind the Federal Power Commission are being transferred. That is the thing making the apprehension.

As the gentleman knows, the Federal Power Commission has a whole body of precedents they adhere to in a greater or lesser degree. I am not satisfied those are transferred, nor did Mr. O'Leary make clear that they are transferred.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I think there is one other point that needs to be made. The Federal Power Commission now has the right to set its own rules, and has set them, and they have worked in precedent for years and years.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(On request of Mr. BROWN of Ohio and by unanimous consent Mr. DINGELL was allowed to proceed for 4 additional minutes.)

Mr. BROWN of Ohio. The Secretary would have the authority to modify the rules by which these decisions are taken. I think that is an unlimited power because he can say, "We are going to change all the rules and we are going to do it this way."

That does bother me.

Mr. DINGELL. That is precisely the point I am making.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. EVANS of Colorado. I am interested in the amendment offered by the gentleman from California and the comments made by the gentleman in the well. Yet, I have one serious question in my mind if this amendment were to pass. It seems to me that we might have a two-headed horse, in a way. We might have a President and a Secretary of Energy who want to take a certain direction in regard to energy, and we might have an independent commission that thinks that the President and Secretary are wrong and feel that we ought to go another way. What would be the situation if this amendment passes?

Mr. DINGELL. I think we have a horse with two heads or two tails—the gentleman can take his pick—where under the bill as drawn, or under the amendment as offered by the gentleman in California, in either event we have a Secretary and we have a Commission. What we are doing is defining which end of the horse is going to go which way under which particular set of circumstances at which time. Also, we lay out a set of circumstances where it will function more in the daylight and less in the dark, where there will be more public input and more public appreciation of what is going on, and less action by that two-headed horse, or two-tailed horse, in the dark. That is the basic difference.

Mr. EVANS of Colorado. The problem to which the gentleman alludes is inherent within the bill?

Mr. DINGELL. Regardless of whether the Moss amendment is present or absent.

Mr. BROWN of Ohio. I might say that there are certain other powers in which the legislation is transferred to the Secretary, not just the Federal Power Commission. There are the powers of the Federal Energy Agency. Those powers are simply more arbitrary in their exercise by the Administrator than are the Federal Power Commission powers. They were made more arbitrary by this very Congress, and they were given to the Federal Energy Administrator by this Congress at the emergency time of the embargo.

Now, the policies in the energy field will be set by the Congress, but in the one area we gave the Federal Energy Administration very arbitrary powers in terms of administrative procedures. In

the Federal Power Commission area, we have given very restricted powers with reference to the administrative procedures in the law.

The question is, in the Department of Energy as we have set it up on a permanent basis, do we want a Secretary exercising powers in an arbitrary way, presumably out of the policy that the Congress will enact, or do we want it done in a collegial body, listening to the evidence and getting all the information to follow the policy of the Congress. It seems to me that is the issue here. We are setting up a permanent agency, and we want it done on some kind of a rational basis rather than an arbitrary basis by a Secretary.

Mr. TUCKER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Arkansas.

Mr. TUCKER. Did I understand the gentleman to say that the language contained in this bill would allow the Secretary to adopt a rule of general applicability with regard to construction work in progress?

Mr. DINGELL. The answer to that question is, he could do it with regard to construction work in progress, and a whole abundance of other rules.

Mr. TUCKER. I mention particularly construction work in progress because I spent 4 years as attorney general in my State litigating this issue, and I know public service commissions throughout the country have litigated it. This is a very serious issue; this is an authority which just 2 years ago a different administration asked this Congress to grant and the Congress said no. Granting this authority would be very detrimental to the interests of the consumers of this Nation.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Moss amendment. And I should start off by saying that I attribute no bad faith but all good faith to the gentleman from California and to his colleague, the gentleman from Ohio, in the offering of this amendment. But I think it is fair to say that in the opinion of many of us it goes right to the heart or the viscera of this legislation. I think the people in America are looking to the Congress to develop a comprehensive energy policy and to establish a single focal point of administration of that policy in the Department of Energy. If we do not follow through on that expectation, then we shall have given rise to another wave of public disappointment and cynicism. If we do not give the Secretary of this Department the overall responsibility for the energy policies and implementation of them in this country, then we shall have not succeeded. And what the Moss-Brown of Ohio amendment will do is again fragment that responsibility and make it impossible for a comprehensive national policy to be brought about.

My colleague, the gentleman from Pennsylvania, said that the Moss amendment gutted the bill.

The gentleman from California objects to the word "gutted," and in deference to any sensibilities I will use the word "viscera," but the organs are the same. The Erlenborn amendment perhaps took a meat-ax approach, and the first Conyers amendment perhaps pointed a dagger in the body of the bill. The Moss amendment is using a scalpel. But all of them have in common the purpose, in the end, of removing the viscera of this particular legislation. For that reason I urge the members of the committee seriously to think about what they are being asked to vote upon.

The central thrust of this amendment seems to be the contention that fairness dictates that decisions, such as the well-head price of natural gas or Federal rules under the Federal Power or Natural Gas Acts, must be made by a collegial body. I dispute that contention because it seems to imply that an executive branch official, subject to congressional oversight, cannot or will not act fairly, while a collegial body can and will.

The actions taken by the Secretary of Energy if the committee bill is adopted will not be made in a vacuum. It is true that the language of the Natural Gas Act with regard to wellhead pricing does specify that rates must be "just and reasonable." But there is also a history of court interpretation of that language which defines with somewhat more precision the standards which must be used in making such determinations. The Secretary would not be granted unfettered discretion. And any decision made on natural gas pricing would be subject to a review by the courts to determine whether the Secretary's action is supported by the substantial weight of the evidence provided in the record before him.

In addition, the Secretary would not make this or any other decision under the Natural Gas Act or the Federal Power Act without substantial public input through the requirement of section 501 of this legislation for a full legislative-type hearing, including the opportunity for members of the public to present their views. This assures public participation in the decisionmaking process.

And, finally, the proponents of this amendment stress that the Secretary would be a political official, and that this is undesirable. If by this they mean that the Secretary would be accountable to the people and to the President and to the Congress, I would have to agree. Indeed, one of the problems we have had with independent regulatory commissions is the lack of any real accountability on the part of the members of those commissions. In fact, some of the proponents of this amendment have vigorously condemned the past practices of the Federal Power Commission.

I pause right here to say that I am surprised to hear some of my colleagues, who condemned the Federal Power Commission in the past for its failure to take into consideration the price increases



to stimulate additional production, now say they want to keep the Federal Power Commission.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from California (Mr. Moss).

Mr. MOSS. I thank the gentleman for yielding.

Mr. Chairman, there is probably no Member of this body who has more harshly criticized the Federal Power Commission than I have, because it has on occasion had appointed to it very incompetent members, and for a prolonged period of time it has had too many vacancies.

It has too many vacancies at this very moment. It is very difficult for an agency to operate under those conditions.

However, that does not support the proposition that the structure is faulty, but, rather, it reflects on the type of person appointed or the failure to appoint for prolonged periods of time, leaving uncertainty and indecision in the agency.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

(By unanimous consent, Mr. LEVITAS was allowed to proceed for 3 additional minutes.)

Mr. LEVITAS. Mr. Chairman, I thank my colleague, the gentleman from California (Mr. Moss), for his contribution, and I would like to say that I am well aware of his criticism of the Federal Power Commission.

Indeed, last October, in a report of a subcommittee chaired by the gentleman from California (Mr. Moss), there appeared this language—and I am quoting:

The FPC in recent years has demonstrated a conscious disregard for its statutory duties, extending in varying degrees to all facets of its regulatory responsibilities.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. Mr. Chairman, if the gentleman will allow me to complete one sentence, I will yield.

Mr. Chairman, I would like to say that the reason for this has been lack of accountability, and until we get some accountability into the process we are going to continue to have indecision or unresponsive decision.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I will be happy to yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, in that same report issued by the same subcommittee chaired by the gentleman from California we cited another agency, the Securities and Exchange Commission, which is a collegial body, as an example of extreme efficiency and effectiveness in Government, performing as it should, with a full complement of individuals who were carefully selected. I think the contrast was very sharply drawn in the report.

The indictment that the gentleman from Georgia (Mr. LEVITAS) makes of collegial bodies is totally invalid.

Mr. LEVITAS. Mr. Chairman, I would like to say to the gentleman from Califor-

nia (Mr. Moss) that there must be different cures for different illnesses, and we know that we use different weapons on different game.

In the case of the Federal Power Commission, the best solution is to make this transfer which this legislation is calling for, because we are being asked now to prolong the lack of accountability in yet another collegial body in areas of importance such as those affected by this amendment. I do not believe that having a collegial body serving fixed terms and being unaccountable to the President or the Congress or the people is the way to help solve the energy problems we face.

Mr. Chairman, I think that if we adopt this amendment, we would be striking a blow at what the President of the United States has called for in saying that we need to have a comprehensive energy policy and a single focal point through which to administer that energy policy. If we adopt the Moss amendment, we are saying there is no crisis and let us just keep doing what we have been for so many years and so unwisely.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I want to commend my friend, the gentleman from Georgia (Mr. LEVITAS), for the very excellent statement he has made concerning this bill. There are two particular points he has made that I think are very important.

One point is that concerning a comprehensive energy policy. The gentleman from Michigan (Mr. DINGELL) pointed out very jokingly something about the type of horse we will perhaps have in adopting it. But by the same token, we need to bring these policies together. Otherwise we might as well leave it as it is now and have ERDA running in one direction, FEA in another direction, the FPC in still another direction and then whoever else is involved running in yet another direction.

But this bill brings them all together. This does not set up a czar, because I think we have pooled the duties, and we make him accountable to this Congress.

I have seen Cabinet members who are much more responsible to the Congress than most independent regulatory bodies I have seen, and there are also Federal judges who forget from whence they came.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has again expired.

(On request of Mr. FUQUA and by unanimous consent, Mr. FUQUA was allowed to proceed for 2 additional minutes.)

Mr. FUQUA. Mr. Chairman, will the gentleman yield further?

Mr. LEVITAS. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, this bill brings all the forces together. We do not have the luxury of being able to waste time as we have in the past. We must get on with this, and I think the President is right in bringing this up and asking us to do something about energy. He has

had the mandate of the people; he ran, and he was elected President. I think we all find in our districts that we have the support of the people.

Mr. Chairman, the other point is accountability. I think that a Secretary of Energy can be accountable to this Congress, because we have spelled it out in the bill. I think he will be much more accountable than any independent body we have had running around demonstrating its so-called independence. I think that this is the real heart of the bill, and we must defeat this amendment and get on with the bill itself.

Mr. Chairman, I thank the gentleman for yielding.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman from Florida (Mr. FUQUA) for his excellent statement and his leadership on this important legislation.

Mr. Chairman, I would like to say this to the members of the committee: That this is really the first serious test we have had in this Congress as to whether or not we are going to be serious about doing something to effect a comprehensive energy policy. If we do not defeat the Moss amendment, we will have indicated to the American people that we as a Congress are not prepared to make the hard decisions that are necessary to develop a comprehensive energy policy, one that is so important to our economy and our national security.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for yielding.

Then is the gentleman telling us that the Secretary of Energy of the Department of Energy will deregulate the price of natural gas because if the Congress will not do that, all of this argument is superficial anyway?

Mr. LEVITAS. I cannot speak for what the new Secretary will do. He certainly cannot do any worse than what has happened so far.

I have heard the President's energy message, and it sounds a lot more like a movement in the direction of deregulation to stimulate production than do the actions taken by the Federal Power Commission; but I would say this, that the question will now become one of accountability.

The gentleman knows as well as does any other Member of this body that these independent regulatory commissions, and particularly one such as this, are not accountable to anybody. Most people in this country don't even know who are the people on these collegial bodies, what their names are or where they live. This new department will be accountable, through oversight and other means, to the Congress.

Furthermore, I have an amendment providing for congressional veto of rules and regulations which will be offered later which will make the Secretary and this new department even more accountable. That is what we have to have.

Mr. HORTON. Mr. Chairman, I move to strike the requisite number of words,

and I rise in opposition to the amendment.

Mr. Chairman, I will not take very long because I made this speech, in a sense, before.

At the present time the FEA regulates the price of oil. ERDA regulates the price of uranium. The Federal Power Commission regulates the price of natural gas.

What we have tried to do in this bill is to give authority to the Secretary of Energy to handle the regulation of the various sources of energy.

Mr. Chairman, this amendment would take away from the Secretary authority that we would transfer to him from the Federal Power Commission.

As the gentleman from Georgia (Mr. LEVITAS) said a moment ago, there was a substitute amendment offered by the gentleman from Illinois (Mr. ERLBORN) to put the authority back in the FPC. Then the gentleman from Michigan (Mr. CONYERS) proposed to set up a separate commission.

Now the gentleman from California (Mr. MOSS) and the gentleman from Ohio (Mr. BROWN) propose that we take away some of the regulatory authority that we have given to the Secretary and put it in the Commission set up as an independent agency within the Department.

In other words, Mr. Chairman, this is just another effort to keep the status quo.

I emphasize again that if we are going to have a Department of Energy, let us give the authority to the Secretary so that he can do the job. If we accept this amendment, we are going to take away his authority. This is a hands-tying amendment as far as the Secretary is concerned.

Therefore, Mr. Chairman, I think it is very important that we defeat this amendment.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for yielding.

I just say that it is just tragic that we are talking about ERDA and FEA, the Federal Power Commission, and now the DOE controlling these prices when the argument should be centered around the marketplace.

Mr. Chairman, we will not solve the problem as long as we try to have the Government artificially set these prices and use force in regulating them.

Mr. HORTON. Mr. Chairman, I am in accord with the gentleman in that respect. I do not want the Government to set the prices. I am in favor of deregulation, and I am in favor of removing controls; but the point I am making is that the status quo has not solved the energy problem.

In order to solve the problem, in my judgment, we need the type of authority which we have given the Secretary.

Mr. SYMMS. Mr. Chairman, if the gentleman will yield further, the problem, in my opinion, is that the status quo has had too much regulation which has been placed on a market system that

would work if given the opportunity; and the position of the committee is going to make it worse. We are going to give a bigger whip to the Government in setting up the Department of Energy. We should be trying to make the whip of Government a little smaller.

Mr. PRITCHARD. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Washington.

Mr. PRITCHARD. Mr. Chairman, I want to rise to support the statements of the gentleman from New York (Mr. HORTON).

I think this is a crucial amendment. I know some Members are not for this Energy Department and that they are against the concept. However, if we believe in the concept and believe we have to solve these different aspects and parts of this problem by putting them together in one agency, we should allow this Department to operate in the manner that the committee has prescribed. We cannot go in two directions at one time.

Mr. Chairman, I think this is a crucial amendment, and it will cripple this Department if we do not vote this amendment down.

Mr. HORTON. Mr. Chairman, I urge a vote against the amendment.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from California, Mr. MOSS.

I would like to point out that this amendment goes halfway in terms of the distance that my amendment, offered earlier, would have gone. I am supporting this amendment. I think it is critical that we do not lose sight of the fact that had the executive branch come to us in the first instance and asked us to take from the congressional authority the power to set prices and put it in the executive branch that, almost to a man and woman in this body, we would have reacted negatively. But when we take this authority and put it in the FPC and then reorganize the Department of Energy and move this in the back door, we are then asking: Will this then lead to deregulation or will it not lead to deregulation? Which I do not believe is the issue at all. I believe this is an extremely important point.

If anyone believes that our seriousness in creating a Department of Energy is going to be measured in terms of whether we take this regulatory pricing authority out of the Department of Energy, I think they are totally misguided. I support completely the principles involved in this amendment. I urge its adoption.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, I thank the gentleman from Michigan for yielding to me.

Mr. Chairman, I would like to make this point: The statement was made a moment ago that those of us pushing this amendment are opposed to the creation of a Department of Energy. Nothing

could be further from the truth. That has not been my intent. It is not now my intent. I also supported the creation of the Department of Transportation but we did not vest in the Secretary of Transportation all the authority over rates that had been previously vested in the Civil Aeronautics Board, and the Interstate Commerce Commission and we did not try to create a transportation czar. Here, for the first time—and, bear this in mind, it is the first time in the history of this Nation—that we have dismantled an independent commission exercising essentially the powers of the Congress itself under the commerce clause of the Constitution and invested those in a single individual.

Even in the courts we have the appellate level of review by more than a single judge. Here we are going to have one man set the rules, one man set the prices and one man spell out the conditions. I think it is ill-advised. I would not vote for it under any administration. I think it is a compromise of the independence of this House. I think it is a compromise of the independence of the ratemaking process. I do not believe that doing away with due process is going to expedite for one moment any breakthrough in energy or achieve any greater efficiency in the field of energy. On the contrary, if one were to take and contrast the handling by the CAB—and it has been sorry on many occasions on domestic air routes—with the handling of the international air routes in the White House, I believe that the answer one will find is very clear: that the very secretive operation at the White House hardly comports with good regulatory procedures or good due process procedures.

Mr. CONYERS. Mr. Chairman, I would like to point out that the argument has been raised that the Congress would have full oversight over the Department of Energy with regard to prices. I would say to the Member of the House that seriously we should realize that oversight is one of the weakest functions the Congress could possibly indulge in. We need to do a lot more, but whether it would effectively develop in this agency I seriously doubt.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I appreciate the gentleman's yielding.

I want to echo my sentiments reflected in the remarks of the gentleman from California and add just one further thought. There is not either any antipathy for the gentleman who will probably be the Secretary of the Department of Energy, Dr. Schlesinger. I have the greatest respect for him and think he will do an excellent job coordinating that Department. But I feel that, whether it be Frank Zarb or Jim Schlesinger or anybody else, this kind of power is too much in the hands of one person.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words.



Mr. McCLODY. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Illinois.

Mr. McCLODY. I thank the gentleman for yielding.

I want to say that I supported the amendment offered earlier by the gentleman from Michigan (Mr. CONYERS). I intend to support the Moss amendment. It was my feeling that this legislation was going to streamline and to simplify the agencies of Government which are involved in the problems of energy. It seems to me that we should take steps to deregulate, to reduce the amount of governmental interference and control, and it seems to me that unless we adopt the Moss-Brown amendment we are going to further complicate and harass the very producers of energy on whom we have to rely for additional sources of energy.

Mr. Chairman, the legislation before us would seem to impose new bureaucratic authority over an industry which is already overburdened with Federal regulations and controls. Recently it was estimated that the additional expenses incurred by the oil industry in the compiling of data and the preparing of reports totaled more than \$500 million just in the past several years—and that the additional annual expense imposed by existing regulations would require oil company expenses of \$45 million each year.

These estimates appear to me to be conservative and do not, of course, include the new additional burdens which will be imposed upon our private economy by this bureaucratic maze.

The unfortunate part which seems to attract little attention is that the entire cost of the new and additional bureaucratic expenses must and will be passed on to the American consumer—that is, the American public—through higher energy costs and through general taxation.

House action should be deferred on this bill because of the huge and growing costs to the consumer and because of its threat to economic freedom. The order and efficiency of a central, overpowering authority is virtually incontrovertible. But as we reject these benefits of such an authority at the cost of personal freedoms, so should we at the cost of economic freedoms.

The desirability of such an order in the chaotic energy area, whose octopus tentacles have a stranglehold on almost every aspect of human endeavor and industry, very well may not be worth the loss of economic freedom existing in the consumer whose countless decisions in the marketplace should more democratically determine prices.

Congress must face up to the responsibility of setting basic energy policy decisions for the new agency to administer and not just "pass the buck" to a new energy "czar." Czars are not our way of government. The Moss amendment would seem to retain some independent regulation of production and wellhead prices of gas and oil.

Our way of government includes

checks and balances and safeguards. H.R. 6804 is deficient in failing to providing these safeguards. Agencies have traditionally been independent of the executive in order to insulate them to some degree from the executive's political pressure. Departure from these traditions should not be done in a rush for a quick solution to our vexing energy problems. Unless substantially amended by adoption of the Moss-Brown amendment—and certain other amendments which will serve to release our private enterprise capacity to produce new and additional sources of energy—I will be constrained to support a motion to recommit this measure to the appropriate committee or committees.

Mr. ECKHARDT. Mr. Chairman, I feel that those who have said it makes no difference whether the authority to regulate price be within the executive department or be protected by a collegial body simply do not understand the basis of this process. We have delegated, and probably necessarily so, the greatest amount of power in this area of energy that this Congress has ever delegated. If we delegate that power directly to the Secretary of a department of the executive branch, we are confounding the situation. We are creating a situation in which the delegation of authority from Congress to engage in policymaking is to the head of a department of the executive branch. I think that would be a grave mistake.

The gentleman from Ohio (Mr. Brown) has pointed out the enormous authority, almost unlimited with respect to procedure, that has been granted to the FEA. Add to that the authority of the Federal Power Commission and leave all this to an executive department's unbridled authority and Congress will have indeed abdicated from its constitutionally defined position as prime policymaker in our divided system of government. We all know that we have some greater opportunity to oversee and influence a regulatory agency, from both sides of this aisle, than to oversee and influence a part of the executive family. We know that the regulatory agencies have to be more nonpartisan, because they have to answer to Congress more directly than do those receiving a part of the executive budget—that of a department. These departments in the executive family can transfer funds from one area to another. Why should we delegate so much authority here today?

I am in favor of the President's program. I have gone to Texas and spoken for the President's program before groups of oil men, independents and majors. I have said it is a good program. So my credentials in support of the President's program are impeccable, I believe.

I opposed the Conyers amendment, because I thought it went too far. I thought FEA functions ought to be directly controlled by the Energy Agency. I thought that was necessary in order to put a fully integrated program together. But when we talk about regulation that has to do with a factual determination of price,

and about quasi-judicial functions, we are talking about a different thing. I have said on this floor before that I suppose I am a substantive liberal but a procedural conservative. I think that the best thing that we could do here today is move a little slower, a little more conservatively with respect to delegation of the exercise of power to regulate the price of gas. It does not make any difference whether one is for deregulation or for regulation. Let us have deregulation or regulation done in an atmosphere which is not affected so directly by the politics of the executive department.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss).

The question was taken; and the chairman announced that the ayes appeared to have it.

#### RECORDED VOTE

Mr. BROOKS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 119, not voting 78, as follows:

[Roll No. 299]

#### AYES—236

|                 |                 |                |
|-----------------|-----------------|----------------|
| Abdnor          | Diggs           | Lagomarsino    |
| Addabbo         | Dingell         | Latta          |
| Alexander       | Dodd            | Le Fante       |
| Allen           | Drinan          | Legett         |
| Andrews,        | Duncan, Oreg.   | Lent           |
| N. Dak.         | Duncan, Tenn.   | Lloyd, Tenn.   |
| Annunzio        | Early           | Long, La.      |
| Archer          | Eckhardt        | Long, Md.      |
| Armstrong       | Edgar           | Lott           |
| Badham          | Edwards, Ala.   | Luken          |
| Badillo         | Edwards, Calif. | McClary        |
| Bafalis         | Edwards, Okla.  | McDade         |
| Baldus          | Emery           | McDonald       |
| Baucus          | English         | McEwen         |
| Bauman          | Erlenborn       | McFadden       |
| Beard, Tenn.    | Ertel           | McGuire        |
| Bedell          | Evans, Colo.    | Mahon          |
| Beilenson       | Evans, Del.     | Markey         |
| Benjamin        | Evans, Ind.     | Marks          |
| Bevill          | Findley         | Marriott       |
| Blaggi          | Fish            | Martin         |
| Boggs           | Fisher          | Mattox         |
| Bonior          | Ford, Mich.     | Metcalfe       |
| Breckinridge    | Forsythe        | Michel         |
| Brodhead        | Frenzel         | Mikulski       |
| Broomfield      | Frey            | Miller, Ohio   |
| Brown, Ohio     | Gammage         | Mitchell, N.Y. |
| Broyhill        | Gephardt        | Moffett        |
| Buchanan        | Gilman          | Moorhead,      |
| Burke, Fla.     | Glickman        | Calif.         |
| Burleson, Tex.  | Goldwater       | Moss           |
| Burton, John    | Gonzalez        | Mottl          |
| Burton, Phillip | Goodling        | Murphy, Ill.   |
| Butler          | Gore            | Murphy, N.Y.   |
| Caputo          | Gradison        | Myers, Ind.    |
| Cederberg       | Grassley        | Nolan          |
| Chisholm        | Guyer           | Nowak          |
| Clawson, Del.   | Hall            | O'Brien        |
| Clay            | Hanley          | Oaker          |
| Cochran         | Hansen          | Oberstar       |
| Cohen           | Harris          | Obey           |
| Coleman         | Harsha          | Ottinger       |
| Collins, Ill.   | Heckler         | Patterson      |
| Collins, Tex.   | Hefel           | Pettis         |
| Conable         | Hightower       | Pickle         |
| Conte           | Holt            | Quayle         |
| Conyers         | Holtzman        | Quie           |
| Corcoran        | Huckaby         | Quillen        |
| Cotter          | Hyde            | Rahall         |
| Coughlin        | Jacobs          | Railsback      |
| Crane           | Johnson, Calif. | Regula         |
| Cunningham      | Kasten          | Reuss          |
| D'Amours        | Kelly           | Rhodes         |
| Daniel, Dan     | Kemp            | Rinaldo        |
| Daniel, R. W.   | Ketchum         | Risenhoover    |
| de la Garza     | Keys            | Roberts        |
| Dellums         | Kildee          | Robinson       |
| Derrick         | Kindness        | Roovers        |
| Derwinski       | Kostmayer       | Roncallo       |
| Dickinson       | Krebs           | Rousselot      |
| Dicks           | Krueger         | Roybal         |

|              |             |             |
|--------------|-------------|-------------|
| Rudd         | Spence      | Vento       |
| Runnels      | Staggers    | Volkmmer    |
| Ruppe        | Stangeland  | Walgren     |
| Russo        | Stanton     | Walker      |
| Santini      | Stark       | Walsh       |
| Sarasin      | Steiger     | Wampler     |
| Satterfield  | Stockman    | Watkins     |
| Sawyer       | Stokes      | Waxman      |
| Sharp        | Studds      | Weiss       |
| Shipley      | Stump       | Whalen      |
| Shuster      | Symms       | White       |
| Simon        | Thone       | Wiggins     |
| Sisk         | Traxler     | Winn        |
| Skelton      | Trible      | Wylie       |
| Skubitz      | Tsongas     | Yates       |
| Slack        | Tucker      | Young, Fla. |
| Smith, Nebr. | Van Deerlin | Zablocki    |
| Snyder       | Vander Jagt |             |
| Solarz       | Vanik       |             |

## NOES—119

|                  |               |                |
|------------------|---------------|----------------|
| Akaka            | Ford, Tenn.   | Murphy, Pa.    |
| Ambro            | Fountain      | Murtha         |
| Ammerman         | Fowler        | Myers, Michael |
| Anderson, Calif. | Fuqua         | Natcher        |
| Applegate        | Gaydos        | Nedzi          |
| Ashley           | Gialmo        | Nix            |
| AuCoin           | Gibbons       | Fanetta        |
| Barnard          | Ginn          | Patten         |
| Beard, R.I.      | Gudger        | Pattison       |
| Bennett          | Hamilton      | Pease          |
| Bingham          | Hannaford     | Perkins        |
| Blanchard        | Harrington    | Pike           |
| B'ouin           | Hawkins       | Preyer         |
| Bolling          | Hefner        | Pritchard      |
| Bonker           | Hillis        | Rangel         |
| Bowen            | Holland       | Richmond       |
| Brademas         | Horton        | Rodino         |
| Brinkley         | Howard        | Rooney         |
| Brooks           | Hubbard       | Rose           |
| Brown, Calif.    | Jenkins       | Rosenthal      |
| Burke, Mass.     | Jones, N.C.   | Rostenkowski   |
| Burlison, Mo.    | Jones, Okla.  | Schroeder      |
| Byron            | Jones, Tenn.  | Schulze        |
| Carney           | Jordan        | Sikes          |
| Carr             | Kastenmeier   | Spellman       |
| Cavanaugh        | Kazen         | St Germain     |
| Cleveland        | LaFalce       | Steed          |
| Corman           | Lederer       | Thornton       |
| Cornell          | Levitas       | Treen          |
| Cornwell         | Lundine       | Udall          |
| Danielson        | McCoskey      | Ullman         |
| Ellberg          | McHugh        | Whitley        |
| Evans, Ga.       | Madigan       | Whitten        |
| Fasell           | Mathis        | Wilson, C. H.  |
| Fenwick          | Mazzoli       | Wilson, Tex.   |
| Fithian          | Meeds         | Wirth          |
| Flippo           | Meyner        | Wolf           |
| Flynt            | Montgomery    | Wright         |
| Foley            | Moore         | Yatron         |
|                  | Moorhead, Pa. | Young, Tex.    |

## NOT VOTING—78

|                |                |               |
|----------------|----------------|---------------|
| Anderson, Ill. | Harkin         | Neal          |
| Andrews, N.C.  | Hollenbeck     | Nichols       |
| Ashbrook       | Hughes         | Pepper        |
| Aspin          | Ichord         | Poage         |
| Bo. and        | Ireland        | Pressler      |
| Breaux         | Jeffords       | Price         |
| Brown, Mich.   | Jenrette       | Pursell       |
| Burgener       | Johnson, Colo. | Roe           |
| Burke, Calif.  | Koch           | Ryan          |
| Carter         | Leach          | Scheuer       |
| Chappell       | Lehman         | Sebelius      |
| Clausen.       | Lloyd, Calif.  | Seiberling    |
| Don H.         | Lujan          | Smith, Iowa   |
| Davis          | McCormack      | Steers        |
| Delaney        | McKay          | Stratton      |
| Dent           | McKinney       | Taylor        |
| Devine         | Mann           | Teague        |
| Dornan         | Marlenee       | Thompson      |
| Downey         | Mikva          | Waggonner     |
| Fary           | Milford        | Weaver        |
| Flood          | Miller, Calif. | Whitehurst    |
| Florio         | Mineta         | Wilson, Bob   |
| Flowers        | Minish         | Wyder         |
| Fraser         | Mitchell, Md.  | Young, Alaska |
| Hagedorn       | Moakley        | Young, Mo.    |
| Hammer-        | Mollohan       | Zeferetti     |
| schmidt        | Myers, Gary    |               |

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. McKay against.  
 Mr. Florio for, with Mr. Davis against.  
 Mr. Nichols for, with Mr. Thompson against.  
 Mr. Marlenee for, with Mr. Chappell against.  
 Mr. Devine for, with Mr. Boland against.  
 Mr. Carter for, with Mr. Mitchell of Maryland against.

Mr. Taylor for, with Mr. Minish against.  
 Mr. Young of Alaska for, with Mr. Koch against.

Mr. Whitehurst for, with Mr. Pepper against.

Mr. Dornan for, with Mrs. Burke of California against.

Mr. FLIPPO and Mr. FITHIAN changed their vote from "aye" to "no."

Mr. KELLY and Mr. RUSSO changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

## AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Page 76, line 25, strike out all of line 25 through line 3, page 77.

Mr. DINGELL. Mr. Chairman, this is a very simple, but important amendment.

The bill transfers to the new Secretary authority to establish priorities in the case of curtailments under the Natural Gas Act. That power is now vested in the Federal Power Commission.

I believe that this is the kind of power over business, over industry, and over the lives of our citizens that ought to be vested in the Commission, and we should consider it in that light for the same reason that we acted on the Moss amendment, which was just agreed to. This is a function that affects the homes, the businesses, the jobs, and the industries of all the American people, just as does the rate function.

The power to curtail is the power to deny heat, light, and energy to the homes of America. It is not the kind of power that should be vested in one man; it is the kind of power which should be vested in a collegial body.

The reason for that is that a collegial body has certain requirements under law which it obviously must meet and which it cannot escape meeting because of the capacity in which it functions. Under the Sunshine Act this kind of action must be taken in an open public meeting. When the Secretary takes an action of this kind, he does it behind closed doors.

Mr. Chairman, I would point out to my colleagues that this is the kind of action which should be taken in the openness of daylight and where the public would have the opportunity to see who will be curtailed.

In a hearing which my subcommittee held last week to go into this question, my colleague and friend, the gentleman from New Jersey (Mr. MAGUIRE), asked questions with regard to this matter. Let me read for the Members what appears in the record:

Mr. MAGUIRE. The question could then be who should set that general curtailment strategy, and I don't think in terms of emergency actions of the sort you have described that that would necessarily mean that that had to be done by the Secretary. It could equally well be done by a collegial body.

Mr. O'LEARY. It could be.

Mr. MAGUIRE. Thank you, Mr. Chairman.

Mr. Chairman, let me go back to a point a little earlier and read another

inquiry made by the gentleman from New Jersey (Mr. MAGUIRE). This is what he said:

Now, my question is, aren't curtailment priorities best established well in advance of an emergency? Presumably they would not be established at the moment.

He is referring, of course, to the moment at which the emergency occurred.

Mr. O'Leary, responding to the question of our friend and colleague, the gentleman from New Jersey (Mr. MAGUIRE), said as follows:

Mr. Maguire, they are indeed established well in advance of emergency. The point that you have to concern yourself with here are decisions within categories. For example, if you are down to the point of cutting two's—

And that is two categories—

Who goes first, the agricultural people, or the school, or that sort of decision, those sorts of things you have to more or less take in the context of what is going on at the moment, I think, are properly the emergency functions in a Secretary.

Mr. Chairman, what was said really was that we are now choosing under the curtailment power who loses heat for his home, who loses heat for his business, who loses heat for a school, and who loses heat or energy for his activities which are required.

If my colleagues will think back to what happened last fall when we were seeing curtailments across the country, they might well ask: Would we rather have that judgment made by a collegial commission functioning under the Sunshine Act—open daylight of the decision-making process by a group of persons functioning under law—or would we rather have it made by a Secretary functioning behind closed doors?

Mr. Chairman, I have great respect for Mr. Schlesinger. He is a fine and an honorable man, and he will probably be a great and honorable Secretary. I have every confidence in him. But the fact of the matter is that we do not know who will be succeeding him or who will be participating in the decisions with regard to these matters.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Mr. Chairman, I mentioned the name of my friend, the gentleman from New Jersey (Mr. MAGUIRE), and I will be happy to yield to him.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to thank the gentleman from Michigan (Mr. DINGELL) for offering this amendment. I think it is an excellent amendment. It does follow on in line with the colloquy the gentleman has cited from one of our earlier hearings.

I might make two additional points. The first is that I certainly agree—and I am sure the gentleman in the well also agrees—that the Secretary needs in times of emergency to have such powers.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(On request of Mr. MAGUIRE and by unanimous consent, Mr. DINGELL was



allowed to proceed for 2 additional minutes.)

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I will continue to yield to my friend, the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman.

I would just point out that the planned energy legislation does incorporate a 2-year extension of the emergency natural gas provisions promulgated in that regard, with the powers vested in the President for dealing with emergencies.

What we are asking for in this amendment—and I join with the gentleman from Michigan (Mr. DINGELL) in offering it and supporting it—is simply that the basic judgments about categories should be made calmly and dispassionately in advance by a collegial body.

The same arguments that applied a moment ago to the Moss amendment apply equally to this amendment; and I would point out as well that we are not talking about an issue which relates to pricing or production or supply or any of the complicated supply-and-demand issues which we will be getting into later, but simply, given an amount of gas, who is going to get it?

That should not be a political decision; that should not be a decision made by one individual; it should be a decision made by a collegial body.

Mr. Chairman, I urge adoption of the gentleman's amendment.

Mr. DINGELL. Mr. Chairman, I join the gentleman in the broad openness of daylight, and on behalf of due process and against ex parte communication. I urge the adoption of my amendment.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would say that priority for curtailments is not a case-by-case matter. It is not price setting.

If we want to have a Secretary of the Department of Energy who has any authority, who can make plans to eliminate the possibility of emergencies, and if they do not work, who has the authority and the capacity to meet the emergencies for this country in natural gas curtailments, then we should leave it in the Secretary.

If we want to take all of the authority away from the Secretary and give it to the great Commission which we have created and which will be somewhat irrelevant to the problem of gas and oil shortages in this country, if that is what we want to do, then we should do it. However, I think it is a very unwise thing to take all of the authority away from the Secretary and turn it back over to a commission. We would be headed back into the same area from which we came, with semi-independent bodies making decisions; and we are not going to be in a position to do much better with our energy problems than we have in the past.

Mr. Chairman, these persons can just think back to the problems we have

had with the FPC and think about how long we took or how long our constituents took to get their cases adjudicated. Some of them made a career out of riding back and forth from Houston to Washington on those FPC cases.

Mr. Chairman, I do not think this amendment is necessary, and I urge a no vote.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, it seems to me that the argument of the proponents of the pending amendment and that which was just adopted, is that there is no sense of urgency. We can go on doing things in the same way we have been doing them. The argument seems to say that we need to do nothing to prevent a crisis—we should wait until the crisis develops. But I submit there is an energy crisis in the United States and we need a Secretary of Energy with enough authority to deal with the crisis. This amendment denies the Secretary that authority and should be defeated.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I would like to point out that in the colloquy with Mr. O'Leary, he indicated that the board would, in any case under their general policy, also reserve power to decide individual cases.

We are dealing here with three different categories: overall curtailment strategy, individual cases, and emergency powers.

We agree with the administration that the case-by-case issues ought to be handled by the board and that the emergency powers ought to be vested in the President. The only point of disagreement is whether the overall strategies are to be set by the board or by the Secretary.

We are saying that it should be by the board because that can be set well in advance, and it does not impinge on anybody's emergency, and also, it is not prejudged.

Mr. BROOKS. Mr. Chairman, I thank the gentleman.

I think the Secretary should have the authority to make these plans in advance and to meet crises that come about in this country.

If we do not believe in that, Mr. Chairman, let us vote for the amendment and give the Commission 6 months. However, when it gets cold in the wintertime and our constituents question us about it, we should just tell them how we voted.

Mr. MOSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I think it is well to understand what is being proposed here. It is nothing violent. It is nothing regressive. We are not moving back to any

pattern of the past. But, in dealing with orderly, long-range planning, we say that the decisions on curtailment schedules, on curtailments pursuant to a master plan, should be put together by the collegial body. The emergency powers, in the event of a crisis, exist and can be exercised. It is vested in the President who may delegate that power.

But there is no valid reason why the collegial body, following the normal procedures with opportunity for hearings—and I was rather shocked at my good friend, the gentleman from Florida (Mr. FASCELL), the father of the Sunshine Act, for standing here and urging that we create a situation in which sunshine certainly will not cast its rays upon the actions of the Secretary in the exercise of this function. But I do appreciate the path that the gentleman from Florida helped launch us on. Having some of these actions taken in the open, with a record, with a hearing, with the opportunity to insure that all parties and all viewpoints are considered is necessary. That is all that is being asked for here. The emergency matters are taken care of. But the long range, orderly planning, you have a right, as an individual, you have a right as a businessman, as a manufacturer, as a user of these energy products, to know under what conditions curtailments would occur and under what guidelines.

I think the amendment should be adopted.

Mr. HORTON. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, what we tried to do when we reported this bill was to take certain regulatory functions of the Federal Power Commission and give them to the Secretary. With the last amendment, the Moss amendment, we knocked out two of those eight. Now we have an amendment before us to knock out the third of those authorities that the Federal Power Commission had. So we are rapidly getting back to the Erlenborn amendment, which was to leave the Federal Power Commission as it was.

I went along with the administration on this proposal because I feel very strongly that there is a need for a unified energy policy in this Government. At the present time it is very diversified. The Secretaries of several departments and agencies have jurisdiction over energy in this country. If we are going to have any cohesive policy at all, it is going to require that the Secretary have some authority on this question of curtailment. Again, in my judgment, it is very important for the Secretary of Energy to have this authority. If we want to maintain the status quo, then why don't we keep ERDA as it is, FEA as it is, and the Federal Power Commission as it is, and not try to establish a Department of Energy to resolve these problems?

Here again we are undercutting the authority the committee feels the Secretary should have in order to do a job. It is very important authority.

I would hope that this amendment will be defeated.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I would be glad to yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I would like to know, if this amendment is adopted, whether the Secretary would have the authority to direct the Board to establish a new curtailment plan. How can the Secretary in administering a national energy policy be assured that the Board will consider such policy? If he has no authority to do that, and it is only on the initiative of the Board, then we will be long, into a winter crisis before we ever get a plan adopted and administered.

Mr. HORTON. That is a good point.

The other point I would like to make, Mr. Chairman, is that, in studying this legislation, and in studying what was presented to us, I came to the conclusion that I would rather have a Secretary responsible to the Congress, than a collegial board because the collegial boards have not been too responsive to the Congress, especially in matters of energy.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Michigan.

Mr. DINGELL. I do thank my colleague because he has asked a very serious question. The answer is the Federal Power Commission has done a very fine job in providing for curtailments, and there have been no serious complaints about the decisions they have made or the way in which they have acted. They have provided for curtailments well in advance. They are well known and well understood, and they are achieved in the eye of the public and not behind closed doors.

Mr. HORTON. Why do we have a gas shortage this year?

Mr. DINGELL. If the gentleman will yield further, that is a question, I would point out to my good friend and colleague, that we will be debating shortly when we get to the substantive questions around which the procedural questions and the organizational questions we are now addressing revolve.

Mr. HORTON. The point I am making is I think it is important to have a Department of Energy and a Secretary with authority. If we keep whittling away the authority, we might as well leave the situation as it is.

Mr. Chairman, I urge that the amendment not be adopted.

Mr. ALLEN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I voted for the Moss amendment. This was an amendment that applied to individual cases that would come before a determinative body, and where we wanted to protect the right of the people to due process of law. However, we have in this country a grave national emergency. We heard the President from this rostrum, just a few months ago, tell us of a worldwide shortage in the crude oil reserves;

and through his Secretary of Energy he wants to conserve this essential natural resource, through the agency created by this bill, to the fullest extent possible.

The President was elected by the people, and is answerable to the people. He is answerable for the conduct of his Secretary of Energy. The most responsible thing we can do in this matter, it seems to me, is to permit the President of the United States through this agency and Secretary of Energy to establish the policy that needs to be adopted to assure the people of this country in the long run that we have the natural resources to provide the energy that this country needs.

Certainly an appointed board is answerable to nobody. But the Secretary of Energy, or of the Department of Energy, is answerable to the President, and the President is answerable to the people. For that reason I say that this matter of long-range planning, and decisions as to how much of what kind of energy should be used, how much crude oil should be permitted to be refined and used, are decisions that should be made by the Department of Energy and the Secretary answerable to the President. If we are not going to do that, let us just scrap the whole bill and forget the whole thing, because it serves no purpose at all to have a bill in which the President, who is answerable to the people, is not going to be given the power to take such actions and make such decisions as he may deem necessary to meet his very grave responsibility to protect the health, safety, and economy of this Nation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The amendment was rejected.

#### AMENDMENT OFFERED BY MR. UDALL

Mr. UDALL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. UDALL: On page 79, lines 16 through 20, strike section 302 (d) (1) (C), and renumber section 302 (d) (1) (D) and section 302 (d) (1) (E) accordingly; and

On page 81, lines 8 through 14, strike section 303 and renumber title III accordingly.

Mr. UDALL. Mr. Chairman, we need a Department of Energy, and we are in energy trouble. I support the structure and outline of this bill. I have been with the committee on nearly all of the amendments today. I do not like to see a lot of power put in the hands of one strong individual, but I suspect we are going to need it, so I have broadly supported this bill.

I do want to make one change in it, and that is what this amendment is about. It relates to the relationship of the Secretary of Energy and the Secretary of the Interior with regard to leasing energy resources.

The American people are lucky in one respect as we go into this energy situation, that is that most of the remaining energy reserves are not owned by oil companies and are not owned by private individuals; they are owned by the Amer-

ican people. The offshore oil and gas we own, the coal in Western lands the people own, and the oil shale in the Rocky Mountains is largely federally owned, and the uranium ore is largely on Federal lands, the same with geothermal sites.

So one of the questions in the years ahead is how we deal with the Federal lands and resources. How do we manage to get the energy resources we need out of those lands and yet do it in ways to protect the environment and to protect the cattle and the timber people who have interests, and to protect all the values including recreation on those public lands? That is what is involved here.

Are we going to have Federal lands managed by the Secretary of Energy who has a single focus and whose sole job is to produce energy, or are we going to have day by day Federal lands and resources managed by a trained and experienced set of land managers that we have now in place in the Department of the Interior?

So my amendment would draw, I think, the necessary distinction between the overall economic considerations which the Secretary of Energy ought to determine and we leave him with the determination of that. The Energy Secretary, Mr. Schlesinger, is going to write guidelines and is going to make decisions on competition and on alternative bidding systems and rates of production and Federal royalty levels and these kinds of things. I think we can draw that distinction and still leave the day by day management of the public lands with the Secretary of the Interior to take care of these multiple uses and environmental values which are involved.

So my amendment in part will strike out section 303, which says the Secretary of Energy, after the Department of Interior has negotiated leases, and there will be thousands of them, then Energy Secretary has the right to go through and veto any paragraph or word or page or section of thousands of leases. What I would do is to give the Energy Secretary the right to make overall guidelines, to say what economic principles should govern these leases, but to leave negotiation, execution, and management of individual leases in the hands of the Secretary of the Interior who has the expertise and who has the trained land managers who are now on the job. This is all the amendment does.

It makes no basic change in the structure of the Energy Department but strikes a better balance between management of diverse values of public lands and energy purposes we all support. I hope the amendment will be adopted.

Mr. BROOKS. Mr. Chairman, I rise to oppose the amendment of the gentleman from Arizona.

The leasing arrangement between the Department of Energy and the Department of the Interior, as contained in the committee reported bill, strikes a fair balance between energy production and multiple use considerations. The division of responsibilities allows each Department to consider and act on those areas



in which it has the greatest interests—Energy with regard to economic terms and conditions and Interior with regard to environmental protection and multiple use constraints.

The sections which the pending amendment would delete are vital in maintaining that balance. The ability of the Department of Energy to issue regulations relating to diligent development of leased resources is vital if we are to insure the development of these resources for the benefit of the American people, rather than for the encouragement of speculative holding of such resources for the benefit of the lessee. This is properly a function of the Energy Department, which will be and should be concerned with obtaining the production needed from Federal lands to help insure us an adequate supply of energy. But it does not mean that the Energy Department can ride roughshod over environmental concerns in the issuance of these diligence regulations. The Interior Secretary will retain the power to enforce environmental conditions in the development of Federal leases. This power will not be mitigated by the new division of responsibility with the Secretary of Energy.

The second part of the pending amendment would eliminate the ability of the Energy Department to disapprove terms and conditions of individual leases. First, let me make clear that this disapproval right, in the committee-reported bill, extends only to the specific economic areas outlined in section 302 (d) (1) in which the Secretary of Energy can issue regulations. It does not extend to disapproving other terms and conditions of leases. But this disapproval right is essential if the Energy Department is to effectively translate the regulations issued on a general basis into reality at the individual lease level. Without this disapproval right, the power of the Energy Department to monitor the degree of adherence to the general regulations it has issued will be severely diminished. And the interaction between the Energy and Interior Departments regarding individual leases will likely result in a better decision being made in the end, as both energy and environmental factors are considered.

The leasing provisions of the committee-reported bill have been fully agreed to by Secretary of the Interior Andrus. It is my understanding that he believes the division of responsibility makes sense and is in the public interest. I similarly believe the committee-reported bill strikes a proper balance.

I therefore urge defeat of the Udall amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. UDALL).

The question was taken; and on a division (demanded by Mr. UDALL) there were—ayes 29, noes 29.

#### RECORDED VOTE

Mr. UDALL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 180, not voting 83, as follows:

#### [Roll No. 300]

##### AYES—170

|                  |                 |              |
|------------------|-----------------|--------------|
| Andrews, N. Dak. | Frey            | Pattison     |
| Archer           | Gilman          | Pease        |
| Armstrong        | Goldwater       | Pickle       |
| AuCoin           | Gooding         | Quayle       |
| Badillo          | Gore            | Quillen      |
| Baucus           | Grassley        | Railsback    |
| Bauman           | Gudger          | Rangel       |
| Beard, R.I.      | Hansen          | Regula       |
| Beard, Tenn.     | Harris          | Reuss        |
| Bedell           | Heckler         | Rhodes       |
| Bellenson        | Heftel          | Richmond     |
| Bingham          | Holland         | Rinaldo      |
| Blanchard        | Holt            | Risenhoover  |
| Blouin           | Holtzman        | Roncalio     |
| Bonior           | Howard          | Rousselot    |
| Bonior           | Huckaby         | Roybal       |
| Bonior           | Jacobs          | Rudd         |
| Breckinridge     | Johnson, Calif. | Runnels      |
| Brodhead         | Kasten          | Ruppe        |
| Brown, Calif.    | Kastenmeier     | Russo        |
| Buchanan         | Kazen           | Santini      |
| Burke, Fla.      | Kemp            | Satterfield  |
| Burleson, Tex.   | Keys            | Sawyer       |
| Burton, Phillip  | Kildee          | Scheuer      |
| Caputo           | Kostmayer       | Schroeder    |
| Carr             | Krebs           | Shiely       |
| Cavanaugh        | Lagomarsino     | Simon        |
| Chisholm         | Latta           | Skubitz      |
| Clawson, Del.    | Le Fante        | Slack        |
| Clay             | Lederer         | Smith, Nebr. |
| Cohen            | Leggett         | Spellman     |
| Collins, Ill.    | Long, Md.       | Spence       |
| Collins, Tex.    | McClary         | Stanton      |
| Conte            | McDonald        | Stark        |
| Corcoran         | McHugh          | Stockman     |
| Corman           | Maguire         | Stokes       |
| Cornell          | Markey          | Studds       |
| Crane            | Marks           | Stump        |
| Cunningham       | Marriott        | Thone        |
| D'Amours         | Meeds           | Tsongas      |
| Dellums          | Metcalf         | Udall        |
| Diggs            | Meyner          | Ullman       |
| Drinan           | Mikulski        | Van Deerlin  |
| Duncan, Tenn.    | Miller, Ohio    | Vander Jagt  |
| Early            | Mitchell, Md.   | Vank         |
| Edgar            | Moakley         | Vento        |
| Edwards, Calif.  | Moffett         | Volkmer      |
| Ellberg          | Moss            | Walgren      |
| Evans, Del.      | Mottl           | Walker       |
| Evans, Ind.      | Murphy, Pa.     | Wampler      |
| Fenwick          | Myers, Michael  | Wayman       |
| Findley          | Nix             | Weiss        |
| Fish             | Nolan           | Whalen       |
| Fisher           | Oberstar        | Winn         |
| Ford, Mich.      | Obey            | Wirth        |
| Forsythe         | Oettinger       | Yates        |
| Frenzel          | Patterson       | Young, Fla.  |

##### NOES—180

|                  |                |                  |
|------------------|----------------|------------------|
| Abdnor           | Daniel, R. W.  | Hawkins          |
| Addabbo          | Danielson      | Hefner           |
| Akaka            | de la Garza    | Hightower        |
| Alexander        | Derrick        | Hillis           |
| Allen            | Derwinski      | Horton           |
| Ambro            | Dickinson      | Hubbard          |
| Ammerman         | Dicks          | Hyde             |
| Anderson, Calif. | Dingell        | Jenkins          |
| Annunzio         | Dodd           | Jones, N.C.      |
| Applegate        | Duncan, Ore.   | Jones, Okla.     |
| Ashley           | Eckhardt       | Jones, Tenn.     |
| Badham           | Edwards, Ala.  | Jordan           |
| Barnard          | Edwards, Okla. | Kelly            |
| Benjamin         | Emery          | Ketchum          |
| Bennett          | English        | Kindness         |
| Bevill           | Erlenborn      | Krueger          |
| Biaggi           | Ertel          | LaFalce          |
| Boggs            | Evans, Colo.   | Lent             |
| Boland           | Evans, Ga.     | Levit            |
| Bolling          | Fascell        | Lloyd, Tenn.     |
| Bowen            | Fithian        | Long, La.        |
| Brademas         | Flynt          | Lott             |
| Brinkley         | Foley          | Lukens           |
| Brooks           | Ford, Tenn.    | Lundine          |
| Broomfield       | Fountain       | McCloskey        |
| Brown, Ohio      | Fowler         | McEwen           |
| Broyhill         | Fuqua          | McFall           |
| Burke, Mass.     | Gammage        | Madigan          |
| Burlison, Mo.    | Gaydos         | Mahon            |
| Burton, John     | Gephardt       | Martin           |
| Butler           | Gibbons        | Mathis           |
| Byron            | Ginn           | Mattox           |
| Carney           | Gluckman       | Mazzoli          |
| Cederberg        | Gonzalez       | Michel           |
| Cleveland        | Gradison       | Mitchell, N.Y.   |
| Cochran          | Guyer          | Montgomery       |
| Coleman          | Hall           | Moore            |
| Conable          | Hamilton       | Moorhead, Calif. |
| Cornwell         | Hanley         | Moorhead, Pa.    |
| Coughlin         | Hanna          | Murphy, Ill.     |
| Daniel, Dan      | Harrington     | Murphy, N.Y.     |
|                  | Harsha         |                  |

|             |              |               |
|-------------|--------------|---------------|
| Murtha      | Rogers       | Traxler       |
| Myers, Ind. | Rooney       | Treen         |
| Natcher     | Rose         | Trible        |
| Nedzi       | Rostenkowski | Tucker        |
| Nowak       | Sarasin      | Walsh         |
| O'Brien     | Schulze      | Watkins       |
| Oakar       | Sharp        | White         |
| Panetta     | Shuster      | Whitley       |
| Patten      | Sikes        | Whitten       |
| Perkins     | Sisk         | Wiggins       |
| Pettis      | Skelton      | Wilson, C. H. |
| Pike        | Snyder       | Wilson, Tex.  |
| Preyer      | Solarz       | Wolf          |
| Pritchard   | Staggers     | Wright        |
| Quile       | Stangeland   | Wylie         |
| Rahall      | Steed        | Yatron        |
| Roberts     | Steiger      | Young, Tex.   |
| Robinson    | Symms        | Zablocki      |
| Rodino      | Thornton     |               |

##### NOT VOTING—83

|                |                |               |
|----------------|----------------|---------------|
| Anderson, Ill. | Hagedorn       | Neal          |
| Andrews, N.C.  | Hammer-        | Nichols       |
| Ashbrook       | schmidt        | Pepper        |
| Aspin          | Harkin         | Pease         |
| Bafalis        | Hollenbeck     | Pressler      |
| Baldus         | Hughes         | Price         |
| Breaux         | Ichord         | Purseell      |
| Brown, Mich.   | Ireland        | Roe           |
| Burgener       | Jeffords       | Rosenthal     |
| Burke, Calif.  | Jenrette       | Ryan          |
| Carter         | Johnson, Colo. | Sebelius      |
| Chappell       | Koch           | Seiberling    |
| Clausen        | Leach          | Smith, Iowa   |
| Don H.         | Lehman         | St Germain    |
| Conyers        | Lloyd, Calif.  | Steers        |
| Cotter         | Lujan          | Stratton      |
| Davis          | McCormack      | Taylor        |
| Delaney        | McDade         | Teague        |
| Dent           | McKay          | Thompson      |
| Devine         | McKinney       | Waggonner     |
| Dornan         | Mann           | Weaver        |
| Downey         | Marlenee       | Whitehurst    |
| Fary           | Mikva          | Wilson, Bob   |
| Filippo        | Millford       | Wyder         |
| Flood          | Miller, Calif. | Young, Alaska |
| Florio         | Mineta         | Young, Mo.    |
| Flowers        | Minish         | Zefiretti     |
| Fraser         | Mollohan       |               |
| Giaimo         | Myers, Gary    |               |

Mr. SARASIN changed his vote from "aye" to "no."

Mrs. FENWICK and Messrs. EARLY, ARCHER, and SATTERFIELD changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

#### AMENDMENT OFFERED BY MR. MEEDS

Mr. MEEDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MEEDS:

Strike subsection (a) through (c) of section 302, page 77, line 15 through page 79, line 4, and insert in lieu thereof the following:

SEC. 302. (a) There are hereby transferred to and vested in the Secretary all functions and authorities of the Secretary of the Interior under section 5 of the Food Control Act of 1944 (16 U.S.C. 825s), and all other functions and authorities of the Secretary of the Interior, and officers and components of the Department of the Interior, with respect to—

(1) the Southeastern Power Administration;

(2) the Southwestern Power Administration;

(3) the Alaska Power Administration;

(4) the Bonneville Power Administration including but not limited to the authority contained in the Bonneville Project Act of 1937 (50 Stat. 731), as amended, and the Federal Columbia River Transmission System Act (88 Stat. 1376);

(5) the power marketing functions of the Bureau of Reclamation including the construction, operation, and maintenance of transmission lines and attendant facilities; and

(6) the transmission and disposition of the electric power and energy generated at

Falcon Dam and Amistad Dam, international storage reservoir projects on the Rio Grande, pursuant to the Act of June 18, 1954, as amended by the Act of December 23, 1963.

(b) The Southeastern Power Administration, the Southwestern Power Administration, the Bonneville Power Administration, and the Alaska Power Administration shall be preserved as separate and distinct organizational entities within the Department; shall each be headed by an Administrator appointed by the Secretary. The functions and authority hereby transferred to the Secretary shall be exercised by the Secretary, acting by and through such Administrators. Each such Administrator shall maintain his principal office at a place located in the region served by his respective Federal power marketing entity.

(c) There is hereby created a separate and distinct Administration within the Department of Energy which shall be headed by an Administrator appointed by the Secretary. The functions and authority transferred in paragraph (a) (5) or (a) (6) of this section shall be exercised by the Secretary, acting by and through such Administrator; and the Administrator shall establish and shall maintain such regional offices as necessary to facilitate the performance of such functions. Neither the transfer of functions and authority effected by subsection a(5) of this section nor any changes in cost allocation or project evaluation standards shall be deemed to authorize the reallocation of joint costs of multipurpose facilities theretofore allocated unless and to the extent that such change is hereafter approved by Congress.

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MEEDS. Mr. Chairman, this amendment is designed to accomplish three objectives.

First, it would transfer to the Department of Energy the transmission line functions of the Bureau of Reclamation. At present, section 302(A) only provides for the transfer to the Department of Energy of the Bureau of Reclamation's power marketing functions, leaving the Bureau of Reclamation with the authority to administer its own transmission lines. As a result of this partial transfer of functions, power customers of the Bureau would have to deal with the Department of Energy on matters concerning rates and power supply and then would have to turn to the Bureau of Reclamation to arrange for the transmission of power. This amendment, by transferring to the Department of Energy both the power marketing and transmission line functions of the Bureau of Reclamation, would eliminate unnecessary multiagency actions, would greatly simplify negotiations of power customers, and would focus all authority in this area in the Department of Energy.

Second, the amendment provides for separate Administrators within the Department of Energy for each of the four Federal power marketing agencies and the Bureau of Reclamation. In addition, the amendment mandates that each such Administrator shall maintain his prin-

cipal office within the region served by his agency.

Mr. Chairman, the purpose of these portions of the amendment is to insure that these agencies and the Bureau of Reclamation are preserved as separate and distinct organizational entities within the Department of Energy, able to function on a regional basis. Through years of cooperation with State and local authorities, public and private utilities, and industrial power users, each of these entities have become an integral part of the power planning and allocation programs of the regions in which they operate. By allowing local and State access to personnel administering power programs, by encouraging local innovation, and by considering purely regional needs and requirements, each of these organizations have managed to develop regional power supply programs best able to serve the communities of each region. If the regional nature of these entities is destroyed by the creation of the Department of Energy, the results of years of mutually advantageous cooperation will be seriously threatened.

The Bonneville Power Administration provides an excellent example of the extent of present regional administration. Since its creation in 1937, the Bonneville Power Administration has always exercised independent responsibility over such matters as the administration of its budget, local labor relations, the procurement of legal services, construction contracts, power supply contracts, claim settlements, selection of technical expertise and utilization of local administrative skills. As a result of such regional interaction, the Bonneville Power Administration has been able to meet the constantly changing power needs of the Pacific Northwest.

Mr. Chairman, I would like to stress that it is absolutely imperative that Bonneville Power Administration, along with the other three Federal power marketing agencies and the Bureau of Reclamation, be allowed to continue to exercise independent responsibility over such matters. Without the authority to make independent decisions based on regional needs, the effectiveness of the regional entities is jeopardized. I believe this amendment will prevent this.

Third, this amendment would insure that cost allocations of presently constructed multipurpose projects will not be changed without the approval of Congress.

The need for this section of the amendment stems from the fact that H.R. 6804 separates power marketing responsibilities from responsibilities associated with the development of water resources and the marketing of that water for agricultural, municipal and industrial purposes in areas served by the Bureau of Reclamation. In the past, the Department of Interior, acting through the Bureau of Reclamation, has determined, after approval by Congress, how the costs and repayment obligations should be allocated between the power and water aspects of multipurpose water resources projects. However, H.R. 6804, by dividing these re-

sponsibilities between the Department of Energy and the Department of Interior, will create a situation where these two departments could be at odds with each other over the proper division of joint costs and repayment obligations.

Mr. Chairman, this amendment merely insures that this conflict will not take place by requiring congressional approval of any changes in cost allocations and repayment obligations.

I hope this amendment will be adopted.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I would say to my distinguished friend, the gentleman from Washington (Mr. MEEDS), that I have looked over his amendment, and I have had discussions with him during the last couple of days and particularly during the last couple of hours. I find that it is an acceptable amendment, and would be constructive, helpful, equitable, and desirable.

Therefore, Mr. Chairman, I would be perfectly willing to support it.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, when we were before the Committee on Rules the other day, the gentleman indicated that he was going to offer such an amendment here today. We have seen his amendment, and it is acceptable to our side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. MEEDS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. EDGAR

Mr. EDGAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDGAR: Page 84, after line 16, add the following new section:

SEC. 311. Notwithstanding section 301(a), there are hereby transferred to, and vested in, the Secretary of Transportation all of the functions vested in the Administrator of the Federal Energy Administration by section 381(b)(1)(B) of the Energy Policy and Conservation Act.

Mr. EDGAR. Mr. Chairman, my amendment transfers to the Department of Transportation the existing vanpool and carpool program administered by the Federal Energy Administration. The Department already administers various programs which promote carpooling and vanpooling. For example, the Federal Highway Administration administers a program authorized by the Emergency Highway Energy Conservation Act which allows States to utilize certain highway funds for carpooling and vanpooling. Over \$11 million has been set aside by States to fund these programs. The Urban Mass Transportation Administration also funds a number of vanpooling demonstration programs.

I have no complaints about the FEA program, which was authorized by section 381 of the Energy Policy and Conservation Act. The program is poorly



funded, with operating funds for only two full-time employees and less than \$1 million grant money. I am very pleased with FEA Administrator John O'Leary's attitude toward this innovative and cost-effective form of transit. Yet I see a general problem which could stifle effective Federal involvement in encouraging ridesharing, in its forms of vanpooling and carpooling.

Vanpooling and carpooling promotion is duplicated within FEA, UMTA, FHWA, and to a lesser extent, within EPA. These programs have sprouted as a reaction to the many benefits provided by vanpooling and carpooling programs. FEA would naturally be interested because each commuter van saves an average of 5,000 gallons each year. The Congressional Budget Office issued a study on the President's energy plan the other day, which estimated that the gasoline tax proposal would save an estimated 65,000 barrels each day. Just 20,000 commuter vans, none of which require a Government subsidy or compete with existing mass transit systems, would save as much fuel as the gasoline tax which is causing such an outrage in these halls. Over 1,000 of these vans are already on our highways each workday. The President proposes using 6,000 vans for Federal employees on a reimbursable basis. It follows that 20,000 vans is not an unrealistic goal for 1985.

The Environmental Protection Agency is interested in vanpool programs because each commuter van replaces six vehicles, keeping 2 tons of pollutants out of the atmosphere. In some highly urbanized areas which suffer high pollution loads, EPA has required large employers to offer vanpool programs.

The Federal Highway Administration is interested because our highways are clogged during rush hours. Substituting vans for private autos reduces traffic congestion and lowers highway maintenance requirements.

The Urban Mass Transportation Administration recognizes that it is impractical to build subways in every city, and that public mass transit opportunities are not cost-effective except in areas of high population density. Vanpools bridge the gap between private and public transit with significant savings to participants.

My amendment is sensitive to the need to streamline government and remove layers of bureaucracy and waste. I am a strong proponent of placing the entire vanpooling and carpooling effort into a single office within the Department of Transportation. During questioning of FEA Administrator O'Leary which occurred at hearings of the House Surface Transportation Subcommittee, he noted that DOT would be the most appropriate agency should a single office be established.

My amendment is the first step in creating an office to consolidate the many carpooling and vanpooling programs in the Federal Government. It is consistent with legislation I introduced, the "Federal-aid to Ridesharing Act, H.R. 869, which now has 33 House cosponsors.

This legislation articulates a national policy for ridesharing which is consistent with a balanced transportation system. It also establishes a single categorical grant program for ridesharing activities, such as State planning, and promotion. It establishes a \$100 million revolving fund which could be utilized to finance van purchases. I do not see a single dollar of the Federal Government being required to buy vans on other than a reimbursable basis.

The House Government Activities and Transportation Subcommittee will have 2 days of hearings on June 8 and 9 to explore the President's proposal for a vanpool program for Federal employees. I intend to testify at these hearings, and I anticipate that the organization of Federal programs to promote vanpooling and carpooling will be carefully considered.

Mr. Chairman, I would like to draw to the attention of my colleagues an editorial which appeared today in the New York Times praising vanpooling, and underscoring the need for congressional support of that form of transit.

I urge my colleagues to accept my amendment as a first step in focusing our efforts in this important area.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I understand that this program could be under either agency, and I can appreciate the gentleman's desire to unite these programs with similar programs presently carried out by the Department of Transportation.

Mr. Chairman, I personally have no objection to the gentleman's amendment at all.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. EDGAR).

The amendment was agreed to.

Mr. BEDELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have taken this time because of a problem that exists relative to some of the language of the Senate report on the Senate bill. There are some serious questions in regard to the return of investment for pipeline companies. According to figures obtained from the ICC, if we take the years from 1968 to 1972, in that 5-year period, the return on investment for those pipeline companies was 269.3 percent, in a 5-year period, for 35 pipeline companies. According to a recent consent decree it was declared that pipeline companies' limitations on return would be based upon the value of the pipeline, regardless of how much equity the corporation had in the pipeline.

The problem therein is that as the company continues to depreciate its pipeline and takes off depreciation, at the same time the value increases and the amount of money that they receive continues to increase.

Under these circumstances the Department of Justice has already de-

clared that this should be reviewed. The ICC is starting to indeed review it.

In the language of the Senate report, it states, among other things, I quote, "recognizing the importance of regulatory continuity the committee proposes no substantial changes in the existing method of regulation."

I believe they meant to say by that, no substantial changes in the authority over that now exercised by the ICC.

I have discussed this with the chairman. It is my understanding that it is indeed the intention of this legislation to transfer the authority to the new department, which will be exactly the same as that with the ICC, so that if the new department feels there should be changes they will have the authority to make those changes just the same as the ICC did.

Mr. BROOKS. Mr. Chairman, if the gentleman will yield, I want to say to my distinguished friend, the gentleman from Iowa (Mr. BEDELL) that we do not intend to change the substantive law through this legislation. By the same token, we do not intend to tie the hands of the Secretary in his efforts to effectively carry out his management and his implementation of this substantive law that is being transferred to him.

Mr. BEDELL. So that opportunities to make corrections, if they seem advisable, will go with the new department just as they have been before with the ICC in the past. Does the gentleman agree with my understanding?

Mr. BROOKS. That is my understanding.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: Page 77, strike out lines 8 through 14, and insert in lieu thereof, "(C) The Secretary, in formulating the information to be requested in the reports or investigations under section 304 and section 311 of the Federal Power Act and section 10 and section 11 of the Natural Gas Act, shall include in such reports and investigations such specific information as requested by the Federal Energy Regulatory Commission and copies of all reports, information, results of investigations and data under said sections shall be furnished by the Secretary to the Federal Energy Regulatory Commission."

Mr. VOLKMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. VOLKMER. Mr. Chairman, I do not plan to take a long time explaining this amendment. The purpose of the amendment is to try to eliminate some of the proposed duplication of paperwork that is proposed in this section. Under the present law, the four statutory sections involved have reports, two under the National Gas Act, two under the Federal Power Act. Reports from the public, industries, utilities and concerns are presently reported to the Federal

Power Commission. Under the proposed legislation, both the Secretary and the Energy Regulatory Commission would have the power to require these reports. Under my amendment, only the Secretary would require the reports and make the investigation.

Under my amendment the Secretary would require the reports and make the investigation, and in preparing the formulation of what goes into the reports would include such information as requested from the Energy Regulation Commission so that we would only have one report and not a duplication. We have all talked about unnecessary paperwork being foisted upon industry and business, and I am attempting by this amendment to provide that we would only have one report; and the copies of the reports would be provided to the Secretary, who would then transmit copies to the Federal Energy Regulatory Commission.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Texas.

Mr. BROOKS. I thank the gentleman for yielding.

I will say to my distinguished friend, the gentleman from Missouri, that I have looked over this amendment. It seems to be helpful and constructive, and I might say to eliminate duplication I would find it helpful to the legislation.

Mr. VOLKMER. I thank the Chairman.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from New York.

Mr. HORTON. I thank the gentleman for yielding.

I am certainly in accord with anything we can do in the Congress to eliminate paperwork. Looking at the gentleman's amendment, I think it will help to avoid duplication, and under those circumstances I would be willing to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. VOLKMER).

The amendment was agreed to.

Mr. BAUCUS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the chairman of the committee to engage in colloquy for the purpose or clarification of the bill. I would like to ask the chairman:

I appreciate the long hours of work put into this bill by Dr. Schlesinger's staff and both the Government Operations and Post Office and Civil Service Committees. All of us wish to see the new Department of Energy established as quickly as is reasonably possible. However, I am afraid that in our haste we may leave legacies of confusion.

I speak in particular of the division of responsibility for energy resource management between the proposed Department of Energy and the Department of the Interior. H.R. 6804 states that the Department of Energy is being established "in order to secure effective man-

agement to assure a coordinated national energy policy." On the other hand, the Department of the Interior is the manager of our public lands and resources including those resources which provide energy.

Mr. Chairman, I will not pretend that Interior has done an exemplary job in managing these resources but I contend that adding another department as a sort of comanager will not increase Interior's efficiency. In fact, it is very likely to further confuse an already entangled morass. Therefore, I have two questions about the following interrelated areas:

First, in section 302(a), (b), and (c), authority for the disposition of power generated by various dams, including those in the Bonneville Power Administration which profoundly affect Montana, is transferred to the Secretary of Energy. Control over the water in those dams was left with the Secretary of the Interior. In times of drought in the West, decisions may be required on whether the water will stay above the dams for agricultural purposes or allowed to flow over the dam to produce energy. These decisions will be vital to the farmers and ranchers of Montana. It is not clear who will make such decisions.

Second, section 302(d) gives some of the lease management duties of the Department of Interior to the Department of Energy but leaves the overall management with Interior. In Montana we are determined that the development of our rich coal supplies shall be orderly and efficient. We neither wish to delay coal production or fling ourselves pell mell into the destruction of our farming and ranching way of life. The efficient, careful leasing of our coal resources is of great importance to us.

The whole energy area is such a vital issue and our concepts about it are in such a state of flux. What appears wise today may be utmost folly tomorrow. It is absolutely imperative to provide good oversight in order to adjust provisions which do not work. Therefore, we must take time to evaluate the division of responsibility between Energy and Interior no later than 2 years after the new Department is established. We must also be prepared to make statutory adjustments of the division of responsibility between Interior and Energy if that division does indeed present the problems I fear might occur.

Mr. Chairman, my first question for the gentleman from Texas concerns the dams in section 302(a), (b), and (c) for which the authority for power disposition has been transferred to the Energy Department and the water disposition rests with Interior. In times of drought in the West, when a choice must be made between the use of water above a Power Administration dam—referred to in Section (a), (b), and (c)—for either energy production or agricultural uses, will the Secretary of Energy make the decision or will the Secretary of the Interior?

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. BAUCUS. I yield to the gentleman from Texas.

Mr. BROOKS. I thank the gentleman for yielding.

To my distinguished friend, the gentleman from Montana, I will say that under this bill the authority over the management of water resources will remain within the Department of the Interior and, as a consequence, the Secretary of the Interior would determine the priority usage of water during any period of drought.

Mr. BAUCUS. That is, when drought conditions prevail, it would be primarily the Interior Secretary's decision rather than the Energy Secretary's decision?

Mr. BROOKS. That is correct.

Mr. BAUCUS. My second question concerns the division of leasing management between the Departments of Energy and Interior as found in section 302(d). Does the gentleman from Texas feel that it would be wise to study the way this division has worked and recommend statutory changes if necessary no later than 2 years after the Energy Department is established?

Mr. BROOKS. If the gentleman will yield further, I think that a study of the management or leasing arrangements between the Department of the Interior and the Department of Energy would be beneficial. There is a general on-going need to evaluate contracts to see whether the Government interests are being protected or whether we are being ripped off steadily. I think that such oversight would be particularly called for where we have a divided leasing authority, one who will find primary interest in writing a lease and protecting environmental provisions, and the other in taking a look at the economics of the lease itself. So if it proves unworkable, then legislation would be introduced, and I would be amenable to considering that.

Mr. BAUCUS. I thank the gentleman very deeply because we in the West, as the gentleman knows, are very concerned about the land management, and we are very hopeful that the two competing interests between agricultural productivity and energy development can be accommodated, and we are just nervous and hopeful that if there are problems, the committee will recommend changes. I thank the gentleman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

#### TITLE IV—FEDERAL ENERGY REGULATORY COMMISSION

SEC. 401. (a) (1) There is hereby established within the Department an independent regulatory commission to be known as the Federal Energy Regulatory Commission (hereinafter referred to in this title as the "Commission").

(2) There are hereby transferred to, and vested in, the Commission (A) all functions and authority of the Federal Power Commission under the Federal Power Act and the Natural Gas Act which are not specifically transferred to, and vested in, the Secretary pursuant to section 301(b) of this Act, and (B) all other functions transferred by title III of this Act which involve an agency determination required by law to be made on the record after opportunity for an agency hearing.

(3) Except as provided in section 301(b) (1), the Commission shall have the authority to prescribe, issue, make, amend, and rescind rules, regulations, and statements of policy



under the Federal Power Act and the Natural Gas Act, and, in exercising such authority, shall coordinate its actions with the Secretary.

(4) The Secretary may assign to the Commission, by rule, any other functions vested in or delegated to him.

(b) The Commission shall be comprised of five members appointed by the President, by and with the advice and consent of the Senate. One of the members shall be designated by the President as Chairman. Members shall hold office for a term of four years and may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office. The terms of the members first taking office shall expire (as designated by the President at the time of appointment), two at the end of two years, two at the end of three years, and one at the end of four years. Not more than three members of the Commission shall be members of the same political party. Any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A Commissioner may continue to serve after the expiration of this term until his successor has taken office, except that he may not so continue to serve more than one year after the date on which his term would otherwise expire under this subsection.

(c) The Chairman shall be responsible on behalf of the Commission for the executive and administrative operation of the Commission, including functions of the Commission with respect to (1) the appointment and employment of hearing examiners in accordance with the provisions of title 5, United States Code, (2) the selection, appointment, and supervision of personnel employed by or assigned to the Commission, except that each member of the Commission may select and supervise personnel for his personal staff, (3) the distribution of business among personnel and among administrative units of the Commission, and (4) the use and expenditure of funds appropriated for Commission functions. The Secretary shall provide to the Commission such support and facilities as the Commission may need to carry out its functions.

(d) In each annual authorization and appropriation request under this Act, the Secretary shall identify the portion thereof intended for the support of the Commission and include a statement by the Commission (1) showing the amount requested by the Commission in its budgetary presentation to the Secretary and the Office of Management and Budget and (2) an assessment of the budgetary needs of the Commission. Whenever the Commission submits any legislative recommendation or testimony, or comments on legislation, to the Secretary, the President, or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the appropriate committees of Congress.

(e) In the performance of their functions, the members of the Commission shall not be responsible to, or subject to the supervision or direction of, any officer, employee, or agent of the Department.

(f) A decision of the Commission shall be a final agency action within the meaning of section 704 of title 5, United States Code, with respect to matters within the Commission's jurisdiction and shall not be subject to further review by the Secretary or any officer or employee of the Department.

(g) The Chairman of the Commission may from time to time designate any other member of the Commission as Acting Chairman to act in the place and stead of the Chairman during his absence. The Chairman (or the Acting Chairman in the absence of the Chairman) shall preside at all sessions of the Commission and a quorum for the transaction of business shall consist of at least three

members present. Each member of the Commission, including the Chairman, shall have one vote. Actions of the Commission shall be determined by a majority vote of the members present. The Commission shall have an official seal which shall be judicially noticed.

(h) The Commission is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions. Until changed by the Commission, such rules of the Federal Power Commission shall continue in effect.

(i) In carrying out all its functions, the Commission shall have the powers authorized by the Federal Power Act and the Natural Gas Act to hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate. The Commission may, by one or more of its members or by such agents as it may designate, conduct any hearing or other inquiry necessary or appropriate to its functions.

Sec. 402. No person in the employ of, or holding any official relation to, any person engaged in the production, generation, transmission, distribution, or sale of electric power, petroleum, petroleum products, natural gas, coal, nuclear material, synthetic fuels, or energy from renewable resources, wastes, or geothermal steam, or in energy research or development, or owning stock or bonds thereof, or having a pecuniary interest therein, shall enter upon the duties of, or hold the office of Commission member. Members shall not engage in any other business, vocation, or employment while members of the Commission.

Sec. 403. The principal office of the Commission shall be in or near the District of Columbia, where its general sessions shall be held; but the Commission may sit anywhere in the United States.

Sec. 404. The Secretary, each officer of the Department, and each Federal agency, subject to applicable provisions of law, shall cooperate with the Commission in providing, upon request, such information as it may require.

Sec. 405. Nothing in this title shall be construed in any way to limit the functions of the Secretary relating to activities within the jurisdiction of the Secretary, including any function shared with the Commission.

Sec. 406. The Secretary may as of right intervene or otherwise participate in any adjudicatory proceeding before the Commission. The Secretary shall comply with rules of procedure of general applicability governing the timing of intervention or participating therein, shall comply with rules of procedure of general applicability governing the conduct thereof. The intervention or participation of the Secretary in any proceeding or activity shall not affect the obligation of the Commission to assure procedural fairness to all participants.

Sec. 407. For the purpose of section 552b of title 5, United States Code, the Commission shall be deemed to be an agency.

Mr. BROOKS (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas? There was no objection.

AMENDMENT OFFERED BY MR. MOSS

Mr. MOSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moss: Page 90, line 20, insert immediately after the period the following new sentence: "For the purposes of chapter 9 of title 5, United States Code, the Commission shall be deemed to be an independent regulatory agency."

Mr. MOSS. Mr. Chairman, this is the amendment I discussed earlier in the day when I indicated that I would offer a total of four amendments, the third for the purpose of making very clear the intent of the Congress that the Federal Energy Regulatory Commission be an independent Commission within the executive department and that it could not be reorganized except under the same conditions as would direct the reorganization of any other independent regulatory commission.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, the gentleman and I had a colloquy on this earlier during the debate. I certainly agree with him that we do not want this Commission to have any special benefits with regard to reorganization; in other words, we would want the same laws applicable to this Commission as to other Commissions and other agencies. I would certainly agree with the gentleman that the amendment should be enacted.

Mr. MOSS. I thank the gentleman from New York.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I think it is perfectly appropriate to so define this particular section of the bill. The agency has the characteristics of being an independent agency, we might as well face up to it. I see no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TUCKER

Mr. TUCKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TUCKER: On page 84, line 25, strike "and" and insert a comma after the word "Act".

On page 85, line 1, after the word "Act" insert a comma and the following: "and all other laws under which the Commission operates".

Mr. TUCKER. Mr. Chairman, under existing statutes the Federal Power Commission has the responsibility under certain statutes to review rates proposed to be charged by federally owned electric utility projects. As an obligation of the Commission it is transferred to the Energy Department by section 301 of H.R. 6804, but this function does not arise from the Federal Power Act or the Natural Gas Act and therefore it is not included in the delegation to the Administrator under section 205(b) or to the Federal Energy Regulatory Commission under section 401(a)(1). This ambiguity needs to be clarified to specify that the Federal Energy Regulatory Commission will have such jurisdiction consistent with its jurisdiction over similar electric power wholesale rates arising under Federal Power Acts. Specific examples would be authority of the Federal Power Commission to review and approve electrical rates charged by such entities as

the Bonneville Power Project and the Southwest Power Administration.

This amendment is designed to clarify that ambiguity so that there can be subsequently no litigation or debate over it.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I think the amendment is well thought out and would be constructive and helpful and I have no objection to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas (Mr. TUCKER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TUCKER

Mr. TUCKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TUCKER: Page 87, line 23, insert "and employees" after "members".

Mr. TUCKER. Mr. Chairman, this amendment simply clarifies and removes any doubt that the employees of the Federal Energy Regulatory Commission will operate subject only to the authority and direction of the Commission. Thus, the amendment is to assure that the Secretary of the Department of Energy cannot, indirectly, through any control over the employees of the Commission, thereby control the Commission's acts.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, it was the intent and is the intent of the committee to do this same thing and I think this language does not interfere with that intent. We would agree to it.

Mr. TUCKER. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas (Mr. TUCKER).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

#### TITLE V—ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

Sec. 501. (a) Subject to the other requirements of this section, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply in accordance with its terms to any rule or regulation, or any order having the applicability and effect of a rule (as defined in section 551(4) of title 5, United States Code), issued pursuant to authority vested by law in or delegated to the Secretary or any officer, employee, or component of the Department, including any such rule, regulation, or order of a State or local government agency or officer thereof, issued pursuant to authority delegated by the Secretary.

(b) In addition to the requirements of subsection (a), notice of any proposed rule, regulation, or order described in subsection (a) shall be given by publication of such proposed rule, regulation, or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this subsection as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious harm or injury to the public health, safety, or welfare, and such finding is set out in detail in such rule, regulation, or order. In addition,

public notice of all rules, regulations, or orders described in subsection (a) which are promulgated by officers of a State or local government agency shall be achieved by publication of such rules, regulations, or orders in at least two newspapers of statewide circulation, except that, if such publication is not practicable, notice of any rule, regulation, or order shall be given by such other means as the officer promulgating such rule, regulation, or order determines will assure wide public notice.

(c) In addition to the requirements of subsection (b), if any rule, regulation, or order described in subsection (a) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the issuance of such rule, regulation, or order, but in all cases such opportunity shall be afforded no later than forty-five days after the issuance of any such rule, regulation, or order. A transcript shall be kept of any oral presentation.

(d) The Secretary or any officer authorized to issue rules, regulations, or orders under the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environmental Coordination Act of 1974, or the Energy Policy and Conservation Act shall provide for the making of such adjustments, consistent with the other purposes of the relevant Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rule, regulation or order.

(e) (1) With respect to any rule or regulation of the Secretary of the effects of which, except for indirect effects of an inconsequential nature, are confined to—

(A) a single unit of local government or the residents thereof;

(B) a single geographic area within a State or the residents thereof; or

(C) a single State or the residents thereof; the Secretary shall, in any case where appropriate, afford an opportunity for a hearing or the oral presentation of views and provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in subparagraphs (A) through (C), as the case may be.

(2) For purposes of this subsection—

(A) the term "unit of local government" means a county, municipality, town, township, village, or other unit of general government below the State level; and

(B) the term "geographic area within a State" means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(3) Nothing in this subsection shall be construed as requiring a hearing or an oral presentation of views where none is required by this section.

(f) (1) Judicial review of agency action taken under any law, the functions of which are transferred by this Act, shall, notwithstanding such transfer, be made in the manner specified in such law.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under rules, regulations, or orders issued exclusively thereunder, other than any actions taken to implement or enforce any rule, regulation, or order by any officer of a State or local government agency under this Act, except that nothing in this section affects the power of

any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the unconstitutionality of this Act or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the unconstitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code. Cases or controversies arising under any rule, regulation, or order of any officer of a State or local government agency may be heard in either (1) any appropriate State court, or (2) without regard to the amount in controversy, the district courts of the United States.

(3) The Secretary may, by rule, prescribe procedures for State or local government agencies authorized by the Secretary to carry out such functions as may be permitted under applicable law. Such procedures shall apply to such agencies in lieu of section 501, and shall require that prior to taking any action, such agencies shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) a reasonable time before taking the action.

(4) Notwithstanding any other law, the litigation of the Department shall be subject to the supervision of the Attorney General pursuant to chapter 1 of title 28 United States Code. This paragraph shall not apply to the Federal Energy Regulatory Commission.

Mr. BROOKS (during the reading). Mr. Chairman, I ask unanimous consent that title V be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Page 90, strike out line 21 and everything that follows through page 95, line 17, and insert in lieu thereof the following:

#### TITLE V—ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

Sec. 501. (a) Subject to the other requirements of this title, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply in accordance with its terms to any rule or regulation, or any order having the applicability and effect of a rule (as defined in section 551(4) of title 5, United States Code), issued pursuant to authority vested by law in, or transferred or delegated to, the Secretary, or required by this Act or any other Act to be carried out by any other officer, employee, or component of the Department, other than the Federal Energy Regulatory Commission, including any such rule, regulation, or order of a State, or local government agency or officer thereof, issued pursuant to authority delegated by the Secretary in accordance with this title. If any provision in any Act, the functions of which are transferred, vested, or delegated pursuant to this Act, provides administrative procedure requirements in addition to those provided in this title, such additional requirements shall also apply to actions under that provision.



(b) (1) In addition to the requirements of subsection (a) of this section, notice of any proposed rule, regulation, or order described in subsection (a) shall be given by publication of such proposed rule, regulation, or order in the Federal Register. Such publication shall be accompanied by a statement of the research, analysis, and other available information in support of, the need for, and the probable effect of, any such proposed rule, regulation, or order. Other effective means of publicity shall be utilized as may be reasonably calculated to notify concerned or affected parties of the nature and probable effect of any such proposed rule, regulation, or order. In each case, a minimum of thirty days following such publication shall be provided for opportunity to comment prior to the effective date of any such rule, regulation, or order; except that the requirements of this subsection as to time of notice and opportunity to comment may be waived, subject to paragraph (3) of this section, where strict compliance is found by the Secretary to be likely to cause serious harm or injury to the public health, safety, or welfare, and such finding is set out in detail in such rule, regulation, or order.

(2) Public notice of all rules, regulations, or orders described in subsection (a) which are promulgated by officers of a State or local government agency pursuant to a delegation under this Act shall be provided by publication of such proposed rules, regulations, or orders in at least two newspapers of statewide circulation. If such publication is not practicable, notice of any such rule, regulation, or order shall be given by such other means as the officer promulgating such rule, regulation, or order determines will reasonably assure wide public notice.

(3) The requirements of this subsection may be satisfied within a reasonable period of time subsequent to the promulgation of the rule, regulation, or order if the Secretary finds, under paragraph (1), that an emergency exists requiring the immediate implementation of any such rule, regulation, or order.

(c) (1) If the Secretary determines at the time of publication of a proposed rule, regulation, or order described in subsection (a) that no substantial issue exists and that such rule, regulation, or order is unlikely to have a substantial impact on the nation's economy or large numbers of individuals or businesses, the proposed rule, regulation, or order may be promulgated in accordance with section 553 of title 5, United States Code, except that subsection (a) (2) of section 553 shall not apply. If the Secretary determines at the time of publication of any such rule, regulation, or order that a substantial issue exists or that such rule, regulation, or order is likely to have a substantial impact on the nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be provided.

(2) Any person, who would be adversely affected by the implementation of any proposed rule, regulation, or order issued pursuant to the first sentence of paragraph (1) and who desires an opportunity for oral presentation of views, data, and arguments, shall offer evidence supporting the existence of such substantial issues or such impact during the period established for public comment. If the Secretary determines that such evidence is sufficient to establish the existence of such issues or impact, the Secretary shall provide an opportunity for such oral presentation.

(3) Following the notice and comment period, including any oral presentation required by this subsection, the Secretary may promulgate such rule, regulation, or order, which shall include therewith an explanation responding to the major comments, criticisms,

and alternatives offered during the comment period.

(4) A transcript shall be kept of any oral presentation with respect to a rule, regulation, or order described in subsection (a).

(d) The Secretary, or any officer authorized to issue rules, regulations, or orders under the Federal Energy Administration Act, the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environmental Coordination Act of 1974, or the Energy Policy and Conservation Act shall provide for the making of such adjustments, consistent with the other purposes of the relevant Acts, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens, and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, exception to, or exemption from, such rule, regulation, or order. The Secretary or any such officer shall additionally insure that each decision on any application or petition requesting an adjustment shall specify the standards of hardship, inequity, or unfair distribution of burden by which any disposition was made, and the specific application of such standards to the facts contained in any such application or petition. If any person is aggrieved or adversely affected by a denial of a request for adjustment under the preceding sentences, such person may request a review of such denial by the Secretary and may obtain judicial review in accordance with this title when such a denial becomes final. The Secretary shall, by rule, establish appropriate procedures, including a hearing when requested, for review of a denial, and where deemed advisable by the Secretary, for considering other requests for action under this subsection, except that no review of a denial under this subsection shall be made by the same officer denying the adjustment.

(e) (1) With respect to any rule, regulation, or order, the effects of which, except for indirect effects of an inconsequential nature, are confined to—

(A) a single unit of local government or the residents thereof;

(B) a single geographic area within a State or the residents thereof; or

(C) a single State or the residents thereof; the Secretary shall, in any case where appropriate, afford an opportunity for a hearing or the oral presentation of views and provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in paragraphs (A) through (C) of this paragraph as the case may be.

(2) For purposes of this subsection—

(A) the term "unit of local government" means a county, municipality, town, township, village or other unit of general government below the State level; and

(B) the term "geographic area within a State" means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(3) Nothing in this subsection shall be construed as requiring a hearing or an oral presentation of views where none is required by this section or other provision of law.

(f) (1) Judicial review of agency action taken under any law the functions of which are vested by law in, or transferred or delegated to, the Secretary or any officer, employee, or component of the Department shall, notwithstanding such vesting, transfer, or delegation, be made in the manner specified in such law.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under rules, regula-

tions, or orders issued exclusively thereunder, other than any actions taken to implement or enforce any rule, regulation, or order by any officer of a State or local government agency under this Act, except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the unconstitutionality of this Act or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the unconstitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code. Cases or controversies arising under any rule, regulation, or order of any officer of a State or local government agency may be heard in either (A) any appropriate State court, or (B) without regard to the amount in controversy, the district courts of the United States.

(3) Where authorized by any law vested, transferred, or delegated pursuant to this Act, the Secretary may, by rule, prescribe procedures for State or local government agencies authorized by the Secretary to carry out such functions as may be permitted under applicable law. Such procedures shall apply to such agencies in lieu of this section, and shall require that prior to taking any action, such agencies shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) a reasonable time before taking the action.

(4) Notwithstanding any other law, the litigation of the Department shall be subject to the supervision of the Attorney General pursuant to chapter 31 of title 28, United States Code. This paragraph shall not apply to the Federal Energy Regulatory Commission.

Sec. 502. (a) Section 501 of this title shall remain in effect for two years after the effective date of this Act. Any proceeding commenced under such section prior to the termination of its effect shall, notwithstanding such termination, be conducted in accordance with such section. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payment shall be made pursuant to such orders as if such section had not terminated; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if such section had not terminated.

(b) Within one year after effective date of this Act, the Secretary shall submit a report to Congress concerning the actions taken to implement section 501. The report shall include a discussion of the adequacy of such section from the standpoint of the Department and the public, including a summary of any comments obtained by the Secretary from the public about such section and implementing regulations, and such recommendations as the Secretary deems appropriate concerning the extension and revision of such section.

(c) Nothing in this title shall be construed as repeating by implication any existing provision of law relating to administrative procedures and judicial review ap-

pliable to any authority vested, transferred, or delegated pursuant to this Act, except that such existing provisions shall, to the extent provided by section 501, be superseded by the provisions of such section during the two years specified in subsection (a).

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, I want to commend the distinguished gentleman from Texas (Mr. BROOKS). The gentleman has done an outstanding job in handling the legislation, both in the committee and here on the floor.

Mr. Chairman, title V is a matter of great concern to me. As Learned Hand once observed, "Procedural justice is the essence of liberty."

I would point out to my colleagues that throughout the years the Congress has crafted a number of statutes, the procedural functions of which would be transferred and which would be changed by the legislation before us, most specifically by title V.

Mr. Chairman, I would point out that title V has the possibility of changing all of those procedures, possibly for the worse, and to eliminate the strong probability of a large number of safeguards.

The function of the amendment is not to change any substance, but to keep in place all of those procedural rights and safeguards under the different statutes and to require that those provisions terminate at the end of 2 years, so that the Congress has full opportunity to review those.

My amendment, which is supported by Mr. BROWN of Ohio and others on the Energy and Power Subcommittee, which I chair, rewrites title V of the bill.

On Tuesday evening, May 24, 1977, our subcommittee held a hearing to determine the impact of H.R. 6804 on the President's energy bill, H.R. 6831, which our subcommittee is now considering. The hearing focused primarily on title V. It also showed that some provisions of the title are vague and ambiguous.

Our amendment seeks to correct the deficiencies and clear up the ambiguous and vague provisions of title V. It provides that the Administrative Procedures Act provisions shall apply to all rule-making by the Energy Secretary. In addition, it provides that:

Where other provisions of the laws that are transferred or delegated to the Energy Secretary include greater procedural safeguards, such as those in the Energy Policy and Conservation Act of 1975 for appliances, those safeguards will continue to apply to those programs;

All proposed rules be published in the Federal Register and a minimum of 30 days be afforded for public comment, except in emergencies;

Even in the case of emergencies, there must be an opportunity for public comment after promulgation;

Informal rulemaking is authorized where the Secretary finds that no substantial issue exists and that the proposed rule is unlikely to have a substantial impact on the economy or on individuals or businesses;

Where the Secretary finds such impact or the existence of such an issue, oral presentation is required and a transcript is required;

During the comment period, any person can offer evidence showing the existence of substantial issues or substantial impact and the Secretary must then provide for oral presentation;

When a rule is promulgated, it must include a sufficient summary of the major public comments and an explanation of the action taken by the Secretary concerning such comments and the reasons therefor;

In cases of hardship, inequity, or unfair distribution of burdens, procedures for adjustments are required, including procedures for review of any denial of an application for adjustment. Additionally, the person who issues the denial initially cannot review the matter on review. On review, that person's role is to be limited;

In the case of judicial review, the existing provisions of law will apply, including those applicable to matters arising under the Emergency Petroleum Allocation Act of 1973; and

That the title V procedures do not apply to the newly established Federal Energy Regulatory Commission.

Most importantly, our amendment provides that title V will terminate in 2 years. In 1 year, the Secretary must submit a report to Congress explaining how effectively these new procedures are working. We are concerned about establishing—without benefit of extensive hearings in any committee—new administrative procedures applicable, not only to FEA and FPC functions, but also to those of ERDA and Interior. Who knows how they will work. We want to find out.

Mr. Chairman, I want at this time to commend Chairman BROOKS and the Committee on Government Operations for their skill in crafting a very good and tight energy reorganization bill. H.R. 6804 is a far better bill than that on which I testified on March 29, 1977. At that time I recommended that the bill should avoid making substantive changes in laws under the jurisdiction of our Committee on Interstate and Foreign Commerce and providing new authorities for the Department of Energy. Generally, H.R. 6804 adopts my recommendations.

However, there are several matters which give me great concern.

#### PROCEDURES

Title V of H.R. 6804 establishes administrative procedures for the issuance of rules, regulations, and orders by the new Secretary. It makes the provisions of the Administrative Procedures Act applicable to such rules, regulations, and orders and provides some additional safeguards.

The title stems from section 7 of the Federal Energy Administration Act. However, all of the procedural safeguards of that section are not included in title V.

On May 24, 1977, the Subcommittee on Energy and Power held a special evening hearing on the impact of H.R. 6804 on the President's national energy bill, H.R. 6831. Special attention was focused on title V. The administration testified that title V was intended to provide uniform procedures for the new Department. We, however, noted several deficiencies in the title.

First, the bill repeals the provisions of section 7 of the FEA Act, but it does not repeal the procedural requirements of other laws enacted after the FEA Act. Nevertheless, the title appears to supersede those provisions. These other laws establish special safeguards for issuance of regulations for specific programs. For example, the Energy Policy and Conservation Act of 1975 established a number of special procedural safeguards for the issuance of test procedures, mandatory energy efficiency standards, and labeling regulations applicable to the appliance industry. Title V does not preserve those procedures. Yet, the President's national energy bill, H.R. 6831, clearly intends to preserve them.

Second, title V provides, in section 501 (f) (1), that judicial review of agency action under any law "the functions of which are transferred" to the Department of Energy shall "be made in the manner specified in such law." The Emergency Petroleum Allocation Act of 1973—EPAA—provides that the special judicial review provisions of the Economic Stabilization Act of 1970 apply to court review of oil pricing and allocation regulations. But the oil pricing and allocation authority contained in the EPAA is not "transferred" to the Department of Energy. This EPAA authority is now vested in the President and will be "delegated" to the Department of Energy when H.R. 6804 is enacted. Title V fails to note this important distinction.

The amendment I have just discussed will correct many deficiencies. However, we are concerned that even our revision of title V may not be adequate. The consideration given to this title has been minimal. Remember, the procedures are often more important than the substance. Our 2-year limitation on title V is therefore essential.

In this regard note that the Senate added to title V of S. 826 a new procedure for enforcement of remedial orders under the EPAA. Many have urged my support of that provision in this bill. It is widely supported by the industry. I do not, at this time, oppose it or support it. It is a matter that is clearly in conference. I want to know more about its effects and the adequacy of the provisions. I clearly do not think it should be included in H.R. 6804. This is a reorganization bill, not one to establish new procedures. That is a matter within the jurisdiction of the Commerce Committee.

Let me now discuss some of the provisions of H.R. 6804.

#### THE FEDERAL POWER COMMISSION

Last March, I urged that the Federal Power Commission not be abolished and its functions transferred to the Secretary. The FPC should continue.



The bill does abolish the Commission, which I hope will not be a mistake, but it does not transfer the functions of the FPC to the Secretary. Instead, it provides in section 401 that "all functions and authority" of the FPC under the Federal Power and Natural Gas Acts that "are not specifically transferred" to the Secretary by section 301(b) of the bill are "vested" in the new Federal Energy Regulatory Commission. This is a very important difference with the Senate-passed bill S. 826. That bill places all FPC functions in the Secretary and specifies which shall go to the Board established by that bill. The House approach is far superior.

The new Commission is a statutorily created independent body that cannot be abolished, altered, consolidated, or discontinued by the Secretary. It is a five-member body subject to the Sunshine Act. It will have its own budget line item. It can hire and fire its personnel, in accordance with civil service laws.

The Commission, without influence or direction by the Secretary or the Office of Management and Budget, must make annually a detailed statement of its budgetary needs. The detailed amounts requested by the Commission annually

in its budgetary presentation to the Secretary and OMB must be provided to the Congress, together with the Secretary's and OMB's actions thereon.

The new Commission can conduct its own litigation. It has subpoena power to cover all its functions. Its procedures are those established by the FPC, but the Commission may establish new procedures. Section 404 requires that the Secretary and each official of the Department of Energy shall provide "upon request" by the Commission such data, reports, records, and other information as the Commission may require. This includes all information in the hands of the FEA or its successor, including end-use data, which has been the subject of considerable correspondence between our subcommittee and the FEA and FPC.

I believe that this new commission is good and I believe it will work.

#### ANNUAL APPROPRIATIONS

The bill requires annual authorizations and appropriations for the Department of Energy, including the Commission. It preserves the current line-item provisions of section 29 of the FEA Act. This insures annual review of the new Commission and the Department of Energy in Congress.

#### ECONOMIC REGULATORY COMMISSION

The bill establishes a new ERA to be headed by a Presidential appointee confirmed by the Senate. Many FEA functions will go to the ERA.

Most importantly, the bill requires that the Secretary provide by rule for a separation of regulatory and enforcement functions vested or delegated or otherwise assigned to the ERA. The Interstate and Foreign Commerce Committee recommended such separation in House Report 95-323 of May 16, 1977 (p. 9).

These and other features of the bill, such as the establishment of the new Energy Information Administration with clear powers, are very good and cause me to support H.R. 6804.

At this point, I insert an analysis of the principal provisions of H.R. 6804 and the Senate-passed bill. You will note the other body makes a number of substantive law changes and adds new authorities. It is my hope that the House conferees will vigorously oppose these as not belonging in a reorganization bill. The analysis follows together with a committee print by my subcommittee of a portion of H.R. 6831 which we are considering for markup:

#### COMPARISON OF PRINCIPAL PROVISIONS OF DEPARTMENT OF ENERGY LEGISLATION OTHER THAN THOSE RELATING TO FEDERAL POWER COMMISSION FUNCTIONS

H.R. 6804 AS REPORTED ON MAY 15, 1977

S. 826 AS PASSED THE SENATE ON MAY 18, 1977

1. Title I finds a worldwide shortage of energy resources, that the shortage is a threat to U.S., that a strong energy program is needed to increase efficiency of energy use and availability of energy resources, that energy policy and regulation is scattered, and that we need a single department.

2. Title I establishes as a high priority pooling energy conservation, places major emphasis on development and commercialization of renewable resources, requires analysis and consideration of environmental and social consequences of energy program, and provides for public participation.

3. Establishes a Deputy Secretary, General Counsel, and 9 Assistant Secretaries for specific program areas.

4. No such provision.

5. Establishes an Energy Information Office headed by Presidential appointee confirmed by Senate. The office to administer information functions of EPCA and others assigned to it by Secretary.

6. (a) Establishes Economic Regulatory (ERA) Administration headed by confirmed Presidential appointee. That Office will administer EPAA of 1973 and certain functions of the Federal Power Commission.

6. (b) Separate regulatory and enforcement functions required.

7. Establishes Office of Inspector General.

8. No Such Provision.

9. Transfers the following functions:

(a) All functions of Bonneville, Southeastern and Southwestern Power Administrations, but requires that each be maintained as a separate entity within the DOE.

(b) The power marketing functions of the Bureau of Reclamation.

(c) Six specific functions of the Secretary of the Interior relating to competition, bidding, diligence rate of production and royalties concerning the leasing of oil, gas, coal, oil shale, tar sands and geothermal resources in Federal lands, including Outer Continental Shelf lands.

(d) All functions of HUD under EPCA.

(e) All functions of the Interstate Commerce Commission relating to the transportation of oil by pipeline.

(f) Jurisdiction of certain naval and oil shale reserves.

Contains similar findings.

Sets forth 20 purposes of the bill, relating to energy organization and coordination; need for central data gathering; facilitating distribution and allocation of fuels and administration of national energy reserve; protection of consumers; cooperation with States; fostering competition; establishment of mechanism for State participation in energy policymaking.

The same, except the bill calls for 8 Assistant Secretaries and sets 10 functions to be assigned to them. Presumably an Assistant Secretary could have more than one function.

Requires that the new Department have nuclear waste management responsibilities, but this is not to affect such functions of the National Regulatory Commission.

Similar Provisions.

Similar but Administrator must be qualified to assess fairly the interests and needs of producers, consumers, and users of energy

No such provision.

No such provision.

Sets forth 12 broad "responsibilities" of the Secretary, including development of plans and programs for dealing with domestic energy production and import shortages. These responsibilities, as well as other functions transferred to Secretary, must be carried out and governed by requirements of several named laws and other laws not named that affect the new agency.

Same.

Same, but requires that they be managed by a separate entity within DOE and headed by an Administrator appointed by the Secretary.

Same, but establishes a permanent leasing liaison committee and specifies that Interior be lead agency for preparation of environmental impact statements.

Same.

Same, but first Secretary must issue rule establishing procedures which are subject to one House veto.

Same.

H.R. 6804 AS REPORTED ON MAY 15, 1977

S. 826 AS PASSED THE SENATE ON MAY 16, 1977

10. No provision.

11. Establishes a new 5-member independent Federal Energy Regulatory Commission within DOE.

12. Abolishes Federal Power Commission.

13. Prohibits supervisory employees of DOE from receiving compensation or holding position in energy concerns (as defined in bill) or holding stocks or bonds or receiving interest in such concern. A supervisory employee includes persons at GS-16 or above, others holding decisionmaking positions, heads of regional or field offices, and persons having contract or grant responsibilities. There are provisions for waiver of prohibition. It provides civil penalty of up to \$10,000 for any violation.

14. Requires financial disclosure provisions like those now required for FEA and Interior.

15. Provides postemployment restrictions for supervisory employees.

16. No such provision.

17. No such provision.

18. No such provision.

19. No such provision.

20. Authorizes land acquisition for, and construction of, laboratories, research and testing siting.

21. Requires annual authorizations and appropriations for all DOE programs.

22. Authorizes Capital Fund.

23. No such provision.

24. No such provision.

25. No such provision.

Amends Title V of the Motor Vehicle Information and Cost Savings Act re: fuel economy by giving DOE certain preview functions re: standards.

Establishes a 3-member Energy Regulatory Board within DOE.

Same.

Same provision.

Requires each supervisory employee to file Public Financial Disclosure Report which discloses information required to be disclosed by Members of Congress.

Contains similar provision.

Gives Secretary of DOE same subpoena powers as the Federal Trade Commission under section 9 of FTC Act with respect to all responsibilities vested in Secretary.

Directs the Administrator of the Energy Information Office to designate "major energy-producing companies," develop the format of a financial report for such companies, and require such companies to file such report annually.

Authorizes a new volunteer assistance program.

Authorizes grants to anyone with no limitations.

Same provision.

Authorizes appropriations without limitation except where annual authorizations are required under ERDA's statutes. The FEA annual authorization and appropriation requirement is repealed.

Also authorizes Capital Fund, but includes a number of changes in the House provision.

Requires Secretaries of Defense, Commerce, HUD, DOT, Interior, and the Postal Service, and GSA to establish an energy conservation officer.

Provides new authority directing the President to propose a National Energy Policy Plan by April 1979 and biennially thereafter. The plan must be reviewed by Congress. The appropriate Congressional Committees must report on the plan by Joint Resolution by September 1 of each year. Congress must then act on the resolution by October 1. Once the resolution is enacted, the plan is approved.

Provides new authority for the Energy Regulatory Board to promulgate rules in connection with any amendment to the pricing or allocation regulations required by the Emergency Petroleum Act of 1973 where the amendment constitutes an energy action required to be transmitted to Congress. This will include:

Any amendment to provide for adjustment to the composite price for domestic crude oil at a rate in excess of 10 percent a year;

Any amendment to remove up to 2 million barrels a day of crude oil transported through the trans-Alaska pipeline from the composite price limitation and to specify the price for such crude oil; and any further amendments to such amendment;

Any amendment to exempt, with respect to a class of persons or class of transactions, crude oil, residual fuel oil, or any refined petroleum product or product category from allocation regulations, or from price regulations. Refined product categories as to which energy actions are required are gasoline, No. 2 oils, propane, and all or any portion of a number of other refined products.

The Board's decision goes to Congress unless vetoed by the President within 10 days.

## COMMITTEE PRINT, JUNE 2, 1977

[Containing the revision recommended by the staff]

[Part A, subpart 1, utility program]

PART A—ENERGY CONSERVATION PROGRAMS FOR EXISTING RESIDENTIAL BUILDINGS

Subpart 1—Utility Program

## DEFINITIONS

Sec. 101. As used in this subpart—

(1) The term "Administrator" means the Administrator of the Federal Energy Administration.

(2) The term "Commission" means the Federal Trade Commission.

(3) The term "natural gas" means natural gas as such term is defined in the Natural Gas Act.

(4) The term "nonregulated utility" means a public utility which is not a regulated utility.

(5) The term "public utility" means any person, State agency, or Federal agency which is engaged in the business of selling natural gas or electric energy or both for purposes other than resale.

(6) The term "rate" means any price, rate, charge, or classification made, demanded, observed, or received with respect to sales of electric energy or natural gas, any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale of electric energy or natural gas.

(7) The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(8) The term "regulated utility" means a public utility with respect to whose rates a State regulatory authority exercises rate-making authority.

(9) The term "residential building" means any building used for residential occupancy, the construction of which commenced prior to one year after the date of enactment of this subpart, which has a mechanical or electrical system for heating or cooling, or both.

(10) The term "residential customer" means any person to whom a public utility sells natural gas or electric energy for consumption in a residential building.

(11) The term "residential energy conservation measure" means—

(A) caulking and weatherstripping of exterior doors and windows;



(B) furnace efficiency modifications including—

(i) replacement burners designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency;

(ii) devices for modifying flue openings which will increase the efficiency of the heating system; and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, and floor insulation;

(E) hot water heater insulation;

(F) storm windows and doors; and

(G) replacement furnaces which have a seasonal operational efficiency of more than 85 percentum (as determined by the Administrator);

(H) devices associated with load management systems as defined in section 513(a) (2) (A); and

(I) such other measures as the Administrator may by rule identify for purposes of this subpart.

(12) The term "residential energy conservation plan" means a plan approved by the Administrator pursuant to section 103(c) which is developed by a State regulatory authority or by a nonregulated utility.

Sec. 102. This subpart shall apply in any of the Administrator, Puerto Rico.

(14) The term "State regulatory authority" means any State agency which has rate-making authority with respect to the sale of electric energy or natural gas by any public utility (other than by such State agency).

(15) The term "suggested measures" means, with respect to a particular residential building, the residential energy conservation measures which the Administrator, in the rules prescribed pursuant to section 103 (a), determines to be appropriate for the location and the category of residential buildings which includes such building.

(16) The term "utility program" means a program meeting the requirements of section 104 carried out by—

(A) a regulated utility pursuant to a residential energy conservation plan developed by a State regulatory authority;

(B) a nonregulated utility pursuant to a residential energy conservation plan developed by such utility; or

(C) a regulated or nonregulated utility pursuant to an order of the Administrator issued pursuant to section 106.

(17) The term "State agency" means a State, a political subdivision thereof, or any agency or instrumentality of either.

#### COVERAGE

(13) The term "State" means a State, the District of Columbia, and, at the discretion calendar year to a public utility only if during the second preceding calendar year either (1) sales of natural gas by such utility exceeded ten billion cubic feet, or (2) sales of electric energy by such utility exceeded two hundred million kilowatt-hours.

#### RESIDENTIAL ENERGY CONSERVATION PLANS

Sec. 103. (a) The Administrator shall, not later than one hundred and twenty days after enactment of this Act and after consultation with the Secretary of Housing and Urban Development and the heads of such other agencies as he deems appropriate, promulgate rules for the content and implementation of residential energy conservation plans.

(b) The rules promulgated under subsection (a)—

(1) shall identify the suggested measures for residential buildings, by climatic region and by categories determined by the Administrator on the basis of type of construction or any other factors which the Administrator may deem appropriate;

(2) shall include—

(A) standards which the Administrator determines necessary for general safety and effectiveness of any suggested measure;

(B) standards which the Administrator determines necessary for installation of any residential energy conservation measure; and

(C) standards, developed in close consultation with the Federal Trade Commission, for the programs and procedures required under subsections (d) (2), (d) (4), (e) (2), and (e) (3); and

(3) may include such other requirements as the Administrator may determine to be necessary to carry out this subpart.

(c) Not later than one hundred and eighty days after promulgation of rules under subsection (a), each State regulatory authority may submit, and each nonregulated utility shall submit a proposed residential energy conservation plan to the Administrator. The Administrator may, upon request of a State regulatory authority or nonregulated utility, extend for good cause shown the time period for submission of a plan by such authority or utility. Each such plan shall be reviewed and approved or disapproved by the Administrator not later than ninety days after submission. If the Administrator disapproves a plan, the State regulatory authority or nonregulated utility may submit a new or amended plan not later than sixty days after the date of such disapproval, or such longer period as the Administrator may, for good cause, allow. The Administrator shall review and approve or disapprove any such new or amended plan not later than ninety days after submission. After approval of a plan, a State regulatory authority or nonregulated utility may submit an amended plan and such plan shall be approved or disapproved in the same manner as the original plan.

(d) No residential energy conservation plan submitted by a State regulatory authority shall be approved by the Administrator unless such plan—

(1) requires each regulated utility over which such State regulatory authority exercises rate-making authority to implement a utility program which meets the requirements of section 104;

(2) contains an adequate program for preventing unfair, deceptive, or anticompetitive acts or practices by such utility affecting commerce which relate to the implementation of utility programs within such State;

(3) contains adequate procedures to assure that each regulated utility will carry out such program;

(4) contains adequate procedures to assure that each regulated utility will charge fair and reasonable prices and rates of interest in connection with such program; and

(5) meets such other requirements as may be contained in the rules promulgated under subsection (a).

(e) No residential energy conservation plan proposed by a nonregulated utility shall be approved by the Administrator unless such plan—

(1) provides for the implementation by such utility of a utility program which meets the requirements of section 104;

(2) contains adequate procedures for preventing unfair, deceptive, or anticompetitive acts or practices by such utility which relate to the implementation of such utility program;

(3) contains adequate procedures to assure that such utility will charge fair and reasonable prices and rates of interest in connection with such program;

(4) contains procedures pursuant to which such utility will submit a written report to the Administrator not later than one year after approval of such plan and biennially thereafter, regarding the implementation of such utility program and containing such information as may be prescribed by the Ad-

ministrator in the rules promulgated under subsection (a); and

(5) meets such other requirements as may be contained in the rules promulgated pursuant to subsection (a).

#### UTILITY PROGRAMS

Sec. 104. (a) Except as provided in subsection (b) and section 105, each utility program shall include—

(1) procedures designed to inform, no later than January 1, 1980, each of its residential customers who owns or occupies a residential building, of—

(A) the suggested measures for the category of buildings which includes such residential building;

(B) the savings in costs of home heating and cooling that are likely to result from installation of the suggested measures in typical residential buildings in such category; and

(C) the availability of the arrangements described in paragraph (2) of this subsection, the inspectors, suppliers, and contractors described in paragraph (3), and the public and private lending institutions described in paragraph (4);

(2) procedures whereby the public utility, no later than January 1, 1980, will offer each such residential customer the opportunity to enter into arrangements with the public utility under which the public utility, will—

(A) inspect the residential building to determine and inform the residential customer of the estimated cost of purchasing and installing each suggested measure;

(B) make, or arrange for another lender to make, a loan to such residential customer to finance the purchase and installation costs of suggested measures purchased from and installed by any other person, subject to such reasonable requirements as to creditworthiness as may be permitted by the applicable residential energy conservation plan and to the right of the public utility to inspect the residential building to confirm the installation of suggested measures except that in no case shall such customer be required to repay the loan over a period of less than three years unless he so elects;

(C) permit the residential customer to repay the principal of and interest on any loan made pursuant to subparagraph (B) as a part of his periodic bill except that a lump-sum payment of outstanding principal and interest may be required upon default in payment by the residential customer;

(3) procedures whereby the public utility prepares and sends to each of its residential customers a list of suppliers and contractors in its service area who sell and install residential energy conservation measures and are willing to perform a residential inspection and give an estimate of costs which list is designed to encourage participation by such contractors and suppliers in a nondiscriminatory manner in the activities to be carried out under paragraph (2);

(4) procedures whereby the public utility prepares and sends to each of its residential customers a list of banks, savings and loan associations, credit unions, and other public and private lending institutions in its service area which offer loans for the purchase and installation of residential energy conservation measures; and

(5) procedures to assure that all amounts expended or received by the utility which are attributable to the utility program (including any penalties paid by such utility under section 106) are accounted for on the books and records of the utility separately from amounts attributable to all other activities of the utility and are not part of the rate base or cost of service or otherwise charged to customers of the utility as part of any charge for electric power or natural gas, except that any amounts expended by the utility under provisions of a program referred to in paragraph (1) shall be treated

for such purposes as a current expense of providing utility service and charged to all customers of such utility in the same manner as current operating expenses of providing such utility service.

(b) No utility may directly or indirectly supply or install any residential energy conservation measure (other than a measure referred to in section 101(11)(H)) as part of a utility program described in this section.

(c) No utility implementing any program under this section may terminate or threaten to terminate utility service to any customer by reason of any default of such customer with respect to payments due for energy conservation measures installed pursuant to such program.

(d) The Administrator may, upon petition of a public utility, supported in the case of a regulated utility by the appropriate State regulatory authority, waive in whole or in part the requirements of paragraph (2) of subsection (a) with respect to the utility program of such utility if such utility demonstrates to the satisfaction of the Administrator that, despite good faith efforts on its part, it is unable to meet the requirements of paragraph (2) of subsection (a) because it both lacks the financial capability to extend loans in accordance with such paragraph and is unable to arrange with any other suitable financial institution for the making of such loans, except that no public utility may be granted a waiver under this section unless such utility demonstrates to the satisfaction of the Administrator that it has dedicated all capital reasonably available to it toward meeting the requirements of paragraph (2) of subsection (a).

#### TEMPORARY PROGRAMS

Sec. 105. Any State regulatory authority or public utility may apply for a temporary exemption prior to the promulgation of rules pursuant to section 103. A temporary exemption may be granted from the requirements of section 104 for a period not to exceed two years after the date of enactment of this Act, if such authority or utility demonstrates to the satisfaction of the Administrator that it has implemented or proposes to implement an energy conservation program for residential customers which is likely to result in the installation of suggested measures in a substantial proportion of residential buildings.

#### FEDERAL STANDBY AUTHORITY

Sec. 106. (a) If a State regulatory authority does not have a plan approved under section 103(c) within two hundred and seventy days after promulgation of rules under section 103(a), or within such additional period as the Administrator may allow pursuant to section 103(c)(1), or if the Administrator determines that such State regulatory authority has not adequately implemented an approved plan, the Administrator shall—

(1) promulgate a plan which meets the requirements of section 103 and which applies to the residential buildings which would have been covered had such plan been so approved or implemented, and

(2) under such plan, by order, require each public utility in the State to offer, not later than ninety days following the date of issuance of such order, to its residential customers a utility program prescribed in such order which meets the requirements specified in subsection (a) of section 104.

(b) If a nonregulated utility does not have a plan approved under section 103(c) within two hundred and seventy days after promulgation of rules under section 103(a) or within such additional period as the Administrator may allow pursuant to section 103(c), or if the Administrator determines that such nonregulated utility has not adequately implemented an approved plan, the Administrator shall, by order, require such nonregulated utility to promulgate a plan which

meets the requirements specified in subsection (e) of section 103.

(c) If the Administrator determines that any public utility to which an order has been issued pursuant to subsection (a) or (b) has failed to comply with such order, he may either—

(1) order that such public utility may not increase any rate at which it sells natural gas or electric energy until such time as he determines that such utility has complied with such order, or

(2) file a petition in the appropriate United States district court to enjoin such utility from violating an order issued pursuant to this subsection.

(d) Any public utility which violates any requirement of a plan promulgated under subsection (a) or which fails to comply with an order under this subsection within ninety days from the issuance of such order shall be subject to a civil penalty of not more than \$25,000 for each violation. Each day that such violation continues shall be considered a separate violation.

(e) Upon petition of any person who is a customer of a public utility which has failed to comply with an order issued under subsection (a) or (b), the appropriate United States district court shall have jurisdiction to enjoin such utility from increasing any rate at which it sells natural gas or electric energy until such time as the Administrator determines that such utility has complied with such order.

#### RELATIONSHIP TO OTHER LAWS

Sec. 107. (a) Nothing in this subpart shall supersede any law or regulation of any State or political subdivision thereof, except to the extent that the Administrator, upon petition of a public utility and for good cause, determines that such law or regulation prohibits a public utility from taking any action required to be taken under this subpart.

(b) Nothing in this subpart shall be construed as restricting the authority of any agency or authority of the United States or of any State under any provision of law to prevent unfair methods of competition and unfair or deceptive acts or practices by public utilities.

(c) Nothing contained in section 104(4) of the Truth in Lending Act (15 U.S.C. 1603 (4)) or the regulations issued pursuant thereto shall be deemed to exempt sales or credit extensions by public utilities under section 104 or section 105 of this Act.

#### CONTRACT PROVISIONS

Sec. 108. No public utility shall be subject to any liability under any provision in any contract which restricts any public utility from lending, borrowing, or entering a new line of business, if such lending, borrowing, or entering a new line of business is required under this subpart.

#### RULES

Sec. 109. The Administrator is authorized to promulgate such rules as he determines may be necessary to carry out this subpart.

#### PRODUCT STANDARDS

Sec. 110. The Administrator and, in the case of title II, the Secretary of the Treasury shall consult with the Federal Trade Commission with regard to any product or material which is relied on in implementing this Act as a basis for judging the efficacy, energy efficiency, safety or other attributes of energy conservation materials, products, or devices, for the purpose of insuring that such standards do not operate to deceive consumers or unreasonably restrict consumer or producer options, and that such standards (where applicable) are suitable as a basis for making truthful and reliable disclosures to consumers regarding performance and safety attributes of energy conservation products, materials, and devices.

#### AUTHORIZATION OF APPROPRIATIONS

Sec. 111. There are hereby authorized to be appropriated to the Administrator for each of the three first fiscal years beginning after the date of the enactment \$5,000,000 to carry out his responsibilities under this subpart.

#### Subpart 4—Requirement of Energy Efficiency for Federal Assistance

##### DEFINITION

Sec. 141. For purposes of this subpart, the term "existing residential dwelling" means any building used for residential occupancy, the construction of which commenced prior to one year after the date of enactment of this Act, which has a mechanical or electrical system for heating or cooling, or both.

##### FEDERAL ASSISTANCE

Sec. 142. (a) After January 1, 1985, no Federal officer or agency shall approve any application for financial assistance (within the meaning of section 303(7)(A) of the Energy Conservation and Production Act) for acquisition of any existing residential dwelling (other than financial assistance to install residential conservation measures referred to in subpart 1) unless an appropriate State or local authority responsible for determining whether or not such dwelling meets applicable State or local health and safety requirements has certified in writing that such dwelling complied, at the time such certificate was issued, with the suggested measures (as defined in section 101(15)) promulgated under section 103(a) and applicable to such dwelling.

(b) Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation direct such institutions not to make, increase, extend, or renew after January 1, 1985, any loan secured by a residential dwelling (other than financial assistance to install residential conservation measures referred to in subpart 1) unless the appropriate State or local authority responsible for determining whether or not such dwelling meets applicable State or local health and safety requirements has certified in writing that such dwelling complied, at the time such certificate was issued, with the suggested measures (as defined in section 101(15)) promulgated under section 103(a) and applicable to such dwelling.

(c) The Administrator shall promulgate such requirement as may be necessary regarding the certification by State or local authorities of compliance required under this section.

##### EXEMPTIONS

Sec. 143. The Administrator shall promulgate rules under this subpart providing for such exemptions from the requirements of this subpart as may be necessary in the case of—

(1) any dwelling which is not the principal residence of any person, and

(2) any dwelling owned by any person who is financially unable to install in such dwelling the suggested measures required.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the chairman of the committee, the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I want to say to my distinguished friend that we worked closely with the gentleman in trying to work out this legislation, not to infringe on the gentleman's committee. I think it has been a harmonious operation. We made every effort to preserve the existing law as it is. I think that this amendment continues that practice.

Mr. Chairman, I have reviewed this



amendment. It appears to be a satisfaction of that effort.

I therefore have no objection to the amendment.

Mr. DINGELL. Mr. Chairman, I thank my friend.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the distinguished gentleman from New York.

Mr. HORTON. Mr. Chairman, I have gone over the amendment of the gentleman in the well. This side of the aisle has no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Page 95, after line 17, insert the following new section:

SEC. 503. (a) (1) Except as provided in subsection (c), but notwithstanding any other provision of this or of any other Act, simultaneously with promulgation or repromulgation of any rule or regulation issued pursuant to authority transferred, vested, or delegated to the Secretary or the Federal Energy Regulatory Commission, other than a rule or regulation establishing a price for petroleum, petroleum products, or natural gas, the Secretary or the Commission, as the case may be, shall submit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the rule or regulation shall not become effective, if—

(A) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule or regulation promulgated by \_\_\_\_\_ dealing with the matter of \_\_\_\_\_, which rule or regulation was transmitted to Congress on \_\_\_\_\_," the blank spaces therein being appropriately filled; or

(B) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous sessions of Congress after such transmittal.

(2) If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation described in paragraph (1), no committee of either House of Congress has reported or been discharged from further consideration of a current resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in paragraph (1) (A).

(b) (1) The agency may not promulgate a new rule or regulation identical to one disapproved pursuant to this section unless a statute is adopted affecting the agency's powers with respect to the subject matter of the rule or regulation.

(2) If the agency proposes a new rule or regulation dealing with the same subject matter as a disapproved rule or regulation, the agency shall comply with the procedures required for the issuance of a new rule or regulation.

(c) The provisions of this section shall not apply with respect to a rule or regulation which is promulgated under a provision of law which provides for another method of congressional review and disapproval or approval of such rule or regulation than that provided by this section.

(d) For the purpose of this section, calendar days of continuous session of Congress shall be computed in accordance with section 906(b) of title 5, United States Code.

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

Mr. MOSS. Mr. Chairman, reserving the right to object, what was the request?

The CHAIRMAN. The request was to have the amendment considered as read and printed in the Record.

Mr. MOSS. Mr. Chairman, I withdraw my reservation of objection.

Mr. BROOKS. Mr. Chairman, if the gentleman will yield, this is the amendment on veto regulations?

Mr. LEVITAS. Yes.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Chairman, this amendment is almost identical to one which was adopted on 10 separate occasions in the 94th Congress, and has been accepted as part of three major authorizing bills during this Congress. It simply gives the House and the other body the right to veto the rules and regulations which are promulgated by the Department.

As every Member of this body knows, the rules and regulations that come out of these agencies have the force and effect of law. They are very far-reaching in nature. They affect property rights; they indeed can affect the liberty of individuals who violate them.

It seems to me that before we delegate forever the right to pass laws to unelected bureaucrats, the Congress of the United States should have the power, by exercising a congressional veto, to consider whether those rules and regulations carry out the intent of the Congress, or whether they are wise, or whether they are prudent. I think that we abdicate our responsibility unless we reserve to ourselves—and as a result to the people of the United States—the power to exercise this congressional veto. I should point out to the members of this committee that recently the Court of Claims here in the District of Columbia had occasion to rule upon the constitutionality of the congressional one-House veto in the Federal Salary Act, and the court upheld it as a proper exercise of authority under this act.

As this House knows, Congress has adopted similar provisions in almost 200

statutes. Yet, we are creating this new department, with vast powers over every element of our energy policy, and it seems the least that we can do is to reserve to the elected Congress the opportunity to review these rules and regulations to determine whether they are in the best interests of the American people and are consistent with congressional intent.

We have done it before. I think we should do it again and establish once and for all that it is the Congress that passes the laws, not the unelected bureaucracy.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. ROUSSELOT. We have on several occasions had very similar amendments, have we not?

Mr. LEVITAS. That is true. There have been 3 occasions this year and 10 occasions during the last Congress.

Mr. ROUSSELOT. As the gentleman so properly pointed out, the court has upheld it, so the old argument as to its not being constitutional does not hold.

Mr. LEVITAS. Correct.

Mr. MOSS. Mr. Chairman, I rise to speak against the amendment.

Mr. Chairman, I have seen many instances of inconsistency in my 25 years in this body, but I have never seen so much inconsistency as has just been demonstrated by the distinguished gentleman from Georgia (Mr. LEVITAS). He has been lecturing us all afternoon—all day, as a matter of fact—on the need to have everything in the hands of the Secretary. He has objected to the collegial body undertaking traditional functions, and now he comes in and lays on the table the prize package of all.

Let me tell the Members something: You can kid yourselves if you want, but I do not believe anyone in this body is damn fool enough to actually think that he can review each of the rules and regulations promulgated by these agencies. The President recently directed that the secretaries of the various departments and the administrators of the agencies read the regulations that were issued by their agencies, and they became paralyzed. They could not do it. We cannot do it.

If the Members want to infer or leave the inference that because Congress has not vetoed an agency's regulation it has approved it, then vote for this rather ridiculous proposal. It has been voted for before, and it has proved that the House can be a ridiculous body.

Mr. BROOKS. Will the gentleman yield?

Mr. MOSS. I yield to the distinguished gentleman from Texas, and of course following that I will yield to the gentleman from Georgia.

Mr. BROOKS. I want to say that I hope that while this is a nice thought, and it is an amendment which does sort of challenge one's intellect, the reviewing of rules and regulations and laws, is not something on which I want to spend the next 20 years. I do not want, by not vot-

ing on them, to indicate that I have approved them.

So I am inclined to be definitely opposed to this amendment. I do not think it is necessary. I agree with the gentleman from California (Mr. Moss) that we should not adopt this amendment at this time.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the distinguished gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, I would like to make two points, if I could. The gentleman from California (Mr. Moss) has inferred that the gentleman from Georgia is openly acting inconsistently on this matter.

Mr. MOSS. The gentleman is precisely correct.

Mr. LEVITAS. I have said that consistency is the hobgoblin of little minds. I think consistency depends on whose ox is in the ditch.

Mr. MOSS. Let me say to the gentleman that one will not accuse him of being consistent.

Mr. LEVITAS. The gentleman from California was arguing so effectively and so eloquently earlier about putting too much power in the office of the Secretary.

Mr. MOSS. Mr. Chairman, I will take back my time.

I will say to the gentleman that does not fly, because the gentleman has had his amendment prepared. He has carried it in his back pocket for the last 3 years. So I say to the gentleman that he should not tell me that I inspired him today. I did not inspire him to do anything.

Mr. LEVITAS. I have never accused the gentleman from California of inspiring me, nor would I.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to point out to the Members of the House that this amendment may do more than the author of it thinks it will do. It excepts from congressional veto any rule or regulation establishing the price of petroleum, petroleum products, and natural gas.

Under existing law, an energy action which may affect regulation of the price of petroleum products is subject to congressional veto.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, I direct the gentleman's attention to paragraph C of the amendment, which specifically preserves the right of any existing congressional veto to that pricing mechanism for the very purpose that the gentleman from Texas points out.

I would also like to observe that this amendment is not meant to imply con-

gressional approval of any regulation, should neither House act to reject any rule or regulation under this procedure.

Mr. ECKHARDT. I am glad the gentleman pointed that out.

When was this amendment printed? Will the gentleman indicate that?

Mr. LEVITAS. If the gentleman will yield, it was offered by the gentleman earlier today, and it has been on the desk of the majority and the minority since this morning. In addition, a notice of this amendment is contained in the Doorkeeper's list of floor action today, as well as in today's DSG bulletin, an organization to which the distinguished Member from Texas belongs. There was ample public notice that this amendment would be offered.

Mr. ECKHARDT. This amendment is three pages long. It has an integral relationship with questions of pricing of oil and gas. This kind of an amendment may be properly considered on a bill which deals with the question of pricing, but it is a bad mistake to deal hastily with a matter of this moment here today.

I know that many Members have voted for this type of amendment and I know the Members know that I think it is a very, very bad approach because, among other things, it would overload our body with review of regulations. But what is the reason for permitting a review of other rules besides price rules and then leave out the most extensive authority of all—pricing authority—out of the review provisions? Does that really make sense? If there is anything we ought to review, it should be the question of price. And yet that is exempted from the amendment. The gentleman says he does have down here, in section C—and he speaks correctly—a proviso that it will not affect existing laws. But we need to look at that in considerable more detail. I would urge the House not to act hastily on this amendment merely because the House feels that the principle involved is good as a general thing.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, if we do not add this amendment to the bill, where is this body with regard to proposed rules and regulations to be promulgated by the Secretary under this bill?

Mr. ECKHARDT. Mr. Chairman, I am afraid I did not fully understand the gentleman's question.

Mr. VOLKMER. Under the bill the Secretary will have power to make rules and regulations. Where will this body be without the amendment in the bill? What is the position of this body in relation to those rules and regulations? What can we do other than enact legislation ourselves?

Mr. ECKHARDT. Mr. Chairman, that will depend on what comes out of the subcommittee chaired by the gentleman from Michigan (Mr. DINGELL). If this amendment is to be placed on a bill, it should be subsequent to a determination

by that subcommittee of the manner in which rules are promulgated and the restrictions upon rules which are promulgated.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I hope that my colleagues are listening to the gentleman from Texas (Mr. ECKHARDT) because he is speaking with good sense.

Let me give the Members an idea of some of the questions that are involved here. First, there are actions of the Nuclear Regulatory Agency, and those involve, in other words, safety of nuclear materials. Then there is the allocation of natural gas in instances of emergency, and we have involved questions of who shall be cut off from natural gas in the event of shortages. There are questions of emergency sales of natural gas in times of natural gas shortages.

Mr. Chairman, this involves cold homes; this involves the safety of people from nuclear contamination. And any of these orders or actions, for all intents and purposes, must lie fallow for 90 days if the Congress has failed to act by concurrent resolution by both Houses.

These are matters that should be addressed as high priority emergency items, and there ought not to be doubt cast on them by failure of the House to act.

Let me ask my colleagues, the Members of the House, to look at this and understand what we are doing to ourselves. We are taking unto ourselves the blame for the failure of every action that has taken place with regard to regulatory bodies downtown, every action real or imaginary, and the result is that if we have failed to act, each and every one of us is subject to being denounced by our constituents.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(On request of Mr. DINGELL and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. Mr. Chairman, will the gentleman yield further?

Mr. ECKHARDT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, if I may repeat, if we have failed to act, each and every one of us is subject to being denounced for having failed to overrule these actions, whether they are with merit or without merit. I commend my colleague, the gentleman from Texas (Mr. ECKHARDT), for having pointed out these perils.

Mr. ECKHARDT. Mr. Chairman, I think the observation of the gentleman from Michigan (Mr. DINGELL) is absolutely right. If we do not approach this matter in the right way, we put the imprimatur of congressional authority on matters that we really have not had an opportunity to consider.



Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the Levitas amendment. Mr. Chairman, I am absolutely amazed as I listen to some of my colleagues who list all these powers that have been granted to this agency under this bill and then say that we should not tamper with a rulemaking power.

I can remember those same arguments being made in previous debates. These same voices said, "Trust us. We know what we are doing. We are going to set up a whole new independent Post Office Department." Look what happened as the result of Congress delegating all that new authority to the Post Office. Did the service improve? Who got blamed for everything that went wrong—the Congress.

We do not, under this amendment, have to veto every single rule or regulation. But let me say to my colleagues that this is a new agency with tremendous powers, far more powers than most of us realize, I am afraid. The power that we are giving this agency would extend over a vast amount of the resources of this country. To simply ask for the right to look at those rules and regulations that will affect all those areas that my colleague, the gentleman from Michigan (Mr. DINGELL), just mentioned, is, I think, a simple request on our part.

Mr. Chairman, we have time and time again given power to agencies and then come back and complained because they are using that power. This amendment is a simple request on our part to review that rulemaking power.

Many Members have cosponsored a bill introduced by my colleague, the gentleman from California (Mr. DEL CLAUSEN) that is very similar to this. The majority of us have supported this provision for other agencies.

Mr. Chairman, I think this is a reasonable request, and I cannot understand why these same Members who are complaining about too much power being granted to this agency would now complain because we want to check some of its rulemaking power.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding, and I agree with his observation.

Let me point out a few things more. Some of the Members in this Chamber may think that their constituents are quite pleased with the fact that the bureaucracy has been passing more rules and regulations which have the force and effect of law than the laws that the Members of Congress have enacted. Some Members may think that it is an easy out to say that we do not want to have the responsibility of reviewing Administrative regulations. The gentleman from Michigan (Mr. DINGELL) has made such an argument. The real argument is that we do not want to face the music.

We want to pass the buck down to the bureaucracy and then along with our constituents condemn the bureaucrats when they do not do the job or do a poor job.

We do not have to look at every one of the 7,000 regulations issued under the bureaucracy each year, but when there is a far-reaching one that affects the life, liberty, or property of someone, then we have that responsibility.

Mr. Chairman, it is the law that we are talking about. If we do not want to be involved in the legislative process, then we should not be here. What we are doing today is letting other people, not elected by anybody, pass laws.

Mr. Chairman, this is keeping in the Congress the ultimate responsibility. I think we should adopt this amendment.

Mr. ROUSSELOT. Besides that, Mr. Chairman, we get blamed for many of the rules and regulations on which we have not passed judgment.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of the gentleman's amendment.

In the last Congress, Mr. Chairman, we went up and down the hill on this same amendment, the gentleman from Georgia (Mr. LEVITAS), the gentleman from Georgia (Mr. MATHIS), myself, and others, and each time we did, it was passed overwhelmingly, so overwhelmingly that finally it was done on a voice vote.

Mr. Chairman, it is a little bit ridiculous at this point to say that we cannot pass this amendment because it will create too much trouble. If we are going to get the blame for it—and we are—we might as well take the responsibility for doing the job.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of the amendment of the gentleman from Georgia (Mr. LEVITAS), as well.

Mr. Chairman, there are three good reasons that this amendment should be adopted. Number one, the agency will be much more careful if it knows that we have the ability to review the regulation.

Second, on occasion, we might actually veto a regulation. We have done it in the past. During the last Congress, my colleagues will remember, we did precisely that with respect to the regulations adopted by the GAO in regard to the Presidential papers. They issued regulations. We vetoed them.

Third, Mr. Chairman, we will not be able to continue to pass the buck. That is the one complaint that the American people have about this Congress, more

than any other complaint that I have heard, anyway; that is, that we are always passing the buck to the bureaucracy.

They come in with a regulation that we do not like. We say, "We are sorry. We do not like that regulation." However, we cannot do anything about it.

Mr. Chairman, I think this is a very fine amendment; and I certainly support it.

Mr. TUCKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just offer this one brief comment: I certainly agree with the spirit in which this amendment is offered, but let me assure my colleagues that if we pass an amendment of this nature, there will be literally thousands and thousands of regulations involving individual litigants that come before the Federal courts where good arguments are very soundly defeated because one litigant will pull out this statute and say, "This must be in keeping with the intent of Congress because Congress had the opportunity to act in opposition to it and did not."

Mr. Chairman, I have heard this argument in court before. I see by the nods of heads that many of my colleagues have heard it also.

Mr. Chairman, I urge the Members to defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The question was taken; and the chairman announced that the yeas appeared to have it.

#### RECORDED VOTE

Mr. LEVITAS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 200, noes 125, not voting 108, as follows:

[Roll No. 301]

#### AYES—200

|                |                |              |
|----------------|----------------|--------------|
| Abdnor         | Cochran        | Frenzel      |
| Alexander      | Cohen          | Frey         |
| Ammerman       | Coleman        | Fuqua        |
| Anderson,      | Collins, Ill.  | Gammage      |
| Calif.         | Collins, Tex.  | Gaydos       |
| Archer         | Corcoran       | Gilman       |
| Armstrong      | Coughlin       | Ginn         |
| AuCoin         | Crane          | Glickman     |
| Badham         | Cunningham     | Goldwater    |
| Barnard        | Daniel, Dan    | Gore         |
| Baucus         | Daniel, R. W.  | Gradison     |
| Bauman         | de la Garza    | Grassley     |
| Beard, R.I.    | Derwinski      | Gudger       |
| Benjamin       | Dickinson      | Guyer        |
| Bennett        | Dicks          | Hamilton     |
| Bevill         | Dodd           | Hanley       |
| Blanchard      | Duncan, Oreg.  | Hannaford    |
| Blouin         | Duncan, Tenn.  | Hansen       |
| Breckinridge   | Edwards, Ala.  | Hawkins      |
| Brinkley       | Edwards, Okla. | Hefner       |
| Brown, Ohio    | Emery          | Heftel       |
| Broyhill       | English        | Hillis       |
| Buchanan       | Erlenborn      | Holland      |
| Burke, Fla.    | Ertel          | Holt         |
| Burleson, Tex. | Evans, Ga.     | Horton       |
| Butler         | Evans, Ind.    | Hubbard      |
| Byron          | Findley        | Huckaby      |
| Caputo         | Fish           | Hyde         |
| Carr           | Fithian        | Jacobs       |
| Cavanaugh      | Flynt          | Jenkins      |
| Cederberg      | Forsythe       | Jones, N.C.  |
| Clawson, Del.  | Fountain       | Jones, Okla. |
| Cleveland      | Fowler         | Kasten       |

Kazen  
Kelly  
Kemp  
Ketchum  
Keys  
Kildee  
Kindness  
Krebs  
Lagomarsino  
Latta  
Le Fante  
Levitas  
Lloyd, Tenn.  
Long, La.  
Lott  
Luken  
McDonald  
McEwen  
Marks  
Marriott  
Martin  
Mathis  
Mattox  
Mazzoli  
Michel  
Mikulski  
Miller, Ohio  
Mitchell, N.Y.  
Moore  
Moorhead,  
Calif.  
Mottl  
Murphy, Ill.  
Myers, Ind.  
Nowak

## NOES—125

Akaka  
Allen  
Ambro  
Annunzio  
Applegate  
Ashley  
Baldus  
Bedell  
Bellenson  
Bingham  
Boggs  
Boland  
Bolling  
Bonior  
Bonker  
Bowen  
Brademas  
Brodhead  
Brooks  
Burke, Mass.  
Burlison, Mo.  
Burton, Phillip  
Carne  
Chisholm  
Conte  
Corman  
Cornell  
Cornwell  
D'Amours  
Danielson  
Dellums  
Derrick  
Dingell  
Drinan  
Early  
Eckhardt  
Edgar  
Edwards, Calif.  
Ellberg  
Evans, Colo.  
Fascell  
Fenwick

## NOT VOTING—108

Addabbo  
Anderson, Ill.  
Andrews, N.C.  
Andrews,  
N. Dak.  
Ashbrook  
Aspin  
Badillo  
Bafalis  
Beard, Tenn.  
Biaggi  
Breaux  
Broomfield  
Brown, Calif.  
Brown, Mich.  
Burgener  
Burke, Calif.  
Burton, John  
Carter

O'Brien  
Oakar  
Oberstar  
Panetta  
Pettis  
Pickle  
Preyer  
Pritchard  
Quayle  
Quie  
Quillen  
Rahall  
Rallsback  
Regula  
Rhodes  
Rinaldo  
Risenhoover  
Roberts  
Robinson  
Rogers  
Rousselot  
Rudd  
Runnels  
Ruppe  
Russo  
Santini  
Sarasin  
Satterfield  
Sawyer  
Schroeder  
Schulze  
Sharp  
Shuster  
Sisk  
Skelton

Skubitz  
Slack  
Smith, Nebr.  
Snyder  
Spellman  
Spence  
Stangeland  
Stanton  
Stark  
Stockman  
Studds  
Stump  
Symms  
Thone  
Thornton  
Treen  
Trible  
Tsongas  
Vander Jagt  
Volkmmer  
Walgren  
Walsh  
Wampler  
Watkins  
White  
Whitley  
Winn  
Wolff  
Wright  
Wylie  
Yatron  
Young, Fla.  
Young, Tex.

Lent  
Lloyd, Calif.  
Long, Md.  
Lujan  
Lundine  
McCormack  
McDade  
McKay  
McKinney  
Mann  
Marlenee  
Milford  
Miller, Calif.  
Mineta  
Minish  
Moffett  
Mollohan  
Myers, Gary

Neal  
Nichols  
Nix  
Pepper  
Pike  
Poage  
Pressler  
Price  
Pursell  
Roe  
Rosenthal  
Ryan  
Sebelius  
Seiberling  
Shipley  
Smith, Iowa  
Solari  
St Germain

Staggers  
Steers  
Stratton  
Taylor  
Teague  
Thompson  
Traxler  
Ullman  
Waggonner  
Weaver  
Whitehurst  
Wilson, Bob  
Wirth  
Wylder  
Yates  
Young, Alaska  
Young, Mo.  
Zerferetti

H.R. 6401. An act to authorize appropriations for the administration of the Deepwater Port Act of 1974.

## PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, I was off the floor on a medical appointment during the debate on several amendments to the bill, H.R. 6804. Had I been present, I would have voted "no" on rollcall No. 298, the Conyers amendment; and "aye" on rollcall No. 299, the Moss amendment; and "aye" on rollcall No. 300, the Udall amendment.

## GENERAL LEAVE

Mr. CORNWELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks and include therein extraneous material on the subject of the special order speech today by the gentleman from Massachusetts (Mr. DRINAN).

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

## GOVERNING INTERNATIONAL FISHERY AGREEMENT FOR 1978 THROUGH 1982 BETWEEN THE UNITED STATES AND JAPAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-168)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

## To the Congress of the United States:

In accordance with the Fishery Conservation and Management Act of 1976 (P.L. 94-265: 16 USC 1801), I transmit herewith a governing international fishery agreement for 1978-1982 between the United States and Japan, signed at Washington on March 18, 1977.

This Agreement is significant because it is one of a series to be negotiated in accordance with that legislation. It sets out the principles that will govern fishing by Japan for fisheries over which the United States exercises exclusive management authority. I urge that the Congress give favorable consideration to this Agreement at an early date.

JIMMY CARTER.

THE WHITE HOUSE, June 2, 1977.

## LEGISLATION AMENDING AND EXTENDING ELEMENTARY AND SECONDARY EDUCATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

Mr. MEEDS changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MIKVA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6804) to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes, had come to no resolution thereon.

## GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks and to include extraneous material on the bill, H.R. 6804, just considered.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Shirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On May 26, 1977:

H.J. Res. 424. Joint resolution to authorize the Administrator of General Services to accept land, buildings, and equipment, without reimbursement, for the John Fitzgerald Kennedy Library, and for other purposes;

H.R. 5562. An act to authorize the establishment of the Eleanor Roosevelt National Historic Site in the State of New York, and for other purposes; and

H.R. 6205. An act to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out the Atlantic Tunas Convention Act of 1975.

On June 1, 1977:

H.R. 3662. An act granting the consent of Congress to the Mississippi-Louisiana bridge construction compact; and



man from Minnesota (Mr. QUIE) is recognized for 10 minutes.

Mr. QUIE. Mr. Speaker, I am today introducing legislation to amend and extend the Elementary and Secondary Education Act and various other programs of assistance to students in grades kindergarten through 12.

The major thrust of the bill is to amend title I of ESEA to provide that beginning with fiscal year 1978 funds will be allocated on the basis of educational need as opposed to the current formula which is based on discredited economic data and the outlandish assumption that being economically poor is equivalent to being educationally disadvantaged.

Before I detail the bill which I have introduced, I would like to note that the thrust of the changes I am proposing in the allocation of title I funds has already received a great deal of favorable support.

William A. Bibbiana, senior research analyst, Pasadena Unified School District, Pasadena, Calif., in a letter to the editors, *Education U.S.A.*, wrote:

In reference to Congressman Quie's proposal, we welcome the possibility of extending Title I funds based on a "national test" or other indicator of academic achievement. To base funding solely upon "need" without including effectiveness as a criterion for continued funding is, in fact, deleterious educationally and wasteful financially.

Dr. James P. Miller, superintendent of schools, Santa Fe Public Schools, Santa Fe, N. Mex., stated:

We wholeheartedly support the philosophy addressed in the first three items in your letter, namely that the allocation of Title I funds should be determined solely on educational need. While we recognize the original political necessity of placing ESEA under the War on Poverty aegis, we believe the time has come to remove these funds from general social action and to concentrate them solely on education.

Mr. John W. Phillips, acting superintendent, Charlotte-Mecklenburg Schools, Charlotte, N.C., said:

The Board and Staff of the Charlotte-Mecklenburg school system support wholeheartedly the proposed legislation to direct school districts to allocate funds among schools on the basis of educational need. We feel that this is a fairer, more equitable way of assuring that children, whose educational attainment is significantly lower than that expected of children of the same age and grade, receive the help they need.

Dr. Owen B. Kiernan, executive director, the National Association of Secondary School Principals, commented:

Using educational need, rather than income level to determine eligibility for Title I, is a constructive approach. We agree that Title I should not be an educational subsidy tied to low income. Rather, it should be an educational subsidy tied to low achievement.

Mr. George W. Barnes, Federal projects coordinator, Clearfield Area School District, Clearfield, Pa., wrote:

At last evening's meeting of our Parent Advisory Council for ESEA Title I in the Clearfield Area School District, the members passed a resolution expressing support for you in your fight to remove the Title I formula that requires a school building to have a high-enough percentage of economically-

disadvantaged students to qualify it for Title I supplementary instruction in reading and math.

We believe that such restrictions placed on us by the Title I regulations are not only discriminatory but may be a violation of rights that could be overturned by the Supreme Court if some family would be so inclined to press suit.

This bill is a refined version of legislation which I had introduced in the 93d Congress (H.R. 5163) to amend title I to provide for allocation according to educational need. The new bill builds upon many of the comments and suggestions made about the earlier bill.

In addition to amending title I of ESEA, the bill also contains major substantive amendments to title VII, ESEA, providing aid for bilingual education programs, and to the National Reading Improvement Act. The legislation also establishes a program to assist school districts in providing programs for gifted and talented children.

The amendments made to the Bilingual Education Act have been prompted by recent evaluation reports on the program done under contract to the U.S. Office of Education by the American Institute of Research and are reflective of concerns expressed in a recent subcommittee hearing by Joseph Coates of the Office of Technology Assessment.

The amendments to the Reading Act are designed to remedy some of the administrative confusion and unnecessary duplication created in the 1974 law (P.L. 93-380) by the merging of different House and Senate approaches to the grant-making process.

The inclusion of a program for gifted and talented children is based on my belief that there is a vital need to stimulate programs for the bright student just as Federal policy has done for the disadvantaged and the handicapped. Naturally, the level and extent of support in this area will be quite small in comparison to the other special populations served by Federal programs; however, this is an area where a few Federal dollars will stimulate a great deal of effort at the State and especially at the local level.

As I mentioned earlier, the main thrust of my bill deals with title I of ESEA. For several years now I have felt that the title I allocation formula was both unfair and unwise. Ever since the enactment of title I in 1965, funds have been allocated on the basis of census and welfare data. Both of these data elements have significant drawbacks which have been enumerated in a variety of congressional hearings.

To recapitulate, census information suffers from being untimely. For example, the 1970 census asked respondents about their 1969 income. By the time that data was available for use by USOE, it was 1973 and that data will be in use until results of the 1980 census are available in about 1983. By that time a sixth grade child from a poverty family in the 1970 census would be 24 years old and would likely be living in a different school district, might or might not have

children of his or her own, and would likely no longer be in a family designated as below the poverty line. In addition, there is also a strong likelihood that that sixth-grade child in 1970 would have received at least some college education, if not a degree. And yet through legislative legerdemain, Congress has decreed that the school district of attendance in 1970 will continue to get funds based on that child. In this period of declining enrollments, we might well find someday that the number of title I eligible children, using census information, is greater than the actual enrollment. Such is the power of the legislatively created phantom child.

The Census Bureau has also acknowledged that census methods are inaccurate in counting some minority citizens. In a report of the 1970 census, the Census Bureau estimated that it had missed 5.3 million people. Further, the Bureau estimates that the error rate ranges from less than 1 percent for white females aged 10-14 to 10.4 percent for black males under 5 years of age.

The other major component of the title I formula is welfare data based on counts of the number of children on AFDC where the AFDC payment is higher than the current poverty level.

AFDC data suffers from a host of problems. The AFDC program is subject to enormous variations between States. For example, each State makes the decision on whether or not to provide AFDC funds to families where a man is present in the home. As a result, half the States have such a program and half do not. What a ridiculous thing to reward school districts in half the States with a title I payment as a bonus for a broken family on welfare.

The AFDC program is also subject to enormous errors in payments and eligibility. A report by HEW for the period January-June 1976 showed that in some States as many as 14.6 percent of the AFDC recipients were ineligible for such aid. Even the best administered program had a 0.6 percent error rate on eligibility. In another category, as many as 25.7 percent of those eligible were receiving more than they should have been. Although recent actions by Congress and HEW have had some effect in reducing the scale of the problem, it is hardly a data base to use to allocate education funds.

In contrast to the system that now exists, I propose in the bill introduced today that title I dollars be directed to those with the greatest demonstrated educational need.

In brief, what I propose is that the National Assessment of Educational Progress, an already functioning, experienced organization funded by HEW's National Center for Educational Statistics, be directed to test a sample of 7-year-old children of sufficient size to produce valid State-level estimates. I have chosen 7-year-olds as the only age to be tested for the national distribution because they are both old enough to be tested and young enough not to be subject to any real school influences. The educational

deficiencies that they will exhibit will be real and serious.

By using the national assessment we will gain from the experience of that organization and use their procedures which utilize random sampling and a controlled testing environment directed by an NAEP employee or contractor. According to the information they have supplied me, an adequate sample for each State will be between 1,000 and 3,000 children.

The data collected from NAEP will be used for interstate allocation. Once the dollars are received at the State level, it will be up to the State to devise the means to accomplish intrastate allocation. Since about 40 States have some type of testing program, that should not be too difficult. Many States could probably implement such a change within a year. To assure fairness of the testing instrument and its lack of bias, the State would be required to obtain the approval of the Commissioner. The Commissioner would also approve the State's plan with respect to setting of the cut-off point for allocation among school districts. To conform with the Federal allocation based on 7-year-olds, I would urge, but not require, the States to assess 7-year-olds as well.

Once the allocations have been made to the school district, then the district would apportion the funds to schools. There would be two restrictions. No school with less than a 3-percent educationally disadvantaged population could receive title I funds, and the LEA would be required to serve those with the greatest educational needs first.

I realize that this plan will require some adjustments and I have, therefore, provided for a phased-in transition to this new method. In the first year after enactment, fiscal year 1979, LEA's would be required to use this new method of allocating funds within the district. Beginning in fiscal year 1980, States would have the option of using the new system with a fiscal year 1981 deadline for compliance. The national allocation would first occur in fiscal year 1981. This 3-year, three-stage phase-in should provide adequate time for the needed transition.

In addition to these changes in the allocation system and formula, my bill also contains a number of other amendments to title I. They are as follows:

First. An average of not less than 80 percent of all title I funds within a State would have to be spent on the basic skills of reading, mathematics, and the language arts.

Second. Each LEA would be required to coordinate programs and projects assisted under title I with the regular program and staff of the agency. This would hopefully eliminate the situation that currently exists in many districts where the title I program virtually operates as a tenant and the school as a landlord with little or no coordination between the academic program and staff.

Third. States would be permitted to increase funds withheld for State administration for 1 to 1½ percent and would further be required to match, over a pe-

riod of years, all Federal money withheld for administration.

Fourth. Programs for migrant students who have left the migrant stream would be subject to pro rata reduction.

Fifth. The Commissioner would be permitted authority to withhold a portion of a State's title I grant if such an action would be more in keeping with the nature of the offense and purpose of the act. Current law requires a total cutoff of funds even for the most minor infraction.

Sixth. States which have their own compensatory education programs would be permitted to submit a plan for the joint administration of the State and Federal compensatory program. The Commissioner would be permitted to waive portions of the law or regulations in order to permit joint administration. Any such waiver would be published in the Federal Register and subject to a 45-day congressional review period.

Seventh. The follow through program is transferred from the Community Services Act to title I, ESEA.

In addition to the changes in title I, the bill also includes, as I noted earlier, some major amendments to the Bilingual Education Act.

These amendments would direct the program primarily toward proficiency in the English language and would require:

First, the development of a variety of bilingual models;

Second, that local parents select the type of programs;

Third, multicultural teaching;

Fourth, annual program evaluations;

Fifth, that academic progress be demonstrated before further funding of a program could take place; and

Sixth, those students with the greatest need for the program be served first.

I am proposing these changes both because of my own concern about the direction of the program and because of the recent evaluation studies which I mentioned earlier. Let me make clear the fact that I support a bilingual program which will assist limited and non-English speaking students in learning English. I also support the notion that States and local districts can choose to fund a maintenance program or a full bilingual-bicultural program if they so desire. I do, however, oppose a Federal policy that endorses such an approach and I become very concerned when evaluation reports indicate that a vast majority of title VII students are in fact English-language dominant.

The OE evaluation study contained the following major findings:

Only one-third of the students enrolled in bilingual education classrooms were of limited English-speaking ability.

During a 5½ month period title VII hispanic students made smaller progress in English language proficiency than their nonprogram counterparts, but showed greater gains in mathematics.

Eighty-six percent of the title VII project directors reported that Spanish dominant students often remain in bilingual classrooms after they are able to function in English.

The amendments I am proposing to title VII should assist in overcoming these adverse findings.

The other major set of amendments contained in my bill deal with the National Reading Improvement Act. As passed in 1974 as title VII of Public Law 93-380, the act contains two major parts dealing with assistance to States and local districts. The combination of these two parts represented a combination of different approaches. In my view and in the view of many in the field who are familiar with the program, the merger has not worked well and has, in fact, created a great deal of confusion.

The amendments contained in the bill I have introduced today merge parts A and B and eliminate two sections of the law which have either not been used or whose effectiveness I question. The amendments also extend the program through fiscal year 1982.

Finally, my bill creates a separate program for gifted children authorized at \$12.5 million for each of 4 years and extends title IV of ESEA and the Adult Education Act through 1982 without amendment.

On June 7, Chairman PERKINS will begin an extensive series of hearings on ESEA and related acts providing assistance to elementary and secondary schools. I commend him for the very thorough schedule he has announced and for his openness and willingness to explore the enormous number of issues which are raised by the list of OE programs operating in this area.

Although my bill covers a number of programs, it does not cover them all. Emergency school aid, impact aid, and the Special Projects Act all will come up for renewal in this Congress. In each of these programs, as well as in areas like the Adult Education Act, there are many other issues which need thorough exploration. I would expect that the committee will make extensive recommendations for modification in all of these programs.

I include a section-by-section analysis of the bill:

#### SECTION-BY-SECTION DESCRIPTION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT AMENDMENTS OF 1977

##### TITLE I—AMENDMENTS TO TITLE I OF ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

Section 101. Amends the Declaration of Policy section of Title I, effective October 1, 1980, to provide that Title I funds will be allocated to State and local educational agencies on the basis of educational need as determined by an assessment of deficiencies in basic learning skills.

In addition, this section extends Title I through fiscal 1982.

Section 102. This section amends the LEA application section of Title I (Sec. 141) to provide that, beginning with fiscal 1979, the LEA must:

(a) allocate funds to schools on the basis of educational need and give priority in providing services to those with the greatest need;

(b) not provide services to children in any school where the concentration of educationally needy children is less than three percent of the children enrolled in that school;

(c) derive the data relating to educational need from educational measurements ap-



proved by the State education agency according to guidelines published by the Commissioner;

(d) determine the level of non-Federal sources based upon the exclusion of comparable State special programs for educationally deprived children, providing that the level of such expenditures for State programs is not less than the expenditure level for fiscal 1976.

This section also amends the "excess cost" definition in Section 403 of P.L. 874 to delete language that has hampered the development of comparable State compensatory education programs.

Section 103. (a) This section amends the LEA application section to require that the LEA must plan for the coordination of programs and projects assisted under Title I with the regular public school program and staff so that such programs and projects complement one another and so that the needs of the individual children served by such programs and projects are better met.

(b) Section 142 of Title I, dealing with assurances from the States, is amended by adding a new subsection to require that the State education agency shall submit a comprehensive plan (or revision) which shall contain:

(1) standards and objectives for obtaining excellence in Title I projects and an assessment of the success which has been attained in meeting such standards and objectives;

(2) information on how States which have State compensatory programs will coordinate the State programs with Title I to better serve the children assisted; and

(3) an assistance that not less than 80 per centum of the payments received by a State will be used for instructional programs in reading, mathematics, and language arts.

Section 104. The section of Title I dealing with the participation of non-public school children is amended to provide that in instances where the Commissioner must "bypass" the State or LEA, he may deduct from the grant an amount necessary to cover his administrative expenses for arranging such services.

Section 105. The payment section (143) of Title I is amended to provide that for fiscal 1980 states may have the option of allocating funds to LEAs according to an assessment of educational need and that, beginning with fiscal 1981, States would be required to use such means. Any measurement program used by the States would have to be approved by the Commissioner. The Commissioner would be required to approve the assessment program to assure that it is culturally fair and non-biased and that it will result in an adequate measurement upon which to base intrastate allocations.

Section 106. This section amends Sec. 103 of Title I (dealing with grants) to provide that beginning with fiscal 1981 the interstate allocation of funds will be based on an assessment of educational need as determined by data derived from the National Assessment of Educational Progress relative to the performance of 7-year olds in each State. The entitlement for each State would be based on the projected number of educationally disadvantaged—each State using the ratio of 7-year olds so determined in each State compared to the national number and then extrapolating that figure to the total number of children ages 5-17 in the nation.

Section 107. This section contains amendments to Sec. 103 and provides that the Secretary of the Interior may contract with tribal organizations for the delivery of Title I services to Indian children.

Section 108. This section amends the section providing funds for State administrative expenses to increase the maximum set-aside from 1 to 1.5 percent and to require that States match Title I moneys withheld

for administration. The matching provision would be phased in over a six-year period. In addition, the definition of "administrative expenditures" is expanded to include technical assistance related to measurement and evaluation.

Section 109. The Title I set-aside for migrant children is amended to permit the Commissioner to use not more than one percent of the funds to develop, by contract, and disseminate programs for migrant children in the basic skills areas of reading and mathematics. The payments to States for those children whose parents have dropped out of the migrant stream are made subject to pro rata reduction in the case of insufficient appropriations for Title I.

Section 110. Section 146 dealing with withholdings in cases of noncompliance with Title I is amended to permit the Commissioner to hold back a portion of the State's Title I payment. Current law requires that the entire payment be withheld even for minor infractions.

Section 111. A new section (152) is added providing that in any State with a State compensatory program consistent with Title I and funded at an amount equal to at least 20 per centum of the State's Title I payment, the State may submit a two-year plan for the joint administration of both programs. If such plan so requires, the Commissioner is empowered to waive requirements of Title I following publication of such waiver request in the Federal Register and a 45-day review by the Congress. However, the section of Title I dealing with services to students in non-public schools may not be waived.

Section 112. The Follow Through program, operated by the U.S. Office of Education and authorized in the Community Services Act of 1975, is transferred to Title I.

#### TITLE II—AMENDMENTS TO OTHER EDUCATION PROGRAMS

Section 201. (a) Part A of the National Reading Improvement Program, Title VII of P.L. 93-380, is combined with Part B of that Act to provide for better coordination and management, in addition to Parts C and D of that Act, dealing with Special Emphasis Projects and Reading Training on Public Television.

The terms of the Act are amended to permit service to secondary school students. The section providing for grants to reading academies is amended to require notification of and opportunity for comment by the State education agency.

The Act is extended through fiscal 1982.

Section 202. The Adult Education Act is extended through fiscal 1982.

Section 203. The Bilingual Education Act is extended through 1982.

Section 204. The Bilingual Education Act is amended by:

(a) emphasizing the transitional nature of programs funded under the Act;

(b) requiring the teaching of multicultural contributions to American society;

(c) limiting participation in programs to children of limited English-speaking ability and requiring that those with the greatest needs be given priority in service;

(d) directing the creation of several model bilingual programs and placing in the hands of local parents the decision on which model to use;

(e) requiring that use of evaluation models in each project;

(f) requiring that the refunding of a project be contingent upon demonstrated progress by children serviced by the project in attaining English language skills. In addition, the Commissioner is directed to publish program and evaluation models in the *Federal Register* within six months of the date of enactment of the Elementary and Secondary Education Act Amendments of 1977.

Section 205. Title IV of the Elementary and Secondary Education Act is extended through fiscal 1982.

#### TITLE III—GIFTED AND TALENTED CHILDREN

Section 301. This Title is cited as the "Gifted and Talented Children Act."

Section 302. The Commissioner is required to designate an administrative unit within the Office of Education to administer programs and projects funded under this title and to coordinate all gifted and talented programs in the U.S. Office of Education. Also, the Commissioner is directed to establish or designate a clearinghouse on the education of gifted and talented programs.

Section 303. Creates a program of grants to State and local education agencies for gifted and talented children from preschool through the secondary school level. Also authorized by this section are grants to train personnel for working with gifted and talented children.

Section 304. Directs the National Institute of Education to carry out a program of research related to gifted and talented children and directs the transfer of funds from the Commissioner to the Director of the National Institute of Education to carry out such a program.

Section 305. Authorizes \$12.5 million for fiscal year 1979 through 1982.

#### THE 1977 GREAT DECISIONS OPINION BALLOTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 10 minutes.

Mr. WHALEN. Mr. Speaker, the Foreign Policy Association is well known in this body and across the country for its commendable efforts in behalf of increasing public awareness of our international relations and their very great importance to us and world peace.

As part of its multifaceted program, FPA conducts a survey of the attitudes of its membership on specific questions. I was pleased to receive a copy of the 1977 Great Decisions Opinion Ballots this morning in a meeting with FPA Chairman Carter Burgess and several of his associates. The results of the survey are listed below for the information of my colleagues.

I would like to mention that all of the eight subject areas surveyed are matters of great current concern. They are nuclear proliferation, southern Africa, the Middle East, Western Europe in transition, United States-Soviet relations, China, food and population, and Panama and Cuba.

As a member of the House International Relations Committee, I found the attitudes reflected in the results to be very informative and I commend them to my fellow Members. I also would like to congratulate Carter Burgess and his colleagues for another successful year and for securing the agreement of former Secretary of State Henry Kissinger to be a member of the board, thus adding further eminence to an already distinguished body.

Mr. Speaker, I am pleased to insert at this point in the RECORD the results of the Great Decisions 1977 Opinion Ballots:

## TOPIC 1: SPREAD OF DEADLY WEAPONS—TOTAL NUMBER OF BALLOTS: 4,896

[In percent]

|   | Pro | Go along without enthusiasm | Con | No opinion |
|---|-----|-----------------------------|-----|------------|
| 1. With regard to the sale or transfer of conventional weapons to foreign nations, the United States should:                                      |     |                             |     |            |
| a. Pursue existing policies   | 15  | 35                          | 34  | 16         |
| b. Unilaterally ban the sale or transfer of conventional weapons to all foreign nations   | 17  | 22                          | 46  | 15         |
| c. Sell or transfer conventional weapons to our allies only   | 26  | 31                          | 27  | 16         |
| d. Sell or transfer conventional weapons to any nation when the President and Congress find it in the national interest to do so                  | 37  | 35                          | 18  | 10         |
| e. Seek an agreement in the United Nations, or among major arms suppliers, to control the sale or transfer of conventional weapons                | 71  | 13                          | 9   | 7          |
| f. Repeal existing legislation giving Congress a legislative veto over the sale or transfer of conventional weapons                               | 16  | 19                          | 50  | 15         |
| 2. With regard to the problem of nuclear proliferation, the United States should:   |     |                             |     |            |
| a. Give first priority in our foreign policy agenda to controlling the spread of nuclear weapons  | 72  | 14                          | 8   | 6          |
| b. Unilaterally ban the sale of sensitive nuclear technology and fuel to non-nuclear weapons nations  | 43  | 20                          | 22  | 15         |
| c. Seek agreement with all other nuclear exporting nations to ban the sale of sensitive nuclear technology and fuel to nonnuclear weapons nations | 64  | 13                          | 9   | 14         |
| d. Give priority to developing nonnuclear energy sources even if this means a slower rate of economic growth for the United States                | 51  | 17                          | 18  | 14         |

## TOPIC 2: SOUTHERN AFRICA—TOTAL NUMBER OF BALLOTS: 5,064

[In percent]

|  | Pro | Go along without enthusiasm | Con | No opinion |
|--|-----|-----------------------------|-----|------------|
| 1. With regard to Rhodesia, the United States should:  |     |                             |     |            |
| a. Cease U.S. involvement in Rhodesian affairs   | 23  | 23                          | 39  | 15         |
| b. Continue mediation efforts, directed toward black majority rule                                   | 64  | 19                          | 10  | 7          |
| c. If guerrilla warfare resumes, support black nationalists short of military intervention           | 19  | 23                          | 43  | 15         |
| d. If guerrilla warfare resumes, support Smith regime short of military intervention                 | 9   | 12                          | 64  | 15         |
| e. If guerrilla warfare resumes, intervene militarily only if Soviets or Cubans do                   | 17  | 19                          | 46  | 18         |
| 2. With regard to South Africa, the United States should:  |     |                             |     |            |
| a. Work closely with South Africa to maintain stability in southern Africa                           | 50  | 18                          | 17  | 15         |
| b. Maintain cool, correct relations while continuing to oppose apartheid                             | 61  | 21                          | 9   | 8          |
| c. Sever political and economic ties with South Africa; resume only if it abandons apartheid         | 9   | 17                          | 58  | 16         |
| d. Maintain hands off on Namibia's future  | 24  | 21                          | 34  | 21         |
| e. Continue to exert diplomatic leverage to secure Namibia's independence                            | 49  | 19                          | 17  | 15         |
| f. Support an arms embargo against South Africa unless it agrees to prompt free elections in Namibia | 28  | 19                          | 34  | 19         |

## TOPIC 3: MIDDLE EAST CAULDRON—TOTAL NUMBER OF BALLOTS: 4,740

[In percent]

|   | Pro | Go along without enthusiasm | Con | No opinion |
|---|-----|-----------------------------|-----|------------|
| 1. With regard to the situation in Lebanon, the United States should:                   |     |                             |     |            |
| a. Not become involved in any way   | 15  | 22                          | 43  | 20         |
| b. Use its diplomatic influence to help restore and/or maintain peace in Lebanon        | 67  | 20                          | 6   | 7          |
| c. Serve as mediator if requested by the major parties involved                         | 66  | 21                          | 6   | 7          |
| d. Send troops to help keep the peace if requested by the major parties to the conflict | 5   | 16                          | 63  | 16         |

|   | Pro | Go along without enthusiasm | Con | No opinion |
|---|-----|-----------------------------|-----|------------|
| 2. With regard to procedures for ending the Arab-Israeli conflict, the United States should:  |     |                             |     |            |
| a. Move to reconvene the Geneva conference  | 59  | 19                          | 8   | 14         |
| b. Serve as mediator if requested by both sides   | 65  | 20                          | 5   | 10         |
| c. Encourage both sides to reach a settlement in direct negotiations  | 77  | 12                          | 4   | 7          |
| d. Consult with NATO allies and the U.S.S.R. on a settlement that best protects the interests of the parties to the conflict and the major powers and impose it by force if need be | 15  | 20                          | 48  | 17         |
| 3. With regard to its posture toward the Arab-Israeli conflict, the United States should:   |     |                             |     |            |
| a. Continue to pursue the "evenhanded" approach followed by the Ford administration   | 43  | 25                          | 10  | 22         |
| b. Pursue an approach to a settlement along the lines of the recommendations of the Brookings Institution   | 48  | 19                          | 10  | 23         |
| c. Tilt toward support of the Arab side   | 4   | 12                          | 59  | 25         |
| d. Tilt toward support of the Israeli side  | 8   | 15                          | 52  | 25         |
| e. Observe a policy of noninvolvement   | 13  | 17                          | 42  | 28         |
| f. Pursue an evenly balanced approach   | 59  | 16                          | 6   | 19         |

## TOPIC 4: WESTERN EUROPE IN TRANSITION—TOTAL NUMBER OF BALLOTS: 3,781

[In percent]

|   | Pro | Go along without enthusiasm | Con | No opinion |
|---|-----|-----------------------------|-----|------------|
| 1. With regard to the issue of Communist participation in the governments of France and Italy, the United States should:                            |     |                             |     |            |
| a. Continue present relationships with these governments, no matter what their political composition, as long as they observe democratic principles | 63  | 25                          | 7   | 5          |
| b. Treat the issue of Communist participation as a domestic question for the countries concerned  | 48  | 30                          | 15  | 7          |
| c. Make clear in advance that the United States would insist on excluding Communists in these governments from any secret NATO activities           | 44  | 20                          | 26  | 10         |
| d. Make clear in advance that the United States will not participate in NATO if either of these governments includes significant Communist elements | 21  | 20                          | 47  | 12         |
| 2. With regard to our European allies, the United States should:  |     |                             |     |            |
| a. Give greater priority than in recent years to strengthening relations with them and maintain a strong commitment to NATO                         | 60  | 25                          | 8   | 7          |
| b. Gradually begin to phase out the U.S. military presence in Western Europe  | 35  | 28                          | 30  | 7          |
| c. Strongly encourage Common Market nations to achieve greater political and economic unity   | 73  | 18                          | 5   | 4          |
| d. Deal with the nations of Western Europe mainly on a bilateral basis  | 25  | 28                          | 26  | 20         |
| e. Seek to cement a special relationship with West Germany  | 22  | 25                          | 38  | 15         |

## TOPIC 5: UNITED STATES-SOVIET RELATIONS—TOTAL NUMBER OF BALLOTS: 3,983

[In percent]

|  | Pro | Go along without enthusiasm | Con | No opinion |
|--|-----|-----------------------------|-----|------------|
| 1. With regard to relations with the Soviet Union, the United States should:                     |     |                             |     |            |
| a. Adopt more conciliatory policies toward the Soviet Union in the interest of advancing détente | 18  | 26                          | 46  | 10         |
| b. Continue to pursue détente along the lines of the Ford-Kissinger approach                     | 21  | 35                          | 28  | 16         |
| c. Pursue a policy of détente but make fewer concessions, demanding strict reciprocity           | 61  | 21                          | 11  | 7          |
| d. Abandon détente and pursue goal of military superiority over the U.S.S.R.                     | 6   | 16                          | 68  | 10         |



## TOPIC 6: CHINA AND THE UNITED STATES—TOTAL NUMBER OF BALLOTS: 5,032

[In percent]

|  | Pro | Go along without enthusiasm | Con | No opinion |
|--|-----|-----------------------------|-----|------------|
| 1. With regard to the People's Republic of China (mainland China) and the Republic of China (Taiwan), the United States should:  |     |                             |     |            |
| a. Continue present policies: i.e., maintain full diplomatic relations with Taiwan; liaison office in Peking; defense treaty with Taiwan; encourage trade with both.         | 42  | 26                          | 19  | 13         |
| b. Give full and unconditional recognition to the People's Republic of China; sever diplomatic relations with Taiwan and renounce bilateral defense treaty with Taiwan.      | 13  | 20                          | 53  | 14         |
| c. Give full recognition to People's Republic of China on condition that it provide firm assurances it will use peaceful means only to resolve the status of Taiwan.         | 51  | 23                          | 14  | 12         |
| d. Give full recognition to People's Republic of China while giving Taiwan guarantees United States will use force, if necessary, to defend it against aggression by Peking. | 18  | 25                          | 40  | 17         |
| 2. If Taiwan declares itself a new, sovereign and independent nation, the United States should:  |     |                             |     |            |
| a. Refuse to recognize it.   | 12  | 14                          | 51  | 23         |
| b. Establish full diplomatic relations with it but allow existing defense treaty to lapse.   | 34  | 29                          | 18  | 19         |
| c. Establish full diplomatic relations and maintain defense treaty in force.   | 23  | 22                          | 34  | 21         |

## TOPIC 7: FOOD AND POPULATION—TOTAL NUMBER OF BALLOTS: 3,515

[In percent]

|   | Pro | Go along without enthusiasm | Con | No opinion |
|---|-----|-----------------------------|-----|------------|
| 1. With regard to the population problem, the United States should:   |     |                             |     |            |
| a. Pursue zero population growth at home as official Government policy.   | 49  | 19                          | 20  | 12         |
| b. Encourage developing countries to adopt compulsory measures to curb population growth.                             | 31  | 26                          | 32  | 11         |
| c. Encourage developing countries to adopt voluntary measures to curb population growth.                              | 73  | 12                          | 7   | 8          |
| d. Deny foreign aid or credits to developing nations that do not have family-planning or population-control programs. | 19  | 30                          | 37  | 14         |
| e. Do nothing.  | 2   | 8                           | 55  | 35         |

## 2. With regard to the world food problem, the United States should:

|  | Pro | Go along without enthusiasm | Con | No opinion |
|--|-----|-----------------------------|-----|------------|
| a. Give no direct food aid except in emergencies.  | 24  | 21                          | 37  | 18         |
| b. Provide mainly indirect aid (seeds, equipment, technical assistance, etc.) to stimulate self-help efforts and promote agricultural development. | 83  | 10                          | 3   | 4          |
| c. Continue to provide food aid on easy credit and/or grant basis.   | 27  | 33                          | 25  | 15         |
| d. Encourage a free market in world grain trade, letting market forces set grain prices.   | 35  | 23                          | 23  | 19         |
| e. Seek an international accord to regulate world grain prices.  | 41  | 18                          | 23  | 18         |
| f. Contribute to a world grain reserve that would help stabilize prices and provide supplies for emergencies.                                      | 62  | 10                          | 7   | 21         |
| g. Curtail consumption of meat products at home to make more food grains available.  | 27  | 25                          | 23  | 25         |

## TOPIC 8: PANAMA AND CUBA—TOTAL NUMBER OF BALLOTS: 3,686

[In percent]

|  | Pro | Go along without enthusiasm | Con | No opinion |
|--|-----|-----------------------------|-----|------------|
| 1. With regard to Panama, the United States should:  |     |                             |     |            |
| a. Abandon negotiations for a new treaty and maintain the present status of the canal, insisting on full control over the canal and Canal Zone in perpetuity.  | 14  | 15                          | 58  | 13         |
| b. Seek a new treaty that would return the canal and Canal Zone to Panama at the end of a fixed period and provide for United States participation in the defense of the canal for as long as the United States feels this is necessary. | 57  | 18                          | 17  | 8          |
| c. Agree to a new treaty that gives Panama full control over the canal and the Canal Zone.   | 10  | 19                          | 52  | 19         |
| 2. With regard to Cuba, the United States should:  |     |                             |     |            |
| a. Resume full diplomatic and trade relations.   | 41  | 23                          | 22  | 14         |
| b. Continue present policies toward Cuba: nonrecognition, economic boycott, etc.   | 10  | 17                          | 52  | 21         |
| c. Normalize relations only if Cuba ceases to interfere in the affairs of other Latin American and third-world countries and severs military ties with the U.S.S.R.  | 25  | 26                          | 33  | 16         |
| d. Use "appropriate means," including force against Cuba if it intervenes militarily in other Latin American countries.  | 16  | 22                          | 44  | 18         |
| e. Use "appropriate means," including force, against Cuba if it intervenes in other third-world countries.   | 7   | 18                          | 56  | 19         |

## CHICAGO SUN TIMES ENDORSES HOUSE DEBT COLLECTION BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois, (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, yesterday I informed my colleagues of the strong endorsement given by the New York Times to the proposed Debt Collection Practices Act, which was passed by the House on April 4 and is now being considered by the Senate. Yet another distinguished newspaper, the Chicago Sun Times, voiced its strong support for this legislation in an editorial in yesterday's edition. Both of these editorials in favor of the proposed Debt Collection Practices Act follow the April 11 endorsement of the legislation by the Chicago Daily News and demonstrate a growing support for the debt collection bill.

The purpose of the debt collection bill is to stop unethical debt collectors from using abusive tactics. In essence, this means that every individual, whether or not he owes a debt, should have the right to be treated in a reasonable and civil manner. The bill is not intended to al-

low people to avoid paying legitimate debts and it will not have that result.

The bill prohibits actions by debt collectors such as falsely representing oneself as an attorney, making harassing or threatening calls to anyone, publishing "deadbeat" lists, impersonating a law enforcement officer, threatening that failure to repay a debt will result in the arrest or imprisonment of any consumer, and misusing postdated checks. The bill also places reasonable limits on a debt collector's communication with a consumer in general, at work, and with third parties such as the consumer's employer.

The Chicago Sun Times editorial correctly points out that one of the major problems in this area is that of interstate debt collection abuse. Without a Federal law, there is little that can be done to protect a consumer when a debt collector makes a harassing telephone call from another State. The editorial makes the point that businesses have legitimate means of collecting bills, and calls attention to the fact that many of those who fall behind in their payments are not "deadbeats" but rather individuals who have suffered temporary setbacks.

The following is the text of the June 1 Chicago Sun Times editorial in support of the proposed Debt Collection Act:

## STOP BILL-COLLECTION ABUSES

Credit is an integral part of modern life, with networks connecting computers across the country. That's why credit collection agencies are beyond the scope of a single state's control.

Thus even though Illinois has a relatively strong bill-connection law, there is little recourse when an abusive collector gets on the long-distance phone from another state.

The director of the Minnesota Office of Consumer Services said a St. Paul man was dunned by a Chicago bill collector who threatened to telephone the man's wife and boss every hour until the debtor was fired.

Businesses that extend credit obviously have a right to expect payment. But many who fall behind in payments aren't deadbeats—they may be temporarily broke. Businesses have legal ways to collect bills, and a measure under consideration by Congress would help see that collectors use these legitimate collection methods. A bill sponsored by Rep. Frank Annunzio (D-Ill.) and passed by the House would make certain kinds of harassment, including late-night phone calls, illegal.

The bill passed the House by the thinnest of margins—one vote. A similar bill passed

the House by a bigger margin last year but was killed in the Senate.

This time the Senate should pass it.

# HOUSE CONCURRENT RESOLUTION 165—CONGRESS BILL ASKS SOVIETS TO "RESURRECT" TWO CHURCHES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Flood) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, my bill, House Concurrent Resolution 165, which seeks the resurrection of the Ukrainian Catholic and Orthodox Churches in Ukraine, is pending before the Committee on International Relations. These national churches of Ukraine were genocided by Stalin. The impact on the Ukrainian nation has been disintegrative and destructive. As has been recently emphasized by Dr. Lev E. Dobriansky of Georgetown University in statements to both our Commission on Security and Cooperation in Europe, dealing with compliance with the Helsinki Accords, and the Senate Foreign Relations Committee, hearing testimony on the Genocide Convention, this combined case of religious genocide is unequalled anywhere and is a crass violation of human rights—national, civil, and personal.

This case is both unique and outstanding, and poses a real test for our human rights stand both in the Belgrade Conference and in the U.N. and elsewhere. I am hopeful that our Committee on International Relations will act soon on this significant measure.

The distinguished religious writer of the Washington Star, William F. Willoughby, describes most pungently the essence of the bill in his May 28 column on "Congress Bill Asks Soviets to 'Resurrect' Two Churches." I commend this article to the reading of my colleagues and request that it be printed in the RECORD:

[From the Washington Star, May 28, 1977]  
CONGRESS BILL ASKS SOVIETS TO "RESURRECT" TWO CHURCHES

(By William F. Willoughby)

A bill in Congress asks the Soviet Union to allow for the "concrete resurrection" of the Ukrainian Orthodox Church and the Catholic Church which since a purge by Stalin have not been recognized by the government and have been forced to hold clandestine services at great peril.

Rep. Daniel J. Flood, D-Pa., acting in behalf of thousands of persons of Slavic descent in his district in the northeastern part of the state, classified the persecution of these two churches the most severe of any in the world.

It is estimated that there are 7 million Catholics in the Ukraine, but there is only one bishop to serve them. Of 300 clergy, they must "combine their religious work in a surreptitious, underground manner with their normal secular vocations," a major report said.

Lev E. Dobriansky of Georgetown University said that in the mid-1930s when Stalin abolished the big Ukrainian Orthodox Church and sent it underground, its hierarchy and about 20,000 of its priests, deacons and other spiritual functionaries were liquidated or

eliminated. There were more than 3,000 congregations disbanded.

With others deported and thousands of others coerced to join the recognized Russian Orthodox Church, plus the confiscation of church property, the church was obliterated—officially. It still has several million clandestine members.

Dobriansky, writing in the Ukrainian Quarterly, said the government persecutes clergy and laymen who petition the government for concessions, including permission to register local congregations. Only recognized churches such as the Russian Orthodox Church may register congregations.

These "lackeys of American imperialists," "agents of the Pope" and "bourgeois Ukrainian nationalist subversives," as the authorities brand them, "at great risk, congregate in an extensive religious underground" to continue in their faith, Dobriansky said.

Similar conditions exist for those classified as "Baptists" who are not registered with the various Soviet governments—including not only unregistered Baptists, but Pentecostals, Lutherans and others. Many small Protestant groups are registered, however, and do not suffer the same restrictions and harassments as do the unregistered groups.

The Soviet governments consider such a group as the Ukrainian Orthodox Church a split with a recognized church (the Russian Orthodox Church), and on this basis, insist that the former not be recognized and that adherents settle their differences by re-emerging with the parent body. In this sense the Soviet governments consider themselves "protectors" of the registered churches against internal dissent.

The Flood bill asks the Soviet Union to permit the two churches to have legal existence in accord with provisions of the Soviet constitution, the United Nations charter and Declaration of Human Rights and the Helsinki Accord.

Such a measure in the American Congress is unusual, but precedent was set when American Jews pressed Congress to act on behalf of gaining concessions for 3 million Jews in the Soviet Union.

This was before the Helsinki Accord. After the accord, Rep. John Buchanan, R-Ala., and Sen. Henry Jackson, D-Wash., introduced bills which asked for the release from a Siberian forced labor camp of the Rev. Georgi Vins, also of the Ukraine, who had been head of the "dissident" or unregistered Baptists in the Soviet Union.

Despite the measure clearing Congress almost without opposition in either house, there has not been any positive response from the Soviet Union.

There are increasing numbers of articles being written in Soviet periodicals, however, concerning the American "intervention" into Soviet internal affairs, with some of them critical of The Star's stress on the story.

The Ukrainian government contends that Vins is in prison for violating explicit laws. The sponsors of the bills contend that such laws are oppressive and excessive, not in keeping with the general conventions of religious freedom and the right to free assembly.

## SOVIET UNION CHARGES LEADING JEWISH ACTIVIST WITH HIGH TREASON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 30 minutes.

Mr. DRINAN. Mr. Speaker, yesterday there occurred the most ominous and threatening event for Soviet Jews in

many years. Anatoly Scharansky, one of the leaders of the Soviet Jewish community, was officially charged with the crime of high treason. The New York Times today characterized the charge as "a move by Soviet authorities that has few precedents since the days of Stalin."

The accusation against Mr. Scharansky is by no means an isolated event; rather, it represents the most recent and most serious element in a month-long campaign by Soviet authorities against Jews who wish to emigrate to Israel and others who advocate human rights. In an action which can hardly be a coincidence, Russian authorities yesterday also convicted another Jewish "refusenik," Josef Begun, on the charge of "systematically engaging in vagrancy and begging," commonly known as "parasitism." Mr. Begun received the extraordinarily severe sentence of 2 years in exile in Siberia. Dr. Begun was the victim of a classic Soviet Catch-22: He was fired from his job as a mathematician as a result of his application to emigrate to Israel and then was arrested for not holding a job. His conviction and severe punishment could set a disastrous precedent for the many other Soviet Jews who, like Dr. Begun, have also lost all employment opportunities as a result of their attempt to emigrate.

Just 2 weeks before the commencement of the Belgrade Conference to review compliance with the terms of the Helsinki agreement, the U.S.S.R. is providing the world with a clear signal that it does not intend to honor the freedom of emigration and human rights provisions of the Helsinki accord. The United States ought to make the current crackdown on Soviet Jews, and the plight of Mr. Scharansky in particular, the first order of business on the Belgrade agenda.

Mr. Speaker, I would like to review the harassment which Mr. Scharansky has suffered since he first applied for permission to emigrate to Israel to join his relatives there in 1973. Then 25 years of age, Mr. Scharansky almost immediately lost his job as computer specialist. All subsequent requests to emigrate were denied. The KGB has carried out a campaign of intimidation against him for years; in the past 2 years alone, he has spent over 100 days in prison on a variety of minor charges. He was once arrested and incarcerated for 15 days merely for asking why he could not obtain an exit visa.

Only July 4, 1974, Mr. Scharansky was married. The next day, his wife received an ultimatum from the Soviet authorities: Leave the country that very day or never be allowed to leave in the future. In the hope that her husband would soon be able to join her, Natalia Scharansky left for Israel, and she has been separated from her husband ever since.

Anatoly Scharansky is a leading member of Moscow's "refusenik" community. He has acted as a liaison to the Western press for Jews who wish to emigrate, and he is a founding member of the group of Soviet citizens who organized to monitor the U.S.S.R.'s compliance with the Hel-



sinki Final Act. The recent Soviet crackdown on dissidents has resulted in the arrest of nine of the members of this group and the virtual destruction of the monitoring organization.

During my visit to Moscow in 1975, Anatoly Scharansky acted as my host, introducing me to other members of the Jewish community in Moscow. It is inconceivable that this dedicated man has acted as a spy for American intelligence agencies. Yet this is the charge which has been made against him, and this is the basis for yesterday's accusation that he has violated article 64 of Soviet law: Treason Against the State. The charge was first made in the March 4 issue of the official government newspaper *Izvestia*. The same issue of that newspaper charged Senator Jackson, Representative FASCELL, and myself with some form of undefined "involvement" in Mr. Scharansky's alleged "espionage" activities. In an obvious appeal to anti-Semitism, the *Izvestia* article charged several other prominent Soviet Jews with similar offenses and identified two Jewish members of the U.S. Embassy delegation as "contacts" in the "spy ring."

In the context of growing government pressure on Soviet Jews, including the showing on prime time Soviet television of two blatantly anti-Semitic films, Mr. Scharansky said prophetically just before his arrest:

The atmosphere now smells of a pogrom.

Israeli Foreign Minister Yigal Allon called the espionage charges—

a new dimension in the persecution of the emigrant activist movement, in fact against all Jews—a grave and worrisome development such as we have not known for the last 25 years.

The treason charges brought against Anatoly Scharansky yesterday, with their evocation of the Stalinist "show trials," underscore the validity of Foreign Minister Allon's statement 2 months ago. This is clearly a moment of grave crisis for Mr. Scharansky, for Soviet Jews, and for the human rights advocates in the U.S.S.R. The need for immediate action could hardly be more urgent. Yesterday, 24 Members of the House of Representatives joined in a letter to General Secretary Brezhnev strongly protesting the treason charge and urging the immediate release of Mr. Scharansky. I insert in the RECORD the text of that letter:

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, D.C., June 1, 1977.

HON. LEONID I. BREZHNEV,  
General Secretary, Communist Party of the  
Soviet Union, the Kremlin, Moscow,  
R.S.F.S.R., U.S.S.R.

DEAR MR. SECRETARY:

We protest in the strongest possible terms the charge leveled against Moscow Jew Anatoly Scharansky. His indictment under Article 64 of the Criminal Code of the R.S.F.S.R. of treason constitutes an affront to the signatory nations of the Helsinki final act and to all justice-loving peoples.

Since filing his application to emigrate to Israel in 1973, Mr. Scharansky has been the target of systematic abuse by officials of the Soviet government. He has been held in Lefortova Prison since March 15 on charges which were then, and are still, absurdly and transparently without foundation. His con-

tinued detention without benefit of counsel of choice and isolation from members of his family are in flagrant violation of Soviet and international law.

Failure to release Scharansky immediately and the dropping of all charges will surely engender widespread protest among the American people and their elected representatives in Congress.

Better cooperation between our two governments will be fostered if Mr. Scharansky is given permission to emigrate.

Sincerely yours,

Sidney R. Yates, James J. Blanchard, William M. Brodhead, John Buchanan, William R. Cotter, Christopher J. Dodd, Robert F. Drinan, Joshua Ellberg, Dante B. Fascell, Millicent Fenwick, Hamilton Fish, Jr., Elizabeth Holtzman, Members of Congress.

Edward I. Koch, William Lehman, Elliott H. Levitas, Joe Moakley, Anthony Toby Moffett, Richard L. Ottinger, Claude Pepper, Frederick Richmond, Benjamin S. Rosenthal, Stephen J. Solarz, Newton I. Steers, Jr., Henry A. Waxman, Members of Congress.

Letters of protest are essential, but more is required. The U.S. Government must speak out forcefully and take all appropriate action to bring about the release of Anatoly Scharansky and the reversal of the Soviet Government's new wave of repression. At the present time, I am involved in the formation of the International Committee for the Release of Anatoly Scharansky. This organization will have branches in Canada and Great Britain, and I will be proud to serve as chairman of the American chapter as well as the International Committee. Thirty Members of Congress, six Senators, and many distinguished Americans, including Prof. George Wald, Nobel laureate in biology, Elie Weisel, Clive Barnes of the New York Times, Prof. Alan Dershowitz of the Harvard Law School, and Winthrop Knowlton, president of Harper & Row, will serve on the committee.

In the coming weeks and months, the International Committee for the Release of Anatoly Scharansky will be engaged in a wide range of activities, including petitions to the United Nations, meetings with important government officials, and other activities designed to focus the world's attention on this urgent matter. We must do all we can to halt the wave of repression in the Soviet Union. The U.S.S.R.'s recent actions against would-be emigrants and human rights advocates is a clear challenge to all nations which value justice and basic human rights, and is directed particularly at the United States, which stands as symbol of these values. We must not fail to answer this challenge.

Mr. UDALL. Mr. Speaker, all of us who revere basic human rights are saddened and outraged by the recent action of the Soviet Union in taking ruthless reprisals against two of their citizens who sought to be part of the emigration movement.

The Soviet Union has repeatedly failed to honor its commitments under the Helsinki Agreements, commitments which provide for the free movements of people, ideas and information between East and West. In signing the Helsinki Final Act the Soviet Union pledged to advocate "human rights."

That they have not done so is evidenced by the treatment of Iosif Begun, who on June 1, 1977, was tried, convicted, and sentenced to 2 years exile in Siberia, and Anatoly Scharansky who is currently charged with a crime of high treason, a possible capital offense.

Upon application for an exit visa to Israel, Begun was dismissed as a mathematician in 1971. Begun has always sought a job in his profession but had been refused a job in the field of mathematics. For a period of time, since his denial on grounds of knowing "State secrets," Begun worked in a telephone communication center, and later as a night watchman. Because of his activities on behalf of Soviet Jews attempting to emigrate, and his arrests, he was soon thereafter dismissed from both jobs. In March 1977, Begun was called to the 52d militia branch and questioned about his employment problem. Criminal proceedings opened against Begun and he was subsequently charged with parasitism among other things.

By arresting Scharansky, the Soviets are attempting to kill the emigration movement and the human rights movement in the U.S.S.R. with one stroke. Scharansky was prominent in both. As a committed Jew, he felt the need to help all who came to him for assistance, including those of other religions and nationalities oppressed by the Soviets, such as Germans and Christians. He turned no one away.

He was a leader in the Jewish emigration movement. He was constantly followed and arrested time and time again and imprisoned for short terms. He was also a founding member of the Group to Monitor the Helsinki Agreement in the U.S.S.R., whose chairman Yuri Orlov is also in Lefortovo Prison. The Soviet Union could not tolerate this group which exposed Soviet violations of the Helsinki Agreement to the world. He was the liaison to the Western Press, for Jews wishing to emigrate and dissidents seeking publicity.

All of Anatoly Scharansky's daring activities—while an anathema to the authorities—were nonetheless all within Soviet law and international covenants the Soviets have signed.

All people of good will who care about human rights in the world are indebted to Anatoly Scharansky. Because of him we have all been made aware of Jewish emigration and the problems of human rights in the Soviet Union. Surely the present concern over human rights was—in part—stimulated through his efforts. Now we must come to his assistance along with others who have been wrongfully accused.

Mr. EILBERG. Mr. Speaker, I rise to voice the outrage that my constituents and I felt yesterday when we learned that Soviet Jew Anatoly Scharansky has been charged with treason, and that Dr. Josef Begun has been sentenced to 2 years in exile.

Nearly 2 years ago, Mr. Speaker, I met with Anatoly Scharansky in Moscow. At that time, he had been separated from his wife, Natalia, since 1974, when the cruel and arbitrary emigration policy of the Soviet Government denied him the

right to leave Russia but forced her to leave for Israel, where to this day she awaits her husband.

Later, I had an opportunity to meet with Natalia in Israel, and I wish that every one of my colleagues could have shared that deeply moving, personal experience. Having met this young couple, separated for nearly 4 years for the "crime" of wanting to live as free people in the country of their choice, I came away more convinced than ever that we must continue and intensify our efforts in this struggle for basic human rights.

Before being charged yesterday with treason, Mr. Speaker, Scharansky had been held in prison for nearly 3 months without benefit of counsel. This is a flagrant violation of Soviet and international law. In addition, the Soviet Government's refusal to allow Scharansky to emigrate is a violation of the Helsinki Final Act which the Soviets signed and so loudly endorsed.

The Scharanskys and Dr. Begun are just two examples of this cruel policy, Mr. Speaker. Today, as Anatoly Scharansky prepares to face his trial, and as Dr. Begun faces the horrible reality of 2 years in exile, it is critically important that we, as men and women of conscience, make it clear that the U.S. Congress stands squarely on the side of freedom and human rights. We cannot fail to raise our voice at a time when these courageous individuals look to us in the free world as the only hope they have that they can soon enjoy the liberties guaranteed to them by international law.

Mr. KOCH. Mr. Speaker, it was with great sadness that I learned yesterday that the Soviet Government had announced its intention to charge Anatoly Scharansky with treason, a crime punishable by 10 years in prison to death. Mr. Scharansky, along with several other well-known Soviet dissidents, was accused in March in an *Izvestia* article of being an agent for the CIA and was shortly thereafter arrested. His actual crime was his involvement in an informal group of other accused dissidents that monitored Soviet compliance with the human rights provisions of the Helsinki Accord. Since he applied for and was refused permission to emigrate to Israel in 1973, Mr. Scharansky has emerged as a leading spokesman for the Jewish dissident movement in the Soviet Union.

Coming as it does on the eve of the Belgrade Conference which will convene on June 15 to review the progress that has been made in the implementation of the Helsinki Agreement, this action by the Kremlin is clearly a challenge to the emphasis placed by the West on the human-rights provisions contained in Basket Three of the Accord.

In a related action, the Soviet Union yesterday sentenced another "refusnik," Joseph Begun, to 2 years of exile in Siberia for vagrancy. An electrical engineer by training, Mr. Begun has been unable to find work in his field since he applied for an exit visa 6 years ago, but he has been employed privately in Moscow giving Hebrew instruction. This kind of harassment is typical of the treatment

accorded those who apply for permission to emigrate.

From the start of his administration, President Carter has expressed his firm support for the cause of human rights in other countries. These two recent actions by the Soviet Government are clearly part of a hardline Kremlin response to what it views as external interference in its affairs.

The Helsinki Agreement, however, was freely and openly entered into by the Soviet Union, and other signatories have every justification in expecting Moscow to carry out all of its provisions, including those dealing with human rights, and in voicing their concern when Moscow fails to do so. If the Soviet Union continues to flout the Agreement, the United States would be foolish to expect it to honor future agreements such as any that may result from talks on SALT II.

Even if the Soviet Union had not signed the Helsinki Agreement, we would still be justified in protesting the violations of human rights which are commonplace in that nation. All people possess the fundamental rights outlined in the Universal Declaration on Human Rights regardless of where they live; and when those rights are denied, it is the duty of the decent peoples of the world to raise their voices in protest and do everything within their power to see that those rights are restored. The cause of human rights is of a higher moral import than the geographical boundaries that mark off nations and the principles, whatever they may be, that underlie a given nation's sovereignty.

Why the Soviet Union feels compelled to level trumped-up charges at Scharansky and resurrect the show trials of the Stalinist era I am not sure, but I am certain of the proper response. President Carter and the Congress must let the Soviet Union know that the United States will not tolerate the Soviet attitude toward the Helsinki Accord nor the fraudulent charges made against the American diplomatic and press corps in Moscow in connection with Scharansky's supposed treason. The Kremlin leaders must be made to realize that mutual relations and relaxed tensions can only take place in an atmosphere of mutual respect and that no government, regardless of its ideological foundation, has the authority to violate the basic human rights of its inhabitants.

I urge that the Soviet Union immediately release Mr. Scharansky, drop all charges against him, and grant him permission to emigrate to Israel.

Mr. LENT. Mr. Speaker, the report that Anatoly Scharansky has been formally charged with treason by the Soviet Government is a clear indication that the Soviet Union still has no respect for the international accords on human rights to which it is a party. Indeed, this latest action shows that the Soviet Government has regressed to a level of repression not seen since the days of Stalin.

Further, the attempt by the Soviets to link Mr. Scharansky to the U.S. Central Intelligence Agency is a direct slap at this Government, and a setback in United States-Soviet relations.

Within 2 weeks, the Belgrade confer-

ence will convene to examine the effect of the 1975 European Security Act signed at Helsinki. Perhaps it is only coincidence that nine members of an unofficial group established in the Soviet Union to monitor Soviet violations of the Helsinki Accord have been arrested. I think not. Rather, I believe the Soviet Government is systematically trying to undo all the Helsinki Accords were supposed to accomplish. The Helsinki Accords were signed by the United States, the Soviet Union, and most European states. To those people who would say that what the Soviet Government does in internal matters is its own business, I would answer that the fact that both the United States and the Soviet Union are cosignatories of the Helsinki Accord, makes their blatant human rights violations our business.

Some months ago, the Congress went on record to condemn the Soviet Government's harassment of its Jewish minority. I urge my colleagues to renew that commitment by calling upon President Carter to make the Anatoly Scharansky matter the first order of business at the Belgrade conference. His future and that of thousands of others like him is at stake.

Mr. WOLFF. Mr. Speaker, I find that I must speak out today, as I have frequently in the past, on the issue of repression in the Soviet Union. Two developments yesterday make such a statement on my part imperative—the sentencing of Josef Begun to 2 years of exile in a remote part of Russia, and the announcement that treason charges were being prepared against Anatoly Scharansky.

The implications of these latest actions are severe, indeed. The harshness of Begun's sentence and the possible capital penalty associated with a charge of treason cast more than just a cloud over the upcoming Belgrade conference, now only 2 weeks away. The timing of these incidents—Begun's trial was rescheduled several times, and then was suddenly moved ahead—is clearly not coincidental, and we cannot afford to be silent.

The Soviet Union continues to contend—the forcefulness of this contention is apparent from yesterday's disclosures—that its actions with respect to human rights are not subject to international discussion, despite its signature on the Helsinki agreement. Yet it must be clear to all of us in this body that while we live in an imperfect world, the citizens of that world have certain basic rights regardless of the type of government under which they live.

In the United States, we have often spoken of, and been spoken to, concerning the duties and obligations that we as a nation have to the rest of the world. The environment, health, hunger, global economics, as well as the most basic issues of war and peace, all serve to emphasize the theme of interdependence. Basket Three of the Helsinki Accords was significant, however, in that it clearly pointed to an additional theme, that of human rights as opposed to national rights or needs. We must never forget that our world is populated by billions of people, who despite their na-



tionality or form of government share the common heritage and the common rights of humanity. These rights, the subject of Helsinki's Final Act, must be safeguarded vigilantly, and can never be abandoned. If these rights are not protected now, if respect for them is not increased, then all the peoples of the world will ultimately lose.

America certainly does not have a monopoly on morality. But we in the Congress must speak out wherever clear violations of such rights are apparent. In the cases of Mr. Begun and Mr. Scharansky, these violations are not merely apparent, they are being flaunted. Mr. Begun's trial on the charge of "systematically engaging in vagrancy and begging," or "parasitism," is a direct result of his application for permission to emigrate to Israel—an application which should be granted in accordance with the Helsinki Agreement. Begun was fired from his job immediately subsequent to his application; he has been denied employment ever since; and the Soviet Government refuses to recognize either his authorship of numerous papers or his teaching of Hebrew as employment. While the Russians may never have heard of "Catch 22," they are certainly capable of using it effectively. It should be noted, that although Begun is only one of a large number of "refuseniks" who have been fired from their jobs upon applying for emigration visas, he is the first one to be charged with "parasitism" in 3 years.

The charges being prepared against Scharansky—principally that he is an agent of the CIA—are equally spurious, and equally serious. It is now clear that the Soviet Government is prepared to completely destroy the unofficial Moscow group which is monitoring the Helsinki Agreement, and these latest actions must be viewed as a determination on the part of that Government to dismiss their clear obligations under Helsinki. We must do all we can in the Congress to see that these obligations are fulfilled, and I am sure that our representatives to the conference will approach it with the understanding that they have the backing of the Congress, the President, and the American people. The struggle to achieve global respect for basic human rights is perhaps the most crucial, the most serious, and the most difficult struggle we can undertake if we are to insure the long-term health and prosperity of this planet. We certainly cannot afford to sit idly by as the planet's other superpower challenges this basic assumption, and I call upon the leaders of the Soviet Union to reverse their present, dangerous course, not only with respect to Mr. Begun and Mr. Scharansky, but with respect to any of its citizens who wish to emigrate or express their thoughts freely, as provided for in the Helsinki Agreement.

Mr. DOWNEY. Mr. Speaker, last month I brought to the attention of my colleagues the case of Dr. Josef Begun. Dr. Begun was due to stand trial in the Soviet Union May 18 on charges of vagrancy. The trial however, was postponed until June 8. Dr. Begun was unexpectedly brought before the court yesterday, June 1, 7 days prior to the

official date of his trial. Dr. Begun was convicted of vagrancy and sentenced to 2 years in exile.

Anatoly Scharansky, another Soviet Jew who has been imprisoned for wishing to emigrate to Israel, was yesterday officially charged with treason.

Many people familiar with the cases of Dr. Begun and Anatoly Scharansky fear that these trials may be the beginning of a new era of religious persecution in the Soviet Union. These trials are an unpleasant reminder of the "Doctors Plot" in 1952, in which Soviet officials used fear and harassment as a means to dissuade other Soviets who wished to emigrate.

We cannot let up, in light of this information and the upcoming meeting in Belgrade this month to review the results of the Conference on Security and Cooperation in Europe, on our attempts to focus world opinion on the practices of persecution in the Soviet Union.

Mr. STEERS. Mr. Speaker, ever since the Helsinki Declaration was signed in 1975, this legislative body has been concerned with Soviet implementation of the agreement which guarantees certain basic human rights. The Helsinki agreement stipulates,

The participating States will deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family.

It is my opinion that the record of Soviet compliance is most unsatisfactory, but it is even more disturbing that the Russians are actively trying to suppress and harass Soviet citizens who try to secure their rights as guaranteed by international agreement.

Yesterday, the world learned that Soviet authorities have brought charges of high treason against Anatoly Scharansky, who applied in 1973 for an emigration visa to join his family in Israel, and was refused and subsequently arrested in March of this year. The Soviet authorities maintain that Mr. Scharansky was working for the CIA. I will admit that our CIA does not have a spotless record in world affairs, but that really does not diminish the absurdity of the charges. It would be ludicrous if it were not for the fact that Mr. Scharansky has the death penalty hanging over his head. The State Department has characterized these charges as "misinformation laced with slander and innuendo."

The question arises: Why have the Soviets gone to so much trouble to bring this Soviet Jew's activities to a halt? Why do they employ the "Big Lie"—a historical precedent for the suppression of human rights—in doing so? The answer may be that Mr. Scharansky is a founding member of The Public Group to Promote the Observance of the Helsinki Agreements in the U.S.S.R. whose stated purpose is to promote observance of the humanitarian provisions of the Final Act of the Conference on Cooperation and Security in Europe. The charter of the group states:

The Group hopes that its information will be taken into account at all official meetings which are provided for in the Final Act under the point Further Steps after Helsinki.

Evidently, the Russians are afraid the truth about their lack of compliance will get out of Russia. They have great reason to be concerned now, and they are willing to go to great lengths to suppress the activities of groups such as Mr. Scharansky's, because of the upcoming conference in Belgrade of the Helsinki signatory nations. This conference will examine the status of the Final Act, scrutinizing the compliance of all the signatory nations. It is obviously the Soviet desire to minimize to the greatest possible extent, charges of their abuses of human rights as guaranteed in the Helsinki agreement. It is ironic that, had the Russians lived up to their obligations in the Final Act, by allowing Scharansky to emigrate and join his family outside Russia, they would not have had this "spy" courageously attempting to monitor Soviet Helsinki compliance within the Soviet Union.

Mr. Speaker, we should recognize this Soviet action for what it is. It is certainly not a question of Soviet national security, but rather an attempt by the U.S.S.R. to suppress critical comments at home before this crucial, upcoming conference on the Helsinki Declaration.

Mr. OTTINGER. Mr. Speaker, I join my colleagues in strong condemnation of yesterday's actions by the Soviet Government against two prominent Russian Jews—Anatoly Scharansky and Josef Begun. Mr. Scharansky has been charged with treason—a crime punishable by death—and Dr. Begun has been sentenced to 2 years in exile on a charge of vagrancy.

Both men had previously filed for exit visas to emigrate to Israel and have been subject to systematic harassment by Soviet authorities, which culminated in the harsh judicial actions of yesterday. The charge of treason against Mr. Scharansky is the first such injunction against a Soviet Jew since 1970, and, prior to that time, such a charge has not been raised since the reign of Josef Stalin.

The Soviet Government has consistently stated that demonstrations like the one we are having today constitute an unwarranted interference in the internal affairs of the Soviet Union. One need only review two important international agreements signed by the U.S.S.R. to refute these allegations. Both the 1948 Universal Declaration of Human Rights and the 1975 Helsinki accords commit the Soviet Government to safeguarding the rights of its citizens. By signing these documents the Soviet leadership agreed that every Soviet citizen possesses the right to freedom of thought, of conscience, of religion, or opinion, and of expression as well as the right to emigrate. In the case of the more recent Helsinki accords, the Soviet delegation agreed not only to permit such rights but to promote them as well.

The persecution of Anatoly Scharansky and Josef Begun clearly violates both international agreements and warrants strong interest of the United States in an area which otherwise might have remained merely a domestic concern. In addition, our interest in this matter and our protest today are firmly rooted in the ideals of this Nation—in the respect

for human decency and in the protection of certain inalienable rights.

Yesterday's actions by the Soviet Government shroud the entire human rights issue, and the rights of Soviet Jews in particular, in a darkness which seems increasingly harder to penetrate. Although the future may look grim, it is critical that we continue our struggle on behalf of Mr. Scharansky, Dr. Begun, and all Russian Jews who are suffering because of their desire to emigrate to Israel.

Western pressure has brought change in the Soviet system in the past, and it is my sincerest hope that our efforts today will prompt the U.S.S.R. to adhere to the basic principles of Basket Three of the Helsinki Final Act, and to immediately curtail its harassment and persecution of Russian Jews.

Mr. SCHEUER. Mr. Speaker, yesterday, we learned that the Soviet Union has arrested and charged Anatoly Scharansky with treason.

This act chills our memories with thoughts of the Stalinist purge trials of the 1930's.

Where is justice in this act? Like so many Jews in the Soviet Union, Scharansky sought an exit visa to Israel. When he made his application, he immediately found himself without a job and under surveillance.

By charging Anatoly Scharansky with treason, the Soviet Union has silenced a leader and a movement. The freedom-loving people of the world are appalled that religious persecution has returned to the Soviet Union. The Helsinki Accords have been reduced to a mockery as the unofficial monitoring group headed by Scharansky has been destroyed through arrest and/or imprisonment.

These acts of intimidation have stifled dissent and crippled the movement for human rights in the Soviet Union. We must remain ever vigilant to discourage further acts which shock the conscience and numb the mind.

Mr. AMBRO. Mr. Speaker, the official Soviet announcement that Anatoly Scharansky, a leader of the Soviet Jewish community, has been charged with the crime of high treason, a capital offense, concurrent with the conviction and sentencing of Josef Begun, also a Jew, to 2 years in exile for "systematically engaging in vagrancy and begging" shocks the conscience of nations everywhere. Not only do the actions represent a gross miscarriage of the Helsinki agreements, but their unjust nature and total disregard of human rights can only serve to outrage all people of the world.

Scharansky has emerged as one of the boldest and most articulate dissident activists as a member of the unofficial group monitoring Soviet compliance with the Helsinki document. Placed under arrest on March 15, 1977, and subsequently questioned as a "traitor to the republic," Scharansky awaits his trial for high treason as an "American spy." Begun, recently convicted and sentenced to 2 years in exile as a "vagrant and a beggar," is a mathematician and graduate of the Radio Technical School of Moscow University. In past years he has ener-

getically pursued his vocation but has been mysteriously refused employment everywhere.

The two cases bear a common link. Not only are Scharansky and Begun Jews, but both have applied for emigration visas. Therein lies their "criminality." The Helsinki agreement contains strong language regarding liberalized traveling privileges and emigration with an emphasis on reuniting families. Since signing the agreement nearly 2 years ago, the Soviets have actually increased their oppression of minorities and have made emigration even more difficult. These actions must be seen as proof of the refusal of Soviet authorities to fulfill their human rights obligations and as a demonstration of readiness to severely punish those Soviet citizens who provide information about such violations. This sorry record not only affects Soviet Jews and other Soviet minorities but is an affront to all of the signatories of the Helsinki agreement.

During the past I have joined my congressional colleagues many times in efforts to promote the cause of basic rights for Soviet Jews. Through our efforts, we have occasionally been able to influence Soviet action in these matters. While unable to completely eliminate the iron hand of tyranny, we have been able to soften the blow. I call on all of my colleagues to join in vigorous protest of the most recent Russian violation of human rights in the hope that we may make the world more aware of the rape of justice taking place in the Soviet Union and enable the Soviet leaders to realize that such actions actually do them the most harm by provoking criticism and embarrassment.

Mr. SOLARZ. Mr. Speaker, I rise to express my sense of moral indignation over the abhorrent treatment of Anatoly Scharansky, by the Soviet authorities, in obvious violation of the Helsinki accords.

Scharansky, a leading "refusenik" has become a symbol of human rights for all the world's citizens. He was placed under arrest on March 15, 1977, and taken to Lefortovo prison, "the KGB's interrogative lockup." Yesterday, nearly 3 months after his arrest, Soviet officials charged Scharansky with the crime of high treason, a capital offense, claiming he was working for the Central Intelligence Agency. His arrest is an attempt by Soviet authorities to deal a severe blow to the human rights movement and to silence the voices of freedom of speech and movement in that land.

Scharansky, a founding member of the group to monitor the Helsinki agreement in the U.S.S.R., also served as a liaison for Jews wishing to emigrate. His various activities have exposed Soviet violations of the Helsinki agreement and has been reviewed as a threat to that government.

Anatoly Scharansky has been heroic in his actions. The Soviet Union must not be allowed to continue their brutal policies of persecution which constitutes the real crime in this case not only against Anatoly Scharansky but against all of humankind.

Mr. MOFFETT. Mr. Speaker, I wish

to add my voice to the growing protest by free people everywhere, by calling upon the conscience of the Soviet leaders to drop the false charges against "refusenik" Anatoly Scharansky.

It has been clear to those of us who have watched this drama develop, that in demanding that the U.S.S.R. uphold the principles it endorsed by signing the Helsinki declaration, Anatoly Scharansky would become a martyr for the cause of freedom of emigration. Scharansky's sole "crime" in his desire to emigrate to Israel. By refusing to allow the harsh measures employed by the Soviet Government against Jews who desire to emigrate to stifle him, Anatoly Scharansky has brought the wrath of the Soviet Government down upon him, complete with the threat of death which accompanies his false charge of high treason.

Now the entire world is watching. The Soviet Union will know, through the pressure of global public opinion, that it cannot make false promises and expect to retain international respect. With the signing of the Helsinki accords, human rights are no longer the internal affairs of one state but rather the legitimate concern of freedom-loving people the world over.

Mr. BADILLO. Mr. Speaker, I am appalled that, with all eyes focused on the Soviet adherence to the Helsinki accords as the September meetings draw closer, Anatoly Scharansky, the young and able physicist who was one of the founders of the Russian Group to Monitor the Helsinki agreement in the U.S.S.R.—it is also almost beyond belief that Dr. Josef Begun, a mathematician, has been convicted of "vagrancy and begging" and sentenced to 2 years in prison, simply because he applied for a visa for Israel and has been unable to obtain work since.

It is clear that the Soviet Union does not take our commitment to the Helsinki accords—or their own—with any degree of seriousness. I have just returned from a meeting of the Inter-American Development Bank in Guatemala, and have seen, through Secretary of the Treasury Blumenthal's hard line on human rights with several Latin American countries, just how seriously we do take that commitment. When I spoke recently about the Helsinki accords before this body, I stated that I was bearing public witness to the fact that the Soviet Union had only 3 months to put its house in order.

It is becoming increasingly clear that the Soviets are attempting to kill the human rights movement in their country. It is clear that they will make no attempt to permit any freedom for its citizens.

One does not have to know that these two men are leaders in the fight for individual dignity in the Soviet Union to be outraged at the blatancy of the false charges that have been levelled at them. The humiliation of being called a beggar, or in Scharansky's case, to be accused of treason in the fight for freedom, does not discredit them, but only their accusers.

Mr. FASCELL. Mr. Speaker, accord-



ing to press reports from Moscow, a decent and courageous man is to be charged with treason. Anatoli Scharansky, a man whose only desire in life is to join his wife in Israel, is being threatened with execution for daring to persevere in a fight for his freedom, for the freedom of other Soviet Jews, and for Soviet compliance with the human rights pledges the U.S.S.R. and 34 other countries gave at the Helsinki summit nearly 2 years ago.

We do not know the precise indictment trumped up against Anatoli Scharansky. We only know that it will be made of whole cloth, threaded with the age-old lies of anti-Semitism and embroidered with fabrications out of dime-store spy thrillers. A former close friend of Scharansky accused him and two other "refuseniks" last March of being agents of the CIA. The charge was printed in the Soviet Government's official newspaper and within a few days Scharansky was under arrest. But the charge is preposterous. No group of Soviet citizens are under more constant KGB surveillance than the Jewish activists. Scharansky used to walk around Moscow with a tail of anywhere from two to eight police shadows at a time. Hiring him to spy on the U.S.S.R. would make as much sense as hiring a burlesque queen to infiltrate a nunnery.

The real crime of Anatoli Scharansky is that he took the 1975 Helsinki accords seriously. As a member of the Public Group to Promote Observance of the Helsinki Agreements in the U.S.S.R., he worked diligently to collect and to disseminate information about the state of human rights in the Soviet Union. As an English speaker, he was the link between the group and the foreign press in Moscow. And as a man, he was an example of consistent energy and unfailing good humor even under continuous, uscrupulous harassment.

Even in the Soviet Union, however, it is impossible to jail people for being decent human beings. And because it is the Soviet Union—a nation prepared to commit itself to international undertakings one day and disregard them the next—the charges against Anatoli Scharansky had to be manufactured out of spurious evidence, but evidence that might just be barely plausible to the poorly informed people of that frightened, closed society. So a Jew is accused of treason, Soviets can say. What would you expect from a Jew?

The real question, however, is what should we expect from the Soviet authorities. Personally, I would hope for reconsideration of their course, for freedom for Anatoli Scharansky. Yuri Orlov, Aleksandr Ginzburg, Mikola Rudenko, Oleksiy Tykhy, Zviad Gamsakhurdia, and Merab Kostava, the seven Helsinki-watchers who have been unjustly imprisoned this year. I would hope that the leaders of the Soviet Union understand the danger to themselves in their persecution of these men, the danger that the world will see the Soviet Union as a lawless nation, whose disregard for law at home endangers the rule of law throughout the world.

But as chairman of the Helsinki Com-

mission which has heard so much testimony this year on the Soviet disregard for human rights, I expect only disappointment of my hopes. The record is plain and ugly, and on it the Scharansky case is just the latest, but not the last, indecent episode. It stamps the Soviet Union—again—as an international outlaw and it raises for us, as American legislators, questions of the gravest sort. The consequences for United States-Soviet relations of continued violation of the Helsinki accords are incalculably high. I do not believe confrontation between the superpowers over the Helsinki issue is necessary or advisable. But Soviet actions, such as the threatened treason charges against Anatoli Scharansky, are provoking just that sort of confrontation. If it comes, Americans will not shrink from the defense of their ideals, the ideals the Helsinki-watchers in the U.S.S.R. are striving to uphold.

Mr. MIKVA. Mr. Speaker, I was shocked and dismayed to hear that the Soviet Union is preparing treason charges against Anatoli Scharansky. Scharansky, a physicist, and a member of a dissident group linked with Andrei Sakharov, was arrested at the beginning of March, and is charged with having "collected on behalf of CIA agents secret intelligence in scientific, technical, military and political fields."

Scharansky applied to go to Israel in 1973, but was refused on grounds that his training had given him access to state secrets. Over the years he emerged as one of the most articulate dissident activists, serving as a spokesman for other Soviet Jews who had been refused permission to emigrate.

He was also a member of an unofficial group monitoring Soviet compliance with the Helsinki accord of European security, especially in regard to its provisions on human rights. Two other members of the group have also been arrested.

The allegations against Scharansky were made by Sanya Lipavsky, a former dissident and medical doctor, who "confessed" that he had been recruited as an agent for American intelligence by the dissidents. *Izvestia* carried the open letter from Lipavsky, in which he accused the three dissidents, of being connected with two American embassy officials who were felt to be CIA agents.

Since the Soviets have not used treason charges against dissidents since 1970, it is feared that the Russian policy of "ignoring" the dissidents is over. It is also feared that a "show" trial will be held, and that Scharansky and others will be used as examples of the threat to Soviet security through the Jewish dissident movement in Russia.

I want to add my protest to the action taken by the Soviets in this case, and urge the Soviet Union to reconsider its motivations in charging this young scientist with such a serious crime as treason against the state. The desire to leave a country cannot be treasonable in the light of world history and the movement of peoples in every era.

Mr. BINGHAM. Mr. Speaker, the charging of Anatoli Scharansky with treason, as well as the sentencing of

Yosef Begun, by Soviet authorities represent an appalling prelude to this month's Belgrade conference.

Two years ago the United States, the Soviet Union, and most European states adopted the Helsinki Final Act which calls for signatories to permit, among other things, the free exchange of people and ideas, and to facilitate the reunification of families separated by international borders. The Soviet Union agreed to these provisions and in Belgrade will, undoubtedly, claim to have adhered to them. Tragically the cases of Scharansky and Begun demonstrate that Soviet compliance with Helsinki is a sham.

The charging of Scharansky is of special significance. Scharansky was the founder of a Soviet group which was set up to monitor Soviet compliance with the Helsinki accords. His own situation is, in itself, an indictment of Soviet compliance. Scharansky applied to immigrate from the Soviet Union to Israel in 1973 and on several subsequent occasions. He has been repeatedly refused. His wife received permission and left for Israel the day after their wedding—3 years ago. While waiting for a visa Scharansky became active in both the emigration and human rights movement in the Soviet Union. As founder of the Helsinki monitoring group he became especially well-known to Members of Congress who have visited the Soviet Union. Members of the U.S. Helsinki Commission have felt special kinship with Scharansky and members of his group.

On March 15 of this year Anatoli Scharansky was placed under arrest and taken to Lefortovo Prison. Yesterday we learned that he has been charged with treason—a sentence which carries a minimum 10-year sentence in jail and a maximum sentence of death. This charge, unprecedented since the days of Stalin, is being brought against a man whose only crime is that he dared to insist that the Soviet Union live up to its international commitments and its own law.

At the same time we hear that Dr. Yosef Begun has been sentenced to 2 years in Siberia for "parasitism." Begun was sentenced on this charge because he has no job. He has no job because he was dismissed after he applied to emigrate. Begun has been active in the Organization Committee of the Symposium on Jewish Culture in the Soviet Union and has fought against official anti-Semitism as expressed in recent Soviet television programs. Begun's only crime was that he wanted to emigrate. Out of his request for a visa came his 2-year sentence in Siberia.

We cannot be silent in the face of these Soviet violations of the letter and spirit of Helsinki. The Soviet Union cannot come to Belgrade and claim compliance with Helsinki while Scharansky and Begun are incarcerated. The Soviet Union has to understand that President Carter is serious about human rights and that the Congress is behind him. Human rights is not just a phrase on a piece of paper. It is not a mere chit to be haggled over the process of trade negotiations. Human rights means Anatoli Scharansky who, because he wants to live in Israel, faces years

in prison and a possible death sentence. It means Natalia Scharansky who has not seen her husband since their wedding day 3 years ago. It means Yosef Begun whose dedication to his peoples' culture lands him in prison and sentenced to Siberia. We cannot sit still and watch these travesties take place. We shall raise the cry to release Scharansky and Begun in every appropriate forum. The release of these men is a precondition for a successful Belgrade conference. In the name of Helsinki, these men must be set free.

#### ANNOUNCEMENT OF HEARINGS ON THE ADMINISTRATION'S DISCHARGE REVIEW PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas, (Mr. ROBERTS) is recognized for 5 minutes.

Mr. ROBERTS. Mr. Speaker, on Friday, May 27, I announced the establishment of a special oversight subcommittee of the Committee on Veterans' Affairs to hold hearings on the discharge review program announced by Secretary of Defense Harold Brown on March 28, 1977, as well as the discharge recharacterization program for certain Vietnam era service members announced by former President Gerald Ford on January 19, 1977.

The purpose of the hearings will be to receive testimony from the Department of Defense, the Veterans' Administration, and other appropriate responsible witnesses concerning details of the announced programs, including, but not limited to, procedures established by DOD and VA for implementation of such programs; program costs; number of potential eligibles involved; response to date by those affected; and status of applications received to date, et cetera.

The initial hearing will be held Monday, June 20, at 10 a.m. in room 334 of the Cannon House Office Building. The Secretary of Defense has been invited to appear on that date. On Tuesday, June 21, at 10 a.m., the Administrator of Veterans' Affairs, Max Cleland, has been invited to appear. In addition, the subcommittee plans to hear from the various veterans' organizations and others interested in the announced programs.

#### PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CARR) is recognized for 5 minutes.

Mr. CARR. Mr. Speaker, I regret that I was detained in traffic this morning on the way to the House Chamber and was unable to cast my vote on House Resolution 603, the rule to the Energy Organization Act. Had I been present I would have voted "aye" on this rollcall, No. 297.

#### GRADUATING SENIOR PAGES

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Indiana (Mr. CORNWELL) is recognized for 5 minutes.

Mr. CORNWELL. Mr. Speaker, the

U.S. Congress has certainly come a long way since the birth of this Nation. We have survived wars and depressions, assassinations and ill managed administrations. The 95th Congress is well on its way to rewriting the recordbooks not only in quantity of production, but also, and most important, in quality of output. Members of Congress always stand tall in accepting the accolades of progressive and constructive legislative accomplishments. But today I feel strongly compelled to seek recognition on the floor of this hallowed hall to express a much deserved tribute to those persons who have contributed as much as anyone to the success and yes, sometime failure of this august body.

Unless we, the House of Representatives, go into session tomorrow, this will be the final day of work for 29 young men and women who have sacrificed many long hours as well as a traditional secondary education to serve as pages. Capitol Hill pages are perhaps the most "taken for granted" assembly of future leaders anywhere to be found. They have served unselfishly with little praise. But without these outstanding young patriots, the efficiency rating of Congress would drop dramatically. In my brief 6 months career as a Member, I have been greatly impressed with the constructive attitude and undiminished energy of this jovial crew. And they in turn have given me their loyal support, for which I shall always be extremely grateful.

I could go on and on praising the fine job these graduating seniors have done. I know that the examples set by these seniors will remain as tradition to future classes of the Capitol pages. And so, to you upstanding citizens and my good friends, always retain the positive attitude that you have so prevelantly displayed during your tenure as pages. Never forget your educational experience as a page and refer to it often. Go forward in life with God's speed and blessing, and come back to see us whenever you can. We will miss you all.

This is the list of graduating seniors: Kent Markus, Maura Connelly, Steve Abraham, Cathy Chromulak, Fritz Neil, Marion Elliott, Ron Jolly, Amy Eskin.

Bobby Blackstock, Sara Crowe, Mark Kobolinski, Annette Maglione, Peter Schupp, Norma Siegert, John Ghrist, Ellen Kerley.

Peter Bell, Sharon Williams, Mike Thorson, Lindlee Baker, John Russell, Margie Berg, Kirk Harness.

Ruth Duranczyk, Steve Wolfe, Tim Riffe, Byron Galle, Mike Fanning, and Ken Johnson.

#### THE UNITED STATES RECOMMITS ITSELF TO IMPROVING THE WORLD ENVIRONMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 10 minutes.

Mr. BROWN of California. Mr. Speaker, under a 1972 United Nations General Assembly Resolution, June 5 of each year is to be honored as World Environment Day. This year, in his first year as President, President Carter and key

members of his administration have very forcefully and thoroughly recommitted themselves to the goal of protecting and enhancing the environment of "Space-ship Earth" in a meeting at the State Department.

Since many of my colleagues may not have had the opportunity to review all of the aspects and ramifications of a global environmental policy, I would like to excerpt parts of the statements given by the chief U.S. environment specialists at the U.S. observance of World Environment Day.

President Carter, who has demonstrated his own deep concern about domestic environmental issues in a recent message to Congress said, in part:

In the five years since the United Nations Conference on Human Environment, the peoples of the world have proceeded with remarkable unanimity to prevent further damage to our common life-support system. Rivers polluted by decades of industrial and human wastes are being brought back to life; emissions once freely poured into air are increasingly being restricted; scientists and senior officials from nations of sharply divergent social and political views work together to develop international agreement on issues ranging from ocean dumping to the protection of wildlife. Since the Conference at Stockholm, most governments have incorporated mechanisms for environmental protection into their operations. Perhaps most significant and hopeful of all, growing millions of individuals throughout the world have adopted an environmental conscience to test and guide public and private actions.

I have directed officials of the U.S. Government to respond promptly to all appeals for assistance in population and health care programs; to review all requests for developmental aid from the perspective of environmental soundness; to extend to developing countries assistance in environmental and natural resources management; to seek timely international agreement on conventions to protect shared living and other natural resources; and to prepare a study of probable changes in the world's population, natural resources and environment through the end of this century as a basis for long-term planning.

Our former colleague, Patsy Mink, made her formal remarks as Assistant Secretary for Oceans and International Environmental and Scientific Affairs of the Department of State. While the entire statement would be of interest to this body, I will only excerpt here those parts which demonstrate the broader aspects of environmental issues.

#### EXCERPTS FROM REMARKS BY PATSY T. MINK ON ENVIRONMENT AND FOREIGN POLICY

World Environment Day was established by the United Nations five years ago to ensure that, annually, the world community would take time to reflect on the health of the global environment, and renew the commitment made in Stockholm to preserve and protect it. That is our purpose in assembling here today. I hope that in the next two hours we can share views on the state of the environment, the challenge before us, and—in particular—consider the role of the United States in the international environmental field in the years immediately ahead.

Last month I had the opportunity to head the U.S. Delegation to the annual session of the Governing Council of the UN Environment Program ("UNEP"). In his report on the state of the world environment, UNEP Executive Director Mostafa Tolba, highlighted two major areas of concern that are



shaping the character of the UNEP Program. He described the first as the area of "outer limits" . . . created by the earth's limited capacity to provide the resources required to sustain a growing, industrializing world population. The second involves the "inner limits" imposed on the individual citizen because of the inability of society to meet fundamental human needs for food, clothing, and shelter . . . and to protect the individual from environmental pollution which endangers his health.

This allusion to mankind's "outer" and "inner" limits graphically portrays the dimensions of our challenge. In my remarks to the UNEP Governing Council, I pledged continued U.S. support for an international program of environmental action that addresses both of these areas of need. First we must accelerate our collective efforts to protect the physical environment from further degradation . . . by curbing pollution, guarding against irreversible resource depletion, and halting the reckless despoliation of our land, our forests, our water and our atmosphere. Second, the international community must vigorously pursue measures in support of national efforts to improve the quality of human existence everywhere, so that all peoples can share the bounty of the earth . . . and enjoy good nutrition, safe water and a healthy environment in which to live.

I also used the opportunity to call for reaffirmation by the world community of its commitment to improving the status of women. This recognizes that women suffer the worst malnutrition and are in the poorest health as they struggle to keep their children alive. Not only does this situation severely diminish individual creativity and self-esteem, but it also stifles the vitality and capacity of the community to pursue economic, social and environmental goals.

President Carter, in his Environmental Message, has presented an action program which addresses both the need to safeguard the physical environment as well as the requirement to protect and enhance the quality of life of the individual citizen. My colleague, Charles Warren, will have more to say on this. The point I wish to make here is that this Administration intends to pursue that program internationally as well as at home. As key elements of our foreign policy, we intend to work aggressively to prevent pollution and encourage resource conservation, and to propose and support initiatives to meet basic human needs. The latter is also tied directly to our human rights policy. Speaking at a recent Law Day ceremony at the University of Georgia, Secretary Vance described, as one of three aspects of "human rights" . . . the "right to the fulfillment of such vital needs as food, shelter, health care and education."

At the UNEP Governing Council meeting, our Delegation highlighted the energy area as especially important for close cooperation between developed and developing countries. If the poorer nations, assisted by the rest of the international community, can develop safe, clean energy sources . . . solar, wind, bio-gas, etc., . . . they will be able to avoid many of the environmental problems now plaguing the industrialized nations and at the same time achieve economic and social objectives.

If environmentally-sound development is to occur, if global pollution is to be curtailed, and if the quality of human existence is to be uplifted—then it is vital that this Nation lead by example. This means demonstrating leadership and success in addressing our own domestic problems of air and water pollution, land degradation and urban decay—and, in particular, by reconciling environmental and economic goals. It also requires paying greater attention to our activities conducted overseas or those which have trans-boundary impact potential.

It is appropriate and useful that we gather on World Environment Day to commemorate, re-commit and look ahead. Our continued goal must be, however, to so ingrain and institutionalize environmental concerns in the behavior and activities of people and organizations around the globe that a special day for the "environment" is finally deemed unnecessary.

The Chairman of the Council on Environmental Quality, who happens to be a distinguished former State legislator from California, addressed the topic of the "Environment and the Future." It is especially noteworthy that Charles Warren recognized the impact of global climate change upon world food production as a major environmental issue. The remarks by Charles Warren follow:

In his commencement speech at Notre Dame University, President Carter set forth his foreign policy based on five cardinal premises. One such premise was the encouragement of "all countries to rise above narrow national interests and work together to solve such formidable global problems as the threat of nuclear war, racial hatred, the arms race, environmental damage, hunger and disease."

Thus, the President stressed the international importance and urgency of remedying and preventing environmental damage throughout the world.

In addition, in his environmental message to Congress, the President commented at length on the global environment and subjects ranging from wildlife habitat to toxic chemicals, from solid waste to tanker safety, from the quality of our habitation to the management of our forests.

These and other Presidential expressions have been welcomed by environmentally aware observers throughout the world. They perceive that the United States is beginning, more sensitively, to consider man's relationship with his earth.

First, it is perceived we are beginning to redirect technology away from ingenious consumption to ingenious conservation. For decades, our economy has thrived on clever new ways to use up more energy, more minerals, and more natural resources of every sort. One-car families became two-car families. Electrical power replaced manual power for purposes ranging from brushing teeth to slicing the Sunday ham. Throw-away containers and TV dinners reduced much kitchen labor, while adding mightily to the American community's waste-disposal problems. Prosperity and the automobile paved the country with expressways and far-flung shopping centers.

For reasons understandable, while I do not see the United States or other industrialized nations embracing a Spartan way of life, nor rejecting labor-saving devices in favor of the drudgery that often characterized our parents' lives, I do see a new age of resource conservation and the application of scientific research to new, environment-related goals. Prime among these goals will be the search for renewable, environmentally acceptable sources of energy and more efficient pollution abatement technologies. Perhaps most difficult, we must find ways to conserve energy, minerals, and natural resources without dislocating an economy so heavily based on resource consumption. We cannot solve our environmental problems through bankruptcy.

Another role for the United States must be the provision of financial and technical assistance to developing countries for population control and family planning. Though virtually all Third and Fourth World nations now agree on the necessity for controlling population growth, many have a built-in momentum toward further growth

that cannot be halted for decades. Barring some worldwide catastrophe, global population will certainly double to eight billion people in the next 35 years and will continue to grow thereafter.

Such rates of increase will unquestionably cause local and perhaps regional famines—in a world where millions are already malnourished. The desperate quest for more food may well lead to further environmental degradation, as more forests are cleared for agriculture, aquifers are exhausted, and soil-stabilizing cover is removed from lands prone to erosion.

In addition, I believe the United States must dramatically increase basic and applied research on environmental problems that affect the globe. As most of you know, scientists speculate that the climate during the last 50 to 100 years has been unusually mild and favorable to agriculture; they believe we may be in for a gradual return to more difficult temperatures. Changes in rainfall patterns during the past few years have brought drought to a number of countries—so much so that towing icebergs from the Arctic is seriously discussed. The transport of "acid rains" has caused serious economic damage, but abatement of these rains is complicated by our uncertainty as to where such rains originate. Rational long-term management of living resources in the oceans is made more difficult because of our inadequate knowledge of the size of fish populations and their migratory patterns. Our attempt to reach international agreement on the exploitation of mineral resources in the oceans is hampered not only by political and geographical considerations, but also by our ignorance of the amount and variety of resources to be found there.

Each of these problems calls for research that must be performed in the common interest, but not all nations are equally equipped to do so. Such research will be expensive, and will require the diversion of scientific talent from other tasks. Let me conclude with this observation: I do not believe there is such a thing as the "U.S. role" in global environmental affairs. On some of the topics I have mentioned—energy and resource conservation, for example—the United States has much to learn from other countries. Some industrialized states of Western Europe have living standards close to that of the United States, but use much less energy. If we can adopt some of their practices without struggling to rediscover their ideals, we should do so, in the interests of economic efficiency as well as environmental protection. While we continue to differ with the Soviet Union on the harvesting of whales, our wildlife scientists have worked closely with theirs on a number of projects involving migratory birds. I understand that East Germany has achieved zero population growth, and that a few Third World states—Costa Rica and Taiwan, for example—have curbed their rates of population increase by a significant degree. In relatively short periods, they, too, may be able to add to the stock of human knowledge in ways that my country cannot. In the Middle East, we know that environmental officials from officially hostile states are meeting in a common determination to save the Mediterranean Sea.

In sum, our common perception of global environmental problems has led to surprising cooperation, and it will lead to more. If there is such a thing as a "U.S. role" in global environmental affairs, it is this: not to assert "leadership" in any chauvinistic or arrogant sense, but to join with our member-states of every political and economic condition as we work together to protect and renew our endangered planet. Instead of seeking leadership of a foolishly competitive sort, the U.S. and all other nations must seek an equal partnership.

If we achieve that, we will all have much to be proud of and grateful for.

Douglas Costle, the new Administrator of the Environmental Protection Agency, focused his remarks on "Environmental Interdependence." This is a topic familiar to this body, as we consider the potential international impacts of domestic SST noise regulations, or the effects of certain water projects upon Mexico or Canada. I believe the remarks which follow by Mr. Costle remind us all of the more complicated aspects of certain environmental problems:

EPA is thought by many to be a strictly domestic body. In fact, our international activity is extensive.

We most actively cooperate, of course, with our neighbors, Canada and Mexico. What we do, especially along our borders, can have very real impacts on our neighbors. And these impacts can be profound.

For example, without modification, the Garrison Irrigation Project in North Dakota threatens to produce flows of nutrients and pesticides that could endanger Canadian waters, including Lake Winnipeg.

Similarly, the coal-fired power plant at Coronach, Saskatchewan will have impacts on the air in northeastern Montana and on the quality of the Poplar River, which flows from Canada into the United States.

And most of us are familiar with the problem of salinity in the Colorado River, which runs into Mexico from the United States.

The catalogue of similar transnational pollution problems along our northern and southern frontiers is long. The point is this: controlling pollution in these areas requires close cooperation with our neighbors.

In Europe and in other parts of the world where the countries are smaller and closer together, the necessity for cooperation is even more apparent.

Even where countries are not contiguous or share a common waterway, environmental regulations in one nation can directly affect other national interests. For example, the newly enacted Toxic Substances Control Act will compel foreign chemical exporters who wish to market their products in the United States to comply with our regulations.

I think most of you are aware that our domestic regulations for the control of aircraft noise can generate problems with foreign carriers and their governments.

And our automotive emissions regulations bring us into continuous contact with foreign manufacturers whose products must conform to U.S. specifications before they are offered for sale here.

On a global scale as well, cooperation between nations on environmental issues is gaining in importance. Because all nations share the world's oceans and its resources, we are seeking to ensure that adequate environmental safeguards are built into the Law of the Sea Treaty.

We are also concerned about threats to the atmospheric ozone layer. Man's activities, especially the release of chlorofluorocarbon gases, threaten the ozone layer, and ultimately all nations will need to cooperate if the danger is to be avoided.

International pollution problems have added a new dimension to diplomacy and have defined new areas of potential conflict.

The United States and Canada have pioneered in the resolution of transboundary environmental conflicts. Fortunately, we had a strong legal base from which to build. The authors of the 1909 Boundary Waters Treaty between the United States and Canada were foresighted enough to include a provision that neither country would pollute the other "to the injury of health or property." That treaty also established the International Joint Commission, a body enjoying the status of an international organization.

At the same time, the U.S. and Canadian Governments have chosen to resolve many of their transboundary problems directly rather than referring them to the commission.

Here, too, new ground is being explored with each case handled.

Each country has shown itself sensitive to environmental impacts across the frontier. We have given Canada our pledge that we would take whatever action might be necessary to protect her waters from the run-off effects of the Garrison project.

Our Canadian friends have consulted with us in establishing the safety features for their offshore drilling project in the Beaufort sea. They are also cooperating with us in providing environmental safeguards on other projects, such as the open pit coal mine being planned on a tributary of the Flathead River and the power plant on the Poplar River, both on the northern border of Montana.

Our relations with Canada also provide a model of how two countries can work together to protect a shared water resource from environmental degradation.

By the nineteen-sixties it had become apparent to both the United States and Canada that the Great Lakes, the greatest fresh water system in the world, were becoming dangerously polluted and that, if they were to be preserved, effective joint action would have to begin soon. Officials of the two governments set about drawing up an agreement that would establish the programs necessary to arrest the deterioration of the Great Lakes water quality and create conditions that would preserve the lakes as a vital resource for future generations.

The Great Lakes Water Quality Agreement was signed in 1972 to provide the institutional mechanisms through which the two countries share scientific and regulatory expertise in a project vital to them both.

The task has not been easy, and successes have not come quickly. But water quality is improving. It will take many more years and billions of dollars more before the goals are reached. But we have made a good start and have demonstrated what can be accomplished when good neighbors set about a common task together.

In addition to our work with Canada and Mexico, the United States has formal environmental agreements with the Soviet Union, Japan, and Germany, under which joint projects are carried out. Our work with the Soviet Union, alone, encompasses some forty-one projects in a large number of fields.

Multilaterally, our most active forums are the Organization for Economic Cooperation and Development (OECD), and the Committee on Challenges of Modern Society, an adjunct of NATO, where there are over forty active projects at the moment. We also work closely with the United Nations Environmental Program, the World Health Organization and the environment programs of a number of other international organizations.

The purpose of these joint endeavors whether bilateral or multinational, is to share intellectual and financial resources so that we can all find early solutions to our common environmental problems.

World-wide environmental cooperation remains in its infancy. As our scientific knowledge increases, as our perspective of this fragile globe takes on the view of the astronaut, the task we face ahead will require the common efforts and good will of all the nations of the world. We cannot do it alone. No less than our best efforts will be required to meet the great challenge of world environmental protection.

Finally, the problems or underdeveloped or developing countries were addressed in this U.S. observance of World Environment Day. The speaker on the subject of "Environment and Develop-

ment" was Curtis Farrar, the Assistant Secretary for Technical Assistance of the Agency for International Development.

In Mr. Farrar's perceptive remarks, the relationship of the environmental problems of industrialized nations to the environmental problems of developing nations was described. His comments complement those of Secretary Mink's as well as those of other speakers, and demonstrate how the various environmental programs in the U.S. Government are finally being brought together.

An excerpt from Mr. Farrar's statement follows:

The major environmental problems of developing countries are primarily effects of poverty. In both the towns and in the countryside, not merely the quality of life, but life itself is threatened by poor water supplies, deficient nutrition, inadequate sanitation and sewage, poor housing, sickness and disease and vulnerability to natural disasters.

Poverty evokes exploitation of both natural resources and human resources. The biophysical environment often exhibits the ravages of long years of mismanagement under the conditions of poverty. Examples include soil erosion and infertility of once fertile agricultural land, water contamination from lack of sanitary facilities, deforestation, air and water pollution from marginal industries, and loss of human productivity through disease and malnutrition. These problems of poverty in the developing countries are just as environmentally significant as the direct pollution of air, water and soil in our own country. Both lead to rapid depletion of natural resources and degradation of the environment.

Of course the environmental problems of developing countries are not limited to problems of poverty. The process of development whether in agriculture, industry, water supply, transportation or other fields can generate adverse environmental effects as experience has clearly shown. The list of environmental kickbacks is long and some general but poignant examples include: Agricultural schemes where natural ground cover was completely removed have left lands incapable of supporting intended monocultures or even the removed vegetation; poorly planned dams have resulted in schistosomiasis, deceased agricultural acreage, great alterations of aquatic ecosystems and social upheavals; mining projects where mountain sides were stripped away have resulted in the killing of abundant reefs of food production; Poorly planned roads have provided easy access to land not previously available to human use and often for uses completely disruptive to soils, vegetation and the entire ecosystems.

The cumulative impacts are taking their toll. We recognize that development activities which commonly stressed short term gain have often been at the expense of the environment's sustainable productivity. For developing countries, the natural resource base—their soils, waters, forests and minerals—largely determine their economic potential for meeting the needs of poor people and for national development. The vicious circle is apparent.

If improving the well being of citizens in developing nations is indeed the goal of economic development, sustained success is possible only when the environment is capable of providing needed resources and suitable life support.

All of these environmental problems whether they stem from poverty or the development process itself, occur against the stark backdrop of population growth. Stabilization of world population growth does not seem likely for the next 25 to 50 years; therefore, the problems facing developing



countries and the world in areas of environment and natural resources are not likely to disappear quickly. Definitely a challenge is before all people, organizations and nations which have sincere concern for human well being and the global ecosystem that supports mankind.

#### TRIBUTE TO TWO OF ELKHART'S FINEST CITIZENS, PHILIP E. BYRON AND ELDON F. LUNDQUIST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, I rise today to pay tribute to two valued friends and outstanding citizens of Elkhart, Ind., who recently passed away: Philip E. Byron, Jr. and former State Senator Eldon F. Lundquist.

Phil Byron practiced law in Elkhart since 1949 and had served as president of the Elkhart City and county bar association. He served in a number of State government positions in the 1960's and was a member of the Elkhart School Board from 1957 to 1967. As the Elkhart truth said in an editorial:

Mr. Byron, throughout his distinguished career was a student of the law and a practitioner of its highest principles. His service to the bar association in many capacities over the years reflected his unyielding beliefs in fairness, honesty and the integrity of law.

Former State Senator Eldon F. Lundquist was one of the most popular and respected legislators ever to serve northern Indiana. A State representative from 1961 to 1964 and a member of the Indiana State Senate thereafter until his retirement in 1976, Eldy was the "Mr. Education" of the Indiana General Assembly.

During his service as chairman of both the House and Senate education committees, Eldon Lundquist was a strong voice for high quality education—particularly vocational and higher education.

At the time of his death he was serving as assistant to the president of Indiana University. He was also well known as a radio announcer from 1939 to 1968 and played a major role in the growth of Elkhart General Hospital while serving as its director of resources and development.

Mr. Speaker, Philip Byron and Eldon Lundquist contributed substantially to the people of Elkhart County and of the State of Indiana, and all who knew them, as I had the privilege of doing, will miss them.

I extend my deepest sympathies to both their families.

#### ANATOLY SCHARANSKY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. WAXMAN) is recognized for 5 minutes.

Mr. WAXMAN. Mr. Speaker, yesterday Anatoly Scharansky was accused of treason by the Soviet Government, after being held incommunicado for over 2

months, with only rumors of the charges against him being the only word of his whereabouts and condition.

Not since Stalin's reign of authoritarian terror have such serious charges been leveled against a Soviet citizen in such an insidious manner. Samuel Lipavsky, a Soviet Jewish doctor whose father and son have been charged with jailable offenses, has spurned his earlier request to emigrate to Israel and has in turn accused Mr. Scharansky and other dissidents of collaborating with Western journalists and U.S. embassy employees in collecting "secret" information and other "subversive" activities.

The State Department and all the news organizations involved have called the charges preposterous.

What Scharansky was really engaged in was the monitoring, in anticipation of the upcoming Belgrade conference, of Soviet compliance with the Helsinki Final Act. As a signatory to that document, the Soviet Union pledged the assurance of basic human rights to its citizens, including the right of freedom of emigration, equal protection of the law, fair and public hearings if one is accused, and a presumption of innocence until guilt is proven. But in the past 22 months, Soviet compliance with these principles of basic human rights has been disgraceful. The Soviet Government has launched a massive campaign of arrests and propaganda designed to intimidate the dissidents and discredit them in the eyes of their fellow citizens.

Concurrently, the charges against them have steadily escalated—from "parasitism" and other similarly ambiguous charges to treason which carries a minimum 10-year sentence and a possible death penalty.

Thus, the stage is now set, by virtue of these totally unfounded claims against Scharansky, for a massive show trial in Moscow, replete with an insistent anti-Semitic campaign designed to link, under the guise of treason, those who wish to emigrate with those who wish to reform the system.

Such are the first fruits of the campaign of quiet diplomacy which has ensued since the visit to Moscow of Secretary of State Vance. Rather than expressing appreciation for the change of attitude which so many urged, rather than modifying its hard line in response to our new tact, the arrest, imprisonment, and pending treason trial of Mr. Scharansky is nothing less than a slap at President Carter and all who have conscientiously applied their efforts in behalf of those who are so systematically persecuted.

The fact is that the Soviet drive against those who dissent began long before President Carter was inaugurated. In anticipation of the 60th anniversary of the Bolshevik revolution, the Soviet leadership made a decision to liquidate organized opposition to the party. Many believe that the drive has been so successful that the dissident movement has been destroyed.

And even now, after these arrests, there

are those who continue to state that we who have spoken out in protest on the denial of human rights have brought this misery upon the dissidents. Are we now to remain silent in the face of these further outrages? Are we to allow Mr. Scharansky and his colleagues to languish before the bar of Soviet injustice?

The answer must be a resounding "No." Let us be as refuseniks, and urge the President to work for the release of Mr. Scharansky, to make the issue of human rights in the Soviet Union the highest priority on the agenda in Belgrade, and to continue our Government's very visible commitment to basic human rights.

Those most affected by these events—the dissidents themselves—have made extraordinarily clear their desire that we continue our efforts. We can do no less. They deserve so much more.

I wish to take this opportunity to share with my colleagues some recent articles on these developments:

[From the New York Times, Mar. 5, 1977]

#### SOVIET LINKS DISSIDENTS TO C.I.A.; ARRESTS EXPECTED

(By David K. Shtipler)

Moscow.—The Government newspaper Izvestia today accused several leading dissidents, all of them Jews, of working for the Central Intelligence Agency. Tonight, according to Jewish sources, apartments of several of the dissidents were being searched and some of them believed that arrests were imminent.

The evening newspaper published the allegations in the form of an open letter purportedly written by a former dissident, Dr. Sanya L. Lipavsky, who contended that American diplomats responsible for reporting to Washington on the human rights movement were in fact C.I.A. officers recruiting dissidents for purposes of espionage. It was the most serious charge yet in a series of recent Soviet attempts to portray dissidents as tools of Western subversion.

#### SOME OF ACCUSED SEEK TO EMIGRATE

It came amid the most severe crackdown on dissidents in several years, aimed especially at an unofficial group monitoring Soviet violations of the human rights provisions of the 1975 East-West Helsinki accords. Two of the group's members are already in jail—the chairman, Yuri F. Orlov, and Aleksandr Ginzburg, a close friend of Aleksandr I. Solzhenitsyn, the exiled writer.

Two more members were among those accused today of working for the C.I.A.—Anatoly Scharansky, an engineer whose wife is in Israel, and Vladimir Slepak, also an engineer, who received a telegram of support from Jimmy Carter during the Presidential campaign. Both men have been trying for years to emigrate to Israel.

In addition, Vitaly Rubin, an expert on Chinese philosophy who was one of the group's founding members and has since emigrated, was mentioned, as was Aleksandr Lerner, a computer scientist who has been trying to leave the country.

Mr. Scharansky and Mr. Slepak, reached tonight at Mr. Slepak's apartment, vehemently denied the charges of involvement with the C.I.A. "We never collected any illegal information, absolutely never, and never sent anything in an illegal way," Mr. Scharansky declared. "We never talked about espionage—nobody [from the United States Embassy] ever made any approaches to get information."

He speculated that the continued cam-

paign against dissidents was an effort by Soviet leaders to convince the Carter Administration that its public outspokenness on human rights would be counterproductive. The President has angered Moscow by criticizing Soviet oppression.

"But whatever happens to us," Mr. Scharansky said, "we remain in the same position: that Western pressure is the only possible way of saving the movement and of having real detente."

#### K.G.B. OFFICERS OUTSIDE APARTMENT

Tonight, two officers of the K.G.B., the security and intelligence service, were waiting on the stairway outside Mr. Slepak's apartment and several carloads of others were outside the building.

"If we are arrested," Mr. Slepak declared, "we will know that they want the West and Carter to feel that their pressure may make our situation worse, but the West must be strong."

The open letter in *Izvestia* with the C.I.A. allegations and a long accompanying article accused two American diplomats, Melvin Levitsky and Joseph A. Presel, of persuading dissidents to provide defense-related information. The open letter contended that Mr. Presel once said that he had come to the Soviet Union "to shatter the pillars" of the system.

The attack on the two diplomats seemed a clear effort to sever contacts between dissidents and the United States Government, just as efforts have been made to weaken contacts between dissidents and the Western press in recent months.

Mr. Presel is currently assigned to monitor the dissident movement for the embassy—a job that Mr. Levitsky, now in Washington, had before him—and as such he is the most visible American official in the activists' circles.

Earlier this week, two Jewish dissidents were seized and taken away by policemen or security police officers outside the United States Embassy as they were going to a meeting with diplomats there. The dissidents tried three times to enter the embassy, without success. The United States protested twice to the Foreign Ministry.

*Izvestia* reiterated charges that two former American correspondents in Moscow, Alfred Friendly Jr., formerly of *Newsweek*, and George Krinsky of *The Associated Press*, were C.I.A. agents. Mr. Krinsky was expelled from the Soviet Union last month. Mr. Friendly's tour ended last year.

Earlier, the official press also accused Christopher S. Wren of *The New York Times* of working for the C.I.A. but his name was not included in the charges today. All three have denied the allegations.

The *Izvestia* letter signed by Dr. Lipavsky, a surgeon who was frequently seen by Westerners at the homes of dissidents, contended that Mr. Levitsky had tried to persuade him to have a friend, the chief of a Moscow scientific institute, provide information to the C.I.A.

"I found myself in a very difficult situation because espionage and the prospect of being a paid agent of American intelligence contradicted my views and intentions," the letter said, adding that Dr. Lipavsky had withdrawn his application to emigrate to Israel.

#### UNITED STATES CALLS CHARGE PREPOSTEROUS

WASHINGTON.—State Department officials described as preposterous the *Izvestia* allegation that three present or former embassy officers in Moscow were actually working for the Central Intelligence Agency.

Officially, the department, in line with its long-established policy, refused to comment

on allegations of C.I.A. membership or activities.

But privately the article in *Izvestia* touched off both irritation and wry comments among State Department officers, who knew the three officials named by *Izvestia*. Friends of the three said they were regular Foreign Service officers who had never had any connection with the C.I.A.

[From the New York Times, Mar. 22, 1977]

#### SOVIET DRIVE ON DISSIDENT BEGAN BEFORE CARTER'S STAND

(By Christopher S. Wren)

Moscow.—Although the Carter Administration has come under fire here for advocacy of human rights, the evidence is that the Soviet leadership was beginning a crackdown on dissidents even before Mr. Carter moved into the White House.

Soviet officials have encouraged the notion that Washington's outspokenness may jeopardize cooperation in arms control and there is a risk that Soviet-American relations, now at an uncertain stage, may deteriorate further. But the President's support of human rights seems to have complicated the Soviet leadership's internal situation as much as its relations with Washington.

Speaking in the Kremlin today, Leonid I. Brezhnev stressed what he saw as the internal necessities of dealing firmly with dissidents, branding them tools in a Western campaign to undermine the unity of the Soviet bloc.

Internally the rights issue has been thrust back into the limelight by the arrest several days ago of Anatoly Scharansky, one of three Jews accused by the Government newspaper *Izvestia* of working for the Central Intelligence Agency.

#### SOME SEE CHALLENGE TO CARTER

Because *Izvestia's* charges also implicate Americans, his arrest was seen by some as a challenge to President Carter, possibly calculated to nudge him back toward the quieter diplomacy practiced by his predecessors. But other sources feel that the harassment of dissidents would have occurred anyway.

In advance of Mr. Carter's inauguration, the Soviet authorities began moving against domestic critics with searches, interrogation and other pressure. An apparent motivation was to prepare for the conference scheduled for Belgrade, Yugoslavia, in June to review progress made in fulfilling the East-West convention signed in 1975 in Helsinki, Finland.

The Soviet Union apparently underestimated the extent to which the agreement's provisions for freer movement of persons and ideas, included at Western insistence, would become a yardstick for its performance on human rights. A normally fragmented dissident movement began to coalesce around the issue of compliance with the Helsinki pact.

A dissident group headed by Yuri F. Orlov, a physicist, was formed to collect information on human rights abuses and forward it to the West. The group spawned others in the Ukraine and Lithuania. The emergence of even a haphazard opposition concerned the Kremlin because, as a Western diplomat commented, "organized dissident groups are viewed by this regime as a greater threat than individuals."

#### LINK TO 60TH ANNIVERSARY CELEBRATION

Meanwhile, ideologists began their buildup for the 60th anniversary of the Bolshevik Revolution next November and found that dissidents were likely to challenge the basic theme of the celebration, namely that the Soviet people were content and prosperous.

"It is clear from articles in *Pravda* and in other signs that the leadership took a decision at the highest level to liquidate or-

ganized opposition in this anniversary year," a Russian familiar with party thinking said.

Other factors also favored a crackdown on dissidents. The Kremlin has been worried about the expression of dissent in Eastern Europe and wanted to forestall problems in the Soviet Union, particularly in view of some latent consumer discontent over food shortages this winter.

Hopes for arriving at an arms agreement and for a visit by Mr. Brezhnev to the United States are also thought to have influenced a decision to muffle domestic critics, far enough in advance to put a better gloss on all these events.

Though Moscow had braced for Western complaints, it did not expect the new President to become a catalyst for dissident resistance. "This campaign happened to coincide with Carter's comments on human rights," said the Soviet source. "If Nixon had been in power, he would have remained silent."

At the turn of the year, security police raided the apartments of dissidents and reported finding foreign currency and other contraband. Dr. Orlov, the leader of the Moscow monitoring group, was picked up and questioned for seven hours. Other dissidents were interrogated in an evident attempt to link them with an explosion on the Moscow subway in early January.

In the face of protests from Washington, four members of the monitoring groups, Dr. Orlov and Aleksandr I. Ginzburg in Moscow, and Mikola Rudenko and Oleksa Tikhy in the Ukraine, were arrested in early February. Another member, Lyudmila Alekseyeva, was given permission to follow two earlier members into exile abroad.

Other dissidents in Moscow, Kiev and Vilna were searched or interrogated. But Moscow also sought to mollify criticism by transferring an ailing dissident, Sergei Kovalev, from a labor camp to a prison hospital and by releasing another, Vladimir Borisov, from a mental asylum. Before the K.G.B. seized Mr. Scharansky, another Helsinki group member, the Government first released a jailed Jewish physician, Mikhail Shtern.

*Pravda* implied that the drive against dissidents would continue despite Washington's complaints. "The freedom of the individual is the sacred and inalienable right of all honest citizens and workers, but not of those who expect a free rein activity against the people," the party newspaper said.

While the Kremlin dismissed the Carter Administration's early concern as interference in Soviet internal affairs, it became furious when the President sent a letter to Andrei D. Sakharov, the physicist and leading human rights advocate, and later met with Vladimir K. Bukovsky, the deported dissident. Both actions were restrained, but the nuances, along with Mr. Carter's assurance that he was not singling out the Soviet Union, seemed lost on the Russians.

The response was a counterattack in the press assailing the United States for its own alleged human rights violations, to show, as one Soviet insider said, that "every stick has two ends."

While Moscow's response to Mr. Carter showed evident pique, it was also calibrated to avoid going too far. "Given their feelings of inferiority toward the United States, the Russians in their panic and fury did a good job of restraint," a West European diplomat said.

It has seemed equally significant that the Kremlin chose not to postpone Secretary of State Vance's visit as a sign of displeasure. Western diplomats feel that the Soviet leaders remain eager to push toward a new arms agreement and to discuss the Middle East. Mr. Vance's visit should offer the best gauge of just how deeply Moscow's resentment runs.



[From the New York Times, June 2, 1977]  
**SOVIET CHARGES A KEY JEWISH HUMAN-RIGHTS  
 ACTIVIST WITH TREASON**  
 (By David K. Shipler)

MOSCOW.—A leading Jewish dissident and human-rights activist has been formally charged with treason in a move by Soviet authorities that has few precedents since the days of Stalin.

The accusation, against Anatoly Scharansky, represents the severest attack in years against the advocates of an open society, and it dramatizes a growing campaign by the K.G.B.—the secret police—to discredit and eliminate dissidents by linking them to the United States Central Intelligence Agency. Some diplomats believe that the Scharansky case and the accompanying attempts to crush the small human-rights movement could have grave consequences for Soviet-American relations.

News of the charge, which carries a minimum sentence of 10 years' imprisonment and a maximum penalty of death, was contained in a letter received today by Mr. Scharansky's mother, Ida, from the prosecutor's office. Details were passed to Western correspondents by Yelena Bonner, wife of Andrei D. Sakharov, the dissident physicist and Nobel Peace Prize winner.

Mr. Scharansky, a 29-year-old computer specialist, has been under arrest since March 15 after accusations in the Government newspaper *Izvestia* that he and other Jewish activists were recruited by American diplomats for C.I.A. work.

#### SLAP AT CARTER SEEN

The case has been the focus of keen interest here as a likely indicator of Soviet attitudes toward President Carter's shift in tactics on human rights. Soviet clemency would have been seen as a positive response to the President's tempering of remarks on the issue. In recent weeks he has avoided the pointed criticism of the Soviet Union and the specific references to and contacts with Soviet dissidents that marked the beginning of his Administration.

The softer approach has won the private approval of some Soviet insiders who told Westerners last week that they even welcomed an ideological debate. But the stern action against Mr. Scharansky, coming just two weeks before human rights becomes an issue of international discussion at Belgrade, is being interpreted here as a slap at Mr. Carter and a high-level decision to pursue a tough line with Washington in this and other areas.

One American diplomat named by *Izvestia*, Joseph A. Presel, has since been constantly followed by three or four K.G.B. agents, harassed by late-night phone calls and denied permission to travel outside Moscow. Although his main job is reporting to the State Department on dissident affairs, he has had to stop going to activists' homes, as he once did. The United States has reportedly protested to the Soviet Government and had denied Soviet diplomats in Washington travel permission on a reciprocal basis.

#### STUDY DUE AT BELGRADE

The Belgrade conference will examine the effect of the 1975 European Security Act signed at Helsinki by the Soviet Union, the United States and most European states. The document has a human-rights section calling for freer exchange of people and ideas, family reunification across borders and the like.

Mr. Scharansky, whose wife is in Israel, had applied to emigrate, been denied and became a member of an unofficial group formed to monitor Soviet violations of the Helsinki act.

His role was important in the dissident movement, for he provided a key link between Jews seeking emigration and Russians and others wanting to stay and liberalize

the society. Furthermore, he was a consummate public relations man, fluent in English and scrupulously accurate with his facts, who acted as a spokesman to the Western press on behalf of Jewish activists. As such, he was part of a chain that Soviet authorities have found threatening, a chain of communication that runs from the dissidents through Western correspondents to worldwide publications and back into the Soviet Union again via foreign radio stations such as BBC and the Voice of America.

The authorities have been selecting the most influential dissidents for arrest. Yuri Orlov, for example, a stocky physicist who headed the Helsinki group, introduced people from various strains of dissent to each other. He has been in jail for three months, but no charges have been made known.

All told, nine members of the Helsinki watchdog group have been arrested. A tenth, Malva Landa, was sentenced yesterday to two years in Siberia on the charge that her carelessness caused a fire in her apartment. Other group members have been given exit visas, which was what Mr. Scharansky had wanted.

Pressure has continued against a wide range of dissidents. Today, a would-be emigrant, Iosif Begun, who had been stopped several times by policemen as he tried to enter the American Embassy, was sentenced to two years of Siberian exile for "parasitism," meaning that he had no job. Friends say he lost his job when he applied for his visa.

In addition, the K.G.B. seems to be on a campaign to recruit informants, entrap dissidents and smear American correspondents with the C.I.A. label in an effort to break the communications chain. At a news conference held by the Helsinki watchdog group today, Eric Udam, an Estonian, said he had been summoned by a K.G.B. agent named Albert Molok and offered 500,000 rubles (\$670,000) to form a bogus dissident group and make contact with the C.I.A. through American correspondents.

The letter from the prosecutor's office to Mrs. Scharansky, which was a response to her inquiries about her son, said that he was being charged under Article 64 of the Criminal Code, which names among varieties of treason "rendering aid to a foreign state in carrying out hostile activity." Mr. Scharansky is apparently the first one in the mainstream of the dissident movement to be accused of treason.

The campaign of the K.G.B. has not destroyed the dissident movement, but it has weakened it severely. Among those who are discontented but not yet outspoken, there is more fear now, more hesitation, dissidents say.

#### COMMEMORATING THE 200TH ANNIVERSARY OF GEN. KAZIMIERZ PULASKI'S ARRIVAL TO AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, this year marks the 200th anniversary of Gen. Kazimierz Pulaski's arrival to America, and provides a great opportunity for informing the American people of the contributions Poles made in the fight for American independence.

Kazimierz Pulaski with Thaddeus Kosciuszko, symbolizes not only the highest ideals of freedom for the Polish people, but also extraordinary service in the battle for American independence. The participation in the Revolutionary War of these two distinguished Poles and

their contributions are universally accepted.

Even so, many Americans are ignorant of their contributions and thus, on the 200th anniversary of Pulaski's arrival to America, all of us should make a special effort to insure proper recognition of not only Pulaski but of all Poles who fought for and helped build this country.

In order to better appreciate the spirit which animated General Pulaski, the activity and zeal in the defense of justice and human liberty which prompted him to come to a strange land, where he was unknown, and whose language and customs he did not understand, it is fitting to refer to his past in the struggle for liberty in the United States.

His American career was tragically brief. Arriving on July 23, 1777, he served as an aide to Washington at the Battle of Brandywine. At Brandywine Washington's Army was repulsed, and a large part of it might have been captured had it not been for the masterly aid given by Pulaski at the head of a cavalry squad, who delayed the progress of the British and thus enabled the army of Washington to retreat in an orderly way.

When Congress on September 15, 1777, elected Pulaski "Commander of the House with rank of Brigadier," he became the highest ranking officer of the cavalry, having under his command four regiments of cavalry.

Pulaski's early involvement in the Continental Army was wrought with difficulty. He was dissatisfied with the condition of the cavalry of which he was in command, and with the fact that his pleas for the reorganization and strengthening of the unit were unnoticed. Feeling the lack of cooperation from his officers, who did not like to be subjected to the authority of a foreigner, Pulaski resigned his command in March 1778, and asked Washington and Congress to grant him leave to organize an independent corps, known later as the famous "Pulaski Legion." Congress, upon the recommendation of Washington, resolved that an independent corps be established by Count Pulaski and that he retain the rank of brigadier general.

During the recruitment of the legion, Pulaski visited Bethlehem, Pa., where the Moravians lived. When stationed at Bethlehem, Pulaski always placed guards at the home of the Moravian Nuns during the passage of troops through the town. In grateful acknowledgement for the protection thus afforded them, the nuns, upon Pulaski's request, made for his legion a special banner. Longfellow has immortalized the making and presentation of the banner in his "Hymn of the Moravian Nuns at the Consecration of Pulaski's Banner."

The Pulaski Legion spent the winter around Minisink in New Jersey, where the hostile attitude of the Tories and Indians required their presence for the protection of the frontiers. Later Congress resolved that Count Pulaski march his legion to South Carolina to support General Lincoln.

On May 8, General Pulaski reached Charleston, a mere 3 days before General Provost of the British forces in-

vaded the city. Scarcely had Provost landed when Pulaski made an assault upon the advance lines. His courage, self-possession, and disregard of his own safety, gave an inspiring example to his troops, and raised the spirits of the people; while the inexperienced soldiers felt a new confidence in themselves under the command of such an officer. Even though his legion was not large, Pulaski knew how to make it impressive.

The growing numbers of the enemy coupled with the inability of General Lincoln's forces to reach Charleston in time to rescue the city from the British, prompted the greater portion of the inhabitants to speak of capitulation. In fact, the Governor and council agreed on terms of capitulation, not the most honorable, when General Pulaski repaired to the council chamber to protest against the precipitate measure, declaring that, as a Continental officer, he would defend the city for the United States. By his eloquence, General Pulaski almost single-handedly persuaded them to reject any offer of submission, and the same night General Provost, who had heard that General Lincoln was marching to Charleston with 4,000 men, retreated across the river.

Early in September, General Lincoln received information that Count d'Estaing was off the coast with a large French fleet and stood ready to assist Lincoln in his contemplated attack on Savannah, Ga., a stronghold of the British. The plan of operation called for Lincoln to send troops with all dispatch to Georgia, while the French were to land at Beuleau and form a junction in the neighborhood of Savannah.

The assault was made as planned as to time and center of attack, but was betrayed to the enemy by a deserter from the American ranks. When the American troops advanced, they were greeted with a deadly, galling fire.

The French and American cavalry were both under Pulaski's command, and seeing the apparent confusion and fearing that the French would be disheartened, Pulaski rushed forward to animate them by his own example and courage. Dashing ahead into a withering flame of shot and shell, he himself was struck by a swivel shot and fell from his horse mortally wounded.

Pulaski was carried away by his soldiers and placed on the American brig *Wasp*. Despite the utmost skill of the French surgeons, General Pulaski did not recover from the wound. Gangrene had set in, and as the ship pulled out of the harbor for Charleston, Pulaski expired.

It is only proper and just that America and grateful people enjoying the blessings of liberty, peace, and prosperity should recall the life of this great man and pay tribute to his valor. He gave his last measure of devotion to the American cause. Millions of his countrymen residing in the United States rejoice with the American nation, of which they are a part, that Pulaski along with that other illustrious Polish patriot, Thadeusz Kosciuszko, and other distinguished men

and women of Polish blood stood by the cradle of American Independence and helped to lay the foundation for a new government in the New World, dedicated to the principles of human liberty and justice.

#### CONTROLLING QUALITATIVE IMPROVEMENTS IN STRATEGIC ARMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 10 minutes.

Mr. BINGHAM. Mr. Speaker, for several years many Members of Congress and the academic community have become increasingly concerned about the destabilizing effects of qualitative improvements in strategic weapons. After the Vladivostok agreement of 1974 seemed to bring within reach a ceiling on the number of strategic weapons for both the United States and the Soviet Union, attention has shifted to the problem of restraining the impulse to improve the accuracy and destructive power of these arms. Without such restraints the arms race would not be slowed at all, but would merely have shifted arenas.

I have been greatly encouraged by the Carter administration's recognition of this problem and especially by Secretary of State Vance's comprehensive proposal for a new SALT Treaty which would include a halt in qualitative improvements. Although the Russians have initially treated this proposal with scorn and derision, I hope their attitude will change as they too begin to recognize the destabilizing threat these improvements pose. The Soviet Union has been developing and deploying increasingly powerful and accurate ICBM's causing concern which has bordered on panic in some circles here in the United States. At the same time our own research and development on qualitative improvements is proceeding full speed ahead, with such things as the maneuverable reentry vehicle the MX land-mobile giant missile, and the cruise missile moving steadily closer to the point where they are no longer on the drawing boards but instead on the production lines. There can be no question that the Soviets are as worried about these developments as we are about their heavy missiles.

There is ample evidence that the most troubling of these improvements is the MK12A warhead and the NS-20 guidance system for our Minuteman III ICBM's. These are not on the drawing boards, but instead are extremely significant qualitative improvements which are about to be deployed, beginning this fall. The new warheads will have double the explosive power of the warheads they will replace, and the guidance system will double the accuracy of the warheads. Together these refinements will give our ICBM force a huge advantage in hard target kill capability, thus threatening the 1,600 Soviet ICBM's in their hardened silos which are the backbone of the Soviet

strategic forces. While the U.S. comprehensive SALT proposal would block the introduction of these improvements, it is extremely unlikely it can be put into effect before these new capabilities are added to our Minuteman III missiles. When they are deployed, the United States will have an advantage which the Defense Department estimates it will take the Soviets 5 years to overcome, which can only make them less receptive to our comprehensive proposal for a halt to qualitative improvements. And the vicious cycle of the arms race would continue.

In the last few months, however, the administration has come to realize the implications of the Minuteman program and will be far more cautious about its implementation. The June 1 New York Times carried an article by Bernard Weinraub on the MK12A warhead and the NS-20 guidance system, and yesterday the President's spokesman Jody Powell answered a number of questions about the administration's intentions.

I will include copies of the June 1 New York Times article as well as an article summarizing the White House comments at the end of my remarks. I am encouraged that Mr. Powell said that the United States "can make changes" in the Minuteman improvement program if the Soviet Union exhibits a willingness to undertake serious negotiations on overall limitations on qualitative improvements. He also said that President Carter believes that qualitative improvements in strategic weapons is "as serious or more serious" an issue than mere numbers of weapons possessed by each side. Although some press accounts of Mr. Powell's comments chose to emphasize the President's refusal "unilaterally to forgo all technological improvements . . . absent similar restraint by the Soviet Union," I think the President's clear understanding of the dangerous implications of the Minuteman improvement program and his expressed willingness to alter it are far more significant and encouraging.

Support for delay is growing. Today, 11 strategic experts urged the administration to delay the modernization of Minuteman III ICBM's to avoid "foreclosing future agreement" and to "preserve our leverage" at the SALT talks. The experts included a former Presidential science adviser, two former Deputy Directors of the CIA, a former Deputy National Security Adviser to President Kennedy, a former Deputy Director of the Arms Control and Disarmament Agency, a former Under Secretary of the Air Force, and the director of the Federation of American Scientists. I include the text of the statement and the names of the signers at this point in my remarks:

#### STRATEGIC EXPERTS QUESTION SALT STRATEGY

"To avoid foreclosing future agreement to maintain land-based missile survivability, and to preserve our leverage at SALT, we believe the Administration should defer the reported doubling of accuracy and yield on Minuteman III missiles which would other-



wise appear irrevocably to give the U.S. major counterforce effectiveness."

George Kistlakowsky, Robert Amory, Herbert Scoville, Carl Kaysen, Phillip Farley, Marvin Goldberger, George W. Rathjens, Harvey Brooks, Townsend Hoopes, Admiral John M. Lee, Jeremy J. Stone.

[From the New York Times, June 1, 1977]

# DEPLOYMENT OF NEW U.S. WARHEAD VIEWED AS MAJOR STEP IN ARMS RACE

(By Bernard Weinraub)

WASHINGTON, May 31.—The United States shortly will quietly pass a new—and complicating—milestone in the arms race by deploying a more accurate and powerful warhead capable of destroying Soviet missiles in their silos.

The warhead, designated 12A, sharply increases the ability of the United States to attack Soviet missiles in their steel and concrete silos. Deployment of the new weapon will be undertaken in two stages; in October, when the Air Force starts installing an improved guidance system in its Minuteman III land-based missile force; and in 1979 when the new and powerful warhead is placed atop each missile.

Taken together, the upgrading of the missile force will enable 10 of the Minutemen III missiles to destroy 20 Soviet silos, compared with the present six. The new warhead will have an 80 percent chance of destroying any hardened target, in contrast with the 20 percent "kill probability" of the current warhead.

In recent years, military planners in the United States have feared that when the Soviet Union combines more accurate warheads with its large ballistic missile force, it would acquire an ability in the mid-1980's to eliminate a sizeable number of United States land-based ballistic missiles.

With the deployment of the 12A, the United States would in theory be acquiring the same capacity before the Soviet Union, although Pentagon planners insist that is not the intention of the 12A program.

## NO THREAT TO SOVIET FORCE

Although Paul C. Warnke, director of the Arms Control and Disarmament Agency, has said that the 12A was a potentially destabilizing factor, he expressed hope that agreement could be reached on a new arms treaty before the warhead was deployed.

What has disquieted the Soviet Union—as well as American critics of the Pentagon's plan to deploy the 12A—is the fear that the refitted Minuteman III missile would serve as a destabilizing force that would accelerate the arms race. Pentagon officials, and some liberals, say that the improving American capacity matches growing Soviet strength and that failure by the United States to deploy the new missile would "hobble" whatever balance the United States retains in strategic arms.

"This program is so far short of actually threatening the Soviet deterrent force that there's no reasonable way it could be seen as a destabilizing factor," said one senior Pentagon official. "Given the size of the Soviet force—and the scale of the program involved on our side—there's no way that the Minuteman improvement force would make the Soviet force vulnerable to American attack."

Others strongly disagree. "The Mark-12A warhead is eliminating any room for negotiating maneuver" in arms limitation talks, said Jeremy J. Stone, director of the Federation of American Scientists.

The Soviet Union has already indicated that deployment of the 12A warhead was potentially more alarming than such other new weapons as the cruise missile, or the mobile missile program called the M-X, a \$34 billion system that is being developed as

the next generation of intercontinental ballistic missiles.

The Minuteman III is the backbone of the United States missile arsenal. This force, 550 land-based, 60-foot-long ballistic missiles, carries three independently targeted nuclear warheads. With a range of 8,000 miles, the warheads are now accurate to within 1,200 feet of their targets; the new 12A, which is also a multiple independently targeted warhead, would have an even chance to land within 600 feet of the target.

## U.S. WOULD GAIN ADVANTAGE

According to critics of the deployment of the 12A, the new warhead would give the United States an advantage over the Soviet Union because the bulk of Soviet missiles, perhaps 75 percent, are land-based, and therefore will become increasingly vulnerable. On the other hand, only about 25 percent of the warheads in the American strategic force are based on land, with the rest aboard submarines or on bombers.

In deploying the warhead then, critics say, the United States moves beyond "negotiable restraint," and takes a competitive lead over the Soviet Union, a lead that would spur the arms race. Mr. Stone has pointed out in testimony before a Senate Foreign Relations subcommittee that the deployment of the new warhead will produce a five-year lead in "hard-target kill capability," or the ability of both sides to destroy targets specially hardened against nuclear attacks; in particular, missile silos.

Although the deployment issue has stirred some debate, the breakthrough—and its potential negative impact on arms limitation—has failed so far to generate substantial opposition in Congress. Several prominent liberals involved in military matters, including Senator William Proxmire, the Wisconsin Democrat, support deployment of the 12A.

It is unclear how, if at all, the planned deployment of the 12A warhead would be affected by adoption of various strategic arms proposals advanced by the Carter Administration.

Partly to foreclose the possibility of the Soviet Union's achieving a first-strike capability against American land-based missiles, the Administration, in one of its proposals, has suggested a reduction in the number of large missiles permitted the Soviet Union and a ban on modernization of missiles and a limitation on flight testing.

It is not clear, however, whether such restrictions on modernization would apply to replacement of a warhead on an existing missile.

[From the New York Times, June 2, 1977]

# UNITED STATES TO ALTER DEPLOYMENT OF ITS NEW WARHEAD

(By Charles Mohr)

WASHINGTON, June 1.—The White House spokesman, Jody Powell, said today that if the Soviet Union was willing to undertake "serious negotiations" on limitation of strategic nuclear weapons, the United States "can make changes" in plans to deploy a more accurate intercontinental missile warhead capable of destroying more Soviet missiles in their launching silos.

At a daily news briefing, Mr. Powell declined to call the new nuclear warhead, designated 12A, and its refined guidance system, as a "bargaining chip" in strategic arms talks with the Soviet Union. He also declined to say that the decision to deploy the guidance system this fall and the warheads by 1979 had been triggered by Russian rejection in March of Mr. Carter's "comprehensive" proposal for substantial arms reductions.

However, he said that the comprehensive proposal "would have specifically prohibited this and many other sorts of qualitative improvements" in intercontinental missiles.

He added that the President believed that "qualitative" improvements in strategic weapons was "as serious or more serious" an issue than mere numbers of weapons possessed by each side.

Mr. Powell said, however, that "we do not feel it is reasonable" to expect the United States, on its own, to forgo deployment of something like the 12A warhead without equivalent and "verifiable" steps by the Soviet Union. The Russians have extra-large missiles that can destroy launch silos with the high-explosive yield of their warheads rather than the pinpoint accuracy attributed to the 12A.

## CARTER'S CPA SUPPORT APPLAUDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Moss) is recognized for 5 minutes.

Mr. MOSS. Mr. Speaker, President Carter's strong support for Consumer Protection Act legislation deserves commendation.

This legislation was doomed in past years due to the threat of a presidential veto. Now, with President Carter in the White House, that threat is gone.

His statements, made yesterday, are very encouraging. The President said:

Now when it is sure that the White House will approve this legislation the lobbyists have come out of the woodwork and the Congress is under intense pressure.

Congress too should reject the pleas of a few special interests who blindly oppose efforts to protect consumers.

The Consumer Protection Act is a modest, but constructive bill which, as President Carter correctly says, deserves our support.

With your permission, a copy of the Washington Star article reporting the President's supportive statements is offered here for inclusion in the RECORD:

[From the Washington Star, June 1, 1977]

## CARTER FIGHTS FOR OK OF CONSUMER AGENCY

(By John Holusha)

President Carter today threw his personal support behind the increasingly difficult effort to establish an Agency for Consumer Protection.

Addressing a meeting of supporters of the bill, Carter said, "We've permitted misinformation put forth by the special interest groups to capture the attention of the public . . . almost by default."

The bill has been the subject of intense lobbying by business interests. It was approved in committee in the House by a scant one-vote margin.

At the time of the committee vote, some supporters complained that the President had done little to round up support for the bill, although he long ago had pledged to sign it.

Carter sought to refute business arguments that the agency would be an expensive, ponderous addition to the federal bureaucracy.

He said that 13 consumer offices within other branches of government could be eliminated if the bill were passed, at a savings of \$10.4 million.

In any case, he said that the \$15 million-a-year agency would spend less than what the Defense Department or HEW spends in an hour.

"It is a tiny amount," Carter said, "but very, very important."

Carter dwelled on the fact that many individual businesses have supported the bill,

even though their organized spokesmen, led by the national Chamber of Commerce, are in opposition.

Carter also referred to a remark made by the Chamber's president, who described presidential consumer adviser Esther Peterson as having the fury of a "woman scorned."

"Esther Peterson is one person it is impossible to scorn," Carter said to the cheers of the audience.

He also noted that one of the companies supporting the bill is Levi Strauss, the maker of blue jeans. "I'm one of their best customers," he quipped.

Carter was flanked by a delegation of Cabinet officers, including HEW's Joseph Califano, Labor's F. Ray Marshall and OMB Director Bert Lance.

Chief White House lobbyist Frank Moore said the vote on the bill "is very close," and said the President would hold a meeting with the congressional leadership next Tuesday, to discuss a timetable for bringing it to the House floor.

#### PANAMA CITY, FLA., JAYCEES LEAD IN FLORIDA

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, it is a natural thing for Members of the House to take pride in the accomplishments of the people in our districts. It is particularly pleasing to me to be able to call attention to an outstanding series of accomplishments by the Panama City, Fla., Junior Chamber of Commerce. This group, in a recently held State convention, was recognized as the outstanding Jaycee chapter in the State of Florida. They received more awards than any other of the more than 300 Jaycee chapters in Florida. Among the awards received were: Most Outstanding Chapter in Community Development; Most Outstanding Chapter in Individual Development; Most Outstanding Chapter in Chapter Management; Most Outstanding Chapter in its population division; Most Outstanding Chapter in Overall Excellence in all of Florida.

In addition to these awards, the Panama City Jaycees won 17 of 19 individual project area awards and the best overall project of the year. Numerous individual membership achievements awards were received.

The chapter president, Leon Foster, was recognized as one of the top five local chapter presidents in the State. Tom Najjar, incoming president of the Panama City Jaycees, was recognized as the most outstanding State director in Florida. Congratulations are extended to them and to all of the Panama City Jaycees for their outstanding accomplishments. Not to be outdone, the Panama City Jaycee Auxiliary was recognized as the Most Outstanding Jaycette Chapter in the State of Florida. They, too, are due warm congratulations.

#### LT. GEN. JOHN A. KJELLSTROM RETIRES

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, on May 31, one of America's most distinguished and outstanding military leaders, Lt. Gen. John A. Kjellstrom, retired after 34 years of dedicated service to this country. General Kjellstrom is highly respected at all levels of the Government and enjoys the finest reputation throughout the Department of Defense. He is a man of honor, integrity, and exceptional ability.

General Kjellstrom's vast experience and expertise in the area of financial management led to his being named to the important post of Comptroller of the Army 3 years ago by the late Gen. Creighton W. Abrams. He served in the field of comptrollership and financial management for 23 of his nearly 33 years of commissioned service. He very ably filled this position until the time of his retirement.

As Comptroller of the Army, General Kjellstrom directed the financial management improvement program with short- and long-range goals and objectives designed to strengthen financial management in the army. These goals and objectives provided a framework for practitioners of comptrollership at all levels of the army. General Kjellstrom's leadership in financial matters has had the important effect of increasing the involvement of commanders and staff officers at all echelons of the Army. His effort to make these officers more aware of their financial management obligations and duties will have lasting benefits in the improved manner in which the Army financial matters are conducted.

Mr. Speaker, as a longtime associate of General Kjellstrom, I have especially admired his candor and forthrightness. He testified before Congress defending the Army's operations and maintenance budget for 8 consecutive years. Normally a man of lesser rank would have appeared to defend this budget estimate but, because of the critical status of the O. & M. fund, the Chief of Staff and the Secretary of the Army felt that the operations and maintenance appropriation for the army was their most important appropriation and that General Kjellstrom's expertise should be used to support it. I echo their sentiments, General Kjellstrom has always proven to be an extremely knowledgeable and highly competent witness. Despite his position as a witness for administration requests, he has always answered questions fully and frankly and won the respect and admiration of the members of the committee.

It seems particularly noteworthy that General Kjellstrom's commission as an officer came through the Officers' Candidate School program at Fort Benning, Ga., in 1944. He was subsequently integrated into the regular army in 1946 at the recommendation of Col. Philip R. Dwyer, commander 407th Infantry Regiment, 102d Division.

I congratulate General Kjellstrom on his outstanding record of achievements. His illustrious career has greatly benefited our nation. He has provided exemplary service and is deserving of the highest accolades. I extend my very best wishes to him, Mrs. Kjellstrom and to

their family in whatever course of future endeavors they may pursue.

#### CURE FOR CANCER

(Mr. BRINKLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BRINKLEY. Mr. Speaker, the Congress has shown by its legislation that it places a high priority on finding a cure for cancer, both with the National Cancer Law of 1971 and annual appropriations to the National Cancer Institute, a unit within our National Institutes of Health.

It is important that we monitor the way this legislation is implemented. The American citizen should know. It is appropriate that the matter is fully discussed publicly.

We have had numerous articles in the press on cancer in recent months and the CONGRESSIONAL RECORD recently reprinted some which severely criticized the National Cancer Institute for not paying sufficient attention to various compounds in our environment which cause cancer.

This is a serious charge worth discussing and, in the interest of hearing both sides, I have appreciated having the following two articles for my own use and offer them now to my colleagues who, in coming months, will be called upon to vote on aspects of the National Cancer program.

One article is written by two of the Nation's foremost cancer experts, R. Lee Clark, M.D., a member of the President's Cancer Panel and president of the University of Texas System Cancer Center in Houston as well as, this year, the elected president of the American Cancer Society; and the other author is Frank J. Rauscher, Ph. D., one of the world-recognized cancer virus researchers and, for 5 years, the Director of the National Cancer Institute.

One of the main criticisms they answer is that the American Cancer Society is dominated by industrialists and others who protect their selfish interests at the expense of the average citizen, for instance, by going easy on cleanup of industrial pollution.

The facts are, Dr. Clark and Dr. Rauscher show, that the American Cancer Society constitution requires that 50 percent of its board be nonphysicians specifically to make sure that the patient, the consumer of medical care, is adequately represented in society work. Further, the facts are that only one banker and no industrialists are on the society board.

A second article addressing this question is a paper by Solomon Garb, M.D., the scientific director of the American Cancer Research Institute in Denver, a small hospital of recognized high quality which has followed a policy for years of accepting all patients it has room for, whether they can pay for treatment or not.

Dr. Garb shows that much of the criticism of the national cancer program in recent months is about matters over



which the National Cancer Institute has no control. The National Cancer Institute has done its job on the chemicals in our environment which cause cancer. It has identified them, proven their dangerousness, and informed the world.

But the National Cancer Institute has no regulatory power. It was not created to have any. It does not seek regulatory power. That is the work of other Federal and State agencies.

Dr. Garb's paper demonstrates a real need for action, agreeing with the general aim of the criticism but showing how it is unjustly directed at the National Cancer Institute.

I think these two documents deserve to be read by each of us who will vote on the cancer matters that come before the Congress:

**CANCER: A SEARCH FOR BOTH CURES AND CAUSES**

An article that appeared in The Washington Post May 1 accused the American Cancer Society of focusing on the search for cures rather than on environmental causes. The society does indeed focus on early diagnosis and cures to save lives from cancer; the allegation regarding the society's negligence of environmental causes is entirely untrue.

As for cures: There are nearly 700,000 new cases of cancer in this country each year, and about 385,000 cancer deaths—more than 1,000 a day, one every one and one-half minutes. As an organization started and directed by volunteers to fight cancer, and supported by public contributions, it is obviously our first priority to do everything we can to reduce this intolerable toll. And we are succeeding.

Through public and professional education we have changed the attitude toward cancer—the vital first step—from one of hopeless passivity to one of active combat. And, partly as a result of this, and through continued research—in which we have invested more than \$400 million—tens of thousands of lives have been saved from cancer in the United States over the past two decades. That is, whereas only one in four patients was cured of cancer in the 1950s, today one in three is being cured. And science and medicine already have the knowledge and techniques to cure at least 50 per cent of all cancer patients.

The article also stated that "environmental sources" account for between 50 and 90 per cent of all cancers. This general concept, with which we agree, was put forth more than 10 years ago by the American Cancer Society and responsible scientists in France and England.

However, to many (such as the writers of the Post article) the word "environment" in this context signifies dangerous chemicals in our air, food and water. And the percentages are only estimates.

Actually, the real meaning of the concept is that many cancers are extrinsically induced and are related to our health habits and ways of life, as well as to things beyond our personal control.

The leading cause of cancer deaths in the United States is clearly extrinsically induced—from smoking cigarettes. They are now implicated in 35 to 40 per cent of all U.S. male cancer deaths—and to an even larger percentage in England and Finland. This includes not only lung cancer, the largest cause of cancer deaths (85,000 this year in the United States, of which about 70,000—mostly men—are directly related to smoking) but also cancers of the lip, tongue, larynx, esophagus, stomach, bladder and possibly pancreas, adding an additional 30,000 to 40,

000 cancer deaths a year. Smoking, of course, involves conscious behavior, which can be changed—and cancers thus eliminated.

A portion of other cancers may also be extrinsically related to the kinds of food we eat. So far, the most likely culprit is the high-animal-fat diet, which is also implicated in abnormal blood cholesterol and heart attacks.

There is no evidence to implicate food preservatives or additives now on the market in human cancer, if there were, these would automatically be removed under the Delaney clause or other provisions of the Food, Drug and Cosmetic Act.

Thus, smoking and perhaps diet are related to one-half to three-quarters of all killing cancers in this country (we except the 300,000 or so skin cancers caused by overexposure to the sun, 95 per cent of which are curable).

What about other cancers in the United States? Between 1 and 2 per cent occur because of intense exposure to carcinogens in the workplace; an estimated 3 per cent are related to long-term exposure in the general environment; perhaps 5 per cent are related to the use of medications in controlling deadly human diseases.

As for our other cancers, we have no clue to the proximate cause. Only research can provide answers.

The American Cancer Society has led the fight against known carcinogens "in the environment." It was ACS research that first identified cigarettes as a leading cause of cancer. And the society's record of courageous follow-through on this information in educating the public in the teeth of opposition from the powerful tobacco interests needs no reiteration.

The same attitude guides the society in finding and eliminating other known causes of cancer. It was ACS research that helped identify asbestos and polyvinyl chloride as carcinogenic dangers to workers. And it was ACS activism with the involved companies and trade unions that helped to lead to control of these dangers.

Despite this clear record of vigorous public service the Post article makes the false allegation that the society's national board of directors is supposedly controlled by industrialists and bankers who direct the society's activities away from prevention, which, according to the article, would damage their economic interests.

The facts and record clearly refute these untruths.

The board of directors of the American Cancer Society, under our by-laws, includes 50 per cent physicians, scientists and other professionals; and 50 per cent laymen.

At present there is no industrialist and only one representative of a major bank on our board. The names selected by the writers of the Post article as evidence of corporate control are honorary life members, who have no vote.

An examination of our finances shows that of our total income, only 2.9 per cent comes from corporate gifts.

We are proud that some businessmen and lawyers are among those with enough community responsibility to volunteer for society work and that some have been elected by their fellow volunteers to our national board. If they choose to join in this crusade against cancer, their public spirit should be praised. Many contribute organizational and financial expertise to help make the cancer society a more effective organization.

The society's policies are based solely on scientific and medical knowledge; no individual or group in our organization could direct our energies away from any supposedly "sensitive" area. Nor in any way does the society direct the affairs or determine the priorities of the National Cancer Institute.

We cooperate very closely and will continue to do so in all ways that will contribute to greater people benefit and in ways that will continue to eliminate undesirable duplication.

R. LEE CLARK, M.D.  
FRANK J. RAUSCHER, Ph. D.

**DOES THE NATIONAL CANCER INSTITUTE GIVE TOO MUCH EMPHASIS TO CURE AND NOT ENOUGH TO PREVENTION?**

A common complaint, echoed by a recent article in the Washington papers is that although 80 to 90% of cancers are environmentally induced, the National Cancer Institute (NCI) spends far less than 80% of its budget on prevention. This argument overlooks the realities of cancer prevention.

NCI's assigned task in cancer prevention is identification of carcinogens. It has no authority to ban use or sale of carcinogens, to require warning labels, or to inspect chemical plants. It hasn't the funds for a public relations campaign to urge people to avoid specific items. All these other actions are reserved by the government to other agencies such as FDA, Department of Agriculture, OSHA, FTC, EPA, etc.

How has NCI performed its task of identifying carcinogens? They have done quite well. There is every indication that NCI, its grantees, contractors and allies such as the American Cancer Society have already identified the major environmental carcinogens that are responsible for most human cancers. They have identified many hundreds and reported them in the scientific literature over the last twenty years and more. I will not try to list all of them, but will take a few examples and then show what use has been made of the information.

1. Tobacco—the major single cause of cancer of the lip, tongue, throat and lung and a contributory cause of cancer of the esophagus, colon and probably bladder.
2. Asbestos—epithelioma.
3. Sunlight—skin cancer and malignant melanoma.
4. Radiation—many cancers and leukemia.
5. Sawdust—nose and sinuses.
6. Red dye 40—several.
7. Diethylstilbesterol (DES)—vagina and probably testis.
8. Chromium, powdered—upper respiratory tract.
9. Charcoal broiling—gastrointestinal tract.
10. Petroleum oils—several.
11. Benzidine—bladder.

**TO WHAT EXTENT HAS KNOWLEDGE OF THE CARCINOGENICITY OF THESE MATERIALS BEEN USED BY FEDERAL REGULATORY AGENCIES TO REDUCE CANCER?**

Asbestos—after some 20 years, minimal actions are being taken for the first time against asbestos exposure from building. However, thousands of tons of powdered asbestos are discharged into the air from car brake linings each year and nothing is done about it.

Red Dye 40—FDA refuses to ban it.

DES—FDA refuses to ban it in animal feed.

Petroleum oils—Diesel trucks that are badly tuned continue to pour black smoke into the air and no one stops them.

Radiation—Parts of Colorado are now contaminated by radioactive cesium and federal authorities still insist on preempting and blocking any state efforts to reduce or prevent further radioactive contamination.

Benzidine—See attached article.

**TO WHAT EXTENT HAS KNOWLEDGE OF THE CARCINOGENICITY OF THESE MATERIALS BEEN USED BY THE PUBLIC TO REDUCE CANCER?**

Tobacco—Smoking is on the increase.

Sunlight—People have not noticeably reduced their sunbathing and now use reflectors to increase the intensity of exposure.

**Sawdust**—At lumberyards, I've seen workers in clouds of sawdust without any respirators.

**Charcoal Broiling**—At backyard barbecues, charcoal is still the main fuel by an overwhelming margin. Restaurants advertise charcoal broiled steak and hamburgers.

**Petroleum oils**—People get oil over their clothing and keep working. They tolerate clouds of oil from badly tuned trucks.

Clearly in all these examples, the problem is not that NCI didn't do the studies, but that after the studies were done, few people paid attention to them. The government agencies that have the power to do something drag their feet or behave capriciously so as to call the entire issue into question.

Why is the NCI being blamed instead of the other agencies and those citizens who ignore the available information? Enclosed is a copy of a newspaper article indicating that the National Institute of Occupational Safety and Health (NIOSH) deliberately withheld information from 78,000 workers that they had been exposed to potent carcinogens. Imagine the outcry if NCI had done this!

Suppose NCI did devote the bulk of its efforts to carcinogenesis studies instead of seeking a cure? Suppose they were successful and identified every single carcinogen in our environment? The list would probably exceed 10,000. Is there any reason to believe that government agencies and the general public would be more diligent in avoiding exposure to those 10,000 than they now are in avoiding exposure to the eleven I listed?

I estimate that with present attitudes of federal regulatory agencies and the general public, if NCI came up with a complete list of all environmental carcinogens, the death rate from cancer would drop by only 1 to 2%. We need better enforcement! By contrast, NCI efforts to find cures and better treatments have already achieved better results in those with many kinds of cancer.

I believe that NCI should expand its carcinogenesis testing program to a reasonable extent. However, to do so, it will have to find a way to get around obstructions caused by the Division of Research Grants (DRG) of NIH. NCI asked DRG to set up a study section to evaluate grant applications for carcinogenesis testing using the Ames test. DRG ignored NCI suggestions on the kind of scientists for the study section and selected a group of academic purists. They promptly turned down almost all the grant applications on the grounds that they were not scientifically "innovative."

I believe there is a solution, however. If the Conference Committee appropriates a reasonable amount (over \$900 million) to NCI, it would be practical also to require each Regional Comprehensive Cancer Center to set up a carcinogenesis testing facility within a year. For this purpose, each Center would receive an additional \$250,000 allocated by the Centers Study Section. (In regions not served by a Comprehensive Center, smaller centers could be designated to set up such facilities). These facilities would be responsible for testing possible carcinogens in their areas and for reporting the results properly and promptly.

SOLOMON GARB, M.D.,  
Scientific Director, American Cancer  
Research Center.

#### AGENCY WITHHOLDS CANCER-RISK DATA

WASHINGTON.—A federal health agency hasn't informed tens of thousands of American workers whose names it has collected that they have been exposed to substances known to cause cancer, even though early warnings can result in cures or prolonged life.

The names and addresses of the 74,000 workers who stand a far greater chance of developing cancer than the general public, have been gathered in scores of statistical research projects undertaken by the Na-

tional Institute for Occupational Safety and Health over the past five years.

The head of the institute, Dr. John F. Finklea, said the workers hadn't been informed of the risks partly because his agency lacked the necessary funds and authority and partly because of his belief that notification without an effective followup system "might do more harm than good."

Finklea, a physician, said that further institute studies probably would identify 123,000 more workers who are high cancer risks, and that the question of what the government should do to help them is one of the major national health issues.

Dr. Kenneth Bridbord, head of the agency's Office of Extramural Coordination and Special Projects, said that if a government agency, corporation or union possessed the names of workers "whom they knew were at risk of cancer, and if they did not notify the workers of this risk, then all parties could conceivably be liable should any of these workers subsequently develop cancer." Finklea, asked whether the institute's inaction conflicted with his professional responsibilities as a physician, replied, "That question is being tested in the courts."

The Department of Health, Education and Welfare, the institute's parent agency, is being sued by 400 asbestos workers on the grounds that they have contracted asbestosis because the government failed to give them timely warning about this frequently fatal lung disease.

One of the dozens of research projects in which workers and former workers who faced special risks were identified involved two substances that have for more than 20 years been known to cause bladder cancer. The substances are benzidine and betanaphthylene.

Recent experience has shown that, if detected in its early stages, bladder cancer frequently can be cured.

Finklea said that because many of the workers who regularly were exposed to hazardous substances were poor and highly mobile, simply notifying them of the increased likelihood of cancer wasn't of much value.

An effective program to control cancer, he said, would require at least three other elements:

A national health care system that could provide low-income workers with medical treatment by doctors skilled and knowledgeable in dealing with occupational diseases.

A workmen's compensation system that would provide adequate payments for workers who have developed chronic diseases such as cancer because of working conditions.

A national job security program that would require companies to find jobs in less hazardous areas—without loss of pay—for workers whose health has been damaged while working with substances such as lead, coal tar pitch or benzene.

[From the National Enquirer, May 17, 1977]  
FDA IGNORES WARNINGS BY TOP SCIENTISTS—  
REFUSES TO BAN CANCER-CAUSING FOOD  
ADDITIVE

(By Leon Wagener)

Despite dire warnings by top scientists that Red Dye No. 40 causes cancer, the Food and Drug Administration (FDA) has decided to keep the food additive on the market for at least another two years while it completes more tests.

Americans consume over a million pounds of Red Dye No. 40 a year. It's found in soda, candy, ice cream and other products.

"Data from a study done on mice by Hazelton Laboratories clearly shows that Red Dye No. 40 induces lymphomas, cancer of the lymph system," said cancer specialist Dr. Samuel Epstein, professor of occupational and environmental medicine at the University of Illinois Medical Center.

"It's abundantly clear that the material is highly carcinogenic (cancer-causing). This dye poses a carcinogenic risk to millions of Americans of all ages without any matching benefits."

The dye, he said, has no purpose except to make products look "fresher and prettier than they really are." He said FDA officials should be prosecuted for failing to ban the dye to protect the public. "I would like to see the FDA officials behind bars," he stormed.

Dr. Epstein said the FDA approved the food additive for public consumption in 1970 after an initial study on its safety, a study he charged was "incomplete, shoddy and grossly inadequate."

"A second study on mice by Allied Chemical Corp.—the manufacturer of Red Dye No. 40—showed that the material was highly carcinogenic," he told The Enquirer.

Now the FDA plans to continue testing the dye two more years before it decides whether or not to ban it, he said.

"There is no reason to wait any longer—it should be taken off the market immediately," Dr. Epstein said, pointing out that the dye is banned in nearly every other nation in the world.

Dr. Michael Jacobson, a Ph.D. and co-director of the Center for Science in the Public Interest, Washington, D.C., agreed: "The manufacturers should stop using Red Dye No. 40 immediately and use a safe coloring agent. There is great likelihood that it causes cancer and represents an imminent hazard to health. The commissioner of FDA should ban it immediately."

A leading FDA pathologist and researcher told The Enquirer: "There is unequivocal evidence that Red Dye No. 40 causes cancer, but the FDA apparently is not disposed to take it off the market at this time."

"There is no other substitute for the dye now."

But an official FDA spokesman insisted that the Red Dye No. 40 tests were "preliminary" and that "there is no definitive data yet on Red Dye No. 40."

[From the Denver Post, May 11, 1977]

#### ONLY A FLUKE BLOCKED EPA CANCER TESTS ON HUMANS

WASHINGTON.—To get around a U.S. ban against testing dangerous drugs on humans, senior officials of the Environmental Protection Agency (EPA) approved a plan in 1975 to have a hospital in Mexico feed known cancer-causing fungicides to Mexican citizens in massive doses to see what effect it would have on the human thyroid.

The proposal, which would have used \$100,000 in U.S. tax money to pay for the Mexican tests, was approved by all the top echelons of EPA's Division of Criteria and Evaluation and signed by the director of that division. The proposal was blocked at the last moment only because an administrative fluke led to intervention by an EPA attorney.

The attorney, Jeffrey Howard, told Newsday he thought the plan was inhumane, "absolutely shocking . . . completely against the principles the agency was working under."

The Mexican proposal, which is outlined fully in documents obtained by Newsday, called for EPA to negotiate a \$100,000 contract with Hospital de Gineco-Obstetricia in Mexico City. One document stated: "This facility, which operates a continuing effort in the human testing of drugs for major U.S. pharmaceutical firms . . . has developed a highly specialized expertise in the field . . . of thyroid studies with human subjects."

And the proposal was quite specific about why Mexicans should be used in the studies, stating, "The recent HEW (Department of Health, Education and Welfare) moratorium on human testing has put severe constraints on the ability to have studies involving hu-



man subjects performed in the United States." Mexico had no such moratorium.

The EPA proposal called for huge doses of the carcinogenic group of fungicides known chemically as EBDC to be fed to humans. "If possible, 1,000 times (higher than the) average daily intake" that the Americans normally would be exposed to in residues of the poison that would be found on vegetables and other crops sold in food markets. The proposal noted that the fungicides (used extensively to kill fungi that damage vegetables) when fed to animals caused thyroid defects at low levels and thyroid cancer at higher levels.

It was precisely because of this cancer-causing effect in animals that some high-ranking EPA scientists wanted to test the fungicides in humans. Among them was Dr. Lamar Dale, chief of the metabolics effects branch of the division that approved the proposal.

"My question was at what level (of dosage) would there be a no-effect level upon humans, and what level would have an effect (on the thyroid)," Dale said when contacted by telephone. "Then we would have a direct knowledge of whether we had a problem."

What about the humans involved? Dale said he couldn't see "any human hazard" at the levels in the proposed Mexican tests. He added, however, "But I don't see that it (human testing) would be acceptable in today's climate (of public opinion)."

Howard resigned along with two other top officers in the EPA general counsel's office last year and accused the agency before Congress of failing to adhere to the laws in the regulation of carcinogens.

Howard said that after reading the proposal he complained to both Russell E. Train, former EPA administrator, and Edwin L. Johnson, deputy assistant administrator for EPA's pesticide program, and advised them to turn it down. Johnson then turned it down because he felt it was "unethical."

However, it was only by an administrative fluke that the proposal even reached Howard and Johnson, both men said.

The signature of Leonard R. Axelrod, head of the Criteria and Evaluation Division, who has died since the proposal was formulated was all that was needed to seek competitive bids on the project. But the fluke occurred because Axelrod sought to give the Mexican hospital a sole-source contract, without taking bids. Under EPA rules, Johnson's signature also was required for such a contract.

#### HOW EFFECTIVE HAS THE NATIONAL CANCER PROGRAM BEEN?

Two years ago, articles in the Washington newspapers and elsewhere challenged the entire concept of a National Cancer Program. A reporter charged that there had been no improvement in survival and quoted anonymous statisticians at NIH and elsewhere. Our reply at that time was that you can't have survival statistics until several years after a new treatment has started.

We now have those statistics and they come from several sources. None are anonymous.

They show that there are dramatic increases in survival rates in several cancers. Despite an overall increase in cancer incidence due to smoking, some groups are now showing a decrease in cancer death rate. Many, many more patients are having a useful, significant increase in comfortable, productive life expectancy. The following enclosures may be helpful to you.

1. Report from Metropolitan Life Insurance Company showing a drop in cancer death rate of their policyholders to 97 percent, the first such drop in history. For the general public, the rate did not drop because many people do not yet have access to the

newer treatments. We are asking you to help them get the better treatments.

2. A July 18, 1976, article in the Denver Post describing a change from a 5 percent survival rate after 30 months in 1971 to a 70 percent survival rate in 1976 in bone cancer.

3. The most recent article, in the May 17, 1977, Enquirer points out that this year, we will achieve a 50 percent cure rate for all cancers! Details are given in the article and are correct.

In my own small hospital, I can see marked improvement. We care for patients with advanced cancer whom other doctors and hospitals can no longer help. In 1971, only 11 percent of our patients were alive at the end of a year. Last year that figure was 16 percent and it's going up. I have had to add to our outpatient physician coverage to take care of the increasing number of patients who are home, living normal lives. We believe that many will achieve five year and longer survivals.

SOLOMON GARB, M.D.,  
Scientific Director, American Cancer  
Research Center.

#### CURRENT MORTALITY REPORT, STANDARD ORDINARY POLICYHOLDERS, METROPOLITAN LIFE INSURANCE CO., AND U.S. POPULATION

1976 COMPARED WITH 1975 AND 1971-75

| Cause of death  | Death<br>rate<br>per<br>100,000<br>in 1976 | 1976 death rate<br>as percent of<br>that in— |         |
|---|--|--|---------|
|   |  | 1975   | 1971-75 |
| METROPOLITAN LIFE INSUR-<br>ANCE CO. STANDARD OR-<br>DINARY POLICYHOLDERS |  |  |         |
| All causes  | 612.9                                      | 95   | 90      |
| Major cardiovascular diseases   | 304.8                                      | 94   | 85      |
| Diseases of heart   | 246.2                                      | 95   | 87      |
| Ischemic and related heart<br>disease                                     | 218.4                                      | 93   | 85      |
| Cerebrovascular diseases  | 43.3                                       | 89   | 78      |
| Respiratory   | 41.5                                       | 99   | 101     |
| Digestive   | 39.8                                       | 95   | 93      |
| Accidents, all forms  | 28.1                                       | 96   | 85      |
| Motor vehicle   | 13.6                                       | 99   | 85      |
| Influenza and pneumonia   | 12.3                                       | 100  | 85      |
| Cirrhosis of liver  | 10.2                                       | 88   | 85      |
| Bronchitis, emphysema, and<br>asthma                                      | 9.6  | 97   | 79      |
| Diabetes mellitus   | 9.1  | 81   | 81      |
| Suicide   | 8.5  | 94   | 100     |
| Homicide  | 3.8  | 66   | 90      |

[From the Denver Post, July 18, 1976]

#### PROGRESS AGAINST CANCER CUTTING DEATHS DRASTICALLY

(By John Boslough)

Researchers have made more progress in the war against cancer in the past 4½ years than "in all the previous history of medicine," says the physician member of the President's Cancer Panel.

"We're getting to the point now where we're starting to turn the corner on a number of different types of cancer," said Dr. R. Lee Clark, in Denver last week to attend the Rocky Mountain Cancer Conference.

For example, said Clark, who is president of the M.D. Anderson Hospital and Tumor Institute in Houston, Tex., the survival rate for patients with bone cancer has improved remarkably during the 1970s.

"Five years ago, there was a 5 percent survival rate after 30 months," he said. "Today the survival rate is 70 percent."

Additionally, Clark said, "we're making great progress in detecting cancers. For example, the Pap smear is now available to virtually every woman in the country, and we soon expect to have a similar test for breast cancer."

The breast-cancer test, when it becomes available within a few years, probably will be administered only to women in certain age groups, he added.

A proponent of the "War on Cancer," initiated by President Richard Nixon in 1971, Clark said the federal government spent \$763 million in cancer research in 1975 compared with \$174 million in 1971.

And, he said, the results are beginning to show.

"We've already made great headway with leukemia, both in children and adults," Clark said. "We don't have a cure, but we're getting remission rates of up to 70 percent now. So that means we're just about to turn the corner."

"And we're also getting improved survival rates for cancers of the kidney, placenta and some muscle tumors," he added. "Also for breast cancer that's spread throughout the body."

In addition to improved research, the war on cancer, which is coordinated by the National Cancer Institute (NCI), has resulted in the establishment of a number of comprehensive cancer centers throughout the nation.

In 1971, there were only three of the centers, which specialize in both cancer treatment and research. But now there are 15, including one in Denver.

Clark said NCI officials are now working to cut the time between development of a new cancer drug and its ultimate use on humans from the current 15 years to about seven years.

#### HALF OF THIS YEAR'S 690,000 CANCER VICTIMS WILL BE CURED

(By Chuck Michelini)

Half of the 690,000 Americans who get cancer this year will be cured because of stunning advances in the war against the disease.

And, according to the American Cancer Society (ACS), the two million former cancer patients alive today offer living proof that America is winning the fight against the world's most dreaded disease.

The good news in the fight against cancer was supported by top North American researchers contacted by The Enquirer.

The cancer picture has brightened considerably since 1967 when only one-third of the victims of the dread disease survived.

"This 50 percent rate is just about the best news that Americans could have this year," said Dr. Julian Ambrus of famed Roswell Park Memorial Institute in Buffalo, N.Y.

"There is reason for people to be hopeful now. It is very good news."

Another expert pleased with the present 50 percent cure rate is top oncologist Dr. Richard Jenkin of Princess Margaret Hospital in Toronto, who told The Enquirer: "Historically it is quite a landmark that we have reached the 50 percent mark."

Now, after extensive interviews with leading specialists, The Enquirer has learned of dramatically increased odds for surviving the most common forms of cancer.

Stomach cancer: "The cure rate is probably around 50 percent today," said Dr. Luther W. Brady Jr., chairman of the department of radiation therapy and nuclear medicine at Hahnemann Medical College in Philadelphia.

Ten years ago, according to the National Cancer Institute (NCI), the cure rate for stomach cancer was only 13 percent. The Cancer Society estimates that 23,000 Americans will get the disease this year.

Childhood leukemia: "Ten years ago the survival rate was about 15 percent and today there's a 50 percent chance of survival," declared Dr. Joseph Simone, leukemia specialist at St. Jude Children's Research Hospital in Memphis, Tenn.

The ACS attributed the increased cure rate to new forms of chemotherapy. This year about 2,500 children will be stricken with this disease.

Hodgkin's disease: "Fifty percent of the victims were cured ten years ago but today

the overall cure rate is slightly above 80 percent," said Dr. Jenkin. He said improved methods of radiation therapy and new chemotherapy agents are responsible for the better cure rate.

Hodgkin's disease will strike about 7,400 Americans this year.

Cancer of the uterus: "Today we can cure 80 to 90 percent of the victims," said Dr. Brady.

Ten years ago, the NCI said, the success rate was only 66 percent.

The present success is linked directly to education, improved personal hygiene and wider use of Pap tests, according to the ACS, which estimates there will be 47,000 new cases this year.

Cancer of the colon: Ten years ago the survival rate was 45 percent, according to the NCI.

"Now it stands at about 60 percent," said Dr. Brady. "Postoperative radiation therapy has had a significant impact on the potential for cure of this type of cancer."

The ACS estimates that 70,000 Americans will be stricken with the disease in 1977.

Cancer of the rectum: The NCI said the cure rate was 41 percent in 1967. "We can now cure 50 percent of the cases," said Dr. Brady.

"Postoperative radiation therapy has helped improve the situation."

The ACS says 31,000 new cases will be diagnosed in 1977.

Cancer of the prostate: The survival rate ten years ago was 56 percent, according to the NCI. "The present cure rate is probably 60 to 65 percent," said Dr. Brady.

The NCI attributes the increase to improved surgical techniques, and chemotherapy. The ACS estimates there will be 57,000 new cases of the disease this year.

Cancer of the breast: In 1967, 64 percent were cured, said the NCI. "Overall cure rate now stands at 65 to 68 percent," said Dr. Brady.

"However, we can cure about 95 percent of those women who are diagnosed early."

"The improved survival rate is caused by using combination treatments of surgery, radiation therapy and chemotherapy."

About 90,000 women will develop breast cancer this year, according to the ACS.

The American Cancer Society has acknowledged the tremendous strides in fighting cancer. In a recent report the ACS stated:

"Of the two million Americans alive today after a diagnosis of cancer five or more years ago, most can be considered cured."

The ACS emphasized that the two major factors responsible for the rising cure rates are that more people are seeking early diagnosis when warning signals of cancer appear and that cancer victims are receiving new and successful treatments.

Added a spokesman for the National Cancer Institute:

"Right now half of all cancer cases could and should be cured, but a lot of it depends on people getting to their doctor in time."

"The technology and the expertise are available."

### ENERGY FACTS

(Mr. ARMSTRONG asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ARMSTRONG. Mr. Speaker, a few weeks ago, President Carter proposed new legislation to cope with the Nation's worsening energy shortage. He recom-

mended new and more complex price controls, tax incentives, rebates, regulations, exhortations, the creation of a new Department of Energy—to name a few components of what Mr. Carter himself termed "one of the most complicated legislative packages—that a President has ever sent to Congress."

Such a proposal provides Congress an ideal excuse to further postpone decisive action. Cloakroom gossip, usually reliable, says there will be months, probably years, of hearings before a dozen or more congressional committees; and it is doubtful that much of the President's program will survive this process.

Much as I personally regret again putting off the legislation needed to end the oil and natural gas shortages, indefinite delay of many parts of the administration program is for the best. Certainly delay is preferable to enactment of more controls and regulations, as Mr. Carter has suggested. We are already suffering from such measures.

Within the past 4 years Congress has created the Federal Energy Administration to regulate oil producers and consumers; in turn, FEA has promulgated regulations which make a pile 3 feet thick; 10,000 persons have been hired to interpret and enforce these regulations and, awful thought, to think up new regulations.

The result of this frenzy of Federal activity is as depressing as it is obvious: In 1976, domestic oil consumption reached an all-time high; but domestic oil production dropped to the lowest level since 1961; imported oil averaged 42 percent of U.S. petroleum consumption, and at some times during the year accounted for half of U.S. consumption; since 1972 the dollar costs of imported oil have jumped from \$4.3 billion to \$34.6 billion in 1976; yet petroleum accounts for a greater percentage of U.S. energy use now than it did in 1970—up from 44 percent to 46 percent. Under the circumstances, Congress would be foolhardy to agree to the President's proposals.

Over the past 4 years, I have submitted several proposals to alleviate the Nation's fuel shortage. The centerpiece of my recommendations and, in my judgment, of any plausible energy policy is decontrol of energy prices and elimination of at least the worst of the regulatory burdens.

In the near future I will discuss these issues in greater detail. As prelude to that discussion, however, I submit the following digest of energy facts.

#### I. U.S. ENERGY PATTERNS

##### A. U.S. ENERGY CONSUMPTION BY FUEL TYPE<sup>1</sup>

|                    | 1950 | 1960 | 1970 | 1975 |
|--------------------|------|------|------|------|
| Hydroelectric..... | 0.2  | 0.3  | 0.4  | 0.5  |
| Geothermal.....    |      |      | .003 | .02  |
| Nuclear.....       |      |      | 1    | .8   |
| Natural gas.....   | 2.9  | 5.9  | 10.5 | 9.5  |
| Coal.....          | 6.5  | 5.3  | 7.4  | 7.1  |
| Petroleum.....     | 6.5  | 9.7  | 13.9 | 15.4 |

<sup>1</sup> Million barrels of oil per day equivalent.

Source: Center for Strategic and International Studies.

#### B. U.S. ENERGY CONSUMPTION BY FUEL TYPE

[In percent]

|                    | 1950 | 1960 | 1970 | 1974 | 1975 |
|--------------------|------|------|------|------|------|
| Petroleum.....     | 39   | 44   | 44   | 44   | 46   |
| Natural gas.....   | 18   | 27   | 31   | 32   | 29   |
| Coal.....          | 38   | 25   | 21   | 18   | 21   |
| Nuclear.....       |      |      |      | 1    | 2    |
| Hydroelectric..... | 5    | 4    | 4    | 4    | 2    |

Note: Energy imports of natural gas and oil amounted to 19 percent of consumption in 1975, up from 15 percent in 1974.

Source: Center for Strategic and International Studies.

#### C. THE ENERGY USERS, BY SECTOR

[In percent]

|  | 1950 | 1960 | 1970 | 1974 | 1975 |
|--|------|------|------|------|------|
| Industrial.....                        |      | 36   | 34   | 31   | 27   |
| Transport.....                         |      | 27   | 25   | 24   | 25   |
| Residential/commercial.....            |      | 23   | 24   | 24   | 23   |
| Electrical generation energy loss..... |      | 9    | 11   | 15   | 17   |
| Nonenergy (petrochemicals, etc.).....  |      | 5    | 5    | 6    | 6    |

Note: 21 percent of all energy consumed in the United States is in the form of motor gasoline.

Source: Center for Strategic and International Studies.

#### D. ENERGY EFFICIENCY

[In percent]

|                    | 1950 | 1960 | 1970 | 1974 | 1975 |
|--------------------|------|------|------|------|------|
| Energy used.....   | 53.8 | 49.4 | 50.5 | 48.5 | 47.7 |
| Energy wasted..... | 46.2 | 50.6 | 49.5 | 51.5 | 52.3 |

Source: Center for Strategic and International Studies.

#### E. ENERGY LOSS (WASTE) BY SECTOR

[In percent]

|                                  | 1950 | 1960 | 1970 | 1974 | 1975 |
|----------------------------------|------|------|------|------|------|
| Electrical power generation..... | 77.3 | 66.7 | 64.8 | 63.8 | 63.5 |
| Residential/commercial.....      | 25.0 | 30.0 | 25.4 | 26.0 | 25.0 |
| Industrial.....                  | 25.0 | 29.6 | 24.3 | 24.5 | 24.7 |
| Transport.....                   | 75.6 | 75.5 | 75.5 | 75.0 | 74.7 |

Note: For example, 63.5 percent of all energy used in generating electrical power in 1975 was wasted.

Source: Center for Strategic and International Studies.

#### II. PETROLEUM

##### A. HISTORIC U.S. SUPPLY AND DEMAND PATTERNS

[In billions of barrels per year]

| Year      | Domestic demand | Domestic production | Imports | Imports as a percent of demand |
|-----------|-----------------|---------------------|---------|--------------------------------|
| 1950..... | 2.38            | 2.19                | 0.19    | 8                              |
| 1955..... | 3.10            | 2.73                | .37     | 12                             |
| 1960..... | 3.59            | 2.93                | .66     | 18                             |
| 1962..... | 3.80            | 3.04                | .76     | 20                             |
| 1964..... | 4.03            | 3.21                | .82     | 20                             |
| 1966..... | 4.41            | 3.47                | .94     | 21                             |
| 1968..... | 4.90            | 3.86                | 1.04    | 21                             |
| 1970..... | 5.37            | 4.12                | 1.25    | 23                             |
| 1971..... | 5.55            | 4.12                | 1.43    | 26                             |
| 1972..... | 5.99            | 4.34                | 1.65    | 28                             |
| 1973..... | 6.30            | 4.24                | 2.06    | 33                             |
| 1974..... | 6.08            | 3.20                | 2.88    | 47                             |
| 1975..... | 5.95            | 3.05                | 2.90    | 49                             |
| 1976..... | 6.35            | 2.96                | 3.39    | 53                             |

Sources: BOM, FEA.



## B. NUMBER OF DOMESTIC OIL WELLS DRILLED ANNUALLY

| Year              | New production wells | Total wells drilled | Total wells in production |
|-------------------|----------------------|---------------------|---------------------------|
| 1950              | 24,000               | NA                  | 466,000                   |
| 1955              | 32,000               | NA                  | 524,000                   |
| 1960              | 22,200               | 40,700              | 591,000                   |
| 1962              | 21,700               | 38,700              | 592,000                   |
| 1964              | 21,000               | 38,600              | 588,000                   |
| 1966              | 15,900               | 30,500              | 583,000                   |
| 1968              | 13,800               | 26,300              | 554,000                   |
| 1970              | 12,600               | 23,400              | 531,000                   |
| 1971              | 11,400               | 21,400              | 517,000                   |
| 1972              | 10,800               | 21,400              | 508,000                   |
| 1973              | 9,555                | 19,600              | 497,000                   |
| 1974              | 12,784               | 18,000              | NA                        |
| 1975              | 16,408               | 24,000              | NA                        |
| 1976 <sup>1</sup> | 17,024               | 25,000              | NA                        |

<sup>1</sup> Preliminary.

Sources: BOM, FEA.

## C. THE PETROLEUM END-USERS—WHO ARE THEY? HOW EFFICIENT?

|                             | 1950 | 1960 | 1970 | 1974 | 1975 | Percent energy wasted, 1975 |
|-----------------------------|------|------|------|------|------|-----------------------------|
| Transport                   | 52   | 53   | 53   | 54   | 55   | 74.7                        |
| Residential/commercial      | 20   | 21   | 18   | 16   | 14   | 25.0                        |
| Industrial                  | 16   | 14   | 11   | 11   | 11   | 24.7                        |
| Nonenergy (petrochemicals)  | 7    | 9    | 11   | 10   | 10   | ( <sup>1</sup> )            |
| Electrical power generation | 5    | 3    | 7    | 9    | 10   | 63.5                        |

<sup>1</sup> Used as a product.

Note: For example, in 1960, 14 percent of all petroleum was used in the industrial sector, and the industrial sector wastes 24.7 percent of energy supplied (in 1975).

Source: Center for Strategic and International Studies.

## D. Imported oil—the dollar cost

|      | Billions |
|------|----------|
| 1960 | \$1.6    |
| 1965 | 2.1      |
| 1967 | 2.1      |
| 1968 | 2.4      |
| 1970 | 2.8      |
| 1971 | 3.3      |
| 1972 | 4.3      |
| 1973 | 7.6      |
| 1974 | 23.6     |
| 1975 | 26.6     |
| 1976 | 34.6     |

Sources: FEA, Treasury.

## III. NATURAL GAS

## A. HISTORIC U.S. SUPPLY AND DEMAND PATTERNS

[In trillions of cubic feet per year]

| Year | Domestic      |              | Re-serve additions | Year-end reserves | Supply (in years) |               |
|------|---------------|--------------|--------------------|-------------------|-------------------|---------------|
|      | Con-sump-tion | Pro-duc-tion |                    |                   | At current use    | At 1976 usage |
| 1950 | 5.9           | 6.3          | 12.0               | 184.6             | 31                | 9             |
| 1955 | 8.9           | 9.4          | 21.9               | 222.5             | 25                | 11            |
| 1960 | 13.0          | 12.8         | 13.8               | 262.2             | 20                | 13            |
| 1964 | 15.7          | 15.3         | 20.1               | 279.4             | 18                | 13            |
| 1968 | 18.0          | 17.5         | 19.2               | 286.4             | 16                | 14            |
| 1970 | 20.0          | 19.3         | 12.0               | 282.1             | 14                | 14            |
| 1971 | 22.6          | 21.8         | 11.1               | 290.7             | 13                | 14            |
| 1972 | 23.5          | 22.6         | 9.4                | 278.8             | 12                | 13            |
| 1973 | 23.5          | 22.5         | 9.4                | 266.1             | 11                | 13            |
| 1974 | 23.6          | 22.6         | 6.8                | 250.1             | 11                | 12            |
| 1975 | 22.6          | 21.6         | 8.7                | 237.1             | 10                | 11            |
| 1976 | 21.1          | 20.1         | 10.4               | 228.2             | 11                | 11            |
| 1976 | 20.9          | 19.9         | 7.5                | 216.0             | 10                | 10            |

<sup>1</sup> Including Alaskan natural gas for the 1st time.

Sources: FEA, AGA, BOM, FPC.

## B. HISTORY OF NATURAL GAS PRODUCTION WELLS

| Year | New production wells | Total producing wells |
|------|----------------------|-----------------------|
| 1950 | NA                   | 65,000                |
| 1955 | 3,600                | 71,000                |
| 1960 | 5,300                | 90,800                |
| 1962 | 5,800                | 97,000                |
| 1964 | 4,900                | 103,100               |
| 1966 | 4,100                | 112,500               |
| 1968 | 3,300                | 114,400               |
| 1970 | 3,800                | 117,500               |
| 1971 | 3,700                | 210,200               |
| 1972 | 5,100                | 121,200               |
| 1973 | 6,400                | 124,200               |
| 1974 | 7,240                | NA                    |
| 1975 | 7,580                | NA                    |
| 1976 | 9,057                | NA                    |

Sources: FEA, FPC, AGA.

## C. NATURAL GAS END USERS

[In percent]

|                                  | 1950 | 1960 | 1970 | 1974 | 1975 |
|----------------------------------|------|------|------|------|------|
| Industrial                       | 53   | 48   | 43   | 42   | 41   |
| Residential/commercial           | 27   | 33   | 33   | 35   | 37   |
| Electrical power generation      | 10   | 13   | 18   | 17   | 16   |
| Nonenergy (petrochemicals, etc.) | 7    | 3    | 3    | 3    | 3    |
| Transport                        | 3    | 3    | 3    | 3    | 3    |

Source: Center for Strategic and International Studies.

## IV. COAL

## A. U.S. CONSUMPTION AND PRODUCTION, 1950-76

[Millions of short tons per year]

|       | Domestic demand | Domestic production | Exports |
|-------|-----------------|---------------------|---------|
| Year: |                 |                     |         |
| 1950  | 491.1           | 560.4               | 29.0    |
| 1955  | 447.0           | 490.8               | 54.1    |
| 1960  | 398.0           | 434.3               | 37.7    |
| 1962  | 408.8           | 438.0               | 40.2    |
| 1964  | 445.5           | 503.0               | 49.3    |
| 1966  | 497.7           | 546.8               | 50.7    |
| 1968  | 509.0           | 556.7               | 51.7    |
| 1970  | 523.9           | 612.6               | 72.4    |
| 1971  | 502.2           | 560.9               | 58.0    |
| 1972  | 525.7           | 596.5               | 56.0    |
| 1973  | 556.0           | 591.8               | 52.0    |
| 1974  | 552.7           | 603.4               | 59.9    |
| 1975  | 556.3           | 648.4               | 65.7    |
| 1976  | 597.5           | 665.0               | 59.4    |

Note: Totals will not add because of stockpiling.

Sources: FEA, BOM.

## B. COAL—THE NOTABLE CHANGES

|       | Number of mines | Percent of coal surface-mined | Average price per short ton |
|-------|-----------------|-------------------------------|-----------------------------|
| Year: |                 |                               |                             |
| 1950  | 9,429           | 23.9                          | NA                          |
| 1960  | 7,865           | 31.4                          | \$4.69                      |
| 1965  | 7,228           | 35.1                          | 4.44                        |
| 1968  | 5,327           | 36.9                          | 4.68                        |
| 1970  | 5,601           | 43.8                          | 6.26                        |
| 1971  | 5,149           | 45.0                          | 7.07                        |
| 1972  | 4,879           | 48.9                          | 7.66                        |
| 1973  | 4,744           | 49.5                          | 8.53                        |
| 1974  | 5,247           | 54.0                          | 15.75                       |
| 1975  | 5,100           | 54.7                          | 19.24                       |
| 1976  | NA              | NA                            | 20.00                       |

Sources: FEA, BOM.

## C. COAL END-USING SECTORS

[In percent]

|                        | 1950 | 1960 | 1970 | 1974 | 1975 |
|------------------------|------|------|------|------|------|
| Electrical generation  | 18   | 40   | 57   | 63   | 65   |
| Industrial             | 45   | 46   | 38   | 33   | 32   |
| Residential/commercial | 22   | 10   | 3    | 2    | 2    |
| Nonenergy (chemicals)  | 2    | 2    | 2    | 2    | 2    |
| Transport              | 13   | 2    |      |      |      |

Source: Center for Strategic and International Studies.

## V. ELECTRICITY—IT'S NOT ALL WATER OVER THE DAM

## A. WHAT TURNS THE GENERATORS?

[In percent]

|             | 1950 | 1960 | 1970 | 1974 | 1975 |
|-------------|------|------|------|------|------|
| Coal        | 58   | 59   | 52   | 50   | 48   |
| Natural gas | 16   | 23   | 27   | 22   | 18   |
| Petroleum   | 16   | 9    | 14   | 15   | 19   |
| Hydro power | 10   | 9    | 6    | 6    | 6    |
| Nuclear     |      |      | 1    | 7    | 9    |

Source: Center for Strategic and International Studies.

## B. The conversion loss problem

Depending on the fuel mix burned under the steam boiler, the conversion of fossil fuels to electrical energy results in a loss of 60-75 percent of the potential energy (or an efficiency of only 25-40 percent).

Older style nuclear plants have an efficiency of as low as 1 percent. With effective breeder reactors, however, the efficiency may approach 80 percent (20 percent energy waste) . . . even though the amount of heat loss is tremendous.

## C. NUCLEAR POWER, OPERABLE PLANTS AND CAPACITY

|       | Number of plants | Capacity (thousands of kilowatts) |
|-------|------------------|-----------------------------------|
| Year: |                  |                                   |
| 1960  | 4                | 321                               |
| 1965  | 7                | 856                               |
| 1970  | 13               | 5,622                             |
| 1971  | 15               | 7,770                             |
| 1972  | 24               | 14,448                            |
| 1973  | 27               | 19,760                            |
| 1974  | 43               | 29,168                            |
| 1975  | 54               | 38,568                            |
| 1976  | 60               | 44,080                            |

Source: FEA.

## D. The nuclear future, a few observations

1. On January 1, 1973, 131 nuclear power plants were under construction or had reactors on order.

2. By January 1, 1975, construction of 60 of those nuclear plants had been postponed 1-3 years . . . and 18 had been cancelled outright.

3. In some states, it now requires approval from 36 different local, state and federal agencies to site and build a nuclear power plant—stretching lead times to 10 years.

4. Two principal problems are still not solved to regulatory groups' complete satisfaction—the waste disposal problem and emergency reactor cooling systems.

5. Even so, electric utilities plan over 30% of the new power plants built in the next ten years as nuclear (comprising almost 60% of the generating capacity).

Sources: Based on data from AEI, ERDA, FEA.

## VI. WHAT'S LEFT, U.S. DOMESTIC FUEL RESERVES

[Measured in years remaining in current usage for supplies located within the United States and Alaska, including off-shore shelves]

|                      | Best case estimate | Worst case estimate | Consensus |
|----------------------|--------------------|---------------------|-----------|
| Petroleum.....       | 290                | 10                  | 40-50     |
| Coal.....            | 800                | 50                  | 200-300   |
| Natural gas.....     | 80                 | 12                  | 40-50     |
| Oil shale.....       | 600                | (?)                 | 200       |
| Nuclear fission..... | (?)                | 30                  | (?)       |

<sup>1</sup> Not usable.

<sup>2</sup> Limited uses.

<sup>3</sup> Indefinite—breeder reactor.

Note: This represents a compilation of "expert" estimates.

## OIL—A GOVERNMENT CREATED SHORTAGE

The United States is using more and more petroleum each year. But we are producing less and importing an increasing proportion of our needs from overseas sources, primarily from the OPEC nations.

In the last 5 years, U.S. production has declined from a daily average of 9.5 million barrels to 8.1 million barrels in 1976. Consumption rose from about 15 million barrels daily in 1970 to 17.3 million barrels in 1972. The embargo reduced demand somewhat, but the daily average rose to a new high of 17.4 million barrels by the end of 1976.

As a consequence, we are now dependent on foreign sources for 42 percent of our day-to-day needs. The cost of this imported oil has skyrocketed from \$2.1 billion in 1966 to \$34.6 billion in 1976, a 1,500 percent increase. And, oil producing nations are now threatening another additional price increase.

Aside from the purely financial considerations and the drain on our balance of trade and balance of payments, our heavy dependence on foreign sources for a crucial raw material has ominous geopolitical and strategic implications. It literally makes our Nation's energy-based prosperity the hostage of the oil sheikhs. Is it not about time that we face the facts about why domestic oil production is lagging and start solving the problem?

## OIL PRICE REGULATION—A FLOP

After 4 years' experience with oil price controls and substitution of bureaucratic controls and regulations for marketplace decisionmaking, the results are clear.

The regulatory bureaucracy has been spectacularly successful in creating jobs for regulators. There are over 7,300 employees at FEA alone. The regulatory scheme has promulgated a stunning number of regulations—over 3,200 pages of such regulations and proposed regulations were issued by FEA in its first year alone. The FEA manual is now over 36 inches thick, and monthly revisions add 50-100 pages at a crack. While solving some injustices, the regulations and regulators have created many new injustices, disrupted the Nation's oil industry, and imposed severe hardships on many producers, refiners, distributors, retailers, and consumers.

But all this economic regimentation has not prevented consumer price increases—gasoline has gone from about 32 cents a gallon to over 64 cents a gallon in the last 4 years. Nor has this reg-

ulation encouraged new U.S. oil production. Quite obviously, the whole regulatory scheme has had the opposite effect.

While consumer prices have responded to the unregulated prices of OPEC oil, domestic oil prices have been held below the level at which producers have an economic incentive to discover, produce, and market oil. So we are producing less oil at home and becoming even more dependent on overseas sources. The situation will surely grow worse until free market pricing is restored.

Will a return to free market oil prices result in still higher consumer gasoline and oil product prices? Probably not, although a modest price increase would be better than the present trend toward ever-increasing dependency on OPEC, which means vastly higher consumer prices and unhealthy reliance on un dependable sources.

Both letters from my own constituents and public opinion polls show that while a slight majority of the American people believe we face an energy problem, a majority also feels that the oil companies are "getting too much" and somehow to blame.

Yet both the current laws and regulations and the President's proposal do nothing to deal with one of the principal problems of the current situation. Domestic crude oil discovered in the United States before 1973 is price-regulated at \$5.17/barrel, while imported oil sells for around \$13.70/barrel.

So the current Government policy rewards U.S. companies for having explored and produced foreign oil, while penalizing domestic production.

While there is a chance that some type of oil price deregulation might cause price increases and untoward profit margins, the first priority should be a price policy which will encourage exploration, new discoveries, and new production of oil and natural gas.

Then if the resulting profits are truly windfalls, Congress could and should enact windfall tax legislation, including plowback provisions to encourage oil companies to reinvest profits in increased new production.

But the main thing is to encourage production through either gradual decontrol of prices or by legislating the end of the entire price-control allocation scheme.

## ENDING THE NATURAL GAS SHORTAGE

In the 94th Congress, I introduced legislation to end the Nation's worsening natural gas shortage by removing Federal controls on the wellhead price of natural gas. And I continue to support deregulation.

But after the worst winter for the east coast in many years, spring is here, and the natural gas crunch of 3 to 4 months ago seems largely forgotten.

The severe curtailments of gas service which have plagued many areas could have been averted if Congress had heeded warnings of the impending problem. Unfortunately, however, until gas curtailments began to close schools and factories, most Members of Congress tended to ignore the consequences of Federal price regulations which encourage consumption while virtually eliminating incen-

tives to increase, or even maintain, production.

## AN ARTIFICIAL SHORTAGE

Even now some of our colleagues are reluctant to face the central fact about the natural gas shortage—it has been artificially created by these Federal controls. Until these restrictions are eliminated, or drastically modified, the situation is bound to grow worse. And the longer a decision is delayed, the more serious the consequences will become.

Until 9 years ago, America enjoyed an abundant supply of this efficient and environmentally desirable fuel. Gas consumption rose dramatically, but production more than kept pace. Year after year, more new gas was developed than consumed; reserves steadily increased.

But in 1968 the Supreme Court upheld the Federal Power Commission's complicated system of price regulation which was imposed on all natural gas sold for transmission in interstate commerce.

The effect was dramatic. Incentive to produce new gas for interstate commerce vanished almost overnight. The Nation's total gas production leveled out after rising for years, and the country began to use more gas than was produced. By 1973 new reserve additions were less than one-third of consumption and the Nation's total natural gas reserves dropped from a 15-year supply in 1967 to a 10-year reserve in 1976.

Actual new reserve discoveries in 1976 amounted to about 7.5 trillion cubic feet—36 percent of 1976 consumption levels. And of that 7.5 TCF, only 3.5 TCF were actually new discoveries. The rest was "discovered" by revisions in existing reserves.

As Federal Power Commission regulations have held down the price of gas, more and more has been diverted to intrastate use. Even though the highest regulated price for new natural gas has been increased to \$1.42/mcf, the average price paid by gas suppliers is still only 77 cents/mcf for interstate sales. But almost all intrastate gas is being sold at close to \$2/mcf.

Consequently, new discoveries in the continental United States are mostly sold inside State boundaries—and less and less of U.S. gas is sold in interstate commerce.

## U.S. natural gas production—decline of interstate sales

|            | Production (tcf) | Percent Interstate |
|------------|------------------|--------------------|
| 1966 ..... | 17.5             | 67                 |
| 1968 ..... | 19.3             | 66                 |
| 1969 ..... | 20.8             | 67                 |
| 1970 ..... | 21.8             | 64                 |
| 1971 ..... | 22.6             | 67                 |
| 1972 ..... | 22.5             | 65                 |
| 1973 ..... | 22.6             | 62                 |
| 1974 ..... | 21.6             | 58                 |
| 1975 ..... | 20.1             | 55                 |
| 1976 ..... | 19.9             | NA                 |

<sup>1</sup> Estimate.

Sources: AGA, FEA, FPC.

As a result of these short-sighted Federal policies, shortages have plagued the Nation for the past 5 years.



In my own State of Colorado, lack of natural gas has at times closed schools, shut down factories, and slowed new home construction. In Colorado Springs, all interruptible gas customers are shut off the majority of the winter—and new customers have been added only on a replacement basis.

In Denver, the waiting list for natural gas, begun in 1973, is almost a year long, and Public Service Co. sees no improvement in sight.

Meanwhile, industries located in areas with local supplies of natural gas have a significant competitive advantage over firms which must rely on other forms of energy. Consequently, firms are foregoing plans to expand in nonproducing areas and relocating plants to take advantage of abundant natural gas available in a handful of States where it is produced in great quantity.

The magnitude of this trend—and the extent to which this premium fuel is being diverted from home heating to use by industries which could use oil or coal with proper environmental safeguards—is revealed by the consumption statistics:

Four gas-producing States already consume about 30 percent of the natural gas used in the Nation. Of this amount, 90 percent is used industrially. A large part of this consumption is used to generate electricity. Nationwide about 16 percent of all natural gas production is used to generate electricity. Four gas-producing States account for 65 percent of that amount. In summary, electric power generation in just four States accounts for 10 percent of all natural gas consumption in the United States.

Homeowners and industries elsewhere who are, in effect, prohibited from bidding on natural gas are being forced to switch to higher priced substitutes.

In Colorado Springs, for example, the city council spent \$1 million for equipment to inject a propane-air mixture into natural gas lines at times of peak demand. This cost, and the use of higher priced propane, became necessary simply because regular gas supplies were inadequate to maintain pressure in the lines on the coldest days when peak demand occurs.

Other communities have responded in other ways: Burlington, for example, maintains a large supply of fuel oil for emergency use if their interruptible supply of gas is cut off, leaving the powerplant—and city buildings, including the hospital—without service.

As municipalities and other priority users are increasingly forced to depend on propane, coal, and oil, the price of these substitutes is bid up in response to increased demand. Mobile homeowners who use propane for heating and farmers who use it extensively in crop drying were horrified when the price per gallon jumped from around 18 cents to over 60 cents within a few months. Although part of the reason for the increase was the unconsidered impact of an FEA regulation, even after that was rectified, propane has remained twice as expensive as it was 4 years ago, and an even worse price-supply crunch may develop in the future.

The price of coal has been similarly affected—since 1968, the average price per short ton for coal has gone from \$4.68 to \$20.00.

#### OTHER AREAS OF THE NATION

Although I have mentioned hardships and dislocations in my own State, the shortage of natural gas is causing similar consequences elsewhere. Recently, the Federal Power Commission turned down an oil company's request to supply domestic natural gas to New York State users at a cost of 52 cents/mcf. So instead these users ended up with imported liquefied natural gas from Algeria at \$1.86/mcf.

In New Jersey, gas curtailment levels last winter averaged 28 percent. If they rise to 30 percent next winter, the State estimates that 120,000 workers could be laid off, and that the working hours of another 40,000 employees would be reduced. In Ohio, in 1970, a 10-day shutdown of natural gas caused 1,500 man-years of unemployment.

These are just a few of many dislocations that have resulted from the Federal Government's unwise attempt to substitute administrative judgments and regulations for the efficient working of the free market. Even the Federal Power Commission, the agency which regulates the field price of gas, has repeatedly called for legislation to decontrol gas altogether. FPC studies, and much other evidence, including an ERDA study earlier this year, indicate that decontrol is the only feasible way to assure the nation a dependable supply of natural gas.

#### OBJECTIONS TO DECONTROL

The main objection to returning to free-market pricing seems to be the fear of a drastic increase in home heating costs. Such increases may be justified by comparison to other fuels which are harder to transport and use, less desirable environmentally and far more expensive on an energy equivalent basis. Fortunately, however, further higher prices to residential users do not seem likely.

Most of the burner-tip cost of natural gas to the consumer is the cost of distribution, not gas. Only about 20-25 percent of the price paid for home heating is accounted for by the fuel cost, the balance representing the distribution charges. So even if the field price of gas were to double or triple, a pessimistic estimate, I believe, the effect on most homeowners would be relatively modest, certainly far less than converting to other fuels if natural gas stocks are further depleted. And such increases would probably be phased over many years.

The alternative should also be considered. If nothing is done, and the volume of gas carried in interstate pipelines declines, the shrinking volume of gas will necessarily become more expensive as the cost of the pipeline—the major component of the cost—is amortized over fewer and fewer units of natural gas. In short, some experts believe that price increases resulting from decontrolling the wellhead price will be less than price increases inherent in the present regulatory structure. As FPC Chairman John Nassikas pointed out:

Whatever the cost of deregulation may ultimately be, it will be far less than the costs associated with current and anticipated curtailments of gas deliveries, idle pipeline capacity, high cost supplemental supplies.

#### THE FREE MARKET APPROACH

The Nation has suffered long enough as a result of this experiment with regimentation in the natural gas industry. By substituting Government decision-making for the free market, we have curtailed supply, increased costs, fostered economic dislocations, and permitted the Nation to become increasingly dependent on foreign sources of natural gas.

There are over 4,000 producers of natural gas in this country. I think it is time to turn them loose again. Let us go back to the kind of competition that provided us with abundant natural gas before and will do so again.

There is no reason to delay. This subject has been exhaustively studied and the conclusions are obvious.

By deregulating natural gas, Congress can do more to alleviate the Nation's overall energy shortage than by any other piece of legislation before Congress.

#### MORE TAXES IN THE U.S. ENERGY FUTURE?

The President has proposed a system of taxes and more taxes.

This approach should be rejected. Americans pay far too much in taxes as it is—and usually the burden falls on those least able to bear it.

While some taxes may be necessary to shift preferences where the market system does not reflect the true cost of energy—in most cases due to Government intervention—the up to \$40 billion a year which the President has proposed could drag down the economy at a time when unemployment is far too high—and without making a substantial impact on the energy problem.

For example, unemployed Americans are not likely to buy any cars, let alone smaller ones. Neither will higher taxes cause Americans to use less gas and oil if the regulations keep the price low.

And higher taxes will certainly not prompt the oil companies to look for more oil or create alternatives to our excessive cost of importing oil and natural gas.

#### TRANSITION TO NEW TECHNOLOGIES

Much has been said about the need for new technologies—from solar energy, geothermal, tidal, and wind-powered systems to the dream of unlimited clean fusion power.

All of these can and will make a substantial contribution to our energy situation, but what we need is both the time to make that transition and the encouragement of both businesses and individuals.

Some encouragement should come through the price system. How does maintaining an artificially low price for natural gas encourage the development of solar heating for homes? Deregulating natural gas prices would give a natural boost to solar heating and cooling. So would tax credits for individuals who installed their own solar heating systems.

Electric rates which place a heavy emphasis on the first kilowatt hours tend to discourage both conservation and pri-

vate power supplementation, yet many remote locations might be better off with either independent or supplementary systems. High rise buildings are prodigious wasters of electricity, but the current rate structure does not really reflect any need for conservation.

There are certainly other changes that could be made in the income tax structure to encourage technological innovation—as well as in building codes, Federal and local regulations, and transportation pricing.

All of these should be explored, especially with an eye to reducing the more meaningless and oppressive Federal regulations.

#### WHO REALLY MUST BEAR THE BURDEN?

In conclusion, I would like to comment briefly on an implicit misunderstanding which seems to complicate much of the public discussion of energy issues. It is often implied, and sometimes openly charged, that a handful of affluent consumers are using so much energy that the shortage could be largely or completely alleviated if they would reduce their consumption. So many proposed solutions to the energy problem are based on cutting off or reducing "excessive" use of energy by snowmobiles, motor boats, private aircraft, racing cars, et cetera.

Such proposals might reduce consumption marginally, but they would not solve the main problem. Over 40 percent of the demand for petroleum in 1976 was for automotive transportation. Less than 1 percent was for snowmobiles, motorboats, and private aircraft.

Moreover, American families with incomes of more than \$30,000 comprise about 10 percent of the population and have 16 percent of the cars—around 19 million. Their actual mileage per car is about the same as all American families who make more than \$7,000 a year. Since more than 70 percent of all American families make more than \$7,000 and Americans consumed over 100 billion gallons of gasoline last year, it is obvious that any real reduction in gasoline use must involve all Americans, not just a few high income gas hogs.

The same pattern holds true for natural gas consumption. According to studies by natural gas companies around the United States, there is only about a 20-percent difference in consumption levels between the highest income areas and the low income areas.

Obviously, meaningful energy proposals will affect all Americans.

Domestic oil and natural gas production are continuing to decline, and even after the embargo of 1973-74, our reliance on imported fuels continues to increase, while the prices we shell out for such fuels also skyrocket. In 1973, U.S. dependence on petroleum imports was 34 percent; in 1974 it increased to 37 percent; and this year to over 42 percent.

The failure of Congress to come up with a realistic energy policy has also created a situation where Americans who invested in the oil and natural gas business in the United States are being penalized, while Americans who invested abroad are being rewarded.

I think it is clear; we have no choice. Regardless of Government policies, political promises, self-deception, and little white lies, energy prices have gone up and will continue to go up.

Unless we choose a tremendous loss of personal freedom for all Americans which will result from the increase in Government controls and regulations, we cannot choose lower prices. As we have seen, even thousands of pages of regulations could not keep energy prices from some increase. So, more regulations, and the corresponding loss of personal freedoms are no answer.

What we can choose, however, is the kind of future we pay for with higher energy prices. Will it be one where we have new energy sources, a continuation of personal freedom, and a faith in personal initiative? Or will it be one where the Government controls energy use, legislates the morality of energy consumption, and mandates all phases of the economy?

I believe the choices we face are that fundamental and that there is no escaping a choice, because U.S. prosperity is based on energy.

Refusing to make a choice is, in effect, choosing higher prices and surrendering control of energy policy and our economy to the oil producers of the world.

Continuing the present situation is merely a "share the shortage" philosophy requiring greater and greater Government involvement as the shortages become worse, as they will.

And if the Government controls energy, it must control our most personal choices.

I feel the choices which face this Congress should be made as an active decision, rather than as a passive acceptance of current policies.

We can encourage new technologies, new discoveries, and new ways of life—or we can blindly assume that everything will somehow remain the same—and that we can scrape up another \$40 billion to pay off foreign oil suppliers this year, and the year after, and the year after, ad infinitum.

After the experience of the past 4 years, I suggest we choose the American tradition of letting Americans be free to work out solutions, rather than opting for more and more regulations.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. ADDABO, for June 3 on account of death in family.

Mr. PEPPER (at the request of Mr. WRIGHT), after 3 p.m. today, on account of a death in the family.

Mr. ST GERMAIN (at the request of Mr. WRIGHT), after 4:30 p.m. today, on account of dental treatment.

Mr. SEIBERLING, for June 2 and 3, on account of subcommittee field inspection by Interior Subcommittee on General Oversight.

Mr. ZEPERETTI (at the request of Mr. WRIGHT), for today, on account of official business.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WALKER) to revise and extend their remarks and include extraneous material:)

Mr. QUIE, for 10 minutes, today.

Mr. WHALEN, for 10 minutes, today.

(The following Members (at the request of Mr. CORNWELL) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mr. DRINAN, for 30 minutes, today.

Mr. ROBERTS, for 5 minutes, today.

Mr. CARR, for 5 minutes, today.

Mr. CORNWELL, for 5 minutes, today.

Mr. BROWN of California, for 10 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. WAXMAN, for 5 minutes, today.

Mr. DINGELL, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. BINGHAM, for 10 minutes, today.

Mr. MOSS, for 5 minutes, today.

#### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BOLAND, in two instances today, and to include extraneous matter.

Mr. BRINKLEY, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost \$1,127.

Mr. BAUMAN, to extend his remarks just prior to the adoption of the Brooks amendment to title I of the bill today.

(The following Members (at the request of Mr. WALKER) and to include extraneous matter:)

Mr. QUIE.

Mr. SARASIN.

Mr. HYDE in two instances.

Mr. DERWINSKI in two instances.

Mr. FORSYTHE.

Mrs. HOLT in two instances.

Mr. MCCLORY.

Mr. MCCLOSKEY.

Mr. CRANE.

Mr. MARRIOTT.

Mr. BADHAM.

Mr. BROOMFIELD.

Mr. EVANS of Delaware.

Mr. CEDERBERG.

Mr. DEL CLAWSON in two instances.

Mr. LAGOMARSINO in two instances.

Mr. BURKE of Florida.

(The following Members (at the request of Mr. CORNWELL), and to include extraneous matter:)

Mr. O'NEILL.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. MURPHY of Illinois.

Mr. MINISH.

Mr. RODINO.

Mr. EILBERG in three instances.

Mr. DE LA GARZA in 10 instances.



Mr. STARK in two instances.  
 Mr. MICHAEL O. MYERS.  
 Mr. COTTER.  
 Mr. VENTO in two instances.  
 Mr. HANNAFORD in two instances.  
 Mr. BENJAMIN.  
 Mr. LEGGETT.  
 Mr. RICHMOND.  
 Mr. McDONALD in five instances.  
 Mr. PHILLIP BURTON.  
 Mr. WOLFF in three instances.  
 Mr. BROWN of California.  
 Mr. YATRON.  
 Mr. VANIK in two instances.  
 Mrs. COLLINS of Illinois.  
 Mr. WEISS in two instances.  
 Mr. SIMON in two instances.  
 Mr. PATTEN.  
 Mr. HOLLAND.  
 Mr. BADILLO.  
 Mrs. SCHROEDER.  
 Mr. ANDREWS of North Carolina.  
 Mr. HARRINGTON.  
 Mr. MOSS.

#### ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 6206. An act to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out the Commercial Fisheries Research and Development Act of 1964.

H.R. 6774. An act to make certain technical and miscellaneous amendments to provisions relating to higher education contained in the Education Amendments of 1976.

#### ADJOURNMENT

Mr. CORNWELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 11 minutes p.m.) the House adjourned until tomorrow, Friday, June 3, 1977, at 10 o'clock a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1608. A letter from the Acting General Counsel, Office of Telecommunications Policy, Executive Office of the President, transmitting a report on the Office's activities under the Freedom of Information Act during calendar year 1976, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

1609. A letter from the Administrator, Federal Energy Administration, transmitting the first annual report on FEA employees performing functions under the Energy Policy and Conservation Act who have financial interests in energy businesses or properties, pursuant to section 522(b)(2) of the act; to the Committee on Interstate and Foreign Commerce.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STEED: Committee on Appropriations. H.R. 7552. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1978, and for other purposes (Rept. No. 95-378). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEVILL: Committee on Appropriations. H.R. 7553. A bill making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1978, and for other purposes (Rept. No. 95-379). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Committee on Appropriations. H.R. 7554. A bill making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes (Rept. No. 95-380). Referred to the Committee of the Whole House on the State of the Union.

Mr. FLOOD: Committee on Appropriations. H.R. 7555. A bill making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes (Rept. No. 95-381). Referred to the Committee of the Whole House on the State of the Union.

Mr. SLACK: Committee on Appropriations. H.R. 7556. A bill making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1978, and for other purposes (Rept. No. 95-382). Referred to the Committee of the Whole House on the State of the Union.

Mr. McFALL: Committee on Appropriations. H.R. 7557. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1978, and for other purposes (Rept. No. 95-383). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. H.R. 7558. A bill making appropriations for Agriculture and related agencies programs for the fiscal year ending September 30, 1978, and for other purposes (Rept. No. 95-384). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee of conference. Conference report on S. 521. (Rept. No. 95-385). Ordered to be printed.

Mr. MAHON: Committee on Appropriations. Report on Appropriations Committee recommendations compared with the allocation of budget totals to the Appropriations Committee for fiscal year 1978 (Rept. No. 95-386). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. Supplemental report to H.R. 6135. A bill to amend the United States Grain Standards Act with respect to recordkeeping requirements and supervision, fees, and for other purposes (Rept. No. 95-345, pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee on Public Works and Transportation. Report on suballocation of spending authority from the revised third concurrent resolution for fiscal year 1977, and the first concurrent resolution for fiscal year 1978 in accordance with section 302(b)(2) of the Congressional Budget Act of 1974 (Rept. No. 95-387). Referred to the Committee of the Whole House on the State of the Union.

Mr. McKAY: Committee on Appropriations. H.R. 7589. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September

30, 1978, and for other purposes (Rept. No. 95-388). Referred to the Committee of the Whole House on the State of the Union.

#### REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Referral of H.R. 6796. A bill to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes; to the Committees on Armed Services and International Relations, extended for an additional period ending not later than June 8, 1977.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STEED:

H.R. 7552. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent Agencies, for the fiscal year ending September 30, 1978, and for other purposes.

By Mr. BEVILL:

H.R. 7553. A bill making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1978, and for other purposes.

By Mr. BOLAND:

H.R. 7554. A bill making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes.

By Mr. FLOOD:

H.R. 7555. A bill making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes.

By Mr. SLACK:

H.R. 7556. A bill making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

By Mr. McFALL:

H.R. 7557. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

By Mr. WHITTEN:

H.R. 7558. A bill making appropriations for Agriculture and related agencies programs for the fiscal year ending September 30, 1978, and for other purposes.

By Mr. ANDERSON of California (for himself, Mr. ALLEN, Mr. CORNELL, Mr. GIBBONS, Mr. GUYER, Mrs. HECKER, Mr. SAWYER, Mr. WATKINS, Mr. WINN, and Mr. CHARLES H. WILSON of California):

H.R. 7559. A bill to amend title 38, United States Code, to provide for the payment of service pensions to veterans of World War I and the surviving spouses and children of such veterans; to the Committee on Veterans' Affairs.

By Mr. BRINKLEY:

H.R. 7560. A bill to amend title 38, United States Code, to provide for the payment of

service pensions to veterans of World War I and the surviving spouses and children of such veterans; to the Committee on Veterans' Affairs.

By Mr. CONTE (for himself and Mr. ROSTENKOWSKI):

H.R. 7561. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. DINGELL (for himself, Mr. RANGEL, Mr. BONIOR, Mr. BEDELL, and Mr. GILMAN):

H.R. 7562. A bill to increase the efficiency of the production and use of electric energy, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. EILBERG:

H.R. 7563. A bill to amend title 39, United States Code, to provide for the mailing of correspondence to Members of the Congress free of postage, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. EILBERG (for himself, Mr. NIX, Mr. MICHAEL O. MYERS, Mr. LEDERER, Mr. ZEFERETTI, Mr. ERTTEL, and Mrs. MEYNER):

H.R. 7564. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to authorize group life insurance programs for public safety officers and to assist State and local governments to provide such insurance, and for other purposes; to the Committee on the Judiciary.

By Mr. EVANS of Delaware:

H.R. 7565. A bill to amend the Internal Revenue Code of 1954 to allow individuals a deduction for amounts paid for commuting to and from work on public transportation systems; to the Committee on Ways and Means.

By Mrs. LLOYD of Tennessee (for herself, Mr. ADDABBO, Mr. DUNCAN of Tennessee, Mr. HALL, Mr. DOWNEY, Mr. BRODHEAD, Mr. ROSE, and Mr. GILMAN):

H.R. 7566. A bill to authorize financial assistance to States for major highway repairs; to the Committee on Public Works and Transportation.

By Mr. LUNDINE (for himself, Ms. HOLTZMAN, and Mr. JENNETTE):

H.R. 7567. A bill to provide for a program, to be carried out through the Secretary of Labor, of projects and an advisory council to promote economic stability by increasing productivity, improving job security, encouraging retention of jobs in lieu of cyclical layoffs, and promoting the better use of human resources in employment; jointly, to the Committees on Banking, Finance and Urban Affairs, and Education and Labor.

By Mr. METCALFE (for himself, Mr. BADILLO, Mr. CONYERS, Mr. DIGGS, Mr. FAUNTROY, Mr. GILMAN, Mr. HAWKINS, Ms. HOLTZMAN, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. NOLAN, Mr. PATTERSON of California, Mr. RANGEL, Mr. SIMON, Mr. STARK, Mr. STOKES, and Mr. WAXMAN):

H.R. 7568. A bill to amend title 18 of the United States Code to establish an Office of the United States Correctional Ombudsman; to the Committee on the Judiciary.

By Mrs. MEYNER:

H.R. 7569. A bill to amend title 39, United States Code, to authorize the appropriation of funds necessary to operate the U.S. Postal Service, to provide that revenues of the Postal Service shall be deposited in the Treasury of the United States, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MICHEL (for himself, Mr. ARMSTRONG, Mr. BADHAM, Mr. CEDERBERG, and Mr. LAGOMARSINO):

H.R. 7570. A bill to reform the food stamp program by improving and strengthening

various provisions relating to eligibility benefits and administration; improving the nutritional focus of the program; and redirecting benefits to those truly in need; to the Committee on Agriculture.

By Mr. QUIE:

H.R. 7571. A bill to amend certain programs relating to elementary and secondary education, and for other purposes; to the Committee on Education and Labor.

By Mr. RUPPE:

H.R. 7572. A bill to amend title XVIII of the Social Security Act to include prescription drugs, hearing aids, and eyeglasses (and related examinations), and dentures among the items and services for which payment may be made under the supplementary medical insurance program; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. ST GERMAIN:

H.R. 7573. A bill to amend title 39, United States Code, to prohibit the U.S. Postal Service from reducing the frequency of weekly mail delivery service below the frequency in effect on March 15, 1977; to the Committee on Post Office and Civil Service.

H.R. 7574. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. SARASIN (for himself, Mr. ANDERSON of Illinois, Mr. BADHAM, Mr. BROWN of Michigan, Mr. CLEVELAND, Mr. COLLINS of Texas, Mr. CORNELL, Mr. EMERY, Mr. ERLBORN, Mrs. FENWICK, Mr. FRENZEL, Mr. GRADISON, Mr. HYDE, Mr. KEMP, Mr. KETCHUM, Mr. MATHIS, Mr. MAZZOLI, Mr. MILFORD, and Mr. WHITEHURST):

H.R. 7575. A bill to improve the safety of products manufactured and sold in interstate commerce, to reduce the number of deaths and injuries caused by such products, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. TRAXLER:

H.R. 7576. A bill to amend title XVI of the Social Security Act to permit the payment of supplemental security income benefits to individuals in publicly operated infirmaries and other publicly operated community residences, without regard to the 16-bed limitation presently applicable; to the Committee on Ways and Means.

By Mr. ANDREWS of North Carolina (for himself and Mr. PERKINS):

H.R. 7577. A bill to amend the Economic Opportunity Act of 1964, and for other purposes; to the Committee on Education and Labor.

By Mr. BALDUS (for himself, Mr. PATTON of New York, and Mr. KASTENMEIER):

H.R. 7578. A bill to authorize the Small Business Administration to make grants to support the development and operation of small business development centers in order to provide small business with management development, technical information, product planning and development, and domestic and international market development, and for other purposes; to the Committee on Small Business.

By Mr. GEPHARDT:

H.R. 7579. A bill to amend title 18 of the United States Code to change the applicability of certain provisions now applying only to females so that those provisions apply to both males and females, and for other purposes; to the Committee on the Judiciary.

By Mr. HOLLAND:

H.R. 7580. A bill to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber and for other purposes; to the Committee on the Judiciary.

H.R. 7581. A bill to amend the Internal

Revenue Code of 1954 to provide that certain income from a nonmember telephone company is not taken into account in determining whether any mutual or cooperative telephone company is exempt from income tax; to the Committee on Ways and Means.

By Mr. KETCHUM (for himself, Mr. LOTT, Mr. KINDNESS, Mr. GUYER, Mr. JOHN L. BURTON, Mr. WHITE, Mr. YOUNG of Florida, Mr. EDWARDS of Oklahoma, Mr. CLEVELAND, Mr. PANETTA, Mr. HARRIS, Mr. MINETA, Mr. FORSYTHE, Mr. GLICKMAN, Mr. PATTERSON of California, Mr. BAUCUS, Mr. CHARLES WILSON of Texas, and Mr. BADHAM):

H.R. 7582. A bill to repeal a restriction on the availability of health care under the civilian health and medical program of the uniformed services (CHAMPUS); to the Committee on Appropriations.

By Mr. LAFALCE:

H.R. 7583. A bill to extend the inapplicability of State usury ceilings to certain obligations issued to small businesses, agricultural entities, and other concerns by member banks and their affiliates; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RAILSBACK (for himself and Mr. KASTENMEIER, and Mrs. MEYNER):

H.R. 7584. A bill to regulate lobbying and related activities; to the Committee on the Judiciary.

By Mr. SCHULZE:

H.R. 7585. A bill to amend the Federal Election Campaign Act of 1971 to prohibit certain political committees from making contributions to any candidate, and for other purposes; to the Committee on House Administration.

By Mr. SIMON (for himself, Mr. BADILLO, Mr. NIX, Mr. MOAKLEY, Mr. DRINAN, Mr. BEILSON, Mr. HARRINGTON, Mr. OTTINGER, Mr. EILBERG, Mr. NEAL, Mr. HOLLENBECK, Mrs. MEYNER, Mr. FRASER, Mr. MURPHY of Pennsylvania, Mr. PERKINS, Mr. MINETA, and Mr. GEPHARDT):

H.R. 7586. A bill to require the Secretary of Labor to establish a pilot program for the provision of guaranteed employment opportunities in selected counties of the United States; to the Committee on Education and Labor.

By Mr. WOLFF:

H.R. 7587. A bill to amend the Internal Revenue Code of 1954 to allow certain individuals whose employers make contributions to pension plans a deduction for their contributions to employer pension funds and to allow certain individuals to establish modified individual retirement plans when the employer-employee pension contributions are small; to the Committee on Ways and Means.

By Mr. MCKAY:

H.R. 7589. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

By Mr. CONTE (for himself and Mr. CORCORAN of Illinois):

H.J. Res. 495. Joint resolution designating "National Coaches' Day"; to the Committee on Post Office and Civil Service.

By Mr. JACOBS:

H.J. Res. 496. Joint resolution proposing an amendment to the Constitution of the United States with respect to the compelling of testimony from a defendant in a criminal case in open court, and with respect to the right of a defendant in a criminal case to be informed of the evidence against him; to the Committee on the Judiciary.

By Mr. LAGOMARSINO:

H.J. Res. 497. Joint resolution designating the period March 1, 1978, through March 7, 1978, as "National Weights and Measures Week"; to the Committee on Post Office and Civil Service.



By Mr. MARRIOTT:

H.J. Res. 498. Joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children; to the Committee on the Judiciary.

By Mr. JOHN T. MYERS (for himself, Mr. AEDNOR, Mr. ADDABO, Mr. ALEXANDER, Mr. ANDREWS of North Carolina, Mr. ANNUNZIO, Mr. ARCHER, Mr. ASHBROOK, Mr. BADILLO, Mr. BALDUS, Mr. BEARD of Rhode Island, Mr. BEARD of Tennessee, Mr. BENJAMIN, Mr. BENNETT, Mr. BEVILL, Mr. BLOUIN, Mr. BOLAND, Mr. BREAUX, Mr. BRINKLEY, Mr. BRODHEAD, Mr. BROWN of Ohio, Mr. BROWN of Michigan, Mr. BROWN of California, Mr. BROYHILL, and Mr. BUCHANAN):

H.J. Res. 499. Joint resolution to authorize the President to issue a proclamation designating the week in November which includes Thanksgiving Day in each year as "National Family Week"; to the Committee on Post Office and Civil Service.

By Mr. JOHN T. MYERS (for himself, Mr. BURGNER, Mrs. BURKE of California, Mr. JOHN L. BURTON, Mr. EUTLER, Mr. CARTER, Mr. CAVANAUGH, Mr. CEDERBERG, Mr. CLAY, Mr. CLEVELAND, Mr. COCHRAN of Mississippi, Mr. COHEN, Mr. COLLINS of Texas, Mr. CONTE, Mr. CORRADA, Mr. CRANE, Mr. DAN DANIEL, Mr. ROBERT W. DANIEL, Jr., Mr. DE LA GARZA, Mr. DELLUMS, Mr. DE LUGO, Mr. DICKINSON, Mr. DUNCAN of Tennessee, Mr. DUNCAN of Oregon, and Mr. EDWARDS of Alabama):

H.J. Res. 500. Point resolution to authorize the President to issue a proclamation designating the week in November which includes Thanksgiving Day in each year as "National Family Week"; to the Committee on Post Office and Civil Service.

By Mr. JOHN T. MYERS (for himself, Mr. EMERY, Mr. ERLBORN, Mr. EVANS of Indiana, Mr. EVANS of Colorado, Mrs. FENWICK, Mr. FINDLEY, Mr. FISH, Mr. FISHER, Mr. FITHIAN, Mr. FLOOD, Mr. FRENZEL, Mr. FUQUA, Mr. GEPHARDT, Mr. GIAIMO, Mr. GRADISON, Mr. GRASSLEY, Mr. GUYER, Mr. HALL, Mr. HAMILTON, Mr. HANLEY, Mr. HANSEN, Mr. HAWKINS, Mr. HEFNER, and Mr. HIGHTOWER):

H.J. Res. 501. Joint resolution to authorize the President to issue a proclamation designating the week in November which includes Thanksgiving Day in each year as "National Family Week"; to the Committee on Post Office and Civil Service.

By Mr. JOHN T. MYERS (for himself, Mr. HILLIS, Mr. HORTON, Mr. HYDE, Mr. ICHORD, Mr. JACOBS, Mr. JEFFORDS, Mr. JOHNSON of California, Mr. JOHNSON of Colorado, Mr. JONES of Tennessee, and Mr. LENT):

H.J. Res. 502. Joint resolution to authorize the President to issue a proclamation designating the week in November which includes Thanksgiving Day in each year as "National Family Week"; to the Committee on Post Office and Civil Service.

By Mr. CHARLES H. WILSON of California (for himself, Mrs. SPELLMAN, Mr. SOLARZ, Mr. ANDREWS of North Dakota, Mr. BAFALIS, Mr. BRODHEAD, Mr. BYRON, Mr. CAPUTO, Mr. CAVANAUGH, Mr. COLEMAN, Mr. CORCORAN of Illinois, Mr. GINN, Mr. GORE, Mr. GRASSLEY, Mr. HARRINGTON, Mr. HIGHTOWER, Mr. HUBBARD, Mr. LEACH, Ms. MIKULSKI, Mr. PATTEN, Mr. RAHALL, Mr. ROBINSON, Mr. WOLFF, Mr. YOUNG of Florida, and Mr. ZEFRETTI):

H. Con. Res. 239. Concurrent resolution expressing the sense of the Congress that the U.S. Postal Service should not reduce the

frequency of mail delivery service; to the Committee on Post Office and Civil Service.

By Mrs. SMITH of Nebraska (for herself, Mr. ASPIN, Mr. BAUCUS, Mr. BEDDELL, Mr. BEVILL, Mr. BURGNER, Mr. CORRADA, Mr. ERTTEL, Mr. EVANS of Delaware, Mr. GEPHARDT, Mr. GLICKMAN, Mr. HYDE, Mr. KRUEGER, Mr. MAGUIRE, Mr. MAZZOLI, Mr. MINETA, Mr. NEAL, Mr. QUIE, Mr. ROSE, Mr. SOLARZ, and Mr. WALGREEN):

H. Res. 612. Resolution expressing the sense of the House of Representatives that the effect on our society of the level of violence depicted on television requires more consideration and study; to the Committee on Interstate and Foreign Commerce.

## PRIVATE BILLS AND RESOLUTIONS

### Under clause 1 of rule XXII.

Mr. KETCHUM introduced a bill (H.R. 7588) to confirm a conveyance of certain real property by the Southern Pacific Railroad Co. to M. L. Wicks, which was referred to the Committee on Interior and Insular Affairs.

## PETITIONS, ETC.,

### Under clause 1 of rule XXII.

The SPEAKER presented a petition of the 26th Saipan Municipal Council, Saipan, Mariana Islands, congratulating the President and the Congress on their elections; to the Committee on Interior and Insular Affairs.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6804

By Mr. DINGELL:

Page 90, strike out line 21 and everything that follows through page 95, line 17, and insert in lieu thereof the following:

### TITLE V—ADMINISTRATIVE PROCEDURES JUDICIAL REVIEW

SEC. 501. (a) Subject to the other requirements of this title, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply in accordance with its terms to any rule or regulation, or any order having the applicability and effect of a rule (as defined in section 551(4) of title 5, United States Code), issued pursuant to authority vested by law in, or transferred or delegated to, the Secretary, or required by this Act or any other Act to be carried out by any other officer, employee, or component of the Department, other than the Federal Energy Regulatory Commission, including any such rule, regulation, or order of a State, or local government agency or officer thereof, issued pursuant to authority delegated by the Secretary in accordance with this title. If any provision in any Act, the functions of which are transferred, vested, or delegated pursuant to this Act, provides administrative procedure requirements in addition to those provided in this title, such additional requirements shall also apply to actions under that provision.

(b) (1) In addition to the requirements of subsection (a) of this section, notice of any proposed rule, regulation, or order described in subsection (a) shall be given by publication of such proposed rule, regulation, or order in the Federal Register. Such publication shall be accompanied by a statement of the research, analysis, and other available information in support of the need for, and the probable effect of, any such proposed rule, regulation, or order. Other effective means of publicity shall be utilized as may be reasonably calculated to notify concerned

or affected parties of the nature and probable effect of any such proposed rule, regulation, or order. In each case, a minimum of thirty days following such publication shall be provided for opportunity to comment prior to the effective date of any such rule, regulation, or order; except that the requirements of this subsection as to time of notice and opportunity to comment may be waived, subject to paragraph (3) of this section, where strict compliance is found by the Secretary to be likely to cause serious harm or injury to the public health, safety, or welfare, and such finding is set out in detail in such rule, regulation, or order.

(2) Public notice of all rules, regulations, or orders described in subsection (a) which are promulgated by officers of a State or local government agency pursuant to a delegation under this Act shall be provided by publication of such proposed rules, regulations, or orders in at least two newspapers of statewide circulation. If such publication is not practicable, notice of any such rule, regulation, or order shall be given by such other means as the officer promulgating such rule, regulation, or order determines will reasonably assure wide public notice.

(3) The requirements of this subsection may be satisfied within a reasonable period of time subsequent to the promulgation of the rule, regulation, or order if the Secretary finds, under paragraph (1), that an emergency exists requiring the immediate implementation of any such rule, regulation, or order.

(c) (1) If the Secretary determines at the time of publication of a proposed rule, regulation, or order described in subsection (a) that no substantial issue exists and that such rule, regulation, or order is unlikely to have a substantial impact on the nation's economy or large numbers of individuals or businesses, the proposed rule, regulation, or order may be promulgated in accordance with section 553 of title 5, United States Code, except that subsection (a)(2) of section 553 shall not apply. If the Secretary determines at the time of publication of any such rule, regulation, or order that a substantial issue exists or that such rule, regulation, or order is likely to have a substantial impact on the nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be provided.

(2) Any person, who would be adversely affected by the implementation of any proposed rule, regulation, or order issued pursuant to the first sentence of paragraph (1) and who desires an opportunity for oral presentation of views, data, and arguments, shall offer evidence supporting the existence of such substantial issues or such impact during the period established for public comment. If the Secretary determines that such evidence is sufficient to establish the existence of such issues or impact, the Secretary shall provide an opportunity for such oral presentation.

(3) Following the notice and comment period, including any oral presentation required by this subsection, the Secretary may promulgate such rule, regulation, or order, which shall include therewith an explanation responding to the major comments, criticisms, and alternatives offered during the comment period.

(4) A transcript shall be kept of any oral presentation with respect to a rule, regulation, or order described in subsection (a).

(d) The Secretary, or any officer authorized to issue rules, regulations, or orders under the Federal Energy Administration Act, the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environmental Coordination Act of 1974, or the Energy Policy and Conservation Act shall provide for the making of such adjustments, consistent with the other purposes of the rele-

vant Acts, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens, and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, exception to, or exemption from, such rule, regulation, or order. The Secretary or any such officer shall additionally insure that each decision on any application or petition requesting an adjustment shall specify the standards of hardship, inequity, or unfair distribution of burden by which any disposition was made, and the specific application of such standards to the facts contained in any such application or petition. If any person is aggrieved or adversely affected by a denial of a request for adjustment under the preceding sentences, such person may request a review of such denial by the Secretary and may obtain judicial review in accordance with this title when such a denial becomes final. The Secretary shall, by rule, establish appropriate procedures, including a hearing when requested, for review of a denial, and where deemed advisable by the Secretary, for considering other requests for action under this subsection, except that no review of a denial under this subsection shall be made by the same officer denying the adjustment.

(e) (1) With respect to any rule, regulation, or order, the effects of which, except for indirect effects of an inconsequential nature, are confined to—

(A) a single unit of local government or the residents thereof;

(B) a single geographic area within a State or the residents thereof; or

(C) a single State or the residents thereof; the Secretary shall, in any case where appropriate, afford an opportunity for a hearing or the oral presentation of views and provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in paragraphs (A) through (C) of this paragraph as the case may be.

(2) For purposes of this subsection—

(A) the term "unit of local government" means a county, municipality, town, township, village, or other unit of general government below the State level; and

(B) the term "geographic area within a State" means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(3) Nothing in this subsection shall be construed as requiring a hearing or an oral presentation of views where none is required by this section or other provision of law.

(f) (1) Judicial review of agency action taken under any law the functions of which are vested by law in, or transferred or delegated to, the Secretary or any officer, employee, or component of the Department shall, notwithstanding such vesting, transfer, or delegation, be made in the manner specified in such law.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under rules, regulations, or orders issued exclusively thereunder, other than any actions taken to implement or enforce any rule, regulation, or order by any officer of a State or local government agency under this Act, except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the unconstitutionality of this Act or the validity of action taken by any agency under this Act). If any such proceeding an issue by way of defense is raised based on the unconstitutionality of this Act,

or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code. Cases or controversies arising under any rule, regulation, or order of any officer of a State or local government agency State court, or (B) without regard to the amount in controversy, the district courts of the United States.

(3) Where authorized by any law vested, transferred, or delegated pursuant to this Act, the Secretary may, by rule, prescribe procedures for State or local government agencies authorized by the Secretary to carry out such functions as may be permitted under applicable law. Such procedures shall apply to such agencies in lieu of this section, and shall require that prior to taking any action, such agencies shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) a reasonable time before taking the action.

(4) Notwithstanding any other law, the litigation of the Department shall be subject to the supervision of the Attorney General pursuant to chapter 31 of title 28, United States Code. This paragraph shall not apply to the Federal Energy Regulatory Commission.

Sec. 502. (a) Section 501 of this title shall remain in effect for two years after the effective date of this Act. Any proceeding commenced under such section prior to the termination of its effect shall, notwithstanding such termination, be conducted in accordance with such section. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payment shall be made pursuant to such orders as if such section had not terminated; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if such section had not terminated.

(b) Within one year after effective date of this Act, the Secretary shall submit a report to Congress concerning the actions taken to implement section 501. The report shall include a discussion of the adequacy of such section from the standpoint of the Department and the public, including a summary of any comments obtained by the Secretary from the public about such section and implementing regulations, and such recommendations as the Secretary deems appropriate concerning the extension and revision of such section.

(c) Nothing in this title shall be construed as repealing by implication any existing provision of law relating to administrative procedures and judicial review applicable to any authority vested, transferred, or delegated pursuant to this Act, except that such existing provisions shall, to the extent provided by section 501, be superseded by the provisions of such section during the two years specified in subsection (a).

By Mr. ECKHARDT:

Insert the following new section to Title V:

Sec. 503(a) If upon investigation, the Secretary or his authorized representative believes that a person has violated any regulation, rule, or order promulgated pursuant to the Emergency Petroleum Allocation Act, he may issue a remedial order to the person. Each remedial order shall be in writing and shall describe with particularity the nature

of the violation, including a reference to the provision of the rule, regulation, or order alleged to have been violated. For purposes of this section "person" includes any individual, association, company, corporation, partnership, or other entity however organized.

(b) If within thirty days from the receipt of the remedial order issued by the Secretary, the person fails to notify the Secretary that he intends to contest the remedial order, the may be heard in either (A) any appropriate remedial order shall become effective and shall be deemed a final order of the Secretary and not subject to review by any court or agency.

(c) If within thirty days from the receipt of the remedial order issued by the Secretary, the person notifies the Secretary that he intends to contest a remedial order issued under subsection (a) of this section, the Secretary shall immediately advise the Economic Regulatory Administration of such notification. Upon such notice, the Administrator shall stay the effect of the remedial order except where he finds the public interest requires immediate compliance with such remedial order. The Administrator shall, upon request, afford an opportunity for a hearing, including the submission of briefs, evidence (oral or documentary) and oral arguments. To the extent that the Administrator in his discretion determines such is required for a full and true disclosure of the facts, he shall afford the right of cross examination. The Administrator shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's remedial order, or directing other appropriate relief, and such order shall, for the purpose of judicial review, constitute final agency action.

(d) The Secretary may set reasonable time limits for the Administration to complete action on a proceeding referred to it pursuant to this section.

(e) Nothing in this section shall be construed to affect any procedural action taken by the Secretary prior to or incident to initial issuance of a remedial order which is the subject of the hearing provided herein, but such procedures shall be reviewable in the hearing.

By Mr. MATHIS:

Add the following new section to Title V—Administrative Procedures and Judicial Review:

"Sec. 502. (a) (1) Notwithstanding any other provision of this Act, simultaneously with promulgation or repromulgation of any rule or regulation, the agency promulgating or repromulgating the rule or regulation shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the rule or regulation shall not become effective, if—

"(A) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule or regulation promulgated by dealing with the matter of, which rule or regulation was transmitted to Congress on the blank spaces therein being appropriately filled; or

"(B) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(2) If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further



consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a

resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in paragraph (1) (A).

"(b) (1) The agency may not promulgate a new rule or regulation identical to one disapproved pursuant to this section unless a

statute is adopted affecting the agency's powers with respect to the subject matter of the rule or regulation.

"(2) If the agency proposes a new rule or regulation dealing with the same subject matter as a disapproved rule or regulation, the agency shall comply with the procedures required for the issuance of a new rule or regulation.

## EXTENSIONS OF REMARKS

### MUNICIPAL CHILD HEALTH SERVICES, CAMBRIDGE, MASS.

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. O'NEILL. Mr. Speaker, during this period of rising health costs and the Congress commitment to enact national health insurance I would like to bring to the attention of my colleagues a health care program from my hometown of Cambridge, Mass., that has actually reduced the cost of health care for children. The success of this program is described in the following memorandum given to me by the city of Cambridge and the Robert Wood Johnson Foundation.

#### MUNICIPAL CHILD HEALTH SERVICES, CAMBRIDGE, MASS.

Cambridge, Massachusetts is successfully providing comprehensive medical and hospital services to 9,000 inner-city children, mainly through nurse practitioner staffed clinics located in schools, and at a cost of \$100 per child per year. Furthermore, the program has been created by shifting existing public health, municipal hospital and school resources and has not required federal or foundation grants or large increases in local taxes.

Since the program began in 1968, it has:

Cut in half the inappropriate use by children of emergency services at Cambridge Hospital, while use of these services by a control group went up or remained stable.

Dropped the prevalence of blood lead levels in preschoolers from 7% to 0.5%.

Cut the rate of anemia in one to two year olds from 16% to 4%, and in two to three year olds from 22% to 7%.

Increased the immunization level city-wide from 55% in 1966 to 97% in 1974 for children entering school.

The program has been developed by Philip Porter, M.D., Director, Department of Pediatrics at Cambridge Hospital. When he came to Cambridge in 1965, he was confronted with a pediatric emergency service that was heavily used for routine medical care by parents from the eastern half of Cambridge. The reasons for this "misuse" were clear. These families—approximately 60,000 people in all—were blue-collar or on welfare and were served by one pediatrician at the point of retirement and twelve general practitioners (no new physicians had entered practice in the poorer half of Cambridge in 15 years).

In 1967 the city voted to merge the municipal hospital and health department, and Dr. Porter became overall director of all pediatric services. Determined to develop a pediatric care system within a few years which cared for children from birth to age 16, he replaced retiring school nurses with pediatric nurse practitioners and stationed

them in five primary care clinics, four of which are located in schools. Cambridge has a neighborhood school system, so these clinics are all within easy walking distance for the people with the greatest need for medical services. They are staffed five days a week, twelve months a year by the nurse practitioners who serve as combination school-public health nurses and primary care practitioners for school and preschool children in the neighborhoods.

As the school nurse, the nurse practitioner manages medical problems and keeps the required records, but the annual physical has been abandoned. Instead, each year teachers are interviewed by the pediatric nurse practitioners to identify kids that seem to have physical or behavioral problems. When questioning reveals anything that suggests possible pathology, the child is seen by the nurse practitioner, who then refers to Cambridge Hospital pediatricians all children who are suspected of having either medical or behavioral problems requiring definitive diagnosis and care.

The clinical activities of the pediatric nurse practitioners encompass all of the routine procedures in a general pediatric office practice. This includes the "routine, periodic look, weigh and measure" of well-baby care, plus diagnosis and treatment of upper respiratory infections, sore throats, otitis media, and skin problems. The nurses also counsel mothers on problems related to raising children.

The pediatric nurse practitioners are specifically charged with the responsibility of ensuring that all referral appointments are kept and that problems they identify are managed or resolved by a physician or other appropriate specialist.

The health department's part of the system—the primary care network and the school health program—costs less today in 1965 dollars than the ineffective 1965 operation did. Total cost of the pediatric system—hospital and primary care network, including school health—is estimated at \$100 per child/year. The primary care network alone accounts for \$35 per child/year of the total.

### PROTECTING THE RIGHT TO LIFE OF UNBORN CHILDREN

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. MARRIOTT. Mr. Speaker, today I introduced a joint resolution to amend the Constitution and protect the right to life of unborn children and make abortions illegal except to save the life of a mother.

The right to life is sacred, and along with many of my colleagues and millions of Americans, I am alarmed by the

indiscriminate spread of abortions in this country, thus violating that right. I believe very firmly that something should be done to reverse that trend. This bill is my attempt to do that.

According to the latest figures available at the Center for Disease Control in Atlanta, Ga., in my home State of Utah in 1975 there were 2,146 reported abortions, or 68 for every 1,000 live births. The national average was 274 abortions per 1,000 live births, for a total of 854,853 in the Nation.

And the most shocking statistic was right here in Washington, D.C., where there are more than 1,000 abortions for every 1,000 live births—and those are only the reported ones. New York City came in second, sharing the same distinction of reporting more abortions than live births. To me, that is an alarming and unacceptable trend.

The notion that a human fetus is not a person is apparently the major justification for such a situation. Well, that is purely and simply wrong. An embryo is an individual. True, it depends on its mother for life-supporting fluids and nutrients, but it has its own biological system, needing only time and the proper nourishment to become a self-supporting human being.

My resolution would clarify the terminology in the 5th and 14th amendments, where it says all "persons" have the right to life and are protected from the government or anyone else taking that life away.

With my amendment, the word "person" would be interpreted to include "unborn human offspring." Thus, our embryonic citizenry would be guaranteed the same rights the rest of us boast so loudly about but so casually deny the defenseless, unseen, unborn child. The only exception should be when the life of the mother is threatened by an impending birth.

There is little need, as I see it, to refute the idea that an individual have complete control over another life simply because it would inconvenience his lifestyle. To destroy a life simply to avoid the responsibility of rearing a child is narrowminded and selfish and goes against the grain of any right-thinking person. If there is a question about the life of the mother, that is a different story. But embarrassment over a pregnancy is no justification for abortion. Even in cases of rape, the resulting child would be considered a blessing by couples who cannot have children of their own and would be willing to adopt it.

The question of overpopulation is also

a fallacious excuse for abortion. We have the technology and resources to feed and house many times the number of people in America. We need to concentrate on making America a better place to live for the children of the future rather than stopping them from coming here.

And what about mentally and physically deficient parents? Should not a child from such a union be done away with so as to spare it a life of misery and unhappiness? Here is a case that will answer that question without doubt: A doctor was once presented with a case involving a man and wife who discovered they were going to have a child. The father was syphilitic and the mother had epilepsy. When asked what he would do with the unborn child, the doctor replied, "Abort it."

"Then you would have killed Beethoven," came the answer.

None of us can ever know what potential unborn children have, and I do not think young potential mothers really want the responsibility of denying precious life to their own flesh and blood. I have seen too many sadly remorseful girls who have had an abortion and are haunted constantly by the impact of their decision.

I sincerely hope this amendment is accepted by both Houses and then is subsequently ratified by the States, so that we can put an end to the indiscriminate spread of abortion and protect the God-given rights of future generations.

#### TRIBUTE TO ILLINOIS' CFC CHAIRMEN

#### HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. HYDE. Mr. Speaker, I would like to take this opportunity to publicly commend 22 Federal employees in Illinois who recently served as chairmen in their area for the Combined Federal Campaign. This annual fundraising drive, conducted among Federal civilian and military employees across the country, benefits a variety of health and social service organizations.

Mr. Richard Lockhart who serves as the coordinator for the 14 national health agencies in Illinois has informed me that this year's drive in Illinois was the most successful to date producing a total pledged amount of \$2,735,426. Contributors have the option of designating their donations to specific agencies. Through this method the health agencies of Illinois will receive \$284,286—32 percent, the United Way, \$559,927—63 percent, and the international service agencies, \$46,316—5 percent. Final distribution of contributions to these fine organizations is \$656,943—24 percent—to the health agencies; \$1,894,831—69 percent—to the United Way; and \$180,204—7 percent—to the international service agencies.

These excellent results are in large part due to the time and effort put forth by each CFC chairman. Their work on the fundraising drive comes in addition to their regular duties in Government. Because of their fine demonstration of leadership and generosity, I would like to commend them at this time.

Adams County CFC: Ernest Bickhaus, Social Security Administration.

Aurora CFC: Ernest Grob, Air Route Traffic Control Center.

Carbondale CFC: Hubert Goforth, U.S. Post Office.

Carroll County CFC: Arlen Dahlman, Savannah Army Depot.

Champaign County CFC: Colonel Daryl Rhyner, Chanute Air Force Base.

Cook-DuPage Counties CFC: Frank Resnik, GSA.

Elgin CFC: George Beckwith, Post Office.

Jefferson County CFC: Boyd Holmes, Social Security.

Kankakee County CFC: Clark McKenna, Post Office.

Knox County CFC: Bill Tipsword, Post Office.

Lake County CFC: Capt. William Lamm, Great Lakes Naval Base.

LaSalle-Peru CFC: Joseph Zandecki, Post Office.

McLean County CFC: Robert Buhrke, Post Office.

Macon County CFC: J. D. Myers, IRS.

Peoria County CFC: Emmett Russell, Post Office.

Rock Island County CFC: Robert Glese, U.S. Army Arsenal.

Sangamon County CFC: Ben Thompson, FFA.

St. Louis (Madison & St. Clair Counties) CFC: Col. James St. Clair, Defense Mapping Agency.

Vermilion County CFC: Dee Schaffer, Social Security.

Will County CFC: Charles Caton, Post Office.

Williamson County CFC: B. J. Tolson, U.S. Penitentiary.

Winnebago County CFC: Alfonso Mera, Post Office.

#### CONSUMER PROTECTION IS MORE THAN LAWS

#### HON. ELFORD A. CEDERBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. CEDERBERG. Mr. Speaker, once again, the Congress is being requested to create a Federal agency to protect the consumer interest. Even if the consumer interest can be defined with sufficiency, it is questionable whether another layer of Federal bureaucracy could adequately protect it.

The proposed function of the Agency for Consumer Protection does not include addressing consumer complaints. Rather, it would possess broad powers, without any accountability, to challenge the platform of any Government activity on the behalf of "consumer interest."

The granting of this unchecked power is unwise. Additionally, the new layer of bureaucracy would only add to the red-tape and regulation that encumbers the Federal Government and erodes the consumer interest. Finally, the new agency

would add to the financial burden of running the Federal Government without any guarantees or certainty of corresponding benefits.

These disadvantages and the availability of more promising alternatives have raised many objections from those who are truly concerned with the consumer interest. In a recent editorial, reproduced from the Wall Street Journal, the Daily News-Banner, located in Greenville, Mich., in the 10th Congressional District, expressed the growing concern of many taxpayers and consumers concerning the Agency for Consumer Protection.

I would like to take this opportunity to share with my colleagues this editorial which I think expresses well the problems of this legislative proposal:

[From the Greenville (Mich.) News-Banner, Apr. 22, 1977]

#### CONSUMER PROTECTION IS MORE THAN LAWS

Congress is once again considering creation of a Consumer Protection Agency and since Jimmy Carter, not Jerry Ford, is President, it has a better chance than last time around. We've been wondering once again why it is that we don't think much of the idea, since we count ourselves consumer defenders of long standing.

The answer boils down to one thing: We have doubts whether the backers of the CPA, and thus the people who would likely have influence in the staffing of this new government agency, are philosophically attuned to the consumer's interests. Do they really want consumers to have a wide choice of products and services at the lowest possible prices or do they just want more laws?

The two approaches may in some instances be compatible, but usually not. Laws that affect the manufacture and distribution of consumer products usually are restrictive preventing manufacturers or distributors from doing this or that—like maybe putting saccharine or cyclamates in a diet soft drink.

Restrictive laws reduce the consumer's range of choices—between say, a shoddy but cheap product and a high quality but expensive one. They also, by definition, reduce the potential for competition.

This newspaper has always felt that the interest of consumers were best served by a minimum of barriers to market entry and free competition. That is why it has supported, at odds with segments of the business community, such causes as unrestricted international trade—so that U.S. consumers will be free to buy Datsuns and Sonys if they choose—or elimination of the so-called "fair trade" laws, which barred retailers from cutting prices on certain branded merchandise.

Now it just might be possible that a CPA would be staffed by people who would fight crusades to break down legal barriers to entry into the various markets. If so, it could perhaps be useful.

But given the past crusades of the Naderites and others who style themselves "consumerists," we have stronger visions of a CPA that would lobby for laws that would actually deny consumers goods and services by trying to legislate prices down and quality up. Such laws end up serving as legislation against the consumer rather than for him. The word "market" is simply another name for consumers everywhere making free, voluntary choices of what to sell and how much to ask. Anything that thwarts this process is not consumerist at all. Until we are firmly assured that the CPA would promote rather than thwart free markets, we will view it with skepticism.

—Wall Street Journal.



## UKRAINIAN ARRESTS

## HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. BROOMFIELD. Mr. Speaker, when the Final Act of the Helsinki Conference on Security and Cooperation in Europe was completed in 1975, it raised many hopes among the peoples of Europe and the whole world. The completion of the Conference was truly an outstanding achievement—a landmark in worldwide diplomacy.

The issues negotiated at the historic Helsinki Conference were considered under four categories or "baskets": First, political-military security in Europe; second, economic, scientific, technical, and environmental cooperation; third, cultural and humanitarian cooperation; and fourth, the consideration of a follow-up conference. Already several initial steps have been taken to implement many of the "confidence-building" measures of the act such as improved cooperation in the areas of economics science, technology, and the environment. At the same time, however, progress in the very important humanitarian area known as Basket Three, has been uneven, to say the least. In particular, there have been numerous difficulties in providing for the freer movement of people, ideas, and information, as recently reported by the congressional mission to the Commission of Security and Cooperation in Europe.

To some extent, difficulties over Basket Three have resulted because of several escape clauses to this particular part of the agreement. Just as importantly, however, has been the idea that some of the signatory states do not desire the full implementation of the human rights provisions of the Helsinki agreement. For these reasons, citizen groups were formed in some of the signatory states in order to better monitor full compliance with the terms of the Helsinki accord.

Throughout the Soviet Union, for example, citizen groups were formed to insist on the full and true implementation of the agreement. One such group has been the Ukrainian public group to promote the implementation of the Helsinki accords. Led by Mykola Rudenko, a writer and poet, this group has tried to better acquaint the Ukrainian public with the Helsinki agreement and provide for a freer flow of information and ideas.

On February 5 of this year, Mykola Rudenko and a Ukrainian group associate, Oleksa Tykhy, were arrested by the KGB. These arrests were followed by the arrests of two more group members, Mykola Matysevych and Myroslav Marynovych. All four arrests are indicative of the continued Soviet policy of harassment for dissidents, and in particular, Ukrainian dissidents.

Recently, there has been a sharp increase in the Soviet repression of stubborn opposition to "Russification," the

long term goal of Soviet authorities to homogenize all minorities into one "Soviet nation." This has been especially true in the Ukraine, an area large and fertile enough to be a major European nation.

Just as importantly, the arrests of these Ukrainian dissidents who not only insist that national rights but also human rights be respected by Soviet leadership, continues to damage the spirit of the Helsinki accords. On June 15 of this year, the first post-Helsinki meeting of the 35 signatories is to begin. We must, to the fullest extent possible, express our concern for the continued Soviet repression of these dissidents and insure that the Soviet Union and Warsaw Pact countries do not attempt a post-Helsinki whitewash. It is only in this way that we can provide for a new and better Europe and in particular, fully guarantee the dignity and the rights of all individuals affected by the Helsinki accords.

THE 31ST ANNIVERSARY OF  
DEMOCRACY IN ITALY

## HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. MINISH. Mr. Speaker, today, on the 31st anniversary of democracy in Italy, I feel it is appropriate for us to reflect on the many contributions made by every generation of Italians.

When Italy cast aside its final days of monarchy to embrace democracy, it did so knowing of the firm foundation of past greatness on which it could build. Beginning in the days of the Roman Empire and continuing through the present, Italians have made important contributions to the arts, engineering, political thought, and religion. No one would deny that Italian genius has ranked in the forefront of those serving the greater good of mankind.

From Giotto and Cimabue in the 13th century, through Da Vinci and Raphael, Titian and Michaelangelo, Italian artists ranked second to none. In music, such noteworthy developments as the musical staff and the refinement of operatic style can be attributed to Italians.

Italian writers, from Dante to Petrarch, have ranked among the world's greatest. Luigi Pirandello, the Nobel prize winning playwright, is an inspiration to the young playwrights of today. And in the most modern of arts, the cinema, Italian film makers such as Fellini, Antonioni, and deSica are recognized among the greats of the film world.

The list could go on: Columbus, Galileo, Machiavelli, Marconi, Fermi. Obviously, without the contributions of these and others, the world would be a poorer place in which to live.

And so, today, with the memory of consistent Italian greatness fresh in our minds, let us also be mindful of Italy's

current struggle to sustain democracy. It is my utmost hope that the Italian nation, which has done so much to shape the world as we know it, will achieve the success and freedom for which it has so long striven.

EDUCATION FOR VIETNAM  
VETERANS

## HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. WOLFF. Mr. Speaker, earlier this year I introduced H.R. 2231, the Comprehensive Veterans Readjustment Assistance Act of 1977. Since that time this legislation has been cosponsored by more than 70 of my colleagues in the House.

As many of my colleagues are aware, there presently exists a structural inequity in the GI Bill which denies many of our most needy and deserving Vietnam veterans access to readjustment programs. The legislation which I have introduced would cure these deficiencies by establishing a system of accelerated entitlement and, under certain circumstances, extend the present 10-year delimiting date for a maximum of 2 years for those veterans who were unable to initiate or complete their education.

I am pleased to be able to inform my colleagues who have joined with me in cosponsoring this legislation that the Washington Post, in a Memorial Day editorial, endorsed this legislation stating that it deserves the "immediate attention" of the Congress. For the benefit of my colleagues who may have missed this editorial, I now submit it for the RECORD:

## THOSE WHO SERVED—CONTINUED

Among those reflecting upon the meaning of Memorial Day, we would assume, are approximately eight million veterans of the Vietnam years. For many of them, it comes as one more painful reminder that this country still lacks a comprehensive program to deal with their needs and entitlements. It cannot have escaped their notice that a nation capable of prolonged discussion and strong emotion on the merits of amnesty for no more than 10,000 young men who did not serve—by evading the draft—is strangely incapable of dealing equitably with those who served, including two and a half million who actually went to Vietnam and 400,000 who suffered wounds. To examine some of the current attitudes about Vietnam-era veterans is to see graphically why so many of them feel ignored or frustrated. It is also to understand why those who are trying to help them are finding it so difficult.

There is, to begin with, the GI Bill itself. At the moment, many of the most needy veterans are denied meaningful access to educational assistance. The GI Bill was inadvertently structured to provide benefits to veterans with access to low-cost public institutions. The problem is that many states and cities have few, if any, of these institutions. Sen. Alan Cranston, chairman of the Veterans Affairs Committee, has spoken of this unfairness and has pledged to "explore the matter and to come up with a remedy." Un-

fortunately, the leadership of the House Veterans Committee and, surprisingly, the new administrator of the Veterans Administration, Max Cleland, have not made a similar commitment. Another group with limited access includes some veterans who are married and have children; for them, the GI Bill's allowances are too low to be meaningful. Veterans with less than high-school educations are often left out also. Still another group is the one comprised of veterans who fought during the years 1966 to 1972; they were discharged at a time when benefits in many states were effectively so low that the most needy could not afford to go to school.

A second problem is the lack of attention given to the personal adjustment problems of Vietnam veterans, especially the disabled. Many came home unthanked and unnoticed for their sacrifice. Being forgotten became one of the heaviest emotional burdens, particularly as South Vietnam collapsed and the country's leaders were content, as President Ford urged, to put Vietnam behind us. One of the government's failures is that it hasn't conducted the research to learn how widespread the emotional problems may be. One unofficial VA estimate holds that one out of five new veterans suffers serious and prolonged readjustment problems.

From these examples alone—and there are others—it is clear that, despite the efforts of a few public officials as well as some of the more alert veterans groups, there is no coherent national policy for dealing with the problems of returned service personnel. It is not as though solutions are unknown, or that teachers, counselors and others are unwilling to work individually with the veterans. An article on the opposite page today tells the story of a few people involved in programs that are as worthwhile on the local level as they are deserving of support from higher levels.

In other words, it can be done—it just isn't being done enough.

At the moment, Congress is considering an across-the-board increase in GI benefits. This approach, as a recent report to the National League of Cities and the U.S. Conference of Mayors notes, is far from ideal: It may overcompensate those veterans who already are receiving too much, while others will remain without access to schooling. Rep. Lester Wolff (D-N.Y.), along with 75 cosponsors, has introduced legislation that would accelerate the availability of GI Bill benefits. This bill and another—providing tuition equalization—deserve immediate attention.

Evidence suggests that the veterans have a number of supporters scattered throughout Congress. But it is the responsibility of the President to pull together that support, as well as coordinate the energies of his own administration. In January, the Secretary of Labor, with considerable fanfare, announced a \$1.3 billion program to provide more jobs for veterans. Four months later, unemployment among veterans remains high with veterans groups still awaiting signs of effective followup. One issue that has aroused the anxiety of these groups is that the mandatory veterans quotas—ones assuring that the jobs go to veterans rather than others—have been dropped from the administration's bill now on its way through Congress.

The President has spoken movingly of the plight of the Vietnam veterans. But his actions—the efforts to provide a form of amnesty for deserters and veterans with "bad paper" discharges, the hastily assembled jobs program—fall short of the sort of comprehensive, high-priority approach that is needed. Today, as always, we salute those who served and suffered in all wars—and, above all, those who gave their lives. But our urgent concern is with the veterans of the Vietnam

years—and with the unfinished business of that war.

## TV AND CONGRESS

### HON. ROBERT MCCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. MCCLORY. Mr. Speaker, the President of the United States has demonstrated the effectiveness of television in promoting programs and policies of his administration. The Members of the Congress are becoming more aware each day of the disadvantage which they are experiencing while the President—and the executive branch—tend to dominate the TV medium while sessions of the Congress are never seen by television viewers except when the President himself appears at a joint session of the Congress.

Mr. Speaker, as some of our States have shown, there is wide public interest in the sessions of State legislative bodies—particularly when issues of great importance are being debated.

Mr. Speaker, for too long the efforts to authorize the televising of sessions of the House of Representatives have languished in the Rules Committee with no definitive policy having been established for televising our sessions. I am confident that limited televising of the debates which occur here in this Chamber would attract widespread attention, increase public knowledge—and add to the reputation and respect for the Congress as an institution.

Mr. Speaker, the distinguished journalist, Roscoe Drummond, commented upon this subject in a most constructive way in a recent May 18 issue of the Christian Science Monitor. I am attaching hereto Mr. Drummond's column:

#### TV AND CONGRESS

(By Roscoe Drummond)

WASHINGTON.—I should like to offer a postscript to The Christian Science Monitor's insightful series on how TV is changing our society.

It has changed some things well and many things badly.

But it hasn't changed the Congress of the United States at all.

It is time they got together. Both would benefit—and the public most of all. Live commercial television ought to get acquainted with Congress and Congress ought soon to make peace with TV. They have been strangers far too long. A respectful alliance between the two could go a long way—at a very needed time—to bring Congress closer to the voters and to enable it to do its job better.

Each has its reasons for ignoring the other and most of these reasons are outworn, outmoded, and disproved. Live commercial TV just automatically assumed that covering Congress effectively at firsthand would produce too small an audience and too little profit. And the congressmen feel that living color would make them seem more inept or irrelevant than they sometimes are.

It seems fantastic bordering on the incredible that floor debates in both the Senate and the House are being blacked out 53 years

after the first piece of legislation was put forward to permit radio coverage and 33 years after the original bill was introduced to allow television coverage!

Congress prides itself on being a great deliberative body, but isn't this carrying deliberation a little too far?

Especially when experience in the use of television in the state legislatures has proved altogether acceptable to the legislators and welcome by the public.

At first state legislators were apprehensive that TV would turn the sessions into a circus that would make voter opinion even more critical than it already is.

It hasn't worked out that way and Congress ought to take notice and bring itself into friendly terms with the one instrument of communication which can do most to make government into a better and more responsive partnership between those who vote in the elections and those who vote in the legislatures.

In nearly every state the results of broadcasting the debates have been positive. The substance of legislation has visibly improved under its impact and public interest in the business of government has been heightened.

And right now is the moment when it can render the greatest service. Watergate and cynicism have been largely dissolved. Voters are demanding the right and the opportunity to make their views count in the decision-making process of government. The movement is toward a greater voter participation. To bring Congress into closer contact with its constituents and to bring the voters into more direct communication with Congress will be a boon at the most opportune moment.

After watching the instrument of television from the sidelines, as if they weren't quite sure it is here to stay, and holding back more than three decades, the congressmen ought to quit fooling around and make television a tool of democratic governing.

A minute beginning is in prospect. Last year the majority leader of the House stonewalled a bill which would have authorized such broadcasts and thereby kept it from going to a vote. This year he has moved an inch or two; that is, he is prepared to allow a test of closed-circuit television—not to the public—but to the offices of the members!

Time was when the state legislatures were the experimental proving ground for new social legislation. Now the states are leading the way in the modern use of television to put government in the drawing rooms of the voters. It's working well. Congress, please take notice.

## SILVER ANNIVERSARY OF TEMPLE BETH SHALOM

### HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. HANNAFORD. Mr. Speaker, in just a few days, a noted house of worship in the 34th Congressional District of California will be celebrating its silver anniversary.

I hope all of my colleagues in the House of Representatives will join with me in commemorating this most joyous anniversary of Temple Beth Shalom in Long Beach.

For the past quarter-century, Temple Beth Shalom has served as a leading community resource for Greater Long Beach and as a spiritual asset for its



large and vibrant congregation. Mr. Speaker, I have personally watched Temple Beth Shalom grow and serve the community, and I feel that no institution is more worthy of our congratulations.

Let today's CONGRESSIONAL RECORD reflect the heartfelt best wishes of the 95th Congress on this landmark in the history of Temple Beth Shalom. May God's blessings continue to protect this holy place.

#### WHEN THE DOOR IS CLOSED TO ILLEGAL ALIENS, WHO PAYS?

**HON. PAUL SIMON**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. SIMON. Mr. Speaker, few problems we face are as complex and perplexing as the problem of illegal aliens. We have a serious unemployment problem in this Nation which compounds all the difficulties. I have met with fruit-growers who have given me their side of the story. I have talked with the aliens and the relatives of the aliens. Perhaps our colleague Representative E DE LA GARZA summarized it best when I asked him a few weeks ago what the answer is, "The answer primarily rests in Mexico rather than in the United States." His answer—which increasingly I believe is correct—is a good illustration why we have to work with other countries to solve problems of poverty and population explosion.

Yesterday's New York Times had an article by Prof. Wayne A. Cornelius, of Massachusetts Institute of Technology, which sheds some light on this problem. I am having it inserted into the RECORD:

WHEN THE DOOR IS CLOSED TO ILLEGAL ALIENS,  
WHO PAYS?

(By Wayne A. Cornelius)

CAMBRIDGE, MASS.—A very predictable thing happens in this country whenever the economy takes a sharp turn for the worst: The illegal alien is rediscovered. Politicians, journalists, organized labor, and other interest groups rush to blame him for every imaginable problem afflicting American society, from high unemployment to rising crime rates, escalating social-service costs, overpopulation, and balance-of-payments deficits.

Immigration authorities crank out ever-more-frightening "guess-timates" of the numbers of illegal aliens "silently invading" the country. The public is warned in urgent and ominous tones that illegal aliens are out to take their jobs away and add billions of dollars to their tax bills.

We are now witnessing yet another "rediscovery" of the illegal alien. Pressures for new restrictive measures—particularly legislation that would impose civil or criminal penalties and fines on United States employers who "knowingly" hire illegal aliens—have mounted steadily. Such restrictive measures form the core of the policy package reportedly recommended to President Carter by his Cabinet-level task force on illegal aliens, and they have been proposed repeatedly by various members of Congress.

The case for a more restrictive immigration policy is based on three principal assumptions: that illegal aliens compete effectively with, and displace, large numbers

of American workers; that the benefits to American society resulting from the aliens' contribution of low-cost labor are exceeded by the "social costs" resulting from their presence here; and that most illegal aliens entering the United States eventually settle here permanently, thus imposing an increasingly heavy, long-term burden upon the society.

There is as yet no direct evidence to support any of these assumptions, at least with respect to illegal aliens from Mexico, who still constitute at least 60 to 65 percent of the total flow and more than 90 percent of the illegal aliens apprehended each year.

Where careful independent studies of the impact of illegal immigration on local labor markets have been made, they have found no evidence of large-scale displacement of legal resident workers by illegal aliens. Studies have also shown that Mexican illegals make amazingly little use of tax-supported social services while they are in the United States, and that the cost of the services they do use is far outweighed by their contributions to Social Security and income tax revenues.

There is also abundant evidence indicating that the vast majority of illegal aliens from Mexico continue to maintain a pattern of "shuttle" migration, most of them returning to Mexico after six months or less of employment in the United States. In fact, studies have shown that only a small minority of Mexican illegals even aspire to settle permanently in the United States.

While illegal aliens from countries other than Mexico do seem to stay longer and make more use of social services, there is still no reliable evidence that they compete effectively with American workers for desirable jobs. The typical job held by the illegal alien, regardless of nationality, would not provide the average American family with more than a subsistence standard of living. In most states, it would provide less income than welfare payments.

Certainly in some geographic areas, types of enterprises, and job categories, illegal aliens may depress wage levels or "take jobs away" from American workers. But there is simply no hard evidence that these effects are as widespread or as serious as most policy-makers and the general public seem to believe.

The notion that curtailing illegal immigration will significantly reduce unemployment among the young, the unskilled, members of minority groups, and other sectors of the United States population allegedly being displaced by illegal aliens may prove to be a cruel illusion.

Many of the jobs "liberated" in this way are likely to be eliminated through mechanization or through bankruptcy of the enterprises involved, and many others cannot be "upgraded" sufficiently—even with higher wages and shorter hours—to make them attractive to native workers.

While the benefits of a more restrictive immigration policy to the American worker have been grossly exaggerated, the costs of such a policy to both the United States and the illegal aliens' countries of origin have been consistently underestimated.

The impact of "closing the door" to illegal aliens will be felt by the American consumer, in the form of higher prices for food and many other products currently produced with alien labor. Failures among small businesses—those with 25 or fewer employees, which hire more than half of the illegal aliens from Mexico—will also increase, eliminating jobs not only for illegals but for native Americans.

But the adverse impact of restrictive measures will be felt most intensely in Mexico, which is currently struggling to recover from its most serious economic crisis since the 1930's. At least 20 percent of the population—

and a much higher proportion of the rural labor—depend upon wages earned in the United States for a large share of their cash income.

An employer-sanction law that is even partly effective in denying jobs to illegal aliens is likely to produce economic dislocations and human suffering on a massive scale within Mexico. This will not be simply a problem for Mexico; the implications for United States economic and foreign policy interests are obvious.

All available evidence indicates that employer sanctions and other restrictive measures—short of erecting a Berlin-type wall—will fail to deter economically desperate Mexicans from seeking employment in the United States.

In the long run, every dollar that is spent trying to enforce new restrictive policies would be much better spent on programs to reduce the "push" factors within Mexico and other sending countries that are primarily responsible for illegal immigration: rural unemployment and underemployment, low incomes, and rapid population growth.

For example, studies indicate that resources invested in labor-intensive, small-scale rural industries could significantly reduce the flow of illegal aliens within five to eight years.

In the short run, the best approach would be an expanded program of temporary worker visas permitting up to six months of employment in the United States each year. A temporary-worker program that did not require a prearranged contract between the alien worker and a particular United States employer (in contrast to the former *bracero* program of contract labor) would minimize exploitation of alien workers while reducing illegal immigration and keeping open a critically important safety valve for Mexico. It would also benefit United States workers, since the use of legal alien labor is likely to have a less depressing effect on wages and working conditions than the use of illegal alien labor.

It is ironic that a more restrictive immigration policy is being advocated by many at a point in our history when declining birth rates, the end of unlimited legal immigration, and an American labor force with more education and higher job expectations than ever before all foreshadow a shortage of workers to fill low-skill, low-wage, low-status jobs in the United States economy. When this occurs, in the not-to-distant future, the aliens who are now viewed as a burden on United States society may be seen as a highly valuable asset.

#### OSHA FINALLY FACING UP TO MORE OF THE REAL ISSUES

**HON. BRUCE F. VENTO**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. VENTO. Mr. Speaker, the new Occupational Safety and Health Administration focus announced recently by Labor Secretary Ray Marshall and Assistant Secretary of Labor Eula Bingham has been hailed by the Washington Post in an editorial on May 26, 1977.

The Carter administration deserves high praise from all Americans for taking an agency plagued with troubles and giving it new direction, without once relaxing its commitment to the saving of human lives at the workplace.

The Post editorial speaks for itself and I submit it herewith:

## OVERHAULING OSHA

OSHA—the name has become synonymous with federal regulation gone awry. In part it's a bum rap, because the Occupational Safety and Health Administration has taken effective action against vinyl chloride and some other serious threats to workers' health. The agency has suffered, though, from indifferent leadership and a tendency to dissipate its resources on nit-picking programs and trivial rules. While many of the tales about OSHA inspections and requirements have been overblown, there has been enough truth in them to fuel the folklore about bureaucratic paternalism and pettiness. In short, OSHA has not been as bad as its critics maintain—but neither has it been as persistent and purposeful as it should be.

Labor Secretary Ray Marshall and Assistant Secretary Eula Bingham are now setting out to give the beleaguered agency more focus and force. Their plan, announced last week, includes something for everyone. Organized labor, congressional committees and the General Accounting Office should like the decision to concentrate on substantial health and safety problems in high-risk industries such as construction, manufacturing, transportation and petrochemicals. Business groups should applaud the new emphasis on simplified regulations, voluntary compliance and consultation, and fewer inspections of small businesses in low-risk fields.

If pursued with enough determination, this sensible strategy should make OSHA much more effective—but not necessarily more popular. Indeed, a vigorous regulatory campaign, especially against health hazards, is bound to take OSHA even farther into areas full of scientific uncertainty and political strain. Workers these days are exposed to a host of substances whose effects on human health are not fully understood. Even where something is known to be toxic, the precise degree of risk—or an acceptable amount of exposure—may be very hard to calculate, and the costs of full protection can run very high. There are no simple formulas for weighing all the variables and determining how much a company, an industry or society in general should invest to safeguard a given number of lives.

The Carter administration is not shying away from these tough problems. Last month the Labor Department announced an emergency crackdown on workers' exposure to benzene, a petroleum derivative generally believed to cause leukemia. Though the United Rubber Workers and other unions have been urging such a step for years, some labor spokesmen have criticized the proposed 90 percent reduction as inadequate. Petroleum companies, on the other hand, are challenging the order as excessive in some respects.

As the OSHA overhaul proceeds, more controversies of this sort are bound to arise. Indeed, they should be welcomed, as evidence that government and society are finally facing up to more of the real issues of industrial health and safety in a world of complex technology.

HUMAN RIGHTS RESOLUTION OF  
CAPITOL REGION CONFERENCE  
OF CHURCHES

## HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. COTTER. Mr. Speaker, I would like to take this opportunity to share the following declaration on human rights

with my colleagues. It was adopted recently by the Capitol Region, Hartford, Conference of Churches:

THE CAPITOL REGION  
CONFERENCE OF CHURCHES,  
Hartford, Conn., May 27, 1977.

President JAMES CARTER,  
The White House,  
Washington, D.C.

DEAR PRESIDENT CARTER: The Spring Assembly of the Capitol Region Conference of Churches at which 150 delegates were present adopted the following resolution:

Whereas, God's love is magnificent and extends to all beings,

Therefore be it resolved that the General Assembly of the Capitol Region Conference of Churches recognizes a universal demand and God-given purpose of inalienable human rights, applauds the commitment of this nation to human rights as expressed by President Carter in his Inaugural Address and commends him for his valiant and steadfast actions to fulfill that commitment.

We are encouraged by your concern for human rights and applaud your efforts.

Sincerely,

Rev. Dr. DAVID D. MELLON,  
Executive Director.

## FIDDLING WITH HEALTH

## HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. BAUMAN. Mr. Speaker, President Carter's proposal to place an artificial limit on hospital costs is contrary to every basic law of economics and commonsense. The Banner, published in Cambridge, Md., suggested in a recent editorial that the President would be well advised to propose something besides the "thoroughly discredited and thoroughly dangerous tool" of price controls if he wants to do something worthwhile to stop the cost spiral in health care. I strongly agree with the Banner's comments and commend them to the Congress:

## FIDDLING WITH HEALTH

The American economy is such a complex thing that if you push down here, something far over there is likely to pop up. Flip this switch, and the ground shakes miles away. Pull that lever, and the whole thing might collapse like a house of cards.

The interrelationship of cogs and wheels and gears and cams and levers and shafts is so intricate that no man or group of men can comprehend the whole machine. Most men, however, are wise enough not to fiddle.

President Jimmy Carter is fiddling. His proposal to clamp a lid on runaway hospital costs undoubtedly strikes a resonant chord among millions of wheezing, irregularly thumping American breasts. Not just the sick, however, but all Americans who pay taxes are suffering from rising costs of medical care.

In 1976, when the consumer price index increased about seven per cent, health care costs increased at double that rate. In 1950, hospital care cost \$16 a day. By 1966 that figure had risen to \$48. Now it is \$154 to \$175 a day. An American family of four pays an estimated \$2,600 per year on health care, or about \$650 per person. Twelve cents of every dollar the federal government spends goes to health care. Other statistics could be cited, and they are equally disturbing.

The motivation to fiddle, therefore, is very strong. But, as we have stated in an earlier editorial, price control cannot be imposed on one part of the health care system—hospital costs—without leading to price controls throughout the system and, inevitably, throughout the entire economy.

The American Hospital Association has vowed "united opposition from both hospitals and physicians" to the Carter plan. We hate to say it, but the "heavies" in this little drama are correct.

The federal government has a constructive role to play in keeping hospital costs and all other costs from going through the roof. It can ensure greater efficiency and better utilization of medical resources. It can make it harder on crooked doctors and malpractice-happy attorneys. But it cannot do any of these things through price control, a thoroughly discredited and thoroughly dangerous tool in the hands of fiddlers.

THE 100TH ANNIVERSARY OF THE  
PRESENCE OF THE SISTERS OF  
NOTRE DAME DE NAMUR IN THE  
SACRED HEART PARISH, SPRING-  
FIELD, MASS.

## HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. BOLAND. Mr. Speaker, I recently had the privilege of attending a liturgy of thanksgiving marking the 100th anniversary of the presence of the Sisters of Notre Dame de Namur in the Sacred Heart Parish, Springfield, Mass. On May 15, I joined with hundreds of other parishioners of Sacred Heart in a Mass celebrated by the bishop of Springfield, the Most Reverend Christopher J. Weldon, his coadjutor, the Most Reverend Joseph Maguire, and 18 other concelebrants to pay tribute to the devotion of these holy women. Mayor William Sullivan of Springfield, an alumnus of the school, acted as a lector, as did Sister Eileen Sullivan, the provincial superior of the order.

The sisters became the first faculty in the Sacred Heart Elementary School, which opened in 1877 in the first parish building, a combination school and parish hall dedicated in 1874. The sisters first came to Sacred Heart at the invitation of Father McDermott, the first pastor of Sacred Heart Parish. They have taught and trained the youth of the parish for the last 100 years in the same spirit of giving which prompted their arrival in the parish's formative years.

Three hundred thirty students were enrolled the first day that the parochial school of Sacred Heart was opened, and the school was staffed with seven sisters. Sister Johanna acting as superior. Today the enrollment is 1,000 students and there are 29 teaching sisters under the direction of Sister Superior Agnes Philipps. From a humble beginning—down through the years to the present—the sisters of Notre Dame have labored endlessly for the spiritual and temporal welfare of the children of Sacred Heart parish.

The record of the sisters of Notre Dame at Sacred Heart is a glorious one. Their



ideals are as real today as they were when their foundress, Saint Julie, first directed them to teach and train the little ones to love God and devote themselves to duty. The parish of the Sacred Heart is perpetually grateful to the Order of Notre Dame for the Christian family education which the good sisters have given to so many hundreds of boys and girls these past 100 years.

As time has passed, there have been many changes in educational methods and Notre Dame has modified its courses of study as conditions demanded or warranted. Yet, there has been no change in that ideal of devotedness to duty that is a mark of the sisters of Notre Dame.

So, it is in this memorable year, as we celebrate the 100th anniversary of Notre Dame at Sacred Heart, that I wish to raise my voice in recognition of the splendid achievements of these beloved sisters, to witness their love and loyalty to Notre Dame and pray God to bless their work—not only at Sacred Heart, but in their worldwide mission, so that they may continue to draw souls closer to God and His Mother, to whom their lives are dedicated.

#### THE FLYING DUTCHMEN

#### HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. YATRON. Mr. Speaker, we often hear complaints to the effect that today's youth is largely an aimless group, hardly the peer of young people in years past. However, every day I am encouraged by evidence that such complaints are, for the most part, unfounded.

Today, I take considerable personal pride in bringing to the attention of my colleagues, one such encouraging event. During the week of June 5 through June 11, the Flying Dutchmen Aeromodelers of Reading, Pa., will hold a 6-day model air show. The aeromodelers' program helps publicize a hobby which has brought great recreational enjoyment to young and old alike. Not only does aeromodeling provide young people with an educational pastime, but through its broad appeal to all age groups, it helps bridge the generation gap. Members of the Flying Dutchmen, for example, range in age from 9 to 78.

The Flying Dutchmen show team is one of seven groups in the country nationally sanctioned by the Academy of Model Aeronautics, the national governing body of airplane model clubs. At the request of the national headquarters, 12 members of the 50-member group will represent model aviation in exhibits in Pennsylvania as well as in other States. Among the seven designated show teams, the Reading group is the only one flying control line planes rather than radio-operated models. The Flying Dutchmen have promoted their activities by conducting 6-week courses on a regular

basis for civic groups and other organizations.

It is a source of great optimism in view of the quickening pace of American life, that clubs such as the Flying Dutchmen Aeromodelers continue to flourish and grow, attracting people who, regardless of age, are young-at-heart. The value of the group's activities such as Berks County Model Aviation Week is best summarized by a recent statement made by Mr. Alvah Schaeffer, show team president:

My wife files with me. It's a family hobby, and as a matter of fact we look for Flying Dutchmen members who apply to the club as a family unit.

The aeromodelers have my most genuine admiration and my highest commendation for their outstanding contributions to the community of Reading and Berks County.

#### ILLEGAL ALIENS

#### HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. MURPHY of Illinois. Mr. Speaker, our country is silently being invaded by an army of illegal aliens. While illegal immigrants are here to seek the American dream, many persons fear they may be destroying it for others.

The Immigration and Naturalization Service—INS—which administers the immigration laws, reports there are between 6 and 8 million illegal aliens now living in the United States. At a time of high unemployment, illegal aliens are taking hundreds of thousands of jobs away from Americans, because of their willingness to work for low wages.

The INS estimates that today there are over 1 million jobs held by illegal immigrants that could be filled by Americans. If U.S. workers held those jobs, our unemployment rate could drop from 7.3 to 6.3 percent.

In addition, illegal aliens are burdening our severely strained social welfare system. Aliens are getting on Medicare and Medicaid rolls, sending their children to public schools, and getting free medical treatment at hospital emergency rooms. All told, INS believes that illegal aliens cost American taxpayers \$13 billion per year in social services.

It is not surprising, then, that Americans favor changes in immigration policy. According to an April 24 Gallup poll, an overwhelming 82 percent of the public say they support a law prohibiting employers from hiring aliens without proper papers. And some 42 percent favor a decrease in present immigration levels.

A task force created by President Carter has sent him a legislative package dealing with the problem of illegal immigration. While there may be some points that need further consideration, the basic thrust of the proposals is sound.

Mr. Speaker, I would like to draw my

colleagues' attention to an article I have written for my weekly news column on the subject of illegal immigration:

#### THE SILENT INVASION OF ILLEGAL ALIENS

(By Representative MORGAN F. MURPHY)

Give me your tired, your poor,

Your huddled masses yearning to be free . . .

These words, inscribed on the Statue of Liberty, are America's welcome to immigrants seeking a better life. Traditionally, America has enjoyed and clung to its image as the land of opportunity to the rest of the world.

But as our population has grown and economic conditions have worsened, the U.S. has had to take a second look at its immigration policies.

The reason: our country is silently being invaded by an army of illegal immigrants. As a recent article in Time magazine pointed out, these "invaders," eager to share in America's bounty, are coming by land, sea, and air. Some hop planes, others jump ships, and some even pass through the San Antonio sewer system. While illegal immigrants are here to seek the American Dream, many persons fear they may be destroying it for others.

Who are the illegal aliens? Eight out of ten come from Mexico, which has an unemployment rate of almost 40 per cent. Mexicans who are able to find a job may be paid as little as \$1 per day.

Where do they live? Most illegal immigrants work on farms in the South or Southwest. But a growing number live in large Northern cities, where they work as dishwashers, porters, laundrymen, and busboys.

Currently, only 290,000 persons are allowed to migrate to the U.S. each year. That contrasts with the four million immigrants who settled in our country shortly after the turn of the century.

But this seemingly strict immigration quota has not been enforced. The Immigration and Naturalization Service (INS), which administers the immigration laws, reports there are between six and eight million illegal aliens now living in the U.S.

The number of illegal immigrants has increased dramatically over the past sixteen years. For instance, last year the INS apprehended and expelled 875,000 illegal aliens—almost ten times the number expelled in 1961.

Because of the recession, the problem of illegal immigration finally has caught the eye of the public and government officials. At a time of high unemployment, illegal aliens are taking hundreds of thousands of jobs away from Americans because of their willingness to work for low wages.

For example, Time magazine reported that even though Houston is enjoying a building boom, there is widespread unemployment among union carpenters. This is because contractors are waiting to hire Mexican immigrants who will work for less than the minimum wage. The INS estimates that today there are over 1 million jobs held by illegal immigrants that could be filled by Americans. If U.S. workers held those jobs, our unemployment rate could drop from 7.3 per cent to 6.3 per cent.

In addition, Time noted that illegal aliens are adding new burdens to our social welfare system. Aliens are getting on Medicare and Medicaid rolls, receiving free medical treatment at hospital emergency rooms, and sending their children to public schools. In 1975, 370 illegal aliens seized in New York were found to have received \$500,000 in welfare payments. All told, the INS believes that illegal aliens cost American taxpayers \$13 billion per year in social welfare services.

It is not surprising, then, that Americans favor changes in immigration policy. Accord-

ing to an April 24 Gallup poll, an overwhelming 82 per cent of the public say they support a law prohibiting employers from hiring illegal aliens without proper papers. And some 42 per cent favor a decrease in present immigration levels. (Only 7 per cent favor an increase, and 37 per cent support present immigration levels.)

What can be done about illegal immigration? On April 27, a task force created by President Carter sent him a legislative package dealing with this problem.

Among the recommendations:

Civil fines for employers who knowingly hire illegal aliens. (Currently there are no penalties.)

Stricter enforcement of wage-and-hour laws to reduce employers' incentives to hire aliens.

Tougher patrol of the 2,000 mile-long Mexican border.

Economic aid to Mexico, with an emphasis on farming projects, to help reduce that country's persistent unemployment problem.

Amnesty for illegal aliens who have lived long enough in the U.S. to build up substantial "equity."

Not all of the recommendations have been readily accepted. Some employers insist that many low-paying or high-risk jobs would go unfilled if they could not hire aliens. Others believe that the risk of penalties could result in discrimination against Hispanics, since employers might be afraid of hiring potential illegal aliens.

While there may be problems with some of the particulars of the package, the basic thrust of the proposals is sound. America should maintain its image as the land of opportunity, but we must also send out a sobering message to the world that our resources are not unlimited.

#### CITY'S MOST DISTINGUISHED SERVANT

#### HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. BADHAM. Mr. Speaker, I would like to bring to the attention of my colleagues a special event that is about to take place in the city of Newport Beach, Calif. on June 9, 1977 in honor of one of the city's most distinguished public servants. A retirement testimonial dinner is being held for Newport Beach Police Chief B. James Glavas by the "10-4" Club of the Newport Harbor Chamber of Commerce in cooperation with the Newport Beach Employees Association.

The event is designed to thank Chief Glavas for his outstanding service and reflect on his 16-year tenure as the city's top law enforcement official and on his numerous professional accomplishments.

Chief Glavas has served as president of the Southern California Juvenile Officers Association—1959, president of the California State Juvenile Officers Association—1961, president of the Orange County Chiefs of Police Association—1967, president of the California Peace Officers' Association—1972-73. Currently he sits on the executive board of the International Association of Chiefs of Police.

In addition to his professional accomplishments he has made a major contribution in the field of teaching and

youth services. An instructor for 17 years in police science, he has taught at both the University of Southern California and at the California State University at Los Angeles. He has served on many community advisory committees, including: The Pueblo District Council for the Boy Scouts of America; Youth Study Center at USC; Citizens Advisory Committee to the Attorney General on Juvenile Violence; and the Harbor Area Boys Club.

It is with a touch of regret I say goodbye to Chief Glavas because my constituents of the 40th Congressional District as well as myself and my family who live in Newport Beach are losing a fine law enforcement official and administrator. But I extend my hearty congratulations on the conclusion of a fine career and best wishes to Jim and Melva Glavas for a happy and prosperous retirement.

#### TREASURY TAX AND LOAN ACCOUNTS

#### HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. HANNAFORD. Mr. Speaker, earlier this year, the Banking, Finance and Urban Affairs Committee and the Ways and Means Committee considered and passed legislation which would permit Treasury to realize net earnings of \$50 to \$100 million annually. This legislation, which grants Treasury investment authority over its tax and loan account funds held in commercial banks, was subsequently passed by the House on April 25 by a margin of 384 to 0. Efforts to push this measure through began in the early 1970's, and during the last Congress a similar measure was laid to rest in the Senate in the final days of the second session due to the inclusion of several controversial provisions.

As a staunch supporter of the investment authority embodied in H.R. 5675 and its inclusion of savings and loan associations into our tax and loan account system, as well as its special consideration for softening the impact of the investment authority on small and minority-owned banks, it is with great interest that I anticipate upcoming Senate activity on a comparable proposal. It can certainly be said that this legislation is long overdue and that among its most impressive features is the advocacy of efficient cash management by the Federal Government, reducing potential revenue losses to taxpayers. Furthermore, H.R. 5675 would permit reimbursement to depository institutions for certain services rendered in connection with maintaining T.T. & L. accounts on a more equitable basis than is currently the case. As a Treasury Department study on the tax and loan account system revealed, during 1972 commercial banks were able to utilize Federal T.T. & L. funds to generate earnings which exceeded the expenses of handling these accounts by \$170 million.

Mr. Speaker, recently, however, Treasury has taken certain steps to limit its losses from the current system. In 1976, for instance, average T.T. & L. balances in commercial banks declined to 21 percent of Treasury's operating cash as opposed to 65 percent during 1974. The average T.T. & L. balance in fiscal year 1974 was \$3.9 billion compared to \$1.4 billion in fiscal year 1976. Thus, Mr. Speaker, Treasury has been able to reduce potential earnings losses. Yet, as Fiscal Assistant Secretary David Mosso stated before the Domestic Monetary Policy Subcommittee, a substantial loss occurs through the inability to turn tax and loan funds in-transit between commercial banks and Federal Reserve banks into an earning asset. While no firm estimates of this loss are available, the amount of in-transit funds may be as high as \$1 billion.

T.T. & L. INVESTMENT AUTHORITY AND MONETARY POLICY

Mr. Speaker, an occurrence in late April involving Treasury's tax and loan account funds and the Fed's conduct of monetary policy illustrates why the proposed new tax and loan system is far superior than that which exists. As a New York Times article on April 29 discloses, 3 days earlier, on April 26:

The Fed could not complete its reserve adding operations . . . because of "an acute shortage of collateral," or Treasury securities which the Fed purchases from dealers, frequently for short periods of time.

A few days earlier, Treasury had withdrawn almost \$3 billion of noninterest bearing T.T. & L. funds from commercial banks. With the shortage of Treasury securities on the market, however, Treasury was forced to redeposit the amount withdrawn. This cumbersome action resulted in Treasury's losing interest for that day on about \$3 billion. The full sum of that loss, moreover, will probably never be recouped even though some adjustments for that loss will be attempted. In addition, this redeposit represented a temporary but destabilizing influence on the money market with potential adverse effects on short-term interest rates. Under the new system granting Treasury an income-earning capability for T.T. & L. funds, "massive swings" of Treasury funds could be eliminated. Thus, with the avoidance of redeposits, the smooth conduct of monetary policy by the Federal Reserve can be enhanced. Without objection, Mr. Speaker, I request that the article mentioned above be printed in the Record at this point:

#### BIG SWINGS IN TREASURY'S BALANCE ROILS FED OPEN MARKET OPERATIONS

Massive swings in the Treasury's balance at Federal Reserve Banks last week caused difficulty in the Fed's open market operations and uncertainty in the credit markets about the level at which the Fed wishes to peg the target for the trend-setting Federal funds rate.

Tax receipts in the latest week, being larger than expected, were a major factor in draining an average of \$3.4 billion a day from the banking system, according to a spokesman for the central bank.

To offset the large drains, the Fed's trading desk added a total of \$1.9 billion to its holdings of United States Government secu-



rities during the week. However, that was not enough to do the job and on Tuesday, the Treasury had to make the unusual move of redepositing \$2.4 billion of tax and loan accounts at large commercial banks to aid the Fed in adding reserves to the system.

The central banker said the Fed could not complete its reserve adding operations on Tuesday because of "an acute shortage of collateral," or Treasury securities which the Fed purchases from dealers, frequently for short periods of time. The Fed sells securities when it is draining reserves.

#### SHORTAGE IN TREASURY BILLS

The shortage in Treasury bills was caused by Treasury paydowns on maturing debt, strong demand for the bills by foreign borrowers and, according to some analysts, caution on the part of dealers who are carrying smaller inventories in anticipation of rising short-term interest rates.

The central bank spokesman said it was the first time in a couple of years that the Treasury had redeposited receipts in its accounts at large commercial banks.

He indicated, however, that it had been routine at one time. In 1975, the Treasury, at the urging of Congress, initiated a policy of minimizing its tax and loan balances and maximizing its balances at the Fed. Congress had argued that banks were getting to use Treasury cash balances on which interest is not paid for long periods of time.

Most key short-term interest rates moved up slightly in the latest week. The Federal funds rate, an important indicator of monetary policy, averaged 4.82 percent, up from 4.71 percent. This was its highest average in five months.

Whether the rise in the Fed funds average signals a slight firming in Fed policy appeared to be a key issue in the money markets last week as the task of interpreting Fed moves was complicated by the Fed's timing and difficulty in conducting open market operations.

By the end of the statement week, however, many analysts had concluded that the Fed had indeed moved.

Robert H. Ried of McCarthy, Ried, Crisanti & Maffei, a money market research firm, said yesterday, "the rate has firmed to at least 4 1/2 percent but could be 4 3/4 to 5 percent."

Mr. Ried added, "It doesn't have tremendous implications for price changes and was probably based on money supply forecasts for double-digit growth in the April-May period."

#### RESERVE REPORT

(In billions of dollars)

|  | Latest week | Previous week | Year ago |
|--|-------------|---------------|----------|
| <b>DAILY AVERAGES</b>                        |             |               |          |
| Adjusted credit proxy <sup>1</sup>           | 547.9       | 547.1         | 519.8    |
| Monetary base <sup>1</sup>                   | 131.985     | 132.394       | 123.331  |
| Total reserves <sup>1</sup>                  | 34.96       | 34.79         | 34.77    |
| Narrow money supply:                         |             |               |          |
| Money supply <sup>1</sup>                    | 321.0       | 321.3         | 303.4    |
| Money supply plus time deposits <sup>1</sup> | 761.9       | 762.8         | 691.8    |
| Net free (+) borrowed (-) reserve            | 396         | 330           | 396      |
| Member bank borrowings                       | 84          | 75            | 53       |
| <b>WEDNESDAY FIGURES</b>                     |             |               |          |
| Business loans:                              |             |               |          |
| April 20: All large banks <sup>1,2</sup>     | 116.878     | 117.182       | 112.894  |
| April 27:                                    |             |               |          |
| New York banks <sup>3</sup>                  | 33.530      | 33.750        | 34.830   |
| Chicago banks                                | 11.245      | 11.206        | 10.814   |

<sup>1</sup> Seasonally adjusted.

<sup>2</sup> Revised.

<sup>3</sup> Millions.

Note: Year-ago reserve totals not comparable due to change in reserve requirements.

#### RHYS CAPARN RETROSPECTIVE

#### HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. SARASIN. Mr. Speaker, currently at the Bethel Gallery in Bethel, Conn., is a show by one of America's foremost sculptors, Rhys Caparn. This show which recently opened on May 28 will continue to June 22. I would urge all of my colleagues to come to Connecticut to see this collection of sculptures which Miss Caparn has done over the past 47 years.

Rhys Caparn was trained in the classical traditions of sculpture and her early work might have led one to believe that here was yet another traditional sculptor. Yet she became one of the most original and experimental sculptors of her time, bringing to an ancient art new insights to expand the hitherto unexplored potential of her medium.

Her early work consisted of portraiture and the human figure. But in retrospect, these works have played but a minor role in her overall work which has proved to be of a much broader content, based on the whole of nature, on natural forms and natural forces. And though, over the years, there have been intervening trends, there is an essential order to her work. It is a movement from animals that stand upon the Earth, to birds released from the Earth, then to landscapes of the Earth itself and finally toward abstractions inspired by the quiet and distant spaces of the Moon.

About her sculpture, Miss Caparn has said:

I believe that sculpture must render visible through form that which lies beyond appearance. The artist is responsible for growth of consciousness. The manner in which he achieves this is his own, and has no limits. Sculpture is a monumental art, whatever the size of its execution. To have permanence it must make a complete statement: at once violent and serene. It is no medium for the frenetic. It must be highly organized, have aloof unity, and always come to rest. Its eloquence depends upon depth and density of volume, either stated or suggested.

I gather my forms from the apparitions of life: man, animals, birds; the lines of trees, the bulk of rocks, the shadows of ravines and crevasses, the slope of hills under snow. I am interested in the sound of movement: the round sound of birds beating their wings near water; the thin sound of wind in trees; and the silence of flight. The bas-relief, with its suggestions of light, remains yet almost unexplored. I have used the arch not only for its symbolism of passage and therefore change, but because in the midst of ruins it remains at ease with nature.

Besides the sculpture of Rhys Caparn, the Bethel Gallery in Bethel, Conn. is itself a work of art. The gallery is housed in a magnificent Federal structure which was formerly used as an opera house. Its dramatic proportions—40 feet by 65 feet with 15-foot ceilings and tall, small-paned windows—make it literally one of the most beautiful art galleries in the country and is particularly appropriate for the showing of sculpture.

I hope none of you will miss this opportunity to see some of the most beautiful

sculpture in this country as well as one of our finest art galleries.

U.N. AMBASSADOR ANDREW YOUNG

#### HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mrs. HOLT. Mr. Speaker, last week, our ambassador to the United Nations, Andrew Young, was quoted as saying that "the Swedes are terrible racists," which caused the Swedish Ambassador to ask our U.N. mission for an explanation.

Also last week, Mr. Young was quoted as saying he was not very concerned about the presence of Cuban military advisers in Ethiopia, although he noted that our State Department was expressing "grave concern." Mr. Young said that "maybe the Cubans might be a little more rational than the Ethiopians at this point."

But these are only the latest in a series of astonishing statements by the Ambassador. We all recall his statement that Cuban troops were bringing "a certain stability and order to Angola."

Mr. Speaker, there is much confusion as to our foreign policy. If Mr. Young is not representing American foreign policy, then obviously he should not be the Ambassador to the U.N. If he is representing our foreign policy, then we certainly ought to know more about that policy and how it was derived. Perhaps we should just inquire as to whether there is a foreign policy.

Frankly, I am becoming embarrassed, not to say alarmed. Diplomacy should not be conducted in the manner of random pie throwing. It should be conducted with carefully measured language representing policy decisions made by the President after consultation with his advisers. We are involved in some very sensitive negotiations in this world, and it is necessary to cultivate good will and trust to pursue our goals.

Without further comment, I am listing some newspaper accounts of the activities of Ambassador Young.

On April 18, the London Times carried an article by Fred Emery which said:

It is becoming time-consuming as well as tedious keeping track of Mr. Young's dicta. The latest furor concerns his United Nations Arab colleagues who are still upset about his offhand comparison of their hatred for Jews with the Ku Klux Klan's hatred for blacks.

On April 17, The Washington Star reported that "Twenty Arab U.N. delegations have criticized Ambassador Andrew Young for saying that Arab hatred of Jews reminded him of Ku Klux Klan hatred of blacks." Young gave the Arabs a clarification.

On April 16, the Washington Star reported on the controversy that erupted when Ambassador Young said that the South African Government was "illegitimate." "Secretary of State Cyrus Vance telephoned Young to tell him that the remark about illegitimacy was wrong."

On April 15, a Chicago Tribune article said that "Young jolted the world with an impolitic charge, in a BBC interview, that the British were 'a little chicken on race,' and had, in fact, 'invented racism.'" Young apologized.

On April 13, a column by Jack W. Germond and Jules Witcover in the Washington Star said that:

The U.N. ambassador is less Jimmy Carter's point man on foreign policy, as Young himself once described it, than a cannon rolling loose on the deck of a pitching ship.

On April 12, the Washington Star reported that:

The White House has again defended U.N. Ambassador Andrew Young, this time for his controversial statement that Americans are "paranoid about a few Communists" in Africa.

The article quoted Young as saying:

The only thing I'm thinking is, don't get paranoid about a few Communists—even a few thousand Communists. Americans shouldn't be afraid of Communists—they just shouldn't. It offends me, really.

On March 20, the Manchester Guardian editorialized:

Mr. Andy Young is a jolly fellow. He thinks (in a southern Africa context) that "no one has any confidence in the British." He would like to see a U.N. Force—of American Marines—run Rhodesia. He reckons "there's some sense in which the Cubans bring a certain stability and order to Angola." He has "a queer understanding" with Mr. Cyrus Vance.

This editorial went on to say that "Washington's foreign policy voice these days is more babble than baritone."

#### ITALIAN NATIONAL DAY

**HON. PETER W. RODINO, JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. RODINO. Mr. Speaker, I wish today to join with the citizens of Italy and Americans of Italian descent in celebrating the anniversary of the founding of the Italian republic.

Not until 1870 were all the many independent city states of the Italian peninsula united into one nation under the constitutional monarchy of King Victor Emmanuel II.

Following the Second World War, a referendum, open to all adult citizens, was held on June 2, 1946, and a decisive vote was cast in favor of the establishment of a republican form of government. Under the able leadership of Alcide De Gasperi the new republican government formulated policies along moderate lines, and was supported by the allied powers.

For over 30 years, the freedom-loving Italian people have maintained their cherished republic, often in the face of serious adversity. Through international associations, Italy has demonstrated its commitment to free world goals by participation in the North Atlantic Treaty Organization, the Council of Europe, and the European Economic Community.

Mr. Speaker, the contributions of Italians both to this country and to the

entire world are far too numerous and well-known to need detailing in this brief tribute. Needless to say, I personally take deep pride in my own heritage as an American of Italian origin. I am sure that all Americans join me in my sincere hope that the Italian republic will continue to vigilantly guard the liberties of its people, and will endure.

#### BRIG. GEN. EBENEZER LEARNED REVOLUTIONARY HERO: TRIBUTE BY THE OXFORD, MASS., HISTORICAL SOCIETY

**HON. EDWARD P. BOLAND**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. BOLAND. Mr. Speaker, Brig. Gen. Ebenezer Learned served his native town of Oxford, Mass., in many capacities. His outstanding contributions to Oxford, to the Commonwealth of Massachusetts, and to the fledgling United States of America will be the subject of a special program this fall in Oxford. The historical commission of the town has provided me with a short synopsis of General Learned's career and accomplishments. I include this material in the RECORD at this point:

#### OXFORD HISTORICAL SOCIETY NOTES ON GEN. EBENEZER LEARNED

Ebenezer Learned began his distinguished career at the age of 28 in 1756, when he commanded a company raised for service in the French and Indian War. During the summer of 1756, he enlisted, equipped and drilled his company with the valuable aid, as tradition informs us, of Reverend John Campbell, who was skilled in military tactics. On the ninth of September, we find him at the head of 51 men at Lake George, where he had marched from Oxford. We have very little of the details of his services here. Mr. Jennison, in his papers (now in the archives of the American Antiquarian Society of Worcester) says that Ebenezer Learned served from 1756 to 1763, and was at Fort Edward when Fort William Henry was beleaguered and marched without orders to its relief. There is reason, however, to believe that he returned home as early as 1758, as he was elected selectman in that year and each year following until 1764.

The troubles with the mother country began soon, and in the excitement which followed, he took a decided stand with the patriots and officially was active in influencing the doings of the town in that period of doubt and perplexity.

His patriotism has never been questioned. He was unwavering in his devotion to his country, standing almost alone in his family and among the people of his neighborhood in his loyalty. At the time of Shay's Rebellion, he was almost the only man in his section of the town who adhered to the government. He was a marked man in this controversy, and as related, the Shays men decided on a certain night to pay him a visit. Having heard of their plan, he took down a favorite gun which he carried in his Revolutionary campaigns, and procuring a musket for his son-in-law, Adjutant Pray, Ebenezer Learned put them in order and loaded them with powder and ball—making no secret of what he had done. The visit was indefinitely postponed.

General Learned was prominent in civil affairs and, in the 25 years between 1758 and 1794, he was a selectman. He was moderator several years and in 1772 he was one of a Com-

mittee of three to make answer to the petition of the inhabitants of the northeasterly part of the town—which with parts of Worcester, Leicester and Sutton, asked to be set off as an independent corporation and later, a Ward. In 1778 he was chosen as one of the first board of assessors. As selectman, and having previously acted in that capacity, he became in 1779 a delegate to the convention at Cambridge to form a state government. In 1783 he became a representative. In August, 1776, the Court of Sessions at Worcester appointed General Learned one of a committee to superintend the inoculating hospitals in Worcester County. He was a justice of the peace and officially present at the terms of court at Worcester for 1776, 1778, 1789 and 1783, and every year from 1787 to 1795.

In person, he is said to have been above the average in size, erect and in manner, sedate and dignified. He was esteemed as a townsman and as a neighbor, was a devout member of the First Congregational Church of Oxford, a constant attendant on public worship and for many years active in ecclesiastical affairs.

General Learned possessed the prerequisites of a great soldier, and so far as he had opportunity, developed those qualities. Although hampered by a lack of early educational advantages, and in later years by ill health which cut short his service, he was able to establish for himself a worthy military reputation. Whatever his faults may have been, no hint of them appears in the records. We may point with pride to his achievements during the two major battles of Saratoga. On October 7 and October 20, 1777, when the action peaked, as the fate of our country was trembling in the balance, he did in his sphere invaluable service—and there earned for himself the gratitude and honorable remembrance of succeeding generations.

During the Bicentennial Anniversary, the current generation of citizens in Oxford recalled with gratitude the sacrifices of Ebenezer Learned, who also rendered invaluable service at the Battle of Bunker Hill and the Evacuation of Boston. During the winter of 1777-78, Learned and two of his fellow Oxford citizens camped at Valley Forge with General George Washington.

On April 2, 1777, the Congress recognized his accomplishments by appointing him Brigadier General. General Learned retired from the Continental Army after the Battle of Saratoga due to ill health, but he remained an active patriot for which we can all be grateful 200 years later.

Preserved in the Oxford Museum are a 24-pound cannon ball that Ebenezer Learned brought home from Bunker Hill and a silver spoon (inscribed "J.A.B. 1776") which once belonged to General Burgoyne, that General Learned brought home from the Battle of Saratoga.

A bill has been filed in the Massachusetts Legislature to honor Oxford's native, General Ebenezer Learned, on October 7, 1977, the Two Hundredth Anniversary of the Battle of Saratoga.

#### HEARINGS ON CHILD PORNOGRAPHY REVEAL GRAVITY OF PROBLEM

**HON. MARIO BIAGGI**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. BIAGGI. Mr. Speaker, on Tuesday, May 31, I had the occasion to chair a hearing of the House Select Education Subcommittee examining the shock-



ing spread of child pornography in this Nation. We conducted the hearing at the Covenant House in the Times Square area of New York City. The Covenant House is an agency dedicated to providing care and services for runaways. The program is aimed at preventing these nomadic children from being swooped up by a vicious multi-million-dollar child pornography industry.

The committee was pleased to receive testimony from the executive director of Covenant House, Father Bruce Ritter. His testimony was eloquent and depicted in a most graphic form, the horrors which befall victims of child pornography. I offer his testimony for the close consideration of my colleagues.

Legislation including my bill H.R. 5522 has been proposed to slap new penalties on those persons procuring children 16 and under for pornography as well as those who transport, ship, or use the mail to distribute these materials. The legislation needs careful deliberation if we are to effectively deal with this menace.

I feel that the close attention of the Congress must continue to be focused on this problem and we should not rest until we have dismantled the child pornography industry and assisted its helpless victims.

At this point I offer Father Ritter's testimony as well as my opening statement delivered at the hearing:

#### TESTIMONY OF FATHER BRUCE RITTER

I am Fr. Bruce Ritter, a Franciscan priest, and executive director of Covenant House, a child care agency in New York City, that specializes in caring for runaway and homeless teenagers. I am delighted that Covenant House has been able to offer our facilities to host these important public hearings, and I am honored to have this opportunity to testify before this distinguished House Subcommittee on Select Education concerning the proposed Child Exploitation Prevention Act.

I think it important that I establish my credentials to address this subcommittee on the subject of children and pornography. Ten years ago, in order to exercise a ministry of services to the urban poor, in 1968, I left a teaching career at Manhattan College and moved into a tenement on East 7th Street in the East Village of Manhattan. Almost immediately I became involved in the tragic problem of many thousands of homeless, drifting children in our city. One night, six kids, all under 16, knocked on my door at two o'clock in the morning. They asked if they could sleep on the floor of my apartment. I said yes and gave them some food and blankets and they lined up in a row on my living room floor and went to sleep. The next day—it was very cold and snowy outside—the kids did not want to go away. One kid did go outside and brought back four more kids: this is the rest of our family, he said. I asked them where they had been staying and they told me: in one of the abandoned buildings on the block, but that they had been burned out the night before by some junkies because the junkies wanted to exploit the kids sexually and they had had quite a bit of that. They had arrived in the East Village via Yonkers where a friendly couple had taken in these runaway kids for several days. The price they had to pay was to star in a pornographic movie, which they did. They were good kids and really did not want to do that so they came down to the East Village . . .

I tried very hard to find a place for these kids in the child welfare system, but could not. So (feeling chagrined and angry that I had been caught by my own rhetoric—I was

in the East Village to be useful, I had a bed and these kids did not) I kept them. I moved some bunk beds into my apartment—four small rooms—and the kids moved in with me. Overnight I became the unwilling Father of ten street kids—something that a background in medieval theology does not quite prepare one for. I thought the solution a temporary one—that human ingenuity would find a way to solve their problem, but the next day two more kids came in, and the day after that, a couple more, so as the junkies in my building died or got busted or moved away, I would take over the apartment, clean and paint it, and move kids in, using volunteers from Manhattan College and Fordham to help me care for them.

That was the beginning of Covenant House. For four years we operated extra legem, as an illegal child care agency, caring for thousands of drifting, homeless children, very many of them victims of sexual exploitation, as were my first ten kids. (Life on the street inevitably, inexorably leads to that for many thousands.) We did not have a charter, a staff, a budget or any funding sources. We did have hundreds and hundreds of runaway and throwaway kids knocking on our doors at any hour of the day and night. In 1972 because of the pressures of these kinds and the lack of money and staff we decided to become legal and Covenant House obtained a charter empowering us to care for a large variety of homeless kids especially nomads and runaways. Today we operate nine residences with a capacity of 120 children and a 24 hour no-questions-asked crisis intervention center here on Eighth Avenue called Under Twenty-one. It is located next to this auditorium.

Times Square as you well know, is the entertainment mecca of New York City and many other Eastern States as well. It is also, as you know, the unofficial redlight district of New York City and one of the centers of the sex industry in the world. It is estimated that this sex industry in the ten blocks surrounding the site of these hearings is a billion and a half dollars a year. Every day hundreds of young people are in this area to make their living in the sex business. Most of them are runaway, walkaway, throwaway, self-emancipated kids, urban nomads, quite easily victimized and exploited by our sex merchants.

When boys or girls are 14 or 15 or 16—or 17 and 18—and they are cold, hungry, homeless, very scared, with no place to stay and no marketable skills, they market themselves. Here in Times Square the sex industry is quite willing to employ them. Indeed, they are vigorously sought out and recruited: the raw materials, the commodities for a sick, savage industry that preys on the children of the poor. The Minnesota Strip and 42d Street are a huge meat market where hundreds of children are forced to display their wares every day.

Because of the concern of the Roman Catholic Church of New York for the thousands of exploited young people in the Times Square area of our city, His Eminence, Cardinal Cooke has directed us to open our Under Twenty-one Center. In the first two months of operation, almost 1,000 children have come to us for help, seeking a bed, food, shelter, protection from their pimps, a job, a chance to go to school. Some desperately want to return home. Others simply can't because they are just not wanted or because no home exists for them.

Let the distinguished members of this committee think I am speaking in generalities, the following are recent occurrences at our center next door. Last Tuesday a boy came to Under Twenty-one—he was 15—a very good looking kid, a runaway from Connecticut. He was approached in Port Authority Bus Terminal and offered quite a bit of money to star in a filmed sex orgy. Last week, Wednesday, a girl, also fifteen, a runaway from Queens was wine and dined and almost persuaded by a so-called "fashion

coordinator" who just happened to run a model studio on 49th Street to pose for photographs and to join him and some friends at a "party" for some film making. Before that, a girl that came to our program for help had accepted a similar offer, did pose, and was then raped. Before that, a boy of 17, a go-go boy who danced on a bar on Second Avenue—if the Johns liked him they would stick a 5 dollar bill in his jock strap. He was also a stripper in a male burlesque house on Eighth Avenue: four performances a night. His performances were filmed. Before that a 14 year old girl, a runaway from out of state, was seduced, raped, held prisoner by a friendly couple in the neighborhood who got her a false I.D., saying she was 18 and got her a job as a stripper on Eighth Avenue.

The horror stories are literally endless. Our society has permitted to develop an enormous sex industry that we seem powerless to do anything about. Under the protection of the First Amendment we are witnessing an almost anything goes explosion of exploitation and abuse that is destroying thousands of young people every year. Our political leaders our law enforcement agencies, the judiciary blame each other and point accusatory fingers elsewhere.

In the last three weeks I have received, in response to a column about Under Twenty-one by Mr. William Reel that appeared in the New York Daily News May 6, 1977, almost two thousand letters from people who are outraged and sickened by the enormous outpouring of filth, particularly regarding the sexual exploitation and abuse of our children for money by our sexual entrepreneurs. One common theme runs through these letters: why don't the politicians and judges and police do something about it. Why do they permit it. Many are concerned that this recent interest in pornography by just about everybody, and in particular the abuse of children, will, like most popular interests of the moment, soon fade and that nothing will be done. I applaud the distinguished members of Congress who are here today to show their interest in this problem. I hope they will take back to the full membership of their committee and the Congress the urgent concern of the citizens of this city that something in fact be done to protect our children.

I would like now to address myself specifically to the actual legislation, H.R. 4571, the so-called Child Exploitation Prevention Act:

1. The focus of this act is, I feel, much too narrow, since it does not also explicitly address the problem of child prostitution. Child pornography and child prostitution are two sides of the same coin. I have never met a child involved in pornography that was not also somehow involved with prostitution or that did not soon get into it.

2. Our children must also be protected from a too compliant, too lenient judiciary that apparently looks on the sexual abuse of children as a minor peccadillo. The new legislation should not only contain stiff penalties but make them mandatory.

3. The age up to which children should be protected from these abuses should certainly be 18, bringing this legislation in line with that general understanding of our society that brings a child to majority at 18, giving them the right to vote and to serve in our armed services, etc. The legislation, already passed by the Assembly in Albany, and pending before the New York State Senate, and your own proposed legislation, established only that children 15 and under receive the protection of law. In my view, a child of 16 and 17 needs the same protection. There is nothing particularly magical about a sixteenth birthday cake. It surely cannot be the seems to be the intent, if only by default, of this legislation.

4. Furthermore, if it is going to be a crime to make and distribute these films involving children, it should be a crime to show them. If it is a crime to make, distribute and watch

a snuff film because it shows a crime of murder actually being committed—forget the very horror of it—it should be a crime to make, distribute and show a film that depicts the crime of child abuse being committed.

Distinguished members of this subcommittee, how much filth must we wallow in before our lawmakers will give us the relief we obviously are crying out for? Many of our citizens are quite frankly questioning the will and intent of our political leaders to do something about this mess. We have a pure food and drug administration in our country that does not hesitate to take off the market very lucrative cosmetics and drugs that are found to be harmful to our people. The fact that children are being exploited and destroyed for money is such a self-evident reality that it is beyond question. Can we not take off the shelves of our sex super markets up and down this street the poisonous materials that show people in the very act of corrupting our young people? Can we not pass effective legislation that will protect them and us from these purveyors and producers of every kind of grossness?

We all look with a kind of sick sympathetic horror at the voyeur found peeping under some window blind. Yet we permit thousands of such voyeurs to crowd our porno book stores and theatres to be educated in depravity, buying books that teach them how to seduce a child and watching films showing pre-teens engaged in all kinds of sexual activity. And we blame the First Amendment.

Most of the legal efforts to establish safeguards for our children seem to run afoul of the First Amendment guarantees of freedom of speech. Surely no right thinking person can hold that the First Amendment was written by the framers of our constitution to protect pornographers and the sex lords that use up children to make money. The First Amendment does not give anyone the right to cry fire in a crowded theatre. It does not give anyone the right to abuse sexually and use and exploit children either. It is inconceivable to me and to many Americans why our Congress and our legislators cannot pass effective legislation.

The time for pious rhetoric and expressions of concern is long past. We need appropriate, effective action. I doubt that the voters of this country will be satisfied with less for much longer. A great city is dying at its heart because nothing can be done. We are wallowing in unspeakable filth and we wring our hands about the First Amendment. More importantly, our children are being daily, used and exploited and sometimes being killed while we stand around helplessly.

Is it wrong to be outraged? Did we not see this coming long ago? Has outrage become too unsophisticated for us? Are we incapable of saying very simply that this is wrong and we will not tolerate it any longer? For God's sake, gentlemen, and for the sake of the children, do something about it.

#### OPENING STATEMENT OF THE HONORABLE MARIO BLAGGI

As chairman of this morning's hearing of the House Select Education Subcommittee, I welcome my colleagues, our distinguished witnesses and guests. This promises to be a sobering day for we will be discussing a shocking and deplorable subject—the use of children in pornography.

There is a highly sophisticated and organized child pornography industry operating in this Nation. It has already captured an estimated 300,000 children nationally as victims. It has produced more than 264 different publications sold nationally depicting pornographic activities involving children as young as three years old. The industry is both national and international in scope. Large quantities of pornographic materials are imported each year, primarily from

Europe. Hundreds of children from Mexico are smuggled into this Nation each year to engage in child pornography.

Who are the victims of child pornography? They vary in age and circumstance. Some come from broken homes—some are victims of child abuse and neglect, some are even foster children recruited from homes for pornography. While the particulars about each victim may vary—they do share some things in common.

As victims, they endure sexual abuse and exploitation. They become helpless victims of extortion—many are induced into pornography through drugs—subsequently forming an addiction. Some eventually turn to serious crime. In reality, we are talking about children being transformed into merchandise in a massive sex for sale operation.

We know that some of the victims of child pornography come from the ranks of the one million runaway children of this Nation. Our hearing this morning is being conducted in a facility which assists the thousands of nomadic children of New York City. We will receive testimony from Father Bruce Ritter, discussing the relationship of runaway children to pornography.

It is obvious that the great public outcry condemning the spread of child pornography must be translated into legislation on the local, State and Federal levels. A main focus of this morning's hearing will be on a number of Federal legislative proposals, including my bill, H.R. 5522, which proposes new and stiff penalties on those persons procuring children under 16 for pornography. Penalties under my bill also apply to those persons transporting, shipping or mailing such pornographic materials using interstate commerce. Finally, we also hope to discuss the feasibility of imposing criminal sanctions against those parents and guardians who knowingly consent to their child being used for pornography.

As an original sponsor of the 1974 child abuse prevention and treatment act, I am aware of the relationship between child pornography and child abuse. My concern was reflected in an amendment I offered, which was accepted by the full House and Education and Labor Committee, to the child abuse act extension, adding sexual exploitation as a definition of child abuse. The purpose of this amendment is to allow some of the treatment funds under the act to aid victims of child pornography.

We have seen movement on the part of States to deal with this problem. Legislation imposing strict new penalties against pornographers has already been passed in the Louisiana legislature, and most recently in the New York State assembly. Numerous other States are considering new legislation in this area. The concern of Congress can in part, be reflected in our appearance here today. One thing is obvious, we must wage the war against child pornography from all fronts. Child pornographers who are nothing more than traffickers in human perversion, must be punished. The victims of child pornography must be helped.

The scourge of child pornography has shocked the conscience of a nation. It must be dealt with before its poison is allowed to spread.

#### TREASURY DEPARTMENT AWARD IS GIVEN TO PHILADELPHIA'S MAYOR RIZZO

#### HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. EILBERG. Mr. Speaker, I am pleased to be able to announce that

Philadelphia Mayor Frank L. Rizzo has received an award from the U.S. Treasury Department for his efforts in increasing the number of city employees who purchase U.S. savings bonds.

The framed plaque was presented by Larry Lowder, Regional Director, U.S. Savings Bonds Division, Treasury Department, at a ceremony in City Hall.

Since Mayor Rizzo came to office, city employee participation in the savings bond plan rose from 19 percent to 25 percent or 7,171 bond buyers to 9,017.

The presentation by Lowder was accompanied by Mayor Rizzo's proclamation designating the month of June as "U.S. Savings Bonds Month in Philadelphia."

The proclamation urges Philadelphians to use the payroll savings plan where they work or the bond-a-month plan where they bank.

#### MEMORIAL DAY SPEECH OF JUDGE ALDONA APPLETON

#### HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. PATTEN. Mr. Speaker, I wish all Americans had the spirit that the Polish veterans who joined the U.S. Forces in Italy have. Many of them crossed the channel with General Eisenhower.

This past Monday, I attended the Polish Veterans Memorial Service in city hall in Perth Amboy, and that spirit was shown by my good friend, Judge Aldona Appleton.

I wanted to share her comments with my colleagues today:

#### MEMORIAL DAY SPEECH OF JUDGE ALDONA APPLETON

We have gathered here today to pay tribute to those men who gave their lives for us—they who accomplished their duty in this world and left an indelible mark on our hearts.

For the sake of these men who gave their lives for us let us resolve that their lives were not given in vain.

Let us resolve that the principles which actuated them have inspired us to carry on their work.

I am proud to join you in preserving the memory of these fine men. May I congratulate you, the Polish veterans of World War II, for holding these annual services to preserve the memory of these honored men.

As we honor these men, let us recall that they gave their lives so that we may continue to enjoy the happiness of meeting freely (as we are doing now)—of speaking freely—of praying freely and of living in dignity as decent human beings.

Let us learn from these men, that even during the days of peace we must continue to keep fighting to preserve our democracy. We must be as ready to meet the obligations of peace as they were ready to meet the obligations of war.

Today we are all soldiers of peace—and as such we must be ready to come to the aid of our country.

This country must be prepared at all times during peace and war.

When it needs to be protected from enemies on the outside it is the responsibility of the men in uniform—of Congress and the President of the United States.



But when our country needs to be kept safe from dangers inside of our country—then we, as soldiers of peace—must keep fighting at all times to keep our country safe.

To accomplish this we must work together in one whole part. Only then will we have greatness and peace.

Our Nation has been strong because we had faith in God and faith in our fellow men—we were willing to help one another.

We in the United States have so much to teach the world and so much to give the world, but we must continue to keep faith with each other.

There is too much weakness—too much selfishness and too much greed today.

How long can America stand this erosion of faith and morals?

We must carry on the things which made America great. That's what these men died for—those things which are guaranteed in the Declaration of Independence and the American Constitution.

We, Americans in whose veins flows Polish blood, let us be guided by Kosciuszko and Pulaski—the ideas for which they sacrificed everything—their fortunes and one gave his life. Let them not have died in vain.

As we pay tribute to these men today—let us include all the Americans of Polish descent who fought for peace and freedom in every battle this country had since the beginning of America. And let us include those who fought with you at Monte Cassino when you helped turn the tide of war towards victory for peace.

Now let us bow our heads in prayer for all these men and ask that God give us strength to carry on the principles which actuated these men whom we honor today.

Towards that end—may God guide us.

#### DEALING WITH ILLEGAL ALIENS

**HON. ELIZABETH HOLTZMAN**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Ms. HOLTZMAN. Mr. Speaker, the problem of dealing with illegal aliens in the United States is one of the most complex and controversial issues facing the new administration and the Congress.

I commend to my colleagues an excellent and important article from the June 1 New York Times written by Prof. Wayne Cornelius of MIT, who has done a substantial amount of research in this field. The views expressed deserve careful study.

The text follows:

[From The New York Times, June 1, 1977]  
WHEN THE DOOR IS CLOSED TO ILLEGAL ALIENS,  
WHO PAYS?

(By Wayne A. Cornelius)

CAMBRIDGE, MASS.—A very predictable thing happens in this country whenever the economy takes a sharp turn for the worst: The illegal alien is rediscovered. Politicians, journalists, organized labor, and other interest groups rush to blame him for every imaginable problem afflicting American society, from high unemployment to rising crime rates, escalating social-service costs, overpopulation, and balance-of-payments deficits.

Immigration authorities crank out ever-more-frightening "guess-timates" of the numbers of illegal aliens "silently invading" the country. The public is warned in urgent and ominous tones that illegal aliens are out to take their jobs away and add billions of dollars to their tax bills.

We are now witnessing yet another "rediscovery" of the illegal alien. Pressures for new restrictive measures—particularly legislation that would impose civil or criminal penalties and fines on United States employers who "knowingly" hire illegal aliens—have mounted steadily. Such restrictive measures form the core of the policy package reportedly recommended to President Carter by his Cabinet-level task force on illegal aliens, and they have been proposed repeatedly by various members of Congress.

The case for a more restrictive immigration policy is based on three principal assumptions: that illegal aliens compete effectively with, and displace, large numbers of American workers; that the benefits to American society resulting from the aliens' contribution of low-cost labor are exceeded by the "social costs" resulting from their presence here; and that most illegal aliens entering the United States eventually settle here permanently, thus imposing an increasingly heavy, long-term burden upon the society.

There is as yet no direct evidence to support any of these assumptions, at least with respect to illegal aliens from Mexico, who still constitute at least 60 to 65 percent of the total flow and more than 90 percent of the illegal aliens apprehended each year.

Where careful independent studies of the impact of illegal immigration on local labor markets have been made, they have found no evidence of large-scale displacement of legal resident workers by illegal aliens. Studies have also shown that Mexican illegals make amazingly little use of tax-supported social services while they are in the United States, and that the cost of services they do use is far outweighed by their contributions to Social Security and income tax revenues.

There is also abundant evidence indicating that the vast majority of illegal aliens from Mexico continue to maintain a pattern of "shuttle" migration most of them returning to Mexico after six months or less of employment in the United States. In fact, studies have shown that only a small minority of Mexican illegals even aspire to settle permanently in the United States.

While illegal aliens from countries other than Mexico do seem to stay longer and make more use of social services, there is still no reliable evidence that they compete effectively with American workers for desirable jobs. The typical job held by the illegal alien, regardless of nationality, would not provide the average American family with more than a subsistence standard of living. In most states, it would provide less income than welfare payments.

Certainly in some geographic areas, types of enterprises, and job categories, illegal aliens may depress wage levels or "take jobs away" from American workers. But there is simply no hard evidence that these effects are as widespread or as serious as most policy-makers and the general public seem to believe.

The notion that curtailing illegal immigration will significantly reduce unemployment among the young, the unskilled, members of minority groups, and other sectors of the United States population allegedly being displaced by illegal aliens may prove to be a cruel illusion.

Many of the jobs "liberated" in this way are likely to be eliminated through mechanization or through bankruptcy of the enterprises involved, and many others cannot be "up-graded" sufficiently—even with higher wages and shorter hours—to make them attractive to native workers.

While the benefits of a more restrictive immigration policy to the American worker have been grossly exaggerated, the costs of such a policy to both the United States and the illegal alien's countries of origin have been consistently underestimated.

The impact of "closing the door" to illegal aliens will be felt by the American consumer,

in the form of higher prices for food and many other products currently produced with alien labor. Failures among small businesses—those with 25 or fewer employees, which hire more than half of the illegal aliens from Mexico—will also increase, eliminating jobs not only for illegals but for native Americans.

But the adverse impact of restrictive measures will be felt most intensely in Mexico, which is currently struggling to recover from its most serious economic crisis since the 1930's. At least 20 percent of the population—and a much higher proportion of the rural poor—depend upon wages earned in the United States for a large share of their cash income.

An employer-sanction law that is even partly effective in denying jobs to illegal aliens is likely to produce economic dislocations and human suffering on a massive scale within Mexico. This will not be simply a problem for Mexico; the implications for United States economic and foreign policy interests are obvious.

All available evidence indicates that employer sanctions and other restrictive measures—short of erecting a Berlin-type wall—will fail to deter economically desperate Mexicans from seeking employment in the United States.

In the long run, every dollar that is spent trying to enforce new restrictive policies would be much better spent on programs to reduce the "push" factors within Mexico and other sending countries that are primarily responsible for illegal immigration: rural unemployment and underemployment, low incomes, and rapid population growth.

For example, studies indicate that resources invested in labor-intensive, small-scale rural industries could significantly reduce the flow of illegal aliens within five to eight years.

In the short run, the best approach would be an expanded program of temporary worker visas permitting up to six months of employment in the United States each year. A temporary-worker program that did not require a prearranged contract between the alien worker and a particular United States employer (in contrast to the former *bracero* program of contract labor) would minimize exploitation of alien workers while reducing illegal immigration and keeping open a critically important safety valve for Mexico. It would also benefit United States workers, since the use of legal alien labor is likely to have a less depressing effect on wages and working conditions than the use of illegal alien labor.

It is ironic that a more restrictive immigration policy is being advocated by many at a point in our history when declining birth rates, the end of unlimited legal immigration, and an American labor force with more education and higher job expectations than ever before all foreshadow a shortage of workers to fill low-skill, low-wage, low-status jobs in the United States economy. When this occurs, in the not-too-distant future, the aliens who are now viewed as a burden on United States society may be seen as a highly valuable asset.

#### FOOD AND POPULATION: X

**HON. FREDERICK W. RICHMOND**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. RICHMOND. Mr. Speaker, Anthony Wayne Smith, the president and general counsel of the National Parks and Conservation Association of Washington, D.C., has written a beautiful edi-

torial in the June 1977, edition of this organization's environmental journal.

Spring has arrived to most parts of America. We all can see it in the birds, the flowers, the cool rivers and the farms beginning to bloom. Yet another spring has come to America, says Smith. Our public life has once again become free, more open. We have a new President and a new Congress.

There is hope now that conservation and the protection of America's natural environment and agricultural heritage will become a moral imperative, rather than simply an occasional fad somewhere down the list of America's concerns.

As Mr. Smith explains:

The humane purposes of an industrial society are not served by a squandering of natural resources or the dissipation of the industrial product. The true industrial purpose is the release of human beings from drudgery and poverty into a life of security, sufficiency, leisure, and opportunity for esthetic and intellectual fulfillment. Towards these ends conservation is a moral imperative.

But much will depend on decisions in matters which have not thus far had much attention. Whether we are interested in energy, water, or the control of urban sprawl, the quality of life in America cannot be improved, nor even sustained, unless we can bring our numbers under control.

What is true of America is also true for the world. Unfortunately, too many of the proposed solutions to alleviate world poverty rely simply on redistributing wealth or resources. These answers will make little difference if the foundation upon which our economies rest—our natural resources and environment—is being irreversibly destroyed by the pressures of growing populations.

Striking a theme which he underlined as a participant in the Environmental Agenda's Task Force report in February, Mr. Smith wisely points out:

Suppose it to be true, for the sake of argument, that the world could feed its present population adequately, without destructive effect on the planetary ecosystem, if the wealth were equitably distributed. It is not so distributed, and there is small chance that this will happen before famine overtakes us and solves the problem brutally by a rapid rise in death rates. Direct approaches to the problem of proliferation become imperative in the name of humanity. If our overseas aid is to be coupled with libertarian issues and to economic efficiency, then let it be linked as well to effective efforts at the reduction in birth rates.

The editorial by Anthony Wayne Smith is eloquent and I wish to bring it to the attention of my colleagues at this time:

#### AN AMERICAN SPRINGTIME

Springtime came late this year after the hard winter, but poured its abundance of new life into the world with its old extravagance. After the melting snows, the spring peepers and chorus frogs awoke as always and filled the warming nights with ancient music. And then came the birds, and the morning choruses, robins searching the lawns, meadowlarks calling in the fields, red-winged blackbirds dropping metallic notes from tree-tops. You may follow the cool

creek through the pasture, discover the fragile trout lily in an earthy nook, and everywhere bluebells. You can breathe more freely again, looking ahead toward the abundance of the unfolding year.

Spring came also to the public life of America. For those who remembered an old mission toward freedom but found themselves too often locked in partnership with tyranny, there was a new call for liberty. In place of the habitual acceptance of a deadly weight of armaments, there was a voice for at least a beginning cut in the arsenals of insanity. And instead of drifting with the tide of nuclear proliferation, the new President proposed to stem it.

In keeping with the spirit of Spring, the rivers of America may once again run free. No doubt the last useless and destructive dam has not yet been built, but the challenge has been raised. We look ahead to strong programs for the reforestation of the land, for the rigorous control of strip mining for the protection of farmlands, for the recovery of the forests. And we have confidence that as the mortal dangers of nuclear power are constantly more clearly understood, this nation first, and others perhaps later, will turn toward the sun and the winds to harness by an advanced technology the energy needed by an industrial society.

The revolution which has occurred may be much more profound than supposed. When the new people arrived, in many cases there had indeed been nobody there. Youthful enthusiasts stepped into positions of power, and no one to gainsay them. Their judgment in some instances has been poor, and their inexperience occasionally colossal. But their spirits are high, and their desire for change; new deeds are afoot in the land.

For our part, with our particular mission for the wildlands of America, we shall press for the better protection of the great primeval national parks with more confidence that our voices will be heard. We shall concern ourselves with the difficult problems of plans and money for the recreational parks near the cities with more assurance that the needs of city people for contact with nature will be understood by those in power. We shall believe it possible once again to unfold programs for the restoration of generous open space in the cities, coupled with industries and homes for all.

We shall believe that the new legislation governing the forestry agencies will be administered for the restoration of natural balances, not for simple-minded economic productivity. We shall dare to suppose that an Administration concerned for human rights will lend its aid toward the humane treatment of animals and the survival of endangered species everywhere.

We shall watch for and support a rigorous restraint upon the deadly chemicals, pesticides, herbicides, additives, nuclear wastes, the modern multiplicity of carcinogenics, which have been poisoning our world. A vast indignation has been building up throughout the nation about these atrocious dangers; the new President will have strong support from the people in these matters, in spite of the interests, and he has proposed to stay close to the people.

We welcome the emphasis on conservation expressed in the President's message on energy and elsewhere. The humane purposes of an industrial society are not served by a squandering of natural resources or the dissipation of the industrial product. The true industrial purpose is the release of human beings from drudgery and poverty into a life of security, sufficiency, leisure, and opportunity for esthetic and intellectual fulfillment. Toward these ends conservation is indeed a moral imperative.

There may well be a closer conjunction between the President and Congress than

some of the first skirmishes have suggested. The new men and women who came to the Capitol in recent years arrived during a winter of adversity in Presidential attitudes. It was not Congress which failed the nation in respect to strip mining. Nor was it Congress that denied funding to the national parks. Many of the obstructionists have taken their seniority and departed. A revitalized committee structure promises new energy, greater competence, a more magnanimous outlook in Congress in the years ahead. The new Congress can be expected to welcome the new leadership in the White House in most matters, and to support, not resist the fresh initiatives.

Much will depend on decisions in matters which have not thus far had much attention. The quality of life in America cannot be improved, nor even sustained, unless we can bring our numbers under control. The younger generations have done well in recent years in establishing the small family as the moral norm. The natural increase of the American nation will soon level off; but the tides of illegal immigration threaten to submerge all these good efforts. Conservationists should be making common cause with organized labor to protect American jobs and the American environment. Programs should be developed for jobs on farms for the unemployed of the cities; farm organizations should support such programs instead of resisting immigration controls. There is strong sentiment in Congress for action; when will the Administration move?

The population issue worldwide is more deadly. Suppose it to be true, for the sake of argument, that the world could feed its present population adequately, without a destructive effect on the planetary ecosystem, if the wealth were equitably distributed. It is not so distributed, and there is small chance that this will happen before famine overtakes us and solves the problem brutally by a rapid rise in death rates. Direct approaches to the problem of proliferation become imperative in the name of humanity. If our overseas aid is to be coupled to libertarian issues and to economic efficiency, then let it be linked as well to effective efforts at the reduction of birth rates.

As environmentalists we are inveterate internationalists. The world movement for national parks was an early-blooming flower of planetary cooperation. One of America's most generous gifts to the world was the example of its National Park System. It was a gift that belied our supposed materialism. That it was accepted so readily and spread so rapidly around the planet is a tribute to the love of life and beauty which lies serenely nonetheless in the depths of the human heart everywhere and always. But the contribution of Western Europe was of incalculable historic significance. And more recently the heroism of so many of the people who inherited responsibility for the great parks of Africa has set an example for devotion everywhere.

The United Nations Conference on the Law of the Sea resumes its sessions as we go to press. Unfinished, hardly begun, is the vast work for the protection of the oceanic fisheries, vital to the food supply of a hungry planet, and the restoration of the endangered marine mammals. Unfinished also is the salvation of the oceans from the pollution which is the evil hallmark of irresponsible economic systems. Also unsolved as yet is the administration of the great wealth of minerals which is thought to lie on the deep floors of the oceans, whether for the benefit of a few or of all, and whether with care for the environmental matrix of life, or ruthlessly, with the death of the world just ahead. The President's choice of Ambassador Richardson as the head of the American delegation to Law of the Sea, one



of the most experienced and talented public servants America has produced in recent years, bodes well for the outcome. Environmentalists everywhere should support these efforts.

Three million years or so: a long, long time have man-like creatures walked the earth. Just recently we left the savannahs for the cultivated fields, exploring the ways of agriculture. More recently we built the sprawling cities, centers of intense cooperation, but of lost contact with surrounding life. A short, short time ago came writing; later the ways of science; and now our powers outrun our sense.

The crisis deepens; on every hand the danger seems to mount; as persons and as nations we live in fear and trembling. Yet now perhaps, here in America, the winter may be lifting. Faith, hope, and charity, as in other dark days long ago, will be needed to warm our hearts until the springtime be fulfilled.

#### CONSUMER EDUCATION PROJECTS EXPANDING

**HON. LESTER L. WOLFF**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. WOLFF. Mr. Speaker, I would like to call to the attention of my colleagues the current consumer education project of the Office of Consumer's Education of the Department of Health, Education, and Welfare. I feel that this joint effort by labor officials, educational institutions, and community organizations is most commendable and worthy of note. The following article appeared originally in the AFL-CIO News, and is reprinted here in its entirety. "Consumer Education Projects Expanding."

The article follows:

#### CONSUMER EDUCATION PROJECTS EXPANDING

(By Sidney Margolius)

In a number of States, labor officials are joining with schools, colleges and community organizations to help operate the most thorough nationwide effort yet to provide urgently needed consumer education for both school students and adults.

In the first year of this new national consumer education effort, the federal Office of Consumer's Education (OCE) has financed 66 diversified projects in various states, selected from 839 applications, for a total of \$3 million. The OCE recently has been accepting applications for another \$3 million worth of financing of grass roots projects, with the deadline Mar. 10. The government grants are used to supplement cash and other resources supplied by the community groups running the educational projects.

While somewhat over half the projects are being sponsored by traditional educational institutions such as schools and colleges, the OCE sees its effort as different from much of the traditional consumer education in schools. Such classes usually are related to homemaking business education or industrial arts.

In this new concept, school students would get consumer education in a wide variety of subject areas, such as consumer math in a regular math course.

But just as important, the projects include consumer education for adults, and especially those with special needs or those trying

to manage on relatively small incomes. The nonschool groups include senior citizens, handicapped people, industrial workers, and low income families.

They share common consumer problems, of course, such as high food costs, but have their own special problems. The classes, consumer information clinics and service activities in which these special groups are now engaged, are aimed at developing the knowledge needed to cope with their special problems.

Several of the projects seek to teach consumers their legal rights. One, operated by the Tampa, Fla., Legal Services, helps answer individual legal questions but also tries to educate the public through group discussions of rights and responsibilities.

Another project, in Flagstaff, Ariz., is concentrating on consumer legal education for low income people.

An interesting program sponsored by the New York City Community College, called "seniors teaching seniors," is training older people to be consumer educators. This is a job at which seniors can be very useful and effective with their long experience in surviving depressions and inflations.

Several projects are helping native Americans and Spanish-speaking groups solve urgent consumer problems. In the west, the Coalition of Indian Controlled School Boards is developing a consumer education program for reservation schools.

Several projects are aimed at helping handicapped consumers, such as the deaf. Also noteworthy are projects being developed to help people returning to society. The Southern Illinois University Dept. of Family Economics is planning consumer education for prison residents and parolees. The University of Alabama is sponsoring a project for prerelease mental patients.

A project under way in San Francisco, which is potentially useful for other communities, is concerned with health education. It aims especially to educate consumers against useless and sometimes even harmful quack medical products and services.

In general the projects have been designed so that the methods and materials they develop can be used in other communities and schools around the country. Thus, the \$3 million authorized so far by Congress for each of the three years should have a very useful ripple effect.

As directly useful as the services flowing from these pilot projects may be to the individual groups, another value is what the country as a whole is going to learn about specific consumer information and service needs. The community groups and educators running these projects may learn as much from the people being educated as they will from the teachers.

#### PERSONAL EXPLANATION

**HON. PATRICIA SCHROEDER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mrs. SCHROEDER. Mr. Speaker, Wednesday, June 1, I was absent. Had I been present I would have voted as follows:

Rollcall No. 292, "yea."  
Rollcall No. 293, "yea."  
Rollcall No. 294, "yea."  
Rollcall No. 295, "yea."  
Rollcall No. 296, "yea."

#### THE PUBLIC TRANSPORTATION TAX INCENTIVE ACT

**HON. THOMAS B. EVANS, JR.**

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. EVANS of Delaware. Mr. Speaker, I am today introducing the Public Transportation Tax Incentive Act of 1977. This legislation would stimulate public transportation use in the United States by permitting persons to deduct from their Federal tax bill the costs of commuting to and from work on public transportation.

I am convinced that we must encourage greater use of mass transit if we are to make a dent in our Nation's energy problems. There are simply too many cars on the road today. This fact is especially true in urban areas where public mass transportation could have a significant impact in lowering energy usage and traffic congestion.

Since its inception, the Urban Mass Transit Administration has received a grand total of \$16.1 billion in budget authority. This is obviously a significant amount of money, but it pales in comparison to the funding we have provided for highway projects in this country. As of December 31, 1976, the Federal Government has provided \$55.6 billion in funding for the Interstate System and another \$26.1 billion in Federal aid to primary, secondary and urban highway systems. That works out to some \$81 billion, or more than five times the amount spent on mass transportation.

I certainly do not want to disparage the interstate, primary, secondary and urban highway systems. They have brought economic growth and prosperity to almost every section of our country. But we must work to achieve a greater balance between funds for highway projects and those of mass transit. The Nation's energy shortage makes this need doubly urgent.

My legislation would permit the deduction of costs incurred by individuals using public transportation between one's residence and his place of employment. Any public transportation system which provides scheduled common carrier passenger land transportation, along regular routes is eligible for the deduction. This includes such transportation systems as subways, buses, commuter trains, trolleys and other light rail systems. It would not include taxis, since that vehicle does not follow a scheduled and regular route nor would it allow persons to deduct the cost of airfare between cities as a commuting expense.

Mr. Speaker, most public transportation systems operate at a loss. Obviously, if new ridership is encouraged by our Nation's tax policy, that operating loss could be significantly cut, thus allowing more Federal dollars to go into capital programs and less into operating subsidies.

The Joint Committee on Taxation estimates that my proposal would decrease

tax revenues by approximately \$300 million. Yet when this figure is compared to the social benefits it would bring to our society as well as the economic benefits it will bring to public transportation systems throughout the country, I say that it is money well spent.

Our Nation's cities are in trouble. One of the reasons for this condition is the lack of adequate transportation resources. Urban transportation is caught in a vicious circle. On one hand, ridership is low because service is generally poor. Yet, on the other hand, service cannot improve in most localities because user revenues are not sufficient to cover even operating expenses, much less capital improvements.

My bill would break this vicious circle by encouraging people to make greater use of mass transit. Some would prefer to encourage ridership through punitive means, such as high gasoline taxes or parking fees, or even banning cars from downtown areas. That is a "stick" approach. I prefer to use the "carrot" approach by rewarding people economically who use mass transportation.

We need a better mass transit system in this country. The Public Transportation Tax Incentive Act is one way to encourage development of that system, and I urge the House to consider it promptly.

#### HUMAN RIGHTS IN THAILAND

### HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. STARK. Mr. Speaker, while in Bangkok recently I met with several non-political representatives of various religious groups concerned about the severe infringement of human rights presently directed against dissidents and minorities in Thailand. The religious groups have been working fervently to protect the rights of individuals arbitrarily detained on the vague charge of endangering society. These human rights groups, and the political prisoners they seek help for, eagerly look to the United States to fulfill President Carter's commitment to human rights abroad. I submit this "Summary Report on the Human Rights Situation in Thailand" to the CONGRESSIONAL RECORD as this problem deserves our closest attention:

COMPILED BY THE COORDINATING GROUP FOR RELIGION IN SOCIETY, THAILAND

After the military coup on 6th October, 1976, many thousands of people were arrested under martial law edicts, and have still not been brought to trial.

Those arrested fall into main categories: Over 3,000 people arrested at Thammasat University prior to the coup. Most of those were rapidly released on bail, but was only refused to thirty, however a large number of poor people who could not possibly afford the \$1,000.00 bail stayed in jail for almost five months. Most of these had nothing to do with the Thammasat demonstration but included Janitors, Noodle Vendors, and ordinary spectators. Now, all except for 30 of those arrested at Thammasat have been released. Only 110 of those arrested are

being charged, (mainly for being communists) and will be tried at an unspecified time in a military court. They are not entitled to legal representation during their trial (which must take place before February 1978).

Up to 8,000 people have been arrested as "Danger to Society" since October 6th, 1976, and probably at least 2,000 are still being held. According to Decree Number 22 of the National Administration Reform Council (NARC) those people can be held for 30 days at a time, renewable, and need never be brought to trial.

In addition to the arrests there have been many other abuses on human rights, namely: Up to 50 intellectuals, writers, journalists, and university professors have had to flee the country and take up residence in various Western countries. Some have had to leave their family and friends behind them.

At least 600 students, workers, and farmer leaders have had to flee to Laos to avoid arrest and detention, whilst a larger number have had to go underground.

Since the coup, Communist insurgency has taken a dramatic upturn with increasing casualties both amongst troops and insurgents as well as amongst innocent villagers. In its effort to deal with the insurgency problem, the government has declared increasing areas of the country out-of-bounds to the general public, has introduced long curfews, and restricted the freedom of villagers to a great extent in other ways.

All political parties have been banned, and labour unions have been made inoperative (meetings and strikes have been banned and those organizing the most legitimate of strikes have been arrested as "dangers to Society"). Many members of socialist parties, leaders of trade unions, and peasant unions are amongst the arrested.

Strict censorship regulations have been imposed on all mass media. Many left wing newspapers have been permanently closed (and the journalists working on them put out of work), and other newspapers have been temporarily closed—thus muzzling criticism of government. In terms of the electronic media, all those high level officials who had opposed the army controlled T.V. and radio stations have been replaced, and only moderate right wing stations allowed to broadcast. Magazines, newspapers, and radio stations on the extreme right have also been closed.

Hundreds of thousands of books have been burnt and banned since October 6, 1976, including books actively promoting socialist or communist ideologies, but also including many less radical books advocating more egalitarian and just development policies. Many of the banned books seemed to have been banned more because of their authors or titles than for their content. At the same time, hundreds of thousands of copies of books written by the Prime Minister have been printed at government expense and distributed to educational, religious, and other institutions all over the country.

All in all it can be seen that the present military backed government has taken action against all normally accepted principles of human rights.

#### ELECTORAL COLLEGE

### HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mrs. HOLT. Mr. Speaker, it is an unfortunate habit of politicians to leap for

almost anything having the name reform, to give the appearance of doing something about real or imagined problems, and to ignore the possible harmful consequences flowing from the proposed solution.

I offer a current example: The proposal to abolish the electoral college and install direct national elections of Presidents. There is a real temptation to endorse such a simple and direct system. It has the virtue of being efficient.

But efficiency is not everything, and in this instance would be downright destructive of the constitutional foundation of our Federal Republic. The National Government is a creation of the States. The Constitution was ratified by the States. The States elect the President after each has determined its choice for President in a popular election. The radical change proposed by the Carter administration would remove the States from this vital process of electing our national Chief Executive.

Mr. Speaker, the fathers of our Republic conceived a "separation of powers" as a system for preventing tyranny from arising in our land. There is more to this concept than the separation of the legislative, judicial, and executive powers at the national level. There is also the principle of federalism. The Constitution reserves powers and responsibilities to the States, which created the Federal Union.

The authors of our Constitution profoundly feared the power that could be exercised by a strong central government. They favored a dispersal of power. They carefully provided for perpetual conflict and friction not only between the branches of the National Government, but also between the States and the National Government.

Under our constitutional system, the President of the United States must be concerned about how Maryland votes, how Massachusetts votes, and how California votes in a Presidential election. He is politically accountable to the States.

If direct national elections of Presidents replace our electoral college system, the candidates would be less concerned about States. They would be concerned about appealing to voters en masse, acquiring power independently of the States, and ultimately using that power without regard to the States.

There are those who advocate the consolidation of power in central authority, but the liberty of the people is safer when power is dispersed among rival authorities. That is the genius of the American system.

It is true that the reservation of powers to the States has become blurred in the passage of time as the National Government has grown to an enormity never envisioned by the Fathers. Congressional enactment of aid programs for an almost limitless list of State and local governmental functions has brought a large degree of control from Washington. Court decisions have permitted Federal



regulation of interstate commerce to stretch to the outer limits. It has been necessary for the National Government to protect the constitutional rights of racial minorities.

But we should not be scrapping all vestiges of States rights. We should not be reducing the political leverage of the States and completely wiping out the small States, which is what the proposed constitutional amendment would do. It would guarantee that the Presidential campaigns would be targeted on the large population centers to the exclusion of other areas.

One further word of caution I would add. The Carter administration proposal would invite creation of multiple political parties, some formed to pursue a single issue. It is likely that a Presidential general election would have several candidates dividing the national vote. It is also likely that such a splintering would leave no candidate with a majority, and possibly not even a respectable plurality. Our political structure could easily become fragmented with several parties struggling to form coalitions.

I shall not pass judgment on the merits of multiparty politics. I note only that the proposed constitutional amendment would probably lead to the end of our traditional two-party structure. Presently, it is very difficult for a minor party to have an impact on Presidential elections because of the winner-take-all character of the electoral contest in each State. The direct national election of the President would probably become a free-for-all.

I submit these reservations, Mr. Speaker, because I believe they deserve profound consideration by every Member of this body.

**PHILADELPHIA'S ECONOMIC DEVELOPMENT CORPORATION ACTIVE IN CREATING JOB OPPORTUNITIES**

**HON. JOSHUA EILBERG**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. EILBERG. Mr. Speaker, for the past 8 years, the economy of the city of Philadelphia has been in a sharp decline. Some of this economic loss can be traced to the misguided economic policies of the Nixon and Ford administrations, which believed there was a trade-off between inflation and unemployment and found out, to the sorrow of the American people, that they were dead wrong. The rest of the problem stems from the determination of the Nixon and Ford administrations to dismantle the Federal establishment in Philadelphia—efforts which have cost us more than 100,000 direct and indirect jobs.

Philadelphia has not taken this economic setback lying down. The city has pressed forward with efforts to hold present industries and to help them expand, and to attract new industries which could create new employment opportunities for citizens of the Greater Philadelphia area.

I am proud to be able to report that the Philadelphia Industrial Development Corporation has played a major role in this continuing effort toward recovery. But this is not a new role for the PIDC, because in the past 18 years, it has assisted in the financing of over 900 industrial and commercial projects in the city of Philadelphia. The long-term capital investment financing provided through the PIDC now exceeds \$600 million.

While these programs have been quite successful, the PIDC is the first to concede that they did not, of themselves, provide adequate long-term financing for small businesses. With this thought in mind, the PIDC recently took steps to use the SBA 502 program to meet this need.

The SBA 502 program is designed to alleviate the relocation of employment opportunities from the inner city. Working through local development companies, the SBA can guarantee up to 90 percent of a commercial loan for a firm which could not otherwise obtain financing. In addition, the 502 program can make direct loans through a local development company at more favorable terms to act as an incentive for a local firm to remain in the city.

The SBA program working through local development companies is, in the opinion of PIDC Executive Vice President M. Walter D'Alessio, the most powerful tool of economic development for creating and maintaining employment opportunities in small inner-city business. In fact, for the small and intermediate sized business, there is no other assisted program to sustain growth while remaining within the city.

Mr. D'Alessio informs me that now that the PIDC is at the point of maximum use of this program, the SBA district which includes Philadelphia is experiencing a shortage of funds. It has been forced to borrow from other regions and commit funds from its next fiscal allocation to meet commitments made this year.

Meanwhile, of course, the PIDC's program goes on, and it will require more funds to sustain its efforts to assist Philadelphia businesses.

For that reason, Mr. Speaker, it is my earnest hope that the Congress this year will not only continue the SBA 502 program but that it will increase the funding to meet needs in cities such as Philadelphia. I recognize that the competition for Federal dollars is intense, and that we are operating under serious budgetary constraints. But the need is urgent to fund this program properly so that efforts can go forward to put people back to work in the private sector.

**THE SERBSKY TREATMENT AND VLADIMIR BUKOVSKY**

**HON. LARRY McDONALD**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. McDONALD. Mr. Speaker, nearly everyone is aware that on occasion perfectly sane persons have been committed to mental hospitals for devious reasons, but, the Soviet Union is unique in the world today for making large scale use of special mental hospitals in which to incarcerate great numbers of political dissidents in order to silence them and treat them with drugs in order to render them ineffective upon release. The magazine, *Psychology Today* for June 1977, published an interview with Vladimir Bukovsky on this subject and since he had firsthand experience with this treatment, this article is worthy of our closest attention. Bukovsky estimates that more than 2,000 political dissidents inhabit these hospitals, which are run by the MVD—Ministry of Internal Affairs—at the present time. The article follows:

**THE SERBSKY TREATMENT**

(Vladimir Bukovsky read the wrong books, defended the wrong writers. His government declared him legally insane and committed him to a mental hospital. In this conversation with psychiatrist E. Fuller Torrey, he tells what happened next.)

Vladimir Bukovsky was born 34 years ago in Moscow, the offspring of a professional writer and a journalist. As a first-year biology student at Moscow University he was expelled for becoming involved with a literary journal. In 1963, when he was 20, Bukovsky was first arrested for possessing copies of *The New Class*, a book by dissident Yugoslav Communist Milovan Djilas. After being examined at the notorious Serbsky Institute of Forensic Psychiatry he was declared insane and sent to Leningrad Special Psychiatric Hospital where he spent 15 months. Released, he almost immediately became involved in the defense of writers Andrei Sinavsky and Yuli Daniel who were under arrest, and organized a small demonstration to demand that the freedom guaranteed by the Soviet Constitution be honored. This earned him confinement in three more psychiatric wards, including an eight-month return visit to the Serbsky. Following his release, he continued his fight for civil liberties in the USSR, and in 1967 was arrested again for organizing a demonstration to protest the arrest of four other dissidents. This time Soviet authorities decided to try a new tack, and rather than call him mentally ill, they sentenced him to prison for three years, which he served in a labor camp.

His ensuing freedom lasted just over a year. In 1971 he gathered together case records of six dissidents who had been declared insane and held in mental hospitals, and had these records smuggled out of Russia to the West. Simultaneously he appealed to Western psychiatrists, and especially to the World Psychiatric Association (WPA) who would meet in Mexico City later that year, to examine the records. A group of 44 British psychiatrists eventually did examine them and concluded the six were not mentally ill, but Soviet psychiatrists and the leadership of the WPA prevented the issue from being discussed in Mexico City. These records were the first hard evidence that Soviet author-

ities were systematically abusing mental illness as a label for dissidents, and mental hospitals as prisons with indeterminate sentences. They were also the first hard evidence that some Soviet psychiatrists were allowing themselves to be prostituted by the State. The reaction of Soviet authorities to Bukovsky's act was fast and furious—12 years in prison, labor camps, and internal exile.

By this time Bukovsky had become known in the West, and had been "adopted" as a political prisoner by Amnesty International. Not deterred by his sentence, he began a series of hunger strikes and demands for better prison conditions. In 1974 while in a labor camp with dissident psychiatrist Semyon Gluzman, they collaborated and produced "A Manual on Psychiatry for Dissidents," instructing dissidents how to avoid being labeled insane when they were arrested. A copy of the Manual was subsequently smuggled to the West and joined the growing volume of data on the abuse of psychiatry in the USSR. As Bukovsky's physical condition deteriorated through both punishment and hunger strikes, his mother, as well as Amnesty International and other groups, increased demands for his release. Finally, on December 18, 1976, he was released and exiled in exchange for imprisoned Chilean Communist leader Luis Corvalan. As an exchange of one political prisoner for another, it was the first implicit admission by the Soviet Union that they do indeed hold such prisoners. Two months later Bukovsky addressed a joint Commission of the United States Congress, and the following week he met with both President Carter and Vice-President Mondale. He had become a symbol for human rights.

E. Fuller Torrey: What was it like, being a sane man in an insane asylum?

Vladimir Bukovsky: Well, I found many people in the place who were quite sane.

Torrey: So you were only one of several sane people in the mental hospital?

Bukovsky: Yes, and we formed a sort of group to communicate with each other. With the other patients it was impossible to communicate, for some of them were extremely ill. So those of us who were sane formed a sort of club.

Torrey: A club of sane people in an insane asylum. That must have been a very interesting club. How were you personally treated by the doctors there?

Bukovsky: I was lucky in that hospital I wasn't given any forced medicine.

Torrey: Was that unusual?

Bukovsky: Yes, very. Almost all the other dissidents there were forced to take medicine that made them sleepy and hard for them to think.

Torrey: How did you escape it?

Bukovsky: When I got to the hospital I was assigned to an old Russian psychiatrist. I think he was around 80. After our first interview he told me he thought I was quite sane. He thought I had pretended to be crazy to get into the hospital and escape a prison sentence or something, that I was a malingerer. I tried to explain that he had it wrong but he had made up his mind and fought very hard to get me released. He would go in front of the commission (which determines when a patient may be released) and say I was sane. This made the KGB mad, but they didn't know what to do with this old psychiatrist who didn't understand or wouldn't understand that he was supposed to find me insane. Anyway he didn't give me drugs because he thought I was sane.

Torrey: This was at the Special Psychiatric Hospital in Leningrad?

Bukovsky: Yes, right in downtown Leningrad, near the train station.

Torrey: The Finland Station, where Lenin returned to lead the Revolution?

Bukovsky: Yes, I could hear the trains in the distance, but there was a big factory that cut off the noise of the station.

Torrey: How ironic. I wonder what Lenin would have said if he had known that the Revolution would eventually lead to putting you in a mental hospital so you couldn't be heard by the people. How many special psychiatric hospitals like the one you were in are there?

Bukovsky: There are at least 12. I am not sure how many more there are.

Torrey: And how many sane people were in your insane asylum?

Bukovsky: Out of 1,000 inmates I think about 150 were political prisoners and perfectly sane.

Torrey: That means that there are probably over 2,000 political dissidents in mental hospitals in the Soviet Union?

Bukovsky: Yes, there are probably at least that many. We do not know for sure how many there are.

Torrey: Besides the psychiatrist who was in charge of you, what were the other psychiatrists there like? Did they realize that you weren't mentally ill?

Bukovsky: Yes, of course. They all understood quite well that we were sane people. Many of them were quite cynical. One of them once told me that the hospital we were in was really more like a concentration camp. It is our own little Auschwitz, he said. Yes, they understood how things were very well, but they were not in a position to do anything about it. They had neither the desire nor the power to change things.

Torrey: What kind of psychiatrists are these people who would work in an insane asylum with sane people? Why would they take the job?

Bukovsky: They probably do it because they earn more money than if they work in a regular mental hospital. They get special pay because it is a special hospital.

Torrey: Are they army psychiatrists?

Bukovsky: Not exactly. They are military, but not army. They work for the Ministry of Internal Affairs, which is the Ministry responsible for the special psychiatric hospitals. Regular psychiatric hospitals are under the Ministry of Health. So these psychiatrists in the special hospitals have ranks, like captain, major, and are promoted from rank to rank if they do a good job and don't cause trouble.

Torrey: And doing a good job includes testifying that people like yourself, who wish to protest the lack of civil rights, are insane and should be kept in a mental hospital?

Bukovsky: Exactly.

Torrey: When you first entered the Leningrad Special Psychiatric Hospital, how long did they say they were going to keep you?

Bukovsky: It was quite clear from the beginning that they would keep me as long as they liked. I was told that it all depended on my behavior. If I would recant, if I would be good, how do you say?

Torrey: Tractable?

Bukovsky: Yes, tractable. If I would be tractable then they would let me out.

Torrey: It sounds like what Victor Fainberg (another Soviet dissident) said when he was in the same hospital as you. He said his psychiatrist told him that his disease was dissent, and as soon as he renounced his opinions and adopted the correct ones he'd be free.

Bukovsky: Yes, that is how it is. But of course I would never recant or renounce my opinions.

Torrey: They could have kept you there for 20 or 30 years if they had wanted, and if you hadn't had an older psychiatrist who wouldn't cooperate with them.

Bukovsky: Oh yes. I knew some who had been in for over 10 years. It is an indeterminate sentence.

Torrey: Is that why Soviet officials put you in a psychiatric hospital rather than in prison?

Bukovsky: That is one reason. If they had put me in prison originally I would have had a sentence to serve and then I would be released. There wouldn't be the same pressure on me to recant. Of course sometimes they just sentence you again to a new term when you finish your term, but that's harder to do. It's much easier to put you away in a mental hospital.

Torrey: What are the other reasons they use mental hospitals rather than prison?

Bukovsky: Well, it discredits the person. Especially if the person is prominent and speaking out, that's a big problem for the Soviet leaders. For instance, General Grigorenko, who was a great general, spoke out against the invasion of Czechoslovakia. That made a big problem. It would have been hard to bring him to trial so they called him insane and sent him to a mental hospital. Then people won't pay attention to what he says. And people understand that other people can become mentally ill.

It's easy to explain to common people, the people in the street. Also, sometimes they put people who speak out into mental hospitals when they don't have a very strong case against them, when it would be a difficult trial.

Torrey: Is it true that mental patients have fewer rights than civil prisoners in the Soviet Union?

Bukovsky: Yes, absolutely. As a mental patient you have no rights. Any sort of protests you make they just say is because you are mentally sick. Anything you say or do becomes part of your case record, which can then be used against you to justify keeping you there indefinitely. Anything you write, letters or anything, may turn up in your case folder to be used against you. If you recant they say, see, it proves he was crazy. If you refuse to recant, and protest, they say, see, it proves he is crazy. You take your choice.

Torrey: When they first picked you up in 1963, do you think they intended then to send you to a mental hospital?

Bukovsky: No, I think they wanted me to recant. They wanted to make a traitor out of me and make me inform against my friends. They wanted some information from me, then probably they thought they would put me in prison for a little while. They put me in solitary confinement to change my mind.

Torrey: But you didn't cooperate with them, I guess.

Bukovsky: No, I refused to speak with them at all.

Torrey: That must have made them furious.

Bukovsky: Yes, and after they had tried for a month they gave up and turned me over to psychiatry. That was the end of my case legally. From then on I was just a psychiatric patient.

Torrey: They diagnosed you as a schizophrenic, isn't that correct?

Bukovsky: With schizophrenia of the continuous type. But some of the psychiatrists said that schizophrenia was the wrong diagnosis and that really I had a paranoid development of personality. They couldn't decide between these two diagnoses.

Torrey: I have been to the Soviet Union twice and am familiar with how schizophrenia is classified there. The continuous type of schizophrenia is said to begin very slowly but is progressive. This is especially true of the "sluggish" or "creeping" subtype in which a person is said to only have mild personality changes in its early stages.

Bukovsky: Most of the political prisoners are diagnosed as schizophrenics. Anything they do, any protest they make, even a hunger strike is said to be proof of the diagnosis.



Torrey: G. V. Morozov, the head of the Serbsky Institute, has even written that argumentativeness is an important symptom of schizophrenia.

Bukovsky: Then I guess it's a pretty common disease even in the United States if that is its definition.

Torrey: The man who is responsible for the classification of schizophrenia in the Soviet Union is Professor Snezhnevsky of the Institute of Psychiatry in Moscow. He is the one who has stressed that misbehavior in adolescence or even earlier is often a symptom of early schizophrenia especially if there is any family history of mental illness.

Bukovsky: I have read some of Snezhnevsky's works. He has also been one of the main psychiatrists behind the scenes who sees that dissidents are labeled mentally ill and put away.

Torrey: Do you think his theories of schizophrenia developed to accommodate the needs of the state, or that he was selected out for advancement because his theories were convenient.

Bukovsky: Probably the latter, a kind of selectivity. Survival of the most convenient theory so to speak. In a socialist state that is supposed to be perfect there can, by definition, be no social condition that could create true dissenters. Therefore, the dissenter must be crazy, sick. The logic is very neat.

Torrey: Some people have written that the Soviet Union has a long history of calling dissidents mad, and that this was also used by the czars. For example Czar Nicholas called the philosopher Chaadaev mad over one hundred years ago because Chaadaev had disagreed with him.

Bukovsky: To begin with, Chaadaev was never put into a hospital. It was just a statement that he was insane.

Torrey: When did it begin, then, in a widespread way as it is now found in the Soviet Union?

Bukovsky: It began under Stalin. But at that time there were only two mental hospitals, in Leningrad and Kazan, for dissidents. Stalin didn't need many. He could just destroy people if he wanted. But if they were prominent he might use the mental hospital.

Torrey: And what happened after Stalin?

Bukovsky: It is interesting. There was an old Communist Party member named Sergei Pisarev who was a member of the Party's Central Control Commission. He prepared a report that the cases against the Jewish doctors prepared by an investigating committee in 1952 were concocted and he handed the report over to Stalin. Two weeks later Pisarev found himself in a mental hospital and labeled insane. In 1956, after Stalin's death, he arranged to get rehabilitated. He even made the psychiatrists reconsider their diagnosis and say he was sane. He got to know the chairman of the committee for rehabilitation, and persuaded him that an investigation should be made into the abuse of psychiatry. This was a golden age after Stalin's death when such things were possible. He succeeded in getting such a commission created. They investigated both hospitals and concluded that psychiatry had been abused, and got a lot of people released.

Torrey: So then it got worse again?

Bukovsky: Yes, especially under Khrushchev. Then it became a common practice and new hospitals started to be opened.

Torrey: So that by the time you were arrested in 1963 it was a common practice to label sane people insane and put them away to get them out of sight.

Bukovsky: Yes, I wasn't unique at all. The only way I am unique is that I am here to be able to talk to you about it. There are many hundreds of dissidents in the mental hospitals even today as we talk.

Torrey: When you were at the Perm labor

camp with Semyon Gluzman, the young psychiatrist who had publicly said that General Grigorenko was not mentally ill and was then thrown in jail for saying it, you wrote a manual together, "A Manual on Psychiatry for Dissidents." I read it several months ago and was profoundly impressed by it, impressed that manuals should be needed for people to defend themselves against my chosen profession. It is an excellent document. How did you manage to write it while in a labor camp?

Bukovsky: We put it together in bits and pieces. We had a small symposium that met under the pretense of having tea. We used to sit quietly in a circle, and one of us who had prepared a report would give it and then we would discuss it. We started out to do it because some people in the labor camp needed to know how to defend themselves from psychiatrists. Even though they had been sentenced to prison sometimes when their sentence was up they would be taken to a psychiatrist and declared insane and sent to a mental hospital. So it had a very practical value.

Torrey: Then how did you get it out?

Bukovsky: People started saying that the "Manual" would be useful to others as well. So we tried to smuggle it out. The first time we tried it we failed and the authorities seized it. But the second time it was a lucky case and it made it. Everything had to be done in secrecy.

Torrey: The KGB must have been furious with you.

Bukovsky: Even now they are threatening to start a new criminal case against Gluzman. They are threatening to sentence him to many more years in prison. It is only the agitation of Westerners on his case so far which has stopped that from happening.

Torrey: How can Westerners help dissidents in the Soviet Union? How can we help to bring about basic civil rights there? Should we cut off contact with Russian professionals? Should we not attend meetings attended by them?

Bukovsky: I am opposed to a complete boycott altogether. Rather you should boycott selectively and make contact with the good psychiatrists there. For example, you should have nothing to do with Snezhnevsky; he is a criminal and you should never sit at the same table with him. Your National Institute of Mental Health should not deal with him as they do. They are just supporting a criminal and making him respectable.

What you should do is to make contact with the good psychiatrists in Russia, the ones who will not allow themselves to be prostituted. For example, Professor Melekhov and Professor Lukomsky both sat on the commission in 1971 to determine whether I was sane. Both behaved extremely honestly in the face of obvious pressure on them by Soviet authorities. And there are honest young psychiatrists who too refuse to abuse their profession. For instance, when I was arrested in 1965 I was first taken to the psychiatric ward of Moscow City Hospital Number 13. There I was examined by two young psychiatrists, Drs. Arkus and Dumbrovich, and declared to be sane. The KGB was furious so they took me to another hospital, where I was also declared to be sane. The KGB was even more furious now, so they took me back to Serbsky Institute. It was difficult for them to declare me to be insane when two other sets of psychiatrists had just declared me sane so they just kept me there for eight months.

What you should do is to invite doctors like Melekhov, Lukomsky, Arkus, and Dumbrovich to your professional meetings in the West. Publish their papers. Give them recognition. Visit the psychiatric ward of City Hospital Number 13 when you come to Moscow. But don't cut off all contacts, just cut off selective contacts.

Torrey: It sounds like we should draw up a blacklist of Soviet psychiatrists who have compromised themselves and not attend any meeting with them or invite them.

Bukovsky: Exactly right. And at the top of the blacklist you might put Snezhnevsky, Morozov, and Lunts, but there are many more.

Torrey: And on your visits to the Soviet Union make the effort to contact psychiatrists who are not on the blacklist.

Bukovsky: Yes. You won't get much help from Intourist but it can be done.

Torrey: I know that psychiatrists in England have provided more support for you than psychiatrists in the United States. For example, when you sent the six case histories out in 1971 it was only the English psychiatrists who evaluated them. How did you feel when you heard that the World Psychiatric Association meeting in Mexico City in late 1971 had ignored your plea? Weren't you angry and disappointed?

Bukovsky: We are all human, and we are all subject to pressure on us. In Mexico City there was strong pressure on some psychiatrists to do nothing. And so nothing was done. You were all afraid to offend Snezhnevsky.

It was sad, yes.

Torrey: Some of us, including myself, are afraid that psychiatry could also be abused on a large scale in the United States. How can we prevent it happening here?

Bukovsky: The best way to fight a battle is to fight it on someone else's territory. You can prevent it here by fighting the abuses of psychiatry elsewhere.

Torrey: I suspect that all countries have psychiatrists who will allow themselves and their profession to be prostituted given the right circumstances, and that in every country there is a Lunts or a Morozov waiting to do his job if given the opportunity.

Bukovsky: Most certainly there is. Look at France in 1941. Here was a country that was supposed to love freedom. You know, the French Revolution. And look what happened. Many of the people tripped over each other in their rush to collaborate with the enemy, willing to allow themselves to be used.

Torrey: If we don't fight the abuse of psychiatry in the Soviet Union and elsewhere, what are the consequences?

Bukovsky: If the abuses begin in your country then it will be too late. If you try and fight it once it begins they will probably just call you insane and put you away.

(A note on Vladimir Bukovsky's mental health: Bukovsky had been diagnosed in the Soviet Union as having schizophrenia. Following his release in December 1976 he met with a group of British psychiatrists and was declared to be eminently sane, and with no evidence whatsoever of schizophrenia. The author, a clinical psychiatrist presently responsible for two wards of schizophrenic patients and doing research on this disease, strongly concurs with the opinion of the British psychiatrists after interviewing Bukovsky for over an hour. Bukovsky is a modest and self-effacing man, proud that he never compromised, and for whom principle is a way of life and not just a word. He retains a wry sense of humor, and an unusual ability to step back and look at himself and the world.)—E. FULLER TORREY

#### NOT JUST A SOVIET PROBLEM

The blossoming of psychiatry in the 20th century brought with it some very large thorns. Mental illness could be invoked as an explanation for the ideas and behavior of people, thereby discrediting them and even rationalizing the necessity for involuntary hospitalization. Jesus was one of the first intended victims: between 1905 and 1912 four books were published purporting to prove that He was a paranoid schizophrenic. Albert Schweitzer, an obscure philosopher at the time, responded to the assault with his

Psychiatric Study of Jesus. In the United States the first major case of involuntary psychiatric hospitalization to discredit and punish was that of Ezra Pound, accused of treason in Fascist Italy but declared insane and unfit to stand trial on the charges. Instead he was incarcerated at Saint Elizabeths Hospital from 1945 to 1958. General Edwin Walker was another. As one of the leaders of the segregationist forces resisting the integration of the University of Mississippi in 1962, he was involuntarily hospitalized in a federal hospital for determination of his sanity and thereby effectively discredited and removed from the scene. (Thomas S. Szasz reviews these cases in *Law, Liberty and Psychiatry and Psychiatric Justice*.) And then there are the many more nameless and forgotten, not poets or generals who get newspaper headlines but undereducated stubborn men and women who incurred the wrath of somebody (often a prison warden) and found themselves transferred to a hospital for the criminally insane with an indeterminate sentence. It still occurs in this country. Recently there have been charges that such abuses also are occurring in East Germany, Czechoslovakia, Iran, Brazil, Argentina, and other countries. It is not just a Soviet problem.

#### A TRIBUTE OF RECOGNITION TO ODELL BROADWAY

**HON. DALE E. KILDEE**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. KILDEE. Mr. Speaker, it is a privilege and an honor for me to place in the CONGRESSIONAL RECORD a tribute to Odell Broadway, a remarkable woman from Flint, Mich. Odell Broadway has won scores of awards from civic, educational, and church organizations in recognition of her outstanding service and dedication to the Flint community. Her most recent award was being named "Woman of the Year" by the Zeta Beta Zeta chapter of Zeta Phi Beta Sorority.

I am proud to bring the story of this remarkable, distinguished woman to the attention of my colleagues, and I am inserting in the RECORD an article on her background that was part of the program printed for the Zeta award:

ODELL BROADWAY

(By Dorothy N. McNeal)

How does a woman become a legend in her own time? How does it happen that the mere mention of a name brings forth not only instant recognition, but all manner of testimonials to her record of solicitude and service?

When columnist Ann Landers neglected to credit Odell Broadway with writing the "Ten Commandments of How To Get Along With People" quoted in her column of January 13, 1977, little did she realize the storm which that oversight would brew. She had, after all, done an injustice to Flint's "First Lady of Community Service"!

"If you have a good attitude, you can do anything" is her watchword and she has woven that theme into nearly a half-century of unique personal involvement in the life of the Flint community. Mrs. Broadway takes great pride in "her children and young people" whose lives she has touched as teacher, counselor, home economist, benefactor, sociologist, psychologist and confidante. Once described as "a kind of mini-social agency," she has inspired, instructed and inspired hundreds of young people

and their parents to maximize their own resources and potentials for full growth and development. Many adults who function effectively in the Flint community and elsewhere, in the professions, education, business and industry, reflect the "Broadway" influence and indoctrination in their enterprise, pride of achievement and sense of personal self-worth. Three generations of Flint citizens have benefitted from her philosophy and her example.

The record of Odell Broadway's activities and contributions sparkles with "firsts" and innovative human services projects in which she perfected the technique of using her own resources as well as those of others, to make things happen. As a homemaking teacher and community counselor at the old Fairview School, she developed the concept which resulted in a new occupation: Home School Counselor. Today, 33 Home School Counselors carry forward the "Broadway" tradition of liaison between the school and the community. As a certified teacher of the Bishop Method of Sewing, she has introduced hundreds of men and women to that skill, encouraging many to continue education and training for successful employment in the garment and millinery trades.

Among other efforts, she has served as Arts and Crafts Instructor, Consumer Education Advisor for mothers in three housing projects, Big Sister, "Tot Lot" Leader, Stepping Stone, Homemaker Club and Girl Scout Leader.

Currently employed by the Mott Foundation as a Consultant, Mrs. Broadway travels throughout the country to participate in training programs for community and consumer education. Between trips, she serves on the Trustee Board of Metropolitan Baptist Church, where she was Sunday School Superintendent for 25 years, on the NAACP Credit Union and RSVP Boards and scores of others. She is a Life Member and Past Vice President of the Flint BPW Club and Past Worthy Matron of Capr Jasmine, Chapter 2, O.E.S.

Marianna, Arkansas may well be proud of Odell Garret, one of two girls raised by their stepmother, a professional dressmaker who inspired Odell's love for sewing and choice of home economics as her major at Rust College in Mississippi. Chicago can take a small bow for encouraging her interest in church work when she lived there as a young bride, but now, she belongs to Flint and much of what is inherent in the "community spirit" of Flint belongs to her.

#### FOREIGN OIL TANKERS WEAKEN OUR NATIONAL DEFENSES

**HON. JOSHUA EILBERG**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. EILBERG. Mr. Speaker, the tanker cargo preference bills pending in Congress right now would strengthen both our national security and our economy by reducing U.S. dependency on foreign-flag ships to bring imported oil to our ports.

I am deeply concerned about the national defense aspect of the present tanker crisis, Mr. Speaker, and in order to make sure that my colleagues are aware of the seriousness of this situation, I am placing in the RECORD today a fact-sheet prepared by the U.S. Maritime Committee to Turn the Tide.

I am also putting in the RECORD a copy of an executive order issued by the Government of Liberia in 1973 at the height

of the Yom Kippur war, when the Liberians ordered ships flying their flags to refrain from carrying shipments to the Middle East. This executive order is crucial to an understanding of the defense implications. Those who support the runaway-flag vessels—vessels owned by Americans but registered abroad—contend that these vessels remain under "effective American control." The Liberian executive order proves how false that claim is.

Mr. Speaker, the material to which I refer follows:

#### FOREIGN OIL TANKERS WEAKEN OUR NATIONAL DEFENSE

In times of war, the United States merchant fleet has transported 95% of our total military supplies, yet in 1977 our merchant marine ranks 10th in the world. We are effectively at the mercy of foreign shipping. No other major world power allows its trade to be dominated by merchant fleets of foreign nations.

Multi-national companies have long stressed their premise that flags of convenience tankers remain under "effective American control." They indicate these foreign flag vessels would be available to the United States in a national emergency. Such ships would not be under the real control of our nation, since only the state of registry has the right to requisition and control vessels flying its own flag. Thus, the Liberian flag fleet was ordered to boycott Israel in the 1973 Yom Kippur War, contrary to American policy. (See attached Liberian Executive Order No. IV, Nov. 2, 1973.)

The Liberian maritime system is operated by the International Trust Company of Liberia, which is 80% owned by the International Bank of Washington, an international holding company of banking and insurance interests. This company maintains its own office building in Washington, D.C. Among the tenants is the economic section of the Liberian embassy.

How could we count on a vessel owned by a Bahamian corporation, flying a Liberian flag, sailing in the Persian Gulf, with a Chinese crew and Indian officers? This is no substitute for a strong U.S. national merchant marine.

Without cargo assurances, the capability of U.S. shipyards to meet our defense needs will be jeopardized. The cost of outfitting and constructing naval vessels would increase substantially if our private shipyards became idle.

It's time to turn the tide and restore the independent security offered by U.S.-flag tankers.

#### EXECUTIVE ORDER NO. IV

Realizing the continuing desire of the Government of Liberia to ensure the maintenance of peace in all areas of tension in the world in general and the Middle East in particular, and

Considering the allegation that Liberian Flag ships engaged in commercial navigation have been carrying arms, armaments and implements of war to combatants in the Middle East;

Now, therefore, effective immediately, the following shall govern commercial intercourse of Liberian Registered vessels:

1. No vessel with a Liberian Registry shall be permitted to carry any cargo of arms, armaments or implements of war to countries in the Middle East involved in the conflict so long as a state of war exists in that geographical portion of the world.

2. Any Liberian registered vessel found violating the provisions of the Executive Order shall be subject to a fine of Fifty Thousand Dollars (\$50,000.00), and the cancellation of the Certificate of Registry.



3. The Commissioner of Maritime Affairs and all Deputy Commissioners are hereby directed and ordered to ensure the faithful observance and execution of the provisions of this Executive Order.

# DUAL USE ADEQUATE CIVIL DEFENSE CLEARLY NECESSARY

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. LEGGETT. Mr. Speaker, for the past year and one-half as a result of defense planners' speculation and premonition, there has been a reassessment of American needs in civil defense.

Concern has been expressed as is contained in the article appended hereto by my good friend and civil defense planner, John E. Bex, Regional Director of the Defense Civil Preparedness Agency, Region Two, called "America's Achilles Heel."

Others like T. K. Jones of Boeing in Seattle can unravel a scenario at the drop of a hat showing a diabolic Soviet capability to outstrip U.S. efforts in an all-out confrontation.

Last year I chaired the House civil defense panel and our panel agreed unanimously that the U.S. civil defense slumber should terminate but that we should not attempt to compete—shelter for shelter—with the Soviets.

We raised the budget last year and amended the law giving a strong boost to dual use civil defense which I am pleased to see is fully supported in the materials appended after the Bex article which was just delivered to my office by the new Director of the Defense Civil Preparedness Agency, Bardyl Tirana.

The question now arises, "Is the current House civil defense authorization of \$134 million too much?"

My friend, and former civil defense strategist, Walmer E. Strobe, answers this question clearly "No" with the following analysis:

## MEMO FOR BOB LEGGETT

Attached is a conversion of civil defense appropriations since passage of the Civil Defense Act of 1950 from current (actual) millions of dollars to constant (1972) value using GNP deflators for goods and services procured by the federal government. The conversion was made by Dr. Francis W. Dresch, Senior Mathematical Economist at the Stanford Research Institute.

The lowest actual appropriation (\$31.8M) was for a partial year, 1951. In 1972 dollars, it was worth \$71.8 million in purchasing power. The FY 1977 appropriation was \$2.5 million but there is a supplemental for 0.9M to cover pay raise and another for 4.0 million to expand matching funds; together they make the \$87.4M shown. NOTE THAT, in 1972 dollars, the present appropriation is worth \$63.2M, 12% less than value of 1951 funding. Indeed, past three years have been lowest in history of nuclear age.

For FY 1978, Administration budget figure would set new low in constant dollars. Senate authorization of \$95.5 would leave it like the last three years (\$63.3M in constant dollars), only House authorization breaks the pattern of a new low and equals pre-Kennedy appropriations of FY 1960. There is a "message" here somewhere.

These data may be of interest and use to you in authorization conference and appropriations cycle.

Sincerely,

WALMER E. STROBE.

## AMERICA'S ACHILLES HEEL

(By John E. Bex)

There is no chance of defending and protecting America's cities in the event of a serious nuclear attack by the Soviet Union or anyone else.

Any other conclusion is dangerously deluded wishful thinking. The U.S. has concentrated almost entirely on counter-offense rather than defense, the concept of massive retaliation.

Fred C. Ikle, Arms Control and Disarmament Agency director, said: "The truth is that we are basically defenseless in the United States against threats of nuclear attack that could come from a great many different sources rather than from one or two clearly identifiable potential adversaries."

A few years ago, an anti-ballistic missile system might have made a difference by shooting down some or quite a few—no one would claim all—of the attacking enemy missiles, but it was never built.

The only reliable means of saving lives and preserving American industrial and economic strength are dispersal and shelter. They can be effective against the worst that modern weapons can accomplish. A few hundred feet of rock or the equivalent in earth or concrete can defy atomic bombs.

About half of 1%, or only about \$82.5 million is allocated for civil defense out of a defense budget of \$114 billion.

The result is that the United States has never had a civil defense system worthy of the name. It's a token effort.

The Russians are spending annually about 10 times as much as the U.S. and have been for decades and have important advantages in geography and stage of development. The USSR, a much larger country than the United States, is less urbanized. Its economic system is less vulnerable because it is in an earlier stage of economic development.

The degree to which the offense is now favored in warfare because of the deadly combination of atomic bomb and rocket is probably unprecedented in all human history. The opposite state of affairs would have been much more desirable for world peace. History and technology, then, have given mankind a tough problem to cope with.

The absence of an adequate system of civil defense leaves America's entire defense system unbalanced. Modern warfare depends on advanced technology and a strong economic base. The U.S. civilian population and economic base are unprotected by standard means of passive defense because sole reliance is on the threat of massive retaliation.

In 1958, James Tobin, a Yale economics professor and a member of President Eisenhower's Council of Economic Advisors, wrote: "Casualties could be greatly reduced by shelters, but we have not even made a beginning in building them." Nothing essential has changed since then.

Civil defense requires adequate funding and thinking ahead and planning. For example, the Moscow subway and all the other Soviet subways were built with civil defense needs in mind, with deep tunnels and blast doors. No American subway has been built like this, not even the newest ones currently under construction.

In evaluating the total defense of a nation, the trade-off between money spent on offensive weapons and on civil defense should be considered. In the current unbalanced American system every dollar spent on civil defense would be worth about five of 10 for further offensive weapons in terms of the

contribution to overall defense and national strength.

Former Secretary of Defense James R. Schlesinger, acknowledged the need for adequate civil defense: "The Department of Defense reaffirms the need for a viable and vigorous civil defense program. Over the years, this need has not diminished."

A nuclear attack would threaten the very survival of the United States as a nation, he continued. "Deterrence remains our primary objective, but prudence requires the development and maintenance of a strong national civil defense system should deterrence fail."

Nobel prize winner Eugene P. Wigner, has written: "By not offering the temptation of an unprotected populace, by instituting a vigorous civil defense program, we would be truly serving the interests of a lasting peace."

Soviet Premier Aleksei Kosygin said "defense systems which prevent attack are not the cause of the arms race, but constitute a factor preventing the death of people."

Leon Goure, an expert on Soviet civil defense, summarizes it:

"The Soviet Union has always regarded civil defense as an integral part of its war-fighting capability and its defense posture. It believes civil defense to be a decisive strategic factor which can determine the outcome of a war and the attainment of victory."

Consequently, the Soviets have been spending a great deal of effort over the last 20 years to achieve a major civil defense capability.

In the event of a Soviet attack, the U.S. might lose as many as 100 million people and the greater part of its industry. The Soviet Union, on the other hand, might lose less than it did in World War II—fewer than 20 million people—and assure the survival of most of its industry.

Therefore, the Soviet Union not only has eroded American deterrence posture, but can blackmail the U.S. with nuclear weapons in a crisis situation, survive as a power and win a war with the U.S.

To actually do something about civil defense will require first facing up to the fact that the U.S. is not invulnerable.

History has allowed the Russians no such illusions. In two world wars, they suffered the heaviest losses and learned an important lesson. They have the will to survive and know that it requires effort and foresight.

Other nations and groups, some more fanatical than the Russians, are acquiring atomic capabilities.

The American people are tough and capable of rising to any challenge if the proper information is given to them.

Fortunately, the country is starting to wake up from its long civil defense sleep. The facts and the message of the need for an adequate civil defense system are beginning to get through.

The hard verdict of history has always been that only those with a will to survive, who plan and work for it, deserve to survive.

## CIVIL DEFENSE APPROPRIATIONS IN CURRENT AND CONSTANT (1972) DOLLARS

| Fiscal year: | GNP deflator for goods and services, Federal Government (1972=100) <sup>1</sup> | Civil defense appropriations |                                       |
|--------------|---|------------------------------|---------------------------------------|
|              |   | Millions of current dollars  | Millions of 1972 dollars <sup>1</sup> |
| 1951         | 44.3  | 31.8                         | 71.8                                  |
| 1952         | 46.7  | 77.0                         | 164.9                                 |
| 1953         | 47.3  | 44.3                         | 93.7                                  |
| 1954         | 48.0  | 49.3                         | 102.7                                 |
| 1955         | 49.6  | 50.2                         | 101.2                                 |
| 1956         | 52.0  | 70.9                         | 136.3                                 |

|                    | GNP deflator<br>for goods<br>and services,<br>Federal<br>Government<br>(1972=100) <sup>1</sup> | Civil defense<br>appropriations   |   |
|--------------------|--|-----------------------------------|---|
|                    |  | Millions<br>of current<br>dollars | Millions<br>of 1972<br>dollars <sup>2</sup> |
| 1957               | 54.5   | 95.8                              | 175.8                                       |
| 1958               | 57.0   | 41.6                              | 77.0  |
| 1959               | 58.8   | 45.3                              | 83.2  |
| 1960               | 60.0   | 52.9                              | 100.3                                       |
| 1961               | 60.9   | 61.1                              | 100.3                                       |
| 1962               | 61.3   | 257.6                             | 420.2                                       |
| 1963               | 62.1   | 128.0                             | 206.1                                       |
| 1964               | 64.0   | 111.6                             | 174.4                                       |
| 1965               | 66.2   | 105.2                             | 158.9                                       |
| 1966               | 68.2   | 106.8                             | 156.6                                       |
| 1967               | 69.9   | 102.1                             | 146.1                                       |
| 1968               | 72.2   | 86.1                              | 119.3                                       |
| 1969               | 75.9   | 61.0                              | 80.4  |
| 1970               | 82.6   | 70.3                              | 85.1  |
| 1971               | 90.2   | 72.1                              | 79.9  |
| 1972               | 96.6   | 78.3                              | 81.1  |
| 1973               | 102.9  | 83.5                              | 81.1  |
| 1974               | 111.4  | 82.0                              | 73.6  |
| 1975               | 123.6  | 82.0                              | 66.3  |
| 1976               | 134.0  | 85.0                              | 63.4  |
| 1976 <sup>3</sup>  | 134.4  | 19.3                              | 14.4  |
| 1977               | 138.2  | 87.4                              | 63.2  |
| 1978A <sup>3</sup> | 150.7  | 90.0                              | 59.7  |
| 1978B              |  | 134.8                             | 89.4  |

<sup>1</sup> Constant dollar series is expressed in dollars of calendar year 1972 purchasing power but deflators for consecutive calendar years have been averaged to reflect average prices over a fiscal year.

<sup>2</sup> Deflator used applies to July 1-October 1.

<sup>3</sup> Two estimates are shown for fiscal year 1978. The A entry corresponds to the budget figure and the B entry to the House authorization. Deflators for 1977 and 1978 are estimates based on extrapolation from official data, assuming a relevant inflation rate of 6 percent per annum.

#### DEFENSE CIVIL PREPAREDNESS AGENCY, Washington, D.C., May 20, 1977.

HON. ROBERT L. LEGGETT,  
U.S. House of Representatives,  
Washington, D.C.

DEAR MR. LEGGETT: Representatives of the United States Civil Defense Council (local civil defense), the National Association of State Directors for Disaster Preparedness (State civil defense directors) and the Defense Civil Preparedness Agency met at the Pentagon on May 16 to discuss the present National debate and several pending bills which would affect civil defense.

We discussed the civil defense program and it was recognized (1) preparedness for any type of disaster, peacetime or attack, must necessarily be developed jointly at the local, State and Federal level, (2) total preparedness for natural disasters, such as tornadoes, hurricanes, and floods, and man-made disasters, must exist at the local and State level before there can be effective nationwide attack preparedness, (3) there is a wide variance in the needs, abilities, and resources of the 50 States and the more than 4800 local jurisdictions accomplishing preparedness, and (4) the timing for achieving attack preparedness must necessarily vary from locality to locality, and from State to State.

We noted the difference in State and Federal priorities. Local and State governments concentrate on a broad spectrum of potential disasters, many of which occur yearly if not more frequently. The Defense Civil Preparedness Agency, on the other hand, is charged with focusing on attack preparedness. Working cooperatively, we can agree on a common goal and more effectively use whatever level of Federal funding is available for preparedness.

It was recognized that Public Law 94-361 authorized this Agency to support local and State preparedness against risks of tornadoes, hurricanes, floods, chemical spills and the like, provided that the support enhances attack preparedness. This Agency will follow the course suggested by Public Law 94-361. In return, State governments will give this Agency timetables by which progress in achieving attack preparedness can reasonably be assured.

A statement resulting from the discussion is enclosed for your information. We hope by working cooperatively together to be able to achieve the maximum protection of the Nation's citizens against all risks, and also to make the best use of taxpayers' dollars, whether derived from local, State, or Congressional appropriations.

We would appreciate your letting us know if you have any questions or comments.

Sincerely,

BARDYL RIFAT TIRANA,  
Director.

#### STATEMENT ON CIVIL DEFENSE

Representatives for local, State, and Federal civil defense agencies met on May 16, 1977 in Washington to discuss common goals. At least within the Federal Government, there has been a great deal of confusion over civil defense since adoption of the Federal Civil Defense Act of 1950. There has been a conflict of priorities as between local and State governments on the one hand, and the Federal Government on the other. Congressional appropriations could be used more effectively.

Local and State governments have extraordinary needs for total preparedness for the protection of their citizens and property from the consequences of natural and man-made disasters. The Federal Government has an obligation to provide for the common defense of American citizens against the hazards of enemy attack.

Local, State and Federal governments all want to attain the same objective, the protection of people and property within their respective jurisdictions. It was today resolved to work in cooperation toward a common goal. They hope to maximize the benefit from appropriations made by local authorities, State legislatures and the Congress. They agree as follows:

1. Civil defense is government's responsibility for preparedness, response and recovery from any natural or man-made disaster.

2. At the local and State level, civil defense requires protection of people and property against all risks. Local and State governments have established single-agency responsibility for all disaster preparedness. The primary responsibility of the Defense Civil Preparedness Agency is nuclear attack preparedness.

3. Nuclear attack preparedness, as with any other type of preparedness, must exist at local, State and National levels. Thus, one cannot have nuclear attack preparedness unless local and State governments have an adequate base of total preparedness for any risk. The principal difference between the preparedness that must be exercised by local and State governments for major peacetime disasters and nuclear attack is that for the latter, response and recovery operations must take place in a nuclear attack environment.

4. Historically, protection of the lives and property of citizens has been a responsibility of the States and the Federal Government. The Federal Civil Defense Act placed on the Federal Government the obligation of supporting State and local government in protecting lives and property against the consequences of enemy attack. The 1958 amendments to the Act created a joint local, State and Federal partnership. The amendments gave the Federal Government a more direct responsibility to participate with local and State government in attack preparedness and emergency operations, and provided for Federal financial support.

5. DCPA plays a significant role in the overall Federal commitment, and is the primary channel of communications between the Federal Government and local and State preparedness agencies. However, DCPA is only one of more than 30 Federal agencies

presently charged with a preparedness role. DCPA can provide useful assistance in urging other Federal agencies to support local and State preparedness efforts.

6. DCPA acknowledges that it cannot carry out its partnership responsibility to support attack preparedness unless local and State jurisdictions have adequate total disaster preparedness. Local and State governments have the responsibility to provide preparedness for enemy attack as well as peacetime disasters. Therefore, DCPA's financial assistance to local and State governments may in the future be used to achieve total preparedness against any risk. Local government, State government and DCPA will together work out appropriate guidelines so that the citizens of the several States, the President, and the Congress can be assured of progress in achieving attack preparedness on a State-by-State basis.

7. An important role which has been largely overlooked in civil defense planning in recent years has been that of industry and labor. Preparedness cannot be effective at any level of government without their cooperation and assistance. DCPA will undertake a review with industry and labor of the means by which they can effectively participate in total disaster preparedness at the local, State and National level.

8. The effectiveness of taxpayers' funds, whether from local, State, or Federal sources, will be enhanced greatly by a cooperative focus on total preparedness needs at the local and State level. A consistent approach to disaster preparedness for all risks will materially advance the objectives of local and State agencies, and also meet the partnership obligation embodied in the Federal Civil Defense Act to provide for attack preparedness.

Signed at Washington, May 16, 1976.

LEA KUNGLE,

President, U.S. Civil Defense Council.

DAVID L. BRITT,

President-Elect, National Association of State Directors for Disaster Preparedness.

BARDYL R. TIRANA,

Director, Defense Civil Preparedness Agency.

#### MIDDLE-AGED AMERICAN VIEWS UNEMPLOYMENT

#### HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

MR. WEISS. Mr. Speaker, since the very beginning of the 95th Congress, few issues have concerned the Members of this body more than unemployment. Whether we were considering the CETA extension, the local public works bill, or the youth bill, the bottom line of our discussions has been to take action quickly to get people working.

Throughout all of our deliberations we have dealt primarily with figures to portray the unemployment picture; when we were not considering the rate of unemployment in the Nation or in a particular State, we needed to know the number of unemployed persons or vice versa. While I do not dispute the value of data—without question it is necessary to know where the unemployment situation is most aggravated and whom it most affects—it is also helpful for the Members of the House to have insight from unemployed persons, themselves, as to their opinions of their condition



as well as their suggestions for legislative remedies. It was for this reason, the Employment Opportunities Subcommittee of the Educational and Labor Committee began its deliberations on youth employment legislation with field hearings in New York at which young people were principal witnesses. The members learned a great deal from the young men and women who appeared before the subcommittee; the young people articulately expressed their view that "make work" jobs were wasteful and that their real needs centered on learning work habits and job skills which will help them in their future development.

We have not heard, as of yet in this session, the views of middle-aged Americans who are unemployed. For this reason, Mr. Speaker, I would like to share with my colleagues an article which appeared in the May 31, 1977 edition of the New York Times in which an anonymous author tells us of his unemployment experience. The author, a 46-year-old white male with a graduate degree, writes of the despair of his unemployment; he tells us how unemployment has affected his wife and his three children as well as his feelings about himself; he admits that he conceals his lack of employment prospects from his mother, brother, and sister and that because he has told his stories of optimism many times before he now has little to say to his family.

This article does not deal with the impressions of someone who needs to develop positive work attitudes, good work habits, or saleable job skills but rather it is written by someone who by any measure which we could propose could not be denied the opportunity for success.

Mr. Speaker, the time which the Congress has devoted to employment legislation has been well spent, yet, we still have a long way to go. We cannot afford to waste either future talent or talent which must still be developed. Full employment is the most desirable goal. Perhaps this article will help to make this message clear.

#### The article follows:

[From The New York Times, May 31, 1977]  
DARKEN YOUR GRAYING HAIR, AND HIDE YOUR FRIGHT

(This article was written during the 10 months that the author, formerly an executive at an Upstate New York college, was looking for work. He was subsequently employed—"through sheer dumb luck"—at another institution.)

I am male, white, 46. I have undergraduate and graduate degrees from two reasonably well-known Eastern institutions. My first job lasted for four years, my second for ten, my third for seven. I have a wife, three daughters, a mortgaged home and a 1972 "Beetle" for which I paid cash.

Whereas I once earned over \$400 a week, New York State now provides me with \$95 a week in unemployment benefits.

I am smoking almost two packs a day. I try not to drink before 5 o'clock.

The other day I encountered the man who fired me. He is an affable, bright man, and on the eve of retirement. Many months ago he told me I had outlived my usefulness, and he wished me well. The other day he said he knew what I had been going through. When I said he didn't, he looked just a little startled. He does not, never did, like to be

contradicted. But I knew he had never been without work. I told him that physically, fiscally and spiritually I and all members of my family had been wiped out. Then he asked why I was having such trouble finding a new job.

The easiest, possibly even the only truthful answer would have been this: "No one wants me." That is the way I feel, of course. (Paranoia. Depression. I used to think these were modern conveniences that only others could afford.) But I told him what I know: My age, sex, and salary needs work against me. So, of course, does the shortage of jobs. Then he turned to talk with another passer-by; he meant well, though.

I have discovered there is an entire literature on the art of job-hunting. One book—I think it was the same one that said if you are over 35 and out of work, you're in great trouble—offered a few how-to's on rejuvenation:

If you have too much gray hair, darken it. If you look younger than you are, revise your birth date in your resumé. Be relaxed during interviews, avoid personnel managers (go right to the top!).

I have been told I look younger than 46, but if I change the year of my birth from 1931 to, say 1934, then I have to change graduate dates, military-service dates, previous-employment dates. Barring a gin-induced stupor, how can anyone be relaxed during an interview. (And why that noun? Why not "interrogation"?) My hair is too gray now. A dye, I think, would be conspicuous.

Unemployment is a leveler. The lines and the people in them—I report to the New York State Employment Service's local office every Thursday between 3 and 3:30 P.M.—remind me of my basic training at Fort Dix. Then and now there was, and is, little in common except shared misfortune. Just why the lines move so slowly, I don't know. It should be a fairly mechanical, effortless process.

I went to Washington for an interview in early April. It was raining, and Newark, Philadelphia, Wilmington and Baltimore looked uglier than ever. The interview lasted only 15 minutes because the salary was \$10,000 less than what I had been making. In Washington, that salary would translate into about \$95 a week.

The snack car on the Metroliner on the way back to New York was crowded with men in double-knit suits, carefully cut hair. Some held computer sheets. There was talk about budgets and personnel. I hated them.

I used to ridicule lesser beings who drank martinis with their dinners. No longer. In fact, I usually continue after dinner. Vodka martinis. I know what I'm inviting (or may already have), but they do help me sleep. I should say get to sleep. Because it seldom lasts. I have nightmares, and I scream and I awaken others. Usually, I seem to be in pursuit of an object of one kind or another; just as I'm within reach it moves beyond my touch. Then I scream.

Among our neighbors is a young psychiatrist. My wife has suggested that I talk to him, friend-to-friend (we are friends) about my problems, paranoia, depression, nightmares. Perhaps he would know of a pill that would dilute my anxieties, my problems. But I know the bare root of all of them, and unless he can provide me with a job, why bother with a pill? So I drink in lieu of a pill.

One interviewer eventually turned me down because, he said, I lack eyeball contact. When I called him to say I didn't understand, he told me that because of my courage in asking such a question, he would reopen "the discussions." We had dinner at the Yale Club, in New York (he had one beer, I had nothing), and he said we had misread each other's "signals." We would start afresh, and he would be back in touch

with me. A month later, he wrote to tell me that he had decided not to fill the position after all. (I heard shortly afterward that he had lost his job.)

The help-wanted ads are the first things I look at in Sunday's paper. But they're strange. Box numbers and employment agencies. My résumés go out on Monday, but there's seldom an acknowledgment.

The corporate display ads are a little different. Most of the time an answer is forthcoming. The final sentence, often enough, is, "I wish you well in your future endeavors." Earlier in the form letter are references to the numbers of applicants, all good, but a few better suited for "our needs" than others. But the résumés of the rejects, of course, will remain in "our active files."

A vice president of an organization asked me to meet him for breakfast at a Park Avenue hotel. Two days later, I received a note from him saying he was impressed by my credentials, liked my answers to his questions and would probably invite me to his base for additional interviews. I was skeptical—he wasn't the first vice president with whom I had had breakfast in New York—but two days later his assistant ushered me from one vice president to another, and finally to the president.

A week later, I was told that everything had gone well and that I could expect a decision within two weeks. I received the decision—from the assistant—three months later. It was formal, brief and negative. The job went to a young woman. The organization is the defendant in a number of affirmative-action cases in the courts.

A friend of mine, a president, once told me that whenever he advertises a vacancy, it's an easy matter to skim off the four or five most outstanding candidates. After their interviews, he compares not their experience, but their statistics—their total compensation packages, retirement and medical benefits in particular. If you're not young, he said, it sure helps to be single. I, as he knows, am neither.

I'm never sure just how the children are taking it. I think they see it all in very different ways, for they are not at all alike. One is a sphinx, one seems almost (though not intentionally) removed, and one sees it all. But they all know my countenance and can interpret it. They know I spend most of the week in my chair. Only one of them has said that I no longer talk, and I frown when others are talking.

There are times when I wonder not whether I will ever have a job again, but whether if I do, I will be able to function. For almost a year, I have not done what I was trained to do. I have, as they say, vegetated.

The invitations for interviews never come by mail, always by telephone. So I stay home and wait for the phone to ring. It's not that I have nothing else to do, but it is a matter of how I spend that waiting time. After the newspaper there is coffee, and junk mail, and boredom. I eat too much for lunch because there's nothing else to do. Lately a friend has supplied me with Irish novels and short stories, all new and none published in this country. I am Irish and know something of earlier Irish literature, but my friend's books offer little release, less escape.

At dusk, in those unearthly hours between sleep and wakefulness, I have visions. I see pictures of small-bore pistols. Lethal, but, I hope, quick and comparatively painless. Not heroic, certainly, but not cowardly either. But, then, there's my wife and our daughters. Because I love—and I do—all four, I have to ask whether my death is preferable to my (mere) despair. I do not know. Would they be better off without me? I do not know. When I first lost my job, the real pain derived from the (eventual) realization that I had failed not only myself but four others.

I recently read about a White House deputy press secretary. I think he was not quite 30,

whose new salary is \$39,500. No, maybe it was \$49,500. I had never heard of him before, but I hate the son of a b-----.

I knew that life isn't fair long before J.F.K. went on television to tell us as much. But fair isn't the right word. It's not fairness that's lacking; it's balance. Proportion maybe.

When the phone does ring, it's usually someone asking for one of our daughters to babysit. "We have to go out tonight, and I was just wondering if..."

We never go anymore. It's not just the money—our hearts aren't in it. We are obsessed and can talk only to each other. But only about our obsession.

I weep when I write my mother, my brother, my sister. I tell them that we're all well, that the family fabric is intact, that I have a half-dozen irons in the fire. But they've heard all that too many times now, so I seldom write. I have nothing to say.

### CHALLENGE IS TO PRESERVE PEACE, CONGRESSMAN EILBERG SAYS

**HON. MICHAEL O. MYERS**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. MICHAEL O. MYERS. Mr. Speaker, on Memorial Day, my colleague, the gentleman from Philadelphia, JOSHUA EILBERG, was honored by being asked to serve as keynote speaker at the commemorative service of Rhawnhurst-Castor Memorial Post 754 of the American Legion.

His comments, I believe, were eloquent, timely, and thoughtful. They expressed the hope that we in America can meet the challenge of holding high the memory of those who gave their lives for our country, and that we can restore domestic tranquility as we set about to preserve peace. Mr. Speaker, I insert Mr. EILBERG's remarks in the RECORD, and commend them to the attention of my colleagues:

REMARKS BY U.S. REPRESENTATIVE JOSHUA EILBERG, MEMORIAL DAY SERVICE, PHILADELPHIA, PA.

This is Memorial Day—a solemn and moving occasion in the life of our country, and in the cause of the freedom which we hold so dear.

Once again—as we have for one hundred and nine years—we pause to honor the memories of those fine young Americans who made the ultimate sacrifice in the service of their country.

These are those Americans who, in the words of Abraham Lincoln, "gave their lives that this nation might live."

Memorial Day has its roots in that terrible and tragic national upheaval of our Civil War.

But without regard to the origin of Memorial Day, it can truly be said that on this day we honor all of those who have fallen in all of the wars that have tested our national spirit in the two hundred years that this republic has endured.

From Lexington and Concord—to Laos and Cambodia—the graves of American servicemen circle the globe—silent reminders of their sacrifice, and our enduring indebtedness to them.

I intentionally include the sacrifices of those who fell in Southeast Asia—because in our intense and continuing national debate over this most recent and tragic war, the cause of those who struggle there has been too quickly overlooked.

We have endured a great national trauma over the war in Vietnam—and the wounds of that public debate are far more visible than the graves of the young Americans who died in that war.

I do not want to reopen the wounds of Vietnam—it would serve no useful purpose to do so.

But there is one point I want to make—one point that has been overlooked.

Vietnam, we are told, was not a popular war—and I guess that's right.

Vietnam, after all, divided America.

But so did our own Civil War—which set region against region, brother against brother.

And our own Revolutionary War divided this country too.

It was not a popular war with significant numbers of our countrymen.

There were many in the American colonies who thought it was wrong to wage a war of independence against England—many in the American colonies who simply did not want to obtain their freedom by force of arms.

The national debate two hundred years ago was every bit as strident—every bit as divisive—as was the national debate over Vietnam.

And, like the Vietnam debate, it lasted long after the armed hostilities had drawn to a close.

Over a period of time, we have come to revere those gallant men of the Continental Army who purchased our freedom with their blood.

I trust that the time will come—and I pray that it will come soon—when we will revere the memories of those who died in Vietnam, convinced that they were guardians of the same legacy of American freedom.

America has bled through many a war—here on our own soil and in far away lands—and when each war was over, we set about the task of binding up the wounds of those who bore the battle—the veteran and his loved ones.

We face that task again today, in the aftermath of Vietnam—and I feel confident that we will succeed.

We owe it to these, our honored dead, to restore domestic tranquility.

There is sorrow on each Memorial Day—many of us still weep for our fallen.

But Memorial Day comes in the springtime of the year—in the season of hope—the greening season after the dead hand of winter has been loosed from the land.

It is our challenge to keep—forever green—the memory of those whose sacrifices we honor.

And it is our challenge, too, to preserve the peace which they struggled so valiantly to attain.

America, I believe, is capable of meeting that challenge.

### THIRD WORLD

**HON. EDWARD J. DERWINSKI**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. DERWINSKI. Mr. Speaker, the nationally syndicated columnist, Patrick Buchanan, is known for his penetrating stories and sharp commentary on domestic and international events.

His column, appearing in the Chicago Tribune of May 31, is devoted to the Law of the Sea Conference which is currently meeting at the United Nations. I found his comments to be quite pertinent, and

insert the article for the attention of the Members:

SOAK YOUR HEAD, THIRD WORLD

(By Patrick J. Buchanan)

WASHINGTON.—If Lady Luck is with us, the Law of the Sea Conference, the fifth session of which has opened at the United Nations will, like its predecessors, collapse in acrimonious name calling.

For last September, Herr Kissinger left tabled a proposal so unnecessary, foolish, and damaging as to make success of the conference an economic disaster for the United States.

Central to the discussion at Turtle Bay is the question: Who has the right to exploit the billions of dollars in nickel, cobalt, copper, and manganese lying on the ocean floor outside the territorial limits of any country?

The Japanese and the Germans, but especially the Americans, have the organization, technology, and capital ready to scoop up these minerals lying about in potato-shaped nodules. Last fall, however, Henry the K offered the Third World the following:

A. The United States will agree to creation of a Third World-dominated International Seabed Authority (ISA), which would be supreme regulator of who mines the oceans, when, and where.

B. Every time a U.S. company discovers and develops a bed of ore, another comparable seabed will be found for the ISA to exploit.

C. The ISA would get a rakeoff of the profits of the American operations.

D. Uncle Sam will help finance an outfit the ISA deep-mining arm to be known as Enterprise.

What the United States was to receive in return for these gratuities has yet to be disclosed.

Instead of leaping at the deal, however, the Third World dismissed it as insufficiently generous. They want the whole hog. Their demand is that Enterprise be given exclusive monopoly rights to mine the seabeds; and the American companies should keep their grubby capitalist hands off.

Kissinger's offer should be withdrawn as the first order of business at the conference. It is a betrayal of the national interest. Chad, Sri Lanka, and Mozambique have no more claim to minerals we pick off the ocean floor than we do to the hauls of fish the Russian trawlers scoop up on the high seas.

What is it in the composition of the American diplomat that he is forever dreaming of ways to ingratiate himself with Third World thugs who do not disguise their contempt for us, our system, our success, our values?

In a thousand attempts we have sought these last 20 years—with soft loans, trade concessions, aid grants—to purchase their friendship and respect. Yet everywhere, the hostility and hatred mount round about us.

American policy will begin to command respect when it is viewed by friend and foe alike as furthering our national interests. Elliott Richardson, U.S. Ambassador to the Law of the Sea Conference, would do well to deliver to the gathering a single valedictory address along the following lines:

"Gentlemen, the U.S. no longer buys the argument that your poverty is our fault. Our wealth was not created by stealing yours, but by the hard work of our own people. If you wish to be friends of the United States, you will find us generous in both counsel and assistance."

"However, as to the minerals on the floor of the ocean, they belong in our judgment to the nations with the ingenuity to recover them. American enterprises are going prospecting for those nodules; you, of course, are free to do the same. But no international authority is going to dictate to the United



States what it may and may not do on the world's oceans. And if there should be physical interference with our mining operations, you will find yourselves arguing the matter not with me, but with the Sixth and Seventh fleets. Have a good conference, and good day."

# STIMULATION PACKAGE: A CONSERVATIVE ALTERNATIVE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. McDONALD. Mr. Speaker, yesterday I introduced legislation to balance the budget and restore a sound economy by reducing Government spending. This legislation was based, in large part, upon a statement by the distinguished economist, Hans Sennholz, outlining a conservative alternative to liberal economic policies.

Professor Sennholz argues that it is the enormous increase in Government transfer payments that has depleted the economy of the capital necessary to expand production and brought us inflation and recession. Consequently, the stimulus necessary to restore a sound economy is a reduction in Government spending, not a continuation of the inflationary spending policies that produced recession and high unemployment.

Professor Sennholz' statement follows:

## STIMULATION PACKAGES: A CONSERVATIVE ALTERNATIVE

American income and wealth are not produced in Washington; they are merely redistributed there by political force. The steady growth of this redistribution process in recent decades explains the growth of the Federal government. During the last decade Federal spending has increased some 10 percent per year. Over the last three decades, Federal, State, and local government spending has soared from 20 percent of national income to more than 40 percent.

We must view this trend with great alarm. After all, the growth of government in our lives signifies the growth of political coercion and simultaneous loss of individual freedom. As politics is becoming a popular redistribution method, it is gradually gaining in importance until every sphere of economic life is politicized, and political action is more important than economic effort. Economic stagnation must inevitably follow. But, above all, the political redistribution process is breeding antagonism and conflict not only between the beneficiaries, who are profiting from the redistribution, and the victims, from whom the benefits are forcibly taken, but also among the beneficiaries themselves who are at odds about their fair and proper shares. The redistributive society is a conflict society that jeopardizes its individual freedoms and economic well-being.

When the quest for redistribution outpaces the means that are available in tax revenues, budgetary deficits are suffered. Small deficits may be covered by government borrowing of the people's savings. But the huge deficits of recent years can only be financed through some creation of money, which is inflation. Deficit financing thus appropriates the people's monetary savings for government spending, and gradually impoverishes the American middle class. Its impoverishment is aggravating the social conflict.

In the footsteps of his New Deal and New

Republican predecessors President Carter is promoting more redistributive spending. In order to stimulate economic growth and alleviate the high rates of unemployment, he is proposing a stimulation package of \$31 billion over two years. President Ford's Budget Message of January 17, 1977 foresaw a 1977 deficit of \$57.2 billion; President Carter's first year deficit must be expected to exceed this amount.

In the name of social peace and economic prosperity we must reverse this ominous trend. The growth of social strife must be halted, and the economic stagnation with its awful waste of capital and labor must be overcome. This is why the Federal budget must be balanced and, above all, government spending be cut.

In a democratic society, such as ours, a trend in policy can be reversed only with the full support of the majority of the populace. To seek this support is an educational task of gigantic proportion. An open and thorough discussion of government spending in general, and the U.S. budget in particular, is well suited to serve this educational task.

A conservative reform administration would seek to stem the transfer tide and reverse the trend. It knows what has to be done. But it is also aware that every attempt at curbing the redistribution demands will meet with the bluster and rage of many beneficiaries and their spokesmen. Their arguments and doctrines must be thoroughly defeated in the arena of debate and discussion before the reform can be conducted with any degree of success. Only when the objectives of redistribution are completely discredited and its consequences are finally understood by the American public, can a true reversal be effected.

Specific proposals must be defended successfully on the battlefield of ideas. In particular, we are proposing, and are ready to defend, the following first-year program of reform:

1. All redistributive spending by the Federal government will be reduced by 5 percent. That is, in the 1978 Budget of the United States, total outlays are estimated at \$440 billion, of which \$277.1 are transfer payments of one kind or another. A 5 percent reduction of this amount would save \$13.9 billion.

2. To show the way and set an example the expenditures on Federal employees engaged in the redistribution process, including all members and employees of the legislature, will be reduced by 10 percent. We estimate the number of such employees at 840,000. If their compensation averages \$15,000 per year, their expenses amount to \$12.6 billion. A 10 percent reduction would save \$1.2 billion. Of course, the 5 percent curtailment of redistributive function should permit operation with 5 percent fewer civilian employees, or 42,000 less, which would save \$0.6 billion. This reduction could be quickly achieved by a temporary ban on Federal hiring.

3. All Federal agencies and commissions that in any way disrupt economic production, raise consumer prices, cause shortages or surpluses, weaken competition through restrictions and prohibitions of entry, or create cartels and monopolies through franchises and licenses, will be abolished summarily. The budgetary savings of such a measure, which we estimate at some two billion dollars, are insignificant when compared with the release of creative energy and productive effort that would follow. Although some present beneficiaries of the control system, together with the Federal agents and commissioners, could be expected to oppose this economic release, every consumer would benefit greatly from the expansion in production, the surge in supplies, and lower goods prices.

4. As the Federal government reduces its

spending and relaxes its grip on the national economy its demand for resources in general and for loan funds in particular, would fall. Interest would decline immediately. The stabilization of the U.S. dollar would have the same effect. A two percent decline, which would be a realistic expectation, would reduce the interest burden on the Federal debt of almost \$700 billion by \$14 billion.

Altogether, this reform program would save the American taxpayer nearly \$32 billion. It would unshackle the American economy, stabilize the U.S. dollar, and halt the drift toward government omnipotence and social strife. Misled by the apostles of redistribution and spending many Americans may not yet be ready for such a reform. But the growing afflictions of the redistributive society may cause them to re-examine their conduct and give thought to the only alternative.—Hans F. Sennholz.

## A COMMONSENSE LETTER TO THE PRESIDENT

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. HYDE. Mr. Speaker, I am pleased to share with my colleagues a letter written to President Carter by one of my constituents, Mr. Stephen M. Moser of River Forest, Ill.

Mr. Moser's succinct letter covers a variety of subjects and his thoughts are certainly representative of much of what I have been reading in my mail. No doubt many of my colleagues will recognize his opinions as being very reflective of their own correspondence.

If President Carter intends to stay "close to the people" as he has so often declared, certainly one of the best ways of doing so would be by reading a daily sampling of his mail. I am sure he will find that many Americans concur with the views expressed by Mr. Moser:

MAY 24, 1977.

DEAR PRESIDENT CARTER: The following are some of my views and ideas which I would like to share with you.

### ENERGY

Let's cut down on Domestic Airline Flights, flying empty, or with a partial load on duplicated flights by more than one airline.

School Busing is used for integrating schools but it is costing enormous amounts of money and gas. Let's have the kids go or continue to go to local neighborhood schools.

Our Government regulates the Trucking Industry which forces one way loaded and return trips empty—a complete waste of fuel.

A lot of Commercial Business's are open 24 hours a day, 7 days a week. This is also a drain on the use of energy.

Enforce the 55 m.p.h. speed limit. It will save gas and lives.

If you have to go to rationing, it must be done fairly or it won't work.

### CRIME

What about the victim's rights? Let's get the habitual and mentally insane criminal off the streets so they don't commit additional crimes.

### WELFARE

It is a rip off. Let's have reform. Also the Food Stamp Program is mis-used.

### MILITARY

Let's have a strong but lean Military and eliminate duplication and waste.

## CIA AND FBI

They must have some degree of secrecy but safeguards must be there so they are not mis-used or compromised.

## FOREIGN POLICY

Beware of the Russians and Cubans. I don't trust them.

If we are going to sell wheat to foreign countries, let them pay as we have for oil. Has our wheat price gone up like oil and coffee?

Most aid is needed abroad, but I'm sure we don't get credit from the people for giving it or they don't appreciate it.

Let's take a hard look at all aid. Can we really afford it with a deficit at home?

We must support and continue the support of Israel.

Finally, there are so many Government Agencies to help, but they are given so much power that they are going to destroy what they started to help. With regulations and policies and no control, these agencies are going to undermine our country. Let's have some "Zero" base evaluations.

Our Government must stop spending more money than it takes in. Increase productivity and efficiency and eliminate the "Bureaucracy".

Thanks Sincerely,

STEPHEN MOSER,  
River Forest, Ill.

## MEDICAL FREEDOM OF CHOICE

## HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. CRANE. Mr. Speaker, the May 25 edition of Medical Tribune included an article entitled "Bill To Curb FDA Power Gains in Congress." The article deals with the medical freedom of choice bill, H.R. 54, that my colleague from Idaho (Mr. SYMMS) has introduced and which I, along with 105 other Members of Congress, have cosponsored.

I insert the article in the RECORD at this point and urge my colleagues to review it:

## BILL TO CURB FDA POWER GAINS IN CONGRESS

WASHINGTON, D.C.—The criticism of medical leaders and researchers and the concern of physicians and, more recently, patients with regard to FDA regulatory overkill has given momentum to a House of Representatives bill to restrict FDA powers in respect to drug efficacy, returning it to the practicing physician. The increasing frequency of reports, carried by MEDICAL TRIBUNE, of what scientists and medical leaders consider abuses of regulatory discretion has recently been reinforced by growing sentiment aroused by FDA actions in respect to anticancer therapy and noncaloric sweeteners. The new Symms bill is a terse 300-word amendment to the Food, Drug and Cosmetic Act which will reduce FDA hegemony in the area of drug effectiveness even as it retains FDA powers in respect to drug safety.

As described in MEDICAL TRIBUNE by its author, Rep. Steven Symms (R.-Idaho), the bill is based on the proposition that FDA overregulation has unnecessarily cost American lives, has stifled drug research and development and denied the American consumer vital drugs at an estimated cost of \$250-\$300 million a year, mostly in extended hospital stays.

The bill, express purpose of which is "to expand the medical freedom of choice of

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consumers," has received its strongest impetus from medical leaders' continuing, outspoken criticism of what they consider to be a virtual blockade on potentially lifesaving drugs.

In a recent address to Congress, Rep. Symms cited, as a prime example "of the urgent need to pass this legislation" an exclusive report by MEDICAL TRIBUNE (April 13) in which, he said, "two of the most prominent physicians in America, Drs. Michael E. DeBakey and Raymond P. Ahlquist, describe the problems that the FDA has created [with respect to] beta blocker drugs." Inserting the article in the Congressional Record, Rep. Symms urged his colleagues to read it "and ask themselves why the United States has chosen to follow the disastrous path of regulatory overkill."

The Idaho Congressman was particularly impressed by Dr. DeBakey's declaration to MEDICAL TRIBUNE that "The prosthetic artery, aneurysmal patches and other prostheses would not be here today if we'd had to comply 25 years ago with current FDA regulations." Said Rep. Symms pointedly during an interview with MEDICAL TRIBUNE: "FDA people tell me that the fact is that if penicillin, or digitalis, or aspirin, were developed today they'd never make it to the market."

## "RIGHT THING TO DO"

Dr. Ahlquist became one of the first prominent medical scientists to offer unequivocal support for the bill, saying: "I'm in favor of any action that will speed up the process of releasing safe new drugs to the medical profession. The history of the FDA since 1962 makes this [the Symms measure] the right thing to do. The general effect of the 1962 legislation has been to slow down accessibility to new drugs. I am sure this was not the intent of Congress, but this has been the unforeseen effect of those regulations."

Encouraged by the scientific support, Rep. Symms noted that "We have already drawn wide bipartisan support in the House, since the bill's introduction January 4, and we have indications that many prominent Senators from both parties are willing to support it. The bill was to be introduced soon in the Senate by Sen. Jesse Helms, a North Carolina Republican and former newspaper editor who has been prominent in environmental and price stabilization affairs."

"Our 92 co-sponsors in the House include 32 Democrats," Rep. Symms emphasized, including such liberals as Rep. Shirley Chisholm of Brooklyn and Rep. Charles Rangel of Manhattan in New York City. Other influential backers are Rep. Bob Wilson (R.-Calif.), a ranking member of the House Armed Services Committee, Rep. Joe D. Waggoner (D.-La.), a leader in the Ways and Means Committee, and Rep. James G. Martin (R.-N.C.), of the Science and Astronautics Committee, who has introduced a bill to reform the Delaney amendment.

Rep. Rangel, who represents a predominantly black constituency in Manhattan's Harlem and Upper West Side, told MEDICAL TRIBUNE he is supporting the bill because it would make more proved antihypertensive drugs available to black patients.

## ANTIHYPERTENSIVES CITED

"Hypertension is one of the commonest medical problems that blacks encounter," he said. "Effective antihypertensive compounds are available in Europe, but not available in the United States because of the FDA regulations. The bill would speed passage of these drugs to the medical consumer. Our position is that if a drug is shown to be safe it should be made available. It is my view that the individual physician who treats the patient is best qualified to determine whether or not a drug is beneficial to that patient."

Rep. Chisholm, in supporting the bill, said, "Naturally everyone would like to see that all drugs on the marketplace are effective. But 15 years of experience and bills of dollars have

shown very clearly that the 1962 Amendments to the Food, Drug and Cosmetics Act have not helped achieve that goal. In fact, they have considerably harmed the American consumer."

"There is overwhelming economic and medical evidence that the American people are being denied access to many drugs now in wide use in other countries for the treatment of serious disease, because of the controversy over the efficacy of the drugs alone. It is our belief that so long as a drug is proven safe and properly labelled as to all possible efficacy, it should be made available to patients and physicians who wish to use it. In addition to the basic question of the right of individuals to exercise freedom of choice of safe medical treatment, there is considerable evidence that internal problems at the FDA and overly stringent proof requirements under the law have made it virtually impossible to meet efficacy standards in timely fashion. Hence, this country suffers from a 'drug lag' as compared to other developed nations."

As rationale for the bill, Rep. Symms cited an evaluative study in which Prof. Sam Peltzman, of the University of Chicago's Graduate School of Business, "has documented the loss of new drugs to medicine and the consumer as a result of FDA holdups for reasons of so-called effectiveness. The drug flow since passage of the Kefauver amendments to the Food, Drug and Cosmetic Act in 1962 has been cut by 60%." (Regulation of Pharmaceutical Innovation, American Enterprise Institute for Public Policy Research, 1974.)

"In his econometric model based on historical pre-1962 cost and benefit averages, Prof. Peltzman estimates that in terms of missed benefits, or lives lost and illnesses lengthened, the cost is between \$300 and \$400 million a year; he pegs the tab for higher prices created by the lack of competition in drug production at another \$50 million a year, and he deducts an estimated \$100 million a year for the projected savings that have accrued to the consumer because ineffective drugs [as well as effective drugs] have been blocked from the market. Hence the final estimated cost to the consumer of \$250 to \$300 million annually."

"But I would emphasize that a 1975 'Economic Report of the President' has concluded that it is not clear whether drugs introduced under the tremendously difficult circumstances that have existed since 1962 are any more effective than those introduced before the Kefauver amendments."

## NO TIME CONSTRAINT NOW

Noting that the thalidomide episode sparked passage of the 1962 amendments, he stressed that "under the original law, a new drug application or NDA received automatic approval if it had not been rejected by the FDA within 180 days; the 1972 amendments removed this time constraint."

Rep. Symms, who has become a consumer relations expert in his four years in Congress, pointed out that only 16 new chemical entities have been introduced annually since 1962, as compared to 43 prior to that time. "The FDA should be encouraged to make greater use of data generated by reputable foreign scientists to reduce duplicative research and avoid the questionable ethics of conducting clinical trials for regulatory purposes only."

"And safety and efficacy are relative, not absolute terms. Consideration should be given to developing an effective post-marketing surveillance (or Phase IV) system to expedite the marketing of new drugs with significant therapeutic potential, while some [other] governmental agency works with clinical pharmacologists and other scientists in industry, government and in the private sector to foster the development of new drugs."

The fate of the Symms bill now lies in the



House Subcommittee on Health and Environment of the House Interstate and Foreign Commerce Committee, and the Senate Health Subcommittee of the Labor and Public Welfare Committee. And there could be some tough sledding ahead, Rep. Symms concedes. Rep. Paul Rogers (D.-Fla.), chairman of the House health panel, voted for the Kefauver amendments, and Sen. Edward Kennedy (D.-Mass.), who heads the Senate health group, is not thought to be favorably inclined toward the bill. But both are consumer advocates, and success or failure of the Symms bill may rest on its appeal to the nation's patients, doctors and their Congressmen.

#### STATE ELECTION OFFICIAL'S REACTION TO VOTER REGISTRATION PROPOSAL

#### HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. FORSYTHE. Mr. Speaker, on April 4, 1977, I brought to the attention of my colleagues in the House a letter which I had received from the Board of Elections of Burlington County, N.J. That letter discussed in some detail the objections to the voter registration proposal on the part of the local officials who ultimately will have to bear the responsibility for administering any new programs.

Today I would like to bring to the attention of my colleagues another letter on this subject, this one from the New Jersey State Association of Election Officials. The letter encloses a resolution passed during the State convention expressing the opposition of the organization to H.R. 5400, the Universal Voting Registration Act. Note that the association is composed of all election officials from every county of the State of New Jersey and adopted the resolution without dissent. Such a statement coming from such a group, I think, says much more about the true potential for disaster inherent in this voter registration proposal than all of the rhetoric on the floor of the House will be able to say of its potential for good.

I must repeat, Mr. Speaker, my statement of April 4 that we have an obligation as responsible legislators to provide laws which reflect the realities of the world in which we must function. I think this resolution of the Association of Election Officials reflects the reality of the world with which these officials must deal every day.

The material follows:

NEW JERSEY STATE  
ASSOCIATION OF ELECTION OFFICIALS,  
Jersey City, N.J., May 13, 1977.

HON. EDWIN B. FORSYTHE,  
Moorestown, N.J.

DEAR CONGRESSMAN: This Association, composed of all election officials from every county of New Jersey, sitting in convention recently at Atlantic City, N.J., went on record as being strongly opposed to the adoption of H.R. 5400, commonly known as the Universal Voting Registration Act of 1977.

The undersigned, President of the Association, was directed to forward to each member of the New Jersey delegation, a copy of the attached resolution, adopted without dissent, so that our Washington Representatives may

be made aware of the sentiments of the election officials who would have to implement this law if it became a reality.

Very truly yours,

JOSEPH T. BRADY,  
President.

#### RESOLUTION

Whereas there is presently pending, in the United States House of Representatives, an Act designated as H.R. 5400; and

Whereas the stated purpose of said legislation is to provide the manner in which citizens of the various States may register to vote and vote in any federal election, on the day of said election; and

Whereas the said legislation provides for the establishment and administration of said registration program through a Federal Election Commission; and

Whereas the members of this association recognize the inherent privilege of each qualified citizen to vote in the most convenient manner possible; and

Whereas it is also recognized that election day registration will cast the burden and responsibility of determining voter qualification upon the individual district or precinct workers and that undue hardship and reasonable burdens will also be placed upon them if they are required to register voters in addition to fulfilling their usual election day duties; and

Whereas H.R. 5400 provides totally inadequate safeguards in determining constitutional requirements regarding age, residency or citizenship, thus opening wide the door to notorious acts of fraud and misrepresentation; and

Whereas H.R. 5400 will require and compel Election Officials to initiate, maintain and service voter separate registration records for State and Federal Election; and

Whereas such duplication of records imposes severe financial obligation upon the tax payer of the various counties of the State of New Jersey; and

Whereas statistics released by the United States Government indicate less than 2% of persons responding to a post election survey cited voter registration inconvenience as a reason for not registering;

Whereas, H.R. 5400 provides for a large expenditure of federal funds which is a gross injustice to the taxpayers, and

Whereas we believe that a responsible electorate wants, and has a right to expect, proper safeguards in the right to vote.

Now Therefore Be It Resolved by the New Jersey State Association of Election Officials in convention assembled in Atlantic City, New Jersey on this 16th day of April 1977, that the said Association is opposed to the adoption of H.R. 5400 by the United States Senate and the House of Representatives.

#### BAD FOR HEALTH

#### HON. KENNETH L. HOLLAND

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. HOLLAND. Mr. Speaker, the following article appeared in the Wall Street Journal on Wednesday, May 18, and I would like to take this opportunity to share it with the Members of the House.

The article follows:

#### BAD FOR OUR HEALTH

President Carter's proposals for controlling hospital costs probably aren't going far in Congress and that is just as well; they're the wrong medicine.

The President proposes to put an 8.3% limit, of sorts, on the annual rise in revenues of acute care hospitals and also limit capital outlays above \$100,000. In that way he would hope to bring government's sharply rising Medicare and Medicaid costs under better control.

At the present rate of growth, these two programs will cost the federal government \$30 billion in fiscal 1978, a rise of 13% from the current year. Hospital costs, rising at 15% a year, are a major reason. About 45% of all hospital bills are paid by government.

But the Carter proposals fail to address the underlying cause of rising hospital costs—they are rising so rapidly largely because there is insufficient restraint on demand. About 92% of all hospital bills are paid by some third party, either the government or private insurers. The incentive for the patient and his doctor is not to economize on hospital usage but to make the most of the fact that insurance will pick up most of his bill.

No one in particular is to blame for this, although it is not overly harsh to say that past administrations and Congresses should have given more thought to designing health care policies that would have been less inflationary. Not only did the sharp rises in demand under Medicaid and Medicare raise prices but the government also has encouraged, through its tax policies, the present broad coverage of private insurance. Economist Martin Feldstein of Harvard estimates that tax deductions for health insurance premiums lower the cost of such insurance some 30% from what it otherwise would be.

The answer to the cost inflation problem is not as complicated as many people would like to make it sound. Hospitalization is different from other services in that treatment is often a matter of life and death. But it is not radically different in economic terms. Mr. Feldstein, one of the most persuasive experts on the subject, makes a convincing case that with patients paying a substantial portion of their bills out of pocket—up to, say 10% of their annual income—and insurance picking up only the rest, medical costs would soon come under the rigorous control of supply and demand.

Any politician, however, can see political liabilities in this. Politicians have been promising the nation "free" medical care for so long that there is a pervasive belief that such a thing exists—that doctors and nurses presumably can be made to work for nothing and that X-ray machines can be had for a song. Rather than control costs by resort to co-insurance by the patient, government is willing to try almost anything else.

Unfortunately, innovative attempts to avoid reality have come a cropper. President Nixon established federal subsidies to promote Health Maintenance Organizations, which he hoped would hold down health costs by competing with existing forms of health care delivery. But liberals in Congress loaded the HMOs up with so many federal requirements that they have had difficulties achieving their supposedly inherent efficiencies. Congress established Professional Standards Review Organizations, which were supposed to enlist doctors to review the performance of their peers in spending federal money. But doctors don't much like that line of work, so that only about half the proposed number of PSROs have been formed. It is doubtful whether even those exert much effective control on hospital utilization by doctors.

Now Mr. Carter is falling back on that last resort of failing government policies, direct controls. But there are all sorts of flaws, real and potential, in the ceilings. For one thing, they would permit non-supervisory wage increases to be passed through. The idea of controlling capital expenditures already is

being employed by federally sponsored Health Systems Agencies in a number of states; the main effect seems to be to embroil the HSAs in litigation and controversy with hospitals and doctors. And in some states, where the main focus has been to try to control Medicaid costs, arbitrary controls and ceilings have contributed to nursing home bankruptcies, a dubious contribution to the efficacy of American health care.

Direct controls simply will not work. And since they won't work, neither will "national health" in the sense that it has been envisioned by Senator Kennedy and others, as a blank check for unlimited care—that is, unless Congress is willing to face up to a federal budget deficit of \$150 billion or so.

So the choice is open. Congress can go along with something like the Feldstein proposal and bring costs under realistic control at some political price. It can adopt the Carter proposal and plunge deeper into the morass. Or it can continue to let matters drift. We suspect it will choose the latter. It should be obvious that it could do a lot worse.

#### ANOTHER PERSPECTIVE ON MENACHEM BEGIN

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. EILBERG. Mr. Speaker, we have read and seen much in the news media about the victor in Israel's recent election, Menachem Begin. Because his election has created so much discussion, I have noted in the May 25 issue of the Jewish Times of the Greater Northeast, published in my home district, the following excerpts of an interpretive article on Mr. Begin.

This article was written by Albert Liss, executive director of Brith Shalom. I commend it to the attention of my colleagues, because I think it is an interesting and perhaps different analysis of the man and the issues, which are of critical importance:

#### MENACHEM BEGIN—A PROFILE (By Albert Liss)

Now that Menachem Begin, a member of the Knesset since Israel's reestablishment 29 years ago, and former Commander of the underground liberation forces, the Irgun Zvai Leumi, has emerged as fresh copy for today's newspapers, American reporters of the Middle East scene must accept a special responsibility to correct the misconceptions about Mr. Begin which were nurtured in the bitter partisan days of Israel's beginning.

The description of "right-wing" to Mr. Begin, in a political spectrum that includes Communist parties and the Marxist Mapam, may be useful, but it regrettably conjures up a distorted vision to Americans who generally apply the term to anti-Democratic elements who oppose a free Democratic society.

Mr. Begin believes passionately in the free society that can provide social justice for the individual and is one of the staunchest adherents of the parliamentary system which he served not only as a member of the Knesset but also as a former member of Golda Meir's cabinet.

Although a champion of the free enterprise system, Mr. Begin has advanced ideas for the socialization of Israeli society far more radical than any proposed by the Labor Party which, incidentally, also has encouraged a free enterprise economy, despite the

anomalous Histadruth. Mr. Begin, for example, urged the nationalization of all public utilities and has called for public referendum on vital issues facing the Israeli electorate. He was one of the first who argued for the termination of military rule over Arab civilians in Israel proper and advocated full political, social and economic equality for all citizens of Israel, Jew and Arab. He has even espoused the right of loyal Israeli Arab citizens to serve in Israel's military forces, and opposes the death penalty.

Mr. Begin may with accuracy be described as a radical only in his territorial views. Jewish traditionalist, he sanctions the concept of Eretz Israel, a view shared by many in Israel. It would not be surprising, however, that given evidence of Arab reconciliation, he would find a way to take the necessary reciprocal steps to secure their friendship and attain a durable peace.

Besides the deep influence of Hebrew traditions and Jewish history, the French Revolution and European revolutionary nationalists, such as Mazzini and Garibaldi, seem to have exerted profound influence on Mr. Begin's political outlook.

His vision of Israeli society was eloquently stated in the first public address he made in Tel Aviv on May 15, 1948 after emerging from the underground:

"Let the government be the guardian of the right of man and citizens, without discrimination and without (special) privileges.

"Within our house justice will reign supreme. Justice will rule even its rulers. Those in high office will be the people's servants, and not its rulers. There will be no parasitism. There will be no exploitation. In our house, there will not be a man—citizen or alien—hungry for bread, without a roof over his head, without clothes or without an opportunity for education."

Attention has been focused by Mr. Begin's adversaries on his alleged preoccupation with Israel's military posture. Mr. Begin's reliance on strong military defense forces to protect Israel is a result of his knowledge of the Jewish people's historic vulnerability as unarmed, defenseless victims, and his pragmatic conviction that at this juncture in history, the Arab nations have not yet demonstrated their willingness to accept Israel's legal right to exist as a permanent sovereign Jewish nation-state in the Middle East.

Finally, a word about the man who unfurled the banner of revolt against the foreign occupiers of the Jewish homeland. An appreciation for truth calls for a more edifying description of Mr. Begin and his underground activities than the inflammable ad hominem "terrorist."

Mr. Begin's underground exploits were carried out against powerful foreign military forces which were brutally engaged not only in preventing the establishment of the Jewish state on land held in trust for the Jewish people, but which callously were thwarting the rescue and repatriation of survivors of the holocaust who had no other place to go.

Any comparison of the acts committed by the Irgun (even those in which, unhappily, innocent persons by error and not by design may have been victims) with the cold-blooded murders perpetrated by Arab fanatics at Munich, at Maalot, or at the former Lod Airport, against civilians having no connection with the Middle East conflict, is a palpable absurdity.

No other people in history have succeeded in reconstituting themselves as a nation against greater odds than the people who made the ascent to Zion. There are countless heroes among them, not the least Menachem Begin, the leader of the first successful rebellion for Jewish freedom since the Maccabees.

(NOTE.—The author who is Brith Shalom's National Executive Director, served as Regional

Director of the American League for Free Palestine, an American organization composed of Jews and non-Jews, which supported the fight for the liberation of Palestine waged by the underground forces of the Irgun Zvai Leumi, led by Mr. Begin.)

#### THE C-130 AIRCRAFT AND ARMS POLICY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. McDONALD. Mr. Speaker, in the apparent frantic rush of the present administration to control and further restrict arms sales abroad, there is a clear-cut danger of not only further erosion of our industrial base that used to be called the "arsenal of democracy," but also a further worsening of our balance of payments due to our reduced arms sales, to say nothing of our allies having nowhere to turn for equipment with which to defend themselves. A case in point is the C-130 aircraft which has been accorded the status of a major weapon at the Department of State. Some of us feel this policy is wrong for the reasons set forth in the letter below which was sent to Secretary of State Vance.

The letter follows:

HOUSE OF REPRESENTATIVES,  
Washington, D.C., May 26, 1977.

HON. CYRUS VANCE,  
Department of State,  
Washington, D.C.

DEAR MR. SECRETARY: A number of us here in the Congress are becoming increasingly concerned over the problem of maintaining our position as the "arsenal of democracy". In this day and age, a key foundation of this arsenal has to be the aerospace industry of the United States. Our aerospace industry, as you are aware, is also a leading factor in our exports. Given the fact that both defense spending and our space program have declined in recent years, this matter has become more urgent. Therefore, we are writing to take up the case of one of the giants of the aerospace industry—Lockheed Aircraft Corporation, and specifically the case of the C-130 cargo plane manufactured by that corporation.

It is our feeling that the sale of such planes should be encouraged to all non-Communist countries and not discouraged. Since this is not a strategic weapon, and even in many parts of the world has come to be associated with American humanitarian and rescue efforts, it would appear that it is erroneously classified as a major item of defense equipment and, therefore, cannot be commercially sold in amounts in excess of \$25 million in accordance with the Arms Control Export Act of 1976.

Our allies around the world continue to need to be able to buy needed equipment from us. We can ill afford to have countries traditionally friendly with the United States turning to the Soviet Union for equipment and becoming dependent upon it for supplies, spare parts, and the necessary training. The spectacle of Kuwait buying Soviet SAM missiles is particularly instructive in this regard, we feel.

Therefore, Mr. Secretary, we respectfully suggest you reconsider your policy on the C-130 aircraft and recommend that it be reclassified as a defense article.

Your prompt consideration of this matter



will be greatly appreciated by the undersigned.

John J. Flynt, Jr., Ga., Doug Barnard, Jr., Ga., Bo Ginn, Ga., Billy L. Evans, Ga., Ed Jenkins, Ga., Elliott Levitas, Ga., Trent Lott, Miss., Jim Lloyd, Calif., Gene Taylor, Mo., Goodloe E. Byron, Md., Larry P. McDonald, Ga., Mendel Davis, S.C., Wyche Fowler, Ga., Dan Daniel, Va., Floyd Spence, S.C., John H. Rousselot, Calif., G. V. Montgomery, Miss., Richard A. Ichord, Mo., Marilyn Lloyd, Tenn., Bob Stump, Ariz.

Bill Ketchum, Calif., Steve Symms, Idaho, Philip M. Crane, Ill., George O'Brien, Ill., John M. Ashbrook, Ohio, Jack Brinkley, Ga., Robert Badham, Calif., Dawson Mathis, Ga., Carlos Moorhead, Pa., George Hansen, Idaho, Chuck Grassley, Iowa, Dave Treen, La., Joe D. Waggoner, Jr., La., Robert K. Dornan, Calif., Richard Kelly, Fla., James M. Collins, Texas, W. Henson Moore, La., Eldon Rudd, Ariz., Jack Kemp, N.Y., James R. Mann, S.C.

Edward Derwinski, Ill., Robert J. Lagomarsino, Calif., Tennyson Guyer, Ohio, Bill Chappell, Fla., Mickey Edwards, Okla., Shirley Pettis, Calif., Bill Goodling, Pa., Bob Bauman, Md., Barry Goldwater, Jr., Calif., G. William Whitehurst, Va., Bob Sikes, Fla., John Buchanan, Ala., Larry Winn, Jr., Kans., Marjorie S. Holt, Md., Samuel S. Stratton, N.Y., Bill Nichols, Ala., Robert W. Daniel, Jr., Va., Bill Wampler, Va., Sam Devine, Ohio, Richard C. White, Tex.

#### SAVE THE HATCH ACT

### HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. LAGOMARSINO. Mr. Speaker, this body has before it controversial legislation to, in effect, repeal the Hatch Act.

I disagree with the proponents who argue that Hatch Act reform is needed to grant full political participation to the Nation's civil servants and that such reform can be accomplished without the potential danger of turning the civil service into a political pawn.

I feel that there are very real dangers associated with Hatch Act "reform" and was naturally very pleased to see a most perceptive editorial on this matter appear in the Goleta Today newspaper. I would like to share the wisdom contained in this editorial with my colleagues and insert it in the Record at this point:

#### SAVE THE HATCH ACT

Since 1939, federal civil servants have been "Hatched" and it's a system which has worked well.

The Hatch Act forbids federal and postal employees to take active roles in partisan politics; they can't be hassled for political contributions; they can't be press-ganged as doorknockers, literature distributors, campaign office "volunteers", money-raisers.

They may not serve as officers of a political party, solicit contributions, serve as convention delegates, circulate partisan petitions, or run as partisan candidates for public office.

They may, of course, make campaign contributions if they choose and be members of a political party. They may even engage in non-partisan campaigns.

The Hatch Act is under attack. There's a bill in the House of Representatives which would "revise" the act. Revisionists claim the present law disenfranchises federal workers and restricts rights of free speech and association. That's the claim, although the Supreme Court has held otherwise.

Proponents of Hatch Act revision include

the American Postal Workers Union (AFL-CIO) and the American Federation of Government Employees (AFL-CIO) plus the National Federation of Federal Employees. The suspicion arises that these groups are not so much interested in First Amendment rights of the rank and file membership as they are in the increased political clout they can acquire if Hatch Act protection from arm-twisting is removed.

The rank and file should be aware of what is going on.

Will political loyalty and activity become the basis for promotion within the Civil Service system, a system which was developed to erase that evil?

Will campaign contributions be the price of a better job, perhaps even keeping a job at all?

Will the federal bureaucracy be used to build a political machine?

Should the friendly letter carrier be hired on the whim of a political boss rather than by competitive exam? Should he be promoted the same way?

Common Cause President David Cohen, in a letter to the House Post Office and Civil Service committee, said the nation "cannot afford a politicized civil service. Our civil service must be respected, and that requires that federal personnel be impartial in the administration of our federal laws and policies."

This isn't the first time revision of the Hatch Act has been tried. In fact, Congress passed such a bill in 1976 but President Ford wisely vetoed it and the veto was upheld.

The new attempt (H.R. 10) would remove existing restrictions on partisan political activities for most federal employees. They would be permitted to run as partisan candidates for elected office, campaign for partisan candidates, raise funds for candidates and parties and serve as officers of political parties.

The spoils system is not dead.

The federal employees better know what is in store for them. And we better know what is in store for us.

#### ELIMINATE CAUSES OF POVERTY

### HON. IKE F. ANDREWS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. ANDREWS of North Carolina. Mr. Speaker, in 1964, this Nation made a major commitment to eliminate the causes of poverty in the United States. The Economic Opportunity Act represented a concerted effort by thousands of concerned individuals to openly confront a national disgrace which this country had ignored for decades. That landmark legislation established the Office of Economic Opportunity to assist programs at the local level to address the problems of the poor and the causes of poverty.

While this commitment initially produced remarkable results, the fact is that large-scale poverty still exists in the United States. The Bureau of Labor statistics reports that its latest figures show a total of 26 million poor people in this country, an increase of 3 million over the 23 million reported in 1973, and an increase of nearly 2.5 million from 1974. This represents the largest single-year increase since 1959, the first year for which poverty data were available.

This Nation's commitment to eliminate the causes of poverty must be con-

tinued and strengthened. Toward this goal, I am today introducing the Economic Opportunity and Community Services Amendments of 1977. Basically, this bill extends the major provisions of the Economic Opportunity Act, as amended by the Community Partnership Act of 1974, through fiscal year 1981.

This legislation would increase to 75 percent the Federal share requirement and relieve the financial burden faced by many local communities which have been unable to provide the funds necessary to compensate for the reduction of Federal funding imposed by Congress in 1974. For the first time, specific funding is authorized for research and evaluation so that the coordination of Federal efforts to alleviate poverty can be strengthened. This bill recommends a reduction in the amount of time nonpublic members of community action boards may serve to help generate greater community participation.

The organization of the Community Services Administration is streamlined by abolishing the nonfunctional Inter-governmental Advisory Council on Community Services, by deleting the section of the act which authorizes a transfer of CSA to HEW, and by extending for 1 year the National Advisory Council on Economic Opportunity. Furthermore, this bill encourages the Director of CSA to revise and update regulations which have become burdensome and dated. The Director is authorized to promulgate regulations on the issue of employee compensation, and is directed to consult with community action agencies and regional offices prior to proposing regulations. Finally, this bill places new responsibility in regional offices by providing them with authority to process and finalize grants and to provide technical assistance to local community action agencies.

I urge my colleagues to support this bill so that this country's commitment to reduce poverty can be continued with speed and enthusiasm.

#### THE HELSINKI WATCH IN MOSCOW

### HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. SIMON. Mr. Speaker, a year ago a small group of people who dare "to think differently"—the literal translation of the Russian word we usually render as "dissenter" or "dissident"—formed a remarkable organization in Moscow. It was called the Public Group to Promote Observance of the Helsinki Agreements in the U.S.S.R., and its constituted the first signal to the West that the Helsinki Accords instead of being a triumph for Soviet diplomacy, were becoming an embarrassment to the Kremlin. The evidence of that embarrassment is now painfully obvious to the courageous men and women who formed the Public Group. Three of its Moscow leaders—Prof. Yuri Orlov, Aleksandr Ginsburg, and Anatoly Shcharansky—and two of the founders of a similar group in the Ukraine—Mikola Rudenko and

Oleksy Tykhy—were arrested and imprisoned last February and March, because they dared to try to hold Soviet authorities to the pledges given at Helsinki.

Despite such harassment and repression, however, the Soviet Helsinki watchers have continued the task they set themselves: Monitoring Soviet compliance with the accords, pinpointing the people and the issues involved in the long and agonizing effort to establish, in the U.S.S.R. standards of conduct which would make the Soviet reliable participants in the world's search for peace and stability. Already, the Public Group has issued 20 detailed and documented reports on compliance with the humanitarian provisions of the Helsinki Agreements. They make grim reading. Most are case studies of the ways in which an authoritarian state denies its citizens the rights Helsinki was meant to reinforce: The rights of free movement, free expression and conscience.

But the Public Group has not despaired of change, and neither should we. After the arrest of Professor Orlov, a new activist, Yuri Mnyukh, appeared as spokesman for the Helsinki watchers. And a document the group issued at the end of February—only recently received by the Commission on Security and Cooperation in Europe of which I am a member—echoes the stubborn faith of the unofficial monitors that their work of reporting is not in vain.

They write in assessing the human rights situation 3 months before the 35 signatories were to begin their own review of Helsinki implementation:

In the world today, one can never be certain that facts on the unending suppression of elementary liberties in the USSR will not become public.

It is thanks to their efforts that those facts are known and that they will be a part of the diplomatic assessment this year of the progress that has been made and must be made in giving the Helsinki Agreements life and meaning. The Public Group Professor Orlov has founded has done and is doing a great service. Its assessment of the situation in the Soviet Union, "Three Months before Belgrade," is depressing but important reading.

A translation of that report, prepared by the Khronika Press in New York, follows:

### THREE MONTHS BEFORE BELGRADE

#### 1. A GENERAL ASSESSMENT

The course of events since August 1976 when the Helsinki Watch group published its review "A Year After Helsinki" has shown the justice of our appraisal of the human rights problem in the USSR. Our statement that "the Soviet Government does not intend to fulfill its international human rights obligations" has been confirmed as well as our August 1976 prediction that the Final Act of the European Conference would be accepted by more and more people as a juridical basis for the fight for human rights.

Citing provisions of the Final Act, participants in the human rights movement in the USSR and other East European countries have spoken out energetically, demanding that the agreements signed at Helsinki be observed. In Poland, human rights advocates are championing, with apparent success, the rights of the workers who protested against increased food prices. In the German Demo-

cratic Republic, a protest citing provisions of the Final Act has been mounted against the deprivation of citizenship of balladeer and poet Wolf Biermann. In Czechoslovakia, human rights advocates have used the same juridical basis in drafting that exceptionally valuable document, Charter 77. And the number of signatures on Charter 77 continues to grow despite the regime's reprisals. In Romania, eight persons have issued a statement on human rights violations in their country. The distinguished Yugoslav author and public figure, Milovan Djilas, has spoken out against the violation of civil rights mentioned in the Final Act. Every day witnesses new examples of the importance attached by the public of the East European countries to the obligations assumed by the governments of the states participating in the Helsinki Conference.

In the USSR individuals and groups basing their struggle for civil rights on the Final Act have also stepped up their activity. Soviet citizens are addressing a swelling stream of letters to different Soviet organs, to the Helsinki Watch Group, and to the international organizations about the situation of prisoners, about psychiatric persecution, and about violations involving freedom of conscience, religious liberty, the free exchange of information, and the right to emigrate.

More and more prisoners of conscience are declaring that their sentences constitute a gross violation of the Helsinki agreements as do the brutal, inhuman conditions in penal institutions: punishment by hunger and cold, forced labor, insurmountable obstacles to correspondence, confiscation of complaints and statements, etc. Letters and statements have also been received from political exiles and former prisoners of conscience who are suffering from serious discrimination with respect to their choice of domicile, their freedom of movement, and their choice of jobs.

Participants in the Jewish movement for emigration have significantly expanded their activity. More attempts have been made to secure a revival of Jewish national culture in the USSR. Germans seeking the right to leave for the Federal Republic of Germany form a growing movement.

An increasing number of people are demanding implementation of their right to emigrate for religious, socio-economic or other reasons. The attempt of large groups to emigrate without receiving individual invitations from abroad is a distinctive, new phenomenon. (One example is the recent application made by more than 500 Pentalists.)

The Helsinki Watch Group has passed on to the court of world opinion and to the states signing the Final Act of the Helsinki Conference a series of documents with facts on many violations of fundamental human rights in the USSR. The events of recent months have demonstrated once again the Soviet government's extreme intolerance toward any information which reveals the true situation with respect to human rights and which is not subject to the control of official Soviet organs.

#### 2. THE REGIME'S BATTLE AGAINST THE DISCLOSURE OF UNDESIRABLE INFORMATION

Since late 1976 the Soviet authorities have engaged in a new offensive against those persons who collect news and inform world public opinion about human rights violations in the USSR.

The USSR Procurator's Office delivered an official warning to Academician Andrei Sakharov, Nobel Peace Laureate. Soon thereafter the organs of state security arrested four members of the Helsinki Watch Group: Alexander Ginzburg, representative of the Fund to Assist Political Prisoners in the USSR; physicist Yuri Orlov, founder and leader of the Moscow Helsinki Watch Group and a corresponding member of the American Academy of Sciences; writer Mikola Rudenko, leader of the Ukrainian Helsinki Watch

Group; and teacher Oleksy Tikhy, another member of the Ukrainian Group. Before and after these arrests, searches were conducted at the homes of several Group members, and in some instances, evidence of crimes was planted in their homes and "discovered" during the searches.

The arrests and searches were accompanied by an unpardonable campaign of slander against Soviet human rights activists in *Pravda*, in *Literaturnaya Gazeta*, in *Golos roding*, in TASS bulletins for Western consumption, in special lectures and conversations and in other media.

No doubt, the slander disseminated through the mass media has one aim only—to prepare public opinion inside our country for political trials of human rights advocates in the Soviet Union. They will all be charged, to judge from the propaganda, with slandering the USSR or with non-political crimes such as illegal currency operations or keeping weapons (which KGB agents planted themselves during the searches). The true reason for the arrest of four Helsinki Watch Group members and for the threat against other Soviet human rights advocates—for example, the warning addressed to Valentin Turchin, chairman of the Amnesty International Soviet group—is the authorities' desire to intimidate all the civil rights activists inside the country and to cut off the daily increasing stream of information about violations of the Helsinki agreements.

The pressure and repressions directed against the human rights advocates by the authorities will apparently be intensified. But another aspect of the current campaign of repressions should be kept in mind: the Soviet government intends to make evident to the whole world its disdain for the voices raised in the West criticizing its actions, to demonstrate its toughness, and to discourage world public opinion from responding to appeals for support issued in the USSR. Such actions are, however, incompatible with that climate of trust which was, one would think, a goal of the states participating in the Helsinki Conference.

We are convinced that only one course of action can in fact establish confidence in the Soviet government: putting an end to the systematic and ruthless suppression of civil liberties and fundamental human rights in the USSR. Nothing else—neither repressions directed against Helsinki Group members, nor diplomatic evasions, nor the concentrated campaign slandering the dissidents—can help the Soviet authorities conceal the truth about their violations of the U.N. Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Final Act of the European Conference. In the world today, one can never be certain that facts on the unending suppression of elementary liberties in the USSR will not become public.

#### 3. FUTURE ACTIVITY OF THE HELSINKI WATCH GROUP

The members of the Moscow Group, in spite of the repressions, will continue to inform world public opinion of all violations of international human rights obligations entered into by the Soviet government. Many events, including the organization of similar groups in the Ukraine, in Lithuania and in Georgia have confirmed the significance of Yuri Orlov's initiative in creating the Moscow Helsinki Watch Group. In reply to the authorities' pressure and their arrest of two of the Group's key workers, we announce the election of two new members: Yuri Mnyukh, a Candidate of physical and mathematical sciences, and Prof. Naum Meiman, a Director of physical and mathematical sciences. Ludmilla Alexeyeva, a Group member who has left the USSR, will act as the Group's representative abroad. The Group will in this fashion continue its work despite the repressions of recent months.



The Group believes that one reason for the repressions directed against its members is the Soviet leadership's fear that people in the USSR and other East European countries who are concerned about fulfillment of the human rights obligations assumed by their governments are linking up on the basis of the Helsinki Conference's Third Basket. The desire to disrupt the developing unity among human rights activists is transparent in the mass media's propaganda on this topic. The support received from several West European Communist parties for the struggle on behalf of human rights has served to sharpen the authorities' fear of the burgeoning human rights movement in the USSR. The Soviet government has taken the risk of losing the trust of their ideological confederates and of their partners in the Helsinki Conference just for the sake of preserving its freedom of action to persecute Soviet citizens for any attempts to assert cultural or social values unpalatable to the authorities.

With respect to the danger now threatening the arrested members of our Group and the mass media's campaign of slander, the Helsinki Watch Group has asked Ludmilla Alexeyeva, Andreo Amalrik, Vladimir Bukovsky, Valery Chalidze, Lev Kvashevsky, and Leonid Plyushch to explain the true aims and character of our Group's work when they meet with official representatives of the countries signatory to the Final Act, with leaders of Western public opinion and with representatives of political parties.

Serious disagreements between the leaders of the Western and the Eastern countries have now become apparent on the issue of the proper criteria to be used in monitoring the provisions on human rights. (This is evident, for example, from President Carter's letter to Academician Sakharov and Ambassador Dobrynin's statement made in response to that letter.) In the present circumstances, discussion and elaboration of such criteria by representatives of public opinion in countries of the West and of the East are particularly important and could play a major role in the preparation and conduct of the Belgrade Conference.

#### HOW SOON WE FORGET

#### HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. BURKE of Florida. Mr. Speaker, because Vietnam was a dirty, unpopular war there are many people who feel that we should not talk about it except to make martyrs of those who dodged the draft, deserted, or were discharged other than honorably. But we cannot hide the fact that our involvement in Vietnam spanned almost 10 years and that 55,000 American lives were lost in that war. In addition, the peacetime expectations of young men, their wives, their parents, and those of their children were interrupted by their service in the service of their country in the Vietnam war. For those who do not like to think, or talk about our involvement in Vietnam, and who want to forget, let me remind them that there are scars that never can be healed. There are lives that will never be mended. There were too many sacrifices, not only by the young men who fought the battles but by their families and friends. It is strange that most of the media stories today are devoted to draft dodgers, the dishonorably discharged,

and the deserters at the expense of the more than 55,000 dead, and the many other Americans who bravely served in Vietnam.

And what about the other casualties, those who suffered wounds from which they will never recover? For those whose heart goes out to the deserter and draft dodger, which mine does not, although I do feel for the parents and families, let me state that the obvious difference is that the families of the war dead have a vacuum in their lives, while the families of the deserters, draft dodgers, and dishonorably discharged still have a son. Death is very final.

I was touched by the article which appeared in the Washington Post on the day after Memorial Day entitled "Family Shares 9 Years of Grief, Memories of War Victim."

We should be ashamed if we forget the fine young men who lost their lives, or those who served honorably in the Vietnam war. For those who did not have the chance to read the article which appeared in the May 31, 1977, issue of the Washington Post, I offer the same to you with the hope that we will never forget Peter Jason Angle—a man—and a true American, may God bless him and all his comrades.

The article follows:

#### FAMILY SHARES 9 YEARS OF GRIEF, MEMORIES OF WAR VICTIM

(By B. D. Colen)

The words and abbreviations on marker 55-327 in Arlington National Cemetery are at once terse and all inclusive, summing up everything the United States Army needed to know or say about: Peter Jason Angle, Virginia, Cpl., Co. B, 2Bn, 1 Air Cav Div, Vietnam, Jan 20, 1949, July 1, 1968, BSM, AM, PH.

Peter Jason Angle, resident of Virginia, corporal in Company B of the Second Battalion of the 1st Air Cavalry, died in Vietnam on the 163d day of his 20th year. He was the recipient of the Bronze Star Medal, Air Medal and Purple Heart.

He was also the first born and only son of Luther E. and Louise Angle. And they have suffered his loss these past nine years.

When the chaplain and the sergeant first visited the Angles' neat clapboard Dutch Colonial in Arlington they found the house empty. Luther and Louise Angle were out to dinner.

But at 8 the next morning, July 2, 1968, "I heard them. Louise was still asleep," Peter's father recalled yesterday, just before a holiday visit to the grave.

Angle said the sergeant asked, "Are you Luther Angle?"

"Yes."

"Is your son Peter Angle?"

"I said 'yes' and gave him the serial number," Angle continued. "I knew what it was as soon as I saw them. I remembered from World War II."

Peter Angle lies dead in Arlington Cemetery, but he is still very much alive inside the house in which he grew up.

The sheet music to "The Little Drummer Boy" still sits on the piano in the living room, just as it did that last Christmas before Peter shipped out for Southeast Asia.

The yellow 1st Air Cavalry patch hangs framed on the living room wall. Beneath it, in Latin, the words: "Dulce et decorum est pro patria mori"—How sweet and becoming it is to die for your country.

There are pictures of Peter. Peter in uniform with a girl friend. Peter as a crew-cut child. Peter with his sister.

And in the basement there is the collection of Peter's effects and letters, many

items still sitting on the desk drawers where he left them before shipping out.

"I still can't bring myself to touch his things," his mother said yesterday. "It would be like invading his privacy." It was only last year that Louise Angle stopped visiting the white stone marker several times a week, taking fresh flowers to Peter and watering the flowers on nearby graves.

Louise Angle said it "made me feel better to go" to the cemetery. "When your child dies, a part of you dies with him."

To the Army, Peter Jason Angle was a soldier. To his mother, he will always be a child.

"It's lonely without him," she said. "Couples today should have three or more children. Then if one dies it's not so hard."

It took the Angles all these years to accept the finality of Peter's death.

An insurance check arrived an unseemly two days after the notification of his death, and Louise Angle "just stuck it away. I kept thinking they must have made a mistake. I couldn't believe it. I couldn't believe he wasn't coming home. We didn't have the casket open or anything."

"At first I didn't touch it (the check) because it (his death) wasn't true. But then I didn't because..." Her voice thickened, but didn't crack. "It's sort of a nest egg."

Peter Angle was not a victim of the draft. He was a volunteer from a family of volunteers whose roots go back on both sides to the American Revolution.

"He enjoyed the Army, as such," his father recalled. "He was really gung ho."

"He was upset because he hadn't done well in college," she said of her son. "He said, 'This time you're going to be proud of me, Ma.' It is hard to believe Louise Angle was ever not proud of Peter."

His parents remember the little things, the happy moments that make a collection of biologically connected individuals a family. The week Peter spent in New York with his sister during the 1968 Christmas season. "He had a wonderful, wonderful time."

Or the evening after his graduation from basic training at Ft. Jackson, S.C., when Peter "was so proud he insisted on paying for the meal. He insisted that the treat had to be on him," his father recalled yesterday.

And the afternoon when his mother found him out taking photographs of the neighborhood. "He wanted to take them with him" to Vietnam, she said.

Then there were the letters home. "He was always so happy, so up. He was a happy boy. It was a terrific shock because I had no idea" of the danger Peter was in every day in Quang Tri Province.

The first hint of that danger came one week before the visit of the sergeant and chaplain. "The last letter we got he said his best friend had been killed. He sent us a picture. They have a little service and put the rifle in the ground and put his hat on top of it," said Louise.

"Helmet," corrected Luther, who saw action in the Pacific as a staff sergeant during World War II.

There was one final letter. It arrived a week after Peter's death. "He was going on R&R and he was going to Hawaii. It was his turn because he was the oldest in his platoon. He wanted us to meet him there and he signed the letter, Aloha."

Yesterday, at the graveside, Louise Angle looked at the two roses, picked beside the white clapboard house and brought to Peter, and at plastic flowers on a nearby grave.

"That's not right," she said. "A young person shouldn't have anything artificial. He was so young. He was just coming into his own."

"You think about him being so young," said Luther Angle, "but there's nothing you can do..."

THE LEGISLATIVE PRIORITIES OF  
NEW YORK'S PUERTO RICAN AND  
HISPANIC COMMUNITY: VII

**HON. HERMAN BADILLO**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. BADILLO. Mr. Speaker, I am pleased today to insert in the RECORD the recommendations of the panel on criminal justice of the first Conference on the Problems of the Puerto Rican and Hispanic Community in the Metropolitan New York area. As you will read, the panel concludes that the problems for Hispanics in the criminal justice system begin with the lack of Puerto Rican professionals in decisionmaking positions within that system, and go all the way to building more community-based correctional facilities in large urban areas. I hope that all my colleagues concerned with improving the criminal justice system will carefully read these proposals:

**CRIMINAL JUSTICE RESOLUTIONS**

(1) That Puerto Rican professionals be considered for top decision making positions with all the principal Federal Agencies in the Criminal Justice field, namely:

The Law Enforcement Assistance Administration.

The Drug Enforcement Administration.

The Federal Board of Parole.

The Federal Judiciary.

The Federal Bureau of Investigation.

The Federal Bureau of Prisons.

The U.S. Department of Justice.

The Office of the U.S. Attorney General.

And . . . the subdivisions of Federal agencies, Departments and Commissions with a policing or law enforcement component.

(2) That the Federal Civil Rights Commission more actively pursue cases in which Puerto Ricans are being deprived of Due Process in Criminal Justice proceedings, incarceration or denial of probation and parole.

(3) That the Federal District Courts accelerate the handling of Civil Rights (class suits) in which Puerto Ricans are alleged to be victimized by the inadequacies of the Criminal Justice system at the local or state level.

(4) That the Federal government appropriate more money for juvenile and youth programs with special emphasis on:

(a) Anti-Crime prevention programs—youth clubs, houses, etc.

(b) Programs to humanize the process by which juvenile or youthful offenders are prosecuted or sentenced by the Family Court.

(5) That LEAA should enforce Federal Equal Employment Opportunity statutes in state, city or private agencies receiving Federal funds for crime prevention, crime control, corrections and law enforcement programs.

(6) That the LEAA review carefully all programs which receive Federal funds to insure that the interest of the Puerto Rican community is taken into account.

(7) That the LEAA review all funds drawn from block grants to insure that Puerto Rican organizations get their fair share.

(8) That the Federal government must insist that State Crime Planning Agencies, or similar boards at the municipal level, are adequately represented by Puerto Ricans especially if there is a high Puerto Rican population density in the state or municipality concerned.

(9) That the Federal courts and U.S. Attorney General's offices, and regional offices,

have more Spanish-speaking, and preferably Hispanic or Puerto Rican personnel, who can service the needs of the large number of Hispanics now being prosecuted in Federal courts.

(10) That the Federal Government must provide funds to train Hispanic criminal justice professionals—either by setting up its own school—or through grants to private institutions. These Hispanic employees will help provide a more equitable handling of the cases involving Hispanic defendants (or Hispanic victims) in all courts.

(11) That the LEAA should carefully monitor programs to insure that anti-crime community based programs which serve to protect the interests of the Puerto Rican community are not prematurely cut off when their effectiveness is still being evaluated.

(12) That the President—along with all Federal agencies and their department heads—should stop going to Puerto Rico for program input or prospective candidates for posts with Federal agencies when a valid resource of information and qualified professionals who can meet these requirements is now available on the mainland.

(13) That the Federal Government must remove its own prejudices against ex-offenders by eliminating whatever present Federal restrictions now exist (either in the law or in the operational philosophy of its agencies) which restricts the licensing or hiring of qualified ex-offenders.

(14) That the Federal Government pass legislation protecting the rights of ex-offenders, which would supersede state laws if it is proven that the civil rights and constitutional rights of ex-offenders are being denied by government.

(15) That the Federal Government remove restrictions in Civil Service regulations (at the Federal level) which tend to restrict Puerto Ricans from working in Criminal Justice agencies in specific job categories. This is especially true in cases where arbitrary and non-relevant job specifications now exist which have no relation to the actual performance of the job itself.

(16) That the Federal judiciary implement a viable bilingual court program which can be used as a model for other state supreme and criminal courts.

(17) That the Federal Courts speed up the handling of its own criminal case backlog affecting Puerto Rican and other Hispanic defendants throughout the country.

(18) That the Federal Government relocate Puerto Rican inmates to facilities closer to their homes, and that consideration be made regarding the construction of more community-based correctional facilities in large urban areas where Hispanics constitute a large population factor.

(19) That the LEAA insure that funds given to cities for crime prevention or law enforcement programs, or programs dealing with ex-offender rehabilitation, be not used if such programs would normally be financed by local tax levied funds.

**JUNE 2, 1946, A GREAT DAY IN  
ITALIAN HISTORY**

**HON. FRANK ANNUNZIO**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. ANNUNZIO. Mr. Speaker, June 2 marks a stirring event in the rich history of Italy. For on that day in 1946, the great Italian people gave a resound-

ing vote of confidence for political democracy.

The beautiful land of Italy, washed by the blue waves of the Mediterranean and cradled within the Alps, has boasted of an advanced civilization for thousands upon thousands of years. It may be truly said that Italy constitutes a mosaic of human history. She is a major source of Western culture—her legal system is a model for the West, her language is the tongue of music, and her Renaissance stands as one of man's greatest achievements. Yet throughout her glorious history, few more stirring events have occurred than the day, 31 years ago, when the Italian people chose a republican form of government.

Let us recall those early postwar years. In the devastation and destruction of World War II, Italy had suffered more heavily than most other Western nations. During the war, her civilian population had endured privations and suffering even more severe than the German citizens, and in addition, they had suffered more than two decades of oppressive Fascist rule.

In the immediate aftermath of war, the most urgent political problem facing Italy was the need to establish a framework for effective democratic government. The task was a difficult one because of the multiplicity of political parties and because of disagreement over whether the monarchy would be abandoned or retained.

In a nationwide referendum, held on June 2, 1946, the Italian people elected delegates to a constituent assembly to draw up a new constitution. In the same referendum the Italians were called upon to decide whether to keep the monarchy or turn to a republic with a president. By a margin of 2 million votes the Italian people voted for a republican form of government, which was an outstanding victory for political democracy.

Eleven days after the referendum, King Umberto II left Italy. With the aid of the Marshall plan, the determined and ingenious Italian people launched upon a great period of economic, political, and social progress. In addition to outstanding postwar achievements on the domestic scene, Italy also placed herself in the vanguard of European integration. Moreover, in the North Atlantic Treaty Organization, Italy has been and continues to be a stalwart and loyal Western ally.

Thus, Mr. Speaker, we commemorate June 2, 1946, a proud day in Italian history, and, indeed, in the entire history of man's eternal striving for freedom. On this glad occasion, may I extend warmest best wishes to the people of that great Republic, and to our many friends of Italian descent in my own 11th District of Illinois, throughout the United States, and all over the world. May the people of Italy continue their important contributions to the culture of the West, to the vitality of democracy, and to democracy's precious ideals.



# AMBASSADOR YOUNG AND THE WESTERN POSITION IN AFRICA

## HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. McDONALD. Mr. Speaker, there is an increasing amount of queasiness being expressed in the media about the performance of our Ambassador to the United Nations, Mr. Andrew Young. Today, Washington Post editorialists attribute President Carter's unflinching support for Mr. Young to a presumed guilt complex.

Earlier this year, I presented to the Senate confirmation committee a network news clip in which Mr. Young was seen to state that he would probably favor the destruction of Western civilization, if he thought it would help the Third World. Since then, Mr. Young's behavior has made it clear that the attitude expressed then was highly relevant as a key to his motivations. However, the Young statement was totally ignored by the Senate committee and the media. Mr. Young was confirmed by a lopsided vote which does it little credit as a deliberative body.

The consequences of this particular folly are just beginning to descend upon us. I commend for consideration the columns of Patrick Buchanan of the Richmond Times-Dispatch, June 1, and Evans and Novak of the Washington Post, June 2, as they demonstrate the devastation wrought upon the Western position in Africa by the Communists and Ambassador Young.

### "STABILITY AND ORDER" COMING TO ETHIOPIA (By Patrick J. Buchanan)

WASHINGTON.—At Notre Dame University on Sunday, May 22, President Carter outlined a "new American foreign policy" to fit the "new world" in which we live.

"... [W]e are now free of that inordinate fear of communism which once led us to embrace any dictator who joined in our fear," the President declared. The applause was thunderous.

On Wednesday of that same week, State Department spokesman Hodding Carter III warned that if the 50 Cuban advisers arriving in Ethiopia were the vanguard of several hundred troops, this could be a "serious development." Further, the U.S. was prepared to give "careful consideration" to the request of Sudanese dictator Gaafar al-Nimri for military assistance.

The "new American foreign policy" thus lasted about 72 hours. Our "fear of communism" had convinced State that we had to snuggle closer to a Sudanese dictator who "joined in our fear."

U.N. Ambassador Andrew Young, of course, quickly exercised his perennial option to contradict publicly stated U.S. policy. In London, where he had just insulted the British for their "colonial mentality," the Russians for being "the worst racists in the world" and the Swedes as "terrible racists" who treat blacks almost as badly as the folks in Queens County, N.Y., Andy was asked if he shared State's "grave concern." No, he said, "I really don't because they're killing people right and left [in Ethiopia] and ... maybe the Cubans might be a little more rational than Ethiopians at this point."

The long-suffering Hodding Carter de-

clared, for the 32nd time, that he saw no difference between what he said and what Young had said.

Well, at least Andy is consistent. Repeatedly, he has cautioned us not to get "paranoid" like, say, Kerensky did, over a "few thousand Communists." So why should he be worried about a few dozen or a few hundred Cuban Communists in Ethiopia? Perhaps the Cuban troops can bring to that embattled country some of the same "stability and order" Andy says they brought to Angola.

Seriously, the arrival of Cuban military advisers in Ethiopia—to train the locals in the use of their new Russian armor—is a refreshing, healthy development. Like a summer breeze, it has swept away much of the rhetorical smog hovering over this capital city about the moderation of the middle-aged "new Fidel."

The royalty of U.S. journalism and the big-name politicians, wine and dined in Havana, who came home with the inside scoop about Castro's impending withdrawal from Africa, have been snookered and humiliated. The congressmen pushing for trade concessions to wean that lifelong Yankee-hater away from his alliance with the Soviets are now left with large deposits of egg on their faces. Among the happiest of moments in politics is the sound of chickens coming home to roost.

The real danger to peace and security, however, does not come from a few hundred Cubans in Addis Ababa—or the asinities of Andy Young. It is, candidly, that Brezhnev will reread President Carter's Notre Dame speech and come to the not altogether illogical conclusion that Jimmy Carter is as woolly headed on world affairs as his vice president and U.N. ambassador. That could be as dangerous as Nikita Khrushchev's assessment—based on JFK's vacillating performance during the Bay of Pigs, the Vienna summit and the Berlin crisis—that the time has arrived for a direct challenge to the United States to show the world the wave of the future.

The drivel the President uttered at Notre Dame notwithstanding, we do not live in any "new world," but the same old world of the postwar struggle between East and West. That is what Angola and Ethiopia are all about.

Having watched the U.S. abandon, in humiliating fashion, allies in Cambodia and Vietnam, the Soviets put us to the test in Angola, using Cuban proxies. The United States backed away from that challenge.

At that point, even the most timid of Soviet strategists must have argued for the military probe into Zaire, for Soviet support for the guerrillas operating out of Angola and Mozambique, for Soviet-Cuban bolstering of client states on the African continent.

If the United States is indeed careening toward a future collision with the Russians, much of the blame must rest upon President Carter for misleading the Soviets with nonsense such as that uttered at South Bend.

### COURTING AFRICA'S BLACKS

(By Rowland Evans and Robert Novak)

New evidence of how far and quickly U.S. policy in southern Africa has changed came in Vienna last month when Prime Minister John Vorster of South Africa got nowhere in an unpublicized request that Washington discourage black guerrilla activity in white-ruled Rhodesia.

According to authoritative U.S. sources, Vorster asked Vice President Mondale if the United States would "lean toward restraining" Zambia in sponsoring guerrilla raids into Rhodesia. He was turned down. Yet the United States has raised the devil with Rhodesia for launching cross-border raids.

This ought to shatter any illusions remaining in Pretoria or Washington that the Carter administration intends to take an even-handed position on racial conflict in southern Africa. The new position adamantly favors strict black-majority rule everywhere on the continent, by peaceful means if possible but through violence if necessary.

This entails moral support by the U.S. government for black guerrillas in Rhodesia, the most effective of them avowing Marxism and using an increasing supply of Soviet arms. The theory is that pro-Moscow Marxists can be won over to friendship with the United States. So, while Washington is even less color-blind than it used to be, it is now blind to ideology.

All this demolishes talk that the selection of Mondale to conduct the Vienna talks meant defeat for U.N. Ambassador Andrew Young and his policies. In truth, Mondale went to Vienna relying on Young's aides and like-minded National Security Council staffers rather than old-line Foreign Service officers. The State Department's African affairs bureau and Assistant Secretary William E. Schauffele have not really been in the policy-making picture since January.

While the South African government may not have thought Mondale any more friendly than Young, it did envision the Vice President as prepared to negotiate with Vorster. But Mondale did not deviate an inch from prepared positions; he carefully checked with his staff, or back to Washington if necessary, before responding to Vorster.

Consequently, there was never any chance for Vorster's appeal that the U.S. attempt to restrain Zambia's support for Rhodesian guerrillas. Some U.S. officials think Vorster was asking that as a condition for applying South African pressure on Rhodesia. But senior U.S. officials believe the South African was not bargaining and would not pressure the Rhodesians.

In any event, Mondale made no promise of restraint on Zambia. "We can't do it," a U.S. official explained. "It is not U.S. policy to turn off the armed struggle." One policymaker put it this way: "We recognize it is very difficult to tell these people to stop fighting."

But "these people" do not include the white Rhodesians. Although Washington does not maintain diplomatic relations with Salisbury, it has issued vigorous protests to Rhodesian officials in South Africa about raids aimed at black guerrilla bases across the border.

While clearly taking sides in Rhodesia, the United States keeps hand off the continuing civil war in Angola between the Marxist government (not even recognized by Washington) and anti-government guerrillas. The fact that Congress prevented significant U.S. help for the government in neighboring Zaire against insurgents invading from Angola is now considered providential by the administration.

The new policy thus becomes clear: support for black armed efforts to dislodge the last white minority footholds in southern Africa, and non-involvement in battles between blacks anywhere on the continent. This results in U.S. support for black Communists against white non-Communists (as in Rhodesia) instead of insistence on peaceful settlement, and neutrality in struggles between black Communists and black non-Communists (as in Angola).

The doctrinal authority cited for this policy is President Carter's declaration at Notre Dame May 23 that "we are now free of that inordinate fear of communism which once led us to embrace any dictator who joined us in our fear." Therefore, in the case of Angola, this means the enemy of our enemy is no longer our friend. But this also entails

hope that victorious armed Marxists in Africa can be induced to turn away from Moscow, as revisionists have always claimed that Ho Chi Minh and Fidel Castro would have done had they been given half a chance.

This portentous shift in policy deserves more public debate than it has been given. Certainly Young is not a loose cannon, as was widely thought a few weeks ago. Rather, his January statement over television that he feared racism much more than communism has been elevated into U.S. strategy.

## NO SINGLE MEASURE CAN MEET ALL REQUIREMENTS

**HON. MICHAEL HARRINGTON**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. HARRINGTON. Mr. Speaker, for some time now I have been concerned with the inaccuracies of the unemployment statistics announced each month.

Recent studies have shown that these unemployment statistics are not fully accurate, and may have caused many communities with chronic high unemployment and underemployment to be shortchanged of the greater than \$30 billion in Federal formulas allocated each year on the basis of unemployment statistics.

I would like to insert an article which appeared in the Washington Star on May 25, by Lee M. Cohn, which does an excellent job of discussing these problems with Bureau of Labor Statistics Commissioner, Julius Shiskin. I hope all of my colleagues will take the time to read this illuminating piece.

The text of the article follows:

**COUNTING THE JOBLESS: EVERYBODY'S GOT A SYSTEM**

(By Lee M. Cohn)

People expect Julius Shiskin, commissioner of labor statistics, to tell them how many Americans are employed and how many are unemployed. When he tries his best to respond, they argue with him.

There are no simple answers, and no formula can precisely fit everyone's ideas about how to define and measure employment and unemployment, Shiskin says in self-defense. Consider these cases:

Bill Jones works 40 hours a week and earns \$240. Jack Smith averages only five hours weekly at odd jobs paying about \$2 an hour, and his family barely scrapes by on welfare.

The computers at Shiskin's Bureau of Labor Statistics see no difference. Jones and Smith count equally in the official estimate of 90 million employed Americans in April.

Mary Jackson, a widow supporting three children, was laid off three months ago and still is job hunting. Susan Whitaker, wife of a \$50,000-a-year executive, is bored with civic committees and wants to feel independent, so she is looking for paid work. Her son, Tim, has registered with his college employment bureau for a Saturday job to earn money to buy gas for his car.

BLS includes all three among the 6.7 million unemployed, without distinction.

Jim Dawson, a bachelor with simple needs, applied for an assembly-line job at a local factory four weeks ago and was offered a job as janitor, which he turned down. He has been taking life easy since then. Joe Jenkins

looked for work unsuccessfully for more than two months and still would like a job, but he is so discouraged that he has quit looking.

Dawson is listed as unemployed. Jenkins, by dropping out, has reduced total unemployment by one. He is classified as neither employed nor unemployed.

No one is satisfied with these results, which in some cases seem to defy common sense. Policy-makers depend on BLS figures for guidance, and fluctuations of the statistics can decide elections. If the numbers are wrong, economic policies can go astray and voters can be misled.

Conservatives object that the official statistics exaggerate the severity of joblessness and lead the government to spend too much money to boost the economy, while liberals contend that unemployment is even worse than the figures show, so the government should do more to create jobs.

Grilling Shiskin at a House Budget Committee hearing, Rep. Delbert L. Latta, R-Ohio, demanded that BLS shine a stronger spotlight on rising employment than on unemployment. "Emphasize the positive," Latta urged. "I mean in the first part, have that catch the reporter's eye. They don't like to read more than that first paragraph sometimes, they are in such a hurry."

Latta also objected to counting auto workers who receive generous unemployment benefits as jobless. Some of them in Ohio "were getting about — percent of their pay for going to Florida and they weren't in too much of a hurry to get back in the winter time to go to work," he said.

Congress has ordered the establishment of a National Commission on Employment and Unemployment Statistics to conduct an 18-month study of how to improve the data. Shiskin pushed for creation of the commission, but he wonders whether it will recommend big changes after considering the complications and pitfalls.

A similar blue-ribbon committee in 1962 ratified the basic ground rules in use then and now. Indeed, the fundamental concepts have not changed much since systematic measurement of employment and unemployment was started by the Works Progress Administration in 1940, near the end of the Great Depression.

"The subject is so complex that no single measure can meet all requirements," Shiskin says. "Maybe we need three to provide a reasonably complete picture. But try putting that in a headline. Everybody wants a single number to represent the unemployment rate."

BLS monthly and quarterly reports provide considerable detail in addition to the aggregate figures. The tables break out data according to sex, age, race, occupation and marital status, for example. There also are breakdowns between full-time and part-time employment. But the single figure on the national unemployment rate still attracts most of the attention and criticism.

Offering the critics a wide selection to satisfy their divergent needs, Shiskin now regularly publishes seven distinct unemployment rates reflecting different concepts of joblessness. He calls them U1 through U7.

In April, the official unemployment rate (U3) was 7 percent. U1 was only 1.9 percent, and the other rates ranged up to 8.6 percent for U6. U7 is available only quarterly. It was 9.9 percent in the January-March quarter, when the official rate averaged 7.4 percent.

U5 is designed to measure the tightness or looseness of the labor market as objectively as possible. It classifies all civilians outside institutions who are 16 or older in one of three slots—employed, unemployed or outside the labor force.

The Census Bureau, under contract to the BLS, obtains the data through a monthly survey of a 55,000-household sample. The

survey is conducted during the week including the 19th of the month, and the questions pertain to what members of the households were doing during the week including the 12th.

Any civilian who worked for pay, even for one hour in the week, or who was self-employed, is counted as employed. Also counted as employed are those who worked 15 hours or more in the week without pay in a business or on a farm operated by family members. Those who have jobs but are temporarily absent because of illness, vacations, bad weather or strikes also are considered employed.

Housework, painting and repair work around one's own home do not count as employment, and neither does unpaid volunteer work for religious and charitable organizations.

Persons without jobs during the survey week may or may not count as unemployed. They are officially unemployed only if they are available for work and have engaged in specific job-seeking activity some time during the preceding four weeks. Qualifying kinds of activity include registering at employment offices, placing or answering advertisements, meeting with prospective employers, sending application letters and checking with friends or relatives.

Even without job-hunting activity, a person is considered unemployed while waiting to start a new job within 30 days, or while waiting to be recalled from temporary layoff.

The civilian labor force is the total of employed and unemployed workers. The unemployment rate is the percentage of the labor force classified as unemployed.

Everyone else 16 or older is outside the labor force. That includes those who do not want jobs, and those who say they would like to work but are not looking for personal reasons or because they do not believe they could get jobs.

These definitions are attacked from the right and the left.

Many conservatives contend that it makes no sense to count among the unemployed those who quit jobs, refuse job offers, never worked before, attend school full-time, or have spouses who earn good wages. They also demand more than a perfunctory job-seeking effort once in four weeks as evidence of a real desire to work.

Whether they realize it or not, those who make this argument want to measure unemployment in terms of hardship. Shiskin offers them U1, the unemployment rate as the percentage of the labor force that has been jobless 15 weeks or longer, which is hardship by any standard. U1 was 1.9 percent last month.

U2, a somewhat broader measure of hardship, is the percentage of the labor force that has lost jobs through layoffs, firings or plant closings. It excludes those who quit jobs voluntarily, and those who are looking for jobs for the first time or are returning to the labor force after dropping out. U2 was 3.1 percent in April.

U3, which registered 4.4 percent last month, is the percentage of heads of households who are unemployed. The presumption is that unemployment is most serious when it hits breadwinners, and less of a hardship for dependents of workers who have jobs.

U4, at 6.5 percent in April, is the unemployment rate of those who want full-time jobs. Full-time workers are the core of the labor force and lose the most income when unemployed, while part-time workers usually are marginal, according to this reasoning.

The conservative emphasis on hardship aims at reducing the size of the unemployment problem. By contrast, labor leaders and many liberals contend that the official figures understate joblessness. They argue that part-time jobs should not count as much as full-time jobs in the employment



figures, and that workers who want jobs but quit looking because they believe no work is available should count as unemployed.

U6 makes adjustments for part-time work, producing an 8.6 percent unemployment rate in April, U7, which takes account of both part-time jobs and "discouraged" workers, is calculated only quarterly by BLS. It registered 9.9 percent in the January-March quarter.

The AFL-CIO issues its adaptation of U7 every month, within hours after BLS announces the official figures, and contends it is the "true" measure of unemployment. It was 9.6 percent in April.

Shisken and other experts see legitimate uses for all these unemployment barometers, if users are aware of what they are measuring.

U5 gives the clearest reading of the labor market, indicating how easy or difficult it is for workers to find jobs and for employers to hire workers. This information is essential in assessing potential inflationary pressures and judging the need for broad fiscal and monetary actions to stimulate or restrain the economy.

It is relatively objective, minimizing value judgments on hardships and relying on what people do to find jobs instead of trying to probe their attitudes.

U1 through U4 attempt to measure hardship, which is an important element of unemployment. But hardship does not necessarily indicate whether credit should be eased or tightened, or whether federal budget policy should aim for a deficit or a surplus.

If a lot of jobs are available, workers will apply for them and production will increase whether or not the workers are needy. If a worker is laid off, production will drop, even if the worker has ample savings and his wife continues to bring home pay checks.

U6 and U7 look beyond existing conditions in the labor market and try to measure the potential labor supply—how many additional workers could be hired if demand grew strongly. This can help measure the gap between actual and potential production.

But it is difficult to measure a jobless worker's desire for a job if he does not take overt action to find one. He may be willing to work only in a glamorous job, or at double the wage employers think he is worth.

Informed sources report that President Carter soon will nominate Sar A. Levitan, a leading manpower and welfare expert, as chairman of the new commission to study employment and unemployment statistics. Among other expected nominees for membership are Rudy Oswald, research director of the AFL-CIO, Jack Carlson, chief economist of the U.S. Chamber of Commerce, and Michael H. Moskow, undersecretary of labor in the Ford administration.

Levitan, director of the Center for Social Policy Studies at George Washington University, can be counted on to stir up controversy in pushing for changes in the statistics.

He says the current formulas were adequate in the depression, "when you worked or you starved," so the unemployment rate was a good measure of hardship. But now, he says, much more "sophisticated" barometers are needed to measure hardship and "underemployment."

For example, he says, an unemployed wife whose husband still has a job is a lot better off than a full-time laborer struggling to support his family on earnings below the poverty line.

Despite the highest unemployment rates since the depression in the 1974-75 recession, "there was surprisingly little public clamor over this slump—no riots, no large-scale marches on Washington, not even much rhetoric," Levitan observes.

One explanation is that unemployment compensation benefits and other government programs helped to cushion the loss of in-

come, and many laid-off workers were secondary earners in families with breadwinners who continued working, he says.

"While headlines focused on the rise in unemployment, the increase in deprivation due to low earnings was much less and this may explain the limited social unrest generated by the economic downturn," he says. "The corollary, of course, is that when unemployment recedes it should not be assumed that the real problems have been eliminated."

Since the conventional unemployment statistics "are no longer valid measures of economic and social health," Levitan has devised an experimental "Employment and Earning Inadequacy" index. This EEI index comes closer to measuring the real effects of unemployment because it takes account of family earnings and income as well as jobs, he says.

Levitan's complex formula adds "discouraged" workers and workers with earnings below the poverty level to the official total of unemployed, and subtracts full time students between the ages of 16 and 21 and persons over the age of 65. \* \* \*

#### INDIANA SADDENED BY DEATH OF "ELDY" LUNDQUIST

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. BENJAMIN. Mr. Speaker, the residents of the State of Indiana, particularly those of Elkhart County, have been personally saddened by the untimely passing of Eldon F. "Eldy" Lundquist, one of our State's most selfless, effective, and personable civic and public servants for the past four decades.

His long list of achievements, dedication to his fellowman, and concern for the betterment and improvement of mankind and community will long be remembered by the Hoosiers of Indiana and his many friends across the breadth of this Nation.

Eldon F. Lundquist was born on July 16, 1915, in Elkhart County where he remained a life resident. A basketball stalwart at Elkhart High School, he later graduated from Goshen College.

In spite of his many accomplishments and talents, Eldon was best known in Elkhart County for his football and basketball play-by-play coverage on radio station WTRC from 1939 to 1968. He became the personal friend and voice for the young athletes and their parents.

In addition to broadcasting, Eldon pursued careers in the fields of banking, advertising, and health care.

Eldon was noted for his dedication to the field of education where his achievements were innumerable. In 1955, he was elected to the Elkhart School board. Following his election to the Indiana House of Representatives in 1961, he was appointed chairman of its Education Committee. In 1961, he was also appointed secretary of the Post Secondary School Education Study Committee. In 1963, Gov. Matthew E. Welsh appointed Eldon to the board of trustees of the Indiana Vocational Technical College where he later was offered the opportunity to become that institution's first president. He

refused that opportunity, as he did many later opportunities to become the president of various educational institutions, in order that he could remain with his first love beyond his family—Elkhart County. Education was obviously a close second—but always second.

After his election to the Indiana State Senate in 1964, Eldon was appointed chairman of the Senate Education Committee. He was also the chairman of the Subcommittee on Vocational Education. In 1975, he steered landmark vocational education legislation through the Indiana General Assembly.

A complete legislator in all fields, Eldon was appointed chairman of the Constitutional Revision Committee in 1968. In addition, his fellow legislators elected him to the position of assistant majority floor leader in 1969.

Eldon Lundquist's career as a State legislator covered 16 years. In February 1976, to the disappointment of his constituents and all of Indiana, Eldon announced his retirement from public office. He announced that:

The people of Elkhart County have been wonderful in their support of me over the years. I realize I cannot totally repay their generous acceptance of me, but I hope that in some small way, my efforts to serve them have indicated my great regard for them and my gratitude to them.

Yes, Eldon F. Lundquist was a civic-minded Elkhart citizen and a no-nonsense legislator. His honesty and integrity were beyond reproach. Eldon was respected by Democrats and Republicans alike. Eldon did not like long, pompous speeches, but he loved people and people loved him.

Besides his illustrious career as a broadcaster, State legislator and educator, Eldon was a member of the Elkhart Park and Recreation Board, Chamber of Commerce, Industrial Development Commission, Elks Club, Moose Club, Rotary Club, Elcona Club, and the Trinity United Methodist Church.

The late Eldon F. Lundquist, who lived to be 61 years of age, is survived by Helen, his wife of 38 years, who resides at 227 Marine Avenue in Elkhart; his mother, Nellie; his son, John; and his daughter, Jean.

Mr. Speaker, while Eldon and I were not of the same political persuasion, I deeply respected and admired his rational, acute, and sensitive approach to the solution of problems of our times. While Eldon dissuaded long and tedious oratory, he was undoubtedly the most effective and articulate speaker I have ever known. He was a "healer," and a "doer," and a man of great charm, love, and wit. More important to me, he was my friend.

I, like all Hoosiers, regret the untimely loss of Eldon who was serving as assistant president of Indiana University at the time of his passing. Eldon was an inspiration, a fighter, and a man who many of us attempted to emulate but could never equal.

It was my honor to share many legislative battles with him, as supporter at times, opponent on occasions. Besides his many legislative accomplishments in education and government reform, he will also be remembered for his

outstanding contribution to the adoption of the first omnibus medical malpractice act in the Nation. While we now mourn his passing, he passed through this life leaving all of us better persons for having been able to share some of his life. I know that our mutual friend, Congressman JOHN BRADEM, and all of our colleagues join together to extend our sympathies to Eldon's family and the State of Indiana on their loss of a truly remarkable and great American who gave much more to the dynamics of civilization than he ever received in distinction or achievement in spite of his numerous honors. Eldon F. Lundquist will never be forgotten and his deeds will live on to improve and ameliorate the conditions of future generations as they have for this one.

#### PROPOSED AGENCY NOT NEEDED

### HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. DEL CLAWSON. Mr. Speaker, a column in the Wall Street Journal of Thursday, May 26, calls attention to what might be termed the perpetuation of compounded failure of government which would occur if Congress approves the proposed Consumer Protection Agency. The author's logic speaks for itself and therefore the column by Mr. James G. Reynolds is inserted at this point in the RECORD for the information of my colleagues:

[From the Wall Street Journal, May 26, 1977]

#### PROPOSED AGENCY NOT NEEDED TO PROTECT CONSUMERS

(By James G. Reynolds)

Arguments against a Consumer Protection Agency have largely centered on the practical problems of implementation, i.e., how the agency would determine who is the consumer and how is he to be protected. These arguments are all well and good, but they miss the larger and more fundamental reason why Americans should oppose creation of this agency.

The express purpose of the proposed law, as announced by its sponsors, is to establish a federal agency to represent the interests of the consumer in federal agency proceedings. If the purpose is sound (it rings bells of Catch-22 to me), then the malaise is the failure of federal agencies to perform their legal and constitutional mandates.

In general, each federal agency was created for the express purpose of assuring that transactions which were to be the subject of such agency's power be conducted in the public interest to promote the greatest public justice in an area that might otherwise be subject to abuse if left in unfettered private hands.

This purpose is necessary to justify the birth of a government agency and to support its continued existence at the taxpayers' expense.

Taxpayers and consumers are identical. Tax-paying citizens are the same people who buy goods from businesses regulated by the FTC. What purchaser of securities is not already supposed to be represented by the mandate of the SEC? Is there a consumer of foods and drugs who is not now paying taxes to support a huge FDA staff whose legal duty is to regulate foods and drugs in his interest?

The FPC and the FCC are there to assure that utilities and broadcasters provide full, fair and efficient service under monopolistic conditions. For whose benefit? Consumers. Taxpayers. You and me.

From a tactical point of view it may seem logical to establish a federal agency to represent the consumer in federal agency proceedings. But philosophically, it's wrong. Maybe the agencies aren't doing their jobs. Perhaps they are influenced too much by special interests, and another system is required to channel the special interest of the consumer.

But why are taxpayers being told they need to pay for another agency just because the ones they are already paying for are not fulfilling their legal mandates, their constitutional purposes?

I suggest the people be told that another layer of government is required because the bureaucratic layer is out of control. The people should be told that our administration and our Congress do not know how to solve this problem from within the agencies. We don't know how to constitute our agencies so that they will perform their legal mandates.

The people should be advised that the purpose of this proposed agency is conceptually different from the normal management control functions of auditing and review necessary to assure continued performance by people we believe to be doing a good job right along. The purpose of the new agency is to cause (force) the responsible agency officials to do the job they are already supposed to be doing. The bill approved by the House Government Operations Committee would permit this proposed agency to sue other federal agencies.

It is inconceivable that a private organization would seek to solve a problem in one department by hiring a separate staff to force that department's employees to do their jobs properly. If a breakdown in performance were perceived to be complex or widespread, management might commission an outside group to study the situation.

And suppose this hypothetical outside group were to report that the purchasing department was overly influenced by suppliers bearing Super Bowl tickets, that the finance department was being swayed by bankers bearing low-interest personal loans, that production and engineering staffs were beset by equipment dealers offering free color TVs on the side?

No organization in possession of even half its senses would conceive of solving such a problem by hiring another permanent staff with authority to advocate the interests of the organization and force the responsible employees to do their jobs properly.

The responsible employees in purchasing, for example, know their job is to obtain high quality goods and services at the lowest cost, and to ignore suppliers bearing gifts. If a private organization were to pay people for not performing their jobs and also pay another group to force them to do their jobs, the inevitable result would be the deterioration and eventual ruin of the organization. Maintaining the organization would become too costly, and maintaining employee attitudes and spirit so necessary to continuing vitality would be impossible in light of management's acquiescence to large-scale non-performance.

Federal agencies are no different. Responsible agency employees know their jobs and their duties. The administration and the Congress, through existing offices and monitoring committees, should force the agencies to perform their duties in the first instance through proper budgeting, auditing, performance standards review and by firing people who are not doing their jobs properly.

Or have the federal agencies become so large, cumbersome and otherwise entrenched that we have several very expensive, uncontrollable monsters on our hands? Are matters so irreversible that what we really need for

effective control is a regulatory advocacy agency to regulate the regulators? And in due time, who regulates the regulatory advocacy agency?

The Consumer Protection Agency is wrong, not so much for what it would try to do, but because it admits to an incurable state of affairs within our government. We cannot as a nation afford to support a government that cannot control itself.

#### "INSTANT" VOTER REGISTRATION

### HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. LAGOMARSINO, Mr. Speaker, the President's proposal for "instant" voter registration is now working its way through the House and, I understand, is scheduled to come to the floor sometime later in June. I strongly oppose this ill-conceived and politically motivated legislation, as you well know.

At this point I would like to bring to the attention of my colleagues an excellent article which appeared in the Ventura County Star Free Press, which expresses the apprehension of the Ventura County Clerk-Recorder Robert L. Hamm concerning the "instant" voter registration bill and its probable impact on the county. I insert the article at this point: [From the Ventura County (Calif.) Star Free Press, May 22, 1977]

#### HAMM WARNS OF HIGH COST OF CARTER REGISTRATION PLAN

By Carol Bidwell

President Jimmy Carter's proposal to let voters register through election day may increase the turnout 10 to 20 per cent, but it would be sure to cost local government a lot of extra money, says Ventura County Clerk-Recorder Robert L. Hamm.

He is clearly skeptical that the extra turnout would be worth the trouble.

These days Hamm is trying to estimate exactly how much the proposed change in voter registration could cost the county so county supervisors and budgeters will know how much to set aside for future elections if Congress approves Carter's proposal.

Hamm said he will go before supervisors with a detailed report within two weeks. That report, he said, will include "a recommendation that the board take some strong action" to press Congress to finance 100 per cent of the costs of the new system, rather than shoving the costs off onto local agencies.

The future of the election-day registration proposal is somewhat in doubt, with different versions slowly progressing through the Senate and the House of Representatives, but Democrats—who claim a historical advantage when more people go to the polls—seem bent on pushing some form of the legislation through in the current session of Congress, say political observers.

Thursday, however, the House postponed action on Carter's bill until June. Some Democratic congressmen told Carter the measure faces stiff opposition.

How well such a new system would work—and how much it would cost—would depend largely not on voters or election officials, but on lawyers and state and federal government officials who would interpret the new law and set up guidelines for local agencies and election officials to follow.

Hamm and some congressional leaders have forecast "a great potential for fraud" unless strict controls were laid down for election-



day registrants to identify themselves, making sure a person didn't vote more than once simply by visiting another polling place and giving a name and address different from his own.

Carter's proposal doesn't specify what sort of identification would be required at the polls, but Hamm said two forms of identification should be required: Personal identification with a physical description and a photo on it, such as a driver's license, and residence identification, such as a recent rent or utility bill receipt.

Hamm wants it made clear that the proposed new system would not do away with pre-registration, which would still be encouraged. And, he said, special care would have to be taken so a long line of people waiting at the polls to register on election day didn't discourage a pre-registered voter who didn't want to wait in line behind "a lot of jugheads" who waited until the last minute.

On election day, Hamm said, election workers would have to provide two lines, one for pre-registered voters and one for election-day registrants, for whom the process would take longer.

"The purpose of this legislation is to turn people on to voting," Hamm said. "We don't want to do anything on election day to turn them off."

There's a potential for local agencies to receive as much as 60 cents from the federal government or each voter who casts ballots at the last state, local and federal elections to go toward defraying the cost of the new system.

By its voting history, Ventura County could receive as much as \$102,000 to help pay for the changeover. But Hamm said that's only a drop in the bucket compared to what he expects it to cost the county.

What would boost those costs?

Provisions in the two versions of the new legislation and in proposed follow-up legislation, he said, would require that sample ballot materials, candidates' statements and other voter information be mailed to every home in the county. Later, each resident would receive a notice of the location of his polling place—in case the person decided to vote.

Each polling place would have to be provided with not only its own precinct list, but with the lists of voters in five surrounding precincts so election workers could tell somebody who showed up at the wrong place where the right place is for them to vote, Hamm said.

Carter's proposal does not apply to party primaries, but a law bringing primaries under the same election-day registration blanket has already been proposed. If that happens, Hamm predicted it would be nearly impossible to know how many ballots the county would have to print for Democrats, Republicans, Peace and Freedom and American Independent parties' voters.

He predicted that besides being expensive, the change would be "bad for the parties," who rely on knowing well in advance how many voters they can count on on election day.

There are many more questions and problems involving who's qualified to vote and who's not, so more "roving" elections inspectors would have to be hired to smooth out these situations, he said.

"We're talking about nothing but money," Hamm said.

Does he think the aim of the new system—to bring many more indifferent voters out of their homes on election day—would be met?

"It's not likely"

Few voters bother to cast ballots now—only 53.3 per cent of those registered in the county voted in the 1976 presidential election—"because those of us in government

have made them mad. It's my sincere belief that government has lost rapport with the taxpaying voters," Hamm says.

He blamed increasing government costs, increasing taxes and generally unresponsive government for the turnout.

"When was the last time we asked the electorate what we could do for them?" Hamm asked. "We say, 'The public is demanding more service.' I don't see the public demanding anything, except lower taxes . . . Some have said this (change in voter registration) is because the public is demanding it. The public didn't demand it. It's Jimmy Carter's idea."

How many more voters are likely to show up at the polls on election day, knowing that they can register and vote at the same time?

"At best, a 20 per cent increase . . . probably closer to 10 per cent," Hamm said. "It appears to me that we will pay half as much again per voter for a 10 to 20 per cent increase in voters on election day . . . We have to ask, how much is this going to cost us and how much are we going to get from it—and is it worth it?"

## PROPOSED NATURAL GAS LEGISLATION QUESTIONED

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 2, 1977

Mr. MOSS. Mr. Speaker, President Carter's proposed energy plan appropriately takes full cognizance of the need to make a major reappraisal of our Nation's energy needs. The President correctly says Americans waste too much fuel and must conserve.

There are, however, serious questions which should be raised about several provisions in the proposed legislation, especially those related to natural gas pricing. A very astute analysis of those pricing measures were recently provided in testimony from the director of the Energy Action Committee before the House Commerce Subcommittee on Energy and Power, chaired by my friend and colleague, JOHN D. DINGELL.

I believe the comments of Mr. James F. Flug deserve the close attention of all my colleagues in Congress. Therefore the testimony about the natural gas pricing measures follow:

TESTIMONY OF JAMES F. FLUG, DIRECTOR AND COUNSEL, ENERGY ACTION COMMITTEE, ON THE NATURAL GAS PRICING PROVISIONS OF THE NATIONAL ENERGY ACT

Mr. Chairman: Deregulation by any other name smells just as bad, and I submit that the natural gas pricing provisions of the "National Energy Act" are the moral equivalent of deregulation.

From his January, 1976 statement in support of "legal restrictions to allow a 'reasonable profit' on oil and natural gas", to his January, 1977 assurance of a "prohibition against excessive or windfall profits from energy costs at the expense of the consumer", to his April 18 promise that "no one will gain an unfair advantage" or "profiteer" from his Energy Plan, and right up to his April 20 admission that fuel price decontrol "would be disastrous for our economy and for working Americans, and would not solve long range problems of dwindling supplies", Jimmy Carter gave the American people hope that whatever he did on natural gas prices,

the result would be fair and equitable, spreading burdens and sacrifices evenly throughout society.

Unfortunately the reality has not matched the rhetoric. The proposal to set the price of natural gas at the "equivalent energy value" of U.S. crude oil, beginning at \$1.75 per thousand cubic feet, is a betrayal of the public interest and a multi-billion dollar boon to the oil and gas industry. It is precisely what President Carter's "Energy Plan" said he wanted to avoid: "an inequitable transfer of income from the American people to the producers, whose profits would be excessive and would bear little relation to actual economic conditions".

Perhaps we have become so numb that \$1.75 for a thousand or anything doesn't sound like much. But \$1.75 for a thousand cubic feet of gas is a huge amount. It is:

Ten times what producers were getting for gas a decade ago; 6½ times the 26¢ price agreed to by producers in 1970 as an "incentive" price to bring forth "additional supplies" and "meet the demands" of consumers; almost 3½ times the last court-approved "just and reasonable" rate of 52¢; almost 3 times the 60¢ range which the FPC staff has said would produce ample returns and incentives; well above the levels in recent years of the uncontrolled (President Carter properly called them "exorbitant") intrastate gas prices; and about 25% over the \$1.42 price through which the Nixon-Ford FPC attempted to deregulate administratively, a price which the courts are likely to overturn as unsupported under the "just and reasonable" standard.

Let me focus for a minute on the \$1.42 price, because the "Energy Plan," and most of the media, treats it as some sort of credible base case against which future developments can be measured. In fact, however, that price merely represents the personal opinion of three men:

Appointed by Presidents committed to giving the industry unlimited profits;

Themselves opposed to the process of price controls they were responsible for enforcing; and

With backgrounds and political sponsorship reflective of the oil and gas producers' viewpoint.

For policy purposes, you and we are just as entitled to accept as a base case, the opinion of the experts in the FPC Office of Economics which recommended a 56¢ price, or the 61¢ price found adequate by the FPC Bureau of Natural Gas, or the view of the dissenting Commissioner, who found the \$1.42 price "excessive" and unsupported:

We are certainly entitled to exclude from our own calculations the 40¢ of income tax, calculated at the highest rates which the FPC assumed—without evidence and despite history to the contrary—that the producers would pay.

We are certainly entitled not to accept calculations based on industry production, cost, and reserves figures that have repeatedly proved unreliable and that appear on their face to reflect political and legal circumstances rather than physical facts.

And we are certainly entitled to look at cost figures developed by other impartial observers, like the recent Oklahoma study which spoke of actual costs of producing gas in 1976 in the range of 35¢, 44½¢, and 60¢ (the latter allegedly up from 17¢ in 1973).

The fact is that the nation has been operating under an irrational regulatory scheme for natural gas, with two fatal flaws:

1. The combination of an uncontrolled intrastate market and a controlled national market for the same product has unavoidably led to minimal production for the controlled market and maximum production for the uncontrolled market. This factor alone is responsible for a major portion of the sup-

ply problems in non-producing states, as this committee is well aware;

2. The expectation—and fact—of continued sharp rises in regulated price, and the expectation—and hope—of eventual deregulation, has made withholding gas more profitable than selling gas.

To remedy the first flaw we have to bring the interstate and intrastate prices together. We can do so either by bringing the national prices up to the uncontrolled levels of the intrastate market, giving all production the benefit of the fantastic windfalls which intrastate producers have been receiving for the past few years, or we can bring the "exorbitant" intrastate price down to a "just and reasonable" national level.

The proposal before you clearly reflects the industry's approach of raising the regulated interstate price to the unregulated intrastate levels, something this Committee and this House have protected the American people from in the past. Anyone who has any doubt that this proposal takes the deregulation route need only look at the FPC's own statistics on intrastate prices. The weighted average of new intrastate contract sales of producers reporting to the FPC has never reached the \$1.75 level until the crisis winter of '76-'77, and even then many sales and contract renegotiations, in many places, were at much lower prices, including prices under \$1.

The fact that the highest price for intrastate gas sales in Oklahoma as of January was \$1.68, and the fact that New Mexico recently set \$1.44 as the state-imposed cap on its local sales of local gas gives additional evidence that the \$1.75 price is truly a deregulated price.

Moreover, as this Committee well knows, the reported intrastate prices are themselves artificially inflated not only by the aberrational spot-type emergency sales, but also by what the FPC euphemistically calls "sales between affiliated companies," or what most of us would call phony pricing or price fixing. You have had evidence of this phenomenon in the past, and now there is a brand new, startling set of disclosures in the Oklahoma legislative investigation of gas pricing in that state. I hope each of you will read it so that you can judge for yourself its objectivity and dispassionate approach. But I will say that if a \$1.68 price can only be reached by that kind of self-dealing, connivance, and flim-flam, then the nation has no business whatsoever one-upping the price fixers by imposing a national price level of \$1.75.

It's hard to think of anything worse than the \$1.75 price itself, but the means of calculating that price, and determining its future course is worse. Tying the gas price to the price of U.S. crude oil immediately, of course, builds into the gas price a heavy dose of the OPEC oil windfall which is already well reflected in the price of U.S. crude. But if the oil pricing system suggested by President Carter is adopted, then the oil price on which the gas is based must move upward much faster than inflation, and thus so will the price of natural gas. That is, while each of the three tiers of oil will ultimately be limited to price rises equal to the annual inflation rate, in the next three years "new" oil will move up faster than that as it rises to world price levels, and the proportion of "new" oil in the U.S. mix will also rise each year, so that the overall U.S. crude price, and

with it the gas price, will keep rising sharply, and much faster than the general inflation rate.

Thus instead of removing the second major flaw in the current system, the incentive to withhold in anticipation of rapidly rising future prices, the current proposal would build in that expectation and thus assure future withholding and continuing supply problems. In other words, while the price level in any one year would be wildly beyond the most generous notions of "incentive" prices, the predictability of even higher prices in coming years would provide a disincentive to current production and a strong economic justification for placing available reserves in inventory.

Of course the whole notion that the oil and gas industry needs additional "incentives" to produce is a joke. We know that we don't know the whole story about oil and gas costs and profits, because the industry has been notoriously unwilling to share its data with either the government or the public, despite its continuous pleas for every kind of help based on assertions about that data. But we know enough to know that the industry has done very well under the recent pricing arrangements.

The top oil and gas companies increased their profits by over 100% from 1972, the last pre-embargo year to 1975.

Mobil alone increased its profits on U.S. energy operations from \$171 million in 1975, to \$430 million in 1976, and after spending about a billion dollars on Montgomery Ward and Container Corp., is now offering a third of a billion for the Irvine Ranch.

Standard Oil of California increased U.S. earnings from \$240 million in 1975 to \$461 million in 1976.

Exxon admits to a 25% return on capital in 1975 and a 20% return in 1976 for U.S. exploration and production operations, and showed an increase in U.S. oil and gas earnings of \$38 million despite a decrease in production of both gas and oil.

Similarly, Phillips Petroleum showed a \$350 million increase in revenues, and a \$60 million rise in earnings on U.S. oil and gas operations despite a reduction in U.S. oil and gas production.

And I submit for your enjoyment and the record the cover of this year's Tenneco Offshore Company Inc. Annual Report which can only be described as an open celebration of the FPC's recent gift to the industry.

In fact what Mobil's Annual Report describes modestly as "some improvement in natural gas prices", has already produced such a windfall to the companies that it is entirely likely that their cutbacks in production reflect a fear that level or rising production rates at the rapidly increasing prices of the last 10 years would have shown such a gross excess of profits, even by oil industry standards, as to bring not only horizontal and vertical divestiture, but also a sharp rise in the already strong public sentiment in favor of still more severe government action.

Because we know that we do not know all the facts, we cannot accept industry claims about "hardships", "insufficient capital", and "inadequate incentives", especially when the known facts are to the contrary. President Carter has called for a detailed Petroleum Industry Reporting System, and once we see the detailed facts which that system will presumably generate, then

we can decide whether the "just and reasonable" rate system is really inadequate—or perhaps over-adequate—to produce the cash flow legitimately required for continued investment in gas production. In the meanwhile we should consider the revenue and profit implications of the plan which the White House has put forth.

Any projections are necessarily speculative, but the attached computations are a first attempt at calculating the windfall inherent in the \$1.75 "new gas" price, the allowances of interstate rollovers at \$1.42 and intrastate rollovers at a \$1.75, and the locking in of the FPC Opinion 770 rates on the last two biennia. The projection is extremely conservative in that it calculates the rollover windfalls from the respective average prices rather than the actual prices of the rollover production, which would be a significantly lower base. It also assumes that the windfall factor would be constant over time, when in fact the windfall will accelerate as the gas price moves upward ahead of the inflation rate because of the oil equivalency factor discussed above. The two assumptions for "new gas" volumes are based (I) on President Carter's past assertions of a 5% rate, and (II) on projections based on the AGA estimate to Mr. Schlesinger of 5.5 trillion cubic feet of new gas by 1980. Obviously the assumptions of these figures differ substantially from those of the proposed system, but since there is no limit on the amount of "new gas," and since the aim of the program is to stimulate as much "new gas" production as possible, these figures, too, are likely to be conservative. The detailed bases of the calculations as well as further revisions as we refine the projections will be submitted to the committee.

Based on these preliminary calculations, however, it appears that the windfall factor, that is, excess profits generated by the pricing system, without any basis in increased cost or risk, will amount to:

*Preliminary estimate of total producer windfalls under natural gas provisions of energy plan*

| [In billions of dollars] |       |       |  |
|--------------------------|-------|-------|--|
|                          | Low   | High  |  |
| 1978                     | \$4.5 | \$4.9 |  |
| 1979                     | 7.5   | 8.3   |  |
| 1980                     | 10.2  | 11.4  |  |
| 1981                     | 12.6  | 14.1  |  |
| 1982                     | 14.7  | 16.5  |  |
| 1983                     | 16.5  | 18.6  |  |
| 1984                     | 18.0  | 20.4  |  |
| 1985                     | 19.2  | 21.9  |  |
| 1986                     | 20.2  | 23.2  |  |
| 1987                     | 21.1  | 24.4  |  |
| Total                    | 144.5 | 163.7 |  |

I want to emphasize that these are very rough estimates. I welcome and encourage the committee, the industry, and especially the administration to set forth different assumptions and derive different totals. But I assure you of one fact: As long as the base case is some realistic notion of actual current and prospective cost plus a reasonable return, the windfalls under the proposed pricing system will be in the tens of billions of dollars over the period of the plan.

The American people cannot be asked to sacrifice when the oil and gas industry is going to be given that kind of unearned bonus.

## HOUSE OF REPRESENTATIVES—Friday, June 3, 1977

The House met at 10 o'clock a.m.

Reverend Mr. Charles A. Mallon, permanent deacon, St. Matthias Church, Lanham, Md., offered the following prayer:

*And if My people, upon whom My name has been pronounced, humble themselves and pray, and seek My presence and turn from their evil ways, I will hear them from heaven and pardon*

*their sins and revive their land.—II Chronicles 7: 14.*

Father, we Your people, come before You with proud hearts yet seeking Your presence. Give us the grace to humble



ourselves. We are a nation in pursuit of happiness. We have been weakened by the allurements of world, flesh, and devil. Father help us to turn from our evil that we might find strength in doing Your will.

Hear our prayer and heal our land. Allow no abuse of freedom or liberty to prevail. Allow justice to rule our land, and allow faith, hope, and love to deliver us into Your hands. We ask this through Christ our Lord. Amen.

#### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

#### THE \$16 MILLION REMODELING PROJECT OF OLD POST OFFICE BUILDING A GRANDIOSE SCHEME

(Mr. HIGHTOWER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HIGHTOWER. Mr. Speaker, I was astounded to read in this morning's Washington Post that the recently authorized Pennsylvania Avenue redevelopment, which was approved by Congress, is going to be kicked off with a \$16 million remodeling project to convert the beautiful Old Post Office Building into a "bridge between the local city and the Federal Capitol." The grandiose scheme, according to the news story, provides for a glassed-over courtyard with shops and restaurant in the basement, first, and mezzanine floors. There would be an "arched corridor/balconies serving as streets in the sky." The beautiful old landmark clock tower would become an observation platform, complete with a glass elevator. This is not all. There are other "innovative ideas." They even plan to cut a 100- by 150-foot hole in the main floor and install a baroque staircase—and perhaps an escalator—into the basement floor. It appears that there will be no end of grand and expensive ideas for gilding this lily.

Mr. Speaker, if this is a good example of what we can expect from the Pennsylvania Avenue Development Corporation, I hope that the Appropriations Committee will take a real hard look at spending any more money on this project. I hope these same imaginative innovators are not turned loose on the old Smithsonian Buildings or the Washington Monument. If the plans are to spend \$16 million redoing the Old Post Office Building the Secretary of Treasury is not going to be able to float enough bonds to do the whole job on the avenue.

I hope that the architects will go back to the drawing board and come up with a plan for Pennsylvania Avenue that can make it the grand boulevard envisioned by President Kennedy, by preserving the best of the old and building new buildings that will meet the realistic needs of the people that they will be planned to serve.

#### COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS OF 1977

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2992) to authorize appropriations for fiscal year 1978 for carrying out the Comprehensive Employment and Training Act of 1973, as amended, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

#### SHORT TITLE

SECTION 1. This Act may be cited as the "Comprehensive Employment and Training Act Amendments of 1977".

#### AUTHORIZATION FOR FISCAL YEAR 1978

SEC. 2. (a) Section 4(a) of the Comprehensive Employment and Training Act of 1973, as amended, is amended by striking out "three succeeding fiscal years" and inserting in lieu thereof "four succeeding fiscal years".

(b) Section 601 of such Act is amended by inserting after "fiscal year 1977" the words "and for fiscal year 1978".

(c) Section 607(a) of such Act is amended by inserting after "fiscal year 1977" the words "and fiscal year 1978", and by inserting the word "each" before "such fiscal year" both places such language appears therein.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman from California (Mr. HAWKINS) would give us an explanation of the Senate amendment and his reason for making this request.

Mr. HAWKINS. Mr. Speaker, on March 29 the House passed this bill, which is a simple extension of the Comprehensive Employment and Training Act of 1977 for 1 year, the idea being that the House felt, upon a recommendation of the Committee on Education and Labor, that we should not enact any amendments until we had a chance to review the program.

The other body, in acting on it, did make some recommendations. The committee made recommendations, but the Senate itself as a body concurred in the position taken by the House, that there should be no further amendments, with one exception: A very technical amendment which was to maintain the status quo with respect to eligibility of those who would fill positions by attrition. This was exactly the position of the House. It is a very technical amendment.

Mr. Speaker, other than that, this is a simple extension.

Mr. BAUMAN. For 1 year only?

Mr. HAWKINS. For 1 year only.

Mr. Speaker, on March 29, the House passed H.R. 2992 authorizing appropriations for CETA for fiscal year 1978. It was the judgment of the Education and Labor Committee and the House that substantive amendments to CETA should be deferred until the committee had the opportunity to review in detail the administration of the current law and make

recommendations for extensive revisions of this act.

I am pleased to note that the Senate-passed extension of CETA follows this approach as well. The Senate deferred consideration of several amendments to the CETA extension adopted in committee by adopting these amendments as modifications of the youth employment bill. In this manner, it is possible to separate the simple extension of CETA programs from the more substantive differences between the House and Senate versions of the youth employment bill.

The Senate passed the simple CETA extension bill on May 25, 1977, with one technical amendment. The majority and minority sides and the administration have no difficulty with this amendment.

The Senate amendment extends for an additional fiscal year the provisions of section 607(a) which provides for sustaining the number of public service job slots in existence on June 30, 1976. This "holdharmless" provision mandates that prime sponsors must maintain the 310,000 public service job slots in existence since that date.

Other sections of title VI explain the manner in which new and additional job slots will be filled and the manner in which vacancies resulting from attrition will be filled.

At present, section 607(a) refers only to fiscal year 1977. The Senate amendment is required to extend these provisions through fiscal year 1978 thus protecting the present number of job slots and extending the prime sponsors' present options as to what criteria are followed to fill the slots.

I am aware of no opposition to the Senate amendment and urge that we concur.

Mr. Speaker, I include a letter from the Department of Labor, as follows:

U.S. DEPARTMENT OF LABOR,  
Washington, June 2, 1977.

HON. AUGUSTUS F. HAWKINS,  
Chairman, Subcommittee on Employment Opportunities, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request for the Department of Labor's views on amendments made by the Senate Human Resources Committee to H.R. 2992, the "Comprehensive Employment and Training Act of 1977." With one exception these provisions passed the Senate as part of S. 1242, the "Youth Employment and Training Act of 1977", rather than as part H.R. 2992.

In passing H.R. 2992, the Senate included, in addition to the one year extension of CETA, a provision to extend for one year the requirement that the number of title II and title VI job holders who do not have to meet the priority eligibility standards remain sustained at the current level. The Department supports such a provision; it will prevent individuals already in CETA jobs from becoming ineligible at the start of fiscal year 1978.

The other three amendments which the Senate Human Resources Committee had originally attached to H.R. 2992, were passed by the Senate as part of S. 1242. These are: (1) a waiver of section 4(e) of CETA (which limits the percentage of CETA appropriations that can be spent for titles III and IV to 20 percent) for fiscal years 1977 and 1978; (2) a provision aimed at increasing the participation in CETA of disabled veterans and Vietnam-era veterans under 27 years of

age; and (3) a provision requiring applicants to give special consideration to unemployed persons with prior teaching experience in filling teaching positions funded under titles II and VI of CETA in elementary and secondary schools.

The waiver of section 4(e) is a necessary part of the President's program to aid youth and provide for other needed employment programs in his economic stimulus plan. Despite the creation of a new title VIII for youth in S. 1242, the President's program for youth, which includes expansion of the Job Corps under title IV, will violate section 4(e) in fiscal years 1977 and 1978 unless the waiver is adopted. We believe that it is essential to provide this additional employment and training in 1977 and 1978. Thus it is imperative that the House-Senate conference adopt this waiver.

Both the Department and the Administration have been greatly concerned about the problems veterans have faced in obtaining employment. We feel these men and women, who have contributed so much to this nation, should not have to experience continuing unemployment. We are taking extensive steps to remedy the current situation. A key part of this program is the increased participation of veterans in public service employment programs and job training under CETA. We feel such an amendment is essential and urge its adoption in the House-Senate conference.

With respect to the provision on teachers, we do not believe the provision is necessary. The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RAY MARSHALL,  
Secretary of Labor.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman from California for his explanation, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. QUIE. Mr. Speaker, reserving the right to object, I wish to engage in a colloquy with the gentleman from California (Mr. HAWKINS).

The Senate amendment, as I understand it, simply extends for 1978 the same provisions that existed in 1977; is that correct?

Mr. HAWKINS. Mr. Speaker, if the gentleman will yield, that is correct, with the exception of the addition of one technical amendment which I have already discussed.

Mr. QUIE. Yes.

Mr. HAWKINS. I think the gentleman is familiar with that amendment.

Mr. QUIE. Yes. But that technical amendment also continues for 1978 what exists in 1977; is that correct?

Mr. HAWKINS. It will extend for 1 year only the present eligibility requirement which we had agreed to last year in conference.

Mr. QUIE. And under that provision the prime sponsor will continue the number of slots? The prime sponsors must continue the number of slots for public service employment that they had as of June 30, 1976?

Mr. HAWKINS. The gentleman is correct.

Mr. QUIE. But prime sponsors do not have to keep those individuals who are

presently on public service employment, just the number of slots.

Mr. HAWKINS. That is right, except that this protects those who are now filling positions. Those who are now filling positions will not have to meet the new requirements.

Mr. QUIE. Presently employed individuals will not have to meet the new requirements, but the prime sponsor does not have to keep them either, does he?

Mr. HAWKINS. That is correct.

Mr. QUIE. And prime sponsors are mandated that any new positions be under the new regulations we adopted last year, and 50 percent of the attrition is under the regulations that we adopted last year, and that will continue; is that correct?

Mr. HAWKINS. That is right.

Mr. Speaker, in further elaboration, may I read again a paragraph from a letter from the Department of Labor over the signature of the Secretary of Labor, because I believe that it would be relevant to this discussion to quote from his letter.

He says the following:

In passing H.R. 2992, the Senate included, in addition to the one year extension of CETA, a provision to extend for one year the requirement that the number of title II and title VI job holders who do not have to meet the priority eligibility standards remain sustained at the current level. The Department supports such a provision; it will prevent individuals already in CETA jobs from becoming ineligible at the start of fiscal year 1978.

Mr. QUIE. And for the other 50-percent attrition, the prime sponsor may use the old regulation, meaning 15 days; is that correct?

Mr. HAWKINS. That is correct, and that was the original House position.

Mr. QUIE. However, if he does desire to do so, he can go to the new regulations with respect to that 50 percent?

Mr. HAWKINS. That is my understanding.

Mr. QUIE. Mr. Speaker, before this House agrees to accepting the Senate language on H.R. 2992, the CETA extension, it is important that the House clarify precisely what this language means, and place it in historical perspective.

The only requirement for eligibility for a public service job under the original title VI program, passed in 1974, was that a person be unemployed 15 days or more. Unfortunately, under this provision localities were able to liberally substitute Federal for local dollars and failed to hire those most in need. Accordingly, last session we enacted Public Law 94-444 which required prime sponsors to hire the long-term unemployed. These changes strictly limited the new title VI jobs to those most in need. Specifically, these included those who are unemployed 15 weeks or more, and are not eligible for unemployment insurance; who are receiving unemployment assistance for at least 15 weeks; are welfare recipients and, in all cases, are not from a family whose income exceeds 70 percent of the low-income standard.

Despite these changes, the Congress did

not want to force prime sponsors to fire all those who had been hired under the old criteria and were still employed. Therefore, section 607(a) of Public Law 94-444 allowed prime sponsors to continue the number of jobholders which were employed as of June 30, 1976, except that when any attrition occurred prime sponsors were required to hire no less than 50 percent under the new criteria and no more than 50 percent under the old. Prime sponsors have always had the option to hire all replacements using the new criteria, and, further, to replace any existing jobholder with an individual meeting the new requirements if they so desired. Only the job slots are protected. There is nothing in the law that requires prime sponsors to continue those very individuals who were on board as of June 30, 1976, and there is nothing in the law that prohibits prime sponsors from replacing these individuals with new eligibles.

Thus, existing law provides prime sponsors with the following options:

First. It allows prime sponsors to sustain the number of existing job slots as of June 30, 1976, using the old criteria, provided that no attrition has occurred;

Second. If there has been attrition, prime sponsors may rehire up to half the replacements using the old criteria. However, they have the option of rehiring all new replacements using the new criteria;

Third. Prime sponsors may replace all those hired on June 30, 1976, with those meeting the new criteria, and

Fourth. The Senate language does nothing to alter the prime sponsors' options. All it does is allow prime sponsors to continue to exercise these options through fiscal year 1978.

It is with this understanding that I support H.R. 2992 as amended by the Senate.

Mr. HAWKINS. Mr. Speaker, the colloquy we just had I think explains the bill unless there are further inquiries.

Mr. QUIE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

#### DEPARTMENT OF ENERGY ORGANIZATION ACT

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6804) to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. Brooks).



The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MONTGOMERY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 313, nays 0, not voting 120, as follows:

## [Roll No. 302]

## YEAS—313

Abdnor Duncan, Oreg. Latta  
Alexander Duncan, Tenn. Le Pante  
Allen Eckhardt Leach  
Ammerman Edgar Lederer  
Anderson, Calif. Edwards, Ala. Leggett  
Andrews, N.C. Edwards, Okla. Levitas  
Annunzio Elberg Lloyd, Tenn.  
Applegate Emery Long, La.  
Archer Erlenborn Long, Md.  
Armstrong Ertel Lott  
Ashley Evans, Colo. Luken  
AuCoin Evans, Del. Lundine  
Badham Evans, Ga. McCluskey  
Baldus Evans, Ind. McDonald  
Barnard Fawcett McEwen  
Baucus Fenwick McFall  
Bauman Findley McHugh  
Beard, R.I. Fish Madigan  
Beard, Tenn. Fisher Maguire  
Bedell Fithian Mahon  
Benjamin Flood Markay  
Bennett Flynt Marks  
Bevill Foley Marriot  
Bingham Ford, Tenn. Martin  
Blanchard Forsythe Mathis  
Blouin Fountain Mattox  
Boggs Fowler Mazzoli  
Boland Frenzel Meeds  
Bolling Frey Meyner  
Bonior Fuqua Michel  
Bonker Gaydos Mikulski  
Bowen Gephardt Mikva  
Brademas Gialmo Miller, Ohio  
Breckinridge Gibbons Mitchell, N.Y.  
Brinkley Gilman Moakley  
Brodhead Ginn Moffett  
Brooks Glickman Montgomery  
Broomfield Goldwater Moore  
Brown, Calif. Gonzalez Moorhead, Calif.  
Brown, Ohio Gore Moorhead, Pa.  
Broyhill Gradison Moss  
Buchanan Grassley Mottl  
Burke, Fla. Gudger Murphy, Pa.  
Burke, Mass. Guyer Murtha  
Burlison, Tex. Hamilton Myers, Michael  
Burlison, Mo. Hanley Myers, Ind.  
Burton, Phillip Hansen Natcher  
Butler Harris Nedzi  
Byron Harsha Nix  
Caputo Carr Nowak  
Cavanaugh Heckler O'Brien  
Cederberg Hefner O'Carroll  
Clawson, Del. Hefel Oberstar  
Cleveland Hightower Obey  
Cohen Hillis Ottinger  
Collins, Ill. Holt Panetta  
Collins, Tex. Holtzman Patten  
Conable Horton Patterson  
Conte Howard Pattison  
Conyers Huckaby Pease  
Corcoran Hughes Perkins  
Cornell Hyde Pettis  
Cornwell Jacobs Pickle  
Coughlin Jenkins Pike  
Crane Johnson, Calif. Freyer  
Cunningham Jones, N.C. Quayle  
D'Amours Jones, Okla. Quie  
Daniel, Dan Jordan Quillen  
Daniel, R.W. Kasten Rahall  
Danielson Kastenmeier Rangel  
de la Garza Kelly Regula  
Dellums Kemp Reuss  
Derrick Ketchum Richmond  
Derwinski Keys Rinaldo  
Dickinson Kildee Risenhoover  
Dicks Kindness Roberts  
Dingell Kostmayer Robinson  
Dodd Krebs Rogers  
Drinan Lagomarsino Roncallo

Rooney  
Rose  
Rostenkowski  
Rousselot  
Roybal  
Rudd  
Runnels  
Ruppe  
Russo  
Ryan  
Sarasin  
Satterfield  
Sawyer  
Scheuer  
Schroeder  
Schulze  
Sebelius  
Sharp  
Shuster  
Simon  
Sisk  
Skelton  
Skubitz  
Slack  
Smith, Nebr.  
Snyder  
Solarz  
Spence  
Stangeland  
Stanton  
Stark  
Steed  
Steiger  
Stockman  
Stokes  
Studds  
Stump  
Symms  
Thone  
Treen  
Trible  
Tsongas  
Tucker  
Udall  
Ullman  
Vander Jagt  
Vanik  
Vento

Volkmer  
Walgren  
Walker  
Walsh  
Wampler  
Watkins  
Waxman  
Weiss  
Whalen  
White  
Whitley  
Whitten  
Wiggins  
Wilson, C.H.  
Wilson, Tex.  
Winn  
Wolff  
Wright  
Wyllie  
Yates  
Yatron  
Young, Fla.  
Young, Tex.  
Zablocki

## NAYS—0

## NOT VOTING—120

Addabbo Ford, Mich. Murphy, N.Y.  
Akaka Fraser Myers, Gary  
Ambro Gammage Neal  
Anderson, Ill. Goodling Nichols  
Andrews, N. Dak. Hagedorn Nolan  
Ashbrook Hall Pepper  
Aspin Schmidt Poage  
Badillo Harkin Pressler  
Bafalis Harrington Price  
Bellenson Holland Pritchard  
Blaggi Hollenbeck Pursell  
Breaux Hubbard Railsback  
Brown, Mich. Ichord Rhodes  
Burgener Ireland Rodino  
Burke, Calif. Jeffords Roe  
Burton, John Jenrette Rosenthal  
Carney Johnson, Colo. Santini  
Carter Jones, Tenn. Seiberling  
Chappell Kazen Shipley  
Chisholm Koch Sikes  
Clausen, Don H. Krueger Smith, Iowa  
Clay LaFalce Spellman  
Cochran Lehman St Germain  
Coleman Lent Stagers  
Corman Lloyd, Calif. Steers  
Cotter Lujan Stratton  
Davis McCormack Taylor  
Delaney McDade Teague  
Dent McKay Thompson  
Devine McKinnney Thornton  
Diggs Mann Traxler  
Dornan Marlenee Van Derlin  
Downey Metcalfe Waggonner  
Early Milford Weaver  
English Miller, Calif. Whitehurst  
Fary Mineta Wilson, Bob  
Flippo Minish Wirth  
Florio Mitchell, Md. Wylder  
Flowers Mollohan Young, Alaska  
Zablocki Zepheretti

So the motion was agreed to.

The result of the vote was announced as above recorded.

## IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 6804, with Mr. NEDZI in the chair.

The CHAIRMAN. When the Committee rose on Thursday, June 2, 1977, title V had been considered as having been read and open to amendment at any point.

Are there further amendments to title V?

## AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: Insert the following new section to Title V:

SEC. 504(a) If upon investigation, the Secretary or his authorized representative believes that a person has violated any regulation, rule, or order promulgated pursuant to the Emergency Petroleum Allocation Act, he may issue a remedial order to the person.

Each remedial order shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the rule, regulation, or order alleged to have been violated. For purposes of this section "person" includes any individual, association, company, corporation, partnership, or other entity however organized.

(b) If within thirty days from the receipt of the remedial order issued by the Secretary, the person fails to notify the Secretary that he intends to contest the remedial order, the remedial order shall become effective and shall be deemed a final order of the Secretary and not subject to review by any court or agency.

(c) If within thirty days from the receipt of the remedial order issued by the Secretary, the person notifies the Secretary that he intends to contest a remedial order issued under subsection (a) of this section, the Secretary shall immediately advise the Economic Regulatory Administration of such notification. Upon such notice, the Administrator shall stay the effect of the remedial order except where he finds the public interest requires immediate compliance with such remedial order. The Administrator shall, upon request, afford an opportunity for a hearing, including the submission of briefs, evidence (oral or documentary) and oral arguments. To the extent that the Administrator in his discretion determines such is required for a full and true disclosure of the facts, he shall afford the right of cross examination. The Administrator shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's remedial order, or directing other appropriate relief, and such order shall, for the purpose of judicial review, constitute final agency action.

(d) The Secretary may set reasonable time limits for the Administration to complete action on a proceeding referred to it pursuant to this section.

(e) Nothing in this section shall be construed to affect any procedural action taken by the Secretary prior to or incident to initial issuance of a remedial order which is the subject of the hearing provided herein, but such procedures shall be reviewable in the hearing.

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ECKHARDT. Mr. Chairman, when the Congress passed the bill establishing the program that we are dealing with here, it adopted the procedural provisions of the Economic Stabilization Act, which had been adopted in 1970 and which was thought at that time to require rather preemptory procedures respecting agency action. Of course, a great deal of time has passed since then; yet there is no procedure by which a person ordered to comply with a rule or regulation by a remedial order can get a hearing before the agency. It cannot get a hearing now before the FEA and under this bill there is no procedure for a hearing before the Department.

What this would do is give a person against whom remedial order is issued a right to a hearing before the agency.

I think it merely affords minimal due process. It affords a little bit less opportunity for a full adjudicatory type hearing than is afforded by the Administra-

tive Procedure Act; but it gives the right to a person to be confronted by the agency's evidence on the other side.

Mr. CHARLES WILSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Texas.

Mr. CHARLES WILSON of Texas. Mr. Chairman, would this amendment not provide the same procedural recourse we have in all the other regulatory agencies?

Mr. ECKHARDT. Yes, generally so. We do not grant quite as many procedural safeguards to the person subjected to agency action as does sections 554 and 556 of the Administrative Procedure Act; but it does give the right to a person to have an oral hearing, gives him an opportunity to contest the agency position and gives him a record on which a court may ultimately determine whether the agency decision was based substantially on the record as a whole. No such procedures are now provided.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, we have gone over the amendment. It is acceptable and we will accept the amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I wish to congratulate the gentleman from Texas for offering this amendment, because it resolves a problem of FEA procedures, which were originally established at the time of the oil embargo and which will not, as originally established, protect the interested persons as they should be. It may have been entered at the time of the embargo, but now we are moving along rapidly.

Now, we are setting up a time on a permanent basis. It seems to me that it is very important to have a sound, prudent, regular administrative procedure. The gentleman's amendment ideally does that. One of the things we have been observing over the last few months is that small independent producers who are challenged by the FEA just simply have to abandon their cases and accept the FEA ruling because they do not have the wherewithal to fight the FEA's decision. This will help assure that they will have the same kinds of rights that bigger outfits with stronger resources have in trying to respond to the bureaucracy.

Mr. ECKHARDT. The gentleman has stated the situation accurately.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the chairman of the committee.

Mr. BROOKS. Mr. Chairman, I say to my friend that this appears to be an equitable amendment, and will add to the due process section of the legislation. I understand, as the gentleman from Ohio (Mr. BROWN) has pointed out, that he and the members of the Committee on Interstate and Foreign Commerce have no objection to this cleaning up of our legislative record. I have no objection to it either.

Mr. ECKHARDT. I thank the gentleman.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I rise today to support the gentleman from Texas in his amendment to this proposal. The amendment will provide the badly needed protection of the rights of small business subject to regulation under the Emergency Petroleum Allocation Act. I commend the gentleman for recognizing the needs of this vital sector of our energy industry. As he well knows, the interests of these small businesses have been long overlooked as we aggressively pushed for increased energy supplies and at the same time, strived to protect the interests of the consuming public. With the establishment of this Cabinet-level Department, we must assure the small business sector the rights we denied them when establishing the Federal Energy Administration, that being the basic procedural due process rights in agency adjudicatory proceedings. Without this safeguard, this proposed Department would be the only permanent Cabinet-level entity with the right to adjudicate the rights of regulated persons without adhering to the basic due process provisions. It is essential that there be a normalization of the administrative process, so that independent marketers receive the same evenhanded treatment as regulated parties before other Cabinet-level Departments. This is a matter of policy and equity we should not ignore. Mr. Chairman, in our hastened efforts to deal with the energy situation and all of its ramifications, it was easy to unintentionally forget the small business, which as a whole, provided a substantial amount of our energy supplies and marketing needs. This unintentional act has been the past record of our energy-related agencies and is something we cannot allow to continue if we are serious about addressing the energy issue. I urge my colleagues to vote in favor of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title V?

If not, the Clerk will read.

The Clerk read as follows:

#### TITLE VI—ADMINISTRATIVE PROVISIONS

Sec. 601. (a) For purposes of this section—

(1) the term "Department" includes any agency, administration, commission, or other component thereof;

(2) the term "Department proceeding" includes any Department hearing, application, rulemaking or other determination, contract, grant, reward, fund transfer, claim, controversy, charge, accusation, or arrest;

(3) the term "employee" means any person holding a position in the Department;

(4) the term "employment" means employment with an energy concern and includes employment as a consultant, agent, attorney, or otherwise and includes voluntary employment;

(5) the term "energy concern" means any person significantly engaged in the production, generation, transmission, distribution, or sale of electric power, petroleum or petro-

leum products, synthetic fuels, energy from renewable resources, wastes, or geothermal steam, nuclear energy, natural gas, coal, solar energy, or other energy-related source or resource, or in any research or development significantly related to such production, generation, transmission, distribution, or sale;

(6) the term "participate" includes participation by way of decision, approval, disapproval, recommendation, the rendering of advice, or investigation; and

(7) the term "supervisory employee" means any of the following officers or employees of the Department—

(A) an individual compensated at the rate provided for grade of GS-16 or above under section 5332 of title 5, United States Code;

(B) any other individual who, in the judgment of the Secretary, exercises sufficient decisionmaking authority so that the provisions of this section should apply to such individual;

(C) the Director or Deputy Director of any State, regional, district, local, or other field office; or

(D) an employee or officer who has responsibility with respect to the award, review, modification, or termination of any grant, contract, reward, or fund transfer within the authority of the Secretary.

(b)(1) No supervisory employee shall knowingly receive compensation from, or hold any official relation to, any energy concern, or own stocks or bonds thereof, or have any pecuniary interest therein.

(2) Personnel transferred to the Department pursuant to section 701 of this Act shall have six months to comply with the provisions of paragraph (1) of this subsection with respect to prohibited property holdings. Any person transferred pursuant to section 701 shall notify the Secretary of all circumstances which would be violative of the restrictions described in subsection (b)(1) not later than fifteen days after the date of such transfer as determined by the United States Civil Service Commission.

(3) Where exceptional hardship would result, or where the interest is vested, the Secretary is authorized to waive the requirements of this subsection with respect to any person covered. Such waiver shall:

(A) be published in the Federal Register;

(B) contain a finding by the Secretary that exceptional hardship would result; and

(C) indicate the steps taken by the Secretary to minimize conflict of interest and the appearance of conflict of interest.

Such waiver shall in no instance constitute a waiver of the requirements of section 208 of title 18, United States Code.

(c)(1) Each supervisory employee shall file with the Secretary, in such form and manner as the Secretary shall prescribe, a report describing all previous employment with any energy concern.

(2) Each former supervisory employee of the Department shall file with the Secretary, in such form and manner as the Secretary shall prescribe, not later than the November 15 of—

(A) the fiscal year following the fiscal year in which such person ceased to be an employee of the Department, and

(B) each of the succeeding two fiscal years, a report describing any employment with any energy concern during the fiscal year to which such report relates.

(3) Each report filed pursuant to paragraphs (1) and (2) shall contain the name and address of the person filing the report, the name and address of the energy concern with which he held employment, a brief description of his duties and work for the energy concern, the dates of his employment, and such other pertinent information as the Secretary may require.

(4) The Secretary shall maintain a file containing the reports filed with him pursuant to paragraphs (1) and (2). All such reports



shall be available for public inspection and copying at all times during regular working hours.

(d) (1) (A) For a period of two years after terminating any employment with any energy concern, no supervisory employee shall knowingly participate in any Department proceeding in which his former employer is substantially, directly, or materially involved, other than in a rulemaking proceeding which has a substantial effect on numerous energy concerns.

(B) While an employee of the Department, no supervisory employee shall knowingly participate in any Department proceeding for which he had direct responsibility, or in which he participated substantially or personally, while in the employment of any energy concern.

(C) No supervisory employee who solicits, negotiates, or arranges for employment with any energy concern shall participate in any Department proceeding in which such energy concern is substantially, directly, or materially involved.

(2) (A) For a period of two years after ceasing to be an employee of the Department, no supervisory employee shall, in any professional capacity for anyone other than the United States, appear or attend before, or make any oral or written communication or submission to, or filing with, the Department or any officer or employee of the Department in connection with any Department proceeding which was directly or indirectly under his official responsibility while a supervisory employee.

(B) For a period of five years after ceasing to be an employee of the Department, no supervisory employee shall, in any professional capacity for anyone other than the United States, appear or attend before, or make any oral or written communication to, or filing with, the Department, or any officer or employee of the Department in connection with any Department proceeding in which he participated substantially or personally, while a supervisory employee.

(3) Notwithstanding any penalty imposed under subsection (e), any violation of this subsection shall be taken into consideration in deciding the outcome of any Department proceeding in connection with which the prohibited appearance, attendance, communication, or submission was made.

(4) Whenever the Secretary makes a written finding as to a particular supervisory employee that the application of a particular restriction or requirement imposed by paragraph (1) or (2) of this subsection in a particular circumstance would work an exceptional hardship upon such supervisory employee or would be contrary to the national interest, the Secretary may waive in writing such restriction or requirement as to such supervisory employee. The Secretary shall maintain a file containing all findings and waivers made by him pursuant to this paragraph, and all such findings and waivers shall be available for public inspection and copying at all times during regular working hours. Any waiver made by the Secretary of a restriction imposed under paragraph (2) of this subsection shall also be filed with any record of the Department proceeding as to which the waiver for purposes of participation is granted. No such waiver shall in any instance constitute a waiver of the requirements of section 207 of title 18, United States Code.

(e) Any person who violates subsections (b), (c), or (d), taking into account any waiver under subsection (b)(3) or (d)(4), shall be subject to a civil penalty, assessed by the Secretary, not to exceed \$10,000 for each violation.

(f) Nothing in this section shall be deemed to limit the operation of section 207 or section 208 of title 18, United States Code.

SEC. 602. (a) Each officer or employee of the

Department, including the Federal Energy Regulatory Commission, who has any known financial interest—

(1) in any person engaged in the business, other than at the retail level, of developing, producing, refining, transporting by pipeline, or converting into synthetic fuel, minerals, wastes, or renewable resources, or in the generation of energy from such minerals, wastes, or renewable resources, or in conducting research, development, and demonstration with financial assistance under this Act or any Act, the administration of which is transferred pursuant to this Act;

(2) in property from which coal, natural gas, crude oil, or nuclear material is commercially produced;

(3) in any person engaged in the production, generation, transmission, distribution, or sale of electric power; or

(4) in any person engaged in production, sale, or distribution of nuclear materials;

shall, beginning on February 1, 1978, annually file with the Secretary a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such statement shall be subject to examination, and available for copying, by the public upon request.

(b) The Secretary shall—

(1) act, within ninety days after the effective date of this Act, by rule—

(A) to define the term "known financial interest" for purposes of subsection (a); and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) include, as part of the report made pursuant to section 621, a report with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b), the Secretary may identify specific positions, or classes thereof, within the Department and the Commission which are of a nonregulatory or nonpolicy-making nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, subsection (a) shall be fined not more than \$2,500 or imprisoned not more than one year, or both.

SEC. 603. The Secretary is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in him.

SEC. 604. Except as otherwise expressly prohibited by law, the Secretary may delegate any of his functions to such officers and employees of the Department as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary or appropriate.

SEC. 605. The Secretary is authorized to establish, alter, consolidate, or discontinue and to maintain such State, regional, district, local, or other field offices as he may deem to be necessary to carry out functions now or hereafter vested in him.

SEC. 606. The Secretary may, from time to time, establish, alter, consolidate or discontinue such organizational units or components within the Department as he may deem to be necessary or appropriate, except that such authority shall not extend to the abolition of organizational units or components established by this Act.

SEC. 607. In the performance of functions transferred to, and vested in, the Secretary or any officer or component of the Department, other than the Commission, the Secretary is authorized to appoint and fix the

compensation of such officers and employees as may be necessary to carry out such functions. Such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code, except that to the extent the Secretary deems such action necessary to the discharge of his functions, he may establish scientific or professional positions within the Department as provided in section 3104 of title 5, United States Code.

SEC. 608. (a) There shall be within the Department not more than fourteen additional officers in positions authorized by sections 5315 and 5316 of title 5, United States Code, who shall be appointed by the Secretary and who shall perform such functions as the Secretary shall prescribe from time to time.

(b) (1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place at GS-16, GS-17, and GS-18, not to exceed 350 positions of the positions subject to the limitation of the first sentence of section 5108(a) of such title.

(2) Any position placed at GS-16, GS-17, or GS-18 under the authority of paragraph (1) may be filled only by a person who is transferred in connection with a transfer of function under this Act and who, immediately before the effective date of this Act, held a position having duties comparable to those of such position. Appointments under this paragraph may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Civil Service Commission of appointments to GS-16, GS-17, and GS-18.

(3) The Secretary's authority under this subsection with respect to any position shall cease when the person appointed to fill such position under paragraph (2) leaves such position.

SEC. 609. The Secretary may obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code, for persons in Government service employed intermittently.

SEC. 610. Section 17 of the Federal Energy Administration Act of 1974 shall be applicable to advisory committees chartered by the Department.

SEC. 611. (a) The Secretary is authorized to provide for participation of Armed Forces personnel in carrying out functions performed, on the date of enactment of this Act, in the Energy Research and Development Administration and under chapter 641 of title 10, United States Code. Members of the Armed Forces may be detailed for service in the Department by the Secretary concerned (as said term is defined in section 101 of such title) pursuant to cooperative agreements with the Secretary.

(b) The detail of any personnel to the Department under this section shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy or hold or any emolument, perquisite, right, privilege, or benefit incident to, or arising out of, such status, office, rank, or grade, nor shall any member so detailed be charged against any statutory or other limitation on strengths applicable to the Armed Forces or the Department. A member so detailed shall not be subject to direction or control by his armed force, or any officer thereof, directly or indirectly, with respect to the responsibilities exercised in the position to which detailed.

SEC. 612. (a) With their consent, the Secretary and the Federal Energy Regulatory Commission may, with or without reimbursement, use the research, equipment, and facilities of any agency or instrumentality of the

United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, or of any political subdivision thereof, or of any foreign government, in carrying out any function now or hereafter vested in the Secretary or the Commission.

(b) The Secretary may, with or without reimbursement, provide research, equipment, and facilities to any agency or instrumentality of the United States or any State, territory, the Commonwealth of Puerto Rico, the District of Columbia, or any political subdivision thereof, or to any foreign government, whenever he deems such action to be necessary and appropriate to the performance of functions now or hereafter vested in him.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary or the head of the agency or instrumentality of the United States involved, as the case may be, to pay directly the costs of the equipment, or facilities provided, to repay or make advances to appropriations or funds which do or will initially bear all or a part of such costs or to refund excess sums when necessary, except that such proceeds may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 619 of this Act, and used under the law governing such fund, if the fund is available for use for providing the equipment, or facilities involved.

Sec. 613. The Secretary is authorized to enter into and perform such contracts, leases, cooperative agreements, or other similar transactions with public agencies and private organizations and persons, and to make such payments (in lump sum or installments, and by way of advance or reimbursement) as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in the Secretary.

Sec. 614. The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, such personal property (including patents), or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

Sec. 615. (a) As necessary and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote locations:

- (1) emergency medical services and supplies;
- (2) food and other subsistence supplies;
- (3) messing facilities;
- (4) audiovisual equipment, accessories, and supplies for recreation and training;
- (5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;
- (6) living and working quarters and facilities; and
- (7) transportation of school age dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary

to pay directly the cost of such work or services, to repay or make advances to appropriations of funds which will initially bear all or a part of such cost, or to refund excess sums when necessary: *Provided*, That such payments may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 619 of this Act, and used under the law governing such fund, if the fund is available for use by the Department for performing the work or services for which payment is received.

Sec. 616. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

Sec. 617. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devices of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devices of money and proceeds from sales of other property received as gifts, bequests, or devices shall be deposited in the Treasury and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

Sec. 618. The Secretary shall cause a seal of office to be made for the Department of such design as he shall approve and judicial notice shall be taken of such seal.

Sec. 619. The Secretary is authorized to establish a working capital fund, to be available without fiscal-year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interests of economy and efficiency. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund in such amounts as may be necessary to provide additional working capital are authorized. The working capital fund shall recover from the appropriations and funds for which services are performed, either in advance or by way of reimbursement, amounts which will approximate the costs incurred, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from the sale or exchange of its property, and receipts in payment for loss or damage to property owned by the fund.

Sec. 620. To the extent necessary or appropriate to perform any function transferred by this Act, the Secretary may exercise, in carrying out the function so transferred, any authority or part thereof available by law, including appropriation Acts, to the official or agency from which such function was transferred.

Sec. 621. The Secretary shall, as soon as practicable after the end of each fiscal year, commencing with the first complete fiscal year following the effective date of this Act, make a report to the President for submission to the Congress on the activities of the Department during the preceding fiscal year. Such report shall include a statement of the Secretary's goals, priorities, and plans for the Department, together with an assessment of the progress made toward the at-

tainment of those goals, the effective and efficient management of the Department, and progress made in coordination of its functions with other departments and agencies of the Federal Government. In addition, such report shall include the information required by section 15 of the Federal Energy Administration Act of 1974, section 307 of the Energy Reorganization Act of 1974, and section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974, and shall include:

(1) projected energy needs of the United States to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation;

(2) an estimate of (A) the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives, and (B) the quantities of energy expected to be provided by different sources (including petroleum, natural and synthetic gases, coal, uranium, hydroelectric, solar, and other means) and the expected means of obtaining such quantities;

(3) current foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation;

(4) a summary of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, and to encourage conservation practices, and shall include recommendations for developing technologies capable of improving the quality of the environment and increasing efficiency;

(5) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices) employed by Federal, State, and local governments and non-governmental entities to achieve the purposes of this Act.

Sec. 622. The Secretary, when authorized in an appropriation act, in any fiscal year, may transfer funds from one appropriation to another within the Department, except that no appropriation shall be either increased or decreased pursuant to this section more than 5 per centum of the appropriation for such fiscal year.

Sec. 623. Appropriations to carry out the provisions of this Act shall be subject to annual authorization.

Mr. BROOKS (during the reading). Mr. Chairman, I ask unanimous consent that title VI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Brooks: On page 116, after line 2, add the following:

Sec. 624. Notwithstanding any other provision of this Title, no authority to enter into contracts or to make payments under this Title shall be effective except to such extent or in such amounts as are provided in advance in appropriations Acts.

Mr. BROOKS. Mr. Chairman, I offer this amendment on behalf of the chairman of the Appropriations Committee.



This is a procedural amendment and would improve the manner in which the operating funds of the new Department of Energy are used.

Under the present language of the bill, according to the chairman of the Appropriations Committee, the Department would technically be able to accept gifts, sell services and other things and use these funds without congressional approval. Further, it would be able to charge fees and likewise use these funds without congressional approval.

In acting on this legislation, the Government Operations Committee did not intend to create new substantive law or any vast new spending authority. Our purpose was to pull together programs and appropriations that already exist. We were especially concerned that no action be taken to abrogate appropriation ceilings that have previously been enacted for particular programs.

Any enactment of new spending authority outside of appropriations acts was not intended. I urge acceptance of the amendment.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I will be very happy to accept the amendment. I think it is a very good amendment, and should be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Brooks).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. THONE

Mr. THONE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THONE: On page 115, strike out line 19 and insert in its place: "(6); and

"(6) a summary of cooperative and voluntary efforts that have been mobilized to promote conservation and recycling, together with plans for such efforts in the succeeding fiscal year, and recommendations for changes in laws and regulations needed to encourage more conservation and recycling by all segments of the Nation's populace."

Mr. THONE. Mr. Chairman, we are all concerned about the topic of energy, and there are many aspects of the subject being discussed, whether it be alternative sources, new forms of energy, conversion, or what have you.

During markup of the bill in the House Government Operations Committee I noticed, however, that one important aspect of energy-saving was lacking; recycling and its resulting effect on conservation of our natural resources. Therefore, I successfully included by the amendment the word "recycling" in section 101 of the bill as one of the areas of major emphasis on the part of the proposed Department of Energy, along with solar, thermal, and other technologies. My esteemed colleague from California (Mr. RYAN) had the same thought, and as he then amended a section of the bill specifically to include recycling in the responsibilities of the assistant secretary for solar, geothermal, and other energy technologies.

It is no novel observation that ours is the most wasteful Nation on Earth. The traditional approach to management of materials, with primary emphasis upon production, use and disposal, has led to the dual problems of a lack of adequate resources to meet increasing demand and an inability to cope with the huge quantities of waste materials. While not the ultimate solution to these problems, recycling has certainly been useful in easing them.

For several years I have felt that a much stronger emphasis on recycling should be an important part of the Nation's energy program, and have sought the same tax writeoffs for those industries installing recycling equipment as those given for antipollution equipment.

The creation of a Department of Energy would seem an appropriate opportunity to reaffirm a national commitment to reusing waste, thereby conserving our precious natural resources as well as the energy expended to extract them.

Therefore, I am submitting the following amendment which would require a summary of continuing cooperative and voluntary efforts that have been mobilized to promote conservation and recycling, as well as future plans and recommendations to encourage additional efforts.

The House version of the bill calls for a summary of research and development efforts of those conservation and recycling activities funded by the Federal Government. I believe it would serve an additional purpose for the proposed Department of Energy to provide a summary of cooperative and voluntary efforts as well.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. THONE. I yield to the gentleman from New York (Mr. HORTON).

Mr. HORTON. I thank the gentleman for yielding.

Mr. Chairman, I personally feel that this is a very good amendment. We should put emphasis on conservation and recycling. I will accept the amendment.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. THONE. I yield to the gentleman from Texas (Mr. Brooks).

Mr. BROOKS. I thank the gentleman for yielding.

Mr. Chairman, I have no objection to the amendment, and I ask for its acceptance.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska (Mr. Thone).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FUQUA: Delete the period at the end of section 610 and insert the following: "to provide advice relating to the regulatory activities of the Department."

Mr. FUQUA. Mr. Chairman, section 610 of the bill incorporates the advisory committee provisions of section 17 of the Federal Energy Administration Act. Section 17 includes provisions pertaining to

representation on the committee of various public groups including representatives of State regulatory utility commission. Section 17 also includes provisions pertaining to attendance of interested persons and the filing of statements except where the meeting should be closed for national security reasons. Although section 17 is clearly designed to apply to regulatory-type activities, it is made applicable to all of the activities of the Department of Energy by section 610 of the bill.

The amendment would limit application of section 17 of the FEA Act to regulatory activities of the department leaving the operational activities of the department, including its research and development activities, subject to the Federal Advisory Committee Act. That act, like section 17 of the FEA Act, contains provisions on membership and requires open meetings. However, that act also recognizes that there are other operational needs to close advisory committee meetings such as when trade secrets or other private business, confidential information, or other privileged information of a personal and private nature will have to be discussed. As an operational as well as regulatory agency, the Department of Energy will be involved in matters requiring the protection afforded by the Federal Advisory Committee Act. The amendment would provide that protection. It does not grant the Department any authority beyond that available to other agencies under the Federal Advisory Committee Act.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from New York (Mr. HORTON).

Mr. HORTON. I thank the gentleman for yielding.

Mr. Chairman, the amendment is acceptable on this side.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Texas (Mr. Brooks).

Mr. BROOKS. I thank the gentleman for yielding.

Mr. Chairman, I have no objection to the amendment, and I ask for its acceptance.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. Fuqua).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. McCLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: On page 116, after line 2, insert the following:

"SEC. 624. The Secretary of Defense, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Secretary of Transportation, the Secretary of Interior, the United States Postal Service, and the Administrator of General Services shall each designate one Assistant Secretary or Assistant Administrator, as the case may be, as the principal energy conservation officer of such Department or of the Administration. Such designated principal energy conservation officer shall be responsible for coordination with the Department with respect to energy matters."

Mr. McCLOSKEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ECKHARDT. Mr. Chairman, reserving the right to object, I should like to reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Texas (Mr. ECKHARDT) reserves a point of order.

Mr. ECKHARDT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. McCLOSKEY. Mr. Chairman, the amendment is very simple. It requires that in 8 other Cabinet offices and the Post Office Department there be designated an assistant secretary or assistant administrator as the principal energy conservation officer and directed to cooperate with the Department of Energy in the energy conservation effort. It is merely in furtherance of the desire to save energy. It parallels a similar amendment adopted by the Senate.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. I thank the gentleman for yielding.

Mr. Chairman, the amendment looks worthwhile, to me, and would not do other than create a little more interest in energy conservation in the various departments. I have no objection to it.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York (Mr. HORTON).

Mr. HORTON. I thank the gentleman for yielding.

Mr. Chairman, I have a question.

The gentleman is not suggesting by this amendment that each of these departments create a new office of assistant secretary or assistant administrator for this purpose?

Mr. McCLOSKEY. No. There are no new offices created. It merely requires that one of the assistant secretaries or one of the principal officers of the department be designated as the principal energy conservation officer of that department and directed to cooperate with the department.

Mr. HORTON. Mr. Chairman, with that understanding, I will accept the amendment.

The CHAIRMAN. Does the gentleman from Texas (Mr. ECKHARDT) insist on his point of order?

Mr. ECKHARDT. No, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROSE

Mr. ROSE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROSE: Page 114, strike out line 17 and insert in lieu thereof the following:

Life of the Nation, including a comprehensive summary of data pertaining to all fuel and energy needs of residents of the United States residing in—

(A) areas outside standard metropolitan statistical areas; and

(B) areas within such areas which are unincorporated or are specified by the Bureau of the Census, Department of Commerce, as rural areas;

Mr. ROSE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. ROSE. Mr. Chairman, during the last session of Congress, I introduced legislation to establish within the Department of Agriculture, a Rural Energy Office charged with the responsibility of assessing and monitoring the fuel and energy needs of rural America and the agricultural sector. At that time I spoke to Members of the growing and urgent need to provide the farm and rural communities with comprehensive information on energy.

The fact that rural Americans have very different energy needs and problems than those residing in metropolitan areas, is obvious. This situation has become more critical in recent years because of the rising cost of energy and its historically high rate of consumption in rural areas.

Because of the greater distance which rural Americans have to travel to their employment and to obtain basic social services, they consume a higher per capita amount of gasoline than the national average. Also, because the predominant housing pattern in rural areas consists of single-family dwellings, rural citizens consume more heating fuel as well. This is compounded by the fact that 60 percent of the Nation's substandard housing exists in rural areas. Rural people also have higher per capita consumption rates of liquified petroleum gases (LPG) because of the use made of these gases in crop drying and other agricultural purposes.

Such examples could go on and on, but the real consequence is that although rural areas have been pinpointed as being especially hard hit by the energy crisis, no attempt has been made thus far to take these special needs into account in formulating the Nation's energy policy.

Mr. Chairman, my amendment will insure that these needs are taken into account in the formulation and implementation of national energy policy. The amendment provides for an assessment of rural energy needs as they pertain to home heating and cooling, transportation, crop production, electrical generation, conservation, and research and development of fossil fuel substitutes; an integral part of national energy policy planning.

Senator LEAHY recently offered a very similar amendment to S. 826, which was

unanimously adopted by the other body. Senator LEAHY and I have spoken to the President's energy advisor, Mr. Schlesinger, about rural energy needs, and the administration has no objection to the amendment.

Mr. Chairman, this amendment will make it possible to detect important demographic and economic conditions which will impact directly upon rural areas, and in turn, on their energy needs. It also provides an additional data base that will be helpful in policymaking. Finally, it will also insure that the impact of any Federal rules, regulations, or legislation on rural energy needs is taken into account in national energy policymaking.

Mr. Chairman, the successful production of food and fiber is basic to the energy requirements of agriculture. We render the farm community and rural citizens powerless when we fail to meet their energy needs. It is time we provide the information and planning, unique to rural life, that is necessary to sustain our agricultural progress. I strongly urge my colleagues to support this amendment.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ROSE. I am happy to yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, this is in line with the amendment the gentleman offered yesterday, as I recall, and what the gentleman is trying to do is to require the Secretary to include in his report energy information concerning rural areas of this country.

Mr. ROSE. Mr. Chairman, what the gentleman says is correct. What we accomplish by this amendment is to ask the Secretary in his annual report to the Congress to supply us with information on the energy needs of rural America.

Mr. HORTON. Mr. Chairman, I want to commend the gentleman from North Carolina (Mr. ROSE). I think this is a very good amendment, and I am willing to accept it.

Mr. ROSE. Mr. Chairman, I deeply appreciate the gentleman's comments.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. ROSE. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, let me say to my distinguished friend, the gentleman from North Carolina (Mr. ROSE), that I have no objection to this amendment. It is in line with the gentleman's earlier statement, and I certainly welcome the gentleman's contribution to the legislation.

Mr. ROSE. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. ROSE).

The amendment was agreed to.

Mr. FUQUA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to clarify an important issue. While section 616 relates to the authority of the Department of Energy to purchase patent rights and copyrights owned by other parties, it has no section involving the allocation of



rights to inventions created under the Department's research, development, and demonstration efforts.

As some of you will recall, the issue of Government patent policy played an important and sometimes crucial role in the development of energy research and development legislation in 1974. This patent policy was much debated, and contributed to delays in that legislative process, before an acceptable compromise was reached between the view of those that believe Government contractors should acquire title to inventions made under contracts and the view that the Government should obtain such rights. The finally agreed to provisions are contained in section 9 of the Federal Non-nuclear Energy Research and Development Act of 1974 (P.L. 93-577). Section 9 was derived from the Space Act of 1958 with some modifications taken from the Atomic Energy Act of 1954 as well as from regulations of NASA, AEC and the principles found in the Presidential Patent Policy Statement. The purpose of my question is to clarify whether this much debated, carefully considered compromise patent policy is to be retained as the patent policy for the new Department.

Mr. Chairman, my question is this: Does this really change any of the present law as it applies at this time?

Mr. BROOKS. No. Mr. Chairman, the gentleman is basically correct in his statement. It is not our intent whatsoever to enact any new Government patent policy provisions.

Mr. FUQUA. Mr. Chairman, I thank the gentleman from Texas (Mr. Brooks).

I just want to say that I make these remarks only to insure that the record is clear that nothing in this bill is intended to disturb the patent policy previously enacted by Congress for energy research and development activities. If an invention is made under an R. & D. contract of the Department either section 9 of Public Law 93-577 or section 152 of the Atomic Energy Act will apply and that no other patent policy shall apply. This is important since the new Department may well perform energy research and development through a non-ERDA organization transferred into the Department by this bill. Uniformity can only be achieved if the patent policy requirement is clearly understood.

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to ask the chairman of the committee a question regarding section 614 of the bill.

In reading the report and this section of the bill, it is not quite clear to the gentleman from Maryland whether or not this particular section is so broad in the authority granted to the Secretary that it might be used for the purposes of allowing the Secretary to get the Department of Energy into the actual production of oil, natural gas, or other resources. The section seems to address itself only to research, but it also speaks of testing sites and facilities, and it then goes on to give the Secretary the power to pay for private homes for employees and their dependents, and so on.

I am a little bit puzzled as to why the Department ought to be setting up

this kind of an extensive facility if the idea is only to support research.

So the question I have is this: Does this section in fact look toward the Department of Energy's getting into the production of energy rather than only research and testing regarding energy resources?

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, in the committee the authority they had requested was to buy and sell real property, and we have limited this authority to some extent. Basically, this provision provides for testing facilities.

To further clarify that particular activity, I would ask the gentleman from Florida (Mr. Fuqua), who worked in this area, to give us a further explanation.

Mr. FUQUA. Mr. Chairman, will the gentleman from Maryland yield?

Mr. BAUMAN. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I would say to the gentleman from Maryland that in many cases some of these testing facilities are in remote areas, areas where there are no homes, no schools, or facilities of that type. Therefore, in some cases they have to provide some type of living accommodations, similar to the type of accommodations the military provides, for the dependents and people working on these projects.

Mr. BAUMAN. But the gentleman does not see any authority in this particular section for the Department to go into the business of producing oil or gas or any form of energy? This is only insofar as it pertains to research and testing?

Mr. FUQUA. The gentleman is correct.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman for his explanation.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUGHES: Page 96, after line 23, insert the following:

"(B) an individual compensated under the Executive Schedule, as provided in subchapter II of chapter 53 of title 5 of the U.S. Code;"

Redesignate subparagraphs (B) through (D) as (C) through (E), respectively.

Mr. HUGHES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUGHES. Mr. Chairman, I wish to commend the committee for the excellent job they did in addressing the problem of conflict of interest within the Nation's regulatory agencies. The committee has recognized that outside financial holdings and past and future employment by regulated industries can seriously influence the judgment of a Federal official in matters affecting the public interest.

Mr. Chairman, with this amendment I would like to strengthen just somewhat the conflict-of-interest provisions; and

the amendment I offer is intended to bring employees compensated under the executive schedule within the scope of the conflict-of-interest provisions contained in the bill.

As presently written, the bill covers only the general schedule supergrades of GS 16 or higher.

Since many of the important decisions will continually be made by persons compensated under the executive schedule, I feel it is important for us to include them as well.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I would agree with the gentleman that these employees should be covered, and I would be willing to accept the amendment.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I first want to clarify that the gentleman's amendment would mean that the members of the regulatory commission, the Secretary, all Assistant Secretaries, the General Counsel, the Inspector General, the administrators, everyone would then be covered under the definition of the "supervisory employee"; is that correct?

Mr. HUGHES. They would all be covered. That is correct.

Mr. VOLKMER. Mr. Chairman, I am sure that the legislation as it came out of the committee was intended to do this; but it did not do it; is that correct?

Mr. HUGHES. I do not think the legislation covers the issue adequately, and I think that this amendment clarifies that.

Mr. VOLKMER. Right, so there is no misunderstanding about it; is that correct?

Mr. HUGHES. There can be no misunderstanding that general schedule employees are intended to be covered by the legislation.

Mr. VOLKMER. This amendment is to insure that they are covered under the conflict-of-interest provisions that are incorporated under this title; is that correct?

Mr. HUGHES. That is correct.

Mr. VOLKMER. Mr. Chairman, I believe the gentleman in the well also has an amendment which he will offer later on to strengthen those conflict-of-interest provisions. Is that correct?

Mr. HUGHES. I have an amendment I will offer later, when I am recognized, to this title also, which will prohibit, for a period of 2 years, supervisory employees who are significantly participating in the regulatory process from going back into the industry that they have regulated for a period of 2 years.

Mr. VOLKMER. Mr. Chairman, as the gentleman knows, I support this amendment and will also support his later amendment.

Mr. Chairman, I think the gentleman from New Jersey (Mr. Hughes) has done an excellent job.

Mr. HUGHES. Mr. Chairman, I thank my colleague for his contribution.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I would say that it is my feeling that the subject matter of this amendment was fully covered in the committee bill. There was no intention whatsoever to exclude these people. I think the subject matter is in there clearly, but this amendment just restates it.

Mr. Chairman, we have no objection to the amendment, and I will accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. HUGHES).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUGHES: Page 100, after line 21, insert the following:

"(C) For a period of two years after ceasing to be an employee of the Department, no supervisory employee who participated personally and substantially, through decision, recommendation, investigation, or otherwise, in the exercise of regulatory functions under this Act shall accept employment or compensation, directly or indirectly, from any person subject to such regulation by the Department."

Mr. HUGHES. Mr. Chairman, I wish to commend the committee for the excellent job they did in addressing the problem of conflicts of interest within the Nation's regulatory agencies. The committee has recognized that outside financial holdings, and past or future employment by regulated industries can seriously color the judgment of a Federal official on matters affecting the public interest.

The amendment I am offering is designed to strengthen the recommendations of the committee and is in line with the overall intent and spirit of their proposals. Specifically, my amendment would prohibit regulatory officials of the Department of Energy from accepting employment with any regulated industry for a period of 2 years after leaving Government.

It is similar to amendments I have offered on four past occasions relating to government regulatory or purchasing officials, and which were approved by the House on each occasion.

The more study I have given to this subject, the more I have become convinced that the prospect of a high-paying job with a regulated industry can materially influence the judgment of public officials with regulatory responsibilities.

In terms of sheer numbers of individuals moving in and out of Government regulatory agencies from and to regulated industries, there is cause for concern. Between 1971 and 1975, 52 percent of the 42 regulatory commissioners appointed came from a regulated industry. During that same time, 48 percent of the 35 commissioners who left went to work for regulated industries.

Although this problem exists throughout all Government regulatory agencies, those that deal with energy questions

must be of greatest concern to us. There are tremendous stakes riding on the outcome of many Government regulatory decisions in the area of energy, and we must take every precaution to assure that the integrity of the process is above reproach.

We must be certain that, when our regulatory officials make decisions, they have the public interest in mind, and not the prospect of some high-paying job with industry later on.

I urge my colleagues to support this amendment.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I wish to say that this amendment that is offered by the gentleman from New Jersey (Mr. HUGHES), who is a very distinguished and able Member, and dedicated, would prohibit any supervisory employee who exercised regulatory responsibility in the Department of Energy from working for a regulated industry for a period of 2 years after leaving the Department. The amendment is designed to prevent former employees who have anything to do with the decisionmaking efforts of the Department and present employees from taking future employment possibilities with the energy companies into account while making decisions within the Department.

The Committee on Government Operations considered these matters and we came up with some language which I believe, if the Members will think about it a little bit, will really and adequately meet the legitimate concerns expressed by the gentleman from New Jersey (Mr. HUGHES). In section 601(d) of the bill, a former supervisory employee is prohibited from making any contact with the Department on a matter in which he was directly or indirectly involved, for a period of 2 years.

That does not mean he cannot work for these people, but he cannot contact the Department for that 2-year period of time. The provision against contacting is extended to 5 years for any matter in which the former supervisory employee participated substantially or personally while in the Department.

These two provisions, it would seem to me, are certainly adequate to prevent undue influence in the Department and will in themselves, I am sure, discourage energy companies from hiring such individuals if they are going to use them in trying to obtain undue influence within the Department.

The proposed amendment appears to be overly burdensome to me, because the supervisory employees would be prohibited from working for energy companies, even in a completely separate type of employment. For example, if one worked in the Department of Energy and then cracked up, and all he could do was pump gasoline somewhere, he would not be able to do that for a period of 2 years under this amendment.

I think the amendment is a bit unreasonable and a little too strong.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. Of course I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I can

understand the concern of the chairman of the committee, and his concern did trouble me also when I introduced the very first conflict-of-interest amendment. But I have come to realize, as I am sure the chairman has, that the language he refers to has been in our legislation and on the books for many years and it has been ineffective. It has not worked to shut the revolving door in Government. I believe that the Department of Energy that we are creating will be one of the most important and powerful bodies that we will probably create in our lifetimes. I believe it is very important that we make sure we get this Department off on a right footing. The language of my amendment is very delimiting. It only refers to those supervisory employees who participated personally and substantially in the decisionmaking process.

Mr. BROOKS. Mr. Chairman, let me thank my friend, the gentleman from New Jersey (Mr. HUGHES) and say that the language in the committee bill is much stronger than that in previous legislation. We require people not to contact the Government for 2 years, and if they were personally or substantially involved, they cannot contact the Department for 5 years. I think that is a pretty good, adequate safeguard. If that does not work, then I think we ought to change it. But I believe we ought to try this before we just chop them off and say that if you have worked for the Department of Energy and had a pretty good job down there, you cannot work for the energy companies for 2 years.

What if there is nothing else which one can do? What if one were a processor in some category and worked on oil and gas, their numbers and data, and the transportation of energy products. He would be, I think, severely limited. I think the gentleman may be raising some possible constitutional questions on freedom of operations. I do not know whether we can limit people from working. The language of the amendment is pretty strong to me.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

It only limits employment for a period of 2 years. As the gentleman knows, the big problem with many of the agencies and departments is trying to get public officials to make decisions based upon what is in the public interest and not on what they are going to be doing 2 or 3 years hence. If they have their eye on another job somewhere down the pike, obviously their decisions are going to be colored and probably not in the public interest.

Mr. HORTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I would certainly agree with the statement that has been made by the chairman of the committee, the gentleman from Texas (Mr. BROOKS). In reply to the gentleman from New Jersey (Mr. HUGHES), I would say this is not the boilerplate language that is in-



cluded in other legislation. This is brand new legislation. This is something that the Committee on Government Operations came up with, and what we tried to do was prevent those conflicts of interest that arise when former supervisory employees contact the Department of Energy after they leave the Department of Energy. This amendment goes not to contact with the agency, but it goes to employment. In other words, what the amendment of the gentleman from New Jersey does is to say that anyone who has worked in a supervisory capacity, cannot be directly or indirectly employed by any person subject to regulation by the Department. I think that goes too far. I do not think it is fair. We have limited the amount of contact with the Department by saying that there is a 2-year and a 5-year limitation with regard to appearing before the agency. But I think also that this particular amendment, if adopted, would make it almost impossible for this new agency to get anyone to go to work for it, because no one is going to want to go to work when he is going to have to refrain from employment for 2 years after leaving.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

If we pass this amendment, the standard would be, "no experience" in the field of energy.

Mr. HORTON. Basically that is correct.

Mr. ROUSSELOT. Unless, of course, a former energy worker has been out of work for 2 years.

Mr. HORTON. That would be right.

Mr. ROUSSELOT. That is incredible.

Mr. HORTON. I rise in opposition to the amendment. I feel it goes too far. I certainly am in sympathy with the gentleman's concern. We have addressed that concern in the bill, and I think the manner in which we have handled it is better than to require that they cannot have any employment for 2 years after they leave the agency, so I urge that the amendment be defeated.

Mr. ALLEN. Mr. Chairman, will the gentleman yield for a question?

Mr. HORTON. I yield to the gentleman from Tennessee.

Mr. ALLEN. I thank the gentleman for yielding.

Does the committee bill as it is presently written prohibit such employees from not only contacting the agency, but does it also prohibit them from lobbying with Congress?

Mr. HORTON. I would say the answer to that question is yes. Lobbying the Congress? I misunderstood the gentleman.

Mr. ALLEN. Can someone leave this agency, this department, and go to work for one of these big petroleum companies as a lobbyist in their behalf before the Congress?

Mr. HORTON. Yes.

Mr. ALLEN. In other words, does it

bar him from accepting employment as a lobbyist?

Mr. HORTON. He would be barred, in my interpretation of the language.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the amendment offered by the gentleman from New Jersey. I wish there were a way—and I hope someday there will be—in which we could have a provision in law similar to that offered by the gentleman from New Jersey with respect to all Federal agencies, and most particularly with respect to Federal regulatory agencies. One does not have to be in the Congress or this city very long to see the revolving door in operation—people moving from the Department of the Interior to the energy industry, people moving from the Department of Defense to the defense industry, and back and forth and sometimes simultaneous switches.

I think it goes to the heart of the question whether the people of this country have confidence in the integrity of the officials of the Government and most particularly those with substantial regulatory responsibilities.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank my colleague for his support.

I would like for just a moment, if I may, to dispel the suggestion that this particular amendment is going to be particularly onerous. There is no prohibition for those who have the expertise and who go from industry into Government. What it says is if they take a job in a supervisory capacity and they are actively making regulation under the act they cannot for a period of 2 years go into the industry they regulated.

I submit that is somewhat restrictive, but if we want to shut the revolving door we have seen for too many years here in Washington, we are going to have to hit where it counts; in the paycheck. I do not think under the circumstances that we are asking too much of those who are taking supervisory jobs in the regulatory agencies. It is only supervisory employees. That is all we are talking about.

I urge my colleagues to support the amendment.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I would like to clarify the answer I gave a moment ago, if the gentleman from Tennessee would take the microphone. I misunderstood the gentleman's question. As I understood, he was asking whether or not a person could under the language of this bill appear before the agency. He indicated to me in a private conversation that he was talking about appearing before the Congress.

We do not limit anyone with regard

to employment or appearing before the Congress. The bill does not address that subject.

Mr. ALLEN. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield briefly to the gentleman from Tennessee.

Mr. ALLEN. I regret that I did not make my question clear, but the gentleman's answer now does clarify the matter as far as I am concerned. This means someone can go right out of the department and accept employment and become a lobbyist for the utility industry.

Mr. HORTON. Mr. Chairman, if the gentleman will yield further, what we tried to do was to prevent a person from leaving the department and coming back and appearing before the department. We did not address the subject of employment, which is the subject of this amendment. I feel that addressing the subject of employment goes too far and that is why I urge defeat of the amendment.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield briefly to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, to clarify this particular point, if the amendment is adopted it will prevent people from going to work for any energy company, and that means if they cannot go to work for the company that they will not be able to represent the company before the Congress or the department or even to pump gas as an employee of the company. They will not be on the payroll. Individually, if they want to quit the department and lobby on their own as individuals that is all right, but they will not be able to be on the company payroll for 2 years if we adopt this amendment.

The committee position was that to restrict people that much in that respect was unconscionable and we should instead prevent them from contacting the department they worked in for 2 years; and for 5 years if it is on a matter with which they were involved.

Mr. ERLENBORN. I think that is right. This would prevent lobbying or being in any fashion employed by the industry.

I think the question the gentleman from Tennessee was asking was: Did the bill prohibit that? The answer of the gentleman from New York was correct. The bill does not prohibit employment. It prohibits appearing before the regulatory agency.

I rise in opposition to the amendment. The intent of the sponsor is good, but this is a very simple amendment. Therein lies the problem. It does not discriminate. This would prohibit someone in the most dire circumstances from pumping gasoline. We know that is not a conflict of interest.

I know there is a provision in the bill itself for waivers, and if someone wanted to get a job pumping gasoline I think he ought not to have to come hat in hand to the agency he worked for and say: "Will you please give me a waiver so I can pump some gasoline?"

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. ERLBORN. I will be happy to yield briefly. I have not had much time.

Mr. HUGHES. Mr. Chairman, I cannot imagine the Assistant Secretary pumping gas; can the gentleman imagine that?

Mr. ERLBORN. In the kind of hard times we may face with this administration, yes, I can imagine that. I am glad the gentleman asked that question.

This is the point I would like to make, that this is a subject that I think deserves more attention than this simple amendment. It requires drafting something that will discriminate between conflict of interest and employment. This says compensation directly or indirectly. Does that mean he cannot invest in that industry directly and get dividends? Does it mean that if a person is in an ad agency, that no one in that ad agency, though it may have clients across the country, can take an account of an energy-related company?

Does it mean a lawyer associated with a law firm would have to make certain none of his associates had clients serving energy related companies?

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. ERLBORN was allowed to proceed for 1 additional minute.)

Mr. ERLBORN. Mr. Chairman, if he is a lawyer, does this mean that he cannot take employment that is directly or indirectly associated with the energy industry?

These questions are totally unanswered. I think it is obvious, if we read this language, that although the intention is good, the attempt to direct this to stopping abuses falls woefully short in the language. It just is a broad-brush prohibition against employment in the energy area.

We are talking about people, if they held this type of position in the department, people that are pretty well qualified and have their background in the energy industry. We are saying they cannot be employed in the place where they are most likely to have talents that are worth something for 2 years after their work for the Department of Energy. It really means they had better put enough away while they are working in the Department of Energy to take care of their needs for the next 2 years, because they will not be able to get a job in the most likely place where they could get employment. This amendment should be defeated.

Mr. MOSS. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I want to first of all apologize to all those supervisory persons who will have only a gas-pumping assignment to return to. I hope that they can find something more lucrative than pumping gas; But I am concerned over a phenomenon that we have all witnessed in Washington for far too many years. It is now called the revolving door

phenomenon. A person is on one side of the table today and tomorrow he moves to the other side and he starts representing the private interest against the public interest. I do not think this goes a bit too far.

Now, to say that they may not directly contact a department or agency on a matter over which they have had jurisdiction or given direction, as the bill now states, is to ignore the value of advice. People are employed in Washington routinely from the Government, because of contacts they have, the people they know, the avenues within an agency that they are familiar with. They do not have to contact anyone. All they have to do is advise their client on whom to contact, where to go, which shortcut to take.

The gentleman from New Jersey very wisely in drafting this amendment proposes that we eliminate that.

Now, if we are truly serious in our efforts to clean up this revolving door or clear up this revolving door question, we are going to make this kind of move or we are not going to do any more than wipe off the facade and make it appear that we are cleaning up a situation which is not good. I have watched these regulatory commissions, in particular, and the executive departments downtown with average tenure of persons appointed to office running, I think, in some instances, less than 2 years.

I do not know how many commissioners or chairmen of the commissions we have had, but I know, in the case of one of the large commissions, we have had eight of them in about the last 9 years. That kind of phenomena occurs because it is a training ground. It is a way of learning who to contact, what to say, what shortcuts to take. That advice is advice that is marketable. It is highly marketable, but for a short period of time it has premium price. Let us take away any short premium price period of time and wait and let them prove their true worth. It does not hurt them to go into another field for 2 years.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Texas.

Mr. ECKHARDT. What is the penalty for violating this? Suppose somebody does go to work or joins a law firm that has something to do with the field in which he has been engaged. Do we enroll him from engaging in the law firm, fine him, or what is the penalty?

Mr. MOSS. I would suggest the gentleman address that question to the gentleman from New Jersey, to whom I now yield.

Mr. HUGHES. If my colleague will yield. The violator, in addition to the civil penalties in the act, would be subject to having his compensation from the prohibited employment forfeited.

Mr. ECKHARDT. But by that time he has already collected his salary and his compensation.

Mr. HORTON. Mr. Chairman, will the gentleman yield on that point?

Mr. MOSS. I yield to the gentleman from New York.

Mr. HORTON. The bill provides, on page 101, line 21:

(e) Any person who violates subsections (b), (c), or (d), taking into account any waiver under subsection (b) (3) or (d) (4), shall be subject to a civil penalty, assessed by the Secretary, not to exceed \$10,000 for each violation.

Mr. MOSS. I assume, this being a substitute for section (c), it would impose the same penalty.

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word, and I wish to speak against the amendment.

Mr. Chairman, I am entirely in accord with my colleague from California and the gentleman from New Jersey (Mr. HUGHES) in their position that we should not have a revolving door policy, but I think this goes too far. If my colleagues would read in place of the term "supervisory employee," the term "Member of Congress," I wonder how many of us would think that to be fair.

Suppose I deal in decisionmaking in this body, and I later desire to go into a law firm, to retire from Congress, or I am beaten. I go into a law firm that affects those policies. I would then be barred. Now, should I be barred? I think not.

Should a person who is working for an agency and who is a supervisory employee, who engages in decisionmaking and later goes into a law firm and receives proceeds from that law firm which deals with agency matters, should he be barred? Who is going to determine the fine? I guess the Secretary is still empowered to say that it will be \$10,000 or it will be \$5,000 or it will be 10 cents, because the penalty section leaves the question of penalty with the Secretary.

Now, that portion of the act providing the civil penalty originally was directed at activity by the employee while he was working for the secretary or at activity wherein the former employee, after he left the department, should deal with that department. Mind you, this follows him after he leaves employment for 2 years; and yet, the Secretary determines the fine. Also, the Secretary determines who is a supervisory employee. The act says the Secretary determines that. Now, should the Secretary tell Joe Bloke, "You cannot go to work for that law firm, because I called you a supervisory employee, but Bill Smith, you can, because I said you were not a supervisory employee?"

I think there is a good policy embodied in this amendment, but I think it is improper to attempt to attach it to this single agency at this time and I think the manner in which the amendment is framed is improvident.

If we want to stop the revolving door, let us stop all such doors in all agencies, and let us do it after we consider the consequences of our actions. Are these consequences good or bad? This is not only a question of whether or not a person can go to work for a firm after he leaves. It also goes to the question of whether or not we would so discourage good men who later want to practice law in the field—whether or not we have so



discouraged them from going to work in the agency in the first place, that we are not able to get people who can cope with the lawyers downtown. Let us think about it in a little bit more depth.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. I thank the gentleman for yielding.

Mr. Chairman, one of the things that we are doing here is that we are confusing regulatory people with research and development people. Suppose there is a nuclear physicist who heads a program in what is now called ERDA, and he later returns to a university, let us say as president of that university, and he later comes back to this agency to discuss something, some legislation or some other matter. He will be prohibited, I assume, by the amendment offered by the gentleman from New Jersey (Mr. HUGHES).

Mr. ECKHARDT. Mr. Chairman, the gentleman is absolutely correct, because "supervisory employee," as defined on page 96, includes an individual compensated at the rate provided for grade of GS-16 or above, or any other individual who, in the judgment of the Secretary, exercises sufficient decisionmaking authority so that the provisions of this section shall apply to such individual.

Mr. Chairman, it is true that the amendment offered by the gentleman from New Jersey (Mr. HUGHES) says that he must be a supervisor, and then he adds a qualification, "who participated personally and substantially through decisionmaking," but he also says, "recommendation, investigation, or otherwise."

That is pretty broad. Who is ultimately going to determine this?

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(On request of Mr. HUGHES and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 1 additional minute.)

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Chairman, as the gentleman knows, he was just getting to the language of the amendment—it is not a long amendment—in which it is further stated, "in the exercise of regulatory functions." That is very, very specific. My colleague indicates about applying it to the Congress.

I will say to my colleague that there are some practices of some former Members of Congress that we ought to be looking at, too, when it comes to lobbying efforts and going to work for some of the agencies for perhaps a period of time. Certainly that is no argument against this amendment. If we are really going to get to the nub of the problem and be serious about conflicts of interest, we will adopt this amendment.

Mr. ECKHARDT. Mr. Chairman, I merely ask the Members to look at this

point more sensitively in connection with supervisory employees.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. HUGHES).

The question was taken; and on a division (demanded by Mr. HUGHES) there were—ayes 12, noes 37.

Mr. HUGHES. Mr. Chairman, I demand a recorded vote, and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

#### QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

#### RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from New Jersey, Mr. HUGHES, for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 146, noes 184, not voting 103, as follows:

#### [Roll No. 303]

#### AYES—146

|                 |             |              |
|-----------------|-------------|--------------|
| Alexander       | Elberg      | Miller, Ohio |
| Allen           | Emery       | Moffett      |
| Ammerman        | English     | Mollohan     |
| Anderson,       | Ertel       | Moss         |
| Calif.          | Evans, Del. | Motti        |
| Applegate       | Fenwick     | Murphy, Pa.  |
| AuCoin          | Findley     | Natcher      |
| Baldus          | Fisher      | Nix          |
| Baucus          | Fithian     | Nowak        |
| Beard, R.I.     | Forsythe    | Oberstar     |
| Bedell          | Fowler      | Obey         |
| Bellenson       | Frey        | Ottinger     |
| Benjamin        | Gephardt    | Panetta      |
| Bennett         | Gilman      | Patterson    |
| Bevill          | Goodling    | Pattison     |
| Bingham         | Gore        | Pease        |
| Blanchard       | Grassley    | Quile        |
| Blouin          | Hamilton    | Rahall       |
| Bolling         | Hanley      | Rangel       |
| Bonior          | Harris      | Reuss        |
| Bonker          | Heckler     | Richmond     |
| Brodhead        | Heftel      | Rinaldo      |
| Broomfield      | Holtzman    | Rogers       |
| Brown, Calif.   | Howard      | Roncallo     |
| Brown, Ohio     | Hughes      | Russo        |
| Buchanan        | Jacobs      | Ryan         |
| Burke, Fla.     | Jenkins     | Santini      |
| Burton, John    | Kasten      | Scheuer      |
| Caputo          | Kastenmeier | Schroeder    |
| Carr            | Keys        | Schulze      |
| Cavanaugh       | Kildee      | Sharp        |
| Cohen           | Kostmayer   | Slack        |
| Coleman         | Krebs       | Solarz       |
| Collins, Ill.   | Le Fante    | Spellman     |
| Conte           | Leach       | Stark        |
| Conyers         | Lederer     | Steed        |
| Cornell         | Leggett     | Stratton     |
| Coughlin        | Levitas     | Studds       |
| D'Amours        | Long, Md.   | Tsongas      |
| de la Garza     | Lukens      | Udall        |
| Dellums         | Lundine     | Vanik        |
| Derrick         | McHugh      | Vento        |
| Derwinski       | Madigan     | Volkmer      |
| Dicks           | Maguire     | Waxman       |
| Diggs           | Markey      | Weaver       |
| Drinan          | Mattox      | Weiss        |
| Duncan, Tenn.   | Mazzoli     | Wolff        |
| Edgar           | Meyner      | Yates        |
| Edwards, Calif. | Mikve       | Young, Mo.   |

#### NOES—184

|                 |                 |               |
|-----------------|-----------------|---------------|
| Abdnor          | Goldwater       | Pike          |
| Andrews, N.C.   | Gonzalez        | Preyer        |
| Annunzio        | Gradison        | Quillen       |
| Archer          | Gudger          | Rallsback     |
| Armstrong       | Guyer           | Regula        |
| Ashley          | Hagedorn        | Roberts       |
| Badham          | Hannaford       | Robinson      |
| Barnard         | Hansen          | Rooney        |
| Bauman          | Harsha          | Rose          |
| Beard, Tenn.    | Hawkins         | Rostenkowski  |
| Boggs           | Hefner          | Rousselot     |
| Boland          | Hightower       | Roybal        |
| Bowen           | Hillis          | Rudd          |
| Brademas        | Holt            | Runnels       |
| Breckinridge    | Horton          | Ruppe         |
| Brinkley        | Huckaby         | Sarasin       |
| Brooks          | Hyde            | Satterfield   |
| Broyhill        | Johnson, Calif. | Sawyer        |
| Burke, Mass.    | Jones, N.C.     | Sebellus      |
| Burleson, Tex.  | Jones, Okla.    | Shipley       |
| Burlison, Mo.   | Jones, Tenn.    | Shuster       |
| Burton, Phillip | Jordan          | Simon         |
| Butler          | Kelly           | Sisk          |
| Byron           | Kemp            | Skelton       |
| Cederberg       | Ketchum         | Skubitz       |
| Clawson, Del.   | Kindness        | Smith, Nebr.  |
| Cleveland       | Krueger         | Snyder        |
| Collins, Tex.   | Lagomarsino     | Spence        |
| Conable         | Latta           | Stangeland    |
| Corcoran        | Lloyd, Tenn.    | Stanton       |
| Cornwell        | Long, La.       | Steiger       |
| Crane           | Lott            | Stockman      |
| Cunningham      | McClary         | Stokes        |
| Daniel, Dan     | McCloskey       | Stump         |
| Daniel, R. W.   | McDonald        | Symms         |
| Danielson       | McEwen          | Thone         |
| Dickinson       | McFall          | Treen         |
| Dingell         | Mahon           | Trible        |
| Dodd            | Marks           | Tucker        |
| Duncan, Oreg.   | Marriott        | Ullman        |
| Eckhardt        | Martin          | Vander Jagt   |
| Edwards, Ala.   | Mathis          | Walgren       |
| Edwards, Okla.  | Meeds           | Walker        |
| Erlenborn       | Michel          | Walsh         |
| Evans, Colo.    | Mikulski        | Wampler       |
| Evans, Ga.      | Mitchell, N.Y.  | Watkins       |
| Evans, Ind.     | Montgomery      | Whalen        |
| Fary            | Moore           | White         |
| Fascell         | Moorhead,       | Whitehurst    |
| Fish            | Calif.          | Whitley       |
| Flood           | Moorhead, Pa.   | Whitten       |
| Flynt           | Murtha          | Wiggins       |
| Foley           | Myers, Michael  | Wilson, C. H. |
| Ford, Tenn.     | Myers, Ind.     | Wilson, Tex.  |
| Fountain        | Nedzi           | Winn          |
| Frenzel         | Nichols         | Wright        |
| Fuqua           | O'Brien         | Wylie         |
| Gammage         | Oaker           | Yatron        |
| Gaydos          | Patten          | Young, Fla.   |
| Gibbons         | Perkins         | Young, Tex.   |
| Ginn            | Pettis          | Zablocki      |
| Glickman        | Pickle          |               |

#### NOT VOTING—103

|                |                |               |
|----------------|----------------|---------------|
| Addabbo        | Fraser         | Murphy, N.Y.  |
| Akaka          | Gialimo        | Myers, Gary   |
| Ambro          | Hall           | Neal          |
| Anderson, Ill. | Hammer-        | Nolan         |
| Andrews,       | schmidt        | Pepper        |
| N. Dak.        | Harkin         | Poage         |
| Ashbrook       | Harrington     | Pressler      |
| Aspin          | Holland        | Price         |
| Badillo        | Hollenbeck     | Pritchard     |
| Bafalis        | Hubbard        | Pursell       |
| Blaggi         | Ichord         | Quayle        |
| Breaux         | Ireland        | Rhodes        |
| Brown, Mich.   | Jeffords       | Risenhoover   |
| Burgener       | Jenrette       | Rodino        |
| Burke, Calif.  | Johnson, Colo. | Roe           |
| Carney         | Kazen          | Rosenthal     |
| Carter         | Koch           | Seiberling    |
| Chappell       | LaFalce        | Sikes         |
| Chisholm       | Lehman         | Smith, Iowa   |
| Clausen,       | Lent           | St Germain    |
| Don H.         | Lloyd, Calif.  | Staggers      |
| Clay           | Lujan          | Steers        |
| Cochran        | McCormack      | Taylor        |
| Corman         | McDade         | Teague        |
| Cotter         | McKay          | Thompson      |
| Davis          | McKinney       | Thornton      |
| Delaney        | Mann           | Traxler       |
| Dent           | Marlenee       | Van Deerlin   |
| Devine         | Metcalfe       | Waggoner      |
| Dornan         | Milford        | Wilson, Bob   |
| Downey         | Miller, Calif. | Wirth         |
| Early          | Mineta         | Wyder         |
| Filippo        | Minish         | Young, Alaska |
| Florio         | Mitchell, Md.  | Zeferetti     |
| Flowers        | Moakley        |               |
| Ford, Mich.    | Murphy, Ill.   |               |

The Clerk announced the following pairs:

On this vote:

Mr. Akaka for, with Mr. Devine against.  
Mr. Jenrette for, with Mr. Dornan against.  
Mr. Risenhoover for, with Mr. Davis against.  
Mr. Harrington for, with Mr. LaFalce against.  
Mr. Florio for, with Mr. Carney against.  
Mr. Nolan for, with Mr. Pepper against.  
Mr. Mitchell of Maryland for, with Mr. Andrews of North Dakota against.  
Mr. Addabbo for, with Mr. Lujan against.  
Mr. Staggers for, with Mr. Taylor against.

Messrs. YATES, FINDLEY, BONKER, WOLFF, and RONCALIO changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: Page 100, beginning on line 11, strike out "which was directly or indirectly under his official responsibility while a supervisory employee." and insert in lieu thereof a period.

Mr. VOLKMER. Mr. Chairman, this amendment does not go as far as the Hughes amendment which has just been previously voted on. However, it does clarify the language in the present conflict of interest provision relating to supervisory employees of the Department.

During the discussion on the Hughes amendment, in answer to a question from the gentleman from Tennessee, the gentleman from New York, if I remember correctly, stated that under this provision supervisory employees of the Department could not appear before the Department. However, under the bill as it is written, I would like to bring to the attention of the Members that the bill has a loophole in it which, in my opinion, is about as big as a truck. It says, " \* \* \* which was directly or indirectly under his sole responsibility while a supervisory employee."

So, my question to the committee is that, if I am an Assistant Secretary for Congressional and Intergovernmental Relations, and had nothing to do with fossil fuel, then may I appear before the agencies or those persons in the Department having to do with fossil fuel? It is obvious to me that if I do not directly or indirectly, while I am an employee, have anything to do with those things, then I can do so.

My amendment would just prohibit those supervisory employees—we are talking about a GS-16 and above, talking about Assistant Secretaries, talking about Commission members—it would prohibit them for 2 years, just for 2 years, from ever appearing before the Department on any matter. It does not say they cannot go to work for the industries or for the utilities. It just says, "You cannot come back over here and try to influence the Department people on matters that concern the public."

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I strongly support the gentleman's amend-

ment. I did not vote for the previous amendment because I thought it was too excessive, too strong. This amendment gets to the heart of the bill, which is coming back and representing clients before the Government, and it takes into account the fact that if one works as an Assistant Secretary for Fossil and comes back and represents somebody in a regulatory matter, this bill would not prohibit that in its present form.

That is clearly wrong, so I think those Members, such as myself, who voted against the last amendment, ought to vote for this amendment.

Mr. VOLKMER. I would like to continue by saying that I do not believe that this amendment is in any way onerous. It does not prevent anybody from going to work for any utility or industry that is under regulation. It just means that one cannot go back to the Department or to the Commission and try to influence their decisions in regard to the matter at hand which concerns one's new employer.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. I thank the gentleman for yielding.

Mr. Chairman, I want to compliment the gentleman. I think this is a reasonable and restricted amendment.

Mr. VOLKMER. I thank the gentleman for his remarks.

Mr. ERLENBORN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wonder if the gentleman from Missouri (Mr. VOLKMER) would lend his attention to some questions I would like to discuss with him and which I would ask him to answer.

Mr. Chairman, the way I read this language which will be left after the language has been stricken, the section will now read:

For a period of two years after ceasing to be an employee of the Department, no supervisory employee shall, in any professional capacity for anyone other than the United States, appear or attend before, or make any oral or written communication or submission to, or filing with, the Department or any officer or employee of the Department in connection with any Department proceeding.

Not having seen the gentleman's amendment before, I am trying to very quickly read this language and interpret what it might mean in different circumstances. Let us say that the person we are talking about, the former employee, is an attorney.

Mr. VOLKMER. Yes.

Mr. ERLENBORN. And he therefore would be acting in a professional capacity when he acted as an attorney. Let us say he personally has been charged with some conduct, possibly the violation of one of these prohibitions, charged by the Department, and there is some correspondence between himself and the Department, he acting as his own attorney. Would he violate this provision because he is acting in a professional capacity and is communicating with or is appearing before the Department?

Mr. VOLKMER. Is he representing a client?

Mr. ERLENBORN. He is representing himself. But he would be, I think, violating the terms of this provision.

Mr. VOLKMER. That is correct.

Mr. ERLENBORN. I am not sure that that is the sort of activity that one would say was really a conflict of interest and should be prohibited.

Mr. VOLKMER. Then perhaps the other body of the section should be amended to provide "as an employee of others." If he wants to do it on his own, that is one thing. But, in the first place, I do not think the hypothetical situation the gentleman is discussing is going to occur very often. I am not saying it would never occur. The instances of being employed by others and appearing are more numerous than those the gentleman gave me.

Mr. ERLENBORN. I know this is not the gentleman's language, because it is in the bill—and I suppose someone on the committee may want to join in this colloquy—but I wondered, in reading this, what a "professional capacity" is. There are different definitions of professions. There are some who would say that professions are really a very narrow category, law, medicine, the clergy, and that is about it. There are others who would apply the term "profession" to any employment. I do not know that there is any definition of "professional capacity" contained in the bill. In drafting the amendment affecting this section, did the gentleman give any attention to the definition of the term "professional capacity"?

Mr. VOLKMER. I thought about it because, like the gentleman, it is questionable about what it actually means.

As a general statement, I suppose in its broad meaning it would include anyone who, in a position in which they work for the Department, would in that capacity be considered a professional person. It might be an engineer, a lawyer, a PR man, or anyone else who would be considered to be functioning in a professional capacity. I would say that it is a very broad, general term. That would be my interpretation, and that is the only one I could supply. I agree that it is not specific as to what is exactly intended.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. VOLKMER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TSONGAS

Mr. TSONGAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TSONGAS: Page 115, lines 10-11, after "practices," add "and to increase efficiency;"

Page 115, line 11, strike out "and shall include" and all that follows down through line 13 and insert: "and further, said summary shall include a description of the activities the Department is performing in support of environmental, including social, economic and institutional, biomedical, physical and safety research, development, demonstration, and monitoring activities necessary to guarantee that technological programs, funded by the Department, are un-



dertaken in a manner consistent with and capable of maintaining or improving the quality of the environment and of mitigating any undesirable environmental and safety impacts."

Mr. TSONGAS. Mr. Chairman, this amendment is simple and should be non-controversial. I believe that it places into language everyone's intent that environmental concerns be considered on the front end of energy development decisions as well as on the back end.

Section 621 specifically authorizes the Secretary to make a report to the President for submission to the Congress on the activities of the Department at the end of each fiscal year. The report is to include a statement of the Secretary's goals, priorities, plans and an assessment of the Department's achievements during the preceding fiscal year. The report shall further include information currently required by section 15 of the Federal Energy Administration Act of 1974 and section 307 of the Energy Research and Development Act of 1974. Although the reporting requirements of the Department as currently stated in H.R. 6804 and the Senate bill, S. 826, are consistent with the reports currently required of the Administrators of ERDA, FEA, and FPC, they provide insufficient information upon which the Congress and the President can base their assessments of the activities of the Department so as to assure protection of the environment.

The language of this amendment is consistent with the intent of the administration as referenced in the numerous statements before the Congress on the formation of both the new Department and the national energy plan, and, specifically, in the report of the Senate Government Operations Committee on S. 826.

Further, the House Science and Technology Committee has, in the ERDA 1978 authorization legislation, H.R. 6796, seen fit to amend sections 6 and 15(a) of the Federal Nonnuclear Research and Development Act of 1974 so as to require that similar information be provided to the President for submission to the Congress.

Mr. Chairman, simply stated, my amendment will specifically place into the legislation the stated intent of the administration to have reported the activities of the Federal Government, including the Department of Energy, which have been and are intended to be undertaken to guarantee the maintenance of the environment.

Mr. Chairman, I believe that such a responsibility will add to the efficiency of the Department's development of energy resources. We are all painfully aware of circumstances in which the failure to consider environmental impacts on the front end of the process have led to costly difficulties, delay, and waste when such impacts arose on the back end of the process. In my area of the country, we are witnessing such a sad occurrence with respect to the construction of the Seabrook Nuclear Power Plant at Sea-

brook, N.H. Although this example relates to the interaction between NRC and EPA and not directly to activity which will be carried out by DOE, it is a startling example of the economic havoc and waste which can be generated by the failure to factor environmental considerations at an early stage.

I am sure that we can all agree that the monitoring activities necessary to guarantee that technological programs, funded by the Department, are undertaken in a manner consistent with the quality of the environment are desirable and necessary. My amendment is basically a "housekeeping effort" to insure that specific mandate in the legislation.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I have gone over the amendment with the gentleman from Massachusetts (Mr. TSONGAS), and I feel it is a good amendment. I think it adds to the bill, and I would be willing to accept the amendment.

Mr. TSONGAS. Mr. Chairman, I thank the gentleman.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I agree that this is a constructive amendment, and I have no objection to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. TSONGAS).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

#### TITLE VII—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

SEC. 701. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are hereby transferred to the Secretary for appropriate allocation.

(b) Positions expressly specified by statute or reorganization plan, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule (5 U.S.C. 5312-5316) on the effective date of this Act shall be subject to the provisions of section 705 of this Act.

SEC. 702. Except as otherwise provided in this Act, the transfer of full-time personnel (except special Government employees) and part-time personnel holding permanent positions pursuant to this title shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of enactment of this Act.

SEC. 703. Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department

or the Commission to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in the new position.

SEC. 704. Employees transferred to the Department holding reemployment rights acquired under section 28 of the Federal Energy Administration Act of 1974 or any other provision of law or regulation may exercise such rights only within one hundred and twenty days from the effective date of this Act.

SEC. 705. Except as otherwise provided in this Act, whenever all of the functions vested by law in an agency, commission, or other body, or any component thereof, have been terminated or transferred from that agency, commission, or other body, or component by this Act, the agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5316), shall terminate.

SEC. 706. The Director of the Office of Management and Budget, in consultation with the Secretary and the Commission, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an agency, commission or other body, or component thereof affected by this Act, to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with the functions transferred by this Act as he may deem necessary to accomplish the purposes of this Act.

SEC. 707. All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Commission after the date of enactment of this Act, and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Secretary, the Federal Energy Regulatory Commission, or other authorized officials, a court of competent jurisdiction, or by operation of law.

SEC. 708. (a) (1) The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by

a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this Act had not been enacted.

(2) The Secretary and the Commission are authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department or the Commission.

(b) Except as provided in subsection (d)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(c) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(d) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the Secretary or other official, as the case may be, substituted.

SEC. 709. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

SEC. 710. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, the Federal Energy Regulatory Commission, or other official or component of the Department in which this Act vests such functions.

SEC. 711. Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of, or authority available to, the President which he had immediately before the effective date of this Act; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

SEC. 712. (a) The Federal Energy Administration Act of 1974 is hereby amended as follows:

(1) in section 4—

(A) by striking out the heading of such section and inserting in lieu thereof "Conflicts of Interest";

(B) by striking out subsections (a) through (h) of such section and redesignating subsections (i) and (j) as subsections (a) and (b), respectively; and

(C) by striking out, in the subsection redesignated as subsection (b), "holding any of the positions described in subsections (a), (c), (d), and (e) of this section" and inserting in lieu thereof "who is compensated at level II, III, or IV of the Executive Schedule and who is assigned principal responsibility for any program under this Act";

(2) in section 7—

(A) by striking out subsections (a) and

(b) and redesignating subsection (c) as subsection (a);

(B) by striking out subsections (d), (e), (f), (g), and (h);

(C) by striking out "(1) (1)" and by striking out subparagraphs (A), (B), (C), (E), and (F) of subsection (1) (1) and redesignating subparagraph (D) of such subsection as subsection (b);

(D) by striking out, in the matter redesignated as subsection (b), "the rules, regulations, or orders described in paragraph (A)" and inserting in lieu thereof "any rule or regulation, or any order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, pursuant to this Act";

(E) by striking out, in such subsection, "paragraph (2) of this subsection" and inserting in lieu thereof "subsection (c)";

(F) by redesignating paragraph (2) (A) of subsection (1) as subsection (c) and by striking out subparagraph (B) of subsection (1) (2); and

(G) by striking out paragraph (3) of subsection (1) and by striking out subsections (j) and (k);

(3) by repealing sections 9, 28, and 30;

(4) in section 52(a)—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding after such paragraph (3) the following new paragraph:

"(4) The States to the extent required by the Natural Gas Act and the Federal Power Act"; and

(5) in section 55(b)—

(A) by striking out "seven" and inserting in lieu thereof "six";

(B) by inserting "and" after "Federal Trade Commission"; and

(C) by striking out "one shall be designated by the Chairman of the Federal Power Commission; and";

(b) The Energy Reorganization Act of 1974 is hereby amended by repealing section 108.

(c) (1) The Atomic Energy Act of 1954 is hereby amended by repealing section 26.

(2) Section 161(d) of the Atomic Energy Act of 1954 shall not apply to functions transferred by this Act.

(d) Section 502 of the Motor Vehicle Information and Cost Savings Act is amended by adding at the end thereof the following:

"(h) The Secretary shall consult with the Secretary of Energy in carrying out his responsibilities under this section."

(e) The Energy Conservation Standards for New Buildings Act of 1976 is hereby amended as follows:

(1) in section 303(11), strike out "Secretary of Housing and Urban Development" and insert in lieu thereof "Secretary of Energy";

(2) in section 304(c), by inserting "the Secretary of Housing and Urban Development," after "the Administrator,"; and

(3) in section 310, by inserting "Secretary of Housing and Urban Development," after "the Administrator,".

(f) The Rural Electrification Act of 1936 is hereby amended by adding a new section 16 to title I thereof to read as follows:

"Sec. 16. In order to insure coordination of electric generation and transmission financing under this Act with the national energy policy, the Administrator in making or guaranteeing loans for the construction, operation, or enlargement of generating plants or electric transmission lines or systems, shall consider such general criteria consistent with the provisions of this Act as may be published by the Secretary of Energy."

SEC. 713. Section 19(d) (1) of title 3, United States Code, is amended by inserting immediately before the period at the end thereof the following: "Secretary of Energy".

SEC. 714. (a) Section 101 of title 5, United States Code is amended by adding at the end thereof the following:

"The Department of Energy."

(b) Subsection (a) of section 3104 of title 5, United States Code, is amended by inserting after paragraph (4) the following new paragraph:

"(5) Department of Energy—not more than 200."

(c) Subsection (a) of section 5108 of title 5, United States Code, is amended by striking out "an aggregate of 2,754" and inserting in lieu thereof "an aggregate of 3,104".

(d) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(14) Secretary of Energy."

(e) Paragraph (22) of section 5313 of title 5, United States Code, is amended to read as follows:

"(22) Deputy Secretary of Energy."

(f) Section 5314 of title 5, United States Code, is amended by striking out, in paragraph (21), "Federal Power Commission" and by inserting in lieu thereof "Federal Energy Regulatory Commission", and by amending paragraph (60) to read as follows:

"(60) Administrator, Economic Regulatory Administration, Department of Energy."

(g) Section 5315 of title 5, United States Code, is amended by striking out, in paragraph (60), "Federal Power Commission" and inserting in lieu thereof "Federal Energy Regulatory Commission", by striking out paragraph 102, and by adding at the end of the section the following:

"(114) Assistant Secretaries of Energy (9).

"(115) General Counsel of the Department of Energy."

"(116) Administrator, Energy Information Administration, Department of Energy."

"(117) Inspector General, Department of Energy."

"(118) Additional Officers, Department of Energy (4)."

(h) Paragraphs (135) and (136) of section 5316 of title 5, United States Code, are amended to read as follows:

"(135) Deputy Inspector General, Department of Energy."

"(136) Additional Officers, Department of Energy (10)."

SEC. 715. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions have been transferred to the Secretary for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

SEC. 716. The Civil Service Commission shall, as soon as practicable but not later than one year after the effective date of this Act, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this Act, which shall include—

(1) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this Act;

(2) a statement of the number of employees entitled to pay savings by reason of the reorganization under this Act;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative



recommendations for improvements in personnel management within the Department as the Commission considers necessary.

Sec. 717. The transfer of functions under titles III and IV of this Act shall not affect the validity of any draft environmental impact statement published before the effective date of this Act.

Sec. 718. As used in this Act (1) references to "function" or "functions" shall be deemed to include reference to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and (2) references to "perform" when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

Mr. BROOKS (during the reading). Mr. Chairman, I ask unanimous consent that title VII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. MOSS

Mr. MOSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moss: Page 127, after line 6, insert the following new paragraph:

"(118) Director, Office of Energy Research, Department of Energy."

Page 127, line 7, strike out "(118)" and insert in lieu thereof "(119)".

Mr. MOSS. Mr. Chairman, this amendment is in the nature of a technical and conforming amendment.

On yesterday we adopted language creating the Office of Energy Research within the Department. This amendment assigns the Director of that Office to a level IV in the Federal executive salary structure.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, the gentleman from California (Mr. Moss) has stated the situation accurately. This is a technical amendment, and to that extent I have no objection whatsoever to the amendment.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, the minority is willing to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fuqua: Amend section 702 by adding the following proviso: "Provided, That full-time temporary personnel employed at the Energy Research Centers of the Energy Research and Development Administration upon the establishment of the Department who are determined by the Department to be performing continuing functions may at the employee's option be converted to permanent full-time status within 120 days following their transfer to

the Department. The employment levels of full-time permanent personnel authorized for the Department by other law or administrative action shall be increased by the number of employees who exercise the option to be so converted."

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FUQUA. Mr. Chairman, the intent of this amendment is to clarify and correct an unusual employment situation that exists at the Energy Research and Development Administration's five energy research centers so that the full-time personnel are transferred into the Department of Energy in full accordance with the regular established civil service procedures.

At the present time, approximately 330 Government employees at the five energy research centers are in temporary positions. Many of these temporary employees are working full-time on research work of a continuing nature. This situation has been created due to the fact ERDA is an exempted agency and, therefore, has greater flexibility to use temporary employees to perform full-time long-term continuing research projects.

These personnel are Government employees currently working at these centers and their services are fully authorized and appropriated in the annual ERDA bills. They are working on key research projects in the areas of Devonian shale, fluidized bed combustion, methane from coal seams, oil shale and enhanced oil recovery. Therefore, this amendment does not create any new positions at the energy research centers. This amendment does not require any additional funds or increase the operating costs of these centers.

What the amendment does is simply convert these full-time temporary employees performing critical ongoing research at these energy research centers to full-time permanent employees in accordance with standard civil service procedures. The net effect is that there is no increase in total employees.

It is important that personnel performing full-time research of a continuing nature at these centers be converted to permanent positions so that when the Department is established all personnel will be employed in accordance with civil service standards and procedures. ERDA as an exempted agency must transfer its employees to the Department in a manner consistent with civil service rules in order to maintain the complete integrity of the civil service system. This amendment will accomplish such a transfer by clarifying the unique situation at the energy research centers and is totally consistent with the committee's intent.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I have no objection to the amendment.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I am willing to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. Fuqua).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Symms: At the end of title VII, add:

Sec. 719. (a) Notwithstanding other provisions of this Act, the Secretary is authorized an employee ceiling not to exceed for three years following enactment the combined employee authorizations of the functions and organizational elements to be transferred.

(b) The Secretary is authorized an average pay grade not to exceed for three years following enactment the average pay grade of the personnel authorized to be transferred.

Mr. SYMMS. Mr. Chairman, this amendment is self-explanatory.

What it simply does is put a cap on the total of number of people that can be hired and be working in the Department of Energy for 3 years. That is consistent with the other language in the bill, with relationship to the people who are guaranteed employment in this legislation from being transferred from other agencies.

Mr. Chairman, the intention of this bill, according to the proponents of the bill, is supposedly to cause the Government to have less conflicts and less duplication of employees' duties by putting all these agencies under one roof.

If this is the case, Mr. Chairman, I think the minimum we can do for the taxpayer, who has to pay this \$10.6 billion bill—a figure, I might add, that is nearly double what we pay for imported oil from Saudi Arabia each year—would be to put a cap on how many people they are going to hire in the Department of Energy.

Mr. Chairman, as I pointed out yesterday in the debate, the Federal Energy Administration has gone from zero people to 4,000 people in a 3- or 4-year period. I think it would behoove us in this House to put a cap on DOE to indicate to the administration that if they are going to be streamlining the Government, making it supposedly more efficient and supposedly causing it to do a better job in carrying out their responsibilities, that they do not need to hire a whole army of people, many of whom they should be getting rid of.

Therefore, Mr. Chairman, the total number would be 19,767, by the administration's own count.

I might add, Mr. Chairman, that none of these people will be producing energy, so I think this is the least we could do. I would favor putting the cap down to a much lower figure, but I think we have to start somewhere.

Mr. Chairman, I would ask the support of the Members in putting a cap on

the number of employees in DOE, as required by my amendment, and urge its adoption.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment would freeze the employee level and the average pay level of this new Department for 3 years.

I do not believe that there is any necessity to do that. That is a function which should be considered each year as the Congress acts on appropriations for this purpose. There is no reason whatever to single out these particular employees of this single agency for this special treatment, and I would therefore oppose the amendment.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for yielding.

I think the point the gentleman is missing is that we are going to have people leaving the agency anyway from normal attrition, therefore, there is a turnover in any agency, of personnel.

What we are trying to do is to protect the taxpayer from having to pay for a whole mass of GS high-level bureaucrats. If they cut down the total numbers, they can keep it at the average at which it is today. Therefore, we are not going to fire those at the GS-5 level and keep those who are GS-13.

Furthermore, Mr. Chairman, my amendment is not going to freeze any individual employee. It is not going to stop promotions of people within the total average.

Mr. Chairman, I do not think that my amendment would have the effect which the chairman, Mr. Brooks, is talking about. I think it is the only way in which we can protect not only the taxpayer but the Congress itself from having a runaway department here that is going to run rampant.

Mr. BROOKS. Mr. Chairman, I thank the gentleman, but I ask for a "no" vote on the amendment.

Mr. HORTON. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I am certainly in sympathy with the proposal of the gentleman from Idaho (Mr. SYMMS) to put a limit on the number of employees in the department because I do think that we are going to have to do something about the size of Government. However, I do not think that this is the way to do it, to single out this particular department and say that it can have no more employees than are authorized under this bill.

Mr. Chairman, we do have the process where they can come back each year to the authorizing committee and then also to the Committee on Appropriations, and I think that is a sufficient hold on the number of employees at the present time.

Further, Mr. Chairman, I think this would be unfair to a new department, in creating a new department, to say that it can have no more employees than those

that are authorized by the enabling legislation.

Therefore, Mr. Chairman, I would urge a "no" vote on this amendment, in spite of the fact that I am very much concerned about the size of the Government and the size of the number of employees that we have in the Federal Government.

If the Congress wants to enact some overall ceilings with regard to employees then that would be a different way to approach it. But we ought not to do it on this particular agency.

I also feel that this agency needs to have the opportunity to find out how best to perform its functions. It might be that after operating for a while, it can reduce the number of employees. However, it does have a tremendous responsibility. I believe the Congress has a hold on the number of employees through the authorizing and appropriating committees when this agency has to come before us for its budget authorizations.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman from New York for yielding to me.

I would just say that if we do not adopt this amendment I would predict that within a year from now this agency will mushroom like an atomic bomb and that we will have not 20,000 employees employed at the Department of Energy but perhaps 30,000 employees and that in just a matter of a few years the employees will number 40,000.

This is one way we can put a handle on them from the Congress.

If the purpose of the Carter administrative reorganization plan is to have fewer Government employees, less red-tape, and less harassment of the American people, then I believe we should adopt my amendment in order to reduce the number of potential employees, limit the bureaucracy as we should do.

Mr. HORTON. Mr. Chairman, I would state to the gentleman from Idaho that I am definitely for less bureaucracy, and for reorganizing the Federal Government so as to limit the number of employees. But, I repeat, I do not believe that this is the way we ought to do it in this instance. I repeat again, I believe that this agency will have a cap put on its personnel and budget because it does have to come back before the authorizing and appropriating committees to get the number of employees approved and get the budget approved. That would be the manner in which we should attack this.

Mr. SYMMS. Mr. Chairman, will the gentleman yield still further?

Mr. HORTON. Of course I yield further to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I appreciate the gentleman from New York yielding further to me.

Let me say that I believe the problem is that we are always hearing in this House that this is not the way to do it. I would agree that the new energy agen-

cy should not be singled out and I believe that every agency should have a cap put on them. We are facing a \$70 billion budget deficit. The only way we have of cutting that and reducing the budget is to cut the numbers of the Government employees. The only way that we can accomplish that is to limit the number of people who are hired. This will not hurt any of the present employees. This can be carried out as each person leaves for retirement or quits. It will only be for a limited time there, and in that way we can make sure that the hiring of employees not exceed the 19,000 plus as stated in my amendment.

Mr. HORTON. Mr. Chairman, I want to emphasize to the gentleman from Idaho that we have put a cap on the number of supergrades. We have tried to incorporate in the provisions of this bill all of the controls that we possibly can. I believe to place a ceiling on a new agency before it can even get started would be an unfair imposition on the agency.

Mr. Chairman, I would urge that the amendment offered by the gentleman from Idaho (Mr. SYMMS) be defeated.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I rise in support of the position taken by the gentleman from New York (Mr. HORTON), and in opposition to the amendment offered by the gentleman from Idaho (Mr. SYMMS).

Primarily, Mr. Chairman, I want to clarify a statement that was made by the gentleman from Idaho (Mr. SYMMS). Perhaps I misunderstood the gentleman. Did the gentleman from Idaho state that the amount of the budget of ERDA was twice that of the value of imported Arabian oil?

Mr. SYMMS. If the gentleman from New York will yield, I said Saudi Arabian oil.

Mr. BROWN of California. Just Saudi Arabian oil?

Mr. SYMMS. As a matter of fact, I can quote the statistics, if the gentleman from New York will yield still further.

Mr. HORTON. I will be glad to yield further to the gentleman from Idaho.

Mr. SYMMS. They show that this \$10.6 billion that we will spend for this budding new Department of Energy, for example is about double the value of all the oil the United States imported from Saudi Arabia last year.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. SYMMS, and by unanimous consent, Mr. HORTON was allowed to proceed for 1 additional minute.)

Mr. SYMMS. The \$10.6 billion exceeds the capital and exploration expenditures made by the U.S. petroleum industry to find and produce oil, gas and gas liquids. It exceeds by \$800 million the 1974 profits of the seven largest international oil companies.

So I think that it is a lot of money we are spending, and all I am trying to do is put a cap on it. These people are



going to do a lot of violence to the productive capacity of the country.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield further?

Mr. SYMMS. I yield to the gentleman from California.

Mr. BROWN of California. Just to put this in perspective, I am glad that the gentleman carefully limited the figure on oil imports. The total value of the oil imports to the United States is much closer to \$30 billion than it is to half of the ERDA budget, although much of it comes from other places than Saudi Arabia.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. SYMMS).

The question was taken; and on a division (demanded by Mr. SYMMS), there were—ayes 23, noes 31.

Mr. SYMMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MRS. SPELLMAN

Mrs. SPELLMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SPELLMAN: Section 704, line 17, delete the words "one hundred and twenty days" and insert in place thereof "two years".

Section 704, line 13, add the following new sentence: "Reemployment rights may only be exercised at the request of the employee."

Mrs. SPELLMAN. Mr. Chairman, my amendment is a simple one which helps clarify the rights of the Federal employee transferred into this new Department of Energy. Section 704 of the bill, as reported, grants to those employees reemployment rights for 120 days from the effective date of the bill. One hundred and twenty days is an unrealistically short period of time, and I propose to extend that time to 2 years, as is standard in the Federal Government.

As a new agency, the Energy Department will go through a "shakedown" period. In the beginning it will be staffed by those who were employed in the various agencies being consolidated into the Energy Department. After it has become organized, however, it is most apparent that not everyone will be needed, and staffing will be decreased. Reemployment rights insures that the employee can return to the position which he held originally, before he was "drafted" into one of the various energy agencies.

The granting of reemployment rights is a standard procedure in the Federal Government when employees are "lent" to another agency for a particular task. Title 5 of the Code of Federal Regulations, section 352.206, provides that reemployment rights in executive agencies normally expire at the end of a 2-year period, unless exercised before that time. I believe that this same 2-year period is appropriate for the new Energy Department. It gives the consolidated agency adequate "startup" time, and affords employees sufficient opportunity to determine whether they wish to stay with the Energy Department or to return to their previous agencies. One hundred

and twenty days will not give the employees, or the managers, time to find out what the Department is going to be like, or what the Department will actually need in the way of staffing.

Most importantly, the longer time period enables employees as well as the Department to know which positions will be downgraded and which will be abolished. With only 120 days, the employees are being asked to play Russian roulette with their careers. If they decide not to exercise their reemployment rights within 120 days, they may find themselves out of work after 1 year, as provided in section 702. Rather than take this risk, qualified employees who have worked in the existing energy programs will bail out before the 120 days expire. This could leave the new Energy Department without the expertise necessary to commence operation. In fact, I have learned that one employee union which represents over 2,500 FEA employees is recommending that they use those reemployment rights as soon as possible, unless the 120 days is changed to 2 years. Those FEA employees are a valuable asset to the energy program, and our efforts to develop a comprehensive energy policy would sorely miss their experience.

During testimony before the Employee Ethics and Utilization Subcommittee, Mr. Robert Allnutt, Acting Assistant Administrator for Administration, ERDA, noted that "There's no particular magic to 120 days." We should have a time limit for the exercise of reemployment rights—sooner or later, people should make a decision about going back, and not have the permanent right to go back to the old agency. But there should be a reasonable time limit, and not one as unrealistically short as the 120-day requirement.

Reemployment rights can be granted administratively if it is determined that the need exists after the 120 days provided for in the bill. However, this is a time-consuming process, and it does not afford the affected employee any assurance that he will have reemployment rights granted to him. The administrative provision does not prevent the potential "bail-out" problem.

The second part of my amendment corrects a problem that has cropped up in the Federal Energy Administration resulting from the exercise of reemployment rights. It appears that management has used this right to circumvent reduction in force and adverse action protections of the employee, simply by sending the employee back to the old agency. The employee has no appeal to this process. If the employee's position is being eliminated, or if the employee's performance and/or attitude are lacking, RIF and adverse action procedures exist for management to use, and under which the employee's rights are protected.

Reemployment rights were intended as a protection against interpretation in the careers of Federal employees, and as an inducement for employees to take a chance and accept a position in a new agency. Management has turned this shield into a sword to be used against its

employees and to circumvent their procedural protections. The result has been widespread distrust and low morale among the employees.

In order to prevent such abuses from occurring in the new Department, it is imperative that this legislation clearly specify that reemployment rights may only be exercised by the employee, if he or she chooses to return to the parent agency. My amendment does not shield poor employees, or employees whose positions are no longer needed—procedures exist for those instances. It simply insures that those procedures are used, and that exercise of reemployment rights are not forced on an employee by management.

I urge my colleagues to accept these changes in section 704.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mrs. SPELLMAN. I yield to the gentleman from New York.

Mr. HORTON. I thank the gentleman for yielding.

Is this the amendment to make it 2 years instead of 120 days?

Mrs. SPELLMAN. It is that.

Mr. HORTON. This is the amendment we spoke about yesterday?

Mrs. SPELLMAN. The amendment we spoke about yesterday.

Mr. HORTON. As I understand it, if the gentleman would yield further, the present law is 2 years; is that correct?

Mrs. SPELLMAN. That is right. Title V of the Code of Federal Regulations, section 352.206, provides that reemployment rights in executive agencies normally expire in a 2-year period.

Mr. HORTON. With that understanding, Mr. Chairman, I am willing to accept the amendment. I commend the gentleman for presenting it.

Mrs. SPELLMAN. I thank the gentleman. I am very grateful to him.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mrs. SPELLMAN. I yield to the gentleman from Texas.

Mr. BROOKS. I thank the gentleman for yielding.

I will ask my distinguished friend, the gentleman from Maryland, do I understand that the reemployment rights to be exercised only at the request of the employee will not affect the right of the Department to terminate such employees.

Mrs. SPELLMAN. That is exactly right.

Mr. BROOKS. I have no objection to the legislation and thank the gentleman for her contribution.

Mrs. SPELLMAN. I am very grateful to the chairman for accepting it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mrs. SPELLMAN).

The amendment was agreed to.

Mr. TUCKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to clarify provisions of title VII, perhaps title VI, and other provisions of the act with regard to the transfer of personnel from the Federal Energy Administration to the Department of Energy as is con-

templated by those sections. I was recently informed that Mr. Gorman Smith, who has served in the FEA since its inception, may be serving currently illegally as Acting Deputy Administrator of the FEA since February of this year. I understand further that the position of Deputy Administrator of FEA created by section 4(c) of Public Law 93-275 (15 U.S.C.A. 763(c)), is filled through appointment by the President with the advice and consent of the Senate. However, no authority is contained in the statute for a temporary appointment. Moreover, the Vacancies Act (5 U.S.C.A. 3345-48) does not provide for the temporary filling of this position as the FEA is not an executive department as defined by 5 U.S.C.A. 101.

As my colleagues know, article II, section 2 of the Federal Constitution requires that all "Officers of the United States" other than those whose appointment is vested by law in some authority be nominated by the President and appointed with the advice and consent of the Senate. I am told that Mr. Smith has not even been nominated to the post of Deputy Administrator, much less confirmed by the Senate.

Apparently, the illegality of temporary appointments without legislative sanction was clearly stated in the case of *Williams v. Phillips*, 360 F. Supp. 1363 (D.D.C. 1973). Then President Nixon had appointed Mr. Phillips Acting Director of the Office of Economic Opportunity in January 1973, and had failed to submit his name to the Senate, although it was in session. Several Senators, including Vice President MONDALE, joined in a suit to have Mr. Phillips' appointment declared illegal.

Therefore I would ask the chairman of the committee two questions: Does either title VI or VII or any other section of the act authorize in any way directly or indirectly the circumvention of or exceptions to the Vacancies Act or authorize avoidance of congressional approval of any individual serving in the FEA in a position requiring congressional approval who has not received such approval?

Mr. BROOKS. If the gentleman will yield, to my distinguished friend I would say it was not the intent of the legislation to extend any rights to individual employees of the agencies that they have not had at any time and do not have now, nor to broaden nor to legalize any illegal holding of office or appointment that they now have or may have.

Mr. TUCKER. I thank the chairman. Therefore, if a person is "acting" in some position at FEA the permanent filling of which requires congressional approval and he does not have such approval, then neither title VI nor VII nor to the gentleman's knowledge any other provision of the Act would allow such person to be transferred to the Department of Energy without first securing such congressional approval?

Mr. BROOKS. We have no intent, I assure my distinguished friend, of correcting any deficiencies in their appointments by this legislation.

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Mr. TUCKER. I thank the chairman very much.

#### AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONYERS: On page 129, after line 6, insert the following new title:

#### TITLE VIII—PUBLIC ENERGY ADMINISTRATION

SECTION 801. (a) There is established within the Department of Public Energy Administration, at the head of which shall be an administrator appointed by the Secretary.

(b) Notwithstanding the provisions of section 205 of this Act, the President, in the exercise of his authority under section 13 of the Emergency Petroleum Allocation Act of 1973, may provide in the regulations promulgated under such section for the delegation of his functions under such section to the Public Energy Administration. The Administrator shall by rule provide for a separation of regulatory and enforcement function assigned to him.

Redesignate the following title or titles and sections thereof accordingly.

Mr. HORTON. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state it.

Mr. HORTON. Mr. Chairman, first of all the language I have says that:

There is established within the Department of Public Energy Administration—

And I am not clear I understand what that means. Perhaps the amendment at the desk is different from the one I have, but if that is the way the amendment reads, I think there is a clarification needed in the amendment.

But the point of order I make refers to subparagraph (b) which says:

Notwithstanding the provisions of section 205 of this Act, the President, in the exercise of his authority under section 13 of the Emergency Petroleum Allocation Act of 1973, may provide in the regulations promulgated under such section for the delegation of his functions under such section to the Public Energy Administration.

It seems to me we are extending the provisions of section 13 of the Emergency Petroleum Allocation Act of 1973 and I do not think we have the authority to do that in this legislation.

Therefore I make a point of order against the amendment.

The CHAIRMAN. Does the gentleman from Michigan wish to be heard on the point of order?

Mr. CONYERS. Yes, Mr. Chairman. This amendment, as the Committee knows, is a revision from the original amendment that was debated in the Committee on Government Operations.

I would argue very strongly that it is merely taking a responsibility and a duty specifically provided in law. It really does not matter which law. If we will examine the act, we will find that we have borrowed authorities from agencies and Departments that have been created by law from before 1973 and after 1973, so that that has absolutely no relevance whatsoever.

The point that I think is critical to

whether this amendment is germane or not is whether or not it transfers an existing authority, which the gentleman by admission that it is already existing in the statute concedes.

I will say that the gentleman is right, that we should not have a Department of Public Energy. It was a typing error. It should be Department of Energy.

Mr. Chairman, I would rest my case in opposition to the point made against the amendment.

Mr. ECKHARDT. Mr. Chairman, I rise in opposition against the point of order.

Mr. Chairman, the amendment proposes to permit the President to exercise discretionary authority and does not really change the Allocation Act, because the President now has authority under that act. All the amendment, it seems to me to do, is permit him to exercise authority under existing legislation in a new way and in a way comparable to the manner in which he is permitted permissively to grant authority under the act.

Therefore, it seems to me to be wholly germane.

The CHAIRMAN. The Chair is prepared to rule.

The Chair has listened very carefully to the arguments made on behalf of the point of order and against it and is in agreement with the gentleman from Michigan, that the purpose of the bill is merely to transfer certain authorities that exist in other agencies and departments of Government and finds that the amendment of the gentleman from Michigan is consistent with that intent and, therefore, overrules the point of order.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, can we get a clarification of section (a):

There is established within the Department of Public Energy Administration,

Mr. CONYERS. Yes.

Mr. HORTON. The amendment should be revised to include "Department of Energy."

The CHAIRMAN. Does the gentleman from Michigan ask unanimous consent to modify the amendment?

Mr. CONYERS. Mr. Chairman, I ask unanimous consent to make that modification.

The CHAIRMAN. Is there objection to request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Chairman, this amendment, I think, may be one of the most important that will be considered in the entire bill. It is one that I have given a great deal of consideration to. I think it has attracted a great deal of discussion in the committee. It has been modified, so that in this Reorganization Act we give no new authorities that do not already exist in terms of the right and the ability of the President of the United States in any manner that he may designate to establish an exclu-



sive importing purchase authority for oil, crude oil, residual fuel oil, or refined petroleum products.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, as I understand this amendment, it simply gives the President the right, if he so chooses, to delegate his existing authority under the Emergency Petroleum Allocation Act of 1973 and no more.

Mr. CONYERS. The gentleman is correct and it is discretionary.

Mr. LEVITAS. Mr. Chairman, if the gentleman will yield further, in the event the President should choose not to make such a delegation, there would be no requirement that it would have to be appointed to do nothing. It would only be if he made that delegation that a person would actually be appointed as Administrator, as I understand it.

Mr. CONYERS. This is a point, I must confess to my colleague, that I have not gone into; but I think that would be a correct interpretation.

Mr. LEVITAS. I just wanted to be certain that we would not have someone sitting around doing nothing unless things were delegated to him.

Mr. CONYERS. I agree with the logic of the gentleman.

Mr. LEVITAS. I think it is a constructive and worthwhile amendment.

Mr. CONYERS. I am pleased to hear my colleague say that, because I know of his concern about the whole subject of import authority.

I would say to the members of the committee that this is, of course, a very important subject that will be dealt with, I hope in more detail, in the appropriate committee which handles the substantive legislation. It is a matter of great import. We had a previous discussion about the nature and the size of our imported oil. We now know that approximately 50 percent of all the oil that is used in this country is imported oil. We had an extension of the calculation of the dollar figure in the previous discussion.

So, I think that this shows to all who are looking that we are not unmindful of the relationships between the OPEC countries and the major multinational oil giants who have heretofore entered into rather exclusive arrangements. This anticipates a thoughtful discussion and action on the part of the President and, incidentally, on the part of the Congress also, which would be required under this law to approve any action that he would make thereto.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield.

Mr. BROOKS. I want to tell my distinguished neighbor and friend from Michigan that I appreciate his modifying this amendment and making clear what he is doing. He is giving the President an opportunity that he has now under the Emergency Petroleum Allocation Act of 1973. He has this opportunity and he has the option to create a new public energy administration. It is totally within the discretion, as far as filling the

office is concerned, of the Secretary of the Department of Energy. As to whether or not the President would exercise the authority is his own judgment, but it points up that possibility if the circumstances necessitate that type of action.

Mr. CONYERS. The Chairman is absolutely correct.

Mr. BROOKS. I say, with that understanding and with the very clear reading of this amendment, that it makes sense to me and I have no objection to it.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(On request of Mr. MOORHEAD of Pennsylvania and by unanimous consent Mr. CONYERS was allowed to proceed for 1 additional minute.)

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Do I understand that the President can delegate in whole or in part? He would not have to if he did not want to have the United States Government be the sole procurer? It could be in competition with the normal market processes?

Mr. CONYERS. The gentleman is correct. It is discretionary, and it is also provided in the law that some of my colleagues had in mind, that the President should submit a report, but I am not sure that he ever did, 90 days after December 22, 1975, discussing and evaluating the feasibility of the subject matter that my colleague raised. So that, I think there would be that kind of discretion within my provision certainly, and I think it is the discretion that exists in the law presently.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I opposed the amendment that was offered in the full committee by the gentleman from Michigan, and I consistently opposed it. I opposed it when he first offered it, and the next day when it was offered again, when the committee reversed itself. I want to take a position here again in opposition to the amendment.

This is a very subtly drafted amendment, and I think we ought to know what we are doing. We have before us a proposal which seeks to open the door to the Federal Government becoming the sole purchasing agent of foreign oil. It is subtly drafted to relate to section 13 of the Emergency Petroleum Allocation Act, which gives the President standby authority to be the exclusive purchasing agent of foreign oil in an emergency.

The gentleman from Michigan is not trying to be cute. He comes in here and he says that this is the amendment that he offered, but does it in a different way. He wants to provide for this agency to be the sole agency for purchasing foreign oil.

That section which the gentleman refers to, section 13 of the Emergency Petroleum Allocation Act, gives the President standby authority to be the exclusive purchasing agent of foreign oil in an emergency. I emphasize again the emergency requirement. The gentleman

is seeking to establish an administration which would have the authority to do so under existing law. He would create a permanent administration for an emergency which may never arise. According to the gentleman's amendment, he would establish within the Department a Public Energy Administration. That would not have any function at the present time unless the provisions of section 13 of the Emergency Petroleum Allocation Act are brought to bear. Then the President would, in accordance with this law, delegate that responsibility to this administrator. So, in essence, he would be doing exactly what the gentleman proposed when he attempted to get his amendment through the committee. What he is doing, then, is attempting to set up an administration which would grow weary of waiting for that emergency to happen and then the gentleman could sponsor at some future date a bill to make that authority permanent and not related to an emergency. I think the amendment is wrong. I oppose the concept of the Government being the purchasing agent of foreign oil. I strongly believe that such a provision will create a momentum of its own to attempt to establish such purchasing authority as a continuing authority.

We have heard many arguments these past 2 days about the encroachment of the Government into our lives through this new department. If we want to insure that this will happen, this amendment will accomplish that.

Mr. Chairman, I would also point out that I have been informed under section 13(e) the FEA last year submitted a report in which they said that the Federal Government should not be the purchasing agent for foreign oil.

Mr. Chairman, I urge the defeat of this amendment. I think it is more than just a matter of organization. I think it is a matter of public policy, and I think that the consideration of this amendment is without merit. I urge its defeat.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Chairman, I would like to point out that the gentleman's arguments, which, of course, I think are appropriate to his position on the subject, would be better debated in another committee. We are not here to argue whether the standby purchasing authority of the President should be revoked or not. All we are doing is setting this up in the Department of Energy.

Mr. HORTON. The gentleman argued against me when I made a point of order. I agree with the gentleman that what we are doing here is establishing a matter which ought to be handled under another committee. I urged that it not be considered here. The gentleman argued against it. We are now considering it. I do not think we should be considering it. If we do consider it, I am opposed to it.

Mr. CONYERS. If the gentleman will yield further, we are not arguing whether or not we are for or against the standby

purchasing authority. That is the law now.

Mr. HORTON. That is right.

Mr. CONYERS. If it is the law now and the gentleman does not like it, we cannot repeal that law in this spirit on this day in this way.

Mr. HORTON. I certainly do not want to take the position through the gentleman's amendment that I support what the gentleman tried to do in the full committee. I am opposed to the administration being the agent for foreign imported oil.

Mr. MOFFETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS), as modified.

The question was taken; and on a division (demanded by Mr. CONYERS) there were—ayes 16, noes 34.

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment, as modified, was rejected.

Mr. FISH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I ask for the attention of the chairman of the full committee, the gentleman from Texas (Mr. BROOKS), and also for the attention of the gentleman from Florida (Mr. FUQUA), if he is in the Chamber at this time.

Mr. Chairman, I rise as a member of the Committee on Science and Technology, in the absence of a majority of the leadership of that committee, the chairman, the ranking member, and the chairmen of the two subcommittees that deal with energy, the gentleman from Washington (Mr. MCCORMACK) and the gentleman from Alabama (Mr. FLOWERS).

The reason I take this time is that the gentleman from Alabama (Mr. FLOWERS), the gentleman from Washington (Mr. MCCORMACK), and the gentleman from Florida (Mr. FUQUA) testified before the Committee on Government Operations at the time of the consideration of this bill, expressing their deep concern over ERDA's place in this bill and about the degree of emphasis on research, development, and demonstration in this bill. In other words, how the bill structures the Department to further the very programs which the Committee on Science and Technology has been encouraging ERDA to undertake over the last several years.

I think it is worthwhile, Mr. Chairman, to mention these facts. The gentleman from Florida (Mr. FUQUA), during the hearings on this bill, said that ERDA was just beginning to function as an agency.

If we recall, Mr. Chairman, originally its main emphasis was on nuclear power, and it is growing in its strengths in broad ranges of energy research, development, and demonstration. Mr. FUQUA voiced the concern that a further shake-up would set back the efforts to solve our energy problems.

Mr. Chairman, I quote the gentleman's testimony before Government Operations with reference to ERDA. He said:

It is just beginning to function now as an agency. To have it subjected, maybe, to another tearing apart and putting back together would leave a certain period of inertia that may not be in the national interest.

Secondly, the chairman of one of our subcommittees on energy, the gentleman from Alabama (Mr. FLOWERS), expressed his concern that energy research and development must be emphasized in any new department.

Mr. Chairman, reading from the testimony of the gentleman from Alabama (Mr. FLOWERS), he said:

One of the basic concerns I have is that R&D which is very important for our energy policy goals doesn't appear to be given the strong and central role it deserves, either in the bill or the explanation.

Further, in the course of the hearing, the chairman, the gentleman from Texas (Mr. BROOKS), asked a question of the gentleman from Washington (Mr. MCCORMACK):

The proposed organization of the Department of Energy places energy research and development in at least 5 separate units. Do you believe that this division of research and development may have an adverse effect?

Mr. MCCORMACK replied:

Definitely; I do. I think it would be catastrophic for this country to do that.

I believe it is essential that we create an under-Secretary having all responsibility for energy research, development and demonstration.

Mr. Chairman, my fear, as I stated before, is that the structure of this Department does not make possible needed emphasis on research, development, and demonstration.

We have, yesterday, the statement of the chairman, the gentleman from Texas (Mr. BROOKS), in which he stated:

As the gentleman knows, I did not prefer naming all of the Assistant Secretaries, but when the committee adopted an amendment allocating functions among the Assistant Secretaries, on a bipartisan effort by Republicans and Democrats, several of those Assistant Secretaries particularly the Assistant Secretary for Fossil and Nuclear Energy Technologies and the Assistant Secretary for Solar, Geothermal, Recycling, and Other Technologies, will have the responsibility for policy and management of research and development, including demonstration. About five Assistant Secretaries will have some research requirements and responsibilities.

That is why I am expressing the fear that we have fragmented something that we have nursed along for years. It could be answered that there is an Assistant Secretary for Policy in a position to coordinate the research and development, but I point out to the committee that, an Assistant Secretary is only the peer of the other seven who have responsibilities in this field, and certainly not a supervisory figure. I certainly would have preferred to have this whole emphasis placed under an Under Secretary.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. FISH was allowed to proceed for 2 additional minutes.)

Mr. FISH. So, Mr. Chairman, as I say, I fear fragmentation. I am not satisfied

that the degree of emphasis that is needed in the area of research, development, and demonstration to make meaningful strides toward solving our national energy problems exists in the legislation we are considering.

If I am mistaken, Mr. Chairman, I would certainly appreciate being corrected on this point.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I would say to my distinguished friend, the gentleman from New York (Mr. FISH), that ERDA will have the benefit of screening their actions with the other agencies involved in energy and research. I think that the research and development will, as the gentleman now in the well says, be in five different administrations under the Department of Energy, but it will be coordinated. In addition to that, yesterday we created an additional Administrator for Research who, theoretically, will coordinate it for the benefit of the universities and scientists who benefit directly from it and make their great contributions to the Government.

Mr. FISH. The chairman is referring to the amendment offered by the gentleman from California (Mr. MOSS) that could be referred to as the university amendment. This concerns basic research, research in new areas, but I do not think it would have applicability to technologies aimed at commercial applications.

I will be happy to be proven wrong, if that is not the case, because I think it is very important that there is this total research, not in just research and development, but on practical demonstrations.

Mr. BROOKS. We require some demonstration projects. Research, development, and demonstration are included in the legislation.

Mr. FISH. So that the chairman, the gentleman from Texas (Mr. BROOKS) is confident we can move forward with research, development and demonstration under the structure of this reorganization bill without fragmenting the present responsibilities of ERDA?

Mr. BROOKS. I am.

Mr. FISH. I thank the chairman.

Mr. TREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose this bill because I have grave doubt that it will be helpful in achieving its perceived purpose—solving our energy problems.

The issue posed is whether structural realignment is necessary or even helpful, or whether our needs can be met just as well by existing agencies with modifications to those agencies where needed.

We do have an enormous energy problem in this country, and the natural reaction is: Why not create a Department of Energy? One could also make the same kind of argument about our water problems. Why not create a Department of Water?

What I am suggesting is that there is no necessary logic in creating a new department based on the subject matter of a problem, rather than dealing with



that problem on a functional basis through established departments and agencies. The Interior Department is capable of handling Federal leasing of offshore lands for mineral production, with the President setting policy within the guidelines established by the Congress. The Commerce Department is capable of making decisions within its authority in a way that implements energy conservation policy. The Department of Transportation is probably best equipped to apply energy policy and regulations with respect to the various modes of transportation falling within its jurisdiction. The same situation exists with other departments and agencies.

If we are going to focus in on the energy "problem" why not draw into this Department all of the policymaking and regulatory functions of all other departments and agencies of Government that have an effect on the energy problem? To do that, of course, would be to strip virtually every department and agency of Government of substantial portions of their historic jurisdictions. Where does one draw the line? Is there any logical criteria for determining what authority should be given over to the Department of Energy and what should remain with established agencies? The difficulty of defining the division of responsibility between the Interior Department and the new Department of Energy with respect to Outer Continental Shelf leasing and production proves the point.

But what of the existing structure for handling the various aspects of our energy problems? Can one say that the Energy Research and Development Administration will be more efficient and productive if it is part of a Cabinet department? Will Outer Continental Shelf production be better handled by the DOE rather than the DOI? Will the Federal Energy Administration, with its pricing and allocation powers, really function better in a new department? Will nuclear policy and regulation be enhanced by putting some authority over nuclear power in a new department?

I have seen nothing that convinces me that the answers to these questions are in the affirmative. Those who advocate a change in existing structure have the burden of proof. Without that proof should we make changes which will, at a very minimum, result in a period of great uncertainty because of inevitable transitional problems?

I have two other concerns. First, it seems to me that we should defer consideration of the creation of a new Department of Energy at least until the Congress and the President have worked out our overall energy policy. This will happen over the course of the next few months as the Congress takes up the administration's energy proposals. It seems to me that we would have a much better idea of the kind of structure we need for the implementation of energy policy after we have shaped that policy.

Finally, and perhaps most important, I fear that the creation of a Department of Energy will institutionalize Federal involvement in all aspects of energy production and use. It is my hope, shared in

by many in the Congress, that we will be able to diminish Federal control over the energy industry as we work our way out of our current problems. I doubt that this will ever happen if we create a Department of Energy with the usual voracious appetite of departments to increase their spheres of power and responsibility. The bureaucracy will feed upon itself, and our hopes for returning to a productive free market with regard to oil, gas and other forms of energy will be shattered.

What happened to Presidential candidate Jimmy Carter's hand-wringing about the growing Washington bureaucracy? His campaign promises to get the Government out of our lives? His rhetoric about faith in the American people to make their own decisions? His vow to cut down on the size of the Federal Government? Are we to assume that these promises are to be sacrificed to a "new enlightenment" like the written promise during the closing days of last fall's campaign to deregulate the price of new natural gas?

I am not trying to make a case for the immediate destruction of all Government instrumentalities that presently deal with aspects of the energy problem. I am trying to sound the alarm about creating another governmental octopus which could strangle the economy of this country by completely programing that economy through the control of its lifeblood: energy.

The CHAIRMAN. The Clerk will read. The Clerk read as follows:

#### TITLE VIII—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 801. (a) The provisions of this Act shall take effect one hundred and twenty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II and title IV of this Act may be nominated and appointed, as provided in those titles, and (2) the Secretary may promulgate regulations pursuant to section 708(a)(2) of this Act at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), functions of which are transferred to the Secretary or the Commission by this Act, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(b) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act, the President may designate any officer, whose appointment was required to be made by and with the advice and consent of the Senate and who was such an officer immediately prior to the effective date of the Act, to act in such office until the office is filled as provided in this Act. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

Mr. BROOKS (during the reading). Mr. Chairman, I ask unanimous consent that title VIII be considered as having been read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. BROYHILL

Mr. BROYHILL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROYHILL: On page 130, after line 11, add the following new title:

#### TITLE IX—SUNSET PROVISIONS

Sec. 901. The provisions of this Act shall expire on December 31, 1982.

Mr. BROYHILL. Mr. Chairman, this is a very simple amendment. This is a sunset amendment. We have been hearing a lot about proposals to have the life of agencies come to an end at some point in time. A number of Members are offering bills that would accomplish this purpose, so I am offering a sunset amendment to this bill which would say that the authorities and provisions in this act would expire in about 5 years.

What it would do is it would force the Congress to review the activities of this agency. It would not necessarily mean that the new Department would come to an end. I am sure that in the 97th Congress the Congress will be conducting full-scale hearings and will be coming in here with legislation either to continue the agency, to revise it, to amend it, or whatever.

Mr. Chairman, this is a \$10 billion agency at the outset with 20,000 Federal employees, an agency with awesome power to control energy which is needed to operate our economy. Energy is needed to keep us working in this country, and this new Department and the Secretary of this Department will be able to control when we will have energy available, where we are going to obtain energy, what price will be paid for that energy, and who will produce it. Energy is the lifeblood of our economy. Without adequate energy supplies, jobs will be lost, standards of living will drop. He who controls energy supplies in this country controls the economy. All I am asking is that the Congress review the activities of this agency. The Congress does a very good job of setting up different offices, agencies, and departments of the Federal Government, but the Congress does a very poor job of reviewing the activities and the track records of those agencies. I would urge that we adopt this sunset amendment to insure that the Congress will do an adequate job of legislative review and oversight at the proper time.

Mr. MOSS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I invite the attention of all Members to the language in section 623 at the top of page 116:

Appropriations to carry out the provisions of this Act shall be subject to annual authorization.

It means that there are going to be two oversights—the annual authorization of funds and the annual appropriation of funds.

We are starting down a path here that troubles me. Yesterday we adopted the amendment that requires that all rules and regulations be in a state of suspen-

sion for 90 days while the Congress is in session. I do not know what happens when we are out of session for 90 days as we were last year. I suppose the rules and regulations would wait then for 180 days or more before they could become operative. But now we are going to have whole departments cease to exist unless we reauthorize the entirety.

Members who have been around here very long know exactly what is going to happen. We will end up with every department and agency operating under a continuing resolution, and there will be no sense of stability to government. This is one of those packages that looks attractive on the outside, but if we think about it at all and apply just a little of the facts that we have learned in Government or in business or in any other activity, we know we do not achieve efficiency through creating uncertainty. This amendment would create a great deal of uncertainty.

We have adequately assured a review by the Congress both through the authorizing mechanism and through the appropriating mechanism. Let us not go to this ridiculous extreme of calling it "sunset" but let us go beyond the sunset to the rule of reason and adopt reasonable laws, not ridiculous ones.

Mr. CUNNINGHAM. Mr. Chairman, I rise in strong support of the amendment offered by my colleague, the gentleman from North Carolina (Mr. BROYHILL). His amendment is simple. It sets a date when the Department of Energy will close its doors if it has not proven to be an effective addition to our Government's policy machinery.

Sunset legislation was a concept I strongly supported as a member of both Houses of the Washington State Legislature. I did so at that time because I saw that a government agency tends to grow and have a life of its own, once it is created. It becomes almost unstoppable, like Frankenstein's monster. It creates its own followers in the community, its own fans in legislative bodies that fund it, and a safe and secure home for numbers of bureaucrats whose jobs are tied to its continued life.

Setting a date for agency termination is even more vital when it comes to Federal legislation. For, here in Washington, D.C., more agencies come into life and people back home tend to forget what they cost and the burden these agencies place on their lives. The result is that the public becomes more and more unhappy about a government that does not listen and that seems not to care.

The Department of Energy is created to set policy and to unite us behind certain goals that sound noble. I hope it does not become a pest to the consumer and the businessman, as so many have in the past. We can help to guarantee its responsiveness to us by approving the Broyhill amendment and other amendments that would give Congress a vehicle to bring the agency back to a common-sense approach if, like so many in the past, this agency begins to wallow in its own power.

I urge my colleagues to join me in supporting this excellent amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. BROYHILL).

The question was taken; and on a division (demanded by Mr. ROUSSELOT) there were—ayes 36, noes 22.

Mr. BROOKS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

Mr. FINDLEY. Mr. Chairman, the more I ponder the energy requirements of our Nation, the more convinced I am that we must place our confidence in the private sector, as contrasted with the authority of Government.

The principal function of Government in economic life should be to establish and maintain adequate levels of competition in the private sector—and then permit the disciplines of competition and profit incentive to produce the supplies that the public demands.

This bill to establish a Department of Energy moves, I feel, in the wrong direction.

It will have these bad effects:

First. It will tend to institutionalize and therefore make permanent the energy crisis;

Second. It will establish a bureaucracy with a built-in bias for permanent Government management of energy in all its aspects; and

Third. It will inhibit the functioning of marketplace disciplines.

Government has already thrown too many roadblocks in the way of energy development and distribution. Controls over pricing in interstate commerce of natural gas supplies have made this form of energy unnecessarily scarce. Restrictions on pricing of crude oil produced in the United States have discouraged production tended to increase our dependence on outside supplies.

Government is already involved too heavily in the business of regulating the energy business. And Government regulation is a powerful opiate. Witness the recent tendency of sectors of the petroleum industry to ask for extensions of the Federal energy allocation system. One can even hear murmurs of applause and appreciation for the Federal Energy Administration from the giants of the petroleum industry.

In my view, Government action for the most part will tend to delay the constant and essential readjustment of our energy system. Government edict will lie between the user and producer to the disadvantage of both.

Given the opportunity, our marketplace system will produce adequate supplies of energy indefinitely. Of that I am confident. As one form becomes scarce and therefore more costly, other forms will become profitable.

The FEA was established as a short term emergency authority. There is nothing temporary or short term in respect to the proposed Department of Energy. It will be here to stay. Its employees will busily construct plans, proposals, and authorities to justify their existence for evermore.

Once the Department of Energy is es-

tablished our Nation will never again be without an energy crisis. You can depend on that.

Mr. DRINAN. Mr. Chairman, I rise in strong support of the Conyers amendment to the Energy Organization Act (H.R. 6804), which would authorize the Federal Government to bargain as the sole importer of foreign petroleum.

The time has come for us to seriously question the symbiotic relationship between the multinational energy corporations and the OPEC cartel—an anti-competitive arrangement by which bargaining for lower prices has been virtually eliminated at the expense of the general public. We must admit that the oil giants not only lack the leverage to stand up to OPEC, but an economic incentive to do so.

Faced with no threat of being undercut by competition from fellow importers, the energy corporations are content to allow high-priced OPEC oil to artificially inflate the price of domestic oil and natural gas. Considering that five of the largest oil importers control 42 percent of our domestic crude reserves, it can hardly be in their interest to provide a competitive rate when they can merely pass along price increases to independent refiners and other purchasers of foreign oil.

Tolerating the whims of the OPEC cartel is not just the easy way out for the "Seven Sister" companies of energy importation: it is a corporate windfall. The hard-pressed American consumer—as might be expected—comes out on the short end.

The response to this problem embodied in the Conyers amendment is not a radical one and is certainly nothing new. Economists have long recognized that only if U.S. oil purchases are made en bloc can the OPEC cartel be effectively countered, and amorphous authority for the Government to do so was granted under the Energy Policy and Conservation Act of 1975 as signed by President Ford. The language proposed by my colleague from Michigan (Mr. CONYERS) seeks to clarify this discretionary authority, delineate its administration by the Department of Energy, and provide assurances that the public interest will be better protected and future energy costs minimized in accord with the expressed will of Congress.

I commend the gentleman for bringing this amendment to the floor, and reaffirm the support of the proposal which I initially expressed in the full Committee on Government Operations. This is legislation which is long overdue, and an effort which we owe to those millions of Americans who needlessly pay the price of economic collusion. I urge its passage.

Mr. Chairman, I might also give mention to an amendment to H.R. 6804 offered by the gentleman from California (Mr. MOSS) and adopted by the House yesterday, which would establish an Office of Energy Research within the Department of Energy. There exists an urgent need to coordinate energy R. & D. among the jurisdictions of the several



Assistant Secretaries of Energy, especially as this relates to basic supporting research in areas such as superconductivity and plasma physics. The proposed Office would serve this function in a coordinating capacity at the secretarial level, and thus I urge continued support of the Moss amendment in conference as an effective means of providing continuity of research in the basic energy sciences.

Mr. McDONALD. Mr. Chairman, the proposed Department of Energy reminds me of the proverbial bride who has been left standing at the church with no husband in sight—all dressed up and no place to go. This legislation guarantees 20,000 employees and \$10.6 billion kindling money for an agency whose purpose and goals are yet to be determined by this Congress. It seems to me that we are approaching this challenge backwards. Why, when we have in committee the most complex and far-reaching piece of energy legislation since World War II, should we put the cart before the horse, and lock this new Department into a process which may not fit the ultimate policy.

Indeed there are, I would wager to guess, such profound differences of opinion in this body as to the role and extent of the Government's rightful place in the energy-producing sector that any agency would be justly confused over its mandate.

For example, is the new Department to be the seedling from which a Federal Oil and Gas Company—FOGCO—would begin? Clearly President Carter's recommendations for Outer Continental Shelf basing make this a possible conclusion.

Or is the Department merely to be the central coordinating agency for a wide variety of limited energy research programs, with the private sector taking the lead in the exploration, development and sale of natural gas, oil, coal, and soon futuristic forms of energy supply.

As an example, take natural gas. The President's policy calls for Government control not just of the wellhead price for interstate gas, but also for Government regulation of and thus a wellhead price cut for that gas sold intrastate. Many Members of this body think that the whole idea of the Government controlling natural gas prices is harmful.

Members who oppose this extension of Government power, as I do, point to the fact that Government intervention in the interstate market has caused the supply of this safe, clean-burning fossil fuel to be cut; caused a crisis last winter which resulted in perhaps as many as 2 million being laid off, and for all this the price to heat a household in the Midwest and Northeast skyrocketed.

Then, during the darkest and coldest days of the crisis, it was to the free market priced intrastate gas that our Government turned and called for help and was rescued.

The economic arguments for deregulation are not difficult, but they are elusive. Why do the Government and some of the big oil companies believe that price controls are the answer? It is simple. The Government does it because they do not understand the economic realities involved, and the few major oil companies

support government price regulation because they do understand the economic realities and what it means to their vested interests.

First, let us deal with the Government's misconceptions. They fear two things: That there is not enough natural gas in the United States, which geologists tell them is wrong, and that the price to supply what is there will be too high for the consumer.

There is no problem with the supply of natural gas in the United States. ERDA has a study which shows that at free market prices of \$2.25 over 60 years of natural gas is easily available. If that price rises to between \$2.50 and \$3 per thousand cubic feet another 20,000 trillion cubic feet or 1,000 years of natural is readily available from geopressurized methane. This ERDA study simply confirms what the best economic advice has said for years—natural gas is plentiful at reasonable prices.

Still the question of consumer costs remains to be answered. To understand the problem one must realize that the consumer gas bills have skyrocketed not due to the price of domestic natural gas, but due to the marginal supplies of extremely high priced—that is over \$3 per thousand cubic feet—foreign substitutes such as liquefied natural gas. Thus the prices paid for these additional increments were much higher than the decontrolled price of domestic natural gas. Thus, the price controls stopped the relatively cheaper domestic natural gas from being produced and supplied and instead, forced the consumer to substitute much higher priced foreign source fuels.

One other problem added to the increase in natural gas prices. The pipeline costs which are the same no matter how much gas is flowing, had to be amortized over fewer units of gas and thus the price of domestic natural gas was increased to pay for the unused capacity of the pipelines.

Some of the major oil companies are only too familiar with the economics involved. Mobil intends to spend \$4 to \$6 billion in the next 5 years to develop high-priced Indonesian gas. Phillips Petroleum has multibillion-dollar programs for high priced North Sea oil and gas and also for Indonesian natural gas. El Paso Natural Gas Co. has a billion dollars firmly committed to buy liquefied natural gas tankers to be used to import high-priced foreign fuel. Exxon has enormous investments tied up in high-priced synthetic natural gas.

All of these substitutes will cost more than the current free market price for natural gas. Thus their interest lies in stopping the development of the vast quantities of domestic natural gas. To do this, they support the Carter administration's proposed \$1.75 per thousand cubic feet ceiling. And the consumer will pay extremely high marginal cost for foreign substitutes. Only the Government and the few major oil companies who bet on foreign gas substitutes over domestic natural gas come out ahead under price controls. Small domestic independents and, more importantly, the consumer, loses.

Clearly there are some difficult policy decisions to be made before we hastily

grant to one man, and a political appointee at that, the potentially incredible powers over energy supply and price. Considering the lack of policy direction at this point, such a move would be folly. Let us at least forge the policy and the goals before we invent the structure in which they are to be housed.

Mr. KEMP. Mr. Chairman, I rise in opposition to this legislation creating a new \$10 billion bureaucracy, the Department of Energy. Far from helping America meet its need for additional supplies of energy, the creation of such a bureaucracy will have exactly the opposite effect. It will reduce even further the available supplies of petroleum and natural gas by perpetuating the Government policies which created the present shortages in the first place.

Our present shortage of oil and natural gas is entirely the creation of Government price controls. If the price of natural gas, for example, had not been held to the artificially low price of 52 cents per thousand cubic feet for many years, this country—and especially western New York—would have the natural gas it so desperately needs. As it now stands, western New York is importing natural gas from Canada at well over the price set domestically by the Federal Power Commission—at times as high as \$3.70 per thousand cubic feet.

Those who say we are running out of natural gas and point to the steady reduction in proven reserves are totally ignoring the fact that proven reserves relate to an artificially low price. There are estimated to be anywhere from 100,000 to 250,000 trillion cubic feet of natural gas in the Texas gulf coast region alone, at a price above the FPC controlled price, of course. Even if we assume that some of this gas is beyond the reach of current technology, this would be more than enough to last the country for hundreds of years, even at increased rates of consumption. And the same goes for certain oil reserves as well.

There is only one thing which prevents the development of these new energy supplies: the right price.

What is the right price? Some people think it would be some astronomical figure which would totally impoverish the Nation. In fact, a price of just over \$2 per thousand cubic feet would be very likely to bring a considerable amount of new natural gas on line. The present decontrolled price for natural gas sold intrastate in Texas, for example, is only around \$1.70 per thousand cubic feet. At a price of about \$2.50 per thousand cubic feet there is no doubt whatsoever that drillers would be able to begin exploiting the vast reserves of gas which lie at depths of 15,000 feet or more. Consequently, on behalf of the consumers of natural gas that I represent, and the workers whose jobs are at stake, we must stop this insanity of discouraging domestic exploration.

I personally have no doubt whatsoever that the retail price of natural gas would fall within a short time after drillers had recovered their initial investments, and we would be left with a price for natural gas which is lower than the present price—which in many cases ranges way up over \$3 per thousand cubic feet at the

retail level now. And the decontrolled price would certainly be less than the price frequently discussed for importing liquid natural gas from Algeria, at as much as \$4 per thousand cubic feet, or manufacturing synthetic natural gas at even higher prices.

The reason why I am so concerned about this is that I represent an area of the country which is very heavily dependent on uninterrupted supplies of energy, to heat our homes and keep our businesses and factories running. The energy issue is the jobs issue, and I intend to see that the workers and homeowners in my district do not lose their jobs or their fuel supplies because of government policies which prevent them from getting adequate amounts of energy at reasonable prices.

The alternative to energy decontrol would, in fact, lead to a vast increase in energy costs considerably above the free market level. Liquid natural gas, synthetic oil and gas, atomic energy, and other exotic energy sources all would cost more than the decontrolled price of domestic oil and natural gas. Big energy corporations know this and are gambling billions of dollars on being able to get these higher prices, either because a Government-caused crisis necessitates their use at any price, or because the Government subsidizes their production sufficiently to lower the retail price. This is especially true in the areas of energy research and development, where companies openly demand subsidies for atomic energy or synfuel development which cannot possibly be justified otherwise. Furthermore, many of these exotic forms of energy are among the most environmentally harmful alternatives that exist. I say, why take the risk if we do not have to?

We can assume that the new Department of Energy will not become the leader of a decontrol solution for energy. Thousands of bureaucrats already depend for their jobs on the maintenance of the cumbersome and complex Government price controls which presently exist. Can we reasonably assume they would support elimination of these controls when they know it will cost them their jobs? Experience teaches us that they are very unlikely to do so.

As a matter of fact, there is already evidence that officials of the Energy Research and Development Administration are deliberately suppressing evidence which supports the availability of natural gas at a slightly higher price. According to the Wall Street Journal, an ERDA study called the Market Oriented Program Planning Study calculated that at \$2.25 per thousand cubic feet the Nation would be awash with natural gas, and at \$2.50 to \$3 completely engulfed with it. Since this study contradicted the ERDA position, a revised study was ordered to refute the first one. The new study supported ERDA's view that decontrol would mean gas prices vastly above the \$2.50 level.

Prof. Milton Friedman has called the Department of Energy a Trojan horse, because it will enthrone a bureaucracy with a vested interest in expanding the Government's control over energy. He feels—and I think rightly—that this De-

partment will just be one more step on the road to a totally controlled economy from Washington, D.C.

As I have noted, the big corporations do not dislike the Department of Energy idea at all. They are the recipients of Government contracts and subsidies for energy research and development. The people who need to be encouraged are the independents, who go out and risk all in an attempt to find new sources of energy. But to make them take such risks, artificial pricing is a total discouragement.

We do not need an energy czar. We do need less Government interference with the price mechanisms in the market which provide incentives not only for conservation, but for production of new supplies of existing and alternative sources of energy. Nor can the cost of a new Energy Department be justified on grounds of cost efficiency. As the Wall Street Journal recently noted:

A Chevron statistician has been sizing up the \$10.6 billion budget of the proposed new Department of Energy. For example, it is about double the value of all the oil the U.S. imported from Saudi Arabia last year. It exceeds capital and exploration expenditures by the petroleum industry to find and produce oil, gas and gas liquids in the U.S. in 1975. It exceeds by \$800 million the 1974 profits of the seven largest international oil companies; Chevron can't resist adding that those profits were described by a U.S. Senator as "obscene." It is equivalent to about \$3 a barrel of domestic crude oil production, which means, if our own arithmetic is correct, that you could decontrol all domestic crude oil prices and still end up paying less for oil than the federal energy bureaucracy costs. And one should keep in mind that the \$10.6 billion is only the cost of the newly born baby DOE. Think what it will cost when it grows up!

And even if the cost could somehow be justified, I do not believe we can safely vest such incredible power in the hands of one individual as the Secretary of Energy will have. As my colleague, Mr. ARMSTRONG, of Colorado, recently noted:

The truly ominous aspect of H.R. 6804 is the extent to which it will consolidate unprecedented power over energy producers and consumers in the hands of one person. In a Nation whose very essence is freedom, Congress should go slow in giving any person the kind of power granted to the new Secretary of Energy under this legislation:

Oil pricing and allocation, conservation, coal utilization, strategic petroleum reserve, energy information, resource development; Natural gas regulation, interstate wholesale electric rate setting, and hydroelectric licensing;

R. & D. in fossil, nuclear, fusion, solar, geothermal, and conservation—energy efficiency—uranium enrichment and production, military applications and safeguards, environment and health research;

Power marketing functions—the power marketing functions of Bonneville, Alaska, Southwestern, Southeastern Power, and Defense Electric Power Administration; and the marketing power by the Bureau of Reclamation—coal mine production research, fuel data, production goals;

Naval Petroleum Reserves No. 1, 2, 3, and Naval Oil Shale Reserves No. 1, 2, 3;

Pipeline valuation, pipeline rate setting; Industrial energy conservation program; New buildings energy efficiency standards—program will continue to be carried out through HUD;

Competitive bidding among companies for Federal leases, use of alternative bidding

systems, production rates, due diligence requirements that mandate development of a lease within a certain time limit, distribution of lease revenues; and, the authority to approve all economic terms and conditions of leases;

Authority over electric utility mergers; Authority to approve loans made by the Agriculture Department's Rural Electrification Administration for construction, operation, or expansion of utility plants, and a role in advising the Department of Transportation on automobile efficiency standards;

A total of 20,000 employees and a \$10.6 billion budget.

It sounds appealing to vote for an agency that might help coordinate energy policies in a comprehensive manner, but this goes too far and costs too much.

Lastly, I would like to say that I do not believe the panic atmosphere created by President Carter in proposing this legislation is at all justified. America has had less than a dozen years supply of oil left for a hundred years. As early as 1886 the Government was concerned about developing synthetics for when the crude oil production ran out. In 1891, the U.S. Geological Commission stated that there was little likelihood that oil existed in Texas. And in 1914 the Bureau of Mines estimated total future U.S. production of crude oil at 6 billion barrels—an amount which has been produced every 20 months for years. This doomsday syndrome is a consistent pattern in American history which has always been proven wrong.

All that is needed to solve the energy problem is to turn the creative and productive powers of the incentive system. The solution does not lie in institutionalizing a Government energy bureaucracy and spending more than \$10 billion of the taxpayers hard-earned money.

Mr. FORD of Michigan. Mr. Chairman, I favored the amendment offered by the gentlewoman from Maryland (Mrs. SPELLMAN) as previously adopted. I was very concerned over section 704 of the measure calling for the creation of a new Department of Energy. As you know, section 704 of this bill, as reported, granted employees from the consolidated agencies reemployment rights for only 120 days from the effective date of the act.

I believed the 120-day period was too short and I raised the question of what constitutes a reasonable period of time in which to extend employees' reemployment rights.

Title 5 of the Code of Federal Regulations, section 352.206, provides that reemployment rights in executive agencies normally expire at the end of a 2-year period unless exercised before that time. I felt this 2-year period was also appropriate for the new Department of Energy. As to be expected, the Department of Energy, as a new agency, will be going through a transformation period. In the beginning, all the employees of the various agencies being consolidated will be absorbed by the new Department. The Department will discover that all these employees will not be needed or new employees will discover that they are unhappy in their new duties. I believe, therefore, that a 2-year period will be ideal for the agency to establish itself and give employees the opportunity to evaluate their positions and seek employment elsewhere if desired.



A 2-year period will benefit the Department of Energy. Two years will give employees as well as the Department the time necessary to know which positions will be downgraded or eliminated and allow employees ample time to make reasoned decisions. The 120 days would not have given employees the time necessary to make decisions which affect their careers. If an employee had decided not to exercise reemployment rights within the 120 days as would have been required, he may have found himself out of work after 1 year as provided in section 702. Rather than take this risk, qualified employees who have worked in the existing energy programs would have bailed out before the 120 days had expired. Thus, the new Department would have been deprived of the expertise necessary to begin operation.

I believe my colleague's amendment eliminated another weakness of section 704 that was a great concern of mine. The bill, as reported, did not clearly specify that reemployment rights may only be exercised by the employee if he or she chooses to return to the parent agency. This amendment makes this distinction in order to prevent reoccurrences of past abuses in this area.

Several past abuses by the Federal Energy Administration quickly come to mind. One has resulted in a suit's being filed on behalf of a former FEA employee by the Treasury Employees Union. Another example involves an employee of the FEA whose reemployment right was exercised because of the agency's determination that her performance and attitude were lacking. FEA management decided that instead of proposing an adverse action they would simply return her to her former agency. By taking this action, the FEA deprived the employee of the procedural protections to which she was clearly entitled.

Mr. Chairman, as we all know, an adverse action can only be taken against an employee when it promotes the efficiency of the service. The employee must be afforded notice and a hearing. This employee would have preferred to remain with the FEA and defend her position. The FEA, however, successfully avoided proving the merits of their case by shunting her back to her original agency.

Reemployment rights, Mr. Chairman, were intended as a protection against interruptions in the careers of Federal employees and, moreover, as an inducement for employees to take a chance and accept a position in a new agency. This amendment prevents this shield from being turned into a sword and used against the employees of the Department of Energy to circumvent their procedural protections.

For these reasons, Mr. Chairman, I am pleased this amendment was adopted.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, H.R. 6804 is a bad bill and I cannot encourage its enactment.

There are a number of reasons why I believe this legislation is ill-advised and should be voted down. Granted, that consolidation of all energy functions of the Federal Government has some ap-

peal. H.R. 6804, however, goes much too far, and will discourage production in the private sector.

First, the legislation is premature. The administration has submitted a series of energy proposals which Carter himself termed "one of the most complicated legislative packages that a President has ever sent to Congress." We are now in the middle of considering this package, as well as other alternative proposals. It is inappropriate, in my view, to make a massive overhaul in the administrative branch of government in order to accommodate an energy policy which has not yet been firmly established.

Second, this legislation takes one more step toward omnipotent government.

We have heard it said often in the past couple of months that this agency will cut red tape, reduce paperwork, perhaps even reduce the number of people who have overlapping responsibilities in the general agencies to be combined. Still 3 months after the introduction of this proposal there are no plans or specifics to accomplish these worthy goals. In fact, all we have found out about internal operations is that no one will be fired or drop a grade for at least a year, and \$2 million will be needed for moving expenses.

Nobel Prize-winning economist Milton Friedman has recognized the ominous portents of this bill and has warned that—

A Department of Energy has the potential of being the most powerful, and the most harmful, of all Federal agencies. It would control the life-blood of our economic system. Its tentacles would reach into every factory, into every dwelling in the land. Our economic system has been able to survive the U.S. Postal Service. It has been able to survive Amtrak. I suspect that it will survive Conrail—though Conrail is potentially more harmful than its predecessors. But can our economic system survive Federal control of the pricing, the production, the distribution, the import of energy?

Do not be misled into supposing that the energy problem is a purely technical problem that engineers can solve. No government engineer is in as good a position as you are to decide whether you would rather use expensive energy for heating your home, driving your car, or helping to produce one or another product for you to buy. No government engineer is in as good a position as the owner of a factory to choose the most economical fuel for his purposes or the cheapest way to conserve energy. No government engineer can replace the market in calculating the indirect effects of energy use or conservation. And no government engineer will enforce the ever more numerous edicts that will come down from on high. That will be done by policemen.

Make no mistake about it. The establishment of a Department of Energy, with the powers requested by the President, would be a further major step toward converting our free-enterprise system into a corporate state.

Third, approval of this legislation will further entrench bureaucratic control over energy prices and the allocation of energy resources in this country—areas which should be governed by the forces of the free market. Government control over price and allocation has led in great measure to the shortages this country presently experiences. To extend this authority to the new Department of Energy

is to invite a continuation of the shortages and inefficiencies which are associated with bureaucratic tampering with sensitive market mechanisms.

Finally, it is highly likely that this new agency will impose great costs on the Nation's consumers and taxpayers. In the June 1 edition of the Wall Street Journal, the cost question was succinctly treated:

A Chevron statistician has been sizing up the \$10.6 billion budget of the proposed new Department of Energy. For example, it is about double the value of all the oil the U.S. imported from Saudi Arabia last year. It exceeds capital and exploration expenditures by the petroleum industry to find and produce oil, gas and gas liquids in the U.S. in 1975. It exceeds by \$800 million the 1974 profits of the seven largest international oil companies; Chevron can't resist adding that those profits were described by a U.S. Senator as "obscene." It is equivalent to about \$3 a barrel of domestic crude oil production, which means, if our own arithmetic is correct, that you could decontrol all domestic crude oil prices and still end up paying less for oil than the federal energy bureaucracy costs. And one should keep in mind that the \$10.6 billion is only the cost of the newly born baby DOE. Think what it will cost when it grows up!

In summary Mr. Speaker, this legislation is premature, enlarges the powers of the bureaucracy, extends price and allocation controls which will perpetuate the energy crisis—not solve it—and is unnecessarily costly. In short, it is the wrong bill at the wrong time and I urge its defeat.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NEDZI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 6804) to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes, pursuant to House Resolution 603, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. BROOKS. Mr. Speaker, I demand a separate vote on the so-called Broyhill amendment.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: On page 130, after line 11, add the following new title.

## TITLE IX—SUNSET PROVISIONS

Sec. 901. The provisions of this Act shall expire on December 31, 1982.

The SPEAKER. The question is on the amendment.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. BROYHILL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 202, nays 126, not voting 105, as follows:

[Roll No. 304]

## YEAS—202

|                |                |              |
|----------------|----------------|--------------|
| Abdnor         | Frey           | Moorhead,    |
| Anderson,      | Fuqua          | Calif.       |
| Calif.         | Gammage        | Mott         |
| Andrews, N.C.  | Gephardt       | Myers, Ind.  |
| Archer         | Gilman         | Nichols      |
| Armstrong      | Ginn           | Panetta      |
| AuCoin         | Glickman       | Patten       |
| Badham         | Goldwater      | Pettis       |
| Barnard        | Gonzalez       | Pickie       |
| Bauman         | Goodling       | Pike         |
| Beard, Tenn.   | Gore           | Quile        |
| Bedell         | Gradison       | Quillen      |
| Benjamin       | Grassley       | Rahall       |
| Bennett        | Gudger         | Railsback    |
| Bianchard      | Guyer          | Regula       |
| Blouin         | Hagedorn       | Rinaldo      |
| Bonior         | Hamilton       | Risenhoover  |
| Bowen          | Hansen         | Roberts      |
| Breckinridge   | Harsha         | Robinson     |
| Brinkley       | Heckler        | Rogers       |
| Brodhead       | Hefner         | Roussetot    |
| Broomfield     | Hightower      | Rudd         |
| Brown, Ohio    | Hillis         | Runnels      |
| Broyhill       | Holt           | Ruppe        |
| Buchanan       | Holtzman       | Russo        |
| Burke, Fla.    | Huckaby        | Santini      |
| Burleson, Tex. | Hughes         | Sarasin      |
| Butler         | Hyde           | Satterfield  |
| Byron          | Jacobs         | Sawyer       |
| Cavanaugh      | Jones, N.C.    | Schroeder    |
| Cederberg      | Jones, Okla.   | Schulze      |
| Clawson, Del   | Kasten         | Sebelius     |
| Cleveland      | Kemp           | Sharp        |
| Cohen          | Ketchum        | Shipley      |
| Coleman        | Keys           | Shuster      |
| Collins, Tex.  | Kildee         | Sisk         |
| Conte          | Kindness       | Skelton      |
| Corcoran       | Kostmayer      | Skubitz      |
| Cornwell       | Krueger        | Slack        |
| Coughlin       | Lagomarsino    | Smith, Nebr. |
| Crane          | Latta          | Snyder       |
| Cunningham     | Leach          | Spellman     |
| D'Amours       | Levitas        | Spence       |
| Daniel, Dan    | Lloyd, Tenn.   | Stangeland   |
| Daniel, R. W.  | Lott           | Stanron      |
| de la Garza    | Lundine        | Stockman     |
| Derwinski      | McClory        | Studds       |
| Dickinson      | McCloskey      | Stump        |
| Dicks          | McDonald       | Symms        |
| Dodd           | McEwen         | Thone        |
| Drinan         | Maguire        | Treen        |
| Duncan, Tenn.  | Mahon          | Trible       |
| Edwards, Ala.  | Markey         | Tsongas      |
| Edwards, Okla. | Marks          | Vander Jagt  |
| Emery          | Marriott       | Walker       |
| English        | Martin         | Walsh        |
| Ertel          | Mathis         | Wampler      |
| Evans, Colo.   | Mattox         | Watkins      |
| Evans, Del.    | Mazzoli        | White        |
| Evans, Ga.     | Meeds          | Whitehurst   |
| Evans, Ind.    | Michel         | Whitley      |
| Findley        | Mikva          | Whitten      |
| Fish           | Miller, Ohio   | Wiggins      |
| Flynt          | Mitchell, N.Y. | Winn         |
| Foley          | Moakley        | Wolff        |
| Fountain       | Moffett        | Wylie        |
| Fowler         | Montgomery     | Yatron       |
| Frenzel        | Moore          | Young, Fla.  |

## NAYS—126

|           |           |               |
|-----------|-----------|---------------|
| Alexander | Ashley    | Boland        |
| Allen     | Baldus    | Bolling       |
| Ambro     | Bellenson | Bonker        |
| Ammerman  | Bevill    | Brademas      |
| Annuzio   | Bingham   | Brooks        |
| Applegate | Boggs     | Brown, Calif. |

|                 |                 |               |
|-----------------|-----------------|---------------|
| Burke, Mass.    | Horton          | Patterson     |
| Burlison, Mo.   | Howard          | Pattison      |
| Burton, John    | Jenkins         | Pease         |
| Burton, Phillip | Johnson, Calif. | Perkins       |
| Carr            | Jones, Tenn.    | Preyer        |
| Collins, Ill.   | Jordan          | Rangel        |
| Conable         | Kastenmeier     | Reuss         |
| Conyers         | Kelly           | Roncalio      |
| Cornell         | Krebs           | Rooney        |
| Danielson       | Le Fante        | Rose          |
| Derrick         | Lederer         | Rostenkowski  |
| Dingell         | Leggett         | Roybal        |
| Duncan, Oreg.   | Long, La.       | Ryan          |
| Eckhardt        | Long, Md.       | Scheuer       |
| Edgar           | Lukens          | Simon         |
| Edwards, Calif. | McFall          | Solarz        |
| Ellberg         | McHugh          | Stark         |
| Erlenborn       | Meyner          | Stokes        |
| Fary            | Mikulski        | Stratton      |
| Fascell         | Minish          | Tucker        |
| Fenwick         | Mollohan        | Udall         |
| Fisher          | Moorhead, Pa.   | Ullman        |
| Fithian         | Moss            | Vanik         |
| Flood           | Murphy, N.Y.    | Vento         |
| Ford, Mich.     | Murphy, Pa.     | Volkmer       |
| Ford, Tenn.     | Murtha          | Walgren       |
| Forsythe        | Myers, Michael  | Waxman        |
| Gaydos          | Natcher         | Weaver        |
| Gialmo          | Nedzi           | Weiss         |
| Gibbons         | Nix             | Whalen        |
| Hanley          | Nowak           | Wilson, C. H. |
| Hannaford       | O'Brien         | Wright        |
| Harrington      | Oaker           | Yates         |
| Harris          | Oberstar        | Young, Mo.    |
| Hawkins         | Obey            | Young, Tex.   |
| Heftel          | Ottinger        | Zablocki      |

## NOT VOTING—105

|                |                |               |
|----------------|----------------|---------------|
| Addabbo        | Flippo         | Myers, Gary   |
| Akaka          | Florio         | Neal          |
| Anderson, Ill. | Flowers        | Nolan         |
| Andrews,       | Fraser         | Pepper        |
| N. Dak.        | Hall           | Poage         |
| Ashbrook       | Hammer-        | Pressler      |
| Aspin          | schmidt        | Price         |
| Badillo        | Harkin         | Pritchard     |
| Bafalis        | Holland        | Pursell       |
| Baucus         | Hollenbeck     | Quayle        |
| Beard, R.I.    | Hubbard        | Rhodes        |
| Biaggi         | Ichord         | Richmond      |
| Breaux         | Ireland        | Rodino        |
| Brown, Mich.   | Jeffords       | Roe           |
| Burgener       | Jenrette       | Rosenthal     |
| Burke, Calif.  | Johnson, Colo. | Selberling    |
| Caputo         | Kazen          | Sikes         |
| Carney         | Koch           | Smith, Iowa   |
| Carter         | LaFalce        | St Germain    |
| Chappell       | Lehman         | Staggers      |
| Chisholm       | Lent           | Steed         |
| Clausen,       | Lloyd, Calif.  | Steers        |
| Don H.         | Lujan          | Steiger       |
| Clay           | McCormack      | Taylor        |
| Cochran        | McDade         | Teague        |
| Corman         | McKay          | Thompson      |
| Cotter         | McKinney       | Thornton      |
| Davis          | Madigan        | Traxler       |
| Delaney        | Mann           | Van Deerlin   |
| Dellums        | Marlenee       | Waggoner      |
| Dent           | Metcalfe       | Wilson, Bob   |
| Devine         | Milford        | Wilson, Tex.  |
| Diggs          | Miller, Calif. | Wirth         |
| Dorman         | Mineta         | Wyder         |
| Downey         | Mitchell, Md.  | Young, Alaska |
| Early          | Murphy, Ill.   | Zerferetti    |

The Clerk announced the following pairs:

Mr. Thompson with Mr. Dent.  
Mr. Staggers with Mr. Cotter.  
Mr. Addabbo with Mr. Flowers.  
Mrs. Chisholm with Mr. Akaka.  
Mr. Lehman with Mr. Hall.  
Mr. Richmond with Mr. Downey.  
Mr. Rodino with Mr. Harkin.  
Mr. Biaggi with Mr. Clay.  
Mr. Kazen with Mr. Mann.  
Mr. Nolan with Mr. Steed.  
Mr. Carney with Mr. Pressler.  
Mr. McKay with Mr. Baucus.  
Mr. Traxler with Mr. Lujan.  
Mr. Davis with Mr. Madigan.  
Mr. Jenrette with Mr. Bafalis.  
Mr. Koch with Mr. Fraser.  
Mrs. Burke of California with Mr. Pepper.  
Mr. Zerferetti with Mr. Milford.  
Mr. Florio with Mr. Burgener.  
Mr. Waggoner with Mr. Smith of Iowa.  
Mr. McCormack with Mr. Holland.  
Mr. Corman with Mr. Mitchell of Maryland.  
Mr. Badillo with Mr. Early.  
Mr. Chappell with Mr. McKinney.

Mr. Flippo with Mr. Cochran of Mississippi.  
Mr. Murphy of Illinois with Mr. Dorman.  
Mr. Charles Wilson of Texas with Mr. Brown of Michigan.  
Mr. Teague with Mr. Hubbard.  
Mr. Price with Mr. Lloyd of California.  
Mr. LaFalce with Mr. Ireland.  
Mr. Sikes with Mr. Mineta.  
Mr. Metcalfe with Mr. Aspin.  
Mr. Ichord with Mr. Wyder.  
Mr. Rosenthal with Mr. Miller of California.  
Mr. Breaux with Mr. Bob Wilson.  
Mr. Delaney with Mr. Wirth.  
Mr. Beard of Rhode Island with Mr. Pritchard.  
Mr. Young of Alaska with Mr. Van Deerlin.  
Mr. Devine with Mr. Roe.  
Mr. Don H. Clausen with Mr. Hammer-schmidt.  
Mr. Steers with Mr. Neal.  
Mr. McDade with Mr. Marlenee.  
Mr. Lent with Mr. Selberling.  
Mr. Hollenbeck with Mr. Ashbrook.  
Mr. Taylor with Mr. Gary A. Myers.  
Mr. Quayle with Mr. Thornton.  
Mr. Jeffords with Mr. Anderson of Illinois.  
Mr. Carter with Mr. Steiger.  
Mr. St Germain with Mr. Rhodes.  
Mr. Caputo with Mr. Andrews of North Dakota.  
Mr. Dellums with Mr. Diggs.

So the amendment was agreed to.  
The result of the vote was announced as above recorded.

The SPEAKER. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

## MOTION TO RECOMMIT OFFERED BY MR. ARMSTRONG

Mr. ARMSTRONG. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the legislation?

Mr. ARMSTRONG. I am, Mr. Speaker. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ARMSTRONG moves to recommit the bill H.R. 6804 to the Committee on Government Operations with instructions to report the same back to the House forthwith with an amendment as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Department of Energy Organization Act".

## TITLE I—DECLARATION OF FINDINGS, POLICY, AND PURPOSES

Sec. 101. (a) The Congress of the United States finds that—

(1) the United States and the world face an increasing shortage of nonrenewable energy resources;

(2) this energy shortage presents a serious threat to the national security of the United States and to the health, safety, and welfare of its citizens;

(3) a strong national energy program is needed to increase the efficiency of energy use and availability of energy resources, particularly renewable energy resources;

(4) responsibility for energy policy execution, regulation, and research, development, and demonstration is presently vested in many agencies and departments, and this fragmentation hinders development of an effective Federal response to the energy shortage; and

(5) formulation and implementation of a



national energy program require the integration of certain Federal energy functions into a single department in the executive branch.

(b) It is the policy of the United States that—

(1) energy conservation shall enjoy the highest priority in any national energy program, and shall be carefully considered as an adjunct to programs to increase energy supply and as an option to programs that may present health, safety, or other environmental hazards;

(2) major emphasis shall also be given to the development and commercial use of solar, thermal, recycling, and other technologies utilizing renewable energy resources;

(3) in the conservation and development of energy resources, the energy needs of both rural and urban residents shall be given full consideration;

(4) the environmental and social consequences of any national energy program shall be analyzed and considered in evaluation of the program's potential;

(5) public participation in the development and enforcement of any national energy program shall be provided for, encouraged, and assisted; and

(6) to the maximum extent practicable the productive capacity of the private sector of the free enterprise system shall be utilized in the development and achievement of the policies and purposes of this act.

SEC. 102. The purposes of this Act are (1) to establish a permanent Department of Energy in the executive branch, (2) to vest in the Secretary of Energy such functions as are vested in, or transferred to, him by this Act, (3) to achieve, through the Department, effective management of energy functions of the Federal Government, (4) to provide the mechanism through which a coordinated national energy policy can be formulated and implemented to deal with the short-, mid-, and long-term energy problems of the Nation, (5) to safeguard and conserve our natural resources and environment, and (6) to promote the interest of consumers.

#### TITLE II—ESTABLISHMENT OF DEPARTMENT

SEC. 201. There is hereby established at the seat of government an executive department to be known as the Department of Energy (hereinafter in this Act referred to as the "Department"). There shall be at the head of the Department a Secretary of Energy (hereinafter in this Act referred to as the "Secretary") who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

SEC. 202. There shall be in the Department a Deputy Secretary, nine Assistant Secretaries, and a General Counsel, each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions as the Secretary shall prescribe from time to time. The Assistant Secretaries shall be designated as follows:

- (1) Assistant Secretary for Public, Congressional, and Intergovernmental Relations;
- (2) Assistant Secretary for Conservation;
- (3) Assistant Secretary for Defense Programs;
- (4) Assistant Secretary for Environment;
- (5) Assistant Secretary for Fossil and Nuclear Energy Technologies;
- (6) Assistant Secretary for Policy, Evaluation, and International Programs;
- (7) Assistant Secretary for Competition;
- (8) Assistant Secretary for Production and Resource Applications; and
- (9) Assistant Secretary for Solar, Geothermal, Recycling, and Other Energy Technologies.

SEC. 203. The Deputy Secretary shall act

for, and exercise the functions of, the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Secretary shall designate the order in which the Assistant Secretaries, General Counsel, and other officials shall act for, and perform the functions of, the Secretary and Deputy Secretary or in the event of vacancies in both of those offices.

SEC. 204. (a) There shall be within the Department an Energy Information Administration to be headed by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. Such Administrator shall be a person who, by reason of professional background and experience, is especially qualified to manage an energy information system. There shall be transferred to and vested in the Administrator (on a nonexclusive basis as the Secretary may determine) all functions and authorities transferred to, and vested in, the Secretary under this Act relating to collection, analysis, and dissemination of energy information and data. The Administrator shall be subject to all duties and responsibilities established under part B of the Federal Energy Administration Act of 1974.

(b) In the performance of his professional functions in connection with collecting, analyzing, and disseminating energy information, the Administrator shall not be responsible to, or subject to, the direction of any officer, employee, or agent of the Department.

(c) The Administrator shall, upon request, promptly provide any information or analysis in his possession to any other administration, commission, or office within the Department relating to the function of such administration, commission, or office.

SEC. 205. (a) There shall be within the Department an Economic Regulatory Administration to be headed by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall by rule provide for a separation of regulatory and enforcement functions assigned to or vested in the Administration.

(b) The Secretary shall utilize the Economic Regulatory Administration to administer—

- (1) any function which may be delegated to the Secretary under the Emergency Petroleum Allocation Act of 1973; and
- (2) such other functions as the Secretary may consider appropriate.

(c) The Administrator shall insure an adequate opportunity for public participation, including an opportunity for hearings, in issuing any rules or regulations under this section.

SEC. 206. (a) (1) There shall be within the Department an Office of Inspector General to be headed by an Inspector General, who shall be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report to, and be under the general supervision of, the Secretary or, to the extent such authority is delegated, the Deputy Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

(2) There shall also be in the Office a Deputy Inspector General appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy shall assist the Inspector General in the administration of the Office and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that Office, act as Inspector General.

(3) The Inspector General or the Deputy may be removed from office by the Presi-

dent. The President shall communicate the reasons for any such removal to both Houses of Congress.

(4) The Inspector General shall, in accordance with applicable laws and regulations governing the civil service, appoint an Assistant Inspector General for Audits and an Assistant Inspector General for Investigations.

(b) It shall be the duty and responsibility of the Inspector General—

(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to programs and operations of the Department;

(2) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by the Department for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between the Department and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by the Department, and (B) the identification and prosecution of participants in such fraud or abuse; and

(4) to keep the Secretary and the Congress fully and currently informed, by means of the reports required by subsection (c) and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by the Department, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(c) The Inspector General shall, not later than March 31 of each year, submit a report to the Secretary and to the Congress summarizing the activities of the Office during the preceding calendar year. Such report shall include, but need not be limited to—

- (1) an identification and description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities;
- (2) a description of recommendations for corrective action made by the Office with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1);

(3) an evaluation of progress made in implementing recommendations described in the report or, where appropriate, in previous reports; and

(4) a summary of matters referred to prosecutive authorities and the extent to which prosecutions and convictions have resulted.

(d) The Inspector General shall report immediately to the Secretary and to the appropriate committees or subcommittees of the Congress whenever the Office becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the Department. The Deputy and Assistant Inspectors General shall have particular responsibility for informing the Inspector General of such problems, abuses, or deficiencies.

(e) The Inspector General (1) may make such additional investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable, and (2) shall provide such additional information or documents as may be requested by either House of Congress or, with respect to mat-

ters within their jurisdiction, by any committee or subcommittee thereof.

(f) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary and to the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval. The Inspector General shall, insofar as feasible, provide copies of the reports required under subsection (c) to the Secretary sufficiently in advance of the due date for their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(g) In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, and other material available to the Department which relate to programs and operations with respect to which the Inspector General has responsibilities under this section;

(2) to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this section, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court; and

(3) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions and responsibilities under this section.

(h) For purposes of this section, the term "Department" includes any component thereof.

Sec. 207. (a) There shall be within the Department an Office of Energy Research to be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) It shall be the duty and responsibility of the Director—

(1) to administer the physical research program transferred to the Department from the Energy Research and Development Administration;

(2) to monitor the Department's energy research and development programs in order to advise the Secretary with respect to any undesirable duplication or gaps in such programs;

(3) to advise the Secretary with respect to the well-being and management of the multipurpose laboratories under the jurisdiction of the Department, excluding laboratories that constitute part of the nuclear weapon complex;

(4) to advise the Secretary with respect to education and training activities required for effective short- and long-term basic and applied research activities of the Department;

(5) to advise the Secretary with respect to grants and other forms of financial assistance required for effective short- and long-term basic and applied research activities of the Department; and

(6) to carry out such additional duties assigned to the Office by the Secretary relating to basic and applied research, including but not limited to supervision or support of research activities carried out by any of the Assistant Secretaries designated by section 202 of this Act, as the Secretary considers advantageous.

#### TITLE III—TRANSFERS OF FUNCTIONS

Sec. 301. Except as otherwise provided in this Act there are hereby transferred to, and vested in, the Secretary all of the functions vested by law in the Administrator of the Federal Energy Administration or the Fed-

eral Energy Administration, the Administrator of the Energy Research and Development Administration or the Energy Research and Development Administration; and the functions vested by law in the officers and components of either such Administration.

Sec. 302. (a) There are hereby transferred to and vested in the Secretary all functions and authorities of the Secretary of the Interior under section 5 of the Flood Control Act of 1944 (16 U.S.C. 825e), and all other functions and authorities of the Secretary of the Interior, and officers and components of the Department of the Interior, with respect to—

(1) the Southeastern Power Administration;

(2) the Southwestern Power Administration;

(3) the Alaska Power Administration;

(4) the Bonneville Power Administration including but not limited to the authority contained in the Bonneville Project Act of 1937 (50 Stat. 731), as amended, and the Federal Columbia River Transmission System Act (88 Stat. 1376);

(5) the power marketing functions of the Bureau of Reclamation including the construction, operation, and maintenance of transmission lines and attendant facilities; and

(6) the transmission and disposition of the electric power and energy generated at Falcon Dam and Amistad Dam, International storage reservoir projects on the Rio Grande, pursuant to the Act of June 18, 1954, as amended by the Act of December 23, 1963.

(b) The Southeastern Power Administration, the Southwestern Power Administration, the Bonneville Power Administration, and the Alaska Power Administration shall be preserved as separate and distinct organizational entities within the Department; shall each be headed by an administrator appointed by the Secretary. The functions and authority hereby transferred to the Secretary shall be exercised by the Secretary, acting by and through such Administrators. Each such Administrator shall maintain his principal office at a place located in the region served by his respective Federal power marketing entity.

(c) There is hereby created a separate and distinct Administration within the Department of Energy which shall be headed by an Administrator appointed by the Secretary. The functions and authority transferred in paragraph (a) (5) or (a) (6) of this section shall be exercised by the Secretary, acting by and through such Administrator; and the Administrator shall establish and shall maintain such regional offices as necessary to facilitate the performance of such functions. Neither the transfer of functions and authority effected by subsection a(5) of this section nor any changes in cost allocation or project evaluation standards shall be deemed to authorize the reallocation of joint costs of multipurpose facilities theretofore allocated unless and to the extent that such change is hereafter approved by Congress.

(d) (1) The authority of the Secretary of the Interior to prescribe regulations under the Outer Continental Shelf Lands Act, the Mineral Lands Leasing Act, the Mineral Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act, which relate to the—

(A) fostering of competition for Federal leases (including, but not limited to, prohibition on bidding for development rights by certain types of joint ventures);

(B) implementation of alternative bidding systems authorized for the award of Federal leases;

(C) establishment of diligence requirements for operations conducted on Federal leases (including, but not limited to, procedures relating to the granting or ordering by the Secretary of the Interior of suspension

of operations or production as they relate to such requirements;

(D) setting rates of production for Federal leases; and

(E) specifying the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests takes in kind,

except that such regulations shall be promulgated by the Secretary only after consultation with the Secretary of the Interior.

(2) The Secretary of the Interior shall retain any authorities not transferred by paragraph (1) of this subsection and shall be solely responsible for the issuance and supervision of leases and the enforcement of all regulations applicable to the leasing of mineral resources, including, but not limited to, lease terms and conditions and production rates. No regulation issued by the Secretary shall restrict or limit any authority retained by the Secretary of the Interior under this paragraph with respect to the issuance or supervision of leases. Nothing in this subsection shall be construed to affect Indian lands and resources or to transfer any responsibilities of the Secretary of the Interior concerning such lands and resources.

(e) Those functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department under the Act of May 16, 1910, and other authorities, exercised by the Bureau of Mines, but limited to—

(1) fuel supply and demand analysis and data gathering;

(2) research and development relating to increased efficiency of production technology of solid fuel minerals, other than research relating to mine health and safety and research relating to the environmental and leasing consequences of solid fuel mining, which shall remain in the Department of the Interior; and

(3) coal preparation and analysis.

(f) The functions of the Secretary of the Interior to establish production rates for all Federal leases.

Sec. 303. The Secretary of the Interior shall afford the Secretary a reasonable opportunity, prior to the execution of a Federal lease, to disapprove any term or condition of such Federal lease which relates to the matters with respect to which the Secretary has authority to prescribe regulations under section 302(d). No such term or condition may be included in such a lease if it is disapproved by the Secretary.

Sec. 304. As used in sections 302 and 303 of this Act, "Federal lease" means an agreement which, for any consideration, including, but not limited to, bonuses, rents, or royalties conferred and covenants to be observed, authorizes any person to explore for, develop, or produce (or to do any or all of these) oil and gas, coal, oil shale, tar sands, or geothermal resources in public, acquired, or submerged lands or interests therein under Federal jurisdiction.

Sec. 305. All functions vested by law in the Director of the Office of Energy Information and Analysis by part B of the Federal Energy Administration Act of 1974 are hereby transferred to the Administrator of the Energy Information Administration.

Sec. 306. There are hereby transferred to and vested in the Secretary all of the functions vested in the Secretary of Housing and Urban Development by the Energy Conservation Standards for New Buildings Act of 1976 (title III of the Energy Conservation and Production Act).

Sec. 307. There are hereby transferred to and vested in the Secretary such functions as are set forth in the Interstate Commerce Act and vested by law in the Interstate Commerce Commission or the Chairman and members thereof as relate to transportation of oil by pipeline.

Sec. 308. There are hereby transferred to and vested in the Secretary all functions vested by chapter 641 of title 10, United States Code, in the Secretary of the Navy as



they relate to the administration of, and there is hereby transferred to, and vested in, the Secretary jurisdiction over—

(1) Naval Petroleum Reserve Numbered 1 (Elk Hills) located in Kern County, California, established by Executive order of the President, dated September 2, 1912;

(2) Naval Petroleum Reserve Numbered 2 (Buena Vista), located in Kern County, California, established by Executive order of the President, dated December 13, 1912;

(3) Naval Petroleum Reserve Numbered 3 (Teapot Dome) located in Wyoming, established by Executive order of the President, dated April 30, 1915;

(4) Oil Shale Reserve Numbered 1, located in Colorado, established by Executive order of the President, dated December 6, 1916, as amended by Executive order of the President, dated June 12, 1919;

(5) Oil Shale Reserve Numbered 2, located in Utah, established by Executive order of the President, dated December 6, 1916; and

(6) Oil Shale Reserve Numbered 3, located in Colorado, established by Executive order of the President, dated September 27, 1974. The surface management of such reserves shall be carried out by the Secretary of the Interior under applicable laws, including the Federal Land Policy and Management Act of 1976, administered by such Secretary.

Sec. 309. There are hereby transferred to and vested in the Secretary all functions of the Secretary of Commerce, the Department of Commerce, and officers and components of that Department, as relate to or are utilized by the Office of Energy Programs, but limited to industrial energy conservation programs.

Sec. 310. (a) The Division of Naval Reactors, established pursuant to section 25 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2035), and responsible for research, design, development, health and safety matters pertaining to naval nuclear propulsion plants and assigned civilian power reactor programs, is transferred to the Department under the Assistant Secretary for Fossil and Nuclear Energy Technologies and shall be deemed to be an organizational unit established by this Act.

(b) The Division of Military Application, established by section 25 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2035), and the functions of the Energy Research and Development Administration with respect to the Military Liaison Committee, established by section 27 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2037), are transferred to the Department under the Assistant Secretary for Defense Programs and such organizational units shall be deemed to be an organizational unit established by this Act.

Sec. 311. Notwithstanding section 301(a), there are hereby transferred to, and vested in, the Secretary of Transportation all of the functions vested in the Administrator of the Federal Energy Administration by section 381(b)(1)(B) of the Energy Policy and Conservation Act.

#### TITLE V—ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

Sec. 501. (a) Subject to the other requirements of this title, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply in accordance with its terms to any rule or regulation, or any order having the applicability and effect of a rule (as defined in section 551(4) of title 5, United States Code), issued pursuant to authority vested by law in, or transferred or delegated to, the Secretary, or required by this Act or any other Act to be carried out by any other officer, employee, or component of the Department, other than the Federal Energy Regulatory Commission, including any such rule, regulation, or order of a State, or local government agency or officer thereof, issued pursuant to authority delegated by the Secretary in accordance with this title. If any provision in any Act, the functions of

which are transferred, vested, or delegated pursuant to this Act, provides administrative procedure requirements in addition to those provided in this title, such additional requirements shall also apply to actions under that provision.

(b)(1) In addition to the requirements of subsection (a) of this section, notice of any proposed rule, regulation, or order described in subsection (a) shall be given by publication of such proposed rule, regulation, or order in the Federal Register. Such publication shall be accompanied by a statement of the research, analysis, and other available information in support of, the need for, and the probable effect of, any such proposed rule, regulation, or order. Other effective means of publicity shall be utilized as may be reasonably calculated to notify concerned or affected parties of the nature and probable effect of any such proposed rule, regulation, or order. In each case, a minimum of thirty days following such publication shall be provided for opportunity to comment prior to the effective date of any such rule, regulation, or order; except that the requirements of this subsection as to time of notice and opportunity to comment may be waived, subject to paragraph (3) of this section, where strict compliance is found by the Secretary to be likely to cause serious harm or injury to the public health, safety, or welfare, and such finding is set out in detail in such rule, regulation, or order.

(2) Public notice of all rules, regulations, or orders described in subsection (a) which are promulgated by officers of a State or local government agency pursuant to a delegation under this Act shall be provided by publication of such proposed rules, regulations, or orders in at least two newspapers of statewide circulation. If such publication is not practicable, notice of any such rule, regulation, or order shall be given by such other means as the officer promulgating such rule, regulation, or order determines will reasonably assure wide public notice.

(3) The requirements of this subsection may be satisfied within a reasonable period of time subsequent to the promulgation of the rule, regulation, or order if the Secretary finds, under paragraph (1), that an emergency exists requiring the immediate implementation of any such rule, regulation, or order.

(c)(1) If the Secretary determines at the time of publication of a proposed rule, regulation, or order described in subsection (a) that no substantial issue exists and that such rule, regulation, or order is unlikely to have a substantial impact on the nation's economy or large numbers of individuals or businesses, the proposed rule, regulation, or order may be promulgated in accordance with section 553 of title 5, United States Code, except that subsection (a)(2) of section 553 shall not apply. If the Secretary determines at the time of publication of any such rule, regulation, or order that a substantial issue exists or that such rule, regulation, or order is likely to have a substantial impact on the nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be provided.

(2) Any person, who would be adversely affected by the implementation of any proposed rule, regulation, or order issued pursuant to the first sentence of paragraph (1) and who desires an opportunity for oral presentation of views, data, and arguments, shall offer evidence supporting the existence of such substantial issues or such impact during the period established for public comment. If the Secretary determines that such evidence is sufficient to establish the existence of such issues or impact, the Secretary shall provide an opportunity for such oral presentation.

(3) Following the notice and comment period, including any oral presentation re-

quired by this subsection, the Secretary may promulgate such rule, regulation, or order, which shall include therewith an explanation responding to the major comments, criticisms, and alternatives offered during the comment period.

(4) A transcript shall be kept of any oral presentation with respect to a rule, regulation, or order described in subsection (a).

(d) The Secretary, or any officer authorized to issue rules, regulations, or orders under the Federal Energy Administration Act, the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environmental Coordination Act of 1974, or the Energy Policy and Conservation Act shall provide for the making of such adjustments, consistent with the other purposes of the relevant Acts, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens, and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, exception to, or exemption from, such rule, regulation, or order. The Secretary or any such officer shall additionally insure that each decision on any application or petition requesting an adjustment shall specify the standards of hardship, inequity, or unfair distribution of burden by which any disposition was made, and the specific application of such standards to the facts contained in any such application or petition. If any person is aggrieved or adversely affected by a denial of a request for adjustment under the preceding sentences, such person may request a review of such denial by the Secretary and may obtain judicial review in accordance with this title when such a denial becomes final. The Secretary shall, by rule, establish appropriate procedures including a hearing when requested for review of a denial, and where deemed advisable by the Secretary, for considering other requests for action under this subsection, except that no review of a denial under this subsection shall be made by the same officer denying the adjustment.

(e)(1) With respect to any rule regulation or order, the effects of which, except for indirect effects of an inconsequential nature, are confined to—

(A) a single unit of local government or the residents thereof;

(B) a single geographic area within a State or the residents thereof; or

(C) a single State or the residents thereof; the Secretary shall in any case where appropriate, afford an opportunity for a hearing or the oral presentation of views and provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in paragraphs (A) through (C) of this paragraph as the case may be.

(2) For purposes of this subsection—

(A) the term "unit of local government" means a county, municipality, town, township, village or other unit of general government below the State level; and

(B) the term "geographic area within a State" means a special purpose district of other region recognized for governmental purposes within such State which is not a unit of local government.

(3) Nothing in this subsection shall be construed as requiring a hearing or an oral presentation of views where none is required by this section or other provision of law.

(f)(1) Judicial review of agency action taken under any law the functions of which are vested by law in, or transferred or delegated to, the Secretary or any officer, employee or component of the Department shall, notwithstanding such vesting, transfer, or delegation, be made in the manner specified in such law.

(2) Notwithstanding the amount in controversy, the district courts of the United

States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under rules, regulations, or orders issued exclusively thereunder, other than any actions taken to implement or enforce any rule, regulation, or order by any officer of a State or local government agency under this Act, except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the unconstitutionality of this Act or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the unconstitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code. Cases or controversies arising under any rule, regulation, or order of any officer of a State or local government agency may be heard in either (A) any appropriate State court, or (B) without regard to the amount in controversy, the district courts of the United States.

(3) Where authorized by any law vested, transferred, or delegated pursuant to this Act, the Secretary may, by rule, prescribe procedures for State or local government agencies authorized by the Secretary to carry out such functions as may be permitted under applicable law. Such procedures shall apply to such agencies in lieu of this section, and shall require that prior to taking any action, such agencies shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) a reasonable time before taking the action.

(4) Notwithstanding any other law, the litigation of the Department shall be subject to the supervision of the Attorney General pursuant to chapter 31 of title 28, United States Code. This paragraph shall not apply to the Federal Energy Regulatory Commission.

Sec. 502. (a) Section 501 of this title shall remain in effect for two years after the effective date of this Act. Any proceeding commenced under such section prior to the termination of its effect shall, notwithstanding such termination, be conducted in accordance with such section. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payment shall be made pursuant to such orders as if such section had not terminated; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if such section had not terminated.

(b) Within one year after effective date of this Act, the Secretary shall submit a report to Congress concerning the actions taken to implement section 501. The report shall include a discussion of the adequacy of such section from the standpoint of the Department and the public, including a summary of any comments obtained by the Secretary from the public about such section and implementing regulations, and such recommendations as the Secretary deems appropriate concerning the extension and revision of such section.

(c) Nothing in this title shall be construed as repeating by implication any existing provision of law relating to administrative procedures and judicial review ap-

plicable to any authority vested, transferred or delegated pursuant to this Act, except that such existing provisions shall, to the extent provided by section 501, be superseded by the provisions of such section during the two years specified in subsection (a).

Sec. 503. (a) (1) Except as provided in subsection (c), but notwithstanding any other provision of this or of any other Act, simultaneously with promulgation or repromulgation of any rule or regulation issued pursuant to authority transferred, vested, or delegated to the Secretary or the Federal Energy Regulatory Commission, other than a rule or regulation establishing a price for petroleum, petroleum products, or natural gas, the Secretary or the Commission, as the case may be, shall submit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the rule or regulation shall not become effective, if—

(A) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule or regulation promulgated by \_\_\_\_\_ dealing with the matter of \_\_\_\_\_, which rule or regulation was transmitted to Congress on \_\_\_\_\_, the blank spaces therein being appropriately filled; or

(B) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous sessions of Congress after such transmittal.

(2) If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation described in paragraph (1), no committee of either House of Congress has reported or been discharged from further consideration of a current resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in paragraph (1) (A).

(b) (1) The agency may not promulgate a new rule or regulation identical to one disapproved pursuant to this section unless a statute is adopted affecting the agency's powers with respect to the subject matter of the rule or regulation.

(2) If the agency proposes a new rule or regulation dealing with the same subject matter as a disapproved rule or regulation, the agency shall comply with the procedures required for the issuance of a new rule or regulation.

(c) The provisions of this section shall not apply with respect to a rule or regulation which is promulgated under a provision of law which provides for another method of congressional review and disapproval or approval of such rule or regulation than that provided by this section.

(d) For the purpose of this section, calendar days of continuous session of Congress shall be computed in accordance with section 906(b) of title 5, United States Code.

Sec. 504. (a) If upon investigation, the Secretary or his authorized representative believes that a person has violated any regulation, rule, or order promulgated pursuant to the Emergency Petroleum Allocation Act, he may issue a remedial order to the person. Each remedial order shall be in writing and shall describe with particularity the nature

of the violation, including a reference to the provision of the rule, regulation, or order alleged to have been violated. For purposes of this section "person" includes any individual, association, company, corporation, partnership, or other entity however organized.

(b) If within thirty days from the receipt of the remedial order issued by the Secretary, the person fails to notify the Secretary that he intends to contest the remedial order, the remedial order shall become effective and shall be deemed a final order of the Secretary and not subject to review by any court or agency.

(c) If within thirty days from the receipt of the remedial order issued by the Secretary, the person notifies the Secretary that he intends to contest a remedial order issued under subsection (a) of this section, the Secretary shall immediately advise the Economic Regulatory Administration of such notification. Upon such notice, the Administrator shall stay the effect of the remedial order except where he finds the public interest requires remedial compliance with such remedial order. The Administrator shall, upon request, afford an opportunity for a hearing, including the submission of briefs, evidence (oral or documentary) and oral arguments. To the extent that the Administrator in his discretion determines such is required for a full and true disclosure of the facts, he shall afford the right of cross examination. The Administrator shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's remedial order, or directing other appropriate relief, and such order shall, for the purpose of judicial review, constitute final agency action.

(d) The Secretary may set reasonable time limits for the Administration to complete action on a proceedings referred to it pursuant to this section.

(e) Nothing in this section shall be construed to affect any procedural action taken by the Secretary prior to or incident to initial issuance of a remedial order which is the subject of the hearing provided herein, but such procedures shall be reviewable in the hearing.

#### TITLE VI—ADMINISTRATIVE PROVISIONS

Sec. 601. (a) For purposes of this section—

(1) the term "Department" includes any agency, administration, commission, or other component thereof;

(2) the term "Department proceeding" includes any Department hearing, application, rulemaking or other determination, contract, grant, reward, fund transfer, claim, controversy, charge, accusation, or arrest;

(3) the term "employee" means any person holding a position in the Department;

(4) the term "employment" means employment with an energy concern and includes employment as a consultant, agent, attorney, or otherwise and includes voluntary employment;

(5) the term "energy concern" means any person significantly engaged in the production, generation, transmission, distribution, or sale of electric power, petroleum or petroleum products, synthetic fuels, energy from renewable resources, wastes, or geothermal steam, nuclear energy, natural gas, coal, solar energy, or other energy-related source or resource, or in any research or development significantly related to such production, generation, transmission, distribution, or sale;

(6) the term "participate" includes participation by way of decision, approval, disapproval, recommendation, the rendering of advice, or investigation; and

(7) the term "supervisory employee" means any of the following officers or employees of the Department—

(A) an individual compensated at the rate



provided for grade of GS-16 or above under section 5332 of title 5, United States Code;

(B) an individual compensated under the Executive Schedule, as provided in subchapter II of chapter 53 of title 5 of the U.S. Code;

(C) any other individual who, in the judgment of the Secretary, exercises sufficient decisionmaking authority so that the provisions of this section should apply to such individual;

(D) the Director or Deputy Director of any State, regional, district, local, or other field office; or

(E) an employee or officer who has responsibility with respect to the award, review, modification, or termination of any grant, contract, reward, or fund transfer within the authority of the Secretary.

(b)(1) No supervisory employee shall knowingly receive compensation from, or hold any official relation to, any energy concern, or own stocks or bonds thereof, or have any pecuniary interest therein.

(2) Personnel transferred to the Department pursuant to section 701 of this Act shall have six months to comply with the provisions of paragraph (1) of this subsection with respect to prohibited property holdings. Any person transferred pursuant to section 701 shall notify the Secretary of all circumstances which would be violative of the restrictions described in subsection (b)(1) not later than fifteen days after the date of such transfer as determined by the United States Civil Service Commission.

(3) Where exceptional hardship would result, or where the interest is vested, the Secretary is authorized to waive the requirements of this subsection with respect to any person covered. Such waiver shall:

(A) be published in the Federal Register;

(B) contain a finding by the Secretary that exceptional hardship would result; and

(C) indicate the steps taken by the Secretary to minimize conflict of interest and the appearance of conflict of interest.

Such waiver shall in no instance constitute a waiver of the requirements of section 208 of title 18, United States Code.

(c)(1) Each supervisory employee shall file with the Secretary, in such form and manner as the Secretary shall prescribe, a report describing all previous employment with any energy concern.

(2) Each former supervisory employee of the Department shall file with the Secretary, in such form and manner as the Secretary shall prescribe, not later than the November 15 of—

(A) the fiscal year following the fiscal year in which such person ceased to be an employee of the Department, and

(B) each of the succeeding two fiscal years, a report describing any employment with any energy concern during the fiscal year to which such report relates.

(3) Each report filed pursuant to paragraphs (1) and (2) shall contain the name and address of the person filing the report, the name and address of the energy concern with which he held employment, a brief description of his duties and work for the energy concern, the dates of his employment, and such other pertinent information as the Secretary may require.

(4) The Secretary shall maintain a file containing the reports filed with him pursuant to paragraphs (1) and (2). All such reports shall be available for public inspection and copying at all times during regular working hours.

(d)(1)(A) For a period of two years after terminating any employment with any energy concern, no supervisory employee shall knowingly participate in any Department proceeding in which his former employer is substantially, directly, or materially involved, other than in a rulemaking proceeding which has a substantial effect on numerous energy concerns.

(B) While an employee of the Department, no supervisory employee shall knowingly participate in any Department proceeding for which he had direct responsibility, or in which he participated substantially or personally, while in the employment of any energy concern.

(C) No supervisory employee who solicits, negotiates, or arranges for employment with any energy concern shall participate in any Department proceeding in which such energy concern is substantially, directly, or materially involved.

(2)(A) For a period of two years after ceasing to be an employee of the Department, no supervisory employee shall, in any professional capacity for anyone other than the United States, appear or attend before, or make any oral or written communication or submission to, or filing with, the Department or any officer or employee of the Department in connection with any Department proceeding.

(B) For a period of five years after ceasing to be an employee of the Department, no supervisory employee shall, in any professional capacity for anyone other than the United States, appear or attend before, or make any oral or written communication to, or filing with, the Department or any officer or employee of the Department in connection with any Department proceeding in which he participated substantially or personally while a supervisory employee.

(3) Notwithstanding any penalty imposed under subsection (e), any violation of this subsection shall be taken into consideration in deciding the outcome of any Department proceeding in connection with which the prohibited appearance, attendance, communication, or submission was made.

(4) Whenever the Secretary makes a written finding as to a particular supervisory employee that the application of a particular restriction or requirement imposed by paragraph (1) or (2) of this subsection in a particular circumstance would work an exceptional hardship upon such supervisory employee or would be contrary to the national interest, the Secretary may waive in writing such restriction or requirement as to such supervisory employee. The Secretary shall maintain a file containing all findings and waivers made by him pursuant to this paragraph, and all such findings and waivers shall be available for public inspection and copying at all times during regular working hours. Any waiver made by the Secretary of a restriction imposed under paragraph (2) of this subsection shall also be filed with any record of the Department proceeding as to which the waiver for purposes of participation is granted. No such waiver shall in any instance constitute a waiver of the requirements of section 207 of title 18, United States Code.

(e) Any person who violates subsections (b), (c), or (d), taking into account any waiver under subsection (b)(3) or (d)(4), shall be subject to a civil penalty, assessed by the Secretary, not to exceed \$10,000 for each violation.

(f) Nothing in this section shall be deemed to limit the operation of section 207 or section 208 of title 18, United States Code.

Sec. 602. (a) Each officer or employee of the Department who has any known financial interest—

(1) in any person engaged in the business, other than at the retail level, of developing, producing, refining, transporting by pipeline, or converting into synthetic fuel, minerals, wastes, or renewable resources, or in the generation of energy from such minerals, wastes, or renewable resources, or in conducting research, development, and demonstration with financial assistance under this Act or any Act, the administration of which is transferred pursuant to this Act;

(2) in property from which coal, natural gas, crude oil, or nuclear material is commercially produced;

(3) in any person engaged in the production, generation, transmission, distribution, or sale of electric power; or

(4) in any person engaged in production, sale, or distribution of nuclear materials;

shall, beginning on February 1, 1978, annually file with the Secretary a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such statement shall be subject to examination, and available for copying, by the public upon request.

(b) The Secretary shall—

(1) act, within ninety days after the effective date of this Act, by rule—

(A) to define the term "known financial interest" for purposes of subsection (a); and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) include, as part of the report made pursuant to section 621, a report with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b), the Secretary may identify specific positions, or classes thereof, within the Department which are of a nonregulatory or non-policy-making nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, subsection (a) shall be fined not more than \$2,500 or imprisoned not more than one year, or both.

Sec. 603. The Secretary is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in him.

Sec. 604. Except as otherwise expressly prohibited by law, the Secretary may delegate any of his functions to such officers and employees of the Department as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary or appropriate.

Sec. 605. The Secretary is authorized to establish, alter, consolidate, or discontinue and to maintain such State, regional, district, local, or other field offices as he may deem to be necessary to carry out functions now or hereafter vested in him.

Sec. 606. The Secretary may, from time to time, establish, alter, consolidate, or discontinue such organizational units or components within the Department as he may deem to be necessary or appropriate, except that such authority shall not extend to the abolition of organizational units or components established by this Act.

Sec. 607. In the performance of functions transferred to, and vested in, the Secretary or any officer or component of the Department, the Secretary is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code, except that to the extent the Secretary deems such action necessary to the discharge of his functions, he may establish scientific or professional positions within the Department as provided in section 3104 of title 5, United States Code.

Sec. 608. (a) There shall be within the Department not more than fourteen additional officers in positions authorized by section 5315 and 5316 of title 5, United States Code, who shall be appointed by the Secretary and who shall perform such functions as the Secretary shall prescribe from time to time.

(b) (1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place at GS-16, GS-17, and GS-18, not to exceed 350 positions of the positions subject to the limitation of the first sentence of section 5108(a) of such title.

(2) Any position placed at GS-16, GS-17, or GS-18 under the authority of paragraph (1) may be filled only by a person who is transferred in connection with a transfer of function under this Act and who, immediately before the effective date of this Act, held a position having duties comparable to those of such position. Appointments under this paragraph may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Civil Service Commission of appointments to GS-16, GS-17, and GS-18.

(3) The Secretary's authority under this subsection with respect to any position shall cease when the person appointed to fill such position under paragraph (2) leaves such position.

SEC. 609. The Secretary may obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code, for persons in Government service employed intermittently.

SEC. 610. Section 17 of the Federal Energy Administration Act of 1974 shall be applicable to advisory committees chartered by the Department to provide advice with respect to regulatory activities of the Department.

SEC. 611. (a) The Secretary is authorized to provide for participation of Armed Forces personnel in carrying out functions performed, on the date of enactment of this Act, in the Energy Research and Development Administration and under chapter 641 of title 10, United States Code. Members of the Armed Forces may be detailed for service in the Department by the Secretary concerned (as said term is defined in section 101 of such title) pursuant to cooperative agreements with the Secretary.

(b) The detail of any personnel to the Department under this section shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy or hold or any emolument, perquisite, right, privilege, or benefit incident to, or arising out of, such status, office, rank, or grade, nor shall any member so detailed be charged against any statutory or other limitation on strengths applicable to the Armed Forces or the Department. A member so detailed shall not be subject to direction or control by his armed force, or any officer thereof, directly or indirectly, with respect to the responsibilities exercised in the position to which detailed.

SEC. 612. (a) With their consent, the Secretary may, with or without reimbursement, use the research, equipment, and facilities of any agency or instrumentality of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, or of any political subdivision thereof, or of any foreign government, in carrying out any function now or hereafter vested in the Secretary.

(b) The Secretary may, with or without reimbursement, provide research, equipment, and facilities to any agency or instrumentality of the United States or any State, territory, the Commonwealth of Puerto Rico, the District of Columbia, or any political subdivision thereof, or to any foreign government, whenever he deems such action to be necessary and appropriate to the performance of functions now or hereafter vested in him.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary

or the head of the agency or instrumentality of the United States involved, as the case may be, to pay directly the costs of the equipment or facilities provided, to repay or make advances to appropriations or funds which do or will initially bear all or a part of such costs, or to refund excess sums when necessary, except that such proceeds may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 619 of this Act, and used under the law governing such fund, if the fund is available for use for providing the equipment or facilities involved.

SEC. 613. The Secretary is authorized to enter into and perform such contracts, leases, cooperative agreements, or other similar transactions with public agencies and private organizations and persons, and to make such payments (in lump sum or installments, and by way of advance or reimbursement) as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in the Secretary.

SEC. 614. The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, such personal property (including patents), or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

SEC. 615. (a) As necessary and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote locations:

- (1) emergency medical services and supplies;
- (2) food and other subsistence supplies;
- (3) messing facilities;
- (4) audiovisual equipment, accessories, and supplies for recreation and training;
- (5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;
- (6) living and working quarters and facilities; and
- (7) transportation of school age dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary to pay directly the cost of such work or services, to repay or make advances to appropriations of funds which will initially bear all or a part of such cost, or to refund excess sums when necessary: *Provided*, That such payments may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 619 of this Act, and used under the law governing such fund, if the fund is available for use by the Department for performing the work or services for which payment is received.

SEC. 616. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

- (1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;
- (2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

SEC. 617. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

SEC. 618. The Secretary shall cause a seal of office to be made for the Department of such design as he shall approve and judicial notice shall be taken of such seal.

SEC. 619. The Secretary is authorized to establish a working capital fund, to be available without fiscal-year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interests of economy and efficiency. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund in such amounts as may be necessary to provide additional working capital are authorized. The working capital fund shall recover from the appropriations and funds for which services are performed, either in advance or by way of reimbursement, amounts which will approximate the costs incurred, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from the sale or exchange of its property, and receipts in payment for loss or damage to property owned by the fund.

SEC. 620. To the extent necessary or appropriate to perform any function transferred by this Act, the Secretary may exercise, in carrying out the function so transferred, any authority or part thereof available by law, including appropriation Acts, to the official or agency from which such function was transferred.

SEC. 621. The Secretary shall, as soon as practicable after the end of each fiscal year, commencing with the first complete fiscal year following the effective date of this Act, make a report to the President for submission to the Congress on the activities of the Department during the preceding fiscal year. Such report shall include a statement of the Secretary's goals, priorities, and plans for the Department, together with an assessment of the progress made toward the attainment of those goals, the effective and efficient management of the Department, and progress made in coordination of its functions with other departments and agencies of the Federal Government. In addition, such report shall include the information required by section 15 of the Federal Energy Administration Act of 1974, section 307 of the Energy Reorganization Act of 1974, and section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974, and shall include:

- (1) projected energy needs of the United States to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation, including a comprehensive summary of data pertaining to all fuel and energy needs of residents of the United States residing in—

(A) areas outside standard metropolitan statistical areas; and



(B) areas within such areas which are unincorporated or are specified by the Bureau of the Census, Department of Commerce, as rural areas;

(2) an estimate of (A) the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives, and (B) the quantities of energy expected to be provided by different sources (including petroleum, natural and synthetic gases, coal, uranium, hydroelectric, solar, and other means) and the expected means of obtaining such quantities;

(3) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation;

(4) a summary of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, and to encourage conservation practices, and shall include recommendations for developing technologies capable of improving the quality of the environment and increasing efficiency;

(5) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices) employed by Federal, State, and local governments and non-governmental entities to achieve the purposes of this Act;

(6) a summary of cooperative and voluntary efforts that have been mobilized to promote conservation and recycling, together with plans for such efforts in the succeeding fiscal year, and recommendations for changes in laws and regulations needed to encourage more conservation and recycling by all segments of the Nation's populace.

Sec. 622. The Secretary, when authorized in an appropriation act, in any fiscal year, may transfer funds from one appropriation to another within the Department, except that no appropriation shall be either increased or decreased pursuant to this section more than 5 per centum of the appropriation for such fiscal year.

Sec. 623. Appropriations to carry out the provisions of this Act shall be subject to annual authorization.

Sec. 624. Notwithstanding any other provision of this title, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance in appropriations Acts.

"Sec. 625. The Secretary of Defense, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Secretary of Transportation, the Secretary of Interior, the United States Postal Service, and the Administrator of General Services shall each designate one Assistant Secretary or Assistant Administrator, as the case may be, as the principal energy conservation officer of such Department or of the Administration. Such designated principal energy conservation officer shall be responsible for coordination with the Department with respect to energy matters."

#### TITLE VII—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Sec. 701. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting

Procedures Act of 1950, are hereby transferred to the Secretary for appropriate allocation.

(b) Positions expressly specified by statute or reorganization plan, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule (5 U.S.C. 5312-5316) on the effective date of this Act shall be subject to the provisions of section 705 of this Act.

Sec. 702. Except as otherwise provided in this Act, the transfer of full-time personnel (except special Government employees) and part-time personnel holding permanent positions pursuant to this title shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of enactment of this Act.

Sec. 703. Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in the new position.

Sec. 704. Employees transferred to the Department holding reemployment rights acquired under section 28 of the Federal Energy Administration Act of 1974 or any other provision of law or regulation may exercise such rights only within two years from the effective date of this Act. Reemployment rights may only be exercised at the request of the employee.

Sec. 705. Except as otherwise provided in this Act, whenever all of the functions vested by law in an agency, commission, or other body, or any component thereof, have been terminated or transferred from that agency, commission, or other body, or component by this Act, the agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5316), shall terminate.

Sec. 706. The Director of the Office of Management and Budget, in consultation with the Secretary, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an agency, commission or other body, or component thereof affected by this Act, to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with the functions transferred by this Act as he may deem necessary to accomplish the purposes of this Act.

Sec. 707. All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department after the date of enactment of this Act, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Secretary, or other authorized officials, a court of competent jurisdiction, or by operation of law.

SEC. 708. (a) (1) The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(b) Except as provided in subsection (d)—  
(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(c) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(d) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the Secretary or other official, as the case may be, substituted.

Sec. 709. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

Sec. 710. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or other official or component of the Department in which this Act vests such functions.

Sec. 711. Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of, or authority available to, the President which he had immediately before the effective date of this Act; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

Sec. 712. (a) The Federal Energy Administration Act of 1974 is hereby amended as follows:

(1) in section 4—  
(A) by striking out the heading of such section and inserting in lieu thereof "Conflicts of Interest";

(B) by striking out subsections (a) through (h) of such section and redesignating subsections (i) and (j) as subsections (a) and (b), respectively; and

(C) by striking out, in the subsection redesignated as subsection (b), "holding any of the positions described in subsections (a), (c), (d), and (e) of this section" and inserting in lieu thereof "who is compensated at level II, III, or IV of the Executive Schedule and who is assigned principal responsibility for any program under this Act";

(2) in section 7—

(A) by striking out subsections (a) and (b) and redesignating subsection (c) as subsection (a);

(B) by striking out subsections (d), (e), (f), (g), and (h);

(C) by striking out "(1) (1)" and by striking out subparagraphs (A), (B), (C), (E), and (F) of subsection (1) (1) and redesignating subparagraph (D) of such subsection as subsection (b);

(D) by striking out, in the matter redesignated as subsection (b), "the rules, regulations, or orders described in paragraph (A)" and inserting in lieu thereof "any rule or regulation, or any order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, pursuant to this Act";

(E) by striking out, in such subsection, "paragraph (2) of this subsection" and inserting in lieu thereof "subsection (c)";

(F) by redesignating paragraph (2) (A) of subsection (1) as subsection (c) and by striking out subparagraph (B) of subsection (1) (2); and

(G) by striking out paragraph (3) of subsection (1) and by striking out subsections (j) and (k);

(3) by repealing sections 9, 28, and 30; and

(4) in section 52(a)—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding after such paragraph (3) the following new paragraph:

"(4) the States to the extent required by the Natural Gas Act and the Federal Power Act."

(b) The Energy Reorganization Act of 1974 is hereby amended by repealing section 108.

(c) (1) The Atomic Energy Act of 1954 is hereby amended by repealing section 26.

(2) Section 161(d) of the Atomic Energy Act of 1954 shall not apply to functions transferred by this Act.

(d) Section 502 of the Motor Vehicle Information and Cost Savings Act is amended by adding at the end thereof the following:

"(h) The Secretary shall consult with the Secretary of Energy in carrying out his responsibilities under this section."

(e) The Energy Conservation Standards for New Buildings Act of 1976 is hereby amended as follows:

(1) in section 303(11), strike out "Secretary of Housing and Urban Development" and insert in lieu thereof "Secretary of Energy";

(2) in section 304(c), by inserting "the Secretary of Housing and Urban Development," after "the Administrator,"; and

(3) in section 310, by inserting "Secretary of Housing and Urban Development," after "the Administrator,".

(f) The Rural Electrification Act of 1936 is hereby amended by adding a new section 16 to title I thereof to read as follows:

"Sec. 16. In order to insure coordination of electric generation and transmission financing under this Act with the national energy policy, the Administrator in making or guaranteeing loans for the construction, operation, or enlargement of generating

plants or electric transmission lines or systems, shall consider such general criteria consistent with the provisions of this Act as may be published by the Secretary of Energy."

SEC. 713. Section 19(d) (1) of title 3, United States Code, is amended by inserting immediately before the period at the end thereof the following: "Secretary of Energy."

SEC. 714. (a) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Energy."

(b) Subsection (a) of section 3104 of title 5, United States Code, is amended by inserting after paragraph (4) the following new paragraph:

"(5) Department of Energy—not more than 200."

(c) Subsection (a) of section 5108 of title 5, United States Code, is amended by striking out an aggregate of 2,754" and inserting in lieu thereof an aggregate of 3,104".

(d) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(14) Secretary of Energy."

(e) Paragraph (22) of section 5313 of title 5, United States Code, is amended to read as follows:

"(22) Deputy Secretary of Energy."

(f) Section 5314 of title 5, United States Code, is amended by amending paragraph (60) to read as follows:

"(60) Administrator, Economic Regulatory Administration, Department of Energy."

(g) Section 5315 of title 5, United States Code, is amended by striking out paragraph 102, and by adding at the end of the section the following:

"(114) Assistant Secretaries of Energy (9)."

"(115) General Counsel of the Department of Energy."

"(116) Administrator, Energy Information Administration, Department of Energy."

"(117) Inspector General, Department of Energy."

"(118) Director, Office of Energy Research, Department of Energy."

"(119) Additional Officers, Department of Energy (4)."

(h) Paragraphs (135) and (136) of section 5316 of title 5, United States Code, are amended to read as follows:

"(135) Deputy Inspector General, Department of Energy."

"(136) Additional Officers, Department of Energy (10)."

SEC. 715. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions have been transferred to the Secretary for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

SEC. 716. The Civil Service Commission shall, as soon as practicable but not later than one year after the effective date of this Act, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this Act, which shall include—

(1) an identification of any position within the Department or elsewhere in executive branch, which it considers unnecessary due to consolidation of functions under this Act;

(2) a statement of the number of employees entitled to pay savings by reason of the reorganization under this Act;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative recommendations for improvements in per-

sonnel management within the Department as the Commission considers necessary.

SEC. 717. The transfer of functions under titles III and IV of this Act shall not affect the validity of any draft environmental impact statement published before the effective date of this Act.

SEC. 718. As used in this Act (1) references to "function" or "functions" shall be deemed to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and (2) references to "perform" when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

#### TITLE VIII—EFFECTIVE DATE AND INTERIM APPOINTMENTS

SEC. 801. (a) The provisions of this Act shall take effect one hundred and twenty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II and title IV of this Act may be nominated and appointed, as provided in those titles, and (2) the Secretary may promulgate regulations pursuant to section 708(a) (2) of this Act at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), functions of which are transferred to the Secretary by this Act, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(b) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act, the President may designate any officer, whose appointment was required to be made by and with the advice and consent of the Senate and who was such an officer immediately prior to the effective date of the Act, to act in such office until the office is filled as provided in this Act. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

#### TITLE IX—SUNSET PROVISIONS

SEC. 901. The provisions of this Act shall expire on December 31, 1982.

MR. ARMSTRONG (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the motion to recommit with instructions be dispensed with, and that it be printed in the RECORD.

THE SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

THE SPEAKER. The gentleman from Colorado (Mr. ARMSTRONG) is recognized for 5 minutes.

MR. ARMSTRONG. Mr. Speaker, the bill has been debated with great sufficiency, and I will take only a moment to explain the purpose of the motion which I now present.

The effect of these instructions is to retain all the amendments adopted during the debate in the Committee of the Whole except those amendments offered by the gentleman from California (Mr. Moss) relating to the Federal Energy Regulatory Commission, and to substitute in lieu of those the Erlenborn



amendment which was offered early on during our debate.

Mr. Speaker, the issue is a very simple one. It is whether or not we want to have this regulatory authority vested in the Department, where it would be subject to a degree of political pressure and where, in the view of many of us, it would be improperly lodged.

I believe—and I believe there are substantial numbers of us in this body who share my belief—that it would be far better to retain the concept of an independent Federal Power Commission. That is the entire purpose of this amendment.

Let me stress that all of the other amendments which have been adopted during the deliberations in the Committee of the Whole are continued in this proposal. Those amendments are the amendments offered by the gentleman from North Carolina (Mr. ROSE), the gentleman from Texas (Mr. BROOKS), the gentleman from Texas (Mr. CHARLES WILSON), the gentleman from Washington (Mr. MEEDS), the gentleman from Pennsylvania (Mr. EDGAR), the gentleman from Michigan (Mr. DINGELL), the gentleman from Texas (Mr. ECKHARDT), the gentleman from Nebraska (Mr. THONE), the gentleman from Florida (Mr. FUQUA), the gentleman from California (Mr. McCLOSKEY), the gentleman from New Jersey (Mr. HUGHES), the gentlewoman from Maryland (Mrs. SPELLMAN), the gentleman from Texas (Mr. KRUEGER), and the gentleman from Georgia (Mr. LEVITAS), and including as well the amendment adopted just a moment ago in the House that was offered by the gentleman from North Carolina (Mr. BROYHILL).

So, Mr. Speaker, with that word of explanation, I urge the adoption of the motion and the amendment.

The SPEAKER. The gentleman from Texas (Mr. BROOKS) is recognized for 5 minutes in opposition to the motion to recommit.

Mr. BROOKS. Mr. Speaker, I rise in opposition to the motion to recommit.

I will simply say that the Federal Power Commission is retained and is protected within this Department of Energy. It has adequate protection and it has independence within that umbrella. I think that is where it ought to be. That is where the committee thought it ought to be, and that is where the Committee of the Whole agreed earlier it should be placed.

Mr. Speaker, I ask for a no vote on the motion to recommit.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. ARMSTRONG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. BAUMAN. Mr. Speaker, I demand a division on the motion to recommit.

On a division (demanded by Mr. BAUMAN) there were—ayes 58, noes 140.

So the motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 310, nays 20, not voting 103, as follows:

[Roll No. 305]

#### YEAS—310

|                  |                 |                |
|------------------|-----------------|----------------|
| Abdnor           | Evans, Colo.    | McHugh         |
| Alexander        | Evans, Del.     | Maguire        |
| Allen            | Evans, Ga.      | Mahon          |
| Ambro            | Evans, Ind.     | Markey         |
| Ammerman         | Fary            | Marks          |
| Anderson, Calif. | Fascell         | Marriott       |
| Andrews, N.C.    | Fenwick         | Martin         |
| Annunzio         | Fisher          | Mathis         |
| Applegate        | Flithian        | Mattox         |
| Archer           | Flood           | Mazzoli        |
| Ashley           | Flynt           | Meeds          |
| AuCoin           | Foley           | Meyner         |
| Baldus           | Ford, Mich.     | Michel         |
| Barnard          | Ford, Tenn.     | Mikulski       |
| Beard, R.I.      | Forsythe        | Mikva          |
| Beard, Tenn.     | Fountain        | Miller, Ohio   |
| Bedell           | Fowler          | Minish         |
| Beilenson        | Frenzel         | Mitchell, N.Y. |
| Benjamin         | Frey            | Moakley        |
| Bennett          | Fuqua           | Moffett        |
| Bevill           | Gammage         | Mollohan       |
| Bingham          | Gaydos          | Montgomery     |
| Blanchard        | Gephardt        | Moore          |
| Blouin           | Gialmo          | Moorhead, Pa.  |
| Boggs            | Gibbons         | Calif.         |
| Boland           | Gilman          | Moorhead, Pa.  |
| Bolling          | Ginn            | Moss           |
| Bonior           | Glickman        | Mottl          |
| Bowen            | Goldwater       | Murphy, N.Y.   |
| Brademas         | Gonzalez        | Murphy, Pa.    |
| Breckinridge     | Goodling        | Murtha         |
| Brinkley         | Gore            | Myers, Michael |
| Brodhead         | Gradison        | Myers, Ind.    |
| Brooks           | Grassley        | Natcher        |
| Broomfield       | Gudger          | Nedzi          |
| Brown, Calif.    | Guyer           | Nichols        |
| Brown, Ohio      | Hagedorn        | Nix            |
| Broyhill         | Hamilton        | Nowak          |
| Buchanan         | Hanley          | O'Brien        |
| Burke, Fla.      | Hannaford       | Oskar          |
| Burke, Mass.     | Harrington      | Oberstar       |
| Burlison, Mo.    | Harris          | Obey           |
| Burton, John     | Harsha          | Oettinger      |
| Burton, Phillip  | Hawkins         | Panetta        |
| Butler           | Hawkins         | Patten         |
| Byron            | Hefner          | Patterson      |
| Carr             | Heftel          | Pattison       |
| Cavanaugh        | Hightower       | Pease          |
| Cederberg        | Hills           | Perkins        |
| Cleveland        | Holtzman        | Fettis         |
| Cohen            | Horton          | Pickle         |
| Coleman          | Howard          | Pike           |
| Collins, Ill.    | Huckaby         | Preyer         |
| Conable          | Hughes          | Quile          |
| Conte            | Hyde            | Quillen        |
| Conyers          | Jacobs          | Rahall         |
| Corcoran         | Jenkins         | Rallsback      |
| Cornell          | Johnson, Calif. | Rangel         |
| Cornwell         | Jones, N.C.     | Regula         |
| Coughlin         | Jones, Okla.    | Reuss          |
| Cunningham       | Jones, Tenn.    | Rinaldo        |
| D'Amours         | Jordan          | Risenhoover    |
| Daniel, Dan      | Kasten          | Roberts        |
| Daniel, R. W.    | Kastenmeier     | Robinson       |
| Danielson        | Ketchum         | Roncalio       |
| de la Garza      | Keys            | Rooney         |
| Dellums          | Kildee          | Rose           |
| Derrick          | Kindness        | Rostenkowski   |
| Derwinski        | Kostmayer       | Roybal         |
| Dickinson        | Krebs           | Runnels        |
| Dicks            | Krueger         | Ruppe          |
| Diggs            | Iagomarsino     | Russo          |
| Dingell          | Latta           | Ryan           |
| Dodd             | Le Fante        | Santini        |
| Drinan           | Leach           | Sarasin        |
| Duncan, Oreg.    | Lederer         | Satterfield    |
| Duncan, Tenn.    | Leggett         | Sawyer         |
| Eckhardt         | Levitas         | Scheuer        |
| Edgar            | Lloyd, Tenn.    | Schroeder      |
| Edwards, Ala.    | Long, La.       | Schulze        |
| Edwards, Calif.  | Long, Md.       | Sebellus       |
| Edwards, Okla.   | Lott            | Sharp          |
| Ellberg          | Lukens          | Shipey         |
| Emery            | Lundine         | Shuster        |
| English          | McClory         | Simon          |
| Erlenborn        | McCloskey       | Sisk           |
| Ertel            | McEwen          | Skelton        |
|                  | McFall          | Skubitz        |

Slack  
Smith, Nebr.  
Snyder  
Solarz  
Spellman  
Spence  
Stangeland  
Stanton  
Stark  
Stockman  
Stokes  
Stratton  
Studds  
Thone  
Trible  
Tsongas

Tucker  
Udall  
Ullman  
Vander Jagt  
Vanik  
Vento  
Volkmer  
Walgren  
Walker  
Walsh  
Wampler  
Watkins  
Waxman  
Weaver  
Weiss  
Whalen

White  
Whitehurst  
Whitley  
Whitten  
Wiggins  
Wilson, C. H.  
Winn  
Wolf  
Wright  
Wylie  
Yates  
Yatron  
Young, Fla.  
Young, Mo.  
Young, Tex.  
Zablocki

#### NAYS—20

Armstrong  
Badham  
Bauman  
Bonker  
Burlison, Tex.  
Clawson, Del.  
Collins, Tex.

Crane  
Findley  
Fish  
Hansen  
Holt  
Kelly  
Kemp

McDonald  
Roussetot  
Rudd  
Stump  
Symms  
Treen

#### NOT VOTING—103

Addabbo  
Akaka  
Anderson, Ill.  
Andrews, N. Dak.  
Ashbrook  
Aspin  
Badillo  
Bafalis  
Baucus  
Blaggi  
Breaux  
Brown, Mich.  
Burgener  
Burke, Calif.  
Caputo  
Carney  
Carter  
Chappell  
Chisholm  
Clausen  
Don H.  
Clay  
Cochran  
Corman  
Cotter  
Davis  
Delaney  
Dent  
Devine  
Dornan  
Downey  
Early  
Flippo  
Florio  
Flowers

Fraser  
Hall  
Hammer-  
schmidt  
Harkin  
Holland  
Hollenbeck  
Hubbard  
Ichord  
Ireland  
Jeffords  
Jenrette  
Johnson, Colo.  
Kazen  
Koch  
LaFalce  
Lehman  
Lent  
Lloyd, Calif.  
Lujan  
McCormack  
McDade  
McKay  
McKinney  
Madigan  
Mann  
Marlenee  
Metcalfe  
Milford  
Miller, Calif.  
Mineta  
Mitchell, Md.  
Murphy, Ill.  
Myers, Gary  
Neal  
Nolan

Pepper  
Poage  
Pressler  
Price  
Pritchard  
Pursell  
Quayle  
Rhodes  
Richmond  
Rodino  
Roe  
Rogers  
Rosenthal  
Seiberling  
Sikes  
Smith, Iowa  
St Germain  
Staggers  
Steed  
Steers  
Steiger  
Taylor  
Teague  
Thompson  
Thornton  
Traxler  
Van Deerlin  
Waggoner  
Wilson, Bob  
Wilson, Tex.  
Wirth  
Wyder  
Young, Alaska  
Zeferetti

The Clerk announced the following pairs:

Mr. Thompson with Mr. Dent.  
Mr. Staggers with Mr. Cotter.  
Mr. Addabbo with Mr. Flowers.  
Mrs. Chisholm with Mr. Akaka.  
Mr. Lehman with Mr. Hall.  
Mr. Richmond with Mr. Downey.  
Mr. Rodino with Mr. Harkin.  
Mr. Blaggi with Mr. Clay.  
Mr. Kazen with Mr. Mann.  
Mr. Nolan with Mr. Steed.  
Mr. Carney with Mr. Pressler.  
Mr. McKay with Mr. Baucus.  
Mr. Traxler with Mr. Lujan.  
Mr. Davis with Mr. Madigan.  
Mr. Jenrette with Mr. Bafalis.  
Mr. Koch with Mr. Fraser.  
Ms. Burke of California with Mr. Pepper.  
Mr. Zeferetti with Mr. Milford.  
Mr. Florio with Mr. Burgener.  
Mr. Waggoner with Mr. Smith of Iowa.  
Mr. McCormack with Mr. Holland.  
Mr. Corman with Mr. Mitchell of Maryland.  
Mr. Badillo with Mr. Early.  
Mr. Chappell with Mr. McKinney.  
Mr. Flippo with Mr. Cochran of Mississippi.  
Mr. Murphy of Illinois with Mr. Dornan.  
Mr. Charles Wilson of Texas with Mr. Brown of Michigan.  
Mr. Teague with Mr. Hubbard.  
Mr. Price with Mr. Lloyd of California.  
Mr. Rogers with Mr. Ireland.  
Mr. Sikes with Mr. Mineta.  
Mr. Metcalfe with Mr. Aspin.

Mr. Ichord with Mr. Wylder.  
 Mr. Rosenthal with Mr. Miller of California.  
 Mr. Breaux with Mr. Bob Wilson.  
 Mr. Delaney with Mr. Wirth.  
 Mr. LaFalce with Mr. Pritchard.  
 Mr. Young of Alaska with Mr. Van Deerlin.  
 Mr. Devine with Mr. Roe.  
 Mr. Don H. Clausen with Mr. Hammer-schmidt.  
 Mr. Steers with Mr. Neal.  
 Mr. McDade with Mr. Marlenee.  
 Mr. Lent with Mr. Seiberling.  
 Mr. Hollenbeck with Mr. Ashbrook.  
 Mr. Taylor with Mr. Gary A. Myers.  
 Mr. Quayle with Mr. Thornton.  
 Mr. Jeffords with Mr. Anderson of Illinois.  
 Mr. Carter with Mr. Steiger.  
 Mr. St Germain with Mr. Rhodes.  
 Mr. Caputo with Mr. Andrews of North Dakota.  
 Mr. Dellums with Mr. Digs.

Mr. MARRIOTT changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, pursuant to the provisions of House Resolution 603, I call up the Senate bill (S. 826) to establish a Department of Energy in the executive branch by the reorganization of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

#### MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike out all after the enacting clause of the Senate bill (S. 826), and to insert in lieu thereof the provisions of H.R. 6804, as passed, as follows:

That this Act may be cited as the "Department of Energy Organization Act".

#### TITLE I—DECLARATION OF FINDINGS, POLICY, AND PURPOSES

SEC. 101. (a) The Congress of the United States finds that—

(1) the United States and the world face an increasing shortage of nonrenewable energy resources;

(2) this energy shortage presents a serious threat to the national security of the United States and to the health, safety, and welfare of its citizens;

(3) a strong national energy program is needed to increase the efficiency of energy use and availability of energy resources, particularly renewable energy resources;

(4) responsibility for energy policy execution, regulation, and research, development and demonstration is presently vested in many agencies and departments, and this fragmentation hinders development of an effective Federal response to the energy shortage; and

(5) formulation and implementation of a national energy program require the integration of certain Federal energy functions into a single department in the executive branch.

(b) It is the policy of the United States that—

(1) energy conservation shall enjoy the highest priority in any national energy program, and shall be carefully considered as an adjunct to programs to increase energy supply and as an option to programs that may present health, safety, or other environmental hazards;

(2) major emphasis shall also be given to the development and commercial use of solar, thermal, recycling, and other technologies utilizing renewable energy resources;

(3) in the conservation and development of energy resources, the energy needs of both rural and urban residents shall be given full consideration;

(4) the environmental and social consequences of any national energy program shall be analyzed and considered in evaluation of the program's potential;

(5) public participation in the development and enforcement of any national energy program shall be provided for, encouraged, and assisted; and

(6) to the maximum extent practicable the productive capacity of the private sector of the free enterprise system shall be utilized in the development and achievement of the policies and purposes of this act.

SEC. 102. The purposes of this Act are (1) to establish a permanent Department of Energy in the executive branch, (2) to vest in the Secretary of Energy such functions as are vested in, or transferred to, him by this Act, (3) to achieve, through the Department, effective management of energy functions of the Federal Government, (4) to provide the mechanism through which a coordinated national energy policy can be formulated and implemented to deal with the short-, mid-, and long-term energy problems of the Nation, (5) to safeguard and conserve our natural resources and environment, and (6) to promote the interest of consumers.

#### TITLE II—ESTABLISHMENT OF DEPARTMENT

SEC. 201. There is hereby established at the seat of government an executive department to be known as the Department of Energy (hereinafter in this Act referred to as the "Department"). There shall be at the head of the Department a Secretary of Energy (hereinafter in this Act referred to as the "Secretary") who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

SEC. 202. There shall be in the Department a Deputy Secretary, nine Assistant Secretaries, and a General Counsel, each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions as the Secretary shall prescribe from time to time. The Assistant Secretaries shall be designated as follows:

(1) Assistant Secretary for Public, Congressional, and Intergovernmental Relations;

(2) Assistant Secretary for Conservation;

(3) Assistant Secretary for Defense Programs;

(4) Assistant Secretary for Environment;

(5) Assistant Secretary for Fossil and Nuclear Energy Technologies;

(6) Assistant Secretary for Policy, Evaluation, and International Programs;

(7) Assistant Secretary for Competition;

(8) Assistant Secretary for Production and Resource Applications; and

(9) Assistant Secretary for Solar, Geothermal, Recycling, and Other Energy Technologies.

SEC. 203. The Deputy Secretary shall act for, and exercise the functions of, the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Secretary shall designate the order in which the Assistant Secretaries, General Counsel, and other officials shall act for, and perform the functions of, the Secretary during the absence or disability of both the Secretary and Deputy Secretary or in the event of vacancies in both of those offices.

SEC. 204. (a) There shall be within the De-

partment an Energy Information Administration to be headed by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. Such Administrator shall be a person who, by reason of professional background and experience, is especially qualified to manage an energy information system. There shall be transferred to and vested in the Administrator (on a nonexclusive basis as the Secretary may determine) all functions and authorities transferred to, and vested in, the Secretary under his Act relating to collection, analysis, and dissemination of energy information and data. The Administrator shall be subject to all duties and responsibilities established under part B of the Federal Energy Administration Act of 1974.

(b) In the performance of his professional functions in connection with collecting, analyzing, and disseminating energy information, the Administrator shall not be responsible to, or subject to, the direction of any officer, employee, or agent of the Department.

(c) The Administrator shall, upon request, promptly provide any information or analysis in his possession to any other administration, commission, or office within the Department relating to the functions of such administration, commission, or office.

SEC. 205. (a) There shall be within the Department an Economic Regulatory Administration to be headed by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall by rule provide for a separation of regulatory and enforcement functions assigned to or vested in the Administration.

(b) The Secretary shall utilize the Economic Regulatory Administration to administer—

(1) any function which may be delegated to the Secretary under the Emergency Petroleum Allocation Act of 1973;

(2) any function transferred to the Secretary by section 301(b) of this Act which relates to establishment of rates and charges under the Federal Power Act and the Natural Gas Act (subject to the provisions of section 401); and

(3) such other functions as the Secretary may consider appropriate.

(c) The Administrator shall insure an adequate opportunity for public participation, including an opportunity for hearings, in issuing any rules or regulations under this section.

SEC. 206. (a) (1) There shall be within the Department an Office of Inspector General to be headed by an Inspector General, who shall be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report to, and be under the general supervision of, the Secretary or, to the extent such authority is delegated, the Deputy Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

(2) There shall also be in the Office a Deputy Inspector General appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy shall assist the Inspector General in the administration of the Office and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that Office, act as Inspector General.

(3) The Inspector General or the Deputy may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(4) The Inspector General shall, in ac-



cordance with applicable laws and regulations governing the civil service, appoint an Assistant Inspector General for Audits and an Assistant Inspector General for Investigations.

(b) It shall be the duty and responsibility of the Inspector General—

(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to programs and operations of the Department;

(2) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by the Department for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between the Department and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by the Department, and (B) the identification and prosecution of participants in such fraud or abuse; and

(4) to keep the Secretary and the Congress fully and currently informed, by means of the reports required by subsection (c) and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by the Department, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(c) The Inspector General shall, not later than March 31 of each year, submit a report to the Secretary, to the Federal Energy Regulatory Commission, and to the Congress summarizing the activities of the Office during the preceding calendar year. Such report shall include, but need not be limited to—

(1) an identification and description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities;

(2) a description of recommendations for corrective action made by the Office with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1);

(3) an evaluation of progress made in implementing recommendations described in the report or, where appropriate, in previous reports; and

(4) a summary of matters referred to prosecutive authorities and the extent to which prosecutions and convictions have resulted.

(d) The Inspector General shall report immediately to the Secretary, to the Federal Energy Regulatory Commission as appropriate, and to the appropriate committees or subcommittees of the Congress whenever the Office becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the Department. The Deputy and Assistant Inspectors General shall have particular responsibility for informing the Inspector General of such problems, abuses, or deficiencies.

(e) The Inspector General (1) may make such additional investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable, and (2) shall provide such additional information or documents as may be requested by either House of Congress or, with respect to matters within their jurisdiction, by any committee or subcommittee thereof.

(f) Notwithstanding any other provision of

law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary, to the Federal Energy Regulatory Commission, if applicable, and to the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval. The Inspector General shall, insofar as feasible, provide copies of the reports required under subsection (c) to the Secretary and the Commission, if applicable, sufficiently in advance of the due date for their submission to Congress to provide a reasonable opportunity for comments of the Secretary and the Commission to be appended to the reports when submitted to Congress.

(g) In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, and other material available to the Department which relate to programs and operations with respect to which the Inspector General has responsibilities under this section;

(2) to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this section, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court; and

(3) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions and responsibilities under this section.

(h) For purposes of this section, the term "Department" includes any component thereof, including the Federal Energy Regulatory Commission.

Sec. 207. (a) There shall be within the Department an Office of Energy Research to be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) It shall be the duty and responsibility of the Director—

(1) to administer the physical research program transferred to the Department from the Energy Research and Development Administration;

(2) to monitor the Department's energy research and development programs in order to advise the Secretary with respect to any undesirable duplication or gaps in such programs;

(3) to advise the Secretary with respect to the well-being and management of the multi-purpose laboratories under the jurisdiction of the Department, excluding laboratories that constitute part of the nuclear weapon complex;

(4) to advise the Secretary with respect to education and training activities required for effective short- and long-term basic and applied research activities of the Department;

(5) to advise the Secretary with respect to grants and other forms of financial assistance required for effective short- and long-term basic and applied research activities of the Department; and

(6) to carry out such additional duties assigned to the Office by the Secretary relating to basic and applied research, including but not limited to supervision or support of research activities carried out by any of the Assistant Secretaries designated by section 202 of this Act, as the Secretary considers advantageous.

#### TITLE III—TRANSFERS OF FUNCTIONS

Sec. 301. (a) Except as otherwise provided in this Act, there are hereby transferred to, and vested in, the Secretary all of the functions vested by law in the Administrator of the Federal Energy Administration or the

Federal Energy Administration, the Administrator of the Energy Research and Development Administration or the Energy Research and Development Administration; and the functions vested by law in the officers and components of either such Administration.

(b) Except as provided in section 401, there are hereby transferred to, and vested in, the Secretary the functions of the Federal Power Commission, or of the members, officers, or components thereof—

(1) relating to energy information, subject to subsection (c) of this section, under sections 304 and 311 of the Federal Power Act and sections 10 and 11 of the Natural Gas Act;

(2) under section 202(a) of the Federal Power Act (relating to establishment of regional districts);

(3) under section 202 (c) and (d) of the Federal Power Act (relating to emergency interconnections);

(4) under section 202(e) of the Federal Power Act (relating to regulation of exports of electric energy);

(5) under (A) section 3 of the Natural Gas Act, and (B) section 7 of such Act (to the extent such section is applicable to the regulation of exports and imports of natural gas); and

(6) under sections 4, 5, and 7 of the Natural Gas Act (to the extent that such sections relate to the establishment and review of priorities for curtailments of natural gas deliveries).

(c) In carrying out the functions transferred to the Secretary by subsection (b) of this section, the Secretary may issue, prescribe, make, amend, and rescind rules, regulations, and statements of policy pursuant to the Federal Power Act and the Natural Gas Act, which are of general applicability. Whenever the Secretary proposes any such action, he shall notify the Federal Energy Regulatory Commission, established by section 401 of this Act, of the proposed action. If the Commission determines, within such period as the Secretary may prescribe, that the proposed action may significantly affect any function administered by the Commission pursuant to title IV of this Act, the Secretary shall, except in a case where the Secretary determines that an emergency exists which requires immediate action, allow the Commission an additional period of at least 30 days to comment on the proposed action. Before taking the proposed action (other than immediate action required by an emergency), the Secretary shall take into account any comment or recommendation received from the Commission pursuant to this subsection. If the Secretary takes the proposed action and such action is inconsistent in any respect with such comment or recommendation, the Secretary shall publish in the Federal Register the reasons for such inconsistency.

(C) The Secretary, in formulating the information to be requested in the reports or investigations under section 304 and section 311 of the Federal Power Act and section 10 and section 11 of the Natural Gas Act, shall include in such reports and investigations such specific information as requested by the Federal Energy Regulatory Commission and copies of all reports, information, results of investigations and data under said sections shall be furnished by the Secretary to the Federal Energy Regulatory Commission.

Sec. 302. (a) There are hereby transferred to and vested in the Secretary all functions and authorities of the Secretary of the Interior under section 5 of the Flood Control Act of 1944 (16 U.S.C. 825a), and all other functions and authorities of the Secretary of the Interior, and officers and components of the Department of the Interior, with respect to—

(1) the Southeastern Power Administration;  
(2) the Southwestern Power Administration;

(3) the Alaska Power Administration;  
(4) the Bonneville Power Administration including but not limited to the authority contained in the Bonneville Project Act of 1937 (50 Stat. 731), as amended, and the Federal Columbia River Transmission System Act (88 Stat. 1376);

(5) the power marketing functions of the Bureau of Reclamation including the construction, operation, and maintenance of transmission lines and attendant facilities; and

(6) the transmission and disposition of the electric power and energy generated at Falcon Dam and Amistad Dam, international storage reservoir projects on the Rio Grande, pursuant to the Act of June 18, 1954, as amended by the Act of December 23, 1963.

(b) The Southeastern Power Administration, the Southwestern Power Administration, the Bonneville Power Administration, and the Alaska Power Administration shall be preserved as separate and distinct organizational entities within the Department, shall each be headed by an Administrator appointed by the Secretary. The functions and authority hereby transferred to the Secretary shall be exercised by the Secretary, acting by and through such Administrators. Each such Administrator shall maintain his principal office at a place located in the region served by his respective Federal power marketing entity.

(c) There is hereby created a separate and distinct Administration within the Department of Energy which shall be headed by an Administrator appointed by the Secretary. The functions and authority transferred in paragraph (a) (5) or (a) (6) of this section shall be exercised by the Secretary, acting by and through such Administrator; and the Administrator shall establish and shall maintain such regional offices as necessary to facilitate the performance of such functions. Neither the transfer of functions and authority effected by subsection a(5) of this section nor any changes in cost allocation or project evaluation standards shall be deemed to authorize the reallocation of joint costs of multipurpose facilities theretofore allocated unless and to the extent that such change is hereafter approved by Congress.

(d) (1) The authority of the Secretary of the Interior to prescribe regulations under the Outer Continental Shelf Lands Act, the Mineral Lands Leasing Act, the Mineral Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act, which relate to the—

(A) fostering of competition for Federal leases (including, but not limited to, prohibition on bidding for development rights by certain types of joint ventures);

(B) implementation of alternative bidding systems authorized for the award of Federal leases;

(C) establishment of diligence requirements for operations conducted on Federal leases (including, but not limited to, procedures relating to the granting or ordering by the Secretary of the Interior of suspension of operations or production as they relate to such requirements);

(D) setting rates of production for Federal leases; and

(E) specifying the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind,

except that such regulations shall be promulgated by the Secretary only after consultation with the Secretary of the Interior.

(2) The Secretary of the Interior shall retain any authorities not transferred by paragraph (1) of this subsection and shall

be solely responsible for the issuance and supervision of leases and the enforcement of all regulations applicable to the leasing of mineral resources, including, but not limited to, lease terms and conditions and production rates. No regulation issued by the Secretary shall restrict or limit any authority retained by the Secretary of the Interior under this paragraph with respect to the issuance or supervision of leases. Nothing in this subsection shall be construed to affect Indian lands and resources or to transfer any responsibilities of the Secretary of the Interior concerning such lands and resources.

(e) Those functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department under the Act of May 18, 1910, and other authorities, exercised by the Bureau of Mines, but limited to—

(1) fuel supply and demand analysis and data gathering;

(2) research and development relating to increased efficiency of production technology of solid fuel minerals, other than research relating to mine health and safety and research relating to the environmental and leasing consequences of solid fuel mining, which shall remain in the Department of the Interior; and

(3) coal preparation and analysis.

(f) The functions of the Secretary of the Interior to establish production rates for all Federal leases.

Sec. 303. The Secretary of the Interior shall afford the Secretary a reasonable opportunity, prior to the execution of a Federal lease, to disapprove any term or condition of such Federal lease which relates to the matters with respect to which the Secretary has authority to prescribe regulations under section 302(d). No such term or condition may be included in such a lease if it is disapproved by the Secretary.

Sec. 304. As used in sections 302 and 303 of this Act, "Federal lease" means an agreement which, for any consideration, including, but not limited to, bonuses, rents, or royalties conferred and covenants to be observed, authorizes any person to explore for, develop, or produce (or to do any or all of these) oil and gas, coal, oil shale, tar sands, or geothermal resources in public, acquired, or submerged lands or interests therein under Federal jurisdiction.

Sec. 305. All functions vested by law in the Director of the Office of Energy Information and Analysis by part B of the Federal Energy Administration Act of 1974 are hereby transferred to the Administrator of the Energy Information Administration.

Sec. 306. There are hereby transferred to and vested in the Secretary all of the functions vested in the Secretary of Housing and Urban Development by the Energy Conservation Standards for New Buildings Act of 1976 (title III of the Energy Conservation and Production Act).

Sec. 307. There are hereby transferred to and vested in the Secretary such functions as are set forth in the Interstate Commerce Act and vested by law in the Interstate Commerce Commission or the Chairman and members thereof as relate to transportation of oil by pipeline.

Sec. 308. There are hereby transferred to and vested in the Secretary all functions vested by chapter 641 of title 10, United States Code, in the Secretary of the Navy as they relate to the administration of, and there is hereby transferred to, and vested in, the Secretary jurisdiction over—

(1) Naval Petroleum Reserve Numbered 1 (Elk Hills) located in Kern County, California, established by Executive order of the President, dated September 2, 1912;

(2) Naval Petroleum Reserve Numbered 2 (Buena Vista), located in Kern County, California, established by Executive order of the President, dated December 13, 1912;

(3) Naval Petroleum Reserve Numbered 3 (Teapot Dome) located in Wyoming, established by Executive order of the President, dated April 30, 1915;

(4) Oil Shale Reserve Numbered 1, located in Colorado, established by Executive order of the President, dated December 6, 1916, as amended by Executive order of the President, dated June 12, 1919;

(5) Oil Shale Reserve Numbered 2, located in Utah, established by Executive order of the President, dated December 6, 1916; and

(6) Oil Shale Reserve Numbered 3, located in Colorado, established by Executive order of the President, dated September 27, 1974.

The surface management of such reserves shall be carried out by the Secretary of the Interior under applicable laws, including the Federal Land Policy and Management Act of 1976, administered by such Secretary.

Sec. 309. There are hereby transferred to and vested in the Secretary all functions of the Secretary of Commerce, the Department of Commerce, and officers and components of that Department, as relate to or are utilized by the Office of Energy Programs, but limited to industrial energy conservation programs.

Sec. 310. (a) The Division of Naval Reactors, established pursuant to section 25 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2035), and responsible for research, design, development, health and safety matters pertaining to naval nuclear propulsion plants and assigned civilian power reactor programs, is transferred to the Department under the Assistant Secretary for Fossil and Nuclear Energy Technologies and shall be deemed to be an organizational unit established by this Act.

(b) The Division of Military Application, established by section 25 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2035), and the functions of the Energy Research and Development Administration with respect to the Military Liaison Committee, established by section 27 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2037), are transferred to the Department under the Assistant Secretary for Defense Programs and such organizational units shall be deemed to be an organizational unit established by this Act.

Sec. 311. Notwithstanding section 301(a), there are hereby transferred to, and vested in, the Secretary of Transportation all of the functions vested in the Administrator of the Federal Energy Administration by section 381(b) (1) (B) of the Energy Policy and Conservation Act.

#### TITLE IV—FEDERAL ENERGY REGULATORY COMMISSION

Sec. 401. (a) (1) There is hereby established within the Department an independent regulatory commission to be known as the Federal Energy Regulatory Commission (hereinafter referred to in this title as the "Commission").

(2) There are hereby transferred to, and vested in, the Commission (A) all functions and authority of the Federal Power Commission under the Federal Power Act, the Natural Gas Act, and all other laws under which the Commission operates, which are not specifically transferred to, and vested in, the Secretary pursuant to section 301(b) of this Act, and (B) all other functions transferred by title III of this Act which involve an agency determination required by law to be made on the record after opportunity for an agency hearing.

(3) Except as provided in section 301(b) (1), the Commission shall have the authority to prescribe, issue, make, amend, and rescind rules, regulations, and statements of policy under the Federal Power Act and the Natural Gas Act, and, in exercising such authority, shall coordinate its actions with the Secretary.



(4) The Secretary may assign to the Commission, by rule, any other functions vested in or delegated to him.

(b) The Commission shall be comprised of five members appointed by the President, by and with the advice and consent of the Senate. One of the members shall be designated by the President as Chairman. Members shall hold office for a term of four years and may be removed by the President only for inefficiency, neglect or duty, or malfeasance in office. The terms of the members first taking office shall expire (as designated by the President at the time of appointment), two at the end of two years, two at the end of three years, and one at the end of four years. Not more than three members of the Commission shall be members of the same political party. Any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A Commissioner may continue to serve after the expiration of this term until his successor has taken office, except that he may not so continue to serve more than one year after the date on which his term would otherwise expire under this subsection.

(c) The Chairman shall be responsible on behalf of the Commission for the executive and administrative operation of the Commission, including functions of the Commission with respect to (1) the appointment and employment of hearing examiners in accordance with the provisions of title 5, United States Code, (2) the selection, appointment, and supervision of personnel employed by or assigned to the Commission, except that each member of the Commission may select and supervise personnel for his personal staff, (3) the distribution of business among personnel and among administrative units of the Commission, and (4) the use and expenditure of funds appropriated for Commission functions. The Secretary shall provide to the Commission such support and facilities as the Commission may need to carry out its functions.

(d) In each annual authorization and appropriation request under this Act, the Secretary shall identify the portion thereof intended for the support of the Commission and include a statement by the Commission (1) showing the amount requested by the Commission in its budgetary presentation to the Secretary and the Office of Management and Budget and (2) an assessment of the budgetary needs of the Commission. Whenever the Commission submits any legislative recommendation or testimony, or comments on legislation, to the Secretary, the President, or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the appropriate committees of Congress.

(e) In the performance of their functions, the members and employees of the Commission shall not be responsible to, or subject to the supervision or direction of, any officer, employee, or agent of the Department.

(f) A decision of the Commission shall be a final agency action within the meaning of section 704 of title 5, United States Code, with respect to matters within the Commission's jurisdiction and shall not be subject to further review by the Secretary or any officer or employee of the Department.

(g) The Chairman of the Commission may from time to time designate any other member of the Commission as Acting Chairman to act in the place and stead of the Chairman during his absence. The Chairman (or the Acting Chairman in the absence of the Chairman) shall preside at all sessions of the Commission and a quorum for the transaction of business shall consist of at least three members present. Each member of the Commission, including the Chairman, shall have one vote. Actions of the Commission shall be determined by a majority vote

of the members present. The Commission shall have an official seal which shall be judicially noticed.

(h) The Commission is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions. Until changed by the Commission, such rules of the Federal Power Commission shall continue in effect.

(i) In carrying out all its functions, the Commission shall have the powers authorized by the Federal Power Act and the Natural Gas Act to hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate. The Commission may, by one or more of its members or by such agents as it may designate, conduct any hearing or other inquiry necessary or appropriate to its functions.

Sec. 402. No person in the employ of, or holding any official relation to, any person engaged in the production, generation, transmission, distribution, or sale of electric power, petroleum, petroleum products, natural gas, coal, nuclear material, synthetic fuels, or energy from renewable resources, wastes, or geothermal steam, or in energy research or development, or owning stock or bonds thereof, or having a pecuniary interest therein, shall enter upon the duties of, or hold the office of Commission member. Members shall not engage in any other business, vocation, or employment while members of the Commission.

Sec. 403. The principal office of the Commission shall be in or near the District of Columbia, where its general sessions shall be held; but the Commission may sit anywhere in the United States.

Sec. 404. The Secretary, each officer of the Department, and each Federal agency, subject to applicable provisions of law, shall cooperate with the Commission in providing, upon request, such information as it may require.

Sec. 405. Nothing in this title shall be construed in any way to limit the functions of the Secretary relating to activities within the jurisdiction of the Secretary, including any function shared with the Commission.

Sec. 406. The Secretary may as of right intervene or otherwise participate in any adjudicatory proceeding before the Commission. The Secretary shall comply with rules of procedure of general applicability governing the timing of intervention or participation in such proceeding or activity and, upon intervening or participating therein, shall comply with rules of procedure of general applicability governing the conduct thereof. The intervention or participation of the Secretary in any proceeding or activity shall not affect the obligation of the Commission to assure procedural fairness to all participants.

Sec. 407. For the purpose of section 552b of title 5, United States Code, the Commission shall be deemed to be an agency. For the purposes of chapter 9 of title 5, United States Code, the Commission shall be deemed to be an independent regulatory agency.

#### TITLE V—ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

Sec. 501. (a) Subject to the other requirements of this title, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply in accordance with its terms to any rule or regulation, or any order having the applicability and effect of a rule (as defined in section 551(4) of title 5, United States Code), issued pursuant to authority vested by law in, or transferred or delegated to, the Secretary, or required by this Act or any other Act to be carried out by any other officer, employee, or component of the Department, other than the Federal Energy Regulatory Commission, including any such rule, regulation, or order of a State, or local government agency or officer thereof, issued pursuant to authority dele-

gated by the Secretary in accordance with title. If any provision in any Act, the functions of which are transferred, vested, or delegated pursuant to this Act, provides administrative procedure requirements in addition to those provided in this title, such additional requirements shall also apply to actions under that provision.

(b) (1) In addition to the requirements of subsection (a) of this section, notice of any proposed rule, regulation, or order described in subsection (a) shall be given by publication of such proposed rule, regulation, or order in the Federal Register. Such publication shall be accompanied by a statement of the research, analysis, and other available information in support of, the need for, and the probable effect of, any such proposed rule, regulation, or order. Other effective means of publicity shall be utilized as may be reasonably calculated to notify concerned or affected parties of the nature and probable effect of any such proposed rule, regulation, or order. In each case, a minimum of thirty days following such publication shall be provided for opportunity to comment prior to the effective date of any such rule, regulation, or order; except that the requirements of this subsection as to time of notice and opportunity to comment may be waived, subject to paragraph (3) of this section, where strict compliance is found by the Secretary to be likely to cause serious harm or injury to the public health, safety, or welfare, and such finding is set out in detail in such rule, regulation, or order.

(2) Public notice of all rules, regulations, or orders described in subsection (a) which are promulgated by officers of a State or local government agency pursuant to a delegation under this Act shall be provided by publication of such proposed rules, regulations, or orders in at least two newspapers of statewide circulation: If such publication is not practicable, notice of any such rule, regulation, or order shall be given by such other means as the officer promulgating such rule, regulation, or order determines will reasonably assure wide public notice.

(3) The requirements of this subsection may be satisfied within a reasonable period of time subsequent to the promulgation of the rule, regulation, or order if the Secretary finds, under paragraph (1), that an emergency exists requiring the immediate implementation of any such rule, regulation, or order.

(c) (1) If the Secretary determines at the time of publication of a proposed rule, regulation, or order described in subsection (a) that no substantial issue exists and that such rule, regulation, or order is unlikely to have a substantial impact on the nation's economy or large numbers of individuals or businesses, the proposed rule, regulation, or order may be promulgated in accordance with section 553 of title 5, United States Code, except that subsection (a) (2) of section 553 shall not apply. If the Secretary determines at the time of publication of any such rule, regulation, or order that a substantial issue exists or that such rule, regulation, or order is likely to have a substantial impact on the nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be provided.

(2) Any person, who would be adversely affected by the implementation of any proposed rule, regulation, or order issued pursuant to the first sentence of paragraph (1) and who desires an opportunity for oral presentation of views, data, and arguments, shall offer evidence supporting the existence of such substantial issues or such impact during the period established for public comment. If the Secretary determines that such evidence is sufficient to establish the existence of such issues or impact, the Secretary shall provide an opportunity for such oral presentation.

(3) Following the notice and comment period, including any oral presentation required by this subsection, the Secretary may promulgate such rule, regulation, or order, which shall include therewith an explanation responding to the major comments, criticisms, and alternatives offered during the comment period.

(4) A transcript shall be kept of any oral presentation with respect to a rule, regulation, or order described in subsection (a).

(d) The Secretary, or any officer authorized to issue rules, regulations, or orders under the Federal Energy Administration Act, the Emergency Petroleum Allocation Act of 1973, the Energy Supply and Environmental Coordination Act of 1974, or the Energy Policy and Conservation Act shall provide for the making of such adjustments, consistent with the other purposes of the relevant Acts, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens, and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, exception to, or exemption from, such rule, regulation, or order. The Secretary or any such officer shall additionally insure that each decision on any application or petition requesting an adjustment shall specify the standards of hardship, inequity, or unfair distribution of burden by which any disposition was made, and the specific application of such standards to the facts contained in any such application or petition. If any person is aggrieved or adversely affected by a denial of a request for adjustment under the preceding sentences, such person may request a review of such denial by the Secretary and may obtain judicial review in accordance with this title when such a denial becomes final. The Secretary shall, by rule, establish appropriate procedures, including a hearing when requested, for review of a denial, and where deemed advisable by the Secretary, for considering other requests for action under this subsection, except that no review of a denial under this subsection shall be made by the same officer denying the adjustment.

(e) (1) With respect to any rule, regulation, or order, the effects of which, except for indirect effects of an inconsequential nature, are confined to—

(A) a single unit of local government or the residents thereof;

(B) a single geographic area within a State or the residents thereof; or

(C) a single State or the residents thereof; the Secretary shall, in any case where appropriate, afford an opportunity for a hearing or the oral presentation of views and provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in paragraphs (A) through (C) of this paragraph as the case may be.

(2) For purposes of this subsection—

(A) the term "unit of local government" means a county, municipality, town, township, village, or other unit of general government below the State level; and

(B) the term "geographic area within a State" means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(3) Nothing in this subsection shall be construed as requiring a hearing or an oral presentation of views where none is required by this section or other provision of law.

(f) (1) Judicial review of agency action taken under any law the functions of which are vested by law in, or transferred or delegated to, the Secretary or any officer, employee, or component of the Department shall, notwithstanding such vesting, transfer, or delegation, be made in the manner specified in such law.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under rules, regulations, or orders issued exclusively thereunder, other than any actions taken to implement or enforce any rule, regulation, or order by any officer of a State or local government agency under this Act, except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the unconstitutionality of this Act or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the unconstitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code. Cases or controversies arising under any rule, regulation, or order of any officer of a State or local government agency may be heard in either (A) any appropriate State court, or (B) without regard to the amount in controversy, the district courts of the United States.

(3) Where authorized by any law vested, transferred, or delegated pursuant to this Act, the Secretary may, by rule, prescribe procedures for State or local government agencies authorized by the Secretary to carry out such functions as may be permitted under applicable law. Such procedures shall apply to such agencies in lieu of this section, and shall require that prior to taking any action, such agencies shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) a reasonable time before taking the action.

(4) Notwithstanding any other law, the litigation of the Department shall be subject to the supervision of the Attorney General pursuant to chapter 31 of title 28, United States Code. This paragraph shall not apply to the Federal Energy Regulatory Commission.

SEC. 502. (a) Section 501 of this title shall remain in effect for two years after the effective date of this Act. Any proceeding commenced under such section prior to the termination of its effect shall, notwithstanding such termination, be conducted in accordance with such section. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payment shall be made pursuant to such orders as if such section had not terminated; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if such section had not terminated.

(b) Within one year after effective date of this Act, the Secretary shall submit a report to Congress concerning the actions taken to implement section 501. The report shall include a discussion of the adequacy of such section from the standpoint of the Department and the public, including a summary of any comments obtained by the Secretary from the public about such section and implementing regulations, and such recommendations as the Secretary deems appropriate concerning the extension and revision of such section.

(c) Nothing in this title shall be construed as repealing by implication any existing provision of law relating to administrative procedures and judicial review applicable to any authority vested, transferred, or delegated pursuant to this Act, except that such existing provisions shall, to the extent provided by section 501, be superseded by the provisions of such section during the two years specified in subsection (a).

SEC. 503. (a) (1) Except as provided in subsection (c), but notwithstanding any other provision of this or of any other Act, simultaneously with promulgation or repromulgation of any rule or regulation issued pursuant to authority transferred, vested, or delegated to the Secretary or the Federal Energy Regulatory Commission, other than a rule or regulation establishing a price for petroleum, petroleum products, or natural gas, the Secretary or the Commission, as the case may be, shall submit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the rule or regulation shall not become effective, if—

(A) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule or regulation promulgated by dealing with the matter of \_\_\_\_\_, which rule or regulation was transmitted to Congress on \_\_\_\_\_," the blank spaces therein being appropriately filled; or

(B) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

(2) If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation described in paragraph (1), no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in paragraph (1) (A).

(b) (1) The agency may not promulgate a new rule or regulation identical to one disapproved pursuant to this section unless a statute is adopted affecting the agency's powers with respect to the subject matter of the rule or regulation.

(2) If the agency proposes a new rule or regulation dealing with the same subject matter as a disapproved rule or regulation, the agency shall comply with the procedures required for the issuance of a new rule or regulation.

(c) The provisions of this section shall not apply with respect to a rule or regulation which is promulgated under a provision of law which provides for another method of congressional review and disapproval or approval of such rule or regulation than that provided by this section.

(d) For the purpose of this section, calendar days of continuous session of Congress shall be computed in accordance with section 906(b) of title 5, United States Code.



Sec. 504(a) If upon investigation, the Secretary or his authorized representative believes that a person has violated any regulation, rule, or order promulgated pursuant to the Emergency Petroleum Allocation Act, he may issue a remedial order to the person. Each remedial order shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the rule, regulation, or order alleged to have been violated. For purposes of this section "person" includes any individual, association, company, corporation, partnership, or other entity however organized.

(b) If within thirty days from the receipt of the remedial order issued by the Secretary, the person fails to notify the Secretary that he intends to contest the remedial order, the remedial order shall become effective and shall be deemed a final order of the Secretary and not subject to review by any court or agency.

(c) If within thirty days from the receipt of the remedial order issued by the Secretary, the person notifies the Secretary that he intends to contest a remedial order issued under subsection (a) of this section, the Secretary shall immediately advise the Economic Regulatory Administration of such notification. Upon such notice, the Administrator shall stay the effect of the remedial order except where he finds the public interest requires immediate compliance with such remedial order. The Administrator shall, upon request, afford an opportunity for a hearing, including the submission of briefs, evidence (oral or documentary) and oral arguments. To the extent that the Administrator in his discretion determines such is required for a full and true disclosure of the facts, he shall afford the right of cross examination. The Administrator shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's remedial order, or directing other appropriate relief, and such order shall, for the purpose of judicial review, constitute final agency action.

(d) The Secretary may set reasonable time limits for the Administration to complete action on a proceeding referred to it pursuant to this section.

(e) Nothing in this section shall be construed to affect any procedural action taken by the Secretary prior to or incident to initial issuance of a remedial order which is the subject of the hearing provided herein, but such procedures shall be reviewable in the hearing.

#### TITLE VI—ADMINISTRATIVE PROVISIONS

Sec. 601. (a) For purposes of this section—

(1) the term "Department" includes any agency, administration, commission, or other component thereof;

(2) the term "Department proceeding" includes any Department hearing, application, rulemaking or other determination, contract, grant, reward, fund transfer, claim, controversy, charge, accusation, or arrest;

(3) the term "employee" means any person holding a position in the Department;

(4) the term "employment" means employment with an energy concern and includes employment as a consultant, agent, attorney, or otherwise and includes voluntary employment;

(5) the term "energy concern" means any person significantly engaged in the production, generation, transmission, distribution, or sale of electric power, petroleum or petroleum products, synthetic fuels, energy from renewable resources, wastes, or geothermal steam, nuclear energy, natural gas, coal, solar energy, or other energy-related source or resource, or in any research or development significantly related to such production, generation, transmission, distribution, or sale;

(6) the term "participate" includes participation by way of decision, approval, disapproval, recommendation, the rendering of advice, or investigation; and

(7) the term "supervisory employee" means any of the following officers or employees of the Department—

(A) an individual compensated at the rate provided for grade of GS-16 or above under section 5332 of title 5, United States Code;

(B) an individual compensated under the Executive Schedule, as provided in subchapter II of chapter 53 of title 5 of the United States Code;

(C) any other individual who, in the judgment of the Secretary, exercises sufficient decisionmaking authority so that the provisions of this section should apply to such individual;

(D) the Director or Deputy Director of any State, regional, district, local, or other field office; or

(E) an employee or officer who has responsibility with respect to the award, review, modification, or termination of any grant, contract, reward, or fund transfer within the authority of the Secretary.

(b)(1) No supervisory employee shall knowingly receive compensation from, or hold any official relation to, any energy concern, or own stocks or bonds thereof, or have any pecuniary interest therein.

(2) Personnel transferred to the Department pursuant to section 701 of this Act shall have six months to comply with the provisions of paragraph (1) of this subsection with respect to prohibited property holdings. Any person transferred pursuant to section 701 shall notify the Secretary of all circumstances which would be violative of the restrictions described in subsection (b)(1) not later than fifteen days after the date of such transfer as determined by the United States Civil Service Commission.

(3) Where exceptional hardship would result, or where the interest is vested, the Secretary is authorized to waive the requirements of this subsection with respect to any person covered. Such waiver shall:

(A) be published in the Federal Register;

(B) contain a finding by the Secretary that exceptional hardship would result; and

(C) indicate the steps taken by the Secretary to minimize conflict of interest and the appearance of conflict of interest.

Such waiver shall in no instance constitute a waiver of the requirements of section 208 of title 18, United States Code.

(c)(1) Each supervisory employee shall file with the Secretary, in such form and manner as the Secretary shall prescribe, a report describing all previous employment with any energy concern.

(2) Each former supervisory employee of the Department shall file with the Secretary, in such form and manner as the Secretary shall prescribe, no later than the November 15 of—

(A) the fiscal year following the fiscal year in which such person ceased to be an employee of the Department, and

(B) each of the succeeding two fiscal years, a report describing any employment with any energy concern during the fiscal year to which such report relates.

(3) Each report filed pursuant to paragraphs (1) and (2) shall contain the name and address of the person filing the report, the name and address of the energy concern with which he held employment, a brief description of his duties and work for the energy concern, the dates of his employment, and such other pertinent information as the Secretary may require.

(4) The Secretary shall maintain a file containing the reports filed with him pursuant to paragraphs (1) and (2). All such reports shall be available for public inspection and copying at all times during regular working hours.

(d)(1)(A) For a period of two years after terminating any employment with any energy concern, no supervisory employee shall knowingly participate in any Department proceeding in which his former employer is substantially, directly, or materially involved, other than in a rulemaking proceeding which has a substantial effect on numerous energy concerns.

(B) While an employee of the Department, no supervisory employee shall knowingly participate in any Department proceeding for which he had direct responsibility, or in which he participated substantially or personally, while in the employment of any energy concern.

(C) No supervisory employee who solicits, negotiates, or arranges for employment with any energy concern shall participate in any Department proceeding in which such energy concern is substantially, directly, or materially involved.

(2)(A) For a period of two years after ceasing to be an employee of the Department, no supervisory employee shall, in any professional capacity for anyone other than the United States, appear or attend before, or make any oral or written communication or submission to, or filing with, the Department or any officer or employee of the Department in connection with any Department proceeding.

(B) For a period of five years after ceasing to be an employee of the Department, no supervisory employee shall, in any professional capacity for anyone other than the United States, appear or attend before, or make any oral or written communication to, or filing with, the Department or any officer or employee of the Department in connection with any Department proceeding in which he participated substantially or personally while a supervisory employee.

(3) Notwithstanding any penalty imposed under subsection (e), any violation of this subsection shall be taken into consideration in deciding the outcome of any Department proceeding in connection with which the prohibited appearance, attendance, communication, or submission was made.

(4) Whenever the Secretary makes a written finding as to a particular supervisory employee that the application of a particular restriction or requirement imposed by paragraph (1) or (2) of this subsection in a particular circumstance would work an exceptional hardship upon such supervisory employee or would be contrary to the national interest, the Secretary may waive in writing such restriction or requirement as to such supervisory employee. The Secretary shall maintain a file containing all findings and waivers made by him pursuant to this paragraph, and all such findings and waivers shall be available for public inspection and copying at all times during regular working hours. Any waiver made by the Secretary of a restriction imposed under paragraph (2) of this subsection shall also be filed with any record of the Department proceeding as to which the waiver for purposes of participation is granted. No such waiver shall in any instance constitute a waiver of the requirement of section 207 of title 18, United States Code.

(e) Any person who violates subsections (b), (c), or (d), taking into account any waiver under subsection (b)(3) or (d)(4), shall be subject to a civil penalty, assessed by the Secretary, not to exceed \$10,000 for each violation.

(f) Nothing in this section shall be deemed to limit the operation of section 207 or section 208 of title 18, United States Code.

Sec. 602. (a) Each officer or employee of the Department, including the Federal Energy Regulatory Commission, who has any known financial interest—

(1) in any person engaged in the business, other than at the retail level, of developing,

producing, refining, transporting by pipeline, or converting into synthetic fuel, minerals, wastes, or renewable resources, or in the generation of energy from such minerals, wastes, or renewable resources, or in conducting research, development, and demonstration with financial assistance under this Act or any Act, the administration of which is transferred pursuant to this Act;

(2) in property from which coal, natural gas, crude oil, or nuclear material is commercially produced;

(3) in any person engaged in the production, generation, transmission, distribution, or sale of electric power; or

(4) in any person engaged in production, sale, or distribution of nuclear materials; shall, beginning on February 1, 1978, annually file with the Secretary a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such statement shall be subject to examination, and available for copying, by the public upon request.

(b) The Secretary shall—

(1) act, within ninety days after the effective date of this Act, by rule—

(A) to define the term "known financial interest" for purposes of subsection (a); and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) include, as part of the report made pursuant to section 621, a report with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b), the Secretary may identify specific positions, or classes thereof, within the Department and the Commission which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, subsection (a) shall be fined not more than \$2,500 or imprisoned not more than one year, or both.

Sec. 603. The Secretary is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in him.

Sec. 604. Except as otherwise expressly prohibited by law, the Secretary may delegate any of his functions to such officers and employees of the Department as he may designate, and may authorize such successive re-delegations of such functions as he may deem to be necessary or appropriate.

Sec. 605. The Secretary is authorized to establish, alter, consolidate, or discontinue and to maintain such State, regional, district, local, or other field offices as he may deem to be necessary to carry out functions now or hereafter vested in him.

Sec. 606. The Secretary may, from time to time, establish, alter, consolidate or discontinue such organizational units or components within the Department as he may deem to be necessary or appropriate, except that such authority shall not extend to the abolition of organizational units or components established by this Act.

Sec. 607. In the performance of functions transferred to, and vested in, the Secretary or any officer or component of the Department, other than the Commission, the Secretary is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accord-

ance with title 5, United States Code, except that to the extent the Secretary deems such action necessary to the discharge of his functions, he may establish scientific or professional positions within the Department as provided in section 3104 of title 5, United States Code.

Sec. 608. (a) There shall be within the Department not more than fourteen additional officers in positions authorized by sections 5315 and 5316 of title 5, United States Code, who shall be appointed by the Secretary and who shall perform such functions as the Secretary shall prescribe from time to time.

(b) (1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place at GS-16, GS-17, and GS-18, not to exceed 350 positions of the positions subject to the limitation of the first sentence of section 5108(a) of such title.

(2) Any position placed at GS-16, GS-17, or GS-18 under the authority of paragraph (1) may be filled only by a person who is transferred in connection with a transfer of function under this Act and who, immediately before the effective date of this Act, held a position having duties comparable to those of such position. Appointments under this paragraph may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Civil Service Commission of appointments to GS-16, GS-17, and GS-18.

(3) The Secretary's authority under this subsection with respect to any position shall cease when the person appointed to fill such position under paragraph (2) leaves such position.

Sec. 609. The Secretary may obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code, for persons in Government service employed intermittently.

Sec. 610. Section 17 of the Federal Energy Administration Act of 1974 shall be applicable to advisory committees chartered by the Department to provide advice relating to the regulatory activities of the Department.

Sec. 611. (a) The Secretary is authorized to provide for participation of Armed Forces personnel in carrying out functions performed, on the date of enactment of this Act, in the Energy Research and Development Administration and under chapter 641 of title 10, United States Code. Members of the Armed Forces may be detailed for service in the Department by the Secretary concerned (as said term is defined in section 101 of such title) pursuant to cooperative agreements with the Secretary.

(b) The detail of any personnel to the Department under this section shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy or hold or any emolument, perquisite, right, privilege, or benefit incident to, or arising out of, such status, office, rank, or grade, nor shall any member so detailed be charged against any statutory or other limitation on strengths applicable to the Armed Forces or the Department. A member so detailed shall not be subject to direction or control by his armed force, or any officer thereof, directly or indirectly, with respect to the responsibilities exercised in the position to which detailed.

Sec. 612. (a) With their consent, the Secretary and the Federal Energy Regulatory Commission may, with or without reimbursement, use the research, equipment, and facilities of any agency or instrumentality of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession

of the United States, or of any political subdivision thereof, or of any foreign government, in carrying out any function now or hereafter vested in the Secretary or the Commission.

(b) The Secretary may, with or without reimbursement, provide research, equipment, and facilities to any agency or instrumentality of the United States or any State, territory, the Commonwealth of Puerto Rico, the District of Columbia, or any political subdivision thereof, or to any foreign government, whenever he deems such action to be necessary and appropriate to the performance of functions now or hereafter vested in him.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary or the head of the agency or instrumentality of the United States involved, as the case may be, to pay directly the costs of the equipment, or facilities provided, to repay or make advances to appropriations or funds which do or will initially bear all or a part of such costs, or to refund excess sums when necessary, except that such proceeds may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 619 of this Act, and used under the law governing such fund, if the fund is available for use for providing the equipment, or facilities involved.

Sec. 613. The Secretary is authorized to enter into and perform such contracts, leases, cooperative agreements, or other similar transactions with public agencies and private organizations and persons, and to make such payments (in lump sum or installments, and by way of advance or reimbursement) as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in the Secretary.

Sec. 614. The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, such personal property (including patents), or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

Sec. 615. (a) As necessary and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote locations:

- (1) emergency medical services and supplies;
- (2) food and other subsistence supplies;
- (3) messing facilities;
- (4) audiovisual equipment, accessories, and supplies for recreation and training;
- (5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;
- (6) living and working quarters and facilities; and
- (7) transportation of school age dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary to pay directly the cost of such work or services, to repay or make advances to appropriations of funds which will initially bear all or a part of such cost, or to refund



excess sums when necessary: *Provided*, That such payments may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 619 of this Act, and used under the law governing such fund, if the fund is available for use by the Department for performing the work or services for which payment is received.

Sec. 616. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

Sec. 617. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

Sec. 618. The Secretary shall cause a seal of office to be made for the Department of such design as he shall approve and judicial notice shall be taken of such seal.

Sec. 619. The Secretary is authorized to establish a working capital fund, to be available without fiscal-year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interests of economy and efficiency. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund in such amounts as may be necessary to provide additional working capital are authorized. The working capital fund shall recover from the appropriations and funds for which services are performed, either in advance or by way of reimbursement, amounts which will approximate the costs incurred, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from the sale or exchange of its property, and receipts in payment for loss or damage to property owned by the fund.

Sec. 620. To the extent necessary or appropriate to perform any function transferred by this Act, the Secretary may exercise, in carrying out the function so transferred, any authority or part thereof available by law, including appropriation Acts, to the official or agency from which such function was transferred.

Sec. 621. The Secretary shall, as soon as practicable after the end of each fiscal year, commencing with the first complete fiscal year following the effective date of this Act, make a report to the President for submission to the Congress on the activities of the Department during the preceding fiscal year. Such report shall include a statement of the Secretary's goals, priorities, and plans for the Department, together with an assessment of the progress made toward the attainment of those goals, the effective and efficient management of the Department, and progress made in coordination of its functions with other departments and agencies of the Federal Government. In addition, such re-

port shall include the information required by section 15 of the Federal Energy Administration Act of 1974, section 307 of the Energy Reorganization Act of 1974, and section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974, and shall include:

(1) projected energy needs of the United States to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation including a comprehensive summary of data pertaining to all fuel and energy needs of residents of the United States residing in—

(A) areas outside standard metropolitan statistical areas; and

(B) areas within such areas which are unincorporated or are specified by the Bureau of the Census, Department of Commerce, as rural areas;

(2) an estimate of (A) the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives, and (B) the quantities of energy expected to be provided by different sources (including petroleum, natural and synthetic gases, coal, uranium, hydroelectric, solar, and other means) and the expected means of obtaining such quantities;

(3) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation;

(4) a summary of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, and to encourage conservation practices, and to increase efficiency; and further, said summary shall include a description of the activities the Department is performing in support of environmental, including social, economic and institutional, biomedical, physical and safety research, development, demonstration, and monitoring activities necessary to guarantee that technological programs, funded by the Department, are undertaken in a manner consistent with and capable of maintaining or improving the quality of the environment and of mitigating any undesirable environmental and safety impacts;

(5) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices) employed by Federal, State, and local governments and nongovernmental entities to achieve the purposes of this Act; and

(6) a summary of cooperative and voluntary efforts that have been mobilized to promote conservation and recycling, together with plans for such efforts in the succeeding fiscal year, and recommendations for changes in laws and regulations needed to encourage more conservation and recycling by all segments of the Nation's populace.

Sec. 622. The Secretary, when authorized in an appropriation act, in any fiscal year, may transfer funds from one appropriation to another within the Department, except that no appropriation shall be either increased or decreased pursuant to this section more than 5 per centum of the appropriation for such fiscal year.

Sec. 623. Appropriations to carry out the provisions of this Act shall be subject to annual authorization.

Sec. 624. Notwithstanding any other provision of this title, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

Sec. 625. The Secretary of Defense, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Secretary of Transportation, the Secretary of the Interior, the United States Postal Service, and the Administrator of General Services shall each designate one Assistant Secretary or Assistant Administrator, as the case may be, as the principal energy conservation officer of such Department or of the Administration. Such designated principal energy conservation officer shall be responsible for coordination with the Department with respect to energy matters.

#### TITLE VII—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Sec. 701. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are hereby transferred to the Secretary for appropriate allocation.

(b) Positions expressly specified by statute or reorganization plan, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule (5 U.S.C. 5312-5316) on the effective date of this Act shall be subject to the provisions of section 705 of this Act.

Sec. 702. Except as otherwise provided in this Act, the transfer of full-time personnel (except special Government employees) and part-time personnel holding permanent positions pursuant to this title shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of enactment of this Act. *Provided*, That full time temporary personnel employed at the Energy Research Centers of the Energy Research and Development Administration upon the establishment of the Department who are determined by the Department to be performing continuing functions may at the employee's option be converted to permanent full-time status within 120 days following their transfer to the Department. The employment levels of full-time permanent personnel authorized for the Department by other law or administrative action shall be increased by the number of employees who exercise the option to be so converted.

Sec. 703. Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department or the Commission to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in the new position.

Sec. 704. Employees transferred to the Department holding reemployment rights acquired under section 28 of the Federal Energy Administration Act of 1974 or any other provision of law or regulation may exercise such rights only within two years from the effective date of this Act. Reemployment rights may only be exercised at the request of the employee.

Sec. 705. Except as otherwise provided in this Act, whenever all of the functions vested by law in an agency, commission, or other body, or any component thereof, have been terminated or transferred from that agency, commission, or other body, or component by this Act, the agency, commission, or other body, or component, shall ter-

minate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule (5 U.S.C. 5313-5316), shall terminate.

Sec. 706. The Director of the Office of Management and Budget, in consultation with the Secretary and the Commission, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an agency, commission or other body, or component thereof affected by this Act, to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with the functions transferred by this Act as he may deem necessary to accomplish the purposes of this Act.

Sec. 707. All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Commission after the date of enactment of this Act, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Secretary, the Federal Energy Regulatory Commission, or other authorized officials, a court of competent jurisdiction, or by operation of law.

Sec. 708. (a) (1) The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this Act had not been enacted.

(2) The Secretary and the Commission are authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department or the Commission.

(b) Except as provided in subsection (d)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(c) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of

the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(d) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the Secretary or other official, as the case may be, substituted.

Sec. 709. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

Sec. 710. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, the Federal Energy Regulatory Commission, or other official or component of the Department in which this Act vests such functions.

Sec. 711. Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of, or authority available to, the President which he had immediately before the effective date of this Act; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

Sec. 712. (a) The Federal Energy Administration Act of 1974 is hereby amended as follows:

(1) in section 4—

(A) by striking out the heading of such section and inserting in lieu thereof "Conflicts of Interest";

(B) by striking out subsections (a) through (h) of such section and redesignating subsections (i) and (j) as subsections (a) and (b), respectively; and

(C) by striking out, in the subsection redesignated as subsection (b), "holding any of the positions described in subsections (a), (c), (d), and (e) of this section" and inserting in lieu thereof "who is compensated at level II, III, or IV of the Executive Schedule and who is assigned principal responsibility for any program under this Act";

(2) in section 7—

(A) by striking out subsections (a) and (b) and redesignating subsection (c) as subsection (a);

(B) by striking out subsections (d), (e), (f), (g), and (h);

(C) by striking out "(1) (1)" and by striking out subparagraphs (A), (B), (C), (E), and (F) of subsection (1) (1) and redesignating subparagraph (D) of such subsection as subsection (b);

(D) by striking out, in the matter redesignated as subsection (b), "the rules, regulations, or orders described in paragraph (A)" and inserting in lieu thereof "any rule or regulation, or any order having the applicability and effect of a rule as defined in section 551 (4) of title 5, United States Code, pursuant to this Act";

(E) by striking out, in such subsection, "paragraph (2) of this subsection" and inserting in lieu thereof "subsection (c)";

(F) by redesignating paragraph (2) (A) of subsection (1) as subsection (c) and by striking out subparagraph (B) of subsection (1) (2); and

(G) by striking out paragraph (3) of subsection (1) and by striking out subsections (j) and (k);

(3) by repealing sections 9, 28, and 30;

(4) in section 52(a)—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding after such paragraph (3) the following new paragraph:

"(4) the States to the extent required by the Natural Gas Act and the Federal Power Act."; and

(5) in section 55(b)—

(A) by striking out "seven" and inserting in lieu thereof "six";

(B) by inserting "and" after "Federal Trade Commission"; and

(C) by striking out "one shall be designated by the Chairman of the Federal Power Commission; and".

(b) The Energy Reorganization Act of 1974 is hereby amended by repealing section 108.

(c) (1) The Atomic Energy Act of 1954 is hereby amended by repealing section 26.

(2) Section 161(d) of the Atomic Energy Act of 1954 shall not apply to functions transferred by this Act.

(d) Section 502 of the Motor Vehicle Information and Cost Savings Act is amended by adding at the end thereof the following:

"(h) The Secretary shall consult with the Secretary of Energy in carrying out his responsibilities under this section."

(e) The Energy Conservation Standards for New Buildings Act of 1976 is hereby amended as follows:

(1) in section 303(11), strike out "Secretary of Housing and Urban Development" and insert in lieu thereof "Secretary of Energy";

(2) in section 304(c), by inserting "the Secretary of Housing and Urban Development," after "the Administrator"; and

(3) in section 310, by inserting "Secretary of Housing and Urban Development," after "the Administrator";

(f) The Rural Electrification Act of 1936 is hereby amended by adding a new section 16 to title I thereof to read as follows:

"Sec. 16. In order to insure coordination of electric generation and transmission financing under this Act with the national energy policy, the Administrator in making or guaranteeing loans for the construction, operation, or enlargement of generating plants or electric transmission lines or systems, shall consider such general criteria consistent with the provisions of this Act as may be published by the Secretary of Energy."

Sec. 713. Section 19(d) (1) of title 3, United States Code, is amended by inserting immediately before the period at the end thereof the following: ", Secretary of Energy."

Sec. 714. (a) Section 101 of title 5, United States Code is amended by adding at the end thereof the following:

"The Department of Energy."

(b) Subsection (a) of section 3104 of title 5, United States Code, is amended by inserting after paragraph (4) the following new paragraph:

"(5) Department of Energy—not more than 200."

(c) Subsection (a) of section 5108 of title 5, United States Code, is amended by striking out "an aggregate of 2,754" and inserting in lieu thereof "an aggregate of 3,104".

(d) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(14) Secretary of Energy."

(e) Paragraph (22) of section 5313 of title 5, United States Code, is amended to read as follows:

"(22) Deputy Secretary of Energy."

(f) Section 5314 of title 5, United States Code, is amended by striking out, in paragraph (21), "Federal Power Commission" and by inserting in lieu thereof "Federal Energy Regulatory Commission", and by amending paragraph (60) to read as follows:

"(60) Administrator, Economic Regulatory Administration, Department of Energy."

(g) Section 5315 of title 5, United States



Code, is amended by striking out, in paragraph (60), "Federal Power Commission" and inserting in lieu thereof "Federal Energy Regulatory Commission", by striking out paragraph 102, and by adding at the end of the section the following:

"(114) Assistant Secretaries of Energy (9).  
"(115) General Counsel of the Department of Energy.

"(116) Administrator, Energy Information Administration, Department of Energy.

"(117) Inspector General, Department of Energy.

"(118) Director, Office of Energy Research, Department of Energy.

"(119) Additional Officers, Department of Energy (4)."

(h) Paragraphs (135) and (136) of section 5316 of title 5, United States Code, are amended to read as follows:

"(135) Deputy Inspector General, Department of Energy.

"(136) Additional Officers, Department of Energy (10)."

Sec. 715. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions have been transferred to the Secretary for such period of time as may be reasonably be needed to facilitate the orderly transfer of functions under this Act.

Sec. 716. The Civil Service Commission shall, as soon as practicable but not later than one year after the effective date of this Act, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this Act, which shall include—

(1) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this Act;

(2) a statement of the number of employees entitled to pay savings by reason of the reorganization under this Act;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative recommendations for improvements in personnel management within the Department as the Commission considers necessary.

Sec. 717. The transfer of functions under titles II and IV of this Act shall not affect the validity of any draft environmental impact statement published before the effective date of this Act.

Sec. 718. As used in this Act (1) references to "function" or "functions" shall be deemed to include reference to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and (2) references to "perform" when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

#### TITLE VIII—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 801. (a) The provisions of this Act shall take effect one hundred and twenty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II and title IV of this Act may be nominated and appointed, as provided in those titles, and (2) the Secretary may promulgate regulations pursuant to section 708(a)(2) of this Act at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), func-

tions of which are transferred to the Secretary or the Commission by this Act, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(b) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act, the President may designate any officer, whose appointment was required to be made by and with the advice and consent of the Senate and who was such an officer immediately prior to the effective date of the Act, to act in such office until the office is filled as provided in this Act. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

#### TITLE IX—SUNSET PROVISIONS

Sec. 901. The provisions of this Act shall expire on December 31, 1982.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6804) was laid on the table.

#### AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENT TO S. 826

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to correct section numbers, punctuation marks, and cross-references in the engrossment of the amendment of the House to the Senate bill (S. 826).

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

#### MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On June 3, 1977:

H.R. 3437. An act to make certain technical and miscellaneous amendments to provisions relating to vocational education contained in the Education Amendments of 1976.

#### LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time for the purpose of asking the distinguished acting majority leader, the gentleman from Indiana (Mr. BRADEMAS) if the gentleman will give us the program for the rest of the week, if any, and the schedule for next week.

Mr. BRADEMAS. Mr. Speaker, will the distinguished gentleman from Illinois yield?

Mr. MICHEL. I am happy to yield to the gentleman.

Mr. BRADEMAS. Mr. Speaker, the program for the House of Representatives

for the week of June 6, 1977, is as follows:

Monday the House meets at noon.

We will call the Consent Calendar, and we will consider seven bills under suspension, as follows:

S. 955, the Federal crop insurance amendments;

H.R. 75, the Soil and Water Resources Conservation Act of 1977;

S. 1240, deferral of wheat referendum;

H.R. 6794, FEA authorizations;

H.R. 6893, Members' residence for income tax purposes;

H.R. 5023, Indian claims statute of limitation provisions; and,

H.R. 4585, Indian Claims Commission authorization for fiscal year 1978.

Following that, we will take up H.R. 6990, military construction authorization, a bill on which there is an open rule and 2 hours of debate.

On Tuesday, the House meets at noon. We will have the Private Calendar and suspensions, but no bills on suspension.

We will take up H.R. 10, Hatch Act amendments, and complete consideration of that bill.

Then, we will consider H.R. 7010, compensation for victims of crime, with an open rule and 1 hour of debate.

On Wednesday, the House meets at 10 a.m. on H.R. 7552, Treasury-Postal Service appropriations for fiscal year 1978; and H.R. 7557, Transportation appropriations for fiscal year 1978.

At this point, Mr. Speaker, I should observe to the distinguished acting minority leader that on Wednesday, June 8, consideration of appropriations bills is scheduled to begin, and that 10 or more legislative days are being reserved for these measures. Other legislation will be scheduled, however, on days when early completion of the appropriations bill or bills makes time available.

Among bills which will be considered during this period, but not necessarily in this order, are the following:

H.R. 6666, Legal Services Corporation Act amendments;

H.R. 6135, Grain Standards Act amendments;

H.R. 7073, Federal Insecticide, Fungicide and Rodenticide Act amendments (FIFRA);

H.R. 6566, National Security ERDA authorization for fiscal year 1978;

H.R. 6761, youth camp safety programs;

H.R. 4287, mining health and safety.

With respect to all the bills I have just listed, Mr. Speaker, they are to be considered subject to a rule being granted and subject to the other qualifications that I made.

Mr. MICHEL. Might I inquire of the gentleman about that group of bills which may be considered after the appropriation bills, whether the membership of this House will be getting a day's notice before their consideration? Is this a reasonable request? I think it would be appropriate to give the Members ample warning as to when these bills would be considered.

Mr. BRADEMAS. If the gentleman will yield further, I agree with the gentleman, and certainly I believe that would be the intention of the leadership on this side, to give notice.

To complete the program for the rest of next week, on Thursday the House meets at 10 a.m. on the Interior appropriations bill for fiscal year 1978.

On Friday, the House meets at 10 a.m. on H.R. 7556, State-Justice-Commerce-Judiciary appropriations for fiscal year 1978, subject to a rule being granted.

The House will adjourn by 3 p.m. on Fridays and by 5:30 p.m. on all other days except Wednesdays.

Conference reports may be brought up at any time, and any further program will be announced later.

Mr. MICHEL. If I might ask one other question, it would have to do with Tuesday's program when the Hatch Act amendments are scheduled. As I recall, all debate has been limited and there will be no debate on any amendment except those that were printed in the RECORD.

Mr. BRADEMAs. That is my understanding.

Mr. MICHEL. But we have not seen the proposed Clay amendment which is supposed to be offered to water down the Ashbrook amendment. Will there be any attempt to open up this bill for debate on those amendments that are not printed in the RECORD?

Mr. BRADEMAs. I am not in a position, I may say to the gentleman from Illinois, to answer that question. I think his question should more appropriately be addressed to the manager of the bill, Mr. CLAY.

Mr. MICHEL. Well, it was my concern that we had heard rumors that there was to be that kind of amendment offered, but as of today we have seen nothing printed in the RECORD.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Maryland.

Mr. BAUMAN. I would hope that the majority whip might be able to provide some direction for the Members of the House, because in announcing the program for Tuesday on H.R. 10, and stating that we will complete consideration, I imagine most Members, as does the gentleman from Illinois, would like to know how the gentleman proposes to do that, because we are in a parliamentary fix which we can only get out of by getting a rule from the Rules Committee, or by unanimous consent, unless we want to debate only amendments printed in the RECORD.

Mr. BRADEMAs. I will be very glad to advise the gentleman from Missouri (Mr. CLAY) of the concern that has been voiced here, but that will be his judgment as to how he wishes to proceed.

Mr. BAUMAN. I thank the gentleman.

Mr. MICHEL. I thank the gentleman.

#### ADJOURNMENT TO MONDAY, JUNE 6, 1977

Mr. BRADEMAs. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday, June 6, 1977.

The SPEAKER pro tempore (Mr. ASHLEY). Is there objection to the request of the gentleman from Indiana?

There was no objection.

#### DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BRADEMAs. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

#### RECOMMENDATION FOR EXTENSION OF WAIVER AUTHORITY— MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-169)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

In accordance with section 402(d) (5) of the Trade Act of 1974, I transmit herewith my recommendation that the authority to waive subsections (a) and (b) of section 402 be extended for a further period of twelve months.

This recommendation sets forth the reasons for extending waiver authority and for my determination relating to continuation of the waiver applicable to the Socialist Republic of Romania, as called for by subsections (d) (5) (6) and (d) (5) (c) of section 402.

I include, as part of this recommendation, my determinations that further extension of the waiver authority, and continuation of the waiver applicable to the Socialist Republic of Romania, will substantially promote the objectives of this section.

JIMMY CARTER.

THE WHITE HOUSE, June 2, 1977.

#### PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE REPORT ON H.R. 2437, MANASSAS NATIONAL BATTLEFIELD PARK

Mr. BAUMAN. Mr. Speaker, on behalf of the Committee on Interior and Insular Affairs, I ask unanimous consent that the committee may have until midnight tonight to file a report on the bill (H.R. 2437) to amend the act of April 17, 1954, which preserves within Manassas Battlefield Park, Va., important historic properties relating to the battles of Manassas, and for other purposes.

The SPEAKER pro tempore (Mr. ASHLEY). Is there objection to the request of the gentleman from Maryland?

There was no objection.

#### PRESIDENT CARTER PAYS A CAMPAIGN DEBT TO RALPH NADER

(Mr. QUAYLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUAYLE. Mr. Speaker, it is appar-

rent from yesterday's Washington Post that President Carter is going to continue his push for the creation of the Agency for Consumer Protection. As a member of the Government Operations Committee, I can only too recently recall the effects of the White House to force the committee into voting this bill out by a mere one vote. If it had not been for the intense pressure from the White House and the President, the consumer agency would have died in committee.

During the campaign, President Carter made great inroads with the people in his speeches calling for a reduction of the bureaucratic maze in Washington. As a matter of fact, he ran against Washington and its Federal bureaucracy. One can easily understand the present bewilderment of many of my constituents, who thought they were voting for a man who would not add layers of new bureaucracy. They really believed the President when he promised a cut in Federal expenses and Government regulation, and when he claimed to understand the needs of the private sector as well as big government.

The mere lobbying done by the President for this agency makes it quite obvious that President Carter must be attempting to pay off a campaign debt to Ralph Nader at the taxpayer's expense.

Mr. Nader took considerable credit for Carter's election victory, and has been frequently consulted by the White House on a variety of issues. Mr. Nader has lobbied for the consumer agency for at least 7 years. This new superpower, long a cherished dream of Nader's and affectionately nicknamed "Nader's Raiders' Retirement Policy," will cost at least \$22 million in the first 2 years of operation, and will add untold new bureaucrats to the Washington establishment.

Just when the American people are learning the truth about this legislation, President Carter launches his attack on the business community criticizing their lobbying effort. Why is it right for the President and his corps of bureaucrats to lobby for the agency, and wrong for the business community, and the people, to lobby against it? I am sure if the Members were to vote the conscience of their districts the vote would be overwhelmingly no. The bill is obviously in trouble because of the delay by the House leadership in bringing it to the floor. If the bill ever does reach the floor, I hope this time, Members will pay heed to the wishes of the people who sent them to Washington.

The President promised the American people less Government, not more, and he also promised a balanced budget. It is time to deliver on those promises. Tough Ralph Nader has immense influence with President Carter, I hope the people who elected him have some influence, too. Instead of paying off a political debt to Mr. Nader, I hope the President keeps his word of giving us less government.

#### NATIONAL DEFENSE AND THE IMPORTANCE OF RESEARCH AND DEVELOPMENT

The SPEAKER pro tempore (Mr. Ashley). Under a previous order of the



House, the gentleman from New York (Mr. KEMP) is recognized for 30 minutes.

Mr. KEMP. Mr. Speaker, the U.S. Government participates regularly in research and development in the physical sciences. It does this through Federal agencies and laboratories, through grants to universities and research institutes, through independent research and development—IRAD—funding, and through tax policies. We, therefore, have a continuing obligation to evaluate the effectiveness of the Nation's R. & D. program.

My own committee assignment and interests center on national defense. I have been looking at R. & D. in this context.

I want to share with my colleagues a way of viewing military-related research and development which has led me to two conclusions.

The first is that R. & D. is indispensable to our country's defense.

The second is that R. & D. flows from remarkably many sources and pathways to find successful application in military systems. The Federal Government should therefore, consistently support the process but should not pretend to improve it through excessive regulation.

The viewpoint that I have chosen is the opposite of the one that is often taken. Instead of trying to predict the eventual value and use of a certain research program currently underway, I want to look only at established results; namely, to survey the R. & D. background of the technical features of a particular aircraft. The airplane that I have chosen is the B-1 bomber.

#### B-1 AS AN EXAMPLE

The prime contractor, Rockwell International, will provide an abundance of information about the B-1's capabilities. Its engineers and those of its subcontractors have written many papers for the technical literature describing the aircraft's development. One point that comes through is that the B-1 is a reasonably conservative design. Although it is far in advance of our other bombers, all of the technology that is used is well in hand. A second point is that the development program was a painstaking one. Although strong efforts to get the most out of all tests were made, those tests were more thorough and realistic than previous designs had experienced. For example, the same airplane that was loaded up for structural strength tests on the ground was also used to measure flight loads. But that ground test used 3,300 strain measuring instruments. And models for determining air pressures and air flows spent over 2,200 hours in wind tunnels.

However, the papers written by the contractors' people do not give a very good picture of all the R. & D. that occurred before the B-1 project got underway. It was that earlier work which provided the technology upon which the aircraft is based. To get a handle on it, we went back into the scientific archive literature.

Looking at the B-1, the first thing that strikes a person is that it has very smooth contours, especially when the wings are swept rearward for high speed flight. There are several aerodynamic—

air flow force—reasons for this. By smoothing the wing into the body or fuselage, all parts can contribute some lift. By avoiding corners, the drag can be kept to a minimum. One particular component of air resistance is called wave drag and it occurs as the airplane approaches and exceeds the speed of sound. It turns out that wave drag can be combated by not letting the design show any sudden increase in cross-sectional area, as viewed from the front, in moving from the nose to the tail. That is why earlier supersonic aircraft, especially Russian ones, had conical coked-bottle fuselage shapes, that is, had waists where the wings were attached.

It was during the Second World War that it became clear to everybody that it would be nice to be able to fly faster than the speed of sound. In the 1946-49 time period, there were many reports and papers which defined and started work on the transonic and supersonic flow problems that are being solved today. The area rule discussed above was perceived in a 1952 NACA research memorandum. A detailed study of wing-fuselage junctures was described in a 1960 NASA technical note.

In general, the shape of one part of an airplane affects the aerodynamic forces on many other parts. Although the mechanisms and the differential equations by which this happens have been known for some time, the computers big enough to attack the problem are only now becoming available. An American Institute of Aeronautics and Astronautics paper in 1974 describes a computer solution for B-1 aerodynamics in supersonic flight. The numerical technique was described in a paper published 10 years earlier, and the basic theory was formulated 8 years before that. It is called finite difference analysis.

There is an analogous class of methods for the computer solution of complicated aircraft structural problems, and it is called finite element analysis. The supporting theory is even older than in aerodynamics, but it is only the advent of the high-speed computer that enables its full use.

#### B-1 STRUCTURAL FEATURES

The B-1 has various structural features not possible in the previous generation of bombers. It uses hybrid materials called composites for certain members; these typically make 20 percent weight savings over the corresponding metal parts. Most of the development of composites has been done during the last 15 years on IRAD funding.

The smooth, blended shape which makes the B-1 aerodynamically efficient also facilitates alternate load path design; that is, the airplane will hang together even if some parts are shot away. The same characteristic enables more fuel to be carried, thus increasing range.

Much attention was given to the physics of structural failure, especially to the presence and growth under stress of microscopic material faults. An important aspect of this fatigue, that is, the effects of repeated loading. Reports on fatigue relevant to automobile engines appeared during 1922-24. In the early 1930's applications to aircraft

structures were being made, and there has been steady advance since then.

Titanium was used extensively in the B-70 airplane of some 15 years ago, and machining techniques were developed at that time. Compared with the B-70, the B-1 uses less titanium, but in a more sophisticated fashion. A method known as diffusion bonding, by which parts fuse into one another at elevated but premelt temperatures, is employed. Shaping of titanium pieces at such temperatures, called superplastic forming, has been developed during the program under contract research and development—CRAD—funding. This is also used in the B-1.

Another advantage of the smooth lines of the aircraft is that a decreased radar signature or disturbance is produced; that is it is more resistant to radar detection. The B-1's own radar includes altitude measuring and forward scanning units to enable it to track and fly automatically along the Earth's contour at altitudes of only a few hundred feet. This further aid to penetration of enemy defenses is called terrain following and was pioneered in the F-111 aircraft. Radar was conceived as a military device during World War II. Progress had been modest until about 10 years ago when the marriage of it with new signal processing, miniaturization, and computer technology made it possible to recognize particular objects and to cover much larger fields, as well as to package these more capable systems in aircraft.

In terrain following at near sonic speeds, an airplane and its crew can take a tremendous beating from the natural, turbulent currents in the air. The successful ride-control system in the B-1 uses vanes that automatically deflect to produce the air flow forces necessary to correct against any turbulence or anomaly as soon as it is encountered. This is aerodynamically straightforward. The closed loop system or servomechanism was also conceived many years ago; there is an NACA research memorandum dated 1955 which speaks directly to the problem.

The F101 turbofan engine and its air inlet system on the B-1 must operate effectively at many speeds and altitudes. Bypass turbofans, by operating on a much larger air flow volume than is actually used in burning the fuel, achieve efficiency and performance not possible in the first generation of jet engines. This technology has been developed gradually, through IRAD funding and through other means. In the B-1, engine air is captured through ramped inlets which adjust automatically. That is, the aircraft senses and assesses its flight condition, and changes its inlet shape to gulp the right amount of air with minimum losses. This uses the closed-loop technology mentioned in connection with ride control. There was extensive development within the B-1 program.

Because of the long design range of the aircraft, an important part of the B-1's take-off weight is fuel. The airplane would not be able to maintain its proper balance if remaining fuel were not periodically redistributed. This function is pilot-in-the-loop, that is, the balance status and indicated action are displayed

to the operator, and he commands the appropriate adjustment.

It is apparent that many functions are monitored electronically, and, in many cases, acted upon automatically. Added to those noted above, we should mention variable engine exit nozzle shape, positioning of the variable sweep wings and other aerodynamic surfaces, air temperature control to protect both crew and equipment, aiming and firing of weapons, defensive maneuvers of an electronic nature, flight instrument circuitry, and something called CITS.

CITS stands for central integrated test system. It amounts to sensors plus data processing hardware for monitoring the health of the aircraft's equipment. The kinds of things that are measured include various temperatures and pressures, vibration levels, and engine speeds and air flow rates. Some readings may indicate immediate trouble, while others may suggest the slow deterioration of some component. For that reason, the data is displayed to the crew in flight, and printed for prompt post-flight examination, as well as taped for more careful, later analysis. With CITS, parts replacement and maintenance can be done more systematically and economically.

#### THE ROLE OF DIGITAL COMPUTERS ON THE B-1

It seems obvious at this point that digital computer science has played a large role in the B-1 aircraft. Computerized methods were used in the aerodynamic and structural design. Onboard computers are used to operate advanced equipment and to perform many tasks that a much larger crew could not address. This does not amount to substitution of gadgetry for commonsense humans. Instead, the electronics are designed to handle, according to careful plan, well-understood tasks at speeds which exceed human reflexes. The B-1 in fact carries two computers, even though one could do the job. This gives the system a fail-safe characteristic. Also it conforms to a plan that was adopted early in the airplane's design; namely, to allow space or capacity for advanced capabilities to be incorporated into future versions.

The primary event in the history of digital computer development was the invention of the transistor. This occurred in 1947, in a non-Government laboratory, under private company funding. Its usefulness was not recognized at the time, and so Government regulation or relevance rules would not have helped. Since then computer development has been evolutionary rather than revolutionary, but rapid. One measure of capability is speed of calculation of the current largest machine. This seems to increase by a factor of 10 every 6 years or so. For onboard aircraft calculations, smallness of size is important. Circuit miniaturization techniques have shown great progress during the last 10 years. There have been many sources of computer R. & D. funding.

At the same time that the super-size ILLIAC IV was being developed within a Government laboratory under direct budget allocations of two separate Federal agencies, several private companies

were working on miniaturization development in their competition for the pocket calculator market.

An important related technology is called multiplexing. Nowadays this means the collection of many electronic inputs and their systematic feeding to a computer. Obviously this is necessary if there are one or two high-capability computers but many functions to be monitored, as in the B-1. In keeping with the extra-capacity concept, the airplane has three multiplex systems. This technology got underway in the 1920's, for the more efficient utilization of telephone cables. During the 1960's it was applied to data collection in experimental facilities, especially in wind tunnels. Such tunnels were direct-government funded in NASA and DOD centers, and indirect-Government funded—through aircraft sales and IRAD allotments—in airframe companies.

#### B-1 WEAPONS SYSTEMS

During the lifetime of the B-1 bomber, it will probably carry a variety of weapons, using several concepts of guidance or aiming. These may include laser-designating and infrared seeking. The laser concept, namely that a beam of the right wavelength can gather strength as it moves through a crystal or gas whose molecules have been excited in a certain way, was recognized in the late 1950's. Since the mid-1960's the DOD has been cultivating progress in this field, through a reasonable mix of IRAD and CRAD funding. In general, small amounts of IRAD seed money are allowed for the testing of concepts on a small scale, and the more promising work is then rewarded with contract support for larger scale development. There are three important general categories of lasers, and many subcategories, that compete with each other for CRAD money. Analogously, much work on instruments sensitive to that part of the electromagnetic spectrum known as the infrared has been done under IRAD funding during the last 10 years.

#### SUMMARY

To summarize all this, I would simply say that the B-1 weapons system is a product of the research and development that has preceded it, and that the kinds of weapons systems that we will need in the future will depend on our maintaining a strong and diverse national R. & D. program.

We have often allowed our potential adversaries to achieve certain numerical advantages. To compensate for this, we need to have a quality advantage in hand. Most importantly, we must not allow the possibility of a technological surprise which could seriously tip the scales against us. I am concerned that, according to the National Science Foundation, DOD research and development funding has experienced a real decline of 22 percent during the past 10 years.

I would like to mention two other aspects of R. & D. in the physical sciences which are only indirectly related to national defense. I would characterize them as economics, and morale.

Many economists have reported studies which indicate that resources assigned to

scientific research and development multiply themselves in an industrial economy. This seems only logical; entire new industries, such as the liquified gas business which is important in modern steel manufacturing and in medical care, have resulted from space program R. & D. Chase Econometrics estimates that a billion dollar annual NASA budget increase would affect the economy in 1986 as follows: gross national product \$23 billion higher; inflation rate 2 percent lower; employment level 1.1 million higher.

Although the precise results of R. & D. cannot be predicted, it is predictable that there will be results. We know that American intellect will produce innovations for us; we know that American insight will perceive national defense applications; we know that American ingenuity will make those new systems a reality. Return for our R. & D. dollar is inevitable. I do not know if this is because of the mind-set of the typical scientist/engineer or if it is due to some other cause. But I cannot help contrasting the solid results with those produced by other competitors for the budget dollar, such as the food stamp program, or the Head Start program, or countless other well-intentioned schemes.

I think that the American people take satisfaction in the continuing success story that is called research and development, and I think that the Congress should, too. It is a national asset.

#### THE TREATMENT OF ANATOLY SHCHARANSKY IS A SOVIET TRAGEDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BURKE) is recognized for 5 minutes.

Mr. BURKE of Florida. Mr. Speaker, I am saddened and angered at reports from Moscow concerning a vicious official action by the Soviet Government against a valiant and articulate individual, Anatoly Shcharansky. Mr. Shcharansky is a Jew who was refused an exit visa and became part of an unofficial group who monitor Soviet compliance with the Helsinki Accords on human rights. Highly regarded for his personal courage and his skill at public relations, Shcharansky has been a crucial figure among active Soviet dissidents. The Soviet Government has formally charged Shcharansky with treason and accused him of being an agent of the Central Intelligence Agency. This charge is the most brutal attack perhaps since the evil reign of Josef Stalin on the growing movement for broader freedoms in Soviet Russia.

There is no doubt that plenty of "evidence" will be adduced smearing the dissidents and painting the United States as engaged in subversion of Soviet society and state. The coopted, the corrupted, the misguided, and the fearful will offer outrageous testimony. The inevitable verdict will follow: guilty of treason, to be punished by disappearance into the fearful world of Soviet labor camps, or perhaps the even more fearful mental hospitals where other dissidents and religionists have been "treated."



Mr. Speaker, I am uncertain about the administration's current attitude on human rights in the Soviet Union. I know that it was most vigorous earlier, including personal communication with Sakharov and a series of strong statements on the subject. Lately, however, it appears the President is taking a softer line. Undoubtedly the Soviets recognizing the President's softer approach will hasten to say that the incarceration of Shcharansky has no connection with the human rights issue, but merely reflects a matter of Soviet internal policy. I will wait to see just what President Carter will say. So too will others throughout the world.

Our reaction is important, Mr. Chairman, because this "trial" precedes by merely 2 weeks the Belgrade discussions on human rights under the Helsinki Accords. There is no question that if we intend to do more than use rhetoric about human rights that we must be firm about our commitment to human rights, and we must keep faith with the brave spirits who run fearsome risks to further these rights, freedom fighters like Anatoly Shcharansky. Why? Because the treatment of him may well be the shadow that casts its image before the similar treatment of others.

#### THE POSTAL SERVICE DOES NOT BELONG TO THE POSTMASTER GENERAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

Mr. ALEXANDER. Mr. Speaker, the U.S. Postal Service remains a puzzle to the Nation. Though it seems simple to most of us, it is difficult to explain why the Postal Service high command does not comprehend the basic fact that an agency established to serve the people must be accountable and responsive to the people. The best explanation I have heard is that the L'Enfant super clerks view their domain as a medieval baronial estate not to be ruled necessarily in the best interest of the serfs.

A distinguished, award-winning newspaper in my district, the Paragould Daily Press, recently summed up editorially what I think is the current mood of the country with regard to the Postal Service. I would like to share their observations with my colleagues:

#### POSTAL SERVICE SERVES ALL

We repeat:

The Postal Service does not belong to the Postmaster General, the Congress or the President.

It belongs to you and me.

It is the only governmental agency with which we are in almost daily contact and in which we have a very real interest.

If we want to spend a few billion dollars for our own benefit and convenience, then we should do so.

In fact, we should insist on that privilege.

The Congress, the President, the Secretary of State, the CIA, etc., are all perfectly willing to subsidize nations, governments, private industries and, yes, even conspiracies that by no stretch of the imagination can be deemed essential to the nation's ongoing interest.

So, why should we sit back and see a vital public service go down the drain?

Technical advances and the virtual elimination of the railroads as a viable conveyor of the nation's mail have had a wide impact on collection and delivery schedules.

This is a spin-off of progress, although the demise of our railroads can be viewed with some well-founded concern by the nation.

The Daily Press believes the Postal Service should be returned to the people and that it be renamed the United States Postoffice Department.

It should be managed by career employees under the overview of the Congress and a Postmaster General appointed by the President.

It should no longer be a haven for retired and less-than-successful executives of big corporations.

The U.S. postoffice system was not established to pay its own way.

It was established to serve the people and bind the nation together into a viable entity. It should not, of course, be wasteful of its resources.

However, there are many government functions costing us billions whose activities serve only limited segments of our people.

And, there is hardly ever a voice raised in protest.

Why then should we permit the demise of the one government institution which serves us all?

#### CONGRESSMAN DRINAN DISSENTS FROM THE ADMINISTRATION'S PROPOSAL TO AUTHORIZE COURT ORDERS TO APPROVE THE USE OF ELECTRONIC SURVEILLANCE TO OBTAIN FOREIGN INTELLIGENCE INFORMATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 30 minutes.

Mr. DRINAN. Mr. Speaker, I had the hope that the almost frantic desire of the Ford administration to legalize electronic surveillance solely for the purpose of wiretapping Embassies of foreign nations in the United States would fade away with the departure from Washington of a wide variety of persons who persisted in indulging, without any statutory justification, in eavesdropping on the conversations of the representatives of foreign nations residing in the United States.

Unfortunately, President Carter and his Attorney General, Griffin B. Bell, announced on May 18, 1977, that they want the Congress to join the administration in following the specious, faulty and dangerous reasoning by which Attorney General Edward Levi sought to legalize the use of extensive electronic surveillance not when representatives of foreign powers are suspected of crime in America but when information about their conversations is "deemed necessary" for the "successful conduct of the foreign affairs of the United States."

The Levi measure, condemned by the entire civil liberties community of the United States, has perhaps been somewhat improved in the administration's bill filed by Senator KENNEDY as S. 1566 and by Chairman RODINO as H.R. 7308. But the essential danger and the incredible effrontery of the Levi bill are present in the administration proposal. The bill proposes that the State Department or other agency be permitted to persuade the Attorney General to file an application for a judicial warrant per-

mitting the agency to learn any and all things which in its judgment would be necessary or even helpful for the conduct of the foreign affairs of the United States.

This incredible purpose is shrouded and even concealed in the bill where the desire of the State Department, the Central Intelligence Agency—CIA—and other agencies to learn about the conversations of their foreign counterparts operating in the United States is surrounded by language extolling the danger of actual or potential attack on the United States and the perils of clandestine intelligence activities of foreign powers on American soil.

The essential purpose of the administration bill is to authorize and legalize the vast network of wiretaps in which several agencies of the Federal Government are now engaged. The pressure for the enactment of the Levi measure came from the same source as does the pressure to enact the Carter-Bell proposal: the intelligence community in America which is fearful of potential indictments of some of their members as well as lawsuits by American citizens or foreign nations whose privacy has been invaded by the interception of their conversations by electronic surveillance done by American officials without court order or perhaps even without any authorization from the Justice Department.

President Carter, in his message on May 18, 1977, in the Rose Garden to selected Members of Congress and to many members of the intelligence community stressed what he conceived to be a balance between "adequate intelligence to guarantee our Nation's security" and the "preservation of basic human rights." The central question which President Carter—like everyone else who desires to legalize foreign intelligence surveillance—evaded comes to this: is the ability of the United States to obtain adequate intelligence from legal sources so bankrupt that the government must alter fundamentally the standards of the fourth amendment and insist upon a "funny warrant" given by a Federal court not because there is probable cause of crime but only because a Federal official asserts in court that the acquisition by wiretapping of the communications of foreign nations—even with American citizens—is indispensable for the maintenance of America's foreign policy?

President Carter asserted on May 18 that this is a question "on which almost complete unanimity has been arrived at between myself and the intelligence groups and the Attorney General."

Neither the President nor anyone else raised the fundamental question of what the United States would think if England, France, or another nation in the free world enacted legislation that would permit those nations to wiretap any foreigner residing within their borders not because he was suspected of criminal activity but only because the government of the nation where he temporarily made his home wants to know what he is saying to his superiors or to his friends in his country of origin.

Attorney General Bell has failed to confront any of the questions behind the unprecedented proposals which he is

urging on the country. At the White House conference on May 18 the Attorney General expressed the hope that the new administration could "restore the confidence of the American people in all of our institutions." He continued by noting that such confidence was nowhere more lacking "than in intelligence gathering." The Attorney General asserted the hope that bringing "the judiciary into the process" would be beneficial because "I think the American people trust the judiciary, and they will have more confidence in the system if we have the executive, the congressional and the judiciary all tied into the process so as to have one check the other." The critical point totally omitted by the Attorney General is the secrecy built into his plan which prevents even the judge much less the Congress from knowing the real reasons why the Secretary of State for instance, wants to wiretap the Romanian Embassy or indulge in electronic surveillance on a "faction" of the Government of Saudi Arabia.

This crucial question was shrugged off totally by Senator Thurmond at the White House press conference when he stated "there is no question that our national security demands that we collect foreign intelligence. Electronic surveillance is one of the best ways to do that."

The civil liberties community in America objects strenuously to the Carter-Bell proposal because it virtually strips foreigners residing in America of any rights under the fourth amendment by subjecting them to invasions of their privacy for reasons that would not justify such an invasion upon American citizens or aliens residing permanently in America.

#### AN ANALYSIS OF THE ADMINISTRATION'S BILL

An analysis of the Carter administration's bill reveals that it contains the same pernicious assumption of the Ford-Levi bill; namely, that the Congress should eviscerate the letter and spirit of the fourth amendment in order to allow the State Department, the CIA, the Defense Department, and other agencies to acquire information which allegedly they cannot otherwise secure. Some of the assumptions running in this unbelievable assault on the fourth amendment include the following: First, the barrage of electronic eavesdropping now indulged in by the Federal Government brings information that is useful and necessary to our foreign policy; second, the legalization of this invasion of the privacy of the representatives of foreign nations in America is not in violation of international law, and third, clandestine intelligence gathering by foreign nations in the United States constitutes such a threat to our national security that only the most extraordinary compromising of the Bill of Rights can protect America from the agents of a foreign-based political organization.

Members of the Senate who in the 94th Congress favored the Foreign Intelligence Surveillance Act (S. 3197) regularly stated that this would bring the rule of law to the intelligence community and that, in addition, it would be a shield for those persons who regularly did intelli-

gence surveillance without the support of defined statutory guidelines.

The question above all questions has hardly been mentioned in whatever debate has occurred on this question up to this time: Can the alleged need of the intelligence community for clandestine information gathering in the United States justify a dramatic departure from any previous legitimate interpretation of the meaning of the fourth amendment?

The vigorous drive now being made by the intelligence community and by the Carter administration to bring American employees who regularly eavesdrop foreign nationals "out of the state of sin" is premised on the conclusion that the information acquired by these "plumbers" in the name of national security is essential to the safety, defense and national interest of the United States. There is hardly a shred of solid evidence for that conclusion in all of the testimony given to the Congress on several occasions by Attorney General Edward Levi and now by representatives of the Carter administration. The fact appears to be that the intelligence community has erected all types of sophisticated methods of intercepting what foreign embassies in Washington send back to their home countries.

Responsible and knowledge observers tell us that virtually all of the information so gathered is worthless. But the intelligence community, determined to exploit its powerful role, now wants to keep the Congress ignorant of the contents or the benefits of the information which they clandestinely gather while simultaneously frightening the Congress into accepting the illusion that the "reforms" proposed by Presidents Ford and Carter will bring protection to our Federal Government from foreign agents while simultaneously guaranteeing the privacy of American citizens. The reality is that the intelligence community, having created a Frankenstein from a paranoia intensified by total secrecy, now seeks to warp and distort the fourth amendment to protect a widespread practice which cannot be justified by facts, international law or any real needs of the American Government.

Reading the Foreign Intelligence Surveillance Act of 1977 proposed by the Carter administration reminds one of the language and spirit of laws proposed in the 1950's to protect the "internal security" of the United States. The administration's bill would permit wiretaps on any "faction" of a foreign nation residing in America if such "faction" is "not substantially composed of United States persons." The power to wiretap extends to any "foreign-based political organization" operating in America or to any "entity which is directed and controlled by a foreign government." The power to install electronic surveillance equipment extends to any foreigner who "knowingly engages in clandestine intelligence activities for or on behalf of a foreign power under circumstances which indicate that such activities would be harmful to the security of the United States." All these individuals do not, of course, have to be engaging in anything which even approaches a crime. Existing law permits

the Federal Government to use the ordinary judicial warrant to obtain wiretapping for any person about whom there is probable cause that he is indulging in sabotage, terrorism, or espionage.

The real grab for power by the intelligence community can be seen in the definitions of "foreign intelligence information" in the administration bill. There are several definitions of this key element, but the most outrageous is the claim that a Federal judge is virtually required to authorize wiretaps when the State Department, for example, desires "information with respect to a foreign power deemed essential to the successful conduct of the foreign affairs of the United States."

The definition of "electronic surveillance" likewise reveals what the intelligence community really desires—the right to obtain a judicial warrant to target any foreign national about whose activities the intelligence community would like to be informed. The definition of electronic surveillance makes it clear that this involves the acquisition of information "under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes." The bill authored by the intelligence community and embraced by the Carter administration openly concedes that the judicial warrant which the bill would authorize violates every "reasonable expectation of privacy" which a foreigner could expect in America and that, in addition, the warrant proposed for intelligence gathering would never be issued for law enforcement purposes. The definition of "electronic surveillance" also concedes that it involves the interception of a communication "without the consent of any party thereto."

It is most important to note that the Carter-Bell bill, while alleging that it does not claim any inherent power possessed by the President to wiretap foreign nationals, does assert this claim for "the acquisition by the United States of foreign intelligence information from international communications by a means other than electronic surveillance" which includes only "wire or radio communication."

The administration bill provides for "minimization" procedures; these are designed to minimize the acquisition, retention and dissemination of any information concerning American citizens wherein such information is not relevant to the purposes for which the Federal Government established the wiretap. One would think that at least in this instance the bill would compel the Government to expunge or destroy the irrelevant information gathered inadvertently on an American citizen. But the bill, incredible as it seems, states that the "minimization procedures shall not preclude the retention and disclosure, for law enforcement purposes, of any information which constitutes evidence of a crime if such disclosure is accompanied by a statement that such evidence, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General." In such a case the Government



has the right to assert by affidavit that "an adversary hearing would harm the national security or the foreign affairs of the United States." After such a contention is made the judge may review the circumstances under which the warrant to obtain the evidence on an American citizen was made; if he concludes that the surveillance was legally authorized, the evidence obtained thereby may not be suppressed.

The application by which the Attorney General or his designate can obtain a judicial warrant must contain, under the administration bill, a minimum of information. The identity of the individual targeted may be withheld if there is a "description of the target of the electronic surveillance." The requesting authority must certify that the information sought "cannot reasonably be attained by normal investigative techniques."

The role of the Federal judge in the administration proposal is almost a degradation of the Federal judiciary. The judge is not permitted to question the certification of the administration that the information sought is in fact foreign intelligence information. He may do so only when the target of the surveillance is a U.S. citizen or a permanent resident alien. In such case the judge must accept the certification unless he finds that it is "clearly erroneous" on the basis of the statement submitted with the application.

Even more fraudulent is the pretense in the administration bill that the judge is in a position to make any well-informed judgment. The judge must authorize the electronic surveillance requested when there is "probable cause" to believe that the target "is a foreign power or an agent of a foreign power." Under the administration bill there appears to be no way by which a judge could receive or even request information as to why the intelligence sought was necessary for the conduct of American foreign policy. The judge is a rubber stamp from whom virtually all of the essential background of the requested authorization could be withheld.

In view of the fact that Federal judges now under title III of the Omnibus Crime Control and Safe Streets Act of 1968 virtually never deny a request for wiretaps, Federal judges would be in all probability even more reluctant to go against the Government when the request originates with the intelligence community and is surrounded by warnings that the defense or security of the United States would be endangered if the requested authorization for surveillance is not granted.

The role of the Federal judge in the administration bill is virtually identical with the judicial role in S. 3197, which the Senate Judiciary and Intelligence Committees reported favorably in 1976. That role is almost a mockery and a travesty of the function of a Federal judge. Under these bills for electronic surveillance for informational purposes alone, the Federal judge is required to preside over the emasculation of the fourth amendment and grant judicial warrants without information, without standards, and without any regard to the right of privacy which Justice Brandeis

has called "the right most valued by civilized men."

Even the time periods permitted for invasions of the privacy of foreign nationals is abused under the administration bill. The standard in the existing criminal wiretap statute, 18 U.S.C. 2518, is 30 days, but the administration bill would authorize surveillance for 90 days on U.S. citizens or permanent resident aliens and an entire year on all other persons whose phones are to be tapped.

The administration bill requires a Federal judge to issue an order which will permit those who execute the electronic surveillance on foreign nationals to compel a "landlord, custodian, contractor" to furnish "forthwith any and all information, facilities, or technical assistance, necessary to accomplish the electronic surveillance." The court order will also mandate that landlords and custodians keep any secrets which they learn according to procedures to be approved by the Director of Central Intelligence.

The administration bill, H.R. 7308 and S. 1566 filed by Chairman ROBINO and Senator KENNEDY, also authorizes the Attorney General in an emergency situation to authorize electronic surveillance for a period not to exceed 24 hours. If the electronic surveillance is terminated before any court order is granted, the information obtained from such surveillance may never be revealed in any judicial proceeding or to any congressional committee. The contents of the conversations recorded may be revealed to a U.S. citizen whose conversations were intercepted only if the Attorney General allows it.

The rights which Americans have to sue for monetary damages when the Government wiretaps them in violation of the United States Code are withdrawn from foreign nationals even though their privacy has been invaded in violation of the law.

Another bizarre idea in the administration bill, which derives from the Levi proposal, recommends that all applications for judicial warrants authorizing electronic surveillance for foreign intelligence purposes be restricted to seven district court judges selected by the Chief Justice of the United States. No standards are set forth for the selection of these chosen seven "wise persons" nor has anyone in the intelligence community confessed to being the author of such an idea which is practically insulting to the integrity of Federal judges. In the event that one of these seven judges somehow denies an application, the Chief Justice is mandated to establish a "special" court of appeals. Again, no standards are established either for the selection of the three judges or with respect to the norms by which they should reverse a judge who refused to carry out the ministerial act assigned to him by the law.

THE PRESS MISSES THE INSIDIOUS ASPECTS OF THE FOREIGN INTELLIGENCE GATHERING PROPOSAL

Even in the most sophisticated journals the idea lingers on that somehow Federal judges will not permit foolish electronic surveillances to continue. The Washington Post on May 23, 1977, cau-

tiously praised the Carter-Bell proposal and concluded that the bill would insure that—

Future electronic surveillance in this country will be governed not by presidential conscience or caprice, but by the rule of law.

If the bill provided that Federal courts pursuant to a Presidential application would give a warrant to tap when there was probable cause of crime on the part of diplomats, then we could say that "the rule of law" would be strengthened by the Carter proposal. But the fact is that there is no "rule of law" when American officials petition for permission to intercept the communications of agents of foreign nations in this country. Those making the application need make no showing beyond the fact that in their judgment the information which they seek to obtain by clandestine methods would be important in their decision-making. No evidence exists to suggest that the gatherers of foreign intelligence would be more careful or more discreet if they had to acquire a judicial warrant before they commenced their acquisition of information. Indeed, one could argue that the present possibility of their being exposed would be eliminated since they would be acting under full color of law and could not even be sued by persons who might be wiretapped illegally.

The Washington Post states that under the proposed system there "could be no legal blank checks." The fact is that there can be nothing but "legal blank checks" since the bill suggests that Federal judges substitute their judgment for that of the Secretary of State or the Director of the CIA.

The Christian Science Monitor on May 20, 1977, concluded:

The Administration bill "would put the country well on the way towards resolving what Mr. Carter called the 'inherent conflict' between legitimate intelligence and preserving rights."

But again, this newspaper misses the essential point that it is a perversion of the fourth amendment to pretend that it has anything to do or any standards to offer to a Federal judge required by law to issue a judicial warrant not to track down criminals but to listen surreptitiously to the conversations of foreigners in our Nation on the supposition that information about their plan for international commerce or their hopes for their country in the family of nations are important to the formulation of American foreign policy.

No newspaper appears willing to take on the fundamental question left open by the Supreme Court in 1972 in the Keith decision. In that ruling the Supreme Court outlawed all warrantless wiretaps for domestic purposes but was not called upon to rule whether wiretapping without a warrant was permitted for foreign intelligence. The fact is that there is no law, no reason, no international authority that can justify the contention that an American President as Commander in Chief can in peacetime conduct electronic eavesdropping without any of the restraints mandated by the fourth amendment. It is an illusion to think that we have "reform" when we seek to legitimize abominable and de-

plorable invasions of the privacy of foreign nations by casting the burden of approving these practices in an ex parte decree by a Federal judge.

No one in the press or even in the legal profession has apparently realized that the proposal to legalize the acquisition of information unrelated to crime or criminal conduct represents the very first time in American history that Congress would permit intrusions into the lives of aliens and citizens alike for activities having nothing to do with unlawful conduct. In addition, the proposal that the Congress authorize judicial warrants merely to acquire information violates the very words of the fourth amendment which specify that the applicant must submit a sworn statement "particularly describing the place to be searched and the persons or things to be seized."

The New York Times on May 7, 1977, expressed editorially its desire for "corrective legislation" in the area of foreign intelligence surveillance. The editorial notes that the fourth amendment protects "persons" without distinction and by implication rejects the contention "of the intelligence agencies to give less protection from surveillance to transient but legal visitors than to citizens and permanent residents." Despite this and other difficulties which the Times editorial points out, the newspaper somehow hopes and desires the "enactment of this crucial measure." Tom Wicker and Anthony Lewis of the Times have written in favorable terms of the proposal to place electronic surveillance solely for the purpose of acquiring foreign information under the supervision of the Federal courts. But neither they nor hardly anyone else has confronted the question that both the Levi and the Bell proposals appear to be in direct contradiction to the Vienna Convention on Diplomatic Relations. This treaty, ratified by the Senate in 1965, came into force in the United States in 1972. The convention requires that the premises of a diplomatic mission and its personnel, including their private residences, be "inviolable"—see sections 22, 24, 27, 29, and 30. This treaty in effect prohibits electronic surveillance of foreign emissaries and the premises which they occupy.

Former Attorney General Levi testified before a House Judiciary subcommittee in 1976 to the effect that the proposed Foreign Intelligence Surveillance Act was not inconsistent with the convention. He based that opinion on a legal memorandum prepared by the Office of Legal Counsel in the Justice Department. Mr. Levi refused to provide the subcommittee with copies of that memo but allowed members to read it in camera. I read that document and found it unpersuasive. I am inclined to think that the proposals to validate electronic surveillance for the sole purpose of acquiring information in a surreptitious way violates the letter and spirit of the Vienna Convention.

I feel strongly that the contents of that memo, if made public, might well alter the thinking of a number of people with regard to this question. As a result,

I asked Attorney General Levi on January 12, 1977, to declassify that document. On February 28, 1977, Attorney General Bell responded to that request in the following letter:

OFFICE OF THE ATTORNEY GENERAL,  
Washington, D.C., February 28, 1977.

HON. ROBERT F. DRINAN,  
House of Representatives,  
Washington, D.C.

DEAR MR. DRINAN: This is in response to your request of January 12, 1976, to Attorney General Levi for a copy of this Department's memorandum concerning the effect of the Vienna Convention on Diplomatic Relations on certain intelligence activities.

That memorandum is, as you are aware, classified "Secret" pursuant to Executive Order 11652, which requires a determination that its "unauthorized disclosure could reasonably be expected to cause serious damage to the national security." Because of your request I have personally reviewed the memorandum and solicited the views of the Department of State, and I have concluded that it is properly classified, an opinion shared by the State Department. Therefore, I regretfully cannot accede to your request for a copy of the memorandum for insertion in the CONGRESSIONAL RECORD.

You might be interested to know that last year a Freedom of Information request for this memorandum was made by the American Civil Liberties Union. That request was likewise denied, and an appeal of that decision is presently pending in the Department. Judicial review of a final denial may be sought in that case pursuant to 5 U.S.C. § 552(a) (4) (B).

Sincerely,

GRIFFIN B. BELL,  
Attorney General.

I expect to continue to pursue every avenue of appeal so that the secret memo which is enormously relevant to the question of foreign intelligence surveillance will be revealed for everyone to read.

CONGRESSMAN KASTENMEIER'S PROPOSAL,  
H.R. 5632

On March 28, 1977, Mr. KASTENMEIER, the distinguished and able chairman of the Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice, filed a bill designed to eliminate undesirable features in the Levi proposal. Congressman KASTENMEIER's intention is to bring all electronic surveillance under the standard set forth in the Fourth Amendment to the Constitution. Not everyone will be able to agree that H.R. 5632 accomplishes that objective. In an explanation of the bill in the CONGRESSIONAL RECORD for March 28 (p. 9274), Mr. KASTENMEIER notes that his bill would permit foreign intelligence surveillance to continue but only after the issuance of a judicial warrant supported by probable cause that the surveillance would reveal evidence of criminal activity. The bill adds violations of the Export Administration Act and the Foreign Agents Registration Act as crimes for which a judicial warrant can be obtained. Mr. KASTENMEIER notes that "wiretaps already may be sought in cases of violations of espionage, sabotage, and treason statutes."

The Kastenmeier bill does not, however, appear to restrict its applicability solely to situations where evidence received from an electronic surveillance

might lead to knowledge of a crime. At least the bill defines foreign intelligence information in such a broad manner—virtually identical to the Levi bill—that it is difficult to see how the impact of the Kastenmeier bill would be essentially different from that intended by the Levi or Griffin Bell proposals. Indeed, the purpose of H.R. 5632 as set forth in its preamble is "to provide special procedures in the case of applications for court orders for the interception of oral or wire communications to obtain foreign intelligence information."

The Kastenmeier bill does, however, eliminate the idea of only seven judges acting in this area and provides that all of the judges of the U.S. Court of Appeals for the District of Columbia Circuit would have jurisdiction over applications for authorization to intercept wire or oral communications. The Kastenmeier bill is also progressive in that it does not structure a new chapter 120 of title 18 of the United States Code but amends the existing electronic surveillance statute, chapter 119, to permit surveillance in the context of the traditional criminal probable cause showing—although once again, the bill expressly states that it would permit surveillance for intelligence purposes.

IS SURREPTITIOUS WIRETAPPING ESSENTIAL TO  
U.S. FOREIGN POLICY?

All of those who have written about electronic surveillance for intelligence purposes have condemned and lamented the scandalous situation by which an unknown but probably large number of wiretaps have been installed in the name of national security. At the same time, virtually everyone assumes—without any empirical evidence whatsoever—that the mightiest nation in the world must continue to engage in the dirty business of wiretapping if it wants to protect itself against nations who send authorized representatives to America. Just a few years ago such a proposition would be rejected as preposterous. But the grip which the intelligence community has on the Congress and on the country is so intense at this time that anyone who asserts the idea that American officials should apply for wiretaps only to apprehend criminals is deemed to be naive and unrealistic.

The fact is that those who are proposing anything different from this traditional legal standard must bear the burden of demonstrating that the profound alteration which they are recommending is the only possible remedy for the problem whose existence they allege. The intelligence community has not offered a single bit of evidence that wiretapping merely for the purpose of gathering intelligence is the one indispensable element which they require in order to protect the Nation from calamities. The Ford administration and Attorney General Levi offered not a scintilla of evidence that the interception of the communications of the authorized personnel of foreign nations in this country was necessary or desirable. The Carter administration has defined the overwhelming consensus in the civil liberties com-



munity in its proposal to permit easy bugging and convenient wiretapping of both foreign nationals and American citizens—when the latter group phone embassies or talk to foreign businessmen by electronic means. The least that the Congress and the country could expect is disclosure by the administration of enough evidence to constitute at least some justification for the unprecedented demands now being made by the intelligence community.

Secrecy in America—even in the conduct of its foreign policy in peacetime—should be a very rare exception. The invasion of privacy by electronic means carried out by the Federal Government—even on foreigners—should be a phenomenon which should be encouraged or tolerated only for the most extraordinary circumstances in the most unusual cases. The proposal that this Nation legalize and validate routine requests of super-secret intelligence officials to engage in wiretapping is shocking and shattering. The Congress and the Nation should demand an infinitely more precise justification for these extremely radical measures than has been offered by the Ford or the Carter administrations.

#### VETERANS' AFFAIRS COMMITTEE TO CONDUCT HEARINGS ON PRO- GRAMS TO UPGRADE BAD DIS- CHARGES FOR CERTAIN VET- ERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ROBERTS) is recognized for 10 minutes.

Mr. ROBERTS. Mr. Speaker, on June 20 and 21, the Committee on Veterans' Affairs will be conducting hearings in reference to President Carter's and former President Ford's programs to upgrade bad discharges for certain veterans who received such discharges resulting in service during the Vietnam era. During the hearings we will attempt to get all the facts pertaining to the programs; number of veterans affected; record of service of the individuals affected; cost of the programs, et cetera.

Mr. Speaker, other than two releases received from the Department of Defense, we have not been advised of the total impact of these discharge review programs nor have we been advised of the costs involved. As an example of our inability to receive information pertaining to the programs, it was recently called to my attention that the Acting Assistant Commissioner for Operations of the Immigration and Naturalization Service had sent a message to all customs stations outlining a plan of action being imposed on all customs inspectors to assure that returning deserters from military service are extended courtesy of the port upon their reentry into the United States. The instructions specifically state that returning personnel "will be accorded professional and courteous service." It is my understanding that most, if not all, such deserters will have transportation tickets provided them by the Government. Deserters will be

deemed members of the U.S. military on orders and will be exempt from any inspection by customs officials. In other words, it would appear that these individuals will be able to enter the United States after an extended period of absence and will be able to bring with them anything they desire.

It was recently called to my attention, although I have been unable to verify it, that service records of some members whose discharges are being upgraded have been altered and, in many instances, such records have been destroyed. If this is true a review of such records will not reflect "dishonorable service" should the Congress desire to take action to deny veterans' benefits as a result of such service.

I think this is appalling and we hope to find out exactly what is going on when we begin our hearings during the week of June the 20th.

Mr. Speaker, we must know what is going on and I hope that all Members who have any information that would be helpful to the committee will submit that information to us during hearings on this issue.

#### DEPARTMENT OF ENERGY ORGANIZATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 5 minutes.

Mr. HARRIS. Mr. Speaker, the significance of H.R. 6804, the Department of Energy Organization Act, is that Congress is making it clear that our Government is going to take effective command of energy policy, and that we are going to do so in a comprehensive manner. In the future, the Government and not the major oil companies will determine the public's energy policy.

The essential problem with the way our Government has dealt with energy issues in the past has been that we have lacked a comprehensive national energy policy and, moreover, that the responsibility for formulating and implementing policy has been widely dispersed through the executive branch and independent commissions.

The need for an energy policy is apparent. Colombia knows more about its coffee production than our Government knows about oil and gas production, even though energy is more important to our economy than coffee is to theirs. The administration and the Congress can and are proceeding to develop the national energy policy; this process has preceded, as it should, through public debate and under the public's scrutiny.

The effective management and implementation of a comprehensive energy policy is dependent upon the consolidation of most Federal energy programs. Of course, the general purpose of H.R. 6804, the bill before us today, is to create a Department of Energy and thereby to consolidate the functions of a vast number of executive agencies and independent commissions that have shared the responsibility for energy policy. I support this purpose.

Clearly understood lines of authority and responsibility will enable our Government to more effectively deal with our energy problems. Consolidation will also tend to eliminate waste and duplication. Very importantly, with greater coordination of information gathering activities, a policy based upon accurate and complete data will become possible.

Needless to say, however, not every Federal program affecting energy policy can or should be brought into the new Department of Energy or placed under the authority of the Secretary of the proposed Department. A review of H.R. 6831, the President's energy policy bill, demonstrates that tax policy is or could be a major aspect of our national energy policy. Yet, it is not reasonable to bring the Treasury Department within the new Department of Energy. I do not believe that anyone has seriously suggested doing so.

The Treasury example may be somewhat extreme, but the principle is clear: There are energy functions that should not be brought under the direct authority of the Secretary of Energy. Consolidation per se is not the goal of this legislation. Rather, the intent of this bill is to create a vehicle through which we can better formulate and implement policy. Blindly lumping all Federal energy programs in one department will not necessarily provide us with the best vehicle to achieve the end we seek.

When the House considered the amendments to H.R. 6804, a number of amendments were offered to restrict or expand the authority of the Department of Energy for certain energy programs. While I believe that, in general, consolidation of energy programs will be beneficial, I believe that in some instances it would not be advantageous to place certain programs under the authority of the Secretary.

For example, I supported an amendment to transfer authority for regulating the wellhead price of natural gas from the proposed Economic Regulatory Administration to the Federal Energy Regulatory Commission. While both are within the Department of Energy, only the Economic Regulatory Administration is under the direct authority of the Secretary. Natural gas regulation should utilize cost based pricing. I believe that protection from political pressure and executive interference would be maximized if the authority for setting natural gas rates was placed in the independent Federal Energy Regulatory Commission, rather than in the Economic Regulatory Administration.

#### DEPARTMENT OF ENERGY ORGANIZATION ACT

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, as we debate the proposed Department of Energy Organization Act, the Members ought to know that if the Congress and the administration which had been in office back in the early 1950's had done right

by the American people, we would not have to be here discussing energy problems today.

If the Government had not been negligent back then, we would not have an energy problem. There would be no OPEC, there would be no energy shortage, and our economy would not be riddled and ripped by the price of oil which we are importing today.

Back then, after World War II, this country was well on the way to a process of refining oil from coal that would have produced liquid fuel just as cheaply from coal as it was being produced from petroleum. As a matter of fact, we were also well along the way toward underground coal gasification. The liquefaction plants were located at Louisiana, Mo., and the underground gasification plant was located at Gorgas, Ala.

In 1953, they needed an appropriation of about \$2 million to continue their work, but the administration then in office was against it, and the Congress was not foresighted enough to approve it. So this country dismantled a tremendous technological advantage we had, and threw it down the drain.

Other countries, especially South Africa, grabbed this technology, and began producing fuel from coal, just as we could have, because the processes are old—the processes have existed since well before World War II. They can be improved on—researchers will also say that there is more work to be done, because they are never satisfied—and that may be good, but no member should operate under the delusion that we could not go ahead with coal liquefaction and coal gasification on a commercial scale today, if we wanted to.

Now, while our economy is being drained dry by the exorbitant prices people are paying for imported fuel, South Africa is manufacturing most of her own, using coal. The New York Times ran an article on this several days ago, and I ask that it be carried in the Record, so that the members may have some additional information on this subject.

[From the New York Times, June 1, 1977]  
SOUTH AFRICANS CONVERTING COAL INTO MOTOR FUEL

(By John F. Burns)

**SECUNDA, SOUTH AFRICA.**—While the United States searches anxiously for ways to reduce its dependence on imported oil, South Africa, with no natural oil of its own, has embarked on an ambitious project to produce substantial amounts of gasoline and other liquid motor fuel from coal.

A few months ago, the state-owned South African Coal, Oil and Gas Corporation, known as SASOL, began construction of a \$2.8 billion coal conversion project at this isolated spot 80 miles southeast of Johannesburg. The plant will be based on technology proven over the last two decades at a much smaller plant at Sasolburg, 80 miles to the west.

Together, the two plants will produce about 500 million gallons of motor fuels a year, a third of current consumption. And, if oil prices keep pace with rising capital costs, the only major question mark, the new project is expected to make at least a modest profit.

The idea behind the project is not South African, or even very new. Hitler used it in fueling his tanks and warplanes, after he lost his major oilfields in World War II. But after the war, only South Africa carried it through on a commercial scale.

Developing a German process that had been used only marginally by Hitler but taken over by the M. W. Kellogg Corporation in the United States, Sasol began marketing coal-based fuels in 1955. The products were good enough to be used in family sedans, trucks, jet airplanes, and even racing cars.

#### HUGE SUPPLIES OF CHEAP COAL

From the outset, local factors made the project especially appealing. The country had huge reserves of extraordinarily cheap coal, which even now comes out of Sasol mines at \$4 to \$8 a ton, compared to more than \$20 at many underground mines in the United States. Moreover, it could produce relatively expensive coal-based fuels and remain competitive with imported oil.

In addition, there were strategic considerations. Although South Africa relies on oil for less than a quarter of its energy needs, against 40 percent in the United States, the Government has long feared that the oil-exporting nations might seek to strangle apartheid with an embargo.

At present, a boycott is improbable, since 80 percent of the imported oil comes from Iran, which has been eager to develop strong ties with South Africa. However, Pretoria, aware of the political uncertainties of the Middle East, has been reluctant to overextend its reliance on the Shah.

Over the years, massive oil reserves, believed by diplomats to amount to three years' supply, have been stockpiled across the country, mostly in abandoned mineshafts. With expansion of the oil-from-coal program, self-sufficiency will be taken one step further.

#### CHRONIC DEFICIT PLUS OIL BILL

When the new plant comes on stream in 1981, it will save an estimated \$400 million on oil imports. The oil bill, \$1.2 billion in 1976, is in addition to a chronic trade deficit, \$1.7 billion last year, which the Government is finding increasingly difficult to cover with foreign investments and loans.

Abroad, the oil-from-coal scheme has been largely ignored, or regarded as a South African peculiarity. The attitude puzzles and even irritates Johannes Stegmann, Sasol's managing director. "How wrong they are!" he said in an interview in his office in Sasolburg.

Mr. Stegmann, a 50-year-old engineer who spends his leisure hours reading German novels and listening to baroque music, argued that rising oil prices eventually would persuade other industrial nations, primarily the United States, to follow SASOL's lead.

"It's absolutely inevitable, and I think anybody who has studied the energy scene in the United States would agree," he said, emphasizing the point by citing passages from President Carter's energy message to Congress from a copy on his desk.

The executive, in shirtsleeves predicted that the industrialized nations would have little success in reducing their dependence on oil before the end of the century. In the meantime, with reserves diminishing and demand going up, there was likely to be "a very considerable upward pressure on price," he asserted.

#### CALLS LIQUEFACTION "ABSOLUTELY NECESSARY"

In the circumstances, he said, it was "absolutely necessary" for countries such as the United States, for economic and strategic reasons, to start producing liquid fuels by synthetic means. In practical terms, this meant the liquefaction of oil shale, tar sands or coal.

"Towards the end of the century, the Western world will have no choice but to produce a substantial portion of its liquid fuel needs from liquefaction," the executive declared.

"So I think that a big mistake is being made, particularly in the United States, with its coal reserves, in not paying more attention to the existing technology."

After the war, a pilot liquefaction plant was built at Brownsville, Tex., but the economics of the period—cheap oil, mainly—were against it. In recent years, a number of United States gas companies have considered using a key part of the SASOL process to produce substitute natural gas from coal.

#### PRIVATE COMPANY TAKEN OVER

The companies, among them El Paso Natural Gas Company and the American Natural Gas Company of North Dakota, have maintained close contacts with SASOL. But so far, they have been reluctant to commit the huge start-up costs involved without some form of Federal guarantee, a possibility that was raised in the Carter energy proposals.

Initially, the South African rights to coal liquefaction were held by a private mining company, Anglovaal, now the Anglo-Transvaal Consolidated Investment Company. But in 1950, when the company balked at the capital costs, the Government took over, founding SASOL. The company remains wholly state-owned today.

For the first plant, SASOL I, the Government provided much of the capital costs. In the early years, the plant was plagued with technical problems and customer resistance to the products, which tended to break carbon deposits loose from engines. But by the early 1960's, the problems were solved and the company began making profits.

By 1975-76, net profits were up to \$35 million. The returns were increased by the sale of more than 100 byproducts, including gas for domestic and industrial use, feedstocks such as ethylene for the plastics industry, and nitrates for fertilizer.

Motor fuels, the principal product, were profitable from a fairly early stage. But, Mr. Stegmann conceded, rising capital costs made it impractical to build the second plant, SASOL II, until the sudden leap in oil prices that followed the 1973 Middle East war.

#### THE PROJECT IS VAST

The price increase by the Organization of Petroleum Exporting Countries, while damaging the economies of the industrialized West, simultaneously opened a new horizon to the company. Within a week of the outbreak of war, Prime Minister John Vorster's Cabinet commissioned a feasibility study on an oil-from-coal plant to produce 10 times as much fuel as SASOL I.

Within a year, the Government had approved the project. As with SASOL I, the site was chosen largely for its proximity to major coal reserves and to the Vaal River, source of the substantial amounts of water used in the liquefaction process.

The project is vast, the largest engineering project undertaken in South Africa. Eventually, a labor force of 14,000, largely black, will be involved in construction. German, French and American companies, under the overall management of Fluor Engineers and Constructors Inc. of Los Angeles, the managing contractor, will share major parts of the project.

#### NO ENVIRONMENTALIST OBJECTIONS

There has been opposition to the project. In industry, there are those who believe that it is an extravagance that the country, deep in a recession, cannot afford. Some opposition politicians think the money would be



better spent on black education, housing and jobs. But nobody is saying the project will not work.

Unlike major petrochemical projects in the United States, the new plant has so far encountered no problems with environmentalists. The only population concentration of any size in the immediate vicinity will be Secunda, the \$115 million new town being constructed for the company's workers nearby. Moreover, according to Mr. Stegmann, with processes developed at the first plant for the recovery of effluents, especially sulfur, environmental problems "will be fewer than at a coal-fired power station."

For Mr. Stegmann, the main worry in the three years to completion will be capital costs. If they keep step with the oil price, the new plant is expected to be modestly profitable within a year or two of coming into operation. A profit figure once mentioned by company executives of 9.3 percent has since slipped sharply as a result of rising construction costs.

However, Mr. Stegmann expects the profit picture to improve rapidly after the initial phase. His forecast is that OPEC will push the cost of oil in the 1980's past \$20 a barrel, compared with the current \$11.50, while the South African company, operating a heavily capital-intensive plant will face only modestly rising costs.

His view is that other oil-short nations, particularly the United States, should move without delay to construct liquefaction even if capital and other restraints make it unlikely that oil-from-coal projects can make more than a marginal impact on the overall energy picture in the next decade. "Only in this way can environmental, social, and economic obstacles to future large-scale projects be identified and overcome," he said.

#### PROCESS INVOLVES TWO STAGES

Mr. Stegmann conceded that, in the long term, the technology used in the company may be overtaken by new processes at least twice as efficient. The company's approach, an adaptation of the Fischer-Tropsch process developed in Germany between the World Wars, involves two stages—conversion of the coal into carbon monoxide and hydrogen followed by synthesis of the two in liquid form.

The process gives a thermal efficiency of approximately 35 percent, counting the motor fuels alone. New processes under research at SASOL and elsewhere, including the United States, offer potential efficiencies as high as 60 percent.

Approaches vary, but most involve a more sophisticated version of the hydrogenation technology favored by Germany in World War II. In essence, this involves a conversion stage, radically different from that now used by SASOL, with hydrogen molecules being mixed with coal under extremely high temperatures and pressures.

Mr. Stegmann forecast that it would be at least a decade before the new concepts were sufficiently developed in pilot plants to justify commercial application. By then, he said, SASOL II should have been in profitable operation, showing the way to an oil-depleted world, for at least half a dozen years.

#### PERSONAL EXPLANATION

(Mr. COLEMAN asked and was given permission to extend his remarks at this point in the Record.)

Mr. COLEMAN. Mr. Speaker, last Thursday, May 26th, it was necessary for me to leave Washington before the final vote on the Clean Air Act (H.R. 6161).

Before I left, I was able to participate in the floor proceedings and vote on a

number of critical amendments. However, had I been able to remain I would have been present to cast my vote in favor of final passage of the Clean Air Act as amended.

#### SOVIET PRESENCE FEARED AND HATED IN UKRAINE

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, Soviet domination continues to be an ever-present phenomenon in the world today. Soviet presence is feared and hated in Ukraine where the desire for freedom and sovereignty flourishes. The determination shown by these people exemplifies their attitudes and hopes of an independent state free from Soviet encroachment.

While the efforts for Ukrainian independence intensify so does the oppression that exists there. Persecutions and arrests continue at an increasing rate making human rights an almost extinct quality in Ukrainian society. We as Americans must continue to give these nationalists some encouragement by applying pressure and attempting to make the Soviet Union comply with the Helsinki agreement. Accordance with this has been nonevident in Soviet diplomacy. The closer relationship between the United States and the Soviet Union can be used as a tool so that the present situation in Ukraine can be rectified.

Since assuming office, President Carter has frequently expounded on the principles of human rights throughout the world and has declared that the question of human rights would receive priority in his administration. We as a nation must think along these lines so that attempts to alleviate social and political inequities can be successful. The oppression must be ended, however, it can only occur if the free peoples of the world sympathize with the plight of the Ukrainians and similar nations.

The Belgrade Conference is an opportunity for the Ukrainian situation to be widely exposed. The scrutiny of the world presents a possibility for positive actions. An attempt to involve enslaved nations in future conferences may lead to major developments in the quest for human rights and a decent existence. To allow persecutions to continue violates the Declaration of Human Rights and gives little or no hope for future independence. Satisfaction can never be acquired until this great nation fulfills its basic desire for freedom. Let us move with great speed at achieving the ultimate goal of these people.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. COTTER (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. AKAKA (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. CORMAN (at the request of Mr. BROWN of California), for today, on account of official business.

Mr. BAFALIS (at the request of Mr. MICHEL), for today, on account of illness.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. STANGELAND), to revise and extend their remarks, and to include extraneous matter:)

Mr. KEMP, for 30 minutes, today.

Mr. BURKE of Florida, for 5 minutes, today.

(The following Members (at the request of Mr. WHITLEY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Ms. HOLTZMAN, for 30 minutes, today.

Mr. ALEXANDER, for 30 minutes, today.

Mr. DRINAN, for 30 minutes, today.

Mr. ROBERTS, for 5 minutes, today.

Mr. HARRIS, for 5 minutes, today.

Mr. REUSS, for 30 minutes, June 6, 1977.

#### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. STANGELAND) and to include extraneous material:)

Mr. WALSH.

Mr. GRASSLEY.

Mr. QUIE.

Mr. FRENZEL in three instances.

Mr. YOUNG of Florida.

Mr. SHUSTER.

Mr. BADHAM.

Mr. BURKE of Florida.

Mr. LAGOMARSINO.

Mr. ROUSSELOT in two instances.

Mr. McCLOY.

Mr. MICHEL in two instances.

(The following Members (at the request of Mr. WHITLEY) and to revise and extend their remarks:)

Mr. ROSE.

Mr. JACOBS.

Mr. MINETA.

Mr. MOORHEAD of Pennsylvania.

Mr. ANDERSON of California in three instances.

Mr. MURTHA.

Mr. ROSENTHAL.

Mr. NEDZI.

Mr. BEVILL.

Mr. BRECKINRIDGE.

Mr. EILBERG in two instances.

Mr. CORMAN in five instances.

Mr. KILDEE.

Mr. EDWARDS of California.

Mr. McDONALD in three instances.

Mr. MAZZOLI.

Mr. AMMERMAN.

Mr. OBERSTAR.

Mrs. BOGGS.

Mr. MAHON.

Mr. BYRON.

## ADJOURNMENT

Mr. WHITLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly at 2 o'clock and 5 minutes p.m., under its previous order, the House adjourned until Monday, June 6, 1977, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1610. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a draft of proposed legislation to amend the Federal Insecticide, Fungicide, and Rodenticide Act and for other purposes; to the Committee on Agriculture.

1611. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that various appropriations to the Department of State and the Arms Control and Disarmament Agency have been apportioned on a basis which indicates the necessity for supplemental appropriations for fiscal year 1977, pursuant to section 3679(e)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

1612. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects to be undertaken by the Army National Guard, pursuant to title 10, United States Code, section 2233a(1); to the Committee on Armed Services.

1613. A letter from the Assistant Secretary of the Army (Research and Development), transmitting a report on Army research and development contracts of \$50,000 and over awarded during the period October 1, 1976, through March 31, 1977, pursuant to title 10, United States Code, section 2357; to the Committee on Armed Services.

1614. A letter from the Administrator of General Services, transmitting notice of proposed changes in a records system, pursuant to title 5, United States Code, section 552a(o); to the Committee on Government Operations.

1615. A letter from the Administrator of General Services, transmitting proposed revised regulations to govern public access to presidential materials, pursuant to section 104(a) of Public Law 93-526; to the Committee on House Administration.

1616. A letter from the Acting Secretary of the Interior, transmitting a report covering calendar year 1976 on disclosures of financial interests by Interior Department officers and employees performing functions under the Energy Policy and Conservation Act, the Mining in the Parks Act, and the Federal Land Policy and Management Act of 1976, pursuant to section 522(b)(2) of Public Law 94-163, section 13(b)(2) of Public Law 94-429, and section 313(b) of Public Law 94-579; to the Committee on Interior and Insular Affairs.

1617. A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions made by Melissa Wells and Marvin L. Warner, and their families, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations.

1618. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report covering the month of March 1977, on the average number of passengers per day on board each train operated, and the ontime performance at the final destination of each

train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

1619. A letter from the Commissioner, Federal Prison Industries, Inc., Department of Justice, transmitting the annual report of the Board of Directors of the corporation for fiscal year 1976, pursuant to 18 U.S.C. 4127; to the Committee on the Judiciary.

1620. A letter from the Secretary, Aviation Hall of Fame, Inc., transmitting the organization's audit report for calendar year 1976, pursuant to section 15(b) of Public Law 88-372; to the Committee on the Judiciary.

1621. A letter from the President, National Academy of Sciences, transmitting a report on health care for American veterans, pursuant to section 201(c) of Public Law 93-82; to the Committee on Veterans' Affairs.

1622. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to extend for 1 year the provisions of Public Law 94-401 which permit increased funding for social services under title XX of the Social Security Act and for other purposes; to the Committee on Ways and Means.

1623. A letter from the Comptroller-General of the United States, transmitting a report on accountability and control of nuclear warheads in the custody of the Department of Defense and the Energy Research and Development Administration (PSAD-77-115, June 2, 1977); jointly, to the Committees on Government Operations, and Armed Services.

1624. A letter from the Comptroller General of the United States, transmitting a report on the withdrawal of U.S. forces from Thailand (LCD-77-402, June 3, 1977); jointly, to the Committees on Government Operations, Armed Services, and International Relations.

1625. A letter from the Comptroller General of the United States, transmitting a report on Department of Defense efforts to comply with the Resource Recovery Act of 1970 and the Environmental Protection Agency's implementing guidelines (LCD-76-345, June 2, 1977); jointly, to the Committees on Government Operations, Armed Services, and Interstate and Foreign Commerce.

1626. A letter from the Comptroller General of the United States, transmitting a report on the barriers to improvement of manpower management caused by personnel ceilings (FPCD-76-88, June 2, 1977); jointly, to the Committees on Government Operations, Armed Services, and Post Office and Civil Service.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2437. A bill to amend the act of April 17, 1954, which preserved within Manassas National Battlefield Park, Va., important historic properties relating to the battles of Manassas, and for other purposes; with amendment (Rept. No. 95-389). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BONKER:

H.R. 7590. A bill to require the payment

of interest by Federal agencies on overdue contract payments, to amend the Office of Federal Procurement Policy Act, and for other purposes; to the Committee on Government Operations.

By Mr. BROYHILL (for himself and Mr. MOORHEAD of California):

H.R. 7591. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions; to the Committee on the Judiciary.

By Mrs. COLLINS of Illinois:

H.R. 7592. A bill to amend section 222 of the National Housing Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CORNWELL (for himself, Mr. RUPPE, Mr. ROYBAL, and Mr. DORNAN):

H.R. 7593. A bill to amend title VII of the Social Security Act to require that social security and supplemental security income benefit checks be mailed in time for delivery prior to the regularly scheduled delivery day whenever that day falls on a Saturday, Sunday, or legal holiday; to the Committee on Ways and Means.

By Mr. FLYNT:

H.R. 7594. A bill to amend the Tariff Schedules of the United States; to the Committee on Ways and Means.

By Mrs. LLOYD of Tennessee:

H.R. 7595. A bill to amend title 39, United States Code, to prohibit the U.S. Postal Service from merging post office operations without the approval of persons regularly served by such post offices, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MAZZOLI (for himself, Mr. BROWN of Michigan, Mr. YOUNG of Missouri, Mr. ADDABO, Mr. EILBERG, Mr. DOWNEY, Mr. McDADE, Mr. WOLFF, Mr. KRUEGER, Mr. WALKER, Mr. BRODHEAD, Mr. ETEL, Mr. NEDZI, Mr. WHITEHURST, Mr. NOLAN, and Mr. GEPHARDT):

H.R. 7596. A bill to provide for financial assistance to improve the capabilities of units of local government to deal with career criminals, and for other purposes; to the Committee on the Judiciary.

By Mr. MOORHEAD of Pennsylvania:

H.R. 7597. A bill to amend the Federal Financing Bank Act of 1973 to require that the receipts and disbursements of the Federal Financing Bank be included in the Federal budget, and for other purposes; jointly to the Committees on Ways and Means, and Banking, Finance and Urban Affairs.

By Mr. MURTHA:

H.R. 7598. A bill to increase the authorization for appropriations for coal mine health and safety research under the Federal Coal Mine Health and Safety Act of 1969 for fiscal year 1978 and succeeding fiscal years; to the Committee on Education and Labor.

By Mr. ROGERS (for himself and Mr. CARTER):

H.R. 7599. A bill to direct the Institute of Medicine of the National Academy of Sciences to conduct a 1-year review and evaluation of all available information respecting the toxicity and carcinogenicity of food additives, including information respecting the ability to predict the effect on humans of food additives found to cause cancer in animals and whether there should be a weighing of risks and benefits in making regulatory decisions respecting such additives, and to direct the Secretary of Health, Education, and Welfare to permit the continued use of saccharin as a food, food additive, drug, and cosmetic for 18 months; to the Committee on Interstate and Foreign Commerce.

By Mrs. SCHROEDER (for herself, Mr. CLAY, Mr. FORD of Michigan, Mr. FORD of Tennessee, Mr. HARRIS, Ms. MIKULSKI, Mrs. SPELLMAN, Mr.



STARK, and Mr. CHARLES H. WILSON of California):

H.R. 7600. A bill to amend title 5, United States Code, to guarantee to each employee in the executive branch who has completed the probationary or trial period, the right to a hearing, a hearing transcript, and all relevant evidence prior to a final decision of an agency to take certain action against such an employee, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. THONE:

H.R. 7601. A bill to amend section 501(e) of the Housing Act of 1949 for the purpose of requiring the Secretary of Agriculture to establish escrow accounts in order to assist persons receiving rural housing loans under such act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. VANIK:

H.R. 7602. A bill to establish procedures and standards for the framing of relief in suits to desegregate the Nation's elementary and secondary public schools, to provide for assistance to voluntary desegregation efforts, to establish a National Community and Education Committee to provide assistance to encourage and facilitate constructive and comprehensive community involvement and planning in the desegregation of schools, and for other purposes; jointly, to the Committees on the Judiciary, and Education and Labor.

By Mr. WHITEHURST (for himself, Mr. CAPUTO, and Mrs. MEYNER):

H.R. 7603. A bill to amend the National Housing Act to provide for the insurance of graduated payment mortgages, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. WALKER introduced a bill (H.R. 7604) for the relief of Margaret Somerville Jefferis, which was referred to the Committee on the Judiciary.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10

By Mr. DERWINSKI:

On page 27 strike all after the enacting clause and insert the following:

That this Act may be cited as the "Federal Employees' Political Activities Act of 1977".

Sec. 2. Chapter 73 of title 5, United States Code, is amended by adding the following new subchapter:

### "SUBCHAPTER VI—POLITICAL ACTIVITIES

#### "§ 7361. Political participation

"It is the policy of the Congress that employees should be encouraged to fully exercise, to the extent not expressly prohibited by law, their rights of voluntary participation in the political processes of our Nation.

#### "§ 7362. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means any individual, employed or holding office in the United States Postal Service;

but does not include a member of the uniformed services;

"(2) 'candidate' means any individual who seeks nomination for election, or election to any elective office, whether or not such individual is elected, and, for the purpose of this paragraph, an individual shall be deemed

to seek nomination for election, or election, to an elective office, if such individual has—

"(A) taken the action required to qualify for nomination for election, or election; or

"(B) received political contributions or made expenditures, or has given consent for any other person to receive political contributions or make expenditures, with a view to bringing about such individual's nomination for election, or election, to such office;

"(3) 'political contribution'—

"(A) means a gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose;

"(B) includes a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a political contribution for any political purpose;

"(C) includes the payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to such candidate or political party or affiliated organization without charge for any political purpose; and

"(D) includes the provision of personal services for any political purpose;

"(4) 'supervisor' means an employee who exercises supervision of, or control or administrative direction over, another employee;

"(5) 'elective office' means any elective public office and any elective office of any political party or affiliated organization;

"(6) 'enforcing authority' means the general counsel of the Civil Service Commission or such other individual within the Commission as the Commissioners may designate to carry out investigation and enforcement activities under this subchapter;

"(7) 'State' means each of the several States and the District of Columbia;

"(8) 'person' means any individual, corporation, trust, association, any State, local, or foreign government, any territory or possession of the United States, or any agency or instrumentality of any of the foregoing; and

"(9) 'restricted position' means any position with respect to which there is in effect a determination by the Commission, by regulation, that—

"(A) the duties and responsibilities of such position require such employee, as a substantial part of his official activities, to engage in—

"(i) the enforcement of any civil or criminal law;

"(ii) the inspection or auditing of the activities of any person;

"(iii) the contracting for goods or services for the Government;

"(iv) the providing, administration, or monitoring of licenses, grants, subsidies, or other benefits; or

"(v) foreign intelligence or national security activities;

"(B) the duties and responsibilities of such position—

"(i) in the case of any inspection, audit, prosecution, or investigation under any civil or criminal law, employees holding such positions have the authority to make policy decisions binding on other employees under their control with regard to who shall be the subject of any such action; or

"(ii) in the case of any Government contract or any Government license, grant, subsidy, or other benefit, employees holding such positions have the authority to make binding decisions on other employees under their control with respect to such contract or benefit which involves any funds or other interest having a substantial monetary value; and

"(C) the restrictions on political activity imposed on such employee in such a position are justified in order to insure the integrity of the Government or the public's confidence in the integrity of the Government.

"§ 7363. Use of official influence or official information; prohibition.

"(a) An employee may not directly or indirectly use or attempt to use the official authority or influence of such employee for the purpose of—

"(1) interfering with or affecting the result of any election; or

"(2) intimidating, threatening, coercing, commanding, influencing, or attempting to intimidate, threat, coerce, command, or influence—

"(A) any individual for the purpose of interfering with the right of any individual to vote as such individual may choose, or of causing any individual to vote, or not to vote, for any candidate or measure in any election;

"(B) any person to give or withhold any political contribution; or

"(C) any person to engage, or not to engage, in any form of political activity whether or not such activity is prohibited by law.

"(b) An employee may not directly or indirectly use or attempt to use, or permit the use of, any official information obtained through or in connection with his employment for any political purpose, unless such official information is available to the general public.

"(c) For the purpose of subsection (a) of this section, 'use of official authority or influence' includes—

"(1) promising to confer or conferring any benefit (such as any compensation, grant, contract, license, or ruling) or effecting or threatening to effect any reprisal (such as deprivation of any compensation, grant, contract, license, or ruling); or

"(2) taking, directing others to take, recommending, processing, or approving any personnel action (such as any appointment, promotion, transfer, assignment, reassignment, reinstatement, restoration, reemployment, performance evaluation or any adverse action under this title, suspension for 30 days or less, or other disciplinary action).

#### "§ 7364. Solicitation; prohibition

"(a) An employee may not—

"(1) give or offer to give a political contribution to any individual either to vote or refrain from voting, or to vote for or against any candidate or measure, in any election;

"(2) solicit, accept, or receive a political contribution to vote or refrain from voting, or to vote for or against any candidate or measure, in any election;

"(3) knowingly give or hand over a political contribution to a superior of such employee; or

"(4) knowingly solicit, accept, or receive, or be in any manner concerned with soliciting, accepting, or receiving, a political contribution—

"(A) from another employee (or a member of another employee's immediate family) with respect to whom such employee is a superior; or

"(B) in any room or building occupied in the discharge of official duties by—

"(i) an individual employed or holding office in the Government of the United States, in the government of the District of Columbia, or in any agency or instrumentality of the foregoing; or

"(ii) an individual receiving any salary or compensation for services from money derived from the Treasury of the United States.

"(b) In addition to the prohibitions of subsection (a) of this section, an employee holding a restricted position may not solicit, accept, or receive a political contribution from, or give a political contribution to, any individual who is an employee, a Member of Congress (or a candidate for such office), or a member of a uniformed service, or any agent of any such individual. The preceding sentence shall not be construed

to prohibit an employee from giving a political contribution to a political committee.  
 "§ 7365. Political activities on duty, etc.; prohibition

"(a) An employee may not engage in political activity—

"(1) while such employee is on duty;

"(2) in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States, in the government of the District of Columbia, or in any agency or instrumentality of the foregoing; or

"(3) while wearing a uniform or official insignia identifying the office or position of such employee.

"(b) The provisions of subsection (a) of this section shall not apply to—

"(1) an individual—

"(A) paid from the appropriation for the White House Office;

"(B) paid from funds to enable the Vice President to provide assistance to the President; or

"(C) on special assignment to the White House Office;

"(2) the Mayor of the District of Columbia, the Chairman or a member of the Council of the District of Columbia; or

"(3) any activity of an individual which is not otherwise prohibited by or under law and which is part of such individual's official duties.

"(c) Nothing in this section shall be construed to authorize an individual designated in subsection (b) to engage in political activity otherwise prohibited by or under law.

"(d) (1) In addition to the prohibitions of subsection (a) of this section, an employee holding a restricted position may not take an active part in political management or political campaigns unless such part—

"(A) is in connection with (i) an election and preceding campaign if none of the candidates is to be nominated or elected at that election as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected or (ii) a question which is not specifically identified with a National or State political party or political party of a territory or possession of the United States; or

"(B) is permitted by regulations prescribed by the Civil Service Commission and involves the municipality or political subdivision in which such employee resides, when—

"(i) the municipality or political subdivision is in Maryland or Virginia and in the immediate vicinity of the District of Columbia or is a municipality in which a majority of voters are employed by the Government of the United States; and

"(ii) the Commission determines that because of special or unusual circumstances which exist in the municipality or political subdivision it is in the domestic interest of the employees to permit political participation.

"(2) For the purpose of this subsection, 'an active part in political management or in political campaigns' means those acts of political management or political campaigning which were prohibited on the part of employees in the competitive service before July 19, 1940, by the determinations of the Civil Service Commission under the rules prescribed by the President.

"§ 7366. Candidates for elective office; leave, notification by employees

"(a) An employee shall promptly notify the agency in which he is employed upon becoming a candidate for elective office and upon the termination of such candidacy.

"(b) An employee who is a candidate for elective office shall, upon the request of such

employee, be granted leave without pay for the purpose of allowing such employee to engage in activities relating to such candidacy.

"(c) Notwithstanding section 6302(d) of this title, an employee who is a candidate for elective office shall, upon the request of such employee, be granted accrued annual leave for the purpose of allowing such employee to engage in activities relating to such candidacy. Such leave shall be in addition to leave without pay to which such employee may be entitled under subsection (b) of this section.

"(d) The foregoing provisions of this section shall not apply in the case of an individual who is an employee by reason of holding an elective public office.

"§ 7367. Investigation; procedures; hearing

"(a) The enforcing authority shall investigate reports and allegations of any activity prohibited by section 7363, 7364, or 7365 of this title. Any such investigation shall terminate not later than 90 days after the date of its commencement. If the enforcing authority does not make the notification required under subsection (c) of this section before the close of the period for investigation, subsections (c) (2) and (3) and (d) of this section, and section 7368 of this title, shall not apply thereafter to the employee involved with respect to the activities under investigation.

"(b) As a part of the investigation of the activities of an employee, the enforcing authority shall provide such employee an opportunity to make a statement concerning the matters under investigation and to support such statement with any documents the employee wishes to submit. An employee of the Commission lawfully assigned to investigate a violation of this subchapter may administer an oath to a witness attending to testify or depose in the course of the investigation.

"(c) (1) If it appears to the enforcing authority after investigation that a violation of section 7363, 7364, or 7365 of this title has not occurred, it shall so notify the employee and the agency in which the employee is employed.

"(2) Except as provided in paragraph (3) of this subsection, if it appears to the enforcing authority after investigation that a violation of section 7363, 7364, or 7365 of this title has occurred, the enforcing authority shall serve upon the employee a notice by certified mail, return receipt requested (or if notice cannot be served in such manner, then by any method calculated to apprise the employee)—

"(A) setting forth specifically and in detail the charges of alleged prohibited activity;

"(B) advising the employee of the penalties provided under section 7368 of this title;

"(C) specifying a period of not less than 30 days within which the employee may file with the enforcing authority a written answer to the charges in the manner prescribed by rules issued by the Commissioners; and

"(D) advising the employee that unless the employee answers the charges, in writing, within the time allowed therefor, the Commissioners may treat such failure as an admission by the employee of the charges set forth in the notice and a waiver by the employee of the right to a hearing on the charges.

"(3) If it appears to the enforcing authority after investigation that a violation of section 7363, 7364, or 7365 of this title has been committed by—

"(A) an employee appointed by the President and with the advice and consent of the Senate;

"(B) an employee whose appointment is

expressly required by statute to be made by the President;

"(C) the Mayor of the District of Columbia; or

"(D) the Chairman or a member of the Council of the District of Columbia;

the enforcing authority shall refer the case to the Attorney General for consideration of prosecution, if appropriate, under title 18, and shall report the nature and details of the apparent violation to the President and to the Congress.

"(d) (1) If a written answer is not filed within the time allowed therefor, the Commissioners may, without further proceedings, issue their final decision and order.

"(2) If an answer is filed within the time allowed therefor, the charges shall be determined by the Commissioners on the record after a hearing conducted by a hearing examiner appointed under section 3105 of this title, and, except as otherwise expressly provided under this subchapter, in accordance with the requirements of subchapter II of chapter 5 of this title, notwithstanding any exception therein for matters involving the tenure of an employee. The hearing shall be commenced within 30 days after the answer is filed with the enforcing authority and shall be conducted without unreasonable delay. As soon as practicable after the conclusion of the hearing, the examiner shall serve upon the Commissioners, the enforcing authority, and the employee such examiner's recommended decision with notice to the enforcing authority and the employee of opportunity to file with the Commissioners, within 30 days after the date of such notice, exceptions to the recommended decision. The Commissioners shall issue their final decision and order in the proceeding no later than 60 days after the date the recommended decision is served. The employee shall not be removed from active duty status by reason of the alleged violation of this subchapter at any time before the effective date specified by the Commissioners.

"(e) (1) At any stage of a proceeding or investigation under this subchapter, the Commissioners may, at the written request of the enforcing authority or the employee, require by subpoena the attendance and testimony of witnesses and the production of documentary or other evidence relating to the proceeding or investigation at any designated place, from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, or the District of Columbia. Any Commissioner may issue subpoenas, and any Commissioner and any hearing examiner authorized by the Commissioners may administer oaths, examine witnesses, and receive evidence. In the case of contumacy or failure to obey a subpoena, the United States district court for the judicial district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(2) Any Commissioner may order the taking of depositions at any stage of a proceeding or investigation under this subchapter. Depositions shall be taken before an individual designated by the Commissioners and having the power to administer oaths. Testimony shall be reduced to writing by or under the direction of the individual taking the deposition and shall be subscribed by the deponent.

"(f) An employee upon whom a penalty is imposed by an order of the Commissioners under subsection (d) of this section may, within 30 days after the date on which the order was issued, institute an action for judicial review of the Commissioners' order



in the United States Court of Appeals for the District of Columbia Circuit or in the United States court of appeals for the judicial circuit in which the employee resides or is employed. The institution of an action for judicial review shall not operate as a stay of the Commissioners' order. A copy of the summons and complaint shall be served as otherwise prescribed by law and, in addition, upon the Commissioners who shall then certify and file with the court the record upon which the Commissioners' order was based. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that the additional evidence may materially affect the result of the proceeding and that there were reasonable grounds for failure to adduce the evidence at the hearing conducted under subsection (d) (2) of this section, the court may direct that the additional evidence be taken before the Commissioners in the manner and on the terms and conditions fixed by the court. The Commissioners may modify their findings of fact or order, in the light of the additional evidence, and shall file with the court such modified findings or order. The Commissioners' findings of fact, if supported by substantial evidence, shall be conclusive. The court shall affirm the Commissioners' order if it determines that it is in accordance with law. If the court determines that the order is not in accordance with law—

"(1) it shall remand the proceeding to the Commissioners with directions either to enter an order determined by the court to be lawful (including an order for reinstatement with or without back pay) or to take such further proceedings as, in the opinion of the court, are required; and

"(2) it may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred by the employee.

"(g) The enforcing authority or the Commissioners may proceed with any investigation or proceeding instituted under this subchapter notwithstanding that the enforcing authority or the head of an employing agency or department has reported the alleged violation to the Attorney General as required by section 535 of title 28.

"(h) (1) All decisions of the Commissioners with respect to the exercise of their duties and powers under the provisions of this subchapter shall be made by a majority vote of the Commissioners.

"(2) A Commissioner may not delegate to any person his vote nor, except as expressly provided by this subchapter, may any decisionmaking authority vested in the Commissioners by the provisions of this subchapter be delegated to any Commissioner or other person.

#### "§ 7368. Penalties

"(a) An employee who is found under section 7367 of this title to have violated any provision of—

"(1) section 7363 of this title shall, upon a final order of the Commissioners, be suspended without pay from such employee's position for a period of not less than 30 days, or shall be removed in which event that employee may not thereafter hold any position (other than an elected position) as an employee (as defined in section 7322(1) of this title);

"(2) section 7364 or 7365 of this title shall, upon a final order of the Commissioners, be—

"(A) removed from such employee's position, in which event that employee may not thereafter hold any position (other than an elected position) as an employee (as defined in section 7362(1) of this title) for such period as the Commissioners may prescribe;

"(B) suspended without pay from such employee's position for such period as the Commissioners may prescribe; or

"(C) disciplined in such other manner as the Commissioners shall deem appropriate.

"(b) The Commissioners shall notify the enforcing authority, the employee, and the employing agency of any penalty they have imposed under this section. The employing agency shall certify to the Commissioners the measures undertaken to implement the penalty.

#### "§ 7369. Educational program; reports

"(a) The Commission shall establish and conduct a continuing program to inform all employees of their rights of political participation and to educate employees with respect to those political activities which are prohibited.

"(b) The Commission shall designate an employee within the Commission who shall be responsible for the establishment and administration of the program described in subsection (a) of this section. Such employee may receive and answer questions relating to the provisions of this subchapter. Information received by such employee and the identity of the person who provided such information shall not be disclosed by such employee except with the consent of the person who provided such information.

"(c) On or before March 31 of each calendar year, the Commission shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and the President pro tempore of the Senate for referral to the appropriate committees of the Congress. The report shall include—

"(1) the number of investigations conducted under section 7367 of this title and the results of such investigations;

"(2) the name and position or title of each individual involved, and the funds expended by the Commission, in carrying out the program required under subsection (a) of this section; and

"(3) an evaluation which describes—

"(A) the manner in which such program is being carried out; and

"(B) the effectiveness of such program in carrying out the purposes set forth in subsection (a) of this section.

#### "§ 7370. Regulations

"(a) The Civil Service Commission shall prescribe such rules and regulations as may be necessary to carry out its responsibilities under this subchapter. Regulations shall be prescribed under this subchapter in accordance with section 553 of this title, notwithstanding any exception therein for matters relating to agency management or personnel.

"(b) The regulations referred to in section 7362(9) of this title shall be prescribed not later than 90 days after the effective date of such section. Thereafter any revision of such regulations shall be prescribed not later than March 1 of the calendar year in which such revision is to take effect. Any employee holding any position with respect to which any such regulation is prescribed may institute an action for judicial review of such regulation by filing a petition in the United States Court of Appeals for the District of Columbia Circuit, or in the United States court of appeals for the judicial circuit in which such employee resides or is employed, except that no such action may be instituted more than 30 days after the effective date of such regulation."

"(b) (1) The section analysis for subchapter VI of chapter 73 of title 5, United States Code, is amended to read as follows:

#### "SUBCHAPTER VI—POLITICAL ACTIVITIES

"7361" Political participation.

"7362" Definitions.

"7363" Use of official influence or official information; prohibition.

"7364" Solicitation; prohibition.

"7365" Political activities on duty, etc.; prohibition.

"7366" Candidates for elective office; leave, notification by employees.

"7367" Investigation; procedures; hearing.

"7368" Penalties.

"7369" Educational program; reports.

"7370" Regulations."

(c) (1) Sections 602 and 607 of title 18, United States Code, relating to solicitations and making of political contributions, are each amended by adding at the end thereof the following new sentences: "This section does not apply to any activity of an employee, as defined in section 7362(1) of title 5, unless such activity is prohibited by section 7364 of that title."

(2) Chapter 29 of title 18 of the United States Code is amended—

(A) by adding at the end the following new section:

"§ 608. Extortion of political contributions from Federal personnel

"Whoever, by the commission of or threat of physical violence to, or economic sanction against, any person, obtains, or endeavors to obtain, from an officer or employee of the United States or of any department or agency thereof, or from a person receiving any salary or compensation for services from money derived from the Treasury of the United States, any contribution for the promotion of a political object, shall be imprisoned not less than two nor more than three years, or fined not more than \$5,000, or both; and

(B) by adding at the end of the table of sections for such chapter the following new item:

"608. Extortion of political contributions from Federal personnel."

(d) Section 6 of the Voting Rights Act of 1965 (42 U.S.C. 1973d) is amended by striking out "the provisions of section 9 of the Act of August 2, 1939, as amended (5 U.S.C. 1181), prohibiting partisan political activity" and by inserting in lieu thereof "the provisions of subchapter VI of chapter 73 of title 5, United States Code, relating to political activities."

(e) Sections 103(a) (4) (D) and 203(a) (4) (D) of the District of Columbia Public Education Act are each amended by inserting "and section 7365" after "7327".

(f) Sections 8332(k) (1), 8706(e), and 8906 (e) (2) of title 5, United States Code, are each amended by inserting immediately after "who enters on" the following: "leave without pay granted under section 7366(b) of this title, or who enters on"

Sec. 3. (a) The amendments made by this Act shall take effect 120 days after the date of the enactment of this Act, except that the authority to prescribe regulations granted under section 7370 of title 5, United States Code, as added by section 2 of this Act, shall take effect on the date of the enactment of this Act.

(b) Any repeal or amendment made by this Act of any provision of law shall not release or extinguish any penalty, forfeiture, or liability incurred under such provision, and such provision shall be treated as remaining in force for the purpose of sustaining any proper proceeding or action for the enforcement of such penalty, forfeiture, or liability.

(c) No provision of this Act shall affect any proceedings with respect to which the charges were filed on or before the effective date of the amendments made by this Act. Orders shall be issued in such proceedings and appeals shall be taken therefrom as if this Act had not been enacted.

Amend the title so as to read: "A bill to restore to Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations or influences, and for other purposes."

On page 51, in lines 10 and 11, strike out "120 days after the date of enactment of this Act" and insert in lieu thereof "on the first Wednesday following the first Tuesday of October 1978".

## EXTENSIONS OF REMARKS

## OFF-BUDGET FINANCING ACT

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, last June, the Subcommittee on Economic Stabilization, of which I am chairman, undertook a program of studies intended to focus on the impact of credit assistance provided under Federal auspices, but especially that attributable to the increased use of loan and loan guarantee devices. In November of last year, we were joined by the House Ways and Means Oversight Subcommittee and the tax expenditure task force of the House Budget Committee in holding joint hearings aimed at documenting the rapid growth of these guarantees and the role played by the Federal Financing Bank in their expansion. Given the hard fact that new commitments were averaging nearly \$50 billion per year, the development of a solid understanding of their characteristics, their uses, their limitations, and their breadth of application is a matter of utmost interest and importance to all Members of Congress.

As an outgrowth of our joint effort, my distinguished colleague and good friend, Mr. SAM GIBBONS, chairman of the Ways and Means Subcommittee on Oversight, has authored and introduced legislation which would place all receipt and disbursement activity of the Federal Financing Bank on-budget. I am pleased today, to join him in sponsorship of this legislation. The off-budget status of the FFB has permitted transactions financed by the Bank to escape congressional scrutiny, debate, and determination as part of the aggregates of budget authority, outlays, and deficits. The Bank, acting under current authorization, deals in obligations issued, sold, or guaranteed by any Federal agency. As was pointedly established during our hearings, use of this authority has expanded to a level where today most of the obligations held by the FFB are guaranteed loans.

Mr. Speaker, my concern is that new uses of this technique of back door financing will almost certainly continue to surface. Unless stipulated by law, most guaranteed loans are not subject to the limitations of the congressional budget process and the debate it involves.

Our hearing clearly established the fact these developments pose significant debt-management, monetary, and fiscal problems. We also determined that placing the Federal Financing Bank on-budget would be a positive first step toward reestablishing congressional control over these commitments.

Mr. Speaker, I urge my colleagues to support this bill, and I include the text of the bill at this point in the RECORD:

H.R. —

A bill to amend the Federal Financing Bank Act of 1973 to require that the receipts and disbursements of the Federal Financing Bank be included in the Federal budget, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the second sentence of section 11(c) of the Federal Financing Bank Act of 1973 (12 U.S.C. 2290(c)) is amended to read as follows: "The receipts and disbursements of the Bank in the discharge of its functions shall be included in the totals of the budget of the United States Government."

(b) (1) Subsection (a) of section 6 of the Federal Financing Bank Act of 1973 (12 U.S.C. 2285(a)) is amended to read as follows:

"(a) (1) Subject to the limitation of paragraph (2)—

"(A) the Bank is authorized to make commitments to purchase and sell, and to purchase and sell, any obligation which is issued, sold, or guaranteed by a Federal agency; and

"(B) the Bank shall make commitments to purchase, and shall purchase, any obligation offered to it—

"(i) which is guaranteed by a Federal agency;

"(ii) which has not previously been issued or sold to any person or governmental entity; and

"(iii) the guarantee with respect to which would (under subsection (d)) cease to be effective if such obligation were held by any person or governmental entity (other than such agency or the Bank).

Any Federal agency which is authorized to issue, sell, or guarantee any obligation is authorized to issue or sell such obligation directly to the Bank.

"(2) The Bank may, during any fiscal year, purchase and make commitments to purchase obligations only to such extent as may be provided in appropriations Acts.

"(3) Commitments, purchases, and sales by the Bank under this subsection shall be on such terms and conditions as the Bank may determine."

(2) Section 6 of such Act is amended by adding at the end thereof the following new subsection:

"(d) (1) Except as provided in paragraph (2), any guarantee by a Federal agency of an obligation shall be subject to the condition that if such obligation is held by any person or governmental entity, other than such agency or the Bank, such guarantee shall thereafter cease to be effective.

"(2) Paragraph (1) shall not apply in the case of any obligation—

"(A) which the Secretary of the Treasury determines is of a type which is not ordinarily bought and sold in the same markets as investment securities, as defined in the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), or

"(B) which is issued or sold by the Bank.

Before making any determination under subparagraph (A), the Secretary of the Treasury shall consult with the Director of the Office of Management and Budget, the Comptroller of the Currency, and the Chairman of the Board of Governors of the Federal Reserve System."

(2) Section 17 of the Federal Financing Bank Act of 1973 (12 U.S.C. 2295) is amended by striking out "Nothing in this Act shall be construed as impairing" and inserting in

lieu thereof "Except as provided in section 6, nothing in this Act shall be construed as affecting"

SEC. 2. The amendment made by subsection (a) of the first section of this Act shall take effect with respect to the first fiscal year beginning after the date of the enactment of this Act. The amendments made by subsections (b) and (c) of such section shall take effect beginning on the first day of such fiscal year, and shall apply in the case of any obligation, with respect to which a guarantee is made or renewed by a Federal agency on or after such date.

## A RETROSPECTIVE VIEW OF THE DINGELL-BROYHILL AMENDMENT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. BROWN of California. Mr. Speaker, one of our last actions before Memorial Day was to amend the Clean Air Act. While I do not intend to rehash old arguments here, or react in a "sour grapes" fashion, I would like to tell my colleagues that this issue is not fully behind us. The other body is quite likely to hold out against the lobbying efforts against an effective Clean Air Act. The Committee on Conference is probably going to report back a bill that will not satisfy the industries which lobbied for the weakening amendments this House narrowly adopted. Therefore, it can be expected that at least one more vote, a return to the Dingell-Broyhill-Detroit amendment, will occur. Obviously, I hope my colleagues will take this next opportunity to return to a reasonable air pollution control schedule.

The public reaction to our action last week did not really surprise me. The public was outraged by our apparent disregard of the public health and welfare. Let my colleagues doubt this, let me put two representative newspaper editorials in the CONGRESSIONAL RECORD at this time.

The editorials follow:

[From the Los Angeles Times, June 1, 1977]

SMOG FOULS THE HOUSE

The fumes that come out of the tailpipes of cars are a danger to health. That is not a theory, but a fact. It was a fact in 1970, when Congress first ordered auto makers to begin complying with a strict timetable to control exhaust emissions. It is no less a fact today, and because it is a fact the House vote to delay still further and in some cases abandon emission-control goals must be regarded as unacceptable.

The Senate will have its chance next week to decide what future auto-exhaust standards are to be. The Senate's public duty, we believe, is to stand firm where the House retreated, remembering above all that the primary purpose of the effort to improve air quality is the protection of human health.

The cost of that effort has not been cheap. The cost would rise under the Carter Admin-



istration's sensible proposed timetable and standards for controlling auto emissions. But studies by the Environmental Protection Agency show that the maximum cost for meeting the toughest final standards envisioned would be \$330 more on the sticker prices of 1985 cars. That's less than the cost of an option such as air conditioning, which is now ordered for 85% of all new cars. Given the health benefits, it is a clearly bearable expense.

California is permitted to set its own tougher standards for controlling noxious emissions. Auto makers have met those standards, and undoubtedly will find ways to meet even more stringent requirements in the years ahead. Studies by the EPA and other federal agencies have shown that there are no technological or economic reasons why they should not be able to do so. Those accomplishments could easily be applied nationwide.

The rest of the country is entitled to the same protection against dangerous pollutants as California is. Smog is not unique to this state, nor are the adverse health effects of tailpipe fumes California's worry alone. Hydrocarbons, a major component of smog, are known to aggravate existing respiratory illnesses. Carbon monoxide interferes with the body's ability to deliver oxygen to tissues, a particularly serious risk for those with heart disease. Nitrogen oxides cause decreased lung function and increased bronchitis in children. There is evidence also that NOx may be a cancer-causing agent.

The House vote reflected intense pressure from auto makers, auto unions and auto dealers, who feared that the higher costs of equipment to meet tougher standards and possible small and temporary fuel-economy penalties in certain years would reduce car sales. Strong evidence was presented in the course of hearings and debate to show that this need not happen. In the end, the House chose to ignore that evidence. For the sake of public health, its decision cannot be allowed to stand.

[From the Washington Star, June 1, 1977]  
THE "DIRTY AIR" ACT?

Perhaps the best way to describe the House action on Clean Air Act amendments is to say the lawmakers struck a blow for dirty air.

After voting on Wednesday to allow a substantial increase in air pollution in national parks and other protected areas, the House on Thursday knuckled under to the auto companies, the auto unions and other motorizing interests and passed legislation to delay and weaken controls on auto exhaust emissions.

The Wednesday amendment permits construction of power plants near national parks and forests where the pristine air quality was protected by the Clean Air Act of 1970. The amendment was prompted by plans to build the huge Intermountain Power Project in Utah near several national parks, which is designed to provide electric power for the Los Angeles area.

The amendment almost surely will result in lowering the air quality in some Western areas and will make the large national recreational areas less attractive to visitors, but whether it will have a significant effect on the nation's health is at least debatable.

The more significant amendment was to delay and weaken controls on auto exhaust fumes, which are by far the biggest source of air pollution. In an effort to control this pollution, the 1970 act established limits on the amounts of hydrocarbons, carbon monoxide and nitrogen oxide that could be emitted by autos and established a timetable for the auto industry to meet the limits.

The exhaust standards were supposed to have been met by 1975 but auto makers,

pleading that they haven't had time to develop the necessary technology, obtained three delays from Congress. The House amendment approved Thursday not only grants further delay to the 1980-81 models but more than doubles the carbon monoxide and nitrogen limits established in the 1970 act.

Perhaps the U.S. auto industry can explain why it can't meet the Clean Air Act's emission standards when some foreign auto makers can.

Maybe it can also explain why it can't produce cleaner cars for sale in California, where state standards are stiffer than national, and can't produce them for nationwide sale.

We're inclined to think there's more than a grain of truth in the comment Thursday by Rep. Henry Waxman of California, who said of the auto companies: "If they had spent the money to meet the standards instead of lobbying, we wouldn't be here fighting this fight and we'd have healthier people across the country."

If the Senate, like the House, lets the industry off the hook, the alternative may be for the states to follow California's lead in protecting Americans' lungs.

#### SCHOLARSHIP PROGRAM IN NEWPORT BEACH, CALIF.

#### HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. BADHAM. Mr. Speaker, I would like to call to the attention of my colleagues the fine scholarship program which is being conducted by the Newport Harbor Republican Women of Newport Beach, Calif.

At their Silver Anniversary Luncheon held today, June 3, 1977, scholarships were awarded to one student at each of the five high schools in the Newport-Mesa Unified School District. Contestants submitted an essay on the theme "The Importance of Ethics in Politics".

A panel of distinguished judges selected the following students' essays:

Heidi Beckerman, a senior at Corona del Mar High, will attend the University of Texas, majoring in communications.

Tim Hartwig, a senior at Estancia High, is presently under consideration for an appointment to the U.S. Coast Guard Academy, New London, Conn. He received the outstanding achievement award in math and science given by the Bank of America.

Scott McLeod, a senior at Costa Mesa High, will attend Orange Coast Community College, majoring in business.

Gary Parker, a senior at Newport Harbor High, was the class Salutatorian and recipient of the Bank of America outstanding achievement award in social studies. He plans to major in American History and graduate from the University of North Carolina.

Donna Rosati, a senior at McNally High School, plans to major in social studies and teaching and graduate from California State University, Fullerton.

Runners-up included Debbie Holt, Denise Humphreys, Peter Shelton, and Tom Turner.

I extend my congratulations to these outstanding young scholars for receiving this award. In the immediate future I wish them success in their academic pursuits but upon graduation, I would encourage them to consider entering the field of public service and politics. Our great Nation will look to these bright young people for ethical guidance, and wise leadership to preserve and protect our republic for generations to come.

#### FEDERAL FUNDING OF ABORTIONS

#### HON. CHARLES ROSE III

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. ROSE. Mr. Speaker, this month the House will vote on the Labor/HEW appropriations bill. This legislation contains a provision barring Federal funds appropriated for abortion services. I feel that this measure places a discriminatory burden on the poor.

On April 19, I testified before the Labor HEW Appropriations Subcommittee. At this time, I would like to submit my testimony for the Record:

TESTIMONY BEFORE HOUSE APPROPRIATIONS SUBCOMMITTEE ON LABOR HEW BY CONGRESSMAN CHARLIE ROSE

Mr. Chairman and Members of the Subcommittee, as a Member of Congress I am committed to preserving equal protection of the laws for all citizens of the United States and, therefore, must oppose the inclusion of the Hyde Amendment in this year's Labor H.E.W. bill.

This bill would prohibit the appropriation of funds for abortion under the Medicaid program. Poor women, therefore, would be denied the same services now available to women with higher incomes, a proposition in direct conflict with the tenet of our Constitution that guarantees equal protection of the laws.

Abortion is a reality that will persist despite legislation targeting the poor. Through limiting access to this service, women will once again, as before *Roe v. Wade*, face the grim alternative of self-induced and/or illegal, unsafe, back alley style abortions.

According to Dr. Christopher Tietze of the Population Council, 70 per cent of all women having legal abortions would still have abortions even if it were an illegal procedure. If this restrictive measure passes Congress, the health of approximately 250,000 women whose abortions are paid by Medicaid, may be in serious jeopardy. Compare this with the fact that the Supreme Court's decision in *Roe v. Wade* enabled three million women to have safe abortions. Further, projections indicate that one million women a year will continue to use the new, safe abortion procedures.

In my State of North Carolina for FY '75, Medicaid funds paid for 1,356 abortions. Using Dr. Tietze's estimate, if these funds were not available through Medicaid reimbursements, approximately 949 indigent women would have sought unhealthy, potentially fatal alternatives, rather than bring unwanted children into the world.

In the last days of the second session of the 94th Congress, the controversial Hyde Amendment passed without the benefit of hearings, only to be immediately enjoined

by a Federal court the day it was to take effect. Judge John Dooling, of the U.S. District Court for the Eastern District of New York, found the Hyde Amendment unconstitutional on equal protection and First Amendment grounds. Judge Dooling's decision stated that the intent of Medicaid legislation was to provide medical assistance to the needy and that included pregnancy assistance. He found that the constitutionally protected right to equal protection of the law was violated in two critical ways. First, that the Hyde Amendment denied equal Medicaid services by discriminating against women who choose to terminate pregnancy as opposed to those who carry their pregnancy to term, and second, that the legislation discriminated against poor women by making abortions available only to those who can afford to pay for them.

At least 13 lower courts have supported these equal protection claims. Although the Supreme Court has yet to decide on this specific issue, the Congress should consider these lower Courts' decisions as a guide for legislative action. It does not serve this body to pass legislation of such suspect constitutionality. We cannot choose to ignore the compelling equal protection arguments against the enactment of this bill.

At the last Hyde vote, my colleagues claimed that their vote was motivated not only by personal beliefs, but cost factors. Let's consider the costs, then. According to a Department of H.E.W. impact statement, if abortions are denied to poor women the taxpayer can expect more money to be allotted for prenatal care, A.D.F.C. and hospitalization fees resulting from both delivery and the effects of unsanitary operations.

Each year 45 million dollars in Federal funds pay for abortion services. Louis Hellman, a spokesman for DHEW, estimates the first year cost after birth for medical care and public assistance would run between \$450-\$565 million. According to H.E.W. projections, each individual pregnancy would cost the taxpayer at least \$2,200 for maternity and pediatric care and public assistance.

These costs do not take into account deaths or medical complications resulting from unsafe methods of abortion. With the enactment of the Hyde Amendment, at least 25,000 cases would arise involving medical complications from self-induced abortions. Dr. Hellman suggests these cases would cost the government \$375-2000 per individual, or \$9.4 million to \$50 million.

How can we Members of Congress justify allowing Federal funds to pay for complications from unsafe procedures while at the same time restricting Federal funds that would allow and encourage safe, sanitary abortions? A cost analysis of the Hyde proposal alone is not a legitimate justification for enactment of this punitive measure.

Let us next consider the issue of religious freedom. I understand that many people including Members of Congress have strong religious beliefs opposing abortion. In granting the preliminary injunction against the implementation of the Hyde Amendment, Judge Dooling found the measure to be in violation of the First Amendment guarantee of religious freedom when he stated: "When the power of enactment is used to compel submission to a rule of private conduct shared by the society as a whole without substantial division it falls as law and inures as oppression."

At this time, Members of Congress finally have an opportunity to hear pro and con arguments regarding the Hyde Amendment. In view of the suspect constitutionality involving equal protection, religious and personal freedom and increased costs of the implementation of this measure, I urge my distinguished colleagues to strike this restrictive language from the main body of the bill.

## WILMINGTON 10 THE HUMAN RIGHTS OF THE

### HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. EDWARDS of California. Mr. Speaker, 9 of the Wilmington 10 languish in North Carolina jails. So far, both systems of justice, State, and Federal, have failed to free them, although the three key prosecution witnesses have recanted.

William Raspberry's column in today's Washington Post asks the reasonable question: "If we are concerned with human rights, what about those here at home?" Mr. Raspberry's column follows:

THE HUMAN RIGHTS OF THE WILMINGTON 10

(By William Raspberry)

If President Carter is serious about freeing political prisoners—if he is genuinely concerned about the whole range of human-rights issues—he needn't look to Africa or Latin America or the Soviet Union.

Let him look to North Carolina and the incredible case of the Wilmington 10.

The 10—the Rev. Ben Chavis, eight black teenagers and a white woman—were convicted as conspirators in a wave of violence following racial disturbances in Wilmington, N.C., five years ago.

There is, to understate it severely, "reasonable doubt" that they were guilty. The state's chief witness, Allen Ray Hall, now 23, has said he was tricked into giving false testimony by law officers who convinced him that Chavis had made threats against Hall's family.

"You didn't know [Chavis] came in town in a Volkswagen and left in an Eldorado?" Hall said the sheriff told him. "And so, like, I said no, I didn't know it, and they told me that Chavis had threatened my family, and so like, whenever my mother came to see me on a Saturday [Hall was already in jail on charges growing out of firebombing and other racial violence] I had asked her about it and she said, yeah, that somebody had been calling to the house and making threats, and at that time I didn't know it was just them calling there, you know, saying it was Ben. . . ."

"And so then, like, they told me what to say in court, because I had gotten so mad I had said that for them to just give me a gun, that I would kill Chavis, you know. And so [solicitor Jay] Stroud said, no, uh, you couldn't kill him, because if you kill him, they would investigate because he is in a civil-rights movement, and so, then, they said that the best way to get him is through the law."

Hall, undereducated and already in trouble, said that, partly because he believed what he had been told about Chavis and partly because he had been promised that he "wouldn't get much time" on his own charges, he told the lies the law officers wanted him to tell. He later recanted. According to Stroud, he has subsequently withdrawn his recantation in a tape-recorded telephone call.

Another witness, Eric Junious, 13 at the time, says now that he gave perjured testimony because of similar pressure on him and because of prosecutor Stroud's promise that he would give him a minibike for Christmas.

Stroud admits giving both the minibike and a job to the boy, who already was in frequent trouble with the authorities and is now in jail for breaking and entering. He gave the gift not for false testimony, says

Stroud, but only because of "real strong personal feeling of a positive nature" for Junious.

A third key witness, Jerome Mitchell, now 22, said under oath that he had lied at the trial under coaching by the prosecuting attorney.

That was the nature of the state's case, and notwithstanding its shakiness, the convictions were allowed to stand following the recantations during an unusual post-conviction hearing earlier this month. Superior Court Judge George M. Fountain concluded that there had been "no substantial denial of any constitutional rights of the defendants."

It isn't hard to guess what must be going on. The original convictions may well have been more a product of the temper of time and place than of reliable testimony. And the state must be under enormous pressure to sustain the convictions now.

To do otherwise would not mean merely releasing 10 people who in all probability should never have been jailed in the first place. It would also mean the necessity of prosecuting the officials alleged to have suborned the perjured testimony in the first place. With the choice of imprisoning a number of respected officials on the one hand or 10 nobodies on the other, the outcome may have been automatic.

Because it is a state case, not a federal one, President Carter may be as powerless to do anything about the Wilmington 10 as he is in the case of, say, Russian dissidents.

But it would be a most useful thing if he could bring himself to speak out on it. Human rights, after all, don't begin at the water's edge.

## PHILADELPHIA LAUNCHES INTENSIVE CAMPAIGN TO CURB PHARMACY THEFTS

### HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. EILBERG. Mr. Speaker, the city of Philadelphia has just announced a plan to work with retail druggists, pharmaceutical manufacturers, and State and Federal agencies to combat a sharp increase in the number of pharmacy thefts.

The move is being undertaken at the direction of Mayor Frank L. Rizzo. In announcing the action, the mayor explained his deep concern about the problem, and pointed out that he had requested local agencies to work closely with community representatives and governmental agencies in seeking a solution.

Dr. Christopher D'Amada, chief medical officer of the mayor's Coordinating Office for Drug and Alcohol Abuse Program—CODAAP—was named chairman of the new Pharmacy Theft Prevention Committee.

Dr. D'Amada outlined the joint attack on the drug theft problem at a city hall news conference attended by Ken Durrin, Acting Director of the U.S. Drug Enforcement Administration Office of Compliance in Washington, and Arthur Lewis, Regional Director of DEA.

Other members of the Pharmacy Theft Prevention Committee are:

Wayne Bohrer, regional compliance chief, and Thomas Crow, supervisor of investigations, DEA; Raymond Fleisher,



executive secretary, Philadelphia Association of Retail Druggists; Henry Kowalczyk, vice president, Rite-Aid Corp.; Joseph Cantor, Pennsylvania Board of Pharmacy; Donald Fletcher, SmithKline Corp., and Officer Raymond Thompson, Philadelphia Police Department.

During 1976, Dr. D'Amanda said, 138 drugstores out of a total of 510 in the city were robbed or burglarized. Most of these involved drug thefts.

In addition to reducing pharmacy thefts, goals of the program are to tighten procedures involving prescriptions, support law enforcement and judiciary systems' response to pharmacy thefts, and implement supportive activities such as educational and training seminars.

#### GLOBAL CARBON DIOXIDE INCREASE AND POTENTIAL CLIMATE CHANGE

**HON. GEORGE E. BROWN, JR.**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. BROWN of California. Mr. Speaker, as we move toward floor consideration of H.R. 6669, the National Climate Program Act of 1977, which was reported a little less than a month ago by the Science and Technology Committee, it is especially encouraging to see in today's New York Times an account of the problem of global carbon dioxide increase by a top official of President Carter's administration.

Speaking before the American Geophysical Union here, Dr. William Nordhaus of the Council of Economic Advisers examined in detail the consequences of atmospheric CO<sub>2</sub> buildup. Three tons of carbon dioxide are produced for each ton of coal or other fossil fuel burned. Dr. Nordhaus' analysis of possible consequences in the long-term reinforces concern we have heard in subcommittee work on the climate bill.

The issue is now being studied at the top levels of the administration; I commend to my colleagues the following short report by Walter Sullivan of Dr. Nordhaus' remarks:

**CLIMATE PERIL MAY FORCE LIMITS ON COAL AND OIL, CARTER AIDE SAYS**  
(By Walter Sullivan)

To avoid accumulation in the air of sufficient carbon dioxide to cause major climate changes, it may ultimately be necessary to restrict the burning of coal and other fossil fuels, according to Dr. William D. Nordhaus of the President's Council of Economic Advisers.

This would limit the dependence on coal that, under present policy, is to replace rapid expansion of nuclear energy.

Dr. Nordhaus, who is on leave from his post as professor of economics at Yale University, told this week's spring meeting of the American Geophysical Union in Washington that by early in the next century, the burning of coal, oil and gas might have to be curtailed by taxation or rationing.

He said he was speaking as an individual and not presenting a Government policy. He has been investigating the climatic and economic implications of carbon dioxide accumulation, having also worked on the problem

at the International Institute for Applied Systems Analysis near Vienna.

He cited estimates that if the trend toward heavy use of fossil fuels continued, by early in the next century the level of carbon dioxide in the atmosphere will have doubled. This, it has been proposed, could make the worldwide climate warmer than at any time in the last 100,000 years.

Dr. Nordhaus' argument was based in part on calculations by Dr. Wallace S. Broecker of Columbia University's Lamont-Doherty Geological Observatory, who also presented a report. Each ton of coal or other fossil fuel burned, he said, produces three tons of carbon dioxide.

#### GAS ACTS GREENHOUSE GLASS

In the atmosphere that gas acts much like the glass of a greenhouse. It readily permits the passage of sunlight, warming the earth, but it inhibits the escape of heat into space as infrared radiation.

While carbon dioxide is removed from the atmosphere by absorption into the oceans and incorporation into trees and other plants, these processes have been unable to keep pace with the addition of the gas from smokestacks, automobile exhaust and other sources.

If, as now seems likely, the development of nuclear energy is slowed in favor of heavier coal consumption, a more rapid rise in atmospheric carbon dioxide must be expected. While there is still much uncertainty as to how much of an increase could occur without major influences on climate, Dr. Nordhaus proposed that within 40 years severe restraints might become necessary.

He cited Dr. Broecker's estimate that by 1985 to 1990, there will have been a 20 percent increase in atmospheric carbon dioxide, leading to a mean global warming of about one degree Fahrenheit. This would still be within the range of naturally occurring changes over the last 100,000 years, Dr. Nordhaus said.

In that period, which included the last ice age, the fluctuations remained within 10 degrees, but the current climate is near the upper (warmer) limit of that range. Dr. Nordhaus referred to an analysis by Dr. Syukuro Manabe and R. T. Wetherald at Princeton University's Fluid Dynamics Laboratory, which predicted a rise of almost six degrees if the carbon dioxide doubles.

#### SERIOUS CONSEQUENCE FEARED

This would exceed the fluctuations of the last 100,000 years, deduced from analysis of ocean sediments and cores from ice sheet drill holes, and could have serious consequences. Dr. Nordhaus also noted that the Princeton studies indicated a far more marked warming in the polar regions than near the Equator.

In the long run, as noted by Dr. Broecker, this could melt polar ice, raising sea levels enough to flood many coastal cities and food producing areas.

To limit the accumulation of carbon dioxide in the air to an increase of 100 percent, he suggested an escalating tax schedule that would impose 14 cents a ton of released gas in 1980, increasing to \$87.15 a ton by 2100.

This would force energy consumers to shift to other sources, such as nuclear energy, which he termed presently "the only proven large-scale and low-cost alternative." The shift from carbon-based fuels would not reach major proportions until about 40 years hence.

By then energy sources now at an early stage of development, such as solar power and atomic fusion, might be able to contribute electric power and noncarbon fuels.

Since the United States contributes 10 to 20 percent of the carbon dioxide, any solution must be international, Dr. Nordhaus said. It will be "expensive, but not unthinkable," he added.

#### GOOD INTENTIONS: DISASTROUS RESULTS

**HON. BUD SHUSTER**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. SHUSTER. Mr. Speaker, one of our distinguished former colleagues, Representative Edith Green of Oregon, who was a member of the House Education and Labor Committee on which I serve, has written a most cogent and illuminating article for a national paper. She deals with the matter of congressional intent. She speaks from a standpoint of 20 years of public service in which she had the opportunity of seeing much legislation debated and passed with the best of congressional intentions, only to become an administrative nightmare wasting the taxpayers' dollars and not accomplishing what the program set out to do. She cites examples of the Higher Education Act of 1974 and the Occupational Health and Safety Act which we all have come to know and love as OSHA.

What happened to the good intentions of Congress in passing OSHA? Why was it necessary to publish seven pages of Federal regulations dealing with the use of step ladders—including telling one that he will be hurt more by falling off the top rung than off the bottom one?

Mrs. Green says:

Regrettably, while Congress can write our common concerns into legislation, we cannot legislate the uncommon gift of common sense needed to administer laws intelligently.

Mr. Speaker, the former Member from Oregon says most succinctly what I fear will happen if this body passes the legislation traveling under the title of Youth Camp Safety. If such proposals as are included in the currently reported bill are passed into law, we will have such an army of backwoods bureaucrats as to strain the wildest imagination.

Can we really imagine a Federal regulation can be written to cover the conduct of a nature hike which may encounter poison ivy, or loose stones, or hot sun? For my part, Mr. Speaker, I want no connection with the proposed OSHA-in-the-woods and I would urge my colleagues to study the proposed legislation in the light of Mrs. Green's most pertinent observations.

Although I do not share Mrs. Green's party affiliation, Mr. Speaker, I do share her concern. Following is her article which appeared in the National Observer as the text of an address given at the Brigham Young University Forum on January 25, 1977:

**CONGRESSIONAL GOOD INTENTIONS OFTEN GO AWAY**

(By Edith Green)

It has been almost 20 years since I made my first visit to Salt Lake City. Sputnik had gone into orbit and there was great concern about American education. Were we producing enough scientists, enough engineers, enough technicians so that we could maintain superiority over the Russians? How many of our ambassadors and foreign service personnel could speak the language of the country to which they were being sent?

Out of this was born the National Defense

Education Act of 1958. The word "Defense" was carefully included because otherwise there would not be enough votes to insure approval by the Congress. This was the first major education bill affecting colleges and universities since the Land-Grant College Act signed by Abraham Lincoln.

The American public and Congress were rightfully concerned about the quality of education, about the small percentage of male high school graduates who were going on to college, about the still smaller percentage of female high school graduates who were being admitted to universities, about the concentration of Negroes in the all-black colleges of the South, yes, and about the black maid with tired feet who defied orders and tradition and who dared sit in the front of that bus in Selma, Ala.

Out of these honest concerns came the National Defense Education Act, the Higher Education Facilities Act to build college libraries and science buildings, the Civil Rights Act of 1964, the Health Personnel Act to train more doctors and nurses, the Housing Act to provide dormitories, the Higher Education Act of 1972 with its controversial Title IX and the Occupational and Safety Health Act to protect the safety and health of some 60 million workers.

The intentions were noble—to improve the quality of education and to provide equality of opportunity for every young person who really wanted an education regardless of race, color, creed, or sex. Many of the intended goals were achieved. College enrollments did increase dramatically in the '60s; between 1955 and 1965 the number of high school graduates going to college increased 110 per cent; women and blacks were being admitted to study at some of the best universities; quotas were being abolished; professions historically closed to most women and most blacks were searching for qualified applicants.

But what also has happened that would cause university presidents to say of the Office of Education in our Nation's Capital that the "road to hell is paved with good intentions—but this is what is happening on our campus!"

The faculty and students at Brigham Young do not need to be reminded of the courageous action of your Board of Trustees and President Oaks in objecting to certain HEW regulations attached to Title IX. I applaud their action. Little Hillsdale College in Michigan joins Brigham Young when it declares, "We will not comply with some of the Title IX regulations as put forth by HEW."

President McGill of Columbia University complains that the only voice the university hears is that of junior officials from EEOC or the HEW Civil Rights Office who have the power to bring harassing suits. A month ago, Oregon colleges opened fire on Congress and the Veterans Administration over a new order requiring colleges to keep detailed records of veterans enrolled in each course of study. HEW backed down.

A syndicated columnist writes about the giant bureaucracy connected with Higher Education: "It seems to be exercising the arrogance of officialdom which Cicero once described in ancient Rome."

A small businessman in Pocatello, Idaho, defied a federal inspector of OSHA (Occupational Health and Safety Act) and took his case to court. A three-judge panel upheld the businessman's position in a strongly worded decree. The United States Supreme Court carefully side-stepped the DeFunis case, but other cases are on the way up on reverse discrimination.

What has happened to our good intentions? First, explosion of paper work. There is much talk about the scientific explosion, the knowledge explosion, but the paper explosion is horrendous.

Each new law, each new regulation in-

creases the volume. A Senate subcommittee estimated that it costs Uncle Sam about \$18 billion a year to "print, shuffle and store" all of the forms, papers that business (including universities) must fill out. It costs businessmen another \$18 billion to get the forms filled out. The head of the National Archives office estimated that guess was conservative. He reported that in one year [he had] paperwork sufficient to fill more than 35 box-cars.

Then in the ever-present bureaucracy, a federal agency consists of an upper echelon of political appointees and Cabinet-sub-Cabinet positions. Traditionally, their life-spans in office are very short.

Then there is a vast underlay of permanent civil service personnel known as the "Feds." The top people rarely get a chance to get a real grasp on the agency before moving on. As a result, the lower-level bureaucracy runs the show. In practice this means that regulations and guidelines are issued, laws are interpreted, contracts are let by third, fourth, and seventh-ranking officials who too often are immune to constituency complaints. In fact, Civil Service manages to protect all who come within their purview—from any serious restraints in their freedom, except in rare cases of malfeasance.

Let's examine briefly just two laws Congress passed. The passage of OSHA (Occupational Safety and Health Act) was accompanied with great hopes that through a coordinated effort and firm but fair enforcement of procedures, we could begin a meaningful attack on the 14,000 deaths, the more than two million disabling injuries and the hundreds of thousands of occupational illnesses that occur in the work place each year—including university campuses.

The legislation had hardly been enacted when complaints began crackling over Congress like a summer electrical storm and its thunder reached such proportions that both the House and the Senate slashed the operating budget of the new safety agency.

The law was put into effect in April 1971. One month later a special edition of the *Federal Register* was published containing 250 pages of safety and health standards. Seven pages dealt with the use of step-ladders alone—such erudite warnings that one could be injured more severely if he fell off the top than from the bottom step.

Sen. Carl Curtis (R-Neb.) asked the Library of Congress to provide a copy of all the standards and codes which the Occupational Safety and Health Act had blanketed into law. Three days later, the Library advised that it was a monumental undertaking which would require the cooperation of the Department of Labor. Sen. Curtis found that the documents made a stack 17 feet high. It would cost a businessman \$4,000 to buy all of the publications that had been incorporated into the law.

The consensus codes of the construction and industrial groups—developed over the years—were incorporated and became federal law. Although many of these "consensus" codes had been in existence for years, most people were, more often than not, completely unaware of their existence. They had been guides, recommendations adopted at different times by industries, but not mandatory. Suddenly—without review—these codes became law.

Some of the now famous and ludicrous examples stemming from OSHA are attributable to this factor. The "ice water flasco" is one of the most notorious.

An OSHA regulation stated that "ice shall not come into direct contact with water it is cooling." Fines were levied against some who were found to have ice in their ice water! This regulation was an archaic throwback to the days when the ice industry cut ice out of lakes in winter and stored blocks for summer use. It was in an old

consensus standard, picked up and incorporated into OSHA regulations without review. Finally, finally, OSHA published standards which provided that ice used in ice water must be free from contamination.

One Navajo Indian miner found himself in violation because he had to have a phone—one outside and one inside the mine—even though he operated the mine alone and there would have been no one to answer the phone at the other end had it been installed. He also had to have a stretcher, so, if he is hurt, someone would carry him out—but again he was the only one there.

Uniform requirements regardless of local conditions, unseasonable regulation, can only breed disrespect. Regrettably, while Congress can write our common concerns into legislation, we cannot legislate the uncommon gift of common sense needed to administer laws intelligently. What can be even more disconcerting to a legislator is to see regulations issued for a program which totally distort the original purpose and intent.

Certainly it was not the intent of the civil rights legislation to bring about reverse discrimination. Yet this is precisely what has happened in many cases, the DeFunis case being the best known.

Yes, in Portland, a ship conversion plant, for example, employed 15 percent minority workers—a considerably higher percentage than in the state itself. Inspectors from San Francisco, however, said they must have at least 15 percent in each department; 15 percent secretaries, carpenters, welders, etc. They had only two secretaries and one bookkeeper, but before they could hire any more whites 15 percent of the two secretaries and one bookkeeper must be minority people.

Qualified black welders were not available. This did not discourage the federal administrators—they said black welders could be imported from Chicago and other areas. Local qualified white welders could not be hired until the 15 percent quota was met. Yet nowhere in the civil rights legislation is such shuffling of population to meet artificial quotas suggested.

In 1972 when we enacted the Higher Education Act—including Title IX—to end discrimination against women, we sought to be exceedingly explicit so that the establishment of quotas would be prohibited. I was surprised and dismayed when complaints from colleges and universities came in stating that the Department of Labor was requiring them to meet quotas.

Some institutions complained that under Labor Department restrictions, they would not be able to hire a white male faculty member until the year 2000. I consider the rhetoric of some in saying, "We don't require quotas—we require goals," as nothing more than a game of semantics!

For years I participated in the great national struggle against discrimination—both discrimination on the basis of race and discrimination on the basis of sex. One of the ugliest aspects of discrimination was always the "quota system"—quotas limiting women, blacks, Jews, persons of Irish descent, and on and on.

As I watched it over the years, quotas represented the crudest form of mindless inequality, because that meant that an important decision was being made not on merit, but on some blatantly unfair, irrelevant criterion.

I find it hard to understand the reasoning that now leads well-intentioned people, in simplistic zeal, to institute reverse quotas. Do they believe that one injustice deserves another? Is the basis of judgment to be "merit" or some strict ethnic or sex formula?

Will we need to parcel out all opportunities to so many people aged 20 to 30, so many aged 30 to 40, etc., so many Protestants, so many Mormons, so many Catholics, so many Jews—and so on without end? Is this what



democracy has come to mean? Can there be opportunity or hope in such a rigid system?

Often people argue that this is the only way to redress evils that have lasted hundreds of years: because my grandmother was considered almost as chattel—because my grandmother did not have the educational opportunities my brothers had—because she could not own or sell property (even property she inherited)—because she was never allowed to vote—I am I, her granddaughter, to be given preferential treatment to supposedly redress the grievances of the past? I think not.

During my life I would only have liked equal treatment. I do not believe it is just, nor fair, nor indeed wise for this generation to try to design a social system based on the mistakes—the injustices practiced by our forefathers. I do not believe this is the best way to launch a more just world of the future.

I have never believed that race, sex, religion or national origin are valid criteria for either "favorable" or "unfavorable" treatment. This is one reason I have been opposed to programs which give an advantage in job consideration and promotion to members of those groups who have suffered historic discrimination. As a woman I am a member of one of those groups and keenly aware of the injustices which exist—and I could recite by chapter and verse personal experiences to document the case.

Nevertheless, I reject the thesis that reverse discrimination is therefore justified. When Congress passed the Civil Rights Act in 1964 the purpose was to end discrimination on the basis of race, color, creed, national origin, or sex. It was not designed to replace one injustice with another.

One of the most damaging things about prejudice, in my view, is that it gives primary value to a group characteristic rather than recognizing the unique individuality of each human being. It does not matter whether this discrimination works in the person's favor or against him. What he or she still loses is the irreplaceable privilege of being looked upon as an individual rather than an anonymous face in the crowd.

As I see it, only genuinely equal opportunity—containing neither advantage nor disadvantage—can provide this.

This is what Title IX was all about—equality of opportunity. It was designed to end discrimination on the basis of sex—in admission standards to undergraduate or graduate schools. It was designed to end discrimination in pay. If a female faculty member had the same professional training—the same experience, the same responsibilities as a male professor, then she should be paid the same salary. Title IX was designed to provide equal opportunities for disadvantaged young girls in the Job Corps and other federally financed educational programs. Title IX was not designed to do away with intercollegiate sports. Title IX was not designed to force the integration by sex of every physical education class in the country. Title IX was not designed to do away with all-male choirs, father-son or mother-daughter banquets—or to require the integration by sex of Boy Scouts, Girl Scouts, Campfire Girls, YMCA's, YWCA's, sororities or fraternities.

In each one of these instances the regulation grew out of the fertile imaginative brain of someone in the administrative branch of the government. And in each instance either the Congress had to pass a specific law prohibiting such action—or the President of the United States had to issue an Executive Order to stop the nonsense.

There is nothing timeless or sacrosanct about local control of education, but there is theoretical sense and good common horse sense in recognizing that all initiative and all wisdom does not somehow automatically flow to and collect on the banks of the Potomac—there to be gathered and redistrib-

uted as gifts of the all-seeing, all-knowing federal government. I suggest the new Administration could make a tremendous contribution—perform a valuable service—if in its new reorganization plans, it passes this word down to the thousands of federal employees who spend their days and their hours drawing up new rules and new regulations:

Good intentions are fine—but what happens in the local paint shop, the local university, the local bus station will determine the degree of confidence people have in their government.

## WHY DECRIMINALIZE MARIHUANA?

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. BURKE of Florida. Mr. Speaker, the Select Committee on Narcotics, of which I am the ranking minority member, held hearings and issued a report under date of May 1977 entitled "Considerations For and Against the Reduction of Federal Penalties for Possession of Small Amounts of Marihuana for Personal Use." This report makes no recommendations with regard to what Congress should or should not do, but it does summarize the opinions of the proponents and opponents of decriminalization of marihuana.

The youth of our Nation are the primary users of marihuana and the cause for concern. The people who testified before the Narcotics Committee during the decriminalization hearings were adults. There are some that would like us to believe that all of our youth are users yet there are a lot of responsible thinking young people who have opinions on this matter that make good sense.

The Washington Star in its June 2 issue had a letter to the editor which I call to the attention of my colleagues. This letter is by 15-year-old Chuck Lane from Chevy Chase, Md., and is an intelligent and interesting peer view of the marihuana problem. I commend this young man for speaking out so eloquently on this controversial subject. The following is the text of his letter:

### A BOY'S HARD VIEW OF "POT"

I am 15 years old and I go to high school in Montgomery County. I read with interest the response by your columnist Garry Wills ("Penalties more toxic than the weed," May 20) to Post columnist George F. Will's opinion on legalization of marihuana. Some of Garry Wills' points are well-taken, but as one who views the effects and speculates on the causes of widespread marihuana and drug use, I would like to explain why I am against its legalization.

As George Wills points out, the harmfulness of marihuana is manifested not physically but mentally in its young user. I have seen too many people my age turn into pot heads, wasting valuable years of their lives, to believe that marihuana is harmless.

These kids start out experimenting on the weekends, then gradually work themselves up to the point where they smoke pot daily, sometimes during school. Marihuana use becomes a part of their routine; they depend on it emotionally to get them by. These "heads" begin to lose interest in school, and they slowly stop caring about making productive use of their time. Ask any of these heavy

users of pot if he sees anything wrong with using so much, and he will invariably answer: "No, they haven't proved it's bad for you."

Yet marihuana use on this level among youth is only a symptom of a larger disease. Our whole society has become based on mechanical and moral change aimed simply at making everything easier. In television, we see a prime example of how mechanical innovation has provided us with a way to get entertainment and information easily, at the flick of a switch. This trend towards easiness has become reflected in moral changes. "Do what's right for you," is one of today's easy moral catch-phrases. "It's okay if they don't catch you," is another.

Indeed, using marihuana and staying high is probably a lot easier than working through high school, so young people see getting high as the natural thing to do. To this extent, society's constant changes in the direction of "easiness" have almost necessitated marihuana use as the easiest way to have fun.

Today, many are pressing for change in the marihuana laws, eventually aimed at its legalization, contending that people "will use it no matter what." This may be true, but to me it seems that for society to adjudge something that affects so many young people in such an adverse way as being morally wrong would be an indication that our country still has the moral character to resist a change for the worse.

Admittedly, we permit use of alcohol and cigarettes. And yet, why should we repeat the same mistake again and legalize marihuana? A society that keeps marihuana illegal may not be "easier," but to my mind, at least, it is more morally sound.

CHUCK LANE, Chevy Chase, Md.

## PENNSYLVANIA'S NORMAN LOURIE UNDER CONSIDERATION FOR POST AS COMMISSIONER OF AGING

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. EILBERG. Mr. Speaker, it is my understanding that Mr. Norman Lourie, of Pennsylvania, is under consideration in the Department of Health, Education, and Welfare for appointment as Commissioner of the Administration on Aging.

It has been my great good fortune, Mr. Speaker, to have known Norman Lourie for nearly a quarter of a century—during my entire legislative career which dates back in 1954. Let me take this opportunity to share with my colleagues the very distinguished career of this fine public servant.

Norman Lourie has been executive deputy secretary of the Pennsylvania Department of Public Welfare since 1955. For most of that time he was the undersecretary, functioning as the operations chief of a comprehensive multiprogram State department which includes programs for the aged, public assistance, medical, children and youth, mental health, mental retardation, vocational rehabilitation, general hospitals, nursing homes, and so forth. The department now has about 44,000 employees and a budget of \$2.5 billion.

Norman Lourie gave leadership to the development of Pennsylvania's excellent

program for the aged which began in the late 1950's. He is a generalist and a well-qualified administrator. The American Society of Public Administration gave him its Man of the Year Award in the early 1960's. He enjoys an excellent professional reputation and has been a national leader in a wide range of social welfare activities.

He is a past president of the National Conference on Social Welfare, the National Association of Social Workers, and the American Orthopsychiatric Association. He is also on the executive committee of the National Council of State Public Welfare Administrators.

#### AN ALTERNATIVE TO ELECTION DAY REGISTRATION

**HON. C. W. BILL YOUNG**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. YOUNG of Florida. Mr. Speaker, as is so often the case, the Congress will soon be considering implementing a new program to solve an old problem which would be more realistically solved with existing programs and a little initiative.

The administration and some of my colleagues in the Congress feel that the approach to the old problem of increasing voter participation is to implement a new program, the gist of which is election day registration which is going to cost an additional \$50 million every 2 years, not to mention the mass confusion, long waits on election day, and other obvious problems.

Here in Washington, \$50 million may not seem like a lot of money, but to the supervisor of elections in Pinellas County, Fla., Mr. Charles Kaniss, that is an extra bill that the American taxpayer should not have to pay and he has implemented an innovative way to deal with registering new voters with existing funds and volunteer manpower.

Mr. Kaniss has enlisted the aid of eight employees from the CETA program and has trained them in instructing and deputizing volunteer registrars at locations in the community where people normally conduct everyday business—banks, city halls, shopping centers, and libraries. He also envisions volunteer registrars in trailer parks, condominiums, and even temporarily at local events.

His goal is to enlist 2,000 volunteers who will register 100,000 new voters before the 1978 elections. So far, he has signed up 489 new registrars and at one event alone, the annual county fair, 450 new voters were registered.

In my opinion, this approach is far superior to election day registration and I recommend it to my colleagues in hopes that it also might work in their districts.

In a recent editorial, the Clearwater Sun expressed their opinion on Mr. Kaniss' "Outreach Plan" and I believe their pointed analysis of this issue merits the attention of my colleagues:

#### OUTREACH PLAN GETS MOST VOTES

While Congress mulls over President Carter's proposal to require election-day voter

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registration, Charles Kaniss and his staff are out beating the Pinellas County bushes in an attempt to sign up 100,000 new voters before the 1978 fall elections.

For a variety of reasons, we prefer the Pinellas County elections supervisor's approach to the problem of non-voting.

The Administration bill, which is scheduled for consideration next month, would require every state to register voters in federal elections at the polling places on election day. In addition, it would provide money for states that allow election-day registration in state elections or initiate pre-election day "outreach" programs.

Here in Pinellas, the supervisor of elections office already has kicked off an ambitious "outreach" program that has greatly facilitated the registration process. For instance, citizens can register to vote in any one of 45 local banks, 24 city halls, several chambers of commerce and public libraries.

Periodic efforts at shopping malls and other locations also have helped make it easier to register than ever before. More than 450 new voters were signed up at the Pinellas County Fair this spring, and more than 100 are being registered at area malls each weekend.

Best of all, most of the work is being done by volunteers. In less than five months, 293 citizens throughout the county have been deputized as registrars. Costs are kept to a minimum by the use of employees whose salaries are paid through a federal job program.

Mr. Carter's proposed system, on the other hand, has come under attack for alleged vulnerability to voter fraud and for catering to the political fortunes of the Democrats.

While studies have shown that election-day registration probably would appeal more to low-income, poorly educated citizens, our objections are not based on the possibility of a bonanza for either major party. Nor do we feel that voter fraud would be uncontrollable.

Nevertheless, while the federal government has a legitimate interest in ensuring equal access to the polls (the 1965 Voting Rights Act, for instance, abolished discriminatory practices in the South), we think Uncle Sam's role in local and state elections should be expanded under only the most compelling circumstances.

But when new voters are actively solicited at dozens of private and public locations, during convenient times of the day, local elections officials have more than fulfilled their duty.

A recent study by the U.S. Census Bureau found that of the eligible citizens failing to register, only 21 percent said legal or physical barriers were to blame. Other studies vindicate the most popular theory about poor registration and voter turnout—that America's 60 million or so nonvoters stay away from the polls out of cynicism and apathy.

Rather than force local elections supervisors to initiate costly, time-consuming election-day registration procedures, and politicians ought to examine their own failure to inspire the citizenry.

And if Mr. Carter wants to study an inexpensive way of beefing up voter registration, perhaps he should invite Charles Kaniss to the Oval Office for a chat.

#### THE HYDE AMENDMENT

**HON. BILL FRENZEL**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. FRENZEL. Mr. Speaker, next week the House will consider the Labor-HEW appropriation. It will contain language prohibiting expenditures for abortion, known last year as the Hyde amendment.

That language in last year's bill has been contested in court, and has been set aside pending final court determination.

The Hyde amendment, if it survives the court test, will not permit abortions. What it will do is prevent abortions only for the needy. Women of means who choose to have abortions can do so. Poor women will be denied this choice.

There will be a motion to strike the Hyde amendment language. I respectfully suggest to all Members that they carefully consider the effects of denying to women of modest means a choice available to most women. It would not save much money. It would not prevent abortions. But it surely will discriminate against the poor.

#### A CALL FOR ACTION TO REPUBLICANS

**HON. CHARLES E. GRASSLEY**

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. GRASSLEY. Mr. Speaker, as a Republican, I often am discouraged by the lack of spirit in my party lately. Although we have gotten in a few well-aimed shots at the majority party, more often than not our shots have been off target.

I am firmly convinced that a majority of Americans do believe in the Republican principles of government—fiscal integrity, conservatism, and libertarianism. But we are still failing to convey our similarities to the public.

The Republican Party offers the best hope for the country. We are finding more and more that our opponents realize this. That explains why the Democrats often steal our ideas. What the Republicans need to do, obviously, is promote their ideas and goals to the hilt, put a patent on them if you will, so that we get the credit, not the opposition. That is one sure way to rebuild the party.

The following editorial from the Mason City, Iowa, Globe-Gazette offers several other valuable suggestions to revitalizing the Republican Party. I would like to share it with those Members who recognize the importance of providing the country a bona fide alternative:

#### LET'S SEE SOME FIGHT

It's time for the Republicans to get their game together.

The Democratic Party is running the country. There is no Republican "government by veto" to complain about. The Democrats are sitting ducks for any legitimate criticism about any point of national policy, foreign or domestic. Jimmy Carter's first 100 days and whatever honeymoon he deserved are over, and his administration is cranking out specific legislative proposals.

But at this point, one would think the only ballgame in Washington is a contest between Carter and his fellow Democrats in Congress.

Sure, the Chuck Grassley types are continuing on their fiscal responsibility line, and having some Republican sharpshooters plinking away from the bushes is fine. Ronald Reagan (and even Gerald Ford sometimes) are being heard out in the hinterlands.

But where are the big guns on the attack in terms of broad policies—in Washington?



Where are the Republican spokesmen of a "loyal opposition" in the legislative halls?

It's easy to blame the press for emphasizing Democratic actions more than Republican objections—but news will always be more oriented toward what's happening than what's being said about it. Strong voices and strong proposals by the minority can diminish any such imbalance.

This brings us to one real party-line clash of the moment, the one over Carter's plan for instant voter registration on election day.

Strong Republican voices for strong Republican principles? Ha!

Congressional Quarterly notes that initial reaction to the Carter plan by the Republican leadership was surprisingly favorable. House Minority Leader John J. Rhodes of Arizona continued on that course after other Republicans found out grassroots party sentiment was against the plan. Now it appears he, too, is "re-examining" his position.

The Republican National Committee lambasted Carter's proposal, and the official party position now seems to be that election-day sign-up would encourage fraud and have small effect on turnout. Experience in the few, mostly rural, states that have tried such a plan indicates it means very slightly higher turnout, a slight Democratic advantage and minimal fraud.

So here we have Republicans starting out on shifting ground, forming their ranks rather raggedly and than launching a major offensive to take a piddling objective. Unless they can show—with no real evidence available—that fraud will soar in more urbanized states, they are not going to inspire the citizenry to rally 'round their flag on this one.

Congressional campaigning will be under way in less than a year, and the Republicans had better start finding and really screaming about some issues that will inspire the voters.

"Let's you and him fight" may be easier for us to say than for the political parties to do. But some sound Democratic-Republican scrapping is the best way to tell the voters what's going on and give them a chance to take intelligent part in it.

#### PAPER SHUFFLING

**HON. ANDREW JACOBS, JR.**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. JACOBS. Mr. Speaker, do you suppose there would be less paperwork in Washington if there were less paper chase in Indianapolis?

[From Indianapolis (Ind.) News, May 28, 1977]

#### OSHA-COME-LATELY

The news business editor put it humorously; we'll put it in stronger language.

Five hundred years from now the American human brain will be half the size it is today for the simple reason we have turned our thinking over to Washington.

In a newspaper, where some stand ought to be taken against OSHA, we are surrendering like everyone else to directives from the nation's capital.

OSHA has told us to clean off our desk tops, as if cluttered desk tops in Indianapolis or any place else are any business of OSHA's. But we are doing it, capitulating without a whimper of protest.

Next it will be clutter at home. Our clutter in our cars. Or in our vacation vehicles. OSHA is not going to stop unless it is stopped.

Now, in a rare burst of hope, OSHA was told to quit nitpicking about safety in small businesses and to start looking at real rather than imagined dangers. Even that, however, suggests no one has been concerned with safety until OSHA arrived.

#### TRIBUTE TO RICHARD LEVIN

**HON. NORMAN Y. MINETA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. MINETA. Mr. Speaker, it gives me great pleasure to rise today in honor of a man I have known for many years, Mr. Richard Levin.

Born and raised in Santa Clara County, Calif., Mr. Levin is a successful businessman and is affiliated with numerous civic and charitable organizations.

Married for 38 years to his wife Emmy Lou, Mr. Levin is the father of three daughters and has five grandchildren. He has also been the recipient of many distinguished awards for his devotion to the community and making it a better place to live.

A partial listing of Mr. Levin's remarkable contribution to his community would include:

Charter member and Past President of Willow Glen Kiwanis Club, San Jose.

Charter member and Past President, Sheriff's Posse of Santa Clara County.

Board member, Boys City Boys' Clubs of Santa Clara County, past 20 years.

Served 20 years as member of Board of Directors of Temple Emanu-El, San Jose.

Served as co-chairman of Temple Emanu-El Centennial Foundation and Centennial Civic Celebration.

Member of Regional Board of Trustees of City of Hope.

Member of Board of Trustees of American Friends of Haifa University and Chairman for San Jose on behalf of the Center of Maritime Studies of Haifa University.

National Board Member of National Jewish Hospital and Research Center at Denver. National Committee Member United Jewish Appeal.

Member of Board of Governors, National Conference of Christians and Jews, Santa Clara County Region.

Member of Society of Fellows of the Anti-Defamation League of B'Nai B'rith.

Member of San Jose Chamber of Commerce.

Member of Redwood City Chamber of Commerce.

Member of California State Chamber of Commerce.

Member of Board of Directors of the Better Business Bureau of Santa Clara County.

Member of the Y.M.C.A. Century Club.

Member of Commonwealth Club of California.

Member of World Trade Club, San Francisco.

Member of Japan Society, San Francisco.

#### FRATERNAL ORGANIZATIONS

Member of Observatory Lodge, Native Sons of the Golden West.

Member of Elks Lodge.

Member of B'Nai B'rith.

Masonic affiliations: Member of Islam Shrine Club, San Francisco; Member of San Jose Shrine Club; Member of San Jose Scottish Rite Body; Member of Friendship Lodge No. 210 Free and Accepted Masons.

Served on many Civic Committees of the City of San Jose.

For many years interested in ecology and preservation of natural resources and wild life.

Actively worked for most charitable causes, local and national, including March of Dimes, Heart Association, local hospital drives, Santa Clara County Crippled Children's Society, United Crusade, Hope for Retarded Children and Adults, City of Hope, National Jewish Hospital at Denver and Sisters of Presentation College.

Donor of Antique Fire Engines and Equipment to start a Historical Fire Museum for the City of San Jose.

Donor of Antique Steam Railroad Engines to National Railroad Museums.

On Wednesday, June 15, 1977, Mr. Levin will again be honored by being awarded the 1977 Annual Brotherhood Award from the Santa Clara chapter of the National Conference of Christians and Jews. Mr. Levin is truly deserving of this most distinguished award; for all of his life, through all of his activity, he has promoted good will, kindness, and understanding among people.

Mr. Speaker, I ask you and my colleagues to join me today in congratulating and giving best wishes to Mr. Richard Levin, recipient of the Santa Clara County chapter of the National Conference of Christians and Jews 1977 Annual Brotherhood Award.

#### INCREASING MINE HEALTH AND SAFETY RESEARCH

**HON. JOHN P. MURTHA**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. MURTHA. Mr. Speaker, despite centuries of mining, there remains a great deal to learn about the best techniques for safe coal mining. Stimulating development of those techniques can significantly increase coal production and be a vital part of the Nation's energy future.

That is why, Mr. Speaker, I am today introducing legislation to raise the authorization ceiling for coal mine health and safety research from \$30 million to \$60 million.

I asked the Bureau of Mines what they would be able to do with such an increase. Here is a partial list of the kind of research they would be able to undertake:

Creating new roof support evaluation methods;

Developing a reliable rotary water seal for ripper-type continuous miners which would produce about a 25-percent dust reduction compared to conventional water spray systems;

Improving design for noise control of major types of underground electric face equipment;

Stimulating new test procedures and toxic product criteria for explosives; and

Producing and demonstrating controlled surface blasting techniques for improved highwall stability.

All those steps would make mines safer. Safe mining techniques are essential if the Nation is to attract the 200,000 new miners needed by 1985 to

meet President Carter's coal production goals. Moreover, the present \$30 million authorization ceiling has effectively been reduced by inflation to purchasing power of \$18 million.

Mr. Speaker, I believe such research is a key element of the Nation's total energy approach, and national efforts to increase coal production and use.

## VOTER REGISTRATION ACT

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. ROUSSELOT. Mr. Speaker, the Voter Registration Act of 1977 (H.R. 5400) has been reported out of the House Administration Committee and soon will be before us. As it is now written, H.R. 5400 would require the States to eliminate preregistration requirements for Federal elections. Instead of having to register in advance, an individual would be permitted to register at his polling place on election day. The voter would only be required to sign an affidavit certifying he meets the legal requirements and produce some form of identification, such as a driver's license, to establish his place of residence, or an affidavit from another voter. Such legislation will open the door to fraudulent registration and voting—and every stolen vote dilutes the strength of one honestly and thoughtfully cast. Apparently, this concern is shared by Mr. Craig Donsanto, head of the election unit of the Justice Department's Criminal Division. In an in-house memorandum recently written by Mr. Donsanto, he says:

I oppose the concept embodied in H.R. 5400 as a dangerous relaxation of what precious few safeguards presently exist against abuse of the franchise.

He continues:

The experience of the Criminal Division in enforcing the Federal election laws indicates that there is a tremendous potential for fraud in H.R. 5400.

The memorandum goes on to describe deficiencies within the bill which point to fraud. I urge my colleagues to read Craig Donsanto's memorandum and to study the statistics in the latest Gallup poll which indicate that 55 percent of the American people are opposed to "walk-in" voter registration. The issue will be before us in a matter of weeks: GALLUP POLL—MOST AMERICANS OPPOSE EASY REGISTRATION

The Gallup Poll asked people's opinion of the proposal "that registration not be required in elections for national office if a person can produce proper identification, such as a driver's license, on Election Day."

Results released on May 8:

| (In percentage) |          |         |            |
|-----------------|----------|---------|------------|
|                 | In Favor | Opposed | No Opinion |
| Nationwide      | 40       | 55      | 5          |
| Democrats       | 43       | 53      | 4          |
| Republicans     | 30       | 67      | 3          |
| Independents    | 44       | 49      | 7          |

## COMMENTS ON H.R. 5400 TESTIMONY BY ATTORNEY GENERAL

At your request, we have reviewed the testimony which the White House has apparently suggested that the Attorney General give before the House Administration Committee on April 6 during hearings on H.R. 5400. This bill is the Administration's proposal to do away with pre-election registration requirements which the vast majority of the 50 states presently impose as a prerequisite to the exercise of the federal franchise, and substitute in their place a system permitting otherwise locally-eligible electors to register at the polls on the day of an election.

### I. THE BILL

We emphasize at the outset that this Division has not had any input into this bill. We have not even seen a copy of the bill, and our comments thereon have never been sought.

The proposed legislation, from sources available to us, would appear to supercede state and local voter registration procedures with a uniform procedure applicable to all contests for Federal office. The Federal procedure under H.R. 5400 would permit an individual who is otherwise qualified to vote under the state law to register to vote at the polls on the day of an election. To prevent abuses of this relaxed registration procedure, H.R. 5400 would create a new Federal felony to punish those who wilfully or fraudulently cast ballots under its provisions, add a level of administrative sanctions to be enforced by the Federal Election Commission, and permit local poll officials to require electors seeking the franchise by virtue of these relaxed provisions either to produce some identification before being permitted to vote, or to execute affidavits attesting to the fact that they meet local voting requirements.

If these preconditions are met, H.R. 5400 would require local voting officials to extend the federal franchise notwithstanding an elector's failure to comply with state registration laws.

### II. THE PROPOSED TESTIMONY

The testimony which it is suggested the Attorney General give on this bill is highly commendatory of its purpose of facilitating the exercise of the franchise, critical of present state registration laws as "outmoded and unnecessary", and strongly in favor of H.R. 5400's enactment.

### III. DISCUSSION

Personally, based on our enforcement experience in the election law field, I do not share these observations and conclusions. I oppose the concept embodied in H.R. 5400 as a dangerous relaxation of what precious few safeguards presently exist against abuse of the franchise. Most certainly, I would not recommend that the Attorney General support this legislation in the proposed glowing terms without expressing some caveats based on enforcement experience.

#### A. Function of preregistration

Voter registration statutes presently on the books of the vast majority of the states usually require that a prospective voter present himself at the appropriate registration office at least 30 days prior to the election in which he wishes to vote, and there provide pertinent data concerning himself and his residence in the election district. He is also customarily required to provide information about where he may have been registered to vote previously to enable the prior registration to be purged before the new one becomes effective, and to provide a sample of his signature which can be used at the polls during the election as a control to assure that the registrant and the person who seeks to vote in his name are the same person.

These requirements serve at least two crit-

ical functions in preserving the integrity of our elective system:

First, the fact that a prospective voter is required to appear in person and to provide pertinent information about his qualification to vote at least 30 days before an election provides local election officials with ample time to check the veracity of his claim to the franchise to assure that previous registrations he may have had are voided before the election takes place. This in turn insures that a registrant is indeed qualified to vote in the place where he is seeking the franchise, and that he is permitted only to vote in that one place. Secondly, by providing for a "control" sample of the registrant's signature, registration laws enable many states to protect themselves against vote fraud by additionally requiring a voter to sign a roster at the polling station itself. The signature which the registrant executes on election day at the polls can easily be checked against the control on his permanent voter registration card, which in many places is the sole viable method of insuring that the person seeking to vote is indeed the same person whose registration the local election board has previously approved and accepted.

#### B. Effect of repeal of preregistration laws

Abolition of pre-election registration will, for all intents and purposes, prevent the states from protecting themselves against individuals who may seek to vote at several locations where they are known (a factor which becomes all the more critical with the continuing increase in the mobility of our population), as well as prevent them from assuring that a voter is indeed qualified to vote before he casts his ballot. At the same time, the elimination of the "control" signature which usually appears on a voter registration card will deprive precinct officials of an objective standard by which to judge the qualifications of persons presenting themselves to vote, while at the same time making proof of election fraud in a criminal case substantially more difficult.

In this latter regard, this Division has had substantial experience over the years in prosecuting election fraud cases under applicable Federal statutes presently on the books. This in turn has demonstrated to us graphically the importance of having a pre-registration and verified "control" signature against which to compare the signature of individuals presenting themselves to vote at the polls on election day. On the basis of such comparisons, 25 election officials have been indicted during the past few weeks in the Eastern District of Louisiana for forging the signatures of "no-shows" on the election day rosters which Louisiana law requires voters sign before they obtain a ballot. Similar comparisons between "controls" and the signatures appearing on election day rosters have long been used as the principal method of proving election fraud cases in Chicago, Illinois.

#### C. H.R. 5400's alternative safeguards

In the place of the protection which pre-election registration provides as a guard against election fraud, H.R. 5400 offers four purported safeguards. We feel that all are inadequate.

The requirement that persons seeking to vote without prior registration, produce some form of identification at the polls, or perhaps swear to the factual predicate for the franchise under local law, is essentially meaningless. Even with the pre-election registration which most states require today, election fraud is widespread in both State and Federal elections. With the stakes as high as the power of the elective offices in dispute, it would not be unreasonable that those bent on corrupting the system would



be able to find false identification, and would be willing to lie on whatever affidavits they are asked to sign. Moreover, once possessed with what we suggest is easily obtained false identification, a person could successfully wander from precinct to precinct and cast as many ballots as he dares on election day, with election officials being powerless to stop him provided he was willing to execute the required affidavit. Even assuming that subsequent inquiry was able to establish that such an individual used the related procedures accorded by H.R. 5400 to defraud his fellow citizens of an election fairly conducted on the "one man-one vote" principle, the fraudulent votes would have already been met and the damage done, to the detriment of the precious balance on which our democratic elective system is based.

The addition of a new Federal felony which specifically provides for fairly serious penalties for those persons who would seek to abuse the lenient provisions of H.R. 5400 are of little foreseeable help. Federal law presently contains numerous statutes, most of which are felonies, directed at protecting the system against voter fraud. Under 18 U.S.C. 241, it is a ten year felony to conspire to stuff ballot boxes or to commit other varieties of election frauds directed at depriving the public of a fair and impartial election, *U.S. v. Classic*, 313 U.S. 299 (1941). This Section has recently been extended to include election frauds directed at corrupting only State or local elections, where the defendants involved are themselves election officials of some sort, *U.S. v. Anderson*, 481 F. 2d 685 (4th Cir., 1974). Under 18 U.S.C. 242 it is a misdemeanor to deprive the electorate of a fairly-conducted election under color of official right; under 42 U.S.C. 1973(i) (c), it is a 5 year felony to provide certain types of false information concerning one's residence to a voter registrar for the purpose of qualifying to vote in an election where Federal candidates will be on the ballot; and under 42 U.S.C. 1973(i) (e), which was enacted last year, it is a 5 year felony to vote more than once in an election where there are Federal candidates on the ballot. This impressive stable of statutes has been the source of numerous prosecutions lately, especially in states like Illinois and Louisiana where State laws require voters not only to pre-register but also to sign rosters at the polls. At the present time, the Criminal Division has active investigations involving this sort of offense before grand juries in Tennessee, Illinois, Louisiana, and Virginia. Complaints involving isolated instances of fraudulent registrations and multiple votes have been so numerous since 42 U.S.C. 1973(i) (c) and 1973(i) (e) were enacted that the Division has had to routinely defer such matters to the States, all of which to our knowledge have their own extensive and intricate network of criminal statutes which seek to protect against election irregularities. Clearly, if all of these statutes, many of which carry substantial penalties, have been unsuccessful in deterring those bent on corrupting the elective system through vote fraud, one more such statute will not help much. Quite the contrary, our not insubstantial experience in this area has demonstrated that the type of person who is most apt to commit election fraud feels that he is "above" the system, that he will not be caught or punished, and is thus not deterred in the slightest by the presence on the books of facially awesome criminal statutes.

#### IV. THE FEDERAL ELECTION COMMISSION DOES NOT BELONG IN THE ENFORCEMENT MACHINERY OF LEGISLATION UNDER H.R. 5400

I feel that anyone who seeks to corrupt our democratic system in this manner should be subject to nothing short of criminal prosecution. Also, I have reservations as to whether the subject of ballot security and election fraud falls logically within the

FEC's present mandate over the financial disclosure provisions of the Federal Election Campaign Act. Moreover, the FEC's small and underfinanced staff is singularly ill-equipped to take on the awesome responsibilities for the preservation of ballot security which H.R. 5400 contemplates for it. And finally, the parallel civil and criminal proceedings which are bound to arise from the efforts of FEC and this Division to simultaneously fulfill our respective enforcement mandates under the Act are bound to create conflicts which will prove detrimental to overall law enforcement in this critical area.

#### V. CONCLUSION

While we naturally support the fundamental objective of making it easier for citizens to exercise their federal franchise, we would have preferred that a method be devised which would minimize the opportunity for electoral fraud while at the same time minimizing the opportunity for citizen participation in the electoral process. If we had more opportunity for consideration of the general concept and, particularly H.R. 5400, presumably we could make some more constructive comments. Having received this package yesterday afternoon without even a copy of the bill, we have done our best to indicate some of our concerns. I assume that the Administration as a matter of policy is going to support the concept embodied in H.R. 5400. However, if the Attorney General testifies on this bill, he should, in my judgment, qualify his support thereof with the caveat that despite the favorable experience in several states, the experience of the Criminal Division in enforcing the federal election laws indicates that there is a tremendous potential for fraud in H.R. 5400.

#### TRIBUTE TO BERNICE JUST, FRIEND AND JOURNALIST

#### HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. McCLORY. Mr. Speaker, the retirement of Bernice Just as columnist for the News-Sun, a daily newspaper published in Waukegan, Ill., in my congressional district, marks a milestone in a career in journalism which deserves appropriate public notice.

Mr. Speaker, recently I wrote a letter to Bernice on the occasion of her forthcoming retirement and expressed my personal concept of her briefly and sincerely.

In my message of affection and respect I stated at that time, as follows:

MAY 16, 1977.

Mrs. WILLIAM L. JUST,  
2325 Corona,  
Waukegan, Ill.

DEAR BERNICE: Your retirement from active journalism with the News-Sun brings to my mind many cherished memories of experiences with you and your family during the entire time I have been in Lake County.

Obviously, without the need to be an active member of the Fourth Estate, you have brought special honor to yourself and to the News-Sun and to our community through your literary and journalistic talents. Your personality has always come through your written and spoken words revealing such qualities as compassion, understanding, love and faith—as pillars undergirding your strong views in behalf of humanity and justice.

I am confident that your energies will be

directed along useful and constructive channels as you enter a new phase of your active and productive life.

The love and good wishes which both Doris and I are undertaking to express in this way are with you wherever you go and in all that you do.

Sincerely yours,

ROBERT McCLORY,  
Member of Congress.

Mr. Speaker, a retirement tea is being held in Bernice Just's honor on Sunday, June 12 in the First Christian Church of Gurnee. It is with regret that I find myself unable to attend personally. However, I know that my good wishes and those of my colleagues may be expressed through these remarks in the CONGRESSIONAL RECORD. Accordingly, I reiterate the words I expressed in my recent letter together with this public expression of respect, affection, and good wishes.

#### KOREAN UNCERTAINTY

#### HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. BYRON. Mr. Speaker, the Frederick News-Post recently published an editorial which sheds some light on the present situation in South Korea.

I think this editorial should remind us that history is capable of repeating itself if we are short of memory and determination. I feel this article will be of interest to other Members of Congress who also have vivid memories of the Korean War. It reminds us that the 1950 invasion of South Korea by North Korea never really ended and it has only been through a strong American commitment that a minimal peace has been maintained there for the last 24 years.

As the writer of this editorial so perceptively points out, recent history has not shown us that the North Koreans have had a change of heart. I therefore include the editorial in the RECORD at this time:

#### KOREAN UNCERTAINTY

It is difficult to see what is to be gained by President Carter's plan to withdraw American troops from South Korea over the next four or five years, except for some possible savings in the defense budget that would quickly be swallowed up elsewhere.

Only the U.S. military presence in Korea, currently at some 38,000 combat-ready men, has kept the peace there for the past 24 years, a peace punctuated by recurring "incidents" along the 38th parallel truce line.

For once we are in agreement with the generals, one of whom was so opposed to the plan that he publicly differed with his Commander-in-Chief. American withdrawal could lead to another war with North Korea, warned Maj. Gen. John K. Singlaub, chief of staff of U.S. forces in Korea. For his pains, he was recalled home and "reassigned."

Singlaub is no Douglas MacArthur, of course, and South Korea is far stronger militarily than it was in 1950. But it was the mistaken belief of the North Koreans in 1950 that the United States no longer considered South Korea to be within its sphere of concern—a belief encouraged by our own State Department—which helped bring

about the invasion and the war that has never really ended.

In the absence of any evidence that the North Koreans have abandoned the dream of completing their frustrated conquest of the South—every indication, in fact, points to the contrary—we could well be inviting history to repeat itself.

# RESTORATION OF CONGRESSIONAL MEDAL OF HONOR TO DR. MARY EDWARDS WALKER

**HON. LINDY BOGGS**

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mrs. BOGGS. Mr. Speaker, I rise today to call the attention of my colleagues in the House to a sad anniversary being observed today. Exactly 60 years ago Dr. Mary Edwards Walker was stripped of the Congressional Medal of Honor.

The first and only woman to receive this prestigious award, Dr. Walker was originally cited for her bravery during the Civil War when she served as a Union Army surgeon on the battlefield and in military post hospitals. Captured by the Confederates, she continued her merciful ministrations to the sick and wounded. On January 24, 1866, the Congressional Medal of Honor was presented to "Dr. Mary" as she was affectionately called by the men whom she treated.

On June 3, 1917, when Dr. Walker was in her 84th year, the honor was revoked. Her name was removed from the roll of recipients. In Washington, a medal review board took the adverse action on the limp claim that nothing was found "in the records to show the specific act or acts for which the decoration was originally awarded." The board left unexplained why, if the medal was unearned, it took a half century to find that out and strike her name off the list.

During the decades following the Civil War, Dr. Mary Walker was a well-known figure who championed many causes before their time had come: She wore pants for comfort and economy; she spoke out against the use of liquor and tobacco; she advocated uniform divorce laws. All during her adulthood Dr. Walker was a voice for women's suffrage, her efforts in this movement spanning about 70 years. She died the year before the 19th amendment gave women the vote in 1920.

Though her Congressional Medal of Honor was nullified in 1917, Dr. Walker spunkily refused to give up the medal. Pinning it on her coat with pride, she stormed off to the Capitol to win such support as she could muster for keeping her name on the Medal of Honor roll. Tragically, she slipped and fell on the Capitol steps, receiving injuries that lingered and resulted in her death 2 years later.

Nothing was done about restoring the honor to her, and the case of Dr. Mary Edwards Walker drifted into limbo.

Because of the continuing interest of her family and historians in Dr. Mary Walker's case, our distinguished colleague, Les Aspin, has introduced House

Joint Resolution 136, which would restore this honor to Dr. Mary Walker posthumously. This resolution has been referred to the House Committee on Armed Services, and I urge all of you to support this valiant effort to bring Dr. Walker's memory the recognition it deserves.

# WGMS EDITORIAL ON HUMAN RIGHTS

**HON. ROBERT H. MICHEL**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. MICHEL. Mr. Speaker, I want to bring to your attention an editorial recently broadcast by Jerry R. Lyman, general manager of radio station WGMS. Mr. Lyman's informative and enlightening editorials, strongly supporting economic and political freedom, are well known throughout the Washington area and his latest deserves the attention of every American. Mr. Lyman addresses current attitudes toward Cuba and Vietnam and presents a compelling case for taking a close, hard look at the political conditions in those countries before our Nation begins "normalizing relations" with them.

It is good to know that someone in the media has the insight and the courage to remind us that communism destroys human freedom. That is a simple truth, Mr. Speaker, but one that often seems to be forgotten. I am glad that Mr. Lyman has brought the facts about Cuba and Vietnam to our attention. At this point I want to insert in the RECORD WGMS editorial No. 22, broadcast May 25, 1977:

Two recent overtures by the Carter administration should be of great concern to all Americans who have supported the President's stance on human rights and serve, in a way, to contradict that stance.

Specifically, we are referring to the desire of the President and certain Members of Congress to (1) open talks with Cuba on normalizing relations and (2) consider aid to Vietnam. Both of the decisions are a disappointment to all who have applauded the President's hard-line stance in negotiations with the Soviets.

In the case of Cuba, not only has there been a record of persecution and violation of human rights by the Castro regime: but in addition, Cuban agents are stirring up trouble in Latin America while Cuban troops, by their very presence, are violating the rights of Africans to self-determine their fates in Angola, Zaire, and now Ethiopia. We cannot allow Castro, as a Soviet puppet, to continue this unlawful intrusion into other areas of the world. By sending businessmen, politicians, and sports teams to Cuba, we are in effect overlooking these atrocities.

In Vietnam tyranny, torture, and genocide exist to an extent equal to the days of Hitler and Nazi Germany. Mrs. Le Thi Ahn, a former Vietnamese patriot, ignored by much of the American media, writes of concentration camps with 300,000 political prisoners located in malaria-infested jungles, and of over 20,000 suicides since the Communist takeover—suicides to avoid torture and imprisonment. Another report tells of the massacre of 150 former south Vietnamese officers en route to a "re-education camp". The officers, blindfolded, were in U.S. trucks

on their way to the camp when the tank and armored car driving alongside suddenly opened fire on the truck. The wounded were dispatched in place.

Last week, the House voted 288 to 119 to approve a proposal by Representative John Ashbrook of Ohio to bar any trade or financial aid to Cuba or Vietnam. We support the proposal and congratulate those who voted for it.

If we are to support human rights, then let's support those rights everywhere. Let's not negotiate, deal, and talk about renewing relations with any country that subjects its people to torture or cruel oppression. We have nothing to gain through relations with these two countries; and we should not allow one dollar to pass through their governments, for it will only be used to further deny people of their human rights, or possibly even their lives.

# TRIBUTE TO ST. JOHN THE BAPTIST CHURCH ON THE OCCASION OF ITS 150TH ANNIVERSARY

**HON. WILLIAM F. WALSH**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. WALSH. Mr. Speaker, at the end of this coming week, parishioners, clergy, and community neighbors of St. John the Baptist Church in Syracuse, N.Y., will gather for a 3-day festival to commemorate the sesquicentennial of the founding of the church.

One hundred and fifty years ago, Syracuse was known as Salina, a small village clustered around salt-producing springs and brine wells—a unique resource that provided the cornerstone for industry and the development of a city.

Paralleling the growth of our community is the rich tradition of St. John the Baptist, mother church of catholicism in Onondaga County, which first opened its doors in 1827.

As Syracuse has grown, so has the parish of St. John the Baptist. From humble beginnings in the first church structure, with only monthly visits by a missionary priest, St. John's expanded into the present edifice—a Syracuse landmark—in 1871. Elementary and secondary religious education has continued since 1861 under the tutelage of the Sisters of St. Joseph of Carondelet.

Through the years, 17 pastors have guided the spiritual life of the parish, and each made his own significant contribution to the church and to the community. One of them, Most Rev. David F. Cunningham, went on to become a bishop of the Diocese of Syracuse.

I would like to share with you my tribute to the people of St. John the Baptist, and their present pastor, Rev. Msgr. Charles H. Eckermann—an educator, spiritual leader, and friend to all who know him.

My tribute on their 150th anniversary could not be better expressed than in the words of former pastor, Rev. Msgr. Charles F. McEvoy, who said,

The modern church of St. John the Baptist from 1827 has had a long and honorable existence. In years, it is old; in spirit, it is young; for it is vivified by the doctrines of Christ which are old yet ever new.



# THE VIOLATION OF HUMAN RIGHTS IN SLOVAKIA

**HON. LUCIEN N. NEDZI**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. NEDZI. Mr. Speaker, the people of Eastern Europe, frustrated by governments they did not choose, have understandable reasons to despair.

Again and again, however, they have surprised the world with examples of personal commitment and courage. Such was the case recently with charter 77, a Czechoslovakian human rights manifesto.

Americans of Eastern European origin are invaluable allies in the struggle for human dignity. In this regard, the Slovak community of southeastern Michigan is tireless in support of its brethren.

They assembled once more a few weeks ago to celebrate Slovak Independence Day. Two resolutions were adopted, addressed to the President of the United States and the Secretary-General of the United Nations.

The resolutions deserve our attention, and, under leave to extend my remarks, they are set forth below:

## RESOLUTION TO THE PRESIDENT OF THE UNITED STATES OF AMERICA

President JIMMY CARTER,  
The White House,  
Washington, D.C.

DEAR MR. PRESIDENT: On the occasion of Slovak Independence Day Commemoration, we Slovak Americans in the Detroit Metropolitan area send you greetings, and thank you for your public commitment to defend human rights, no matter where they are being violated. For this, Mr. President, you have our admiration and unqualified support.

Mr. President, we also take this opportunity to inform you that in Slovakia, the land of our forefathers, human rights are continuously violated, especially the freedoms of religion, education, speech and political beliefs. These are the same violations enumerated in Charter 77 of which, we are sure, you are well informed.

Last, but not least, Mr. President, we ask you to direct our Secretary of State, Mr. Cyrus Vance, to intervene on behalf of Rev. Stefan Javorsky, a Catholic priest, recently jailed for administering his priestly duties, and Mr. Pavol Carnogursky, a Catholic intellectual who is awaiting political trial because he expressed his religious views in a letter to his bishop.

We hope, Mr. President, this resolution will merit your consideration.

Detroit, April 24, 1977.

## RESOLUTION TO THE SECRETARY GENERAL OF THE UNITED NATIONS

The Honorable KURT WALDHEIM,  
Secretary General of the United Nations,  
New York, N.Y.

MR. SECRETARY GENERAL: On August 26, 1972, the Slovak Community of Metropolitan Detroit passed a resolution in which we asked you the following:

To ask the government of the Soviet Union to remove its military forces from Slovakia.

To place the present situation of Slovakia on the agenda of the Security Council of the United Nations, so as to guarantee a free and democratic election by which the Slovak nation would be able to govern its own

affairs and its own destiny as a free and democratic republic.

It is a great tragedy, Mr. Secretary, that the Soviet forces still occupy Slovakia. Again, we urge you to place the cause of Slovakia on the agenda of the Security Council of the United Nations, and the gross violation of human rights in Slovakia on the agenda of the Human Rights Commission of the United Nations.

Detroit, Michigan, April 24, 1977.

## TRUTH IN LENDING REFORM AND SIMPLIFICATION ACT

**HON. BENJAMIN S. ROSENTHAL**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. ROSENTHAL. Mr. Speaker, on June 10, 1977, I will introduce the Truth in Lending Reform and Simplification Act. This legislation would amend the Truth in Lending Act to enhance consumer protection and make the act less costly for lenders to comply with and for Government agencies to enforce.

The Truth in Lending Act is unquestionably one of the most important of all consumer protection statutes. However, it has been criticized by consumers, creditors and regulators almost from its inception.

Consumers complain that truth-in-lending disclosure statements—though a welcome improvement over the days before the Truth in Lending Act—are becoming increasingly complicated and difficult to understand.

From creditors, complaints are heard about the difficulty of keeping up-to-date with regulations and interpretations, the high cost of obtaining adequate counsel to design complying disclosure statements, and the fear of substantial civil penalties that could arise from a relatively minor violation of almost every truth-in-lending regulation.

There is no doubt the regulatory complexity of the Truth in Lending Act is a burden on borrowers and lenders alike. Since 1969, truth-in-lending regulations including statutory appendices have grown to over 100 pages in length. In addition the Federal Reserve has issued over 1,100 interpretative statements and numerous official staff opinions. Despite new regulations and clarifying interpretations, there have been over 6,000 civil suits challenging various aspects of the Truth in Lending Act and Federal Reserve regulations.

To stem the growth of regulations and litigations, the Federal Reserve has made a number of simplifying recommendations. Many of their recommendations deserve implementation and are incorporated in the legislation I will introduce next week.

The Truth in Lending Reform and Simplification Act is the result of over 10 months of study by the House Government Operations Subcommittee on Commerce, Consumer and Monetary Affairs, which I chair. If enacted, this legislation would:

Lower compliance and litigation costs

by reducing the number of disclosure items to which civil liability is associated;

Provide enforcement agencies with a flexible enforcement capability in the form of civil penalty and cease-and-desist order authority; and

Enhance consumer protection by requiring lenders to rebate any overcharges resulting from inaccurate truth-in-lending disclosures made to borrowers.

Truth-in-lending reform is an issue that needs prompt congressional attention. I urge other Members of Congress to join me in sponsoring the Truth in Lending Reform and Simplification Act.

Mr. Speaker, I am including below a section-by-section analysis of the Truth in Lending Reform and Simplification Act.

## TRUTH IN LENDING REFORM AND SIMPLIFICATION ACT—SECTION-BY-SECTION ANALYSIS

Section 1. The Act is cited as the Truth in Lending Reform and Simplification Act.

Section 2. Agricultural credit.—Would amend section 103(h), 104(1) and 104(5) to exempt credit transactions which are primarily for agricultural purposes. Agricultural credit is primarily commercial in nature. Including it under the Truth in Lending Act has resulted in numerous problems that have not contributed to consumer protection and may have made arranging farm credit more difficult.

Section 3. Credit Insurance.—Would amend section 106(b) of the Act to provide borrowers thirty days to cancel credit insurance coverage and receive a full refund of all premium charges.

Several studies indicate that some creditors may be misleading consumers to believe that credit insurance is necessary to obtain loans despite disclosures to the contrary. Amending 106(b) to allow for cancellation and refund has been recommended by the Federal Reserve Board to provide further disincentive against creditor misrepresentations concerning credit insurance.

Section 4. Finance charge itemization.—Would amend sections 128(a)(6) and 129(a)(4) to make clear that finance charges which consist of only one element need not be itemized.

In addition, the proposed amendments would repeal section 106(d) which permits certain types of charges such as taxes to be excluded from the finance charge if separately itemized. Disclosure in the truth-in-lending statement of charges not included in the finance charge and not related to the extension of credit, is a requirement that is not necessary for the protection of consumers and does not facilitate effective credit shopping. The costs of regulation writing and creditor compliance can be reduced by elimination of this provision without ill effect on consumers. The proposed repeal of section 106(d) would result in more understandable disclosure statements, and where competitive conditions exist, the compliance cost reduction may result in lower consumer borrowing rates.

Section 5. Civil penalty and cease-and-desist order authority.—Would amend section 108 of the Truth in Lending Act to authorize truth-in-lending enforcement agencies to levy civil penalties of not more than \$1,000 per day for each day a truth-in-lending violation continues and to issue cease-and-desist and corrective orders.

The Truth in Lending Act authorizes Federal enforcing agencies to use any statutory authority available to them to bring about compliance with the Act. In the case of Federal banking agencies, however, the powers contained in enabling legislation and the Federal Institutions Supervisory Act appear

to be inadequate. The proposed civil penalty and cease-and-desist order authority would provide all enforcement agencies with a flexible capability to bring about enforcement with the Act.

**Section 6. Borrower notification.**—Would amend section 108 to require, when an enforcement agency discovers an apparent violation of the Act, that the agency notify the creditor and order them to notify affected borrowers that the agency has found an apparent violation and of the consumer's rights under this title. In addition, if the creditor fails to notify the borrower within thirty days after receiving the agency's notice and order, the proposed amendment would require the agency itself to notify the consumer of the apparent violation and of his rights under the Act.

The evidence from areas where borrower notification of individual violations is routine, indicates that creditors are stimulated to scrutinize carefully their own lending practices by the prospect of disclosure. Additionally there is evidence that disclosure to adversely affected consumers and the attendant improvement in internal review procedures by creditors may actually reduce the overall costs of enforcing the Act.

**Section 7. Annual reports.**—Would amend section 114 of the Truth in Lending Act, section 18(f) (5) of the Federal Trade Commission Act, and section 707 of the Equal Credit Opportunity Act, to allow the Federal Reserve Board to submit the annual reports for these statutes as part of the Board's general annual report so long as the reports are submitted on or before June 1.

**Section 8. Model forms and clauses.**—Would amend Chapter 1 of the Truth in Lending Act to require the Federal Reserve Board to issue model forms and clauses for common consumer credit transactions. In addition, the amendment would alter 130(f) of the Act to provide that proper use of these model forms would constitute a defense in civil actions involving the disclosure statement.

Issuance of model forms and clauses will greatly aid creditors by eliminating a major source of compliance uncertainty, reducing compliance costs, and by reducing a type of civil litigation that does not contribute to consumer protection.

**Section 9. State exemption.**—Would amend section 123 of the Act to require Federal enforcement agencies with jurisdiction over federally chartered depository institutions to establish procedures to enable State enforcement agencies to demonstrate their ability to enforce the Act with respect to federally chartered creditors and to allow State examiners to enter a national bank for purposes of enforcing the Act.

The Truth in Lending Act provides that a State may apply to the Federal Reserve Board for an exemption of State-regulated transactions, provided the transactions are subject to requirements substantially similar to those imposed by the Act and for which there is adequate provision for enforcement. The Federal Reserve Board has refused to exempt the transactions of federally chartered institutions until "appropriate arrangements have been made" between a State and the relevant Federal agency to assure enforcement capability. States desiring exemption, however, have been unable to demonstrate their enforcement capabilities with respect to federally chartered institutions because the Federal agencies have refused to allow State examiners to enter such institutions.

The proposed amendments to section 123 would require the Office of the Comptroller of the Currency, the Federal Home Loan Bank Board, and the National Credit Union Administration, to establish procedures for enabling a State to demonstrate its truth-in-lending enforcement capabilities and, when these capabilities are adequate, enter into an agreement with the State allowing

access to those federally chartered institutions.

**Section 10. Rescission rights.**—Would amend section 125(a) to substitute "dwelling" for "residence" thereby making clear that rescission rights apply only to transactions in which the creditor is taking a security interest in real property containing the borrower's home, and not to security interests covering vacant lots.

**Section 11. Open end credit plans.**—Would repeal sections 127(a)(5) and 127(b)(7) which call for disclosure of an "average effective annual percentage rate of return" in certain open end credit plans. These sections have rarely, if ever, been used by creditors and account for an entire section Regulation Z. Such a repeal would simplify the Act without diminishing in any way the consumer protection it affords.

**Section 12. Creditor identification.**—Would amend sections 127(a), 128(a), and 129(a), to require the creditor to disclose its complete name and address. The Act does not at present require the creditor to identify itself. This is an essential item of information from the standpoint of consumer communication with creditors and truth-in-lending enforcement.

**Section 13. Default charges.**—Would amend sections 128(a)(9) and 129(a)(7) to make clear that these provisions do not require disclosure of non-monetary penalties such as a creditor's right of acceleration upon default.

There has been substantial litigation involving disclosure of non-monetary default penalties. This litigation has not contributed to consumer protection nor does the disclosure of non-monetary default penalties appear to facilitate effective credit shopping. The proposed amendment in no way affects the responsibility of creditors to disclose monetary default charges but would reduce litigation and compliance costs which may contribute to high consumer loan rates.

**Section 14. Security interests.**—Would amend sections 128(a)(10) and 129(a)(8) to eliminate the need for creditors to disclose the type of security interest taken by a creditor. The proposed amendments would not eliminate the creditor's responsibility to identify the property in which the security interest is being taken.

The disclosure of the type of security interest being taken is ordinarily expressed in complex legal terms that provide little useful information or benefit to the consumer. The requirement, however, has been the source of considerable litigation that may contribute to higher compliance costs from which consumers derive no benefit.

Security interest litigation has dealt with the type of security interest and not the identity of the securing property. Consequently, the requirement to identify the security property would be retained.

**Section 15. Limited civil liability.**—Would amend 130(a) to limit civil liability in consumer credit transactions to the failure to disclose or disclose accurately: the amount financed; the finance charge; the annual percentage rate; the cost of and the borrower's ability to refuse to purchase optional credit life, accident, or health insurance; the number, amount and due dates of periods of payments scheduled to repay the indebtedness; monetary default, delinquency, or similar charges; the existence of a security interest and the identity of the securing property; and the consumer's rescission rights. In addition the proposed amendment would alter 130(b) to provide that in the event of a disclosure violation involving the amount financed or the repayment schedule, if the creditor notifies the borrower of the error within thirty days of discovering the error or of being notified of it by an enforcement agency but before any action is taken by the borrower, the creditor would have no liability

beyond providing the borrower with accurate disclosure statements. As for finance charge and annual percentage rate violations, the creditor can again avoid civil liability if notice and adjustments in appropriate accounts are made within thirty days. Similarly, credit insurance and rescission notice violations can be rectified without incurring civil liability if notice and an offer to cancel and refund the insurance premiums paid or to rescind the transactions, are provided within thirty days of learning of the violation and before the borrower initiates an action against the creditor.

At present large sums of money are paid to attorneys to interpret Regulation Z and draft complex disclosure statements in an effort to avoid incurring civil penalties. Additionally, Federal enforcement agencies have been reluctant to disclose violations to affected consumers for fear of precipitating extensive litigation over violations which in no way impaired the consumer's ability to shop for credit. Limiting civil liability to those disclosure items that are essential for effective credit shopping will reduce compliance costs arising from excessive creditor efforts to avoid civil liability, eliminate agency reluctance to disclose individual violations, and simplify disclosure statements making them more useful in credit shopping.

**Section 16. Limitation on civil actions.**—Would amend section 130(e) of the Truth in Lending Act to extend the statute of limitations for civil violations of the Act from one year to three years.

**Section 17. Set-off rights.**—Would amend section 130(h) of the Act to make clear that this section, which prohibits a borrower from offsetting truth-in-lending damages against a debt owed unless a court has found a truth-in-lending violation, does not prohibit a borrower from raising a creditor's violation by way of recoupment or similar doctrine where permitted by State law.

**Section 18. Effective date.**—The Act would take effect on the date of its enactment.

#### EDITORIAL COMMENT OPPOSING AGENCY FOR CONSUMER PROTECTION

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. MAHON. Mr. Speaker, we are all interested in protecting the consumer. One way to protect him is to protect him from undue harassment and regulation by Federal agencies. We now have on the statute books a wide assortment of legislation designed to protect the consumer and the citizen generally.

In light of the circumstances, I wish to express my opposition to the creation of what has been called the Agency for Consumer Protection, also the Agency for Consumer Advocacy.

I have been pleased to note editorial comments from newspapers in my congressional district in opposition to the Agency for Consumer Protection. I wish to quote briefly from a couple of hard hitting editorials.

The *Avalanche-Journal of Lubbock, Tex.*, May 3, 1977, condemns the proposed Agency and suggests the following:

If the existing agencies aren't doing their jobs in the public interest, shake them up (or, better still in some cases, eliminate



them) until the job's done right but, for heaven's sake, don't throw another monkey wrench into the nation's economic and marketplace affairs.

The Plainview, Tex., Daily Herald, of April 20, 1977, in discussing the Agency, declares:

One thing is probably sure. The \$15 million annual budget that has been envisioned will only be chicken feed after a year or two. The history of existing agencies teaches that if it teaches nothing else. And who will pay? Everyone, of course, but particularly that average taxpayer otherwise known as a "consumer".

We have had more than enough of indefensible and impractical actions by Federal agencies. It is urgent that the trend toward loss of confidence in the Federal Government be halted.

#### BEHIND THE ENERGY FRAUD

#### HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. McDONALD. Mr. Speaker, since we are today in the process of creating yet another Government agency to deal with the Government-created energy shortage, it cannot be too strongly emphasized that this is the exact opposite of what is needed to solve the problem.

Energy resources are not scarce—access to them has merely been blocked by the Government. The solution is to remove the Government controls and allow the market to alleviate the shortages by increasing production.

An excellent summary of this point is made by John F. McManus in a news column entitled "Behind the Energy Fraud." This column—the Birch Log—is a weekly news feature of the John Birch Society subscribed to by over 140 newspapers. This particular article appeared in the Boston Globe of May 5, 1977.

The article follows:

#### BEHIND THE ENERGY FRAUD

There are only two basic ways to confront a shortage. The first way is to produce more goods, and the second is to accept a reduction in consumption.

Under normal conditions, any shortage will quickly result in a voluntary redirection of effort in order to fill the need. The promise of economic reward is the only stimulus required. That promise is so compelling, in fact, that it will even lead to the creation of substitute products, some of which turn out to be more practical and even more economical than those they replace.

Shortages in a free society are always looked upon as opportunities. As a result, they are always short-lived and relatively inconsequential. But when free men are deprived of the ability to deal with shortages either by producing or by improvising, then shortages worsen and become the rule, not the exception.

#### IS ENERGY REALLY SCARCE?

The United States is supposed to be in the grip of an energy shortage. Yet various experts in the field insist that our nation is sitting on a huge sea of petroleum and natural gas. Thomas P. Medders, Jr., president of the Independent Petroleum Association

of America, told a Senate Committee in 1972 that our recoverable resources "are in the order of 100 years' supply at present rates of U.S. consumption of both oil and gas." A 1972 Senate Interior Committee Report reviewed numerous projections of recoverable oil and concluded that Mr. Medders had significantly underestimated our potential reserves.

Besides oil and natural gas, the U.S. is richly blessed with coal deposits. The most conservative estimate indicates that we have a 400-year supply at present rates of consumption. "We've got coal coming out our ears," says Bureau of Mines chief Dr. Thomas Falkie. And we lead the world in the use of nuclear power and in nuclear technology.

The truth is that the widely publicized shortage is contrived, artificial, and as phony as a nine-dollar bill.

#### GOVERNMENT CREATED THE SHORTAGE

What's going on is deadly serious. Government, mostly in the name of over-protecting birds, fish, air, and water, has so impeded the workings of the free enterprise system that a shortage of vital fuels has resulted. Laws, edicts, executive orders, and judicial decrees have restricted domestic drilling, blocked off-shore drilling, delayed the Alaska pipeline, mandated wasteful anti-pollution devices on autos, and put a price ceiling on natural gas that has inhibited production. When coal and nuclear substitutes were offered by the free enterprise system, government outlawed much of the use of coal and is now harassing nuclear power producers to an early death.

In any discussion of "the energy crisis" by national leaders, we the people get blamed, not the government. It is we who must cut consumption, and because we won't do so voluntarily, we must be forced to do so with taxes, restrictions, and controls. The government, which created the problem, now insists that a huge increase in its power is the solution.

The free enterprise way to handle a shortage is to produce more goods. The controlled society way, the Communist or Socialist way, is to increase taxes, controls, and restrictions, all of which lead to less production—and to total government.

The next time someone tries to tell you that America's leaders have brought about the energy crisis deliberately in order to make the U.S. a Communist or Socialist state, please listen carefully. Your help is needed to put an end to this sinister scheme.

#### PERSONAL EXPLANATION

#### HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. MAZZOLI. Mr. Speaker, because of previous commitments in my district, I was absent on June 1, 1977, and missed three rollcall votes. Had I been present:

I would have voted "yes" on roll No. 294 to amend the bill H.R. 6970, the Marine Mammal Protection Act Amendment to assess a fee of \$32 for each porpoise killed in purse-seine fishing for tuna.

I would have voted "yes" on roll No. 295, final passage of H.R. 6970, the Marine Mammal Protection Act Amendments; and

I would have voted "yes" on roll No. 296, final passage of H.R. 6967, Peace Corps Authorization for fiscal year 1978.

#### MISS DOROTHY RINGLEIN

#### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. KILDEE. Mr. Speaker, I should like to call to the attention of the Members of the House, the retirement of a truly master educator, Miss Dorothy Ringlein, of my congressional district. I have known Miss Ringlein all of my life. The Flint area community has truly been enriched by her services at Bentley High School. Miss Ringlein certainly has made our community a better place in which to live.

Mr. Speaker, I respectfully request that the Flint Journal article, "Bentley High Just Won't Be The Same," be printed at this point in the Record:

MISS RINGLEIN IS RETIRING—BENTLEY HIGH SCHOOL WON'T BE THE SAME

(By Alice Lethbridge)

Bentley High School without Miss Ringlein?

After 34 years as a teacher and as Bentley's only full-time librarian, Miss Dorothy Ringlein is retiring. Except for her first year at Dye High School, she has spent her entire career at Bentley.

Those who worked with her, those who were her students, parents of her students and members of the Bentley community, say they will find it difficult to fill the place she has carved through a lifetime of dedication.

Dedication for Miss Ringlein has always meant enthusiasm—giving more than 100 per cent at whatever the challenge, according to those who know her.

In her early years, it was not uncommon for her to entertain an entire class at her home as a treat for work on a school project. Sometimes, they put on a comic style show at a school carnival, using clothes from trunks in the Ringlein attic.

There was one time when a young man in her class made a smashing appearance, clothed in a long, velvet formal coat with a satin-lined hood.

There was always the promise of fun along with work, when Miss Ringlein was the instigator.

Many were the PTA programs she organized during her years as a teacher. Parents of Bentley students in those years recognized the kind of teacher she was and stood behind her. One was the late Mrs. Myrtle Wightman, who had children and grandchildren in the Bentley system.

"Dorothy Ringlein is one in a million," she said. "We're fortunate to have someone like her and everybody at Bentley knows it."

There are many cases of families with more than one generation who were taught by Miss Ringlein. Mrs. Wightman's son Donald, a graduate in 1953, has had two children finish there, and one will graduate next year.

Donald's wife, Carol, is a Bentley grad of 1956. Her sister, Billie, and brother-in-law, Fred Gussie, are from 1960 and 1966 respectively. Their two daughters are in Bentley Elementary.

Mrs. Dolores Denz Allen and her sister, Rosemary Denz Simpson, were Bentley graduates of 1958 and 1959. Mrs. Allen has three children in the system.

"We all liked and respected Miss Ringlein very much. We're proud of her for holding onto standards of education and discipline," Mrs. Allen said.

Although she expressed the wish to retire without any fanfare or "flowery speeches," Miss Ringlein isn't going to get away with

that. Many persons in the Bentley area, having heard of her retirement, called the school and asked what was being planned in her honor.

She agreed to an informal reception after the baccalaureate exercises Sunday. The reception will be from 3 to 5 p.m. in the high school library. All residents of the community have been invited.

The word is getting around to her friends and former associates at the school. A Bentley graduate living in Pinconning has already sent word she's coming especially to see Miss Ringlein. She is Dianne Schott, Class of 1964.

Miss Ringlein is a graduate of old St. Mary High School, Class of 1938, and of Nazareth College, where she majored in French.

After teaching at Bentley for 25 years, she became the first full-time librarian and has served in that position for 19 years.

She's also organist for the choir of St. Mary Church and has been organist at various times at St. Joseph Hospital chapel and Our Lady of Guadalupe Catholic Church. She was the accompanist for the Knights of Columbus Choir for many years.

World travel has been one of her chief hobbies, and she's been in many parts of the world. Marycatherine McCarthy, librarian at Central High School, and an occasional tour companion, once remarked that Dorothy made friends wherever she went, whether golfers in Venice or tour guides in Ireland.

She corresponds with many friends abroad and has exchanged visits with them.

It's being said among those who have watched the way she served Bentley over the years, "They'll never replace Miss Ringlein, Not with just one person, anyway."

What they mean is that few educators remain who give of themselves and their time the way Miss Ringlein did, in evening hours, over weekends and during summer "vacations." She often had a niece or nephew along to help with work she couldn't bear to let wait.

She is the daughter of Mrs. Jennie Ringlein and the late William Ringlein. Her family consists of one sister, Mrs. Carolyn Studer, three brothers, Donald, Robert and Dennis, all of Flint, and nieces and nephews.

Her retirement is an early one. But after all those years of playing "Pomp and Circumstance" for her students, she'll be saying goodbye to Bentley High this year, too.

## THE PORNOGRAPHY PLAGUE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. MICHEL. Mr. Speaker, recent reports in the media concerning exploitation of children by pornographers have shocked the Nation. The Chicago Tribune has been running front page stories for weeks about the child-pornography rings that infest our Nation.

Once more, then, we ask ourselves the question: In a free society, what are the choices of citizens when confronted by pornography? I recently came across an article that offers a starting point for the beginning of a national discussion of this issue. William A. Stanmeyer, the writer, reaches the conclusion that society is not helpless against pornography and that curtailment of anti-laws against pornography are not "the first small step" on a road to censorship of all publications.

For too long the argument has been made that the first amendment forbids citizens from doing anything about the publication, advertising, sale and display of pornographic material. This "absolutist" approach is, in my view, wrong. I believe democracy is strong enough and the American people wise enough to devise ways in which freedom of the press can be defended while, at the same time, pornography is either stopped or made less of a public nuisance than it is.

One need not endorse the specific approach of the point of view of the author of this article to appreciate the intelligence and aversion to pornography that informs every line.

At this point, I introduce into the RECORD "A Parent's Case Against Porn," published in the National Observer, May 16, 1977:

### A PARENT'S CASE AGAINST PORN

(By William A. Stanmeyer)

Pornography exploits. Pornography is exploitation. Pornography teaches exploitation. Yet we have otherwise serious lawyers and writers urging that society have no laws to protect its citizens from the harm that a vast majority of citizens correctly perceive will flow from the pornographic flood. Presumably this defense of moral pollution stems from misunderstanding what pornography is, or blindness to the harm it does, or mistake as to the impact control will have on freedom of speech, or confusion as to law's legitimate role in protecting public morality.

The public wants the law to restrain pornography. Most "intellectuals" do not. The purpose of this article is to remind the intellectuals why the public is right.

In a Feb. 26 article about children in pornographic films, The Observer quoted a description of such a movie.

"The film shows the first communion of five girls. A motorcycle gang comes in and crucifies the priest . . . in a very bloody way, [and then] they rape the five girls."

This summary scarcely captures the film's savagery or suggests its emotive impact. It does not give the blood and gore up close. It omits the fright and shame of the children, the leer of the attackers, the details of violence against a tortured man and defiled little girls. Indeed, a detailed account of the film would doubtless be obscene; readers would be outraged, saying, "He didn't have to say all that to make his point."

Exactly. Neither did the film producer.

In defining obscenity, the Supreme Court has said that the basic guidelines are "(a) whether the average person, applying contemporary community standards, would find that the work, taken as a whole, appeals to the prurient interest; (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value." This is a definition, a workable one; as precise as such phrases as "due process," "the public interest," or "reasonable man"—standards the law uses daily.

Some writers insist such a definition will bring repression of Shakespeare or the Bible. This view suggests there is no difference between art and trash—and it says a good deal about their critical faculties and disdain for the public's common sense, not to mention their unfamiliarity with Shakespeare and the Bible.

### A DEGRADING PICTURE

Pornography debases sex. It reduces the protagonist to a chemical urge and his 'oil

to a function or an organ. She becomes a chattel, a robot, a toy for a moment's fun.

As D. H. Lawrence wrote in *Sex, Literature, and Censorship*: "Pornography is the attempt to insult sex, to do dirt on it. . . . The insult to the human body, the insult to a vital human relationship! Ugly and cheap they make the human nudity, ugly and degraded they make the sexual act, trivial and cheap and nasty."

Contrary to what its purveyors say, pornography is not "telling the truth about sex." Just the opposite. It says: About sex there is nothing private, noble, or personal. It robs man of his dignity. Its message is: *Man is garbage.*

Obscenity presents a graphic, degrading picture of human life and invites the viewer to wallow in it. It plunges him into imaginative preoccupation with autoerotic fantasies wherein he entertains himself by violently and/or sexually feeding, vicariously, on the helplessness or willing vulnerability of a no-longer-human animal.

"Civil libertarians" would have us believe the only "real" harm the law can guard against is direct, immediate, and physical. This unconscious positivism blinds them to other real harms—psychological, attitudinal, moral—that cannot be calibrated but do deeply affect individual lives and, collectively, can debase the citizenry's spiritual environment.

To say that a book, magazine, or play never corrupted anyone is to say that reading or watching a play never improved anyone. Irving Kristol has pointed out what a curious position this is for college professors: Denying that education can improve anyone, they deny the reason for their own professional lives.

Pornography educates. It teaches: Human beings are mere animals. . . . the highest value is immediate pleasure. . . . other people may be used and then discarded.

When mingled with violence, pornography depicts the protagonist harming for the sake of harming. . . . and enjoying it. Why would anyone want to watch a violent sacrilege such as the crucifixion of a priest and the rape of children? For entertainment. Why want to watch someone else performing sexual intercourse, save to plagiarize his pleasure through one's own autoerotic fantasy? A person, especially a minor, frequenting such self-debasing "entertainments" will learn that this is what life is all about, that life is not about anything of value.

Civilized society cannot afford to be neutral toward such a perception of life. For education to civility is an effort to make of man something more than a creature of elemental passions and sensations. To civilize is to help people internalize respect for others, sharpen their sense of reality, grasp the difference between the decent and the indecent, desire the noble and eschew the ignoble, control their passions, do what is right even when it costs, stand in awe and wonder at such ultimate mysteries as the utter uniqueness of every other person, love, sex, suffering, and death.

### AN ATTACK ON CIVILIZATION

Because obscenity rejects each of these educational goals, it is an attack on civilization. By capitulating to obscenity, civilized society denies there is any difference between civilization and barbarism. It is reasonable to assume that a depraved moral outlook can translate into depraved conduct—i.e., more crime. Concern over excessive television violence is well-founded.

The Founding Fathers were not absolutists. They upheld legal sanctions against libel, indecent speech and conduct, profanity, and other abuses of free speech. They knew the difference between liberty and license. They knew freedom can be abused. They did not deem free speech to be solely a question of "rights" of the speaker. They also considered



the purpose of speech, which was to foster the politically and morally Good Society.

It is not always easy to decide what conduct is "reasonable," what process is "due," what material is pornographic. But we must try. What must be balanced is not merely a publisher's asserted "rights" against a prosecutor's zeal, but also the harm to society from a few unwarranted obscenity convictions against the harm to society if every newsstand, TV screen, and even schoolbook panders a thousand pictures of perversion.

The absolutists say we cannot draw any line anywhere. This is patent nonsense. In a democracy, why should the minority who cannot distinguish between art and trash dictate the education—through magazines, television, and schoolbooks—of the children of the majority, who can tell the difference?

To say the law has no business promoting morality is to exhibit amazing ignorance of Anglo-American history. Nearly every branch of law assumes the existence of a standard of moral good and evil. Besides physical crimes such as murder and theft, the law proscribes "sharp" business practices, "unfair" political campaigning, racial discrimination. Civil-law notions of "fault" in tort and "fiduciary" obligations draw their substance from moral concepts.

The objection drawn from the Prohibition Era is not apt. The law should promote temperance, not abstinence; decency, not sanctity. The law should not—and certainly our laws against pornography do not—try to "make" people be virtuous, but only make it harder to be utterly vicious.

Society is more than an aggregate of individuals. Besides the pornographer's private "right," there is the public right to a decent social environment. As a parent of four little children, I have a Constitutional right—recognized by the Supreme Court since 1925—to train my children to their higher obligations. To rear decent children requires that public entertainments—magazines, movies, TV, etc.—not be utterly indecent. The pornographer arrogates the "right" to teach my children to be indecent. Why should a few pornographer dictate the sociomoral environment of the children of millions of parents?

The law guides future generations as they grow into its precursive patterns. The law expresses to the young their elders' experienced judgment about right and wrong, a distillation of the mature community's experience and history. To remove all legal control of pornography is to teach the young that their elders do not know right from wrong; that we do not care how our young entertain—that is, educate—themselves; that civilization and barbarism are the same.

It is capacious to object that "some people will do it anyway," so that in moral matters, having failed to obtain 100 per cent compliance, the law should abdicate. This is also true of laws against shoplifting and speeding. The law expresses a standard that most people respect. Without law, the marginal person would be adrift. The fact that some people break the Ten Commandments is not a theological argument for their repeal. Nor is the fact that some people break laws that promote a basic moral standard a legal argument for their repeal.

To the absurd assertion that laws proscribing the raunchiest of sex magazines will lead to censorship of Time and Bonfires of National Geographic, I answer: This didn't happen in the past, when there was more censorship. The Supreme Court would not permit it. The alternative of "anything goes" is far more likely to lead to school-gate bookstores glutted with picture books of homosexual rape and child torture.

Some say, "The best way to deal with pornography is to let it run its course; once sated, people will get bored with it." This is somewhat like saying the best way to deal with the filth in Lake Erie is to let Lake Erie fill up till it can't take any more. Why should

parents have to let their children's moral environment get so corrupt that by comparison Sodom and Gomorrah resemble a Trapist monastery?

The salient issue is, May we draw a legal line somewhere? Or must we draw no lines? Must we tolerate everything, no matter how depraved, how sick? The public's answer is, We will draw a line, because we have the right to rear decent children in a decent society; and children or no, decent adults have a right to a decent society. And the public is right.

#### SOLAR ENERGY NEEDED NOW

#### HON. JOSEPH S. AMMERMAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. AMMERMAN. Mr. Speaker, one of the major features of President Carter's energy program is its realization that solar heating technology exists now and can be used to make a significant contribution to the Nation's energy needs now.

One of the newspapers in my district, the News Herald in Franklin, Pa., had a perceptive editorial on the subject which I wanted to call to your attention:

#### SOLAR FUTURE IS NOW

The future of solar energy is now.

Contrary to the popular impression that harnessing the heat of the sun is one of those "exotic" energy sources whose development is many years away, a veritable boom is taking place in the solar energy field.

A recent estimate by the federal Energy Research and Development Administration (ERDA) indicates that some 5,000 homes in the United States are now heated completely or in part by solar energy units. Two years ago, there were just 183 such homes.

In addition, approximately 5,000 new solar hot water heaters are in operation, plus uncounted thousands of solar swimming pools.

The boom is barely beginning. According to one expert, the number of buildings heated by solar is doubling every six or eight months. "It's exploding."

In his energy message, President Carter expressed hope that the number of solar homes would jump to 2.5 million in the near future, spurred by his proposed tax credit to homeowners and businesses converting to solar.

Last year, the Department of Housing and Urban Development spent \$4 million to encourage construction of nearly 1,500 solar homes. Lending institutions are also financing an increasing number of solar homes, not all of them in sunny parts of the country by any means.

A typical homeowner on Long Island, for example, can reduce his hot water heating bill by 50 percent with a solar system.

Hundreds of companies are becoming active in the field, ranging from giants like Grumman, General Motors and General Electric to small ones like Mor-Flo Industries of Cleveland and Universal Solar Energy of Miami.

A spokesman for Mor-Flo, which also makes gas and electric water heaters, predicts that solar water heaters will have sales of \$893 million within five years, \$2.4 billion within 10 years and \$4.1 billion in 15 years.

This is only a small part of the action. Nationally, says the founder of Universal Solar Energy, solar heating and cooling will become a \$50 billion industry in the foreseeable future.

With so many different solar collectors now available, costing from several hundred to a couple thousand dollars—investments that can be recovered in a few years even if the prices of conventional fuels don't continue to rise—the question is why we still think of solar energy as "sometime in the future."

One reason, suggests Joseph G. Gavin, president of Grumman Corp., may be the name. Solar energy sounds like space technology, something exotic, complicated and expensive. Actually, anyone reasonably handy with tools can build a solar collector from materials readily available from a local lumber yard.

Another reason for the misperception, he says, is that most publicity about solar energy has to do with future-oriented research projects being conducted by such agencies as ERDA and NASA. Solar energy is also wrapped up in the idea of "energy independence," which is asking more of it than it will ever be able to deliver.

But while more research is certainly needed, and while solar energy will never account for more than a small, though significant, percentage of our total energy needs, the country is overlooking the opportunity to use what we have right now, says Gavin.

Solar energy requires no invention, no new government agencies, no new installation or servicing skills, no new manufacturing or distribution methods.

All it requires is for individual homeowners who are fed up with the rising cost of fuel to realize that they can become not just energy consumers but energy producers—now.

#### CLEAN AIR FOR NONSMOKERS

#### HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. OBERSTAR. Mr. Speaker, Congress has long recognized its responsibility to stop air pollution. The Federal Government has put emission controls on automobiles, banned certain aerosol repellants, and established standards for air quality. But while we have worked to clean up our outdoor air, Congress has totally neglected the pollution of our indoor air by cigarettes, cigars, and pipes.

The 150 million Americans who do not smoke have a right to breathe clean indoor air protected from the toxic gases of tobacco smoke. Over 30 States have recognized this right by passing laws regulating smoking in public places. My own State of Minnesota has one of the most advanced laws in the Nation with broad, effective coverage. This right must also be protected by the Federal Government. Therefore I am cosponsoring H.R. 7170, the Federal Nonsmokers Protection Act of 1977, and urge my colleagues to work for its prompt passage.

The "nonsmokers rights" issue has gained prominence in the last few years as more evidence shows that tobacco smoke is not only annoying, but actually hazardous to the health of nonsmokers. Many more toxic substances enter the air around a smoker than he ever inhales. Twice as much tar and nicotine, five times as much carbon monoxide, and 50 times as much ammonia enters the air from the tip of a burning cigarette than is ever inhaled by the smoker himself.

Tobacco smoke is indeed an indoor air pollutant; while the Federal Air Quality Standards limit carbon monoxide in outdoor air to an average of 9 ppm (parts per million), the air inhaled by persons sitting next to a smoker may exceed 90 ppm. Even in a well-ventilated room, seven cigarettes smoked in an hour can raise the carbon monoxide level to 20 ppm. Many Americans with heart and lung conditions or allergies must avoid places such as restaurants, offices, and public meetings because the tobacco smoke in these places aggravates their physical problems.

Nonsmokers have begun to realize that it is not impolite to ask someone to refrain from smoking; it is no more impolite than asking someone to stop standing on your foot. A few smokers take offense at these requests, feeling they have a right to smoke wherever and whenever they want. Others are simply not aware that their habit may be discomforting or even harmful to others. Laws which set aside designated smoking areas resolve those kinds of problems. Nonsmokers are assured clean air in their area, while those in the designated smoking areas can pursue their enjoyment, assured that their smoke is bothering no one else.

Despite the dire predictions of the tobacco industry, nonsmoking laws have worked quite well. Under the Minnesota Clean Indoor Air Act, one of the most comprehensive nonsmokers protection laws in the Nation, smoking is allowed only in designated areas in restaurants, retail stores, offices, schools, hospitals, nursing homes, auditoriums, arenas, and meeting rooms. The reaction to the act has been overwhelmingly favorable. A poll of 433 students at the University of Minnesota showed that 94 percent of the nonsmokers and 88 percent of the smokers approved the act. Enforcement is not always easy, but as the author of the act, Representative Phyllis Kahn, states:

Nonsmokers are much less timid about standing up for their rights when they know they have a law behind them.

For several years now, smokers and nonsmokers have been separated in airplanes, buses, and trains. H.R. 7170 would continue to protect nonsmoking passengers by limiting smoking to designated areas in airports, bus stations, and train stations. Many passengers spend hours waiting for a plane, train, or bus. Their right to clean air is as important while waiting as it is while actually travelling.

H.R. 7170 also places restrictions on smoking in Federal buildings. This is important for the health of both Federal employees who work in these buildings and Americans who must do business or attend hearings there.

The time has come for a rational discussion of nonsmokers' rights. Nonsmokers are not "zealots," unless we are prepared to believe that it is fanatical to want to breathe clean air. Neither are nonsmokers looking for the abolition of smoking; they are simply trying to find a way to accommodate smokers without giving up their own right to good health. The Federal Nonsmokers Protection Act is a reasonable approach toward that goal. I urge my colleagues to read, discuss, and support H.R. 7170.

## REVIEW OF ESEA TITLE I EVALUATION STUDIES

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. QUIE. Mr. Speaker, over the years there has been a great deal of concern over whether or not the programs funded by title I of the Elementary and Secondary Education Act have resulted in better educational programs at the local level. Recently, at my request, the Planning and Evaluation in the Department of Health, Education, and Welfare, prepared a paper reviewing the evaluation studies of title I from the very beginning through the latest ones released last fall. The conclusion of the review, prepared by Dr. Gerry Hendrickson, is that evidence now does clearly show that children enrolled in title I programs are making significant advancements.

This paper was presented at the Annual Conference of the American Educational Research Association in April of this year. I commend it to my colleagues who are interested in the effectiveness of Federal programs:

### REVIEW OF TITLE I EVALUATION STUDIES

Gerry Lynn Hendrickson

The Elementary and Secondary Education Act (ESEA) of 1965 was the first piece of social legislation to require evaluation. The evaluation requirements of Title I were added at the insistence of Senator Robert Kennedy who wanted to provide a mechanism for informing parents and communities on how well their program was working. This information, he hoped, would let parents know if a change was needed and would give them ammunition to press for reform. The evaluation requirement Senator Kennedy drew up consisted of a system whereby the districts collect data and submit it to the States who in turn aggregate district data and submit it to OE. Early legislation also required the Commissioner to report to Congress on the effectiveness of the program as a whole.<sup>1</sup>

Thus, early legislation embodied two distinctly, if subtly, different purposes for evaluation: to provide for accountability at the local level and to provide a nationally valid assessment of the program. Although these purposes are certainly not mutually exclusive, in practice it has been difficult to serve both with one evaluation. For example, for the first purpose it is sufficient to have the district employ any reasonable testing and evaluation procedure that is understandable to the layman; for the second, some standardization is necessary. Standardization, however, works against giving local agencies the flexibility they need to design their own evaluation systems. The basic conflict, implicit in the earliest legislation, is still with us. We are still wrestling with the problem of what evaluation strategy is appropriate for what purpose, and whether one evaluation can be made to serve multiple purposes.

The studies reviewed in the remainder of this paper were undertaken for the purpose of providing national assessments of the effectiveness of Title I, although other purposes may have been served as well. The studies relied on two basic data collection strategies. One strategy called for aggregation of data from the Kennedy's system, i.e., local data passed to the States and aggregated there; State data sent to OE in the form of State Annual Evaluation Reports and aggregated across States. The problem with this

strategy is that only a handful of states produce data comparable enough and correct enough to warrant aggregation. Reliance on this strategy does, however, allow in theory for one evaluation system to serve both local and national needs. The second strategy calls for federally sponsored data collection efforts from nationally representative samples. There have been several national data collection efforts of varying design and success. Most have used local data; one has relied on national testing. Problems with the independent federally sponsored evaluations are that they are expensive and usually take years to complete. Furthermore, local and national needs have not always been served by the same evaluations. The studies reviewed here are organized according to which of the two strategies they adhered to. The aggregations of State Annual Evaluation Reports will be discussed first followed by federal sponsored evaluations.

### AGGREGATION OF STATE ANNUAL EVALUATION REPORTS

There have been three major attempts to aggregate data from State Annual Evaluation Reports:

#### Fiscal years covered, study, and office responsible

1969-1970: AIR (Wargo, Tallmadge, Lipe and Morris, 1972) ESEA Title I: An Analysis and Synthesis of Evaluation Data from fiscal year 1965 through 1970; OPBE.

1971-1974: RMC (Gamel, Tallmadge, Wood, and Binkley, 1975) State ESEA Title I Reports: Review and Analysis of Past Reports and Development of Model Reporting Format; OPBE.

1969-1974: SRI (Thomas and Pelavin, 1976) Patterns in ESEA Title I Reading Achievement; ASE.

All these studies base their findings on reading achievement data for a given school year contained in State reports, and all present data in the same way: average monthly gain in grade-level equivalents. By definition the average (50th percentile) child gains one month for every month in school, and this "month-for-month" criterion has become the unofficial goal for disadvantaged students.

All three studies reported basically the same findings: that Title I participants, with few exceptions, meet or exceed the month-for-month standard within a given school year, although there is variability in average monthly gain. Furthermore, all found that children in the upper grades were farther behind than children in the lower grades. Generally, by the third grade, the Title I children were scoring at or below grade level on the pretest and, with each successive year, were falling farther and farther behind.<sup>2</sup> It is important to note that this is cross-sectional, not longitudinal, data. However, even though different children were tested at each grade level, the findings seem paradoxical. In trying to resolve the conflict, researchers have discovered some very important features of both the grade-level equivalent metric and the Title I program. Three explanations for the paradox have been offered: the gains during the school year are real, but they are not sustained over the summer (Thomas and Pelavin, 1976; Pelavin and David, 1977); the gains are real but the children are removed from the program as soon as they begin to make progress (GAO, 1975); the gains are not real, but rather an artifact of the grade-level equivalent metric (Gamel, et al., 1975).

A word about the confidence we can place in this data is in order. Because sampling and reporting procedures testing dates and the tests themselves vary across states, usually only a handful of states use procedures comparable enough to warrant aggregation. Hence the meaningfulness of aggregated figures can always be questioned. The early reports (Wargo, et al., 1972; Gamel, et al., 1975) were able to aggregate data from only

Footnotes at end of article.



a handful of states (from two to six States for the years 1969 through 1973, for 9 states in 1974). Both reports stress that the conclusions must be tentative because of the smallness of the sample and problems with the data. On the other hand, even though they were aggregating data from the same years, Thomas and Pelavin (1976) were able to increase the sample considerably by going back to the states to request missing data. They feel that greater confidence can be placed in their data.

#### FEDERALLY SPONSORED EVALUATION

For several reasons—chief among them, the severe disenchantment caused by the quality of data in the State Annual Evaluation Reports—several Federally-sponsored evaluations have been carried out independently of them, the major ones being:

#### *School years covered, study, and office responsible*

1965-66 and 1966-67: TEMPO (Survey and analysis of results by TEMPO, case studies by Mosback and others); ASPE.

1967-68: FY 1968 Survey of Compensatory Education (U.S. DHEW); BESE.

1968-69: FY 1969 Survey of Compensatory Education (Glass, 1970); BESE.

1965-70: AIR (Wargo, Tallmadge, Michaels, Lipe and Morris, 1972) review of Title I evaluations conducted from 1965 through 1970; OPBE.

1972-73: ETS Study of Compensatory Reading Projects (full report by Trisman, Waller and Wilder, 1975; Technical Summary by OE, 1976); OPBE.

1. TEMPO—Dismayed at the quality of achievement data in the first State Annual Evaluation Reports, HEW launched the first independent national evaluation of Title I, popularly called the TEMPO study. (TEMPO, 1968; Mosbeck, et al., n.d.). This study reviewed locally collected data in eleven Title I districts and returned the first negative findings: No evidence of widespread enhanced reading achievement associated with the first full year of Title I. The impact of these findings was enormous. There had been such high hopes for Title I; few were prepared to have them dashed.

2. *The National Survey of Compensatory Education*.—The national surveys began in 1968 and continued for three years.<sup>3</sup> Like TEMPO, these surveys relied on locally-collected data; unlike TEMPO the surveys attempted to get data from a large enough sample of districts to be a valid representation of the entire nation. These Surveys of Compensatory Education, then, represented the first attempt to gather nationally representative data which might present a more accurate picture of Title I's effect than that provided by the State's Annual Evaluation Reports. Unfortunately, this goal was not achieved. Achievement data were obtained from only 9 percent of the sample in FY 1968, from only 7.5 percent in FY 1969, and were limited to reading results. The data that were collected were difficult to analyze because of differences across districts in tests used, interval between pre- and post-testing, and test metrics. Despite the problems, the data were analyzed and the results published. The findings from both years were similar: children gained less during the period between pre- and post-testing than the more advantaged non-Title I children (who were near the national average) and fell farther and farther behind the non-Title I children and national norms.

#### *The study of compensatory reading projects*

The Study of Compensatory Reading Projects was radically different from its predecessor studies. OE decided that the scores from a hodgepodge of tests given at different times and submitted for an unpredictable number of children each year simply could not be

used to get a national picture of the effectiveness of Title I. OE decided, therefore, not to rely on locally furnished data, but, instead, to select and test children on the same test given at the same time. This decision had tremendous impact. It enabled OE to produce data far more representative and of far better quality than anything collected in the past. It also marked the first evaluation mainly for national purposes, with reduced emphasis on local needs.

Another factor which must have considerable bearing is that this study looked at reading gains in projects (either Title I or other compensatory education projects) whose goal was to improve reading. Previous studies assessed the effect in producing reading gain in a potpourri of projects, some of which had reading improvement as an explicit goal; others of which probably did not.

The reading test scores collected were analyzed in a variety of ways, and the results were slightly different, depending on the analysis. The unconditional analyses yielded results showing that compensatory education students (who are at the 22nd percentile for all grades) are not falling farther behind students not in these programs (who are at or near the 50th percentile) and, in fact, are catching up, particularly in the second grade. On the other hand, the conditional analysis—curvilinear covariance analysis—shows, as does the preceding group of analyses, that the compensatory education students are not falling farther behind students not in these programs. However, unlike the preceding group, it does not show that compensatory students are catching up. The debate over the appropriateness of analytic techniques and meaning of results will continue for some time. The contractors' report (Trisman, et al., 1975) was reluctant to draw conclusions; OE's Technical Summary (1976) gave a positive interpretation. However, despite this ambiguity, this study produced positive (although only slightly positive) findings for Title I within a given school year on the national level.

Once again, the question of confidence in the results arises. The superior data collection and analysis techniques inspire far more confidence than those used in past studies. On the other hand, this study has not been free of methodological problems. For example, for some subtests and some groups of children, there was a pronounced ceiling effect for the comparison group. In addition, although the sample approximates representativeness, it is not a truly national probability sample of compensatory reading projects. However, these methodological problems are certainly less severe than those encountered in any of the previous studies.

#### *Trends and conclusions*

Up until 1975 reports on the effectiveness of Title I as a whole were uniformly pessimistic. Aggregation of data in the States' Annual Evaluation Reports (Wargo et al., 1972; Gamel et al., 1975) always highlighted problems with the data and the finding that Title I children were falling farther and farther behind their peers, although the generally found month-for-month or better gains were mentioned. National evaluations also showed (e.g., the FY 1968 and FY 1969 Surveys of Compensatory Education), for the most part, Title I children losing ground, while the non-Title I children were gaining ground.

Two recently completed studies seem to be presenting positive findings for Title I. One, an aggregation of data in the State Annual Evaluation Reports, showed Title I children meeting or exceeding month-for-month gains (Thomas and Pelavin, 1976). The other, using data collected from a cross section of children in compensatory reading programs, showed Title I children not falling farther and farther behind their more advantaged peers and, according to some

analyses, actually catching up in some grades.<sup>4</sup>

How do we interpret all this? Do these results represent a trend? Is Title I, some ten years after enactment, beginning to have an effect? It is tempting to conclude that Title I is beginning to "work" . . . that is, money is getting to participants in the form of suitable programs, teachers are learning appropriate techniques for dealing with disadvantaged students and all these things working together are translating into achievement gains for Title I children. However, we cannot infer a trend from studies reviewed here. The older reports were based on scattered, non-random data; in no case was anything like a sample of projects representative of Title I as a whole available either from State Annual Evaluation Reports or independent Federally sponsored evaluations. This fact alone precludes drawing any conclusion about trends. However, the question of reliability of the data and confidence we can place in it aside, there are interesting differences in the results over time in the studies based on State reports and those based on Federally sponsored evaluations. The most recently completed aggregation of State Reports (Thomas and Pelavin, 1976) presents results similar to those of the previous studies of the same type. However, in the former reports (Wargo et al., 1972; Gamel et al., 1975), the fact that the children were falling behind was highlighted; the month-for-month gains were reported but problems with the data were judged to be so severe as to prevent the authors from placing confidence in the conclusions. On the most recent report (Thomas and Pelavin, 1976) the finding that Title I children meet or exceed month-for-month gains is highlighted. Problems with the data were at least partially overcome by going back to the States and asking for more information and by a clever system of cross-checking results over several samples. The difference is more in the interpretation of the results and the confidence researchers feel can be placed on the data than in the actual data.

In contrast, the data from the most recent Federally sponsored evaluation (Trisman et al., 1975) does indicate different results than the older studies of the same type (TEMPO, the 1968 and 1969 Surveys of Compensatory Education). Data from the older studies when aggregated and analyzed did yield negative results. However, data collection techniques were so poor and the quality of the data so bad, that no confidence could be placed in it, as the authors of these reports recognized and stated. The recent study by Trisman et al. (1975) shows Title I children at least not falling behind and for some analyses and in some grades actually catching up within a given school year. These findings represent the first positive results from an independent national evaluation. Furthermore, by choosing a sample that was close to being nationally representative and by using nationwide data from the same test, the authors could begin to be more confident in their findings. What the foregoing implies is that a weak sampling base and poor data collection techniques prevent us from assessing trends. In short, Title I may have improved over time; it may have always been effective and we may just now have sophisticated enough evaluation techniques to pick this up; we just do not know.

While we do not have the data we need to discern a trend over time, we can make statements about the effectiveness of Title I in recent years. The statements must be made cautiously because methodological problems persist even in the recent studies, especially the study aggregating data from state reports. Despite those problems, the recent studies, particularly the recent federally sponsored evaluation (Trisman et al., 1975) do for the first time justify cautious

<sup>3</sup>Footnotes at end of article.

optimism in the ability of Title I to raise the reading achievement of disadvantaged children with a given school year. Documenting patterns of growth over time and looking into ways to sustain growth produced within a given school year are important questions for future inquiry.

## FOOTNOTES

<sup>1</sup> The reporting responsibilities of OE were unspecified in the 1965 legislation. The 1967 amendments added a requirement for an annual report to Congress on program effectiveness.

<sup>2</sup> Two smaller studies merit mention here. The Planar Corporation (1972) analyzed data from State reports for 1962 and their findings were very much in line with those of the RMC and SRI studies. GAO (1975) covered the school year 1972-73 and reported different findings. However, GAO made a serious error in analysis. A reanalysis of the GAO data yielded considerably more positive results, and results very much in line with the four other studies.

<sup>3</sup> These data for Title I children were compiled and published as the FY 1963 and FY 1969 Surveys of Compensatory Education. Data for FY 1970 were collected but not published.

<sup>4</sup> Gain score analysis, analysis of residual gains, examination of point biserial correlation between students' compensatory/non-compensatory status and total test score.

<sup>5</sup> A third recently completed study by GAO reports that the majority of Title I children are not meeting the month-for-month criterion; however, improper data analysis led them to this faulty conclusion. A reanalysis of the GAO study shows the same month-for-month gains for Title I children (see the Appendix), as reported in the other studies.

## ALBERT RAINS SPEECH CONTEST

## HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. BEVILL. Mr. Speaker, the Albert Rains Speech Contest for young orators has become an annual part of the academic year at Snead State Junior College in Boaz, Ala.

As many of the House Members will recognize, the contest is named in honor of one of our former colleagues. Albert Rains served in Congress from 1945 until 1965, when he retired. During his tenure in the House, Albert gained the reputation as one of the best orators in Congress. It is in tribute to that oratorical ability that the Snead State contest is named.

The winners in this year's contest all reside in the Fourth Congressional District, which I am privileged to represent. All of the winning speeches deal with energy and after looking over the speech texts, it is evident that many hours of preparation went into the finished products.

Ms. Karen Dothard of Arab, Ala., took top honors in this year's contest while second place went to Ms. Anita Dover of Crossville, Ala. Mrs. Carol Holt of Albertville, Ala., was the third place recipient.

If there are no objections, I would like to share these three outstanding speeches with the full House:

## OIL

(By Karen Dothard)

While most of us are looking at the energy crisis with a dread of what it holds for our future, there are some people who are looking at it as a quick way to wealth and power. Most of us are feeling an increasing pinch on our pocketbook but there are some who can't find anything to do with all of the wealth they are scraping into their fat bank accounts. There has to be someone who benefits during this time of crisis and these people definitely have an advantage over those of us who don't have an oil well in our own back yard.

Some time has passed since the Arab oil producing countries blackmailed the world into accepting a four hundred percent increase in crude oil prices. A flow of about thirty billion dollars has come out of the pockets of American consumers and into the coffers of multinational oil companies and Arab Sheikdoms. The embargo, production cutbacks, and price increases have hit the American living standards hard, and have driven many nations to economic difficulties.

The Resource Series, article number one states that the United States depends on oil for about one half its energy needs. Imports of oil and petroleum products amounted to more than one third of the United States use by 1973 (4 years ago). Since 1970 with demand rising, the United States, a major producer of crude oil, has depended to a growing degree on imports. The main sources have been Canada, Nigeria, Venezuela, Iran, and Indonesia, as well as Saudi Arabia, the Arab Persian Gulf Sheikdoms, and the North African Arab countries.

These oil exporting countries are definitely aware of our increasing need for their oil. The 1977 World Book Encyclopedia yearbook reports that at a December 16 meeting of the Organization of Petroleum Exporting Countries their previously solid stance on oil prices was broken. Eleven members announced a ten percent rise in the price of oil on January 1, 1977, but Saudi Arabia and the United Arab Emirates set only a five percent increase for the first six months of 1977. The Saudis also showed their advantage by hinting that they would increase oil production, a move that might undercut the other OPEC producers.

Saudi Arabia is one of the main sponges soaking up money from each of us who buys gas for our car or uses gas in the many other ways connected with day-to-day living. It is the world's leading oil exporting nation. It has by far the largest reserves of oil and gas, with proven recoverable reserves of 165 billion barrels compared with 80 billion for Russia, and 36 billion for the United States. The Arabs are definitely aware of their oil dominance over other nations. Recently Sheikh Yamani, Saudi Arabia's Minister of Petroleum and Mineral Resources quietly understated that the shortage in energy supply has reduced to some extent the power of the industrial nations, and is creating a new relationship between them and the owners of raw materials. In other words our growing dependence on oil imports is making us putty in the hands of these rich oil exporting nations.

American oil companies located in foreign countries are slowly being taken over by the governments of these countries as they become aware of the opportunities of the energy crisis. As reported by the 1977 Yearbook, on January 1, Venezuela assumed full control of its vast oil industry in the largest single take-over of American property in history. In July, Saudi Arabia made public their plans to take over the remaining forty percent United States interest in Aramco which is the Arabian American oil company.

This is the most important oil property in the world, owned by Standard Oil Company of California, Texaco Incorporated. The Exxon Corporation, and the Mobile Oil Corporation.

You may not realize this, but Russia has now awakened to the advantages of the energy crisis. The Russians are shipping a record amount of crude oil to the west, while holding back the growth of both domestic consumption and exports to its East European allies. Yearbook 1977 states that the flow of Russian crude oil to the West went up forty percent to four hundred eighty thousand barrels a day.

These countries are jumping at the chance of a quick huge profit handed to them by the energy crisis. The AFL-CIO American Federationist points out the sudden sharp rise of the price of crude oil. At the whole-some level, the price of crude oil fifty seven point five percent in 1974, while refined petroleum product prices exploding to fifty seven point two percent higher. These developments show that someone is clearly making continuing profits.

Even though American owned oil companies on foreign soil are slowly being taken over by foreign countries, they are still out for every penny they can squeeze out of us. These American companies own giant tankers which fly foreign flags to avoid United States registration, regulation, and American wages. These big five oil companies: Exxon, Texaco, Mobil, Gulf, and Standard Oil of California, are multinational giants that exercise unbelievable power over the United States economy and helped to enforce the Arab Oil embargo in 1974. An example of this came when Exxon, part owner of Aramco, broke its contract to provide oil to the United States Sixth Fleet stationed in the Mediterranean, apparently on orders from the Saudi Arabian government. This Example points out the patriotism shown by these American owned oil companies to their mother country. They definitely feel that the beloved dollar is more important than the well being of the United States. This example should show these American oil companies have an overwhelming love of money. Twenty-two large oil companies, according to the Treasury Department repeated combined after tax profits of nine point two billion dollars in 1973.

It is obvious that we as American citizens and victims of the energy crisis, are padding the bank accounts of oil producers whether they are foreign or American owned. If our economy becomes increasingly drained by our need for petroleum imports, we are putting the well being of our country into the hands of those foreign countries who are well aware of their growing advantages of the energy crisis. In my opinion, if we don't find some other source of energy soon, we are headed for a serious economic downfall in the United States.

## ENERGY CRISIS

(By Anita Kay Dover)

Since the birth of the nation, energy and the U.S. have been almost synonymous terms. When you think of the U.S., you think of energy. When you look around at our super-highways, hermetically sealed buildings, and our shopping malls enclosed in artificial climate, they seem almost designed to squander away energy in the unconscious belief that it can never run out. This kind of thinking is detrimental to our nation and it must be changed. While President Carter's energy campaign has convinced some that the energy crisis is real, many people still take it lightly.

Oil is probably the biggest factor in the energy debate. This is not surprising, because the U.S. depends on oil for about half



of its energy needs. In the May 2, 1977 issue of U.S. News & World Report there is a projection of oil demand and production in the U.S. It estimates that unless the U.S. acts to curb consumption, oil demand will be 18.3 million barrels a day this year. The figure will rise to 20.7 million barrels a day in 1980, and 25.6 in 1985. Yet U.S. oil production is estimated to be only 9.6 million barrels a day this year, will rise to only 10 million in 1980, and will stay at that level through 1985. Incidentally, in recent weeks oil production in the U.S. is the lowest it has been in eleven years.

Also, on a worldwide basis, U.S. proved reserves of crude oil have fallen from about one-third of the world's total to only five percent last year.

Our nation is depending on imported oil more and more. Last month, the nation imported almost half of its petroleum, leaving the economy dangerously vulnerable to embargos or price gouging by foreign suppliers. Last year, overall, we imported over forty percent of the total U.S. demand for oil, and the Federal Energy Administration, along with most experts, say that we may be importing fifty percent of our oil needs in just three years.

Recently the American Petroleum Institute did studies of several different forecasts put out by industries, businesses, and private research firms. Here is what they found.

All the projections, regardless of their assumptions show imports of six to twelve million barrels per day in 1990. In other words, the best we can hope for is a slight reduction. But if demand projections are understated or if the economy grows faster than projected, imports could be higher—as much as seventy percent higher.

Recently the CIA also did an assessment of near term supplies of oil. On April 25th, Rear Admiral Stansfield Turner, the CIA director, stated in congressional testimony the agency's study of Soviet oil production. The study forecast that Soviet production could peak as early as next year or as late as the early 1980's. The CIA said that water flooding, used by the USSR to boost production, will soon begin to drown out some big fields.

As a result, the Russians who now supply all their own oil and export a million barrels a day to Eastern Europe may need to buy 3.5 to 4.5 million barrels a day by 1985, the CIA reported. This could create a worldwide oil shortage in the mid 1980's.

The U.S. relies heavily upon mideastern oil, and we seem to think it will never run out. Says Thornton F. Bradshaw, President of the Atlantic Richfield Company "It's true that we are almost hopelessly dependent upon foreign oil, but it goes far beyond that. We have always looked upon foreign oil, particularly Mideastern oil, as being almost infinite. This is not true, Mideastern oil will start to decline in the early 1990's".

Electricity is a fuel source many of us take for granted. We do not think of it running out as gas or oil can, but there are indications that electricity, too, may soon be in shortage.

Because of record-breaking interest rate and soaring fuel costs, power companies have slashed operating and construction budgets to find a way out. In 1974 almost half of the 350,000 megawatts of capacity that utilities planned to build were cancelled or postponed. Two-thirds of the cancellations were nuclear plants, which offer the cheapest electricity in the long run. These cancellations are laying the groundwork for future energy shortages.

Of the fifteen largest utilities, eleven have announced cutbacks, for example, Consumer's Power Company cancelled a \$1.4 billion nuclear plant, Pennsylvania Power and Light cut \$1.3 billion from its 1974-1983 construction budget; and Southern Company

slashed \$1.7 billion from its 1975-1977 budget. The Federal Reserve's policy of tight money and high interest rates in 1969 and 1970 and 1973-1974 plus skyrocketing costs of oil and coal pushed the utility industries long term debt to more than \$60 billion, double what it was in 1967. The National Economic Research Association warned that "If the present trend continues, we could have widespread brownouts and blackouts within four years".

Many people point to promising future energy sources such as solar, thermo-nuclear fusion, geothermal, and coal derived fuels as solutions to the energy crisis. But that is exactly what these sources are, visions of the future, and there is no certainty that they will be available when reserves of gas and oil go into steep decline.

Nuclear energy was once heralded as the answer to the energy problem. But now the forecasters themselves aren't as optimistic as they used to be. Nuclear supply estimates have been out in half for 1980, and by forty-percent for 1985 as compared with projections in the early 1970's.

Solar energy seems to be a more promising energy source for the future. Its true that today you can buy the technology for hot water and heating your home right off the shelf. And in some areas of the country it is marginally economic, but according to Thornton F. Bradshaw, president of the Atlantic Richfield Company, this kind of source, even if pushed very, very hard over the next ten to thirty years will account for only a small part of our needs.

Photovoltaic cells, or solar cells that turn sunlight directly into electricity seem an attractive prospect. But these have not begun to appear on roof tops yet simply because of the cost. The type cell used on the space vehicles cost from \$200 to \$600 per watt of generating capacity. Some kinds have dropped to twenty to thirty dollars per watt but that is still way too expensive for practical purposes.

Another factor to consider in the energy problem is our changing weather conditions. Climatologists agree that the winter of 1977 will be the rule and not the exception for future winters. This may cause demand for energy to rise even higher than the forecaster predicts. This could be critical in the energy crisis.

Most of us tend not to be concerned about something that does not affect us directly. If we can go down to the gas station and fill our tanks any time we want, that's all the energy crisis we care about. But gas and oil are running out, nuclear energy is not expanding nearly rapidly enough, and other sources, according to the American Petroleum Institute, will not show significant contribution for another ten to fifteen years. We can't sit back and rely on technology to develop new sources. We must act now to conserve energy, before it's too late.

#### COAL

(By Linda Carol Holt)

Everyone realizes we have just survived the coldest winter in fifty years. Paul Harvey reported people in New York froze to death in their snowbound automobiles.

In January of this year I moved from 80° sunny Saint Petersburg, Florida to Albertville, Alabama where it was 1° below zero. My large farm-type home was heated by coal being burned in one small fireplace.

While rejuvenating the fire with chunks of coal, one afternoon I heard a news report of miners trapped in a collapsed mine. I began to realize that mine weren't the only hands that had touched this coal. How many others had? After thinking of the men responsible for my winter's warmth, I considered if some man somewhere might not have been crushed in a mine or given his life for my coal.

In the 1951 Statistical Review, the last

figures available to me, I found in Alabama 18 men had died and 885 men in the U.S. of coal mine related deaths. In comparison the rates for on the job deaths in nuclear power plants or oil fields is small.

General Electric Company says new mines opening will increase 48.6% with an added 60,000 workers by 1985. This means an increase in employment which America needs now but there are drawbacks.

According to U.S. News and World, April 25, 1977, mining is one of the most dangerous occupations. Also, black lung disease is a major health problem with 75% of retired miners suffering from it and collecting \$1 billion in compensation. Another drawback, because 100 million tons were mined in 1973 this required miners to go deeper to better veins. Also, the mining industry is plagued by wildcat strikes, causing a loss of 2 million man days in 1976. At \$3 an hour for an eight hour day that results in \$24 million lost! Unless the United Mine Workers are stabilized experts fear the union will be able to demand outrageous wages and cripple the nation with a strike.

Other than black lung or union strikes there is the problem of clean air. Coal from the eastern U.S. is high in sulphur so "scrubbers" have to be used to decrease the amount of sulphur. This will add 18-35% to the cost of building and operating electric-generating plants supplied by coal. This also produces high acid sludge, which like radioactive waste is difficult with which to dispose.

There are advantages to the high-sulphur of the east as compared to the low-sulphur of the west. The high-sulphur cost \$14 a ton compared to \$30 for low-sulphur. And also, high-sulphur requires 1/2 the coal for the same amount of heat as low-sulphur.

Let me explain that; high-sulphur coal comes from the east and is 1/2 the cost for twice as much heat as compared to western coal which is twice the cost but produces 1/2 the heat.

But western coal is good because it lies close to the surface and can be strip mined easily. Western coal comes closer to meeting clean air standards without "scrubbers" as eastern coal requires.

It may be true that western coal is easy to get to but farmers and cattlemen complain that even though mine companies try to restore the land, due to little rainfall in Wyoming, Montana and the Dakotas that it is difficult to restore it. And they complain that the quality of grazing land is lessened after strip mining as far as nutrition is concerned.

The U.S. News and World Report, April 25, 1977 says like the gold mines of California years ago, "boom towns" spring up with mobile homes taking over every vacant lot and a rise in crime and alcoholism. But unemployment in the cities fosters crime and alcoholism doesn't it? U.S. News and World Report also says by 1985 the industry will spend \$23 billion for new mines, opening at a rate of 30 a year, employing 60,000 people. That answers two problems—energy and unemployment. Not just mining employees but construction employees will benefit also.

General Electric says another way that mining would decrease unemployment is the railroad will have to spend \$3 billion for 140,000 new coal carrier cars, and 900 new engines by 1985. To upgrade railroad tracks would cost another \$5 billion.

Going back to Alabama, which is eighth in the nation in coal production, it is estimated that Alabama has 1.03 billion tons of reserve coal. Alabama consumed 28 1/4 million tons in 1973.

Coal is located in 22 of the 35 counties in Alabama with Marshall, Etowah, and Cherokee to mention only a few.

An article written by the Energy Management Board entitled Coal in Alabama says Alabama coal meets clean air standards with

0.4 to 4.1% of sulphur content. When I moved here in January I visited Gadsden and that steel plant did not have clean air. Employees there say that is a common occurrence. How do those people of that town tolerate it when we have such fresh air on Sand Mountain in Albertville.

It is unfair to complain about air quality around steel plants and not say that iron and steel plants pay over \$300 million for clean air programs.

Again, Alabama being eighth in coal production in the U.S. contributes 3.5% of the U.S. coal. Coal is produced by 25 of the 50 states with the top eight producing 87% of the U.S. coal.

Alabama's coal is 37.6% underground with 62.2% having to be strip mined. Even though Alabama is eighth we must import 1/2 of our coal from the other 7 top states.

Many don't realize it but coal is a large industry in Alabama. In 1972-73 one million tons of coal were exported through Mobile, Alabama, not all just Alabama coal.

In a break down of coal consumption there are three major users. In Alabama 61 1/2% of the coal goes for electric power, 28 1/2% to coke users like steel plants. The third major use of coal is household. Thinking to yourself right quick what percentage would you say is consumed for household use in Alabama? With Alabama being quite a rural state, I was surprised to learn only 1.4% of the state used coal for home use.

Alabama already has a head start on the nation as far as using coal for electric power generating. Alabama used coal for 3/4 of the electric power with the U.S. only using 1/2 of their electric power plants for coal.

In closing, James Liverman, environmental expert at the Federal Energy Research and Development Administration says coal poses a worse threat to the environment than atomic energy. He suggests coal only be used until solar or other energy sources can be worked out.

After being aware of boom towns, air pollution, wildcat strikes and black lung problems, I tend to agree.

#### HATCH ATTACK

**HON. ROBERT J. LAGOMARSINO**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial from the Press Courier entitled: "Clearing View of Hatch Attack." I know many of the Members of the House of Representatives especially those like myself, who are opposed to the present legislation, will appreciate the points made in this editorial:

#### CLEARING VIEW OF HATCH ATTACK

The last-minute delay in expected House passage this week of a bill to remove restrictions on federal workers' political activities is further evidence that its sponsors are determined to ram through the politicizing of the Civil Service without compromise or modification.

Sponsors pulled back from the final vote after the House approved an amendment decreeing that no employee organization could use dues or assessments for political purposes and could not force its members to vote a certain way. Sponsors said the amendment left the bill in "confusion."

Actually, what appears to be occurring at the 11th hour—paced by growing disenchantment among Democratic supporters—is a clearing of the confusion that has masked

the quiet, persistent effort by the AFL-CIO and federal employee unions to repeal the Hatch Act. We confess to not having detected early a potential threat in this effort to the nation's political process.

But passage of the bill by Rep. William Clay, D-Mo., to repeal the Hatch Act not only would politicize the Civil Service but would undermine the merit system and subject Congress and the American people to intimidating and intolerable political pressures by an army of nearly three million federal employees.

Despite the current smokescreen about restoring lost citizenship rights to federal employees, the historic fact is that the Hatch Act was enacted originally to protect workers from political coercion by their supervisors. It was passed in 1939 to deal with one of the few scandals of the New Deal—widespread efforts by federal bureaucrats to organize federal employees behind Democratic candidates in Kentucky and Tennessee.

Because of the Hatch Act, civil servants have since refused political solicitations with the commonly understood comment: "I can't—I'm Hatched." This protection is one reason so many government workers have shown no enthusiasm for the repeal move.

The Clay bill would "encourage" federal employees to enter the political arena, to raise campaign funds and to run for office. It would even grant leave to federal employees seeking election. While supervisors would be prohibited from soliciting or coercing lower-level employees, the bill says nothing about union pressure on members who are civil servants.

Such bullying could be an even greater problem than supervisory coercion; hence, the amendment this week that brought to a halt to the sponsors' voting maneuvers.

The Hatch Act finds itself under siege for one primary reason: Organized labor correctly sees the act as a roadblock against mass unionization of the Civil Service and expanded clout at all levels of government. Labor's rationalization is that it champions the political rights of government workers, but government workers for years have made it clear they are indifferent, if not opposed, to such deliverance.

Washington attorney, author and political scientist John R. Bolton clearly and correctly points out that the Hatch Act is basically a civil libertarian idea. Through this law, the government restrains itself, not the individuals in its employ. And, by such restraint, the government in classic First Amendment terms acts to protect the free and voluntary political activity of private citizens.

A similar bill to repeal the Hatch Act's political protections sailed through Congress last year. Only President Ford's veto prevented it from becoming a law. Now, with the explicit support of the Carter administration and an overwhelmingly Democratic Congress, the odds favor the killing of the Hatch Act and the distortion of the nation's political process.

Some erosion of Democratic support in Congress has begun to appear, but it will require fully aroused public opinion to preserve the Hatch Act's protection of citizens' free choice in political activity.

#### WHEN TRADE WITH THE SOVIET UNION BECOMES AID TO THE SOVIET MILITARY ESTABLISHMENT

**HON. JACK F. KEMP**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 3, 1977

Mr. KEMP. Mr. Speaker, several weeks ago WPIX-TV in New York City broke

the story that the Soviet Union was negotiating the purchase from Control Data Corp., a U.S. firm, of a Cyber 76 computer, one of the world's most sophisticated. The columnists, Jack Anderson and Les Whitten, elaborated on this disclosure in a column on May 24.

No example could better demonstrate the risk the United States is taking in trading in highly sophisticated technology with the Soviet Union, which remains today our largest and most potential adversary.

This multi-million-dollar machine "could be turned against us to track U.S. missiles, planes, and submarines. It is also capable of decoding sensitive U.S. intelligence transmissions." It can be used for navigation and weapons guidance in modern missiles, aircraft, tanks, high performance satellite-based surveillance systems, ABM defense systems, and submarines.

The Cyber 76 is the brain center of the Pentagon, the U.S. Air Force, the National Security Agency, and the National Aeronautics and Space Administration. The Energy Research and Development Agency has 15 Cyber 76s, described as the backbone of our nuclear research. Moreover the Cyber series is also used by the North American Defense Command.

The Soviets have supposedly assured Control Data officials that the computer will be used for peaceful purposes, including weather surveillance. These assurances are unconvincing to me. Control over the computer rests on two factors, operation and maintenance. Control Data says its supervisors will handle control of operations, and that it will govern maintenance. The inference is that the Soviets would not be able to operate or obtain the parts for repair except through Control Data. That flies in the face of everything we know about computer operations and international trade. If Soviet technicians are taught to run the equipment, it follows by logic that at some point in time a group of those technicians will know how to operate the equipment independent of Control Data supervision. Inasmuch as Cyber 76 systems are found in many places throughout the world, the Soviets could easily obtain spare parts through third parties without the knowledge of Control Data.

This disclosure follows on another: That a Vermont corporation several years ago sold instruments to the Soviets which permitted them to make improvements in their intercontinental ballistic missile warhead delivery systems in 1 year which could not have been made otherwise for 5 to 7 years. That is about all one can say, that has been in the press; the information on the specifics associated with the sale have never been declassified.

These two examples show how trade can easily become aid. When you are working with friends, with allies, you do not have to worry about this point. But when you are working with the largest potential adversary of the United States, these unanswered or unanswerable questions have to be resolved in favor of us, not them. Yet classified records, which even WPIX-TV and Jack Anderson were unable to get, show the former Secretary



of State pushed for both sales. On one occasion, he overruled Defense Department objections; on the other, he went around the Department altogether.

I cannot tell you why. I do not know why. But I have to assume it was because he thought the benefits outweighed the risks. I do not, and here is why.

First, trade with Communist countries, by relieving them of domestic economic and subsequent political burdens, discourage internal reform of the Government and of the economy. We will never engender a free enterprise economy in those countries, when our economic system continues to bail out their malfunctioning state-controlled economies.

Second, certain types of nonstrategic trade, if under specified conditions, could be in our best interests. Such conditions would include obtaining concessions in behalf of human rights. But computers are not nonstrategic goods.

Third, American businessmen are not starved for world markets.

Fourth, the Communists seek to buy prototypes for copying purposes. This is probably what they will do with the Cyber 76. Study it, and then duplicate it many times over. They are notorious for disregarding patent treaties.

Fifth, trade should be on terms which strengthen the U.S. dollar. Yet the Communists refuse to pay in gold; they refuse to even pay cash. In the famous grain deal of several years ago, the United States loaned them the money to buy the grain. They borrowed the money at 2-percent interest. The Americans borrowed the money to loan them; we borrowed it at 6 percent. The difference, 4 percent, constituted an outright expense to the American taxpayer to subsidize the Communists.

Sixth, and central to my points this afternoon, indiscriminate trade may jeopardize the security of the United States. There must be no trade in commodities which can be put to military use. And some trade in nonstrategic goods can become strategic, depending on how the Soviets use it, and we have no real control over that use. For example, nothing is more humanitarian than food. Food for hungry people in the Soviet Union would find support across America, but that same food in the stomachs of Soviet troops become strategic. If there were severe food shortages in the Soviet Union today, and we sent them food, which do you think would be fed first, the soldiers or the peasants?

The Carter administration has to come

to grips with this question immediately. The Department of Commerce may take final action in a matter of days. The two previous administrations were bound by what their Secretary of State pledged and did. The Carter administration is not. And if it does not put a stop to these kinds of sales, we will unwittingly prove what the Soviet Union's founder, Lenin, predicted: "When we get ready to hang the capitalists, they will sell us the rope."

I have joined with a number of my colleagues in a letter to President Carter, asking him to stop this transaction. With the obvious intransigence of the Soviets on strategic arms limitations and with news reports reaching the West over the past week of renewed crackdowns on human rights advocates in the Soviet Union, I do not see any reason why we should bend over backward to sell them this dangerous piece of equipment.

The Anderson-Whitten column follows:

[From the Washington Post, May 24, 1977]

#### A SUPERCOMPUTER FOR THE SOVIETS

(By Jack Anderson and Les Whitten)

Control Data is preparing to sell the Soviets a \$13 million electronic brain, which could be turned against us to track U.S. missiles, planes and submarines. It is also capable of decoding sensitive U.S. intelligence transmissions.

The miracle machine is the Cyber 76, which will soon be on its way to the Soviet Union unless there is a last-minute stop order. It not only will be the largest computer ever delivered behind the Iron Curtain, but it is more than a decade ahead of the Soviets' own computer technology. It operates at least 20 times faster than anything the Soviets produce.

A top-secret, interagency study warns tersely that the Soviets can convert the Cyber 76 to military use. Not only can it be used for tracking and decoding, but it could also improve the production of nuclear warheads, multiple-headed missiles, aircraft and other military hardware.

There is no sure safeguard to prevent this, the study declares. An intelligence source put it more bluntly. "For a few bucks," he told us, "we're willing to give the Soviets the means to destroy us. We're becoming our own executioners."

Government officials, citing the strict secrecy, refused to show us a copy of the study. But sources with access to the original draft have told us of its warnings. They fear it may be softened in order to make the computer deal more palatable.

Control Data executives, in repeated meetings with U.S. officials, have insisted that the Cyber 76 will be used by the Soviets strictly to study the weather. The company kept hammering at Washington to get an export license. Final Commerce Department approval of the deal, according to our sources,

was imminent until our inquiries caused some hesitation.

The sale of computers to Russia was pushed originally by ex-Secretary of State Henry A. Kissinger. Eager to promote détente, he overruled military objections to earlier computer sales. Now that the Soviets have already received lesser computers, they will be enraged if the Cyber 76 is withheld from them, say our sources.

One high official source, talking to us in confidence, related how a mysterious Soviet official showed up in the United States a few years ago. The Central Intelligence Agency immediately spotted him as a man with a purpose. He had come here, the CIA warned, to seek strategic U.S. computers.

The State Department, under Kissinger, persuaded the CIA to soften its warning and to pass off the visitor as merely the house guest of Soviet Ambassador Anatoli F. Dobrynin.

This helped lead to computer sales not only to Russia but also to China and Hungary. In return for these sophisticated computers, according to an International Trade Commission report, the Soviets have offered the U.S. "horses, asses and mules" at favored prices. Russia's famous vodka will also be sold to the United States at a tariff of \$1.25 a gallon, instead of the present \$5.

Frustrated U.S. officials complain that the Soviets are getting the best of the deal. They have gained strategic advances from the computers that have already been delivered, these officials assert. But the Cyber 76 would give them a technological boost that no amount of vodka could justify, they say.

The secret study declares categorically that the wonder machine both could and would be misused by the Kremlin for military purposes. Those officials who favor the sale contend, however, that the Soviets will use the Cyber 76 to increase their participation in a world meteorological network. The result, they say, would be better international weather data, larger crops and fewer unexpected natural disasters.

A spokesman for Control Data assured our reporter John Schuber that the computer can be set up in Moscow in a way to prevent any misuse. Any diversion to military use, he said, could be detected immediately. Then Control Data would pull out its technicians and refuse parts to the Soviets, thus crippling the electronic monster.

But other computer experts told our reporter Tony Capaccio that Control Data's arguments are spurious. One former Control Data executive, referring to the alleged safeguards, said derisively: "That's a joke." Other experts agreed that the Soviets could train their own technicians, and eventually locate parts from other countries.

Footnote: At the Commerce Department, spokesman confirmed that the secret study disclosed "some problems" relating to safeguards against the misuse of the Cyber 76. But the draft report, said the spokesman, wasn't final.

## HOUSE OF REPRESENTATIVES—Monday, June 6, 1977

The House met at 12 o'clock noon.

Reverend Mr. Charles A. Mallon, permanent deacon, St. Matthias Church, Lanham, Md., offered the following prayer:

*To you, Lord, I offer my prayer; in You, my God, I trust. Save me from the shame of defeat; don't let my enemies gloat over me! Defeat does not come to those who trust in You, but to those who are quick to rebel against You.—Psalms 25: 1-3.*

Almighty Father receive from us glory, honor, and praise. We turn to You, Father, with recognition of Your supreme majesty and ask Your intercession for this Nation and all the nations of the world. We are Your people, You are our God.

Help us, Father, to direct our efforts both now and in future days that we might enter into Your kingdom. For without Your guidance we cannot discern that which is fruitful.

Bless us then with Your eternal light and unending life that we might become one with You, and one with each other.

We ask this through Christ our Lord. Amen.

#### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

#### CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

#### PREEMPTION OF STATE LAWS INCONSISTENT WITH FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM

The Clerk called the bill (H.R. 2931) to amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage provided pursuant to contracts made under such chapter by preempting State or local laws pertaining to such benefits and coverage which are inconsistent with such contracts.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. BADHAM. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

#### SURVIVOR ANNUITIES

The Clerk called the bill (H.R. 3447) to amend chapter 83 of title 5, United States Code, to grant an annuitant the right to elect within 1 year after remarriage whether such annuitant's new spouse shall be entitled, if otherwise qualified, to a survivor annuity, and to eliminate the annuity reduction made by an unmarried annuitant to provide a survivor annuity to an individual having an insurable interest in cases where such individual predeceases the annuitant.

There being no objection, the Clerk read the bill, as follows:

H.R. 3447

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 8339(j) of title 5, United States Code, is amended by striking out the second and third sentences and inserting in lieu thereof the following: "An annuity which is reduced under this subsection or any similar prior provision of law shall, for each full month during which a retired employee or Member is not married (or is remarried if there is no election in effect under the following sentence), be recomputed and paid as if the annuity had not been so reduced. Upon remarriage the retired employee or Member may irrevocably elect during such marriage, in a signed writing received in the Commission within 1 year after such remarriage, a reduction in his annuity for the purpose of allowing an annuity for his spouse in the event such spouse survives him. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage, and shall be effective the first day of the first month beginning 1 year after the date of remarriage."

(b) Section 8341(b)(1) of title 5, United States Code, is amended by striking out "unless the employee or Member" and all that

follows, and inserting in lieu thereof the following: "unless the employee or Member has notified the Commission in writing at the time of retirement that he does not desire any spouse surviving him to receive his annuity, or in the case of remarriage, he did not file an election under the third sentence of section 8339(j) of this title."

(c) The second sentence of section 8339(k)(2) of title 5, United States Code, is amended to read as follows: "The reduced annuity shall be effective the first day of the first month beginning 1 year after the date of marriage."

SEC. 2. Section 8339(k)(1) of title 5, United States Code, is amended by adding at the end thereof the following: "An annuity which is reduced under this paragraph or any similar prior provision of law shall, effective the first day of the month following the death of the individual named under this paragraph, be recomputed and paid as if the annuity had not been so reduced."

SEC. 3. The Civil Service Commission shall, on an annual basis, inform each annuitant of such annuitant's rights of election under sections 8339(j) and 8339(k)(2) of title 5, United States Code.

SEC. 4. (a) This Act shall take effect—

(1) the first day of the first month which begins on or after the date of the enactment of this Act, or

(2) October 1, 1977, whichever is later

(b) Except as provided under subsection (c) of this section, the amendments made by the first section and section 2 of this Act shall apply with respect to annuities which commence before, on, or after the effective date of this Act, but no monetary benefit by reason of such amendments shall accrue for any period before such effective date.

(c) The amendments made by the first section of this Act shall not affect the eligibility of any individual to a survivor annuity under section 8341(b) of title 5, United States Code, or the reduction therefor under section 8339(j) of such title, in the case of an annuitant who remarried before the effective date of this Act, unless the annuitant notifies the Civil Service Commission in a signed writing received in the Commission within one year after the effective date of this Act that such annuitant does not desire the spouse of the annuitant to receive a survivor annuity in the event of the annuitant's death. Such notification shall take effect the first day of the first month after it is received in the Commission.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### EXTENDING CERTAIN OIL AND GAS LEASES BY A PERIOD SUFFICIENT TO ALLOW THE DRILLING OF AN ULTRADEEP WELL

The Clerk called the bill (H.R. 2502) to extend certain oil and gas leases by a period sufficient to allow the drilling of an ultra-deep well.

Mr. BADHAM. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. This concludes the call of the Consent Calendar.

#### MAIL TO THE PORTLAND TRAIL BLAZERS

(Mr. DUNCAN of Oregon asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN of Oregon. Mr. Speaker, if we can pause for a moment or two from our consideration of such mundane matters as energy, taxes, unemployment and inflation, I would like to direct the attention of the House to the more relevant subject of tragedies and triumphs. On behalf of my friends from Philadelphia, I want to publicly acknowledge and offer my condolences for the tragedy that struck them in the Northwest yesterday. The Philadelphia 76ers, despite a gallant effort, lost the NBA championship to the Portland Trail Blazers as they had also lost the last three games, some not so gallantly.

My sorrow is, of course, tempered by the knowledge that the better team won and the heady exultation of the triumph of the Trail Blazers. All year, the Blazers have been the team to watch—and it has been difficult to watch them as the Washington Post usually acknowledged their presence only by a single line buried deep in the sports page and usually that line said "results not available."

But Portland has been watching them—and savoring each victory. Chicago and Denver and Los Angeles and now Philadelphia will never forget them. The Post—finally—banned their victory on the front page. And 25,000 people surged through the streets of Portland yesterday—not trashing and protesting as in past years—but cheering newfound heroes. Heroes who gave their best and who, by their example, will draw the best from all who share their triumph. We may even hope that a new age of heroes is upon us as we all begin to trust and rely on each other as the Blazers did throughout the season.

Walton has come into his own. He was great—but so were each of his teammates. The end was a homespun homily. A young team from distant Portland stressing the homely virtues of courage, discipline, sportsmanship, unselfishness and teamwork overcame the brilliance of the superstars led by the great "Doctor" from Philadelphia who challenged even to the last second.

Once again Oregon leads the Nation. Surely my colleagues on appropriations will now acknowledge what I have casually suggested to them from time to time. Oregon is truly a magnificent State and Oregonians magnificent people.

#### APPOINTMENT OF CONFEREES ON H.R. 6370, AUTHORIZING APPROPRIATIONS TO INTERNATIONAL TRADE COMMISSION, FISCAL YEAR 1978

Mr. VANIK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6370), an act to authorize appropriations to the International Trade Commission for fiscal year 1978, to provide for the Presidential ap-



pointment of the chairman and vice chairman of the Commission, to provide for greater efficiency in the administration of the Commission, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Ohio? The Chair hears none, and appoints the following conferees: Messrs. ULLMAN, VANIK, GIBBONS, ROSTENKOWSKI, JONES of Oklahoma, CONABLE, and STEIGER.

#### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to make an announcement about the electronic voting system. The Chair has been informed that the board displaying each Member's name behind the Chair and the boards displaying the bill number and vote totals to the left and right of the Chair are not working today. However, all voting stations are operating; and the Chair has directed all vote monitoring stations to be staffed with personnel so any member may go to any monitor and verify his or her vote. Members may also verify their votes—as they should on any vote, by reinserting their card at the same or another voting station.

The Chair therefore directs that the vote be taken by electronic device. Members interested in the progress of the vote may inquire at the vote monitoring stations.

#### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule 27, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule 15.

After all motions to suspend the rules have been entertained and debated and after those motions, to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

#### AMENDING THE FEDERAL CROP INSURANCE ACT

Mr. JONES of Tennessee. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 955) to amend the Federal Crop Insurance Act.

The Clerk read as follows:

S. 955

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 504(a) of the Federal Crop Insurance Act (52 Stat. 72, as amended; 7 U.S.C. 1504 (a)) is amended to read as follows:*

"SEC. 504. (a) The Corporation shall have a capital stock of \$150,000,000 subscribed by the United States of America, payment for which shall, with the approval of the Secretary of Agriculture, be subject to call in whole or in part by the Board of Directors of the Corporation."

The SPEAKER. Is a second demanded? Mr. MADIGAN. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered. There was no objection.

The SPEAKER. The gentleman from Tennessee (Mr. JONES) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Tennessee, Mr. JONES.

Mr. JONES of Tennessee. Mr. Speaker, I yield myself 20 minutes.

Mr. Speaker, S. 955 would increase the capital stock in the Federal Crop Insurance Corporation by \$50 million. It comes at a time when the capital position of the Corporation is being seriously threatened by severe crop losses in 1976 and potentially serious losses this year, in addition to the gradual use of capital stock funds and the premium reserve to pay certain administrative costs. This bill is an emergency measure to shore up the Corporation's capital situation until Congress has the opportunity to consider a major revision of the Federal Crop Insurance Act. The Committee on Agriculture will begin consideration of such a revision in a few weeks.

Mr. LONG of Maryland. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. The Chair does not recognize the gentleman from Maryland for that purpose at this particular time.

Mr. JONES of Tennessee. Mr. Speaker, on May 20 I received a letter I had requested from the manager of the Federal Crop Insurance Corporation showing the dire circumstances in which they found themselves. This information indicated a capital position of about \$1 million at the end of the fiscal year and this, of course, is based on estimates of crop losses in which there is obviously much room for error. It would not be prudent for Congress to let the capital position deteriorate further because the Corporation has no authority to borrow and their only recourse would be to stop indemnity payments to farmers. The Corporation's estimates show cash disbursements for the 1977 crop year will be over \$91 million. Unless we adopt the provisions of S. 955, they would be unable to meet \$47 million of these payments. The Senate passed this measure April 25 and our supplemental appropriations bill has appropriated the money contingent upon passage of this authorization. I think the important points to remember are:

First, that unless this bill is passed, the Crop Insurance Corporation may not be able to make indemnity payments to farmers who have already purchased insurance;

Second, this bill does not change the crop insurance program—about which many of you have deceived complaints;

Third, that the Agriculture Committee will soon begin a revision of the crop insurance program to provide for a nationwide multiperil program;

Fourth, that the funds have already been appropriated in our supplemental appropriations act.

This measure has the full support of

the administration and, in fact, resulted from an executive communication from Secretary Bergland. I conclude by urging my colleagues to support this emergency legislation.

Mr. Speaker, I reserve the remainder of my time.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 955. I cosponsored H.R. 4194, the House version of S. 955, with our esteemed chairman of the Subcommittee on Conservation and Credit, Mr. JONES of Tennessee. Mr. JONES, in my opinion, has explained the bill quite comprehensively.

Both Mr. JONES (H.R. 6198) and I (H.R. 5011) have introduced bills which will substantially overhaul the Federal crop insurance program. This bill will provide an interim funding solution until we can address the longer term solution to the crop insurance problem.

If the appropriation, which has remained the same for some years, had more realistically reflected the actual costs, there would be no need for this bill. However, while the amount appropriated to cover administrative costs has remained the same, the total administrative cost for fiscal year 1977 will be nearly \$22 million or \$10 million in excess of the \$12 million appropriated expressly for that purpose. Meanwhile, the capital of the Federal Crop Insurance Corporation has been utilized over the last 20 years to meet farmers' indemnity claims and administrative and operating costs not covered by appropriations. Unforeseen indemnity payments in excess of premiums in fiscal year 1976 and in prospect for fiscal year 1977 have eroded the capital of the Corporation even further.

There was strong support for this bill in the committee and on the Senate side, where the bill was passed April 25, 1977. The legislation was requested by the Department of Agriculture, which strongly supports the bill.

I urge your support of S. 955 today.

Mr. JONES of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, as a member of the subcommittee I rise in strong support of this legislation. It is extremely important for us at the present time, because of the drought problems in the West, to be able to acquire appropriate crop insurance coverage. This bill will give that to us. For this reason I respectfully request and hope that the Congress will pass this legislation.

Mr. WAMPLER. Mr. Speaker, I rise in support of S. 955, a bill which would amend the Federal Crop Insurance Act to increase to \$150 million, from \$100 million, the capital stock of the Federal Crop Insurance Corporation.

The emergency nature of this legislation is due primarily to factors over which we have no control; namely, acts of God. As my colleagues will recall, this past winter it was literally colder in Florida than it was in Alaska. We suffered a very severe winter in Virginia as

well. The drought in the Midwest has spread to the west coast so that water is being rationed in some areas.

Because of the unusual weather we have been experiencing, losses on 1976-77 crops have placed an even greater strain on the resources of the Federal Crop Insurance Corporation. Earlier this year, Secretary of Agriculture Bob Bergland requested that Congress increase the capital stock of the FCIC to meet the greater than expected increase in indemnity claims, as well as to meet the Corporation's administrative and operating expenses not covered by appropriations.

Responding to the Secretary's request, the Senate and House Appropriations Committees agreed to a provision in H.R. 4877, the supplemental appropriations bill, which provided \$50 million in capital stock of the FCIC, contingent upon this legislation being enacted.

Subsequently, this authorizing legislation was introduced in the House. Later, S. 955 passed the Senate on April 25, and the bill is now before us today.

Mr. Speaker, I would like to compliment my colleagues, the gentleman from Tennessee (Mr. JONES) and the gentleman from Illinois (Mr. MADIGAN) for their constructive action on this emergency legislation. As they have indicated earlier, further hearings are expected in order to overhaul and update the FCIC program. At that time, we should also have a more accurate assessment of the losses on 1977 crops insured under FCIC.

Mr. Speaker, I urge the House to support the bill before us.

Mr. JONES of Tennessee. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from Tennessee (Mr. JONES) that the House suspend the rules and pass the Senate bill, S. 955.

The question was taken.

Mr. THONE. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

#### GENERAL LEAVE

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill (S. 955) just under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

#### SOIL AND WATER RESOURCES CONSERVATION ACT OF 1977

Mr. JONES of Tennessee. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 75) to provide for furthering the conservation, protection, and enhancement of the Nation's land, water, and related resources for sustained use, and for other purposes, as amended.

The Clerk read the bill, as follows:

#### H.R. 75

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Soil and Water Resources Conservation Act of 1977".*

#### FINDINGS

##### SEC. 2. The Congress finds that:

(1) There is a growing demand on the soil, water, and related resources of the Nation to meet present and future needs.

(2) The Congress, in its concern for sustained use of the resource base, created the Soil Conservation Service of the United States Department of Agriculture which possesses information, technical expertise, and a delivery system for providing assistance to land users with respect to conservation and use of soils; plants; woodlands; watershed protection and flood prevention; the conservation, development, utilization, and disposal of water; animal husbandry; fish and wildlife management; recreation; community development; and related resource uses.

(3) Resource appraisal is basic to effective soil and water conservation. Since individual and governmental decisions concerning soil and water resources often transcend administrative boundaries and affect other programs and decisions, a coordinated appraisal and program framework are essential.

#### DEFINITIONS

##### SEC. 3. As used in this Act:

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "soil, water, and related resources" means those resources which come within the scope of the programs administered and participated in by the Secretary of Agriculture through the Soil Conservation Service.

(3) The term "soil and water conservation program" means a framework for attaining the purposes of this Act.

#### DECLARATIONS OF POLICY AND PURPOSE: PROMOTION THEREOF

SEC. 4. (a) In order to further the conservation of soil, water, and related resources, it is declared to be the policy of the United States and purpose of this Act that the conduct of programs administered by the Secretary of Agriculture for the conservation of such resources shall be responsive to the long-term needs of the Nation, as determined under the provisions of this Act.

(b) Recognizing that the arrangements under which the Federal Government cooperates with State soil and water conservation agencies and other appropriate State natural resource agencies such as those concerned with forestry and fish and wildlife and, through conservation districts, with other local units of government and land users, have effectively aided in the protection and improvement of the Nation's basic resources, including the restoration and maintenance of resources damaged by improper use, it is declared to be the policy of the United States that these arrangements and similar cooperative arrangements should be utilized to the fullest extent practicable to achieve the purpose of this Act consistent with the roles and responsibilities of the non-Federal agencies, land owners and land users.

(c) The Secretary shall promote the attainment of the policies and purposes expressed in this Act by—

(1) appraising on a continuing basis the soil, water, and related resources of the Nation;

(2) developing and updating periodically a program for furthering the conservation, protection, and enhancement of the soil, water, and related resources of the Nation consistent with the roles and program responsibilities of other Federal agencies and State and local governments; and

(3) providing to Congress and the public,

through reports, the information developed pursuant to paragraphs (1) and (2) of this subsection, and by providing Congress with an annual evaluation report as provided in section 7.

#### APPRAISAL

SEC. 5. (a) In recognition of the importance of and need for obtaining and maintaining information on the current status of soil, water, and related resources, the Secretary is authorized and directed to carry out a continuing appraisal of the soil, water, and related resources of the Nation. The appraisal shall include, but not be limited to—

(1) data on the quality and quantity of soil, water, and related resources, including fish and wildlife habitats;

(2) data on the capability and limitations of those resources for meeting current and projected demands on the resource base;

(3) data on the changes that have occurred in the status and condition of those resources resulting from various past uses, including the impact of farming technologies, techniques, and practices;

(4) data on current Federal and State laws, policies, programs, rights, regulations, ownerships, and their trends and other considerations relating to the use, development, and conservation of soil, water, and related resources;

(5) data on the costs and benefits of alternative soil and water conservation practices; and

(6) data on alternative irrigation techniques regarding their costs, benefits, and impact on soil and water conservation, crop production, and environmental factors.

(b) The appraisal shall utilize data collected under this Act and pertinent data and information collected by the Department of Agriculture and other Federal, State, and local agencies and organizations. The Secretary shall establish an integrated system capable of using combinations of resource data to determine the quality and capabilities for alternative uses of the resource base and to identify areas of local, State, and National concerns and related roles pertaining to soil and water conservation, resource use and development, and environmental improvement.

(c) The appraisal shall be made in cooperation with conservation districts, State soil and water conservation agencies, and other appropriate citizen groups, and local and State agencies under such procedures as the Secretary may prescribe to insure public participation.

(d) The appraisal shall be completed by December 31, 1979, and at each five-year interval thereafter during the period this Act is in effect.

#### SOIL AND WATER CONSERVATION PROGRAM

SEC. 6. (a) The Secretary is hereby authorized and directed to develop in cooperation with and participation by the public through conservation districts, State and national organizations and agencies, and other appropriate means, a national soil and water conservation program (hereinafter called the "program") to be used as a guide in carrying out the activities of the Soil Conservation Service which assist landowners and land users, at their request, in furthering soil and water conservation on the private and non-Federal lands of the Nation. The program shall set forth direction for future soil and water conservation efforts of the United States Department of Agriculture based on the current soil, water, and related resource appraisal developed in accordance with section 5 of this Act, taking into consideration both the long- and short-term needs of the Nation, the landowners, and the land users, and the roles and responsibilities of Federal, State, and local governments in such conservation efforts. The program shall also include but not be limited to—



(1) analysis of the Nation's soil, water, and related resource problems;

(2) analysis of existing Federal, State, and local government authorities and adjustments needed;

(3) an evaluation of the effectiveness of the soil and water conservation ongoing programs and the overall progress being achieved by Federal, State, and local programs and the landowners and land users in meeting the soil and water conservation objectives of this Act;

(4) identification and evaluation of alternative methods for the conservation, protection, environmental improvement, and enhancement of soil and water resources, in the context of alternative time frames, and a recommendation of the preferred alternatives and the extent to which they are being implemented;

(5) investigation and analysis of the practicability, desirability, and feasibility of collecting organic waste materials, including manure, crop and food wastes, industrial organic waste, municipal sewage sludge, logging and wood-manufacturing residues, and any other organic refuse, composting, or similarly treating such materials, transporting and placing such materials onto the land to improve soil tilth and fertility. The analysis shall include the projected cost of such collection, transportation, and placement in accordance with sound locally approved soil and water conservation practices;

(6) analysis of the Federal and non-Federal inputs required to implement the program;

(7) analysis of costs and benefits of alternative soil and water conservation practices; and

(8) investigation and analysis of alternative irrigation techniques regarding their costs, benefits, and impact on soil and water conservation, crop production, and environmental factors.

(b) The program plan shall be completed not later than December 31, 1979, and be updated at each five-year interval thereafter during the period this Act is in effect.

#### REPORT TO CONGRESS

SEC. 7. (a) On the first day Congress convenes in 1980 and at each five-year interval thereafter during the period this Act is in effect the President shall transmit to the Speaker of the House of Representatives and the President of the Senate, the appraisal and the program as required by sections 5 and 6 of this Act, together with a detailed statement of policy regarding soil and water conservation activities of the United States Department of Agriculture.

(b) The Secretary, during budget preparation for fiscal year 1982 and annually thereafter during the period this Act is in effect, shall prepare and transmit to the Congress, through the President, a report to accompany the budget which evaluates the program's effectiveness in attaining the purposes of this Act. The report, prepared in concise summary form with appropriate detailed appendices, shall contain pertinent data from the current resource appraisal required to be prepared by section 5 of this Act, shall set forth the progress in implementing the program required to be developed by section 6 of this Act, and shall contain appropriate measurements of pertinent costs and benefits. The evaluation shall assess the balance between economic factors and environmental quality factors. The report shall also indicate plans for implementing action and recommendations for new legislation where warranted.

#### AUTHORIZATION FOR APPROPRIATIONS

SEC. 8. There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act.

#### EFFECTIVE DATE

SEC. 9. In the implementation of this Act, the Secretary shall utilize information and data available from other Federal, State, and local governments, and private organizations and he shall coordinate his actions with the resource appraisal and planning efforts of other Federal agencies and avoid unnecessary duplication and overlap of planning and program efforts.

SEC. 10. The provisions of this Act shall take effect on October 1, 1977 and shall terminate on December 31, 1981.

**THE SPEAKER.** Is a second demanded?

**Mr. MADIGAN.** Mr. Speaker, I demand a second.

**The SPEAKER.** Without objection, a second will be considered as ordered.

There was no objection.

**The SPEAKER.** The gentleman from Tennessee (Mr. JONES) and the gentleman from Illinois (Mr. MADIGAN) are recognized for 20 minutes each.

**Mr. JONES of Tennessee.** Mr. Speaker, I yield myself such time as I may consume.

**Mr. Speaker,** I want to make a few comments regarding the need for this legislation, H.R. 75, Soil and Water Resources Conservation Act. Then I would like to recognize the distinguished gentleman from Texas (Mr. DE LA GARZA) the prime sponsor of this legislation.

H.R. 75 recognizes that our land and water resources are under tremendous pressure. We are still experiencing significant population growth and, in addition to a new shift in the U.S. population from urban areas back to the countryside for the first time since the days when our country was young and expanding to the West. There is pressure for increased production of food products; there is pressure for increased land to be devoted to recreation use and for protection of the environment; there is tremendous pressure from urbanization, industrialization, highways, and other development.

We also know that while urbanization tends to usurp prime agricultural lands there has been no net acreage loss devoted to agriculture because of reclamation. However, we do not know the quality of these reclaimed areas. Many of us suspect that our soil erosion problems have been getting progressively worse in recent years under intensive cultivation. While I am quite sure this is the case, we need an objective evaluation of the situation.

This bill will primarily provide us a resource appraisal which is necessary to make wise and effective decisions regarding land and water conservation. More than \$500 million is now being expended annually by the Department of Agriculture for soil and water conservation programs and, in addition, nearly \$200 million is expended annually by State and local governments. We know that the amount of money which can be expended on even this worthwhile endeavor is subject to limitations and this bill is an effort to help us coordinate our programs and decisionmaking. It will provide us with the most accurate, current and comprehensive data obtainable on the status of land and water resources.

We must remember that despite the

dedicated efforts of people involved in conservation over the past 40 years, our data base is far from complete. Our best estimates are that about only 40 percent of the Nation's cropland and 30 percent of its range and pasture lands are adequately conserved or protected. After four decades, it is time to reevaluate where we are and where we are going. This bill will provide us with the information on which we can base intelligent decisions and requires the administration to put forward a long-range program to help meet our soil and water conservation needs.

**Mr. MADIGAN.** Mr. Speaker, I yield myself such time as I may consume.

**Mr. Speaker,** I believe the following brief explanation taken from the report (No. 95-344) accompanying this bill provides a good summary of what H.R. 75 is intended to accomplish.

H.R. 75 would establish a mechanism for making long-range policy to encourage the wise and orderly development of the nation's soil and water resources. The bill—

(1) requires the Secretary of Agriculture to prepare an appraisal of the nation's soil, water, and related resources not later than December 31, 1979, and at each five-year interval thereafter during which this Act is in effect.

(2) requires the Secretary to develop a National Soil and Water Conservation Program not later than December 31, 1979, and to update it at each five-year interval thereafter during which this Act is in effect. The program is to set forth the direction for future soil and water conservation efforts of the U.S. Department of Agriculture; and shall include but not be limited to—(A) an analysis of existing Federal, State and local government authorities and adjustments needed with respect thereto; (B) an evaluation of the effectiveness of ongoing soil and water conservation programs and the progress being achieved by Federal, State and local programs and the land owners and users in meeting the conservation objectives of this Act; (C) an identification and evaluation of, and recommendations relating to, alternative methods (within alternative time frames) for the conservation, protection, environmental improvement and enhancement of soil and water resources and the extent to which they are being implemented; (D) an analysis of costs and benefits of alternative soil and water conservation practices; (E) an investigation and analysis of alternative irrigation techniques regarding their costs, benefits, and impact on soil and water conservation, crop production, and environmental factors; and (F) an analysis of the practicability, desirability, and feasibility of collecting organic waste materials from a variety of origins, treating these wastes, and transporting them to farms and rural areas where they would be used to improve soil fertility. The analysis is to include the projected costs of such a program.

(3) requires submission to Congress of the appraisal report and the program, together with a detailed statement of policy regarding soil and water conservation activities of the U.S. Department of Agriculture. The material is to be transmitted on the first day Congress convenes in 1980 and at each five-year interval thereafter during which this Act is in effect.

(4) requires that, during budget preparation for fiscal year 1982 and annually thereafter during which time this Act is in effect, the Secretary shall prepare and transmit to the Congress, through the President, an annual report evaluating the program's effectiveness in carrying out the purposes of the Act.

Mr. Speaker, this bill has been amended substantially since it was first introduced, so as to meet the objections of the Department of Justice and some of the objections of the Department of Agriculture. It is not clear if they now support the bill.

The Department of Justice, in a letter dated April 20, 1977, objected to provisions in the bill which provided for a legislative veto of policies established by the President for the Soil Conservation Service. In response to that objection, the committee amended H.R. 75 so as to eliminate the constitutional problem in the bill as viewed by the Department of Justice. Some of the USDA's amendments were adopted and others were not. I am sure that the floor manager on the other side of the aisle can state what the position of USDA is on this bill as reported by the committee.

I would like also to commend Mr. KELLY of Florida, who added a sunset provision to this bill, requiring that it be looked at again by the Congress in 1981.

This bill was reported by the committee, a quorum being present, by voice vote on May 12, 1977. It is commended to you for your serious consideration.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, in reading section 6 of the bill, it appears that the plan that is to be developed by the Department of Agriculture is to be used only as a guide to carry out soil conservation activities.

Could the gentleman tell us whether or not there was any testimony or consideration that these funds would be withheld if local landowners or State and local governments refused to cooperate in this Federal plan? In other words, is this bill a form of Federal land use planning?

Mr. MADIGAN. Mr. Speaker, it is my understanding that it is not to be used for Federal land use planning, but that is not in any way a clear understanding.

Mr. Speaker, I would yield to the gentleman from Texas (Mr. DE LA GARZA) if the gentleman would like to reply.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, in my area, I personally would not favor or advocate any form or manner of land use. This bill has the No. 1 prerequisite that we are doing the study, we are doing the accumulation of facts, we are doing the planning; but none of this can be implemented on any person's land, unless it is at the request of the landowner. That is the point, that it guarantees that nothing could be done on a person's land, unless it be done at the request of the landowner.

Mr. BAUMAN. Is it also the understanding of the gentleman from Texas that no soil conservation funds will be withheld as a method of force to make the landowners comply with this plan?

Mr. DE LA GARZA. I do not know that this is clearly in the legislation at all, but certainly there is no implication that this would be considered—as legis-

lative history—that there is no indication, there is no intent. In section 6(a) of the bill we say, “\* \* \* to be used as a guide in carrying out the activities of the Soil Conservation Service which assists landowners and land users, at their request, in furthering soil and water conservation.”

This would be considered as a legislative history. It would be clear that unless a landowner requests their intervention or assistance, it would not be given. I do not know that there would be any opportunity for penalties or sanctions of any kind, and certainly that is not the intent of the legislation.

Mr. BAUMAN. I thank the gentleman.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman yielding to me.

I was pleased to see that this act contains a sunset provision which terminates the act on December 31, 1981. Was there much discussion on this Kelly amendment in the committee, or was there any opposition to the sunset proposal?

Mr. MADIGAN. No, there was no opposition to the amendment at all.

Mr. ROUSSELOT. I am pleased to learn that, because we had such a discussion the other day on the floor in relation to the new energy agency bill. I am glad to see various committees now automatically include this in legislation, which they present to us. I think it is a good precedent. I compliment the subcommittee chairman, the author of the bill and the others who participated in making sure that we have this sunset provision.

Since there was no opposition to it in committee, we now have firmly established the precedent and cannot be criticized for including the concept in other acts that come to the floor.

Mr. MADIGAN. I thank the gentleman from California for his contribution.

Mr. Speaker, I yield back the balance of my time.

Mr. JONES of Tennessee. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Texas (Mr. DE LA GARZA), who is actually the author of the bill.

Mr. DE LA GARZA. Mr. Speaker, I introduced H.R. 75, the Soil and Water Resources Conservation Act of 1977, on January 4, 1977. This bill is aimed at providing for wise and orderly planning for the conservation of our soil, water, and related resources, as well as for a sustained national effort toward that end.

The bill, H.R. 75, would establish a mechanism for making long-range policy to encourage the wise and orderly development of the Nation's soil and water resources. The bill:

First. Requires the Secretary of Agriculture to conduct an appraisal of the Nation's soil, water and related resources not later than December 31, 1979, and at each 5-year interval thereafter during which time this act is in effect.

Second. Requires the Secretary to develop a national soil and water conser-

vation program not later than December 31, 1979, and to update it at each 5-year interval thereafter during which time this act is in effect.

Third. Requires submission to Congress of the appraisal report and the program together with a detailed statement of policy regarding soil and water conservation activities of the U.S. Department of Agriculture. The material is to be transmitted on the first day the Congress convenes in 1980 and at each 5-year interval thereafter.

Fourth. Requires that, during the budget preparation for fiscal year 1982 and annually thereafter during the time this act is in effect, the Secretary shall prepare and transmit to the Congress, through the President, an annual report evaluating the program's effectiveness in carrying out the purposes of the act.

Some of the major changes recommended by the administration which were accepted by the committee included:

First. Giving the Secretary of Agriculture flexibility in administering the soil and water conservation programs of the Department.

Second. Amending the bill to comply with the administration's concern with respect to the constraints on the President's flexibility of formulating and presenting his budget.

An amendment was also adopted which inserted in the act a termination date of 1981. This was used by the author in order to give us oversight. The Senate has already passed a companion bill, S. 106.

As you recall, last year Congress passed this bill unanimously by both Houses and it was signed and then vetoed by the President. I say this because I was informed by the White House that the bill had been signed by the President which, of course, made me quite happy. Then, on the following day, I was informed the bill had been vetoed.

We appreciate very much the fact that this administration generally supports this legislation.

Finally, H.R. 75 is not, nor is it intended to be, a land use control bill. I personally oppose, and my area opposes, any form of land use legislation. Any assistance rendered by and/or through the Soil Conservation Service under this legislation must always be “at the request of the landowner.” This is what the bill says—this is the legislative intent, and that is the legislative intent of the author.

Mr. Speaker, I appreciate the able assistance of the chairman of the subcommittee, Mr. JONES, and his staff and urge my colleagues to support this very worthwhile piece of legislation which is long overdue in order that we might have, as I said at the beginning, a wise and orderly planning for the conservation of our soil, water, and related agricultural resources.

Mr. JONES of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, I rise in support of H.R. 75, the Soil and Water Resources Conservation Act of 1977, and



congratulate my colleagues on the Agricultural Committee for their prompt action regarding this important piece of legislation.

As a representative from the State of California, which is currently suffering severe hardships as a result of the drought in the West, I am well aware of the pressing need to have an accurate assessment of all of our available soil, water and related resources. Resource appraisal is basic to effective soil and water conservation. And in these times of serious shortages, conservation must be one of our only real alternatives. In addition, the importance of improving the quality of our resources in order to maximize what we have continues to increase. Greater demands on our soil and water resources to meet the needs of a growing population and spreading urbanization have placed our resources in the very real danger of overuse and possible depletion. We must recognize the fact that our environment can no longer be taken for granted. The quantity of our natural resources is not infinite, the quality is not constant.

The enactment by Congress of H.R. 75, which will provide for long term, comprehensive planning regarding the availability and usage of our natural resources will demonstrate that the 95th Congress is committed to new efforts in the areas of soil and water conservation, and will provide us with the information we need to evaluate the Nation's present and future resource needs.

I would like to point out two sections of the bill of which I am particularly proud since they are the result of amendments I offered in the subcommittee. Section 5(a) (5) and (6) direct the Secretary to collect data on the costs and benefits of alternative soil and water conservation practices, as well as data on alternative irrigation techniques with regard to soil and water conservation, crop production, and environmental factors. It is my belief that both provisions will greatly enhance our ability to make more informed decisions concerning the direction of conservation policy for the future.

Mr. WAMPLER. Mr. Speaker, I wish to urge my colleagues to give H.R. 75 their serious consideration. I believe there is a need for some sound planning in the area of soil and water resources. I consider that to be the case in my own State of Virginia, and I am sure it is true in many States.

For instance, more should be done in the area of cost-benefit analysis in considering alternative systems or practices involving conservation of soil and water resources.

I am disturbed that we do not know exactly what the position of the Department of Agriculture and the administration with respect to this bill as reported by the committee. Inasmuch as the Department's approval of H.R. 75 was conditioned upon the adoption of its proposed amendments—and not all of those amendments were adopted by the committee—we unfortunately do not know what the position of the Department is with respect to H.R. 75 as reported. I

should add that at least that is as I understand the situation as it rested shortly before we took this matter up on the floor. Maybe there is some late word from the administration which I am unaware of at this time.

I also wish to caution my colleagues that this is not intended to be a land use bill. Nor, in my opinion, do those of us on this side of the aisle wish to see it used or implemented in any way as Federal regulation of land use.

Fortunately, Mr. Kelly added a sunset provision to this bill in committee, which will terminate its existence December 31, 1981. In my opinion, by that time we in the House will have had an opportunity to see how this program is being administered. If it is being administered so as to benefit farmers and rural areas, I feel confident it will be extended. If it is being maladministered, the Congress will hopefully in its wisdom not extend this legislation.

Gentleman, this bill has many good features, so give it your fair and considered attention. I support it. And, I understand it is supported by the Department of Agriculture and the soil and water conservation districts in my own State of Virginia.

The SPEAKER. The question is on the motion offered by the gentleman from Tennessee (Mr. JONES) that the House suspend the rules and pass the bill H.R. 75, as amended.

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this vote will be postponed.

#### PERMISSION FOR SUBCOMMITTEE ON GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT TODAY DURING 5-MINUTE RULE

Mr. PREYER. Mr. Speaker, I ask unanimous consent that the Subcommittee on Government Information and Individual Rights of the Committee on Government Operations be permitted to sit during the 5-minute rule today, Monday, June 6, 1977, at 2 p.m., if the House is meeting under the 5-minute rule at that time, in order to conduct an investigative hearing at which Attorney General Griffin Bell will appear.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object—and I will not object—can the gentleman assure us that it is primarily for testimony by the Attorney General, and that there will be no attempts to mark up any bills of which Members do not have previous notice?

Mr. PREYER. I can assure the gentleman of that. It will be with regard to that witness, and there will be no markup.

Mr. ROUSSELOT. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

#### DEFERRAL OF WHEAT REFERENDUM

Mr. FOLEY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1240) to extend the time of conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1978.

The Clerk read as follows:

S. 1240

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 336 of the Agricultural Adjustment Act of 1938 (52 Stat. 55, as amended; 7 U.S.C. 1336) is amended by striking out the last four sentences and inserting in lieu thereof a new sentence as follows: "Notwithstanding any other provision hereof, the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1978, may be conducted not later than the earlier of the following: (1) thirty days after adjournment sine die of the first session of the Ninety-fifth Congress, or (2) October 15, 1977."*

The SPEAKER. Is a second demanded?

Mr. THONE. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Washington (Mr. FOLEY) is recognized for 20 minutes, and the gentleman from Nebraska (Mr. THONE) is recognized for 20 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I bring to the House the bill (S. 1240) which would permit the Secretary of Agriculture to defer the wheat marketing quota referendum for the 1978 crop from August 1 of this year until 30 days after Congress adjourns or October 15, 1977, whichever is earlier. This bill passed the Senate by a unanimous voice vote on April 25 and was favorably reported by the Committee on Agriculture by a unanimous voice vote. The administration has urged that the Congress act promptly on the legislation. It must be enacted promptly if it is to fulfill its purpose of avoiding the cost of preparing for and conducting a national referendum which will, in all likelihood, be rendered unnecessary by omnibus farm legislation soon to come before the House.

The Agricultural Adjustment Act requires that whenever the Secretary of Agriculture determines that the total supply of wheat in the next succeeding marketing year will likely be excessive, he must proclaim that a national marketing quota for wheat shall be in effect for that year. Secretary of Agriculture Bob Bergland has determined that the total supply of wheat in the 1978 marketing year will likely be excessive; and he has proclaimed a 1978 national wheat

marketing quota of 1,905 million bushels. The Agricultural Adjustment Act also requires the Secretary, when he proclaims a national marketing quota for wheat, to conduct a referendum not later than August 1 to determine whether producers favor or oppose marketing quotas. The Department of Agriculture estimates the total cost of preparing for and conducting the referendum at over \$1 million.

Since 1965, provisions contained in periodic omnibus farm legislation have rendered it unnecessary for the Secretary to conduct this referendum. The Senate and House of Representatives are presently considering new legislation (S. 275 and H.R. 7171) for the 1978 and subsequent crops of wheat which, if enacted, will again obviate the need for a referendum. Therefore, S. 1240 is needed to permit deferral of the wheat referendum and the associated costs until after Congress acts on the pending farm legislation in this session. However, unless we act promptly the Department must begin preparations for the referendum which will be costly.

I urge my colleagues to support this legislation in order that we may save up to \$1 million which otherwise will be spent needlessly.

Mr. THONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1240. S. 1240 would permit the wheat marketing quota referendum for the 1978 crop to be deferred until 30 days after the adjournment of Congress or October 15, 1977, whichever is earlier. Congress is presently considering new legislation which would suspend marketing quotas for the 1978 and subsequent crops.

The Senate has passed a farm bill, S. 275, and the House undoubtedly will take up its version of the farm bill (H.R. 7171) in July.

If the new legislation suspending marketing quotas is enacted, a referendum would not be required. It is, therefore, in the interest of economy and only logical that S. 1240, which would defer the referendum, be passed by the House.

This bill is strongly recommended for enactment by the Department of Agriculture. According to the Congressional Budget Office and the Department of Agriculture, a minimum of \$85,000 would be saved if this bill is enacted into law, and it could result in a much more significant cost saving of \$977,000 if S. 1240 is not enacted or unnecessarily delayed; inasmuch as a costly referendum could be held which would be made meaningless by the enactment of the farm bill.

The bill was unanimously reported by voice vote by the committee on May 23, 1977.

I urge your support of S. 1240.

Mr. FOLEY. Mr. Speaker, I yield myself 2 additional minutes.

Mr. Speaker, I would like to make one other point. First of all, however, I want to thank the gentleman from Nebraska (Mr. THONE) and members of the minority who have cooperated fully in

bringing this matter to the floor of the House promptly. This action is urgently required for the economy and to avoid the expenditure of unnecessary funds.

Mr. Speaker, I do want to make clear for the record that in the remote and most implausible situation that we do not enact farm legislation which would carry the deferral forward, this bill, S. 1240, does not remove the authority to conduct the wheat referendum, but would merely extend it to a later time, either October 15 or the time of the sine die adjournment of the 95th Congress, 1st session.

Mr. WAMPLER. Mr. Speaker, it is a distinct pleasure to speak in support of, and urge House passage of, S. 1240—a bill to extend the time of conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1978. I say this because we seldom have an opportunity to vote to save nearly \$1 million on the taxpayers' money.

H.R. 7171, the omnibus farm bill reported by the House Committee on Agriculture and scheduled for consideration later this month or early in July, would suspend wheat marketing quotas and eliminate the need for a referendum such as that deferred by S. 1240. Thus, I strongly recommend that this bill be passed, for I believe it will avoid a waste of \$1 million by the Federal Government if this bill is enacted into law.

Since the other body has already acted, S. 1240 can be promptly forwarded to the President for his signature if the House will act on it favorably today.

The SPEAKER. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY) that the House suspend the rules and pass the Senate bill S. 1240.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

#### FEDERAL ENERGY ADMINISTRATION AUTHORIZATION ACT OF 1977

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6794) to amend the Federal Energy Administration Act of 1974 to extend the duration of authorities under such act, to authorize appropriations for the Federal Energy Administration for the 1978 fiscal year, and for other purposes.

The Clerk read as follows:

H.R. 6794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

#### SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Energy Administration Authorization Act of 1977".

GENERAL AUTHORIZATION OF APPROPRIATIONS  
SEC. 2. Section 29 of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 note) is amended to read as follows:

#### "AUTHORIZATION OF APPROPRIATIONS

"SEC. 29. (a) There are authorized to be appropriated to the Federal Energy Administration the following sums:

"(1) subject to the restrictions specified in subsection (b), to carry out the functions identified as assigned to Executive Direction and Administration of the Federal Energy Administration as of January 1, 1977—

"(A) for the fiscal year ending September 30, 1977, not to exceed \$35,627,000; and  
"(B) for the fiscal year ending September 30, 1978, not to exceed \$41,017,000.

"(2) to carry out the functions identified as assigned to the Office of Energy Information and Analysis as of January 1, 1977—

"(A) for the fiscal year ending September 30, 1977, not to exceed \$34,971,000; and  
"(B) for the fiscal year ending September 30, 1978, not to exceed \$43,544,000.

"(3) to carry out the functions identified as assigned to the Office of Regulatory Programs as of January 1, 1977—

"(A) for the fiscal year ending September 30, 1977, not to exceed \$62,459,000; and  
"(B) for the fiscal year ending September 30, 1978, not to exceed \$62,459,000.

"(4) to carry out the functions identified as assigned to the Office of Conservation and Environment as of January 1, 1977 (other than functions described in part A and part D of title IV of the Energy Conservation and Production Act, parts B and C of title III of the Energy Policy and Conservation Act and, for the fiscal year ending September 30, 1977, functions described in title II of the Energy Conservation and Production Act and in paragraph (7) of this subsection)—

"(A) for the fiscal year ending September 30, 1977, not to exceed \$38,603,000; and

"(B) for the fiscal year ending September 30, 1978, not to exceed \$46,908,000.

"(5) to carry out the functions identified as assigned to the Office of Energy Resource Development as of January 1, 1977—

"(A) for the fiscal year ending September 30, 1977, not to exceed \$16,934,000; and

"(B) for the fiscal year ending September 30, 1978, not to exceed \$26,017,000.

"(6) to carry out the functions identified as assigned to the Office of International Energy Affairs as of January 1, 1977—

"(A) for the fiscal year ending September 30, 1977, not to exceed \$1,921,000; and

"(B) for the fiscal year ending September 30, 1978, not to exceed \$1,846,000.

"(7) subject to the restriction specified in subsection (c), to carry out a program to develop the policies, plans, implementation strategies, and program definitions for promoting accelerated utilization and widespread commercialization of solar energy and to provide overall coordination of Federal solar energy commercialization activities, for the fiscal year ending September 30, 1977, not to exceed \$2,500,000.

"(8) for the purpose of permitting public use of the Project Independence Evaluation System pursuant to section 31 of this Act, not to exceed the aggregate amount of the fees estimated to be charged for such use.

"(b) The following restrictions shall apply



to the authorization of appropriations specified in paragraph (1) of subsection (a)—

"(1) amounts to carry out the functions identified as assigned to the Office of Communication and Public Affairs as of January 1, 1977, shall not exceed \$2,112,000 for the fiscal year ending September 30, 1977; and

"(2) no amounts authorized to be appropriated in such paragraph may be used to carry out the functions identified as assigned to the Office of Nuclear Affairs as of January 1, 1976.

"(c) No amounts authorized to be appropriated in paragraphs (5) (B) and (7) of subsection (a) may be used to carry out solar energy research, development, or demonstration activities.

"(d) Subject to the provisions of any other law enacted after the date of the enactment of this subsection, if any function for which funds are authorized to be appropriated by this section is transferred by or pursuant to any such provision of law to any department, agency, or office, the unexpended balances of appropriations, authorizations, allocations, and other funds, held, used, arising from, available to, or to be made available in connection with such function shall be transferred to such department, agency, or office, but shall continue to be subject to any restriction to which they were subject before such transfer."

#### ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

SEC. 3. (a) Section 339(c)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6309(c)(2)) is amended by striking out "\$700,000" and inserting in lieu thereof "\$2,500,000".

(b) Section 339(c)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6309(c)(3)) is amended by striking out "\$700,000" and inserting in lieu thereof "\$1,800,000".

#### STRATEGIC PETROLEUM RESERVE

SEC. 4. Section 166 of the Energy Policy and Conservation Act (42 U.S.C. 6246) is amended by striking out "and" at the end of paragraph (1), by striking out the period in paragraph (2) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(3) such funds for the fiscal year ending September 30, 1978, not to exceed \$500,000,000, as are necessary to permit the acquisition and storage of petroleum products in the Strategic Petroleum Reserve, in accordance with the storage schedule set forth in the Strategic Petroleum Reserve Plan then in effect in excess of the minimum volume specified in section 154(a), but not in excess of 500,000,000 barrels."

#### ENERGY CONSERVATION AND RENEWABLE-RESOURCE OBLIGATION GUARANTEES

SEC. 5. Section 451(g) of the Energy Conservation and Production Act (42 U.S.C. 6881(g)) is amended by adding at the end thereof the following new paragraph:

"(3) There is authorized to be appropriated to carry out the provisions of this part, including administrative costs, but not for the payment of amounts to be paid under subsection (f)—

"(A) for the fiscal year ending September 30, 1977, not to exceed \$1,836,000; and

"(B) for the fiscal year ending September 30, 1978, not to exceed \$4,950,000."

#### FEDERAL ENERGY ADMINISTRATION ACT EXTENSION

SEC. 6. The second sentence of section 30 of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 note) is amended to read as follows: "This Act shall terminate September 30, 1978."

#### EXTENSION OF COAL CONVERSION AND ALLOCATION AUTHORITY

SEC. 7. Paragraph (1) of section 2(f) of the Energy Supply and Environmental Co-

ordination Act of 1974 (15 U.S.C. 792(f)(1)) is amended by striking out "shall expire at midnight, June 30, 1977" and inserting in lieu thereof "shall expire at midnight, December 31, 1978".

#### AUTHORITY AND RESPONSIBILITY OF GENERAL COUNSEL

SEC. 8. Section 7 of the Federal Energy Administration Act of 1974 (15 U.S.C. 766) is amended by adding at the end thereof the following new subsection:

"(1) Effective beginning July 1, 1977, amounts authorized to be appropriated under this Act or any other Act shall not be available for the payment of salaries and other expenses with respect to any office of regional counsel of the Administration unless such office is under the direct supervision and control of the General Counsel of the Administration."

#### USE OF COMMERCIAL STANDARDS

SEC. 9. Part A of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.) is amended by adding at the end thereof the following new section:

##### "USE OF COMMERCIAL STANDARDS"

"SEC. 32. (a) If any proposed rule by the Administrator contains any commercial standards, or specifically authorizes or requires the use of any such standards, then any general notice of the proposed rule-making shall—

"(1) identify, by name, the organization which promulgated such standards; and

"(2) state whether or not, in the judgment of the Administrator, such organization complied with the requirements of subsection (b) in the promulgation of such standards.

"(b) An organization complies with the requirements of this subsection in promulgating any commercial standards if—

"(1) it gives interested persons adequate notice of the proposed promulgation of the standards and an opportunity to participate in the promulgation process through the presentation of their views in hearings or meetings which are open to the public;

"(2) the membership of the organization at the time of the promulgation of the standards is sufficiently balanced so as to allow for the effective representation of all interested persons;

"(3) before promulgating such standards, it makes available to the public any records of proceedings of the organization, and any documents, letters, memorandums, and materials, relating to such standards; and

"(4) it has procedures allowing interested persons to—

"(A) obtain a reconsideration of any action taken by the organization relating to the promulgation of such standards, and

"(B) obtain a review of the standards (including a review of the basis or adequacy of such standards).

"(c) The Administrator shall not incorporate within any rule, nor prescribe any rule specifically authorizing or requiring the use of, any commercial standards unless he has consulted with the Attorney General and the Chairman of the Federal Trade Commission concerning the impact of such standards on competition and neither such individual recommends against such incorporation or use.

"(d) The foregoing provisions of this section shall not apply with respect to rules prescribed by the Administrator which relate to the procurement activities of the Administration.

"(e) Not later than 90 days after the date of the enactment of this section, the Administrator shall prescribe, by rule, guidelines or criteria which set forth the extent to which, and the terms and conditions under

which, employees of the Administration may participate in their official capacity in the activities of any organization (which is not a Federal entity) which relate to the promulgation of commercial standards. Such guidelines and criteria may allow for such participation if it is in the public interest and relates to the purposes of this Act, but in no event may such employees who are participating in their official capacity be allowed under such guidelines or criteria to vote on any matter relating to commercial standards.

"(f) As used in this section, the term 'commercial standards' means—

"(1) specifications of materials;

"(2) methods of testing;

"(3) criteria for adequate performance or operation;

"(4) model codes;

"(5) classification of components;

"(6) delineation of procedures or definition of terms;

"(7) measurement of quantity or quality for evaluating or referring to materials, products, systems, services, or practices; or

"(8) similar rules, procedures, requirements, or standards;

which are promulgated by any organization which is not a Federal entity. For purposes of the preceding sentence, any revision by any such organization of any such rule, procedure, requirement, or standard shall be considered to be the same as the promulgation of such standard."

#### CONFLICT OF INTEREST

SEC. 10. Part A of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by this Act, is amended by adding at the end thereof the following:

##### "ORGANIZATIONAL CONFLICTS"

"SEC. 33. (a) The Administrator shall, by rule, require any person proposing to enter into a contract, agreement, or other arrangement, whether by competitive bid or negotiation, under this Act or any other law administered by him for the conduct of research, development, evaluation activities, or for technical and management support services, to provide the Administrator, prior to entering into any such contract, agreement, or arrangement, with all relevant information, as determined by the Administrator, bearing on whether that person has a possible conflict of interest with respect to—

"(1) being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons, or

"(2) being given an unfair competitive advantage. Such person shall insure, in accordance with regulations prescribed by the Administrator, compliance with this section by any subcontractor (other than a supply subcontractor) of such person in the case of any subcontract of more than \$10,000.

"(b) The Administrator shall not enter into any such contract, agreement, or arrangement unless he finds, after evaluating all information provided under subsection (a) and any other information otherwise available to him that—

"(1) it is unlikely that a conflict of interest would exist, or

"(2) such conflict has been avoided after appropriate conditions have been included in such contract, agreement, or arrangement;

except that if he determines that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Administrator may enter into such contract, agreement, or arrangement, if he determines that it is in the best interests of the United States to do so and includes appropriate conditions

in such contract, agreement, or arrangement to mitigate such conflict.

"(c) The Administrator shall publish rules for the implementation of this section, in accordance with section 553 of title 5, United States Code (without regard to subsection (a) (2) thereof) as soon as practicable after the date of the enactment of this section, but in no event later than 120 days after such date."

The SPEAKER. Is a second demanded? Mr. BROWN of Ohio, Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Michigan (Mr. DINGELL) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. BROWN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, the measure we take up this afternoon, the Federal Energy Administration Authorization Act of 1977, is a multipurpose act to accomplish several objectives:

It will extend the duration of the FEA Authorization Act of 1974 from its present expiration date of June 30, 1977 until September 30, 1978; it will extend section 2(f) of the Energy Supply and Environmental Coordination Act of 1974—that is, those provisions to bring about mandatory conversion of certain energy facilities from natural gas and oil to coal; it will authorize the appropriations needed by the FEA in fiscal year 1978 and supplementally for the remainder of fiscal year 1977; and it will authorize the acquisition and storage of additional petroleum products for the strategic petroleum reserve.

In addition, the act seeks to improve the operation of the FEA in three key areas: It provides a new section in the law designed to identify whether conflicts by FEA contractors and subcontractors exist or are likely to exist; it imposes limits on the powers of FEA regional counsels who until recently have been inclined to act with virtual autonomy; and it sets forth a general policy for the FEA concerning the development and use of industry-developed commercial standards.

The authorization of funds for the FEA has been increased by 10 percent over that requested by the administration. This was designed to provide flexibility to the FEA during any reorganization resulting from its inclusion in the proposed Department of Energy—which the House of Representatives approved last week. The increase will also provide adequate funds for a pay raise should one be approved for this coming October.

The authorization contained in this legislation for the next fiscal year is \$1,443,000—a rather large sum, as these matters go. The bulk of this authorization, however, represents funds designated to acquire crude oil for the strategic reserve program. These funds, \$1,210,000 in all, are required to build this

program up from the level of 150 million barrels to 250 million barrels by the end of the next calendar year. The administration has sent up its proposed amendment to the strategic reserve program to accelerate the acquisition of crude oil, and I have heard no one suggest that this is not a timely and appropriate action. Enactment of this legislation will bring us a long stride in the direction of accomplishing this desirable objective.

In summary, this bill which was unanimously approved by the full committee not only provides the funds for the operation of the FEA in fiscal years 1977 and 1978, it also proposes improvements in the FEA programs and provides for its integration into the Department of Energy, when and as that Department is created.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I rise in support of H.R. 6794, the FEA Authorization Act of 1977. This bill is one of the few noncontroversial measures reported by the Energy and Power Subcommittee.

The legislation contains five major provisions. First, the bill provides \$221 million in operational funds for the FEA for fiscal year 1978. Second, the bill authorizes \$500 million for fiscal year 1978 for the acquisition and storage of oil supplies in order to fill the strategic petroleum reserve established under the Energy Policy and Conservation Act, EPCA. Third, H.R. 6794 extends the FEA until September 1, 1978, in case the Department of Energy bill should not become law. Fourth, the coal conversion authority under the Energy Supply and Environmental Coordination Act, ESECA, is extended through December 31, 1978. Presently, the authority of the FEA Administrator to order conversion of major fuel burning installations from natural gas or oil to coal would expire on June 30, 1977.

Finally, section 9 of H.R. 6794 provides that if the FEA uses any commercial standard developed by a private organization in any proposed rule, the FEA must identify the organization promulgating the standard and state whether the organization complied with certain procedures enumerated in section 9(b) in establishing the standard. Such procedures include that the organization provide an opportunity for interested parties to participate in the development of the standards prior to the decision by the organization on the standards, and that the organization's membership be balanced as to allow for participation from within by "interested parties." The FEA may use such standards, even if the procedures of section 9(b) were not used by the private organization.

Although I support this legislation, I feel obligated to point out to my colleagues two provisions of some concern. First, the \$221 million authorization for operations is \$39 million more than the administration requested. The justification given for the increase is that it would provide flexibility for: First, the presumed incorporation of the FEA into the proposed Department of Energy; and

second, the cost-of-living pay increase for Federal employees due in October. Although providing such flexibility should eliminate the need for a supplemental authorization for the FEA and thus simplify the appropriations process for the FEA, it is my hope that the Appropriations Committee and the Members of the House will scrutinize closely the need for the additional sum of money.

Second, the section 9 provisions on commercial standards development raises the potential that private organizations might be deterred from establishing self-governing commercial standards. Currently, several organizations in the energy field provide a useful public service by self-policing their respective industries through the establishment and observation of health, safety, and efficiency standards. To the extent that section 9 restrains private organizations from establishing their own standards, the public is the loser.

Although I am somewhat concerned about these two matters, I nevertheless support this legislation and urge my colleagues to vote for its passage.

Mr. DINGELL. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, counsel has just advised me that I misspoke myself, and I have a unanimous consent request at this time, with respect to which I have just advised the minority.

I ask unanimous consent that the figure at page 6, line 13, be changed from "\$500,000,000" to "\$1,210,000,000".

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. BROWN of Ohio. Reserving the right to object, Mr. Speaker, the reason for that change, as I understand, is because the administration would like to enlarge the purchases for the strategic energy reserve; is that correct?

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, the gentleman is totally correct.

Mr. BROWN of Ohio. The petroleum reserve, is that correct?

Mr. DINGELL. The answer to that question is, "yes," the gentleman is entirely correct.

Mr. BROWN of Ohio. And as I understand, the further reason is that we must authorize that money even though it may not be expended until after the new fiscal year begins in order for the administration to write contracts for the purchase of that petroleum, even though it may not have to pay for the petroleum until later, when the contract is fulfilled; is that not correct?

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, the answer to the question posed by the gentleman from Ohio (Mr. BROWN) is "Yes." The gentleman is correct. That is precisely the reason that this is done.

Mr. BROWN of Ohio. Might I say further that I believe it is in our national



interest to fill that strategic petroleum reserve as early as possible for two reasons: First, the petroleum is unlikely to be any less expensive in the future, so we may be getting as many gallons of oil for our dollar as can be gotten at any time. Second, the sooner we have that strategic petroleum reserve filled the better off we will be to deal with any possible embargo or loss of supply from the foreign imports that, unfortunately, the country has grown extremely dependent upon, exceeding 45 percent of our total crude in the United States.

Mr. DINGELL. If the gentleman from Ohio will yield still further, the answer to that question again is yes. The gentleman from Ohio is entirely correct. And that is precisely the reason therefor.

Mr. BROWN of Ohio. Finally, Mr. Speaker, I might say that I understand that the gentleman from Michigan, the chairman of our subcommittee, Mr. DINGELL, and I, as the ranking minority member, and the gentleman from West Virginia (Mr. SLACK), the chairman of the full committee, were not apprised of the desire of the administration to expand its purchases for the strategic petroleum reserve until after the legislation had cleared the subcommittee on energy and power and had cleared the full committee, and that the gentleman from Michigan (Mr. DINGELL) is circulating a letter to the members of the Committee on Interstate and Foreign Commerce asking any member, should they object, to contact the staff, and to do so before we came to the floor with this legislation under suspension of the rules. I would assume that the gentleman from Michigan has received no such objections.

Mr. DINGELL. Mr. Speaker, will the gentleman yield further?

Mr. BROWN of Ohio. I will be glad to yield further to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, the answer is that the gentleman from Ohio is again correct. A copy of the letter the gentleman referred to will be offered for the record under unanimous consent at the appropriate time. The gentleman from Michigan does advise the gentleman from Ohio that I have received no objection, and further I wish to state that this is urgently necessary to correct the problem we found with regard to the failure of the administration to submit the information with regard to their real needs of completing the strategic petroleum reserve in a timely fashion, and the gentleman from Ohio is again correct.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I would ask the gentleman from Ohio (Mr. BROWN) if it is a fact that, in other words, the information that the House has before it is wrong by nearly half a billion dollars; is that correct?

Mr. BROWN of Ohio. The information

which the House now has before it is accurate. The information which was printed in the bill, as I understand, is not correct, because, as we have tried to explain, the administration asked for the modification after the legislation had passed the subcommittee and the full committee.

Mr. SYMMS. Will the gentleman yield further?

Mr. BROWN of Ohio. I will be glad to yield further to the gentleman from Idaho.

Mr. SYMMS. In other words, on page 6, line 13, where it says: "not to exceed \$500,000,000."

That is being changed to \$1½ billion; is that correct?

Mr. DINGELL. Mr. Speaker, if the gentleman from Ohio will yield, I believe the figure is \$1,210,000,000.

Mr. SYMMS. The information that has been published to the Members is that we are passing a bill out that is supposed to be somewhere in the neighborhood of \$700 million, or close to \$800 million, and that really that is inaccurate?

Mr. BROWN of Ohio. The information is not inaccurate with reference to the legislation as it came from the full committee. The unanimous consent request was made by the gentleman from Michigan, and, under the reservation of objection, through which we are now discussing the matter, in order to modify the legislation in such a way that it can reflect the request of the administration for going ahead with the contracts for purchases for the strategic petroleum reserve, which Congress had previously approved, but to do it early, so that we can save money through those purchases, and, second, get this strategic petroleum reserve in place as soon as possible.

Mr. SYMMS. Mr. Speaker, will the gentleman yield further?

Mr. BROWN of Ohio. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

In other words, we are amending the legislation here under a Suspension Calendar; are we not?

Mr. BROWN of Ohio. Under the unanimous consent request of the gentleman from Michigan (Mr. DINGELL)—assuming we get unanimous consent—the legislation would be modified to the extent described, and the money, of course, would have to be appropriated for the purpose of the early contracts, and the expenditures which would have to be made in connection with those contracts by the Committee on Appropriations.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the chairman of the full committee, the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. I thank the gentleman for yielding.

I have listened to the gentleman's explanation. I think he was very accurate and fair in his explanation of the bill.

Mr. Speaker, today the House of Rep-

resentatives considers legislative action to provide funding for the Federal Energy Administration for fiscal year 1978. The bill before us, which was unanimously approved by the Committee on Interstate and Foreign Commerce, addresses a number of issues relating to the FEA budget.

These issues include moneys for the administration's requested increase in the strategic petroleum reserve program; extension of the Federal Energy Administration Act of 1974, authorization of appropriations for the FEA programs in fiscal year 1978; extension of section 2 (f) of the Energy Supply and Environmental Coordination Act of 1974; and added provisions for the improvement of FEA program management.

Additionally, this legislation will establish an increased authorization for the strategic petroleum reserve. These funds have been requested by the FEA for the purpose of acquiring petroleum products in order to increase the volume of the reserves from the presently authorized 150 million barrels to 250 million barrels by December 1978.

I urge prompt passage of this legislation in order that the FEA can continue its present plans and programs.

Mr. BROWN of Ohio. Mr. Speaker, I think one other point should be made clear which we have not made clear in this discussion on the reservation, and that is that the Federal Energy Administration submitted Energy Action 12 some weeks ago which had the veto provision for the House of Representatives to prohibit its going into effect. That veto provision has not yet been exercised by the House, and is unlikely to be exercised. Energy Action 12 provides for the accelerated purchase of petroleum for the strategic petroleum reserves. So what we are faced with is that the subdivision of Energy Action 12 came after the legislation was passed out of the Committee on Interstate and Foreign Commerce. So we have been in kind of a Catch 22 situation here, and the way to deal with it, it was felt, in the most expeditious way and with the least printing and with the least time taken for the House of Representatives to have scheduled debate, and so forth, was the vehicle elected by the gentleman from Michigan (Mr. DINGELL); that is, to circulate a letter to the Committee on Interstate and Foreign Commerce, and then to ask for unanimous consent under this provision today.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield once more?

Mr. BROWN of Ohio. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I would like to commend the gentleman from Ohio, especially for his complete, detailed explanation of this question. I think it is very sensible, and I urge the House to pass this bill because I think it is urgently needed and will save this country a lot of money.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

I would like to inquire of either of the two gentlemen here, in the first place—since I am not a member of the committee and know very little about it, but we are talking about a little bit of money here—is this foreign oil or domestic oil?

Mr. BROWN of Ohio. I yield to the gentleman from Michigan (Mr. DINGELL) for a response.

Mr. DINGELL. I thank the gentleman for yielding.

The answer is that it will probably be foreign oil, since any additional oil which comes into the country will be procured from abroad; and since we are authorizing a very large additional acquisition of oil by this country for the purpose of completing our strategic oil storage program to protect our Nation against cut off of oil supplies from abroad, it will have to be foreign oil. But the way it will be done, if the gentleman from Ohio will permit me, will be by the issuance of additional entitlements overall so that the cost to the taxpayer will be at about the prevailing rates of all the different categories of oil which are being sold in the United States.

Mr. BROWN of Ohio. If I may reclaim my time, I will say to the gentleman from Michigan I think that modifies the response he gave to some extent that it will probably be both foreign and domestic oil on the basis that the price will come out to be in effect the composite price which is now being paid.

So I think if Members want to know what the oil is physically, it may very well be that it is both foreign and domestic oil which will be purchased for this purpose of filling up the strategic oil reserves, so we will have them in case we either get embargoes or have our foreign supplies shut off.

Mr. VOLKMER. This will be crude which is just put in domes or cavities somewhere and stored?

Mr. BROWN of Ohio. It will be stored in the event we face a national emergency of some sort.

Mr. VOLKMER. Where will it be stored?

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, it will be stored in salt domes which are presently being located.

Mr. BROWN of Ohio. I think most of those salt domes are in the State of Louisiana.

Mr. VOLKMER. I thank the gentleman very much.

Mr. BROWN of Ohio. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. SYMMS. Mr. Speaker, reserving the right to object, I would like to address the committee and point out here we are in the House asked to add \$1 billion when only within the last month in my district in Caldwell, Idaho, the FEA officials have been there harassing the local petroleum jobbers, and accus-

ing them of hoarding oil products in order to fill up their supply tanks in order to be ahead of the game in case there should be a shortage of oil products in the future. So on the one hand we are saying that we will take \$1 billion of the taxpayers' money to store petroleum, and do it by unanimous consent on the floor of the House without even having the Representatives have a chance to vote on it and then the FEA is harassing the people in our districts for trying to do the same thing—store oil—without using the Government's money, so, for that reason I object.

The SPEAKER. Objection is heard.

#### PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BROWN of Ohio. Mr. Speaker, as I understand it, the gentleman from Michigan is constrained by the rules of the House from offering an amendment to the legislation before us. Would it be in order for the suspension legislation to be withdrawn and resubmitted with the new figure?

The SPEAKER. That can be done only by unanimous consent, since a second has been ordered.

Mr. BROWN of Ohio. That could be done by unanimous consent, Mr. Speaker.

The SPEAKER. By unanimous consent.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that I be permitted to withdraw the motion.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. SYMMS. Mr. Speaker, I object.

The SPEAKER. The Chair hears objection from the gentleman from Idaho.

The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL) that the House suspend the rules and pass the bill H.R. 6794.

The question was taken.

Mr. SYMMS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to the provisions of clause 3(b) or rule XXVII, and prior announcement of the Chair, further proceedings on this motion will be postponed.

#### AMENDING TITLE 4 OF THE UNITED STATES CODE TO MAKE IT CLEAR THAT MEMBERS OF CONGRESS MAY NOT, FOR PURPOSES OF STATE INCOME TAX LAWS, BE TREATED AS RESIDENTS OF ANY STATE OTHER THAN THE STATE FROM WHICH THEY WERE ELECTED

Mr. DANIELSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6893) to amend title 4 of the United States Code to make it clear that Members of Congress may not, for purposes of State income tax laws, be treated as residents of any State other

than the State from which they were elected.

The Clerk read as follows:

H.R. 6893

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 4 of title 4 of the United States Code is amended by adding at the end thereof the following new section:*

"§ 113. Residence of Members of Congress for State income tax laws

"(a) No State, or political subdivision thereof, in which a Member of Congress maintains a place of abode for purposes of attending sessions of Congress may, for purposes of any income tax (as defined in section 110(c) of this title) levied by such State or political subdivision thereof—

"(1) treat such Member as a resident or domiciliary of such State or political subdivision thereof; or

"(2) treat any compensation paid by the United States to such Member as income for services performed within, or from sources within, such State or political subdivision thereof,

unless such Member represents such State or a district in such State.

"(b) For purposes of subsection (a)—

"(1) the term 'Member of Congress' includes the delegates from the District of Columbia, Guam, and the Virgin Islands, and the Resident Commissioner from Puerto Rico; and

"(2) the term 'State' includes the District of Columbia."

(b) The table of sections for such chapter 4 is amended by adding at the end thereof the following new item:

"113. Residence of Members of Congress for State income tax laws."

The SPEAKER. Is a second demanded?

Mr. KINDNESS. Mr. Speaker, I demand a second.

Mr. BAUMAN. Mr. Speaker, may I inquire is the gentleman from Ohio opposed to the legislation?

Mr. KINDNESS. I am, Mr. Speaker.

The SPEAKER. The gentleman from Ohio qualifies.

Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from California (Mr. DANIELSON) and the gentleman from Ohio (Mr. KINDNESS) will be recognized for 20 minutes each.

The Chair now recognizes the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, the bill, H.R. 6893, is designed to take care of an inequity in the imposition of State income tax upon certain Members of Congress.

The bill is very simple and in its operating portion simply reads:

No State, or political subdivision thereof in which a Member of Congress maintains a place of abode for purposes of attending sessions of Congress may, for purposes of any income tax (as defined in section 110(c) of this title) levied by such State or political subdivision thereof—

"(1) treat such Member as a resident or domiciliary of such State or political subdivision thereof; or

"(2) treat any compensation paid by the United States to such Member as income for



services performed within, or from sources within, such State or political subdivision thereof, unless such Member represents such State or a district in such State.

Mr. Speaker, the thrust of this bill very specifically would relate to the current situation in which the State of Maryland is wont to impose an income tax upon the congressional salaries of Members of Congress who maintain a place of abode in the State of Maryland while they are attending sessions of the Congress.

I want to point out that the important difference here is this: Members of Congress are required by the Constitution to be inhabitants of the State from which they are elected. This is a constitutional and fundamental requirement which cannot be ignored. It is a practical and obvious matter that people from far reaches of the United States who are elected to the Congress to represent their districts here must establish and maintain a place of abode somewhere in the vicinity of Washington in order to be available for the daily sessions of the Congress and to meet their constitutional responsibilities as Members of Congress.

I want to point out that in doing so they do not give up their domicile or place of residence or their home State or the district in which they are elected. They may not do so under the Constitution, as I see it. As a practical matter, they could not do so, or they would not be returned to Congress.

The law is eminently clear that a person does not lose his domicile simply because he moves for some temporary reason. The domicile remains the same as it was before the move, unless he couples the move with an intent permanently to remain away from his original domicile.

The definition of the word "residence" is an extension upon the domicile and often applies to a person who spends 6 months or more in other than his place of domicile.

In my opinion, and in that of my colleagues, it is clear that an abode, which is an even more temporary residence, is certainly not a domicile and does not qualify as such, but happens to be the place in which from necessity a person must sometimes abide, such as a Member of Congress must have an abode near Washington in order to discharge his duties as a Member of Congress.

Now, there is an offset under the Maryland law, it is true. Maryland provides that if one has to pay income tax within the State of Maryland, it may offset against it the amount of any income tax paid to the State of his original residence. However, that does not cover the entire amount of the tax. For example, in the State of Maryland, counties and local governments have an income tax which is included along with and collected by the State of Maryland and no offset is allowed for this county-type of income tax.

I would like to point out also, Mr. Speaker, that there is ample precedent in the law to support the equitable position which will be brought into being by

this bill. For example, in 1942, responding to the needs of our country, the Congress passed and the President signed the Soldiers and Sailors Civil Relief Act of 1942, which is still in full force and effect. It has been amended from time to time, but it is still in full force and effect.

The Soldiers' and Sailors' Civil Relief Act provides that a member of the military services is not to be deemed to have lost a residence or domicile in any State, territory, possession, or in their political subdivisions, or in the District of Columbia solely by reason of being absent therefrom in compliance with military or naval orders. It further provides that a serviceman shall not be deemed for taxation purposes to have acquired a residence or domicile or to have become a resident in any other State, territory, possession, or political subdivision or in the District of Columbia solely by reason of being absent on that basis from his original residence or domicile.

That law was sustained by the United States Supreme Court in the case of *Dameron v. Brodhead*, 345 U.S. 322, in the year 1953. The statement of the Court in that case observed that the provisions of the Soldiers' and Sailors' Civil Relief Act do not affect the above powers of the States to tax. However, the Court pointed out that the statute merely states that the taxable domicile of servicemen is not to be changed by military assignments. The Court explicitly stated that in so providing, the statute represented activity within the Federal power.

I respectfully submit, Mr. Speaker, that the constitutional necessity of Members of Congress to attend the Congress in Washington during the sessions of the Congress is exactly parallel to that cited in the Soldiers' and Sailors' Civil Relief Act. I urge strongly that the bill be adopted.

I want to point out that it is inconsistent, as well as unfair, to characterize a Member of Congress as a resident for tax purposes of another jurisdiction simply because a Member of Congress is required to be present within Washington during the sessions of the Congress.

Mr. Speaker, the bill H.R. 6893 would add a new section 113 to title 4 of the United States Code concerning the incidence of State income tax laws on Members of Congress and providing that such taxes may not be levied against such a Member as a "resident" or "domiciliary" of a State in which he maintains a place of abode away from his home State for the purpose of attending sessions of Congress nor in such an instance shall his congressional salary be treated "as income for service performed within, or from sources within such State or political subdivision thereof".

Accordingly, Mr. Speaker, the bill provides that no State or its political subdivision in which a Member of Congress maintains a place of abode for purposes of attending sessions of Congress may for State or subdivision income tax purposes treat the Member as a resident or domiciliary or treat any income paid by the United States as income for services

performed within or from sources within that State or political subdivision thereof unless such Member represents such State or a district of such State. The District of Columbia is included since the term "State" is defined as including the District of Columbia.

The bill also provides equal treatment for Delegates from the District of Columbia, Guam, and the Virgin Islands and the Resident Commissioner from Puerto Rico.

In order to attend the sessions of the Congress, Members of Congress who reside in States other than those neighboring Washington, D.C., must maintain an abode near the U.S. Capitol. This, of course, is in the Washington metropolitan area and this means the District of Columbia and adjoining areas in Virginia and Maryland.

The bill would provide for a uniform statutory standard to be applied to Members of Congress who must attend sessions of Congress and maintain a place of abode in the Washington area. While the incidence of income tax is not uniform due to differing tax laws this bill would settle the question. It is in fact consistent with the provisions presently contained in the laws of Virginia and the District of Columbia which provide an exemption to Members of Congress from State or District income taxes. (D.C. Code § 47-1551c, Virginia Code, sec. 58-151(e) (1) (i).) The District of Columbia Code exempts from the term "resident" "any elective officer of the Government of the United States \* \* \*" and a similar exclusion applies to the term "employee."

The Maryland law contains no such exclusion and provides for an income tax on substantially all income of "residents" of Maryland as defined in its income tax law.

The enactment of this bill will provide for uniform tax treatment of Members in this situation. It is expressly provided that it will not affect the tax obligations of Members who maintain places of abode in States or districts which they represent in Congress.

The effect of the provisions of this bill would be very similar to that that has been provided for years to servicemen under the Soldiers' and Sailors' Civil Relief Act. Section 514 of that act was added to the law by section 17 of the act of October 6, 1942 (56 Stat. 777) and was again amended in 1944 and 1962, which is classified to the United States Code as section 574 of title 50, appendix, provides that for purposes of taxation, a member of the military services is not to be deemed to have lost a residence or domicile in any State, territory, possession, or in their political subdivisions, or in the District of Columbia solely by reason of being absent therefrom in compliance with military or naval orders.

It is further provided that a serviceman shall not be deemed for taxation purposes to have acquired a residence or domicile or to have become a resident in any other State, territory, possession, or political subdivision or in the District of Columbia solely by reason of being absent on that basis from his original residence or domicile. It is also expressly provided

in the Soldiers' and Sailors' Civil Relief Act of 1940 that the serviceman's compensation for military or naval service is not to be deemed income for service performed within or from sources within the other State, territory, possession, or district. These provisions of the Soldiers' and Sailors' Civil Relief Act concerning residence for tax purposes were considered by the Supreme Court in the case of *Dameron v. Brodhead*, 345 U.S. 322 (1953). The Court upheld the right of a member of the Air Force assigned to duty in Colorado to assert his residence in Louisiana as a bar to tax liability for State taxes in Colorado. The statement of the Court in that case observed that the provisions of the Soldiers' and Sailors' Civil Relief Act do not affect the above powers of the States to tax. The Court pointed out that the statute merely states that the taxable domicile of servicemen is not to be changed by military assignments. The Court explicitly stated that in so providing, the statute represented activity within the Federal power.

Clearly, this is what the bill, H.R. 6893, would provide for Members of Congress. It provides that when an individual is elected to serve in the Congress and his duties require his attendance in Washington to attend the sessions of Congress and to discharge his responsibilities as an elected Representative of a State or a district within a State, the Member shall not be held to have acquired a new residence for tax purposes under a State other than the State from which he was elected. This, of course, would only apply during his term of office. Here again, the case of *Dameron* against *Brodhead* is instructive because the Court in that case noted that similar provisions of the Soldiers' and Sailors' Civil Relief Act "saved the sole right of taxation to the State of original residence." The Court further noted that other than this, the statute does not alter the benefits and burdens of our system of dual federalism during the individual's service. This bill, H.R. 6893, provides for such an effect in that it makes it clear that the Member will not be relieved of his tax obligations as regards the State from which the Member was elected.

In order to discharge the constitutionally required duties of a Member of Congress, most Members must maintain abodes away from their home States. As a representative of people in his home State, he must maintain continuous contact with those people and periodically stand for election as a resident of his State. It is inconsistent as well as unfair to characterize him as a resident for tax purposes of another jurisdiction because of his required presence in the Washington area.

The Congress is more than a Federal agency or instrumentality in that it is a Federal branch of the Government created by the Constitution. The Constitution provides that the Senate and House are to be composed of Members elected by the people of the several States. In the last Congress, the Senate report noted that it is possible that a tax on the

incomes of Senators and Representatives could be interpreted as a tax on the Congress. It could also be noted that the threat of multiple taxation of this sort could be a very real deterrent to service in the Congress to those who might seek election as well as to those already elected. The bill provides a realistic and balanced means to meet the problem. In the language of the case of *Dameron* against *Brodhead*, it saves the sole right of taxation to the State of the Member's residence, that is the State from which the Member is elected.

In view of the circumstances referred to above, the committee recommends that the bill be considered favorably.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. DANIELSON. I yield to the gentleman from Maryland.

Mr. BAUMAN. Aside from the general argument—in which the gentleman might get some differing opinions from Maryland Members—at this time a number of requests for payment have been made by the comptroller of the State of Maryland to Members of Congress who still maintain their residences in the State—temporary residences, as the gentleman would say. Is it the gentleman's understanding that if this legislation is enacted in its present form, all these pending requests for payment will be in fact null and void, and therefore it has a retroactive effect if it is passed?

Mr. DANIELSON. The question of retroactive effect is not covered by the express language of the bill. Being somewhat familiar with the manner in which our courts arrive at decisions, I am reluctant to state what the effect of the bill would be beyond the four corners of the bill itself. The bill does not contain retroactive language, per se.

Mr. BAUMAN. But there have been no actual judicial proceedings filed regarding any of these claims. I think they are all in the form of letter requests for payment on back taxes. I would assume, if this is enacted into Federal law, that none of these legal actions would lie on the part of the State.

Mr. DANIELSON. I am sure the gentleman's assumption will appear in the Record.

Mr. BAUMAN. I am not endorsing the bill; I am just asking a question.

Mr. DANIELSON. I do not know the answer to that, but I can state positively that there is no per se retroactive language in the bill.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. DANIELSON. I yield to the distinguished minority leader.

Mr. RHODES. I wonder if the gentleman from California would agree with me, however, that the thrust of the bill is to define the status of Members of Congress, and the definition of the status is not the definition only today, but the definition as it would have been a week ago or a month ago or 10 years ago. In other words, this is actually an interpretation of the status that Members have always had under the Constitution. Is that a correct statement?

Mr. DANIELSON. I fully endorse the minority leader's position. What we are trying to do is to clear up an ambiguity here, and to emphasize that our compulsory change of place of abode when we come to Washington does not change our residence; it does not change our domicile; it does not fly in the face of the constitutional requirement that Members of Congress must be inhabitants of the State from which they are elected.

Mr. KINDNESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, last year there was very little debate, actually, on a comparable measure which reached the House floor on July 20, 1976. There were some constructive suggestions made as alternatives to this sort of approach, however. One of the most obvious actions that might be taken by a Member of Congress living in the State of Maryland, rather than voting for the passage of this measure, would be to move out of the State of Maryland. However, that is an incomplete statement of the subject.

Mr. RHODES. Mr. Speaker, will the gentleman yield at that point?

Mr. KINDNESS. I yield to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. I thank the gentleman for yielding.

Mr. Speaker, as a Member who lives in Maryland, I have thought of that alternative. But would not the gentleman agree with me that if this legislation fails and Maryland does actually go ahead and takes whatever legal steps are necessary to tax the income of Members of Congress, that actually the pressure on the State of Virginia and the District of Columbia to do the same would probably be well nigh irresistible?

Certainly if I were a member of the legislature of the State of Virginia, and Maryland was taxing income of Members of Congress who have homes in that State, I as a member of the legislature of the State of Virginia would certainly do my best to make sure that Virginia taxed that income. So are we not really in fact talking about all of the Members of the House of Representatives when we discuss this legislation?

Mr. KINDNESS. The distinguished minority leader states the very point I was about to make next, as a matter of fact. We are faced with the problem—and that is a very good point that was made—of what would happen in other jurisdictions were this type of legislation not to be enacted. But nonetheless, we have a question here of whether it is a poor exercise of the State's legislative discretion, if you will, to attempt to tax the earnings of people who do not actually have a residence within their State. Such poor exercise of legislative judgment on the part of the State of Maryland, however, does not, it seems to me, give to the Congress of the United States an appropriate basis for creating a special class of citizens abiding within the State of Maryland.

As was pointed out in the veto message of President Ford, dated August 3, 1976, for the bill that was passed by both



Houses in the last Congress, Senate 2447, the President stated at that time:

However, it is one thing for a taxing jurisdiction voluntarily to exempt Members of Congress from its income tax laws and quite another for Congress to mandate a Federal exemption on a State income tax system. I believe such Federal interference is particularly objectionable where, as is the case in Maryland, a portion of the income tax is collected on behalf of counties to pay for local public services which all residents use and enjoy.

That brings me back to "residence" or "abiding." And in fact there is not a very good historical basis for taxing place of abode, that is, taxing income earned by somebody who maintains a place of abode in a particular State or jurisdiction. That is where the poor tax policy on the part of the State of Maryland arises, perhaps; but, nevertheless, that is their jurisdiction to determine and not the jurisdiction of the legislative branch of the Federal Government.

I would, therefore, urge, as I urged on July 20, 1976, we oppose the passage of this measure. There are alternatives which could be considered, one of which, of course, would be for Congress to afford relief, under the Federal income tax law, for the added burden created by States, such as the State of Maryland, on the basis of abode.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I have been following the debate and I had not planned to participate, except when I heard the gentleman state Maryland may feel a justification for taxing earned income of a Member because he partakes of services required to live there. My wife and I paid the State of Virginia just under \$30,000 in property taxes in the last 6 years.

Is that tax not morally levied against property owners for one family homes so it may be used for services offered to citizens who live there? Does that not pay the fee for fire and police protection, without having also the burden of taxes levied upon my income?

Mr. KINDNESS. Mr. Speaker, I appreciate the gentleman's comments, and I can only say that the gentleman points out the frustration of taxpayers all over the United States who feel that paying income taxes and property taxes at the Federal, State, and local levels is an unfair tax burden, and that the total tax burden is far too great. We here in the Congress have more to do with the reason for that frustration than any other legislative body at the State or local levels.

We have allowed the tax burden on the American taxpayer to become so great, through the double process of inflation and the progressive scale of income tax rates, that all over the country people are saying to themselves, "Gee, my property taxes are too high in combination with the burden the Federal Government places on me."

So I certainly understand the point the gentleman is making. But there are

two types of taxes involved, a property tax and an income tax. Everyone else living in Virginia pays a property tax, too, and if the State of Virginia chose to try to enact an income tax on Members of Congress, that would add to the burden.

Mr. RONCALIO. Mr. Speaker, the gentleman, of course, recognizes that if we make a Member of Congress a resident of Virginia or a resident of Maryland, he can no longer serve in the Congress. I am a resident of the State of Wyoming, and it has been long established that any Member must be a resident of the State he represents. We cannot refute the Constitution.

Mr. KINDNESS. Mr. Speaker, the gentleman misunderstands what the position of the State of Maryland is. The State of Maryland does not call Members of Congress residents; it refers to Members of Congress as having a place of abode, or abiding, in the State of Maryland. That is where the rub comes in.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I just want to say to the gentleman from Ohio (Mr. KINDNESS) that I concur in his opposition to the legislation.

In the gentleman's remarks he referred to the legislation as creating a special class of citizens. It is a special-interest bill in the sense that it does exempt from income tax the 100 or more Members who live in Maryland.

The gentleman correctly states the position that the Legislature of Maryland is the forum in which the exemption should have been granted. Far be it from me, having served in that legislature for 3 years, to ever attempt to defend the actions of the Legislature of Maryland one way or the other.

I will say, however, that since the Maryland General Assembly has not made a policy decision to give an income tax exemption to Members of Congress, it seems wrong for this Congress to arrogate that function unto itself. In fact, with the current sessions of Congress running all year, many of the Members who live in Maryland do use the many services provided by county governments and the State government. The State makes a claim on income simply to finance those services, and it allows reciprocity with other States that levy the same types of taxes in a Member's home State.

What this bill does do in a certain number of cases, as I understand it, is to prevent some Members from having to pay any income tax because their own States do not have an income tax.

So, Mr. Speaker, I do think as a matter of equity we ought to allow this decision on taxation to be made by the State of Maryland, as the gentleman has indicated, and we should not do it here in Congress where many Members stand to benefit from this bill.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Speaker, as the gentleman knows, there are some States that do not have reciprocity with the State of Maryland. I believe Arizona is one, and Colorado is another one.

There used to be a fine Republican principle that was contained in the statement, "Taxation without representation is reprehensible."

It seems to me the gentleman is adopting the position that those of us who do not have the right to participate in Maryland politics, because we are residents of other States, are still subject to the tax imposed by taxing authorities under laws of the State of Maryland, and it does not seem to me, all constitutional principles aside, that those of us who are precluded from participating in the politics of the State of Maryland—I might say, thankfully so, in my own case—are denied representation.

Mr. Speaker, this is a principle that the gentleman from Ohio (Mr. KINDNESS) ought to consider before he opposes this legislation.

Mr. KINDNESS. Mr. Speaker, I would like to say to the gentleman that I have considered it.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a response?

Mr. KINDNESS. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I will say to the gentleman from Colorado (Mr. JOHNSON) that I do not know in what jurisdiction he lives, but indeed he is doubly represented. He has his own able representation through his vote, and if he tells me where he lives, I will tell him in private whether his Maryland political representation is able or not.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I might say to the gentleman from Maryland (Mr. BAUMAN) that his argument that we use the services of the great State of Maryland in our homes in Maryland and do not pay for those services adequately through the rather immense property taxes that we pay in Maryland, and that we should pay an additional tax, tends to persuade me as a Member of this Congress that since there are Maryland residents who come into the city of Washington, D.C. and use the public highways and facilities of this city, perhaps the commuter tax makes sense after all. Perhaps we should tax those commuters who come in from Maryland so as to support the city of Washington and the District of Columbia.

Is that what the gentleman of Maryland is trying to persuade me to vote for?

Mr. BAUMAN. If the gentleman will yield, Mr. Speaker, I do not support a commuter tax but if the gentleman is willing to vote for a bigger tax on his own salary so that the District of Columbia can also tax him as a commuter from Ohio that is fine with me; but equity would require that Congressmen

get no special treatment by the District of Columbia or Maryland.

Mr. BROWN of Ohio. Mr. Speaker, could I ask the gentleman from Maryland (Mr. BAUMAN) if that is what he is trying to persuade me to vote for?

Mr. BAUMAN. The gentleman from Maryland would never really try to persuade the able gentleman from Ohio because he does not possess the considerable power required to do that.

Mr. BROWN of Ohio. Mr. Speaker, if I could persuade the gentleman from Maryland, perhaps I could get him to back off from his position.

Mr. KINDNESS. Mr. Speaker, if I might reclaim my time, I believe the debate is deteriorating at this point.

Mr. Speaker, I would again urge the Members of the House to reject this concept on the same basis on which it was vetoed by the then President Ford on August 3 of 1976, because it does deal with a special classification or categorization of Members of Congress in derogation of the principle of States' rights, which, I would point out to the gentleman from Colorado, has long been a very acceptable concept to Republicans also.

Mr. Speaker, I think those of us on the minority side of the aisle have both of those considerations to take into account. Therefore, I would urge that it is more important for us to maintain a balance between the Federal Government and the States, each having its appropriate place, even though the States might exercise their judgment in a way that seems very unpleasant to those of us who are here and subject to the consequences.

Mr. Speaker, I have no further requests for time on this side.

Mr. DANIELSON. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I thank the gentleman for yielding.

I suppose that tomorrow we will again find items in both of Washington's newspapers about the special perquisites of Members of Congress.

Mr. Speaker, I am reminded of the comment of Tom Rees, one of our former Members, last week in the Washington Star about how he misses the so-called "perks" he had up here as a Member.

Mr. Speaker, all too often we are faulted for so-called "perquisites," but we actually suffer a 7-day work burden damn rarely attributed to us by the so-called advocacy journalism of today.

Mr. Speaker, what right does Virginia have to tax my salary when I am compelled to live there in order to fulfill my constitutional duties to the people of Wyoming?

Virginia and Maryland should thank the Creator for the existence of the Federal largesse which makes for such a high quality of life for so many of America's people in the Washington metropolitan area.

Mr. Speaker, for 1 year recently I was the chairman of the Subcommittee on Public Buildings and Grounds. There was rarely a week that went by without some entity of Maryland, Baltimore, or Ger-

mantown or some place else in Maryland asking for a site for another multi-million-dollar building for another Federal payroll located some place in Maryland.

Mr. Speaker, in exasperation I would like to see the Capital moved to some place like Colorado one of these years. That would take care of the Maryland and Virginia tax problem.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Speaker, I want to say that Colorado probably does not want the Federal Capital out there. Perhaps Wyoming does, but I do not want the gentleman from Wyoming (Mr. RONCALIO) foisting it on Colorado.

Mr. DANIELSON. Mr. Speaker, I want the gentleman from Colorado (Mr. JOHNSON) to know that we are thinking of moving social security out to Colorado.

Mr. Speaker, to prevent any misconception, this bill does not, will not, and cannot absolve any Member of Congress from paying income tax in his own State. Nobody is relieved of the obligation of paying income tax. The only thing anyone will be relieved of is the obligation of paying it in some States of which they are not a domiciliary.

Mr. MAZZOLI. Mr. Speaker I rise in opposition to H.R. 6893.

Less than 1 year ago on July 20, 1976, the House passed an identical measure that had already passed the other body. On that day I managed to persuade only 83 of my colleagues to join me in opposing the bill. I hope to be more successful today.

In an article on June 15, 1976, the Wall Street Journal noted the quiet progress of last year's bill through the House and characterized it as one of those "self-serving actions" that, despite the scandals, are the real cause of our low esteem in the eyes of the general public.

Further, there is a cynical attitude abroad in the land to the effect that once the "heat dies down" the code of ethics and our other hard-won reforms will fall into disuse. Enactment of this bill can only serve to fuel that cynical attitude.

Currently, this bill would only affect the Members who reside in Maryland. In a gesture of southern hospitality, the State of Virginia has exempted Members by its own actions. In a somewhat different gesture, the Congress has written District of Columbia tax laws to "protect" Members who reside in the District.

Some have argued that this legislation is needed to prevent double taxation of Members of Congress who must live in Maryland when Congress is in session while maintaining a residence in their home State.

I will point out, however, that the State of Maryland has reciprocity arrangements with many other States so that a Member of Congress receives a credit on his Maryland income tax obligation for the income tax that is paid in other States.

As for Members of Congress who come

from States that have not established reciprocity with Maryland, special efforts should be made to develop such reciprocity agreements between the two States. The problem is not properly addressed by legislation that would establish a special class of residents of Maryland and exempt this class from all State and local income taxation.

The SPEAKER pro tempore (Mr. McFALL). The question is on the motion offered by the gentleman from California (Mr. DANIELSON) that the House suspend the rules and pass the bill H.R. 6893.

The question was taken.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks in addition to the comments heretofore made, and further, Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just under consideration, H.R. 6893.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

#### TO EXTEND THE TIME FOR COMMENCING ACTIONS ON BEHALF OF AN INDIAN TRIBE, BAND, OR GROUP

Mr. DANIELSON. Mr. Speaker, I move to suspend the rules and pass the Senate bill S 1377 to extend the time for commencing actions on behalf of an Indian tribe, band, or group, which is at the Speaker's desk, which is an identical bill in every respect to H.R. 5023.

The Clerk read as follows:

S. 1377

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled That (a) the third proviso in section 2415 a of title 28 United States Code is amended by deleting the words "more than eleven years after the right of action accrued" therein, and substituting the words "after December 31, 1981" in their place

(b) The proviso in section 2415 b of title 28 United States Code is amended by deleting the words "within eleven years after the right of action accrues" therein, and substituting the words "on or before December 31, 1981" in their place

The SPEAKER pro tempore. Is a second demanded?

Mr. COHEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.



The SPEAKER pro tempore. The gentleman from California (Mr. DANIELSON) and the gentleman from Maine (Mr. COHEN) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the course of this debate, if I should mention H.R. 5023 instead of S. 1377, I hope all of the Members will realize that I really am referring to the Senate bill, inasmuch as they are identical.

Mr. Speaker, under one provision of title 28, United States Code, back in 1966, a law was passed which provided a 6-year statute of limitations for actions brought by the United States on behalf of Indian tribes and other Indian groups with respect to money claims which they might have against various States and persons. In 1972, as that first statute of limitations was about to expire, the Congress passed an extension extending that statute of limitation for, in effect, another 5 years. Those 5 years would expire on July 18 of this year, 6 weeks from now.

Mr. Speaker, the bill before us, S. 1377, extends that period of limitation until December 31, 1981, 4 years from the end of the present calendar year. That is all that the bill does within its four corners. It is a rather tremendously important bill and I beg that my colleagues will listen carefully to the debate hereon.

Mr. Speaker, at the present time there are pending quite a large number of lawsuits in which Indian tribes and groups assert a claim or claims to money damages arising out of many aspects of our coexistence here in the United States since the founding of our Nation.

The bill before us I wish to point out, first of all, relates only to money damages. This bill does not relate to actions involving title to real estate, except incidentally, but the incidental effect is rather broad.

Among actions for money damage would be actions for money damage resulting from trespass and, in those situations in which it is deemed that trespass occur, of course the title of the person asserting the action is in issue because there can be no trespass if you do not have some type of proprietary right to the land on which trespass is being made.

It is quite important that we take action on this bill and do it immediately. The reason is simply this: With only 6 weeks remaining in the period of limitations, I am informed, and I believe and I therefore assert that there is a vast number of lawsuits which are about to be launched, and which counsel would have to file within the next 6 weeks if this period of limitation is not extended. On the other hand, if there is an extension of the period of limitations, there will be adequate time for the persons concerned to negotiate, debate, and work out their respective claims and, hopefully, to resolve these claims without the need for expensive, protracted, and sometimes unnecessary lawsuits.

I should like to point out in addition that the previous administration of President Ford was cognizant of this problem, and the present administration of President Carter is also very well aware of it. President Carter has appointed a Judge Gunther of Georgia to act as a sort of mediator, to try to negotiate these claims and to prevent them from becoming items of protracted, bitter, expensive, and unpredictable litigation. He cannot possibly complete his work and his report to the President and have some type of action taken on it before July 18, 1977. Therefore, it is critical that this period of limitations be extended.

Mr. Speaker, I reserve the remainder of my time.

Mr. COHEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1377, which would extend the statute of limitations on actions for money damages brought by the United States, in its capacity as trustee, on behalf of Indian tribes, bands, or other Indian groups (28 U.S.C. 2415 (a); (b)). These claims may be based either upon contract or tort liability, and must have accrued prior to July 18, 1966.

This legislation is of particular importance to my constituents, and indeed all the citizens of the State of Maine. This is so because, included among the eligible claims affected by this statute are those currently being asserted by the Passamaquoddy and Penobscot Tribes against Maine and its residents. The scope of the original claims made by these two tribes is staggering—some 12.5 million acres of land in the central and northern portions of the State, covering some 60 percent of Maine's total land area. They charge that their ancestors transferred the disputed land under 1794 treaties that were never actually ratified by the Congress. Thus, they say, those transactions are void and valid title still rests with the Indian tribes.

Over 350,000 citizens of Maine reside within the area originally claimed by the Passamaquoddy and Penobscot, with its estimated value exceeding \$20 billion. While it now appears certain that the extent of these claims will be reduced somewhat, estimates are that even the revised claims will cover some 5 to 8 million acres and directly affect some 75,000 to 90,000 residents of Maine.

What is the significance of H.R. 5023, in the context of all this? When this general statute of limitations was first enacted in 1966, it had long been presupposed that the trust relationship it reflects—between the United States and certain Indian tribes—did not apply to Indians located within the Original Thirteen States. Then, in 1975, the U.S. District Court for the District of Maine decided that the Indian Nonintercourse Act of 1970 gave rise to the same "special trust relationship" with respect to the Passamaquoddy, and other similarly situated eastern tribes. *Joint Tribal Council of the Passamaquoddy Tribe, et*

*al. v. Morton*, 388 F. Supp. 619, 663 (1975).

Pursuant to the exercise of that trust responsibility, the Solicitor of the Interior Department has since recommended that the Justice Department file suit on behalf of the two Indian tribes under 28 U.S.C. section 2415. So, unless the statute of limitations is extended, the Justice Department would be required to file such a suit against the State of Maine by July 18, 1977. While such an action is legally logical in the face of an evaporating statute of limitations, it would be "premature" in the context of the informal, private negotiations now going on.

Due to the unique nature of this problem and in response to requests from some of the affected parties, President Carter appointed a former Georgia Supreme Court justice, William Gunter, as his special representative to study the problem and make recommendations with regard to a settlement. Most of the affected parties feel that it would be unfortunate if the suit was filed by the United States against Maine. Prior to the completion of these negotiations, Judge Gunter has indicated that he expects to have a proposal ready later this month or, at the latest, early July. His ability to bring about a settlement acceptable to all the parties should not be wittingly, or unwittingly, undercut.

So, the passage of H.R. 5023 would have a direct and important impact on the Maine situation. By removing a July 18, 1977, deadline, it would allow time for a fair and equitable resolution of these claims to be worked out, through uninterrupted private negotiation. Furthermore, if H.R. 5023 is passed, the United States might well avoid long, tedious, and expensive litigation: litigation which faces the possible prospect of a congressional reversal following its completion. In short, H.R. 5023 would eliminate the necessity of the Justice Department filing a suit before the President's special representative has had an opportunity to propose a possible settlement.

If the statute of limitations is not extended, on the other hand, then the Justice Department will have no choice but to file a suit on behalf of these Indians against the State of Maine. In fact, if the statute is not extended and the Justice Department failed to sue, then the United States would be the most likely to be subject to liability for breach of trust.

The mere filing of such a suit could have a disastrous impact on the economic and social fabric of the State of Maine. The deep uncertainty already raised by these Indian claims could easily be translated into total chaos, if the United States takes such a formal action. Both the State and local units of government will have extreme difficulties in selling bonds and otherwise raising revenue for needed capital improvements and carrying on the everyday business of government. Banks, would no longer be willing to finance home loans or mortgages. Investment and commercial development,

already arrested, will virtually come to a halt. Title to all the property in the claimed area would become indefinitely clouded, thereby preventing the orderly sale or transfer of property by individuals whose sole major investment is their own home. New homebuilding and the entire construction industry will be adversely affected, with all the usual recurring impact on unemployment levels.

So, a further extension of the statute of limitations is urged by both the Justice Department and the Department of the Interior. As introduced, H.R. 5023 would have extended the limitations period an additional 10 years. However, based upon administration recommendations, the Judiciary Committee amended the bill to limit the extension period to December 31, 1981. On May 27, the Senate passed its version (S. 1377) of this measure, containing this same amendment, and thereby reducing the extension period to 4½ years.

One final point—S. 1377 is obviously not a final, long-term solution to the problems of Indian claims, whether in Maine or elsewhere. Rather, its passage will alleviate a form of procedural pressure which now overhangs the situation in my State and impedes progress toward a settlement. And definite resolution of that situation will await a final decision by Congress. Hopefully, the President's special representative will recommend a solution acceptable to all sides. But it is Congress that ultimately will have to approve the terms of any settlement.

Indian claims such as those asserted by the Passamaquoddy and Penobscot are based on "aboriginal title." Their rights to these lands are ancient but, nevertheless, are limited. They are, at best, the "beneficial owners" of lands held by the United States. There is no question but that the Congress of the United States has the right to extinguish aboriginal title, *Tee-Hit-Ton Indians v. United States*, 348 U.S. 272 (1954); *Johnson v. McIntosh*, 21 U.S. (8 Wheat.) 54 (1823). I do not suggest this as the sole means of settlement, but it should be recognized that this power might be utilized as one element of an overall settlement. As an alternative, it is also clear from caselaw, that the Congress has the power to retroactively ratify the treaties in question. See: *Seneca Nation of Indians v. United States*, 173 Ct. Cl. 912 (1965). But any equitable, fair solution of this problem should also recognize the rights of the Indians. The Maine delegation has introduced legislation (H.R. 4169) which, while extinguishing the claims of the Passamaquoddy and Penobscot Tribes to lands within the boundaries of the State of Maine, also preserves their legal rights to seek monetary compensation either in the courts or through a negotiated settlement.

I would emphasize that this is not a problem limited solely to Maine. The manner in which Congress approaches this situation should be from a national perspective. H.R. 5023 is only a beginning in the process of dealing with Indian claims, but it is a valid and needed precedent.

Mr. KINDNESS. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Speaker, I thank the gentleman from Maine for yielding.

Mr. Speaker, I associate myself with the gentleman's remarks and particularly with those relating to the procedures by which the bill comes before the House under a suspension of the rules. There had originally been expressed before the committee and the subcommittee the hope, including that of the gentleman speaking now, that there would be opportunity for an amendment on the House floor as to the date of the extension. It does seem a bit long and increases the time of exposure to additional lawsuits by, I believe, an unnecessarily long period of time.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I thank the gentleman and I think the gentleman can suggest to the House an easy procedure by which appropriate amendments can be considered to this bill as they should be. That can be done by the very simple and proper expedient of defeating the bill on suspension. Such an action would not in any way prohibit the Committee on the Judiciary from seeking a rule in the normal manner to bring the bill back to the House under a rule with opportunity for amendment. I agree with the gentleman that the bill excessively extends the statute of limitations and I hope they will help to bring about a "no" vote so that this bill can be handled in the usual manner under a rule.

Mr. DANIELSON. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. RISENHOOVER).

Mr. RISENHOOVER. Mr. Speaker, H.R. 5023 simply extends for 4½ years the time that Indians—and the Government which holds their trust—have to file claims concerning land which Indians once owned.

In a lawful and orderly fashion, our courts have considered scores of claims by thousands of Indians. Yet, there may be more than 1,000 such cases which still deserve a day in court. This bill gives the Interior and Justice Departments more time to provide opportunity for review of these unresolved cases.

In my original bill, I sought an additional 21 years to make certain that our Government had fully considered all Indian land claims—many which date back to the 18th and 19th centuries.

However, the Committee on the Judiciary—in its timely and wise review of the situation—was told by the administration that all of the cases could be processed by the end of 1981. Therefore, the compromise deadline was struck and future Congresses can decide if more time is needed after 1981.

The need for the 4½ year extension is dramatized by the question of ownership of the Arkansas River Bed and banks in Oklahoma.

Recently, the U.S. Supreme Court held that the Arkansas River from Muskogee,

Oklahoma to the Arkansas border is owned by the Cherokee, Chickasaw, and Choctaw Nations. However, to date, the claim of ownership of the same Arkansas River bed and banks upstream from Muskogee to the Kansas border has not even been filed with the courts.

I am told that the latter claim—which involves the Kaw, Ponca, Otoe, Pawnee, Osage, and Creek Indians—may not finally be prepared by the Interior Department and presented to Justice for filing within the next year. If the statute of limitations—the July 18 deadline—is not extended, our Government will have failed to keep the trust of these Indians. Surely, if we owe court review to the Cherokees, Chickasaws, and Choctaw—then the same right should be accorded those Indians upstream.

In this—and those 1,000 other cases—failure to enact this bill would be a simple matter of justice denied; of trust betrayed.

You may ask: Why have not these issues been previously resolved?

I can tell they are complicated and costly cases to prepare. Frankly, in years past, the Bureau of Indian Affairs and Interior Department have not had the necessary funds and manpower to fill their trust responsibilities. In recent years, Congress has been increasingly generous and responsive in providing funds. Additionally, many tribes only recently have become aware of their tort and contract remedies. However, the leaders of the six groups of Indians claiming ownership of the Arkansas River from Muskogee to Kansas tell me that money appropriated this fiscal year to prepare their case has been tied up for 8 months by the bureaucracy. Certainly, that money should be released and the case should come to point. And I use this forum to urge immediate forward action by the BIA.

This bill, H.R. 5023, does not address the merit of this or any of these cases. The issue of payment for trespass should and will, rightfully, be decided by our courts. Beyond question, each and every Indian with a reasonable claim to their ancestral land should have the matter considered and, if there is adequate merit to the claim, they should enjoy judicial review.

Therefore, failure to enact this bill would permanently deprive thousands of Indians such consideration—something that has already been accorded to thousands of other Indians in the past. I believe in equal protection under the law. In a large sense, I salute our Government and our courts for acting to redress old wrongs which Indians suffered. Today, we have an opportunity to make certain that all of these matters are fully aired and that meritorious claims have ample time for court review.

Most respectfully and firmly, I urge my colleagues to approve this legislation and ask that the other body and the President join our affirmative action with the sensitivity and dispatch which we now are taking.

Mr. DANIELSON. Mr. Speaker, I yield such time as he may consume, up to 8



minutes, to the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, it is my belief that some of the most significant legal and constitutional issues which this or any other Congress has faced, will soon be before us. It will be the consideration of the issues raised by a multitude of Indian claims against the United States, against the States, and against individuals in support of alleged treaty and other obligations.

Mr. Speaker, I think we must soon show some willingness to look at the essential problem—to not continue to defer it through extending the statute of limitations. Indian tribes are the only groups in the United States that can have claims brought, centuries after those claims originally arose. They are the only entities in the United States that can sue the United States itself, simultaneously have the United States sue itself in its fiduciary capacity on behalf of the tribes and have the United States defend itself against the suit.

What the proposal asks for today is the extension of the authority of the United States to bring claims on behalf of Indians for another 4 years. In 1966, a term of 6 years was placed upon that authority. It was subsequently extended again for a total of 11 years. We are now faced with a request for another 4-year extension. I confidently predict that if this bill is passed that in December of 1981, or before, the Committee on the Judiciary will have another 4-year extension for us, if not a 21-year extension, as the gentleman from Oklahoma (Mr. RISENHOOVER) just indicated that he favors.

The question might be raised whether the United States should be continuing this antique aspect of a wardship with respect to representing tribal claims. Indian tribes have shown sufficient expertise and capacity to file and prosecute claims. They do it daily. It seems to me a rather strange circumstance for the United States to be throwing its full weight against the State of Maine or some other State trying to defend itself against what would be considered ridiculously exaggerated, inflated, and antiquated claims from any other source. But that is not the immediate problem presented by this bill.

The very minimum we should have from this House—the very minimum—is the right to have this kind of issue come before us on a regular calendar, first processed through the Committee on Rules in the regular manner, so that additional amendments can be offered.

The Committee on the Judiciary has known for years this termination date would arrive, yet they put this bill to extend the statute of limitations on the Suspension Calendar at the last minute and then plead an emergency exists. The issues presented by this bill are important enough to have a rule. They are important enough to have this House fully explore and fully amend the bill under a rule.

I hope whatever our position is on this bill, we will join in defeating the suspension, if for no other reason than to give

the proper use to the suspension calendar, which in this case, I suggest, is an inappropriate use. The suspension calendar was designed to have bills brought before the House over which there was little or no controversy, and where no amendments were anticipated.

This is not the case in this bill. I will personally ask for a vote on the bill, and I hope Members will join in rejecting a suspension of the rules.

Mr. DANIELSON. Mr. Speaker, I yield 1 minute to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I rise in support of this bill and hope we do, indeed, pass it on the Suspension Calendar.

Five years ago in the Committee on the Interior, we listened to this precise argument against extending for a 5-year period the life of the Indian Claims Commission, knowing full well in those 5 years that all claims would not be settled.

There are aboriginal claims. I notice that the word "aboriginal" was omitted from the plea made by my friend from Washington. These are aboriginal claims made to the land we live on, and they have a right to be heard and a right to be adjudicated on the basis of legal determinations in a court of law, and not in a political forum as we have now.

The SPEAKER pro tempore (Mr. WRIGHT). The time of the gentleman from Wyoming has expired.

Mr. DANIELSON. Mr. Speaker, I yield 1 additional minute to the gentleman from Wyoming.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Washington.

Mr. FOLEY. The gentleman knows that this bill does not in any way affect the right of tribes to bring claims. It only extends the statute of limitations for the authority of the United States to bring claims on behalf of the tribes. Is that not correct?

Mr. RONCALIO. That may be correct, but when one only has one guardian to speak for one, then that is the one agency that needs the time. In the case of the Arapahos and the Shoshones, the only litigant who can sue for them is the United States of America.

Mr. FOLEY. The gentleman will agree that we have already extended this authority once since 1966. If we pass this bill, we will again extend for 4 years this special statute of limitations—a total extension of 15 years rather than the original 6 years contemplated.

Mr. RONCALIO. I agree with that. I only say this: I believe passage now is preferable to the alternative if this is not passed.

Mr. DANIELSON. I thank the gentleman for his comments and his support of the bill. I recognize that this is probably not an ideal solution to a very difficult problem, but it is a practical, conscientious and serious approach to what could be tragic in some areas of the United States. I urge support for the bill, and I reserve the balance of my time.

Mr. COHEN. Mr. Speaker, I would simply like to indicate that I sympathize

with the gentleman from Washington (Mr. FOLEY) in the arguments he has presented, but I would like to come to the defense of the gentleman from California (Mr. DANIELSON) just for a moment.

He received this request only 2 or 3 weeks ago as to the statute of limitations. The Judiciary Committee had nothing before it prior to the Justice Department coming in at the last moment, because of the negotiations going on now with the two tribes in the State of Maine. Justice Gunter came into the picture only recently to provide some sort of recommendation, so it was not that the Judiciary Committee was being dilatory.

I agree entirely that in 1981 chances are that someone is going to come back in and request a further extension. My position is that we have got to come to grips with these Indian claims. That is why I filed a bill, and the Maine delegation in the House and Senate filed a bill, to extinguish these claims to land, to provide a mechanism for removing clouds on titles to property throughout the country and to find an equitable means of resolving the issue that would permit a monetary recovery.

There have been no hearings held, and we are up against the wall. If the Justice Department does not get the extension, they will file a lawsuit and they will unravel the economic fabric of the States of Maine, Massachusetts, and a number of other States, and all other claims they now have pending in the Interior Department they might file immediately in order to protect themselves. So, under the circumstances, while I am not enthusiastic about this particular measure, I think it has to be adopted.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Washington.

Mr. FOLEY. If my remarks carried with them any criticism of the distinguished gentleman from California (Mr. DANIELSON) or the Committee on the Judiciary, I regret them and retract them. I have the highest admiration for both the gentleman from California and the committee on which he serves. But I do think that all committees which realize that bills are expiring or authority is expiring, should make some effort to insure that legislation is recommended by the departments of Government in sufficient time for the committee to consider and report legislation through the normal channels.

I personally do not believe that the suspension calendar should be used to bring bills to the floor that are controversial, and where at the same time it is plain that there is immediate urgency, for consideration under the suspension calendar. Under normal circumstances, I do not think that is the appropriate use of the suspension calendar. If this is an emergency bill, there is nothing to prevent a rule being granted by the Rules Committee before the expiration date. That is why I hope Members will vote against this bill.

Mr. COHEN. The gentleman from California was concerned with the July 18 date, specifically what the consequences might be if we did not get a rule and get this matter passed in the Senate and the House. The Senate has already accepted it.

It is the same measure that is before the House now. I can assure the Members that is the only motivation of the gentleman from California.

Mr. RISENHOOVER. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Oklahoma (Mr. RISENHOOVER).

Mr. RISENHOOVER. I thank the gentleman for yielding.

Mr. Speaker, I cannot disagree with what the gentleman from Washington says. I, too, am concerned with what will happen on July 18 if we do not enact this legislation.

But let me ask the gentleman this question: In the gentleman's opinion, would enactment of this 1377 jeopardize the legislation that the gentleman envisions, legislation which he has already introduced, that is to be heard by the Indian Affairs Subcommittee? Will this jeopardize that legislation?

Mr. COHEN. I will say to the gentleman that it will in no way jeopardize that legislation that I have submitted to the Interior Committee. I see the chairman of the subcommittee is on the floor. I would be happy to engage in colloquy with the gentleman. The reason we have not had hearings on this issue is because President Carter appointed Mr. Gunther to see if he could serve as a catalyst and make recommendations. He is to make a recommendation by the end of June or the first of July if possible. I am confident that once that recommendation is made, legislation will be submitted by the various delegations of the States affected and that hearings will be properly held before the subcommittee. And also I will consider filing legislation that could come before the Judiciary Committee if we have to provide alternative types of remedies. But I am sure that is why the gentleman from Wyoming is withholding.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. I thank the gentleman for yielding.

Mr. Speaker, I commend the gentleman for his expert statement of the facts surrounding the present proposition. Speaker O'NEILL, the majority leader, the gentleman from Texas (Mr. WRIGHT), and the chairman, the gentleman from Arizona (Mr. UDALL), have all three concurred that this is the time to allow the discussions to go ahead.

After those negotiations, then if necessary the House Indian Affairs Committee will come into action on the legislation.

Mr. COHEN. Mr. Speaker, let me just indicate that no one is more distressed than myself or the people of the State of Maine with the present situation. In all of these years since 1794, the Justice Department had taken the position that

the State of Maine had the responsibility of dealing with those tribes. The State of Maine accepted that responsibility and dealt with the Indian tribes. Suddenly, in 1975, the Justice Department is coming back under court order and saying they have to assume responsibility for all of the tribes in the country and are now bringing the full weight of the Federal Government against the State of Maine.

I must say that I am in great sympathy with the statement of the gentleman from Washington (Mr. FOLEY) about what this means. It is difficult enough when the tribes bring these suits, but to put the full weight of the Federal Government behind them is indeed awesome. I have great reservation about this matter, but under the circumstances I feel we have to adopt it.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker, there are very few domestic problems of the magnitude of this one. The issue of Indian land claims is applicable to vast areas of North America. It certainly is not confined to the State of Maine or even to the Northeast. I have thought a lot about the proper resolution of this question, and the only decision I have reached at this point is that we accomplish nothing by delay. Sooner or later this issue has to be confronted, and I for one am presently persuaded that we best confront it early.

It has to be brought to a head, and I would think that a no vote on this bill will bring it to a head. It will cause the United States to file actions promptly. The pendency of such claims affecting millions of acres will surely cause the political arms of Government to move for a final resolution of this issue.

The argument is that such actions will cloud titles throughout the Northeast. I do not believe that the Department of Justice is going to record its penders over an entire State. I think they are much too prudent to do anything as radical as that.

It is important that this Government decides where it stands vis-a-vis the Indian claims. I would like to get on with it. I would like to have a decision made, Mr. Speaker, and the way to expedite the moment of decision is to vote "no" on this suspension.

Mr. COHEN. Mr. Speaker, in response to the remarks of the gentleman from California (Mr. WIGGINS), I would simply indicate that I, too, would think prudence would prevent the Justice Department from filing such a suit.

However, they have filed several different briefs with the Federal District Court in Maine indicating that indeed they do have the intent of filing such a suit, and absent some sort of resolution between the parties or through the administration, the Department will have no choice but to file that suit on or before July 18 of this year.

Mr. DANIELSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. DANIELSON. Mr. Speaker, I am

about to conclude my side of this argument. I think that all the parties on both sides of the aisle have participated in a rather heated and, I hope, helpful debate.

From the point of view, I hope, of less heat and more light, I would like to say that the most responsible position we could take at this time in this situation is to vote for the bill.

When I hear arguments to the effect: "Well, what do we care? Let us just go ahead; it isn't going to hurt anyone." I am reminded that when I started practicing law, I went to work for a very competent trial lawyer who won far more than his share of cases.

I remember one time we had a tough, sticky, situation, and I briefed the law very carefully. I told him, "Look, we don't have to do this and so. I am sure we can win if we do something else."

He said, "Look, George, you may be entirely right, but who the heck wants to test an electric chair?"

Mr. Speaker, that is precisely what we will be doing here if we do not pass this bill. Let us not try to test an electric chair. Let us not bring chaos to the States of Maine, Massachusetts, Connecticut, Georgia, and the Carolinas and everywhere else.

Mr. Speaker, I urge the passage of the bill.

Mr. Speaker, the bill S. 1377 and the bill H.R. 5023, as amended by the Judiciary Committee, amends section 2415 of title 28, United States Code, to extend to December 31, 1981, the time for the United States to file tort or contract actions in behalf of Indians which accrued prior to July 18, 1966.

Both the Department of the Interior and the Department of Justice have recommended the enactment of the bill as amended by the committee and as passed by the Senate.

On July 18, 1966, section 2415 of title 28 was enacted into law and it for the first time imposed a statute of limitations on tort or contract suits brought by the United States. This statute of limitations also applied to actions brought by the United States as trustee for Indians. In 1972, the Congress extended the limitations period to July 18, 1977, for actions for monetary damages brought by the United States in behalf of Indians.

The difficulties of identifying and processing these claims are such that the Department of the Interior has recommended that the statute of limitations be extended until December 31, 1981, for this specific group of claims. The committee amendment would extend the limitation to that date.

The Office of the Solicitor of the Department of the Interior estimates that there could be many pre-1966 claims as yet unidentified or still being asserted that now would have to be filed by July 18. Nationwide the unprocessed cases could amount to well over 1,000. The major reason why the previous 5-year extension was insufficient is that many tribes have only become aware of their tort and contract remedies in the last few years and thus have not, until recently, had adequate procedures to document claims. Therefore, hundreds of



pre-1966 claims are still being researched and identified and cannot all be filed by July 1977.

In 1972, when this committee reported the bill H.R. 13825 providing for the previous 5-year extension for commencing actions on behalf of Indian tribes, bands or groups—House Report No. 92-1267, 92d Congress, 2d session—it was observed that the claims which accrued prior to July 18, 1966 include a number of complicated matters, and further that the identification of the claims and the development of their factual and legal basis were difficult. This problem still exists.

The Department advised the committee that it found it difficult to estimate the number which remain unprocessed. As an example, the Department's Field Solicitor's Office in Phoenix, Ariz., has developed approximately 35 claims in their geographical area which they will attempt to process by July 18, 1977. The Twin Cities' field solicitor's office, covering Minnesota, Iowa, and Wisconsin, has developed 167 cases. The Office of the Solicitor estimates that there could be many pre-1966 claims as yet unidentified or still being asserted that would have to be filed by July 18. Nationwide the unprocessed cases could amount to well over 1,000. The committee has been advised that many tribes have only become aware of their tort and contract remedies in the last few years and thus have not, until recently, had adequate procedures to document claims as they arose. Further, the Department of the Interior has not, until recently, had adequate procedures to document claims as they arose. Therefore, hundreds of the pre-1966 claims are still being researched and identified and cannot all be filed by July 1977.

The Justice Department sues on behalf of Indian tribes only at the request of the Solicitor of the Department of the Interior. The Justice Department has pointed out that while a few of the matters already referred to it by Interior might be affected if the current July 18, 1977 limit in the present statute were not changed, the greater problem is with those claims which have not yet been unearthed by the Department of the Interior or which have not been investigated to the extent that they can be referred to the Justice Department for litigation.

The conclusion of the Department of Justice is that an extension of the statute until December 31, 1981, when coupled with an effort by the Department of the Interior to find and investigate these claims, would be a fitting and appropriate action in view of the Government's traditional role of guardian and trustee for the Indian.

In testimony before the Senate Select Committee on Indian Affairs with reference to the Senate Bill, S. 1377, there was a discussion of a number of matters now pending in the Department of Justice which could be affected by an expiration of the statute of limitations. These include the claims of the Maine Passamaquoddy and Penobscot Indians based upon violations of the Indian Trade and Intercourse Act.

Information submitted to the Subcommittee on Administrative Law and Governmental Relations in connection with its consideration of H.R. 5023 referred to the problems which could arise if the Government were requested to file a suit covering these particular claims in order to meet the July 18, 1977, deadline.

At a hearing before the Senate Committee on Indian Affairs on May 12, 1977, the Governor of Maine, the Honorable James B. Long, and the Honorable Joseph E. Brennan, attorney general of the State of Maine, testified concerning the complexities of the Maine litigation. Attorney General Brennan stated that the position of the State of Maine is that an extension of the statute would offer more opportunity to find a possible solution to the matter without litigation. He, too, noted that the present deadline of July 18, 1977, is so close that without an extension, a protective lawsuit, with all the problems it could create, may be unavoidable.

In its report to the committee on the bill, the Department of Justice referred to the relationship of this bill to the claims by the Indians of the State of Maine and indicated that the passage of the bill would obviate a need for a special bill to deal with the limitations problem as to those particular claims. In this connection, the Department of Justice stated:

The Department of Justice at one time intended to submit a bill to extend the statute of limitations for those claims which the United States may assert on behalf of the Indians of the State of Maine arising out of trespasses on their ancestral aboriginal landholdings. H.R. 5023 addresses on a broader scale the same problem and the passage by the Congress of H.R. 5023 would render unnecessary the passage of legislation specifically for the benefit of the Maine Indians.

As I have stated, the Department of Justice recommends enactment of the bill providing for an extension to December 31, 1981.

There is a clearly defined need for the amendment provided in this bill, and prompt congressional action is necessary. It is recommended that the bill be considered favorably.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DANIELSON) that the House suspend the rules and pass the Senate bill S. 1377.

The question was taken.

Mr. FOLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered to be withdrawn.

#### GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just under consideration.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

#### INDIAN CLAIMS COMMISSION AUTHORIZATION FOR FISCAL YEAR 1978

Mr. DANIELSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4585) to authorize appropriations for the Indian Claims Commission for fiscal year 1978; to facilitate the transfer of cases from the Indian Claims Commission to the U.S. Court of Claims; and for other purposes, as amended.

The Clerk read as follows:

H.R. 4585

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is authorized to be appropriated to carry out the provisions of the Indian Claims Commission Act (25 U.S.C. 70), during fiscal year 1978, not to exceed \$2,250,000.*

SEC. 2. The Act entitled "An Act to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes," approved August 13, 1946 (60 Stat. 1049), as amended, is further amended by adding thereto the following new section:

#### "CASES TRANSFERRED TO THE UNITED STATES COURT OF CLAIMS

"SEC. 29. (a) The powers of the Commission set forth in the first paragraph of section 15 of this Act, relative to fees and expenses for any attorney or attorneys for any tribe, band, or other identifiable group of Indians, shall be exercised by the United States Court of Claims with respect to any case transferred pursuant to this Act, as amended.

"(b) The powers of the Commission set forth in section 14 of this Act, relating to information from governmental departments and official records as evidence, may be exercised by the United States Court of Claims with respect to any case transferred pursuant to this Act, as amended.

"(c) Final judgments rendered by the United States Court of Claims on cases transferred to it pursuant to this Act, as amended, shall be paid in the same manner as other judgments of the court in accordance with the provisions of section 2517 and 2518 of title 28, United States Code.

"(d) Cases transferred to the United States Court of Claims pursuant to this Act, as amended, shall be thereafter subject to review by the Supreme Court in accordance with the provisions of section 1255 of title 28, United States Code: *Provided*, That any decision of the Commission rendered in a case prior to its transfer, which could have been appealed pursuant to the provisions of section 20 of this Act, as amended, shall be appealable to the Court of Claims subject to such provisions: *Provided further*, That such provisions shall not otherwise be applicable to transferred cases.

"(e) The provisions of the Act of November 4, 1963 (77 Stat. 301), as amended, shall continue and shall be in effect with respect to all cases transferred to the United States Court of Claims pursuant to this Act, as amended."

SEC. 3. Subsection (a) of section 792 of title 28, United States Code is amended to read as follows:

"(a) The Court of Claims may appoint sixteen commissioners who shall be subject to removal by the court and shall devote all their time to the duties of the office. The Court shall designate one of the commissioners to serve at the will of the court as chief commissioner."

The SPEAKER pro tempore. Is a second demanded?

Mr. KINDNESS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. DANIELSON) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. KINDNESS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, H.R. 4585, had a dual referral to the Committee on Interior and Insular Affairs and then to the Committee on the Judiciary. I shall address myself to the entire bill if I do not see some member from the Committee on Interior and Insular Affairs who wishes to pick up his share of the debate.

The first point I would like to make—and this is one to which I urge every Member to listen—is that although this bill deals with Indians and with Indian claims, it is not the same bill as the one that was just before the House. It just happens that both bills deal with Indians and Indian affairs.

Mr. Speaker, the first portion of the bill—and I have had a signal from a member of the Committee on Interior and Insular Affairs that this is appropriate—authorizes an appropriation of \$2,250,000 to the Indian Claims Commission to carry out its work during fiscal year 1978. That is all that is done in that section.

Mr. Speaker, I would like to point out that the Indian Claims Commission, which was set up some years ago for the purpose of handling Indian claims, still is in operation; but it will not be in operation after September of 1978, a little over a year from now. Under existing law, that is it. This authorization is intended to take care of the expenses of the Indian Claims Commission pending that time.

Mr. Speaker, the second portion of the bill is the portion that was referred to and was actually within the jurisdiction of the Committee on the Judiciary. It relates to the Court of Claims.

Heretofore, Mr. Speaker, we have had an Indian Claims Commission which has had the function of hearing many claims by Indians, generally based upon accounting procedures, based upon claims that they thought they had against the authorities which were handling their affairs. A few years ago provision was made by law to phase out the work of the Indian Claims Commission, and to turn over its remaining cases to the Court of Claims. For many years the United States of America has had a Court of Claims to handle claims against the United States, and it has great expertise in the field.

Since the work of the Indian Claims Commission was diminishing down to that hard nut of almost unresolvable cases at the bottom of its docket, it was

thought that it was time to abolish the Commission and to turn its cases over to the Court of Claims for handling along with all of the others.

Mr. Speaker, at the present time 21 cases have been turned over to the Court of Claims. I understand that there remain 113 cases on the docket of the Indian Claims Commission, of which they anticipate they can conclude approximately 50 claims themselves, but will probably have to turn over the remainder, or about 63 claims, to the Court of Claims in September of 1978.

Mr. Speaker, I have a copy of the docket. I will not burden the RECORD with it, but it has claims that go back pretty far; and they obviously are the ones that have been difficult to handle.

Mr. Speaker, in connection with turning these cases over to the Court of Claims, provision is made in this bill to authorize the Court of Claims to have one—I repeat, one—additional Commissioner. They presently have some 15 Commissioners. They have a rather broad jurisdiction which has been gradually increased over the years. They are behind in their docket; but, although the request was for three additional Commissioners, we could find no compelling justification to increase the number by three. Therefore, we held it down to one, which I feel is a responsible number.

Within the bill Members will note that we also struck some rather generous language which would enable the court to appoint such deputies and clerks as they saw fit. As far as we are concerned, the number of personnel they might need on their payroll and the manner in which they obtain them are already provided for by law. If they wish additional staff personnel, they can go ahead and obtain them in the regular manner.

In a nutshell, Mr. Speaker, what this bill does is, one, authorize an appropriation of \$2,250,000 to finance the Indian Claims Commission during the remainder of its life, which will be until September 1978; and, two, authorize one additional Commissioner to assist in taking care of the Commission's increasing workload.

Mr. Speaker, the bill, H.R. 4585, authorizes appropriations of not to exceed \$2,250,000 in fiscal year 1978 to carry out the provisions of the Indian Claims Commission Act and adds a new section, 29, to the Indian Claims Commission Act to confer upon the Court of Claims the powers of the Commission as to attorneys' fees and expenses as to Commission cases transferred to the court. Similarly, the section would authorize the court to exercise the powers of the Commission as to information from Government agencies with respect to such cases.

The new section provides that judgment in transferred cases would be paid in the same manner as other cases decided by the Court of Claims, and that transferred cases are to be subject to review by the Supreme Court in the same manner as other Court of Claims cases. Section 3 of the amended bill would amend section 792(a) of title 28 to au-

thorize the Court of Claims to appoint one additional commissioner in addition to those presently authorized.

The Indian Claims Commission was established by the act of August 13, 1946 (60 Stat. 1049; 25 U.S.C. 70 et seq.), as amended, for the purpose of finally hearing and deciding all Indian tribal claims which accrued before August 13, 1946.

By August 13, 1951, the Commission had docketed 370 claims. Through severance and redocketing, it has had before it 615 dockets. As of September 30, 1976, 200 dockets had been finally dismissed; 274 had resulted in final money judgments totaling more than \$628 million; and 141 remained to be completed.

The 1946 statute required the Commission to complete its work within 10 years. Since that time, Congress has extended this time limit on five separate occasions. The Commission now consists of 5 commissioners and a staff of 37.

When Congress extended the life of the Commission in 1972, it required that an annual appropriation authorization be enacted in order that the Committee on Interior and Insular Affairs could exercise closer oversight on the Commission progress. Section 1 of the bill authorizes such appropriations for fiscal year 1978.

The act of October 8, 1976, Public Law 94-465, extended the life of the Commission from April 10, 1977, to September 30, 1978. The act provided that the Commission, by December 1976, certify and transfer to the Court of Claims any cases which it felt it could not complete by September 30, 1978. Pursuant to this provision, the Commission has transferred 19 cases. In addition, all cases not completed by September 30, 1978, must be transferred to the Court of Claims.

Public Law 94-465 provides that the Court of Claims shall adjudicate the transferred cases in accordance with section 2 of the Indian Claims Commission Act, but no reference was made to several other provisions of the Indian Claims Commission Act which should be made applicable, as well as to other amendments which would be desirable with respect to the transferred cases. The amendments in this bill make the necessary amendments of the Indian Claims Commission Act and provide for this authority to be exercised by the Court of Claims as to the cases transferred to it.

Section 15 of the Indian Claims Commission Act (25 U.S.C. 70n), provides that unless the amount of the fees to be paid the attorneys for the Indians is included in an approved contract, the amount of fees shall be fixed by the Commission and the Commission to fix all reasonable expenses incurred in the prosecution of a claim. The committee recommends that the section be amended by inserting on line 7, page 2, between "fees" and "for" the words "and expenses." This would conform the language to the provisions of present section 14 which do refer to expenses. The proposed section 29(a), together with the amendment stated above, will enable the court to exercise that needed authority in the transferred cases.

Section 14 of the act (25 U.S.C. 70m) deals with the authority of the Commis-



sion to obtain information from governmental departments and also provides for the use of official records as evidence. While the court now has general call authority as to governmental agencies (28 U.S.C. 2507), section 14 has a somewhat broader call authority and in addition includes specific evidentiary rules concerning Government documents, rules which may well be needed because of the special nature of the Indian Claims. Section 29(b) added by section 2 of the bill would provide for these considerations in the transferred cases.

Section 22 of the act (25 U.S.C. 70u) provides that, after the Indian Claims Commission reports its final determination, the report shall have the effect of a final judgment of the Court of Claims. While in all probability that special provision would not be applicable to the transferred cases, in order to avoid any doubt or confusion on the vital point of the status of judgments in those cases, proposed section 29(c) would provide that judgments in the transferred cases shall be paid in the same manner as other judgments of the court.

Section 20 of the act (25 U.S.C. 70s), relating to review by the Supreme Court of decisions rendered by the Court of Claims on appeals from the Indian Claims Commission, provides that a determination on questions of law by the court shall be subject to review by the Supreme Court. Like the judgment section, doubt exists as to the application of this section. To eliminate any question, proposed section 29(d) would have the transferred cases subject to review by the Supreme Court in accordance with the law for other decisions of the court. This proposed section also preserves a party's appeal rights to the Court of Claims with respect to pretransfer Commission decisions in those cases where a Commission's decision would have been appealable under section 20 of the act if no transfer had late taken place.

Proposed section 29(e) in the bill as introduced would have authorized the Court of Claims to appoint additional staff including trial commissioners. The committee amendment would strike subsection (e) from the proposed section 29, and designate subsection (f) as (e). Instead, in adding a new section 3 to the bill, the committee amendment would provide for an amendment to increase by one the number of commissioners of the Court of Claims authorized in section 792 (a) of title 28. The committee has concluded that since the new commissioner would have the same responsibilities and be appointed on the same basis as other commissioners, the authority should properly be contained in the appropriate section of title 28, section 792, which provides the basic statutory authority for the appointment of commissioners. Similarly, the committee amendment strikes the special authority for other court personnel. It is felt that authority for employing such personnel are provided for under existing law. As a practical matter it is difficult to provide at this time an exact estimate of the additional per-

sonnel which will be needed to comply with the desire of the Congress that these transferred cases be processed as expeditiously as possible.

The committee has concluded that the actual need for personnel can best be determined after the cases have been transferred and the court considered has begun. However, the committee concluded that the need for an additional commissioner has been established. The burden of handling the transferred cases will fall on the commissioners who serve as the trial judges of the court. Presently, they are called upon to conduct trials and file reports in 18 other categories of litigation.

As of this date, the court has received 21 cases on transfer. The committee has been advised that present indications are that of the approximately 116 cases still remaining at the Commission, as many as 50 will eventually be received by the court through September 30, 1978. All of these cases have been pending for 25 years or more since the time within which to file with the Commission expired August 13, 1951. Also, many relate to events which occurred as far back as the mid-1880's. Experience has shown that old cases, particularly those in the Indian area, are extremely difficult to dispose of. Based on the limited exposure thus far in the already transferred cases, it appears that many will require lengthy trials with voluminous records relating to the Government's alleged mismanagement of a variety of Indian resources as well as the customary treaty claims.

During recent years, the Congress has extended the jurisdiction of the Court of Claims. Examples are claims pursuant to the Federal Fire Prevention and Control Act of 1974 and declaratory judgment jurisdiction under the Tax Reform Act of 1976 with regard to certain tax exempt organizations. The one of greatest impact, however, has been the transfer in 1971, of jurisdiction over cases filed pursuant to the Renegotiation Act of 1951, as amended, from the Tax Court of the Court of Claims. Ninety such cases were immediately received on transfer. Since that date to the present time, 151 renegotiation cases have been filed with 100 such cases pending as of this date. Despite the fact that these cases require substantial trial work, they have been handled without requesting additional trial commissioners. However, the workload of the present 15 commissioners is now such that they cannot be expected to take on the Indian claims without added help. This is particularly so in view of the desire of all concerned that those claims which have been pending for so many years be expedited.

Sections 70n-1 through 70n-7 of the act (25 U.S.C.), which were first added in 1963 (77 Stat. 301), all relate to the establishment of a fund from which loans may be made by the Secretary of Interior to Indian tribes and bands for their use in obtaining expert assistance, exclusive of attorneys, for the preparation and trial of these cases. Here again there is some question as to the appli-

cation of the loan fund to the transferred cases. Section 29(f) of the Bill would eliminate any doubt by providing that the fund shall be in effect with respect to all transferred cases.

The committee favorably recommends the bill, H.R. 4585, with the amendments recommended to section 29 and by the amendment to section 792(a) of title 28 providing for the authority to appoint an additional commissioner.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, H.R. 4585 is a rather simple bill. First, it authorizes the appropriation of \$2,250,000 for the expenses of the Indian Claims Commission for fiscal year 1978. Fiscal year 1978 will be the last year of life for the Indian Claims Commission. As amended in the last Congress, the Commission is due to expire on September 30, 1978.

\$2,250,000 represents a substantial increase in authorization as compared to the fiscal year 1977. The increase is \$600,000. However, most of this additional increase is necessitated by the extraordinary, one-time costs of termination of the Commission.

Second, the bill amends the Indian Claims Commission Act to facilitate the transfer of cases from the Commission to the U.S. Court of Claims. As amended, the Indian Claims Commission Act provides that certain cases pending before the Commission will be transferred to the court prior to the expiration of the Commission, in the discretion of the Commission. In addition, all unfinished cases will be transferred on September 30, 1978, when the Commission expires.

During hearings on this legislation and on the legislation enacted in the 94th Congress, the chief judge of the Court of Claims urged the committee to amend the Indian Claims Commission Act to confer upon the Court of Claims certain powers of the Commission in order to facilitate the disposition of the transferred cases. Section 2 of the bill adopts those amendments.

One of those amendments, as reported by the Interior Committee would have added three additional trial commissioners to the Court of Claims to assist in handling the increased burden.

As the bill was jointly referred to the Judiciary Committee, that committee also reported the bill with amendments. In their version, they only allowed for one additional trial commissioner. In the interests of insuring that the authorization of appropriation for the Commission for fiscal year 1978 is not delayed the Interior Committee has agreed to accept the Judiciary Committee version and I urge its enactment.

Mr. KINDNESS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Mr. Speaker, this is an uncontroversial piece of legislation to bring to its final chap-

ter a fairly useless Indian Claims Commission.

This piece of bureaucracy has done very little to bring to a conclusion the claims that it has had before it in recent years, and this bill transfers its functions to the Court of Claims, which is more capable of going forward toward a solution of the claims that have been filed.

The bill gives to the Indian Claims Commission enough money to complete its operations and transfers the functions that it has over to the Court of Claims.

As the chairman of the subcommittee, the gentleman from California (Mr. DANIELSON) has stated earlier, there was a request in the legislation that we have three additional judges on the Court of Claims, but we feel that that problem can be handled as the caseload goes forward with the Court of Claims in the future. It should be taken care of by legislation that is separate and apart from this legislation. So, at the present time, there is one additional judge on the Court of Claims that will be created here, but that is all.

I ask for an aye vote on the legislation. Mr. KINDNESS. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Speaker, I rise in support of H.R. 4585.

This small piece of legislation marks the final passage in the story of one of the most unique tribunals in American history. The bill authorizes funds to operate the Indian Claims Commission in its 32d and last year. The authorization covers the necessary costs of closing the Commission down as of September 30, 1978, and for transferring to the Court of Claims those cases not completed by that date.

The Indian Claims Commission was established by Congress in 1946 for the purpose of adjudicating all claims, both legal and moral, of American Indian tribes against the U.S. Government. Prior to its creation, Indian claims were permitted only by special acts of Congress. The Claims Commission Act gave the tribes 5 years to file their claims and the Commission another 5 years to hear them all. However, this original time frame proved unrealistic. The more than 600 claims filed posed an extraordinary array of novel and difficult questions of law and fact. The nature of the claims, coupled with the extensive appellate rights and procedures established to hear them, guaranteed that litigation and final settlements would take decades.

Four times Congress acknowledged the need for more time and extended the life of the Commission for 5-year periods. The last time, in 1972, Congress provided for the Commission to terminate in April 1977, and for all remaining unfinished cases to be transferred to the U.S. Court of Claims for completion.

Last year the House rejected a further 3-year extension adopted by the Interior Committee but later agreed to a compromise year-and-a-half extension, to September 30, 1978. The conference report on that legislation emphatically de-

clared congressional opposition to any further extensions. Therefore, H.R. 4585 should be the last authorization bill for the Indian Claims Commission.

At this time it is appropriate to take a brief look at the record of the Commission after 30 years' existence. As of April 1 of this year, the Commission had completed work on 500 of the 615 claims filed before it. All of the remaining cases were in various stages of litigation, and hopefully less than 60 of these cases will remain unfinished by the dissolution date and will have to be transferred to the U.S. Court of Claims for completion.

Basically, the claims were of two kinds: land claims, which eventually involved some 1.7 billion of the 1.9 billion acres of the contiguous 48 States, and accounting claims, in which the United States, as trustee, has had to account for its stewardship of Indian property. Together, these claims have involved literally thousands of transactions dating back to the founding of the Republic.

To date the Commission has awarded some \$655 million to tribal plaintiffs in 279 dockets. Another 200 dockets have been dismissed without award. Presumably, the final tally of awards will be somewhere in the neighborhood of \$750 to \$850 million. The total cost of operating the Commission for 32 years will total less than \$16 million, an average of \$500,000 per year, and less than the cost of a single modern fighter plane.

Mr. Speaker, the significance of the Indian Claims Commission goes far beyond the process of adjudicating a unique body of claims and awarding money damages to the successful plaintiffs. There can be no question that the Indian Claims Commission has been making a vital contribution to American historical knowledge.

The litigation of cases extending over 170 years of this Nation's history have required extensive use of expert scholars to document as best as possible the full story of this country's dealings with its First Citizens. The work of the numerous and voluminous expert witnesses introduced in Indian Claims Commission cases and reports compiled by historians, anthropologists, geographers, and other scholars, has made it possible for the teaching of a much more complete version of the story of this country and especially the crucial role played by the American Indians. This knowledge benefits all Americans.

For American Indians, apart from receiving a measure of much-delayed justice, the Commission has provided an accurate, relatively complete and unbiased "official history" of the Indian tribes of the United States. This is significant considering that American Indians have been generally ignored or given less attention in history written and taught by non-Indians who control and administer the affairs of the states in which the Indians live.

The Indian Claims Commission has provided all Americans with a very well-documented history of the American Indian and his place in American history

while in the process of settling for once and all time the Indians' ancient claims against the United States.

For this reason, I think the Commission deserves credit for a job well done. I urge the speedy approval of H.R. 4585.

Mr. KINDNESS. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of H.R. 4585. This bill authorizes funds for the expenses of the Indian Claims Commission in fiscal year 1978. It also amends the Indian Claims Commission Act of 1946 to facilitate the transfer and subsequent disposition of unfinished cases from the Commission to the U.S. Court of Claims upon its expiration of September 30, 1978.

The \$2,250,000 authorization is \$600,000 higher than the amount authorized for the fiscal year 1977. However, this substantial increase is needed to cover the costs of closing down the 32-year-old Commission currently consisting of five commissioners and a staff of 37. These expenses include an estimated \$185,000 in lump sum leave payments, \$141,000 in severance pay, and \$50,000 in history and final report costs.

As reported by the Interior Committee, section 2 of H.R. 4585 confers certain authorities on the court of claims with respect to the cases to be transferred to it by the Commission. Our colleagues on the Judiciary Committee, who have jurisdiction over the operation of the court of claims and to whom this bill was sequentially referred, have amended this section. I have no objections to those amendments.

Mr. Speaker, the conference report which accompanied last year's authorization for the Indian Claims Commission was adopted by a vote of 379 to 13. That report included an emphatic declaration of the adamant opposition to any further extension of the Commission beyond the September 30, 1978, dissolution date. I am pleased to state that H.R. 4585 is entirely consistent with that declaration.

The Subcommittee on Indian Affairs and Public Lands and the full Committee on Interior and Insular Affairs approved the bill by unanimous voice votes. I now urge the House to do the same.

Mr. KINDNESS. Mr. Speaker, I would urge my colleagues to provide their affirmative vote for H.R. 4585.

Mr. Speaker, I also wish to associate myself with the remarks of the chairman of the subcommittee, the gentleman from California (Mr. DANIELSON) and with those of the ranking minority member on the subcommittee, the gentleman from California (Mr. MOOREHEAD).

Mr. DANIELSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WRIGHT). The question is on the motion offered by the gentleman from California (Mr. DANIELSON) that the House



suspend the rules and pass the bill H.R. 4585, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks with respect to the bill just passed, and that the revision shall follow my colloquy.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANIELSON. Mr. Speaker, further I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks with respect to the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

#### EXTENDING CERTAIN OIL AND GAS LEASES BY A PERIOD SUFFICIENT TO ALLOW THE DRILLING OF AN ULTRADEEP WELL

Mr. KAZEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2502) to extend certain oil and gas leases by a period sufficient to allow the drilling of an ultra-deep well, as amended.

The Clerk read as follows:

H.R. 2502

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to extend any lease issued pursuant to section 17 of the Act of February 20, 1920, as amended (30 U.S.C. 226), and which was committed to the cooperative or unit plan known as the Unit Agreement for the Development of the Pacific Creek Unit II Area covering certain leases owned by Rainbow Resources Group as of January 26, 1977, in the State of Wyoming, and which would otherwise terminate prior to July 23, 1981, until July 23, 1981, and so long thereafter as oil and gas is produced in paying quantities: *Provided, however,* That (a) the provisions of this Act shall not apply to any lease which has been assigned in whole or in part between the twenty-sixth day of January 1977, and the effective date of this Act; (b) any such lease which is assigned in whole or in part prior to the twenty-third day of July 1981 shall automatically terminate by operation of law and no longer be of any force or effect unless any such lease is assigned to one or more members of the Rainbow Resources Group or, alternatively, to the heirs or devisees in the case of the death of an individual owner; (c) all provisions restricting the assignment of leases as contained in paragraphs (a) and (b) shall cease as of July 23, 1981; (d) except as specifically modified herein as to such leases, all other provisions of the Act of February 20, 1920, as amended (41 Stat. 443, 30 U.S.C. 181, et seq.), shall be applicable as to such leases.*

SEC. 2. Notwithstanding any provision of any such lease, or provision of law or regulation to the contrary, from and after the

twenty-third day of July 1977, the annual rental provided for in the leases described in section 1 of this Act shall be the sum of \$5 per acre for the period July 23, 1977, through July 23, 1978, and \$2 per annum thereafter.

SEC. 3. The Secretary of the Interior is authorized and directed to specify terms and conditions for the diligent and prudent exploration and development of such leases, or the unit to which such leases have been committed, including requirements for the commencement of drilling operations, which such conditions shall be deemed a part of the lease agreement for each such lease.

SEC. 4. If the Secretary of the Interior makes a determination that any of the terms and conditions imposed by him under the authority of section 3 of this Act for the prudent and diligent development of any such lease, or of a unit to which any such lease has been committed, have been violated, he shall give written notice of such violation to such lessee, or to the unit operator designated by such lessee, setting forth the nature of such violation and affording the lessee or designated unit operator a reasonable time in which to correct such violation. If such violation has not been corrected within the time stated in such notice, such lease shall immediately terminate and be of no further force or effect.

SEC. 5. Notwithstanding any provision of law to the contrary, if any lands covered by a lease described in section 1 of this Act have been, or hereafter are, committed to an approved cooperative or unit plan of development and any part, or all of such lands, are thereafter segregated or eliminated from such approved or prescribed plan, such lease shall terminate as to those lands so segregated or eliminated from such approved or prescribed plan.

SEC. 6. No lease subject to this Act shall be deemed to have been extended unless within thirty days after receiving written notice from the Secretary of the Interior of the terms and conditions to be imposed by him on such lease or leases pursuant to section 3 of this Act the record owner of such lease has agreed in writing to such conditions.

SEC. 7. If any lease described in section 1 of this Act has terminated by virtue of the provisions of the Act of February 25, 1920, as amended (41 Stat. 443; 30 U.S.C. 181, et seq.), prior to the date of the approval of this Act, the Secretary of the Interior is authorized and directed to reinstate such lease: *Provided, however,* That all of the provisions of this Act shall be fully applicable to such reinstated lease.

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. KAZEN) and the gentleman from Pennsylvania (Mr. GOODLING) will be recognized for 20 minutes each.

The Chair now recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 2502 is to extend certain oil and gas leases for Federal lands in Wyoming for a sufficient length of time to permit the drilling of an ultra-deep gas well. The bill would affect 17 leases.

The initial term of the leases was 10

years and all were issued between November 1, 1963 and June 1, 1967. All of the leases had been placed in a unit which had been approved by the Secretary of the Interior. The lessees explored the unit area to a depth of 20,500 feet. While some gas was discovered, the discovery was not sufficient for commercial production. The unit agreement was terminated as of July 23, 1975. The termination of the agreement served to extend the leases for an additional 2 years from the date of termination.

The Mineral Leasing Act provides that a lease may be extended beyond its primary term by production, or if actual drilling operations are commenced and being diligently prosecuted at the end of the primary term, the lease is extended during the period in which the drilling operations are being prosecuted.

If the lease is committed to a unit plan of development, production or drilling within the unit area will extend all of the leases committed to the unit.

Prior to March 1975, the Department of the Interior regulations defined the primary term of a lease to mean the initial term and all extensions of the initial term. Under that definition, because of the extension of the leases involved by virtue of dissolution of the unit agreement on July 23, 1975, it would only have been necessary for the lessees to have commenced drilling operations within a new unit and be diligently prosecuting them on July 23, 1977, to further extend the leases for the time required to complete a well.

However, in March 1975, the Department adopted new regulations which redefined "primary term" as only the initial 10-year term of the lease. Thereafter, the only way a lease in an extended term could be further extended was by actual production on the lease, or within a unit to which the lease has been committed.

The owners of the leases—Rainbow Resources Group—testified before the Subcommittee on Mines and Mining that it would require at least 3 years to complete the well which they planned to a depth of 25,000 feet. The period of extension of the leases which had been gained by the termination of the unit agreement in July 1975, was insufficient to permit the drilling of such an ultra-deep well.

Officials of Rainbow Resources Group also testified that they had invested approximately \$2 million in exploring the original unit and that the drilling of the ultra-deep well would require a further investment of between \$6 and \$7 million.

The testimony received by the subcommittee indicated that there may be a large gas field in the unit area which can only be developed at a depth of 25,000 feet or more.

The Committee on Interior and Insular Affairs approved an amendment in the nature of a substitute bill. The bill as amended requires payment of a rental of \$5 per acre for each lease during the first year of extension, and \$2 per acre for each year thereafter. The normal rental would be \$1 per acre during such periods.

The bill as amended also requires the Secretary of the Interior to impose conditions for the diligent and prudent development of the leases. The leases could not be assessed outside the Rainbow Resources Group before July 23, 1981, the period of additional extension, and the leases could only be extended beyond that date by actual production in commercial quantities.

Under the provisions of H.R. 2502, as originally drafted, the leases would have been extended until 1981 with the provision that the leases would terminate unless drilling operations were being conducted on a unit to which the leases had been committed, or oil or gas were being actually produced from a lease committed to such a unit. There were no special provisions to assure that the leases would be diligently developed prior to the expiration of the extended term provided for in the bill.

The bill as amended mandates the Secretary of the Interior to establish conditions for the diligent development of the leases. These conditions must be accepted by the lessees. The total area involved covers about 16,000 acres. The rental for the first year, therefore, would be approximately \$80,000.

The committee feels that the bill as amended would not establish an undesirable precedent. It is unlikely that anyone not seriously committed to a program of diligent development and to the increased rentals, which are provided for in the amendments, would be willing to accept the conditions the amendments establish.

Mr. Speaker, I reserve the remainder of my time.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Speaker, the gentleman from Texas has explained the purpose of the bill quite clearly. I thank him for his leadership.

It seemed to me this was a very unfair situation which arose, and the gentleman from Wyoming agreed, although I believe he will seek his own time, but as a result of the change in regulations the situation was really untenable, and the subcommittee of which the gentleman is chairman I think acted with diligence and I think they are to be thanked and congratulated.

I want to bring to the attention of the House that the gentleman from Texas acted expeditiously and in a very efficient manner.

Mr. KAZEN. I thank the gentleman for his remarks.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I would like to pay particular compliments to your friend and fellow Texan (Mr. KAZEN). He has been patient and worked with much ability. He has listened to and helped solve various problems which have arisen with respect to the legislation with which he so capably deals. I

want to pay tribute to him for his excellence in this work.

Mr. Speaker, this group will pay \$5 an acre rather than the old 50-cents fee under the 10-year lease or \$1 under the extension. So thanks to the committee amendment of the gentleman from Texas, we have arrived at a solution which I believe is better than the bill which the gentleman from Colorado and I originally introduced. The legislation is better now than when it went in. I thank the gentleman from Texas for that.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. GOODE), who demanded the second, I presume has yielded to the gentleman from Kansas (Mr. SKUBITZ), and the Chair now recognizes the gentleman from Kansas.

Mr. SKUBITZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2502 which would extend certain Federal oil and gas leases for lands in the State of Wyoming to permit the drilling of an ultradeep gas well.

The Subcommittee on Mines and Mining held hearings on this legislation on March 29. Testimony heard at that hearing revealed that the Rainbow Resources Group, the owners of the leases designated in this bill, had applied to the Department of the Interior in 1975 for approval of a unit agreement and a waiver of the requirement for production prior to the end of the term of some of their leases in order to drill an ultradeep gas well to the depth of 25,000 feet. This well would ultimately cost about \$7 million and would require approximately 3 years to drill, a period much longer than that required for conventional wells.

The Department of the Interior, however, denied the application because of a change in regulations a few months prior to the submission of the application.

In the absence of this legislation, the leases involved will terminate next month and the well will not be drilled.

The members of the Interior Committee believe, in reporting this legislation, that the change in departmental regulations just prior to the application for a lease extension works an undue hardship on the owners of the leases. This legislation will permit the lessees to drill the ultradeep well under very strict terms and conditions set by the Secretary of the Interior.

I understand that the Department is opposed to enactment primarily because the bill would set a precedent. However, the circumstances of this case are so unique that there is very little likelihood that other leaseholders will be coming in asking for similar relief.

I support the bill and I commend the distinguished Chairman of the Indian Affairs and Public Lands Subcommittee (Mr. RONCALIO) for sponsoring the legislation.

Mr. RUPPE. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Michigan (Mr. RUPPE), the

ranking minority member of the subcommittee.

Mr. RUPPE. Mr. Speaker, I thank the gentleman from Kansas.

Mr. Speaker, I rise in support of the bill H.R. 2502. I would like to thank my colleague, the gentleman from Kansas, distinguished ranking minority member of the committee, for his kind remarks and also say that the two original sponsors of the bill and my colleague, the gentleman from Texas, have all worked very hard to make this a piece of legislation which I believe merits the support of the Members of this body.

The bill basically addresses a point of equity. The people who are involved have certainly intended to drill a very deep exploratory well to 25,000 feet. Because of a change in the Department of the Interior regulations they would be precluded from doing so without the passage of this legislation. I believe in fairness to those people and certainly, as my colleague, the gentleman from Wyoming, indicated, for the benefit of the United States as a whole, we should pass this legislation, which will enable them to test that deeper formation and carry out the purposes for which the lease was secured.

Mr. Speaker, I do support the legislation and urge its passage.

Mr. KAZEN. Mr. Speaker, I urge the passage of the bill.

Mr. Speaker, I want to commend my colleague, the gentleman from Michigan (Mr. RUPPE), the ranking minority member of the subcommittee, for the wonderful cooperation that he has given us in the process of this bill. As has been pointed out, this is the first bill out of this subcommittee this year and we are really proud of the work we did.

Mr. Speaker, I ask for the passage of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. KAZEN) that the House suspend the rules and pass the bill H.R. 2502, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### AMENDING THE ACT OF APRIL 17, 1954, WHICH PRESERVED WITHIN MANASSAS NATIONAL BATTLEFIELD PARK, VA., IMPORTANT HISTORIC PROPERTIES RELATING TO THE BATTLE OF MANASSAS

Mr. PHILLIP BURTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2437) to amend the act of April 17, 1954, which preserved within Manassas National Battlefield Park, Va., important historic properties relating to the battles of Manassas, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2437

Be it enacted by the Senate and House of Representatives of the United States of



*America in Congress assembled*, That the Act of April 17, 1954 (68 Stat. 56; 16 U.S.C. 429b), entitled "An Act to preserve within Manassas National Battlefield Park, Virginia, the most important historic properties relating to the battles of Manassas, and for other purposes", is amended as follows:

(1) Strike all after the enacting clause, and insert in lieu thereof "That, in order to establish satisfactory boundaries for the Manassas National Battlefield Park, in the Commonwealth of Virginia, and to contain within such boundaries the important historic lands relating to the two battles of Manassas, the boundaries of such battlefield hereafter shall encompass those lands generally depicted on the map entitled 'Boundary Map, Manassas National Battlefield Park', dated May 1977, and numbered 379-80004-D, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. After advising the Committees on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate in writing, the Secretary of the Interior (hereinafter referred to as the 'Secretary') may make minor revisions in the boundary from time to time by publication in the Federal Register of a map or other boundary description, but the total area within the battlefield may not exceed four thousand nine hundred acres. The battlefield shall be administered in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666)."

(2) Add the following new sections:

"Sec. 2. (a) In order to effectuate the purposes of this Act, the Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, lands and interests therein, including scenic easements, which are located within the boundaries of the battlefield, except that property owned by the Commonwealth of Virginia or any political subdivision thereof may be acquired only by donation. The Secretary may not acquire the fee simple title to any lands identified on the map referred to in the first section of this Act as 'scenic easement' unless he determines that to do so is necessary or desirable in the public interest, and in such event he may acquire the fee simple title only with the consent of the owner."

"(b) The Secretary may negotiate and consummate arrangements with appropriate officials for the removal or rerouting of any road now within the park so as to reduce adverse impacts on park values."

"Sec. 3. (a) Subsequent to the date of enactment of this section, the owner of an improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for non-commercial residential purposes for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the terms to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition less the fair market value, on that date, of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination

and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired."

"(b) As used in this Act, the term 'improved property' means a detached, one-family dwelling, construction of which was begun before January 1, 1977, which is used for noncommercial residential purposes, together with not to exceed three acres of land on which the dwelling is situated and together with such additional lands or interests therein as the Secretary deems to be reasonably necessary for access thereto, such lands being in the same ownership as the dwelling, together with any structures accessory to the dwelling which are situated on such land."

"(c) Whenever an owner of improved property elects to remain a right of use and occupancy as provided in this section, such owner shall be deemed to have waived any benefits or rights accruing under sections 203, 204, 205, and 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894), and for the purposes of such sections such owner shall not be considered a displaced person as defined in section 101(6) of such Act."

"Sec. 4. From the appropriations authorized for fiscal year 1978 and succeeding fiscal years pursuant to the Land and Water Conservation Fund Act (78 Stat. 897), as amended, not more than \$8,500,000 may be expended for the acquisition of lands and interests in lands authorized to be acquired pursuant to the provisions of this Act."

"Sec. 5. For the purposes of this Act, except for the lands acquired pursuant to section 1, no other privately owned lands authorized subsequent to January 1, 1977, to be acquired for inclusion in the National Park System, shall qualify for the purpose of making any payments under the provisions of the Act of October 20, 1976 (90 Stat. 2662), unless hereafter authorized by law."

The SPEAKER pro tempore. Is a second demanded?

Mr. SKUBITZ. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. PHILLIP BURTON) and the gentleman from Kansas (Mr. SKUBITZ) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Speaker, the House of Representatives today has an important opportunity to safeguard a slice of our Nation's history by approving H.R. 2437, my legislation to preserve certain properties on which the Civil War Battles of Manassas occurred. This bill would add approximately 1,800 acres in both Prince William and Fairfax Counties, Va., to the current Manassas National Battlefield Park, a national attraction just 30 miles from the Nation's Capital.

#### SUPPORT FOR PRESERVATION WIDESPREAD

Legislation to preserve the park's boundaries essentially identical to H.R. 2437 passed the House of Representatives

on September 29, 1976, as part of H.R. 14934, an omnibus national parks bill. This year's bill is cosponsored by five of my colleagues from Virginia—Congressman BUTLER, Congressman DAN DANIEL, Congressman FISHER, Congressman TRIBLE, and Congressman WHITEHURST. The bill was reported from the House Interior Committee by a unanimous vote with the Department of the Interior supporting expansion.

Support from organizations is wide ranging, including the American Legion and the Civil War Round Table Associates. Additionally, preservation of the park has been endorsed by the Virginia Division of the United Daughters of the Confederacy, the Prince William Federation of Civic Associations, the Prince William League for the Preservation of Natural Resources, and the Fairfax County Board of Supervisors.

I am pleased to share with my colleagues two editorials from community newspapers, the Manassas Journal Messenger and the Potomac News, which also lend their support to preserving these properties:

[From the Manassas (Va.) Journal Messenger]

Public projects should be administered in such a manner as to provide the maximum benefit for the general public. The subversion of plans for the expansion of the Manassas National Battlefield Park to be used as a medium for opposition to the Marriott Great America theme park were wisely avoided by Congressman Herbert E. Harris in his remarks before an obviously biased group of Park neighbors Sunday evening. In covering the meeting, this editorial writer could not help but notice that many of those present wished to embroil the Congressman's proposal in their continuing fight to drive Marriott out of their own back yard. Some even expressed concern that the Park's future plans might open too much of the Park's land to public access and the possibility that their heretofore untrammelled vistas might be tarnished by the sight of fellow Americans partaking of one of our great historical heritages.

As the one who first suggested that Mr. Harris consider the proposal for the expansion of the Battlefield Park after his predecessor's eleventh-hour attempt to get such legislation through Congress, this editorial writer finds much to commend in this new bill. The bill charts the way for future expansion without committing any tax funds to the acquisition of property or scenic easements. Instead of emphasizing condemnation and coercion on property owners, the bill maintains the right of choice for all concerned. It provides an opportunity for the National Park Service to assimilate a modest amount of additional acreage to assure reasonable protection for the historic investment contained in the present boundaries. As such, the proposal should stand on its merits for what it can do for the general public under the administration of the Park Service.

Similar planning should have been done many years ago, but since it had not been done, it is best that action in this direction begin now. The limited amount of taxable land which might be lost to the county tax rolls would be more than compensated by additional parkland within the county for which the taxpayers would not have to lay out one red cent for either acquisition or maintenance. In a county which is already overzoned and for which no reasonable master plan is likely to emerge, the expansion

of the Park should serve as a buffer against additional spot zoning. Even if Marriott's refiled zoning request for its self-contained project should be approved, an expanded Battlefield Park offers the best hope of eliminating peripheral development in the vicinity.

In spite of the temptation to lump the Marriott application and the Battlefield Park legislation into one neat package, the two must be considered separately. The current hodgepodge of development which has been permitted to occur in Prince William County points up the future difficulty which may be experienced in acquiring land for historical or recreational purposes. It also underscores the need for the county to halt the proliferation of spot zoning and ill-planned development by early institution of a meaningful master plan. Expansion of the Battlefield is a federal matter which deserves the support of Prince William County citizens. Controlling the county's other development is a local matter which must be handled by supervisors with enough gumption to construct a no-nonsense comprehensive plan and stick to it.

In the interim, county citizens would do well to express support for the proposal to expand the Manassas National Battlefield Park. The legislation proposed has the double advantage of being non-coercive and free of drain on the taxpayer dollar. It charts a course for the future by enabling the National Park Service to make its acquisitions of land and easements as time and money permit. It is legislation which stands a good chance of passage by the Congress and ultimate approval by the President. It is legislation for the future whose groundwork must be laid today. The project should be backed on its merits and for no other reason. Other controversies should be settled elsewhere by those charged with the responsibility of handling them. The public interest demands no less.

[From the Potomac News, July 18, 1975]

#### A GOOD MOVE

The efforts of Rep. Herb Harris to enlarge the boundaries of the Manassas National Battlefield Park deserve the keen and active support of Prince William County officials.

Harris last month introduced a bill to add approximately 1,500 acres to the 3,000-acre park in order to preserve several important historic areas. The initial response from the chambers of the County Board of Supervisors was negative, largely because of the loss in taxable acreage which would result. There were also suggestions in other quarters that the move would be damaging to the interests of the Great America theme park which the Marriott Corp. plans to develop on a tract adjoining the park.

There certainly would be lost taxable acreage. However, the enhancement to the park—Prince William's primary tourist attraction—could well offset this loss. Rep. Harris points out, Last year, an astounding 700,000 persons visited the park, and this year, the figure may approach one million. An expanded park would increase the potential for the future in terms of both tourist revenue for the area and jobs for local people.

Less tangible but equally important, or perhaps of primary importance is the preservation for future generations of the rural atmosphere and historic setting in which were fought two of the great battles of this nation's history. The majority of the 1,500 acres proposed for purchase remains in open space, some of it being farmed, though several pieces are being held for eventual commercial and residential development.

We quote from the congressman's explanation of his proposal:

"The addition of this land would greatly enhance the historical importance of the current park. For example, one of the sites

to be acquired is the opening scene of the second battle of Manassas, where Jackson made his decision to fight. Another parcel contains the only surviving building of the village of Groveton, the scene of intense fighting during the second battle. One piece of land is the site of Portici, General Johnston's headquarters during the first battle. And the historic Conrad House, used as a field hospital during both battles, is located on one piece of land. On one parcel stands an imposing woods of trees imbedded with the shrapnel of the Civil War battles."

The purchase proposal should in no way interfere with the Marriott Corp's theme park development, which already has all the land it needs. It could only increase the attractiveness of the area to tourists, and we would expect Marriott to lend its enthusiastic support to Rep. Harris' efforts. The Marriott people pointed out in hearings on their project that Great America should not breed a great amount of periphery commercialism, so little would be lost.

Indeed, the park's expansion should be able to draw solid bipartisan support. While Rep. Harris is a Democrat, his predecessor, Republican Stan Parris, introduced a park expansion bill as one of his last acts before leaving office.

#### SCENES OF HISTORIC CIVIL WAR ACTIONS

The Manassas National Battlefield Park preserves portions of the battlefields of the first and second battles of Bull Run, important engagements of the American Civil War. The acreage to be added by H.R. 2437 will round off and complement the current park and provide vitally needed protection of these areas.

These additions are of tremendous historical significance. The old Stone Bridge in Fairfax County is still standing intact and is where Union troops made a diversionary attack that began the first land battle of the war. One wooded area still has trees imbedded with Civil War shrapnel and is the site of the beginning skirmishes of the second battle and is the place where Gen. Stonewall Jackson made his decision to fight. Another parcel contains the only surviving building of the village of Groveton and another is the site of Portici, General Johnston's headquarters during the first battle. The historic Conrad House, used as a field hospital during both battles, is located on one piece of land included in the bill. The park is one of the few remaining in the Nation where visitors can view the natural terrain on which these engagements occurred. It is a major historical preserve within a half hour drive of the Nation's Capital and is expected to attract 1 million visitors this year.

#### PROVISIONS OF THE BILL

Under the legislation, the Secretary of the Interior could, if he chooses, acquire the designated lands by direct purchase and through scenic easements. The easements to be acquired will generally permit existing areas to be maintained in their current use. The bill contemplates that all purchases and easements would be on a voluntary, willing-buyer-willing-seller basis through negotiation. The bill permits the owner of improved residential property to retain a right of use and occupancy for a life term or up to 25 years, at his or her option. And the bill specifically provides that the lands acquired would qualify for the Payments in

Lieu of Taxes Act of 1976 for the purpose of making payments to local units of government.

#### ENACTMENT NEEDED NOW

Preserving these historical lands is needed now. Prince William County is one of the fastest growing counties in the Nation. From 1960 to 1970, the county's population doubled and its jumped from 111,000 in 1970 to 163,000 today. The completion of two interstate highways are adding growth pressures as are high housing costs in areas closer in to Washington, D.C. Development is encroaching on the park and several parcels bordering I-66 are zoned commercial. One property is for sale and another has been acquired by the National Parks Foundation and is being held for incorporation into the park. Most of the properties included in this bill are in agricultural or residential use and would be conducive to maintaining the historic scene significant to the strategy and tactics of the two battles.

#### CONTINUING THE PRESERVATION EFFORT

The same factors which led the honorable J. Howard Smith of Virginia in 1940 to take steps to preserve this part of our Nation's heritage are operative today: Congress must take the lead in protecting our precious historical lands and monuments before it is too late. One neighbor of the park puts it this way:

I can speak as one who has for seven years observed the solemnity and sacred dignity which attaches to the grounds and their preservation; the stately cedars and the rolling plains are there to be seen by present Americans and by untold millions of citizens yet unborn who may come and silently ponder the significance of this soil.

I urge my colleagues to take this step with me to preserve for all time this precious page in our Nation's history.

#### GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the bill (H.R. 2437) now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PHILLIP BURTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2437 would add some 1,800 acres to the Manassas National Battlefield Park in northern Virginia. This existing unit of the National Park System protects significant portions of two important battlefields of the American Civil War. The enactment of H.R. 2437 will permit a combination of fee simple title and scenic easements to be acquired which will better protect this historic area at a time when increasing region threatens to compromise the historic integrity of Manassas National Battlefield Park.

The bill contains standard provisions for legislation of this nature. A referenced map identifies the lands to be added to the battlefield park, and the Secretary of the Interior is authorized to



make minor boundary changes, subject to a maximum acreage restriction. Fixed term or lifetime rights of use and occupancy may be retained by owners of the properties to be acquired. Areas identified for scenic easement purchase may also be acquired in fee if the owner consents and the Secretary finds it desirable to do so. For land acquisition purposes, the Secretary may expend not more than \$8,500,000 from appropriations which may be made for this purpose from the amounts as authorized for the land and water conservation fund.

H.R. 2437 also contains a provision which will limit the application of the Payments in Lieu of Taxes Act of 1976 to lands which are henceforth authorized for addition to the National Park System. These new lands would not qualify for payments under the existing law, unless specifically authorized. The lands to be added to Manassas National Battlefield Park are included as qualifying for these payments. The effect of this section will simply be to permit the Congress, in each case where new lands are to be acquired, to exercise a specific judgment on the merits of permitting these payments. I am not opposed to the principle of these compensating payments, but I believe it is responsible to consider the decision to permit these payments in each case.

Mr. Speaker, I want to recognize the particular efforts of the gentleman from Virginia, Representative HERB HARRIS, who has put so much of his time and energy into this legislation. Representative HARRIS has studied the situation thoroughly, has met with affected property owners and historians to weigh all sides of this issue, and has succeeded in bringing this matter to the attention of the House. I also want to commend the gentlemen from Kansas, Representative JOE SKUBITZ and Representative KERR SEBELIUS, for their interest and assistance in this matter.

I urge my colleagues to join me in passing H.R. 2437 at this time.

Mr. BUTLER. Mr. Speaker, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Speaker, I have an interest in the legislation because I find myself a patron of it originally. I have the feeling that what has happened is that the most significant part of this bill is not in the title, but in section 5. It seems to me the effect of what we are doing in section 5 is to reverse action of the last Congress with reference to payment in lieu of taxes in all national parklands hereafter acquired. Would the gentleman say that is a fair characterization of what is happening?

Mr. PHILLIP BURTON. I think that is an overstatement. What section 5 contemplates doing and what its effect is, is not to disturb any parks authorized prior to the beginning of this Congress, but all those parks authorized from the commencement of this Congress must meet the individual scrutiny as to whether or not the in lieu tax provision should or should not apply.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Would it be fair to say that what we really did here is simply to say that in the future each park or each land will be judged on its merits, on a case-by-case basis?

Mr. PHILLIP BURTON. That is correct.

Mr. BUTLER. Mr. Speaker, if the gentleman will yield further, was not the theory of the payment in lieu that we are taking a property that normally produces taxes for the locality, and letting the Federal Government pick up part of the loss to the localities and the States? Is it logical, therefore, to say that the locality is not suffering for new land, park land acquisitions, but it does suffer from old parkland acquisitions?

Mr. PHILLIP BURTON. If the gentleman has observed, that there are instances where the Congress should recognize the impact on the local tax base, I would agree with that. And if the gentleman is inferring that there are instances where there is an abuse of the taxpayers' money by automatically granting it when the case has not been made, I would agree with that observation.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, I too have some interest in section 5. I am in the situation in Alaska where, having most lands public lands, being proposed to be put into parks and reservations—and I hope that the wisdom of this Congress will see that this does not happen—but within those public lands there are numerous developments, such as mineral activities, that are on the tax rolls. They would be precluded even if they were not included in the proposed new park—precluded from being taxed because they would not be able to get access out from their holdings.

I have discussed this with the gentleman from California personally, and I hope he understands my interest. Possibly, as the bill moves along through this House and through the other body, an amendment could be added that would justify or rectify that situation.

Mr. PHILLIP BURTON. I understand the remarks of the gentleman from Alaska.

Let me try to spell out what I believe to be the dominant attitude of our committee, or at least my own posture with reference to this. I think, in our responsibility as a matter of a national decision made by the Congress, to take lands from areas where the tax loss impact would be of significance, that we should continue the provisions of the in lieu tax act.

However, there are a number of pending proposals for urban park areas where the in-lieu-of-tax amount over the years is going to be a staggering sum. It was my hope to capture or recapture, if I could, the ability to deal with situations where we have a giant urban community that has come to Congress asking us to place an area into a park and at the

same time asking us to fund upward to \$50 million or \$100 million in lieu of taxes. It is in anticipation of that kind of situation that I thought it was vital that the Congress recapture this authority and make an ad hoc judgment for these massive urban suggestions.

When we come to the more sparsely populated communities, the smaller communities, it is my thought that we must err on the side of having the maintenance of the in-lieu-of-taxes provisions apply to those communities. But when we are talking about the sums of money which are involved in the number of proposals pending before my committee, there is no useful way to treat this issue other than for us to get a handle on it at the earliest possible moment.

Mr. YOUNG of Alaska. If the gentleman will yield further, I am glad to hear him speak about the sparsely populated areas. I can see where our large metropolitan areas now have lost some of their areas to slum areas, and we have been paying for it. I understand the gentleman's interest. I want to make sure the Western States are primarily protected in this matter.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

Mr. Speaker, the language refers specifically to privately owned land, and the gentleman from California was very aware of the problems of the Western States and the problems transferring from BLM or the Forest Service into a proposed wilderness area or park area, so the language was carefully drawn. An area which presently qualifies for payment in lieu of taxes, if it is transferred into a park system, will continue to qualify, simply because it is public land. As the gentleman pointed out, if there are parks that are to be created out of privately owned land, the area that is to be transferred into the park will not profit from this kind of an exchange, whereas those which presently qualify for payment in lieu of taxes will be protected as they are transferring from one public agency into another public agency.

I think the gentleman has drafted a very worthwhile and carefully drawn amendment, and I commend the gentleman for it.

Mr. PHILLIP BURTON. I thank the gentleman from Colorado (Mr. JOHNSON).

Mr. Speaker, the RECORD should reflect the specific refinement of our proposal was made by the gentleman from Colorado (Mr. JOHNSON), which perfected this proposal.

The long and short of it really is that we can either pretend that there is no limit to the amounts of money we can spend to acquire national parks or anticipate what is very clear, if the Members see the number of bills before my committee, bills being requested by local areas which have enormous tax bases. It would be my understanding that the burden will be on the enormous tax base

areas to justify inclusion, and, on the other hand, on the sparsely populated areas the burden will be on those who say we should depart from the existing law. My own predisposition is that they should be included.

I have no way of knowing how to manage our responsibilities during the course of this Congress because we are going to be making judgments which will entail millions and millions and millions of dollars which I feel will not be thoroughly understood when we go to the park establishment which will pay the tabs for years to come.

Mr. BUTLER. Mr. Speaker, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Speaker, I am reassured by the gentleman's representations. Certainly no area that I represent is of an urban character such as that with which the gentleman is concerned.

I would like to be clear as to where the boundaries are presently laid out for land that has not already been acquired. Is the payment-in-lieu-of-taxes provision still to be available in that situation? That is true, is it not?

Mr. PHILLIP BURTON. Mr. Speaker, that section only applied to the new areas authorized after the date of the commencement of this new Congress. That was the only way we could get a handle on what would otherwise be a very unmanageable financial situation costwise.

Mr. GOODLING. Mr. Speaker, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Speaker, I would only ask that the gentleman and his committee perform the best oversight function possible on this whole situation.

I happen to represent the Gettysburg area. Our local taxpayers, our commissioners, and the representatives of our townships have been fighting against this continued practice of taking more land simply because the legislation says they can take it. Anyplace on which a Yankee or a rebel was supposed to have stepped, they have tried to buy. They do not only try to buy it, but they buy it for double, triple, and quadruple the price that represents the going price, making it impossible for a farmer to purchase any land. Then the Government turns right around and says, "You can live there for another 10, 15, or 20 years."

Not only that, but they have taken businesses that were poor businesses to start with, some that were going bankrupt. Many of these businesses have been sold to the Government at a favorable price, and then after the business has been sold they told them they could continue to stay there and operate.

So, Mr. Speaker, if the gentleman has the time, I hope he will look into situations such as these. It is getting to be a very expensive program, and we have a bad situation resulting in the Gettysburg area.

Mr. PHILLIP BURTON. Mr. Speaker,

I share the concern expressed by the gentleman from Pennsylvania (Mr. GOODLING). It is my intention and the intention of both the majority and the minority side of the committee to see that the American taxpayer gets full value received for any policy decisions recommended by our committee and adopted by the Congress.

Mr. GOODLING. Mr. Speaker, I thank the gentleman.

Mr. PHILLIP BURTON. Mr. Speaker, I have no further requests for time.

Mr. SKUBITZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this bill, H.R. 2437, which authorizes the expansion of the Manassas National Battlefield Park in Virginia, by approximately 1,800 acres in a combination of fee and easement purchases.

Suburban and commercial development is encroaching on the battlefield at a rapid rate. This bill is very timely for that reason, for in a very short time there will be no opportunity to secure additional lands on the periphery before they are committed to other uses. I should point out in that regard, that the Interior Department recommends that more lands be added to and protected by the park at this time than have been included in this bill.

Mr. Speaker, this bill has one other very important provision that will have effect on this area and all other future additions to the National Park System. This deals with payments in lieu of taxes provisions as related to Public Law 94-565, enacted late during the last Congress. That law provided that area of the National Park System, among other Federal lands, will be subject to payments in lieu of taxes being made relevant to them, to local governments. That legislation had some features which were controversial with some Members, and I, for one, strongly disagreed with the application of payments in lieu of taxes provisions to units of the National Park System.

The bill we are now considering, in section 5, authorizes payments in lieu of taxes for the expansion of Manassas authorized by this bill. Significantly, however, it goes on to preclude further payments in lieu of taxes benefits for all privately owned lands authorized for addition to the National Park System after January 1, 1977, unless specifically authorized by act of Congress.

Mr. Speaker, this is a good and important feature of this bill. It will permit the Congress, in the future, to scrutinize each new park area or addition on a case-by-case basis and to determine individually whether such payment benefits seem warranted.

In most cases, history has amply shown that parklands created have brought more increased economic benefit to the local communities than has been lost in taxes from those lands coming off the tax rolls. The payments in lieu of taxes benefits for some potential new park units, particularly in more developed or urban areas, can be extremely costly to the Federal Government, and should not be automatically applied without close scrutiny.

tiny and individual positive decision being made to apply them.

Mr. Speaker, I heartily support both this change in the payments in lieu of taxes provision as it affects the National Park System, and the provisions to enlarge the Manassas National Battlefield Park, and I urge the adoption of this bill by the Members of this body.

Mr. GOODLING. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Speaker, I forgot to mention that there is one thing the committee could do for the Gettysburg Battlefield. We do not need more land. However, there are three original copies existing, I believe, of the Lincoln address delivered at Gettysburg. We surely could use one at Gettysburg, and I have introduced legislation along those lines.

Mr. SEBELIUS. Mr. Speaker, I want to express my support for the bill before us, H.R. 2437, which authorizes some expansion of the Manassas National Battlefield Park in Virginia.

A substantially similar bill passed the House the last night of session of the last Congress, but failed to receive action by the Senate.

This bill, as it now exists, has not been controversial. However, I want to point out that we very belatedly received, the evening before full committee markup, the Department of the Interior's position on this bill, and that position advocated that considerably more acreage be added on the periphery of the existing park. I am sorry that we did not have the benefit of this position in a more timely manner, so that the committee could have considered those proposed additions. I think that some or all of those additions might be meritorious.

Manassas National Battlefield Park is within commuting distance of Washington, and the growth of development in that area has been very rapid in recent years. The city of Manassas has grown up very near to the existing park. Some of the ground of the historic battlefields has already been lost to development, and this legislation may well constitute the last opportunity to preserve for all time, any remaining historic ground ever to be preserved. Peripheral development is moving in so rapidly that further legislative effort several years later will likely be too late, and would certainly result in the payment of greatly escalated land values.

In addition to those additional areas proposed by the Department to be added, some have contended that the undeveloped tract adjacent to the park owned by the Marriott Corp., the site of the controversial proposed "Great America" amusement theme park, should be added to the park. While I believe there is no responsible way at this late point that the Congress should take such action at this time to preempt those development decisions, I do feel that should this development decision be possibly later abandoned, that the National Park Service might appropriately be given the authority to have the first option to purchase this property.



Mr. Speaker, we have repeatedly suffered sad experiences in many of our historic areas, particularly in the East, where we have not set aside enough land soon enough, and we have lost it for all time to encroaching development. I hope that years from now we will not find that we have suffered the same fate here at Manassas.

This bill is certainly a big step in the right direction toward the proper protection of this important national historic resource, and I commend its approval by my colleagues.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON) that the House suspend the rules and pass the bill H.R. 2437, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3(b)(3), rule XXVII, the Chair announces that the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order: S. 955, H.R. 75, H.R. 6794, H.R. 6893, and S. 1377.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to repeat a prior announcement about the electronic voting system. The Chair has been informed that the board displaying each Member's name behind the Chair and the boards displaying the bill number and vote totals to the left and right of the Chair are not working today. However, all voting stations are operating; and the Chair has directed all vote monitoring stations to be staffed with personnel so any Member may go to any monitor and verify his or her vote. Members may also verify their votes—as they should on any vote. By reinserting their card at the same or another voting station.

The Chair therefore directs that the vote be taken by electronic device. Members interested in the progress of the vote may inquire at the vote monitoring stations.

#### AMENDING THE FEDERAL CROP INSURANCE ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill S. 955.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. JONES) that the House suspend the rules and pass the Senate bill S. 955, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 377, nays 5, not voting 51, as follows:

[Roll No. 306]

YEAS—377

|                 |                 |                 |
|-----------------|-----------------|-----------------|
| Abdnor          | Cunningham      | Horton          |
| Addabbo         | D'Amours        | Howard          |
| Akaka           | Daniel, Dan     | Hubbard         |
| Allen           | Daniel, R. W.   | Huckaby         |
| Ammerman        | Danielson       | Hughes          |
| Anderson,       | Davis           | Hyde            |
| Calif.          | de la Garza     | Ireland         |
| Anderson, Ill.  | Delaney         | Jacobs          |
| Andrews, N.C.   | Dellums         | Jeffords        |
| Andrews,        | Derrick         | Jenkins         |
| N. Dak.         | Derwinski       | Johnson, Calif. |
| Annunzio        | Dickinson       | Johnson, Colo.  |
| Applegate       | Dicks           | Jones, N.C.     |
| Archer          | Diggs           | Jones, Okla.    |
| Ashley          | Dingell         | Jones, Tenn.    |
| Aspin           | Dodd            | Jordan          |
| AuCoin          | Downey          | Kasten          |
| Badham          | Drinan          | Kastenmeier     |
| Bafalis         | Duncan, Oreg.   | Kazen           |
| Barnard         | Duncan, Tenn.   | Kelly           |
| Baucus          | Early           | Ketchum         |
| Bauman          | Edgar           | Keys            |
| Beard, R.I.     | Edwards, Ala.   | Kildee          |
| Beard, Tenn.    | Edwards, Calif. | Kindness        |
| Bedell          | Edwards, Okla.  | Kostmayer       |
| Beilenson       | Elberg          | Krebs           |
| Benjamin        | Emery           | Krueger         |
| Bennett         | English         | LaFalce         |
| Biaggi          | Erlenborn       | Lagomarsino     |
| Bingham         | Ertel           | Latta           |
| Blanchard       | Evans, Colo.    | Le Fante        |
| Blouin          | Evans, Del.     | Leach           |
| Boggs           | Evans, Ga.      | Lederer         |
| Boland          | Evans, Ind.     | Leggett         |
| Bolling         | Fary            | Lehman          |
| Bonior          | Fascell         | Lent            |
| Bonker          | Fenwick         | Levitae         |
| Bowen           | Findley         | Lloyd, Tenn.    |
| Brademas        | Fish            | Long, La.       |
| Breckinridge    | Fisher          | Long, Md.       |
| Brinkley        | Fithian         | Lott            |
| Brodhead        | Flood           | Lujan           |
| Brooks          | Flowers         | Lukens          |
| Broomfield      | Flynt           | Lundine         |
| Brown, Calif.   | Foley           | McClary         |
| Brown, Mich.    | Ford, Mich.     | McCloskey       |
| Brown, Ohio     | Ford, Tenn.     | McCormack       |
| Broyhill        | Forsythe        | McDade          |
| Buchanan        | Fountain        | McEwen          |
| Burgener        | Fowler          | McFall          |
| Burke, Calif.   | Fraser          | McKay           |
| Burke, Fla.     | Frenzel         | Madigan         |
| Burke, Mass.    | Frey            | Maguire         |
| Burleson, Tex.  | Fuqua           | Mahon           |
| Burlison, Mo.   | Gammage         | Mann            |
| Burton, John    | Gaydos          | Markey          |
| Burton, Phillip | Gephardt        | Marks           |
| Butler          | Gialmo          | Marriott        |
| Byron           | Gibbons         | Martin          |
| Caputo          | Gilman          | Mattox          |
| Carney          | Ginn            | Mazzoli         |
| Carr            | Glickman        | Meeds           |
| Carter          | Gonzalez        | Meyner          |
| Cederberg       | Goodling        | Michel          |
| Chappell        | Gore            | Mikulski        |
| Chisholm        | Gradison        | Mikva           |
| Clausen,        | Grassley        | Miller, Calif.  |
| Don H.          | Gudger          | Miller, Ohio    |
| Clawson, Del    | Guyer           | Minish          |
| Clay            | Hagedorn        | Mitchell, Md.   |
| Cleveland       | Hall            | Mitchell, N.Y.  |
| Cochran         | Hamilton        | Moakley         |
| Cohen           | Hanley          | Moffett         |
| Coleman         | Hannaford       | Mollohan        |
| Collins, Tex.   | Harrington      | Montgomery      |
| Conable         | Harris          | Moore           |
| Conte           | Harsha          | Moorhead,       |
| Corcoran        | Heckler         | Calif.          |
| Corman          | Hefner          | Moorhead, Pa.   |
| Cornell         | Hefel           | Moss            |
| Cornwell        | Hightower       | Mottl           |
| Cotter          | Hillis          | Murphy, Ill.    |
| Coughlin        | Holt            | Murphy, N.Y.    |
| Crane           | Holtzman        | Murphy, Pa.     |

|                |              |               |
|----------------|--------------|---------------|
| Murtha         | Roncalio     | Studds        |
| Myers, Michael | Rooney       | Stump         |
| Myers, Ind.    | Rose         | Symms         |
| Natcher        | Rosenthal    | Taylor        |
| Neal           | Rostenkowski | Thone         |
| Nedzi          | Roussetot    | Treen         |
| Nichols        | Roybal       | Trible        |
| Nix            | Rudd         | Tsongas       |
| Nolan          | Runnels      | Udall         |
| Nowak          | Ruppe        | Ullman        |
| O'Brien        | Ryan         | Van Deerlin   |
| Oaker          | Santini      | Vander Jagt   |
| Oberstar       | Sarasin      | Vanik         |
| Obey           | Satterfield  | Vento         |
| Ottlinger      | Scheuer      | Volkmmer      |
| Panetta        | Schroeder    | Waggonner     |
| Patten         | Schulze      | Walgren       |
| Patterson      | Seiberling   | Walker        |
| Pattison       | Sharp        | Walsh         |
| Pease          | Shipley      | Wampler       |
| Pepper         | Shuster      | Watkins       |
| Perkins        | Sikes        | Waxman        |
| Pickle         | Simon        | Weaver        |
| Pike           | Sisk         | Weiss         |
| Pressler       | Skelton      | Whalen        |
| Preyer         | Skubitz      | White         |
| Price          | Slack        | Whitehurst    |
| Pursell        | Smith, Iowa  | Whitley       |
| Quayle         | Smith, Nebr. | Whitten       |
| Quile          | Snyder       | Wiggins       |
| Rahall         | Solarz       | Wilson, C. H. |
| Rallsback      | Spellman     | Wilson, Tex.  |
| Rangel         | Spence       | Winn          |
| Regula         | St Germain   | Wirth         |
| Reuss          | Staggers     | Wright        |
| Rhodes         | Stangeland   | Wylie         |
| Richmond       | Stanton      | Yates         |
| Rinaldo        | Stark        | Yatron        |
| Risenhoover    | Steed        | Young, Alaska |
| Roberts        | Steiger      | Young, Mo.    |
| Robinson       | Stockman     | Young, Tex.   |
| Rodino         | Stokes       | Zablocki      |
| Rogers         | Stratton     | Zeferetti     |

NAYS—5

|         |          |       |
|---------|----------|-------|
| Ambro   | McDonald | Wolff |
| Conyers | Quillen  |       |

NOT VOTING—51

|               |               |             |
|---------------|---------------|-------------|
| Alexander     | Hansen        | Pettis      |
| Armstrong     | Harkin        | Poage       |
| Ashbrook      | Hawkins       | Pritchard   |
| Badillo       | Holland       | Roe         |
| Baldus        | Hollenbeck    | Russo       |
| Bevill        | Ichord        | Sawyer      |
| Breaux        | Jenrette      | Sebellius   |
| Cavanaugh     | Kemp          | Steers      |
| Collins, Ill. | Koch          | Teague      |
| Dent          | Lloyd, Calif. | Thompson    |
| Devine        | McHugh        | Thornton    |
| Dornan        | McKinney      | Traxler     |
| Eckhardt      | Marlenee      | Tucker      |
| Flippo        | Mathis        | Wilson, Boh |
| Florio        | Metcalfe      | Wylder      |
| Goldwater     | Milford       | Young, Fla. |
| Hammerschmidt | Mineta        |             |
|               | Myers, Gary   |             |

The Clerk announced the following pairs:

Mr. Thompson with Mr. Armstrong.  
 Mr. Teague with Mr. Devine.  
 Mr. Tucker with Mr. Goldwater.  
 Mr. Badillo with Mr. Hansen.  
 Mr. Baldus with Mr. Kemp.  
 Mr. Flippo with Mr. Ashbrook.  
 Mr. Hawkins with Mr. McKinney.  
 Mr. Breaux with Mr. Hammerschmidt.  
 Mr. Jenrette with Mr. Marlenee.  
 Mr. Florio with Mr. Lloyd of California.  
 Mr. Koch with Mr. Cavanaugh.  
 Mr. McHugh with Mr. Milford.  
 Mr. Mineta with Mr. Pritchard.  
 Mr. Russo with Mr. Dornan.  
 Mr. Harkin with Mr. Gary A. Myers.  
 Mr. Alexander with Mrs. Pettis.  
 Mr. Dent with Mr. Holland.  
 Mrs. Collins of Illinois with Mr. Sawyer.  
 Mr. Thornton with Mr. Metcalfe.  
 Mr. Ichord with Mr. Sebellius.  
 Mr. Mathis with Mr. Steers.  
 Mr. Bevill with Mr. Roe.  
 Mr. Eckhardt with Mr. Hollenbeck.  
 Mr. Traxler with Mr. Bob Wilson.  
 Mr. Wylder with Mr. Young of Florida.

So (two-thirds having voted in favor

thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair wishes to make an announcement. The Chair would like to repeat for the benefit of those who were not present earlier the announcement about the electronic voting. The board displaying the voters' names is not working and the totals on the left and the right of the Chair are not working; however, all voting stations are operating. The Chair has directed that all monitoring stations be manned by personnel, so that any Member may go to any monitoring station to verify his or her vote.

In addition to that, Members may also verify their votes by reinserting their cards in the same or another voting station.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings. The Chair will keep Members advised of the expiration of 5 minutes, so that all Members may have the opportunity to vote.

#### SOIL AND WATER RESOURCES CON- SERVATION ACT OF 1977

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 75, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. JONES) that the House suspend the rules and pass the bill, H.R. 75, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 365, nays 16, not voting 52, as follows:

[Roll No. 307]

YEAS—365

|                |              |                 |
|----------------|--------------|-----------------|
| Abdnor         | Barnard      | Brodhead        |
| Addabbo        | Baucus       | Brooks          |
| Akaka          | Beard, R.I.  | Broomfield      |
| Allen          | Beard, Tenn. | Brown, Calif.   |
| Ambo           | Bedell       | Brown, Mich.    |
| Ammerman       | Bellenson    | Brown, Ohio     |
| Anderson,      | Bennett      | Broyhill        |
| Calif.         | Blaggi       | Buchanan        |
| Anderson, Ill. | Bingham      | Burgener        |
| Andrews, N.C.  | Blanchard    | Burke, Calif.   |
| Andrews,       | Blouin       | Burke, Fla.     |
| N. Dak.        | Boggs        | Burke, Mass.    |
| Annuzio        | Boland       | Burleson, Tex.  |
| Applegate      | Bolling      | Burison, Mo.    |
| Archer         | Bonior       | Burton, John    |
| Ashley         | Bonker       | Burton, Phillip |
| Aspin          | Bowen        | Butler          |
| AuCoin         | Brademas     | Byron           |
| Badham         | Breckinridge | Caputo          |
| Badfals        | Brinkley     | Carney          |

|                 |                |               |
|-----------------|----------------|---------------|
| Carr            | Howard         | Pressler      |
| Carter          | Hubbard        | Preyer        |
| Cederberg       | Huckaby        | Price         |
| Chappell        | Hughes         | Pursell       |
| Chisholm        | Hyde           | Quayle        |
| Clausen,        | Ireland        | Quile         |
| Don H.          | Jacobs         | Quillen       |
| Clay            | Jeffords       | Rahall        |
| Cleveland       | Jenkins        | Rallsback     |
| Cochran         | Johnson Calif. | Rangel        |
| Cohen           | Johnson, Colo. | Regula        |
| Coleman         | Jones, N.C.    | Reuss         |
| Conable         | Jones, Okla.   | Rhodes        |
| Conte           | Jones, Tenn.   | Richmond      |
| Conyers         | Jordan         | Rinaldo       |
| Corcoran        | Kasten         | Risenhoover   |
| Corman          | Kastenmeier    | Roberts       |
| Cornell         | Ketchum        | Robinson      |
| Cornwell        | Keys           | Rodino        |
| Cotter          | Kildee         | Rogers        |
| Coughlin        | Kindness       | Roncalio      |
| D'Amours        | Kostmayer      | Rooney        |
| Daniel, Dan     | Krebs          | Rose          |
| Daniel, R. W.   | Krueger        | Rosenthal     |
| Danielson       | LaFalce        | Rostenkowski  |
| Davis           | Lagomarsino    | Roybal        |
| de la Garza     | Latta          | Rudd          |
| Delaney         | Le Fante       | Runnels       |
| Dellums         | Leach          | Ruppe         |
| Derrick         | Lederer        | Ryan          |
| Derwinski       | Leggett        | Santini       |
| Dickinson       | Lehman         | Sarasin       |
| Dicks           | Lent           | Satterfield   |
| Diggs           | Levitass       | Scheuer       |
| Dingell         | Lloyd, Tenn.   | Schroeder     |
| Dodd            | Long, La.      | Schulze       |
| Downey          | Long, Md.      | Seiberling    |
| Drinan          | Lott           | Sharp         |
| Duncan, Oreg.   | Lujan          | Shipley       |
| Duncan, Tenn.   | Lukens         | Shuster       |
| Early           | Lundine        | Sikes         |
| Edgar           | McClory        | Simon         |
| Edwards, Ala.   | McCloskey      | Sisk          |
| Edwards, Calif. | McCormack      | Skelton       |
| Elberg          | McDade         | Skubitz       |
| Emery           | McEwen         | Slack         |
| English         | McFall         | Smith, Iowa   |
| Erlenborn       | McKay          | Smith, Nebr.  |
| Ertel           | Madigan        | Snyder        |
| Evans, Colo.    | Maguire        | Solarz        |
| Evans, Del.     | Mahon          | Spellman      |
| Evans, Ga.      | Mann           | Spence        |
| Evans, Ind.     | Markey         | St Germain    |
| Fary            | Marks          | Staggers      |
| Fascell         | Marriott       | Stangeland    |
| Fenwick         | Martin         | Stanton       |
| Findley         | Mattox         | Stark         |
| Fish            | Mazzoli        | Steed         |
| Fisher          | Meeds          | Steiger       |
| Fithian         | Meyner         | Stockman      |
| Flood           | Mikulski       | Stokes        |
| Flowers         | Mikva          | Stratton      |
| Flynt           | Miller, Calif. | Studds        |
| Foley           | Miller, Ohio   | Stump         |
| Ford, Mich.     | Minish         | Taylor        |
| Ford, Tenn.     | Mitchell, Md.  | Thone         |
| Forsythe        | Mitchell, N.Y. | Treen         |
| Fountain        | Moakley        | Trible        |
| Fowler          | Moffett        | Tsongas       |
| Fraser          | Mollohan       | Udall         |
| Frenzel         | Montgomery     | Ullman        |
| Frey            | Moore          | Van Deerin    |
| Fuqua           | Moorhead,      | Vander Jagt   |
| Gammage         | Calif.         | Vanik         |
| Gaydos          | Moorhead, Pa.  | Vento         |
| Gephardt        | Moss           | Volkmer       |
| Gialmo          | Mottl          | Waggonner     |
| Gibbons         | Murphy, Ill.   | Walgren       |
| Gilman          | Murphy, N.Y.   | Walker        |
| Ginn            | Murphy, Pa.    | Walsh         |
| Glickman        | Murtha         | Wampler       |
| Gonzalez        | Myers, Michael | Waxman        |
| Goodling        | Natcher        | Weaver        |
| Gore            | Neal           | Weiss         |
| Gradison        | Nedzi          | Whalen        |
| Grassley        | Nichols        | White         |
| Gudger          | Nix            | Whitehurst    |
| Guyer           | Nolan          | Whitley       |
| Hagedorn        | Nowak          | Whitten       |
| Hall            | O'Brien        | Wiggins       |
| Hamilton        | Oaker          | Wilson, C. H. |
| Hanley          | Oberstar       | Wilson, Tex.  |
| Hannaford       | Obey           | Winn          |
| Harrington      | Oettinger      | Wirth         |
| Harris          | Panetta        | Wolff         |
| Harsha          | Patten         | Wright        |
| Heckler         | Patterson      | Wylie         |
| Hefner          | Pattison       | Yates         |
| Heftel          | Pease          | Yatron        |
| Hightower       | Pepper         | Young, Alaska |
| Hillis          | Perkins        | Young, Mo.    |
| Holtzman        | Pickle         | Zablocki      |
| Horton          | Pike           | Zerfetti      |

#### NAYS—16

|               |                |             |
|---------------|----------------|-------------|
| Bauman        | Edwards, Okla. | Myers, Ind. |
| Benjamin      | Holt           | Roussetot   |
| Clawson, Del  | Kazen          | Symms       |
| Collins, Tex. | Kelly          | Young, Tex. |
| Crane         | McDonald       |             |
| Cunningham    | Michel         |             |

#### NOT VOTING—52

|               |               |             |
|---------------|---------------|-------------|
| Alexander     | Hansen        | Pettis      |
| Armstrong     | Harkin        | Poage       |
| Ashbrook      | Hawkins       | Pritchard   |
| Baldus        | Holland       | Roe         |
| Badillo       | Hollenbeck    | Russo       |
| Bevill        | Ichord        | Sawyer      |
| Breaux        | Jenrette      | Sebelius    |
| Cavanaugh     | Kemp          | Steers      |
| Collins, Ill. | Koch          | Teague      |
| Dent          | Lloyd, Calif. | Thompson    |
| Devine        | McHugh        | Thornton    |
| Dornan        | McKinney      | Traxler     |
| Eckhardt      | Marlenee      | Tucker      |
| Flippo        | Mathis        | Watkins     |
| Florlo        | Metcalfe      | Wilson, Bob |
| Goldwater     | Milford       | Wylder      |
| Hammer-       | Mineta        | Young, Fla. |
| schmidt       | Myers, Gary   |             |

The clerk announced the following pairs:

Mr. Thompson with Mr. Cavanaugh.  
Mr. Teague with Mr. Devine.  
Mr. Badillo with Mr. Goldwater.  
Mr. Koch with Mr. McKinney.  
Mr. Tucker with Mr. Hansen.  
Mr. Baldus with Mr. Marlenee.  
Mr. Flippo with Mrs. Pettis.  
Mr. Hawkins with Mr. Ashbrook.  
Mr. Breaux with Mr. Gary A. Myers.  
Mr. Jenrette with Mr. Hammerschmidt.  
Mr. Florio with Mr. Dornan.  
Mr. McHugh with Mr. Kemp.  
Mr. Eckhardt with Mr. Armstrong.  
Mr. Mineta with Mr. Roe.  
Mr. Russo with Mr. Holland.  
Mr. Harkin with Mr. Metcalfe.  
Mr. Alexander with Mr. Sawyer.  
Mr. Dent with Mr. Hollenbeck.  
Mrs. Collins of Illinois with Mr. Sebelius.  
Mr. Bevill with Mr. Bob Wilson.  
Mr. Milford with Mr. Young of Florida.  
Mr. Lloyd of California with Mr. Wylder.  
Mr. Mathis with Mr. Watkins.  
Mr. Ichord with Mr. Traxler.  
Mr. Thornton with Mr. Steers.

Mr. CONYERS changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to provide for furthering the conservation, protection, and enhancement of the Nation's soil, water, and related resources for sustained use, and for other purposes."

A motion to reconsider was laid on the table.

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from the further consideration of the Senate bill (S. 106) to provide for furthering the conservation, protection, and enhancement of the Nation's land, water, and related resources for sustained use, and for other purposes, a similar bill to H.R. 75, as amended, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk read the Senate bill, as follows:



## S. 106

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Land and Water Resources Conservation Act of 1977".

## FINDINGS

## SEC. 2. The Congress finds that—

(1) There is a growing demand on the land, water, and related resources of the Nation to meet present and future needs.

(2) The Congress, in its concern for sustained use of the resource base, created the Soil Conservation Service of the United States Department of Agriculture which possesses information, technical expertise, and a delivery system for providing assistance to land users with respect to conservation and use of soils; plants; woodlands; watersheds protection and flood prevention; the conservation, development, utilization, and disposal of water; animal husbandry; fish and wildlife management; recreation; community development; and related resource uses.

(3) Resource appraisal is basic to wise land and water conservation. Since individual and governmental decisions concerning land and water resources often transcend administrative boundaries and affect other programs and decisions, a coordinated appraisal and program framework are essential.

## DEFINITIONS

## SEC. 3. As used in this Act—

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "land, water, and related resources" means those resources which come within the scope of the programs administered and participated in by the Secretary of Agriculture through the Soil Conservation Service.

(3) The term "land and water conservation program" means a framework for attaining the purposes of this Act.

## DECLARATIONS OF POLICY AND PURPOSE:

## PROMOTION THEREOF

SEC. 4. (a) In order to further the conservation of land, water, and related resources, it is declared to be the policy of the United States and purpose of the Act that the conduct of programs administered by the Secretary of Agriculture for the conservation of such resources shall be responsive to the long-term needs of the Nation, as determined under the provisions of this Act.

(b) Recognizing that the arrangements under which the Federal Government cooperates with State soil and water conservation agencies and other appropriate State natural resource agencies such as those concerned with forestry and fish and wildlife and, through conservation districts, with other local units of government and land users, have effectively aided in the protection and improvement of the Nation's basic resources, including the restoration and maintenance of resources damaged by improper use, it is declared to be the policy of the United States that these arrangements and similar cooperative arrangements should be utilized to the fullest extent practicable to achieve the purpose of this Act.

(c) The Secretary shall promote the attainment of the policies and purposes expressed in this Act by—

(1) appraising on a continuing basis the land, water, and related resources of the Nation;

(2) developing and updating periodically a program for furthering the conservation, protection, and enhancement of the land, water, and related resources of the Nation using all of the resources of the Department of Agriculture; and

(3) providing to Congress and the public, through reports, the information developed

pursuant to paragraphs (1) and (2) of this subsection, and by providing Congress with an annual evaluation report as provided in section 7.

## APPRAISAL

SEC. 5. (a) In recognition of the importance of and need for obtaining and maintaining information on the current status of land, water, and related resources, the Secretary is authorized and directed to carry out, through the Soil Conservation Service, a continuing appraisal of the land, water, and related resources of the Nation. The appraisal shall include, but not be limited to—

(1) data on the quality and quantity of land, water, and related resources;

(2) an analysis of the potential of those resources;

(3) a determination of the changes in the status and condition of those resources resulting from various uses; and

(4) a discussion of current laws, policies, programs, rights, regulations, ownerships, and other considerations associated with the land.

(b) The appraisal shall utilize data collected under this Act and pertinent data and current information collected by the Department of Agriculture and other Federal, State, and local agencies and organizations. The Secretary shall establish an integrated system capable of using combinations of resource data to determine the quality and potential for alternative uses of the resource base and to identify area of local, State, and national concerns pertaining to land conservation, resource use and development, and environmental improvement.

(c) The appraisal shall be made in cooperation with conservation districts and with State soil and water conservation agencies and other appropriate State agencies under such procedures as the Secretary may prescribe to insure public participation.

(d) A report of the appraisal shall be completed by December 31, 1979, and at each five-year interval thereafter.

## LAND AND WATER CONSERVATION PROGRAM

SEC. 6. (a) In order to establish a framework for achieving the national land and water policy and purpose of this Act, the Secretary is hereby authorized and directed to develop, through the Soil Conservation Service, in cooperation with and participation by the public through conservation districts, State and national organizations and agencies, and other appropriate means, a national land and water conservation program (hereinafter called the program) to assist landowners and land users, at their request, in furthering land and water conservation on the private and non-Federal lands of the Nation. The program shall set forth the direction for future soil and water conservation efforts based on the current land, water, and related resource appraisal developed in accordance with section 5 of this Act, taking into consideration both the long-term and short-term needs of the Nation, the landowners, and the land users. The program shall also include, but not be limited to—

(1) analysis of the Nation's land, water, and related resource problems;

(2) analysis of existing authorities and adjustments needed;

(3) an evaluation, based on a system to determine the effectiveness of the soil and water conservation ongoing programs and the progress being achieved in meeting the soil and water conservation objectives of this Act;

(4) identification and evaluation of alternative methods for the conservation, protection, environmental improvement, and enhancement of land and water resources, in the context of specific time frames, and a recommendation of the preferred alternative

using all appropriate authorities of the Department of Agriculture;

(5) investigation and analysis of the practicability, desirability, and feasibility of collecting organic waste materials, including manure, crop and food wastes, industrial organic waste, municipal sewage sludge, logging and food manufacturing residues, and any other organic refuse, composting, or similarly treating such materials, transporting and placing such materials onto the land to improve soil tilth and fertility. The analysis shall include the projected cost of collection, transportation, and placement in accordance with sound locally approved soil and water conservation practices; and

(6) analysis of the Federal and non-Federal inputs required to implement the program.

(b) The program plan shall be completed not later than December 31, 1979, and be updated at each five-year interval thereafter.

## REPORT TO CONGRESS

SEC. 7. (a) On the first day Congress convenes in 1980 and at each five-year interval thereafter, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate the appraisal report and the program as required by sections 5 and 6 of this Act, together with a detailed statement of policy intended to be used in framing budget requests of the Administration for Soil Conservation Service activities. Following the transmission of such appraisal report, program, and statement of policy, the President shall, subject to other actions of the Congress, carry out programs already established by law in accordance with such statement of policy or any subsequent amendment or modification thereof approved by the Congress, unless, before the end of the first period of ninety calendar days of continuous session of Congress after the date on which the President of the Senate and the Speaker of the House are recipients of the transmission of such appraisal report, program, and statement of policy, either House adopts a resolution reported by the appropriate committee of jurisdiction disapproving the statement of policy. For the purpose of this subsection, the continuity of a session shall be deemed to be broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the ninety-day period. Notwithstanding any other provision of this Act, Congress may revise or modify the statement of policy transmitted by the President, and the revised or modified statement of policy shall be used in framing budget requests.

(b) Commencing with the fiscal budget for the year ending September 30, 1982, requests presented by the President to the Congress governing Soil Conservation Service activities shall express in qualitative and quantitative terms the extent to which the programs and policies projected under the budget meet the policies approved by the Congress in accordance with subsection (a) of this section. In any case in which such budget so represented recommends a course which fails to meet the policies so established, the President shall specifically set forth the reason or reasons for requesting the Congress to approve the lesser program or policies presented. Amounts appropriated to carry out the policies approved in accordance with subsection (a) of this section shall be expended in accordance with the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344).

(c) The Secretary, during budget preparation for fiscal year 1982, and annually thereafter, shall prepare a report which evaluates the program's effectiveness in attaining the purposes of this Act. The report, prepared in

concise summary form with appropriate detailed appendices, shall contain pertinent data from the current resource appraisal required to be prepared by section 5 of this Act, shall set forth the progress in implementing the program required to be developed by section 6 of this Act, and shall contain appropriate measurements of pertinent costs and benefits. The evaluation shall assess the balance between economic factors and environmental quality factors. The report shall also indicate plans for implementing action and recommendations for new legislation where warranted.

#### AUTHORIZATION FOR APPROPRIATIONS

SEC. 8. There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act.

#### AVOIDANCE OF DUPLICATION AND OVERLAP

SEC. 9. In carrying out this Act, the Secretary shall utilize information and data available from other Federal, State, and private organizations and shall avoid duplication and overlap of resource appraisal and program planning efforts of other Federal agencies.

#### EFFECTIVE DATE

SEC. 10. The provisions of this Act shall take effect on October 1, 1977.

#### MOTION OFFERED BY MR. JONES OF TENNESSEE

Mr. JONES of Tennessee. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. JONES of Tennessee moves to strike out all after the enacting clause of S. 106 and insert in lieu thereof the provisions of H.R. 75, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to provide for furthering the conservation, protection, and enhancement of the Nation's soil, water, and related resources for sustained use, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 75) was laid on the table.

#### GENERAL LEAVE

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

#### FEDERAL ENERGY ADMINISTRATION AUTHORIZATION ACT OF 1977

Mr. SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 6794.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL) that the House suspend the rules and

pass the bill H.R. 6794, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 272, nays 111, not voting 50, as follows:

[Roll No. 308]

#### YEAS—272

|                  |                 |               |
|------------------|-----------------|---------------|
| Addabbo          | Fisher          | Natcher       |
| Akaka            | Flood           | Neal          |
| Allen            | Flowers         | Nedzi         |
| Ambro            | Foley           | Nichols       |
| Ammerman         | Ford, Mich.     | Nix           |
| Anderson, Ill.   | Ford, Tenn.     | Nolan         |
| Andrews, N.C.    | Forsythe        | Nowak         |
| Andrews, N. Dak. | Fountain        | O'Brien       |
| Annunzio         | Fraser          | Oakar         |
| Applegate        | Frenzel         | Oberstar      |
| Ashley           | Gammage         | Obey          |
| Aspin            | Gaydos          | Patten        |
| AuCoin           | Giallino        | Patterson     |
| Barnard          | Gillman         | Pease         |
| Baucus           | Gonzalez        | Pepper        |
| Beard, R.I.      | Gooding         | Perkins       |
| Bennett          | Gore            | Pressler      |
| Blaggi           | Guyer           | Preyer        |
| Bingham          | Hamilton        | Price         |
| Blanchard        | Hanley          | Quie          |
| Boggs            | Hannaford       | Quillen       |
| Boland           | Harrington      | Rahall        |
| Bolling          | Harris          | Railsback     |
| Bonior           | Harsha          | Rangel        |
| Bonker           | Heckler         | Regula        |
| Bowen            | Hefner          | Reuss         |
| Brademas         | Hertel          | Rhodes        |
| Breckinridge     | Hightower       | Richmond      |
| Brinkley         | Hillis          | Rinaldo       |
| Brodhead         | Holtzman        | Risenhoover   |
| Brooks           | Horton          | Roberts       |
| Brown, Calif.    | Howard          | Rodino        |
| Brown, Mich.     | Hughes          | Rogers        |
| Brown, Ohio      | Hyde            | Roncalio      |
| Buchanan         | Ireland         | Rooney        |
| Burgener         | Jeffords        | Rose          |
| Burke, Calif.    | Johnson, Calif. | Rosenthal     |
| Burke, Fla.      | Jones, N.C.     | Rostenkowski  |
| Burke, Mass.     | Jones, Tenn.    | Roybal        |
| Burleson, Tex.   | Jordan          | Ruppe         |
| Burlison, Mo.    | Kastenmeier     | Santini       |
| Burton, Phillip  | Kazen           | Sarasin       |
| Byron            | Kelly           | Satterfield   |
| Caputo           | Kildee          | Scheuer       |
| Carney           | Kindness        | Seiberling    |
| Carter           | Kostmayer       | Sharp         |
| Cederberg        | Krueger         | Shipley       |
| Chappell         | Lagomarsino     | Simon         |
| Chisholm         | Latta           | Sisk          |
| Clausen,         | Le Fante        | Slack         |
| Don H.           | Leach           | Smith, Iowa   |
| Clay             | Lederer         | Smith, Nebr.  |
| Cohen            | Leggett         | Solarz        |
| Coleman          | Levitas         | Spellman      |
| Conable          | Long, La.       | St Germain    |
| Conte            | Long, Md.       | Staggers      |
| Corcoran         | Lundine         | Stark         |
| Corman           | McCloskey       | Steed         |
| Cornell          | McCormack       | Steiger       |
| Cornwell         | McDade          | Stockman      |
| Cotter           | McEwen          | Stokes        |
| D'Amours         | McFall          | Stratton      |
| Daniel, Dan      | McKay           | Studds        |
| Daniel, R. W.    | Madigan         | Thone         |
| Danielson        | Maguire         | Trible        |
| Davis            | Mahon           | Tsongas       |
| de la Garza      | Mann            | Udall         |
| Delaney          | Markey          | Ullman        |
| Dellums          | Marks           | Van Deerlin   |
| Derrick          | Mazzoli         | Vento         |
| Dicks            | Meeds           | Walgren       |
| Diggs            | Meyner          | Waxman        |
| Dingell          | Michel          | Weaver        |
| Dodd             | Mikulski        | Whalen        |
| Downey           | Mikva           | White         |
| Drinan           | Miller, Ohio    | Whitehurst    |
| Duncan, Oreg.    | Minish          | Whitley       |
| Duncan, Tenn.    | Mitchell, Md.   | Whitten       |
| Early            | Mitchell, N.Y.  | Wiggins       |
| Edgar            | Moakley         | Wilson, C. H. |
| Edwards, Ala.    | Moffett         | Wilson, Tex.  |
| Edwards, Calif.  | Mollohan        | Winn          |
| Elberg           | Montgomery      | Wolff         |
| Emery            | Moorhead,       | Wright        |
| English          | Calif.          | Wylie         |
| Erlenborn        | Moorhead, Pa.   | Yates         |
| Evans, Colo.     | Moss            | Yatron        |
| Evans, Del.      | Murphy, Ill.    | Young, Alaska |
| Fary             | Murphy, N.Y.    | Young, Tex.   |
| Fenwick          | Murphy, Pa.     | Zablocki      |
| Fish             | Murtha          | Zeferetti     |
|                  | Myers, Michael  |               |

#### NAYS—111

|                |                |             |
|----------------|----------------|-------------|
| Abdnor         | Fuqua          | Ottinger    |
| Anderson,      | Gephardt       | Panetta     |
| Calif.         | Gibbons        | Pattison    |
| Archer         | Ginn           | Pickle      |
| Badham         | Glickman       | Pike        |
| Bafalls        | Goldwater      | Pursell     |
| Bauman         | Gradison       | Quayle      |
| Beard, Tenn.   | Grassley       | Robinson    |
| Bedell         | Gudger         | Roussellot  |
| Beilenson      | Hagedorn       | Rudd        |
| Benjamin       | Hall           | Runnels     |
| Blouin         | Holt           | Ryan        |
| Broomfield     | Hubbard        | Schroeder   |
| Broylili       | Huckaby        | Schulze     |
| Burton, John   | Jacobs         | Shuster     |
| Butler         | Jenkins        | Sikes       |
| Carr           | Johnson, Colo. | Skelton     |
| Cavanaugh      | Jones, Okla.   | Snyder      |
| Clawson, Del   | Kasten         | Spence      |
| Cleveland      | Ketchum        | Stangeland  |
| Cochran        | Keys           | Stanton     |
| Collins, Tex.  | Krebs          | Stump       |
| Conyers        | LaFalce        | Symms       |
| Coughlin       | Lehman         | Taylor      |
| Crane          | Lent           | Treen       |
| Cunningham     | Lloyd, Tenn.   | Vander Jagt |
| Derwinski      | Lott           | Vanik       |
| Dickinson      | Lujan          | Volkmmer    |
| Edwards, Okla. | Lukens         | Waggonner   |
| Ertel          | McClary        | Walker      |
| Evans, Ga.     | McDonald       | Walsh       |
| Evans, Ind.    | Marriott       | Wampler     |
| Fascell        | Martin         | Watkins     |
| Findley        | Mattox         | Wells       |
| Fithian        | Miller, Calif. | Wirth       |
| Flynt          | Moore          | Young, Mo.  |
| Fowler         | Mottl          |             |
| Frey           | Myers, Ind.    |             |

#### NOT VOTING—50

|               |               |             |
|---------------|---------------|-------------|
| Alexander     | Harkin        | Pettis      |
| Armstrong     | Hawkins       | Poage       |
| Ashbrook      | Holland       | Pritchard   |
| Badillo       | Hollenbeck    | Roe         |
| Baldus        | Ichord        | Russo       |
| Bevill        | Jenrette      | Sawyer      |
| Breaux        | Kemp          | Sebelius    |
| Collins, Ill. | Koch          | Skubitz     |
| Dent          | Lloyd, Calif. | Steers      |
| Devine        | McHugh        | Teague      |
| Dornan        | McKinney      | Thompson    |
| Eckhardt      | Marlenee      | Thornton    |
| Flippo        | Mathis        | Traxler     |
| Florio        | Metcalfe      | Tucker      |
| Hammer-       | Milford       | Wilson, Bob |
| schmidt       | Mineta        | Wyder       |
| Hansen        | Myers, Gary   | Young, Fla. |

The Clerk announced the following pairs:

Mr. Thompson with Mr. Young of Florida.  
Mr. Dent with Mr. Steers.  
Mr. Teague with Mr. Roe.  
Mr. Florio with Mrs. Pettis.  
Mr. Breaux with Mr. Gary A. Myers.  
Mr. Milford with Mr. Kemp.  
Mr. Flippo with Mr. Hawkins.  
Mr. Baldus with Mr. McKinney.  
Mr. Mineta with Mr. Wyder.  
Mr. Russo with Mr. Hammerschmidt.  
Mr. Thornton with Mr. Skubitz.  
Mr. Traxler with Mr. Marlenee.  
Mr. Harkin with Mr. Bob Wilson.  
Mr. Tucker with Mr. Pritchard.  
Mr. Eckhardt with Mr. Jenrette.  
Mrs. Collins of Illinois with Mr. Ichord.  
Mr. Bevill with Mr. Hansen.  
Mr. Badillo with Mr. Sebelius.  
Mr. Koch with Mr. Hollenbeck.  
Mr. Alexander with Mr. Holland.  
Mr. Lloyd of California with Mr. Devine.  
Mr. McHugh with Mr. Sawyer.  
Mr. Metcalfe with Mr. Ashbrook.  
Mr. Mathis with Mr. Armstrong.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DINGELL. Mr. Speaker, I ask



unanimous consent to take from the Speaker's table the Senate bill (S. 1468) to amend the Energy Supply and Environmental Coordination Act of 1974, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. SYMMS. Mr. Speaker, reserving the right to object, I do so for the purpose of asking the gentleman from Michigan (Mr. DINGELL) whether the language in the bill still reads "\$500 million" and not "\$1.2 billion."

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, the answer to the question is that we do not substantively change any action taken earlier by the House, but simply call up the Senate bill for purposes of getting a vehicle with which to go to conference with the Senate.

Mr. SYMMS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MOTION OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DINGELL moves to strike out all after the enacting clause of S. 1468 and to insert in lieu thereof the provisions of H.R. 6794, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To amend the Federal Energy Administration Act of 1974 to extend the duration of authorities under such Act, to authorize appropriations for the Federal Energy Administration for the 1978 fiscal year, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 6794) was laid on the table.

#### AMENDING TITLE 4 OF THE UNITED STATES CODE TO MAKE IT CLEAR THAT MEMBERS OF CONGRESS MAY NOT, FOR PURPOSES OF STATE INCOME TAX LAWS, BE TREATED AS RESIDENTS OF ANY STATE OTHER THAN THE STATE FROM WHICH THEY WERE ELECTED

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 6893.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DANIELSON) that the House suspend the rules and pass the bill H.R. 6893, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 294, nays 83,

answered "present" 7, not voting 49, as follows:

[Roll No. 309]

YEAS—294

|                 |                 |               |
|-----------------|-----------------|---------------|
| Addabbo         | Flynt           | Nix           |
| Akaka           | Foley           | Nolan         |
| Allen           | Ford, Mich.     | Nowak         |
| Ambro           | Ford, Tenn.     | O'Brien       |
| Ammerman        | Fountain        | Oakar         |
| Anderson, Ill.  | Fowler          | Oberstar      |
| Andrews, N.C.   | Frenzel         | Obey          |
| Andrews,        | Frey            | Ottinger      |
| N. Dak.         | Fuqua           | Panetta       |
| Annuzio         | Gammage         | Patten        |
| Applegate       | Gaydos          | Patterson     |
| Archer          | Gephardt        | Pattison      |
| Ashley          | Gialmo          | Pepper        |
| Aspin           | Gibbons         | Perkins       |
| Badham          | Ginn            | Pickle        |
| Barnard         | Goldwater       | Pike          |
| Baucus          | Gonzalez        | Preyer        |
| Beard, R.I.     | Goodling        | Price         |
| Beard, Tenn.    | Grassley        | Quayle        |
| Bedell          | Gudger          | Quie          |
| Bennett         | Guyer           | Quillen       |
| Biaggi          | Hall            | Rahall        |
| Bingham         | Hamilton        | Railsback     |
| Blanchard       | Hanley          | Rangel        |
| Blouin          | Hannaford       | Reuss         |
| Boggs           | Harris          | Rhodes        |
| Boland          | Harsha          | Richmond      |
| Bolling         | Heckler         | Risenhoover   |
| Bonker          | Hefner          | Roberts       |
| Bowen           | Heftel          | Robinson      |
| Brademas        | Hightower       | Rodino        |
| Breckinridge    | Holtzman        | Rogers        |
| Brinkley        | Horton          | Roncallo      |
| Brodhead        | Howard          | Rooney        |
| Brooks          | Hubbard         | Rose          |
| Broomfield      | Huckaby         | Rosenthal     |
| Brown, Calif.   | Hyde            | Rostenkowski  |
| Brown, Mich.    | Ireland         | Rousselot     |
| Broyhill        | Jeffords        | Roybal        |
| Buchanan        | Jenkins         | Rudd          |
| Burgener        | Johnson, Calif. | Runnels       |
| Burke, Calif.   | Johnson, Colo.  | Ruppe         |
| Burke, Fla.     | Jones, N.C.     | Ryan          |
| Burke, Mass.    | Jones, Okla.    | Santini       |
| Burleson, Tex.  | Jones, Tenn.    | Sarasin       |
| Burlison, Mo.   | Jordan          | Satterfield   |
| Carney          | Kastenmeier     | Scheuer       |
| Carr            | Kazen           | Seiberling    |
| Carter          | Kelly           | Shipley       |
| Cederberg       | Ketchum         | Sikes         |
| Chappell        | Keys            | Simon         |
| Chisholm        | Krueger         | Sisk          |
| Clausen,        | Le Fante        | Skeltan       |
| Don H.          | Leach           | Skubitz       |
| Clawson, Del    | Lederer         | Slack         |
| Clay            | Leggett         | Smith, Iowa   |
| Cochran         | Lehman          | Snyder        |
| Cohen           | Lent            | Solarz        |
| Coleman         | Lloyd, Tenn.    | Spence        |
| Collins, Tex.   | Long, La.       | St Germain    |
| Conte           | Lott            | Staggers      |
| Conyers         | Lujan           | Stanton       |
| Corman          | Lundine         | Steed         |
| Cornell         | McClory         | Steiger       |
| Cornwell        | McCloskey       | Stockman      |
| Cotter          | McCormack       | Stokes        |
| Cunningham      | McDade          | Stratton      |
| Daniel, Dan     | McDonald        | Taylor        |
| Daniel, R. W.   | McEwen          | Treen         |
| Danielson       | McFall          | Tsongas       |
| Davis           | McKay           | Udall         |
| de la Garza     | Madigan         | Ullman        |
| Delaney         | Mahon           | Van Deerin    |
| Dellums         | Mann            | Vander Jagt   |
| Derrick         | Marriott        | Vento         |
| Derwinski       | Martin          | Volkmmer      |
| Dickinson       | Meeds           | Waggonner     |
| Diggs           | Meyner          | Walsh         |
| Dingell         | Michel          | Wampler       |
| Dodd            | Minish          | Watkins       |
| Downey          | Mitchell, N.Y.  | Waxman        |
| Drinan          | Moakley         | Weiss         |
| Duncan, Oreg.   | Mollohan        | Whalen        |
| Edgar           | Montgomery      | White         |
| Edwards, Ala.   | Moore           | Whitehurst    |
| Edwards, Calif. | Moorhead,       | Whitley       |
| Ellberg         | Calif.          | Whitten       |
| Emery           | Moorhead, Pa.   | Wilson, C. H. |
| English         | Moss            | Wilson, Tex.  |
| Erlenborn       | Murphy, Ill.    | Winn          |
| Ertel           | Murphy, N.Y.    | Wirth         |
| Evans, Colo.    | Murphy, Pa.     | Wolf          |
| Evans, Ga.      | Murtha          | Wright        |
| Fary            | Myers, Michael  | Yatron        |
| Fascell         | Myers, Ind.     | Young, Alaska |
| Fenwick         | Natcher         | Young, Mo.    |
| Fish            | Neal            | Young, Tex.   |
| Flood           | Nedzi           | Zablocki      |
| Flowers         | Nichols         | Zeferetti     |

NAYS—83

|                 |             |                |
|-----------------|-------------|----------------|
| Abdnor          | Gilman      | Miller, Calif. |
| Anderson,       | Glickman    | Miller, Ohio   |
| Calif.          | Gore        | Mitchell, Md.  |
| AuCoin          | Gradison    | Moffett        |
| Bafalis         | Hagedorn    | Mottl          |
| Bauman          | Harrington  | Pressler       |
| Benjamin        | Hillis      | Pursell        |
| Burton, John    | Holt        | Regula         |
| Burton, Phillip | Hughes      | Rinaldo        |
| Butler          | Jacobs      | Schroeder      |
| Byron           | Kasten      | Schulze        |
| Caputo          | Kildee      | Sharp          |
| Cavanaugh       | Kindness    | Shuster        |
| Cleveland       | Kostmayer   | Smith, Nebr.   |
| Corcoran        | Krebs       | Spellman       |
| Coughlin        | LaFalce     | Stangeland     |
| Crane           | Lagomarsino | Stark          |
| D'Amours        | Latta       | Studds         |
| Duncan, Tenn.   | Levitas     | Stump          |
| Early           | Long, Md.   | Symms          |
| Edwards, Okla.  | Luken       | Thone          |
| Evans, Del.     | Maguire     | Trible         |
| Evans, Ind.     | Markey      | Vanik          |
| Findley         | Marks       | Walgren        |
| Fisher          | Mattox      | Walker         |
| Fithian         | Mazzoli     | Weaver         |
| Forsythe        | Mikulski    | Wylie          |
| Fraser          | Mikva       | Yates          |

ANSWERED "PRESENT"—7

|             |         |         |
|-------------|---------|---------|
| Bellenson   | Conable | Wiggins |
| Bonior      | Dicks   |         |
| Brown, Ohio | Pease   |         |

NOT VOTING—49

|               |               |             |
|---------------|---------------|-------------|
| Alexander     | Harkin        | Pettis      |
| Armstrong     | Hawkins       | Poage       |
| Ashbrook      | Holland       | Pritchard   |
| Badillo       | Hollenbeck    | Roe         |
| Baldus        | Ichord        | Russo       |
| Bevill        | Jenrette      | Sawyer      |
| Breaux        | Kemp          | Sebelius    |
| Collins, Ill. | Koch          | Steers      |
| Dent          | Lloyd, Calif. | Teague      |
| Devine        | McHugh        | Thompson    |
| Dornan        | McKinney      | Thornton    |
| Eckhardt      | Marlenee      | Traxler     |
| Flippo        | Mathis        | Tucker      |
| Florio        | Metcalfe      | Wilson, Bob |
| Hammer-       | Milford       | Wylder      |
| schmidt       | Mineta        | Young, Fla. |
| Hansen        | Myers, Gary   |             |

The Clerk announced the following pairs:

On this vote:

Mr. Tucker and Mr. Florio for, with Mr. Steers against.

Mr. Badillo and Mr. Hawkins for, with Mr. Devine against.

Mr. Koch and Ms. Collins of Illinois for, with Mr. Hansen against.

Mr. Breaux and Mr. Thompson for, with Mr. Hollenbeck against.

Until further notice:

Mr. Jenrette with Mr. Gary A. Myers.

Mr. Ichord with Mrs. Pettis.

Mr. Eckhardt with Mr. Armstrong.

Mr. Flippo with Mr. Young of Texas.

Mr. Lloyd of California with Mr. Pritchard.

Mr. Mathis with Mr. Teague.

Mr. McHugh with Mr. Ashbrook.

Mr. Metcalfe with Mr. Bob Wilson.

Mr. Milford with Mr. Dornan.

Mr. Mineta with Mr. Hammerschmidt.

Mr. Baldus with Mr. Wylder.

Mr. Bevill with Mr. Marlenee.

Mr. Russo with Mr. McKinney.

Mr. Dent with Mr. Sawyer.

Mr. Harkin with Mr. Sebelius.

Mr. Traxler with Mr. Thornton.

Mr. Roe with Mr. Kemp.

Mr. Holland with Mr. Alexander.

Mr. LUKEN and Mr. MILLER of California changed their votes from "yea" to "nay."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

# EXTENDING THE TIME FOR COMMENCING ACTIONS ON BEHALF OF AN INDIAN TRIBE, BAND, OR GROUP

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill S. 1377.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DANIELSON) that the House suspend the rules and pass the Senate bill S. 1377.

The question was taken; and on a division (demanded by Mr. FOLEY) there were—ayes 162, noes 128.

Mr. MOTTL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So (two-thirds not having voted in favor thereof) the motion was rejected.

The SPEAKER pro tempore. That concludes the votes on the Suspension Calendar.

# PROVIDING FOR CONSIDERATION OF H.R. 6990, MILITARY CONSTRUCTION AUTHORIZATION ACT, 1978

Mr. DODD. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 602 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 602

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6990) to authorize certain construction at military installations, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Connecticut (Mr. Dodd) is recognized for 1 hour.

Mr. DODD. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT) for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 602 provides for the consideration of H.R. 6990, an act authorizing some \$3.5 billion in new military construction projects and related authority for fiscal 1978. This authorization would support our active Armed Forces, Reserve components, defense agencies, and military dependents housing construction programs for this fiscal period.

House Resolution 602 is a simple open

rule, providing for 2 hours of general debate and providing that the bill be read for amendment by titles instead of by sections.

Mr. Speaker, H.R. 6990 is a noncontroversial act which was reported by the Committee on Armed Services by a 28 to 0, rollcall vote. Despite its noncontroversiality, this measure is nevertheless of great importance to our Nation from both economic and defense perspectives.

This act authorizes some 432 new construction projects at 206 military installations in 39 States. These projects are essential to the abilities of our armed services to perform their defense missions, and thus to this country's overall capacity to maintain a strong defense posture.

In addition, these projects also would serve the beneficial purpose of stimulating local economic recovery through increasing employment in the construction trades nationwide.

While none of us likes to view military construction solely as public works programs, Mr. Speaker, I think we can all agree these building projects can contribute to the economic betterment of many sections of our Nation.

Included in H.R. 6990, for example, are construction projects for several States in the Northeast, where unemployment has taken its hardest toll.

The people of my own State of Connecticut have suffered a great amount because of unemployment, and our construction industry and economy are still not completely healthy.

That is why I am especially gratified that the Armed Services Subcommittee on Military Installations and Facilities, under the able leadership of our colleague from Michigan (Mr. NEDZI), saw fit to add two important construction projects for Naval facilities in Connecticut to this bill.

These two projects total \$4,050,000 and represent a \$3.1 million utilities improvements program at the Naval Submarine Base New London, in Groton, and a \$950,000 heating plant for the Naval Underwater Systems Center, in New London.

Besides being important military items because they will contribute to the smooth functioning of two major Naval submarine warfare installations, these projects will provide significant energy conservation benefits and operating efficiencies. All this should result in a further savings to taxpayers.

Lastly, Mr. Speaker, H.R. 6990 contains two significant initiatives by the Committee on Armed Services and its Subcommittee.

To allow the military to share equitably in the energy burden facing our Nation as a whole, the committee is recommending a \$161.1 million program for comprehensive energy conservation in military family housing.

Through a 2-year program to install utility meters in such housing to monitor, and thus control, energy consumption, the committee estimates this usage can be reduced by 23 percent for an annual savings of \$93 million.

The committee also included \$41.1 million to upgrade the physical security of seven chemical weapons storage sites in the United States.

The potential consequences of losing a chemical weapon to some terrorist element could be no less critical than the loss of a nuclear weapon, Mr. Speaker, and the committee should be complimented for acting on its concerns.

Mr. Speaker, in summary, the Military Construction Authorization Act, 1978 is an essential piece of legislation which should be passed by the full House.

I urge its passage and adoption of House Resolution 602, the rule to allow for its consideration.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Connecticut has announced the terms of this resolution. It is a 2-hour, open rule providing for the consideration of H.R. 6990, the Military Construction Authorization Act of 1978. The bill is to be read by titles instead of by sections.

The Department of Defense originally requested \$3,576,517,000; but the authorizing committee has reduced this amount by \$67,957,000. During fiscal year 1978, the Department estimates that of the total authorized the cost will be \$1,068,015,000. These funds will provide support for the Armed Forces, Reserve components, defense agencies, and military housing.

Mr. Speaker, I support the adoption of this rule and the passage of the legislation.

Mr. DODD. Mr. Speaker, I have no further requests for time. I urge adoption of the resolution.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

# PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT

Mr. YATES. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the Department of Interior and related agencies appropriation bill for fiscal year 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. McDADE reserved all points of order on the bill.

# APPOINTMENT OF CONFEREES ON H.R. 6823, COAST GUARD AUTHORIZATION

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6823) to authorize appropriations for the U.S. Coast Guard for fiscal year



1978, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York? The Chair hears none and appoints the following conferees: Messrs. MURPHY of New York, BIAGGI, STUDDS, OBERSTAR, Ms. MIKULSKI, and Messrs. RUPPE and TRENN.

#### MILITARY CONSTRUCTION AUTHORIZATION ACT, 1978

Mr. NEDZI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6990) to authorize certain construction at military installations, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. NEDZI).

The motion was agreed to.

#### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 6990, with Mr. MIKVA in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Michigan (Mr. NEDZI) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. WHITEHURST) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. NEDZI).

Mr. NEDZI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today the House Committee on Armed Services presents H.R. 6990, the military construction authorization bill for fiscal 1978.

The purpose of the bill is to provide new military construction authorization and related authority in support of the military departments and defense agencies.

At this point, Mr. Chairman, I want to thank the ranking member of the Subcommittee on Military Installations and Facilities, the distinguished gentleman from Virginia, the Honorable G. WILLIAM WHITEHURST, and all of the members of the subcommittee for their tireless efforts during the hearings and markup sessions on the bill. Without their diligence and the high degree of attendance, we could not be here to seek a vote on H.R. 6990.

We believe that H.R. 6990 is a good bill. It is a balanced measure that the House should support. It is not a bill for the Air Force, the Navy, the Army, the Marine Corps or the Defense Department; it is a committee bill that reflects the judgment and efforts of its members.

The Defense Department requested new authorization in the amount of \$3,576,517,000 for fiscal year 1978. This request is \$208 million, or 6 percent higher

than the \$3.4 billion requested in fiscal year 1977.

As submitted to the Congress, the construction program for fiscal year 1978 contained approximately 466 individual line item projects at approximately 280 military installations within the United States and overseas.

After extensive hearings in nine separate sessions and close review of each request project, the committee was able to determine those proposals that in its view could be deferred without impairing the operational effectiveness of the armed services.

We took the approach, Mr. Chairman, that we would not cut projects just for the sake of cutting, but would delete projects that we felt could be deferred without damaging our national security. In certain instances, we added projects where it was determined by testimony that the priority was great enough to support such action of the committee.

The committee, as a result, agreed upon a reduced total in the amount of \$3,508,560,000 in new authorizations which I would point out to the Members of the House is \$67,957,000 less than the total amount requested.

While it is not possible at this time to discuss each project, since there are some 466 of them, I would point out some of the significant items of interest to the Members.

Of particular importance is the major initiative the committee has developed that establishes a comprehensive energy conservation program for military family housing in the United States and its possessions. A two-step process is involved. First, the committee added \$161.1 million to implement a 2-year program to individually meter energy consumed in the 287,352 units in the United States, Puerto Rico and Guam. An additional \$83,000 is authorized for the 432 units of new construction authorized in this measure. Based upon available information the committee estimates this will reduce energy consumption in military housing by 23 percent, for an annual savings of \$93 million. Thus the cost of installing the meters will be recovered in less than 2 years.

The second step of the program directs the Secretary of Defense to establish reasonable energy consumption rates for military housing units and assess the occupants for any consumed amounts exceeding those rates. This should not be construed as a diminution of the serviceman's benefits. The service family still would be entitled to these utilities, but no longer could enjoy any excessive use of energy without having to pay for it.

Complementing this effort is the inclusion of \$15,300,000 in energy conservation projects at various installations. The committee believes that more emphasis will be placed in this program once the ongoing Department of Defense

The Committee is recommending \$16.5-base structure is completed. 750,000 in pollution abatement projects. The amount for air pollution abatement is \$3,614,000. For water pollution abatement, the total is \$13,136,000.

With the \$35,126,000 in previous authorization contained in the House-passed measure, H.R. 5502, the fiscal year 1977 supplemental military construction authorization bill, this new authorization will help to bring the Defense Establishment into compliance with environmental pollution control law and regulations.

A second major committee initiative adds \$41,179,000 to upgrade the physical security at seven chemical weapons storage sites in the United States. The committee felt that these special weapon sites should have the same high degree of protection against penetration as nuclear weapons sites for which \$82.8 million was requested and approved.

Also included in the bill is \$1,591,221,000 for military family housing, which is \$136,581,000 above the Department's request of \$1,454,640,000. Proposed construction of 432 new family housing units in this country and 4 units abroad accounts for nearly \$10.7 million of the total amount. The balance is to be used for maintaining and operating existing housing units, improvements to existing quarters, leasing costs, payments of principal and interest, homeowner's assistance and the committee's energy conservation initiatives.

In title VI, the Department requested an increase in the per square foot cost of barracks and bachelor officer quarters. The present cost limitations are \$39 and \$42 respectively. The Department's request for \$42 and \$45 per square foot, respectively, was approved.

In title VII, for guard and reserve force facilities, the committee approved the total amount requested, \$152,967,000.

Generally speaking, the bill emphasizes construction to improve the Army's readiness and enhance combat capability. The committee approved \$964,519,000 for the various Army projects. Most of this construction is directly related to improving readiness.

Modernization projects needed to support the operating forces of the Navy and to improve Marine Corps preparedness have been approved. The committee approved \$422,295,000 in Navy and Marine Corps construction projects.

For the Air Force, project emphasis has been placed upon force and deployment goals outlined in the Department's posture statement to the Congress, including depot plant modernization, airfield survivability measures in Europe and nuclear security improvements. The committee approved \$346,908,000 for the total Air Force program for fiscal year 1978.

People-oriented programs such as housing improvements, dental and medical facilities, and pollution abatement projects, as I mentioned previously, as continued, although at a somewhat reduced scale, because of the ongoing Department of Defense base structure the total program would add to an study.

The committee believes that the bill is very austere compared to prior year requests and that any sizable reduction in already growing backlog of new construction needed at our military installations.

This briefly, Mr. Chairman, is the committee's recommendation to the House. We are prepared to answer any Member's question regarding the committee's action and our recommendations. We believe our recommendation to the House is a good one and I recommend approval of H.R. 6990.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. NEDZI. I yield to the gentleman from Kansas (Mr. Skubitz).

Mr. SKUBITZ. Mr. Chairman, I rise in opposition to any move that would provide an authorization for the proposed Mississippi Army Ammunition Plant at Bay St. Louis, Miss.

On May 9 I addressed a letter to the chairman of the House Armed Services Committee expressing my opposition to construction of the proposed plant in Mississippi. I have asked unanimous consent to have that letter reprinted in the RECORD:

WASHINGTON, D.C.,  
May 9, 1977.

HON. MELVIN PRICE.

DEAR MR. CHAIRMAN: Tomorrow when the House Armed Services Committee has before it H.R. 6990, the Military Construction Authorization Act for Fiscal 1978, an effort may be made to amend the Subcommittee's bill to provide \$181.2 million in authorization for the proposed Mississippi Army Ammunition Plant. I cannot emphasize enough how emphatically I oppose the construction of this facility and it is my hope that you will oppose any amendment providing authorization for this Army and Senator Stennis boondoggle.

As you are well aware, numerous Army ammunition facilities throughout the United States have undergone plant closings or substantial reductions in their work forces because of the cessation of hostilities in southeast Asia and restrictions imposed on the stockpiling of munitions. Each Member of Congress, with the exception of the Mississippi delegation, should consider the proposed construction of this plant after so many nationwide closings—a slap in the face.

It is proposed that the Mississippi Army Ammunition Plant will produce the new 155 mm. M-483 Improved Conventional Munition (ICM) at a maximum of 120,000 rounds/month. In 1975 the cost of this plant was \$228.5 million, now it has been placed at \$397.8 million.

In my own Congressional District is the Kansas Army Ammunition Plant at Parsons, Kansas (KAAP). This plant will soon have the capability of loading, assembling and packing 42,000 rounds/month of the 155 mm. M-483 ICM. The Lone Star Army Ammunition Plant (LSAAP) at Texarkana, Texas, will have the same capability of these plants for this round can be doubled with only a total cost of \$30 million.

Construction of the Mississippi Army Ammunition Plant would have not only an adverse impact on KAAP and LSAAP, but it also would adversely affect industries in California, Massachusetts, and Louisiana which will have the responsibility of providing the metal parts for the 155 mm. M-483 ICM which are loaded, assembled, and packed at the Parsons and Texarkana facilities.

The Army proposal to construct the Mississippi Army Ammunition Plant has raised such serious doubts in my own mind that I have requested an official General Accounting Office inquiry into the Army's actions on the proposed Mississippi Army Ammunition Plant. I have directed both the GAO and my

personal staff to keep Mr. Paul Tsompanas of the Committee's staff fully informed on the progress and results of the GAO inquiry. Some of my reasons for requesting the inquiry are:

1. The Army's mobilization requirement for the round appears to be questionable.

2. I have received information that the Army may have established this mobilization requirement only to justify the construction of the Mississippi Army Ammunition Plant.

3. The Army has stated that it can double the loading, assembling and packing capabilities at Parsons and Texarkana for only \$30 million.

4. After comparing construction costs at Parsons and Bay St. Louis, there are serious doubts as to the validity of the Army's computations for constructing the facility at Bay St. Louis.

5. I have been informed that given the appropriate amount of lead time—private enterprise can produce the metal parts for the 155 mm. M-483 ICM cheaper than can be achieved at the Mississippi Army Ammunition Plant.

6. While the Army has said that construction of the Mississippi Army Ammunition Plant may not have an adverse effect on employment levels at KAAP and LSAAP, recent history would indicate that once the plant is constructed, KAAP and LSAAP will be "mothballed".

7. In view of the fact that the Congress is cutting the defense budget, it makes little sense to create new plants established on "ifs, ands, or buts".

The most compelling argument, though, to reject any proposal to authorize funding for the Mississippi Army Ammunition Plant in the House bill is that authorization for the facility is already contained in the Senate bill. Surely the most appropriate course to follow is to reject any authorization for the Mississippi Army Ammunition Plant until more is known from the GAO and then iron the matter out in conference.

With best wishes, I am,

Sincerely,

JOE SKUBITZ.

I do want to apologize to Senator STENNIS for calling the project a boondoggle. I have known him for many years and I know him to be a gentleman although I do think he is mistaken with regards to the need for this plant.

The Army has requested \$181.2 million for this project. The Armed Services Committee has wisely seen fit not to provide the authorization requested by the administration. This is due, in large part, to the leadership of Mr. NEDZI, Mr. PRICE, Mr. DAVIS, and Mr. ICHORD. I wish to applaud the efforts of these four gentlemen on the question of the Mississippi Army Ammunition Plant. Later I submitted a statement to the committee and I insert it in the RECORD at this point.

STATEMENT OF HON. JOE SKUBITZ BEFORE THE HOUSE ARMED SERVICES SUBCOMMITTEE

Mr. Chairman and Members of the Subcommittee: I appreciate the opportunity to appear here this morning to testify on H.R. 5692—the 1978 Military Construction Authorization Act. At the outset, I want to compliment the Members of the Subcommittee for your efforts to ensure our nation's security at a cost which has not been exorbitant to the American taxpayer.

I am here today because of a particular request for authorization of funds contained in this military construction bill. That request is one I oppose and I recommend that the Subcommittee delete the \$181.2 million

construction authorization for the proposed Mississippi Army Ammunition Plant at Bay St. Louis, Mississippi. The Bay St. Louis proposal is just as unsound this year as it was in 1975—the year the Congress rejected a similar proposal to construct a new facility. That was at the time most of the nation's Army Ammunition Plants either were having their work forces reduced substantially or were being closed completely.

The Army no doubt has told this Committee that the Bay St. Louis plant is needed to produce its new ammunition round, the 155 mm. M 483, Improved Conventional Munition (ICM) . . . That the 155's should be manufactured at the Bay St. Louis site because this is the most cost-effective location—at least as far as they have been able to determine. The Army has told you that this facility will be able to produce 120,000 rounds per month. And they will contend that because all the work on the round (the production of small metal parts and the loading, assembling, and packing process) will be done at the Bay St. Louis site—the American taxpayer will realize a great savings.

The only one of the Army's contentions with which I agree—is that they do need the 155's.

The Mississippi Army Ammunition Plant is not needed to produce the new round. Already two facilities in the United States facilities are the Kansas Army Ammunition Plant at Parsons, Kansas, which is in my Congressional District, and the Lone Star Army Ammunition Plant at Texarkana, Texas. Both of these facilities experienced substantial work force reductions two years ago. Most importantly, however—each will soon have the capability of producing 42,000 rounds per month of the 155 mm. M483, ICM.

The Army maintains that this production level is not high enough to meet its mobilization requirements. I am not in a position to speak to this point. However, I want it to be noted that the Bay St. Louis facility will have a maximum production capability of 120,000 rounds per month of the 155 mm. M 483 ICM—and this will be at a construction cost of at least \$397.8 million.

The Army's major contention in its proposal to produce the new round at Bay St. Louis is that this is the most cost-effective site.

On this issue, permit me to read from the House Report 94-517, the Report on the Department of Defense's appropriations bill for Fiscal 1976. The Appropriations Committee said on the question of the Bay St. Louis site, "The Committee believes that a more orderly program would result from upgrading old facilities or constructing new facilities near old facilities being phased out rather than constructing new facilities where no experienced personnel are available." And with this conclusion I am in agreement.

I can understand that the need for greater production of the 155 mm. M 483, ICM may be an overriding concern of the Members of this Subcommittee. Therefore, I want to suggest an alternate proposal which I believe the subcommittee should act upon.

Since two plants already have the capability of producing the 155 mm. M 483, ICM—the Kansas Army Ammunition Plant and the Lone Star Army Ammunition Plant, the Congress should act to double both of the plants' capabilities. This would bring the two plants to a combined production capability of 168,000 rounds per month. The total cost for this expansion would be approximately \$30 million as compared with the estimated \$397.8 million cost for the Bay St. Louis facility. And if additional production is needed this can easily be provided by the two plants now in production. Additionally, this expansion would take place where layoffs previously occurred—thus enabling experienced workers to be hired—an important



consideration as previously noted in the Appropriations Committee Report in the 94th Congress.

On May 17, representatives of the Defense Department and I met to discuss the need for the Mississippi plant, the cost of construction, whether the job could not be done more economically by enlarging existing facilities or reopening facilities that have been closed down. We discussed what the effect of the operation would be once the Mississippi plant went into production, and on plants now in production and loading shells when peacetime requirements were reduced.

I was not satisfied with the conference and on May 24 addressed the following letter to General Malley. To which I have not yet received a reply. I insert that letter in the RECORD:

WASHINGTON, D.C.,  
May 24, 1977.

Maj. Gen. ROBERT MALLEY,  
Director of Combat Support Systems, Office  
of the Deputy Chief of Staff for Research,  
Development and Acquisition, Department  
of Defense, Washington, D.C.

DEAR GENERAL MALLEY: I regret not being able to complete the briefing at my office on May 17. Hopefully, we can get together again as soon as I return from Kansas following the Congressional recess.

There were a number of points raised at our meeting—some of which were not made clear. Therefore, I would appreciate having your response to the following questions.

(1) There has been an apparent change in Army policy to provide for keeping as many ammunition plants as possible operating on at least one-shift per day basis. I understand the purpose of this "warm base" plan is to avoid the high costs involved in "mothballing" and then having to re-open plants for production. Additionally, the purpose, I understand, is to shorten the time it would take to gear-up for full production in the event of mobilization. Is this correct?

(2) Previously, I had been advised that the level of production of the 155 mm M-483 round required for mobilization was just over 200,000 rounds per month. Now, I am told that figure has risen to 438,000 rounds per month. Would you kindly advise me of the basis in fact for this more than one hundred percent increase? I recall you indicated it is because of a shift in primary focus from the former Southeast Asia war scenario to the current NATO scenario. An additional question then is, what has changed in the NATO scenario to demand this enormous increase in production? Didn't a NATO war scenario exist during the time of the war in Southeast Asia? Was the Defense Department negligent in making preparations for war involving the NATO countries during the time of fighting in Southeast Asia? After all, it would seem to me that the threat from the Soviet Union would have been the greatest while our attention and so many of our resources were focused in the Southeast Asia area. Is the increase in mobilization production requirements based on some commitment we made or plan to make to NATO to help meet their requirements?

(3) I recall that you stated that the number of 155 mm M-483 rounds to be produced and stockpiled (authorized acquisition objective) is four and one-half million. Further, I understood you to say that this production is for U.S. needs for a 180-day period of war plus the estimated needs of the

Koreans for one year. Is this statement correct? Now, if I am correct—you also indicated it could take as long as nine years to produce this amount. If the NATO demands are so pressing, why not operate the available production lines at the Parsons and Lone Star plants on a three shift per day basis rather than one shift per day, until the Mississippi plant is constructed—if it is to be constructed? If money to do so is not available—have you requested such funds of the Congress?

(4) I understand that both the Parsons and Lone Star plants are producing 155 mm M-483 shells on a one-shift per day basis now. Is this true and how many rounds per month are being produced at each plant?

(5) As I recollect—and if I'm wrong, please correct me—the Army's plans are to continue operating both the Parsons and Lone Star plants on at least a one-shift per day basis until such time as the AAO level is reached (4.5 million rounds)—which, according to your statement, could take up to nine years. Will there be a time when Parsons or Lone Star will go to two shifts per day? If so, when will that be and which plant could be expected to increase its production?

(6) If the Mississippi Army Ammunition Plant was authorized now to be built, how long would it take to complete the plant? My understanding is you stated it would be finished by 1983. Is this correct? When could it start producing the 155 mm M-483 shells? Would this plant also be operated in order to achieve the AAO level of production? If so, how many shifts per day? Would the Parsons and Lone Star plants both continue to operate at the same time?

(7) I understood you to say that the Bay St. Louis, Mississippi Plant would be operationally the most cost efficient at its mobilization production level. Further, that especially because of diversification, the Lone Star and Parsons facilities would be more competitive from a cost standpoint—at peacetime production levels. Am I correct in my understanding?

(8) So far as diversification is concerned, planned modernization/expansion projects for the Parsons facility are itemized in the Army's recent Information Paper dated May 3, 1977. Would you please advise me what other ammunition facilities have or will have the same production capability and what plans there are for production of these items at Parsons and other plants?

(9) We had time at our meeting to only briefly discuss a news release concerning the proposed construction at Lone Star of a metal parts production facility for the 105 mm shell. Am I correct that both Parsons and Lone Star are capable of loading, assembling and packing the same type of 105 mm shell? If so, what would be the effect so far as 105 mm shell production is concerned on the Parsons plant, which has no metal parts capability, if such a facility is constructed at Lone Star? I might add that it seems to me the Army should have come to me in the first place to explain their plans for constructing this new facility since it involves production of the 105 mm shell which is also loaded at Parsons. Instead, I had to learn about the Army's actions through the press.

(10) The proposed Mississippi plant would have a production capability of 120,000 rounds per month. What is the total estimated cost for the construction of this facility?

(11) The Army has previously informed me that the load, assemble and pack capability of the Parsons and Lone Star plants could be doubled—to provide an additional

84,000 rounds per month—at a total cost of \$30 million. What would be the cost of adding metal parts capability equal to this production level at these plants? Why would this not be more economical? Please provide me with a breakdown of your cost analysis in making a determination.

(12) You will recall that during our discussion I raised the point of the wage rates for certain construction workers being lower at Parsons, Kansas than at Bay St. Louis, Mississippi. You stated that the Army's figures had shown the opposite to be the case. Additionally, you said your staff had recomputed the construction costs of the proposed facility using the labor figures I had obtained—but that your final analysis was that it would still be less expensive to build the plant in Mississippi. However, I understand that after our meeting broke up—and I had returned to the House Floor—it was discovered by your staff that the wage rate figures used in your recomputation were the wrong Davis-Bacon rates. Hence, my question—is it not correct that the wage rates for skilled construction laborers are lower at Parsons than at Bay St. Louis? If not, would you kindly give me a breakdown of the wage figures upon which you are relying and the source of your information? Certainly, mistakes can easily be made when dealing with figures in determining construction and operating costs and so forth. I am sure, therefore, that you can readily understand my concern that if mistakes were made in determining wage costs—then there could also be mistakes which were made in calculating costs in other areas.

Thank you for your assistance in this matter.

Sincerely,

JOE SKUBITZ.

The Senate has provided \$181.5 million in authorization for this plant in its military construction bill. Also—because of questions I have raised—the House committee has seen fit to schedule special hearings on the question of constructing the Mississippi plant after the House enacts this bill, and before the House and Senate versions go to conference.

This will give ample time for a complete review of the Mississippi plant and any move which would now authorize funding for the project can only be labelled as a premature.

It is an issue which can be resolved between the conferees after the General Accounting Office report is received. I am sure that after the hearings are held it will be clearly shown that the best interests of our Nation will be served by providing for the production of the Army's 155 mm M-438—(improved conventional munition—at existing Army ammunition plants or those which have either been closed or have had their work forces reduced.

The question of the Bay St. Louis, Miss. site is not new to this body. It was an issue which was dealt with in 1975 by the Defense Appropriations Subcommittee. That committee clearly said that there was a serious question about the need for the Mississippi plant and, moreover, that if the need did exist, the need could best be filled by producing the new round at either an existing Army

ammunition facility or at one which had been closed.

The Army made a study which they maintain proves that the Mississippi site is the most cost effective—their arguments may or may not be legitimate—I am only one Congressman and I certainly do not have the resources to combat legions of accountants and experts which the Army has at its disposal. There are a few points, though, that I think should be made.

First of all, in 1975, the Army estimated the cost of the Mississippi plant to be almost \$229 million. Now the Army has come forward with an estimated cost for construction at this site of almost \$398 million. The Army has provided me with an explanation for this dramatic increase in the cost. They established point by point, the reasons for each increased cost discrepancy.

One of the points the Army put forth was that an, "old estimate was a very poor guesstimate."

What I fear, Mr. Chairman, is that this point which the Army has raised on one portion of their earlier study may apply to a good many other assumptions which they have established in calling for the establishment of the Mississippi plant.

I have requested that the General Accounting Office investigate fully whether or not the Mississippi site is the most cost effective.

One of the key points the Army has made in arguing for the Mississippi site is that because of the low wage rates in Mississippi, necessarily the production costs of the round will be much cheaper. But what the Army all too often fails to note is that these wage rates are based on statewide rates for the entire State of Mississippi as opposed to the actual Davis-Bacon rates for Bay St. Louis proper.

I will not argue that if one were to have an ammunition plant constructed in every Mississippi community and one constructed in every Kansas community, necessarily Kansas would pay a lower wage to all of its ammunition plant workers. Clearly, one might find that the rate for Mississippi as an average would be lower than Kansas as an average.

What we need to remember is that the facility will be constructed in Bay St. Louis, Miss.—which has a considerably higher wage level than the rest of the State of Mississippi and indeed Parsons, Kans.—which now has an Army ammunition plant capable of loading, assembling, and packing the 155 round.

Now there may be some Members who believe the only reason I am opposing construction of the Mississippi plant today is because of the existence of the Kansas Army Ammunition Plant at Parsons, Kans.—that is not the case.

I am opposing the Mississippi plant because I am interested in a fair return of the American taxpayers' dollars on their investment in Army ammunition plants.

The issue before us is clear. There is

considerable controversy between Members of the Mississippi delegation and Members of the Kansas delegation over the Bay St. Louis, Miss., Army Ammunition Plant, this controversy has arisen because the Army has provided insufficient information to warrant the construction of this facility which may well result in construction costs alone of almost half a billion dollars.

Until more information is presented to this House on the need for the Mississippi plant, it would be pennywise and pound-foolish of this body to authorize the expenditure of tax dollars for the Mississippi Army Ammunition Plant. I urge the rejection of any authorization for this plant.

Am I correct that the committee has determined to defer the Mississippi Army Ammunition Plant for the time being?

Mr. NEDZI. I am not sure that the word "defer" is correct. The committee simply did not authorize it.

Mr. SKUBITZ. If the gentleman will yield further, it did not authorize the construction of the plant; is this correct?

Mr. NEDZI. That is correct.

Mr. SKUBITZ. Mr. Chairman, I want to compliment the committee. I think it should hold hearings and should wait for the report from the General Accounting Office on this matter before it acts.

I thank the gentleman and I thank the committee.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. NEDZI. I yield to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. I thank the gentleman for yielding.

Mr. Chairman, I know there has been some controversy on the ammunition plant. It was recommended by the Army that it needed it to keep up with its mobilization requirements with the 155 millimeter shell. In the colloquy several weeks ago with the chairman of this subcommittee I believe the gentleman mentioned that the subcommittee would have hearings again and invite the Army back before the subcommittee before the conference of this military construction bill, to consider what other information the Army might have on the necessity of asking for this ammunition plant. Is that correct?

Mr. NEDZI. Mr. Chairman, it is the intention of the chairman of the subcommittee to do everything that is necessary in order to get a complete picture of our ammunition situation and the desirability of locating the plant in Mississippi or alternative facilities elsewhere.

Mr. MONTGOMERY. Mr. Chairman, I thank the gentleman.

I, of course, would be quite interested if the plant would come to Mississippi, but I think the key to it is this: whether or not the Army needs the ammunition. I am sure that is the spirit in which the subcommittee will consider this proposal.

Mr. NEDZI. Mr. Chairman, I concur in the gentleman's assessment.

Mr. Chairman, I yield such time as he

may consume to the chairman of the Committee on Armed Services, the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Chairman, it is a great pleasure for me to return to my duties as chairman of the Armed Services Committee. In so doing, I would like to express publicly my appreciation to our ranking Democratic Member, CHARLIE BENNETT, for the excellent job he did in chairing the committee during my absence. It fell to Mr. BENNETT to manage during this period the major piece of legislation the committee reports each year, the Defense Department appropriation authorization bill. A reading of the record bears out what many Members have told me privately which is that Mr. BENNETT did a splendid job in managing the bill. Mr. BENNETT managed the debate so that all Members who wished had an opportunity to be heard and he defended the committee's legislation with great skill.

He also during this time chaired a number of difficult hearings and provided the needed leadership in other areas of the committee's work.

I simply want to acknowledge publicly this contribution by a fine legislator that we are very proud of on the Armed Services Committee.

Mr. WHITEHURST. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 6990.

First, Mr. Chairman, I want to say that all of us on this side of the aisle are grateful for the effective leadership of the gentleman from Michigan (Mr. NEDZI) in expediting the hearings on this bill and moving rapidly and effectively, yet giving every Member a chance to be heard on the provisions of the bill.

Mr. Chairman, I am pleased to rise in support of H.R. 6990, the Military Construction Authorization Act for fiscal year 1978.

This bill is limited to what we deem essential. Our committee has brought to the House a bill that provides not only necessary construction at military bases at home and abroad but at the same time recognizes the call for economy in the Federal budget. As the gentleman from Michigan noted, the bill is nearly \$68 million below the amount requested by the Defense Department.

Throughout hearings on this legislation, the committee impressed on the Department of Defense witnesses the need for putting these projects under contract as quickly as possible. This will help the unemployment situation and enable the Government to take advantage of a good bidding climate in the construction industry, which benefits every taxpayer.

I wholeheartedly endorse the committee initiative in H.R. 6990 to reduce the military's energy consumption by individually metering military family housing units in the United States, Puerto Rico, and Guam. This is indeed the most important nondefense aspect of the bill. It is the committee's opinion



that the Defense Department should set a guiding example in the national effort to conserve energy.

Mr. Chairman, there are many other things I could say about this legislation, but I will not take the time to do so now. We are prepared to answer any questions that the Members may have. We believe we have brought a good bill to the floor, and I urge the passage of H.R. 6990.

Mr. NEDZI. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, I do not intend to offer an omnibus amendment to this bill; however, before we vote, I would like to insure that my colleagues are fully aware of the budget history behind this bill including related Senate action and justification. In addition, I would like to enter into the record a list of new projects added by the Senate but not included in the House version of this important authorization bill.

To begin with, early this year when the budget crunch was on, President Ford and Secretary of Defense Rumsfeld recommended a \$1 billion slash in new authorization for military construction programs. As a result, the total Ford request for military construction projects sent to Congress on January 18 amount-

ed to only \$2.7 billion—or nearly \$640 million less than the fiscal year 1977 authorization.

Upon assuming office, the Carter administration soon recognized a need to stimulate the economy in a number of public works areas. Unfortunately, this recognition did not materially change the emasculation in military construction programs for fiscal year 1978, as the Carter budget revisions only restored about \$310 million to the Ford request for military construction. The final Carter administration request for fiscal year 1978 totaled \$3,576,517,000 for new authority to construct 466 projects at 280 installations in 34 States and 15 foreign countries, and to operate and maintain the present inventory of military family housing.

On May 11, the House Committee on Armed Services filed its report on the Military Construction Authorization Act of 1978, to accompany H.R. 6990. This bill, as approved by the Committee on Armed Services, provides \$3,508,560,000 in new authorization—or \$67,957,000 below the amount requested in the already austere Carter budget for military construction in fiscal year 1978. A comparison of the Department of Defense request in the revised Carter budget and the changes affected by committee action is illustrated in table 1 below:

TABLE 2.—SUMMARY OF SENATE FLOOR ACTION

(In thousands of dollars)

|   | Army, title I | Navy, title II | Air Force, title III | Defense, title IV | Family housing title, V | Reserves, title VI | Total     |
|---|---------------|----------------|----------------------|-------------------|-------------------------|--------------------|-----------|
| Requested.....                            | 1,181,085     | 401,269        | 353,256              | 32,300            | 1,454,640               | 152,967            | 3,576,511 |
| Adjustments.....                          | -199,117      | -35,580        | -18,803              | +25,529           |                         |                    | -229,547  |
| Energy projects.....                      | +25,336       | +30,479        | +41,416              |                   |                         |                    | +97,231   |
| Pollution projects.....                   | +52,640       | +32,950        | +27,377              |                   |                         |                    | +112,967  |
| Operational projects.....                 | +13,257       | +23,680        | +25,043              |                   |                         |                    | +61,980   |
| Chemical security projects.....           | +41,179       |                |                      |                   |                         |                    | +41,179   |
| Housing, minor construction projects..... |               |                |                      |                   | +65,000                 |                    | +65,000   |
| Revised total.....                        | 1,114,380     | 453,798        | 428,289              | 57,559            | 1,519,640               | 152,967            | 3,726,633 |

As evidenced by the foregoing figures, the Senate has made substantial additions in three priority areas: energy conservation, pollution abatement, and urgent operational projects. In all, about 250 new projects totaling slightly less than \$370 million were added on the recommendation of the Senate Committee on Armed Services. The committee's view was that even though President Carter had restored \$310 million in his revised budget submittal, the construction request was still very austere.

Moreover, the committee was also quite aware of the depressed state of the construction industry—where the jobless rate is two to three times the national average in many areas—and felt that military construction projects with short leadtimes would help improve overall employment in the same manner as the public works jobs bill. Indeed, in its report (S. Rept. 95-125), the Senate Committee on Armed Services estimated that these additional projects would create approximately 50,000 new jobs in the construction industry alone.

At this point, I would like to reassure my colleagues that the Senate Committee on Armed Services did not arbitrarily or capriciously gather up any and all

favorite projects that had not previously been selected. In evaluating and selecting these new projects to be added, the committee established two extremely valid criteria. First of all, before a project was even considered, it had to be capable of being placed under contract early in the fiscal year, preferably within the first 6 months. Second, the project had to be at a military installation which was not scheduled for either closure or significant reduction in the foreseeable future. The services were then asked to arrange unfunded projects which successfully met these criteria in order of priority in three categories: energy conservation, pollution abatement, and operational. In addition, a small number of projects were added back to improve upon the security of chemical weapons under the control of the Army. Finally, these lists were scrutinized very carefully by the committee to weed out those projects whose benefits to national security were deemed marginal.

These additional worthwhile projects—none of which are presently included in H.R. 6990—are listed below for your information. Each category is further segmented by appropriate service.

TABLE 1.—ORIGINAL DEPARTMENTAL REQUEST AS CONTAINED IN H.R. 5692 TOGETHER WITH THE COMMITTEE ACTION AS REFLECTED IN H.R. 6990

(In thousands of dollars)

| Title and service               | DOD request | Change by committee | Total amount approved by committee |
|---------------------------------|-------------|---------------------|------------------------------------|
| I. Army.....                    | 1,181,085   | -216,566            | 964,519                            |
| II. Navy.....                   | 402,269     | +20,026             | 422,295                            |
| III. Air Force.....             | 353,256     | -5,348              | 348,908                            |
| IV. Defense agencies.....       | 32,300      | -1,650              | 30,650                             |
| V. Military family housing..... | 1,454,640   | +136,581            | 1,591,221                          |
| VII. Guard/Reserves.....        | 152,967     | 0                   | 152,967                            |
| Total.....                      | 3,576,517   | -67,957             | 3,508,560                          |

I would now like to contrast the House record of reductions in the overall military construction program for fiscal year 1978 with the recently approved Senate bill (S. 1474). Essentially, the Senate authorization, which passed by voice vote on May 13, deleted \$229.5 million from the total Carter request for military construction while adding \$379 million. This amounts to a net increase of about \$150 million, bringing the total military construction authorization for fiscal year 1978 to \$3,726,663,000. A summary of the final Senate floor action is presented in table 2, as follows:

Senate additions, operational projects, Army

(In thousands of dollars)

| Location and project:                                       | Recommended Senate Armed Services action |
|---|--|
| Walter Reed Hospital, D.C., fuel storage.....               | + \$2,098                                |
| Fort Belvoir, Va., fuel storage.....                        | +480                                     |
| Sunny Point Terminal, N.C., Field operations building.....  | +312                                     |
| Explosive truck access road.....                            | +319                                     |
| Bayonne Terminal, N.J., fuel storage.....                   | +442                                     |
| Corpus Christi Depot, Tex: Fuel system repair facility..... | +1,599                                   |
| Heat treatment facility.....                                | +2,693                                   |
| POL facility.....   | +614                                     |
| Fort Bliss, Tex., water storage tanks.....                  | +486                                     |
| White Sands, N. Mex., communications facility.....          | +376                                     |
| Fort Hood, Tex., CIDC operations facility.....              | +890                                     |
| Letterkenny Depot, Pa., ammo truck inspection facility..... | +310                                     |
| Fort Carson, Colo., electrical distribution system.....     | +492                                     |
| Redstone Arsenal, Ala., radar operations facility.....      | +962                                     |
| Red River Depot, Tex., bridge crane.....                    | +1,193                                   |
| Total.....  | 13,257                                   |

## Senate additions, operational projects, Navy

[In thousands of dollars]

| Location and project:                                    | Recommended<br>Senate Armed<br>Services action |
|--|--|
| Naval Station, Brunswick, Me.,<br>trainer facility       | + \$1,400                                      |
| Naval Station, Oceana, Va.,<br>trainer facility          | + 380  |
| Moffett Field, Calif., trainer<br>facility               | + 700  |
| Patuxent River, Md., aircraft<br>test facility           | + 3,700  |
| Naval Station, Yorktown, Va.:<br>Dredging                | + 900  |
| Ammunition facility                                      | + 2,300  |
| San Diego, Calif.:<br>Berthing pier                      | + 1,670  |
| Berthing improvement                                     | + 400  |
| Mayport, Fla., fuel pier                                 | + 1,080  |
| Charleston Shipyard, S.C., weld-<br>ing shop             | + 1,850  |
| Point Mugu, Calif., operational<br>data facility         | + 1,900  |
| Brunswick, Me., aircraft cor-<br>rosion control facility | + 2,350  |
| Little Creek, Va., mooring plat-<br>forms                | + 1,750  |
| Miramar, Calif., hangar                                  | + 2,500  |
| Santa Ana, Calif., flight simulator<br>building          | + 750  |
| Total  | 23,630   |

Senate additions, operational projects,  
Air Force

[In thousands of dollars]

| Location and project:                              | Recommended<br>Senate Armed<br>Services action |
|--|--|
| Mather AFB, Calif., alter heating<br>plant         | + \$115  |
| Kingsley AFB, Ore., airfield<br>lighting           | + 115  |
| Eglin Aux 9, Fla., security police<br>facility     | + 309  |
| Norton AFB, Calif., AICUZ                          | + 2,762  |
| Eglin AFB, Fla., extend taxiway                    | + 850  |
| Cannon AFB, N. Mex., fuel system<br>dock           | + 329  |
| McChord AFB, Wash., AICUZ                          | + 4,870  |
| Williams AFB, Ariz., parachute<br>shop             | + 432  |
| Blytheville AFB, Ark., AICUZ                       | + 941  |
| MacDill AFB, Fla., corrosion con-<br>trol facility | + 1,411  |
| Mountain Home AFB, Idaho, alter<br>avionics shop   | + 195  |
| Buckley ANG, Colo., AICUZ                          | + 795  |
| Ellsworth AFB, S. Dak., commu-<br>nications shop   | + 251  |
| Moody AFB, Ga., add to aircraft<br>parking apron   | + 1,887  |
| Rickenbacker AFB, Ohio, AICUZ                      | + 678  |
| Pease AFB, N.H., AICUZ                             | + 1,404  |
| Moody AFB, Ga., aircraft main-<br>tenance docks    | + 1,928  |
| Keesler AFB, Miss., aircraft con-<br>trol tower    | + 850  |
| Total  | 20,122   |

Senate additions, energy conservation proj-  
ects, Army

[In thousands of dollars]

| Location and project:                            | Recommended<br>Senate Armed<br>Services action |
|--|--|
| Lone Star AAP, Tex., boiler plant<br>alterations | + \$816  |
| Fort Huachuca, Ariz.:<br>Hot water heaters       | + 237  |
| Energy control system                            | + 469  |
| Fort Richardson, Alaska, alter<br>heating system | + 1,990  |
| Detroit Arsenal, Mich., energy<br>control system | + 228  |
| Fort McClellan, Ala., alter utility<br>system    | + 1,805  |

|  |           |
|--|-----------|
| Fort Rucker, Ala., energy control<br>system      | + \$1,250 |
| Fort Meade, Md., insulation and<br>storm windows | + 2,424   |
| Fort Huachuca, Ariz., boiler con-<br>version     | + 573     |
| Fort Bliss, Tex.:<br>Hot water heaters           | + 95      |
| Insulate buildings                               | + 557     |
| Fort Meade, Md., rehab, street<br>lighting       | + 774     |
| Iowa AAP, Iowa, insulate steam<br>lines          | + 351     |
| Aberdeen PG, Md.:<br>Energy control system       | + 1,600   |
| Alter electric dist. system                      | + 120     |
| Harry Diamond Lab, Md., energy<br>control system | + 1,305   |
| Presidio, Calif., energy control<br>system       | + 500     |
| Fort Belvoir, Va., energy control<br>system      | + 4,654   |
| Fort Bliss, Tex., energy control<br>system       | + 743     |
| Fort Bragg, N.C., energy control<br>system       | + 3,881   |
| Fort Carson, Colo., lighting sys-<br>tems        | + 994     |
| Total  | 25,366    |

Senate additions, energy conservation  
projects, Navy

[In thousands of dollars]

| Location and project:  | Recommended<br>Senate Armed<br>Services action |
|--|--|
| Parris Island Marine Corps Re-<br>cruit Depot, S.C., boiler plant<br>modifications                           | + \$80   |
| Naval Station Norfolk, Va., heat-<br>ing, ventilation, air condition-<br>ing                                 | + 310  |
| Fleet Combat Direction Systems<br>Training Center, Norfolk, Va.,<br>heating, ventilation, air condi-<br>tion | + 160  |
| Naval Education and Training<br>Center, Newport, R.I., energy<br>monitoring and control sys-<br>tems         | + 270  |
| Public Works Center, Great<br>Lakes, Ill., building alterations  | + 850  |
| Marine Corps Air Station, Cherry<br>Point, N.C., lighting systems  | + 500  |
| Naval Station, Mayport, Fla.,<br>building alterations  | + 90   |
| Naval Air Station, Kingsville,<br>Tex., insulation and storm win-<br>dows                                    | + 550  |
| Naval Submarine Base, Pearl<br>Harbor, Hawaii, lighting sys-<br>tems   | + 240  |
| Naval Surface Weapons Center,<br>White Oak, Md., insulation and<br>storm windows                             | + 280  |
| Naval Torpedo Station, Keyport,<br>Wash., heating, ventilation, air<br>conditioning                          | + 490  |
| Pacific Missile Test Center, Point<br>Mugu, Calif., insulation and<br>storm windows                          | + 80   |
| Naval Air Rework Facility, Cherry<br>Point, N.C., lighting systems   | + 360  |
| Naval Air Station, Oceana, Va.,<br>steam and condensate systems  | + 260  |
| Naval Ship Research and Develop-<br>ment Center, Bethesda, Md.,<br>lighting systems                          | + 200  |
| Naval Amphibious Base, Norfolk,<br>Va., energy monitoring and<br>control systems                             | + 1,100  |
| Naval Amphibious Base, Coro-<br>nado, Calif., building altera-<br>tions                                      | + 130  |
| Naval Undersea Center, San<br>Diego, Calif., energy conserva-<br>tion HVAC                                   | + 250  |

|   |         |
|---|---------|
| Naval Air Station, Whidbey Is-<br>land, Wash., heating, ventila-<br>tion, air conditioning        | + \$900 |
| Naval Amphibious Base, Little<br>Creek, Va., insulation and<br>storm windows                      | + 200   |
| Naval Avionics Facility, Indian-<br>apolis, Ind., heating, ventila-<br>tion, air conditioning     | + 90    |
| Naval Air Station, Miramar, Calif.<br>lighting systems  | + 1,100 |
| Marine Corps Base, Camp Pendle-<br>ton, Calif.:<br>Energy monitoring and control<br>system        | + 330   |
| Heating, ventilation, air condi-<br>tioning   | + 750   |
| Marine Corps Recruit Depot, Par-<br>ris Island, S.C., insulation and<br>storm windows             | + 100   |
| Naval Torpedo Station, Keyport,<br>Wash., steam and condensate<br>system                          | + 400   |
| Public Works Center, San Fran-<br>cisco, Calif., energy monitoring<br>and control system          | + 480   |
| Naval Air Propulsion Test Center,<br>Trenton, N.J., lighting systems                              | + 240   |
| Naval Air Rework Facility, Jack-<br>sonville, Fla., lighting sys-<br>tems                         | + 1,200 |
| Marine Corps Air Station, El Toro,<br>Calif., electrical energy sys-<br>tems                      | + 600   |
| Naval Air Station, North Island,<br>Calif., steam and condensate<br>systems                       | + 4,500 |
| Construction Battalion Center,<br>Port Hueneme, Calif., boiler<br>plant modification              | + 310   |
| Naval District Washington Head-<br>quarters, D.C., steam and con-<br>densate system               | + 850   |
| Naval Air Test Center, Patuxent<br>River, Md., steam and conden-<br>sate system                   | + 1,589 |
| Marine Corps Recruit Depot, San<br>Diego, Calif., steam and con-<br>densate system                | + 1,200 |
| Naval Observatory Flagstaff Sta-<br>tion, Flagstaff, Ariz., HVAC                                  | + 80    |
| Naval Research Laboratory,<br>Washington, D.C., heating,<br>ventilation and air condition-<br>ing | + 330   |
| Naval Shipyard, Long Beach,<br>Calif., steam and condensate<br>systems                            | + 320   |
| Naval Air Station, Miramar,<br>Calif., boiler plant modifica-<br>tions                            | + 230   |
| Naval Shipyard, Long Beach,<br>Calif., building alterations                                       | + 170   |
| Marine Corps Supply Center, Al-<br>bany, Ga., steam and conden-<br>sate system                    | + 100   |
| Naval Submarine Base, New Lon-<br>don, Conn., lighting systems                                    | + 80    |
| Marine Corps Base, Camp Le-<br>jeune, N.C., lighting systems                                      | + 500   |
| Naval Security Station, Washing-<br>ton, D.C., heating, ventilation,<br>air conditioning          | + 90    |
| Marine Corps Base, Camp Le-<br>jeune, N.C., steam and conden-<br>sate system                      | + 550   |
| Naval Ship Research Develop-<br>ment Center, Annapolis, Md.,<br>energy recovery systems           | + 150   |
| Naval Ordnance Station, Indian<br>Head Md., heating, ventilation,<br>air-conditioning             | + 180   |
| Naval Air Station, Lakehurst,<br>N.J., building alterations                                       | + 160   |
| Naval Weapons Center, China<br>Lake, Calif., boiler plant modi-<br>fications                      | + 900   |
| Naval Shipyard, Long Beach,<br>Calif., energy recovery sys-<br>tems                               | + 310   |



*Senate additions, energy conservation projects, Navy—Continued*  
[In thousands of dollars]

| Location and project:   | Recommended<br>Senate Armed<br>Services action |
|---|--|
| Naval Air Station, Moffett Field, Calif., heating, ventilation, air-conditioning            | + \$110  |
| Naval Submarine Base, New London, Conn., building alterations                               | + 390  |
| Naval Weapons Station, Yorktown, Va., building alterations                                  | + 200  |
| Naval Regional Medical Center, Norfolk, Va., steam and condensate systems                   | + 600  |
| Fleet Combat Direction Systems Training Center, Dam Neck, Va., insulation and storm windows | + 240  |
| Naval Ship Research and Development Center, Annapolis, Md., steam and condensate systems    | + 130  |
| Naval Shipyard, Long Beach, Calif., insulation and storm windows                            | + 140  |
| Marine Corps Air Station, Cherry Point, N.C., lighting systems                              | + 450  |
| Marine Corps Supply Center, Albany, Ga., heating, ventilation, air-conditioning             | + 330  |
| Naval Air Rework Facility, Norfolk, Va., insulation and storm windows                       | + 390  |
| Naval Training Center, Orlando, Fla.  | + 200  |
| Naval Station, Norfolk, Va., insulation and storm windows                                   | + 230  |
| Naval Academy, Annapolis, Md., steam and condensate systems                                 | + 200  |
| Naval Shipyard, Norfolk, Va., electrical energy systems                                     | + 100  |
| Marine Corps Supply Center, Albany, Ga., lighting systems                                   | + 130  |
| Naval Supply Center, Norfolk, Va., lighting systems   | + 1,200  |
| Armed Forces Staff College, Norfolk, Va., building alterations                              | + 160  |
| Marine Corps Supply Center, Albany, Ga., electrical energy systems                          | + 90   |
| <b>Total</b>  | <b>30,479</b>                                  |

*Senate additions, energy conservation projects, Air Force*  
[In thousands of dollars]

| Location and project:                                    | Recommended<br>Senate Armed<br>Services action |
|--|--|
| Cannon AFB, N. Mex., monitoring and control system (MCS) | + \$608  |
| Plattsburgh AFB, N.Y., MCS                               | + 378  |
| Tyndall AFB, Fla., MCS                                   | + 690  |
| England AFB, La., MCS                                    | + 585  |
| Shaw AFB, S.C., MCS                                      | + 646  |
| Robins AFB, Ga., alter heating system                    | + 2,669  |
| Langley AFB, Va., MCS                                    | + 1,101  |
| MacDill AFB, Fla., MCS                                   | + 1,009  |
| Myrtle Beach, AFB, S.C.                                  | + 718  |
| Beale AFB, Calif., MCS                                   | + 409  |
| Eglin AFB Aux 9, Fla., MCS                               | + 544  |
| Bergstrom AFB, Tex., MCS                                 | + 874  |
| Tinker AFB, Okla., alter lighting systems                | + 584  |
| Peterson AFB, Colo., MCS                                 | + 623  |
| Gunter AFS, Ala., A/C controls                           | + 248  |
| Hill AFB, Utah, alter compressed air system              | + 240  |
| McConnell AFB, Kans., storm windows                      | + 100  |
| Norton AFB, Calif., solar process water                  | + 444  |
| Newark AFS, Ohio, MCS                                    | + 2,080  |
| Eglin AFB, Fla., alter heating and A/C controls          | + 700  |

|  |               |
|--|---------------|
| Arnold Test Center, Tenn., alter lighting system | + \$430       |
| Barksdale AFB, La., alter A/C and insulation     | + 368         |
| Bolling AFB, D.C., storm windows                 | + 133         |
| Patrick AFB, Fla., waste heat recovery           | + 300         |
| McClellan AFB, Calif., alter heating system      | + 886         |
| Eglin AFB, Fla., solar domestic hot water        | + 76          |
| Edwards AFB, Calif., alter heating system        | + 546         |
| Hill AFB, Utah, MCS                              | + 2,700       |
| Robins AFB, Ga., alter A/C system                | + 1,500       |
| Andrews AFB, Md., alter heating system           | + 2,844       |
| Hill AFB, Utah, alter heating system             | + 1,500       |
| Edwards AFB, Calif., MCS                         | + 1,236       |
| Kelly AFB, Tex., alter lighting systems          | + 2,300       |
| Arnold Test Center, Tenn., waste heat recovery   | + 850         |
| Castle AFB, Calif., MCS                          | + 650         |
| Norton AFB, Calif., repair steam distribution    | + 430         |
| Kelly AFB, Tex., MCS                             | + 1,768       |
| Little Rock AFB, Ark., MCS                       | + 573         |
| Lowry AFB, Colo., MCS                            | + 1,808       |
| McChord AFB, Wash., MCS                          | + 1,008       |
| Pope AFB, N.C., MCS                              | + 550         |
| Travis Air Force Base, Calif., MCS               | + 500         |
| Wright-Patterson AFB, Ohio                       | + 1,000       |
| MCS  | + 1,000       |
| Alter lighting                                   | + 1,000       |
| Repair heat distribution system                  | + 1,210       |
| <b>Total</b>                                     | <b>41,416</b> |

*Senate additions, pollution abatement projects, Army*  
[In thousands of dollars]

| Location and project:                                    | Recommended<br>Senate Armed<br>Services action |
|--|--|
| Corpus Christi, Tex., upgrade industrial waste treatment | + \$2,377                                      |
| Fort A. P. Hill, Va., upgrade sewage                     | + 423  |
| Fort Lee, Va., POL storage                               | + 313  |
| Fort Lewis, Wash., Dupont outfall                        | + 370  |
| Badger AAFP, Wis., emergency power                       | + 480  |
| Fort Belvoir, Va., emergency power                       | + 339  |
| Badger AAP, Wis., dredging                               | + 480  |
| Fort Sill, Okla., POL treatment                          | + 730  |
| Indiana AAP, Ind., explosive incinerator                 | + 474  |
| Vint Hill Farms, Va., sewage treatment plant             | + 960  |
| Fort Benjamin Harrison, Ind., regional connection        | + 1,796  |
| Fort Bragg, N.C., upgrade sewage plant                   | + 7,950  |
| Picatinny Arsenal, N.J., regional sewage plant           | + 2,823  |
| Holston AAP, Tenn., industrial waste treatment           | + 26,846                                       |
| Iowa AAP, Iowa, spill control                            | + 357  |
| Fort Jackson, S.C., treatment upgrade                    | + 363  |
| Fort Hood, Tex., oil interceptors                        | + 1,768  |
| Indiana AAP, Ind., contaminated waste incinerator        | + 530  |
| <b>Total</b>   | <b>49,412</b>                                  |

*Senate additions, pollution abatement projects, Navy*  
[In thousands of dollars]

| Location and project:                            | Recommended<br>Senate Armed<br>Services action |
|--|--|
| Cecil Field, Fla., industrial waste collection   | + \$90   |
| Port Hueneme, Calif., municipal sewer connection | + 2,200  |

|   |               |
|---|---------------|
| Charleston Shipyard, S.C.:                                |               |
| Power plant controls (Air)                                | + \$4,600     |
| Municipal sewer correction                                | + 2,250       |
| Parris Island, S.C., sewage treatment upgrade             | + 570         |
| Little Creek, Va., solid waste transfer system            | + 550         |
| Keyport, Wash., upgrade industrial waste system           | + 2,650       |
| Beaufort, S.C., upgrade sanitary sewage                   | + 1,100       |
| North Island, Calif., oil spill prevention                | + 1,500       |
| Roosevelt Roads, Puerto Rico, upgrade sewage system       | + 150         |
| Norfolk Publication, Va., municipal sewer connection      | + 4,150       |
| Pensacola, Fla., upgrade sewage system                    | + 1,250       |
| Public Works Center, Guam, upgrade sewage system          | + 2,800       |
| Pearl Harbor, Hawaii, oil spill prevention                | + 3,700       |
| Patuxent River, Md., solid waste transfer                 | + 800         |
| Pensacola, Fla., solid waste system                       | + 400         |
| Naval Station Concord, Calif., ship wastewater collection | + 1,200       |
| Mayport, Fla., upgrade sewage system                      | + 140         |
| Naval District of Washington, D.C., upgrade sewage system | + 350         |
| Adak, Alaska, solid waste transfer                        | + 300         |
| Philadelphia Shipyard, Pa., municipal sewer connection    | + 2,200       |
| <b>Total</b>  | <b>32,950</b> |

*Senate additions, pollution abatement projects, Air Force*  
[In thousands of dollars]

| Location and project:                                | Recommended<br>Senate Armed<br>Services action |
|--|--|
| Robins AFB, Ga., alter treatment plant               | + \$7,149                                      |
| Chanute AFB, Ill., smoke suppression                 | + 626  |
| Grissom AFB, Ind., alter heat plant (air)            | + 6,300  |
| Columbus AFB, Miss., industrial waste treatment      | + 1,106  |
| Eglin AFB, Fla., upgrade sewage system               | + 1,851  |
| Langley AFB, Va., industrial waste treatment         | + 452  |
| Eielson AFB, Alaska, alter sewage treatment facility | + 297  |
| Barksdale AFB, La., industrial waste treatment       | + 215  |
| Air Academy, Colo., upgrade sewage treatment         | + 132  |
| Elmendorf AFB, Alaska, upgrade sewage treatment      | + 142  |
| Barksdale AFB, La., sanitary sewer main              | + 1,530  |
| McClellan AFB, Calif., POL tanks                     | + 3,200  |
| Shemya AFB, Alaska, upgrade sewage treatment         | + 853  |
| <b>Total</b>   | <b>23,853</b>                                  |

*Senate additions, chemical weapons security projects, Army*  
[In thousands of dollars]

| Location and project:                              | Recommended<br>Senate Armed<br>Services action |
|--|--|
| Aberdeen PG, Md., chemical weapons security        | + \$6,738                                      |
| Tocoele AD, Utah, chemical weapons security        | + 17,415                                       |
| Anniston AD, Ala., chemical weapons security       | + 4,828  |
| Umatilla Depot, Oreg., chemical weapons security   | + 2,921  |
| Pinebluff Arsenal, Ark., chemical weapons security | + 4,439  |

|  |           |
|--|-----------|
| Lexington Bluegrass, Ky., chemical weapons security..... | + \$1,827 |
| Pueblo AD, Colo., chemical weapons security.....         | + 3,011   |
|  | 41,179    |

I have recently communicated with Members whose districts would be directly affected by these additional projects. I feel that these projects are not only necessary from a national security perspective, but that they are also compatible with our current efforts to stimulate the economy through job creation, especially in the bellweather construction industry.

Although some of our previous stimulative efforts are just now beginning to pay off in other areas, that does not mean that we have finally licked persistent unemployment in the United States. Indeed, a 6.9 percent rate is still unconscionably high by anybody's standards. Thus, if the economy in general and the construction industry in particular still needs a boost, why not channel some of that boost through the regular annual military construction program?

The final observation that I will offer today is that should the House conferees fully adopt the higher Senate version of the military construction authorization, we will still be under the first concurrent resolution targets in budget authority.

Therefore, I strongly urge each and every one of you to ask our conferees to positively respond to the continuing job needs of the country by approving the Senate additions in conference. Thank you.

Mr. NEDZI. Mr. Chairman, I look forward to reviewing the complete version of the profound statement of the gentleman from California (Mr. LEGGETT).

I yield 4 minutes to the gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Chairman, I rise in support of H.R. 6900, the fiscal year 1978 military construction authorization bill.

This is a balanced measure designed to meet as many of the needs of the Armed Forces as possible within the fiscal and budgetary policy framework which has been established. As such, not all of the requirements can be met in 1 year and may necessarily be deferred for later consideration. It is at this point that I direct my remarks to one area in particular that is of great concern to me, namely, the requirement for dental care facilities for our military personnel.

Within the budgetary constraints under which the committee operated and in view of the ongoing Department of Defense base structure study, we approved over \$37 million in dental care facilities. These include a \$4.35 million medical/dental clinic for our naval forces at Pearl Harbor; a \$4.7 million base dental clinic at Lackland Air Force Base, Tex.; an \$8.8 million addition and alteration to the existing composite medical facility, including dental care facilities, at Tinker Air Force Base, Okla.; a \$7.3 million dispensary with dental treatment facilities at Bentwaters Royal Air Force Station, United Kingdom, and

\$11,898,000 for 252 dental treatment rooms at four Army installations, including Fort Hood, Tex.; Fort Bragg, N.C.; Fort Benning, Ga.; and Heidelberg, Germany.

Mr. Chairman, based upon testimony which the committee received during the hearings on the military construction bill, particularly of Army Dental Corps representatives, serious reservations have been raised about the quality of Armed Forces dental care. It became evident that these professionals are greatly concerned over the need for additional facilities and the need to strengthen program management, and the need to improve the retention rate of dental corps officers. General Bhaskar, in particular, the chief of the Army Dental Corps, stressed of utility and efficiency of physical plants—toward that end all administrative officers see patients.

He pointed out that all of the projects coming out at the OMB level would be less in terms of money, than one of the average sized hospitals for our military. He stressed the fact that administrative officers within the Army Dental Corps were all seeing patients. I wish to commend him and the Army Dental Corps for this.

Mr. Chairman, if I might have the attention of the chairman of the subcommittee, the gentleman from Michigan (Mr. NEDZI), I believe that it was through an inadvertent oversight that we did omit in the report the fact that we want the Military Establishment to consider carefully in next year's request the priority need for the completion of and the modernizing of the dental facilities across the board in the United States; is that correct?

Mr. NEDZI. Mr. Chairman, if the gentleman will yield, I am not certain that there was any agreement or understanding to include that in the report; however, I can assure the gentleman from Georgia that it certainly is the sentiment of the chairman and I believe the entire subcommittee, that the military proceed forthwith in developing plans for modernizing these facilities.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NEDZI. I yield 2 additional minutes to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Chairman, as I am sure the gentleman from Michigan knows, the budget was sent back down to the operating levels of the Army, Navy, and Air Force to reduce by almost one-half the projects proposed for the continental United States, and that in the lag more than 50 percent of the dental clinics were deleted. It was my understanding in the committee that there would be general accord toward asking the Department of Defense to review again those projects, and that, inadvertently, was omitted from the report.

Mr. NEDZI. Mr. Chairman, if the gentleman will yield, let me say that the staff has just corrected me and has advised me that the gentleman from Georgia is correct in that there was reference made toward including this in

the report and, inadvertently, it was dropped in the course of transmitting the report to the Printing Office.

Mr. BRINKLEY. I thank the chairman of the subcommittee.

Mr. NEDZI. Mr. Chairman, I yield 3 minutes to the gentleman from Hawaii (Mr. HEFTTEL).

Mr. HEFTTEL. Mr. Chairman, I thank my distinguished colleague, the gentleman from Michigan (Mr. NEDZI) for yielding me this time.

Mr. Chairman, I would like to bring to your attention a matter of great significance to the people of Hawaii and to the millions of visitors who come to our islands each year.

Funding is needed for a project proposed by the U.S. Navy for permanent shoreside facilities at the U.S.S. *Arizona* Memorial at Pearl Harbor. The battleship, U.S.S. *Arizona*, serves as a national cemetery for the 1,102 officers and enlisted men who lost their lives during the massive attack on Pearl Harbor on December 7, 1941.

These proposed facilities will include a museum, theater, lobby/waiting room, and supporting facilities which, in conjunction with the *Arizona* Memorial, will constitute a complete memorial complex. The National Park Service has agreed to manage and operate the *Arizona* Memorial when adequate shoreside facilities are built.

The *Arizona* Memorial was completed and dedicated on May 30, 1962. Since that time the number of visitors has rapidly increased from a little over 1,000 in 1962 to a probable 1.2 million by the year 1982. The current facilities are only temporary at this time and permanent facilities are desperately needed. They are unable to accommodate the many persons who visit the memorial each year.

Failure to provide these new facilities will severely deter future visitors to this important national shrine. The history and background of the attack on Pearl Harbor remain a matter of extreme historical interest, not only to the islanders, but also to the rest of our country.

A provision authorizing \$3.3 million for the construction of permanent shoreside visitor facilities at the U.S.S. *Arizona* Memorial in Pearl Harbor, Hawaii has been accepted by the other body.

Due to an unfortunate oversight, this provision was not considered by either the Subcommittee on Military Installations and Facilities or the full Armed Services Committee.

I would hope that the chairman of the subcommittee would accept the other body's provision in conference and I also invite a response from the ranking minority member of the subcommittee.

Mr. NEDZI. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Chairman, one of the items in today's military construction authorization bill, H.R. 6990, is funding for U.S. Army Reserve armories. I believe we can build these armories for less than we pay now and I want to inform the Congress of a proposal of mine



to demonstrate this which the Defense Department has just agreed to try.

In my district, the National Guard builds armories of the same size and mission as the Reserves but for a good deal less money. After a yearlong investigation, I find that the reason for this is due to the unnecessarily costly building materials that are demanded by the U.S. Army Corps of Engineers which supervises construction of these Reserve armories.

The corps admits this has been a problem in the past, but they now claim to have changed their specifications and that this will eliminate the problem. They still admit, however, to a \$6-per-square-foot discrepancy between their costs and those of the National Guard.

For some time now, I have advocated a pilot project whereby a Reserve armory is built following National Guard procedures to see once and for all just how much money we can save on these armories. My plan is to have one armory built this way and when it is done, compare it to a similar sized armory that was built the standard way. My belief is that we would then have a detailed example of how we could build these armories for less cost to the American taxpayer.

The Army Reserves have indicated their desire to try my pilot project plan and last Friday, so did the Defense Department. While there is no question now that we will have some sort of pilot project it is still not certain exactly what the nature of this pilot project will be and I think it is important for the Congress and Chairman Nedzi's subcommittee to follow this matter closely to make sure that we indeed have a meaningful comparison when the construction is over.

So there can be no misunderstanding in the future about what my intent is for this project, I want to state clearly that it is my desire to permit the architect to have the same discretion given him in other buildings, in terms of specifications and supervision.

I have no problem with the Reserves and the corps reviewing the architect's specifications as well as the construction itself, but I think it is vitally important that the architect not be given detailed specifications which limit his ability to operate as he would in other construction. I firmly believe that if the architect is given this discretion, he will be able to design a building which meets the needs of the Reserves at a minimum cost to the taxpayer.

Mr. Chairman, I enclose for the RECORD a copy of the correspondence I have had with the Army Reserves on this matter:

MAY 29, 1977.

Maj. Gen. HENRY MOHR,  
Chief Army Reserve, Department of the Army,  
Washington, D.C.

DEAR GENERAL MOHR: Thank you for your response to my request for a legal opinion regarding my idea for a pilot project to construct an Army Reserve Armory following procedures used in constructing National Guard Armories.

I think there has been a little confusion as to exactly what I had in mind for the project, so I would like to set it down on paper here and then ask you again if you would be kind enough to give me a written opinion of the plan.

The steps I envision would be as follows:

1. The Army Corps of Engineers hires an architect.
2. The architect, following the guidelines in NGB 415-90, designs his own plans and submits them for approval to the Corps.
3. The Corps then supervises bids and lets the construction contract.
4. The architect observes and inspects the construction. The Reserves and the Corps would make a final inspection with the architect, and periodic inspections at their discretion. But the architect would be the one who would be primarily responsible for observing construction.

Therefore, there would be no predesign study, site plan, or floor plans submitted by the Corps to the architect. In general, I would want to follow the procedure used by the National Guard, the only exception being that the Corps would let the construction contract and not the architect.

I would very much like to have your legal opinion and comments as to what problems this plan would entail.

Thank you for your assistance.

Sincerely,

BERKLEY BEDELL.

HON. BERKLEY BEDELL,  
House of Representatives  
Washington, D.C.

DEAR MR. BEDELL: Thank you for your letter of 20 May 1977 clarifying your thoughts concerning a pilot project to construct a U.S. Army Reserve Center by having the Corps of Engineers hire an architect to design and manage the construction operations of this test program.

Such a pilot project must follow the same standards and specifications that are now being used by the Corps at all of our projects. This will insure that we construct a facility that will meet the Army Reserve's training and readiness requirements while providing a basis for a valid comparison.

I agree with you that innovative programs such as you have suggested should be given a trial. The authority for such a procedure rests with the Office of the Secretary of Defense. Your proposal is now being staffed by that agency and you should receive their reply shortly on this matter.

Thank you again for your personal support of the Military Construction Army Reserve Program.

Sincerely,

HENRY MOHR,  
Major General, USA,  
Chief Army Reserve.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. I thank the gentleman for yielding.

I would just state my agreement with the comments of the gentleman from Iowa about the excessive costs of construction under the management contracts that the Corps of Engineers have. We discovered during the past Congress that the Corps of Engineers were designing hospitals, one at Fort Campbell, Ky., for example, which was about 2½ times

what the cost would be to build a private hospital in a similar area where the construction costs were equivalent.

The Corps of Engineers has been very inadequate, in my opinion, in the work that they have done. I think the gentleman is making a great contribution if he can bring in something that is going to assist in this one area, just the National Guard armories. I would think that as a member of the subcommittee it is the intention of several of us to pursue this whole area of the Corps of Engineers and the excessive costs that the taxpayers are being asked to pay because, in my opinion, of what is very inadequate contract management.

Mr. BEDELL. I appreciate the gentleman's remarks very much. I would hope that the chairman of the committee would agree that it is indeed the desire of the subcommittee to do what they can to provide maximum facilities at minimum cost to the taxpayers.

I yield to the chairman of the subcommittee.

Mr. NEDZI. I do not think there is any question that is the goal of the committee and certainly we would do all in our power to assure we get maximum facilities at minimum cost.

Mr. BEDELL. I would like to thank the chairman of the subcommittee for helping us to get the pilot project and approval of the pilot project.

Mr. NEDZI. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Chairman, I thank the chairman for yielding.

Mr. Chairman, I would like to compliment the members of the committee for their fine work preparing the military construction authorization bill that is before the House today. I am particularly pleased that the committee has included an authorization in the amount of \$4,149,000 for two construction projects at Fort Ord, Calif., which is in my district.

These two projects, tactical equipment shops and facilities and a direct support maintenance facility, are important parts of the master plan for the Fort Ord complex and are vital to the fulfillment of its new mission as home of the 7th Infantry Division. The designs of these structures were begun in September and October of 1975 and carefully fit the overall needs of a growing installation. Once completed, these facilities will service the repair and maintenance needs of hundreds of military vehicles as well as providing modernization and maintenance of military field equipment.

Another result of the new mission of Fort Ord is the increase in demand for low cost family housing both on base and in the surrounding communities. With the Army anticipating an increase of over 1,000 active duty personnel stationed at Fort Ord in the next year, the already difficult housing shortage in the Monterey Bay Area promises to get worse. Without some relief, increasing numbers of enlisted personnel will be

forced to live as far away as San Jose and Santa Clara and to commute as many as 100 miles each day.

The committee has recognized the particularly acute need for family housing by including section V of the military construction bill which allows the Secretary of Defense to construct and to acquire family housing units in certain military impacted areas. I compliment the committee for addressing this problem and encourage its members to expand upon section V in future deliberation to help alleviate the serious housing shortages at and around the Fort Ord complex.

In closing, I again want to praise the committee for its fine work in this area. I know that its members have worked long and hard reviewing the construction needs of the various branches of the Armed Forces, and have included in the authorization bill those projects that truly merit funding. It goes without saying that the will of the Armed Services Committee as presented in this balanced and fiscally responsible authorization bill should be reflected in full by the Appropriations Committee.

Mr. NEDZI. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. Dicks).

Mr. DICKS. Mr. Chairman, I wish to compliment the chairman and the ranking minority member of the subcommittee for the work they have done on this bill. I was particularly pleased with the work they have done on the Trident base and the Trident impact funds. Mr. Jack Watson, Secretary of the President's Cabinet, visited that area and said he considered this a model project on how Government projects should operate. That result would not have happened, I think, without the help of this committee.

There are 520 units of housing for the Trident base under active review by the General Accounting Office. I am confident when the General Accounting Office makes its report it will be favorable and I hope that the committee will take another look at the housing requirements because in Kitsap County we have a serious housing shortage not only because of the Trident base but also because of the employee growth at Puget Sound Naval Shipyard.

I compliment the committee and I appreciate their help in working with this Member on these important projects.

Mr. ZEFERETTI. Mr. Chairman, today we consider the military construction authorization bill, and I would just like to briefly remind my colleagues of the problems that many of us have had with the transfer and the closure of military facilities within our districts.

While the legislation before us does not deal directly with the base realignment question, it is certainly related. We will approve the authorization of billions of dollars for the construction of military facilities. Yet when military departments decide that certain bases and activities are to be transferred or closed, Congress has little or no voice in protecting the

taxpayers' huge investment in these properties.

Hopefully, that problem will be partially alleviated as a result of an amendment included in the House-passed Defense Authorization Act for fiscal year 1978. But the process being practiced today gives the military departments too much of a free hand in determining the fate of these facilities, all of which play an integral part in the economy of our districts and the livelihoods of our constituents. They announce their plans to close or relocate these facilities, conduct an environmental impact statement—which is often inaccurate—and then go ahead with their plans. One of the glaring inequities overlooked in this process is the impact these base realignments have on local communities.

The Army is currently planning to drastically reduce many of the operations now being performed at Fort Hamilton in Brooklyn, which is the only full service military installation remaining in New York City. This proposed realignment, which I am fighting tooth and nail to prevent, is another example of the geographical favoritism practiced by the military. As I am sure many of my colleagues will agree, the Northeastern States have been methodically stripped of nearly all viable military facilities.

The military services use as their all-purpose excuse the argument that these closings are an economy measure and will save us money—an argument that is shot full of holes in light of the enormous transfer costs and the ensuing unemployment. What they fail to realize are the human costs involved: the uprooting of families and massive unemployment for most of the civilian work force. Any cutback in Fort Hamilton's operations would be a severe blow to the Brooklyn community and would further drain the State and Federal treasuries by adding more names to the unemployment roles. We must also recognize the "ripple effect" such an action would have on the local economy through the loss of payroll dollars.

Periodically, the Defense Department announces a management efficiency action which involves 14 or 15 civilian jobs here or there. Just last week, a permanent manpower reduction of five jobs was being implemented. These piecemeal reductions further fuel the deliberate job erosion currently going on in the New York metro area.

So while we consider military construction authorization, let us not forget our responsibility of harnessing our military departments and stem the tide of military facilities realignment. These installations play a vital role in the economy of our communities and are an important link in maintaining a strong U.S. military posture, of which I am a staunch advocate.

Mr. D'AMOURS. Mr. Chairman, I rise in support of H.R. 6990, the military construction authorization bill for fiscal year 1978 and to congratulate the members of the Armed Services Committee for their excellent efforts to improve and modernize our Nation's defense facilities.

Congressman NEDZI and his subcommittee have had the thankless task of reviewing hundreds of construction proposals across the United States and overseas in order to determine their relative importance to our national defense effort, and the economic costs and benefits of each project to the U.S. taxpayer.

I am particularly pleased that the committee saw fit to include in its fiscal year 1978 authorization legislation \$10 million for the construction of 200 new family housing units at the Portsmouth Naval Shipyard.

These 200 housing units represent almost half of the nationwide allotment of new family housing units for fiscal year 1978 and will alleviate a critical housing problem at the shipyard. The units will replace "Admiralty Village" a facility which was built as temporary housing during World War II.

Despite the fact that it was only intended to be temporary and that it has been classified as substandard for some time, many hundreds of naval officers and their families have been forced to live in houses which should have been torn down years ago and which cannot be adequately repaired. In addition due to their age and the temporary construction materials which were used in their construction, the Admiralty Village units have required an abnormally large quantity of heating oil—at great cost to the Government. The new housing units will be much more fuel efficient.

I am also pleased that the committee included authorization for several other long overdue projects at the Navy yard, and at nearby Pease Air Force Base. The modernization program at the Navy yard will include electrical power improvements, an improved compressed air system, dredging for three berthing spaces and a channel to dry dock No. 3. These improvements will help to make the work facilities at the yard more flexible and efficient. At Pease Air Force Base \$910,000 has been authorized for a new control tower which will greatly improve the base's capability to monitor and control air traffic.

The affirmative action of the House Armed Services Committee, and I hope by the full House this afternoon, is a testament to the continued excellence and efficiency of the Portsmouth Navy Yard and the Pease Air Force Base. Despite the fact that it is our Nation's oldest shipyard the Portsmouth Navy Yard remains one of our Nation's most efficient shipyards due to the industriousness of its workers and the modernization of its physical plant. Just this very morning construction began on a new machine central tool shop, the first of several modernization projects which will enable the yard to service the new SSN-688 attack submarines in the 1980's. As I am sure my colleagues are already aware, these submarines form the most important and easily protected leg of our national defense triad.

Once again I would like to thank the members of the committee for responding to these urgent needs at the Portsmouth Navy Yard and at Pease Air Force



Base. I urge all my colleagues to support the committee's bill and to work with me to insure full funding of these projects next week when the House considers the fiscal year 1978 military construction appropriations bill.

Mr. GILMAN. Mr. Chairman, I rise in favor of this appropriation, and particularly in favor of the \$3,047,000 slated for construction at the U.S. Military Academy at West Point, N.Y.

The approved projects are to modernize the field house, to air condition the West Point printing plant and to separate power and communication ducts.

Mr. Chairman, the U.S. Military Academy at West Point is not only the pre-eminent service academy in the world, but is also one of the major tourist attractions of our Nation. It is incumbent upon the Congress to provide this foremost training institution with facilities that are as modern and adequate as possible.

The field house at West Point was originally constructed in 1938, and has not been renovated or modernized since that time. The current structure is used for a substantial number of activities, including the annual physical fitness tests for all cadets, drills and other military training exercises in inclement weather, an auxiliary practice area for the sports teams and for the use of the Army's troops stationed at West Point.

Yet, despite the number of diverse uses which this building is utilized, it does not even conform to modern fire codes. The roof is in a sad state of disrepair, and floor has literally been worn away after nearly 40 years of use without replacement.

The U.S. Military Academy has waited for many years for the funding to repair this building to bring it up to modern standards. These items should not be delayed any longer.

Knowing the deserving reputation of the committee and its distinguished chairman for thoroughness and integrity, I am confident that the other appropriations in this measure are just as worthy as those that affect my district.

Accordingly, I urge my colleagues to grant approval to this important legislation.

Mr. MITCHELL of New York. Mr. Chairman, we have no further requests for time.

Mr. NEDZI. Mr. Chairman, we have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### TITLE I—ARMY

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

##### INSIDE THE UNITED STATES

##### UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, \$4,145,000.  
Fort Campbell, Kentucky, \$553,000.  
Fort Carson, Colorado, \$815,000.

Fort Hood, Texas, \$7,284,000.

Fort Lewis, Washington, \$615,000.

Fort Ord, California, \$4,149,000.

Fort Polk, Louisiana, \$48,720,000.

Fort Riley, Kansas, \$531,000.

Fort Sam Houston, Texas, \$10,000,000.

Schofield Barracks, Hawaii, \$10,189,000.

Fort Stewart/Hunter Army Air Field, Georgia, \$10,991,000.

Fort Wainwright, Alaska, \$6,985,000.

##### UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Benning, Georgia, \$25,269,000.

Fort Knox, Kentucky, \$15,541,000.

Fort Rucker, Alabama, \$9,941,000.

Fort Sill, Oklahoma, \$370,000.

Various Locations, \$1,810,000.

##### UNITED STATES ARMY MATERIEL DEVELOPMENT AND READINESS COMMAND

Aberdeen Proving Ground, Maryland, \$6,738,000.

Anniston Army Depot, Alabama, \$6,484,000.

Corpus Christi Army Depot, Texas, \$2,213,000.

Lexington Blue Grass Depot, Kentucky, \$1,827,000.

Picatinny Arsenal, New Jersey, \$6,770,000.

Pine Bluff Arsenal, Arkansas, \$4,439,000.

Pueblo Army Depot, Colorado, \$3,011,000.

Rock Island Arsenal, Illinois, \$6,618,000.

Tooele Army Depot, Utah, \$17,415,000.

Umatilla Army Depot, Oregon, \$2,921,000.

Various Locations, \$33,939,000.

##### AMMUNITION FACILITIES

Holston Army Ammunition Plant, Tennessee, \$4,616,000.

Indiana Army Ammunition Plant, Indiana, \$1,009,000.

Iowa Army Ammunition Plant, Iowa, \$11,192,000.

Longhorn Army Ammunition Plant, Texas, \$555,000.

Louisiana Army Ammunition Plant, Louisiana, \$4,345,000.

Milan Army Ammunition Plant, Tennessee, \$10,467,000.

Radford Army Ammunition Plant, Virginia, \$203,000.

Riverbank Army Ammunition Plant, California, \$584,000.

Unspecified, \$334,710,000.

Volunteer Army Ammunition Plant, Tennessee, \$597,000.

##### UNITED STATES MILITARY ACADEMY

United States Military Academy, West Point, New York, \$3,047,000.

##### NUCLEAR WEAPONS SECURITY

Various Locations, \$7,764,000.

##### OUTSIDE THE UNITED STATES

##### UNITED STATES ARMY FORCES COMMAND

Panama Area, Canal Zone, \$2,831,000.

##### UNITED STATES ARMY, JAPAN

Various Locations, \$3,518,000.

##### EIGHTH UNITED STATES ARMY, KOREA

Various Locations, \$19,536,000.

##### KWJALEIN MISSILE RANGE

National Missile Range, \$2,603,000.

##### UNITED STATES ARMY SECURITY AGENCY

Various Locations, \$2,164,000.

##### UNITED STATES ARMY, EUROPE

Classified Location, \$32,000,000.

Germany, Various Locations, \$176,925,000.

Italy, Various Locations, \$3,770,000.

Various Locations: For the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations, including international military headquarters, for the collective defense of the North Atlantic Treaty area, \$85,000,000. Within thirty days after the end of each quarter, the Secretary of the Army shall furnish to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a description of obligations incurred as the United States share of such multilateral programs.

##### NUCLEAR WEAPONS SECURITY

Various Locations, \$6,800,000.

SEC. 102. The Secretary of the Army may establish or develop Army installations and facilities by proceeding with construction made necessary by changes in Army missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, or (4) improved production schedules, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of \$20,000,000. The Secretary of the Army, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1979 except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

Mr. NEDZI (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Are there any amendments to title I?

Mr. LEGGETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in its markup of this bill the committee has included \$550,000 for consolidation of the Air Force Environmental and Radiological Health Laboratories at Brooks Air Force Base. The committee cited as rationale the necessity for meeting NEPA and OSHA standards. I do not at this time intend to offer an amendment to debate this project. If the committee had held a public hearing on this matter, such hearings would have uncovered the existence of a voluminous GAO report challenging the wisdom of this consolidation.

The report mentions, among other things, that top level laboratory operating personnel believe, despite headquarters claims to the contrary, that the proposed consolidation will be less efficient than the current laboratory structure. Deficiencies include a design inadequate for large scale analytical sample testing and inadequate space for missions to be performed.

The report states that qualified officials see no technical reason for consolidation of radiological and environmental health functions.

The report raises serious questions as to the adequacy of Air Force cost esti-

mates. GAO estimates that the Air Force has underestimated costs associated with the consolidation by about \$1 billion. The Air Force has submitted a revised estimate, but as nearly as I can tell these are largely unsupported numbers which still fall significantly short of GAO estimates.

These are matters which could and should have been covered in hearings. They are matters for serious reservation. The Appropriations Committee has expressed reservation enough to withhold its approval of expenditure of funds pending further study. The Senate is so reserved about the matter that none of its committees have included this project in any of its bills.

Mr. Chairman, colleagues, serious questions have been raised about this project which are as yet unanswered. They should be answered. I have raised a few, and there are more. What, for example, is to become of the physical facility at McClellan Air Force Base which was not only designed as an environmental health lab but also designed for expansion as mission requirements mounted? And why is that prior planning now being ignored?

In light of the many uncertainties surrounding this project, I strongly urge my colleagues on the committee not to insist on this project in conference. The case for urgency is shaky at best, and the apparent drawbacks are significant. If this project must be accomplished, we should insist on adequate justification which has not been forthcoming. Caution in this matter is our best protection, and I urge it on my colleagues.

The CHAIRMAN. Are there any amendments to title I? If not, the Clerk will read.

The Clerk read as follows:

#### TITLE II—NAVY

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

##### INSIDE THE UNITED STATES

###### TRIDENT FACILITIES

Various Locations, \$106,910,000.

###### MARINE CORPS

Marine Corps Base, Camp Lejeune, North Carolina, \$12,350,000.

Marine Corps Base, Camp Pendleton, California, \$5,450,000.

Marine Corps Air Station, Cherry Point, North Carolina, \$3,550,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, \$160,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, \$3,500,000.

Marine Corps Base, Twentynine Palms California, \$11,965,000.

###### CHIEF OF NAVAL OPERATIONS

Naval Academy, Annapolis, Maryland, \$165,000.

Commander in Chief Pacific, Headquarters, Pearl Harbor, Hawaii, \$4,200,000.

Naval Support Activity, Mare Island, Vallejo, California, \$2,900,000.

###### COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Charleston, South Carolina, \$180,000.

Naval Air Station, Jacksonville, Florida, \$2,950,000.

Naval Submarine Base, New London, Connecticut, \$3,100,000.

Flag Administrative Unit Atlantic, Norfolk, Virginia, \$90,000.

Fleet Intelligence Center Europe and Atlantic, Norfolk, Virginia, \$1,137,000.

Naval Air Station, Norfolk, Virginia, \$14,350,000.

Naval Station, Norfolk, Virginia, \$3,800,000.

###### COMMANDER IN CHIEF, PACIFIC FLEET

Naval Station, Adak, Alaska, \$14,200,000.

Naval Air Station, Barbers Point, Hawaii, \$7,197,000.

Commander Oceanographic System, Pacific, Pearl Harbor, Hawaii, \$7,400,000.

Naval Station, Pearl Harbor, Hawaii, \$2,050,000.

Naval Submarine Base, Pearl Harbor, Hawaii, \$1,850,000.

Naval Station, San Diego, California, \$12,666,000.

CHIEF OF NAVAL EDUCATION AND TRAINING  
Naval Amphibious School, Coronado, San Diego, California, \$3,450,000.

Naval Submarine Training Center, Pearl Harbor, Hawaii, \$410,000.

Naval Technical Training Center, Pensacola, Florida, \$2,400,000.

Naval Air Station, Whiting Field, Florida, \$530,000.

###### BUREAU OF MEDICINE AND SURGERY

National Naval Medical Center, Bethesda, Maryland, \$8,000,000.

Naval Regional Medical Center, Bremerton, Washington, \$1,450,000.

###### CHIEF OF NAVAL MATERIAL

Puget Sound Naval Shipyard, Bremerton, Washington, \$11,600,000.

Polaris Missile Facility Atlantic, Charleston, South Carolina, \$18,150,000.

Charleston Naval Shipyard, Charleston, South Carolina, \$7,526,000.

Naval Weapons Station, Charleston, South Carolina, \$850,000.

Naval Weapons Station, Concord, California, \$1,350,000.

Portsmouth Naval Shipyard, Kittery, Maine, \$10,030,000.

Long Beach Naval Shipyard, Long Beach, California, \$8,080,000.

Naval Underwater Systems Center, New London, Connecticut, \$950,000.

Naval Supply Center, Pearl Harbor, Hawaii, \$13,400,000.

Pearl Harbor Naval Shipyard, Pearl Harbor, Hawaii, \$1,080,000.

Navy Public Works Center, Pearl Harbor, Hawaii, \$3,000,000.

Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, \$15,300,000.

Mare Island Naval Shipyard, Vallejo, California, \$24,100,000.

Naval Weapons Station, Yorktown, Virginia, \$2,350,000.

Various Locations, Atlantic Fleet Ballistic Missile Refit Site, \$19,500,000.

###### NAVAL SECURITY GROUP COMMAND

Naval Security Group Department, Adak, Alaska, \$2,350,000.

Naval Security Group Detachment, Sugar Grove, West Virginia, \$900,000.

###### NUCLEAR WEAPONS SECURITY

Various Locations, \$20,658,000.

###### OUTSIDE THE UNITED STATES

###### CHIEF OF NAVAL OPERATIONS

Naval Support Facility, Diego Garcia, Indian Ocean, \$7,300,000.

###### COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Facility, Antigua, British West Indies, \$180,000.

Naval Station, Keflavik, Iceland, \$161,000.

Naval Station, Roosevelt Roads, Puerto Rico, \$170,000.

###### COMMANDER IN CHIEF, PACIFIC FLEET

Navy Fleet Activities, Yokosuka, Japan, \$1,850,000.

###### NAVAL FORCES EUROPE

Naval Air Facility, Sigonella, Italy, \$4,300,000.

###### BUREAU OF MEDICINE AND SURGERY

Naval Regional Medical Clinic, Pearl Harbor, Midway Island Detachment, \$4,350,000.

###### NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Naples, Italy, \$1,700,000.

Naval Communications Unit, Thurso, Scotland, \$350,000.

###### NAVAL SECURITY GROUP COMMAND

Naval Security Group Department, Rota, Spain, \$2,400,000.

SEC. 202. The Secretary of the Navy may establish or develop Navy installations and facilities by proceeding with construction made necessary by changes in Navy missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, or (4) improved production schedules, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of \$20,000,000. The Secretary of the Navy, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1979 except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

SEC. 203. Construction authorized under section 201 for recreational facilities at the Naval Station, San Diego, California, may not be carried out until the Secretary of the Navy enters into an agreement with the San Diego Unified Port District, as current holder of the lessor interest of the City of San Diego in the existing Naval Athletic Field at such Naval Station (held by the Secretary of the Navy under a lease from the City of San Diego dated August 9, 1949), which provides that (1) the San Diego Unified Port District shall pay to the United States an amount equal to the amount of the total cost of such construction, and (2) the Secretary of the Navy agrees to the termination of the interest of the United States in the lease and abandonment of the existing facilities of the United States on the leasehold. Any such agreement shall specify that such lease shall not be terminated, and the Secretary of the Navy shall not be required to relinquish use of any part of the leasehold, until such recreational facilities are available for use, as determined by the Secretary.

Mr. NEDZI (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Are there any amendments to the title II? If not, the Clerk will read.



The Clerk read as follows:

### TITLE III—AIR FORCE

Sec. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

#### INSIDE THE UNITED STATES AEROSPACE DEFENSE COMMAND

Peterson Air Force Base, Colorado, \$150,000.

Tyndall Air Force Base, Florida, \$3,860,000.

#### AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, \$18,820,000.

Kelly Air Force Base, Texas, \$5,810,000.

Robins Air Force Base, Georgia, \$566,000.

Tinker Air Force Base, Oklahoma, \$12,310,000.

Wright-Patterson Air Force Base, Ohio, \$4,064,000.

#### AIR FORCE SYSTEMS COMMAND

Brooks Air Force Base, Texas, \$550,000.

Buckley Air National Guard Base, Colorado, \$1,100,000.

Edwards Air Force Base, California, \$11,750,000.

Eglin Air Force Base, Florida, \$13,005,000.

Los Angeles Air Force Station, California, \$500,000.

Various locations, \$2,826,000.

#### AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, \$7,400,000.

Columbus Air Force Base, Mississippi, \$77,000.

Lackland Air Force Base, Texas, \$4,700,000.

Lowry Air Force Base, Colorado, \$3,380,000.

Randolph Air Force Base, Texas, \$425,000.

Sheppard Air Force Base, Texas, \$980,000.

Williams Air Force Base, Arizona, \$247,000.

#### ALASKAN AIR COMMAND

Elmendorf Air Force Base, Alaska, \$4,900,000.

King Salmon Airport, Alaska, \$631,000.

Shemya Air Force Base, Alaska, \$3,094,000.

#### MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, \$805,000.

Andrews Air Force Base, Maryland, \$782,000.

Dover Air Force Base, Delaware, \$165,000.

McChord Air Force Base, Washington, \$133,000.

McGuire Air Force Base, New Jersey, \$640,000.

Pope Air Force Base, North Carolina, \$1,119,000.

Travis Air Force Base, California, \$9,480,000.

#### PACIFIC AIR FORCES

Hickam Air Force Base, Hawaii, \$2,140,000.

#### STRATEGIC AIR COMMAND

Barksdale Air Force Base, Louisiana, \$140,000.

Carswell Air Force Base, Texas, \$400,000.

Castle Air Force Base, California, \$234,000.

Dyess Air Force Base, Texas, \$672,000.

Ellsworth Air Force Base, South Dakota, \$125,000.

Griffiss Air Force Base, New York, \$645,000.

March Air Force Base, California, \$1,387,000.

McConnell Air Force Base, Kansas, \$116,000.

Offutt Air Force Base, Nebraska, \$1,364,000.

Pease Air Force Base, New Hampshire, \$910,000.

Plattsburgh Air Force Base, New York, \$140,000.

Rickenbacker Air Force Base, Ohio, \$137,000.

Vandenberg Air Force Base, California, \$2,193,000.

Various Locations, \$6,955,000.

#### TACTICAL AIR COMMAND

Davis-Monthan Air Force Base, Arizona, \$262,000.

George Air Force Base, California, \$3,073,000.

Holloman Air Force Base, New Mexico, \$2,377,000.

Homestead Air Force Base, Florida, \$90,000.

Langley Air Force Base, Virginia, \$3,649,000.

Luke Air Force Base, Arizona, \$9,242,000.

Moody Air Force Base, Georgia, \$1,740,000.

Nellis Air Force Base, Nevada, \$5,180,000.

Seymour-Johnson Air Force Base, North Carolina, \$3,816,000.

Shaw Air Force Base, South Carolina, \$117,000.

#### UNITED STATES AIR FORCE ACADEMY

United States Air Force Academy, Colorado, \$1,740,000.

#### NUCLEAR WEAPONS SECURITY

Various locations, \$44,298,000.

#### OUTSIDE THE UNITED STATES

##### AEROSPACE DEFENSE COMMAND

Sondrestrom Air Base, Greenland, \$310,000.

Thule Air Base, Greenland, \$350,000.

##### PACIFIC AIR FORCES

Kadena Air Base, Japan, \$1,585,000.

##### STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, \$1,905,000.

##### UNITED STATES AIR FORCES IN EUROPE

Germany, \$16,077,000.

United Kingdom, \$8,847,000.

Various locations, \$97,905,000.

##### NUCLEAR WEAPONS SECURITY

Various locations, \$10,162,000.

##### SPECIAL FACILITIES

Various locations, \$2,356,000.

Sec. 302. The Secretary of the Air Force may establish or develop Air Force installations and facilities by proceeding with construction made necessary by changes in Air Force missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, or (4) improved production schedules, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of \$20,000,000. The Secretary of the Air Force, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1979 except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

Mr. NEDZI (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Are there any amendments to title III? If not, the Clerk will read.

The Clerk read as follows:

### TITLE IV—DEFENSE AGENCIES

Sec. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for defense agencies for the following acquisition or construction:

#### INSIDE THE UNITED STATES

##### NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, \$650,000.

##### EMERGENCY CONSTRUCTION

Sec. 402. (a) The Secretary of Defense may establish or develop installations and facilities which he determines to be vital to the security of the United States and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of \$30,000,000. The Secretary of Defense, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public works undertaken under this section, including real estate actions pertaining thereto.

(b) Any authorization, or any part of any authorization, in any prior Military Construction Authorization Act which permits the Secretary of Defense to establish or develop military installations and facilities which he determines to be vital to the security of the United States for which appropriations have not been enacted before the date of enactment of this Act is repealed.

### TITLE V—MILITARY FAMILY HOUSING AND HOMEOWNERS ASSISTANCE PROGRAM

#### AUTHORIZATION TO CONSTRUCT OR ACQUIRE HOUSING

Sec. 501. (a) The Secretary of Defense, or his designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such locations in the United States until the Secretary shall have consulted with the Secretary of the Department of Housing and Urban Development as to the availability of suitable private housing at such locations. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of Defense shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of thirty days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if he, or his designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection

shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family housing units:

Fort Polk, Louisiana, one hundred units, \$3,565,000.

Naval Complex, Adak, Alaska, one hundred units, \$8,519,000.

Portsmouth Naval Complex, Kittery, Maine, two hundred units, \$8,124,000.

Naval Security Group Activity, Winter Harbor, Maine, thirty-two units, \$1,456,000.

Defense Attache Office, Quito, Ecuador, two units, \$105,000.

Defense Attache Office, Wellington, New Zealand, two units, \$88,000.

(d) Any of the amounts specified in this section may, at the discretion of the Secretary of Defense, or his designee, be increased by 10 per centum, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress. The amounts authorized include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, design, supervision, inspection, overhead, land acquisition, site preparation, and installation of utilities.

IMPROVEMENT OF EXISTING QUARTERS

SEC. 502. The Secretary of Defense, or his designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed—

(1) for the Department of the Army, \$7,736,000;

(2) for the Department of the Navy, \$6,353,000, of which not less than \$2,500,000 shall be available only for energy conservation projects; and

(3) for the Department of the Air Force, \$5,640,000, of which not less than \$201,000 shall be available only for energy conservation projects.

EXCEPTIONS TO IMPROVEMENT LIMITATION

SEC. 503. The Secretary of Defense, or his designee, within the amounts specified in section 502, is authorized to accomplish repairs and improvements to existing public quarters in amounts in excess of the \$15,000 limitation prescribed in section 610(a) of Public Law 90-110, as amended (81 Stat. 305), as follows:

Fort Bliss, Texas, one unit, \$50,000.

Marine Corps Development and Education Command, Quantico, Virginia, thirty-three units, \$739,880.

LEASED QUARTERS

SEC. 504. (a) (1) Chapter 159 of title 10, United States Code, relating to real property, is amended by adding at the end thereof the following new section:

"§ 2686. Leases: military family housing

"(a) The Secretaries of the Army, Navy, and Air Force, respectively, are authorized to lease housing facilities for assignment as public quarters to military personnel and their dependents, without rental charge, at or near any military installation in the United States, Puerto Rico, or Guam, if the Secretary of Defense, or his designee, finds that there is a lack of adequate housing at or near such military installation and that—

"(1) there has been a recent substantial increase in military strength and such increase is temporary, or

"(2) the permanent military strength is to be substantially reduced in the near future, or

"(3) the number of military personnel assigned is so small as to make the construction of family housing uneconomical, or

"(4) family housing is required for personnel attending service school academic courses on permanent change of station orders, or

"(5) family housing has been authorized but is not yet completed or a family housing authorization request is in a pending military construction authorization bill.

"(b) Housing facilities may be leased under subsection (a) on an individual unit basis, and not more than ten thousand such units may be so leased at any one time.

"(c) Expenditures for the rental of such housing facilities, including the cost of utilities and maintenance and operation of such facilities, may not exceed—

"(1) for housing facilities in the United States (other than Alaska, Hawaii, and Guam) and Puerto Rico, (A) an average of \$280 per month for each military department, or (B) \$450 per month for any one unit; and

"(2) for housing facilities in Alaska, Hawaii, and Guam, (A) an average of \$350 per month for each military department, or (B) \$450 per month for any one unit.

The Secretary of Defense may exclude from the computation of average expenditures for the purposes of paragraphs (1) (A) and (2) (A) not more than one thousand units leased for assignment as public quarters to personnel assigned to detached duty."

(2) The table of chapters at the beginning of chapter 159 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"2686. Leases: military family housing."

(b) Section 515 of Public Law 84-161, approved July 15, 1955 (10 U.S.C. 2674 note), as amended, is repealed.

(c) The amendments made by subsection (a) and the repeal made by subsection (b) shall take effect October 1, 1977.

LEASES FOR FAMILY HOUSING FACILITIES IN FOREIGN COUNTRIES

SEC. 505. (a) Section 2675 of title 10, United States Code, is amended—

(1) by striking out the period at the end of subsection (a) and inserting in lieu thereof ", except that a lease under this section for military family housing facilities and real property relating thereto may be for a period of more than five years but may not be for a period of more than ten years."; and

(2) by inserting after "under this section" in subsection (b) the following: "or any other provision of law for structures, family housing facilities, or related real property in any foreign country"; and

(3) by adding at the end thereof the following new subsection:

"(d) The average unit rental for Department of Defense family housing acquired by lease in foreign countries may not exceed \$435 per month for the Department and in no event shall the rental for any one unit exceed \$760 per month, including the costs of operation, maintenance, and utilities; and not more than fifteen thousand family housing units may be so leased at any one time. The Secretary of Defense, or his designee, may waive these cost limitations for not more than one hundred fifty units leased for: incumbents of special positions, personnel assigned to Defense Attache Offices, or in countries where excessive costs of housing would cause undue hardship on Department of Defense personnel."

(b) Section 507(b) of the Military Construction Authorization Act, 1974 (87 Stat. 676), is repealed.

(c) The amendments made by subsection

(a) and the repeal made by subsection (b) shall take effect October 1, 1977.

ENERGY CONSUMPTION METERING DEVICES

SEC. 506. (a) The Secretary of Defense is authorized to accomplish the installation of energy consumption metering devices on military family housing facilities in existence or authorized before the date of enactment of this Act at a cost not to exceed—

(1) for the Department of the Army, \$36,500,000;

(2) for the Department of the Navy, \$55,600,000; and

(3) for the Department of the Air Force, \$69,000,000.

(b) In addition to all other authorized variations of cost limitations contained in this Act and prior Military Construction Authorization Acts, the Secretary of Defense may permit increases in such cost limitations by such amounts as may be necessary to install energy consumption metering devices on military family housing facilities as authorized by subsection (a).

(c) This section shall apply with respect to any military family housing facility in any State, the District of Columbia, the Commonwealth of Puerto Rico, or Guam.

EXCESS ENERGY CONSUMPTION CHARGES

SEC. 507. (a) In order to accomplish energy conservation, the Secretary of Defense shall, under such regulations as he may prescribe—

(1) establish a reasonable ceiling for the consumption of energy in any military family housing facility equipped with an appropriate energy consumption metering device; and

(2) assess the member of the Armed Forces who is the occupant of such facility a charge, at rates to be determined by the Secretary of Defense, for any energy consumption metered at such facility in excess of the ceiling established for such facility pursuant to paragraph (1).

(b) Any proceeds from excess consumption charges under subsection (a) shall be deposited in the Department of Defense family housing management account established by section 501(a) of the Act entitled "An Act to authorize certain construction at military installations, and for other purposes", approved July 27, 1962 (42 U.S.C. 1594-a1(a)).

(c) This section shall apply with respect to any military family housing facility in any State, the District of Columbia, the Commonwealth of Puerto Rico, or Guam.

APPROPRIATIONS LIMITATIONS

SEC. 508. There is authorized to be appropriated during fiscal year 1978 for use by the Secretary of Defense, or his designee, for military family housing and homeowners assistance as authorized by law for the following purposes:

(1) For construction of, or acquisition of sole interest in, family housing, including demolition, authorized improvements to public quarters, minor construction, relocation of family housing, rental guarantee payments, and planning, an amount not to exceed \$10,681,000.

(2) For support of military family housing including operating expenses, leasing, maintenance of real property, payments of principal and interest on mortgage debts incurred, payment to the Commodity Credit Corporation, and mortgage insurance premiums authorized under section 222 of the National Housing Act, as amended (12 U.S.C. 1715m), an amount not to exceed \$1,416,440,000.

(3) For homeowners assistance under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), including acquisition of properties, an amount not to exceed \$3,000,000.

(4) For procurement and installation of energy consumption measuring devices, an amount not to exceed \$161,100,000.



## TITLE VI—GENERAL PROVISIONS

## WAIVER OF RESTRICTIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land, and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

## APPROPRIATIONS LIMITATIONS

SEC. 602. There are authorized to be appropriated during fiscal year 1978 such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, IV, and V, shall not exceed—

- (1) for title I: Inside the United States, \$629,372,000; outside the United States, \$335,147,000; or a total of \$964,519,000.
- (2) for title II: Inside the United States, \$399,534,000; outside the United States, \$22,761,000; or a total of \$422,295,000.
- (3) for title III: Inside the United States, \$207,411,000; outside the United States, \$139,497,000; or a total of \$346,908,000.
- (4) for title IV: A total of \$30,650,000.
- (5) for title V: Military family housing and homeowners assistance, \$1,591,221,000.

## COST VARIATIONS

SEC. 603. (a) Except as provided in subsections (b) and (c), any of the amounts specified in titles I, II, III, and IV of this Act may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased by 5 per centum when inside the United States (other than Hawaii and Alaska), and by 10 per centum when outside the United States or in Hawaii and Alaska, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress.

(b) When the amount named for any construction or acquisition in title I, II, III, or IV of this Act involves only one project at any military installation and the Secretary of the military department or Director of the defense agency concerned determines that the amount authorized must be increased by more than the applicable percentage prescribed in subsection (a), he may proceed with such construction or acquisition if the amount of the increase does not exceed by more than 25 per centum the amount named for such project by the Congress.

(c) When the Secretary of Defense determines that any amount named in title I, II, III, or IV of this Act must be exceeded by more than the percentages permitted in subsections (a) and (b) to accomplish authorized construction or acquisition, the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount, including a statement of the reasons for such increase, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either (1) thirty days have elapsed from date of submission of such report, or (2) both committees have indicated

approval of such construction or acquisition. Notwithstanding the provisions in prior military construction authorization Acts, the provisions of this subsection shall apply to such prior Acts.

(d) Notwithstanding the foregoing provisions of this section, the total cost of all construction and acquisition in each such title may not exceed the total amount authorized to be appropriated in that title.

(e) No individual project authorized under title I, II, III, or IV of this Act for any specifically listed military installation for which the current working estimate is \$400,000 or more may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 per centum; or

(2) the current working estimate, based upon bids received, for the construction of such project exceeds by more than 25 per centum the amount authorized for such project by the Congress,

until a written report of the facts relating to the reduced scope or increased cost of such project, including a statement of the reasons for such reduction in scope or increase in cost, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either thirty days have elapsed from date of submission of such report, or both committees have indicated approval of such reduction in scope or increase in cost, as the case may be.

(f) The Secretary of Defense shall submit an annual report to the Congress identifying each individual project which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense based upon bids received for such period exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope was reduced by more than 25 per centum in order to permit contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

## CONSTRUCTION SUPERVISION

SEC. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army, or the Naval Facilities Engineering Command, Department of the Navy, or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective accomplishment of the construction herein authorized. The Secretaries of the military departments shall report annually to the President of the Senate and the Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Further, such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secre-

taries of the military departments shall report annually to the President of the Senate and the Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business; the names of such firms; the total number of separate contracts awarded each such firm; and the total amount paid or to be paid in the case of each such action under all such contracts awarded such firm.

## REPEAL OF PRIOR AUTHORIZATIONS; EXCEPTIONS

SEC. 605. (a) As of January 1, 1979, all authorizations for military public works, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefor, that are contained in titles I, II, III, IV, and V of the Act of September 30, 1976, Public Law 94-431 (90 Stat. 1349), and all such authorizations contained in Acts approved before September 30, 1976, and not superseded or otherwise modified by a later authorization, are repealed except—

(1) authorizations for public works and for appropriations therefor that are set forth in those Acts in the titles that contain the general provisions;

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before January 1, 1979, and authorizations for appropriations therefor.

(b) Notwithstanding the repeal provisions of section 605 of the Act of September 30, 1976, Public Law 94-431 (90 Stat. 1349, 1364), authorizations for the following item shall remain in effect until January 1, 1980:

Relocation of the weapons range from the Culebra Complex in the amount of \$12,000,000 for the Atlantic Fleet Weapons Range, Roosevelt Roads, Puerto Rico, authorized in section 204 of the Act of November 29, 1973 (87 Stat. 668), as amended, and extended in section 605(b) (H) of the Act of October 7, 1975 (89 Stat. 565), as amended.

## UNIT COST LIMITATIONS

SEC. 606. None of the authority contained in titles I, II, III, and IV of this Act shall be deemed to authorize any building construction project inside the United States in excess of a unit cost to be determined in proportion to the appropriate area construction cost index, based on the following unit cost limitations where the area construction index is 1.0:

(1) \$42 per square foot for permanent barracks;

(2) \$45 per square foot for bachelor officer quarters;

unless the Secretary of Defense, or his designee, determines that because of special circumstances, application to such project of the limitations on unit costs contained in this section is impracticable. Notwithstanding the limitations contained in prior Military Construction Authorization Acts on unit costs, the limitations on such costs contained in this section shall apply to all prior authorizations for such construction not heretofore repealed and for which construction contracts have not been awarded by the date of enactment of this Act.

## INCREASES FOR SOLAR HEATING AND SOLAR COOLING EQUIPMENT

SEC. 607. The Secretary of Defense shall encourage the utilization of solar energy as a source of energy for projects authorized by this Act where utilization of solar energy would be practical and economically feasible. In addition to all other authorized variations of cost limitations or floor area limita-

tions contained in this Act prior Military Construction Authorization Acts, the Secretary of Defense, or his designee, may permit increases in the cost limitations or floor area limitations by such amounts as may be necessary to equip any project with solar heating equipment, solar cooling equipment, or both solar heating and solar cooling equipment.

#### AUTHORITY OF DEFENSE AGENCIES TO CARRY OUT MINOR CONSTRUCTION

SEC. 608. Section 2674 of title 10, United States Code, is amended—

(1) by inserting "or the Director of a defense agency" in subsection (a) after "the Secretary of a military department;" each place it appears;

(2) by striking out "Secretary concerned" in subsections (b) and (e) and inserting in lieu thereof "Secretary of the military department or Director of the defense agency concerned";

(3) by inserting "and the Director of each defense agency" in subsection (f) after "The Secretary of each military department"; and

(4) by adding after subsection (f) the following new subsection:

"(g) The Directors of the defense agencies shall carry out the authority provided under this section by or through a military department designated by the Secretary of Defense under section 2632 of this title."

#### LAND CONVEYANCE, CALIFORNIA

SEC. 609. Notwithstanding any other provisions of law, the Secretary of the Navy is authorized to convey to the City of Los Angeles, California, subject to such terms and conditions as the Secretary shall deem to be in the public interest, all right, title, and interest of the United States in and to a parcel of land consisting of approximately thirty-five acres with improvements thereon, located in the City of Los Angeles north of and separated by Seaside Avenue from Reeves Field, in exchange for the conveyance by the City of Los Angeles to the United States of the unencumbered fee title to approximately thirty-five acres of land adjacent to the western boundary of the Naval Support Activity, Long Beach, California, to be improved in a manner acceptable to the Secretary, and subject to such other conditions as the Secretary shall deem to be in the public interest. The exact acreages and legal descriptions of both properties are to be determined by accurate surveys as mutually agreed upon by the Secretary and the City of Los Angeles.

#### LAND CONVEYANCE, CALIFORNIA

SEC. 610. The Secretary of the Navy is authorized to convey to the City of San Diego, California, all right, title, and interest of the United States in land at the Naval Regional Medical Center, San Diego, in exchange for a lease of not to exceed fifty years, with an option to renew such lease for twenty-five years, for an identical number of acres for hospital and related uses.

#### LAND CONVEYANCE, NEW HAMPSHIRE

SEC. 611. (a) (1) Notwithstanding any other provision of law, the Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Manchester Airport Authority, of Manchester, New Hampshire, subject to such terms and conditions as the Secretary considers appropriate, all right, title, and interest of the United States in and to a portion of land adjacent to the Manchester Municipal Airport consisting of approximately 8.3 acres, together with any improvements thereon.

(2) In consideration for the conveyance by the Secretary under paragraph (1), the Manchester Airport Authority shall convey to the United States unencumbered fee title to an area of land which the Secretary considers to be of equivalent value to the land conveyed by the Secretary under paragraph (1) and

which is otherwise acceptable to the Secretary.

(b) The exact acreages and legal descriptions of the lands to be conveyed under subsection (a) shall be determined by surveys as mutually agreed upon by the Secretary and the Manchester Airport Authority.

(c) The Secretary is authorized to accept the lands conveyed to the United States under subsection (a) (2), which lands shall be administered by the Secretary.

#### LAND CONVEYANCE, COLORADO

SEC. 612. Notwithstanding any other provision of law, the Secretary of the Air Force is authorized to acquire, by exchange with the city of Colorado Springs, Colorado, all rights, title and interest of the city in approximately one hundred and sixty-seven acres of land lying adjacent to the northerly boundary of Peterson Air Force Base, El Paso County, Colorado. As consideration for this exchange, the Secretary of the Air Force is authorized to convey to the city land and improvements on Ent Air Force Base, in the city of Colorado Springs, equal in monetary value to the land to be acquired. The exact acreages and legal descriptions of both such properties are to be determined by accurate surveys as mutually agreed upon by the Secretary and the city of Colorado Springs.

#### REVISION IN NUMBER OF NAVAL DISTRICTS

SEC. 613. (a) Chapter 516 of title 10, United States Code, is repealed.

(b) The table of chapters at the beginning of subtitle C and at the beginning of part I of subtitle C of title 10, United States Code, are each amended by striking out

"516. Naval Districts..... 5221".

#### SHORT TITLE

SEC. 614. Titles I, II, III, IV, V, and VI of this Act may be cited as the "Military Construction Authorization Act, 1978".

#### TITLE VII—GUARD AND RESERVE FORCES FACILITIES

##### AUTHORIZATION FOR FACILITIES

SEC. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed—

- (1) for the Department of the Army—
  - (A) for the Army National Guard of the United States, \$44,377,000; and
  - (B) for the Army Reserve, \$41,390,000;
- (2) for the Department of the Navy, for the Naval and Marine Corps Reserves, \$19,800,000; and

- (3) for the Department of the Air Force—
  - (A) for the Air National Guard of the United States, \$37,300,000; and
  - (B) for the Air Force Reserve, \$10,100,000.

##### WAIVER OF CERTAIN RESTRICTIONS

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land, and interests in land (including temporary use), by gift, purchase, exchange, of Government-owned land, or otherwise.

#### SHORT TITLE

SEC. 703. This title may be cited as the "Guard and Reserve Forces Facilities Authorization Act, 1978".

Mr. NEDZI (during the reading). Mr. Chairman, I ask unanimous consent that the entire bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Are there any amendments to any title?

#### AMENDMENT OFFERED BY MR. HAGEDORN

Mr. HAGEDORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAGEDORN: Page 34, line 21: Strike out the period following the word "Code", and insert in its place ", excluding section 2304(f) (2) of title 10."

Mr. HAGEDORN. Mr. Chairman, this amendment will save the Federal Government an estimated \$35 million in defense expenditures by limiting the applicability of the Davis-Bacon Act for contracts authorized by H.R. 6990. While not a major reduction relative to total military spending, it is a rare savings that can be effected with no lessening of levels of military preparedness, and no deterioration in the quality of military facilities. The amendment makes no other changes in military procurement procedures.

While I believe that the exclusion of the Davis-Bacon Act from all military construction contracts would be justified, this amendment does not attempt to do this. Because of the germaneness rule, an amendment to the military construction authorization cannot directly limit the scope of the Davis-Bacon Act itself. It can, however, reach those contracts which would not be covered by Davis-Bacon except for specific language in the military procurement statutes. An estimated 10 percent of the contracts authorized by H.R. 6990, according to the Department of Defense, do not involve formally advertised specifications of the sort required for Davis-Bacon to apply.

Because formal advertising is a rigid and mechanical procedure, frequently inappropriate for military contracts, the Armed Services Procurement Act of 1947 carved out certain exceptions to the general rule that contracts be formally advertised. These exceptions are listed in section 2304 of title 10 of the United States Code. Negotiation is the methods for selecting among bidders without formal advertising and formal price competition. While adequate safeguards remain that the Defense Department accept the lowest bid, factors other than price can play an important role in the selection process. Contracts for research and development, for example, will normally be negotiated because the Department is interested in a contractor's technical capabilities, technical approaches, and management ability as well as simply cost. With respect to such contracts, it is the basic need that is advertised, not the specifications themselves as required by Davis-Bacon.

Apparently appreciating the inapplicability of the Davis-Bacon Act to ne-



gotiated contracts, section (f) of section 2304 of title 10 states:

For the purposes of the following law [which include the Davis-Bacon Act], purchases or contracts negotiated under this section shall be treated as if they were made with formal advertising.

All this amendment does is to repeal that language and treat as formally advertised only those contracts which are, in fact, formally advertised.

The Davis-Bacon Act is an antiquated law virtually without redeeming quality. It was born in an era of depression, insecure trade unions, and heavy supplies of itinerant labor, and ought to have died with that era. Not simply with respect to military spending—but wherever it is applied—its "prevailing wage" requirements for public construction costs insure public construction costs well above comparable private construction costs. As diverse a group of economists as Walter Heller, Arthur Burns, Hendrick Houthakker, and Milton Friedman agree that the act fuels inflation and results in wasteful, unnecessary Government spending by, in effect, requiring the payment of "superminimum" wages on all Federal and on most federally assisted construction.

The General Accounting Office in a 1971 study concluded that the primary impact of Davis-Bacon was to increase public construction costs by 5 to 15 percent, translating into approximately \$1 to \$3 billion annually. In addition, Davis-Bacon imposes burdensome paperwork costs upon contractors and subcontractors—often running as high as 1 to 2 percent of total projects costs—discourages full utilization of apprentices and helpers, contributes to declining employee morale, and impacts heavily upon totally private construction. It is wholly unrealistic to suppose that wage rates on the 30 percent of total national construction that is covered by Davis-Bacon do not affect rates on the 70 percent that is not, especially among contractors who do a high percentage of public construction work.

Originally designed to curb the importation of low wage rates on public construction as a result of contractors hiring platoons of workers from low wage areas of the country for work in higher wage areas, the Davis-Bacon Act today accomplishes the exact opposite result. Instead of conducting comprehensive wage surveys to determine accurately area prevailing wages, the Department of Labor has increasingly found it far easier to simply look to union wage rates in the nearest organized communities, and impose them as the prevailing rate. A study by the American Enterprise Institute concluded that:

In practice, it appears that an overwhelming proportion of wage determinations carry union wage rates regardless of area or type of construction . . . The bias in favor of union wage rates is also likely to be a consequence of the very large number of determinations that have to be made each year and resulting pressure for expedience in making determinations.

As a result, it is extremely common for

the Labor Department to look to urban areas many miles away in order to justify prevailing wages for small rural projects. Again the American Enterprise Institute study concludes that, in this process, local contractors and often local workers are excluded from public construction jobs. When matching funds are involved, smaller communities have increasingly opted out of Federal financing completely rather than complying with Davis-Bacon rates.

Mr. Chairman, the purpose of the immediate amendment is simply to extend the basic principle of competitive bidding to all aspects of military procurement. It is simply a matter of insuring that the Defense Department gets the most for its money. In no area of Government spending is it more imperative that we eliminate policies that have the effect of artificially increasing costs. This is especially indefensible when the supposed beneficiaries of the economic redistribution are individuals with incomes well above the national median, and well above the income levels of the taxpayers who are doing the subsidizing.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. HAGEDORN. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I would like to compliment the gentleman for offering this amendment. I am not familiar with costs in military construction, but I know that in the school construction business, we have spent millions and millions of dollars beyond what we would have had to spend of taxpayers' money, because they base the Davis-Bacon going wage on the Philadelphia area, not the York, Pa., area. It became very expensive to local taxpayers, and an unnecessary expense.

Mr. HAGEDORN. I thank the gentleman from Pennsylvania for his comments. I noted the comments of the gentleman from Iowa (Mr. BEDELL) earlier when he talked about military construction costs of hospitals. This is certainly prevalent in the same area and in many other areas. Davis-Bacon is involved with many different areas of the Federal Government, and I am convinced that we are going to have to start to chop away at it one at a time to bring public attention to this super-minimum wage which was mandated by Congress and established in an era at a time of severe depression and at a time when we did not have the competitiveness we have today.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

(By unanimous consent Mr. HAGEDORN was allowed to proceed for 2 additional minutes.)

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. HAGEDORN. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, I appreciate the remarks made by the gentleman from Minnesota, but I disagree with him on this issue, although I do agree with him on other issues.

But, is it not a fact that Richard Nixon was the one who made the last reduction in this last program? In fact, he eliminated Davis-Bacon, thinking he was going to save money. He thought about it for about a month, and then reversed his field and reversed his Executive order.

Mr. HAGEDORN. Unfortunately, former President Nixon succumbed to the political pressures of certain powerful labor interests of this nation when he failed to preserve suspension of Davis-Bacon in 1971. This was why it takes unified action on the part of this body. We can start now to make up lost time.

Mr. FORD of Michigan. Mr. Chairman, would the gentleman yield?

Mr. HAGEDORN. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I am a little bit surprised that the gentleman attributes to the former President partisan political considerations in this, in view of the fact that the Davis-Bacon is authored by an outstanding Republican Member of this House from the State of New York, and it was signed into law by an outstanding—from the gentleman's point of view, I am sure—Republican President named Herbert Hoover, in 1931. I just thought I would bring that up so that this would not turn into a truly partisan discussion of Davis-Bacon. It is not a New Deal scheme.

Does the gentleman feel that President Hoover and Representative Bacon were motivated by the same kind of partisan political considerations he just mentioned?

Mr. HAGEDORN. Times have changed, and that was an error long before I came here. I think that if they were here today, they too would recognize the error of their ways and be right here supporting this amendment.

Mr. FORD of Michigan. I might say to the gentleman that the Republican attitude toward working people has changed.

Mr. CRANE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the purpose of this amendment, is threefold: First, to cut some fat out of the defense budget; second, to enable more firms to compete for certain types of military construction contracts; and third, to reverse the practice of aiding a special interest group at the expense of the national interest. It should have a particular attraction for all those who have urged a cut in the defense budget because not only does it provide for such a cut but the cut will, in no way, have an adverse effect on our Nation's military defenses.

Briefly put, what this amendment does is drop from the bill we have before us (H.R. 6990) the wording in section 604 that applies Davis-Bacon Act requirements to those types of contracts that would not otherwise be covered by Davis-Bacon. Specifically, the contracts affected are of two types—nonadvertised negotiated and turnkey—both of which are frequently used for military housing projects. Between them, they comprise

roughly 10 percent of the contracts authorized in this \$3.5 billion bill.

What this amendment does, therefore, is save that percentage of \$350 million which is represented by the added cost of contractors having to pay workers on these projects the prevailing wage rate, which is usually the union scale in the nearest metropolitan area. In 1971, the GAO did a study on this added cost factor and determined that the Davis-Bacon Act, which requires it, increased the cost of Federal construction projects by an average of 5 to 15 percent. Individual examples compiled from GAO and other sources by Dr. Armand Thieblot and published by the University of Pennsylvania's prestigious Wharton School of Business, bear out the results of the GAO study.

Illustrative of the problem is the Capehart case where the Marine Corps contracted for a 450-unit housing project in the vicinity of its base at Quantico, Va., instead of paying the prevailing wage in the Quantico area, the GAO determined that the wage rates that were actually paid were actually those paid in Washington, D.C., some 35 miles away. As a result, labor costs were increased by over \$1 million which, in turn, required the omission of certain desirable features that were in the original plans.

Similarly, in 1968, the Air Force awarded a contract for the construction of 162 units of family housing for Tinker Air Force Base in Oklahoma. Subsequent analysis indicated that the wage rate applied as a result of Davis-Bacon drove the cost of the project \$431,000 higher than if it had been private residential housing of the same type. A similar thing happened at Langley Air Force Base in Virginia where it was estimated that the cost of 23 housing units similar to private residential construction was \$188,000 above what it would have been had the project been private and Davis-Bacon had not been applicable.

If one compares this estimated Davis-Bacon cost with the total cost of each of these last two projects, the percentage add-on comes to 12.3 percent for the Tinker Air Force Base project and 13.6 percent for the Langley Air Force Base project. Even higher percentages for other projects, coupled with the fact that the scope of Davis-Bacon has certainly not decreased since 1968, strongly suggest that a 15 percent of total cost estimate for the effect of Davis-Bacon is more realistic than 5 percent and even that may be too low. Without this amendment, I suspect that the American taxpayers will be spending at least \$50 million on military construction that they should not have to spend—and for no good reason.

The question we need to examine is, if this kind of money can be saved and our military capability will not be adversely affected, why have Davis-Bacon provisions been included—not only in this bill but in previous bills? To argue, as the original framers did, that Davis-Bacon is necessary to prevent wage busting that will undermine the construction trades unions is obviously anachronistic.

In reality, Davis-Bacon provisions which mandate artificial wage boosting undermine nonunion construction workers and contractors—which is why the construction unions favor their continuation. Or, to put it another way, in times of prosperity as opposed to depression—when Davis-Bacon was originally enacted—such provisions constitute no more and no less than an organizing tool for a single special interest group—the construction trades unions.

Consider, if you will, the plight of the nonunion contractor who is interested in bidding on a Federal construction project, in this case military housing. That contractor knows he is going to have to pay a higher rate than he has been paying, or he would otherwise pay, his employees. Even if he could afford it, he would soon be faced with some real problems, notably: First, dissatisfaction on the part of other employees of his who are working private jobs and are being paid less; and second, reluctance on the part of the employees who worked the Federal project to take what seems like a pay cut on the next private project. So, rather than face such problems, the nonunion contractor is reluctant to bid and the job goes to a union contractor. Ironically, that union contractor may be from outside the area—a perverse reversal of the depression era concern about the possibility of itinerant nonunion contractors coming in and undercutting the unions. What is worse, such a state of affairs is only possible because the Federal Government, by virtue of having left the Davis-Bacon Act on the books, is effectively taking the side of the unions which certainly do not need any more protection than they have already.

In addition to the fact that Davis-Bacon keeps down nonunion competition and helps attract construction workers to the unions, the act also does the proverbial legwork of the labor unions—the organizing of workers and collectively bargaining on their behalf. Instead of having to negotiate for wages, the unions have the pay scale established by the Department of Labor even though it may not reflect union strength or the pay scale for private construction. As Dr. Thieblot pointed out in his aforementioned book, what Davis-Bacon does for the construction unions is similar to what European governments do for, or to, their workers—make the union wage scale binding on all workers without requiring the unions to have first organized those workers on their own.

And, if all that is not enough, Davis-Bacon may even be used as a jurisdictional weapon by the construction unions. If, for instance, the project in question could be carried out by either industrial workers or construction workers, the applicability of the Davis-Bacon Act would favor the latter.

The biggest irony of all this, and there are a number or ironies, is that, on the heels of common situs, the House is considering continuance of yet another special advantage for the construction trades unions. Granted, H.R. 6990 does not expand the special advantage but, as

the common situs vote clearly indicated, the American people oppose such advantages in the first place.

In closing, let me make a couple of final points. First of all, waiving Davis-Bacon, whether it be on military construction contracts or on all Federal contracts, will not result in "wage wars" that would drive pay scales down to subsistence levels. Even if there were an oversupply of workers large enough to make that possible, the minimum wage and unemployment compensation laws mitigate against that happening.

Moreover, a little more opportunity for competition would be a good thing; not only would it keep costs down to a level more in line with the norm for the area but it would give more people the opportunity to work without having to join a union. Arguments to the contrary should not be taken for granted; instead they should be examined for what they are—examples of special interest rhetoric.

The second and last point is that, if we are a more equitable balance of power between labor and management, the Federal Government cannot, through legislative enactment, take a position favoring one side or the other. From that standpoint, Davis-Bacon is no different than giving food stamps for strikers; it frees the unions from the free market restraints that would otherwise work to bring about compromises on the part of both labor and management and ultimately negotiated settlements agreeable to both. To the extent that those restraints are lifted, the unions benefit at the expense of management and ultimately the American people. I mention the latter group because a settlement that is more or less extorted, as opposed to negotiated, is likely to be artificially generous which will mean higher prices to cover the added costs which, in turn, will contribute to more inflation.

This last point cannot be stressed enough. The Davis-Bacon Act is inherently inflationary and in the case of these military construction contracts, its application will cost the American people at least \$17 million, probably as much as \$53 million and possibly more. At a time when we are running budget deficits of \$60 billion or more a year while concurrently witnessing a rapid buildup of Soviet military power, we cannot afford the luxury of tolerating fat in the defense budget while cramping the muscle.

Mr. Chairman, this amendment will produce more bang for the buck and defense for the dollar. I urge its adoption.

Mr. NEDZI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this is obviously a very complicated issue. The subcommittee has not had this matter under consideration at all. We first learned of it late Friday afternoon. I would state to the Members present that the Armed Services Subcommittee held nine days of hearings on this measure. We permitted Members of the House to come in and testify on any provision of the legis-



lation. No one advised the committee that they desired to appear with reference to this issue and, as I indicated, I was not advised of it until late Friday afternoon. We reviewed the amendment, and it re-forms all of chapter 137, title X, United States Code, which would be all of the procurement regulations governing the Defense Department. So, Mr. Chairman, for that reason, among others, I have to oppose the amendment, and I ask that the Members vote it down.

Mr. BEARD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. NEDZI. I yield to the gentleman from Tennessee (Mr. BEARD).

Mr. BEARD of Tennessee. I thank the gentleman for yielding.

Mr. Chairman, first of all, I would like to take this opportunity to compliment my chairman on the extended hearings he did hold. He did an excellent job on this particular piece of legislation, one I think we all should be proud of. I would like to say that this is an issue that has been brought up, I think, for the past 4 years that I have been on the subcommittee. To the man, every witness has stated that it is a very costly burden to have to pay wages, say, in North Carolina, at Camp Lejeune, that have to be paid in Atlanta, Ga., almost twice the amount as in North Carolina.

I appreciate what the gentleman is saying about the complicated issue of it. At this time I would like to ask my chairman if he would agree that this is an important enough issue, because it does deal in savings of dollars, to conduct hearings on the Davis-Bacon Act so that we can give these gentlemen an opportunity and other witnesses an opportunity to fully discuss it.

Mr. NEDZI. Mr. Chairman, I would just like to say to the gentleman that he is in error with respect to the wage rates.

Wage rates in North Carolina have nothing to do with wage rates in Georgia. The idea is that we pay the prevailing wage rate in the area in which the work under the contract is being performed.

Mr. BEARD of Tennessee. Mr. Chairman, I would say to the subcommittee chairman that that is not totally the case. However, I would rather not get into a debate on that. All I ask is that we do have hearings on this particular issue because I think it is significant enough to justify the holding of hearings.

Mr. NEDZI. Mr. Chairman, if sufficient interest is indicated on the issue, we will, of course, hold hearings on it.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. NEDZI. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I understand the generosity of my colleague, the gentleman from Michigan (Mr. NEDZI), in responding to the question, but I would like to caution both gentlemen who are involved in this colloquy that the jurisdiction over this legislation concerning any change in the provisions of the Davis-Bacon Act with respect to how we determine the prevailing wage is in the Committee on Education and Labor, and I can assure both gentlemen that any legislation that is

introduced for that purpose would have our complete and very careful attention.

The jurisdiction belongs in the Committee on Education and Labor, not in the Committee on Armed Services. That is why this amendment should be voted down. It is the wrong fight in the wrong place at the wrong time, and the best we can do with this is to confuse Members. Last year we only confused 35 Members, and 267 were not confused. I suspect we will have a similar outcome today.

Mr. Chairman, it is not fair to the people to suggest that this type of legislation should be a part of our consideration and that this committee should burden itself with a very technical piece of legislation like the Davis-Bacon Act.

Mr. BEARD of Tennessee. Mr. Chairman, if the gentleman will yield further, I would like to say that that is the same argument I have heard about OSHA reform, about welfare reform, and also about educational reform.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. NEDZI. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Chairman, I appreciate the statement of the gentleman from Michigan (Mr. FORD) and his suggestion that this legislation ought to evolve out of the Committee on Education and Labor. I have introduced comprehensive legislation to reform this act. I would solicit the encouragement and assistance of the Members to get the committee chairman to schedule hearings so we can bring forth the facts relative to this matter and so we can demonstrate clearly and concisely what is happening across this Nation and show instances where the Davis-Bacon Act is deliberately being misused.

Mr. HOWARD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the Davis-Bacon provision that is being discussed in this legislation is contained in, I suppose, every piece of legislation that deals with Federal money being used in construction. It is in the HEW provisions and is applied when we build hospitals using the taxpayers' money, and several years ago it was included in the highway construction legislation.

Year after year we have heard complaints about the Davis-Bacon provisions, and people come to the Congress asking us to repeal the whole thing.

The Davis-Bacon provision simply states that when we use the taxpayers' money for construction, the prevailing wage ought to be paid to the people who take part in that construction. There seems to be no disagreement over the philosophy or the fact that when we use the taxpayers' money—money that is paid not just by contractors but by wage earners and laborers—they ought to have a right to be sure they will get a fair shake in being paid the prevailing wage.

In hearings before the Committee on Public Works and Transportation on this provision of Davis-Bacon, we had the president of the National Association of

Manufacturers in to testify, and he represents certainly about the most anti-labor position anyone could hold in this country. When he was asked whether or not he found disagreement with the philosophy of Davis-Bacon in paying the prevailing wage to the people whose tax dollars we use, he said he could not.

The big complaint is always that it is not being administered properly, that the Department of Labor is using false statistics. If that is the case, then I submit that the argument is not here in the Congress; it is downtown; it is in the application of the Davis-Bacon provision by the Department of Labor. But we should not try to solve that problem here in the Congress by saying that we are going to abandon the philosophy and the idea that we are going to pay the people who do the work and perform the construction, the people whose taxes are being used for this purpose, a prevailing wage.

Mr. Chairman, it is a good and a fair provision. It ought to stay in the law. If we do anything unwise this afternoon and take out this provision, we know that we are going to get this amendment in every kind of construction bill that comes down the pike. It is just not fair to repeal the Davis-Bacon provision, and I hope we do not do that here today because our actions could have very bad complications across the country. It is not being administered properly, let us correct it downtown, not by legislation here in Congress.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, I want to commend the gentleman from New Jersey (Mr. HOWARD) for his remarks. Certainly he has made very clear statements about Davis-Bacon and the standards that are set.

As I understand it, these contracts that are negotiated in local areas are negotiated under the Landrum-Griffin Act or the earlier Wagner Act legislation; is that not correct?

Mr. HOWARD. That is correct, as far as I know.

I would like to say to the gentleman also that in using the taxpayers' money, whether the contractors bid or not on this job, they know when they bid that they are going to keep it within an area in which they are surely going to get the prevailing profit on this construction.

I think the least they can do is make sure the workers who build it have a chance to make the prevailing wage as well. I think it is only fair.

Mr. LEGGETT. If the gentleman will yield further, if one wanted to save money, could he not also provide that contractors bidding on Federal work need not comply with the Fair Labor Standards Act, and pay the minimum wage?

Mr. HOWARD. That would make as much sense.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, the

objection is not to the philosophy, as the gentleman mentioned, as long as they pay prevailing wages on construction jobs in that area, but unfortunately that is not always true.

The gentleman says that we have no responsibility. Where is the oversight responsibility to make sure that the law is carried out?

Mr. HOWARD. The oversight responsibility could be in looking into it through, perhaps, the major committee, the Committee on Education and Labor. However, I say the solution is not to abandon a good philosophy. The solution is down-town, and it might be with an investigative committee that is not a legislative committee on oversight.

I would just as soon see it taken care of in that way rather than having us abandon the whole principle of prevailing wage in the legislation here so that there is no hope of even getting it done in a fair way.

Mr. GOODLING. I would only like to say that I serve on that committee, and I hope that we can get a fair hearing on the issues.

Mr. HOWARD. I hope so.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HOWARD) has expired.

(By unanimous consent, Mr. HOWARD was allowed to proceed for 1 additional minute.)

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Chairman, would the gentleman from New Jersey (Mr. HOWARD) join with me in calling for investigations by the Subcommittee on Investigations and Review of the Committee on Education and Labor?

Mr. HOWARD. Absolutely; I would join with the gentleman right now in sending letters to the Department of Labor or to the Committee on Education and Labor.

The only thing I do not want to do is to use that argument, which may or may not be legitimate—I believe it is legitimate—to really do something very unfair in this legislation.

Therefore, Mr. Chairman, I will join the gentleman in his request, and maybe the gentleman would be willing to withdraw his amendment.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I would like to harken back to a comment made by our distinguished colleague, the gentleman from Michigan, recently about the timing of the origination of this system in 1931. In that year things were infinitely different; and one, I think, can certainly understand the rationale of that era. However, that is a time long since past. We are living now in an era when our primary concern is that we should try to live within our means, and this is the way in which to do it.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from Minnesota (Mr. HAGEDORN). First let me say that, contrary to the impression apparently held by the author of this amendment, the Davis-Bacon Act was not some post New Deal scheme, sponsored by Democrats and labor unions.

Although the act was first passed in 1931 and signed into law by President Hoover as the first prevailing wage statute for the construction industry, it was originally conceived by a Republican Congressman, Robert Bacon of New York, in 1926 or 1927.

The purpose of this act was not, as suggested, to increase industry construction wages in any given area. In fact, by its nature, it cannot do this.

In supporting this legislation in 1927, Congressman Bacon cited the example of the construction in his district of a Veterans Bureau Hospital. When bids were solicited, New York contractors, bidding with prevailing wages then in the area, lost out to an out-of-State contractor who imported out-of-State workers, put them into poor housing and paid them very low wages. It is clear that Congressman Bacon intended to protect not only the New York labor that was displaced in this fashion, but also the employee-employer relationship in that area between construction workers and their employers.

While the Davis-Bacon Act does not automatically apply to all Federal construction programs, since that time Congress has repeatedly written other legislation to make it apply to virtually every Federal act which provides construction money from Federal tax revenues.

A guiding principle has been that the Federal Government, spending tax dollars collected from both workers and contractors, should not support competitive wage policies created by itinerant contractors attempting to exploit Federal construction dollars to depress existing wage rates.

It is clear from the statements made by supporters of the Hagedorn amendment, who claim not to disagree with the basic philosophy of this act, that what they seek is changes in the method of establishing wage standards by the Secretary of Labor, rather than a blanket repeal of the law, which would have an effect on all military construction. In effect, the supporters of this amendment are asking the House to repeal a basic principle almost a half-century old by virtue of a briefly considered and little understood amendment here on the floor today.

If the gentleman wishes to make changes in the basic Davis-Bacon Act, he should pursue the normal legislative process to change that law so that all persons interested—in business, labor, and government—might be heard before such legislation is considered.

Mr. Chairman, this same amendment was offered to a military construction bill before the House on May 7, 1976, and it was defeated by a vote of 279 yeas to 35 nays. I recommend that members of the committee today follow the greater wis-

dom shown by the House last year and help us to soundly defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. HAGEDORN).

The question was taken; and the Chairman announced that the yeas appeared to have it.

Mr. CRANE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 310]

|                 |                |               |
|-----------------|----------------|---------------|
| Addabbo         | Gialmo         | Poage         |
| Alexander       | Gibbons        | Pritchard     |
| Ammerman        | Gradison       | Railsback     |
| Anderson, Ill.  | Hammer-        | Reuss         |
| Andrews, N.C.   | schmidt        | Roe           |
| Archer          | Hansen         | Roncalio      |
| Armstrong       | Harkin         | Rosenthal     |
| Ashbrook        | Harsha         | Runnels       |
| AuCoin          | Hawkins        | Russo         |
| Badillo         | Holland        | Ryan          |
| Baldus          | Hollenbeck     | Santini       |
| Barnard         | Holt           | Sarasin       |
| Beard, R.I.     | Horton         | Sawyer        |
| Bevill          | Ichord         | Scheuer       |
| Bonior          | Jenrette       | Sebelius      |
| Bonker          | Johnson, Colo. | Shuster       |
| Bowen           | Kastenmeier    | Sikes         |
| Breaux          | Kemp           | Spellman      |
| Brown, Calif.   | Koch           | St Germain    |
| Burton, John    | Levyas         | Staggers      |
| Carney          | Lloyd, Calif.  | Steers        |
| Cederberg       | Lujan          | Stokes        |
| Clawson, Del.   | McDade         | Teague        |
| Collins, Ill.   | McDonald       | Thompson      |
| Conyers         | McHugh         | Thone         |
| Cornwell        | McKinney       | Thornton      |
| de la Garza     | Mariennee      | Traxler       |
| Dent            | Mathis         | Tucker        |
| Derrick         | Metcalfe       | Udall         |
| Devine          | Milford        | Ullman        |
| Diggs           | Miller, Calif. | Waxman        |
| Dornan          | Mineta         | Weaver        |
| Downey          | Mitchell, Md.  | Whitehurst    |
| Drinan          | Moffett        | Wilson, Bob   |
| Eckhardt        | Murphy, N.Y.   | Winn          |
| Edwards, Calif. | Myers, Gary    | Wylder        |
| Evans, Colo.    | Myers, Michael | Yatron        |
| Filippo         | Neal           | Young, Alaska |
| Florio          | Nolan          | Young, Fla.   |
| Fraser          | Pattison       | Young, Tex.   |
| Frey            | Pettis         |               |
| Gephardt        | Pike           |               |

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. MIKVA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 6990, and finding itself without a quo-



rum, he had directed the Members to record their presence by electronic device, whereupon 310 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

## RECORDED VOTE

The CHAIRMAN. The pending business is the request of the gentleman from Illinois (Mr. CRANE) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 76, noes 298, not voting 59, as follows:

[Roll No. 311]

## AYES—76

|                |                  |              |
|----------------|------------------|--------------|
| Abdnor         | Flynt            | Pursell      |
| Andrews, N.C.  | Forsythe         | Quayle       |
| Archer         | Fountain         | Quillen      |
| Badham         | Frenzel          | Rhodes       |
| Bafalis        | Gooding          | Robinson     |
| Barnard        | Grassley         | Rousslet     |
| Bauman         | Guyer            | Rudd         |
| Beard, Tenn.   | Hagedorn         | Runnels      |
| Broyhill       | Hightower        | Satterfield  |
| Burgener       | Holt             | Schulze      |
| Burke, Fla.    | Jenkins          | Shuster      |
| Burleson, Tex. | Kelly            | Skubitz      |
| Butler         | Kindness         | Smith, Nebr. |
| Byron          | Latta            | Snyder       |
| Cochran        | Leach            | Spence       |
| Collins, Tex.  | Long, Md.        | Stangeland   |
| Corcoran       | Lujan            | Stockman     |
| Crane          | McClory          | Symms        |
| Daniel, R. W.  | McDonald         | Taylor       |
| Dickinson      | Mahon            | Treen        |
| Duncan, Tenn.  | Marriott         | Vander Jagt  |
| Edwards, Okla. | Martin           | Walker       |
| Emery          | Montgomery       | Whitten      |
| Erlenborn      | Moore            | Wiggins      |
| Evans, Del.    | Moorhead, Calif. | Winn         |
| Fenwick        |                  |              |

## NOES—298

|                  |                 |                 |
|------------------|-----------------|-----------------|
| Addabbo          | Chappell        | Foley           |
| Akaka            | Chisholm        | Ford, Mich.     |
| Allen            | Clausen         | Ford, Tenn.     |
| Ambro            | Don H.          | Fowler          |
| Anderson, Calif. | Clay            | Fraser          |
| Anderson, Ill.   | Cleveland       | Fuqua           |
| Andrews, N. Dak. | Cohen           | Gammage         |
| Annunzio         | Coleman         | Gaydos          |
| Applegate        | Conable         | Gephardt        |
| Ashley           | Conte           | Gialmo          |
| Aspin            | Conyers         | Gibbons         |
| AuCoin           | Corman          | Gilman          |
| Baucus           | Cornell         | Ginn            |
| Beard, R.I.      | Cornwell        | Glickman        |
| Bedell           | Cotter          | Goldwater       |
| Beilenson        | Coughlin        | Gonzalez        |
| Benjamin         | Cunningham      | Gore            |
| Bennett          | D'Amours        | Gradison        |
| Biaggi           | Daniel, Dan     | Gudger          |
| Bingham          | Danielson       | Hall            |
| Blanchard        | Davis           | Hamilton        |
| Blouin           | de la Garza     | Hanley          |
| Boggs            | Delaney         | Hannaford       |
| Boland           | Delums          | Harrington      |
| Bolling          | Derrick         | Harris          |
| Bonior           | Derwinski       | Harsha          |
| Bonker           | Dicks           | Heckler         |
| Bowen            | Diggs           | Hefner          |
| Brademas         | Dingell         | Hefst           |
| Breckinridge     | Dodd            | Hillis          |
| Brinkley         | Downey          | Holtzman        |
| Brodhead         | Drinan          | Horton          |
| Brooks           | Duncan, Oreg.   | Howard          |
| Broomfield       | Early           | Hubbard         |
| Brown, Calif.    | Edgar           | Huckaby         |
| Brown, Mich.     | Edwards, Ala.   | Hughes          |
| Brown, Ohio      | Edwards, Calif. | Hyde            |
| Buchanan         | Ellberg         | Ireland         |
| Burke, Calif.    | English         | Jacobs          |
| Burke, Mass.     | Ertel           | Jeffords        |
| Burlison, Mo.    | Evans, Colo.    | Johnson, Calif. |
| Burton, John     | Evans, Ga.      | Johnson, Colo.  |
| Burton, Phillip  | Evans, Ind.     | Jones, N.C.     |
| Caputo           | Fary            | Jones, Okla.    |
| Carney           | Fascell         | Jones, Tenn.    |
| Carr             | Findley         | Jordan          |
| Carter           | Fisher          | Kasten          |
| Cavanaugh        | Fithian         | Kastenmeier     |
| Cederberg        | Flood           | Kazen           |
|                  | Flowers         | Ketchum         |
|                  |                 | Keys            |

|                |              |               |
|----------------|--------------|---------------|
| Kildee         | Natcher      | Simon         |
| Kostmayer      | Neal         | Sisk          |
| Krebs          | Nedzi        | Skelton       |
| Krueger        | Nichols      | Slack         |
| LaFalce        | Nix          | Smith, Iowa   |
| Lagomarsino    | Nolan        | Solarz        |
| Le Fante       | Nowak        | Spellman      |
| Lederer        | O'Brien      | St Germain    |
| Leggett        | Oskar        | Staggers      |
| Lehman         | Oberstar     | Stanton       |
| Lent           | Obey         | Stark         |
| Lloyd, Tenn.   | Ottinger     | Steed         |
| Long, La.      | Panetta      | Steiger       |
| Luken          | Patten       | Stokes        |
| Lundine        | Patterson    | Stratton      |
| McCloskey      | Pattison     | Studds        |
| McCormack      | Pease        | Stump         |
| McDade         | Pepper       | Thone         |
| McEwen         | Perkins      | Trible        |
| McFall         | Pickle       | Tsongas       |
| McKay          | Pike         | Udall         |
| Madigan        | Pressler     | Ullman        |
| Maguire        | Preyer       | Van Deerlin   |
| Mann           | Price        | Vanik         |
| Markley        | Quile        | Vento         |
| Marks          | Rahall       | Volkmmer      |
| Mattox         | Rallsback    | Waggonner     |
| Mazzoli        | Rangel       | Walgren       |
| Meeds          | Regula       | Walsh         |
| Meyner         | Reuss        | Wampler       |
| Michel         | Richmond     | Watkins       |
| Mikulski       | Rinaldo      | Waxman        |
| Mikva          | Risenhoover  | Weiss         |
| Miller, Calif. | Roberts      | Whalen        |
| Miller, Ohio   | Rodino       | White         |
| Minish         | Rogers       | Whitley       |
| Mitchell, Md.  | Rooney       | Wilson, C. H. |
| Mitchell, N.Y. | Rose         | Wilson, Tex.  |
| Moakley        | Rosenthal    | Wirth         |
| Moffett        | Rostenkowski | Wolff         |
| Mollohan       | Roybal       | Wright        |
| Moorhead, Pa.  | Ruppe        | Wyllie        |
| Moss           | Santini      | Yates         |
| Mottl          | Sarasin      | Yatron        |
| Murphy, Ill.   | Scheuer      | Young, Alaska |
| Murphy, N.Y.   | Schroeder    | Young, Mo.    |
| Murphy, Pa.    | Seiberling   | Zablocki      |
| Murtha         | Sharp        | Zeferetti     |
| Myers, Michael | ShIPLEY      |               |
| Myers, Ind.    | Sikes        |               |

## NOT VOTING—59

|               |               |             |
|---------------|---------------|-------------|
| Alexander     | Harkin        | Poage       |
| Ammerman      | Hawkins       | Pritchard   |
| Armstrong     | Holland       | Roe         |
| Ashbrook      | Hollenbeck    | Roncallo    |
| Badillo       | Ichord        | Russo       |
| Baldus        | Jenrette      | Ryan        |
| Bevill        | Kemp          | Sawyer      |
| Breaux        | Koch          | Sebelius    |
| Clawson, Del  | Levitas       | Steers      |
| Collins, Ill. | Lloyd, Calif. | Teague      |
| Dent          | Lott          | Thompson    |
| Devine        | McHugh        | Thornton    |
| Dornan        | McKinney      | Traxler     |
| Eckhardt      | Marlenee      | Tucker      |
| Flippo        | Mathis        | Weaver      |
| Florio        | Metcalf       | Whitehurst  |
| Frey          | Milford       | Wilson, Bob |
| Hammer        | Mineta        | Wylder      |
| Schmidt       | Myers, Gary   | Young, Fla. |
| Hansen        | Pettis        | Young, Tex. |

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Thompson against.

Mr. Ashbrook for, with Mr. Pritchard against.

Mr. Lott for, with Mr. McHugh against.

Mr. Hansen for, with Mr. Hollenbeck against.

Mr. Devine for, with Mr. Steers against.

Mr. Sebelius for, with Mr. Hawkins against.

Mr. Del Clawson for, with Mr. Levitas against.

Mr. WAMPLER and Mr. TRIBLE changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT)

having assumed the chair, Mr. MIKVA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6990) to authorize certain construction at military installations, and for other purposes, pursuant to House Resolution 602, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. SYMMS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 351, nays 24, not voting 58, as follows:

[Roll No. 312]

## YEAS—351

|                  |                 |                 |
|------------------|-----------------|-----------------|
| Abdnor           | Cleveland       | Ginn            |
| Addabbo          | Cochran         | Glickman        |
| Akaka            | Cohen           | Goldwater       |
| Alexander        | Coleman         | Gonzalez        |
| Allen            | Collins, Tex.   | Gooding         |
| Ambro            | Conable         | Gore            |
| Anderson, Calif. | Conte           | Gradison        |
| Anderson, Ill.   | Corcoran        | Grassley        |
| Andrews, N.C.    | Corman          | Gudger          |
| Andrews, N. Dak. | Cornell         | Guyer           |
| Annunzio         | Cornwell        | Hagedorn        |
| Applegate        | Cotter          | Hall            |
| Archer           | Coughlin        | Hamilton        |
| Ashley           | Crane           | Hanley          |
| Aspin            | Cunningham      | Hannaford       |
| AuCoin           | D'Amours        | Harris          |
| Badham           | Daniel, Dan     | Harsha          |
| Bafalis          | Daniel, R. W.   | Heckler         |
| Barnard          | Danielson       | Hefner          |
| Baucus           | Davis           | Hefst           |
| Bauman           | de la Garza     | Hightower       |
| Beard, R.I.      | Delaney         | Hillis          |
| Beard, Tenn.     | Derrick         | Holt            |
| Bedell           | Derwinski       | Horton          |
| Beilenson        | Dickinson       | Howard          |
| Benjamin         | Dicks           | Hubbard         |
| Bennett          | Diggs           | Huckaby         |
| Biaggi           | Dingell         | Hughes          |
| Bingham          | Dodd            | Hyde            |
| Blanchard        | Downey          | Ireland         |
| Blouin           | Drinan          | Jacobs          |
| Boggs            | Duncan, Oreg.   | Jeffords        |
| Boland           | Duncan, Tenn.   | Jenkins         |
| Bolling          | Early           | Johnson, Calif. |
| Bonior           | Edgar           | Johnson, Colo.  |
| Bonker           | Edwards, Ala.   | Jones, N.C.     |
| Bowen            | Edwards, Calif. | Jones, Okla.    |
| Brademas         | Edwards, Okla.  | Jones, Tenn.    |
| Breckinridge     | Ellberg         | Jordan          |
| Brinkley         | Emery           | Kasten          |
| Brodhead         | English         | Kazen           |
| Brooks           | Erlenborn       | Kelly           |
| Broomfield       | Ertel           | Ketchum         |
| Brown, Calif.    | Evans, Colo.    | Keys            |
| Brown, Mich.     | Evans, Del.     | Kildee          |
| Brown, Ohio      | Evans, Ga.      | Kindness        |
| Buchanan         | Evans, Ind.     | Kostmayer       |
| Burke, Calif.    | Fary            | Krebs           |
| Burke, Fla.      | Fascell         | Krueger         |
| Burke, Mass.     | Fenwick         | LaFalce         |
| Burlison, Mo.    | Findley         | Lagomarsino     |
| Burton, John     | Fisher          | Latta           |
| Burton, Phillip  | Fithian         | Le Fante        |
| Caputo           | Flood           | Leach           |
| Carney           | Flowers         | Lederer         |
| Carr             | Flynt           | Leggett         |
| Carter           | Foley           | Lehman          |
| Cavanaugh        | Ford, Mich.     | Lent            |
| Cederberg        | Ford, Tenn.     | Lloyd, Tenn.    |
| Chappell         | Fountain        | Long, La.       |
| Clausen          | Fowler          | Long, Md.       |
| Don H.           | Fraser          | Lujan           |
| Clay             | Fuqua           | Lukens          |
|                  | Gammage         | Lundine         |
|                  | Gaydos          | McClory         |
|                  | Gephardt        | McCloskey       |
|                  | Gialmo          | McCormack       |
|                  | Gibbons         | McDade          |
|                  | Gilman          | McDonald        |
|                  |                 | McEwen          |

McFall  
McKay  
Madigan  
Mahon  
Mann  
Markey  
Marks  
Marriott  
Martin  
Mattox  
Mazzoli  
Meeds  
Meyner  
Michel  
Mikulski  
Mikva  
Miller, Calif.  
Miller, Ohio  
Minish  
Mitchell, N.Y.  
Moak'ey  
Mollohan  
Montgomery  
Moore  
Moorhead,  
Calif.  
Moorhead, Pa.  
Moss  
Mottl  
Murphy, Ill.  
Murphy, N.Y.  
Murphy, Pa.  
Myers, Michael  
Myers, Ind.  
Natcher  
Neal  
Nedzi  
Nichols  
Nix  
Nowak  
O'Brien  
Oskar  
Oberstar  
Obey  
Ottinger  
Panetta  
Patten  
Patterson  
Pattison

Pease  
Pepper  
Perkins  
Pickle  
Pike  
Pressler  
Preyer  
Price  
Quayle  
Quillen  
Rahall  
Rallsback  
Regula  
Reuss  
Rhodes  
Rinaldo  
Risenhoover  
Roberts  
Robinson  
Rodino  
Rogers  
Rooney  
Rose  
Rosenthal  
Rostenkowski  
Rousselet  
Rudd  
Runnels  
Ruppe  
Santini  
Sarasin  
Satterfield  
Schroeder  
Schulze  
Seiberling  
Sharp  
Shuster  
Sikes  
Simon  
Sisk  
Skelton  
Slack  
Smith, Iowa  
Smith, Nebr.  
Snyder  
Solarz  
Spellman  
Spence

St Germain  
Staggers  
Stangeland  
Stanton  
Steed  
Steiger  
Stockman  
Stratton  
Studds  
Stump  
Symms  
Taylor  
Thone  
Treen  
Trible  
Tsongas  
Udall  
Ullman  
Van Deerlin  
Vander Jagt  
Vanik  
Vento  
Waggonner  
Walgren  
Walker  
Walsh  
Wampler  
Watkins  
Waxman  
Whalen  
White  
Whitley  
Whitten  
Wiggins  
Wilson, C. H.  
Wilson, Tex.  
Winn  
Wirth  
Wolf  
Wright  
Wyllie  
Yates  
Yatron  
Young, Alaska  
Young, Mo.  
Zablocki  
Zeferetti

## NAYS—24

Ammerman  
Chisholm  
Conyers  
Dellums  
Forsythe  
Frenzel  
Harrington  
Holtzman

Kastenmeier  
Maguire  
Mitchell, Md.  
Moffett  
Murtha  
Nolan  
Pursell  
Rangel

Richmond  
Roybal  
Scheuer  
Shipley  
Stark  
Stokes  
Volkmmer  
Weiss

## NOT VOTING—58

Armstrong  
Ashbrook  
Badillo  
Baldus  
Bevill  
Breaux  
Clawson, Del.  
Collins, Ill.  
Dent  
Devine  
Dornan  
Eckhardt  
Flippo  
Florio  
Frey  
Hammer-  
schmidt  
Hansen  
Harkin  
Hawkins

Holland  
Hollenbeck  
Ichord  
Jenrette  
Kemp  
Koch  
Levitas  
Lloyd, Calif.  
Lott  
McHugh  
McKinney  
Marlenee  
Mathis  
Metcalf  
Milford  
Mineta  
Myers, Gary  
Pettis  
Poage  
Pritchard

Roe  
Roncalio  
Russo  
Ryan  
Sawyer  
Sebelius  
Skubitz  
Steers  
Teague  
Thompson  
Thornston  
Traxler  
Tucker  
Weaver  
Whitehurst  
Wilson, Bob  
Wyder  
Young, Fla.  
Young, Tex.

The Clerk announced the following pairs:

Mr. Thompson with Mr. Harkin.  
Mr. Teague with Mr. Metcalfe.  
Mr. Baldus with Mr. Thornton.  
Mr. Levitas with Mr. Roe.  
Mr. McHugh with Mrs. Pettis.  
Mr. Breaux with Mr. Devine.  
Mr. Hawkins with Mr. Frey.  
Mr. Florio with Mr. Lott.  
Mr. Jenrette with Mr. Young of Florida.  
Mr. Dent with Mr. Skubitz.  
Mrs. Collins of Illinois with Mr. Mineta.  
Mr. Eckhardt with Mr. Marlenee.  
Mr. Tucker with Mr. Hansen.  
Mr. Lloyd of California with Mr. Hammer-  
schmidt.  
Mr. Flippo with Mr. Del Clawson.

Mr. Bevill with Mr. Pritchard.  
Mr. Roncalio with Mr. Ashbrook.  
Mr. Koch with Mr. Gary A. Myers.  
Mr. Badillo with Mr. McKinney.  
Mr. Traxler with Mr. Sebelius.  
Mr. Russo with Mr. Dornan.  
Mr. Mathis with Mr. Wyder.  
Mr. Ichord with Mr. Steers.  
Mr. Holland with Mr. Weaver.  
Mr. Milford with Mr. Ryan.  
Mr. Bob Wilson with Mr. Young of Texas.  
Mr. Hollenbeck with Mr. Whitehurst.  
Mr. Sawyer with Mr. Kemp.

So the bill was passed.  
The result of the vote was announced  
as above recorded.

A motion to reconsider was laid on the  
table.

Mr. NEDZI. Mr. Speaker, I ask unani-  
mous consent to take from the Speaker's  
table the Senate bill (S. 1474) to author-  
ize certain construction at military in-  
stallations, and for other purposes, and  
ask for its immediate consideration.

The Clerk read the title of the Senate  
bill.

The SPEAKER pro tempore. Is there  
objection to the request of the gentle-  
man from Michigan?

There was no objection.

The Clerk read the Senate bill, as fol-  
lows:

*Be it enacted by the Senate and House of  
Representatives of the United States of  
America in Congress assembled,*

## TITLE I—ARMY

SEC. 101. The Secretary of the Army may  
establish or develop military installations  
and facilities by acquiring, constructing,  
converting, rehabilitating, or installing per-  
manent or temporary public works, includ-  
ing land acquisition, site preparation, ap-  
purtenances, utilities, and equipment for  
the following acquisition and construction:

## INSIDE THE UNITED STATES

## UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, \$15,976,000.  
Fort Campbell, Kentucky, \$553,000.  
Fort Carson, Colorado, \$2,301,000.  
Fort Hood, Texas, \$13,142,000.  
Fort Lewis, Washington, \$985,000.  
Fort Meade, Maryland, \$3,168,000.  
Fort Ord, California, \$4,149,000.  
Presidio of San Francisco, California,  
\$500,000.  
Fort Polk, Louisiana, \$48,720,000.  
Fort Richardson, Alaska, \$1,990,000.  
Fort Riley, Kansas, \$531,000.  
Schofield Barracks, Hawaii, \$10,189,000.  
Fort Stewart/Hunter Army Air Field,  
Georgia, \$10,991,000.  
Fort Wainwright, Alaska, \$6,985,000.

UNITED STATES ARMY TRAINING AND DOCTRINE  
COMMAND

Fort Belvoir, Virginia, \$5,503,000.  
Fort Benjamin Harrison, Indiana, \$1,796,-  
000.  
Fort Benning Georgia, \$23,099,000.  
Fort Bliss, Texas, \$1,881,000.  
Fort A. P. Hill, Virginia, \$423,000.  
Fort Jackson, South Carolina, \$366,000.  
Fort Knox, Kentucky, \$15,541,000.  
Fort Lee, Virginia, \$313,000.  
Fort McClellan, Alabama, \$1,805,000.  
Fort Rucker, Alabama, \$1,250,000.  
Fort Sill, Oklahoma, \$1,100,000.

UNITED STATES ARMY MATERIEL DEVELOPMENT  
AND READINESS COMMAND

Aberdeen Proving Ground, Maryland,  
\$8,458,000.  
Anniston Army Depot, Alabama, \$4,828,-  
000.  
Badger Army Ammunition Plant, Wiscon-  
sin, \$688,000.

Corpus Christi Army Depot, Texas, \$7,583,-  
000.

Detroit Arsenal, Michigan, \$288,000.  
Harry Diamond Laboratory, Maryland, \$1,-  
305,000.  
Holston Army Ammunition Plant, Tennes-  
see, \$26,846,000.  
Indiana Army Ammunition Plant, In-  
diana, \$1,004,000.  
Iowa Army Ammunition Plant, Iowa,  
\$708,000.  
Letterkenny Army Depot, Pennsylvania,  
\$310,000.  
Lexington Blue-Grass Army Depot, Ken-  
tucky, \$1,827,000.  
Lone Star Army Ammunition Plant, Texas,  
\$816,000.  
Picatinny Arsenal, New Jersey, \$9,593,000.  
Pine Bluff Arsenal, Arkansas, \$4,439,000.  
Pueblo Army Depot, Colorado, \$3,011,000.  
Red River Army Depot, Texas, \$1,193,000.  
Redstone Arsenal, Alabama, \$962,000.  
Rock Island Arsenal, Illinois, \$6,384,000.  
Tooele Army Depot, Utah, \$17,415,000.  
Umatilla Army Depot, Oregon, \$2,921,000.  
White Sands Missile Range, New Mexico,  
\$866,000.

## AMMUNITION FACILITIES

Holston Army Ammunition Plant, Tennes-  
see, \$4,616,000.  
Indiana Army Ammunition Plant, Indiana,  
\$1,009,000.  
Iowa Army Ammunition Plant, Iowa, \$11,-  
192,000.  
Longhorn Army Ammunition Plant, Texas,  
\$555,000.  
Louisiana Army Ammunition Plant, Louisi-  
ana, \$4,345,000.  
Milan Army Ammunition Plant, Tennessee,  
\$10,467,000.  
Mississippi Army Ammunition Plant, Mis-  
sissippi, \$181,200,000.  
Newport Army Ammunition Plant, Indiana,  
\$822,000.  
Radford Army Ammunition Plant, Virginia,  
\$203,000.  
Riverbank Army Ammunition Plant, Cali-  
fornia, \$584,000.  
Sunflower Army Ammunition Plant, Kan-  
sas, \$2,396,000.  
Unspecified Location, \$334,710,000.  
Volunteer Army Ammunition Plant, Ten-  
nessee, \$597,000.

UNITED STATES ARMY COMMUNICATIONS  
COMMAND

Fort Huachuca, Arizona, \$1,279,000.

## UNITED STATES MILITARY ACADEMY

United States Military Academy, West  
Point, New York, \$3,047,000.

UNITED STATES ARMY HEALTH SERVICES  
COMMAND

Walter Reed Army Medical Center, Dis-  
trict of Columbia, \$2,089,000.

## MILITARY TRAFFIC MANAGEMENT COMMAND

Bayonne Military Ocean Terminal, New  
Jersey, \$442,000.  
Sunny Point Military Ocean Terminal,  
North Carolina, \$631,000.

UNITED STATES ARMY INTELLIGENCE AND  
SECURITY COMMAND

Vint Hill Farms, Virginia, \$960,000.

## NUCLEAR WEAPONS SECURITY

Various locations, \$7,764,000.

## OUTSIDE THE UNITED STATES

## UNITED STATES ARMY, JAPAN

Various locations, \$3,898,000.

## KWAJALEIN MISSILE RANGE

National Missile Range, \$2,603,000.

UNITED STATES ARMY INTELLIGENCE AND  
SECURITY COMMAND

Various locations, \$1,331,000.

## UNITED STATES ARMY, EUROPE

Germany, various locations, \$187,428,000,  
including funds for the completion of the  
medical/dental clinic, Building 504, Pendle-  
ton Barracks, Giessen.



Italy, various locations, \$3,770,000.

Various locations: For the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations, including international military headquarters, for the collective defense of the North Atlantic Treaty Area, \$85,000,000. Within thirty days after the end of each quarter, the Secretary of the Army shall furnish to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a description of obligations incurred as the United States share of such multilateral programs.

#### NUCLEAR WEAPONS SECURITY

Various locations, \$6,800,000.

#### EMERGENCY CONSTRUCTION

SEC. 102. The Secretary of the Army may establish or develop Army installations and facilities by proceeding with construction made necessary by changes in Army missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, or (4) improved production schedules if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security, and in connection therewith to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of \$10,000,000. The Secretary of the Army, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1979 except for those public works projects concerning which the the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

#### TITLE II—NAVY

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment for the following acquisition and construction:

#### INSIDE THE UNITED STATES

##### TRIDENT FACILITIES

Various locations, \$106,910,000.

##### MARINE CORPS

Marine Corps Supply Center, Albany, Georgia, \$650,000.  
Marine Corps Air Station, Beaufort, South Carolina, \$1,100,000.  
Marine Corps Base, Camp Lejeune, North Carolina, \$13,400,000.  
Marine Corps Base, Camp Pendleton, California, \$1,380,000.  
Marine Corps Air Station, Cherry Point, North Carolina, \$4,500,000.  
Marine Corps Air Station, El Toro, California, \$600,000.  
Marine Corps Air Station, Kaneohe Bay, Hawaii, \$160,000.  
Marine Corps Recruit Depot, Parris Island, South Carolina, \$750,000.  
Marine Corps Recruit Depot, San Diego, California, \$1,200,000.  
Marine Corps Air Station, Santa Ana, California, \$750,000.

Marine Corps Base, Twentynine Palms, California, \$11,965,000.

#### CHIEF OF NAVAL OPERATIONS

Naval Academy, Annapolis, Maryland, \$365,000.  
Naval Observatory, Flagstaff, Arizona, \$80,000.  
Commander in Chief Pacific, Headquarters, Pearl Harbor, Hawaii, \$4,200,000.  
Naval Support Activity, Mare Island, Vallejo, California, \$2,900,000.  
Naval District Headquarters, Washington, District of Columbia, \$1,200,000.

#### COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Brunswick, Maine, \$3,750,000.  
Naval Air Station, Cecil Field, Florida, \$90,000.  
Naval Station, Charleston, South Carolina, \$180,000.  
Fleet Combat Direction Systems Training Center, Dam Neck, Virginia, \$400,000.  
Naval Amphibious Base, Little Creek, Virginia, \$3,600,000.  
Naval Station, Mayport, Florida, \$1,310,000.  
Naval Submarine Base, New London, Connecticut, \$470,000.  
Flag Administrative Unit Atlantic, Norfolk, Virginia, \$90,000.  
Fleet Intelligence Center Europe and Atlantic, Norfolk, Virginia, \$1,137,000.  
Naval Air Station, Norfolk, Virginia, \$14,350,000.  
Naval Station, Norfolk, Virginia, \$4,340,000.  
Naval Air Station, Norfolk, Oceana, Virginia, \$640,000.

#### COMMANDER IN CHIEF, PACIFIC FLEET

Naval Station, Adak, Alaska, \$11,000,000.  
Naval Air Station, Barbers Point, Hawaii, \$7,197,000.  
Naval Amphibious Base, Coronado, California, \$130,000.  
Naval Air Station, Miramar, California, \$3,830,000.  
Naval Air Station, Moffett Field, California, \$810,000.  
Naval Air Station, North Island, California, \$6,000,000.  
Commander Oceanographic System, Pacific, Pearl Harbor, Hawaii, \$7,400,000.  
Naval Station, Pearl Harbor, Hawaii, \$5,350,000.  
Naval Submarine Base, Pearl Harbor, Hawaii, \$2,090,000.  
Naval Station, San Diego, California, \$8,566,000.  
Naval Submarine Support Facility, San Diego, California, \$1,670,000.  
Naval Air Station, Whidbey Island, Washington, \$900,000.

#### CHIEF OF NAVAL EDUCATION AND TRAINING

Naval Air Station, Kingsville, Texas, \$550,000.  
Naval Education and Training Center, Newport, Rhode Island, \$270,000.  
Armed Forces Staff College, Norfolk, Virginia, \$160,000.  
Naval Training Center, Orlando, Florida, \$200,000.

Naval Amphibious School, Coronado, San Diego, California, \$3,450,000.  
Naval Submarine Training Center, Pearl Harbor, Hawaii, \$410,000.  
Naval Technical Training Center, Pensacola, Florida, \$2,400,000.

#### BUREAU OF MEDICINE AND SURGERY

Naval Regional Medical Center, Bremerton, Washington, \$1,450,000.  
Naval Regional Medical Center, Norfolk, Virginia, \$600,000.

#### CHIEF OF NAVAL MATERIAL

Naval Ship Research and Development Center, Annapolis, Maryland, \$280,000.  
Naval Ship Research and Development Center, Bethesda, Maryland, \$200,000.  
Puget Sound Naval Shipyard, Bremerton, Washington, \$11,600,000.

Polaris Missile Facility Atlantic, Charleston, South Carolina, \$18,150,000.

Charleston Naval Shipyard, Charleston, South Carolina, \$8,700,000.  
Naval Weapons Station, Charleston, South Carolina, \$850,000.  
Naval Air Rework Facility, Cherry Point, North Carolina, \$360,000.  
Naval Weapons Center, China Lake, California, \$900,000.  
Naval Weapons Station, Concord, California, \$2,550,000.  
Navy Public Works Center, Great Lakes, Illinois, \$850,000.  
Naval Avionics Facility, Indianapolis, Indiana, \$90,000.  
Naval Ordnance Station, Indian Head, Maryland, \$180,000.  
Naval Air Rework Facility, Jacksonville, Florida, \$1,200,000.  
Naval Torpedo Station, Keyport, Washington, \$3,540,000.  
Portsmouth Naval Shipyard, Kittery, Maine, \$10,030,000.  
Naval Air Station, Lakehurst, New Jersey, \$160,000.  
Long Beach Naval Shipyard, Long Beach, California, \$9,020,000.  
Naval Air Rework Facility, Norfolk, Virginia, \$390,000.  
Naval Supply Center, Norfolk, Virginia, \$1,200,000.  
Navy Public Works Center, Norfolk, Virginia, \$4,150,000.  
Naval Air Test Center, Patuxent River, Maryland, \$6,089,000.  
Naval Supply Center, Pearl Harbor, Hawaii, \$17,100,000.  
Pearl Harbor Naval Shipyard, Pearl Harbor, Hawaii, \$1,080,000.  
Navy Public Works Center, Pearl Harbor, Hawaii, \$3,000,000.  
Navy Public Works Center, Pensacola, Florida, \$1,650,000.  
Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, \$17,500,000.  
Pacific Missile Test Center, Point Mugu, California, \$1,980,000.  
Naval Construction Battalion Center, Port Hueneme, California, \$2,510,000.  
Norfolk Naval Shipyard, Portsmouth, Virginia, \$100,000.  
Naval Undersea Center, San Diego, California, \$250,000.  
Navy Public Works Center, San Francisco, California, \$480,000.  
Naval Air Propulsion Test Center, Trenton, New Jersey, \$240,000.  
Mare Island Naval Shipyard, Vallejo, California, \$24,100,000.  
Naval Research Laboratory, Washington, District of Columbia, \$330,000.  
Naval Surface Weapons Center, White Oak, Maryland, \$280,000.  
Naval Weapons Station, Yorktown, Virginia, \$5,800,000.

#### NAVAL TELECOMMUNICATIONS COMMAND

Naval Communications Station, Adak, Alaska, \$300,000.

#### NAVAL SECURITY GROUP COMMAND

Naval Security Group Department, Adak, Alaska, \$2,350,000.  
Naval Security Group Detachment, Sugar Grove, West Virginia, \$900,000.  
Naval Security Station, Washington, District of Columbia, \$90,000.

#### NUCLEAR WEAPONS SECURITY

Various locations, \$20,658,000.

#### OUTSIDE THE UNITED STATES

##### CHIEF OF NAVAL OPERATIONS

Naval Support Facility, Diego Garcia, Indian Ocean, \$7,300,000.

##### COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Facility, Antigua, British West Indies, \$180,000.  
Naval Station, Keflavik, Ireland, \$161,000.  
Naval Station, Roosevelt Roads, Puerto Rico, \$320,000.

## COMMANDER IN CHIEF, PACIFIC FLEET

Naval Public Works Center, Guam, Mariana Islands, \$2,800,000.

Navy Fleet Activities, Yokosuka, Japan, \$1,850,000.

## NAVAL FORCES EUROPE

Naval Air Facility, Sigonella, Italy, \$4,300,000.

## BUREAU OF MEDICINE AND SURGERY

Naval Regional Medical Clinic, Pearl Harbor, Midway Island Detachment, \$4,350,000.

## NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Naples, Italy, \$1,700,000.  
Naval Communications Unit, Thurso, Scotland, \$350,000.

## NAVAL SECURITY GROUP COMMAND

Naval Security Group Department, Rota, Spain, \$2,400,000.

## EMERGENCY CONSTRUCTION

Sec. 202. (a) The Secretary of the Navy may establish or develop Navy installations and facilities by proceeding with construction made necessary by changes in Navy missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, or (4) improved production schedules, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interest of national security, and in connection therewith to acquire, construct, convert, rehabilitate, or install permanent or temporary public works including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of \$20,000,000. The Secretary of the Navy, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1979 except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

(b) The Secretary of the Navy may use the authority contained in subsection (a) to provide the necessary facilities at King's Bay, Georgia, or at such other site as he may determine, to accommodate the submarine squadron currently stationed in Rota, Spain. Funds may not be expended for such purpose until the Secretary of the Navy has completed a site selection study and has publicly announced his final site decision.

(c) Section 202 of Public Law 94-431 is amended by striking out "This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1978" and inserting in lieu thereof "This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1979".

## REPLACEMENT OF LEASED FACILITIES, SAN DIEGO

Sec. 203. Notwithstanding any other provision of law, the Secretary of the Navy is authorized (1) to construct at the United States Naval Station, San Diego, California, recreational facilities necessary to replace those facilities located on the Navy Athletic Field, Naval Station, San Diego, which field is held under lease (dated August 9, 1949) from the city of San Diego, and (2) to expend for such construction funds paid to the United States by the San Diego Unified Port District (the current holder of the lessor's interest in

the premises on which such Navy Athletic Field is situated) pursuant to an agreement, to be negotiated between the Secretary and the Unified Port District, providing for Navy termination of the lease and abandonment of its existing facilities on the leasehold in consideration of the Unified Port District paying to the United States the cost of replacement recreational facilities. However, such lease shall not be terminated and the Department of the Navy shall not be required to relinquish use of any part of the leasehold until the new facilities authorized to be constructed herein are available for use, as determined by the Secretary, or his designee.

## TRANSFER OF AUTHORIZATION

Sec. 204. The Secretary of the Navy may utilize the \$100,000,000 authorization for the National Naval Medical Center, Bethesda, Maryland, contained in section 201 of Public Law 94-107 (89 Stat. 550), for the construction of a south parking structure serving the 500-bed replacement hospital.

## TITLE III—AIR FORCE

Sec. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

## INSIDE THE UNITED STATES

## AEROSPACE DEFENSE COMMAND

Kingsley Field, Oregon, \$115,000.  
Peterson Air Force Base, Colorado, \$773,000.  
Tyndall Air Force Base, Florida, \$690,000.

## AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, \$23,020,000.  
Kelly Air Force Base, Texas, \$9,878,000.  
McClellan Air Force Base, California, \$4,086,000.  
Newark Air Force Station, Ohio, \$2,080,000.  
Robins Air Force Base, Georgia, \$11,884,000.  
Tinker Air Force Base, Oklahoma, \$12,894,000.

Wright Patterson Air Force Base, Ohio, \$7,274,000.

## AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, \$1,280,000.  
Buckley Air National Guard Base, Colorado, \$1,895,000.  
Edwards Air Force Base, California, \$13,532,000.  
Eglin Air Force Base, Florida, \$16,485,000.  
Los Angeles Air Force Station, California, \$500,000.  
Patrick Air Force Base, Florida, \$300,000.  
Various locations, \$2,826,000.

## AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, \$8,026,000.  
Columbus Air Force Base, Mississippi, \$1,183,000.  
Keesler Air Force Base, Mississippi, \$850,000.

Lackland Air Force Base, Texas, \$4,700,000.  
Lowry Air Force Base, Colorado, \$5,188,000.  
Mather Air Force Base, California, \$115,000.  
Randolph Air Force Base, Texas, \$425,000.  
Sheppard Air Force Base, Texas, \$980,000.  
Williams Air Force Base, Arizona, \$679,000.

## AIR UNIVERSITY

Gunter Air Force Base, Alabama, \$248,000.

## ALASKAN AIR COMMAND

Elmendorf Air Force Base, Alaska, \$297,000.  
Elmendorf Air Force Base, Alaska, \$5,042,000.  
King Salmon Airport, Alaska, \$631,000.  
Shemya Air Force Base, Alaska, \$3,947,000.

## MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, \$805,000.  
Andrews Air Force Base, Maryland, \$3,626,000.

Bolling Air Force Base, District of Columbia, \$133,000.

Dover Air Force Base, Delaware, \$165,000.  
Little Rock Air Force Base, Arkansas, \$573,000.

McChord Air Force Base, Washington, \$6,011,000.

McGuire Air Force Base, New Jersey, \$640,000.

Norton Air Force Base, California, \$3,636,000.

Pope Air Force Base, North Carolina, \$1,669,000.

Travis Air Force Base, California, \$9,980,000.

## PACIFIC AIR FORCES

Hickam Air Force Base, Hawaii, \$2,140,000.

## STRATEGIC AIR COMMAND

Barksdale Air Force Base, Louisiana, \$2,253,000.

Beale Air Force Base, California, \$409,000.  
Blytheville Air Force Base, Arkansas, \$941,000.

Carwell Air Force Base, Texas, \$400,000.

Castle Air Force Base, California, \$884,000.  
Dyess Air Force Base, Texas, \$672,000.

Ellsworth Air Force Base, South Dakota, \$376,000.

Griffiss Air Force Base, New York, \$645,000.

Grissom Air Force Base, Indiana, \$6,300,000.

March Air Force Base, California, \$1,387,000.

McConnell Air Force Base, Kansas, \$216,000.

Offutt Air Force Base, Nebraska, \$1,364,000.

Pease Air Force Base, New Hampshire, \$2,314,000.

Plattsburgh Air Force Base, New York, \$518,000.

Rickenbacker Air Force Base, Indiana, \$815,000.

Vandenberg Air Force Base, California, \$2,193,000.

## TACTICAL AIR COMMAND

Bergstrom Air Force Base, Texas, \$874,000.

Cannon Air Force Base, New Mexico, \$937,000.

Davis Monthan Air Force Base, Arizona, \$262,000.

England Air Force Base, Louisiana, \$585,000.

George Air Force Base, California, \$3,073,000.

Holloman Air Force Base, New Mexico, \$2,377,000.

Homestead Air Force Base, Florida, \$90,000.

Langley Air Force Base, Virginia, \$5,202,000.

Luke Air Force Base, Arizona, \$9,242,000.

MacDill Air Force Base, Florida, \$2,420,000.

Moody Air Force Base, Georgia, \$5,555,000.

Mountain Home Air Force Base, Idaho, \$195,000.

Myrtle Beach Air Force Base, South Carolina, \$718,000.

Nellis Air Force Base, Nevada, \$5,180,000.

Seymour-Johnson Air Force Base, North Carolina, \$3,816,000.

Shaw Air Force Base, South Carolina, \$763,000.

## UNITED STATES AIR FORCE ACADEMY

United States Air Force Academy, Colorado, \$1,872,000.

## NUCLEAR WEAPONS SECURITY

Various locations, \$44,298,000.

## OUTSIDE THE UNITED STATES

## AEROSPACE DEFENSE COMMAND

Sondrestrom Air Base, Greenland, \$310,000.

Thule Air Base, Greenland, \$350,000.

## PACIFIC AIR FORCES

Kadena Air Base, Japan, \$2,372,000.

Osan Air Base, Korea, \$1,255,000.

Yokota Air Base, Japan, \$2,448,000.

## STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, \$1,905,000.



## UNITED STATES AIR FORCES IN EUROPE

Germany, \$16,417,000.  
United Kingdom, \$11,730,000.  
Various locations, \$97,905,000.

## UNITED STATES AIR FORCE SECURITY SERVICE

Misawa Air Base, Japan, \$732,000.

## NUCLEAR WEAPONS SECURITY

Various locations, \$10,162,000.

## SPECIAL FACILITIES

Various locations, \$2,356,000.

## EMERGENCY CONSTRUCTION

SEC. 302. The Secretary of the Air Force may establish or develop Air Force installations and facilities by proceeding with construction made necessary by changes in Air Force missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new unforeseen research and development requirements, or (4) improved production schedules, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security, and in connection therewith to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of \$20,000,000. The Secretary of the Air Force, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1979 except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

## TITLE IV—DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for defense agencies for the following acquisition or construction:

## INSIDE THE UNITED STATES

## NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, \$650,000.

## DEFENSE SYSTEMS MANAGEMENT COLLEGE

Fort Belvoir, Virginia, \$1,810,000.

## HIGH ENERGY LASER FACILITY

White Sands, New Mexico, \$33,449,000.

## OUTSIDE THE UNITED STATES

## DEFENSE LOGISTICS AGENCY

Defense Property Disposal Office, Ludwigsburg, Germany, \$1,650,000.

## EMERGENCY CONSTRUCTION

SEC. 402. The Secretary of Defense may establish or develop installations and facilities which he determines to be vital to the security of the United States, and in connection therewith to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of \$20,000,000. The Secretary of Defense, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public works undertaken under this section, including real estate actions pertaining thereto.

TITLE V—MILITARY FAMILY HOUSING  
AUTHORIZATION TO CONSTRUCT OR ACQUIRE  
HOUSING

SEC. 501. (a) The Secretary of Defense, or his designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such locations in the United States until the Secretary shall have consulted with the Secretary of the Department of Housing and Urban Development as to the availability of suitable private housing at such locations. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of Defense shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of thirty days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if he, or his designee, determines such action to be in the best interests of the United States; but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in this section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority; and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

## (c) Family housing units:

Fort Polk, Louisiana, one hundred units, \$3,545,000.

Naval Complex, Adak, Alaska, one hundred units, \$8,500,000.

Portsmouth Naval Complex, Kittery, Maine, two hundred units, \$8,086,000.

Naval Security Group Activity, Winter Harbor, Maine, thirty-two units, \$1,450,000.

Naval Complex, Bremerton, Washington, five hundred twenty units, \$24,602,000.

Defense Attache Office, Quito, Ecuador, two units, \$105,000.

Defense Attache Office, Wellington, New Zealand, two units, \$88,000.

(d) Any of the amounts specified in this section may, at the discretion of the Secretary of Defense, or his designee, be increased by 10 per centum, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress. The amounts authorized include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, design, supervision, inspection, overhead, land acquisition, site preparation, and installations of utilities.

## IMPROVEMENT OF EXISTING QUARTERS

SEC. 502. The Secretary of Defense, or his designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed—

(1) for the Department of the Army, \$20,-

891,000, including \$223,000 for energy conservation projects;

(2) for the Department of the Navy, \$10,353,000, including \$3,500,000 for energy conservation projects; and

(3) for the Department of the Air Force, \$15,022,000, including \$485,000 for energy conservation projects.

## EXCEPTIONS TO IMPROVEMENT LIMITATION

SEC. 503. The Secretary of Defense, or his designee, within the amounts specified in section 502, is authorized to accomplish repairs and improvements to existing public quarters in amounts in excess of the \$15,000 limitation prescribed in section 610(a) of Public Law 90-110, (81 Stat. 279, 305), as amended, as follows:

Fort Bliss, Texas, one unit, \$50,000.

Marine Corps Development and Education Command, Quantico, Virginia, thirty-three units, \$739,880.

## LEASED QUARTERS

SEC. 504. (a) The third sentence of section 515 of Public Law 84-161 (69 Stat. 324, 352) is amended to read as follows: "Expenditures for the rental of such housing facilities, including the cost of utilities and maintenance and operation, may not exceed: For the United States (other than Alaska, Hawaii, and Guam) and Puerto Rico, an average of \$280 per month for each military department, or the amount of \$450 per month for any one unit; and for Alaska, Hawaii, and Guam, an average of \$350 per month for each military department, or the amount of \$450 per month for any one unit."

(b) Section 507(b) of Public Law 93-166 (87 Stat. 661, 676), as amended, is amended by striking out "\$405" and "\$700" in the first sentence, and inserting in lieu thereof "\$435" and "\$760", respectively.

## MAXIMUM TERM OF FOREIGN LEASES

SEC. 505. Notwithstanding with other provision of law, the Secretary of Defense, or his designee, may acquire by lease, in any foreign country, family housing facilities and real property relating thereto that are needed for military purposes. A lease under this section may be for a period of not more than ten years.

## APPROPRIATIONS LIMITATIONS

SEC. 506. There is authorized to be appropriated for use by the Secretary of Defense, or his designee, for military family housing and homeowners assistance as authorized by law for the following purposes:

(1) for construction or acquisition of sole interest in family housing, including demolition, authorized improvements to public quarters, minor construction, relocation of family housing, rental guarantee payments, and planning an amount not to exceed \$65,200,000.

(2) for support of military family housing, including operating expenses, leasing, maintenance of real property, payments of principal and interest on mortgage debts incurred, payment to the Commodity Credit Corporation, and mortgage insurance premiums authorized under section 222 of the National Housing Act, as amended (12 U.S.C. 1715m), an amount not to exceed \$1,451,440,000.

(3) for homeowners assistance under section 1013 of Public Law 89-754 (80 Stat. 1255, 1290), as amended, including acquisition of properties, an amount not to exceed \$3,000,000.

## TITLE VI—GENERAL PROVISIONS

## WAIVER OF RESTRICTIONS

SEC. 801. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place

permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land, and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

#### APPROPRIATIONS LIMITATIONS

SEC. 602. There are authorized to be appropriated such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, IV, and V, shall not exceed—

- (1) For title I: Inside the United States, \$843,550,000; outside the United States, \$270,830,000; or a total of \$1,114,380,000.
- (2) For title II: Inside the United States, \$428,087,000; outside the United States, \$25,711,000; or a total of \$453,798,000.
- (3) For title III: Inside the United States, \$280,347,000; outside the United States, \$147,942,000; or a total of \$428,289,000.
- (4) For title IV: A total of \$57,559,000.
- (5) For title V: Military Family Housing, \$1,519,640,000.

#### COST VARIATIONS

SEC. 603. (a) Except as provided in subsections (b) and (c), any of the amounts specified in titles I, II, III, and IV of this Act may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased by 5 per centum when inside the United States (other than Hawaii and Alaska), and by 10 per centum when outside the United States or in Hawaii and Alaska, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress.

(b) When the amount named for any construction or acquisition in title I, II, III, or IV of this Act involves only one project at any military installation and the Secretary of the military department or Director of the defense agency concerned determines that the amount authorized must be increased by more than the applicable percentage prescribed in subsection (a), he may proceed with such construction or acquisition if the amount of the increase does not exceed by more than 25 per centum the amount named for such project by the Congress.

(c) When the Secretary of Defense determines that any amount named in title I, II, III, or IV of this Act must be exceeded by more than the percentages permitted in subsections (a) and (b) to accomplish authorized construction or acquisition, the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount, including a statement of the reasons for such increase, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either (1) thirty days have elapsed from date of submission of such report, or (2) both committees have indicated approval of such construction or acquisition. Notwithstanding the provisions in prior military construction authorization Acts, the provisions of this subsection shall apply to such prior Acts.

(d) Notwithstanding the foregoing provisions of this section, the total cost of all construction and acquisition in each such title may not exceed the total amount authorized to be appropriated in that title.

(e) No individual project authorized under title I, II, III, or IV of this Act for any specifically listed military installation for which the current working estimate is \$400,000 or more may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 per centum; or

(2) the current working estimate, based upon bids received, for the construction of such project exceeds by more than 25 per centum the amount authorized for such project by the Congress, until a written report of the facts relating to the reduced scope or increased cost of such project, including a statement of the reasons for such reduction in scope or increase in cost, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either (A) thirty days have elapsed from date of submission of such report, or (B) both committees have indicated approval of such reduction in scope or increase in cost as the case may be.

(f) The Secretary of Defense shall submit an annual report to the Congress identifying each individual project which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense based upon bids received for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope was reduced by more than 25 per centum in order to permit contract award within the available authorizations for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

#### CONSTRUCTION SUPERVISION

SEC. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army; or the Naval Facilities Engineering Command, Department of the Navy; or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective accomplishment of the construction herein authorized. The Secretaries of the military departments shall report annually to the President of the Senate and the Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Further, such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress, shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and the Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business; the names of such firms; the total

number of separate contracts awarded each such firm; and the total amount paid or to be paid in the case of each such action under all such contracts awarded such firm.

#### REPEAL OF PRIOR AUTHORIZATIONS: EXCEPTIONS

SEC. 605. (a) As of October 1, 1978, all authorizations for military public works, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefor, that are contained in titles I, II, III, IV, and V of the Act of September 30, 1976, Public Law 94-431 (90 Stat. 1349), and all such authorizations contained in Acts approved before September 30, 1976, and not superseded or otherwise modified by later authorizing legislation are repealed except—

(1) authorizations for public works and for appropriations therefor that are set forth in those Acts in the titles that contain the general provisions; and

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before January 1, 1979, and authorizations for appropriations therefor.

(b) Notwithstanding the repeal provisions of section 605 of the Act of September 30, 1976, Public Law 94-431 (90 Stat. 1349, 1364), authorizations for the following items shall remain in effect until January 1, 1980:

(1) Aeromedical research building in the amount of \$9,139,000 at Fort Rucker, Alabama, authorized in title I, section 101 of the Act of October 7, 1975 (89 Stat. 546), as amended.

(2) Pier utilities construction in the amount of \$633,000 at Fort Eustis, Virginia, authorized in title I, section 101 of the Act of October 7, 1975 (89 Stat. 546), as amended.

(3) Academic Building construction in the amount of \$5,315,000 at Fort Huachuca, Arizona, authorized in title I, section 101 of the Act of October 7, 1975 (89 Stat. 547), as amended.

(4) Solar energy plant construction in the amount of \$690,000 at Fort Huachuca, Arizona, authorized in title I, section 101 of the Act of October 7, 1975 (89 Stat. 547), as amended.

(5) Relocate the weapons range from the Culebra Complex in the amount of \$12,000,000 for the Atlantic Fleet Weapons Range, Roosevelt Roads, Puerto Rico, authorized in title II, section 204 of the Act of November 29, 1973 (87 Stat. 688), as amended and extended in section 605(b) (II) of the Act of October 7, 1975 (89 Stat. 545), as amended.

(6) Solar observation facilities construction in the amount of \$2,011,000 at various locations worldwide, authorized in title III, section 301 of the Act of October 7, 1975 (89 Stat. 555), as amended.

#### UNIT COST LIMITATIONS

SEC. 606. None of the authority contained in titles I, II, III, and IV of this Act shall be deemed to authorize any building construction projects inside the United States in excess of a unit cost to be determined in proportion to the appropriate area construction cost index, based on the following unit cost limitations where the area construction index is 1.0:

(1) \$42 per square foot for permanent barracks; or

(2) \$45 per square foot for bachelor officer quarters;

unless the Secretary of Defense, or his designee, determines that because of special circumstances, application to such project of the limitations on unit costs contained in this section is impracticable. Notwithstanding the limitations contained in prior Military Construction Authorization Acts of unit costs, the limitations on such costs con-



tained in this section shall apply to all prior authorizations for such construction not heretofore repealed and for which construction contracts have not been awarded by the date of enactment of this Act.

#### INCREASES FOR SOLAR HEATING AND SOLAR COOLING EQUIPMENT

Sec. 607. The Secretary of Defense shall encourage the utilization of solar energy as a source of energy for projects authorized by this Act where utilization of solar energy would be practical and economically feasible. In addition to all other authorized variations of cost limitations or floor area limitations contained in this Act or prior Military Construction Authorization Acts, the Secretary of Defense, or his designee, may permit increases in the cost limitations or floor area limitations by such amounts as may be necessary to equip any projects with solar heating and/or solar cooling equipment.

#### MINOR CONSTRUCTION PROJECTS

Sec. 608. (a) Section 2674 of title 10, United States Code, is amended to read as follows:

"§ 2674. Minor construction projects

"(a) Under such regulations as the Secretary of Defense may prescribe, the Secretary of a military department or the director of a defense agency may acquire, construct, convert, extend, and install at military installations and facilities, permanent or temporary public works not otherwise authorized by law including the preparation of sites and the furnishing of appurtenances, utilities, and equipment, but excluding the construction of family quarters.

"(b) This section does not authorize a project costing more than \$1,000,000. A project costing more than \$500,000 must be approved in advance by the Secretary of Defense, and a project costing more than \$300,000 must be approved in advance by the Secretary of a military department or the director of the defense agency concerned.

"(c) The total costs for all projects initiated under authority of this section by any military department or by defense agencies in any fiscal year (except those projects funded from appropriations available for operations and maintenance as provided in subsection (e)) may not exceed the total amount authorized for minor construction projects in the annual military construction authorization Act for such military department or defense agencies, as the case may be, for such fiscal year.

"(d) Not more than \$50,000 may be spent under this section during a fiscal year to convert structures to family quarters at any one installation or facility.

"(e) Only funds appropriated to a military department or to the defense agencies for minor construction projects may be used by such department or by such agencies to accomplish minor construction projects, except that the Secretary of a military department or the director of a defense agency may spend, from appropriations available for maintenance and operations, amounts necessary for any project costing not more than \$100,000 that is authorized under this section.

"(f) The Secretary of each military department and the Secretary of Defense for the defense agencies shall report in detail annually to the Committees on Armed Services and Appropriations of the Senate and House of Representatives on the administration of this section. In addition, such committees shall be notified in writing of any such approved project costing more than \$300,000 at least thirty days before funds are obligated for such project.

"(g) For the purposes of this section, 'project' means a single undertaking which includes all construction work, land acquisition and items of installed equipment necessary to accomplish a specific purpose and produce (1) a complete and usable facility,

or (2) a complete and usable improvement to an existing facility.

"(h) The directors of the defense agencies will execute the construction of minor projects under authority of this section by or through a military department designated by the Secretary of Defense as provided in section 2682 of this title."

(b) The table of sections at the beginning of chapter 159 of title 10, United States Code, is amended by striking out

"1674. Establishment and development of military facilities and installations costing less than \$300,000."

and inserting in lieu thereof

"2674. Minor construction projects."

(c) The amendments made by this section shall become effective October 1, 1978.

#### USE OF PROPERTY SALE PROCEEDS FOR NATIONAL GUARD FACILITIES

Sec. 609. (a) The Secretary of Defense, or his designee, is directed to report to the General Services Administration for disposal at fair market value the forty-three acres, more or less, together with any improvements thereon, formerly known as the Air Force San Patricio Fuel Storage Site, San Juan, Puerto Rico. The net proceeds from the sale may be used to construct new facilities for the Puerto Rico National Guard in accordance with Department of Defense criteria.

(b) Section 804 of Public Law 91-142, December 5, 1969, is repealed.

#### USE OF PROCEEDS FROM TIMBER SALES

Sec. 610. Section 2665(d) of title 10, United States Code, is amended to read as follows:

"(d) Appropriations of the Department of Defense available for operation and maintenance may be reimbursed during the current fiscal year for all expenses of production of lumber or timber products pursuant to this section from amounts received as proceeds from the sale of any such property."

#### REVISION IN NUMBER OF NAVAL DISTRICTS

Sec. 611. (a) Chapter 516 of title 10, United States Code, is repealed.

(b) The table of chapters at the beginning of subtitle C and at the beginning of part I of subtitle C of title 10, United States Code, are each amended by striking out

"516. Naval District..... 5221".

#### BASE REALIGNMENTS

Sec. 612. (a) Notwithstanding any other provision of law, no action may be taken to effect or implement—

(1) the closure of any military installation;

(2) any realignment involving a reduction in the authorized level of civilian personnel at any military installation by more than one thousand civilian personnel or 50 per centum of the level of such personnel authorized at the time that the Secretary of Defense or the Secretary of the military department concerned notifies the Congress that such installation is a candidate for closure or significant realignment; or

(3) any construction, conversion, or rehabilitation at any other military installation (whether or not such installation is a military installation as defined in subsection (b)) which will or may be required as a result of the relocation of civilian personnel to such other installation by reason of any closure or realignment to which this section applies;

unless—

(A) the Secretary of Defense or the Secretary of the military department concerned publicly announces and notifies the Committees on Armed Services of the Senate and the House of Representatives in writing that such military installation is a candidate for closure or significant realignment;

(B) the Secretary of Defense or the Secretary of a military department concerned

complies with the requirements of the National Environmental Policy Act of 1969;

(C) the Secretary of Defense or the Secretary of the military department concerned submits to the Committees on Armed Services of the Senate and the House of Representatives his final decision to close or significantly realign such installation and a detailed justification for his decision, together with the estimated fiscal, local economic, budgetary, environmental, strategic, and operational consequences of the proposed closure or realignment; and

(D) a period of at least sixty days expires following the date on which the justification referred to in clause (C) has been submitted to such committees, during which period the Secretary of Defense or the Secretary of the military department concerned may take no irrevocable action to implement the decision.

(b) For purposes of this section—

(1) The term "military installation" means any camp, post, station, base, yard, or other facility under the authority of the Department of Defense—

(A) which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam; and

(B) at which not less than one thousand civilian personnel are authorized to be employed.

Such term does not include any facility used primarily for civil works; rivers and harbors projects or flood control projects.

(2) The term "civilian personnel" means direct-hire permanent civilian employees of the Department of Defense.

(3) The term "realignment" includes any action which both reduces and relocates functions and civilian personnel positions but specifically excludes reductions in force resulting from workload adjustments, reduced personnel or funding levels, skill imbalances or other similar causes.

(c) This section shall not apply to any closure or realignment if the President certifies to Congress that such closure or realignment must be implemented for reasons of any military emergency or national security or if such closure or realignment was publicly announced prior to October 1, 1977.

(d) Section 613, Public Law 89-568 is repealed.

#### LAND CONVEYANCE, CALIFORNIA

Sec. 613. Notwithstanding any other provisions of law, the Secretary of the Navy or his designee, is authorized to convey to the city of Los Angeles, California, subject to such terms and conditions as the Secretary shall deem to be in the public interest, all right, title, and interest of the United States in and to a parcel of land consisting of approximately thirty-five acres with improvements thereon, located in the city of Los Angeles north of and separated by Seaside Avenue from Reeves Field, in exchange for the conveyance by the city of Los Angeles to the United States of the unencumbered fee title to approximately thirty-five acres of land adjacent to the western boundary of the Naval Support Activity, Long Beach, California, to be improved in a manner acceptable to the Secretary, and subject to such other conditions as the Secretary shall deem to be in the public interest. The exact acreages and legal descriptions of both properties are to be determined by accurate surveys as mutually agreed upon by the Secretary and the city of Los Angeles.

#### LAND CONVEYANCE, COLORADO

Sec. 614. Notwithstanding any other provision of law, the Secretary of the Air Force is authorized to acquire, by exchange with the city of Colorado Springs, Colorado, all rights, title and interest of such city in approximately one hundred sixty seven acres of land lying adjacent to the northerly

boundary of Peterson Air Force Base, El Paso County, Colorado. As consideration for this exchange, the Secretary of the Air Force is authorized to convey to the city land and improvements on Ent Air Force Base, in the city of Colorado Springs, equal in monetary value to the land to be acquired. The exact acreages and legal descriptions of both such properties are to be determined by accurate surveys as mutually agreed upon by the Secretary and the city of Colorado Springs.

#### AUTHORITY FOR LONG TERM CONTRACT REFUSE DERIVED FUEL

SEC. 615. Notwithstanding any other provisions of law, the Secretary of a military department, or his designee, is authorized to enter into long-term contracts (not to exceed ten years) for the purchase of fuels derived from waste materials (commonly known as refuse-derived fuel (RDF)). Such contracts may also provide for the collection and disposal of solid waste from Department of Defense installations, and may result in delivery to a Department of Defense installation of RDF which, by weight, exceeds that installation's generation of solid waste. Funds for such contracts shall be provided from annual operations and maintenance appropriations.

#### USE OF COMMISSARY SURCHARGE FUNDS FOR THE CONSTRUCTION OF COMMISSARIES OVERSEAS

SEC. 616. Section 2685(b) of title 10, United States Code, is amended by striking out "within the United States".

#### GAS PRICING, BARROW, ALASKA

SEC. 617. The Secretary of the Navy is authorized and directed, with respect to any natural gas supplied by the Department of the Navy to villages and facilities at or near Point Barrow, Alaska, between October 1, 1974, and April 6, 1976, inclusive, to charge such villages and facilities for such gas at a rate equal to the rate charged for natural gas supplied to such villages and facilities by the Department of the Navy (pursuant to section 104(e) of the Naval Petroleum Reserve Production Act of 1976 (90 Stat. 305)) subsequent to April 6, 1976.

#### LAND CONVEYANCE, EL PASO COUNTY, TEXAS

SEC. 618. Notwithstanding any other provision of law, the Secretary of the Army is authorized to acquire by exchange, under such terms and conditions as he shall deem to be in the public interest, all rights, title and interests in lands, within a sixty thousand one hundred and sixty acre area contiguous to the eastern boundary of maneuver area numbered 1 of the Fort Bliss Military Reservation, El Paso, Texas. As consideration for this exchange, the Secretary of the Army is authorized to convey such land under the jurisdiction of the Department of the Army in El Paso County, Texas, equal in monetary value to the land to be acquired. The exact acreages and legal descriptions of such properties are to be determined by accurate surveys as shall be authorized by the Secretary of the Army.

#### LAND CONVEYANCE, SAN FRANCISCO, CALIFORNIA

SEC. 619. (a) The first section of the Act entitled "An Act authorizing the Secretary of the Army to convey certain lands to the city and county of San Francisco", approved October 13, 1949 (63 Stat. 844), is amended by adding "or jointly for public park and recreational uses and other public purposes".

(b) The Secretary of the Army shall issue such written instructions, deeds, or other instruments as may be necessary to bring the conveyance made to the city and county of San Francisco, California, under authority of the Act of October 13, 1949 (63 Stat. 844), into conformity with this section.

#### SHORT TITLE

SEC. 620. Titles I, II, III, IV, V, and VI of this Act may be cited as the "Military Construction Authorization Act, 1978".

### TITLE VII—GUARD AND RESERVE FORCES FACILITIES

#### AUTHORIZATION FOR FACILITIES

SEC. 701. Subject to chapter 133 to title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed—

- (1) For the Department of the Army:
  - (A) Army National Guard of the United States, \$44,377,000.
  - (B) Army Reserve, \$41,390,000.
- (2) For the Department of the Navy; Naval and Marine Corps Reserves, \$19,800,000.
- (3) For the Department of the Air Force:
  - (A) Air National Guard of the United States, \$37,300,000.
  - (B) Air Force Reserve, \$10,100,000.

#### WAIVER OF CERTAIN RESTRICTIONS

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land, and interests in land (including temporary use), by gift, purchase, exchange, of Government-owned land, or otherwise.

#### SHORT TITLE

SEC. 703. This title may be cited as the "Guard and Reserve Forces Facilities Authorization Act, 1978".

#### MOTION OFFERED BY MR. NEDZI

Mr. NEDZI. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NEDZI moves to strike out all after the enacting clause of the Senate bill S. 1474 and to insert in lieu thereof the provisions of H.R. 6990, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6990) was laid on the table.

#### GENERAL LEAVE

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that I may have 5 legislative days in which to extend my remarks and include extraneous matter on the bill (H.R. 6990), and that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

#### MAKING THE FEDERAL RESERVE SYSTEM MORE ACCOUNTABLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 30 minutes.

Mr. REUSS. Mr. Speaker, I am today introducing legislation to make the Federal Reserve System more accountable to the public.

The bill would:

First. Establish a permanent Congressional-Federal Reserve dialog on monetary policy. Chairman Arthur Burns has appeared quarterly before the House and Senate Banking Committees to discuss the Fed's goals for monetary policy pursuant to House Concurrent Resolution 133, of March 1975. This resolution expired last December. This bill makes permanent the requirement that representatives of the Federal Reserve testify before the congressional committees quarterly on Fed's proposed monetary policy for the following 12-month period. It also for the first time requires monetary policy to serve the goals of maximum employment, production, and price stability. The Fed would be required to testify concerning its proposed monetary aggregates, anticipated monetary velocity, estimated levels of interest rates—particularly on business loans and on long-term mortgages, and the composition of its portfolio. These guidelines would broaden the focus from total concentration on the monetary aggregates.

Second. Broaden the economic interest of Federal Reserve Bank directors. Under present law, the nine directors of each of the 12 Federal Reserve banks have unduly narrow backgrounds. Commercial banks elect six of the nine—three class A directors, always bankers, as their direct "representatives," and three class B directors from "commerce, agriculture, or some other industrial pursuit." The three class C directors are chosen by the Federal Reserve Board of Governors, with nothing said as to who they may be.

As the Banking Committee staff study—"Federal Reserve Directors: A Study of Corporate and Banking Influence," August 1976—disclosed, this has produced a representation grossly banker-oriented at the expense of other groups. Furthermore, it has resulted in the virtual exclusion of women, blacks, and representatives of labor unions, consumer interest organizations, and non-managerial and nonproducer interest groups.

The bill would remedy the situation with respect to discrimination by requiring that all directors—A, B, and C—be chosen "without discrimination on the basis of race, creed, color, sex, or national origin." As to economic representation, the three class A directors would be left as they are now—bankers. Class B directors would be specifically designated "public" and broadened from the present "commerce, agriculture, or some other industrial pursuit" to "with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers."

This not only gets us out of the belching smokestack of the existing 1913 "industrial" language—services are today moving ahead faster than manufacturing—but introduces labor and consumers as groups of our citizenry whose economic interests entitle them to consideration for a seat at the table.



Third. Require Senate confirmation of the Chairman of the Board of Governors. Under existing law, members of the Federal Reserve Board of Governors, who serve 14-year terms, are subject to Senate confirmation at the time of their appointment; one of the Board members is designated by the President to serve as Chairman for a 4-year term, but without Senate confirmation. Thus, the President can designate as Chairman someone who was confirmed by the Senate some 13 years previously, yet the Senate be powerless to confirm the appointee to what was recently called "the Nation's No. 2 position." The bill would make the President's choice of Chairman subject to the advice and consent of the Senate.

Fourth. Regulate lobbying of Congress on Government time. The minutes of the Federal Reserve Banks Directors' meetings disclose a consistent pattern of extensive lobbying by Federal Reserve officials on legislation before the Congress. Much of this lobbying is done on Government time, and using funds that, in fact, must be paid over to the Treasury by the Fed and thus belong essentially to the taxpayers. In some cases, the Fed has even prevailed upon bankers—who are deeply beholden to the Fed because of the Fed's ability to give or withhold a discount window loan, or to give or withhold such privileges as approval for a merger, holding company acquisition or an Edge Act office—to conduct lobbying with Government officials on the Fed's behalf. Although attempts by regulatory agencies to orchestrate lobbying campaigns against bills affecting their agencies are illegal when money appropriated by the Congress is used (18 U.S.C. 1913), the Fed is technically exempt from this statute because its funds are not appropriated by Congress.

The bill closes this loophole and places the Federal Reserve System on a par with other Government agencies with respect to lobbying. It prohibits the use of income of the Federal Reserve System for lobbying except in response to requests from a Member of Congress, or through the proper official channels concerning legislation which the executive branch deems "necessary for the efficient conduct of the public business."

Fifth. Prohibit Federal Reserve officers, employees, and directors from acting where they have a conflict of interest. Under existing law, employees and officers of the U.S. Government may not participate in any matter before the Government in which they or a member of their family or business have an interest, unless there is first a full disclosure of this interest and an official written determination by an official that this interest is not substantial. The Fed is not covered. My bill extends this prohibition to Federal Reserve Bank officers, employees, and directors.

Sixth. Require an audit of the Federal Reserve System by the GAO. This bill requires the Comptroller General to conduct an audit of all operations of the Federal Reserve System, except for transactions involving foreign central banks, monetary policy, and commercial bank examinations—activities which the Fed has asked be exempted. The audit

would cover all other operations of the Federal Reserve System, including check clearing operations, coin and currency transfers, physical plant management, and other general business operations of the Fed.

A copy of the Federal Reserve Reform Act of 1977, follows:

#### H.R. —

A bill to promote the accountability of the Federal Reserve System

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### § 1. Congressional-Federal Reserve Dialogue on Monetary Policy

Insert a new section 2A immediately after section 2 of the Federal Reserve Act to read as follows:

#### "SECTION 2A. GENERAL POLICY: CONGRESSIONAL REVIEW

"(a) The formulation and implementation of monetary policy under this Act shall be governed by the national policy to promote maximum employment, production, and price stability.

"(b) At quarterly hearings conducted alternately by the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House, representatives of the Federal Reserve System shall testify concerning the Board of Governors' and the Federal Open Market Committee's proposed monetary policy for the next twelve months, including proposed monetary aggregates, anticipated monetary velocity, estimated levels of interest rates (particularly on business loans and on long-term housing mortgages), and the proposed composition of the Federal Reserve's portfolio."

#### § 2. Boards of Directors of Federal Reserve Banks

The following paragraphs of section 4 of the Federal Reserve Act are amended:

(a) the tenth paragraph by inserting after the comma the following: "without discrimination on the basis of race, creed, color, sex, or national origin,"

(b) the eleventh paragraph by striking all after "members," and substituting "who shall represent the public and shall be elected without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor and consumers."

(c) the twelfth paragraph by inserting immediately after the first sentence thereof the following sentence: "They shall be selected to represent the public, without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor and consumers."

#### § 3. Senate Confirmation of Chairman of Board of Governors

The second paragraph of section 10 of the Federal Reserve Act is amended by striking out the third sentence and inserting in lieu thereof the following: "Of the persons thus appointed, the President shall appoint one, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of four years and one shall be designated by the President as Vice Chairman of the Board for a term of four years."

#### § 4. Lobbying Congress on Government Time

The first undesignated subsection of section 1913 of title 18, United States Code, is amended by inserting "or income of the Federal Reserve System" immediately before "shall, in the absence of express authorization by Congress".

#### § 5. Conflicts of Interest

Subsection 208(a) of title 18, United States Code is amended by adding "a Federal Re-

serve Bank Officer, employee or director," immediately before "or of the District of Columbia".

#### § 6. General Accounting Office Audit of the Federal Reserve System

(a) The Comptroller General of the United States shall, under such rules and regulations as he shall prescribe, audit the Federal Reserve Board, the Federal Open Market Committee, and all Federal Reserve Banks and their branches and facilities. Such audit shall not include monetary policy; transactions involving foreign central banks; and commercial bank examinations.

(b) The Comptroller General shall, within six months after the end of each fiscal year, or as soon thereafter as may be practicable, make a report to the Congress on the results of the audit work performed for such year, and he shall make any special or preliminary reports he deems desirable for the information of the Congress. A copy of each report made under this subsection shall be sent to the President of the United States, the Federal Reserve Board, and the Federal Reserve banks. In addition to other matters, the report shall include such comments and recommendations as the Comptroller General may deem advisable, including recommendations for attaining a more economical and efficient administration of the entities audited, and the report shall specifically show any program, financial transaction or undertaking observed in the course of the audit which in the opinion of the Comptroller General has been carried on without authority of law.

#### § 7. References to Federal Reserve Act Paragraphs

References in this Act to paragraphs of the Federal Reserve Act refer to the paragraphs as designated in the compilation of the Federal Reserve Act as amended through 1974, compiled under the direction of the Board of Governors of the Federal Reserve System in its Legal Division.

#### § 8. Short Title

The short title of this Act shall be the "Federal Reserve Reform Act of 1977."

#### SECTION 504 OF VOCATIONAL REHABILITATION ACT MAY PROVE TO BE COSTLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont (Mr. JEFFORDS) is recognized for 10 minutes.

Mr. JEFFORDS. Mr. Speaker, in 1973 the Congress passed the Vocational Rehabilitation Act of 1973 which included section 504 that said that no one may discriminate against the handicapped. Specifically 504 says:

SEC. 504. No otherwise qualified handicapped individual in the United States, as defined in section 7(6) shall, solely by reason of his handicap be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance.

Secretary Califano, upon signing the regulations for section 504, said:

The 504 Regulation today becomes the law of the land, and it is critically important that we obey that law and make these new rules a reality for handicapped Americans. In implementing the regulation, I pledge that HEW will move promptly and firmly....

President Carter, speaking at the White House Conference for the Handicapped last week said:

As you know, section 504... has provided a framework for the regulations that have not been adopted, and Joe Califano assures

their experiences, and will be for perhaps the rest of their lives. When they grow up, they may be inclined to sexually abuse children themselves.

I urge my colleagues to support these hearings and to aid in the fight to end child abuse.

#### HUMAN RIGHTS—HOW DEEP IS OUR COMMITMENT?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MARKS) is recognized for 10 minutes.

Mr. MARKS. Mr. Speaker, on June 5, I had the honor of delivering the commencement address at the Shenango Valley Campus of Pennsylvania State University.

The topic of my address was "Human Rights—How Deep Is Our Commitment?" In view of the current discussion and debate concerning the human rights issue, I would like to share with my colleagues the remarks I made on that occasion:

Thank you, Dr. Lammie. Ladies and gentlemen of the graduating class, Father Karg, members of the administration, members of the faculty, parents and guests.

When I first accepted the invitation to present the commencement address I realized I was faced with a very difficult challenge. This challenge was not in preparing and presenting an address, but rather in trying to prepare and present an address that would be both meaningful and, hopefully, remembered.

Looking back on my own graduation I realize that I not only do not know who spoke, but I also have no recollection whatsoever of the message.

College graduation is a major milestone in anyone's life. In like manner, what history may show to be a major milestone in our quest for lasting world peace is the current impetus being given to human rights by the Carter administration.

Its strong rhetoric on behalf of the international observance of human rights has stirred controversy concerning the extent of our commitment to advancement of human rights as a centerpiece of our foreign policy.

In his inaugural address, President Carter stated: "Because we are free, we can never be indifferent to the fate of freedom elsewhere." Later, at a meeting of the Organization of American States, he said: "You will find this country . . . eager to stand beside those nations which respect human rights and which promote democratic ideals."

To back these words, the President has taken both symbolic action, such as sending a letter to Soviet dissident Andrei Sakharov; and substantive action, such as ending military aid to Uruguay and cutting it to Ethiopia on human rights grounds. In so doing, he has sought to maintain a consistent position on human rights, attacking violations by Communist and non-Communist nations alike.

"Human rights" if, of course, a shorthand for several concepts. Secretary of State Cyrus Vance, in a law day address at the University of Georgia Law School, set forth a three-tiered definition of what the administration means by the term "human rights." I will read his rather lengthy definition, since it is important to understand the concepts involved:

"First, there is the right to be free from governmental violation of the integrity of the person. Such violations include torture; cruel, inhuman or degrading treatment or punishment; and arbitrary arrest or imprisonment. And they include denial of fair

public trial, and invasion of the home. Second, there is the right to the fulfillment of such vital needs as food, shelter, health care, and education. We recognize that the fulfillment of this right will depend, in part, upon the stage of a nation's economic development. But we also know that this right can be violated by a government's action or inaction—for example, through corrupt official processes which divert resources to an elite at the expense of the needy, or through indifference to the plight of the poor. Third, there is the right to enjoy civil and political liberties—freedom of thought, of religion, of assembly; freedom of speech; freedom of the press; freedom of movement both within and outside one's own country; freedom to take part in government."

These, then, are the basic precepts of our Nation's human rights policy.

Despite the noble, altruistic tenor of that policy, critics have attacked it for a number of reasons. I believe these criticisms can be reduced to four principal objections.

First, other countries have different forms of government and different cultures. It does not make sense to impose our values concerning human rights on those nations.

Second, we should mind our own business and not interfere in the internal affairs of other sovereign nations. We have enough problems here at home.

Third, our attention to human rights violations in the Soviet Union hurts détente and damages the prospects of peace and the opportunity to reduce international tensions.

And fourth, our insistence on human rights embarrasses allies who may not be able to meet our standards in this regard. In attacking what we consider their violations of human rights, we actually are undermining our friends and playing into the hands of leftist and Communist elements at work within those countries.

Let us examine these four objections to determine their validity.

The first objection I cited holds that it is both arrogant and pointless for us to impose our human rights standards on the rest of the world, since other nations have different systems of government and different cultural and cognitive values.

I would submit that the basic human rights we are talking about are universal in nature and properly the concern of all the peoples on earth. Let me review the salient historical foundations of this premise.

The recognition of individual human rights within the framework of international relations became a matter of scholarly concern during the renaissance with the rise of city states and increased international commerce. The renaissance spirit fostered the growth of the view of the intellectual dignity of man as an individual.

An emphasis on individual rights was at the heart of the writings of Hugo Grotius, one of the fathers of international law. According to Grotius, laws are created by common agreement of the people so that the obligation to respect them is founded upon the consent of the contracting individuals. In going further to examine the concept of citizenship, Grotius states, "By the name of citizens who should understand that we are speaking not of the citizens of this or that region but of the citizens of that one general community which consists of the entire human mankind."

His view of individual liberty was further developed in the "age of enlightenment." Rousseau, in his contract theory of government, emphasizes that sovereignty rests with the people and only can be exercised by the people. Moreover, Rousseau teaches that man has certain inherent natural rights. As we know, this theory soon found legal embodiment.

The first form of a declaration of rights of man in the history of the world was authored by George Mason and adopted in

Virginia on June 12, 1776. It proclaimed that men by nature are free and have a right to the enjoyment of life and liberty and to own property and to pursue happiness. Shortly thereafter, these principles were included in the Declaration of Independence of the United States and the French declaration of the rights of man and of citizen of 1789.

It was in the Twentieth Century that the individual became more fully recognized as an object of the protection of international law. In 1921, Professor De La Pradelle drafted for the Institute of International Law a declaration of the rights and duties of nations in which he asserted not only that man is a subject of international law, but that the protection of his rights is the essential social purpose of international law.

In the wake of the ineffectiveness of the League of Nations and the atrocities committed by the totalitarian regimes during World War II, the world community began to realize that the protection of individual freedoms could no longer be left to the sole discretion of individual States. Gaining widespread acceptance was the concept that the rights of the individual are derived not from his status as a citizen of a certain State but from his membership in the human family. Because of that membership, he has, under international law, rights and duties as well as responsibilities toward his fellow man beyond the borders of his own land.

The culmination of international respect for human rights came with the founding of the United Nations. Indeed, the U.N. charter revolves around a central idea—that peace cannot be established in a durable fashion so long as oppression, injustice, and economic distress prevail in the world. The recognition and protection of human rights runs throughout the entire charter as one of the principal objectives of the United Nations.

The U.N. Universal Declaration on Human Rights, approved in 1948, stands today as the greatest statement of the collective conscience of the world concerning the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family. In thirty short articles, it sets forth civil and political freedoms, as well as economic, social, and cultural rights. The importance of the universal declaration was reiterated in April, 1968, in the proclamation of Teheran of the U.N. conference on human rights which declared:

"The universal declaration of human rights states a common understanding of the peoples of the world concerning the inalienable and inviolable rights of all members of the human family and constitutes an obligation for the members of the international community."

Therefore, I conclude that despite the global variety of cultural values and systems of government, all nations must observe basic standards of human rights, such as those enumerated in the universal declaration.

Cliches such as "life is cheap over there" or "it's a backward country" do not excuse violations of the rights all men and women possess. As responsible members of the international community, we have an obligation to speak out when human rights are placed in jeopardy.

The second objection I cited to an aggressive human rights policy is that we should not interfere in the internal affairs of other nations. Concern about human rights and various methods of "intervention" into the affairs of other states to preserve those rights have been with us, I would suggest, as long as governments have existed.

It is interesting to note that cases in intervention have been common ever since Gelon, Prince of Syracuse, having defeated Carthage in the year 480 B.C., made it a condition of peace that the Carthaginians abandon their time-honored custom of sacrificing their children to Saturn.



me and he assures you that these regulations are going to be enforced.

Secretary Califano also said that he "intends to vigorously implement and enforce that mandate."

HEW projects that it will cost \$2.4 billion per year to implement section 504. My projections are that it will cost many billions more than that because the regulations require extensive education provisions and services, the removal of architectural barriers, broad supplemental services, and many other costly items.

If we accept HEW's projections that the cost of implementing 504 is "only" \$2.4 billion to carry out their proscribed regulations, and since 504 applies to every department and agency of the Federal Government, it is safe to assume that similar costs will be necessary for the others as well.

I normally do not advocate big spending by the Federal Government. In this case, however, if the Federal Government really means what it says about ending discrimination against the handicapped and if money is needed to help bring about equality for this segment of our population, then we cannot expect the total obligation to be borne by local and State governments as well as public and private organizations who receive Federal funds. If our words are sincere, then I feel it is necessary for the Federal Government to put its money where its mouth—and regulations—are and provide a major share of the costs of implementing this new Federal mandate.

Because I believe the regulations carry a responsibility as well as an obligation, I am introducing a bill which amends section 504. The bill is designed to make the Federal Government a full partner in eliminating discrimination of the handicapped. The bill is short and to the point. It adds no new words or requirements to section 504, only a one-time special authorization for dollars to implement the law and the regulations.

I can envision that the money will be used in a variety of ways. Because the greatest single expense in the regulations is for education, I am earmarking 33 1/3 percent for educational purposes. The remainder of the funding could be used for the removal of architectural barriers, the creation of jobs, interpreter services, and other aids, to mention just a few areas.

I must emphasize that money alone will not end discrimination for the disabled and handicapped of this Nation because many of the problems they face are based upon centuries of false stereotypes and distorted images, and not on their abilities or lack thereof.

If Congress does not take this action, I am concerned that as HEW pushes to enforce the regulations that there may be considerable backlash throughout the country and I fear that the handicapped will be hurt, not helped. Section 504 is one sentence long and just opened the door a crack. If we do not do something to guarantee it will be opened all the way, there is a chance it will be slammed shut again. Some money is

necessary and my bill seeks to address that point. In the final analysis, however, we cannot legislate the attitudes, actions, and behavior for the hearts of the American people.

The amendment reads as follows:

Section 504 of the Vocational Rehabilitation Act of 1973 is amended by adding at the end thereof:

There is hereby authorized \$6 billion to carry out the purposes of this section. Of the total appropriated, not less than thirty-three and one-third percentum must be used for educational purposes.

Mr. Speaker, I am inserting at this point letters that I have sent to the President and Secretary Califano requesting their support for my amendment. I hope that all Members will join with me in supporting this action.

The letters follow:

HOUSE OF REPRESENTATIVES,  
Washington, D.C., June 6, 1977.

THE PRESIDENT,  
The White House,  
Washington, D.C.

DEAR MR. PRESIDENT: Since taking office you have been speaking out for human rights and I commend you for that stand. During your speech at the White House Conference for the Handicapped last month, you spoke out strongly about the rights of the handicapped and indicated that Section 504 of the Vocational Rehabilitation Act was the vehicle through which those rights will be implemented.

While I applaud your stand, I recognize that through Section 504 the Federal government places new requirements on State and local governments as well as public and private institutions and agencies. I don't think that it is appropriate for the Federal government to pass laws which State and local entities must carry out using their own dollars, while the Federal government assumes no financial obligation at all. Therefore, today I am introducing a bill which amends Section 504 adding a one-time special authorization of \$6 billion to implement the law and the regulations. HEW predicts that it will cost \$2.4 billion to implement Section 504. My predictions are that it will cost many billions more. It is unimportant as to who is right, the fact remains that it will be expensive to implement the new regulations. Furthermore, if we accept HEW's projection of \$2.4 billion, and recognize that Section 504 applies to every Department and agency of the Federal government, there is no question that many, many billions of dollars will be required to give the handicapped of America all that is required by the regulations.

I am fully supportive of your efforts to develop a balanced budget, but in achieving that balance I do not think that we can simply shift the financial burden of Federal mandates to State and local governments. Therefore, I think the Federal government has an obligation to put its money where its mouth (and regulations) are and provide a major share of the cost to implement this new Federal commitment to the handicapped of America.

I would hope that you will put the full force of your good office behind this amendment and support it with the same vigor that you advocate for human rights. Section 504 just opened the door a crack and if we do not provide money to help implement it, I fear that it may be slammed shut again.

I look forward to hearing from you as soon as possible on this most vital matter.

Sincerely,

JAMES M. JEFFORDS,  
Member of Congress.

HOUSE OF REPRESENTATIVES,  
Washington, D.C., June 6, 1977.

HON. JOSEPH A. CALIFANO, JR.,  
Secretary of Health, Education, and Welfare,  
Washington, D.C.

DEAR MR. SECRETARY: Attached is a letter that I sent to the President this morning which is self-explanatory. Because you have said on numerous occasions that you intend to vigorously implement and enforce the mandate and regulations of Section 504, I would hope that you would put the full weight of your efforts behind this amendment and vigorously support it.

I would greatly appreciate hearing from you at your earliest convenience as to the Department's position on this amendment. The amendment reads as follows:

"Section 504 of the Vocational Rehabilitation Act of 1973 is amended to read as follows:

"There is hereby authorized \$6 billion to carry out the purposes of this section. Of the total appropriated, not less than thirty-three and one-third percentum must be used for educational purposes."

Thank you for your assistance in this matter.

Sincerely,

JAMES M. JEFFORDS,  
Member of Congress.

#### CHILD PORNOGRAPHY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, Members of the House, this week the Subcommittee on Crime along with the Subcommittee on Select Education will continue hearings on the issue of child pornography. During the 2 days of hearings held in May by the Subcommittee on Crime, I was shocked at what I heard and saw. This is an issue that involves thousands of children and is spread throughout the entire Nation.

Investigator Lloyd Martin of the Los Angeles Police Department told us that conservatively 30,000 children were sexually exploited in his jurisdiction each year. This number is perhaps as high as 120,000 in New York City and also involves thousands of children in my own State, Illinois.

Many so-called adult book stores have been selling volumes describing how to pick up young children from school playgrounds and how to use children for sexual gratification. Our subcommittee was told of films and magazines showing children as young as 3 years of age involved in various sexual acts and perversions with adults and with other children. According to the reporters many adults enjoy and have a sense of pride in showing pictures of children with whom they have committed these acts.

Many of these children are runaways, emotionally troubled children who have left broken homes, and where many have been abused. These children trade themselves for money or for what they see as affection. Even more shocking are the cases when children are sold into this degrading life by their parents.

The question is not simply one of obscenity, or to what limits will allow pornography to go. Rather, child pornography is child abuse. Expert witnesses told the subcommittee that the children involved are emotionally damaged by

Renaissance writer Hugo Grotius, whom I mentioned earlier, went so far as to assert that state laws contrary to human rights should be nullified by international law, with other states free to intervene "in a just war" to protect an individual from a government's violation of his rights.

At the end of the eighteenth century, Catherine II of Russia, along with the Prussian and British Governments, effectively exercised influence on the king of Poland who was repressing his orthodox and Protestant subjects.

And in the early Nineteenth Century, the multi-national Congress of Vienna heard petitions and made recommendations concerning the protection of minorities and national and racial discrimination within the German States and Switzerland. Later in that century, the Congress of Berlin received 130 petitions from individuals and private organizations requesting international protection of the rights of such minority groups as the Jews in the Balkans and the Armenians in Turkey.

In this century, we have witnessed the creation of international machinery to protect human rights. This includes the U.N. Commission on Human Rights, the Subcommittee on Prevention of Discrimination and Protection of Minorities, the Inter-American Commission on Human Rights of the Organization of American States, and the Council of Europe's Commission and Court of Human Rights. The European Commission and Court of Human Rights represent the most advanced efforts to provide for collective enforcement of the ideals expressed in the universal declaration of human rights. Remarkably, eleven European countries have agreed to allow individuals to submit human rights claims against them to a supra-national body. This is a strong testament to the view that human rights violations anywhere are a matter of concern to free, peace-loving nations.

It is clear that the lessons of the past show that we cannot afford to turn our backs on human rights violations on the grounds that they are not our business. As a participant in a world community increasingly conscious of the rights of the individual, this nation cannot excuse itself from supporting the ideals upon which it was founded and upon which a peaceful world order can only be established.

The third objection I noted is that encouragement of the cause of human rights threatens détente with the Soviet Union. This is sometimes referred to as the pragmatic or "realpolitik" objection. I have two comments to make in this regard.

First, I believe the efforts for détente and for the relaxation of international tensions will continue regardless of the human rights emphasis. This is in the interests of both countries. Threatened with the specter of nuclear holocaust, we will continue to seek arms reductions and improved relations.

Second, as the champion of the "free world," we have a moral obligation to speak out on human rights. Are not freedom, liberty, and human rights the issues at stake between our system and that of the communists? To withdraw from this cause for fear of offending the Russians is to betray the principles which we and free men everywhere hold dear.

Though our support and attention outside the Iron Curtain, we make it possible for those within to carry on the struggle for their rights. Indeed, unlike the Soviets, we are not seeking to assist dissidents in overthrowing their government. Rather, we are pressing the Russians to grant to their citizens the very rights provided on paper in their own constitution.

Regardless of whatever benefits it derives from détente, the Soviet Union has not abandoned its efforts to export communism to the rest of the world. So too, let us not

abandon our commitment to human rights everywhere, including within the Soviet Union.

The fourth objection I wish to address concerns the matter of our allies who fail to observe human rights. Although the abuses which take place within the communist world have long been a matter of concern, attention to such activities within friendly countries has developed recently. This is an indication of the expanding concern in this area which we are seeing in this amazing era of international recognition of individual rights.

Reports continue to come in concerning rights violations in non-communist countries. Only last week, members of Congress received a dossier from Amnesty International on political prisoners held in secret detention camps in Chile. Amnesty International has made public this information in order to help convince the Chilean government to account for the more than 1,500 persons detained who since have "disappeared." We continue to hear about denials of freedom in countries like Argentina, Iran, South Korea, and the Philippines.

Admittedly, it is not easy to have to criticize countries which are anti-Communist and which we number generally as friends. Yet to be credible, our stand on rights violations must be both universal and consistent.

In addition, our commitment to human rights is likely to carry considerable weight in these nations, since they are so dependent upon us for military and economic assistance. Indeed, the International Security Assistance Act of 1976 states that no security aid should be granted to governments that engage in a "consistent pattern of gross violations" of human rights.

Regardless of the problems we may incur under this policy, we cannot remain silent in the face of injustice. Harvard Professor Walter Laqueur has expressed this most forcefully:

"Excuses for inaction may be made by small countries whose capacity to influence the course of world politics is by necessity limited. But a great nation hesitant or afraid to speak up and to act on its beliefs and values at a crucial juncture of world history is forfeiting its international standing and embarking on a course of moral and political decline."

In my opinion, the basis for our commitment to the advancement of human rights must be firm and irreversible. The question I raise concerns the depth of that commitment.

Certainly there will be tests of that commitment in the near future if the Senate considers ratification of the Genocide Convention and the treaty for the elimination of all forms of racial discrimination. And we in the House of Representatives will face votes, as we did a few weeks ago on the International Security Assistance bill, to cut military aid to countries like Argentina where violations of rights have been documented.

But the answer to the question about the extent of our rights commitment ultimately rests with you, this graduating class of the Shenango Valley Campus of Penn State, and your generation.

The connection here may seem rather remote, especially at a time when your most immediate concerns are finding jobs, building new careers and new families, or perhaps pursuing further education.

However, as intelligent and informed citizens in a participatory democracy, your concern about national and international issues seems assured. You will be opinion-shapers, I am sure, in whatever fields of endeavor you enter.

We already have seen the incredible advance of the cause of human rights in this century. In an increasingly smaller and in-

terdependent world, developments in once far-removed lands now impact us directly. The aspirations of freedom-loving peoples everywhere truly are matters of our own concern. When their rights are threatened, our rights and those of our children cannot be considered secure.

While we are not the world's policeman, neither are we an isolated fortress, impervious to injustice outside the walls.

Since you have listened to so many professors in your learning experience, I think it is appropriate that I leave you with the observations of yet another professor, Alessandra Luini Del Russo, concerning the challenge ahead of you with respect to human rights:

"Only through individual and community effort will governments be persuaded and encouraged to proceed with alacrity in the continued protection of that spiritual and living heritage which we called freedom under law. Perhaps the young people of today in their halting and confused ways are aiming precisely to that end. It is an undertaking which will lead all nations toward the attainment of a world order based on law, justice, and those eternal principles of human liberty which each man bears in his heart as the indelible imprint of his creator. This is a work for peace."

So this is the challenge to which you are called. Your generation may well be the one which must stand at the crossroads of the future of human rights on this planet. Now is the time to prepare for the difficult decisions ahead.

As you move forward with your careers, I hope you will keep in mind the issues I have sought to bring to your attention. Consider what is at stake, and let your voices be heard both locally and in Washington.

Your response will be the measure of our national commitment to human rights and to the building of a better world and lasting peace.

#### SECRETARY CALIFANO'S VIEWS ON QUOTAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WALKER) is recognized for 10 minutes.

Mr. WALKER. Mr. Speaker, I call to my colleagues' attention an article from the New York Times of June 6, 1977, concerning the views of Health, Education, and Welfare Secretary Joseph Califano on quotas. Because HEW has used quotas and goals to implement policy through the years, Secretary Califano's views are of considerable interest.

For many years, I have opposed the use of quotas to discriminate against individuals seeking an education or a job. Persons seeking employment or entry into a college or university should succeed or fail on individual qualifications. They must merit success or deserve failure on their own assets and liabilities, not because a quota system has been established to include or to exclude certain numbers of people.

While Secretary Califano does speak out on the issue of quotas in the Times' article, it is not quite clear what he is saying. He states his opposition to quotas, but expresses support for goals. Secretary Califano tries to make a distinction where there is no difference. His comments on goals sound like the rhetoric of quotas. If the tools of a quota system are to be used to enforce goals, we will still have the Government dealing



with people as numbers rather than human beings.

# CALIFANO ASKS "GOALS" NOT "QUOTAS" ON MINORITY STUDENTS IN COLLEGES

(By Peter Kihss)

Joseph A. Califano, Jr., Secretary of Health, Education and Welfare, said yesterday that the Federal Government "must rely on numerical goals" to monitor college and university efforts to recruit and help minority-group students.

Speaking at City College's 131st commencement, Secretary Califano contended that goals and accompanying "timetables" would differ from "rigid, arbitrary, long-term quotas."

"Arbitrary quotas will not be part of our enforcement program," he said. "We want to rely on the good faith and special effort of all who join in the final march against discrimination. But we will also rely—because we must rely—on numerical goals as benchmarks of progress."

In an interview, Mr. Califano said he preferred not to go any further in explaining how "goals" would differ from "quotas."

He called in his address for "more strenuous efforts" to seek out talented and motivated minority students, to develop "imaginative programs of compensatory training," to set up "new institutional programs" of financial and other help and to find new ways "to measure true human potential."

Asked by a reporter what Federal "enforcement" he envisioned for the new goals, Mr. Califano said the first reliance would be attempts at "inspiration."

Queried specifically about theories by some college officials that there could be pressure by withholding Federal research grants and contracts or even diverting students with Federal scholarship grants away from some colleges, the Secretary smilingly said, "Not in the near term."

Mr. Califano had incurred outbursts of criticism in suggesting "quotas" for preferential hiring and admissions in higher education in an interview last March 17.

Thereafter, on March 31, Mr. Califano said he had made a mistake in using the "nerve-jangling" word "quotas," and had intended to urge "affirmative action" against discrimination, such as efforts to find and give special training to deserving people.

In his remarks yesterday at the graduation ceremonies at South Field, 133d Street and Convent Avenue, he said City College "offers an example to the nation" in a commitment to both equality and excellence. A third of its students have entered through "special affirmative action programs," he said. More than a quarter entered under open admissions—more than 10 percent through the SEEK program, Mr. Califano added.

SEEK helps students from families with incomes below the poverty level. The open-admissions program, admitting any graduate of a high school in the city before City University's fiscal crisis, was restricted last year for senior colleges to students with averages of 80 percent or in the upper third of their high schools. Neither sets an ethnic standard.

## REVERSE DISCRIMINATION

Actually, City College was held judicially to have engaged in reverse discrimination last year. This grew out of a \$399,885 contract for the 1974-75 school year from the Department of Health, Education and Welfare whose students could go on to medical schools.

The contract called for a recruitment program with a pool of applicants, "the goal of which will reflect the proportions of women and minority group members as are contained in the total New York City population."

Federal Judge Marvin E. Frankel last Aug. 16 upheld a complaint by white applicants and ruled that 19 whites and Asians

had been wrongly and "intentionally eliminated on the basis of race" at the 1974 admission stage. He said admissions—not just the applicants' pool—had been based on race, with a goal set at a "50 percent quota for blacks and Hispanics."

Currently, about one-fourth of the 200 students at the center are black and Hispanic. Its first 30 graduates yesterday included the commencement's valedictorian, Wai Hung Lee, who has been working at the Chinatown Health Clinic.

Sophie Davis, in whose honor the biomedical center has been named and an alumna of City College's former Baruch School of Business, was one of six recipients of honorary degrees. She was named Doctor of Humane Letters.

Secretary Califano was made an honorary Doctor of Laws with a citation that said his policies affected lives of more Americans than those of any official except the President.

## A BLACK SINGLED OUT

Noting that a fourth of the 2,800 students were black and a fourth were Hispanic, Asian or members of other minorities, Secretary Califano singled out one black, Keith Bailey. Mr. Bailey, he said, had described himself as "drifting" when he got out of high school.

"Today," Mr. Califano said, evoking applause, "Keith Bailey is going somewhere. He is graduating summa cum laude, with a perfect 4.0 average in his math major. He is a track star: this year's City University male Scholar-Athlete of the Year."

Before the ceremonies, Secretary Califano said that, in his budget request to Congress, he is asking for \$4 million to start a program this fall in high schools throughout the nation to try to learn how to identify minority students of talent and limited financial resources.

Yesterday's commencement was City College's first since the imposition of tuition fees in City University, the graduates were told by Dr. Robert E. Marshak, the college president.

Dr. Marshak said that experience had shown that "imposing tuition was a weak political act and not a sensible economic one." Of \$8 million in tuition fees from City College students this year, he said \$6.5 million had come from state and Federal funds.

## MARSHAK CITES TUITION EFFECT

"An additional \$1.5 million in the tax-levy budget would have permitted City College to continue its magnificent tradition of free higher education," Dr. Marshak said. "The effect of tuition on the City University as a whole has been to deny an education to over 50,000 students in one year alone."

The other recipients of honorary degrees were:

Fred M. Hechinger, president-designate of the New York Times Foundation, Doctor of Humane Letters for writing on educational effectiveness.

Robert Mangum, Judge of the State Court of Claims, Doctor of Laws, for improving human relationships.

Adrian W. A. DeWind, president of the Association of the Bar of the City of New York, Doctor of Laws, for stressing that law is to serve, not oppress, people.

Dr. Isidor I. Rabi, Nobel Prize laureate in physics, Doctor of Science, an atomic pioneer who, the citation said, was a City College physics tutor from 1924 to 1927, "not reappointed because of an administrative technicality."

## WALSH AMENDMENT TO H.R. 7553

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WALSH) is recognized for 10 minutes.

Mr. WALSH. Mr. Speaker, during our consideration of the fiscal year 1978 appropriations for the Department of Transportation and Related Agencies Wednesday, I plan to offer an amendment which would prohibit the use of any of the moneys we appropriate in this bill for the modification of any sign relating to any speed limit, any distance, or any other measurement on any highway—as defined in section 101 of title 23, United States Code—for the conversion of such sign to the metric system of measurement—as defined in section 4 of the Metric Conversion Act of 1975 (15 U.S.C. 205c).

As many of my colleagues are aware, I have been extremely concerned about the Federal Highway Administration's proposal published in the Federal Register of April 27, to convert all of our highway signs to metric markings. On April 28 of this year, I introduced legislation to prevent the expenditure of Federal funds for this purpose without an express authorization by the Congress. I testified on this issue on May 17, 1977, before the House Committee on Public Works and Transportation's Subcommittee on Surface Transportation, and at the request of the subcommittee chairman and ranking minority member, I initiated a bipartisan letter which was signed by many of the members of the subcommittee, addressed to Secretary of Transportation Brock Adams, asking that he withdraw the notice of proposed rulemaking with respect to highway sign conversion as published in the Federal Register. A copy of that letter follows this statement.

The highway sign metrification effort proposed by the Federal Highway Administration could well result in a wasteful expenditure of our constituents' tax dollars. It is well known that the Federal Highway Administration has no estimate of the cost of the sign change or of the public education program which would have to precede the sign change. Aside from the fundamental issue of the cost of the project, I am concerned that the Federal bureaucracy is trying to "pull the wool over our constituents' eyes." As it stands now, the Federal Highway Administration could simply mandate that States draw the funds for highway sign metrification for Federal aid highways from their apportionments out of the highway trust fund. Since contract authority to draw against the highway trust fund is written into the authorization, there is no need for us in the Congress to appropriate money each year for the fund and thus specify how it is to be spent. The FHA can use vast numbers of taxpayer dollars without the taxpayer having anything to say about it.

We ought to also keep in mind, as pointed out in the subcommittee's letter to Secretary of Transportation Adams, that the FHA is overstepping its authority by claiming authorization to mandate highway sign metrification under the Metric Conversion Act of 1975. The legislative history of this law, and its specific language, emphasizes that metric conversion will be voluntary and not bound by a specific period of time for implementation.

I am extremely pleased to learn that Mr. GRASSLEY, Mr. WAGGONER, and a number of my other colleagues have also perceived the serious nature of this problem, and I welcome their interest and concern. Changing this country over to the metric system will have a direct and immediate impact on the daily lives of all of our constituents, and to allow this program to proceed without the careful guidance of the Congress would be a grave mistake. I therefore urge support of my amendment.

I include the following:

HOUSE OF REPRESENTATIVES,  
Washington, D.C., May 26, 1977.

HON. BROCK ADAMS,  
Secretary of Transportation, U.S. Department of Transportation, Seventh Street, SW., Washington, D.C.

DEAR MR. SECRETARY: In testimony before the Subcommittee on Surface Transportation, Representative William F. Walsh pointed out to the Subcommittee that the Federal Highway Administration has exceeded its authority by proposing the mandated conversion of all Federal highway signs to metric standards by September of 1982. At the request of the Chairman and the Ranking Minority Member of the Subcommittee, this letter was drafted to request that you immediately withdraw from consideration the regulations proposed by the Federal Highway Administration for this conversion.

We make this request because the proposed regulations are contrary to the intent of Congress in that:

Congress specified that the change to the metric system would be entirely voluntary in nature, whereas this regulation would make conversion mandatory by improper use of the Department's standards-setting authority over highway design and construction.

Congress specified that conversion to the metric system would proceed at a pace best suited to each segment of the economy, rather than completed by a mandated period as the regulation proposes.

The Metric Conversion Act provides that the U.S. Metric Board, and not any other Federal entity, will provide for appropriate procedures whereby various groups, under the auspices of the Board, may recommend specific programs for coordinating conversion in each industry or segment thereof.

The U.S. Metric Board is required to take into account metric conversion costs for various segments of the economy, including government agencies.

The required consultation and other powers delegated to the Metric Board to coordinate metric conversion in the U.S. cannot occur until the Board is appointed. Seventeen persons were nominated by the prior Administration but not acted on by the Senate for confirmation.

We would appreciate your prompt action and reply on this important matter because of the heavy and unauthorized financial drain it would impose on all highway departments throughout this country.

Sincerely,

JAMES J. HOWARD,  
Chairman, Surface Transportation Subcommittee.

BUD SHUSTER,  
Ranking Minority Member.  
WILLIAM F. WALSH,  
Member of Congress.  
THAD COCHRAN,  
Member of Congress.  
DON H. CLAUSEN,  
Member of Congress.  
JOHN G. FARY,  
Member of Congress.  
W. G. HEFNER,  
Member of Congress.

#### CATHERINE FILENE SHOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, our Nation's enjoyment of the performing arts has been given a tremendous lift through the energy and generosity of one person. I speak of Catherine Filene Shouse.

For, Mr. Speaker, Mrs. Shouse's gift to the United States of Wolf Trap Farm Park for the Performing Arts offers the opportunity for the people of our country to enjoy performances of the finest in music and theater and dance.

Located in Vienna, Va., near the Nation's Capital, Wolf Trap serves not only the residents of the Washington, D.C., area but, through the Public Broadcasting Service and more than 250 stations, brings to the people of the entire Nation complete performances that have been videotaped live at Wolf Trap.

Mr. Speaker, the theater at Wolf Trap, the Filene Center, was given by Mrs. Shouse in honor of her parents, Mr. and Mrs. Lincoln Filene. It is a handsome theater, with seats for 3,500 people under its roof and for more than 3,000 on the lawn of its natural amphitheater.

Not only has Mrs. Shouse, through Wolf Trap, made possible outstanding performances but she has established the Wolf Trap Company as a training program for young performing artists. The company is designed to give young singers an opportunity to develop and strengthen their skills through study, practical training under professional directors, and participation in productions on the stage at Wolf Trap. Company members are selected through annual auditions held in major geographical regions of the country.

Mrs. Shouse's concept of a performing arts center in a natural setting also provides a quiet retreat for composers. There has been erected the first of several cottages that will enable artists to escape to a quiet, secluded spot for a period of 2 to 4 weeks to work on the music of the performing arts.

Mr. Speaker, Wolf Trap, America's first national park dedicated to the performing arts, begins its seventh season this year with programs of opera, dance, jazz, symphony, musical theater, and popular entertainment.

Mr. Speaker, for her faith and vision in the establishment of a performing arts center dedicated to the cultural enrichment of our country we owe much appreciation to Catherine Filene Shouse.

#### THE NEED FOR THE CONSUMER PROTECTION AGENCY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. MOSS) is recognized for 5 minutes.

Mr. MOSS. Mr. Speaker, I would like to bring to the attention of my colleagues a bill that is of critical importance to the more than 200 million consumers in this country. H.R. 6805, the Agency for Consumer Protection, is a measure that

is long overdue. American consumers have shown, through their consumer organizations, through letters and telegrams to their elected Members of Congress, and through a recent Louis Harris poll that they want an independent Federal agency to represent them.

A great deal of misunderstanding surrounds this bill. While opponents claim that the Agency represents uncontrolled Government growth and would create another layer of bureaucracy, nothing is further from the truth. The Consumer Agency is a lean operation with funding designated at \$15 million for the first year, surely a pittance compared to the budgets of other Federal agencies. The Defense Department, for example, spends \$15 million in less than 1 hour. Consumers are clearly willing to pay the price for this Agency, a bargain at 25 cents per year for the average taxpaying family.

Congress must act now to make this consumer mandate a reality.

The National Consumers League, the Nation's oldest consumer organization, is a vigorous supporter of the Agency for Consumer Protection. The following statement so clearly shows the need for such an agency that I include it in the RECORD:

(Testimony of Mary Gardiner Jones, President, National Consumers League Before the Governmental Affairs Committee United States Senate April 19, 1977; and Sandra L. Willett, Executive Director, National Consumers League Before the Legislation and National Security Subcommittee of the Committee on Government Operations, United States House of Representatives, April 20, 1977.)

Mr. Chairman, members of the Committee, the National Consumers League thanks you for the opportunity to address you regarding H.R. 6805 and S.1262 which will at long last establish the Agency for Consumer Protection.

The National Consumers League is the oldest consumer organization in the country. Founded in 1899, NCL for the past 78 years has fought for the health, safety and economic well being of the American worker and consumer. NCL's pioneering work has led to the end of abusive child labor, exploitatively low wages, and senseless safety risks in the workplace. In recent decades NCL has defended and promoted the rights and well being of the consumer—not only the purchaser of goods and services in the marketplace but also the recipient of services such as health care.

NCL's leadership is as distinguished as its legacy of action. Louis Brandeis and Felix Frankfurter served as the League's counsel. Eleanor Roosevelt served as Vice-President. With its notable history, the National Consumers League is particularly pleased to comment today on legislation urgently needed to benefit the consumer.

The National Consumers League regards H.R. 6805 and S. 1262 as the single most important consumer legislation to come before the Congress during the last decade. If enacted, it will provide the mechanism by which the views of American consumers can be represented and integrated, in a systematic regularized way, into the Federal governmental decisionmaking process.

The United States is facing a critical period. Wracked with inflation and unemployment, this country is also confronted with complex problems such as pollution, soaring health costs, lack of population planning, deteriorating quality of goods, decreasing levels of productivity, and inadequate secu-



city for the poor. Above all we have the new problem of severe energy shortages. Superimposed on these problems are both a deep sense of individual powerlessness and an unfortunately increasing sense of mistrust on the part of citizens toward all institutions, particularly government.

The Congress, and particularly the Members of this Committee, deserve praise and gratitude for your efforts over the past eight years to establish an independent agency to alleviate much of this distrust. Now, with bipartisan support and the full weight of President Carter behind this legislation, the prospects for passage of H.R. 6805 (S. 1262) are much brighter. However, prompt enactment will require all of our best thinking and full support. We are grateful for the leadership of Esther Peterson, Special Assistant to President Carter, who serves as Vice Chairperson to the League and who is devoting her wisdom and experience to establishing an effective Agency for Consumer Protection.

The Agency for Consumer Protection is needed now. Every day hundreds of Federal agency decisions are made which affect consumers. The decisionmaker has ample opportunity to hear from business, labor and the farm community who have been well represented in Washington for decades. But consumers have no institutionalized representative in the halls of government. Too often decisionmakers do not consider the impact of their actions on the consumer. They lack the incentive—since the consumer voice is not a full partner in the action—and they lack the data.

How many unnecessarily inflationary regulations or Federal programs have been perpetuated which inadequately reflected the consumers' priorities, needs and trade-offs? The 1974 FEO regulations, for example, are estimated to have cost consumers \$40 million in higher oil charges. How can consumers be expected to support such regulations unless the consumers of this country know that their interests were formally—and visibly—represented in the decisionmaking process and, most important, were seriously taken into account.

Similarly, the current issues with respect to clean air regulations could substantially benefit from consumer input. The impact of cleaner air on consumer health, on clothing and household cleaning bills, on the use of medical facilities and medication—all of this data reflecting consumer concerns and costs should be systematically presented and integrated into the larger picture of social impact, capital resource requirements and other factors which must be weighed in arriving at optimum solutions for the nation. Without an Agency for Consumer Protection, the multifaceted consumer interests in any single issue will not be identified, analyzed and available to the decisionmaker. The ultimate decision—and I truly believe the nation as a whole—will be the poorer.

Finally, drawing on the experience of the Federal Trade Commission, we understand that the FTC would have benefited from consumer expertise during the period when it was struggling with the very real credit and warranty problems plaguing consumers.

Government agencies should not have to depend on the fortuitous group to point out scene of skilled citizen groups to point out weaknesses and to articulate consumer concerns. Our democracy demands a more fundamental, structured approach to ensure that the consumer interest is integrated into government decisionmaking along with the other interest groups. Much of the current lack of confidence in governmental decisions and programs would disappear if, in fact, consumers knew their views were integrated into the policies and decisions along with those of other major interest groups.

At long last the Agency for Consumer Pro-

tection will provide consumers with a formal, institutionalized voice in the decisions made by their Federal government, affecting their pocketbooks and the quality of their lives. The ACP legislation restores consumers to their rightful position of equality alongside business and labor and other organized interests.

The National Consumers League is convinced that consumer viewpoints are as essential as business viewpoints for the government's effective decisionmaking. Consumer concerns are essential because the government must receive a balanced presentation of the issues in order to try and determine where the public interest truly lies. We do not equate the public interest with the consumer interest even though all of us frequently refer to consumers as the public. The public interest is made up of the business, the labor, the farm, the international and the consumer interests. All these interests overlap and inter-relate. They all have a right to call upon their government to hear and protect them. But if government is exposed to only one side of a problem, to only one set of viewpoints, to only one interpretation of the data, the resulting decision may well be a discriminating and destructive one, rather than balanced, thoughtful action taken on the basis of knowledge, sensitivity and compromise where delicate trade-offs must be made. The bill before us will eliminate the gross imbalances and will provide consumers with equal representation in our democratic system.

There are several aspects of the bill under consideration about which the National Consumers League feels adamant. There are certain crucial features of the bill which, in our judgment, are critical if we are to achieve the essential goal of providing the consumer with an effective voice in government.

The primary function of the ACP must be to "represent the interests of consumers before Federal agencies and courts." The bulk of the ACP's resources and time commitments should be devoted to this undeniably important function. To carry out this crucial function, the ACP must have the right to participate in Federal agency proceedings affecting the consumer, the right to intervene for the purpose of representing an interest of consumers, and the right to have certain Federal agency decisions, which the Administrator finds after careful examination did not consider or did not reflect the consumer's interest, reviewed by the Federal courts.

1. The right to participate and to have the Administrator's submission taken into full account in an agency's proceedings (as in Section 6) is essential for the orderly and regular representation of consumers. This right assures that as numerous policy and programmatic decisions are made on a daily basis, the decisionmakers are alerted to the consumer's concerns.

2. The right of the ACP to intervene and to be a party in the proceedings of Federal agencies (Section 6) which involve the consumer interest provides needed legal backing to consumer representation. Without this firmly established, definite right the ACP will not be listened to and the consumer interest will not, in fact, be treated on a par with other interests.

3. The right to initiate or participate (also Section 6) in a review or appeal of a decision made by another Federal agency which the ACP finds to have failed to treat the consumer interest properly is an essential integral part of the right to participate and to intervene. It is the consumer agency's right of appeal which will have the greatest positive impact on the government decisionmaking process and which will ensure effective consideration of the consumer interest, whether or not the agency actually participates in a specific proceeding. When all but one of the possible interests in a decision can appeal, the decisionmaker will, of neces-

sity, pay more heed to the arguments and data of the party who has the power to appeal and reverse the decision. By granting the Agency for Consumer Protection the right to appeal, Congress ensures the type of equitable weighing of all issues and balanced decisionmaking which government must pursue.

The ACP must be empowered to gather information "required to protect the health or safety of consumers or to discover consumer fraud or substantial economic injury to consumers." The right to obtain data from existing sources, or to develop specialized data where needed, is crucial if the ACP's representation of the consumer interest is to be effective and is to make a genuine, substantive, high-quality contribution to the decisionmaking process. Expertise based on analyzed data and considered judgment, rather than argumentation and advocacy alone, must distinguish the ACP and to this end, the agency must have data gathering powers.

Thus, what we believe Congress intends for the ACP and what we as the oldest consumer organization support is a small, effective, tightly organized agency which cuts through—not adds to—the bureaucratic layers and reaches the core issues affecting consumers.

The ACP is clearly not a regulatory agency; no one who reads your legislation can come to such a conclusion. It will not restrict the efficient working of any responsive organization, firm or agency in either the public or private sector. Instead, it is an innovation in regulatory reform, in careful and selective intervention, and in the long overdue opening up of government.

The ACP is small and its authorizing legislation provides only a bare minimum budget. In fact, this mechanism for consumer representation, this badly-needed consumer voice, this instrument of government reform will cost the average taxpaying family \$25—one quarter—per year. Surely, we can support such an investment to obtain essential balanced representation of the major interest group in our society.

In addition to the features and functions of the ACP which the National Consumers League finds to be essential, NCL would also like to comment on the need for each agency to establish citizen communication or citizen participation units at a high level within their agencies, subject to their control and charged with implementing specialized citizen outreach functions as required. During the past two years, some agencies have established internal consumer offices; others have created public participation offices which have taken on the tasks of handling communications with citizens.

These internal citizen communication or public participation units work from the inside on a full time, day-to-day basis to help their departments respond to citizen groups concerned with particular, individual agency programs. These units can provide important input to staff and can sensitize their agency to individual citizen concerns. They also can perform important outreach functions to ensure that citizen groups, including small businesses and farmers, are aware of the various departmental activities affecting them. These offices can serve the Agency for Consumer Protection in the same way by identifying the programs and decisionmaking stages of the proceedings within their departments in which the ACP may have an interest. Thus, these internal units in no way duplicate the purpose envisaged for the Agency for Consumer Protection which is to ensure that the consumer viewpoint is adequately represented in departmental and agency decisions on major programs.

Indeed, internal citizen units will make it possible for the Agency for Consumer Protection to remain a small, tightly organized

agency whose primary job will be to mount selected interventions and appeals in major government departmental proceedings.

In conclusion, we would like to stress that the bill to establish the Agency for Consumer Protection, H.R. 6805 (S. 1262) is, in our judgment, the capstone of the democratic process. It is the 1977 answer to the complexity of the technological society in which we find ourselves today. It provides the mechanism for ensuring that the views of our citizens are clearly heard, considered and acted upon in the Federal Executive Branch of the government.

The National Consumers League urges you to pass this crucial piece of legislation as quickly as possible.

# **BILL TO AUTHORIZE THE SECRETARY OF STATE TO ACCEPT A STATUE OR BUST OF GEORGE C. MARSHALL.**

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. CHARLES WILSON) is recognized for 5 minutes.

Mr. CHARLES WILSON of Texas. Mr. Speaker, Sir Winston Churchill wrote of the man who gave the Marshall Plan its name that:

There are few men whose qualities of mind and character have so impressed me as those of General George C. Marshall. He was a great American, but he was far more than that. In war he was as wise and understanding in counsel as he was resolute in action. In peace he was the architect who planned the restoration of our battered European economy and, at the same time, labored tirelessly to establish a system of Western Defence. He always fought victoriously against defeatism, discouragement and disillusion. . . . Succeeding generations must not be allowed to forget his achievements or his example.

To commemorate the 30th anniversary of Secretary of State Marshall's speech launching the Marshall Plan on June 5, 1947, at Harvard University, several of my colleagues and I are introducing a bill to authorize a statue or bust of General Marshall to be placed in the Department of State. The revolutionary philosophy Marshall introduced in his speech called for international economic cooperation, a policy as relevant in today's world as it was 30 years ago. Marshall's plan was not simply to have the United States give assistance to Europe, but to require constructive action from European countries who would work together on a program for the reconstruction of their economies, and then have the United States support such a program.

A massive campaign that Secretary of State Marshall launched to educate the public stimulated such support that the Marshall Plan aid reached \$22 billion over a 3-year period and resulted in a brilliant economic recovery.

Marshall took only 15 minutes to introduce his plan, and in that spirit I will not read his Harvard speech but insert it in the **RECORD** following my remarks. I do want to say that our bill authorizes only \$10,000, which is a small percentage of the cost of a statue, and that we need to generate private contributions to pay the major part of the cost. Many people who worked closely

with General Marshall while he was Secretary of State have indicated their willingness to come and testify in support of this legislation, and we hope the hearings will receive the publicity necessary to engender these contributions.

The speech follows:

SECRETARY OF STATE GEORGE C. MARSHALL'S ADDRESS AT THE COMMENCEMENT EXERCISES OF HARVARD UNIVERSITY, CAMBRIDGE, MASS., JUNE 5, 1947

I need not tell you that the world situation is very serious. That must be apparent to all intelligent people. I think one difficulty is that the problem is one of such enormous complexity that the very mass of facts presented to the public by press and radio make it exceedingly difficult for the man in the street to reach a clear appraisal of the situation. Furthermore, the people of this country are distant from the troubled areas of the earth and it is hard for them to comprehend the plight and consequent reactions of the long-suffering peoples, and the effect of those reactions on their governments in connection with our efforts to promote peace in the world.

In considering the requirements for the rehabilitation of Europe, the physical loss of life, the visible destruction of cities, factories, mines, and railroads was correctly estimated, but it has become obvious during recent months that this visible destruction was probably less serious than the dislocation of the entire fabric of European economy. For the past 10 years conditions have been highly abnormal. The feverish preparation for war and the more feverish maintenance of the war effort engulfed all aspects of national economies. Machinery has fallen into disrepair or is entirely obsolete. Under the arbitrary and destructive Nazi rule, virtually every possible enterprise was geared into the German war machine. Long-standing commercial ties, private institutions, banks, insurance companies, and shipping companies disappeared, through loss of capital, absorption through nationalization, or by simple destruction. In many countries, confidence in the local currency has been severely shaken. The breakdown of the business structure of Europe during the war was complete. Recovery has been seriously retarded by the fact that two years after the close of hostilities a peace settlement with Germany and Austria has not been agreed upon. But even given a more prompt solution of these difficult problems, the rehabilitation of the economic structure of Europe quite evidently will require a much longer time and greater effort than had been foreseen.

There is a phase of this matter which is both interesting and serious. The farmer has always produced the foodstuffs to exchange with the city dweller for the other necessities of life. This division of labor is the basis of modern civilization. At the present time it is threatened with breakdown. The town and city industries are not producing adequate goods to exchange with the food-producing farmer. Raw materials and fuel are in short supply. Machinery is lacking or worn out. The farmer or the peasant cannot find the goods for sale which he desires to purchase. So the sale of his farm produce for money which he cannot use seems to him an unprofitable transaction. He, therefore, has withdrawn many fields from crop cultivation and is using them for grazing. He feeds more grain to stock and finds for himself and his family an ample supply of food, however short he may be on clothing and the other ordinary gadgets of civilization. Meanwhile people in the cities are short of food and fuel. So the governments are forced to use their foreign money and credits to procure these necessities abroad. This process ex-

hausts funds which are urgently needed for reconstruction. Thus a very serious situation is rapidly developing which bodes no good for the world. The modern system of the division of labor upon which the exchange of products is based is in danger of breaking down.

The truth of the matter is that Europe's requirements for the next three or four years of foreign food and other essential products—principally from America—are so much greater than her present ability to pay that she must have substantial additional help or face economic, social, and political deterioration of a very grave character.

The remedy lies in breaking the vicious circle and restoring the confidence of the European people in the economic future of their own countries and of Europe as a whole. The manufacturer and the farmer throughout wide areas must be able and willing to exchange their product for currencies the continuing value of which is not open to question.

Aside from the demoralizing effect on the world at large and the possibilities of disturbances arising as a result of the desperation of the people concerned, the consequences to the economy of the United States should be apparent to all. It is logical that the United States should do whatever it is able to do to assist in the return of normal economic health in the world, without which there can be no political stability and no assured peace. Our policy is directed not against any country or doctrine but against hunger, poverty, desperation, and chaos. Its purpose should be the revival of a working economy in the world so as to permit the emergence of political and social conditions in which free institutions can exist. Such assistance, I am convinced, must not be on a piecemeal basis as various crises develop. Any assistance that this Government may render in the future should provide a cure rather than a mere palliative. Any government that is willing to assist in the task of recovery will find full cooperation, I am sure, on the part of the United States Government. Any government which maneuvers to block the recovery of other countries cannot expect help from us. Furthermore, governments, political parties, or groups which seek to perpetuate human misery in order to profit therefrom politically or otherwise will encounter the opposition of the United States.

It is already evident that, before the United States Government can proceed much further in its efforts to alleviate the situation and help start the European world on its way to recovery, there must be some agreement among the countries of Europe as to the requirements of the situation and the part those countries themselves will take in order to give proper effect to whatever action might be undertaken by the Government. It would be neither fitting nor efficacious for this Government to undertake to draw up unilaterally a program designed to place Europe on its feet economically. This is the business of the Europeans. The initiative, I think, must come from Europe. The role of this country should consist of friendly aid in the drafting of a European program and of later support of such a program so far as it may be practical for us to do so. The program should be a joint one, agreed to by a number, if not all, European nations.

An essential part of any successful action on the part of the United States is an understanding on the part of the people of America of the character of the problem and the remedies to be applied. Political passion and prejudice should have no part. With foresight, and a willingness on the part of our people to face up to the vast responsibility which history has clearly placed upon our country, the difficulties I have outlined can and will be overcome.



**JOINT HEARING BEFORE THE SUBCOMMITTEE ON CRIME OF THE HOUSE COMMITTEE ON THE JUDICIARY AND THE SELECT EDUCATION SUBCOMMITTEE OF THE HOUSE EDUCATION AND LABOR COMMITTEE ON THE SEXUAL EXPLOITATION OF CHILDREN**

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I am pleased to announce that the Subcommittee on Crime of the House Committee on the Judiciary and the Select Education Subcommittee of the House Committee on Education and Labor will hold a joint hearing on Friday, June 10, 1977, at 9 a.m., in room 2175 of the Rayburn House Office Building on the issue of the sexual abuse and exploitation of children.

Bills to amend the criminal code to prohibit the sexual exploitation of children have been referred to the Crime Subcommittee, and we have already held 2 days of hearings on the proposed legislation. Congressman JOHN BRADEMAS' subcommittee has been referred bills to amend the Child Abuse Treatment Act with substantially the same language. He has held hearings in Los Angeles and New York on the subject.

The two subcommittees will join in a hearing to explore the legal issues involved. To that end, Attorney General Griffin Bell, Treasury Secretary Michael Blumenthal, and Postmaster General Benjamin F. Bailar have been invited to testify before the members at the joint hearing. In addition Mr. Kenneth Wooten will appear to discuss the nature of the problem. Members of Congress who have cosponsored bills before the subcommittees will also present testimony.

Those wishing to testify or submit a statement for the record should address their requests to the Committee on the Judiciary, 2137 Rayburn House Office Building, Washington, D.C. 20515.

**LEGISLATION AUTHORIZING SECRETARY OF AGRICULTURE TO PERMIT RECREATIONAL ACCESS AND GEOTHERMAL EXPLORATION WITHIN BULL RUN RESERVE**

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AUCCOIN) is recognized for 5 minutes.

Mr. AUCCOIN. Mr. Speaker, today I have introduced a bill that is an interim measure but that will calm a storm over the Bull Run Reserve near Portland, Oregon, and allow hundreds of handicapped persons to enjoy the use of a nature trail within the reserve built just for them.

The entire Oregon House delegation joins in introducing this measure, which includes my able colleagues, Mr. DUNCAN, Mr. WEAVER, and Mr. ULLMAN.

The situation this legislation seeks to deal with stems from a U.S. district court ruling requiring to be strictly enforced the provisions of the 1904 Trespass Act

relating to the Bull Run Reserve, which contains a watershed that is Portland's only source of water. This has meant that there was to be no entry into the reserve except for purposes relating to preservation or improvement of water supply. Among other things, this has also meant the closure of the Lost Creek Nature Trail which is within the legal boundaries of the Reserve, but is well outside the geographical area of the crucial watershed.

Legislation has been introduced to install new, permanent management guidelines for the Bull Run Reserve and to redraw the boundaries.

Nearly everyone agrees that such legislation is needed. But not everyone agrees on what management practices should be allowed, what degree of influence should be afforded the city of Portland in setting management policies, and a host of other related issues. In fact, there are sharp differences of opinions on this issue that will take time for Congress to work out.

The Interior Subcommittee handling the "permanent" bill indicates it does not have room on its schedule to take up such complex legislation until later this summer.

In the meantime, however, the question is whether certain recreation users, particularly the handicapped, will be frozen out of their traditional recreation facilities while these broader issues—which do not involve them—are resolved.

I think it would be intolerable to let this occur.

This bill is designed to avoid this problem by redesignating the boundaries of the watershed and to allow the Secretary of Agriculture to manage a 42,500-acre portion of the reserve—which is not in the physical watershed or its buffer and which has been targeted for eventual exclusion from the reserve when its boundaries are redrawn—and to do so under the provisions of the Multiple Use-Sustained Yield Act of 1960, as well as other applicable laws pertaining to national timberlands. This special authority would last for only 6 months after the enactment of this act.

By taking this simple step, the handicapped would be able to use the Lost Creek Nature Trail this summer, and other hikers would be allowed to use trails within this special area.

Perhaps most important, the passage of this bill will remove the crisis atmosphere that has begun to surround this issue on the broader and deeper questions of management of the watershed itself. The emphasis no longer would be on doing something faster; rather, it would be on doing something well.

The watershed would not be damaged by passage of this bill. The issues of management of the watershed would not be prejudiced. And, consideration of those broader issues would not be delayed. No precedents would be established and no one would be punished.

With the helpful cooperation of the Interior Subcommittee, chaired by the distinguished gentleman from Wyoming (Mr. RONCALIO), hearings of this legis-

lation have been scheduled for tomorrow, June 7. It is hoped that subcommittee and full committee action can occur rapidly.

Some might regard this as an unnecessarily hasty procedure, but the effects of the bill are noncontroversial and I am confident reasonable persons will see it as a benevolent act by the Government in behalf of innocent citizens in need of rapid relief.

Mr. Speaker, for the benefit of my colleagues, I am having printed in the Record at this point the text of this bill:

H.R. —

A bill to authorize the Secretary of Agriculture to permit general recreational access and geothermal explorations for six months within a portion of the Bull Run Reserve, Mt. Hood National Forest, Oregon

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding 18 U.S.C. 1862 and without prejudice to any appeal pending or which may be taken from any decision based thereon, and in accordance with all other laws applicable to the National Forest System, the Secretary of Agriculture is authorized to manage under the provisions of the Multiple Use-Sustained Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528-531), for six months after the date of this Act, that area comprising approximately 42,500 acres depicted as the "Special Management Area, Bull Run Reserve, Mount Hood National Forest, Oregon" on a map dated June 1977, which is on file and available for public inspection in the Office of the Chief, Forest Service, U.S. Department of Agriculture.

**TOWARD A GREATER JUSTICE AND LOGIC IN PENSION PLANS**

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 10 minutes.

Mr. WOLFF. Mr. Speaker, currently there is a significant and blatant injustice in the Internal Revenue Code with regard to pension plans. I would like to bring attention to this problem and urge support for H.R. 7587, which I have introduced and which I believe will deal effectively with this inequity.

This tax inequity has two aspects to it. First, under current law, if individuals are not covered by an employer-sponsored pension plan, then they can establish an Individual Retirement Account, IRA, plan as a substitute pension plan. The IRA plan presently enables single individuals to set aside the lesser of \$1,500 or 15 percent of their income per year and enables married couples to set aside the lesser of \$1,750 or 15 percent of their income per year. However, if these very same individuals are covered by an employer-sponsored pension plan, then they are currently ineligible to establish the IRA plan, even if the benefits ultimately available under the employer's plan are significantly less than would be ultimately available under the IRA plan.

In other words, it is now possible for an employer to sponsor a pension plan into which the joint contributions of the employer and employees are small and from which there will only be meager benefits, and, nevertheless, deprive the employees

of the opportunity to establish an IRA account, which would afford them far greater income protection and security upon retirement.

The second injustice applies to the contribution system of all pension plans regardless of how generous are their benefits. Simply stated, some individuals are covered by employer-sponsored pension plans and others are eligible for IRA plans. Both of these plans are designed to serve as pension plans. Justice and logic would seem to require that the individuals' contributions to either type of plan be treated the same by the Internal Revenue Code. However, this is not the case under the current law. Instead, presently, individuals who are eligible for an IRA plan, on grounds that they are not covered by an employer-sponsored pension plan, can take a deduction now for their contribution to the IRA plan and can pay a deferred tax on those contributions during their retirement years when they are presumably in a lower tax bracket than they were in when working.

However, if these same individuals are covered by an employer sponsored pension plan, then they would be unable to make current tax deductions and would be unable to take advantage of the lower tax bracket aspect of deferred taxation. Rather, the money which they contribute to the plan would, nevertheless, be treated currently as income of these individuals' and taxed as such.

H.R. 7587 would correct these two inequities. First, it would enable an individual to set up a modified IRA plan, even if covered by an employer sponsored plan, up to the point where the employer's plan plus the modified IRA plan would exceed \$1,500 or 15 percent of the individual's income per year. A similar provision would be available for married couples, with the limit being the lesser of \$1,750 or 15 percent. In this way the individual or couple would not be denied eligibility for an IRA plan merely because they are covered by an employer's plan, even though the employer's plan affords only meager benefits.

For example, if an employer contributes \$100 to a pension plan and the employee contributes \$50, then the employee can set up a modified IRA for \$1,350—\$100 plus \$50 equals \$150; \$1,500 minus \$150 equals \$1,350; \$1,350 plus \$150 does not exceed \$1,500.

Second, if there is an employer's plan, it is possible under H.R. 7587 to deduct from the gross income of the employee, the employee's contributions to the plan up to the point where the employer's contributions—which are already under current law not included in the income of the employee—plus the employee's contributions equal \$1,500 or 15 percent. In this way, an individual can contribute to a pension plan and will be able to have \$1,500 or 15 percent of income for a retirement plan set aside each year, yet will not be subjected to current taxation on it, without regard to if it is an IRA plan or an employer sponsored plan.

For example, if an employer contributes \$100 to a pension plan and an employee contributes \$50, then that em-

ployee can deduct all \$50 from gross income. Or, if the employer contributes \$1,000 and the employee contributes \$600, then the employee can deduct that part of the contribution which when combined with the employer's contribution does not exceed \$1,500. Therefore, the employee can deduct \$500 of the \$600 contribution.

Mr. Speaker, I, therefore, believe that justice demands and logic commands that we resolve the problems to which I have addressed myself today. I further trust that the House will seriously consider the solution embodied in H.R. 7587.

#### THE ASHBROOK AMENDMENT TO THE HATCH ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. ERTEL) is recognized for 5 minutes.

Mr. ERTEL. Mr. Speaker, I am very much concerned about an amendment which passed this House and relates to the proposed Hatch Act. This amendment, commonly called the Ashbrook amendment in my judgment, is unconstitutional and its constitutionality should have been explained on this floor. This amendment was offered by a member of the Judiciary Committee, but he at no time explained the constitutionality of the amendment. As to paragraph (D) (1), this language is only redundant as to other parts of the Criminal Code and adds nothing to existing law. The Federal Corrupt Practices Act plus the provisions of section 7323, sections 7324 and 7325 of H.R. 10 cover this proposal well.

The second portion of this amendment concerns me greatly. As an elected Member of the Congress, I, as well as the rest of my colleagues, took an oath to uphold the Constitution of the United States, yet at no time was the House of Representatives apprised as to the constitutionality of this amendment. This section of the amendment, in my judgment, is not only unconstitutional but also precedent to repress individual rights throughout the country. In an opinion by the American Law Division of the Library of Congress, serious doubt as to the constitutionality of this section is raised; however, even that opinion does not strike the heart of the matter. The amendment provides:

No portion of any dues, fees or assessments levied on the membership of any employee organization . . . shall be used by such organization for any political purpose or by any political education or action committee of such organization for any purpose. (CONGRESSIONAL RECORD, May 18, 1977, p. H4672.)

Initially, what is an employee organization? There is no definition but it appears that an association of postmasters—they are employees; an association of supervisors—they are employees; a civic group of Federal employees—all would fit within the definition as well as a union or collective bargaining group. If one of these groups had dues—as almost all civic groups or associations do—and they talked about

the plight of the handicapped or wrote on their stationery to other members of their group, they would be in violation of this section if it could be construed to have political overtones.

Not only is this section overbroad but it is poorly drafted as well. By putting in the words "for any purpose," the drafters have further confused the issue. How are they to be interpreted? Are the words "action committee" modified by the word "political" to mean political action committee or does it mean that no action committee can use the funds collected at all, that is, "for any purpose"? This means that they could not even hold a meeting, give to the Boy Scouts or any other organizations, et cetera. The ambiguity in this amendment affecting both freedom of speech and freedom of association is so broad that it would almost certainly be struck down as unconstitutionally vague by the first Federal court to review the operation of this provision.

If, as Mr. ASHBROOK states in the CONGRESSIONAL RECORD of May 25, 1977, this amendment is merely to prohibit labor organizations—which it does not say—from making a direct contribution or expenditure in Federal elections, as he points out, this activity is already prohibited and has been since 1947. In those comments, Mr. ASHBROOK says that the union—which the amendment is not limited to—can do as other unions on an informational basis in informing its members. He states:

The organization is free, for example, to use institutional funds to print a notice of an upcoming election just as it would be free to print in its regular internal communications selected votes showing the record of particular candidates on the issues. (CONGRESSIONAL RECORD, May 25, 1977, p. H5078.)

The amendment does not say this at all and it seems to be that after the fact, the author is now considering how to construct the amendment and retain it under the Constitution. If the amendment is limited as above, it has no new effect whatsoever and is superfluous in the code.

Apparently, politics is still politics in Washington, a politics that does not serve the interests of the American people. This amendment once again shows that the diversions from the Nation's business at the people's expense will be continued. As Representatives, it is time to consider our actions under the Constitution, consider amendments on their merits and their relationship to other code provisions.

This Congress, has enough to do without considering amendments which are meaningless or else patently unconstitutional.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. YOUNG of Florida (at the request of Mr. RHODES), for today, on account of official business.

Mr. PEPPER (at the request of Mr. WRIGHT), for Friday, June 3, on account of a death in the family.



Mr. BALDUS (at the request of Mr. WRIGHT), for June 6 through June 24, on account of official business.

Mr. DEVINE (at the request of Mr. RHODES), for today and the balance of the week, on account of medical reasons.

Mr. McHUGH (at the request of Mr. WRIGHT), for June 6 through June 24, on account of official business.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PURSELL) to revise and extend their remarks and include extraneous matter:)

Mr. JEFFORDS, for 10 minutes, today.

Mr. RAILSBACK, for 5 minutes, today.

Mr. MARKS, for 10 minutes, today.

Mr. WALKER, for 10 minutes, today.

Mr. WALSH, for 10 minutes, today.

(The following Members (at the request of Mr. AMMERMAN) and to revise and extend their remarks and include additional matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. BRADEMAs, for 5 minutes, today.

Mr. MOSS, for 5 minutes, today.

Mr. CHARLES WILSON of Texas, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. AuCOIN, for 5 minutes, today.

Mr. WOLFF, for 10 minutes, today.

Mr. ERTel, for 5 minutes, today.

#### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BEDELL, to include extraneous material on his remarks delivered in the Committee of the Whole, today.

(The following Members (at the request of Mr. PURSELL) and to include extraneous material:)

Mr. WHITEHURST in two instances.

Mr. DERWINSKI in three instances.

Mr. ABDNOR in two instances.

Mr. MARRIOTT.

Mr. MOORHEAD of California.

Mr. DEL CLAWSON in three instances.

Mr. HYDE in two instances.

Mr. COLEMAN.

Mr. RUDD.

Mr. ROUSSELOT in two instances.

Mr. MARTIN.

Mr. McDADE.

Mr. JOHN T. MYERS.

Mr. KETCHUM.

Mr. GOLDWATER.

Mr. BROOMFIELD.

Mr. GILMAN.

(The following Members (at the request of Mr. AMMERMAN) and to include extraneous matter:)

Mr. MAZZOLI.

Mr. ASPIN in 10 instances.

Mr. BARNARD in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. FRASER.

Mr. BROWN of California in 10 instances.

Mr. ERTel.

Mr. EDGAR.

Mr. RICHMOND.

Mr. SIMON in three instances.

Mr. AuCOIN in two instances.

Mr. LEDERER.

Mr. McDONALD.

Mr. UDALL.

Mr. MOAKLEY.

Mr. BEARD of Rhode Island.

Mr. DANIELSON.

Mr. MILLER of California in three instances.

Mr. NOWAK in three instances.

Mr. KOSTMAYER.

Mr. BRADEMAs in five instances.

Mr. OTTINGER.

Mr. WOLFF.

Mr. GINN.

Mr. DODD.

Mr. BINGHAM in 10 instances.

Mr. CLAY.

#### ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2992. An act to authorize appropriations for fiscal year 1978 for carrying out the Comprehensive Employment and Training Act of 1973 as amended.

#### ADJOURNMENT

Mr. AMMERMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 49 minutes p.m.) the House adjourned until tomorrow, Tuesday, June 7, 1977, at 12 o'clock noon.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1627. A letter from the Deputy Secretary of Agriculture, transmitting a draft of proposed legislation to amend title III of the Bankhead-Jones Farm Tenant Act, as amended, to eliminate the necessity of referring loans made with Resource Conservation and Development funds in excess of \$250,000 to congressional committees for approval; to the Committee on Agriculture.

1628. A letter from the Secretary of the Treasury, transmitting a progress report on the application of intermediate technology in the Inter-American Development Bank, pursuant to section 29 of the Inter-American Development Bank Act; to the Committee on Banking, Finance and Urban Affairs.

1629. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee and insurance transactions supported by Eximbank during April 1977 to Communist countries; to the Committee on Banking, Finance and Urban Affairs.

1630. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-42, "To provide for garnishment and similar proceedings against the government of the District of

Columbia for the enforcement of child support and alimony obligations," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

1631. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

1632. A letter from the Director of Economic and Policy Research, Securities and Exchange Commission, transmitting the Commission's fifth report on the effect of the absence of fixed rates of commissions, pursuant to section 6(e)(3) of the Securities Exchange Act of 1934, as amended (89 Stat. 108); to the Committee on Interstate and Foreign Commerce.

1633. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(a) of the act (66 Stat. 214, 76 Stat. 1247); to the Committee on the Judiciary.

1634. A letter from the Comptroller General of the United States, transmitting a report on the military jury system (FPDC-76-48 June 6, 1977); jointly, to the Committee on Government Operations, and Armed Services.

1635. A letter from the Comptroller General of the United States, transmitting a report on two coproduction programs under the Foreign Military Sales program (ID-76-84, June 6, 1977); jointly, to the Committees on Government Operations, and Armed Services.

1636. A letter from the Comptroller General of the United States, transmitting a report on the Defense Department's use of appropriated funds to pay transportation costs of non-appropriated-fund activities (LCD-76-233, June 3, 1977); jointly, to the Committees on Government Operations, and Armed Services.

1637. A letter from the Comptroller General of the United States, transmitting a report on the Federal Deposit Insurance Corporation's financial disclosure system (FPDC-77-49, June 1, 1977); jointly, to the Committees on Government Operations, Banking, Finance and Urban Affairs, the Judiciary, and Post Office and Civil Service.

1638. A letter from the Comptroller General of the United States, transmitting a report on the results of the Third Law of the Sea Conference (ID-77-37 June 6, 1977); jointly, to the Committees on Government Operations, and International Relations.

1639. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to provide for an additional Assistant Secretary in the Department of the Treasury; jointly, to the Committees on Ways and Means, and Post Office and Civil Service.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. Report on allocation of budget authority and outlays for fiscal year 1977 (Rept. No. 95-390). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Iowa: Committee on Small Business. Report on allocation of budget totals to subcommittees for fiscal year 1978 (Rept. No. 95-391). Referred to the Commit-

tee of the Whole House on the State of the Union.

Mr. YATES: Committee on Appropriations. H.R. 7636. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1978, and for other purposes (Rept. No. 95-392). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of North Dakota (for himself, Mr. AuCOIN, Mr. CARTER, Mr. FINDLEY, Mr. HOLLAND, Mr. JOHNSON of Colorado, Mr. MARLENEE, Mr. NEAL, Mr. POAGE, Mr. ROSE, Mr. SIMON, Mr. WHITTEN, and Mr. ROBINSON):

H.R. 7605. A bill to amend the Internal Revenue Code of 1954 to provide that certain income from a nonmember telephone company is not taken into account in determining whether any mutual or cooperative telephone company is exempt from income tax; to the Committee on Ways and Means.

By Mr. AuCOIN (for himself, Mr. DUNCAN of Oregon, Mr. WEAVER, and Mr. ULLMAN):

H.R. 7606. A bill to authorize the Secretary of Agriculture to permit general recreational access and geothermal explorations for 6 months within a portion of the Bull Run Reserve, Mount Hood National Forest, Oreg.; to the Committee on Interior and Insular Affairs.

By Mr. BINGHAM (for himself and Mr. WEAVER):

H.R. 7607. A bill to provide benefits, training, and other forms of readjustment assistance to workers affected by the termination of major Government procurement programs, and to provide a tax credit for hiring certain retrained workers; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. DE LUGO:

H.R. 7608. A bill to make available certain funds under the Emergency School Aid Act to agencies, institutions, and organizations in the territories and possessions of the United States; to the Committee on Education and Labor.

By Mr. EILBERG (for himself and Mr. DE LUGO):

H.R. 7609. A bill to establish procedures for the granting of permanent residence to certain nonimmigrant aliens in the Virgin Islands of the United States; to the Committee on the Judiciary.

By Mr. HARRIS (for himself and Ms. MIKULSKI):

H.R. 7610. A bill to amend the Internal Revenue Code of 1954 to allow a tax credit on houses or apartments for a portion of the real estate taxes paid or incurred by their landlords; to the Committee on Ways and Means.

By Mr. HEFTTEL:

H.R. 7611. A bill to direct the Secretary of Health, Education, and Welfare to permit the use of saccharin as a food, food additive, drug, and cosmetic for 12 months; to the Committee on Interstate and Foreign Commerce.

By Mr. KASTENMEIER:

H.R. 7612. A bill to amend title 39 of the United States Code to prohibit the Postal Service from limiting regular daily mail delivery to fewer than 6 days each week, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. KETCHUM:

H.R. 7613. A bill to require the preparation

of written estimates for work to be performed on aircraft, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. MONTGOMERY:

H.R. 7614. A bill to amend the Federal Civil Defense Act of 1950 to allow Federal civil defense funds to be used by local civil defense agencies for natural disaster relief, and for other purposes; to the Committee on Armed Services.

By Mr. SIMON (for himself and Mr. COLLINS of Texas):

H.R. 7615. A bill to amend title 39, United States Code, to abolish the Postal Rate Commission and to index future postal rate increases with the Consumer Price Index, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. UDALL (for himself, Mr. KASTENMEIER, Mr. REUSS, Mr. THOMPSON, Mr. MITCHELL of Maryland, Mr. SIMON, Mr. AuCOIN, Mr. BADILLO, Mr. BEDELL, Mr. BLOVIN, Mr. BONIOR, Mr. CONYERS, Mr. DRINAN, Mr. EDWARDS of California, Mr. EILBERG, Mr. ETEL, Mr. FRASER, Mr. GORE, Mr. MURPHY of Pennsylvania, Mr. NEAL, Mr. OTTINGER, Mr. PATTISON of New York, Mr. PEASE, Mr. STARK, and Mr. VENTO):

H.R. 7616. A bill to establish a Commission to study the laws and policies of the United States and major industries for their effect on competition, and for other purposes; to the Committee on the Judiciary.

By Mr. UDALL (for himself, Mr. CHARLES WILSON of Texas, and Mr. WIRTH):

H.R. 7617. A bill to establish a Commission to study the laws and policies of the United States and major industries for their effect on competition, and for other purposes; to the Committee on the Judiciary.

By Mr. WHITEHURST (for himself and Mr. COUGHLIN):

H.R. 7618. A bill to require the Secretary of the Interior to make a comprehensive study of the wolf for the purpose of developing adequate conservation measures, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. CHARLES WILSON of Texas (for himself, Mr. FASCELL, Mr. BINGHAM, Mr. CONTE, Mr. BADILLO, Mr. BAUCUS, Mr. BLANCHARD, Mr. BOLAND, Mr. BUTLER, Mr. CARTER, Mr. DUNCAN of Tennessee, Mr. EILBERG, Mrs. FENWICK, Mr. FINDLEY, Mr. FISH, Mr. FRASER, Mr. GILMAN, Mr. HORTON, Mr. MAZZOLI, Mr. MIKVA, Mr. MURPHY of Pennsylvania, Mr. OTTINGER, Mr. PANETTA, Mr. REUSS, and Mr. SIMON):

H.R. 7619. A bill to authorize the Secretary of State to accept a statue or bust of George C. Marshall; jointly to the Committees on House Administration and International Relations.

By Mr. CHARLES WILSON of Texas (for himself, Mr. FASCELL, Mr. BINGHAM, Mr. CONTE, Mr. STRATTON, Mr. VENTO, and Mr. WAXMAN):

H.R. 7620. A bill to authorize the Secretary of State to accept a statue or bust of George C. Marshall; jointly to the Committees on House Administration, and International Relations.

By Mr. BARNARD:

H.R. 7621. A bill to amend the Federal-Aid Highway Act of 1973 in order to increase the Federal share of the cost of certain railroad highway crossing demonstration projects; to the Committee on Public Works and Transportation.

By Mr. CARNEY:

H.R. 7622. A bill to amend the Railroad Retirement Act of 1974 to eliminate deductions from supplemental annuities on account of private pensions; to the Committee on Interstate and Foreign Commerce.

By Mr. DOWNEY:

H.R. 7623. A bill to repeal the act entitled "An Act to express the intent of the Congress with reference to the regulation of the business of insurance"; to the Committee on Interstate and Foreign Commerce.

By Mr. DUNCAN of Tennessee:

H.R. 7624. A bill to amend the U.S. Housing Act of 1937 to provide that medicare taxes and premiums paid by any family assisted under such act may not be included in the income of such family for the purpose of determining the eligibility of such family for assistance under such act and the amount of such assistance; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HYDE (for himself and Mr. IRELAND):

H.R. 7625. A bill to have an inscription and appropriate medals, ribbons, and tributes placed upon the crypt at the National Cemetery at Arlington, Va., reserved for an American soldier who lost his life in Southeast Asia during the Vietnam era, and whose identity is unknown; to the Committee on Veterans' Affairs.

By Mr. JEFFORDS:

H.R. 7626. A bill to amend section 504 of the Vocational Rehabilitation Act of 1973; to the Committee on Education and Labor.

By Mr. OBERSTAR:

H.R. 7627. A bill to amend the Railroad Retirement Act of 1974 to provide benefits for certain disabled spouses of railroad employees and for certain spouses of disabled railroad employees; to the Committee on Interstate and Foreign Commerce.

H.R. 7628. A bill to amend the Railroad Retirement Act of 1974 to assure that surviving parents receive benefits that are not less than those analogous surviving parents receive under the Social Security Act; to the Committee on Interstate and Foreign Commerce.

H.R. 7629. A bill to provide for the procurement of advanced photovoltaic energy devices for use in Government buildings; to the Committee on Public Works and Transportation.

By Mr. ST GERMAIN:

H.R. 7630. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the entire amount of the gain from certain involuntary conversions of the principal residences of individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. STAGGERS:

H.R. 7631. A bill to amend title 39, United States Code, to alter the organizational structure of the U.S. Postal Service, to revise the procedure for adjusting postal rates and services, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. TAYLOR:

H.R. 7632. A bill to amend title 5, United States Code, to provide that air traffic controllers entitled to immediate retirement annuities may not be entitled to training under section 3381, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. WON PAT:

H.R. 7633. A bill to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes; to the Committee on the Judiciary.

By Mr. YATES:

H.R. 7636. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

By Mr. ADDABBO (for himself, Mr. BROYHILL, Mr. BAUCUS, Mr. BADILLO, Mr. BRADENAS, Mr. BONIOR, Mr. BLOVIN, Mr. CHAPPELL, Mr. CORMAN, Mr. CLEVELAND, Mr. D'AMOURS, Mr. EILBERG, Mr. EDWARDS of Oklahoma, Mr. ETEL, Mr. EVANS of Indiana, Mrs. FENWICK, Mr. FRENZEL, Mr. FLORIO, Mr. GUYER, Mr. GEPHARDT,



Mr. HORTON, Mr. HAMILTON, Mr. HUGHES, and Mr. IRELAND):

H.J. Res. 503. Joint resolution requesting the President to commemorate the 20th anniversary of the date of the enactment of the Small Business Act and the establishment of the Small Business Administration; to the Committee on Post Office and Civil Service.

By Mr. ADDABBO (for himself, Mr. LAGOMARSINO, Mr. KOSTMAYER, Mr. LOTT, Mr. LE FANTE, Mr. LLOYD of California, Mr. LENT, Mr. LaFALCE, Mr. MURPHY of Pennsylvania, Mr. MITCHELL of Maryland, Mr. MATTOX, Mr. MITCHELL of New York, Mr. MOFFETT, Mr. MANN, Ms. MIKULSKI, Mrs. MEYNER, Mr. OTTINGER, Mr. PICKLE, Mr. PANETTA, Mr. ROYBAL, Mr. RANGEL, Mr. RODINO, Mr. RAHALL, Mr. ROSENTHAL, and Mr. RICHMOND):

H.J. Res. 504. Joint resolution requesting the President to commemorate the 20th anniversary of the date of the enactment of the Small Business Act and the establishment of the Small Business Administration; to the Committee on Post Office and Civil Service.

By Mr. ADDABBO (for himself, Mr. STEED, Mr. SPENCE, Mr. SISK, Mr. SCHULZE, Mrs. SPELLMAN, Mr. WINN, Mr. WHITEHURST, Mr. WAGGONER, Mr. WHITLEY, Mr. WAXMAN, Mr. WEISS, Mr. ZEPERETTI, Mr. LEACH, and Mr. BENJAMIN):

H.J. Res. 505. Joint resolution requesting the President to commemorate the 20th anniversary of the date of the enactment of the Small Business Act and the establishment of the Small Business Administration; to the Committee on Post Office and Civil Service.

By Mr. BROOMFIELD:

H. Res. 613. Resolution to express the sense of the House of Representatives with regard to conditions under which the United States would establish diplomatic relations with the Government of Cuba; to the Committee on International Relations.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. STEERS:

H.R. 7634. A bill for the relief of Lucien S. Ficks, his wife Simone, and daughter Renata; to the Committee on the Judiciary.

H.R. 7635. A bill for the relief of Philip G. Kemp; to the Committee on the Judiciary.

By Mr. McDADE:

H.J. Res. 506. Joint resolution in recognition of a great Pennsylvanian, Fred Waring; to the Committee on the Judiciary.

By Mr. STEERS:

H. Res. 614. Resolution to refer the bill H.R. 7635 for the relief of Philip G. Kemp to the Court of Claims; to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

119. By the SPEAKER: Petition of the Registrars of Voters Association of Norfolk County, Medford, Mass., relative to election day registration proposals; to the Committee on House Administration.

120. Also, petition of the Long Island Federation of Women's Clubs, Inc., Jamaica, N.Y., relative to establishment of a maximum age for service in Congress; to the Committee on the Judiciary.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10

By Mr. ALLEN:

Delete all of section 7325(d), beginning at line 10, page 36, through line 19, page 37, and substitute the following language so as to read:

"(d) (1) In addition to the prohibitions of subsection (a) of this section, an employee holding a restricted position may not take an active part in political management or political campaigns.

"(2) For the purpose of this subsection, 'an active part in political management or in political campaigns' means those acts of political management or political campaigning which were prohibited on the part of employees in the competitive service before July 19, 1940, by the determinations of the Civil Service Commission under the rules prescribed by the President."

Delete from section 7326 subsections (b) and (c) thereof, substituting therefor a new subsection (b), below and change the designation of subsection (d) to "(c)":

"(b) An employee who desires to become a candidate for any elective office must first obtain a leave of absence and shall not work and/or earn compensation or other privileges of employment for a period beginning with the last workday preceding the day said employee shall either qualify as a candidate or announce his or her candidacy for such elective office, and ending with the day after said election, or the day after said employee withdraws as a candidate for elective office, whichever is sooner; and no such employee shall be entitled to use, during this period, any entitlement to sick leave or any other form of leave, except that said employee may be entitled to be paid during the foregoing period of absence from his employment for any period of accrued annual leave or compensatory time to which he was entitled on the day the foregoing period of absence commences, at the election of said employee."

By Mr. BAUMAN:

An amendment to the amendment offered by Mr. CLAY on page 33 to the bill, H.R. 10: Strike out the words "which are not unlawful under that Act or such title".

Amendments to H.R. 10: Strike out the requisite number of words.

Strike out the necessary number of words. Strike out the penultimate word.

By Mr. CLAY:

(An amendment in the nature of a substitute to the amendment offered by Mr. RYAN.): Page 30, strike out section 7322(9) of title 5, United States Code, as proposed by the bill, beginning on line 13 and ending on line 3 of page 32 and insert in lieu thereof the following:

"(9) 'restricted position' means any position with respect to which there is in effect a determination by the Commission, by regulation, that—

"(A) the duties and responsibilities of such position require such employee—

"(i) as a substantial part of his official activities, to engage in foreign intelligence activities relating to national security;

"(ii) in the normal course of carrying out such duties and responsibilities, to make decisions binding on employees with respect to whom he is a superior with regard to who shall be the subject of any action which is to be taken by any such employee in connection with the enforcement of any civil or criminal law (including any inspection or audit under any such law); or

"(iii) in the normal course of carrying out such duties and responsibilities—

"(I) to make binding decisions on who shall be awarded contracts which are for the procurement of goods or services for the

Government and which have substantial monetary value, or who shall be awarded licenses, grants, subsidies, or other benefits, which involve funds or other interests having a substantial monetary value; or

"(II) to supervise individuals engaged in the awarding, administering, or monitoring of such contracts, licenses, grants, subsidies, or benefits; and

"(B) the restrictions on political activity imposed on such employee in such position are justified in order to insure the integrity of the Government or the public's confidence in the integrity of the Government."

Page 38, line 14, after "public office", insert "or who is in a restricted position".

(Amendment to H.R. 10, as reported): Page 33, immediately above line 19, insert the following:

"(3) Nothing in this subsection shall be construed to make lawful those activities by an employee organization, or any officer, employee, or agent thereof, which are unlawful under the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431 (et seq.), or under any provision of title 18, United States Code, or to make unlawful those activities by such organization, or any officer, employee, or agent thereof, which are not unlawful under that Act or such title."

Strike out the necessary number of words.

Strike out the requisite number of words.

Strike out the last word.

Strike out the next to the last word.

Strike out the third from the last word.

Strike out the first word.

Strike out the necessary number of words.

Strike out the requisite number of words.

Strike out the last word.

Strike out the next to the last word.

Strike out the third from the last word.

Strike out the first word.

By Mr. CRANE:

Strike out the requisite number of words.

Strike out the necessary number of words.

Strike out the penultimate word.

(An amendment to the amendment offered by Mr. CLAY on page 33 to the bill, H.R. 10): Strike out the words "which are not unlawful".

By Mr. DERWINSKI:

On page 28, line 8, strike out "or";

On page 28, line 11, insert "or" after the semicolon;

On page 28, immediately following line 11, insert:

"(E) a Congressional employee as defined under section 2107 of this title."

By Mr. ERTEL:

Page 40, strike out line 4 and all that follows down through line 9 and insert in lieu thereof the following:

"(D) advising the employee of the effect of a failure to answer, in writing and within the time allowed therefore, the charges set forth in the notice."

Page 41, line 2, after "final decision and order," insert the following: "In such case, any final decision that a violation has occurred under section 7323, 7324, or 7325 of this title may not be made unless there is a prima facie showing of such violation."

By Mr. LOTT:

Strike out the requisite number of words.

Strike out the necessary number of words.

Strike out the penultimate word.

By Mr. MICHEL:

Strike out the penultimate word.

By Mr. ROUSSELOT:

(An amendment to the amendment offered by Mr. CLAY on page 33 to the bill, H.R. 10):

Strike out all of the following and insert a period: ", or to make unlawful those activities by such organization, or any officer, employee, or agent thereof, which are not unlawful under that Act or such title."

(Amendments to H.R. 10): Strike out the requisite number of words.

Strike out the necessary number of words.

Strike out the penultimate word.

## SENATE—Monday, June 6, 1977

(Legislative day of Wednesday, May 18, 1977)

The Senate met at 12:30 p.m., on the expiration of the recess, and was called to order by Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia.

## PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Almighty God, who has given us minds to know Thee, hearts to love Thee and voices to serve Thee, grant us grace this week so to know Thee, to love Thee, and to serve Thee as to set forward Thy kingdom on Earth.

Grant Thy higher wisdom, O Lord, to the President, the Members of the Senate and House of Representatives in Congress assembled, that peace and justice may prevail at home, and that in concert with the rulers of all nations we may give our best efforts for an enduring peace with justice and righteousness for all people.

And to Thee shall be the praise and thanksgiving. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, D.C., June 6, 1977.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,  
President pro tempore.

Mr. HARRY F. BYRD, JR., thereupon took the chair as Acting President pro tempore.

## JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Friday, May 27, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees be permitted to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back my time.

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, we yield back our time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

Mr. ALLEN. I thank the Chair.

## CONSUMER ADVOCACY AGENCY SHOULD BE GIVEN PROPER BURIAL

Mr. ALLEN. Mr. President, the Consumer Advocacy Agency, once called the Consumer Protection Agency, should be given a proper burial.

The Consumer Agency bill died last Congress, and we have not had the decency or good sense to give it a proper burial. Instead, we let it continue to fester and be disembodyed by a swarm of professional lobbyists for big business, big labor, big agriculture, big government, and big consumer organizations.

The lobbyists pull and tear at this discredited bill and at each other with little apparent concern for the real problems of consumers. It is indeed a shameful situation.

The bill is a loser. Support for this once popular proposal has become so marginal that outrageous political deals have to be made to appease favored special interests. I voted against these in the past and shall vote against them again if this year's version of the Consumer Advocacy Agency bill, S. 1262, is voted upon here. These hypocritical deals have contributed to the ever-growing dissatisfaction with Consumer Agency proposals.

In fact, I do not think that I have ever seen opposition to a bill grow so dramatically as it has to this bill over the years. The growth of opposition in the Senate has been astounding. This body was able to pass Consumer Agency bills only during the 91st and 94th Congresses, by a vote in the 91st Congress of 74 to 4. I am proud that I was one of those four who voted against this bill the first time it came up in the Senate. Senator Ervin of North Carolina, who is no longer here, was one of the four. Senator Ellender of Louisiana was one of the four, and the distinguished Senator from Arkansas (Mr. McCLELLAN) was the fourth Member of the Senate at that time who voted against the Consumer Protection Agency bill, as it was then called.

Then, in the 94th Congress, it passed by a vote of 61 to 28, showing a considerable increase in opposition.

Opposition votes in the Senate have increased by an astounding 700 percent, and will increase again if the bill is brought up here this Congress.

The growth of opposition to the consumer agency bill in the House of Representatives, since it first came up for

final passage there in the 92d Congress, has been remarkably rapid as well. The 352-percent increase in opposition in the other Chamber is shown in a table, Mr. President, which I ask unanimous consent be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

| Congress <sup>1</sup> | House vote <sup>2</sup> | Percent <sup>3</sup> |
|-----------------------|-------------------------|----------------------|
| 92d -----             | 344-44                  | 0                    |
| 93d -----             | 293-94                  | 114                  |
| 94th -----            | 208-199                 | 352                  |

<sup>1</sup> Congress in which final vote taken.

<sup>2</sup> House vote on passage of Consumer Agency bill (ayes-nays).

<sup>3</sup> Percent increase of opposition since 92d Congress.

Mr. ALLEN. Support for this bill has hit such a low point in the House that a switch of one vote in its originating committee would have buried it before it got to the Rules Committee there.

Why is the bill a loser? Ralph Nader once called the Consumer Agency concept the most important piece of consumer legislation ever to come before Congress. If this is so how could it become such a political loser? I think I know the principal reasons.

The underlying concept of this bill is that the interests of consumers should be represented and considered by all Federal agencies that take action substantially affecting those interests. I believe in that. I assume that every Member of the Senate would believe in that concept. But, the further away the bills get from what is needed to make that concept work, the greater the opposition to the bills.

Here I am talking about excesses to the left as well as to the right. These bills propose excessive powers which clearly are not needed for the Consumer Agency's mission. As our beloved former colleague, Senator Sam Ervin, stated about one of the similar bills which failed to pass the Senate during the 93d Congress—

What this bill does is to take the strongest advocacy powers available to regulatory agencies, and grant them to the (consumer agency) without delegating the responsibilities which go along with these powers; it then takes the strongest rights of private citizens available to no governmental unit, and blends them into the (consumer agency) recipe; next it adds a generous measure of rights never given to either a governmental unit or private person, and, finally, sprinkles this power pie with millions of dollars to make sure that the (consumer agency) will overwhelm all proponents of other viewpoints. . . .

We certainly do not need the arsenal of powers contained in the present bill or bills, if we take into account the bill pending in the House, to accomplish what supporters allege is the goal. Yet,



these proponents always insist on putting them in. Then, when it becomes clear that no bill with such powers would ever be acceptable, a deal is made with the special interests.

Now, what deals have been made? I will enumerate a few.

Instead of cutting back on the unnecessary powers, favored special interests are exempted from the bill in order to get votes for the bill. This appears to be a legislative protection racket, and it upsets me greatly. We are forced to the point where the very same proceedings originally cited by the sponsors of the bill as being in most need of consumer advocacy are specifically excluded from coverage in the bill, because the Agency for Consumer Advocacy is too powerful to be trusted.

The only reason that consumer agency bills were able to pass both Chambers last Congress was that special interest exemptions were traded for votes.

The bill originally was supposed to cover all consumer interests, but many agencies or interests did not want to be covered by the consumer agency bill. They had influence of a sort that was directed against the bill. Then in order to get votes, they would exempt these interests from the coverage of the bill.

Between the two bills, the following were specifically exempted from consumer agency advocacy:

1. Activities concerning the sale of firearms, antique firearms or ammunition;
2. Activities concerning the possession of firearms, antique firearms or ammunition;
3. Activities concerning the manufacture of firearms, antique firearms or ammunition,

They could not have any coverage by the consumer advocate agency as to those very important matters affecting consumers.

Then there was exemption from the bill in order to get votes:

4. Radio broadcast license renewal proceedings at the Federal Communications Commission;

This was where the consumer advocate might have an interest for consumers as to whether the radio station was performing in the public interest. That is exempt, because of the political power of radio stations.

5. Television broadcast license proceedings at the Federal Communications Commission;

They are exempt, and the reason they are exempt is that TV stations, as we know, have great political influence, far more than they should have. But in order to make sure they did not have the opposition of the TV station, they exempted the TV station in the license renewal proceeding before the Federal Communications Commission from coverage by the bill, something that has a very definite consumer interest.

6. Any activity related to labor disputes;

That was exempted from the bill in order to get big labor support.

7. Any activity related to labor agreements;
8. Any activity directly affecting producers of livestock;

They wanted to get the farm vote, so they started exempting various agricultural interests or phases.

9. Any activity directly affecting producers of poultry;

10. Any activity directly affecting producers of agricultural crops;

11. Any activity directly affecting commercial fishermen;

12. Commodity Credit Corporation price support programs;

13. Commodity Credit Corporation procurement programs;

14. Commodity Credit Corporation payment programs;

15. Any export program affecting farmers or fishermen;

16. The Food for Peace export program (P.L. 480);

That is exempt from the Consumer Advocacy Agency.

17. Any acreage allotment activity;

18. Any marketing quota activity;

19. Any Federal Crop Insurance program;

20. Any soil conservation program;

21. Any land adjustment program;

22. Any Farmers Home Administration loan activity;

23. Any Rural Electrification Administration loan activity;

24. Any agricultural marketing order activity;

25. Any program to prevent the spread of livestock disease;

26. Any program to prevent the spread of poultry disease;

27. Any program to prevent plant pests;

28. Any program to prevent noxious weeds;

29. Any activity related to a right-of-way authorization for an oil or natural gas pipeline system located in part in Alaska;

That was a special exemption that was granted in order, I assume, to get the vote of Alaska Senators and Alaska Representatives.

30. Any activity related to a permit for a natural gas and oil pipeline system which is in part in Alaska;

All these things have tremendous consumer interest, but they were exempted from the bill in order to get votes for the passage.

30. Any activity related to a lease for a natural gas and oil pipeline system which is in part in Alaska;

32. Any activity which relates to the routing or construction of any oil or natural gas pipeline system which is in part in Alaska;

They cannot have anything to do with choosing the route.

33. Any activity for enforcement of any environmental law relating to routing or construction of any oil or natural gas pipeline located in part in Alaska;

34. Any Nuclear Regulatory Commission activity;

35. Any activity of the Federal Bureau of Investigation;

36. Any activity of the Central Intelligence Agency, and also excluded was

37. Information from small businesses about their operation (estimated in debate to exclude 95 percent of all businesses in this country from being subject to consumer agency information requests).

It keeps them covered by the bill. But on answering questionnaires from the agency, they are exempted from that.

All of these things where they have definite consumer interest were exempted from the bill in order to get votes for a bill covering the consumer interests that are not exempt from the bill.

These are most, but not all, of the exemptions that were sold for support of the bills last Congress. The price is obviously too high. In the process, Congress lost sight of the goal of the bills.

A look at the bills of this year shows that these goals are still forgotten.

For example, NLRB proceedings were often among those originally referenced by bill sponsors as being in need of consumer agency intervention, as were export and marketing order activities within the Department of Agriculture. Now, of course, NLRB proceedings are exempted from consumer protection under this bill, and even Mr. Ralph Nader was quoted in the May 15, 1977, edition of the New York Times as acknowledging that a sweeping Agriculture Department exemption is necessary. The article went on to quote Mr. Nader as admitting that a consumer protection agency bill cannot be passed without such an exemption.

So they trade off that exemption seeking votes.

It makes me think back to the fall of 1971. That 92d Congress was the one in which a consumer agency bill received its biggest majority of support in the House. Yet, Ralph Nader called the bill there "a fraud on the consumer" and that bill's chief sponsor actually voted against it—Mr. ROSENTHAL in the House. I suspect that a very bad bill is vastly superior to what they would be willing to accept now.

I believe that the beginning of the end of this legislation came when its supporters decided to trade for power at the expense of scope. They lost sight of what real consumers need and want. Now the big question is whether we shall have a new consumer advocacy, not how powerful it is.

The point is whether we will have one at all, not one with all sorts of exemptions in it.

We have here a bill founded on political deals, not consumer ideals. Realists are right now looking at this bill's prospects, and I suspect that they will conclude that it is not the type of thing that they would wish to waste a political IOU on anymore.

In fact, Mr. President, if the trend in opposition continues as it has been, the bill will finally be put out of its misery in the other Chamber. Therefore, I would urge the leadership to seriously consider awaiting House action before forcing the many opponents of this bill here to explain at length why this bill is, as Senator Ervin aptly put it, "a bad idea whose time has come and gone."

Surely this must be the last time we will be forced to worry about this recurring bad dream. Defeat in five Congresses ought to indicate to even the most determined proponent that there is something wrong with this concept. I would hope that the Senate is not asked to suffer a final indignity. I would hope that we are not asked to go through the motions of considering this bill and possibly passing it in this Chamber in an attempt to reestablish its political momentum. There is no great movement for this bill. Its momentum has been lost. There is a clear possibility that the House will reject this bill.

Mr. President, the Consumer Agency Issue is going to be settled in the House of Representatives in all likelihood. It will not be settled in the Senate. We all know that. Let us not abide attempts to

turn his august body into a cheerleading club, designed to flag the waning enthusiasm for this legislation and to divert attention from the increasing doubts that have arisen about it in the House.

Lobbying and pep rallies, and timely releases of polls and surveys, and all the other tricks of the public relations game are one thing, Mr. President. But the use of this Chamber and the diversion of its resources and time for such a purpose should not be countenanced. It is unfair to our brethren in the House. It is unfair to the national interest.

#### ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes with statements therein limited to 5 minutes.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

#### CONSUMER ADVOCACY AGENCY

Mr. HARRY F. BYRD, JR. Mr. President, I commend the able Senator from Alabama (Mr. ALLEN) for the splendid address he just made to the Senate of the United States in regard to the Consumer Advocacy Agency legislation.

The facts and information which the Senator from Alabama brought out in his address to the Senate today should go a long way toward making clear to the people of the United States the nature of this legislation.

The entire Senate, I feel, is interested in protecting the consumer wherever it can wisely, properly, and appropriately be done. As the Senator from Alabama pointed out, there are a multitude of agencies in the Government now which have the responsibility in this field. The proposal which has been around the Congress for a long time now, to establish a Consumer Advocacy Agency, would merely pyramid on top of all the other programs a new bureau in this field.

This legislation almost certainly would add to the cost of living.

As the Senator from Alabama so eloquently pointed out, the proponents of this legislation have carefully eliminated from it many areas which, if we are going to have such an agency as this, should be included. One of the examples referred to by the Senator from Alabama was the demands of the leaders of the big labor unions that their operations be excluded from review should the new Consumer Advocacy Agency become law.

I feel the Senator from Alabama has rendered a great service to the Senate today and to the United States. His analysis today of the consumers advocacy legislation is but one example of the

fine service he is rendering the people of Alabama and in doing so he is rendering equally great service to the people of the 50 States of our United States.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PRIVILEGE OF THE FLOOR—S. 1523

Mr. ZORINSKY. Mr. President, I ask unanimous consent that Pennie Bell, a member of my staff, be permitted the privilege of the floor during the consideration of the measure which will be pending before us, S. 1523.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that during the consideration of S. 1523 Nick Andrus and John I. Brooks of my staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CONTINUED APPROPRIATIONS FOR THE DRUG ENFORCEMENT ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, there is a bill on the Consent Calendar that has been cleared by both sides for action. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 126.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1232) to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.) to extend for two fiscal years the appropriation authorizations for the administration and enforcement of that Act.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

Mr. BAYH. Mr. President, today we have before us S. 1232, a bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide continuing appropriations to the Drug Enforcement Administration. This legislation, reported unanimously from the Committee on the Judiciary, recognizes that a new administration is currently carefully examining the Government's activity in drug control. This bill, now being considered would extend the life of DEA for only 2 years, which would provide appropriate time for the administration to fully develop its goals and standards for a drug control and prevention program. The existing 3-year authorization for this agency will expire at the end of the current fiscal year.

S. 1232 amends section 709(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended, to authorize appropriations for the carrying out of functions under this act for an additional 2 years in the amount of \$182 million for the fiscal year ending September 30, 1978, together with such additional amounts as may be necessary in each year for increases in salary, retirement, and other employee benefits authorized by law, and such sums as may be necessary for the fiscal year ending September 30, 1979.

Mr. President, I was pleased to introduce by request President Carter's proposal to extend the Drug Enforcement Administration for 2 years. The President has called for sound drug prevention and control policies. In his February message to the United Nations Commission on Narcotic Drugs he stressed that while we must curb traffic—

We must combine deep compassion for the victim of addiction with a vigorous attempt to eliminate the world supply of illicit drugs through international cooperation. Toward that end, I am making the curtailment of drug abuse a high priority in my administration.

I was especially pleased by the President's sensitivity to the special impact on our young people, he said that:

Much of this abuse occurs with young people and with this increased drug use comes the attendant family disruption and the sapping of strength from our youth.

President Carter concluded by indicating that he has designated his White House staff, under the guidance and direction of his very able assistant Dr. Peter Bourne, with whom my staff, as former chairman of the Subcommittee to Investigate Juvenile Delinquency, has worked for years on drug control policy matters, to give this problem "special attention" and that he intends to take a "personal interest in this program."

I am confident Dr. Bourne will work closely with the Attorney General in order to effectuate long overdue sensible drug control policies. Mr. Bell has already established a special task force to study ways in which to improve the Department's drug control effort. The bill we are considering today extends DEA for a sufficient period so as to facilitate policy decisions emanating from these activities.



Last summer we heard impressive and alarming testimony about our Nation's inability to focus our drug law enforcement apparatus and our criminal justice resources on even "kingpin" profiteers. While I am especially concerned that the constitutional rights of criminal defendants are fully secured, I am likewise concerned that within such a framework our citizens are fully protected. We must reallocate our resources and sharpen our prosecutorial tools and strengthen our criminal justice system so that it deters, disrupts, and detains these criminals.

A sound drug enforcement policy must reflect the reality that all drugs are not equally dangerous, and all drug use is not equally destructive. The Domestic Council White Paper on Drug Abuse stresses this theme when it concludes that enforcement efforts should therefore concentrate on drugs which have a high addiction potential, and treatment programs should be given priority to those individuals using high-risk drugs, and to compulsive users of any drugs.

Our priorities in drug law enforcement must reflect reasoned judgments based on the facts. The fact is that nationally, arrests for marihuana violations have escalated from 188,682 in 1970 to 450,000 in 1974. This is not nearly as dramatic as the 1,000-percent increase between 1965-70 from 18,815 to 188,682 but it is rather astonishing that this 4-year increase is more than 12 times the total marihuana arrests just 10 years ago.

The fact is that the number of marihuana arrests as a percentage of all drug arrests has increased substantially. In 1970 these arrests amounted to 45.4 percent of total drug arrests. During the 1970-73 period 1,127,389 of the total 2,063,900 drug arrests were for marihuana. And in 1974, the most recent year for which records are available, 70 percent of all drug arrests were for marihuana.

Mr. President, fortunately, I believe that such misplaced drug control policy has finally been rejected. Initially, I was quite pleased by then Attorney General-designate Griffin Bell's response to my inquiry regarding such policy during the confirmation hearings. I ask unanimous consent that the text of that January 11, 1977, exchange be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Senator BAYH. A moment ago you mentioned that you were thinking about taking DEA out of its present status and bringing it under the Justice Department.

Judge BELL. Bringing it into the FBI.

Senator BAYH. Yes, the FBI. One of the things that has been apparent and I think sad is that some people have on occasion yielded to the temptation to try to politicize the confrontation against drugs.

We are all against drugs. The question is how we solve them.

When we look at the studies that we conducted in our committee, we found out that last year about two-thirds of all the arrests and convictions in the area of narcotics were for people who possessed small amounts of marijuana.

I would like to ask you if you feel that in

light of the fact that we are going to have limited law enforcement resources and also considering State and local and Federal relationship in the area of criminal law enforcement, does it not make more sense in DEA and throughout Government that we focus our efforts on the major traffickers and the major conspiracy cases, the drugs of high abuse potential, that that is really where we ought to put the emphasis?

Judge BELL. The Federal emphasis.

Senator BAYH. The Federal emphasis.

Judge BELL. Exactly. Exactly.

We have got to get away from the idea of making statistics. We have got to find out what it is we want to do and do it. It would be the major traffickers that we would be after.

Mr. BAYH. Mr. President, I cannot agree more. The Federal drug agencies must get out of the business of generating headlines and statistics on lower level traffickers and addicts and focus their efforts on major traffickers of high-risk drugs. I am optimistic that any substantive Carter administration legislation reject the Nixon-Ford shotgun approach which reflected no priorities regarding particular drugs or levels of traffic, not to mention its provisions which repealed the cornerstone of our criminal justice system, the presumption of innocence.

I concur wholeheartedly with Dr. Bourne when he testified last month stressing that the criminal penalties for marihuana use do more damage to people than does the drug itself, but that the Carter administration position is to discourage the abuse of all drugs, including alcohol and tobacco, as a national policy. Coupled with the cost effectiveness of this policy, refocused last month by the LEAA-funded Peat, Marwick, Mitchell & Co. study released by the Governors' conference which found that States that have decriminalized marihuana possession have shown a "substantial" savings of tax dollars, there really are no other sound or humane Federal responses available.

The fact of the matter is that if the American public knew that more dollars are spent each year to prosecute marihuana cases than the Federal Government expends on its combined drug law enforcement and drug treatment program with the results I have outlined, I would speculate that rather than the near deadlock of opinion reflected in the most recent Harris poll—January 26, 1976—on decriminalization showing 43 percent in favor and 45 percent opposed a clear majority would support my approach. Concentrating our Federal drug enforcement resources on high-level heroin and dangerous drug traffickers is sound policy, but will call for a shift in the standards for measuring success.

We in Congress should deemphasize the number of arrests as a criterion of success. I am hopeful in the near future that Congress will take the lead in resolving this issue.

Mr. President, the measure before us today will provide appropriate time to develop the full Carter administration drug prevention and control program and the vehicle to help set the stage for its development. I am further pleased that the Carter administration is supportive of efforts to decriminalize the

personal use of small amounts of marihuana and hope, at the earliest possible date, the Senate will be able to consider such a proposal. I would encourage the appropriate House subcommittee to hold hearings on this topic so that Congress may, in the near future, proceed to deal with our Federal responses to the simple possession of marihuana.

During my 6 years as chairman of the Juvenile Delinquency Subcommittee, I especially appreciate the enthusiastic support of the Senate leadership for my efforts and invite my colleagues to assist us in the enactment of a sensible statutory response to high risk drugs and to major drug traffickers. It is about time and it is clear that the taxpayers of this country demand and deserve no less.

The PRESIDING OFFICER. If there be no amendment to be proposed the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 709(a) of part F of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended (21 U.S.C. 904(a)), is amended by inserting in lieu thereof:

"(a) There are authorized to be appropriated \$182,000,000 for the fiscal year ending September 30, 1978, together with such additional amounts as may be necessary in each year for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs which arise subsequent to the date of enactment of this Act, and such sums as may be necessary for the fiscal year ending September 30, 1979."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-151), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

#### EXCERPT FROM REPORT PURPOSE

The purpose of this bill is to extend the authorization for appropriations for the Drug Enforcement Administration for two years through fiscal year 1979. The existing 3-year authorization for this agency will expire at the end of the current fiscal year.

#### BACKGROUND

Upon introduction of the subject bill, which was introduced at the request of the administration, Senator Bayh commented as follows:

"The President has called for sound drug prevention and control policies. In his February message to the United Nations Commission on Narcotic Drugs he stressed that while we must curb traffic 'we must combine deep compassion for the victim of addiction with a vigorous attempt to eliminate the world supply of illicit drugs through international cooperation. Toward that end, I am making the curtailment of drug abuse a high priority in my administration.'

"I was especially pleased by the President's sensitivity to the special impact on our young people. He said:

"Much of this abuse occurs with young people and with this increased drug use

comes the attendant family disruption and the sapping of strength from our youth."

Public Law 91-513, the "Controlled Substances Act of 1970," which is being extended by this bill, was designed to improve Federal efforts toward the elimination of illegal drug traffic and the reduction of drug-related crime. At that time, the primary enforcement rule was under the aegis of the Bureau of Narcotics and Dangerous Drugs (BNDD) within the Department of Justice.

Reorganization Plan No. 2 of 1973 expanded substantially the role of BNDD. The plan was designed to place primary responsibility for Federal drug law enforcement in a single, new agency, the Drug Enforcement Administration (DEA), in the Department of Justice.

At the time, 10 Federal agencies in five Cabinet departments performed drug enforcement functions. Budgeting for these agencies in fiscal year 1974 was proposed at \$257 million, a sevenfold increase in funding from \$36 million in fiscal year 1969. Several other agencies had related functions. There was no overall coordination.

As specified in the reorganization plan, the new DEA assumed responsibility for the following activities:

(1) All functions of the Bureau of Narcotics and Dangerous Drugs (BNDD), which was abolished as a separate entity in Justice;

(2) All functions of the Customs Bureau related to drug investigations and intelligence, which were transferred from the Secretary of the Treasury to the Attorney General;

(3) All functions of the Office of Drug Abuse Law Enforcement (ODALE), which was abolished in Justice by Executive order; and

(4) All functions of the Office of National Narcotics Intelligence (ONNI), which was abolished in Justice by Executive order.

The Drug Enforcement Administration (DEA) of the Department of Justice is the primary agency to which is assigned the enforcement of the Federal statutes as contained in the Controlled Substances Act.

The initial period following DEA's creation was marked by the rapid development of illicit opium cultivation and processing in Mexico. Within 2 years heroin from Mexico was supplying 90 percent of the U.S. illicit market. The average retail purity of heroin reached 6.6 percent with a price of \$1.26 per milligram pure recorded early 1976. But since early 1976 several major changes have been instituted in DEA which are having a successful effect:

1. Implementation of more stringent criteria for classifying violators was accomplished to assure that the agency directed its efforts at the most important violators. While total arrests declined in 1976 over 1975, the arrests of class I and II violators, the major traffickers, increased 43 percent.

2. Centralized control of major investigations has been established. Operation Heroin B was a centrally directed effort targeted at six cities which had been identified as key distribution centers for brown heroin. These cities were Detroit, Chicago, San Antonio, Phoenix, Los Angeles, and San Diego. Five months of investigation resulted in the arrest of approximately 1,900 individuals, of which 30 percent were class I or II violators and the seizure of 600 pounds of heroin.

3. Interagency working relationships have been strengthened. Through mutual agreements with the Bureau of Customs and the Internal Revenue Service, and the creation of various interagency working groups, better utilization of resources and a reduction in duplication of effort has resulted.

The key indicators of heroin availability are reflecting the results of DEA efforts over the past year. By the end of December 1976, the average retail purity of heroin was down

to 6.1 percent as compared to the 6.6 percent of March 1976. Interim reports indicate that the March 1977 figure will continue the trend of decreasing purity. At the same time price has increased from \$1.26 per milligram pure to \$1.40.

Most important has been the dramatic decline in heroin-related deaths. In the most recently reported quarter, heroin-related deaths numbered 392 as compared to 546 for the previous quarter. This is a sharp decrease of 28 percent. This data is provided to DEA and the National Institute on Drug Abuse from reports of the chief medical examiners of 21 major metropolitan areas. The continuation of the present enforcement directions of DEA should further these accomplishments.

The Controlled Substances Act created mechanisms by which the legitimate commerce of controlled substances could be regulated to assure the availability of these substances for medical need and to prevent their diversion for abuse. DEA's administration of these regulatory provisions has proven to be most vigilant and effective. Since May 1971, DEA has controlled 28 drugs, moved 9 drugs to another schedule and has decontrolled 5 drugs. The most recent action, effective March 14, 1977, placed dextropropoxyphene under schedule IV controls.

DEA presently has registered more than 540,000 legitimate handlers of controlled substances in the United States. DEA has a specialized force of compliance investigators who perform on-site investigations of each registered manufacturer and distributor at least once every 3 years. During calendar year 1976, 1,643 compliance investigations were completed, 638 administrative actions of varying degrees were imposed, as well as 22 arrests. Because of DEA's efforts in the administration of the regulatory provisions of the act, diversion of controlled dangerous drugs at the manufacturing and wholesale levels has been virtually eliminated.

As a result of the Narcotic Addict Treatment Act of 1974, DEA conducted in-depth investigations of methadone clinics to assure their compliance with the regulations of that act. Approximately 875 methadone clinics are registered by DEA and each of these clinics is reaudited every 3 years.

DEA is also directing considerable effort to increase the abilities of the States to police the practitioner level of distribution. The total elimination of diversion of legitimate dangerous drugs will depend on the results of these efforts.

The committee is of the belief that the DEA should be continued in existence. It recognizes that a new administration is currently carefully examining the Government's activity in drug control. This bill which is now being reported by extending the life of the DEA for only 2 years will provide appropriate time for the administration to fully develop its goals and standards for a drug control and prevention program.

#### ANALYSIS OF THE BILL

S. 1232 amends section 709(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended, to authorize appropriations for the carrying out of functions under this act for an additional 2 years in the amount of \$182,000,000 for the fiscal year ending September 30, 1978, together with such additional amounts as may be necessary in each year for increases in salary, retirement, and other employee benefits authorized by law, and such sums as may be necessary for the fiscal year ending September 30, 1979.

Title 28, section 904, United States Code (Public Law 91-513, as amended).

#### COST OF LEGISLATION

The premise monetary amounts are specified above. The bill conforms with the appropriations requested by the President

in his budget message to the Congress for the next fiscal year.

MR. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### TRANSFER OF CERTAIN MEASURES TO THE UNANIMOUS CONSENT CALENDAR

MR. ROBERT C. BYRD. Mr. President, there are three measures on the calendar which may be passed by unanimous consent. They are Calendar Order Nos. 139, 210, and 211. I ask that the clerk transfer those measures to the Unanimous Consent Calendar for further action.

THE PRESIDING OFFICER. They will be so transferred.

MR. ROBERT C. BYRD. Mr. President, is there further morning business?

THE PRESIDING OFFICER. Is there further morning business?

#### PRIVILEGE OF THE FLOOR—S. 1523

MR. SCHMITT. Mr. President, I ask unanimous consent that Hayden Bryan of my staff have the privilege of the floor during the consideration of S. 1523.

THE PRESIDING OFFICER. Without objection, it is so ordered.

MR. MORGAN. Mr. President, I ask unanimous consent that Joey McConnell of my staff may have the privilege of the floor during the consideration, debating, and votes on the housing bill, S. 1523.

THE PRESIDING OFFICER. Without objection, it is so ordered.

MR. BAYH. Mr. President, I ask unanimous consent that Mr. Fred Williams of my staff be accorded the privilege of the floor during the consideration and voting on the housing measure.

THE PRESIDING OFFICER. Without objection, it is so ordered.

#### EXECUTIVE J, 95TH CONGRESS, 1ST SESSION—REMOVAL OF INJUNCTION OF SECRECY

MR. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the protocol, signed March 31, 1977, amending the convention with the United Kingdom for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (Executive J, 95th Cong., 1st sess.), transmitted to the Senate today by the President, and that the treaty with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

THE PRESIDING OFFICER. Without objection, it is so ordered. The message from the President is as follows:

#### To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol signed



at London on March 31, 1977, amending the Convention between the United States of America and the United Kingdom for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at London on December 31, 1975, as amended by Notes exchanged at London on April 13, 1976, and by the Protocol signed at London on August 26, 1976. For the information of the Senate, I also transmit the report of the Department of State with respect to the Protocol.

The Convention, along with the amending Notes and the two Protocols, will effect important and necessary improvements in the imposition of taxes on individuals and corporations falling under both the United States and the United Kingdom taxation systems.

I urge the Senate to give early consideration and its advice and consent to ratification of this Protocol, as well as the Convention, the exchange of Notes, and the Protocol signed on August 26, 1976.

JIMMY CARTER.

THE WHITE HOUSE, June 6, 1977.

#### MESSAGES FROM THE PRESIDENT RECEIVED DURING THE RECESS— PM 85

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, received on June 2, 1977, during the recess of the Senate, which was referred jointly, pursuant to Public Law 94-265, to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations:

#### To the Congress of the United States:

In accordance with the Fishery Conservation and Management Act of 1976 (P.L. 94-265; 16 USC 1801), I transmit herewith a governing international fishery agreement for 1978-1982 between the United States and Japan, signed at Washington on March 18, 1977.

This Agreement is significant because it is one of a series to be negotiated in accordance with that legislation. It sets out the principles that will govern fishing by Japan for fisheries over which the United States exercises exclusive management authority. I urge that the Congress give favorable consideration to this Agreement at an early date.

JIMMY CARTER.

THE WHITE HOUSE, June 2, 1977.

PM 86

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States received on June 3, 1977, during the recess of the Senate, which was referred to the Committee on Finance:

#### To the Congress of the United States:

In accordance with section 402(d) (5) of the Trade Act of 1974, I transmit herewith my recommendation that the authority to waive subsections (a) and (b) of section 402 be extended for a further period of twelve months.

This recommendation sets forth the reasons for extending waiver authority and for my determination relating to continuation of the waiver applicable to the Socialist Republic of Romania, as called for by subsections (d) (5) (b) and (d) (5) (c) of section 402.

I include, as part of this recommendation, my determinations that further extension of the waiver authority, and continuation of the waiver applicable to the Socialist Republic of Romania, will substantially promote the objectives of this section.

JIMMY CARTER.

THE WHITE HOUSE, June 2, 1977.

#### MESSAGES FROM THE HOUSE RE- CEIVED DURING THE RECESS

Under authority of the order of May 27, 1977, the following messages from the House of Representatives were received during the recess of the Senate:

##### ENROLLED BILLS SIGNED

On June 1, 1977, a message stating that the Speaker had signed the following enrolled bills:

H.R. 4390. An act to authorize appropriations for continuation of construction of distribution systems and drains on the San Luis Unit, Central Valley project, California, to mandate the extension and review of the project by the Secretary, and for other purposes.

H.R. 5040. An act to authorize additional appropriations for the Department of State for fiscal year 1977.

H.R. 5306. An act to amend the Land and Water Conservation Fund Act of 1965, and for other purposes.

The enrolled bills were signed by the Deputy President pro tempore today, June 6, 1977.

On June 3, 1977, a message stating that:

The House has passed the bill (S. 1235) to further amend the Peace Corps Act, with amendments in which it requests the concurrence of the Senate.

The House insists upon its amendment to the bill (S. 602) to extend and revise the Library Services and Construction Act, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Perkins, Mr. Brademas, Mr. Beard of Rhode Island, and Mr. Quile were appointed managers of the conference on the part of the House.

The House agrees to the amendment of the Senate to the bill (H.R. 2992) to authorize appropriations for fiscal year 1978 for carrying out the Comprehensive Employment and Training Act of 1973 as amended.

The House agrees to the amendment of the Senate to the bill (H.R. 6206) to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out the Commercial Fisheries Research and Development Act of 1964.

The House agrees to the amendments of the Senate to the bill (H.R. 6774) to make certain technical and miscellaneous amendments to provisions relating to higher education contained in the Education Amendments of 1976.

The House disagrees to the amendment of the Senate to the bill (H.R. 6668) to amend the Age Discrimination Act of 1975 to extend the date upon which the United States Commission on Civil Rights is required to file its report under such Act, and for other pur-

poses; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Perkins, Mr. Brademas, Mr. Beard of Rhode Island, Mr. Miller of California, Mr. Kildee, Mr. Heftel, Mr. Hawkins, Mr. Blaggi, Mr. Quile, Mr. Jeffords, and Mr. Pressler were appointed managers of the conference on the part of the House.

##### ENROLLED BILL SIGNED

The Speaker has signed the following enrolled bill:

H.R. 6774. An act to make certain technical and miscellaneous amendments to provisions relating to higher education contained in the Education Amendments of 1976.

The enrolled bill was signed by the Deputy President pro tempore today, June 6, 1977.

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirton, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### APPROVAL OF BILLS

A message from the President of the United States announced that he has approved and signed the following bills:

On June 1, 1977:

S. 853. An act to extend the Defense Production Act of 1950, as amended; and

S. 1443. An act to amend the Privacy Act of 1974 to extend the life of the Privacy Protection Study Commission to September 30, 1977.

On June 3, 1977:

S. 36. An act to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Non-nuclear Energy Research and Development Act of 1974, and for other purposes.

#### MESSAGES FROM THE HOUSE

At 12:34 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 6161. An act to amend the Clean Air Act, and for other purposes; and

H.R. 6970. An act to amend the Marine Mammal Protection Act of 1972 with respect to the taking of marine mammals incidental to the course of commercial fishing operations, and for other purposes.

The message also announced that the House has passed the bill (S. 826) to establish a Department of Energy in the executive branch by the reorganization

of energy functions within the Federal Government in order to secure effective management to assure a coordinated national energy policy, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

At 1:20 p.m., a message from the House of Representatives announced that:

The House disagrees to the amendments of the Senate to the bill (H.R. 6370) to authorize appropriations to the International Trade Commission for fiscal year 1978, to provide for the Presidential appointment of the chairman and vice chairman of the Commission, to provide for greater efficiency in the administration of the Commission, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ULLMAN, Mr. VANIK, Mr. GIBBONS, Mr. ROSTENKOWSKI, Mr. JONES of Oklahoma, Mr. CONABLE, and Mr. STEIGER were appointed managers of the conference on the part of the House.

The House has passed without amendment the bill (S. 1240) to extend the time of conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1978.

#### ENROLLED BILL SIGNED

The Speaker has signed the following enrolled bill:

H.R. 2992. An act to authorize appropriations for fiscal year 1978 for carrying out the Comprehensive Employment and Training Act of 1973 as amended.

The enrolled bill was subsequently signed by the Deputy President pro tempore.

#### COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC-1412. A letter from the Deputy Secretary of Agriculture transmitting a draft of proposed legislation to amend Title III of the Bankhead-Jones Farm Tenant Act, as amended, to eliminate the necessity of referring loans made with Resource Conservation and Development funds in excess of \$250,000 to Congressional committees for approval (with accompanying papers); to the Committee on Agriculture, Nutrition, and Forestry.

EC-1413. A letter from the Administrator of the Environmental Protection Agency transmitting a draft of proposed legislation to amend the Federal Insecticide, Fungicide, and Rodenticide Act and for other purposes (with accompanying papers); to the Committee on Agriculture, Nutrition, and Forestry.

EC-1414. A letter from the Acting Administrator of the Rural Electrification Administration transmitting, pursuant to law, notice of the approval of an REA insured loan in the amount of \$8,250,000 to Chugach Electric Association, Inc., of Anchorage, Alaska (with accompanying papers); to the Committee on Appropriations.

EC-1415. A letter from the Acting Administrator of the Rural Electrification Administration transmitting, pursuant to law notice of the approval of an REA insured loan in the amount of \$2,465,000 to Coos-Curry Electric Cooperative, Inc., of Coquille, Oregon (with accompanying papers); to the Committee on Appropriations.

EC-1416. A letter from the Assistant Secretary of the Army, Research and Development, transmitting, pursuant to law, reports on Department of the Army Research and Development Contracts that were awarded during the period 1 October 1976 through 31 March 1977 (with accompanying reports); to the Committee on Armed Services.

EC-1417. A letter from the Deputy Assistant Secretary of Defense, Installations and Housing, transmitting, pursuant to law, notice of 23 construction projects to be undertaken by the Army National Guard (with accompanying papers); to the Committee on Armed Services.

EC-1418. A letter from the Director of the Securities and Exchange Commission transmitting, pursuant to law, the Commission's Fifth Report to Congress on the Effect of the Absence of Fixed Rates of Commissions for the period May 1, 1975 through December 31, 1976 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

EC-1419. A letter from the Vice President for Government Affairs for the National Railroad Passenger Corporation transmitting, pursuant to law, a report on the revenues and expenses for each train for the month of February 1977 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC-1420. A letter from the Vice President for Government Affairs for the National Railroad Passenger Corporation transmitting, pursuant to law, a report on the average number of passengers per day and the on-time performance for each train for the month of March 1977 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC-1421. A letter from the Chairman of the United States Railway Association transmitting, pursuant to law, the first annual report to Congress on the performance of the Consolidated Rail Corporation (Conrail) for 1976 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC-1422. A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, the annual report with respect to the officers and employees of the Federal Energy Administration who perform any function or duty under EPCA and who have known financial interest in energy businesses or energy properties (with an accompanying report); to the Committee on Energy and Natural Resources.

EC-1423. A letter from the Acting Secretary of the Interior transmitting, pursuant to law, a report with respect to the public disclosures and actions taken with regard thereto for 1976 (with an accompanying report); to the Committee on Energy and Natural Resources.

EC-1424. A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, a report on sales of refined petroleum products for January 1977 (with an accompanying report); to the Committee on Energy and Natural Resources.

EC-1425. A letter from the Chairman of the John F. Kennedy Center for the Performing Arts transmitting, pursuant to law, the annual report of the John F. Kennedy Center for the Performing Arts for fiscal year 1976 (with an accompanying report); to the Committee on Environment and Public Works.

EC-1426. A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to extend for one year the provisions of P.L. 94-401 which permit increased funding for social services under title XX of the Social Security Act and for other purposes (with accompanying papers); to the Committee on Finance.

EC-1427. A letter, dated May 27, 1977, from the Assistant Legal Advisor for Treaty Affairs transmitting, pursuant to law, international agreements other than treaties entered into by the United States within the past sixty days (with accompanying papers); to the Committee on Foreign Relations.

EC-1428. A letter from the Secretary of the Treasury transmitting, pursuant to law, a report for 1976 on the progress being made with regard to the increased use of intermediate technologies in the operation of the Inter-American Development Bank (with accompanying paper); to the Committee on Foreign Relations.

EC-1429. A letter from the Assistant Secretary for Congressional Relations of the Department of State transmitting, pursuant to law, the Sixteenth Annual Report on the East-West Center (Center for Cultural and Technical Interchange Between East and West) in Honolulu, covering the period July 1, 1975 through September 30, 1976 (with an accompanying report); to the Committee on Foreign Relations.

EC-1430. A secret communication from the Comptroller General of the United States transmitting, pursuant to law, a report on the withdrawal of U.S. forces from Thailand: Ways to Improve Future Operations (LCD-77-402) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1431. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Certifying Workers for Adjustment Assistance—The First Year Under the Trade Act" (ID-77-28) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1432. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Examination of Financial Statements of Federal Prison Industries, Inc., Fiscal Year 1976" (FOD-77-03) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1433. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Drugs, Firearms, Currency, and Other Property Seized by Law Enforcement Agencies: Too Much Held Too Long" (GGD-76-105) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1434. A letter from the Administrator of the General Services Administration transmitting, pursuant to law, a report on a proposed altered system of records in accordance with the Privacy Act (with an accompanying report); to the Committee on Governmental Affairs.

EC-1435. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Space Transportation System: Past, Present, Future" (PSAD-77-113) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1436. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Accountability and Control of Warheads in the Custody of the Department of Defense and the Energy Research and Development Administration" (PSAD-77-115) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1437. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Personnel Ceilings—A Barrier to Effective Manpower Management" (FPCD-76-88) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1438. A letter from the Comptroller General of the United States transmitting,



pursuant to law, a report entitled "The Federal Deposit Insurance Corporation's Financial Disclosure Regulations Should be Improved" (FPCD-77-49) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1439. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Results of the Third Law of the Sea Conference, 1974 to 1976," Department of State (ID-77-37) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1440. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Unauthorized and Questionable Use of Appropriated Funds to Pay Transportation Costs of Non-Appropriated-Fund Activities, Department of Defense" (LCD-76-233) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1441. A letter from the Administrator, General Services Administration transmitting, pursuant to law, a new version of proposed public access regulations implementing Section 104 of Title I of the Presidential Recordings and Materials Preservation Act, P.L. 93-526 (with an accompanying report); to the Committee on Governmental Affairs.

EC-1442. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Improving Military Solid Waste Management: Economic and Environmental Benefits, Department of Defense" (LCD-76-345) (with an accompanying report); to the Committee on Governmental Affairs.

EC-1443. A letter from the General Counsel of the National Study Commission on Records and Documents of Federal Officials transmitting, pursuant to law, the final version of the Alternate Report of the Minority Members of the National Study Commission on Records and Documents of Federal Officials (with an accompanying report); to the Committee on Governmental Affairs.

EC-1444. A letter from the Acting General Counsel of the Office of Telecommunications Policy, Executive Office of the President, transmitting, pursuant to law, a report on the administration of the Freedom of Information Act for the calendar year 1976 (with an accompanying report); to the Committee on the Judiciary.

EC-1445. A letter from the Commissioner of the Federal Prison Industries, Inc., Department of Justice, transmitting, pursuant to law, a report on the administration of the Freedom of Information Act for the calendar year 1976 (with an accompanying report); to the Committee on the Judiciary.

EC-1446. A letter from the Secretary of the Aviation Hall of Fame, Inc. transmitting, pursuant to law, a report on examination of Financial Statements for years ended December 31, 1976 and 1975 (with an accompanying report); to the Committee on the Judiciary.

EC-1447. A letter from the Acting Director of the United States Water Resources Council transmitting, pursuant to law, a report on the administration of the Freedom of Information Act for the calendar year 1976 (with an accompanying report); to the Committee on the Judiciary.

EC-1448. A letter from the Chairman of the Federal Election Commission transmitting, pursuant to law, a copy of correspondence concerning the 1976 Privacy Act Annual Report which the Commission has sent to the Office of Management and Budget (with accompanying papers); to the Committee on Rules and Administration.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BARTLETT, from the Select Committee on Indian Affairs:

With an amendment:

S. 947. A bill to declare certain federally owned land known as the Yardeva School land to be held in trust for the Creek Nation of Oklahoma (Rept. No. 95-238).

With amendments:

S. 1291. A bill to declare that certain lands of the United States situated in the State of Oklahoma are held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma (Rept. No. 95-239).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Richard N. Cooper, of Connecticut, to be U.S. Alternate Governor of the International Bank for Reconstruction and Development for a term of 5 years; U.S. Alternate Governor of the Inter-American Development Bank for a term of 5 years; U.S. Alternate Governor of the Asian Development Bank and U.S. Alternate Governor of the African Development Fund.

Sam Young Cross, Jr., of Virginia, to be U.S. Executive Director of the International Monetary Fund for a term of 2 years.

Jean Price Lewis, of Virginia, to be an Assistant Administrator of the Agency for International Development, vice Denis M. Neill, resigned.

Abelardo Lopez Valdez, of Texas, to be an Assistant Administrator of the Agency for International Development, vice Eugene N. Girard II, resigned.

Herbert Salzman, of the District of Columbia, to be the representative of the United States of America to the Organization for Economic Cooperation and Development, with the rank of Ambassador.

Thomas Byron Crawford Leddy, of Virginia, to be U.S. Alternate Executive Director of the International Monetary Fund for a term of 2 years expiring October 22, 1979.

Marvin L. Warner, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Switzerland.

Melissa F. Wells, of New York, a Foreign Service officer of class 2, to be the representative of the United States of America on the Economic and Social Council of the United Nations, with the rank of Ambassador.

Albert W. Sherer, Jr., of Connecticut, a Foreign Service officer of the class of career minister, for the rank of Ambassador while serving as the head of the U.S. delegation to the preparatory meeting in Belgrade of the Conference on Security and Cooperation in Europe (CSCE) commencing June 15, 1977, and thereafter as a member of the U.S. delegation and head of the delegation's working group at the main CSCE meeting in the autumn.

Arthur W. Hummel, Jr., of Maryland, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Pakistan.

Richard K. Fox, Jr., of Minnesota, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Trinidad and Tobago.

(The above nominations were reported with the recommendation that they be

confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

## POLITICAL CONTRIBUTIONS STATEMENT

The undersigned nominee, Marvin L. Warner, hereby submits the following report of contributions made by the undersigned and members of his immediate family, including their spouses, during the period beginning on January 1, 1973 and ending on the date of nomination of nominee.

Nominee: Marvin L. Warner.

Post: Ambassador to Switzerland.

Contributions by, amount, date, and donee:

1. Marvin L. Warner—see Schedule 1 attached hereto.
2. Spouse—not applicable.
3. Children and Spouses Names: Marlin (Warner) Arky and Stephen W. Arky. See Schedule 2 attached.
4. Alyson (Warner) Kuppin and Herbert R. Kuppin, Jr.
5. Marvin L. Warner, Jr. (Mark) none.
6. Parents Names: Mrs. Rose Warner—none.
7. Grandparents Names: Deceased.
8. Brothers and Spouses Names: None.
9. Sisters and Spouses Names: Betty (Warner) Glazer and Harry Glazer—none.

## Schedule 1

Donor: In all cases Marvin L. Warner; Amount, date, and to:

\$2,000, 10-21-73, Wallace Campaign (for deficit).

\$500, 6-30-74, Burton for Congress.

\$500, 8-31-74, Senator Birch Bayh.

\$3,000, 9-30-74, Citizens for Glenn.

\$1,000, 10-31-74, Ford for Senate.

\$200, 10-31-74, James V. Stanton.

\$1,000, 1-7-75, Stone Campaign.

\$120, 2-4-75, Citizens for John Glenn.

\$500, 5-22-75, Committee for Hart.

\$1,000, 6-10-75, Jackson for President.

\$500, 9-5-75, Durkin for Senate.

\$1,000, 10-7-75, Birch Bayh for President.

\$1,000, 10-7-75, James Stanton Committee.

\$3,500, 12-16-75, Citizens for Glenn.

\$250, 2-10-76, Robert Byrd for President.

\$250, 2-19-76, Church for President.

\$500, 3-2-76, Senator Hart Constituent Service.

\$100, 3-11-76, Congressman St Germain Campaign.

\$1,000, 3-22-76, Metzenbaum for Senate.

\$100, 3-24-76, Rhodes for Congress.

\$200, 4-1-76, Frank Mankiewicz.

\$500, 4-6-76, Zumwalt for Senate.

\$500, 5-17-76, Zumwalt for Senate.

\$1,000, 5-18-76, Bowen for Senate.

\$1,000, 4-9-76, Jimmy Carter for President.

\$100, 7-19-76, Jim Guy Tucker Campaign for President.

\$1,000, 8-6-76, Tunney for U.S. Senate.

\$1,000, 9-1-76, Senator Bowen Committee.

\$1,000, 9-1-76, Metzenbaum for Senate.

\$250, 10-12-76, Harnes for Senate.

\$5,000, 12-9-76, Metzenbaum Post Campaign Committee.

\$100, 3-22-73, National Democratic Committee.

\$2,500, 5-24-73, National Democratic Committee.

\$100, 5-29-73, National Democratic Committee.

\$100, 8-1-73, National Democratic Committee.

\$5,000, 8-21-73, National Democratic Committee.

\$4,100, 11-1-73, Democratic Executive Committee.

\$1,000, 10-74, Democratic Committee.

\$2,000, 3-31-74, Democratic Congressional Dinner.

\$1,500, 5-75, Democratic Congressional Dinner.  
 \$30, 7-75, Democratic National Committee.  
 \$1,000, 10-75, Democrats United.  
 \$1,000, 8-29-76, Democratic Natl. Committee, Natl. Finance Council.  
 \$10,000, 10-8-76, Democratic National Committee.

## Schedule 2

Donor, amount, date, and to:

Stephen Arky, \$100, 10/73, Democratic National Party Telethon.

Stephen Arky, \$1,000, 5/10/74, Richard A. Pettigrew Testimonial Reception Committee.  
 Marlin Arky, \$1,000, 8/19/74, People for Pettigrew—U.S. Senate.

Stephen Arky, \$500, 6/20/75, Henry Jackson for President.

Marlin Arky, \$500, 6/20/75, Henry Jackson for President.

Stephen & Marlin Arky, \$10, 1975, Lawton Chiles—U.S. Senate.

Stephen Arky, \$200, 9/17/75, Democratic National Telethon.

Stephen Arky, \$200, 12/9/75, Jimmy Carter Campaign.

Stephen & Marlin Arky, \$1,000, 4/5/76, Jimmy Carter Campaign.

Stephen & Marlin Arky, \$2,000, 9/22/76, Metzenbaum for Senate.

Stephen & Marlin Arky, \$1,000, 5/2/76, Stanton for Senate.

Stephen & Marlin Arky, \$20, 9/76, Lawton Chiles—U.S. Senate.

Marlin Arky, \$50, 12/28/76, Carter Inaugural Party.

Marlin Arky, \$15, 12/18/76, Jimmy Carter Book.

## Schedule 3

Donor, amount, date, and to:

Herbert Kupp, Jr., \$250, 11/17/75, John Glenn.

Herbert Kupp, Jr., \$250, 2/11/76, Robert Byrd.

Herbert Kupp, Jr., \$500, 2/18/76, Senator Church for President.

Herbert Kupp, Jr., \$1,000, 10/18/76, Robert Taft, Jr.

Alyson Kupp, \$250, 2/14/76, Robert Byrd.

## POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee, Melissa Wells.

Post, U.S. Representative to UN Ecosol.

Contributions and amount:

1. Self, none.
2. Spouse, none.
3. Children and Spouses names: Alfred (husband), Christopher and Gregory, none.
4. Parents names: Mme. Milliza Korjus Spector (mother), father deceased, none.
5. Grandparents names, deceased.
6. Brothers and Spouses names: Ernest and Jacques Foelsch, Richard Foelsch, none.
7. Sisters and Spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

MELISSA WELLS.

Subscribed and sworn (or affirmed) before me this 18th day of March A.D. 1977, at New York, New York.

SOL KUTTNER.

Notary Public—State of New York.

Commission expires March 30, 1978.

## POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the

fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee, Albert W. Sherer Jr.

Post, Chief Delegation Preparatory Meeting CSCE in Belgrade.

Contributions:

1. Self, none.
2. Spouse (Carroll R. Sherer), none.
3. Children and spouses, none; names, Peter and Hollis Sherer, Susan and Peter Osoy, Anthony Sherer.
4. Parents names, Albert W. Sherer and Linda Van Noshen Sherer, none.
5. Grandparents names, deceased long ago, none.
6. Brothers and Spouses names, none.
7. Sisters and spouses names, Mr. and Mrs. Stanley R. Morton, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

ALBERT W. SHERER, JR.

## POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Herbert Salzman.

Post: Ambassador and U.S. Representative (Chief of Mission) to the Organization for Economic Cooperation and Development.

Federal Campaign Contributions—No. 5:

Amount, Date, and Donee:

1. Herbert Salzman:  
 \$2,500, 2/4/74, Javits Dinner Committee.  
 \$2,500, 5/10/74, Javits in 1974.  
 \$500, 8/7/74, Senator Birch Bayh.  
 \$250, 9/29/75, Bayh for President.  
 \$250, 5/5/76, Committee to Re-Elect Senator Edward M. Kennedy.
2. \$100, 5/17/76, Les Aspin for Congress.  
 \$1,000, 5/11/76, Citizens for Carter.  
 \$500, 7/8/76, Committee for Birch Bayh in '76 (deficit).  
 \$1,000, 8/3/76, McGee for Senate Committee.
3. \$250, 7/12/76, Gloria Schaeffer.  
 \$250, 12/3/76, Church for President Committee (deficit).
4. Rita Salzman:  
 \$750, 8/22/74, Scheuer for Congress.  
 \$250, 8/30/75, Shriver for President.  
 \$1,000, 6/29/76, Citizens for Carter.  
 \$250, 12/3/76, Church for President Committee (deficit).
5. Anthony Salzman (son), none (no spouse), Jeffrey Salzman (son), (no spouse);  
 \$25, 2/76, Carter for President.  
 \$100, 4/9/76, Carter for President.  
 \$40, 9/13/76, Jeff Peterson for Congress.
6. William and Minnie Salzman (parents) (deceased).
7. Grandparents (deceased).
8. Alexander and Betti Salzman (brother and spouse):  
 \$300, 2/1/74, Javits Dinner Committee.  
 \$500, 6/12/74, Javits Finance Committee.  
 \$100, 8/9/74, Scheuer for Congress.  
 \$500, 1/1/74, Javits Finance Committee.  
 \$100, 1974, People for Abraham Ribicoff.  
 \$15, 1976, Democratic National Committee.  
 \$250, 1976, Scheuer for Congress.
9. Sara F. Pepper (sister) (no spouse):  
 \$25, 1973, Citizens for Bella Abzug.  
 \$100, 1974, Committee for Jacob Javits.  
 \$100, 1974, People for Abraham Ribicoff.  
 \$50, 1974, Citizens for Fred Richmond.  
 \$100, 1975, National Roosevelt Day Dinner.  
 \$1,500, 1974, Loan to Scheuer for Congress (subsequently repaid).  
 \$100, 1976, Scheuer for Congress.

I have listed above the names of each member of my immediate family, including their spouses. I have asked each of these persons to inform me of the pertinent con-

tributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

HERBERT SALEZMAN.

Subscribed and sworn (or affirmed) before me this 20th day of April, A.D., 1977, at Washington, D.C.

STELLA MAKARA.

Commission expires 7/31/77, Notary Public.

## POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee, Arthur W. Hummel Jr.

Post, Philippines.

Contributions, amount, date, and donee: (If none, write none)

1. Self, None.
2. Spouse, \$15.00, 1972, dollars for Democrats.
3. Children and Spouses names, none.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

ARTHUR W. HUMMEL, JR.

Subscribed and sworn (or affirmed) before me this 7th day of April A.D. 1977, at Washington, D.C.

STELLA MAKARA.

Commission expires July 31, 1977 Notary Public.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

## POLITICAL CONTRIBUTIONS STATEMENT

Nominee Richard K. Fox, Jr.

Contributions, Amount, Date, and Donee: (If none, write none)

1. Self, none.
2. Spouse, \$20.00, October 10, 1973, Democratic Nat. Comm.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

RICHARD K. FOX, JR.

Subscribed and sworn (or affirmed) before me this 13th day of April A.D. 1977, at Washington, D.C.

STELLA MAKARA.

Commission expires July 31, 1977, Notary Public.

Mr. SPARKMAN, Mr. President, as in executive session, I report favorably from the Committee on Foreign Relations sundry nominations in the Foreign Service which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.



(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of May 25, 1977, at the end of the Senate proceedings.)

#### HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred as indicated:

H.R. 6161. An act to amend the Clean Air Act, and for other purposes; placed on the Calendar.

H.R. 6970. An act to amend the Marine Mammal Protection Act of 1972 with respect to the taking of marine mammals incidental to the course of commercial fishing operations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. McGOVERN:

S. 1623. A bill to amend section 107 of the Energy Reorganization Act of 1974 (42 U.S.C. 5817) to delegate power to State legislatures to veto Energy Research and Development Administration site selection for radioactive waste storage, and to provide for a referendum of the people of a State on the question of locating a radioactive waste storage facility in that State; to the Committee on Environment and Public Works.

By Mr. RIBICOFF (by request):

S. 1624. A bill to authorize an additional Assistant Secretary of Commerce; to the Committee on Governmental Affairs.

S. 1625. A bill to amend title 5, U.S.C.; to the Committee on Governmental Affairs.

S. 1626. A bill to amend title 5, U.S.C.; to the Committee on Governmental Affairs.

By Mr. HATHAWAY:

S. 1627. A bill to authorize a career education implementation incentive program; to the Committee on Human Resources.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McGOVERN:

S. 1623. A bill to amend section 107 of the Energy Reorganization Act of 1974 (42 U.S.C. 5817) to delegate power to State legislatures to veto Energy Research and Development Administration site selection for radioactive waste storage, and to provide for a referendum of the people of a State on the question of locating a radioactive waste storage facility in that State; to the Committee on Environment and Public Works.

##### THE NUCLEAR WASTE PROBLEM

Mr. McGOVERN. Mr. President, for many years, we have been told that nuclear power will provide the Nation's energy needs far into the future. The "peaceful atom," we have been told, will be safe, and it will be clean.

But the evidence is mounting up that, environmentally, the nuclear industry might be the dirtiest of them all.

In February of 1976, the National Jour-

nal reported that a solution to the problem of nuclear waste disposal was "nowhere in sight." This is no less true today than it was more than a year ago, and yet we are still receiving assurances from the nuclear industry that we have nothing to worry about.

Some wastes last for 1,000 years, while other kinds of radioactive wastes remain lethal for over 200,000 years. And the different types of wastes cannot be separated out. Perhaps it is true that "we" do not have anything to worry about, but when you are talking about materials which pose a threat to mankind for hundreds of subsequent generations, we are playing with one of the most malignant cancers ever wrought.

Millions of gallons of nuclear wastes are sitting in temporary storage tanks around the country, waiting for technology to come up with a solution. Such is the consequence of leaving this matter entirely in the hands of the nuclear industrialists and their supporters in the Federal Government. As one of the Nuclear Regulatory Commission's own task forces reported last October, resistance to public input has led to some of the more horrifying results in our waste management history:

Two themes run through the history of the nation's development of a waste management policy. The first, still widely prevalent, is that technological expertise is alone sufficient to solve the waste management problem. The second is that the consideration of nontechnological problems is not only irrelevant, but in many cases is actually a hindrance to technological progress. There seems to have been an underlying belief that a waste management system would be self-implementing or automatically implemented when needed.

The problem grows as we continue to produce these wastes. As the problem grows, and as we get more desperate for a solution, I fear that our criteria for such a solution will be less stringent than if we felt we had more time to test the current proposals. We must be protective of our standards in this case where the nuclear industry has billions of dollars riding on our professed ability to solve the nuclear waste problem immediately.

The history of nuclear waste disposal presents a sorry picture, indeed. The Government and the industry have constantly tossed the issue back and forth—like a radioactive potato—with the responsible parties constantly ducking the issue. The 500,000 gallon accident, comprised of more than 20 separate leaks, at the Hanford Reservation near Richland, Wash.; the 700-gallon leak of high level wastes at the Savannah plant near Aiken, S.C.; and the countless low-level leaks—at Maxey Flats, Ky.; near Ocean City, Md.; near San Francisco—all point to the truth in a 1966 National Academy of Sciences report on nuclear wastes, that "considerations of long-range safety are in some instances subordinate to regard for economy of operation."

Such a pathetic history demands that the States now being considered for potential permanent waste repositories be

given extra assurances that the solutions now being suggested will actually solve the problem, and that they will not simply be another in the series of permanent solutions which led to disaster or near disaster—only to be relabeled "temporary" and "interim" solutions.

Of course, the Energy Research and Development Administration considers its current efforts in this area to be adequate. Just what are they? ERDA is conducting geological studies around the country in search of a permanent nuclear waste repository and a backup site just in case the first one does not work out. The major criterion here seems to be that the site should be geologically stable. But what ERDA seems to forget is that this site is going to have to remain stable for at least 200,000 years.

Meanwhile, the pressure is building for a repository. The current interim and temporary facilities are supposed to run out of room by 1985, which is when the new, permanent, geologically stable repository will take over. And that is if there are no unforeseen problems and construction goes right on schedule. Further, there will not be any time to test the facility; its initial use will be the actual test period. Not much of a dry run for a repository which is supposed to come with at least a 200,000-year guarantee.

I am offering a bill today which will do the following. When ERDA states that it has come up with a "permanent solution," it will have to convince more than a handful of industrialists with billions of dollars invested in an affirmative answer. This bill will allow a State legislature to veto site selection within that State, and it will provide a similar power to the people by statewide referendum.

We must do something to counteract the possibility that site selection and waste treatment will be based on expediency rather than on a thorough review of the possible dangers to a local population. If the Energy Research and Development Administration's plans are as safe as they are claimed to be, then there should be no problem convincing State legislatures and local populations that this is so.

This bill would in no way interfere with ERDA as it continues its studies which should lead to a suitable solution. However, ERDA's decision should be subject to question and, ultimately, to veto if justified, by either the people of a State or their elected representatives.

After more than 30 years of our nuclear agencies ignoring their own advice with regard to public health and safety, I think that the public is owed a bit more than the calm assurances from those who will not have to live with these wastes.

By Mr. RIBICOFF (by request):

S. 1624. A bill to authorize an additional Assistant Secretary of Commerce; to the Committee on Governmental Affairs.

Mr. RIBICOFF. Mr. President, at the request of the administration I am introducing legislation to authorize an additional Assistant Secretary of Com-

merce. The Secretary of Commerce advises that this position is required in order to establish the position of Assistant Secretary for Economic and Statistical Affairs.

I ask unanimous consent that the text of the bill and the accompanying statement of the purpose and need be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1624

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there shall be in the Department of Commerce, in addition to the Assistant Secretaries provided by law as of the date of the enactment of this Act, one additional Assistant Secretary of Commerce who shall be appointed by the President, by and with the advice and consent of the Senate. Such Assistant Secretary shall receive compensation at the rate prescribed by law for Assistant Secretaries of Commerce, and shall perform such duties as the Secretary of Commerce shall prescribe.

SEC. 2. Section 5315 of title 5, United States Code, is amended by striking out paragraph (12) and inserting in lieu thereof:

"(12) Assistant Secretaries of Commerce (8)."

#### STATEMENT OF PURPOSE AND NEED

The attached bill authorizes an additional Assistant Secretary of Commerce.

This position is required in order to establish the position of Assistant Secretary for Economic and Statistical Affairs. The Assistant Secretary would be the principal advisor to the Secretary and to other officials within the Department on economic and statistical affairs; would serve as the Department's liaison with the Council of Economic Advisers and with other high-level economic and statistical officials of the Government; and would exercise policy direction and general supervision over the Bureau of the Census and the Bureau of Economic Analysis.

These functions are currently assigned to the Chief Economist of the Department. Experience with this arrangement has shown, however, that effective performance of these functions requires a top official who has the confidence of the Secretary and the Administration, and who has been appointed by the President, by and with the advice and consent of the Senate. An individual in such a position will be better able to participate in and have an impact upon departmental and government-wide economic and statistical policy decisions.

Subsection (b) of the draft bill would amend 5 USC 5315 (12) to place eight Assistant Secretaries at Level IV. 5 USC 5315 (12) presently specifies six Assistant Secretaries, although the Department is in fact authorized seven by law. Both Public Law No. 91-469 and Public Law No. 91-477, which were approved October 21, 1970, amended title 5, USC to change section 5315 (12) to read "(12) Assistant Secretaries of Commerce (6)" although each law established an additional Assistant Secretary position. Accordingly, subsection (b) actually would increase the number of Assistant Secretaries of Commerce by one.

MAY 19, 1977.

HON. WALTER M. MONDALE,  
President of the Senate,  
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are six copies of a draft bill:

"To authorize an additional Assistant Secretary of Commerce," together with a statement of purpose and need in support thereof.

This proposed legislation has been reviewed by the Department in the light of Executive Order No. 11821 and has been determined not to be a major proposal requiring evaluation and certification as to its inflationary impact.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our draft bill to the Congress from the standpoint of the Administration's program.

Sincerely,

JUANITA M. KREPS.

By Mr. RIBICOFF (by request):  
S. 1625. A bill to amend title 5, U.S.C.; to the Committee on Governmental Affairs.

Mr. RIBICOFF. Mr. President, at the request of the Department of Defense, I am introducing legislation to amend section 5519 of title 5, United States Code, relating to crediting amounts received for certain reserve or National Guard service.

At present, Federal employees who are members of the National Guard or Reserve receive both civil service pay and military pay when on annual active duty for training, in a military leave status. This legislation would eliminate such dual compensation by providing that such Federal employees would receive active duty pay for their 15 days of annual military leave, plus any difference between the military pay and their civil service pay for that period.

I ask unanimous consent that the text of the bill and correspondence from the Department of Defense setting forth the purpose and need for the legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1625

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 5519 of title 5, United States Code, is amended by inserting "(a)," following "section 6323".

SEC. 2. This Act is effective on the first day of the first month after the date of enactment.

APRIL 20, 1977.

HON. ABRAHAM A. RIBICOFF,  
Chairman, Governmental Affairs Committee,  
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to a Department of Defense legislative proposal that was submitted to the Congress on January 18, 1977 and referred to your committee. The draft legislation amends section 5519 of title 5, United States Code, relating to crediting amounts received for certain reserve or National Guard service. It concerns the problem of dual compensation.

I am taking this opportunity to reaffirm the Department's support for this proposal, which was submitted to the Congress by the previous Administration. The Office of Management and Budget has advised its enactment would be in accord with the program of President Carter. It is recommended that

the dual compensation proposal be enacted by the Congress.

Sincerely,

L. NIEDERLEHNER,  
Acting General Counsel.

JANUARY 18, 1977.

HON. NELSON A. ROCKEFELLER,  
President of the Senate,  
Washington, D.C.

DEAR MR. PRESIDENT: Forwarded herewith is draft legislation to amend section 5519 of title 5, United States Code, relating to crediting amounts received for certain reserve or National Guard service.

This proposal would provide the authority to assist in carrying out the provisions contained in the President's budget for Fiscal Year 1978. On January 17, 1977, the Office of Management and Budget advised that there is no objection to the presentation of this proposal to the Congress and that its enactment would be in accord with the program of the President. It is recommended that the proposal be enacted by the Congress.

#### PURPOSE OF THE LEGISLATION

Existing law entitles Federal employees who are members of the National Guard or Reserve to receive both Civil Service pay and military pay while on annual active duty for training with the Guard or Reserve in a military leave status.

The purpose of the proposed legislation is to eliminate such dual compensation by amending section 5519 of title 5, United States Code, so that these Federal employees will receive active duty pay for their 15 days of annual military leave, plus any difference between that military pay and their Civil Service pay for that period. The crediting of military pay against civilian pay would be administratively handled in the same manner as currently applies to those members of a Guard or Reserve Component who are ordered to active duty to enforce the laws of the United States under the provisions of 5 U.S.C. 6323(c). Under current authority, in excess of 100,000 Federal employees who are Guardsmen or Reservists are entitled to receive both Federal civilian and Reserve military pay for 15 days active duty for training annually.

#### COST AND BUDGET DATA

The enactment of this proposal would result in an estimated savings of \$30.0 million for Fiscal Year 1978. The exact savings would depend on the numbers and salaries of Federal employees performing annual active duty for training in the Guard or Reserve in a military leave status.

Sincerely,

L. NIEDERLEHNER,  
Acting General Counsel.

By Mr. RIBICOFF (by request):  
S. 1626. A bill to amend title 5, United States Code; to the Committee on Governmental Affairs.

Mr. RIBICOFF. Mr. President, at the request of the Library of Congress, I am introducing legislation to exempt the position of Librarian of Congress from the provisions of the Annual and Sick Leave Act of 1951, as amended.

A recent opinion of the Comptroller General, issued at the request of the Assistant Librarian of Congress involving a related matter, held that the Librarian of Congress for purposes of pay is the head of an agency. Heads of agencies and departments of the executive branch, and employees of the Congress, are excluded from the Leave Act, either



by statute or Executive order. However, since the Librarian of Congress is the head of an agency in the legislative branch, and not an employee thereof, the present statutory exclusion does not apply to him.

This bill would amend the Leave Act so as to add the Librarian of Congress to the list of those excluded from the provisions of the act. Thus, the Librarian of Congress will be treated for both pay and leave purposes as the head of an agency.

I ask unanimous consent that the text of the bill, the letter from the Assistant Librarian of Congress requesting this legislation, and the opinion of the Comptroller General be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1626

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6301(2)(B) of title 5, United States Code, relating to annual and sick leave is amended by adding:*

(XIII) THE LIBRARIAN OF CONGRESS

SEC. 2. The amendment made by this Act shall take effect on the date of the enactment of this Act.

WASHINGTON, D.C.,  
April 25, 1977.

HON. ABRAHAM A. RIBICOFF,  
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR RIBICOFF: I am requesting on behalf of the Library of Congress that remedial legislation be enacted to exempt the position of Librarian of Congress from the provisions of the leave act (5 U.S.C. 6301). I have enclosed draft language to effect such a change.

During the past year, I requested an opinion from the Comptroller General of the United States with respect to payments made to the Librarian of Congress, the Deputy Librarian of Congress, and the Director of the Congressional Research Service during 1973 that were in excess of the statutory pay limits. In that year all employees of the Federal Government who were paid biweekly were paid for 27 pay periods rather than the normal 26 pay periods.

The decision of the Comptroller General (a copy of which is enclosed) was based on whether these individuals are "employees" as defined in 5 U.S.C. 5504 or are agency heads whose compensation is governed by 5 U.S.C. 5505. The Comptroller General ruled that the Librarian of Congress as head of the agency should have his pay computed under 5 U.S.C. 5505 and that the other two Library officials were paid properly. Prior computation of his pay under the computation methods prescribed in 5 U.S.C. 5504 was in error. Computation of pay for employees under this statute is "... deemed payment under this payment during 52 basic administrative work weeks of 40 hours."

The definition of employee under 5 U.S.C. 6301 is inconsistent with respect to the Comptroller General's decision relating to the Librarian of Congress and his salary administration. The leave act (5 U.S.C. 6301 (x)) provides that the President may exclude "an officer in the executive branch" from being included under the leave act. The position of Librarian of Congress, however, is that of an officer in the legislative branch, but not "an employee of either House of Congress or

of the two Houses," as excluded under the leave act by 5 U.S.C. 6301 (vi).

The Librarian of Congress, Daniel J. Boorstin, understands the purpose and effects of this change and supports it. We would be happy to answer any questions you or your staff may have on this subject.

Sincerely yours,

DONALD C. CURRAN,  
The Assistant Librarian of Congress.

File: B-120604. AUGUST 30, 1976.  
Matter of Library of Congress—Pay computation.

Digest 1. Deputy Librarian of Congress and Director of Congressional Research Service, whose compensation was computed and paid on biweekly pay period basis, received 27 payments in calendar year 1973. Although they were paid total in excess of their annual salary rates, they were properly paid since their compensation was correctly computed and paid under 5 U.S.C. 5504 and an employee may receive 27 compensation payments in calendar year under that statute.

Digest 2. Compensation of Librarian of Congress was computed and paid on biweekly basis under 5 U.S.C. 5504. Payment in excess of Librarian's annual pay rate in 1973 was overpayment since Librarian is head of agency and his compensation must be computed on monthly basis as provided under 5 U.S.C. 5505. However, overpayment is waived under provisions of 5 U.S.C. 5584.

This decision is issued in response to a letter dated May 25, 1976, from Mr. Donald C. Curran, the Assistant Librarian of Congress, concerning the computation of pay for certain Library of Congress personnel in the calendar year 1973. Mr. Curran specifically asks whether the Librarian of Congress, the Deputy Librarian of Congress, and the Director of the Congressional Research Service (CRS) were overpaid that year because there was an extra pay period. If so, Mr. Curran requests that the overpayments to those individuals be waived under 5 U.S.C. 5584.

The Library of Congress normally pays its employees for 26 biweekly pay periods in a calendar year. However, due to the fact that a calendar year consists of 52 weeks and 1 or 2 days employees are paid 27 times in certain years. Hence, in calendar year 1973, employees received 27 salary payments, the total of which was, therefore, higher than their regular annual rate of pay.

The statutory provisions setting the per annum rates for the Librarian, the Deputy Librarian, and the Director of the CRS for 1973 read as follows:

"The compensation of the Librarian of Congress shall be at the rate of \$38,000 per annum." 2 U.S.C. 136a (1970).

"The compensation of the Deputy Librarian of Congress shall be at the rate of \$36,000 per annum." 2 U.S.C. 136a-1 (1970).

"After consultation with the Joint Committee on the Library, the Librarian of Congress shall appoint the Director of the Congressional Research Service. The basic pay of the Director shall be at a per annum rate equal to the rate of basic pay provided for Level V of the Executive Schedule contained in Section 5316 of Title 5." 2 U.S.C. 166(c) (1) (1970).

In 1973 the annual rate of basic pay for Level V of the Executive Schedule was \$36,000.

Because of the additional salary payment that year, the Librarian, the Deputy Librarian, and the Director of the CRS were paid \$39,463.20, \$37,389.60 and \$37,389.60, respectively.

Section 5504 of title 5, United States Code (1970), states in pertinent part the following regarding the method to be used to

calculate the compensation for "employees" as defined therein:

"(a) The pay period for an employee covers two administrative workweeks. For the purpose of this subsection, 'employee' means—

(2) an employee in or under \* \* \* the Library of Congress \* \* \*

but does not include—

(B) an employee or individual excluded from the definition of employee in section 5541(2) of this title.

"(b) For pay computation purposes affecting an employee, the annual rate of basic pay established by or under statute is deemed payment for employment during 52 basic administrative workweeks of 40 hours. When it is necessary for computation of pay under this subsection to convert an annual rate of basic pay to a basic hourly, daily, weekly, or biweekly rate, the following rules govern:

(1) To derive an hourly rate, divide the annual rate by 2,080.

(2) To derive a daily rate, multiply the hourly rate by the number of daily hours of service required.

(3) To derive a weekly or biweekly rate, multiply the hourly rate by 40 or 80, as the case may be.

Rates are computed to the nearest cent, counting one-half and over as a whole cent. For the purpose of this subsection, 'employee' means—

(C) an employee in or under \* \* \* the Library of Congress, for whom a basic administrative workweek is established under section 6101(a) (5) of this title,

But does not include an employee or individual excluded from the definition of employee in section 5541(2) of this title."

Under the compensation method prescribed above the hourly, weekly, or biweekly rate of compensation is fixed by the employee's per annum rate, but the actual compensation received in a calendar year is not necessarily equal to the employee's annual compensation rate. This is so since the actual amount paid is determined by the computation rules on a biweekly pay period basis instead of on a calendar year basis. Therefore, when an employee's compensation is for computation in accordance with section 5504, it is proper for him to receive 27 compensation periods in a calendar year.

However, section 5504 excludes from its scope any individual excluded from the definition of "employee" under 5 U.S.C. 5541(2) (1970). That definition applies to personnel in the Library of Congress as follows:

"'employee' means—

(C) an employee in or under \* \* \* the Library of Congress \* \* \*

but does not include—

(ii) the head of an agency other than the government of the District of Columbia \* \* \*"

Because heads of agencies are excluded from the provisions of 5 U.S.C. 5504, we have long held that 5 U.S.C. 5505 governs the computation of their salaries. 47 Comp. Gen. 485 (1968).

Section 5505 which prescribes the pay computation rules for those individuals whose compensation is not governed by the provisions of section 5504, reads as follows:

"The pay period for an individual in the service of the United States whose pay is monthly or annual covers one calendar

month, and the following rules for division of time and computation of pay for services performed govern:

(1) A month's pay is one-twelfth of a year's pay.

(2) A day's pay is one-thirtieth of a month's pay.

(3) The 31st day of a calendar month is ignored in computing pay, except that one day's pay is forfeited for one day's unauthorized absence on the 31st day of a calendar month.

(4) For each day of the month elapsing before entering the service, one day's pay is deducted from the first month's pay of the individual.

This section does not apply to an employee whose pay is computed under section 5504(b) of this title."

The actual pay received by an individual whose pay is computed in accordance with the above should, in a calendar year, equal his annual pay rate because the computation is made on the basis of a calendar year rather than on the biweekly pay computation method prescribed by section 5504. While an individual paid under this section should ordinarily be paid on a monthly basis, an agency may pay him on a semi-monthly basis as long as the actual rate is calculated on the monthly basis. 47 Comp. Gen. 485 (1968). However, we find no authority to pay such individuals biweekly. Accordingly, if an individual paid under section 5505 is paid compensation for a calendar year which exceeds 12 times his monthly rate, then he is overpaid.

Therefore, whether the Librarian, the Deputy Librarian, and the Director of the CRS were overpaid due to the additional payday in 1973 depends on whether those individuals are "employees" within the purview of the 5 U.S.C. 5504 or are agency heads whose compensation is governed by the monthly salary limitations in 5 U.S.C. 5505.

The Library of Congress is defined as an "agency" for purposes of pay administration in 5 U.S.C. 5541 (1970). Section 136, title 2 of the United States Code (Supp. III, 1973), establishes the Librarian as the administrative head of the Library of Congress as follows:

"The Librarian of Congress shall be appointed by the President, by and with the advice and consent of the Senate. He shall make rules and regulations for the government of the Library."

Since the Librarian is a head of an agency his compensation is for computation under 5 U.S.C. 5505. 47 Comp. Gen. 485, *supra*. In accordance with 5 U.S.C. 5505, the annual compensation of the Librarian, as the head of his agency, may not exceed 12 times his monthly rate, which should have been \$3,166.67 based on the per annum rate of \$38,000 in 1973. Accordingly, the Librarian of Congress was overpaid \$1,463.16 in the calendar year 1973.

Both the Deputy Librarian and the Director of the Congressional Research Service are appointed by the Librarian and their authority is established as subordinate to his throughout Chapter 5, title 2 of the United States Code (1970). Although 2 U.S.C. 166 (1970) states that the Congressional Research Service is to be maintained in the Library of Congress as a separate department with the "maximum practicable administrative independence consistent with \* \* \* its objectives," the Librarian still retains ultimate authority by virtue of the requirement that he assist in the performance of the CRS's objectives and his power to appoint and dismiss employees of the CRS under 2 U.S.C. 166(c). Since neither the Deputy Librarian nor the Director of the CRS can be considered a "head of an agency,"

and are not excluded from the definition of an "employee" in 5 U.S.C. 5504 or by any other applicable provision, their compensation must be in accordance with the computation method prescribed therein. Therefore, they were entitled to the 27 biweekly compensation payments received in 1973 and were not overpaid.

Our authority to waive collection of the overpayment to the Librarian of Congress under 5 U.S.C. 5584 (Supp. IV, 1974), is contingent on whether the conditions for a waiver of a claim of the United States arising out of an erroneous payment of pay or allowances exist. Section 91.5(c), title 4 of the Code of Federal Regulations (1975), states, in pertinent part, that claims may be waived whenever:

"Collection action under the claim would be against equity and good conscience and not in the best interests of the United States. Generally these criteria will be met by a finding that the erroneous payment of pay or allowances occurred through administrative error and that there is no indication of fraud, misrepresentation, fault or lack of good faith on the part of the employee or member or any other person having an interest in obtaining a waiver of the claim. Any significant unexplained increase in pay or allowances which would require a reasonable person to make inquiry concerning the correctness of his pay or allowances, ordinarily would preclude a waiver when the employee or member fails to bring the matter to the attention of appropriate officials."

There is nothing in the record indicating fraud or lack of diligence on the Librarian's part in this matter. Moreover, under the circumstances we cannot conclude that a reasonable individual, even if charged with the knowledge and responsibility of the Librarian of Congress, would suspect that his salary alone should be computed on a monthly basis rather than a biweekly basis. Accordingly, we hereby waive the collection of the \$1,463.16 overpaid to the Librarian of Congress in 1973.

R. F. KELLER,

Acting Comptroller General of the United States.

#### ADDITIONAL COSPONSORS

S. 514

At the request of Mr. RIBICOFF, the Senator from Wyoming (Mr. HANSEN) was added as a cosponsor of S. 514.

S. 551

At the request of Mr. HUMPHREY, the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 551.

S. 555

At the request of Mr. RIBICOFF, the Senator from Wisconsin (Mr. PROXMIER) was added as a cosponsor of S. 555.

S. 807

At the request of Mr. McINTYRE, the Senator from Maine (Mr. HATHAWAY) was added as a cosponsor of S. 807.

S. 972

At the request of Mr. NELSON, the Senator from Rhode Island (Mr. CHAFFEE) was added as a cosponsor of S. 972.

S. 1120

At the request of Mr. HUMPHREY, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 1120.

S. 1116

At the request of Mr. MCGOVERN, the Senator from Arizona (Mr. DeCONCINI) was added as a cosponsor of S. 1116.

S. 1177

At the request of Mr. CHILES, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 1177.

S. 1361

At the request of Mr. HELMS, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 1361.

S. 1614

At the request of Mr. HAYAKAWA, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1614.

AMENDMENT NO. 316

At the request of Mr. GARN, the Senator from Utah (Mr. HATCH) was added as a cosponsor of amendment No. 316.

AMENDMENT NO. 344

At the request of Mr. HAYAKAWA, the Senator from Idaho (Mr. McCURE), the Senator from Utah (Mr. HATCH), and the Senator from Wyoming (Mr. WALLOP) were added as cosponsors of amendment No. 344.

AMENDMENT NO. 353

At the request of Mr. HATHAWAY, the Senator from Vermont (Mr. LEAHY) and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of amendment No. 353.

#### AMENDMENTS SUBMITTED FOR PRINTING

#### ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AUTHORIZATIONS—S. 1340

AMENDMENT NO. 357

(Ordered to be printed and to lie on the table.)

Mr. MELCHER. Mr. President, for myself, the Senator from Mississippi (Mr. EASTLAND), and the Senator from Pennsylvania (Mr. HEINZ), I am today submitting a needed amendment to S. 1340 to increase the authorization for the magnetohydrodynamics — MHD — program to \$125 million. It is needed because the energy, research, and development capabilities for this national coal conservation and utilization program is much greater than either the administration budget or the committee's modest increase.

The MHD process, when perfected, will save electric consumers billions of dollars, conserve coal through greatly increased efficiency, and solve air pollution problems in coal-fired electrical generation plants across the country.

MHD is a technology whose time has come—and which at the present research and development pace will pass us by without fulfilling its potential of being a true cornerstone of our energy policy. However, if we would fund at a level to use our engineering capabilities, we can have the blueprints for commercial plants within 6 years' time.

The basic MHD process itself is simple. An extremely hot gas derived from burning coal—or other fuel—is turned into an electrical conductor by "seeding" it with another material such as potassium or cesium. The gas moves at very high speed through a channel enclosed by a magnet.



Electricity is produced and tapped by electrodes in the wall of the channel.

I ask you today to consider these points:

MHD promises 40 percent greater electrical generation efficiency for every ton of coal burned than is possible in conventional steam-generating electrical plants;

MHD ends air pollutant emissions; in the case of sulfur dioxide one-twenty-fifth of present EPA standards, nitrogen oxides to less than one-third, and in the case of particulates, one-half of EPA standards to enhance the air quality wherever electricity is being generated;

MHD requires little water and there is no resulting thermal water pollution;

MHD research and engineering is shortchanged in the bill with a loss of its near- and long-term benefits, unless Congress acts to fund ERDA's efforts in this area at a realistic level.

We could have MHD commercially available to utilities in the mid-1980's. The basic scientific and technical information on the process was developed by private industry in the early 1960's, but a lack of Government funding prevented developing a pilot plant.

But the Russians have gone forward and have a pilot plant which has achieved 20 megawatts of electricity. The Soviet Union will have a 500-megawatt commercial demonstration plant operating in the early 1980's.

Efforts in the United States have been miserably slow. ERDA asked for \$86 million for this fiscal year and that is a bare bones budget for the national MHD program. The Ford administration budget request of \$50 million, acquiesced in by President Carter, allows ERDA to build a component development and integration facility—CDIF—in Butte, Mont., but it does not provide the component parts for integrated coal combustion channel operations.

Work must be accelerated in areas such as combustors, magnets, and other components crucial to MHD development and to allow engineering tests of this technology. This means bringing together and combining efforts of General Electric at Valley Forge, Fluidyne Engineers Corp. in Minneapolis, AVCO, Rocketdyne, TRW, Pittsburgh Energy Research Center, Westinghouse, University of Tennessee, MIT, Stanford, Mississippi State University, and several other universities across the country.

Nor is the committee's recommendation of \$75 million adequate which is the amount in S. 1340. The effort to move the national MHD program forward for this fiscal year requires \$125 million.

This program promises better use of our most abundant fossil fuel—coal. It has efficiencies far above any existing technology or program efforts now underway within the Fossil Energy Division of ERDA. It is environmentally sound in terms of air and water pollution and water use.

I hope the Senate will approve this amendment to S. 1340 to authorize \$125 million and to allow us to capture the potential MHD has to offer to help solve our energy problems.

I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

#### AMENDMENT NO. 357

On page 19, line 11, strike out "\$70,800,000" and insert in lieu thereof "\$106,800,000".

On page 24, line 3, strike out "\$7,200,000" and insert in lieu thereof "\$18,200,000".

On page 24, beginning on line 3, strike out "\$12,200,000" and insert in lieu thereof "\$23,200,000".

#### HOUSING AND COMMUNITY DEVELOPMENT ACT—S. 1523

##### AMENDMENT NO. 358

(Ordered to be printed and to lie on the table.)

Mr. CHAFEE (for himself, Mr. HUMPHREY, Mr. CRANSTON, and Mr. JAVITS) submitted an amendment intended to be proposed by them to the bill (S. 1523) to amend the Housing and Community Development Act of 1974, to extend certain housing assistance and mortgage insurance programs, and for other purposes.

##### AMENDMENT NO. 361

(Ordered to be printed and to lie on the table.)

Mr. MUSKIE. Mr. President, S. 1523, the Housing and Community Development Act of 1977, now pending before the Senate, would authorize and extend a broad range of housing and community development programs. These programs, and the problems they address, have been of particular concern to me throughout my tenure in the Senate. Providing decent housing for all Americans and improving the quality of life in our cities are goals that must be high on our national agenda.

Mr. President, it is as a supporter of these goals that I must express my deep concern that one provision of this bill, section 208, removes tens of billions of dollars of federally assisted housing programs from congressional control by amending the Budget Act to hide the future year costs of these programs. For this year alone, some \$34 billion in housing contract obligation would show as less than \$60 million in the budget.

The distinguished ranking member of the Senate Banking Committee, Senator BELLMON, has joined me in expressing his concern with respect to section 208, and we intend to propose an amendment tomorrow to strike section 208 in order to preserve the congressional budget process.

Senator BELLMON and I are deeply concerned that this bill would hide the true budget impact of these long-term Federal obligations through cosmetic shifts in accounting that would obscure the real costs of these programs. The administration also has voiced its strong opposition to this change in accounting which violates sound budgetary practice.

Under present practice, which is required by law and supported by the administration and Comptroller General, the full cost of these 15- to 40-year contract obligations is shown in the budget for the year in which the contracts are signed. Under S. 1523 only the first year costs of these long-term obligations

would appear in the budget in the year the obligation is incurred. The remainder of the contract costs would appear as uncontrollable costs in future years.

The distortion which flows from the proposed change can be vividly demonstrated. For fiscal years 1976 through 1978, over \$75 billion in budget authority will have been approved for these programs by the Congress in appropriation acts. Under S. 1523, this \$75 billion would have been disguised as barely \$5 billion in budget authority. Under the current method, the full amount of all these commitments would have been subject to prior congressional review and vote in the budget resolutions and appropriation acts before the contracts were signed.

At the current rate, Federal obligations for assisted housing programs will amount to as much as \$1 trillion by the year 2005. Under the accounting change S. 1523 would impose, almost none of these obligations would have appeared as controllable budget authority in the year in which the contracts were signed. But the obligation would already have occurred and would have to be paid.

In recommending that the actual costs of Federal housing obligations be obscured, the Banking Committee argues that housing programs suffer because large numbers in the budget scare away potential supporters. The evidence is to the contrary. Indeed, for fiscal 1978, amendments to the first budget resolution to increase housing programs by over \$6 billion—to the full administration request of \$32.8 billion—were approved by a 57-to-39 margin in the Senate. The more than \$75 billion these programs will have received by fiscal 1978 belie any claim that reflecting the full cost of these programs as required by sound accounting practices has driven away support.

Under the Budget Act, the Senate has consistently faced up to the hard choices presented by the true cost of new Federal obligations. Although we support the objectives of S. 1523, we are compelled to oppose the accounting change contained in section 208. It would mark the first retreat by the Senate from its clear commitment to honesty in budgeting.

Only through full disclosure of program costs can Congress expect to maintain control over Federal expenditures. Were each authorizing committee to devise a new method of accounting for its programs to hide the true impact on future years of decisions taken now, the result would signal the end of the budget process—and pure chaos. We should not abandon the truth-in-budgeting principles the Senate has pursued thus far. We should not create this new multi-billion-dollar loophole. We should instead be moving to eliminate whatever anomalies now exist. Accordingly, we intend to offer an amendment to strike section 208 from the Housing bill and urge your support.

Mr. President, the administration is also opposed to section 208 and I ask unanimous consent that letters from OMB Director Lance and Housing and Urban Development Secretary Harris be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,  
Washington, D.C., June 2, 1977.

HON. EDMUND S. MUSKIE,  
Chairman, Senate Budget Committee,  
Washington, D.C.

DEAR MR. CHAIRMAN: Last week, the Senate Banking, Housing, and Urban Affairs Committee completed action on S. 1523—the "Housing and Community Development Act of 1977." Section 208 of that bill would change the way budget authority is defined under HUD's subsidized housing programs. In my judgment, this provision poses a serious threat to the congressional budget process as well as to the public's ability to understand and influence the setting of national priorities. I believe this matter warrants your personal attention.

Another result of the Committee's action also has disturbing implications for the budget process. I will comment on this as well.

#### BUDGET AUTHORITY UNDER ASSISTED HOUSING

At the present time, both the legislative and executive branches of the Federal Government recognize as budget authority under HUD's assisted housing programs the maximum Federal payments that could be required pursuant to contractual obligations approved by the Congress in appropriation acts. Such treatment is required by section 3(a)(2) of the "Congressional Budget Act of 1974" which defines "budget authority" to mean authority provided by law to enter into obligations which will result in immediate or future outlays involving Government funds. . . .

Clearly, housing subsidy contracts are legal "obligations" of the Federal Government, and result in the outlay of Government funds. . . .

Section 208 of the Committee's bill would establish a different concept of budget authority for housing subsidy programs, only, and require its use by both the legislative and executive branches. In effect, section 208 would define as budget authority only the payments required to liquidate housing assistance contracts in a given year. Thus, rather than providing a basis for contractual obligations, budget authority would be recognized after such obligations were made—sometimes as long as forty years afterwards. This was the approach taken to budget authority prior to the enactment of the Congressional Budget Act.

Special treatment for the housing subsidy programs in this manner would have the following unfortunate consequences:

1. It would destroy one of the important bases for budget scorekeeping, on which both the Congress and the executive branch depend. If we are to keep track of actions that affect budget outlays now and in the future, we must have a reliable measure of authority to enter into obligations. Establishing different measures for different programs would greatly impair our ability to plan and implement sound budget policies over time.

2. It would seriously mislead the public. The definition of budget authority implied by section 208 would allow the executive branch to propose and the Congress to provide major subsidies for housing without having to acknowledge the taxpayers' legal obligation to finance these subsidies over a 15-40 year period.

3. It would undermine the process of establishing priorities among competing national needs by understating the budget consequences of selected programs.

I can appreciate the concern of those who are bothered by the large sums that must be shown as budget authority for the subsidized cepts. However, arbitrarily changing the definition of budget authority to make the numbers smaller will not make the housing subsidy programs any less costly, or change in any way the nature of the Government's legal obligation to pay these subsidies.

In sum, while the Congress clearly has the right to change the definition of budget authority for any program, I believe it would be most regrettable if the Senate approved legislation containing a provision along the lines of section 208. The requirements set forth in this section are totally inconsistent with both the spirit and letter of the Congressional Budget Act, and would only serve to conceal from the public the financial burden to which it is being committed by its elected representatives.

#### FEDERAL GUARANTEES FOR TAX-EXEMPT BORROWING

A second feature of S. 1523 that warrants your attention is section 107 which would amend an existing provision of law authorizing HUD to guarantee loans for certain purposes in connection with community development grant programs. These amendments would pave the way for a major expansion in the volume of tax-exempt borrowing backed by a Federal guarantee.

It would not be appropriate for me to comment on the objectives that section 107 is intended to achieve. I do wish to comment on the means for achieving them, and its implications for the budget process and debt management.

Increasing the volume of federally guaranteed tax-exempt securities would:

1. Make it more difficult to manage the national debt by significantly increasing a class of securities superior even to Treasury's own debt issue.
2. Increase Treasury borrowing costs and Federal outlays—through the backdoor—by raising the yield that Treasury would have to offer in order to attract funds.
3. Increase the budget still further—again through the backdoor—as defaults occur.
4. Add to the upward pressure on the budget by allowing block grant recipients to, in effect, get future year grants now by borrowing against them.

In the name of helping central cities, section 107 would commit additional Federal resources to a form of subsidy that is widely recognized to be highly inefficient since it costs the Treasury more in revenue than the borrower saves in interest costs. The difference becomes a subsidy for high-bracket taxpayers.

For these reasons, guarantees of tax-exempt obligations have been opposed by each of the last four administrations. I urge that section 107 of the bill be modified to avoid the problems noted above, or deleted.

Your assistance in bringing these concerns to the attention of your colleagues in the Senate would be appreciated.

Sincerely,

BERT LANCE,  
Director.

THE SECRETARY OF HOUSING AND  
URBAN DEVELOPMENT,  
Washington, D.C.

HON. EDMUND S. MUSKIE,  
Chairman, Senate Budget Committee, U.S.  
Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your inquiry regarding the position of the Department of Housing and Urban Development on certain provisions contained in S. 1523 relat-

ing to the way in which budget authority is defined under specified HUD subsidized housing programs. This letter will address two such provisions of S. 1523: Section 208, relating to budget authorization under assisted housing, and the proposed treatment for Section 202 housing for the elderly and handicapped.

This Department opposes Section 208 of the Committee's bill, which would define as budget authority only those payments for assisted housing required to liquidate housing assistance contracts in a given year.

In part, the Committee's action may reflect a view which I have stated publicly that, in the case of subsidized housing programs, reliance on the concept of budget authority alone can be misleading. For internal HUD purposes, and as an additional presentation to the Appropriations Committees, the Department has continued to use the concept of appropriations as a useful way to measure the amount the Department is actually asking to be provided from the Treasury.

Because of the scorekeeping procedure required for budget authority under the Congressional Budget Act of 1974, however, and the basic definitions set forth in that Act, I do not support a change in the present method of computing budget authority. Since the payments obligate the Federal government to pay annual outlays over the life of the contract, the current definitions would appear to be necessary.

We are also opposed to the action taken by the Committee in not putting the Section 202 program back on-budget as was requested by the Administration. There is no difference between this direct loan program and other direct loan programs in HUD and elsewhere. We continue to believe, therefore, that the revenues and outlays of this program should be included in the budget totals and not arbitrarily excluded.

The Office of Management and Budget has advised that there is no objection to the presentation of these views from the standpoint of the Administration's program.

Sincerely,

PATRICIA ROBERTS HARRIS.

#### AMENDMENTS NOS. 362 AND 363

(Ordered to be printed and to lie on the table.)

MR. BARTLETT submitted two amendments intended to be proposed by him to the bill (S. 1523), supra.

#### FINANCIAL ASSISTANCE TO EDUCATIONAL INSTITUTIONS—S. 701

##### AMENDMENT NO. 359

(Ordered to be printed and to lie on the table.)

MR. HATHAWAY submitted an amendment intended to be proposed by him to the bill (S. 701) to provide Federal financial assistance to educational institutions in order to assist such institutions to meet the emergency caused by the high cost of fuel and fuel shortages and harsh weather conditions, and for other purposes.

#### CLEAN AIR ACT—S. 252

##### AMENDMENT NO. 360

(Ordered to be printed and to lie on the table.)

MR. RIEGLE (for himself, Mr. GRIF-FIN, Mr. BARTLETT, Mr. BELLMON, Mr. DANFORTH, Mr. GARN, Mr. HATCH, Mr.



LUGAR, Mr. SASSER, and Mr. TOWER) submitted an amendment intended to be proposed by them to the bill (S. 252) to amend the Clean Air Act, as amended.

Mr. RIEGLE. Mr. President, I am pleased to insert in today's RECORD a section-by-section summary of the mobile source emissions control amendment that Senator GRIFFIN and I and others will offer to title II of the Clean Air Act amendments (S. 252). The amendment itself is also printed in today's RECORD.

Our amendment has as its base S. 919, which we introduced on March 4 with the support of Leonard Woodcock and the UAW. It includes the same auto emissions schedule, antitampering section, and warranty and parts certification language that was in S. 919. To strengthen our amendment we have added a production line test and a mandatory inspection and maintenance program.

Mr. President, I ask unanimous consent that the bill and this analysis be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

#### AMENDMENT No. 360

On page 93, strike out line 24 and all that follows down through line 10 on page 95 and insert in lieu thereof the following:

Sec. 20. (a) Subparagraph (A) of section 202(b) (1) of the Clean Air Act is amended to read as follows:

"(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model year 1977 through 1979 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.5 grams per vehicle mile of hydrocarbons and 15 grams per vehicle mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide from light-duty vehicles and engines manufactured during or after the model year 1980 shall contain standards which provide that such emissions do not exceed 9 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of hydrocarbons from light-duty vehicles and engines manufactured during or after model year 1980 shall contain standards which require a reduction of at least 90 per centum from emissions of such pollutant allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970."

(b) Subparagraph (B) of section 202(b) (1) of such Act is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1981 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured after the model year 1981 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.0 grams per mile except in the case of a revision or waiver by the Administrator under paragraph (5) or (6)."

(c) Section 202(b) of such Act is amended by striking out paragraph (5) thereof and substituting the following:

"(5) (A) Upon the petition of any manufacturer or on his own motion, the Admin-

istrator, after notice and opportunity for public hearing, shall revise the standard required under subparagraph (B) of paragraph (1) with respect to light-duty vehicles and engines manufactured during any period of two or more model years beginning after the model year 1981 if he determines that such standard should be revised due to (i) the lack of available, practicable, emission control technology to meet such standard during such period, (ii) the cost of compliance with such standard, and (iii) the impact of such standard on motor vehicle fuel consumption. No such revision may be made if the Administrator determines that such revision would endanger public health.

"(B) A revised standard established under this paragraph shall provide for such reduction of emissions of oxides of nitrogen from light-duty vehicles and engines as the Administrator deems appropriate based on (i) technology which is available and practicable during the period for which such standard applies, (ii) the cost of compliance, (iii) the impact on motor vehicle fuel consumption, and (iv) the need to protect public health. No such standard shall permit emissions of oxides of nitrogen in excess of 2.0 grams per vehicle mile.

"(C) A revised standard promulgated under this paragraph shall apply for a period of not less than two model years.

"(D) A revised standard established under this paragraph shall take effect beginning with the third model year which begins after the model year during which it is promulgated. In the case of a petition submitted by a manufacturer under this paragraph within such period as may be appropriate for purposes of this subparagraph, the Administrator shall promulgate a revision, or refuse to promulgate such a revision, within ninety days after the receipt of such petition.

"(6) (A) Upon the petition of any manufacturer, the Administrator, after notice and opportunity for public hearing, may waive the standard required under subparagraph (B) of paragraph (1) for any class or category of light-duty vehicles and engines manufactured by such manufacturer during any four or more model years beginning after the model year 1981 if he determines that such waiver is necessary to permit the use of an innovative power train technology in such class or category which use can produce a substantial energy saving for such class or category as compared to conventional power trains incorporating spark ignited, gasoline, internal combustion engines. No such waiver may be granted if the Administrator determines that such waiver would endanger public health.

"(B) Upon granting a waiver under this paragraph respecting any class or category of vehicles or engines, the Administrator shall promulgate an interim standard applicable to such class or category such as will (i) permit the use of the innovative power train technology on the basis of which such waiver was granted and (ii) take into account the need to protect public health. No such interim standard shall permit emissions of oxides of nitrogen in excess of 2.0 grams per vehicle mile.

"(C) A waiver under this paragraph shall apply for a period of not less than four model years.

"(D) An interim standard promulgated under this paragraph shall take effect beginning with the third model year which begins after the model year during which it is promulgated. In the case of a petition submitted by a manufacturer under this paragraph within such period as may be appropriate for purposes of this subparagraph, the Administrator shall grant a waiver or refuse to grant such a waiver within ninety days after the receipt of such petition.

"(7) (A) Following each model year, the Administrator shall report to the Congress respecting the motor vehicle fuel consump-

tion consequences, if any, of the standards applicable for such model year in relationship to the motor vehicle fuel consumption associated with the standards applicable for the immediately preceding model year.

"(B) The Secretary of Transportation and the Federal Energy Administration shall each submit to Congress, as promptly as practicable following submission by the Administrator of the fuel consumption report referred to in subparagraph (a), separate reports respecting such fuel consumption.

"(8) The Administrator shall undertake a study and, not later than June 30, 1980, submit a report to Congress respecting whether or not a standard for emissions of oxides of nitrogen from light duty vehicles and engines which provides for a lower level of emissions than the level otherwise required under this section is necessary in order to protect public health."

And renumber the following sections accordingly.

Page 97, strike out line 9 and all that follows down through line 6 on page 98 and insert in lieu thereof the following:

Sec. 26. (a) Section 203(a) (3) of the Clean Air Act is amended by inserting "(A)" after "(3)" and by adding the following new subparagraph (B) at the end thereof:

"(B) for any person engaged in the business of repairing, servicing, selling, leasing, or trading motor vehicles or motor vehicle engines, or who operates a fleet of motor vehicles, knowingly to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title following its sale and delivery to the ultimate purchaser, or."

(b) Section 203(a) of such Act is amended by adding the following at the end thereof: "Nothing in paragraph (3) shall be construed to require the use of manufacturer parts in maintaining or repairing any motor vehicle or motor vehicle engine. For the purposes of the preceding sentence, the term 'manufacturer parts' means, with respect to a motor vehicle engine, parts produced or sold by the manufacturer of the motor vehicle or motor vehicle engine."

(c) Section 205 of such Act is amended to read as follows:

#### "PENALTIES"

"Sec. 205. Any person who violates paragraph (1), (2), or (4) of section 203(a) or any person, manufacturer, or dealer who violates paragraph (3) (A) of section 203(a) shall be subject to a civil penalty of not more than \$10,000. Any person who violates paragraph (3) (B) of such section 203(a) shall be subject to a civil penalty of not more than \$2,500. Any such violation with respect to paragraph (1), (3), or (4) of section 203 (a) shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine."

Page 98, strike out line 7 and all that follows down through line 20 and insert in lieu thereof the following:

Sec. 27. (a) Section 207(b) (2) of the Clean Air Act is amended by adding the following at the end thereof: "No such warranty shall be invalid on the basis of any part used in the maintenance or repair of a vehicle or engine if such part was certified as provided under subsection (a) (2)."

(b) Section 207(a) of such Act is amended by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)" respectively, by inserting "(1)" after "(a)" and by adding the following new paragraph at the end thereof:

"(2) In the case of a motor vehicle part or motor vehicle engine part, the manufacturer or rebuilder of such part may certify that use of such part will not result in a failure of the vehicle or engine to comply with emission standards promulgated under section 202. Such certification shall be made only under

such regulations as may be promulgated by the Administrator to carry out the purposes of subsection (b). The Administrator shall promulgate such regulations no later than two years following the date of the enactment of this paragraph."

(c) Section 207(b) of such Act is amended by striking out "its useful life (as determined under section 202(d))" in each place it appears and inserting in lieu thereof "a period of eighteen months or eighteen thousand miles (or the equivalent), whichever first occurs".

(d) Section 207(c)(3) of such Act is amended by inserting after the first sentence thereof the following: "The manufacturer shall provide in boldface type on the first page of the written maintenance instructions notice that maintenance, replacement, or repair of the emission control devices and systems may be performed by any automotive repair establishment or individual using any automotive part which has been certified as provided in subsection (a)(2)."

(e) Section 207 of such Act is amended by adding the following new subsection at the end thereof:

"(g) Nothing in this section shall be construed to provide that any labor required to be provided at the cost of the manufacturer pursuant to warranty under regulations under subsection (b)(2) may be performed by any persons other than persons specified by the manufacturer or that any part required to be provided at the cost of the manufacturer under such warranty may be other than a part specified by the manufacturer."

(f) Section 214 of such Act is amended by adding the following new paragraph at the end thereof:

"(7) The term 'emission control device or system' means, for purposes of section 207, a catalytic converter, thermal reactor, or other component installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions. Such term shall not include those vehicle components which were in general use prior to model year 1968."

Page 98, strike out line 25 and all that follows down through line 18 on page 99 and substitute:

"(B) The Administrator shall by regulation prescribe an inspection or testing procedure applicable to a representative sample of new motor vehicles in various classes or categories. Such inspection or testing procedure shall be consistent with the regulations of the Administrator under section 215, and shall be applicable to new light-duty vehicles and engines manufactured during and after model year 1980.

Page 100, strike out line 16 and all that follows down through line 13 on page 104 and renumber the following sections accordingly.

Page 127, strike out line 13 and all that follows down through line 7 on page 128 and renumber the following sections accordingly.

Page 104, strike out line 14 and all that follows down through line 22 and renumber the following sections accordingly.

Page 104, strike out line 23 and all that follows down through line 12 on page 105 and renumber the following sections accordingly.

Page 130, after line 22 insert the following:  
Sec. 49. (a) Section 110(a)(G) of the Clean Air Act is amended by inserting the following before the semicolon at the end thereof: ", and it complies with applicable provisions of section 215 respecting the annual inspection and maintenance of motor vehicles registered in such State".

(b) Part A of title II of the Clean Air Act is amended by inserting the following new section after section 214:

#### "INSPECTION AND MAINTENANCE"

"Sec. 215. (a)(1) Each applicable implementation plan which, as in effect on June 30, 1975, contained transportation con-

trol measures applicable to any air quality control region in a State, shall provide for the annual inspection and maintenance, and may provide for the testing of all light-duty vehicles (other than new vehicles) to which this section applies which are registered in such region by any person whose residence or principal place of business (or both) is located in such air quality control region. Such program of inspection, and maintenance (and, if applicable, testing) shall be conducted in accordance with regulations of the Administrator which—

"(A) shall require that emission control systems and devices are properly installed and operative,

"(B) may require that the vehicle or engine components which are necessary for the proper operation of such systems and devices are restored to the settings specified by the manufacturer, and

"(C) may require that inoperative or malfunctioning parts which are necessary for the proper operation of such systems and devices are replaced.

Such plan shall, except as permitted under subparagraph (A) or (B) of paragraph (2), prohibit the registration and operation of vehicles (other than new vehicles) subject to such inspection and maintenance (and, if applicable, testing) in such State unless such vehicles comply with such program.

"(2) The regulations of the Administration shall—

"(A) provide for the exemption from the inspection and maintenance (and, if applicable, testing) required under this section of such antique and other vehicles as the Administrator deems appropriate, and

"(B) authorize the operation of vehicles which have not met the requirements of regulations under paragraph (1) for such temporary period as may be appropriate to repair or adjust the vehicle in order to meet such requirements.

"(b) For purposes of complying with the provisions of subsection (a), the plan may require testing for emissions using testing procedures and equipment approved by the Administrator and shall permit the use of existing State motor vehicle inspection and testing facilities and procedures so long as they are consistent with such requirement. The Administrator shall approve testing procedures and equipment for purposes of this paragraph only if he determines that such procedures and equipment comply with such standards respecting calibration, instrumentation, and maintenance as he deems appropriate.

"(c)(1) Each applicable implementation plan required under subsection (a) to prohibit the registration and operation of noncomplying vehicles may permit the registration and operation of any such vehicle if—

"(A) following the inspection and maintenance (and, if applicable, testing) by reason of which such vehicle was determined to be a noncomplying vehicle, any measures required under the regulations promulgated under subsection (a)(1) have been taken with respect to such vehicle.

"(B) with respect to such vehicle, any nonconformity covered by section 207 (a), (b), or (c) has been remedied,

"(C) such vehicle has (for purposes of providing statistical information only) been reinspected and, if testing was originally required, retested under this section following the actions referred to in subparagraphs (A) and (B) of this paragraph.

Nothing in the preceding sentence shall be construed to prohibit the Administrator from approving any implementation plan which contains any requirement prohibiting the registration and operation of any noncomplying vehicles.

"(2) The requirements or authority contained in this section shall not be deemed

to affect or impair any requirement contained in any other provision of this Act.

"(d) Regulations of the Administrator under this section shall provide for retest of any vehicle which initially was tested and failed to meet applicable requirements of the program."

(c) Section 210 of such Act is amended by adding the following at the end thereof: "Grants may be made under this section by way of reimbursement in any case in which amounts have been expended by the State before the date on which any such grant was made. Any grant under this section may be reduced or suspended by the Administrator upon his determination, following notice and opportunity for a public hearing, that a State vehicle inspection and maintenance program is not equal to or more stringent than the requirements established pursuant to section 215".

(d) Not later than six months after the date of enactment of this Act, the Administrator shall notify each State which will be required to revise the applicable implementation plan to include an inspection and maintenance program for purposes of compliance with the amendments made by this section, and each such State shall submit to the Administrator a revision of such plan as provided by section 110(h)(2)(F) as amended by section 7 of this Act. In any event the requirements of this section shall be implemented no later than 30 months after the date of enactment of this Act.

And renumber the following section accordingly.

#### SECTION BY SECTION SUMMARY: RIEGLE-GRIFFIN MOBILE SOURCE EMISSION CONTROL AMENDMENT TO BE OFFERED TO TITLE II OF THE CLEAN AIR ACT AMENDMENTS—S. 252

##### LIGHT-DUTY MOTOR VEHICLE EMISSIONS

The schedule of emission standards in this section, already adopted by the House of Representatives, May 26, in a 255 to 139 vote on the Dingell-Broyhill substitute to H.R. 6161, reflects the agreement reached by Representatives Dingell and Broyhill and Senators Riegle and Griffin, and Mr. Leonard Woodcock and Mr. Douglas Fraser of the United Auto Workers.

This agreement provides that automobiles manufactured during model years 1978 and 1979 meet the same emission standards applicable for model year 1977, that is: 1.5 grams per mile hydrocarbons, 15.0 gpm carbon monoxide, and 2.0 gpm oxides of nitrogen. For 1980 and subsequent model years the hydrocarbon standard requires a full 90 percent reduction from the levels emitted in model year 1970, or .41 gpm hydrocarbons. For 1980 and subsequent model years the carbon monoxide standard is 9.0 gpm. For 1980 and 1981 the oxides of nitrogen standard is 2.0 gpm.

For 1982 and subsequent model years the NO<sub>x</sub> standard is 1.0 gpm which the EPA Administrator is permitted to revise up to 2.0 gpm for periods of two or more model years if he determines in a suspension proceeding that such standard should be revised due to (1) the lack of available, practicable, emission control technology to meet such standard during such period, (2) the cost of compliance with such standard, and (3) the impact of such standard on motor vehicle fuel consumption. No such revision may be made if the Administrator determines that it would endanger public health.

Additionally, the Administrator may waive the standard of 1.0 gpm NO<sub>x</sub> up to 2.0 gpm during any period of four or more model years beginning with the model year 1982 if he determines that a waiver is necessary to permit the use of an innovative power train technology that can produce a substantial energy saving compared to conventional power trains. No waiver may be granted if the Administrator determines it would endanger public health.



## Auto emissions schedule, Riegle-Griffin/Fraser-Woodcock (UAW)

|                     | HC (gpm) | CO (gpm) | NO <sub>x</sub> (gpm) |
|---------------------|----------|----------|-----------------------|
| 1978-79             | 1.5      | 15.0     | 2.0                   |
| 1980-81             | .41      | 9.0      | 2.0                   |
| 1982 and thereafter | .41      | 9.0      | 1.0-2.0               |

<sup>1</sup> Suspension or waiver for NO<sub>x</sub> based on EPA Administrator decision, if public health would not be endangered.

This auto emission schedule provides certainty in the industry and job certainty. It is environmentally balanced with the energy conservation demands of the nation and provides savings for consumers while improving air quality and protecting public health.

The Riegle-Griffin auto emission amendment will replace Sections 20, 21, and 22 of S. 252.

## ANTI-TAMPERING PROVISION

This section of the amendment, taken from S. 919, extends existing prohibition against knowing removal or tampering with automotive emission controls to cover independent repair and service businesses, and selling, leasing, trading, and fleet operations. A civil penalty of up to \$2500 per vehicle is established for violations of this prohibition. It has been adopted by the House. It replaces Section 26 of S. 252.

## WARRANTIES AND MOTOR VEHICLE PARTS CERTIFICATION

This provision, which the automotive aftermarket, small business parts industry, describes as critical to their continued existence as a viable force in the free marketplace, would do the following: (It is contained in S. 919, Riegle-Griffin, and H.R. 6161, the House-passed bill.)

1. Reduce the current federally mandated performance warranty from 5 years to 50,000 miles to 18 months or 18,000 miles.

2. Provide for a self-certification program under regulations to be promulgated by EPA, through which the independent parts manufacturer or rebuilder may continue to serve its traditional role in the automotive aftermarket.

3. Require the motor vehicle manufacturer to prominently disclose in its maintenance instructions "notice that maintenance, replacement, or repair of the emission control devices and systems may be performed by any automotive repair establishment or individual using any automotive part which has been certified . . ."

4. Provide a meaningful and rational definition of the term "emission control device or system" as a catalytic converter, thermal reactor, or other component installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions, excluding those vehicle components which were in general use prior to model year 1968.

This warranty section replaces the aftermarket provisions of S. 252, sections 27, 28, 30, 31, 32, 33, and 45.

## PRODUCTION LINE TESTING

This section amends S. 252, Section 28, and requires the Administrator to prescribe regulations which would require automobile manufacturers to implement a program of inspection or testing of a representative sample of the various classes or categories of new motor vehicles. In order to allow the Administrator sufficient time to develop meaningful and workable regulations in this area and in order to allow the manufacturers sufficient lead time to adequately comply with such regulations, the requirements of this provision would be applicable to vehicles manufactured during model year 1980 and thereafter. The inspection or testing program prescribed by the Administrator is required to be consistent with the require-

ments for inspection or testing under the State programs for emission control inspection and maintenance. The use of a representative sample will give a clear indication of whether cars are actually meeting the required standards without imposing upon consumers the needless costs that would be attendant to an unnecessary requirement of testing all new motor vehicles.

## PRESALE TESTING BY STATES

Section 34 of S. 252 grants authority to require the testing of new motor vehicles by the automobile dealer prior to sale. The Riegle-Griffin amendment strikes this section inasmuch as it would require unnecessary, costly, repetitive, and burdensome responsibilities on our thousands of automobile dealers. The Riegle-Griffin amendment already provides for this type of test at the end of the production line and it would be disservice to our consumers to require them to bear the costs of a repetitive test even before the car has ever been sold. This type of regulatory overkill is clearly unnecessary and unwise as a matter of national policy.

## PREEMPTION

Section 35 of S. 252, which provides that the States may require that model year 1979 automobiles meet the more stringent 1980 standards, is clearly unworkable. Realistically, this bill will not be enacted into law until July of this year or later. By the time the States would have an opportunity to conclude their decision-making process and develop and compile the data and information necessary to make the required showings to the Administrator, and allow adequate time for the Administrator to render a decision, it would be October at best and probably later. Inasmuch as the year-long EPA certification process for the 1979 model cars begins in midsummer of this year, there is already an inadequate lead time for designing, planning, engineering, building of prototypes, testing and retooling for 1979 models if standards are changed for that year. If the automobile manufacturers are required to change their production patterns that late in the year, full production would become impossible. Such a situation will result not only in disruption within the automobile industry, but may also result in substantial unemployment to automotive workers. As we have recently observed, the effect of such an occurrence is to produce significant adverse impacts throughout our national economy. It is just not worth the risk.

## VEHICLE INSPECTION AND MAINTENANCE

This section would add to and considerably strengthen S. 252 by requiring an annual emission inspection of light duty vehicles which are registered to persons who live or maintain their principal place of business in an area where transportation control measures were required as of June 30, 1975. This provision allows flexibility to the EPA Administrator to structure an inspection program that is workable, effective, and requires only necessary adjustments to vehicles. These programs shall be implemented not later than 30 months after date of enactment of this Act.

## NOTICES OF HEARINGS

## CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS—S. 1393

Mr. BAYH. Mr. President, the Subcommittee on the Constitution has scheduled hearings on S. 1393, a bill to grant the U.S. Justice Department standing to initiate and to intervene in suits brought to enforce constitutional and Federal statutory rights of persons confined in State institutions, on the following dates:

Friday, June 17, at 10 a.m., in room 2228 Dirksen;

Wednesday, June 22, at 10 a.m., in room 2228 Dirksen;

Thursday, June 23, at 10 a.m., in room 1202 Dirksen;

Thursday, June 30, at 10 a.m., in room 2228 Dirksen;

Any persons wishing to submit written statements for the hearing record should send them to the Subcommittee on the Constitution, room 102B Russell Senate Office Building, Washington, D.C. 20510.

## FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1977

Mr. McCLELLAN. Mr. President, I wish to announce that the Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary will hold open hearings on S. 1566, a bill to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information, on June 13 and 14, 1977.

The hearings will begin on June 13 at 2 p.m., and on June 14 at 10 a.m., in room 2228, Dirksen Senate Office Building.

Additional information on the hearings is available from the subcommittee staff in room 2204-DSOB, telephone AC 202-224-3281.

## COMMITTEE ON GOVERNMENT AFFAIRS

Mr. RIBICOFF. Mr. President, I wish to announce that on June 7 and June 9, 1977, the Committee on Governmental Affairs will hold hearings on blind trusts, related conflict of interest matters, and S. 695, the "Defense Production Act Amendments of 1977." The hearings on Tuesday, June 7, will begin at 10:30 a.m. in room 3302 Dirksen Senate Office Building. The hearings on Thursday, June 9, will begin at 10 a.m. in room 3302, Dirksen Senate Office Building.

## HUMAN RESOURCES SUBCOMMITTEE ON ALCOHOLISM

Mr. HATCH. Mr. President, I wish to announce that a field hearing will be held by the Subcommittee on Alcoholism and Drug Abuse of the Human Resources Committee on June 20, 1977, pertaining to the impact of alcoholism on the family.

The hearing will commence at 9 a.m. in the Governor's board room located in the Utah State Capitol in Salt Lake City.

Further information can be obtained from the subcommittee's minority counsel, Mr. Robert P. Hunter, in room 6317, Dirksen Office Building, telephone 224-5251.

ASSOCIATE ADMINISTRATOR FOR WOMEN'S  
ENTERPRISE

Mr. NELSON. Mr. President, I wish to announce that the Senate Small Business Committee will hold a hearing on S. 1526, a bill to establish an Associate Administrator for Women's Business Enterprise within the Small Business Administration on June 16 in room 424, Russell Senate Office Building, beginning at 10 a.m.

Senator BARTLETT of Oklahoma has been designated as chairman of this hearing. A representative of the Small Business Administration as well as representatives of various small businesses and association have been invited to testify.

Further information can be obtained from the committee offices, room 4244, Russell Senate Office Building, telephone 224-5175.

## COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Committee on Energy and Natural Resources.

The hearing is scheduled for Wednesday, June 15, beginning at 10 a.m., in a room to be announced.

The subject of the hearing will be:

H.R. 6550—To authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes.

S. 1033—To amend section 2 of the act of June 30, 1954, providing for the continuance of civil government for the Trust Territory of the Pacific Islands, and for other purposes;

S. 950—To authorize the appropriation of \$12,400,000 for rehabilitation and resettlement of Enewetak Atoll, Trust Territory of the Pacific Islands, and for other purposes;

S. 1192—To provide for the relief of certain residents of the Trust Territory of the Pacific Islands;

S. 1193—To authorize \$15,000,000 for the Government of Guam;

S. 1032—To authorize a program of grants to the government of Guam for capital improvements of public facilities, and for other purposes;

S. 1327—To amend section 2 of the act of June 30, 1954, as amended, providing for the continuance of civil government for the Trust Territory of the Pacific Islands, and for other purposes.

For further information regarding the hearing you may wish to contact Mr. James P. Beirne of the committee staff on 224-2564. Those wishing to submit a written statement for the hearing record should write to the Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, D.C. 20510.

## SUBCOMMITTEE ON MONOPOLY

Mr. NELSON. Hearings by the Senate Small Business Committee, Subcommittee on Monopoly, on the safety and efficacy of the over-the-counter sleep-aids and daytime sedatives, of which 2 days were held on October 29 and 30, 1975, will be concluded on June 14 and 21. The 2 days of hearings will be in room 6202 Dirksen Building at 9:30 a.m. each day. Witnesses will be announced at a later date.

## ADDITIONAL STATEMENTS

SINGLAUB FIRING A WARNING TO  
JOINT CHIEFS ON SALT?

Mr. HATCH. Mr. President, it seems only yesterday that the military were criticized for allowing themselves and the country to be sold out in Vietnam by civilian politicians in Washington. The question was asked whether the military people in the know expressed themselves loudly and clearly enough that the civilian decisionmakers understood. Or did they put their careers first, thereby allowing politicians to put politics first?

General Singlaub, until recently Chief of Staff in the U.S. Forces Korea headquarters, is obviously in the know. He is, also, obviously a man of integrity, who put the interests of world peace ahead of his military career, although he perhaps underestimated the personal risk by taking too seriously President Carter's rhetoric about candor and openness.

General Singlaub went public with the same message that his commander in chief, General Vessey, expressed directly to President Carter and Defense Secretary Brown: withdrawal of U.S. troops in Korea is a mistake that will end in war. He went public after the advice of the military people in the know was ignored by politicians, apparently for political reasons. It cost him his job. So much for the candor and openness of the Carter administration.

What is the political reason for which world peace is being endangered? The leftwing of American politics has worked hard to set up South Korea to be sold out. Is Carter fulfilling a campaign promise to the leftwing of his party? Is that the politics that is overruling the advice of the military men in the know?

Mr. President, to sell out another ally is a serious business. Those who remain are no doubt wondering who is next. To have the military muzzled by inexperienced civilian politicians is also serious business. And it is a serious business to punish a distinguished military man for abiding by the tenets of post-Watergate morality.

But what is really ominous about the harsh action taken against General Singlaub is that it may be a warning to the Joint Chiefs about SALT. If so, the message of intimidation is clear: Politics comes before national security, so do not blow the whistle on SALT. Have General Singlaub's concerns about Korea played into the administration's hands, and has he been used to send a message to the military: if you value your career, do not worry about the Nation's security.

The Wall Street Journal raises these questions in a thoughtful editorial. I ask unanimous consent for the Wall Street Journal's editorial of May 24 to be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

## BEYOND GENERAL SINGLAUB

The public humiliation of Maj. Gen. John K. Singlaub seems at first glance a curious presidential overreaction. Over the last decade hundreds of generals have complained about Washington in interviews with thousands of journalists. General Singlaub voiced his complaints more candidly than most,

and no doubt should have been told not to do it again. But why the show of presidential force majeure, why the trans-Pacific flight, why the public meeting? Why the media event?

General Singlaub's prediction that war would result from withdrawing U.S. forces from Korea of course came at an awkward moment, just as other U.S. officials were arriving there to negotiate the planned withdrawals. President Carter has demonstrated considerable ability to tolerate such embarrassments when they are perpetrated by his Ambassador to the United Nations. But with the general, he chose to turn the matter into a MacArthur case, which it surely is not. General MacArthur disobeyed a direct order to clear policy statements; General Singlaub pledged "enthusiastic" execution of the orders despite any personal disagreement.

Both cases do raise, though, the broad question of the role of military experts in a democratic system of government. We certainly do want civilian control and a chain of command. We do not want military men trying to sabotage a President's foreign policy or leading a political campaign against it. On the other hand, the ultimate sovereign is not the President but the public. And if generals on the scene really do believe a President's policy would lead to war, this is certainly something the public has a right to know.

These principals do not rest easily together, but some balance needs to be struck. In practice, the American error has not been on the side of military intrusion into politics. Even General MacArthur faded away. The practical problem, rather, has been political intrusion into the military.

In the early days of Vietnam, the enthusiasts tended to be Pentagon whiz kids, the skeptics career officers. Even as late as 1965 the generals were not taken seriously on their estimates of the size of the commitment needed to succeed; the estimates suggested too large a war to suit political convenience. In more recent years, generals privately distressed about the growing Soviet threat have allowed themselves to be paraded before Congress to testify that U.S. defenses are adequate. The effect has been to free Presidents to follow the dictates of domestic politics, and to blame the generals if things go wrong.

General Singlaub's offense was to take this option away from President Carter in the case of Korea. While in no meaningful sense insubordination, his public expression of the military view does force Mr. Carter to take responsibility for his own decision, which after all was made not after deliberating on military advice but to please a particular constituency at a particular point in a political campaign. If war does come in the Korean peninsula, Mr. Carter cannot plead that his best military advice was that the withdrawals were safe.

The massive retaliation against General Singlaub will close down the one avenue military men had for edging their views into the public domain. For the duration of the Carter Presidency, journalists can forget about interviewing generals. Even if an officer is willing to risk an interview, no candor can be expected. Secretary of Defense Brown declared on Sunday that once a policy is set, an officer is expected "to support that policy publicly if he plans to stay in the military," even if he has advised against it and in fact privately dissents. So the journalists, and for that matter the public and the Congress, will be dealing with officers who may be facing the blunt choice: Resign or lie.

And it is by no means merely a matter of the Korean withdrawals. In the most recent round of strategic arms talks in Geneva, the Joint Chiefs representative was excluded until the final day. The Chiefs themselves learned of some U.S. initiatives only after the



Russians had. Yet if a treaty is reached, the Chiefs will be paraded once again to say that it is militarily acceptable.

Suddenly the extent of the fuss over General Singlaub makes sense. It is not a flap over one general in Korea; it is about imposing a gag on the entire officer corps. Indeed, about turning the officers into pawns to advance policies they oppose. In the interests of the generals, and in the interests of the public, there is only one answer. The generals will have to show some exceptional courage. They will have to take up Secretary Brown's advice, and for the first time start a tradition of resignation over points of principle.

Mr. HATCH. Mr. President, other editorials have raised the question of the wisdom of withdrawing our troops from Korea in the face of contrary military judgment. It has been asked if it is worth the risk of war to appease the American left-wing. Others wonder if American foreign policy is now operating on the basis of a widened "Sonnenfeldt doctrine." Sonnenfeldt, a top aide to Henry Kissinger, expressed the doctrine that European stability would be furthered by the Russians exercising tighter control over Eastern Europe. Mr. Young, our Ambassador to the U.N. has now extended this doctrine to Africa where he says the Communists have brought stability to Angola. Is the Carter administration now counting on the Communists to bring stability to Korea in the way they brought it to Indo-China? Where next shall we have this stability? Taiwan? Japan? Western Europe?

In his speech at Notre Dame University, a speech that was sharply criticized by the Detroit News, the President said that we can now go forward as a nation free of our old "inordinate fears" of communism. What does this mean? Does it mean that we no longer pay any attention to military facts? Does it mean that General Singlaub and his commander, General Vessey, are expressing "inordinate fears" of communism and not the facts of the Korean military situation? Is General Ellis, a NATO commander, expressing "inordinate fear" when he points out, as he recently did, that the Soviet Union's military capacity far outweighs its defensive requirements? Does it mean that we do not need the Mark 12A warhead, the B-1, the Trident?

Mr. President, Soviet leaders speak of their military forces as the most powerful ever assembled on Earth. What are they assembled for? Is it President Carter, or just his speech writers who are out of touch with reality?

Perhaps a moralistic foreign policy can be effective if our opponents share the moral tenets that it is built upon. But if they believe, as they show every indication of believing, that violence is the only effective force in history, then a moralistic foreign policy may be just another name for selling out our people and other peoples who do not want to be dominated by the Communists. Idealism detached from realities is dangerous, particularly for a nation that may have to face the most powerful military forces ever assembled on Earth.

I ask unanimous consent for editorials from the Wall Street Journal and the

Columbus Dispatch to be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 31, 1977]

#### REVIEW KOREA PULLOUT

We're glad to see that the House subcommittee that heard Maj. Gen. John Singlaub last week focused less on the prerogatives involved in his firing than on the substance of his views. Will in fact the planned withdrawal of U.S. troops from Korea lead to a war?

While we hesitate over anything so definite as General Singlaub's statement that war "will" result, it does seem to us that an American withdrawal would significantly increase that likelihood. Beyond that, even without a new war on the Korean peninsula, Mr. Carter's withdrawal plans are likely to do considerable damage to the American position in the world.

South Korea is of course scarcely a popular nation in current American opinion, and for no small reasons, given bribery in this country and the Park regime's violations of human rights at home. But while the withdrawal promises appeal to a certain sector of Mr. Carter's constituency, they seem a strange way to retaliate for bribery and human rights violations, for they put the entire South Korean population at a military and psychological disadvantage against a well-armed neighbor that consistently threatens invasion, and pays even less respect to human rights. Opposition leaders and other Korean critics of the Park regime are also strongly opposed to a U.S. troop pullout.

Withdrawal of U.S. ground troops would remove an important psychological deterrent to North Korea. Under the Carter plan American airpower would remain, but as one U.S. source in Korea told the Washington Post, "War-planes are like geese. They can honk and fly away." If that should happen, North Korea would add air superiority to its growing list of military advantages over its southern neighbor.

The North, which has undertaken a massive military buildup during the past year, already leads in tanks, armored personnel carriers, artillery pieces, multiple rocket launchers, submarines and naval coastal vessels. South Korea lags in all these areas precisely because U.S. defense policy has been to integrate Seoul's conventional forces beneath a U.S. defense umbrella. That is, Washington has deliberately limited the ROK's offensive capability, while the Soviets and Chinese have practiced no such restraint in arming the North.

The spectacle of the U.S. withdrawing in the face of these risks would reach beyond the Korean peninsula. In particular, it would greatly unnerve Japan. The Japanese government is paying lip service to the Carter plan, because of pressure from Washington. But the nation's real feelings were expressed in a recent resolution sponsored by seven Japanese cabinet ministers and more than 235 legislators from the nation's two leading political parties. The resolution declared that a pull-out would be "an invitation to instability in the Korean peninsula . . . and northeast Asia as a whole."

Mainland China, somewhat similarly, publicly supports North Korean ambitions. But its foreign policy, and above all its relations with the U.S., are dominated by the need for a counterweight to the Soviet Union. A unilateral U.S. withdrawal from Korea, on the heels of the American flight from Vietnam, could scarcely be a good omen as seen from Peking. The show of American irresolution might even nudge a reluctant China back toward the Soviets.

The Carter administration is making a mistake to treat our 1954 mutual defense

treaty with South Korea as something that can be altered without risk by applying the proper cosmetic. The purpose of that treaty is not to keep U.S. troops in Asia forever but to keep them as long as necessary to curb Communist aggression, maintain the regional balance of power and give South Korea the chance to work out its own political system free from outside domination. It is the same reason U.S. troops have been in Europe for more than 30 years, not out of habit but because they are an anchor of stability that serves American interests.

[From the Columbus Dispatch, May 25, 1977]

#### EDITORIAL

White House policy to withdraw American ground troops from South Korea deserves a careful and impartial congressional review.

President Carter's decision to sack Maj. Gen. John Singlaub for public statements critical of administration policy may tighten military discipline, but the episode raises several issues about the wisdom of U.S. policy.

The general, third-ranking U.S. Army official in Korea, believes, as do a number of other military leaders, that the planned withdrawal of 33,000 U.S. ground troops "will lead to war," inviting another North Korea invasion of the South.

Although the White House would retain air support for the South Korean government and renew its defense commitment, U.S. Army officers evidently think these measure inadequate.

And, so do the South Koreans who recall how withdrawal of American ground troops from Indochina brought reduced U.S. support for the South Vietnamese government.

The presence of American Army forces, it is argued, serves as a trip wire, assuring that Washington will assist the Koreans to repulse another attack from the North.

Since the Korean War in 1950, a U.S. military presence has brought stability to the region, preventing war and permitting the economic recuperation of both Korea and Japan.

Circumstances change, however, and some Defense Department planners think this country can maintain peace in Asia without the need for a permanent ground presence.

And, while Congress is reviewing this defense commitment, it should explore another Korean issue.

Majority Democrats, eager to investigate Republican wrongdoing, have exhibited little interest in probing charges of illicit gifts to congressmen from South Korea sources.

This matter, too, deserves a full airing.

#### PAUL GRASS WINS ESSAY CONTEST ON GOOD CITIZENSHIP

Mr. STENNIS. Mr. President, a young Mississippian, Mr. Paul Grass, of Clarksdale, Miss., recently won an essay contest on the subject of good citizenship. The contest was held among high school students and was sponsored by the Civitan Club. Paul's essay shows an exceptional knowledge and appreciation of the founding ideals and principles of America, as well as the rights and responsibilities of our citizens. This understanding is rarely so well stated, especially by someone of this young man's age. Mr. President, I ask unanimous consent that Mr. Paul Grass' essay on American citizenship be printed in full in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

# PAUL GRASS CAPTURES CIVITAN ESSAY CONTEST (By Paul Grass)

A citizen of the United States of America lives in an environment of almost boundless freedom. He enjoys numerous rights and liberties and is under the protection of a Constitution which guarantees him freedom of speech, press, and religion. He is granted the opportunity to take part in government by electing persons to represent him in making the nation's decisions or by running for a government position himself. His native land, known around the globe as the "land of opportunity," is recognized as the leader of the free world. Throughout her history, America has stood firmly for individual liberty against colonial empires, totalitarian dictators, and communist aggressors. She has been subjected to trials both from within and without and has consistently emerged triumphant as the stronghold of freedom.

However, a well-worled Constitution and a noble heritage have not made the United States the greatest nation in the world. America has become great through the willingness of the people to pay the price of democracy, to fulfill basic responsibilities, to preserve the ideals of liberty. The fortitude of the people throughout the history of America has raised the United States from a set of colonies to a world power. America has had great leaders and outstanding statesmen, but her strength lies in the fundamental readiness of the common man to perform certain duties in his own home town to "secure the blessings of liberty for ourselves and our posterity." My generation of America's youth must be willing to assume these responsibilities if we want to keep our country proud, free, and strong.

At the age of eighteen, the young citizen of the United States acquires the right to vote, the basic power which makes America a "government by the people." Frequently public officials are elected by a very narrow margin simply because only a fraction of the qualified voters bother to cast a ballot. If every citizen does not vote or does not register to vote, the outcome of the election does not reveal the attitude of all the people. If the people are to remain sovereign in America, we must exercise our right to vote; therefore, each of us is obligated to vote in every election.

The Constitution assures all Americans freedom of speech and press. Thus we must be willing to speak out to protest our freedom and to stand for what we believe is right in the face of what is wrong. A strong America is one in which the voice of the people, young and old, is the voice heard and obeyed. When the government is in a state of indecision, it is the duty of the governed to correct the mistake or to make the proper decision through free speech and press. Only in exercising our freedom can we keep free speech and a free press.

Television, radio, and the newspaper are amazing devices which few American homes lack; yet the basic purpose of the media is too frequently overlooked. These inventions are methods of communication meant to keep us informed of what goes on beyond our daily scope of events. Many youth misuse radio and television by showing indifference to newscasts, and a large number do not read newspapers at all. We, the youth of the United States, must keep ourselves aware of happenings at home and abroad in order to safeguard our precious freedom from all forms of assault. President Franklin Roosevelt once said, "The only sure bulwark of continuing liberty is a government strong enough and well enough informed to maintain its sovereign control over its government." Around the world, tyrannous governments refuse to tell the people what they are doing; but in America, we are informed sev-

eral times a day of events in the Capitol, the White House, and foreign lands. This is a privilege that all Americans should cherish and use to the fullest.

Many young people today feel that they are free to do anything that makes them feel good. The result is a shocking number of teenage alcoholics, an increase in drug abuse, and a so-called "new morality" in regard to sex. Although the Constitution does not forbid such behavior, it does not include freedom for self-destruction. The German philosopher Immanuel Kant once said that "morality is not properly the doctrine of how we make ourselves happy, but how we make ourselves worthy of happiness." Is a proud nation one in which the citizens have immoral habits? On the contrary, "Righteousness raises a people to honour; to do wrong is a disgrace to any nation." One of the most valuable gifts that we, the youth of America, can give our country is pure minds and lives for her service.

The Constitution provides Americans with freedom of religion. Every person in the United States is free to worship as he pleases, but it pleases too many Americans not to worship at all. The present generation of young Americans prefer not to worship at all. The present generation of young Americans must return to God if we are to continue to be blessed with a strong, free land. The greatest contribution we can make to the future of America is to live by our national motto, "In God We Trust."

The first Amendment to the United States Constitution is the foundation of our American liberty; but it is not worth the sacrifices of the Founding Fathers if we do not fully practice every freedom it grants. We, the youth of the United States, are obliged to unite in exercising our liberties at all times if we are to remain "one nation, under God, indivisible, with liberty and justice for all."

## HUCK BOYD

Mr. DOLE. Mr. President, on Sunday, May 29, the town of Phillipsburg, Kans., turned out to honor their long time friend, community leader, and local newspaper publisher, McDill "Huck" Boyd.

Last week's celebration was designed to honor his contributions to Phillipsburg—he has been responsible for an increase in the number of local doctors and growth in local industrial development. However, it would be impossible for me to talk about Huck Boyd without acknowledging his contributions to our State of Kansas and to national Republican politics.

Huck was a member of the Kansas Board of Regents for 4 years and served as its chairman in 1958. He served on the board of directors of the National Association for Mental Health and has worked to expand the family doctor program in Kansas. In 1975, he was cited by the Kansas Press Association for his work in reforming rural Kansas health care.

Currently our Republican National Committeeman from Kansas, Huck has worked in countless political campaigns. He was twice a candidate for Governor and served as executive secretary to Gov. Edward Arn and as executive secretary to Kansas Republican State Committee.

I have outlined a few of Huck's contributions and accomplishments this far in his life—I have no doubt that there will be many more.

I also want to mention the element of

Huck Boyd best known to the people of Phillipsburg and to me—a very dear friend. He has had an immeasurable impact on my life as well as my political career. He has helped me learn about people and the needs of people.

Huck exemplifies the highest in personal service toward unselfish goals and he symbolizes the best in politics.

I ask unanimous consent that an article about Huck Boyd Day by Laura Scott of the Kansas City Star be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Kansas City Star, May 30, 1977]  
PHILLIPSBURG, KANS., TURNS OUT TO HONOR A FRIEND, "HUCK" BOYD  
(By Laura Scott)

PHILLIPSBURG, KANS.—In this small northwestern Kansas town yesterday one thing was very evident: They love McDill (Huck) Boyd, publisher, longtime Republican and Phillipsburg's friend.

Traditional Memorial weekend activities honored this town's most famous living son, who is known throughout the State for his contributions to the Republican party and to Phillipsburg.

About 500 persons turned out in the bright sunshine yesterday at Phillipsburg High School to give Boyd what one resident termed "a living memorial." They ranged from some of the big names in state political circles, including Sen. Bob Dole (R-Kan.) and former Gov. Frank Carlson, to the local residents who made cookies for a reception.

Although Boyd probably is best known for his work in Republican politics, including his own two unsuccessful races for governor, Phillipsburg people made it clear they were honoring their local publisher for what he has done for them. His contributions most recently have meant five new doctors for a town which several years ago was short of medical personnel.

It was their chance to say thanks to Boyd, 70, a native son whose parents, Frank and Mamie Boyd, started the newspaper which he now publishes, the Phillips County Review. After many failures to convince the modest Boyd to let them honor him, the townspeople finally went ahead without asking him.

"Huck has done more than anyone else for his community and we thought we should do something for him," said Louis Prohaska, business manager for the newspaper and a member of the arrangements committee for "Huck Boyd Day."

Besides being a candidate for governor, Boyd has worked in many Kansas political campaigns, including most of Dole's. Long active in Republican politics, he was executive secretary to former Gov. Edward Arn, executive secretary to the Republican state committee and is a Republican national committeeman.

Boyd was a member of the Kansas Board of Regents for one 4-year term and was chairman in 1958. He has served on the board of directors of the National Association for Mental Health. In 1975 he was named Kansan of the Year by the Kansas State Society in Washington and was cited by the Kansas Press Association for bringing about reforms in rural Kansas health care.

He has directed media operations for three national political conventions, including the Republican National Convention last August in Kansas City.

Professionally, he has won the William Allen White Foundation Award for journalistic merit in Kansas.

Phillipsburg residents know him best for his work for their community, including his



campaign recently to expand the family doctor program in Kansas. His work resulted in solving the physician shortage for the community.

The observation yesterday included a dinner for the Boyd family at the Vista Room of Martha's Cafe; speeches by friends, politicians and newspapermen at the high school; and a punch and cookies reception at the school. The city also had the local welcome flags out for Huck Boyd Day.

The event was organized by Phillipsburg residents, including employees at the newspaper. Mayor Bud Broun, one of the organizers, served as master of ceremonies. He read a proclamation designating yesterday as Huck Boyd Day in Phillipsburg.

Broun sounded the keynote of the day's events when he told the audience that "the Phillipsburg community has been interwoven with the Huck Boyd story."

Dole, who arrived with his wife, Mrs. Elizabeth Dole, credited Boyd with keeping him informed about problems back in Kansas.

"I never looked upon Huck Boyd as a Republican," Dole said. "We talk about people and the needs of people."

"Huck exemplifies the highest. He symbolizes the best in politics. He symbolizes what the rest of us strive to do—serve the people."

Carlson, a former governor and U.S. senator, told the audience he was indebted to Boyd because of the Phillipsburg man's past political help. Carlson recalled that at the 1968 G.O.P. convention Carlson's name was put in nomination for President "with Huck's engineering."

Longtime Boyd friends who reminisced included Gene Henderson, now of Scott City, who recalled Boyd's support of a new city park for Phillipsburg several years ago. The city got its new park, Henderson said, and then lightheartedly pointed out that Boyd "now has gotten a refinery located there."

Townpeople cited Boyd's work to get a site for a major office of Kansas-Nebraska Natural Gas Company as another of Boyd's contributions to the city.

Boyd, dressed in a powder-blue suit and sitting next to his wife, Mrs. Marie Boyd, at the speaker's table, grinned when a joke was told about him. And he seemed touched by the community interest. But Huck Boyd Day organizers revealed that he was a reluctant honoree. In the past, friends have asked Boyd's permission to have an event in his honor and he has declined every time. Mrs. Grace Brown, a former society editor at the newspaper, said, "We just went ahead this time without asking his permission," she said.

When it was Boyd's turn to talk, he told the audience, "It seems about incredible that my family, friends and associates to whom I already owe so much could have planned and carried out such an occasion."

Then, in what friends said was typical of his desire not to grab the spotlight, Boyd talked about his family—his father and mother; his wife; his brother, "Bus" Boyd, now deceased, and his staff—calling them "the highlights of my life."

"It is obvious I would have been disowned if I hadn't achieved something in community affairs," he said.

Attending the ceremonies yesterday were the Boyds' two daughters, Mrs. Patricia Hiss, of Palo Alto, Calif., and Mrs. Marcia Krauss, of Phillipsburg, and Boyd's five grandchildren.

Residents of Phillipsburg presented the Boyds with a scrapbook containing letters from friends and professional colleagues, including former President Gerald Ford; Gov. Robert Bennett; Ronald Reagan, and Mrs. Mary Louise Smith, former Republican national chairwoman.

## STUDY EMPHASIZES NEED FOR SPINAL CORD INJURY REHABILITATION

Mr. HUMPHREY. Mr. President, earlier this year I proposed an amendment to the Rehabilitation Act of 1973, S. 1120, to increase funding for support of spinal cord injury research and rehabilitation.

At that time, I stressed the value of investing in a system that has proven effective in demonstration projects authorized under the Rehabilitation Act. The model regional centers to be expanded under my bill provide early and comprehensive rehabilitation services to victims of spinal cord injuries.

A recent independent study dramatically illustrates the huge, measurable, direct and indirect losses both to society and to the individuals affected, of spinal cord injuries which result from motor vehicle accidents alone.

This study, "The Costs of Motor Vehicle Related Spinal Cord Injuries," was prepared by Charles N. Smart and Claudia R. Sanders of Policy Analysis, Inc., Boston, an organization that specializes in health economics. It was sponsored by the Insurance Institute for Highway Safety.

Mr. President, I ask unanimous consent that the foreword to this book, and a summary of its findings, be printed in the RECORD.

There being no objection, the foreword and summary were ordered to be printed in the RECORD, as follows:

### THE COSTS OF SPINAL CORD INJURIES

#### FOREWORD

Our brains maintain most of their communications with the rest of our bodies through the thousands of tiny circuits contained in our spinal cords. Many of these circuits carry incoming sensory information that lets us know how our bodies feel, what postures they are in, and whether they are operating properly. Many other circuits carry outgoing, "motor" information by which we signal our bodies what to do, such as which muscles to relax, and which to contract. It is small wonder that injuries to this remarkable communications pathway are among the most devastating that we can sustain, especially since most are permanent, being repairable neither by our bodies themselves, nor by the most advanced medical science of our day.

Physicians and others who care for persons with paraplegias and similar results of damage to the spinal cord have known for decades that large proportions of such injuries are produced in motor vehicle crashes, a fact which has not, however, been widely appreciated outside the medical community. Moreover, although improving greatly in recent decades, statistical information concerning many aspects of this field has remained inadequate, especially from the standpoint of its suitability for use as the basis of governmental and private decisions related both to the allocation of relevant resources and to the actions, such as requiring better vehicle "crashworthiness," which would decrease the number of new cases.

Since we in the Insurance Institute for Highway Safety work to identify the kinds of losses that burden the public as a result of motor vehicle use, and the steps that can be taken to reduce their frequency, severity and cost, it was logical for us to address the spinal cord injury problem, and in ways that would build on and augment the extensive

work already done in the United States and other countries. Consequently, in 1971, we first arranged with the Departments of Community Health and Orthopaedic Surgery, School of Medicine, University of California, Davis, to marshal all practical resources to determine the incidence, sources, and many other characteristics of new spinal cord cases in 18 contiguous but highly diverse northern California counties with a combined population of nearly six million people.

This has resulted in an increasing number of important additions to knowledge in this field, the reports of which are identified in the Selected Bibliography of this volume. Especially noteworthy are rates of occurrence of spinal cord injuries per capita by age and sex, counting both those who reach hospital care alive and the many who die before such care is reached. The California work also confirmed that the spinal cord injuries produced in motor vehicle crashes do indeed far outnumber those produced in any other way, a pattern that holds among both males and females of all ages.

Among the many additional results of this work to date are detailed data on survival. These confirm that spinal cord injury patients who survive the early post-injury period may be expected, typically, to survive for many years. As is well known to specialists, this reflects the great advances made in recent decades in the care of persons with such injuries, and especially in the prevention and treatment of infection.

When the results of the work in California were sufficiently available, we next contracted with Policy Analysis, Incorporated, an organization specializing in health economics, to estimate the losses our society sustains each year from the spinal cord injuries produced in motor vehicle crashes, both in relation to individual cases and in relation to all cases combined. The resultant estimates have used both conservatively modified data from the California work and the best information that could be obtained from the many other specialized sources.

The conclusions are staggering.

Each year the spinal cords of some five thousand three hundred Americans are severed, crushed, or otherwise seriously injured in motor vehicle crashes. Of these damaged people, two-thirds are less than thirty-six years of age, and more than two-thirds are male. A large majority, more than six out of ten, do not die, but only a small minority of these ever functionally recover. Most, some two thousand six hundred each year, further increase the already huge number of other Americans with similar injuries. The process continues year after year.

Yet from an economic standpoint, it is noteworthy that the costs of this damage to people remain largely external to the balance sheets of many whose actions, of both commission and omission, substantially influence the numbers of Americans whose spinal cords will be injured in some of the millions of motor vehicle crashes that occur, for all sorts of reasons, in the United States each year. Such costs cannot therefore, be expected to directly produce, through the medium of balance sheets, much corrective, dampening influence on the occurrence of such injuries.

In illustration, when an intersection or curve is designed and built in such a way that serious crashes are produced, those responsible only rarely suffer an economic penalty. The situation is the same in the case of organizations and individuals that line roads with utility poles (which would be recognized instantly as likely to produce very serious injuries if placed closely along runways for aircraft) that each year convert thousands of off-road mishaps from minor events into disasters. Similarly, manufac-

turers of motor vehicles suffer no substantial penalty from an economic standpoint when they do not provide the greatly improved levels of automatic crash injury protection that have long been practical. Analogous points can be made concerning many others whose actions either needlessly augment, or fail to help reduce, such injuries among vehicle occupants, pedestrians, cyclists and other travelers.

Among its many analyses and conclusions, this work very strongly supports the longstanding emphasis of specialists on bringing persons with spinal cord injuries very early into thoroughly modern centers specializing in the expert care and rehabilitation of such cases. It is well known that patients in these centers do far better, and are more likely to receive and profit from suitable rehabilitative therapy. Moreover, since the authors believe that such care is probably less costly in the long run, and find that a substantial fraction of the societal cost is in foregone productivity, such handling has very strong economic as well as humanitarian justification.

The authors of this report have made a major contribution to knowledge of the human tragedy of spinal cord injuries. Let us hope that it will aid in bringing the forces to bear that will both greatly reduce the incidence of such injuries and improve the care and rehabilitation of those that still cannot be prevented.

#### SUMMARY

Spinal cord injury (SCI) provides a graphic example of a low incidence catastrophic disease resulting in extreme physical and emotional deprivation to the afflicted individual. From an economic perspective it also accounts for unusually large direct and indirect costs that must be borne both by the individual and by society in general. Typical SCI patients may be expected to generate high initial hospitalization costs, often followed by substantial annual maintenance charges that continue over their remaining lifetimes. While forced to cope with new physical limitations, the spinal cord injured may also have to accept social and vocational constraints that will radically change and, perhaps, seriously limit their former contribution to society as homemakers, students, or productive members of the labor force.

#### Motor vehicle injuries

Approximately 50 percent of the spinal cord injuries suffered annually in the United States occur in motor vehicle crashes, making this by far the principal source of such injuries. The purpose of the analysis described in this report was to estimate the annual incidence of SCI occurring as a result of motor vehicle crashes for a recent year (1974) and to project both the total direct and indirect costs associated with those injuries. The findings of the analysis provide valuable insights into the dimensions of this aspect of motor vehicle crashes.

In 1974, an estimated 5,315 spinal cord injuries occurred in motor vehicle crashes in the United States; this corresponds to an average annual incidence rate of 25.1 per million population. Of the 5,315 SCI cases, 1,938 were classified as dead either at the crash scene or upon arrival at an emergency medical facility (DOA), while the remaining 3,377 survived to hospital admission.

#### Hospital admissions

The 3,377 hospital admissions were subclassified into the following impairment categories: 1,091 quadriplegics with permanent impairment, including both complete and incomplete lesions; 1,501 paraplegics with permanent impairment, including both com-

plete and incomplete lesions; 447 in-hospital fatalities; and 338 patients who were functionally recovered at discharge.

TABLE 27.—SUMMARY OF TOTAL EXPECTED SOCIETAL COSTS OF MOTOR VEHICLE RELATED SCI: UNITED STATES, 1974

| Cost category                         | Present value of societal costs <sup>1</sup> |                          |
|---------------------------------------|--|--------------------------|
|                                       | Discounted at 6 percent                      | Discounted at 10 percent |
| <b>Direct costs:</b>                  |  |                          |
| Initial hospitalization.....          | \$69,578,460                                 | \$69,578,460             |
| Institutional and attendant care..... | 66,761,170                                   | 47,144,840               |
| Rehospitalization.....                | 45,543,930                                   | 31,648,020               |
| Drugs and medical supplies.....       | 26,352,440                                   | 18,065,240               |
| Miscellaneous services.....           | 15,759,010                                   | 10,760,180               |
| Home modifications.....               | 9,892,260                                    | 9,892,260                |
| Medical equipment and appliances..... | 8,950,410                                    | 6,158,100                |
| Vocational rehabilitation.....        | 3,703,870                                    | 3,569,200                |
| Emergency assistance.....             | 2,087,240                                    | 2,087,240                |
| <b>Subtotal.....</b>                  | <b>248,628,790</b>                           | <b>198,903,540</b>       |
| <b>Indirect costs:</b>                |  |                          |
| Foregone productivity.....            | 558,399,440                                  | 340,366,370              |
| Legal and court services.....         | 15,581,220                                   | 15,581,220               |
| Insurance administration.....         | 4,848,270                                    | 3,878,640                |
| <b>Subtotal.....</b>                  | <b>578,828,930</b>                           | <b>359,826,230</b>       |
| <b>Total societal costs.....</b>      | <b>827,457,720</b>                           | <b>558,729,770</b>       |
| Number of patients.....               | 5,315  | 5,315                    |
| Average cost per patient.....         | 155,680                                      | 105,120                  |

<sup>1</sup> Costs are in 1974 dollars.

#### Societal costs

Table 27 provides a summary overview of the total societal costs resulting from the 5,315 SCI cases. The present value of total expected societal costs was approximately \$28 million at a 6 percent discount rate and \$559 million at a 10 percent rate. Table 28 summarizes the average societal costs per case, both for the 5,315 SCI cases and for the 2,592 permanently impaired survivors. The relatively high value obtained for overall societal costs compared to the relatively low number of patients in the incidence sample generating these costs emphasizes the enormity of the expected costs associated with an individual occurrence of spinal cord injury—approximately \$156,000 at 6 percent and \$105,000 at 10 percent.

#### Direct costs

The direct costs of SCI include a variety of treatment expenditures paid for by the patient, the patient's family, and in many cases by third party reimbursement agencies. Direct costs analyzed in this report include the costs of emergency assistance following the crash, initial hospitalization, home modifications, vocational rehabilitation, institutional and attendant care, medical equipment and appliances, special drugs and medical supplies, rehospitalization care, and miscellaneous services and supplies. For 1974, the estimated present value of these direct costs measured over lifetimes of all patients was approximately \$249 million, based on a 6 percent discount rate and \$199 million at a 10 percent rate. This translates into an average cost per patient of \$47,000 at 6 percent at 10 percent.

#### Indirect costs

The indirect costs of SCI are not directly tied to the treatment of the injury but are related nevertheless to its occurrence. As a proportion of total societal costs, indirect costs dramatically outrank direct costs. Furthermore, the overwhelming majority of indirect costs consists of losses attributable to the net foregone productivity of SCI patients. For 1974, the estimated present value of these indirect costs was approximately

\$579 million when discounted at 6 percent and \$360 million at 10 percent. This corresponds to an average loss of about \$109,000 per patient at 6 percent and \$68,000 at 10 percent.

TABLE 28.—SUMMARY OF AVERAGE SOCIETAL COSTS PER PATIENT OF MOTOR VEHICLE RELATED SCI: UNITED STATES, 1974

| Cost category   | Present value of societal costs <sup>1</sup> |                          |
|---|--|--------------------------|
|   | Discounted at 6 percent                      | Discounted at 10 percent |
| Number of patients.....   | 5,315  | 5,315                    |
| Average direct costs per patient.....                                     | \$46,780                                     | \$37,420                 |
| Average indirect costs per patient.....                                   | 108,900                                      | 67,790                   |
| <b>Average total societal costs per patient.....</b>                      | <b>155,680</b>                               | <b>105,120</b>           |
| Number of permanently impaired patients.....                              | 2,592  | 2,592                    |
| Average direct costs per permanently impaired patient.....                | \$92,410                                     | \$73,230                 |
| Average indirect costs per permanently impaired patient.....              | 88,910                                       | 57,710                   |
| <b>Average total societal costs per permanently impaired patient.....</b> | <b>181,320</b>                               | <b>130,940</b>           |

<sup>1</sup> Costs are in 1974 dollars.

#### Demographic trends

Several demographic trends common to SCI populations were reflected in the 1974 motor vehicle crash group. Males predominated over females in the ratio of 2.2 to 1. Approximately 55 percent of the injured were between the ages of 16 and 35 while this age group comprises only 32 percent of the general population. This emphasizes the disproportionately high SCI incidence rates among young people. The economic ramifications of high incidence rates among young people in general, and males in particular, are significant. Since the expected lifetime costs of SCI are strongly influenced by both the direct and indirect costs accruing to the patient during the years following onset of injury, younger patients with relatively longer life expectancies may be expected to generate larger societal costs. In addition, for the indirect costs due to a patient's foregone productivity, the average male currently accounts for a far greater loss than the corresponding female.

#### Patient mortality

In general, patients with spinal cord injuries have higher mortality rates and, hence, lower average life expectancies than individuals of similar age and sex in the general population. The reasons for the patients' increased mortality lies primarily in their greater susceptibility to complications such as urinary tract infections and decubitus ulcers that can lead to more serious complications and death. Not surprisingly, patients with more severe impairments such as complete quadriplegia are found to have average life expectancies that are noticeably lower than those of members of the general population of equivalent age and sex. Even in the case of paraplegics, a less severely injured group, the life expectancies remain lower than those of the general population.

The reduction in value of life expectancies has both human and economic consequences. From a human perspective, the increased likelihood of premature death and the unpleasant medical complications leading to death constitute a tremendous physical and emotional burden for the patient and his family. From an economic standpoint, the



decrease in life expectancy reduces the span of time over which many injury related costs may accrue and certain costs, such as those associated with expected foregone productivity, may be recouped.

#### *The permanently impaired*

In the assessment of total direct costs, the contribution made by permanently impaired quadriplegics and paraplegics assumes great significance since these patients generated close to 95 percent of all such costs. When the approximately 5 percent of overall direct costs generated by DOAs, in-hospital fatalities, and the functionally recovered is excluded, permanently impaired SCI patients average about \$92,400 per patient in direct costs discounted at 6 percent, compared to \$47,000 for the complete sample.

It is important to recognize that some indirect costs of spinal injury that are conceptually important, such as those associated with the pain and emotional suffering experienced by the patient and the patient's family, are not measured in the analysis. Furthermore, the information base used to estimate both direct and indirect costs included in the analysis was limited and tended to yield conservative approximations of these costs. Hence, from a cost-benefit perspective, the cost estimates presented in this study, although very large, should be considered as only first order approximations of the total economic benefits that could be obtained by reducing the magnitude, severity and consequences of motor vehicle related spinal cord injuries.

#### SENATOR NUNN WARNS OF SOVIET OFFENSIVE CAPABILITY IN EUROPE

Mr. HATCH. Mr. President, our distinguished colleague, SAM NUNN, who is widely recognized as a military expert has published an article in a recent issue of the *Conservative Digest*. Senator NUNN outlines changes in NATO defenses that are needed if Europe is to be prepared to withstand a Soviet blitzkrieg attack.

The article is noteworthy also for two wider issues. How does such extraordinary Soviet offensive capability relate to defense of the homeland? A blitzkrieg force structure reveals a great deal that we seem content to ignore. We also seem content to ignore that détente and "the end of the cold war" have done nothing to shorten the Soviet shadow over Europe.

I ask unanimous consent that Senator NUNN's article be printed in the *RECORD*.

There being no objection, the article was ordered to be printed in the *RECORD*, as follows:

#### THE SOVIET SHADOW OVER EUROPE

(By Senator SAM NUNN)

NATO today could not resist a Soviet blitzkrieg attack on Central Europe without using nuclear weapons. Our forces in that region are numerically inferior, and we are geared for a long war rather than a Soviet blitzkrieg.

Soviet blitzkrieg-type forces and strategy are designed to overwhelm NATO forces before reinforcements, which are widely dispersed through Europe and America and are less battle-ready than Soviet troops, can arrive on the scene.

Here's the evidence of Soviet commitment to blitzkrieg tactics:

The sheer magnitude of Soviet forces in Eastern Europe, ready to move into Western Europe on short notice.

Concentration of these forces—some 20 crack divisions—in East Germany, astride the North German Plain and within comparatively easy reach of critical objectives in the NATO Central Europe region.

Almost total reliance on mobile armor and mechanized infantry divisions for ground maneuvering.

Seven airborne divisions ready to move (compared with our one airborne division).

An unsurpassed ability to ford rivers and other water obstacles.

A high ratio of combat-to-support personnel (a blitzkrieg requires many combat troops, since there will be heavy losses, but relatively fewer support personnel, since the war will be short).

Frequent military exercises featuring preparatory missile and tactical air strikes followed by rapid exploitation by armor and mechanized infantry forces.

Preparation for advancing an extraordinary 70 miles per day for a week against the enemy (at the height of his offensive, Patton moved 35 miles per day).

Ignoring this overwhelming evidence of Soviet blitzkrieg plans, NATO war plans assume sufficient warning time to mobilize against a Soviet attack. We have a comparatively low ratio of combat-to-support troops and a shortage of ammunition and other war materiel. And our troops are positioned so far back from the border between East and West Germany that a Soviet attack would have reached the Rhine by the time our troops were functioning effectively.

Soviet power relative to ours is expanding. Their forces in Eastern Europe have substantially increased in the last five years, while NATO forces immediately available for combat in Central Europe have remained comparatively static.

#### MASSIVE LOSSES

Soviet weapons are becoming as sophisticated as our own. The spread of "smart" electronic-guided bombs and artillery shells makes the communists' superior numbers even more important, since smart bombs will mean massive losses of men and materiel in combat.

A major revision of NATO strategy and capabilities is therefore in order. Most importantly, we must rethink the timing of a European war. The Defense Department now projects 23 days warning time before a Soviet attack, followed by a war of 30 days to six months. This should probably be cut to a few days' warning time and an intense war of two or three weeks.

Second, NATO must move its troop concentration further north and forward, to be directly opposite the bulk of communist troops, located in the North German Plain. We now expect to lose much of Germany to a Soviet attack before launching a successful counterattack.

But is it realistic to imagine that retreating NATO forces, which had suffered the agony of defeat, could successfully halt, regroup, and drive back a vastly larger enemy flushed with victory? Trading space for time works only if one has abundant space to trade and plenty of time to trade it. NATO has neither.

Moving our troops forward would force the communists to wage the main battle along the East and West Germany border. This would preserve German territory and eliminate the need to mount a major counterattack to expel Soviet forces from the Ruhr and along the Rhine.

It would also compel communist forces to deploy for battle before crossing the West German border and would thereby permit NATO ground forces to launch local counterattacks across that border.

NATO must also increase fire-power avail-

able to its ground forces—artillery, antitank and air defense systems, and ammunition stockpiled at the front. We should consider further shift of U.S. Army personnel in Europe from support to combat units. This would require U.S. troops to rely on European troops for logistical support.

Finally, standardization of arms and equipment within NATO must be pushed. In this regard, the Defense Department should be commended for delaying the selection of the new main battle tank, in order to give time for standardizing more parts with the new West German main battle tank.

#### INADEQUATE DETERRENT

In sum while NATO's nuclear arsenal can deter Soviet strategic and tactical nuclear warfare, and while our vast industrial and manpower resources can deter a long war fought with conventional weapons, we do not have an adequate deterrent to a short, intense war fought with conventional weapons.

The changes outlined above would go far towards correcting this problem. While they do guarantee an ability to "git thar fustest with the mostest," they would enhance NATO's capacity to get there in time with enough.

#### IS THERE STILL A NEED FOR THE GENOCIDE CONVENTION?

Mr. PROXMIRE. Mr. President, it has been over 15 years since the Genocide Convention was first presented to the Senate. It has been over 20 years since the U.S. Ambassador to the United Nations helped to draft that convention. During the past two decades, has this issue lost its urgency? Is there still a need to take a stand against genocide?

To evaluate the need for the Genocide Convention, we must explore the reasons for which it was proposed and ask whether those reasons remain valid. The convention was composed in the aftermath of World War II. The extermination of over 6 million Jews by Hitler during that global conflict dramatized the need to commit all nations, for all time, to oppose genocide. But the drafters of the convention did not only have in mind the slaughter of the Jewish people when they composed their document. The convention's authors also recalled the extermination by the Turkish Government of over 1.5 million Armenians between 1915 and 1916. The convention sought to forever prevent a recurrence of such atrocities.

Is the massacre of Jews by Hitler's Reich and of Armenians by Turks during the First World War to be considered aberrations in world history? Has a world conscience evolved which will prohibit genocide? I think not. Mr. President, as long as organizations exist which can implement programs of extermination and as long as there may be individuals willing to do so, genocide will remain a possibility. The abuses of Uganda's Idi Amin should remind us that genocide continues to be a threat, now as much as ever before.

Our past failure to condemn genocide is deplorable. Let us hesitate no longer to attack this crime against humanity by ratifying the Genocide Convention.

## ROLLA CLYMER

Mr. DOLE. Mr. President, my State of Kansas suffered a great loss Saturday with the death of Rolla Clymer, a distinguished newspaperman, accomplished historian, and valiant political activist.

Rolla Clymer began his journalism career as a student reporter for the Emporia Gazette working under the famous editor William Allen White. He remained there from 1907 until 1914, the latter years as city editor. In 1918, he merged two rival newspapers to form the El Dorado Times, continuing as its outspoken editor until his death last week.

Mr. President, 88 years of outstanding accomplishment and contribution to his community and his State cannot be easily summarized. However, Mr. Clymer's stature as journalist and as civic leader was well recognized and much honored throughout Kansas. He received the William Allen White Foundation Award for Journalistic Merit in 1957. The Native Sons and Daughters of Kansas named him Kansan of the Year in 1960. He was the past president of the Kansas Press Association.

Rolla Clymer also was a respected historian of the Blue Stem area of Kansas. He did more than any other individual to celebrate the colorful history of that scenic region of Kansas.

We live in an age when fiercely independent newspaper editors who do their own thinking are sorely needed. William Allen White was just such a valuable servant of democracy. The many great newspapermen who learned their standards of integrity seated at his elbow are about gone now. Rolla Clymer, son of Kansas, was just such an editor. He will be missed by all of us.

## FOOD AND AGRICULTURE ACT OF 1977

Mr. BAYH. Mr. President, the farm bill which the Senate has passed this year is an extremely important piece of legislation. On balance, I am pleased with the bill. While there are a few measures in the bill about which I have some questions, overall, the bill is a great improvement over prior and existing legislation. It represents a healthy step in the right direction in the interest of farmers, consumers, and the health of the American economy.

I was gratified during the course of debate on the bill to hear the number of remarks by my colleagues in the Senate acknowledging the vital, central role that American agriculture and our American family farms serve in our economy. Those of us who grew up on farms and know farming first hand find great satisfaction in knowing that many other persons now realize the value and worth of the farmer's work.

Farming is a demanding business, in terms of time, energy, resources, and risk. Over the course of the past several years the demanding nature of farm work has increased. Farmers have faced skyrocketing increases in the cost of production, including fertilizer, chemicals

for pesticides and herbicides, and farm equipment. The cost of farmland has skyrocketed—a whopping 30 percent in the last year alone in my home State of Indiana. Yet the prices that farmers may expect to receive for their crops and livestock products are very insecure. The market for farm products is weak. There have been some good years for some farmers recently, but even for those who benefited from the farm economy boom, there now is a threatened bust.

Mr. President, neither our farmers nor the rest of the American people can tolerate a boom or bust economy in agriculture. Our Nation's agricultural produce is the central element of our entire international export economy as well as the central feature of our domestic economy. We must have stability and predictability. We must be assured that our efficient family farmers can operate in a relatively free economy with an assurance that their hard work and effective management will bring a decent living for them and their families. Only with that kind of expectation can we expect the American farmers to continue to produce the quality and abundance of farm products that our country must have.

The Food and Agriculture Act of 1977, as passed by the Senate, represents a sound foundation for establishing and maintaining a stable agriculture economy. Farm loan prices and support prices in the bill, in general, are set at reasonable and fair rates. Rates that will not offer a windfall to farmers, but will give enough security in light of burgeoning production costs that farmers will be able to make production decisions with confidence that their hard work and planning offers a reasonable prospect of a fair return.

A major disappointment in the bill is that it fails to provide a reasonable and, I believe, necessary increase in the corn support price for the current crop year. While producers of other crops benefit from target price increases this year, our corn farmers must survive this year of increased production costs and the threat of drastically reduced market prices this fall without any increase whatsoever in the 1977 target price. I supported the amendment offered by Senator CLARK to increase the 1977 target price for corn from \$1.70 to \$1.85. I regret that the majority of the Senate failed to recognize the needs of corn farmers.

Mr. President, an item in the bill of which I am particularly pleased is title X, dealing with grain reserves. For many years I have urged the creation of a system of strategic grain reserves. Finally we in the Senate have taken the first major step in this direction. Title X permits the creation of grain reserves of as much as 300 million to 700 million bushels. The grain will be stored by farmers on their home farms under loan programs supervised by the Secretary of Agriculture. This provision, which is limited to wheat but which we may see fit to extend to other important grains in the future, provides for loans of not less than 3 or more than 5 years to cover the cost of storage. Redemption of the loans will

occur regardless of their maturity whenever the market price reaches a specified level between 140 and 160 percent of the then current wheat price support level. This is a good step in providing a storage system that will increase price stability without threatening farmers with the dumping of Government-held reserves.

Importantly, title X also authorizes the President to negotiate a system of food reserves for humanitarian food relief and to maintain such a reserve of food commodities as a contribution of the United States to the system. The Secretary of Agriculture is directed to build stocks of food of 2 million tons or to the levels which may be established under an international agreement but not greater than 6 million tons. Important safeguards have been added so that this important international emergency food reserve program will not be used to depress domestic farm product prices. In light of shortfalls in world grain production during recent years, without such grain and food reserve systems, we have been perilously approaching vulnerability where a domestic shortfall in grain production could cause a crisis of inadequate grain—at any price—to satisfy all of our food needs.

I will be looking at these grain reserve proposals very carefully as they are implemented by the Department of Agriculture. We must be sure that all of our goals are being pursued: assuring security and stability of farm product prices, establishing protection for domestic shortfalls in production, and satisfying the humanitarian need to provide food to as many as possible of the hungry people of the world.

Mr. President, the food and agricultural research provisions of the bill also signal an important forward-looking development in our agricultural policy. Title XIII would provide an opportunity for food and agricultural research grants to promote the research partnership between the Department of Agriculture and land-grant colleges and State agricultural experiment stations. It would direct the Secretary of Agriculture to develop and implement a national human nutrition research and extension program—a long needed area of emphasis. It would specifically authorize the Secretary of Agriculture, in cooperation with States, to carry out animal health research programs. Research of animal health has been too long neglected under the last administration, as evidenced by the very small amount of research on such animal diseases and pseudorabies, TGE, and brucellosis. I have been urging increased appropriations for this kind of animal health research which is so important to the continuing vitality of our food production economy and our family farms.

Title XIII also provides for small farm research and extension programs, a matter of great importance in light of the continuing crisis that is posed to our family farm system by outside concentrations of economic power. This research effort is consistent with my long-time support programs to benefit the family farmer. I hope this research will



lead to solutions to the threats of farm land buy-out programs by nonfarm economic interests, the threats of skyrocketing capital requirements which make it extremely difficult for young farmers to get a start, and the threats that are posed by vertical integration in some critical parts of our agricultural economy. While it is extremely important, this research should not be seen as a substitute for important and necessary legislation in these areas, and I intend to continue fighting for important legislation on the behalf of family farmers.

I have studied the numerous other provisions in the farm bill, including changes in the food stamp program, Public Law 480, rural development and conservation and the restrictions on USDA advisory committees. While there are specific items on which I would have preferred different conclusions, on balance the bill is a satisfactory compromise. It clearly is a step in the right direction. As the Senate and House conferees work out differences between the House bill and the Senate bill, I hope the healthy compromise can be preserved in a final bill that the President also finds satisfactory.

#### PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

Mr. HUMPHREY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of \$25 million or, in the case of major defense equipment as defined in the act, those in excess of \$7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such notifications were received on May 17, and May 20, 1977.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116, in the Capitol.

#### TAX CREDITS FOR COLLEGE TUITION

Mr. RIBICOFF. Mr. President, earlier this year Senator ROY and I introduced legislation to provide tax relief to parents who pay college tuition for their children. This tuition tax credit would provide assistance to middle-income families who are "too wealthy" for scholarship aid but who find themselves squeezed by arising tuition costs.

Recently the Wall Street Journal pub-

lished an article detailing this burden on middle-income families. I should like to share this column with my colleagues.

I ask unanimous consent that the article by Mitchell Lynch be printed in the RECORD.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, May 25, 1977]

#### AS COLLEGE COSTS SOAR, MIDDLE-CLASS FAMILIES ARE CAUGHT IN SQUEEZE

(By Mitchell C. Lynch)

Harvey and Dorothy Doss, a Michigan couple making about \$26,000 a year, thought they had a formula for sending their four children through college. With scholarship aid and other financial assistance, they figured that their own outlays could be held to \$3,000 a year per child.

Barbara, their oldest, went off to Kenyon College in Gambier, Ohio, where she now is a sophomore. Tuition, room, board and other fees total about \$5,700. She got enough scholarship and other aid to bring her parents' bills down to \$3,650, including spending money. "That's more than we figured on," Dorothy Doss said, "but we think we can still do it."

Now, however, the Dosses have run into trouble. Their next oldest, Jean, has been accepted for admission next fall to Syracuse University. Tuition, room, board and fees there total \$5,770. Like her sister, Jean applied for enough financial help to bring the family's expense down to \$3,000. Syracuse said no. It wouldn't come close to what the Dosses wanted.

The reason: At \$26,000 a year, the Dosses have too big an income to qualify for so much aid from Syracuse. But they figure that without that much aid, they can't afford to send Jean to Syracuse.

#### COSTS UP 70 PERCENT SINCE 1970

Like millions of other American families making from \$12,000 to say, \$40,000 a year, the Dosses are caught in a tightening squeeze in higher education. Because of the skyrocketing costs of college, these families need help. Because of their incomes, they can't get it—at any rate, not enough of it.

Since 1970, total costs of college, not counting spending money, have climbed more than 70 percent to a median of \$2,790 a year at state-run schools and \$4,568 at private colleges, according to the College Scholarship Service, the branch of the College Entrance Examination Board that establishes the generally accepted standards on financial-aid eligibility. Parents usually file income and savings statements with the service, which makes the statements available to the colleges.

There are a variety of college, state, federal and company aid programs designed to help meet the soaring costs. They are based on need, which means that the lion's share goes to students from lower-income families, with little left over for the middle class. (It is assumed that upper-income families don't need any help.)

Generally, bright students with grades of B-minus and up from families making less than \$12,000 a year are eligible for enough scholarship aid, low-interest loans and straight grants to carry them through all four years without dipping into the family wallet. Starting at about \$12,000, the higher your income the harder it is to get help. The crunch really begins at \$20,000 a year. Those making at least \$30,000 can rely on little outside help at all, except for the local Rotary, Kiwanis or Woman's Club scholarship, which usually isn't based on need.

An exception to all the difficulty should be noted: The straight A student active in school affairs can get plenty of aid, no mat-

ter what his family's income, authorities say. "Those kids don't apply to college; they get recruited by the colleges," a high-school guidance counselor says.

But for the families of most college-bound students, the already tight financial situation is likely to get worse. Oakland Financial Group Inc., a personal-finance consulting firm, estimates that the higher-education bill for today's 14-year-old high-school freshman will be \$5,522 a year at a state college and \$9,665 at a private university. For today's 8-year-old, the firm calculates, the annual cost will be \$7,677 at a state college and \$12,662 at a private one. These projections don't include pin money and they assume no increase in the inflation rate.

#### "ADMIT-DENY" FORMULA

Clearly, college-financing problems have reached "worrysome proportions," says John Kemeny, president of Dartmouth College. He says that most schools, unable to provide all the help that families seek, end up adopting what he calls a destructive "admit-deny" formula; that is, they admit the students but deny them the required financial assistance. "It's tantamount to denying admission in the first place," he says.

Dartmouth, Harvard and some other colleges are trying to do something about this. Dartmouth has a "custom-tailored" financial aid program intended to make sure that any student admitted for academic reasons won't have to opt out for financial reasons. "It's the opposite of the admit-deny formula," Mr. Kemeny says.

After seeing a 10 percent drop in middle-income students last year, Harvard started a pilot program of low-interest loans—8 percent, compared with about 12 percent for conventional loans—to families earning between \$15,000 and \$50,000 a year. The loans are repayable over six years.

At least five other schools are phasing in loans similar to Harvard's and carrying interest rates of 8 percent to 3 1/2 percent. They are Amherst, Bryn Mawr, Cornell University's School of Hotel Administration, Pomona College and Stanford. Yale has come up with a program it calls "tuition postponement option," which allows a student to repay loans after college at a rate based on his income.

One reason that more people are feeling the higher-education squeeze is simply that more people are demanding a college education. The Conference Board, a nonprofit economic-research organization, estimates college enrollment at 11 million and climbing, compared with just three million in 1960. "More people expect to send their children, so more people are aware that it is costly," says Michael McPherson, an economist at Williams College who studies higher-education costs.

William Brennan of Longmeadow, Mass., is more than aware of the situation; he is bitter about it. "Sometimes I think my kids would be better off if I made less money," he says. Mr. Brennan, the father of three children, is a section manager at a roller-chain plant in nearby Springfield. He makes between \$30,000 and \$35,000 a year. By most people's reckoning, that's a good paycheck. Mr. Brennan says, "I may be a good manager at the plant, but I must be a poor manager at home." He has little savings in the bank.

After paying federal and state taxes, the Brennans are hit with more than \$2,000 a year in mortgage payments, another \$2,000 for property taxes and "one heck of a lot of money" for such necessities as food, heating fuel and insurance. (The Brennans own two cars—a 1966 Chevrolet and a 1971 Oldsmobile, both paid for.) Indeed, a rundown of the Brennan family ledger shows little surplus, "and we don't live the high life," Mr. Brennan says.

Still, his income precludes any state, federal or college financial aid for the Brennan's son, Bill, completing his second year at Holy Cross College in Worcester, Mass. The tab for tuition, room, board and "pocket money, which really builds up," is more than \$5,000 a year, Mr. Brennan says. Last summer Bill made about \$1,200 as a clerk in a bookstore and used some of his meager savings. This brought the Brennan family's tab down to \$3,600.

Mr. Brennan borrowed this from his company's credit union at 10% interest to be paid in one year, in monthly installments of about \$320. The crunch, though, will come next year when the Brennans' daughter, Sheila, an honor student in high school, also tries to attend Holy Cross. If she can't get financial aid and if costs rise as expected, Mr. Brennan could be facing a monthly bill of well over \$750, or more than \$9,000 a year, for the two collegians.

"What really gets me is Sheila gets good marks in school because she wants to get scholarships," Mr. Brennan says. "But if she can't get a scholarship because of my income, then what kind of incentive is that for a kid to study hard?"

#### A CASE OF OVERREACH?

While many may sympathize with the plight of the Dosses and Brennans, some others don't. Many college administrators and other authorities say the situation isn't nearly so bad as it's often painted. For one thing, they say, some parents could be suffering a classic case of middle-class overreach by trying to send two or more of their children through college at the same time, without being willing to make such personal sacrifices as remortgaging their homes or selling one of the family cars.

"I'm alarmed at the changing attitude in this country," says Jonathan D. Pife, associate director of a higher-education study group at George Washington University in Washington. "People in the middle class used to be willing to give up anything to help, but today they won't give up anything."

Richard Z., a \$25,000-a-year store manager outside Los Angeles, bemoaning the high cost of putting his two sons through college, says he can't contribute anything from his personal savings account because "we finally have enough to renovate our basement." The renovation includes transforming the basement into a 1920s-style speakeasy. "We entertain a lot," Mr. Z. says.

Parents who have conscientiously saved money for college are frequently jarred to find the savings taken into account by college-aid administrators. The savers are entitled to less assistance than families who haven't salted away a penny.

"I was really surprised when I found that out," says Mrs. Victoria Lodoly of St. Louis, whose two sons commute to St. Louis University. She says she and her husband, George, a brewer for Anheuser-Busch, "always tried to put a little away because we knew our children would be going to college some day." One of her sons received a small scholarship, but neither was entitled to other help, principally because the Lodolys' income is around \$30,000 a year and they have a savings account.

Some observers discount the talk of overreach and unwillingness to sacrifice. "We're talking about the term liquidity," says William Cavanaugh, an official of the College Scholarship Service. "People appear to be richer, but their resources aren't liquid, they're tied up with bills and other payments." What's more, the term "middle class" covers a wide area, says Nicholas Ryan, financial aid director at Grinnell College, situated amid cornfields outside Des Moines. "What about the farmer? What's he supposed to do, sell a couple of acres a year to put his children through college?"

#### DECLARATIONS OF INDEPENDENCE

One way to fight back is to declare your children independent. A student who lives away from home can use his own income, not his parents', as the basis for seeking financial aid. This technique hasn't spread much. The College Scholarship Service says the percentage of students declared self-supporting has risen—but only slightly, and mainly because more people in their middle or late 20s are beginning college these days.

Cutting the apron strings can pay off, says John McGrath of Springfield, Mass. His daughter Sherry wasn't eligible for financial aid when she entered Framingham (Mass.) State College three years ago. She married a student at the school, and now, her father says, "she can get financial help from the school or state if she wants."

Most authorities agree that, severe or not, the middle-class squeeze is forcing parents to become more selective—and realistic—about the colleges their children can attend. Typical of such families are the Dosses of Michigan. After denial of aid from Syracuse, daughter Jean has decided to go to the University of Michigan, which is in her home town of Ann Arbor and has a tuition of \$904 a year for state residents. Still, her parents, Harvey Doss, a pilot for an air-freight carrier, and Dorothy, a nurse, say they are "a little crushed."

Michigan is a good school, "but we always felt that part of the education process was to live away from home, to meet new people in a different environment," Mrs. Doss says. "I guess we'll have to give that up."

#### THE SPECTER OF DEREGULATION: TO THINK IT WILL WORK IS NONSENSE

Mr. McGOVERN. Mr. President, the continuing discussion over airline deregulation has surfaced a number of thoughtful articles on both sides of this issue which is so basic to our commercial airline service.

Writing as a guest editor in the May 1977 edition of *Air Transport World*, Mr. Morten S. Beyer, president of Avmark, Inc., presents a compelling case against airline deregulation. I ask unanimous consent that his article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

#### THE SPECTER OF DEREGULATION: TO THINK IT WILL WORK IS NONSENSE

(A guest editorial by Morten S. Beyer, president of Avmark Inc. and one of the industry's most astute appraisers of airline costs.)

The specter of deregulation has cast a pall of doubt, uncertainty and fear over the U.S. airline industry.

Investor confidence has been seriously undermined. Financial institutions are cold to new debt and equity funding for modern aircraft. The aggressive and confident spirit that sparked the growth of the airline industry has been all but snuffed out. New high-technology aircraft promising greater economy, lower energy consumption and a quieter environment languish on manufacturers' drawing boards.

Promising the public a pie-in-the-sky 25% to 50% reduction in air fares, the deregulators (or reformers if one prefers to call them that) simply don't know what they are talking about. The basic premise they advance is that deregulation will bring lower fares to the public and higher load factors (and profits) to the airlines.

They repeatedly cite the example of Texas

and California intrastate airlines which operate outside Civil Aeronautics Board control and which offer their passengers fares that are 35% to 50% lower than those of the CAB-regulated trunks and local service carriers. On the surface their case makes sense: If PSA, Air California and Southwest can do it, why can't TWA, United or Allegheny?

This simplistic comparison has been eagerly and unquestioningly accepted as gospel by the advocates of deregulation. It has been rejected equally emphatically as economic heresy by the airline industry.

No one has bothered to determine the answers to two basic questions:

How do the unregulated intrastate carriers do it?

Can the trunks and locals achieve the same fares and profits if they are deregulated?

Avmark Inc. has just completed a comparison of the operations of two of the major unregulated intrastate carriers, Air California and Southwest, with those of the regulated local and Hawaiian carriers.

The operations of Southwest and Air California are not dissimilar to those of the local and Hawaiian airlines. True, the former do not have the responsibility of serving small communities, but the locals receive some \$75 million in subsidy annually to finance this service.

Both groups of carriers use the same aircraft types—Boeing 737s and McDonnell Douglas DC-9s. Fuel, maintenance and financing costs are comparable, as are expenses for landing fees and airport charges. Both groups provide ticketing and reservations, and offer minimal inflight service. Air California is strongly unionized. So why the big discrepancy in operating costs and fares?

There are three major areas of difference between the two groups of carriers:

The intrastate operators install 15–20 more seats than the locals in similar aircraft.

The intrastates have average load factors of 68.75% compared to 53.45% for the locals.

Employee wages on the intrastates are 19.3% lower while productivity is 40% higher.

These factors combine to give the intrastates a seat-mile cost of 4.33¢ compared to 6.47¢ for the locals. Revenue passenger-mile cost differs even more dramatically—6.29¢ for the intrastates vs. 12.10¢ for the locals.

Significantly, aircraft-mile cost for the two groups is substantially the same: \$4.92 for the intrastates, \$5.30 for the locals. By what alchemy will deregulation bring about major reductions in costs for presently regulated operators?

#### SEATING CAPACITY

The trunks and locals could, if they wanted, install as many seats in their aircraft as the intrastates do—or more. Aloha and Hawaiian have 115 seats in their DC-9-30s and 737-200s, the same number as Air California and Southwest. The locals, on the other hand, configure their DC-9s and 737s with between 94 and 104 seats. Piedmont even uses only five-abreast seating in its 737-200s—and probably is the only one in the world to do so.

The locals feel these low densities are necessary to meet trunkline competition. Their reasoning is condoned by CAB's economists in subsidy and ratemaking computations. The locals aggressively promote their "Wide Ride" and "First-Class Legroom" in their advertising.

But DC-9-30s and 737-200s are certificated for up to 125 or 130 passengers, and are operated in this configuration in Europe and other parts of the world.

#### FIRST-CLASS MUST GO!

Similarly, the trunks generally utilize space that would accommodate 30 or more seats on a Boeing 727-200 (and up to 120–150 seats on a 747, DC-10 or L-1011) for such ameni-



ties as first-class sections, coatrooms, carry-on baggage racks, galleys and so forth. To match intrastate seating densities, these amenities would have to go—particularly first-class sections, which contributed more than \$1.5 billion to trunk revenues in 1976.

But to the extent that the regulated carriers can see their way clear to increase seating densities, costs per seat-mile can be comparably reduced.

#### LOAD FACTOR

The reformers seem to believe that the magic wand of deregulation will somehow result in a 25% jump in load factor. But nothing could be further from the truth in the highly competitive markets of the locals and trunks. History has shown that increased competition brings lower load factors, not higher.

The highest load factors in the regulated part of the airline industry are achieved by the Hawaiian carriers. These load factors, ranging in the mid-60s, are achieved because Aloha and Hawaiian share their market and practice an oligopolistic restraint in their scheduling. Neither seeks to put the other out of business.

In the California and Texas intrastate markets, PSA, Air California and Southwest have what amounts to monopolies, carrying virtually all of the local traffic in the markets they serve. The California Public Utilities Commission, which regulates that state's intrastate carriers, has been careful to protect them from each other, and trunks and locals have long since abandoned more than token competition.

Prior to CAB sanction of capacity limitation agreements, the trunks drove load factors in the major multicompetitor transcontinental markets below 40%. Today we are witnessing the start of a new low-fare battle among American, United and TWA aimed at filling excessive numbers of empty seats on these same routes.

To the degree that deregulation will create more competition and bring new entrants into the marketplace, history tells us to expect lower load factors—at least until the weakest carriers are driven out and schedule restraint (if not monopoly) takes over.

#### WAGES AND PRODUCTIVITY

Wages and related costs comprise 40% of the scheduled airlines' expenses. These carriers are all heavily unionized, and the individual wages of airline employees are higher than those in any other major industry in the U.S.

Larger, more efficient aircraft, coupled with fare increases, have blunted the impact of rising wage scales and increasingly restrictive union work rules.

But the fact remains that the major economic advantage enjoyed by the relatively new intrastates arises from their lower wage scales and the higher productivity of their employees. While locals as a group pay their employees an average of \$18,533 a year, the intrastates pay only \$14,882. A pilot for Southwest flies 775 hours a year, while his counterpart at Allegheny flies only 579 hours. A Hughes Airwest flight attendant serves 6805 passengers a year while an Air California attendant serves 12,554. All of these figures are as of mid-1976.

In summary, Avmarks analysis indicates that intrastate airline employees produced 88% more revenue ton-miles, handled 101.7% more passengers and serviced 56.8% more weighted departures than their local service counterparts.

Some of this higher productivity is due to route structure and equipment as well as management effectiveness. The intrastates must operate at this level of efficiency in order to survive.

However, the bulk of the difference comes from labor contract conditions.

The only trunk whose labor costs approach those of the intrastates is Northwest

Airlines. In 1975, 29.71% of Northwest's total operating expense was for labor, a figure which compares favorably with the 28.10% estimated for Southwest. If the other trunks emulated Northwest's example, they would have approximately 67,000 fewer employees and their annual wage costs would be reduced by \$1.4 billion.

#### HOW TO REDUCE COSTS

What would happen to the costs of the local service airlines if they were to match the seating density, load factors and wages of Air California or Southwest?

Assuming that revenue passenger-miles stayed the same and that aircraft miles, employment and wages were reduced in order to bring about desired improvements in costs, Avmark has concluded that:

Increased seating density would reduce local service costs 10%, from 12.10 cents per passenger-mile to 10.89 cents.

An increase to intrastate levels in load factors would cut costs per passenger-mile 13.3%, to 10.49 cents.

Higher density seating and higher load factors together would reduce operating costs by a total of \$298 million for local industry, dropping passenger-mile cost to 9.62 cents.

A 40% improvement in employee productivity among the locals would eliminate 8541 of the present 29,975 jobs.

Reducing wages to intrastate levels would cut average salary and related costs by \$4381 per employee. Total cost reduction for the local industry would be \$276.4 million, and passenger-mile costs would drop 20%.

The lower wage costs which give the intrastate carriers such a large economic advantage really have nothing to do with regulation or its absence.

Additional seats and/or higher load factors must assume either a sharp curtailment of scheduled miles flown or a substantial increase in passengers to fill the added capacity.

Most of this won't happen. Higher seating density can reduce seat-mile costs, and lower fares will probably stimulate additional traffic. But some increase in airline income is needed just to stay ahead of inflation, higher wages and increased fuel costs.

Improved load factors can be realized only through more capacity limitations and more monopoly markets—an obvious anathema even in today's regulated industry.

Finally, it is grossly unrealistic to expect deregulation to turn back the clock. Airline labor unions, their members, and management alike would be loathe to give up hard-won wage benefits and work rules to satisfy reformers' dreams of a deregulated industry. Not surprisingly, labor is solidly opposed to deregulation.

Although today the risk seems minimal that knowledgeable investors will put large amounts of financing at the disposal of new entrants into the airline business, it is possible that the country will again be swept by the "airline fever" that emerged after World War II. In this case, new deregulated airlines could spring up like mushrooms to challenge incumbents with low-cost, non-union operations.

Half of the fare cuts promised by reformers would be possible only if wages were to be rolled back. The other half is dependent on wildly unrealistic dreams of higher load factors, as well as on the increased seating density which already is needed just to absorb continually rising costs.

It is nonsense to think that deregulation will work.

#### ELECTION DAY REGISTRATION

Mr. HUMPHREY. Mr. President, among the recommendations for election reform submitted by the President to Congress in March, perhaps the most uncertainty has surrounded the opera-

tion and results of election day registration. I personally believe this measure would strengthen and invigorate our political institutions by increasing participation. Because the voice of experience is often our most reliable guide, I ask unanimous consent that a letter from the Board of Hennepin County Commissioners be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BOARD OF HENNEPIN COUNTY COMMISSIONERS,

Minneapolis, Minn., May 23, 1977.

Senator HUBERT HUMPHREY,  
Senate Office Building,  
Washington, D.C.

DEAR SENATOR HUMPHREY: Hennepin County has found that election day and postcard registration substantially increase voter registration and voting. After eight elections in which these methods were used, election day registration was found essential to maintaining a high level of voting.

Local government registration officials elsewhere have expressed concern over whether these methods work well and they question the possibility of fraud. Fears about registration fraud have not been proven to be real and the increased vote indicates that it is not citizen apathy that keeps voting down but the barriers which are put in the way of citizens who might otherwise come to the polls. The strength of local government and democracy are in question when less than half the constituency vote. When pre-registration closes 20 days prior to the election it is a denial of citizenship rights and as unjust as the poll tax and literacy tests.

While election day registration does generate minimal additional costs, the increased turnout and constituent satisfaction are considered worthwhile. Our nation is only as strong as its citizen participation in its elections.

On the basis of the success of the program in Hennepin County we strongly recommend that Congress approve election day and postcard registration.

Sincerely,

JEFF SPARTZ,  
Commissioner.  
NANCY OLKON,  
Commissioner.  
THOMAS E. TICEN,  
Commissioner.  
SAM S. SIVANICH,  
Commissioner.  
JOHN DERUS,  
Chairman of the Board.

#### CHILES DISCLOSES INCOME TAX RETURN AND FINANCIAL STATEMENT

Mr. CHILES. Mr. President, when I came to the Senate in 1971, I adopted a policy of making public my financial status so that anyone who desired could be aware of my financial interests and could utilize that information in judging my performance as a Senator.

I felt then—and do now even more strongly—that such personal financial disclosure by public officials is vitally important to regaining public confidence in the integrity of those who conduct the people's business. Therefore, I have each year voluntarily made public the finances of my wife and myself. In addition, I have sponsored and cosponsored financial disclosure legislation since early 1971. I continue to hope such legislation will gain congressional approval soon.

At this time, Mr. President, I am again voluntarily submitting a statement of the financial status of my wife and myself. This includes our joint income tax return for 1976 and a statement of holdings.

I ask unanimous consent to have printed in the RECORD the statement of financial status for my wife and myself and our joint income tax return for 1976.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,  
May 25, 1977.

HON. STAN KIMMITT,  
Secretary of the Senate,  
The Capitol,  
Washington, D.C.

DEAR MR. SECRETARY: My purpose in writing is to send to you a copy of the joint income tax return filed by my wife and myself for the year 1976 and a statement of financial status. This statement includes holdings and liabilities and is compiled as of the end of December, 1976.

#### ASSETS

Cash in checking and savings accounts approx. \$3,000.00  
Stocks and other securities (See Schedule A).  
Real Estate (See Schedule B).  
Miscellaneous Assets (See Schedule C).

#### LIABILITIES

Accounts payable \$500.00  
Notes payable \$130,000.00  
Most sincerely,  
LAWTON CHILES.

#### SCHEDULE A

##### STOCK AND OTHER SECURITIES

|  | Shares   |
|--|----------|
| Unlisted securities:   |          |
| Lake Bonny Properties, Inc. (1/3 equity)                               | 875      |
| Industrial Development, Inc.   | 5        |
| Wild Animal Kingdom  | 5,000    |
| Over-the-counter stock:  |          |
| Anchor Investment Corporation of Florida (1/3 equity) less liabilities | 4,728    |
| Founder's Financial Corporation  | 3,153    |
| Hardwicke Companies, Inc.  | 7,200    |
| Auto Train Corporation   | 5,350    |
| Mattel   | 104      |
| Listed securities:   |          |
| American Telephone & Telegraph   | 200      |
| American Home Products   | 300      |
| Royal Trust Company (TOR)  | 14       |
| Mobil Oil Company  | 163      |
| Mobil Oil Bond (8 1/2 due 6/15/2001)                                   | \$30,600 |

#### SCHEDULE B REAL ESTATE

The Colonial Building, 910 S. Florida ave., Lakeland, Fla. Completed August 1966; 6 units, 5000 sq. ft. 1/2 ownership. Mortgage—\$34,859.54

Red Lobster Inns—1/2 ownership of buildings and property which are leased to the restaurant corporation (in which I have no interest):

Red Lobster Inn, Lakeland, Fla. Completed January 1968 with addition November 1968. Mortgage—\$120,878.93

Red Lobster Inn, Daytona Beach, Fla. Completed June 1969. Mortgage—\$193,237.75

Red Lobster Inn, Tampa, Fla. Completed June 1969. Mortgage—\$67,709.06

Red Lobster Inn, St. Petersburg, Fla. Completed October 1969. Mortgage—\$188,044.15

Secondary financing obligation on two of four units: \$25,940.49

From above properties, income received in 1976 was: \$100,572.00

Manatee County, Fla. Property—An undivided 1/2 interest in the N.W. 1/4 of S.W. 1/4 of Sec. 34, Township 34 South, Range 18 East. 40 acres in submerged land in Manatee County.

Real estate mortgage receivable—James I. Black, Jr. et ux—16 2/3 % ownership.

Residence: 940 Lake Hollingsworth Drive, Lakeland, Fla. Mortgage—\$31,049.39

Residence: 6612 Malta Lane, McLean, Va. Mortgage—\$84,255.53

Residence: Gulf Place, 6700 Gulf Drive, #10, Holmes Beach, Fla. Mortgage—\$55,271.28

Real estate contracts receivable: Max Leider, et ux—16 2/3 % ownership Philip Holland

#### SCHEDULE C

##### MISCELLANEOUS ASSETS

##### Furnishings.

##### U.S. INDIVIDUAL INCOME TAX RETURN

Lawton M. Jr. & Rhea G., Federal Building, Lakeland, Florida 33801.

Last name: Chiles.

Your social security number: 265-36-4818.

Spouse's social security no: 265-40-0431.

Occupation: Yours and spouse's, U.S. Senator; Housewife.

2. Married filing joint return (even if only one had income).

6a. Regular: Yourself and spouse: 2.

b. First names of your dependent children who lived with you: Rhea Gay, Edward: 2.

d. Total (add lines 6a, b, and c): 4.

f. Total (add lines 6d and e): 4.

8. Presidential Election Campaign Fund: Do you wish to designate \$1 of your taxes for this fund? Yes.

If joint return, does your spouse wish to designate \$1? Yes.

9. Wages, salaries, tips, and other employee compensation: \$44,600.

10a. Dividends: \$3,551; 10b. less exclusion, \$200. Balance: \$3,351.

11. Interest income: \$2,705.

12. Income other than wages, dividends, and interest (from line 37): \$101,685.

13. Total (add lines 9, 10c, 11 and 12): \$152,341.

14. Adjustments to income (such as moving expense, etc. from line 42): \$5,290.

15a. Subtract line 14 from line 13: \$147,051.

c. Adjusted gross income. Subtract line 15b from line 15a, then complete Part III of back. (If less than \$8,000, see page 2 of Instructions on "Earned Income Credit.")

16. Tax, check if from: Schedule G: \$50,205.

17a. Multiply \$35.00 by the number of exemptions on line 6d: \$140; b. Enter 2% of line 47 but not more than \$180 (\$90 if box 3 is checked): \$180: \$180.

18. Balance. Subtract line 17c from line 16 and enter difference (but not less than zero): \$50,025.

20. Balance. Subtract line 19 from line 18 and enter difference (but not less than zero): \$50,025.

22. Total (add lines 20 and 21): \$50,025.

23a. Total Federal income tax withheld: \$11,451.

b. 1976 estimated tax payments: \$30,100.

d. Amount paid with Form 4868: \$13,449.

24. Total (add lines 23a through e): \$55,000.

26. If line 24 is larger than line 22, enter amount overpaid: \$4,858.

28. Amount of line 26 to be credited on 1977 estimated tax: \$4,858.

Part 1: Income other than Wages, Dividends and Interest:

30a. Net gain or (loss) from sale or exchange of capital assets (attach Schedule D): (\$1,000).

31. Net gain or (loss) from Supplemental Schedule of Gains and Losses (attach Form 4797): \$1,913.

32. Pensions, annuities, rents, royalties, partnerships, estates or trusts, etc. (attach Schedule E): \$100,572.

36. Other (state nature and source—see page 11 of Instructions) Reader's Digest: \$200.

37. Total (add lines 29 through 36). Enter here and on line 12: \$101,685.

Part II: Adjustments to Income:

39. Employee business expense (attach Form 2106), see attached schedule: \$5,290.

42. Total (add lines 38 through 41). Enter here and on line 14: \$5,290.

change of capital assets (attach Schedule D): (\$1,000).

31. Net gain or (loss) from Supplemental Schedule of Gains and Losses (attach Form 4797): \$1,913.

32. Pensions, annuities, rents, royalties, partnerships, estates or trusts, etc. (attach Schedule E): \$100,572.

36. Other (state nature and source—see page 11 of Instructions) Reader's Digest: \$200.

37. Total (add lines 29 through 36). Enter here and on line 12: \$101,685.

Part II: Adjustments to Income:

39. Employee business expense (attach Form 2106), see attached schedule: \$5,290.

42. Total (add lines 38 through 41). Enter here and on line 14: \$5,290.

Part III: Tax Computation:

43. Adjusted gross income (from line 15c). If you have unearned income and can be claimed as a dependent on your parent's return, check here, and see page 9 of Instructions: \$147,051.

44a. If you itemize deductions, check here, and enter total from Schedule A, line 40, and attach Schedule A:

2 or 5, enter the greater of \$2,100 or 16% of line 43—but not more than \$2,800: \$35,669.

45. Subtract line 44 from line 43 and enter difference (but not less than zero): \$111,382.

46. Multiply total number of exemptions claimed on line 6f by \$750: \$3,000.

47. Taxable income. Subtract line 46 from line 45 and enter difference (but not less than zero): \$108,382.

SCHEDULES A AND B—ITEMIZED DEDUCTIONS AND DIVIDEND AND INTEREST INCOME

Lawton M. Jr. and Rhea G. Chiles. Your social security number: 265-36-4818.

Schedule A—Itemized deductions (Schedule B on back)

Medical and Dental Expenses (not compensated by insurance or otherwise) (See page 13 of Instructions):

1. One half (but not more than \$150) of insurance premiums for medical care. (Be sure to include in line 10 below): \$150.

10. Total (add lines 1 and 9). Enter here and on line 34: \$150.

12. Real estate: \$967.

13. State and local gasoline (see gas tax tables): \$298.

14. General sales (see sales tax tables): \$475.

15. Personal property: \$169.

16. Other (itemize) Sales tax auto \$152.

17. Total (add lines 11 through 16). Enter here and on line 35: \$2,061.

Interest Expense (See page 14 of Instructions):

18. Home mortgage: \$7,411.

19. Other (itemize) Gulf Life: \$1,568.

Internal Revenue Service: \$57.

County Bank: \$846.

Gulf Place: \$4,194.

First National Bank of Lakeland: \$8,640.

Casa Del Mar: \$299.

Charge Accounts: \$41.

20. Total (add lines 18 and 19). Enter here and on line 36: \$23,056.

Contributions (See page 15 of Instructions for examples.):

21. a. Cash contributions for which you have receipts, cancelled checks or other written evidence \$5,889.

Church: \$160.

24. Total contributions (add lines 21a through 23). Enter here and on line 37: \$6,049.

Miscellaneous Deductions (See page 15 of Instructions):

32. Other (itemize):

Dues \$336.

Business gifts: \$174.

Entertainment: \$3,823.

Political contribution: \$20.

\*Penalty for underpayment: \$117 (Form 2210).



33. Total (add lines 30 through 32). Enter here and on line 39: \$4,353.

#### Summary of itemized deductions

34. Total medical and dental—line 10: \$150.  
35. Total taxes—line 17: \$2,061.  
36. Total interest—line 20: \$23,056.  
37. Total contributions—line 24: \$6,049.  
39. Total miscellaneous—line 33: \$4,353.  
40. Total deductions (add lines 34 through 39). Enter here and on Form 1040, line 44: \$35,669.

#### Part I: Dividend Income:

Anchor Investment: \$473.  
Founders Financial: \$158.  
American Home Products: \$300.  
A.T. & T.: \$740.  
Royal Trust: \$13.  
Mobil Oil: \$292.  
Marcor Corp.: \$1,575.  
2. Total of line 1: \$3,551.  
6. Dividends before exclusion (subtract line 5 from line 2). Enter here and on Form 1040, line 10a: \$3,551.

#### Part II: Interest Income:

Leider-Skipper: \$247.  
Mobil Oil: \$1,409.  
Phil Holland: \$873.  
Prudential Insurance Co.: \$83.  
Lawyers Guaranty Fund: \$25.  
County Bank: \$68.  
8. Total interest income. Enter here and on Form 1040, line 11: \$2,705.

#### Part III: Foreign Accounts and Foreign Trusts:

1. Did you, at any time during the taxable year, have any interest in or signature or other authority over a bank, securities, or other financial account in a foreign country (except in a U.S. military banking facility operated by a U.S. financial institution)? No.

2. Were you the grantor of, or transferor to, a foreign trust during any taxable year, which foreign trust was in being during the current taxable year, whether or not you have any beneficial interest in such trust? If "Yes," attach Form 4683 (For definitions, see Form 4683): No.

#### CAPITAL GAINS AND LOSSES

Part I: Short-term Capital Gains and Losses—Assets Held Not More Than 6 Months:  
4. Short-term capital loss carryover attributable to years beginning after 1969 (see instruction 1): (\$30,000).

5. Net short-term gain or (loss), combine lines 3 and 4: (\$30,000).

#### Part II: Long-term Capital Gains and Losses—Assets Held More Than 6 Months:

6. 1020 shares Marcor, Inc.: \$20,749.  
1965 installment sale—1976 collections at 84.13%: \$134.

1971 installment sale—1976 collections at 88.13%: \$3,597.

8. Enter gain, if applicable, from Form 4797, line 4(a)(1) (see instruction A): \$25,505.

11. Net gain or (loss), combine lines 6 through 10: \$49,985.

12. Long-term capital loss carryover attributable to years beginning after 1969 (see instruction 1): (\$34,722).

13. Net long-term gain or (loss), combine lines 11 and 12: \$15,263.

Part III: Summary of Parts I and II (If You Have Capital Loss Carryovers From Years Beginning Before 1970, Do Not Complete This Part. See Form 4798, Parts III, IV and V.):

14. Combine lines 5 and 13, and enter the net gain or (loss) here: (\$14,737).

16. If line 14 shows a loss—

a. Enter one of the following amounts: (iii) If line 5 and line 13 are net losses, enter amount on line 5 added to 50% of amount on line 13: (\$14,737).

b. Enter here and enter as a (loss) on Form 1040, line 30a, the smallest of: (iii) Taxable income, as adjusted (see instruction J): (\$1,000).

#### Part IV: Computation of Alternative Tax (See Instruction S to See if the Alternative Tax Will Benefit You):

Note: Enter your capital loss carryovers from 1976 to 1977: Short-term (from Form 4798, Part II or Part V): Post-1969: \$13,737.

#### SUPPLEMENTAL INCOME SCHEDULE

##### Part II: Rent and Royalty Income:

Have you claimed expenses connected with your vacation home rented to others? Yes.  
8. Net rental income or (loss) (from Form 4831): (\$3,785).

10. Total rent and royalty income (add lines 7, 8, and 9): (\$3,785).

##### Part III: Income or Losses From Partnerships, Estates or Trusts, Small Business Corporations:

Chiles & Ellsworth: (P) 59-6232705: \$104,357.

11. Totals: \$104,357.

12. Income, or (loss). Total of column (d) less total of column (e): \$104,357.

13. Total (add lines 5, 10, and 12). Enter here and on Form 1040, line 32a: \$100,572.

#### INCOME AVERAGING

##### Taxable Income and Adjustments:

1. Taxable income (see Specific Instructions on page 4):

(a) Computation year 1976: \$108,382.

(b) 1st preceding base period year 1975: \$93,189.

(c) 2nd preceding base period year 1974: \$85,182.

(d) 3rd preceding base period tax year 1973: \$76,035.

(e) 4th preceding base period year 1972: \$68,313.

4. Adjusted taxable income (line 1 less line 3). If less than zero, enter zero: \$108,382.

(a) Computation year 1976: \$108,382.

5. Base period income (line 1 plus line 2). If less than zero, enter zero:

(b) 1st preceding base period year 1975: \$93,189.

(c) 2d preceding base period year 1974: \$85,182.

(d) 3rd preceding base period year 1973: \$76,035.

(e) 4th preceding base period year 1972: \$68,313.

6. Adjusted taxable income from line 4, column (a): \$108,382.

7. 30% of the sum of line 5, columns (b), (c), (d), and (e): \$96,816.

8. Averagable income (line 6 less line 7): \$11,566.

##### Computation of Tax:

9. Amount from line 8: \$96,816.

10. 20% of line 8: \$2,313.

11. Total (add lines 9 and 10): \$99,129.

13. Total (add lines 11 and 12): \$99,129.

14. Tax on amount on line 13: \$44,657.

15. Tax on amount on line 11: \$44,657.

16. Tax on amount on line 9: \$43,270.

17. Difference (line 15 less line 16): \$1,387.

18. Multiply the amount on line 17 by 4: \$5,548.

19. Tax (add lines 14 and 18). Enter here and on Form 1040, line 16. Also check Schedule G box on Form 1040, line 16: \$50,205.

#### SALE OR EXCHANGE OF PERSONAL RESIDENCE

1(a) Date former residence sold: 1-16-76.

(b) Have you ever deferred any gain on the sale or exchange of a personal residence? No.

(c) Have you ever claimed a credit for purchase or construction of a new principal residence? (If you answered "Yes," see Form 5405, Part II.): No.

(e) Were any rooms in either residence rented or used for business purposes at any time? (If "Yes," explain on separate sheet and attach.): No.

\*If the amount on which the tax is to be computed is \$20,000 or less use the Tax Table: if more than \$20,000 use Tax Rate Schedule X, Y, or Z.

(f) If you were married, do you and your spouse have the same proportionate ownership interest in your new residence as you had in your old residence? (If "No," see the Consent on other side.): Yes.

2(a) Date new residence bought: 11-26-75.

(b) If new residence was constructed for or by you, date construction began: N/A.

(c) Date you occupied new residence: 1-16-76.

(d) Were both the old and new properties used as your principal residence? Yes.

3(a) Were you 65 or older on date of sale? (If you answered "Yes," see Note below.): No.

#### Computation of Gain and Adjusted Sales Price

4. Selling price of residence. (Do not include selling price of personal property items.): \$110,000.

5. Less: Commissions and other expenses of sale (from Schedule I on other side): \$6,706.

6. Amount realized: \$103,294.

E. Less: Basis of residence sold (from Schedule II on other side): \$78,114.

8. Gain on sale (line 6 less line 7). If line 7 is more than line 6, there is no gain, so you should not make further entries on this form: \$25,180.

9. Fixing-up expenses (from Schedule III on other side): \$118.

10. Adjusted sales price (line 6 less line 9): \$103,176.

#### Computation of Gain to be Reported and Adjusted Basis of New Residence—General Rule

11. Cost of new residence: \$110,899.

13. Gain on which tax is to be deferred (line 8 less line 12): \$25,180.

14. Adjusted basis of new residence (line 11 less line 13): \$85,719.

#### Schedule I—Commissions and Other Expenses of Sale (Line 5):

Commission: \$6,600.

Settlement Fee: \$50.

Document Preparation: \$56.

Total: \$6,706.

#### Schedule II—Basis of Old Residence (Line 7):

Purchase Price: \$72,200.

Expenses of Purchase: \$936.

Improvements: \$4,678.

Total: \$78,114.

#### Schedule III—Fixing-up Expenses (Line 9):

Miscellaneous: Date work performed: 12-75. Date paid: 12-75: \$118.

1. 1976 tax (from Form 1040, line 22): \$50,025.

9. Balance (line 1 less line 8): \$50,025.

10. Enter 80% of the amount shown on line 9: \$40,020.

11. Divide amount on line 10 by the number of installments required for the year (see instruction B). Enter the result in appropriate columns: Apr. 15, 1976: \$10,005; June 15, 1976: \$10,005; Sept. 15, 1976: \$10,005; Jan. 15, 1977: \$10,005.

12. Amounts paid on estimate for each period and tax withheld (see instruction E): Apr. 15, 1976: \$2,862; June 15, 1976: \$17,913; Sept. 15, 1976: \$2,863; Jan. 15, 1977: \$17,913.

13. Overpayment of previous installment (see instruction F): Sept. 15, 1976: \$765.

14. Total (add lines 12 and 13): Apr. 15, 1976: \$2,862; June 15, 1976: \$17,913; Sept. 15, 1976: \$3,628; Jan. 15, 1977: \$17,913.

15. Underpayment (line 11 less line 14) or Overpayment (line 14 less line 11): Apr. 15, 1976: \$7,143; June 15, 1976: \$7,908; Sept. 15, 1976: \$6,377; Jan. 15, 1977: \$7,908.

Exceptions Which Avoid the Penalty (See instruction D):

16. Total amount paid and withheld from January 1 through the installment date indicated: Apr. 15, 1976: \$2,862; June 15, 1976: \$20,775; Sept. 15, 1976: \$23,638; Jan. 15, 1977: \$41,551.

17. Exception 1.—Prior year's tax. 1975 tax: \$40,756.

25% of 1975 tax: \$10,189.

25% of 1975 tax: \$10,189.

50% of 1975 tax: \$20,378.

75% of 1975 tax: \$30,567.

100% of 1975 tax: \$40,756.

How to Figure the Penalty (Complete lines 21 through 25 for installments not avoided by an exception):

21. Amount of underpayment (from line 15): \$7,143; and \$6,377.

22. Date of payment or April 15, 1977, whichever is earlier (see Instruction G): 6/15/76, and 10/12/76.

23. Number of days from due date of installment to date shown on line 22: 61 and 27.

24. Penalty (7 percent a year on the amount shown on line 21 for the number of days shown on line 23): \$4 and \$3.

#### SUPPLEMENTAL SCHEDULE OF GAINS AND LOSSES

Part I: Sales or Exchanges of Property Used in Trade or Business, and Involuntary Conversions (Section 1231):

Section A.—Involuntary Conversions Due to Casualty and Theft (See Instruction E):

1. Jewelry: a. Date acquired (mo., day, yr.), 1954; c. Date sold (mo., day, yr.), 1976; d. Gross sales price: \$18,000; f. Cost of other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale: \$5,953; g. Gain or loss (d plus e less f): \$12,047.

2. Combine the amounts on line 1. Enter here, and on the appropriate line as follows: \$12,047.

Section B.—Sales or Exchanges of Property Used in Trade or Business and Certain Involuntary Conversions (Not Reportable in Section A) (See Instruction E):

3. From line 2: \$12,047.

Gain from Part III, Line 23: \$13,458.

4. Combine the amounts on line 3. Enter here, and on the appropriate line as follows: \$25,505.

Part II: Ordinary Gains and Losses:

7. Gain, if any, from page 2, line 22: \$1,913.

9. Combine amounts on lines 5 through 8. Enter here, and on the appropriate line as follows: \$1,913.

(b) For individual returns:

(2) Redetermine the gain or (loss) on line 9, excluding the loss (if any) entered on line 9(b)(1). Enter here and on Form 1040, line 31: \$1,913.

Part III: Gain from Disposition of Property Under Sections 1245, 1250, 1251, 1252, 1254—Assets Held More than Six Months (See Separate Instructions):

(A) Apartment—Casa Del Mar: Date acquired: 9/20/72; Date sold: 12/15/76.

(B) Furnishings—Casa Del Mar: Date acquired: 1973; Date sold: 12/15/76.

Relate lines 10(A) through 10(D) to these columns: Property (A) and Property (B):

11. Gross sales price: \$43,500 and \$4,000.

12. Costs or other basis and expense of sale: \$34,305 and \$3,024.

13. Depreciation (or depletion) allowed (or allowable): \$3,287 and \$1,913.

14. Adjusted basis, line 12 less line 13: \$31,018 and \$1,111.

15. Total gain, line 11 less line 14: \$12,482 and \$2,889.

16. If section 1245 property:

(a) Depreciation allowed (or allowable) after applicable date (see instructions): \$1,913.

(b) Enter smaller of line 15 or 16(a): \$1,913.

Summary of Part III Gains (Complete Property columns (A) through (D) through line 20(b) before going to line 21):

21. Total gains for all properties (add columns (A) through (D), line 15): \$15,371.

22. Add columns (A) through (D), lines 16(b), 17(1), 18(d), 19(f), and 20(b). Enter here and on line 7: \$1,913.

23. Subtract line 22 from line 21. Enter here and on line 7: \$1,913.

23. Subtract line 22 from line 21. Enter here and in appropriate Section in Part I (See instructions E and G.2): \$13,458.

#### CAPITAL LOSS CARRYOVER

Part I: Post-1969 Capital Loss Carryovers to 1976 (Complete this part if the amount on your 1975 Schedule D (Form 1040), line 16 (a), is larger than the loss deducted on your 1975 Form 1040, line 29a.):

Section A.—Short-term Capital Loss Carryover:

1. Enter loss shown on your 1975 Schedule D (Form 1040), line 5; if none, enter zero and ignore lines 2 through 6—then go to line 7: \$31,000.

2. Enter gain shown on your 1975 Schedule D (Form 1040), line 13. If that line is blank or shows a loss, enter a zero: None.

3. Reduce any loss on line 1 to the extent of any gain on line 2: \$31,000.

4. Enter amount shown on your 1975 Form 1040, line 29a: \$1,000.

5. Enter smaller of line 3 or 4: \$1,000.

6. Excess of amount on line 3 over amount on line 5: \$30,000.

Section B.—Long-term Capital Loss Carryover:

7. Line 4 less line 5 (Note: If you ignored lines 2 through 6, enter amount from your 1975 Form 1040, line 29a): None.

8. Enter loss from your 1975 Schedule D (Form 1040), line 13; if none, enter zero and ignore lines 9 through 12: \$34,722.

9. Enter gain shown on your 1975 Schedule D (Form 1040), line 5. If that line is blank or shows a loss, enter a zero: None.

10. Reduce any loss on line 8 to the extent of any gain on line 9: \$34,722.

11. Multiply amount on line 7 by 2: None.

12. Excess of amount on line 10 over amount on line 11: \$34,722.

Part II: Post-1969 Capital Loss Carryover from 1976 to 1977 (Complete this part if the amount on your 1976 Schedule D (Form 1040), line 16a, is larger than the loss deducted on your 1976 Form 1040, line 30a.):

Section A.—Short-term Capital Loss Carryover:

1. Enter loss shown on your 1976 Schedule D (Form 1040), line 5; if none, enter zero and ignore lines 2 through 6—then go to line 7: \$30,000.

2. Enter gain shown on your 1976 Schedule D (Form 1040), line 13. If that line is blank or shows a loss, enter a zero: \$15,263.

3. Reduce any loss on line 1 to the extent of any gain on line 2: \$14,737.

4. Enter amount shown on your 1976 Form 1040, line 30a: \$1,000.

5. Enter smaller of line 3 or 4: \$1,000.

6. Excess of amount on line 3 over amount on line 5: \$13,737.

Section B.—Long-term Capital Loss Carryover:

8. Enter loss from your 1976 Schedule D (Form 1040), line 13; if none, enter zero and ignore lines 9 through 12: None.

#### RENTAL INCOME

1. Kind and Location of Property: Property A: Lake Hollingsworth, Florida: Residential.

Property B: Casa Del Mar, Lake Worth, Florida: Residential.

Income:

2. Rents received: Property A: \$5,400; Property B: \$2,525.

3. Total (add amounts on line 2): \$7,925.

6. Cleaning: Property B: \$98.

7. Commissions: Property A: \$540; Property B: \$253.

8. Gardening: Property A: \$211.

9. Insurance: Property A: \$151; Property B: \$51.

10. Interest: Property A: \$2,200; Property B: \$1,303.

15. Repairs (list): Roofing: Property A: \$92.

Plumbing: Property A: \$122.

Maintenance: Property B: \$467.

Deductions:

18. Taxes and licenses: Property A: \$822; Property B: \$1,199.

19. Telephone: Property B: \$117.

20. Utilities: Property B: \$488.

21. Other (list): Land Rent: Property B: \$14.

Miscellaneous: Property A: \$373.

22. Add lines 4 through 21: Property A: \$4,511; Property B: \$3,990.

23. Total (add amounts on line 22): \$8,501.

24. Depreciation expense (from page 2, line 28, column (g)): \$3,209.

25. Total deductions (add lines 23 and 24): \$11,710.

26. Net income (or loss) from rents (line 3 less line 25). Enter here and in Schedule E (Form 1040), Part II, line 8: \$(3,785).

Schedule for Depreciation Claimed on Page 1, Line 24:

27. Total additional first-year depreciation (do not include in items below):

Property A—House: \$1,600.

Property A—F and F: \$382.

Total: \$1,982.

Property B—Building: \$776\*.

Property B—F and F: \$451\*.

Total: \$1,227.

28. Totals: \$84,149: \$3,209.

#### APPLICATION FOR AUTOMATIC EXTENSION OF TIME TO FILE U.S. INDIVIDUAL INCOME TAX RETURN

1. Total tax you expect to owe for 1976 (see instruction C): \$55,000.

2. Federal income tax withheld: \$11,451.

3. 1976 Estimated tax payments (include 1975 overpayment allowed as a credit): \$30,100.

5. Total (add lines 2, 3, and 4): \$41,551.

6. Balance due (subtract line 5 from line 1). Pay in full with this application: \$13,449.

Signature and Verification:

If Prepared by Taxpayer.—Under penalties of perjury, I declare that to the best of my knowledge and belief, the statements made herein are true and correct:

Lawton Chiles, 4/14/77.

Rhea Chiles, 4/14/77.

Receipt for certified mail:

Sent to: IRS Center, Southeast Region, Chamblee, Georgia 30006.

Lawton M. Jr. and Rhea G. Chiles: 1976; 265-36-4818.

Schedule of congressional reimbursements and expenses:

Reimbursements:

Travel ..... \$2,446

Official expense ..... 26,200\*

Total reimbursements ..... 28,646

Expenses:

Travel ..... 4,736

Official expense ..... 26,200\*

Cost of living, Washington,

D.C.\*\* ..... 3,000

Total expenses ..... 33,936

Excess expenses over reimbursements ..... 5,290

\*Includes \$2,117 excess campaign contributions used to pay office expenses in 1976.

\*\*See attached affidavit.

Vacation home (Casa Del Mar):

The vacation home was rented by taxpayer for sixty-one days and used personally for fourteen days. Expenses have been reduced by the ratio of personal use days to total use days.

I hereby certify that I was in a travel status in the Washington area, away from

\*Depreciation for 11 months. (See attached statement.)



home, in the performance of my official duties as a Member of Congress, for 178 days during the taxable year, and my deductible living expenses while in such travel status amounted to \$3,000.

#### NONDEGRADATION FACTSHEET

Mr. MUSKIE. Mr. President, when the Senate considered the Clean Air Amendments of 1976 last year, the most controversial issue was the nondegradation provision. This is an important policy first contained in the 1967 Air Quality Act. It is a policy I helped develop and one I continue to support.

Last year the Senate voted 31 to 63 to embrace the committee's nondegradation proposal. New opposition on this issue is likely to occur when the Senate considers the Clean Air Amendments of 1977 later this week. In order to provide further information on this subject, I have developed comments on the newest proposals to weaken the nondegradation provision which have been circulating. In addition I have had last year's nondegradation factsheet updated for inclusion with this statement because it provides the basic information which is relevant to consideration of nondegradation policy.

#### A. EXEMPTION FOR 18 DAYS (5 PERCENT) OF THE YEAR

##### ALLEGATION

An exception should be made to the class I and class II increments which would allow them to be exceeded 18 days of the year. This would allow siting of large plants that are needed for energy production but would not have significant impact on air quality.

##### FACT

An exemption for 18 days of the year—approximately 5 percent of the year—virtually eliminates any of the air quality protection provided by the nondegradation increments scheme. The opponents of the nondegradation provision last year attempted to eliminate or suspend the entire provision. That failed by an overwhelming vote 31 to 63. It appears that this year the opponents of this provision will propose amendments that appear less damaging but in actuality cut the heart out of the nondegradation provision and leave no protection for air quality.

Where air quality values would not be adversely affected by emissions greater than the class I increments allow, the Senate bill already provides a flexible mechanism to allow approval of such projects. The owner of the proposed source may apply for approval to construct in such a case, and if the Governor and the Federal Land Manager agree that air quality would not be adversely affected, then the plant can receive approval. This is a flexible system based on the analysis of the specific land area and project. To put in place a more rigid, destructive, and difficult to implement exemption system is unnecessary and unwise.

Exempting 18 days—5 percent of the year—would allow an increase in total emissions of up to 400 percent in flat areas and 1,000 percent in rugged terrain. If average daily visibility were 70

miles, then on the exempted 18 days, visibility could decline to 19 miles. It would also decline substantially for the entire year. The allowable plant size would be increased by 4 to 10 times by this seemingly small exemption.

How could what appears to be a small exemption have such a large effect on air quality, total emissions, and expanded plant size? An 18 day—5 percent—exemption has the effect of allowing a huge increase in pollution. This occurs because all air quality control programs rest on the approach of catching the peak periods of emissions and thereby controlling total emissions to a more moderate level. If the ability to capture these peak periods is eliminated by such an exemption, then the principal technique for controlling total emissions is lost.

This would also be true for the national ambient air quality standards which protect public health. For example, if the 18 worst days of pollution in Washington, D.C., were eliminated from consideration each year, Washington, D.C., would be declared a virtually "pollution-free" city. That would be absurd, as anyone who has lived in the Washington, D.C., metropolitan area for any length of time knows.

A further complication arises under such a proposal. Though technical, it is extremely important and is the kind of factor that can destroy protection provided under the nondegradation scheme. Air pollution modeling of the dispersion of a plume from a stack can estimate the highest concentrations that will occur. This is single, worst case, analysis and is commonly calculated by EPA, State agencies, and consulting firms.

But calculation of the percentage of violation is a very different proposition. It is extremely complicated, and probably impossible in areas of rugged terrain. Such calculations are beyond the present capability of most State agencies and consulting firms. An exemption that is extremely expensive to attempt, and impossible to calculate in many cases, is not an appropriate system to place in the bill as a legislative requirement.

President Carter and Secretary designate Schlesinger have both indicated that fulfillment of the President's energy plan does not rest on providing an exemption from the requirements of the Senate bill. The energy plan does not require the destruction of visibility in pristine areas such as parks and wilderness areas; it does not require reducing air quality substantially where air is already clean. There are ample sites available for locating new powerplants without such exemptions.

Companies that continue to cling to the siting of huge powerplants within 5 to 10 miles of national parks are blindly ignoring the clearly stated opinion of the American public. In a public opinion poll conducted for the Federal Energy Administration in 1975, 94 percent of the public said they wanted clean air areas protected from further pollution.

The President, the energy officials of the administration, and the Senate committee agree with that assessment and have found that a system of exemptions is entirely unnecessary.

#### B. ELIMINATION OF SHORT-TERM INCREMENTS

##### ALLEGATION

The 24-hour or 3-hour increments are unnecessary and should be dropped. The annual average increment levels are sufficient.

##### FACT

Eliminating the short-term 3-hour and 24-hour increments from the bill would completely undermine the protection provided by the nondegradation policy.

An annual average is the sum of a year's daily pollution readings. Since they are only averages, they can mask high air pollution concentrations. The annual average has never been found to be the protective factor in any of the studies on nondegradation. Projected emissions always exceed the 3-hour and 24-hour increments before they exceed the annual increment. The Environmental Protection Agency studied 33 existing plants to provide the data used in Russell Train's March 10, 1975, letter on this subject. Mr. Train concluded that in two-thirds of the plants studied, if nondegradation requirements had been applicable for those plants, the amount of pollution allowed would have more than doubled compared to nondegradation requirements with the short term increments kept in place. In response to a letter I wrote on this subject, Russell Train, Administrator of the Environmental Protection Agency at that time, has said:

"The short-term increments are generally controlling for sources with elevated emission points (e.g., power plants . . . For example, it is entirely possible that a new power plant could meet the annual Class II increments for both sulfur dioxide (SO<sub>2</sub>) and particulate matter (TSP) yet cause short-term concentrations that would approach the short-term national ambient air quality standards (NAAQS)."

Thirty-three existing plants were analyzed. . . . Clearly, sole application of the annual increment would not, in many cases, provide a significant margin of nondeterioration protection beyond the primary and secondary NAAQS if a source could create short-term concentrations up to the 24-hour or 3-hour national standards.

In addition, . . . allowing degradation up to the three-hour secondary NAAQS, could possibly result in damage to certain commercial crops.

. . . the 24-hour concentration of particulates has a considerable impact on visibility. For example, degradation up to the 24-hour NAAQS would reduce visibility from more than 70 miles to about 5 miles. Sole use of the annual increment for nondeterioration would, in many cases, allow such a reduction in visibility to occur."

If the proposal were to remove only the three-hour and 24-hour class I increments, it would still allow substantial damage to occur in visibility over parks and wilderness areas. Mr. Train stated the following: "In fact, even under the Senate 24-hour Class II increment, visibility would be reduced under the same circumstances (i.e. existing air quality of 10 micrograms per cubic meter) from 70 miles to about 19 miles."

#### C. ADDITIONAL QUESTIONS AND ANSWERS

##### Contents:

1. Urban and Southern Growth.
2. Intermountain Power Project.
3. Hearings.
4. State Involvement.
5. Studies Conducted.

6. CHESS Study.
7. Construction Delays.
8. Buffer Zones.
9. No Growth Areas.
10. New Housing, Farming, Manufacturing.
11. Natural Emissions.
12. Federal Class I Areas.
13. New Parks and Wilderness Areas.
14. Land Use.
15. Inequity Among States.
16. Western States and Energy.
17. Job Losses.
18. Lack of Information.
19. Modeling and Monitoring Technology.
20. Clean Air is a Luxury.
21. Poor People and Fixed Incomes.
22. Control of Permits.

## 1. ALLEGATION

An exemption from nondegradation requirements is necessary to allow growth in urban areas and in the southern areas of the United States.

## FACT

This allegation shows a great confusion between the problems of urban and rural areas. The problem in urban areas is that many have already exceeded national health standards, and therefore are not affected by the nondegradation provision. This problem in no way relates to the provision under discussion. Instead it raises a question related to the "nonattainment" section of the bill. This is addressed in a totally separate section of the bill, where the committee has modified EPA policy to allow greater flexibility for growth in such areas, under carefully controlled conditions.

With regard to southern rural areas, the exemptions mentioned here are principally for western States with large parks and wilderness areas. The effect of the exemptions proposed would be to allow huge facilities to locate close to national parks such as the Grand Canyon, Bryce Canyon, Yellowstone, and other scenic areas. The exemptions would have no negative impact on the ability of western states to supply coal to midwestern and southern States.

## 2. ALLEGATION

An exemption from the nondegradation increments—such as an 18-day exemption—is necessary in order to allow the siting of the intermountain power project which would supply electricity to the State of California for 3 million people.

## FACT

The intermountain power project could be redesigned, relocated, and be able to supply power to the State of California. The companies promising the project have indicated that it would be possible to relocate the plant further from the Capital Reef National Park, but have indicated that they have no desire to do so, and have rejected suggestions to separate the plant into two large facilities which could be sited apart from each other and thereby reduce air quality impact. Instead, the owners insist on one mammoth powerplant larger than any now in existence.

The intermountain power project—IPP—is a 3,000 megawatt powerplant proposed for location approximately 7½ miles outside Capital Reef National Park in Utah. The emissions from the proposed plant would have a substantial

negative impact on the scenic area of the park and the surrounding parks, monuments, and wilderness areas in the Southwest. Scientific projections have been calculated regarding the impact of the IPP project on visibility in the area if an 18-day exemption were allowed. These studies show that visibility from some of the most beautiful viewpoints in the park would decline from an existing visibility range of 100 miles down to 15 miles. The esthetic impact would be severe; the particulate matter and nitrogen dioxide from the emission of such a plant creates a brownish-orange plume which is highly identifiable. The refusal of the owners to relocate this facility away from the park, where sites are available and coal supplies plentiful, is an example of arrogant flaunting of the public interest. Such a facility should not be allowed to dictate Federal policy regarding the protection of highly valued recreation and scenic areas.

## 3. ALLEGATION

Legislative hearings have not been held on this provision.

## FACT

Since enactment of the 1970 Clean Air Amendments, the Subcommittee on Environmental Pollution has held 56 days of hearings to review implications of that act. Specific hearings on nondegradation were held in 1973, 1974, 1975, and 1977. In 1975, 14 days of hearings were held and 48 markup sessions were conducted. One entire day of hearings was focused completely on nondegradation in 1975, and the subject was discussed in numerous other hearings that year. In 1976 4 days of hearings on specific legislation were held. Nondegradation was specifically discussed. Legislative proposals submitted to and considered by the committee included President Ford's proposal, the Environmental Protection Agency's existing regulations, and legislative proposals from the following organizations: The American Paper Institute, the American Mining Congress, Dupont, the National Association of Manufacturers, Shell Oil, Utah Power & Light, Cast Metals Federation, chamber of commerce, National Association of Counties, the Electric Utility Industry, Continental Oil Co., the Sierra Club, and the State of New Mexico and many other groups. The hearings were a combination of oversight and legislative hearings.

## 4. ALLEGATION

States have not been involved adequately in developing these amendments.

## FACT

Twenty States joined the Sierra Club or submitted independent suits requesting the courts to require a nondegradation policy. These States joined the initial Sierra Club suit: Alabama, Connecticut, Florida, Kansas, Louisiana, Maine, Massachusetts, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Dakota, Vermont, Texas. These States filed independent suits requesting the courts to require a nondegradation policy: Illinois, New York, Texas, California, Michigan, and Minnesota—Minnesota adopted the Michigan brief. Only three States opposed the

suits requesting the courts to require a nondegradation policy: Utah, Arizona, and Virginia.

In addition to joining suits, the following States have expressed support over the past several years for a policy of prevention of significant deterioration: Alaska, Colorado, Georgia, Hawaii, Idaho, Indiana, Kentucky, Maryland, Montana, Nevada, New Jersey, North Dakota, West Virginia, Wisconsin, and Wyoming.

Eight States testified in 1975 during the clean air hearings: New Mexico, Nebraska, Texas, Colorado, New York, California, Montana, and West Virginia. All submitted comments on nondegradation. Three meetings were held between the committee staff and State air pollution control officials representing the members of the Governors' conference. In addition, 12 meetings were held between individual State officials and committee staff members. Additional meetings were held in 1976 and 1977.

It was on the basis of the suggestions made in such meetings and statements from these witnesses that caused the committee to make substantial changes in the legislative proposals regarding nondegradation.

On May 12, 1976, the chairman of the national Governors' conference, Gov. Robert D. Ray of Iowa, sent a telegram opposing the delay of congressional action on this issue and said this:

I would like to advise that the policy of the National Governor's Conference (NGC) call for a decision for Congress to allow each State maximum flexibility to incorporate local guidance in its decisionmaking. An amendment to be offered by Senator Moss to S. 3219 would put off Congressional action on this action.

Many States are concerned that the passage of such an amendment would result in continuing litigation over present court-ordered Federal regulations and bring about uncertainties among the States and other interested parties in planning for overall development in clean air areas. Therefore, I urge you and your colleagues to insure that the vital issue of prevention of significant deterioration is settled now by Congress.

## 5. ALLEGATION

No studies have been done. A further 1-year study is necessary to have adequate information upon which to base a decision.

## FACT

This is totally untrue. Ongoing studies of implementation should be conducted, but extensive studies already exist analyzing nondegradation policy and options.

The Environmental Protection Agency has spent approximately \$1 million in studies on nondegradation policies. This is one of the most extensive and expensive series of studies which has been conducted on environmental regulations. Prior to promulgation of the final EPA regulations on December 5, 1975, EPA compiled the following studies:

First, Technical Support Document—EPA Regulations for Preventing the Significant Deterioration of Air Quality, Environmental Protection Agency, January 1975.



Second. "Sierra Club et al. Litigation—Significant Deterioration," B. J. Steigerwald, September 27, 1972.

Third. "Summary of Responses Received Regarding the Prevention of Significant Deterioration."

Fourth. "Summary of Responses Received Regarding the August 27, 1974, Proposal To Prevent Significant Deterioration of Air Quality."

Fifth. "Summary of State Responses on 'Significant Deterioration' Proposal."

Sixth. "The Impact of Proposed Nondegradation Regulations on Economic Growth," volumes 1 and 2, Harbridge House, Inc., November 1973.

Seventh. "Implications of Nondegradation Policies on Clean Air Regions: A Case Study of the Dallas-Ft. Worth AQCR (215)," U.S. Department of Commerce, May 1974.

Eighth. "Analysis of the U.S. EPA's Proposals to Prevent Significant Deterioration Relative to the Development Outlook for New York State," New York State Department of Environmental Conservation, October 1973.

Ninth. "Impact of the Proposed Nondegradation Alternatives on New Power Plants," TRW, Inc., September 28, 1973.

Tenth. "Economic Growth and Development Impacts of Proposals to Prevent Significant Deterioration of Air Quality."

Eleventh. "Scientific Factors Bearing on Regulatory Policies to Assure Nondegradation of Air Quality."

Twelfth. "Availability of Air Quality Data in Areas Generally Below the NAAQS."

Thirteenth. "Technical Data in Support of Significant Deterioration Issue."

Fourteenth. "Nondegradation and Power Plant Size," J. A. Tikvart, August 12, 1974.

Fifteenth. "Significant Deterioration in Zone I Areas and the Relative Location of Powerplants," J. S. Tikvart, October 15, 1974.

Sixteenth. "Discussion Paper on the Magnitude of the Class II Increment in the Significant Deterioration Regulations."

Seventeenth. "Emissions of Sources Subject to Significant Deterioration Issue."

Eighteenth. "Guidelines for Air Quality Maintenance Planning and Analysis, volume 10: Reviewing New Stationary Sources," EPA, September 1974.

Nineteenth. "Guidelines for Air Quality Maintenance Planning and Analysis, volume 12: Applying Atmospheric Simulation Models to Air Quality Maintenance Areas," EPA, September 1974.

Twentieth. "Findings of Task Force on Significant Deterioration," R. G. Rhoads, December 20, 1973.

Twenty-first. "The Largest Annual Average, Maximum 24-Hour and Minimum 3-Hour Concentrations of Sulfur Dioxide Produced Per Year by a Modern 1,000-MW Electric Power Plant Meeting the New Source Performance Standards for Sulfur Dioxide Emissions," Enviroplan, Inc., 1974.

In addition, the Environmental Protection Agency received over 3,000 pages of testimony at the hearings held on its proposed regulations. Ninety-one comments were received from industry.

The following studies have been conducted on various Senate committee proposals:

First. "An Analysis of the Impact on the Electric Utility Industry of the Alternative Approaches to Significant Deterioration," EPA/FEA, October 1975;

Second. Chamber of Commerce Analysis and Discussion Papers;

Third. Analysis of the Impact of the Senate Proposals on the State of Alaska;

Fourth. "A Preliminary Analysis of the Economic Impact on the Electric Utility Industry of Alternative Approaches to Significant Deterioration," EPA, February 5, 1976;

Fifth. "Impact of Significant Deterioration Proposals on the Siting of Power Plants" by Environmental Research and Technology, Inc., February 18, 1976;

Sixth. "Impact Analysis of the Effective Proposed Clean Air Act Amendments and Existing EPA Significant Deterioration Regulations on Electric Utilities in Minnesota and Wisconsin" by David Hoffman, James Bechthol, November 14, 1975;

Seventh. "Technical Studies for Assessing the Impact of Significant Deterioration Regulations," EPA, May 1976;

Eighth. "Summary of EPA Analysis of the Regional Consumer Impact of the Clean Air Act on Significant Deterioration," EPA, May 3, 1976;

Ninth. "A Preliminary Critique of FEA's Analysis of the Impact of Significant Deterioration on Oil Consumption," May 3, 1976;

Tenth. "Estimated Cost for the Electric Utility Industry of Nonsignificant Deterioration Amendments Currently Considered by the United States," NERA, April 16, 1976;

Eleventh. American Petroleum Institute Report by John J. Anderson, April 19, 1975;

Twelfth. "Summary of EPA Analysis of the Impact of the Senate Significant Deterioration Proposal," April 28, 1976;

Thirteenth. "Proposed Clean Air Amendments: Implications of Proposed Rules for Nondegradation of Air Quality on the Construction of Kraft, Pulp and Paper Mills," Environmental Research and Technology, Inc., for the American Paper Institute, September 9, 1975;

Fourteenth. "Proposed Clean Air Amendments: Implications of Nondegradation Rules on Maine," Environmental Research and Technology, Inc., for the American Paper Institute, August 28, 1975;

Fifteenth. "The Effect of Proposed Nondegradation Rules on the State of Maine," Environmental Research and Technology, Inc., for the American Paper Institute, October 30, 1975;

Sixteenth. "A Summary of the Background Levels of Air Quality Parameters for the Oil Shale Tracks in Colorado and Utah from September 1974 through February 1975," American Petroleum Institute, July 14, 1975;

Seventeenth. "Power Plant Impacts on National Recreation Resources," Department of the Interior, March 1976;

Eighteenth. "An Air Quality Evaluation for the Intermountain Power Project," Westinghouse Electric Cooperation

Environmental Systems, October 16, 1975;

Nineteenth. "Health Basis for Preventing Significant Deterioration: An Ounce of Prevention," December 3, 1975;

Twentieth. "Benefits From Preventing Significant Deterioration of Air Quality," April 14, 1976;

Twenty-first. "Impact of Proposed Nonsignificant Deterioration Provisions," Draft Interim Report, Inter-City Fund, Inc., April 14, 1976;

Twenty-second. "Impact of Significant Deterioration Proposals Upon Western Surface Coal Mining Operations," Environmental Research and Technology, Inc., for the Federal Energy Administration, May 5, 1976;

Twenty-third. "An Evaluation of Additional Production Costs for Significant Deterioration and Best Available Control Technology Proposals," General Electric Company, April 26, 1976;

Twenty-fourth. "Technical Evaluation of the Nondegradation Portions of Proposed Clean Air Act Amendment," Environmental Research and Technology, Inc., February 1977;

Twenty-fifth. "The Impact of Significant Deterioration Proposals on the Siting of Electric Generating Facilities—Documentation of Analyses Undertaken between July 1975 and September 1976," Environmental Research and Technology, Inc., prepared for the Electric Utility Clean Air Coordinating Committee, February 1977;

Twenty-sixth. "The Northern Cheyenne Air Quality Redesignation Report and Request," Northern Cheyenne Tribe, Inc., March 3, 1977;

Twenty-seventh. "Cost and Economic Impacts of Proposed Nonsignificant Deterioration Amendments to the Clean Air Act," prepared for Clean Air Coordinating Committee, March 8, 1977;

Twenty-eighth. "A Survey of Power Plant Siting Potential Considering Significant Deterioration and Effects Due to Elevated Terrain and Stagnation," prepared for Utah Power and Light Co. by North American Weather Consultants, Santa Barbara, Calif., January 1977;

Twenty-ninth. "The Cost of Clean Air Legislation," National Economic Research Associates, February 1977.

All of these studies have highlighted the fact that the conclusions reached depend very heavily on the assumption used in conducting the study. Many studies by industry contained untrue allegations that large portions of the country would be blocked from further development. These studies were inaccurate because their initial assumptions were flawed.

Proposals to delay any nondegradation policy while further studies are conducted are merely a smokescreen for the desire to have no such policy at all.

#### 6. ALLEGATION

EPA's basis for requiring pollution cleanup has been challenged and EPA staff has been charged with deliberately distorting data regarding the effects of pollution.

#### FACT

These charges have effectively been laid to rest. Hearings held Friday, April 9, 1976, by the House Interstate and Foreign Commerce and the House Science

and Technology Committees established the following:

First. Current national ambient air quality standards were established prior to the initiation of the study in controversy—the Community Health and Environment Surveillance System Study—CHESS. Even if the CHESS studies were discarded, this would not affect any of the national standards or EPA's implementation policies, all of which are based on a number of studies, of which CHESS is only one.

Second. The CHESS studies, however, should not be discarded; though no study is perfect—and epidemiological studies are particularly difficult to conduct—the CHESS studies have been characterized as the best of their kind in the world and the most reliable epidemiological studies ever carried out.

#### 7. ALLEGATION

Costs of construction delays as a result of the Senate nondegradation policy may be extensive; therefore, no such policy should be adopted.

#### FACT

Greater uncertainty will occur by eliminating the Senate provision than by accepting it and establishing congressional policy in this area. If Congress remains silent on this subject now, that will only aggravate uncertainty, not erase it.

The policy contained in the Senate committee bill will clarify policy and reduce uncertainty. Sources may then apply for the right to construct new facilities knowing the ground rules. At present no such certainty can occur.

Moreover, present EPA regulations are subject to court challenge. If the Sierra Club wins, then EPA will be required to tighten its requirements. Even if EPA is sustained, it still could revise its regulations to make them more stringent. On the other hand, by prescribing the requirements in the bill, EPA's authority to promulgate more restrictive rules is curtailed.

#### 8. ALLEGATION

A no-growth buffer zone of 60-100 miles will be required to prevent pollution of the Federal parks.

#### FACT

This is totally false. Under the Senate bill—but not the EPA regulations—the class I increment which protects such areas is used as an initial, not a final, test. An appeal is allowed which would permit construction of a major facility regardless of the test for a class I area if the applicant can demonstrate no adverse impact on the air quality values of the class I area.

In addition, according to joint EPA-EPA calculations, a well-controlled 1,000 megawatt coal-fired powerplant could locate as close as 6 miles from a class I area without causing that area's increment to be exceeded.

#### 9. ALLEGATION

At least 80 percent of many States would be off-limits to new development.

#### FACT

One percent of the Nation's land would be directly placed in a class I

category, which is designed to protect these important national resources: all international parks, and each national park, memorial park, and wilderness area over 5,000 acres.

#### 10. ALLEGATION

Amendments not only ban new manufacturing plants, but even new housing, farming operations, and recreation.

#### FACT

This is false. The provisions only apply to "major emitting facilities" which emit over 100 tons of the pollutant per year and which are listed as a major emitting source category in the bill.

#### 11. ALLEGATION

The increments (of allowable degradation of air) are often found to be violated by natural emissions which occur in rural and scenic areas. Therefore, further development already is taken up by nature in many areas.

#### FACT

The increments are in addition to any existing baseline air quality. Such a baseline includes natural emissions and existing manmade sources. The increment is an allowable quota which is added to the existing air quality. Nature cannot use it up. The secondary standards, including natural pollution, establish the limits on growth. No one supports violating secondary standards.

#### 12. ALLEGATION

Most Federal lands would be class I, effectively ruling out most land in some States.

#### FACT

This is false. Under the Senate bill, only existing national parks over 6,000 acres and national wilderness areas over 5,000 acres would be class I. All other Federal lands, including national forests, Indian lands and monuments could only be redesignated as class I with State concurrence.

#### 13. ALLEGATION

The number of mandatory class I areas will increase as new national parks and national wilderness areas are created.

#### FACT

This is not true. The mandatory class I designation only applies to national parks and national wilderness areas over 5,000 acres which are in existence on date of enactment.

#### 14. ALLEGATION

The prevention of significant deterioration provisions is a Federal land use policy based solely on one criterion: air quality.

#### FACT

The Senate bill does not require any land classification scheme to be undertaken by the State. The bill in question only regulates air quality and emissions, not land use. The States are free to use the land as they see fit.

Of course, air quality is not the only, let alone the decisive, factor in influencing a State's growth decision. It is merely one factor to be considered.

#### 15. ALLEGATION

The nondegradation policy would have a much more severe impact in some States than in others.

#### FACT

This allegation comes from a misunderstanding of the use of air quality increments proposed in the committee bill.

Even without a nondegradation policy, an air quality increment already exists in clean air areas. The increment is the amount of pollution which could be added to the area until the ambient air quality standards are reached. In areas of flat terrain, that increment is large. In areas of severe terrain, that increment—up to the national ambient air quality standards—is smaller because pollution concentrations build up rapidly against mountainsides. Therefore, States with flat terrain have a greater competitive advantage if no nondegradation policy exists.

Under nondegradation policy, this uneven competitive disadvantage would be diminished. The amount of additional pollution allowed in all areas will be the same. Areas of uneven terrain are frequently constrained by the national primary and secondary ambient air quality standards. The terrain effects would provide constraints with or without a nondegradation policy. In such cases, the nondegradation requirement for the use of best available control technology will enable such areas to control pollution and allow further growth.

#### 16. ALLEGATION

Western States will be held at their present levels of development and not be allowed to develop their energy resources. The Nation will be asked to curtail its industrial output.

#### FACT

These allegations are false. They echo the erroneous position of the chamber of commerce since the summer of 1975—a line which has not been altered even though it has been fully discredited. In responding to the Chamber's allegation, Roger Strelow, Assistant Administrator of the Environmental Protection Agency, said:

I have just read your article in September's Washington Report. . . . The article claims that the Environmental Protection Agency's regulations for the Prevention of Significant Deterioration of Air Quality would endanger States' development and "ban development in areas 60 to 100 miles adjacent to select Federally owned lands such as national parks and forests." This is simply not true.

First, the regulations do not apply to all development, but only a select number of the major stationary industrial sources. Thus, contrary to what the article concludes, activities such as construction, farming, light manufacturing, and residential development are not affected by the regulations.

I would like to comment on the article's contention that Congress in amending the Clean Air Act, is considering a "no growth federal land use policy" based solely on air quality. That is nonsense. In response to the Administration's request to consider all alternatives and to give explicit guidance on a prevention of significant deterioration policy that allows a balancing of environmental, economic and energy objectives, the Congressional Subcommittees have provided proposals that give the States the authority to make their own determinations of what constitutes significant deterioration within a framework of allowable air quality levels. Like EPA's regulations, these proposals require the



States to consider and balance their various objectives, with full public participation. The proposals apply only to major industrial sources.

The public wants to preserve clean air. According to an August 1975 poll commissioned by the Federal Energy Administration 94 percent of the American people favor preserving our clean air regions.

The EPA analysis of energy facilities indicates that coal gasification, oil shale, coal-fired powerplants and other such energy facilities can meet the nondegradation requirements.

In the CONGRESSIONAL RECORD on April 29, 1976, on page 11761, a new EPA study is printed showing that all major industries could build under the Senate committee's nondegradation proposal. These include powerplants, papermills, smelters, refineries, and so forth.

In sum, Western States will not be precluded from development, and the Nation will not be asked to curtail its output. It will be asked to insure that its growth is clean and that analysis of future development occurs in a rational policy rather than on the basis of piecemeal, private decisionmaking.

#### 17. ALLEGATION

There will be a loss of employment due to the nondegradation provisions.

#### FACT

This is incorrect. In addition to the fact that this provision only applies to new facilities—to employment not yet developed—the pollution control requirements imposed in the committee bill will increase employment, not reduce it. In an immediate sense, more jobs will be needed in order to construct the pollution control facilities associated with compliance—facilities which might not have been installed without these amendments. In an economy with high unemployment, this is a plus.

Studies of the Council on Environmental Quality and Chase Econometrics show the economic effects of pollution control. These requirements have led us to the creation of 1 million new jobs, according to the CEQ.

#### 18. ALLEGATION

We do not know which areas of the Nation are clean enough to qualify for coverage under the nondegradation provision and, therefore, must wait for further information before determining that such areas should be protected from significant deterioration.

#### FACT

This criticism misses an important difference between nondegradation areas and dirty areas; it implies that expansion in nondegradation areas will somehow be more restricted than expansion in areas which have exceeded national ambient air standards.

This is untrue. In fact, expansion in dirty areas is more difficult. The health and welfare standards have already been exceeded in such areas, and a substantial burden rests on any applicant for a new source to demonstrate that he will not worsen that situation or interfere with cleaning up to the national stand-

ards; such a source must make the case that any pollution should be allowed.

Absolute knowledge does not exist. There are many gaps in data on monitoring of existing air quality. But this does not provide a reason for delaying a policy to protecting existing air quality. Most States will be able to make intelligent judgments of air quality in areas where little monitoring data exists. As new applications are submitted, information will be gathered as part of the permit approval process.

#### 19. ALLEGATION

Technology does not exist to model the projected emissions from new sources or for monitoring the emissions from these sources. Therefore, Congress should not act until precise tools exist.

#### FACT

This criticism has a "Catch-22" approach. It says that sources should be allowed to pollute because science has not developed precise techniques for telling exactly how much pollution is created; by the time such techniques are developed, they could very well be useless in protecting air quality, since deterioration would have made the question moot.

For years State air pollution control agencies and Federal agencies have used modeling projections to analyze applications for new sources that would continue under the nondegradation proposal. There is no other way of determining the impact of a source that has yet to be constructed.

In most cases, the errors identified show that most pollution is occurring, not less. This indicates a need to control such pollution now.

#### 20. ALLEGATION

High quality air in clean areas is a luxury—a luxury that must be sacrificed in order to allow industry to grow.

#### FACT

Clean air is not a luxury and growth need not be sacrificed to keep it. If we attempt to sacrifice air quality now for short-term gains, we will find our water becoming more acid, our crop production deteriorating, our esthetic experience in wilderness areas declining, and our health being damaged by long-term low-level exposure.

In addition, we will find that we have lost one of the most useful, growth-preserving options available—the option of determining how air resources will be used prior to their use. Without a nondegradation policy, new sources may well adopt lesser control technologies and thereby use up the available air quality without providing room for the growth of industries that follow in subsequent years.

#### 21. ALLEGATION

A nondegradation policy will harm the poor and those on fixed income.

#### FACT

This is erroneous. Those who use this argument cite competing and mutually exclusive arguments. On the one hand, nondegradation allegedly hurts the city dweller because growth in the clean por-

tion of the metropolitan areas will not be allowed and plants will therefore be forced to flee to outlying areas. On the other hand, cities argue that growth will be restricted in rural clean air areas because of the nondegradation provision and sources will be required to remain in urban areas.

Neither allegation is correct. Dirty air areas usually have some portions that continue to be clean and new sources, if carefully controlled and properly sited, can be located in such urban areas. Growth will continue and the metropolitan area will attract jobs and industry. In addition, the amendments contain new provisions to allow expansion in such areas. In rural areas, development of new facilities is clearly allowed and nondegradation requirements only insure that the growth be as clean as possible.

#### 22. ALLEGATION

EPA will have the final control over which sources may get permits to construct.

#### FACT

This is true under present EPA regulations but not true under the Senate bill. The States are responsible for deciding whether to issue permits to new sources under the Senate bill. No State permit may be disapproved if the procedures are followed and if the ceilings and increments set in the bill are observed.

### AUTO EMISSION STANDARDS— S. 252

Mr. STAFFORD. Mr. President, during the last week several spokesmen for the automobile industry have criticized the emission standards in S. 252 on the basis of information contained in EPA's annual emission technology review entitled "Automobile Emission Control—The Development Status, Trends, and Outlook as of December 1976." Specifically that report asserts that final standards proposed for 1980 in S. 252 cannot be met until 1981.

While the technical data in the EPA report is a valuable contribution to our understanding of auto emission technology, I think it is essential that we understand the nature and source of that information. On page 1-1 of the report EPA indicates that most of the information in the document is compiled from submissions from industry.

Thus it is fair I think to conclude that the data reflects a conservative and cautious analysis of the technological capabilities of the industry.

However, the value of the information as an indication of the real capabilities of industry is further called into question by the authors of the report. On page 3-18 the report states:

In order to prepare this status report, EPA solicits from the United States and foreign manufacturers information on their development programs for emission-related technology. The responses requested from the manufacturers are expected to be full and complete descriptions of their emission-related development programs. However, EPA technical staff have reason to believe that not all of

the development effort on emissions-related work may be completely reported to EPA in a timely fashion.

I ask unanimous consent that the balance of the chapter from the technology assessment indicating specific examples of inadequate or incomplete reporting by industry be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

**AUTOMOBILE EMISSION CONTROL—THE DEVELOPMENT STATUS, TRENDS, AND OUTLOOK AS OF DECEMBER 1976**

Section 3.9. The Efficiency at Which Development Information on Emissions Related Subjects Is Reported to EPA May Be Decreasing.

As an indication of the nature of the information which has apparently not been completely reported to EPA, the following examples are given.

**NEW ENGINE DEVELOPMENT PROGRAMS**

The development and introduction of a basically new engine is a substantial undertaking. A new engine is defined here as one that requires a new or different engine block or is a different method of combustion, for example Diesel versus homogeneous spark ignition. It is generally accepted that such a program takes a significant period of time.

New engines are expected to be technologically improved over older engines, and it is not unreasonable for EPA to expect that improved emission performance would be considered in the design and development of new engines. Therefore, the reporting of the development of new engines is considered important by EPA. Recent examples of new engine developments not previously reported to EPA are projects of Volvo, GM, and VW.

Volvo started a development program on a Diesel engine with Ricardo & Company in 1974. To date, 6 vehicles have been equipped with this Ricardo/Volvo engine. The first time that Volvo reported the information concerning this engine development project was in their 1976 Status Report to EPA.

GM has reported development work on V-6 configuration engines, as it pertains to the Buick 231 cubic inch engine and its derivatives. The existence of GM's plans to produce an all-new V-6 engine completely different from the Buick V-6 has been recently reported in a trade publication.<sup>1</sup> A Chevrolet V-6 (200 CID) engine was found in the 1978 GM Application for Certification, but GM did not report the development of this engine in their status report.

The basic information that VW presented on their Diesel engine concerned their 4-cylinder engine. However, under their contract with the U.S. Department of Transportation (DOT/TSC 1193), VW is to provide information (including emissions data) on 4, 5, and 6 cylinder Diesel engines. The work on the 5 and 6 cylinder Diesel engines was not reported to EPA.

VW's progress in the development of a vehicular, ceramic, gas turbine engine has been reported in the press.<sup>2</sup> Tests have apparently been run, yielding claims for better fuel economy than vehicles equipped with gasoline engines. The engine is also reported to have been designed for low emissions. VW did not report any information about this engine to EPA.

**ELECTRONIC CONTROLS**

In this rapidly expanding area some work is now being reported to EPA. Apparently, some of the work had been ongoing for some time before the results were reported to EPA.

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Because electronic controls offer flexibility to the emission control engineer that mechanical systems may lack, electronic controls are important. They may alter relationships between emission control and fuel economy that may have existed in the past. As long as EPA is unaware of the actual status of development of such new technology, EPA will tend to undervalue the emission control and fuel economy benefits and overstate the time it would take to implement such new technology.

GM first reported work on what was eventually to become the MISAR electronic spark control system in 1975 in their Application for Suspension.<sup>3</sup> However, according to the Application for Suspension and a publication<sup>4</sup> the development started in 1970 and took six years before it was introduced for model year 1977 in limited production.

GM did not report test results on a spark knock sensor in their status report. The GM status report did report that they are working on a combination of a knock-actuated spark control system and increased compression ratio. EPA has recently learned, however, from the 1978 GM Application for Certification that GM plans to introduce a knock-actuated spark control system in model year 1978 on a vehicle using a turbocharger, not on a vehicle using increased compression ratio.

**TURBOCHARGING**

GM and Saab indicated in their 1976 status reports that they plan to introduce turbocharged vehicles for model year 1978. Neither Saab nor GM reported development of turbocharged engines in their 1976 status reports. Either it takes less than one year to design, develop, test and commit to production for a turbocharger, or work was underway earlier and not reported to EPA.

GM<sup>5</sup> and Ford<sup>6</sup> have also been reported as having development work underway on turbocharged engines that were not reported to EPA. GM did report "many programs in GM to develop turbocharged engines", though only a V-6 engine was discussed and a Vega engine was mentioned in passing.

**MECHANICAL OCTANE IMPROVEMENTS**

The spark timing calibrations and compression ratio of an engine influence its emission and fuel economy characteristics. Any changes in the octane requirements of an engine may allow alterations in spark timing calibrations and/or compression ratio. It has been reported<sup>7</sup> that Saab has developed a method to allow for increased compression ratio. This work was not reported by Saab in their status report to EPA.

**TRANSMISSION**

The automobile industry is studying the impact of improved transmissions. Much of the interest has been on multispeed torque converters with lockup clutches for improved fuel economy. For example a recent technical paper<sup>8</sup> projected substantial gains in fuel economy (in excess of 15%) with the use of such a transmission.

The emissions produced by the engine may be altered with use of a lockup transmission because the torque/speed relationships during the test are changed. The transmission is an important part of an automobile's emission control system. Very little in the way of the emissions from advanced transmissions/advanced emission control systems has been reported to EPA. It does not seem reasonable that experimental and/or analytical work has not been done. Rather it appears more likely that the work has not been reported.

**CATALYSTS**

GM reported running a fleet of possibly improved catalysts in their status report.

When asked by EPA for the data on the then incomplete program, GM indicated that they would not provide the data until they were done with the program and had time to analyze the information themselves.

The above examples show that EPA may not be kept abreast of technological developments as much as is necessary. For the preparation of a report of this type, there is not enough time to go back to all the manufacturers and get continual updates of their programs, as areas not reported fully become known. EPA has to rely to a large extent on the manufacturers to supply full and complete reports so that EPA can make its own timely judgments as to what the data mean. Not getting important data on a timely basis can only hamper EPA's estimates of future emission control capability.

EPA technical staff realize that the preparation of responses to the EPA requests for information on progress is a difficult undertaking, and that some degree of judgment is required in deciding what to include in the response. However, the foregoing items of data that were not completely reported appear on their face to be so significant as to raise questions as to why they were not reported; it seems unlikely that they were screened out as being too unimportant to mention. Thus some thought on how reports of this type are to be prepared in the future is in order, to assure that these annual reports can continue to serve the important purposes for which they are prepared.

**FOOTNOTES**

<sup>1</sup> Ward's Engine Update, 10 December 1976, Volume 2, Number 25, page 3.

<sup>2</sup> Automotive News, 28 February 1976.

<sup>3</sup> "General Motors Application for Suspension of the 1977 Federal Emission Standards," 10 January 1975, Volume III, Appendix 8, pages 3-4.

<sup>4</sup> Simanaitis, Dennis J., *Automotive Engineering*, January 1977, Volume 85, Number 1, page 29.

<sup>5</sup> Ward's Engine Update, 18 February 1977, Volume 3, Number 4, pages 1 and 8.

<sup>6</sup> Automotive News, 7 March 1977, page 43.

<sup>7</sup> Automotive News, 28 February 1977, page 61.

<sup>8</sup> Chana, Howard E., et al., "An Analytical Study of Transmission Modifications as Related to Vehicle Performance and Economy," SAE Paper Number 770418.

**OUR STAKE IN THE FREE ENTERPRISE SYSTEM**

Mr. HELMS. Mr. President, the Oak Hill Academy at Mouth of Wilson, Va., each year holds an essay contest for its graduating class. This year the subject of the contest was the free enterprise system. After the winning paper was selected, the judges found that it had been written by a young man from Indonesia who, until this year, had never lived in a free enterprise economic system. The student, Kusno Yunus, came to live in the United States during his senior year in high school, but his essay makes some very telling points about life in a free society.

Mr. Yunus has been accepted as a student at Wingate College in North Carolina and is planning to concentrate his study in either computer science or nuclear engineering. I do not know whether Kusno Yunus plans to remain in the United States or return to Indonesia after his college studies are completed, but



I am sure that either country would keenly welcome the contributions of this young man.

At times the suggestion is made that because only a fraction of the world's population enjoys the freedom which we as Americans possess, these other people do not really appreciate freedom. Of course, this view is false. Time and again those who value freedom the most are the very ones who have yet to attain it, as Mr. Yunus' essay clearly shows.

Mr. President, during the next few weeks as we consider the matter of Federal assistance to education, I think it is fitting to remember that even with larger school budgets, new educational technology, and teaching aids, education remains the product of a very delicate relationship between teacher and student. All the money in the world and all the innovative programs cannot replace that special interaction between teacher and student.

Mr. Yunus' paper is, I believe, a reflection of the fact that this relationship exists at Oak Hill Academy and, to the extent that it exists there and at the other schools throughout the Nation, America's future will be considerably brighter.

Mr. President, I ask unanimous consent that this essay by Kusno Yunus entitled "My Stake in the Free Enterprise System" be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

**MY STAKE IN THE FREE ENTERPRISE SYSTEM**  
(By Kusno Yunus)

For me, free enterprise is just like a big chess board with pawns, rooks, bishops, knights, queen, and king on it. I am but one among the players. My aim is to win the game by obeying the rules of the game. However, I have the freedom to decide which piece I am going to move.

In a free enterprise system, I have the freedom to choose what kind of job I want to perform, which college I attend, and what kind of clothes I prefer to buy. On the other side, I have the privilege to produce things of various styles as I wish and to set the price as high as I wish, as long as I am not contradicting the commercial laws, the health regulations, and the law of supply and demand in my country.

As an ordinary person, I feel the temptations coming from everywhere. Under this free enterprise system, many kinds of products are manufactured. Each company boastfully informs the public of the quality of its product. The decision—to buy or not to buy—is clearly mine.

Sometimes I become confused. I do not know how to choose. I get lost in this wide range of choices. As a consumer, I have the right to select and whatever I select will directly affect the producers. For example, if no one wants to buy a big car during the oil crisis, the producers of the big car will run out of business; they are forced to produce small sized cars.

Today, thousands of colleges and universities are spread over the United States and hundreds of fields of study are offered in these institutions. Before I choose one for me I have to consider my ability, my finances, and my time. If I apply arbitrarily to the wrong college or university, with which I am not able to cope, probably I will flunk. In

a free enterprise system, I am forced to plan for my own future or I will eventually have nothing. The system gives me the opportunity; the rest depends on my own personal achievement.

What happens when everyone has the same opportunity, the same privilege, the same freedom, and equal rights? The answer is that competitive markets are created. Likewise, I, myself, at school have to compete with my peers at Oak Hill Academy in this composition contest in order to win the reward. To get into a good college or university I have to compete with nationwide applicants. This exactly is the free enterprise system.

This free market place urges me to become more and more active. I must search to know my stand in the affairs of the nation. I keep reading the current issues, the national affairs, and the public opinions. It is very important to know what is needed and what is wanted, the life styles of the majority of the people so that I can create something that will be pertinent or will be beneficial to the nation.

The significance of free competition is that the prices in the market become reasonable. When prices are reasonable, people buy more goods which in turn means the companies produce more goods. The higher the production rate the more workers are employed and this will directly affect the unemployment rate and the inflation rate at the same time. This is very meaningful for me since I plan to graduate in about six years from a college. I will then join this competitive society with my bare hands and my empty pockets but knowledge in my head. What I can do is to sell my knowledge and my energy, trying to get the job I prefer.

In a free enterprise system, I am given the freedom to make choices, to invest, to work, and to do other things. The major thing I should learn is how to make important decisions in my life. Suppose I should earn a great deal of money efficiently, the problem then is, if I do not use the money, the inflation will engulf the value of dollars. If it is put into a bank account, I only get 5.5% rate of interest that will not recompense my losses in the 6% inflation rate. If I use my money to buy shares of stock in companies, I have to take the risk. This is a risk I shall gladly take.

Just suppose that I lived in a communist country. I would have to put the state first and myself second. The government decides what I can and cannot do. For example, if I should want to work in the textile industry the state could direct and force me to another field. I would have no freedom to choose what I want myself to be. I am merely a pawn on the chess board the politicians play. Perhaps even worse than the lack of personal freedom is that the government controls the press, the mass media, and the books of the society. I am isolated intellectually from the outside world. There would not be allowed talk of political affairs nor can I protest against the inhumanity of the laws. I cannot build my own business since the state possesses everything. I am quite like a bird in a golden cage, no control over my future, my destination, and no freedom at all. I think I would get some kind of mental illness under this situation where punishments are the propellers to get people to work rather than the use of rewards. I would be existing, but not living. The free enterprise system allows me to live, not merely exist.

Although some may think I play a very simple role as a single citizen in a free enterprise system, on the chess board of play I am the master of myself, a not so simple role to me. What could possibly sound better than this?

**ALTON LOCKS AND DAM NO. 26**

Mr. EAGLETON. Mr. President, on May 23, 1977, the minority leader, Senator BAKER, placed into the CONGRESSIONAL RECORD a letter addressed to him from the Secretary of Transportation, the Honorable Brock Adams, that addressed S. 790, a bill proposing, basically, two things: The establishment of both a system and variety of waterway user charges on all of the Nation's inland waterways; and, the reconstruction of an existing lock and dam situated at Alton, Ill. In his letter, Secretary Adams first expressed his own and President Carter's concerns over a number of issues that they believe are raised by S. 790 and, second, stated the administration's intentions with respect to S. 790 if several of these issues were not resolved by the Congress in a manner satisfactory to the administration. At the time of the insertion of the Transportation Secretary's letter into the RECORD, it was explained that it was being done, because the letter dealt with important issues of interest to all Members of the Senate.

More than half of the Transportation Secretary's letter, as he notes, is, in fact, a summary of his testimony of May 2, 1977, on S. 790 before the Water Resources Subcommittee of the Senate Committee on the Environment and Public Works. The remainder of the Secretary's letter discusses the changes made to S. 790 by the Senate Commerce Committee after it received the proposal, because of its concurrent jurisdiction and declared the President's intention to veto S. 790 if it authorized the construction of a new lock and dam 26 prior to completion of an 18-month field test on the existing lock and dam and if the measure did not contain a provision for the establishment of waterway user charges.

The insertion of the Transportation Secretary's letter was intended both to provide the Senate with notice of the administration's position on S. 790 and to inform the Senate of the elements and reasoning of this position. It has been brought to my attention that an understanding of the administration's position as expressed in the Transportation Secretary's letter in which he incorporated his own prior Senate testimony is not realistically possible without also considering the testimony of the Transportation Secretary that he incorporated into his letter. In addition, it appears that a number of misunderstandings have been generated by not considering the Transportation Secretary's letter in the context of his prior and related testimony. For example, it is only by reading both the letter and the testimony that it is clear that the administration has grounded its position on waterway user charges that take the form of a fuel tax. The Secretary further stated:

The complete details of the proposal have not yet been worked out, and we will work with the Congress on this matter once we have a detailed proposal to present.

The prepared Senate testimony of the Transportation Secretary is brief and to

the point. In order fully to achieve the earlier objectives intended by inserting the Transportation Secretary's letter into the RECORD as well as to correct any misunderstandings that may have been created by the insertion of this letter without the clarifying testimony, I ask unanimous consent that the letter to the distinguished minority leader, Senator BAKER, and the Transportation Secretary's prepared testimony on S. 790 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,  
Washington, D.C., May 20, 1977.

HON. HOWARD BAKER,  
Minority Leader, U.S. Senate,  
Washington, D.C.

DEAR SENATOR BAKER: As you are aware, I testified on May 2, 1977, before the Water Resources Subcommittee of the Senate Committee on the Environment and Public Works concerning the position of this Administration on the issues of Lock and Dam 26 and Waterway User Fees. I indicated that the Administration strongly favored the imposition of a user fee system, to be imposed gradually over five years, which would recoup 100 percent of waterway operating and maintenance costs and all or a substantial portion of new construction costs. Federal expenditures on waterways through the Corps of Engineers and the Coast Guard are now approaching \$1 billion a year. Commercial waterway users are thus receiving a major benefit from these Federal expenditures, while the full burden of those expenditures falls on the shoulders of the taxpayer. It is simply not equitable, not just, that large, profit-making businesses should have their costs met by the Federal government to this extent.

I further indicated that it was the position of the Administration that before any new lock and dam facilities are authorized at site 26 in Alton, Illinois, an 18-month engineering field testing effort should be undertaken concerning the possibility of rehabilitating the existing lock and dam facility and expanding the lock capacity to 1200 feet. We believe, through new engineering techniques, that rehabilitation is a viable possibility that deserves very serious consideration since it could cost considerably less taxpayer money than construction of a new lock and dam. In view of the fact that Department of Transportation studies indicate that a 1200 foot lock capacity will not be necessary until at least 1990 and the fact that construction will require 8 to 11 years, there is ample time for the rehabilitation possibility to be properly explored. Repairs on the existing lock and dam are now being undertaken that will assure that the facility can function safely until any rehabilitation or construction is completed.

As you know, however, the Senate Environment and Public Works and Commerce Committees has reported a bill (S. 790) at some variance with this position. While the Public Works version contains a user fee provision, it would also authorize a new lock and dam. The Commerce Committee voted in favor of authorizing a new lock and dam and to have DOT study user fees over 18 months.

Because of the importance of this legislation to overall transportation planning and because of its impact on the President's efforts to balance the budget, I feel I should inform you and the Senate of the President's very firm intention to veto any bill authorizing construction of a new Lock and Dam 26 prior to completion of the 18-month field test which does not also contain a provision for the establishment of waterway user charges.

I am hopeful that, working within this constraint, we will be able to enact legislation satisfactory to the various interests involved, and I look forward to working with you in this regard. I would be happy to meet with you at any time to review the basis for the Administration's views on this matter.

Sincerely,

BROCK ADAMS.

#### STATEMENT OF BROCK ADAMS

Mr. Chairman and Members of the Subcommittee: I am pleased to be here today to testify on S. 712, S. 790 and S. 923, bills which have been introduced to deal with the closely related issues of capacity expansion at Locks and Dam 26 at Alton, Illinois, and waterway user charges.

First, let me tell you where we stand now on Alton Locks and Dam. As you know, at the request of this Subcommittee, the Department recently completed a 120-day study on some of the economic aspects of a single 1200-foot lock at Alton. Our economic analysis led us to the conclusion that based on traffic projections an increase in the capacity of the facility at Alton will certainly be required before the end of the century. However, the uncertainty involved in projecting future traffic makes it difficult to pinpoint an exact date by which this additional capacity will be needed. The Department's review of the projections and analyses done by others suggests that increased capacity may not be needed until the last decade of the century. As a practical matter, however, a single 1200-foot lock should be constructed with either major rehabilitation or construction of Locks and Dam 26.

The study also found that a single 1200-foot lock at Alton would not cause significant diversion of existing rail traffic to the waterways. Expansion of lock capacity at Alton would cost the railroads future traffic which they would, in any event, carry only if a decision were made to hold the capacity at Alton at its present level indefinitely. Thus, as far as a single 1200-foot lock is concerned, the only questions are of timing and costs.

Any further capacity increase at Alton beyond that provided by a new 1200-foot lock and any other major capacity increases on the upper Mississippi and Illinois River system should await the completion of a detailed and extensive analysis of the economic and environmental aspects of such capacity increases. A study of this sort could well require a couple of years. During this period, we will work with other agencies to study commodity projections, the impact of user charges on these projections, intermodal impacts and environmental questions, as well as engineering questions. What we are really talking about, then, is whether a decision should be made on a single 1200-foot lock for Alton before or after such a study is completed. The answer to this question and the question of whether the existing facility should be replaced or rehabilitated turns on the engineering aspects of the issue.

The engineering questions are not simple. The Corps of Engineers, following a traditionally conservative approach to the engineering problem of the existing structure, concluded that the expense of rehabilitation would be approximately equal to the cost of replacement with a modern structure. If this proves to be correct, then it is crystal clear that the facility should be replaced and that the new facility should have a single 1200-foot lock in it. It would be foolish not to take advantage of new construction to gain a moderate increase in capacity at a relatively slight increase in cost over what it would cost just to replace the existing capacity.

However, the Corps' engineering approach to rehabilitation has been challenged and the view advanced that the cost of rehabilitation is, in fact, much lower than the cost of replacement. I have had a team of my

own engineers working with the staff of the Corps to review these differences. The conclusion reached by our engineers is that there are lower-cost approaches for rehabilitation of the existing dam which ought to be tested before a final decision is reached. Our engineering task force is of the opinion that there is no useful purpose to be served by any further studies on this question. Their recommendation is that, as early as possible, engineering investigations be undertaken in a way which will let us experiment with the techniques and measures that are in question. Secretary Alexander and I have discussed this recommendation and have concluded, especially in view of the possibility of significant savings if rehabilitation proves feasible, that it should be tried.

In his testimony, General Graves of the Corps will provide you with more details on specifically what is involved. In taking this course, we believe it will be possible to determine for \$10 to \$15 million—a low cost relative to the costs of rehabilitation or replacement—whether the lower cost alternative rehabilitation methods are, in fact, feasible. If these measures do turn out to be feasible, we can go ahead with the rehabilitation of the existing structure. This rehabilitation could well include provision of a 1200-foot lock. A final decision on the level of capacity to be provided in a rehabilitated dam cannot be made, however, until further engineering work has been completed.

On the other hand, if the results of this experiment show that the less expensive ways of rehabilitating the dam do not work, then we can turn to the construction of a new facility with the certain confidence that we have not overlooked an opportunity to effect significant savings.

As far as legislation on Alton Locks and Dam is concerned then, I have the following specific recommendations:

The Congress should postpone a decision on rehabilitation or replacement until the engineering questions have been resolved.

Any future authorizing legislation should contain a prohibition against a 12-foot channel project on the upper Mississippi River and provide for additional economic and environmental study of future transportation needs of the upper Mississippi and Illinois regions.

There should be action by the Congress to enact a fair and effective system of waterway user charges.

Let me now turn to the question of cost sharing and user charges. DOT has extensively studied the possible impacts of user charges, and the results of these studies are presented in the report, "Modal Traffic Impacts of Waterway User Charges." As President Carter said in his message on water policy: "The beneficiaries of Federal water projects do not bear a fair share of the enormous capital and operating costs."

The really major point here is that commercial users receive major benefits from Federal expenditures, while the full burden of those expenditures falls on the shoulders of the taxpayer. It is simply not equitable, not just, that profit-making businesses should have this much of their costs met by the American taxpayer.

Practically all of the Federal expenditures in support of the waterways are made by the Army Corps of Engineers and the Coast Guard. These expenditures have been rising and now are approaching the \$1 billion a year level. As a result of these Federal programs, inland, coastal and Great Lakes vessel operators do not maintain or pay taxes on the rights-of-way which they use. A notable exception is our St. Lawrence Seaway where tolls on vessels and cargoes not only cover the operation and maintenance costs of the Corporation, but annually return to the Treasury part of the original U.S. investment in the St. Lawrence facilities.

Establishing a fair and efficient system of



cost sharing is, obviously, a question of great sensitivity, and the amount and manner in which such a charge is collected could have a significant bearing on whether or not Congress would pass the necessary legislation. In addition to the purchaser of the transportation services and ultimately the consumers, there are the concerns of at least three groups that have to be reconciled in establishing waterway user charges—the users of the waterways, who resist the added costs; the railroad operators who maintain their own right-of-way and feel their competition receives unfair subsidy; and the taxpayers who pay for Federal agencies to furnish the facilities and services. The Department believes the selection of a policy for cost recovery through waterway user charges should take into consideration the principles of administrative simplicity, political feasibility, and public understanding and acceptance. For these reasons, we believe a fuel tax would be preferable to the segment toll.

The complete details of the proposal have not yet been worked out, and we will work with the Congress on this matter once we have a detailed proposal to present. I can tell you, however, what some of the basic points will be. We are going to ask for a fuel tax which would go up in increments over the next five years so that at the end of that period there would be full recovery of inland waterway operating, maintenance and rehabilitation costs. In addition, all or some portion of the cost with interest of new construction would be recovered over the life of a project. All user charge revenues will accrue to the general fund rather than to any trust fund. While these charges are being phased in, the impact of the user charge on shippers will be closely monitored.

While we believe, in principle, that recreation users of developed facilities should be assessed user fees and that users of developed deep draft systems should also contribute to the cost of those systems, we have not yet developed such proposals in detail. The unique cost recovery situation which already exists on the St. Lawrence Seaway would, of course, also be taken into consideration so that inequities would not result. In a short time the Administration will be presenting a complete proposal, but these are the basic elements.

In conclusion, the Administration believes that it is no longer in the national interest to continue direct taxpayer support of commercial water transportation without some form of cost sharing. Water transportation should join the air and highway modes in paying user charges for Federally provided rights-of-way.

Mr. Chairman, that completes my prepared remarks.

#### CLEAN AIR AMENDMENTS OF 1977

Mr. GARN. Mr. President, later this week, that Clean Air Act Amendments of 1977—S. 252—will be on the floor. I have introduced a number of amendments, and I would like to take a few minutes to explain them, and then to discuss some of the philosophical issues raised by this legislation.

Amendment No. 303 strikes from the bill the requirement that sources of emissions which make use of supplemental emission reduction strategies which are otherwise approved by the act continue to pay employees whose services are reduced by the reduction. In other words, if a smelter reduces its rate of operation during adverse atmospheric conditions, as a way of achieving ambient air quality standards, as things stand under the bill, employees would have to continue to be

paid for work they are not performing. Under my amendment, however, employers would pay only for work actually performed. I ask unanimous consent that amendment No. 303 be printed at this point in the Record.

There being no objection, amendment No. 303 was ordered to be printed in the Record, as follows:

#### AMENDMENT No. 303

On page 11, line 15, strike out all through line 23.

Mr. GARN. Mr. President, amendment No. 301 is really in the nature of a technical clarification. What it does is maintain clearly a legal distinction between Indian tribes and States. The amendment would not in any way change the powers of either the tribes or the States under the bill. It simply changes the language in the bill from "States" to "States and Indian tribes." It is, in my opinion, a bad precedent to set to say that "the term 'State' shall include Indian tribes." I ask unanimous consent that the text of amendment No. 301 be printed at this point in the Record.

There being no objection, amendment No. 301 was ordered to be printed in the Record, as follows:

#### AMENDMENT No. 301

On page 21, line 11, after the word "subsection" insert the following: "or Indian tribes within such State".

On page 21, line 15, insert after "State": "or ruling body of the affected Indian tribe".

On page 21, line 18, insert after "Governor": "or ruling body".

On page 21, line 20, strike the word "States" and insert in lieu thereof the word "parties".

On page 21, line 21, insert after "State": "or Indian tribe involved".

On page 21, line 23, insert after "State": "or tribe", and strike "States" and insert "parties".

On page 22, strike lines 4, 5, and 6.

Mr. GARN. Mr. President, amendments No. 315 and No. 317 are introduced as equity amendments. Under the committee bill, international parks, national wilderness areas, and national memorial parks which exceed 5,000 acres in size, together with national parks which exceed 6,000 acres in size, are automatically class I areas. Smaller parks and wilderness areas would initially be classified as class II areas, and the Governor would have the option to upgrade the classification to class I. There are a number of States with several very large parks and wilderness areas which would be discriminated against by this automatic classification. The discrimination would be in favor of State flexibility for States with smaller parks and wilderness areas.

For instance, where a State has only small parks, there would be no automatic class I areas under the committee bill. The State could redesignate the park or area as class I, but would not have to. Under my amendment, States with large parks and wilderness areas would be given the same rights: up to 5,000 acres of wilderness areas and 6,000 acres of national parks could be kept by the Governor in class II status.

In the event that amendment No. 315 is not accepted, I would expect to call up No. 317, which would simply classify all international parks, national parks, wilderness areas, and national memorial parks class I, regardless of size. I ask

unanimous consent that amendments No. 315 and No. 317 be printed at this point in the Record.

There being no objection, amendments Nos. 315 and 317 were ordered to be printed in the Record, as follows:

#### AMENDMENT No. 315

On page 12, line 13, change the semicolon to a comma and add the words "except that the Governor of a State may designate as class II the first five thousand acres of any national wilderness area or national memorial park which lies entirely within the boundaries of his State, and the first six thousand acres of any national park which lies within the boundaries of his State: *Provided*, That the exempted area is compact and contiguous and located at the boundary of the park or wilderness area;"

#### AMENDMENT No. 317

On page 12, line 9, delete the words "which exceeds five thousand acres in size,".

On page 12, line 11, delete the words "which exceeds six thousand acres in size,".

Mr. GARN. Mr. President, amendment No. 316, which I have introduced with Senator HATCH, addresses what is in my view the most critical aspect of clean air legislation: Nondeterioration. As the Senate knows, there has been some doubt about the intent of the Congress in this area, since the 1970 Clean Air Act was passed. The Environmental Protection Agency initially held that no national policy of nondeterioration was intended by the Congress in 1970. Several Federal courts held otherwise, and in 1972, the Supreme Court, by an equally divided vote, upheld the decision of the Court of Appeals. The practical effect of this decision was to order EPA to write regulations providing for the maintenance of air cleaner than the primary and secondary standards.

In my opinion, the fact that there was so much uncertainty is clear evidence that Congress was not, in fact, adopting a policy of nondeterioration. Congress has never been bashful about usurping State responsibilities, and can do so in a clear and unequivocal manner, when it wants to. What is happening here is a classic case of judicial interference in the legislative process. The Federal courts have decided that we should have a national policy of nondeterioration, and that therefore, Congress must have wanted to enact one, and that therefore, Congress did enact one. And now, we appear to be intent on meekly following the lead of the courts.

Last year, when the Clean Air Act was before the Senate, Senator SCOTT, of Virginia, introduced an amendment, which I was happy to cosponsor, which clarified congressional intent. What the Scott amendment did was to establish a limit to Federal responsibility. The limit established was that of health and welfare. In effect, Senator SCOTT said, it is the responsibility of the Federal Government to establish air quality standards sufficient to protect health and welfare. That is what the primary and secondary ambient air quality standards do. Beyond that, the Federal Government has no responsibility. It is not the job of the Federal Government to protect clean air from people. The beauty of the land may be desirable, and the majestic vistas of our country may deserve protection. But,

and this is the critical point, it is not the job of the Federal Government to protect them. If they are to be protected, they must be protected by local government, which alone stands close enough to the problem to find solutions, which alone can carry out the delicate balancing task needed to preserve our environmental values, and at the same time provide the jobs Americans need. Senator SCOTT apparently felt, and I agree with him, that local government will protect the environmental values that are so important to us, but that local government knows enough to reject extreme views, unrealistic views, about how much damage our economy can sustain.

With the passage of another year, we now appear to be ready once again to do the will of the Federal courts, and enact a national policy of nondeterioration. If we are to do so, Mr. President, it is critical that we retain for our local officials the maximum flexibility to balance environmental and economic demands. In other words, we must draw a line limiting Federal responsibility. If we are not to restrict the Federal Government to health and welfare, we must at the very least limit it to nondeterioration, and not allow it to get involved in land use and growth pattern control. In order to do that, we need to understand the meaning of the term "nondeterioration."

As I conceive it, air quality deteriorates over an extended time period. If there is a pollution alert here in Washington, we cannot say that air quality has "deteriorated." It may have, and probably has, here in the District of Columbia, but we can only make that judgment by comparing air quality with some point in the past. What the committee bill does is say that the comparison may be made with yesterday, or perhaps with a period 3 hours ago. In my mind, that approach is unrealistic and unnecessary. It is only meaningful to discuss "deterioration" over some longer period, such as a year.

For example, during a dust storm, a forest fire, or during the construction of the facility itself, the air quality is very poor. But the fire is extinguished, the storm subsides, or the construction ends leaving the air quality very much as it was before. It is not deteriorated in any way. By the same token, meteorological events occasionally conspire to produce temperature inversions, or adverse wind currents, which may temporarily affect the air quality over a given area. As it happens, the conditions are not permanent, and as the weather changes, the air quality reverts to its prior condition. It is not deteriorated in any way.

The basic thrust of my amendment is to take into account these natural phenomena. The committee bill says that if there is an inversion, or if the wind blows the wrong way, even over so small a space as 3 hours, air quality is deteriorated. What is even worse, is that the bill would prevent the construction of a facility on the strength of computer projections of amounts of pollution so small that they cannot even be measured. In my mind, that is simply unacceptable.

There is no showing of health hazard, or any damage to the well-being and welfare of people. In point of fact, since we are dealing here primarily with sulfur oxides, we are not even talking about impairment of the view. To prevent the development of needed resources, the creation of needed jobs, just to satisfy the theoretical demands of computer models is to deny common-sense and to allow our lives to be ruled by mechanistic models.

What my amendment would do is hew closely to the real meaning of the term "nondeterioration." My amendment says that air quality in Class I and Class II areas cannot deteriorate from year to year. Nor can the primary and secondary health and welfare standards, which do have 3-hour and 24-hour maximums, ever be violated. But the 3-hour and 24-hour maximums supposedly relating to nondeterioration would be struck from the bill. I ask unanimous consent that my amendment No. 316 be printed at this point in the RECORD.

There being no objection, the amendment No. 316 was ordered to be printed in the RECORD, as follows:

#### AMENDMENT NO. 316

On page 13, after line 20, amend the table to read as follows:

| (In micrograms per cubic meter)           |     |
|---|-----|
| "Pollutant:                               |     |
| Particulate matter: Annual geometric mean | 10  |
| Sulfur dioxide: Annual arithmetic mean    | 15" |

On page 17, following line 6, amend the table to read as follows:

| (In micrograms per cubic meter)           |    |
|---|----|
| "Pollutant:                               |    |
| Particulate matter: Annual geometric mean | 5  |
| Sulfur dioxide: Annual arithmetic mean    | 2" |

Mr. GARN. Mr. President, the Nation faces the twin critical issues of unemployment and energy, with their solutions increasingly unclear. What is clear is that excessive attention to environmental concerns, without a balancing sense of a need for orderly development and growth has contributed immeasurably to the problems. Current Federal efforts go far beyond what is needed to restore man's environment. They now go to the critical choices which have always been left to individuals: Where we will live; how we will live; how we will use our resources. This administration has not been bashful about injecting itself into these most private of decisions, with ominous implications.

As far as the employment issues goes, let me quote Robert Georgine, president of the AFL-CIO Building and Construction Trades Department, to the effect that—

The small, vocal and extreme environmental groups [are] the chief culprits in the current fuel emergency and energy crisis.

As long as our population continues to grow, we will need jobs for our children. It will not do to say "we shouldn't be having so many children, so let's stop providing jobs for them." But in essence, Mr. President, that is what some of the environmentalists are saying. They do not often say it openly, but sometimes

they even do that. For instance, Congressman WAXMAN of California admitted, during the House debate on this very bill, that what was at issue was not clean air, but the control of growth. I have heard the same thing from other politicians, and from the so-called public interest groups.

Jobs are needed, and we will be foolish to prevent the growth that will provide them. At the same time, we need the energy to fuel our Nation, and if we are to avoid unpleasant international situations, it is imperative that our energy sources be domestic ones. There is a close relationship between environmental protection, and our environmental protection laws must be adjusted to reflect our understanding of that relationship. My amendment would remove the strict and burdensome requirements relating to nondeterioration, while at the same time preserving the most meaningful measure of clean air. I hope it will be supported when the Senate takes the bill up later this week.

#### BOB GIAIMO

Mr. RIBICOFF. Mr. President, the congressional budget process is almost 2 years old and still experiencing growing pains. In the House this year, the process could have seriously suffered, were it not for the able and competent leadership of my good friend from Connecticut BOB GIAIMO, as chairman of the House Budget Committee. Congressman GIAIMO took over the reins of the Budget Committee after its first chairman, Brock Adams, was named Secretary of Transportation. Last month, the first concurrent budget resolution seemed headed for a major defeat. BOB GIAIMO realized that the congressional budget process itself was at stake. He revised the budget resolution and shepherded it through the House, by arguing that the health and viability of the budget process necessitated compromises on specific spending proposals.

In his handling of the budget resolution, BOB GIAIMO again showed himself to be a man of fairness and reason with a clear perspective on major issues.

Recently, the New York Times featured an article on BOB GIAIMO which gives an accurate picture of both the man and the legislation. I commend this article to the attention of my colleagues. Mr. President, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

#### GIAIMO: CAPITOL BUDGET MAKER (By Edward C. Burks)

On the wall behind the clutter of papers and budget reports on his desk there is a splendid symbol of the Renaissance. It's a large sketch of the Duomo, the famous Florentine cathedral, a gift—the sketch, that is—from the Mayor of Florence.

It occupies a special place just behind his chair and provides a touch of serenity in the hurly-burly of an office where billions of dollars are tossed around in conversation. This is the inner sanctum of Robert N. Giaimo, Democrat of Connecticut who is chairman of the House Budget Committee,



which put together—after weeks of hearings and debate—a \$462 billion spending estimate for the Federal Government for the fiscal year 1978.

A 15th-century Medici would feel at home listening to the big-money telephone conversation going on as the Congressman talks to another influential committee chairman:

"Yeah, Al Gross has been talking to Shapiro, and we're going to take out the 10.5 billion. We've been working with you, and I'm even asking you now if you want to make any changes. I don't want to be in the position where we pull out the 10 billion and then find we're putting half of it back later."

In scores of somewhat mysterious telephone conversations and in long hours of budget committee hearings, the amended budget for the current fiscal year ending Sept. 30 and the "target figures" for the 1978 budget have been shaped.

The scene shifts, and it's a few days later. Mr. Giaimo, who ought to be nettled, is holding a news conference. In a session running past midnight, the full House has first tacked on \$5 billion more in spending to his committee's recommendation and then suddenly has sent the whole set of figures back to the Giaimo committee to be re-worked. In short, the budget committee, set up to bring discipline to the budget-making process, has seen its careful estimates rejected.

Without raising his voice, Mr. Giaimo says that the whole thing fell through because President Carter tried to treat Congress "like the Georgia Legislature" and dictate what it should do. "You just don't call from downtown [the White House] and tell the Defense Secretary to call the Armed Services Committee and then expect to write a budget resolution that way," he says. And, "you can't pass a budget out of the House without the support of moderate and Liberal Democrats."

He is commenting on the confrontation between Congressional forces favoring increased defense spending and those who want to cut back on the rapid rise of the defense budget and plow more money into social programs. In committee he had supervised the trimming of \$2.3 billion from Defense Department requests—not a huge sum considering that defense is getting about \$120 billion.

But on the floor, advocates of restoring that money were no longer low-key as they had been in committee. They blasted his budget as unrepresentative of the House and the nation. And the other side demanded more social spending.

A few days later Mr. Giaimo is back on the floor with his budget, still unflappable. His committee has accepted compromise, and he has reluctantly seen the deficit grow by another \$2 billion to \$66.2 billion. But at least the committee has cut \$3 billion of the \$5 billion that the House had tacked on. This time the budget resolution sails through the House to quick approval. More arguments lie ahead with the Senate and when a final version has to be worked out in September.

Forty years ago, Mr. Giaimo, the son of a Sicilian immigrant, worked several summers as a teller in his father's small New Haven bank at \$15 a week. Later, he studied law and went into politics. How does he qualify for the heavy-hitting role in Federal budget-making that he has today?

Maybe there's an easy answer, he feels. He tells of learning about the close ties between purse strings and power politics a quarter of a century ago while serving as one of the three Selectmen in North Haven, his hometown.

An odd situation developed. He was the Democrat, outnumbered by two Republicans, but one of the latter died, and there was an argument about how his successor should be chosen. He thought the Republicans were trying to roll over him in a power play by

refusing to consult him on how the vacancy should be filled. He served notice that he could tie up all activity by refusing to give his required counter-signature on town checks.

The legal hassle boiled into a lawsuit. Mr. Giaimo recalls with pleasure: "We won that damn case." In the meantime, he didn't go so far as to paralyze town activities, but he did force the Republicans to go along with his proposal for governing on a strictly bipartisan basis.

Ironically, he says, it was a long-time Republican head of the board, Joel Beech, "an old-time, Yankee businessman-farmer" who gave him much of his political education. "I learned things about budget-making that we talk about down here," he says. "The only thing you do now is add a few zeroes on the end."

But it was his father, Rosario, a self-made man, one-time lawyer, banker, language teacher, politician, community organizer and leader in Italian-American groups, who pushed him into community and political affairs, telling him: "You've got to be active. There's a big world out there. You can't just sit around."

He describes his father as a strong-willed, "broad-gauged guy." In 1960, after his father's death, the Congressman attended a ceremony at the Giaimo bank when it was formally merged into a larger New Haven bank of which the Congressman is still a director. He remembers: "When the chairman brought the meeting to order by banging his gavel, my father's portrait fell off the wall."

Now 57, Representative Giaimo was first elected to Congress in 1958 and has served several terms on the Appropriations Committee. Tall, dark-haired, bespectacled and verging a bit on the portly side, he has a serious, determined look about him.

But when he's in a good mood he will croak an aria in Italian from Verdi's "La Traviata." And he's a jazz and swing buff, particularly responsive to the big band and combo sounds of the 1930's and 40's. In fact, he not only has a big record collection of such music at home, but he also has a large supply of tapes of the sounds he likes right in his office. When Mr. Giaimo talks about his really favorite troubador—and his father's picture may fall off the wall at this—it's not Verdi's *Trovatore* but Frank Sinatra.

He seems to have inherited a large share of his father's strong will. After the Democratic caucus selected him over Representative Thomas L. Ashley of Ohio by a vote of 139 to 129 last January to head the two-year-old Budget Committee, he told the committee members in submitting his 1978 estimates for their consideration: "While I am flexible, I want to stress that I am determined as well."

The basic job of the committee, as he sees it, is "to compel Congress to discipline itself, to force us to begin to look at existing programs and to evaluate them, to make real estimates, and to learn to say 'no' to spending requests."

He regards himself as a liberal Democrat on social legislation and a moderate when it comes to budget-making. That's why he was upset when he felt that defense spending was getting favored treatment at a time when his committee had been striving for "a reasonable balance among all competing interests." But he had no doubt that a compromise could be worked out and a "first resolution" of the 1978 budget passed as required by May 15.

Before the House set up the 25-member Budget Committee in 1975, seeing to it that key members also sat on the powerful Appropriations and Ways and Means Committees, the budget-making process had become chaotic.

As Mr. Giaimo explains it, the President agreed to stop impounding funds if Con-

gress put its budget-making mechanism in order. But since the committee comprises 17 Democrats and eight Republicans and represents a wide range of loud-spoken opinions, it would be a mutinous vessel indeed without a strong chairman and without a strong sense of discipline among its members.

In the committee discussions this spring, Mr. Giaimo found that he had "to walk a delicate line." There are those on the committee such as Representative Elizabeth Holtzman of Brooklyn and Parren Mitchell of Maryland, both Democrats, who feel that entirely too much is allocated for defense and nowhere near enough for the country's "human and social needs."

Others like Marjorie S. Holt, Maryland Republican, and Omar Burleson, Texas Democrat, fight against proposals to cut Defense Department estimates. Mr. Giaimo insists that the trims finally agreed on will not affect troop levels and will not affect purchases of major weapons systems.

There was a surprising lack of rancor in committee. Miss Holtzman, despite some disagreements with the chairman, says: "I think he's extremely competent and extremely fair, and I have enormous respect for the leadership he has given the committee."

Another member on the other side of the fence, Barber B. Conable, upstate New York Republican stalwart, comments: "He had a tough act to follow. Brock Adams [the first committee chairman] was a successful initiator of the new budget process. Mr. Giaimo addressed himself to the different problems and to a somewhat distracted membership with good humor, industry and attention to the necessary details. He is carrying a large part of the burden of the committee."

In the late 1960's Mr. Giaimo and his wife, the former Marion F. Schuenemann, built a three-story brick townhouse on D Street between First and Second Streets, not far from the Capitol, long before this area made its dramatic comeback as a residential area. "We're a very close family," he says. His grown daughter has moved here and frequently joins her parents for a dinner or an outing.

The Congressman plays golf "every chance I get," and has a quiet night out with his wife once a week or so, maybe at Kennedy Center (an opera or a concert) or at a restaurant, or to a dance. But he also maintains close ties with his native heath in Connecticut and looks forward to going back there permanently when he retires.

There's such a thing as "belonging to a place," he says. On a recent visit home he got a jaunty salute from a woman who had known him during their high school days. Her sally was that old-fashioned, but pleasing one nevertheless: "I used to chase you around but you ran too fast for me."

## S. 790—THE EDITORIAL VIEW

MR. DOMENICI. Mr. President, the issues involved in S. 790 have recently attracted increasing attention from the editorial writers of some of the Nation's leading newspapers.

Just last Friday, for example, the Washington Post ran an editorial entitled "Pass the Barge Bill." This editorial stated that newspaper's support for implementation of a system of waterway user charges, as proposed in the version of S. 790 that was reported to the Senate floor by the Committee on Environment and Public Works.

Mr. President, because of the importance of this issue and the positions taken by some of the Nation's leading newspapers, I ask unanimous consent that a sample of these recent editorials be printed in the Record.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 3, 1977]

#### PASS THE BARGE BILL

For more than 35 years, one administration after another has tried to persuade Congress to impose user charges of some kind on the inland waterways network. This year, at long last, there appears to be a chance that Congress can be persuaded to do so. The opportunity ought to be seized. The subsidy that the federal government supplies to commerce on the rivers and lakes has gone on long enough.

The issue here is not just revenue for the government to make up for the money it spends to benefit particular groups and industries. The more important question has to do with more equitable treatment for competing industries. The barge industry is the only major mode of freight transportation that does not pay at least part of the bill for the maintenance of its right-of-way. The railroads have been paying all along, although they are now being aided by government loans and grants. And the trucking and airline industries both put up a substantial amount of money for highways and airports. The result of this difference, of course, helps to keep the cost of moving freight over water substantially lower than moving it over land or in the air.

The size of the subsidy is substantial. The Corps of Engineers builds and operates more than 250 locks and dams in addition to dredging channels to keep them deep enough for the bigger ships to use. The Coast Guard provides navigation aides and the Maritime Administration guarantees loans. Taken together, the federal subsidies to the waterways network approach a billion dollars a year.

Every effort in the past to reclaim some of this expense in the form of user charges—tolls on the locks or additional fuel taxes, for example—has been rejected because of the influence in Congress of key members whose home states profit enormously from river traffic. Indeed, the Senate Commerce Committee voted last month, 14 to 1, for a study of the whole issue after the Senate Public Works Committee had voted, 14 to 1, in favor of a user fee proposal advanced by Sen. Pete V. Domenici (R-N.M.).

Well, that's the difference between two very different constituencies—commerce and public works. In any case, it is hard to imagine a subject less in need of further "study." The question has been examined by the government at least 17 times since 1939 and congressional hearings have been held on various occasions since 1946. There is sufficient evidence on hand to demonstrate that user charges will not kill the barge industry, nor even cripple it substantially. The latest studies show that the imposition of such charges could cost that industry some 5 to 15 percent of its business because its rates will have to go up. Rather than make a case against user charges, those figures suggest that the railroads have been right all along: the free ride the barge industry has received has helped it skim off freight that, on the basis of non-subsidized costs, would have gone to the railroads—and thereby would have reduced the railroads' need for government help. It is time for Congress to face that and to stop spending general revenues for the purpose of helping an industry that is now strong enough to help itself.

[From the Chicago Sun-Times, May 21, 1977]

#### WARNINGS ON ALTON DAM

Transportation Sec. Brock Adams' warning Thursday on Alton (Ill.) Lock and Dam 26 is welcome news for those concerned about the impact of plans to rebuild the Mississippi River facility.

Adams said he would ask President Carter to veto any legislation authorizing a new Alton lock and dam unless it included imposition of user fees on commercial waterway shippers. That flashes a warning to Sen. Adlai E. Stevenson III (D-Ill.), who has gone along full-steam with Army Corps of Engineers plans for the Alton project. Two months ago, we detailed the reasons why the Stevenson-Corps Alton plans should be shelved, at least until further study.

The arguments are still valid. They include General Accounting Office findings of cheaper ways to repair the locks, Transportation Department studies showing no need for expansion now, Congressional Budget Office warnings about the plan's financial consequences and environmentalists' fears about damage to Mississippi River ecology.

After those dangers were pointed out, Stevenson amended several key environmental-protection measures out of his proposal. And he still wouldn't guarantee the Illinois River the same channel-depth protections that his bill would assure the Mississippi.

Even so, the Senate Public Works and Commerce committees have approved the bill. Sen. Pete V. Domenici (R-N.M.), however, added a user-fee provision despite inane opposition from several other senators. Sen. Ted Stevens (R-Alaska), for example, complained that the measure would make pleasure boaters pay fees—even though the measure specifically excludes pleasure craft.

Things got so tangled that Commerce Committee Chairman Warren G. Magnuson (D-Wash.) sounded as if he just couldn't cope: "We'll let the staff clean all this up."

There should be no rush to "clean it up" now—unless that means ordering fuller hearings on alternate plans so senators can get a clearer idea of the kind of boondoggle they're on the verge of authorizing.

Adams has added his warning to the others. The Senate should listen.

[From the Minneapolis Tribune, May 5, 1977]

#### A SENSIBLE DELAY ON THE ALTON LOCK

At the urging of the Carter administration, a Senate subcommittee has agreed to a sensible 18-month delay on construction of a controversial new lock and dam on the Mississippi River at Alton, Ill. The delay would allow the administration to complete needed engineering studies. We hope the rest of the Senate follows suit.

Backers of the proposed \$420-million lock—mainly the U.S. Army Corps of Engineers and barge and shipping interests—say the new lock is needed to handle the waterway's growing traffic. Opponents—environmentalists and several state and federal agencies—warn of environmental damage if traffic is increased and argue that the old lock can be rehabilitated at much less cost. A recent U.S. Department of Transportation report supports them: "Existing capacity will suffice at least until 1990." The whole question of the desirable level of capacity, the DOT said, "should be the subject of a major and extensive study of the whole (Mississippi waterway) system. There is ample time to conduct such a study." We agree.

The Senate subcommittee also approved a waterway user-fee proposal. Historically, waterway improvement has been paid for out of general-revenue funds. This, in effect, has been a taxpayer subsidy for barge operators and shippers, estimated to be worth \$1 billion a year. Under the proposal, user fees would recover 50 percent of future waterway construction costs and 100 percent of operating and maintenance costs. The Carter administration supports user fees. So do we.

What we do not support, however, are congressional efforts to link the two issues—the lock and the user-fee—as the subcommittee

bill would do. The two issues are related, but only in the sense that the lock is on a waterway used by barges. Otherwise, they should be considered separately. And, furthermore, user-fee proposals should have priority, as the Carter administration has suggested. The case for this was well put in Senate testimony last month by a Columbia University economics professor, William Vickrey: "If appropriate user fees are imposed, traffic patterns may change sufficiently to reveal the fact that extensive expenditures on the (lock and dam) facility would not be justified on a cost-benefit basis."

Delaying lock construction for 18 months would give Congress time to pass a sound user-fee law as part of a needed national transportation policy.

[From the Alton Telegraph, May 3, 1977]

#### DELAY ENCOURAGING

The news about Alton Lock and Dam No. 26 was both encouraging and discouraging Monday.

The Carter administration recommended that Congressional action on the project be delayed 18 months for a detailed \$12 million engineering study of the much-kicked about alternate proposals:

1. To repair the existing facility, or
2. To replace it.

The report on which the recommendation was based held that currently there is no pressing need for a proposed 1,200 foot lock (to replace one of 600 feet).

The existing capacity, said the report, should suffice until 1990.

For many the further delay could be discouraging. Delays always are.

The encouraging news is that the matter is still under serious consideration and stands a chance of being revived.

The longer lock may well disclose alternatives other than those already under consideration.

One important consideration, if events warrant it, is what affect use fees and other methods of making the deep waterways at least partially finance themselves will have on barge traffic—and consequently the need for more capacity.

Congress should act speedily on this fee question so that engineers as well as deep waterways transportation operators can develop a basis for this judgment.

Speedy action on the use fees might have the effect of holding back development of river traffic and thereby reducing the need for enlargement of locks capacity.

Congress should see to it that the river operations begin to pay partially for themselves.

And the sooner we have a chance to judge the effect on the balance between river, rail, and truck transportation, the more accurately planners can gauge what has to be done about the lock.

[From the Chicago Tribune, Apr. 5, 1977]

#### THINK NOW, DIG LATER

Locks and Dam 26 is the subject of a major, complicated, and too little understood controversy coming to a head in the near future. This installation in the Mississippi River near Alton is just above the Missouri River and just below the Illinois River. The present question [and one under discussion for years already] is whether to repair and maintain the present locks, or to replace the installation by a new and bigger one two miles downstream.

In favor of replacement are the Army Corps of Engineers, the barge industry, Sen. Adlai Stevenson [D., Ill.], Representatives Melvin Price [D., Ill.] and Paul Findley [R., Ill.], and assorted construction interests. In favor of rehabilitation are the railroad industry, Representatives Edward R. Madigan [R., Ill.] and



Abner Mikva [D., Ill.], and the environmental lobby.

In a 1974 decision on a suit involving the issue, Judge Charles Richey said, "This court is sensitive to the fact that the public interest lies with both parties. On the one hand, the public is concerned with maintaining the environment as well as the existence of the numerous midwestern railroads, and on the other with the traffic delays and structural integrity of the existing Locks and Dam 26 as well as the free flow of commerce up and down the Upper Mississippi River and Illinois Waterway."

The stakes are huge. Replacing Locks and Dam 26 would cost an estimated \$473 million, at least, in contrast to a price tag of only \$52.7 million on the rehabilitation advocated by the Western Railroad Association. A rehabilitation proposal by the Illinois Department of Transportation would cost about \$70 million.

There is more at stake than what happens at Alton. No. 26 is a pivotal part of two upstream navigation systems, the Illinois River and the Upper Mississippi. The Corps of Engineers is suspected of contemplating a step by step rebuilding of both waterways [as it has already done on the Ohio River], at an ultimate cost of billions of dollars in contracts and incalculable impact on the competing bulk carriers, the railroads.

Sen. Stevenson, as a sponsor of a new and bigger Locks and Dam 26, in his bill disclaims the 12-foot channel in the Upper Mississippi and in his speeches talks about imposing user charges on the barge lines. His opponents are not reassured. The Corps of Engineers long ago was writing memos about deepening the Upper Mississippi; and it is notably persistent. If talk about user charges is sincere, why not impose them now?

As recently as September, 1974, the Corps of Engineers themselves said of No. 26, "The inspection team concluded that the dam appeared to be in satisfactory condition and operationally adequate." Present talk about how the dam is in danger of imminent collapse may be discounted as campaign oratory.

In this controversy, to dig now and think later is clearly undesirable. As the federal Department of Transportation said in a report issued recently, "The whole question of the desirable level of capacity on this waterway system should be the subject of a major and extensive study of the whole system. There is ample time in which to conduct such a study."

Demands for an immediate settlement in favor of the barge industry and the Corps of Engineers should be rejected. The issues are too complex and too little understood, the stakes too great, for the Locks and Dams 26 issue to be decided as just another Corps of Engineers project, rather than in the context of the nation's total transportation system and economy.

[From the Chicago Sun-Times, Mar. 25, 1977]

#### TURN OFF WATER PLANS \* \* \*

Lawmaker's don't like to have the slats kicked out of their pork barrels, but that's just what President Carter did in suspending action on 19 water projects last month and another 14 on Wednesday.

Such projects often show that senators and representatives are "doing something" for the folks at home. But by ordering review of the 33 projects, Carter and Interior Sec. Cecil D. Andrus are asking whether doing something may indeed be doing something bad.

Carter made crucial points: "We must . . . make certain that our investments are cost effective, and that the cost burdens are equitably borne and that the environment is protected."

That's his argument on those 33 plans, but it applies to another—one being pushed by

the Army Corps of Engineers and Sen. Adlai E. Stevenson, III (4-Ill.)—to expand Lock and Dam 26 at Alton, Ill.

Cost effectiveness? The Corps wants to spend at least \$391 million at Alton, by its estimate last year. Yet a Government Accounting Office report last November said repairs costing only \$85 million could keep the locks in full service for 50 years.

Transportation need? A U.S. Department of Transportation report this month said the locks there now could handle all projected traffic through 1990, at least. No great enlargement is needed.

The environment? Conservationists shudder at the prospect of carelessly increased barge traffic, rolling up polluted river bottoms while industry is cleaning up its act.

Cost burdens? A Congressional Budget Office study last summer said the waterway subsidy could bankrupt Midwest railroads. Stevenson advocates barge-traffic fees in speeches, but not in his bill—a point that has apparently escaped Gov. Thompson. After caution during the campaign, he now says he supports Stevenson's measure.

Better to follow the kind of caution Carter is showing on the other projects by assuring that the Corps didn't use outdated data for its studies, as many have argued. Better to study the full economic, transportation and ecological impact. Better to study the need. Better to ask first and dig later.

#### ANATOLY SCHARANSKY

Mr. PELL. Mr. President, on June 1, 1977, it was announced that the Soviet Union has charged Anatoly Scharansky, a leading Soviet Jewish dissident, with treason and espionage. According to press accounts the charge carries a minimum sentence of 10 years imprisonment and a maximum sentence of death.

Mr. Scharansky has been active in trying to help other Jews emigrate and in monitoring Soviet compliance with the 1975 Helsinki human rights accord.

As cochairman of the Commission on Security and Cooperation in Europe—the Helsinki Commission—I deplore the action of the Soviet Government in charging Mr. Scharansky with high treason. The charge that he acted as a CIA agent is patently absurd, and the harsh approach taken by the Soviet Union in this case does not augur well for the upcoming Belgrade conference to review the Helsinki Accords of 1975.

As the author of a recent Senate letter to General Secretary Leonid Brezhnev in behalf of Mr. Scharansky, I am particularly distressed that a heartfelt appeal signed by myself and 27 other Senators has been ignored. Mr. Scharansky's only crime is his courage to speak out for what he believes and to demand Soviet fulfillment of the promises made in the human rights provisions of the Helsinki Accords.

I know that this is a sad and cruel blow to Mr. Scharansky and his family, and I only hope—and urge—that the Soviet authorities will reconsider their action.

Secretary of State Vance testified today before the Commission on Security and Cooperation in Europe and reiterated the administration's concern in this tragic case and categorically denied that Mr. Scharansky was a U.S. agent. Secretary Vance also assured the Commission that individual cases will be addressed during this fall's meeting at Belgrade, Yugoslavia, which will review implementation

of the 1975 Helsinki Accords. In this regard, America's concern for human rights cannot be stated simply in terms of abstract principles. It is important to demonstrate that we are trying compassionately to help individual fellow human beings.

#### NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

James W. Byrd, of Wyoming, to be U.S. marshal for the district of Wyoming for the term of 4 years vice George O. Houser, resigning.

Andrew W. Danielson, of Minnesota, to be U.S. attorney for the district of Minnesota for the term of 4 years vice Robert G. Renner, resigning.

Thomas P. Sullivan, of Illinois, to be U.S. attorney for the northern district of Illinois for the term of 4 years vice Samuel K. Skinner, resigning.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Monday, June 13, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

(This concludes additional statements submitted today).

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business. If not, morning business is concluded.

#### HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1523, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 1523) to amend the Housing and Community Development Act of 1974; to extend housing assistance and mortgage insurance programs; and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIER. I yield myself such time as I may require.

Mr. President, this is a very complicated and complex bill.

The bill covers a considerable amount of territory, and for that reason it will be necessary for the committee to have a number of staff members on the floor for advice on the various parts of the bill. I ask unanimous consent that the following members of the staff of the Committee on Banking, Housing, and Urban Affairs be given access to the floor during the consideration of S. 1523:

Ken McLean, Bob Malakoff, JoAnn Barefoot, Michael Barton, Jim Schuyler, Tommy Brooks, Dan Wall, Pete Van Alstyne, Tony Cluff, Bob Kuttner, Howard Menell, Rob Locklin, Jerry Buckley, Bill Weber, and Carolyn Jordan.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. I make the same request in behalf of Howard Shuman of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs reported the Housing and Community Development Act of 1977 on May 16. The bill is based on 13 days of public hearings in March and April, in addition to extensive oversight hearings last year. The committee marked up the bill in 5 days of executive session in May.

The bill consists of five titles.

Title I deals with Community Development. It would reauthorize the block grant program for 3 years, providing \$4 billion in fiscal year 1978, \$4.1 billion in fiscal year 1979, and \$4.3 billion in fiscal year 1980, as requested by the administration.

The bill contains a major change in the formula used to allocate block grant funds among communities. Under the 1974 act, communities received funds through either entitlements or discretionary grants. Entitlements were based on either a formula which considered population, poverty, and housing overcrowding or, alternatively, on a hold-harmless average of the grants which the community had received under previous categorical programs between 1968 and 1972. The 1974 law provided that hold-harmless entitlements would phase out between 1978 and 1980, and that methods for allocating funds would be reassessed in 1977.

This reassessment has been carried out and has produced a general consensus that the 1974 formula is inadequate, particularly for the large, older, more deteriorated cities. Accordingly, HUD has recommended a new dual formula approach, which would give entitled cities and counties a choice between the formula in the current law and a new formula which tends to favor older communities. The administration has also proposed a new program of urban development action grants for seriously distressed cities. Under the administration's proposal, \$400 million annually during fiscal years 1978-80 would be available for these grants for neighborhood preservation and economic development, particularly distressed cities.

S. 1523 adopts both the administration's dual formula and the urban action program. It also provides an optional third formula, which would aid older cities more than the other options. This third formula would be phased in over 3 years, and would draw the required funds from the amounts authorized for the urban action program.

Title I would, in addition, revise the manner in which funds are allocated to smaller communities. The bill would change the existing system by authorizing HUD to make multiyear commit-

ments for comprehensive programs and would direct more funds to the older small communities of the Nation. These changes would, the committee believes, assure adequate funding for smaller cities which lose hold-harmless entitlements and would increase the effectiveness of the community development program in smaller communities.

Title I would also expand eligible block-grant activities to make more effective the loan provisions of the program, strengthen the targeting of benefits on low- and moderate-income persons, and authorize funding for section 312 rehabilitation loans and the section 701 comprehensive planning program.

Title II deals with assisted housing and related programs. It provides \$1.2 billion in new contract authority for the two major low-income housing assistance programs—section 8 rental assistance and conventional public housing. Some of these funds are earmarked for elderly housing and for projects financed by State housing agencies. A limit would be placed on assistance for multifamily projects which were financed under past Federal programs and can no longer meet rising operating costs, pending a further review of this problem by the committee.

Title II would also limit housing assistance payments for existing housing, to assure that this program is not used in low-vacancy markets where it will create inflationary pressures on rents, and to assure that the program is used as much as possible to contribute to an increased supply of decent housing for lower income people.

This has been a real bone of contention. People argue that if we provide housing payments for people living in existing housing, landlords will simply raise the rents and it will have an inflationary effect on rents generally. This does not increase housing stock. We are providing that those payments be allowed only in places with substantial vacancies and not in areas short of housing. In the areas short of housing, we provide for new construction.

Title III would extend the basic FHA programs and increase the maximum loan amounts for FHA-insured mortgages and for loans made by federally chartered savings and loan associations. The committee believes the increases are required to keep pace with inflation. To expand homeownership opportunities for young and moderate-income families, the bill would lower the downpayment required for FHA loans and expand the graduated payment mortgage program authorized in 1974.

Title III would also strengthen the Government National Mortgage Association emergency tandem plan. This is a standby program to provide funds to the mortgage market during credit shortages.

It can build houses at such times at virtually no cost to the Federal Government. However, use of the program is at HUD's discretion, and we do not have any proposal in this legislation that would require the use of the Tandem Plan now. The feeling on the part of the administration, on the part of the committee, and I expect on the part of the

Congress, is that in view of the recovery, in view of the drop in unemployment, this plan should not be used at the present time. I disagree with that, but I am in a minority and I will not press it.

Title IV of the bill would authorize a new Community Reinvestment Act. Under this act, Federal financial regulatory agencies would be required to assess a financial institution's performance in meeting the credit needs of its primary savings service area to an extent consistent with sound business operations.

This is a very vital part of this bill. I understand there will be an amendment which will eliminate or greatly reduce the effectiveness of this provision. I think the provision is essential because if we are going to rebuild our cities, it will have to be done with the private institutions. The banks and savings and loans have the funds. They have well over a trillion dollars in assets. They get those funds from the local communities.

What we provide is that the regulatory bodies, in passing on whether a bank or a savings and loan would be allowed to branch or grow or extend by having other units, would take into consideration whether or not that institution had reinvested in the community. Unfortunately, we find many banks and many savings and loan which take money from the community and reinvest it elsewhere, in some cases abroad, in some cases in other parts of the country. That is fine, provided it is not overdone. We have found many cases where these institutions have invested virtually nothing in the local community. We think this ought to be taken into consideration as one element in deciding whether or not the institution would be allowed to grow. I am sure we will hear a lot more about this in the next day or two because I expect an amendment will be called up to try to delete that provision from the bill. I hope very much the Senate will decide to keep it in the legislation.

Title V deals with rural housing. It would extend and authorize funds for the housing programs of the Farmers Home Administration. It would also make several changes to strengthen these programs.

In addition to the community reinvestment title, title IV, which I expect will be subject to an amendment which will be discussed at some length, there will also be, I understand, an amendment called up to knock out of the bill a provision that would change the present accounting method for housing.

At the present time, thanks to action taken under the Nixon administration by Mr. Lynn, we have a situation in which the obligational authority for housing has been run out for 20, 30, or 40 years. For that reason we get a distorted, grossly exaggerated impression of the cost of housing, because then it is put into comparison with other programs which also carry a multiyear burden but which are calculated on a 1-year basis in the budget. In the Defense Department that is overwhelmingly clear, but it is also clear in many other programs.



I believe this is a correction, which the committee decided to adopt, which is very wise. It has the support of the AFL-CIO, the homebuilders, and others who are concerned and interested in housing. I am hopeful we can maintain that particular provision in the bill. Without this provision, it will be very difficult to comply with the commitment Congress made way back in 1949, that it shall be a goal of this country to provide an opportunity for every American family to have decent housing. Obviously, this will not happen if we do not provide the kind of allocation of resources on a priority basis which the budget would permit.

This new provision, only in existence since about 1974 or 1975, requires that we run out the cost of housing—not the cost of the B-1 bomber, not the cost of many other programs, but the cost of housing.

Finally, Mr. President, I will again mention the Federal flood insurance program. That is extended in this bill. The committee voted by a margin of 8 to 4 to reject an amendment to reduce the effectiveness of that program. This is a program which is working. It is not easy, because it is not popular in a lot of areas. I am sure every Member of the Senate has had constituents complain about the requirement to get flood insurance. We found, Mr. President, that if we permit people to move into flood-prone areas, it is not just their own risk they are taking. If they were, we could forget it.

It is a free country, let them do it. What happens, however, is that they live in these areas; then, as they get flooded out, the general taxpayers from all over the country have to step in and bail them out. We have done that again and again. This program, therefore, requires that they take out flood insurance—which, incidentally, is subsidized for a considerable period of time. Then, gradually, the homeowners would pay the cost themselves. Also, we discourage people from building in flood-prone areas by requiring flood insurance, and by requiring them to build the kind of structures which could endure in the normal kind of flood they may experience.

As I said, this program is controversial. We expect an amendment to be offered and debated at some length.

Mr. President, before concluding, I would like to take a moment to discuss three amendments which I anticipate will be offered during the floor debate on this legislation. The committee opposes these amendments, and I would like to explain why. I have briefly referred to the amendments earlier in my remarks.

The first amendment, to be offered by my colleague, Senator MORGAN, the junior Senator from North Carolina, would delete title IV, the Community Reinvestment Act. As I have outlined before, this title would specifically authorize the agencies which regulate federally chartered financial institutions to evaluate how well these institutions are meeting the credit needs of the areas which they are primarily chartered to serve. The provision is intended to eliminate the

practice of redlining by lending institutions.

The opposition to title IV is based, primarily, on three arguments. It is argued, first, that title IV is unnecessary because the regulatory agencies already have this power and are already using it. But the fact is that while some of the agencies do consider an institution's investment in its community, others do not. The absence of specific statutory language has, we have been told, undercut efforts to get a uniform policy of community reinvestment.

The second argument is that the bill would increase the paperwork of lending institutions. But the fact is that some regulatory agencies already carry out the review called for in the bill—and there is no indication that the paperwork involved has created unusual burdens.

The final argument raised is that representatives of financial institutions testified against the original bill, and continue to oppose title IV. But the bill I originally proposed has been drastically revised during the committee's markup, and I believe the substantive objections have been satisfied in title IV. The committee believes that the Community Reinvestment Act responds to nationwide demands that Congress do something about redlining. Something can be done—and without burdening lenders. The Federal Home Loan Bank Board and agencies of several States have already shown that a regulatory program can produce greater reinvestment in our communities.

Let me turn to another provision of the bill that is a matter of deep concern to the members of the Committee on Banking, Housing, and Urban Affairs and to others who are directly involved in efforts to meet our national housing goals and provide decent housing for all Americans. I am referring to section 208, which would amend the Housing and Urban Development Act to establish a method of calculating budget authority for housing assistance programs. It is the committee's view that the present method for calculating budget authority established by the Office of Management and Budget under the previous administration is inadequate and should be changed.

In testimony before the Appropriations Committee earlier this year, HUD Secretary Harris put her finger on the critical weakness of the present method. The current budget accounting practice, she said, "tends to exaggerate the costs of the Department's programs relative to other Federal programs, and it tends to distort the real financial impact of HUD programs on the Federal Treasury."

The Committee on Banking, Housing, and Urban Affairs has been troubled by the new budget accounting practice since it was introduced 2 years ago. In April 1975 I wrote to Congressional Budget Director Rivlin that the new method for calculating budget authority was "unrealistic, inaccurate and unfair, and I recommended that a study be undertaken to determine: First, how future expected outlays for housing assistance programs should be calculated, and

second, how budget authority for all other Federal programs should be calculated in order to provide a satisfactory and equitable comparison of program expenditures."

In the months since then, I have continued to hear from groups like the National Association of Home Builders, the AFL-CIO, the National Housing Conference, the Mortgage Bankers Association, the National Association of Housing and Redevelopment Officials, the Coalition for Low-Income Housing, the U.S. League of Cities and Conference of Mayors that the budget accounting guidelines under which HUD is operating are misleading and unfair.

Mr. President, I want to make it very clear that section 208 of the committee bill aims to provide, for housing programs, cost figures which are comparable to those used for other programs. The committee bill does not seek to duck the issue of housing costs. It seeks equal treatment for housing—not preferred treatment. The committee bill, in brief, directs HUD to prepare its budget to reflect in its request for new authority: First, all payments required to liquidate past contributions for contracts and second, all projected payments required to liquidate contracts entered into during the year ahead.

The committee intends that HUD would provide, in addition to its requests for authority to make payments, estimates of future payments that would be required under various assumptions regarding types of housing assistance provided, family income, and rent charges over appropriate time periods.

The committee believes that this method of accounting will enable the committees of the Congress most immediately involved in assessing the costs and benefits of housing programs—the Committees on Banking, Housing, and Urban Affairs, Appropriations, and the Budget—to compare the short-term as well as the long-term costs of providing housing assistance with the costs of providing new weapons systems, the costs of increasing benefits for veterans, the costs of building more highways and roads, the costs of providing more aid for U.S. shipping, and the costs of carrying the national debt.

Mr. President, we all know that the Federal Government will authorize this year millions and even billions of dollars for programs that will require additional appropriations next year and for years thereafter. Most Federal programs involve commitments for funding for more than 1 year, and many have operating costs in addition to the amounts authorized. Yet, with the exception of housing assistance, these commitments and required future obligations are ignored in the Federal budget. In contrast, under the Nixon-Ford guidelines still being used by OMB, the HUD budget shows that the administration is requesting almost \$33 billion in fiscal year 1978 for housing. But the \$33 billion requested by HUD this year includes estimates of what will be required to run the program 10 years, 20 years, 30 years, and even 40 years from today. Only housing for low-

and moderate-income persons, among Federal assistance programs, is budgeted in 1978 for costs that may be incurred in the year 2017.

A proposal for \$1 million in new contract authority for public housing or new State-financed section 8 housing for lower-income families is now required to be expressed in the budget as \$40 million in budget authority. This figure takes into account payments that may be made over the next 40 years, including estimated increases in rents resulting from inflation.

Contrast this with our budget treatment of the B-1 bomber. The fiscal year 1978 budget shows \$1.6 billion new budget authority, but who of us thinks this is the real long-term budget commitment involved? Cost overruns in defense programs are so common, we have come to assume they are inevitable, even though not counted in the budget. And what about future commitments to maintain this sophisticated weaponry? Surely this is no inexpensive matter. Yet, there is no long-run operating cost figure in the budget for us to assess. We spend \$7 billion each year for construction of new highways and roads, without even mentioning the additional billions that will have to be spent to maintain them. Nor do we run out the future obligations of the U.S. Treasury for the Federal debt. If we did, we should have to authorize, this year alone, over \$1 trillion just to pay the interest charges on the current debt, assuming no future increase in interest rates.

Mr. President, I have asked why housing programs have been singled out for special treatment in the budget. There are those who say it is a historical carryover from the Nixon-Ford era, and there is strong evidence that this is the case. As you will remember, President Nixon shut down all of our Federal housing programs in 1973, despite congressional protest. His HUD Secretary at that time, James Lynn, supported the moratorium on housing and ignored his pledge to the Congress that he would carry out the programs that were authorized to achieve our national housing goals. Mr. Lynn was then appointed Director of the Office of Management and Budget. He carried his fight against housing with him. It was he who, in 1975, ordered HUD to report budget authority as it now does. It is his directive that continues today to be followed by the OMB and by the congressional budget committees. The antihousing bias of the Nixon-Ford administration should not be continued. To eliminate this bias, the committee has adopted section 208.

It is also argued that housing's "special treatment" in the budget merely reflects two facts: First, that housing programs do involve multiyear commitments, and second, that housing commitments are legal contracts.

Mr. President, these two facts are correct. Housing programs do require multiyear commitments and legal contracts. This is because they operate through the voluntary actions of private lenders, homebuilders, construction workers, property owners, and local

governments and agencies, and require a significant amount of money over a long period of time.

But these two facts do not really explain housing's unique treatment for budget purposes in the Federal or congressional budget.

There are—as I have indicated before—other major Federal programs which have long-term commitments. Some of these are legal, others are moral obligations. It certainly is not clear that the Government's moral obligations are any less binding or less expensive than its legal obligations.

There is no practical difference between the Federal Government's continuing moral obligation to provide compensation to the unemployed, benefits to war veterans, social security payments to retired workers, and its legal obligation to continue to make housing assistance payments for lower income families. In reality, there are a number of programs which have no obligations budgeted for the future but for which expenditures in the future are more certain than they are for housing programs.

Mr. President, the question of how budget authority for housing should be calculated can be resolved simply. Require that budget accounts for all programs reflect anticipated expenditures over a common period. Correct the present practice requiring housing to count in this year's budget authority its maximum long-term commitment without requiring other programs with such commitments to do the same. Section 208 of the committee bill would improve both congressional and public decision-making regarding national priorities by presenting housing and other Federal assistance programs in the same way in the Federal budget.

Finally, I would like to say a word about a third amendment which proposed to alter very drastically the Federal flood insurance program. A similar amendment was considered by the committee and rejected by a vote of 8 to 4. The committee adopted, instead, the administration's proposal to extend the program through fiscal year 1978. The 1-year extension would give the new administration time to review the program, and the Senate another opportunity to conduct oversight hearings. I would like to recall for my colleagues the background of the flood program. It is crucial to understanding the committee's firm opposition to the amendment which Senator EAGLETON will offer.

In 1965, Congress directed the administration to study the feasibility of establishing an insurance program to deal with the problem of flood losses. The study showed that the hazards of flood damage in the United States have been rising steadily, and that demand for property in flood-prone areas is increasing. The study found that people are generally uninformed about flood risks. Most are overoptimistic about their chances of avoiding flood loss, or expect the Federal Government to bail them out should a flood disaster occur. The staff concluded that a flood insurance program could be established to save not only lives, but the high costs of property

losses that are borne by the Federal Government and by individual property owners.

But the study emphasized that for an insurance program to succeed, future flood losses must be reduced through local management of flood-prone areas. The continued unregulated development of flood-prone areas would undermine any effort to provide insurance protection for persons living in areas of flood risk. It is important to remember this, because in 1973 Congress amended the flood insurance law to require communities, as a condition for receiving subsidized insurance, to implement flood plain management regulations and to bar participation by federally regulated lending institutions in construction or real estate activities in communities which fail to participate. Experience showed that communities were not moving voluntarily to do so. Flood losses and Federal disaster expenditures were continuing to mount.

The Congress, after lengthy deliberations and considerable compromise, enacted the present program in order to take into account all viewpoints. And the program is working. More than 15,000 communities are participating in the program. More than 12 million flood insurance policies have been sold. Over \$30 billion worth of property is now protected by flood insurance. Local communities are adopting better practices to reduce the likelihood of future flood damage. It is projected that by 1980 the Federal Government will save almost \$2 billion each year as a result of the flood program—and private property owners will save even more.

Those who would amend the present law present two basic arguments to support their views. They argue first that this is an unnecessary infringement on the rights of private property. But experience has shown that this is not the case. Experience has shown that owners of property will build in flood-prone areas, lenders will make loans in areas that are flood prone, and people will buy in areas that are flood prone. And when the flood disaster occurs, the Federal taxpayers will pick up the tab out of compassion. The history of this program has demonstrated that "carrots" are simply not enough—some sanction is needed to stimulate communities to act. Under the current program, over 150,000 communities have responded. Each month brings new communities into the program. Communities recognize that this program protects private property without unnecessarily infringing on private rights.

Those who propose amending the statute argue, second, that the program has been plagued with problems, particularly with problems in mapping flood-prone areas.

There is no doubt that mapping has been a problem. But the problem of surveying and drawing maps for over 20,000 communities, showing block-by-block areas that are flood prone is a monumental task. It requires preparation of a preliminary, and then a detailed, final map. There have been problems in preparing these maps. But, I am pleased to



report, the problem of inaccurate or unclear flood maps is a problem of the past. All of the preliminary, and frequently inaccurate, maps have been redrawn, and thousands of properties have been redesignated.

The problems of mapping and securing understanding and agreement concerning responsibilities do not require a drastic legislative solution. They require continued congressional oversight. The Committee on Banking, Housing, and Urban Affairs plans to hold such hearings during this session, and to take any remedial legislative action needed.

This is not the time to interrupt a program that is beginning to produce savings that will amount to \$2 billion annually in a matter of years.

This certainly is not the time to turn from a program of insurance to a program of haphazard, emergency aid.

Congress has before it now yet another disaster relief appropriations bill.

The present flood insurance program offers a practical alternative to increased disaster relief spending. The flood insurance program accordingly should be retained without drastic amendment.

Mr. President, I hope that the Senate will adopt this bill. I have an amendment I expect to offer at a later time to cut the overall cost of the bill back to the level recommended by the administration. It is slightly over that now and I think it should come into conformance with the administration. I think we can offer that in a way which will be acceptable to most Members of the Senate.

In that event, of course, the bill will not only be in accordance with the congressional budget limitation, but also in accordance with the request of the Office of Management and Budget.

Mr. President, I reserve the remainder of my time.

Mr. BROOKE. Mr. President, I yield to the distinguished Senator from New Jersey such time as he may need.

Mr. CASE. Mr. President, I ask unanimous consent that during consideration of this bill, Alan Boyd of my staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, the distinguished chairman of our committee, the Senator from Wisconsin, has outlined the major provisions of Senate 1523, the Housing and Community Development Act of 1977. This is a significant bill which makes a number of "mid-course corrections" in our major housing and community development programs. I would like to highlight some of the important objectives of this bill.

First, the bill effectively addresses the issue of the formula for allocation of community development funds. Since the enactment of this program in 1974, I have been concerned that the community development formula has short-changed many of the neediest cities and towns, particularly the older cities of the Northeast and Midwest. For the past 3 years, only the "hold-harmless" clause, providing funds to these cities based upon their prior participation in HUD categorical programs, has protected most of these cities from severe reduc-

tions in funding levels. And beginning in fiscal year 1978, funding under "hold-harmless" will phase down by one-third each year until fiscal year 1980, when all communities will receive their basic formula entitlements.

This bill contains two changes in the formula which will help redress the imbalance in HUD's current allocation mechanism. First, the committee approved the administration's dual formula approach which would give communities a choice between the current formula and a new formula which measures age of housing, poverty and growth lag. The new formula gives increased weight to two factors which are far more sensitive to the needs of older communities—housing stock built prior to 1940 and the extent of a community's growth which falls below the national growth rate. Age of housing has been shown to be an extremely effective indicator of community development need. It also correlates well with a number of other factors such as high tax effort and loss of tax base, which are symptomatic of distressed cities. The new formula will make substantial progress toward directing funds at the neediest cities, particularly those which are phasing down from their "hold-harmless" levels.

The second formula change is an adjustment to the dual formula for "impaction." I sponsored this amendment in committee along with the distinguished Senator from New Jersey (Mr. WILLIAMS). The adjustment will consider a city's proportion of old housing stock relative to the proportion of old housing in all metropolitan areas. "Impaction" will better target community development funds at the cities with high concentrations of older housing. These cities, which are located throughout the country, have increased community development needs because of the impact of their older, deteriorated housing and obsolete infrastructure. These two changes go a long way toward redressing the inequities in the community development formula.

For smaller cities and towns under the community development program, this bill provides assured funding for those communities in need. Under this bill, the Secretary of Housing and Urban Development would be allowed to make multi-year commitments of discretionary funds to small cities with comprehensive community development programs. First priority in funding would go to those cities and towns which are currently carrying out a comprehensive program, and are phasing down from their "hold-harmless" entitlements. The criteria for awarding these grants would include the size of the city, its prior and present funding levels, its capacity to perform, age of housing and poverty. Discretionary funds will be allocated by State according to a dual formula which is similar to that adopted for the basic entitlement program for larger cities. I believe that these provisions adequately recognize the needs of smaller cities for assured funding to carry out their community development programs and reflect our awareness that many smaller cities are in distress and need a source of

longer-term funding to help meet their serious problems in housing and community development.

The bill also provides that no city currently receiving entitlement funds would lose those funds until the decennial census in 1980 determines that the population of the city has fallen below 50,000. HUD's use of updated census estimates for population would have resulted in a loss of funding for a number of communities including Arlington, Mass.; White Plains, N.Y.; Covington, Ky.; La Crosse, Wis., and others. The updated figures used by HUD have a margin of error and are not an accurate basis for determining a community's entitlement status. This provision will assure that these cities remain in the program until regular census data indicates that they no longer qualify for entitlement funding.

There are a number of other provisions in the community development title of the bill which should assist our cities in improving their housing conditions, encourage physical and economic development, and expand economic opportunities for low and moderate income families. I am very pleased that the committee bill provides for a housing preservation plan as part of a community's housing assistance plan—HAP. Cities would be required to identify deteriorated housing in their communities and devise a strategy for rehabilitation of the housing stock. This should prove to be a useful tool for communities to focus and target their neighborhood revitalization efforts.

At the same time, this bill provides a new authorization of \$60 million for the section 312 rehabilitation loan program. This program has been extremely successful in many communities and serves as an essential tool to help preserve existing neighborhoods. The program has suffered in the past because of administrative attempts by HUD to curtail the program and cut off its funding. I am hopeful that HUD Secretary Patricia Harris will improve the management and administration of this vital program so that it may serve its purpose as a vital supplement to a community's rehabilitation program using community development funds.

Mr. President, I believe that the changes and improvements in the community development block grant program contained in this bill make this program a much more valuable resource for assisting our cities in meeting their urgent housing and community development needs.

Title II of the bill contains the major housing provisions under the section 8 housing assistance and public housing programs. The bill provides funding for about 400,000 assisted housing units in fiscal year 1978, which will be allocated in accordance with local housing assistance plans. This will give local communities the opportunity to decide the mix of public housing and section 8 units, and to select the number of new, rehabilitated and existing units according to the needs of the particular community.

The bill provides for \$708.1 million for public housing operating subsidies. This

amount will be sufficient to fund operating subsidies at the level required by the performance funding system. There is also provision for at least \$42.5 million for modernization of existing public housing projects. Modernization represents a wise investment which is needed to preserve and upgrade thousands of basically sound public housing units throughout the country.

Mr. President, we have literally billions of dollars invested in public housing in this country. We must adequately maintain this housing. We cannot have our Government become the Nation's largest slum landlord, as has often been charged.

If we do not provide sufficient funds for modernization, there will be further deterioration of these housing units, and low-income families and the elderly will not be able to live in decent housing, and with some sense of dignity.

I am very relieved that the committee saw fit, and I hope the Senate will agree, to earmark \$42.5 million for modernization of existing public housing projects.

The committee report contains a strong recommendation to HUD concerning disposition of HUD-acquired properties under the section 221(d)(3) and section 236 housing programs. I chaired committee hearings in Boston on April 18 to hear testimony on the problems of multifamily subsidized housing in Boston. We heard that there is a serious foreclosure problem in Boston and a number of other cities and that HUD policies and practices have not contributed to solving this problem. In fact, witnesses indicated that when HUD acquires these properties after foreclosure, many projects actually deteriorated, and that poor maintenance and management were common problems in HUD-owned buildings. In addition, when these projects have been sold by HUD to private purchasers, HUD sells these buildings in "as-is" condition and has received an average return of no more than 3 to 7 cents on each dollar of its original investment. At the same time, rental subsidies to low- and moderate-income tenants are terminated so that tenants are faced with rent increases beyond their ability to pay or are forced to move.

The committee report strongly urges HUD to retain these projects until maintenance and management are brought up to an adequate level. If this would require rehabilitation and repairs by HUD, these should be performed while the projects are HUD owned. Then, when the projects are sold by HUD, HUD would receive a reasonable return on its investment and living conditions would be improved for the tenants. After sale, HUD should insure that tenants will be protected from rent increases through the use of section 8 or other rental subsidies.

There are a number of other problems in section 221(d)(3) and section 236 projects, which the committee will analyze at hearings on this issue later in the year. But the recommendations in the committee report will provide substantial benefit to the low- and moderate-income tenants living in these buildings, and will help provide HUD with a reasonable return to the FHA insurance fund.

Mr. President, I have been greatly concerned about the problem of homeownership affordability, particularly for young families of moderate and middle income who are being priced out of the homeownership market. I introduced the Young Families' Housing Act, Senate 664, in February of this year to assist these families in purchasing their first home. The committee bill contains the first part of the Young Families' Housing Act, which provides for FHA insurance of graduated payment mortgage. The graduated payment mortgage would reduce monthly mortgage payments during the early years of a mortgage and increase those payments during the later years. The availability of this mortgage instrument should give young families a greater opportunity for homeownership by reducing the burden of high initial monthly mortgage payments. The second provision of the Young Families' Housing Act, which provides for an individual housing account, will have to be considered by the Senate Finance Committee. The individual housing account would provide that young families could save up to \$2,500 a year in an interest-bearing savings account, up to a lifetime maximum of \$10,000. These savings would be deductible from income for income tax purposes and the interest income would be tax-exempt, if the proceeds were used for the downpayment on a first home.

Therefore, this savings account would help enable young families to make the downpayment on their first home.

Mr. President, I believe that there are two principal problems facing first-time home buyers. We have had almost a decade of young families who have been unable to afford their first home. The first problem, is accumulating the downpayment and that would be addressed by the individual housing account.

The second problem is high initial monthly mortgage payments, and the provision for an FHA-insured graduated payment mortgage in this bill should assist young families in entering the homeownership market.

I am hopeful that the provision for an individual housing account will be considered by the Senate Finance Committee during this session of the Congress.

Mr. President, the bill contains extensions for FHA programs, and extensions and authorizations for rural housing programs which are vital to our national housing efforts. The only provision which I would like to highlight would authorize FHA mortgage insurance where adverse economic conditions temporarily exist due to Indian land claims. Mortgages may be insured, at the discretion of the Secretary of HUD, if homeowners are unemployed as a result of these land claims. This provision would assist the residents of Mashpee, Mass., who are suffering severe economic distress as a result of Indian claims for their properties. This program would assist these hard-pressed families during this extraordinary situation.

Mr. President, I believe that this is an important bill which helps meet the urgent housing and community development needs in our country. I strongly urge my colleagues to support the bill.

Mr. President, there are many other matters that I could cover at this time, but I think they have been ably discussed by our distinguished chairman.

On the whole, I believe this is an important piece of legislation which helps meet the urgent housing and community development needs in our country.

I am hopeful that my colleagues will support this bill substantially as it has been reported by the committee. We have had lengthy hearings and markup sessions on this bill. I think this bill incorporates the best that could be done for housing and community development for 1978.

Therefore, I hope my colleagues will act favorably upon this legislation.

Mr. President, I yield the floor.

Mr. GARN. Mr. President, permit me, as a member of the Banking Committee, to review and discuss some of the complexities of the legislation we have before us. S. 1523, as reported by the Banking Committee, contains some 66 pages and covers a myriad of Federal programs in the areas of community development, housing, rural housing, mortgage credit, and title 4, which is identified as community reinvestment. More about that later.

For the convenience of my colleagues, I will proceed to move through the bill from title to title, highlighting some of the areas of importance to my colleagues. One of the most important points in this legislation is contained in title I, community development, wherein we propose the reauthorization of the block grant program for 3 years, 1978, 1979, and 1980. This will permit the communities, cities and counties to plan ahead at least for a 3-year period. It helps to remove some of the question, doubt, and concern on the part of city officials as they have to prepare for their annual budget process. Heretofore, Congress has been delayed in acting for one reason or another and has placed cities and counties across the country in precarious positions in trying to anticipate whether or not previously existing Federal programs would be continued, interrupted, reduced, increased, or whatever, making it nearly impossible for comprehensive fiscal planning on their part. We all know that local government in this country, for the most part, is the center of fiscal responsibility in government at all levels and Congress must not contribute or make more difficult their efforts to balance their budgets and improve their communities.

We have extended and authorized additional funds for section 312 rehabilitation loans and the section 701 comprehensive planning program. Both of these programs are extremely important and have been utilized with great success in communities throughout this country. I am personally committed to supporting both programs and am very pleased to see that, within the Department of Housing and Urban Development, the support is being rekindled on the highest levels for especially the 312 rehabilitation loan program. More and more people across the country are identifying the existing housing stock as the core upon which our efforts can be based to rehouse and house those who



are in substandard housing conditions or needy.

As far as section 701 comprehensive planning assistance is concerned, the committee has added a number of bureaucratic requirements which localities must identify and respond to as part of their application for CDBG and money such as this 701 planning fund will be helpful to the smaller, less sophisticated cities as they prepare their applications for community development block grants and similar programs. I cannot emphasize enough how strongly I feel and am committed to 312 rehabilitation loans and 701 comprehensive planning assistance.

In title II, housing assistance and related programs, a number of broad ranging programs have been dealt with in one way or another, ranging from the public housing program to research, flood insurance, and urban homesteading. A major change was made by amending the Housing and Urban Development Act to change the present method of calculating budget authority for housing assistance programs in order to provide for a "more satisfactory comparison in the Federal and congressional budgets of proposed expenditures resulting from various programs."

The goal is a laudable one, but more study and work needs to be done in this area before the budget consideration can be considered as acceptable. This is a very complicated and difficult subject to quickly review. I am sure that the Banking Committee will be giving this a good deal more attention in the months ahead. Criticism is made of the previous method of calculation, that of multiplying the total amount of new contract authority approved by the maximum term of the contract authorized. This may indeed be subject to question but, on the other hand, it is not correct to say that simply utilizing an annual authorization of a contract which could run anywhere from 1 to 15 years is correct either. As I said, this is a very troublesome procedure and more attention needs to be given it.

In title III, mortgage credit, a number of adjustments have been made in some of the programs for mortgage limits which were sorely needed to permit prospective borrowers to purchase homes in today's market and still be able to avail themselves of FHA mortgage insurance and other related insurance programs.

Another related adjustment came in the area of Federal savings and loan association mortgage limits which too were adjusted to provide for the increased cost of housing in this country.

Title IV, community reinvestment, is a section of the bill that has come in for severe criticism, and it should be pointed out that an attempt to remove that title from the bill was made in the Banking Committee and lost on a tie vote of 7 to 7. That should indicate to the Members of the Senate the degree of concern that the members of the Banking Committee have; however, suffice it to say that more will be said in this regard, as an amendment is before us to remove that title.

Title V, rural housing, extends a number of rural housing programs and pro-

vides for additional authorizations for their continuation. Senator MORGAN, the chairman of the Rural Housing Subcommittee, and I, as the ranking minority member of the subcommittee, held a 1-day hearing on rural housing during the past recess and I am pleased to be able to say that in my home State of Utah, the rural housing program is met with a great deal of acceptance and is amassing an excellent record as a program which is being utilized for the purpose intended by Congress. We expect to be bringing to this body a bill dealing more specifically with rural housing sometime before the end of this session. In the meantime, the provisions of title V are most desirable and will permit the rural housing program, as administered by the Farmers Home Administration, to continue.

All in all, the chairman of the Banking, Housing, and Urban Affairs Committee, and the ranking minority members of the committee, Senators PROXMIER and BROOKE respectively, together with Senator SPARKMAN, the chairman of the Housing Subcommittee—with Senator BROOKE also serving as the ranking minority member of that subcommittee, have brought to this Chamber a bill which, with some modification, could warrant the support of every Member. It is important that each Member give full consideration and support to a number of the amendments which have already been laid on the table. As I have said before, these will be discussed in more detail as they are brought up for consideration.

Finally, as one of my colleagues said during consideration of another matter some months ago, this is a bill I want to support but there are some changes that must be made. I urge my colleagues careful consideration of the many issues contained in the bill and of the many amendments before us.

#### PUTTING OUR COMMUNITY DEVELOPMENT FUNDS WHERE THE PROBLEMS ARE GREATEST

Mr. HUMPHREY. Mr. President, the Housing and Community Development Act of 1977, which the Senate will be considering over the next few days, provides the Members of this body with a unique opportunity to respond to the findings of a study which Congress mandated in 1974. At that point, we were not certain that the Community Development Block Grant—CDBG—formula would serve its intended purpose—namely to assist those cities most in need. The HUD studies, one conducted in-house, and one by the Brookings Institution, revealed that the hold-harmless distribution showed a weak statistical relationship to community development need. The hold-harmless funds, it appeared, were going to those cities who had previously exhibited keen grantmanship skill but were not necessarily those cities most in need. More specifically, the study documented the decreases in the share of funds going both to central cities and to the Northeast.

HUD, therefore, proposed a dual formula as an alternative to the existing distribution mechanism. Under this formula, no community would get less than they would have under the existing for-

mula. However, many communities would be eligible for increased funding.

This proposal which considers a community's age of housing stock, growth lag and poverty, would target increased funds to older cities which have been losing population. It is precisely these cities most in need of community development funds, which were receiving an inequitably small proportion of funds under the existing formula. The beauty of the dual formula is that no community will be worse off than it otherwise would have been—but some communities will be better off—and these are, in fact, the communities most in need.

I also fully support the Williams-Brooke impactation amendment which further assists the most needy cities, again while not reducing funds to other entitlement cities. Under this amendment, the proportion of pre-1939 housing stock would be considered as a basis for increased funding. Those communities which would benefit under this approach, the older communities, will be eligible for increased funds, but not at the expense of other areas, as the increased authorization necessary to finance the provision is derived from a reduction in the urban development block grant program. This will still permit the introduction of the UDAG program while increasing the equity of the block grants.

The Committee on Banking, Housing, and Urban Affairs spent a great deal of time deliberating the merits of this bill. It involved addressing difficult and sensitive issues and certainly was no easy task for any of the Members. I believe Chairman PROXMIER and his colleagues are to be commended for the equitable and reasonable bill which the committee reported.

I fully support this bill and urge my colleagues to do likewise.

Mr. RIBICOFF. Mr. President, the Housing and Community Development Act (S. 1523) offers new hope for America's cities. This measure provides a needed and long overdue boost for the Nation's beleaguered and deteriorating urban areas.

The condition of urban America, with its aging housing stock and rapidly dwindling populations, has worsened with the economic dislocations of recent years. Unemployment in some economic sectors, such as the construction industry, has reached depression proportions in many areas of the country, particularly the Northeast. While there has been some general improvement in the amount of new housing, housing starts in my part of the country last year showed the slowest and weakest improvement of any region. A number of cities—most spectacularly New York City—have been forced to the brink of total financial collapse.

The goals of the 1968 Housing Act are far from realized. That important measure envisioned a production target of over 22 million units of housing in the period 1968 to 1977. It is estimated that, by the end of this year, only 18.7 million units will have been built. Because of the lack of adequate, decent housing many families live in crowded, unsanitary structures.

Older cities have deteriorated, in large measure because of the neglect of earlier administrations. There are some sections of northeastern cities which appear as if they have been devastated by aerial bombardment—vacant lots, gutted buildings and little, if any, municipal services. These conditions have precipitated a sizable outmigration, particularly by the more affluent.

Our older citizens are also experiencing considerable difficulty in finding proper housing. It is estimated that more than 3 million elderly persons are in need of assisted housing. Living on fixed incomes, older persons simply do not have the mobility to seek better housing. Thus, many of our elderly are forced to live where conditions are hazardous to their health, safety, and general well-being.

S. 1523 is not the final solution. It is no panacea. It is, however, an important measure. It has become increasingly apparent that the old formula for the distribution of community development block grants—depending on population, poverty, and overcrowding—has not sufficiently met the needs of the Nation's most depressed urban areas which have been losing population. The new formula system proposed in this legislation enables a municipality to select the one which most closely satisfies its particular requirements.

The additional housing and urban development programs which are supported by the legislation's community development and housing assistance provisions are urgently needed. The \$12.45 billion, 3-year authorization for community development block grants is critical for those cities which are struggling to meet the basic needs of their citizens.

The urban development action grants program is particularly useful for aiding aging urban areas in alleviating physical and economic deterioration. It will aid cities and urban counties to attract private investment to stimulate the needed restoration of housing or to develop the resources to cope with population losses and declining tax bases.

Under the urban development action grants program funding will be made available to stimulate investment which will strengthen the economic infrastructure of financially distressed areas. Severely depressed cities will have the necessary capital to begin the restoration of seriously deteriorated neighborhoods, to develop needed employment opportunities and to recycle nonutilized or underutilized facilities for industrial activities.

Mr. President, the legislation before us today signifies the Congress intention to begin the revitalization of our country's urban areas. Attempts to weaken this measure should be resisted. We must insure that assistance is provided to those most in need, especially to older cities struggling to fight urban blight.

UP AMENDMENT NO. 346

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposed an unprinted amendment numbered 346:

On page 36, line 8, strike out "\$1,239,620,000" and insert in lieu thereof "\$1,116,620,000".

Mr. PROXMIRE. Mr. President, this amendment would bring the bill into conformity with the overall funding request of the Office of Management and Budget. At the present time, the bill is \$56 million over the congressional budget ceiling and it is \$123 million over the request of the Office of Management and Budget.

I think the President has indicated a great interest in this legislation, and his speeches have been very strong in this regard. He said in Milwaukee, for example, last fall that the No. 1 domestic problem in our country is our cities. I think he has shown his concern by a generous request in this budget. I think that, obviously, we, in the Banking, Housing, and Urban Affairs Committee, are deeply concerned with it. We have a number of members who are really champions of the cities and housing.

But I think we have to put this in proportion. The President has indicated that he is concerned about excessive spending by Congress, and I think he is right. I am concerned, too, and I think many other Members of Congress are. For that reason I think it is wise for us to reduce our spending levels.

I might point out this bill is not a budget-buster even in its present form. The bill is only about 1 percent over the request of the President, but that is 1 percent too much. I do not think we should have legislation that comes before Congress where the President understands the program thoroughly, supports the program, has indicated that by his personnel appointments, has indicated that by his budget levels, and then argue that the program out to be increased.

There were a number of areas, specific areas, in which the committee increased the level requested by the President. I am very sympathetic to all of those areas, and I am sure other Members are, too.

I am not going to reduce most of those. For instance, on the 312 rehabilitation program, we went \$60 million over the level requested by the administration.

HUD has, I think, very able, sensitive, and experienced people now who have appraised this, and who tell us they cannot use that money. But the committee decided to give it to them, and, in view of the popularity of rehabilitation, I think that program's funding might very well survive on the floor even if we try to cut it.

A second area is 701, planning. This is an area where I felt for years we funded too much money, but it is an area where again the committee went \$12.5 million over the President's level. I tried to hold it down but was unsuccessful, and because of the nature of that planning and because of the great lobbying ability, articulateness and persuasiveness of the people who benefited from this planning, it was very, very hard to cut it. I

am not going to try to cut that below the level the committee recommends.

A third is public housing operating subsidies, of which the Senator from Massachusetts is a great champion and has done a fine job in supporting.

He argued that the budget was too low by \$43 million, and the committee went along with it. Again I am not going to try to cut this level back. What I will do instead, is to take those amounts and reduce the overall housing assistance program, which is at a level of \$1.232 billion and which can afford to take a reduction. My amendment would cut that back so that the total amount authorized will be at the same level as the President requested. This would be \$123 million below the committee bill, which would be somewhat below the level recommended by the Senate budget resolution, but would be in accordance with the President's budget. I think that is the responsible thing to do. Although I am sure there may be those who feel the committee is right and we should not make any cut at all, I am hopeful that this amendment I am offering now will be accepted.

Mr. BROOKE. Mr. President, this amendment comes as a surprise to me. Now that my distinguished chairman has outlined where he intends to make the budget cuts, I understand the purpose of his amendment.

I know that at our markup sessions the distinguished chairman wanted to keep the total budget figure as low as possible. But it appears to me that he now intends to cut \$123 million from this bill, which represents the difference between the authorization in the bill and the President's budget. But I think that if the chairman wants to effect these savings—and I wholeheartedly agree with him that we should reduce the budget wherever it is prudent to do so—that he should look at the congressional budget resolution figures rather than the President's budget. We are \$53 million over the budget resolution, and I think that the budget resolution should represent our budget target. As the chairman will remember, this bill is very close to the budget resolution. I think we ought to take the budget resolution as our guide rather than the President's budget.

Mr. PROXMIRE. May I say to my good friend we were very close to both of them. We were not very much in excess.

Mr. BROOKE. Not far off at all.

Mr. PROXMIRE. One percent over the President's budget and one-half of 1 percent over the congressional budget.

I really think, as I say, President Carter has been generous. I think HUD made a very fine impression. They do ask for a substantial increase in authorizations over what we have had in the past, and I think they are determined to have a vigorous housing program and community development program. I would hope we would be able to agree to go back to the level that the President requested in view of the fact that there is only a moderate difference.

I think we can, if we find that somehow throughout the year, because of the economic situation and because of prog-



ress that HUD has made they can proceed on this, the Senator from Massachusetts and I are both on the Appropriations Committee—he is the ranking member of the Banking Committee—and we may be able to at that time consider a supplemental. We may be able to consider authorizing additional funds and then appropriating additional funds.

Mr. BROOKE. I wish I could agree with my distinguished colleague. Actually it would seem to me that the process ought to operate in reverse. We can act in Appropriations Committee with greater flexibility if we have the full authorization. If you do not have the authorization, you cannot make the appropriation. I would rather have sufficient authorization and then leave it to the Appropriations Committee to decide whether to make further cuts in our housing program.

I would hope that the Senator would consider amending his amendment to decrease the overall housing figure by \$53 million in the areas he mentioned, rather than \$123 million. That would be using the budget resolution rather than the President's budget. I think that is a fair and equitable starting point.

I would hate to see us cut back considerably in public housing modernization. I have just spoken about the urgent need for upgrading our public housing projects.

Under your amendment, would there be any reduction in modernization funding? Would the Senator tell us exactly where he intends those cuts to be made?

Mr. PROXMIRE. Yes. I do not cut rehabilitation at all; I do not cut it at all.

Mr. BROOKE. I know.

Mr. PROXMIRE. I do not cut planning, I do not cut operating subsidies. I cut in only one area, and that is housing assistance. It is by far the largest area. It is an area where there is considerable question as to whether or not HUD, which this year had 41,000 starts, would be able to provide for 400,000 units. Admittedly it will not be quite as difficult as that may seem because many of those would be used houses. But, nevertheless—

Mr. BROOKE. You are also cutting new housing construction under the section 8 program, are you not?

Mr. PROXMIRE. Well, it would have that effect, yes; to be frank, it would.

Mr. BROOKE. And we certainly need that new construction. Everyone has testified about the great need for new housing construction.

Mr. PROXMIRE. Of course, it could be existing or it could be new depending on the emphasis that HUD decides to place on it. It could be either one, but it probably would be some of both.

Mr. BROOKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. BROOKE. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DeCONCINI). Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HEINZ. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. PROXMIRE. I yield on my time to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I ask unanimous consent that Constance Maffin, a member of my staff, be accorded the privilege of the floor during the debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. I understand that the Senator from Massachusetts is willing to yield back the remainder of his time on the pending amendment.

Mr. BROOKE. I yield back the remainder of my time.

Mr. PROXMIRE. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Wisconsin. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOWEZEK), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. McCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Florida (Mr. STONE), and the Senator from Georgia (Mr. NUNN) are absent on official business.

I further announce that, if present and

voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

I further announce that, if present and voting, the Senator from Georgia (Mr. NUNN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Oregon (Mr. HATFIELD), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Kansas (Mr. PEARSON), the Senator from Delaware (Mr. ROTH), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 39, nays 33, as follows:

[Rollcall Vote No. 171 Leg.]

#### YEAS—39

|                 |           |           |
|-----------------|-----------|-----------|
| Allen           | Glenn     | Muskie    |
| Bartlett        | Goldwater | Nelson    |
| Bentsen         | Griffin   | Percy     |
| Byrd            | Hansen    | Proxmire  |
| Harry F., Jr.   | Hart      | Schmitt   |
| Byrd, Robert C. | Haskell   | Schweiker |
| Cannon          | Hatch     | Scott     |
| Chiles          | Hathaway  | Stennis   |
| Curtis          | Hayakawa  | Stevenson |
| Danforth        | Helms     | Talmadge  |
| DeConcini       | Hollings  | Wallop    |
| Dole            | Johnston  | Young     |
| Domenici        | Lugar     |           |
| Eagleton        | McClure   |           |

#### NAYS—33

|            |            |          |
|------------|------------|----------|
| Bayh       | Jackson    | Packwood |
| Brooke     | Javits     | Ribicoff |
| Case       | Kennedy    | Riegle   |
| Clark      | Leahy      | Sarbanes |
| Culver     | Magnuson   | Sasser   |
| Garn       | Matsunaga  | Sparkman |
| Gravel     | McGovern   | Stafford |
| Heinz      | Melcher    | Stevens  |
| Huddleston | Metzenbaum | Tower    |
| Humphrey   | Morgan     | Weicker  |
| Inouye     | Moynihan   | Zorinsky |

#### NOT VOTING—28

|          |           |          |
|----------|-----------|----------|
| Abourezk | Durkin    | Nunn     |
| Anderson | Eastland  | Pearson  |
| Baker    | Ford      | Pell     |
| Bellmon  | Hatfield  | Randolph |
| Biden    | Laxalt    | Roth     |
| Bumpers  | Long      | Stone    |
| Burdick  | Mathias   | Thurmond |
| Chafee   | McClellan | Williams |
| Church   | McIntyre  |          |
| Cranston | Metcalfe  |          |

So Mr. PROXMIRE's amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I ask unanimous consent that Ethan Seigel and Tim Bartik, of my staff, be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that John Backer, of my staff, be granted the privileges of the floor during the consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that Martin Franks and Judy Heffner, of my staff, be granted the privileges of the floor during the debate and votes on the pending legislation today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I ask unanimous consent that Barbara Klein, of my staff, be granted the privileges of the floor during the debates and votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I ask unanimous consent that Robert Kabel, of my staff, be granted the privileges of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana.

UP AMENDMENT NO. 347

Mr. BAYH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH), for himself, Mr. NUNN, Mr. CRANSTON, Mr. MORGAN, Mr. STONE, Mr. THURMOND, Mr. GRAVEL, Mr. HOLLINGS, Mr. LUGAR, and Mr. BENTSEN, proposes an unprinted amendment No. 347.

The legislative clerk proceeded to read the amendment.

Mr. BAYH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 54, between lines 7 and 8, insert the following:

SEC. 312. (a) Section 2(b)(1) of the National Housing Act is amended by striking out "\$12,500 (\$20,000)" and inserting in lieu thereof "\$15,000 (\$23,000)".

(b) Section 2(b)(2) of such Act is amended by inserting before the semicolon at the end of the proviso in clause (2) the following: "(twenty-three years and thirty-two days in the case of a mobile home composed of two or more modules)".

(c) Subparagraph (B) of the second paragraph of section 2(b) of such Act and subparagraph (B) of the third paragraph of such section 2(b) are each amended by striking out "twenty years" and inserting in lieu thereof in each case "twenty-three years".

Mr. BAYH. Mr. President, I offer this amendment to the Housing and Community Development Act on behalf of myself, Mr. NUNN, Mr. CRANSTON, Mr. MORGAN, Mr. STONE, Mr. THURMOND, Mr. GRAVEL, and Mr. LUGAR. I would like to express my appreciation in particular to the Senator from Florida, Mr. STONE, who put a great deal of work into this amendment.

Essentially, my amendment will raise the FHA guarantee ceilings and terms for mobile homes. I believe it is only reasonable and logical that if this body is willing to increase the guarantees for conventional housing, that it should also do the same for mobile homes. After all, inflation affects young and old families

buying mobile homes just as it does those families that purchase conventional housing.

For example, the price range for a single unit mobile home is from \$9,700 to \$18,000 with the average price being \$16,000. This represents a 30-percent increase since 1974. Presently the FHA guarantee for such homes is \$12,500. Clearly these figures on single unit mobile homes indicate that the price of a mobile home has surpassed the present day FHA guarantee. It is clear that inflation also impacts on the mobile home industry.

Mr. President, the amendment I propose today attempts to remedy this discrepancy. Specifically, my amendment would raise the dollar amounts for single-wide mobile homes from \$12,500 to \$15,000—still a thousand dollars under the average price for a single unit mobile home, and for double-wide units from \$20,000 to \$23,000. In addition, the terms for double-wide units would be extended from 20 to 23 years.

Mr. President, I do not think it is necessary to remind my colleagues of the rapidly rising cost of conventional housing.

We are all painfully aware of it, as are our constituents. In fact, the most recent statistics indicate that an average price of a single-family dwelling in this country has risen to an astonishing \$51,600. That figure tells us that a large number of American families have been priced right out of the single-family housing market. I am not speaking here of underprivileged or low-income families alone, but also of middle-class families. We cannot ignore the fact that last year the growing mobile home market accounted for one out of every five single-family homes sold in this country. Furthermore, for those single-family homes sold for under \$30,000, mobile homes accounted for 76 percent; and for those sold for less than \$20,000, mobile homes comprised 94 percent.

Mr. President, who are the buyers of these housing units? They are the young families getting started and the older couple living on a fixed income—those very families who need the provision of this act the most, but who, without this amendment, would be overlooked.

It is because of the growing need for additional mobile homes for those families that can no longer afford to pay the exorbitant prices for conventional housing that I offer this amendment to Housing and Community Development Act. Furthermore, this amendment is simple in its provisions, easy in administration, helps those who need it most, and I urge its swift adoption. Therefore, I urge my colleagues to join in seeing that this measure is passed.

Mr. SPARKMAN. Mr. President, I offer an amendment to the Bayh amendment as follows: I move to delete section V of the amendment offered by Senator BAYH.

The PRESIDING OFFICER (Mr. HASKELL). If the Senator will suspend, the Chair is informed that the Senator's amendment is not in order at this time until the time on the amendment of the Senator from Indiana has expired.

Mr. BAYH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I ask unanimous consent that my amendment be changed. I request permission to modify my amendment so that where the amendment provides \$15,000, the sum of \$16,000 be inserted therein.

The PRESIDING OFFICER. The Senator has the right to modify his amendment and it is so modified.

Mr. BAYH. Mr. President, I yield back the remainder of my time.

Mr. PROXMIRE. Before the Senator does that, let us have a discussion, so we understand.

As I understand it, the Senator from Indiana has modified his amendment to provide that the 20-year time which we now have in the law will continue in effect.

Mr. BAYH. That is correct.

Mr. PROXMIRE. He has provided, however, for an increase in the limits on insurance on mobile homes; by how much?

Mr. BAYH. To \$16,000. We would add \$1,000 to the \$15,000.

Mr. PROXMIRE. So the total limitation would be how high?

Mr. BAYH. It would be \$16,000.

Mr. PROXMIRE. Mr. President, I think that is an excellent amendment. It accomplishes something we have to accommodate to. Unfortunately, we have very serious inflation. Prices rise. A tremendous number of people, as the Senator from Indiana said so well, depend now on mobile homes—not only people of very limited circumstances, but a number of people of middle-income stature. I think this is an amendment which will be most helpful.

I think the Senator was very accommodating and very wise to limit the term to 20 years. As I understand it, there has been no study, really, of the economic life of a mobile home. In the absence of that study, I think we should stay where we are, rather than create a situation where we have a loan outstanding at the end of a 20-year period and the property is not adequate to redeem it.

Mr. BAYH. That is correct.

Mr. President, I yield to the Senator from Massachusetts.

Mr. BROOKE. Mr. President, as I understand it, the Senator's original amendment raised the mortgage limits to \$15,000.

Mr. BAYH. Mr. President, to be consistent, I wish to modify my amendment so that that \$15,000 would go to double-wide. Double-wide is now \$20,000. We are raising it to \$23,000. I ask unanimous consent to modify my amendment to change that to \$24,000.

The PRESIDING OFFICER. The Senator has the right. His amendment is so modified.



Mr. BAYH. Let me say, I am going to yield back my time and discuss this, when the Senator from Alabama is going to propose his amendment.

The PRESIDING OFFICER. The Chair interjects here that the Senator's modifications are adopted. Would the Senator send his modifications to the desk so the clerk can see them?

The amendment, as modified, is as follows:

On page 54, between lines 7 and 8, insert the following:

SEC. 312. (a) Section 2(b)(1) of the National Housing Act is amended by striking out "\$12,500 (\$20,000)" and inserting in lieu thereof "\$16,000 (\$24,000)".

Mr. SPARKMAN. I want to say that I am perfectly willing, so far as I am concerned, to accept the modified amendment.

Mr. BAYH. Then the Senator from Indiana—

Mr. BROOKE. Does the Senator's amendment relate to both single-wide and double-wide mobile homes? That would be \$16,000 on the single-wide and \$24,000 on the double-wide. Is that correct?

Mr. BAYH. I thought the Senator from Alabama was going to offer an amendment. I would rather not object to his effort than initiate it on my own.

Mr. President, in an effort to expedite what we are doing here, I ask unanimous consent, further, in the spirit of camaraderie and conciliation, that the amendment be further modified so that the extended period from 20 to 23 years be deleted and that the term be kept at 20 years.

I must say I would prefer to get the 23 years, but our two distinguished colleagues, the Senator from Wisconsin and the Senator from Alabama, are prepared to oppose that. I do not know where the Senator from Massachusetts is on this.

If we can get the additional dollars, as far as the amount that can be borrowed to get into these homes, then I think the extra 3 years are matters which could be studied. I hope that the Senator from Wisconsin will give us a pledge here that in the next go-round on this, they could see whether there needs to be an extension of this matter from 20 to 23 years.

Mr. PROXMIRE. I can assure the Senator from Indiana that we shall have hearings on that and give it every consideration.

Mr. JAVITS. Will the Senator yield for a unanimous-consent request?

Mr. BAYH. I yield.

Mr. JAVITS. I ask unanimous consent that Barbara Washburn be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. SPARKMAN. I think we all ought to understand that HUD is studying this proposition right now. Undoubtedly, as I believe the chairman has said, when they have completed their study, they will make recommendations to us and the committee will consider them.

Mr. BAYH. I appreciate the fact that my three colleagues are willing to accept

the amendment. I think a word of explanation is important in as much as I have been willing to accept a shorter term.

I see my distinguished junior colleague from Indiana here. We are both very familiar with the type of mobile homes being produced today. The quality is significantly greater than it has been in the past.

It seems to me if, indeed, in the past a 20-year duration made sense, that now with increased quality and the numbers of people relying on these homes, it would be only wise to extend it to 23 years.

Our colleagues took issue on that. I yield to their judgment with the understanding they have already volunteered to look into this so that the next time we discuss this matter, we can explore the possibilities of extending the terms of the loan from 20 to 23 years.

Mr. BROOKE. Will the Senator yield?

Mr. BAYH. I am glad to yield to the Senator.

Mr. BROOKE. One of the concerns expressed by HUD is that these monthly payments should not be increased to the point where they would be beyond the ability to pay of the likely mobile home-buying population. This could be a very serious problem.

I believe there is another amendment which may be offered which would increase mortgage limits by up to 50 percent, in the \$30,000 range. This could lead to a substantial increase in defaults because the monthly payments would be beyond the reach of the population that buys mobile homes.

Mr. BAYH. We are targeting, as the Senator knows, on a specific market—lower middle income market, older people, young people who cannot even come close. We are talking about less than half the price of a regular home.

It is not a matter of competing with the normal housing market.

One of the reasons the Senator from Indiana felt compelled to extend the length of term from 20 to 23 years was, as we were increasing the size of the market, we would be prorating that over an additional 3 years and avoid the kind of concern expressed by the Senator from Massachusetts.

Mr. BROOKE. Then the monthly payments would be less; is that correct?

Mr. BAYH. Yes. The monthly payments.

We have just discussed people who go as if they were paying rent on the down-payment on that mobile home every time they get a paycheck.

I believe we have pretty well resolved that now, so I will not pursue the 23 years. But I hope we can at a later date approach that because that gets the per month payment down and makes these homes available to people who otherwise will not have them. It is the only thing they can afford. They are high quality merchandise right now and in a price range that most people can afford that could not if they had to go out and get into a conventional home market.

Mr. LUGAR. Will the Senator yield?

Mr. BAYH. Yes.

Mr. LUGAR. To what extent does the amendment now, as amended, correspond

to the House of Representatives provision in this same area? Are we still consistent with the language of the House, with the \$16,000 to \$24,000, and the other \$12,000—

Mr. BAYH. The only change would be in the dollar amount. That is the only inconsistency with the House.

Mr. LUGAR. And with regard to the terms, where does that lie?

Mr. BAYH. They are consistent now with the 20 years.

Mr. LUGAR. I just wish to comment. I strongly support the Senator from Indiana's amendment. I think it is apparent for the reasons he has suggested and that have been commented on by other distinguished Senators that we are talking about housing needs of a very large number of Americans, trying to offer some commonsense consistency to financing with regard to those.

I commend the Senator from Indiana's initiative and I support it strongly.

Mr. BAYH. I thank my colleague.

In order to be absolutely certain there is no misunderstanding, I should say that I think perhaps what the Senator from Indiana was describing in his question, which I did misinterpret, is that the law now provides for 20 years. The amendment we are preparing to vote on would provide 20 years, whereas in the House bill it is 23 years. I assume this difference will be resolved in conference.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. BAYH. I yield back all my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana, as modified.

The amendment, as modified, was agreed to.

#### AMENDMENT NO. 346

Mr. PROXMIRE. Mr. President, I have previously submitted amendment No. 346 to S. 1523 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an amendment numbered 346.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

#### TITLE VI—FEDERAL RESERVE BOARD

Sec. 601. The second paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) is amended by striking out the third sentence and inserting in lieu thereof the following: "Of the persons thus appointed, the President shall appoint one, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of four years and one shall be designated by the President as Vice Chairman of the Board for a term of four years."

Mr. PROXMIRE. Mr. President, I will explain the amendment. The purpose of this amendment is to subject the appointment of the Chairman of the Board of Governors of the Federal Reserve System to Senate confirmation upon nomination by the President.

To my surprise, and to the surprise of many Senators, we do not confirm the Chairman of the Federal Reserve Board now.

It should surprise us because, ironically, we do confirm members of the Board, but not the Chairman.

There was a recent poll of Members of Congress and of people in the academic community and the business community as to who were the most influential people in the United States. No. 1, of course, was the President of the United States, which goes with the job.

But No. 2 was the Chairman of the Federal Reserve Board. It was a wise determination. William McChesney Martin was Chairman and was regarded as one of the most powerful men in Washington.

The Federal Reserve Board has a power peculiarly congressional. The Constitution gives the money power to the Congress. It is a congressional power to coin and regulate money.

We created the board and gave these money powers to the Federal Reserve Board. The Chairman of the Board is a man who wields enormous influence, but he is not confirmed when appointed Chairman, as long as he is a member of the Board at the time the President appoints him.

This is an oversight we should have recognized years ago, and I am offering that amendment now. It has been before our committee, and there has not been any objection to it.

The Federal Reserve is the instrument by which the monetary policy of the Nation is carried out on behalf of the Congress. The single most important individual involved in the conduct of monetary policy, which determines our interest rates and has an enormous effect on inflation, is the Chairman of the Federal Reserve. Monetary policy, of course, exerts an important influence on the economy and on employment inflation and growth.

All seven members of the Federal Reserve Board are appointed by the President by and with the advice and consent of the Senate for 14-year staggered terms. The Chairman is appointed by the President from among the seven members for a term of 4 years. The member selected is not required to be confirmed by the Senate in that capacity.

Because the post of the Chairman of the Federal Reserve is of such enormous influence, the Committee on Banking, Housing, and Urban Affairs last year reported to the Senate a provision which would have required Senate confirmation of the position. However, the provision was contained in a bill that included controversial matters and the entire bill failed to pass.

I introduced this legislation again in this Congress and recently held hearings on the measure. The Federal Reserve Board has no objection to the enactment of this provision into law.

In my judgment it is imperative that the Senate have the opportunity to hold hearings and to debate whomever President Carter appoints to chair the Fed-

eral Reserve and to conduct the monetary policy of the Nation.

Mr. President, some Members may feel this may be an "ad hominem" situation affecting the Chairman. There is no way of knowing whether President Carter intends to reappoint Chairman Burns or not. He may or may not do so. In any case, that appointment will not take effect until next January.

I have a letter from the Chairman of the Federal Reserve Board, Arthur Burns, indicating that he has no objections to my amendment.

This amendment is a long overdue procedural reform and is not intended to influence in any way the President's nomination of a Federal Reserve Chairman next January. Needless to say, if the President does renominate the present incumbent, the Banking Committee will hold expeditious hearings on the nomination and bring the matter to a prompt vote.

But I cannot imagine the Senate saying that it should not consider the man who has the kind of power the Chairman of the Federal Reserve Board has, particularly since it is a peculiarly congressional power. He is independent of the executive branch, but subject, of course, to congressional scrutiny and oversight. Therefore, if there is any nomination over which we have authority where we should demand that authority, it is in this case.

We approve the nomination of every second lieutenant, of all kinds of assistant secretaries, of people in all sorts of jobs by rote in this Chamber, with no debate, no consideration.

I think it is obvious, if we have any notion of simply passing the buck and being irresponsible, that we should act in this case to affirm our responsibility for the Chairman of the Federal Reserve Board.

So I hope this amendment will be accepted.

Mr. President, I ask unanimous consent that the letter from Chairman Burns be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CHAIRMAN OF THE BOARD OF GOVERNORS, FEDERAL RESERVE SYSTEM,

Washington, D.C. June 3, 1977.

HON. WILLIAM PROXMIRE,  
Chairman, Committee on Banking, Housing,  
and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: It has come to my attention that when the Senate considers S. 1523, the Housing and Community Development Act of 1977, early next week, you are planning to offer a floor amendment which would require the appointment of the Chairman of the Board of Governors to be subject to Senate confirmation upon nomination by the President.

I have no objection to the amendment you are planning to offer.

Sincerely yours,

ARTHUR F. BURNS.

Mr. BROOKE. Mr. President, I do not rise to oppose this amendment. I do not know why there has been no requirement that the Chairman of the Federal

Reserve Board be confirmed by the Senate except that, of course, all members of the Board of Governors are confirmed by the Senate and then the Chairman is appointed by the President.

I think the same procedure holds forth for the Federal Home Loan Bank Board. I do not know that there is any other chairman of such a board who is actually confirmed as such by the Senate.

I think it is true in any of these instances that there is confirmation by the Senate on membership on the board itself and not on the chairmanship. Therefore, I do not see any particular reason why this Chairman should be confirmed.

I have the highest esteem and respect for Arthur Burns, who has served so ably as the Chairman of the Board of Governors of the Federal Reserve System. I, for one—and I am sure there are others who agree—hope the President of the United States will renominate him to be the Chairman of the Board of Governors of the Federal Reserve System, because he has done such an outstanding job.

Arthur Burns is such an authority, and is so respected by the financial community and, I think, by the country generally. He is truly one of the most highly respected public servants we have.

But we are not talking about Arthur Burns. Presumably, if he is renominated by the President, he would be confirmed by the Senate. But I take it that my distinguished chairman of the Banking, Housing, and Urban Affairs Committee feels there is some necessity for confirmation of the Chairman of the Federal Reserve Board, and I wonder why this does not equally apply to other boards and commissions as well.

Mr. PROXMIRE. May I say to my good friend from Massachusetts, my amendment is not aimed at this time or this particular chairman. As the Senator recalls, this proposal was considered by the committee last year, offered as a bill by this Senator last year, approved by the committee last year, reported to the floor last year, and I do not think anybody at that time had a notion of whether Carter, if he were elected President, would reappoint Arthur Burns or whether somebody else would be appointed.

I share the admiration the Senator has expressed for Arthur Burns. He is a brilliant economist. I disagree with him very strongly on some measures, and I think his position has been one that is highly controversial, as it often is likely to be in this particular area, which is, by nature, highly controversial. I would have an open mind on any confirmation. But I think it would be most unfortunate if we did not have an opportunity to pass on the President's appointment of the Chairman of the Federal Reserve Board.

The reason why the Federal Reserve is different from the Home Loan Bank Board is that the latter has a 4-year appointment to the Board. Members of the Federal Reserve have a 14-year appointment, and it is possible for a President to avoid simply letting the Senate act on confirming the Chairman in this pecu-



liarily congressional function. The President can name his own Chairman from the Board, as long as he names one of the seven members.

It seems to me that whether it is Arthur Burns or whoever it is, the Senate ought to insist that the Banking, Housing, and Urban Affairs Committee ought to hold hearings and report to the Senate on its judgment as to his or her qualifications to be the Chairman.

I think the Senator would agree there is some difference in the qualifications necessary for the Board itself and for the chairmanship. We have approved some members of the Board who had very little economic background as qualifications for membership, very little in the area of monetary or fiscal policy, and we have had people accepted by the Senate who are adequate to serve on the Board but who, I think, in many cases would not be considered to be qualified as the Chairman.

The Chairman has great influence in leading that Board. As I say, we have seen it not only with Arthur Burns, we have seen it with William McChesney Martin; we have seen it with Eccles, and with a lot of distinguished Chairmen in the past. So I hope the Senator would accept this amendment and recognize that it is not directed at anybody in particular. I share the Senator's admiration for Arthur Burns.

Mr. BROOKE. I am sure the Senator does share the great esteem I have for Dr. Burns. I think his monetary policies have proven correct and are, I believe, greatly responsible for the improvement in the economy in this country.

But I cannot agree with the Senator when he says that we should confirm a member of the Board of Governors who could not serve as Chairman of that Board.

Mr. PROXMIRE. Maybe we should not, but we have done it.

Mr. BROOKE. I do not know that I have ever voted on a confirmation of a member of the Board of Governors of the Federal Reserve Board in the 11 years I have served on this committee when I did not feel that, if the President should designate him as Chairman, he could not serve well as Chairman.

Mr. PROXMIRE. I would say about two-thirds of the people we passed on, in my view, would not be qualified to be Chairman. But in any event, whether I am right or wrong, the fact is—

Mr. BROOKE. Then why have him serve as a member of the Federal Reserve Board?

Mr. PROXMIRE. Being a member is less demanding than being Chairman. Also, once a person has served on the Federal Reserve Board there is a record. Let us leave the present distinguished Chairman aside for the moment, and say the President should pick one of the other members of the Board. It seems to me it would be very desirable and proper for the Senate to examine his record as a member of the Board, what he had done, whether or not his judgment had been sound, whether he had demonstrated the kind of quality we would expect a chairman to have.

As I say, you can make an argument against our confirming anybody. We could, for instance, rule out confirming second lieutenants and majors and some of the many very minor positions we confirm.

But this is such a powerful position, right at the heart of our economic policy in our country, undoubtedly the most important economic position we have, except possibly that of the President. For the Senate to pass the buck and say, "We are not going to confirm him," seems to me would be most ironic.

Mr. BROOKE. The President could have a vacancy on the Federal Reserve Board and nominate a person to fill that vacancy and, at the same time, name that person as Chairman of the Federal Reserve Board.

Mr. PROXMIRE. Presidents have usually done exactly that.

Mr. BROOKE. Without any service on the Federal Reserve Board at all.

Mr. PROXMIRE. That is right. The Senate would have to act to confirm him.

Mr. BROOKE. It is not a matter of serving on the Federal Reserve Board and then being chosen on the basis of his service.

Mr. PROXMIRE. That was not the argument. My argument applied to a case where the President does as President Nixon did in appointing Arthur Burns as Chairman of the Federal Reserve Board. If he is an outsider, then we should act on his confirmation, we should have a hearing, have debate and act to confirm him or not.

The same thing has been true of William McChesney Martin, the same thing has been true of most of the chairmen of the Federal Reserve Board. However, in the event he is already on the Board, we do not have that opportunity to pass on whether or not he should be chairman, and I say we then have a chance to look at a real record to determine whether that record warrants his being elevated to the chairmanship or not. I think we should participate in that because it is a congressional responsibility, a constitutional congressional function independent of the executive.

Mr. BROOKE. I mentioned the Federal Home Loan Bank Board. What would the distinguished Chairman say concerning the Chairman of the Federal Deposit Insurance Corporation? Should we confirm the Chairman of the FDIC?

Mr. PROXMIRE. Well, I think we probably should, but I think that is of far lesser importance with respect to economic policy than that of the Chairman of the Federal Reserve Board. The Chairman of the Federal Reserve Board determines, more than anybody else in our country, monetary policy.

The head of the FDIC is an administrator who runs the insurance program. I think it is important to have a man or woman of ability and quality there, and I think it would be very good for us to confirm him or her. I would vote for it. I would be in favor of it.

But I do not think that is an imperative, as urgent, as it is for us to have an opportunity to have a voice in determining who is the Chairman of the Federal Reserve Board.

Mr. BROOKE. What about the chairmanship of the Securities and Exchange Commission?

(At this point Mr. MOYNIHAN assumed the Chair.)

Mr. PROXMIRE. Well, in the case of the SEC, during the years the Senator from Massachusetts and I have served on the Banking, Housing, and Urban Affairs Committee, it would seem to me we have acted on virtually every appointee. They have appointed people who have been, to the best of my knowledge, outsiders who have come in and been appointed as chairman. There may have been an exception or two. But in any event, I think it would have been wise for us to have passed on that. I would not object to those improvements the Senator is suggesting. Let us consider a few less second lieutenants and consider more chairmen of boards who have the policymaking responsibilities in our Government.

Mr. BROOKE. What is the administration's position on this? Does the administration want to have the Chairman of the Federal Reserve Board confirmed by the Senate?

Mr. PROXMIRE. I do not know of any administration position one way or the other. I presume that the present administration might wish a situation in which they can appoint any member of the Board they like as chairman without the Senate interfering. I do not think we should permit it. They have not said one way or the other, as far as I know.

As I say, the Chairman of the Federal Reserve Board himself said he has no objection to the amendment.

Mr. BROOKE. I read that letter addressed to our distinguished chairman which has been printed in the RECORD. It said:

DEAR MR. CHAIRMAN: It has come to my attention that when the Senate considers S. 1523, the Housing and Community Development Act of 1977, early next week, you are planning to offer a floor amendment which would require the appointment of the Chairman of the Board of Governors to be subject to Senate confirmation upon nomination by the President.

I have no objection—

In principle—

to the amendment you are planning to offer.

I do not think that is a ringing endorsement of the Senator's amendment at all. I do not know what Chairman Burns could have said under the circumstances. If he had any objection to it, it would look as though he had something to fear by confirmation of the Senate. On the other hand, he has already been confirmed by the Senate. He was confirmed by the Senate when he was appointed to the Federal Reserve Board, as are all the other members of the Federal Reserve Board and all members of the SEC, FDIC, the Home Loan Bank Board, and every other agency.

I am just trying to ascertain—and I will not belabor this point—why the distinguished Chairman feels it is so important at this time that we confirm the Chairman of the Federal Reserve Board. I still cannot quite clearly understand that.

Mr. PROXMIRE. May I say to the Senator from Massachusetts, he is about as eloquent and persuasive a lawyer, contender, arguer, and debater, as I know.

Mr. BROOKE. I thank the Senator.

Mr. PROXMIRE. I have not, however, heard one single reason why we should not confirm the Chairman of the Federal Reserve Board to occupy that extremely powerful position. This is congressional authority. The money power is congressional in the Constitution, and it is our responsibility. I think before the President decides who is going to be chairman, the Senate should find out his views in detail, and we should examine his record in detail. We should discuss whether or not the position he takes is the right position for the economic policy of this country. We have to assume that responsibility, and this gives us an opportunity to do so.

Mr. BROOKE. The distinguished chairman is not a member of the bar, but no one would ever doubt that he has articulate and persuasive powers on the floor of the Senate and in the committee. We are all aware of that.

But I might remind the distinguished chairman that the burden of proof is not on me to show why he should not be confirmed; the burden is upon the Senator to prove why he should be confirmed.

Mr. PROXMIRE. I welcome that burden and am delighted to have it. It is easy.

Mr. BROOKE. The Senator has the burden of persuading us that there is some good reason.

Mr. PROXMIRE. This is about the easiest case I ever had. I cannot imagine an easier case.

Mr. BROOKE. Apparently it is not an easy case when it has never been done before in the history of the United States. This is 1977. If it is such an easy case, why has it not been done before?

Mr. PROXMIRE. It should have been done in 1913. It should have been done in 1914. It should have been done in 1915. It should have been done a long time ago.

Mr. BROOKE. Has the Senator ever considered why it was not?

Mr. PROXMIRE. It was not.

Mr. BROOKE. Why?

Mr. PROXMIRE. It was not done because in most cases, in almost every case I can recall—I am sure there are exceptions—the President appointed an outsider, not a member of the Board; therefore, it was necessary to hold hearings and it was necessary to confirm him. The case for the Senate assuming the responsibility for the appointment for the Chairman of the Federal Reserve Board, the most important and powerful economic policy position in our Government, is, it seems to me, just overwhelming. Either we do that or abolish Senate confirmation of appointments.

Mr. BROOKE. Can the Senator know when we will again be faced with the situation where the President appoints an outsider?

Mr. PROXMIRE. Fine.

Mr. BROOKE. Then we will have confirmation hearings on that person.

Mr. PROXMIRE. Maybe we will be covered in that event.

Mr. BROOKE. Then this amendment is predicated on the reappointment of Arthur Burns.

Mr. PROXMIRE. No. The President could appoint any one of six other members of the Board.

Mr. BROOKE. Another member of the Board?

Mr. PROXMIRE. That is right.

Mr. BROOKE. It is predicated on the appointment of some other member of the existing Board; is that correct?

Mr. PROXMIRE. That is correct.

Mr. BROOKE. Is that the Senator's fear?

Mr. PROXMIRE. It is not a fear. It is saying we should assume responsibility here, particularly in this area. I wish the Senator would meet that problem. The Constitution provides that the power to coin money and regulate the value thereof is a congressional power. It is a congressional authority. The Federal Reserve Board, as everyone hears about it, is independent from the executive branch. It is not independent from Congress. That Board is our creature. Are we going to assert that responsibility?

Mr. BROOKE. We do in confirming each appointment to the Board.

Mr. PROXMIRE. We do not do so very well when we let the appointment to the most powerful position be made by the President, from whom the Federal Reserve Board is supposed to be independent, without any opportunity for the Senate to act on that appointment if the President appoints a member of the Board.

Mr. BROOKE. No one can be appointed chairman of that Board who has not been previously confirmed by the Senate.

Mr. PROXMIRE. Yes, and we confirm members of that Board flying blind.

Mr. BROOKE. That cannot be.

Mr. PROXMIRE. There is no way we know who might be chairman when he comes in as a member of that Board.

Mr. BROOKE. Here is the distinguished Senator from Texas (Mr. Tower). I am sure he has never voted on anything flying blind since he has been on the Banking Committee. That is for sure.

Mr. PROXMIRE. I can say something, but I will not.

Mr. TOWER. Mr. President, I wish to ask one question.

Can the Senator think of anything more redundant than inviting Arthur Burns before the committee for a confirmation hearing? I do not know anyone who has appeared before that committee more often than Arthur Burns or whose views on virtually every topic one can think of are better known than the views of Arthur Burns. Why could we not grandfather him in? What is the point of including him in this?

Mr. PROXMIRE. I certainly would not want to grandfather anyone in. I would think if Arthur Burns came before us there are many points that could be raised, debated, and discussed. The Senator from Texas and the Senator from Massachusetts both feel that he has been almost perfect, God-like, in his decisions, and I think that is subject to some debate and discussion. I think he has made some serious mistakes; he has done some fine

things, also. I think we should discuss it. I do not think it would be at all redundant. He should be before us for discussion on monetary policy, fiscal policy, and labor policy and just about every other policy. For instance, we have not found out why, in the years that Arthur Burns has been Chairman of the Federal Reserve Board, we have had worse inflation than we have had under the aegis of any member of the Board.

Mr. TOWER. That is the question, if that is the question.

Mr. PROXMIRE. With one exception. And that exception is a gentleman who was Chairman of the Federal Reserve Board for a few years during World War II. Except for that, Chairman Burns breaks all records on inflation. Perhaps he could answer that question.

I have a feeling he would be confirmed, probably resoundingly, with the majority of the Senators on this side and an overwhelming majority of the Senators on that side of the aisle. But I think it would be a good thing for the country to discuss it and for the Senate to assume its responsibility for it.

Mr. TOWER. The Senator has made an intriguing statement. He asked why we had the inflation with Arthur Burns as Chairman of the Fed.

Is the Senator implying that the Chairman of the Fed is responsible for the inflationary cycles we have had?

Mr. PROXMIRE. I think that there are many responsibilities. I would say that Congress shares a full burden, and I think our Presidents have, as well.

Mr. TOWER. Does the Senator think that deficit spending has nothing to do with it?

Mr. PROXMIRE. Of course, it has a great deal to do with it.

Mr. TOWER. Does the Senator say that organized labor with demands and getting raises in wages and benefits that have no relationship to demand and productivity and the laws of supply and demand had nothing to do with it?

Mr. PROXMIRE. I do not say that, of course.

Mr. TOWER. The fact that OPEC artificially jacks up the prices of oil, they have nothing to do with it? My stars, the Chairman of the Fed is indeed a powerful man if he is the one wholly responsible for that.

Mr. PROXMIRE. There is a perception in this country that the only man fighting inflation is Arthur Burns, and that his policies of fighting inflation are the best policies. That may be correct. I think we should debate it, discuss it, and recognize that he has a great deal of influence over a very important aspect of controlling inflation; that is, monetary policy—how big the money supply is and how rapidly it grows. During the years he has been Chairman, we have had this remarkable phenomenon of worse inflation than we had when other gentlemen were Chairman.

The Senator is absolutely right. The fact we had big deficits contributed to it greatly. The fact we had enormous increases in the price of oil by OPEC also is a big element. The fact we had drought and bad farm crops in 1 or 2 years was also an important element.



I think we should take all this in consideration, debate, and discuss it.

Mr. TOWER. I think it can be stated the other way. Maybe we would have had a worse inflation if it had not been for the restraint of people like Arthur Burns.

Mr. PROXMIRE. The Senator may well be right. If he is right, then Arthur Burns can undoubtedly survive debate and discussion in the Senate. I think it will be a happy day for us to discuss that. I think we should discuss a nominee of great importance for a change instead of people up here whose positions are of less importance.

Mr. TOWER. I ask the Senator why this is germane to a housing bill?

Mr. PROXMIRE. The Senator has offered many amendments that were germane and many that were not germane in the past, I am sure.

Mr. TOWER. And many were defeated as well.

Mr. PROXMIRE. I am sure some of them may have been. But this amendment is in order under the rules and, as I say, we have had hearings on it, we acted on it, we approved it, and we sent it to the floor before. I see no reason why it should not be on this legislation. It has a great deal to do with housing.

The policies of Arthur Burns have had more to do with affecting housing in this country—their effect on interest rates, their effect on the availability of credit—than perhaps those of any other official.

Mr. TOWER. Then I have another germane amendment. That is the repeal of the Davis-Bacon Act. That has had a very direct influence on housing. Perhaps we could discuss that subject.

Mr. PROXMIRE. I will be delighted to have that come up, and I will vote against it.

Mr. TOWER. I thought the Senator would.

Mr. BROOKE. Mr. President, I think the Senator's slip is showing a little bit. I think this is really the Burns amendment. It is evident to me from his colloquy with the Senator from Texas that it could very well be called the Burns amendment.

I think the Senator fears that the President, in his wisdom—and it may very well be his wisdom—may renominate Arthur Burns as Chairman of the Federal Reserve Board.

Mr. PROXMIRE. If the Senator will yield—

Mr. BROOKE. Just a minute. He is automatically on the Board, and if he becomes Chairman he does not have to come before our committee for any further confirmation; is that not correct?

Mr. PROXMIRE. No, that is not correct. Let me tell the Senator that this is in no sense the Burns amendment. I do not think it does a service to Arthur Burns to put it in that way. This amendment may pass, or it may be defeated. My guess is that if Arthur Burns were before this body for confirmation, he would do a whole lot better if the question was tied to this amendment. I think that Senators, whether they are enthusiastic or unenthusiastic about Dr. Burns, recognize the desirability of hav-

ing a voice in determining who is to be Chairman of the Federal Reserve Board.

I also think it significant that there are many people who are great admirers of Arthur Burns. I am one of them; although I think he has been wrong often, I admire his mind, his character, and his tremendous ability to exert leadership on that Board and elsewhere.

Mr. BROOKE. Is this a forerunner of things to come? I mean can we now expect amendments that would require the Chairman of the FDIC, the Chairman of the SEC, the Chairman of the Federal Home Loan Bank Board, and others to be recommended by our committee and confirmed by the Senate?

I would just like to know the direction in which we are moving.

Mr. PROXMIRE. I give the Senator two answers. First, I have no intention of offering amendments in these other areas. By and large, they are people who serve 4 or 5 years, not 14 years.

Mr. BROOKE. Is that the distinction?

Mr. PROXMIRE. That is No. 1. Second, while I have no intention of—

Mr. BROOKE. Chairman Burns does not serve as Chairman for 14 years. He is Chairman for 4 years.

Mr. PROXMIRE. No, but he is a member of the Board for 14 years. He serves 14 years on the Board, and can become Chairman at any time.

Mr. President, I reserve the remainder of my time.

Mr. BROOKE. Mr. President, if no one else wishes to be heard on this matter, I certainly do not intend to raise any question of germaneness. It is just a matter that I think needs to be discussed rather thoroughly. I think I clearly understand the purposes of the amendment, and I shall not be guided, by a ringing endorsement of the amendment by Chairman Burns. As I have said, I do hope the President will renominate him, not only for the good of the President and his administration, but for the good of the country.

I yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, does the Senator from Alabama wish to speak on this matter?

Mr. ALLEN. No. As soon as the time has been yielded back, I wish to raise a point that the amendment is not germane, and appeal to the Chair on that.

Mr. BROOKE. Mr. President, I yield back the remainder of my time, so the Senator can make his point.

The PRESIDING OFFICER. Has time been yielded back?

Mr. PROXMIRE. I have not yielded back my time. The Senator from Massachusetts has.

The PRESIDING OFFICER. All time has been yielded back—

Mr. PROXMIRE. No, Mr. President, I have not yielded back my time as yet. Do I understand I have 7 minutes remaining?

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. Mr. President, I understand the argument may be made by the Senator from Alabama that this is

not germane, because this is a bill to amend the Housing and Community Development Act, and that could be an amendment to the Federal Reserve Act. I would just like to state my intention.

As I said in the course of the debate, I can think of no officer that has a more profound, direct, and explicit effect on housing than the Chairman of the Federal Reserve Board. If the Chairman, or the Federal Reserve Board itself, decides upon a policy of limiting increasing the money supply, and thus limiting the availability of credit, then, as we experienced in 1966 and 1970, we would likely have a credit crunch, and interest rates go up. In 1966, interest rates went up sharply, and there was a very devastating effect on housing.

The course followed, therefore, by the Chairman of the Federal Reserve Board, and the policies he decides to promote, are probably more important in determining the scope and the effectiveness of housing and community development than the legislation we have before us here.

I think for that reason it is extremely important that we have an opportunity, in considering our housing programs and in deciding on the kind of community development programs that are necessary, also to consider the policies of the Federal Reserve Board, and have an opportunity to pass on the record and the position that has been taken and very likely will be taken by the present Federal Reserve Chairman.

For that reason, Mr. President, I hope that the Chair will find that this amendment is germane.

I might also point out that the Chairman of the Federal Reserve Board, himself, considered this amendment, and he said:

It has come to my attention that when the Senate considers S. 1523, the Housing and Community Development Act of 1977, early next week, you are planning to offer a floor amendment which would require the appointment of the Chairman of the Board of Governors to be subject to Senate confirmation upon nomination by the President.

I have no objection to the amendment you are planning to offer.

Under those circumstances, again I would hope that the Chair would find that this amendment is germane. I yield back the remainder of my time.

Mr. ALLEN. Mr. President, I raise the point of order that the pending amendment is not germane. Had there been no time limitation agreement, of course, germaneness would not have been required. But under the time limit, the statement is specifically made in the agreement that no amendment that is not germane to the provisions of said bill shall be received.

No matter how closely related the Federal Reserve Board is to the housing issue, it still finds no place in this bill, because there would have to be some specific reference to the membership of the Federal Reserve Board for this amendment to be in order, and there is no such reference in the bill itself.

I raise the point that the amendment

is not germane as required by the unanimous-consent agreement.

The PRESIDING OFFICER (Mr. MOYNIHAN). The Chair rules that amendment No. 346 introduces new subject matter not in the bill and is therefore not germane, and the amendment falls.

The bill is open to further amendment.

Mr. PROXMIRE. Mr. President, I yield myself time on the bill. I understand that under the rules of the Senate I would be permitted to appeal that ruling to the Senate.

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. And I also understand that a majority vote would overturn the Chair's ruling.

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. I do not intend to do that. I intend to let the amendment go because the amendment is pending in the Banking Committee on another bill. I am sure there will be no question of point of order language in that particular case.

Rather than jeopardize the amendment by putting it into a position where it might very well be defeated, not on substantive grounds but on procedural grounds, I will withdraw the amendment and not press it at this time. I assure the Senate it will come up shortly.

The PRESIDING OFFICER. The bill is open to further amendment.

UP AMENDMENT NO. 348

Mr. HARRY F. BYRD, JR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. HARRY F. BYRD, JR.) proposes an unprinted amendment No. 348.

On page 2, between lines 10 and 11, insert the following new subsection:

"(3) By inserting in paragraph (6) 'either' before '(B)' and by inserting before the period at the end thereof the following: 'or (C) has a population in excess of one hundred thousand, a population density of five thousand persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of Census:'"

On page 2, line 11, strike "(3)" and insert "(4)", and on line 14, strike "(4)" and insert "(5)".

Mr. HARRY F. BYRD, JR. Mr. President, the purpose of my amendment is to modify the current definition of an urban county to include any county which has a population of at least 100,000 persons and no incorporated areas as defined by the U.S. Bureau of Census, plus a density of at least 5,000 persons per square mile.

Under the current definition of an urban county, eligibility for direct funding is based on having 200,000 persons exclusive of incorporated areas, except where an agreement has been entered into to undertake essential community development and housing assistance activities.

In the Washington metropolitan area, the District of Columbia, the city of Alexandria, and the counties of Fairfax,

Montgomery, and Prince Georges are receiving funding from this act. Only Arlington County is excluded benefits, whereas all contiguous jurisdictions are eligible.

In every way other than the 200,000-population requirement, Arlington County can be considered an "urban" county. It is more like a city—and has only 23 square miles. In addition, it has all the legal authorities of a city.

Arlington is unique in that technically it is a county, but in actuality it is a city.

Yet Arlington, with a population of 156,000 and a density in excess of 5,000 inhabitants per square mile, is excluded under present law.

The proposed amendment will bring only Arlington County into the entitlement program and will have minimal effect on the overall entitlement allocation. It will conform to the intent of the law to provide assistance to urbanized areas, as Arlington obviously is an urbanized area.

Every Member of the Senate, I believe, has been to Arlington County. One could scarcely set foot in that area without recognizing that it is indeed an urbanized area.

Arlington has a larger population than Alexandria—and is more urban than Fairfax County, yet technically is excluded under the current law.

I believe Senators will agree that equity requires approval of the proposed amendment, which was approved by the House committee and is now in the House-passed bill.

I ask the distinguished manager of the bill if he is willing to accept the amendment.

Mr. PROXMIRE. The Senator from Virginia has talked to me about this amendment. I have had a chance to discuss it with the staff. There is some resistance on the part of HUD on the grounds that once they make an exception it sets a precedent. As the Senator from Virginia has said so well, Arlington County is unique. This would not mean that there would be a very large amount of money that would be available elsewhere.

Furthermore, it has the problems of an urban county. I believe we all know that. That is No. 1.

No. 2, it has administrative capacity and legal powers to carry out housing and community activities so it can do the job and do it competently.

No. 3, it has an urban character. It is integral to the District of Columbia.

For all of those reasons it seems to me this amendment is proper and in order. As far as I am concerned, I am willing to accept the amendment.

Mr. BROOKE. I would just have to point out, as my colleague from Virginia knows, that there are other counties that may have unique problems which we may have to deal with. I understand the problem that Arlington County has, and I have no objection to the amendment.

Mr. HARRY F. BYRD, JR. I thank the able Senator from Wisconsin and the able Senator from Massachusetts for favorable consideration of this amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. PROXMIRE. I yield back the remainder of my time.

Mr. BROOKE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

UP AMENDMENT NO. 349

Mr. CURTIS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. CURTIS) proposes an unprinted amendment No. 349.

At the appropriate place in the bill, insert the following:

"SECTION — Section 242(c) of the National Housing Act is amended by adding the following sentence:

"No mortgage insurance premium shall be charged with respect to the amount of principal and interest guaranteed by the Department of Health, Education, and Welfare under title VII of the Public Health Service Act."

Mr. CURTIS. Mr. President, this amendment deals with a situation where the Creighton Hospital, in Omaha, Nebr., is financed by a loan from HUD and a loan from HEW.

The adoption of this amendment would lower hospital costs to the public. It would do so by lowering the cost of financing nonprofit teaching facilities hospitals whose mortgages are both insured by HUD/FHA and guaranteed by HEW under title VII of the Public Health Service Act.

HUD has found a way administratively of making a like reduction in FHA mortgage insurance premiums where the HEW guarantee is under the title VI Hill-Burton program. Unfortunately, that administrative solution will not work in the case of the title VII teaching facilities hospital program, where the guarantee is 90 percent rather than 100 percent. This technical amendment would give equal relief to title VII hospitals. The FHA premium would apply only to the part of the mortgage not guaranteed by HEW.

Mr. President, as I understand this, it amounts to paying a double premium where they are dealing with two agencies and in this particular case it has overcharged the hospital I mentioned by about \$100,000 a year.

Mr. President, as I mentioned, the proposed amendment would lower the costs to the public of hospitalization. It would do so by lowering the FHA mortgage insurance premium paid by nonprofit teaching facilities hospitals whose mortgage has both: One, FHA insurance under section 242 of the National Housing Act, and two, an HEW guarantee under title VII of the Public Health Service Act.

HUD should not charge an FHA premium on the portion of a hospital mortgage which is guaranteed by HEW.



The HEW guarantee runs to HUD and removes from HUD any risk on that portion of the mortgage.

HUD has recognized this, and per a HUD legal opinion of April 30, 1976, has found a way not to charge the mortgage insurance premium on the portion of financing guaranteed by HEW under title VI—Hill-Burton program—of the Public Health Service Act. The solution found there was to use two mortgages, a first mortgage insured by HUD and a second mortgage guaranteed by HEW.

This solution, unfortunately, will not work in the case of a title VII hospital where the second mortgage is only 90 percent guaranteed by HEW—unlike the 100-percent guarantee under title VI. Therefore, the proposed amendment is needed.

It should also be noted that Public Law 94-484 enacted last October will enable HEW to provide 100-percent guarantees under title VII, but only on projects guaranteed after September 30, 1977.

In the case of a teaching facilities hospital in Omaha having a mortgage of \$50 million of which \$22 million is covered by an HEW 90-percent guarantee under title VII, the savings would be about \$100,000 per year. The title VII program covers only nonprofit hospitals, so that the savings will benefit the public.

This amendment would have been brought up earlier when S. 1523 was before the subcommittee and committee, but for the fact that the Creighton Omaha Hospital, referred to above, was only advised of the need for corrective legislation on May 27.

The proposed amendment is in the public interest and is in the nature of a technical and corrective amendment to relieve an inequity. It is of limited scope, as described above, but does solve a nationwide problem.

Mr. President, it is my hope that the distinguished chairman and the minority leader of this bill would see fit to accept this amendment.

Mr. PROXMIRE. Mr. President, I congratulate the Senator from Nebraska on this amendment. It is a good amendment. As I understand it, it is just for hospitals in being or under construction. It would not result in new construction. It would help them meet their mortgage payments and somewhat lower those payments. It would reduce the cost to the public and to the hospitals. I think it is an ingenious amendment, a good amendment. I am happy to support it.

Mr. President, I yield back the remainder of my time.

Mr. CURTIS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

The Senator from Pennsylvania.

UP AMENDMENT 350

Mr. HEINZ. Mr. President, I call up my amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read as follows:

The Senator from Pennsylvania (Mr. HEINZ), for himself, Mr. STONE, and Mr. CRANSTON, proposes unprinted amendment numbered 350.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between lines 3 and 4, insert the following:

"(g) Section 104 of such Act is amended by adding the following new subsection at the end thereof:

"(1) (1) The Secretary shall, in making funds available to the recipients of grants under this title, permit any such recipient to receive funds, in one payment, in an amount not to exceed the total amount designated in the recipient's application, and approved by the Secretary pursuant to this section, for use by the recipient for establishing a rehabilitation loan fund which is to be established in a private financial institution, and which is to be used to finance rehabilitation activities that are part of the recipient's community development program. The Secretary may, as a condition of making such payment, require that the rehabilitation loan fund be utilized for the making of loans to finance rehabilitation activities in a manner consistent with this Act. Rehabilitation activities authorized under this section shall begin within forty-five days after the Secretary has made such payment.

"(2) The Secretary shall establish standards for such cash disbursements which will insure that the deposits result in appropriate benefits in support of the recipient's rehabilitation program. These standards shall be designed to assure that the benefits to be derived from the local program include at a minimum one or more of the following elements, or such other criteria as determined by the Secretary:

"(A) Leverage of community development block grant funds so that participating financial institutions commit private funds for loans in the rehabilitation program in amounts substantially in excess of deposit of community development funds;

"(B) Commitment of private funds for rehabilitation loans at below-market interest rates or with repayment periods lengthened or at higher risk than would normally be taken;

"(C) Provision of administrative services in support of the rehabilitation program by the participating lending institutions; and

"(D) Interest earned on such cash deposits shall be used in a manner which supports the community rehabilitation program. At the time of application, the Secretary shall review and approve all agreements with lending institutions which receive funds for community rehabilitation programs. Such approval shall be made on a case-by-case basis, and upon a determination by the Secretary that the agreement with the lending institution meets minimum benefit standards as listed in this paragraph."

Mr. HEINZ. Mr. President, I rise to offer an amendment on behalf of Senator STONE, Senator CRANSTON, and myself. I believe both the majority and minority on the committee have received a copy of this amendment.

The purpose of the amendment is to permit clearly the use of community development funds for the establishment of locally designed rehabilitation loan programs in conjunction with local lending institutions. This amendment would

allow a community to deposit a portion of its community development entitlement in a lending institution in order to leverage private funds for home repair or mortgage financing in designated neighborhood revitalization areas.

Until recently, there was no need for this amendment. The Department of Housing and Urban Development allowed communities to use community development funds for this purpose. Earlier this year, however, HUD published regulations which would have substantially curtailed this practice. Many successful ongoing local programs would have been stopped. Presently, HUD has indicated that it will revise its regulations to allow for lump sum deposits in lending institutions under certain circumstances.

The amendment that I offer would simply clarify the law so that the use of community development funds in this manner, within certain guidelines and in order to achieve specific benefits, is an eligible use of program funds. Our amendment would eliminate local uncertainty over whether the activity will be eliminated in future years or will be allowed to continue.

The chief benefit to the use of lump sum deposits is that local governments are able to obtain a commitment from a lending institution or institutions for a specific amount of mortgage money to be utilized for loans for home repair and mortgage financing in designated neighborhood revitalization areas. As a result, not only is a substantial amount of private capital made available for housing rehabilitation in deteriorated neighborhoods, but the program is undertaken as part of a comprehensive plan to revitalize very deteriorated older residential and commercial areas.

The lump sum deposit is utilized in several different ways. Some communities have used the deposit as security for high-risk loans to very low income neighborhood residents. Other communities employ the lump sum deposit as a means of subsidizing the interest rates charged low- and moderate-income families. This has been achieved by allowing the interest which accrues on the deposit to be used to reduce the interest which accrues on the deposit to be used to reduce the interest charged on the mortgage or home repair loan. In all cases, the financial institutions administer the loan program and thus eliminate the need for communities to establish parallel administrative structures and serve, therefore, as direct loan agents for the program.

The major opposition to the use of lump sum deposits has come from the Department of the Treasury, which objects to letter-of-credit borrowings in advance of imminent cash needs, since this requires additional borrowings on the part of Treasury on which interest must be paid.

In my view, these objections and the minor additional costs to the Treasury which are involved must be weighed in terms of the benefits. These benefits have been substantial in terms of leveraging private dollars for neighborhood conservation in communities across the country and in terms of expanding the participation of private lending institutions

in older, deteriorated residential, and commercial areas.

The lump sum deposit seems to be an important vehicle for developing comprehensive neighborhood revitalization strategies which involve local elected officials, private institutions, and neighborhood groups.

Finally, this amendment, while permitting the Secretary of Housing and Urban Development to allow this practice, also has safeguards against possible misuse of the lump sum deposit. It also specifies minimum elements of a local program which must be evident before such a lump sum deposit can be made in a financial institution.

Mr. PROXMIRE. Mr. President, will the Senator from Pennsylvania yield on the point he just made?

Mr. HEINZ. Yes, I yield.

Mr. PROXMIRE. He made a very good point. I want to commend him on it.

I call his attention to the fact that we had hearings this morning, at which the Treasury Department appeared and asked that they be allowed to get interest on the money that they deposit in the banks themselves.

What the Senator from Pennsylvania is saying is, with regard to community development money, which the Federal Government makes available to the localities, that they be allowed to get a return. Is that correct?

Mr. HEINZ. That is absolutely correct.

Mr. PROXMIRE. I do not see how inconsistent the Treasury can get. This morning, this very day, they appeared and testified very strongly in favor of this bill, which is designed to do one thing only; that is to let them earn return on the money that they deposit in commercial banks and savings and loans.

Mr. HEINZ. It does not surprise me, Mr. President, that the Secretary of the Treasury is looking for any way he possibly can to increase his revenues.

What I am asking for here, and I think the chairman of the Committee on Banking is sensitive to this, is to give our local elected officials and our private lending institutions a chance to fashion, to customize, their strategies for neighborhood revitalization. If the Treasury gets any more into these communities, these programs, than it already is, we are going to wipe out the ability of local people—citizens, local governments, local financial institutions—to have the tools to get together and really attack the problem of neighborhood revitalization at the local level.

I know the chairman of the committee, the distinguished Senator from Wisconsin, really believes in getting local financial institutions involved. Indeed, title IV of this act is aimed directly at that.

Since I always believe that it is important not just to have a stick but a carrot as well, I believe that this amendment, Mr. President, is vital.

Mr. BROOKE. Will the Senator yield on one point on the subject raised by the chairman?

Mr. HEINZ. Yes, I yield.

Mr. BROOKE. I have not prejudged the Senator's amendment, but I see a distinction between what the chairman said the Treasury testified to this morn-

ing and what the Senator from Pennsylvania is attempting to do.

The Treasury Department deposits this money and receives interest on that money. What the Senator from Pennsylvania is saying is that when communities draw down the money, they draw it out of the Treasury. The community wants to deposit that money and receive interest, so that they would be getting the interest rather than the Treasury.

Mr. HEINZ. That is correct. I am not sure there is a direct confrontation here between Treasury and what they testified to today. Unfortunately, I was not at the hearings. Let me explain so we are all clear on how the procedure now works.

A commitment, a reservation, is made for community development money. Under the present system, at least up until HUD wrote some preliminary regulations earlier this year, a letter of credit was issued to the communities and they could draw down on that letter of credit whenever they saw fit. If they wanted to draw down at the beginning of the fiscal year, they could. They then would be authorized, under this amendment, to take part of that money and deposit it in financial institutions in order to leverage funds for neighborhood conservation. There would have to be, under the amendment, certain quid pro quos. They would have to get an appropriate response from the financial institutions in order to deposit in those financial institutions.

Of course, if my colleague has had a chance to read the amendment and I did make a copy of it available earlier, I think both to the chairman and the ranking minority member—he will see that we have very carefully set out the conditions under which the Secretary of HUD may, by regulation, determine in what cases the funds may be drawn down. On page 2 of the amendment, the terms and conditions he may prescribe are set out. Then he is authorized to approve the use of such moneys on a case-by-case basis, so that the Federal Government is very carefully protected here.

Does the Senator from Massachusetts understand that?

Mr. BROOKE. I understand that was a condition under current practice, I think that currently committees can only draw down money that will be used within the next 3 days. They would not draw down all of the funds at one time. And Treasury was able to hold the money until it was needed by the community.

If a community could draw down a year's funds at once, even before it needs the funds, and deposit of money, and draw interest on the money—

Mr. PROXMIRE. If the Senator will yield, the practical fact is—we found this to be true in Milwaukee, Wis.—that if the city has to follow the procedure in the law and cannot handle the money itself, the fact is that it is hogtied. It is very, very hard to operate efficiently, for it to make the payments the way it should make the payments—promptly, on time, efficiently—and coordinate the interest that they can get from their financial institution and what they have to pay their contractors. It works out far better if we give them a little freedom and enable them to earn as much as they can.

Mr. BROOKE. That is true, but is the Senator not just saying that, rather than let the Federal Government draw the interest on the money, the city should be allowed to receive the interest?

Mr. PROXMIRE. So the city can draw a little extra interest.

Mr. BROOKE. What does the Senator mean by a little extra interest? They can draw out all the funds, deposit them in a bank, and draw interest on that money.

I do not understand how, on the one hand, the Senator from Wisconsin wants to cut back on the housing budget, and, on the other, give communities a larger community development entitlement than the Congress authorized.

Mr. PROXMIRE. I do.

Mr. BROOKE. This certainly is going to take money out of the Federal Treasury, because the interest that Treasury could be deriving from their money will go to the cities. Why not just give the money to the cities, as the committee did with the \$123 million in housing funds which the Senator just took out of the bill with his earlier amendment?

Mr. PROXMIRE. Because, as I say, we have had a practical problem in Milwaukee, where we simply have not been able to get our money in time to the job we want to do. The amendment of the Senator from Pennsylvania would help cure that.

Mr. HEINZ. If I may respond to the Senator from Wisconsin.

Mr. PROXMIRE. Yes.

Mr. HEINZ. The Senator is correct. The amendment would help accomplish two things. First, it would insure the money was always available because it would already be there in the local financial institution.

Mr. BROOKE. The money is available when it is with the Treasury.

Mr. HEINZ. I do not know if in Massachusetts they have had any trouble getting reimbursement from the Federal Government under Medicaid or other programs, whether any of the hospitals have had difficulty getting their reimbursement for depreciation as part of the payment under both Medicare and Medicaid.

In Pennsylvania, we have had enormous problems. The Federal Government is already borrowing from obligations, 30, 60, 90, 180 days, for no reason at all, just slow pay.

Mr. BROOKE. What would be the cost to the Federal Treasury under the Senator's amendment?

Mr. HEINZ. We asked the Treasury to come up with some numbers. We have been asking them ever since we held hearings in the committee over a month ago on this and they have been unable or unwilling, as the case may be, to supply us with any numbers.

It seems to me, if they have a great objection to this, they would substantiate numerically how much money it will cost them. They have not come up with any.

Mr. BROOKE. I can understand what the Senator from Wisconsin said. Maybe Wisconsin, Pennsylvania, and probably my own State and others have had some problems in having the money readily available to pay for housing rehabilitation work. That I understand.



That may be one purpose of the amendment.

But the major purpose of this amendment, as I see it, is to give cities an opportunity to draw interest on this money on deposit. They would get their community development plus interest.

Where is it coming from? It has to come from the Federal Treasury.

Mr. HEINZ. If that were true—

Mr. BROOKE. The cost is borne by the taxpayers.

Mr. HEINZ. But that is not the way it works.

Mr. BROOKE. All right.

Mr. HEINZ. The way it works is that, on a case-by-case basis, the Secretary of HUD would be authorized to allow a city to draw down on its letter of credit money which would be deposited in a financial institution, a bank or something. The interest on that deposit would not go to the municipality to finance its general expenditures, or the local government. What would happen is that the general purpose unit or local government receiving the money would negotiate, prior to any money going to the financial institution, an agreement that could include such things as leveraging, community block grant fund. The participating financial institution would make private funds for loans for rehabilitation available, in an amount substantially in excess of the money deposited out of its entitlement.

It would allow the commitment, for example, of private funds at below market interest rates or with lengthened repayment periods by those same financial institutions.

What it is is a way of extending rehabilitation efforts on a case-by-case basis, using interest admittedly that the Treasury will forgo, but that the interest payments do not go—I think this is the thrust of the Senator's question—to the municipality in the form of some generous unrestricted bonus payment. That is not what happens.

Mr. BROOKE. Let us take an example. A city gets a grant of \$3 million, deposits it in a savings and loan, at, say, 5 percent interest.

To me, that means that city X is getting a community development grant of \$3 million plus 5 percent on that \$3 million. So it is getting a much larger grant from HUD, from the Federal Government, than we have authorized and appropriated.

Is that not correct?

Mr. HEINZ. I say to the Senator that it is true that city X will have the benefit of additional expenditures.

Mr. BROOKE. Does the Senator mean additional income?

Mr. HEINZ. Additional income.

Additional income which will eventually come out of the pocket of the Treasury if we make the assumption the Treasury is now able to invest or borrow less, as the case may be.

Mr. BROOKE. Certainly.

Mr. HEINZ. There is no attempt to say that to the Senator. In fact, I said at the outset that the reason the Treasury is concerned is that they may have to borrow more or invest less, as the case may be.

But it seems to me, if we want to look at this in the most accurate light, what we are giving is an incentive to the cities that have the initiative and the creativity to fashion a more forward-looking program. Involving the private financial institutions in the area, in a neighborhood revitalization strategy.

I think it is quite appropriate that we should give an incentive and reward to those governments that are able to do so.

We are not giving anything away. We are not giving, as I say, a bonus payment without any quid pro quo whatever to some lucky municipality.

We are leveraging and, as a result, I think doing a service to the people who live in those neighborhoods that will benefit from rehabilitation programs.

Let me give an example. First of all, not all the money that the community may be entitled to would be drawn down.

In York, Pa., they have an annual entitlement of some \$3 million under the community development program. Under the CD program, as I understand it, they deposited \$25,000. Not \$3 million, \$25,000. This \$25,000 then became seed money for high risk loans in deteriorated residential areas of the city.

What they got as a result of that seed money was \$500,000 in additional commitments from five financial institutions.

Now, that is a tremendous amount of leverage. That is what we are trying to encourage here.

Mr. BROOKE. I understand the concept of leveraging. What I cannot understand, if I may have the attention of the Senator from Wisconsin, is if we take the example of city X, they got a \$3 million community development grant, and can invest that money. They draw down their full entitlement from HUD. They deposit the money in a savings and loan at, say, 5 percent interest, whatever interest rate they can get, and they use this money. That is a revenue loss to the Treasury.

Mr. HEINZ. If the Senator will yield, there is always a revenue loss to pay bills on time.

Mr. BROOKE. Yes. In this bill, we have \$3.5 billion in community development funds.

Now, if that money—let us say \$4 billion in grant money—is taken by every city and deposited in a bank what you have done would cost the Federal Government about \$200 million. The Senate has just agreed to take out \$123 million from the housing authorization, and you will give the cities back \$200 million. It just seems to me that what we ought to do is go through the authorization and appropriation process and decide on the allocation of community development funds to cities.

Mr. PROXMIER. Mr. President, if the Senator will yield, it is a matter of all kinds of assumptions the Senator jumps to, one whole year's interest you are automatically going to get. As I understood it, the Senator's amendment also provided discretion to HUD, did it not?

Mr. HEINZ. Absolute discretion with HUD. It is on a case-by-case basis.

Mr. PROXMIER. It will be the exception.

Mr. BROOKE. What do you mean by

discretion? How would you allow city X to do this and not allow city Y to do it?

Mr. HEINZ. It is going to be based on the benefits of the program.

Mr. BROOKE. What criteria?

Mr. HEINZ. On paying the costs to the Federal Government so that we do not have to increase that community development authorization of \$4 billion, \$5 billion, or \$10 billion so that we can attack the problem of rehabilitation now, not 5 years from now after our buildings have fallen down. I think the program will save money.

Mr. BROOKE. What criteria will the Secretary of HUD use in determining whether city X or city Y shall be allowed to draw down their funds and get interest?

Mr. HEINZ. Well, the overall criteria will be whether the Secretary judges this to be a wise investment of Federal money. There is set forth in the amendment a nonexclusive list but, nonetheless, an exemplar list of criteria.

Mr. BROOKE. What do you mean by a wise investment of Federal money, depositing it in a bank?

Mr. HEINZ. Let me give the Senator an example: Community development grant funds are deposited in participating lending institutions. These institutions in turn commit private funds for loans in designated rehabilitation areas in amounts substantially in excess of the deposit of community development funds. In other words, if \$1 is deposited in a bank we are expecting that bank, under the terms of the agreement that we arrived at, to put in \$2 or \$3 or \$5 or \$10 of private funds. In fact, in York, Pa., they put out \$20 of commitments for every dollar of seed money that is deposited in that institution. That is pretty good. It is called leverage, I say to the Senator.

I understand his concern about the Treasury, and this may cost us a few dollars, but it is not going to be a wholesale raid on the Treasury because we are not talking about drawing down the entire \$3.5 billion in community development. We are talking about drawing down a very small portion of it for a relatively modest space in time.

Mr. BROOKE. But under the Senator's amendment, \$3.5 billion would be eligible to be drawn down, is not that correct?

Mr. HEINZ. I will say to the Senator I do not see how that would be possible. I have to answer the Senator no, it will not be possible to draw down \$3.5 billion.

Mr. BROOKE. If the communities wanted to draw down this money and could get approval from the Secretary of HUD, could they not?

Mr. HEINZ. In my judgment I do not think the Secretary would be meeting his responsibilities to Congress if he were to draw down \$3.5 billion and put it out all of a sudden. I do not think that would be right.

Mr. BROOKE. The Senator from Pennsylvania said the Treasury could not give him a cost estimate. Does the Senator have any estimate of costs to the Federal Treasury of this amendment?

Mr. HEINZ. No, I do not. But I will

say to the Senator from Massachusetts this has been a practice at HUD for at least 3 years. The only reason for getting into this amendment is that HUD first had decided they might revise regulations this January or February. This was under pressure, and I do not know why. Perhaps it was from the Treasury Department. Then HUD changed its mind and decided it wanted to continue this program because there were numerous benefits to the communities. There was a lot of flexibility in getting the local financial institutions involved.

Mr. BROOKE. Have we had any hearings? I do not know of any hearings where we have discussed HUD's experience with this practice.

Mr. HEINZ. The reason we have not had hearings on it is because it has been taking place. It was permitted, it is permitted, under existing law, and if my amendment fails the result will be the following: HUD will not be prevented or prohibited or proscribed from what it has been doing these 3 years. We will have, if we reject this amendment, no amendment for intelligent guidelines so that we have an effective, functioning, intelligent program.

Mr. BROOKE. Do we need this amendment only to give HUD guidelines?

Mr. HEINZ. If the Senator would care to look at the amendment, I think he will see we set forth in the amendment very, very thoughtful and careful standards. We tell HUD they can only operate on a case-by-case basis. They cannot, as they may be empowered to do under the existing community development legislation, whether we pass the act before us or not, simply let all this money out.

Mr. BROOKE. These guidelines the Senator sets forth in his amendment would appear to me to be the logical guidelines that HUD must have used anyway during its 3-year experience with this program. Is that not true?

Mr. HEINZ. I would say to the Senator you cannot ever tell what is logical or not with a Federal bureaucracy. If the Senator has found that Federal bureaucracies are always logical I would appreciate his help on some things where I found them to be illogical.

Mr. BROOKE. What my colleague from Pennsylvania is saying is that we do not need this amendment because HUD already has the authority to do what this amendment would give them authority to do, with the exception that the amendment contains certain guidelines which the Senator feels should be written into law.

Mr. HEINZ. I think so.

Mr. BROOKE. Is that a fair statement?

Mr. HEINZ. I think HUD has kind of also created a climate of uncertainty by proposing some regulations and then withdrawing them, and I think it is also important not only that we have good guidelines but have some constancy about them, and I would hope the Senator could accept the amendment.

Mr. BROOKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I ask on line 1 of my amendment, that the amendment be modified so that the word "shall" after the word "Secretary" be stricken and the word "may" be inserted in lieu thereof.

The PRESIDING OFFICER. The amendment is so modified.

Mr. HEINZ. Mr. President, I understand that with that modification the Senator from Massachusetts does not object to the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, although I still have some reservations, as I have expressed to the Senator from Pennsylvania, I commend him for trying to work out a solution to his problem. I hope that we are not going down a path which would in any way infringe upon the authorization and appropriation process of Congress.

I think by changing the language so that it is no longer mandatory but is permissive certainly makes it a much better amendment, and I am willing to accept the amendment.

Mr. PROXMIER. Mr. President, I am happy to accept the amendment. It is a good amendment. I commend both Senator HEINZ and Senator BROOKE on the debate.

I think Senator BROOKE is absolutely right to state the case that others have about our concern that this may go around the appropriations process. But I think the Senator from Pennsylvania has modified his amendment now to make it discretionary and permissive, and I think that is the way it should be. Also, the House of Representatives has accepted the amendment, and I think it is a sound amendment in its present form.

Mr. HEINZ. Mr. President, I ask unanimous consent to have printed in the Record a statement by the junior Senator from Florida, and the attachments referred to therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### STATEMENT BY MR. STONE

I join today in support of this amendment which directs the Secretary of the Department of Housing and Urban Development to continue to allow on a case-by-case basis lump-sum drawdowns of Community Development Block Grant (CDBG) funds by cities with rehabilitation programs. These funds could then be deposited in local financial institutions and would attract private funds for community rehabilitation purposes in amounts substantially in excess of CDBG money.

Lump-sum drawdowns have promoted involvement of private investment in rehabilitation programs in neighborhoods where such risks would otherwise not be taken. Cities in Florida and in many other states have indicated that it would be very difficult to undertake rehabilitation programs if lump-sum drawdowns of community development funds were discontinued. I attach to my statement, letters I received from the Director of the Department of Housing and Urban Development in Jacksonville, Florida, advising me of Jacksonville's experience with regard to lump-sum drawdowns of block grant funds, and for the serious consequences if the practices were discontinued.

This amendment is supported by the National League of Cities, the U.S. Conference of Mayors and the National Association of Housing and Redevelopment Officials (NAHRO).

I am concerned by reports of abuse of the lump-sum drawdown privilege. To prevent such problems in the future, the amendment requires the authorized rehabilitation project to begin within 45 days after the lump sum payment has been made. It also directs the Secretary of HUD to establish standards to ensure that the deposits result in benefits in support of the community's rehabilitation program. In view of these safeguards, I believe Congress would be well-advised in this case to allow a departure from the Treasury Department policy which discourages the deposit of federal grant money in banks to draw interest.

Mr. President, adoption of this amendment will result in additional private investment and participation in rehabilitation and will reduce the opportunity for abuse. I strongly urge its adoption by the Senate.

#### ATTACHMENTS

##### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, May 25, 1977.

Re: Drawdown of Community Development Funds.

Senator RICHARD STONE,  
The Capitol,  
Washington, D.C.

DEAR SENATOR STONE: We are delighted to know of your interest in the practical and workable administration of the Community Development program. The ability of the City of Jacksonville to drawdown a portion of the City's Community Development Block Grant to establish a rehabilitation program has been the only way that we could have had such an effort. I am enclosing a copy of a letter dated December 28, 1976, concerning this same subject. That letter was addressed to the Rules Docket Clerk concerning administrative rules proposed by the previous administration.

The City of Jacksonville approached each of our major lending institutions to generate interest in the administration of a rehabilitation loan program using private funds with a separate guarantee from the Community Development program. We met with unanimous rejection for any program dealing with individual loans and/or guarantees. The only interest was in response to a proposal to deposit a reasonably large sum of funds to back a reasonably ambitious loan program.

Please remember that we were asking private banking institutions to support a program which had been seriously maligned by the past federal administration when the only federal program was the Section 312 loan. We have received excellent support locally for the concept and for the goals of our rehabilitation program. I am confident that with a reasonable degree of experience, we will be able to obtain a degree of "leverage" for private funds. However, to avoid the horrendous administrative costs of processing each loan with a requisition of Block Grant funds, I would anticipate that we would still desire to use a deposit of funds to participate in the guarantee of our rehab loans.

I would agree that there should be limits placed on the amount of funds to be drawn in advance of need and that there should be some relationship to the activity of the program for the retention of those funds. Furthermore, I think it only appropriate that the use of these funds and any interest



gained therefrom be specifically directed toward the rehabilitation loan activity.

On behalf of the City of Jacksonville, I would encourage your efforts to protect our right to make reasonable use of the Community Development funds consistent with local and national objectives.

Respectfully,

JOHN VAN NESS,  
Director.

Enclosure.

DECEMBER 28, 1976.

Subject: Docket No. R-76-292 Community Development Block Grants  
RULES DOCKET CLERK,

Office of the Secretary, Room 10141 Department of Housing and Urban Development, Washington, D.C.

DEAR SIR: We object to the change in financing rehabilitation loans to be brought about by the addition of Section 570-503(c).

Jacksonville's housing rehabilitation program in nine target neighborhoods is directly effected by this section. The City of Jacksonville deposits Community Development rehabilitation funds with a local savings and loan institution. The deposits serve as insurance against the institution's loans. The interest received on the deposits is a factor in the net difference between the 3 percent rate charged the homeowner and the market rate on the loan charged by the institution.

This approach is the only way we could obtain any interest or commitment from the local financial community. It is the only approach we are aware of that has the potential of obtaining leverage for additional institutional loans beyond the actual Community Development funds. The incentives proposed as an alternative by Section 570-503(c) will not be adequate from our experience to attract the participation by the Jacksonville lending community.

With the abandonment, for all practical purposes, of a national rehabilitation program by the discontinuance of the Section 115 grant program and the "on-again off-again" funding of the Section 312 loans program, cities across the land were confronted with the prospect of developing their own rehabilitation guidelines. We chose the approach cited above and obtained concurrence in its implementation with Community Development funds from the HUD Jacksonville Area Office. Copies of the initial correspondence are attached.

It was our objective from the beginning to involve the private banking sector with the City's rehabilitation program. It was our objective from the beginning to avoid having the City serve as the direct loan agent for the process. As it was, in a twelve-month period we were able to solicit proposals on two separate offerings only from one savings and loan institution. If we must rely on the alternatives proposed by Section 570.503(c), the City may be confronted with three alternatives:

1. abandon the program
2. adopt a direct loan program administered by the City with excessive administrative costs.
3. limit program to the cumbersome Section 312 process.

We can appreciate the Treasury's desire to reduce its borrowing cost. We would hope that the architects of federal regulations would have some appreciation of our urban problems. Jacksonville has an estimated twenty percent of its housing stock in the substandard category. We had hoped to make some inroads on this problem through Community Development rehabilitation loans. Section 570.503(c) is going to make it more difficult to accomplish that objective.

Sincerely,

JOHN VAN NESS,  
Director.

The PRESIDING OFFICER (Mr. SARBANES). Is all time yielded back?

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The amendment was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### UP AMENDMENT NO. 351

Mr. HUMPHREY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. HUMPHREY) proposes unprinted amendment No. 351.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD and that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following language:

The Secretary of the Department of Housing and Urban Development, in consultation with the Secretary of the Department of the Treasury, shall prepare a report which analyzes the fiscal crisis confronting many urban areas. It shall include but not be limited to the following:

- a. the number and characteristics of cities presently suffering from or nearing fiscal stress;
- b. causes of fiscal stress;
- c. specific recommendations and options which are or should be available to the Federal, State, and local governments for preventing and/or reversing fiscal stress.

This report shall be transmitted to Congress no later than March 1, 1978.

Mr. HUMPHREY. Mr. President, the fiscal crisis which hit many of this Nation's cities came as a surprise to many of us. Not only did we in Congress have no prior warning of what was to occur, but nobody in the executive branch was aware of, or immediately prepared to rescue these cities. That was nearly 2 years ago, and from what I have observed, little has changed. We still have no overall, coherent urban strategy to provide a framework for Federal approaches to city problems. We are still spinning our wheels and putting out fires rather than plotting a steady course of preventive and corrective actions. We are still dealing with individual cities and localized problems rather than developing a comprehensive plan which would benefit all cities in all parts of the country.

In 1984, we created the Department of Housing and Urban Development to help revitalize our Nation's deteriorated central cities. And, to the extent that physical deterioration is symptomatic of the problems of the cities, HUD has made a noble effort, despite the obstacles imposed by past administrations. The phys-

ical deterioration is, however, just that—symptomatic of other deeply rooted problems. These problems of deteriorating tax base, inability to get credit, out-migration of industry and middle class, and increasing costs of public services are forcing many cities to take drastic actions, and thus to exacerbate their existing problems. These economic and fiscal problems largely ignored in recent years by HUD, share both a cause and effect relation with the social and physical problems with which HUD demonstrated great concern. One, however, cannot be resolved without the other. It is for this reason that I am offering an amendment mandating that HUD work with the Treasury Department to analyze the present and potential fiscal problems affecting our Nation's cities and recommend solutions.

It is about time that the Department of Housing and Urban Development took a long-range and comprehensive look at our Nation's cities and evolve a plan of action to deal with the many facets of a city's problems. My amendment will set them on the road to do just that.

Mr. President, this amendment has been discussed with both the manager of the bill and the ranking minority member. It relates to the Department of Housing and Urban Development making a very comprehensive study of fiscal problems that affect our municipalities.

In 1964, we created the Department of Housing and Urban Development to help revitalize our Nation's cities and particularly to help those that were the central cities. Since that time, as we know, many of our cities have faced very severe monetary and revenue crises. I have asked in this amendment that the Department of Housing and Urban Development, in cooperation with the Department of the Treasury, analyze the present and potential fiscal problems affecting our Nation's cities and present to Congress proposed remedies and solutions.

I seek the response now of the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, as I understand it, this amendment would call for a study by HUD to get some information we urgently need, do not have, but should have if we are going to have a sensible, coherent, and logical policy.

In the first place, it would require the number and characteristics of cities presently suffering from or nearing fiscal stress.

Mr. HUMPHREY. Yes.

Mr. PROXMIRE. There are lots of rumors about and talk about it, but we do not know what the facts are.

No. 2, the causes of fiscal stress. Again we do not know the facts.

And finally, specific recommendations and options which are or should be available to the Federal, State, and local governments for preventing this situation.

As I understand it, the position by HUD is one of not opposing the amendment.

Mr. HUMPHREY. That is correct.

Mr. PROXMIRE. They do not see anything wrong with it. The House of Representatives has put it in their bill.

Mr. HUMPHREY. That is correct.

Mr. PROXMIRE. They have accepted it.

This will not be an amendment that costs money. It does give us information we urgently need to have for a sensible kind of policy. I think it is a good amendment, and I support it.

Mr. HUMPHREY. May I say I extended the date to March 1 instead of January 1, 1978, because I am not at all sure how long it will take for the authorizing legislation here that we have to go through both Houses.

Mr. BROOKE. Mr. President, I have read and studied Senator HUMPHREY's fiscal stress, fiscal crises amendment. I am sure that it will prevent fiscal crises. I think it is a study that is very sorely needed, and I am very pleased to accept the amendment.

Mr. HUMPHREY. Mr. President, I yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### UP AMENDMENT NO. 352

Mr. HATHAWAY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) for himself, Mr. WILLIAMS, and Mr. MUSKIE proposes an unprinted amendment No. 352.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 66, after line 4, insert the following new section:

Sec. 513(a) Title V of the Housing Act of 1949 is amended by adding at the end thereof a new Section 528 to read as follows:

"Sec. 528. All property subject to a lien held by the United States or the title to which is acquired or held by the Secretary under this title other than property used for administrative purposes shall be subject to taxation by a State, Commonwealth, territory, possession, district, and local political subdivisions in the same manner and to the same extent as other property is taxed: *Provided, however,* That no tax shall be imposed or collected on or with respect to any instrument if the tax is based on—

"(1) the value of any notes or mortgages or other lien instruments held by or transferred to the Secretary;

"(2) any notes or lien instruments administered under this title which are made, assigned, or held by a person otherwise liable for such tax; or

"(3) the value of any property conveyed or transferred to the Secretary, whether as a tax on the instrument, the privilege of conveying or transferring, or the recordation thereof; nor shall the failure to pay or collect any such tax be a ground for refusal to record or file such instruments, or for failure to impart notice, or prevent the enforcement of its provisions in any State or Federal Court."

(b) Notwithstanding any other provision of law, no State, Commonwealth, territory, possession, district, or local political subdivision which has received, prior to the date of enactment of this Act, tax payments from the Department of Agriculture based on property held by the Farmers Home Administration shall be liable for, or be obligated to refund, the amount of any such payment, which, if it had been made after the date of enactment of this Act, would have been authorized by the provisions of section 528 of the Housing Act of 1949, and no officer or employee of the United States shall incur or be under any liability by reason of having made or authorized any such payments.

(c) The provisions of new section 528 set forth in subsection (a) above shall be effective as of January 1, 1977.

Mr. HATHAWAY. Mr. President, this amendment allows the Secretary of Agriculture to pay the property tax imposed by State and local jurisdictions on Farmers Home property that has been subject to foreclosure. The Secretary was doing this by custom until he was advised a few years ago that it was in violation of the supremacy clause of the Constitution. In order to remedy this situation we have to have specific authorizing legislation to allow these State and local taxes to be paid.

The cost of the amendment is \$2 million, and it is endorsed by the Secretary of Agriculture. Acceptance of this amendment would complement a number of other improvements contained in the bill with respect to rural housing.

In this regard, Mr. President, I was particularly pleased to review the provisions of title V of this bill dealing with rural housing. It includes a number of the provisions of S. 1150, the Rural Housing Act of 1977, which I was pleased to join Senator HUMPHREY and a number of my distinguished colleagues in introducing on March 28 of this year.

These provisions should improve the administration of the Farmers Home rural housing programs which are so important to my own State and to all States which have substantial proportions of their populations living in rural areas.

With regard to the particular needs of citizens in rural areas for better housing, I shall cite a couple of statistics.

In 1973, the Joint Center for Urban Studies of Harvard-MIT estimated that there were 13.1 million households suffering from "housing deprivation" and of these more than 5 million, or 38 percent, were nonmetropolitan.

In 1974, the ratio of substandard housing to public housing was 5 to 1 for urban counties, and 17 to 1 for rural counties.

The incidence of substandard housing in nonmetropolitan areas was 3½ times that in metropolitan areas in 1974.

Among the provisions included in the pending bill which are derived from S. 1150, is a section authorizing Farmers Home to make payments for latent construction defects which are undiscovered during final inspection. Also included is a section specifically authorizing the funding of elderly and handicapped housing under Farmers Home programs, and allowing the construction of congregate housing for the elderly.

In addition, there is a section mandating the implementation of Farmers

Home rural rental assistance programs. This had been delayed due to opposition and resistance from prior administrations, which had necessitated court battles. Recently, Secretary Bergland indicated to the courts involved that the Department of Agriculture would faithfully carry out the prior legislation in this area, which is gratifying to those of us who have advocated these programs for a number of years. But at the same time, it is useful through legislation to mandate implementation lest future administrations be tempted to reverse the decision of the present one.

Another provision adopted from S. 1150 would direct the Secretary of Agriculture to establish a research capability. Further, it includes a provision which would facilitate the payment of local taxes and insurance by Farmers Home borrowers. It permits the Secretary of Agriculture to advance funds for these purposes when borrowers' prepayments are insufficient to meet these obligations.

Together, these provisions indicate a marked improvement in Farmers Home programs. I am hopeful that the remaining proposals contained in S. 1150 will soon see their way into law, and commend the Senator from North Carolina (Mr. MORGAN) for his determination to hold hearings on these proposals in the near future.

#### PAYMENT OF STATE AND LOCAL TAXES ON FORECLOSED PROPERTY

There remains one further proposal, not contained in S. 1150, but part of a separate bill, S. 605, which I introduced on February 3 of this year, along with Senator MUSKIE. This proposal is to specifically authorize the Secretary of Agriculture to pay State and local taxes on the value of foreclosed property.

From the inception of the Farmers Home rural housing program, the Secretary would pay these taxes. But within recent years, the Secretary has refused to pay such taxes. This refusal is apparently based upon the supremacy clause of the U.S. Constitution which has been interpreted in numerous court decisions to preclude the Federal Government's payment of taxes to State and local jurisdictions absent specific congressional authority.

The absence of such authority in the present statutory structure and the Secretary's concomitant refusal to pay State and local taxes has worked a severe hardship on a number of local jurisdictions throughout the country. For example, I have heard from town managers and local officials in all parts of my own State who have described the dilemma posed by the Secretary's refusal to pay local taxes on property upon which he has foreclosed. The towns which were earlier denied their greatly needed tax revenues due to the financial instability of the loan program participants who later defaulted, subsequently found that the Secretary also refused to pay past due taxes because of the constitutional difficulty. These towns must nonetheless provide water and sewer services, police and fire protection, and road repair and plowing in the winter to the property in question.



My amendment would remedy this unfortunate situation and would provide the specific congressional authority which the Farmers Home Administration says it needs in order to meet State and local tax obligations. This amendment is cosponsored by my colleague from Maine (Mr. MUSKIE) and by the Senator from New Jersey (Mr. WILLIAMS).

I am pleased to report that the FmHA supports this amendment. It estimates that the annual revenue loss would go to State and local jurisdictions as payments to which they are entitled for services they are already providing. I have also learned from Farmers Home officials that under the present structure local officials in some parts of the country have grudgingly provided police protection and other services to areas dominated by foreclosed property. This is a situation with which neither the Farmers Home officials nor the local officials are comfortable, and the time has come to remedy it.

The language of my amendment provides that foreclosed property held by the Secretary of Agriculture shall be subject to legitimate State and local property taxes. The amendment is effective retroactively to the beginning of the current tax year, and also provides that taxes paid by Farmers Home to State and local authorities during prior years need not be returned, but rather shall be deemed to be authorized pursuant to this amendment.

It is my understanding that this amendment is acceptable to the floor manager of the bill and to the ranking minority member of the committee and I urge its approval.

Mr. BROOKE. Mr. President, will the Senator yield for a question?

Mr. HATHAWAY. I am happy to yield.

Mr. BROOKE. Is the Senator saying that under the present law, if foreclosure occurs, then a State cannot then recover property taxes from the Farmers Home Administration?

Mr. HATHAWAY. The Senator is correct. The title to the property reverts to the United States and the State cannot collect taxes against the United States. The Secretary had been paying these taxes gratuitously until it was pointed out to him that the supremacy clause of the Constitution prevented him from doing that and that he needed congressional authorization in order to resume the practice. Also, there is a provision in the amendment which states that all prior payments made by the Secretary are endorsed by this piece of legislation. With this provision, he will not have to take back from States and localities money that he has already paid.

Mr. BROOKE. How long has this practice existed, if the Senator knows?

Mr. HATHAWAY. The practice has been in existence for the past 2 or 3 years.

Mr. BROOKE. When did the Secretary of Agriculture terminate the practice?

Mr. HATHAWAY. I am mistaken. The act took effect in 1949, and the practice was up until 2 or 3 years ago to pay

these taxes. Then it was brought to his attention at that time that this was in violation of the supremacy clause of the Constitution and so the Secretary stopped making the payment.

Mr. BROOKE. Has this caused a hardship in the Senator's home State?

Mr. HATHAWAY. Yes, it has. I have received numerous letters and calls from city managers and town managers asking for the support of this amendment. It has caused a considerable hardship. The amendment, by the way, has been adopted by the House of Representatives. I presume that the State of Massachusetts and every other State in the Union would have similar problems.

Mr. BROOKE. Does the Senator have any cost estimate on this amendment?

Mr. HATHAWAY. Two million dollars.

Mr. BROOKE. What was the cost during the last year that this practice was in operation?

Mr. HATHAWAY. I am sorry. I do not know what it was 3 years ago, but the estimate provided by the Secretary of Agriculture is that it would now cost \$2 million. I presume that is based upon what he was paying out 3 years ago plus the increase in the amount of loans.

Mr. BROOKE. This is a national estimate?

Mr. HATHAWAY. That would be the national figure.

Mr. PROXMIRE. As I understand it, that \$2 million would not be additional funds that we would have to appropriate. That would come from the program, is that not correct?

Mr. HATHAWAY. The Senator is correct.

Mr. PROXMIRE. As I understand it, furthermore, there is no opposition by the Farmer's Home Administration to this?

Mr. HATHAWAY. No, the Farmer's Home Administration supports this, and the amendment was drafted by them.

Mr. PROXMIRE. Also, the House of Representatives has acted favorably on a similar provision.

Mr. HATHAWAY. The House of Representatives has identical language.

Mr. PROXMIRE. The House of Representatives has identical language, and it would permit a policy to be followed that has been followed from 1949, does the Senator say, until 1975?

Mr. HATHAWAY. That is correct.

Mr. BROOKE. Mr. President, if the Senator will yield, is the Senator asking for an authorization of \$2 million?

Mr. PROXMIRE. They do not need an additional authorization, do they? As I understand, they would use funds already authorized and appropriated.

Mr. HATHAWAY. It is to allow specifically what the Department of Agriculture had been doing in prior years, under existing law. It is not for the additional authorization of funds.

Mr. BROOKE. They have the money already in the existing budget, but they need this authority to do it?

Mr. HATHAWAY. The Senator is correct.

Mr. BROOKE. But they would have to reduce the amount they spend on other items?

Mr. HATHAWAY. I presume they would, yes.

Mr. BROOKE. That would mean a cut-back on rural housing, for example; is that correct?

Mr. HATHAWAY. The Senator is correct. They would have to take it out of something.

Mr. BROOKE. How much money is authorized for rural housing, if the Senator knows?

Mr. PROXMIRE. An extraordinarily large sum, as I understand. I cannot tell the Senator the exact amount, but this would be a very tiny fraction of the amount; far less than 1 percent; is that correct?

Mr. HATHAWAY. Yes; and I understand in most recent years they have been well under the amount which they have been authorized to spend.

Mr. BROOKE. I ask that question because I know the Senator from Maine has been a leader in championing rural housing programs. I am sure he would not want to be robbing Peter to pay Paul.

Mr. HATHAWAY. The Senator is correct.

Mr. BROOKE. The Senator says there is sufficient money, and so there would be no adverse effect on rural housing?

Mr. HATHAWAY. The Senator is correct.

Mr. WILLIAMS. Mr. President, I am delighted to join with my distinguished colleagues the Senators from Maine (Mr. MUSKIE and Mr. HATHAWAY) in offering an amendment to S. 1523, the Housing and Community Development Act of 1977, in order to correct an inequity that has caused added financial burdens for States and small communities. This amendment would permit States and localities to levy taxes on housing units that have been acquired by the Farmers Home Administration—FmHA—as a result of defaults on FmHA housing loans.

FmHA presently provides rural residents with business and farm loans under the Consolidated Farm and Rural Development Act, and housing loans under the National Housing Act. Under each of these acts, if a borrower defaults on a loan, FmHA takes title to the property for which the loan was made. The Consolidated Farm and Rural Development Act specifically provides that real property acquired by FmHA under that act is subject to State and local taxation in the same manner as privately owned property. However, no equivalent provision exists in the National Housing Act with respect to rural housing loans, and thus States and localities are barred from levying taxes on FmHA-held housing units. It should be noted that State and local governments may already tax housing units acquired by HUD because of defaults on HUD loans. This inconsistency in the law imposes an unfair burden on a number of small communities, many of which are already experiencing budgetary problems as a result of the unstable economic conditions of the last several years.

At the end of February 1977, FmHA's inventory of housing units acquired as a result of defaults on loans totaled a little over 8,000 units. Some of the prop-

erties in the FmHA inventory are resold after only 2 or 3 months, while others remain unsold for as long as 2 years. Throughout the period that FmHA holds title to a housing unit, the jurisdiction in which it is located must continue to provide it with services. Yet the local government cannot recoup its expenses for providing those services because it cannot tax FmHA held housing units.

The amendment now before the Senate would end this inequity by making the National Housing Act consistent with the Consolidated Farm and Rural Development Act, which already permits States and localities to tax FmHA-acquired real property. An identical amendment, sponsored by Representative WILLIAM HUGHES, was recently approved when the House considered its version of the Housing and Community Development Act of 1977. Also, the administration has expressed no opposition to this amendment, which FmHA estimates would cost about \$2 million per year.

Mr. President, I believe that this amendment is particularly important for small communities throughout the country, and I urge its adoption.

Mr. PROXMIRE. I yield back the remainder of my time.

Mr. HATHAWAY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PROXMIRE. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATHAWAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 314

Mr. MORGAN. Mr. President, I call up my amendment No. 314.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN), for himself, Mr. SPARKMAN, Mr. TOWER, Mr. GARN, Mr. LUGAR, and Mr. SCHMITT, proposes an amendment numbered 314.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 54, line 8, delete all of title IV, the Community Reinvestment Act of 1977.

The PRESIDING OFFICER. The Chair would inquire of the Senator from North Carolina as to whether this is the amendment upon which a time limitation has been agreed to.

Mr. MORGAN. There is a time limitation, as I recall, of 2 hours to the side.

The PRESIDING OFFICER. A 4-hour time limit.

Mr. MORGAN. Mr. President, I also ask unanimous consent that the name of the Senator from Nebraska (Mr. ZORINSKY) and the Senator from North Carolina (Mr. HELMS) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. The purpose of the amendment, Mr. President, is to delete the entire title IV of the act. There perhaps may be some question as to the wording of the amendment itself, as to whether or not it would delete the entire title. So I ask unanimous consent that the amendment as printed be amended as follows: by striking out, on the first page, "On page 54, line 8," and then adding, at the end of line 2, after "1977", a comma and adding thereafter "beginning on page 54, line 8, through page 58, line 2."

The purpose of that modification, Mr. President, is to make sure that the amendment is clear, and that it shows my intention that the entire title IV be stricken, rather than just the title line, as might have been indicated by the original amendment.

The PRESIDING OFFICER. Will the Senator send his proposed modification to the desk?

Mr. MORGAN. I have it right here, Mr. President.

The PRESIDING OFFICER. Is there objection to the modification? The Chair hearing none, the modification is agreed to, and the amendment is so modified.

The amendment, as modified, is as follows:

Delete all of title IV, the Community Reinvestment Act of 1977, beginning on page 54, line 8, through page 58, line 2.

Mr. MORGAN. Mr. President, the issues that are being considered today in S. 1523 are very important, and they concern me greatly, because I personally believe that one of the greatest needs in America today is for housing, and that anything we can do in Congress to expedite the construction and provision of housing for Americans should be done.

But the particular issue before us, and the one that I have called to the attention of the Senate, is also one that concerns me very greatly. I believe, Mr. President, first of all, that it has no business in the middle of a housing bill; for, in effect, if not the first step toward allocation of credit, or the requirement of the allocation of credit by lending institutions in America, it certainly is a foot in the door.

Because of that I think, it is something that should be considered and debated independently of the very important housing legislation which is before this body at this time.

As a matter of fact, Mr. President, the essence of title IV, which I have moved to strike, was introduced by the distinguished chairman of the Banking, Housing, and Urban Affairs Committee as an independent bill, designated as S. 406. Hearings were held on S. 406 as an independent bill. The title of that bill was "The Community Reinvestment Act of 1977." But during the markup of the housing bill (S. 1523) which we are now considering, the Banking Committee voted to attach an amended version of S. 406, the Community Reinvestment Act, to the housing bill.

I might add by way of emphasis that I did not have the privilege of being

present at the time the housing bill was marked up, inasmuch as I was hospitalized at the time. However, I would add that later on, after I was able to return to the committee, we did consider this matter very briefly one day; I moved to reconsider the vote by which this section was added to the housing bill and by my recollection the vote was 7 to 7. Therefore, it being a tie, the motion failed and the section remained in the bill.

Title IV, the provision I am talking about, the Community Reinvestment Act of 1977, requires the Federal supervisory regulatory agencies to make an ongoing assessment of whether or not a financial institution is meeting the credit needs of its primary savings deposit area. This primary savings deposit area is defined—I quote verbatim from the bill—as "a compact area contiguous to a deposit facility from which such facility obtains or expects to obtain more than one-half of its deposit customers."

Mr. President, I feel that during the last election a resounding message was sent to Congress. That message was that the American people are tired of additional Federal bureaucracy and paperwork. Our new President has pledged himself to see that as much paperwork as is possible will be eliminated. All too often we in Congress pass legislation which is noble in intent, but which in actuality is counterproductive to our goals. I believe that the Community Reinvestment Act is such a piece of legislation.

During our hearings in March, witness after witness testified on the adverse effects of such a law, including additional paperwork and additional cost to be borne by the consumer, and even the drying up of all credits in some innercity areas.

During the markup of the bill an amendment was offered and adopted which seemed to eliminate all reporting requirements, but upon closer examination it is evident that the financial regulatory agencies would be required to promulgate yet another set of regulations affecting financial institutions, regulations which Chairman Burns and others indicate would be almost impossible to draw up under the provisions of this bill. I can assure my colleagues that with these regulations will come a mountain of paperwork.

Mr. President, I wish that the printed transcript of those hearings was available so that my colleagues would have the opportunity of reading the testimony of all of these various agencies before the occasion arose that we had to vote on this bill. I want to make it clear at this point that I support wholeheartedly the ultimate intent of this bill, which is to assure that the credit needs of the inner city are adequately met. I am very much concerned about the problems of the inner city and during the last Congress, I was cosponsor of a bill which had to do with redevelopment or rebuilding some of the buildings in downtown inner cities in an effort to try to revitalize these areas.

As a past attorney general of my State, I was among the attorneys general of



the country as a consumer advocate. I am thoroughly convinced that this bill as written would have an adverse effect on consumer lending in our financially distressed inner cities.

That is not only my opinion but the opinion of others adequately expressed in the correspondence which has been placed on the desks of the various Senators.

I might say again, Mr. President, as I have said many times on the floor of this Senate, one of the most frustrating things I have found in the Senate is how in the name of commonsense we get a message across to the Members of this Senate. Here we are debating a very important bill with three Members in the Chamber. This is a bill which, in my opinion, will add mountains of paperwork to every savings and loan and every banking institution in America. How do we get the message across? We send out a "Dear Colleague" letter. Members receive at least 2,000 pieces of mail every week. How do they read it? They cannot read it. If we place letters on their desks, they do not have time to read the letters before they come in and vote.

I do not know how we make up our minds to vote. I do believe if I could get just two-thirds of the Members of the Senate to sit in this Chamber for 15 minutes I could convince them that this provision does not belong in a major housing bill.

If we ever adopt a consumer advocacy agency—and I voted for it 2 years ago, but I doubt that I will this time—I hope to the Lord we will apply it to the Congress so it can take a look at the legislation we pass to see if the injection of items such as this into major pieces of legislation constitutes an unfair practice.

I am satisfied that Members of this body come in and think they are voting primarily or solely for a bill that will really develop housing in America.

I do not have the answer to this question. There is no one to blame. It is just the parameters of the work of a Member of the U.S. Senate being so large as to be humanly impossible for anyone to know just what to do.

It is my honest opinion that this bill is based on a misconception of how our financial system operates. Proponents of the bill would argue that deposits in the inner city are being funneled out to make loans in the suburbs and in the more affluent sections of town. I would argue that this is a rare, rare instance, and that the majority of the inner-city areas cannot support savings institutions without the additional resources of the more affluent sections of the cities and their suburbs.

What this legislation would do is actually discourage the financial institutions in the more affluent sections of town from becoming involved in inner-city lending because this would not be meeting the community credit needs of their primary saving deposit areas, defined as a compact area contiguous to a deposit facility from which they get 50 percent of their savings.

What is a savings and loan institution in the suburban area of the city of Wash-

ington going to do when more than 50 percent of its savings comes from that contiguous area? Are they going to branch out and bring their money to downtown inner-city Washington which we are trying to develop? I say it is going to have the exact reverse effect. It will be the rare exception when it does.

During the hearings on this legislation, we heard testimony of how a group of financial institutions in the city of Philadelphia banded together to form the Philadelphia mortgage plan to insure that the credit needs of the inner city were being met. I say to my colleagues that if they will check back in their home States, they will find that this is the same type of concerted effort that is being made by concerned financial institutions throughout the country. It is through efforts such as these that we are going to be able to deal with the financial plight of our inner cities, and not additional paperwork and bureaucracy as this bill would require.

We are paperworking the businesses of this country to death.

For example, within the last 5 months, and I ask Senators to please note this, three acts of Congress have gone into effect aimed at redlining and the problems of credit in the inner city. Why not stop and see whether our previous legislative efforts are successful in dealing with this problem before we add yet another layer of legislation, paperwork, and bureaucracy? Let us find out if those three acts which have already passed will have their desired effects.

The Home Mortgage Disclosure Act is aimed at determining whether or not a financial institution is redlining in its home lending policies. If I recall correctly, the reports require that the loans be shown according to census tracts.

Under that law, the first reports were required to be filed in March, just 2 months ago. What do they show? Will these reports indicate that redlining has been practiced? If they do, does not each of the regulatory agencies of the various financial institutions have the authority to step in, to move in, and to see that the financial needs of the deposit facilities are being served?

The preamble to this title says:

The Congress finds that regulated financial institutions are required by law to demonstrate that their deposit facilities serve convenience and needs of the communities in which they are chartered to do business;

If these reports, which were just filed 2 months ago, indicate that a savings institution is not serving the area or the needs of the community where the deposit facilities are located, the law already requires them to do something about it.

This very act, in which we seek to add another layer of bureaucracy upon the institutions of this country, finds that the convenience and needs of communities include the need for credit services as well as deposit services. It makes it perfectly clear that the law already requires that financial institutions meet these credit needs. Here we have not given the act that we passed just last year but 2 months to come into effect—

only 2 months—before we are attempting to lay upon these financial institutions and these regulatory agencies additional burdens which I do not believe they can properly carry out.

The compilations of these reports were at a huge cost to our home lending institutions. Yet there has been little or no interest shown in these reports since their filing in March.

Earlier, during this last 2 or 3 weeks, I had printed in the RECORD, some findings of the savings and loan institutions, of reports that they made. I believe it indicated that their responses had been that, out of 2,775 inquiries, 1,543 had responded and almost no interest was shown. Rather than read the whole thing on my time, I refer my colleagues to the RECORD of Wednesday, May 18.

Let me add, as I have on the floor of the Senate many times, I am a director of a savings and loan in my State. It is a mutual savings and loan, designed primarily to serve the needs of the housing people of my area. There is no one in the Senate who knows better what can happen when you do not have credit because, when I started practicing law, in the area in which I lived, there was no credit available for a person to build a home unless he had about 60 to 70 percent of the downpayment and he could prevail upon one or two insurance companies to come in and make the loan. That is the reason I got busy in 1958 and 1959 and formed a savings and loan and brought it into my town. I know what it can do to a community. I know how it can hamper the development of a community when there are no funds available to build homes.

At the same time, I know what it can do to the financial institutions that are trying to serve these needs when we continue to add and add more and more paperwork, which ultimately must be passed on to the consumer.

In addition to the Home Mortgage Disclosure Act which was passed, there is the Equal Opportunity Credit Act and regulation B, which just went into effect in April, just a month ago. This is designed to prevent any kind of discrimination in the granting of credit by any federally insured or regulated deposit institution.

Compliance with these regulations should assure that credit is granted wherever it is needed and wherever borrowers have the capability to support the debt. The complaint and reporting provisions of these regulations should supply, in time, a fairly sound and realistic appraisal of situations in which credit is being denied.

Third, the argument can also be made that the very recently approved National Neighborhood Policy Act, which authorizes a National Neighborhood Commission, will also provide a source and forum for the consideration of the extent to which credit deficiencies might exist and how they might best be dealt with.

What I am saying, Mr. President, is that, by passage of this act, we are resorting to overkill. To begin with, there have not been conclusive studies to show whether the credit needs of the inner cities are being met, except for sound

financial reasoning, of course. If we do have a serious problem with redlining, then, certainly, we ought to give these other, recently enacted legislative initiatives time to see whether or not they can adequately deal with the problem.

Again, Mr. President, in that connection, let me say there is another effort being made. We felt so strongly about this matter that we asked the Comptroller of the Currency to comment on title IV of this bill. We asked the Federal Reserve Board to comment on it. We asked the Federal Home Loan Bank Board to comment on it. We have responses from these groups, the Department of Housing and Urban Development having already commented during the hearings, according to my understanding.

Today, we received a letter from the Acting Comptroller of the Currency, which we had understood was in the making for a substantial period of time.

In any event, we did get the letter today.

In the immediately preceding paragraph, it alludes to the problems and alludes to a letter that has been sent to Senator PROXMIER and others; this entire letter is available to anyone who wants it. This is the conclusion.

To consider appropriate strategies for solving these problems, the President has created, by letter of March 21, 1977—

Just 2½ months ago—  
and pursuant to Executive Order 11297, the Urban and Regional Policy Task Force, chaired by HUD Secretary Harris with the Secretary of the Treasury playing a prominent role. The initial recommendations of the task force, expected by early fall, promise to be comprehensive in their approach. Undoubtedly, Congress will recognize the wisdom of dealing on a broad basis with the multifaceted social and economic issues which must be addressed in any effective program of community revitalization rather than attacking the problems in a disconnected and piecemeal fashion. Therefore, we urge that legislation of the type embodied in Title V—

It should be title IV, but in the original bill, it was title V—

of the omnibus housing bill be tabled until receipt of the Task Force recommendations.

So, Mr. President, let me go back and recapitulate momentarily.

We first have the Home Mortgage Disclosure Act, passed during the last Congress, which required, just within the last 2 months, that lending institutions file reports showing where their money had been lent. So we have that first safeguard, which no one has had time to act on.

Second, we have the Equal Credit Opportunity Act and Regulation B, which only went into effect in April.

Third, we have the National Neighborhood Policy Act, which created the Neighborhood Commission, to provide a source and forum for consideration of this very problem.

Now we have come along and this administration, this President, on March 21, by Executive order, created another task force to deal with this very same problem.

Mr. President, it just makes sense to me that, before we pile onto all of the

rest of the regulatory requirements, we just take the time to see if any of those four practices are going to take effect.

Somebody has said this is a relatively innocuous act and it really will not have much effect. Let me read what section 406 of title IV has to say:

SEC. 406. Regulations to carry out the purposes of this title shall be published by each appropriate Federal financial supervisory agency, and shall take effect no later than one hundred and eighty days after the date of enactment of this title.

Regulations to carry out the provisions of this act. What kind of regulations? Are we talking about credit needs, Mr. President, for homebuilding? Are we talking about credit needs for financing household appliances? Are we talking about credit needs for financing automobiles?

And who is going to determine them? Is the Comptroller of the Currency? Is the Federal examiner going to have to have an ongoing program in every deposit area of America to determine what the credit needs of that area are with regard to housing or appliances or automobiles or whatever?

And how is he going to determine whether they are going to be met?

Is every financial institution in America going to have to keep a record of every verbal as well as written loan application that comes into their banking or financial institution? And then when the examiners come along, are they going to have to determine whether the loan was made or whether it was denied on the basis of sound credit practices? Or whether it was made in the area in which the loan was located?

These are not just questions I have dreamed up in my mind. These are questions that have been raised to me by people of the regulatory agencies as we have tried to get into this matter.

I will read from a letter signed by Dr. Arthur Burns, Chairman of the Board of Governors, in which he had responded to my letter of May 12 asking for comments on the amended language of section 406:

The amended version would still require the financial regulatory agencies to promulgate yet another set of regulations affecting financial institutions.

The legislation would require the supervisory agencies to assess the effectiveness of institutions in meeting the needs of their communities. Before such assessment could be made, the "needs of the community" would have to be identified. In effect, the legislation would require the financial regulatory agencies to measure continuously the credit needs of every community in the United States.

It is unclear how the supervisory agencies are expected to carry out this responsibility. We would hope that the Congress does not envisage extensive on-going surveys of the credit demands of individual communities. Obviously, such studies would be outside the normal supervisory role of the agencies and would involve substantial additional costs.

There is a further two-fold difficulty in determining whether a depository institution is meeting the credit needs of its service area. First, a regulator would have to determine the degree to which the area's credit needs were unmet by all other creditors serving the area. This would involve the difficult task of assessing the activities of banks, thrift institutions, mortgage bankers, finance companies, and insurance companies. Sec-

ond, after deciding what the unmet credit needs were, if any, a regulator would then have to determine what share of those needs a particular institution should attempt to satisfy.

Moreover, other approaches for implementing this legislation that have been considered by the Board's staff have also been found to be costly and of dubious value in determining community needs. For example, staff has considered whether loan approval and rejections could be analyzed. Loan information would have to be classified as to whether the borrower resided within or outside the bank's primary service area. Applications would have to be placed into specific categories, such as automobile loans, home improvement loans, personal loans and business loans. Examiners would have to compare applications from within the bank's savings service area that had been rejected to those loans outside the bank's savings service area that had been approved.

The examiners would be required not only to assess the soundness of the bank's loan's as at present, but they would also be required to assess the creditworthiness of applicants whose loan requests had been rejected in order to determine if the bank was rejecting loan applications meeting commonly accepted credit standards from within its primary savings service area while making loans outside of its primary service area. Such a process would significantly increase the work load and staffing requirements of the supervisory agencies. Moreover, such procedures would not reach those cases where loan requests were not reduced to a written record, nor would it uncover instances where longstanding policies had created a climate in which few credit requests are made. Thus, we do not believe this approach would accurately address the issue of determining community needs.

Alternatively, if the supervisory agencies took a different approach and required financial institutions to maintain records showing the amount of deposits generated from the primary savings service area and the amount of loans made in the area, we foresee equally serious objections. Aside from the cost of additional record keeping for financial institutions, the principal problem with respect to such an approach is that, given the wide differences in the demographics of service areas and the consequent differences in loan demand, it would probably be impossible to arrive at a reasonable judgment as to what a proper reinvestment ratio should be. Moreover, such an approach would be likely to interfere with the economically desirable flow of credit from areas of supply to areas of demand.

Finally, and most importantly, to the extent that this or any other sanction should prove effective in causing credit to flow substantially into an area on the basis of non-market forces, entry by depository institutions into other similar areas would likely be discouraged. Such areas would then be deprived of additional deposit services and some degree of loan services as well. Thus, the legislation seems likely to prove counterproductive in its effects.

As described in my most recent letter to Chairman Proxmire on this subject (copy enclosed), there are a number of ways in which the Federal Reserve is already encouraging banks to establish lending policies and business practices that are designed to better meet the credit needs of their communities.

For the above reasons, I am opposed to enactment of Title IV of S. 1523.

Mr. President, that letter was dated May 23, long after I voiced my objections to this portion of the bill, but it reaffirms what I had to say.

Mr. President, I ask unanimous consent that the letter of Dr. Burns, the let-



ter of Mr. Marston, Chairman of the Federal Home Loan Bank Board, and the letter of Acting Comptroller of the Currency, Robert Bloom, be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.  
(See exhibit 1.)

Mr. MORGAN. Mr. President, I ask that that be done so there may not be any misunderstanding about what I have had to say.

In concluding, Mr. President, I would like to raise my most serious objection, and that is that I feel legislation of this nature is a significant step in the direction of credit allocation by the Congress of the United States.

If bills of this nature are pushed to their ultimate conclusion, then the day will come when a financial institution may be forced to make an unsound loan in a specific location in order to meet its quota of loans in a given locality.

Mr. President, I view this as an extremely dangerous and unwise direction for this Congress to take, and I hope my colleagues will join me, along with my distinguished colleagues, Senators SPARKMAN, ZORINSKY, TOWER, GARN, LUGAR, and SCHMITT, in voting to delete this burdensome and counterproductive piece of legislation.

The time, I think, has come for Congress to finally say "no" to further bureaucratic paperwork and regulation.

Let us see if these four remedies which I have already discussed are workable. The Home Mortgage Disclosure Act, the Equal Credit Opportunity Act, the National Neighborhood Policy Act, and the new task force which was appointed by the President on March 21, are four new legislative or executive initiatives designed to look into this problem and, in the meantime, we in the Banking Committee are taking another look at it.

I commend my distinguished chairman for his work in the Banking Committee. I serve on several committees, and I know of no chairman in the Senate who devotes more of his time and efforts to the functions and duties of his committee than does Chairman PROXMIER. As a matter of fact, I say sometimes facetiously that he is the nearest thing to perpetual motion in the Banking Committee I have ever seen. I say it good-naturedly, but he does do it.

The chairman is forever having someone into our committee with oversight hearings, and if more Members of Congress, more committees of Congress, did this and had been doing it in the years past I doubt very seriously if the Watergate Committee would have ever existed or the Church Committee would have ever existed, and there probably would have been no need for the Intelligence Committee on which I serve.

So I say in all earnestness we do have a working chairman, and I plead with the Senate to delete this section. Let us wait and see what these four remedies I have described do, and if they have any effect. In the meantime, the chairman can be carrying on ongoing hearings to determine what other remedies would

be available, rather than inserting this into one of the Senate's major pieces of housing legislation.

I reserve the remainder of my time, Mr. President.

#### EXHIBIT 1

FEDERAL RESERVE SYSTEM,  
Washington, D.C., May 23, 1977.

HON. ROBERT MORGAN,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR MORGAN: Thank you for your letter of May 12 asking for my comments on the amended language of S. 406, the "Community Reinvestment Act," which has been incorporated as Title IV of the Omnibus Housing Authorization bill (S. 1523).

As you indicate, the amended version would still require the financial regulatory agencies to promulgate yet another set of regulations affecting financial institutions.

The legislation would require the supervisory agencies to assess the effectiveness of institutions in meeting the needs of their communities. Before such assessment could be made, the "needs of the community" would have to be identified. In effect, the legislation would require the financial regulatory agencies to measure continuously the credit needs of every community in the United States.

It is unclear how the supervisory agencies are expected to carry out this responsibility. We would hope that the Congress does not envisage extensive on-going surveys of the credit demands of individual communities. Obviously, such studies would be outside the normal supervisory role of the agencies and would involve substantial additional costs.

There is a further two-fold difficulty in determining whether a depository institution is meeting the credit needs of its service area. First, a regulator would have to determine the degree to which the area's credit needs were unmet by all other creditors serving the area. This would involve the difficult task of assessing the activities of banks, thrift institutions, mortgage bankers, finance companies, and insurance companies. Second, after deciding what the unmet credit needs were, if any, a regulator would then have to determine what share of those needs a particular institution should attempt to satisfy.

Moreover, other approaches for implementing this legislation that have been considered by the Board's staff have also been found to be costly and of dubious value in determining community needs. For example, staff has considered whether loan approval and rejections could be analyzed. Loan information would have to be classified as to whether the borrower resided within or outside the bank's primary service area. Applications would have to be placed into specific categories, such as automobile loans, home improvement loans, personal loans and business loans. Examiners would have to compare applications from within the bank's savings service area that had been rejected to those loans outside the bank's savings service area that had been approved.

The examiners would be required not only to assess the soundness of the bank's loans as at present, but they would also be required to assess the creditworthiness of applicants whose loan requests had been rejected in order to determine if the bank was rejecting loan applications meeting commonly accepted credit standards from within its primary savings service area while making loans outside of its primary service area. Such a process would significantly increase the work load and staffing requirements of the supervisory agencies. Moreover, such procedures would not reach those cases where loan requests were not reduced to a written record, nor would it uncover instances where long-standing policies had created a climate in which few credit re-

quests are made. Thus, we do not believe this approach would accurately address the issue of determining community needs.

Alternatively, if the supervisory agencies took a different approach and required financial institutions to maintain records showing the amount of deposits generated from the primary savings service area and the amount of loans made in the area, we foresee equally serious objections. Aside from the cost of additional record keeping for financial institutions, the principal problem with respect to such an approach is that, given the wide differences in the demographics of service areas and the consequent differences in loan demand, it would probably be impossible to arrive at a reasonable judgment as to what a proper reinvestment ratio should be. Moreover, such an approach would be likely to interfere with the economically desirable flow of credit from areas of supply to areas of demand.

Since we have not been able to formulate what regulations could be adopted to accomplish effectively the objectives of the legislation, we cannot estimate supervisory costs or costs to financial institutions. Based on the System's experience in enforcing consumer credit regulations, however, it is possible that the costs would be substantial.

I might further point out that the "sanction" provided in the amendment to the proposed Bill that was approved by the Committee on May 9, 1977, i.e., to consider such information in the evaluation of applications for new deposit facilities, would probably not be very effective. First, although it is ambiguous as to holding company banks, it clearly would not impose sanctions on independent banks that are located in non-branching states. In addition, a depository institution that wishes to circumvent the Congressional objective would suffer only the penalty of being limited in the expansion of its deposit-receiving facilities.

Finally, and most importantly, to the extent that this or any other sanction should prove effective in causing credit to flow substantially into an area on the basis of non-market forces, entry by depository institutions into other similar areas would likely be discouraged. Such areas would then be deprived of additional deposit services and some degree of loan services as well. Thus, the legislation seems likely to prove counterproductive in its effects.

As described in my most recent letter to Chairman Proxmire on this subject (copy enclosed), there are a number of ways in which the Federal Reserve is already encouraging banks to establish lending policies and business practices that are designed better to meet the credit needs of their communities.

For the above reasons, I am opposed to enactment of Title IV of S. 1523.

I hope that the above comments will be helpful to you in your deliberations.

Sincerely yours,

ARTHUR F. BURNS.

FEDERAL HOME LOAN BANK BOARD,  
Washington, D.C., May 18, 1977.

HON. ROBERT MORGAN,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR: This is in response to your request of May 12, 1977 for the Board's views on the wisdom of enactment of the Community Reinvestment Act. You have also asked for our comment on the nature of regulations which we might propose as a result of enactment, an estimation of the cost of promulgating and enforcing such regulations and the potential cost to the financial institutions subject to the Board's regulation.

As the Board testified on S. 406 as originally proposed, the Board strongly favors the objective of having depository institutions meet

the credit needs of communities. In fact, the Board does review an institution's proposed plans for meeting community credit and savings needs in connection with all deposit facility, permission to organize and insurance of account applications. Nevertheless, the Board had a number of difficulties with the proposed legislative approach of S. 406 and continues to have difficulties with the revised S. 406 as adopted by the Senate Banking Committee. This is because although the language of the bill has been considerably altered, it is the Board's view that it is substantively very similar to the original bill.

Let me comment on this point briefly. The Board testified in opposition to the specifics of S. 406 in part because the Board did not believe that the objectives of the bill were well defined. We were unclear as to exactly what the Committee meant by the term "communities needs". For example, were these the needs of inner city blighted or deteriorating neighborhoods or were these the needs of certain members of society experiencing discrimination in obtaining housing credit? In the case of an affluent suburban community, does meeting community needs indicate that channelling funds into the inner city of the central city would be looked upon adversely? The present version of S. 406 does not cure any of these difficulties, and we continue to be unclear as to how to direct examiners to assess an institution's record of service to community credit "needs".

Secondly, and related to the question of which "needs" of the community are to be served, is the problem of defining the community or market area that an institution is supposed to be serving. As we testified on S. 406, the Board finds the definition of the primary savings service area in the bill wholly unworkable. This is because the area as defined is likely to be so small that it would not encompass a reasonable lending area, particularly for downtown branches of associations. As indicated in our testimony, this limited definition of a primary savings service area exacerbates the problem of the mis-match of savings areas and lending areas. In addition, there is a great deal of subjectivity in delineating the primary savings service area, and a large number of alternative areas could be used. Since the amended version of S. 406 contains the original definition of primary savings service area and keys the operative section of the bill to meeting the needs of that area, the Board must reiterate its objection to this feature of S. 406.

Thirdly, a major objection the Board expressed to the original S. 406, which has not been cured in the amended version, is its primary application only to Federally chartered savings and loan associations. Since State chartered savings and loan associations are not required to come to the Board for branch approvals, the impact of the bill would not be felt by such associations. We recognize that State chartered banks are required to receive branch approval from the FDIC and the Fed. However, it is the Board's understanding that a significant purpose of the bill is to serve housing credit needs—as opposed to other "credit needs", such as consumer loans. Therefore, the failure to reach over half of the savings and loan industry, the major housing credit suppliers, is in the Board's view a serious shortcoming. In addition, if enacted, the Board is concerned that Federal institutions may convert to State charter to avoid coverage under the bill. The Board must oppose such a potential erosion to the dual system.

For these reasons, the Board is seriously concerned about implementation of the bill, if enacted. The Board's staff has made an initial analysis of the bill, as amended, from an implementation point of view. As a technical

matter, it reflects its rapid drafting. Key terms, for example, are left undefined. The bill as drafted makes application of the provisions to chartering and granting of insurance of accounts to new institutions difficult, if not impossible. As alluded to above, the Board would be given no standard as to how to interpret the "community needs" requirement. The Board would be hard put to provide guidelines to examiners with respect to judging S&Ls on the basis of this criterion. Any guidelines would require that examiners become familiar with housing needs in a community or primary savings area. This requires the skills of a local housing market analyst. Our preliminary analysis of the bill indicates that if the Board were to fashion a definition of the "community" or primary savings service area for each institution, and its various offices it would have to require additional recordkeeping by institutions, probably a register of loan applications. Beyond that, the Board would have to establish a "norm" for each institution, possibly by region, market area, or "community", in order to provide examiners with guidelines as to how to assess each institution in terms of meeting credit needs. This is quite a substantial additional workload for examiners and one for which they are ill-prepared by training. Examiners would have to assess to what extent lending outside of the primary savings areas represents a legitimate lack of "need" for funds in the primary savings area.

In conclusion I would like to remind you of the proposal the Board made in its S. 406 testimony. The Board proposed that each institution's compliance with the fair lending and equal opportunity credit laws be reviewed in connection with each deposit facility application. (As with the whole bill, this proposal has the limitation of having its greatest impact on Federal associations). In the Board's view this proposal is a reasonable alternative to S. 406, as originally proposed and as amended. The alternative has the virtue of being administratively feasible and would certainly insure that a community's needs are being served to the extent protected by the fair lending and equal credit opportunity laws.

Without question S. 406 treats of a very important subject—making mortgage and other credit available to communities. However, the bill's possible goals are many and ill-defined and it constructs an enforcement mechanism which is unfair, as respects only Federal association to the exclusion of State chartered associations, may well be unworkable as an administrative matter, and reflects a basic misunderstanding as respects the sources of savings and the areas in need of mortgage credit.

Sincerely,

GARTH MARSTON.

COMPTROLLER OF THE CURRENCY,  
Washington, D.C., June 2, 1977.

HON. ROBERT MORGAN,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR MORGAN: I was glad to receive your letter of May 12, 1977, concerning the Community Reinvestment Act (S. 406) and to have a further opportunity to explain our reasons for opposing enactment of this legislation, now incorporated into an omnibus housing authorization package as Title V.

The opposition of the Comptroller's office to such a legislative proposal is longstanding and substantially predates the introduction of S. 406. To put the matter in historical perspective, it appears that Chairman Proxmire first focused upon the issues addressed by the Act in connection with a branch application filed by Pacific National Bank of Washington in Seattle. I enclose a copy of our

letter of August 27, 1976, which explains the circumstances surrounding that application and the deliberate efforts on the part of this Office to grant a full and fair hearing to all views, especially those of interested groups representing the local community.

Senator Proxmire followed his initial inquiry with three related pieces of correspondence in June and July, reflecting his growing concern that the Comptroller does not adequately consider the convenience and needs of a local community in determining whether to approve or deny an application for a national bank charter or branch facility. By letter of October 12, 1976, a copy of which also is enclosed, we responded to the Chairman in detail, setting forth our policies and procedures for insuring that the national banking system is responsive to the needs of the individual communities across the nation which it has been created to serve. As we attempted to make clear, it is unrealistic to expect those needs to involve only simple local demand for credit, however important a factor that may be.

Senator Proxmire seemed especially interested in the role of banks in alleviating the specific problems of urban decay by meeting inner city demand for home mortgages. In this particular regard we assured the Chairman that disinvestment in urban neighborhoods was an issue to which our Office has assigned high priority. The previous Comptroller emphasized repeatedly that national banks, and all financial institutions, have a duty to provide their communities with leadership and expertise in planning programs to combat such deterioration. However, we also pointed out that these problems cannot be solved by banks alone. A cooperative community-wide effort aimed at eliminating the root causes of housing blight, employment shortages, and educational weaknesses is essential.

To consider appropriate strategies for solving these problems the President has created, by letter of March 21, 1977, and pursuant to Executive Order 11297, the Urban and Regional Policy Task Force, chaired by HUD Secretary Harris with the Secretary of the Treasury playing a prominent role. The initial recommendations of the Task Force, expected by early fall, promise to be comprehensive in their approach. Undoubtedly, Congress will recognize the wisdom of dealing on a broad basis with the multi-faceted social and economic issues which must be addressed in any effective program of community revitalization rather than attacking the problems in a disconnected and piecemeal fashion. Therefore, we urge that legislation of the type embodied in Title V of the omnibus housing bill be tabled until receipt of the Task Force recommendations.

We trust this will be helpful in preparing for debate on the Senate floor. If I or my staff can be of any further assistance, please do not hesitate to call on us.

Sincerely,

ROBERT BLOOM,  
Acting Comptroller of the Currency.

MR. PROXMIRE. Mr. President, I want to thank my good friend from North Carolina for those concluding remarks. He almost persuaded me to support his amendment with the logic and beauty of what he said at the very end.

I must say that regretfully I oppose it. Senator MORGAN is a very, very hard-working member of the committee. He has been particularly interested in housing, especially in the last year or so. He is chairman of our Rural Housing Subcommittee, and I must say there is a great deal of force and logic in his argu-



ments. But I rise in opposition to the amendment, and I urge my colleagues to retain title IV, as reported.

Mr. President, for more than 2 years the Banking Committee has been studying the problem of redlining and the disinvestment by banks and savings institutions in older urban communities.

By redlining let me make it clear what I am talking about. I am talking about the fact that banks and savings and loans will take their deposits from a community and instead of reinvesting them in that community, they will invest them elsewhere, and they will actually or figuratively draw a red line on a map around the areas of their city, sometimes in the inner city, sometimes in the older neighborhoods, sometimes ethnic and sometimes black, but often encompassing a great area of their neighborhood.

We also know that smalltown banks sometimes ship their funds to the major money markets in search of higher interest rates, to the detriment of local housing, to the detriment of small business, and farm credit needs.

In 1975 Congress took the first small step against redlining. We passed a mild version of the Home Mortgage Disclosure Act, requiring financial institutions just to disclose where home mortgage loans are made.

The data provided by that act remove any doubt that redlining indeed exists, that many credit-worthy areas are denied loans. This denial of credit, while it is certainly not the sole cause of our urban problems, undoubtedly aggravates urban decline.

I might point out, Mr. President, that the redlining information has not been available just for 2 months, not just for 3 months, not just for 4 months, but ever since last September 30 in most cases.

Furthermore, the use of that data has been quite extensive. The New York papers have had a very elaborate series of stories on the amount of disinvestment in New York, pointing out that about 11 percent of the money deposited in Brooklyn remains, and 89 percent is invested elsewhere.

In the District of Columbia we find about 90 percent of the money is invested outside of the community where the money is deposited. Chicago has an enormous amount of disinvestment; in California, the data and details flowing from our legislation show that Los Angeles has suffered a great deal of disinvestment; St. Louis has massive disinvestment; Indianapolis is the same way; and in Cleveland, the Cleveland Plain Dealer had a series of stories pointing out this very serious problem, and highlighting the fact that this is something that is undoubtedly contributing or has contributed for a long time to the decay of the city.

Therefore, the committee included title IV to reaffirm that banks and thrift institutions are indeed chartered to serve the convenience and needs of their communities, and as the bill makes clear, convenience and needs does not just mean drive-in teller windows and Christmas Club accounts. It means loans.

Mr. President, the solution to housing and economic development needs is not

simply a Federal program, a Federal charge. There is no way that the Federal Government alone can solve this. If HUBERT HUMPHREY had been elected President of the United States, if PAUL SARBANES had been elected President of the United States, if ED BROOKE had been elected President of the United States, and with their deep commitment in the case of each of those three great Senators, to the building up of our cities, there is no way that the Federal Government can solve that problem with its resources.

What it takes is the kind of resources that the local financial institutions have, and they have plenty. They have over \$1 trillion, \$1,000 billion.

Now, it is possible that the Federal Government may put in a few billion dollars this year or over the next few years to help rebuild our cities. But it will be peanuts compared to what the financial institutions can put in, if they have the will to do it.

The private sector has the capital, the know-how, and the efficiency to do the job. And the banking industry must be encouraged to reinvest in local needs rather than continuing to favor speculative loans to shaky foreign regimes, to REITs, to unnecessary supertanker fleets, to bank insiders, and all of the other questionable ventures that have managed to get credit while our local communities starve.

Mr. President, I have great admiration for our banking system. I started off, when I finished school, in a bank and worked in a bank in New York for my first employment. I think that bankers sit right at the heart of our economic system, and I think they do have much better judgment because they understand their community, and have much better judgment than we have here. But the record shows we have to do something to nudge them, influence them, persuade them to invest in their community.

Just this week, a letter came across my desk from the vice chairman of First National City Bank, defending excessive Third World lending by U.S. banks.

The letter is as follows:

Bankers who have stepped up their cross border lending in response to urgent financing needs in the developing countries and a decidedly soft loan market at home are being roundly lambasted . . .

You bet they are. What does he mean by a soft loan market at home? Has he talked to young families in Brooklyn and small businessmen in Milwaukee who cannot get loans? What does he mean by urgent financing needs in the developing countries? What about urgent economic development needs in Detroit, Philadelphia, Baltimore, and Boston?

We need to encourage bankers to get out of the office and walk around the block and find loan opportunities here at home. The law already provides that banks are chartered to meet the convenience and needs of their communities.

Let me repeat that. The law now chartered banks to do what? To meet the convenience and needs of their communities.

But unfortunately many bankers and many bank regulators have forgotten the meaning of those words.

Title IV provides that:

Regulated financial institutions have a continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered.

That is what the bill that we are now considering and the part of the bill that the amendment would delete provides.

And we provide that the regulatory agencies shall encourage lenders to give priority to local credit needs, consistent with sound lending practices.

The act provides that bank examinations shall assess how well the lender is serving the local community, and that this assessment will be taken into consideration if the institution makes application for a new branch. Those who are serving their communities should be rewarded. Those who are utterly neglecting their communities should not.

Mr. President, we might say that we simply bewail the situation, leave it to the marketplace, leave it to the bankers. We have done that now for years and years and years. We suffer this problem in the cities, in Detroit, in Milwaukee, in Chicago, in New York. The banks are taking the money out of these communities and investing it elsewhere.

We know, furthermore, as I am going to point out in a minute, that this is not necessary, that in the case of Philadelphia where they have gotten 15 of the most outstanding financial institutions together they have stopped redlining and they have done a great job there. They have made over 1,500 loans and made those loans in the last 18 months.

They have had a default rate of only six-tenths of 1 percent which is about the same default rate in the conventional area. It has been a smashing success. It has worked. They only turned down about one out of five of the applicants that have made application under this system from the inner city. But that can be done elsewhere, but it takes leadership from the Federal Government and takes leadership from the regulatory agencies.

The intent and effect of this measure has been widely misunderstood, and it has been the subject of a scare campaign by some trade associations. And boy how they lobbied. I talked to a number of Senators today who told me how they were called and received many letters from bankers in their State and called, also, by their own personal banker who makes loans to them—that is about as influential as you get from a lobbyist—to urge them to support the Morgan amendment to oppose the section of the bill. An early draft of the bill would have required additional reporting by lenders. The committee considered this provision in markup, and we unanimously agreed that bank examiners already have access to ample data to carry out the purposes of this title. We deleted the reporting requirement.

The Senator from North Carolina has made a very strong point and a very emphatic argument, indicating that this would require a lot more paperwork, a lot more redtape. That was true of the bill originally perhaps, but it certainly is not true of the bill now.

I think the redtape argument is a red

herring. I would say to those who fear increased bureaucracy—if the private sector fails to do the job of reinvesting capital in older communities and the Government has to pick up the pieces, then you will really see redtape. This is a private enterprise proposal.

The proponents of this bill also say it is impractical. Is it? Is it impractical? Let us consider.

We had a test of what this bill would do in two States. Two State banking commissioners have already adopted precisely this approach.

Did the chamber of horrors described by the Senator from North Carolina if this provision goes into effect materialize in those States?

Have we had credit allocation? Have we had redtape? Have we had additional paperwork?

Commissioners Connell of Connecticut and Greenwald of Massachusetts testified in support of the Community Reinvestment Act.

They told the committee that whenever they received branch applications, and this is just what this bill would require to be done on a national basis, they take the opportunity to assess how well the bank is serving its existing areas.

Banks that want to branch into lucrative suburban locations must demonstrate their commitment to areas served by existing city branches.

Let me read briefly from the testimony at the hearings from the Commissioner of Massachusetts, Commissioner Greenwald. She said this:

In Massachusetts, we have administratively instituted many of the provisions of this bill; we have done so in keeping with our legislative mandate to regulate in the public interest.

And she gives a series of examples of how this has worked out, and I shall quote just a few:

In one case we got a commitment that the bank would now make mortgage loan applications available at all its branch locations. Another was asked to make a commitment to work with community representatives in the older neighborhoods that it traditionally served, and to seek local area members for its Board of Trustees.

Most interestingly, another bank was granted permission to establish a suburban branch only after it renewed its commitment to a branch in an underbanked neighborhood by relocating it to better quarters, extending banking hours there, and offering the bank's full range of services at the branch. This branch the bank had earlier sought to close; a request which had been denied.

These are the kinds of actions that can be taken at the review process, at a branch hearing by the regulatory agency.

This is exactly the kind of action, as I say, that has been put into effect in Massachusetts, and in Connecticut. There is no evidence that there has been any domination by the regulator and redtape, any credit allocation. But it has worked to improve the opportunities for people in the cities to get loans. This carrot and stick approach delivers better banking services to both city and suburb.

Even at the Federal level, where the bank supervisory agencies are less

sensitive to the disinvestment problem, the Federal Home Loan Bank Board, has gently jawboned certain savings and loan associations who were obviously failing to serve their communities. In one case, a savings and loan based in Washington, D.C., was exporting 99 percent of local deposits out of State, despite local credit needs. The Bank Board called in management for a little talk. That was all it took: no redtape, no reports. Just a signal that the regulators felt the institution was neglecting its community. And the next year, the percentage of lending in the city went up from 1 percent to 20 percent.

Similarly, this bill would encourage the agencies to be somewhat more vigorous in reminding lenders of their local responsibilities.

The Senator from North Carolina has circulated a letter from Chairman Arthur Burns opposing this bill. Dr. Burns' letter says that first of all it would be impractical to encourage banks to meet local credit needs. Then he goes on to say that the Fed is already encouraging banks to meet local credit needs.

Now, Dr. Burns is a masterful economist, but he cannot very well have it both ways. If it is impractical, the Fed cannot be doing it already. It is like the fellow accused of assault who says, "I didn't do it, and besides I was provoked."

Interestingly, Dr. Burns is very inconsistent about whether banks should be required to give priority to local credit needs. Let me quote from another letter of Dr. Burns. Back in 1974, at the height of the credit crunch, Chairman Burns wrote a letter to Robert Mayo, President of the Federal Reserve Bank of Chicago. Dr. Burns wrote that feedlot operators were having a very bad year, and that many country banks were cutting back local loans in order to obtain higher yields elsewhere. Then Dr. Burns said:

While funds should normally flow to the uses offering the greater return, I believe that it is important that each banker realize that the continued availability of credit to local activities may well, in the long run, yield the greater total return to the economy of his community, and thus to his bank as well. Taking due account of relative credit risks, the first obligation of bankers is to the credit requirements of their service area.

Dr. Burns concludes by asking President Mayo to "remind bankers of this obligation whenever the opportunity presents itself."

So Dr. Burns agrees with title IV that the first obligation of banks is to their local service areas, but he would prefer to apply this principle selectively, as suits his fancy, rather than have Congress legislate a consistent public policy.

I would add that Dr. Burns also opposed the Home Mortgage Disclosure Act, which Congress passed and President Ford signed into law. The Federal Reserve Board and the other Federal bank supervisory agencies, unfortunately, have never shown much interest in these issues. It took two oversight hearings by the Banking Committee followed by highly critical committee reports and a lawsuit by major civil rights groups, before the banking agencies even began to

enforce the laws against discrimination in lending. So their opposition to the Community Reinvestment Act is in character.

On the other hand, the president of the Nation's largest savings bank, Mr. Todd Cooke, testified in support of this legislation.

Think of that, Mr. President: The president of the largest savings bank in this country supports this legislation. He has had the greatest success of any bank in the country, and he supports it.

Mr. Cooke summed up the need for the bill better than I can. He said:

One: A financial institution, in my judgment, clearly has a primary and continuing responsibility to the community in which it is authorized to operate. This is an underlying premise of the bill in which I heartily concur.

Two: This responsibility cannot be limited to simply helping meet the community's deposit needs, but must, as a matter of economic logic, extend also to its credit needs.

Three: Accordingly, I take no exception to the bill's directive that the supervisory agencies use their chartering, examining, supervising and regulating authority to encourage financial institutions which may have been lax in this regard, to meet with these twin responsibilities.

Now, this is not Ralph Nader talking. It is the president of the Nation's largest savings bank. Mr. Cooke made certain recommendations for making the bill easier for bankers to live with, and the committee followed them. Mr. Cooke, through his own bank, took the lead in devising the Philadelphia mortgage plan, which voluntarily commits Philadelphia banks to reinvesting in older Philadelphia neighborhoods. It is a model approach.

As I say, it has been a smashing success. People did not think it could be done; but they took the inner city area, and instead of drawing a red line around it, they took every single block, block by block, and if it had less than 10 percent abandoned housing, they would make loans for any sound structure to any applicant who had a reasonable credit record. As I say, they have turned down only something like one out of five loans, and they have had a default record every bit as good as the record in conventional suburban areas and other areas.

That Philadelphia approach is an approach that would be commended to bankers under this bill. And obviously, if all bankers had the foresight and community commitment of Mr. Cooke, we would not need this bill. But the problem is that many bankers neglect their local communities. Arthur Burns has admitted as much in his letter to Robert Mayo.

Mr. President, I do hope that the Senate will not accept this amendment. As I say, I have the greatest respect for the Senator from North Carolina, and particularly for his great sincerity in this matter, but I think that this is the best opportunity we have to provide effective reinvestment, investment buildup in our cities on a sound basis, at no cost to the Federal Government and no cost to the taxpayer in the private sector.



I think in many ways this is the most important part of the entire bill, and I hope the amendment is not accepted.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. RIEGLE). Who yields time?

Mr. MORGAN. Mr. President, I yield myself as much time as I may use.

Mr. President, I have just a word or two in response to my distinguished chairman. I think he makes a good case for deleting the section that I have pointed to, in that he points out that Dr. Arthur Burns, even as early as 1974, was using the regulatory powers of his office to try to make sure that the credit needs of a given group were met. I do not find the inconsistencies in his letter to me, because he says they are already trying to do it, but the difficulty that he points out is, how are you going to carry on a continuing assessment of these credit needs, and what are the ones you are talking to?

My distinguished chairman also alludes to the president of the largest savings bank in the United States. I have not had access to that testimony, and I do not know exactly what he said, but I do know this: The cost of this proposal is going to be passed on, maybe not to the taxpayers directly, but it is going to be passed on to the consumer.

What my chairman said reminded me of a hearing we held in Salt Lake City last Thursday with regard to rural housing. The executive vice president of the largest bank in the State of Utah came in and testified in a very glowing manner with regard to all of the 30-some programs of the Farmers Home Administration, and said that the regulations provided no difficulties at all for his bank.

I asked him if it was not true that most Government regulations provided no real difficulties for the largest institutions, because they can always put on all the help that they need. He acknowledged that that was somewhat true.

The next witness who testified said:

I beg to differ with the distinguished gentleman, because a branch banker, of a branch of his bank in my hometown, came to see me and wanted to handle some of my building financing, and when I told him I was dealing with section 515, he said, "That is just too complicated," and walked out.

Maybe the big bankers can understand it and cope with these regulations, but most of my bankers in North Carolina are not that big, and most of our savings institutions are not that big.

So I still say most of the cost is going to be passed on to the consumer.

Mr. PROXMIRE. Mr. President, will the Senator yield on that point?

Mr. MORGAN. Momentarily.

Mr. PROXMIRE. I might ask the Senator to explain, why is it that if there is such a substantial cost, the evidence in both Connecticut and Massachusetts, where they have tried this and operated on this basis for some time now, is that there is no cost?

Furthermore, as the Senator knows, we deleted from the bill all the reporting requirements. We said it would be necessary for regulatory bodies to rely on the information they already have, but that

should be enough to do the job, and, indeed, in Connecticut and Massachusetts it has been a sufficient amount.

Mr. MORGAN. I would say to the distinguished chairman that, first of all, I have not had access to their testimony. Even though we have tried, the testimony has not been printed.

But even with regard to deleting the reporting costs, it was just the difference between tweedledee and tweedledum, because the committee came back with the requirement that the information required shall be published by each appropriate agency and shall take effect. What you are saying is that rather than we in the Senate taking the time to write the regulations so we will know what reporting will be required, we are going to delegate that authority to some faceless bureaucrat who is not answerable to the electorate. I would rather have had the bill as originally written.

Mr. PROXMIRE. We would all be happier to have minimal regulations; but on the basis of experience in those two States, the regulations would be very minimal, and would not require additional reporting.

We have also had testimony from a small bank, the South Shore National Bank in Chicago, a bank which has total assets of something like \$60 million; not tiny, but rather small.

They were enthusiastically in favor of this bill. The president of that bank said this legislation was something he could operate with very well. He did not see any particular additional cost on his part, and he felt it was desirable to encourage banks and to provide incentives for banks to be concerned about loans in their particular communities.

Mr. MORGAN. Since the Senator has made it very clear that there would be no more reporting, would the Senator have any objection to deleting section 406, which says additional regulations shall be provided, and let the agencies act on the basis of information already provided under the law?

Mr. PROXMIRE. Will the Senator withdraw his amendment if we provide that?

Mr. MORGAN. I think he would be more inclined to, but I still think it would be looking toward the allocation of credit. I believe it would be reassuring to the financial institution that whatever was done would have to be done on the basis of all of these reports which we have already required.

Mr. PROXMIRE. If the Senator will permit, let me read that sentence.

SEC. 406. Regulations to carry out the purposes of this title shall be published by each appropriate Federal financial supervisory agency, and shall take effect no later than one hundred and eighty days after the date of enactment of this title.

That is the whole thing.

Mr. MORGAN. I think it would make it far more acceptable. I still think it would be a first step toward the allocation of credit, but at least it would eliminate a new rash of regulations. Of course, by the same token, I believe the regulatory authorities probably already have it. This would be a clear indication that we did not expect more.

Mr. PROXMIRE. Let me consider that. We do have a problem when we implement a law of this kind without any regulations.

Mr. MORGAN. We already have, under the Home Mortgage Act that was enacted last year, the redlining reporting. All they would have to do would be to look at it and see where the home mortgages were being made. I assume that is basically what we are talking about.

Mr. PROXMIRE. I would be happy to take that under consideration. Perhaps we can arrive at some accommodation. I am sure there will be additional discussion of this amendment. Let me consider that. I believe it is an interesting suggestion.

Mr. MORGAN. Mr. President, I yield to the distinguished Senator from Indiana so much time as he desires.

Mr. LUGAR. Mr. President, I appreciate the distinguished Senator from North Carolina yielding to me. I simply want to draw the attention of this body to title IV and why we are in a debate on this general issue. It is entitled "Community Reinvestment." It suggests, under section 402:

The Congress finds that—

(1) regulated financial institutions are required by law to demonstrate that their deposit facilities serve the convenience and needs of the communities to which they are chartered to do business;

(2) the convenience and needs of communities include the need for credit services as well as deposit services; and

(3) regulated financial institutions have continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered.

The suggestion of title IV is a reasonable one, that so far as there is a Federal responsibility for supervision of some portions of the banking system, and that some portions of the banking system gain sustenance and strength from the Federal Government, there is an obligation with regard to these institutions to perform services to the public.

The problem, however, very quickly becomes one of the definition of "public" and the definition of "community."

Clearly, "community" is a keyword, both of title IV, as well as of the language, a service of the community in which the deposit facilities are involved.

The definition of "community" is clearly not a part of this act. It has been suggested in testimony before the Banking Committee, and before many other bodies, as to how "community" might be defined. The intent of those who spoke in favor of title IV in committee sessions was to take a look at neglected inner-city areas or other depressed areas, for that matter, of suburbia or rural America, areas in which there are many houses and many persons reportedly wanting to have loans, with the inability to mesh together the institutions which are close by these properties.

Clearly, that has been the intent of much Federal debate and finally Federal legislation in recent years.

Title IV draws this to the fore by suggesting that as a part of extending services, part of the chartering process, the community records be taken into consideration. I would submit that title IV begs

the question, as have most other pieces of legislation, in this respect. It is not clear what community we are talking about. It is not clear how we define community; how criteria are set up as far as these services are concerned.

Finally, of course, we require in other aspects of legislation, not only with regard to banking but in commonsense, that loans be made with a degree of prudence; that there be proper collateral; that there be some hope of repayment; that the normal terms that pertain to banking are not suspended in this process.

There is always the lurking suggestion that bankers who are regulated in this matter have not been doing their duty and that somehow by legislation they can be coerced.

I would suggest that even if that be the case, this legislation is unlikely to make very much difference in that regard. The sanctions that are finally offered, even if some institution is found guilty in the process, are apparently that the institution would have some difficulty extending its facilities, no more and no less than that. That, of course, was a product of some of the debate before the committee in which this section was modified several times around. It was in section 406 of the original bill.

So for several defects, first of all being, the lack of a definition of "community," any idea as to the criteria which would satisfy the community service situation, and finally if a party is found guilty there being very little sanction, these are serious objections to the inclusion of title IV, the community reinvestment portion of this act.

I was surprised to hear the sponsor, the distinguished Senator from Wisconsin, point to this as one of the most important aspects of the legislation. In the judgment of many of us it is not a very important part, and it simply is defective on almost all counts.

What is the constructive alternative of this situation? This is a problem which has faced inner-city America for a long time. It seems to me that the situation calls for a revitalization of local government generally; a revitalization of business generally; a climate in which a people anticipate that there will be adequate law enforcement, for one thing; city services of sewage, sanitary pickup, the cleaning of the streets, the general respect for property, and a sense of community not lined by square blocks, but a sense of community in which there is a general caring about property and about how the city or the community involved is going to be run.

These are of the essence.

This perennial attempt to provide credit allocation, to provide by law some reason why loans must be made at the penalty of losing the business, is simply a gesture in futility. It is brought out annually to try to show a good heart and some faithfulness with regard to this sort of thing, but it seems to me this has very little to do with what is occurring in urban America today.

Until there is at least some sense that loans are made on the basis of the ability to repay, on the basis of reasonable

collateral, and on the basis of the general strength of affairs, the fact is that loans will be made in a community and the community will be perceived fairly broadly. The community, in my judgment, ought to be perceived very broadly.

When we begin segmenting by lines and carving by socioeconomic groups, we make a grievous error, not only in government but in financial policy. I have very considerable sympathy for the heart of what is involved in this attempt, but I simply say that title IV is defective in its attempt to remedy and is a part of a long generation of attempts of this sort that I believe should not be a part of this general legislation. Therefore, I have cosponsored the amendment by the distinguished Senator from North Carolina and am hopeful that the Senate will adopt this amendment and thus strengthen the overall legislation by deleting title IV.

I yield the floor.

Mr. TOWER. Will the Senator yield me 3 minutes?

Mr. MORGAN. Mr. President, I yield to the distinguished Senator from Texas as much time as he desires.

Mr. TOWER. Mr. President, I associate myself with the remarks that have been made by my distinguished colleague from North Carolina and my distinguished colleague from Indiana. I am concerned about this business of credit allocation. I know that this is not credit allocation in a general way, but I think if we start getting into credit allocation in a specific way, that is going to be the harbinger of more legislation of this type to come.

Nothing could militate more strongly against the vitality of a market-regulated economy than a growing system of credit allocation. In my view, there are alternatives to the scheme that is proposed in the Community Reinvestment Act. One alternative that I think should be given serious consideration—I do not think it has been—is that one termed shared risk. There may be various types of shared risk proposals, but I have one in mind.

The problem with most neighborhoods which have been redlined is that not only has adequate mortgage credit not been available, but a number of other necessary services are also lacking. Adequate schools, street improvement, garbage pickup, transportation, and other services often are not available, or at least are inadequate.

(At this point Senator STEVENSON assumed the Chair.)

Mr. TOWER. Should we expect mortgage lenders to go into these neighborhoods alone? I think not. If there is not involvement by the whole community, how can we encourage lenders to make mortgage credit available? One proposal would be to establish a scheme of co-insurance, or shared risk.

For example, a premium that would be charged would finance a fund which would be used to help cover any risks incurred by the lenders. In such a scheme, should losses occur, the lender would not bear the full loss, but only a certain percentage of the loss on a particular mortgage.

I think there are probably other workable alternatives which are designed to provide mortgage credit to redlined areas. I do not think that we should indulge in the authorization or, indeed, the mandate of a system of credit allocation, at once not providing adequate guidelines or criteria to be used in making an assessment as to the record of lending institutions or meeting the credit needs of their so-called primary savings service area.

I think that the argument has been made against this measure. I think that before we should consider this, we should look at other alternatives, the idea of credit allocation to be considered only as a last resort, when all else proves to be unfeasible or impractical.

Therefore, I urge the Senate to adopt the amendment proposed by the Senator from North Carolina. I, for one, would be prepared to urge the chairman and other members of the committee to take a look at some alternative solutions to this problem.

I thank my distinguished friend from North Carolina for yielding me this time.

Mr. PROXMIER. Mr. President, I yield such time as he may require to the Senator from Maryland.

Mr. SARBANES. Mr. President, I rise in opposition to this amendment and in support of title IV in the bill as reported by the committee. I wish to underscore the statement made by the chairman of the committee in support of this proposal.

Really, we should turn the question around the other way: Why should not a banking institution have a responsibility to meet the credit needs of the local communities in which they are located, in the very communities from which they are drawing their sustenance? Why should they not have a responsibility to respond to that community?

The bill is very, very careful in making it clear that, in meeting this responsibility, the safe and sound operation of the institution has paramount consideration. There is nothing in this legislation that is going to require any lending institution to take any risks that are inconsistent with or contrary to the safe and sound operation of the institution. That appears more than once in the course of the title and, in particular, it appears in section 404, where it is stated:

In connection with its examination of a financial institution, the appropriate Federal financial supervisory agency shall assess the institution's record of meeting the credit needs of its primary savings service area consistent with the safe and sound operation of such institution.

So there is nothing in this legislation that will require them to depart from safe and sound practices and, therefore, that argument is not appropriate. This legislation is extremely sensitive to that concern.

The distinguished Senator from North Carolina made a very strong argument and, in the course of it, he quoted the Chairman of the Federal Reserve System in a letter of May 23, which I understand has been printed in the RECORD. It was talking about the administrative



difficulties of carrying forward the provisions of this legislation—how, if they tried to do it one way, it would pose problems; they tried to do it another way, it would pose problems.

I can appreciate that we are getting the same refrain, of course, from the other supervisory agencies. But I think the important letter is the one Mr. Burns wrote to the president of the Federal Reserve Bank of Chicago, which was quoted by the chairman of the committee, in which he talked, at the time of the credit crunch, about the difficult problem faced by operators of cattle feedlots in the Midwestern States. In the course of that, he noted that it is also possible—this is Chairman Burns—

That some country banks may be reluctant to make adequate funds available locally because of the very high returns that can be obtained by them on money market instruments, including loans to city banks, in the Federal funds market.

He then went on to say, in his letter to was taking place. He reflected his sensitivity to it.

He put his finger on a practice that the president of the Federal Reserve Bank of Chicago:

While funds should normally flow to the uses offering the greater return, I believe that it is important that each banker realize that continued availability of credit to local activities may well, in the longer run, yield the greater total return to the economy of his community and thus to his bank as well. Taking due account of relative credit risks, the first obligation of bankers is to the credit requirements of their service area.

I repeat that sentence: "Taking due account of relative credit risks"—which this legislation seeks to do by the protective language that I referred to earlier of operating in a safe and sound manner. Chairman Burns states:

Taking that into account, the first obligation of bankers is to the credit requirements of their service area.

That is what this legislation seeks to accomplish, that they should pay their first obligation to the credit requirements of their service area.

I think that is a reasonable standard to be applied. I hope Members of the Senate will support the committee in title IV of the bill and reject the amendment.

Mr. MORGAN. Mr. President, I think about all has been said that can be said on behalf of this amendment and in opposition to it, and certainly, about all that is going to be listened to.

But I do thank my distinguished colleague from Maryland and my distinguished colleague from Wisconsin for pointing out from the letter of Dr. Burns, who is Chairman of the Federal Reserve Board, that the Federal Reserve Board is sensitive to the problems and needs of credit, and why burden them with more and more and more regulations if the Board has already demonstrated, as that letter clearly points out, that they are sensitive to such needs.

Mr. President, the law does say that in keeping with safe and sound operation of such institution. Well, a few bad credit risks in order to meet the 50-percent allocation of credit in the area may not

endanger the soundness of that institution, but it might very well endanger the profits or the soundness of that particular loan.

Mr. President, the distinguished Senator from Utah (Mr. GARN) is a sponsor of this amendment and is unavoidably absent. He had a statement prepared to deliver in support of the amendment.

Mr. President, I ask unanimous consent that his statement be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### STATEMENT BY SENATOR GARN

We believe that inclusion of the Community Reinvestment Act of 1977 as Title V of this legislation is both inappropriate and unwarranted. Only recently were hearings held on S. 406, which has been made Title V of this legislation. The hearing transcript and report are not yet available and the hearing itself produced a great deal of disagreement on the need for the legislation.

Title IV is a modified version of S. 406, the Community Reinvestment Act of 1977, and would require an ongoing assessment of a financial institution's community credit effectiveness. Although we support the intent of the bill to insure greater credit availability for the inner cities, we feel that the bill as reported out would not only add a tremendous amount of paperwork for our already overburdened financial institutions, but would also have the adverse effect of causing a reduction in credit availability in these areas which we are trying so desperately to revitalize.

The many criticisms of the need for the legislation in this form and at this time may be placed in four categories in relation to already existing law and regulation.

(1) The "convenience and need criteria" which is applied by the regulatory agencies at the time of approval of new institutions or branches already requires the same type of review and analysis provided in this legislation.

The Acting Chairman of the Home Loan Bank Board, Mr. Garth Marston, testified before the Senate Banking Committee on March 24, 1977, that pursuant to the statutory requirements in Section (5) (a) of the Homeowners Loan Act, the board issues charters for Federal associations "giving primary consideration to the best practices of local mutual thrift and home financing institutions. In connection with such charter applications the board considers three criteria: (1) the necessity for the proposed association in the community to be served; (2) the reasonable probability of usefulness and success of the proposed association and (3) the question of whether the charter may be granted without undue injury to the properly conducted existing local thrift and home financing institutions."

In regard to bank charters, Title 12 of the United States Code Annotated, Section 1816 enumerates the factors to be considered in issuing certificates to do business for federally chartered banks. It states: "the factors to be enumerated in the certificate required under Section 1814 of this Title and to be considered by the Board of Directors under Section 1815 of this Title shall be the following: the financial history and condition of the bank, the adequacy of its capital structure, its future earnings prospects, the general character of its management, the convenience and needs of the community to be served by the bank and whether or not its corporate powers are consistent with the purposes of this chapter."

What this means is that the supervisory agencies are already considering the credit needs of a community in granting or denying

charter applications, and thus the Community Reinvestment Act adds nothing other than additional paperwork to existing law.

(2) The Home Mortgage Disclosure Act, just recently effective, requires that S&L's and other regulated institutions disclose in a very detailed fashion the type and amount of mortgage lending that they do in all geographic areas. The Home Mortgage Disclosure Act has not yet been given sufficient time to provide a body of information on lending activity which might be helpful in formulating policy and regulations which might address special problems of local credit deficiencies wherever they might be found to exist.

(3) The Equal Credit Opportunity Act and Federal Reserve Regulation B promulgated thereunder have only recently become effective and the regulations under the Act provide very stringent and detailed procedures to prevent any kind of discrimination in the granting of credit by any federally insured or regulated deposit institution. Compliance with these regulations should assure that credit is granted wherever it is needed and borrowers have capability to support the debt. The complaint and reporting provisions of these regulations should supply, in time, a fairly sound and realistic appraisal of situations in which credit is being denied.

(4) The argument should be made that the very recently approved National Neighborhood Policy Act, which authorizes the Neighborhood Commission, will also provide a source and forum for the consideration of the extent to which credit deficiencies might exist and how they might best be dealt with.

In summary, it may be said that Congress has recently taken several actions, all of which relate to the issue at hand, and it only seems reasonable that time should be allowed in order to ascertain the effectiveness of these legislative and regulatory actions before imposing upon the industry and supervisory authorities another complex and unwieldy burden.

A number of arguments of a substantive nature need also to be made. The enactment of this Section would have adverse effects upon the free flow of capital within our economy, and "a rose by any other name" is still "credit allocation." This nation is a patchwork of capital short and capital surplus localities and the pattern is changing constantly. The main thrust of government and industry efforts over the last ten or fifteen years has been to solve these problems. Improvement of secondary markets, standardization of mortgage instruments, relaxation of geographic lending limitations are all part of this effort. Enactment of this Section into law would be a step backward, encouraging the creation of barriers to the free flow of funds to places they are needed.

Our lending institutions generally do the bulk of their lending in the communities where they maintain facilities. There may well be exceptions to this pattern, to be found mostly in non-branching states where individual associations are entrapped in loan markets that do not provide adequate outlets for accumulated savings capital. The enactment of this Section and the consequent imposition on the whole nation of costly and complicated procedures embodied in it as a means to cure isolated difficulties would, in fact, be adverse to the public interest.

This Section disregards the need to allow the free flow of funds between different regions of the country. If the marketplace is allowed to operate as it should, funds will tend to flow into areas where they yield the highest rate of return, risk factors being taken into account. Overemphasizing the need to meet local credit needs will discourage the free flow of funds and disrupt the flow of credit from capital surplus areas to capital short areas. This free flow of funds is important because it tends to spread out the

supply of mortgage funds and even out its fluctuations. It reduces the cost of mortgage credit by bringing competition into areas where mortgage demand exceeds supply.

Testimony presented to the Committee by a national citizens' organization stated that the bill could actually have a detrimental impact on the inner city lending. This was supported by the following three contentions:

(1) that it would retard early entrance by lending institutions into neighborhoods which are beginning to undergo significant revitalization as a result of the restriction to meet local credit needs,

(2) that pooling of resources through allocations from other banks may be impaired if the focus is entirely on meeting local credit needs. There is a mismatch in areas having a small deposit base relative to its credit needs, and

(3) it would provide justification for suburban banks and branches to restrict their credit to their local communities, eliminating the obligation to provide credit worthy central city applicants with loans and mortgages.

This section clearly confuses cause and effect in the process of urban decline. The underlying premise of this section is that inner cities may be revitalized by requiring depository institutions to focus on local credit needs. Undoubtedly, lending plays an important role, but deterioration of inner city neighborhoods is due to a number of complex, interrelated factors. Lenders react to a series of events that ultimately lead to neighborhood deterioration.

A recent HUD publication stated that the decision of individuals and groups of people determines most of what happens. Households in the neighborhood decide to move out, households presently looking for a house decide not to buy in that neighborhood, bank officers decide not to loan money for the area, owners of apartment houses decide to cut down on maintenance to keep what they consider to be a reasonable profit. In other words, it is the decisions that people make individually or collectively that have the critical impact on what happens to the buildings, streets, schools and parks.

A task force of a financial industry organization recently completed its study of factors leading to neighborhood deterioration and concluded that their finds reject the allegation that neighborhood deterioration is caused by lenders. This is a simplistic and erroneous conclusion. Lenders are not the prime cause, nor are they blameless in the deterioration of the nation's cities. They are an important part of a very complex process of growth, decline, deterioration and rebirth of major portions of our cities. In this process, home mortgage credit is not the sole nor even the principal reason for neighborhood deterioration.

The bill reported out by the Banking Committee would require the bank examiners to assess the institution's record of meeting the credit needs of its primary service area; yet, the bill sets out no criteria or guidelines upon which this assessment is to be based. We suggest that this assessment can only be based on additional paperwork and bureaucracy which would very well discourage financial institutions from opening branches in our declining inner cities. Undoubtedly the FHLBB and the banking agencies will have to develop a whole set of complicated regulations to "test" whether financial institutions are adequately meeting community credit needs.

One of the bank regulatory agencies recently wrote: "The bill would impose an unnecessary reporting burden on financial institutions which would be largely duplicative of requirements already in effect under the Home Mortgage Disclosure Act." A recent witness who was generally in favor of the

legislation stated that, "if passed, it might provoke the federal supervisory agencies to a frenzy of rule-making and regulations which could prove burdensome to the financial institutions involved without providing any real benefit to the public." He further reported that his institution's report, as required by the Home Mortgage Disclosure Act of 1975, was 32 pages in length and had been estimated by their controller to cost \$83,000 to produce. Other witnesses generally supported the contention that the recordkeeping provided for herein, whether on a local basis or by the regulatory agency, appeared to duplicate the Home Mortgage Disclosure Act for institutions with home or branch offices in SMSA's.

The U.S. League of Savings Associations recently conducted a survey on the public's use of Home Mortgage Disclosure Act data. Of the 2,775 institutions picked to be questioned about HMDA, 1,543 responded within a week. Those reports are summarized in an attachment. You will note from the enclosed tabulation that almost two-thirds reported receiving no requests whatsoever for the data required to be compiled by the HMDA by census tract (and at the price of considerable personnel and management time and effort)! In addition to the raw data, I am also submitting for the record a sampling of notations made on the survey form by the respondents.

According to the survey with 1,533 responses for lending institutions, an overwhelming 1,039 institutions have received absolutely no requests for home mortgage disclosure reports.

Costing upwards of \$16.5 million annually to comply with the Home Mortgage Disclosure Act, the Act is a total waste of time, effort and money.

#### Tabulation of responses re public requests for home mortgage disclosure reports

|   |       |
|---|-------|
| Total No. of Questionnaires Sent Out.                 | 2,775 |
| No. Responses received as of 5/13/77.                 | 1,543 |
| No. Associations Receiving No Requests                | 1,039 |
| No. Associations Receiving One Request                | 268   |
| No. Associations Receiving Two Requests               | 101   |
| No. Associations Receiving Three Requests             | 52    |
| No. Associations Receiving Four Requests              | 15    |
| No. Associations Receiving Five Requests              | 23    |
| No. Associations Receiving Six Requests               | 2     |
| No. Associations Receiving Seven Requests             | 5     |
| No. Associations Receiving Eight Requests             | 3     |
| No. Associations Receiving Nine Requests              | 16    |
| No. Associations Receiving Ten Requests               | 12    |
| No. Associations Receiving Eleven Requests            | 3     |
| No. Associations Receiving Twelve Requests            | 1     |
| No. Associations Receiving Fourteen Requests*         | 1     |
| No. Associations Receiving Twenty Requests**          | 1     |
| No. Associations Receiving Thirty-Four Requests***    | 1     |
| Inquiries from:                                       |       |
| News Reporters  | 190   |
| Housing, consumer or community activist group members | 543   |
| Public officials                                      | 51    |
| Private Citizens                                      | 520   |
| Other:  |       |
| Federal Home Loan Banks                               | 19    |
| Competitors   | 13    |
| Other Associations                                    | 477   |
| Trade Organizations                                   | 11    |

\*Talmat Federal of Chicago—News People (3), Housing and Activist Groups (2), Private Citizens (9)

\*\*First Federal of Alexandria, La. (all from Private Citizens)

\*\*\*Chase Federal, Miami, Fla. News People (1), Public Officials (2), Private Citizens (5), Other S&L Assns. (26)

#### COMMENTS ON QUESTIONNAIRES

People's Homestead, Monroe, La.—This association has spent considerable time and money on this project for no benefit to anyone!

Spring Garden S&L Co., Cincinnati, Ohio—This report costs us \$300.00 a quarter for what?

Westerleigh S&L Assn., Staten Island, N.Y.—Cost of having disclosure produced by Data Center was approximately \$3,000.00!

Franklin Federal, St. Petersburg, Fla.—Report has been displayed in lobby area and casually observed by no more than a dozen people.

Port Clinton S&L Co., Port Clinton, Ohio—A useless computation!

Standard Federal, Troy, Mich.—We have not received single telephone or in-person request to examine our Mortgage Disclosure Data in spite of the enormous cost which we expended in terms of time and money to prepare these figures. We are located in an urban area—namely Detroit. We have over \$1,900,000,000 in assets; we have 36 branches and the truth is that no one wants this information, no one uses this information. It is totally a waste of time and money for all concerned.

Black Mountain S&L Assn., Black Mountain, N.C.—None of our clients have ever uttered anything other than total disgust with the information shown on these required disclosure forms. The typical reaction, in every case that I can recall is "just some more Government red tape." This is a sincere reply.

Carolina Federal, Asheville, N.C.—We have received absolutely no injury from any source for this information. The preparing of this information is made by members of our staff appraisal and inspections department and is compiled by one of our very competent staff members at considerable time, effort and expense to our institutions. The information may have some internal value; but as interest to the public, we have none shown.

Tarrytown and No. Tarrytown S&L Assn., Tarrytown, N.Y.—The whole program is a waste of time and money which the associations are subjected to. The whole program is unreal as who would want to purchase a home in an area where the authorities do not protect life and private property.

Enterprise Federal, Lockland (Cincinnati, Ohio)—Hope this moves someone to act favorably and responsibly.

Greater Delaware Valley S&L Assn., Upper Darby, Pa.—We were requested to send a copy to the State Dept. of Banking.

First Federal, Orlando, Fla.—Local newspaper reporter asked about list but did not want a copy.

Home Federal, Collinsville, Ill.—One copy of 1975 figures to Southwestern Illinois Planning Commission.

Orange Belt Federal, Colton, Calif.—We have three offices located in three different cities. No one has ever even mentioned mortgage disclosure data.

Twin City S&L Assn., Neenah, Wis.—The Act is a complete waste of time.

Kenwood S&L Assn., Cincinnati, Ohio—We were not required to make disclosure. However, State Superintendent required us to disclose to his office.

Astoria Federal, Long Island City, N.Y.—We are a billion dollar association and it is a crime we are required to expend so much time, effort and money in preparing these disclosure reports as we have yet to have one



inquiry from any source to inspect same. I hope your efforts will be successful in having this ridiculous requirement eliminated.

Cherokee Federal, Canton, Ga.—No one asked to see this information. We have the information posted in our lobby so a few people may have seen it but none to our knowledge. We feel the disclosure data is a complete waste of our time.

Cambria S&L Assn., Johnstown, Pa.—We have even discussed this disclosure data with two different housing and community groups, one public official and a number of private individuals. They knew nothing about it and were not the least bit interested in examining the information. It is time that groups of people responsible for regulations come visit the "firing line" and see what the real world is like on the outside.

First Federal, Jasper, Ala.—Not one inquiry but a lot of time spent on preparation.

Merchants Co-operative Bank, Boston, Mass.—Our bank was exempt from making a mortgage disclosure as a similar one was needed in the State of Massachusetts. It is interesting to note that we have only had two inquiries during the past two years and both of these were from private citizens doing research work.

Peoples S&L Co., Flushing, Ohio—I feel it's useless.

Chippewa S&L Assn., Chippewa Falls, Wis.—A total waste of time, effort and money.

Home Federal, Fayetteville, N.C.—Another consumerist congressional colossal calamity.

First Federal, Howell, Mich.—Private citizens occasionally will glance at it but doubt if they know what it is all about.

Thrift Federal, Cleveland, Ohio—Local paper asked for copy of first report and published breakdowns by associations and banks. No requests for second report. Seems they are beating a dead horse in Cleveland area.

Argo S&L Assn., Argo, Ill.—Our association plus Summit First Federal and Argo State Bank combined together and ran one newspaper ad with no response.

Bridgeport S&L Assn., Bridgeport, Ohio—We have had no requests for this information—it is a waste of time, money and effort—typical government red tape.

Home Federal, Xenia, Ohio—None, we have not had a single request re. this data. I fully agree, a tremendous expense for nothing.

Lincoln Park Federal S&L, Chicago, Ill.—We mailed copies of the data to the 20 more active community groups in our area on March 30th (without their having asked us for the data). It is interesting to note that we didn't even have any calls before 3/31/77 from any groups or individuals asking when or whether the data would be available, and ours is a very active area for community groups!

Union Federal, Wheeling, W. Va.—Not a damn one!

During the markup, an amendment was offered and was presented as a curative measure to reduce the paperwork burden required by the legislation initially introduced. However, we contend that we must stop and ask the question, "What are the examiners going to base their assessment of the credit needs of a community on if not additional records and reports to be maintained by the financial institutions?" Section 6 of the Act as reported would require the appropriate federal financial supervisory agencies to promulgate regulations to carry out the purposes of this act. We would submit that by regulation we are allowing the federal supervisory agencies to accomplish the very paperwork nightmare which the overwhelming majority of the witnesses at our hearings warned.

During the hearings before the Banking Committee, we heard testimony relating to how a group of financial institutions in

Philadelphia joined together to form the Philadelphia Mortgage Plan to help meet the credit needs of the inner city. We suggest that this same type of concerted effort is being made by concerned financial institutions throughout the country and we believe that initiatives like the one in Philadelphia are the way in which we must deal with the financial problems of the inner city—not additional legislation and paperwork as this bill would require.

A number of basic administrative problems can be anticipated by a simple review of the definitions provided or omitted in the section. For example, what is meant by the term "affirmative marketing program"? It is not defined. What is meant by the term "lower income persons"? Or, what is meant by the term "older communities"? What guidelines are there for the agencies to evaluate the affirmative marketing programs of depository institutions? What is an adequate affirmative action? What is meant by the term "special outreach effort"? What is meant by the term "credit needs"?

The administration of the proposed law is entirely dependent upon the concept of a primary savings service area or PSSA, which is defined in the Section as "a compact area contiguous to a deposit facility from which such facility obtains or expects to obtain more than one-half of its deposit customers, depending upon whether it is an existing facility or a proposed new facility. Delineation of such an area for a proposed new facility would be an exercise in pure speculation and conjectural argument. In the case of an established facility where some factual data on customer location might be available, it is still virtually impossible to delineate a PSSA on an objective and conclusive basis.

One member of the Banking Committee indicated his serious question about whether or not this new section would call into play a great many more forms which will have to be filled out, further burdening those institutions for the sake of determining whether or not they are doing their business in a proper way. He questioned whether or not the bureaucrats will take up this section and recognize it as being what its supporters intended, or whether they would take the Committee's language and then go wild. He was very troubled with the possibility that this new Section might be creating a new mammoth amount of paperwork.

In conclusion, it should be pointed out that the Administration's witness testified that "we would instead urge the Committee to work with us to develop an overall strategy on urban reinvestment," and further, that "we believe there should be a comprehensive approach to revitalization which includes specific attention to reinvestment problems.

Although the intent of our legislation is a worthy one, we once again state that we must look to see what the ultimate effect of this legislation will be. That ultimate effect could well be a reduction in credit availability in these blighted areas due to the increased paperwork load required of the financial institutions in those areas. In conclusion, we would add that we are of the opinion that we acted in haste in adopting this measure in the Banking Committee and in so doing have created the possibility of another paperwork nightmare which may, in fact, work to counteract the very noble intent of the legislation.

Mr. SCHMITT. Mr. President, I have grave reservations concerning title IV of the legislation now before us. Originally introduced as the Community Reinvestment Act, the title is a step in the direction of credit allocation by Government agencies. I would like to detail some of the problems which are evident in analyzing this title.

First, this legislation would require a great deal of additional paperwork and thus, additional cost for the depository institutions involved. In order for a regulator to determine whether "the needs of a community" are being met, these needs would first have to be identified. This would mean, among other things, that the supervisory agency would have to evaluate what the credit needs of a community were on a continuing basis. As Chairman Burns of the Federal Reserve Board has pointed out, such evaluations are outside of the normal supervisory functions of these regulatory agencies. The legislation would also require examiners to assess the soundness of loans made by the financial institutions. Included in this assessment would have to be an evaluation of rejected loan applications. The examiners are not trained to provide this type of evaluation, and requiring them to make the evaluation would be time consuming and expensive.

Additional tasks assigned the examiners would have to include a categorization of loans by use of the funds and by whether the money would be lent to an applicant within or outside of the institution's service area; a comparison of loan applications from outside the institution's designated service area with those from within; and finally the writing of voluminous regulations and guidelines that would eventually overburden both the institutions and the regulatory agencies.

While there would clearly be an increase in regulatory burden should this title become law, there is no clear indication that the problem which it addresses would be solved. The decay in our urban areas can only be halted when Government adopts a policy which encourages the development of an environment conducive to private investment. Such an environment would include good streets, sewers, street lights, and police and fire protection. Only then will real investment become contagious in these areas.

The requirement that financial regulatory agencies allocate credit under this or any other scheme can have adverse effects. By forcing financial institutions to make loans of dubious quality, the Congress would easily convince financial institutions to close branches in decaying neighborhoods and thus, lead to further economic and social decline in these areas. Chairman Burns has noted this possible result in a recent letter to Senator MORGAN. While I am not convinced that such an incentive for more branches to move out of depressed areas would deprive these areas of loanable funds entirely, their removal from these areas would at least deprive these areas of depository services.

The Banking Committee has heard testimony from many groups on the desirability of this legislation. A great deal of this testimony addressed the question of the effectiveness of and need for this type of credit allocation. The Acting Chairman of the Federal Home Loan Bank Board, Gartha Marston, testified that supervisory agencies do take into consideration the performance of financial institutions in providing several

types of services when applications for branches are submitted to the agencies. Mr. Marston stated that his examiners, as a part of periodic supervisory examinations of institutions under their jurisdiction, review the nondiscrimination efforts of these institutions. In addition, Mr. Marston noted, the Federal Home Loan Bank Board's examiners make special investigations of complaints of alleged discrimination made by individuals and groups. In sum, Mr. Marston felt that his agency and the savings and loans institutions which it supervises are making progress when possible to halt discrimination in lending.

Let me say, in summary, that while the best intentions are attached to the Community Reinvestment Act as embodied in title IV of S. 1523, this legislation would prove burdensome and costly and would not achieve its intended goals.

Mr. MORGAN. Mr. President, I am prepared to yield back my time.

Mr. PROXMIRE. Mr. President, I yield back my time and ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. HUDDLESTON (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. McCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Florida (Mr. STONE) and the Senator from Minnesota (Mr. ANDERSON) are absent on official business.

On this vote, the Senator from Minnesota (Mr. ANDERSON) is paired with the Senator from West Virginia (Mr. RANDOLPH).

If present and voting, the Senator from Minnesota would vote "nay" and the Senator from West Virginia would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Kansas

(Mr. PEARSON), the Senator from Delaware (Mr. ROTH), the Senator from Vermont (Mr. STAFFORD), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from South Carolina (Mr. THURMOND), the Senator from Tennessee (Mr. BAKER), and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The result was announced—yeas 31, nays 40, as follows:

[Rollcall Vote No. 172 Leg.]

YEAS—31

|                 |          |          |
|-----------------|----------|----------|
| Allen           | Gravel   | Schmitt  |
| Bartlett        | Hansen   | Scott    |
| Bentsen         | Hayakawa | Sparkman |
| Burdick         | Helms    | Stennis  |
| Byrd            | Hollings | Stevens  |
| Harry F., Jr.   | Johnston | Talmadge |
| Byrd, Robert C. | Lugar    | Tower    |
| Danforth        | McClure  | Wallop   |
| DeConcini       | Morgan   | Young    |
| Dole            | Nunn     | Zorinsky |
| Domenici        | Packwood |          |

NAYS—40

|          |            |           |
|----------|------------|-----------|
| Bayh     | Heinz      | Nelson    |
| Brooke   | Humphrey   | Pell      |
| Cannon   | Inouye     | Percy     |
| Case     | Jackson    | Proxmire  |
| Chafee   | Javits     | Ribicoff  |
| Chiles   | Leahy      | Riegle    |
| Clark    | Magnuson   | Sarbanes  |
| Culver   | Matsunaga  | Sasser    |
| Durkin   | McGovern   | Schweiker |
| Eagleton | McIntyre   | Stevenson |
| Glenn    | Meicher    | Weicker   |
| Hart     | Metzenbaum | Williams  |
| Haskell  | Moynihan   |           |
| Hathaway | Muskie     |           |

ANSWERED "PRESENT"—1

Huddleston

NOT VOTING—28

|          |           |           |
|----------|-----------|-----------|
| Abourezk | Ford      | McClellan |
| Anderson | Garn      | Metcalfe  |
| Baker    | Goldwater | Pearson   |
| Bellmon  | Griffin   | Randolph  |
| Biden    | Hatch     | Roth      |
| Bumpers  | Hatfield  | Stafford  |
| Church   | Kennedy   | Stone     |
| Cranston | Laxalt    | Thurmond  |
| Curtis   | Long      |           |
| Eastland | Mathias   |           |

So Mr. MORGAN's amendment, as modified, was rejected.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I yield to the Senator from Oklahoma for a unanimous-consent request.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Mr. Ed King of my office be granted the privilege of the floor during votes and consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCINTYRE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. PROXMIRE. I yield to the Senator from New Hampshire.

Mr. MCINTYRE. Mr. President, I ask unanimous consent that the privilege of the floor be granted to T. J. Oden, my staff member on banking, during consideration of S. 1523.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to further amendment. Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. NUNN. Mr. President, I yield.

Mr. GRAVEL. Mr. President, I ask unanimous consent that Richard Ake of my staff be accorded the privilege of the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 353

Mr. NUNN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) proposes unprinted amendment No. 363.

On page 25, line 24, strike out "and poverty," and insert in lieu thereof "poverty, and impact on the unit's growth of national policy or direct federal program decisions."

On page 21, line 20, strike out "and poverty," and insert in lieu thereof "poverty, and impact on the unit's growth of national policy or direct federal program decisions."

Mr. NUNN. Mr. President, this legislation, among many other provisions, provides funds for community development which can be allocated in the discretion of the Secretary of Housing and Urban Development. Among the criteria examined by the Secretary in fiscal year 1976 for allocation of these funds, pursuant to administrative regulation, was consideration to applicants experiencing "an extraordinary high rate of growth or a severe and rapid decline in population and economic activity—resulting primarily from the impact of national policy decisions or direct Federal program decisions." For some reason, this consideration was not accorded to applicants experiencing these circumstances in fiscal 1977. My amendment is intended to express congressional intent that consideration for the impact on an area of national policy decisions or direct Federal program decisions be included in the criteria which the Secretary reviews prior to allocating these discretionary funds.

It is important to recognize that, if adopted, my amendment would not single out communities which are impacted by these decisions. Rather, it merely adds this fact as one of the many criteria which can be considered in determining an area's needs for the purpose of grant assistance. A community must still meet all eligibility requirements and evidence the requisite commitment to the objec-



tives of the block grant program. In practical terms, we are talking about the need for low-income housing and economic development and, to the extent that a Federal decision affects these needs, it is a rational factor to be weighed.

Mr. President, an example of the type of situation to which I am referring is located in Hinesville, Ga. Fort Stewart, which is located just outside of Hinesville, is the home of the newly created 24th Army Infantry Division. Consequently, the military and civilian employment at Fort Stewart will increase from under 5,400 people to over 15,500 by September of this year. Liberty County will triple in size by 1980.

The Army estimates that over 2,700 families will require off-post housing and no estimates are available, as of yet, reflecting the housing requirements of the single enlisted men. Over 61 percent of the military personnel who will be at Fort Stewart by September 1977 will have incomes below the criteria used by HUD for eligibility in the bloc grant program. As you can see, the demands placed upon the communities' resources as a result of the Federal policy decisions regarding Fort Stewart will be substantial and consideration of this impact in allocating bloc grant funds is eminently reasonable.

Mr. President, Congressman Bo GINN, of Georgia, offered an identical amendment to the housing and community development bill which was accepted when the bill was considered on the House floor. It is my understanding that this amendment is acceptable to the managers of this bill. I believe this amendment is a constructive addition to this bill and I hope that my colleagues will support it.

Mr. President, I understand that the committee staff and the committee chairman have looked over this amendment, and I understand it will be acceptable.

Mr. PROXMIRE. I would like to ask the Senator, the author of the amendment, Senator NUNN, a question: Does this amendment limit in any significant way HUD's administration of allocation of discretionary bloc grant funds, as I understand it?

Mr. NUNN. It does not in any way limit the discretion of the Secretary. It simply adds one other criteria.

Mr. PROXMIRE. There is no earmarking?

Mr. NUNN. There is no earmarking.

Mr. PROXMIRE. And the identical amendment or a very similar amendment is already in the House bill?

Mr. NUNN. That is correct. It was accepted on the House floor. It is simply another criteria for the Secretary to look at when she is considering the allocation of these discretionary funds.

Mr. PROXMIRE. In the event a Federal installation or some other Federal policy has an adverse effect on the communities, that will be taken into consideration; if it has a favorable effect, that will be taken into consideration the other way.

Mr. NUNN. That is right, if the Federal decision causes extraordinary growth particularly in the need for low-

income housing, then this would be a fact that the Secretary will take into consideration in arriving at her decision.

Mr. PROXMIRE. Mr. President, I support the amendment.

Mr. BROOKE. Mr. President, I have read the amendment, and as I understand it, it just adds another factor to be considered by the HUD Secretary.

Mr. NUNN. It is the same factor that was added by regulation back 2 years ago, so it is not something brand new. It is something they used 2 years ago but did not use last year.

Mr. BROOKE. I support the amendment.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

Mr. NUNN. I thank the Senator from Wisconsin and the Senator from Massachusetts.

The PRESIDING OFFICER. Is all time yielded back on the amendment?

All time is yielded back.

The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. PROXMIRE. Mr. President, the majority leader has asked me to inquire if any Senator on the floor has an amendment he wishes to call up at this time.

Mr. BROOKE. Yes, we have one.

Mr. PROXMIRE. We would be happy to consider it.

Mr. President, I understand that the distinguished Senator from North Dakota has an amendment which he will be offering shortly.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURDICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 342

Mr. BURDICK. Mr. President, I call up my amendment No. 342, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Dakota (Mr. BURDICK) proposes an amendment numbered 342:

At the appropriate place in the bill insert the following:

SEC. —. The twenty-second undesignated paragraph of section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended by inserting "or farm" immediately after "residential".

Mr. BURDICK. Mr. President, I have before the Senate an amendment to S. 1523. This amendment is very simple and attempts to address a problem that has arisen in small, sparsely populated States with large rural areas. The amendment would allow savings and loan institutions to make loans for farm buildings and property out of the 5 percent-of-assets "spillover" basket that was created by the Consumer Home

Mortgage Assistance Act of 1974. The Federal Home Loan Bank Board adjusts the "spillover" category to conform with each association's net worth and most associations presently realize only a 2-percent category rather than the statutory 5 percent. Therefore, there is little likelihood of an undue amount of "commercial farm enterprise activity" taking place.

My particular concern is that in principally agricultural States such as North and South Dakota, savings and loan associations which have maintained reasonably steady net savings inflows find that they have not been in a position to make the types of farm loans which are commonly made in those States. Federal associations, particularly in these farming jurisdictions, have been forced to export capital to other areas in search of mortgage loans which technically qualify under Board regulations. This minor clarifying amendment would allow associations in these and a few other jurisdictions to keep the money at home.

This amendment has already been incorporated in the companion bill to S. 1523 in the House. Members in that body have seen the need to address this problem which presently faces rural based savings and loans and their depositors. I am asking the Senate today to address itself to this problem also and grant rural people the opportunity to utilize the assets of their local savings and loan institutions instead of seeing their hard earned savings shipped off to other parts of the country due to a constraint in the savings and loans lending authority. As I have already pointed out, the assets category from which these farm loans would come is so small that it will not in any way misdirect the functions or intent of the Federal savings and loan system. Rural America needs this amendment.

Mr. President, the amendment simply would allow rural areas to use a part of this spillover category which is now going outside the State for farm loans.

Mr. BROOKE. Mr. President, will the Senator yield for a question?

Mr. BURDICK. Certainly.

Mr. BROOKE. As I understand it, this is for commercial farm enterprise loans, is that correct?

Mr. BURDICK. I beg the Senator's pardon.

Mr. BROOKE. Commercial farm enterprise loans?

Mr. BURDICK. Well, if you want to call it commercial. It is farming.

Mr. BROOKE. Farming?

Mr. BURDICK. Yes.

Mr. BROOKE. Can savings and loan associations make these loans at the present time?

Mr. BURDICK. In certain specific non-farm categories only.

Mr. BROOKE. What categories?

Mr. BURDICK. Is that right, Mr. Chairman? What is the percentage of farm loans, if any?

Mr. PROXMIRE. On federally chartered savings and loan associations?

Mr. BURDICK. Yes.

Mr. PROXMIRE. They can make them for residential housing purposes, but not for farming purposes, for instance, to buy

a herd, or buy dairy equipment, or whatever.

Mr. BROOKE. They cannot make such a loan at all at the present time?

Mr. PROXMIRE. That is right.

Mr. BROOKE. So the purpose of the Senator's amendment is to enable savings and loan associations to make the loans?

Mr. BURDICK. To use only the 5-percent spillover category for that.

Mr. BROOKE. At the present time they cannot make the loans?

Mr. BURDICK. That is right.

Mr. BROOKE. They have no authority for it?

Mr. BURDICK. That is right; and as a result, the money is going into other parts of the country. It is our depositors' money that is going out, and we need the money in the farm areas.

Mr. PROXMIRE. Mr. President, I think there is great merit in this proposal. The Senator's point is that in a State like North Dakota, which is very rural, primarily and overwhelmingly a farm State, the money comes from the deposits of farmers into savings and loans, and the savings and loans make their loans outside the State, though the natural place for them to make them would be in the farm area. He is asking, as I understand it, for only 5 percent.

Mr. BURDICK. That is right.

Mr. PROXMIRE. Not more than that.

Mr. BURDICK. Farm depositors now cannot receive money for farm loans.

Mr. PROXMIRE. The Senator, I think, has offered similar legislation to this in the past.

Mr. BURDICK. Yes, I was advised that it had merit, and I was advised to take it up later, and I am now here later with this amendment.

Mr. PROXMIRE. The House of Representatives has now adopted this provision?

Mr. BURDICK. That is correct.

Mr. PROXMIRE. In their present bill?

Mr. BURDICK. That is right.

Mr. McINTYRE. Mr. President, will the Senator yield?

Mr. PROXMIRE. Yes.

Mr. McINTYRE. Mr. President, I am advised that this very same proposal is before the Financial Institutions Subcommittee now.

Again, it represents an expansion of savings and loan, and gets into this basket question that arose the other day in connection with the proposal of the Senator from California. We are planning hearings on that whole panorama of issues beginning approximately June 21. I would hope that as long as it is in the House bill and thus has an opportunity to be adopted in conference, the chairman would resist this amendment at this time, and give the Subcommittee on Financial Institutions an opportunity to decide whether they are banks with respect to spillovers, or whether they are going to be held to what they were originally designed for, which is residences. Senators are pestering us, calling for piecemealing it bit by bit. With all due respect to the Senator from North Dakota, I think we can solve his problem in good fashion if he will

allow us to have hearings in an orderly manner, and not take the matter out of context.

Mr. PROXMIRE. May I say to the Senator that I greatly sympathize with his position, since he brought it up in 1975 and 1976, and has been told that we will have hearings. I can understand he wants action.

Mr. BURDICK. That is correct.

Mr. PROXMIRE. On the other hand, I support the chairman of the subcommittee with jurisdiction over financial institutions when he promises that he will, within days, or is it in 2 weeks—

Mr. McINTYRE. Two weeks.

Mr. PROXMIRE. In 2 weeks we will have hearings, bring it to the floor in a short time after that, and the Senator is even hopeful we can have hearings before the conference is held on this bill. That will give us an opportunity to go into conference on the basis of having it submitted and understanding the situation more clearly than we can with a short debate and vote on the floor today.

Mr. BURDICK. As the chairman has stated, I have been before the Senate before on this very issue, and I have been assured very much as I have been here today. The House of Representatives has acted on the issue. And we are dealing with a very small category; we are dealing with farm money, and it is a farming State. Can the Senator assure us we will have hearings before the conference?

Mr. PROXMIRE. I will refer that question to the chairman of the subcommittee.

Mr. McINTYRE. We will be going to conference, probably, in another week.

Mr. BURDICK. Then I am delayed another year.

Mr. PROXMIRE. No, no, this will be a long conference. We may start the conference in a week, but with all the titles in this bill, I would anticipate it will take several weeks before the conference completes its work.

Furthermore, even if we did go to conference and even if they turned down this provision in the House bill, we would still have an opportunity to act on the legislation before the Financial Institutions Subcommittee, and we would promise action on it.

We will have legislation on financial institutions before this year is out, and I would assure the Senator he would have an opportunity to offer his amendment on that, if the committee did not act.

I would also tell the Senator I have great sympathy for his amendment. My own inclination is to support it, although I would want to get the record of the hearings. It represents reinvestment in the local community, and I am all for that.

But I would greatly appreciate it if the Senator would withdraw his amendment, with the understanding that we will have hearings in a few days, possibly before the conference, and in any event before the end of this year, if it is too late for this particular bill. We will have an opportunity for the Senator to bring it up on the floor before the year is out.

Mr. BROOKE. I, too, would like to say

to the Senator that I am very sympathetic with his cause. We have just acted on an amendment which is consistent with what the Senator is trying to do in so far as farms are concerned, regarding money in banking institutions within the inner cities which goes, to the suburbs, and is never used within the cities. The concept is the same. I believe the situations should be treated alike. The Senator is saying that money is deposited in the farmers' district and is exported elsewhere.

Mr. BURDICK. The Senator is precisely correct.

Mr. BROOKE. I do not see how the Senate can say one thing on one issue and another on this question.

I do know the problems the chairman of the subcommittee has had with the entire issue. If he gives the Senator his assurance, as he has, to have the hearings within the next 2 weeks, he will have them. We will be in conference on this matter. Hopefully, we can settle it and not have to put it over for another year. I know the frustration of coming back time and again and hearing, "We will have hearings," but I believe the Senator has a firm commitment now. I hope he will take the assurance of the chairman that we will do everything we possibly can.

Mr. BURDICK. May I ask the manager of the bill, will hearings be held in time to include it in the subsequent legislation, and with the possibility of it appearing in time for the conference on the present bill?

Mr. PROXMIRE. There is every likelihood that hearings will be completed before we finish the conference. I believe the odds are strongly in favor of that. If they are not, I can assure the Senator that the proposal will be considered by the committee in connection with legislation which will be forthcoming before the end of the year. We will notify the Senator so that he has every opportunity to offer this amendment. My present disposition, if the Senator will withdraw it—though I cannot commit myself because I cannot listen to the hearings—is to ask to cosponsor it because I think it is a good proposal. If the Senator will defer his proposal at this time, I believe we can give that assurance.

Mr. BURDICK. I want to say I am a very agreeable man and we get along very well. I want some action on this in 1977. I will press for a vote in 1977 if everything else fails. We are entitled to it. We are not talking about anything big. We are talking about a small part of the money. As the Senator from Massachusetts has said, this is farmers' money going into savings and loans that goes out of the State. They need the money at home. I think it is a very meritorious amendment.

With those assurances, I will relent, after 2 years, but not longer than the end of this calendar year.

Mr. PROXMIRE. The Senator is indeed a patient, gallant, and persistent man. I thank him.

Mr. BURDICK. Mr. President, I withdraw the amendment.

Mr. PROXMIRE. Mr. President, I sug-



gest the absence of a quorum on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that a quorum call be held without time being taken from either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Will the Senator withhold that request?

Mr. PROXMIRE. I withhold that request.

Mr. ROBERT C. BYRD. Mr. President, I know of no other amendment on which a vote will occur tonight. Does the distinguished manager know of any?

Mr. PROXMIRE. I do not, no sir.

Mr. ROBERT C. BYRD. Does the distinguished ranking member?

Mr. BROOKE. I do not.

Mr. ROBERT C. BYRD. I understand Mr. EAGLETON will call up an amendment tonight and will debate it to a little extent, at least. A vote will occur fairly early tomorrow on that amendment.

#### ORDER FOR RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER TO RESUME CONSIDERATION OF S. 1523 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 10 a.m. tomorrow the Senate resume consideration on the pending measure, the housing bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. This would mean, Mr. President, that there would be a rollcall vote fairly early on the Eagleton amendment tomorrow.

Tomorrow will be a long day because it is the desire of the leadership to complete action on the housing bill tomorrow so that the Senate can begin action on the Clean Air Act on Wednesday.

There are several amendments yet to be called up. I would anticipate several rollcall votes tomorrow. We will be coming in early. I would anticipate a late session, if necessary, to complete action on the bill.

Mr. President, I suggest the absence of a quorum under the same conditions as enunciated by the distinguished Senator from Wisconsin.

Mr. DOLE. Will the Senator withhold that?

Mr. ROBERT C. BYRD. Mr. President, I withhold that.

Mr. DOLE. I wonder if I might send my resolution to the desk at this time.

Mr. ROBERT C. BYRD. I yield for that purpose.

#### DIPLOMATIC RELATIONS WITH CUBA

Mr. DOLE. Mr. President, I send a resolution to the desk, on behalf of myself, Mr. HELMS, and Mr. HAYAKAWA.

The PRESIDING OFFICER. The resolution—

Mr. ROBERT C. BYRD. May I ask if Senator SPARKMAN is aware of the nature of this resolution?

Mr. DOLE. It is a resolution on Cuba.

Mr. ROBERT C. BYRD. Has the Senator asked for its immediate consideration?

Mr. DOLE. Not yet. I will take 1 second and then I will.

Mr. PROXMIRE. Will the Senator yield for the purpose of asking that the time not be charged to either side on this matter because it is not relevant to the bill, as I understand it?

Mr. DOLE. Yes.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time on the resolution to be discussed by the Senator from Kansas not be taken from our time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I will explain the resolution. I am introducing a resolution to express opposition to the normalization of U.S. relations with the Cuban Government until certain preconditions are met. Mr. President, I set forth those preconditions, the compensation for property, the release and repatriation of American citizens, withdrawal of Cuban military troops and advisers from Africa, renewal of an antihijacking agreement with the United States, and guarantee for the future security of the U.S. naval base at Guantanamo Bay, and others.

Based on that brief explanation, Mr. President, I ask for immediate consideration of the resolution.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 182) to express the sense of the Senate with regard to conditions under which the United States will establish diplomatic relations with the Government of Cuba.

The resolution is as follows:

Whereas, the Government of Cuba expropriated approximately \$1.8 billion worth of private property owned by United States nationals in 1959, for which no compensation has since been rendered;

Whereas, the Government of Cuba currently imprisons more than 15,000 of its own citizens on the basis of their political beliefs, and incarcerates at least 7 American citizens on political grounds;

Whereas, the Government of Cuba has deployed more than 10,000 Cuban troops and military advisers to the African continent for the purpose of interfering in political issues of a purely domestic nature; and

Whereas, the Government of Cuba has demonstrated little or no willingness to renew assurances with the United States on cooperative anti-hijacking procedures, or on

the security of the United States Naval Base at Guantanamo Bay: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that there should be no United States diplomatic recognition of the Government of Cuba, and no partial or complete lifting of the United States trade embargo against the Government of Cuba, until such time as the Congress of the United States determines that the Cuban government has:

(a) provided reasonable compensation for United States property expropriated in 1959;

(b) released from prison and repatriated those United States citizens held on political charges, and demonstrated significant progress towards observance of the human rights of its own citizens;

(c) withdrawn Cuban military troops and advisers from the African continent; and

(d) provided assurances on cooperation in hijacking situations, and on the future security of the United States Naval Base at Guantanamo Bay.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

Mr. SPARKMAN. Mr. President, I must object, if the Senator insists on calling it up at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Mr. President, I then ask unanimous consent that my resolution be placed under General Orders on the Senate Calendar.

Mr. ROBERT C. BYRD. Mr. President, I object to that.

The PRESIDING OFFICER. Objection is heard. The resolution will go over under the rule.

#### STATEMENT ON RESOLUTION ESTABLISHING CONDITIONS FOR RESTORING RELATIONS BETWEEN THE UNITED STATES AND CUBA

Mr. DOLE. Mr. President, I have today submitted a Senate resolution to express opposition to normalization of U.S. relations with the Cuban Government until certain preconditions are met. On Friday, the administration announced that a mutual agreement had been concluded to permit the exchange of mid-level diplomatic personnel between our two governments. Negotiations leading to this agreement were conducted in private, outside the realm of public scrutiny and comment. It now appears likely that the administration will proceed with efforts to fully restore diplomatic relations with the Castro regime, and to lift the 16-year-old trade embargo against Cuba. Because I believe that the Cuban Government must demonstrate preliminary good faith on its part, and because I feel strongly that Congress and the American people should provide input into this major policy development, I have offered a resolution to provide guidance in resuming normal relations with Cuba.

My resolution would express the sense of the U.S. Senate that there should be no formal U.S. recognition of the Government of Cuba, and no partial or complete lifting of the 1962 U.S. trade embargo against Cuba until Fidel Castro's regime has met certain conditions. Those conditions are: First, compensation for U.S. property confiscated by Cuba in 1959; second, release and repatriation of American citizens currently imprisoned in Cuba on political charges, along with progress toward observance of the hu-

man rights of Cuban citizens; third, withdrawal of Cuban military troops and military advisers from Africa; and fourth, renewal of an antihijacking agreement with the United States and guarantees for the future security of the U.S. naval base at Guantanamo Bay.

These four conditions reflect the major conflicts between the United States and Cuba for the past 17 years and, in my opinion, should constitute the minimum concessions we expect from Castro before we restore diplomatic recognition and trade.

#### WE HOLD THE BARGAINING CHIPS

It is important that one fundamental factor be clearly understood at the outset: the Communist Government in Cuba has as much and more to gain from improved relations with United States, as we have to gain from the arrangement. Consequently, it would be a serious mistake for us to forge ahead with unilateral concessions until all outstanding differences between our Governments have been fully explored and at least partially resolved. We, as a nation, have much to offer and much to expect in return. Concessions on our part must be fully matched by substantive, reciprocal concessions on the part of the Cuban Government. And I believe there should be no formal reinstatement of diplomatic relations, nor resumption of normal trade patterns, until agreements have been reached and genuine progress made toward resolving major disagreements as we see them.

It is also important that American policymakers realistically distinguish between Castro's initiatives which are dictated by economic necessity, and those which might reflect genuine moderation in his policies of terror and repression. Our policymakers must recognize that the Communist regime's ideological foundations remain unchanged, and they must insist on certain preconditions before any further consideration of normalized relations takes place.

#### PRESENT CONDITIONS UNACCEPTABLE

American interests and concerns with regard to Cuban policies remain largely unchanged, and a number of present Cuban policies are clearly unacceptable from our national point of view. In the first place, Cuba has made no effort to compensate American citizens for property and assets expropriated by the Cuban Government following Castro's takeover in 1959. The U.S. Foreign Claims Settlement Commission has certified the value of that loss at \$1.8 billion, and has also ruled that American claimants are entitled to interest on their certified claims at the rate of 6 percent per annum from the date of seizure. It was in response to the confiscation of American property that our own Government imposed a partial trade embargo against Cuba in October 1960, which was followed by imposition of the total trade embargo in February 1962.

In the context of current international concern about the appropriate observance of human rights by governing institutions, the Carter administration should insist upon significant progress in this area by the Castro regime. Credible

reports indicate that as many as 15,000 to 20,000 Cuban citizens are imprisoned in Cuba because of their opposition to the Communist government. In addition, I understand that at least 18 American citizens remain imprisoned in Cuban jails, and at least seven of these are incarcerated on charges of espionage or similar allegations of a political nature. Others are held on charges relating to drug use or hijacking activity. In line with a perfectly natural sense of concern by the United States about repressive actions against our own citizens, as well as Cuban citizens, we must insist that tangible steps be taken by the Cuban regime to resolve that concern. It is vital that U.S. policymakers apply the same human rights criteria to Cuba which has been applied to other nations with whom we maintain friendly relations. It is nothing short of ironic that the Carter administration proposes to improve relations with Cuba at the same time that it suggests that we reduce or eliminate interaction with traditional allies in Latin America and other parts of the globe.

It should be made absolutely clear to Castro that there can be no meaningful improvement in American-Cuban relations until he agrees to terminate his active promotion of Communist aggression in Latin America and Africa. It is an insult to the principle of self-determination that Castro still maintains a force of some 10,000 Cuban troops in Angola, 2 years after their strong-arm activities won that country over to the Communists. In addition, Cuban military advisers are being deployed throughout the African Continent—in Ethiopia, Mozambique, and elsewhere—to instigate political turmoil and bloodshed. The Cuban dictator's revolutionary activism has not diminished, despite his earlier promises. It must be halted before we agree to normalize diplomatic relations.

The Cuban Government announced in October 1976 that it would allow its antihijacking agreement with United States to terminate in April of this year. They have indicated no willingness to formally renew the agreement, and I fear that this removes a major psychological force to discourage the hijacking of American planes to Cuba. The administration, and Congress, should insist upon a formal renewal of the hijacking accord, along with Cuban guarantees on the future security of the U.S. naval base at Guantanamo Bay. There have been indications that the Cuban leadership refuses to provide these assurances until the U.S. trade embargo is lifted. If these reports are accurate, and the Cuban Government attempts to "blackmail" the United States into political and economic ties, it should be clearly understood that the United States does not submit to such techniques. Those who insist that the time is at hand for the United States to demonstrate "good faith" by lifting the trade embargo have not, I suspect, fully considered the lack of good faith by the Cuban Government on these and other issues of importance to the American people. I would urge this administration, and my colleagues in Congress, to insist that all these matters be properly addressed before binding agreements with

the Cuban Government are consummated.

#### LITTLE TRADE VALUE

To those in our own country who advocate resumption of diplomatic relations for the purposes of bilateral trade, I would point out that future trade relations are likely to benefit Cuba far more than they will the United States. The precipitous plunge of world sugar prices has been among the major factors which has brought Castro to the point of expressing interest in improved relations with our Government. The return of the U.S. sugar market to Cuba would mean reduced imports of sugar from friendly sugar-producing nations, as well as an additional burden upon our domestic sugar-producing industry.

Castro sees the United States as a prime market for the island's principal export crop as well as other Cuban products like nickel, seafood, rum, and cigars. While trade always has two-way benefits, the Cuban market does not have as much importance for the United States. Cuba will not be a vast market for American businessmen, as a Commerce Department study estimates only about a \$300 million potential from the Cuban market. In relation to our annual trade level of about \$100 billion, the prospects are indeed insignificant. At present, about 60 percent of Cuban trade is with other Communist countries, and it is worth noting that Cuba currently owes the Soviet Union about \$5 billion. By most standards, the Cuba Government clearly has a poor credit rating.

#### NO UNILATERAL CONCESSIONS

The Cuban Communist regime likes to imply that it is up to the United States to demonstrate good faith and to take the first step in improving political and economic relations. At the same time, some of my colleagues in Congress, and those formulating policy in the administration, are likewise suggesting that it is our responsibility alone to heal old wounds and initiate reconciliation with the island. My point is simply this: Improved relations between the United States and Cuba do not depend upon a unilateral decision by the United States. Instead, Castro is going to have to make some tough decisions of his own based on the intensity of his desire to improve relations with the United States. There is absolutely no reason why policymakers in this country should feel obliged to bend over backwards to curry favor with the Communist regime.

I say this: If there must be concessions made, let them be made bilaterally. And if Cuba is unwilling to restrain subversive activity in Africa; if it is unwilling to compensate American citizens for stolen property; if it is unwilling to release American prisoners and become more conscious of the human rights of its own citizens; and if it is unwilling to provide simple assurances on the safety of Americans who are hijacked to Cuba, then I say Cuba does not warrant U.S. recognition or trade considerations.

The announcement on Friday that 10 American prisoners will be released from Cuban prisons was a welcome sign, but only a minor initial step on Castro's



part. We should not overreact to that token gesture, but insist on further substantive progress in resolving American concerns. The release of some U.S. prisoners demonstrates that Castro is capable of making concessions. We must, therefore, maintain our commitment to acquiring full cooperation on all outstanding issues before relations are "normalized."

I urge my colleagues in the Senate to join with me in supporting this resolution, and I sincerely hope that the President will heed our advice on the matter.

Congressman WILLIAM BROOMFIELD, ranking minority member on the House international affairs committee, is introducing a companion resolution this afternoon in the House of Representatives. I trust there will be early attention to this cooperative effort by both Houses of Congress.

#### HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1977

The Senate continued with the consideration of the bill (S. 1523) to amend the Housing and Community Development Act of 1974; to extend housing assistance and mortgage insurance programs; and for other purposes.

Mr. ROBERT C. BYRD, Mr. President, I suggest the absence of a quorum. I ask that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROOKE, Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### UP AMENDMENT NO. 354

Mr. BROOKE, Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: The Senator from Massachusetts (Mr. BROOKE) proposes an unprinted amendment No. 354.

The legislative clerk proceeded to read the amendment.

Mr. BROOKE, Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 47, lines 8 and 9, strike, "by the end of calendar year 1977."

And in line 19 insert the following: "(v) fifty or more individual homeowners were joined as parties defendant or were members of a defendant class prior to December 31, 1976, in litigation involving claims to ownership of land in the community by an American Indian tribe, band, or nation."

Mr. BROOKE, Mr. President, this is a technical amendment.

Mr. President, section 306 of the Housing and Community Development Act contains provisions to assure that homeowners severely injured by the In-

dian land claims suit in Mashpee, Mass., are eligible for FHA mortgage insurance. Such insurance should both encourage financial institutions to write mortgages on Mashpee homes and it should help assure that, if a family is in such severe economic straits resulting from the Indian claims that the mortgage is assigned to HUD, HUD's policies will be sufficiently lenient so as to keep that family in its residence.

Mr. President, only final settlement on the land claims will provide the relief the people of Mashpee truly need—the clearing of title on landholdings. This represents one more attempt by the Congress to provide emergency assistance for those most seriously affected, but it is no overall solution.

I am offering a technical amendment to insure that the legislative intent awarding this aid to Mashpee is even more clear than as originally drafted. And it is my hope this perfecting language will be signed into the law in the very near future.

Mr. President, I ask unanimous consent that an excerpt from the Senate Banking, Housing, and Urban Affairs Committee report on S. 1523 be printed in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Section 306(b) would amend section 203 of the National Housing Act by adding a new subsection (c) authorizing the Secretary, notwithstanding any other provision of title II of such Act, to insure, and to commit to insure, under section 203(b), as modified by this proposed subsection, a mortgage which meets both the requirements of this proposed subsection, and such criteria as the Secretary by regulation may prescribe to further the purpose of this proposed subsection, in any community where the Secretary determines that—

(A) temporary adverse economic conditions exist throughout the community as a direct and primary result of outstanding claims to ownership of land in the community by an American Indian tribe, band, or Nation;

(B) such ownership claims are reasonably likely to be settled, by court action or otherwise, by the end of calendar year 1977;

(C) as a direct result of the community's temporarily impaired economic condition, owner occupants of homes in the community have been involuntarily unemployed or underemployed and have thus incurred substantial reductions in income which significantly impair their ability to continue timely payment of their mortgages; and

(D) as a result, widespread mortgage foreclosures and distress sales of homes are likely in the community.

A mortgage would be eligible for insurance under section 203(b) as modified by this proposed subsection without regard to limitations in title II relating to a mortgagor's reasonable ability to pay, economic soundness, marketability of title, or any other statutory restriction which the Secretary determines is contrary to the purpose of this proposed subsection, but only if the mortgagor is an owner occupant of a home in a community specified above who, as a direct result of the community's temporarily impaired economic condition, has been involuntarily unemployed or underemployed and has thus incurred a substantial reduction in income which significantly impairs the owner's ability to continue timely payment of the mortgage. The Secretary would be authorized to encourage or afford directly to or on behalf of mortgagors whose mortgages are

insured under section 203(b) as modified by this proposed subsection forbearance, assignment of mortgages to the Secretary or such other relief as the Secretary deems appropriate and consistent with the purpose of this proposed subsection. The Secretary, in connection with any mortgage insured under section 203(b) as modified by this proposed subsection, would have all statutory powers, authority, and responsibilities which the Secretary has with respect to other mortgages insured under section 203(b), except that the Secretary would be authorized to modify such powers, authority, or responsibilities where the Secretary deems such action to be necessary because of the special nature of the mortgage involved. Notwithstanding section 202 of title II, the insurance of a mortgage under section 203(b) as modified by this subsection would be the obligation of the special risk insurance fund created pursuant to section 238 of title II.

Mr. BROOKE, Mr. President, I have discussed this technical amendment with the distinguished chairman of the committee. I believe he will accept it.

Mr. PROXMIRE, Mr. President, I am happy to accept this amendment. We have discussed it and debated it at some length both on the floor and in conference. It is a good amendment. I yield back the remainder of my time.

Mr. BROOKE, Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BROOKE, Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BROOKE, Mr. President, I suggest the absence of a quorum. I ask that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The legislative clerk proceeded to call the roll.

Mr. EAGLETON, Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 335

Mr. EAGLETON, Mr. President, I call up my amendment No. 335 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read as follows:

The Senator from Missouri (Mr. EAGLETON), for himself and others, proposes an amendment.

Mr. EAGLETON, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 54, between lines 7 and 8, insert the following:

Sec. 312. (a) Section 202(b) of the Flood Disaster Protection Act of 1973 is amended to read as follows:

"(b) In addition to the requirements of section 1364 of the National Flood Insurance Act of 1968, each Federal instrumentality described in such section shall by regulation require the institutions described in such

section to notify (as a condition of making, increasing, extending, or renewing any loan secured by property described in such section) the purchaser or lessee of such property of whether, in the event of a disaster caused by flood to such property, Federal disaster relief assistance will be available to such property."

(b) Section 3(a)(4) of such Act is amended by striking out all after "mortgages or mortgage loans" and inserting in lieu thereof the following: "but shall exclude assistance pursuant to the Disaster Relief Act of 1974 (other than assistance under such Act in connection with a flood);"

Mr. EAGLETON. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EAGLETON. Has 1 hour been reserved on this amendment, to be equally divided?

The PRESIDING OFFICER. The Senator is correct.

Mr. EAGLETON. Mr. President, it is late in the evening and there will be no vote on this until tomorrow morning. I am advised by the distinguished majority leader. I wish to reserve 10 minutes of my hour, to be consumed tomorrow morning at the close of morning business.

Mr. ROBERT C. BYRD. Will the distinguished Senator yield?

Mr. EAGLETON. I yield to the majority leader.

Mr. ROBERT C. BYRD. The Senator may want to have the time begin running at 10 o'clock. Under the order previously entered, the Senate will resume consideration of the bill at 10 a.m. tomorrow.

Mr. EAGLETON. I thank the majority leader.

Mr. President, then I make my request to have my 10 minutes begin at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, this amendment is cosponsored, in addition to myself, by Senators TOWER, DANFORTH, BUMPERS, BENTSEN, EASTLAND, CURTIS, CHILES, JOHNSTON, DOMENICI, and HELMS.

This amendment would make a modest change in the national flood insurance program. Very simply, it would allow a community which has compelling reasons for not adopting the restrictive HUD land use code to continue to have access to conventional forms of financing. The amendment makes it clear, however, that such communities would not be eligible for Federal construction assistance or flood disaster loans. In addition, it would require private lenders to notify borrowers of the flood designation and advise them the property is not eligible for disaster aid in the event of a flood.

Mr. President, all my amendment seeks to do is give local jurisdictions a small degree of choice about how they handle purely local affairs. It proceeds from a consideration that maybe—just maybe—local people might know a little more about their own town and its problems than some Washington HUD of-

ficial who has never even been to the community.

There are many good reasons why a community might resist dictation from Washington. One is that most of these communities have already taken account of their flood problems and adopted appropriate zoning regulations. Understandably, they object to having these local initiatives set aside by some HUD official whose only knowledge of the town is based on a crude map drawn by an outside consultant. Even HUD admits that these maps are full of errors, and the GAO says these maps are virtually useless as a basis for administering a sound flood plain management program.

More often, a community's decision is based simply on economics. The town of Cassville, Mo., is a good example. Cassville is a town of 1,900 population, and over the past decade, the people there have made an all-out effort to attract industry and build up their city. They have succeeded in luring industries with 1,100 new jobs to Cassville, which has become something of a boomtown. Now, Cassville has been told by HUD that 60 percent of its incorporated area is subject to flooding. HUD has made this determination despite the fact that there has been no serious flooding in Cassville in human memory; despite the fact that the citizens of Cassville several years ago designated their own, more reasonable flood plain, based on actual experience as well as professional engineering studies; and despite the fact that not one dime in Federal disaster relief ever has gone to Cassville.

Based on that, the people in Cassville decided they would just as soon forego eligibility for Federal disaster aid and stand on their own. But HUD, the all-wise and all-knowing in Washington, says, "No, you cannot look after your own interests. You have no choice but to stop natural growth in this alleged flood plain, even though it encompasses all of your industrial employers, your business district and your town square."

The case of Wooster, Ohio, is another example of the kind of problem my amendment addresses. That community recently was told by HUD that it is being suspended from the flood insurance program, and as of June 15, all the sanctions provided by law would be applied against it.

Wooster is the home of about a dozen companies which, together, provide the bulk of oil well drilling equipment for the entire Midwest region. These companies are located in a low-lying industrial area which, on occasion, has experienced some backwater, but it never has caused significant damage and always has quickly receded. The HUD land use restrictions would make it impossible for these companies to expand or substantially improve their properties, and the companies informed the city council they would pick up and move rather than operate under those kind of conditions. In addition, the county fairgrounds have been included in the HUD map as flood prone and no improvements could be made on those premises, either.

This is the kind of bread and butter

concern that has prompted hundreds of other communities across the country to stay out of the program or to seek major changes in the way it is administered. As of April 19, 1977, sanctions were being applied against more than 3,000 communities. I ask unanimous consent that a State-by-State breakdown of those communities be printed in the RECORD at this point in my remarks.

There being no objection, the breakdown was ordered to be printed in the RECORD, as follows:

STATE-BY-STATE BREAKDOWN  
State and total number of cities  
under sanctions

|                |     |
|----------------|-----|
| Alabama        | 49  |
| Alaska         | 3   |
| Arizona        | 4   |
| Arkansas       | 65  |
| California     | 14  |
| Colorado       | 44  |
| Connecticut    | 1   |
| Delaware       | 2   |
| Florida        | 11  |
| Georgia        | 100 |
| Idaho          | 20  |
| Illinois       | 143 |
| Indiana        | 39  |
| Iowa           | 266 |
| Kansas         | 161 |
| Kentucky       | 52  |
| Louisiana      | 54  |
| Maine          | 62  |
| Maryland       | 3   |
| Massachusetts  | 32  |
| Michigan       | 88  |
| Minnesota      | 169 |
| Mississippi    | 29  |
| Missouri       | 170 |
| Montana        | 32  |
| Nebraska       | 101 |
| Nevada         | 1   |
| New Hampshire  | 73  |
| New Jersey     | 8   |
| New Mexico     | 22  |
| New York       | 158 |
| North Carolina | 35  |
| North Dakota   | 83  |
| Ohio           | 92  |
| Oklahoma       | 99  |
| Oregon         | 6   |
| Pennsylvania   | 282 |
| South Carolina | 31  |
| South Dakota   | 69  |
| Tennessee      | 290 |
| Texas          | 240 |
| Wyoming        | 20  |
| Utah           | 31  |
| Vermont        | 54  |
| Virginia       | 9   |
| Washington     | 24  |
| West Virginia  | 4   |
| Wisconsin      | 54  |

(At this point Mr. MATSUNAGA assumed the chair.)

Mr. EAGLETON. Mr. President, these communities are tired of dictation from Washington by bureaucrats who know nothing about their local situation and care even less. I have with me a picture of just such a bureaucrat, a representative of the Federal Insurance Administration who was photographed by the Aurora, Mo., Advertiser newspaper while he was dictating his terms to the residents of that community.

I am sorry I do not have a bigger audience, because it is a juicy picture. This is the friendly HUD Director as he invaded Cassville. He is lecturing the people of Cassville on what is in their best interest. To cap off his speech, he referred to Representative TAYLOR and me as un-



mitigated rednecks, or something like that.

Frankly, that designation does not hurt me politically in that part of the State. Anyway, here is this picture. It will speak for itself.

A few years ago, Governor Wallace of Alabama added the term "pointy-headed bureaucrat" to the English language. I urge my colleagues to take a look at this picture and see if this does not epitomize what Governor Wallace may have had in mind.

The people, Mr. President, are fed up with this kind of pointy-headedness, of which the Federal flood insurance program regrettably has become an example. They are tired of listening to bureaucrats like the one in this picture, who told the people in Aurora that anyone who did not like the flood insurance program is a "redneck," and that Congress would do nothing to help them. The people have heard enough of this kind of talk, and they have decided they want some answers, all in all.

Mr. President, the amendment before us, sponsored by 10 or more Senators, would not affect communities which are willing participants in the flood insurance program nor would it jeopardize a single dollar of direct Federal assistance. The only question at issue is whether decisions involving vital planning and development are going to be made by someone in the HUD office here in Washington or whether the local community is to be left even this slightest tinge of local decision, whether a banker cannot make up his own mind whether he wants to loan the bank's money to a businessman in his area.

Opponents of this amendment contend that communities which stay out of the flood insurance program will nevertheless come running to Washington for help if they experience a flood and Congress will be persuaded to give it. Mr. President, that argument ignores the clear words of the Flood Protection Act, which provides that no property owner shall qualify for Federal disaster assistance or construction assistance unless he agrees to purchase flood insurance. The amendment before this body does not change that requirement, and, in fact, restates the condition in the body of the amendment itself. So it is in there twice. Nothing could be plainer than this fact, and if a community consciously decides to stay out of the program, they are not eligible for 1 cent of flood disaster relief.

In conclusion, Mr. President, the amendment would restore the right of local communities to turn down Federal handouts if they choose to go it alone. Therefore, I urge the amendment's adoption. It would do nothing to hinder a community which likes the program from continuing to enjoy its benefits and it leaves intact most of the program's incentives.

Mr. President, I am pleased to yield to my distinguished colleague from Missouri (Mr. DANFORTH).

Mr. DANFORTH. I thank my senior colleague for his excellent statement and for his initiative in offering this amend-

ment. I think he has captured very lucidly the spirit of the people of the State of Missouri who are absolutely up in arms about this particular question.

The saccharin controversy is followed in close order by the flood plain insurance controversy in the minds of the people of our State in their impressions and outrage over the overreach of the Federal bureaucracy in trying to manage their affairs.

As I understand this amendment, and I ask Senator EAGLETON if he will bear me out in this, he is not objecting to the Federal Government conditioning the offering of Federal flood insurance or Federal grants or Federal loans or what amounts to land use planning.

What he is objecting to, as I understand it, is the Federal Government purporting to tell banks with no connection at all other than, for example, FDIC coverage, banks that are located in a community, people who have lived in the community all their lives, that they are not able to make loans in flood plain areas.

Mr. EAGLETON. The Senator is absolutely correct.

Just permitted to fit the loan money to a business deriving in that area if they think it is a good, prudent loan, the bank is permitted to make the loan. That is all the amendment does.

Mr. DANFORTH. Under the law as written now, if a Federal bureaucrat designates an area as being within a flood plain, then a bank which is FDIC-covered, or insured, is prohibited by the present law from making a loan to a business located in that flood plain.

Mr. EAGLETON. The Senator is exactly correct.

Mr. DANFORTH. And this is exactly the kind of overreach by the Federal bureaucracy that we were objecting to in offering this amendment.

Mr. EAGLETON. I thank my colleague. I think he has summed it up very convincingly.

Mr. DANFORTH. Mr. President, in Aurora, Mo., there was a confrontation a few weeks ago between the citizens of Aurora and Federal officials in charge of this program.

Aurora, for those who do not know, happens to be one of the highest points in the State of Missouri. Aurora has never been flooded. Yet the Federal bureaucracy has stated that Aurora is part of a flood plain and has conditions not only of Federal assistance in case of a flood and Federal insurance by bank loans in that community, or Aurora's participation in what amounts to Federal land use planning. During the confrontation between a Mr. McClure and the people of Aurora, Mr. McClure stated, and I am quoting from the Aurora newspaper:

"Don't tell me there have never been any floods here," McClure said at the meeting, "I've heard all the arguments. Just because there has not been a flood here, doesn't mean there won't be. If you gamble that there won't be a flood, and lose, don't call us."

Nobody in Aurora wants to call. The question is whether they are going to call the Federal Government and ask for anything. The question is whether the

Federal Government is going to prohibit the people of Aurora from getting loans from banks in their own communities.

I think that this is representative of exactly the feeling that is so prevalent in our country today. The feeling on the part of people throughout the country that Washington is made up of the bureaucracy that knows the answers, that knows all the situations and concerns in a local community, that we in Washington have a monopoly on truth and wisdom and that we are darn well going to tell people in Aurora and Cassville and in communities throughout this country what they should do and what business practices they should have.

I am pleased to join with my colleague from Missouri (Mr. EAGLETON) in cosponsoring this amendment and urging its support.

Mr. EAGLETON. I thank my colleague.

Mr. President, I ask unanimous consent that the name of the Senator from New Mexico (Mr. SCHMITT) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I ask unanimous consent that a 2½ page letter from the National League of Cities endorsing this amendment be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL LEAGUE OF CITIES,  
Washington, D.C., May 31, 1977.

DEAR SENATOR: On behalf of the National League of Cities, I am writing this letter to comment on S. 1523, the Housing and Community Development Act of 1977, and to commend the Senate Banking, Housing and Urban Affairs Committee for supporting a three-year authorization of the Community Development Block Grant Program. In our opinion, the President presented to Congress a well-balanced legislative proposal and the Senate committee has adopted several valuable amendments to improve the current law.

NLC has consistently endorsed the major elements of the Carter proposal including the proposed dual formula, the Urban Development Action Grants Program (UDAG), and a plan to fund comprehensive small city programs. The League's Board of Directors voted last week, by mail ballot, to reaffirm our commitment to this important legislation and to establish NLC's policy position on two significant formula amendments to the President's proposal.

The first formula amendment, which was introduced by Senator Harrison Williams and later amended by Senator Edward Brooke to include a funding phase-in provision, deals with cities of over 50,000 population and basically benefits those cities which were helped through the Administration's dual formula. The Williams-Brooke formula modification adds a third formula for calculating funding levels for entitlement communities, and it substantially reduces the available dollars for the proposed UDAG program.

The second formula amendment changes the allocation method for distributing the metropolitan and non-metropolitan discretionary balances. A two formula approach, which is similar but not identical to the dual formula for cities of over 50,000 population, is employed to distribute the discretionary balances into a pool at the state level using the 1974 formula or a second formula. The second formula weighs the age of housing 50

percent, poverty 30 percent, and population 20 percent. Each state will receive an allocation based on the larger amount.

Although the League believes that the bill before the Senate is a good piece of legislation, you should be aware that we are opposed to these formula amendments as contained in S. 1523.

The League opposes the Williams-Brooke "Impaction" formula because it siphons funds from a highly desirable component of the Administration's proposal—the UDAG program. We believe that the \$400 million UDAG program provides HUD with the necessary flexibility to resolve formula inequities or deficiencies of the dual formula, and to promote the economic revitalization of a greater number of cities (both large and small). We urge the Senate to support the \$400 million UDAG program as requested by the President.

NLC objects to the second formula amendment or the two formula approach for distributing the discretionary balances for three reasons: First, it transfers elements of the dual formula, devised after lengthy studies and numerous computer runs for larger communities, to smaller communities with the assumption, not with studies or computer runs, that the same considerations would apply to cities under 50,000 population just as for larger cities. Second, the amendment was considered and adopted by the Committee without complete information showing the funding distribution for the metropolitan discretionary balances. Third, no additional funds are provided by this amendment to fund both formulas fully. Thus, some states will receive less money than they would receive if the allocation system was based exclusively on the 1974 formula.

For these reasons, NLC is opposed to this formula amendment and we strongly urge your support of our position.

We are aware that Senator William Hathaway plans to offer a floor amendment to S. 1523 to reserve 25 percent of the funds appropriated for UDAG for the participation of cities with population below 50,000. Senator Hathaway's amendment would allow cities of similar size to compete more equitably for needed federal assistance. His proposal is consistent with the general principles established under the original act, since it extends the same treatment, as applied under the Regular Block Grant Program, to divide the available funds between large and small communities. As I indicated before, the League is totally supportive of the UDAG program, and we urge your support of Senator Hathaway's amendment to guarantee adequate funding and the participation of smaller cities in this program.

The League is also concerned about an amendment which Senator John Tower plans to offer pertaining to the UDAG program. His amendment, as we understand it, would allow "distressed areas" within cities and urban counties to become eligible for the UDAG program. The amendment is contrary to the Administration's proposal and it opens the program indiscriminately to almost every city and county in the country. We oppose this amendment because it would scatter the program's limited resources.

NLC also supports an amendment to be offered by Senators Richard Stone and John Heinz to continue to allow lump-sum draw-downs of Community Development Grant funds by cities with rehabilitation programs. In the past, cities have been able to leverage their CD dollars and attract private investors into neighborhoods where they would not ordinarily take the risk. We feel that this amendment is a good one and its adoption should benefit many local governments.

NLC supports Senator Thomas Eagleton's amendment to the section dealing with flood insurance, which would lift the sanction imposed on Federally-insured banks, and sav-

ings and loans institutions in a non-participating community. This amendment does not address all the questions that NLC raised prior to the adoption of the Act in 1973, but at a minimum, it would prevent unwarranted economic hardship by some communities while these questions are answered. Additional improvements in the present law, would require assessment of the economic consequences and land use implications for the community, as well as the private citizen. One answer would be a requirement that a cost benefit analysis should be submitted at the time the community would enter into the permanent program; another avenue to explore would be the establishment of a compensation plan for economic losses.

In conclusion, you should also be aware that the League strongly supports the following Committee improvements to the Administration's bill:

Multi-year funding of small city comprehensive programs.—The League is pleased that the Committee recognized the need for such an amendment. Through this provision, small cities will receive the same treatment as the larger cities, and they can more adequately plan and carry out comprehensive CD programs. We feel confident that this change will favorably benefit our smaller communities and enhance their ability to participate in the program.

An improved loan provision.—To our knowledge, not a single CDBG loan has been provided to any city since the start of the program. The committee recognized that localities need a workable loan program in order to leverage funds and carry out larger development activities.

Title IV, the Community Reinvestment Act.—Title IV reinforces the concept, provided in a previous law, that financial institutions are obligated to serve the needs of their immediate area. This does not force the lending institutions to loan a certain percentage of funds to a given area, but merely directs the regulatory agencies to encourage affirmative lending practices. NLC would prefer the language to be stronger and more specific, but a vote to delete Title IV would be a tremendous setback for any improvement against lending discrimination in the cities.

Housing Budget Authority.—NLC supports the Committee language with regard to calculating assisted housing budget authority. The present system grossly misrepresents the annual cost of assisted housing, particularly at the time when priorities and cost are assessed by the Budget Committee and the Congress. The 40-year cost of housing stands side-by-side with one-year programs. This leads to misconceptions of the annual drain on the federal budget and, therefore, the system should be clarified.

The National League of Cities is committed to the reauthorization of this vital program and we hope you will support our efforts to produce the best possible legislation for our nations' cities. Please let us know if we can be of any further assistance to you.

Sincerely,

ALAN BEALS,  
Executive Director.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Alabama (Mr. ALLEN) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I reserve the remainder of my time.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I hesitate to object to the distinguished Senator from Missouri and the Senator from Alabama in their position on this.

The senior Senator from Missouri (Mr. EAGLETON) has been extraordinarily diligent. He is very well informed. I cannot recall any measure in which I have been involved which has come before the committee in which a Member of the Senate has been more consistent, better documented, studied the question more thoroughly, gone out to his State and talked with people from all walks of life. He does bring a great deal of thought, experience, and work to this matter.

Nevertheless, I must oppose the Eagleton amendment. I do so because it would drastically, very drastically, alter the Federal flood insurance program. A similar amendment was considered by the committee and rejected by a vote of 8 to 4. The committee adopted, instead, the administration's proposal to extend the program through fiscal year 1978. The 1-year extension would give the new Administration time to review the program, and the Senate another opportunity to conduct oversight hearings. I would like to recall for my colleagues the background of the flood program. It is crucial to understanding the committee's firm opposition to the amendment which Senator EAGLETON offers.

In 1965, Congress directed the administration to study the feasibility of establishing an insurance program to deal with the problem of flood losses. The study showed that the hazards of flood damage in the United States have been rising steadily, and that demand for property in flood-prone areas is increasing.

I think that we should recognize that what typically happens is that people will go back over and over again into those flood-prone areas no matter what kind of warning they have, and they know now, if they are flooded out, the Federal Government is going to come along and take care of them, for we have always done that in the past. It has cost the Government billions of dollars. We are not hard-hearted, we do not turn our backs on American citizens. We have helped them over and over again.

The wise thing to do would be to set up a flood insurance program to do several things: To provide money in case of a flood so they could be taken care of; to provide a disincentive for moving into flood-prone areas; and also to encourage those who are in areas like this to build structures which resist flood. That is what the flood insurance program tries to do.

The study I have talked about here, the 1965 study, found that people are generally uninformed or misinformed about flood risks. Most are overoptimistic about their chances of avoiding flood loss, or expect the Federal Government to bail them out should a flood disaster occur. The staff concluded that a flood insurance program could be established to save not only lives, but the high costs of property losses that are borne by the Federal Government and by individual property owners.



But the study emphasized that for an insurance program to succeed, future flood losses must be reduced through local management of flood-prone areas. I agree that management has not been skillful. HUD has blundered in many cases. It made some sad mistakes, some pitiful mistakes.

I have had the same experience in Wisconsin where people have taken me out and shown me areas where flooding will not likely happen, where they will not have a flood in a hundred years, and will not have a flood in 25 years because there is no way they could be flooded. But the maps they had were out of date. They proceeded from awkward information, and almost in a way, information that was considered very badly informed and very grossly inefficient by local people. Nevertheless, that program is very greatly improved now. It is on a different basis.

The continued unregulated development of flood-prone areas would undermine any effort to provide insurance protection for persons living in areas of flood risk. It is important to remember this, because in 1973 Congress amended the flood insurance law to require communities, as a condition for receiving subsidized insurance, to implement flood plain management regulations and to bar participation by federally regulated lending institutions in construction or real estate activities in communities which fail to participate. Experience showed that communities were not moving voluntarily to do so. Flood losses and Federal disaster expenditures were continuing to mount.

The Congress, after lengthy deliberations and considerable compromise, enacted the present program in order to take into account all viewpoints. And the program is working. More than 15,000 communities are participating in the program. More than 12 million flood insurance policies have been sold. Over \$30 billion worth of property is now protected by flood insurance. Local communities are adopting better practices to reduce the likelihood of future flood damage. It is projected that by 1980 the Federal Government will save almost \$2 billion each year as a result of the flood program—and private property owners will save even more. Think of that. Here is a program that saves money. It does not cost money, it saves money. It saves billions of dollars.

Those who would amend the present law present two basic arguments to support their view. They argue first that this is an unnecessary infringement on the rights of private property. But experience has shown that this is not the case. Experience has shown that owners of property will build in flood-prone areas—we all know it; it happens in every State—lenders will make loans in areas that are flood prone, and people will buy in areas that are flood prone. And when the flood disaster occurs, the Federal taxpayers will pick up the tab out of compassion.

Mr. President, there is an area in our State on the Mississippi River in which there is a flood almost every year, and every year the people go right out and they build and they have their families

there and they get flooded out. They are hopeful it will not happen. If it happens, they will be bailed out and, of course, they have been bailed out at a great cost to the taxpayer. But, of course, the property there is cheap, and the lenders do not care because they are taken care of by the Federal Government moving in. That was true before we accepted this program. Now we have got a rational approach. The history of this program has demonstrated that "carrots" are simply not enough—some sanction is needed to stimulate communities to act. Under the current program, over 15,000 communities have responded. Each month brings new communities into the program. Communities recognize that this program protects private property without unnecessarily infringing on private rights.

Those who propose amending the statute argue, second, that the program has been plagued with problems, particularly with problems in mapping flood-prone areas, as I pointed out.

There is no doubt that mapping has been a problem, and there is no doubt that for part of this period it was incompetent. But the problem of surveying and drawing maps for over 20,000 communities, showing block-by-block areas that are flood prone is a monumental task. It requires preparation of a preliminary, and then a detailed, final map. There have been problems in preparing these maps. But, I am pleased to report, the problem of inaccurate or unclear flood maps is a problem of the past. All of the preliminary, and frequently inaccurate, maps have been redrawn, and thousands of properties have been redesignated.

The problems of mapping and securing understanding and agreement concerning responsibilities do not require a drastic legislative solution. They require continued congressional oversight. The Committee on Banking, Housing, and Urban Affairs plans to hold such hearings during this session, and to take any remedial legislative action needed.

This is no time to interrupt a program that is beginning to produce savings that will amount to \$2 billion annually in a matter of years.

This certainly is not the time to turn from a program of insurance to a program of haphazard, emergency aid.

Congress has before it now yet another disaster relief appropriations bill.

The present flood insurance program offers a practical alternative to increased disaster relief spending. The flood insurance program accordingly should be retained without drastic amendment.

Mr. President, these are just not Government agencies that oppose the Eagleton amendment. Let me indicate some of the groups that do, and there are some important Government agencies that have a stake here: The Federal Deposit Insurance Corporation and the Office of Management and Budget oppose the Eagleton amendment. The League of Women Voters; the Secretary of Housing and Urban Development; the American Federation of Labor and Congress of Industrial Organizations; the Conservation Foundation, and practically all

the conservation groups; the American Red Cross; the Council on Environmental Quality in the Executive Office of the President all oppose the Eagleton amendment and feel that the present flood insurance program is essential.

Now, in conclusion, Mr. President, I would like to do something that I suppose is rarely done in the Senate, and that is to quote from a speech that was made in the House by the distinguished Congressman from Ohio, one of the ablest Members of Congress, Mr. ASHLEY. I think it sums it up very well. This will just take me a minute to read it, and I would like to call it to the attention of the Senators. Mr. ASHLEY made this point, he said:

It is patently unfair, if I may conclude for a moment. What I am saying is that it is very unfair to expect the premium for flood insurance to be paid by the taxpayers of this country while the participants in the flood plain legislation, the beneficiaries, are unwilling to change their construction, their building, their living habits sufficiently to obviate the dangers.

Let me just remind the Members of what we have done since 1973. Since the 1973 Flood Disaster Protection Assistance Act, here is how the Congress has attempted to alleviate some of the problems involved in the very tough Federal sanctions of the flood insurance program. I am simply trying to say, Mr. Chairman, that since the adoption of the 1973 Flood Disaster Protection Assistance Act the Congress has provided exemptions for existing structures in place prior to March 1, 1976. We have provided exemptions for small businesses occupied and in place prior to January 1, 1976. We have provided exemptions for home improvement loans not to exceed \$5,000. We have provided exemptions for nonresidential agricultural related buildings. Finally, the amendment just adopted, the Ertel amendment, provides improvements to property suffering nonflood damages up to 80 percent of the value of the residence.

So that the point I am making is that the flood insurance program is not something that has been static. It has been very responsive to the kind of complaints against the program that we have heard from our constituents, and it has adapted that program, it seems to me, in a sensible way.

Mr. President, I yield to the Senator from Massachusetts such time as he may require on the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, I rise to oppose this amendment reluctantly because I have the greatest respect for both of the Senators from Missouri, Senators EAGLETON and DANFORTH, and I know how much this amendment means to them and to their State.

But this is an important amendment not only to them, but an important amendment to the Nation because it really would be the death knell for flood insurance in this country.

The effect of the amendment, Mr. President, would be to seriously weaken the Federal flood insurance program, because the major incentive to participate in the program has been the sanction in section 202(b) against lending in flood-prone areas.

If this section is repealed, communi-

ties will withdraw from the program and develop their flood plains without adequate flood plain management. They could then reenter the program after development and cover those risks under the subsidized insurance program. This amendment would also stimulate investment and development in flood hazard areas without construction safeguards or insurance. The provision in the amendment requiring notification of mortgagors on eligibility for disaster relief would create a serious administrative problem for lenders, who would have to review their mortgage portfolios after each flood to assure that disclosure is made.

Mr. President, as has been said, the administration strongly opposes this amendment. In a letter from OMB Director Bert Lance dated May 25, 1977, he argues that the amendments would essentially make the flood insurance program a voluntary program. He believes that the current program is effective because those who take the risk of living in flood plains bear a share of the cost of the risk. No community is given the option of limited participation or is currently allowed subsidized insurance for its new development. Under the Eagleton amendment, a community could allow uncontrolled development in its flood plain and receive subsidized insurance on that new development in the future.

The OMB Director believes that the additional cost of these subsidies would total billions of dollars over the next 20 years.

As the chairman has said, HUD, the President's Council on Environmental Quality, AFL-CIO, Red Cross, and every environmental group opposes this amendment.

It is true that the Senator is supported by the National Association of Homebuilders and the National Association of Realtors, who are concerned about restrictions on development in flood plains. And the Senator maintains that his amendment would only restore a "small degree of local self-determination" to the program.

There is no doubt that there have been problems with the flood insurance program in the past few years. But the program does protect flood plain residents and is widely available under the current law.

As has been said, over 15,000 communities participate in the program—over 75 percent of the eligible communities are participating in this program. Significant progress has been made in the past year in correcting flood maps and improper designations of flood prone communities and improving the management of the program.

Senator PROXMIER in his statement said that after these floods occur, the Federal Government comes in and bails out those unfortunate people who have suffered from a flood disaster.

What the Senator from Wisconsin did not say is that they go right back into the same areas and rebuild their homes and assume the same risk all over again. They rebuild in the same flood-prone areas time and time again.

You can be very sympathetic with someone who wants to go back to his home, but there is some real benefit because of the availability of flood insurance.

I think we have a good flood insurance program which has been debated and debated over the years, and, as I have said, even though there are some problems, it has served over 15,000 communities in this country, and even more are now joining the program.

But if we delete section 202, that would be the end of the program, because it then becomes no more than a voluntary program, and I fear we just will not have a national flood insurance program.

I say to the Senators from Missouri, and there may be others who think that they would benefit by this amendment, that in the long run the country would suffer severely by this amendment. It is for that reason that I cannot support the amendment offered by my distinguished colleagues from Missouri.

Mr. PROXMIER. Mr. President, I understand the Senator from New Jersey is coming to the Chamber to speak on this, and I think it is on a related matter, but not on the Eagleton amendment. I think he has some other amendment he is going to speak on briefly.

I suggest the absence of a quorum and ask unanimous consent that the time not be taken from either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I rise in opposition to the proposed amendment to S. 1523, the Housing and Community Development Act of 1977.

The amendment would remove section 202(b) of the Flood Disaster Protection Act of 1973, which prohibits federally supervised, approved, regulated or insured institutions from making loans in an area of special flood hazards, unless the community in which the flood-prone area is located is participating in the flood insurance program.

As the original author of the national flood insurance program, which began in 1968, with the National Flood Insurance Act, I would like to spell out some of the enormous successes of this program over the years.

Since 1936, the Federal Government has spent billions of dollars on relief and indemnification for property losses, plus billions more on flood prevention and control. Despite these efforts, losses from floods continue to increase on an annual basis. It is estimated that the Federal Government is now spending \$1.25 billion each year for flood disaster relief.

In response to the growing annual loss from flooding, the Congress enacted the National Flood Insurance Act of 1968. This act had two objectives. The first was to make available to residents in flood

risk areas federally subsidized insurance at reasonable premium rates. The second was to require communities with flood-prone areas to enact land use and control measures designed to encourage the rational use of land within these areas as a condition for the availability of federally subsidized flood insurance.

Originally, participation in the program was on a voluntary basis. Experience demonstrated that builders and Communities continued to build in areas susceptible to flooding. By 1973, when the Congress reexamined the flood insurance programs, flood-prone property was being developed all over the country. Few communities were entering the program and few property owners were purchasing policies to protect themselves. Few communities bothered to become involved. Almost no local effort was being made to protect homeowners from even the greatest hazards of floods and hurricanes before they occurred. Federal disaster relief after the storms was increasing.

Finding that "the Nation cannot afford the tragic loss of lives caused annually by flood occurrences, nor the increasing losses of property suffered by flood victims, most of whom are still inadequately compensated despite the provision of costly disaster relief benefits," Congress enacted the Flood Disaster Protection Act of 1973. The most important part of the revision to the flood program was section 202(b). This section makes the local availability of federally related mortgages contingent upon the community's adoption of sound flood plain management practices.

With this incentive to community participation, the original objectives of the program are finally being realized:

Today, approximately 70 percent of the Nation's communities participate in the flood insurance program. In New Jersey, all but 30 of the 567 municipalities are enrolled in the program. According to figures just released by the Department of Housing and Urban Development, New Jersey leads the Nation in terms of participation in the flood insurance program;

Over 15,500 communities are participating in the program, compared to 2,856 before the present law was passed;

At least 97½ percent of the property located in the Nation's flood plains can be insured;

One million policies are in force today, or three times the number realized under the voluntary program; and

Today's \$30 billion coverage of flood risks is some five times that under the 1968 law.

Mr. President, as these statistics demonstrate, the objectives of the original laws, as improved and refined over the years, are finally being realized. The savings to the taxpayer are considerable. By the year 2000, it is estimated that there will be a \$3 billion annual reduction in flood losses.

Beyond these savings to the taxpayers, through community flood plain management and sound construction techniques, residents living in flood plains are protected. And in environmental terms, safer



construction of new flood plain homes reserves the environment by avoiding the necessity of building dams.

Based on the measurable success of the current program, I must vigorously oppose the amendments being offered by the Senators from Missouri and Texas.

The removal of section 202(b) is contrary to the purposes of both the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973. The economic justification for the program—to reduce dependence on massive flood disaster relief appropriations funded by all taxpayers, over 90 percent of whom live outside flood-prone areas—would be undermined. This is so because communities would be under no obligation to practice prudent flood plain management.

Sound flood plain management is of the utmost importance if we are to reduce disaster relief costs and minimize future property damage. This amendment, however, would encourage irresponsible construction which results from imprudent flood plain management.

It would contribute to the high cost of disaster losses. Not only would it be contrary to the basic concept of flood plain management, but it would also unfairly force taxpayers throughout the United States to subsidize irresponsible construction in nonparticipating areas.

Mr. President, it is not difficult at all to predict the likely effects of deleting the present conditions on federally related financing within flood-prone areas, keeping in mind that conventional mortgage loan closing account for about 80 percent of the Nation's total on one to four family homes:

First, a major incentive to community participation in the national flood insurance program would be undetermined. The 15,500 communities already in the program would be penalized as would taxpayers in nonflood-prone communities. Both would be forced to continue to indemnify losses which would inevitably occur in communities permitted to do nothing to protect residences from flood damage.

Second, removal of the flood insurance purchase requirements in participating communities would most certainly undermine the flood insurance program by creating further incentives for new substandard construction in the flood plain.

In other words, it would spell the end of flood plain management and encourage the very irresponsible construction that contributes to the very losses we all regret. Moreover, taxpayers throughout the country would be forced to subsidize this irresponsibility.

Third, without adequate conditions on federally related financing for new construction in flood-prone areas, communities would remain out of the flood insurance program while completely developing their flood plains. At some future time, such as after a flood disaster, they could appeal to the Federal Government for costly flood protection works. Or they could simply enter the program to obtain the benefits of subsidized flood insurance rates.

And last, flood insurance premiums would soar without widespread participation, putting flood insurance beyond the reach of most homeowners.

Mr. President, there are other features of the amendments which either are unrealistic or unworkable, or both. Repealing the flood insurance purchase requirement for structures located in identified flood-hazard areas for nonrelated disasters would expose disaster victims to future uncompensated flood losses. Moreover, the amendment would preclude any form of disaster relief for flood-related disaster in nonparticipating communities. Thus, in the event of a flood, the law would actually prevent the Federal Government from providing even temporary relief for food, shelter, and related assistance to victims.

The amendment would also require private lending institutions to notify borrowers in writing of the existence of any flood hazard.

This putative consumer protection device is intended to serve as a substitute for community participation in the flood insurance program. However, the concept is unworkable for several reasons.

In the first place, the amendment assumes that disclosure by the lender that property is in a high-flood-hazard area would provide some degree of protection to the prospective mortgagor. It may provide notice, but it does not provide protection.

Second, the proposed notification comes too late to serve any purpose. Under the amendment, disclosure would come after the individual had signed the property purchase agreement. Only then would the individual approach a lending institution for financing. At this point, the purchaser has, without knowledge of the flood hazard, signed on the dotted line. With that knowledge, he may not wish to consummate the agreement but could do so only by forfeiting a downpayment.

This is hardly consumer protection or flood disaster prevention. Under the present law, if the lender denies a loan because of flood hazard, the buyer can get out of his contract—it having been conditioned upon his ability to obtain a mortgage—obtain a refund of his downpayment, and walk away from the flood-prone property.

Third, from a practical standpoint, I do not see how lenders could possibly notify all borrowers about the availability of Federal disaster relief in the event of major flooding.

The Carter administration supports a strong flood plain management program, including section 202(b) of the present law. Recently, there have been several affirmative demonstrations of this.

On May 24, the President signed an Executive order directing executive agencies to improve flood plain management and to avoid direct or indirect financial support of unwise flood plain development.

In addition, the President's Council on Environmental Quality, the Office of Management and Budget, and Secretary Harris have reaffirmed this support for

the present law and their opposition to the pending amendments.

This sentiment is widely shared. I have been contacted by such diverse groups as the League of Women Voters, the American Red Cross, the American Conservation Foundation, the Consumer Federation of America, the American Insurance Association, the Sierra Club, the Environmental Policy Center and still others. They all support the present flood insurance program and oppose the adoption of the proposed amendments.

Mr. President, I urge my colleagues in the strongest terms to reject these amendments. They would emasculate a highly successful national flood insurance program and expose millions of Americans to extremely hazardous conditions that can be and are being avoided. Rejecting these amendments will save lives, avoid pain and suffering and spare the taxpayers.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### UP AMENDMENT 355

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. It would require unanimous consent for the amendment to be considered at this time, since an amendment is pending.

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment may be in order at this time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 355:

On page 6, line 2, after "settlement" insert "and, to the extent feasible, the completion".

Mr. DOLE. Mr. President, I have discussed this amendment with the distinguished floor manager and the ranking minority member of the committee. It simply clears up an ambiguity in the bill. It conforms the bill to the language in the House and Senate report.

My amendment is aimed at an ambiguity in the bill—which could leave the Department of Housing and Urban Development with more discretion than this Senator would like. I note that this is an ambiguity, and that my amendment does not alter the apparent intent of this legislation as expressed in the committee's report on the matter; rather, it clears up the matter in a way which will eliminate potential problems of interpretation in the future.

This bill authorizes \$100 million per year for 3 years to finish up uncompleted urban renewal projects. As a Senator from a State with uncom-

pleted projects of this nature, this measure appears to be a very important one which should be given careful consideration.

The text of the bill itself says only that the fund will be used for the "financial settlement" of such programs. The bill itself does not say the "completion" of such programs but says only "financial settlement." However, the Senate committee report says that the fund will be used to "assist localities in the completion and financial closeout of projects." The House report says substantially the same thing. I believe that the report language is clearer, and that we should make it clear that this money shall be used for completion.

The thrust of my amendment is to make it crystal clear to HUD that this fund is to be used for financial settlement and completion.

To illustrate my concern let me use the example which first drew my attention to this ambiguity. The city of Kansas City, Kans., is involved with a clearance program called the Armourdale neighborhood development project. Basically, this generally blighted area is first to be cleared and then redeveloped after improvements in lighting, sewers, and streets.

Here is the precarious status of that program today. It is in its third year of funding and about 50 percent of the area, and most of the residential area, has been cleared. What remains at Armourdale today is the commercial and industrial area and some cleared, but as yet unimproved, open space. The city is concerned because they are facing the prospect of either having vast open space at Armourdale or having to pay for the development themselves out of money which ought to be available for other purposes.

In addition the private merchants in the commercial area are left without the surrounding residential market. Some citizens are so disturbed by the situation that they have initiated a lawsuit in anticipation of noncompletion of the project.

The focus of this measure should be the completion of such projects. It would be technically possible to settle this problem with the Armourdale neighborhood development project financially, and still leave major problems for the city and for the local merchants.

The effect of my amendment would be to alleviate this problem and provide for the completion of such projects.

We encountered this question in connection with the Armourdale urban renewal project. Were they talking about final settlement or completion? The amendment would simply change the relevant phrase to read "settlement and, to the extent feasible, the completion." I think this clears up the ambiguity and any possible confusion.

Mr. PROXMIRE. Mr. President, the Senator from Kansas did take up this amendment with Senator BROOKE and myself. As I understand, the House does not have language of this kind in the bill, but it does have report language. I think it is desirable to have before us in con-

ference the language spelled out in the statute itself, and I will tell the Senator now that I will be happy to press for this change in conference, because I think it is a helpful, logical, clarifying amendment.

Mr. BROOKE. Mr. President, the chairman is quite correct. There is language in the House report, but not in the House bill. What the Senator from Kansas is doing by his amendment is making it statutory language.

I commend him for that, because there are many cities that have not completed their urban renewal programs, and want to do so. I think this language will be particularly helpful. I would hope that the Senate agree to it, and that the House would accept it in conference. That is the intent in the House report language, obviously, but I think the Senator from Kansas has performed a great service in offering this amendment to our bill. When we go to conference with the House we will have this statutory language, which is much stronger than report language.

I commend the Senator from Kansas for having introduced the amendment, and join with the Senator from Wisconsin in accepting it.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time on the amendment.

Mr. DOLE. I yield back the remainder of my time. It might be possible, to have final settlement before completion. That is the only purpose of the amendment, to clear up that ambiguity.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the amendment offered by Mr. EAGLETON tomorrow morning, the distinguished Senator from Rhode Island (Mr. CHAFFEE) be recognized to call up his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats. The Senator from West Virginia may proceed.

#### APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 94-280, appoints the Senator from Louisiana (Mr. LONG), from the Committee on Commerce, Science, and Transportation, to the National Transportation Policy Study Commission, in lieu of the Senator from Indiana (Mr. HARTKE).

#### DESIGNATION OF PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the recognition of the two leaders or their designees under the standing order tomorrow, there be a period for the transaction of routine morning business not to extend beyond the hour of 10 o'clock a.m., with statements therein limited to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER FOR JOINT REFERRAL OF A NOMINATION

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the nomination of Roland Ray Mora to be Deputy Assistant Secretary of Labor for Veterans' Employment be jointly referred to the Committee on Human Resources and Veterans' Affairs.

It is my understanding that this matter has been cleared with both committees, and is acceptable to them.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRANSFER OF A MEASURE FROM THE UNANIMOUS CONSENT CALENDAR TO THE GENERAL ORDERS CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there is one measure on the Unanimous Consent Calendar that should go back to the General Orders Calendar. I ask that the clerk transfer back to the General Orders Calendar, Calendar Order No. 182.

The PRESIDING OFFICER. The bill will be so transferred.

#### PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9:45 tomorrow morning.

After the two leaders or their designees have been recognized under the standing order, if there is any time remaining before 10 a.m., there will be a period for the transaction of routine morning business in that interim, with statements therein limited to 2 minutes each.

At 10 o'clock, the Senate will resume the consideration of the housing bill, and the pending question at that time will be on the adoption of amendment No. 335 by Mr. EAGLETON. The yeas and nays have been ordered on that amendment.



and most of the time on the amendment has already been utilized. Mr. EAGLETON has 14 minutes remaining, and the manager of the bill has 13 minutes remaining, which would mean that the rollcall vote on the Eagleton amendment would occur at about the hour of 10:25 a.m.

Following the disposition of the amendment by Mr. EAGLETON, Mr. CHAFEE will be recognized to call up an amendment. There will be rollcall votes throughout tomorrow on amendments and motions in relation to the housing bill. The Senate will stay in late, if necessary, to complete action on that bill tomorrow.

#### RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in recess until the hour of 9:45 a.m. tomorrow.

The motion was agreed to; and at 7:21 p.m. the Senate recessed until tomorrow, Tuesday, June 7, 1977, at 9:45 a.m.

#### NOMINATIONS

Executive nominations received by the Senate on June 2, 1977, pursuant to the order of May 27, 1977:

##### ENVIRONMENTAL PROTECTION AGENCY

Thomas Cash Jorling, of Massachusetts, to be an Assistant Administrator of the Environmental Protection Agency, vice Andrew W. Breidenbach, resigning.

##### IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of Section 8284, Title 10, United States Code, with a view to designation under the provisions of Section 8067, Title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

##### MEDICAL CORPS

###### To be lieutenant colonel

Mathews, Thomas P., xxx-xx-xxxx  
Speckhard, Mark E., xxx-xx-xxxx

###### To be first lieutenant

Ingle, Robert M., Jr., xxx-xx-xxxx  
Pees, Richard C., xxx-xx-xxxx  
Shore, John W., xxx-xx-xxxx

##### DENTAL CORPS

###### To be captain

Feigel, Daniel G., xxx-xx-xxxx

###### To be first lieutenant

Bullard, David E., xxx-xx-xxxx  
Kaplan, Paul, xxx-xx-xxxx  
Sanchez, Vincent C., xxx-xx-xxxx

##### JUDGE ADVOCATE CORPS

###### To be captain

James, Richard R., xxx-xx-xxxx

The following officer for reappointment to the active list of the Regular Air Force in the grade indicated, under the provisions of sections 1210 and 1211, Title 10, United States Code:

##### LINE OF THE AIR FORCE

###### To be lieutenant colonel

Hall, William C., xxx-xx-xxxx

The following persons for appointment as Reserve of the Air Force, in the grade indicated, under the provisions of section 593, Title 10, United States Code, with a view to

designation under the provisions of section 8067, Title 10, United States Code, to perform the duties indicated:

##### MEDICAL CORPS

###### To be lieutenant colonel

Brath, William, xxx-xx-xxxx  
Caretta Robert F., xxx-xx-xxxx  
Dicus, Donald R., xxx-xx-xxxx  
Haff, Roderick C., xxx-xx-xxxx  
Harris, Gary D., xxx-xx-xxxx  
Hill, McArthur O., xxx-xx-xxxx  
Johnson, Albert, Jr., xxx-xx-xxxx  
Jones, Bertrand T., xxx-xx-xxxx  
Koskinen, Kenneth R., xxx-xx-xxxx  
Lagomarsino, James L., xxx-xx-xxxx  
Lawrence Mills E., III, xxx-xx-xxxx  
Maulsby, Gilbert, xxx-xx-xxxx  
Pisano, Daniel J., xxx-xx-xxxx  
Proctor, Hobart M., xxx-xx-xxxx  
Puls, Gerald E., xxx-xx-xxxx  
Russell, David S., xxx-xx-xxxx  
Wellman, John, xxx-xx-xxxx  
Whetsell, Douglas W., xxx-xx-xxxx

The following persons for appointment as Reserve of the Air Force, in the grade indicated, under the provisions of section 593, Title 10, United States Code:

##### LINE OF THE AIR FORCE

###### To be lieutenant colonel

McGuire, Robert B., xxx-xx-xxxx  
Mitchell, Robert, Jr., xxx-xx-xxxx

The following persons for appointment as Temporary Officers in the United States Air Force, in the grade indicated, under the provisions of sections 8444 and 8447, Title 10, United States Code, with a view to designation under the provisions of section 8067, Title 10, United States Code, to perform the duties indicated:

##### MEDICAL CORPS

###### To be lieutenant colonel

England, Robert L., xxx-xx-xxxx  
Jones, Bertrand T., xxx-xx-xxxx  
Koskinen, Kenneth R., xxx-xx-xxxx  
Lagomarsino, James L., xxx-xx-xxxx  
Lawrence, Mills E., III, xxx-xx-xxxx  
Pisano, Daniel J., xxx-xx-xxxx  
Proctor, Hobart M., xxx-xx-xxxx  
Puls, Gerald E., xxx-xx-xxxx

The following officers for promotion in the Air Force Reserve, under the provisions of Sections 8376 and 593, Title 10, United States Code:

##### LINE OF THE AIR FORCE

###### Major to lieutenant colonel

Bradley, Terry E., xxx-xx-xxxx  
Bustamante, Elizabeth L., xxx-xx-xxxx  
Casteel, Elaine Y., xxx-xx-xxxx  
Dawson, David S., Jr., xxx-xx-xxxx  
Ford, Raymond F., Jr., xxx-xx-xxxx  
Johnson, Gerald A., xxx-xx-xxxx  
Kennison, Richard J., xxx-xx-xxxx  
Larsen, Dean R., xxx-xx-xxxx  
Lauris, Dzintars, xxx-xx-xxxx  
Mulvihill, Jeremiah J., xxx-xx-xxxx  
Peterson, Ronald L., xxx-xx-xxxx  
Robbins, Wayne K., xxx-xx-xxxx  
Rogers, Joe E., xxx-xx-xxxx  
Spencer, James K., xxx-xx-xxxx  
Stipe, Martin E., xxx-xx-xxxx  
White, Frank C., xxx-xx-xxxx

##### CHAPLAIN CORPS

Gilhooley, John P., xxx-xx-xxxx

##### MEDICAL CORPS

Andrara, Manuel T., xxx-xx-xxxx  
Bourgeois, Stephen D., xxx-xx-xxxx  
Cooley, Daniel J., xxx-xx-xxxx  
Crawford, Elwyn D., xxx-xx-xxxx  
Dattilo, Frank S., xxx-xx-xxxx  
Davis, Merritt G., Jr., xxx-xx-xxxx  
Kramer, Roy K., xxx-xx-xxxx  
Pavlik, Kenneth K., xxx-xx-xxxx  
Plineda, Jose D., xxx-xx-xxxx  
Prue, Edmund B., xxx-xx-xxxx

Rosen, Paul R., xxx-xx-xxxx  
Rosero, Marclano A., xxx-xx-xxxx  
Schwab, Edward T., xxx-xx-xxxx

##### NURSE CORPS

Garza, Mary I., xxx-xx-xxxx  
Greenway, Doris J., xxx-xx-xxxx  
Mursch, Sara K., xxx-xx-xxxx  
Robertson, Carol C., xxx-xx-xxxx  
Smith, Bobbie G., xxx-xx-xxxx

The following named officers for promotion in the United States Air Force in the Temporary grade indicated, under the appropriate provisions of chapter 839, Title 10, United States Code, as amended.

##### LINE OF THE AIR FORCE

###### Major to lieutenant colonel

Barnes, Ronald C., xxx-xx-xxxx  
Schmidt, Walter E., xxx-xx-xxxx

##### CHAPLAIN CORPS

Fash, Vernon L., xxx-xx-xxxx

The following Air Force officer for appointment as permanent professor, United States Air Force Academy, under the provisions of Section 9333(b), Title 10, United States Code:

Fisher, Cary A., xxx-xx-xxxx

##### IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, Title 10, United States Code, with a view to designation under the provisions of section 8067, Title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

##### CHAPLAIN

###### To be captain

Barmann, Karl W., xxx-xx-xxxx  
Boggs, Jacob M., xxx-xx-xxxx  
Elwell, James T., xxx-xx-xxxx  
Gilman, Robert R., xxx-xx-xxxx  
Jones, Hiram L., xxx-xx-xxxx  
Kaczmarek, James A., xxx-xx-xxxx  
Mead, Leland C., xxx-xx-xxxx  
Szufel, Adam E., xxx-xx-xxxx

###### To be first lieutenant

Callaway, James H., Jr., xxx-xx-xxxx  
Figel, Terence J., xxx-xx-xxxx  
Flood, Peter J., xxx-xx-xxxx  
Goff, David E., xxx-xx-xxxx  
Larkin, James K., xxx-xx-xxxx  
Potter, Lorraine K., xxx-xx-xxxx  
Pruss, Rodney, Lee A., xxx-xx-xxxx  
Scott, Phillip H., xxx-xx-xxxx  
Sobin, Roger M., xxx-xx-xxxx  
Stephenson, Patrick C., xxx-xx-xxxx  
Suhoza, John E., xxx-xx-xxxx  
Thomason, Billy G., xxx-xx-xxxx  
Wood, John R., xxx-xx-xxxx

##### JUDGE ADVOCATE CORPS

###### To be captain

Bunge, Kenneth E., xxx-xx-xxxx  
Burdine, Malcolm L., xxx-xx-xxxx  
Cloran, William F., xxx-xx-xxxx  
Currey, Richard F., xxx-xx-xxxx  
Dool, Carl D., xxx-xx-xxxx  
Hailey, Robert F., xxx-xx-xxxx  
Holt, Lake B., III, xxx-xx-xxxx  
Jeffrey, Douglas C., xxx-xx-xxxx  
Lindl, Bruce J., xxx-xx-xxxx  
Potuk, James N., xxx-xx-xxxx  
Stowe, Randolph C., xxx-xx-xxxx  
Torres, Carlos E., xxx-xx-xxxx  
White, John D., xxx-xx-xxxx  
Young, James A., III, xxx-xx-xxxx

###### To be first lieutenant

Acton, Foster N., xxx-xx-xxxx  
Craig, Robert M., III, xxx-xx-xxxx  
Donnelly, Michael, xxx-xx-xxxx  
Grunick, Gary A., xxx-xx-xxxx  
Jacobson, Thomas N., xxx-xx-xxxx

Johnson, John W., xxx-xx-xxxx  
 Lee, Robert T., xxx-xx-xxxx  
 Lockwood, Willard K., xxx-xx-xxxx  
 Markiewicz, Thomas S., xxx-xx-xxxx  
 Odom, John S., Jr., xxx-xx-xxxx  
 Reish, Andrew F., xxx-xx-xxxx

## NURSE CORPS

## To be captain

Allen, Sylvia D., xxx-xx-xxxx  
 Banks, Gloria J., xxx-xx-xxxx  
 Barry, Judith M., xxx-xx-xxxx  
 Barton, Gayle J., xxx-xx-xxxx  
 Berreth, Elaine S., xxx-xx-xxxx  
 Chryst, Nancy L., xxx-xx-xxxx  
 Delbene, Susan C., xxx-xx-xxxx  
 Dohany, Carlene S., xxx-xx-xxxx  
 Fitzgerald, Sara V., xxx-xx-xxxx  
 Grossman, Pamela M., xxx-xx-xxxx  
 Herron, Marilyn M., xxx-xx-xxxx  
 Hight, Theodora A., xxx-xx-xxxx  
 Hoppin, Margaret J., xxx-xx-xxxx  
 Huebner, Linda L., xxx-xx-xxxx  
 Hutchins, Suzanne, xxx-xx-xxxx  
 Jackson, David B., xxx-xx-xxxx  
 Jefke, Maruta, xxx-xx-xxxx  
 Kochik, Edward J., xxx-xx-xxxx  
 Lafave, Nancy J., xxx-xx-xxxx  
 Lafrance, Sandra L., xxx-xx-xxxx  
 Leatherman, Lorie A., xxx-xx-xxxx  
 Loper, Georgia A., xxx-xx-xxxx  
 Mansmith, Fred T., xxx-xx-xxxx  
 Martinson, D., xxx-xx-xxxx  
 McGovern, Barbara A., xxx-xx-xxxx  
 Morgan, Linda K., xxx-xx-xxxx  
 Murray, Patricia L., xxx-xx-xxxx  
 Nancarrow, Ruth L., xxx-xx-xxxx  
 Nicholson, Lindy L., xxx-xx-xxxx  
 O'Donnell, Mary J., xxx-xx-xxxx  
 Pittman, Judith M., xxx-xx-xxxx  
 Robertson, Judith M., xxx-xx-xxxx  
 Rynielski, Angela T., xxx-xx-xxxx  
 Seidel, Nancy M., xxx-xx-xxxx  
 Sitko, Christine A., xxx-xx-xxxx  
 Sousa, Carolyn M., xxx-xx-xxxx  
 Ward, Mary K., xxx-xx-xxxx  
 Wilson, Roslyn F., xxx-xx-xxxx

## To be first lieutenant

Allen, Kathleen A., xxx-xx-xxxx  
 Alvarez, Irene M., xxx-xx-xxxx  
 Anderson, Naomi J., xxx-xx-xxxx  
 Arcaya, Norberto, Jr., xxx-xx-xxxx  
 Aune, Regina C., xxx-xx-xxxx  
 Bach, Marian R., xxx-xx-xxxx  
 Bannister, Eston L., Jr., xxx-xx-xxxx  
 Beaty, Margo L., xxx-xx-xxxx  
 Bergstrom, Vincent W., xxx-xx-xxxx  
 Berry, Reginald, xxx-xx-xxxx  
 Bishop, Stephanie S., xxx-xx-xxxx  
 Blackall, Joyce S., xxx-xx-xxxx  
 Blair, Laura, xxx-xx-xxxx  
 Boehm, Martyn L., xxx-xx-xxxx  
 Bourgea, Marilyn A., xxx-xx-xxxx  
 Brinkman, Linda A., xxx-xx-xxxx  
 Brown, Barbara A., xxx-xx-xxxx  
 Bruce, Scott O., xxx-xx-xxxx  
 Burley, Joseph T., xxx-xx-xxxx  
 Bush, Jacqueline A., xxx-xx-xxxx  
 Carlton, Helen M., xxx-xx-xxxx  
 Chadbourne, Gretchen A., xxx-xx-xxxx  
 Close, Kathryn L., xxx-xx-xxxx  
 Creft, Erenda K., xxx-xx-xxxx  
 Crompton, Cynthia L., xxx-xx-xxxx  
 Crowell, Barbara A., xxx-xx-xxxx  
 Dallemolle, Barbara A., xxx-xx-xxxx  
 Darcy, Linda L., xxx-xx-xxxx  
 Davis, Richard L., xxx-xx-xxxx  
 Davis, Rita R., xxx-xx-xxxx  
 Deniz, Gloria A., xxx-xx-xxxx  
 Distelhorst, Gail R., xxx-xx-xxxx  
 Doney, Melven R., xxx-xx-xxxx  
 Dworaczky, Laura J., xxx-xx-xxxx  
 Edens, Kathleen M., xxx-xx-xxxx  
 Erickson, Peggy L., xxx-xx-xxxx  
 Farnum, Janet E., xxx-xx-xxxx  
 Feincur, Pamela A., xxx-xx-xxxx  
 Franklin, Kathleen S., xxx-xx-xxxx  
 Franks, Betty Z., xxx-xx-xxxx  
 Gendron, Leo A., xxx-xx-xxxx  
 Gontz, Pamela D., xxx-xx-xxxx

Gonzales, Linda A., xxx-xx-xxxx  
 Graham, Margaret A., xxx-xx-xxxx  
 Graziani, Kathryn A., xxx-xx-xxxx  
 Griffith, Carol A., xxx-xx-xxxx  
 Gross, Lynn L., xxx-xx-xxxx  
 Gruber, Cana, xxx-xx-xxxx  
 Guzman, Alma, xxx-xx-xxxx  
 Hall, Wanda G., xxx-xx-xxxx  
 Handy, Patrick R., xxx-xx-xxxx  
 Hanson, Judith I., xxx-xx-xxxx  
 Hart, Angela W., xxx-xx-xxxx  
 Hatch, Janet C., xxx-xx-xxxx  
 Heffner, Bonita J., xxx-xx-xxxx  
 Helms, Sherrie J., xxx-xx-xxxx  
 Hicks, Charles L., xxx-xx-xxxx  
 Jacobson, Diane E., xxx-xx-xxxx  
 Jarosz, Mary A., xxx-xx-xxxx  
 Jeske, Kathlynn J., xxx-xx-xxxx  
 Johns, Nancy O., xxx-xx-xxxx  
 Johnson, Carolyn J., xxx-xx-xxxx  
 Jost, Michael J., xxx-xx-xxxx  
 Karaku, Ellen P., xxx-xx-xxxx  
 Keene, Edward A., xxx-xx-xxxx  
 Keir, Brenda J., xxx-xx-xxxx  
 Kim, Penelope L., xxx-xx-xxxx  
 Kimmel, Karen D., xxx-xx-xxxx  
 Koehert, Ralph A., xxx-xx-xxxx  
 Kunkel, June A., xxx-xx-xxxx  
 Kwitkowski, Janet M., xxx-xx-xxxx  
 Lambert, Martin E., xxx-xx-xxxx  
 Lawrence, Barbara J., xxx-xx-xxxx  
 Laymen, Jill M., xxx-xx-xxxx  
 Lazaroff, Sandra E., xxx-xx-xxxx  
 Light, Polly M., xxx-xx-xxxx  
 Love, Linda L., xxx-xx-xxxx  
 Lowe, Anna K., xxx-xx-xxxx  
 Lyon, Dixie L., xxx-xx-xxxx  
 Maes, Richard D., xxx-xx-xxxx  
 Martin, Shirley J., xxx-xx-xxxx  
 Masarik, Judith A., xxx-xx-xxxx  
 Matta, Mary A., xxx-xx-xxxx  
 McBride, June, xxx-xx-xxxx  
 McKay, Priscilla S., xxx-xx-xxxx  
 McKenna, Barbara M., xxx-xx-xxxx  
 Mehargue, Susan L., xxx-xx-xxxx  
 Miller, Charlene E., xxx-xx-xxxx  
 Miller, Nancy, xxx-xx-xxxx  
 Mills, Charles A., xxx-xx-xxxx  
 Millwee, Mary H., xxx-xx-xxxx  
 Mindrebo, Ingrid L., xxx-xx-xxxx  
 Mosher, Carol A., xxx-xx-xxxx  
 Mullins, Maxine, xxx-xx-xxxx  
 Murakami, Howard Y., xxx-xx-xxxx  
 Nadig, Suzanne M., xxx-xx-xxxx  
 Neff, Beverly J., xxx-xx-xxxx  
 Nehring, Dorothy H., xxx-xx-xxxx  
 Neville, Deanna R., xxx-xx-xxxx  
 Nolen, Judith A., xxx-xx-xxxx  
 Nou, Josephine S., xxx-xx-xxxx  
 Nusbaum, Karen K., xxx-xx-xxxx  
 O'Dea, Judith A., xxx-xx-xxxx  
 O'Donnell, Brenda S., xxx-xx-xxxx  
 Olson, Joyce C., xxx-xx-xxxx  
 Pease, Deborah S., xxx-xx-xxxx  
 Peckens, Dianne L., xxx-xx-xxxx  
 Peterson, Lois E., xxx-xx-xxxx  
 Phillips, Cathy M., xxx-xx-xxxx  
 Puckett, Michael L., xxx-xx-xxxx  
 Rasor, Carol A., xxx-xx-xxxx  
 Rector, Patricia J., xxx-xx-xxxx  
 Reilly, Linda A., xxx-xx-xxxx  
 Rex, Carol A., xxx-xx-xxxx  
 Reynolds, Blanche A. G., xxx-xx-xxxx  
 Reynolds, Janet B., xxx-xx-xxxx  
 Reynolds, Kathy J., xxx-xx-xxxx  
 Richardson, Judith E., xxx-xx-xxxx  
 Richardson, Monica G., xxx-xx-xxxx  
 Routledge, Linda A., xxx-xx-xxxx  
 Russell, Marsha L., xxx-xx-xxxx  
 Saxton, Mary E., xxx-xx-xxxx  
 Scannell, Elizabeth A., xxx-xx-xxxx  
 Schmidt, Eddie R., xxx-xx-xxxx  
 Schriber, Barbara A., xxx-xx-xxxx  
 Smart, Alice A., xxx-xx-xxxx  
 Smith, Cynthia A., xxx-xx-xxxx  
 Smith, Emily D., xxx-xx-xxxx  
 Spreng, Linda E., xxx-xx-xxxx  
 Stallings, Linda L., xxx-xx-xxxx  
 Starkey, Maria A., xxx-xx-xxxx

Stover, Catherine Elaine, xxx-xx-xxxx  
 Swanegan, Albert M., II, xxx-xx-xxxx  
 Tanigawa, Kathryn Y., xxx-xx-xxxx  
 Taylor, Diane W., xxx-xx-xxxx  
 Temple, Barbara A., xxx-xx-xxxx  
 Terriberry, Cynthia A., xxx-xx-xxxx  
 Thompson, Adella M., xxx-xx-xxxx  
 Thompson, Carol D., xxx-xx-xxxx  
 Thornton, Nancy J., xxx-xx-xxxx  
 Ulf, Lynn L., xxx-xx-xxxx  
 Vanmeter, Noreen F., xxx-xx-xxxx  
 Waters, Mary L., xxx-xx-xxxx  
 Wender, Constance M., xxx-xx-xxxx  
 Williamson, Claudette L., xxx-xx-xxxx  
 Willis, Nancy L., xxx-xx-xxxx  
 Wolfe, Monica A., xxx-xx-xxxx  
 York, Theresa M., xxx-xx-xxxx  
 Zubritzky, Sandra J., xxx-xx-xxxx

## MEDICAL SERVICE CORPS

## To be captain

Donneson, Rees M., xxx-xx-xxxx  
 Dreifus, Douglas M., xxx-xx-xxxx  
 Fitzgerald, Paul G., xxx-xx-xxxx  
 Hezlep, Robert J., xxx-xx-xxxx  
 Jones, Stephen P., xxx-xx-xxxx  
 Machart, James J., xxx-xx-xxxx  
 McDougall, Thomas J., xxx-xx-xxxx  
 Reiter, Lohman, D., II, xxx-xx-xxxx

## To be first lieutenant

Boyum, David A., xxx-xx-xxxx  
 Butler, Jeffrey L., xxx-xx-xxxx  
 Carletti, David L., xxx-xx-xxxx  
 Childers, Leo F., Jr., xxx-xx-xxxx  
 Cornali, John G., xxx-xx-xxxx  
 Devall, Richard A., xxx-xx-xxxx  
 Dudte, James C., xxx-xx-xxxx  
 Eurek, Thomas A., xxx-xx-xxxx  
 Gruendell, Ronald W., xxx-xx-xxxx  
 Horkovich, Betsy K., xxx-xx-xxxx  
 Houck, Richard A., xxx-xx-xxxx  
 Johnson, Eric L., xxx-xx-xxxx  
 Jones, Franklin D. R., xxx-xx-xxxx  
 Kucheman, William H., xxx-xx-xxxx  
 Lampton, John A., xxx-xx-xxxx  
 O'Reilly, Dennis M., xxx-xx-xxxx  
 Peterson, Richard A., xxx-xx-xxxx  
 Roark, Richard S., xxx-xx-xxxx  
 Scheer, Robert, xxx-xx-xxxx  
 Schroeder, Richard E., xxx-xx-xxxx  
 Sheehan, John R., xxx-xx-xxxx  
 Ushijima, Arthur A., xxx-xx-xxxx  
 Vancleave, Larry B., xxx-xx-xxxx

## VETERINARY CORPS

## To be captain

Bittner, Edwin C., Jr., xxx-xx-xxxx  
 Jemelka, Erwin D., xxx-xx-xxxx  
 Kay, James E., xxx-xx-xxxx  
 Latendresse, John R., II, xxx-xx-xxxx  
 Oertli, Ernest H., III, xxx-xx-xxxx  
 Roy, Ronald D., xxx-xx-xxxx

## To be first lieutenant

Bredlow, Richard T., xxx-xx-xxxx  
 Kudrick, George L., xxx-xx-xxxx  
 Schaerdel, Arthur D., xxx-xx-xxxx  
 Swerdin, Scott J., xxx-xx-xxxx

## BIOMEDICAL SCIENCES CORPS

## To be captain

Coleman, Sheldon R., xxx-xx-xxxx  
 Kuzma, Robert J., xxx-xx-xxxx  
 Singer, Jack N., xxx-xx-xxxx  
 Stevens, John E., Jr., xxx-xx-xxxx  
 Tenaglia, Ronald J., xxx-xx-xxxx  
 Whitecavage, James G., xxx-xx-xxxx

## To be first lieutenant

Boston, Terry L., xxx-xx-xxxx  
 Bradley, William P., xxx-xx-xxxx  
 Brockett, Royce M., III, xxx-xx-xxxx  
 Butler, John F., xxx-xx-xxxx  
 Cary, Wayne A., xxx-xx-xxxx  
 Chicilo, Thomas J., xxx-xx-xxxx  
 Clackler, John D., xxx-xx-xxxx  
 Dorris, Wayne L., xxx-xx-xxxx  
 Dunlap, James H., xxx-xx-xxxx  
 Gookin, Michael D., xxx-xx-xxxx  
 Hartson, Richard M., xxx-xx-xxxx  
 Hull, Terry A., xxx-xx-xxxx



James, George R., xxx-xx-xxxx  
 Korn, Sidney H., xxx-xx-xxxx  
 Kupferer, Thomas E., xxx-xx-xxxx  
 Larson, Ronald M., xxx-xx-xxxx  
 Livingston, James M., xxx-xx-xxxx  
 Marconi, Foyetta, xxx-xx-xxxx  
 McAvooy, William L., xxx-xx-xxxx  
 Merritt, Gerald J., xxx-xx-xxxx  
 Ostraat, Randall C., xxx-xx-xxxx  
 Pedley, James S., xxx-xx-xxxx  
 Pratt, George K., xxx-xx-xxxx  
 Rooney, James G., xxx-xx-xxxx  
 Ryberg, Jan A., xxx-xx-xxxx  
 Swindling, William S., xxx-xx-xxxx  
 Virost, Richard A., xxx-xx-xxxx  
 Wassom, Donald L., xxx-xx-xxxx  
 Yoshii, Dan O., xxx-xx-xxxx  
 Zahler, William A., xxx-xx-xxxx

The following officers for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, Title 10, United States Code, with date of rank to be determined by the Secretary of the Air Force:

*To be captain*

Albright, Pierre K., xxx-xx-xxxx  
 Allen, Donald L., xxx-xx-xxxx  
 Anderson, Jon W., xxx-xx-xxxx  
 Ash, Leonard J., xxx-xx-xxxx  
 Bak, Casimir V., xxx-xx-xxxx  
 Baker, Samuel W., xxx-xx-xxxx  
 Baker, Stephen C., xxx-xx-xxxx  
 Bakke, Richard L., xxx-xx-xxxx  
 Beale, James R., xxx-xx-xxxx  
 Boles, Wayne R., xxx-xx-xxxx  
 Boothe, Shelby R., xxx-xx-xxxx  
 Boughner, Lee R., xxx-xx-xxxx  
 Bradley, Derwin W., Jr., xxx-xx-xxxx  
 Burger, Donald D., xxx-xx-xxxx  
 Canavan, William J., xxx-xx-xxxx  
 Carlson, Gregory J., xxx-xx-xxxx  
 Carter, Douglas J., xxx-xx-xxxx  
 Carter, Larry G., xxx-xx-xxxx  
 Chapman, Thomas N., xxx-xx-xxxx  
 Choate, John R., xxx-xx-xxxx  
 Cook, Donald G., xxx-xx-xxxx  
 Corsc, Andrew A., xxx-xx-xxxx  
 Cox, Randall J., xxx-xx-xxxx  
 Craig, William R., xxx-xx-xxxx  
 Cunningham, Clifton G., xxx-xx-xxxx  
 Curs, Paul A., xxx-xx-xxxx  
 Dando, James C., xxx-xx-xxxx  
 Daniels, Henry A., xxx-xx-xxxx  
 Degener, David E., xxx-xx-xxxx  
 Deligans, Jack D., Jr., xxx-xx-xxxx  
 Demerath, Patrick J., xxx-xx-xxxx  
 Deroche, Leonard R., xxx-xx-xxxx  
 Derrick, William L., xxx-xx-xxxx  
 Desutter, Robert J., Jr., xxx-xx-xxxx  
 Dottavici, Richard R., xxx-xx-xxxx  
 Dupre, Irving M., xxx-xx-xxxx  
 Duzak, Michael C., xxx-xx-xxxx  
 Etheredge, Corta C., xxx-xx-xxxx  
 Evans, William R., xxx-xx-xxxx  
 Faas, Wayne M., xxx-xx-xxxx  
 Fairfax, William A., Jr., xxx-xx-xxxx  
 Ferkes, George C., xxx-xx-xxxx  
 Firmin, Cornelius, xxx-xx-xxxx  
 Fox, Nicholas K., xxx-xx-xxxx  
 Frey, Michael E., xxx-xx-xxxx  
 Gentile, Anthony B., xxx-xx-xxxx  
 Gibbs, Richard H., xxx-xx-xxxx  
 Gold, Franklin B., xxx-xx-xxxx  
 Goldsmith, Edwin A., xxx-xx-xxxx  
 Gray, Kenneth L., xxx-xx-xxxx  
 Griffin, Thomas J., xxx-xx-xxxx  
 Gullett, Henry C., Jr., xxx-xx-xxxx  
 Hamel, Richard L., Jr., xxx-xx-xxxx  
 Hardin, Peter W., xxx-xx-xxxx  
 Harrington, Jerrold B., xxx-xx-xxxx  
 Hartley, Milton W., xxx-xx-xxxx  
 Hawley, Jon A., xxx-xx-xxxx  
 Heath, Robert B., Jr., xxx-xx-xxxx  
 Henke, Robert F., xxx-xx-xxxx  
 Hergenroeder, Robert E., xxx-xx-xxxx  
 Herzog, Clyde E., xxx-xx-xxxx  
 Hess, Charles C., xxx-xx-xxxx  
 Hinton, Larry H., xxx-xx-xxxx  
 Holland, William J., III, xxx-xx-xxxx  
 Holliday, Stephen H., xxx-xx-xxxx  
 Hollinger, Gerald G., xxx-xx-xxxx

Hrlz, Andrew, III, xxx-xx-xxxx  
 Huddleston, Taylor J., xxx-xx-xxxx  
 Hussey, Leslie J., Jr., xxx-xx-xxxx  
 Jennings, Richard L., xxx-xx-xxxx  
 Jones, David J., xxx-xx-xxxx  
 Jones, Michael D., xxx-xx-xxxx  
 Jones, Stephen H., xxx-xx-xxxx  
 Kamp, Rainer W., xxx-xx-xxxx  
 Kennedy, William M., xxx-xx-xxxx  
 Khalar, Richard A., xxx-xx-xxxx  
 Kidder, Brainerd G., Jr., xxx-xx-xxxx  
 Kinde, John E., xxx-xx-xxxx  
 King, William K., Jr., xxx-xx-xxxx  
 Kipperman, Mark C., xxx-xx-xxxx  
 Klesner, Kenneth E., xxx-xx-xxxx  
 Knipe, Wesley E., xxx-xx-xxxx  
 Kunzli, Frederic, xxx-xx-xxxx  
 Lacey, Lawrence N., xxx-xx-xxxx  
 Laird, Thomas A., xxx-xx-xxxx  
 Lamkin, Craig S., xxx-xx-xxxx  
 Lancaster, Lon S., III, xxx-xx-xxxx  
 Lee, Melvin K. F., xxx-xx-xxxx  
 Lennertz, Thomas P., xxx-xx-xxxx  
 Leonard, Charles K., xxx-xx-xxxx  
 Lewellen, Larry S., xxx-xx-xxxx  
 Lewis, Robert H., xxx-xx-xxxx  
 Linnstaedt, John B., xxx-xx-xxxx  
 Look, Robert C., xxx-xx-xxxx  
 Lockwood, Dewey F., Jr., xxx-xx-xxxx  
 Lunan, Richard A., xxx-xx-xxxx  
 Lyons, Clarence M., xxx-xx-xxxx  
 MacKenzie, Ross E., xxx-xx-xxxx  
 Manwarren, Robert A., xxx-xx-xxxx  
 Markulis, Henryk J., xxx-xx-xxxx  
 McCurry, Larry G., xxx-xx-xxxx  
 McKibban, Kenneth L., xxx-xx-xxxx  
 Meehan, James D., xxx-xx-xxxx  
 Mehrhoff, Stanley E., xxx-xx-xxxx  
 Michaud, Richard P., xxx-xx-xxxx  
 Milan, Donald W., xxx-xx-xxxx  
 Miller, Everett C., xxx-xx-xxxx  
 Morrow, George E., xxx-xx-xxxx  
 Morthole, Stuart E., xxx-xx-xxxx  
 Mrozowski, Harry E., Jr., xxx-xx-xxxx  
 Muir, Robert W., xxx-xx-xxxx  
 Mullins, Gary A., xxx-xx-xxxx  
 Newkirk, Frank L., xxx-xx-xxxx  
 Neznanski, Lawrence S., xxx-xx-xxxx  
 Nieminen, Norman A., xxx-xx-xxxx  
 Nilssen, Lawrence R., xxx-xx-xxxx  
 Nuss, Elmer A., xxx-xx-xxxx  
 Page, William E., xxx-xx-xxxx  
 Pagendarm, James S., xxx-xx-xxxx  
 Palladinetti, Enrico, xxx-xx-xxxx  
 Palm, John D., Jr., xxx-xx-xxxx  
 Patrick, James L., Jr., xxx-xx-xxxx  
 Perry, James A., xxx-xx-xxxx  
 Peters, Donald L., xxx-xx-xxxx  
 Polley, Ralph C., xxx-xx-xxxx  
 Pomeroy, Ronald K., xxx-xx-xxxx  
 Powell, Dan, xxx-xx-xxxx  
 Powell, James G., xxx-xx-xxxx  
 Pratt, Sylvia D., xxx-xx-xxxx  
 Pritchard, Ernest A., Jr., xxx-xx-xxxx  
 Quandt, John C., xxx-xx-xxxx  
 Rachels, Jack W., xxx-xx-xxxx  
 Ramos, Antonio J., xxx-xx-xxxx  
 Ray, James C., xxx-xx-xxxx  
 Redden, Charles E., xxx-xx-xxxx  
 Revett, William R., xxx-xx-xxxx  
 Richards, William A., xxx-xx-xxxx  
 Robinson, Denver D., xxx-xx-xxxx  
 Rodrigues, Anthony, xxx-xx-xxxx  
 Rose, Carl R., xxx-xx-xxxx  
 Rubic, Carlos E., xxx-xx-xxxx  
 Rutter, William E., xxx-xx-xxxx  
 Rydell, Carl M., xxx-xx-xxxx  
 Sandoval, Ramon, Jr., xxx-xx-xxxx  
 Savaglio, Bruce J., xxx-xx-xxxx  
 Scanlan, David H., Jr., xxx-xx-xxxx  
 Scheideman, James A., xxx-xx-xxxx  
 Schlick, James M., xxx-xx-xxxx  
 Sena, Earl J., xxx-xx-xxxx  
 Shebest, Gregory J., xxx-xx-xxxx  
 Sihler, Robert M., xxx-xx-xxxx  
 Sikes, Arthur D., Jr., xxx-xx-xxxx  
 Simmons, William J., Jr., xxx-xx-xxxx  
 Smith, Daniel L., xxx-xx-xxxx  
 Snyder, William A., xxx-xx-xxxx  
 Solomon, Michael E., xxx-xx-xxxx

Stetson, Peter W., xxx-xx-xxxx  
 Sutherland, Timothy P., xxx-xx-xxxx  
 Tatro, Lynn E., xxx-xx-xxxx  
 Taylor, James G., xxx-xx-xxxx  
 Thompson, Charles L., xxx-xx-xxxx  
 Thompson, Thomas L., xxx-xx-xxxx  
 Tilton, Robert F., Jr., xxx-xx-xxxx  
 Timmerman, James L., xxx-xx-xxxx  
 Tucker, Charles H., Jr., xxx-xx-xxxx  
 Tyler, Michael L., xxx-xx-xxxx  
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 Seaver, Paul L., III, xxx-xx-xxxx  
 Secan, James A., xxx-xx-xxxx  
 Seeber, Leo V., xxx-xx-xxxx  
 Sell, Harold W., Jr., xxx-xx-xxxx  
 Semeli, Felix J., Jr., xxx-xx-xxxx  
 Shealy, John T., xxx-xx-xxxx  
 Sheley, Ben F., II, xxx-xx-xxxx  
 Shepherd, Charles D., xxx-xx-xxxx  
 Sherman, Michael D., xxx-xx-xxxx  
 Sherman, Thomas O., xxx-xx-xxxx  
 Shinbara, David T., xxx-xx-xxxx  
 Shipman, Charles H., xxx-xx-xxxx  
 Shirley, William W., xxx-xx-xxxx  
 Shookey, John H., xxx-xx-xxxx  
 Shoemaker, Michael D., xxx-xx-xxxx  
 Shontz, David F., Jr., xxx-xx-xxxx  
 Shorter, Charles T., xxx-xx-xxxx  
 Shotwell, Gary L., xxx-xx-xxxx  
 Silberman, Kirk J., xxx-xx-xxxx  
 Silverman, David B., xxx-xx-xxxx  
 Sims, Kenneth L., xxx-xx-xxxx  
 Siulte, Arunas, xxx-xx-xxxx  
 Skees, Edward J., xxx-xx-xxxx  
 Skidmore, David K., xxx-xx-xxxx  
 Skinner, Richard W., xxx-xx-xxxx  
 Skol, Gary L., xxx-xx-xxxx  
 Skoog, David R., xxx-xx-xxxx  
 Slack, Robert E., xxx-xx-xxxx  
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 Slyter, Ronald C., xxx-xx-xxxx  
 Smith, Barrett J., xxx-xx-xxxx  
 Smith, Bradley A., xxx-xx-xxxx  
 Smith, David B., xxx-xx-xxxx  
 Smith, Ernest G., xxx-xx-xxxx  
 Smith, Frederick C., xxx-xx-xxxx  
 Smith, Jerry D., xxx-xx-xxxx  
 Smith, Larry M., xxx-xx-xxxx  
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 Smith, Rooney A., xxx-xx-xxxx  
 Smith, Rogers M., xxx-xx-xxxx  
 Smith, Ronald J., xxx-xx-xxxx  
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 Smith, Theodore R., Jr., xxx-xx-xxxx  
 Smith, Yoshio, xxx-xx-xxxx  
 Sokolewicz, James P., xxx-xx-xxxx  
 Solan, David A., xxx-xx-xxxx  
 Sowa, Stanley J., xxx-xx-xxxx  
 Spade, Christopher E., xxx-xx-xxxx  
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 Spencer, Stanley R., xxx-xx-xxxx  
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Stack, David F., xxx-xx-xxxx  
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 Stanley, Timothy D., xxx-xx-xxxx  
 Stanton, Mark E., xxx-xx-xxxx  
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 Starr, Allen L., xxx-xx-xxxx  
 Steimer, Joseph W., Jr., xxx-xx-xxxx  
 Steinbeiss, John F., xxx-xx-xxxx  
 Stendahl, Loren O., xxx-xx-xxxx  
 Stephens, James R., xxx-xx-xxxx  
 Sterzinger, James J., xxx-xx-xxxx  
 Stewart, Billy K., xxx-xx-xxxx  
 Stobbe, Robert W., xxx-xx-xxxx  
 Stockman, David M., xxx-xx-xxxx  
 Stocks, Robert C., xxx-xx-xxxx  
 Stoddard, Herbert L., xxx-xx-xxxx  
 Stoddard, Stewart A., xxx-xx-xxxx  
 Stone, Richard W., xxx-xx-xxxx  
 Stothart, William K., xxx-xx-xxxx  
 Stott, John G., xxx-xx-xxxx  
 Stow, Richard W., Jr., xxx-xx-xxxx  
 Stowe, Richard W., xxx-xx-xxxx  
 Strom, Robert B., xxx-xx-xxxx  
 Stroup, Robert J., xxx-xx-xxxx  
 Stubbs, Stephen M., xxx-xx-xxxx  
 Stumme, Daniel D., xxx-xx-xxxx  
 Sturgill, George S., xxx-xx-xxxx  
 Sublett, John L., xxx-xx-xxxx  
 Sudderth, William H., Jr., xxx-xx-xxxx  
 Sullivan, Kenneth J., xxx-xx-xxxx  
 Sullivan, Michael S., xxx-xx-xxxx  
 Sundry, John R., xxx-xx-xxxx  
 Sutay, John G., xxx-xx-xxxx  
 Sutherland, Richard H., xxx-xx-xxxx  
 Sutta, Paul B., xxx-xx-xxxx  
 Sutter, Richard R., xxx-xx-xxxx  
 Sutton, Leroy D., Jr., xxx-xx-xxxx  
 Swanson, Jon M., xxx-xx-xxxx  
 Swomley, Mark E., xxx-xx-xxxx  
 Szymczak, Michael A., xxx-xx-xxxx  
 Takos, James M., xxx-xx-xxxx  
 Talcott, Thomas G., xxx-xx-xxxx  
 Talty, Patrick K., xxx-xx-xxxx  
 Tarpley, Mark L., xxx-xx-xxxx  
 Tate, Harold M., xxx-xx-xxxx  
 Tauer, Truman N., xxx-xx-xxxx  
 Taylor, Allen S., Jr., xxx-xx-xxxx  
 Taylor, Wiley B., xxx-xx-xxxx  
 Teasley, Alton L., xxx-xx-xxxx  
 Teeter, Robert W., xxx-xx-xxxx  
 Teevens, John J., xxx-xx-xxxx  
 Tegtmeyer, Glenn H., xxx-xx-xxxx  
 Tepe, William A., xxx-xx-xxxx  
 Terwiel, John A., xxx-xx-xxxx  
 Thames, Monte A., xxx-xx-xxxx  
 Thibault, Thomas N., xxx-xx-xxxx  
 Thiel, William E., xxx-xx-xxxx  
 Thomas, Ernest L., xxx-xx-xxxx  
 Thomason, Jimmie D., xxx-xx-xxxx  
 Thompson, Charles L., Jr., xxx-xx-xxxx  
 Thompson, Paul W., Jr., xxx-xx-xxxx  
 Thornton, Ronald B., xxx-xx-xxxx  
 Thourot, Frederick G., III, xxx-xx-xxxx  
 Thurlow, Ronald L., xxx-xx-xxxx  
 Tiedeman, Roger L., xxx-xx-xxxx  
 Timmerman, Stacey J., xxx-xx-xxxx  
 Timmons, David L., xxx-xx-xxxx  
 Tinianow, Albert N., xxx-xx-xxxx  
 Tittle, George A., xxx-xx-xxxx  
 Tobin, John T., xxx-xx-xxxx  
 Tomb, Jack E., xxx-xx-xxxx  
 Tommasi, Paul V., xxx-xx-xxxx  
 Tooley, Nick T., xxx-xx-xxxx  
 Topp, Linda Anne, xxx-xx-xxxx  
 Torgerson, Ronald A., xxx-xx-xxxx  
 Towle, Bradley P., xxx-xx-xxxx  
 Townsend, Helen L., xxx-xx-xxxx  
 Trafton, Cary R., xxx-xx-xxxx  
 Treadway, James D., xxx-xx-xxxx  
 Treiber, George M., xxx-xx-xxxx  
 Trende, Gary D., xxx-xx-xxxx  
 Trivett, Louis G., xxx-xx-xxxx  
 Truelson, Edgar P., xxx-xx-xxxx  
 Tucker, Lloyd J., xxx-xx-xxxx  
 Tucker, Paul G., xxx-xx-xxxx  
 Tuggle, Timothy R., xxx-xx-xxxx  
 Tullis, David S., III, xxx-xx-xxxx

Tullis, John L., xxx-xx-xxxx  
 Turner, Larry A., xxx-xx-xxxx  
 Turner, William F., Jr., xxx-xx-xxxx  
 Turney, Daniel P., xxx-xx-xxxx  
 Tweed, Robert B., xxx-xx-xxxx  
 Twitty, Bert J., xxx-xx-xxxx  
 Tyrrell, John A., Jr., xxx-xx-xxxx  
 Uebelacker, Robert C., Jr., xxx-xx-xxxx  
 Unrein, Gerard A., III, xxx-xx-xxxx  
 Uttenweiler, William L., xxx-xx-xxxx  
 Vallejo, Edward, xxx-xx-xxxx  
 Vamosy, Steven A., Jr., xxx-xx-xxxx  
 Vanburen, David M., xxx-xx-xxxx  
 Vandevor, Richard E., xxx-xx-xxxx  
 Vandre, Terry L., xxx-xx-xxxx  
 Vanengen, Jered H., xxx-xx-xxxx  
 Vanhouten, James H., II, xxx-xx-xxxx  
 Vanzandt, Michael J., xxx-xx-xxxx  
 Vasquez, Omar S., xxx-xx-xxxx  
 Vaubel, Gail E., xxx-xx-xxxx  
 Vender, John T., II, xxx-xx-xxxx  
 Vera, Jose R., xxx-xx-xxxx  
 Verschage, James A., xxx-xx-xxxx  
 Vick, James L., xxx-xx-xxxx  
 Vineyard, Steven L., xxx-xx-xxxx  
 Viost, Roy S., xxx-xx-xxxx  
 Volden, Richard P., xxx-xx-xxxx  
 Vollmar, Virgil F., xxx-xx-xxxx  
 Vorndan, Paul E., xxx-xx-xxxx  
 Waddell, James H., Jr., xxx-xx-xxxx  
 Wade, Ernest R., xxx-xx-xxxx  
 Wade, Michael E., xxx-xx-xxxx  
 Wadley, Verl D., xxx-xx-xxxx  
 Wagner, Peter G., xxx-xx-xxxx  
 Wainwright, Rachel R., xxx-xx-xxxx  
 Wakefield, Richard L., xxx-xx-xxxx  
 Walding, Jerome G., xxx-xx-xxxx  
 Walker, David B., xxx-xx-xxxx  
 Wall, Joseph C., Jr., xxx-xx-xxxx  
 Wall, Robert A., xxx-xx-xxxx  
 Waricka, Peter, Jr., xxx-xx-xxxx  
 Warley, Deas H., III, xxx-xx-xxxx  
 Warren, Robert A., xxx-xx-xxxx  
 Watjen, David H., xxx-xx-xxxx  
 Watson, Walter L., Jr., xxx-xx-xxxx  
 Watterson, John B., xxx-xx-xxxx  
 Watts, Odie J., xxx-xx-xxxx  
 Watts, Richard M., Jr., xxx-xx-xxxx  
 Weaver, Nelson T., xxx-xx-xxxx  
 Webber, Francis E., Jr., xxx-xx-xxxx  
 Webster, Daniel R., xxx-xx-xxxx  
 Welmer, John A., xxx-xx-xxxx  
 Wellman, Thomas M., xxx-xx-xxxx  
 Wells, Ernest L., xxx-xx-xxxx  
 Wenger, Robert C., xxx-xx-xxxx  
 Wenning, Robert L., xxx-xx-xxxx  
 West, Walter P., xxx-xx-xxxx  
 Wheeler, Larry L., xxx-xx-xxxx  
 Wheeler, Thomas S., xxx-xx-xxxx  
 White, Floyd D., xxx-xx-xxxx  
 White, Gary E., xxx-xx-xxxx  
 White, George L., III, xxx-xx-xxxx  
 White, Harry D., III, xxx-xx-xxxx  
 White, Jimmy L., xxx-xx-xxxx  
 White, Michael J., xxx-xx-xxxx  
 Whitlock, Wayne D., xxx-xx-xxxx  
 Whitmore, Paul L., xxx-xx-xxxx  
 Whitson, Staehle P., xxx-xx-xxxx  
 Whitworth, Paul J., xxx-xx-xxxx  
 Wible, Roxann, xxx-xx-xxxx  
 Wilbur, David M., xxx-xx-xxxx  
 Wilkins, Bryan L., xxx-xx-xxxx  
 Williams, Charles R., xxx-xx-xxxx  
 Williams, Floyd C., xxx-xx-xxxx  
 Williams, Phillip S., xxx-xx-xxxx  
 Williamson, Samuel P., xxx-xx-xxxx  
 Wilson, Garry D., xxx-xx-xxxx  
 Wilson, John K., III, xxx-xx-xxxx  
 Wilson, Robert J., xxx-xx-xxxx  
 Wilson, Terry L., xxx-xx-xxxx  
 Winegar, Lee E., xxx-xx-xxxx  
 Wingard, George E., xxx-xx-xxxx  
 Winters, Michael P., xxx-xx-xxxx  
 Wiseman, Robert E., xxx-xx-xxxx  
 Wittenberg, Gustav D., xxx-xx-xxxx  
 Whittier, Richard F., xxx-xx-xxxx  
 Wolf, David B., xxx-xx-xxxx  
 Wright, Charles A., xxx-xx-xxxx  
 Wright, Louis D., xxx-xx-xxxx  
 Wulf, Stephen E., xxx-xx-xxxx  
 Wurster, Henry J., xxx-xx-xxxx  
 Wyatt, Harry M., xxx-xx-xxxx

Yates, Charles D., xxx-xx-xxxx  
 Yelding, Richard P., II, xxx-xx-xxxx  
 Ylikopsa, Thomas G., xxx-xx-xxxx  
 Yoakum, Richard D., xxx-xx-xxxx  
 Yoh, Raymond B., Jr., xxx-xx-xxxx  
 Yon, Michael C., xxx-xx-xxxx  
 Young, Rodney W., xxx-xx-xxxx  
 Youngberg, Alan R., xxx-xx-xxxx  
 Youngblood, John P., xxx-xx-xxxx  
 Younkin, Ross H., xxx-xx-xxxx  
 Yother, Charles F., xxx-xx-xxxx  
 Zamorski, Edward J., xxx-xx-xxxx  
 Zborowski, Stanley H., xxx-xx-xxxx  
 Zechender, Raymond P., xxx-xx-xxxx  
 Zichterman, Jack A., xxx-xx-xxxx  
 Ziegler, Robert W., Jr., xxx-xx-xxxx

Executive nominations received by the Senate on June 3, 1977, pursuant to the order of May 27, 1977:

## DEPARTMENT OF STATE

Richard M. Moose, or Arkansas, to be an Assistant Secretary of State.

## COMMUNITY SERVICES ADMINISTRATION

William Whitaker Allison, of Georgia, to be Deputy Director of the Community Services Administration, vice Robert C. Chase, resigned.

## DEPARTMENT OF JUSTICE

M. Carr Ferguson, of New York, to be an Assistant Attorney General vice Scott P. Crampton, resigned.

Jesse Roscoe Brooks, of Alabama, to be U.S. Attorney for the Northern District of Alabama for the term of 4 years vice Wayman G. Sherrer, resigning.

Richard Blumenthal, of Connecticut, to be U.S. Attorney for the District of Connecticut for the term of 4 years vice Peter C. Dorsey, resigning.

James R. Burgess, Jr., of Illinois, to be U.S. Attorney for the Eastern District of Illinois for the term of 4 years vice Henry A. Schwartz, deceased.

Patrick H. Molloy, of Kentucky, to be U.S. Attorney for the Eastern District of Kentucky for the term of 4 years vice Eldon L. Webb, resigning.

James C. Murphy, Jr., of Georgia, to be U.S. Marshal for the Southern District of Georgia for the term of 4 years vice William M. Johnson.

Executive nominations received by the Senate June 6, 1977:

## DEPARTMENT OF LABOR

Roland Ray Mora, of California, to be Deputy Assistant Secretary of Labor for Veterans' Employment. (New position.)

## INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Edward R. Fried, of Maryland, to be U.S. Executive Director of the International Bank for Reconstruction and Development for a term of 2 years, vice Charles A. Cooper, resigned.

## AGENCY FOR INTERNATIONAL DEVELOPMENT

Joseph Coolidge Wheeler, of Virginia, to be an Assistant Administrator of the Agency for International Development, vice Robert Harry Nooter.

## IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code Section 3284 and 3299:

## ARMY PROMOTION LIST

## To be lieutenant colonel

Dodd, Calvin G., xxx-xx-xxxx  
 Lancaster, James G., xxx-xx-xxxx  
 Redd, John H. Jr., xxx-xx-xxxx

## VETERINARY CORPS

## To be lieutenant colonel

Dunton, Robert K., xxx-xx-xxxx

## ARMY PROMOTION LIST

## To be captain

Abraham, George, xxx-xx-xxxx  
 Agnew, Thomas W., xxx-xx-xxxx



Anthony, Joseph S., xxx-xx-xxxx  
 Baker, Geoffrey B., xxx-xx-xxxx  
 Bartusch, Robert J., xxx-xx-xxxx  
 Baxter, Leo J., xxx-xx-xxxx  
 Beck, Gary S., xxx-xx-xxxx  
 Bennett, Patrick J., xxx-xx-xxxx  
 Blagg, Ronnie, xxx-xx-xxxx  
 Boessen, Joseph F., xxx-xx-xxxx  
 Bowman, Rodger M., xxx-xx-xxxx  
 Brown, David A., xxx-xx-xxxx  
 Buchheit, Joseph D., xxx-xx-xxxx  
 Burke, Michael D., xxx-xx-xxxx  
 Cabot, Perry O. H., xxx-xx-xxxx  
 Cadorette, Raymond P., xxx-xx-xxxx  
 Cahill, Douglas A., xxx-xx-xxxx  
 Callen, Jan E., xxx-xx-xxxx  
 Campen, Timothy A., xxx-xx-xxxx  
 Carden, John P., xxx-xx-xxxx  
 Cerutti, Stephen R., xxx-xx-xxxx  
 Chapman, Raymond M., xxx-xx-xxxx  
 Cole, Thomas P., xxx-xx-xxxx  
 Cooper, James P., xxx-xx-xxxx  
 Coplen, Ricky C., xxx-xx-xxxx  
 Crawford, Steven L., xxx-xx-xxxx  
 Crossfield, Eral J., xxx-xx-xxxx  
 Cunningham, David L., xxx-xx-xxxx  
 Czech, Norbert E., xxx-xx-xxxx  
 Deluca, Thomas A., xxx-xx-xxxx  
 Doyle, George L., xxx-xx-xxxx  
 Eszes, Joseph W., xxx-xx-xxxx  
 Faure, Charles W., xxx-xx-xxxx  
 Ferguson, Michael M., xxx-xx-xxxx  
 Fields, Joseph A., xxx-xx-xxxx  
 Firestone, William B., xxx-xx-xxxx  
 Fowler, David J., xxx-xx-xxxx  
 Froude, Robert E., xxx-xx-xxxx  
 Fuentes, Robert M., xxx-xx-xxxx  
 Garnett, Thomas E., xxx-xx-xxxx  
 Geoghagan, Michael S., xxx-xx-xxxx  
 Goodman, Huey D., xxx-xx-xxxx  
 Gregory, Frank B., xxx-xx-xxxx  
 Gribble, Garland D., Jr., xxx-xx-xxxx  
 Griffin, Benjamin S., xxx-xx-xxxx  
 Haning, Joe M., xxx-xx-xxxx  
 Harback, Herbert F., xxx-xx-xxxx  
 Hardin, Michael D., xxx-xx-xxxx  
 Harris, James R., xxx-xx-xxxx  
 Harris, Wayne C., xxx-xx-xxxx  
 Hawk, William F., xxx-xx-xxxx  
 Hill, Thomas C., xxx-xx-xxxx  
 Holden, William T., Jr., xxx-xx-xxxx  
 Holladay, Joseph W., xxx-xx-xxxx  
 Holt, Robert H., xxx-xx-xxxx  
 Hugenberg, William C., xxx-xx-xxxx  
 Hughes, Michael A., xxx-xx-xxxx  
 Huston, Michael L., xxx-xx-xxxx  
 Jackson, Ronnie D., xxx-xx-xxxx  
 Jarvis, Robert L., xxx-xx-xxxx  
 Johnston, Charles E., xxx-xx-xxxx  
 Jones, Michael J., xxx-xx-xxxx  
 Kennedy, James C., xxx-xx-xxxx  
 Klaus, Edward G., xxx-xx-xxxx  
 Kling, David M., xxx-xx-xxxx  
 Knickerbocker, William E., xxx-xx-xxxx  
 Knight, Odious O., xxx-xx-xxxx  
 Kobasa, Daniel W., xxx-xx-xxxx  
 Kuhn, David L., xxx-xx-xxxx  
 Larch, Paul K., xxx-xx-xxxx  
 Lipsinki, Edward P., xxx-xx-xxxx  
 Lippy, Thomas W., xxx-xx-xxxx  
 Lovett, Michael L., xxx-xx-xxxx  
 Lucas, Willie C., xxx-xx-xxxx  
 Lyle, Robert N., Jr., xxx-xx-xxxx  
 Malson, Bruce A., xxx-xx-xxxx  
 Mann, Paul A., xxx-xx-xxxx  
 Marks, Steven M., xxx-xx-xxxx  
 Martin, Michael D., xxx-xx-xxxx  
 Minger, Bruce R., xxx-xx-xxxx  
 Moeller, Delane F., xxx-xx-xxxx  
 Montano, James J., xxx-xx-xxxx  
 Moon, Timothy D., xxx-xx-xxxx  
 Morford, Frederick K., Jr., xxx-xx-xxxx  
 Moulin, David G., xxx-xx-xxxx  
 Myers, Michael K., xxx-xx-xxxx  
 Nelson, John D., xxx-xx-xxxx  
 Nepote, Peter A., Jr., xxx-xx-xxxx  
 Nichols, Charles D., xxx-xx-xxxx  
 Novak, Stephen R., xxx-xx-xxxx  
 O'Connell, Edward P., xxx-xx-xxxx

Pacheco, Stephen J., xxx-xx-xxxx  
 Pagni, David A., xxx-xx-xxxx  
 Pavlovsky, John D., xxx-xx-xxxx  
 Pedersen, Thomas D., xxx-xx-xxxx  
 Peresich, Robert J., xxx-xx-xxxx  
 Perez, Ovidio E., xxx-xx-xxxx  
 Perla, Livio G., xxx-xx-xxxx  
 Prickett, Thomas R., xxx-xx-xxxx  
 Raphael, Victor G., Jr., xxx-xx-xxxx  
 Ramey, Darrell L., xxx-xx-xxxx  
 Rieder, John E., xxx-xx-xxxx  
 Rivers, Wharton B., Jr., xxx-xx-xxxx  
 Robinson, Russell N., xxx-xx-xxxx  
 Roecker, Richard L., xxx-xx-xxxx  
 Sawdey, Steven R., xxx-xx-xxxx  
 Shaw, Earle A., Jr., xxx-xx-xxxx  
 Silverman, Michael A., xxx-xx-xxxx  
 Sinclair, William R., xxx-xx-xxxx  
 Sines, Robert G., Jr., xxx-xx-xxxx  
 Solom, Gary, xxx-xx-xxxx  
 Stoll, Ned C., xxx-xx-xxxx  
 St Pierre, Normand L., xxx-xx-xxxx  
 Sullivan, James P., xxx-xx-xxxx  
 Tanksley, David M., xxx-xx-xxxx  
 Taylor, William J., xxx-xx-xxxx  
 Thomas, Robert H., xxx-xx-xxxx  
 Thompson, Peter J., xxx-xx-xxxx  
 Toney, Dwight D., xxx-xx-xxxx  
 Turdici, James, xxx-xx-xxxx  
 Vanvoorhis, Victor V., xxx-xx-xxxx  
 Wahl, Robert G., xxx-xx-xxxx  
 Walsh, Edward O., xxx-xx-xxxx  
 Watson, Jesse L., III, xxx-xx-xxxx  
 Wellbrenner, James M., xxx-xx-xxxx  
 Wetzell, William J., xxx-xx-xxxx  
 White, Paul A., xxx-xx-xxxx  
 Wing, Freddie V., xxx-xx-xxxx  
 Wolf, Donald J., xxx-xx-xxxx  
 Zanow, William L., xxx-xx-xxxx

## JUDGE ADVOCATE GENERAL CORPS

## To be captain

Davidson, Selmer A., xxx-xx-xxxx  
 Judd, Kim K., xxx-xx-xxxx

## WOMEN'S ARMY CORPS

## To be captain

Fisher, Carla K., xxx-xx-xxxx  
 Martini, Carol A., xxx-xx-xxxx  
 Palmer, Edwina P., xxx-xx-xxxx  
 Terrell, Brenda L., xxx-xx-xxxx

## IN THE ARMY

The following named person for reappointment in the active list of the Regular Army of the United States, from the Temporary Disability Retired List, under the provisions of Title 10, United States Code, section 1211:

To be major, regular Army and lieutenant colonel, Army of the United States

Godall, Billy R., xxx-xx-xxxx

The following named persons for appointment in the Regular Army, by transfer in the grade specified, under the provisions of Title 10, United States Code, sections 3283 through 3294:

## To be captain

Davis, Edmund L., xxx-xx-xxxx

## To be first lieutenant

Maguire, Daniel M., xxx-xx-xxxx

The following named persons for appointment in the Regular Army of the United States, in the grade specified, under the provisions of Title 10, United States Code, sections 3283 through 3294 and 3311:

## To be colonel

Landry, Gelmar S., xxx-xx-xxxx

## To be major

Beans, Harry C., xxx-xx-xxxx  
 Bensinger, Thomas A., xxx-xx-xxxx  
 Brown, Paul E., xxx-xx-xxxx  
 Edgren, James A., xxx-xx-xxxx  
 Holsonback, John K., xxx-xx-xxxx  
 Lloyd, Joseph D., xxx-xx-xxxx  
 McLeod, Ronald M., xxx-xx-xxxx  
 Mitchell, Charles H., xxx-xx-xxxx  
 Stansifer, Philip D., xxx-xx-xxxx  
 Tipton, William R., xxx-xx-xxxx

Rinkel, Marcia L., xxx-xx-xxxx  
 Winstead, Reginald, xxx-xx-xxxx  
 Zajtchuk, Russ, xxx-xx-xxxx

## To be captain

Akins, Stanley E., xxx-xx-xxxx  
 Allard, Carl K., Jr., xxx-xx-xxxx  
 Angel, Elliot E., xxx-xx-xxxx  
 Appleby, Ronald P., xxx-xx-xxxx  
 Atcheson, Gordon F., xxx-xx-xxxx  
 Austin, Melvin J., xxx-xx-xxxx  
 Bakle, John L., xxx-xx-xxxx  
 Beckman, David C., xxx-xx-xxxx  
 Blessing, Cynthia B., xxx-xx-xxxx  
 Bolton, John S., xxx-xx-xxxx  
 Borel, John E., xxx-xx-xxxx  
 Bozeman, John R., xxx-xx-xxxx  
 Brougham, William J., Jr., xxx-xx-xxxx  
 Brown, Daniel G., xxx-xx-xxxx  
 Brown, Douglas B., xxx-xx-xxxx  
 Brown, Robert H., xxx-xx-xxxx  
 Brown, Terry E., xxx-xx-xxxx  
 Burns, Rodney D., xxx-xx-xxxx  
 Bystran, Sharon F., xxx-xx-xxxx  
 Campbell, Jack H., xxx-xx-xxxx  
 Cappone, Theodore T., xxx-xx-xxxx  
 Carson, Robert G., xxx-xx-xxxx  
 Cartwright, James W., Jr., xxx-xx-xxxx  
 Cefola, Richard A., xxx-xx-xxxx  
 Churchill, Charles W., xxx-xx-xxxx  
 Codney, Robert C., xxx-xx-xxxx  
 Crittenden, David A., xxx-xx-xxxx  
 Cullinane, Paul E., Jr., xxx-xx-xxxx  
 Currey, Robert M., xxx-xx-xxxx  
 Deitrick, George H., xxx-xx-xxxx  
 Diehl, William J., Jr., xxx-xx-xxxx  
 Dixon, Robert S., xxx-xx-xxxx  
 Doyle, Frank M., xxx-xx-xxxx  
 Dunn, Rey M., xxx-xx-xxxx  
 Dyson, Gregory W., xxx-xx-xxxx  
 Elliott, Thomas R., Jr., xxx-xx-xxxx  
 Ensmann, Timothy A., xxx-xx-xxxx  
 Frost, Gary C., xxx-xx-xxxx  
 Gentry, Don R., xxx-xx-xxxx  
 Germain, Allen L., xxx-xx-xxxx  
 Gerzel, John I., xxx-xx-xxxx  
 Glidewell, John R., xxx-xx-xxxx  
 Grammer, Allen K., xxx-xx-xxxx  
 Granado-Diaz, Manuel A., xxx-xx-xxxx  
 Hammond, Dean C., Jr., xxx-xx-xxxx  
 Hanna, Leroy P., Jr., xxx-xx-xxxx  
 Harper, Arthur J., Jr., xxx-xx-xxxx  
 Hartmeyer, James T., xxx-xx-xxxx  
 Heckert, Joachim G., xxx-xx-xxxx  
 Heckman, Glenn W., xxx-xx-xxxx  
 Helberg, James A., xxx-xx-xxxx  
 Helms, Dewey R., xxx-xx-xxxx  
 Hooks, Rodney J., xxx-xx-xxxx  
 Hosel, James T., xxx-xx-xxxx  
 Huff, William H., III, xxx-xx-xxxx  
 Ison, Mark A., xxx-xx-xxxx  
 Jacobs, Michael W., xxx-xx-xxxx  
 Jaisle, William F., xxx-xx-xxxx  
 Kaplan, Marshall M., xxx-xx-xxxx  
 Kohler, Kathleen N., xxx-xx-xxxx  
 Kulild, James C., xxx-xx-xxxx  
 Lanier, James R., xxx-xx-xxxx  
 Lawrence, Robert G., xxx-xx-xxxx  
 Leffler, Edwin R., Jr., xxx-xx-xxxx  
 Lichty, Galen K., xxx-xx-xxxx  
 Luff, Lawrence P., xxx-xx-xxxx  
 Mackinlay, William A., xxx-xx-xxxx  
 Marshall, Robert A., xxx-xx-xxxx  
 Martin, Lawrence A., xxx-xx-xxxx  
 Massey, Tommie R., xxx-xx-xxxx  
 McLaughlin, Peter D., xxx-xx-xxxx  
 Meadows, William T., xxx-xx-xxxx  
 Milling, James S., xxx-xx-xxxx  
 Nason, Gardner M., xxx-xx-xxxx  
 Newman, Harry T., xxx-xx-xxxx  
 Ontiveros, Gilbert, xxx-xx-xxxx  
 Owen, Frederick E., xxx-xx-xxxx  
 Parham, Richard O., xxx-xx-xxxx  
 Paulsen, Alfred L., xxx-xx-xxxx  
 Perkins, Ellis C., Jr., xxx-xx-xxxx  
 Pope, James C., xxx-xx-xxxx  
 Portell, Frank R., xxx-xx-xxxx  
 Porthouse, Harry W., xxx-xx-xxxx

Rankin, Richard K., xxx-xx-xxxx  
 Rath, James F., xxx-xx-xxxx  
 Reese, David D., xxx-xx-xxxx  
 Rivera, Hidalgo Francisco, xxx-xx-xxxx  
 Robinson, George S., xxx-xx-xxxx  
 Roemer, William S., xxx-xx-xxxx  
 Runyon, George W., xxx-xx-xxxx  
 Sale, David F., xxx-xx-xxxx  
 Samuel, Taliaferro L., xxx-xx-xxxx  
 Schneider, John P., xxx-xx-xxxx  
 Segars, Jerry, II, xxx-xx-xxxx  
 Simmons, Michael E., xxx-xx-xxxx  
 Southerland, Norman K., xxx-xx-xxxx  
 Speed, Roosevelt, xxx-xx-xxxx  
 Stefani, Dennis E., xxx-xx-xxxx  
 Stephens, Charles R., xxx-xx-xxxx  
 Stephens, Quewannon C., xxx-xx-xxxx  
 Tatham, Stephen R., xxx-xx-xxxx  
 Taylor, Leslie H., xxx-xx-xxxx  
 Torrence, Max W., xxx-xx-xxxx  
 Tutt, James T., xxx-xx-xxxx  
 Vanpelt, Richard S., xxx-xx-xxxx  
 Walea, Alfred W., xxx-xx-xxxx  
 Weiss, William, xxx-xx-xxxx  
 Weske, John T., xxx-xx-xxxx  
 Willis, Leon R., xxx-xx-xxxx  
 Wilson, Richard A., xxx-xx-xxxx  
 Wirtz, David W., xxx-xx-xxxx  
 Zabicki, William B., xxx-xx-xxxx  
 Zemp, Robert W. M., xxx-xx-xxxx  
 Zupancic, David P., xxx-xx-xxxx

#### To be first lieutenant

Acuff, Robert C., xxx-xx-xxxx  
 Adams, Richard W., xxx-xx-xxxx  
 Adams, Stephen F., xxx-xx-xxxx  
 Adams, William B., xxx-xx-xxxx  
 Alexander, Kenneth D., xxx-xx-xxxx  
 Alspach, Robyn L., xxx-xx-xxxx  
 Anderson, Eddie F., xxx-xx-xxxx  
 Armstrong, Bertram B., xxx-xx-xxxx  
 Arnett, Gary W., xxx-xx-xxxx  
 Babb, James D., xxx-xx-xxxx  
 Bain, Linda L., xxx-xx-xxxx  
 Baltimore, Roland T., xxx-xx-xxxx  
 Barker, Herbert J., xxx-xx-xxxx  
 Beasley, Linda M., xxx-xx-xxxx  
 Beatty, Jessie D., xxx-xx-xxxx  
 Bell, Joseph A., xxx-xx-xxxx  
 Blanchard, William J., xxx-xx-xxxx  
 Bobo, Yvonne J., xxx-xx-xxxx  
 Bowden, Barry D., xxx-xx-xxxx  
 Brady, Thomas M., Jr., xxx-xx-xxxx  
 Bralley, James H., xxx-xx-xxxx  
 Brooks, Waldo W., III, xxx-xx-xxxx  
 Brown, David, Jr., xxx-xx-xxxx  
 Brown, Dee Ann M., xxx-xx-xxxx  
 Bryan, George M., xxx-xx-xxxx  
 Buffington, Edwin L., Jr., xxx-xx-xxxx  
 Buggert, Donn J., xxx-xx-xxxx  
 Case, Linda A., xxx-xx-xxxx  
 Cassem, Richard K., xxx-xx-xxxx  
 Cassity, Marilyn J., xxx-xx-xxxx  
 Cheek, Dalmer D., Jr., xxx-xx-xxxx  
 Christie, Donald H., Jr., xxx-xx-xxxx  
 Chudy, Jeanne H., xxx-xx-xxxx  
 Compton, William M., xxx-xx-xxxx  
 Cox, Gary W., xxx-xx-xxxx  
 Craig, Shirley J., xxx-xx-xxxx  
 Cramer, Robert G., Jr., xxx-xx-xxxx  
 Crider, Giles F., xxx-xx-xxxx  
 Davis, William J., xxx-xx-xxxx  
 Deeter, David P., xxx-xx-xxxx  
 Della, Jacono John J., xxx-xx-xxxx  
 Deutsch, Allen, xxx-xx-xxxx  
 Dilday, Douglas L., xxx-xx-xxxx  
 Dillon, James P., xxx-xx-xxxx  
 Dimestria, Judith L., xxx-xx-xxxx  
 Dodd, Mary C., xxx-xx-xxxx  
 Dodson, Frank A., Jr., xxx-xx-xxxx  
 Donaldson, Gary, xxx-xx-xxxx  
 Dorsey, Howard A., Jr., xxx-xx-xxxx  
 Drach, Ann K., xxx-xx-xxxx  
 Drouillard, Mark C., xxx-xx-xxxx  
 Drummond, Raymond R., xxx-xx-xxxx  
 Dunn, Keith A., xxx-xx-xxxx  
 Edens, William T., xxx-xx-xxxx  
 Edwards, Bruce C., xxx-xx-xxxx  
 Engoglia, James M., xxx-xx-xxxx  
 Field, Robert A., xxx-xx-xxxx  
 Fisher, Martin J., xxx-xx-xxxx  
 Fletcher, James, xxx-xx-xxxx

Gardner, John S., Jr., xxx-xx-xxxx  
 Glycer, Peter C., xxx-xx-xxxx  
 Godzak, Elaine G., xxx-xx-xxxx  
 Grange, Caryl T., xxx-xx-xxxx  
 Haake, James W., xxx-xx-xxxx  
 Hancock, Rickie D., xxx-xx-xxxx  
 Hayes, Grant C., xxx-xx-xxxx  
 Hennigan, Daniel C., xxx-xx-xxxx  
 Hensel, Lee K., xxx-xx-xxxx  
 Hergert, Robert W., xxx-xx-xxxx  
 Hirlinger, Roger C., xxx-xx-xxxx  
 Hitchcock, Lee W., xxx-xx-xxxx  
 Hollister, Gary L., xxx-xx-xxxx  
 Huff, Reid S., xxx-xx-xxxx  
 Hulme, David F., xxx-xx-xxxx  
 Hyman, Maryann V., xxx-xx-xxxx  
 Jamison, Steven P., xxx-xx-xxxx  
 Johnson, Stanley M., xxx-xx-xxxx  
 Jolley, Beverly C., Jr., xxx-xx-xxxx  
 Jones, Fleming H., xxx-xx-xxxx  
 Jones, Michael P., xxx-xx-xxxx  
 Joyce, Gerald W., Jr., xxx-xx-xxxx  
 Joyce, Lynda L., xxx-xx-xxxx  
 Justusson, Jerald W., xxx-xx-xxxx  
 Keenan, John M., xxx-xx-xxxx  
 Keenan, Kevin P., xxx-xx-xxxx  
 Kenny, Deborah S., xxx-xx-xxxx  
 Kessler, David E., xxx-xx-xxxx  
 Kirtland, William B., xxx-xx-xxxx  
 Kitt, Nicolette, H. J., xxx-xx-xxxx  
 Krom, Frances A., xxx-xx-xxxx  
 Kulick, Paul B., xxx-xx-xxxx  
 Laperia, Philip A., xxx-xx-xxxx  
 Layne, Edward B., III, xxx-xx-xxxx  
 Lichay, Donald, xxx-xx-xxxx  
 Lindley, Robert P., Jr., xxx-xx-xxxx  
 Livingstone, Michael E., xxx-xx-xxxx  
 Lovas, Patricia K., xxx-xx-xxxx  
 Mamaux, David H., xxx-xx-xxxx  
 Mann, Dorothea E., xxx-xx-xxxx  
 Martin, George P., xxx-xx-xxxx  
 Marx, John A., xxx-xx-xxxx  
 Matthews, James W., Jr., xxx-xx-xxxx  
 May, Larry W., xxx-xx-xxxx  
 Maynard, Emery G., Jr., xxx-xx-xxxx  
 Mazur, Blanche E., xxx-xx-xxxx  
 McClellan, Karen L., xxx-xx-xxxx  
 McDonough, Thomas V., xxx-xx-xxxx  
 Melcher, Max D., xxx-xx-xxxx  
 Merrick, Christy J., xxx-xx-xxxx  
 Miner, Barry D., xxx-xx-xxxx  
 Mitchell, Eric T., xxx-xx-xxxx  
 Monette, Rhonda L., xxx-xx-xxxx  
 Montes, Porfirio, xxx-xx-xxxx  
 Morrison, Alton D., xxx-xx-xxxx  
 Moyer, Daniel R., xxx-xx-xxxx  
 Munden, Ronald L., xxx-xx-xxxx  
 Nelson, Stephen K., xxx-xx-xxxx  
 Nichols, William E., xxx-xx-xxxx  
 Oliver, Roger M., xxx-xx-xxxx  
 O'Neill, Mary K., xxx-xx-xxxx  
 On Lewis, C., Jr., xxx-xx-xxxx  
 Orsini, August R., xxx-xx-xxxx  
 Padilla, Joe E., xxx-xx-xxxx  
 Parnell, Rondie B., xxx-xx-xxxx  
 Pillsbury, Richard C., xxx-xx-xxxx  
 Pohler, Michael S., xxx-xx-xxxx  
 Powell, David C., xxx-xx-xxxx  
 Prasil, Colleen F., xxx-xx-xxxx  
 Pullen, Stephen R., xxx-xx-xxxx  
 Pursel, Thomas L., xxx-xx-xxxx  
 Rada, Ronald G., xxx-xx-xxxx  
 Reichard, Douglas W., xxx-xx-xxxx  
 Reynolds, James C., xxx-xx-xxxx  
 Rickman, Richard M., xxx-xx-xxxx  
 Ritzel, William A., xxx-xx-xxxx  
 Roberts, Troy D., Jr., xxx-xx-xxxx  
 Robinson, Darlene S., xxx-xx-xxxx  
 Ryan, James T., xxx-xx-xxxx  
 Samick, David J., xxx-xx-xxxx  
 Schaeberle, Donald C., xxx-xx-xxxx  
 Schaver, Thomas L., xxx-xx-xxxx  
 Schwartz, Gerard W., xxx-xx-xxxx  
 Seagle, Van J., xxx-xx-xxxx  
 Showers, Walter M., xxx-xx-xxxx  
 Sidwell, Michael W., xxx-xx-xxxx  
 Sims, Ronald C., xxx-xx-xxxx  
 Skvorak, David A., xxx-xx-xxxx  
 Smith, John B., xxx-xx-xxxx  
 Sommerfeld, Paul R., xxx-xx-xxxx  
 Sondervan, William W., xxx-xx-xxxx

Speicher, Lana K., xxx-xx-xxxx  
 Steggeman, Kenneth F., xxx-xx-xxxx  
 Stephany, Michael E., xxx-xx-xxxx  
 Swartz, Leonard G., xxx-xx-xxxx  
 Sylvester, William G., xxx-xx-xxxx  
 Tice, Edward M., xxx-xx-xxxx  
 Trimble, James R., xxx-xx-xxxx  
 Turner, Ed S., III, xxx-xx-xxxx  
 Turnier, John C., xxx-xx-xxxx  
 Tuttle, Michael E., xxx-xx-xxxx  
 Salmons, Joel L., xxx-xx-xxxx  
 Tilson, Timothy T., xxx-xx-xxxx  
 Van Doren, Paul H., xxx-xx-xxxx  
 Vengrovskis, Edward F., xxx-xx-xxxx  
 Vervack, Larry P., xxx-xx-xxxx  
 Vowell, Denise Kathryn, xxx-xx-xxxx  
 Waller, David A., xxx-xx-xxxx  
 Williams, Lee E., xxx-xx-xxxx  
 Williamson, Clarence E., xxx-xx-xxxx  
 Wintle, Bruce D., xxx-xx-xxxx  
 Withrow, Randall W., xxx-xx-xxxx  
 Womack, George D., xxx-xx-xxxx  
 Wood, David A., xxx-xx-xxxx  
 Wray, John D., xxx-xx-xxxx  
 Wyatt, Lee T., xxx-xx-xxxx  
 Wyman, Richard H., Jr., xxx-xx-xxxx  
 Young, James D., xxx-xx-xxxx  
 Zaremski, Walter F., xxx-xx-xxxx

#### To be second lieutenant

Conner, Dale R., xxx-xx-xxxx  
 Kelly, David S., xxx-xx-xxxx  
 Nicks, Dennis W., xxx-xx-xxxx  
 Tyler, Benjamin, Jr., xxx-xx-xxxx  
 Vernaede, Linda D., xxx-xx-xxxx  
 West, Larry R., xxx-xx-xxxx  
 Williams, Ronald D., xxx-xx-xxxx

#### IN THE NAVY

The following named lieutenant commanders of the Reserve of the U.S. Navy for temporary promotion to the grade of commander in the line, pursuant to title 10, United States Code, section 5910, subject to qualification therefor as provided by law:

Ackerman, Ronnie J. Beltrami, Albert P.  
 Adorno, Arnaldo Belyea, Ivan L.  
 Albin, Robert L., Jr. Bennett, Robert F.  
 Allan, Alexander R. Bentley, Johnny E.  
 Allan, Andrew S., III Bentz, Alan E.  
 Allee, Donald W. Berlandi, Francis J.  
 Allen, Dennis K. Betts, Fred R.  
 Allen, Richard E. Beyer, Robert H.  
 Ames, Robert S. Beyette, Thomas K.  
 Amick, Neal J. Bigsby, Charles F.  
 Anderson, Alan A. Bird, Walter E.  
 Anderson, Chase D. Bisbey, John E.  
 Anderson, Larry G. Black, Donald A.  
 Arens, Stewart S. Blair, Ronald E.  
 Armstrong, Daniel L., Bock, Joseph G., Jr.  
 III Boettcher, Thomas C.  
 Auburn, James J. Bogle, Robert J.  
 Augustine, William D. Bourland, David L.  
 Austraw, James D. Bramble, Arthur W.  
 Averitt, Raymond V. Brand, Walter N., III  
 Avignone, Frank T., II Branning, Delos J., Jr.  
 Babcock, Richard B. Breece, James P.  
 Bachman, Richard C., Breeze, Harrel R.  
 Jr. Breiten, Oscar A., Jr.  
 Baker, Herbert N., Jr. Breithaupt, Paul D.  
 Baker, James R. Brisack, Philip R.  
 Balderston, Kenneth Brock, Leroy K.  
 K. Brockway, David M., Jr.  
 Bannon, Edward K. Brockway, Edwards L.  
 Barker, James E. Brouwer, Dirk V.  
 Barkman, Paul E. Buchanan, David G.  
 Barnes, Thomas L. Buelow, Thomas W.  
 Barrett, Gary T. Bulow, Harland C.  
 Bartell, Ronald Bundy, Bobby F.  
 Bartlett, John B. Bunn, Donald B.  
 Bass, Arthur E. Burchfield, Nejel  
 Batt, David B. Burkart, Melvin G.  
 Batts, Charles J. Burke, Joseph P.  
 Beakschi, Peter F. M., Butler, William P., Jr.  
 III Buxton, Joseph T., III  
 Beasley, Norman L. Cahill, Theodore K.  
 Begin, Donald R. Cajski, Thomas A.  
 Beidleman, Wynn H. Calligan, Christopher C.  
 Beisel, Robert E. T. Campbell, Richard B.  
 Bell, Ronald I. Cannon, Leo J.  
 Belli, William J., Jr.  
 Bellino, Joseph M.



- Cantus, Howard H.  
Cardenas, Carlos G.  
Carlson, Paul E.  
Carr, Paul B.  
Carrico, James E.  
Cavanaugh, James P.  
Chamberlain, Richard J., Jr.  
Chigos, David K.  
Ching, Stephen T. T.  
K. I.  
Cistriano, John J.  
Clark, James M.  
Clark, Ralph W.  
Clark, William B.  
Clark, William E.  
Cohn, Peter S.  
Cole, Robert J.  
Colton, William S.  
Commins, William J.  
Conklin, John B.  
Conte, John C.  
Cook, Richard A.  
Coonrod, Donald H.  
Cooper, Richard M.  
Cornforth, Clarence M.  
Cortelyou, Robert J.  
Coughlin, Joseph A., Jr.  
Cram, Kenneth R.  
Cuccio, Michael V.  
Curtis, Richard A.  
Cutting, Guy D.  
Dale, Donald M.  
Danley, Warren H.  
Davis, James D.  
Davis, Lloyd J.  
Dearth, Andrew H.  
Delgado, Rene, Jr.  
DePasquale, Peter J.  
Depman, George T.  
Dewyer, William L., III  
Dick, Warren H.  
Dickson, Charles H.  
Dieckhoff, Philip H.  
Dietschweiler, Leon E.  
Dillon, Ronald L.  
Ditchey, Robert L.  
Dombrowski, Chester J.  
Donnelly, Michael J.  
Donohoe, Keith W.  
Donovan, Daniel J., Jr.  
Doyel, Marion L.  
Dressel, Henry F.  
Dresser, George B.  
Dubs, Theodore B.  
Durocher, William T.  
Earle, Ronald L., Jr.  
Ebbs, James G.  
Edgar, Bobby G.  
Edgar, John B.  
Edwards, Colvin M.  
Eichenbaum, Harold, Jr.  
Elliott, Wilson W.  
Emerick, Robert H.  
English, Robert J.  
Espenmiller, Allen R.  
Estey, David W.  
Evans, John C.  
Evans, Robert B.  
Evans, William L.  
Fagerman, Robert J.  
Fahey, John P.  
Farrell, Gerard D.  
Faulkner, Bennie J.  
Fay, Edward D., Jr.  
Feeney, James F.  
Fendt, Otis H., Jr.  
Finnes, Roger G.  
Fitzgerald, George M.  
Fleming, Robert W.  
Fletcher, Robert  
Flynn, Richard P.  
Flynn, William K.  
Foley, Dennis J.  
Foley, Michael T.  
Foltz, Peter C.  
Ford, Preston W., Jr.  
Fore, William D.  
Forney, Paul B., Jr.
- Forrestal, James J.  
Fossedal, Donald E.  
Foster, George O., Jr.  
Foster, Robert G.  
Foster, William L.  
Fowler, Eugene F., Jr.  
Fox, Kenneth J., Jr.  
Francis, Paul E.  
Frank, Kenneth D.  
Friedman, Leslie H.  
Frizzell, George E.  
Gagen, Michael H.  
Gann, James W., Jr.  
Gannun, James V., Jr.  
Garrett, Robert A.  
Gasper, Charles A.  
George, Willard E.  
Gere, William B.  
Gerosa, William A.  
Gilbertson, Roger G.  
Glawe, Paul A.  
Goble, Robin P.  
Goehl, Kenneth E.  
Gomez, Francis A.  
Goodman, Grayson A.  
Gordon, Samuel J.  
Gorgas, Chester W.  
Gorman, Timothy J.  
Graham, David K.  
Granneman, Gary A.  
Gray, James S.  
Grebe, Leslie E.  
Greenwood, James S.  
Greer, Glynn R.  
Gregory, George M., Jr.  
Gregory, Herbert W.  
Griggs, Stanley D.  
Gross, Omer S., Jr.  
Groth, Roger P.  
Guillette, Robert  
Hahn, Richard C.  
Hakala, Jack W.  
Halsey, Maurice E.  
Hamilton, Robert C.  
Hansen, Richard A.  
Harper, Bruce G.  
Harris, Ronald L.  
Hart, Vernon D.  
Hartley, James W.  
Hartman, Harvey L.  
Hause, Russel C.  
Hawkins, William F.  
Henshaw, Lawrence K.  
Herr, Richard K.  
Herrick, Richard E.  
Hicks, Charles D.  
Hicks, Gerald F.  
Hil, Joe D.  
Hogan, Earl A., Jr.  
Holland, Charles E., Jr.  
Holmes, Milburn J.  
Holubec, Ray A.  
Hooper, Charles E.  
Horsman, Oliver W.  
Hubbs, David A.  
Huff, Stanley R.  
Hughes, Faust F., Jr.  
Huette, Paul J.  
Hull, Ronald W.  
Hungarland, John D., Jr.  
Hurley, James G.  
Hurt, Clarence M.  
Huston, Donald B.  
Hutchinson, Fred A.  
Hyndman, Harry L.  
Ingram, Charles R.  
Interian, Alfred F.  
Irwin, Thomas C.  
Ivans, Garvin J.  
James, Edward B., Jr.  
Jancuski, John  
Jenks, David M.  
Jennings, Robert W., Jr.  
John, Joseph R.  
Johnson, Bjarne E.  
Johnson, Charles D.  
Johnson, James F.  
Johnson, Robert C.  
Jones, George C.  
Jones, Louis E.
- Jordan, Jonathan H.  
Joseph, John B.  
Juda, Richard J.  
Julian, Ronald H.  
Kallus, Ernest R.  
Karlsen, Gustav E.  
Keane, John T.  
Kee, Kenneth R.  
Keenan, Thomas D.  
Keller, Warren R.  
Kelley, Richard A.  
Kelso, Gerald K.  
Keltner, Jerry M.  
Kemp, Michael H.  
Kennedy, Herbert M.  
Kenney, James R.  
Keough, Richard J.  
Ketchum, Daniel C.  
Kettenhofen, Billy W.  
Key, Thomas H., Jr.  
Kimmel, William K.  
King, Allen L.  
King, Kenneth P., Jr.  
Kirk, David Q.  
Kirkeby, Lenny E.  
Kisiel, Roger W.  
Kiss, Joseph T.  
Kjellman, John V.  
Klapp, Anthony J.  
Klinkowski, Johnnie F.  
Klingler, Peter J.  
Knapp, Larry J.  
Knibloe, Paul C.  
Knight, Robert L.  
Kolar, Michael J.  
Koutsky, Milos J.  
Krauss, Gordon W.  
Kremer, John R., Jr.  
Krukke, Hans H.  
Kuchem, Francis R.  
Kuruzovich, George  
Kyriakakis, Thomas  
Lacey, James M.  
LaCroix, Michael H.  
LaGrandeur, Larry B.  
Lamperts, Ronald  
Langell, James D.  
Langland, Jay E.  
LaRocque, David F.  
Larrick, Robert D.  
Lauer, William J.  
Lawson, Charles A., Jr.  
Legard, Edwin N., Jr.  
Lemieux, Robert A.  
Lidstone, Alan J.  
Lincoln, Donald R.  
Lindenauer, Richard M.  
Lingan, Henry B., III  
Lipscomb, Lee M., Jr.  
Litka, Adam L.  
Lorenzen, Phillip H., Jr.  
Losa, John W.  
Lovejoy, James L.  
Lutes, Billy D.  
Lutton, James D.  
Lyman, Richard F.  
Magee, John J.  
Maiorana, Mario  
Mann, James T.  
Manta, Vincent J.  
Marquis, Dean A.  
Martin, Kenneth H., Jr.  
Marxen, Harry A.  
Masat, Kenneth J.  
Mashek, Harold E.  
Mast, Benjamin V.  
Mayberry, Clarence D.  
Mayfield, David M.  
McAllick, John  
McBurney, Robert M.  
McCasland, James S.  
McClarren, Ralph G.  
McDowell, Gary D.  
McDowell, William M.  
McElligatt, Edward C.  
McGraw, Thomas M.  
McGregor, Theodore S.
- McGrew, Edwin W.  
McGruder, Jon C.  
McGuire, Francis J.  
McKenna, Michael P.  
McKenna, William J.  
McKinley, John H., Jr.  
McLaughlin, John P.  
McLellan, Laureston H.  
McLoone, Hugh E.  
McMenamin, Joseph L.  
Mead, David R.  
Melkerson, Jon E.  
Messikomer, Edwin E.  
Messman, Arthur R.  
Metcalf, Conrad  
Metz, Thomas R.  
Meyer, Victor A.  
Michels, Bruce E.  
Miller, Kenneth R.  
Minturn, Robert B., Jr.  
Miralla, Lauren M.  
Moore, Robert H.  
Moore, Walter J., Jr.  
Moore, Winslow L.  
Morency, Donald C.  
Moran, Gerald P.  
Morgan, Charles V.  
Morgan, Floyd T.  
Morgan, James W., Jr.  
Morrison, Michael F.  
Mundis, John A.  
Murray, Thomas P.  
Myers, John A.  
Nash, Spencer J.  
Nelbauer, James E.  
Nelson, Allen J., Jr.  
Nelson, Bruce R.  
Nelson, Lowell B.  
Nickerson, Guy D.  
Nickles, Lawrence A., Jr.  
Nienstedt, John F.  
Nolan, John T.  
Nolan, Michael E.  
Norman, Peter A.  
Norman, William S.  
Notter, Frederick W.  
Oakes, Don E.  
O'Brien, Martin J.  
Ochel, Henry R.  
O'Connor, Thomas P.  
O'Gorman, George D.  
Ohnstad, Donald A.  
Old, Harold E., Jr.  
Olivari, Robert J.  
Olson, Donald W.  
Olson, Vernon E.  
Osborne, Thomas M.  
Ostertag, Larry G.  
Ott, Carl L.  
Otterlee, Stuart E.  
Palmer, George M., III  
Panico, Robert G.  
Pape, Brian V.  
Pappas, Sam G.  
Patterson, Charles E.  
Pearson, Melvin E.  
Pedersen, Ronald G.  
Peterson, John H.  
Peterson, Alan E.  
Peterson, Carl A., Jr.  
Pethick, Donald R.  
Pewitt, Nelson D.  
Pfleger, James E.  
Phillips, Ewart E.  
Phillips, George B.  
Pittsey, Tony E.  
Plohetki, William  
Pollard, Jerry D.  
Poole, Peter P.  
Potts, Raymond A.  
Price, Robert N.  
Primacio, Leo P.  
Printer, Norman G.  
Purdy, Kenneth L.  
Rackett, Peter J.  
Rauscher, Bernard J.
- Read, Nathaniel B., Jr.  
Reese, Dale I.  
Reed, Dale F.  
Reed, Robert A., II  
Rehberg, Richard E.  
Reid, Charles P. P.  
Reilly, Hugh  
Reker, Frederick A.  
Resor, Joseph D.  
Reynolds, John M.  
Rhodes, Lee R., Jr.  
Richards, Nelson C.  
Ricks, Morris L., Jr.  
Riddle, Ferdinand A., Jr.  
Rikkens, William J.  
Riley, Harold P.  
Roach, Ronald G.  
Roach, William J.  
Robertson, Alfred L.  
Robertson, Charles L., Jr.  
Robinson, Andrew F., Jr.  
Rogers, Paul D.  
Romancheck, Walter R.  
Romero, Darryl J.  
Rose, Waldo B.  
Ross, Chester S.  
Royal, Loren E.  
Rudolph, Walter P., Jr.  
Rumrill, James K.  
Ryan, Calvin C., Jr.  
Safarik, Robert L.  
Salassi, Raymond J., Jr.  
Salko, Andrew  
Salmon, Richard G.  
Salvatore, Anthony J.  
Sargent, Joel A.  
Satterlee, Thomas M.  
Satterthwaite, Francis G.  
Savage, John E.  
Scanlan, Thomas M., Jr.  
Scharles, Henry G., Jr.  
Schlegel, James D., II  
Schmal, Donald V.  
Schmidt, Robert H.  
Schmitt, Richard R.  
Schneider, William B.  
Schroeder, Douglas D.  
Schroeder, Earl E., Jr.  
Schuster, Stephen H.  
Scott, Richard R.  
Severance, Alexander G., Jr.  
Seymour, John E.  
Shanley, Peter A.  
Siciliano, Eugene L.  
Siftar, Frank C.  
Silldorff, James S.  
Simchock, John W., Jr.  
Simmons, Joseph L.  
Sinclair, Robert E.  
Singer, Robert S.  
Sipes, John D.  
Slater, John W., III  
Sleavin, Frank R., Jr.  
Smith, Don P.  
Smith, Hamilton S., Jr.  
Smith, Kenneth A., Jr.  
Smith, Richard Carroll  
Smith, Richard Cole  
Smith, Robert E.  
Smith, Wilbur C., Jr.  
Snyder, George A.  
Sobleray, Edmund S.  
Spence, Donald W.  
Spence, James A.  
Sprague, Robert A.  
Stagg, Robert B.  
Stanford, Harold M.  
Stark, Daniel H.  
Staub, Bernard F.
- Stender, Charles F.  
Stewart, Robert J.  
Stillwell, William E., III  
Stoorza, Edwin L., Jr.  
Strickland, Clarence L., Jr.  
Stuart, Charles L., Jr.  
Swart, Coleman A.  
Takeuchi, Robert S.  
Tate, Willie H.  
Taylor, Emory W.  
Taylor, Joshua E.  
Taylor, Kenneth B.  
Thacker, Tommy G.  
Thews, Albert W., Jr.  
Thomas, Gene A.  
Thomas, Paul R.  
Thompson, Donald R.  
Thompson, John W., Jr.  
Thornton, Jack W.  
Tober, Gary E.  
Todd, William D., Jr.  
Toler, William G.  
Toner, David J.  
Toups, James E., Jr.  
Townsend, John F.  
Travis, James E.  
Trepagnier, Albert J.  
Trimble, Donald M.  
Tripple, Harvey D.  
Turco, Robert I.  
Turk, Alan R.  
Unger, Robert F.  
Usiskin, Lawrence G.  
Vallee, Robert P.  
VanDeavander, Benjamin F., Jr.  
VanGorp, Dirck P.  
Waddoups, Jed M.  
Wagner, John D.  
Wahler, Fred R.  
Waller, John C. H.  
Weissbach, Albert F., Jr.  
Weller, Reginald F.  
Wenzler, Robert T.  
Wertz, Joseph S.  
Wesenberg, William W.  
Walsh, Roger W.  
Ward, Norman J., Jr.  
Washburn, Rolla G.  
Wasserman, Larry P.  
Webb, Robert W., III  
Weisenburger, Philip J.  
Wesner, Ross C.  
Westall, Charles L.  
Westerman, Christian C., III  
Wheaton, David J.  
Wheeler, Donald R.  
Wheeler, Felder B., Jr.  
Wheeler, William A.  
Whetzel, Carlton E.  
Whitfield, James B.  
Wieber, John A.  
Wilkerson, William D.  
Wilkinson, Richard P.  
Willard, Gerald W.  
Williams, David M.  
Williamson, Thomas D., Jr.  
Willingham, Robert J., Jr.  
Wills, John A., Jr.  
Winter, Milford F., Jr.  
Wolf, Gerald P.  
Wolfe, John C.  
Womack, William G.  
Wood, Donovan M.  
Wood, John E.  
Wyman, Elliott H.  
Yates, Walter T.  
Zaiser, Ray W., Jr.  
Zimmerman, Robert C.  
Zinn, Clyde D.  
Zirkle, Don E.  
Zschau, Julius J.

## EXTENSIONS OF REMARKS

## NUTRITION IN SCHOOL LUNCH

## HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. MILLER of California. Mr. Speaker, whenever any of the various child nutrition programs is discussed in Congress, a major topic of discussion is plate waste. There has been a substantial amount of testimony concerning the poor quality and taste of many of the meals which are served our schoolchildren and which they, very naturally, refuse to eat. As is obvious, the nutritional requirements which we impose on school meals do little good to a child if they are contained in food so unpalatable or unattractive that a child refuses to eat it.

A recent article in the Contra Costa Times illustrates the manner in which a talented and innovative food program director is experimenting with new types of foods and methods of preparation to encourage children to eat better quality meals. In the light of the statistics quoted on the inferior quality of the American diet, as recently documented by the Senate Committee on Nutrition and Human Needs, such nutrition education is an absolutely essential ingredient in school feeding programs.

The article follows:

## THINGS KIDS WILL (AND WON'T) EAT

(By Marlene Michelson)

WALNUT CREEK.—"Plate waste" is a euphemism June Meyer deals with on a daily basis. It is the bane of her existence. And, it is also her challenge.

Meyer is the director of food services—another euphemism—for the Walnut Creek School District. That means she's in charge of the cafeterias.

In that job, the diminutive woman who has been with the district for 22 years, sees a lot of food wasted by youngsters, particularly those in the early grades.

"Buying their lunches is one thing," Meyer said, "but eating them is another."

The amount of food wasted depends on the day's menu. She estimates the range from 2 per cent to 40 per cent. On a day when 40 per cent is wasted, the menu usually has canned vegetables or a salad on it.

She thinks the biggest reason youngsters don't finish their meals is because they're anxious to get outdoors to play.

Whether a child buys his lunch (50 cents including milk) or brings it, plate waste runs just about the same.

"It's not necessarily the fact that they don't like the food," Meyer said. "They want to go outside. The kid at the end of the line has to eat twice as fast. That poor kid doesn't have a chance."

To combat plate waste, Meyer's battle plan involves education, downright trickery and letting kids plan the menus themselves.

Meyer and an aide will go into a school, give the youngsters samples, talk about food and the right kinds of food and show them examples of the dreaded plate waste.

One recent lunch menu—hot pizza pie, buttered corn, lettuce salad, canned pears and milk—was planned by the classes of Nancy Rossiter and Johanna Black at Parkmead School. Meyer said those youngsters ate practically everything on their plates.

Dorothy Jelly's Parkmead class also planned a district menu. Meyer's intern took samples of raw broccoli, which the youngsters tried. They included it in their menu of oven-fried chicken, mashed potatoes, bread sticks, sliced peaches and, of course, broccoli spears.

Meyer said some of them ate every bit of the broccoli, although others didn't touch it. You win some, you lose some, but Meyer keeps on fighting. When you serve some 1,100 lunches a day, 1,400 on a big day, you hang in there.

The big days in the cafeterias are when holiday meals are served. The traditional turkey for the Thanksgiving and Christmas lunches, for example.

Tacos were never on until relatively recently, but one class asked for them and now they're the favorite throughout the district. Hamburgers may be second, with pizza, spaghetti and hot dogs running close to the top of the favorites list.

Least popular foods are salads, which Meyer is working on by changing dressings and ingredients. Vegetables aren't that popular, either, but corn and green beans do get eaten. And beans, Meyer said, are accepted at some schools, but not at others. She doesn't know why.

Other mysteries she faces are the decline in popularity of stew, meat loaf and macaroni. They're served from time to time, she said, but the response isn't overwhelming.

Meyer thinks education is the best way to eliminate plate waste. She sees the school cafeteria as the learning lab, but needs backup from teachers and administrators in the classroom portion of nutrition education.

Meyer, who is armed with statistics in her nutritional battle, said Europeans have better diets than we do. Americans, for example, consume 100 pounds of sugar per person per year. We have too many convenience foods like cookies, cakes, etc., she says.

Although there haven't been more recent surveys on consumption, Meyer cites a 1969 survey that compares what we ate then to what we ate in 1947.

In 1969, Americans ate 21 per cent fewer dairy products, 25 per cent fewer vegetables, 25 per cent less fruit, 70 per cent more cakes and cookies and 23 per cent more refined sugar.

Television, which takes the blame for many of our vices, is also a villain in the nutrition war, according to Meyer.

The "tube" influences what a child eats. But she says a person can eat well at fast-food chains by simply carrying an apple or carrot sticks in their pocket and ordering milk instead of colas.

Meyer does sneak a few items into the menus. One of her trick foods is spice-raised bread, which is made with sweet potatoes.

"Of course," she said, "the kids wouldn't be caught dead eating sweet potatoes." So she disguises them.

Periodically, she sneaks spinach into a tossed green salad, and she has a new recipe for a cake made from such things as pinto beans, raisins and apples. (You'll find that recipe elsewhere on this page.)

Her source for that recipe is the Nutrition Education Project in San Ramon, a federally funded program.

From the same project she has learned of a plan that is helping reduce plate waste. Students are given their noon recess before lunch and it has been found that they are in a better frame of mind for eating.

Other similar experiments are being tried elsewhere and you can bet Meyer is keeping her eyes on them. Meanwhile, she dreams about the days when our eating habits are better and we aren't grabbing a bite here and there.

"We didn't get there in one day and we're not going to get back in one day," she said.

## COAL CONVERSION HEARINGS

## HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. GINN. Mr. Speaker, the Energy and Power Subcommittee of the House Interstate and Foreign Commerce Committee is presently holding hearings on title I, part F, of H.R. 6161—the National Energy Act of 1977. One of the more instructive presentations on this question of industrial coal conversion was presented by the American Paper Institute.

I recommend the following presentation to my colleagues:

TESTIMONY OF THE AMERICAN PAPER INSTITUTE, INC., BEFORE THE ENERGY AND POWER SUBCOMMITTEE OF THE INTERSTATE AND FOREIGN COMMERCE COMMITTEE

## INTRODUCTION

I am Loren V. Forman, Vice President, Scott Paper Company. I appreciate this opportunity of appearing before you today on behalf of the American Paper Institute, the trade association of the pulp, paper and paperboard industry.

The 200 member firms of the Institute produce more than 90 per cent of the pulp, paper and paperboard manufactured in the United States. Net sales of the paper and allied products industry in 1976 were \$39 billion. The industry employs about 680,000 people in approximately 6,000 facilities. Last year, its outlay in wages, salaries and benefits amounted to over \$11 billion, and it paid approximately \$2 billion in federal, state and local taxes.

The industry welcomes the efforts being made by the Administration and the Congress to develop an effective national energy program with emphasis on energy conservation and reduced dependence on imported petroleum fuels.

With due respect to these considerable efforts, however, we believe that inadequate attention has been given to stimulating domestic supplies of appropriate fuels, and to the multiplicity of problems for industry in a program which would add to the regulatory role of government.

However, the paper industry is anxious to make a positive contribution to resolving the nation's energy dilemmas and I feel that I can be most helpful by giving you briefly some background on what our industry has achieved to date in its conservation of energy and in its efforts to shift away from petroleum-based fuels. I then plan to point out how the proposed amendments to the Energy Supply and Environmental Coordination Act of 1974 would affect the paper industry and suggest certain changes.

## THE PAPER INDUSTRY'S PATTERNS OF FUEL USE

While the paper and allied products industry ranks among the top five manufacturing industries in total energy consumption, it is unique because it generates 45 per cent of its energy requirements from non-fossil, self-generated, waste fuels. These fuels bark, hogged wood (chipped residues from forest and manufacturing operations) and spent pulping liquors from which chemicals as well as energy are recovered.



I want to emphasize the contribution of these process waste fuels because they are renewable, being derived from trees which themselves utilized solar energy.

The self-generated proportion of the industry's total energy requirements has been increasing—from 42 percent in 1972 to 45 percent last year. Over recent years, the industry has been substituting wood-waste fuels for oil and natural gas. This substitution has been made in response to market forces. We believe, also, that this is in line with the intent of the Administration's proposed program. In 1976, the substitution represented an equivalent annual saving of 8.4 million barrels of oil.

This trend has been revealed by API's monthly Energy Monitoring System in which 85 percent of the industry's capacity regularly participates. The system has also revealed other trends in fossil fuel and purchased energy use between 1972 and 1976. For example, the industry's use of natural gas has declined from 20 percent to 15 percent, fuel oils have increased from 23 percent to 24 percent and purchased electricity from 4 percent to 5 percent. We estimate electricity needs, approximately 75 percent of which was cogenerated, that is, generating electricity as a by-product of process steam production.

Since coal is the subject on which your Subcommittee is concentrating today, let me report that the paper industry's use of coal declined from 10.5 percent in 1972 to 9.1 percent in 1975, partly as the result of environmental requirements but also because, for many mills, it was simpler and cheaper to use natural gas or fuel oils. Natural gas was particularly attractive because government regulations had kept its price artificially low in interstate markets, and it is unquestionably the cleanest of all the fuels. By 1976, however, API's data show that the contribution of coal had begun to move up to 9.5 percent. A number of companies apparently concluded that, in the longer term, coal would be a more reliable source of energy than natural gas and oil.

As another indication of the industry's shift away from imported fossil fuels toward using more of its own wastes, we would call your attention to the following table, based on information compiled by the American Boiler Manufacturers' Association (ABMA).

BOILERS ORDERED BY PAPER AND ALLIED PRODUCTS INDUSTRY, 1974-76—BY FUEL TYPE

| Fuel type            | Number of units | Capacity              |                  |
|----------------------|-----------------|-----------------------|------------------|
|                      |                 | Pounds steam per hour | Percent of total |
| Spent pulping liquor | 20              | 7,200,000             | 43               |
| Bark and hogged wood | 15              | 4,085,000             | 24               |
| Fuel oils            | 27              | 3,947,000             | 23               |
| Coal                 | 4               | 983,000               | 6                |
| Natural gas          | 13              | 729,000               | 4                |
| Total                | 79              | 16,944,000            | 100              |

These figures are further evidence that with a total of only 27 percent of new boilers being based on fuel oils and natural gas, there has already been a considerable movement in the direction of the industry's own wastes and to some extent toward coal as energy sources.

#### PROBLEMS WITH COAL

Expanded use of coal by the paper industry involves a number of broad aspects which raise grave questions that this Subcommittee and the government should consider.

(a) Does the national interest warrant the mandatory use of coal by those pulp and paper plants in states which are remote from existing coal mines?

(b) Will the nation have the capability to produce the enormous amount of equip-

ment needed to mine, transport, handle, burn and clean up the air emissions from coal?

(c) Is it realistic for the Administration to expect the nation to almost double its production of coal between 1976 and 1985—from 7.9 to 14.5 millions of barrels of oil equivalent per day?

(d) Will the environmental consequences of expanded use of coal add substantially to the industry's already heavy burden of capital investments required to meet present and future air and water standards?

(e) Will many of the plants thought to be capable of conversion to coal be permitted to effect the change because they are located in non-degradation and non-attainment areas?

#### FEA'S CONVERSION ORDERS AND THE PAPER INDUSTRY

Under existing legislation, the Federal Energy Administration recently issued Notices of Intent, the first step in implementing its authority to prohibit oil and natural gas use in certain existing industrial boilers and to require that new boilers be built with alternative fuel-burning capability. Of the 24 existing facilities, 15\* are owned by pulp and paper companies, representing 11 percent of the industry's 1977 total paper and paperboard capacity.

It is ironic and totally contrary to the efforts designed to reduce dependence on imported fuels that at least two of these fifteen facilities are multifuel or combination boilers using bark for the major proportion of their fuel.

The ten pulp and paper companies that have been served with the 15 NOI's to convert to coal have individually estimated their costs of converting and meeting expected environmental standards. The combined total exceeds \$400 million. These additional and usually non-productive expenditures will seriously inhibit the ability of a significant proportion of the industry to add new capacity to meet the nation's future needs of pulp, paper and paperboard.

One API member company has been served with coal conversion NOI's for four of its 18 existing primary pulp, paper and paperboard mills. In public hearings earlier this week, this company pointed out that, on the basis of a cost-effective analysis, it has concluded that FEA has not selected the mills most appropriate for coal conversion. These conclusions were based on such factors as locations unfavorable to coal, approaching obsolescence and the availability of waste fuels. This company also expressed its determination to develop a strategy to systematically reduce its oil and natural gas requirements and to identify appropriate conversion opportunities. Obviously, more careful and expert analysis on the part of the FEA is called for in its current efforts to achieve expanded industrial use of coal.

#### THE POTENTIAL OF WOOD WASTES SHOULD BE RECOGNIZED

In its efforts to achieve a switch away from oil and natural gas by the pulp and paper industry, the Administration should not regard coal as the only major alternative fuel. Energy legislation should clearly and specifically recognize the potential of wood and the manufacturing wastes of the forest-based in-

dustries as logical, economic and environmentally acceptable alternatives.

We would suggest the following:

1. Any legislation which the Congress enacts as a means to encourage a larger degree of energy independence should contain provisions which allow for the specific use of non-fossil, renewable fuels such as bark, hogged wood and spent pulping liquors. Municipal solid wastes could also qualify as an appropriate alternate fuel to oil and natural gas in many boiler applications. Our industry favors the maximum economic recovery and recycling of the paper component of solid waste before the combustible component is burned.

2. Current legislation and proposed amendments, in our view, give the Federal Energy Administrator unnecessarily broad authority to prohibit industrial use of oil and natural gas as well as to require conversion to alternative fuels. Experience with recent NOI's clearly indicates that the FEA does not have the best available information as a basis for valid decisions in this area, especially in regard to the paper industry's combination boiler capable of burning non-fossil, process wastes. We would recommend that such combination boilers be exempted from prohibition orders if their average annual use of non-fossil, waste fuels is 75 percent or more on a Btu basis.

3. Expanded use of waste fuels and coal in the pulp and paper industry could be accelerated by appropriate incentives, particularly in the tax area. The API testified to this effect before the House Committee on Ways and Means on May 18, supporting the proposed 10 percent additional investment tax credit for energy-related facilities which would use more of the industry's own wastes.

#### THE PAPER INDUSTRY WANTS TO MAKE FURTHER CONTRIBUTIONS

Let me repeat my earlier statement—the pulp, paper and paperboard industry is anxious to make further contributions to resolving the nation's energy dilemmas and reducing our dependence on foreign sources of energy.

We feel that this can be done by the regulatory agencies working more closely with industry in order to develop sound information on which to base the nation's overall energy programs.

Business must make its decisions largely on the basis of free market influences and the government should recognize that its regulations add a high degree of uncertainty to those decisions concerned with energy.

Finally, let me reiterate the paper industry's strong preference for the free market mechanism rather than price controls on oil and natural gas. Much of our present problem is the direct result of past controls on natural gas. We believe that a free market approach to all the fuels available to industry will assure impressive results by bringing to bear on the problems the innovative and creative abilities that have brought this country to its enviable level of economic and social development.

#### SUPPORT FOR CONSUMER COMMUNICATIONS REFORM ACT OF 1977

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. LEDERER. Mr. Speaker, for the edification of my colleagues in the House, I would like to share the following resolution of the City Council of Philadelphia in support of the Consumer Communications Reform Act of 1977:

\*These 15 facilities are located in:

Alabama (1).  
Arkansas (1).  
Georgia (2).  
Maine (2).  
Michigan (1).  
Mississippi (1).  
North Carolina (1).  
Pennsylvania (1).  
South Carolina (1).  
Tennessee (1).  
Texas (1).  
Virginia (2).

## RESOLUTION

Memorializing the Congress of the United States of America to hold open hearings on the proposed "Consumer Communications Reform Act of 1977."

Whereas, There has been introduced into the Congress of the United States of America a bill known as "Consumer Communications Reform Act of 1977"; and

Whereas, Said Bill reaffirms the basic concepts of service enacted by the Congress in the "Communications Act of 1934"; and

Whereas, Under the concepts of the "Communications Act of 1934," there has developed the best and most economical communication service in the world; and

Whereas, The proposed "Consumer Communications Reform Act of 1977" protects the interests of the average telephone users; and

Whereas, The views of the average telephone users should be heard before the enactment of any bill affecting them; therefore

Resolved, By the Council of the City of Philadelphia, That we hereby memorialize the Congress of the United States of America to hold public hearings on the proposed "Consumer Communications Reform Act of 1977" so all interested parties will have the opportunity to present their views.

## FOR THE HATCH ACT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. DERWINSKI. Mr. Speaker, despite the protective smokescreen of "reform" thrown around H.R. 10, the legislation to radically revise the Hatch Act, it is clear proponents are relying heavily on push-button public opinion. They have chosen to put the emphasis on procedure rather than ideology.

Like most Members, I have been bombarded with postcards urging a "yes" vote on H.R. 10. I would be properly impressed, were it not for the fact the opinions expressed were mass produced. A preprinted postcard with the salutation "Dear Representative" and a blank space for the appropriate Member's name certainly is not reflective of any deep-seated concern about a law which for 38 years has preserved the integrity of our civil service system.

Much more impressive are the thoughtful, individually written letters which have been sent to our offices and to the Nation's newspapers. A typical example of the genuine public concern for preserving the Hatch Act is the following "Letter to the Editor" which appeared in the May 31 Chicago Tribune:

## FOR THE HATCH ACT

PARK RIDGE.—Citizens have much at stake as Washington considers a proposal to relax the Hatch Act. Since 1939 that law has prohibited federal and postal service employees from active participation in partisan politics. Under the provisions of H.R. 10, such employees would be permitted to run as partisan candidates for elective office, to campaign for partisan candidates, take an active role in fund raising for partisan candidates and political parties, and serve as officers of political parties.

Proponents have raised 1st Amendment arguments for granting a wider political role

to such employees, but there are countervailing arguments. On three occasions, once as recently as 1973, the Supreme Court has upheld the Hatch Act, ruling that an impartial administration of the laws and freedom from all but the most blatant of political influences would suffer if it were to be relaxed.

The court said: "It is in the best interest of the country, indeed essential, that federal service should depend on meritorious performance rather than political service."

With the unlawful politicization of the civil service in the Nixon administration still fresh in our memory, even the strict penalties and prohibitions in H.R. 10 are plainly insufficient to protect against either coercion of employees or the unlawful influencing of elections, because both can occur in subtle as well as blatant ways. The risk of these disturbing consequences outweighs the arguments for heightened political activity by federal employees.

DANIEL T. SULLIVAN.

## A WEAKNESS IN OUR CHINA POLICY

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. SIMON. Mr. Speaker, each week I do a weekly column for the newspapers and radio stations in my district.

Recently, I did one on the perplexing China situation, which I hope we can resolve with honor.

I thought some of my colleagues might be interested in the column:

## A WEAKNESS IN OUR POLICY

In his recent address at Notre Dame University, President Carter said that he hoped to normalize relations with the People's Republic of China (Mainland China). He "sees the American-Chinese relationship as a central element of our global policy. . . . We hope to find a formula which can bridge some of the difficulties that still separate us."

I do not quarrel with any of that.

But I am troubled by some of our actions and attitudes on the China question. We seem to swing from one extreme to another.

For a long time we tried to pretend that Communist China did not exist, despite the fact that one-fourth of the world's population is there. We recognized the government of Taiwan (Republic of China) as the legitimate government of the mainland, a fiction that we maintained with increasing embarrassment. (The late Prime Minister Nehru of India once told me that he thought there would have been no war in Korea if we had recognized the government in power in China.)

With the bitter separation and antagonisms which later emerged between China and the Soviet Union, we suddenly found it to our advantage to visit and have top-level exchanges with the Chinese.

And now we turn our backs on the government of Taiwan—despite treaty agreements with that nation, despite the remarkable economic recovery that Taiwan has made, and despite the fact that there is appreciably more freedom on Taiwan than in Mainland China, though Taiwan has a long way to go by our standards.

The latest incident is the attempt of Taiwan's Ambassador to the United States James Shen to retire. Our government reportedly has made clear that if he steps down we will not recognize his successor. Ambassador Shen is not accorded with the opportunities for

visits with high U.S. officials usually given an ambassador. We apparently have decided to turn against Taiwan—a friend in fact, as well as by treaty—to curry favor with the People's Republic of China.

Governments will respect us if we stand by our treaties and stand by our friends.

We should tell the government on Taiwan that we intend to honor our treaty commitments, but we believe they should cease the occasional references to returning to the mainland to take over the government there.

If we continue to play the "shrewd" game of simply jumping to the side of those with power, we will gain little in the long run, for no country will trust us.

If we make clear our commitment to stand by our treaties, both Mainland China and Taiwan will gradually accommodate to that reality.

If we take on the appearance of a fair weather friend, if we give signals that we will turn our head the other way if China invades Taiwan, there is a possibility that there could be an armed invasion and bloodshed.

We ought to stop fudging on our allies, make clear our continued friendship for Taiwan, and make equally clear our willingness to develop a good relationship with Mainland China.

DRAFT STATEMENT IN SUPPORT OF AMENDMENTS TO H.R. 10, SECTION 7327 (c) (2) (D) AND (d) (1)

HON. ALLEN E. ERTEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. ERTEL. Mr. Speaker, today I am inserting two amendments to H.R. 10 into the Record, which I believe are essential to insure that the amendments contained in H.R. 10 will not violate the fifth amendment. I had initially expressed my concern about the operation of section 7327(c) (2) (D) on page 40 during the earlier debate on amendments to H.R. 10 (CONGRESSIONAL RECORD, May 18, 1977, p. 15424). Since that time, I have become even more firmly convinced of the need to alter the procedure authorized by subsection (D) when an employee fails to respond to charges in writing within the time specified.

Section 7327(c) (2) (D), on page 40 of H.R. 10, provides that an employee's failure to respond in writing to charges made against the employee may be construed as "an admission by the employee of the charges set forth in the notice and a waiver by the employee of the right to a hearing on the charges." Such a provision would violate the employee's right to remain silent, guaranteed by the fifth amendment's prohibition on involuntary self-incrimination. There may be any number of reasons why an employee would not respond to charges within the time specified—including for example, an attorney's failure to file a response within the specified time. Whatever the reason for an employee's failure to respond, the employee should not automatically be declared guilty of a violation simply because of the failure to answer the charges. If that were true, a groundless charge could be filed against an em-



ployee and that employee could be found in violation of the specified section simply because no answer was filed.

In order to prevent this from occurring, I will offer two amendments that will provide a reasonable alternative for the failure of an employee to answer charges within the specified time period. The first amendment would strike subsection (D) on page 40, replacing that subsection with a notice requirement. This notice requirement would advise the employee of the effect of his failure to answer the charges as defined in section 7327(d) (1).

The second amendment that I will offer specifies that the Commission must have a prima facie showing of the violation before it can proceed to a final decision against the employee, when that employee has failed to respond to the charges. This is the critical portion of these two amendments, requiring the Commission to examine the charges and evidence offered in support of those charges before it can issue a determination against the employee. With the deletion of the present subsection (D) and the insertion of these two amendments, H.R. 10's procedure for dealing with an employee's failure to respond to charges can be brought within constitutional limits and I urge the full support of the House for this critical amendment.

**ABORTION FUNDING PROHIBITION  
1978 FISCAL YEAR LABOR/HEW  
APPROPRIATIONS ACT**

**HON. HENRY J. HYDE**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. HYDE. Mr. Speaker, as the House will be shortly considering the Labor/HEW Appropriations Act for the 1978 fiscal year, and the whole question of abortion funding once again, I felt the following letter might be of interest to my colleagues on two of the most frequently asked questions with regard to the so-called Hyde amendment prohibition on abortion funding, enacted as part of the fiscal year 1977 measure. Some of these same points were recently raised in a Washington Post editorial, June 2, 1977, and need to be addressed.

In a letter to John P. Mackey, Esq., Washington, D.C., which addresses itself to first, the effect of the Federal court challenge to 1977 fiscal year prohibition, and the whole continuing question of Government funding of abortion, and second, the often raised equal protection argument, a distinguished law professor, David W. Louisell, who is the Elizabeth Josselyn Boalt professor at the University of California Law School—Berkeley, makes some very important and timely points, which are worthy of consideration when the fiscal year 1978 measure reaches the House floor.

The full text of Professor Louisell's letter follows, and I hope this information will be valuable to other Members of Congress in considering this whole difficult, yet timely and important issue,

which also goes to the very heart of our power of the purse under our constitutionally mandated Congressional Appropriations Power.

The text of the letter of follows:

DAVID W. LOUISELL,  
Carmel, Calif., June 2, 1977.

JOHN P. MACKAY, Esq.,  
Director, Washington Information Bureau,  
The Ad Hoc Committee on Defense of  
Life, Washington, D.C.

DEAR JOHN: The propaganda put forth by the abortion forces in their latest opposition to the Hyde Amendment, as reported by you to me, seems all but incredible. How abortion proponents can invoke the First Amendment, or Equal Protection, to keep Congress from prohibiting coerced violation of the conscience of the majority, is a mystery to me.

If you will pardon my reminding you, I predicted that the Roe and Doe decisions would let loose a rash of extremism that, reaching beyond permissive abortion as such, would threaten the very vitals of our constitutional system. Even the promoters of permissive abortion in candid moments must realize that it is one thing to permit it, and quite another to force the public to pay for it. I cannot believe that the Congress, directly or indirectly, by action or inaction, will turn over the country's purse strings to the judiciary, on the befuddled claim of a right to have permissive abortion paid for by public funds.

The Supreme Court certainly has not expedited review of Judge Dooling's decision. It seems to me that Congress would be well advised to let the tragic error of one judge rest in the limbo to which it was rightly consigned by its illogic, unprecedented affront to Congressional control of public funds, and disturbing implications for the rights of conscience of most Americans.

Sincerely,

DAVID W. LOUISELL.

**IN TRIBUTE TO REV. ORNULF  
AAGAARD**

**HON. GLENN M. ANDERSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. ANDERSON of California. Mr. Speaker, for the past 2½ years the Norwegian Seamen's church in San Pedro has flourished under the guidance and leadership of a unique and remarkable man. So when the Rev. Ornulf Aagaard leaves San Pedro for his native Norway on June 14, 1977, he will be missed by the entire Los Angeles-Long Beach Harbor community.

Reverend Aagaard was born in the town of Kristinsend on September 20, 1940. He entered the ministry of the Norwegian Lutheran Church and graduated from Menighetsfakultet, a private theology university in Oslo.

Following his graduation, Reverend Aagaard joined the Seamen's Mission and was sent to Antwerp, Belgium, for a brief period of time. Soon, he was transferred to the Norwegian Seamen's Church in New York City in 1970, where he was to spend the next 5 years. In March 1975, Reverend Aagaard arrived in San Pedro as pastor of the church there.

Fittingly, the Norwegian Seamen's Church in San Pedro stands near the

harbor, overlooking the waterfront of one of the world's busiest port complexes. Sponsored by the state church of Norway, the seamen's churches are located in most of the world's international ports, serving Scandinavian ships and their officers and crews as they travel around the world engaged in maritime commerce.

Under Reverend Aagaard's enthusiastic and able leadership, the San Pedro church has been extensively renovated and modernized to serve as a "second home" to Norwegian seafarers. On October 24, 1975, the San Pedro church was visited by King Olaf V of Norway. Reverend Aagaard was in charge of the occasion, hosting over 2,500 guests in the church. The visit, part of the 150th celebration of the Norwegian emigration to the United States, was a complete success.

Aside from his duties as pastor of the Norwegian Seamen's Church, Reverend Aagaard has in many ways become an ex-officio ambassador or good will for his native land. He has counseled many local residents planning to take vacations to Norway, often helping them make arrangements for their stay. When the California State University, Long Beach chorale visits Norway this fall for a concert in Bergen, many of their arrangements will have been made by the Reverend Aagaard.

Reverend Aagaard has been involved in his adopted community in many other ways as well. He often speaks before school classes, giving the students his first hand view of life in Norway. He is also an active member of the Sons of Norway, and has formed a committee to investigate the possibility of establishing a retirement center for Norwegians in the harbor area. It is unfortunate that the Reverend will not be here to see that project completed, since I understand that the committee has decided to proceed with this worthy goal.

When Reverend Aagaard returns to Norway, he will assume new duties as Res-Kap, or parish assistant, in the town of Aasane near the city of Bergen. He will be missed by the seamen whom he visited with when they came into port. In the brief time that he was with us, Rev. Ornulf Aagaard has become a trusted and valued friend. We hope that he will have the opportunity to visit our area again in the years to come.

My wife, Lee, joins me in expressing our best wishes to Rev. Ornulf Aagaard, his lovely wife, Aslaug, and their children; Bjarne, Oyvind, and Torel. I am sure that the memories which they will take with them are reflections of the good feelings and affection with which they will be remembered in San Pedro.

FRED WARING

**HON. JOSEPH M. McDADE**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. McDADE. Mr. Speaker, I have the distinct pleasure to submit this day a

joint resolution which calls for national recognition of a great Pennsylvanian, Mr. Fred Waring. For the past 62 years Fred Waring has applied his great talents to the singular task of bringing joy to music lovers in America and throughout the world.

In 1918 Mr. Waring formed a dance band while attending the Pennsylvania State University, which grew to be one of the most long-lived and famous choral groups, "The Pennsylvanians." Together with the Pennsylvanians, Fred Waring toured the world and still, Mr. Speaker, at the age of 77 continues to direct this magnificent singing group throughout America.

Mr. Waring and the Pennsylvanians have appeared on Broadway, radio, television, and film. From his appearance in 1923 at the Balaban Theater in Chicago, Fred Waring turned to radio in 1933 as a media which would allow many more Americans to enjoy the music he created. In 1948, he began television broadcasting while at the same time continuing his national tours. In addition to his already overburdened schedule, Fred took the time to create a music workshop so that others could share his mastery of musical direction and composition.

June 9 will mark his 77th birthday and has been declared "Fred Waring Day in Pennsylvania." On behalf of the entire Pennsylvania congressional delegation, I commend to my fellow Members, Mr. Fred Waring. May he continue through long life the richly deserved gratitude of his Nation.

#### REVISING THE HATCH ACT IS NOT THE WAY

**HON. E. THOMAS COLEMAN**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. COLEMAN. Mr. Speaker, in the May 31, 1977, edition of the Kansas City Times newspaper, an editorial expressed grave concern over the potential hazards of revising the Hatch Act.

Inasmuch as I believe these thoughts should be considered by the entire Congress and made available to the public, I submit into the RECORD the text of this editorial:

#### REVISING THE HATCH ACT IS NOT THE WAY

In theory, the repeal of certain portions of the Hatch Act would serve to grant political freedom for the federal and postal service employees under the 1939 law. In fact, extensive revision of the law would serve to unleash a potentially vast politicization of millions of government and postal workers.

Sponsors of the Hatch Act revisions showed their true motives when they withdrew the bill from the House floor after an amendment was attached prohibiting the use of union dues, fees or other assessments for any political purposes. Ninety-four Democrats joined 135 Republicans, who are natural enemies of Hatch revisions, in adopting the amendment. It was a setback for Rep. William D. Ford (D-Mich.) and Rep. William Clay (D-Mo.), who had worked hard on the bill.

Even the constraints in the amended propo-

sals would not serve to curb the danger of coercion and potential political muscle that would be at the disposal of labor or the party in power.

There is little doubt that a law, almost 40 years old, cannot remain indifferent to changing times and the growth of government. The principles of the Hatch Act—which prohibit partisan political activity by federal employees, solicitation of political contributions, service as officers in political parties, convention delegates or partisan candidates for public office—are essential in keeping special interests out of government. This does not disenfranchise federal employees, nor does it take them out of participation in nonpartisan elections or public office.

Because of the far-reaching restrictions of the Hatch Act, many federal employees impose more rigid constraints on themselves than the law requires. The House proposal does not provide adequate safeguards and leaves the employees vulnerable to abuses of the law.

The Hatch Act has survived three tests in the Supreme Court. Opponents of the law say it infringes on First Amendment freedoms. Proponents say it represents the right of a federal employee to express political preferences at the ballot box without fear of reprisal.

If backers of the proposed revision think the change would not enhance the power of a boss's influence they are hallucinating. Employees cannot help but feel intimidated by a superior who is seeking office or working for a candidate. The law, to an extent, is being bent now if not broken.

Aside from the issue of political elections is the influence that already exists in government on granting funds and letting contracts. All that is needed is for every restriction to be lifted and the closets could become filled with political scandals.

The Hatch Act became law in 1939 before government employees' unions became strong. The possibility of a built-in lobby in the federal government is alarming. The proposal to repeal portions of the Hatch Act leaves the door open to the same practices that brought on passage of the law. To revert to that era, even though the language of the bill loosely addresses violations, would invite unneeded trouble and a dilution of the electoral power.

#### POSTAL SERVICE: A VIEW FROM RURAL AMERICA, PART III

**HON. JAMES ABDNOR**

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. ABDNOR. Mr. Speaker, service is too often the forgotten part of the title: The U.S. Postal Service—at least as far as the postal bureaucracy is concerned. At the local level dedicated postmasters and clerks for the most part do a creditable job, but they must respond to the dictates from the top.

Future service of the Postal Service is a subject of concern in rural America. Of particular alarm is the recent announcement by Postmaster General Ballar that come next year Saturday mail delivery will be a thing of the past—to save money, of course—but we are going to have to take a hike in postage rates, too, because the cut will not save enough money to solve the continuing financial problems.

Mr. Speaker, rural America is just as

anxious as Mr. Ballar to find a resolution to the postal dilemma. Some ideas toward this goal were voiced editorially in the May 23, 1977, edition of the Rapid City, S. Dak., Journal. I commend it to the attention of my colleagues:

#### POSTAL SERVICE TRADEOFF MIGHT PROVE ACCEPTABLE

One thing that can be said about Postmaster General Benjamin Ballar—he's got guts.

Flying into the face of congressional sentiment, Ballar told a U.S. Senate panel recently that Americans probably will pay higher postage charges and receive mail only five days a week by early next year.

Ballar said a first-class stamp will increase from 13 cents to at least 15 cents and will be 16 cents if six-day delivery is maintained.

Ballar also said the Postal Service soon will resume closing rural post offices in areas where it feels it can do so without hurting service.

An internal Postal Service study released this month said \$490 million could be saved by closing post offices in 17,000 of the 30,000 communities that have them now. More than 7,000 of these offices do less than \$5,000 in business each year.

Ballar told the Senate panel no such large scale closings are contemplated at present. The rate would be similar to the previous rate of about 300 post office closings a year.

The Postal Service has not been closing offices since Congress last year passed a law forbidding closings while the study commission deliberated. With the study completed, the Postal Service is now free to close offices again.

Saturday mail delivery and closing small offices are hot issues in South Dakota with its largely rural population.

Previous proposals to close post offices and replace them with contract station or rural mail carriers met with resistance from patrons and the congressional delegation.

However, some post offices in the area administered by the Rapid City post office were replaced with contract stations located in stores or private homes. Postmaster Robert Hart says costs have been reduced by two-thirds. Further, he has received no complaints about the level of service.

Dropping Saturday mail service would not have the same effect in metropolitan areas where much commerce shuts down on Saturday as it would in rural areas. While we have seen no evidence that continuing six-day service in rural areas while cutting back in metropolitan areas is being considered, we suggest it should be.

If it comes to a tradeoff, residents of rural areas might be inclined to drop resistance to post-office closings provided equal service can be provided in other ways, in return for Saturday mail service.

We think it's an alternative worth exploring.

#### AUCCOIN SALUTES THE PORTLAND TRAIL BLAZERS

**HON. LES AUCCOIN**

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. AUCCOIN. Mr. Speaker, as a proud Oregonian and an ardent Portland Trail Blazer basketball fan—two facts that almost by definition go hand in hand—I congratulate the Blazers for their dramatic National Basketball Association championship.

More importantly—and with due respect to the Philadelphia congressional



delegation—I want to suggest that there is meaning in this stunning championship that goes beyond basketball or the victory itself.

This young Portland team has given all of us a reminder that unselfish human cooperation and mutual respect can overcome high odds.

It has shown us that individual effort, blended in selfless team play, can surpass the handiwork of even the greatest of talents working alone.

It has shown again that the whole can be made greater than the sum of its parts.

Today, I salute each one of the Trail Blazers and Coach Jack Ramsey for their splendid individual and team effort in capturing professional basketball's world championship.

And I suggest to my colleagues, whatever part of the country they represent, that the triumph of the values and principles that went into this championship is something everyone can applaud.

And it is something from which each of us, and the country itself, can learn.

#### MAKING THE CASE FOR CONSUMERS

**HON. LESTER L. WOLFF**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. WOLFF. Mr. Speaker, in recent weeks there has been considerable debate over legislation to create a Consumer Protection Agency. In a recent editorial, the New York Times presented both the logic and the necessity of this agency. So that my colleagues may have the opportunity to read this editorial, I submit it for the RECORD:

#### MAKING THE CASE FOR CONSUMERS

For the fifth time in seven years, Congress is considering the creation of a separate agency to defend the interests of consumers. The idea is quite simply to inject a consumer perspective into governmental procedures. Federal departments and agencies make thousands of decisions each year that affect consumers, but they are rarely so well heard as equally interested business firms. Representation in Washington requires money and expertise. Business organizations maintain staffs of lawyers and lobbyists to monitor government actions. Consumer groups make an occasional splash on individual issues, but lack the resources to follow the hundreds of debates that occur throughout the bureaucracy.

That would become the job of the proposed consumer protection agency. Its staff would represent perceived consumer interests and seek to influence decisions. Like any private interest group, the agency would have the right of petition, to present testimony, and to appeal unwanted decisions through the courts.

Most business organizations oppose the agency, charging that it might abuse its mandate. Firms already hemmed in by Federal rules, and inundated by Federal paperwork, fear yet another layer of bureaucracy. They are particularly aroused by the proposal that the agency be empowered to demand information from private corporations and to use it in court appeals.

Such fears are not groundless, but certain safeguards have been built into the proposal.

All requests for information by the agency would need endorsement from the President's Office of Management and Budget and small businesses would be exempted entirely. Moreover, with only \$15 million to spend each year, the agency would not have the resources for fishing expeditions into corporate files or for pointless litigation. There is, however, no way to guarantee that every agency cause would be meritorious or worth the bother and expense.

Stripped of rhetorical flourishes, the debate over the agency comes to this: The consumer's cause is imperfectly represented in Federal administrative proceedings. A separate consumer agency would help to correct the balance, at the cost of some additional red tape. Is it worth the price? The potential benefits seem sufficiently great and the potential harm seems sufficiently limited to answer yes, let's try it.

#### H.R. 7010—COMPENSATING INNOCENT CRIME VICTIMS

**HON. PETER W. RODINO, JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. RODINO. Mr. Speaker, some 20 States presently have programs to compensate innocent crime victims for unreimbursed losses resulting from physical injuries caused by crime. H.R. 7010, which the House is scheduled to take up on Tuesday, would provide Federal assistance to States that operate such programs.

Several organizations have expressed their support for such legislation, including the American Bar Association, the National League of Cities/U.S. Conference of Mayors, the National District Attorneys Association, the National Council on Crime and Delinquency, the National Retired Teachers Association/American Association of Retired Persons, Americans for Democratic Action, the International Conference of Police Associations, the Fraternal Order of Police, and the United Automobile Workers International Union.

Since the Committee on the Judiciary's vote to report favorably on H.R. 7010, several of these organizations have contacted the committee to underscore their support for H.R. 7010. In addition, two other organizations that had not previously expressed their support—the International Association of Chiefs of Police and the National Moratorium on Prison Construction—have written the committee to endorse the legislation.

So that the Members will be aware of the widespread support for the legislation, I am placing in the RECORD several of the letters and statements of support received by the committee:

#### INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, INC.,

Gaithersburg, Md., June 1, 1977.

Hon. JAMES R. MANN,  
Chairman, Subcommittee on Criminal Justice, Washington, D.C.

DEAR CHAIRMAN MANN: It is with a great sense of purpose that I convey to you our Association's unqualified support of H.R. 7010. The proposed legislation is a comprehensive funding measure designed to be supportive of the 16 states which have already adopted legislation providing for compensa-

tion to innocent victims of violent crimes. Furthermore, in analyzing the requirements for state participation, H.R. 7010 acts as a true incentive for the remaining states to adopt victim compensation legislation.

As early as 1967, the International Association of Chiefs of Police adopted a resolution at their annual conference which was supportive of indemnification to victims of crime (a copy of which is enclosed).

The time has come for our state legislators and the Congress to express in fair, comprehensive and meaningful terms, the genuine concern we owe to the victims of crime and their families. For so many years the rights and concerns of victims have been paid mere lip service. However, it is now apparent that H.R. 7010 is representative of the type of legislative response the American people deserve.

On behalf of the International Association of Chiefs of Police and its over 10,000 members, I respectfully urge passage of this most important and long overdue legislation.

Sincerely,

GLEN R. MURPHY,  
Director, Bureau of Governmental  
Relations and Legal Counsel.

#### INDEMNIFICATIONS TO CRIME VICTIMS

Whereas, the Supreme Court of the United States has, in its recent rulings, expressed considerable concern for the rights of the criminal defendant; and

Whereas, more and more protection is being given to such persons, particularly indigent defendants; and

Whereas, little concern is expressed for the victims of violent crime and their families; and

Whereas, the image of justice could be materially enhanced by legislation which would indemnify the victims of crimes of violence and/or their surviving kin;

Now, therefore, be it resolved that the International Association of Chiefs of Police go on record as advocating that suitable legislation be enacted either in the states or on the federal level, to provide for reasonable indemnification to the victims of violent crime and/or their surviving kin.

MONTGOMERY COUNTY, OHIO,  
June 3, 1977.

Re The Victims of Crime Act of 1977.

HON. PETER W. RODINO, JR.,  
Chairman, Committee on the Judiciary, U.S.  
House of Representatives, Washington,  
D.C.

DEAR MR. CHAIRMAN: I wanted to thank you and Congressman James Mann for the opportunity to testify before your committee's "Criminal Justice Sub-Committee" regarding "The Victims of Crime Act of 1977."

In that testimony given on April 27, 1977, I indicated the strong support of the National District Attorneys Association for that Bill. I further indicated that the National District Attorneys Association had long supported, in principle, the concept of victim compensation.

The National District Attorneys Association Commission on Victim Witness Assistance feels that your Bill will provide the impetus for the creation of equitable victim compensation statutes in those states where they do not now exist. We think that fundamental justice requires that government provide equitable financial relief to those whose lives have been damaged and interrupted by criminal acts. Moreover, we strongly feel that victim compensation and other forms of victim and witness assistance will foster more citizen cooperation with police and prosecutors alike. It is our decided conclusion that in the long run sensible programs to assist crime victims will constitute a means for also assisting criminal justice agencies in their efforts to reduce crime.

Your Bill is a good one: We support it and trust that Congress will act with dispatch in approving it.

Respectfully,

LEE C. FALKE,

Prosecuting Attorney of Montgomery County, Ohio, and Co-Chairman, National District Attorneys Association, Commission on Victim Witness Association.

INTERNATIONAL UNION, UNITED  
AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS  
OF AMERICA—UAW

Washington, D.C., June 6, 1977.

HON. PETER RODINO,

Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Our new president, Doug Fraser, has asked me to express to you the strong support of the United Auto Workers for H.R. 7010, the Victims of Crime Act of 1977.

The principle that innocent victims of violent crimes should be compensated for economic loss is something in which the UAW has long believed. It is a principle that has gathered widespread support across the country in recent years.

The time has come for the Federal government to help states compensate innocent victims of violent crime, with the justified establishment of certain criteria for eligible state programs. H.R. 7010 does precisely this, and the UAW is delighted to endorse this legislation.

Sincerely,

HOWARD G. PASTER,  
Legislative Director.

INTERNATIONAL CONFERENCE OF  
POLICE ASSOCIATIONS,  
Washington, D.C., June 1, 1977.

HON. PETER RODINO,  
Chairman, House Committee on the Judiciary, Washington, D.C.

DEAR MR. CHAIRMAN: I am in receipt of a copy of H.R. 7010 and House Report 95-337 relative to the Victims of Crime Act of 1977.

Please be advised that we have reviewed this amended legislation and find it meets with our approval as per our recent testimony before your Committee.

Sincerely,

ROBERT D. GORDAN,  
Secretary-Treasurer.

#### STATEMENT ON VICTIM COMPENSATION

We strongly support H.R. 7010, to provide for grants to States for payment of compensation to victims of violent crimes.

We believe that it is urgent that the problems of victims of crime be addressed directly by Federal legislation. So far, victim compensation programs have been enacted by less than half of the states (17 states by September, 1976).<sup>1</sup> Furthermore, most states have inadequate funds to finance their victim compensation programs. It is important that victim compensation programs be established and adequately funded in every state, and that some national standards for victim compensation programs be established. The present bill, H.R. 7010, which would provide Federal matching funds to state programs (paying for half of most program costs), is a very good mode of Federal involvement.

Recognition of victim needs through victim compensation is an excellent way for

community concern for the victims of crimes to be expressed. Victims of violent crime are often poor and do not have adequate insurance. Compensation can alleviate some of the inconvenience and emotional trauma through providing payment for medical bills, which are often high, and providing some recompense for the victim's lost labor. It may also lessen the community's need for retribution and vengeance and contribute to the needed restoration and reconciliation of everyone involved.

Compensation, as a positive expression of community support for victims, stands in sharp contrast to the present U.S. overreliance on the negative expedient of incarcerating offenders for both violent and unviolent crimes in destructive prison settings.

Compensation can be a first step toward alleviating the economic and social problems of crime. As former Supreme Court Justice Arthur Goldberg has said, "Ultimately, society pays the costs [for victims of violent crimes] in terms of lost jobs, unemployment compensation, welfare, and a dangerous feeling of insecurity. It is only realistic that society, through a program of public compensation, address itself explicitly to costs it bears in the first place."<sup>2</sup> Of course, poverty, unemployment, and massive social injustice are not characteristics limited to victims of crime, but are characteristics also of a majority of the persons accused or convicted of crimes and then imprisoned. At least four recent studies have shown a very close correlation between changes in the unemployment rate and state and federal prison populations.<sup>3</sup> In a study for the Joint Economic Committee, Dr. M. Harvey Brenner estimated that an increase of 3,340 state prison admissions can be attributed to a one percent rise in unemployment sustained over a six year period. Ultimately, we would hope that Congress and the Administration would see fit to enact and implement comprehensive national programs, in order to attack the social injustices which are at the root of the problems for both victims and offenders. One particularly important objective should be full employment for all adults seeking work.

We would hope also that this bill, by dealing with the needs of victims, can serve as a beginning of an alternative way to cope with crime through the increased involvement by victims. We offer the concept of offender restitution to victims as a useful extension to programs of victim compensation. In a restitution program, an offender can work out an agreement to rectify or compensate for the damage he/she has caused, either through a supervised meeting with the victim, or indirectly through a probation officer. The offender is helped to find a job in order to meet his/her obligations. Restitution can be used as a means of diverting some cases from the courts, as in Tucson, Arizona, or it can be used in addition to very short prison sentences, as in Minnesota, Georgia, Oregon, Massachusetts, and Iowa. Conceivably, restitution might be a reason-

<sup>1</sup> Goldberg, Arthur, Preface, Symposium on Governmental Compensation for Victims of Violence, 43 Southern California Law Review (1970), pages 2 and 3.

<sup>2</sup> M. Harvey Brenner, "Estimating the Social Costs of National Economic Policy: Implications for Mental and Physical Health, and Criminal Aggression," a study prepared for the Joint Economic Committee, p. 88; Congressional Budget Office, "Federal Prison Construction: Alternative Approaches," Budget Issue Paper, January, 1977; Congressional Research Service, "Prison Population and Costs—Illustrative Projections to 1980," April 1974; and William Nagel, "A Statement on Behalf of a Prison Moratorium," *Crime and Delinquency*, April, 1977.

able alternative sanction for certain persons guilty of violent offenses who are not a risk for repeating their offense.

Offender restitution to victims has much of the same positive attributes as victim compensation programs, but it has some additional value besides. It can bring together the victim and the wrongdoer as human beings, not as stereotypes. It allows the lawbreaker to remain in the community, since he/she has agreed to rectify the original wrong. Also, it can save the community, the state, and the affected individuals the economic and psychic costs of trial.

We do have some small suggestions on ways to improve the bill. We hope that there could be an explicit requirement that state statutes provide compensation to rape victims. The state laws often fail to address the problems of pregnancies inflicted on rape victims, as well as nonphysical injuries. An extensive public education campaign would be helpful to alert persons, especially those who are poor, to the existence of victim compensation programs. Perhaps Federal matching funds could be provided for this purpose. Finally, although we support the provision that allows matching funds for compensating lost earnings up to \$200 per week per individual, we are uneasy about limiting this compensation solely to wage earners. The time and labor of all persons are valuable, including those occupations which are often unpaid, such as housework and child care. A more equitable provision would reimburse all adults for their lost time at a flat rate of \$100 to \$125 a week, possibly subject to some determination of need.

Finally, we wish to commend the program for its modest and reasonable costs. We note that the Committee has proposed an authorization of \$40,000,000 in 1978, \$50,000,000 in 1979, and \$60,000,000 in 1980. This is only a small portion of the three and a half billion dollars budgeted for law enforcement and justice expenditures by the Federal government in the first Congressional budget resolution for 1978. These sums are also less than unnecessary and harmful proposals for Federal prison construction which we have opposed in other statements.<sup>4</sup>

We urge that Congress promptly enact H.R. 7010.

STEPHEN W. ANGELL,  
Legislative Coordinator, National Moratorium on Prison Construction.

#### BIG BAD BUSINESS

#### HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. DEL CLAWSON. Mr. Speaker the editors of the Washington Star take a careful and objective look at the proposed "tiny" Agency for Consumer Protection in the lead editorial June 4, 1977. Their comparison of President Carter's comparison with ACP and HEW is worthy of each Member's serious and sober consideration before supporting a

<sup>4</sup> See the statement by Milton Rector, President of the National Council on Crime and Delinquency, in opposition to the \$67,588,000 proposed for constructing three new federal prisons and planning two others in fiscal year 1978, in Part 7, Hearings before the House Appropriations Subcommittee on State, Justice, Commerce, and the Judiciary, 95th Congress, first session, page 471. Other statements on the same issue appear on pages 458 to 497.



proposal with such an obvious potential for interagency infighting with tremendous cost to the consumer. Rather than help the consumer, this type of agency fighting agency may result in an uncontrollable Trojan horse in the Federal system. The editorial follows:

#### BIG BAD BUSINESS

An interpretation of President Carter's message to businessmen, during a pep rally for the consumer protection agency the other day, could well be: Stay home and mind the store, but don't come poking your noses into governmental affairs.

"Individually, the business leaders of our country are fair; they want to be sure that their own customers are protected," the President said. "Unfortunately, when business leaders organize and hire lobbyists, they lose that individual commitment to their customers. . . ."

Mr. Carter is upset over opposition from business groups, particularly the U.S. Chamber of Commerce, to legislation that would create an Agency for Consumer Protection. The President would have everyone believe that the ACP will be a "tiny" agency with no authority beyond "the right to be heard."

Well, \$15 million a year is small by Washington standards and it is, as Mr. Carter pointed out, less than the Department of Health, Education and Welfare spends in an hour. But if the ACP is created and follows the pattern of most governmental agencies, in a few years the infant agency will have grown into a bureaucratic giant. We might note here that the HEW to which Mr. Carter compared it started out less than 25 years ago with a budget of approximately \$1.7 billion while its latest budget runs to more than \$145 billion.

No authority? What does the White House call the right to intervene in the affairs of practically all other federal agencies and the right to sue them if ACP officials disagree with their decisions? What does it call the right to compel businesses to answer written interrogatories?

Business is rightly concerned about the legislator. Is it being "selfish," as Mr. Carter characterized the business groups, to oppose legislation that will create more bureaucratic red tape for businessmen who already are strangled in red tape, to oppose legislation that very likely will increase the cost of doing business and thereby increase costs to consumers, to oppose legislation that will add another unnecessary layer of government for which taxpayers (consumers) will have to pay the bill?

But the thing that bothers us most about Mr. Carter's statement is the implication that businessmen have no business organizing themselves to argue for what they believe in.

We are reminded of a memorandum written several years ago by Lewis Powell, before he became a Supreme Court Justice, in which he warned business leaders that they were too complacent about attacks from many quarters of the economic system. "One of the bewildering paradoxes of our time," he wrote, "is the extent to which the enterprise system tolerates, if not participates in, its own destruction."

Mr. Powell urged businessmen individually to "confront this problem," but more important, he said, was the need to organize. "Strength lies in organization, in careful long-range planning and implementation, . . . in the political power available only through united action and national organizations."

But Mr. Carter implies that when businessmen organize they become "unfair"; they become "selfish special interest groups."

So go home, businessmen. Leave the legislating and the lobbying and the formulation

of public policy and governmental programs to the White House, George Meany and Ralph Nader.

#### CUBAN GOOD FAITH NEEDED FOR DIPLOMATIC RELATIONS

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. BROOMFIELD. Mr. Speaker, with the administration's announcement that the United States and Cuba will exchange midlevel diplomatic personnel, it appears that we are moving toward reestablishing full diplomatic relations with the Castro regime, and lifting the 16-year-old trade embargo against Cuba.

Despite these administration initiatives, the Castro regime persists in a number of policies that are clearly unacceptable.

Two years ago, the Castro regime flouted the principle of self-determination by sending thousands of troops to fight in the Angolan Civil War and to impose a Communist government in that country.

Today, Castro maintains a force of more than 10,000 Cuban troops in Angola. At the same time, he is trying to expand his influence by deploying military advisers throughout the African continent—in Ethiopia, Mozambique, and elsewhere. Premier Castro's Communist revolutionary activism clearly has not abated.

Cuba still has made no effort to compensate American citizens for the \$1.8 billion in property and assets it expropriated following Castro's takeover in 1959.

In the area of human rights, at least 18 American citizens are incarcerated in Cuban jails, 7 of whom are being held on charges of espionage or allegations of a similar political nature. Others are being held on charges of drug use or hijacking. In this same vein, credible reports indicate that as many as 15,000 to 20,000 Cuban citizens are imprisoned because of their opposition to the Communist government. The United States must apply the same human rights criteria to Cuba that we apply to other nations and demand that the Castro regime take steps to resolve this concern.

Finally, the Cuban Government has announced that as of April, it will terminate the antihijacking agreement with the United States. This agreement has served as a strong psychological force to discourage the hijacking of American planes to Cuba. In unilaterally terminating one of the few ties between our two countries, and by refusing to assure us of the future security of our naval base at Guantanamo Bay, the Castro regime calls its good faith into question.

Mr. Speaker, because these problems persist between our two governments, and because I believe the Congress and the American people should be partners in this proposed major change in U.S.

policy, I am joining, today, the distinguished Senator from Kansas, ROBERT DOLE, in introducing a resolution expressing opposition to the normalization of U.S. relations with the Cuban Government until the Cuban Government demonstrates its good faith by meeting certain conditions.

These conditions of good faith are:

First, compensation for U.S. property confiscated by Cuba in 1959;

Second, release and repatriation of U.S. citizens currently imprisoned in Cuba on political charges, along with progress toward observance of the human rights of Cuban citizens;

Third, withdrawal of Cuban military troops and military advisers from Africa; and

Fourth, renewal of an antihijacking agreement with the United States and guarantees for the future security of the U.S. naval base at Guantanamo Bay.

Mr. Speaker, the United States cannot unilaterally restore political and economic relations with Cuba. If there is to be a sound relationship between our two countries, both governments must show good faith.

If the Castro regime is unwilling to meet us halfway by adjusting its policies and eliminating these problem areas, then the United States need not rush to extend Cuba recognition or trade considerations.

I urge my colleagues to join in supporting this resolution which will outline a sound basis for reestablishing ties with the Government of Cuba.

#### ETHIOPIA—A TURN FOR THE WORSE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. DERWINSKI. Mr. Speaker, the unruly and undemocratic behavior of the current Marxist regime in Ethiopia has been the subject of much international attention of late. Hardly a day goes by without some new report of the ruling military junta's political oppression that now appears to have reached pervasive proportions.

The recent seizure by Government forces of the Radio Voice of the Gospel, Africa's most powerful broadcasting station, illustrates just how sweeping the crackdown has become. Owned and operated by the Lutheran World Federation, it was the only independent media source in Ethiopia. Since its nationalization, the station has been renamed Radio Voice of Revolutionary Ethiopia and is now transmitting Ethiopian propaganda throughout Africa.

Mr. Speaker, it is now quite clear that the expropriation of the Radio Voice of the Gospel was part of the Ethiopian Government's policy of placing all forms of media under its control to further the social, economic, and political objectives of the Ethiopian revolution. Although it

may be stretching it a bit to suggest that this takeover is directly linked with Ethiopia's recent decision to close five U.S. facilities in Ethiopia and expel the associated personnel, I believe the two actions demonstrate that the present Ethiopian regime does not wish to maintain the close relationship that historically has existed between our governments and people.

Unfortunately, what is emerging today in Ethiopia is quite similar to what we have seen take place in recent years in such other African Marxist states as Angola, Mozambique, and Somalia. In fact, I think it is fair to say that the Ethiopian junta has "gone to school" on what has occurred in those countries and is implementing—with the assistance of its Cuban tutors—a well thought out scenario that is culminating in the termination of Ethiopia's close ties with the Western world and the establishment of a very cozy political, military and economic relationship with their new found Marxist brothers and sisters in the socialist East.

Such a turn of events is, indeed, lamentable and, when coupled with all the other bad news we have been receiving lately from Africa, cause for real concern. Moreover, it points up dramatically the tough questions confronting the current administration as it shapes its African foreign policy. Tough questions require tough calls and I hope this administration can summon the courage to make them, and with one voice. If it does, I am confident this Congress will lend its full support.

**MARK F. JONES III IS HONORED  
BY ALHAMBRA JAYCEES**

**HON. JOHN H. ROUSSELOT**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. ROUSSELOT. Mr. Speaker, it affords me great pleasure to join in paying tribute to a young man who has made a fine contribution to his community and to the Jaycees' cause in Alhambra and the San Gabriel Valley. On Friday, the 10th of June, Mark Jones III will be honored for his outstanding leadership not only in the Alhambra Jaycees, but also in the State of California as Alhambra president, as State Jaycee director and, most recently, as lieutenant governor of district 2. Mark is being recognized for his many efforts for the betterment of our society on this occasion because he is being transferred by his company, Pacific Telephone, to the Sacramento area. He will be very much missed by his fellow Jaycees who have said:

Mark's efforts over the last seven years have been an inspiration to many new Jaycee members. His enthusiasm for the Jaycees and Alhambra has been a primary cause for the resurgence of the Jaycees in this town.

I am sure the people of Sacramento will have much to benefit when this dynamic young man and his lovely wife, Deborah, take up residence in their area.

Mark Jones III at age 30 has made his presence felt in other activities as well. He is an ex officio member of the Alhambra Chamber of Commerce, and through his interest in youth he has served on the board of directors of the San Gabriel Valley Boy's Club.

While somewhat after my time, Mark grew up in my hometown, the city of San Marino. He was active in his high school student government and was a letterman on San Marino's football team. He attended California State College, Los Angeles, where he served on the intrafraternity council and was a member of then Sigma Alpha Epsilon Fraternity where he received the order's most prestigious award, the Order of the Phoenix.

It is with a great sense of pride that we part with these fine citizens, Mark and Deborah Jones. The excellent qualities which distinguish Mark as a leader have left their imprint on our community and we know that these same characteristics will spirit him on to greater success in his new venture, but we hope he will always feel that he has a home in the 26 Congressional District.

#### ASSASSINATIONS

**HON. CHRISTOPHER J. DODD**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. DODD. Mr. Speaker, I am pleased to bring to the attention of my colleagues a portion of an article written by our former colleague, the Honorable Al Lowenstein, on the assassination of Robert Kennedy.

This article which appeared in a recent issue of Saturday Review, is one of the most thoughtful and articulate expositions I have seen on why the investigation of his death should go forward.

As a member of the House Select Committee on Assassinations, I believe it will be of great interest to any who yet have lingering doubts as to the purpose of our committee's probe into the deaths of John F. Kennedy and Martin Luther King, Jr.:

For a long time now, we have been trying to explain that what commands the reexamination of the Kennedy and King murders is not ghoulish curiosity, or vengefulness about dishonesty or incompetence, or devotion to abstract concepts of justice, or sentimentalism about the men who died, but simply the urgent question of whether disasters may loom ahead that could be averted if we found out more about disasters past.

Years have been squandered in ugly, stupid brawling about whether to face legitimate questions about seminal events. One result is that some people have come to see conspiracies everywhere, and some invent them where they can't see them. Some who have poked around these skeletons for a long time have capsized somewhere along the way into a kind of permanent overwroughtness that makes them easy to ridicule. Matters that require dispassion and open minds have become polarized, while everything hangs in limbo and suspicious keeps oozing around that things are more sinister than may actually be the case. It may turn out that the hardest part of dealing with the

new realities of the arrangement and use of power in America is to modify our sense of what America is without modifying the sense of what it can and should be.

Sensible people keep asking if it is really worth the time and effort to dig into the difficult past in this difficult way. Some time ago, near the beginning of this long journey, I tried to explain my own reason for pressing ahead. "Assassinations of national figures are not ordinary murders," I wrote. "When bullets distort or nullify the national will, democracy itself has been attacked. When a series of such events changes the direction of the nation and occurs under suspicious circumstances, institutions seem compromised or corrupted and democratic process itself undermined." It was Robert Kennedy's special gift that he understood the new realities of power in this country and could make people believe that if they roused themselves to the effort they could, as he liked to put it, "reclaim America." Perhaps that helps explain why the pain of his loss remains so great after so long a time.

We have made a good start toward preventing the repetition of some past abuses of power, especially government abuses, because we have learned about those abuses and have set out to guard against them. But there are other abuses we cannot yet guard against because we do not yet know enough about them to know how to guard against them. It seems elementary, for example, that if groups do exist that can eliminate national figures and get away with it, they are unlikely to spring into existence only on occasions of state murders: How are they occupied between-times?

James R. Hoffa did not vanish after a rendezvous with a James Earl Ray "acting alone," loose nuts did not do in the Yablonskis, new editions of Lee Harvey Oswald or Sirhan Sirhan did not murder Sam Giancana in the basement of his home while he was under twenty-four-hour guard by the FBI. It is time to accept the fact that the question is not whether groups with such power exist, but how these groups use their power, who their allies are—in and out of government—and what if anything can be done to protect democratic process against forces and alliances that operate out of sight and often beyond the limits set by the law.

That is a fitting question for the elected representatives of the people to deal with, since nothing less than the strength of government of, by, and for the people rides on the answer. And finding out all we can about the assassinations is an important part of trying to answer that question.

**WINIFRED McPHERSON, THE LADY  
WITH A BIG HEART**

**HON. GEORGE E. DANIELSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. DANIELSON. Mr. Speaker, a most respected constituent whom I greatly admire is being honored this week in my congressional district. Winifred McPherson, who for 20 years has spearheaded the American Heart Association fund drives in Montebello, Calif., will be honored at a testimonial dinner on Wednesday, June 8, 1977 at the Montebello Country Club.

During the last 20 years, Winifred McPherson has recruited the participation of more than 6,000 residents of



Montebello to participate in the great fight against heart disease and has raised more than \$15,000 for research and education. She also conceived and made reality of the Montebello queen's debutante ball through which more than 350 young ladies of Montebello have joined the Las Rosas debutantes and help provide many needed community services. Small wonder she has become known as "The Lady With a Big Heart."

Winifred McPherson is one of those essential and wonderful persons who see and recognize the needs of the community and then, willingly and without question, take on the task of trying to meet those needs. Without people like her the quality of our community life would be poor indeed.

Mrs. McPherson is noted for her leadership and participation in many civic activities, guiding young people and others in the community in giving service to their fellow citizens. I am proud to represent Winifred McPherson and to bring her accomplishments to the attention of my colleagues.

#### THE IMPERIAL PRESS

### HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. WHITEHURST. Mr. Speaker, in recent months, numerous articles have appeared outlining congressional perquisites. For the most part, these have been more concerned with sensationalism than with objectivity or factuality. The latest of these, a four-part syndicated series on "The Imperial Congress," has recently been appearing in the Norfolk (Va.) Virginian-Pilot, and it has been refreshing, to say the least, to find this particular series accompanied by a set of articles by Morris Rowe, a member of the news staff of the Virginian-Pilot, who has made a serious effort to research and present facts.

One of Mr. Rowe's articles, which appeared in the May 25, 1977, edition of the Pilot, dealt with the corresponding perquisites available to the Washington press corps who cover the Congress. I am delighted to take this opportunity to share this with my colleagues and other readers of the Record, and I want to commend Mr. Rowe for his thorough research, his objectivity, and his willingness to present the other side of the coin. Such an effort to set forth all the facts is truly professional reporting:

PRESS, TOO, SHARES IN GRAVY  
(By Morris Rowe)

The press in Washington, which occasionally exposes the luxuries of congressional office, is not without its own privileges, perks, and taxpayer subsidies.

While the public and sometimes congressmen have to stand in line for a table in the House and Senate restaurants, reporters do not. They have their own reserved tables in each place. They pay the same prices as congressmen and the public, however. They are also entitled, by being accredited to either the Senate or House press galleries, to use any government agency cafeteria.

They work out of seven taxpayer-funded

press galleries in Congress. The taxpayers supply them with typewriters, telephones, copy paper, electricity, heat, and air-conditioning.

A staff of 11 in the House galleries attends the needs of the media, taking messages, keeping reporters informed of House activities, arranging press conferences, and reserving them special seats at committee hearings.

A staff of 14 does the same thing in the Senate.

Some of the 1,200 accredited journalists get free parking in 128 reserved spaces on Capitol Hill.

The press galleries are under the control of the respective sergeants at arms and were initially established by Congress in 1856.

A radio-television gallery in each house was created in 1939, and in 1947 special galleries for writers of periodicals were established.

Benjamin West, superintendent of the House galleries, said, "Since then, Congress has provided space, equipment, legislative documents, typewriters, staff, and all that is required for a legislative news office to function."

Any special news transmission equipment or long-distance calls must be paid for by the news agency using it.

All of the perks are justified by staffs of both galleries on the ground that it helps keep the public informed.

"I personally think that after 35 years' experience," West said, "that it is a necessary and vital facility."

He said that if each news organization paid its own way, it would cost \$10,000 a year each to keep a reporter in Washington. "And I don't think too many dailies could survive that."

"I personally think there is perhaps a legislative obligation to provide the press a facility to enable it to enhance public awareness."

"Not all coverage is commendable, but it is vital and Congress should contribute to it, even if it means funding it."

Some news organizations and reporters have tried to pay their own way, a Senate gallery staffer said, but such attempts are frowned on. "There's no way of breaking down the costs."

"Some reporters claim they don't want to be subsidized by the government, but they don't complain when they ride a subsidized bus to work," he said.

West was unable to say how much it costs to run the House press galleries because of fragmented accounting procedures, but Ron Martinson, administrative assistant to the sergeant at arms for the Senate, said \$325,000 represents the salaries of the 14 staffers whom he oversees.

Martinson said other figures on costs are not available "because they aren't kept in the form people want."

"You would have to figure air-conditioning-heating costs, electricity, depreciation on desks, chairs, and so on, and we just don't have that information broken down that way."

With the possible exception of the House gymnasium, congressional sources said most of the perks that Robert Shrum detailed in "Imperial Congress," are available to the news media and the public—at the same prices.

#### AIRCRAFT REPAIRS

### HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. KETCHUM. Mr. Speaker, today I have introduced a bill which seeks to require that all repairs on an aircraft

be preceded by a written, signed estimate.

Over the years plane owners have endured many abuses while having repair work completed on their aircraft. Not only has this been costly, but it has been time consuming as well.

The bill which I have submitted states that prior to the performance of any maintenance, alteration, overhaul, or repair work on an aircraft or aircraft component for which a customer is to be charged more than \$100, the customer must be given a signed, written estimate for the work involved. This includes the estimated completion date of the work to be performed, the estimated price for labor and parts, and a statement of any work to be performed by another facility. For this estimate a reasonable fee may be charged by the mechanic.

Furthermore, the bill provides that a customer may not be charged in excess of 10 percent of the written estimate unless he has been notified of the additional costs and has given his consent in writing. Any violation of this section may be brought to a U.S. district court to recover treble the additional costs incurred.

Similar laws pertaining to auto repairs have worked well and I firmly believe that enactment of this bill will meet with the same success. Mr. Speaker, it is my sincere hope that my colleagues will join me in this effort.

FORMER SENATOR ROBERT F. KENNEDY

### HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. KOSTMAYER. Mr. Speaker, June 6 is the ninth anniversary of the death of former Senator Robert F. Kennedy of New York.

For America, June 6, 1968, was a day of terrible sadness. For me and for millions who labored on behalf of the late Senator's Presidential candidacy and believed in his cause, it was a terrible time.

The anniversary of Senator Kennedy's death comes just a week after Memorial Day, a time when Americans honor those who have given their lives for the land we love. For the late Senator's family, and for his wife and children especially, this is a difficult time—for them the wound will never heal. But perhaps the expressions of our love for Bobby can somehow ease the loss.

He was struck down in perhaps his greatest hour and on the eve of what I believe would have been his Presidency.

We can keep his memory and his mission alive. For he was truly an American revolutionary, filled with a vision of a land at once mighty and compassionate.

And so, Mr. Speaker, I have written to the Postmaster General recommending that he commission an American postage stamp commemorating the life of the late Senator Robert F. Kennedy. The stamp is to be initially issued on the 10th anniversary of his death, June 6, 1978. I

have also written to the Citizens Stamp Advisory Committee, asking them to recommend the Kennedy stamp to the Postmaster General.

I ask that my colleagues join me in advising the Postmaster General of their support for this stamp.

Mr. Speaker, let us remember the life and death of this great American who willingly challenged the greatest of odds on behalf of justice at home and peace throughout the world.

#### **SOUTH KOREANS REITERATE CALL FOR RETURN TO DEMOCRACY**

**HON. DONALD M. FRASER**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. FRASER. Mr. Speaker, I would like to insert in the RECORD the Charter for Democratic National Salvation and the Declaration for Suffering. The Charter for Democratic National Salvation was issued on March 22, 1977, and signed by a number of prominent South Koreans who have called upon President Park to restore democracy and human rights to South Korea. Many of the persons who signed this statement have since been harassed and arrested.

Attached also is the Declaration for Suffering which was signed by a number of students of Hankuk Theological Seminary in South Korea. It also calls for return to democratic government. Many of the signatories of this statement have also been arrested and many of them are still detained by South Korean authorities.

It is my view that in shaping our policy toward Korea that we cannot ignore and, indeed, we must give greater attention to the gross injustices which are occurring in South Korea.

The documents follow:

#### **CHARTER FOR DEMOCRATIC NATIONAL SALVATION, MARCH 22, 1977**

Our freedom to speak and act is severely restricted. Since November 1976, and particularly since February this year, the whole country has been placed on strict police surveillance; democratic citizens of all walks of life including those in religious professions have been arrested and detained by intelligence and police agents, and the meetings and speeches planned for the restoration of democracy have been completely blocked. Such a situation shows the newly emerging passion for democracy among our people, and at the same time explains how severe is the suppression imposed upon our struggle for democracy.

Under such suffocating circumstances, only a few citizens could be contacted to sign this charter. We hope that this document will be widely communicated to democratic citizens and we furthermore eagerly expect a great many efforts to realize it.

1. The March First Declaration for Democratic National Salvation and the January 23rd Wonju Declaration are declarations of the whole people. We are proud of being together with those who participated in the declaration at the very court that suppresses the people's declaration. The statement of reasons for the appeal case submitted by the March First defendants is indeed one that has been submitted to the court of history

and truth of the whole people longing for democracy.

2. The whole situation which has developed around the Korean Peninsula—arguments for the withdrawal of the American troops, human rights issues, deterioration of international goodwill and relations through bribery and scandals—is entirely due to the dictatorship and human rights violation of the present government and therefore, the responsibility lies with the government. We believe restoration and realization of democracy, for which the whole people are truly united, is a historical mission which ought to precede the issue of the withdrawal of the American troops.

3. For the present government to overcome the challenge of our national history, the following points should be put into practice:

(1) Repeal of the Yushin Constitution and Emergency Measures and declaration of their invalidity.

(2) Full Restoration of the human rights of all the political prisoners and abolition of undemocratic systems and laws.

(3) End to repression and intelligence politics including torture and surveillance.

(4) Freedom of speech, freedom for universities and for religion and guarantee of judicial independence.

(5) Guarantee of people's rights to livelihood: workers, peasants and fishermen.

(6) Wiping out of injustice and corruption, and the establishment of a just and open diplomatic stand based on goodwill.

4. We, who strive for peace and the common good of humankind, firmly believe that the rights of men and women and the struggle for those rights transcend national boundaries. Democratization of South Korea leads not only to the achievement of peace on the Korean peninsula, but also to world peace. Therefore, it is a just right as well as responsibility as human beings that people all over the world who love freedom and peace give solidarity to the Korean People's suffering struggle for democracy and the promotion of human rights.

5. Today it is the greatest responsibility for the whole people of all walks of life to fight for democracy, national autonomy and national unification. Workers, peasants, salarymen, civil servants, intelligence agents, students, religious personnel, intellectuals, small merchants and manufacturers—We appeal to all the people whose human dignity, freedom and right for survival were trampled, to demonstrate their utmost courage and creativity, to prove their attitude as democratic people by arousing their passion to strive for democracy.

By this statement we promise to form a united movement for democratic citizens.

Long Live Democracy!

Youn Po-sun, Former President.

Chung II-hyong, Assemblyman, New Democratic Party.

Ham Sok-hon, Editor, The Voice of the People, Quaker leader.

Chung Ku-young, Former Chairman ruling Democratic Republican Party.

Yung Hyung-jung, Catholic priest.

Chon Kwan-woo, Former chief editor, Dong-a daily.

Yang II-dong, Head of Democratic Unification Party.

Chi Hak-soon, Catholic bishop of Wonju.

Park Hyung-kyu, Minister, Chell Presbyterian Church.

Cho Hwa-soon, Chairperson, Korean UIM.

#### **DECLARATION FOR SUFFERING, APRIL 7, 1977**

(By Hankuk Theological Seminary)

We pray that the suffering of Christ will contribute to the recovery of democracy, freedom and peace.

We, the students of Hankuk Theological Seminary, confess that our Saviour is Jesus Christ who come into this world as a man to save us from sin and eternal death, and to

liberate us. He suffered by himself on the cross and we now light the torch of justice to remember his suffering to follow him in this time of darkness and to recover our true nature, given by God in His image. The suffering of Christ will never be a myth or a legend but will always be real among us, even here and now. Therefore, we believe that participation in His suffering is the only way in which Emmanuel brothers and sisters can carry out their responsibility as disciples of our Lord.

Behold! Spring has come, though the cold wind still blows. The morning of a new history is dawning in the midst of injustice and evil. We remember the experience of the unusual October just five years ago. The Yushin Constitution, passed through the use of all kinds of threats and injustice in an atmosphere of terror in which rifles and tanks were rattled, was a fabrication made by force under martial law, the principle of democracy—government of the people, by the people, and for the people including separation of the three branches of government was struck out. This conduct has countered the supremacy of God and world peace, which the people of God aim to realize. We know that nowhere in history can we find such an evil and inhumane law as the Yushin Constitution. The outrageous and unbelievable "Emergency Decrees," have become known all over the world, particularly for their viciousness and cruelty. Besides these, the laws for national security and for social safety are barbarously suppressing human rights in this country. The present government, which is attempting to perpetuate its dictatorial power through the suppression of human rights, wastes national resources on behalf of their own safety by giving enormous bribes to high officials in the United States via Park Tong Sun, and in Japan. The government knows that it is impossible to avoid being despised in international society and from becoming an international orphan, the government has suppressed the press in order to mislead public opinion and has endeavored to establish a league of international evil doers through international relations with other dictatorial governments. Therefore, the diplomacy of this government has been humiliating and the policies for national unification clearly aimed at freezing the division of the peninsula rather than at national unification, which is the hope of the people. We recognize that the people truly hope for democratic and peaceful unification.

The Korean economy and the people's standard of living are in a miserable condition because of the daily increase in prices and taxes. The distrust of laborers and farmers of the government is extreme because of the polarization of the differences between the poor and the rich. This beautiful land has become a garbage can. The government has imported pollution from Japan and promoted exploitation of the people by comprador capital. However, those things are not announced to the people because of the systematic suppression of the press which is done in the name of national security. This was demonstrated when the authorities suppressed the Dong-A and Chosun daily newspapers. We are sorry that the people, who were pure and good, have become individualists through mammonism and uncritical acceptance of western culture and lack of trust because of the evil policy of information manipulation. The power is using all forms of news media to instruct the people in a propagandistic motto and distorted values.

Recently, when there was criticism of the New Community Movement (Saemaul), the government presented a new movement, the New Mind (Saemaemum), and began to propagate the thought of loyalty and filial piety as the means to force the people to obey the



dictatorial system. In its educational policies the government often changes its regulations for the benefit of some members of the power. Through surveillance on the campus, illegal treatment of students, suppression of college presses which are the students' forum, establishment of a student defense corps which acts to direct students in uniformity and ignores the freedom and independence of the campus, the government has succeeded in systemizing the campus as a political instrument. All the student textbooks have been transformed into an instrument for propagating the ideas of the present government. We especially feel that we are responsible in this situation where our younger brothers and sisters are being forced to receive their education under this system.

Artists are also being restricted in their expression by vicious government suppression. The suppression of religious meetings is now extreme. The authorities investigate prayers, which are our confession, and through surveillance of religious meetings, shadowing, detainment, illegal arrest, and wire tapping the authorities have indescribably suppressed religious groups. Besides these, the authorities have bought-off religious organizations through which they now propagate against the religious leaders who are opposing the present government, saying these people are communists. Furthermore, recently, through a certain bulletin, the authorities claimed that Hankuk Theological Seminary and our professors are pro-communists. We recognize that conduct such as this is purely a political play and our trust and respect of the professors will not be altered. Starting our long march for suffering carrying the cross, and as we consider these facts, we claim the following:

1. The present power should resign, taking responsibility for all these things;
2. In this country, true democratic constitution should be established on the basis of the separation of the three branches of government and through a government elected by democratic process;
3. The educational system should be reformed and educational policies should be consistent with the true education of the people and should establish proper values;
4. The welfare of the people should be improved on a real level and just distribution of the interest should be accomplished through promotion of pure national economy and exclusion of comprador capital;
5. All Christians should take responsibility for the present situation and should endeavor to create a new history and to reform the present situation.

#### CONGRATULATIONS TO GRADUATING HOUSE PAGES

#### HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. MOAKLEY. Mr. Speaker, tonight many of our House pages mark the culmination of their service in the impressive Capitol Page School graduation ceremony in the caucus room of the Cannon Building. That ceremony grants due recognition of the high academic achievements of these fine young men and women. I think that it is most appropriate for us as Members of the Congress to grant our own recognition of the excellent and loyal service which our young pages have performed in so many important and often unnoticed ways.

We have invested great trust and responsibilities in our pages who are our very youngest Federal employees. Most of them have come to Washington to take their first real job with all the implications of adult responsibility. They find themselves at the very seat of the Government dealing face to face with those entrusted with the leadership of our Nation. We make large assumptions about their capacity to perform and they have not disappointed us. Through their enthusiasm, dedication, and cheerful attitude they have brought great credit to themselves and to the House.

Mr. Speaker, I am including for the RECORD the names of the 32 House graduates:

#### GRADUATING SENIORS

Steve Abraham, Lindlee Baker, Peter Bell, Margie Berg, Bobby Blackstock, Cathy Chromulak, Maura Connelly, Sara Crowe, Ruth Duranczyk, Marion Elliott, Amy Eskin, Mike Fanning, Byron Galle, John Ghrist, Kirk Harness, Ken Johnson.

Ron Jolly, Ellen Kerley, Mark Kobelinski, Annette Maglione, Kent Markus, Fritz Neil, Tim Riffle, John Russell, Peter Schupp, Norma Siegert, Mike Thorson, Sharon Williams, Steve Wolfe, Lori Shurman, Mike Gunison, Randy Krzesinski.

#### STATEMENT TO THE WORLD

#### HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. SIMON. Mr. Speaker, in the fine publication of the Overseas Development Council, called "The United States and World Development Agenda 1977," there appears the inaugural statement of the President of the United States to the nations of the world.

I had not seen it published anywhere prior to its publication in this book.

It is a statement that all of us would do well to read.

I am taking the liberty of placing in the RECORD, at this point, the statement of President Jimmy Carter, which he labeled "Statement to the World," on the day of his inauguration:

#### STATEMENT TO THE WORLD

I have chosen the occasion of my inauguration as President to speak not only to my own countrymen—which is traditional—but also to you, citizens of the world who did not participate in our election but who will nevertheless be affected by my decisions.

I also believe that as friends you are entitled to know how the power and influence of the United States will be exercised by its new government.

I want to assure you that the relations of the United States with the other countries and peoples of the world will be guided during our administration by our desire to shape a world order that is more responsive to human aspirations. The United States will meet its obligation to help create a stable, just, and peaceful world order.

We will not seek to dominate nor dictate to others. As we Americans have concluded one chapter in our nation's history and are beginning to work on another, we have, I believe, acquired a more mature perspective on the problems of the world. It is a perspective which recognizes the fact that we alone

do not have all the answers to the world's problems.

The United States alone cannot lift from the world the terrifying specter of nuclear destruction. We can and will work with others to do so.

The United States alone cannot guarantee the basic right of every human being to be free of poverty and hunger and disease and political repression. We can and will cooperate with others in combating these enemies of mankind.

The United States alone cannot insure an equitable development of the world resources or the proper safeguarding of the world's environment. But we can and will join with others in this work.

The United States can and will take the lead in such efforts. In these endeavors we need your help, and we offer ours. We need your experience. We need your wisdom. We need your active participation in a joint effort to move the reality of the world closer to the ideals of human freedom and dignity.

As friends, you can depend on the United States to be in the forefront of the search for world peace. You can depend on the United States to remain steadfast in its commitment to human freedom and liberty. And you can also depend on the United States to be sensitive to your own concerns and aspirations, to welcome your advice, to do its utmost to resolve international differences in a spirit of cooperation.

The problems of the world will not be easily resolved. Yet the well-being of each and every one of us—indeed our mutual survival—depends on their resolution. As President of the United States I can assure you that we intend to do our part. I ask you to join us in a common effort based on mutual trust and mutual respect.

JIMMY CARTER,

President of the United States of America.

#### GRAIN RESERVES AND A WHEAT CARTEL

#### HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. ABDNOR. Mr. Speaker, the issue of instability of world grain supplies and prices is of vital importance to the Nation, our consumers and producers, and perhaps even more so to our export customers.

I would venture a guess there is not one among my colleagues who does not support the idea of stability in the commodity markets at price levels which are fair to all concerned. Unfortunately, reality is not so idyllic.

Anyone who has an opinion on this issue should bear in mind the points raised by Mr. William D. Hagerty, Jr., chairman, and Mr. Warren W. Lebeck, president, of the Chicago Board of Trade, in their position paper "The Wheat Cartel: An Idea Whose Time Has Gone." Certainly, they are not unbiased observers, but their arguments must be weighed on their merits.

The paper follows as does the May 23, 1977, reply I received from Mr. David L. Hume, Administrator of the Foreign Agricultural Service, in response to my May 5, 1977, letter to Secretary Bergland requesting his assessment of the views expressed by Messrs. Hagerty and Lebeck:

### THE WHEAT CARTEL: AN IDEA WHOSE TIME HAS GONE

Late last month Secretary of Agriculture Bob Bergland met with Otto Lang, a representative of the Canadian government, for preliminary discussions aimed at establishing a minimum price agreement for exports of wheat by the United States and Canada. Such an agreement, the Secretary said, would stabilize the market and make it serve a broader public interest.

We believe such an agreement would be a serious mistake. We call on the government to abandon the idea immediately for at least four reasons:

1. The plan will not work.
2. It is contrary to basic American ideas, and represents a philosophy we can hardly explain to our citizens, our children, or a hungry world.
3. It would cost American agriculture, the consumer, and the taxpayer dearly.
4. A free marketing system is the most efficient means of distributing food and thus of serving the public interest in the best and broadest sense of that term.

#### I. A PLAN THAT WILL NOT WORK

The economic graveyards already contain the bones of many international attempts at price manipulation, such as those for rubber, wheat, sugar, wood and tea. Even when efforts at establishing and maintaining price schedules are well intentioned, they have inevitably ended as economic failures.

The economic creatures of international agencies cannot make the forces of supply and demand disappear. In the short run those forces may be checked, shifted, blunted or even temporarily suspended. But the consequences cannot be evaded forever.

The last International Grains Agreement, with maximum and minimum prices, was an international economic disaster, especially to U.S. wheat growers. President Johnson, in signing on behalf of the United States, said, "The new arrangement thus will provide new price insurance to U.S. wheat farmers."

However, the Honorable J. D. Anthony, Australian minister for primary industry, expressed the results better when he frankly admitted later that his country had been able to take advantage of the agreement and gain more than her traditional share of the world market.

We do not, however, have to rely on Mr. Anthony to tell us how disastrous the agreement was. In mid-1975, the Subcommittee on International Trade of the Senate Committee on Finance asked the United States International Trade Commission to undertake a study of the experience of the United States with international commodity agreements.

Let us examine the conclusions of this independent governmental body:

The failure of the 1967 agreement, during which prices remained below the minimum, was due primarily to the accumulation of burdensome stocks which the national governments would no longer carry. The agreement was powerless to require importing countries to pay minimum prices or to prevent exporting countries from selling below minimum prices.

The United States, as the major exporter, also subsidized commercial exports at levels below the agreements' minimum prices as world market prices declined. The failure of the 1967 agreement casts doubt on the effectiveness of purchase and sales contracts as a mechanism to maintain prices within specified limits. Member governments have generally not been willing to buy and sell within agreed price ranges unless the natural and usually unpredictable market forces of supply and demand happen to result in equilibrium prices within that range."

The failure of the 1967 agreement was not due to defects unique to that plan. Rigged international marketing is inherently bad. To quote the International Trade Commission again:

"International commodity agreements take various forms, but in general they are agreements between governments of both producing and consuming countries that attempt to raise and stabilize the prices of commodities."

"In the pursuit of these objectives, such arrangements impose restrictions on the free movement of commodities in international trade. They often result in economic waste and the misallocation of scarce productive resources, and historical experience has demonstrated their frequent failure to achieve their objectives."

There are several factors which make the current proposal especially failure-prone. The following are logical projections of this proposed price-fixing scheme.

1. The United States will need to reinstitute import controls on wheat and flour. The 21-cent-per-bushel duty may not be sufficient to preclude wheat from entering the United States.

2. Assuming that a basic price agreement is reached with the Canadians, then there must follow a market-sharing agreement. How this will be implemented is not clear. The various types of wheat which the United States produces do not fluctuate in any constant relationship with each other. Actually, even qualities of wheat within the same type are subject to premiums and discounts which change daily.

3. There is a serious question whether the Russians will decide to (a) become heroes to the rest of the world by underselling the United States-Canadian cartel, and/or (b) abridge the United States-USSR agreement as being designed for a free-market situation. Article II of that agreement provides:

"During the term of this Agreement, except as otherwise agreed by the Parties, the Government of the USA shall not exercise any discretionary authority available to it under United States law to control exports of wheat and corn purchased for supply to the USSR in accordance with Article I."

4. Higher loan rates will reduce the capabilities of the United States to provide wheat and flour under the Food for Peace Program without a sharp increase in budget costs.

5. The current Canadian initial price of \$3.00 per bushel for No. 1 Canadian wheat does not even support a loan rate in the United States at \$2.25 per bushel average price to farmers for all types and grades. There are discounts for the Canadian dollar, plus the sharp discounts for lower grade wheat which the Canadian Wheat Board authorizes.

The economics of the wheat industry cannot be confused with those of, for example, the oil industry, where cartel tactics have had significant success. We do not believe that either Mr. Bergland or Mr. Lang see their contemplated agreement as another OPEC, but we want to develop this point a little further so that citizens do not confuse the issue either.

Wheat renews its supply every year. Thus, at home, unless cartel leaders control their own producers, a modest oversupply one year becomes a glut the next because (1) the surplus carries over, and (2) the artificially high price calls for continued high production. Outside the cartel, substantial amounts of the world will be able to increase wheat production in reaction to the price insurance umbrella that the cartel's self-imposed minimum price will provide.

Alternatives to wheat already exist—rice, oats, barley, rye, and for some purposes, corn and potatoes. Utilization of these will not require the vast amount of technology that,

for example, solar energy will require; expanded production of these will not engender the citizen opposition that nuclear reactors have spurred; and the eating of these will not entail the considerable conversion problems that, for example, making autos electric would present.

Thus, a cartel in the image of OPEC would fail—within, at best, a few years.

However, a cartel with significantly lower aims would still present a host of practical problems. The Canadian Wheat Board is the sole seller of that country's wheat, and probably could adapt fairly easily. Here, however, grain exporting is largely in the hands of the private sector—private companies and farmer cooperatives, for the most part. Would the government socialize this business? Or would it merely create a vast new bureaucracy to "oversee" this multi-billion-dollar industry?

Several of the grain exporters are multinational in nature. If a European or South American affiliate sells wheat below the fixed price, is this a violation? What if after selling that wheat, the affiliate buys corn, oats, barley or rice from the United States to replace domestic needs?

A policing system would be difficult to devise. And one can only surmise that even if devised, it would fail. The last thing we want to face is the spectre of sending men to prison for selling food too cheaply.

#### II. A NON-AMERICAN IDEA

Americans have a deep and well-founded disgust for cartel tactics. This feeling has its roots in the nation's founding. It was artificial controls over trade, imposed in the name of mercantilism, which prompted this nation to independence 201 years ago.

In the same era, there arose a new school of economic thought which repudiated mercantilism and led to rapidly increased economic development, through a free enterprise system in which international trade played a key role. That system and that trade have been very good to America. We have a degree of wealth greater than other nations that also have bountiful natural resources.

A wheat cartel would be a giant step backward from our commitment to free enterprise and our efforts to improve international trade. It would be nothing more than a thinly-veiled, modernized version of the nation-state trading system we rebelled against two centuries ago. It is an idea whose time has gone.

As a nation today, we spend some \$27 million a year on a Department of Justice anti-trust division designed to prevent this sort of behavior. If the contemplated agreement were adopted, would we face the ironic situation that those who fix prices on cardboard containers should go to prison while those who fix prices on food should not? The very thought offends one's sensibilities.

Nor can we ignore the messages, moral and economic, that America would send to other nations by participation in such a cartel. Of key importance here is the absolutely vital role cereals play in developing nations. In the Philippines, for example, cereals provide 65 percent of the calories and 56 percent of the protein in the people's diets. The figures are even higher for nations such as India and Bangladesh. In the United States both figures are about 19 percent. Thus, we are talking about something much more serious than just increasing the price of bread—or even of gasoline—as Americans know those items.

To be sure, the contemplated agreement would allow prices to be considerably lower than the all-time highs of a few years ago. That is some consolation, perhaps. But it does not negate the fact that the United States now would be denying its customers the opportunity of buying at low prices that logically goes with the burden of having had to pay high ones. Nor will it negate the



inference, which consuming nations are sure to draw, that a cartel which demands \$2.25 today may want \$3.25 tomorrow and \$4.25 next year.

If America becomes a nation willing to cartelize food, the most basic of commodities, we shall stand smaller in other nations' eyes—both as a people and as a market upon which they can rely in the future.

### III. THE COSTS WE WOULD PAY

Exports of wheat and flour brought the United States more than \$5 billion in 1975, and preliminary figures indicate that despite the depressed market conditions the total was over \$4 billion last year. The proposed agreement directly endangers this vital source of income—in the short run by insuring that other nations will have first call on the world market by selling at slightly lower than the cartel price, and in the long run by spurring and in effect subsidizing competitive production.

Indirectly, other export revenue would be jeopardized. For reasons outlined in Part I, it is likely that some sort of controls on other foodstuffs would have to follow those on wheat. Here the stakes become even larger. Exports of grains and soybeans brought us \$15 billion in foreign currency last year, and other agricultural products added another \$8 billion. Farmers cannot afford to have these vital sources of income endangered.

Moreover, the entire nation badly needs agricultural exports to help offset its deficit in trade of non-agricultural items. That deficit was \$19 billion last year. The consumer pays when America's trade is imbalanced, because the dollar is cheapened and it takes more dollars to buy the goods we need from other lands, while nations with stronger currencies find it easier to buy our goods.

Furthermore, a wheat cartel scheme means a sharp retreat from the liberal trade policy we have been supporting in Geneva at the Tokyo Round trade negotiations. Exactly what reaction it may provoke from other nations can only be speculated, but it will not be good for an America which increasingly depends on foreign goods.

At home, of course, all indications are that the Secretary's interest in putting a floor under international wheat prices stems from his desire to put a floor under domestic prices. Having condemned those who three years ago blamed wheat prices for spiraling bread costs, when wheat comprised only 6 cents of the cost of each loaf, we do not intend to engage in similar tactics now. Suffice to say the Secretary's plan will not help lower food costs.

Perhaps the most important cost will be in the Agriculture Department's budget. Blunting the fall of prices will dampen the market's signal to cut back production. Surpluses will accumulate. History shows that such surpluses bring some combination of government subsidies, production controls, and loan programs under which farmers end up selling their grain to the government because the loan rate is higher than the market price.

In the long run, farmers have never done well under such policies. Despite their current problems, they have done very well under the relatively free market policies of the 1970s. In the long run, their best interests lie in continuing those policies.

The Chicago Board of Trade is not opposed to high prices for the farmer. High prices serve a vital economic function of spurring production when that production is needed. Price provides the reward for those who produce what the people need.

(The language of price is speaking even as we issued this paper. Future prices above \$8 per bushel for soybeans in Chicago represent more than \$7 per bushel local prices throughout the heartland of this nation. The world badly needs the protein and fat which soybeans provide, and is willing to pay farmers to produce it. Artificial floors under prices interfere with the market's pricing signals.)

What the Chicago Board of Trade opposes is artificial high prices. The success of current agricultural legislation is due to the fact that its loan and target prices have been low and surpluses small and temporary. Those surpluses have been sold before it became necessary for government to take ownership. However, if loan rates were too high and surpluses too great, farmers would elect to turn their grain over to the government when loan repayment time arrived. This would force upon us the kinds of policies we had in the 1960s.

Because the cartel would lose us export business without cutting production, it represents a dangerous step toward that situation. Some salient facts are important to remember in this regard:

Subsidy payments to farmers were once \$3.5 billion a year. In 1975 they were less than a tenth of that amount.

The government once invested as much as \$8 billion in crop surpluses, either through outright ownership or through loans to finance others who held those surplus stocks. In recent years the figure has been about an eighth of that amount.

Storage costs alone were once a \$3-million-per-day drain on the Treasury. Today storage is in the private sector.

Government payments once constituted more than 25 percent of realized net farm income, but in recent years have been about 2 percent.

Such a course seems diametrically opposed to the present Administration's announced priorities of creating jobs, rebuilding cities, and fighting inflation. The siphoning off of federal funds into agricultural policies does not create jobs, build cities, or lower food costs, directly or indirectly.

We seriously doubt whether the American people want to move back to the policies of the 1960s—and whether the federal government could financially afford to do so even if they did. The best route to avoid that situation is to let the market take its course, so as to get rid of our currently modest surplus of wheat and to shift production patterns to other crops for the coming growing season. In the long run, the farmer, the consumer, and the taxpayer all will pay dearly for controls such as the cartel would entail.

### IV. FREE MARKETS AND THE PUBLIC INTEREST

The Chicago Board of Trade prides itself as being a free market that serves the public in the broadest sense of that term.

Our futures markets are a source of protection against price risks for most free-world nations' grain merchandisers. Our futures prices are an index—a barometer of supply and demand—reflecting pricing carried on in cash markets throughout the world. Buyers and sellers send orders into the central marketplace from around the globe. We serve the world efficiently, and can continue to do so.

We are disturbed by the statement attributed to the Secretary of Agriculture in which he is alleged to have described an attitude that prices could best be established in "free markets" as a "dream world." And he is quoted as saying "we're replacing the Chicago market interests with broader public interests." These market interests are certainly not private interests but a reflection of conditions as they actually exist, not as someone somewhere would like them to be.

When a commercial user of the markets wants to minimize his risk through futures trading, someone must accept that risk. The speculator performs that function. He does so in anticipation of profit, true—and many times he is disappointed. It is a rare commercial who would rather keep a risk he doesn't want than give it to a businessman who is only taking it in the hope of profit. The two need each other. Together they make our markets work.

Those markets serve the public more quickly and more efficiently than any inter-

national cartel agreement ever could. The government should abandon the cartel idea now, while it is still in an embryonic stage and while the Administration is young, with many options remaining. Before it ties itself to a program that creates farm problems rather than solves them, it should consult the professional staff at the Department of Agriculture, which has the technicians who know the true facts. For as George Santayana said: Those who cannot remember the past are condemned to repeat it.

WASHINGTON, D.C.,

May 23, 1977.

HON. JAMES ABDNOR,

House of Representatives.

DEAR MR. ABDNOR: Thank you for your letter of May 5 to Secretary Bergland enclosing the statement of Mr. Lebeck concerning a possible agreement with wheat exporting countries.

Secretary Bergland has indicated that he favored exploratory discussions with major wheat exporters to see if practical ways exist to reduce the incidence of extreme fluctuations of the world price of wheat. Such discussions would be a first step in an effort to bring more stability to the world wheat market.

A meeting of representatives of the four principal wheat exporting countries was held in Ottawa on April 21. A copy of the communiqué from that meeting is enclosed.

During the months ahead, the Department of Agriculture will engage in new efforts to make arrangements with other countries that would result in an international food reserve compatible with the interests of both rich and poor nations. Negotiations toward this end will likely be long and difficult, in part because current surpluses in production have eased the sense of urgency created when world grain stocks were tight a few years ago.

We appreciate receiving your views and hope the foregoing information will be useful to you.

Sincerely,

DAVID L. HUME,

Administrator.

### DAVID BRINKLEY ON CONSUMER PROTECTION AGENCY

#### HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. DEL CLAWSON. Mr. Speaker, in a typically frank and succinct radio commentary on NBC Wednesday, June 1, David Brinkley called attention to the incongruity which is basic to the proposed Consumer Protection Agency. It is a defect which should certainly receive the full light of public attention. Therefore I obtained the transcript of Mr. Brinkley's remarks and am including it at this point in the RECORD:

#### DAVID BRINKLEY ON CPA

David Brinkley, NBC News, New York ... with a few comments about President Carter's speech today to 200 people involved in the consumer movement, at a sort of pep rally where he, himself, was the cheer leader. Congress, he said, should move now to set up a new Federal agency ... an Agency for Consumer Protection. He's advocated this before ... the idea has been around for several years ... and in fact Congress passed it once before, but President Ford threatened to veto it, and that killed it. Now, it's about to be revived. Its job would be to appear at Government hearings, representing the con-

sumer . . . and to file lawsuits to force Federal agencies to consider the interests of the consumer.

Now, think about that. Everyone is a consumer, of course. But a lobbyist in Washington is not there in his role as a consumer. He's there representing a union, or a business, or a profession. And the idea of a consumer agency basically is to be a lobby for the consumer. There is much opposition to it, but a great many people are in favor of it. Is it not regrettable that people feel a need for a new agency to push the old agencies into doing what they should have been doing along—that is, acting in the best interest of the entire American people?

If government does not do that on its own, what does it do? What good is it? It's as if you hired a carpenter to build a front porch for you . . . paid him . . . and then had to hire and pay someone else to push him to build the porch.

Is the Federal bureaucracy just another interest group, looking out for itself? Sometimes you might think so. However useful a new consumer agency might be, my own opinion is that a Federal agency that has to be pushed by another agency to do its job ought to be just closed down, and its front door locked.

### THE HATCH ACT

**HON. EDWARD J. DERWINSKI**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. DERWINSKI. Mr. Speaker, I direct the attention of the Members to a commentary, appearing in the April 1977, newsletter of the Federal Professional Association, on the subject of the Hatch Act.

The Federal Professional Association is a highly respected organization, dedicated to career civil service, and their analysis of H.R. 10 is quite revealing. The article follows:

#### HOUSE COMMITTEE CLEARS HATCH ACT (REVISION)

The House Committee on Post Office and Civil Service approved, April 27, H.R. 10 (William Clay, D-Mo.) for a major revision of the Hatch Act which now limits the participation of Federal employees in partisan primary and general elections.

President Carter, as a candidate, indicated that he would approve a "revision" of the Hatch Act. President Ford vetoed a bill similar to the Clay bill; the House failed to override by a vote of 243-160.

H.R. 10 permits, with certain exceptions, Federal employee participation at all levels of government, asserting: "It is the policy of the Congress that employees should be encouraged to fully exercise, to the extent not expressly prohibited by law, their right of voluntary participation in the political process of our Nation."

Under the present Hatch Act, Federal employees may:

AFL-CIO holds that the enactment of H.R. 10 is a "high-priority objective." All Federal employee unions see enhanced power over Congress from the highly populated Federal employment areas in key electoral states; also in key cities in other states which generally determine the election of many congressmen.

Most professional organizations, including the FPA, oppose any significant changes in the Hatch Act. The National Civil Service League, the International Personnel Man-

agement Association, and the citizens lobby, *Common Cause*, were among those expressing strong objections to various provisions in the bill during the two days of hearings in February. Federal professionals feel that H.R. 10 would politicize the civil service; they would find their careers determined more by political activity than by performance on the job.

Register and vote; and express opinions as private citizens, but not as active political campaigners;

Wear political buttons and display political bumper stickers, except when having contact with the public during work hours;

Participate in non-partisan elections and serve as election judges;

Be politically active in referendums, constitutional amendments, approval of municipal ordinances, etc.

Participate in nonpartisan activities of civic associations;

Belong to political organizations, but not as officials;

Attend political conventions, rallies, etc., but not as organizers;

Sign petitions and nominating petitions, but not as initiators or collectors;

Petition a Member of Congress or local or state official;

In other words, what is there that Federal employees cannot do now? They cannot run for partisan public office, collect monies for candidates and campaign funds, or manage political party committees in election campaigns.

Advocates of H.R. 10 include the largest industrial labor unions as well as all Federal employee and postal unions. They foresee 2.8 million Federal employees as a new political work force in national politics.

### PUBLIC TRANSIT AS AN ENERGY SAVER

**HON. ROBERT W. EDGAR**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. EDGAR. Mr. Speaker, the President's energy message to Congress emphasized the importance of conservation and the reduction of waste in our use of energy. Twenty-six percent of the energy consumed in this Nation is attributable to transportation, and transportation will figure prominently in the President's announced effort to slow the rate of growth in our use of energy to below 2 percent per year.

In light of this, I was disappointed that the President's energy message did not recognize the important role that public transportation and paratransit can play in our energy conservation program.

Not only did the President ignore public transportation in his address to Congress: The administration thus far has declined to support pending legislation to increase Federal support for transit. Just the other day, Transportation Secretary Adams did make some encouraging remarks concerning the possible use of energy taxes for public transportation, so perhaps the administration is beginning to see the light.

A recent editorial in my district's only daily newspaper, the Delaware County Daily Times, eloquently described the need for better public transportation, recommending that Congress recognize

the relationship between energy conservation and the need for alternative means of traveling within our urban centers. I commend this editorial to the attention of my colleagues:

#### NEED FOR PUBLIC TRANSPORTATION

The message was long in coming, but it was finally delivered: shape up or freeze.

Actually, the first mutterings on that subject had been issued by a variety of sources for some time; but Americans have a hard time comprehending the concept of finiteness. Rather than try to grasp the fact that there is indeed a bottom to the barrel of familiar energy forms, they have been busy blaming everyone and his brother for energy shortages: the greed of the OPEC countries, the profit mentality of the oil companies, a plot to sit on supplies until the price is right, and so on. This is easier to understand and consequently easier to attack than some fuzzy notion the earth's fuel indicator is inexorably sliding to "empty," whether oil producers and refiners sit on supplies or not.

The point now is no longer who sits on what and why, but rather how to survive until new forms of energy are available. To that effect, President Carter has given us his blueprint for thrift.

With one glaring omission.

Public transportation.

It does seem incredible that while the President rightly pointed out this country's mammoth waste, specifically of petroleum, he completely dismissed our undeniable need for driving—a situation in which we have cornered ourselves. It would be pointless to ascribe blame as to why that is so, because it's already happened and instant reversal is simply not feasible. The hard fact remains that most Americans can't go anywhere without a car.

Children cannot go to music lessons.

Or to after-class sport practices.

Or to the dentist.

Or anywhere without someone driving them there.

People can't go to work.

Can't visit each other.

Can't attend school, entertain themselves, or even shop, without a car.

Programs known as WHEELS have become necessary because older or poorer persons can't even get to lifesaving medical care or to a market without a car.

Why? Because there is no public transportation.

It is remarkable to note that there is not one country in the civilized world—not one—where it is so impossible for citizens to move about without private transportation as it is here.

Prompt, fast, and regular buses and trains will take any Englishman, Italian, Japanese, Russian, Frenchman or Swede anywhere he needs to go on a schedule by which one may set his watch. These systems are continuously upgraded and expanded, and are run on a non-profit basis by government. And the prices are within anyone's reach.

And here? Try to figure out the fastest way you could get to work in Clifton Heights, for example, from Claymont, without driving your own car. Unless you want to go by way of New York!

The fact is that public transportation in the suburbs, not to mention further out in the country, is either non-existent or so limited in routes, frequency or reliability as to be totally useless. Trains have the same limitations, only worse. Even bicycles are forbidden on major highways, and if they weren't, pedaling to work on I-95 in the morning and evening rush hours would be suicidal. Moreover, in a country built exclusively for cars and trucks, even trying to establish bike paths requires years of argu-



ments and a Supreme Court order. Similarly, the delivery of goods has been effectively limited to the dictates of trucking concerns, while freight trains sit rusting away on crumbling tracks; and while trucks are gobbling fuel at the rate of five miles a gallon, they can also bring the country to a standstill with one strike.

The Presidential energy conservation package will surely cramp America's driving style, but it offers no alternative for that style, and while it will eliminate some unnecessary driving and tone down Detroit-built inefficiency, it will also impede much of the absolutely needed driving. Moreover, without an alternative, the plan may not work at all: when the average worker finds that even getting to his job is eating away even more of what he earns, he will strike for higher wages. When his salary catches up, he will then look at the \$1 a gallon pump as unconcerned as he now looks at the 59-cent tag, and the consumption will rise again until the next round.

Congress is sure to fight many of the Carter proposals, but with the ultimate survival of this country in mind, Congress must offer the President some reasonable alternatives. Because Congress, presumably, is our voice, it is incumbent upon us to let our representatives know what is needed.

And the obvious need is another way of mobility if we are to park our cars as much as we should.

Much of the money raised through the proposed gasoline taxes, and the so-called "guzzler tax" could be used to create a whole new system of public transportation. Cities, counties, states—indeed the entire country—must be blanketed with an efficient bus, train, and subway network similar to those found in Europe and Japan. Our representatives, so fond of junkets abroad, should be delighted to take a few that would serve a purpose, bringing back and combining the best ideas into one that would fit our needs. The automobile industry need not lose in such a conversion, if it were employed to design, build and maintain the equipment that is needed.

In addition, and because we are told this is no longer fun and games, but survival, we envision public transportation being run by the federal government and its employees being civil servants—as they are in Europe—subject to the same benefits, protections and striking regulations as any other federal employee.

While it is true the federal government has not shown itself to be especially brilliant in its efforts to run any kind of business, leaving a service vital to the welfare of the nation in the hands of private enterprise probably would be disastrous.

We were told a few years ago to buy a car, buy a home in the suburbs, spark the home building business, help create a boom for malls and new business, get away from it all. So we did all this obediently to help sustain the economy.

It would seem now to be unfair, and unwise, to leave us stranded.

The average American understands the need for conservation. But he cannot be immobilized. Public transportation must be part of the answer.

**REPRESENTATIVE DAVID OBEY DISCUSSES CONGRESS AND THE PRESS**

**HON. MORRIS K. UDALL**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. UDALL. Mr. Speaker, on May 27, our colleague, Dave Obey, addressed the

Western Wisconsin Press Association, with one of the most important and revealing speeches about Congress in recent years. In his usual forthright manner, Representative Obey goes to the heart of the conflict between Congress and the press, with a frank discussion of weaknesses on both sides and some commonsense prescriptions for improvement especially in the very necessary but often overlooked area of educating the public.

He decries the easy method indulged in by both sides—of legislating by press release or reporting by "cheap shots." Neither serves the public interest by avoiding serious scrutiny of the issues and conflicts that constitute our jobs here in the Congress.

Having undertaken the unenviable task of chairing the Commission on Administrative Review, Representative Obey in a short time has become one of the leading experts on the shortcomings of this institution. The Commission, under his strong leadership, produced the code of financial ethics which we incorporated into the House rules earlier this year. The Commission has now turned its attention to the archaic management and personnel practices of the Congress, and I am sure that much good will come from its recommendations.

The courage and foresight displayed by Chairman Obey are seen again in his speech, which should be required reading for our colleagues and responsible members of the press. I include Representative Obey's remarks in the RECORD at this point:

**SPEECH BY CONGRESSMAN DAVID OBEY, WESTERN WISCONSIN PRESS ASSOCIATION, EAU CLAIRE, WISCONSIN**

When I was contacted to be with you tonight, I was asked to speak about my view of the National Press. Ordinarily that is not a smart thing for a politician to do, but since you asked, I'm willing to try.

To do that in a responsible way, however, I think it's necessary that we all try to forget political labels, forget that some of us may be Democrats and some of us Republicans, some of us Liberals, and some of us Conservatives and some just confused.

What I want to talk about tonight has nothing to do with political philosophy. It is an institutional problem. There have always been tensions between the press and politicians. That's normal. And if that tension does not degenerate into superficial cynicism or contempt it can be a healthy thing.

But I want to talk about something that goes beyond that. The problem I want to talk about is not so much related to local press as it is to National Press—although I would like to speak frankly for a moment about some short-comings that I see in the way local press I know deals with national issues.

I know that the first responsibility of local press is to report local news. Your readers and viewers can get information about national problems from other sources. If they don't get local news from their local press, they're not going to get it from anybody.

But I must say in all honesty that I am distressed when I go back into a few communities back home and the first question I get is always "What are you going to do for — County or — city?" Any Member of Congress has a responsibility to do what he can to represent each locality and to help get its share of government programs.

But in the long run, actions that I take on national issues will have greater impact on local people than whether or not I get

HUD or EDA to approve a local construction project.

We need to be held accountable by the local press not only on the basis of whether or not we bring home the bacon, but also on questions that will determine the shape of the national economy, the quality of our water and air, education and health programs that affect the well being of the communities you serve every bit as much as a local public works project.

In short, I would hope that in addition to being questioned on important local problems with which I deal every day, I would also be questioned on national and international questions which affect people's lives in each of your communities importantly and directly.

But my main job here tonight is to talk about my impressions of the National Press. Let me say that on balance the people I've dealt with in the National Press are bright, hard working, dedicated, fair and thoughtful.

I've said many times that I believe the legislators I have worked with both in my days in the state legislature in Madison and in the eight years I have spent on Capitol Hill have exhibited a higher standard of ethics, a greater degree of concern about the country and a greater dedication to our country's welfare than almost any other group in society.

I think the same can be said for the vast majority of the members of the press with whom I have worked. It is a privilege to work in the company of many of the people who report and interpret the actions of the government to the country.

What disturbs me most when I think about the National Press is that I see the same developing pattern in the National Press that I see within the Congress itself.

You know, both the political profession and the news profession have the same potential weakness. We both need continuing public approval in order to survive. If I don't have it, I don't get re-elected. If you don't have it, you don't sell newspapers or you don't get a very healthy share of the viewing or listening audience.

Because of that dependency, we are both susceptible to the same temptation—the temptation to overdramatize, to over-reach for stories and headlines and, I am sorry to say, pander to popular prejudices.

In Congress we see a growing number of politicians who legislate by press release, who are far more comfortable issuing daily denunciations and exposes about some stupid act of government than they are in doing something effective to change these acts.

These press releases are usually good for headlines but in most cases there is no follow-up, no action taken and the next day there is always a new revelation, a new expression of outrage, and a new headline.

It is disturbing to me to see that same tendency, that same cheap-shot, one-a-day style growing in the National Press. More and more, you see story after story of a titillating nature, carrying this or that revelation which upon investigation turn out to be something far different, far less dramatic, and far less important than they first seemed.

That kind of journalism generates tremendous amounts of misinformation and it shrinks the ability of thoughtful journalists to write and be heard about these same subjects. Let me give you an example.

Since the adoption of the new Congressional Code of Ethics, Gaylord Nelson and I are probably the two most unpopular men on Capitol Hill. My Commission on administrative reform has now turned to the job of reorganizing the way the House of Representatives is administered.

Right now we have the Clerk, the Doorkeeper, the Property Custodian, the Architect, the Sergeant-at-Arms, and many more

who each has a separate job to do for the House.

The use of computers is growing like topsy at a cost of hundreds of thousands of dollars but we have no one in overall charge.

The administrative services and the administrative offices of the House are not coordinated in any thorough way.

We have no personnel policy.

If a Member's office is being painted, that Member has to call one office to have the nails pulled out of his walls before painting, and another office to have them put in again.

And there are other far more important problems.

There is no decent sick leave policy for employees. If my Administrative Assistant were to have a heart attack tomorrow and be out of commission for three months, I would have the choice as of the first of the month of either letting him go or being in violation of the law for keeping on the payroll someone who is not in the office performing his duties.

Salary structures allow committees to pay higher salaries than individual Members can. They allow the Senate to pay higher salaries than the House. That creates a situation in which different divisions within the same institutions are continually outbidding each other for the services of qualified people.

That is a stupid situation.

In short, the House is mismanaged. That is an important story. My Commission is trying to do something about it. But are these the stories that get reported?

No.

What usually gets reported are out-dated stories about out-rate meals (in fact, the House restaurants and cafeterias make money—they don't lose it)—free haircuts (there have been no free haircuts since I went to Congress—we pay \$3.00 and usually \$1.00 tip—about the going rate around town).

We see The Reader's Digest attack Congress for being the billion dollar Congress.

Well, that's sure true if you think it is fair to charge to Congress all the cost of the Government Printing Office which does printing for the entire Government.

If you think it's fair to charge to Congress the entire cost of operating the Library of Congress when, in fact, only \$23 million of the Library's \$173 million budget is directly attributable to the cost of serving Congress. The rest of the cost supports a research center which serves scholars and researchers across the nation and around the world.

We can call it a billion dollar Congress if you think it's also fair to count the entire cost of the General Accounting Office—the GAO—which is the financial watchdog of the Government.

Or the entire \$13 million cost of the Botanical Gardens which is primarily a Washington tourist stop and which spends only approximately \$64,000 of its budget on matters directly relating to Congress.

We can count the \$8.1 million for the U.S. Tax Court which has traditionally been included in the legislative budget although it has no connection whatsoever with Congress.

You can count the cost of the Capitol Guide Service which, the last time I looked, guided taxpaying visitors around Capitol Hill, not Members of Congress. It costs \$390,000 to show the public around the Capitol without charge.

When you subtract from that billion dollars the costs which are attributable to other government-wide functions, the costs related directly and exclusively to running the Congress are no more than half of that figure which is bandied around by people who don't let facts get in the way of making a point.

You know, the Congress is damned if they do and damned if they don't. For years, while

the bureaucracy and the executive grew in power and numbers Congress limped along with 18th Century procedures and staff.

When Congress lagged behind and did not equip itself to deal adequately with other branches of Government, it was called the sapless branch. Now that Congress has begun to equip itself in a modern way, it is attacked as being the billion dollar Congress.

Well, let me give you an example to show you why Congress often doesn't know what's going on in Government. Right now, the Labor-HEW Appropriations Subcommittee on which I serve, deals with the budget of the Department of Labor and the Department of Health, Education and Welfare. That is a \$130 billion budget. Every time the Secretary of HEW comes up to testify, he brings with him an army of 15 or 20 assistants to help him answer every question about the way he is spending your money.

For just the National Institutes of Health alone, over 57 staff assistants accompanied the institute Directors to Capitol Hill to plead for their budgets.

Do you know how many staffers that subcommittee has to deal with that \$130 billion budget—four people.

Do you really think money is saved when the Congress denies itself staff to probe into the spending of the public money?

Can you imagine the president of a major company with a budget of \$130 billion making decisions on the basis of the policy analysis of four assistants? If you were a stockholder in that company, how confident would you feel in the quality and depth of the staff work done before those decisions were reached?

You will also see stories bemoaning the cost of running individual Congressional offices. "Can you imagine," the stories shout, "Members of Congress actually have offices, and desks, and typewriters and telephones and parking spaces!"

Well, what is so shocking about that?

Do you know of any business executive who doesn't consider that a normal part of doing business? Each Member of Congress, after all, represents 500,000 people.

I vote approximately 1,200 times a year in committee and on the floor. I receive about 50,000 letters from people from home each year and you know, it is funny. They have the damndest notion that the votes I cast should be well thought out and they expect me to answer their letters—occasionally they even expect a thoughtful response.

It doesn't get done with mirrors.

Last week I won passage of an amendment that increased by 400% the share of counter cyclical revenue sharing money which comes into my district. That just didn't happen. It took two weeks of hard work by a Legislative Assistant who worked with the Wisconsin State Office in Washington, badgered the committee staff, put the information together, drafted the amendment, explained it to me—that was the hard part—and figured out which other Congressional districts were similarly affected so that I could get additional support on the floor.

It took me ten minutes to win House approval. It looked easy. But, without the preliminary staff work it could not have been done. The money that amendment will bring to local units of Government in my district is enough to run my entire Congressional office for 4 years.

Congressional staff is not a perquisite of office. It is a necessity if a Member of Congress is to do a decent job of representing the interests of 500,000 people from home. But to some Members of the National Press they're defined as perks.

But you know, it is surprising how fast the definition changes when one reviews the accommodations of the Press Gallery rather than the accommodations in a Congressional

office. There are not many stories written about the amount of taxpayers money spent to support the Washington press.

Let's look at some of those costs:

Twenty-four employees of the House and Senate Press Galleries plus special doorkeepers and messengers, at a total cost during 1977 of \$592,517.

One-hundred eighty-one free, reserved parking spaces in choice locations on the Capitol grounds at a cost, based on comparable parking downtown of \$130,000.

About 180 free telephones, adding up to approximately \$23,000 a year in phone bills. Desks, chairs, typewriters, and other equipment worth about \$40,000.

Semi-private elevators (in the Capitol the same elevators that are reserved for Members of Congress are frequently reserved for members of the press as well).

Exclusive press tables in the House and Senate Dining Room.

Free stationery with Congressional letterhead.

Access to the same office supplies, meals, barbers, subways, and check cashing facilities available to Members of Congress.

Some of these privileges are hard to measure, but the cost to the taxpayer comes to way over \$1 million a year.

Having told you what the cost of the Congressional Press Gallery is to the taxpayer, let me hasten to add that I think that cost is irrelevant. A million dollars is a lot of money and I don't want any of it wasted.

But a million dollars is a small price to pay to enable the press to do its constitutionally protected job of reporting to the American public of the activities of their elected public servants. They have an important job to do, and we ought to make it as easy as possible for them to do it well.

But the same is true of Congress.

I don't mind serious stories about Congressional waste. I welcome them because with a \$60 billion deficit we cannot afford waste anywhere.

What I do mind is the misplaced sanctimony of some of the reporters who have populated the House and Senate Press Galleries in increasing numbers the last few years.

What I do mind is the national TV reporter who does a three-minute network clip on Congressional "perks" such as free parking without ever getting around to telling his viewers that he himself has a free space on the same Capitol Hill.

What I do mind is the celebrated habit of virtually all of the National Press of telling the nation that Congress has taken another "vacation" when we shut down the legislative shop to go home for a week of Easter, or Labor Day Recess, or Memorial Day. If anyone thinks I'm on vacation tonight, for instance, then they have a different understanding of the word than I do.

I remember a year ago when the press both in Washington and Wisconsin was shouting the story that Congress was on another "vacation." I finally sent a copy of my ten day schedule in the district to every newspaper editor in the state inviting them to accompany me on my "vacation" provided that they stick with me for the entire ten days.

I think that the National Press has been educated on that score, however, by the poll which my Commission did which showed that more than anything else the public wants us back in our districts more. They don't think the republic will crumble overnight if Congress is not in session.

And what I do mind is the national reporter who produced a drumbeat of stories about the necessity of tough financial disclosure measures for Members of Congress but recoiled in shock at the suggestion that



financial disclosure for those who write the news is just as important as it is for those who make the news. Doesn't the public have a right to know if a science writer has large holdings in drug company stocks?

What I do mind is the well-known Washington reporter who writes a column of opinion opposing the effort of Congress to limit outside income for Members of Congress and then shifts roles and writes a series of supposedly objective news accounts of that same Congressional activity.

And what I mind even more is the knowledge that it has become far easier for working reporters to get the stories aired or printed if they are associated with private scandal than it is if they are about serious legislative struggles.

The most thoughtful man to serve in Congress in a generation was Bill Fulbright. I'd like to read you something he wrote in the *Columbia Journalism Review*:

"The press and television gave something like saturation coverage in 1974 to Congressman Wilbur Mill's personal misfortunes; by contrast I do not recall reading anything in the press about the highly informative hearings on the Middle East, and another set on international terrorism, held in the spring of that year by Congressman Lee Hamilton's House Foreign Affairs Subcommittee on the Near East and South Asia. The crucial ingredient, it seems, is scandal—corporate, political, or personal. Where it is present, there is news, although the event may otherwise be inconsequential. Where it is lacking, the event may or may not be news, depending in part, to be sure, on its intrinsic importance but hardly less on competing events, the degree of controversy involved, and whether it involves something 'new'—new, that is, in the way of disclosure as distinguished from insight or perspective.

"The national press would do well to reconsider its priorities. It has excelled in exposing wrongdoers, in alerting the public to the high crimes and peccadilloes of persons in high places. But it has fallen short—far short—in its higher responsibility of public education. With an exception or two, such as the National Public Radio, the media convey only fragments of those public proceedings which are designed to inform the general public. A superstar can always command the attention of the press, even with a banality. An obscure professor can scarcely hope to, even with a striking idea, a new insight, or a lucid simplification of a complex idea. A bombastic accusation, a groundless, irresponsible prediction or, best of all, a 'leak,' will usually gain a congressman or senator his heart's content of publicity; a reasoned discourse, more often than not, is destined for entombment in the Congressional Record. A member of the Foreign Relations Committee staff suggested that the committee had made a mistake in holding the 1974 detente hearings in public; if they had been held in closed session and the transcripts then leaked, the press would have covered them generously."

That makes the point better than I can. Working reporters have told me that it is far easier to convince their editors back home to make room for stories about the personal lives of Members of Congress than stories about the misdirection of OSHA, the waste of research dollars at the National Cancer Institute, or the immense social consequences of the hundreds of policy decisions found in an appropriation bill for the Health, Education, and Welfare Department.

One reporter came up to me after filing one of his cheap-shot stories and said to me, "I know it's crap, but it'll get printed."

One inherent problem we have, I suppose, is that the main job of legislating is to resolve conflicts while the main interest of some segments of the press seems to be to dramatize conflicts.

Well, I've said enough for now, but let me end as I began, by making clear once again

that I condemn the press no more than I condemn the Congress. Let me make it clear that I believe cheap-shot artists in the press are a distinct minority, just as I believe that the charlatans are a distinct minority in the Congress.

Members of Congress are expected to deal—if not intelligently at least adequately, with budgets, taxes, economics, environment, energy, foreign affairs, civil liberties, agriculture, health, education, housing, and a whole maze of other issues. You have to deal with the same issues. Both our jobs are almost impossible.

Members of Congress have essentially three functions: a legislative function, a service function, and an educative function. We do not do the latter very well. Although in a democracy that is perhaps the most important part of our job.

The public needs both its public servants and its press to do more than simply entertain them. It needs to have both of us deal with the stories that are important to tell, not just those that are easy to tell. It needs, from both of us, a sense of balance, a sense of fairness and, most importantly, a sense of perspective.

I hope that you and I and the people we both work with will do more in the future than we have done in the recent past to see to it that they get it.

#### WANT TO KNOW ABOUT EXITS? DON'T ASK!

**HON. G. WILLIAM WHITEHURST**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. WHITEHURST. Mr. Speaker, the foibles of the Occupational Safety and Health Administration have become legion, but it is not too often that we are able to draw humor from the straight-faced regulations issued by that agency.

I am, therefore, for the amusement of my colleagues and the other readers of the *RECORD*, introducing a bit of satire taken from the Saturday, June 4, 1977, edition of the *Norfolk, Va., Ledger-Star*. Bill Burke, a member of the news staff of that paper, has included these barbs, which were cleverly compiled by Andy Alford, an aide to my good friend and colleague, the Honorable ROBERT W. DANIEL, JR.

WANT TO KNOW ABOUT EXITS? DON'T ASK!  
(By Bill Burke)

Labor Secretary F. Ray Marshall recently ordered the federal Occupational Safety and Health Administration to get rid of "Mickey Mouse" job safety rules, and nowhere were the huzzahs louder than in the office of 4th District Rep. Robert W. Daniel Jr.

Daniel has long been a critic of the voluminous and verbose regulations promulgated by OSHA. He claims that if all the OSHA rules compiled since the agency was formed in 1970 were stacked one atop another, they would make a pile 14 feet high. (Which would constitute a safety hazard in itself. Imagine a 14-foot high stack of government regulations toppling over on you.)

Daniel's Washington office aide, Andy Alford, compiled a collection of some of the regulations Daniel has been fussing about for years. A few samples follow, with editorial comment:

"Wood ladders, when not in use, should be stored at a location where they will not be exposed to the elements, but where there is good ventilation."

Ladders need fresh air, too.

"No furnishings or decorations of an explosive or highly flammable character shall be used in any occupancy."

Don't build end tables from dynamite sticks.

"Regardless of height, open-sided floors, walkways, platforms, or runways above or adjacent to dangerous equipment, pickling or galvanizing tanks, degreasing units, and similar hazards shall be guarded with a standard railing and toe board."

Pickled and galvanized employees perform poorly.

"Fixed stairs shall be provided for access from one structure level to another where operations necessitate regular travel between levels. . . ."

If you erect a two-story building, it's a good idea to have stairs to get from the first floor to the second.

"Extension ladders should always be erected so that the upper section is resting on the bottom section."

It's not a good idea to put the bottom on top of the top, or vice versa.

"Knots shall not appear in narrow faces of side rails (on wood ladders). Knots, if tight and sound and less than one-half inch in diameter, are permitted on the wide face provided they are at least one-half inch back from either edge and not more frequent than 1 to 3 feet of ladder length."

What does your daddy do? He's a ladder-knot counter for the government.

In case you thought an exit is simply a door you walk through to get outside, OSHA will set you straight. An exit, OSHA tells us, is a "means of egress," and has three component parts.

First, an exit access: "Exit access is that portion of a means of egress which leads to an entrance to an exit."

Second, the exit itself: "Exit is that portion of a means of egress which is separated from all other spaces of the building or structure by construction or equipment as required in this subpart to provide a protected way of travel to the exit discharge."

Which brings us to the exit discharge: ". . . That portion of a means of egress between the termination of an exit and a public way."

Or in Labor Secretary Marshall's case, the door these and other such regulations have been instructed to take a walk through.

#### UNIVERSAL VOTER REGISTRATION

**HON. DAN MARRIOTT**

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. MARRIOTT. Mr. Speaker, President Carter's proposed Universal Voter Registration Act of 1977 (H.R. 5400) appeared to be a good idea designed to make it easier for more individuals to vote.

However, a careful examination of this proposal shows that this measure would be an open invitation for fraud. Registration before election day is an important safeguard against voter fraud. If we remove this protection, we are preparing the way for widespread vote stealing.

State officials of both political parties have courageously opposed this measure. Rather than being a universal voter registration bill, it would provide for universal voter fraud.

I would like to enter into the CONGRESSIONAL RECORD a perceptive letter from the Secretary of State of Ohio, Ted

Brown. The letter was written in response to a request from Vice President WALTER MONDALE on the same-day election bill and has been printed in the April 1977 edition of the American Conservative Union publication *Battle Line*. Mr. Brown emphasizes the effect of one illegal vote per precinct and discusses the weaknesses of President Carter's proposal. He points out not only the fraud possibilities but the confusion and chaos which could result from election day registration. I urge my colleagues to read this letter carefully.

#### OHIO SECRETARY OF STATE RAPS CARTER VOTE PLAN

(The following letter has been sent to Vice President Mondale by Ohio Secretary of State, Ted Brown, regarding President Carter's proposal which would allow a person to register to vote when he goes to the polls on election day by simply presenting some form of identification.)

Dear Mr. Vice President:

Thank you for your letter and enclosures of March 19, 1977, regarding a Federal plan to "open up" voter registration by promoting election day registration. As an election official, I am unable to agree that this proposal constitutes "election reform". On the contrary, I feel that this plan represents a regression to the days of bought and bartered votes and stolen elections which an effective voter registration program has helped put far behind us.

The impact of "just one illegal vote" should not be underestimated when tinkering with election safeguards. In 1974, less than one vote per precinct defeated an incumbent Ohio governor, a margin later confirmed by recount. In 1976, less than one vote per precinct in Ohio gave you and President Carter Ohio's 25 electoral votes and your early morning victory, again confirmed by recount. Elections, like banking, can never become an approximate business.

Many American citizens are already skeptical about the value of their single votes. Can you imagine their disillusionment and disaffection if our elections system makes it possible for an individual's vote to be negated by one illegally cast? To capture and hold the faith of the American electorate, our elections system must be like the behavior of the pastor's wife—not only proper in fact, but also in appearance.

It is not enough to say that stiff penalties are included to punish those who cast illegal ballots. In any secret ballot election an illegal vote counts as much as a proper one; and once cast, the identity of that vote is lost forever.

The punishment aspect of any program can easily be overvalued. As you know, it is not the severity of the penalty which deters criminal activity, but rather the certainty of punishment. Detection and apprehension of illegal voters under an instant registration system would, at best, be a very uncertain proposition. Prevention of illegal voting in this day of widespread and easily obtainable false identification documents would be even less likely.

Our experiences in Ohio have shown that severe penalties for illegal voting can, in fact, work against effective enforcement because of the reluctance of courts and prosecutors to pursue felony convictions against fraudulent voters for "just one illegal vote."

Ohio is considering legislation which involves election day registration; and therefore, the Ohio Senate Elections Committee invited the Secretary of State of Minnesota and the Milwaukee, Wisconsin, Administrators of Elections to testify on the merits of election day registration. They were told that in Milwaukee the people had to wait in line two and one-half hours to vote while polling place officials handled election day registra-

tions. Although the Administrator of Milwaukee, Wisconsin, did not think a two and one-half hour voter wait was a serious problem, it seems to me that it would prove a severe irritant and that it may actually discourage some people from voting who did not want to take the time to wait.

In her testimony before the Ohio committee, the Secretary of State of Minnesota stated that because of election day registration there were insufficient ballots to handle all of the voters in some precincts and that ballots had to be photocopied. This procedure increases the possibility of election fraud. Forcing voters to wait until ballot shortages could be communicated and photocopies made and delivered to the polling places is bound to cause a serious slowdown in voting.

I am also concerned that election day registration would actually serve as an inconvenience to voters who had registered prior to the day of the election and that the concept could cause serious administrative problems for election officials. If those officials make an incorrect guess as to the number of people in a precinct who will turn out to register and vote on election day, too many or too few ballots or too many or too few voting machines would be provided for such precincts. The consequences are obvious. It is a waste of expensive equipment or printing if too many voters are anticipated, but don't appear, and long voter lines will occur if the voter turnout is seriously underestimated.

In 1972 the United States Supreme Court ruled that a state residence requirement for voters of longer than 30 days was unconstitutional. The court gave its approval to 30 days only because the state was able to show that it took that long to complete the clerical function of registration before an election. Presumably if voters are allowed to register and vote on the same day, a pre-election clerical operation would not be involved; and the argument for a 30-day voter residence requirement may no longer be valid. If no period of residence could be required, another important safeguard will have fallen because of enactment of the Federal law.

For the last 27 years the citizens of Ohio have entrusted the care and preservation of their sacred franchise to me as their Chief Election Officer. During that period and with the help of conscientious and dedicated local election officials of both parties, we have built in Ohio an elections system widely regarded as the best in the country. It is from that point of view that I wholeheartedly urge abandonment of any plan to compel the various states to accept a dangerous plan of election day registration for Federal elections and to "bribe" the states with taxpayer money into acceptance of such a plan for state and local elections.

Sincerely yours,

TED W. BROWN,  
Secretary of State.

#### ONE MORE CONSUMER AGENCY IS TOO MUCH

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. MOORHEAD of California. Mr. Speaker, I should like to bring to the attention of my colleagues an article written by Dave Joergenson of the Glendale News-Press in my district concerning the proposed Agency for Consumer Advocacy.

[From the Glendale (Calif.) News-Press, May 19, 1977]

#### ONE MORE CONSUMER AGENCY IS TOO MUCH (By Dave Joergenson)

With 33 federal agencies and approximately 400 government bureaus and subagencies running more than 1,000 consumer oriented programs, what this country needs more than anything else in the whole world is another consumer agency.

Accordingly legislation has been introduced in the House of Representatives and the U.S. Senate to create the Agency for Consumer Advocacy (ACA).

It is estimated that the existing agencies and their procedures are costing the taxpayer and business from \$80 to \$100 billion a year, having increased by more than \$600 million in the last two years.

If the ACA becomes fact, the cost of its operation will be \$60 million in the first three years, and that is only the beginning.

Ralph Nader, who says this is the most important legislation in the history of consumerism, believes the ACA is needed because the existing agencies are not doing the job.

So if federal agencies are the problem, the obvious and logical solution is the creation of another federal agency.

The idea behind the legislation, and it is a terribly clever one at that, is to create a watchdog to watch the watchdogs.

This is essential, say proponents of the measure, because existing consumer agencies and big business are now in the same bed, between the same set of sheets playing patty cake.

Besides, say agency advocates, the consumer is gullible and needs help. Further business is avaricious and needs watching as do other government agencies because they tend to believe in governmental infallibility.

In other words, we all need the ACA to unscrew us.

Now, it must be understood that in order for the ACA to do the job of representing all of us throughout government and the private sector, it must be independent.

In fact, the wording creating the agency gives it so much independence that there exists in it considerable potential for disruption of the political system.

The stability and effectiveness of government depends upon balance among its institutions. Political power inadequately confined creates imbalance and invites abuse.

Leon Jaworski of Watergate fame, said the ACA would be vested with authority so broad that it could easily be turned to the political advantage of those who control it.

He says there are no checks sufficient to harness that authority, therefore, the potential for abuse.

The stated authority is to "protect" and to "represent" the "interests of consumers" in virtually every activity of the federal complex.

To accomplish this goal, the director would have the right to appear before agencies and bureaus in the government; the right to collect information by compulsory process in and out of government; the right to sue government and the right to speak from any platform on behalf of the vaguely defined "consumer."

Theoretically, the agency represents every man, woman and child in the country.

Says Jaworski, "This conclusion leads to the question of how the interest of the people will be determined in any given matter. There are no criteria in the bill for defining that interest, nor could there be."

"Definition of the national interest is the most difficult and most fundamental objective of government; and ultimate responsibility for its accomplishment is placed by the Constitution upon the elected members of Congress and the President."

"I have severe reservations about the delegation of so broad and basic a role to one unelected official," said Jaworski.



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He says the political authority inherent in such an assignment is "literally enormous."

"But more importantly," says Jaworski, "there is no effective check against abuse of that authority by the elected branches. The bill contains no provision for a term of office or for the circumstances under which the administrator may be removed."

Because advocates of the agency claim the director needs to be independent of executive or legislative branches of government, he is not under their control.

"Power would be vested in the director that could be wrongfully manipulated," said the former Watergate prosecutor.

"That alone is sufficient to justify laying the concept to rest once and for all. It is contrary to the most fundamental of our democratic principles to vest in one unelected person the authority to represent, legally and politically, the interests of all the people."

It is also contrary to the wishes of a majority of Americans who want less government, less cost, and less intrusion.

But that shouldn't stop government, because its desire to grow and spread is greater than its desire to listen and respond.

#### CONTINUING CRISIS IN FOSTER CARE

### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. MILLER of California. Mr. Speaker, since introducing the Foster Care and Adoption Reform Act of 1977 last March 31, I have periodically discussed, in the extensions of remarks, various studies which clearly necessitate an immediate substantive reform of the Federal role in foster care and adoption. In the past, I have provided excerpts from reviews conducted by the General Accounting Office, the Department of Health, Education, and Welfare, the Regional Institute of Social Welfare Research, the Congressional Research Service of the Library of Congress, and others.

Last week, the Ways and Means Committee overwhelmingly reported to the full House H.R. 7200, which contains many of the reforms of the foster care and adoption program contained in my own legislation. Last week, also, as if to bolster further an already solid case for the enactment of such reforms, yet another highly critical report on foster care was published.

This most recent study was released on May 26, 1977, by the office of the comptroller of the city of New York. The Report on Foster Care Agencies' Achievement of Permanent Homes for Children in Their Care, not only paints a tragic picture of the foster care system in one city, but illustrates that the problems which have been uncovered in New York are basically identical to those documented in other studies in other areas of the country. Nor is this the first review of the program in New York City. Just last year, a study by the State board of social welfare revealed that over half the children placed in foster care were inappropriately placed originally, and concluded that such original misplace-

ments become self-fulfilling prophecies as children continue to languish for years in needless and inappropriate placements, often institutions.

The most recent report, completed by the Office of Comptroller Harrison J. Goldin, concluded that a majority of the children reviewed had been kept in foster care "for excessively long periods to the detriment of the children and at enormous cost to the taxpayer." Comptroller Goldin used words like "deplorable" in describing a condition which he termed "avoidable" in most cases.

#### SUBSIDIZING FAMILY BREAKUPS

In the past, I have said that the Federal emphasis on open-ended maintenance payments through title IV-A of the Social Security Act, while severely restricting funding for preventive and family reunification services which could reduce the need for foster care, amounts to a Federal subsidization of the breakup of the American family. Apparently, Mr. Goldin found similar results, because he noted that the system has "a fiscal incentive structure that pays agencies for keeping children in foster care, but does not reward them for discharging children" to their parents or for adoptive placements. In fact, the Goldin report found that in 1976, only 15.3 percent of the foster children were discharged to permanent homes, and that only 953 children were placed for adoption, although 5,727 were planned to be adopted by the agencies.

#### WILDSREAD INAPPROPRIATE PLACEMENTS

A 1955 New York study found that 41.6 percent of the children in foster care in that city had been in care 5 years or longer, and identified many familiar problems in the placement and review processes. Sixteen years later, in 1971, the number of children in this supposedly short-term placement program who had been in care longer than 4 years was 58.2 percent. In the 1977 Goldin study, the comptroller found that 65 percent of the children in foster homes had spent an average of 5½ years more than necessary in foster care, at a total cost to the taxpayer of \$233 million; that is a total of 11,000 children.

A system which was planned to give children a greater sense of permanency has, in fact, become a prime source of impermanency itself. The Goldin study found that 29 percent of the children had been in three or more foster homes, and that nearly 30 percent of these "had seriously deteriorated during their many years in such care. By comparison, only 13.9 percent of the children who had been in one foster home evidenced such deterioration."

#### STAGNATING ADOPTION PROGRAM

The Goldin report found that 64 percent of the foster children had spent at least 18 months in placement, and ought to have been freed for adoptive placements. In fact, only 4 percent were freed on a timely basis, and an additional 12.8 percent "after many years of care [were] eventually freed." The comptroller's auditors found that many child-caring agencies made "little effort" to place children in adoptive homes, and even

"positively discourage" potentially adoptive parents. The auditors also found incidents of discrimination against prospective adoptive parents on the basis of marital status, race, religion, and geographical region, and found incidents of "expensive adoption fees" being used to discourage adoption. They also cite cases of caseworkers who describe available children in "highly negative terms" rather than encouraging their adoptive placement. In fact, it was found that 23.5 percent of the freed children were not even registered with the State adoption service agency, as currently required by State law.

#### INADEQUATE PROVISION OF SERVICES

Like most other studies, the Goldin report found that most children are placed in foster care because of a parental problem, not because anything is wrong with the child which necessitates removal from the natural home. Yet, after the child has been removed—often before the offering of appropriate preventive services which could have mitigated the need for removal in the first place—both the child and the natural parent are often ignored by the agency. The Goldin report found that only 57.6 percent of the cases indicated "adequate social casework services in terms of foster home visits and working with the natural parents. Many children needing psychological or psychiatric service did not receive them on a timely basis at all," a figure nearly precisely matched in other areas by GAO.

In reviewing the case plans, on the basis of which a child's progress in the foster care system is measured and future services are decided upon, the Goldin auditors found that adequate plans existed for less than 40 percent of the children.

Clearly, the lack of adequate Federal support for the development of such service programs plays a major role in the failure of New York and most other cities to have such cost-effective systems in place. H.R. 7200 would greatly increase such Federal supports by fully funding the long-bypassed title IV-B program.

#### EFFECTIVENESS OF COURT REVIEWS

Current Federal law requires a semi-annual review of federally-claimed foster children. The General Accounting Office study of foster care in four States, which I commissioned in 1975 with my colleague from Indiana, Mr. BRADENAS, indicated that such reviews were often not conducted and when they were held, often were inadequate, lasting only a few minutes. Such reviews clearly cannot adequately review the appropriateness of a child's placement or properly plan for the disposition of a case.

H.R. 7200, drawing on recently enacted State laws which attempt to introduce a greater degree of accountability into the review processes, would clarify the procedures which must occur during the semiannual review, and would introduce a requirement for a dispositional review—no later than 18 months after a child had entered foster care—to determine the long-range placement of the child, including a return to the natural family or terminating parental rights in expecta-

tion of adoption. This review would be conducted either by a court of competent jurisdiction or by a court appointed officer.

It is therefore interesting to note that the Goldin report endorses a "presumptive 18 month limit in all cases" of foster care. This is particularly wise since child psychologists note that placements of longer duration can be seriously detrimental to a child's development. Moreover, statistics clearly show that a child remaining in foster care longer than 18 months stands a better than 80 percent chance to remain in placement until age 18.

The Goldin investigation noted, in this regard: "We have found the family court to be a significant factor in prodding agencies via its 18 month case reviews" to make a final decision regarding the child's future placement. Over 43 percent of the cases reviewed by the court resulted in a case plan modification and/or the placement of the child in a permanent home. These statistics correlate closely to figures developed by the National Council of Juvenile Court Judges program, children in placement—CIP. In four States—Ohio, Oregon, Texas, and Rhode Island—the CIP court review moved from 8 to 67 percent of the children reviewed out of foster care, at tremendous savings to taxpayers and great benefit to the children.

The authors of the Goldin report close by advising:

We hope . . . that this report's findings and recommendations will provide a significant impetus to the reform of foster care not only in New York City, but also in other sections of the country.

As we have seen from comparable studies, the problems of New York are not unique to that city, but are very similar nationwide. Those provisions of H.R. 7200 which refer to foster care and adoption reform, and child welfare services, will provide the renewed Federal support for the improvement of this system which today not only holds 350,000 children annually in impermanent limbo, but which costs taxpayers billions of dollars annually for a system which achieves none of its professed objectives, either for the society at large, or for the children.

I urge my colleagues to give H.R. 7200 their strong support when it comes to the House floor next week.

TRIBUTE TO MR. EMIL HEIN: A  
"GUARDIAN ANGEL" TO MANY  
ELDERLY

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. HYDE. Mr. Speaker, I am proud of all of my constituents, but I take special pride in representing Mr. Emil Hein, whose very useful activities were the subject of an article in the Chicago Tribune of May 27, 1977.

I am sure Mr. Hein does not seek publicity or notoriety, but nevertheless his

great kindness in bringing a little cheer to the lonely elderly should serve as an example to all of us.

I am pleased to share with my colleagues the article about Mr. Hein written by Anne Keegan:

HE DELIVERS A BREAK IN LONELINESS

(By Anne Keegan)

Around 11 a.m. they start looking for him. Sitting in their bungalows, listening for the slam of his car door or his foot steps on the walk. Peering through the curtains, lifting up the shades to see if he's in front.

Sitting on the sofa, surrounded by their knickknacks, the pictures of their grandchildren, pillows, and dollies—they wait alone with the heavy quiet of the house.

For some he is their only visitor. The only one they will see all day. The only one they have to talk to. To crack a joke with or shed a tear with.

He breaks the tedium of loneliness. Gives a routine to their long and open days. Sets a pattern where yesterday's patterns seem to have faded away.

And, he brings them something good to eat, perhaps their only hot meal of the day. For when you are old and alone and can't get around very well, it's hard to cook.

So, by mid-morning they are ready. They are looking for him. Listening for him. Glancing at the clock. Waiting for Emil Hein.

And by mid-morning, Emil Hein, 74, is on the road in his gray Chevrolet, heading out for his route. He delivers hot meals in Berwyn and Cicero to senior citizens who cannot leave their homes or cook for themselves. It is called Meals on Wheels and is run by the Berwyn-Cicero Council on Aging.

There is a serious need for this service in Berwyn and Cicero. For the area has the largest concentration of senior citizens in the county.

Most of Emil's people are Bohemians—immigrants whose tidy bungalows mean a lot to them. And although they cannot get around too well, or cannot take care of themselves, and their mate is gone and they live alone, they won't leave the house they worked so hard for so many years of their lives.

"These people just don't want to go into nursing homes," said Emil as he headed toward the seven houses on his route in Berwyn—a town where one-fourth of the population is elderly.

"And for many of those who do, it just doesn't seem to work. I had two women on my route and they were put in a nursing home. One lived two months; the other lived three.

"Taking them out of their homes of 40 or 50 years is like pulling an old plant out by its roots. Some of the transplants take but most of them wither up and die."

He pulled up to his first house—a brick bungalow next to a parking lot. He pulled out a tray with goulash, salad, noodles, broccoli, a carton of milk, some bread, and a desert of fruit.

"For most of them, this is the only hot meal they get," he said. "And when they just eat cold foods, this is a chance for a well rounded meal."

He went to the first house. The door was open. The woman inside was waiting for him, sitting next to a fan that had not been turned on.

"Where's your husband?" Emil asked. "He fell down and hurt his head," she said, leaning forward on her walker. "I had to call the police to take him to the hospital."

"Who's going to come in and check on you?" asked Emil setting her meal down on the table.

"Oh, my niece is supposed to come," she said, her chin starting to quiver.

"But you can't depend on her. You can't depend on relatives these days."

She rubbed the tears out of her eyes.

"You see, my daughter is in another state, and she's sick. My sister told that niece, 'It's a damn shame you kids can't take care of us.' We did it when you were their age."

They talk a few minutes and Emil says goodbye and promises to see her tomorrow.

"You can see," Emil said getting back in the car, "that for most of them, it is a lonesome life. When I was young there was respect for grandfather—anybody's grandfather. But I guess kids now feel the government will take care of their parents, why bother?"

The next stop was three blocks away.

"I found this man lying on the floor a year and a half ago," said Emil as he walked up the back steps. "He'd fallen and broken his hip. I don't know how long he would have lain there if I hadn't come by."

A lanky, boney man in a T-shirt leaned on a walker on the other side of the screen and reached to unlock the door. Then he collapsed without a word in a chair.

The kitchen where he sat was barren except for photographs of children behind the glass in the china cabinet. An ashtray was within reach and the rooms smelled of strong tobacco.

Emil said a few words of cheer and the man nodded back. He cannot hear.

At the third house was a little woman with a cane. Emil had found her a year before lying on the bedroom floor. "I was scared," Emil recalled. "She was as white as a sheet. I'd thought we'd lost her."

She calls Emil "The Russian" because during their daily chats she learned where he was born. She leaned heavily on her cane in her house that is cool and tidy.

"How are you today?" Emil asked.

"Not so good," she said, looking down at the floor.

"Oh," he joked, "you say that all the time. But you look as good as the day I met you."

The fourth house call took more time. The man inside with the cane could not move fast when he opened the door.

"How are you?" asked Emil, putting down the meal.

"I'm slipping, Emil, I'm slipping," the man said. "Every day you get stronger and I get weaker."

"This cancer of the bones, it has so much pain. I'm taking these drugs and so I don't want to eat. And now it seems I'm getting used to the drugs 'cause every day I feel more pain. My God, it's terrible. This is just the beginning. How am I going to make it to the end?"

The man ran his hands slowly through his full head of hair.

"Why don't somebody give me a few pills and spare me this pain? Last night it was so bad I couldn't sleep; I broke down and cried. If I'd have a few pills around that could do the job, last night I would have taken them and ended it all."

"Take care now," Emil reassured him. "I'll be back tomorrow."

"I do this to keep active," Emil said as he headed for the next house. "And I like to talk to old people. It helps them just to be able to talk to somebody. When they can tell someone how they feel, they seem better afterwards. They're so lonely. You can see the appreciation every day in their eyes."

Emil ducked into the fifth house—an elderly couple who were getting their first delivery. And at the sixth, up in the second floor of an apartment, a woman named Ann welcomed him with a big smile.

"This last little lady," Emil said, "has nobody but she's got lots of spirit. She is 89 years old and she's the healthiest one on the route."

"That you breaking my bell, Emil?" cracked a voice behind the door.

"Sure is, Minna. Come on and let me in."

"Okay," she said chuckling. "I'm still young at heart and hearty, you know."

She padded in her house slippers across



the carpet through a darkened dining room where a "Senior Power" button protruded from the top of a pin cushion.

"You know what I was doing, Emil, just now?" she asked. "I was just having myself some strawberry jam on coffee cake. That's what I was doing. And I won't get fat 'cause I'm not good natured."

She cracked a laugh and slapped her leg. "Let me tell you, what Emil's doing is the best thing that ever happened in Berwyn and Cicero," she said. "If there was another Emil in town we'd be at the top of the world. You know, he took me out for my birthday."

"But listen here now, Emil. You got to fix my gate. You said you'd do that."

"I will, Minna, I will," he said. The two chatted for 10 minutes and then Emil headed for the door.

"Happy sailing, Emil," Minna chanted through the screen. "That's the song I'm singing today."

"Happy sailing, Minna," said Emil starting up his car.

Tomorrow, he will be back and they all know it. He will bring another hot meal and some more words of cheer, give them some attention, break the monotony of the day.

The same time tomorrow he'll knock on their doors. And they'll all be there—waiting.

#### CONGRESSMAN SYMMS ON MEDICAL FREEDOM OF CHOICE: DON'T EASE THE SYMPTOM, ATTACK THE PROBLEM

**HON. LARRY McDONALD**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. McDONALD. Mr. Speaker, on June 3, 1977, the Washington Post published an excellent article by our colleague STEVE SYMMS, which was written in response to a Post editorial attacking his medical freedom of choice bill.

Since the passage of the 1962 food and drug amendments, the Food and Drug Administration has required proof of effectiveness as well as safety before allowing a drug to be made available to the public. Because medical efficacy is very difficult to define and prove, the result has been an enormous increase in expense, a sharp drop in the number of new drugs reaching the market, and a long delay in the availability of new drugs that do reach the market. The FDA is preventing the American public from acquiring a wide range of safe and effective drugs which are available outside the United States.

Congressman SYMMS' legislation goes directly to the root of this problem by repealing the effectiveness requirements of the 1962 amendments. The FDA would still require proof of safety, but the American public would have a much wider freedom of choice in the selection of drugs available to them through their physician.

The movement to legalize Laetrile, a substance used to treat cancer, has apparently given impetus to the medical freedom of choice bill. Although Laetrile has now been legalized in at least six States, the FDA continues to rely on the 1962 efficacy provisions to ban Laetrile from interstate commerce. Not only are cancer patients winning the battle to legalize Laetrile in State legislatures, but Federal courts are issuing injunctions

to prevent the FDA from interfering with the right of individual cancer patients to obtain Laetrile.

Consequently, those who want the Government to control and regulate peoples' lives, even to the point of denying a dying patient access to medical treatment which may save or prolong his life, recognize the battle is all but lost regarding Laetrile. Their big fear is that the movement for freedom of choice in medical treatment will spread across the board.

Thus the Washington Post called for legislation to legalize Laetrile, apparently hoping that appeasing cancer patients will prevent an easing of the FDA's grip on patients with heart disease, epilepsy and many other diseases. The Post's position is an intellectual cop-out. Instead of dealing with the moral and political issues involved, the Post advocates pragmatic appeasement. If the Post feels patients do not have the right to select their medical treatment, then why do not they defend their position instead of making an exception for cancer patients?

If there was an FDA for the news media, the Post editorial would be banned for lack of efficacy.

Mr. SYMMS' reply, however, very effectively demonstrates the need for solving the entire problem instead of merely easing the currently most obvious symptom. As a medical doctor, I congratulate him on his thorough grasp of the often complex issues involved in medical treatment and Government drug regulation.

Congressman SYMMS' untiring efforts in behalf of medical freedom of choice have the opposition running scared, as clearly illustrated by the Post editorial. This is a good indication that the success of the SYMMS' legislation is not far off. The benefits of the victory will be enjoyed by countless medical patients in the years to come.

The article follows:

#### DON'T EASE THE SYMPTOM—ATTACK THE PROBLEM

(By Steven D. Symms)

Your contention, in the May 22 editorial on Laetrile, that my Medical Freedom of Choice Bill is "being advanced in the emotional atmosphere generated by Laetrile" and your suggestion that it would be better to legislate strictly on Laetrile are ludicrous. Rather, it appears that your policy, the policy of a great deal of the media, is being advanced by the Laetrile issue.

Your "solution" to the overall problem of a "drug lag" and a government take-over of the American physicians' responsibilities addresses itself not to the problem but to a very small symptom of it. Laetrile should not be legislatively singled out. The Post, it seems, has succumbed to political pressure on the issue and is attempting to either ignore or hide the basic problem—excessive government regulation—by appeasing a small, but vocal, segment of the population.

The American consumer has clearly been placed at an economic and medical disadvantage as a result of the effectiveness provisions of the 1962 amendments. You stated in your editorial that the Medical Freedom of Choice Bill "frankly . . . scares us" because it would leave "just the question of safety for all new drugs."

Does it not scare you that the consensus is that penicillin, digitalis, aspirin and insulin, would not make it to the market under current Food and Drug Administration regulations if they were developed today?

Does it not scare you that sodium valproate, a drug marketed in most of the world's developed countries today but which will not be available in the United States until mid-1978, at the earliest, could prevent one million epileptic seizures this year, if it were available?

Does it not scare you that tested, life-saving beta blockers, available in Europe, are still not available to the American medical profession?

Does it not scare you that Xylocaine, originally approved and marketed as a local anesthetic, was later found to be extremely effective in controlling cardiac arrhythmias but took a full 10 years to be sanctioned by the FDA after the original reports of its effectiveness appeared? This list goes on *ad infinitum*.

I would have thought that you would also be interested in preserving competition and free enterprise. Are you unconcerned that the 1962 amendments have made it virtually impossible for all but the largest drug companies to develop and test new drugs? Have you no sympathy for the American consumer who is forced to pay 50 cents more for every prescription written as a result of government regulations? Are you unaware that in 1962 the average drug required two to four years to gain FDA approval at an average cost of \$1 million with as few as 1,000 pages of documentation and that now, as a result of the efficacy provisions, approval takes 10 to 20 years, \$40 million and as many as 200,000 pages.

With this huge increase in time and money, has the FDA caused today's drugs to be more effective? Unequivocally no. The 1975 Economic Report of the President stated that there is no evidence that the average efficacy of drugs introduced after 1962 is any higher than that of drugs previously introduced.

Instead, the FDA has slowed the entire drug flow by over 60 per cent, discouraged innovation and research, exempted all the but the biggest drug companies from the market, and denied the American consumer available, safe and effective treatment.

The FDA is not faced with the urgencies of patient care and, therefore, finds it easier to say no than yes. It is unquestionably open to attack if it approves an ineffective or unsafe drug, but the greater damage done by delaying approval of an effective drug will not be laid at its door. The value of a new drug is often clear to the expert in the clinical field before it is formally recognized by a reviewer at the FDA. The Post fails to realize and appreciate that stringent drug regulation for society as a whole limits therapeutic choice by the individual physician, who is better able to judge the risks and benefits for his patients.

The Medical Freedom of Choice bill has gained the cosponsorship of 105 members of Congress. The bill has also gained the support of numerous, highly qualified doctors and economists. Fear of this bill can only stem from the pervasive attitude in Washington that "the bureaucracy must exist, enlarge and engulf."

I, for one, am not willing to make the Congress of the United States into a second Food and Drug Administration by legislatively singling out a "hot" topic. We need to solve the problem, not ease the symptom.

#### TAX REFORM

**HON. BARRY M. GOLDWATER, JR.**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. GOLDWATER. Mr. Speaker, I was recently given the opportunity to read

one of the most cogent and thought-provoking articles on tax reform ever to come across my desk.

I want to bring this excellent article to the attention of my colleagues:

#### TAX REFORM

(By Carl A. Stutsman, Jr., Valentine Brookes, Robert K. Jewett, and Donald L. McCaskey)

In analyzing the revenue effect of any proposed taxation changes, let us also avoid as the Plague, a new term which has been widely employed lately by the predecessors of those now in the Congress. This term is "tax expenditure." One would think from the meaning of the two words that it signified money collected in taxes and then paid out by the government, but this is not what it means to those who use it. To them, "tax expenditure" means income or wealth which has been allowed to remain with the taxpayers instead of being exacted from them in taxes. Let us remember, but not emulate, that famed philologist, Humpty Dumpty, who announced that any word meant exactly what he intended it to mean, neither more nor less, and not what the listener thought it meant. Undoubtedly this is the explanation of the derivation of the term "tax expenditure," and it is being accepted and employed by others who have not troubled to analyze it and do not understand that in employing it they are talking about the concept of communism. It is dialectic materialism compressed into two words.

As we have said, what the term "tax expenditure" means is that income permitted by the government to remain in the hands of the taxpayers is deemed to have been exacted from them in taxes and then paid back to them. Implicit in that concept is the understanding that all income and all property in the United States belongs to the government and any property or income which happens to be in the hands of citizens is there at the sufferance of the government and because it, in its generosity, made that expenditure of its tax revenues. Hence the recipient is supposed to be grateful for favors received. He is supposed not to object to the amount of taxes which have deprived him of much of his hard-earned income; but instead, to be grateful for the portion which the beneficent government has permitted him to retain as a "tax expenditure."

The same tax thinkers have given us other phrases, which also mean exactly what their users intend them to mean, and not what the listeners would think they do. One of these, which has been used to a fare-the-well is "tax loophole." In case one does not know what a tax loophole is, it is a provision of the tax law whereby some of the taxpayer's income or property is not taken from him in taxes. Thus the fact that the maximum capital gains rate will not exceed 41% is called a "tax loophole," because if the tax rate were higher the government would get more taxes, and since it does not get those taxes, the provision whereby the tax is not exacted is a "tax loophole."

By the same token, anyone seeking to attain universal tax equality might assert that the personal exemptions and the credit for dependents are also "tax loopholes," because they allow taxpayers a measure of relief from the full impact of the progressive tax rates. But these are not referred to by the typical users of this magical phrase as a "tax loophole," because anything from which all voters, as a universal class, may benefit is not a "tax loophole," but is instead a "measure of tax equity."

Another term filled with implications is "tax reform." "Tax reform" consists of closing "tax loopholes." Both admirable expressions are used to describe features of the law in effect for many years in the U.S.

Every change in the statute being considered as a means of increasing taxes is praised as "tax reform" designed to plug a "tax loophole," even though the feature of existing law proposed for change was deliberately adopted for reasons of the tax policy, and was not inadvertent at all.

To employ the phrases, "tax loophole," "tax reform," and other phrases of similar meaning to describe a fundamental reversal of tax policy about which there can be differences of opinion is, of course, to wittingly or unwittingly distort the truth, and redundancy will not change the facts. Unfortunately, there are enough people to whom phrases such as "tax reform and tax loopholes" mean some kind of magical cure, thereby guaranteeing proponents of such measures instant sympathy.

Another example of the substitution of phrases such as these for thought and of their effect in beguiling the listener was in last year's debate over the question whether the gift tax and the estate tax should be merged into a single rate schedule, with a single exemption. That was thought by the Congress to be a good idea, but to refer to it as a "tax reform" is to state a lawyer's argument. The differences in rate schedules and exemptions were deliberate, not accidental. They were motivated by the feeling that the country would be better off if family fortunes were broken up in advance of the death of the owner by making it attractive to the owner of the family wealth to give some of it away to his children and grandchildren, thereby making them economically self-sufficient earlier in life, producing maturity in handling financial affairs which they would need later when the full impact of the family fortune was settled upon them. The consequence that tax revenues would be lower was understood, because without that understanding no one would expect the purpose of the rate differential to be accomplished, and so was the expectation that some taxes would be paid sooner, because the policy encouraged gifts. Today, in different times, we may feel that the social purpose of the rate differential was mistaken, is obsolete, or has fulfilled its purpose, but if that is what we think we should say so, instead of pretending that we have recently discovered a rate differential which is a "tax loophole," and which must be eliminated or modified in the interest of "tax reform."

Another example is the recently-coined phrase, "revenue lost to the Treasury." Those who regularly deal in tax matters may understand its sophisticated meaning, but to most people, the phrase is sadly misleading. "Revenue lost to the Treasury" is not really revenue which escapes the Treasury's net by accident. It is tax revenue which is not due under the law. It is tax revenue which has never been due, because the Congress has not imposed the tax. It is misleading if it is intended to be used to refer to income and property the taxpayers rightfully own and retain because Congress has not passed a law to tax it away from them. It is an accurate phrase only in the same sense that the phrase "tax expenditure" is an accurate one: it is accurate only if one adopts the concept that all income and property in the U.S. belongs rightfully to the government, and anything which the government permits the citizenry to retain for its own use and administration is the same as an expenditure by the government of monies and properties belonging to it, and hence is a "tax expenditure," and since, in fact, the income and property did not reach the Treasury, to be beneficially dispensed thereafter by it to the citizenry, it is "revenue lost to the Treasury."

It is time to re-think and re-define the current notion of "tax reform" if we are to have any meaningful reform at all.

#### CONGRESSMAN DRINAN COMMEMORATES SIXTIETH ANNIVERSARY OF PRESIDENT KENNEDY'S BIRTH

#### HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. DRINAN. Mr. Speaker, on May 29 I had the great privilege of participating in a program commemorating the 60th anniversary of the birth of John Fitzgerald Kennedy. The ceremony took place in Brookline, Mass., in my congressional district outside the home where John Kennedy was born and where he resided during the early years of his life.

I present herewith the statement I made in Brookline honoring one of the greatest leaders this Nation has ever produced, John F. Kennedy.

STATEMENT BY CONGRESSMAN ROBERT F. DRINAN

Today is the day for everyone's memories of President Kennedy. I recalled this morning, as I have often in the past, the day when President Kennedy came to the Centennial of Boston College back in 1963 at a magnificent event with 30,000 people outdoors. The President was introduced and immediately won everyone's hearts by opening his address at this magnificent occasion by saying, "I'm delighted to be back in Boston where people pronounce words like they're spelled." John F. Kennedy learned to speak good English in this neighborhood and in this historic house. Joseph Kennedy, John the second born, Kathleen, and Rosemary, were born here. And it was here in these few blocks that John F. Kennedy learned some of the basic ideals that changed the entire history of the world. When we look back and recognize that today he would be sixty, we can look at his entire life—and especially on the thousand days of his presidency—and recognize it as an inspiration and as a model to everybody in public life today. It is fourteen years now since we lost him. But his moral leadership does not fade away; it becomes more present to all of us. The moral imperatives which he articulated are more meaningful now than they were a decade and a half ago. When President Kennedy said, "Ask not what your country can do for you—ask what you can do for your country," he ignited a spark of idealism in the American people and across the world. Whether he was asking distinguished scholars to leave Massachusetts and come to work in Washington, or whether he was inspiring young men and women across America to come and join the Peace Corps, John Kennedy's message came across loud and clear: We all have a duty to make this world a better place than it was when we entered it. At a time when material comfort frequently obscures the spiritual values which we should cherish; at a time when Vietnam and Watergate have bred a generation of cynics who tune out politics; the message of John Fitzgerald Kennedy holds even more validity and appeal than it did when he was our President.

My dear friends, it is not fanciful to think that these ideals that changed the history of the world were fostered right here in this neighborhood. Early in John Kennedy's life, during the first years, the most formative years, he went to the Devotion School less than four blocks from this place. During those years, the schools and citizens of Brookline contributed in very important and unique and indispensable ways to the formation of an individual who is obviously one of the most compelling moral and po-



litical figures in this entire century throughout the globe.

Along with his brothers, Robert and Edward, President Kennedy believed that public service and politics could be the most honorable calling of all callings, and from the day that John Fitzgerald Kennedy opened his first Congressional campaign with an address to the Gold Star Mothers in Charlestown, people believed in this young man. They believed John Kennedy when he said that America must stand for something noble and selfless, when he said that America must shine as a beacon of liberty in a world beset by tyrants.

Our minds go back today to the famous time when President Kennedy was cheered in West Berlin. At that time he began the crusade for human rights which once again we are beginning to carry across the globe. One need only remember the Alliance for Progress in Latin America to appreciate the fact that it was John Kennedy who for the first time alerted us to carry out our responsibilities to the Third World.

We honor President Kennedy and his memory in our present human rights campaign. As long as men and women around the globe are tortured, imprisoned, or harassed for their political beliefs, the struggle for freedom and dignity will go on, and we will find ourselves more and more going back to be guided by the moral standards initiated and established by John Kennedy.

We honor his memory also, and carry on his most precious legacy when we say we have to have a halt to nuclear proliferation, because it was President Kennedy, in 1962, who engineered the miracle of all miracles, the Nuclear Test Ban Treaty.

John Kennedy not only promoted peace and political liberty in his foreign policy, but he faced up to the toughest domestic issues of the day. He put the full weight of the White House behind the drive for Civil Rights.

Today is a day of memories, and I have recalled all day a visit I had to the White House in June, 1963 with two hundred leading members of the bench and bar of America. President Kennedy told us that the storm was coming, that the law simply had to protect the civil rights of blacks and minorities. In the Rose Garden I remember well the inspiration that this man gave to those who were judges and jurists and professors of law and attorneys. I recall particularly that when I talked with President Kennedy the first thing he said—"We Have a Pope". Pope Paul had just been elected and President Kennedy related to me that he and Mrs. Kennedy had just sent a telegram to the new pontiff.

President Kennedy challenged the American conscience. He brought new hope to the people of Appalachia. These people who had been victims to the mindless philosophy which wanted them to fade away. President Kennedy began Medicare. He began the war on poverty. He passed a tax cut to revitalize the economy. And most of all, he was dedicated to fighting discrimination.

I recall well that President Kennedy in late June at this conference in the Rose Garden openly indicated that he expected a drop in his personal popularity because he intended to achieve access to public accommodation for minorities and he wanted fair employment and fair housing for our black citizens. Today those issues may have changed. They may have become more serious. It is no longer a question of sitting in the back of the bus. Today the need for courageous leadership in the John F. Kennedy mold is more critical than it was at the time when we had this man as our President.

It was in this home, it was in this neighborhood, that the beginning of this great man began. John Kennedy learned all of these things at the dinner table in the house behind us; at the school down the street. He

learned them from the neighbors whose kids still reside on Beals Street and he learned them from the people of Brookline.

There was rejoicing in this house sixty years ago today. Another child was born, the second to the Kennedy couple. They could not have known that he would have a career like Moses, that he would lead a nation to the promised land but that he himself would not see all that he had achieved. This family worked and prayed and gave him and his family a dream and a vision and that vision became the vision and dream of all Americans.

If President Kennedy were alive today, he would have assumed the role of elder statesman. One can imagine John Kennedy, still vigorous at sixty with a sense of humor even more developed than when he was President. He would be younger in spirit than many of the presidential aspirants and he would still be urging America to strengthen its moral commitments at home and abroad.

The highest form of tribute, my friends, that we can pay to John Fitzgerald Kennedy is to determine here today that things can never be the same again because we want, in his memory and out of veneration for him, to carry on that fight for the moral causes he served so well.

#### THE MECKLENBURG DECLARATION OF INDEPENDENCE, MAY 20, 1775

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. MARTIN. Mr. Speaker, each year on May 20, residents of Mecklenburg County in North Carolina's Ninth Congressional District celebrate the anniversary of a significant historical event in the State's history. It is an event significant in the history of our Nation. Though subject to some historical controversy, Mecklenburg County, called a hornet's nest by Lord Cornwallis during the Revolutionary War, is proud of its heritage of being the first in proclaiming itself "free and independent" of the Crown. This occurred May 20, 1775. During the anniversary this year, it was my pleasure and honor to have been invited to keynote the celebration by offering some observations on the authenticity of the Mecklenburg Declaration of Independence. Permit me to share with you the text of those remarks:

Thank you, Frank Whitney.

Chairman David Ritch, Mayor John Belk, Chairman Liz Hair, and all the members of the Alexander, Avery, Brevard, Davidson, Balch, Graham, Polk, Phifer, Wilson and other families who have assembled here to honor this day.

I want to talk with you about three historic fires.

Two hundred years ago 27 members of the Mecklenburg Committee of Public Safety began a great historical tradition for independence which we honor here today. They had convened on May 19th, the day before, for regular business, only to be interrupted by the arrival of a messenger on horseback with the shocking news of the Battle of Lexington a month earlier. It is worthy of passing historical note that a diary preserved by Mr. Traugott Bagge in Salem, North Carolina, confirms that the rider passed through there on May 17th.

This news generated great and virtuous anger among the people in Mecklenburg at what they regarded as a further example of characteristic ruthlessness of British rule. They had long had to deal with the experience of religious persecution in the form of the "Marriage Act" which was a tax levied on all weddings.

They still retained bitter memories of 1771 when the Regulator Rebellion was put down by officers of the King and six North Carolinians were hanged as an example. This had taken place at Alamance Courthouse.

The Mecklenburg Committee, chaired by Tom Polk and later by Abraham Alexander and with John McNitt Alexander serving as Secretary, was ripe to commit a rash act and so on May 20th they adopted, and to a cheering throng waiting outside publicly declared, a Resolution of Independence. At memorial celebrations even 50 years later, survivors were to recall with pride that first vote.

And so it was on May 20th that the Mecklenburg Declaration of Independence came into being 13½ months before the Continental Congress enacted a declaration of independence for all of the colonies on July 4, 1776.

May 20th, 1775: surely even with all the controversy surrounding it, there is no more celebrated date in the history of the State of North Carolina than this, the acclaimed date of the signing of this revolutionary document!

This event and the April 12, 1776 Halifax Resolves, instructing the North Carolina delegation to the Continental Congress to vote for independence, again in advance of all other provinces, clearly secured for our state the proud title of "First in Freedom".

And that was not the end of it. In the excitement that seared this small community, the Committee continued in session until May 31st, at which time a set of 20 resolves were adopted:

They suspended the laws of Great Britain.

They suspended the Royal Constitution.

They established local militia independent of Great Britain.

They set up courts of law.

They provided for the arrest and trial of anyone not obeying these resolves or anyone who was working for the King.

All of this was to be in effect until "Great Britain resigned its unjust and arbitrary pretensions with respect to America."

A somewhat cooler attitude perhaps than that of May 20th, but a clear statement of independence in its own right. These 20 resolves of May 31 were published in several contemporary newspapers and prompted Chairman Cogdell of the Craven County Committee of Safety to write: "The Mecklenburg Resolves exceeds all other Committees or the Congress itself." Clearly, this County had separated itself from the British Empire.

They then dispatched Captain James Jack to Philadelphia with their news. Records of the Court in Salisbury show that he stopped off there for refreshment and reported his message, and the aforementioned Salem Diary proves that he stopped there on the way back to tell of "free and independent Mecklenburg."

The reception in Philadelphia was cool—you see they were prepared to send a conciliatory letter to England and could not allow this rebellious county to give the wrong image. So they sent Captain Jack back home to cool things off.

Thomas Jefferson later claimed that he had never heard of the Mecklenburg Declaration, but it must be borne in mind that Thomas Jefferson was not in Philadelphia at the time Captain Jack arrived or departed.

So it was that Mecklenburg made its bold move, only to be told by all that it was premature. Yet, unrestrained on September 1st, just three months after the Committee had

met, it sent a delegation to the North Carolina Provincial Congress with written instructions to vote that "North Carolina is, and of right ought to be, a free and independent State."

Once again, this happened months before any other community would dare so bold and risky a step. There is no doubt these people believed in their cause of independence and made no pretense about it.

Some recent historians have raised doubts about the authenticity of existing copies of the May 20th Declaration, the original having been lost in a fire at Alexandria in 1800. Yet there is no doubt whatsoever that the Mecklenburg Committee:

- (1) met in protest,
- (2) declared their independence,
- (3) set up their own local authorities against the crown, and
- (4) sent Captain Jack to report it.

The records of 1775 newspapers and letters showed clearly that Mecklenburg was known to have declared itself independent. Governor Stokes claimed he saw a copy of the May 20th Declaration in 1973, seven years before the fire. So clearly, it was not originated after the fire.

Furthermore, we have what appear to be notes taken for the Minutes of the May 20th meeting by the Committee Secretary, John McNitt Alexander. And so we can be certain.

On April 6, 1800, fire swept the Alexandria home of Secretary Alexander and its contents, destroying nearly all of the existing records of the independence movement in colonial Mecklenburg. Since then, another fire of doubt has smoldered and flared alternately, threatening to consume the remnant that passed through the fire. It cannot prevail because too much evidence exists, proving the first claim of independence to be that of Mecklenburg.

Thus it is today that we here commemorate that first "solemn and awful vote" taken on May 20th, 1775. Truly we are, and of right ought to be, proud to honor the memory and the courage of these ancestral patriots. That faith in our proud heritage cannot and will not be consumed by the fires of historical dispute, anymore than memory could be erased or charred by the 1800 fire at Alexandria. So that faith will last for as long as the spirit of independence continues to burn with that earlier fire that first kindled here in Mecklenburg this very day in 1775.

## SALUTE TO WILO RADIO

**HON. JOHN T. MYERS**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. JOHN T. MYERS. Mr. Speaker, I take this opportunity to salute the broadcast industry which responded in a very positive way to the intense weather crisis of late January and February in many parts of the country.

I am particularly proud of the performance of WILO Radio in Frankfort, Ind., which served the public interest beyond the normal requirements. WILO owner Vern Kasper has earned the plaudits of his colleagues around the Nation for the example he set in meeting the challenges during the weather crisis.

I share this account of WILO's "service to the people" as it appeared in "Radioactive," a monthly publication of the National Association of Broadcasters:

## THE WINTER OF 1977

The Winter of '77 will long be remembered in many parts of the country. In this feature of our series, "Weather," we look at how several radio stations in the Midwest dealt with the crisis-producing winter. During a February blizzard, which froze the Frankfort, Indiana area for days and created some real life and death situations, WILO AM & FM abandoned its regular programming for 85 hours to open its telephone lines to its listeners.

Vern Kasper, general manager of WILO, explains that "during the emergency our staff relied upon the helpful attitude of the public. Without a doubt, the greatest contributors to gathering information were our citizens, through the use of radio and telephone." Vern continues, "we aired endless calls of people sharing emergency weather facts as they saw them in their part of the area."

Because of the usefulness of the telephone, Vern has drawn the conclusion that "during certain emergencies, telephone talk show techniques, when correctly done, provide a highly efficient news gathering process that lends itself to solving and preventing problems as well as reporting news in the classical sense. The telephone plays a key part in this type of journalism and its uses must be convenient, have good quality transmission, and a total line conferencing capability."

He cautions that this isn't applicable to, or good for, all stations or all situations; and adds that in this type of journalism, the staff must be ready to bear extra responsibility. "The time to prepare for emergency service is certainly not the day of the emergency," Vern explains that what is required is a total philosophy of problem solving at all levels of operation.

## COMMUNITY EFFORT

One example of community effort was a one-and-a-half hour "watch." Listeners tracked three snowmobilers transporting medical supplies in blowing snow with a -60 degree chill factor and phoned in progress reports to WILO until the snowmobile team arrived safely.

Other examples of community effort included the discovery of fourteen missing persons by listeners, a family of six which received material and monetary relief after their home burned down, people who spotted cars covered by snow for rescue crews and families receiving heat and food. And so it went for the six day vigil.

Writing to Vern Kasper after the crisis, one listener described WILO's emergency operations: "You were the hub of a giant wheel—the police, sheriffs, National Guard, Civil Defense, REACT CBers, Red Cross, snowmobilers and private citizens were the spokes." Another listener's comment summed up the WILO coverage: "I'm certain that for those persons who were marooned and isolated during the storm, their radio was a real comfort, and in some instances, a real life saver."

## HATCH ACT REPEAL PAVES WAY FOR TOTAL GOVERNMENT CONTROL BY ORGANIZED LABOR

**HON. ELDON RUDD**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. RUDD. Mr. Speaker, I understand that the House will tomorrow complete consideration of H.R. 10, organized labor's bill to repeal prohibitions against

partisan political activities of Federal employees.

I hope the House will defeat this bad proposal.

Syndicated Columnist Nicholas Von Hoffman pointed out the essential dangers of this bill in his May 23 column in the Arizona Republic. As reported out of the House Education and Labor Committee, H.R. 10 will allow organized labor—already heavily involved in the public sector—to pressure, coerce, or intimidate Federal employees into political action for passage of legislation demanded by labor bosses.

This could include legislation requiring forced unionization of Federal, State, and municipal employees—including the military. It could also include legislation giving Government workers the right to strike against their employers, the taxpaying public, or demands for further Federal bailouts of city or State governments brought to the brink of bankruptcy by irresponsible pension programs and other benefits for government workers demanded by organized labor.

Mr. Von Hoffman further points out that repeal of the Hatch Act will effectively eliminate executive or congressional control or supervision over the Government bureaucracy. Government workers, through organized labor, will take over the Government, and will not be answerable to the White House, to Congress, the people, or anyone except their big labor bosses.

Mr. Speaker, I would like to include Mr. Von Hoffman's column at this point in the Record, and urge all my colleagues to seriously consider these real dangers to our system of representative government through passage of H.R. 10 and repeal of the Hatch Act. Let's defeat this bad bill: [From the Arizona Republic, May 23, 1977]

## HATCH ACT REPEAL MAY BE DANGEROUS

(By Nicholas Von Hoffman)

WASHINGTON.—Under the label of reform, a bill repealing most of the Hatch Act is making its way through Congress and toward the Oval Office where the President has said he'll sign it. Oddly enough, the Hatch Act, which prohibits government employees from taking part in partisan, electoral politics, was considered a reform measure when it was passed in 1939.

Its purpose was to prevent a president from using the large numbers of recently hired government employees as campaign workers. The Roosevelt Administration was often accused of winning elections via this route, but national administrations weren't set up to run huge battalions of campaign workers at the precinct level; unless the patronage could be turned over to state and local officials it was not very useful for winning elections.

Despite his enemies' accusations, FDR didn't try this use of federal employees so he had no trouble living with the Hatch Act. In actuality, the law was superfluous because the protections and job securities afforded by the civil service robbed politicians of the weapons of coercion to make employees into campaign workers. How can you force a postal clerk to work for Gruntz for President if the clerk knows you can't fire him?

In the years after the passage of the Hatch Act, electoral politics underwent a change. In the language of economics it swung from being labor intensive to capital intensive. The costly armies of precinct workers were re-



placed by television campaigning, which allowed a candidate to reach more people per dollar spent than the knock-on-the-door method. Thus it's questionable these federal employees would have been used by presidential incumbents even if there had been no law.

Nevertheless, the Hatch Act has been accomplishing another unintended good. If the political use of federal employees by presidents was never likely, the use of the same employees by labor unions is a much more real possibility.

Without the right to strike or take part in political campaigns, federal employees are already the highest-paid people in the country. Without a Hatch Act they would have long since extorted the right to strike from Congress and along with it even greater advantages in pay, pensions and other fringe benefits. That's not mere supposition, as the record of the county and municipal workers' unions attests.

When public employees are given the right to strike, as well as the right to engage in partisan political activity, there is delivered into their hands a combination of levers no other group of workers gets. The members of the automobile workers union can strike to enforce their wage demands, but what would the price of cars look like if the union could also participate in the election of the auto manufacturers' boards of directors? In addition, for many years public employee unions have had to negotiate with a pussy cat management; to wit, public officials who weren't spending their own money when they voted wage increases and productivity decreases.

In the last few years the pussy cats have stiffened somewhat because the rest of organized labor, the part that works in the private sector, has gotten so angry. The repeal of the Hatch Act, however, will make it more difficult to keep government salaries in line with those of the rest of the world.

That may be the least of it. It is already close to impossible to fire a government employee because of the civil service. People on the public payroll are given, by law, greater security and tenure than workers in the private sector can get through collective bargaining. Now, by repeal of the Hatch Act, civil service employees will get so much more protection, and all coercive power to make them work will have been de facto abolished.

Repeal of the Hatch Act will demolish any good that may come from Jimmy Carter's zero-based budgeting or contemplated departmental reorganizations. It doesn't make any difference if a federal program is good or bad in concept if it is to be administered by a bureaucracy in which all supervisory control over the employees has been extinguished.

The lowest price that should be exacted for the repeal of the Hatch Act is a repeal of the Civil Service Act. Instead, President Carter will sign the measure proclaiming as he does that this is the political emancipation of the enslaved bureaucrats. But the first time he tries to put this creaking government to some good and efficient use, they'll thank him by shoving their fists down his mouth.

#### AMENDMENT TO HATCH ACT REFORM BILL

**HON. WILLIAM (BILL) CLAY**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. CLAY. Mr. Speaker, on Wednesday, May 18, the House added a provision regulating employee organizations

to H.R. 10 sponsored by Mr. ASHBROOK. In order to perfect that provision I have offered an additional amendment to the bill.

The one point that commands general agreement is that no one should have the power to intimidate or coerce a public employee or, indeed, any citizen in the exercise of his political rights. I am delighted that Mr. ASHBROOK has embraced that simple basic principle, for the purpose of H.R. 10 is to free public employees who wish to exercise their inalienable right to participate in political affairs from the coercive force of a Federal law which prohibits such participation.

Unfortunately, however, the Ashbrook amendment is both too narrow and too broad. It is too narrow in that it only relates to employee organizations; it is too broad in that it goes beyond the regulation of intimidation and coercion.

Mr. ASHBROOK has not explained why public employees should be specially protected from employee organizations, and not from restraint and coercion by other organizations and individuals. Nor has he explained why it is wise or necessary to pass new regulations on noncoercive activities by employee organizations.

If employee organizations were not presently regulated by Federal law to the same extent as others or, if H.R. 10 increased their rights, that would perhaps provide a basis for a prohibition addressed specifically to those organizations. But, in fact, as Mr. ASHBROOK explained:

Numerous laws are already in effect to prohibit intimidation of voters and other attempts to wrongfully influence voting.

Moreover, as he went on to note:

2 U.S.C. section 441 \* \* \* bars labor organizations from making any contribution or expenditure from their institutional funds in connection with a Federal election, primary, convention or caucus. The only exceptions are internal communications by a labor organization to its members and families; nonpartisan registration and get out the vote campaigns by a labor organization aimed at its members and families; and the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes.

Thus, there is no vacuum that must be filled. Nor is there any exception in favor of employee organizations from these sound prohibitions. All of these laws regulate not only employee organizations but all those who stand in the same position. And, with regard to the law on corporate and union political activity, it should be emphasized that the Congress has amended the Federal Election Campaign Act in 1971, 1974, and 1976. On each occasion, in the House Administration Committee and on the floor we gave special attention to what is now section 441 of title 2, United States Code. Not once in those deliberations was it suggested that we should break the pattern followed since 1941 of treating all labor organizations and corporations according to a single uniform rule of law.

Certainly H.R. 10 does not provide a predicate for a change in that sound policy. The bill does not grant public employee organizations any rights whatsoever, nor does it grant public employ-

ees any rights not presently enjoyed by employees in the private sector.

The short of the matter is this: Public employees like all citizens should be well protected from intimidation and coercion. And, employee organizations should be subject to some strong restrictions on political activity that are imposed on corporations and private sector labor organizations. Both of these goals are already achieved through the body of law stated in title 18 of the United States Code and in the Federal Election Campaign Act. We must be sure that in revising the Hatch Act we do not weaken these prohibitions. At the same time, we must be certain that we do not undermine the uniformity of regulation that presently obtains. The proper solution is to forthrightly state, as my amendment does, that in revising the Hatch Act we are neither subtracting from or adding to the restrictions already imposed on employee organizations. Those charged with interpreting the law will then know that in order to protect public employee rights they are to continue to apply the restrictions in title 18 and the Federal Election Campaign Act, as that law is presently stated in title 18 and in the Federal Election Campaign Act. This is in precise accord with Mr. ASHBROOK's announced intention:

Passage of H.R. 10 would permit many activities previously prohibited by law, thereby removing some of the protections employees now have against intimidation and activities they may not agree with. The Ashbrook amendment will preserve these protections for the worker.

H.R. 10 will "preserve these protections for workers" and will so state in explicit statutory language if the House adopts the amendment I have offered.

#### FOX LANE STUDENTS SIDE WITH DOLPHINS

**HON. RICHARD L. OTTINGER**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. OTTINGER. Mr. Speaker, last week the House considered, and approved, the Marine Mammal Protection Act amendments and attempted to resolve the ongoing problem of tuna fishermen capturing dolphins in their nets.

It was my hope that the final bill enacted by the House would include Representative McCloskey's strengthening amendments in fact. The compromise language which was ultimately accepted requiring the Secretary of Commerce to see to it that the tuna fleets reduce the number of dolphins killed in tuna nets and to continue with successive reductions in the death quota, hopefully will bring us to a near-zero death rate for dolphins by the early 1980's.

I would have preferred to see adoption of amendments for a higher fine for the killing of the rare eastern spinner dolphins to \$100 per animal and for the placement of observers on boats at the expense of the tuna fleet as well as the international provisions proposed.

There is a vast amount of interest in the tuna/dolphin problem, and a great deal of concern to that great friend of man in the sea, the dolphin. The eighth grade class of West House, at the Fox Lane Middle School in Bedford, N.Y., expressed their concern via petition. I was extremely impressed at receiving the petition—with a whopping 1,600 signatures. I would like to share with my colleagues the letter I received from the Petition Committee, Robin Bush, Karen Schardt, Julie Sanders, and Barbara Coddington, and also the actual text of the petition which they circulated so successfully:

BEDFORD, N.Y.,  
May 19, 1977.

HON. RICHARD L. OTTINGER,  
Congress of the United States, House of Representatives, Washington, D.C.

DEAR REPRESENTATIVE OTTINGER: The eighth grade class of West House at the Fox Lane Middle School in Bedford, New York, has taken great interest in the tuna-porpoise controversy, and especially in the Murphy Bill that is before Congress at this time. Our initial interest originated as a result of a presentation to our class by the Executive Director of the Environmental Defense Fund, Mr. Arlie Schardt.

The enclosed petition represents over 1,600 signatures of people from age twelve and up who are in agreement with the 1972 Marine Mammal Protection Act. We sincerely hope that our efforts will help persuade Congress to take action against the Murphy Bill.

Sincerely yours,

ROBIN BUSH,  
KAREN SCHARDT,  
JULIE SANDERS,  
BARBARA CODDINGTON,  
Petition Committee.

This petition fully supports the Marine Mammal Protection Act which directs the reduction of the dolphin kill to nearly zero by insisting that the Yellow-Tuna industry adopt new methods of catching schools of Yellow-fin Tuna. Since 1972 over one million dolphins have been killed by this industry's present method of fishing. If you are in favor of requiring new netting techniques for the tuna industry, designed to protect the dolphins, please sign below.

#### BUFFALO FBI AGENT TO RETIRE JULY 1

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. NOWAK. Mr. Speaker, the local newspapers in my home town of Buffalo, N.Y., recently carried reports announcing the retirement, effective July 1, of Richard D. Rogge, special agent-in-charge of the Buffalo office of the Federal Bureau of Investigation.

Mr. Rogge's distinguished career in law enforcement involved three decades of service with the FBI, including the last three as head of the Buffalo field office.

The following articles that appeared in the May 25, 1977, editions of the Buffalo Courier-Express and the Buffalo Evening News detail some of the highlights of Mr. Rogge's career:

[From the Buffalo Evening News, May 25, 1977]

#### FBI CHIEF IN BUFFALO TO RETIRE

Richard D. Rogge, special agent in charge of the Buffalo FBI office, who marked his 30th anniversary with the Bureau Saturday, will retire July 1.

Mr. Rogge, 51, who has headed the FBI here since January 1974, will move to Los Angeles, where he was once agent in charge and where his children now live.

His successor here has not been named.

Born in the Bronx, the 6-foot, 4-inch Mr. Rogge was a football lineman at New York University and served in the Marine Corps.

He joined the FBI in 1947 and became a special agent after receiving his BS degree in 1952. He had assignments in Philadelphia, Washington, Richmond and Los Angeles before taking command of the Honolulu office in 1969. He headed the Richmond, Va., office for 2½ years before coming to Buffalo.

During his career, Mr. Rogge, played a key role in the investigation of President John F. Kennedy's assassination, and, as head of the Los Angeles office, supervised the arrests of 10 "most wanted" fugitives.

He investigated extortions and kidnappings, was involved in high-speed auto chases and escaped death in suburban Washington when a bank robber fired at him point-blank and missed.

During his months here, Mr. Rogge tried to offset some of the criticism the FBI got for its role in the Watergate scandal by playing up the crime-busting bravado that made the bureau famous.

One of his first moves was to hold a press conference disclosing an undercover investigation that led to the breakup of two West Side gambling operations.

Under him, the Buffalo office became the first FBI unit to investigate nursing-home abuses.

[From the Buffalo Courier-Express,  
May 25, 1977]

#### RICHARD D. ROGGE TO RETIRE JULY 1; FBI CHIEF HERE

Richard D. Rogge, special agent-in-charge of the Buffalo FBI office for the last 29 months, is retiring on July 1, it was announced on Tuesday.

The 50-year-old Hamburg resident, who celebrated his 30th anniversary with the bureau Saturday, will be moving to Los Angeles, Calif.

During his stay in Buffalo, which began in December 1974, Rogge developed a reputation as a strong and independent investigator.

Asked about the highlights of his lengthy career, Rogge recalled the extensive investigation into the assassination of President John F. Kennedy.

The entire investigation was broken into several phases.

While other groups of agents worked on various phases, Rogge, working out of FBI headquarters in Washington, headed up the phase of the investigation dealing with the actual slaying of the president.

"It was basically a murder investigation," Rogge recalled. "We worked seven days a week for 13 months on that phase of the investigation . . . it was probably the most thorough investigation in the world."

Much of the Warren Commission report on the assassination was assembled and written by Rogge. The information came from facts dug up by agents working in Rogge's phase of the investigation and from other agencies.

Rogge, because of the long days and nights he spent on the case, has formed his own opinion about the assassination, but refuses to comment on it.

"There is still a congressional enquiry going on . . . it would be presumptuous of me to say anything at this time."

Under his direction, the Buffalo office became the first FBI unit in the nation to investigate nursing home abuses, ultimately leading to the indictment of three nursing home owners.

Also undertaken during Rogge's tenure in Buffalo was the first widescale investigation of an area law enforcement agency, the Erie County Sheriff's Dept.

The latter probe, sparked by numerous citizens complaints alleging civil rights violations, resulted in no criminal charges.

When asked for his thoughts upon leaving office, the Buffalo FBI chief said:

"I've been so busy lately that I've not gotten my thoughts together on leaving. I don't think it will hit me for months. The extremely fast pace I've lived will come to a screeching halt. Maybe I'll sit down and cry later on. I just don't know."

He claimed he has yet to chart his future, adding that he will definitely take up some occupation but probably not in law enforcement.

Rogge has no regrets over the life he chose, saying he would not hesitate to do it all over again.

"Mr. Hoover (J. Edgar Hoover, the late FBI director) made a gentleman out of me. I was a poor New Yorker. He told me to go to school and become a gentleman. I feel most proud of being one of 59 agents in charge in the country," he said.

On the FBI after he departs, Rogge said:

"I drive myself hard and like to think of myself as indispensable, but the organization will survive. Any administrator has an ego, but the bureau will survive just fine."

Before heading the Buffalo office, Rogge was agent-in-charge of the FBI's Richmond, Va., and Honolulu, Hawaii offices. During his career, the New York City native served in the Philadelphia, Pa., Los Angeles, Calif. and Washington, D.C. offices.

A successor to Rogge is not expected to be named until after July 1.

Mr. Speaker, as these articles clearly indicate, Mr. Rogge has demonstrated the high qualities of dedication, determination, courage, and integrity that the Nation must demand of its law enforcement officers charged with the maintenance of public order and the protection of our internal security.

I know I echo the sentiments of the citizens of western New York in commending Dick Rogge for a job well done and wishing him well in his future endeavors.

#### WIC PROGRAM IN CONTRA COSTA COUNTY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. MILLER of California. Mr. Speaker, the women, infants, and children supplemental feeding program, WIC, has been documented to greatly improve the health and well-being of many thousands of pregnant women, infants, and new mothers. In a study completed last year, the benefits of the WIC program for participants was clearly established by means of a national survey.

Recently, the WIC program in my home county has similarly written an



admirable record of serving the people of Contra Costa. As indicated in the responses, the impact of the program in improving the health of the participants is unquestionable. These types of results, which can be repeated throughout the United States, are the best testimony for the continuation and extension of the WIC program. In addition, I congratulate the Contra Costa Human Resources Agency, and the WIC program director, Dr. Orlyn H. Wood, for designing and operating this program so successfully.

The material follows:

#### WIC PROGRAM EVALUATION REPORT

In November 1976, the staff of the Contra Costa County WIC Program distributed a questionnaire to participants to assess their feelings regarding the program. Efforts were made to have each participant receive a copy of the questionnaire. Responses were not marked for identity. The per cent returned questionnaires were based on parent or guardian units and 62% of the participants responded.

Length of time of participation in the program: 56% had been on the program for less than one year, 44% for over one year. Ninety (90) percent of the participants said they used all of the vouchers each month, eighty-three (83) percent said their grocery stores where they usually shopped accepted the coupons and ninety-two (92) percent had no problems with the vouchers in the store. From verbal responses we have received comments that those stores which do not accept the vouchers or where there is a problem it is a Short Stop, Seven Eleven or where an uninformed clerk usually has not received instructions from the store manager. Pretesting of participants on how well they complete filling out the voucher showed that many participants rely on a grocery clerk to complete the cost of the item. Part of this is because of lack of adequate reading and writing skills and some do not read or understand the English language.

There were many comments from participants regarding the foods in the voucher packet. The food items usually left at the end of the month were cereals—baby cereals and regular cereal. Some people (criticized) the cereals as to variety, sugar content, size of the package and lack of acceptability to young children and also unavailability of some cereals, such as Corn Total, in the market.

Other foods which were suggested to also be included or substituted were:

More variety of juices, more eggs, baby foods—meats, vegetables, fruits etc., more hot cereals—oatmeal, Shredded Wheat, crackers, beans, tuna, yogurt, cottage cheese, apple juice, organic peanut butter, fresh fruit, raw milk.

Responses concerning use of the vouchers: Seventy-four (74) percent said the whole family used the foods purchased with WIC coupons; fifty-nine (59) percent said they ran out of money for food or food before picking up vouchers. The major increases of foods purchased after receiving the vouchers were: (twenty-five (25) percent or more) juice, cheese, breads and cereals, eggs, milk, meat, fish or poultry and vegetables.

One of the questions asked was noticed changes in health, fifty-one (51) percent said they had noticed such changes as:

"Less colds"  
"Increase iron in blood"  
"Eating better"  
"Weight gain"  
"Increased growth"  
"More alert and active"  
"Less illness"  
"Less tired"  
"Healthier skin"  
"Sleeps soundly"

"Eats better breakfast"  
"More active."  
Other comments from participants included:

Benefits of the program:

- (1) Better nutrition
- (2) Additions to food budget
- (3) Better nutritional knowledge
- (4) Better snacks
- (5) Less trips to the doctor

A number of people wanted to have the program extended beyond 5 years of age for children, concerns for children with allergies and advance notice of voucher changes.

To answer some of the questions, to correct inaccurate information and hopefully to inform all participants of the results of the questionnaire, the WIC newsletter in April will deal with some of these issues.

#### CONTRA COSTA COUNTY, WOMEN, INFANTS, AND CHILDREN PROGRAM, PROGRAM EVALUATION

We would like to know your feelings about our WIC Program so that we may be able to serve you better.

Please take a minute to answer the following questions: (Please circle)

1. Have you been receiving WIC Coupons for: (Circle one only)

- Less than 6 months, 20 percent.  
Less than 1 year, 36 percent.  
Less than 2 years, 27 percent.  
More than 2 years, 17 percent.

2. Do you have problems getting WIC foods at the store? If yes, which foods?

Percent  
Yes ----- 8  
No ----- 92

3. Do the grocery stores where you shop accept WIC coupons? If no, which stores do not?

Percent  
Yes ----- 83  
No ----- 17

4. Do you use all of your WIC coupons during the month? If no, which ones do you usually have left?

Percent  
Yes ----- 90  
No ----- 10

5. Have you noticed changes in your health (mothers or pregnant women) or your children's health since receiving WIC vouchers? If yes, what changes?

Percent  
Yes ----- 51  
No ----- 49

6. Does the whole family use WIC foods?

Percent  
Yes ----- 74  
No ----- 26

7. Do you run out of food or money for food before you pick up the WIC coupons?

Percent  
Yes ----- 59  
No ----- 41

8. On days you come to pick WIC coupons, would you stay for demonstrations or discussions on nutrition?

Percent  
Yes ----- 77  
No ----- 23

9. Do you read the WIC newsletter?

Percent  
Yes ----- 95  
No ----- 5

10. What items are you buying now that you were not buying before you were receiving WIC coupons?

Percent  
Snack foods, 178 ----- 13  
Meat, fish, poultry, 379 ----- 28  
Milk, 437 ----- 32  
Juice, 738 ----- 54

Soda pop, 81 ----- 6  
Eggs, 449 ----- 33  
Cheese, 688 ----- 50  
Breads and cereals, 499 ----- 37  
Entertainment, 37 ----- 3  
Clothing, 187 ----- 14  
Vegetables, 322 ----- 27  
Other, 72 ----- 5

11. How many in your family are on the WIC program (Write in number)

Women 317.  
Children (birth-1 year) 438.  
Children (1-5 years) 1,322.  
Please comment on any points you think our staff should know.  
Thank you for your time for completing this questionnaire.

#### WORDS IN THE CONSUMER BILL THAT WORRY BUSINESS

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. DEL CLAWSON. Mr. Speaker, the more exposure to public view of the specifics in the wording of the legislation establishing an Agency for Consumer Advocacy, the greater becomes the opposition from all sides. Perhaps the Congress and individual Members of the House and Senate should be exempted from its provisions and broad authority by appropriate amendment or the services of our offices performed for our constituencies may be a target of the Agency's action.

Consider the following excerpt from an article on the subject in the June 1977 issue of Nation's Business:

#### WORDS IN THE CONSUMER BILL THAT WORRY BUSINESS

While those urging creation of an Agency for Consumer Advocacy try to minimize its potential impact on business, the language of their bill demonstrates why business remains highly concerned about a consumer protection agency.

Here are key excerpts from the legislation:

"It is the purpose of the Agency for Consumer Advocacy to represent the interests of consumers before federal agencies and courts, receive and transmit consumer complaints, develop and disseminate information of interest to consumers, and perform other functions to protect and promote the interests of consumers."

"It is the purpose of this act to promote protection of consumers with respect to the—

"(A) safety, quality, purity, potency, healthfulness, durability, performance, repairability, effectiveness, dependability, availability, and cost of any real or personal property or tangible or intangible goods, services, or credit;

"(B) preservation of consumer choice and a competitive market;

"(C) price and adequacy of supply of goods and services;

"(D) prevention of unfair or deceptive trade practices;

"(E) maintenance of truthfulness and fairness in the advertising, promotion, and sale by a producer, distributor, lender, retailer, or other supplier of such property, goods, services, and credit;

"(F) furnishing of full, accurate, and clear instructions, warnings and other in-

formation by any such supplier concerning such property, goods, services, and credit."

#### ADMINISTRATOR'S AUTHORITY

The Agency for Consumer Advocacy would be headed by an administrator with authority to:

Promulgate "rules regulations, and procedures as may be necessary to carry out the provisions of this act and assure fairness to all persons affected by the agency's actions, and to delegate authority for the performance of any function to any officer or employee under his direction."

Intervene in proceedings or activities of other federal agencies "that may substantially affect an interest of consumers."

Initiate federal court civil proceedings for the "review of a federal agency action that the administrator determines may substantially affect an interest of consumers."

"Interest of consumers' means any health, safety, or economic concern of consumers . . . involving real or personal property, tangible or intangible goods, services, or credit, or the advertising or other description thereof, which is or may become the subject of any business, trade, commercial, or marketplace offer or transaction affecting commerce, or which may be related to any term or condition of such offer or transaction. Such offer or transaction need not involve the payment or promise of a consideration."

#### CONSUMER COMPLAINTS

The Agency for Consumer Advocacy would serve as a clearinghouse for consumer complaints that included allegations of "a commercial, trade, or other practice which is detrimental to an interest of consumers."

The administrator would forward complaints "to any federal, state, or local agency which has the authority to enforce any relevant law or take appropriate action." The administrator would also have to notify promptly producers, distributors, retailers, lenders, or suppliers of goods and services of all complaints of significance concerning them unless the administrator determines that to do so is likely to prejudice or impede an action, investigation, or prosecution concerning an alleged violation of law.

"The administrator shall maintain a public document room containing, for public inspection and copying . . . an up-to-date listing of all consumer complaints of significance which the agency has received . . . provided that the party complained against has had a reasonable time to comment on such complaint, and such comment, when received, is displayed together with the complaint."

#### GIVE ENERGY-SAVING IDEAS A CHANCE

**HON. PAUL SIMON**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. SIMON. Mr. Speaker, in my district, alone, there are, probably, 40 people who have one kind of invention or another which they believe will save energy.

At least two of those are substantial. One is substantial enough that we have put it on our home heating unit, and the early indications are that it will save about 30 percent of our fuel bill.

One of the things the new Department of Energy must do is to more aggressively examine all these ideas which are floating around the Nation, which could save tremendously on the Nation's energy expenditure.

I hope that James Schlesinger and his assistant, Fred Hitz, will make a careful evaluation of how they can more effectively move on these ideas which are all over the Nation.

I am attaching the weekly column I do for the newspapers in my district which mentions the device of one of the residents of my district:

#### GIVE ENERGY-SAVING IDEAS A CHANCE

His situation is as uncommon as his name is common: Don Smith.

He's from Salem, Illinois, birthplace of William Jennings Bryan.

And he has had some first-hand experience with the energy crisis.

Don has a creative mind and a few years ago came up with an idea for saving natural gas and oil in heating furnaces in homes and factories.

He patented his idea after testing it.

Then he was advised by the utility companies that he could not install his heat-saving device on furnaces until the mechanism had the approval of the American Gas Association laboratories.

The American Gas Association has as its members the gas pipeline companies, the utilities that sell gas, and the furnace manufacturers.

Smith went to the American Gas Association and, even though the device tested out completely safe (he reports to me), they turned him down.

He then did two things: sued the American Gas Association for \$20 million (the suit is still pending) and went to the highly respected Detroit Testing Laboratory, which tested the device by standards of the American National Standards Institute and certified his invention as safe.

Some of the utility companies now recognize his invention as both a means of saving fuel and a means of making furnaces even safer. Chicago and New York City—two cities with some of the tightest regulations—now approve his device.

I have in front of me some correspondence he has received. One company says his invention will save about 41 per cent on their fuel bill. A laundromat showed savings big enough to pay for it in two months. Don has told a church in Chicago that if they do not save at least the cost of his invention (which he calls Thrifty-Vent) the first year, he will give them their money back. Others show similar savings.

We took the liberty of having one installed in our home (cost \$300 approximately). We've been doing some testing and the early indications are that there will be a savings of at least 30 percent in fuel. We'll pay for the Smith device in two years.

It has not been on our furnace long, and perhaps a year from now we'll have some complaints. But not so far.

To write this column I've talked to some satisfied customers, but no dissatisfied ones. There may be some. The purpose of this column is not to sell his invention.

The significance of this one invention goes far beyond Don Smith and a few people saving on fuel bills, for reportedly more energy is lost in our homes and factories than we consume in our automobiles.

The Don Smith case provides several lessons:

(1) There are perhaps 40 people in my district alone with inventions of one sort or another, and at least three or four appear to be substantial. Multiply that by 435 congressional districts and we should have the resources for some tremendous changes in energy conservation and utilization. I hope that James Schlesinger and the new Department of Energy will aggressively do more to look at this potential.

(2) Let's not fool ourselves; some of those who preach conservation aren't really for it. If Don Smith were not such a bulldog, his

idea would have been buried by the very people who carry newspaper advertisements urging readers to save energy.

(3) The problem in the energy field is not only research, but getting the word out once that research has produced a good product.

We should utilize every practical possible means of saving heat in our homes, including things like the Don Smith invention; we soon should be able to produce big cars that go 50 miles on a gallon of gas (or maybe even water); we should be much more creative than we have been in moving on this energy problem.

This nation did not achieve greatness by drifting into it, nor will it solve problems that way.

#### TRUTH IN LENDING REFORM AND SIMPLIFICATION ACT

**HON. BENJAMIN S. ROSENTHAL**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 6, 1977

Mr. ROSENTHAL. Mr. Speaker, consumers, creditors, and regulators agree the Truth in Lending Act should be amended to enhance the consumer protection it affords and to make the act less costly for creditors to comply with and for Government agencies to enforce. On June 10, 1977, I intend to introduce the Truth in Lending Reform and Simplification Act to accomplish these goals.

On pages 17472-17473 of the June 3, 1977, CONGRESSIONAL RECORD, I briefly explained the need for truth-in-lending reform and provided a section-by-section analysis of the Truth in Lending Reform and Simplification Act. Today I am including the text of this important legislation and urge other Members of the House of Representatives to join me in sponsoring it:

#### H.R. —

A bill to amend the Truth in Lending Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Truth in Lending Reform and Simplification Act".

#### AGRICULTURE CREDIT

SEC. 2. (a) Section 103(h) of the Truth in Lending Act is amended by striking out "household, or agricultural" and inserting in lieu thereof "or household".

(b) Section 104(1) of such Act is amended by striking out "or commercial" and inserting in lieu thereof a comma and "commercial, or agricultural".

(c) Section 104 of such Act is amended by striking out paragraph (5).

#### CREDIT INSURANCE

SEC. 3. (a) Section 106(b) of the Truth in Lending Act is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and", and by inserting at the end thereof the following new paragraph:

"(3) the person to whom the credit is extended is given until midnight of the thirtieth day commencing after the consummation of the consumer credit transaction to cancel the insurance and to receive a full refund of any charges and premiums paid for the insurance."

#### FINANCE CHARGE ITEMIZATION

SEC. 4. (a) Section 128(a)(6) of the Truth in Lending Act is amended to read as follows:



"(6) Except in the case of a sale of a dwelling, the amount of the finance charge, which shall be itemized if it contains more than one charge."

(b) Section 129(a)(4) of such Act is amended to read as follows:

"(4) Except in the case of a loan secured by a first lien on a dwelling and made to finance the purchase of that dwelling, the amount of the finance charge, which shall be itemized if it contains more than one charge."

(c) Section 106 of such Act is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

#### CIVIL PENALTY AND CEASE-AND-DESIST ORDER AUTHORITY

SEC. 5. Section 108 of the Truth in Lending Act is amended by adding at the end thereof the following new subsection:

"(e) Any institution described in this section which violates any requirement imposed under this title (including failure to comply with an order under subsection (f)), or any director, officer, employee, or agent of such institution, or other person participating in the conduct of the affairs of such institution who violates any requirement imposed under this title shall forfeit and pay a civil penalty of not more than \$1,000 per day for each day, commencing with the first day of the violation, during which the violation continues. The agency which enforces the requirements of this title with respect to such institution (or director, officer, employee, or agent of such institution, or other person participating in the conduct of the affairs of such institution) shall have the authority to assess such a civil penalty giving due consideration to the appropriateness of the penalty with respect to the size of financial resources and good faith of the institution or person charged, the gravity of the violation, and the history of previous violations of requirements imposed under this title or regulations promulgated thereunder.

"(f) If the appropriate Federal agency finds that any institution described in this section, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is engaging or has engaged, or the agency has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is violating or has violated, or the agency has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to violate any requirement imposed under this title, the agency may issue and serve upon the institution or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations, and shall fix a time and place at which a public hearing will be held to determine whether an order to cease and desist therefrom should issue against the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or later date is set by the agency at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the agency shall find that any violation specified in the notice of charges has been established, the agency may issue and serve upon the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of

such institution an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the institution or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such institution to cease and desist from the same and restate those borrowers injured by the alleged violation or practice."

#### BORROWER NOTIFICATION

SEC. 6. Section 108 of the Truth in Lending Act is further amended by adding at the end thereof the following new subsection:

"(g)(1) Whenever any agency described in this section discovers an apparent violation of any requirement to which section 130 applies by any institution with respect to which it has enforcement authority under this section and if the actual damage sustained is in excess of \$5, then the agency shall order the institution to notify, in writing and within thirty calendar days of receipt of the order, the affected consumer that a Federal agency with enforcement authority under this title has found an apparent violation and of his rights under this title.

"(2) Whenever an institution fails to comply with paragraph (1), the agency which has enforcement authority under this section shall notify, in writing, the affected consumer of the apparent violation and of his rights under this title."

#### ANNUAL REPORTS

SEC. 7. (a) Section 114 of the Truth in Lending Act is amended by striking out "January 3" and inserting in lieu thereof "June 1".

(b) Section 18(f)(5) of the Federal Trade Commission Act is amended by striking out "March 15" and inserting in lieu thereof "June 1".

(c) Section 707 of the Equal Credit Opportunity Act is amended by striking out "February 1" and inserting in lieu thereof "June 1".

#### MODEL FORMS AND CLAUSES

SEC. 8. (a)(1) Chapter 1 of the Truth in Lending Act is amended by adding at the end thereof the following new section:

##### "§ 116. Model forms and clauses

"(a) The Board shall issue model forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this title and to aid the borrower in understanding the transaction by utilizing readily understood language to simplify the technical nature of the disclosures.

"(b) Such forms and clauses shall be adopted by the Board after notice duly given in the Federal Register and opportunity for public comment in accordance with section 553 of title 5, United States Code."

(2) The table of sections of chapter 1 of the Truth in Lending Act is amended by adding at the end thereof the following:

"16. Model forms and clauses."

(b) Section 130(f) of the Truth in Lending Act is amended to read as follows:

"(f) No provision of this section or section 112 imposing any liability shall apply to—

"(1) any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe therefor; or

"(2) any failure to make disclosures in proper form if the creditor utilized any appropriate model form or clause issued by the Board, notwithstanding that after such act omission has occurred, or after the use

of such form or clause, such rule, regulation, approval, or model form or clause is amended, rescinded, or determined by judicial or other authority to be invalid for any reason."

#### STATE EXEMPTION

SEC. 9. Section 123 of the Truth in Lending Act is amended by inserting "(a)" immediately before "The" and by inserting at the end thereof the following new subsections:

"(b)(1) Whenever the bank regulatory agency of a State requests of the Comptroller of the Currency that its bank examiners be allowed access to make examinations of the affairs of national banks located in such State respecting credit transactions of such banks which may be subject to the law of that State which imposes requirements substantially similar to those imposed under this chapter in order to establish to the satisfaction of the Board that there is adequate provision for enforcement of such law of the State, the Comptroller of the Currency shall establish procedures to permit bank examiners of the bank regulatory agency of such State to make thorough examinations of the affairs of national banks located in the State respecting credit transactions of such banks which may be subject to the law of that State which imposes requirements substantially similar to those imposed under this chapter.

"(2) Whenever the savings and loan regulatory agency of a State requests of the Federal Home Loan Bank Board that its examiners be allowed access to make examinations of the affairs of associations chartered by the Federal Home Loan Bank Board located in such State respecting credit transactions of such associations which may be subject to the law of that State which imposes requirements substantially similar to those imposed under this chapter in order to establish to the satisfaction of the Board that there is adequate provision for enforcement of such law of the State, the Federal Home Loan Bank Board shall establish procedures to permit examiners of the savings and loan regulatory agency of such State to make thorough examinations of the affairs of associations chartered by the Federal Home Loan Bank Board located in the State respecting credit transactions of such associations which may be subject to the law of that State which imposes requirements substantially similar to those imposed under this chapter.

"(3) Whenever the credit union regulatory agency of a State requests of the Administrator of the National Credit Union Administration (hereinafter in this paragraph referred to as the 'Administrator') that its examiners be allowed access to make examinations of the affairs of Federal credit unions located in such State respecting credit transactions of such credit unions which may be subject to the law of that State which imposes requirements substantially similar to those imposed under this chapter in order to establish to the satisfaction of the Administrator that there is adequate provision for enforcement of such law of the State, the Administrator shall establish procedures to permit examiners of the credit union regulatory agency of such State to make thorough examinations of the affairs of Federal credit unions located in the State respecting credit transactions of such associations which may be subject to the law of that State which imposes requirements substantially similar to those imposed under this chapter.

"(c) A State which establishes to the satisfaction of the Board that the law of such State imposes requirements substantially similar to those imposed under this chapter and that there is adequate provision for enforcement of such law of the State, shall be authorized to conduct examinations of the affairs of national banks located in

such State for the purpose of enforcing the law of such State which imposes requirements substantially similar to those imposed under this chapter."

#### RESCISSION RIGHTS

SEC. 10. The first sentence of section 125(a) of the Truth in Lending Act is amended by striking out "residence" and inserting in lieu thereof "dwelling".

#### OPEN END CREDIT PLANS

SEC. 11. (a) Section 127(a) of the Truth in Lending Act is amended by striking out paragraph (5).

(b) Section 127(b) of the Truth in Lending Act is amended by striking out paragraph (7).

#### CREDITOR IDENTIFICATION

SEC. 12. (a) Section 127(a) of the Truth in Lending Act is amended by adding at the end thereof the following new paragraph:

"(9) The complete name and address of the creditor."

(b) Section 128(a) of the Truth in Lending Act is amended by adding at the end thereof the following new paragraph:

"(11) The complete name and address of the creditor."

(c) Section 129(a) of the Truth in Lending Act is amended by adding at the end thereof the following new paragraph:

"(9) The complete name and address of the creditor."

#### DEFAULT CHARGES

SEC. 13. (a) Section 128(a) (9) of the Truth in Lending Act is amended to read as follows:

"(9) Any monetary charge payable in the event of a late payment or delinquency."

(b) Section 129(a) (7) of such Act is amended to read as follows:

"(7) Any monetary charge payable in the event of a late payment or delinquency."

#### SECURITY INTERESTS

SEC. 14. (a) Section 128(a) (10) of the Truth in Lending Act is amended by striking out "A description of any security interest held or to be" and inserting in lieu thereof the following: "A security interest will be held."

(b) Section 129(a) (8) of the Truth in Lending Act is amended by striking out "A description of any security interest held or to be held" and inserting in lieu thereof the following: "A security interest will be held."

#### LIMITED CIVIL LIABILITY

SEC. 15. (a) The text preceding clause (1) of section 130(a) of the Truth in Lending Act is amended to read as follows: "Except as otherwise provided in this section, any creditor who fails to comply with any requirement imposed under this chapter with respect to the amount financed; the finance charge; the annual percentage rate; the cost of and the borrower's ability to refuse to purchase optional credit life, accident, or health insurance; the number, amount and due dates or periods of payments scheduled to repay the indebtedness; monetary default, delinquency, or similar charges; the existence of a security interest and the identity of the securing property; and the consumer's rescission rights; or any requirement imposed under chapter 4 or 5 of this title, with respect to any person is liable to such person in an amount equal to the sum of—"

(b) Section 130(b) of the Truth in Lending Act is amended by striking out everything after "requirement imposed under this chapter or chapter 5" and inserting in lieu thereof the following: "If within thirty days after discovering the error or being informed, in writing, of the error by an agency pursuant to section 108(g) (2), and prior to the institution of an action under this section or the receipt of written notice of the error from someone other than an agency pursuant to section 108(g) (2), the creditor—"

"(1) notifies, in writing, the person concerned of the error that it or an agency re-

ferred to in section 108, whichever is appropriate, has discovered the error; and

"(2) provides disclosure statements that satisfy the requirements of this title; and

"(3) (A) with respect to finance charge and annual percentage rate errors makes whatever adjustments in the appropriate account are necessary to insure the person will not be required to pay a finance charge in excess of the amount or percentage rate actually disclosed; or

"(B) with respect to credit insurance errors cancels the insurance and refunds in full all charges and premiums paid for the insurance, if the person so requests, in writing, within thirty days after receipt of the creditor's notification; or

"(C) with respect to rescission notice errors rescinds the transaction, if the person so requests, in writing, within thirty days after receipt of the creditor's notification.

#### LIMITATION ON CIVIL ACTIONS

SEC. 16. Section 130(e) of the Truth in Lending Act is amended to read as follows:

"(e) An action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within three years from the date of the occurrence of the violation.

#### SET-OFF RIGHTS

SEC. 17. Section 130(h) of the Truth in Lending Act is amended by adding at the end thereof the following new sentence: "This subsection may not be construed to prohibit such person from raising a creditors violation of this title by way of recoupment, offset, or counterclaim in an action before a court of competent jurisdiction where permitted by law."

#### EFFECTIVE DATE

SEC. 18. Except as otherwise specified, the provisions of this Act take effect on the date of enactment.

### SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, June 7, 1977, may be found in the Daily Digest of today's RECORD.

#### MEETINGS SCHEDULED

JUNE 8

8:00 a.m.

Judiciary

Improvements in Judicial Machinery Subcommittee

To continue hearings on S. 1612 and S. 1613, to expand the jurisdiction of U.S. Magistrates.

2228 Dirksen Building

8:30 a.m.

Finance

Health Subcommittee

To continue hearings on S. 1470, Medicare and Medicaid Administrative and Reimbursement Reform Act.

2221 Dirksen Building

9:00 a.m.

\*Commerce, Science, and Transportation Science, Technology, and Space Subcommittee

To hold hearings on S. 421, to establish a program to educate the public in understanding climatic dynamics.

5110 Dirksen Building

9:30 a.m.

\*Agriculture, Nutrition, and Forestry Agricultural Research and General Legislation Subcommittee

To hold hearings on proposed legislation to extend the authorization of the Federal Insecticide, Fungicide, and Rodenticide Act.

Until 10:30 a.m. 324 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To continue hearings on S. 1397, to increase from 16 to 19 the size of the Board of Directors of FNMA.

5302 Dirksen Building

Commerce, Science, and Transportation

To continue oversight hearings on the cable TV system.

235 Russell Building

Energy and Natural Resources

Parks and Recreation Subcommittee

To hold hearings on S. 975, to improve the administration of the National Park System.

3110 Dirksen Building

Energy and Natural Resources

Energy Research and Development Subcommittee

To receive testimony on proposed legislation authorizing funds for fiscal year 1978 for nuclear programs of ERDA.

1114 Dirksen Building

Foreign Relations

International Operations Subcommittee

To hold oversight hearings on the role of the media, business, banking, labor, national security, etc. in the current and future international flow of information.

4221 Dirksen Building

Government Affairs

Intergovernmental Relations Subcommittee

To continue hearings on S. 600, the Regulatory Reform Act of 1977.

6226 Dirksen Building

Human Resources

Health and Scientific Research Subcommittee

To hold oversight hearings on environmental toxins in mother's milk.

Until 12:30 p.m. 357 Russell Building

Human Resources

Labor Subcommittee

To mark up S. 995, to prohibit discrimination based on pregnancy or related medical conditions.

4232 Dirksen Building

Judiciary

Criminal Laws and Procedures Subcommittee

To continue hearings on S. 1437, Criminal Code Reform Act of 1977, and the following criminal sentencing bills: S. 31, 45, 181, 204, 260, 888, 979, and 1221.

2228 Dirksen Building

Joint Economic

To hold hearings to review economic conditions, and to discuss the future outlook.

6202 Dirksen Building

10:30 a.m.

Judiciary

To hold hearings on the nomination of



Finis E. Cowan to be U.S. district judge for the southern district of Texas.  
2228 Dirksen Building  
Select Intelligence  
To hold a closed business meeting.  
224 Russell Building  
2:00 p.m.  
Appropriations  
Public Works Subcommittee  
To mark up proposed appropriations for fiscal year 1978 for public works projects.  
S-126, Capitol  
2:30 p.m.  
Foreign Relations  
Arms Control, Oceans, and International Environmental Subcommittee  
To resume hearings on S. 897 and 1432, proposed Nuclear Nonproliferation Act.  
4221 Dirksen Building  
JUNE 9  
8:00 a.m.  
Agriculture, Nutrition, and Forestry  
Agricultural Research and General Legislation Subcommittee  
To continue hearings on proposed legislation to extend the authorization of the Federal Insecticide, Fungicide, and Rodenticide Act.  
Until 10:30 a.m. 32 Russell Building  
8:30 a.m.  
Finance  
Health Subcommittee  
To continue hearings on S. 1470, Medicare and Medicaid Administrative and Reimbursement Reform Act.  
2221 Dirksen Building  
9:00 a.m.  
Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee  
To continue hearings on S. 421, to establish a program to educate the public in understanding climatic dynamics.  
5110 Dirksen Building  
9:30 a.m.  
Banking, Housing, and Urban Affairs  
To hold hearings on the nomination of John Heimann, to be Comptroller of Currency.  
5302 Dirksen Building  
Energy and Natural Resources  
Energy Research and Development Subcommittee  
To hear a panel of experts in connection with proposed funding for nuclear breeder reactors.  
3110 Dirksen Building  
Human Resources  
To hold joint hearings with Committee on Veterans' Affairs on the nomination of Roland R. Mora, to be Deputy Assistant Secretary of Labor for Veterans' Employment.  
4232 Dirksen Building  
10:00 a.m.  
\*Energy and Natural Resources  
Energy Production and Supply Subcommittee  
To hold oversight hearings on strategic petroleum reserves.  
6226 Dirksen Building  
Foreign Relations  
International Operations Subcommittee  
To continue oversight hearings on the role of the media, business, banking, labor, national security, etc., in the current and future international flow of information.  
4221 Dirksen Building  
Governmental Affairs  
Reports, Accounting, and Management Subcommittee

To resume hearings to review the processes by which accounting and auditing practices and procedures, promulgated or approved by the Federal Government, are established.  
6202 Dirksen Building  
Judiciary  
Criminal Laws and Procedures Subcommittee  
To continue hearings on S. 1437, Criminal Code Reform Act of 1977, and the following criminal sentencing bills: S. 31, 45, 181, 204, 260, 888, 979, and 1221.  
2228 Dirksen Building  
Joint Economic  
To continue hearings to review economic conditions, and to discuss the future outlook.  
1202 Dirksen Building  
10:30 a.m.  
Commerce, Science, and Transportation  
To hold hearings on S. 687, 121, 1187, 182, and 898, bills to establish a comprehensive national law to govern oil pollution liability and compensation.  
235 Russell Building  
JUNE 10  
8:30 a.m.  
Finance  
Health Subcommittee  
To continue hearings on S. 1470, Medicare and Medicaid Administrative and Reimbursement Reform Act.  
2221 Dirksen Building  
9:00 a.m.  
Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee  
To continue hearings on S. 421, to establish a program to educate the public in understanding climatic dynamics.  
5110 Dirksen Building  
Judiciary  
Improvements in Judicial Machinery Subcommittee  
To continue hearings on S. 1612 and S. 1613, to expand the jurisdiction of U.S. Magistrates.  
2228 Dirksen Building  
9:30 a.m.  
Human Resources  
Health and Scientific Research Subcommittee  
To continue oversight hearings on environmental toxins in mother's milk.  
Until noon 4232 Dirksen Building  
\*Energy and Natural Resources  
Energy Research and Development Subcommittee  
To hold hearings on S. 1432, proposed Nuclear Non-Proliferation Act of 1977.  
6226 Dirksen Building  
10:00 a.m.  
Energy and Natural Resources  
To hold hearings on the nomination of Robert R. Nordhaus, to be a member of the Council of Economic Advisers.  
3110 Dirksen Building  
Foreign Relations  
International Operations Subcommittee  
To continue oversight hearings on the role of the media, business, banking, labor, national security, etc., in the current and future international flow of information.  
4221 Dirksen Building  
10:30 a.m.  
Commerce, Science, and Transportation  
To continue hearings on S. 687, 121, 1187, 182, and 898, bills to establish a comprehensive national law to govern oil pollution liability and compensation.  
235 Russell Building

JUNE 13  
9:00 a.m.  
\*Energy and Natural Resources  
To resume hearings on part D (natural gas pricing) of S. 1469, National Energy Act.  
3110 Dirksen Building  
9:30 a.m.  
Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee  
To resume hearings on S. 657, to establish an Earth Resources and Environmental Information System.  
235 Russell Building  
Finance  
Taxation and Debt Management Subcommittee  
To receive testimony on proposals which seek to encourage economic growth and employment.  
2221 Dirksen Building  
10:00 a.m.  
Banking, Housing, and Urban Affairs  
To hold hearings on S. 1594 and H.R. 5959, to revise and extend the Renegotiation Act of 1951.  
5302 Dirksen Building  
Governmental Affairs  
Reports, Accounting, and Management Subcommittee  
To resume hearings to review the processes by which accounting and auditing practices and procedures, promulgated or approved by the Federal Government, are established.  
6226 Dirksen Building  
Judiciary  
Criminal Laws and Procedures Subcommittee  
To hold hearings on S. 1566, Foreign Intelligence Surveillance Act of 1977.  
2228 Dirksen Building  
JUNE 14  
9:00 a.m.  
\*Energy and Natural Resources  
To continue hearings on part D (natural gas pricing) of S. 1469, National Energy Act.  
3110 Dirksen Building  
9:30 a.m.  
Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee  
To continue hearings on S. 657, to establish an Earth Resources and Environmental Information System.  
5110 Dirksen Building  
Finance  
Taxation and Debt Management Subcommittee  
To receive testimony on proposals which seek to encourage economic growth and employment.  
2221 Dirksen Building  
Select Small Business  
Monopoly and Anticompetitive Activities Subcommittee  
To hold hearings on the safety and effectiveness of over the counter sleepaids.  
6202 Dirksen Building  
10:00 a.m.  
Agriculture, Nutrition, and Forestry  
Rural Development Subcommittee  
To hold oversight hearings on the implementation of the Rural Development Act of 1972.  
322 Russell Building  
Banking, Housing, and Urban Affairs  
To continue hearings on S. 1594 and H.R. 5959, to revise and extend the Renegotiation Act of 1951.  
5302 Dirksen Building  
Governmental Affairs  
Energy, Nuclear Proliferation, and Federal Services Subcommittee

To resume hearings on a report of the Commission on Postal Service.

3302 Dirksen Building

#### Joint Economic

Economic Growth and Stabilization Subcommittee

To resume hearings on economic development in rural areas.

1202 Dirksen Building

#### Judiciary

Criminal Laws and Procedures Subcommittee

To continue hearings on S. 1566, Foreign Intelligence Surveillance Act of 1977.

2228 Dirksen Building

JUNE 15

10:00 a.m.

Banking, Housing, and Urban Affairs

To mark up S. 1433, 895, 71, and 73, dealing with Federal regulation and supervision of financial institutions.

5302 Dirksen Building

Energy and Natural Resources

Energy and Production Supply Subcommittee

To resume hearings on S. 977, to conserve gas and oil by fostering increased utilization of coal in electric generating facilities and in major industrial installations.

3110 Dirksen Building

Energy and Natural Resources

To hold hearings on H.R. 6550, to authorize funds for United States territories, and related bills (S. 1033, 950, 1192, 1193, 1032, and 1327).

Room to be announced

Foreign Relations

To hold hearings on treaties with Mexico and Canada on prisoner exchanges (Exec. D and H, 95th Cong., 1st sess.).

4221 Dirksen Building

Joint Economic

Economic Growth and Stabilization Subcommittee

To continue hearings on economic development in rural areas.

6226 Dirksen Building

JUNE 16

9:00 a.m.

Veterans' Affairs

Compensation and Pension Subcommittee

To hold hearings on proposed increases in veterans' pensions.

6226 Dirksen Building

10:00 a.m.

Agriculture, Nutrition, and Forestry

Rural Development Subcommittee

To continue oversight hearings on the implementation of the Rural Development Act of 1972.

322 Russell Building

Commerce, Science, and Transportation

To hold oversight hearings on the effects of radiation on humans, i.e., health, safety, and environment.

5110 Dirksen Building

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on general conditions of the intercity motorbus industry and suggestions for increased ridership.

235 Russell Building

Energy and Natural Resources

Energy Production and Supply Subcommittee

To mark up S. 977, to conserve gas and oil by fostering increased utilization of coal in electric generating facilities and in major industrial installations.

3110 Dirksen Building

Foreign Relations

To continue hearings on treaties with Mexico and Canada on prisoner exchanges (Exec. D and H, 95th Cong., 1st sess.).

4221 Dirksen Building

Judiciary

Juvenile Delinquency Subcommittee

To resume hearings on the protection of children against sexual exploitation.

1224 Dirksen Building

Select Small Business

To hold hearings on S. 1526, to establish the position of Associate Administrator for Women's Business Enterprise.

424 Russell Building

11:00 a.m.

Human Resources

Health and Scientific Research Subcommittee

To resume hearings on S. 1391, Hospital Cost Containment Act of 1977.

Until 1 p.m. 4232 Dirksen Building

2:30 p.m.

Foreign Relations

Arms Control, Oceans, and International Environment Subcommittee

To resume hearings on S. 897 and 1432, proposed Nuclear Nonproliferation Act.

4221 Dirksen Building

JUNE 17

9:00 a.m.

Finance

Taxation and Debt Management Subcommittee

To hold hearings on S. 1538, proposing reform in the administration of the black lung benefits program.

2221 Dirksen Building

9:30 a.m.

Human Resources

Health and Scientific Research Subcommittee

To continue hearings on S. 1391, Hospital Cost Containment Act of 1977.

Until 12:30 p.m. 4232 Dirksen Building

Veterans' Affairs

Health and Readjustment Subcommittee

To hold oversight hearings on veterans' employment-unemployment situation.

Until 12:30 p.m. 6226 Dirksen Building

10 a.m.

Commerce, Science, and Transportation

To continue oversight hearings on the effects of radiation on humans, i.e., health, safety, and environment.

5110 Dirksen Building

JUNE 20

9:00 a.m.

Energy and Natural Resources

To resume hearings on part D (natural gas pricing) of S. 1469, National Energy Act.

3110 Dirksen Building

9:30 a.m.

Human Resources

Handicapped Subcommittee

To hold hearings on proposed extension of the Rehabilitation Act of 1973 and Education of the Handicapped Acts.

Until 1 p.m. 4232 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Financial Institutions Subcommittee

To hold hearings on proposed legislation on financial institution reform.

5302 Dirksen Building

Judiciary

Criminal Laws and Procedures Subcommittee

To resume hearings on S. 1437, Criminal Code Reform Act of 1977, and the following criminal sentencing bills: S. 31, 45, 181, 204, 260, 888, 979, and 1221.

2228 Dirksen Building

JUNE 21

9:00 a.m.

Energy and Natural Resources

Energy Conservation and Regulation Subcommittee

To receive testimony on proposals embodied in parts A, B, C, and G of S. 1469, the National Energy Act.

3110 Dirksen Building

9:30 a.m.

Human Resources

Handicapped Subcommittee

To continue hearings on proposed extension of the Rehabilitation Act of 1973 and Education of the Handicapped Acts.

Until 1 p.m. 4232 Dirksen Building

Human Resources

Health and Scientific Research Subcommittee

To hold hearings to evaluate information upon which the FDA based its decision to propose regulations banning the use of saccharin.

Until noon 1202 Dirksen Building

Select Small Business

Monopoly and Anticompetitive Activities Subcommittee

To resume hearings on the safety and efficiencies of over the counter sleep-aids.

6202 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Financial Institutions Subcommittee

To continue hearings on proposed legislation on financial institution reform.

5302 Dirksen Building

Judiciary

Criminal Laws and Procedures Subcommittee

To continue hearings on S. 1437, Criminal Code Reform Act of 1977, and the following criminal sentencing bills: S. 31, 45, 181, 204, 260, 888, 979, and 1221.

2228 Dirksen Building

\*Select Small Business

To hold hearings on alleged late payments by the Federal Government to small business contractors.

424 Dirksen Building

JUNE 22

9:00 a.m.

Energy and Natural Resources

Energy Conservation and Regulation Subcommittee

To receive testimony on proposals embodied in parts A, B, C, and G of S. 1469, the National Energy Act.

3110 Dirksen Building

Veterans' Affairs

Health and Readjustment Subcommittee

To hold hearings on the effectiveness of VA programs on mental health, alcohol and drug abuse, readjustment counseling, and health.

Until 2 p.m. 6226 Dirksen Building

9:30 a.m.

Human Resources

Handicapped Subcommittee

To continue hearings on proposed extension of the Rehabilitation Act of 1973 and Education of the Handicapped Acts.

Until 1 p.m. 4232 Dirksen Building

Select Nutrition and Human Needs

To hold hearings on nutrition as it relates to mental health and development.

Until 1 p.m. 6202 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Financial Institutions Subcommittee

To continue hearings on proposed legislation on financial institution reform.

5302 Dirksen Building

Judiciary

Constitution Subcommittee

To hold hearings on S. 1393, to give statutory authority to the Justice Department to initiate suit to enforce constitutional and other federally guaranteed rights of institutionalized persons.

2228 Dirksen Building

Joint Economic

Subcommittee on Economic Growth and Stabilization

To hold hearings to receive testimony from public pollsters on the current



status of and future conditions affecting the economy.

1202 Dirksen Building

**\*Select Small Business**

To continue hearings on alleged late payments by the Federal Government to small business contractors.

424 Russell Building

JUNE 23

10:00 a.m.

Banking, Housing, and Urban Affairs  
Financial Institutions Subcommittee

To continue hearings on proposed legislation on financial institution reform.

5302 Dirksen Building

Commerce, Science, and Transportation  
Communications Subcommittee

To hold hearings on S. 1547, to assure that all those providing communications services are able to use existing communications space on poles which are owned by regulated utilities, and to simplify FCC forfeiture provisions.

235 Russell Building

Energy and Natural Resources

To consider pending calendar business.

3110 Dirksen Building

Judiciary

Antitrust and Monopoly Subcommittee

To hold hearings on the President's proposed energy programs.

2228 Dirksen Building

JUNE 24

9:00 a.m.

Veterans' Affairs

Health and Readjustment Subcommittee

To hold hearings on proposed increases in rates of veterans' education benefits.

Until 2 p.m. 6226 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation  
Communications Subcommittee

To continue hearings on S. 1547, to assure that all those providing communications services are able to use existing communications space on poles which are owned by regulated utilities, and to simplify FCC forfeiture provisions.

235 Russell Building

JUNE 27

9:30 a.m.

Veterans' Affairs

Health and Readjustments Subcommittee

To hold hearings on proposed legislation to amend the Veterans' Physician and Dentists' Pay Comparability Act.

Until noon 6226 Dirksen Building

Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To hold hearings on legislation to amend the Truth in Lending Act, including S. 1312 and S. 1501.

5302 Dirksen Building

Commerce, Science, and Transportation

To resume oversight hearings on the effects of radiation on humans, i.e., health, safety, and environment.

5110 Dirksen Building

JUNE 28

9:00 a.m.

Veterans' Affairs

Housing, Insurance, and Cemeteries Subcommittee

To hold hearings on S. 718, to provide veterans with certain cost information relating to the conversion of Government-supervised insurance to individual life insurance policies.

6202 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To continue hearings on legislation to amend the Truth in Lending Act, including S. 1312 and S. 1501.

5302 Dirksen Building

Commerce, Science, and Transportation

To continue oversight hearings on the effects of radiation on humans, i.e., health, safety, and environment.

5110 Dirksen Building

Government Affairs

Energy, Nuclear Proliferation, and Federal Services Subcommittee

To resume hearings on a report of the Commission on Postal Service.

3302 Dirksen Building

Judiciary

Improvements in Judicial Machinery Subcommittee

To resume hearings on the jurisdiction of U.S. Magistrates.

2228 Dirksen Building

JUNE 29

9:00 a.m.

Veterans' Affairs

Health and Readjustment Subcommittee

To resume hearings on proposed increases in rates of veterans' education benefits.

Until 2 p.m. 6226 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To continue hearings on legislation to amend the Truth in Lending Act, including S. 1312 and S. 1501.

5302 Dirksen Building

Commerce, Science, and Transportation

To continue oversight hearings on the effects of radiation on humans, i.e., health, safety, and environment.

5110 Dirksen Building

Judiciary

Improvements in Judicial Machinery Subcommittee

To continue hearings on the jurisdiction of U.S. Magistrates.

2228 Dirksen Building

JUNE 30

9:00 a.m.

Veterans' Affairs

Housing, Insurance, and Cemeteries Subcommittee

To continue hearings on S. 718, to provide veterans with certain cost information relating to the conversion of Government-supervised insurance to individual life insurance policies.

6226 Dirksen Building

9:30 a.m.

Select Small Business

To resume hearings on S. 972, authorizing the Small Business Administration to make grants to support the development and operation of small business development centers.

424 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To mark up H.R. 5294, S. 918, and S. 1130, to amend the Consumer Protection Act so as to prohibit abusive practices by independent debt collectors.

5302 Dirksen Building

JULY 12

9:30 a.m.

Human Resources

Health and Scientific Research Subcommittee

To hold hearings to evaluate information upon which the FDA based its decision to ban Laetril from interstate commerce.

Until noon 4232 Dirksen Building

10:00 a.m.

Foreign Relations

To hold hearings on the Vienna Convention on the Law of Treaties (Exec. L. 92d Cong., 1st sess.).

4221 Dirksen Building

JULY 13

10:00 a.m.

Foreign Relations

To review the operation and effectiveness

of the War Powers Resolution of 1973.

4221 Dirksen Building

JULY 14

9:30 a.m.

Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee

To receive a report from the National Commission on Supplies and Shortages on materials policy research and development.

5110 Dirksen Building

Human Resources

Health and Scientific Research Subcommittee

To hold oversight hearings on the cost of drugs.

Until noon 4232 Dirksen Building

10:00 a.m.

Foreign Relations

To review the operation and effectiveness of the War Powers Resolution of 1973.

4221 Dirksen Building

JULY 15

10:00 a.m.

Foreign Relations

To review the operation and effectiveness of the War Powers Resolution of 1973.

4221 Dirksen Building

JULY 19

9:30 a.m.

Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee

To review a report from the National Commission on Supplies and Shortages on materials policy research and development.

5110 Dirksen Building

10:00 a.m.

Foreign Relations

To hold hearings on the following five tax treaties. Convention with Israel (Exec. C, 94th Cong., 2nd sess.); Convention with Egypt (Exec. D, 94th Cong., 2nd sess.); Convention with the United Kingdom (Exec. K, 94th Cong., 2nd sess.); Convention with the Republic of Korea (Exec. P, 94th Cong., 2nd sess.); and Convention with the Republic of the Philippines (Exec. C, 95th Cong., 1st sess.).

4221 Dirksen Building

JULY 20

10:00 a.m.

Foreign Relations

To hold hearings on the following five tax treaties. Convention with Israel (Exec. C, 94th Cong., 2nd sess.); Convention with Egypt (Exec. D, 94th Cong., 2nd sess.); Convention with the United Kingdom (Exec. K, 94th Cong., 2nd sess.); Convention with the Republic of Korea (Exec. P, 94th Cong., 2nd sess.); and Convention with the Republic of the Philippines (Exec. C, 95th Cong., 1st sess.).

4221 Dirksen Building

JULY 26

10:00 a.m.

Foreign Relations

To hold hearings on protocol to the Convention on International Civil Aviation (Exec. A, 95th Cong., 1st sess.), and two related protocols (Exec. B, 95th Congress, 1st sess.).

4221 Dirksen Building

## CANCELLATIONS

JUNE 15

9:30 a.m.

Commerce, Science, and Transportation  
Science, Technology, and Space Subcommittee

To continue hearings on S. 657, to establish an Earth Resources and Environmental Information System.

235 Russell Building